

LOUISIANA BAR JOURNAL

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Planning for Our Future: An Update on the LSBA Strategic Plan



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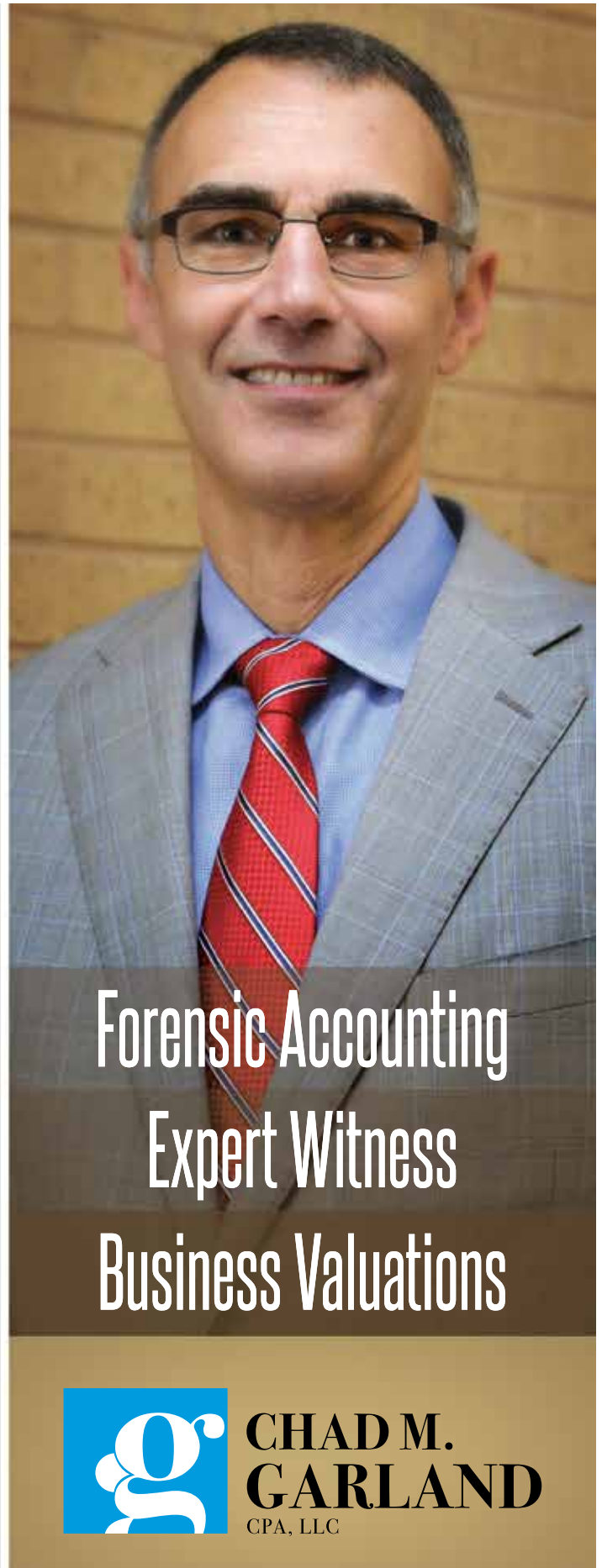
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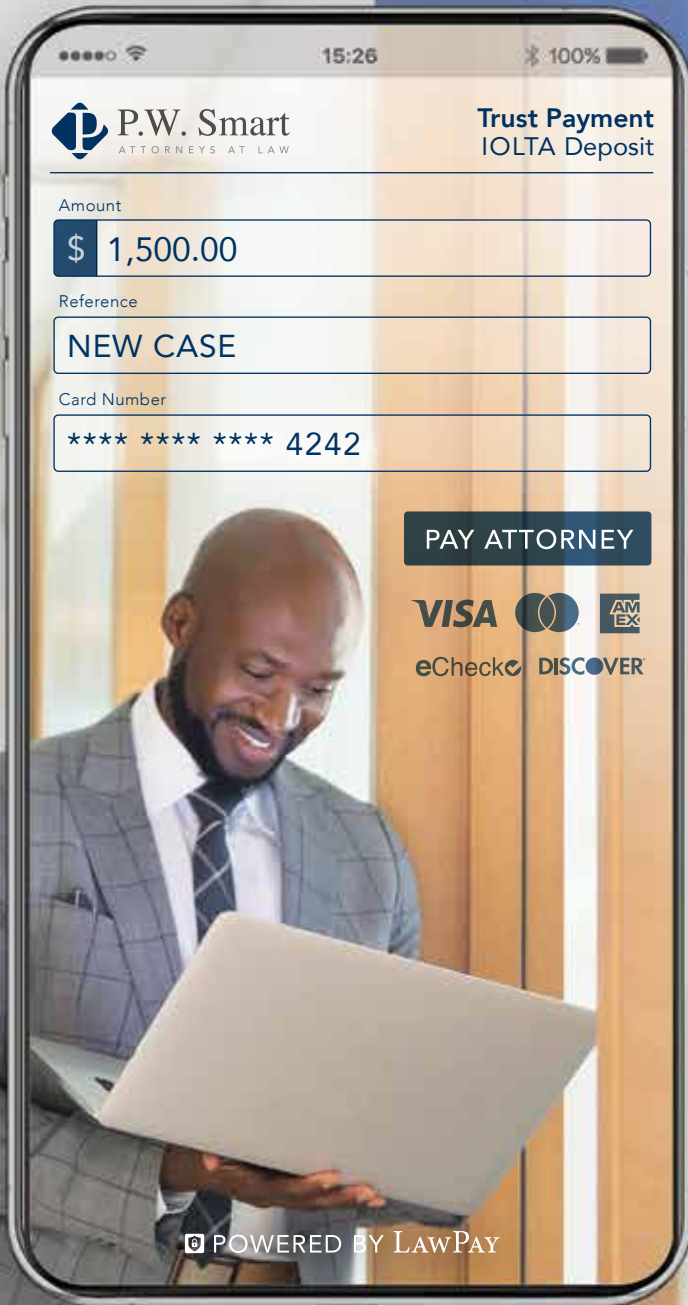
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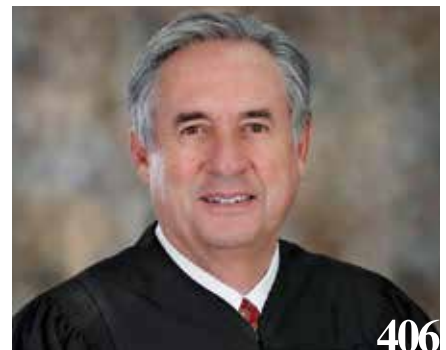
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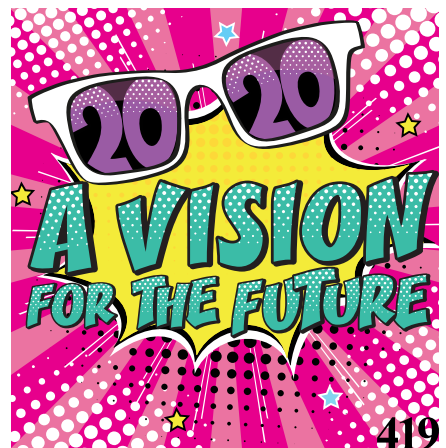


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What is Problem Gambling Resource Services (“PGRS”)?

PGRS is a new program led by the Louisiana Department of Justice, Gaming Division in partnership with the Louisiana Department of Health, Office of Behavioral Health to bring awareness about problem gambling and the FREE gambling addiction services available to all Louisiana residents. Not only are attorneys in a unique position to determine that their clients may have a gambling problem, but attorneys are at a greater risk themselves.

A client’s gambling addiction may be the underlying cause of what led them to seek your help:

Attorneys are in a unique position to identify problem gambling behavior in their clients because they have access to client information, financial records, and other documentation that is generally not available to others. Clients, protected by attorney-client privilege, may feel safe disclosing a gambling problem to their attorney.

Lawyers and their staff are at a high risk for Problem Gambling. Here’s why:

- Lawyers are among the professionals most likely to suffer from stress and depression, which can play a role in the development of problem gambling behavior.
- Lawyers are risk takers. The legal profession is often a high risk, high reward environment, which may lead to risk taking behavior, such as gambling.
- Lawyers often have access to large sums of money, such as client trust accounts, retainers, settlement proceeds, etc.
- Lawyers are at a heightened risk for alcohol and drug misuse and dependency, which can increase the possibility for developing co-occurring alcohol/drug and gambling addictions.

What happens when someone calls 1-877-770-STOP?

- The Helpline, like all gambling addiction services offered by Louisiana, is confidential and FREE.
- The Helpline is answered by trained, certified and caring Helpline Specialists. The Specialists do not provide counseling, but they will refer you to a qualified counselor and all the FREE resources in your area.

If you have concerns about your own gambling or if you suspect that a client or colleague may have a problem, call or text 1-877-770-STOP for FREE help.

Don't Read This Article

By Edward J. Walters, Jr.

Editor's Note: *To allow other members of the Louisiana Bar Journal Editorial Board to have a meaningful voice, I've asked Ed Walters, a former Journal editor-in-chief and current Editorial Board member, to take the spot and pen a Guest Editor's Message. Enjoy!* — **Patrick A. Talley, Jr.**

Of course, this headline may remind some of us of a book written by Abbie Hoffman during the turbulent 1960s. Hoffman was one of the most influential and recognizable American activists, gaining fame with his leadership in anti-Vietnam War protests and exemplifying the counterculture of the time. His book, titled *Steal this Book*, focused on ways to fight the government and is written in the form of a guide to the youth. I'm not sure he really wanted you to steal his book, but he probably did. I really wanted you to read this article — thus the provocative title — and, now that you are here, I guess you did, at least this far.

So what does this have to do with the Editor's Message?

Well, *Steal this Book* was a guide to the youth based on Hoffman's experiences. This article is a guide to Louisiana State Bar Association (LSBA) activities based on MY experiences. Often, this type of article encourages you to get involved with the Bar and tells you what wonderful things we do for others. But they never tell you, the reader, what YOU get out of it. Here's my advice, based on what I got out of my Bar activities.

House of Delegates. The House of Delegates, the LSBA's policy-making body, meets twice each year during the Annual Meeting and the Midyear Meeting. House members serve two-year terms and are elected from their respective judicial districts, with districts being entitled to one delegate for each district judge. This is a huge body and members tackle all of the policy issues. The meetings are interesting and meaningful, and you get to decide the direction of your association. You will make friends with members from all over the state and work with excellent lawyers

who care. When election qualifying opens in September, consider placing your name on the ballot. You can make a difference and feel good about it.

Board of Governors. The Board of Governors is comprised of 22 leaders charged with fiscal responsibility for the LSBA and with administration of association affairs as set forth in the Articles of Incorporation. Service on the Board of Governors was most enjoyable. The issues discussed are weighty and important.

Louisiana Bar Journal Editorial Board. If you like the *Louisiana Bar Journal*, membership on the Editorial Board will give you a voice about content in the magazine. If you like to write, it will give you an opportunity to get published. If you like to proofread, board service will give you all of the proofreading experience you can handle. For me, it was my most "fun" board because of the creative people who serve on it.

Rules of Professional Conduct Committee. This committee does a lot of heavy lifting. It is tasked with monitoring and evaluating developments in legal ethics and, when appropriate, recommending changes to the Louisiana Rules of Professional Conduct (RPC), acting as a liaison to the Louisiana Supreme Court on matters concerning the RPC, and reviewing proposals to add, delete or modify existing ethical rules and making recommendations for changes to the LSBA's House of Delegates. If you think we need changes in our RPC, this is the committee for you. It is a very impressive group with a very important job. This committee makes a difference.

CLE Committee. The Continuing Legal Education Program Committee works to provide LSBA members with quality and diverse CLE opportunities at an affordable price. You could help decide what CLE opportunities are available for our members, plus you will meet some of the best judges and lawyers in the state.

Senior Lawyers Division. If you are 65 or over, you are already a member of the Senior Lawyers Division (SLD). Our Bar has 22,868 eligible members and

5,325 of them are senior members. The SLD encourages and maximizes participation of senior lawyers in the operation and betterment of the LSBA, while providing services to the senior members. The SLD has organized lunch meetings with topics such as wellness, diet, exercise and stress. The next luncheon speaker will address retirement funds — whether you have enough, how to plan for your actual retirement when the time comes, and handling your retirement funds to make appropriate decisions for your family.

Mentor/Mentee, Transition Into Practice (TIP) Voluntary Mentoring Program. By far, my most enjoyable experience is being a mentor in the TIP Program. This program matches experienced lawyers with new lawyers and, together, the team works through a rigorous schedule of benchmarks for the new lawyer to attain, such as attending a deposition, attending a trial, discussions of how to run a law office and handling ethical dilemmas. I have met some great new lawyers who are now my friends. Even now, after the formal part of the program has concluded, I still speak to them often and, in several cases, we frequently still have lunch to discuss their career decisions. You may remember being a new lawyer and wishing there was someone with whom you could speak to answer those questions all new lawyers have. You can be a part of this great program either as a mentor or as a mentee.

Get involved! You will meet some of the nicest, smartest, most well-intentioned people and your law practice will be enriched. Now go run for the House of Delegates. Go be a mentor or a mentee. Enhance your experience as a lawyer. It will make YOU feel like YOU did something worthwhile . . . for yourself.

My 2¢.



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442 Europe Street, Baton Rouge, Louisiana 70802-6406



By Robert A. Kutcher

What a Long, Strange Trip It's Been

As I end my term as Louisiana State Bar Association (LSBA) President, I think back to our theme from last year's Annual Meeting, "Evolution of the Profession: What a Long, Strange Trip It's Been." The past year has certainly been a long, strange trip. It also has been one of the most enjoyable, satisfying, fun and challenging years of my life.

Unfortunately, as I write this, I am home practicing social distancing. Certainly, we could have done without the COVID-19 crisis. In less than a week, our world was turned upside down, and we were all forced to face the new realities of schools, restaurants, bars, movie theatres and gyms closing. I'm reminded of one of the lines from *My Cousin Vinny*, one of the great lawyer movies of all time. When Vinny shows up in court in his maroon circus outfit, his answer to the judge was that the whole store got the flu. Well, our entire world is closed for the flu, but we will get through it. We are resilient and the Bar is here to help. Please check our website for updates and advice.

Over the course of the year, I have had the opportunity to travel the state and meet with local and specialty Bar leaders and members. Much like Johnny Cash, "I've been everywhere, man."

My thanks go to all the local Bars — including the Alexandria Bar Association, the Southwest Louisiana Bar Association, the Lafayette Bar Association, the Shreveport Bar Association, the Baton Rouge Bar Association, the 22nd Judicial District Court Bar Association and the 4th Judicial District Court Bar Association

— for their kind invitations to attend their court opening and memorial exercises. Those events exemplify what this profession should be. We honor those who preceded us and welcome the new lawyers who will follow us. I enjoyed every event I attended and thank the officers and directors of each Bar Association for inviting me. For those who have not attended these events, I strongly encourage you to not only join your local Bar Association but to attend a court opening next year. It will make you feel good about our profession.

Overall, however, our Bar has had a very productive year. With the help of the Bar staff, we are well on our way to implementing our Strategic Plan. The world is an ever-changing place, and it is vital that we are prepared to face the challenges of the future. Like the world, our profession is not static. We either evolve or face irrelevance and extinction. Our Strategic Plan will help us evolve and be better prepared to handle the demands of the future. The practice of law is ever-changing, and we need to be prepared.

Despite the shifting landscape, there is one constant. Our profession is based on an unwavering commitment to the rule of law, which is simply a set of principles for ensuring an orderly and just society. The same law should be applied to everyone. Everyone should have access to the court system. The law is the cornerstone of a society. We should all be proud to be lawyers because we protect rights and vindicate wrongdoing. It is up to us to guard our system of justice. Civility is important. We can disagree without being disagreeable. Yelling and screaming are not the same as zealous

advocacy. Civility and professionalism are the bedrock of our profession. That is the foundation upon which our profession rests. Especially in these chaotic times of tribalism and polarization, all of us, lawyers and judges, should strive to uphold the ideals of our profession and uphold the rule of law.

Our predecessors have always been in the forefront of social policy and justice. It is up to us to follow suit. We all swore an oath to uphold the Constitution and should do so.

We, as lawyers, must commit to the impartial administration of justice for all. We must commit to the rule of law. The simple reality is that we are an integral part of our society. Despite the changing times, that will not change.

We also have a duty to address unwarranted attacks on our judiciary. It is the foundation of the system upon which the law sits. It is up to us to safeguard the integrity of the judicial system. If we don't, who will?

It is customary in the President's last message to thank everyone for their help and assistance, and far be it from me to do otherwise. This is a time-consuming and demanding job, and it could not be done without the help of so many people.

First and foremost, we are fortunate to have as our partners in the profession the Supreme Court which is so supportive of the Bar and its goal. Our success is a direct result of the Court's support. Until you speak with Bar leaders in other states, you don't recognize how valuable it is to have a working relationship with the Court. Our Bar is very fortunate.

I also thank the Board of Governors

and executive officers for their commitment and input. Our Board is diverse and truly represents the membership of the Bar. Although we have different practices and different political views, all of us on the Board care very deeply about our profession.

As any former President will tell you, this job could not be done without the support of the Bar staff, led by Loretta Larsen and Cheri Grodsky. They make our jobs easy. I literally could not have done this without their advice and counsel.

This job also could not be done without the support of my partners, especially Nicole Tygier, and our assistants, Julie Wisecarver and Celeste Pfeifferle.

I am very pleased to leave the Bar in good hands. I know our next President, Alainna Mire, and President-Elect, Minor Pipes, will do a great job. This is not an easy job, and it does take a village. I look forward to their leadership.

The reality of a one-year term is that you can only build on what your predecessor did and lay a foundation for what your successor will do. Over the course of the year, I have also been fortunate to have an excellent relationship not only with Alainna Mire but also with my friend and immediate past President, Barry Grodsky. The Bar is fortunate to have such committed leaders.

So, as I ride off into the sunset, I remember any number of “bye-bye”

songs, some sad, some happy. From an older generation, there is Bob Hope’s “Thanks for the Memories” or “I’ll Be Seeing You” by Billie Holiday and any number of other artists. Peter, Paul and Mary’s version of “Leaving on a Jet Plane” is a classic. From my childhood, there are “Happy Trails to You” and “See You Later, Alligator.” More recently, there is “(I’ve Had) The Time of My Life” or Alicia Keys’ romantic “Goodbye.” There is certainly no shortage of songs. But I choose to end this message and this year by closing, just as I did in opening, with the good old Grateful Dead, so:

“Truckin’, I’m a goin’ home.”

From the Editor

LSBA Response to COVID-19

By the time this issue of the *Louisiana Bar Journal* goes to press and you receive it in the mail, life in Louisiana will have changed dramatically. This is particularly true with the practice of law. As schools, courts and many businesses are closed, every day brings more changes. As the pandemic escalates, and in the interests of health and welfare of our people and communities, many of our members are now working remotely from home, with one eye on the computer and the other eye on kids or grandkids.

Yes, it’s a different world today, and though what the coming weeks will bring is uncertain, a measure of our excellence will be shown in how we adapt to these complex and changing circumstances. As one managing partner of a leading law firm said, “We are in a unique moment of understandable objective and subjective business and personal anxiety. The situation, and related family and client

environments, is rapidly evolving and we need to be current and agile in making the necessary judgment calls as the need arises.”

Rest assured that your Louisiana State Bar Association is here to help. Please closely monitor the LSBA website for continued updates that may affect your practice, and let us know if you need help in any way.

I don’t know if normalcy will have returned by the time this issue of the *Journal* reaches you, but we will eventually get back to normal. In the meantime, keep each of our members in your thoughts and prayers.

—Patrick A. Talley, Jr.
LSBA Secretary
and *Journal* Editor



COVID-19 Response

Access the LSBA’s Website for Latest Information on COVID-19 Response

For the most up-to-date information on the LSBA’s response to COVID-19, including office closures, Bar program cancellations/postponements, and links to court, state and additional resources, go to: www.lsba.org.

**COVID-19 (Coronavirus)
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Planning for Our Future:

An Update on the LSBA Strategic Plan



Louisiana
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Association

Serving the Public. Serving the Profession.

By Robert A. Kutcher
2019-2020 President
Louisiana State Bar Association

In 2019, the Louisiana State Bar Association's (LSBA) Board of Governors, under the leadership of then-President Barry H. Grodsky, adopted a Strategic Plan for the LSBA. Six goals were established.

As we approach the one-year anniversary of the adoption of the plan, I would like to share some highlights of what we have accomplished. There is still work to be done, but we have made good progress.

Goal 1: The LSBA preserves self-regulation and self-governance through our mandatory Bar in service to the public and the profession.

The Bar serves both the public and the profession, and our self-regulation is important. Over the course of the year, we have fully integrated the MCLE Department and we continue to coordinate the Legal Specialization Program. We have more than 400 lawyers who have qualified as specialists. We also continue to offer our Practice Assistance, Fee Arbitration and Client Assistance programs. If you are unfamiliar with any of these programs, I urge you to visit our website, www.lsba.org. These programs provide a valuable service to our members and the public.

Our statewide Mentoring Program (including a mentoring program for two- to seven-year lawyers) and our Spot Mentoring Program have gained momentum. In a time when there are more and more lawyers hanging out a shingle, the mentoring programs can be of valuable help.

Also over the past year, the LSBA has implemented a receivership program, established to assist in the event of a lawyer's death or disability. It is important to remember that a large proportion of our members are solo practitioners with no one to handle their practices in the event of catastrophe. This program provides help to both the impacted lawyer's family and his/her clients.

Goal 2: The LSBA cultivates professionalism, collegiality and quality of life among its members to

improve the quality of practice and respect for the profession.

In furtherance of our efforts to cultivate professionalism, collegiality and quality of life, we offer CLEs dedicated to the revised Code of Professionalism. Every issue of the *Louisiana Bar Journal* has dedicated sections to cover these topics. Among other activities, we continue to support the SOLACE Program, under the leadership of Judge Jay C. Zainey, as well as our Judges and Lawyers Assistance Program (JLAP).

In an effort to instill professionalism at the earliest possible time, we also conduct programming at the law schools starting on the first day of class, and we continue to visit the law schools in years two and three. The law schools are our future, and professionalism is the foundation of our profession.

Goal 3: The LSBA helps foster inclusion and participation by the diversity of its members and works to satisfy the unique needs of all members.

Consistent with our professional obligations, it is incumbent for each of us to make the law an inclusive environment. We encourage diversity on our committees and in our sections. The LSBA is an annual sponsor of the Conclave on Diversity in the Legal Profession. In order to promote future leadership, former LSBA President Larry Feldman established the Leadership LSBA Program. This year's Leadership LSBA Class consists of 15 young lawyers from around the state. We seek to educate young lawyers who want to get involved in the Bar and to cultivate the future leadership of our organization.

Our Member Outreach and Diversity Department continues to connect our Bar with local and specialty Bars to encourage the broadest possible participation. We encourage our Board members to engage with their local communities. We strive to have our leadership look like our membership in all respects.

Goal 4: The LSBA expands access to justice.

Access to justice is critical to our mission and our society. There are far too many of our fellow citizens who cannot afford even the most basic legal services. It is our job to speak up for those who cannot speak for themselves. Justice is not a spectator sport and we should not be on the sidelines.

This year, through the efforts of our Access to Justice Commission, we were able to secure \$500,000 in state civil legal aid funding for the first time in a decade. Our thanks especially go to State Senators Beth Mizell, Franklin Foil, Eric LaFleur and Cameron Henry for their efforts.

ABA Day in Washington, D.C., was also a success. Through our efforts, and the efforts of many other Bar Associations from around the country last year, Congress approved national legal aid funding in the amount of \$593,000,000, which represents a significant increase over prior years. While the amount allocated is, in adjusted dollars, lower than it was in the Reagan years, this is still a major victory in today's environment. Our ABA Day is coming once again this year in April, and we hope to exceed that appropriation.

Closer to home, our Modest Means Program, established to address the legal needs of modest means clients and to match them with lawyers performing legal work at reduced rates, is continuing to grow. If this program or our Legal Innovators for Tomorrow (LIFT) Program is of interest to you, I invite you to go to our website and sign up. These programs are the quintessential "win-win."

The Building Bridges Committee has worked in coordination with the Departments of Corrections and Motor Vehicles to make it easier for people released from incarceration to have legal representation for everyday tasks such as obtaining a driver's license. Navigating the legal challenges can be daunting and, without a driver's license, obtaining employment can be difficult. Volunteer if you are able. There are so many ways to help.

Goal 5: The LSBA improves public trust and confidence in the legal system and its participating judges and lawyers.

Public trust and confidence are critical to our ability to not only do our jobs but to give back to our communities. Once again this year, we conducted our Lawyers in Libraries Program. Through the efforts of our member volunteers, we had lawyers in every parish library that invited us. Many of us, with our laptops, iPhones and iPads, do not realize that, in this computer-dependent world, some parts of our population do not have computers, and their only access to the Internet is in the public library. Our goal in this program is to provide free legal advice to those of our citizens who need it the most. We had more than 100 volunteers for more than 120 events throughout the state. Join us this coming October to give back to your communities.

Our Secret Santa Project, coordinated in conjunction with the Louisiana Bar Foundation, made the holidays more enjoyable for more than 800 children. Consider participating this December.

In a further effort to encourage pro bono participation, at the recent LSBA Midyear Meeting, the House of Delegates approved emeritus status for lawyers. This allows lawyers over age 50 who have been practicing for more than 10 years and who no longer want to practice law full-time to elect emeritus status and reduce his/her annual dues by 50 percent. This emeritus status will allow a lawyer to continue to do pro bono work while reducing the cost of dues.

In conjunction with Just The

Beginning Foundation and the Louisiana Bar Foundation, we also conduct our Suit Up for the Future Program, chaired by U.S. Magistrate Judge Karen Wells Roby. The three-week program is designed to give high school students an idea of what the practice of law is all about. We also continue to support and partner with the Louisiana Center for Law and Civic Education which promotes the practical understanding of and respect for the law. These are just a few of the programs designed to foster trust and confidence in our legal system.

Goal 6: The LSBA has the financial governance and organizational capacity to serve its vision.

It is no secret that mandatory State Bars, like ours, have been the subject of lawsuits alleging violations of freedom of speech and freedom of association. There are currently pending suits in Texas, Michigan, North Dakota, Oklahoma, Wisconsin and Oregon, as well as here in Louisiana. In Louisiana, the Bar and the individual members of the Louisiana Supreme Court were sued by one of our members. In January, U.S. District Judge Lance Africk dismissed that lawsuit. As expected, the plaintiff has appealed that dismissal.

We will, of course, vigorously defend the Louisiana suit and monitor the other state actions. We will also continue to ensure that our association continues to comply with the prevailing law.

Over the past year, our membership has voted to require that any new House of Delegates policy be adopted in excess of 75 percent, and, in January,

your House of Delegates adopted new guidelines for any new House of Delegates policy. The Bar will continue to have a direct role in matters impacting the practice of law.

It's Your Bar: Be Part of It!

We are a long way from accomplishing our goals, but we have, through the efforts of our Board and staff, gotten that much closer to achieving and implementing our plan for the future. I urge each of you to get involved in your Bar Association. We strive to have something for everyone. Be part of the experience. It's good for you and for your community. For information on any of our programs, visit our website, www.lsba.org. It's all there. This is your Bar Association. Be a part of it.

Robert A. Kutcher is the 2019-20 president of the Louisiana State Bar Association (LSBA). He is the managing partner in the Metairie firm of Kutcher Tygier & Luminais, L.L.P. He received his BS degree in 1972 from Cornell University and his JD degree, cum laude, in 1975 from Loyola University Law School. He served as LSBA president-elect in 2018-19 and as LSBA treasurer in 2014-16. He also has served in the House of Delegates and on the House Liaison Committee, the Legislation Committee, the Committee on the Profession, the Louisiana Bar Journal Editorial Board, the Summer School Planning Committee, the Nominating Committee, the Rules of Professional Conduct Committee and the Audit Committee. (rkutcher@nolacounsel.com; Ste. 900, Two Lakeway Center, 3850 N. Causeway Blvd., Metairie, LA 70002)



LSBA Member Services

The mission of the Louisiana State Bar Association (LSBA) is to assist and serve its members in the practice of law. The LSBA offers many worthwhile programs and services designed to complement your career, the legal profession and the community.

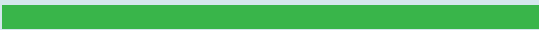


In the past several years, the legal profession has experienced many changes. The LSBA has kept up with those changes by maturing in structure and stature and becoming more diverse and competitive.

For more information,
visit www.lsba.org

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Portraits & Perspectives: Louisiana Supreme Court Associate Justices



Louisiana Supreme Court Associate Justice James T. Genovese. *Photo courtesy of Louisiana Supreme Court.*

One on One with Louisiana Supreme Court Associate Justice James T. Genovese

Interviewed by Winfield E. Little, Jr.

Louisiana Supreme Court Associate Justice James T. Genovese was born, reared and educated in, and is a lifelong resident of, Opelousas in St. Landry Parish.

He graduated from the Academy of the Immaculate Conception in Opelousas in 1967. He received a BA degree in 1971 from Northwestern State University in Natchitoches, where he was a four-year letterman in tennis. He received his JD degree, with honors in property law, in 1974 from Loyola University College of Law in New Orleans.

Justice Genovese was engaged in the general practice of law in Acadiana from 1974-95. He served as president, vice president and secretary-treasurer of the St. Landry Parish Bar Association. He is a member of the Louisiana State Bar Association, the Colorado Bar Association and the American Bar Association. He is admitted to the bar in all state and federal courts in Louisiana, including the U.S. Supreme Court.

His judicial career began as a judge ad hoc of the Opelousas City Court from 1975-89. He was elected district judge for the 27th Judicial District Court (St. Landry Parish) in 1995 and served as district judge through 2004. He next was elected to the Louisiana 3rd Circuit Court of Appeal and served on that court from 2005-16. He was elected as an associate justice on the Louisiana Supreme Court and began serving on Jan. 1, 2017.

He is married to Martha Anne Janes and is the father of four daughters and one stepdaughter and has four grandchildren.

Journal: Justice Genovese, tell us about your early childhood.

Genovese: For 70 years, I've been here in Opelousas. My mother was born and raised between Lawtell and Church Point. She's a DeJean, and she was one of 10 children reared on a farm. St. Landry Parish is my home. I could have gone to Lafayette when I was elected to the court of appeal. But the people of St. Landry Parish were responsible mostly for electing me, and I'm loyal to my people in St. Landry Parish. I love Opelousas, and I'm still here.

Journal: What did your parents do?

Genovese: Well, this will explain my last name, Genovese. I was often kidded about the Mafia and Italian heritage. But my father was from Stamford, Connecticut. He grew tired of the north and wanted to attend college in the south, so he went to the University of Alabama. He graduated from the University of Alabama two years ahead of Bear Bryant, who signed his yearbook. He then attended LSU Medical School, where my mother's brother, Ferdinand, also was attending. My Uncle Ferdinand invited my father during spring break to his parents' house between Lawtell and Church Point, a little community called Plaquemine Point right off Bayou Plaquemine. He did that a couple of times. He met my mother. They became enamored and got married.

Later, my father took ill, developed bleeding ulcers and almost died. He had to sit out for two years. When he went back to med school, they wouldn't give him credit for the two years he had already completed. So, he said, "To heck with it. I'm just going to teach school." My father taught school in the St. Landry Parish school system for over 30 years.

My mother graduated from Sacred Heart in Grand Coteau, which was a college then. Together, they ran a frozen food locker business and my father taught school. My mother always wanted to run a nursery school. About the time I began attending law school, she was running a school for kids ages 3-5. She did that for 10 years. After they both retired, they lived out their days together until they passed away.

Journal: I assume you attended parochial schools?

Genovese: That's an interesting story. My mother was a very strong Catholic. When it came to that, she ruled the roost. Even though my father taught in public school, my mother required all of her children to attend Catholic school. So I attended the Academy of the Immaculate Conception (AIC) in Opelousas (now called Opelousas Catholic). When it was time for high school, I asked to attend Opelousas High School where my father taught. My father told me I had to ask my mother. I did, and it didn't go far. I pled my case. I guess that's why I eventually became a lawyer. I appealed saying, "Look, Daddy, you're at OHS. If I'm there, you can watch over me if I get out of line." I lost that appeal, and all of us kids graduated from AIC.

My father taught biology. He knew the biology professor at Northwestern. One day, he picked me up from school and said, "Get in the car. We're going up to Natchitoches. If I like the school, that's where you're going to college." I said, "Wait a minute. I want to go to USL. It's 20 miles away. I'd be home." He said, "This is the deal. You go to USL, you pay for it. You go to Northwestern, I'll pay for it." So, I wound up going to Northwestern, earned a tennis scholarship and played tennis for all four years.

In my senior year, I applied to LSU Law School and was accepted. I was all excited. I showed the letter to my Dad. He said, "Very good, son. I'm happy for you. But you better go talk to your mother." I said, "Mom, I got accepted to LSU in Baton Rouge, and I'm real excited about that." She looked at me and said, "Hmm, I think you need to go to Loyola, a Catholic school." I said, "Mama, I don't want to go to New Orleans. I want to go to LSU." She said, "You go to LSU, you pay for it. You go to Loyola, I'll pay for it." Not again. At this time, I was married with a child. So, three years later, I graduated from Loyola because I'm not a fool.

That's how strong my mother's influence was and how much it meant to her for her children to get a good Catholic education. Mom was always right. I was young and I thought I knew it all. But I didn't. They did.

Journal: You came back to Opelousas to practice law?

Genovese: I did that because my uncle, Robert F. DeJean, was a city judge at the time. He was a judge for over 30 years. I had plans to practice with him, but, as things worked out, he had two sons, also lawyers, so there really was no room in the inn for me.

So I opened my own office and practiced for a year by myself. I learned a lot doing indigent defender work. I learned how to try cases. When you do indigent defender work, you have a lot of criminal trials. So I learned how to be a trial lawyer, not a plaintiff personal injury lawyer, but a criminal defense lawyer. The next city judge after my uncle — Kenneth Boagni — came to me and said he needed a partner and some help. We formed a partnership, Boagni & Genovese, and practiced law together for 14 years. Then I went on my own for seven years. I practiced a total of 21 years and then ran for district judge, appellate court, Supreme Court, and the rest is history.

Journal: You were an ad hoc city judge, also?

Genovese: Back then, the city judge could appoint a lawyer to take his place, so Judge Boagni appointed me. It's different today. Today, the Supreme Court makes the appointment.

Journal: You ran for district judge?

Genovese: Yes. At the time, we had four district judges and two of them decided to retire at the same time. I had never thought about being a district judge, but I didn't feel the people running were qualified because they didn't have trial experience. I have strong feelings about that. If you're going to be a district judge, you have to have trial experience because that's what they do. If you're going to be an appellate court judge, you better have some district court experience because the appellate court judge grades the paper of the district judge. If you're going to be on the Supreme Court, I think you should have district court and appellate court experience because the Supreme Court is a whole different ballgame. So, I ran for

judge against five other people, and, by the grace of God, I was elected. I served for 10 years from 1995 through 2004 on the district bench in the 27th JDC in St. Landry Parish.

Journal: You then decided to run for the 3rd Circuit and later the Supreme Court?

Genovese: I never had any desire to run for the court of appeal. I remember I was on the bench in the middle of a trial one Friday afternoon and I get a call from Ned Doucet, the 3rd Circuit Court of Appeal chief judge. When you're on the district bench and the chief judge of the 3rd Circuit calls, you go off the bench and take the phone call. He had two things to tell me — "I've decided to retire and I'm running for representative, and I want you to consider running for my position. Think about it and let me know." I talked to several people, mentors, people in the community, people I respect a lot. Eventually, I ran and was elected. I was on the appellate court for 12 years.

When Justice Jeannette Theriot Knoll retired, I was asked to consider running. I never had a desire to be there, either. But I ran, and, again by the grace of God, I was elected.

Journal: I saw a vehicle outside that had a personalized license plate of "JTG."

Genovese: That would be me.

Journal: How did you come to have a license plate "JTG"?

Genovese: Can I object on the grounds of relevance? What does this have to do with this interview? But, as you are here at my office, I'll answer the questions. I have nothing to hide.

In 1984, as I recall, Louisiana decided to allow personalized license plates. Perhaps out of vanity, I sent in for "JTG." I was early — early bird catches the worm — and I got the license plate and put it on my car. One day, I went to lunch at the Palace Café, right across from the courthouse. A lot of lawyers go to the Palace Café, and we all sit at this table called the round table. Attorney James Guglielmo, a good friend, came

in and said, "All right, Genovese, I want that license plate." Of course, his initials also spelled JTG. I said, "Well, James, that's my personalized license plate. I paid over \$100 for it. When I'm dead and buried, you can have that license plate, but you ain't getting it now." He was not happy.

Lo and behold, about five years later, my wife gets a new car. About the license plate, she said, "You got JTG. I want MJG." My wife's name is Martha Janes. I said, "We'll get a license plate as JTG-MJG."

I go back to the Palace Café again. In comes James Guglielmo again. He was not happy. He said, "What are you doing?" I said, "James, you're not getting that license plate." He said, "I'm not talking about that license plate. I'm talking about the license plate on your wife's car." I said, "What's your problem now? The license plate on my wife's car is JTG-MJG." He said, "Well, my wife's name is Mary Janet Guglielmo, and her initials are MJG as well. Now you have JTG and MJG, and my wife saw that and she wasn't happy either."

It was really kind of funny. My wife still has JTG-MJG on her car and I still have JTG on my truck. It doesn't mean anything. It's just our initials.

Journal: In 40-some-odd years of practice, and on the bench, can you think of one or two interesting cases that you would like to tell us about?

Genovese: A lot of people are interested in the money aspect and the big cases. But one of the most rewarding things I've done in the practice of law is private adoptions. I represented local OB/GYN doctors. Whenever a young mother wanted to put her child up for adoption, then the OB/GYN would call me, and we would handle the adoption. I did about 20 or 25 of those. It was a rewarding experience to allow a couple who could not have children of their own to become parents. It gives me chills even now.

As a district judge, I presided over nine murder cases and every one of them was exceptionally interesting and very challenging. All the murder cases have the forensic aspects with the

coroner and the other experts testifying about the cause of death. That is all very intriguing.

I had a number of big cases, including toxic tort, damage to property and, of course, what I call the “crawfish case.” It involved the poison (herbicide) administered to kill the rice weevil that also wound up killing all the crawfish. It was a mass class action case that went on for five years. It eventually settled but we tried it for several days.

Journal: Just something that you’d want other people to read or think about.

Genovese: I would like people — especially people interested in law — to know that what we truly want is justice and “justice for all.” I think justice should be fair for everyone, those who have the money versus those who don’t have the money. It’s very important. By serving on the bench for 24 years, I’ve learned that justice just doesn’t happen. You have to work at it, and you have to be fair. But people need to remember that judges are human beings, too. It is also important to remember that when people come before you, as a lawyer or a judge, they’re putting all their faith in you. This situation may be the only case they ever have, and, for them, their life, liberty and property is at stake. You have to work hard to get it right. Give them their day in court. Let them present their evidence. Then take the facts and, to the best of your ability, apply the law to those facts and try to render a fair decision with justice. As a district judge, as an appellate court judge and now as a Supreme Court justice, the process hasn’t changed. You give them their day in court, treat them with dignity and respect, and make sure you do the best to give them justice. It’s not always an easy task.

Journal: While we’re doing this interview, you mentioned that you received an emergency writ application . . .

Genovese: Yeah.

Journal: . . . on your laptop?

Genovese: Yes, it comes in on the iPhone first. I’ve read them in duck blinds. I’ve read them in the Wal-Mart parking lot. When I get the chance, I



Justice Genovese at his nearly-paperless desk. Most communications are digital these days. Photo by Winn Little.

pull it up on my iPad. As soon as we get through with the interview, I’ll read the application and make a decision.

Journal: That brings to mind the scheduling you have to do on the Supreme Court. Can you give us an idea of what happens each week or every other week?

Genovese: Perhaps I should have stayed at the appellate court because that was the easiest and best job in the judiciary. When I went from the appellate court to the Supreme Court, I’ve never worked this hard in my life. This job is all-consuming, 24/7 and tough. There are no easy cases. You have to do something in this job every day. You

hope to get a couple hours to spend time with grandchildren or go hunting or fishing. But if you go hunting or fishing, you have the iPhone with you and you get emergency writs that flow in or requests to appoint a judge to one of the eight parishes you represent. Every day, all day. When that emergency writ comes in, you stop everything else.

Every week, we have conference, except when we have oral argument. The term runs from the end of August through the end of June. In between the end of June and the end of August, even though you’re not technically having conference every week or oral argument, you still have emergency writs and you still have to take care of

your appointments. For example, every judge needs to be replaced temporarily because of sickness, a death in the family, going to a CLE, vacation, conflict, recusal, etc. If for some reason a judge cannot serve, I have to appoint a judge to serve in his/her place. I get the notice on the iPhone and I have to appoint a judge appropriate for the position. If it's a criminal matter, I want a judge with experience in those matters and the same with civil jury trials or juvenile matters. I'm a strong believer in experience to be a judge.

To shorten a long explanation, the rest of our scheduling involves live conferences in New Orleans, oral arguments, video conferences, and conferences to take care of all administrative matters of the court, which can take hours as the Supreme Court is responsible for all lawyers, judges, courts and the entire judiciary, covering issues like payroll, insurance, the drug court, FINS (families in need of supervision), CASA (Court-Appointed Special Advocates), the protective registry, lawyer discipline, judicial discipline and other areas. All of these things have separate departments and we have to manage appointments for the positions.

After we finish administrative conference on the first day of conference, we normally handle what is called the two-list, comprised of all the most recent writs filed. As these come in, they are divided among the seven members of the court. Normally, it will be around 50 cases. Each justice may be responsible for seven or so cases and their staff produces reports for those cases. Each justice reviews the other reports from the other justices' offices as well. Then there are conference days for the one-list, three-list, four-list, rehearing list and discussion list. You have a list for everything.

And, of course, you just read and read and read and then, when finish reading, you start reading again. I've never worked this hard in my life. But this job is so very important because, again, somebody's life, liberty and property is at stake, not to mention the fact that you are the highest court in the land for state matters. What we say, how



The personalized "JTG" license plate still graces the Justice's truck. Photo by Winn Little.

we rule and what we decide will go on for decades. You know those decisions that I wrote while I was on the Supreme Court? They don't die with me. They are still on the books until somebody comes and changes them. That decision is there until someone overturns it.

Journal: Do you have any advice for attorneys and judges?

Genovese: Yes. Uphold the integrity of the profession and maintain your credibility and your reputation. It is so very important. We have a never-ending job to get out there and convince the public that what we do is good. It's difficult when all you hear are the complaints about lawyers and the lawyer jokes and see all the lawyer billboards. But it's interesting that when somebody's family member gets in a jam, the first thing they do is call the lawyer.

To give some advice, we have over 23,000 lawyers in Louisiana and there's always a place for good lawyers. From personal experience, I will tell you this: If you are organized and prepared, you can be a good lawyer, you can be a good judge, and you can do a good job. Organization and preparation can make up for lack of skill, or even lack of intelligence. Organize your case, have your exhibits ready and interview your witnesses. Don't look like you're not prepared. The practice of law is an adversarial proceeding and you are out to win. Being organized and prepared pays major dividends.

Also, when people contact you, contact them back. I don't go a day without responding to a phone call, a text or an email. Respond as soon as you possibly can. That's the greatest advice. In this digital age, with all the social media options, there's no reason not to respond quickly. So, return your phone calls, take care of your correspondence, be good to people, be organized and prepared, and the world is a better place and the legal profession is a better place. We can improve our profession and we need to do that.

Journal: Any final thoughts?

Genovese: I want to conclude by saying that I'm doing this job for two reasons and two reasons only — to make this court better and to bring balance to this court. This is what I strive to do every single day that I'm serving on this court when I'm reading cases. Above all, I believe in access to the people. I believe in making sure that people know that I'm here. If you need to talk to me, every person around knows that my number is 94-JUDGE. I've been having it for 24 years. Okay, I bought it from a lady from Houston who had the number. But it still works to this day. I take pride in being local here. I mean, how many Supreme Court justices' cell numbers do you have?

Journal: None.

Genovese: You have one now.

Journal: I appreciate you spending the time with us and thank you.

Genovese: You're welcome. Please take this ole mule and make me look like a thoroughbred.

Journal: There are limits.

Winfield E. Little, Jr. is a sole practitioner in Lake Charles. He is a member of the Louisiana Bar Journal's Editorial Board and served on the Louisiana State Bar Association's Board of Governors and in the House of Delegates. He received a BS degree in physics in 1967 from Louisiana Tech and a JD degree in 1974 from Louisiana State University Law School. (wllittle@littlrelawfirm.com; 616 Broad St., Lake Charles, LA 70602-3759)





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Civil Justice is Having a Moment:

Join the Action

By Amanda L. Brown

Across the globe, legal communities are wondering if the civil justice system is meeting the critical demands of those who need it. The answer is a resounding “no.” In America, this renewed scrutiny is in large part thanks to a 2017 report published by the Legal Services Corporation (LSC) that put a microscope on the efficacy of the legal profession and asked an important question — what is the “justice gap?” Or, in plain terms, what is the gap in service between individuals who qualify for civil legal aid and those who don’t qualify but still cannot afford an attorney?

The results were staggering.

The nationwide Justice Gap Study

found that 71% of low-income households in America experienced at least one civil legal problem the year prior to the survey. Of those, 86% received inadequate or no legal help. Importantly, as much as 20% of households never sought legal help for an issue, in part because they were unaware the issue was legal in nature. No matter how these results are viewed, it is clear there is an access-to-justice crisis in this country.

A Renewed Energy

The Justice Gap Study was a seminal moment for civil justice in America. Those tasked with serving the underprivileged were already keenly aware of

the problems the study highlighted. But this report was especially sobering for the rest of the legal profession.

Today, large law firms are prioritizing pro bono services, with in-house legal departments following suit. Courts are piloting innovative service-delivery projects, creating more educated and engaged litigants. Technologists and designers are bringing creative problem-solving to important issues like housing and homelessness, consumer debt, bankruptcy and divorce. This action is evidence that the Justice Gap Study brought a renewed energy ensuring the justice system is accessible to all, not just some.

Much like the rest of the country, the

Louisiana civil justice community is looking for creative ways to bridge the justice gap. Part of that effort is taking a data-driven approach to identifying the needs of communities, evaluating the effectiveness in meeting those needs, and determining the financial value of the impact. Through two recently released studies, the case is being built for more civil legal aid support.

The updated Social Return on Investment Study highlights the incredible financial impact civil legal aid has on the state's economy. Meanwhile, the first-ever, formal Unmet Needs analysis conducted in Louisiana aims to document the frequency at which common civil issues are experienced by the community and, most importantly, how often those needs go unmet.

Economic Impact and Social Return on Investment Study

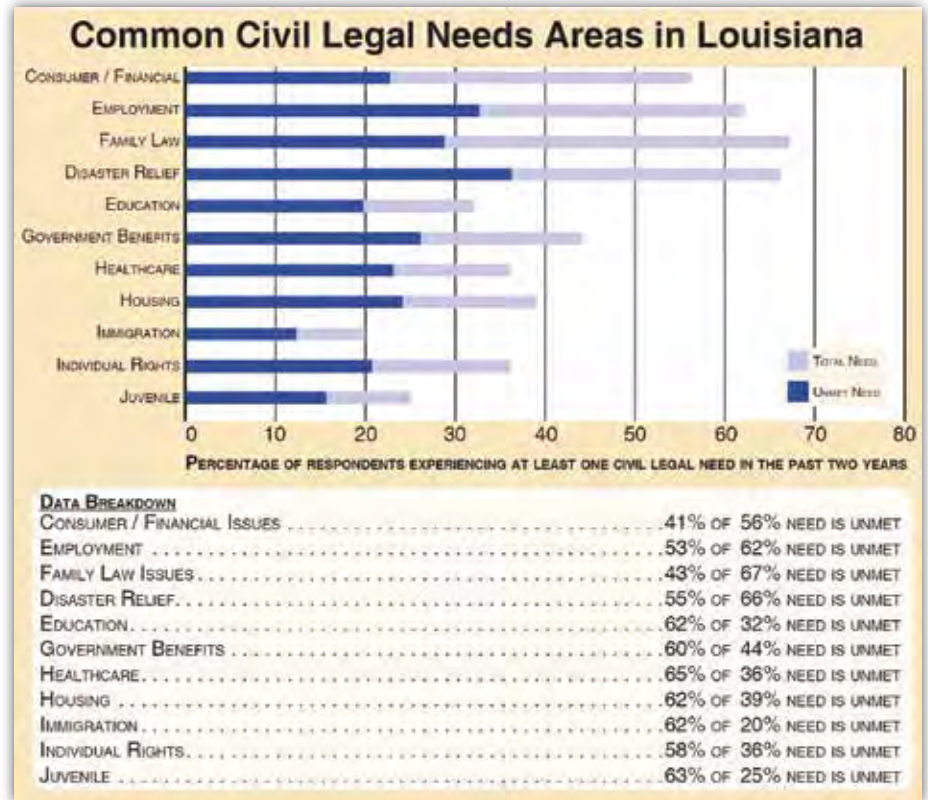
In late 2018, the Louisiana Bar Foundation tasked experts with evaluating more than 40 civil legal service providers to quantify the value civil legal aid brings to the state from a purely economic standpoint. The Social Return on Investment (SROI) calculation — though a bit abstract in concept — is a widely-accepted standard for measuring the social impact of an investment.

Measuring the impact of social services is challenging. ROIs are typically measured in dollars and cents. But many social services' benefits extend beyond monetary benefits and legal services are no exception.

Of course, in virtually every case, a client derives some monetary value from a civil legal aid service. Most commonly, clients avoid the costs of a private attorney. They may also see financial gain via court settlements, awards or other personal costs saved. But in many cases, the true impact of that service may take years to fully realize.

This is where traditional and social ROIs begin to diverge.

The first phase of this process requires measuring the value of the "outputs" organizations deliver. The most



accurate measurement basis for those outputs is the fair market value of the services being delivered, plus the value of benefit immediately received. More plainly, what would it cost the community to acquire the same services if the service providers did not exist? And what immediate, tangible value did the client receive? The sum of these parts represents the "Immediate Net Direct Value of Services."

The second phase takes on the measurement of the long-term value of the services, or the "outcomes" communities are likely to experience in the long run. This number is found by reviewing such things as savings in community support costs, reductions in community medical-care expenses, additional community tax revenues from benefit programs, savings in housing and support costs for homeless families, and savings in community law enforcement, court systems and other government agency costs. In the SROI equation, this value is coined the "Long-Term Net Consequential Value."

Adding these figures and comparing them to the total tax-based funding for Louisiana civil legal aid operations

— *i.e.*, the number of dollars directed to the actual provision of legal services — provides the social impact return on investment.

Consider the financial impact of an eviction case. In a typical eviction case, the Immediate Direct Value includes the value of the attorney's services and the avoidance of fines and moving costs. The Long-Term Consequential Values might include money a community center saved in housing and support costs for that family that avoided homelessness.

It is clear that legal services have a ripple effect into the community, saving dollars not just for individuals but also for programs that are otherwise tapped into in times of crisis. Evaluating both the immediate and long-term consequential financial benefit of legal services rendered shows how substantially those services support the economy.

Louisiana's SROI

Much like the Justice Gap Study, the results of the 2018 SROI study were staggering. *For every \$1 invested in civil legal aid, the economy sees a 913%*

return on investment.

According to data from more than 40 participating legal service programs, those programs fielded 22,727 legal issues from the public in 2018. Their work gave Louisiana an immediate net direct value of \$34,697,000, and more than \$60 million in long-term consequential value, yielding a total net value of \$95,124,000. With just \$10.4 million invested in civil legal services that year, there was a 913% return on investment.

Even if *only* the direct value of civil legal services was measured, the civil legal aid funders get excellent returns on their investments. This research proves what the justice community has known all along — the effects of civil legal aid are far reaching and are critical components of the health of the economy.

2018 Unmet Needs Study

On the heels of the LSC Justice Gap Study, the Louisiana State Bar Association's (LSBA) Access to Justice Committee felt it important to better understand the specific needs of the state's communities. This first-ever, formal attempt to document unmet civil legal needs in Louisiana provided the unique opportunity to evaluate and consider the pervasiveness of different civil legal issues in the state and how people navigate them.

Using web-based surveys, researchers retained by the LSBA surveyed hundreds of individuals and families across the state. To ensure the results were truly representative of those who would likely qualify for some type of free civil legal aid, survey participants were generally required to fall at or below 200% of the federal poverty level.

Researchers then determined unmet needs by uncovering three main data-points, with each latter point building on the prior points:

- ▶ What percentage of people within the target population experienced a civil legal issue?
- ▶ Of those who had experienced a legal issue, what types of issues did they face?
- ▶ Of the types of issues faced, which

were the most underserved?

In addition to web-based surveys, the researchers leveraged existing data from direct legal aid providers that was collected to advance the previously mentioned LSC Justice Gap Study.

Survey: Number of Participants Facing Civil Legal Problems

To lay the foundation for this study, researchers had to know how many survey participants have faced a civil legal problem. Of all respondents, 54% said they or a member of their family had a civil legal need in the past, with more than half of those having had a civil legal problem within the prior two years.

The remaining 46% of respondents identified as never having a civil legal need. In reality, however, as recognized by the Justice Gap Study, the number of individuals that *have* previously experienced a civil legal issue is generally moderately higher than reported due to some individuals' failure to identify a problem they have as legal.

Nonetheless, the 54% of survey participants that identified a previous civil legal issue then became the focus of the remainder of the study.

Survey: What Type of Legal Needs?

The next stop on the researchers' journey was determining the different types of legal issues respondents had faced. The researchers broke down higher-level topics, like "family law" and "employment law," into need-based scenarios that could be more easily identified by someone with a particular need. In all, more than 65 descriptions of specific legal scenarios made up 11 high-level legal issues.

Topping the list of types of legal issues was Family Law, with 67% of participants indicating that they or a close family member had dealt with some type of family law issue in the prior two years. With Louisiana being a disaster-prone state, it's no surprise that Disaster Relief-related issues came in second, having been experienced by 66% of survey takers, especially in light of the widespread flooding that occurred in 2016. Rounding out the top four issues in Louisiana were Employment (62%)

and Consumer and Financial (56%) civil legal issues.

Survey: What Type of Legal Help?

To determine which legal issues went most underserved, the researchers asked participants to identify what action they took when faced with their legal problem. This creatively crafted question gives insight into how people who do address their legal issues accomplish their goals. It also gives a better understanding of the reasons why people have unmet needs or otherwise unresolved legal issues.

This aspect of the study revealed that while fewer numbers of people experienced civil legal issues like healthcare, juvenile, education, immigration and housing, those legal problems had the highest unmet need. In fact, more than 60% of each of those types of legal issues went unmet.

But even those legal issues that saw the greatest percentage of *met* needs fell short of the state's lofty goal of 100% meaningful access to justice. For example, people with Consumer and Financial Legal Needs had the highest percentage of their needs met relative to other frequently experienced civil legal issues. Even so, only 59% of that population received some sort of assistance or otherwise had their needs met. The data shows that this is largely because many people cannot afford a lawyer and don't qualify for legal aid (falling within the justice gap), do not know where to go for help, or simply decide to do nothing about the issue.

Join the Action and Get Involved

These studies have proven to be immensely valuable in making the case for civil legal aid.

At the state level, the SROI and Unmet Needs studies put a face to the "Justice Gap" and were crucial in persuading the Louisiana Legislature to reinstate a \$500,000 appropriation for civil legal services for 2019. Prior to this appropriation, civil legal services in Louisiana had gone almost 10 years

without funding, making Louisiana only one of four states in the country with no legislative support or dedicated state-wide filing fee.

At the organizational level, these studies are allowing different players within the civil justice ecosystem to organize their efforts for greater impact. More data about the volume and severity of cases with unmet needs means organizations are better equipped to prioritize their efforts and focus collaboratively on the highest needs. The Unmet Needs study gives a clearer picture about the pathways people are taking to resolve their issues and provides the opportunity to intercept individuals before their needs go unmet.

At the individual level, legal professionals are encouraged to join the action. Louisiana's robust civil justice ecosystem offers an entire spectrum of opportunities for involvement. Consider joining the LSBA's Access to Justice Committee to gain insights into the current challenges the civil justice commu-

nity is tackling and to find opportunities to help research new methods and propose solutions.

Participate in local Pro Bono Projects or register for the LSBA's Modest Means Directory. The Modest Means Directory allows attorneys to provide full scale or limited scope representation to those in need at a reduced cost.

The LSBA's new program, *LaFreeLegalAnswers.com*, is an online forum allowing qualifying individuals to pose questions to attorneys who provide anonymous legal information and advice. If influencing change through policy is a goal, become a member of Louisiana Appleseed or the Louisiana Bar Foundation and join their annual Fellows' class projects.

Conclusion

No matter what is chosen, everyone's contributions make a difference. As the studies indicate, there is a critical mismatch between the needs of the most

vulnerable and the services the legal community is providing. Work is continuing to build a sustainable justice system that ensures access to all who need it. Everyone's help is needed to capitalize on civil justice's moment.

Attorney Amanda L. Brown is a legal innovation and technology consultant working with the Louisiana Bar Foundation's Louisiana Civil Legal Navigator Project. She spent one year in residence at Microsoft headquarters as the inaugural Microsoft NextGen Fellow for the ABA Center for Innovation. During her fellowship, she worked closely with legal community stakeholders and in-house technologists to design and develop the LSC Portal Project pilot, from which the Civil Legal Aid Navigator project is derived. Prior to her fellowship, she served as a Louisiana Bar Foundation Flood Recovery Fellow with Southeast Louisiana Legal Services. She is a 2016 graduate of Loyola University New Orleans College of Law. Email her at amanda@lagniappelawlab.org.



LSBA Member Services – Business Services

For information about these LSBA programs, contact the Bar Office by calling (504)566-1600 or (800)421-LSBA. These services are benefits of membership with the Louisiana State Bar Association.

Programs

- ▶ **Client Assistance Fund**
www.lsba.org/goto/clientassistancefund
- ▶ **Continuing Legal Education Program**
www.lsba.org/cle
- ▶ **Ethics Advisory Service**
www.lsba.org/goto/ethicsadvisory
- ▶ **Legal Specialization Program**
- ▶ **Loss Prevention Counsel**
Johanna G. Averill, Lindsey M. Ladouceur and Elizabeth LeBlanc Voss • (800)GILSBAR

Insurance through Gilsbar

- ▶ Group Insurance, Major Medical, Disability and Malpractice Insurance
(800)GILSBAR • (504)529-3505
See inside back cover

Car Rental Programs

- ▶ **Avis** • (800)331-1212
Discount No. A536100
- ▶ **Budget Rent-a-Car** • (800)527-0700
Discount No. Z855300
- ▶ **Hertz** – (800)654-2210 • Discount No. 277795

Other Vendors

- ▶ ABA Members Retirement — (800)826-8901
- ▶ Citrix ShareFile — (805)617-7027
- ▶ Clio — (888)858-2546
- ▶ CosmoLex — (866)878-6798
- ▶ Dell — (800)999-3355
- ▶ Geico — (800)368-2734
- ▶ LawPay — (866)376-0950
- ▶ LexisNexis — (800)356-6548
- ▶ MyCase — (800)571-8062
- ▶ Office Depot — (855)337-6811, x12897
- ▶ Shop ABA — (800)285-2221
- ▶ United Parcel Service — (800)325-7000



Louisiana
State Bar
Association

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LSBA 70-, 60-, 50-Year Members Recognized at 2020 Midyear Meeting

Louisiana State Bar Association (LSBA) members who have reached half a century and beyond in their professional careers were honored during the LSBA's Midyear Meeting in January in Baton Rouge. During the Jan. 17 reception, the honorees received medals presented by LSBA President Robert A. Kutcher. The honorees also posed for photos with Kutcher before the event.

The following Bar members were recognized.

70-Year Honorees Admitted in 1950

Louis A. DiRosaMetairie
Herschel M. Downs.....Shreveport
Walter R. Fitzpatrick, Jr..... Trophy Club, TX
Milton Joseph C. Hero New Orleans
Richard K. IngoliaMetairie
J. Mart Mitchell Houston, TX
Joseph W. Nelkin Baltimore, MD
James P. Norris, Jr. Monroe
Russell M. Porter Paris, France
George W. Pugh..... Baton Rouge
Wilmer J. Thomas, Jr..... Salisbury, CT

60-Year Honorees Admitted in 1960

James H. Allen.....Memphis, TN
James S. Arceneaux.....Metairie
Roy L. BeardShreveport
Andrew J. Bennett, Jr. Baton Rouge
Joel L. Borrello.....Metairie
Philip Schoen Brooks New Orleans
David L. Campbell Folsom
Ronald Alphonse ChevisMetairie
Payton R. Covington Lake Charles
Hon. W. Peyton Cunningham, Jr..... Natchitoches
Justin J. David.....Shreveport
Hon. W. Eugene Davis New Orleans
Kenneth J. deBlanc..... Lake Charles
Veil David DeVillier Baton Rouge
Theodore G. Dimitry Houston, TX
Jared Y. Evans.....Shreveport
John R. Frenkel..... Plantation, FL
Joseph E. Friend New Orleans
John B. Gooch, Jr..... Pass Christian, MS
Carl A. Guidry Baton Rouge
James W. Hailey, Jr..... New Orleans
James C. Hanchey Lake Charles
David J. Harris..... Atlanta, GA
William T. Iglesias..... Jacksonville, FL
Robert F. Kennon, Jr. Baton Rouge
Hon. William F. Kline, Jr..... Clinton
Hon. Frans J. Labranche, Jr..... Mandeville
Robert F. LeBlanc.....Tulsa, OK
Adolph J. Levy New Orleans
Henri Loricans Laredo, TX
John M. Mamoulides.....Metairie
Gus C. Marcotte.....Shreveport



Among the 60-year honorees attending the ceremony were, from left, Leslie J. Schiff, Hon. W. Eugene Davis, Ernest L. O'Bannon, Joseph E. Friend, Ross Scaccia, Hon. William F. Kline, Jr. and Gus C. Marcotte. Photo by Matthew Hinton Photography.

L. Howard McCurdy, Jr. New Orleans
Robert Louis MenardMetairie
Max Nathan, Jr. New Orleans
Ernest Lynwood O'Bannon..... New Orleans
John D. O'Connell.....Metairie
William J. Oberhelman, Jr..... New Orleans
Billy R. PesnellShreveport
Allen B. Pierson, Jr. Ponchatoula
Richard H. Pipes Monroe
John Dale Powers Baton Rouge
Hon. Charley Quienalty..... Lake Charles
James H. Roan, Jr. Metairie
Sidney F. Rothschild..... Portland, OR
Ross Scaccia Baton Rouge
Thomas E. Schafer III New Orleans
Leslie J. Schiff Opelousas
Hon. A. Gaynor Soileau Ville Platte
Lawson L. Swearingen, Jr. Hammond
Hon. Charles A. Traylor II..... West Monroe
Terry O. Trowbridge..... Tegernsee, Germany
Ralph T. Troy Wilmington, NC
Jack M. Webb Chalmette
Donald S. Zuber..... Baton Rouge

50-Year Honorees Admitted in 1970

William T. Abbott, Jr. New Orleans
Tommy Jess AdkinsRuston
Frederick B. Alexius..... Alexandria
William C. Alford II Slidell
Jack M. Allmont New Orleans
Don A. Almerico Destrehan
Georges F. Andry Abita Springs
Forrest E. Arnold III Gulf Breeze, FL
Henry T. Arrington Metairie
Paul G. Aucoin Vacherie
William F. Bailey Lafayette
Patrick H. Baker Houston, TX
Roger T. Baker New Orleans
David Band, Jr. New Orleans
Hon. Carl J. Barbier New Orleans
Walton J. Barnes II Greenwell Springs
Gary J. Beauchamp..... Magazine, AR
George L. Bilbe New Orleans
John F. Blackwell New Iberia
Thomas J. Blasi Baton Rouge
Charles A. BoggsMetairie
Hon. Leo Boothe Ferriday
John C. Boyce..... Baton Rouge
Stanley E. Branton..... Tylertown, MS
Frank C. Breese III Ridgeland, MS

E. Ray Broadbent II..... Heber Springs, AR
John E. Brockhoeft..... New Orleans
Daniel E. Broussard, Jr. Alexandria
Donald L. Broussard..... Jacksonville, FL
Michael J. Butts New Braunfels, TX
Clay J. Calhoun, Jr. Kemah, TX
J. Louis Campbell III..... Altoona, PA
Richard M. Campbell Monroe
David E. Caruso, Jr. Newport Beach, CA
M. Hampton Carver..... New Orleans
Randall J. Cashio Baton Rouge
S. Michael Cashio, Jr. Kenner
W. Donald Cashio Metairie
Erwin A. Caswell, Jr. Metairie
Burton E. Cestia, Jr. New Iberia
Peter D. Coleman New Orleans
Hon. John E. Conery New Iberia
David E. Cooley, Jr. Hot Springs Village, AR
Gerald R. Cooper Metairie
Hon. Jean Saralee Cooper Tucson, AZ
Dewey W. Corley Shreveport
John P. Cosentino..... Las Cruces, NM
Patrick J. Costa Metairie
Elliott G. Courtright..... New Orleans
Luke J. Coussan Lafayette
Jack R. Crais Luling
Salvador M. Cusimano Kenner
Michael E. D'Antonio Metairie
William R. D'Armond..... Baton Rouge
Winston R. Day Baton Rouge
Malcolm E. DeCelle, Jr. Monroe
A. Patrick Dehon, Jr. New Orleans
T. George Delsa Metairie
Edward B. Denechaud..... Pass Christian, MS
W. Frederick Denkman..... Roswell, GA
Anthony M. DiLeo New Orleans
Richard K. Dimitry..... New Orleans
Dan L. Donald, Jr. Jennings
Hon. Ned E. Doucet, Jr. Fort Walton Beach, FL
Alexander L. Doyle Houma
Edward R. Drury Metairie
Charles F. Duchain III St. Francisville
William G. Duck..... San Francisco, CA
Wayne C. Ducote New Orleans
Frank C. Dudenhfer, Jr. New Orleans
Stephen L. Dunne Destin, FL
Michael A. Duplantier New Orleans
Allan L. Durand St. Martinville
Douglas K. Durnin Baton Rouge
George P. Eastman III..... New Orleans
Bart Eaton Baton Rouge
William H. Egan Arabi

Continued next page



Among the 50-year honorees attending the ceremony were, seated from left, Cyril H. Reisgen, Jr., Fanned Seidel, Jr., Mary Terrell Joseph, D. Douglas Howard, Jr., Gerald R. Cooper, Janice Martin Foster, Nicholas Gachassin, Jr., Thomas J. Wagner, William David Kiesel, Hon. Steven M. Joffrion, Louis L. Sherman, Jr., Charles H. Heck, Kenneth O. Privat and Edwin R. Woodman, Jr. Standing from left, Etta Kay Hearn, Richard T. Simmons, Jr., Walton J. Barnes II, H. Alston Johnson III, Hon. John E. Conery, H. Edward Weidlich, Jr., William H. Reinhardt, Jr., John F. McWilliams, Jr., John F. McKay, Hon. Robert H. Morrison III, Hon. Jimmie C. Peters, Anthony G. Falterman, Robert B. Nolan, Herschel E. Richard, Jr., W. Donald Cashio, Dan A. Smetherman, A. Patrick Dehon, Jr., Thomas J. Blasi, John E. Seago and Hon. J. Byron Hebert. *Photo by Matthew Hinton Photography.*

- | | | |
|---|--|---|
| Timothy C. Ellender..... Houma | Charles R. Keller..... Lafayette | Cynthia Picou..... Baton Rouge |
| Wilfredo H. Escalante..... Metairie | George G. Kiefer..... Sevierville, TN | Larry C. Pieno..... Marrero |
| Hon. Billy H. Ezell..... Lake Charles | William David Kiesel..... Baton Rouge | Mary O. Pierson..... Baton Rouge |
| Anthony G. Falterman..... Napoleonville | Hon. Catherine D. Kimball..... Ventress | Kenneth O. Privat..... Crowley |
| Charles O. Farrar, Jr..... Coral Gables, FL | Alvin B. King..... Cypress, TX | Ronald J. Radelat..... Metairie |
| William H. Farris..... Atlanta, GA | John W. King..... Denham Springs | Ronald J. Rakosky..... New Orleans |
| Richard C. Fitzpatrick..... Poplarville, MS | Thomas Jefferson King..... Silver Spring, MD | William A. Ransom III..... Mandeville |
| J. William Fleming..... Shreveport | Frank L. Koles III..... Baton Rouge | John Wilson Reed..... New Orleans |
| Janice Martin Foster..... New Orleans | John H. Kornis II..... Washington, DC | William H. Reinhardt, Jr..... Metairie |
| James B. Frederick, Jr..... Baton Rouge | Harry E. Kuhner II..... Metairie | Cyril H. Reisgen, Jr..... Metairie |
| Nicholas Gachassin, Jr..... Lafayette | Leslie L. LaCroix, Jr..... Monroe | Christopher D. Rhodes..... Conroe, TX |
| Henry C. Gahagan, Jr..... Natchitoches | P. Raymond Lamonica..... Baton Rouge | Hon. David M. Richard..... Thibodaux |
| Houston C. Gascon III..... Covington | James R. Leonard, Jr..... Lafayette | Herschel E. Richard, Jr..... Shreveport |
| Jon A. Gegenheimer..... Gretna | Lawrence L. Lewis III..... Lafayette | William E. Rittenberg..... New Orleans |
| Ira S. George..... Baton Rouge | Leslie D. Ligon..... Clinton | Hon. Glynn D. Roberts..... Rayville |
| Meyer H. Gertler..... New Orleans | Otis Edwin A. Lombard..... New Orleans | John McEnery Robertson..... Mandeville |
| Francis Thomas Gidman, Jr..... Mandeville | John E. Lomenick, Jr..... Opelousas | Gary J. Rouse..... New Orleans |
| Nathan T. Gisclair, Jr..... New Orleans | Thomas K. Loupe..... New Roads | Hon. Louie J. Roussel III..... Metairie |
| Anthony L. Glorioso..... Gretna | Howard D. Loyd III..... Houston, TX | Robert L. Royer..... Alexandria |
| Alan H. Goodman..... New Orleans | Raymond H. Madden III..... Ruston | Cecil R. Sanner..... Lake Charles |
| Christopher T. Grace, Jr..... Metairie | William S. Marshall, Jr..... Covington | John E. Seago..... Baton Rouge |
| A. Gordon Grant, Jr..... New Orleans | Gordon W. Matheny..... Hammond | Fanned Seidel, Jr..... Lafayette |
| J. Brooks Greer III..... Shreveport | Reginald J. McIntyre..... Hammond | Carl J. Selenberg..... Metairie |
| Charles E. Grey, Jr..... Pass Christian, MS | John F. McKay..... Baton Rouge | Louis L. Sherman, Jr..... DeRidder |
| Eugene R. Groves..... Baton Rouge | Bruce B. McKeithen..... Baton Rouge | Richard T. Simmons, Jr..... Metairie |
| Jocelyn D. Guarisco..... Metairie | Robert P. McLeod, Jr..... Chapel Hill, NC | Dan A. Smetherman..... New Orleans |
| Robert N. Habans, Jr..... Baton Rouge | John F. McWilliams, Jr..... Shreveport | Alva C. Smith, Jr..... Fort Davis, TX |
| Terence E. Hall..... Metairie | Robert L. Menuet..... Napoleonville | James D. Southerland..... Benton |
| Ben R. Hanchey..... Monroe | Louis J. Meyer, Jr..... Houston, TX | Edgar E. Spielman, Jr..... Baton Rouge |
| Jack W. Harang..... Kenner | Peter Scott Michell..... Metairie | James B. St. John, Jr..... Springfield, VA |
| Edward N. Harmon..... Port Allen | Stanley A. Millan..... New Orleans | Parnell A. Stockstill..... Houston, TX |
| Stephen C. Hartel, Jr..... New Orleans | Debra A. Millenson..... Bethesda, MD | Eugene J. Sues..... Alexandria |
| Joseph V. Hawkins..... Gaithersburg, MD | Stacey A. Moak..... Baton Rouge | Joseph M. Sullivan, Jr..... Dallas, TX |
| Etta Kay Hearn..... Baton Rouge | Walter G. Monsour, Jr..... Baton Rouge | Gary E. Theall..... Abbeville |
| Carl J. Hebert..... Abita Springs | Randolph A. Monsur..... Alexandria | Harold E. Theard, Jr..... New Orleans |
| Irby Hebert, Jr..... Abbeville | James J. Morrison, Jr..... New Orleans | Jack A. Tittle, Jr..... Metairie |
| Hon. J. Byron Hebert..... Abbeville | Hon. Robert H. Morrison III..... Amite | Richard M. Tompson..... Metairie |
| Paul M. Hebert, Jr..... Baton Rouge | Edward D. Myrick..... Lake Charles | Hendrik Uiterwyk..... Tampa, FL |
| Charles H. Heck..... Monroe | Gwendolyn B. Nachman..... Jefferson, GA | William S. Vincent, Jr..... New Orleans |
| John J. Hemrick..... Monroe | Leonard R. Nachman II..... Baton Rouge | Thomas J. Wagner..... New Orleans |
| Terry F. Hessick..... Baton Rouge | James H. Napper II..... Baton Rouge | Jess J. Waguespack..... Napoleonville |
| Earl J. Higgins..... River Ridge | Michael H. Nelson..... Baton Rouge | Charles B. Walker..... San Diego, CA |
| Robert P. Hogan..... Madisonville | Stewart E. Niles, Jr..... New Orleans | H. Edward Weidlich, Jr..... Bay St. Louis, MS |
| John H. Horne..... Atlanta, GA | Robert B. Nolan..... New Orleans | Alan J. Wells..... Metairie |
| D. Douglas Howard, Jr..... New Orleans | John B. Noland..... Baton Rouge | Hampden R. White..... Baton Rouge |
| Patrick A. Hymel..... Folsom | Hon. Mary K. Norman..... Destin, FL | Loretta G. Whyte..... Metairie |
| B. Gerald Iverson..... Baton Rouge | F. Hodge O'Neal III..... Monroe | Hon. Charles A. Wiegand III..... New Orleans |
| Darleen Marie Jacobs..... New Orleans | H. Sanders O'Neal..... Houma | Charles W. Wilson III..... Jackson |
| Hon. Steven M. Joffrion..... Prairieville | Sandra P. Overton..... Clinton | Michael E. Winters..... New Orleans |
| Don H. Johnson..... New Orleans | Sharon A. Perlis..... New Orleans | Frank P. Wittmann III..... Gulfport, MS |
| H. Alston Johnson III..... Baton Rouge | Hon. Jimmie C. Peters..... Jena | Edwin R. Woodman, Jr..... Baton Rouge |
| Mary Terrell Joseph..... Baton Rouge | Ashton Phelps, Jr..... New Orleans | Harry M. Zimmerman, Jr..... Covington |
| Maurice P. Kabacoff..... New Orleans | Esmond Phelps II..... New Orleans | |
| C. Daniel Karnes..... Slidell | Nathaniel P. Phillips, Jr..... New Orleans | |

Judge Ricks Receives Judges in the Classroom Award

Judge Brenda Bedsole Ricks with the 21st Judicial District Court received the Louisiana Center for Law and Civic Education's (LCLCE) Judge Benjamin Jones Judges in the Classroom Award, recognized for her dedication and support of law-related education. The award was presented by LCLCE President Judge Randall L. Bethancourt during the Louisiana State Bar Association's (LSBA) Midyear Meeting in January.

Judge Ricks was elected judge of Division E, 21st JDC (Livingston, St. Helena and Tangipahoa parishes) in 1996. She was the first woman elected judge in the district since the 1950s. She received her undergraduate degree from Southeastern Louisiana University. She studied at Georgetown University in Washington, D.C., and is a graduate of The Fund for American Studies. She earned her



Judge Brenda Bedsole Ricks, right, with the 21st Judicial District Court received the Louisiana Center for Law and Civic Education's (LCLCE) Judge Benjamin Jones Judges in the Classroom Award. The award was presented by LCLCE President Judge Randall L. Bethancourt during the Louisiana State Bar Association's Midyear Meeting. Photo by Matthew Hinton Photography.

law degree from Southern University Law Center. She is a three-time graduate of the

National Judicial College and is a graduate of the first Louisiana Supreme Court Judicial Leadership Institute.

Prior to taking the bench, she was a legislative staff attorney for the Louisiana Senate; an assistant district attorney for the 21st JDC; a contract attorney for Louisiana Department of Children and Family Services; and city attorney for the Town of Roseland.

Judge Ricks was inducted into the Southern University Law Center Hall of Fame in 2013 and honored on the Law Center's Judicial Wall of Fame in 2014. She is a Sustaining Fellow with the Louisiana Bar Foundation. She is a member of the 21st JDC Bar Association, the American Bar Association, the Florida Parishes Inn of Court, the American Judicature Society and the National Association of Women Judges.



2020 LSBA Midyear Meeting in Baton Rouge



Lauren Beth LeBato, left, a teacher at Alfred M. Barbe High School in Lake Charles, was presented the 2020 President's Award of Excellence for Outstanding Civics Teacher by Louisiana State Bar Association (LSBA) President Robert A. Kutcher during the LSBA's Midyear Meeting. The award is jointly presented by the LSBA and the Louisiana Center for Law and Civic Education. Photo by Matthew Hinton Photography.



The Women's Personal and Professional Development Workshop, "Becoming Your Best Self: Take Command, Be Empowered and Own Your Future," at the LSBA's Midyear Meeting was presented by, from left, Linda P. Clark, Kean Miller LLP; Erin W. Latuso, Forman Watkins and Krutz LLP; Deidre D. Robert, moderator, executive counsel for the Louisiana Department of Transportation and Development; and Jade Brown Russell, principal, The JBR Firm.



The CLE, "What Non-Immigration Practitioners Need to Know about Immigration Laws," was presented at the LSBA Midyear Meeting by, from left, Leah Spivey, Gasparian Spivey Immigration; and Baton Rouge attorney Paul H. (Woody) Scott.



The Louisiana State Bar Association (LSBA) Diversity Committee's Pipeline to Diversity & Outreach Subcommittee and Outreach Committee hosted a free CLE seminar on Jan. 16. The session, "LSBA: Who We Are and How We Serve Our Members," was presented by Michael B. Victorian, Phelps Dunbar, LLP, president of the Baton Rouge Chapter of the Louisiana State Bar Association and the Louisiana State Bar Association, Inc.

LSBA President Introduces 2020 Access to Justice Distinguished Pro Bono Fellows

Louisiana State Bar Association (LSBA) President Robert A. Kutcher introduced the 2020 Class of Access to Justice Distinguished Pro Bono Fellows at the Feb. 7 meeting of the Access to Justice Commission at the Louisiana Supreme Court.

The 2020 Class includes Child in Need of Care (CINC) attorney **Randall K. Foreman**; former Southeast Louisiana Legal Services (SLLS) managing attorney **Jay Welch**; and **Professor María Pabón**, 2011-15 dean of Loyola University New Orleans College of Law.

Three years ago, the Access to Justice Commission began the Distinguished Pro Bono Fellows Program to utilize the talents of retiring judges and lawyers who want to remain active in a pro bono capacity. Since its establishment, the program has expanded to include any judge or at-



Randall K. Foreman

torney, retired or not, willing to dedicate at least 20 hours per month to working with a host legal aid organization. The 2020 Class is the fourth group of Fellows to participate in the program.

Foreman, an experienced CINC attorney, will join the Pro Bono Project to assist in ongoing and new case matters and will attend related meetings and courses.

Welch assisted more than 19,000 New Orleanians over the course of his legal-aid career. He managed the St. Bernard of-



Jay Welch



Prof. María Pabón

lice of SLLS until it was destroyed by Hurricane Katrina and damaged from the Murphy Oil spill. He will partner with SLLS and libraries to establish monthly legal clinics in St. Bernard Parish.

Pabón is experienced in immigrants' rights and was recognized as a *New Orleans City Business Woman of the Year* in 2013. She will be working with Catholic Charities on immigration issues.

For more information about the Distinguished Pro Bono Fellows Program and how to participate, contact LSBA Access to Justice Director Monte T. Mollere at (504)619-0146 or email mmollere@lsba.org.

Two Attorneys Join LIFT Legal Incubator Program

Two attorneys have joined the Louisiana State Bar Association's (LSBA) Legal Innovators for Tomorrow (LIFT) Legal Incubator Program. Solo practitioners Shawn D. (Pepper) Roussel and LaKendra D. Turner Sampson will work with the Flood Proof Project in Baton Rouge. They will help increase access to legal services for people affected by the 2016 catastrophic flooding in Baton Rouge.

Roussel is a graduate of Loyola University College of Law and has a solo law practice focused on business transactions, intellectual property, environmental law issues and succes-

sions. She has a particular interest in food-related businesses and the environmental impacts on food and justice.

Sampson is a graduate of Southern University Law Center and opened her law firm, LaKendra D. Sampson, L.L.C. She understands the impact that the lack of clear title can have on a family and seeks to help people with homes passed down through generations obtain clear title and keep inherited property family-owned for future generations.

Southeast Louisiana Legal Services, Louisiana State University Paul M. Hebert Law Center, Southern University Law Center, the American Bar Association's Center for Innovation

and the LSBA's LIFT Program have partnered to offer these new attorneys the opportunity to develop and grow their solo practices to address the continued demand for heirship and property title work for disaster survivors.

The partners work with the attorneys through the 18-month program period. During the project, attorneys receive a \$10,000 stipend, free access to case management software and legal research programs, training, mentorship and court shadowing opportunities.

To learn more about the LIFT program, go to: www.lsba.org/lift.

Louisiana Board of Legal Specialization Amends Specialization Standards for 2020

The Louisiana Board of Legal Specialization (LBLS) announced that the Appellate Practice Standards, the Bankruptcy Law Standards, the Family Law Standards, the Estate Planning and Administration Standards, and the Tax Law Standards have been amended for 2020. All amendments were approved by the Louisiana State Bar Association's (LSBA) House of Delegates and Board of Governors at Jan. 18 meetings.

Appellate Practice

An amendment to the LBLS Appellate Practice Standards to reduce the application requirement for an appellate practice specialist from six to five oral arguments over the course of his/her professional career was approved. Amended requirements for continuing legal education programs to qualify for specialization credit also were approved. Download the amended Appellate Practice Standards at: www.lsba.org/Specialization/AppellatePractice.aspx?Area=Standards.

Bankruptcy Law

An amendment to the LBLS Bankruptcy Law Standards was approved. This amendment requires that all continuing legal education programs that the American Board of Certification certifies for bankruptcy law specialists must first be approved by Mandatory Continuing

Legal Education (MCLE), now administered by the LSBA, pursuant to 2018 revisions to the Rules of the Louisiana Supreme Court. The amended LBLS Bankruptcy Law Standards apply to both business bankruptcy law and consumer bankruptcy law. Download the amended Bankruptcy Standards at: www.lsba.org/Specialization/BusinessBankruptcy.aspx?Area=Standards and www.lsba.org/Specialization/ConsumerBankruptcy.aspx?Area=Standards.

Family Law

Several amendments to the LBLS Family Law Standards were approved. A family law applicant is required to have a minimum of five years of actual practice of law on a full-time basis before applying. The applicant also must have worked 35% of a full-time work schedule in family law in 48 out of 60 months immediately preceding the year of application. The Family Law Standards now require one confidential reference statement from a board-certified family law specialist, instead of two, to apply to be a family law specialist. The annual family law CLE requirement has been reduced from 18 to 15 hours. As in the other specializations, the language in the Family Law Standards was changed from "Louisiana Supreme Court Committee on Mandatory Continuing Legal Education" to "Mandatory Continuing Legal Education Committee" in compliance with

the change to the MCLE rule. Download the amended Family Law Standards at: www.lsba.org/Specialization/FamilyLaw.aspx?Area=Standards.

Estate Planning and Administration

Amendments to the LBLS Estate Planning and Administration Standards regarding continuing legal education programs and basic application requirements were approved. Download the amended Estate Planning and Administration Standards at: www.lsba.org/Specialization/EstatePlanning.aspx?Area=Standards.

Tax Law

Amendments to the LBLS Tax Law Standards regarding continuing legal education programs and basic application requirements were approved. Download the amended Tax Law Standards at: www.lsba.org/Specialization/TaxLaw.aspx?Area=Standards.

New Website

The LBLS has a new website: www.lsba.org/specialization/. The new LBLS website address has been added to the Standards.

For more information or questions, contact LBLS Specialization Director Mary Ann Wegmann, (504)619-0128, email maryann.wegmann@lsba.org.

LSBA eBooks available for FREE download



Visit www.lsba.org/NewsAndPublications/eBooks.aspx for a list of LSBA books available for free download. These valuable resources are full of practical tips, step-by-step tutorials and various necessary forms and valuable checklists. Currently, four books are featured:

- *Practice Aid Guide: The Essentials of Law Office Management*
- *Hanging Out Your Shingle Louisiana Style*
- *Disaster Planning: It's Not Just for Hurricanes - Are You Ready?*
- *Practice Transition Handbook: Shutting Down a Law Practice in Louisiana*

Attorneys Qualify as Board-Certified Specialists in 2019

In accordance with the requirements of the Louisiana Board of Legal Specialization (LBLS) and the Plan of Legal Specialization, the following individuals have satisfactorily met the established criteria and qualified as LBLS board-certified specialists in the following areas for a five-year period which began on Jan. 1, 2019, and will end on Dec. 31, 2023.

Appellate Practice

Jeffrey E. Richardson.....New Orleans
Leigh Ann Schell.....New Orleans
Desirée Marie Valenti.....New Orleans

Estate Planning & Administration

Craig Stephen Daste, Jr.Metairie
Lisa Vienne JohnsonNatchitoches
Rose S. Sher.....New Orleans

Tax Law

Jeannette S. Waring.....New Orleans

LBLS Accepting Certification Applications in Bankruptcy Law

The Louisiana Board of Legal Specialization (LBLS) is accepting applications for certification in business bankruptcy law and consumer bankruptcy law through Sept. 30, 2020.

In accordance with the Plan of Legal Specialization, a Louisiana State Bar Association member in good standing who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. Further requirements are that, each year, a minimum percentage of the attorney's practice must be devoted to the area of certification sought, and the attorney must pass a written examination to demonstrate sufficient knowledge, skills and proficiency in the area for which certification is sought and provide five favorable references. Peer review is used to determine that an applicant has achieved recognition as having a level of competence indicating proficient per-

formance handling the usual matters in the specialty field. Refer to the LBLS Rules and Regulations and standards for the applicable specialty for a detailed description of the requirements for application: www.lsba.org/specialization.

With regard to applications for business bankruptcy law and consumer bankruptcy law certification, although the written test(s) is administered by the American Board of Certification, attorneys should apply for approval of the LBLS simultaneously with the testing agency to avoid delay of board certification by the LBLS. Information concerning the American Board of Certification will be provided with the application form(s).

Anyone interested in applying for certification should contact LBLS Specialization Director Mary Ann Wegmann to request an application packet, email maryann.wegmann@lsba.org, or call (504)619-0128.

House Resolution Deadline is May 13

The deadline for submitting resolutions for the next Louisiana State Bar Association's (LSBA) House of Delegates meeting is Wednesday, May 13.

The House will meet on Thursday, June 11, in conjunction with the LSBA's Annual Meeting at Sandestin Golf and Beach Resort in Destin, Fla.

Resolutions by House members and committee and section chairs should

be mailed to LSBA Secretary Patrick A. Talley, Jr., c/o Louisiana Bar Center, 601 St. Charles Ave., New Orleans, LA 70130-3404. All resolutions proposed to be considered at the meeting must be received on or before May 13. Resolutions must be signed by the author. Also, copies of all resolutions should be emailed (in MS Word format) to LSBA Executive Assistant Jen France at jen.france@lsba.org.

Attorneys Qualify as Board-Certified Specialists in 2020

In accordance with the requirements of the Louisiana Board of Legal Specialization (LBLS) and the Plan of Legal Specialization, the following individuals have satisfactorily met the established criteria and are qualified as LBLS board-certified specialists in the following areas for a five-year period which began on Jan. 1, 2020, and will end on Dec. 31, 2024.

Appellate Practice

Louis R. Koerner, Jr.New Orleans
David M. PradosNew Orleans

Estate Planning & Administration

Ralph R. Alexis IIINew Orleans
Rachel South Boquet.....Houma
Shelley Babineaux Bouillion .. Lake Charles
Gregory S. LaCour..... Metairie
Amanda Pendleton Sigur Metairie

Health Law

Robert Joseph Bozeman..... Monroe
Carolyn Stewart BuckleyNew Orleans
Clay J. CountrymanBaton Rouge
Kathleen Lewinski DeBruhlNew Orleans
Sean L. FinanBaton Rouge
Tara L. Foto.....Marrero
Gregory D. FrostBaton Rouge
Emily Black GreyBaton Rouge
Lesleigh Hobbs HallCovington
W. Scott KeatyBaton Rouge
Peter Alden Kellogg..... Metairie
Vinson J. Knight..... Mandeville
Paul A. Lea, Jr.Covington
Daniela Kratka LooseNew Orleans
Louis J. LupinNew Orleans
Chris Martin..... Metairie
Conrad Meyer Metairie
Elizabeth France "Lisa" Pretus New Orleans
Lamar Powell Pugh..... Shreveport
Robert W. Robison, Jr.Baton Rouge
Lyn Smith Savoie.....Baton Rouge
Jacob S. SimpsonBaton Rouge
Jennifer Jones ThomasBaton Rouge
Danielle Trostorff.....New Orleans

Tax Law

Marla Anne Miller..... Lake Charles
Jacob Carter White..... Shreveport

SAVE THE DATES...

27TH ANNUAL LOUISIANA STATE BAR ASSOCIATION ADMIRALTY SYMPOSIUM

Sept.
18th

Last year's speakers included:

Hon. Jane Triche Milazzo • Hon. John W. deGravelles • Hon. Dee D. Drell • Hon. Daniel E. Knowles III (ret.)
Hon. Jay Zainey • Hon. Richard T. Haik, Sr. (ret.) • Hon. Glenn Norton • Prof. Tom Galligan • Lindsey Cheek
Dustin Carter • Blake David • Jeff Tillery • Darleen Jacobs • J. Neale deGravelles • Alan Breaud
Jerome Moroux • Richard T. Haik, Jr. • J. Christopher Zainey, Jr. • Kenneth Engerrand • Wesley J. Galapp
Richard Stanley • Peggy Giglio • Leslie Schiff • Lynn Luker • Michael S. Koch • John Yadamec • J. Michael Veron
Val Exnicios • Special Master Gary Russo • Charles Plattsmier • Blake Deady • Will Shapiro

20TH ANNUAL LOUISIANA STATE BAR ASSOCIATION COMPLEX LITIGATION SYMPOSIUM

Nov.
6th

Last year's speakers included:

Hon. Eldon Fallon • Hon. Carl Barbier • Hon. Glenn Norton • Hon. Ken Starr • Prof. Lynn Baker
Prof. Kyle Dreyer • Prof. Tom Galligan • Prof. Maggie Thomas • Caitlyn McDonough • Jeffrey Bassett
Dustin Carter • Lindsey Cheek • Dawn Chmielewski • Todd Campbell • Tony Clayton • Lori Cohen
Blake Deady • Special Master Kenny DeJean • Brian Devine • Bob Drakulich • Nick Drakulich
Val Exnicios • Jimmy Faircloth • Yvonne Flaherty • Jason Giles • John Hooper • Lynn Luker
Hunter Lundy • Jennifer Moore • Melanie Muhlstock • James Murdica • Justin Presnal
Special Master Gary Russo • John Sherk • Joe Thorpe • James Williams



Richard Arsenault
Seminar Chair

JOIN US IN NEW ORLEANS.

Our speakers include the nation's leading academicians, jurists, and members of the Bar from both sides of the "V." These are the folks that are presiding over, writing about, and litigating the most significant cases in the country.

More information coming soon to www.lsba.org/CLE

*Alexa, set a timer
for 20 minutes.*

*Hey Siri, text associate
that client wants an
update on her case.*

*Hey Google, read through
today's calendar entries.*

One are the days when we had to retrieve the newspaper from our front porch to read the forecast to know what to wear to work. In a profession where everyone's time is stretched thin, the incredibly popular voice-activated digital assistant devices make life easier by completing daily tasks without the push of a single button. As attorneys, artificial intelligence can help us streamline our lives both inside and outside of practice. Devices like Apple's Siri, Google's Assistant, Microsoft's Cortana and Amazon's Alexa can provide an immense benefit in timekeeping, scheduling and making other office tasks more efficient.

With convenience comes the apparent privacy implications of sharing our spaces with a microphone-equipped computer. To assist us, these popular devices are listening and waiting for someone to speak its designated awake word such as "Hey Siri" or "Alexa." Many of us have experienced a targeted advertisement on social media for a product we were discussing with a friend but never researched online. These companies use the data gathered to tailor the devices to our needs but also to sell advertising space. You agreed to the use of this gathered data for these devices when you clicked through countless privacy agreements. The device records

the conversation several seconds before the awake word is spoken and this recording is stored not in the device itself but in the device's cloud servers.

If you are reading this and getting an uneasy feeling, you are not alone. Rule 1.6 of the Louisiana Rules of Professional Conduct prohibits an attorney from disclosing confidential client information and sets out a duty to "make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client." Many of us have met with a client in our office or spoken to a client on the phone with a voice-activated digital assistant in the same room. Some of these microphone-enabled services also live in our cell phones, our smart watches and even our thermostats! If a voice-activated digital assistant device is listening during confidential conversations, as lawyers, we could potentially be violating attorney-client privilege or violating ethics Rule 1.6.

As attorneys, we need to be aware of who and what is listening to confidential conversations and make sure that we safeguard the privacy of our clients by using a general common-sense approach to determining the best way to use our digital assistants.

Some potential best practices include:

► Muting or disabling your voice-activated digital assistants when having attorney-client privileged conversations to ensure that privileged information remains that way. Avoid having conversations about clients in office common areas where there could be devices that you can't control.

► Deleting stored recordings if that is an available option on your device platform. Both Amazon and Google give consumers the ability to review the recordings associated with their accounts

and delete that stored data.

► Don't link your devices to sensitive databases such as case management platforms.

► Read through previously agreed-to device privacy agreement sections to see what and how the data they collect is being recorded, used and stored. Then make informed decisions accordingly. • Remain technologically competent. See the December 2019/January 2020 issue of the *Louisiana Bar Journal* to learn more about technological competence. There are numerous technology blogs, such as Law Technology Today, Lawyerist.com and Lawpracticetipsblog.com. • Stay well-informed of tangential issues with voice-activated digital assistant devices such as whether the recordings are discoverable and whether law enforcement can subpoena recordings of clients in criminal investigations.

► Create an office policy describing the firm's guidance on the use of digital assistants. Re-evaluate periodically when new information comes to light about technology and privacy.

► Finally, consider letting your client know what technology you plan to utilize in your retainer agreement.

Andrea Brewington Owen is a loss prevention counsel for the Louisiana State Bar Association and is employed by Gilsbar, L.L.C., in Covington. She received a BA degree in 2002 from Auburn University and her JD degree in 2005 from Loyola University College of Law. She worked as an assistant district attorney in Alabama's 28th Judicial Circuit in Baldwin County, Ala. She also worked as the director of legal programs for the South Alabama Volunteer Lawyers Program. She has been a member of the Alabama State Bar Association since 2005 and was admitted to the Louisiana Bar in 2019. Email her at anowen@gilsbar.com.



LAWYERS Assistance

By J.E. (Buddy) Stockwell

JLAP BY THE NUMBERS 2018-19

The Louisiana Judges and Lawyers Assistance Program's (JLAP) fiscal year 2018-19 ushered in an unprecedented focus, both nationally and locally, on lawyer wellness and well-being initiatives. The mission is to promote work/life balance, good wellness practices and self-care for ALL legal professionals to help reduce stress and improve the quality of life. By doing so at the outset, it can reduce the probability that legal professionals will develop serious issues with alcohol/substance use, depression or anxiety in the fullness of time.

In this vein, JLAP refined several CLE presentations last year including "The Professional Duty of Self-Care," "The Path to Lawyer Well-Being" and "Well-Being in the Legal Profession."

These new wellness presentations have nothing to do with addressing diagnosed alcoholism, addiction or mental health issues. On the contrary, these presentations support literally all members of the profession by providing lawyer-specific information, tools and resources about managing stress and self-care. This information can help improve the personal and professional happiness of every single Bar member without exception. The entire profession is developing a new appreciation for well-being and life balance strategies. JLAP personally delivered educational CLEs to more than 2,500 Bar members last year and the feedback has been overwhelmingly positive.

As for JLAP's core clinical operations and services to assist those experiencing an actual mental health or substance use issue, JLAP is very grateful to report that it continues to provide 100% confidential clinical assistance to lawyers and judges, their family members, law firm and court staff, and law schools and law students. Nowadays, legal professionals are more confident than ever to reach out to JLAP in absolute privacy and before any disciplinary or bar admissions involvement.

Also, there is an increase in people

seeking help for mental health issues unrelated to substance use. JLAP continues to see more cases involving depression and anxiety issues. In fact, 29% of JLAP's new cases last year involved mental health issues with no substance use component whatsoever and 72% of JLAP's cases had a combination of mental health and substance use issues.

Within the realm of substance use disorder cases, JLAP's peer-support professionals' programming continues to produce the highest success rates achievable in the field of addiction. With an average of 125 formal monitoring cases at any given time, JLAP's annual no-relapse success rate was 96% last year. Thus, in the last four years, JLAP's no-relapse rates have been, respectively, 94%, 97%, 94% and 96%, rendering a *dependable and remarkable 95.25% average no-relapse success rate in alcoholism and addiction recovery under monitoring.*

JLAP confidentially saves lives and careers, but it has always performed a very important regulatory service as defined in the watershed case, *Louisiana State Bar Association v. Arthur F. Dumaine*, 550 So.2d 1197 (La. 1989), wherein the Court ordered the Louisiana State Bar Association's (LSBA) Committee on Alcohol and Drug Abuse to organize a state LAP and provide the Court with expert, independent, objective and reliable data regarding the diagnosis, treatment and recovery of respondents in cases where substance abuse is a causative factor in unethical conduct.

JLAP is also specifically endorsed in La. R.S. 37:221 which declares it is the public policy of Louisiana to promote confidential interventions and peer-support specifically through JLAP and the LSBA's Committee on Alcohol and Drug Abuse.

As of late, with supportive resolutions by both the LSBA and the Louisiana Attorney Disciplinary Board (LADB), the Louisiana Supreme Court recently amended Rule XIX Section 24E3 to specify JLAP as the Court's monitoring authority

in lawyer discipline. The Court had already specified JLAP in Rules XVII and XXIII (bar admissions and the judiciary). As such, JLAP is now uniformly recognized as the Court's monitoring provider, effectively codifying 30 years of jurisprudence that has consistently required JLAP compliance when there is an issue regarding impairment and fitness to practice.

The resolution and evolution achieved last year by JLAP emanates in large measure from specific recommendations by independent national experts who completed a Performance Audit for JLAP in 2015 (and an Addendum in 2018). Recommendations were made to JLAP on operating a top program and recommendations were also made to stakeholders regarding critical support that JLAP must receive in order to maintain the recommended programming.

All said, JLAP has never been more effective. JLAP is making real differences in the personal and professional lives of literally thousands of Bar members each year. JLAP is extremely grateful for the strong support it receives from all stakeholders and corners of the profession. In Louisiana, by working together, we are all succeeding in improving the well-being of the profession, saving lives and careers, and reliably protecting the public when called upon to do so!

For more information, find JLAP's Annual Reports online: <https://louisianajlap.com/about-us/annualreports/>.

If you or someone you know needs JLAP's help, don't wait! Call JLAP confidentially at (985)778-0571 or email JLAP confidentially at jlap@louisianajlap.com.

J.E. (Buddy) Stockwell is the executive director of the Louisiana Judges and Lawyers Assistance Program, Inc. (JLAP) and can be reached at (866)354-9334 or email jlap@louisianajlap.com.



LSBA Presents Citizen Lawyer Awards for Community Service

Four attorneys received Citizen Lawyer Awards at a ceremony during the Louisiana State Bar Association's (LSBA) Midyear Meeting in Baton Rouge in January.

Recipients are New Orleans attorney **Tyler J. Arbour**, Thibodaux attorney **Beau S. Brooks**, and Lafayette attorneys **Valerie Gotch Garrett** and **Jason A. Matt**.

The Citizen Lawyer Awards, originally named the Crystal Gavel Awards, were created in 2001 to recognize outstanding lawyers and judges who have been unsung heroes and heroines in their communities. Recipients are selected based upon service in their local communities and in local organizations.

Tyler J. Arbour is an attorney in the New Orleans office of Lugenbuhl, Wheaton, Peck, Rankin & Hubbard. He earned his JD degree in 2011 from Loyola University College of Law and his L.L.M in taxation in 2014 from the University of Alabama.

Arbour has been a volunteer of Project Lazarus since 2007 and a board member since 2015. Project Lazarus provides housing and assistance to those living with HIV/AIDS in the Greater New Orleans area. He volunteered as a chair of the "Lazarus Ball," a benefit auction by Halloween's in New Orleans, Inc. that raises funds to support the mission of Project Lazarus. From 2012-16, he was a member of the local leadership committee of Lambda Legal, which engages in pro bono impact litigation to protect and advance civil rights of the



Four attorneys received Citizen Lawyer Awards during the Louisiana State Bar Association's Midyear Meeting in January. Recipients are, from left, Beau S. Brooks, Tyler J. Arbour, Valerie Gotch Garrett and Jason A. Matt. Photo by Matthew Hinton Photography.

LGBT community and anyone living with HIV.

Since 2013, he has been involved with Emerging Philanthropists (EPNO) of New Orleans, which educates young leaders to become lifelong philanthropists. He currently represents EPNO on a pro bono basis and was instrumental in obtaining the organization's tax-exempt

501(c)(3) status.

Arbour is the immediate past chair of the LSBA's Taxation Section and is a member of the New Orleans Bar Association and the New Orleans Estate Planning Council.

Continued next page

Beau S. Brooks practices in the area of family law and criminal law at Brooks Law Office, A.P.L.C. He also is city attorney for the City of Thibodaux. He is a graduate of Nicholls State University and earned his JD degree in 2004 from Southern University Law Center.

Brooks is the co-founder and executive director of the nonprofit organization Upside Downs. He was inspired to start the organization after his son was born and diagnosed with Down syndrome. Together with other parents, Brooks and his wife started Upside Downs in 2016 with the initial goal of providing new parent baskets to local parents who received the news that their child has Down syndrome. The organization now has new parent baskets in hospitals across Louisiana.

Brooks is an advocate for individuals with Down syndrome statewide. Upside Downs hosts annual events free of charge for individuals with Down syndrome, the largest of which is the Magical Dance Party.

As a result of his passion and dedication for the Down syndrome community, he and his family were named "Family of the Year" at the 2019 Governor's Outstanding Leadership in Disabilities Awards.

Valerie Gotch Garrett is a solo

practitioner in Lafayette. She earned her JD degree from Southern University Law Center.

Garrett served as a volunteer at Lafayette's Faith House educating women on child support and domestic violence issues. She volunteered as an instructor at Northside High School teaching classes to female students on reaching their full potential. She is an advocate for Mental Health, Drug Court and Re-Entry programs to reduce adult-juvenile recidivism. She has received awards for extensive pro bono work. She was recognized by the community as a "Top Lawyer" and voted by her colleagues as "Super Lawyer" for 2019-20.

She was appointed to the Lafayette Airport Commission in 2007 and served as chair for 2017-19. As chair, she was instrumental in restructuring the Commission's Disadvantaged Business Enterprise Certification program, which encourages minority-owned businesses to participate in government projects, thereby creating economic development. She also focused on building a new first-class terminal.

Garrett also is involved with the Autism Society of Acadiana, Susan G. Komen of Acadiana (as a Big Wig) and the Acadiana Leukemia & Lymphoma Society.

Jason A. Matt is a partner with the Law Offices of Matt & Allen in Lafayette. He earned his JD degree from Loyola University College of Law.

Matt is the president of Downtown Lafayette Unlimited (DLU), a nonprofit organization that works in conjunction with the Lafayette Downtown Development Authority. DLU's mission is to promote culture, business and economic growth in downtown Lafayette. In the 1980s, when the Acadiana region was faced with economic depression, DLU began a semi-annual free outdoor music concert series, Downtown Alive. In his role as DLU president, Matt introduced a new free tradition, Downtown Lafayette Christmas, with a month of Christmas performances, contests, decorations and caroling. He also is a member of Acadiana Center for the Arts.

Matt is a director of the Lafayette Young Lawyers Section and chair of the Golf Tournament Committee, which raises funds for the pro bono services offered by the Lafayette Bar Association. As the golf tournament chair, he increased fundraising tenfold and the golf tournament is now one of the largest fundraisers of the entire Lafayette Bar Association and Foundation. He was elected to be a director of the Lafayette Parish Bar Association.

Ethics Advisory Service

www.lsba.org/goto/ethicsadvisory

For assistance with dilemmas and decisions involving legal ethics, take full advantage of the LSBA's Ethics Advisory Service, offering - at no charge - confidential, informal, non-binding advice and opinions regarding a member's own prospective conduct.

Eric K. Barefield, Ethics Counsel

LSBA Ethics Advisory Service

601 St. Charles Ave., New Orleans, LA 70130-3404

(504)566-1600, ext. 122 • (504)619-0122

toll-free: (800)421-5722, ext. 122 • Fax: (504)598-6753

E-mail: ebarefield@lsba.org



CLE UPDATES



The Louisiana State Bar Association Diversity Committee's Pipeline to Diversity & Outreach Subcommittee hosted the CLE Series on Disabilities-Related Issues (Social Security) on Oct. 25, 2019, at the Louisiana Bar Center in New Orleans. Presenters were, from left, Monica Ferraro and Suzette Tagesen Murphy, Workers' Compensation, LLC.



The Louisiana State Bar Association Diversity Committee's LGBT Subcommittee held the CLE seminar, "Title VII at 55: Where We've Been and Where We're Going," on Nov. 5, 2019. The seminar featured J. Tyler Clemons, right, Southern Poverty Law Center; and J. Dalton Courson, Stone Pigman Walther Wittmann, LLC, co-chair, LSBA Diversity Committee.

Louisiana State Bar Association (LSBA) Diversity Committee's Specialty Bars Subcommittee

"Natchitoches Lights" CLE seminar

Dec. 13, 2019
Natchitoches



The Louisiana State Bar Association Diversity Committee's Specialty Bars Subcommittee held the "Natchitoches Lights" CLE Seminar on Dec. 13, 2019, in Natchitoches. Presenting "Updates in Family Law" was Hon. Desiree D. Dyess, 10th Judicial District Court, Natchitoches.



Presenting "Defending Disciplinary Action" at the December 2019 "Natchitoches Lights" CLE were, from left, Richard P. Lemmler, Jr., Louisiana State Bar Association ethics counsel; and Yolanda Cezar, deputy disciplinary counsel, Louisiana Attorney Disciplinary Board, Baton Rouge.



Presenting "Title VII at 55: Where We've Been and Where We're Going" at the December 2019 "Natchitoches Lights" CLE were, from left, J. Dalton Courson, Stone Pigman Walther Wittmann, LLC, New Orleans; and J. Tyler Clemons, Southern Poverty Law Center, New Orleans.



Presenting "LSBA: Who We Are and How We Serve Our Members" at the December 2019 "Natchitoches Lights" CLE were, from left, Michael B. Victorian, Phelps Dunbar, LLP, Baton Rouge; and Christie C. Wood, Wilson & Wilson, Jena.



Presenting "The 360 Perspective of Immigration Law" at the December 2019 "Natchitoches Lights" CLE was Ashley Foret Dees with Ashley Foret Dees, L.L.C., Lake Charles.

STEVE HERMAN

HAS BEEN CALLED A LOT OF NAMES BY OTHER LAW FIRMS. IF YOU NEED AN

EXPERT WITNESS CONSULTANT CO-COUNSEL OR SPECIAL MASTER

in complex litigation, attorney fee issues, or matters of professional responsibility, call an attorney with experience and know-how.

Stephen Herman has 25 years experience in class action lawsuits, representing both plaintiffs and defendants. Among his other qualifications, Steve also:

- Co-Lead Counsel in BP Oil Spill Litigation
- Teaches Complex Litigation courses at both Tulane and Loyola Law Schools
- Has served on LADB Hearing Committee from 2008-2013
- Selected by the National Association of Legal Fee Analyst as one of the "Nation's Top Attorney Fee Experts, 2018".
- Has been asked to serve as an expert on professional ethics and responsibilities
- Is in New Orleans CityBusiness Leadership-in-Law Hall of Fame



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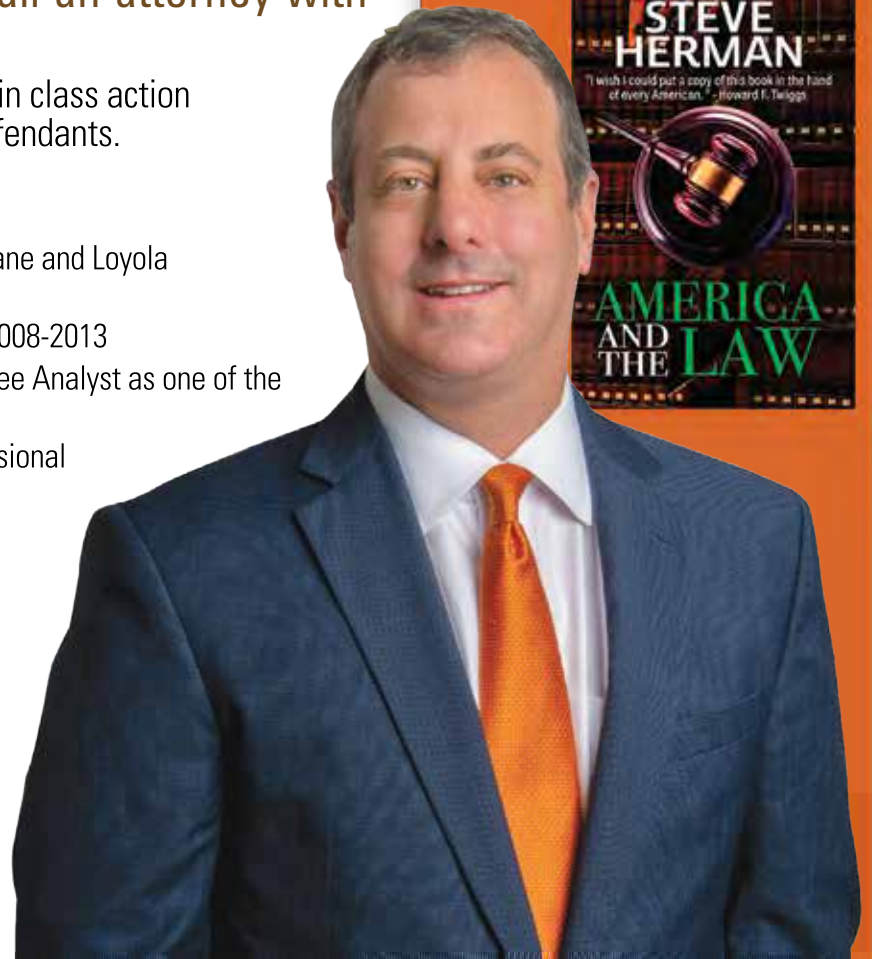
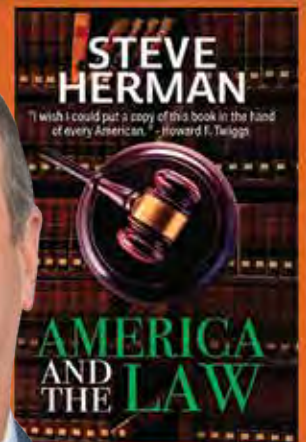
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**THE BLAWG:
IT'S NO
MERE BLOG**

What's New in the Courts
Class Actions
Products Liability
Ethics & Professionalism

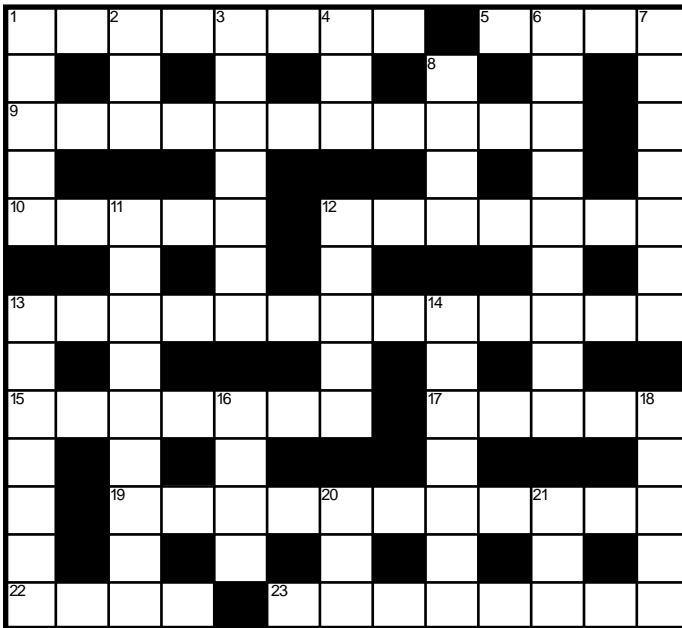
**THE BOOK:
IT'S NO
MERE BOOK**



Crossword PUZZLE

By Hal Odom, Jr.

TAKE IT BACK!



ACROSS

- 1 Attribute of seller who knew of the defect in the thing sold (3, 5)
- 5 Simba finally threw him off the cliff (4)
- 9 Action to revoke a sale for defects or unfitness (11)
- 10 Tremor; seism (5)
- 12 Unexpected hit; one in slumber (7)
- 13 Action to reduce the purchase price for defects or unfitness (6, 7)
- 15 An unspecified person (7)
- 17 Vladimir and Estragon are still waiting for him (5)
- 19 Stand of fitness for the thing sold (8, 3)
- 22 Himalayan Bigfoot (4)
- 23 Kind of defect the seller is not required to disclose (8)

DOWN

- 1 Cooking over an open fire (3-1-1)
- 2 Bomb that didn't go off (3)
- 3 Superlatively spry (7)
- 4 I've heard enough! (3)
- 6 Colluded (9)
- 7 Public ___ Doctrine (7)
- 8 Another word for defect (4)
- 11 Pyrrhic way to win (2, 3, 4)
- 12 First name in the Rat Pack (5)
- 13 Essential attribute of the thing sold (7)
- 14 OPEC member home to Lagos and Abuja (7)
- 16 Gambler's chances (4)
- 18 Its maximum is 140 characters (5)
- 20 Small bite or sip (3)
- 21 OPEC member home to Abu Dhabi and Dubai (1, 1, 1)

Answers on page 471.

SOLACE: Support of Lawyers/Legal Personnel — All Concern Encouraged

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REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date Feb. 7, 2020.

Decisions

John Christopher Alexander, Baton Rouge, (2019-B-2016) **Consented to being transferred to interim suspension status**, ordered by the Louisiana Supreme Court on Jan. 10, 2020. JUDGMENT FINAL and EFFECTIVE on Jan. 10, 2020.

Paul John Barker, Lockport, (2019-OB-2015) **Transferred to disability inactive status** by order of the Louisiana Supreme Court on Jan. 8, 2020.

JUDGMENT FINAL and EFFECTIVE on Jan. 8, 2020. Barker may not practice law until further orders from the Court.

Michael T. Bell, Baton Rouge, (2019-B-1345) **Disbarred from the practice of law** by order of the Louisiana Supreme Court on Nov. 5, 2019. JUDGMENT FINAL and EFFECTIVE on Dec. 20, 2019. *Gist*: Failed to provide adequate and competent legal services; settled a personal injury case without the client's knowledge or consent; charged interest on a settlement advancement; failed

to safeguard client settlement funds by converting those funds; and failed to pay funds belonging to a third-party medical provider.

Durward D. Casteel, Baton Rouge, (2019-1652) **Disbarred from the practice of law** by order of the Louisiana Supreme Court on Dec. 20, 2019. ORDER FINAL and EFFECTIVE on Jan. 3, 2020. *Gist*: Forgery and conversion of client funds to own use.

Continued next page

STANLEY, REUTER, ROSS
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Legal & Judicial Ethics



William M. Ross
wmr@stanleyreuter.com

William "Billy" M. Ross has over 15 years of experience defending lawyers and judges in disciplinary matters, advising lawyers on their ethical duties, and providing representation in legal fee disputes and breakups of law firms. He is committed to advancing the legal profession through his work for clients, involvement with the LSBA, and participation in presentations on ethics and professional responsibility.

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Discipline continued from page 436

Patrick Cornelius Cotter, Lafayette, (2020-OB-00029) **Transferred to disability inactive status** by order of the Louisiana Supreme Court on Jan. 15, 2020. JUDGMENT FINAL and EFFECTIVE on Jan. 15, 2020.

James A. Dukes, Springfield, (2019-B-1985) **Transferred to interim suspension for threat of harm status** by order of the Louisiana Supreme Court on Jan. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Jan. 8, 2020.

Larry English, Shreveport, (17-DB-005) **Publicly reprimanded**, subject to the condition that he submit the fee dispute in the Kirksey matter (Count III of 17-DB-005) to LSBA's Fee Dispute Resolution Program, ordered by the Louisiana Attorney Disciplinary Board on Nov. 6, 2019. JUDGMENT FINAL and EFFECTIVE on Dec. 19, 2019. *Gist:* Failure to return unearned fees; failure to place disputed funds in trust; and failure to submit to fee arbitration or mediation.

Mitchel M. Evans II, DeRidder, (2019-B-1461) **Permanent disbarment from the practice of law and restitution to his victims and/or the Client Assistance Fund** ordered by the Louisiana Supreme Court on Dec. 10, 2019. JUDGMENT FINAL and EFFECTIVE on Dec. 24, 2019. *Gist:* Charging an excessive fee; failing to return unearned fees; failing to provide competent representation; taking action on behalf of clients without their consent; neglecting legal matters; failing to communicate with clients; improperly entering into a business transaction with a client; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; engaging in conduct prejudicial to the administration of justice; and failing to cooperate with the Office of Disciplinary Counsel in its investigations.

Louella P. Givens-Harding, New Orleans, (2019-1514) **Permanently disbarred from the practice of law** by order of the Louisiana Supreme Court on Jan. 14, 2020. ORDER FINAL and EFFECTIVE on Jan. 28, 2020. *Gist:* Health care fraud.

Christopher Alexander Gross, New

Orleans, (2019-B-2084) **Transferred to interim suspension for threat of harm status** ordered by the Louisiana Supreme Court on Jan. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Jan. 8, 2020.

Nicholas Anderson Hall, New Orleans, (2019-B-1759) **Suspended from the practice of law for six months, followed by one year of unsupervised probation**, by order of the Louisiana Supreme Court on Jan. 22,

2020. *Gist:* Respondent practiced law while ineligible to do so.

Sally Harrison Longmire Hingel, Metairie, (2019-B-1459) **Disbarred** by order of the Louisiana Supreme Court on Nov. 19, 2019. JUDGMENT FINAL and EFFECTIVE on Dec. 3, 2019. *Gist:* Failed to perform any legal services for

Continued next page

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DEFENSE OF ETHICS COMPLAINTS AND CHARGES

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DISCIPLINARY REPORT: UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of Feb. 5, 2020.

Respondent	Disposition	Date Filed	Docket No.
Christa Hayes Forrester	[Reciprocal] Suspension.	1/3/20	19-13350
Patrick A. Giraud	Suspension, partially deferred.	1/30/20	19-12024
Quiana Marie Hunt	[Reciprocal] Suspension, fully deferred.	1/30/20	19-14092
Suzan E. Jackson	[Reciprocal] Suspension, partially deferred.	1/3/20	19-13349
Thomas E. Loehn	[Reciprocal] Suspension, fully deferred.	1/3/20	19-13348
Keelus Renardo Miles	[Reciprocal] Public reprimand.	1/3/20	19-13390
Rusty J. Savoie	[Reciprocal] Suspension, partially deferred.	1/30/20	19-13829
Douglas L. Uzee, Jr.	[Reciprocal] Suspension, partially deferred.	1/30/20	19-13346

Discipline continued from page 437

a client; misled a client about the status of her case; solicited and purchased prescription medication from a client; and failed to cooperate with the Office of Disciplinary Counsel in its investigation.

Laura J. Johnson, Winnfield, (2019-B-1128) **Disbarred, retroactive to Nov. 12, 2015, the date of her interim suspension**, by order of the Louisiana Supreme Court on Dec. 11, 2019. *Gist:* Respondent violated duties owed to the public, the legal system and

the profession. She acted knowingly and intentionally although no actual harm occurred.

Audrey M. Lamb, Baton Rouge, (2019-B-1460) **Suspended from the practice of law for one year and one**

Continued next page



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Do Not Lose Your Eligibility! Be Cautious When Advising SBIR Holders

ASRC Federal Data Network Technologies, L.L.C., B-418028, Dec. 26, 2019, 2019 CPD ¶ 412 (*AFDNT*).

The federal government is routinely looking for efficient and innovative ways to procure supplies and services. While normally this deliberative process takes longer than desired because it follows the full and open competition requirements laid out in the Federal Acquisition Regulation (FAR) and the Competition

in Contracting Act, 31 U.S.C. § 3551, *et seq.* (CICA), there are exceptions to this general rule. One is a Phase III award using the Small Business Innovation Research (SBIR) acquisition authority under the SBIR Program Act of 1982, 15 U.S.C. § 638. While a Phase III award can be made efficiently, this award authority has rigid statutory and regulatory eligibility considerations that must be continuously considered after a business obtains a Phase I/II award. The Government Accountability Office (GAO) addressed one such matter when it sustained a recent bid protest in *AFDNT*. For a discussion on what is a bid protest, *see* Bruce L. Mayeaux, “Recent Developments: Administrative Law,” 65 La. B.J. 418 (2018).

To understand the issue in *AFDNT*, counsel must first understand what the SBIR program is and how a Phase III award differs from traditional procurement awards under the FAR and CICA. Essentially, “the SBIR program is de-

signed to increase the participation of small business concerns in federal funded research or research and development.” *See, AFDNT* at 2; SBIR Program Act of 1982, 15 U.S.C. § 638. The Small Business Administration (SBA) is tasked to administer the SBIR program and to issue policy directives for its operation; ostensibly, this includes the SBIR Program Policy Directive (PPD). *See, AFDNT* at n.4; 15 U.S.C. § 638(j). Generally, an SBIR has three phases: (1) Phase I, where potential SBIR holders compete to test scientific, technical and commercial-merit feasibility of a concept; (2) Phase II, if successful in Phase I, an SBIR holder may be invited to apply for further development of the concept; and (3) Phase III, non-SBIR government sources (other agencies/industry not involved directly in the SBIR program) may non-competitively award (sole-source) a contract to the SBIR holder for “work that derives from, extends, or completes efforts made un-

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◀ **Larry Feldman, Jr.** is an attorney with McGlinchey Stafford's New Orleans office. He received his mediator training at the Straus Institute for Dispute Resolution at Pepperdine University School of Law. During his more than 45 years of practice, he has represented corporate and individual clients in a variety of matters that include banking regulations, contract claims, real property disputes, shareholder rights, and personal injury disputes. He has served in several capacities in the Louisiana State Bar Association including president and has been a member of both the Judicial Council and the Judicial Compensation Commission. In 2012 the Louisiana Supreme Court appointed him to the Committee on Bar Admissions, where he served as the Director of the Panel on Character and Fitness and now serves as the Chair of the Committee.



der prior funding agreements under the SBIR program.” See, *AFDNT* at 2; 15 U.S.C. § 638(e)(4)(A)-(C). Principally, this means that an agency can sole-source contract to an SBIR holder under Phase III authority for work that directly involved or is connected to a Phase I/II award, without the FAR and CICA’s full and open competition requirements. While this process seems straightforward, it can become muddled, especially with novation and business acquisitions.

Theater Medical Information Program — Joint (TMIP-J)

In September 2019, the Defense Health Agency (DHA) issued a Phase III award to American Systems Corp. to “build on efforts that derive from, extend, or complete efforts that are generated under previous SBIR Phase I and II work.” *AFDNT* at 3. Specifically, DHA wanted American to “transform and support [its] TMIP-J platform.” *Id.* The TMIP-J platform “is a healthcare delivery system, which comprises multiple different systems and products that collect a variety of data related to the healthcare of service members.” *AFDNT* at 2.

The instant award referenced work completed under a different Phase III award from another company called DDL Omni Engineering, L.L.C. See, *AFDNT* at 3-4. Earlier in 2018, American acquired Omni and subsequently executed an assignment-and-assumption agreement that identified Omni’s contracts, including the aforementioned Phase III award. See, *AFDNT* at 4. Later, in 2019, the federal government executed a novation agreement with American recognizing American as Omni’s successor-in-interest and explicitly listed various contracts in an exhibit to the agreement; the Phase III award was again referenced. *Id.* At no point was earlier SBIR work by American or any Phase I/II efforts of Omni referenced in any of the documents. See, *AFDNT* at 3-4.

The Protest

Later in September 2019, ASRC Federal Data Network Technologies, L.L.C. (protester), after filing an unsuccessful

agency-level bid protest, filed a bid protest with GAO alleging, among other things, that American was ineligible for the Phase III award under the SBIR statute and the SBA’s PPD. See, *AFDNT* at 4. The protester asserted that those authorities allowed for a Phase III award to only the company that originally developed the technology (Omni), or to a company that has properly novated a prior Phase I/II award, which American, it argued, had not. *Id.*

In retort, DHA asserted that, by virtue of its acquisition of Omni, American was Omni’s successor-in-interest and was, therefore, eligible to receive the Phase III award. See, *AFDNT* at 7. Additionally, as this involved SBA regulations, GAO solicited the view of SBA, which ostensibly concurred with DHA’s position. See, *AFDNT* at 7. Nonetheless, GAO found DHA’s position unreasonable after a plain language reading of the statute and PPD and sustained the protest.

In accordance with its previous interpretation decisions, GAO focused primarily on the plain language of the PPD on this matter. See, *Curtin Mar. Corp.*, B-417175.2, March 29, 2019, 2019 CPD ¶ 107. Specifically, GAO focused on section 6(a)(5) of the PPD, which states that, “in order to receive a Phase III award, the [a]wardee *must* have either received a prior Phase I or Phase II award or have been novated a Phase I or Phase II award.” See, PPD § 6(a)(5) (emphasis added). GAO found that the use of the term “must” made clear that to receive or novate a Phase I/II award

is a requirement to obtain Phase III eligibility. See, *AFDNT* at 8. Further, while GAO is required to give deference to an agency for the reasonable interpretation of its own regulation, it found the plain language of section 6(a)(5) in the PPD listed specific eligibility requirements to receive a Phase III award as it did not leave open any other scenarios — other than the one stated in the PPD — where a company could be eligible for a Phase III award. See, *AFDNT* at 9; *Edmond Scientific Co.*, B-410179, Nov. 12, 2014, 2014 CPD ¶ 336 at 7, n.9. (stating where the language of a regulation is plain on its face, and meaning is clear, there is no reason to move beyond the plain meaning of the text).

While an SBIR can be a great tool to procure supplies and services quickly, its requirements for Phase III eligibility must be considered throughout the life of an SBIR-holding going concern. Agency and industry counsel should consider how to handle “ownership” of Phase I/II awards during acquisition, mergers and novation to keep Phase III eligibility intact.

Disclaimer: The views presented are those of the writer and do not necessarily represent the views of DoD or its components.

—Bruce L. Mayeaux
Member, LSBA Administrative
Law Section
Major, Judge Advocate
U.S. Army



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Win the Battle, Lose the War

Luv N' Care, Ltd. v. Jackel Int'l, Ltd.,
19-0749 (La. 1/29/20), ___ So.3d ___,
2020 WL 499164.

Taking up a *res nova* issue, the Louisiana Supreme Court interpreted La. R.S. 13:4611(1)(g) to preclude an award of attorney fees for the prevailing party if that party is the defendant-in-rule. In the case at hand, a rule for contempt was brought by Luv N' Care against defendants Jackel and Mayborn over an alleged violation of a permanent injunction.

After hearing, the rule for contempt was dismissed, with costs, including rea-

sonable expert fees, taxed to plaintiff/mover. After the parties could not agree on a reasonable attorney fee, defendants moved for attorney fees and expert fees.

The trial court awarded \$172,621.10 in attorney fees to defendants, as well as \$19,433.23 in expert witness fees. Plaintiff appealed, and the 2nd Circuit Court of Appeal affirmed the award and amount of the attorney fee, but reduced the award of expert witness fees. An appeal to the Louisiana Supreme Court ensued.

The case provided a back-to-basics statutory interpretation lesson. In reviewing La. R.S. 13:4611 as a whole, the Supreme Court reasoned it was clear that the penalty of an attorney fee can be imposed on a party only if the party is found guilty of contempt. The first place to look for the legislative intent is the language of the statute itself, and only then, if unclear, do we need to proceed any further into specific intent. Furthermore, the Court reminds us the law must be interpreted *in pari materia* to give a compre-

hensive harmony to the laws written on a specific subject.

This case focuses on the specific application of La. R.S. 13:4611(g), which provides, "The court may award attorney fees to the prevailing party in a contempt of court proceeding provided for in this Section." The trial court and 2nd Circuit in their rulings interpreted the statute to include an award of attorney fees to a prevailing defendant-in-rule. However, the Supreme Court, in reversing, held the entire statute, not just the singular sentence that provides "the court may award attorney fees to the prevailing party," must be considered. The notable precursor to the relevant sentence is the first paragraph of the statute, which provides that "courts may punish a person adjudged guilty of a contempt of court therein, as follows." The Court reasoned, when read as whole, the result is "courts may punish a person adjudged guilty of a contempt of court therein, as follows: . . . The court may award attorney fees to the prevailing party in a contempt of court

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proceeding provided for in this Section.”

The award of an attorney fee in a contempt proceeding is a discretionary implementation of punishment, but such may be awarded only to the mover, if successful in prosecution of the rule. This ruling seems to be further aligned with the typical state system of each party paying its own attorney fees to prosecute or defend claims.

Ultimately, while successfully defeating the rule for contempt and obtaining a win for the defendants, the defendants in this case came out the losers, as they will be unable to recuperate their sizable legal fees incurred in defending the contempt issue. Those defending rules for contempt should consider this ruling and how that will impact the client who can successfully defeat the rule for contempt, but with consideration that the fees incurred in doing so cannot be awarded under this statute. Further, with the legislative session upon us, this is an opportunity to amend the statute if the Legislature actually meant the court could award an attorney fee to the prevailing party, including the party defending the rule.

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Personal Liability of LLC Members after Dissolution by Affidavit

Cambrie Celeste, L.L.C. v. Starboard Mgmt., L.L.C., 19-0737 (La. App. 4 Cir. 12/4/19), 2019 WL 6542792.

In 2012, Cambrie Celeste, landlord, filed suit against its tenant, Starboard Management, L.L.C., along with the members of Starboard — Robert Armbruster and Nicole Armbruster (collectively, the Members) — for breach of lease. While the lawsuit was pending, Mr. Armbruster filed an affidavit to dissolve Starboard in accordance with La. R.S. 12:1335.1, which outlines the requirements and consequences of a “dissolution by affidavit” of a limited liability company. In relevant part, La. R.S. 12:1335.1(A) provides that “if a limited liability company is no longer doing business, owes no debts, and owns no immovable property, it may be dissolved by filing an affidavit with the secretary of state executed by the members . . . attesting to such facts and requesting that the limited liability company be dissolved.” Upon the filing of this affidavit, “the members . . . shall be personally liable for any debts or other claims against the limited liability company in proportion to their ownership interest in the company.”

On July 27, 2016, the trial court granted summary judgment against Starboard. Starboard then filed a suspensive appeal. While the case was on appeal, Starboard filed a petition for bankruptcy in the U.S. Bankruptcy Court for the Eastern District of Louisiana. Then, in December 2016, Starboard filed a motion with the bankruptcy court to reinstate Starboard as an LLC in order to continue with the bankruptcy proceedings. The bankrupt-

cy court granted the motion to reinstate the LLC in January 2017. The court’s order made clear that it was the responsibility of Starboard’s counsel to serve the required parties who would not otherwise receive notice. Despite this, Starboard did not file the order with the Secretary of State.

In November 2017, the appellate court upheld the trial court’s judgment against Starboard. In December 2018, the plaintiffs filed a motion to enforce the judgment against the Members personally pursuant to La. R.S. 12:1335.1(A). In response to this motion, on Jan. 17, 2019, Starboard filed the bankruptcy court’s reinstatement order with the Secretary of State, and the Secretary of State reinstated Starboard on the same day. The next month, the trial court granted the plaintiff’s motion to enforce personal liability against the Members. This appeal followed.

An LLC that is dissolved by affidavit may be reinstated as described in La. R.S. 12:1335.1(B), which provides that “[t]he Secretary of State shall reinstate a limited liability company that has been dissolved pursuant to this Section only upon receipt of an order issued by a court of competent jurisdiction directing him to do so.” The appellate court interpreted this provision strictly and concluded that Starboard was not reinstated until Jan. 17, 2019, when the bankruptcy court’s order was filed with the Secretary of State. Additionally, the appellate court held that the reinstatement was not retroactive to the date of dissolution. As such, it concluded that the trial court correctly granted the plaintiff’s motion to hold the Members personally liable in proportion to their ownership for the judgment rendered against Starboard.

—**Paxson C. Guest**
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A blue rectangular graphic with white text and logos. At the top, it says "ABA" in large letters, with "AMERICAN BAR ASSOCIATION" underneath. To the right of "ABA" are three stylized hands in shades of blue and white. Below this, it says "FREE LEGAL ANSWERS" and "LA.FreeLegalAnswers.org". In the center, it says "A FREE ONLINE FORUM FOR CIVIL LEGAL QUESTIONS". At the bottom, there are two logos: "Louisiana State Bar Association" with the tagline "Access to Justice" and "Louisiana State Bar Association" with the tagline "Serving the Public. Serving the Profession."



5th Circuit Addresses Endangered Species Act Claims

The Golden-Cheeked Warbler, a yellow songbird found in Texas, was listed as an endangered species by the U.S. Fish and Wildlife Service (FWS) in 1990. Then in 2015, the Texas General Land Office (GLO) petitioned to delist the Warbler, claiming that the Warbler population and breeding habitat was actually larger than initially known. The FWS denied the petition, noting that it had just completed a five-year review of the species listing in 2014 and saw no new information in the 2015 petition that was not already addressed in its 2014 review.

GLO then sued the FWS, challenging the original listing and the continued listing of the Warbler under the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), and claiming that the denial of the delisting petition was arbitrary and capricious. The district court dismissed the case on a

motion for summary judgment; GLO appealed.

The 5th Circuit, in *General Land Office v. U.S. Dep't of the Interior*, 947 F.3d 309, 318 (5 Cir. 2020), found that GLO's claims under the ESA and NEPA were time-barred and should have been brought within six years of the original listing in 1990, or when the FWS failed to designate the Warbler's critical habitat in 1992 per 28 U.S.C. § 2401(a). GLO had characterized the listing as a "continuing violation," but the 5th Circuit disagreed, stating that once an agency acted or failed to act, that action (or lack thereof) was a single trigger that started the statute of limitations countdown. Thus the listing of the Warbler, or the ensuing failure to designate a critical habitat within the two years required by the ESA, was the start of the six-year statute of limitations, long since expired.

The 5th Circuit also found that the FWS's denial of the 2015 delisting petition was not a violation of NEPA, as the controlling law did not require the FWS to prepare either an environmental assessment or an environmental-impact statement.

However, this was not a complete win for the FWS. The 5th Circuit did find that the FWS's denial of the 2015 delisting petition was arbitrary and capricious. *Id.* at 320-21. The FWS was required to consider whether the petition contained "substantial scientific or commercial information indi-

cating that the petitioned action may be warranted." 16 U.S.C. § 1533(b)(3)(a). Instead, the FWS looked to see if the petition contained any *new* information that it hadn't already seen and considered during its most recent five-year review. The 5th Circuit pointed out that there was no requirement that information in a petition be "new," just that it be "substantial." Thus, the 5th Circuit vacated the denial of the 2015 delisting petition and remanded the matter back to the FWS for further consideration under the proper legal standard.

Paid Protestors at Council Meeting: Open Meetings Law Violation But Outcome Not Void

The New Orleans City Council met to vote on a proposal from Entergy on whether to approve a permit for a proposed New Orleans Power Station. Several meetings to address the proposal were held, including a meeting before a City Council committee on Feb. 21, 2018, which later made headlines when it was discovered that the Entergy supporters present were "actors paid to attend the meeting and show support for Entergy." *Deep S. Ctr. for Envtl. Justice v. Council of City of New Orleans*, 19-0774 (La. App. 4 Cir. 2/12/20), ___ So.3d ___, 2020 WL 714492, at *1. The February 2018 meeting was packed with these paid supporters, and opponents were



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unable to access the room or give comments, despite language on the agenda allowing comments. *Id.* The committee voted to send the matter to the full City Council.

The City Council met on March 8, 2018, and ultimately voted 6-1 to approve the construction of the New Orleans Power Station. At this March meeting, everyone interested was able to provide comments in favor or against the proposal.

Several individuals and groups then filed suit against the City, alleging that both the February and March meetings violated the Open Meetings Law, La. R.S. 42:11, *et seq.* The trial court found that the Open Meetings Law had been violated in the February meeting, which then necessarily led to the later Council vote, and thus the resolution approving the New Orleans Power Station was void. No violations independently occurred at the March Council meeting, however.

On appeal, the City argued that any access violations in the February meeting were caused by Entergy, a private actor who could not violate an open meetings law. The appellate court disagreed, noting that regardless of who caused the public to be excluded from the meeting, the Council and the committee were charged by law to ensure that any meeting they conduct complies with the Open Meetings Law. Moreover, the barring of interested persons from the meeting and the decision mid-meeting to bar public comments constituted noncompliance with the law. “Not only was the agenda untimely changed in violation of the Open Meetings Law, but the record reflects that members of the public were deprived of the opportunity to observe the meeting and provide comments during the public comment period at the Committee meeting due to both the change in procedure and the barring of comments from members of the public who were made to wait in the hallway due to limited space.” *Id.* at *6.

The next question was whether the Council vote at the March meeting cured that February meeting violation by “ratification” of the improper vote. A public body may correct an open meetings violation if a proper meeting is held that ratifies the earlier vote. *Id.* at *5. The appellate court found that ratification could

not occur, despite a properly-held March Council meeting and vote, as the February committee meeting had a different and distinct purpose, was a different public body and the vote it held was not binding on the full Council. Thus, actions taken in the separate March meeting could not fix what happened in the February meeting.

However, precisely because the committee decision was not binding on the full Council, the appellate court determined that there was no necessary tie between the actions at the two meetings, and the trial court erred in determining that the violations that occurred at the February committee meeting rendered the separate March Council vote voidable. Thus, while the February committee meeting violated the Open Meetings Law, the vote by the full Council at the March meeting was not void.

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Child Support

Hensgens v. Hensgens, 19-0485 (La. App. 3 Cir. 12/18/19), ___ So.3d ___, 2019 WL 6886219.

In this child support and spousal support matter regarding crawfish and rice farming operations, Ms. Hensgens’ expert calculated the parties’ income on a cash basis, whereas Mr. Hensgens’ expert calculated it on an accrual basis. The trial court found that the cash basis method was appropriate and required by La. R.S. 9:315, and the court of appeal agreed. The courts also rejected his arguments that, as the farming operation was a “community enterprise,” she should have been assessed with one-half of the income and related aspects of the operation. The court found she was not employed, and the parties had stipulated that once the couple’s young-



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est child reached age 5, minimum wage would be imputed to her. Thus, all of the farming operation's income was imputed to him.

Regarding income assessed to him for the sale of farming equipment, the court found that although Mr. Hensgens did not sell farm equipment as a business, it was "part of the cycle" of replacing older equipment with newer equipment; thus, the income from the sale of equipment was appropriately included. The court also found that Mr. Hensgens provided no proof to counteract Ms. Hensgens' and her expert's testimony that certain expenses charged to the business American Express card were actually personal expenses that should be added back to the business income. The trial court was correct in not deviating from the child support guidelines due to significant bank debt, as this debt had been due during the course of the parties' marriage, and there was no showing that their ongoing income was affected by it.

Custody

Guidry v. Guidry, 19-0534 (La. App. 1 Cir. 9/26/19), 2019 WL 7177093 (unpublished).

Due to continuing mental health issues with one of the parties' children, the trial court changed the domiciliary parent of that child from the mother to the father. Regarding another child, the court changed the custodial arrangement to designate Mr. Guidry as the domiciliary parent for educational, medical and mental health purposes. As a result of the change in the physical domiciliary custody of the one child, the court also modified the child support arrangement.

The parties had entered into a consent judgment providing for a series of child support payments with reductions when the first two of the three children completed high school and reached majority. The trial court found that that judgment was against public policy and could be modified. The court of appeal, on the other hand, found that the trial court did not need to find that the judgment was against

public policy, as the judgment did not provide that a change in domiciliary custody would not be a change of circumstances to modify the support. The judgment addressed modifications only as each child aged out or if there were material increases or decreases in the parties' incomes. The trial court also did not err in granting Mr. Guidry an injunction prohibiting Ms. Guidry from making complaints against him that might potentially impugn his professional reputation, including to his employer and supervisory entities.

Paternity

Barras v. O'Rourke, 19-0412 (La. App. 3 Cir. 12/18/19), ___ So.3d ___, 2019 WL 6887850.

Mr. O'Rourke, who had an intimate relationship with Ms. Barras, believed that the child born in 2014 was his. Later, in 2017 when Ms. Barras filed a petition for child support and custody, she made statements that led Mr. O'Rourke to question his paternity and to obtain a home DNA test, which showed he was not the father.

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He then filed to annul the act of acknowledgment he had executed at the time of the child's birth (he had also signed the child's birth certificate). Ms. Barras filed an exception of prescription, arguing that under the version of La. R.S. 9:406 in effect at the time of the acknowledgment, Mr. O'Rourke had two years from the date of the execution of the act of acknowledgment to seek to annul it. He argued, however, that the current version of La. R.S. 9:406 in effect at the time of his petition applied.

The trial court granted her exception of prescription; however, the court of appeal reversed, finding that the legislative history showed that the amendment was retroactive and intended to revive claims that may have been prescribed under the prior version of the statute. The appellate court found that as there was no biological relationship to be acknowledged, it was "illogical" to find that one who was deceived into acknowledging a child that was not biologically his could be prevented from attacking an acknowledgment as absolute nullities are inprescriptible.

Community Property

Cola v. Cola, 19-0530 (La. App. 1 Cir. 12/27/19), 2019 WL 7207183.

During the parties' marriage, Mr. Cola acquired immovable property, in which act of acquisition Ms. Cola intervened, acknowledging that the property was his separate property. She also intervened in the mortgage, again acknowledging that the property was his separate property. During community-property-partition proceedings, she did not list the property as community on her sworn detailed descriptive list but sought a reimbursement for community funds used for the down payment and subsequent mortgage payments. He listed the property as his separate property on his sworn detailed descriptive list.

Although she claimed she was defrauded into signing the act of sale and mortgage, she filed no separate pleading alleging fraud with particularity. The court of appeal affirmed the trial court's finding that the property was Mr. Cola's separate property, finding that the declarations in

her descriptive list were judicial confessions, and that she could not attack her interventions, as she did not separately plead fraud. Notably, the court of appeal stated that her claim in the joint detailed descriptive list that the property was community, contesting his claim that it was his separate property, was made after her sworn descriptive list "expressly acknowledging" that the property was his separate property. Furthermore, the joint list was not sworn to but was signed only by the attorneys, and "additionally the Joint DDL appears to be a tool for the trial court to use during the hearing, rather than a pleading required by La. R.S. 9:2801."

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Grass is Not Always Greener: Downside to Binding Arbitration

Many attorneys, guided by the benefits and strengths of arbitration, encourage their clients to include binding arbitration provisions in their contracts with employees, customers and others. There is little doubt that the streamlined and cost-effective arbitration process has many benefits and make it the best process for most situations. However, as can be seen in the case of *Abernathy v. DoorDash, Inc.*, recently issued by the U.S. District Court for the Northern District of California, the strengths of binding arbitration can come back to bite unsuspecting entities in the employment context. No. C 19-07545 WHA, 2020 WL 619785 (N.D. Cal. Feb. 10, 2020). The North District of California's decision presents a caveat to the overall ben-

eficial procedure of arbitrations.

DoorDash, a food-delivery company, is one of the many transportation companies involved in the new wave of litigation involving the proper designation of workers as independent contractors or employees. This wave of litigation began with the surge of technology-based transportation companies like Uber and Lyft and has extended to food-delivery companies.

DoorDash, like many of its food-delivery counterparts, designated its couriers as independent contractors. Because of this designation, more than 6,000 DoorDash couriers filed demands for arbitration against DoorDash, arguing they were improperly categorized and should be employees. The American Arbitration Association (AAA), the arbitration organization listed in DoorDash's agreement, requires that the company pay a filing fee of \$1,900 for each arbitration. Because of this, DoorDash owed just under \$12 million for the couriers' arbitration claims. Unsurprisingly, DoorDash fought against paying these fees, arguing that it should not have to pay the fees because of "significant deficiencies" in the claimants' arbitration filings.

The claimants then filed a motion to compel arbitration in the Northern District of California, arguing that they signed a binding arbitration agreement, and so their arbitration demands were proper. For about 5,000 of these claimants, the court agreed and granted the motion to compel. For 869 of the claimants, the court held that they did not provide sufficient evidence to prove they signed the arbitration agreement and so denied the motion to compel as to them.

DoorDash also sought a stay of the proceedings until the final approval of a state court settlement that was pending at the time of the hearing and may have included some of the claimants who sought arbitration. Prior to the filing of these arbitration claims, couriers, allegedly including some of the claimants in the arbitration claims, filed a class-action lawsuit in state court. The court recognized that, ironically, DoorDash had previously attempted to dismiss the state court suit, alleging the claimants had a duty to arbitrate, and now was attempting to stay

the arbitration so that the class-action lawsuit could resolve some of the claims raised in the arbitration. The Northern District of California held that the claimants had the right to opt out of the class-action suit and to raise the arbitration claims, so the court denied the motion to stay. However, the court recommended that if any claimants attempt to “double dip” in the class-action and the arbitration, the arbitrator should place an order on claimants’ counsel to fully reimburse DoorDash for all fees and costs incurred in defending the matter twice.

The court then concluded by reflecting on the overarching issues that it believed underlie the litigation before it. It noted that businesses have consistently promoted binding arbitration clauses for their employees, which normally include a waiver of their right to join class-action litigation, and the irony of the efforts of DoorDash in this case. The court observed that DoorDash sought the precise collective-litigation framework it encouraged its employees to waive through its

binding arbitration agreements. Because of its efforts to contractually remove the possibility of class-action litigation and replace it with arbitration, the court showed little sympathy for DoorDash’s obligation to pay the \$12 million in filing fees for these arbitrations.

There is no doubt that arbitration is a streamlined, cost-effective method of getting just results for the vast majority of cases. Because of its truncated procedural structure, arbitration removes a number of expenses typically present in traditional litigation. Moreover, arbitration proceedings are usually better able to remove frivolous or unacceptable claims at the outset than traditional suits in court. Based on this, employers and their attorneys should still seriously consider binding arbitration agreements as part of their employment contracts. With that said, this case presents one of the financial pitfalls possible when large groups of arbitration claims arise all at once. Large employers with vast numbers of employees in a single category

should follow this case and consider its outcome when determining whether binding arbitration agreements should be applied to its employees.

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Royalty Dispute; Motion to Dismiss for Lack of Personal Jurisdiction

Libersat v. Sundance Energy, Inc., ___ F. Supp. 3d ___, 2020 WL 548752 (W.D. La. Jan. 31, 2020).

This case involves a royalty dispute arising from a mineral lease located in McMullen County, Texas (Libersat lease). Plaintiffs are royalty owners living in Louisiana. Plaintiffs claim they were incorrectly paid royalties due to division orders based on a title opinion that did not accurately reflect record title.

The Libersat lease was originally assigned to Clayton Williams Energy, Inc. in 1984. Clayton Williams went to Louisiana to negotiate the lease with plaintiffs. Later, Clayton Williams assigned its interest to Eagle Ford Shale Exploration, L.L.C. Eagle Ford Shale then assigned the lease to SEA Eagle Ford, L.L.C. SEA Eagle Ford is a single-member Texas limited liability company. Its only member is Sundance Energy, Inc. Sundance is a Colorado corporation. Sundance did not have an interest in the lease but was responsible for coordinating royalty payments. Clayton Williams was eventually acquired by Noble Energy, Inc., a Delaware corporation with its principal

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After it acquired its interest in 2014, SEA Eagle commissioned a title opinion to determine the proper percentage of royalty payable to each royalty owner. Sundance issued division orders based on the title opinion. Some owners signed the division orders; others did not. Mark Libersat and Roxanne Gilton signed their division orders and were paid. But Gerald and Julie Libersat, who later became plaintiffs, refused to sign their division orders because they claimed the division orders showed the wrong percentage of interest.

Sundance and SEA Eagle conducted additional title research and discovered that the percentages were, in fact, wrong. Sundance and SEA Eagle then suspended royalty payments to all owners who inherited their interests from May Libersat. Sundance issued revised division orders. According to plaintiffs, SEA Eagle and Sundance required plaintiffs to indemnify them (defendants) for the prior erroneous royalty payments. If plaintiffs did not indemnify defendants, then plaintiffs would not be paid.

SEA Eagle filed a lawsuit in Texas state court against Mark Libersat and Roxanne Gilton, the two owners who were paid royalties pursuant to the incorrect division orders, claiming breach of contract and unjust enrichment. Separately, Gerald and Julie Libersat filed suit in Vermilion Parish, Louisiana, against SEA Eagle and the other mineral interest owners (including working-interest owners and ORRI owners), claiming breach of the lease and bad faith. Plaintiffs stated in their petition that they did not have any evidence of wrongdoing by Clayton Williams and/or Noble Energy at the time of filing their lawsuit but sued them as necessary parties. SEA Eagle and Sundance successfully removed the case to the Western District of Louisiana on the basis of diversity jurisdiction. Defendants moved to dismiss on the basis of lack of personal jurisdiction and claimed that the “Local Action Doctrine” prevented a federal court in Louisiana from hearing a case involving real property interests in Texas. Noble Energy also filed a motion to dismiss on the same grounds.

In considering defendants’ motions, the district court analyzed whether it had general and specific jurisdiction over defendants and whether the Local Action Doctrine applied. On the issue of general jurisdiction, Sundance, SEA Eagle and Noble argued that there was no prima facie basis for the court to exercise general jurisdiction because none of the defendants are incorporated in Louisiana, nor are their principal places of business located in Louisiana. Moreover, they contended that they do not have “continuous and systematic” contacts with Louisiana. In response, plaintiffs argued that defendants did have sufficient contacts with Louisiana because (1) Clayton Williams came to Louisiana to negotiate the lease, and (2) Clayton Williams had long-standing business operations in Louisiana. Plaintiffs argued that Williams’ contacts, by operation of law, should be imputed to defendants because defendants are assignees of Clayton Williams. The district court, however, held otherwise, finding that general jurisdiction did not exist. The court noted that none of the defendants were formed in Louisiana and none maintained their principal places of business there. Moreover, Sundance’s mailing of the division orders did not create “systematic and continuous” contacts with Louisiana.

Regarding specific jurisdiction, there again, the district court found plaintiffs did not meet their burden of proof. Plaintiffs could not show that defendants had minimum contacts with Louisiana.

To prevail, plaintiffs had to show that their claims arose out of defendants’ jurisdictional contacts with the forum state. Plaintiffs (again) attempted to rely on the actions of Clayton Williams, but the court rejected this argument stating, “[h]ere, Plaintiffs’ claims arise out of royalty payments and alleged errors in the division orders . . . , not Clayton Williams’ or Clayton Williams Energy’s actions in negotiating and executing the Libersat Lease [in Louisiana] thirty years earlier.”

On the issue of “Local Action Doctrine,” the court found that it did not have to determine whether Louisiana actually adopted the doctrine because the court’s holding that it did not have personal jurisdiction over the defendants pretermitted the “Local Action Doctrine” claim. As a result of all of this, the court granted defendants’ motions to dismiss and dismissed plaintiffs’ claims without prejudice.

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Re-Credentialing

Thomas v. Reg'l Health Sys. of Acadiana, 19-00507 (La. 1/29/20), ___ So.3d ___, 2020 WL 500019.

A mother filed a request for panel review and also concurrently filed a lawsuit against two hospitals for negligently credentialing/re-credentialing and negligently providing privileges to a pediatric cardiologist. The defendants filed exceptions of prematurity, contending that the credentialing claim had to first be presented to a medical-review panel. The trial court noted that *Billeaudeau v. Opelousas General Hospital*, 16-0846 (La. 10/19/16), 218 So.3d 513, was a negligent credentialing case pending before the Louisiana Supreme Court at the time the exceptions of prematurity were filed and stayed the hearing on the exceptions until *Billeaudeau* was decided.

Billeaudeau involved only a negligent credentialing claim. The Supreme Court determined in *Billeaudeau* that the negligent credentialing claim sounded in general negligence rather than malpractice, while distinguishing the facts in *Billeaudeau* from cases involving "mixed allegations of negligent credentialing and supervision." This led the *Thomas* trial court to grant the exceptions of prematurity.

The appellate court opinion noted that the "narrow question" of *Thomas* was whether re-credentialing differed from "initial credentialing." See, *Thomas v. Reg'l Health Sys. of Acadiana*, 18-0215 (La. App. 3 Cir. 2/27/19), 266 So.3d 354, 358. The defendants argued that re-credentialing differed because it "implicates a peer review and supervision component such as to fall within the gambit of medical malpractice." The appellate court ruled that hiring and credentialing are identical to retention and re-credentialing, declared *Thomas* to be

a case of ordinary negligence, and reversed the trial court's decision granting defendant's exception.

The Supreme Court then disagreed, finding that allegations of "negligent re-credentialing necessarily fall within the definition of 'malpractice' under the LMMA because they constitute an 'unintentional tort . . . in the training or supervision of health care providers.'" To reconcile this holding with the *Billeaudeau* court's statement that "the treatment-related medical decisions and dereliction of skill with which the LMMA is concerned . . . fall under the 'supervision and training of health care providers' once they enter the building and engage in the practice of medicine therein," the Court distinguished the *Thomas* case on its facts "[t]o the extent that [the] plaintiff's allegations against the hospital include the hospital's initial credentialing . . ." The Court reasoned: "[A]sserting claims of 'credentialing' or 're-credentialing' against a healthcare provider cannot be a talismanic incantation that automatically excludes a plaintiff's claims from the strictures of the LMMA. If that were so, all medical malpractice plaintiffs could sidestep the statutory limitations of the LMMA."

The Court then clarified that future plaintiffs could continue to allege negligent credentialing or re-credentialing claims that fall outside the LMMA if they "are *not* so intertwined with malpractice claims." The Court theorized that a plaintiff could pursue a claim against a healthcare provider under the LMMA, while also alleging a negligent credentialing claim against the hospital that is totally unrelated to medical care, but instead involves the healthcare provider's negligent conduct as a hospital employee, concluding that no such claims were alleged in this case.

There were four additional opinions: two concurring and two dissenting.

Prescription

Brooks v. Meaux, 18-0980 (La. App. 3 Cir. 6/12/19), 275 So.3d 41, writ denied, 19-1135 (La. 10/8/19), 280 So.3d 590.

After his wife's death on Oct. 11,

2013, Mr. Brooks filed a panel request on Oct. 10, 2014, received the panel opinion on July 20, 2016, and thereafter filed a lawsuit on Oct. 5, 2016. The defendant filed an exception of prescription, claiming that Brooks, having requested a panel one day before prescription, had 91 days after receiving the opinion within which to file a claim, after which his case was prescribed. Brooks countered that he was unaware that malpractice was involved in the death until he received the autopsy report on Dec. 19, 2013. He claimed (as he had in his panel request) that after receiving the autopsy report, he researched the disease and its symptoms and realized that she was not correctly treated, which he could not have earlier known.

Dr. Meaux contended that prescription runs one year from the date of death, but even if it did not commence at the time of death, the death certificate, issued five days after death, showed the same cause of death as the autopsy report, and this was sufficient to incite Brooks' attention and for prescription to begin to run.

The trial court granted the exception of prescription. The appellate court reversed. It observed that the defendant's argument that Brooks was aware of the cause of death, per the death certificate that was in Brooks' possession five days after death, "conflate[d] knowledge of the cause of death with knowledge of alleged tortious conduct." Damage is always apparent from the moment of death, but an awareness of damages does not cause prescription to run unless it is reasonable to recognize that the death might be treatment-related. The court thus found that Mr. Brooks "was reasonable in not having recognized the alleged connection" between his wife's death and the defendant's treatment until he received the autopsy report and thereafter read a MedLine article that was attached to the autopsy report. The exception of prescription was denied.

—Robert J. David

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Taxpayer Must Pay Under Protest to Seek Declaratory Judgment

Bliss v. Lafayette Parish Sch. Bd. Sales Tax Div., 19-0186 (La. App. 3 Cir. 12/18/19), 284 So.3d 703.

Herbert Bliss operated as a sole proprietorship doing business under the trade name, “Cork’s Automotive” (Taxpayer). Taxpayer makes repairs to automobiles for customers in Lafayette Parish. The Lafayette Parish School Board (Collector) conducted a sales-and-use-tax audit of Taxpayer, which revealed a tax deficiency. Collector, pursuant to La. R.S. 47:337.48(B), issued Taxpayer a 30-day Notice of Intent to Assess.

In response, Taxpayer requested a hearing pursuant to La. R.S. 47:337.49 and sought to protest the findings. A hearing took place at Taxpayer’s counsel’s office. Collector’s auditor appeared on behalf of Collector. Taxpayer’s counsel advised at the hearing that supplemental information would be provided in the next five business days. Thereafter, Collector twice extended Taxpayer’s deadline to produce the supplemental information.

After receipt and review of the supplemental records provided by Taxpayer, Collector made its final determination and issued a “Notice of Assessment and Right to Appeal” to Taxpayer notifying Taxpayer that “he has thirty calendar days from the date of the notice to do any of the following: (a) Pay the amount of the assessment; (b) Appeal to the Board of Tax Appeals for redetermination of the assessment; or (c) Pay under protest . . . and then either file suit or file a petition with the Board of Tax Appeals . . .” Taxpayer received the assessment.

In response, Taxpayer filed suit in the district court, seeking a judgment

declaring the assessment null and void, and/or inaccurate and improperly calculated. Collector filed peremptory exceptions of peremption, no cause of action and no right of action, and a declinatory exception of lack of subject matter jurisdiction. The trial court sustained Collector’s exceptions and dismissed the petition with prejudice. The trial court found there was no possible way for Taxpayer to cure any pleading defects given Taxpayer did not respond to the assessment within 30 calendar days to protest or appeal the assessment in any of the manners specifically enumerated by law.

On appeal, Taxpayer asserted the hearing was not fair because no examination was made, no testimony was offered and no record was created. Taxpayer asserted, because such did not take place before the issuance of the assessment, Taxpayer was not required to pay under protest before seeking a declaratory judgment. The 3rd Circuit held the pre-assessment procedure was proper and noted hearings are not defined by statute and no specific format is provided. The 3rd Circuit found the hearing was fair as: (1) it took place in person at Taxpayer’s counsel’s office; (2) Taxpayer’s counsel made arguments on behalf of Taxpayer; (3) Taxpayer admitted there was a discussion between the Collector’s auditor and Taxpayer’s counsel; and (4) the hearing was with the Collector’s auditor who was in charge of holding the hearing, reviewing supplemental documentation and rendering a final determination. Further, Collector twice extended the deadline to produce supplemental records. The 3rd Circuit held Taxpayer failed to properly protest or appeal the assessment in any of the manners specifically enumerated by law. The 3rd Circuit found no error in the trial court’s ruling that Taxpayer was first required to pay the amounts assessed under protest, which Taxpayer failed to do.

—**Antonio Charles Ferachi**
Member, LSBA Taxation Section
Director, Litigation Division
Louisiana Department of Revenue
617 North Third St.
Baton Rouge, LA 70821

Collector’s Summary Proceedings Deemed Abandoned; Marketplace Facilitators Not “Dealers”

Normand v. Wal-Mart.com USA, L.L.C., 19-0263 (La. 1/29/20), ___ So.3d ___, 2020 WL 499760.

The sales tax collector for Jefferson Parish (Collector) filed a tax rule on Feb. 16, 2017, against Wal-Mart.com USA, L.L.C., for taxes estimated and assessed in the amount of \$1,896,882.15. It contended Wal-Mart should have collected the taxes on sales made by third-party sellers on its marketplace website. The trial court held that Wal-Mart was contractually required to “collect all proceeds from such transactions” for third-party sellers, which included sales tax, and it ordered Wal-Mart to pay \$137,944.25 in tax with penalties, interest and attorney fees. (Evidence produced at trial showed the actual value of the marketplace third-party sales, which was a great deal less than estimated.)

The appeal court affirmed the trial court’s decision and noticed the judgment on Dec. 27, 2018. When Wal-Mart applied for writs on Feb. 14, 2019, the Collector contended the writ application was too late because Wal-Mart had only 30 days from notice of judgment under the summary procedure at La. R.S. 47:337.61(3). In denying the Collector’s motion to dismiss, the Supreme Court held that the Collector waived its right to require the strict adherence to the summary proceedings deadlines. In so holding, the Court noted several departures from the summary procedure — the initial trial court hearing was not held within 10 days of notice; the actual trial did not commence until five months later and took three months to conclude; the trial court decision was rendered four months after the trial concluded instead of 48 hours; the appeal record was prepared in 49 days instead of 15 days; and the appellate decision was rendered 77 days after oral argument and 297 days after the motion for appeal instead of the 48 hours from submission.

Then free to consider the *res nova*

issue before the Court, it held that Wal-Mart was not a “dealer” under La. R.S. 47: 301(4)(l) and, therefore, not required to collect the sales tax on its marketplace website by third-party sellers under La. R.S. 47:337.17. The Court acknowledged the broad definition of “dealer,” but stated:

[I]t is the seller of merchandise, the performer of taxable services, and the rentor or lessor of property as parties to the underlying transactions that are liable for collection of the tax. The statutory and regulatory scheme does not contemplate the existence of more than one dealer that would be obligated to collect sales tax from a

purchaser. An online marketplace in its role as a facilitator for sales of third party retailers does not fall in these groups.

Id. at *11. The Court found additional support for its conclusion that Wal-Mart was not “the” dealer in tax regulations that contemplate the existence of a lone dealer in a retail sale transaction. L.A.C. 61:I.4303, 61:I.4307(A)(1), and 61:I.4311. Lastly, the Court observed that special legislation existed to require tax collection by auctioneers who conduct and consummate a sale for a third party under La. R.S. 47:303(C) and 337.15(C) and L.A.C. 61:I.4307(C). The Court stated that, if marketplace facilitators and auctioneers were already

included in the definition of “dealer,” there would be no need for the auctioneer law. Stated another way, tax collectors could not require marketplace facilitators to collect sales tax so long as no law mandated their duty to do so like that for auctioneers.

Justice Johnson dissented on the ground that she would hold Wal-Mart to be a dealer responsible for collecting the sales taxes. Justice Hughes dissented and would have dismissed the appeal for the untimeliness of the writ application.

—Nicole Gould Frey

Member, LSBA Taxation Section
Breazeale, Sachse & Wilson, L.L.P.
One American Place, 23rd Floor
Baton Rouge, LA 70821-3197



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CHAIR'S MESSAGE

YLD is an Essential Part of the Young Lawyer Journey

By Scott L. Sternberg

A colleague of mine once told a CLE I was attending words I now often share: your career journey only looks like a path if you turn around. This portion of my journey is ending. This is my last Chair's Message, and my term as chair of the Young Lawyers Division (YLD) is coming to an end. It has been an honor to represent you. It has been a long road — because, in reality, being the YLD chair is no longer a one-year job, thanks to some good friends and a group of willing servant-leaders with the foresight to think big and think ahead.

This year, the YLD furthered the mission we set upon last year to become an essential part of the young lawyer journey. Our Wills for Heroes Program is booming thanks to Betty Maury and Loren Shanklin. Our second Young Lawyers Conference was a success under the leadership of Graham Ryan and Dani Borel. Our Mock Trial Program continues to provide an amazing opportunity in skills development for high school students around the state. But perhaps most importantly, as a Council, we have taken on issues important to you and to us.

You can expect more of the same in the future. Our next chair, Carrie Jones, is a thoughtful advocate for you and for me. Her successors, first Graham Ryan and then Dani Borel, are similarly com-

mitted to being passionate advocates for young lawyers across our state. And they will work together — not just in single years — to achieve collective goals and fulfill our mission.

The YLD's years of improvement started with pointed recruitment years ago by former chairs and involved members of the Council. Finding involved, energetic young lawyers with the time to volunteer and represent the young lawyers around our state can be a challenge. Many of our elections are uncontested. Consider running next time! Competition breeds excellence.

For many years, the YLD was referred to solely as the "service arm" of the Bar. This mantra was premised on the idea that young lawyers were more capable of performing service to the Bar, and to the community, than their older counterparts. Of course, we all know this is not the case. Young lawyers are just as busy as older lawyers.

Four years ago, Brad Tate, Dylan Thriffiley and I sat down and talked about what the YLD could, and should, be. We agreed to include each other in decision making, and the result was a YLD Executive Board that wasn't re-



Scott L. Sternberg

inventing the wheel each year. Last year, during our strategic planning session, we threw out the old "service arm of the Bar" mantra and adopted a new one: the YLD is an essential part of the young lawyer journey. We also decided to start advocating, not just programming.

Our new mantra led us to take positions, either individually or collectively, on issues such as JLAP, CLE requirements for young lawyers, and encouraging lactation rooms in courthouses. Furthermore, through education, networking and meaningful opportunities for community service, the YLD continues a proud tradition of programming. The YLD now has a culture of accountability and sustained agreement that the job of chair is not just one person, but a group of individuals who each take a term at the helm.

What lesson can be learned here? I suggest to you that whatever organization you may be involved in, or even your firm or practice group, can benefit from strategic planning. The strategic planning session the YLD Council and the LSBA Board of Governors participated in last year was incredibly important to ensuring the goals of the Bar are both in line with our members and in service to our profession.

And now, my time is up. But, thanks to the tone set just a few years ago, this year will not be the end for my service, nor was it my first turn at the wheel. I look forward to one more year on the YLD Council and am looking forward to representing all of the lawyers of Orleans Parish on the LSBA Board of Governors for the next three years. There, I'll serve with numerous former YLD chairs. We will continue representing you, the future of this Bar, with vigor and respect.

Thank you again, and good luck to us all.

2021 EXPERT WITNESS, CONSULTANT AND LEGAL SERVICES DIRECTORY

The Louisiana State Bar Association is publishing its Expert Witness, Consultant and Legal Services Directory. The supplement to the *Louisiana Bar Journal* will be printed separately and shrink-wrapped for mailing with the December 2020/January 2021 *Louisiana Bar Journal*. The directory is published annually, guaranteeing a year's worth of exposure in print and on the LSBA Web site.

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YOUNG LAWYERS SPOTLIGHT

Micah C. Zeno New Orleans

The Louisiana State Bar Association's Young Lawyers Division Council is spotlighting New Orleans attorney Micah C. Zeno.

Zeno is a civil litigator in the New Orleans office of Gordon Arata Montgomery Barnett McCollam Duplantis & Eagan, L.L.C. His practice includes complex litigation, appellate practice, civil procedure, property law, commercial litigation and risk management. A former banker, he also provides businesses with advice on a variety of issues. He is one of the last attorneys to have voluntarily joined the State Bar as a law school student. He is a former law clerk for Judge June Berry Darensburg, 24th Judicial District Court.

Recently, he applied to become an arbitrator with the Financial Industry Regulatory Authority (approval pending) and is studying for the membership exam for the National Association of Parliamentarians.

He is a member of the Louisiana State Law Institute and has served in various positions with the Louisiana State Bar Association (LSBA). He is a co-chair of the LSBA's Outreach Committee and a member of the Diversity Committee. In 2019, he served on the Access to Justice Commission Strategic Planning Committee. He was a member of the



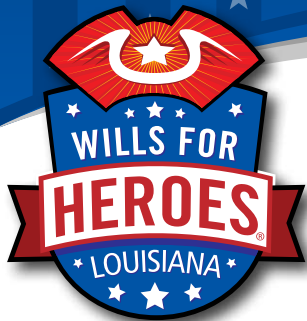
Micah C. Zeno

2016-17 Leadership LSBA Class.

In 2016, Zeno served as the presiding judge over the Law School Mock Trial Competition and was a member of the Law School Outreach Committee. Since 2016, he has lectured at the Suit Up for the Future Summer Legal Institute and the Law School Professionalism Orientations. He volunteers as a judge at the State High School Mock Trial Competition and is a speaker with the Louisiana Center for Law and Civic Education's Lawyers in the Classroom Program.

Zeno is a member of the Federal Bar Association's Younger Lawyers Division where he serves as chair of the Communications Committee and a member of the Law School Committee. He also is immediate past co-chair of the Young Lawyers Committee of the Louis A. Martinet Legal Society, Inc.

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For more information about the Louisiana Wills for Heroes program, view upcoming program event dates or to register as a volunteer, please visit www.lsba.org/yld/willsforheroes.aspx or contact Louisiana Wills for Heroes committee chairs **Betty Ann Maury** or **Loren Shanklin Fleshman**.



www.lsba.org/YLD/willsforheroes.aspx



By Trina S. Vincent, Louisiana Supreme Court

NEW JUDGES... APPOINTMENTS

New Judges

Marla M. Abel was elected judge, Division C, 17th Judicial District Court. She earned a bachelor's degree in 2008 from Georgia Southern University and her JD degree in 2011 from Mississippi College



Marla M. Abel

School of Law. She is currently the 17th Judicial District's representative to the Louisiana State Bar Association's House of Delegates, a Louisiana Bar Foundation Fellow and a member of the Louisiana Bar Foundation's Bayou Region Community Partnership Panel. Prior to her election to the bench, she was an associate in the Thibodaux office of Porteous, Hainkel & Johnson, L.L.P. Judge Abel is married to attorney William N. Abel.

Ronald R. Johnson was elected judge, Election Section 2, Division L, 19th Judicial District Court. He earned a bachelor's degree in 1977 from Southern University A&M, his JD degree in 1984 from Southern



Ronald R. Johnson

University Law Center and a master's degree in 2005 from Christian Bible College. He worked as an attorney at Johnson & Lavergne Law Offices from 1984-87 and as an assistant attorney general at the Louisiana Department of Justice from 1987-89. He served as District 5 representative on the East Baton Rouge Parish School Board. He was a partner at Johnson & Associates from 1984 until his election to the 19th JDC. Judge Johnson is married to Andrea Johnson and has five daughters.

Bryan D. Haggerty was elected judge, Slidell City Court. He earned a bachelor's degree in 1980 and a master's degree in 1990 from Loyola University and his JD degree in 1999 from Loyola University College



Bryan D. Haggerty

of Law. He began private practice in 1999 and was Slidell city attorney from 2011 until his election to the bench. Prior to working in private practice, he served in the U.S. Air Force. Judge Haggerty is married to Sherlene Haggerty and they are the parents of three adult children.

Vincent J. Lobello was elected judge, Division F, 22nd Judicial District Court. He earned a bachelor's degree in 1992 from the University of Southern Mississippi and his JD degree in 1999 from Loyola University College of Law. He worked as a law clerk at G. Brice Jones Attorney at Law from 1997-99 and at Egan, Johnson & Stiltner from January-May 1999. He was a partner at Wynne, Goux & Lobello, Attorneys at Law, L.L.C., from 2004 until his election to the bench. He is the father of two daughters.



Vincent J. Lobello

Appointments

► Professor Alfreda S. Diamond, Susan Perret Des Ormeaux and Paula Hartley Clayton were appointed, by order of the Louisiana Supreme Court, to the Louisiana Attorney Disciplinary Board for terms of office which began Jan. 1 and will end on Dec. 31, 2022.

Retirements

► 22nd Judicial District Court Division F Judge Martin E. Coady retired effective Jan. 1. He earned a bachelor's degree in 1971 from the University of Southwestern Louisiana and his JD degree in 1974 from Tulane University Law School. He was elected to the 22nd JDC in 1990 and served until his retirement in 2019. Prior to his election to the bench, he was a partner in the firm of Fritchie, Cochran, Caire, Coady & Dragon from 1980-90. He was a partner in the firm of Berrigan, Strain & Coady from 1976-80 and an associate in the firm of Alford & Berrigan from 1974-76.

► Slidell City Court Judge James R.E. (Jim) Lamz retired effective Jan. 1. He earned a bachelor's degree in 1976 from Loyola University and his JD degree in 1979 from Loyola University College of Law. Before his election to the Slidell City Court in 2004, he was an attorney for the Slidell Airport Authority and the Slidell Housing Authority. He worked in general law practice in St. Tammany Parish from 1980-85 and 1991-2004 and as a trial attorney in Orleans, Jefferson and St. Tammany parishes from 1985-1991. He was named Judge of the Year by Louisiana Court-Appointed Special Advocates (CASA) in 2018.

Deaths

► Retired 1st Circuit Court of Appeal Chief Judge Melvin A. Shortess, 86, died Jan. 3. He earned a bachelor's degree in 1955 from Louisiana State University and his JD degree in 1958 from LSU Law Center. He was elected as a Baton Rouge city judge, Division A, in 1967 and reelected in 1968. He was appointed to the 19th Judicial District Court, Division D, in 1969 and elected to complete Judge Coleman Lindsay's term in 1970. He was reelected without opposition in 1972 and 1979.

In 1982, he was elected to the 1st Circuit Court of Appeal and reelected in 1991. Upon Chief Justice John A. Dixon, Jr.'s retirement from the Louisiana Supreme Court, Judge Shortess was appointed judge *pro tempore* in 1990. He represented the 2nd District for two years until the election of Justice Pike Hall, Jr. He returned to the 1st Circuit Court of Appeal, serving as chief judge in 1998 and 2000 until he retired later that same year.

► Retired 36th Judicial District Court Judge Leland Homer Coltharp, 93, died

Dec. 26, 2019. He attended Louisiana State University prior to serving in the U.S. Navy from 1944-46. He attended McNeese State University upon his return and later earned his LL.B. degree in 1950 from LSU Law Center. From 1951-53, he served as assistant U.S. attorney for the U.S. District Court, Western District of Louisiana. He was a member of LeCompte, Hall & Coltharp Law Firm where he remained until his election to the 36th JDC bench in 1976. He retired from the 36th JDC in 1990.

► Retired 36th Judicial District Court Chief Judge Stuart S. Kay, Jr., 80, died Jan. 13. He earned a bachelor's degree in 1961 from Louisiana State University and his JD degree in 1964 from LSU Law Center. He practiced with the family firm of Kay & Stewart for 25 years before his election to serve as DeRidder City Court judge in 1983. He was elected judge of the 36th JDC in 1991 where he served until his retirement in 2008.

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PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Adams and Reese, L.L.P., announces that Grant J. Guillot has been elected to partner in the Baton Rouge office and Matthew C. Guy and G. Robert Parrott II have been elected to partner in the New Orleans office. Also, Edwin C. Laizer, a partner in the New Orleans office, was named to the firm's Executive Committee.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., announces that J. Alexandra Bruce has joined the firm's New Orleans office as an associate. Also, Steven F. Griffith, Jr., a shareholder in the firm's New Orleans office, was elected as a member of the firm's board of directors.

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C., in New Orleans announces that **Craig R. Isenberg** has been named managing partner of the firm.

Boyer, Hebert, Abels & Angelle, L.L.C., with offices in Breaux Bridge and Denham Springs, announces the new name of the firm is Boyer, Hebert, Caruso & Angelle, L.L.C., after partner Brian K. Abels was elected as judge in 21st Judicial District Court. Denham Springs attorney A. Todd Caruso joined the firm as partner. F. Dominic Amato was promoted to partner and will head the firm's new office in Watson.

Breazeale, Sachse & Wilson, L.L.P., announces that **Danielle L. Borel** has been named partner in the Baton Rouge office.

Caffery, Oubre, Campbell & Garrison, L.L.P., announces that Lauren Camel Begnaud has become a partner in the firm's Lafayette office.

Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, L.L.C., announces that **Peter J. Segrist** was promoted to partner and **Emily Lippold Gummer**

was promoted to member, both in the New Orleans office.

Robert C. Chapman, Jr. and **Duray A. Oubre** announce the opening of their law office at Ste. F, 15959 Hewwood Ave., Baton Rouge, LA 70816; phone (225)341-5919; email info@chapmanoubrerlaw.com.

The Commission on Legal Defense for the State of North Dakota announces that **Donald A. Sauviac, Jr.** has been named the chief public defender for the North West Division serving Williston, McKenzie and Divide counties in the Bakken oil region.

Faircloth Melton Sobel & Bash, L.L.C., announces that Mary Katherine Price, Christopher M. Chesne and Richard Erick Norem III have joined the firm as associates in the Alexandria office.



Richard J. Arsenault



Jessica D. Bach



Kristin L. Beckman



Wilton E. Bland IV



Danielle L. Borel



Austin G. Brackett



Allison S. Brouk



Charity N. Bruce



Maresh P. Campbell



Laura C. Cannon



Robert C. Chapman, Jr.



Trevor M. Cutaiair

Hargrove, Smelley & Strickland, A.P.L.C., in Shreveport announces that **Parker W. Maxwell** has joined the firm as a shareholder.

Kanner & Whiteley, L.L.C., in New Orleans announces that **Allison S. Brouk** has become a partner and **Katherine B. Wells** as joined the firm as an associate.

King & Jurgens, L.L.C., announces that Carolyn S. Buckley and Jedd S. Malish have been named members in the New Orleans office.

Liskow & Lewis, A.P.L.C., announces the election of five new shareholders — Laura S. Brown, Jonathan J. Fox, Randy J. Marse, Jr. and Tyler D. Trew in the New Orleans office; and Court C. Van Tassel in the Lafayette office.

Louisiana State University Paul M. Hebert Law Center in Baton Rouge announces that **Professor Keith B. Hall** has been appointed director of the LSU John P. Laborde Energy Law Center.

McGlinchey Stafford, P.L.L.C., announces the promotion of attorneys to members (partners) — Zelma M. Frederick in the Baton Rouge office, and Hillary Barnett Lambert in the New Orleans office. Also, Christopher S. Nichols in the Baton

Rouge office and Shannon S. Sale in the New Orleans office have been promoted to of counsel.

Jane Faia Mentz and **Scott R. Simmons** announce the opening of their law firm, Mentz | Simmons Law Group, L.L.C., with its own in-house title company, Monarch Title, L.L.C., located in the Docks of the American Can Company in Mid City New Orleans, Ste. 105, 3700 Orleans Ave., New Orleans, LA 70119; phone (504)766-6786; www.mentzsimmsonslaw.com.

Mouledoux, Bland, Legrand & Brackett, L.L.C., in New Orleans announces that **Austin G. Brackett**, **Maresh P. Campbell** and **Joseph S. Trytten** have joined the firm as associates. **Michael J. O'Brien, Jr.** has joined the firm as special counsel. Also, **Trevor M. Cutaia**, **Wilton E. Bland IV**, **Daniel P. Sullivan** and **Eric W. Sella** have been elected members of the firm.

H. Minor Pipes III, **Stephen L. Miles**, **Kristin L. Beckman** and **Catherine F. Giarrusso** announce the founding of their firm, Pipes Miles Beckman, L.L.C. The office is located at Ste. 1800, 1100 Poydras St., New Orleans, LA 70163; phone (504)322-7070; website <https://pipesmiles.com>.

Pipes Miles Beckman, L.L.C., in New Orleans announces that **Susan M. Rogge**, **Kelsey L. Meeks**, **Laura C. Cannon**, **Patrick J. Lorio**, **Emily E. Ross** and **Laura S. Gravener** have joined the firm.

The Rathborne Companies in Harvey announces that Jeffrey W. Peters has joined the company as executive vice president.

Sessions, Fishman, Nathan & Israel, L.L.C., announces that **Stephanie Graf Gamble** has become a member in the firm's New Orleans office. **Jessica D. Bach** has joined the firm's New Orleans office.

Sternberg, Naccari & White, L.L.C., announces that **Charity N. Bruce** and **Abid Hussain** have joined the firm's New Orleans office.

Stone Pigman Walther Wittmann, L.L.C., announces that Erin E. Kriksciun has become a member in the firm's New Orleans office.

Taylor Porter Brooks & Phillips, L.L.P., announces that **Ryan K. French**, **John A. Milazzo, Jr.** and **V. Trey Tumminello III** have been elected to partner in the Baton Rouge office.



Blake R. David



Ryan K. French



Stephanie Graf Gamble



Catherine F. Giarrusso



Laura S. Gravener



Emily Lippold Gummer



Keith B. Hall



Steven E. Hayes



Fred L. Herman



Abid Hussain



Craig R. Isenberg



Patrick J. Lorio

NEWSMAKERS

Richard J. Arsenault, a partner in the Alexandria firm of Neblett, Beard & Arsenault, taught a complex litigation class at the University of Texas Fall Colloquium. For more than 25 years, he has been recognized by the *Best Lawyers in America* for admiralty and maritime law and mass tort litigation/class actions.

A. Todd Caruso, a partner in the Denham Springs office of Boyer, Hebert, Caruso & Angelle, L.L.C., was elected board chair for the Livingston Parish Chamber of Commerce. He also serves as magistrate judge for the City of Walker.

Rudy J. Cerone, a member (partner) in the New Orleans office of McGlinchey Stafford, P.L.L.C., received the 2019 Turnaround Management Association's "Mid-Size Company Turnaround of the Year" Award for his work with Acadiana Management Group.

Joseph C. Chautin III, managing partner of Hardy, Carey, Chautin & Balkin, L.L.P., in Mandeville, was named as one of the nation's 10 best attorneys as voted on by RBR&TVBR readers.

Blake R. David, founding partner of Broussard & David in Lafayette,

was selected to serve on the Lafayette Economic Development Authority Board of Commissioners by the Lafayette City Parish Council. LEDA works to promote the economic health of Lafayette Parish.

R. Marshall Grodner, a member in the Baton Rouge office of McGlinchey Stafford, P.L.L.C., was named chair of the American Bar Association Business Law Section's Commercial Finance Committee.

Taylor Porter Brooks & Phillips, L.L.P., attorneys Rick J. Norman, Jr., Joe Norman and Jud Norman authored the 2020 edition of *Louisiana Employment Law* (Thomson Reuters).

Taylor Porter Brooks & Phillips, L.L.P., attorneys Rebecca M. Hinton and Justin T. Mannino, both in the Baton Rouge office, achieved the Martindale-Hubbell AV preeminent rating.

Elliott, Meredith S. Grabill, Benjamin W. Kadden, Rose McCabe LeBreton, Stewart F. Peck, Seth A. Schmeekle, Shaundra M. Schudmak, David B. Sharpe, S. Rodger Wheaton, Jr. and Kristopher T. Wilson.

Louisiana Super Lawyers 2020

Adams and Reese, L.L.P. (Baton Rouge, New Orleans): Mark R. Beebe, Charles A. Cerise, Jr., Robin B. Cheatham, John M. Duck, Brooke Duncan III, A. Kirk Gasperecz, William B. Gaudet, Charles F. Gay, Jr., Matthew C. Guy, Edwin C. Laizer, Leslie A. Lanusse, Don S. McKinney, Elizabeth A. Roussel, E. Paige Sensenbrenner, Martin A. Stern, Mark C. Surprenant and Raymond P. Ward; and Rising Stars Scott R. Cheatham, Kellen J. Mathews, G. Robert Parrot II and Sara C. Valentine.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. (Baton Rouge, Mandeville, New Orleans): Jennifer L. Anderson, Edward H. Arnold III, Brian M. Ballay, Alton E. Bayard III, Phyllis G. Cancienne, Roy C. Cheatwood, Christopher O. Davis, Nancy Scott Degan, Donna D. Fraiche, Mark W. Frilot, Steven F. Griffith, Jr., Jan M. Hayden, Colleen C. Jarrott, Kenneth M. Klemm, Amelia Williams Koch, Kent A. Lambert, Jon F. Leyens, Jr., Alexander M. McIntyre, Jr., Patricia B. McMurray, Mark W. Mercante, Matthew A. Woolf and Adam

PUBLICATIONS

Best Lawyers in America 2020

Neblett, Beard & Arsenault (Alexandria): **Richard J. Arsenault**.

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans): Ashley L. Belleau, Christopher T. Caplinger, Stanley J. Cohn, Elia Diaz-Yaeger, Celeste D.



Parker W. Maxwell



Kelsey L. Meeks



Jane Faia Mentz



Conrad Meyer IV



John A. Milazzo, Jr.



Stephen L. Miles



Michael J. O'Brien, Jr.



Duray A. Oubre



H. Minor Pipes III



Patrick K. Reso



Susan M. Rogge



Emily E. Ross

B. Zuckerman; and Rising Stars Laura E. Carlisle, Meghan E. Carter, Katie L. Dysart, Matthew R. Emmons, Paula Estrada de Martin, Camalla K. Guyton, Christopher M. Hannan, Kristen L. Hayes, Erin Pelleteri Howser, Benjamin West Janke, Matthew C. Juneau, Elizabeth A. Liner, Lacey E. Rochester and Tessa P. Vorhaben.

Baldwin Haspel Burke & Mayer, L.L.C. (New Orleans): David L. Carrigee, Lawrence R. DeMarcay III, Joel A. Mendler, Jerome J. Reso, Jr., Leon H. Rittenberg III, John A. Rouchell, Stephen P. Schott, William B. Schwartz, Matthew A. Treuting and Karl J. Zimmerman; and Rising Stars Matthew P. Miller and Andrew T. Sullivan.

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C. (New Orleans): Judy Y. Barrasso, Jamie L. Berger, Celeste R. Coco-Ewing, George C. Freeman III, John W. Joyce, Stephen H. Kupperman, Andrea Mahady Price, Richard E. Sarver and Steven W. Usdin; and Rising Stars Robert J. Dressel and Kyle W. Siegel.

Chehardy Sherman Williams Murray Recile Stakelum & Hayes, L.L.P. (Hammond, Metairie): **Steven E. Hayes, Fred L. Herman, Conrad Meyer IV, Patrick K. Reso, David R. Sherman, P.J. Stakelum III** and **James M. Williams**; and Rising Star **Jacob D.**

Young.

King & Jurgens, L.L.C. (New Orleans): Robert J. Burvant, J. Grant Coleman, George B. (Jack) Jurgens III, Henry A. King and Douglas P. Matthews.

McGlinchey Stafford, P.L.L.C. (Baton Rouge, New Orleans): Ricardo (Richard) A. Aguilar, Rudy J. Aguilar, Jr., Stephen P. Beiser, Magdalen Blessey Bickford, Rudy J. Cerone, Larry Feldman, Jr., Michael D. Ferachi, R. Marshall Grodner, Christine Lipsey, Kathleen A. Manning, Colvin G. Norwood, Jr., Erin Fury Parkinson, Michael H. Rubin, Eric J. Simonson and Stephen P. Strohschein; and Rising Stars Camille R. Bryant, Mark J. Chaney III, Marshall T. Cox, Sara Edwards, Zelma M. Frederick, Christopher S. Nichols and Kristi W. Richard.

Mouledoux, Bland, Legrand & Brackett, L.L.C. (New Orleans): Wilton E. Bland III, Alan G. Brackett (Top 50 Louisiana, Top 50 New Orleans), Gerard J. Dragna, Mark E. Hanna, Daniel J. Hoerner, Georges M. Legrand, Andre J. Michael Parks and Robert N. Popich; and Rising Stars Patrick J. Babin, Trevor M. Cutaiair, Lindsay F. Louapre, Eric W. Sella and Simone H. Yoder.

Taylor Porter Brooks & Phillips, L.L.P. (Baton Rouge): Robert W. (Bob) Barton, Vicki M. Crochet, Mary C. Hester,

Harry J. (Skip) Philips, Jr., Fredrick R. Tulley and Michael S. Walsh; and Rising Stars Ryan K. French, Laura R. Hadden, Erin Sayes Kenny, Blue Loupe and L. Adam Thames.

People Deadlines & Notes

Deadlines for submitting People announcements (and photos):

Publication Deadline

June/July 2020	April 4, 2020
Aug./Sept. 2020	June 4, 2020
Oct./Nov. 2020	Aug. 4, 2020

Announcements are published free of charge for members of the Louisiana State Bar Association. Members may publish photos with their announcements at a cost of **\$50 per photo**. Send announcements, photos and photo payments (checks payable to Louisiana State Bar Association) to:

Publications Coordinator
Darlene M. LaBranche
Louisiana Bar Journal
 601 St. Charles Ave.
 New Orleans, LA 70130-3404
 or email dlabranche@lsba.org.



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Daniel P. Sullivan



Joseph S. Trytten



V. Trey Tumminello III



Katherine B. Wells



James M. Williams



Jacob D. Young

UPDATE

Norman Named President of Louisiana State Law Institute

Rick J. Norman, Jr., special counsel for Taylor Porter Brooks & Phillips, L.L.P., in its Lake Charles office, has been named president of the Louisiana State Law Institute (LSLI). Norman has served in its governing body since 2006. He will preside over the LSLI Council which acts as the governing body of the Institute and includes more than 100 LSLI Council members from the legal industry.



Rick J. Norman, Jr.

Norman was a former federal prosecutor and has practiced commercial law and commercial litigation since 1980. He is the author of two legal treatises: *Louisiana Employment* and *Louisiana Corporations*.

La. District Judges Association Elects Officers

The Louisiana District Judges Association elected 2019-20 officers in October 2019. President is Judge Guy E. Bradberry, 14th Judicial District Court; First Vice President Judge Brady D. O'Callaghan, 1st Judicial District Court; Second Vice President Judge Piper D.

Griffin, Orleans Parish Civil District Court; Secretary Judge Scott U. Schlegel, 24th Judicial District Court; Treasurer Judge Daniel J. Ellender, 4th Judicial District Court; and Immediate Past President Judge Lisa M. Woodruff-White, East Baton Rouge Family Court.

LOCAL / SPECIALTY BARS

NOBA Installs Board of Directors at 95th Annual Dinner Meeting

The New Orleans Bar Association (NOBA) hosted its 95th Annual Dinner Meeting on Nov. 21, 2019 in New Orleans. NOBA's outgoing President Jason P. Waguespack was recognized for his service. James C. Gulotta, Jr. was inducted as incoming president.

Serving with Gulotta on the 2019-20 board of directors are William B. Gaudet, president-elect; Peter E. Sperling, vice president; Jan M. Hayden, vice president; Thomas M. Flanagan, vice president; Kelly G. Juneau Rookard, secretary; Robert P. Thibeaux, treasurer; Jason P. Waguespack, immediate past president; and Kimberly R. Silas, Young Lawyers Section chair.



Attending the New Orleans Bar Association's (NOBA) Annual Dinner Meeting were, from left, Madeleine M. Landrieu, dean, Loyola University College of Law; Peter E. Sperling, vice president, NOBA; and Kim M. Boyle, past president, NOBA.



Catholic Charities Archdiocese of New Orleans' (CCANO) Immigration & Refugee Services hosted a Pro Bono Celebration in October 2019 to honor the attorneys who have partnered with its pro bono program to expand representation for unaccompanied migrant children. In collaboration with the Pro Bono Project and the Louisiana Immigration Working Group, CCANO has trained, mentored and placed more than 30 cases with private attorneys providing pro bono legal representation. Proskauer Rose LLP received CCANO's Pro Bono Leadership Award at the event. Attending, from left, Harrison Golden, Alison Spindler, Fabian M. Nehrbass, Enjolie S. Dawson, Malerie L. Bulot, Gillian G. Egan, Samantha Shear, Kyle C. Hansen and Rachel T. Gulotta.



The U.S. District Court, Eastern District of Louisiana, hosted the Biennial Federal Bench and Bar Conference on Oct. 25, 2019, in New Orleans. From left, Chief Judge Nannette J. Brown, U.S. District Court, Eastern District of Louisiana; and Chief Judge Priscilla R. Owen, U.S. 5th Circuit of Appeals.

Shreveport Bar Association Hosts Memorial and Recognition Ceremony

The Shreveport Bar Association hosted its annual Memorial and Recognition Ceremony on Oct. 29, 2019, at the Caddo Parish Courthouse. The program opened with a welcome from Chief Judge Robert P. Waddell, 1st Judicial District Court; and Curtis R. Joseph, Jr., 2018-19 president, Shreveport Bar Association.

Attorney Valerie A. DeLatte, with the Shreveport Bar's Young Lawyers Section, introduced new attorneys. Robert A. Kutcher, 2019-20 Louisiana State Bar Association president, welcomed new attorneys. A reception at the Shreveport Bar Center followed the ceremony.



Attending the Shreveport Bar Association's annual Memorial and Recognition Ceremony were, from left, Robert A. Kutcher, 2019-20 Louisiana State Bar Association president; Curtis R. Joseph, Jr., 2018-19 president, Shreveport Bar Association; and Louisiana Supreme Court Associate Justice Scott J. Crichton.



Candace B. Ford, center, an associate in the Baton Rouge office of McGlinchey Stafford, P.L.L.C., is the recipient of the 2020 Judge Joseph Keogh Memorial Award, presented during the Baton Rouge Bar Association's (BRBA) 2020 Installation Ceremony and Reception on Jan. 8. The award is presented annually to an outstanding young lawyer who is a member of the BRBA's Young Lawyers Section. Ford is involved with the BRBA's Youth Education, Mock Trial and Teen Court programs. From left, Donna Buuck, BRBA Youth Education coordinator; Ford; and Anne Gregorie, BRBA executive director.



The Younger Lawyers Division of the New Orleans Chapter of the Federal Bar Association hosted its annual holiday party on Dec. 4, 2019 at the Great Hall, U.S. Court of Appeals. The party followed the Swearing-in Ceremony and admission to the Federal Courts at the U.S. District Court, Eastern District of Louisiana. From left, Amanda Kaiser, executive director, Federal Bar Association, New Orleans Chapter; and Laura C. Cannon, Chloe M. Chetta and Amy L. McIntire, all serving on the YLD board of directors, Federal Bar Association, New Orleans Chapter.



The Baton Rouge Bar Association and the Federal Bar Association, Baton Rouge Chapter, hosted the annual Federal Court Swearing-in Ceremony on Nov. 13, 2019. From left, Amy C. Lambert, 2018-19 president, Baton Rouge Bar Association; S. Dennis Blunt, 2019-20 president, Baton Rouge Bar Association; and Christopher K. Jones, 2019-20 president-elect, Baton Rouge Bar Association.



The Baton Rouge Bar Association and the Federal Bar Association, Baton Rouge Chapter, hosted the annual Federal Court Swearing-in Ceremony on Nov. 13, 2019. From left, Magistrate Judge Erin J. Wilder-Doomes, Judge John W. deGravelles and Judge Brian A. Jackson, all with U.S. District Court, Middle District of Louisiana; and Judge Douglas D. Dodd, U.S. Bankruptcy Court, Middle District of Louisiana.



The Federal Bar Association, New Orleans Chapter, hosted its annual Federal Judges' Reception on Nov. 6, 2019. The reception honored the judiciary of the U.S. 5th Circuit, U.S. Eastern District and Bankruptcy Courts. From left, Meera U. Sossamon, Irwin Fritchier Urquhart & Moore, LLC; Magistrate Judge Dana M. Douglas, U.S. District Court, Eastern District of Louisiana; James M. Williams and Inemesit U. O'Boyle, both with Chehardy, Sherman, Williams, Murray, Recile, Stakelum & Hayes, LLP.



The Lafayette Bar Association (LBA) hosted its annual Bench Bar Conference on Sept. 19-21, 2019, in New Orleans. From left, T. Glenn Edwards, 2019-20 LBA president; Maggie T. Simar, 2018-19 LBA president; Karen J. King, 2019-20 LBA president-elect; and Donovan J. O'Pry II, 2017-18 LBA president.



The Louis A. Martinet Legal Society, Inc., Lake Charles Chapter hosted a holiday Christmas party on Dec. 19, 2019. Martinet Lake Charles officers, from left, top row, Bobby L. Holmes, 2019-20 president-elect; Ezra Pettis, Jr., 2019-20 president; and Derrick D. Kee, immediate past president. Front, Kendrick J. Guidry, 2019-20 treasurer.

President's Message

Q&A with 2020-21 LBF President Harry J. (Skip) Philips, Jr.

Interviewed by 2020-21 Secretary Deidre Deculus Robert

Robert: Tell us about yourself and your family.

Philips: I was born in New Orleans but grew up in Baton Rouge where I attended parochial school and then LSU (twice), finishing law school in 1983. I have three younger sisters. Colleen and I are celebrating our 42nd wedding anniversary in April. We have two wonderful children and three spectacular grandchildren.

Robert: How did you get involved with the Louisiana Bar Foundation (LBF)?

Philips: Several years ago, Mike Patterson asked me to help with the LBF Grants Committee. I learned a lot about civil legal aid and especially the Legal Services Corporations by reviewing their grant applications. I became the LSC subcommittee chair for the committee and then was asked to join the board.

Robert: Why did you become a Fellow of the LBF?

Philips: The work of the Foundation is important to the goal of providing access to justice to those who cannot afford it. As the funding provider to many worthy grantees, the Foundation ensures that limited financial resources are put to work in the best places and to help the most people. Being

a part of that effort is important to me and I hope it is important to all lawyers and judges around the state.

Robert: Why do you think the LBF is important to the law profession?

Philips: One of the goals of our profession should be to help ensure that access to justice is not just a catch phrase. The Foundation is able to help resource activities that promote access to further that goal.

Robert: Why do you think the LBF is important to Louisiana?

Philips: The Foundation is the focal point for funding most of the nonprofit and volunteer organizations that provide critical legal services to those who cannot otherwise afford it and the Foundation does this with minimal administrative expense so that maximum benefit is obtained from every contributed dollar. The benefits to the citizens of the state who qualify for services rendered by the Foundation's grantees provide tangible and intangible benefits to the entire state and help improve



Harry J. (Skip) Philips, Jr.

the quality of life for those who receive the services provided by the dedicated lawyers, staff and volunteers associated with the grantee organizations.

Robert: What role does the LBF play in the Louisiana civil legal aid network?

Philips: As the funder of civil legal aid, not only does the Foundation invest and administer funding programs, but its oversight and review of the grantees' use of the funds provided enhances accountability and quality. The Foundation also serves as a coordinator of services and provides training for grantee management teams and governance boards.

Robert: What do you hope to accomplish this year as LBF president?

Philips: I would like to, first, continue the great work of our current president, Amanda Barnett, and the officers and board members. We are working on several initiatives that are incorporated into the Foundation's strategic plan to include finding a permanent home for the Foundation and some of its grantees. Expanding access to justice through enhanced funding sources and education of the public and our decision makers will be part of the agenda for the coming year.

LBF Schedules Statewide Pop Up Tour

The Louisiana Bar Foundation has scheduled a series of Pop Up Tours throughout the state. Scheduled events include:

- ▶ Tuesday, April 28: Southwest Annual Luncheon, Lake Charles.
- ▶ Wednesday, April 29: Acadiana Annual Breakfast, Lafayette.
- ▶ Wednesday, April 29: Capital Area Annual Luncheon, Baton Rouge.
- ▶ Monday, May 4: Northeast Annual Luncheon, Monroe.
- ▶ Tuesday, May 5: Northwest Annual

Breakfast, Shreveport.

- ▶ Tuesday, May 5: Central Annual Luncheon, Alexandria.
- ▶ Tuesday, May 12: Northshore Annual Luncheon, Mandeville.
- ▶ Wednesday, May 13: Greater Orleans Annual Breakfast, New Orleans.
- ▶ Wednesday, May 13: Bayou Region Annual Luncheon, Thibodaux.

For more information on these events, contact Danielle Marshall, (504)561-1046, email danielle@raisingthebar.org. Or visit the website: www.raisingthebar.org.

LBF Announces New Fellows

The Louisiana Bar Foundation welcomes the following new Fellows:

- Kayla C. Bourgeois New Orleans
- Cortland B. Lyles.....Alexandria
- Julie A. Gutierrez.....Alexandria

LBF to Honor Distinguished Award Recipients at Gala

The Louisiana Bar Foundation (LBF) will celebrate its 34th annual Fellows Gala on May 15 and honor the 2019 Distinguished Jurist Robert H. Morrison III, Distinguished Attorney Marcus V. Brown, Distinguished Attorney Mary Terrell Joseph, Distinguished Professor John M. Church and Calogero Justice Award recipient, Louisiana Supreme Court Chief Justice Bernette Joshua Johnson. Brief profiles of award recipients are included below.

Distinguished Jurist Robert H. (Bob) Morrison III

Judge Robert H. Morrison III attended Rhodes College and graduated from Louisiana State University Law Center in 1970. He spent 17 years in a general law practice. He was first elected to the bench in the 21st Judicial District and has served 32 years as a district judge, 29 years as chief judge. He began the first drug court program in the district and still presides over that program. He played a key role in working toward the construction of the new courthouse in Livingston Parish. He was the recipient of the LBF's 2013 Calogero Justice Award and is a Fellow of the LBF. He is a former president of the Louisiana District Judges Association and has served as chair of the Louisiana State Law Institute's Criminal Justice and Procedure Committee. He currently is a member on the Governor's Justice Reinvestment Initiative Oversight Council.



Robert H. (Bob) Morrison III

Distinguished Attorney Marcus V. Brown

Marcus V. Brown is executive vice president and general counsel for Entergy Corporation. He provides advice and counsel to the board



Marcus V. Brown

of directors, chair and CEO and the executive team. He is a member of the Energy Insurance Mutual board of directors, the Tulane University Center for Energy Law Advisory Board and the Louisiana State University John P. Laborde Energy Law Center Advisory Council. He received his BA degree in 1985 from Southern University and his JD degree in 1988 from Southern University Law Center (SULC). He received his MBA degree in 2002 from Tulane University A.B. Freeman School of Business. In honor of Entergy's effective diversity and inclusion efforts, the Entergy legal department received the Minority Corporate Counsel Association's 2013 Employer of Choice-South Region. This year, Brown received the National Legal Aid and Defender Association Exemplar Award. He was named to the SULC Alumni Hall of Fame in 2017.

Distinguished Attorney Mary Terrell Joseph

Mary Terrell Joseph graduated in 1966 from Hollins University in Roanoke, Va., and began practicing law in Baton Rouge with Joseph & Joseph after graduation in 1970 from Louisiana State University Law Center. She later practiced with other firms until merging with her current firm, McGlinchey Stafford, P.L.L.C., in 1993. She has chaired the Capital Area United Way board and campaign, the Arts Council of Greater Baton Rouge, Capital Area Network, the Rotary Club of Baton Rouge and the Leadership Baton Rouge Alumni Board. She previously served on the boards of directors for the Baton Rouge Area Foundation and the Emerge Center. As a member of a Baton Rouge Junior League study committee, she co-founded the Stop-Rape Crisis Center (now S.T.A.R.). She serves on the boards of the Foundation for Excellence in Louisiana Public Broadcasting and the LSU Museum of Art Advisory Board.



Mary Terrell Joseph

Distinguished Professor John M. Church

Professor John M. Church is an associate professor of law at Louisiana State University Paul M. Hebert Law Center in Baton Rouge. He currently teaches courses in Torts, Products Liability, Antitrust Law, Wine Law, Toxic Torts and Advanced Healthcare Law. Since 2014, he has directed LSU Law Center's Apprenticeship Week and is a mentor for the Legal Methods program. He is the co-author of two books, *Tort Law: The American and Louisiana Perspectives* and *Louisiana Tort Law*. He is a current member of the Louisiana State Bar Association's Board of Governors and Strategic Planning Committee. He received his JD degree from the University of Colorado, his MS degree in economics from the University of Illinois at Urbana/Champaign and his BS degree in economics from Central Michigan University. Prior to teaching at LSU Law Center, he was an associate at the Denver law firm of Davis, Graham & Stubbs and clerked for Judge Robert H. McWilliams, U.S. 10th Circuit Court of Appeals.



John M. Church

Calogero Justice Award Recipient, Chief Justice Bernette Joshua Johnson

Louisiana Supreme Court Chief Justice Bernette Joshua Johnson is the Court's 25th chief justice, its second female chief justice and its first African-American chief justice. She is one of the first two African-American women to graduate from Louisiana State University Paul M. Hebert Law Center. Early in her career, while working as managing attorney at the New Orleans Legal Assistance



Chief Justice Bernette Joshua Johnson

Continued next page

LBF continued from page 468

Corp. (NOLAC), she became a change agent, social justice advocate and civil rights promoter. She represented the socio-economically deprived; advanced the rights of children; and gave voice to the

poor, elderly and disenfranchised citizens of New Orleans. While in law school, she worked with the U.S. Department of Justice assisting with cases pertaining to the Civil Rights Act of 1964. In 1984, she became the first woman elected as a judge on the Orleans Parish Civil District Court.

She has championed many successful initiatives including the training and certification of the Limited English Proficiency Interpreters in the courts and the implementation of the electronic filing system for the Louisiana Supreme Court.

LBF Awards More Than \$123,000 to Louisiana Nonprofits in CPP Grants

The Louisiana Bar Foundation's (LBF) nine regional Community Partnership Panels (CPP) identify areas of need throughout the year in addition to the regular LBF grant cycle. The CPPs foster collaboration, respond to arising community needs, and encourage local involvement in the designation of grant funds. Each panel has an annual budget of \$20,000 for Jock Scott CPP Grants. CPPs that have not yet designated all funding will do so by June 30. The 2019-2020 Jock Scott CPP Grants are listed by region below (as of Jan. 24, 2020).

Acadiana: \$12,985

CASA of St. Landry-Evangeline... \$3,000
Chez Hope..... \$3,750
Louisiana Guardianship Services.. \$5,000
Pet Partners of Acadiana \$1,235

Bayou Region: \$20,000

CASA of Lafourche..... \$5,000
CASA of Terrebonne..... \$5,000
Chez Hope..... \$3,750
Fletcher Technical Community College \$5,250
Louisiana Appleseed..... \$1,000

Capital Area: \$5,750

Chez Hope..... \$3,750
Louisiana Appleseed..... \$2,000

Central: \$2,000

Louisiana Appleseed..... \$2,000

Greater Orleans: \$20,000

Louisiana Appleseed..... \$1,500
NOLA Grannies..... \$4,000
The Pro Bono Project \$10,000
Orleans Parish Juvenile Court/
Teen Court..... \$4,000
Oral History Project..... \$500

Northeast: \$20,000

D.A.R.T. (Domestic Abuse Resistance Team)..... \$4,000
Louisiana Appleseed..... \$2,000
Pine Hills Advocacy Center..... \$14,000

Northshore: \$13,500

Children's Advocacy Center/
Hope House..... \$9,000
Family Promise of St. Tammany... \$2,500
Louisiana Appleseed..... \$2,000

Northwest: \$20,000

Louisiana Appleseed..... \$2,000
Shreveport Bar Foundation..... \$18,000

Southwest: \$9,300

Girlie Girls Mentoring..... \$6,070
Louisiana Appleseed..... \$2,000
LBF Oral History Project..... \$1,230

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For the June issue of the Journal, all classified notices must be received with payment by April 17, 2020. Check and ad copy should be sent to:

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ANSWERS for puzzle on page 434.



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Iipse Dixit: Via Crystal Ball, Law Practice in 2040

By Edward J. Walters, Jr.

We all know the tremendous changes that have occurred in our law practice in the last 20 years. In the year 2000, for example, there was no iPhone. There was no Wi-Fi. Email was in its infancy. There was no texting.

And, of course, no robot lawyers, artificial intelligence, self-driving cars, automated document review processes and the like. It is just astonishing how our practice has changed, some say for the better, some say for the worse.

But, what's it going to be like 20 years from NOW, in 2040?!

Well, this writer peered into the crystal ball and consulted some very bright technology folks, asking them to give us a few Nostradamus-like predictions so we can be prepared when 2040 arrives. I am told there will be major changes. Here are the Top 10 (+2).

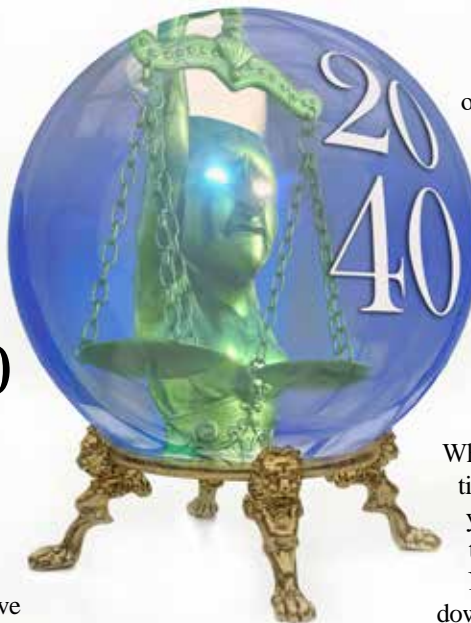
1) **LawyerCare.** Just like Medicare and Medicaid, everyone will be covered by "LawyerCare." All of us will work for "The Legal System." We are paid via a computer program which compensates all lawyers based on their specialty and years in practice, and, of course, where they went to school and, most importantly, whether their father or mother was a lawyer.

2) **Computerized judges.** Elected judges versus appointed judges? Neither. The judges have been computerized. You digitally submit all of the video depositions and evidence to the cyborg "judge" and IMMEDIATELY the "judge" spits out a perfectly written decision. No law clerks needed. It's all in the computer, which knows all of the law, everywhere, all of the facts, the parties and their backgrounds. Because it knows all of the law in all of the cases everywhere, including your jurisdiction, it knows what the case is worth. No legal research necessary.

3) **No credibility calls.** The computer knows who is lying and who is telling the truth based upon scientific research into a witness's physical mannerisms and sophisticated, infallible polygraph equipment which has been perfected and is constantly, and invisibly, connected to all of us all of the time.

4) **No experts.** The computer knows all of the standards of care in every area and decides whether they were met based on the facts, which it already knows.

5) **No discovery wars.** The computers have already read all



of the documents and decided which ones are relevant.

6) **No appeals.** Decisions are always correct on the facts and law.

7) **No courthouses.** Unnecessary in a digital world.

8) **Digital law school.** Why spend three years sitting in law school when you can download all of the law into yourself? No CLE. You have it all downloaded.

9) **No bar exam.** You will be digitally connected to the Qualifications Computer of the Louisiana Supreme Court. It knows what you know and what you don't.

10) **Google.** All information known to mankind is on Google 20.40. No law libraries or any other libraries, either.

11) **No lying on your time sheets.** No time sheets necessary. No keeping track of your time or hourly billing. Your Fitbit knows whether you are working or goofing off.

12) **No lawsuits.** Everyone is mandated to be well insured. Autonomous cars know who was at fault and the insurance companies adjust accordingly. Plus, there are cameras everywhere so the accident has already been filmed on super-high-definition video and submitted to the computer, which, of course, has expertise in accident reconstruction.

And the MOST shocking change will be the ability to instantaneously transport objects (not just pleadings and briefs) from one city or country to another (*cf.* the movie *The Fly*). In 2040, we can immediately transport YOU and your family to another location, like to a courthouse (if there are any left) or to Tahiti.

You think this is unrealistic? Think about it. Right before your eyes that little device in your pocket or purse has replaced the telephone, camera, video camera, tape recorder, calculator, security camera, doorbell, weatherman, typewriter, calendar, photo album, thermometer, computer, watch, alarm clock, stopwatch, timer, music library, answering machine, ruler, flashlight, memo pad, road map, library, bank, department store, movie theater, newspapers, magazines . . . and babysitter.

Get ready. As Bob Dylan said, "He not busy being born is busy dying."



Edward J. Walters, Jr., a partner in the Baton Rouge firm of Walters, Papillion, Thomas, Cullens, L.L.C., is a former Louisiana State Bar Association secretary and editor-in-chief of the Louisiana Bar Journal. He is a current member of the Journal's Editorial Board and chair of the LSBA Senior Lawyers Division. (walters@lawbrnet; 12345 Perkins Rd., Bldg. 1, Baton Rouge, LA 70810)

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Results may vary. L to R: Scott Richard, Robert B. Brahan Jr., Jerome H. Moroux, Blake R. David, Richard C. Broussard, Melissa Mabry, J. Derek Aswell, & Kenneth Hebert