

LOUISIANA BAR JOURNAL

April / May 2009

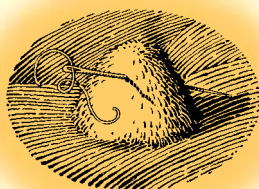
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Cover Art

Adrian Fulton, *Justice On The Fleur*, mixed media.
Reproduced with permission of the artist. Photo of painting by Gigie A. Fulton.

See page 402 for more information about the artist and his work.



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About the Art . . . From the Artist!**Justice On The Fleur**

I produced this painting for the office of Lafayette attorney Aaron Allen. The painting is entitled “Justice On The Fleur,” a play on words that I often do to name my work. I find that a sense of “Hue-More” is essential in the world. Art and humor go hand-in-hand in this endeavor for me. The painting is mixed media, which I produce in the rain on a 20-inch-by 16-inch stretched canvas. The high-water mark thus far in my career as an artist was being invited to the White House in December 2008 as the featured artist from Louisiana and opening my own gallery in “Laughyet” (Lafayette), Louisiana. I am also slated to have an art show in the United States Senate this year.

—Adrian Fulton



Adrian Fulton at the National World War II Memorial, near the Lincoln Memorial, in Washington D.C. Photo by Gigie A. Fulton.



Adrian Fulton, *Justice On The Fleur*, mixed media. Reproduced with permission of the artist. Photo of painting by Gigie A. Fulton.

About the Artist**Adrian Fulton**

Adrian Fulton was born in Philadelphia, Pa. He served in the U.S. Air Force and came to Louisiana through the National Guard in 1993, got married and has been living and working in the state ever since. He studied and produced murals while working as an illustrator for a newspaper in Sicily, Italy. While in Italy, he donated a draft design for an orphanage to the Sisters of Mother Teresa and a painting of Mother Teresa for the Sisters of Mother Teresa. He also has donated murals and other artwork for local churches and organizations for auctions.

A workaholic and achievement junkie who enjoys spirited, good-natured competition, Fulton likes bringing out the best in others, always striving towards perfection but not afraid of being wrong or losing. His art is a reflection of all the people and situations he has encountered, both positive and otherwise. He is most admired and known for his bold use of color and persistent movement throughout his mixed-media paintings.

He is the creator of *Craw-Ville Cartoons*. He produces five-minute caricatures and 10-minute portraits at festivals and other events. His artwork can be seen in several local and out-of-state galleries and establishments.

Adrian Fulton's Fine Art Gallery, located at 302 Jefferson St., Lafayette, will have its grand opening on Saturday, June 13. Business hours are 1-6 p.m., Tuesday through Sunday; Monday or early or late hours by appointment; phone (337)658-3274.

To view more of Fulton's art and to learn about art/art therapy classes and other planned events, go to his Web site, www.laughyet-la.us.

LETTERS

Facebook Service: “Been There, Done That”

I enjoyed the *Louisiana Bar Journal* article (February/March 2009, Vol. 56, No. 5) on Facebook service, but “been there, done that.” Years ago, a colleague was granted authority for original service of a suit by leaving a message on voice mail. The defendant was obviously hiding, the attorney was very credible, and he’d proven that every other option had been exhausted.

Texas Rule 106 allows substituted service by “any other manner that the affidavit or other evidence before the court shows will be reasonably effective to give the defendant notice of the suit.” Texas judges regularly allow service by first-class mail and by “door-hanger,” upon proof that movant has exhausted all remedies, burned goat feathers on a full moon, and tossed sea salt over his left shoulder at high tide.

It’s a matter of counsel’s credibility and his building a case. I would expect substituted service to become more and more creative as the Web envelops us even further.

Riecke Baumann
Houston, Texas

FACEBOOK... NEWCOMB COLLEGE

Newcomb College Photo Identified, Organization Name Corrected

I thank Amanda K. Wingfield for her excellent article in the *Louisiana Bar Journal* (October/November 2008, Vol. 56, No. 3). I have only two corrections to point out.

First, the building in the photos is Newcomb Hall, formerly the administration building and principal classroom of H. Sophie Newcomb Memorial College. It does not house the Newcomb Institute. The Newcomb College Institute can be found in a house on Newcomb Place that was the residence of the dean of the college from the time the college moved to its Uptown campus (c.1920) until the college was dissolved.

Second, the organization funding the lawsuits to restore Newcomb is The Future of Newcomb College, Inc. “NewcombLives” is only the URL of our Web site, www.newcomblives.com, and a slogan we use on jewelry and merchandise available for sale on the site.

Renee Seblatnigg
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By Elizabeth Erny Foote

Equal Opportunities for the Participation of All Lawyers

“The LSBA ensures equal opportunities for the participation of all lawyers in the bar and in the profession.”

Achieving diversity in our Association and in our profession is one of the seven strategic goals adopted by the Louisiana State Bar Association’s (LSBA) Board of Governors in November 2007. More recently, the LSBA leadership has made two more strong statements that the Bar is an agent for social change: the House of Delegates and the Board of Governors enacted a Diversity Statement at the LSBA’s Midyear Meeting in January 2008 (*see the Statement on page 405*); and, in April 2009, the Board of Governors adopted a resolution encouraging all law firms to sign a diversity statement and join the voices of leadership to put an end to discrimination. (*See related article and diversity statement on page 415.*)

But the Association has done more than just make statements. The dues increase enabled the Bar to create the Member Outreach and Diversity Department staffed by three full-time employees. Member Outreach and Diversity Director Kelly McNeil Legier has helped coordinate the work of the Diversity Committee — co-chaired by Wayne J. Lee and Hon. Fredericka (Ricky) Homberg Wicker — to implement strategies to achieve our goals. Neither the committee nor the department has limited the definition of diversity to racial diversity. Other areas of concentration include diversity as to member geography, ethnicity, national origin, religion, gender, age, sexual orientation and disability. Even the definition of diversity is diverse!

This issue of the *Journal* discusses the work of the Association in this area. Allow me to recap the highlights:

- ▶ Outreach to local bars, including joint programs and sponsorships; the institutionalization of regular meetings with

local bar and state Bar leadership and staff; and the creation of an area on the LSBA’s Web site that allows all bar associations to post their activities. The staff also has undertaken the challenge of compiling a directory of all local and specialty bars and their leadership.

- ▶ Outreach to lawyers across the state with more programs in more locations. The state Bar staff and volunteers have traveled all over the state this year with “Lunch and Learn” programs; the symposia on lawyer advertising; free CLE programs conducted jointly with the Louisiana Attorney Disciplinary Board; and more CLEs in more places. LSBA President-Elect Kim M. Boyle has traveled to every circuit court of appeal, visiting with the judges and lawyers in each area as she prepares her agenda for next year.

- ▶ Providing forums for the hard discussions on racial diversity that are necessary if change is to be effected. The second annual Conclave on Diversity in the Legal Profession, held March 13, was entitled “Continuing the Conversation.” (More on the Conclave will be published in the June/July 2009 *Journal*.) The LSBA Annual Meeting in June will feature CLE programs being billed as “The Great Debates.” Two of the three debates will center on race: “The Changing Face of the Practice of Law: Diversity in Our Profession” and “Jury Selection Crisis — *Batson*: Should We Strike Peremptory Challenges?” The LSBA encouraged the judiciary to incorporate a presentation on issues of racial diversity in its New Judge Training in December and assisted the judges in identifying speakers who conducted a four-hour interactive workshop.

- ▶ Continuing the coordination of Minority Job Fairs. The 2008 fair (the 20th annual fair) was held at Tulane Law School and paired minority students with prospective employees. The 2009 fair is set for Aug. 14 at Loyola University. The LSBA Minority Involvement Section also hosted its first Legal Internship Job Fair on March 7.

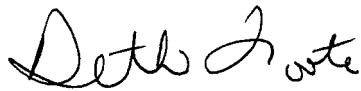
- ▶ Inclusion of minority lawyers in leadership positions. This year, with the help of the LSBA staff to identify willing candidates throughout the 41 districts, our House of Delegates was fully constituted. When making these appointments, an effort was made to identify and recruit women and minority lawyers. This year’s expanded Leadership LSBA class — a leadership training program for young lawyers — included 10 candidates of different races, genders and practice backgrounds from across the entire state.

- ▶ Outreach to minority students to foster an understanding of the Rule of Law in their lives and to encourage law as a profession. In October 2008, the Bar partnered with the Louisiana Center for Law and Civic Education and Karen Chatman Edutainment to present a hip-hop music program on the Voting Rights Act in Algiers and Baton Rouge. A second program is planned for this spring. As part of its “pipeline” program, the Bar has sponsored professional development programs on networking for law students. The classroom portion of the program was followed by a reception to enable the students to practice their new skills.

- ▶ Remembering that the battle for gender equality in our profession is not over. On April 24, the LSBA assisted in

coordinating the “Superwomen” CLE dealing with issues women face today in our profession—the audience was “standing room only.” The engaged response to this program suggests that the Bar must heed Abigail Adams’ admonishment to her husband John when he was helping to write the Constitution: We should “not forget about the women.”

So why do we as an organization concern ourselves with these issues? Inclusivity in our Bar achieves two ends — it raises the level of our profession and raises the public’s confidence in our system of justice. How natural it is that the LSBA be a leader in inclusivity. It is, after all, our members who champion the rights of individuals in the system of justice every day. The LSBA’s efforts in the area of diversity are exemplary — another reason why I have been proud to have served as your President this year.



Louisiana State Bar Association Diversity Statement

The Louisiana State Bar Association (LSBA) recognizes that achieving diversity in the legal profession is an evolutionary process that requires the Association’s continued effort and commitment.

The LSBA is committed to diversity in its membership, Board of Governors, staff, House of Delegates, committees and all leadership positions. Diversity is an inclusive concept that encompasses race, ethnicity, national origin, religion, gender, age, sexual orientation and disability.

The LSBA is a richer and more effective Association because of diversity, as it increases our strengths, capabilities and adaptability. In addition, a diverse group of talented legal professionals is important to the success of law firms, law departments, public service organizations and other organizations that include attorneys.

Through increased diversity, the LSBA and its members can bring more varied perspectives, experiences, backgrounds, talents and interests to the practice of law and the administration of justice.

*Approved by House of Delegates
January 12, 2008
New Orleans, LA*

*Approved by Board of Governors
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By Mark A. Cunningham

DIVERSITY *Refined*

This is the second time that the *Louisiana Bar Journal* has dedicated an entire issue to the topic of diversity. Our first issue, “Diversity in the Legal Profession,” was spearheaded by the Louisiana State Bar Association’s (LSBA) Task Force on Diversity in the Profession and guest-edited by Michael H. Rubin. Many of you may not recall that issue — it was mailed days before Hurricane Katrina. The message of the issue, however, was never lost. Our leadership has remained committed and, with the unanimous support of our Board of Governors, has invested substantial financial and human resources in making certain that our Bar Association celebrates diversity of all kinds.

This issue represents a tangible result of this investment. Under the leadership of Co-Chairs Wayne J. Lee and Hon. Fredericka (Ricky) Homberg Wicker, the LSBA Committee on Diversity (with the assistance of guest editor Orleans Parish Civil District Court Judge Tiffany Gautier Chase and LSBA Member Outreach and Diversity Director Kelly McNeil Legier) took the lead in recruiting a distinguished group of authors who provide us with a wide range of insights and perspectives. As you read through these articles, you may find yourself agreeing with some and disagreeing with others. That’s not a bad thing. To the contrary, this issue is intended to provoke critical thinking about how best to promote and celebrate diversity in our profession, for what is the point of diversity without diversity in thought.

With my term as LSBA secretary expiring in June, this issue also represents my final issue as the editor. I would be remiss not to thank all members of the Editorial Board and LSBA staff for their incredible work over the past two years. They have done an outstanding job. I would like to thank particularly Aimee Quirk who served with distinction as chief editor for feature articles; Hal Odom who took the lead on several new departments including the Puzzle Page and Local Practice Guide, in addition to editing feature articles; the Quality of Life Section Team — Rachel Webre, Lucie Thornton and Meredith Cunningham — which found ways for us to make the most out of our lives; Ty Storms who wrote several articles and edited several others and, most importantly,



Judge Fredericka Homberg Wicker
Co-Chair, Diversity Committee



Wayne J. Lee
Co-Chair, Diversity Committee



Judge Tiffany Gautier Chase
Guest Editor

made us all laugh; Dan Rauh who had the job that everyone else wanted as the Cover Editor and did not disappoint; Chip Coulter who took the lead on the issue dedicated to retired Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr., provided us with the inside scoop on the halls of justice, and put his sharp mind to work on the Puzzles Page; our stalwart editors of feature articles, Gail Stephenson (who is also our dedicated editor of Recent Developments articles), Ed Walters, Margaret Judice and the “go-to” Brendan Doherty; the leader of our Technology Corner, Jerry Huffman; and, finally, Katherine Tonnas and Larry Marino who provided us with an historical perspective on Louisiana legal practice. Each of these people volunteered their time and effort over the past two years to bring us the *Louisiana Bar Journal*. Please thank them when you see them.

My last words of gratitude go to LSBA Publications Coordinator Darlene LaBranche. If you ever wonder who makes it all happen at the *Louisiana Bar Journal*, Darlene is the answer. Editors and Editorial Boards come and go. Darlene works year in and year out to make sure that the *Journal* is a high-quality product that provides practical and timely information for the LSBA membership. The LSBA is lucky to have her.

The Changing Face of Jury Selection:

Batson and Its Practical Implications

By Judge Ulysses Gene Thibodeaux



The *Batson v. Kentucky*¹ decision has generated controversy since its release. *Batson*'s objective was to confront racial discrimination in jury selection through the use of peremptory challenges. Justice Thurgood Marshall's concurring opinion in *Batson* expressed frustration over the effectiveness of peremptory challenges in achieving this laudable goal and advocated the complete elimination of peremptory challenges.² In his dissenting opinion to *Batson*, Chief Justice Burger gave voice to a contrary view which argued that the decision unnecessarily, and without proper justification, cast aside the historically venerable and institutional use of peremptory challenges during jury selection.³

The reality is neither view has proven completely supportable to date. The use of peremptory challenges is still a requisite part of our jury selection process. As was foreshadowed by Justice Marshall in his concurring opinion to *Batson*,⁴ the mandates of *Batson* and the use of

peremptory challenges, however, have yet to succeed in eliminating from the jury selection process the inequities that flow from racial- and gender-based discrimination. The problem of shielding this portion of the judicial process from impermissible strikes based on race and gender remains an almost insurmountable task because of the prominence of societal racial considerations and the subtleties of racism, despite the noble aspirations set forth by the *Batson* decision. An attorney's use of instinct, arbitrary preferences, biases and hunches rather than reason in eliminating jurors makes the peremptory challenge methodology insusceptible of any objective scrutiny. Indeed, the extreme difficulties that courts are having in effectuating *Batson*'s mandates are manifested by the fact that the United States Supreme Court has issued four decisions within the past four years on *Batson* issues alone.⁵ Moreover, the problems posed by peremptory challenges are so daunting that two current United States Supreme Court justices advocate Justice Marshall's admonition to eliminate these challenges altogether.⁶

Batson held that the Equal Protection Clause prohibits the State's use of peremptory challenges to strike prospective jurors solely because of their race or based on the assumption that jurors of the same race as the defendant are unable to be impartial.⁷ The *Batson* court articulated a three-step test for determining when a defendant's Equal Protection rights have been violated via the exercise of peremptory challenges during jury selection. First, the defendant must make a *prima facie* showing that the prosecutor exercised a peremptory challenge based on race.⁸ The burden then shifts to the prosecutor, who must present a race-neutral explanation for the challenged strike(s).⁹ In *Hernandez v. New York*,¹⁰ the Supreme Court clarified that this portion of the test was one of production and not persuasion, holding that:

[a] neutral explanation in the context of our analysis here means an explanation based on something other than the race of the juror . . . the issue is the facial validity of the prosecutor's explanation.

Finally, the trial court decides whether the defendant has carried his burden of proving discrimination; the court takes into consideration the race-neutral reason given by the prosecutor by assessing its plausibility in light of all the relevant evidence.¹¹

Several cases offer clear examples of the difficulties that have proved inherent in the manner of gate-keeping proscribed by *Batson*. In *Miller-El v. Dretke*,¹² the Supreme Court acknowledged, as it did in *Batson*, that peremptory challenges continue to serve as a potential tool for discrimination in the courts. The *Miller-El* court specifically recognized the problem faced by defendants in successfully challenging an apparent discriminatory peremptory strike because of the burden set forth by *Swain v. Alabama*,¹³ which required that the defendant show "a continuity of discrimination over time."¹⁴ The court rejected this "crippling burden of proof that left prosecutors' use of peremptories 'largely immune from constitutional scrutiny,'" and explained that a defendant may rely on "all relevant circumstances"¹⁶ to raise that inference of purposeful discrimination. In *Johnson v. California*,¹⁷ decided the same year as *Miller-El v. Dretke*, the Supreme Court reversed the California Supreme Court and held that California imposed a heavier burden on a defendant to establish a *prima facie* case of purposeful discrimination than was intended by *Batson*. The court opined that *Batson* did not intend for the first step of the test to be so onerous that the judge would have to be persuaded on the basis of all facts that the peremptory strike was "more likely than not" a result of intentional discrimination, as California had required.¹⁸ Again, the defendant need only present sufficient evidence to allow the judge to draw "an inference" that the challenge was unlawful.¹⁹

*Snyder v. Louisiana*²⁰ presented a different example of the difficulties faced by the courts in determining the sometimes dual or mixed motivations of prosecutors when considering a *Batson* challenge. In *Snyder*, the U.S. Supreme Court reviewed the two motivations provided by the prosecutor for peremptorily striking a black venire person. One was based on the venire person's demeanor as observed by the prosecutor (nervousness), and the

second purported justification for the strike was the prosecutor's perception that this venire person might return a lesser verdict to ensure a quicker end to the trial because of his work and school obligations.²¹ The U.S. Supreme Court ultimately reversed the decision of the Louisiana Supreme Court and remanded the case, primarily due to what one comment referred to as its exercise of the "*Snyder* presumption," allowing the court to avoid offering more clarification of how this issue is to be handled under the existing *Batson* jurisprudence.²²

The trial court rejected both *Batson* challenges without explanation, and the Supreme Court stated that it could not presume that the lower court had rejected the challenge based on the demeanor-based strike, although deference would have been given to the court in that regard.²³ The Supreme Court analyzed the second justification given for the strike and found the explanation was implausible and sufficed for a finding of a *Batson* error.²⁴ The court wrote that:

it is enough to recognize that a peremptory strike shown to have been motivated in substantial part by discriminatory intent could not be sustained based on any lesser showing by the prosecution.²⁵

Recognizing the regularity in which similar situations may occur during jury selection proceedings, one commentator noted, "*Snyder* presented a rare, [missed] opportunity to clarify under the Court's *Batson* jurisprudence"²⁶ [including] "the appropriate way to balance a pretextual justification against a demeanor-based one, the broader problem of mixed and unconscious motivations, and the utility of peremptory strikes in general."²⁷

The recent Louisiana Supreme Court case of *Alex v. Rayne Concrete Service*²⁸ is illustrative of the continuation of the courts' ultimate problem of ferreting out racial discrimination when faced with more than one possible justification for an asserted peremptory challenge. The *Rayne Concrete* case was reversed and remanded, in a decision rendered with multiple concurring and dissenting opinions.²⁹ The lack of a complete consensus was caused, in part,

by internal disagreements over the question of whether the trial court committed reversible error by allowing a peremptory challenge against a prospective black juror based solely on the “gut feeling” justification offered by the prosecutor, who never individually questioned the potential juror.³⁰ Justice Victory pointed out in his dissenting opinion that the explanation offered constituted a race-neutral, demeanor-based justification for a peremptory challenge that needed no reversal.³¹ Justices Traylor and Weimer agreed with this analysis.³² The case was reversed, nevertheless, on the basis of the explanation being pretextual, although the court acknowledged its prior recognition of the validity and usefulness of “gut feelings,” eye contact, body language, and other sense impressions in decisions to exercise peremptory challenges.³³ The court held that “although these [intuitive reasons] may factor into the decision to utilize a peremptory challenge, this reason, if taken alone, does not constitute a race-neutral explanation.”³⁴

As has been briefly shown, *Batson* and the many related cases following that decision continue to further convolute the issue of how to eliminate the abuse of peremptory challenges in a system that judges and lawyers have always known engages in systematic discrimination in the selection of jurors.³⁵ Statistics do exist showing that peremptory challenges have been improperly and predominately used to exclude black persons from jury venires.³⁶ While an empirical study on the prevalence of *Batson*-related peremptory challenges in Louisiana does not exist, the 123 appellate decisions on *Batson* challenges over the past 10 years illustrate, in my view, the depth of the problem. This statistic does not take into account unreported writ decisions nor does it include, of course, the numerous challenges in cases that are *not* appealed.

Justice will be advanced and the credibility of our judicial system will be immeasurably enhanced by a greater representation of minorities and women on juries. As long as peremptory challenges continue to be used, that objective is illusory because refined discriminators are adept at concealing their motives through the use of rhetorical sophistication. Racially-based and gender-based peremptory challenges

offend not simply the constitutional rights of a litigant and a prospective juror; they impugn the legitimacy of, and are an affront to, our entire jury system.

It is not enough to suggest that peremptory challenges should remain because they are subject to appellate scrutiny. Of course they are. A trial court ruling on discriminatory intent, however, must be sustained unless it is clearly erroneous.³⁷ Given the propensity for affirmance under this standard or an abuse of discretion standard, a trial court’s ruling is virtually immune to reversal.

Justice Marshall’s prescience has been acknowledged by Justices Breyer and Souter. It is now time for Louisiana to do so. As Justice Marshall explained:

... [m]erely allowing defendants the opportunity to challenge the... discriminatory use of peremptory challenges in individual cases will not end the illegitimate use of the peremptory challenge.³⁸

Were it necessary to make an absolute choice between the right of a [litigant] to have a jury chosen in conformity with the requirements of the Fourteenth Amendment and the right to challenge peremptorily, the Constitution compels a choice of the former.³⁹

The author gratefully acknowledges the assistance of Tara B. Hawkins, administrative general counsel, Louisiana 3rd Circuit Court of Appeal.

FOOTNOTES

1. *Batson v. Kentucky*, 476 U.S. 79 (1986).
2. *Id.* (Marshall, J., concurring).
3. *Id.* (Burger, C.J., and Rehnquist, J., dissenting).
4. *Id.* (Marshall, J., concurring); see also *Rice v. Collins*, 546 U.S. 333 (2006) (Breyer and Souter, JJ., concurring and stating that Justice Marshall’s view had been proven correct).
5. *Miller-El v. Dretke*, 545 U.S. 231 (2005); *Johnson v. California*, 545 U.S. 162 (2005); *Rice v. Collins*, 546 U.S. 333 (2006); *Snyder v. Louisiana*, ___ U.S. ___, 128 S.Ct. 1203 (2008).
6. *Rice*, 545 U.S. 333 (Breyer and Souter, JJ., concurring).
7. *Batson*, 476 U.S. 79.
8. *Id.*
9. *Id.*
10. 500 U.S. 352, 360 (1991).
11. *Batson*, 476 U.S. 79.
12. 545 U.S. 231 (2005).
13. 380 U.S. 202 (1965).

14. *Miller-El*, 545 U.S. at 239.
15. *Id.* (quoting *Batson*, 476 U.S. at 92-3).
16. *Id.* at 240 (quoting *Batson*, 476 U.S. at 96-7).
17. 545 U.S. 162 (2005).
18. *Id.* at 167.
19. *Id.*
20. ___ U.S. ___, 128 S.Ct. 1203 (2008).
21. *Id.*
22. “The Supreme Court, 2007 Term — Leading Cases,” 122 *Harv. L. Rev.* 346, 350 (2008).
23. *Snyder*, 128 S.Ct. 1203.
24. *Id.*
25. *Id.* at 1212.
26. “The Supreme Court, 2007 Term — Leading Cases,” *supra*, note 22, at 350.
27. *Id.*
28. 05-1457 (La. 1/26/07), 951 So.2d 138 (The peremptory challenges were objected to on the basis of *Edmonson v. Leesville Concrete Co., Inc.*, 500 U.S. 614, 111 S.Ct. 2077 (1991), which held that a private litigant in a civil case may not use peremptory challenges to strike jurors from the jury venire, solely because of his race.)
29. *Id.*
30. *Id.*
31. *Id.* (Victory, J., dissenting in part.)
32. *Id.*
33. *Id.*
34. *Id.* at 153.
35. See Amy Wilson, Note, “The End of Peremptory Challenges: A Call for Change Through Comparative Analysis,” 32 *Hastings Int’l & Comp. L. Rev.* 363, 363 (Winter 2009); see also David C. Baldus, et al., “The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis,” 1 *U. Pa. J. Const. L.* 3, 34-6 (2001).
36. Charles J. Ogletree, “Just Say No! A Proposal to Eliminate Racially Discriminatory Uses of Peremptory Challenges,” 31 *Amer. Crim. L. Rev.* 1099, 1100-1 (1994).
37. *Snyder*, 128 S.Ct. 1203.
38. *Batson*, 476 U.S. at 105 (Marshall, J., concurring).
39. *Id.* (quoting *Swain*, 380 U.S. at 244 (Goldberg, J., dissenting)).

Judge Ulysses Gene Thibodeaux, a graduate of Dartmouth College and Tulane Law School, where he was an Earl Warren Scholar, is the chief judge of the Louisiana 3rd Circuit Court of Appeal. He is president of the National Council of Chief Judges, an organization consisting of chief judges of the intermediate appellate courts in the United States and its territories, and chair of the Conference of Appellate Court Judges in Louisiana. He practiced law for 17 years in New York City and Lake Charles before his election to the 3rd Circuit in 1992. He chaired the Task Force on Judicial Independence and co-chaired the Louisiana Supreme Court Task Force on Racial and Ethnic Fairness in the Courts. He serves on numerous Louisiana State Bar Association committees and is a frequent continuing legal education lecturer. (1000 Main St., Lake Charles, LA 70615)



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Diversity Retrospective:

Where Have We Been? Where Are We Going?

By Marta-Ann Schnabel



Twenty years ago, the concept of “minority involvement” or “minority recruitment” was fairly new. Bar associations talked in terms of increasing “involvement” among minority lawyers and firms were beginning to actively “recruit.” Still, women and African-Americans were rare as associates at most firms, and even rarer as partners. A visitor to the Louisiana State Bar Association or American Bar Association (ABA) House of Delegates would have assumed that only white men were association members. Hispanics? Native Americans? Asian-Americans? They weren’t much on the radar screen, either locally or nationally.

Today, diverse groups have begun to gain a voice within the profession. More women and minorities are law school graduates. Statistics developed by the ABA reveal, however, that progress is slow. While women have comprised between 47-49 percent of law school classes over the past three years, only about 27 percent of practicing lawyers are women. More to the point, just 17 percent of the partners in law firms are women. Minorities have comprised about 22 percent of law school classes in that same time period, and yet the percentage of minorities who remain in the profession still hovers at about 10-12 percent, even allowing for recent increases in minority graduates and hiring since the 2000 census. According to the National Association for Legal Career Professionals, just under 6 percent of partners in law firms are minorities and, of that, approximately 2 percent are African-American and about 1.5 percent are Hispanic. Minority women fare even more poorly — .56 percent of partners are African-American women and .42 percent of partners are Hispanic women.

ABA Diversity Hearings and Summit

With these statistics as a backdrop, ABA President H. Thomas Wells, Jr. appointed a special committee to take a hard look at the state of diversity within the profession. For all of our programs and all of our efforts, he asked, has any real progress been made? Are there truly more opportunities for a diverse population to attend and graduate from law school? Are bar associations populated by a more diverse membership? Have firms and corporations actually embraced diversity, or are those efforts simply governed by a sense of political correctness? Do government lawyers and the judiciary reflect the true demographics of the community they serve? Assuming that the profession has changed in the last 20 years, what does the future hold? Has “diversity fatigue,” particularly coupled with the current economic crisis, resulted

in less focus on diversifying our ranks? Or, indeed, has the recent presidential election, wherein an African-American and a woman were the strongest contenders, established that diversity goals have been fully accomplished?

As part of this analysis, the ABA presidential initiative includes a series of regional public hearings. Lawyers and legal educators of varied backgrounds and experiences are encouraged to voice their opinions on these issues. The first hearing was held during the ABA Midyear Meeting in Boston, Mass., on Feb. 12. For four hours, testimony was offered from members of academia, bar leaders, representatives of corporate America, partners in private law firms, members of the judiciary and public interest lawyers. This process will be repeated in San Francisco, Columbus and Atlanta. A final Diversity Summit will be held in Washington, D.C. in June to share all the information gathered and to preview the future of diversity in the profession.

Initial Insights in Boston Hearing

Participants in the Boston hearing were impressed with the level of discourse. The room was filled to capacity for most of the four hours, perhaps disproving the sentiment that “fatigue” has set in. Even though the portion of the program reserved for comments and questions from the audience did not occur until 6 p.m., lawyers lined up at the microphone to be heard.

During the hearing, three representatives of the “Legal Academy” — Kent Lollis of the Law School Admission Council; Peter Blanck, an expert in disability rights from the Burton Blatt Institute at Syracuse University; and Richard A. Matasar, dean of New York Law School — identified the cost of a legal education as a bar to access to the profession, particularly for students from diverse backgrounds. They praised “pipeline” programs, but noted that graduates were often unpleasantly surprised by the reality of paying off the

massive debt accumulated over the course of law school. These economic factors, they said, have resulted in declining applications to the nation’s law schools, with comparatively fewer minorities seeking admission.

Representatives of corporations and private law firms offered lively and frank discussion about the problems of access and retention. All agreed that the “business case” for diversity was a strong one if corporations pursued their internal diversity policies when choosing outside counsel.

Susan Klooz from Wal-Mart Stores, Inc. and Michele Coleman Mayes of Allstate described aggressive efforts to assure that those who provide legal representation to Wal-Mart and Allstate reflect the diversity of the company employees themselves.

Former ABA President Robert Gray offered insight into law firm strategies for eliminating the “glass ceiling” and avoiding attrition, but noted that some of the solution was simply the passage of clients and responsibilities from one generation to another.

Anthony Upshaw, a Miami partner in the Adorno & Yoss firm, described his experiences at the largest minority-owned law firm in the country, where clients had come to expect diversity on its legal team.

Much of the discussion centered on the concept of “meaningful inclusion,” a concept that both Mayes and Klooz advocated as a way to assure that women and minorities remain at a firm or corporation.

Members of the Hispanic National Bar Association (HNBA) and the Native American Bar Association spoke about the role of bar associations. Both said specialty bars were affirming for members left behind in other diversity initiatives sponsored by firms or state and local bar associations. Their bars, they said, often offer programs focused on the needs of constituent communities. HNBA Presi-

Continued next page

MCCA/Vault Activate 2009 Law Firm Diversity Database

By Alexander K. Kriksciun

ABA Response

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dent Ramona Ramero said “pipeline” programs often center on the African-American community but could, and should, be expanded to include other minorities.

In the last session of the Boston hearing, panelists discussed the difficulties in assuring diversity in an elected judicial system and in attracting law graduates to public interest careers in light of the cost of a legal education. All agreed that the public rightfully questions the efficacy of a legal system in which lawyers and judges do not reflect the composition of the community being served, which in itself is a reason to assure diversity on the bench and in public interest lawyering.

Common Threads and Observations

University of New Mexico Professor Margaret Montoya, the 2008-09 Haywood Burns Chair in Civil Rights at the City University of New York Law School, is the reporter for the hearings. While it is too early to predict what will emerge from the other hearings and the culminating summit, Montoya has identified some common threads in the testimony.

A pervasive theme, for example, is that a truly diverse profession in the future will only be possible if the diversity “pipeline” into law schools is expanded. Another observation is that retention of minority and women lawyers will necessarily turn on “meaningful inclusion.” Many felt that this sense of inclusivity would develop naturally as the ranks of women and minorities reach a tipping point.

Given that ABA research shows that 88 percent of the lawyers in the United States are white and 73 percent are male, that tipping point may be a long way off. In the meantime, lawyers in Boston, San Francisco, Columbus, Atlanta and Washington, D.C. will be tugging hard on that lever.

Marta-Ann Schnabel, a shareholder in the New Orleans law firm of O’Byron & Schnabel, P.L.C., is a member of the American Bar Association’s Center for Racial and Ethnic Diversity and the ABA President’s Diversity Summit Planning Committee. She served as Louisiana State Bar Association president in 2006-07. (Ste. 830, 1515 Poydras St., New Orleans, LA 70112)



The Minority Corporate Counsel Association (MCCA) and Vault.com have activated the 2009 Law Firm Diversity Database, accessible at <http://mcca.vault.com>. The Diversity Database is a fully-searchable online tool with comprehensive data on diversity performance at nearly 280 law firms nationwide. Diversity performance is available for a substantial majority of the AmLaw 200, an annually published list of America’s highest-grossing law firms. The database is a free resource; however, registration is required.

The 2009 database, expanded from the initial edition in 2008, includes data on diversity performance from 70 additional law firms, an expanded list of ethnic and racial categories, and data on attorneys with disabilities. The 2009 edition also contains information on how law firm leadership communicates the importance of diversity to its attorneys and staff members and the ways leadership is held accountable for achieving results.

The data was compiled based on the participating organizations’ annual diversity survey, a comprehensive online questionnaire distributed to law firms nationwide.

Samer Hamadeh, Vault’s chief operating officer, said the Diversity Database will allow “corporations looking to hire outside counsel, as well as job seekers, to have crucial information at their disposal to compare the diversity commitment and progress of the nation’s largest law firms.”

“Advancing diversity and annually benchmarking progress is essential work for MCCA,” said Veta Richardson, executive director of the MCCA. “But what is particularly exciting about this database is the ability to standardize the type of information that it is openly available about law firm diversity efforts and to continue to raise the bar as good approaches are adopted by more and more law firms.”

The 2009 data shows limited improvement in diversity at the highest ranks of U.S. law firms from 2003-2007. Among its statistics, the database indicates that law firms are making slow progress with respect to diversity, particularly at senior levels. The statistics indicate that women and minorities often have a difficult time advancing to partner status in U.S. law firms. The database includes several statistical breakdowns by gender and ethnicity.

Alexander K. Kriksciun is a law clerk for Hon. Fredricka Homberg Wicker with Louisiana’s 5th Circuit Court of Appeal. He is a 2008 cum laude graduate of Tulane Law School, where he was the senior research editor for the Tulane Journal of International and Comparative Law. (1427 St. Mary St., Apt. C, New Orleans, LA 70130)





Demonstrating Commitment to Diversity: Executing Statement of Diversity Principles

The Louisiana State Bar Association (LSBA) Board of Governors on April 4 approved a Statement of Diversity Principles for dissemination to and execution by lawyers, judges, law firms and law departments in the state. Meaningful diversity advancements occur when the leaders in an organization embrace diversity and demonstrate through their actions that diversity is a priority to the organization.

By executing the Statement of Diversity Principles, the leaders of an organization agree to use their best efforts to increase the diversity in their hiring, retention and promotion of attorneys and the elevation of attorneys to leadership positions within their organizations. They also agree to promote and participate in appropriate diversity awareness training programs as well as programs to measure progress.

The LSBA Committee on Diversity asks all Louisiana law firms, law departments and judicial offices to execute the voluntary Statement of Diversity Principles. Individual attorneys are also invited and welcome to sign. The committee will recognize those executing the statement by May 30 on signage to be displayed at the LSBA Annual Meeting in June. The committee will continue accepting executed statements after May 30 but encourages all to execute it early to receive recognition as leading participants in this new LSBA initiative.

The Statement of Diversity Principles is available here and online at www.lsba.org/diversity. Return executed statements to LSBA Member Outreach and Diversity Director Kelly McNeil Legier by e-mail kelly.legier@lsba.org, by fax (504)566-0930, or by regular mail to 601 St. Charles Ave., New Orleans, LA 70130.

Statement of Diversity Principles

Those signing this Statement of Principles hereby commit themselves to foster diversity in the legal profession. The LSBA recognizes that diversity is an inclusive concept that encompasses race, color, ethnicity, gender, sexual orientation, age, religion, national origin, disability and other aspects of diversity.

We believe that with greater diversity, we can be more creative, effective and bring more varied perspectives, experiences, backgrounds, talents and interests to the practice of law and the administration of justice. We further believe that a diverse group of talented legal professionals is critically important to the success of every law firm, corporate or government legal department, law school and public service organization and every other organization that includes attorneys.

We recognize that to fully and equitably pursue justice, our profession must reflect the full spectrum of our communities. To this end, we pledge to make our best efforts to increase the diversity in our hiring, retention and promotion of attorneys and the elevation of attorneys to leadership positions within our respective organizations. We believe that all members of the bar should participate equally and fully in our profession. Ultimately, we believe that diversity in the legal profession is good for the profession, good for business, good for our communities and critical for enhancing the public's confidence in the judicial system.

We recognize that achieving diversity within our organizations and creating inclusive environments are evolutionary processes that require a continued effort and commitment on our part. We pledge to promote and participate in appropriate diversity awareness training programs. We further agree to participate in programs to measure our progress in the pursuit of these stated principles.

This ___ day of _____, 2009.

Signature of Party Committing to Statement of Diversity Principles

NAME & TITLE _____

FIRM NAME _____

FIRM ADDRESS _____

PHONE NUMBER _____

Mail, e-mail or fax the executed form to:

Kelly McNeil Legier, LSBA Member Outreach and Diversity Director
601 St. Charles Ave., New Orleans, LA 70130

E-mail: kelly.legier@lsba.org • Fax: (504)566-0930

A list of those executing this commitment statement will be available online at www.lsba.org/diversity.



The Impact of Language Barriers to Access to Justice

By Judge William J. Burris



A recent grand tour of two locations in Covington revealed the problems relating to the impact of language barriers on access to justice. The first location was Wal-Mart. Walking down one aisle of approximately 25 feet in length, practically every item on sale had advertisements, instructions and safety warnings in both English and Spanish. In fact, many had several languages printed on the product containers. Obviously, the commercial world recognizes the diversity of our culture. However, on the same day, a walk through the St. Tammany Parish Justice Center revealed only one phrase in another language: “PISO MOJADO” warning of a wet floor.



Unfortunately, a humbling experience of this writer is a more graphic revelation of the problem. On April 29, 2007, a foreign national of Hispanic heritage was murdered in Slidell. The victim shared a trailer with several other Hispanic people who spoke only Spanish. Six of the trailer residents who were potential witnesses were incarcerated as material witnesses. Since they were foreign nationals, the prosecution and law enforcement authorities were concerned that they would not be present at trial without their being detained on material witness warrants. These people basically fell through the cracks of the justice system for seven months until their plight came to the attention of the court. A proceeding to receive their testimony and release from detention was completed within a matter of a couple of weeks. It is hard to justify detention for seven months based merely upon ethnicity and language barriers.¹

How can the barriers to justice caused by language be mitigated? Simple assessment of facilities for multi-lingual signage and assistance would be of great utility. Services available for non-English speakers at public defender, prosecutor, clerk of court and sheriff offices should be evaluated. Use of signage, pamphlets and hiring of multi-lingual employees are important. This article will deal with matters more closely related to the court system.

The federal court system and 31 state systems have certification requirements for translators. Unfortunately, Louisiana does not. Louisiana provides that an interpreter of court proceedings must be qualified as an expert witness and must take an oath to make a true translation of court proceedings. La. C.E. art. 604. By Act 882 of 2008, in a civil proceeding, a non-English-speaking party or witness may (upon request made prior to the proceeding)² have a court-appointed interpreter and the compensation of the interpreter shall be taxed as court cost. La. C.C.P. art. 192.2. In criminal proceedings, the interpreter should be selected by the court and be designated as a court-appointed expert under La. C.E. art. 706. However, the education, training and experience of

the interpreter should be made a part of the proceedings. La. C.E. art. 702.

There is not a great deal of legislation or jurisprudence dealing with interpreter issues in Louisiana. In criminal matters, the United States Constitution requires that a defendant sufficiently understand the proceedings against him in order that he may assist counsel in his own defense. *State v. Barber*, 617 So.2d 974 (4 Cir. 1993). Louisiana Constitution Article I, Section 22, requires that courts be open and provide every person [not citizen] an adequate remedy by due process of law and justice for injury to him in his person, property, reputation and other rights. The Louisiana Supreme Court has recognized “that a defendant who cannot speak English has a right to have his criminal trial translated to him to effectively participate in his defense.” See *State v. Lopes*, 805 So.2d 124 (La. 2001) at page 126 and FN 2. The criminal defendant has a right to an interpreter and this is not conditioned upon the defendant’s financial status. *Ibid.* at page 128. However, if the criminal defendant is convicted and is not indigent, the cost of an interpreter is assessable to him under La. C.C.P. art. 887. *Ibid.* at page 129. The limited jurisprudence basically holds that an interpreter should be neutral and detached; that the interpreter’s abilities be first screened by the court; and that the interpreter be sworn to make a true, literal and complete bilingual translation of the proceedings. *State v. Tamez*, 506 So.2d 531 (1 Cir. 1987).³

More care needs to be exercised in securing capable and qualified interpreters. Interpreters must not only be conversant in English and the other language, but they must also have adequate knowledge of legal terminology, understanding of the various methods of interpretation⁴ and an understanding of ethical considerations.⁵ The interpreter should have contact with the client sufficiently in advance to determine whether the client understands the dialect and speaking manners of the party or witness. For example, there are great differences among the Spanish spoken in the various Spanish-speaking nations. The Spanish spoken in Mexico can be

very different from that spoken in Puerto Rico. It should be noted that there are some less expensive alternatives which may be possible for interpretation in preliminary matters such as arraignments and 72-hour hearings.⁶ However, these should never be substituted for an interpreter who is qualified and present in major proceedings.

Attorneys and courts should be aware of Article 36 of the Vienna Convention. This treaty provides that law enforcement authorities shall inform citizens of other nations who are detained in the United States of their right to contact their embassy or consular office concerning their detention. Depending upon the detainee’s nationality, the notification may be mandatory or may be waived.⁷ These notification requirements are routinely ignored or are unknown to law enforcement authorities. Of 120 foreign nationals on death rows across the United States, only seven received proper notification. In a civil proceeding in New York, evidence was adduced that of 53,000 foreign nationals arrested in New York City in 1997, there were only four cases of properly documented compliance.⁸

The court system at first appearance should serve as a backdrop to insure there has been compliance. It is clear that non-compliance will not affect the conviction or sentence of defendants nor be the basis for the suppression of confessions or evidence.⁹ However, the assistance given by the consular authorities in communicating with the defendant and his family can be invaluable. In a recent potential capital case in St. Tammany Parish, the nation of Mexico provided bilingual co-counsel and training of local counsel and was willing to assist in penalty investigation services in the home town of the accused. Lack of knowledge of the treaty also may result in seeking of civil remedies.¹⁰

The *Boykin* examination (sentencing colloquy) of non-English-speaking defendants creates even more serious barriers. The purpose of the *Boykin* examination is for the court to be assured that the defendant is making his guilty plea freely and voluntarily with full knowledge of the rights that he is waiving and the consequences of his plea. Among the barriers to this

inquiry are:

- ▶ The court normally determines the education and understanding level of the defendant. Many Hispanic countries have dual educational tracks very early in the education experience of their children. Some people who say they have a number of years of education may be on a totally vocational education track and have very little ability to read and write their own language.
- ▶ The court informs the defendant of his right to a jury trial. The concept of a jury trial in the defendant's mind may be radically different from the reality of the jury trial right in the United States. Some Hispanic countries have jury trials but, in practice, they are rarely, if ever, conducted. When there are jury trials, the makeup of the jury is often considerably different from the United States model. There is very likely a combination of laymen and judges and an acquittal may not be possible without the concurrence of one of the judge members of the panel. The Boykin examination should try to educate the defendant that the United States justice system has a jury made up solely of lay persons without any input on the decision-making process by the judge.
- ▶ The *Boykin* examination advises the defendant of his rights to confront his accusers and to cross-examine witnesses. Although the inquisitorial (or paper) trial has been abolished in Hispanic countries, many defendants are not aware of this change due to its relative recent evolution. The court should explain that the witnesses in the case must actually appear in court and answer the questions of the defendant's attorney.
- ▶ The *Boykin* examination advises the defendant that he has a right against self-incrimination. Many non-English speakers have absolutely no knowledge of this concept.

There are many other examples that

would dictate care in the sentencing colloquy. It is doubtful that an English-speaking judge can ever be entirely satisfied that a non-English-speaking defendant truly understands his rights and is pleading in a knowing and intelligent manner. However, the court and the defendant's attorney should make every effort to educate the defendant adequately. The finding by the court may be imperfect, but it should always be after a good faith colloquy.

There are 6,912 languages spoken in the world today. Can we destroy every barrier created by this fact? Realistically, no. However, if we believe in the concept of justice for all mankind, we must do a better job than we are doing now.

The author acknowledges 22nd Judicial District Court Judge William J. Knight for research and editing assistance.

FOOTNOTES

1. See http://blog.nola.com/times-picayune/2007/12/hispanic_workers_not_charged_b.html. The material witness warrants were not signed by the author as set forth in the article, but by another judge in the district. The prosecution of two of the four defendants arrested in connection with the case has been completed. Two of the six foreign nationals were actually called as witnesses and were still present in the United States for the trial. The procedure for release of material witnesses under La. R.S. 15:258 and 259 and a preliminary examination moved for by the state were conducted to preserve testimony. La. R.S. 15:259 provides for admissibility despite the confrontation right of the defendant. Caveat: How much effort is required of the state to secure appearance of foreign nationals released post-*Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354 (2004).

2. See Rule 5.1, Appendix 5B of the Rules for Louisiana District Courts for the form for Request for Interpreter and Order. This request is applicable to both civil and criminal proceedings. This rule and form were added to the rules by amendment dated July 18, 2007.

3. To the author's knowledge, these are the only cases to date dealing with these issues: *Tamex, Ibid.*; *State v. Mondragon*, 804 So.2d 657 (2 Cir. 2001); *State v. Nguyen*, 827 So.2d 1284 (3 Cir. 2002), note this case is decided on the basis of harmless error; error is error, a police officer should never be used; *State v. Lai*, 902 So.2d 500 (5 Cir. 2005); *State v. Lazaronne*, 57 So.2d 532 (1912); *State v. Davis*, 975 So.2d 60 (5 Cir. 2007); and *State v. Lopes*, 805 So.2d 124 (La. 2001).

4. There are three types of interpretation: simul-

taneous, consecutive and summary. Summary should never be used. For an explanation of when and how simultaneous and consecutive interpretation are used, see Chapter 6, *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, National Center for State Courts. An explanation of the Code of Professional Responsibility for court interpreters is contained in the same publication of the National Center for State Courts.

5. *Overcoming the Language Barrier: Achieving Professionalism in Court Interpreting*, National Center for State Courts, copyright 2002. *State Court Journal*, Volume 20, No.1, 1996. See also, *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. Both publications are available online at the National Center for State Courts Web site: www.ncsconline.org/D_RESEARCH/CourtInterp.html. Click on "National Center for State Courts' and Other Important Publications."

6. There are various services such as Language Line which has interpreters of 170 languages for rates much less costly than live interpreters. Many law enforcement and public agencies use these types of services because of the number of languages available and cost effectiveness. Language Line is not being advertised or endorsed, but more information is available at www.LanguageLine.com.

7. For information and forms on the right of consular consultation, see the following Web site: http://travel.state.gov/law/consular/consular_753.html.

8. Mark Warren, "Foreign Nationals and the Death Penalty in the United States," www.deathpenaltyinfo.org/article.php?did=198.

9. *Sanchez-Llamas v. Oregon* c/w *Bustillo v. Johnson*, 126 S.Ct. 2669 (2006); *Medellin v. Dretke*, 544 U.S. 196 (2005); and *Medellin v. Texas*, United States Supreme Court 06-984 (March 25, 2008).

10. David Ziemer, "Vienna Convention Violation Spawns Suit," *Wisconsin Law Journal*, Oct. 5, 2005.

Judge William J. Burris has served as a 22nd Judicial District Court judge since 1997. He graduated from Louisiana State University Paul M. Hebert Law Center in 1973 (Law Review, Louisiana Chapter of the Order of the Coif). He was named to the LSU Law Center Hall of Fame. He practiced law in Louisiana from 1974-96 and served as an assistant district attorney from 1976-95 in the 15th and later in the 22nd Judicial District. He received a certificate of judicial development in general jurisdiction from the National Judicial College in 2007 and completed course work in the master of judicial studies degree program at the University of Nevada-Reno. (P.O. Box 608, Franklinton, LA 70438)



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The Many Faces of Environmental Justice: Which One Speaks the Truth?

By Nannette Jolivette Brown



The environmental movement and the environmental justice movement are distinct but sometimes overlapping struggles.¹ The environmental justice movement is founded in the intersection of the civil rights movement and the environmental movement.² While civil rights activists were struggling for basic human rights, environmentalists were working to preserve wilderness areas and conserve forests.³



Although occasionally they have been able to unite in common cause, for the most part, the two groups have had a relationship fraught with conflict and distrust.

The environmental justice movement solidified in 1987 when the United Church of Christ Commission for Racial Justice issued *Toxic Waste and Race in the United States*, a report that concluded race, more than class or wealth, was the strongest determining factor when examining areas where toxic wastes were located. It was the first national study to correlate waste facility siting and race.

As tensions were rising between civil rights organizations and industrial interests, so were the tensions beginning to boil over between traditional environmental organizations and those in the environmental justice movement. Frustrated by a lack of support from traditional environmental organizations, African-American activists began to accuse traditional environmental organizations of discriminatory environmentalism. Adding to the divide was the fundamental difference in how the two factions defined the environment.

Traditional environmentalists have a vision of environment as a place preserved separate from human habitation. An environmental justice definition of environment is broader and includes the “place where we live, work, learn and play.”⁴ As one commentator noted:

When people of color and the poor find their environmental identity and social location in the industrial and hazardous settings, they become marginalized from the mainstream, naturalistic definition of environmentalism. As a result, these industrial environments become “unenvironmental” and “non-natural” to our mainstream environmental sensibilities and the people associated with these unenvironmental settings become marginalized from the political attention of environmental groups.⁵

On Feb. 11, 1994, President Bill Clinton issued Executive Order #12898 to address concerns that minority and low-income populations were bearing the brunt of hosting facilities and activities producing unacceptable levels of pollution and contamination compared to white and/or more affluent communities in the United States. Although an executive order lacks the force of law, it nevertheless sent a message about the President’s policy stance on the issue and helped galvanize grassroots efforts to combat the problem. It also sent a message to the environmentalists that embracing the movement could advance their separate agenda and, if nothing more, improve their image tarnished by accusations in 1990 from African-American activists that the groups used classism, racism and exclusionary practices in hiring and selecting board members.

Environmental organizations’ and governmental agencies’ response to the attacks from activists and the emerging national agenda to combat the disproportional impact of pollution on low-income and minority communities was inconsistent. To compensate for exclusionary practices, many environmental groups and environmental agencies introduced environmental justice committees. The Environmental Protection Agency (EPA) now maintains an active environmental justice commission and many state environmental agencies have some sort of an environmental justice section. These responses helped to forge alliances between environmental justice advocates and mainstream groups, but such alliances haven’t remained galvanized.⁶

In an effort to allow the autonomy they felt low-income and minority communities needed in setting their own agendas and strategies, environmentalists remained on the sidelines when battles arose over pollution affecting these communities, particularly in urban areas. This move seems inconsistent with establishing environmental justice committees internally and hiring staff and appointing minorities to boards. That is not to say the mainstream groups never

establish coalitions with the local grass roots; it appears, however, when they did get involved in environmental justice issues, it was to protect their romanticized vision of the environment which doesn’t include urban and densely populated “non-natural” environments.

Several national environmental groups joined with civil rights, faith-based, legal and academic centers to defeat the Shintech Title V permit planned for Convent, La., in 1997, causing Shintech to suspend its efforts to build a PVC plant in Convent. However, Shintech moved forward and, in short order, built a slightly smaller plant in a more densely populated community in another parish in Louisiana with no fight from environmentalists at all.

Further, while the fight was raging to stop the Shintech permits in Convent, an upscale, suburban community in California was successful in removing napalm buried in its community and transporting it to a spices plant near Scotlandville, La. (a minority community near Baton Rouge), where it was burned as an alternative fuel source — again — with little or no opposition from mainstream environmentalists who decided to leave this battle to local politicians and community leaders.

Many environmental justice advocates believe President Barack Obama has assembled an environmental justice army of sorts and that environmental justice might finally get its due.⁷ EPA Administrator Lisa P. Jackson served 16 years in the federal EPA before heading the New Jersey Department of Environmental Quality in 2006. She is credited with ordering the cleanup of many contaminated sites within the state during her tenure. She also has New Orleans connections and had family directly affected by Hurricane Katrina.⁸ Carol M. Browner, former EPA administrator in the Clinton Administration, is President Obama’s assistant for Energy and Climate Change. White House Council on Environmental Quality Chair Nancy Sutley worked for California’s EPA and, under Gov. Gray Davis, drafted an environmental justice

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Environmental

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policy to protect low-income and minority communities from pollution caused by development.

President Obama's choices in other areas could link the many social justice concerns of environmental justice activists to the concerns of traditional environmentalists. Department of Housing and Urban Development Director Shaun Donovan is a long-time supporter of affordable housing. Office of Urban Policy Director Adolfo Carrion has been a champion of both affordable and energy-efficient, green-quality sustainable housing for low-income people. His domestic policy czar, Melody Barnes, once was a director for the Equal Employment Opportunity Commission and is a strong proponent of income equity. Secretary of Labor Hilda L. Solis is focused on green jobs.⁹

An environmental justice army may be what is needed to handle the brewing debate over the permits for a steel plant with sights set on an old environmental justice battlefield. Nucor Inc., a North Carolina steelmaker, announced it is proposing a \$2.1 billion pig iron plant in St. James Parish at the same site that Shintech Corp. abandoned amid environmental controversy in 1997.¹⁰ Will the environ-

mental justice movement be revived and reunited with environmentalists to defeat this permit as it did in 1997, or will social justice concerns and the state of the economy play a role in offering avenues for the company and community to work collaboratively on principled options for co-existence?

FOOTNOTES

1. See, www.sierrainstitute.us/PWCFC/projects/ej_intro.html.

2. *Id.*

3. *Id.*

4. See, www.sierrainstitute.us/PWCFC/projects/ej_intro.html.

5. See, Bill Lawson, *Faces of Environmental Racism: Confronting Issues of Global Justice*, 2nd Edition (2001).

6. After several years of endorsing an environmental justice agenda, when faced with budgetary pressures in 1997, Greenpeace slid back into its former disposition. Further, a shift in leadership forced environmental justice advocates off of boards of directors. Environmental justice projects were shut down and many members involved in these projects were either dismissed or transferred to more mainstream projects. See, Bill Lawson, *Faces of Environmental Racism: Confronting Issues of Global Justice*, 2nd Edition (2001).

7. Online article, "Will Environmental Justice Finally Get its Due? Obama's environment, energy and urban affairs appointees are poised to enact poli-

cies that environmental justice activists have long been pushing for," Brentin Mock, Dec. 22, 2008. See, www.prospect.org/cs/articles?article=will_environmental_justice_finally_get_its_due.

8. Lisa Jackson, born in Philadelphia, Pa., was adopted weeks after her birth. After her adoption, she moved to the Lower Ninth Ward of New Orleans and spent her childhood there. In 1979, she graduated as valedictorian at St. Mary's Dominican High School in New Orleans. She graduated *summa cum laude* from the School of Chemical Engineering at Tulane University. She earned a master's degree in chemical engineering from Princeton University. Her adoptive mother continued to live in New Orleans until Hurricane Katrina flooded the city in 2005.

9. *Id.*

10. "Nucor: Company no Shintech," Allen M. Johnson, Jr., www.2theadvocate.com/news/business/39351477.html.

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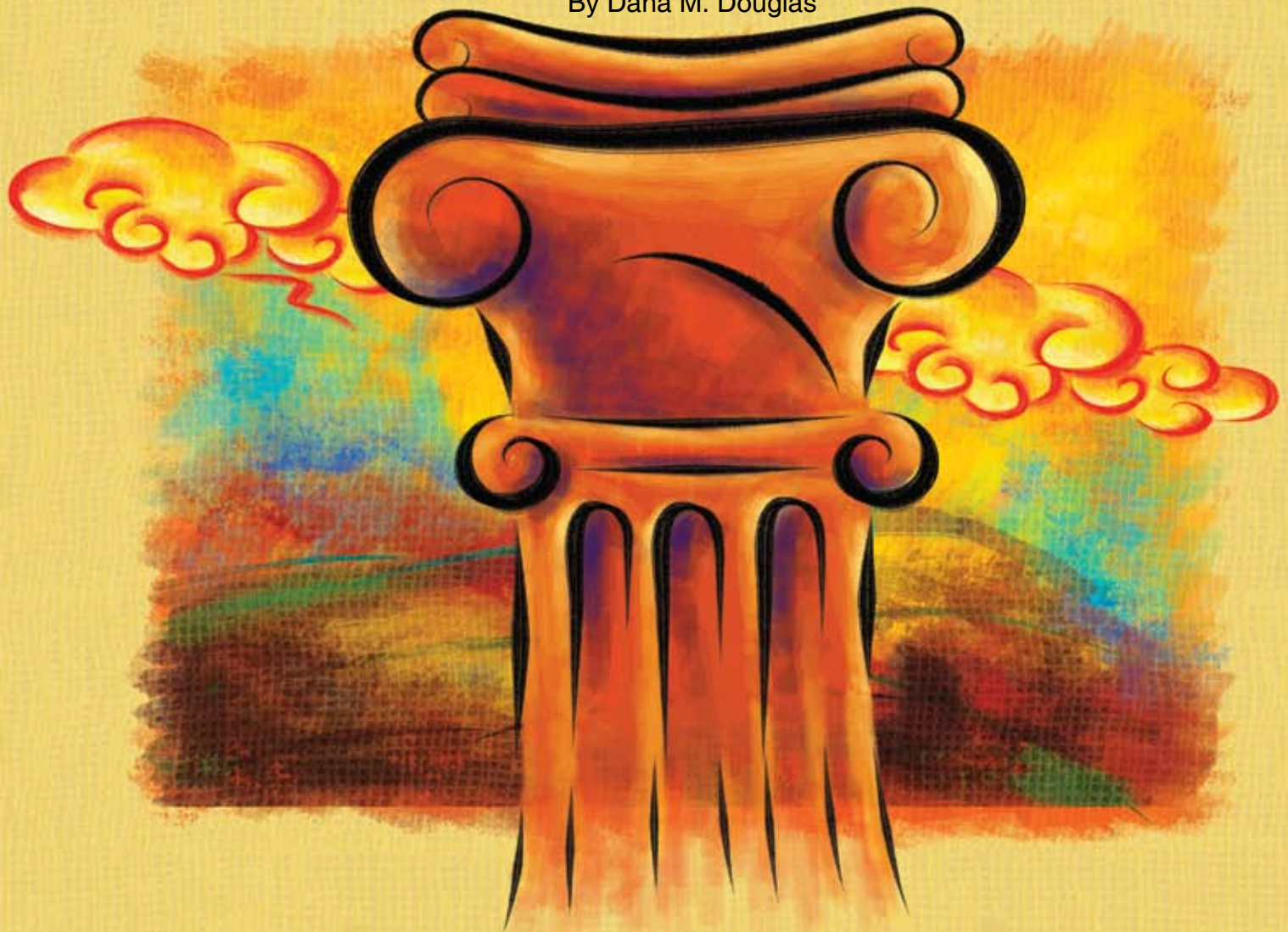
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Making the Business Case for the Recruitment and Retention of Minorities and Women

By Dana M. Douglas



(Reprinted with permission, American Bar Association Young Lawyers Division, Volume 12, Number 3, December 2007.)

Many major law firms have embarked on strategic planning for diversity and allocated company dollars to implement plans for the recruitment and retention of minorities and women. These efforts have taken place, in large part, as a response to client calls to strengthen law firm diversity as well as a general feeling that diversifying the law firm environment is the right thing to do.



In 1999, 500 chief legal officers signed what became known as “Diversity in the Workplace: A Statement of Principle,” pledging to consider diversity as a factor when selecting and hiring outside counsel.¹ In spring 2004, Sara Lee General Counsel Roderick Palmore created “A Call to Action: Diversity in the Legal Profession,” a document reaffirming the commitment to diversity in the law profession and taking action to ensure that corporate legal departments and law firms increase the numbers of women and minority attorneys hired and retained.² These corporations pledged an ongoing commitment to “make decisions regarding which law firms represent [them] based in significant part on the diversity performance of the firms.” The statement further provided that the corporations “further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse.” These companies understood that if they are more diverse, they are better able to survive as corporations become more global. Law firms that are able to assist in-house counsel with this challenge are in the best position to maintain working relationships with these corporations.

So what is the secret? Why are some law firms more successful in recruiting and retaining minorities and women than others? The secret is essentially the same as successfully retaining and recruiting non-minorities. Below are a few key strategies that can be utilized to achieve initial success and to sustain that success over time.

1. Commitment from firm leadership. There must be a commitment to invest the time and resources necessary to hire, mentor and retain lawyers of diverse backgrounds, recognizing that diversity efforts only begin and not end with recruitment.

2. Creating an environment that supports diversity and respects all

members of the firm. It is imperative to create an environment where all attorneys, including women and attorneys of color, feel like part of the firm as opposed to feeling isolated and excluded. Once these attorneys are comfortable with the work environment, they can become your best marketing plan for achieving a successful diversity plan.

3. Building relationships between your recruiting team and various law school and diverse bar associations. Some of the best and brightest minority and women associates have come to us from outside the traditional on-campus interview process. In an age where diverse students are seen as a top commodity, it is important for law firms to start early and to be proactive in their approach to identify and build relationships with diverse students early on.

4. A strong mentoring program. Mentors help associates understand both the formal and informal paths to success at law firms and can provide meaningful feedback on substantive work product and practice development to foster the growth of the associates in the firm.

5. Providing challenging work to minority and women associates is critical. Key decisions are made in law firms every day that have a lasting impact on the careers of firm associates. There must be a top down commitment from partners within the firm to be inclusive when thinking about staffing cases, deciding who they are going to work with, and who will attend the client meeting. A concentrated effort to provide an environment where all attorneys learn and grow through challenging assignments, client contact, coaching, and honest feedback is very important.

The progress of a firm’s diversity plan can be measured by its impact on the bottom line. Measurements of success can be identified through lower turnover

which decreases the costs of training. Studies show an associate’s departure can cost a law firm up to \$415,000 in recruiting, training, salaries, overhead, severance, and other costs.³ Success can also be measured by the amount of work attained from those corporations who seek out firms with strategic diversity plans. Diversity is a win-win situation for all parties involved. Not only do the law firms, attorneys and clients stand to gain from the inherent good will and wealth of perspectives offered by the benefits of strategic diversity plans but today more and more firms are recognizing the business case made by consciously choosing to have a diverse workforce.

FOOTNOTES

1. Charles Morgan, *Diversity in the Workplace: A Statement of Principle* (1998; updated June 15, 2001), www.acc.com/gcadvocate/calltoaction/index.html.

2. Rick Palmore, *A Call to Action: Diversity in the Legal Profession* (Oct. 24, 2004), www.acca.com/public/accapolicy/diversitystmt.html; www.acc.com/resource/v5748.

3. Lambreth, Susan Raridon, *Redressing Attrition*, *Legal Times*, Washington, D.C., April 2, 2001.

Dana M. Douglas, an at-large member on the Louisiana State Bar Association’s (LSBA) Board of Governors, is a shareholder in the firm of Liskow & Lewis, P.L.C., in New Orleans. She received a BSW degree in 1997 from Miami University in Oxford, Ohio, and her JD degree in 2000 from Loyola University Law School. She was the 2002-04 chair of the LSBA’s Minority Involvement Section and the 2006-07 chair of the New Orleans Bar Association’s Young Lawyers Section. She is a member of the American Bar Association’s (ABA) Young Lawyers Division. She received the Louis A. Martinet Award in 2003 and is an ABA Minorities in the Profession Scholar. (Ste. 5000, 701 Poydras St., New Orleans, LA 70139)





The Silent Saboteur:

Micro-inequities that Can Break an Organization

By Dottie Reese and Margaret Montgomery-Richard, Ph.D.



Has your good idea ever been overlooked and then suddenly embraced by everyone in the meeting when restated by someone else? Have you ever checked e-mail messages while conversing with one of your staff members? Have you ever experienced one of the partners in the firm commending your colleague's law school, but never your school? Have you experienced a work environment where your boss failed to say hello, thank you, you're welcome, good job . . . as if it didn't matter? How does the absence of these simple words, phrases and behaviors impact interactions consciously or unconsciously? The impact is greater than many realize. These gestures, or non-gestures, are called micro-inequities.



Mary P. Rowe, Ph.D., a professor at MIT, began studying the concept of micro-inequities in the 1970s. A micro-inequity is defined as a subtle message, sometimes subconscious, that devalues, discourages and ultimately impairs performance in the workplace. It was first used to describe the experiences of women and people of color experiencing invisible barriers in the workplace. She referred to the barriers as a “scaffolding of segregation,” separating people from one another, creating “glass ceilings” and invisible obstacles preventing people from moving up in organizations.¹

In recent years, the term has been broadened to include micro-inequities occurring whenever people are perceived to be different. These differences are generally related to race, gender, sexual orientation, age or position level. Everyone experiences micro-inequities, but the intensity of damage to those perceived as different is magnified. Micro-messages are small in nature, yet have a powerful and negative impact on interaction with others on a daily basis. Rowe believes these mechanisms of prejudice against persons of difference are usually small in nature, but not trivial in effect. These subtle messages take shape in the form of words, actions, tones, gestures or looks. It is the cumulative effect of micro-inequities that silently begins to sabotage and erode an organization’s attempt to create and sustain a viable, diverse workforce.

According to research, diversity initiatives have primarily concentrated on the most prevalent behaviors that cause workplace exclusions. These behaviors tend to be things easily seen or defined. However, more pervasive are the invisible behaviors that are more damaging. It is this invisible force that drives the high turnover of women and minorities from organizations.

These perceived differences can establish an environment of insider versus outsider roles and behaviors. Negative perceptions, bias and stereotyping, conscious or unconscious, drive the decision as to whom is selected to join a firm, how they are evaluated, compensated and promoted. Quinetta M. Roberson, associate professor of human resource studies at Cornell University

School of Industrial and Labor Relations, said this “implicit bias might represent a subtle strategy for establishing intergroup differences and/or facilitating micro-inequities between members of different groups.” The effect of the invisible force? “The level of access to opportunity and to organizational networks may differ for members of different groups.”²

Stephen Young of Insight Education Systems feels micro-inequities are often ignored in organizations because the slights are culturally ingrained and no one notices.³ The micro-messaging generated through those subtle messages often causes those on the receiving end to question their value and contribution to the organization. These invisible forces and barriers prevent the creation of an inclusive work environment. When employees do not feel valued, those feelings are inevitably transferred to someone else. This hurts business, impacts clients, affects employee recruitment and retention, reduces organizational productivity, and ultimately results in lost revenue.

Researchers have found rejecting differences is a human reaction. It is thought to be hard-wired into our brains. The word “like” means to have affection for something and to be “similar.” As individuals, we prefer what is similar and often reject the different. When this occurs in the work environment, it is through a multitude of small slights, exclusions and devaluations that impair performance.⁴ Rowe further points out “micro-inequities can predispose a manager to even worse behavior. We begin to not see people; they become invisible. Their contributions are not recognized because they are different. It also may lead to overlooking someone who might be the best qualified person for promotion.”⁵ The lack of awareness of this dimension in human interaction is the missing piece of the puzzle in the creation of an inclusive organizational culture.

Recognition of this silent saboteur is the first step to dealing with and overcoming micro-inequities. The awareness of this phenomenon presents an opportunity for organizations to address and eliminate the exclusionary behavior that ultimately erodes institutional performance and employee morale.

The elimination of micro-inequities occurs through the active integration of micro-affirmations, the small subtle messages demonstrated through words and behaviors that signal you are appreciated, valued and understood. “Thank you,” “that was a good suggestion,” “I appreciate . . .” all affirm respect and inclusion. In micro-affirming organizations, everyone on the team is recognized for the skills, abilities and perspectives they bring to the work environment. The awareness of micro-inequities by everyone in the organization is essential in eliminating the silent saboteur that erodes interpersonal relationships and organizational performance.

FOOTNOTES

1. Mary P. Rowe, *Barriers to Equality: The Power of Subtle Discrimination to Maintain Unequal Opportunity*.

2. Quinetta M. Roberson, HR Magazine, February 2006.

3. Stephen Young, *Micro Messaging: Why Great Leadership Is Beyond Words*.

4. Brigid Moynahan, *Little Things Mean A Lot: From Micro-inequities to Micro-Affirmations, The Next Level*, Inc.

5. See footnote 1, page 6, *supra*.



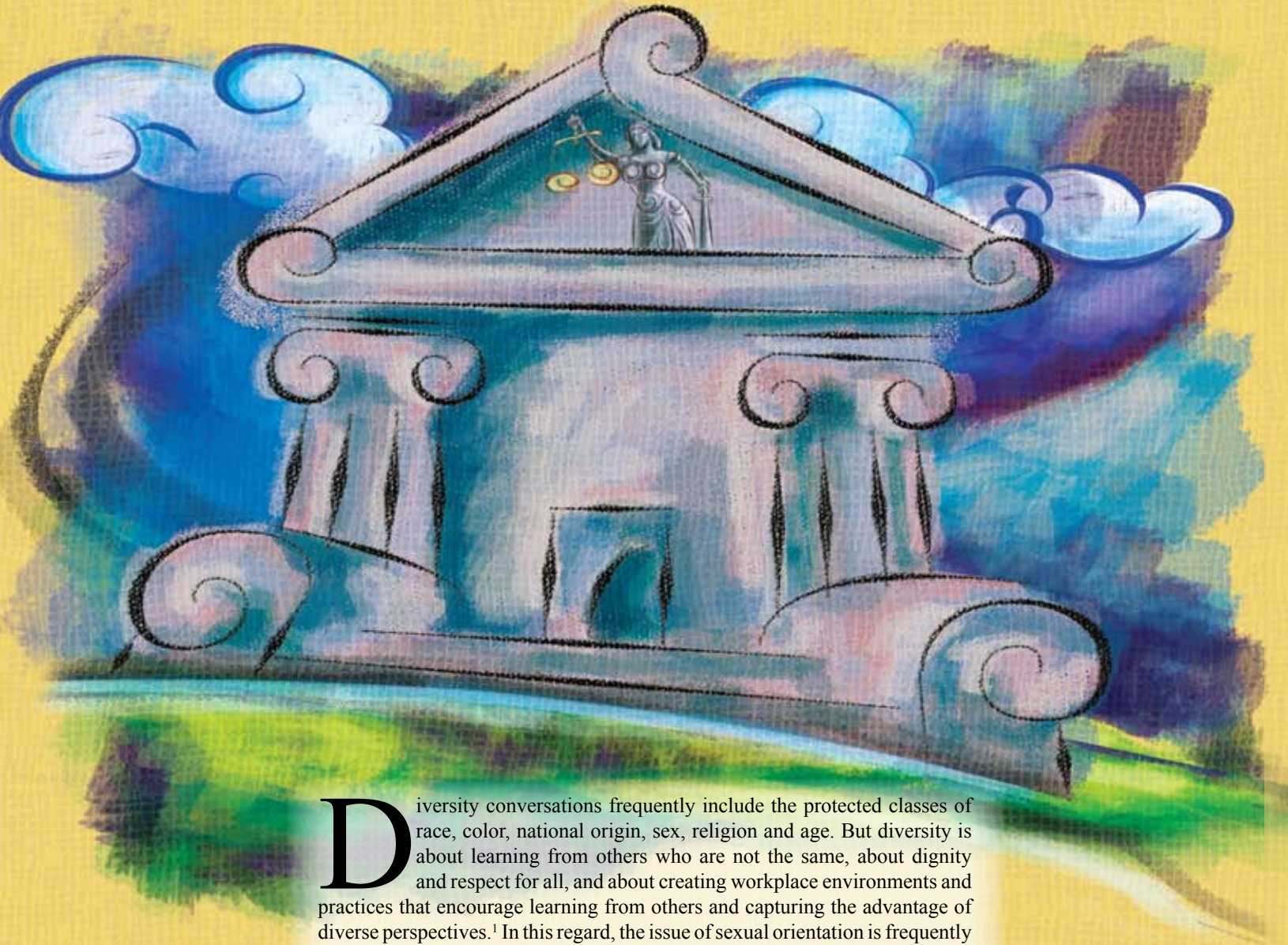
Dottie Reese, MPH, MSW, CCDP (at left), and Margaret Montgomery-Richard, Ph.D., are partners in DMM & Associates, L.L.C., a performance management consulting firm. Reese has more than 30 years of experience in administrative, consulting and teaching in the public, private and non-profit sectors. She is certified as an advanced practitioner in diversity management from Cornell University in New York, where she also serves on the faculty in the Diversity Management Program. Montgomery-Richard has more than 28 years of experience in management and leadership development. She has held several senior-level administrative positions in higher education and systems management. (Ste. B, 4298 Elysian Fields Ave., New Orleans, LA 70122)



Sexual Orientation a Part of the Diversity Discussion:

New Orleans Court Case Deals with Employee Benefits

By Scott J. Spivey



Diversity conversations frequently include the protected classes of race, color, national origin, sex, religion and age. But diversity is about learning from others who are not the same, about dignity and respect for all, and about creating workplace environments and practices that encourage learning from others and capturing the advantage of diverse perspectives.¹ In this regard, the issue of sexual orientation is frequently ignored in an almost “don’t ask, let’s not talk about it” fashion. Yet, there are aspects that cannot be ignored.

Over the past decade, businesses have begun recognizing and acknowledging “the elephant in the room” — that they have gay employees who have the same



needs as anyone else, including the need to take care of their loved ones. Recently, there has been a heated debate over whether same-sex couples should have the right to marry. Obviously, this would be the easiest way for committed same-sex couples and their children to enjoy the rights of other families. However, many states, including Louisiana, have passed legislation to prevent same-sex marriage. The debate has centered on the sanctity and tradition attached to the term "marriage." Nevertheless, many leaders have acknowledged the need, if not the right, for same-sex couples to have the benefits of marriage, which, it is argued, can come with legal devices such as powers of attorney, contracts and wills. But notwithstanding these legal devices, it is frequently the employer who needs to acknowledge the right of an employee to protect his or her partner and their children through life, disability and health insurance or retirement benefits.

Such an acknowledgement was made by the City of New Orleans on May 23, 1997, when it began offering its employees health insurance coverage for domestic partners under the city's health care program. Pursuant to the program, a New Orleans city employee could add his or her same-sex domestic partner and any dependent children of the domestic partner onto the city's health care coverage by registering as domestic partners and completing a "Domestic Partner Enrollment Form." On June 17, 1997, the New Orleans City Council adopted a "Domestic Partner Registry" by which people living together in committed relationships may make a public declaration to care for each other and promise to provide for each other's basic living expenses.

In response, a lawsuit was filed in 2003 by the Alliance Defense Fund on behalf of a group of New Orleans residents. After the lawsuit was filed, state voters approved an amendment to Louisiana's Constitution that forbids same-sex marriages in the state and adds, "A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized."

As originally filed, the lawsuit contended that the partner registry ordinance

violated a state constitutional prohibition against local governments passing laws "governing private or civil relationships," and that the legislative authority of the City of New Orleans did not extend to providing domestic partnership benefits for its employees. After the non-same-sex marriage amendment was passed, the plaintiffs added the argument that providing any legal recognition or benefits for domestic partners violated the amendment.

On Jan. 15, 2007, Orleans Parish Civil District Court Judge Nadine M. Ramsey ruled in favor of the City of New Orleans. The court held that the New Orleans policies did not constitute an attempt to "govern" private or civil relationships, pointing out that it "simply 'establishes a mechanism for the public expression and documentation of the commitment reflected by the domestic partnership.'"

Judge Ramsey also saw no merit to the argument that the non-same-sex marriage amendment had any application. "The extension of health care benefits does not afford a legal status 'identical or substantially similar to that of marriage,'" the court wrote, "nor does it in any way trample on any purported public policy favoring marriage over unmarried cohabitation. The City's decision to extend health care benefits to the domestic partners of City employees simply provides health insurance to a greater number of persons, without regard to marital status."

On appeal, the 4th Circuit Court of Appeal upheld Judge Ramsey's ruling. The 3-0 decision was authored by Chief Judge Joan M. Armstrong, joined by Judge Charles R. Jones and Judge Max N. Tobias, Jr. The court noted that the ordinance does not create relationships and, therefore, does not conflict with state law. Rather, the court of appeal noted that the ordinance simply recognizes reality that such relationships exist and allows couples to register those relationships. The court further noted that the City Council has the authority to extend health insurance benefits as it deems appropriate.

As the appellate opinion was recently published, a request for supervisory writ is possible. Should the Louisiana Supreme Court wish to accept writs, this would allow

the court to address the right of the state and municipal governments to address the needs of all employees and their families, regardless of sexual orientation.

Irrespective of the state, it is clear that private employers have the ability and the right to add same-sex partners and their children to benefit packages without government oversight. In fact, more than half of the nation's largest corporations now extend health insurance to employee's same-sex domestic partners and their children.²

Many of these corporations, doing business in and around Louisiana, provide all benefits to same-sex partners and their families and have policies against discrimination based on sexual orientation, gender identity or expression. This list includes Allstate Corp., Anheuser-Busch Companies, Inc., Dell, Inc., General Motors Corp., Harrah's Entertainment, Inc., J.P. Morgan Chase & Co., MetLife, Inc., PepsiCo., Inc., Shell Oil Co., UPS and Visa.³

FOOTNOTES

1. www.ilr.cornell.edu/library/research/subject-guides/workplacdiversity.html.
2. Molly Selvin, "More Firms Offer Benefits to Gay Couples," *Los Angeles Times*, June 30, 2006.
3. 2009 Corporate Equality Index, A Report Card on Lesbian, Gay, Bisexual and Transgender Equality in Corporate America. Human Rights Campaign Foundation. Washington, D.C. www.hrc.org/cei.

Scott J. Spivey is a 1990 graduate of the United States Coast Guard Academy and a graduate of Loyola University Law School. He resigned his commission in 1996 during his last year of law school. After maintaining a solo practice for a few years, he began teaching at Fort Polk and became the workers' compensation mediator for District 2 in Alexandria. In 2003, he joined the firm of Johnson, Johnson, Barrios & Yacoubian as an associate. In 2008, he became a partner with Wolff & Wolff as a trial lawyer. He is a member of the Louisiana State Bar Association's Committee on the Profession. (4413 Iberville St., New Orleans, LA 70119)





Mind the Diversity Gap:

Employers with Diversified Recruitment Practices
Potentially Recruit More Color

By Carlos Dávila-Caballero



The recruitment, retention and development of lawyers of color continue to be complex and evolving challenges for our profession. Legal employers, including many from Louisiana, continue to implement initiatives to increase the number of law students and attorneys of color at their respective organizations. After years of minority job fairs and recruitment efforts, it may be time to ask whether more law students of color are securing legal jobs in Louisiana. If they are, what employers are hiring them more frequently?

The short answer to the first question is “maybe,” though we lack the necessary metrics to provide a measured response. Currently, we do not know what percentage of Louisiana lawyers are members of a protected class since the information is not collected. We do know that almost 30 percent of all



law students in Louisiana are African-American, Hispanic, Asian/Pacific Islander or American Indian (based on current enrollment information reported by Louisiana law schools to the NALP Directory of Law Schools). Therefore, it appears Louisiana legal employers have the potential of hiring a meaningful number of students of color for summer and permanent positions throughout the year, *e.g.*, 30 percent of the applicant pool should be prospective hires of color. A cursory review of firms' legal Web sites or attendance at bar association functions, however, presents a less diversified profession. The lacuna between the potential of recruiting law students of color and actual recruitment appears to persist.

Several factors may contribute to the gap, including hiring criteria, self-exclusion, unpredictable hiring needs and racial/ethnic bias. Most of us in the profession are aware that larger legal organizations tend to be highly selective in their recruitment practices, including requirements for high academics. Yet, few of us may be in a position to observe the detrimental and disproportionate effect hiring practices may have on law students of color.

The first recruiting legal cycle for a Louisiana law student is usually during the spring (often the second semester of law school). First-year law students of color — and many others for that matter — quickly discover the stringent academic hiring standards many large legal employers use to guide their selection process. As the rejections build up, students of color become demoralized. Soon, many of these students begin to self-exclude from applying to these employers for future positions based on fear of perpetual rejection or being perceived as inferior applicants. A single occurrence of self-exclusion, therefore, can quickly become a pattern of self-exclusion, including from employers with broader hiring practices. The aggregate effect of stringent hiring practices and persistent self-exclusion creates a

potential scenario where the profession ends up with an entire pool of talent embarrassed to seek opportunities, demoralized about their prospects and self-worth, and measuring the inclusiveness of the profession through a blurred prism. Career counselors at all Louisiana law schools agree that the scenario previously described is common and repetitive.

Despite competitive odds and negative feedback from prospective employers, clearly not all students of color self-exclude. Some approach the job search in the opposite fashion; they actively engage in repeated and aggressive solicitations. These students participate in minority job fairs, seek out mentors of color, become active in local bar associations, and set aside initial obstacles to gainful employment. They are relentless in their pursuit. Employers with diversified hiring practices often take notice of these students and are eager to recruit and develop this untapped talent. It is this group of employers that provides the anecdotal response to the second question posed earlier: who hires lawyers of color more frequently? When law schools report the employers who recruited their students, you normally find a significant number of graduates of color recruited by public interest, government and small/medium-sized employers. The majority of these employers tend to evaluate candidates through a combination of criteria that doesn't focus exclusively on academic performance. Internships, clinical work, journal or moot court experience, previous background, languages and other criteria are afforded weight during the selection process. The interview process may also differ. Behavioral interviewing techniques are sometimes used by these employers, and second-round interviews may focus on topics covered in submitted writing samples.

Clearly some students of color enter large firm practice and that is an exciting and continuous evolution of the practice. Yet, many more become public defenders, prosecutors, law clerks, solo

practitioners and public officials. It is important to note that the latter group succeeded in part because of broader hiring practices, but also in part to the determination of these individuals. Many public interest employers and small-sized practitioners recruit based on need and/or when budgets permit, *i.e.*, the recruiting timeline varies and students must be vigilant to respond quickly to seize these opportunities.

Another development in the recruitment of law students of color appears to be emerging. Legal employers are resorting to diversity job fairs to recruit talent, but, sometimes, it is the same talent that was overlooked during traditional recruiting programs. Let's refer to this development as specialized recruitment. Similar to areas of specialty within the practice, recruiting may be evolving to specialized recruitment. It is now standard practice to host career fairs specifically geared to the recruitment of international/foreign-trained LLM students (NYU and Columbia for example), patent fairs in Chicago and Atlanta for law students with science backgrounds, and a multitude of minority/diversity job fairs for law students of color. Tulane Law School students, for example, can participate in more than 20 diversity job fairs. It is not uncommon for Louisiana employers to select Tulane students for interviews taking place in Dallas at the Sunbelt Minority Job Fair despite the fact that some of those students were not selected for on-campus interviews at Tulane Law School a month earlier.

Louisiana law school career counselors sometimes encourage students to apply multiple times to the same employer and disregard previous rejections because of the increased frequency that specialized recruitment occurs. Despite the benefits of diversity job fairs and the success some students experience as a result of participating, the profession should reflect on the subtle and indirect message it may be communicating to future attorneys of color by creating a strong dependency on minority job fairs for the recruitment



of talent.

As we continue to eradicate racial bias within our society and our profession, we must also ponder our efforts to eliminate ethnic, age, sexual orientation and disability biases. National efforts to diversify the profession now include specialized job fairs such as IMPACT Career Fair (www.law.arizona.edu/impact), a job fair for law students with disabilities, and the National Lesbian, Gay, Bisexual and Transgender (LGBT) Bar Association Career Fair, a job fair for LGBT law students/practitioners. In fact, the National LGBT Bar Career Fair was perhaps the largest diversity job fair last year with more than 150 recruiting employers. Participants at this job fair could even compare relevant LGBT employment benefits offered by registered employers by reviewing a useful chart, www.lgbtbar.org/annual/Recruiters/2008EmploymentBenefitsMatrix.php. Legal employers in Louisiana should strengthen their efforts to

broaden their scope of diversity and perhaps be more aggressive in the recruitment of diverse talent.

In conclusion, law students of color appear to have access to a greater number of employment opportunities, especially through diversity job fairs. The latter appears to be the leading mechanism used by large legal employers to recruit law students of color. However, because large legal employers may not be the most likely recruiter for the majority of law students of color, the Louisiana legal profession should embrace additional efforts to recruit a broader talent. We should redouble efforts to increase interactions between law students of color and employers using diversified recruiting practices. We must expand the notion of diversity and our recruiting efforts, such as stronger employer-law school partnerships, viable scholarships for law students of color, and collection of necessary data. If we don't mind the gap,

we may lose talent of color to markets outside of Louisiana and experience minimal gains in the diversification of our profession.

Carlos Dávila-Caballero is assistant dean for career development and diversity initiatives at Tulane Law School. He received a BA degree in 1993 from the University of Central Florida and his JD degree in 1997 from Tulane Law School. In his current position, he counsels law students from diverse backgrounds, coordinates diversity interview programs throughout the United States, and works to recruit and retain talented students of color for the law school. He is a member of NALP (the Association for Legal Career Professionals), the American Bar Association, the National Lesbian and Gay Law Association and the Hispanic National Bar Association. (6325 Freret St., New Orleans, LA 70118)



21ST ANNUAL MINORITY JOB FAIR

Sponsors Sought for 21st Annual Minority Job Fair

The Louisiana State Bar Association's Minority Involvement Section is seeking sponsors for the 21st annual Minority Job Fair, set for Friday, Aug. 14, at Loyola University New Orleans (main campus). Platinum (\$1,000), gold (\$500) and silver (\$250) sponsorships are available.

The fair provides recruiters the opportunity to consolidate into a single day statewide recruiting of highly talented students and recent graduates with diverse backgrounds. The fair is open to all legal employers.

If you are interested in being a sponsor, or if you have any questions, contact LSBA Program Coordinator Christine A. Richard, e-mail crichard@lsba.org, or call (504)619-0105.

THE PERFECT OPPORTUNITY TO SHOWCASE YOUR FIRM OR ORGANIZATION!



The Transition from a Young Lawyer into a Seasoned Professional: One Day Change Is Going to Come

By Alainna R. Mire and Tricia R. Pierre



New admittees to the Louisiana State Bar Association (LSBA) immediately enter the ranks of “young lawyers,” currently the largest segment of Bar membership. To be a young lawyer, an attorney must meet one of the following criteria: has not yet reached the age of 39 or has practiced for five years or less, whichever is later. Young lawyers revitalize the legal profession, preparing to follow in the footsteps of seasoned professionals who came before them as LSBA leaders.

The young lawyer’s call to action is met with a mixture of emotions: excitement at seeking inclusion in the profession and dread of the race toward the ominous “glass ceiling.” Maya Angelou’s poem, “A Conceit,” adequately describes the young lawyer’s search for guidance and inclusion within the bar association:

*Give me your hand.
Make room for me
to lead and follow
you
beyond this rage of poetry.*

Young lawyers often face strategic balancing acts of trying to become

successful in their profession, in their personal lives and in their communities. The LSBA Young Lawyers Section is a safe haven, offering young lawyers the opportunity to interact with peers facing similar challenges and with seasoned mentors. Membership allows exposure to a diverse set of lawyers who come to the table with new energy.

The Young Lawyers Section is the LSBA’s most diverse section with regards to age, gender, nationality and race; thus, the section holds the key to the future of the LSBA. The Young Lawyers Section creates programs that reflect the changes in membership and inspire a new generation of lawyers. As membership becomes more diverse, the outlook of the young lawyer on the world is broadened by an array of different opinions and ideas. The core strength of the Young Lawyers Section is its ability to be a major catalyst for progress. Young lawyers, through a number of initiatives, are changing the definition of inclusiveness and success.

The transition of a young lawyer to a “seasoned lawyer” is defined by age and years of practice. The seasoned lawyer has grown from energetic mentee into influential mentor. Crossing that line into

new territory should be viewed as a challenging new assignment. Transitioning into a seasoned lawyer offers a greater opportunity to carve out a place among those who came before and, essentially, to make a difference.

Alainna R. Mire, chair-elect of the Louisiana State Bar Association’s Young Lawyers Section, is assistant attorney for the city of Alexandria. She received a BA degree in political science in 2000 from Louisiana State University and her JD/BCL degree in 2004 from LSU Paul M. Hebert Law Center. (P.O. Box 71, Alexandria, LA 71309)



Tricia R. Pierre, a sole practitioner in Lafayette, has served as an at-large representative on the Louisiana State Bar Association’s Young Lawyers Section Council. She received her undergraduate degree from Louisiana State University and her JD degree from Southern University Law Center. (P.O. Box 2395, Lafayette, LA 70502-2395)





“Nothing About Us Without Us”: Law Students Discuss Disability Issues

By Naomi C. Jones



The Tulane Disability Law Society (DLS) was founded in 2006. The group has hosted speakers, CLE programs and community meetings. One of the group’s goals is to encourage discussion about disabilities in the law school and community environments. Though seemingly broad and safe, the topic presents unique challenges in a hyper-competitive environment like law school where an accommodation might be perceived as an unfair advantage. In keeping with the spirit of “Nothing About Us Without Us,” the DLS presents this interview with two students dealing with disabilities, Brittany Barrient (2L) and Benjamin Turpen (2L).

Q. Define disability.

Brittany: I guess it's just a way that someone is different from other people. Everyone has something to deal with; for some of us, it just takes the form of a physical difference.

Benjamin: A disability in my mind is a set of challenges that an individual faces that might force him to participate in society in a slightly different way.

Q. Define the disability with which you live.

Brittany: I have achromatopsia, a congenital visual impairment. I am colorblind, extremely light sensitive, and have very low visual acuity that cannot be corrected with glasses or contact lenses.

Benjamin: I am partially paralyzed. I require the use of a wheelchair in most settings/situations because I cannot walk well.

Q. How do you perceive your disability in the law school context? An asset? An obstacle? Something else?

Brittany: It's a small obstacle in that I can't read the board or Power Point presentations. But after 18 years of education, I've learned how to work around these obstacles and take care of myself.

Benjamin: I think my disability provides me with a unique opportunity to view things with a slightly different set of eyes. It is a challenge in some aspects because there are a few extra steps involved in doing the things that I need to do, but it is an opportunity because of the unique view of the world it has provided me.

Q. What drives you?

Brittany: The idea that hard work brings rewards.

Benjamin: The opportunity to have a successful life and the lifestyle that I want.

Q. What makes you confident?

Brittany: When something I do exceeds someone's expectations, particularly if their expectations were lowered because of my disability.

Benjamin: Knowing that I have already overcome many obstacles.

Q. What is it like to live in New Orleans?

Brittany: I love this city, but, while it's much more pedestrian-friendly than other places I've lived, it's still not the best. I walk everywhere — to the grocery store, to school, to run errands — and take the streetcar, get rides from friends, or take taxis when necessary. It's fairly convenient (except during the summer), but I would love a more efficient, more comprehensive and safer public transportation system. Other cities have placed sound systems on their buses (that announce stops audibly) and have special rates for the disabled. NORTA (the New Orleans Regional Transit Authority) has not exactly been responsive to my inquiries about this. However, what New Orleans may lack in technology, it makes up for in good people and I can rely on other people to help me know where I'm going.

Benjamin: New Orleans is a challenge. There are certain places that are more difficult to get into just because of the older construction and architecture. It's not always easy to navigate, but some of the obstructions are attractive architecturally. It's a mixed bag.

Q. What are your concerns for post-law school?

Brittany: My disability is not apparent. There is no way when you look at me to immediately know that I am visually-impaired. The outside signs are fairly subtle. This causes difficulty when I meet someone new. Who wants

to meet someone and instantly hear about a disability? It's certainly not something that I want to be defined by, but not telling new acquaintances risks offending them later when I do not say hello in a hallway or at a social event because I can't see them. Professionally, I can never decide whether or not to tell a potential employer. On one hand, it could help me get a job if the employer recognizes that I've possibly worked just a little bit harder than others to get where I am. On the other hand, it could work against me if the employer interprets my previous success as the result of affirmative action and extra time on examinations and worries that I won't be able to hack it at their firm.

Benjamin: Finding a good job.

Q. What do you think is the best role for advocates?

Brittany: Advocates should focus on giving, in a non-condescending way, individuals with disabilities the tools they need to make the best of what they have.

Benjamin: I think the best approach would be to use their best efforts to see the disabled parties for who they are, to understand that their disability doesn't define them and that they most likely desire as much independence as possible.

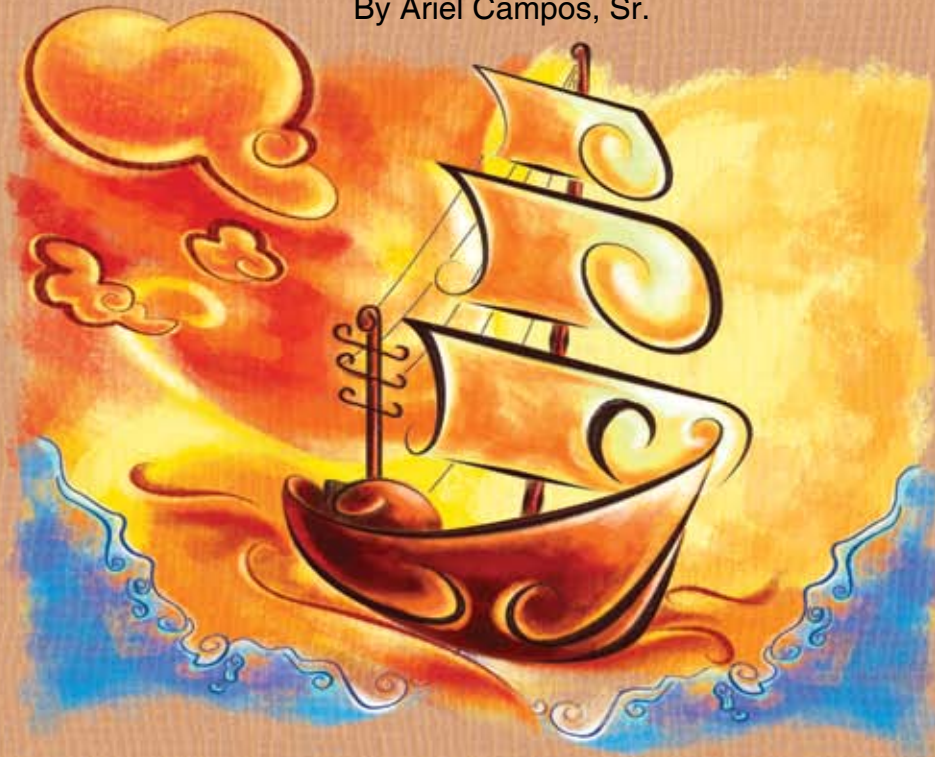
Naomi C. Jones is a third-year law student at Tulane Law School. She founded the Tulane Disability Law Society and is pursuing a certificate in maritime law. She received her bachelor's degree from Columbia University in 2002 and her master's in education degree from Mercy College as a New York City Teaching Fellow in 2005 (working as a special education teacher in the Bronx). She plans on staying in Louisiana and improving her fishing skills. (433 Short St., New Orleans, LA 70118)





Diversity in the Legal Profession: Hispanic Perspective

By Ariel Campos, Sr.



Defining diversity in the legal profession in Louisiana through a Hispanic perspective must begin at the beginning.

Hispanic comes from *Hispania*, an ancient name for the Iberia Peninsula.¹ The *American Heritage Dictionary of the English Language* (Fourth Edition, 2000) defines *Hispanic* as “. . . of or pertaining to Spain and its language, people and culture, having cultural origins in Iberia.” Within the context of *Hispanics* in Louisiana, this definition has a historical reference. Christopher Columbus (*Cristobal Colon* in Spanish) “discovered” and claimed the Americas in the name of Queen Isabella of Spain. The Spanish Empire once was huge, encompassing nearly all of North and South America.² During the 400 years that Spain ruled, it made many lasting contributions in language, religion, political administration, laws and commerce.³

Spanish explorers were the first Europeans to discover the Mississippi River. In 1542, Hernando de Soto first navigated the river, after claiming the land draining into the river and its tributaries for the Spanish Crown. However, Spain virtually ignored the land that later became known as Louisiana for nearly a century-and-a-

half due to the inhospitable climate, wild-life and geography. Precious metals and fertile soils had been found by its explorers in the more hospitable lands to the south.⁴ French King Louis XIV, concerned about British and Spanish expansion in the New World, encouraged French exploration of the Mississippi River and perhaps enlarge his own empire.⁵ In 1682, Rene-Robert Cavalier, Sieur de la Salle, reached the mouth of the Mississippi and claimed it and all the lands drained by it for France. He named this vast, largely unknown territory "Louisiane" or "Louis' land."⁶

In 1699, Pierre Le Moyne, Sieur d'Iberville, sailed into the Gulf of Mexico thinking that the large French ships would get stuck in the mouth of the Mississippi. He chose to bypass sailing up the river and instead established a permanent settlement on the Gulf Coast. Jean-Baptiste Le Moyne, Sieur de Bienville, did not share his brother Pierre's view that the river was not navigable. He continued to explore the lower Mississippi River until 1718 when he founded a permanent settlement named New Orleans in honor of the ruling regent, the Duc d'Orleans.⁷ It was not until 1731 that Louisiana became a royal French colony. The French were disappointed that their new colony did not produce the riches they had envisioned. King Louis XV of France was strapped for funds after waging war with England during the Seven Years War, known in the New World as the French and Indian War. In 1762, as negotiations to settle that war were coming to a conclusion, Louis XV secretly proposed to his cousin Charles III of Spain that France give Louisiana to Spain in the Treaty of Fontainebleau.⁸

Louisiana was the name of the administrative district of New Spain after France secretly ceded it to Spain. Spanish rule did not proceed smoothly at first. It was not until 1764 that Spain formally announced its rule over the new possession. The French settlers rebelled against their new ruler, Gov. Antonio Ulloa. It took a new governor, Alejandro O'Reilly, to suppress the French settlers' rebellion and establish order. He sent the plotters to prison in Morro Castle in Cuba. The Spanish established much of New Orleans' and Louisiana's character

normally associated with the French. The Spanish control also continued Catholic influence in the region.⁹ Louisiana prospered under Spanish rule. A stable government fomented the growth of business and commerce. Louisiana's sugar industry began during this period. After the development of a method for processing sugar on a large scale by Etienne de Bore, Louisiana planters began growing sugar cane as a major crop, much as their cousins had done in Spain's Caribbean colonies.¹⁰

The devastation caused by Hurricane Katrina is not the first time New Orleans has undergone cataclysmic destruction. The Great New Orleans Fire of 1788 nearly destroyed much of the city. The fire started at the home of the Spanish official Don Vincente Jose Nunez, spreading to within the *Plaza de Armas* and destroying the original Cabildo and virtually all major buildings, including the main church, the municipal building, the army barracks, the armory and the jail. Gov. Esteban Rodriguez Miro set up tents for the homeless. The Spanish rebuilt the city by replacing all the wooden buildings constructed by the French with structures containing courtyards, thick brick walls, arcades and wrought iron balconies. Among the new buildings were the present St. Louis Cathedral and the Presbytere.¹¹ Fire once again caused widespread devastation to the city in 1794. Although not quite as destructive as the earlier fire, it nevertheless destroyed 212 buildings. Still a colony of Spain, rebuilding after both fires was in the Spanish colonial style, thus eliminating much of the French architecture from the "French Quarter."¹²

Whether the legal system in Louisiana should be called "Napoleonic" or not, since the Civil Code was also influenced by Spanish law,¹³ should be more fully explored in a book-length discussion. Few areas in this country present diversity as vividly in all aspects of its origins as Louisiana does. Its customs, architecture, food, culture, people and laws are as diverse in origin as the faces of its citizens. Louisiana has as its roots indigenous inhabitants, Spanish, French, African and mixtures of all. The English, Irish, Germans and other European settlers arrived later. In Louisiana, the Spanish term

Somos Primos, "we are cousins," is alive. The Civil Code is made up of two relatives, Spanish law and French law, which in turn derive their respect for family and property law from their common ancestor: the Roman law.

A compelling conclusion to any discussion regarding diversity in Louisiana's laws and legal profession leads to the fact that the legal profession and its practitioners in Louisiana *must* reflect the diversity of its people and its origins. The contrary would lead to a denial of the very existence of our roots.

FOOTNOTES

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Ariel Campos, Sr. is employed as a contract attorney with Acadiana Legal Services Corp. in Lafayette. He was previously employed by health care providers in Louisiana and Missouri, by the U.S. Department of Justice, Civil Rights Division, in Washington, D.C., and by the Equal Employment Opportunity Commission in the New Orleans District Office. He earned his AB degree in English and philosophy from Loyola University and his JD degree from Loyola University College of Law. He is a member of the Louisiana State Bar Association's Diversity Committee and the Legal Services for Persons with Disabilities Committee. He is a member of the Lafayette Bar Association and the Hispanic Lawyers Association of Louisiana. (P.O. Box 4823, Lafayette, LA 70502-4823)





More Diversity on Federal Bench: Now is the Time

By Marc H. Morial



When Revius Ortique, Jr. — the first African-American justice on the Louisiana Supreme Court, the first African-American judge on the Orleans Parish Civil District Court and a dear family friend — died in June 2008, it reminded me of how difficult the struggle for judicial diversity, especially on the federal bench, has been in Louisiana.

The under-representation of African-American federal judges in Louisiana is a long-standing travesty that has compromised public confidence and resulted frequently in the unequal application of the law. Moreover, although we can share with pride Louisiana Supreme Court Chief

Justice Catherine D. Kimball's recent installation as Louisiana's top jurist, the historic under-representation of women is also a cause for concern.

As president of the National Urban League, I address this issue primarily as an advocate of equal justice and fairness. I am a member of the Louisiana State Bar Association and was an active practitioner for 10 years before I began my public service career. I was a named plaintiff and chair of the Plaintiff's Committee in the historic case of *Chisom v. Louisiana*, which, along with its companion, *Clark v. Louisiana*, helped to dramatically increase the number of African-American Louisiana state court judges. My late father, Ernest

N. (Dutch) Morial, before becoming the first African-American mayor of New Orleans, was the first African-American Juvenile Court judge and the first African-American elected to the Louisiana Court of Appeal.

I grew up believing in the important role of judges and lawyers in not only administering the law but also promoting equal justice and fairness. I was proud to follow in my father's footsteps as mayor of New Orleans before becoming president and CEO of the National Urban League in 2003, which places me in a role to monitor the selection and confirmation of federal judges by the President and the Senate, respectively.

We must proudly remember that Louisiana has produced some of the finest African-American judges and lawyers in the history of this country, including trailblazers like Justice Ortique and former civil rights lawyer A.P. Tureaud, who has been called the father of the civil rights movement in New Orleans. They are a part of the pantheon of outstanding African-American Louisiana jurists that include Israel M. Augustine, the first African-American Criminal District Court judge; Joan Bernard Armstrong, the first African-American woman to become a judge; Bernette J. Johnson, the first African-American woman Louisiana Supreme Court justice; Lionel R. Collins, the first African-American judge in Jefferson Parish; and Freddie Pitcher, Jr., the first African-American judge in Baton Rouge.

The paucity of African-American federal judges is certainly not because of a lack of qualified candidates waiting in the wings. The number of African-American lawyers and state court judges who could potentially rise to the level of federal judges has substantially increased over time. The bottom line is there is a large pool of highly qualified potential federal judges.

But it was not until 1978, some 82 years after the infamous *Plessy v. Ferguson* Supreme Court decision upholding the legality of segregation in Louisiana and throughout the Jim Crow South, that Robert Collins of New Orleans became the first African-American federal judge in the Deep South. Despite the fact that African-Americans make up about one-third of the population of Louisiana, only a tiny fraction of the hundreds of federal district court and court of appeals judges appointed over the last 50 years have been African-American. Currently there are only three African-American federal judges in Louisiana: Carl E. Stewart of the 5th Circuit Court of Appeals, Ivan L.R. Lemelle of the Eastern District and Chief Judge Ralph E. Tyson of the Middle District. All are serving with distinction and have broad respectability among members of the bench and bar. I am not proud of the fact that, in Louisiana, the vast majority of people who have had dealings with the

federal judiciary have seen more African-American judges on Court TV than in the actual halls of justice.

It is time for that to change. With Barack H. Obama as our new President and Eric H. Holder, Jr. as our new Attorney General, I am hopeful that the scales of justice will begin to find true balance with the appointment of more African-American federal judges in Louisiana.

Why is diversity on the federal bench important? One only has to look at the legacy of legal injustices perpetrated against African-Americans — from lynchings and enforced school segregation to poll taxes and red-lining — to understand that a more diverse judiciary is important in the rendering of equal justice under the law. While there are some who would argue that the disproportionate number of African-Americans in our criminal justice system is a totally colorblind phenomenon, I believe this is wrong.

Diversity promotes the very notion that justice is colorblind and helps ensure that the law applies equally to all. As Louisiana's unique tradition of gumbo diversity continues to expand in the 21st century, it is important that federal judges are able to relate to the experiences of all the diverse communities in Louisiana. The late Justice Oliver Wendell Holmes once opined, "The life of the law is not logic, it is experience."

As a nation dedicated to liberty and justice for all, the appointment of a diverse pool of federal judges is one of the most important duties of a United States President. Most have not adequately fulfilled that obligation. This tide has turned somewhat in recent history. President Carter appointed 28 African-Americans as district judges and nine as appellate judges, more than all previous presidents combined. President Reagan appointed seven African-American judges to the federal bench. President George H.W. Bush appointed 13 and President Clinton appointed 53.

While the lack of African-American judges is a problem throughout the nation, it is particularly acute in the South. According to a 2007 article by David Love, "In nine of 11 states in the South, former President

George W. Bush failed to nominate a single Black judge for 62 vacancies. The federal appellate courts — particularly the 4th, 5th and 11th U.S. circuit courts — have been equally disappointing. Out of 75 nominations in these three circuits, not one Black judge has emerged in the states of Alabama, Georgia, Louisiana, Mississippi, North and South Carolina, Texas, Virginia and West Virginia." We can and must do better.

It would be impossible for President Obama to completely remedy this historic exclusion. But, according to the Federal Judicial Center, he will have the opportunity to fill at least 41 vacant judgeships — 29 district and 12 circuit, including several in Louisiana.

All judges are bound to rule according to the facts of each case and the dictates of law, but it is clear that a diverse judiciary is essential to the dispensation of colorblind justice. It is also clear that increasing diversity among federal judges will strengthen public trust in the judiciary and build greater confidence in the new Administration. I hope to see my beloved Louisiana turn from a past of exclusion to a new era of inclusion in the 21st century. We will all be better for it.

Marc H. Morial has served as president and chief executive officer of the National Urban League since 2003. He has coordinated initiatives such as the Urban Youth Empowerment Program, Entrepreneurship Centers and the National Urban League Empowerment Fund. A graduate of the University of Pennsylvania with a degree in economics and African-American studies, he also holds a law degree from the Georgetown University Law Center in Washington, D.C. and honorary degrees from Xavier University, Wilberforce University and the University of South Carolina Upstate. He serves as an Executive Committee member of the Leadership Conference on Civil Rights and the Black Leadership Forum. He is the recipient of the Louisiana State Bar Association's Pro Bono Publico Award. He has served in the Louisiana Senate, on the adjunct faculty of Xavier University in Louisiana and as mayor of New Orleans. He was elected by his peers as president of the bipartisan U.S. Conference of Mayors. (120 Wall St., 8th Flr., New York, NY 10005)





Reflections of the Inauguration of President Barack H. Obama

By Judge Tiffany Gautier Chase



On Jan. 20, 2009, the United States witnessed the inauguration of its first African-American President. As we celebrate diversity in this issue, the *Louisiana Bar Journal* asked several Louisiana State Bar Association members who attended this historic event to share their reflections on the inauguration of the 44th President of the United States, President Barack H. Obama.

Providing their insight are Orleans Parish Civil District Court Judge Michael G. Bagneris, 40th Judicial District Court (St. John the Baptist Parish) Judge Madeline Jasmine and New Orleans attorney Timothy B. Francis.

The feelings of patriotism, pride, respect and admiration were heartfelt and eloquently described by the Louisiana natives who braved the frigid temperatures and endured the endless lines and gnarled traffic to witness one of the greatest events in American history.

“Trying to describe the events and the accompanying feelings of the inauguration of President Obama is like trying to capture lightning in a bottle,” Judge Bagneris said.

Election Night

On Nov. 4, 2008, Judge Jasmine found herself full of nervous energy, too anxious to sit still. Sometime after 6 p.m., she found herself at the home where she grew up, a place where she “could dream and nothing was impossible.” She watched the television intensely with her family, then “IT” happened. Barack Obama was declared the winner! She immediately knew she had to be there. The commitment was made. She would embark upon Washington, D.C. on Jan. 20. At that moment, millions of people shared Judge Jasmine’s commitment.

The Journey Completed

“Not since I was a kid have I awakened in the dead of winter to honor other would be kings, such as Zulu and Rex,” Francis said of the 3 a.m. wake-up call to secure his spot at the inauguration.

But, as the Louisiana natives soon

“
Trying to describe the events and the accompanying feelings of the inauguration of President Obama is like trying to capture lightning in a bottle.
 ”

– Judge Michael G. Bagneris

realized, 1,998,000 other people had the same idea. People were vacuum-packed on the trains “headed for an appointment with history,” Judge Bagneris said. On Jan. 20, millions came together in peace for a common cause and to realize a common vision.

Ironically, fewer than 40 years ago, marches and picketing plagued the country as Americans marched for civil rights. But this excited group marched not to obtain the right for an African-American to sit on a public bus or get a seat in a state school or dining counter but to witness an African-American being sworn into the most powerful seat in the world. All who were there could only be in awe at the event.

“I looked upon the faces of children, men and women, some in wheelchairs, others with walkers, fathers with their precious little ones perched high on their shoulders, mothers with their babies in their arms, they were all there,” Judge Jasmine said.

“My moment of clarity came when

Yo-Yo Ma, Itzhak Perlman, Anthony McGill and Gabriela Montero began performing. The stillness of the moment and the majesty of the song allowed me to focus on this multicultural ensemble playing in celebration of an African-American who was being sworn in as President of the greatest county on earth,” Francis said.

Then the moment arrived. Barack Obama, with wife Michelle and daughters Sasha and Malia at his side, boldly stated the words, “So help me God.” It was done. A civilized transfer of power had just occurred. A deafening roar filled the Mall. Blinding cameras flashed, men cried unashamedly, little children squealed in delight, teenagers whooped and hollered and pumped fists in the air.

“Yes we can” was a cheer that had been rallied and sang in unison by millions for the past two years. But this moment proved, “Yes we did.”

The question of whether this country would elect an African-American President had lingered for decades, but, as Judge Jasmine said, “[Being] the extreme optimist that I am, I always knew that this was possible, but did I really think it would happen in my lifetime, I’m not sure. Nonetheless, it happened, and I was there.”

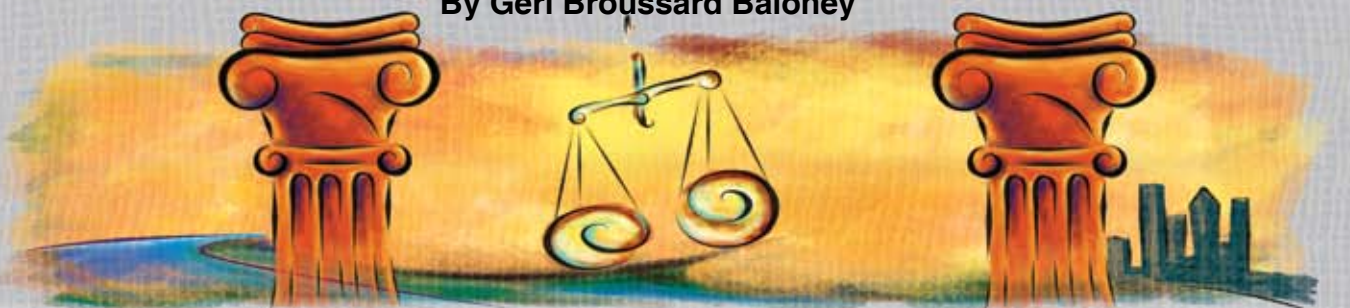
Judge Tiffany Gautier Chase, a judge in Orleans Parish Civil District Court, is the guest editor for this issue of the Louisiana Bar Journal. She served on the Journal’s Editorial Board from 2001-04. She is currently co-chair of the 2009 Louisiana



State Bar Association/Louisiana Judicial College Joint Summer School. (421 Loyola Ave., Room 406, New Orleans, LA 70112)

River Parishes Law Firm Takes on Industrial Giants in Attempt to Incorporate Town of Garyville

By Geri Broussard Baloney



Not traditional by any measure, the Broussard Baloney Law Firm, four female attorneys, took on industrial giants, the St. John the Baptist Parish establishment, the media and the judicial system in an attempt to enfranchise hundreds of African-Americans who believe they are underserved and underrepresented.

“There’s nothing heroic or original about it,” said Geri Broussard Baloney, founding attorney. “I simply looked at the example set by civil rights attorneys of the 1960s.” Speaking about the 1960s, Broussard Baloney said, “Everybody knows about Dr. Martin Luther King, but few speak of the legal minds behind the scenes. Those lawyers took on racial injustice, from voting laws to separate but unequal accommodations, and turned the Constitution and laws of our land into weapons of mass destruction. That’s all I tried to do in this case.”

Garyville, La., is a settlement situated on the western end of St. John the Baptist Parish, halfway between New Orleans and Baton Rouge. St. John the Baptist Parish is one of five Louisiana parishes with no incorporated areas. In real numbers, Garyville and the surrounding settlements are approximately 70 percent African-American with an estimated 25 to 30 percent unemployment rate, coupled with a soaring high school dropout rate, while only 55 percent of the registered voters are

African-American.

Garyville is a fence-line community surrounded by the petrochemical industry—gifts of the late 1960s and early 1970s. While industry has created thousands of jobs, local African-Americans remain undereducated and unemployed.

In a bold attempt to address the obvious inequities, Broussard Baloney helped organize a bipartisan, diverse group of local citizens into the Garyville Incorporation Committee. In three months’ time, the group gathered twice the number of signatures required by law (1,300) and submitted them to the registrar of voters. The registrar certified the signatures and forwarded them to Gov. Bobby Jindal who called a special election for July 19, 2008. From that point on, the group was bombarded with lawsuits led by Marathon Oil, negative newspaper articles, racial flyers and signs. Three judges recused themselves and the group sought writs to the 5th Circuit and Supreme Court.

The industrial giants’ attempt to stop the election failed, but a declaratory judgment rendered in a summary proceeding resulted in a “preliminary injunction” which enjoined incorporators from including industry in the new town, prompting “INDUSTRY OUT!” headlines. Voters, fearing that without industry the town wouldn’t have enough money to operate, defeated the incorporation measure.

But Broussard Baloney is not deterred. “Remember those civil rights attorneys? They didn’t succeed the first time out of the gate. They were beaten down many times. But look at where we are today. We, as a nation, just elected Barack Obama, the first American President of African descent,” she said.

“Today, more than ever, we, the American lawyer, have an obligation to stand up for what is right,” she said.

Geri Broussard Baloney opened her own law firm in Garyville in 1996, a firm that is now the largest female-owned law firm in the River Parishes. She received a BA in political science from Southern University in New Orleans and her JD degree from Loyola University Law School (Moot Court honors and certification in international law). In 2004, she served on Louisiana Gov. Kathleen Blanco’s transition team. In 2005, New Orleans Mayor C. Ray Nagin appointed her to the Bring Back New Orleans Commission’s Economic Development Committee. She has served on the board of the Capital Area Legal Services Corporation and the advisory board of the Court Appointed Special Advocates of St. John the Baptist Parish. She is a member of the 40th Judicial District Bar Association, the Louisiana Hispanic Chamber of Commerce and the Louisiana and National Association for Justice. (P.O. Box 116, Garyville, LA 70051-0116)



The Changing Face of the Jefferson Parish Judiciary

By William C. Credo III

To even the casual observer, the face of the Jefferson Parish judiciary is changing, inside and out.

After housing all the divisions of court during a two-year renovation period, the old courthouse has been demolished and the former courthouse annex has been renovated and included in a complex with the government services building and the district attorney's building. In close proximity are the Louisiana 5th Circuit Court of Appeal building and a new courthouse for the 2nd Parish Court of Jefferson Parish. A juvenile justice complex in Gretna and a 1st Parish Court building in Metairie also serve the people of Jefferson Parish.

In the fall 2008 elections, four district judges retired and were replaced with four new judges, two unopposed and two elected. History will record that the first two female judges elected in Jefferson Parish, Judge Jo Ellen Grant and Judge Martha E. Sassone, both leave the bench together. A 5th Circuit appeals court judge has moved on to begin service on the Louisiana Supreme Court and a new black sub-district points to the pending election of the first African-American to the 5th Circuit bench.

In its journey to reflect the face of Jefferson Parish and its people, the face of the Jefferson judiciary has reflected diversity in race and gender.

With the passage of the 1921 Louisiana Constitution, Jefferson Parish became part of the 24th Judicial District Court when the state district court system was reorganized. The first judicial elections were held in 1924. The terms of the district judges and district attorney were expanded from four to six years, which remains in effect today.

Circuit riding through the parishes of Jefferson, St Charles and St John the Baptist until 1954, the 24th Judicial District judges developed a rugged individualism that persists to this day. That same year, the boundaries of Jefferson Parish were made the boundaries of jurisdiction of the 24th Judicial District Court.

Until the 1990s, all district judges were elected by a vote of the entire parish. Although all district court judges have full parish jurisdiction in civil and criminal matters through random allotment, they are now elected from judicial districts carved up from the election map.

Juvenile Court

Judge Louis (L. Robert) Rivarde, Division A district judge from 1924-51, had a vision that children's needs must be addressed by the judges and the court when parents could not cope. He took on the duties of what would become a juvenile judge and now has a juvenile center named in his honor. His leadership spawned a juvenile court manned by Judge Leo W. McCune from 1959, the year it was established, until 1972. Judge Sol Gothard served from 1972-86 and was responsible for many innovative programs to deal with a rising juvenile delinquency rate. Judge Thomas P. McGee, who served from 1974-96, saw his dream of a juvenile justice complex become reality on Gretna Boulevard. In 1980, the face of the court changed with the election of its first female judge, Judge Nancy Amato Konrad, who serves today. She was joined in 1987 by Judge Ann Murray Keller and in 1996 by Judge Andrea Price Janzen. They are known as the "Court of Three Sisters" by the local bar.

1st Parish Court

On the parish's east bank, 1st Parish Court, Division A, was originally manned by Judge Cyril J. Gracianette, Sr., who served from 1964-84. Judge John B. (Bruce) Naccari served from 1985-95. Judge Rebecca M. Olivier has served since 1996.

Population growth led to the establishment of Division B. Judge Douglas Allen was the first judge to serve from 1971-76. Judge James Lockhart served from 1976-88. Judge George Giacobbe has served since 1988.

Criminal misdemeanor and traffic cases are heard in day and night sessions.

2nd Parish Court

To serve the needs of the parish's west bank, 2nd Parish Court, Division A, was established and led by its first Judge, Judge John J. Molaison Sr., who served from 1966-95. Judge Roy M. Cashio has served since 1995.

Population growth led to the establishment of Division B whose first judge was Judge Herbert Gautreaux, serving from 1979-90. Judge Calvin Hotard served from 1990-2000. Judge Stephen Grefer has served since 2001.

Criminal misdemeanor and traffic cases are heard in day and night sessions.

24th Judicial District Court

Division A, the oldest division, has the most judges in its service: Judge Prentice Edrington, Sr., 1920-24; Judge Louis Rivarde, 1924-51; Judge L. Julian Samuel, Sr., 1951-59; Judge Edward Stoulig, Jr., 1960-70; Judge Louis DeSonier, Jr., 1971-81;

Judge Roy Price, 1982-83; Judge G. Thomas Porteous, Jr., 1984 until his appointment as a federal judge in 1994; Judge Walter Rothschild, 1995 until his election to the Louisiana 5th Circuit Court of Appeal in 2000; and Judge Joan Schilleci Bengé, 2001-present.

Judges in Division B have included Judge Leo McCune, 1944-60; Judge Frederick Heebe, 1960 until his appointment as a federal judge in 1966; Judge Frank Zaccaria, Sr., 1966-85; Judge Ernest V. Richards IV, 1986-96; Judge Fredericka Homberg (Ricky) Wicker, 1996 until her election to the Louisiana 5th Circuit Court of Appeal in 2007; and Judge Cornelius (Conn) Regan currently serves in the division.

Judges in Division C have included Judge John Boutall, 1955-70; Judge Nestor Currault, Jr., 1971 until his election to the Louisiana 5th Circuit Court of Appeal in 1982; Judge Joseph Grefer, 1982-91 (his service as a drug court judge helped pave the way for the successful "ICAN" program); Judge Alan Green was elected from the new minority sub-district in 1992 and served until his resignation in 2005; and Judge June Darensberg is the current judge.

Division D was first led by Judge Robert Hughes, Sr., 1960-69; Judge Gordon Bynum, 1969-77; Judge Walter Kollin, 1978-96; and Judge Robert Murphy, 1996-present, he assumed a leadership position in the recently completed courthouse renovation.

Division E was established in 1964. Judge Frederick Bowes, its first judge, survived a courtroom gun incident when attorney Wiley Beevers managed to place his thumb in front of the hammer of a weapon grabbed by a defendant. He was elected to the Louisiana 5th Circuit Court of Appeal in 1982. Judge Clarence McManus was elected without opposition in 1982 and served until his election to the Louisiana 5th Circuit Court of Appeal in 1999. Judge Greg Guidry was elected in 2000 and served until his election to the Louisiana 5th Circuit Court of Appeal in 2006. Judge John J. Molaison, Jr. is the current judge.

Division F has seen only two judges: Judge Floyd Newlin, 1966-87; and Judge Patrick McCabe, Sr., 1987-present.

Division G's first judge was Judge H. Charles Gaudin, 1966 until his election to the Louisiana 5th Circuit Court of Appeal in 1982; Judge M. Joseph Tiemann, 1982-96; and Judge Robert Pitre has served since 1996.

Division H, established by the Legislature in 1972, has had four judges: Judge Thomas C. Wicker, 1972 until his election to the Louisiana 5th Circuit Court of Appeal in 1986; Judge Hubert Vondenstein, 1986-93; Judge Kernan (Skip) Hand, 1994-2008; and Judge Glen Ansardi began his service in 2009.

Division I, also established in 1972, had had three judges: Judge Wallace C. LeBrun, Sr., 1972-89; Judge Jo Ellen Grant, 1990-2008; and Judge Nancy Miller began her service in 2009.

Division J, established in 1975, had had four judges: Judge Patrick Carr, 1975 until his appointment as a federal judge in 1979; Judge Jacob Karno, 1979-96; Judge Sheldon G. Fernandez, 1996-2000; and Judge Stephen Windhorst, 2000-present.

Division K, also established in 1975, has had three judges: Judge Alvin (Rudy) Eason, 1975-90; Judge Martha Sassone, 1990-2008; and Judge Ellen Shirer Kovach who began her service in 2009.

Division L had the first African-American judge of the district, Judge Lionel R. Collins, elected in 1978 without opposition and served until his death in office in 1988. Judge Charles (Chuck) Cusimano II was elected in 1988 and served until his retirement in 2007. Judge Donald Rowan began his service in 2007.

Division M has had only two judges: Judge Robert J. Burns, 1978-96; and Judge Henry M. Sullivan, Jr., 1996-present.

Division N, established in 1981, has had four judges: Judge James L. Cannella, 1981 until his election to the Louisiana 5th Circuit Court of Appeal in 1991; Judge Susan M. Chehardy, 1992 until her election to the Louisiana 5th Circuit Court of Appeal in 1998; Judge Ronald D. Bodenheimer, 1999 until his resignation in 2002; and Judge Hans J. Liljeberg, 2002-present.

Division O, also established in 1981, has had three judges: Judge Ronald Loumiet, 1981-96; Judge Marion Edwards, 1996 until his election to the Louisiana 5th Circuit Court of Appeal in 1998; and Judge Ross P. LaDart, 1999-present.

Division P was established in 1990 but the election for that judgeship was delayed until 1992 by litigation. Judge Melvin Zeno was first elected in 1992 and served until his decision not to seek re-election in 2008. Judge Lee V. Faulkner was elected without opposition and began his service in 2009. History will record that he is the first African-American president of the Jefferson Bar Association to serve in that capacity. He is also the first judge to serve as president of the Jefferson Bar Association while serving as a sitting judge.

Throughout the judicial elections in Jefferson Parish, the exploration of differences, not just in status or political beliefs, has moved beyond simple tolerance to a celebration of those rich dimensions of diversity contained in every candidate who offers himself/herself for public service as a judge. Such a concept of diversity which encompasses acceptance and respect surely serves the bench and bar and the people who come before those tribunals.

Special thanks for assistance with this article to Frank Borne, author of *Jefferson Parish Politicians of the Past and Present, 1825-2005*, a primary source of historical data, and Paul Purpura of the *Times-Picayune* for his review and encouragement.

William (Chuck) Credo III has served as an assistant district attorney in Jefferson Parish since 1979. He is a past president of the Jefferson Bar Association and its current CLE director. He is a past chair of the Louisiana State Bar Association MCLE Committee and currently serves on the LSBA Nominating Committee. (1900 Division St., Metairie, LA 70001)





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Additional Events & Tickets

See page 5 for more information about events.

	by May 29	On-Site		Quantity	Event Subtotal
President's Reception	\$110	\$125		x _____	_____
YLS Reception (Adult)	\$90	\$100		x _____	_____
YLS Reception (Teen 13 – 17)	\$30	\$35		x _____	_____
YLS Reception (Child 4 – 12)	\$20	\$25		x _____	_____
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Jr. Carnival & Cookout (Child 4 – 12)	\$45	\$45		x _____	_____
Books, Bubbles & Bon Bons by the Beach (book club)		\$25		x _____	_____
Copy of <i>A Thousand Splendid Suns</i> (book club)		\$11.75		x _____	_____
Event Total					_____

Payment Information Worksheet

	by May 29	On-Site		Subtotal
Summer School Only	\$550	\$575		_____
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Event Subtotal				_____
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OR REGISTER ONLINE AT www.LSBA.org.**

Housing Request Form

The LSBA does not accept Housing Request Forms. Mail or fax the Housing Request Form directly to one of the following Resorts:

Sandestin Golf and Beach Resort
9300 Emerald Coast Pkwy. West
Sandestin, Fla. 32550
(800)320-8115; Fax (850)267-8221

or

Hilton Sandestin Beach Golf Resort & Spa
4000 Sandestin Blvd. South
Sandestin, Fla. 32550
(800)367-1271; Fax (850)267-3076
GROUP CODE: LJC

Name _____

Address _____

City/State/Zip _____

Phone _____ Fax _____

Please indicate the number of guests that will be staying in your unit: **Adults** _____ **Children** _____

Please list first, second and third choices only for accommodations:

Type of Accommodations _____ No. of Bedrooms _____

1. _____

2. _____

3. _____

Date of arrival _____ Date of departure _____

Please confirm my reservation with my credit card: (check one)

VISA MC AmEx Discover Carte Blanche Diner's Club

Credit Card # _____ Exp. Date _____

Signature _____

No reservations will be accepted if not accompanied by an appropriate credit card guarantee.

Please note:

- Check-in begins at 4 p.m.; check-out by 11 a.m.
- If arriving early, sleeping rooms may not be available.
- Credit cards will be charged a deposit of one night's room and tax when reservations are made.
- Deposits are refundable in accordance with resort policies.
- All rates are subject to 11% tax.
- An arts and entertainment fee of 1% is charged for all accommodations in the Village of Baytowne Wharf.

FOR HOST PROPERTY USE ONLY

Reservation Number _____

STAFF MEMBERS' CONTACT INFORMATION

Executive Office



Loretta Larsen

Loretta Larsen, CAE
Executive Director

Loretta is responsible for the overall administration of the Association's activities. She works closely with the officers, Board of Governors and House of Delegates on the LSBA's programs and operations. Loretta works with the leadership on strategic and financial planning. She manages the 39-person staff and generally oversees the day-to-day operations of the Association. Loretta joined the Bar as communications and programs director in 1986 and was promoted to her current position in 1991.

direct phone: (504)619-0113
toll-free phone: (800)421-5722, ext. 113
fax: (504)566-0930
e-mail: loretta@lsba.org



Danielle E. Boveland

Danielle E. Boveland
Executive Assistant

Danielle works closely with the executive director in providing staff support to the Board of Governors and House of Delegates by handling all advance meeting arrangements and on-site coordination. She also administers the LSBA's annual elections and handles special projects related to Association governance. Danielle joined the staff as executive secretary/officer liaison in 2008 and was promoted to this position in 2009.

direct phone: (504)619-0147
toll-free phone: (800)421-5722, ext. 147
fax: (504)566-0930
e-mail: danielle.boveland@lsba.org



Corey E. Carter, Sr.

Corey E. Carter, Sr.
Operations Coordinator

Corey manages the Louisiana Bar Center and is responsible for ensuring its efficient operation and maintenance. He also is responsible for all non-IT equipment purchases and maintenance. Corey joined the staff in 2007.

direct phone: (504)619-0140

toll-free phone: (800)421-5722, ext. 140
fax: (504)528-9312
e-mail: ccarter@lsba.org

Melanie Bienemy
General Clerk

Melanie handles all LSBA mailings originating from the Bar Center and is responsible for ordering all supplies. She handles large copying projects and sets up the Bar Center conference rooms for LSBA meetings. Melanie joined the staff in 2008.

direct phone: (504)619-0114
toll-free phone: (800)421-5722, ext. 114
fax: (504)528-9312
e-mail: melanie.bienemy@lsba.org



Melanie Bienemy

Jenna R. Hyver
Receptionist

Jenna is the first person callers and guests encounter when they phone or visit the Louisiana Bar Center. She answers routine questions, but primarily routes calls to the appropriate individuals or departments. Jenna joined the staff in 2008.

direct phone: (504)566-1600
toll-free phone: (800)421-5722
fax: (504)528-9312
e-mail: jenna.hyver@lsba.org



Jenna R. Hyver

Access To Justice Department

Monte T. Mollere
Access to Justice Director

Monte has been with the Access to Justice program since its inception and coordinates the efforts of the Association and the Louisiana Bar Foundation in providing a stronger statewide system of delivery of legal services to the poor. Working with the Access to Justice Committee, he provides a forum for legal services and pro bono providers to network. Monte joined the staff in 1997.

direct phone: (504)619-0146
toll-free phone: (800)421-5722, ext. 146
fax: (504)566-0930
e-mail: mmollere@lsba.org



Monte T. Mollere



Linda K. Johnson

Linda K. Johnson
Access to Justice Statewide Technology Coordinator

Linda coordinates technology initiatives for the Louisiana legal services providers. She works with the Access to Justice Technology Subcommittee and is responsible for developing a statewide technology plan to benefit the non-profit legal services providers in Louisiana. Linda joined the staff in 2003.

direct phone: (504)619-0123
toll-free phone: (800)421-5722, ext. 123
fax: (504)566-0930
e-mail: ljohnson@lsba.org



Josie E. Beets

Josie E. Beets
Access to Justice Training Coordinator
Josie serves as the statewide coordinator of legal training and education for Louisiana legal services providers. She is responsible for planning continuing legal education seminars on topics of particular interest to public interest attorneys. She works closely with legal services providers, task forces, the Access to Justice Committee, the Right to Counsel Committee, Louisiana's pro bono organizations and the LSBA's CLE department. Additionally, she works with the access to justice director on other projects as necessary. Josie joined the staff in 2008.

direct phone: (504)619-0148
toll-free phone: (800)421-5722, ext. 148
fax number: (504)566-0930
e-mail: josie.beets@lsba.org



Rachael Mills

Rachael Mills
Access to Justice Administrative Assistant
Rachael works closely with the access to justice director in coordinating and facilitating the work of the LSBA's Access to Justice Committee and the projects developed to foster a strong comprehensive statewide system for the delivery of legal services. Rachael joined the staff in 2009.

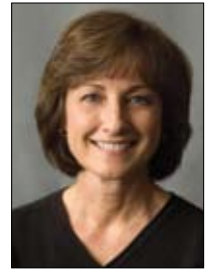
direct phone: (504)619-0106
toll-free phone: (800)421-5722, ext. 106
fax number: (504)566-0930
e-mail: rachael.mills@lsba.org

Administration Department

Denise N. Tingstrom
Administration Director

Denise is responsible for maintenance of all financial operations and for oversight of membership procedures. She works closely with the treasurer, executive director and the external auditors. Denise joined the staff in 1989 as assistant bookkeeper, was promoted to bookkeeper/membership coordinator in 1990 and became a member of the executive staff in 1998.

direct phone: (504)619-0121
toll-free phone: (800)421-5722, ext. 121
fax: (504)566-0930
e-mail: dtingstrom@lsba.org

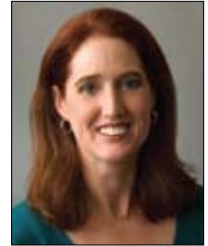


Denise N. Tingstrom

Susan T. Heflin
Accounting Coordinator

Working closely with the director of administration, Susan maintains section bank accounts and provides departmental clerical and administrative support. Susan joined the staff in 2000.

direct phone: (504)619-0103
toll-free phone: (800)421-5722, ext. 103
fax: (504)566-0930
e-mail: sheflin@lsba.org

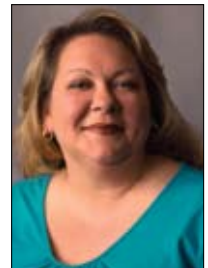


Susan T. Heflin

Kim Lane Vitale
Member Records Coordinator

Kim maintains member data in the Association management database, including adding new members, facilitating status changes and posting annual dues. She handles requests for certificates of good standing and replacement membership cards, and handles requests for rental of membership lists. Kim joined the staff in 2000.

direct phone: (504)619-0125
toll-free phone: (800)421-5722, ext. 125
fax: (504)566-0930
e-mail: klane@lsba.org



Kim Lane Vitale

Maryja A. Serigny
Member Records Secretary

Maryja devotes most of her time to processing Attorney Registration Statements and updating member data in the Association management database. She also handles requests for certificates of good standing and replacement membership cards and provides departmental clerical support. Maryja joined the staff in 2005.

direct phone: (504)619-0120
toll-free phone: (800)421-5722, ext. 120
fax: (504)566-0930
e-mail: mserigny@lsba.org



Maryja A. Serigny



Sharon L. Matrana

**Sharon L. Matrana
Member Records Assistant**

Sharon assists in updating and maintaining the member data in the Association management database. She also handles requests for certificates of good standing and provides departmental clerical support. Sharon joined the staff in 2006.

*direct phone: (504)619-0101
toll-free phone: (800)421-5722, ext. 101
fax: (504)566-0930
e-mail: smatrana@lsba.org*

**Christine A. Richard
Program Coordinator/
Marketing and Sections**

Christine provides staff support to the voluntary sections, serves as liaison to the Section Council and works with the communications director on committee administration. She also enhances and cultivates new relationships between the LSBA and its endorsed sponsors. Christine joined the staff in 1995 and was promoted in 2000.

*direct phone: (504)619-0105
toll-free phone: (800)421-5722, ext. 105
fax: (504)566-0930
e-mail: crichard@lsba.org*



Christine A. Richard

Communications Department



Kelly Wells Ponder

**Kelly Wells Ponder
Communications and Programs Director**

Kelly directs the Association's communications efforts, including the *Louisiana Bar Journal*, "Bar Briefs," the Annual Report and the Web site. She organizes media coverage for the LSBA's activities and serves as staff liaison to the Public Information Committee and the Young Lawyers Section. Kelly joined the staff in 2007.

*direct phone: (504)619-0118
toll-free phone: (800)421-5722, ext. 118
fax: (504)566-0930
e-mail: kelly.ponder@lsba.org*

**Barbara D. Baldwin
Communications Coordinator**

Barbara is responsible for the design of the *Louisiana Bar Journal*, the "Bar Briefs" and for all printed media associated with LSBA programs and events. Barbara joined the staff in 2008.

*direct phone: (504)619-0142
toll-free phone: (800)421-5722, ext. 142
fax: (504)566-0930
e-mail: barbara.baldwin@lsba.org*



Barbara D. Baldwin



Darlene M. LaBranche

**Darlene M. LaBranche
Publications Coordinator**

Darlene has primary responsibility for writing, editing and design of the *Louisiana Bar Journal*, "Bar Briefs" and the e-newsletter "Louisiana Bar Today." After working on LSBA publications on a contract basis since 1993, Darlene joined the full-time staff in 2004.

*direct phone: (504)619-0112
toll-free phone: (800)421-5722, ext. 112
fax: (504)566-0930
e-mail: dlabranche@lsba.org*

**Krystal L. Bellanger
Communications Assistant**

Krystal assists the communications director with the execution of communications strategy, while providing ongoing public relations support. She also implements the Association's advertising strategy and handles advertising sales for the *Louisiana Bar Journal*, "Bar Briefs," the Web site, www.lsba.org, and other communications vehicles. Krystal joined the staff in 2006.

*direct phone: (504)619-0131
toll-free phone: (800)421-5722, ext. 131
fax: (504)566-0930
e-mail: kbellanger@lsba.org*



Krystal L. Bellanger



Jessica G. Cassioppi

**Jessica G. Cassioppi
Program Coordinator/
Meetings and Events**

Jessica is responsible for planning, organizing, managing and facilitating all aspects of the Association's Annual Meeting, Midyear Meeting and other special events. Jessica joined the staff in 2007.

*direct phone: (504)619-0116
toll-free phone: (800)421-5722, ext. 116
fax: (504)566-0930
e-mail: jcassioppi@lsba.org*

Information Technology Department

**Tony LaVerde
Information Technology Director**

The LSBA's first information technology director, Tony is responsible for technological planning and implementation. He oversees day-to-day operations of all information technology, including business application/web development, voice/data services, information systems security, document management, staff/member communication



Tony LaVerde

systems, and network/workstation operations. He is responsible for investigating all aspects of technology and technology development to support the LSBA's current and long-range business goals. Tony joined the staff in 2007.

direct phone: (504)619-0117
toll-free phone: (800)421-5722, ext. 117
fax: (504)566-0930
e-mail: tony.laverde@lsba.org



Darin P. Trittel

Darin P. Trittel
Web Administrator

Darin coordinates and manages the technical aspects of the Louisiana State Bar Association's Web site, www.lsba.org, and recommends and implements existing and emerging technologies to accomplish the Association's goals utilizing the Web site. Darin joined the staff in 2000.

direct phone: (504)619-0136
toll-free phone: (800)421-5722, ext. 136
fax: (504)566-0930
e-mail: dtrittel@lsba.org



Ashley J. Cambre

Ashley J. Cambre
Systems Administrator

Ashley administers and maintains the servers, as well as workstation hardware and software. In addition, he monitors the systems' health and performance, recommends and installs system upgrades, and serves as the internal e-mail administrator. Ashley joined the staff in 2007.

direct phone: (504)619-0139
toll-free phone: (800)421-5722, ext. 139
fax: (504)566-0930
e-mail: ashley.cambre@lsba.org

Law-Related Education Department



Peggy V. Cotogno

Peggy V. Cotogno
Executive Director, La. Center for Law and Civic Education

Peggy became the executive director of the Louisiana Center for Law and Civic Education in 2008. She coordinates law-related education in schools and conducts training workshops for educators and lawyers. She writes the grants that provide the funding for the Center's administration and programs.

direct phone: (504)619-0134
toll-free phone: (800)421-5722, ext. 134
fax: (504)566-0930
e-mail: peggy.cotogno@lsba.org

Kandis H. Showalter
Executive Assistant

Kandis assists the director in implementing and organizing all events and programs conducted by the Louisiana Center for Law and Civic Education. Kandis joined the LSBA staff in 2007 as receptionist and was promoted to her current position in 2008.

direct phone: (504)619-0141
toll-free phone: (800)421-5722, ext. 141
fax: (504)566-0930
e-mail: kandis.showalter@lsba.org



Kandis H. Showalter

Minority Outreach and Diversity Department

Kelly McNeil Legier
Member Outreach and Diversity Director

Kelly is responsible for outreach efforts, with emphasis on diversity initiatives and local bar relationships. She orchestrates outreach tours of LSBA officers to the judiciary and local bars. She develops and implements initiatives to further the LSBA's goal of ensuring equal opportunities for the participation of all lawyers in the Bar. She facilitates diversity conclaves, minority job fairs and diversity training and maintains the diversity Web page. She coordinates programming to law students to provide professional development opportunities and to elementary school students to encourage law as a career. Kelly joined the staff in 2008.

direct phone: (504)619-0129
toll-free phone: (800)421-5722, ext. 129
fax: (504)566-0930
e-mail: kelly.legier@lsba.org



Kelly McNeil Legier

Veronica Lewis
Outreach Coordinator

Veronica primarily is responsible for establishing and maintaining relationships with Louisiana's local and specialty bar associations to enhance or expand programs and activities which benefit Louisiana lawyers. She assists with the implementation of diversity initiatives. Veronica joined the staff in 2009.

direct phone: (504)619-0151
toll-free phone: (800)421-5722, ext. 151
fax: (504)566-0930
e-mail: veronica.lewis@lsba.org



Veronica Lewis

Danielle P. Washington
Executive Secretary

Danielle assists the executive director, executive assistant and director of member outreach and diversity, through administrative and clerical duties, with various aspects



Danielle P. Washington

of the operation of the Association. She also assists the president, president-elect and immediate past president with scheduling, travel and correspondence on an as-needed basis. Danielle joined the staff in 2009.

direct phone: (504)619-0115
toll-free phone: (800)421-5722, ext. 115
fax: (504)566-0930
e-mail: danielle.washington@lsba.org

Professional Programs Department



Cheri Cotogno Grodsky

Cheri Cotogno Grodsky **Associate Executive Director for Professional Programs**

Cheri oversees the Association's professional programs, including Practice Assistance and Continuing Legal Education. She also works with the Client Assistance Foundation and the Committee on the Profession. She is responsible for the development, implementation and operation of the Practice Assistance and Improvement Program. Cheri works with the CLE Program Committee and has financial oversight for the Association's CLE seminars.

direct phone: (504)619-0107
toll-free phone: (800)421-LSBA, ext. 107
fax: (504)598-6753
e-mail: cgrodsky@lsba.org



William N. King

William N. King **Professional Programs Counsel for Practice Assistance**

Bill works closely with the associate executive director for professional programs in the administration of the Practice Assistance and Improvement Program. He is responsible for the administration of the LSBA Fee Dispute Resolution Program and the LSBA Opinion Service. Bill joined the staff in 2000 after working for seven years as deputy disciplinary counsel with the Office of Disciplinary Counsel.

direct phone: (504)619-0109
toll-free phone: (800)421-5722, ext. 109
fax: (504)598-6753
e-mail: bking@lsba.org



Richard P. Lemmler, Jr.

Richard P. Lemmler, Jr. **Ethics Counsel**

Richard works with the Ethics Advisory Service to provide confidential, informal, non-binding advice and advisory opinions to eligible members of the Bar. Since 2006, he has worked closely with the Rules of Professional Conduct Committee regarding lawyer advertising and is responsible

for the day-to-day administration of lawyer advertising filed with the LSBA. He also works with the Legislation Committee, the Publications Subcommittee (to appropriately modify and publish select ethics advisory opinions on the Bar's Web site and in the *Louisiana Bar Journal*) and the Subcommittee on Erosion of the Attorney-Client Privilege. Richard joined the staff in 2002, after practicing law in New Orleans for 14 years as a solo general practitioner. Before joining the staff, he also served as an appointed, volunteer lawyer-member (then chair) of a hearing committee for the Louisiana Attorney Disciplinary Board.

direct phone: (504)619-0144
toll-free phone: (800)421-5722, ext. 144
fax: (504)598-6753
e-mail: rlemmler@lsba.org

Eric K. Barefield **Assistant Ethics Counsel**

Eric works with the ethics counsel in the administration of the Ethics Advisory Service and assists with lawyer advertising filed with the LSBA. He joined the staff as practice assistance counsel in 2005, after working with the Office of Disciplinary Counsel for seven years. He was initially responsible for the implementation of the LSBA Law Office Management Assistance Program and was promoted to his current position in 2008.

direct phone: (504)619-0122
toll-free phone: (800)421-5722, ext. 122
fax: (504)598-6753
e-mail: ebarefield@lsba.org

Annette C. Buras **CLE Coordinator**

Annette works with the associate executive director for professional programs and CLE Program Committee to plan and implement approximately 25 seminars each year. She handles site selection, coordination of promotional materials and communications with committee members and speakers. She also handles processing of registrations for Bar-sponsored CLE seminars and works on site at Bar-sponsored seminars. Annette joined the staff as receptionist in 1992 and was promoted to her current position in 2006.

direct phone: (504)619-0102
toll-free phone: (800)421-5722, ext. 102
fax: (504)598-6753
e-mail: aburas@lsba.org



Eric K. Barefield



Annette C. Buras



Connie P. Sabio

**Connie P. Sabio
Professional Programs Administrative Assistant**

Connie provides clerical support and works closely with the associate executive director for professional programs in the administration of the diversionary programs, the lawyer/client assistance program and other professional programs. Connie joined the staff in 1998 after working for the Louisiana Attorney Disciplinary Board for five years.

*direct phone: (504)619-0108
toll-free phone: (800)421-5722, ext. 108
fax: (504)598-6753
e-mail: connies@lsba.org*



Kristy G. DeValle

**Kristy G. DeValle
Senior Practice Assistance Secretary**

Kristy provides clerical support and works closely with practice assistance counsel in the operation of the Practice Assistance and Improvement Program and the LSBA Fee Dispute Resolution Program. Kristy joined the staff in 1998 and worked with the administration director until assuming this position in 2000.

*direct phone: (504)619-0110
toll-free phone: (800)421-5722, ext. 110
fax: (504)598-6753
e-mail: kdelvalle@lsba.org*



Wendy S. Roberts

**Wendy S. Roberts
Practice Assistance Secretary**

Wendy provides clerical support and works closely with practice assistance counsel in the operation of the Practice Assistance and Improvement Program. She also provides assistance with Bar-sponsored CLE seminars. Wendy joined the staff in 2000 as an MCLE secretary.

*direct phone: (504)619-0135
toll-free phone: (800)421-5722, ext. 135
fax: (504)598-6753
e-mail: wroberts@lsba.org*



Dale C. LeBlanc

**Dale C. LeBlanc
Ethics Assistant**

Dale provides clerical support and works closely with ethics counsel in the administration of the Ethics Advisory Service and lawyer advertising duties. Dale joined the staff in 2003.

*direct phone: (504)619-0143
toll-free phone: (800)421-5722, ext. 143
fax: (504)598-6753
e-mail: dleblanc@lsba.org*

**Leah M. Joly
CLE Secretary**

Leah handles processing of registrations for Bar-sponsored CLE seminars, as well as requests for seminar information. She also works on site at LSBA seminars. Leah joined the staff in 2007 as general clerk and was promoted to her current position the same year.

*direct phone: (504)619-0137
toll-free phone: (800)421-5722, ext. 137
fax: (504)598-6753
e-mail: leah.joly@lsba.org*



Leah M. Joly

**Laurie Frances
Ethics Secretary**

Laurie provides clerical support and works closely with ethics counsel in the operation and administration of the Ethics Advisory Service. Laurie joined the staff in 2009.

*direct phone: (504)619-0138
toll-free phone: (800)421-5722, ext. 138
fax: (504)598-6753
e-mail: laurie.frances@lsba.org*



Laurie Frances

Specialization Department

**Catherine S. Zulli
Specialization Board Director**

Working closely with the Supreme Court-appointed Louisiana Board of Legal Specialization, Cathy is responsible for the overall administration of the legal specialization program. She joined the staff in 1990 as member services assistant and was promoted to her current position in 1995.

*direct phone: (504)619-0128
toll-free phone: (800)421-5722, ext. 128
fax number: (425)940-0470
e-mail: czulli@lsba.org*



Catherine S. Zulli



The 70-year Louisiana State Bar Association members attending the reception were, Clifford H. Kern, Jr., left, and Robert A. Pascal. *Photo by J.F. Bergeron Studio and Gallery.*

LSBA Recognizes 70-, 60-, 50-Year Members at Midyear Meeting Reception

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.

During a special reception, 163 Bar members were recognized for their years of service to the legal profession. Of the 163 recog-

nized, 63 honorees attended in person to receive their certificates and pose for photographs with LSBA President Elizabeth Erny Foote and Louisiana Supreme Court Chief Justice Catherine D. Kimball.

70-Year Members

These LSBA members were admitted to the Bar in 1939. They are listed with their hometowns and law schools.

William A. Culpepper	Alexandria	Tulane
J. Michael Early	New Orleans	Loyola
Clifford H. Kern, Jr.	New Orleans	Tulane
Robert A. Pascal	Baton Rouge	LSU
William Waller Young, Jr.	Pass Christian, Miss.	Tulane

Continued next page



Among the 60-year Louisiana State Bar Association members attending the reception were, front row from left, Hon. John R. Rarick, Norman Redmond Kerth, John P. Laborde and Virginia M. Carmouche. Standing from left, F. Jean Pharis, Hon. Woodrow Wilson, Hon. Thomas C. Wicker, Jr., Rene Lehmann and Charles G. Merritt. Photo by J.F. Bergeron Studio and Gallery.

Honorees continued from page 455

60-Year Members

These LSBA members were admitted to the Bar in 1949. They are listed with their hometowns and law schools.

Roland J. Achee	Shreveport	LSU	Charles Owen Johnson	Arlington, Va.	Tulane
Harry V. Barton	Baton Rouge	LSU	Carroll G. Jones	Ruston	LSU
Adrian C. Benjamin, Jr.	New Orleans	Tulane	Norman Redmond Kerth	New Orleans	Loyola
Bernard E. Beyt	Lafayette	LSU	John P. Laborde	New Orleans	LSU
John A. Boatner, Jr.	Bunkie	Tulane	Vanue B. Lacour	Baton Rouge	Southern
Leo L. Brassett, Sr.	Baton Rouge	LSU	Thomas D. Langford	Shreveport	LSU
Virginia M. Carmouche	Lake Charles	LSU	Rene Lehmann	New Orleans	Tulane
Ben E. Coleman	Shreveport	LSU	Floyd W. Lewis	New Orleans	Tulane
John W. Cox	Pass Christian, Miss.	Tulane	Hon. Marcel Livaudais, Jr.	New Orleans	Tulane
Edmond L. Deramee, Jr.	Thibodaux	Tulane	E. Rudolph McIntyre	Winnsboro	LSU
Robert Emerson Eatman	Shreveport	LSU	Charles G. Merritt	New Orleans	Loyola
Ben Foster	New Orleans	LSU	F. Fred Mouton	Lafayette	Loyola
Warren L. Garfunkel	Shreveport	Tulane	Joseph B. Olinde	Baton Rouge	LSU
Alvin B. Gibson	Covington	LSU	F. Jean Pharis	Alexandria	LSU
Twain K. Giddens, Jr.	Shreveport	LSU	Hon. John R. Rarick	St. Francisville	Tulane
Hon. James C. Gulotta, Sr.	New Orleans	Tulane	Hon. Edmund M. Reggie	Lafayette	Tulane
Hubert J. Hansen	Shreveport	LSU	Robert L. Roland	Baton Rouge	LSU
Hon. Frederick J.R. Heebe	New Orleans	Tulane	A.J. Schmitt, Jr.	New Orleans	Tulane
Edward Max Heller	New Orleans	Tulane	G. Harrison Scott	New Orleans	LSU
William Lovejoy Henning	Sulphur	LSU	Hon. Tom Stagg	Shreveport	LSU
Calvin C. Hoppmeyer	Slidell	Tulane	James H. Stroud	Shreveport	Tulane
Harry H. Howard	Metairie	Tulane	Troye A. Svendsen	Baton Rouge	Tulane
Eugene E. Huppenbauer, Jr.	Metairie	Tulane	Thomas A. Tomeny	Metairie	Loyola
			George H. Toye	Covington	Loyola
			Hon. O.L. Waltman, Jr.	Ruston	LSU
			Hon. Thomas C. Wicker, Jr.	Metairie	Tulane
			Hon. Woodrow Wilson	Bastrop	LSU



Among the 50-year Louisiana State Bar Association members attending the reception were, front row from left, Hon. Steven R. Plotkin, Hon. Jerry A. Brown, M. Arnaud Pilié, Hon. Joseph F. Grefer, Hon. Salvatore Panzeca, Louis A. Heyd, Jr., William W. Messersmith III, John M. Currier and Ronald F. Plaisance, Sr. Standing from left, Leon H. Rittenberg, Jr., Lee R. Leonard, David L. Zuber, N. Buckner Barkley, Jr., Hon. William N. Knight, Sr., Kermit M. Simmons, Robert G. Dawkins, George R. Ramier, Albert H. Hanemann, Jr., Henry O. Lestage III, Hon. Joel T. Chaisson, Sr., Anthony J. Capritto III, Isaac E. Henderson, Charles W. Lane III, Hon. Marcel Garsaud, Jr., G. Edward Merritt, John M. McCollam, Paul P. Rutledge, William Boyd Reeves, August J. LaNasa, Gerald C. Gex, Ronald M. Labbe, William M. Nolen and Philip J. McMahon. *Photo by J.F. Bergeron Studio and Gallery.*

50-Year Members

These LSBA members were admitted to the Bar in 1959. They are listed with their hometowns and law schools.

J. Donald Aaron, Jr.	Lafayette	LSU	Harris Myron Dulitz	Metairie	Tulane
Johnny X. Allemand	Thibodaux	LSU	John E. Dupre, Jr.	West Hollywood, Calif.	LSU
Preston N. Aucoin	Ville Platte	LSU	Hon. Thomas A. Early, Jr.	New Orleans	Loyola
N. Buckner Barkley, Jr.	Marrero	Tulane	Lolis E. Elie	New Orleans	Loyola
Garic K. Barranger	Covington	Tulane	James Farrier	Baton Rouge	LSU
Harry E. Barsh, Jr.	Louisville, Ky.	LSU	Peter Anthony Feringa, Jr.	New Orleans	Tulane
Emmett Edward Batson	Baton Rouge	LSU	Hon. Marcel Garsaud, Jr.	New Orleans	Loyola
Lonnie L. Bewley	New Orleans	Tulane	James D. Garvey, Sr.	New Orleans	Loyola
Hon. C. Thomas Bienvenu, Jr.	St. Martinville	Tulane	Gerald C. Gex	Bay St. Louis, Miss.	Tulane
Hon. Jerry Allen Brown	New Orleans	Tulane	Hon. James E. Glancey, Jr.	New Orleans	Loyola
John M. Brown	Shreveport	LSU	John Leroy Glover	Baton Rouge	Tulane
James G. Burke, Jr.	New Orleans	Tulane	Hon. Joseph F. Grefer	Gretna	Loyola
Peter J. Butler	Gretna	Loyola	Davis A. Gueymard	Baton Rouge	LSU
Hope H. Camp, Jr.	San Antonio, Texas	Tulane	Arthur Buford Haack	Baton Rouge	LSU
Anthony J. Capritto III	New Orleans	Loyola	Elsie B. Halford	Metairie	Loyola
Oliver Provosty Carriere, Jr.	Metairie	Loyola	Albert H. Hanemann, Jr.	New Orleans	Tulane
Peter J. Casano III	Diamondhead, Miss.	Tulane	Isaac E. Henderson	Houston, Texas	Southern
Hon. Joel T. Chaisson, Sr.	Destrehan	LSU	Philip E. Henderson	Mandeville	LSU
Joan Elaine Chauvin	New Orleans	Loyola	Lloyd E. Hennigan, Jr.	Jena	LSU
Francis M. Coates, Jr.	Baton Rouge	Harvard	Louis A. Heyd, Jr.	New Orleans	Tulane
Lillian M. Cohen	Slidell	Loyola	William A. Hunter	Dalhart, Texas	Tulane
Hon. D. Irvin Couvillion	Baton Rouge	LSU	William J. Jones, Jr.	Covington	Tulane
James Joseph Cox	Lake Charles	Tulane	Richard B. Jurisich	River Ridge	Tulane
Ronald A. Curet	Hammond	LSU	Donald Kent	Lafayette	Tulane
John M. Currier	New Orleans	Tulane	Hon. William N. Knight, Sr.	Jennings	LSU
Thomas J. D'Aquila	New Orleans	Loyola	Ronald M. Labbe	Lafayette	Loyola
Robert G. Dawkins	Ruston	LSU	August J. LaNasa	New Orleans	Loyola
Salvador L. Diesi, Sr.	Breaux Bridge	LSU	Charles William Lane III	New Orleans	Tulane
			John Ladd Lanier	Thibodaux	LSU
			Lee R. Leonard	New Orleans	Tulane
			Henry O. Lestage III	DeRidder	LSU
			Karl E. Lewis, Jr.	Houma	LSU

Honorees continued from page 457

C. Jerre Lloyd	Oxnard, Calif.	LSU	Hon. Christopher J. Roy, Sr.	Alexandria	LSU
Louis E. Mailhes	Conroe, Texas	Loyola	Paul P. Rutledge	Metairie	Loyola
Robert R. McBride	Lafayette	LSU	Charles W. Salley	Shreveport	LSU
Stuart A. McClendon	Mandeville	Tulane	Gaspar J. Schiro	New Orleans	Loyola
John M. McCollam	New Orleans	Tulane	John B. Scofield	Lake Charles	Tulane
Richard J. McGinity, Jr.	Metairie	Tulane	David H. Seelig	New Orleans	Tulane
Philip J. McMahan	Houma	LSU	Thomas A. Self	Leesville	LSU
G. Edward Merritt	New Orleans	Loyola	James Larkin Selman II	New Orleans	Tulane
William W. Messersmith III	New Orleans	Tulane	Kermit M. Simmons	Winnfield	LSU
Edward M. Mouser	Oberlin	LSU	John F. Simon	Alexandria	Tulane
Eugene J. Murret	Denver, Colo.	Loyola	Charles B. Sklar	Pisgah Forest, N.C.	LSU
Boris F. Navratil	Baton Rouge	LSU	Joe D. Sparks	Atlanta, Ga.	Tulane
John G. Nelson	Shreveport	LSU	Hon. Penrose C. St. Amant	Gonzales	LSU
William M. Nolen	Lake Charles	LSU	Eugene G. Taggart	New Orleans	Tulane
Hon. Salvatore Panzeca	New Orleans	Tulane	Bernard J. Tortomasi, Jr.	Addison, Texas	Tulane
M. Arnaud Pilie	Covington	Loyola	Andre Trawick, Jr.	Henderson, Ky.	Loyola
Ronald Francis Plaisance, Sr.	New Orleans	Loyola	Emile L. Turner, Jr.	New Orleans	Loyola
Hon. Steven R. Plotkin	New Orleans	Tulane	Dean R. Veatch	Shreveport	Law studies
Llewellyn A. Proctor, Sr.	Baton Rouge	LSU	Hon. John Volz	Tulsa, Okla.	Tulane
George R. Ramier	Arnaudville	Loyola	Joseph L. Waitz	Houma	LSU
Charles W. Rea	Baton Rouge	Tulane	Sue C. Watson	Lake Charles	LSU
Harry S. Redmon, Jr.	New Orleans	LSU	James M. Whitehead	Williamsburg, Va.	Tulane
William Boyd Reeves	Mobile, Ala.	Tulane	Lynn C. Woods, Jr.	Houston, Texas	Tulane
Leon H. Rittenberg, Jr.	New Orleans	Tulane	David L. Zuber	Metairie	Tulane

Midyear Meeting Sponsors Acknowledged

The LSBA would like to acknowledge these generous sponsors of the 50-, 60- and 70-Year Members' Reception:

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Jamie F. Staub, third from left, a social studies teacher at Haynes Academy for Advanced Studies in Metairie, is the recipient of the 2009 President's Award of Excellence, presented annually by the Louisiana Center for Law and Civic Education (LCLCE). Staub received her award from Hon. C. Wendell Manning, LCLCE president, second from left, at the Louisiana State Bar Association's (LSBA) Midyear Meeting in January. With them are LSBA President Elizabeth Erny Foote, left, and Louisiana Supreme Court Chief Justice Catherine D. Kimball. Photo by J.F. Bergeron Studio and Gallery.

Staub Recognized as 2009 Outstanding Law-Related Education Teacher

Jamie F. Staub, a social studies teacher at Haynes Academy for Advanced Studies in Metairie, is the recipient of the 2009 President's Award of Excellence, presented annually by the Louisiana Center for Law and Civic Education (LCLCE). Staub received her award from Hon. C. Wendell Manning, LCLCE president, at the Louisiana State Bar Association's (LSBA) Midyear Meeting in January.

This annual award is given to an outstanding Louisiana elementary, middle or high school teacher who imparts knowledge and understanding of law and civic education and demonstrates the use of interactive learning techniques that make a difference in student learning. The award presentation is a joint partnership of the LCLCE and the LSBA.

Staub received her BS degree in secondary social studies education in 1984 from Louisiana State University and her master of education degree in 1994 from the University of New Orleans. She completed her plus-30 certification in 1999. Prior to teaching at Haynes Academy, she taught social studies for many years at

Grace King High School in Metairie and L.W. Higgins High School in Harvey. She has been teaching for 22 years.

Staub's dedication to her students and her involvement in many educational activities were considered by the judges' panel. Among these activities, she has traveled to Washington, D.C. 14 times with her students with the "Close Up Program," lead her students to win the nationally recognized simulated congressional hearing competition, "We the People," state championship 10 times and made more than 40 presentations on such subjects as "Representative Democracy in America" and "Appreciating Legislatures."

She is a member of the National Council for the Social Studies, the Louisiana Council for the Social Studies, the Jefferson Council for the Social Studies, the Association for Supervision and Curriculum Development, the Louisiana Association for Supervision and Curriculum Development and Alpha Delta Kappa.

"Each and every day I get to touch the lives of young people and over the years I have been able to reach out to hundreds of youth," Staub said.

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Attorneys Qualify as Board-Certified Specialists

In accordance with the requirements of the Louisiana Board of Legal Specialization, as approved by order of the Louisiana Supreme Court, the following Louisiana State Bar Association members have satisfactorily met the established criteria and are qualified as board-certified specialists in the following areas for a five-year period which began Jan. 1, 2009, and will end on Dec. 31, 2013.

Consumer Bankruptcy Law

Raymond Lee Landreneau, Jr. Houma

Family Law

Terry Aubin Pineville
Susan N. Belsom Monroe

Tax Law

Byron Ann Cook New Orleans
Kyle C. McInnis Shreveport

Estate Planning and Administration

Christine W. Marks Metairie
Kyle C. McInnis Shreveport
Cherish D. van Mullem Baton Rouge

The Louisiana Board of Legal Specialization was established in 1993 by the Louisiana Supreme Court to assist consumers in finding a lawyer who has demonstrated ability and experience in specialized fields of law. To become a certified specialist, an attorney must be an active member of the Louisiana State Bar Association, have a minimum of five years of full-time practice, demonstrate substantial experience in the specialty area and pass a written examination. Presently, the five areas of law for which the Louisiana Board of Legal Specialization is offering certification are business bankruptcy law, consumer bankruptcy law, estate planning and administration, family law and tax law.

Applications for 2010 certification in consumer bankruptcy law, business bankruptcy law, estate planning and administration, family law or tax law may be obtained by e-mail to czulli@lsba.org, or by calling (480)699-0786.

Legal Specialization Available in Bankruptcy Law

The Louisiana Board of Legal Specialization (LBLS) is accepting applications for 2010 certification in business bankruptcy law and consumer bankruptcy law through September 2009.

In accordance with the Plan of Legal Specialization, any Louisiana State Bar Association member who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. The five-year practice requirement must be met for the period ending Dec. 31, 2009. A further requirement is that each year a minimum of 35 percent of the attorney's practice must be devoted to the area of certification sought. For bankruptcy law, the CLE is regulated by the American Board of Certification, the testing agency.

Regarding 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 in order to avoid delay of board certification by the LBLS. Information concerning the American Board of Certification will be provided with the application form(s).

To apply for certification, complete and mail the form below. For more information, go to the Louisiana Board of Legal Specialization's Web site at www.lascmcle.org/specialization.

Legal Specialization Application

Applications for business bankruptcy law and consumer bankruptcy law will be accepted until September 2009. To receive an application, complete the following. (Please print or type.)

Name _____
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Please indicate area of certification desired.

Mail or e-mail to:

Catherine S. Zulli, Executive Director
Louisiana Board of Legal Specialization
601 St. Charles Ave., New Orleans, LA 70130-3404

Or e-mail: czulli@lsba.org.

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By L. Thornton, M. Cunningham & R. Webre

HAPPY LAWYERS!

Are you happy in your profession? Do you love what you do so much that each new day is exciting and satisfying? The Quality of Life team went in search of members who do have this level of job satisfaction. The team members found several members and have profiled three of them.

Edith H. Morris taught kindergarten in New Orleans for five or so years and was convinced that her purpose in life was to help children and families. She decided to try law school, “just to stay sharp,” and there she discovered what she didn’t expect — another way to accomplish her life’s mission. After beginning her career at a New Orleans law firm, she established her own firm in 1989. Morris, Lee & Bayle, L.L.C., in New Orleans focuses in family law, including adoption, mediation and collaborative divorce. She has filled her firm with others who, like her, feel they can help to improve their clients’ lives with the tools the law provides to them. Morris’ focus upon improving families’ lives applies not only to her clients but

also to her employees. “I like to think we’ve done right by the children of our firm,” she says. A walk through the firm reveals not only chic modern art but also a crib and toddler toys, and she and her staff frequently argue about whose turn it is to pick up a new baby and deliver the child to its adoptive parents. These are the joys that this practice has brought to Morris.

Morris also has been a key supporter of developing the tool of collaborative divorce in Louisiana. She has trained more than 200 family lawyers, mental health professionals and financial planners in this process, in which usually adverse spouses work together with a team of legal, financial and mental health experts to develop an agreement so that the parties are able to maintain an amicable relationship. The key to this process is the agreement that no party will seek the intervention of the court at any time. Morris feels strongly that one “cannot litigate devastation,” which is why she is an advocate of the amicable process of collaborative divorce. By approaching the law with knowledge and kindness and surrounding herself with

people who understand her goals, Morris has made herself one happy lawyer.

Max Nathan, Jr., a partner in the firm of Sessions, Fishman, Nathan & Israel, L.L.P., began debating and public speaking in high school, where his Byrd High School team won the national championship. This led him to Northwestern where he majored in political science, English and debate and public speaking. Nathan didn’t head straight for law school after college: a lifelong love of language and a detour through Yale, along with the good fortune of a father-in-law as a mentor, eventually landed him at Tulane Law School and he really hasn’t left yet. In fact, he is the longest serving member of Tulane Law’s faculty and credits teaching as one of the aspects of his legal career that has kept it energizing and emotionally rewarding.

“Love” doesn’t often appear in the same context with “Law,” but, throughout his interview, Nathan used precisely that word when talking about his practice of law and his clients. More often than not, his clients are his friends, and the law provides him the opportunity to

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For more information, see page 423.

help them solve problems that they have encountered and serve as their advocate. On an expanded scale, his work with the Louisiana State Law Institute, along with his teaching, enables him to contribute to the greater good, something else that is very important to him and another contributing factor to his satisfaction in his profession.

Another aspect of his career that he believes contributes to his satisfaction is the variety in his career; he not only represents his clients but also teaches and drafts our laws. He emphasizes the importance of the blessing of marrying the right person and the environment of his law firm. This variety has provided intellectual challenges and an outlet for his generous spirit, giving Nathan a *joie de vivre* and love of the law that provide an example and inspiration for our profession.

Unlike so many of us, **Leigh Anne Wall** went to Tulane Law School knowing exactly why she was there. In fact,

she surmises that if she was not a prosecutor, she probably wouldn't practice law. While she loves what she does, she admits that her job can be emotionally draining and emphasizes that "your job can't be your life" and that it is critical to find balance between one's professional and personal life.

Wall, a prosecutor with the St. Tammany Parish District Attorney's Office, has known since high school that this is what she wanted to do: after the murders at the Chi Omega house at Florida State University in Tallahassee, she was determined to be a prosecutor, giving a voice to the victims of crime who no longer have a voice of their own.

For Wall, the balance in her life comes from volunteering through the Junior League (she has helped with Habitat for Humanity, New Heights Equestrian Center and the planning for a Children's Museum), rescuing dogs (she has only four!) and spending time with her non-lawyer friends. These activities are a part of the mix that balances her life as

a prosecutor, taking her out of the insular world of the office.

Aside from actually living her dream, Wall likes the fact that trial work has forced her to develop skills, like "thinking on her feet," that didn't come naturally to this self-confessed planner. She likes that her job brings her into contact with people from all walks of life. Even though her life goes on hold during a trial, she finds that the camaraderie in the DA's office provides an excellent support system, making for a good work environment. Also, once a trial is over, life as a prosecutor is not eight days a week and Wall escapes the grind, proving that there really are lawyers who love their jobs.

Lucie E. Thornton, Meredith A. Cunningham and Rachel G. Webre are members of the Louisiana Bar Journal Editorial Board and the Quality of Life team.

Have an idea for a Quality of Life article? E-mail your idea or article to Louisiana State Bar Association Publications Coordinator Darlene M. LaBranche, dlabranche@lsba.org.

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

The Louisiana State Bar Association/Louisiana Bar Foundation's Community Action Committee supports the SOLACE program. Through the program, the state's legal community is able to reach out in small, but meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience a death or catastrophic illness, sickness or injury. For assistance, contact a coordinator.

Area	Coordinator	Phone	E-mail
Alexandria Area	Elizabeth Erny Foote	(318)445-4480	efoote@smithfoote.com
Baton Rouge Area	Ann G. Scarle	(225)214-5563	ann@brba.org
Covington/Mandeville Area	Suzanne E. Bayle	(504)524-3781	sebayle@bellsouth.net
Denham Springs Area	Mary E. Heck Barrios	(225)664-9508	mary@barrioslaw.com
Houma/Thibodaux Area	Danna Schwab	(985)868-1342	dschwab@theschwablawfirm.com
Jefferson Parish Area	Pat M. Franz	(504)455-1986	patfranz@bellsouth.net
Lafayette Area	Susan Holliday	(337)237-4700	susan@lafayettebar.org
Lake Charles Area	Chantell Marie Smith	(337)475-4882	csmith5@ldol.state.la.us
Monroe Area	John C. Roa	(318)387-2422	roa@hhsclaw.com
Natchitoches Area	Peyton Cunningham, Jr.	(318)352-6314 Cell (318)481-5815	peytonc1@bellsouth.net
New Orleans Area	Helena N. Henderson	(504)525-7453	hhenderson@neworleansbar.org
Opelousas/Ville Platte/Sunset Area	John L. Olivier	(337)662-5242 (337)942-9836 (337)232-0874	johnolivier@centurytel.net
River Parishes Area	Jude G. Gravois	(225)265-3923 (225)265-9828 Cell (225)270-7705	judegravois@bellsouth.net
Shreveport Area	Sandra Haynes	(318)222-3643	shaynes@shreveportbar.com

For more information, go to: www.lsba.org/2007InsideLSBA/solace.asp.

Scheduling a trial or motion in Red River Parish is not difficult. The process, like the parish, is comfortably informal.

With a population of under 10,000, Red River (the 39th Judicial District) is one of the least congested areas of the state. Consider that, in 2008, only 355 civil suits were filed, resulting in 12 civil bench trials and no civil jury trials. The single courtroom serves all civil matters and four annual criminal jury terms. There is no city court in Coushatta, the parish seat.

Current Events

The business climate in Coushatta may be on the upswing after years of dormancy. In mid-2008, much of northwest Louisiana was swept up in the excitement of the Haynesville Shale, by some estimates the largest shale gas field in North America. Recent advances in horizontal drilling technology have made these deep (10,000-13,000 feet) reserves more accessible and economical. At the height of the fever in mid-2008, undeveloped land in Red River Parish that had previously leased for \$100 an acre was fetching \$10,000; the parish's tax intake topped \$1.5 million in December 2008, and even small landowners garnered handsome signing bonuses. EnCana Corporation is building a 40-acre pipe yard six miles outside of Coushatta, and oilfield support companies are using downtown buildings that had been vacant for decades. Although gas prices have retreated since the Fall of 2008, Red River's business and employment prospects are brighter than in recent memory.

In October 2008, the voters of Red River Parish elected the first female district attorney in the state, Julie C. Jones.



The Red River Courthouse was built in 1926 and remodeled in the early 1980s, but the essential solid form and buff-yellow color scheme were retained. The cupola has been purely ornamental for more than 60 years. Photo by Hal Odom, Jr.

Docket Matters

To schedule a rule or motion, call the judge's secretary, Peggy, at (318)932-6206; she will gladly give you available dates. Civil rules are all set for Mondays and Thursdays at 9 a.m. At the close of a rule or pretrial hearing, if all parties are present, Judge Lewis O. Sams will usually ask attorneys to set a trial date. Once this is settled, a pretrial order with the standard time delays will issue. The system is virtually problem-free and seems to accommodate all parties.

Getting to Coushatta

Coushatta lies on Louisiana Highway 1, but most drivers will approach it by I-49. If you are coming from the south or east, take I-49 through Alexandria and continue about 70 miles north. Take Exit 155 (Ajax/Lake End), turn right and stay

on Louisiana Highway 174 east about five miles. When you reach Louisiana Highway 1, turn left and drive about eight miles; at U.S. Highway 84 (Armistead Road), turn right. After 2.5 miles, you will cross the Red River Bridge; at its foot, go straight at the four-way stop signal. The courthouse will be on the right.

The courthouse is a solid two-story structure in an impressive buff-yellow brick with terra cotta trim, Corinthian columns and a tall brown cupola. The courtroom is on the second floor. There is parking in front and on the left side; overflow parking is in a paved lot to the east of the building. All parking is free.

From these directions, it should be clear that the town of Coushatta, the seat of Red River Parish, is *not* the home of the (familiar) Coushatta Casino Resort. *That* Coushatta is in Allen Parish, 150



A winter view of the beach along Grand Bayou Reservoir. In season, the resort is attractive for fishing, boating and swimming. Photo by Hal Odom, Jr.

miles south of Coushatta. Bewildered people periodically stumble into Coushatta looking for a casino and golf course. Don't be one of them.

Pronouncing Coushatta

The name is derived from a Muskogean Indian word meaning "lost" (applied by the natives to the settlers, not to themselves!). Put the stress on the middle syllable and make it a very short *a*, as in *shadow* or *shatter*. The name does not rhyme with *lotta* or *gotta*.

Food Matters

A noontime bite can be grabbed at any of a dozen nearby diners. For directions, just ask one of the title examiners or landmen who have set up shop outside the clerk's office; they know where everything is.

Lodgings

Overnight accommodations in Coushatta are, frankly, limited. The Budget Inn is available, but out-of-town attorneys and expert witnesses may find more

openings and amenities in Natchitoches, 30 miles south.

Another attractive option is the Grand Bayou Resort on Highway 784. This hidden gem offers cabins and large condos on the sandy edge of the Grand Bayou Reservoir. The facilities are new and the prices competitive. The resort still does not have a Web site, but you can call (318)932-0066 for information.

Hal Odom, Jr. is a member of the Louisiana Bar Journal Editorial Board and the Local Practice Guide team leader. He can be reached by e-mail at rhodom@la2nd.org.

Do you want to see a specific Louisiana parish profiled in this section? Do you want to write a profile? E-mail your ideas or articles to Hal Odom, Jr., rhodom@la2nd.org, or to Louisiana State Bar Association Publications Coordinator Darlene M. LaBranche, dlabranche@lsba.org.

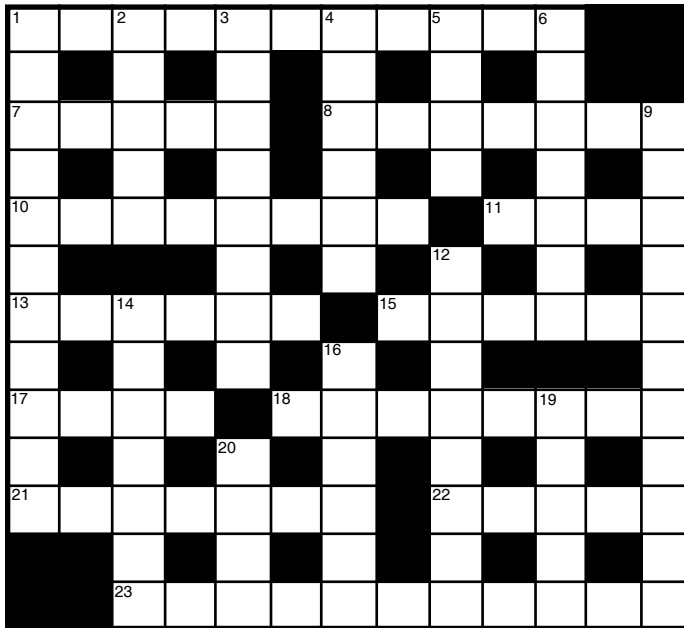


One of the condominium buildings in Grand Bayou Resort. Photo by Hal Odom, Jr.

Crossword PUZZLE

By Hal Odom, Jr.

IN A PIGNORATIVE EYE



ACROSS

- 1 What an opposing affidavit should do (11)
- 7 Benjamin Rush ____, leader in the Texas Revolution (5)
- 8 Cure-all (7)
- 10 Part of mortgage payment (8)
- 11 What one well should cover (4)
- 13 Rarely (6)
- 15 Icecap that causes vomiting? (6)
- 17 Instrument of Mutally Assured Destruction (1, 1, 1, 1)
- 18 *Ne* ____ (8)
- 21 Controversial legislative item (7)
- 22 ____ of *Glory*, 1957 Stanley Kubrick film (5)
- 23 Those at the center of criminal conspiracy (11)

DOWN

- 1 *Pacte* ____, prohibited provision in pledges (11)
- 2 Like overpriced apartments (5)
- 3 The future (8)
- 4 Any meal (6)
- 5 Fire god (4)
- 6 Of few words (7)
- 9 Pledge of immovable (11)
- 12 Popular green soup (5, 3)
- 14 Manual or day (7)
- 16 Fictional assassin of de Gaulle (6)
- 19 One of fifty-one in Civil Code (5)
- 20 Pledge of a movable (4)

Answers on page 507.

Alcohol and Drug Abuse Hotline

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Area	Committee Contact	Phone	Area	Committee Contact	Phone
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Baton Rouge	Steven Adams.....	(225)753-1365 (225)924-1510		Nanette H. Cagney.....	(337)437-3880
	David E. Cooley.....	(225)751-7927 (225)753-3407	Monroe	Robert A. Lee	(318)387-3872, (318)388-4472
	John A. Gutierrez.....	(225)715-5438 (225)744-3555		Nancy Carol Snow.....	(318)366-1820
Houma	Bill Leary.....	(985)851-0611, (985)868-4826	New Orleans	Deborah Faust.....	(504)304-1500
Lafayette	Alfred "Smitty" Landry.....	(337)364-5408, (337)364-7626		Donald Massey.....	(504)585-0290
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The Lawyers Assistance Program, Inc. provides confidential assistance with problems such as alcoholism, substance abuse, mental health issues, gambling and all other addictions.

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Attorney	Amount Paid	Gist
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Richard C. Bates	\$500.00	#1005 – Unearned fee
Harry J. Boyer, Jr.	\$1,500.00	#1031 – Unearned fee in a criminal matter
Keith J. Labat	\$1,000.00	#946 – Unearned fee in a succession matter
Robin A. Nesbitt	\$1,000.00	#926 – Unearned fee in a partition matter
Mark S. Wegener	\$2,100.00	#1038 – Unearned fee in a construction matter
Mark S. Wegener	\$1,750.00	#986 – Unearned fee in a redhibition matter

Q&A

LOUISIANA CLIENT ASSISTANCE FUND

What is the Louisiana Client Assistance Fund?

The Louisiana Client Assistance Fund was created to compensate clients who lose money due to a lawyer’s dishonest conduct. The Fund can reimburse clients up to \$25,000 for thefts by a lawyer. It covers money or property lost because a lawyer was dishonest (not because the lawyer acted incompetently or failed to take certain action). The fund does not pay

interest nor does it pay for any damages done as a result of losing your money.

Does the Fund cover fees?

The Fund will reimburse fees only in limited cases. If the lawyer did no work, fees may be covered by the Fund. Fees are not reimbursable simply because you are dissatisfied with the services or because work was not completed.

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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. 4, 2009.

Decisions

Robert L. Barrios, Houma, (2008-B-1679) **Disbarment** ordered by the court on Nov. 10, 2008. JUDGMENT FINAL and EFFECTIVE on Nov. 24, 2008. *Gist:* Neglect of legal matters; failure to communicate with numerous clients; failure to refund unearned fees; and failure to cooperate with the ODC in its investigations.

Jerome W. Dixon, Baton Rouge, (2008-B-1618) **One year and one day suspension, with all but six months deferred, conditioned upon one year of unsupervised probation**, ordered by the court on Dec. 2, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 16, 2008. *Gist:* Neglecting a legal matter; altering a public record; and making false statements to ODC.

Scott M. Hawkins, Lafayette, (2008-B-2867) **Interim suspension** ordered by the court on Jan. 7, 2009.

Kym K. Keller, New Orleans, (2008-B-1080) **Suspension for one year with all but six months deferred, subject to one year of probation**, ordered by the court on Dec. 12, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 26, 2008. *Gist:* Failure to properly safeguard client funds.

Keith J. Labat, Thibodaux, (2008-B-1926) **Permanent disbarment** ordered by the court on Nov. 14, 2008. JUDGMENT FINAL and EFFECTIVE on Nov. 28, 2008. *Gist:* Criminal conviction for more than 40 counts of felony theft; forgery and issuing worthless checks; and other misconduct.

David Lanasa, Harvey, (2008-B-2294) **Permanent disbarment**

ordered by the court on Jan. 9, 2009. JUDGMENT FINAL and EFFECTIVE on Jan. 23, 2009. *Gist:* Unauthorized practice of law.

Daniel Mckearan, Jr., Harahan, (2008-B-1727) **Public reprimand** ordered by the court on Nov. 10, 2008. JUDGMENT FINAL and EFFECTIVE on Nov. 10, 2008. *Gist:* Failure to provide accounting to client and failure to cooperate with successor counsel.

Mark Adam Peoples, Jackson, Miss. (formerly of Metairie), (2008-OB-2620) **Permanent resignation in lieu of discipline** ordered by the court on Dec. 9, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 9, 2008. *Gist:* Serious professional misconduct, including conversion of client and third-party funds and facilitation of the unauthorized practice of law by a suspended attorney.

Continued next page

Elizabeth A. Alston

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Sloan Richard, Gretna, (2008-B-2603) **Suspended for three years with all but one year and one day shall be actual with the remainder deferred** by consent and order of the Louisiana Supreme Court on Dec. 19, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 19, 2008. *Gist:* Violating or attempting to violate the Rules of Professional Conduct; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Cedric Richmond, New Orleans, (2008-B-0742) **Suspended for six months, with all but 60 days deferred and followed by Mr. Richmond placed on unsupervised probation for six months, ordered** by the court on Dec. 2, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 16, 2008. *Gist:* Making a false statement of fact or law to a tribunal; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Joseph H. Simpson, Amite, (2008-OB-2605) **Reinstated to the practice of law** ordered by the court on Dec. 12, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 12, 2008.

Carvel Sims, Baton Rouge, (2008-B-2176) **Two-year suspension** ordered by the court on Nov. 21, 2008. JUDGMENT FINAL and EFFECTIVE on Dec. 5, 2008. *Gist:* Neglect of client matters; dismissal of clients' case without their knowledge or consent; refusal to release client files upon termination; failure to properly complete settlement of clients' case; wrongful withholding settlement funds; and failure to cooperate with ODC.

Daniel F. Tyrrell, Jr., Lewes, Del., (2008-B-2402) **Disbarment** ordered by the court on Jan. 9, 2009. JUDGMENT FINAL and EFFECTIVE on Jan. 23, 2009. *Gist:* Reciprocal disbarment as a result of the Delaware Supreme Court disbaring Mr. Tyrrell in that state based upon evidence that Mr. Tyrrell converted client funds in an estate matter. The imposition of identical discipline in Louisiana is appropriate.

Admonitions (private sanctions, often with notice to complainants, etc.) issued since the last report of misconduct involving:

No. of Violations

Failure to act with reasonable diligence and promptness in representing a client3

Conflict of interest1

Failure to keep client reasonably informed about the status of the matter1

Failure to place advanced deposit against fees into the client trust account.....1

Failure to render a periodic accounting for fees earned.....1

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Administrative Decisions Are Still Presumed Valid

Kimberly Lawhead, a licensed practical nurse, failed to contact the treating physician when the mother of a 16-month-old patient asked her to do so after the child showed signs of post-operative distress. The State Board of Practical Nurse Examiners charged her with unprofessional conduct. The board found that the allegations were proven, and Lawhead's license was suspended for three months, a financial penalty was imposed and she was placed on probation for one year. She filed a petition for judicial review, which resulted in a judgment favorable to the board, upholding the board's findings and determining that there was no reason to change the punishment the board imposed.

In *Lawhead v. Louisiana State Board of Practical Nurse Examiners*, 07-1593 (La. App. 4 Cir. 10/28/08), 995 So.2d 664, the appeals court upheld the decision of the trial court, reaffirming two legal principles. First, the standard of review of administrative decisions is narrower than that applied to civil and criminal cases, for it is limited to the enumerated bases set forth in La. R.S. 49:964G, which states that a reviewing court may not set aside an agency's findings unless it determines that the finding was arbitrary, capricious

or an abuse of discretion. Second, such a determination is necessary to overcome the presumption of validity and propriety of agency decisions.

—**Brian M. Bégué**
Chair, LSBA Administrative
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The Earmarking Doctrine Exception

In *Matter of: Entringer Bakeries, Inc.*, 548 F.3d 344 (5 Cir. 2008), the trustee of the Chapter 7 debtor (trustee) sued First Bank and Trust (FBT) seeking to avoid two pre-petition transfers from Entringer Bakeries, Inc. (debtor) to FBT. Prior to filing for bankruptcy, the debtor borrowed \$180,000 from FBT as a short-term bridge loan so it could have time to arrange for long-term financing from the Whitney Bank. The Whitney loan would then be used to repay the FBT loan.

Due to a delay in obtaining the long-term financing from Whitney, the debtor was in default under the FBT loan. FBT, however, did not issue a notice of default, but instead required the debtor to execute a second promissory note that required one interest payment on March 5, 2001, and a final payment of principal and interest on March 30, 2001. The debtor made the March 5, 2001, interest payment and, when the Whitney loan closed in April 2001, the debtor paid the FBT loan in full. In May 2001, the debtor filed for bankruptcy. Soon thereafter, the trustee sought to avoid the two pre-petition payments made to FBT as preferences under 11 U.S.C. § 547(b).

Pursuant to 11 U.S.C. § 547(b), the trustee may avoid any transfer of an interest of a debtor in property if several elements are met. The parties stipulated to all the elements required under Section 547(b) to establish a preference, except as to whether the funds transferred to FBT constituted “an interest of the debtor in property.” The bankruptcy and district courts applied the “earmarking doctrine,” finding that the transfers were not transfers of the debtor’s interest in property. On appeal, the trustee argued that the earmarking doctrine was no longer a viable exception to a preferential transfer under Section 547(b); thus, the bankruptcy and district courts erred in applying that doctrine.

In its opinion, the 5th Circuit quoted *Coral Petroleum, Inc. v. Banque Paribas-London*, 797 F.2d 1351, 1355-56 (5 Cir. 1986), to describe the earmarking doctrine as follows:

If all that occurs in a “transfer” is the substitution of one creditor for another, no preference is created because the debtor has not transferred property of his estate; he still owes the same sum to a creditor, only the identity of the creditor has changed. This type of transaction is referred to as “earmarking”. . . . The earmarking doctrine is widely accepted in the bankruptcy courts as a valid defense against a preference claim, primarily because the assets from the third party were never in the control of the debtor and therefore payment of these assets

to a creditor in no way diminishes the debtor’s estate.

Accordingly, the 5th Circuit rejected the trustee’s argument that the earmarking doctrine was no longer a viable exception to a preferential transfer under Section 547(b). The 5th Circuit noted that it previously recognized the doctrine in *Coral Petroleum* and no intervening contrary or superseding decisions from the Supreme Court or the 5th Circuit have overruled *Coral Petroleum*.

Next, the 5th Circuit determined whether the “earmarking” doctrine applied to these transfers. The 5th Circuit applied the “control” test set forth in *Coral Petroleum* and further expounded upon in *In re Southmark Corp.*, 49 F.3d 1111 (5 Cir. 1995). The “control” test requires a determination as to whether a debtor has control over the funds and has the discretion to pay the funds to any creditors of its own choosing. The 5th Circuit found that the debtor had “dispositive control over the Whitney loan proceeds,” and the money was the debtor’s property once Whitney deposited the funds into its general account. The 5th Circuit further found that the debtor could have done anything it wanted with the money from the Whitney loan, meaning that the parties did not “earmark” the funds to pay off the FBT loan. There was no agreement between the debtor, FBT and Whitney requiring the debtor to use the money to pay off the FBT loan. Accordingly, the court held that the earmarking doctrine did not apply to the pre-petition transfers and the trustee could avoid the payments to FBT as preferential transfers. The 5th Circuit affirmed the judgment in favor of the trustee.

—**Tristan E. Manthey**

Chair, LSBA Bankruptcy Law Section
and

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Second (and Third) Verse, Same as the First

In *Chase Bank USA, N.A. v. Leggio*, 43,751 (La. App. 2 Cir. 12/3/08), 999 So.2d 155 (Leggio-2 and Leggio-3), on consolidated appeals by Chase Bank from the Shreveport City Court, the 2nd Circuit considered the second and third actions of Chase to obtain judgments against the same consumer through the use of arbitration awards from National Arbitration Forum (NAF). In the first action, the 2nd Circuit reversed and rendered in Leggio's favor and rejected the trial court's confirmation of the arbitration award. See *Chase Bank USA, N.A. v. Leggio*, 43,567 (La. App. 2 Cir. 11/19/08), 997 So.2d 887 (Leggio-1). In Leggio-2 and Leggio-3, the 2nd Circuit affirmed the denial of the confirmation actions.

Each of the three actions involved a different account. Leggio contended he had never agreed to arbitrate any matter with Chase. Leggio had advised Chase, NAF and Chase's counsel that he never agreed to arbitrate when first contacted

about a proposed arbitration.

As before, instead of filing a motion to compel arbitration and asking the court to consider evidence, if any, of an arbitration agreement, Chase NAF simply went forward with the arbitration, and NAF gave an award for Chase. In the second and third actions, the Shreveport City Court judges refused to render judgments affirming the NAF arbitral awards. Leggio offered his testimony and proof that he never agreed to arbitrate. Chase argued that Leggio had to take action to vacate the NAF award within 90 days of its rendition. As in Leggio-1, the 2nd Circuit found that Leggio was not constrained to a 90-day window. The gateway issue of whether there is an agreement to arbitrate is a first and crucial step in any confirmation proceeding before a court. The time limitation imposed by Section 12 (of the FAA) is not at issue unless there is a valid written agreement to arbitrate. An arbitration clause may be attacked on any grounds that could be used for revocation of a contract.

As had become custom in all of its collection lawsuits in Louisiana, Chase would simply submit to the trial court an unsigned, undated, generic Cardmember Agreement template that it contended applied to the defendant-consumer. These generic template agreements were not signed by or shown to be agreed to by the consumers. In fact, Leggio denied

receipt of or agreement to the terms of that exemplar. The Cardmember Agreement submitted in Leggio's case had no signs or indications to tie it to Leggio. The court concluded that there was no valid arbitration agreement between the parties and affirmed Leggio-2 and Leggio-3.

The court again addressed Chase's argument that Leggio must have impliedly consented through use of the credit card, citing *Bank of Louisiana v. Berry*, 94-0576 (La. App. 5 Cir. 1994), 648 So.2d 991, a case involving implied acceptance by a non-cardholder who had authority to use and who made charges on the cardholder's charge card and account, thereby impliedly consenting to pay for the charges he/she made. The non-party's use of the card in *Berry* and receipt of goods and services on another person's credit account could give rise to the non-party's (purchaser's) liability under *Berry's* facts but the court held *Berry* has no application to Leggio.

—David A. Szwak

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Corporate Charters as Contracts

In 1819, the United States Supreme Court held in *Trustees of Dartmouth College v. Woodward*, 17 U.S. 518, that the charter of a corporation was a contract. Recognizing that such a holding would severely limit the flexibility of the corporate form, corporate lawyers and academicians have developed a number of devices to get around the holding, the principal one of which was to simply ignore it. The Louisiana case, *New Orleans Opera Association v. Southern Regional Opera Endowment Fund*, 07-1373 (La. App. 4 Cir. 8/27/08), 993 So.2d 791, writ denied, 08-2352 (La. 11/21/08), 996 So.2d 1114, indicates that there may be some life in

the issue yet.

The Louisiana Non-Profit Corporation Law expressly provides that the articles of incorporation of a non-profit corporation may be amended by less than a unanimous vote of its members, and the articles of the New Orleans Opera Association Endowment Fund also expressly provided for such an amendment. Thinking that those provisions settled the matter, the board of the Fund amended the Fund's articles to, among other things, change its name and eliminate provisions indicating that the corporation's exclusive purpose was to support the New Orleans Opera Association.

Not so fast, said the court. Since *Dartmouth College* held that articles of incorporation were a contract, contract principles must be looked to. One of these principles is that of a *stipulation pour autri*, which provides that if a contract stipulated a benefit for a third person, the contract could not be changed without the third person beneficiary's consent. Then, finding that the stated purpose of the corporation to exclusively benefit the New

Orleans Opera was for the benefit of the Opera, the court held that the attempted amendment to the articles of incorporation was ineffective.

LLC Fiduciary Duties

In a blowup of a law firm organized as a limited liability company (LLC), two of the members sued the other member for breach of fiduciary duty. The court in *Brian D. Scofield, Inc. v. Susan A. Daigle, Ltd.*, 08-0798 (La. App. 3 Cir. 12/10/08), 999 So.2d 311, determined that the fiduciary duties of directors of a corporation were substantially similar to those of member managers of an LLC, so that corporate case law on fiduciary duties could be relied on in deciding LLC cases on the subject.

Inadvertent Arbitration

The plaintiff in *Sherer v. Green Tree Servicing LLC*, 548 F.3d 379 (5 Cir. 2008), asserted that the defendant had violated federal laws for the protection of

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consumer borrowers. The defendant was not the plaintiff's lender nor a party to the loan agreement but had obtained the loan servicing rights from the lender. Nevertheless, the plaintiffs sought to compel the defendant to arbitrate his claim, citing a provision in the loan agreement that "[a]ll disputes . . . arising from or related to this Agreement or the relationships that result from this Agreement . . . shall be resolved by binding arbitration." The federal 5th Circuit held that the quoted language was broad enough to constitute an agreement to arbitrate with anyone whose relationship resulted from the loan, that a loan servicer had such a relationship and the fact that the loan servicer had no privity with the plaintiff was not relevant.

Valuation

The use of minority interest and lack of marketability discounts have long been factors in determining the fair market value of stock, partnership interests and LLC interests. The Louisiana Supreme Court has recently found that these discounts are not always appropriate. *Cannon v. Bertrand*, 08-1073 (La. 1/21/09), ___ So.2d ___, involved a minority partner in a three-person partnership who withdrew from a partnership and became entitled to the fair market value of his investment. The Supreme Court found that the use of discounts in this case was "unwarranted." A minority discount was not proper because the remaining partners would not be subject to a lack of control, and a marketability discount was inapplicable because the remaining partners would continue the partnership.

Non-Solicitation Clauses

It is not uncommon for an employee to agree not to solicit to hire other employees of the employer after the employee leaves the employer, and the question is sometimes raised whether these agreements are subject to R.S. 23.921, governing non-competition agreements. In *Bell v. Rimkus Consulting Group*, 08-0491 (La. App. 5 Cir. 1/13/09), ___ So. 2d ___, the court sidestepped the issue in holding a non-solicitation agreement unenforce-

able. The agreement in question somewhat inartfully prohibited solicitation of any particular employee for 18 months after the particular employee left the employers. While agreeing with the employer that the non-solicitation agreements were not "specifically" covered by R.S. 23:921, the court nevertheless found that the time limit of the agreement was unreasonable and thus against public policy, making the agreement unenforceable.

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Exemptions for Oil and Gas Field Activities

Exemptions from the NPDES permitting requirements for oil and gas field activities are no longer allowed following the vacation of an EPA final rule in *Natural Resources Defense Council v. United States Environmental Protection Agency*, 526 F.3d 591 (9 Cir. 2008). In *NRDC v. EPA*, the 9th Circuit vacated a final rule issued by the EPA that had amended section 402(1)(2) of the Clean Water Act (CWA) and had provided an exemption to the NPDES permitting requirements for storm-water runoff from oil- and gas-

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Based on the 9th Circuit's vacation of the EPA's final rule that had exempted storm-water discharges from oil and gas construction activities, the EPA's current position, found at <http://cfpub.epa.gov/npdes/stormwater/oilgas.cfm>, is:

Now that the 2006 rule has been vacated, the effective requirements are the regulations in place prior to the 2006 rule plus the additional Energy Policy Act clarification of the activities included in the CWA 402(I)(2) exemption.

Similarly, the LDEQ no longer recognizes the exemption for oil and gas field activities from the NPDES Storm-water Permitting and Storm-water Pollution Prevention Plans. In Louisiana, all oil and gas field activities that impact (1) greater than one acre require a Storm-water Construction Permit and Storm-water Pollution Prevention Plan; (2) greater than one acre but less than five acres require a Small Construction Storm-water Permit and a Storm-water

Pollution Prevention Plan; and (3) five or more acres require a Large Construction Storm-water Permit and Storm-water Pollution Prevention Plan.

Prescription in Legacy Oil Field Suit

Kling Realty Co. v. Chevron USA, Inc., (5 Cir. 2008) (unpublished), 2008 WL 5243889.

In this legacy oil field suit, the U.S. 5th Circuit Court of Appeals upheld the district court's dismissal with prejudice of all the plaintiffs' claims for contamination of their property from the defendant's oil and gas activities, ruled that the plaintiffs' claims had prescribed and held that neither the doctrine of *contra non valentum* nor the continuing tort theory suspended or interrupted prescription.

The district court granted the defendant's motion for summary judgment because: (1) the well at issue in the suit was plugged and abandoned in 1971; (2) a release executed in 1973 for claims that crops would not grow on a portion of the property covered all claims related to the

well (including pits); and (3) the mineral lease at issue ended in 1974. Ruling that the defendant's activities on the property ended no later than 1974, the district court granted the defendant's motion for summary judgment.

Finding that the plaintiffs "had information 'sufficient to excite attention and prompt further inquiry'" in the 1970s, but did not bring suit until 2006, the 5th Circuit ruled that *contra non valentum* was inapplicable. The 5th Circuit relied on deposition testimony and documentary evidence that proved the plaintiffs knew of the problems with the contamination of the property for years before the suit was filed.

Finally, the 5th Circuit failed to find merit in the plaintiffs' arguments that the defendant's failure to clean up waste deposited on the property constituted a continuing tort. Specifically, the 5th Circuit ruled that the question of whether the defendant's conduct amounted to a continuing tort was based on whether a continuing physical invasion of the property was present and determined that the failure to clean up the contamination did not constitute such a continuing physical invasion under Louisiana law.

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Dismissal of Case Based on Exceptions of Vagueness, Non-Conformity and Prematurity Overruled

Broussard v. Hilcorp Energy Co., 08-0233 (La. App. 3 Cir. 12/10/08), 998 So.2d 946.

The defendants filed exceptions of vagueness, non-conformity, prematurity, improper cumulation and want of amicable demand in response to plaintiffs' allegations that the defendants negligently conducted oil and gas operations and contaminated their property. After allowing the plaintiffs to amend their petition four times, the trial court dismissed the plaintiffs' action without prejudice for failure to adequately cure the petition's defects.

The 3rd Circuit overturned the trial court's dismissal of the suit based on non-conformity and vagueness of the petition, ruling that the petitions taken as a whole contained sufficient statements of fact to place the defendants on notice of the nature of the plaintiffs' claims.

Also, the 3rd Circuit reversed the portion of the trial court judgment that sustained an exception of prematurity. The 3rd Circuit determined that the plaintiff's claims arising under La. R.S. 31:122 (obligation to operate as a reasonably prudent operator) brought before operations were completed were not premature.

However, the 3rd Circuit upheld the

portion of the trial court's judgment that sustained the exception of improper cumulation and ruled that the actions were improperly cumulated as there was not enough factual overlap between all the actions to make it commonsensical to litigate them together. This decision was based on the facts that different combinations of parties allegedly contributed to contamination at different times on five non-contiguous tracts of land. The 3rd Circuit also noted that the proof and amount of damages for each defendant would be different. Instead of upholding the dismissal of the actions, the 3rd Circuit found it more appropriate to order the plaintiffs to delete allegations or order separate trials.

The 3rd Circuit also upheld dismissal of the plaintiffs' claims for breach of contract against one defendant based on an exception of want of amicable demand because the plaintiffs did not abide by a lease provision that required notice of the "facts relied on as constituting breach" of the lease to be provided to the defendant.

—**Laura L. Hart** and
Victor J. Suane, Jr.

Members, LSBA Environmental
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Baton Rouge, LA 70821-3513



Custody

Henry v. Henry, 08-0689 (La. App. 1 Cir. 9/23/08), 995 So.2d 643.

The trial court's denial of the mother's motion to change custody was not an abuse of discretion because she failed to show a change was in the child's best interest. The child and the father had a close relationship, the child was well established at his school, and the father had family support if needed because of his work schedule.

Jones v. Willis, 43,608 (La. App. 2 Cir. 9/17/08), 996 So.2d 364.

The court of appeal affirmed the trial court's award of custody of the child, after the mother died, to the stepfather, over the maternal grandparents, because the child had lived with the mother and stepfather for the last five years in a wholesome and stable environment, and the stepfather was willing and able to continue to care for the child.

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Child Support

Vega v. Vega, 08-0353 (La. App. 5 Cir. 10/14/08), 996 So.2d 613, *writ denied*, 08-2672 (La. 1/16/09), 998 So.2d 104.

Although the transcript of the stipulation as to an increase in child support dictated in open court could not be located, the minute entry, the draft judgment sent by Ms. Vega's counsel to Mr. Vega's counsel, the income assignment order and other domestic relations support enforcement system forms, and the fact that Mr. Vega paid the increased support for eight years, all proved that an agreement had been made, along with the fact that Mr. Vega never denied the terms of the agreement, but only made technical arguments why a judgment should not be signed.

Interim Spousal Support

Domingue v. Bodin, 08-0062 (La. App. 3 Cir. 11/5/08), 996 So.2d 654.

The trial court erred in going beyond the pleadings to award Ms. Domingue

interim spousal support where neither party had filed for it; the award also violated Mr. Bodin's right to notice and due process.

Paternity

Succ. of James, 07-2509 (La. App. 1 Cir. 8/21/08), 994 So.2d 120, *writ denied*, 08-2302 (La. 12/12/08), 996 So.2d 1119.

Because Ms. Thibodeaux's right to claim filiation to the deceased had prescribed upon her reaching age 19, before Mr. James' death, the change in the law from old Civil Code article 209 to new Civil Code article 197 could not revive her already prescribed claim.

Property

Succ. of Wagner, 08-0212 (La. App. 1 Cir. 8/8/08), 993 So.2d 709.

Two documents signed respectively by Mr. Wagner and by Mr. and Mrs. Wagner sufficed to establish that funds were donated by them to their daughter. Because

the son failed to show that gold coins allegedly donated to him by Mr. Wagner were Mr. Wagner's separate property, and because if community the gift was not a usual and customary gift, the coins were properly found to be community property of Mr. and Mrs. Wagner's estates. The son did not acquire the coins by three years acquisitive prescription because he was not in good faith in receiving the "donation." The trial court's award of interest to Mr. Wagner's estate from Mrs. Wagner's estate on community money in her possession at the time of her death, which followed his, was vacated and remanded because the judgment was not specific as to how to calculate the interest.

—David M. Prados

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United States Trade Legislation

On Jan. 14, House Ways and Means Committee Democratic leaders introduced legislation that would significantly strengthen and alter U.S. trade remedy laws and practice. The Trade Enforcement Act of 2009 (HR 496) seeks to reinvigorate domestic practices to fight unfair trade. One of the major components is the creation of the Office of Congressional Trade Enforcer, allowing Congress to appoint an individual with the independent ability to investigate barriers to U.S. trade and submit “indictments” for dispute resolution procedures against foreign practices to the Office of the U.S. Trade Representative (USTR). The USTR General Counsel would be elevated to ambassadorial rank under the legislation. A brief summary of the major sections of the legislation follows. Similar legislation was introduced in the 110th Congress and was cosponsored by President Obama while a member of the Senate.

Elimination of Foreign Barriers to Exports of U.S. Goods and Services

► USTR must submit an annual report summarizing U.S. trade expansion priorities and discriminatory foreign country practices.

► USTR must initiate consultations with each foreign country to resolve the discriminatory foreign practices identified

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in the report.

► Creation of the Office of the Congressional Trade Enforcer, the head of which can issue indictments to the USTR regarding the manner in which a foreign trade practice violates any free trade agreement.

Restore and Enhance U.S. Trade Remedies

► Fully implements and codifies the U.S. Department of Commerce’s (DOC) practice of applying countervailing duties to unfairly subsidized and injurious imports from nonmarket economies, such as China and Vietnam.

► Limits executive branch discretion to refuse application of the China special safeguard mechanism that allows temporary relief where Chinese imports cause market disruption to U.S. industry.

► Contains a “Sense of Congress” that numerous World Trade Organization Appellate Body decisions finding the DOC application of the “zeroing” methodology in antidumping cases impose extra-contractual obligations.

Combat Counterfeiting and Piracy and Improve Import Safety

► Establishes a Director of Intellectual Property Rights Enforcement and an advisory committee to monitor enforcement issues.

► Creates a public-private import safety program and requires the use of “unique identifiers” to identify the source of goods imposing threats to human,

animal, plant life or health.

United States Supreme Court

United States v. Eurodif S.A., 129 S.Ct. 446 (2008).

The U.S. Supreme Court ruled in the *Eurodif* case that was previously reported in the *Louisiana Bar Journal* (February/March 2009). The unanimous opinion of the court authored by Justice Souter reversed the decision of the Court of Appeals for the Federal Circuit, finding that contracts for imported enriched uranium used at U.S. nuclear power stations are sales of goods, not contracts for services, and therefore subject to the provisions of the U.S. antidumping law. This is the first Supreme Court decision interpreting U.S. antidumping trade remedy law. In fact, the Supreme Court rarely ventures into international trade law cases. The only other notable international trade cases include decisions on the classification of imported merchandise under U.S. customs law (*U.S. v. Mead*, 121 S.Ct. 2164 (2001), and *U.S. v. Haggard Apparel Co.*, 119 S.Ct. 1392 (1999)), and the constitutionality of a harbor maintenance tax on exports (*U.S. v. U.S. Shoe Corp.*, 118 S.Ct. 1290 (1998)).

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Employees Who Do Not Complain May Bring Retaliation Claims Under Title VII

The United States Supreme Court expanded the category of employees who can file retaliation claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.* In the case of *Crawford v. Metropolitan Government of Nashville & Davidson County*, 129 S.Ct. 846 (2009), the employee, Vicky Crawford, did not initiate the investigation by complaining, and she never made a complaint of sexual harassment on her own behalf. Nevertheless, the Supreme Court held that she stated a claim for retaliation because she was fired within months of disclosing alleged harassment by a supervisor in response to her employer's questions during an investigation.

After hearing rumors, the employer conducted an investigation into alleged sexual harassment engaged in by a supervisor. When interviewed, Crawford reported that the supervisor had on several occasions made inappropriate sexual comments and gestures towards her and had also engaged in inappropriate sexual contact with her. Two other employees interviewed by

the employer reported similar conduct by the supervisor. Within months of the investigation, Crawford and the other two employees who made similar reports were terminated for misconduct related to job performance.

The Supreme Court stated that Crawford engaged in protected activity under the "opposition" clause of Title VII. This clause makes it unlawful for employers to retaliate against employees who oppose any practice made unlawful under Title VII. Although the word "opposition" is not defined by Title VII, the court explained that the word should be given its ordinary meaning. The court rejected the idea that an employee has to instigate an investigation or engage in active opposition to be protected by the retaliation provisions of Title VII.

Two other Supreme Court justices joined in the decision but wrote separate opinions to caution against an overbroad interpretation of the retaliation provisions of Title VII. Justices Clarence Thomas and Samuel Alito cautioned that the majority opinion of the Supreme Court not be interpreted so broadly as to protect "silent opposition" to harassment or to "water cooler" conversations with co-employees that are indirectly communicated to the employer. Justice Alito stated that to be protected, the employee's conduct should be "active and purposive."

President Obama Signs Lilly Ledbetter Fair Pay Act into Law

On Jan. 20, President Obama signed into law the Lilly Ledbetter Fair Pay Act, which extends the time period for the

filing of claims by employees alleging discrimination in compensation or other practices.

This law overturns the United States Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, 127 S.Ct. 2162 (2007). Under this decision, the court ruled that the time limit for filing a charge of discrimination begins to run when an employer makes a discriminatory decision related to compensation, not each time an employee receives a paycheck affected by the discriminatory decision. Lilly Ledbetter sued her employer of 20 years alleging pay discrimination based on decisions made decades prior to the filing of her claim. In most states, including Louisiana, the time period for filing charges of discrimination with the Equal Employment Opportunity Commission is 300 days. Under the *Ledbetter* decision, employees would have had 300 days from the date of a discriminatory decision to file a charge.

Under the new law, the time period employees have for filing claims will be triggered each time they are affected by a discriminatory pay decision, including each time they receive a discriminatory paycheck. A discriminatory act now occurs:

when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by the application of a discriminatory compensation or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from a [discriminatory] decision or other practice.

Practically speaking, this means that each time an employee receives a paycheck based on an alleged discriminatory practice, such as a failure to promote or an inequitable decision regarding pay raises, the employee has another 300 days to file a charge of discrimination.

This covers all types of discrimination because the law amends Title VII of the Civil Rights Act of 1964, the Americans

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with Disabilities Act, the Rehabilitation Act and the Age Discrimination in Employment Act (ADEA). The law does limit recovery of back wages to two years preceding the filing of the charge of discrimination. Under the ADEA, employees could recover for two years, except in cases of willful violations where employees could recover for three years. The law specifically states, however, that it is not intended to limit an employee's right to bring evidence of unlawful employment practices outside of the time period for filing charges. In other words, employees can use evidence of past discrimination affecting compensation or other practices to prove that they are entitled to recover back wages or other damages.

Importantly, this law was made retroactive to May 28, 2007.

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Liability of Assignor

Southeast Offshore, Inc. was one of several non-operators that owned fractional working interests in two joint operating agreements (JOAs) that covered federal lease tracts located in the Gulf of Mexico. See *Chieftain Int'l (U.S.), Inc. v. Southeast Offshore, Inc.*, 553 F.3d 817 (5 Cir. 2008). The operator (Hunt), which also owned working interests, advanced all costs of operations and periodically billed the other working-interest owners for their proportionate share of expenses. After several years of operations, Southeast stopped paying Hunt's invoices. Southeast later assigned its working interests to a wholly-owned subsidiary, South Pass Properties, Inc., but South Pass also failed

to pay Hunt's invoices.

Hunt filed suit against both Southeast and South Pass for the invoice amounts. Southeast argued that it had no liability and moved for summary judgment, relying in part on a provision in the JOAs stating that "[t]he parties expressly agree that no party hereto shall be responsible for the obligations of any other party." Hunt also sought summary judgment. The United States District Court for the Eastern District of Louisiana denied Southeast's motion and granted partial summary judgment to Hunt. Southeast appealed.

The United States 5th Circuit noted that, pursuant to La. Civ.C. art. 1821, an assignor and assignee have solidary liability for the assignor's contractual obligations to a third party unless the third party releases the assignor. The 5th Circuit concluded that the provision of the JOAs quoted above did not constitute a release and, therefore, did not relieve Southeast of liability. The 5th Circuit also rejected Southeast's other arguments in affirming the lower court's rulings.



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New Drilling Rules

The Office of Conservation has adopted two new rules, effective Dec. 20, 2008, and a new policy, effective Jan. 12, 2009, designed to promote well safety. The first new rule imposes certain requirements for drilling permits, the naming of wells and the posting of information on wells. *See* LAC 43:XIX.103. The second new rule imposes detailed requirements relating to the design, use and testing of diverter systems and blowout preventers. *See* LAC 43:XIX.111. Under the new policy, the Office of Conservation will require any new oil or gas well to be located at least 1,000 feet from any location where an interstate crosses a major waterway. A copy of that policy, listing the interstate/waterway crossings to which the policy applies, is available at <http://dnr.louisiana.gov/cons>.

Sublease vs. Assignment

Doré Energy owned thousands of acres in Cameron Parish. *Doré Energy Corp. v. Carter-Langham, Inc.*, 08-0645 (La. App. 3 Cir. 11/05/08), 997 So.2d 826. Doré's predecessor-in-title had granted a mineral lease to Henshaw. Henshaw transferred his entire interest in the lease, except for an overriding royalty, to Vacuum Oil. The transfer was styled as an assignment. Later transfers of the lease interest resulted in Exxon holding an interest in the lease.

Doré brought suit against Exxon and others, alleging that its property had been damaged by canals and oilfield wastes. A jury awarded \$57 million in damages to Doré, but the trial court granted a JNOV to Exxon, holding that there was no contractual privity between Doré and Exxon.

Under Louisiana law, contractual privity generally will exist between a lessor and a lessee's assignee, but not between a lessor and a sublessee. Further, the retention of an overriding royalty, such as that retained by Henshaw, generally causes a transfer of an interest in a lease to be classified as a sublease rather than an assignment. *See Smith v. Sun Oil Co.*, 116 So. 379 (La. 1928). Thus, the trial court's decision followed the general rule.

The 3rd Circuit, nevertheless, reversed the trial court, holding that the jury reasonably could have concluded that the transfer was an assignment. The 3rd Circuit based this decision on several factors, including that the parties had intended the transfer to be an assignment and had treated the transfer as an assignment for 43 years. One fact showing that the parties had treated the transfer as an assignment was that the lessor and the parties that had acquired Henshaw's lease interest had agreed to an amendment to the lease without making Henshaw a party to the amendment. But Henshaw's consent to an amendment would have been necessary if the transfer

had been a sublease. Accordingly, the 3rd Circuit reinstated the jury's verdict against Exxon.

Different Sources of Restoration Duties

Landowners in Vermilion Parish sued mineral lessees for alleged damages to property. *Broussard v. Hilcorp Energy Co.*, 08-0233 (La. App. 3 Cir. 12/10/08), 998 So.2d 946. The defendants asserted various exceptions, including prematurity. The defendants argued plaintiffs' claims were premature because the leases required lessees to clean up the property after termination of operations, and operations were still ongoing. The trial court sustained the exception of prematurity and dismissed plaintiffs' claims. The 3rd Circuit reversed in part, holding that a mineral lessee has a duty under La. R.S. 31:122 to maintain the leased property as a reasonably prudent operator, and a claim for breach of this statutory duty need not wait until operations cease. The 3rd Circuit affirmed dismissal of plaintiffs' contract claims.

—Keith B. Hall

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New Plaintiff Added to Suit After Completion of Panel Proceedings

Warren v. Louisiana Medical Mutual Insurance Co., 07-0492 (La. 12/2/08), ___ So.2d ___.

Mr. Warren died, leaving a wife and two adult daughters, Theresa and Sarah. Mrs. Warren and Theresa instituted medical-review-panel proceedings against Mr. Warren’s treating physicians. Following the issuance of the panel’s opinion, Mrs. Warren and Theresa filed suit on Nov. 25, 2002. On July 6, 2004, mother and daughter filed an amended petition that added Sarah as a plaintiff.

The defendants then filed an exception of prescription, seeking to dismiss Sarah’s claim. In a deposition, Sarah testified that she was aware that her mother and sister had filed the medical-review-panel complaint and lawsuit. She explained that she chose not to participate because she had a poor relationship with her mother that was exacerbated by the death of her father, and she did not think she could face the emotional challenge of litigation. She also testified that once she realized that she could be subpoenaed to testify as a witness and, therefore, would have to participate in the litigation, she decided to join as a party plaintiff.

The defendants argued that they were severely prejudiced by the addition of a plaintiff nearly three years after the request for a panel was made and a year and a half after the lawsuit was filed. The plaintiffs contended that if one proper party plaintiff timely files a claim, that claim will interrupt prescription as to any other plaintiff who has a similar claim.

The case wound its way, up and down, through the appellate system. The court of appeal ultimately upheld the district court’s overruling of the exception of prescription, following which the Su-

preme Court granted the defendants’ writ application.

A survival action compensates for the damages suffered by the victim from the time of injury to the time of death, whereas a wrongful death action compensates the beneficiaries for their own injuries from the moment of the victim’s death and thereafter. The court held that Sarah’s addition as a plaintiff in the survival action, which she shares with her sister and mother, was interrupted by their timely filed suit:

When several parties share a single cause of action . . . , suit by one interrupts prescription as to all. *Williams v. Sewerage & Water Board of New Orleans*, 611 So.2d 1383, 1390 (La. 1993), quoting *Louviere v. Shell Oil Company*, 440 So.2d 93, 96, (La. 1983). [A]ll prescriptions affecting that cause of action remain continuously interrupted as long as a suit is pending. *Id.* quoting *Louviere*, 440 So.2d at 98.

As to the wrongful death claim, the court began its analysis by citing La. C.C.P. art. 1153:

When the action or defense asserted in the amended petition or answer arises out of the conduct, transaction, or occurrence set forth in the original pleading, the amendment relates back to the date of filing the original petition.

The court then reviewed the factors it had set forth in *Giroir v. South Louisiana Medical Center*, 475 So.2d 1040, 1044 (La. 1985), concerning amending petitions that add new parties:

An amendment adding or substituting a plaintiff should be allowed to relate back if (1) the amended claim arises out of the same conduct, transaction, or occurrence set forth in the original pleading; (2) the defendant either knew or should have known of the existence and involvement of the new plaintiff; (3) the new and old plaintiffs are sufficiently related so that the added or substituted party is not wholly new or unrelated; (4) the defendant will not be prejudiced in preparing and conducting his defense.

Applying these factors, the court determined that the exception of prescription should be overruled because:

- (1) Sarah’s claim arose out of the same conduct or occurrence in the original petition, the alleged malpractice on Mr. Warren;
- (2) The “existence and involvement” of Sarah and her additional cause of action were sufficiently known or knowable within the prescriptive period because Sarah’s name was listed as the informant on the death certificate, the original petition stated that Theresa was

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“one” of the decedent’s children, and 3-1/2 months after the petition was filed, Sarah was identified as a potential witness and adult daughter of Mr. Warren in answers to interrogatories. This information gave the defendants notice of, and did not negate, the reasonable possibility that another surviving child would be entitled to wrongful death damages recovery;

(3) Sarah was sufficiently related to the original plaintiffs, and all parties agreed that the amended claims of Sarah arose out of the same transaction or occurrence and that she was not a wholly new or unrelated party; and

(4) The defendants were unable to show how they would be prejudiced in preparing and conducting their defense if Sarah was added to the litigation, despite the fact that the extensive passage of time “weighs in general against the relating back.” Also the evidence necessary to defend against Sarah’s claim is the same evidence necessary to defend against the claim of the original plaintiffs, even though the amount of damages Sarah suffered “will surely be different” from those of the other plaintiffs, and the defendants did not show with any particularity how the delay in the case prejudiced them in

preserving evidence and preparing for trial with respect to quantum. Furthermore, the fact that Sarah’s wrongful death claim would increase the amount of damages that could be awarded if negligence was proven, which “in a sense” prejudiced the defendants, was “an issue laid to rest in *Giroir*, wherein the wrongful death claims of the two adult children were allowed to relate back to the filing of their father’s petition for damages.”

In a 4-3 opinion, with two concurring and three dissenting opinions, the court affirmed the decision of the court of appeal, concluding that the district court properly permitted the amended petition adding Sarah.

—Robert J. David

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Complying with IRC Section 409A

In the wake of the expiration of the Dec. 31, 2008, amendment deadline for deferred compensation plans to ensure that the terms of the plans or arrangements comply with the requirements of Internal Revenue Code (IRC) section 409A, employers must now begin to comply with the operational and reporting obligations of the law.

Section 409A was enacted in 2004 in the wake of Enron's collapse and codifies guidelines on deferred compensation, which is defined broadly to include severance pay, phantom and actual stock options, stock appreciation rights, deferred compensation plans and other similar compensation arrangements. To comply, plans must allow payments to commence only as a result of one of six permissible triggers: separation from service, change of control, death, disability, unforeseeable emergency or in accordance with a pre-set schedule of payment dates. Once a payment method is set, further acceleration or deferral of the payment timing is severely restricted. Additional timing limits apply to certain key employees of publicly traded companies known as "specified employees."

Consequences of Violating Section 409A

Violation of the law causes adverse tax effects to the employee or

independent contractor (referred to in the law as the "service provider"). First, the law imposes a 20 percent excise tax on the deferred compensation that does not comply with the law. Second, the offending compensation is included in the taxpayer's income when the service provider became vested in the amounts (*i.e.*, once the compensation was no longer subject to a substantial risk of forfeiture). This means that once a taxpayer has a contractual right to receive a payment upon a trigger event, the amount could become taxable in that year even though the trigger event has not yet occurred.

Reporting and Withholding for Amounts Includible in Gross Income under Section 409A

The Internal Revenue Service has published proposed regulations and Notice 2008-115 to provide guidance on how this tax should be computed and paid. The amount of deferred compensation that is includible in gross income under Section 409A(a) and that is required to be reported is any amount of deferred compensation that is actually paid or made available to the individual under the plan during the year, plus, if the plan fails to meet the requirements of Section 409A, the portion of any additional amount deferred under the plan that, as of Dec. 31 of the year, is not subject to a

"substantial risk of forfeiture" and has not already been included in income. To determine when tax withholding amounts should be deposited, taxable amounts are treated as having been paid as of the date on which they are either actually or constructively received, or, if not actually or constructively received during the year, on Dec. 31 of that year.

The additional tax that is due as a result of a failure of Section 409A is the 20-percent penalty plus interest due as if the amount had been included in income in the earlier year or years in which the service provider became vested in the amount due. In addition, the interest is calculated using a premium interest rate. For purposes of the calculation of the additional tax, amounts that were originally deferred before 2005, but which became subject to section 409A due to a material modification of the plan after Oct. 3, 2004, may be treated as having been deferred on Jan. 1, 2005.

Once it is determined that the tax is due, in the case of an employee, the amounts includible in gross income under Section 409A are reportable as "wages" in box 1 of Form W-2, and in box 12 using code "Z." These amounts are treated as "supplemental wages" for purposes of determining the amount required to be withheld regardless of whether the employer has paid the employee any regular

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wages during the year. However, no additional withholding is required for the additional income taxes that are imposed under section 409A (such as the additional 20-percent tax that would be due if the amount was due as a result of non-compliance with Section 409A). An employee may, therefore, be required to make estimated tax payments in order to avoid penalties for under-withholding. For non-employees, any amount includible in gross income under Section 409A that is not treated as wages is reportable as non-employee compensation in box 7 of Form 1099-MISC and as section 409A income in box 15b.

Although the reporting requirements have been postponed until further notice, Section 409A also requires the concurrent reporting of amounts being deferred under a Section 409A deferred compensation plan as in Box 12 as code "Y" on Forms W-2 for employees and on Forms 1099 for independent contractors, even though those amounts

are not yet reportable as income.

Correction Program for Operational Violations of Section 409A

The Internal Revenue Service has adopted a limited correction program that permits employers that violate the terms of Section 409A to correct certain enumerated operational errors to avoid some of the adverse tax effects of such violation. The new program did not extend the Dec. 31, 2008, deadline for amending plan documents to comply with Section 409A. Thus, if a plan document contains provisions that violate the requirements of Section 409A, the Internal Revenue Service offers no relief from the tax effects of such non-compliance. Additionally, relief is limited (and in certain cases unavailable altogether) for "insiders."

To be eligible for the program, the operational failure must be inadvertent and unintentional; the employer must have taken steps to avoid the recurrence of operational failures; the employee's

tax return must not be under audit with respect to the plan for the year in which the failure occurred; the failure must be fully corrected and the listed requirements in Notice 2008-113 for the particular correction method, including notification obligations, must be met. The errors that can be corrected via this program are limited to correction of payments that are made too early or too late in violation of plan terms; the adjustment of the exercise price for certain stock rights (including stock options and stock appreciation rights) to a price that is not less than the fair market value of the underlying shares on the date of grant and certain specified operational failures involving limited amounts (\$16,500 for 2009).

—**Katherine Conklin**

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CHAIR'S MESSAGE

Keeping the Momentum Going

By Valerie Briggs Bargas

It is hard to believe my year as chair of the Young Lawyers Section is almost over. I certainly have enjoyed every minute of serving such a motivated and energetic group. This year, we were successful in implementing our Wills for Heroes and Barristers for Boards programs as well as expanding our services to law school students, our future members. The young lawyers who serve on our Council work very hard to implement and expand our statewide programs, which benefit our members and the community at large. To lead such a talented group has been an honor.

In addition to our program successes, we recognized, as a group, that there remains a great deal of work to be done on professionalism and diversity. Once again, we had a full house for our annual professionalism seminar, a free CLE for young lawyers. For the second year, the



Valerie
Briggs Bargas

YLS sponsored a Diversity Luncheon, organized by our At-Large Representative Tricia R. Pierre. Forcing attendees to discuss difficult topics, moderator Shannan L. Hicks did not disappoint. Although a CLE and a luncheon are not sufficient to address the problems of professionalism and diversity, respectively, that face our profession, they are certainly a step in the right direction because they focus on discourse. We must first acknowledge a problem before we can invite a discussion and means of addressing it.

The YLS will continue to work to address those issues that affect young lawyers, a group that can be particularly vulnerable to the ills of our profession. However, I am acutely aware that communication and cooperation are necessities to effectuating change. As lawyers fighting for the honor and legitimacy of our profession, we must be the change. We must recognize what we gain by having a diverse group with the highest standards of ethics and professionalism and make it our reality.

A few years ago, Nicolas Cage starred with Téa Leoni in a movie called "The Family Man." As a fast-paced, single, wealthy investment banker, Nicholas Cage's character, Jack Campbell, is offered a rare opportunity to see how his life could have turned out if he had chosen to marry

his college sweetheart, Kate Reynolds (Leoni's character). Living in New Jersey, working as a tire salesman, with two small children and a lawyer-wife who works for a non-profit agency, Jack Campbell initially thinks he has died and gone to hell. Eventually, as in most feel-good movies, he begins to appreciate his simple life. Although touching, the movie really does not grab you until Jack Campbell awakes from his "dream" and seeks out the real-life Kate, who has become, like him, a workaholic, corporate attorney with a large firm focused on herself and her career. He catches Kate at the airport where she is ready to board a plane to Paris for a new position with her firm. She thinks he is seeking closure relative to their prior relationship, but he catches her attention with a great line, "I've seen the future. I've seen how wonderful we can be together and I choose us." How can she say no to coffee, at a minimum?!

So, now you are asking, what the heck does this have to do with young lawyers, the profession and diversity? The themes of optimism and hope have everything to do with the present and future of our profession. By working with lawyers from across the state, I have seen how great we can be. I encourage you to choose the high over the low road; cooperation over combat; and discourse over silence. The future of our profession is worth the sacrifice.



YOUNG LAWYERS SECTION NEWS

Get the latest Young Lawyers Section news online

Go to: www.lsba.org/YLS

The Young Lawyers Section Web site is a public service of the LSBA-YLS Council, providing YLS information to the public and communicating with YLS members.

Nicholas J. Zeringue Thibodaux

The Louisiana State Bar Association's Young Lawyers Section Council is spotlighting young lawyer Nicholas J. Zeringue from Thibodaux.

A native of Thibodaux, Zeringue is the owner/managing partner with the law firm of Nicholas J. Zeringue Attorney at Law, L.L.C. His practice focuses on personal injury/maritime defense, commercial litigation, mortgage-backed securities (MBS) litigation, maritime contracts, real estate transactions and workers' compensation.



Nicholas J.
Zeringue

Zeringue earned a BS degree in international trade and finance from Louisiana State University in 1993. He earned his master's degree in business administration from the Tulane A.B. Freeman School of Business and JD degree from Tulane Law School, both in May 1997. He was admitted to practice in Louisiana in 1998.

He is currently a member of the Louisiana State Bar Association's House of Delegates, Legislation Committee, Nominating Committee and Community Action Committee (past chair). He is a member of the Lafourche Parish Bar Association (past president) and Terrebonne Parish Bar Association. He is a Louisiana Bar Foundation Fellow. He is trained as an attorney-mediator and is listed in A.M. Best's Review of Insurance Attorneys.

Upon completion of his post-graduate degrees, Zeringue worked as a financial analyst with Mavesa, S.A. in Caracas,

Venezuela. When he returned to the United States, he practiced as an associate trial attorney in Lafayette at the law firm of Davidson, Meaux, Sonnier & McElligott, L.L.P., then as in-house counsel and senior management representative for the Board of Commissioners of the Port of New Orleans. Prior to opening his own law firm in June 2006, he worked with the Law Offices of Christopher H. Riviere, A.P.L.C., in Thibodaux.

In addition to his many professional associations, Zeringue is heavily involved in "Hooks for Hearts," a philanthropic organization dedicated to raising money for the American Heart Association to aid in medical research pertaining to cardiovascular disease. He currently serves on the board of directors for that organization.

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LOCAL AFFILIATES

Richard Named ABA YLD Outstanding Young Lawyer Finalist

Tara G. Richard, a partner at Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., was one of two finalists for the American Bar Association's Young Lawyer Division (ABA YLD) 2008 Outstanding Young Lawyer.

The Louisiana State Bar Association (LSBA) nominated Richard for the national award. Richard was the LSBA Young Lawyers Section's 2008 Outstanding Young Lawyer. The American Bar Association's National Outstanding Young Lawyer Award

is presented annually to recognize an ABA young lawyer who exhibits professional excellence, service to the profession and the Bar, service to the community and/or a reputation for the advancement of legal ethics and professional responsibility.

The winner was recognized at the ABA YLD Midyear Assembly in February.

Richard has received several awards for her community service efforts and contributions to the legal profession. She is a member of the 2008-09 Leadership LSBA Class and was the 2007 recipient of the LSBA Young Lawyers Section's Michaelle Pitard Wynne Professionalism Award. She was named as one of 50 outstanding lawyers in *New Orleans CityBusiness*' 2009 Leadership in Law and one of 50 outstanding women in *New Orleans CityBusiness*' 2008 Women of the Year.



Tara G. Richard



Lafayette Young Lawyers Association (LYLA) Social Chair Jeremy N. Morrow, LYLA Social Co-Chair Paul E. Gardner and LYLA President Gregory A. Koury presented a check to Second Harvest Food Bank of New Orleans and Acadiana following a successful community service project.

Lafayette Young Lawyers Sponsor "Great Harvest" Event

The Lafayette Young Lawyers Association's (LYLA) board of directors recently incorporated a social with a community service project to assist Second Harvest Food Bank of New Orleans and Acadiana. The LYLA raised nearly \$6,000 and collected hundreds of non-perishable items for the organization.

The event, called "Great Harvest," was held at the Blue Moon Saloon in Lafayette and the entertainment was provided by Terry and the Zydeco Bad Boys. All attendees who made either a monetary or a food donation were given a Great Harvest shirt.

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NEW JUDGES... APPOINTMENTS

New Judges

C. Kerry Anderson was elected to Division B, 36th Judicial District Court, Beauregard Parish. He earned his undergraduate degree from Louisiana State University in 1989 and his JD degree from LSU Paul M. Hebert



C. Kerry Anderson

Law Center in 1992. He was in the private practice of law for 16 years and is board-certified in family law and qualified as a family law mediator. He is a former member of the Judge Albert Tate American Inn of Court Professionalism Society, has served on the board of directors of the Southwest Louisiana Legal Services Society and has presented programs at continuing legal education seminars. He is a member of the Beauregard, Calcasieu and American bar associations and attended Princeton Theological Seminary. He is married to Erika F. Anderson.

Christopher J. Bruno was elected to Division F, Orleans Parish Civil District Court. He earned his undergraduate degree from Louisiana State University in 1984 and his JD degree from Tulane Law School in 1988. As



Christopher J. Bruno

an attorney in private practice for 20 years, he was a board-certified civil trial advocate by the National Board of Civil Trial Advocacy. In 2004, he was appointed as judge *pro tempore* on the Civil District Court bench. A member of the Louisiana Trial Lawyers Association, the American Lawyers Association, the New Orleans Bar Association and the St. Thomas More

Society, he is also a New Orleans Bar Foundation Pierre Derbigny Fellow. He is married to Kerry M. Bruno and they are the parents of two children.

Kevin D. Conner was elected to Division A, 25th Judicial District Court, Plaquemines Parish. He earned his undergraduate degree from the University of Florida in 1984 and his JD degree from Louisiana State



Kevin D. Conner

University Paul M. Hebert Law Center in 1988 (Moot Court Board, Flory Trial semifinalist). As an attorney in private practice, he represented the Plaquemines Parish Council for 13 years and previously served as assistant parish attorney. He is a member of the Plaquemines Parish Bar Association. He is married to Belinda L. Conner and they are the parents of three children.

Mary Clemence Devereux was elected to Division K, 22nd Judicial District Court, St. Tammany and Washington parishes. She earned her undergraduate degree from Eastern Illinois University in 1983 and her JD degree from Tulane Law School in 1986 (American Jurisprudence Award in Criminal Law).



Mary C. Devereux

Prior to her election to the bench, she was in the private practice of law where she was certified as a collaborative divorce professional and educated in advanced family law mediation. She has served as a member of the Louisiana State Bar Association's House of Delegates and its Liaison Committee and the LSBA's Family Law Section Council. She was twice selected as a Louisiana Super Lawyer and is a member

of the Greater Covington Bar Association. She has been a member of the Child Support and Mental Health Committee for the Family Law Division of the American Bar Association. She has served as an adjunct professor of law courses for the paralegal program at Tulane University College and at Delgado Community College. She was chair of the family law certification advisory commission for two terms. She is married to Wilton Brooks Trotter.

Ellen Shirer Kovach was elected to Division K, 24th Judicial District Court, Jefferson Parish. She earned her undergraduate degree, *cum laude*, from Loyola University in 1982 and her JD degree from Loyola Law School in 1985 (*Law Review*, case note book review editor). Prior to her election to the bench, she was in the private practice of law. From 2006-08, she was a member of the Jefferson Parish School Board. She is married to Brent Kovach and they are the parents of three children.



Ellen S. Kovach

Pammela S. Lattier was elected to Division C, Shreveport City Court. She earned her undergraduate degree from the University of Georgia in 1985 and her JD degree from Southern University Law Center in 1989. Before her



Pammela S. Lattier

election to the bench, she was in the private practice of law for more than 18 years. She also served as an assistant district attorney in Orleans Parish, as a staff attorney for Support Enforcement Services in Shreveport and was appointed as a hearing officer by the judges on the Caddo District Court

bench. She is married to Ronald F. Lattier and they are the parents of one child.

Joy Cossich Lobrano was elected to Division B, 25th Judicial District Court, Plaquemines Parish. She earned her undergraduate degree from Tulane University in 1983 and her JD degree from Loyola University



Joy C. Lobrano

Law School in 1988 (*Law Review*, CJS Award for Legal Scholarship, Moot Court, American Jurisprudence Award in Torts). She received a master of laws degree from New York University School of Law in 1993. Before her election to the bench, she was in the private practice of law. She began serving as an assistant district attorney in Plaquemines Parish in 1999 and became first assistant district attorney in 2006. She received the Project LEAD award in 2004 from Plaquemines Parish Schools Safe & Drug Free Programs. In 2007, she was recognized by Louisiana Gov. Kathleen Blanco for service on the Plaquemines Parish Children and Youth Planning Board. In 2008, she received

the Outstanding Prosecutor Award from Victims and Citizens Against Crime. She is married to Francis (Jay) Lobrano and they are the parents of two children.

James R. McClelland was elected to Division D, 16th Judicial District Court, St. Mary, Iberia and St. Martin parishes. He earned his undergraduate degree from Louisiana State University in 1969, his MBA degree from LSU in 1971 and his JD degree from LSU Paul M. Hebert Law Center in 1975 (*Louisiana Law Review*, Phi Kappa Phi, Order of the Coif). He served as assistant district attorney in the 16th JDC from 1981-2008. He served as Louisiana State Bar Association secretary, 2003-05; on the Board of Governors, 1995-98 and 1999-2002; in the House of Delegates, 1982-95 and 1998-99; as a member of the Law Reform Committee, 1984-86; chair of the Criminal Law Section, 1994-96; and recipient of the LSBA President's Award in 2002. He was secretary, 1977-78, and president, 1978-79, of the St. Mary Parish Bar Association and is a member of Inn on the Teche American Inn of Court. He was elected to the LSU Law Center Hall of Fame in 1987. He was recognized by the Outstanding Young Men of America in 1978. He has been a member of the Louisiana District Attorneys Association and the Louisiana Trial Lawyers Association. He is married to Sandra T. McClelland and they are the parents of two children.



James R. McClelland

Martha Ann O'Neal was elected to Division A, 36th Judicial District Court, Beauregard Parish. She earned her undergraduate degree from Louisiana State University in 1978 and her JD degree from LSU Paul M.



Martha Ann O'Neal

Hebert Law Center in 1981. She served in the Louisiana State Bar Association's House of Delegates and was a member of the Family Law Advisory Committee, 2004-08, and the Family Law Examination

Board, 2003-06. She also served as a member of the Louisiana Bar Foundation-Lake Charles Community Partnership Panel. A member of the 36th JDC Bar Association, she served as secretary-treasurer, 1986-88, and vice president, 1988-90. She was a member of the Beauregard Parish School Board from 1987-90. She is married to Leslie R. Leavoy, Jr. and they are the parents of two children.

Frances Jones Pitman was elected to Division D, 1st Judicial District Court, Caddo Parish. She earned her undergraduate degree from Louisiana State University-Shreveport in 1977, her master of communication disorders (MCD) degree from LSU Health



Frances J. Pitman

Sciences Center in Shreveport in 1978 and her JD degree from LSU Paul M. Hebert Law Center in 1991. Prior to her becoming an attorney, she was a speech-language pathologist, special education teacher and member of the medical/educational diagnostic team at the LSU Health Sciences Center's Children's Center. She is a member of the LSU-Shreveport Alumni Board and the Women's Policy Research Committee. For 16 years, she served as an assistant attorney general for Louisiana, in charge of the North Louisiana Civil Division. Additionally, she is a first-degree black belt in Tae Kwon Do and has developed a martial arts program for children and a safety program for senior citizens, women and children. She is married to Caddo District Court Judge Michael A. Pitman and they are the parents of one child.

Richard A. Swartz was elected to Division C, 22nd Judicial District Court, St. Tammany and Washington parishes. He earned his undergraduate degree from the University of New Orleans in 1977 and his JD degree from



Richard A. Swartz

Louisiana State University Paul M. Hebert Law Center in 1978. He served as an assistant district attorney in the 22nd JDC

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from 1980-84 and as an *ad hoc* judge in Slidell City Court on numerous occasions since 1990. He was appointed by the Louisiana Supreme Court to serve as an interim Slidell City Court judge in 2004. A member of the 22nd Judicial District Inn of Court, Judge Swartz served in the Louisiana State Bar Association's House of Delegates from 1980-89. He has taught business law at Delgado Community College. He was named Slidell Citizen of the Year in 1990. He is married to Charmaine Swartz and they are the parents of two children.

Marie Elise (M'elise) Trahan was elected to Crowley City Court. She earned her undergraduate degree from Louisiana State University in 1980 and her JD degree from LSU Paul M. Hebert Law Center in 1984. Prior to her election to the bench, she served as a hearing officer in the 15th Judicial District Court for 13 years and as a law clerk for the 3rd Circuit Court of Appeal from 1984-87. She additionally served as judge *ad hoc* in Rayne City Court and is a member and past president and past secretary/treasurer of the Acadia Parish Bar Association. She was the Families In Need of Services (FINS) coordinator for Acadia and Vermilion parishes for 13 years and is a member, director and past secretary of the Louisiana FINS Association. She established the Truancy Assessment and Services Center (TASC) for Acadia and Vermilion parishes and, in 2001, began serving as TASC Advisory Board chair for those parishes. She serves as vice president of the Children Youth Services and Planning Board of Acadia Parish. She is married to 15th JDC Judge John D. Trahan and they are the parents of two children.



Marie Elise Trahan

Ronald F. Ware was elected to Division H, 14th Judicial District Court, Calcasieu Parish. He earned his undergraduate degree from Prairie View University in 1976 and his JD degree from Lewis & Clark Law School in 1980. Prior to his



Ronald F. Ware

election to the bench, he was an assistant district attorney in Calcasieu Parish from 1981-86 and began work as staff attorney for the Calcasieu Parish Public Defender's Office in 1986, assuming the position of executive director in 2000. In 2004, he received the Capital Defense Award from the Louisiana Association of Criminal Defense Lawyers and was named a Thurgood Marshall Justice Honoree by the Martin Luther King Coalition. He is married to Troye J. Ware and they are the parents of two children.

Anastasia (Staci) Wiley was elected to Winnfield City Court. She earned her undergraduate degree from Louisiana Tech University in 1993, her JD degree from Louisiana State University Paul M. Hebert Law Center in 1996 and her LLM degree from McGeorge School of Law in 1997. Before her election to the bench, she had a general practice in Winnfield. She was recognized by Legal Services of North Louisiana as the Winn Parish Pro Bono Attorney of the Year for 1998, 1999, 2000, 2004, 2005 and 2007. She serves in the Louisiana State Bar Association's House of Delegates and is a member of the St. Denis Chapter of the American Inn of Court.



Anastasia Wiley

Warren Daniel Willett was elected to 35th Judicial District Court, Grant Parish. He earned his undergraduate degree from Louisiana State University in 1994 and his JD degree from LSU Paul M. Hebert Law Center in 1997 (Tullis Moot Court finalist). Prior to his election to the bench, he was in the private practice of law. He is married to Suzy Willett and they are the parents of two children.



Warren D. Willett

Appointments

► Retired Judge Anne Lennan Simon was appointed, by order of the Louisiana Supreme Court, as a Court Improvement

Program Judicial Fellow for a term of office concluding on Dec. 31, 2009.

► Professor Jörg Fedtke was appointed, by order of the Louisiana Supreme Court, to the Equivalency Determination Panel for a term of office concluding on Dec. 31, 2012.

► Lila Tritico Hogan was appointed, by order of the Louisiana Supreme Court, to the Attorney Disciplinary Board for a term of office concluding on Dec. 31, 2009.

► John T. Cox, Jr. was appointed, by order of the Louisiana Supreme Court, to the Attorney Disciplinary Board for a term of office concluding on Dec. 31, 2011.

► Carmelite M. Bertaut and Daniel A. Cavell were reappointed, by order of the Louisiana Supreme Court, to the Mandatory Continuing Legal Education Committee for terms of office concluding on Dec. 31, 2011.

Retirement/Resignation

► 25th Judicial District Court Judge Anthony D. Ragusa, Jr. retired effective Dec. 31, 2008.

► Bastrop City Court Judge Merwin M. Brandon, Jr. resigned effective Dec. 31, 2008.

Death

Former 1st Parish Court of Jefferson Judge J. Bruce Naccari, 58, died Dec. 20, 2008. He earned his undergraduate degree from Loyola University in 1971 and his JD degree from Loyola Law School in 1979. He was elected to the 1st Parish Court bench in 1984 and served there for 11 years until his resignation in 1995.

LBF ANNUAL REPORT AVAILABLE FOR REVIEW ONLINE

The Louisiana Bar Foundation's 2007-08 Annual Report is available for review online. To access the report, go to:

www.raisingthebar.org

PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Adams and Reese, L.L.P., announces that **F. Lee Butler**, a partner in the firm's Houston, Texas, office, has been elected chair of the firm's Executive Committee.

Andrus-Boudreaux, A.P.L.C., in Lafayette announces the addition of **Jean-Paul P. Coussan** as an associate.

Beck, Redden & Secret, L.L.P., in Houston, Texas, announces that **Kathleen A. Gallagher** has joined the firm as a partner.

Managing partners Kay C. Medlin and Michael S. Sepcich announce the formation of a statewide civil practice law firm, Bradley Murchison Kelly & Shea, with offices in Shreveport and New Orleans. Other partners in the firm are C. William Bradley, Jr., Bradley R. Belsome, Brian A. Cowan, Richard S. Crisler, Darryl J.

Foster, Leland G. Horton, Jerry N. Jones, David S. Kelly, Malcolm S. Murchison, Dwight C. Paulsen III, Stephen E. Ramey, David E. Redmann, Jr., F. John Reeks, Jr., Joseph L. Shea, Jr. and David R. Taggart. Offices are at 401 Edwards, 10 Flr., in Shreveport; and Ste. 2700, 1100 Poydras St., New Orleans.

Deutsch, Kerrigan & Stiles, L.L.P., announces that Ashley E. Gilbert and Kelly E. Theard have been named partners.

Duncan, Courington & Rydberg, L.L.C., in New Orleans announces that **Michael P. Higgins**, **Tessa P. Vorhaben**, **Meredith K. Keenan** and **Harry E. Morse VI** have become associated with the firm.



Kevin O. Ainsworth



Kelly B. Becker



Kim M. Boyle



Sean P. Brady



Brandon C. Briscoe



F. Lee Butler



Jamie D. Cangelosi



John A. Cangelosi



Michael D. Carleton



Monique A. Cenac



Trey W. Cloud



Katharine R. Colletta



Thomas Louis Colletta, Jr.



Jean-Paul P. Coussan



James H. Dupuis, Jr.

Thomas M. Flanagan and **Harold J. Flanagan** announce the formation of Flanagan Partners, L.L.P., in New Orleans. Also associated with the firm are **Jamie D. Cangelosi**, **Stephen M. Pesce**, **Sean P. Brady** and **Brandon C. Briscoe**. The firm is located at Ste. 2405, 201 St. Charles Ave., New Orleans, LA 70170, phone (504)569-0235.

Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., announces that partner **Robert B. Worley, Jr.** has been elected and partner **Elizabeth J. Futrell** has been re-elected to the firm's board of directors, both for four-year terms. Other partners on the board are John C. Blackman IV, J. Kelly Duncan, William H. Hines, R. Christian Johnsen, Louis S. Quinn, Jr., David G. Radlauer and Rudolph R. Ramelli.

Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., announces the election of five attorneys to partnership: **Kevin O. Ainsworth**, **Monique A. Cenac**, **Trey W. Cloud**, **Kelly C. Simoneaux** and **Raedtha A. Vasquez**. **Stephen D. Ridley** has joined the firm as special counsel in the New Orleans and Washington, D.C., offices. **Michael**

K. Leachman has joined the firm as an associate in the Baton Rouge office. The firm opened its Phoenix, Ariz., office in January, led by partner **H. Hughes Grehan**, working with partner **Monique A. Cenac**.

King, Krebs & Jurgens, P.L.L.C., in New Orleans announces that **Michael D. Roche** and **John A. Cangelosi** have been named members of the firm. **David A. Strauss** has been elected to serve on the firm's management committee.

Kingsmill, Riess, L.L.C., in New Orleans announces that **Lisa A. Montgomery** has joined the firm as an associate.

Leake & Andersson, L.L.P., announces that **Edward T. Hayes** has been named a partner of the firm.

Lemle & Kelleher, L.L.P., announces that **Katharine R. Colletta** and **Thomas Louis Colletta, Jr.** have been elected partners. **Timothy W. Hardy** has been named chair of the firm for a two-year term.

Liskow & Lewis, A.P.L.C., announces that **Kelly B. Becker** has been named partner in the New Orleans office and **James H.**

Dupuis, Jr. has been named partner in the Lafayette office.

Martin, Disiere, Jefferson and Wisdom, L.L.P., announces that Mary Ellen Wyatt has joined the firm as an associate in the Austin, Texas, office.

McGlinchey Stafford, P.L.L.C., announces that Raymond A. Chenault has relocated to the firm's Houston, Texas, office.

Perrier & Lacoste, L.L.C., in New Orleans announces that **Michael J. Gautier, Jr.** has joined the firm as a member.

Phelps Dunbar, L.L.P., announces that Stephanie Villagomez has joined the firm as an associate in the New Orleans office.

The Law Office of John W. Redmann, L.L.C., announces that **Robert W. Tschirn** has joined the firm as an associate.

Sessions, Fishman, Nathan & Israel, L.L.P., announces that **Richard R. Stedman II** has joined the firm as an associate.

Continued next page



Harold J. Flanagan



Thomas M. Flanagan



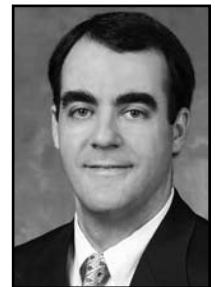
Elizabeth J. Futrell



Kathleen A. Gallagher



Michael J. Gautier, Jr.



H. Hughes Grehan



Timothy W. Hardy



Edward T. Hayes



Michael P. Higgins



Meredith K. Keenan



Michael K. Leachman



Lisa A. Montgomery

Ungarino & Eckert, L.L.C., announces that Helen H. Babin has been named partner in the firm's New Orleans office and Katherine E. (Libby) Heinen has been named partner in the firm's Lafayette office. Frank A. Romeu, Jr. has joined the firm as special counsel and Leah R. Rhodes has joined the firm as an associate, both in the New Orleans office.

Weems, Schimpf, Gilsoul, Haines, Landry & Carmouche, A.P.L.C., announces that Paul J. Carmouche has joined the firm's office in Shreveport. Kyle A. Moore has joined the firm as an associate.

Woodley, Williams Law Firm, L.L.C., in Lake Charles announces that **Michael D. Carleton** has joined the firm as a member.

NEWSMAKERS

Kim M. Boyle, a partner in the New Orleans office of Phelps Dunbar, L.L.P., has been elected to serve on the Administrators of the Tulane Educational Fund, the main governing body of Tulane University.

Warren C. Caswell has been appointed to serve as judge of the Juvenile Court of the Northern Judicial Circuit, State of Georgia.

Andre G. Coudrain, a Hammond attorney, was sworn in for a third six-year term on the Board of Supervisors for the University of Louisiana System.

Jean-Paul P. Coussan, an associate with Andrus-Boudreaux, A.P.L.C., in Lafayette, is a recent graduate of Leadership Lafayette Class XXI and was named the 2008 Louisiana Man of the Year by the Leukemia & Lymphoma Society. He was recently appointed to the Cajundome Commission.

James A. George, a partner in the Baton Rouge firm of George & George, Ltd., has been appointed as Louisiana liaison to the American Inns of Court.

Timothy W. Hardy, chair of the firm of Lemle & Kelleher, L.L.P., was appointed by Louisiana Gov. Bobby Jindal to the Greater Baton Rouge Port Commission.

Edward T. Hayes, a partner with Leake & Andersson, L.L.P., has been nominated to the board of directors of the World Trade Center in New Orleans.

Frank E. Lamothe III, with The Lamothe Law Firm in Covington, has been elected to serve as secretary for the Louisiana Chapter of the American Board of Trial Advocates.

McGlinchey Stafford, P.L.L.C., attorneys Kyle A. Ferachi and Amanda S. Stout have been recognized by the Baton Rouge Bar Association. Ferachi was sworn in as chair of the Young Lawyers Section and Stout received the Judge Joseph Keogh Award.

Alexandra E. Mora was appointed by the United States State Department as the honorary Swiss consul for New Orleans.

Joe B. Norman, a partner of Liskow & Lewis, A.P.L.C., was inducted as a Fellow of the American College of Trial Lawyers.

Peter E. Sperling, a partner with Frilot, L.L.C., was inducted as a Fellow of the American College of Trial Lawyers.

Continued next page



Harry E. Morse VI



Stephen M. Pesce



Stephen D. Ridley



Michael D. Roche



Kelly C. Simoneaux



Peter E. Sperling



Richard R. Stedman II



David A. Strauss



Robert W. Tschirn



Raedtha A. Vasquez



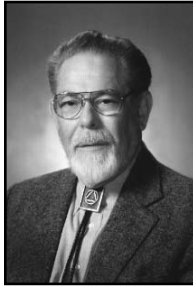
Tessa P. Vorhaben



Robert B. Worley, Jr.

IN MEMORIAM

Edwin Laurine Blewer, Jr., a Shreveport attorney, died Jan. 27 at the age of 75. He finished first in his class at Louisiana State University Law School (*Louisiana Law Review*, Order of the Coif, Omicron Delta Kappa). He served in the United



Edwin Laurine Blewer, Jr.

States Army before joining the law firm of Cook, Yancey, King & Galloway, where he practiced for 50 years. A member of the Shreveport Bar Association, he served as its president in 1988 and received its Professionalism Award in 2004. He served in the Louisiana State Bar Association's House of Delegates and on the Board of Governors and received the LSBA President's Award in 1995. He was a member of the Louisiana Bar Foundation. In 1985, Mr. Blewer and four other attorneys were the founding members of the Impaired Lawyers Committee of the Louisiana State Bar Association, which evolved into the Lawyers Assistance Program; he served as its chair for six years and continued to serve on its committee until his death. He served on the American Bar Association's Commission on Lawyers Assistance Programs and chaired the group from 1998-2001. He was an active member of

the board of the Council on Alcoholism and Drug Abuse of Northwest Louisiana and was president in 1987; he received the Council's Wayne Drewry Award for service to the community in 1989. He was president of the board of the Louisiana Association on Compulsive Gambling. He served on Louisiana's Commission on Addictive Disorders, having been appointed to serve by the last five governors. In 2008, Mr. Blewer was named "Samaritan of the Year" by the Samaritan Counseling Center. He is survived by his wife, Julia Miles Blewer; his son and daughter, Edwin L. Blewer III and Julia Elizabeth Blewer, and their spouses; two grandsons; two brothers and a sister and their spouses; and other relatives.

F. Neelis Roberts, a founder of the law firm of Schully, Roberts, Slattery & Marino in New Orleans, died Jan. 22. He was 52. He helped established the firm in 1991 after being a partner in other law firms, including Gordon, Arata, McCollam & Duplantis; Dotson, Babcock & Scofield; and Jackson Walker. Early in his career, he practiced primarily mineral, oil and gas law with an emphasis on title examination, oil- and gas-related litigation and bankruptcy, the acquisition and disposition



F. Neelis Roberts

of mineral-producing properties, Outer Continental Shelf Lands Act matters, exploration, development, operating and joint venture agreement negotiations, energy-related financing transactions, unitization and conservation-related state regulatory work, and other energy-related matters. Mr. Roberts was a lecturer at the Mineral Law Institute in 1989 and 1997. He served as a member of the Advisory Council from 1994-96 and served with distinction from 1996-99 as chair of the Louisiana Mineral Law Institute. He served as a member of the Legal Committee for the Interstate Oil Compact Commission from 1989-99. He presented and published a number of speeches and papers on mineral law. He was a member of the Louisiana State Bar Association, the Professional Landmen's Association of New Orleans and the American Association of Professional Landmen. He is survived by his wife, Teresa C. Roberts; his children, Everard Ellis Roberts, Connor S. Roberts, Courtland N. Roberts and Taylor A. Roberts; his father, Frank Smith Roberts, Jr.; and four sisters.

PUBLICATIONS

Louisiana Super Lawyers 2009

Abbott Simses, A.P.L.C.: Lawrence E. Abbott.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.: Alton E. Bayard III,

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Deadlines for submitting People announcements (and photos) :

Publication	Deadline
Aug./Sept. 2009	June 4, 2009
Oct./Nov. 2009	August 4, 2009
Dec. 2009/Jan. 2010	October 4, 2009
Feb./March 2010	December 4, 2009
April/May 2010	February 4, 2010

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 e-mail dlabranche@lsba.org.**

Roy C. Cheatwood, James H. Daigle, Christopher O. Davis, Nancy Scott Degan, Donna D. Fraiche, Amelia Williams Koch, Robert W. Nuzum, James H. Roussel, Danny G. Shaw and Danielle L. Trostorff.

Deutsch, Kerrigan & Stiles, L.L.P.: Terrence L. Brennan, Bert M. Cass, Jr., Robert E. Kerrigan, Jr., Charles E. Leche, Frederic Theodore Le Clercq, Nancy J. Marshall, Joseph L. McReynolds, Richard B. Montgomery III, Ellis B. Murov, Howard L. Murphy, Charles F. Seemann, Jr., A. Wendel Stout III and William E. Wright, Jr.

Gaar Law Firm, A.P.L.C.: Joseph F. Gaar, Jr. (He also has been admitted as a life member in the Million Dollar Advocates Forum and Multi-Million Dollar Advocates Forum of the Top Trial Lawyers in America.)

Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.: Robert B. Acomb, Jr., H. Mark Adams, Jennifer L. Anderson, Robert B. Bieck, Jr., William M. Backstrom, Jr., John C. Blackman IV,

John J. Broders, Robert R. Casey, Thomas A. Casey, Jr., Michael A. Chermekoff, J. Kelly Duncan, David F. Edwards, Madeleine Fischer, Elizabeth J. Futrell, Covert J. Geary, Glenn G. Goodier, Harry S. Hardin III, Pauline F. Hardin, Curtis R. Hearn, Cornelius R. Heusel, William H. Hines, Thomas P. Hubert, Grady S. Hurley, Edward J. Koehl, Jr., Charles A. Landry, Robert T. Lemon II, Sidney F. Lewis V, Edward F. Martin, B. Michael Mauldin, Louis S. Nunes III, David G. Radlauer, Rudolph R. Ramelli, Carl D. Rosenblum, Alex P. Trostorff, Richard J. Tyler, R. Patrick Vance, Edward D. Wegmann and Robert B. Worley, Jr.

Liskow & Lewis, A.P.L.C.: Donald R. Abaunza, Marguerite L. Adams, Robert S. Angelico, Wm. Blake Bennett, James A. Brown, James C. Exnicios, S. Gene Fendler, Don K. Haycraft, Robert E. Holden, Jonathan A. Hunter, Philip K. Jones, Jr., David W. Leefe, Thomas J. McGoey II, Joe B. Norman, Leon J. Reymond, Jr., George H. Robinson, Jr., John M. Wilson and John D. Wogan.

Phelps Dunbar, L.L.P.: M. Nan Alessandra, Jane E. Armstrong, Brent B. Barriere, John A. Bolles, Kim M. Boyle, Patrick J. Butler, Jr., Philip deV. Claverie, Sr., Mark A. Fullmer, George M. Gilly, George B. Hall, Jr., Sessions Ault Hootsell III, Michael D. Hunt, H. Alston Johnson III, Thomas H. Kiggans, John P. Manard, Jr., Richard E. Matheny, Robert P. McCleskey, Jr., William J. Riviere, Harry Rosenberg, Randy P. Roussel, Mary Ellen Roy, Hugh R. Straub, James A. Stuckey and Brian D. Wallace.

Best Lawyers in America 2009

ADR inc.: Thomas K. Foutz, Joe Murray and David R.M. Williams.

Phelps Dunbar, L.L.P.: Philip deV. Claverie, Sr. and Randy P. Roussel.

Outstanding Lawyers of America 2009

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DEADLINE

For the August issue of the Journal, all classified notices must be received with payment by June 18, 2009. Check and ad copy should be sent to:

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POSITIONS OFFERED

Shuart & Associates, Legal Search and Staffing, is the leader in legal search and strategic placement of attorneys at all levels throughout Louisiana and the Southeast. With 20 years invested in developing relationships with legal community leaders, and knowing firm cultures and current hot practice areas, Shuart has gained trust and respect as "Louisiana's Leader in Legal." Our accomplishments include hundreds of attorney placements, successful negotiations of practice groups into other firms, and numerous completed searches on behalf of local corporations. We also provide top-caliber legal support staff candidates for both direct hire and contract/temporary placement. All inquiries are held in the strictest of confidence. Shuart & Associates, Legal Search & Staffing, Ste. 2125, 650 Poydras St., New Orleans, LA 70130; (504)836-7595; www.shuart.com; info@shuart.com.

New Orleans AV-rated litigation firm seeks an attorney with at least three years' experience in insurance coverage, top third of law school class. Send résumé to: Hiring Partner, Degan, Blanchard & Nash, Ste. 2600, 400 Poydras, New Orleans, LA 70130.

Insurance defense practice. Downtown New Orleans law firm seeks attorney with

zero-three years' experience for insurance defense practice. Maritime and/or trucking defense experience preferred. We are seeking dedicated lawyer who can prepare cases for trial. Please submit résumés to Administrator, Ste. 1200, 400 Poydras St., New Orleans, LA 70130, or fax to (504)524-9003. All inquiries strictly confidential.

Amedisys Home Health Services, a very dynamic and fast-paced publicly traded organization, is currently seeking a senior corporate counsel to join the legal team in Baton Rouge, La. The role will involve extensive transactional practice involving a wide variety of subject matter areas, including healthcare, corporate, intellectual property, mergers and acquisitions, real estate and employment. Visit www.amedisys.com for more information and to apply online.

New Orleans CBD personal injury plaintiff firm seeks an attorney with at least three years' experience, preferably insurance defense. Caseload involves auto, industrial, maritime and some toxic tort. Includes client contact, brief/memorandum/writ writing and argument and trial preparation. Looking for a self-motivated and ambitious lawyer. Salary negotiable: some guaranteed salary with bonuses or, alternatively, pure commission. All inquiries can be confidential and all résumés should be mailed confidentially to C-Box 244.

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Law firm located in the Alexandria/Pineville area is looking for an associate attorney with experience in the fields of workers' compensation defense, insurance defense, contract and general practice. Benefits include paid vacation, paid sick leave, group health insurance and retirement. Salary DOE. Interested, experienced candidates should forward résumé to Associate Position, P.O. Box 648, Alexandria, LA 71309.

Labor and employment associates. Louisiana firm with well-established labor and employment practice seeks two associates with up to five years' experience including traditional labor law, immigration and employment litigation. Mail confidential résumé to C-Box 245.

Roedel, Parsons, Koch, Blache, Balhoff & McCollister, A.L.C., seeks an attorney with a minimum of five years' experience to work in its Baton Rouge office in the general litigation and public entity section. Experience in administrative law, employment law or municipal law preferred. Excellent writing skills are required. Candidate must be capable of handling a variety of legal work including litigation with little supervision. Some travel and evening work are required. The firm offers an excellent work environment, competitive salary and benefits and opportunity for advancement. Please send résumé and writing sample to: Sheri Morris and Larry Roedel, Ste. 301, 8440 Jefferson Hwy., Baton Rouge, LA 70809, or e-mail smorris@roedelparsons.com or lroedel@roedelparsons.com.

Established medium-sized Baton Rouge law firm seeks associate to work in variety of litigation matters, including construction law and professional malpractice defense. Position requires one to five years of litigation experience and strong academic credentials. Please send résumé and writing sample to C-Box 246.

Small, well-established, AV-rated law firm in Metairie seeks an associate with at least three years of experience. Areas of practice include general business litigation, real estate transactions, successions, contracts, banking law, tort law and collections. Salary commensurate with experience. Candidates in top 25 percent of graduating class preferred. Benefits package included. E-mail rbl@mollereflanagan.com or fax (504)837-3221.

Oil and gas attorney position. Curry & Friend, A.P.L.C., a growing CBD and Northshore, AV-rated defense firm, is currently seeking an associate; oil and gas attorney with minimum five years' defense experience in oil and gas (legacy site) remediation/NORM personal injury litigation. The firm offers excellent work environment, competitive salary and benefits. Send résumé and writing samples to johnbattin@curryandfriend.com.

Special Counsel/Judiciary Commission

The Judiciary Commission of Louisiana seeks attorney to serve as lead counsel in the investigation and prosecution of cases of judicial misconduct before the Judiciary Commission and Louisiana Supreme Court, as well as to manage and direct the activities of the legal and support staff for the Office of Special Counsel. Ideal candidate must possess a JD degree, plus at least 10 years of relevant experience including a proven litigation record, superior analytical and writing skills, extensive legal research experience, excellent communication and organizational skills, and proficiency in the use of a computer (e-mail, word processing, etc.). Supervisory experience also a must. Salary commensurate with experience. Excellent benefits. Please submit résumé, law school honors, writing sample and a list of your most recent trials to Human Resources: e-mail hr@lajao.org or mail

to Ste. 1190, 400 Royal St., New Orleans, LA 70130-8101. Reference job #SP02. EEO/D/F/M/V. Application deadline: May 15, 2009.

POSITIONS WANTED

New Orleans lawyer admitted to practice in 1968. Practiced in New Orleans for many years and was engaged in real estate prior to living in North Carolina for 12 years. Returned to New Orleans in May 2006. Have extensive real estate experience and general civil practice. Wanting a position with a small firm on a full- or part-time basis. Please contact Richard Buckman, (504)655-1555, e-mail rbuckman3@cox.net.

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Brief writing/legal research. Columbia Law School graduate; former U.S. 5th Circuit staff attorney; former U.S. District Court, Western District of Louisiana, law clerk; more than nine years of legal experience; available for brief writing and legal research; references and résumé available on request. Douglas Lee Harville, lee.harville@theharvillelawfirm.com, (318)222-1700.

Trained in legal writing. Former federal court law clerk. More than 30 years' ex-

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FOR RENT COVINGTON

New construction office condos in Old Covington at W. 19th and S. Tyler Streets, near the 22nd Judicial District. Offices will be finished to buyers' specifications with spaces ranging from 1,500-7,500 square feet. Delivery is scheduled for end of 2009 and Go-Zone depreciation is available. Call CBCTEC at (504)566-1777, ext. 203.

FOR RENT NEW ORLEANS

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FOR RENT MISSISSIPPI

Beautiful office available in historic building in downtown Gulfport, Miss. \$700 per month. Contact swaim_k@yahoo.com.

NOTICE

J. Keith Mullins has applied for readmission to the Louisiana State Bar Association. Individuals concurring in or opposing this application may file his/her concurrence or opposition with the Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002, within 30 days.

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UPDATE

Justice Traylor Retiring; Judge Jones Appointed

Louisiana Supreme Court Justice Chet D. Traylor will retire from the court on May 31 after 12 years of service. Elected from the 4th Supreme Court District, he took office in 1997.



Justice Chet D.
Traylor

By unanimous decision, the justices have appointed 4th Judicial District Court Judge Benjamin Jones as justice *pro tempore* to fill the vacancy. Jones' appointment will be effective June 1 through Nov. 30, 2009, or until the vacancy is filled.

Justice Traylor received his BA degree in government from Northeast Louisiana State University in 1969 and his law degree from Loyola University Law School in 1974. He served as a judge of the 5th Judicial District Court (Franklin, Richland and West Carroll parishes) from 1985 until his election to the Louisiana Supreme Court.

During his tenure on the Supreme Court bench, Justice Traylor was chair of the Louisiana Supreme Court Ad Hoc Committee to Prevent Lawyer Misconduct and served as the Supreme Court representative for the Louisiana Commission on Law Enforcement.

Judge Jones received his undergraduate degree in political science from Southern University in 1966 and his law degree from Boston College Law School in 1969. Prior to being elected in 1992 to the bench of the 4th Judicial District (Ouachita and Morehouse parishes), he served as a legal

services attorney for the Boston Legal Assistance Project, an assistant United States attorney for the U.S. Department of Justice in Boston, a deputy legal counsel to the governor of Massachusetts, a chief administrative law judge for the Board of Appeal on Motor Vehicle Liability, Policy and Bonds in Boston and a private practice attorney in Monroe.

A graduate of the National Judicial College in Reno, Nev., Judge Jones has served as judge *pro tempore* on the 2nd Circuit Court of Appeal in Shreveport, president of the Louisiana District Court Judges Association, chair of the Judiciary Commission of Louisiana and member of the Board of Governors of the Louisiana Judicial College.

Boyle Gives Keynote, Legier Receives Award at BLSA Gala

Louisiana State Bar Association (LSBA) President-Elect Kim M. Boyle delivered the keynote address at the Loyola University College of Law A.P. Tureaud Chapter of the Black Law Students Association's (BLSA) fifth annual Scholarship Gala on March 7.

Four alumni were recognized for their professional accomplishments and dedication to the A.P. Tureaud Chapter. LSBA Director of Member Outreach and Diversity Kelly McNeil Legier received the Public Service and Leadership Award. Hon. Ronald J. Sholes received the A.P. Tureaud Achievement Award. Hon. Kern A. Reese received the Dean Louis Westerfield Award. Cherrell R. Simms received the Karl J. Connor Alumni Award.

Other awards included: Member of the Year Award to Jose Massingue; Advisor Award to Dean K. Michele

Allison-Davis and Semora "Lola" Davis; and Honorary Advisor Award to Askala Harris. Four faculty and staff members were recognized for their service to the chapter: Arlene Wiltz, Professor Bobby Marzine Harges, Professor J. Shontavia Jackson and Professor William P. Quigley.

Proceeds from the gala assisted the Semora "Lola Bartholomew" Davis Scholarship Fund and chapter activities for the upcoming year.

In 2005, the Semora "Lola Bartholomew" Davis Scholarship was established by the A.P. Tureaud Chapter to increase African-American enrollment at Loyola College of Law. The scholarship is awarded to two first-year law students with a record of service. This year's recipients are Dante Butler and Selena Hunn.



Louisiana State Bar Association Director of Member Outreach and Diversity Kelly McNeil Legier received the Public Service and Leadership Award presented by the Loyola University College of Law A.P. Tureaud Chapter of the Black Law Students Association.

La. Judicial Conference, NBA Hold Joint Meeting

The Louisiana Judicial Conference and Region V of the National Bar Association held a joint meeting and CLE in Shreveport Feb. 27-March 1. Judges from Louisiana and lawyers from Louisiana, Mississippi and Texas attended the conference.

CLE topics included trial techniques, mediation, recent developments in the law and Bench/Bar relations. On Feb. 28, Louisiana State Bar Association (LSBA) President-Elect Kim M. Boyle was the guest speaker at a joint luncheon of the lawyers and judges.

Region V organized a panel discussion on Bar leadership and governance. Panelists were Boyle; LSBA Past President Wayne J. Lee; and E. Steve Bolden, chair of the African-American Lawyers Section of the Texas State Bar.

Beets Receives ABA Writing Award

Josie E. Beets, Louisiana State Bar Association access to justice training coordinator, won a writing award from the American Bar Association Forum on Air & Space Law for her paper, "The International Charter on Space and Major Disasters and International Disaster Law: The Need for Collaboration and Coordination."



Josie E. Beets

Beets wrote the paper after coordinating disaster relief in Louisiana and while she was a visiting student at the University of Nebraska College of Law taking courses in the Space and Telecom Law department.



Dean Henry George McMahon Chapter American Inn of Court 2009 Executive Board members are, front row from left, Jennifer A. Fiore, social chair; Amanda S. Stout, secretary; and Joy M. Guillot, treasurer. Second row from left, Stephen Holiday, LSU coordinator; Janice M. Reeves, vice president; Elliott W. Atkinson, Jr., president; Melissa A. Miley, membership chair; Celia A. Bailey, program chair; and Beau James Brock, publicity.

Dean McMahon Chapter American Inn of Court Celebrates 20th Anniversary

The Dean Henry George McMahon Chapter American Inn of Court celebrated its 20th anniversary on Jan. 22 with a dinner and program in Baton Rouge. Chapter President Elliott W. Atkinson, Jr. served as master of ceremonies and remarks were delivered by past presidents Judge Ralph E. Tureau, Robert R. Rainer, Michelle L. Ghetti and Emile C. Rolfs III. Chapter Vice President Janice M. Reeves delivered "words of wisdom" on behalf of absent founding member and past

president Judge John V. Parker.

Of 373 chapters nationwide, the Dean Henry George McMahon Chapter has been selected by the national association for its Circle of Excellence for its programs and overall performance for the past two years.

Anyone interested in learning more about this chapter or wanting to join should contact President Atkinson, (225)293-7100, or submit an application for membership. Application forms may be obtained by contacting Melissa A. Miley, Membership Chair, Miley Law Firm, 3211 Monterrey Dr., Baton Rouge, LA 70814 or fax (225)926-2714.



Dean Henry George McMahon Chapter American Inn of Court presidents through its 20-year history include, from left, Robert R. Rainer, Elliott W. Atkinson, Jr., Michelle L. Ghetti and Emile C. Rolfs III. (Absent from the photo are past presidents Judge John V. Parker, James A. George and Judge Ralph E. Tureau.)



Ville Platte attorney Gary J. Ortego, standing center, took the oath of office in January as the first hearing officer for Evangeline Parish and the 13th Judicial District Court. Administering the oath was 3rd Circuit Court of Appeal Judge John D. Saunders, seated. Witnessing the ceremony were 13th Judicial District Court Judges Thomas F. Fuselier and John Larry Vidrine.

New Orleans Bar Foundation Appoints Board of Directors

The New Orleans Bar Foundation elected its board of directors for 2009. John Y. Pearce is president; Brian A. Jackson, vice president; Debbie B. Rouen, secretary-treasurer; Perry R. Staub, Jr., three-year board member; Maurice C. Ruffin, two-year board member; Thomas O. Lind, two-year board member; and Judge Alma L. Chasez, one-year board member.



Major Jonathan R. Hirsch, right, Major Patrick D. Gregory, Sr., left, and Major Howard T. Matthews, Jr., all members of the Louisiana State Bar Association, were admitted to the Bar of the U.S. Supreme Court in January. They are currently attending the graduate course pursuing LLM degrees in military law at the Judge Advocate General's School of the Army, Charlottesville, Va.

LOCAL/SPECIALTY BARS



Participating in the forum, "The New Paradigm of Change," were, from left, Eboni M. Townsend, Baton Rouge Martinet Society secretary; Anderson O. Dotson III, Baton Rouge Martinet Society president; Professor Russell L. Jones, moderator and Southern University Law Center vice chancellor; Professor Raymond T. Diamond, Louisiana State University Paul M. Hebert Law Center; Dr. Albert Samuels, Southern University Department of Political Science; Professor Winston W. Riddick, Southern University Law Center; Waukehsia Jackson, LSU Paul M. Hebert Law Center student; and Tiffany Campbell, Southern University Law Center student.

Forum Discusses "New Paradigm of Change"

A forum, "The New Paradigm of Change: Will President Obama's Vision be Fulfilled?," was held Feb. 26 in the Louisiana State University Paul M. Hebert Law Center Moot Courtroom. The forum was sponsored by the Greater Baton Rouge Louis A. Martinet Legal Society, Inc., the Black Student Union of LSU Paul M. Hebert Law Center and the Southern University Law Center Black Law Students Association.

The forum was moderated by Professor Russell L. Jones, vice chancellor of Southern University Law Center. Panelists

were Dr. Albert Samuels of the Southern University Department of Political Science, Professor Winston W. Riddick of the Southern University Law Center and Professor Raymond T. Diamond of LSU Paul M. Hebert Law Center.

Various issues facing the new presidential administration were discussed, including the effects of United States Supreme Court appointments which may be vested in President Obama and what, if any, changes this may have on the court's usual voting trends. The panelists also evaluated President Obama's earlier appointments and most recent actions and discussed whether they reflect the message of change which he espoused during his campaign.



Lafayette Bar Association Immediate Past President Miles A. Matt, second from left, and John E. (Jack) McElligott, Jr., far right, received Building Awards during the Lafayette Bar Foundation's Champions of Justice Breakfast. They received the awards for their efforts in making the new Lafayette Bar Building a reality. With them are Richard L. Becker, left, Lafayette Bar Foundation chair, and Susan Holliday, Lafayette Bar Association executive director.



The firm of Hill & Beyer received the Small Firm Award during the Lafayette Bar Foundation's Champions of Justice Breakfast. From left, Lafayette Volunteer Lawyers Chair Marianna Broussard, Bret C. Beyer and Erin S. Beyer, all with Hill & Beyer; and Richard L. Becker, Lafayette Bar Foundation chair.



Outstanding Attorney Awards were presented during the Lafayette Bar Foundation's annual Champions of Justice Breakfast. The awards recognize pro bono service. From left, Steven T. Ramos, Judith R. Kennedy, Ryan M. Goude Locke, Jeanne M. Laborde, Marianna Broussard (LVL Pro Bono Award), Amy E. Brining, Bridget R. Broussard (H.E.L.P. Award), Franchesca L. Hamilton-Acker, James D. Bayard, Gregory A. Koury, Candace M. Breaux, Lindsay M. DeBlois, Scott D. Webre, Olita Magee Domingue (Protective Order Panel Pro Bono Attorney of the Year Award) and Cassie L. Willis.

Lafayette Bar Foundation Hosts Champions of Justice Breakfast

The Lafayette Bar Foundation (LBF) hosted its annual Champions of Justice Breakfast Jan. 28. The LBF recognizes attorneys for volunteering their legal services and for donating monetary contributions to the Lafayette Volunteer Lawyers (LVL), a program that provides free legal services to the underprivileged members of the community. The LVL program is funded by grants from Acadiana Legal Service Corp. and the Louisiana Bar Foundation's Interest on Lawyers' Trust Accounts (IOLTA) program.

LBF Chair Richard L. Becker presented the Outstanding Attorney Awards to James D. Bayard, Candace M. Breaux, Amy E.

Brining, Bridget R. Broussard, Marianna Broussard, Lindsay M. DeBlois, Olita Magee Domingue, Ryan M. Goude Locke, Franchesca L. Hamilton-Acker, Judith R. Kennedy, Gregory A. Koury, Jeanne M. Laborde, Steven T. Ramos, Scott D. Webre and Cassie L. Willis.

Individual attorney awards were presented to LVL Chair Marianna Broussard, LVL Pro Bono Award; Bridget R. Broussard, H.E.L.P. (Homeless Experience Legal Protection) Award; and Olita Magee Domingue, Protective Order Panel Pro Bono Attorney of the Year Award.

Awards also were presented to firms providing the highest number of service hours. Hill & Beyer received the Small Firm Award (seven or fewer attorneys). Laborde & Neuner received the Large Firm Award (eight or more attorneys).

Abaunza Receives NOBA Maritime Lawyer Award

Donald R. Abaunza, a partner with Liskow & Lewis, is the recipient of the 2008 New Orleans Bar Association's Distinguished Maritime Lawyer Award.



Donald R. Abaunza

Abaunza has 40 years' experience in admiralty, energy and commercial law. He serves on the Tulane Admiralty Law Institute Planning Committee and is a proctor for the Maritime Law Association of the United States. He is a Fellow in the American College of Trial Lawyers, a master of the bench for the Tulane Inn of Court and a recipient of the Louisiana State Bar Association's President's Award.



The firm of Laborde & Neuner received the Large Firm Award during the Lafayette Bar Foundation's Champions of Justice Breakfast. Firm attorneys include, back row from left, Brandon W. Letulier, Robert E. Torian, Daniel J. Poolson, Jr., James D. Hollier, Ben L. Mayeaux, James L. Pate, Kevin P. Merchant, Phillip H. Boudreaux, Jr. and Jason T. Reed. Front row from left, Charles William Montz, Jr., Jennie P. Pellegrin, Laura T. Rougeau, Gregory A. Koury and Frank X. Neuner, Jr.



The Louisiana Chapter of the Association of Corporate Counsel gathered for a holiday luncheon in December. Among the members attending were, from left, John A. Marzullo, Daniel H. Schwarzenbach and James M. Redwine. Members of the association are in-house counsel.



Members of the 2009 Lafayette Bar Association (LBA) board are, from left, Gary P. Kraus, LBA President-Elect Charles W. Ziegler IV, LBA Secretary-Treasurer André Doguet, Lafayette Young Lawyers Association President Gregory A. Koury, LBA Immediate Past President Miles A. Matt, Maggie T. Simar, Aaron J. Allen, LBA President Rebekah R. Huggins, Evelyn S. Adams, Dona W. Renegar, Elena Arcos-Pecoraro, Marianna Broussard, Larry Curtis, Shannon S. Dartez, Tricia R. Pierre, Dean A. Doherty and Jeffery A. Riggs. Not in photo, Blake R. David, Paul J. Hebert and Tony Morrow.

Lafayette Bar and Young Lawyers Association Hold Joint Installation of Officers

The Lafayette Bar Association and the Lafayette Young Lawyers Association held a joint installation of officers in December. This first joint installation was held at the new Lafayette Bar Building, 2607 Johnston St.

Newly installed Lafayette Bar Association officers are President Rebekah R. Huggins, President-Elect Charles W. Ziegler IV, Secretary-Treasurer André Doguet and Immediate Past President Miles A. Matt.

Lafayette Bar Association board members for 2009 are Evelyn S. Adams, Aaron Jay Allen, Elena Arcos-Pecoraro, Marianna Broussard, Larry Curtis, Shannon S. Dartez, Blake R. David, Dean A. Doherty, Paul J. Hebert, Gregory A. Koury, Gary P. Kraus,

Tony Morrow, Tricia R. Pierre, Dona K. Renegar, Jeffery A. Riggs and Maggie T. Simar.

Newly installed Lafayette Young Lawyers Association officers are President Gregory A. Koury, President-Elect Cynthia K. Simon, Secretary-Treasurer Steven T. Ramos and Immediate Past President Frank S. Slavich III.

Lafayette Young Lawyers Association board members for 2009 are Adam A. Abdalla, Michael L. Barras, James D. Bayard, Nicole B. Breaux, Danielle D. Cromwell, Lindsay M. DeBlois, Peter Brian Derouen, Paul E. Gardner, Rachel B. Godley, Franchesca L. Hamilton-Acker, Brandon W. Letulier, Jacqueline B. Manecke, Charles William Montz, Jr., Jeremy N. Morrow, Donovan J. O'Pry II, Daniel J. Poolson, Jr., Jeremy B. Shealy and Jonathan L. Woods.



Members of the 2009 Lafayette Young Lawyers Association (LYLA) board are, back row from left, Donovan J. O'Pry II, Daniel J. Poolson, Jr., Michael L. Barras, LYLA President-Elect Cynthia K. Simon, LYLA Secretary-Treasurer Steven T. Ramos, LYLA President Gregory A. Koury, Jeremy N. Morrow, Paul E. Gardner and Adam A. Abdalla. Front row from left, Charles William Montz, Jr., Danielle D. Cromwell, Brandon W. Letulier, Franchesca L. Hamilton-Acker, Jacqueline B. Manecke, Lindsay M. DeBlois, Rachel B. Godley, LYLA Immediate Past President Frank S. Slavich III and Jonathan L. Woods. Not in photo, James D. Bayard, Nicole B. Breaux, Peter Brian Derouen and Jeremy B. Shealy.



Stanley J. Cohn, left, 2008-09 New Orleans Bar Association president, and his wife Jane.

New Orleans Bar Board Installed, Awards Presented at Annual Meeting

President Stanley J. Cohn and other members of the New Orleans Bar Association's (NOBA) 2008-09 board were installed at the Annual Meeting in November 2008.

Patricia A. Krebs is president-elect; Brian P. Quirk, first vice president; M. Nan Alessandra, second vice president; R. Patrick Vance, third vice president; Joseph P. Tynan, secretary; Walter J. Leger, Jr., treasurer; Perry R. Staub, Jr., immediate past president; and Maurice C. Ruffin, Young Lawyers Section chair.

Board members with terms expiring in 2009 are Judge Michael G. Bagneris, James M. Williams and Justin I. Woods. Board members with terms expiring in 2010 are Dana M. Douglas, James C. Gulotta, Jr. and



John Y. Pearce is the recipient of the 2008 Arceneaux Professionalism Award, presented by the New Orleans Bar Association.



Attending the New Orleans Bar Association's Annual Meeting were, from left, Elwood F. Cahill, Jr., Hon. Piper D. Griffin, Patricia A. Garcia, Stanley J. Cohn, Carmelite M. Bertaut, Judy Perry Martinez and David F. Bienvenu.

Timothy F. Daniels. Board members with terms expiring in 2011 are Mary L. Meyer, Christopher K. Ralston and Sharonda R. Williams.

Also at the event, 50-year members Allain C. Andry III, Hon. Denis A. Barry (Ret.), C. Ellis Henican, Jr., George A. Frlot III, Rader E. Jackson III, Bernard Marcus and Hon. John A. Shea were recognized.

John Y. Pearce is the recipient of the 2008 Arceneaux Professionalism Award.

Also in attendance were several of NOBA's Fleur De Lis patrons, members who have shown their vision and commitment to New Orleans and the New Orleans Bar Association.

Cohn outlined his goals for the year. He has committed the association to continuing its CLE presentations, seeking diverse membership and providing a voice for the continued improvement of the justice system in New Orleans.

Krewe of Justinian Raises Funds for Shreveport Bar

The Krewe of Justinian, the Shreveport legal community's Mardi Gras krewe, raised funds this year for projects and charitable activities of the Shreveport Bar Association and Shreveport Bar Foundation.

The Krewe of Justinian XV Grand Bal was Jan. 16. The krewe, formed in 1994 and now with more than 250 members (attorneys and spouses), has evolved into one of the largest fundraising arms of the Shreveport Bar Association.

The krewe sponsors four events during the Mardi Gras season — the Coronation Bal, the Mid-Way to Mardi Gras party, the Justinian Bal and the Royalty Brunch. The krewe also raises funds at its silent auction in conjunction with the Grand Ball.



Krewe of Justinian XV Captain Timothy R. Fischer, Queen Susan Cox and King James E. Bolin, Jr. at the Jan. 16 Grand Ball.

LOUISIANA BAR FOUNDATION

LBF Recognizes Jurist, Attorney, Professor, Calogero Justice Award Recipient at Fellows Gala

The Louisiana Bar Foundation (LBF) honored the 2008 Distinguished Jurist Justice Bernette Joshua Johnson, Distinguished Attorney Edward J. Walters, Jr. and Distinguished Professor Cheney C. Joseph, Jr. at the 23rd annual Fellows Gala on April 17. The honorees were selected by the LBF's board of directors for their contributions to the legal profession and their communities.

Also honored at the event was the Innocence Project New Orleans (IPNO). IPNO was presented with the first Calogero Justice Award for its significant contribution to Louisiana's justice system.

The gala, with the theme "Advancing Justice and Law-Related Education Through Fellowship," began with recognition of the Fellows Class of 2008. The Fellows Class of 1989 was recognized for supporting the LBF's work for 20 years.

► 2008 Distinguished Jurist Justice Bernette Joshua Johnson

Justice Bernette Joshua Johnson was elected as associate justice of the Louisiana Supreme Court in 1994 and was re-elected, without opposition, in 2000. She has been appointed to the Legal Services Task Force and has served on the Judicial



Justice Bernette Joshua Johnson

Council of Louisiana. She is the Supreme Court's contact person for the National Campaign on Best Practices in the Area of Racial and Ethnic Fairness in the Courts and has worked closely with the court's Mandatory Continuing Legal Education Committee and the Committee on Bar Admissions.

Continued next page

In 1984, Justice Johnson was the first woman elected to Orleans Parish Civil District Court. She was re-elected, without opposition, in 1990 and was elected chief judge by her colleagues in 1994. She attended Spelman College in Atlanta on an academic scholarship and received a BA degree. One of the first African-American women to attend the law school at Louisiana State University, she received her JD degree in 1969.

Prior to her election to the bench, Justice Johnson spent much of her legal career in the public sector. She was a legal services attorney and a deputy city attorney for New Orleans. She worked as a law intern with the U.S. Justice Department, Civil Rights Division, and as a community organizer with the NAACP Legal Defense and Educational Fund in New York City.

In 1996, Justice Johnson's portrait was unveiled and she was inducted into the LSU Law Center Hall of Fame. She is the recipient of numerous awards, including the American Bar Association's Margaret Brent Women Lawyers of Achievement Award in 1998. She was the recipient of the first Ernest N. Morial Award given by the New Orleans Legal Assistance Corp. and the A.P. Tureaud Citizenship Award given by the Louisiana State Conference NAACP. In 2001, she received an honorary doctorate of law from Spelman College.

Justice Johnson received the Louis A. Martinet Legal Society, Inc. President's Award in 1997 and 2008. She is active with several committees of the Louisiana State Bar Association (LSBA). She received the LSBA President's Award in 2005 for her work as co-chair of the Diversity Committee. In 1998, she chaired the National Bar Association Judicial Council. She is currently a member of the A.P. Tureaud Inn of Court and the Louisiana State Law Institute. She is an active member of the National Association of Women Judges. She has served as a district director and is now active with the Women in Prison Project.

► **2008 Distinguished Attorney Edward J. Walters, Jr.**

Edward J. Walters, Jr. is a 1975 graduate of Louisiana State University Paul M. Hebert Law Center. He has been a partner with the Baton Rouge law firm of Moore, Walters, Thompson, Thomas, Papillion & Cullens since 1976.



Edward J. Walters, Jr.

He earned his BS degree in accounting from LSU in 1969 and served in the United States Air Force from 1969-73.

Walters is a Fellow of the American College of Trial Lawyers and the International Academy of Trial Lawyers and has been a board-certified civil trial specialist with the National Board of Trial Advocacy since 1988.

He is an adjunct professor at LSU Law Center. He and Michael A. Patterson jointly teach a year-long trial skills course, which they developed, entitled "Advanced Trial and Evidence Seminar."

Walters is a past president of the Baton Rouge Bar Association and received its President's Award in 1995 and 1998. He has been the editor of its monthly publication, *Around the Bar*, since its first issue more than 24 years ago.

He is a member of the *Louisiana Bar Journal* Editorial Board, a member of the Louisiana State Bar Association's Rules of Professional Conduct Committee and Continuing Legal Education Committee and serves as a hearing officer with the Louisiana Attorney Disciplinary Board.

► **2008 Distinguished Professor Cheney C. Joseph, Jr.**

Professor Cheney C. Joseph, Jr. is currently the vice chancellor for academic affairs for Louisiana State University Paul M. Hebert Law Center. He holds the Erick V. Anderson Professorship in Law. In 2000, he returned to full-time teaching after serving as executive counsel for Louisiana Gov. M.J. (Mike) Foster, Jr. during the governor's first term (1996-2000).

Joseph received his AB degree, *cum*

laude, in 1964 from Princeton University and his JD degree in 1969 from LSU Law Center, where he was a member of the *Law Review* and Order of the Coif. He served as administrative assistant and special counsel to the district attorney in the 19th Judicial District before joining the LSU faculty in 1971. He was vice chancellor of the Law Center from 1981-89.



Cheney C. Joseph, Jr.

He served as reporter for the Louisiana Code of Juvenile Procedure and currently serves as reporter for the Committee for Continuous Revision of the Louisiana Criminal Code and the Louisiana Code of Criminal Procedure for the Louisiana State Law Institute. He is also a reporter for the Louisiana Supreme Court's Advisory Committee for the Louisiana Judges' Benchbook (Louisiana Judicial College).

Professor Joseph served as first assistant district attorney and district attorney in the 19th Judicial District from 1989-91. He served from 1976-77 as court-appointed United States attorney for the Middle District of Louisiana. In 1992 and 1993, he served on the 16th and 40th Judicial District Courts as judge *pro tempore* by appointment of the Louisiana Supreme Court.

He serves as executive director of the Louisiana Judicial College.

► **Calogero Justice Award to Innocence Project New Orleans**

Innocence Project New Orleans (IPNO) represents innocent prisoners serving life sentences in Louisiana and Mississippi and assists them with their transition into the free world upon their release. IPNO engages in high-impact, frontline advocacy in the courts of law and public opinion, and leads a community-based response to errors made by the criminal justice system.

For a list of the sponsors, go to: www.raisingthebar.org/2009gala/sponsors.asp.

Report of the Louisiana Bar Foundation President

By Marc T. Amy

It is with great pleasure that I announce that the Louisiana Bar Foundation's (LBF) Law Signature Courtroom Project located at Northside High School in Lafayette is finally complete. The dedication of all those involved has made this project a reality. This space will be one that will influence and educate a new generation for our state and our country.

It was near the beginning of my term as LBF president that Executive Director Donna Cuneo and I attended the American Bar Association's Coalition for Justice National Issues Forum in Los Angeles, Calif. While in attendance, we were invited to tour an area high school's courtroom. Immediately, we knew Louisiana would benefit by furthering this concept in its schools.

We learned that the Louisiana Center for Law and Civic Education, an LBF grantee, had designated Northside High School as a "Law Signature School." In light of this designation and the school's ongoing legal curriculum, Northside was found to be an ideal location. With the assistance of LBF Board member Frank X. Neuner, Jr. and Liz Tullier, the lead faculty member for this project, the idea of developing a courtroom on the school's campus began to take shape. The LBF designated \$15,000 from its operating budget to fund the project and our Acadiana Community Partnership Panel, chaired by Judge Marilyn C. Castle of the 15th Judicial District Court, awarded an additional \$5,000 through its panel grant program.

With the location selected, the next step was to get the project underway. Brandon Letulier, an associate at Laborde & Neuner and volunteer at Northside, took the lead. He coordinated the project and kept the budget in check. He was an excellent communicator and efficient project site director from the beginning.

It is with great pride that I attended the ribbon-cutting ceremony for the Northside High School Courtroom Project on May 4. I enjoyed meeting with the school's staff and students, knowing that generations of students will benefit from this innovative work space for their legal education courses.

“...we were invited to tour an area high school's courtroom. Immediately, we knew Louisiana would benefit by furthering this concept in its schools.”

LBF Annual Fellows Meeting Set for June 11

The Louisiana Bar Foundation (LBF) will hold its annual membership meeting at 8 a.m. Thursday, June 11, at the Sandestin Golf and Beach Resort in Sandestin, Fla. The breakfast meeting is held in conjunction with the Louisiana State Bar Association's (LSBA) 68th Annual Meeting. An attendance form was sent to all Fellows in early May.

The Curtis R. Boisfontatine Trial Advocacy Award will be presented on Friday June 12, during the LSBA's Annual Meeting.

Louisiana Bar Foundation Announces New Fellows

The Louisiana Bar Foundation announces the following new Fellows:

- Hon. Jane M. Triche Milazzo Donaldsonville
- James E. Mixon Columbia
- Jeannine A. Sullivan Denham Springs
- Adair S.L.M. Williams Alexandria
- Hon. Cynthia Tregle Woodard Ruston

ANSWERS for puzzle on page 465

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Lucid INTERVALS

By Vincent P. Fornias

QUICK THINKING

The venue was Opelousas, down on the bayou in the 27th Judicial District Court of St. Landry Parish, Judge Lahaye presiding. Amos Davis, then still practicing in Lafayette, journeyed down to defend a claim involving a collision between plaintiff's green Cadillac and a rental box truck.

Not that Amos is more cynical than the rest of us, mind you, but in preparing for this matter something did not smell right. There was a strong possibility that, even though it is a very small world, the two drivers may just have shared the same pirogue before the accident. Credibility thus came to the forefront.

On the morning of the trial, Amos happened to walk past the Cadillac driver in the hallway of the courthouse and, after a polite greeting, it was obvious that the litigant either had splashed on some decades-old English Leather or else had been partaking of some adult beverages to calm his pretrial nerves.

When it came time for Amos to cross-examine him, he immediately went for the jugular: "Sir, have you been drinking this morning?" Almost proudly, he responded with, "About a pint of brandy." Let's not jump to conclusions here, dear reader(s). Perhaps this was a local custom, and the declarant was simply part of the bell curve.

After recovering from being non-plussed by the quick and defiant response, Amos refocused on the matter at hand, namely to attempt to chip away at the driver's memory of the accident and competence as a historian. Soon he was probing his knowledge of the Cadillac:

"Color?"

"Green."

"How many doors?"

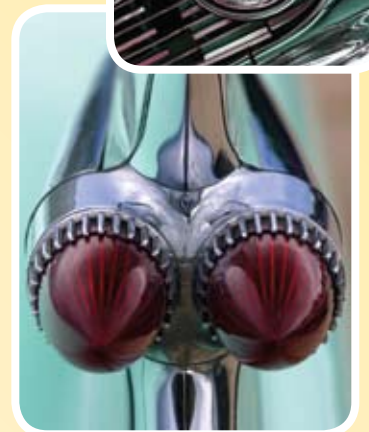
"Two."



Aha! thought Amos. Dramatically, he pulled out a 4x6 color glossy of the green Caddy showing it to be of the four-door variety, and challenged the witness if he still thought the car had two doors:

"Yeah — two on each side."

A restrained silence reigned in the courtroom as Judge Lahaye called a quick recess — where he and the lawyers in his chambers could finally burst out laughing.



If you have experienced, seen or heard something humorous in your day-to-day legal practice, or if you just have an idea for a Lucid Intervals column, by all means, let the Louisiana Bar Journal know. Mail, fax or e-mail your stories, anecdotes, quotes or ideas c/o Publications Coordinator Darlene M. LaBranche, Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130-3404; fax (504)566-0930; e-mail dlabranche@lsba.org. She'll make sure your "gems" get into the right hands. Keep smiling!



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