

LOUISIANA BAR JOURNAL

Feb./March 2013

Volume 60, Number 5

Louisiana Supreme Court
Chief Justice
Bernette Joshua Johnson





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Chief Justice Bernette Joshua Johnson was officially sworn in on Feb. 1, becoming the first African-American Chief Justice of the Louisiana Supreme Court. *Photo by Bernie Saul.*

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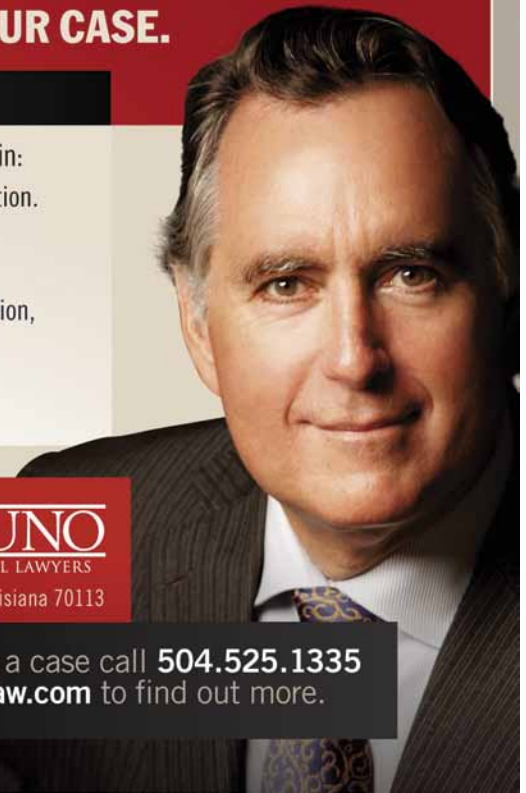
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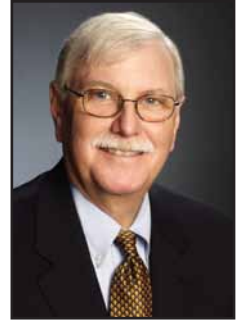
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By Edward J.
Walters, Jr.

The Changing of the Guard

When I was 12 years old, my mother took me to Washington, D.C. One of the attractions we visited was the Tomb of the Unknown Soldier, now called the Tomb of the Unknowns. That tomb honors those who have made the ultimate sacrifice and paid the ultimate price for our freedoms. It is guarded and protected — as we say now — 24/7. They change the guard every hour on the hour in a very impressive ceremony.



Chief Justice Bernette Joshua Johnson addresses the Louisiana State Bar Association's House of Delegates during the 2005 Annual Meeting in Las Vegas, Nev. *LSBA Archives.*

I was reminded of that visit as I sat watching our President Barack Obama visit the Tomb, again, on the morning of his second inauguration. I felt comforted that the President of the United States always goes there on the morning of the inauguration as a constant reminder of the sacrifices of those who have gone before.

Some things in this world remain

constant . . . as they should. Other things change . . . as they should. We change the guard. The people holding the office may change, but there are duties and responsibilities of the office that do not change when new people step into leadership.

We now have a new Chief Justice — Chief Justice Bernette Joshua Johnson. This issue of the *Journal* is dedicated to her.

In the ensuing pages, you will read how hard Chief Justice Johnson fought to get here and the struggles she endured in the legal profession. It's laudatory to say she was one of the first African-American women to attend Louisiana State University Law School, the first female elected to Orleans Parish Civil District Court, the first African-American woman on the Louisiana Supreme Court, and many other firsts. Those of us who know her or worked with her are extremely proud of her tenacity in surmounting the challenges she endured to get here. We are all very excited and proud that someone with the outstanding qualities of Chief Justice Johnson had "what it takes" to get here. Not many of us are willing to pay the price . . . but she did.

When we began gathering material for this issue of the *Journal*, we asked Justice Johnson to point us to some friends, lawyers and family members from whom we could solicit an article about her as a person, as a lawyer, and as a judge. Well, we contacted a few, and we were graced by many. While

we had intended to publish about four articles from four different perspectives, we received 11 articles from 11 different perspectives.

Because of our space limitations, we decided to excerpt, as best we could, the salient portions of some articles so no contributor would be left out. Had we published everything we received, this issue would look like the New Orleans telephone book.

As we change the guard, we wish Chief Justice Johnson the best in her new role and we know our freedoms are in good hands.

In This Issue

Among the articles in this issue:

► An interview with Chief Justice Bernette Joshua Johnson by Stephen I. Dwyer.

► A career profile, to date, on Chief Justice Johnson by Judge Tiffany Gautier Chase.

► An article on Chief Justice Johnson's law school days at LSU by Rachel L. Emanuel, Ph.D.

► Insights on Chief Justice Johnson's

life and work by colleagues and friends, including Marc H. Morial, Tracie L. Washington, Clarence Roby, Jr., James M. Williams, Barbara Arnwine, Jon Greenbaum, Meredith Horton, Judge Ivan L.R. Lemelle, Judge Amy L. Nechtem and Val P. Exnicios.

► Personal reflections from Chief Justice Johnson's daughter and son, Rachael D. Johnson and David K. Johnson.

In Future Issues

► The April/May 2013 issue will be dedicated to the 200th anniversary of the Louisiana Supreme Court.

► Check future issues for in-depth interviews with each Louisiana Supreme Court justice, in alphabetical order.

Letters to the Editor Policy

1. At the discretion of the Editorial Board (EB), letters to the editor are published in the *Louisiana Bar Journal*.

2. If there is any question about whether a particular letter to the editor should be published, the decision of the editor shall be final. If a letter questioning or criticizing Louisiana State Bar Association (LSBA) policies, rules or functions is received, the editor is encouraged to send a copy of that letter to the appropriate entity for reply within the production schedule of the *Louisiana Bar Journal*. If the editor deems it appropriate, replies may be printed with the original letter, or in a subsequent issue of the *Louisiana Bar Journal*.

3. Letters should be no longer than 200 words.

4. Letters should be typewritten, signed and, if applicable, include LSBA member number, address and phone number. Letters from non-members of the LSBA also will be considered for publication. Unsigned letters are not published.

5. Not more than three letters from any individual will be published within one year.

6. Letters also may be clarified or edited for grammar, punctuation and style by staff. In addition, the EB may edit letters based on space considerations and the number and nature of letters received on any single topic. Editors may limit the number of letters published on a single topic, choosing letters that provide differing perspectives. Authors, editorial staff or other LSBA representatives may respond to letters to clarify misinformation, provide related

background or add another perspective.

7. Letters may pertain to recent articles, columns or other letters. Letters responding to a previously published letter should address the issues and not be a personal attack on the author.

8. No letter shall be published that contains defamatory or obscene material, violates the Rules of Professional Conduct or otherwise may subject the LSBA to civil or criminal liability.

9. No letter shall be published that contains a solicitation or advertisement for a commercial or business purpose.



By John H.
Musser IV

Building Partnerships

The mission of the Louisiana State Bar Association is to assist and serve its members in the practice of law, assure access to and aid in the administration of justice, assist the Supreme Court in the regulation of the practice of law, uphold the honor of the courts and the profession, promote the professional competence of attorneys, increase public understanding of and respect for the law, and encourage collegiality among its members.

The above is our Mission Statement as set forth in the Louisiana State Bar Association's (LSBA) Articles of Incorporation. While the statement itself is diverse and addresses the LSBA's obligations to its myriad constituencies, the common thread is our need to build partnerships — partnerships with our members, with the courts and, perhaps most significant of all, with the public we serve.

A Call to Service

As we approach Law Day (May 1), we are called to celebrate our profession, its impact on the rule of law, and its profound effect on our communities. As lawyers, we are the cornerstone on which the rule of law depends. Equal access to the courts for all, the jury system, impartial judges — all of these depend on us. Yet sometimes our communities forget or fail to see how their partners within the legal profession positively impact their lives and the many different ways that we give back to our communities.

To celebrate Law Day and the important role of lawyers in our society, the LSBA is asking each Louisiana lawyer to identify and complete a service project during the month of May. We are not asking for a specific project or a specific amount of time. Rather, we hope you will give back to your communities in ways most meaningful to you. It may be Wills for Heroes or Habitat for Humanity, pro bono consultations at your church or temple, or talks at your local schools . . . it can be anything! Our goal is your participation — a concerted effort to demonstrate our commitment to our community partnerships. We are some 22,000 strong! Think of all that we can accomplish if we put our collective minds to it.

Along these same lines, your Association

is exploring new ways that we can provide assistance to our returning veterans. After discharge, they lose access to many forms of assistance available to them while on active duty. Whether they are full-time active duty or reservists who have been called to active duty, the men and women who serve our country do so at great personal sacrifice. Unfortunately, problems such as physical disabilities, mental stresses of combat and financial struggles are a reality for many military veterans. We hope our efforts will assist those who volunteer to defend our nation as they readjust to civilian life.

The Tradition of Partnerships in the Legal Profession

Legal partnerships have been the common way that groups of lawyers have chosen to associate for centuries and are just in vogue today as they were back in the 1700s. When we think of the group practice of law, we think of the partnership.

I view our Bar Association as a partnership of the LSBA and its members. We as members pay dues to fulfill the mission. This is done by our efforts in access to justice, our advocacy on behalf of attorneys and the public, our partnership with the courts and our services to you, the members. When we don't participate or avail ourselves of the benefits of our

Association, we forfeit our chance to share in the profits.

As a solo practitioner, I believe in the relevance of the Bar in my day-to-day practice. Fastcase, the resources available through the Law Office Management Assistance Program and the Ethics Advisory Service are invaluable to me and well worth the cost of annual dues. However, I believe participation and knowledge of what the Bar has to offer are essential in order to maximize the return on investment.

In an effort to facilitate the participation of all members, your Association is installing videoconferencing technology. We will have the capability to include up to 25 locations, with each location having numerous individual connections. We will begin introducing it this spring through various LSBA committee meetings and hope it will enhance opportunities for member participation in the Bar Association.

We are approaching a critical financial session of our Legislature where the Governor is proposing eliminating state personal and corporate income taxes in favor of higher sales taxes. While the LSBA will not involve itself in this debate, we are watching very closely because of our concern about the potential of a sales tax on professional services. There has been some discussion about this possibility as a means to enhance state revenue. Should such a proposal come to fruition, it would forever change both the way in which we practice law and the public perception of us as a profession. We have been working to build partnerships with key lawmakers since we returned to the Legislature nearly 10 years ago. We believe these relationships will serve us well if we are faced with fending off such a proposal.

The Importance of YOU

This is but one example of why your involvement and participation are so important. Your Association's leaders work diligently to be the voice of the profession. However, I encourage you to seize the opportunity to work with us as we strive to speak on behalf of the state's 22,000 lawyers.

To whom much is given, much is expected. As lawyers, we have been given the gift of leadership in our communities across the state. We need to reach out with



LSBA President John H. Musser IV and Chief Justice Bernette Joshua Johnson at her investiture ceremony on Feb. 28. Photo by Matthew Hinton Photography.

improved ways of serving the public and serving our profession. Whether we like it or not, we must adapt to the changing world in which we live.

Let us use our Association "partnership" and find ways to give back to our communities during the month of May (and, of course, beyond). Let us show the public all the different ways we make a difference!

Welcoming Chief Justice Johnson

At the heart of any partnership are the individuals who constitute it and how they contribute to its overall success. We are so pleased to continue our partnership with Bernette Joshua Johnson in her new position as Chief Justice of the Louisiana Supreme Court. A long-time friend and supporter of the LSBA, Chief Justice Johnson brings a wealth of experience and service to the Court. Among the "firsts" she has accomplished are becoming the first African-American Chief Justice of the

Louisiana Supreme Court (on Feb. 1, 2013) and the first woman elected to the Orleans Parish Civil District Court (in 1984).

Much of Chief Justice Johnson's career has been dedicated to ensuring access to justice for all and to promoting civil rights and social justice. Her dedication to the law and community service is unwavering and, for this, she has been honored with many awards. In 2005, she received the LSBA President's Award for her invaluable efforts in the LSBA's creation of a standing Committee on Diversity. Three years ago, Chief Justice Johnson was a recipient of the American Bar Association's Spirit of Excellence Award, given annually to legal professionals who work to promote a more racially and ethnically diverse legal profession. We welcome her aboard with this issue dedicated to her and we look forward to years of a continued close partnership.





Louisiana Supreme Court Chief Justice Bernette Joshua Johnson

By Edward J. Walters, Jr.
Louisiana State Bar Association Secretary / Journal Editor

We are proud to dedicate this issue of the *Louisiana Bar Journal* to our new Louisiana Supreme Court Chief Justice Bernette Joshua Johnson.

On Feb. 1, Chief Justice Johnson wrote another page in Louisiana's legal history by being sworn in as the first African-American to serve as chief justice of the state Supreme Court. She has served the Louisiana judiciary with distinction, grace and honor for nearly three decades.

She was elected to serve on the Louisiana Supreme Court in 1994 and was re-elected, without opposition, in 2000 and 2010. She represents the Seventh Supreme Court District, which encompasses Orleans and Jefferson parishes.

"After serving for 10 years as a district trial judge, and then as an associate justice of the Supreme Court, I feel well-prepared for the tasks ahead as the chief administrative officer of the judicial system of the state. I am ready to serve, and excited about the challenges of this new position," Chief Justice Johnson said.

On behalf of the Louisiana State Bar Association, we wish her all the best for a successful tenure as chief justice.





One on One

with Louisiana Supreme Court Chief Justice
Bernette Joshua Johnson

Interviewed by Stephen I. Dwyer



Chief Justice Bernette Joshua Johnson, far left, with the other Justices at her Feb. 28 investiture ceremony. *Photo by Matthew Hinton Photography.*

Justice Bernette Joshua Johnson was sworn in as the new Chief Justice of the Louisiana Supreme Court in a brief ceremony on Feb. 1. Administering the oath of office was her daughter, Rachael D. Johnson. A public ceremony celebrating the Chief Justice's investiture was conducted on Feb. 28 on the steps of the Louisiana Supreme Court in New Orleans.

Chief Justice Bernette Joshua Johnson takes the oath at her Feb. 28 investiture ceremony. *Photo by Matthew Hinton Photography.*



Chief Justice Johnson was elected to serve on the Louisiana Supreme Court in 1994 and was re-elected, without opposition, in 2000 and 2010. She represents the Seventh Supreme Court District, which encompasses Orleans and Jefferson parishes.

“After serving for 10 years as a district trial judge, and then as an associate justice of the Supreme Court, I feel well-prepared for the tasks ahead as the chief administrative officer of the judicial system of the state. I am ready to serve, and excited about the challenges of this new position,” Chief Justice Johnson said.

Before taking the oath of office, Chief Justice Johnson graciously met with me in her chambers at the court. Our interaction was free-flowing and delightful, and her responses to our interview questions were both thoughtful and insightful.

Journal: Why did you decide to attend law school and has that profession met your expectations?

Johnson: I went to Spelman College in Atlanta, and, of course, we are talking about the 1960s. So what we did routinely for extracurricular involvement was to go to mass meetings, to picket department stores and to pursue civil rights issues. I had a chance to meet some very fine civil rights lawyers. I didn’t know any lawyers when I left New Orleans. In Atlanta, I had a chance to see these civil rights lawyers at work and I decided that this was a way to be a change agent. I decided to go to law school after working for a summer for the NAACP Legal Defense Fund with lawyers who were doing school desegregation cases.

Journal: When you were elected to the Orleans Parish Civil District Court, you were the first woman to hold that office. Can you tell us about your experiences as the first member of what had previously been an all-male court?

Johnson: I recall those first few meetings of the judges. It was somewhat of a shock because it felt almost as if I had walked into a men’s locker room. The conversation was a little bit rough. So I convinced these guys to agree to tone down the conversation and not to use certain words. Let me say this, it was a joy to work with all of the judges at Civil District Court. Tom Early and Louis DiRosa and all the other judges



Justice Bernette Joshua Johnson, left, was officially sworn in as the first African-American Chief Justice of the Louisiana Supreme Court on Feb. 1 by her daughter, Rachael D. Johnson. With them is Chief Justice Johnson’s brother, Sigmond Joshua. Photo provided by Louisiana Supreme Court.

treated me well and respected me. There was an absolute equality among judges in terms of what resources were available to me and to my staff. They were helpful in terms of assisting me with jury trials when I was a new judge. So it was an all in all very good experience.

Journal: What is it like to campaign as a sitting judge or justice while at the same time performing your judicial functions?

Johnson: Well, I think that goes to the question of should we elect judges or appoint judges. Some people are in favor of a merit selection simply because they think that the process of electing judges is too politicized and that we should be more removed from the political process. But I find that getting out in the community and talking with folks in the election process is absolutely refreshing because, on the bench, I’m isolated to a certain extent, certainly more isolated as an appellate judge than I was as a trial judge. Campaigning was my chance to get back into the community and talk with people. I found that campaigning was refreshing; although some people think of it as possibly a more corrupting effect, I like to be involved in the community interacting with people.

Journal: What were the most significant adjustments that you had to make when moving from your position as chief judge of Civil District Court to your position as a justice on the Louisiana

Supreme Court?

Johnson: Well, the work is so different on this Supreme Court. Trial judges listen to cases and make decisions. Each decision is an independent decision where one analyzes the information, renders a decision and signs a judgment. When I was a trial judge for those 10 years, I knew that I could sign my name and make something happen. When I got to the Supreme Court, I had to find three other people to agree with me to make something happen. The appellate process requires more collegiality in terms of convincing colleagues that your position is right whereas a trial judge works more unilaterally, independently.

Journal: Since being elected as a judge to Civil District Court and then moving to the Louisiana Supreme Court, have you seen the judiciary change over that period?

Johnson: I think it’s more about how society has evolved and changed. I think it’s generational. I think that younger judges perhaps are more casual whereas older judges or older lawyers perhaps have a different take on things. I can remember at one point that the discussion was whether women lawyers should be allowed to wear pant suits to court. So many considerations are generational. Some folks think that there’s less civility; I think that, from one generation to the next, people interact differently. The current generation of lawyers may be a little bit more casual and not as formal in their interactions with



each other and with the court.

Journal: How do you deal with nervous attorneys appearing for the first time before the Supreme Court to present their oral arguments?

Johnson: I try to be cordial with regard to every lawyer who appears. I just hope that a law firm that sends a young person to argue a case also sends that young lawyer with some resources. Law firms tell us how important a case is particularly if they've got a senior partner who's available and yet they send someone who's fresh out of law school. That says to me that this wasn't an important case for that particular law firm, obviously not if the firm didn't send its best lawyer. With regard to folks who work for the district attorney's office or some of the public sector entities, of course it's just what case falls to you. We treat all those lawyers with the same level of respect.

Journal: During your career as a practicing attorney, you were a champion of delivering legal services to those clients who were socio-economically deprived. How do you see the availability of legal services today for those groups of individuals?

Johnson: I think we as a society recognize that we've got to have representation of indigents, certainly in the criminal sector where we understand that justice will not happen if we have a properly funded district attorney's office but we don't have an indigent defense that's properly funded. You can't try a defendant unless you provide him with a competent defense. With regard to civil litigants, it has always been a struggle because there's still a mindset in America in some sectors that we're not required to fund litigation for civil litigants. If you've got the resources, you take your case to court, and, if you don't have resources, you must appear pro se to represent yourself.

Journal: What is your perspective of what female judges in general, and a female Supreme Court Chief Justice in particular, bring to the judiciary?

Johnson: Just diversity. I think we need women lawyers. We need representation from every sector. I think we benefit from a diverse legal profession. We benefit from a diverse judiciary because we all bring different experiences to the table.

Journal: What are your plans for the Supreme Court?

Johnson: I have no pre-packaged plan for the court. I think I'd want to begin my term open-minded and step in with the time to assess what we have in place now. Then we'll look at what our needs are and what we need to fashion moving forward in order to improve the system. But I don't come with any kind of agenda at this point.

Journal: What do you see as the most important issues facing the Bar and the justice system today?

Johnson: Limited resources for sure. That's always an issue. I think in the criminal justice system we've got to be careful that we have a system that the citizens respect. If we have a justice system that citizens don't respect, we are in trouble; with all of the criminal justice issues, we want to be careful that we are not arresting folks without their Fourth Amendment rights being protected. We want to be sure that we've got a system such that folks will look at a case and then read about it and say that it was tried fairly, that the defendant was well represented and that it's a good result.

Journal: What do you see as the most important areas in which the Supreme Court and the Bar Association can cooperate as you move into your first year as chief justice?

Johnson: In that area as well, I met with the bar leaders such as John Musser, the current president, and the incoming leaders to talk with them about what they want to accomplish. It's a collaborative effort where we all see what we think we need to do to move the profession forward and we decide what we'd like to do jointly to accomplish that end.

Journal: How do you feel about the progress that has been made in encouraging and creating a more diverse Bar Association?

Johnson: I think we've made great progress. That is certainly true when Kim Boyle was president of the LSBA. As I can recall, that was one of our main efforts to promote diversity, to promote inclusion. Everybody who's part of this mandatory Bar and pays their dues must feel a part of the organization. I think we want to make an increased effort to reach out to solo practitioners and small firms to be sure they have adequate resources.

Those are the people to whom the Bar Association needs to lend resources. Folks who are in large firms have resources and mentors. Lawyers working with public entities like district attorneys and city government have resources and mentors. It's those solo practitioners who are out there on their own who are the ones to whom we should continue to reach out and to make resources available.

Journal: Assuming you have any spare time, what do you do for enjoyment or relaxation in your spare time?

Johnson: I love live productions. I love to go to New York to see a great stage play. I prefer that rather than the touring companies that come here. I'm on the board of the Opera Association. I go to those events. I love jazz and all music. I love to be involved with community projects through my Zeta Phi Beta sorority and LINKS Organization. I love to spend time with my grandkids. I guess my next project is to find a piece of property outside of New Orleans in the event of a mandatory evacuation. And I guess I could plant a few fruit trees.

Journal: What is your favorite restaurant in New Orleans?

Johnson: Well, Dooky Chase in New Orleans. I love Emeril's. I love Tommy's. Everybody misses Ruth's Chris on Fridays at Orleans and Broad where you could find out the latest in politics, although I guess they still assemble on Poydras. That always has been a great restaurant. I love the Brennan chain of restaurants. Ralph's On The Park is one of my favorites as well. But I like Dooky Chase. I've been going there since I was a young lawyer working for "Dutch" Morial on Orleans Avenue.

Stephen I. Dwyer, a partner in the Metairie firm of Dwyer, Cambre & Suffern, A.P.L.C., is currently serving as Second Board District representative on the Louisiana State Bar Association's Board of Governors. He also is a member of the Louisiana Bar Journal Editorial Board. He received an AB degree in 1970 from the College of the Holy Cross, a MA degree in 1972 from the University of New Orleans and his JD degree in 1976 from Loyola University College of Law. (Ste. 200, 3000 W. Esplanade Ave., Metairie, LA 70002)





From the Beginning:

Chief Justice Johnson's Commitment to the Legal Community and Families

By Judge Tiffany Gautier Chase



U.S. 5th Circuit Court of Appeals Chief Judge Carl E. Stewart, right, administered the ceremonial oath of office to Louisiana Supreme Court Chief Justice Bernette Joshua Johnson during the public investiture ceremony on Feb. 28. *Photo by Matthew Hinton Photography.*

Chief Justice Bernette Joshua Johnson has served the Louisiana judiciary with distinction, grace and honor for nearly three decades. She exemplifies the highest level of judicial excellence, integrity, fairness and professional ethics and has been recognized both locally and nationally for her contributions to the legal profession. On Feb. 1, Justice Johnson became the first African-American to be named as Chief Justice of the Louisiana Supreme Court.



Justice Johnson was born in Ascension Parish, Louisiana, and graduated from Walter L. Cohen Senior High School as the valedictorian. She attended Spelman College in Atlanta, Georgia, on an academic scholarship, and was one of the first African-American women to graduate from Louisiana State University Law School. In 1969, she received her JD degree. While a law student, Justice Johnson worked as a law intern with the U.S. Department of Justice. She worked in the Civil Rights Division, handling cases filed by the Department, which sought to implement the 1964 Civil Rights Act. She also served as a federal observer during elections in Greenwood, Miss. She was honored by her law school in 1996, when her portrait was unveiled and she was inducted into the LSU Law Center's Hall of Fame.

For much of her life, Justice Johnson has worked as an advocate for social justice, civil rights and community organizing. During the 1960s, she worked as a community organizer with the National Association for the Advancement of Colored People (NAACP) Legal Defense & Educational Fund. She worked with community groups in Alabama, Mississippi, Georgia, North Carolina, South Carolina, Tennessee and Louisiana, disseminating information about recent school desegregation decisions. Specifically, she encouraged parents to take advantage of newly desegregated schools in order to advance the educational plight of African-American children. She used these skills later to assist household workers in receiving Social Security benefits and a federally mandated minimum wage.

After graduation from law school, Justice Johnson became a zealous advocate protecting the rights of children, the elderly and the disadvantaged. She served as the managing attorney with the New Orleans Legal Assistance Corp. where she provided affordable legal services to residents of the greater New Orleans area. In 1981, Justice Johnson became a deputy city attorney under the administration of Ernest (Dutch) Morial, the first African-American mayor of New Orleans. As a deputy city attorney, Justice Johnson defended the city of New

Orleans in a multitude of lawsuits filed against the city, including police brutality claims, general tort claims and civil service litigation. Her message to young lawyers has always been "to respect your client and understand that you serve as their voice."

In 1984, Justice Johnson was the first woman elected to Orleans Parish Civil District Court. Ten years later, in 1994, she was elected as chief judge by her colleagues. Later that year, Justice Johnson assumed the seat she currently holds on the Louisiana Supreme Court. As a Supreme Court justice, Justice Johnson has been actively involved in a host of national and local committees for both the bench and the bar. Her awards and accolades are numerous and well deserved.

Justice Johnson's biography exemplifies her commitment to service and to enhancing the legal community. A trailblazer, her focus has been to foster the development of the next generation of lawyers. She has provided advice and encouragement to hundreds of young lawyers by mentoring and providing judicial clerkships for new lawyers. In fact, many of her former law clerks serve, or have served, as judges themselves.¹ Justice Johnson continues to mentor them and they credit her for much of their success. It is her respect for justice, even judicial temperament, intelligence, no-nonsense attitude, fairness and patience that they admire. Justice Johnson encourages judges coming behind her to "have the courage to do what's right, not be easily swayed and stay focused on administering justice." Her support and advice is limitless. She is always willing to give advice or lend her support to causes that she believes to be important.

In 2010, the American Bar Association's Commission on Racial and Ethnic Diversity in the Profession awarded Justice Johnson the Spirit of Excellence Award. The award recognized her for her work as co-chair of the Louisiana State Bar Association's Task Force on Diversity in the Profession.

While Justice Johnson is known as a trailblazer, an accomplished lawyer and jurist, she is also a daughter, mother and grandmother. Family is a number one priority to her. On a given day, you

can find four generations in her home: Justice Johnson; her mother, Mrs. Olivia Wyre Joshua, who just celebrated her 90th birthday; her children, Rachael Johnson, a local attorney, her son, David Johnson, an accountant living in Atlanta; and her granddaughter Neyah. During a recent conversation, she chuckled when she recalled one of her former law clerk's daughters referred to her as "Rachael's Mom." While she is tasked with enormous responsibilities, she still remains committed to her family. "Staying connected to your family keeps you grounded and helps you recognize what's important," she said.

While Justice Johnson's accomplishments and awards are many, she does not set out to receive accolades and praise for her works. Her commitment to justice comes from within; it is genuine and her actions are without expectation of reward. She gives because it is simply the right thing to do; it is for the greater good. This brief biography of Chief Justice Johnson only highlights the early career of the next leader of Louisiana's judiciary. She has and will accomplish much more. The scholarship, dignity, grace, honesty, fairness and respect for justice and the law are all attributes she has consistently been shown to possess. Justice Johnson is a woman of immense faith and possesses the characteristics necessary to be an effective administrator of the state's judiciary.

FOOTNOTE

1. In addition to all the "firsts" listed in her biography, Chief Justice Johnson also was the first employer for many judges, including Hon. Karen Wells Roby, United States Magistrate, Eastern District of Louisiana; Hon. Paula A. Brown, Orleans Parish Civil District Court; Hon. Benedict Willard, Orleans Parish Criminal District Court; and pro tempore Hon. James M. Williams, Orleans Parish Civil District Court.

Judge Tiffany Gautier Chase serves on the bench of Orleans Parish Civil District Court. (Room 304, 421 Loyola Ave., New Orleans, LA 70112)





Law School Years:

Mutual Lessons Learned During Chief Justice Johnson's Enrollment at LSU Law School

By Rachel L. Emanuel, Ph.D.



The Louisiana State University Law School Class of 1968 photo was provided by classmate Thomas R. Blum, standing behind Bernette Joshua Johnson, second row, second from right.

When Bernette Joshua Johnson enrolled in Louisiana State University Law School in the fall of 1965, she was one of two African-Americans, both female, in that entering class of 152 students. Johnson graduated in January 1969 in a class of 44.



In 1954, Ernest N. (Dutch) Morial had been the first African-American to earn a law degree from LSU. Johnson worked for Morial in the office he shared with prominent civil rights attorney A.P. Tureaud. Roy Wilson (the plaintiff in the 1950 lawsuit, *Wilson v. LSU*, brought by Tureaud that opened the law school to African-American students), Morial and Judge Robert Collins had been the first African-Americans to attend LSU Law School. All were in the 1950s.

Johnson and Gammie Berthella Gray¹ became pioneering African-American female LSU Law students 10 years after the first African-American student was graduated — in a time when both African-Americans and female students were still rarities at the law school. There were no African-American or female law faculty members or administrators.

For the pioneering students as well as fellow LSU classmates, law faculty, administrators and other staff, there were mutual valuable lessons learned during their matriculation.

Former classmates, Thomas R. Blum and Margaret O'Meara Corroero, described Johnson and Gray as courageous, brave, friendly and outgoing. To them, the two showed great dignity and courtesy to others while navigating a hostile environment.

One of her former law professors, Benjamin M. Shieber (now emeritus professor of law at LSU Paul M. Hebert Law Center), described Johnson as a very good student and believes that LSU Law School benefitted from having her and Gray as students.

"I remember when I saw them (Johnson and Gray) I thought to myself those girls are brave, you know, because it was a different time in 1965," said Blum, currently with the law firm of Simon, Peragine, Smith & Redfearn, L.L.P., in New Orleans.

At that time, Blum believes that Americans, particularly Southerners, were adjusting to the idea that African-Americans had access to all the things that the white people had. "People had to grow used to it. There were still social barriers because you didn't know how to act with each other, because you had no experience," he said.

As a pioneering white female student, Corroero remembers that LSU Law School



Bernette Joshua Johnson and Gammie Berthella Gray, the first African-American female law students at LSU Law School, taken from the 1968 LSU Law School Class photo. Photo provided by Thomas R. Blum.

was an "awkward and hostile environment" in many ways for her as well. Born and reared in Lake Charles and a graduate of Vassar University, Corroero lived in the same on-campus housing as Johnson. She recalled that Johnson once mentioned that she felt invisible because nobody would talk with her "for days on end" at school.

Corroero said she also felt some of that coldness from the male students, noting that they projected the viewpoint of "wish you weren't here, so I'm going to pretend you aren't here." She also had to ignore some of their insensitive remarks. "Somebody told me, you know you are taking the place of a man with a family," she said. "So you just put your head down and did your work, which I think is what she (Bernette Johnson) did and what I did. You just lived through it," she said.

"I didn't really reach out to them (Johnson and Gray) to be special friends," Blum admitted, "but, on the other hand, I had no reason to avoid them. (But) there were people in the law school class who avoided them, through racial attitudes or through just not knowing how to behave around a black woman. Who knows?"

Blum said Johnson shared a story with him regarding assistance he gave to her and Gray, when he informed them of a change in time for their legal writing class. Apparently Johnson and Gray had not

gotten the word and would have missed the class, which was rescheduled for an earlier time. Johnson said she remembered that gesture because he was nice enough to help.

Blum's act of kindness also was appreciated when, in their freshman year, Johnson's brother was killed in an automobile accident. Seeing her on campus, Blum went up to her and shook her hand. He told her he had heard that her brother had died and that he was really sorry. "I wanted to let her know that I felt her pain and that she would be okay," he said. Blum remembered the look on her face that she was touched by his expression of concern.

Acknowledging that he didn't see any open hostility toward Johnson and Gray, Blum knew that attending LSU at that time was difficult for them. "If I were in their shoes, I'd feel awkward and I would have to wake up every morning and tell myself there's a reason I'm doing this and it's a good thing and I'm going to do it again today," he said.

To put the time of Johnson's enrollment at LSU in historical perspective: the Civil Rights Act of 1965 had just passed.

Blum said that some classmates had a dim view of the legality of the civil rights legislation of 1964 and 1965.

Corroero thought it strange that there was "this big civil rights movement going on" and many law students didn't want to talk about it. She said one classmate attributed the lack of discussion of the topic to law students' concerns about their families and getting a job. "They (didn't) want to make any waves because a lot of them had small children and wives and they (were) just worried about getting out of law school and having some law firm hire them. It was just too controversial an issue. But it did seem to me that law students, if anybody, would be interested in what was happening around us on the national scene," Corroero said.

Prof. Shieber, who has taught at LSU Law School since 1964, said there was considerable discussion about the topic in his constitutional law classes. Johnson attended his classes in constitutional law, basic civil procedure and labor law. In all the courses, the professor recalls that Johnson worked hard and did well. She did particularly well in constitutional law, he said, noting the significance constitutional law had to civil rights.



Justice Bernette Joshua Johnson, second from right, was recognized as one of the 2012 LSU Legends by the A.P. Tureaud, Sr. Black Alumni Chapter of the LSU Alumni Association. From left, Todd Schexnayder, chapter secretary; Todd Tyson and Patricia Tyson, son and wife of the late Judge Ralph Tyson, a 2012 LSU Legend; Maxine Crump, a 2012 LSU Legend; Justice Johnson; and Rachel L. Emanuel, chapter vice president and president-elect. Photo provided by the LSU A.P. Tureaud, Sr. Black Alumni Chapter.

Prof. Shieber’s philosophy on civil rights is that people should be treated as individuals “based on their character, accomplishments and their merits, and that should be regardless of how they happened to have been born, or what they happened to believe, or who they want to associate with. I think our Constitution is one that provides for that kind of society.”

There was definitely value to having Justice Johnson in his class and in the law school in general, Prof. Shieber said. “Getting to know her as a person was beneficial to the people in school at the time. I think that was a contribution to make the school better and those people better,” he said.

As there were very few African-American and women students and no Chicano students at LSU Law School in the 1960s, diversity was very limited during the years that Johnson attended law school, Prof. Shieber said. But, things have changed. “I think today the law school is quite diversified, both in terms of gender and in terms of the racial makeup of the student body and of the faculty,” he said.

Pleased with the trend to open the legal profession to women and minorities, Prof. Shieber sees more people interested in equal employment opportunities and civil rights for all people in society.

In 1996, Justice Johnson’s law school showed appreciation to its trailblazing alumna when her portrait was unveiled and she was inducted into the LSU Law Center’s

Hall of Fame.

Last year, Justice Johnson was named one of the 2012 LSU Legends by the A.P. Tureaud, Sr. Black Alumni Chapter of the LSU Alumni Association, acknowledging a successful career that has spanned more than 40 years. Prof. Shieber said it was a pleasure for him to attend the event and to tell her how fondly he remembered her being one of his students, way back in the 1960s.

Commenting on Justice Johnson’s trailblazing career, Prof. Shieber said her “career speaks for itself. It shows the kind of person she is, how she was able to achieve all of (those firsts) — first woman on the civil court, then one of the first women on the court of appeal and one of the first women on the Louisiana Supreme Court, and now the first African-American chief justice (man or woman) on the state Supreme Court. The fact that she was able to stick it through and graduate when many others in her class were not able to do that is a sign of her ability and determination to do the work.”

Correro remembers when Johnson first went to work in New Orleans, she had been told “when you meet really dyed-in-the-wool segregationists and you knew that they were, just keep smiling and be polite. I think that was easy for her because I think that’s what she did at LSU. She just kept being polite and friendly and doing her work and getting the job done . . . and (showing) that she could handle controversy and not give up but just be steadfast.”

No doubt, Justice Bernette Joshua Johnson can attribute much of her career success to her experiences inside and outside of the classroom at LSU Law School through lessons in the law, perseverance, patience and overcoming challenges. The lessons learned were mutual and mutually beneficial.

FOOTNOTE

1. Gammil Gray Poindexter is retired from the General District Court for the 6th Circuit of Virginia. She received her JD degree from Louisiana State University Law Center in 1969. She has been a partner in the law firm of Poindexter & Poindexter in Surry Co., Va., since 1973.

Rachel L. Emanuel, Ph.D., is director of communications and development support at Southern University Law Center in Baton Rouge. A more than 30-year veteran public relations professional, Emanuel also is a documentarian and author. *The biography, “A More Noble Cause:*



A.P. Tureaud and the Struggle for Civil Rights in Louisiana” by Emanuel and A.P. Tureaud, Jr., was released by LSU Press in spring 2011. She is a member of the Publications Committee for the Baton Rouge Bar Association’s magazine “Around the Bar,” a board member of the Supreme Court of Louisiana Historical Society and a board member and former chair of the Baton Rouge Film Commission. (P.O. Box 9294, Baton Rouge, LA 70813)



From Augustine to Johnson: Toward Equal Justice

By Marc H. Morial

As we progress toward an ever more equitable society, racial and gender “firsts” become fewer and farther between. But the significance of Justice Bernette Joshua Johnson’s ascension to chief justice of the Louisiana Supreme Court — the first African-American to hold that office — can hardly be overstated.

When Chief Justice Johnson was born in the mid-20th century, racial segregation still was strictly enforced. Only 1 percent of eligible African-American Louisianians were registered to vote.

In 1965, when President Johnson signed the Voting Rights Act, there were about 70 African-American judges in the entire nation. A decade later, the number of African-American judges had quadrupled but still represented less than 2 percent of the nation’s judiciary, while African-Americans represented more than 10 percent of the population.

Chief Justice Johnson represents the crest of a wave of African-American judicial achievement reaching back four decades, back to the first African-American judge in Louisiana, Israel M. Augustine, Jr., and which includes my own father, Ernest N. (Dutch) Morial.

Judge Augustine was appointed to a district court judgeship in 1969 by Louisiana Gov. John J. McKeithen, becoming the first African-American judge since Reconstruction. Two years later, he would preside over the trial of 12 Black Panthers accused of attempted murder in a shootout with police in New Orleans. He was

Continued next page

Neither Delayed Nor Denied

“To no one will we sell, to no one will we refuse or delay, right or justice.” This quotation from the Magna Carta is a principle that has guided legal scholars, judges and civic leaders. As post-Civil Rights era children, schooled after *Brown v. Board*, not only did we presume we could reap the benefits of the battles long fought by our parents, their parents and their peers, there was also an understanding that they, too, would finally receive justice for the past transgressions of intentional discrimination.

The Louisiana legal system has a long and stormy history concerning how issues of color and fairness are addressed. Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, respected by

the legal community, will lead the court into a new era and all of the citizens will be better served with her at the helm. There is no perfect legal system but we should always strive to seek justice and fairness. Chief Justice Johnson has always shown herself to be a proponent for those principles.

We close with the words of former U.S. Supreme Court Chief Justice Warren E. Burger and his thoughts on “Justice Delayed is Justice Denied.”

“A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay

will drain even a just judgment of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law — in the larger sense — cannot fulfill its primary function to protect them and their families in their homes, at their work, and on the public streets.”

We are confident that, under the leadership of Chief Justice Johnson, the Louisiana Supreme Court will not stand for delayed or denied justice. Throughout her career, she has fought for civil rights with dignity and grace, all the time ensuring there remains a sense of integrity for our judicial system.

—Clarence Roby, Jr., Tracie L. Washington and James M. Williams
Counsel for Chief Justice Bernette Joshua Johnson



the only African-American judge to preside over a Black Panther case, and his race was raised as an issue in news coverage of the case. William M. Kunstler, who defended the Chicago 7, denounced Judge Augustine as “very much a part of the white system.” Judge Augustine, the first general counsel of Dr. Martin Luther King’s Southern Christian Leadership Conference and active with the New Orleans Urban League, retorted, “Bill Kunstler doesn’t know me very well. However I might feel, I’m a hell of a lot blacker than he will ever be.”

Just a year after Judge Augustine’s appointment, in 1970, my father “Dutch” Morial became the first African-American Juvenile Court judge — just one in a string of racial barriers he broke in his lifetime. Two years later, he was the first African-American elected to the 4th Circuit Court of Appeal. In 1977, he was elected as the first African-American mayor of New Orleans. Like Judge Augustine, my father was active in the local civil rights movement, serving as the president of the local NAACP from 1962-65 and as co-counsel on numerous desegregation cases with A.P. Tureaud, the dean of African-American lawyers in Louisiana.

Continuing the wave that began with Judge Augustine, Judge Joan M. Armstrong became the first female African-American judge in Louisiana, joining the Orleans Parish Juvenile Court in 1974. Justice

Revius O. Ortique, Jr. began his tenure as a judge in 1978 as the first African-American appointed to a seat on the Orleans Parish Civil District Court bench in 1978. He later became the first African-American chief judge of Civil District Court. In 1992, he reached the historic milestone of becoming the first African-American elected to the Louisiana Supreme Court. He and Chief Justice Johnson remain the only African-Americans in history to serve on the high court. Later, Judge Lionel R. Collins and Judge Freddie Pitcher, Jr. became district court judges in Jefferson Parish and East Baton Rouge Parish, respectively.

Despite the groundbreaking string of achievements of African-Americans, particularly in the 1970s, Louisiana remained burdened by the legacy of racism. Louisiana Supreme Court justices were elected from racially gerrymandered districts drawn to dilute the power of the African-American vote.

In 1986, a committee of plaintiffs (which I chaired) sued under the Voting Rights Act, challenging the racially gerrymandered Supreme Court districts. A companion case, *Clark v. Edwards*, was brought challenging the district and appellate court district. The Supreme Court case, *Chisom v. Edwards*, was settled in 1992 with a consent decree which created a new, majority African-American district that Justice Johnson was appointed to represent. *Clark*, also settled in 1992, has led to the election of numerous

African-American judges so that Louisiana, with 80 African-American judges, has the most representative judiciary in the nation. Justice Johnson was appointed to the new Supreme Court district in 1992, then elected in 1994, and re-elected in 2000 and 2010.

In a 2010 report on diversity in state courts, the Brennan Center for Justice found that white males are overrepresented on state appellate benches by a margin of nearly 2-to-1. According to the most recent data available at the time of the report, 27 state courts were all-white, and two were all-male.

The report cited U.S. Supreme Court justices on the value of diversity on the bench. “A member of a previously excluded group can bring insights to the Court that the rest of its members lack,” Justice Lewis F. Powell, Jr. said. Justice Ruth Bader Ginsburg said, “A system of justice is the richer for the diversity of background and experience of its participants.”

But Chief Justice Johnson’s value to the court springs from more than her status as an underrepresented minority. She is the first public interest lawyer to head the court. She brings with her the perspective of someone who has spent a career defending the rights of the underdog. The individual and personal qualities that make her a superlative jurist should not be overshadowed by her position as a trailblazer.

In my own experience with Chief Justice Johnson, I have known her to be straightforward, direct and deliberative in her demeanor. Like the groundbreaking African-American judges who preceded her, she has dedicated her efforts to equal justice and has brought that commitment to the bench.

I join the many who celebrate this 43-year journey from Judge Augustine’s pioneering accomplishment to Chief Justice Johnson’s 21st century achievement.

Marc H. Morial, a member of the Louisiana State Bar Association and the 1988 winner of the Pro Bono Publico Award, is a former Louisiana state senator, a former mayor of New Orleans and a former president of the U.S. Conference of Mayors. He is currently the president and CEO of the National Urban League. (120 Wall St., 8th Flr., New York, NY 10005)



Champion of Civil Rights

The Lawyers’ Committee for Civil Rights Under Law (based in Washington, D.C.) has long celebrated Justice Bernette Joshua Johnson as a champion of civil rights who shares our organization’s commitment to racial justice and equal opportunity for all.

In 2010, Justice Johnson received the Lawyers’ Committee’s Distinguished Civil Rights Advocate Award in recognition of her extraordinary legacy as a public servant, advocate on behalf of poor and disenfranchised people, and role model for women and youth.

Now in 2013, we celebrate again as she has become the first African-American chief justice of the Louisiana Supreme Court. This achievement has special

significance for the Lawyers’ Committee as we celebrate our 50th anniversary.

Justice Johnson’s elevation to chief justice is a historic civil rights moment for Louisiana and our country. The Lawyers’ Committee looks forward to following Chief Justice Johnson’s continuing work as a powerful and effective advocate and public servant who has demonstrated her deep commitment to securing justice and equality for all.

—**Barbara R. Arnwine, Jon M. Greenbaum and Meredith Horton**
President/Executive Director, Chief Counsel and Counsel, respectively, for the Lawyers’ Committee for Civil Rights Under Law



Chief Justice Johnson: Reflections and Insights from Colleagues

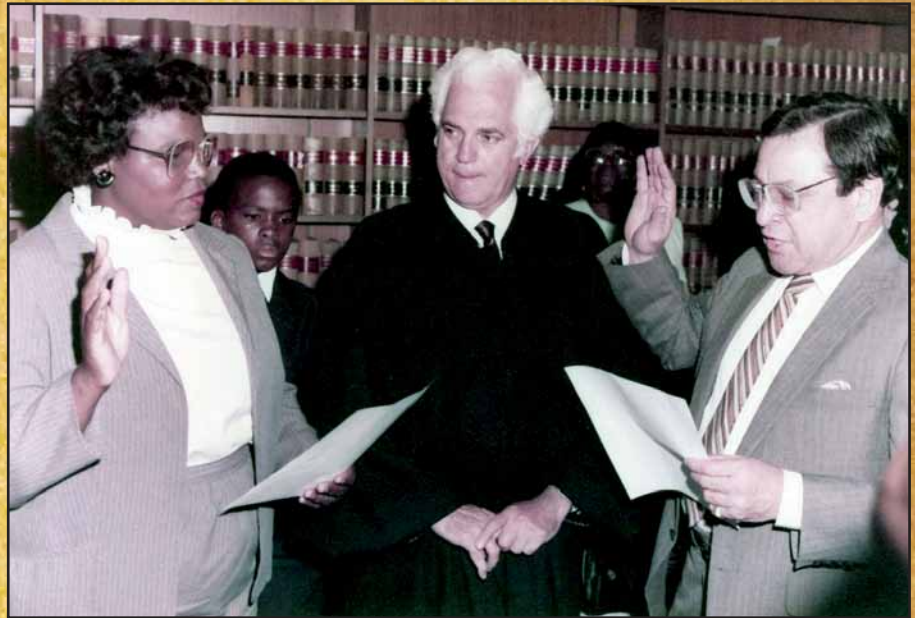
The Year was
1984...

By Val P. Exnicios

The year was 1984. Much to my chagrin, my lifelong dream of becoming a trial lawyer like my Dad, uncle and cousins before me had not yet come to fruition and was not yet to come to pass for five more arduous years. Instead, I was working as a legal assistant and court runner in my father's law practice.

He approached me one day and said, "Son, we're going to support an exceptional young African-American lady for judge in (Orleans Parish) Civil District Court and I want you to devote 100 percent of your effort over the next few months to doing anything and everything you can to help her get elected." "Yes, sir," I responded . . . and such began my association with our new Chief Justice of our Louisiana Supreme Court, Bernette Joshua Johnson.

I readily admit that, in 1984, I knew nothing of the accomplishments of Bernette Johnson. I didn't know about her courage to be the first in her family to leave home and attend Spelman College in Atlanta. I didn't know about her unbelievable courage to be one of the first African-American women to attend LSU Law School. I didn't know about her exceptional work as a champion of social justice and civil rights working with the NAACP Legal Defense & Educational Fund and as managing attorney with NOLAC (New Orleans Legal Assistance Corp.), helping the poor and disadvantaged. I didn't know about her work with the U.S. DOJ Civil Rights Division or as a deputy city attorney in New Orleans. Instead, all I knew was that the person I admired most in my life at that time, my Dad, told me that



Bernette Joshua Johnson was first sworn in as a Louisiana Supreme Court justice in 1994 by Ernest N. (Dutch) Morial. On hand for the ceremony was Supreme Court Chief Justice Pascal F. Calogero, Jr. and other justices, family and friends.

the Exnicios family was going to support Bernette Johnson for CDC judge and, at that time, frankly that was all I needed to know. I'm happy to say that, notwithstanding my initial simple blind faith in my father's judgment, I became educated as to the myriad of attributes of Bernette Johnson and the decision to support her then, and since, has been one that neither I, nor anyone in the Exnicios family, has ever regretted.

Chief Justice Johnson has been my friend, my mentor and, both personally and professionally, one of the people I admire most. Former Supreme Court Chief Justice Pascal F. Calogero, Jr., himself a friend and mentor to me and to many, once told me that he was honored to have Bernette Johnson as his colleague on the Supreme Court and that he always respected her views as well reasoned under the law, that her judicial temperament was exemplary, and her oratory skills considerable. The opinions that she has authored since serving

as justice certainly bear that out.

As a young trial lawyer appearing before her as a judge, and later as chief judge of CDC, I realized she was consistently fair in her rulings and, even when ruling against my client's position, courteous and gracious. She always went above and beyond to help young lawyers feel comfortable in her courtroom and she seemed to enjoy, and encourage, zealous advocacy.

I recall one occasion in particular, on a Friday Rule Day in the early 1990s, she commented to me: "Mr. Exnicios, if the passion with which you presented your argument was sufficient for me to rule in your client's favor, I'd be pleased to do so. It does my heart good to see such passion in the young lawyers of our trial bar. Unfortunately, the law is not on your side. Motion denied, but with regret."

Over the nearly 30 years that I have had the distinct pleasure of knowing Chief

Continued next page



Frank X. Neuner, Jr., left, and Val P. Exnicios with Justice Bernette Joshua Johnson at the 2006 Louisiana State Bar Association Annual Meeting. *LSBA Archives.*

Justice Johnson and considering her my friend and mentor, she has continued to face many challenges and enjoy many successes in her life. She has raised her two children, David and Rachael, to be the very best they can be and each is a blessed success—David, a successful accountant in Georgia, and Rachael, an attorney following in her mother’s footsteps in Louisiana. She rightfully takes great pride in her children and their considerable accomplishments. She values her family, her God and her state and country and their laws above all else.

She is so humble about herself and her own stellar accomplishments and yet so rightfully quick to speak of the accomplishments of others. She has gone the proverbial “extra mile” to help me and so many others over her career and the list of those forever in her debt is a long one.

Personally, I can never express enough gratitude to her for her nomination of me for the American Inns of Court 5th Circuit Court of Appeals Professionalism Award. As the only plaintiffs’ trial lawyer to ever have received that award (and probably the only one ever nominated), I know that, without her nomination and support, the award would never have been presented to me. When the time came to show my support for her in her quest to become the first African-American chief justice of our Louisiana Supreme Court, nothing in the world could have stopped me from being

“up front” and “out there” in my support of her . . . but, frankly, it was simply the right thing to do.

Chief Justice Johnson is unequivocally deserving of her position as chief justice, not because of her race, not because of her gender, not because of anything other than fundamental fairness, equality, recognition of her longevity and, in my opinion, perhaps most of all, the exceptional individual and jurist that she has become through her hard

work and commitment to her passion and profession, the law. Congratulations, Your Honor! Well done, well deserved! I am indeed honored to have you as our chief justice and am confident that, under your exceptional leadership, our Bench and our Bar will become the very best that they can possibly be.

Val P. Exnicios is managing director and senior trial counsel in the New Orleans law firm of Lisa, Exnicios & Nungesser.

Achieving Despite Challenges, Unknowns and Sacrifices

By Judge Ivan L.R. Lemelle

Hon. Bernette Joshua Johnson strikes me as a leader who learns from the past and, in doing so, is able to articulate a vision for a better future. High achievers often make personal sacrifices in order to achieve for others. A visionary is, by definition, one who pursues dreams. To paraphrase Challenger astronaut and physicist Ronald E. McNair, it’s our nature to explore the unknown. Chief Justice Johnson has dreamed and achieved despite tough challenges, unknown futures



Judge Ivan L.R. Lemelle, second from left, a judge on the U.S. District Court for the Eastern District of Louisiana, and Louisiana Supreme Court Justice Bernette Joshua Johnson, center, taught law school students at the Wuhan School of Law in China. *Photo provided by Judge Ivan L.R. Lemelle.*



In 2012, Louisiana Supreme Court Justice Bernette Joshua Johnson spearheaded the presentation of the National Association of Women Judges' Color of Justice Program for students of Walter L. Cohen and McDonogh No. 35 high schools at the Justice Revius Ortique Mock Trial Center on the Dillard University campus. Participating in the program were, from left, Dr. Toyal Barnes-Teamer, Judge Mary Hotard Becnel, Judge Roland L. Belsome, Judge Amy L. Nechtem, Justice Johnson, Judge Brenda Stith Lofin and attorney Adria Kimbrough.

and personal sacrifices.

From our early days together at New Orleans Legal Assistance Corp. to our most recent teaching experiences in China and France, my friend and colleague knows that success is not a destination but rather an ongoing process whose greatest reward is helping others fulfill their dreams.

Frederick Douglass was correct: success is born of struggle. May your struggles be few yet surmountable for the good of all.

Judge Ivan L.R. Lemelle serves on the bench of U.S. District Court, Eastern District of Louisiana.

Blazing Yet Another Trail for Us All

By Judge Amy L. Nechtem

It is with great pride and deep respect that the National Association of Women Judges (NAWJ) congratulates Justice Bernette Joshua Johnson on becoming the Chief Justice of the Louisiana Supreme Court on Feb. 1.

The NAWJ is committed to promoting the judicial role in protecting the rights

of individuals under the rule of law through strong, committed, diverse judicial leadership, fairness and equality in the courts, and equal access to justice. NAWJ's diverse membership includes women and men at all levels of the federal, state, military, tribal and administrative judiciary from every state in the nation, fighting to preserve judicial independence and to ensure equal justice access to the courts for women, minorities and other historically disfavored groups.

As a longstanding, devoted, active member, Chief Justice Johnson significantly embodies the essential mission of NAWJ in her day-to-day commitment to fairness, equality and the rule of law. Her tireless contribution and participation in NAWJ's civic programs have served to heighten awareness locally and nationally. Chief Justice Johnson served on numerous NAWJ committees, including one to develop cutting-edge educational programs for the judiciary, another focusing on outreach efforts to international judges, still another addressing equality and educational issues for women in prison, and her most recent tremendous contribution focused on her commitment and devotion to the youth in Louisiana.

In late 2012, Justice Johnson spearheaded

the presentation of the NAWJ's Color of Justice Program for students of Walter L. Cohen and McDonogh No. 35 high schools at the Justice Revius Ortique Mock Trial Center on the Dillard University campus. For more than 10 years, the Color of Justice Program has provided a supportive environment for students nationwide to engage in discussion with academics, lawyers and judges with an aim towards encouraging and guiding the youth in the direction of higher education and successful, fulfilling careers.

As immediate past president of NAWJ, I had the privilege and honor to be awed by Justice Johnson's passion and spirit for equality, opportunity and justice. This commitment and devotion will be evident to hundreds of judges throughout this nation and internationally when Chief Justice Johnson chairs, along with 40th Judicial District Court Judge Mary H. Becnel, the NAWJ Annual Conference Oct. 9-13, 2013, in New Orleans.

The members of the NAWJ are tremendously proud of Chief Justice Johnson as she blazes yet another trail for us all.

Judge Amy L. Nechtem, serving on the bench of Massachusetts Juvenile Court, is immediate past president of the National Association of Women



The Real Justice Johnson

By David K. Johnson and Rachael D. Johnson



Justice Bernette Joshua Johnson and family at her swearing-in ceremony for Orleans Parish Civil District Court. Photo provided by Louisiana Supreme Court.

On Feb. 1, Justice Bernette Joshua Johnson wrote another page in Louisiana's legal history by becoming the first African-American to serve as Chief Justice of the state Supreme Court. The *Louisiana Bar Journal* thought it fitting to publish insights on this monumental event from two of the people who know her best — her son, David K. Johnson, an accountant in Georgia; and her daughter, Rachael D. Johnson, an attorney in the Law Offices of Julie E. Vaicius in Metairie.



Insights from David K. Johnson

I am full of the pride of both a son and a native of Louisiana. This event has given me a reason to reflect on the many moments I have been blessed to share with my mother over my life and the way those moments have shaped my view of our world. If anyone was inclined to search the Internet or archives in one of our public libraries, I am confident he or she would locate adequate information detailing my mother's life and be able to build an honest biography. Without doubt or hesitation, I can write that all of these facts one could possibly unearth would not do justice in describing the true beauty that is Justice Bernette Johnson. I could use eloquent and perfectly metered words to share who she is, but I would rather you read some of the words that I have heard over time.

Only a few days past Christmas, I got a chance to have a private face-to-face conversation with her. Living in Atlanta has forced many of our moments together to take place on the phone or around other family members. As we sat in her room talking, an overwhelming thought sliced through my words and our conversation pivoted to my love and pride for her. I asked if she had begun to feel the excitement of the moment and if the magnitude has ever gotten to her at any time. She sank into her recliner, adjusting her arm that was still sore from a shoulder injury, while donning a slight grin that was so childlike and honest one could almost infer she was waiting to be asked that very question. In her usual soft gentle voice she responded, "I have never had any doubt as to whether or not I could do things in my life, especially the big things. You see, I have never for a second thought that this was about me. I have always known that it has been God, and I have never doubted him."

There are some moments in life that may seem insignificant at the time but really are full of true beauty. Such is the case when someone shares what they believe made them who they are. If anyone wanted to know what my mother thought about intelligence and education, they need only have heard her speak of her parents.

While there are several memories of which she is fond, I can remember one of her favorites of her father, Frank Joshua, Sr., that has stayed with her. On one of



Chief Justice Bernette Joshua Johnson with her brother, Sigmond Joshua, and her mother, Olivia Joshua. *Photo provided by Louisiana Supreme Court.*

her semester breaks during her Spelman College years, she decided to ease her way into a debate with her father. This was a high school valedictorian and academic scholarship recipient entering into a debate with a grade-school-educated laborer. "After a lively amount of back and forth exchanges, I retreated in defeat to avoid notice of my eyes swelling with tears. I was both frustrated and impressed," she said. I know it was then that she understood the difference between education and intelligence and the value of taking advantage of the opportunities one is presented in life.

The public may learn of all the things this magnificent jurist has accomplished but they may miss the true comprehension of all the motivations that have pushed her to excel. My mother has helped me see the world through the eyes of a woman with memories of Dr. King's struggles, President Obama's triumphs, and the destruction of hurricanes Betsy, Camille and Katrina and the subsequent healing and rebuilding afterwards. I have grown to see many things differently over time but one thing that has been consistent is how I see the accomplishments of others. With all of the things that happen in our lives and our constant distractions from the pursuit of higher goals, I am fortunate to have someone close to keep me grounded.

For I am constantly reminded by the most successful female I know, that it is not her work but God's that she performs daily and for no other reason than to be a good servant.

I have only two wishes for the readers of this article. For those who have never heard my mother tell her story, I wish for them to know the person more than the robe. For my mother and those close to her, I wish for them to know that the English language does not contain words to adequately express my feelings for the Justice. If those words do exist, my lack of ability to wield them masterfully is no indication of my lack of feelings but rather the acknowledgement that some things should be lived and not said.

Insights from Rachael D. Johnson

"Proud" does not sufficiently describe the way I feel about my mother and all that she has accomplished. Who would have thought that a girl from a small town along the River Road in Ascension Parish would have amassed the accomplishments that are listed in her biography? I am often in awe when I hear others list her achievements — things that may have been impossible if it were not for the lessons she learned from her parents. I often heard her say that she was always told she could be anything she wanted to be. This belief started with the values and lessons she learned from her hard-working dedicated parents. As a child, I also was taught many lessons. These lessons were not overt or imparted through elaborate speeches. The most meaningful and important lessons were those I learned through watching my mother live her daily life. Here are few of the lessons I learned from my mother. . . .

Lesson 1: In life, you are guaranteed to face challenges; your approach to the challenges is a true test of your character.

"The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy." This quote by Dr. Martin Luther King, Jr. is one of my favorites. From political leaders to close friends, we get to see folks' "true colors" in times of challenge and controversy. I imagine, for some, it is very easy to be the most popular kid on the playground. I'm sure one way to achieve "most popular" status is to fly under the radar and never



Chief Justice Bernette Joshua Johnson with her daughter, Rachael D. Johnson, and her son, David K. Johnson, at the Feb. 28 investiture ceremony. Photo by Matthew Hinton Photography.

take a stand. This is a foreign concept to me. Being raised by BJJ, as I affectionately refer to her, taking a stand on issues was imperative. In the face of challenges and adversity, the only choice is to stand for what's right. As a woman who has accomplished many "firsts," adversity was often a part of my mom's life. However, she always handles each challenge with uncompromising grace. I was always taught that in order to succeed at anything, one must stare challenges in the face and resolve to beat the odds. But, staring down a challenge does not give license to lose control and forget your core values. I can remember talking to my mom on several occasions about how to handle challenging situations. Most of those "challenges" seem trivial today. But, her advice was always the same: face the issue and handle the situation with dignity.

Lesson 2: Life is reciprocal.

This lesson was a mantra in my home, especially when I started establishing friendships as a teenager. My mother always reminded me that being in lopsided friendships and relationships is unacceptable. This wasn't advice; rather, it was a command. The constant reminder sometimes became a bit of an aggravation. Over the years, however, I have learned that the

truth in this lesson is not just that we should expect what to receive equally from our friends, but that in life we should be giving back as much as we receive. This principle has been a part of my life since I was a child. I saw my mother volunteering her time to our church, service organizations, community organizations and various boards. Service has been the foundation of her life's work — it's why she works so hard every day. She has committed her life to serve others and this commitment was instilled in my brother and me. We shouldn't just give to those we know and love but, most importantly, we should give to those in NEED. People often tell me that my involvement in the community is commendable. I beg to differ. It's my obligation to give back in some way.

My mom's life and career has been an example to not only me but countless others. I have often had to share my mother with friends, colleagues and strangers because she is always willing to lend an ear or helping hand to someone who needs it. As a child, I was amazed by my mother's strength and tenacity and willingness to help others.

Lesson 3: Never give up!

Tenacity is not innate; it is learned. Tenacity is developed over a period of

working hard to accomplish things time and time again — whether it's a girl learning to tie her shoes, or a ninth grader trying out for the track team, or a law student studying a semester's worth of material in hopes of making a decent grade on a final exam. Tenacity comes with practice, and it comes through encouragement. If my mother did nothing else for my brother and me, she encouraged us. She encouraged us to be our very best and she encouraged us to never give up. I often say to people: "I know some parents stop parenting when their children reach 18, but I don't know what I would do if BJJ would ever stop parenting me." Her encouragement is the most valuable asset I have.

Our great state's legal system will find itself in excellent hands when my mother takes the helm. This is not a self-serving prediction, but a guarantee. Her commitment to do what's right, even when it isn't popular, is a necessary evil in our profession. I am confident that my mother will lead the court with excellence and grace. I offer my congratulations, along with countless others, to the next Chief Justice of the Louisiana Supreme Court.

Welcome

Join us for the ALL NEW Combined LSBA/Louisiana Judicial College Joint Summer School & LSBA 72nd Annual Meeting!

Welcome to the combined Louisiana State Bar Association 72nd Annual Meeting and LSBA/Louisiana Judicial College Joint Summer School! The two conferences have merged for 2013, allowing participants to enjoy six days of substantive programming, exciting social events and fascinating speakers, all for one great price!

For this year's mega event, the LSBA is returning to the Sandestin Golf and Beach Resort in sunny Destin, Florida. Participants can take advantage of the unparalleled opportunity to network with colleagues AND enjoy the magnificent white sandy beaches of Destin.

The combined Summer School and Annual Meeting will feature 6 days of activities, including:

- Engaging CLE programming on issues involving criminal, civil, family and other specialty courts (drug courts, reentry courts, sobriety courts and mental health courts)
- Nationally recognized speakers
- Highly knowledgeable CLE presenters from Louisiana (Bench and Bar)
- Track programming
- Business meetings, networking and entertaining social events with colleagues
- Great Debates
- Award presentations to deserving members of the Bar
- Installation of the 2013-14 officers and much, much more.

New this year! *The Kingfish*

The LSBA, in Association with Evangeline Entertainment & The Bayou Playhouse, presents *The Kingfish*, a one man play depicting the life and times of legendary Louisiana governor Huey P. Long. Written by Larry L. King (co-author of "The Best Little Whorehouse in Texas") and Hon. Ben Z. Grant (Sixth Court of Appeals), and featuring John McConnell, *The Kingfish* shows the many sides of the charismatic politician as he reflects on historical events and his own assassination. The popular off-Broadway play has been performed in numerous cities across the country, including the New Playwright Theatre in Washington, D.C., and the John Houseman Theatre in New York City. This Halifax Theatre Company production is directed by Perry Martin.

**Don't miss out on this unforgettable experience.
For up-to-date information and more information, visit
www.lsba.org/AnnualMeeting**



*Mark your
calendars!
June 2-7, 2013*





Strengthening Our Profession Preliminary Schedule

as of 2/27/13 • For the most up-to-date schedule, visit
www.lsba.org/annualmeeting

Sunday, June 2

- 1 p.m. – 6 p.m. Registration
- 3 p.m. – 6:20 p.m. CLE Programming
- 6:15 p.m. – 7:30 p.m. Opening Reception in Exhibit Hall

Monday, June 3

- 8 a.m. – 12:30 a.m. CLE Programming
- Noon 2012/2013 Board of Governors Meeting
- 5 p.m. 2012/2013 YLD Council Meeting
- 6 p.m. – 7:30 p.m. YLD Reception
- 8 p.m. **The Kingfish**
The LSBA, in Association with Evangeline Entertainment & The Bayou Playhouse, presents the Halifax Theatre Company's production of *The Kingfish* By Larry L. King & Ben Z. Grant With John McConnell Directed by Perry Martin

Tuesday, June 4

- 8 a.m. – 12:30 p.m. CLE Programming
- 11 a.m. 2013/2014 YLD Council Meeting
- 11:30 a.m. – 12:30 p.m. Section Council Meeting
- 5:30 p.m. – 6:30 p.m. LCLCE Reception
- 6:30 p.m. Law School Parties

Wednesday, June 5

- 8 a.m. – 12:30 p.m. CLE Programming
- 11 a.m. Keynote Speaker
- 12:15 p.m. Public Access & Consumer Protection Committee Meeting
- 4 p.m. – 5:30 p.m. Friends of Bill W. Meeting
- 5:30 – 6:30 p.m. First-Time Attendees Networking Reception
- 6:30 p.m. – 8:30 p.m. Beach Bash
Family Event Featuring Food, Libations and Entertainment



Thursday, June 6

- 8 a.m. – 10:55 a.m. CLE Programming
- 11 a.m. General Assembly
- Noon House of Delegates
- 2 p.m. – 3 p.m. Senior Lawyers Division Meeting
- 6 p.m. Supreme Court Reception
- 7 p.m. Installation Dinner

Friday, June 7

- 8 a.m. – 12:30 p.m. CLE Programming
- 11 a.m. 2013/2014 Board of Governors Meeting
- 7 p.m. – 9 p.m. Closing Event

For more information and the most up-to-date schedule, visit www.lsba.org/AnnualMeeting

Strengthening Our Profession Preliminary Schedule

as of 2/27/13 • For the most up-to-date schedule, visit
www.lbsa.org/annualmeeting



Sunday, June 2

- ▶ **How Did I Get This Full Time Other Job and Why You Need One Too – Why it is imperative for lawyers to become active members of their professional and personal communities.**

Leo C. Hamilton, *Vice President, Louisiana Bar Foundation; Breazeale, Sachse & Wilson • Baton Rouge*
Frank X. Neuner, *Chair, Louisiana Public Defender Board; Laborde & Neuner • Lafayette*

- ▶ **The Lawyers of Watergate: How a Third Rate Burglary Provoked New Standards for Lawyer Ethics: Part I - The Week Following the Break In Part II - The Cancer on the Presidency**

John W. Dean • *Thompson Hine • Cleveland, OH*
James David Robenalt • *Thompson Hine • Cleveland, OH*

Judicial Track*

- ▶ **Judicial Ethics: An Update on the Most Recent Decisions (Ethics)**

Hon. D. Milton Moore III, • *2nd Circuit Court of Appeal • Monroe*

- ▶ **Judges Working With Impairments**

Hon. Roland L. Belsome, Jr. • *4th Circuit Court of Appeal • New Orleans*

Hon. Benjamin Jones • *4th Judicial District Court • Monroe; the Judicial Assistance Committee*

- ▶ **The Supreme Court Caseload Study and How it May Impact City Courts**

Scott Griffith • *Deputy Administrator • LA Supreme Court Judicial Administrator's Office*
Ed Murray • *Louisiana State Senator, Chair Court Study Committee*

- ▶ **Court Costs and Collection Ideas in City Courts**

Hon. Stephen C. Grefer • *2nd Parish Court, Jefferson Parish • Gretna*

Eve A. Laurent, *Deputy Judicial Administrator • 2nd Parish Court, Jefferson Parish • Gretna*

- ▶ **Probation Departments in City Courts**

Hon. Roy Mike Cascio • *2nd Parish Court, Jefferson Parish • Gretna*
Hon. Stephen C. Grefer • *2nd Parish Court, Jefferson Parish • Gretna*
Hon. Mark J. Shea • *New Orleans Traffic Court • New Orleans*

Monday, June 3

- ▶ **Organizing the Complex Case-Discovery and Motion Practice**

Hon. Sally A. Shushan • *US Magistrate, US District Court • New Orleans*

Paul M. Sterbcow • *Lewis, Kullman, Sterbcow & Abramson • New Orleans*

- ▶ **Trying the Complex Case**

Brent B. Barriere • *Fishman Haygood Phelps Walmsley Willis & Swanson • New Orleans*

Gerald E. Meunier • *Gainsburgh, Benjamin, David, Meunier & Warshauer • New Orleans*

- ▶ **Settling the Most Complex Case – Chinese Drywall**

H. Minor Pipes III • *Barrasso Usdin Kupperman Freeman & Sarver • New Orleans*

- ▶ **Selected Topics from the New Criminal Best Practices Book – Including Sentencing the Sex Offender; Duties of the Court**

Hon. Marilyn C. Castle • *15th Judicial District Court • Lafayette*
Hon. Anthony J. Marabella, Jr. • *19th Judicial District Court • Baton Rouge*

Family Law Track

(These sessions approved for Louisiana Specialization credit)

- ▶ **Juvenile Cases in All Courts Best Practices**

Hon. Patricia E. Koch • *9th Judicial District Court • Alexandria*

- ▶ **Children in the Courtroom - When is it Beneficial for the Court and for the Child?**

Hon. Anne Simon (Ret.) • *Assigned Ad Hoc & Pro Temp • New Iberia*
Karen A. Hallstrom • *LA Supreme Court, Judicial Administrator's Office • New Orleans*

- ▶ **Indian Child Welfare Act-Supreme Court Decision and Tribes in Louisiana**

Hon. Anne Simon (Ret.) • *Assigned Ad Hoc & Pro Temp • New Iberia*

- ▶ **Child in Need of Care - Back to the Basics for Permanency of Children**

Hon. Guy E. Bradberry • *14th Judicial District Court • Lake Charles*

- ▶ **Motivational Interviewing - Effective Communication with Youth and Families**

Hon. M. Lauren Lemmon • *29th Judicial District Court • Hahnville*

Tuesday, June 4

- ▶ **Managing the Case at Trial: Preparation, Presentation and Avoiding the Unknowns**

Hon. Fredericka H. Wicker • *5th Circuit Court of Appeal • Gretna*
Robert A. Kutcher • *Chopin, Wagar, Richard & Kutcher • Metairie*
Kyle D. Schonekas • *Schonekas, Evans, McGoe & McEachin • New Orleans*

- ▶ **Making a Record for Writs and Appeals: I Know I Need to Take this Upstairs and How to Make the Best Record Possible**

Hon. Madeleine M. Landrieu • *4th Circuit Court of Appeal • New Orleans*

Hon. James E. Stewart, Sr. • *La. 2nd Circuit Court of Appeal • Shreveport*

- ▶ **Jury Selection and Voir Dire: How to Get Honest Answers from a Panel and Get the Best Possible Jury**

Tony Clayton • *Clayton and Fruge • Port Allen*
James P. Dore • *Kean Miller • Baton Rouge*
Peter E. Sperling • *Frlot LLC • New Orleans*
Phillip A. Wittmann • *Stone Pigman Walther Wittmann • New Orleans*

- ▶ **What We Think Criminal Lawyers Should Do To Effectively Represent Their Clients**

Hon. Jeff S. Cox • *26th Judicial District Court • Benton*
Hon. Jules D. Edwards III • *15th Judicial District Court • Lafayette*
Hon. Alvin Turner, Jr. • *23rd Judicial District Court • Gonzales*
Hon. Franz L. Ziblich • *Orleans Parish Criminal District Court • New Orleans*

- ▶ **Recent Developments In Louisiana Criminal Law and Procedure**

Jonathan P. Friedman • *Commissioner, Orleans Parish Criminal District Court • New Orleans*
Brian J. Capitelli • *Capitelli and Wicker • New Orleans*

- ▶ **Crawford and its Progeny: Crime Lab Reports to Criminal Histories – What's In and What's Not**

Hon. Thomas F. Daley (Ret.) • *St. John Parish District Attorney • Laplace*

Michael R. Fonham • *Professor, LSU Law Center • Baton Rouge*
Amanda Hunt • *Tulane University 3L Student • New Orleans*

- ▶ **Mental Illness in the Criminal Arena - Where Are We?**

Katherine M. Mattes • *Professor, Tulane University School of Law • New Orleans*

- ▶ **Using Technology to Investigate and Organize Your Next Deal Or Case**

John C. Anjier • *Liskow & Lewis • New Orleans*

- ▶ **Bankruptcy for Non-Bankruptcy Lawyers and Judges: Hypotheticals and Insights**

Barry H. Grodsky • *Taggart Morton • New Orleans*

- ▶ **Insurance and Indemnity: What You Have to Know to Give Clients Accurate Advice**

Marie A. Moore • *Sher Garner Cahill Richter Klein & Hilbert • New Orleans*

- ▶ **Tax Law: Breaking Issues**

William A. Neilson • *Ajubita, Leftwich & Salzer • New Orleans*
James R. Washington III • *Ajubita, Leftwich & Salzer • New Orleans*

Judicial Track*

- ▶ **Motivational Interviewing: A Successful Tool to Assist Judges to Reduce Conflict and Increase Success in Working With Juveniles and Their Families**

Hon. M. Lauren Lemmon • *29th Judicial District Court • Hahnville*
Julie Ruel, *Licensed Professional Counselor • New Orleans*

- ▶ **Our Children and Behavioral Health: Their Needs, Our Capabilities and The Problems**

Sue Austin, Ph.D. • *Louisiana Office of Behavioral Health • Baton Rouge*

- ▶ **Ethics**

Hon. Roland L. Belsome, Jr. • *4th Circuit Court of Appeal • New Orleans*

- ▶ **Louisiana Civil Procedure Recent Developments**

Scotty E. Chabert, Jr. • *Saunders & Chabert • Baton Rouge*
Henri M. Saunders • *Saunders & Chabert • Baton Rouge*

- ▶ **Water Law: The New Frontier**

Mark S. Davis • *Tulane University School of Law, Institute on Water Resources Law and Policy • New Orleans*

- ▶ **Working with the Special Master in Your Class Action**

Hon. Carolyn G. Jefferson (Ret.) • *New Orleans*
Thomas K. Foutz • *ADRinc. • New Orleans*

- ▶ **Recent News in the Medical Malpractice World**

Kathryn Montez Caraway • *Caraway LeBlanc • New Orleans*
Nelson W. Wagar III • *Chopin Wagar Richard & Kutcher • Metairie*

Family Law Track

(These sessions approved for Louisiana Specialization credit)

- ▶ **E-Ethics in Family Law: The Implications the eWorld Can Have in the Family Law Arena - (Ethics)**

Hon. Pam J. Baker • *East Baton Rouge Family Court • Baton Rouge*
Carolyn F. Ott • *Ott & Burns • Denham Springs*
Sally Brown Richardson, *Professor • Tulane University School of Law • New Orleans*

- ▶ **Surrogacy — Louisiana Behind the Times: Surrogacy's Potential Impact on Adoption, Grandparents Rights and Second Parent Issues - Part I: The Law & Part II: The Practical Implications Panel Discussion and Interactive Session**

Kathryn V. Lorio, *Professor • Loyola University Law School • New Orleans*
Edith H. Morris • *Morris, Lee & Bayle • New Orleans*

*Judicial track sessions are Judges only

Strengthening Our Profession Preliminary Schedule

as of 2/27/13 • For the most up-to-date schedule, visit
www.lsba.org/annualmeeting

Wednesday, June 5

► Tom on Torts

Thomas Galligan, Jr., *President and Professor of Humanities*
• *Colby-Sawyer College • New London • NH*

► Recent Federal Developments in the Civil Arena - Substance and Procedure

Darryl J. Papillion • *Walters, Papillion, Thomas, Cullens • Baton Rouge*

► The National Health Care Reform Act

Donna D. Fraiche • *Baker, Donelson, Bearman, Caldwell & Berkowitz • New Orleans*

► The United States Supreme Court: This Term's Criminal Decisions and What Those Decisions Mean to Us

H. William McSherry • *Assistant United States Attorney, EDLA • New Orleans*
Virginia L. Schlueter, *Chief Federal Public Defender, EDLA • New Orleans*

► Pre-Trial Release Programs

Jonathon P. Friedman, *Commissioner Orleans Parish Criminal District Court • New Orleans*
Lisa Simpson • *Vera Institute of Justice • New Orleans*
Jon Wool • *Vera Institute of Justice • New Orleans*

► The Effective Use of Risk-Needs Assessment Tools at Sentence

Hon. William J. "Rusty" Knight • *22nd Judicial District Court • Covington*

Judicial Track*

► Judicial Immunity/Liability

Hon. John J. Molaison, Jr. • *24th Judicial District Court • Gretna*
Timothy F. Averill • *Louisiana Supreme Court Judicial Administrator • New Orleans*

► Leadership Skills and Court Governance

Hon. Harry F. Randow • *9th Judicial District Court • Alexandria*

► Employment Law: What's Hot?

William M. McGoey • *St. Bernard Parish Government • Chalmette*

► Ethics and Money (Ethics)

James A. Brown • *Liskow & Lewis • New Orleans*

► Digesting the Regulatory Alphabet Soup: Why Corporate Compliance Matters

Andrew R. Lee • *Jones Walker • New Orleans*

► Representing Creditors Before, During and After Bankruptcy: What Everyone Should Know

Laura F. Ashley • *Jones Walker • New Orleans*

Judicial Track*

► DWI Today

Norma B. Broussard • *Jefferson Parish District Attorney's Office • Gretna*
John J. Lee, Jr. • *Jefferson Parish Indigent Defender Board • Metairie*

► La. C.Cr.P. Article 894: Motions to Set Aside DWI Misdemeanor Convictions — What the Office of Motor Vehicles Needs

Jill Jarreau • *Louisiana Department of Public Safety and Corrections • Baton Rouge*
Kelly Simmons • *Louisiana Department of Public Safety and Corrections • Baton Rouge*

► Professionalism: The Struggle for Racial Equality, A Historical Glimpse at Laws and Cases Affecting Racial Relations in the United States

Hon. Thomas T. Daley (Ret.) • *St. John Parish District Attorney • Laplace*

► Worker's Comp for The Non Comp Judge and Lawyer: Who are Those Guys Anyway?

Charles R. Davoli • *Moore, Thompson & Lee • Baton Rouge*

► Public Records and Electronic Communication: Open Meetings Law in Louisiana

Grant J. Guillot • *Shows, Call & Walsh • Baton Rouge*

► Theory of the Case

J. Robert Ates • *Ates Law Firm • Destrehan*

Family Law Track

(These sessions approved for Louisiana Specialization credit)

► UCCJEA/Relocation Issues - The Tug of War Between Parents And Children When "Home Status" Isn't Enough

Thomas P. Alongi • *Maricopa County Community Legal Services • Phoenix, AZ*

► UCCJEA/Relocation Issues - The Tug of War Between Parents And Children The Hague Convention: When a Child's Case Doesn't Focus on the Child's Best Interest

Thomas P. Alongi • *Maricopa County Community Legal Services • Phoenix, AZ*

► International Issues in Family Law

Kathleen D. Lambert • *Stephenson, Chavarrri & Lambert • New Orleans*

Maria I. O. Stephenson • *Stephenson, Chavarrri & Lambert • New Orleans*

Thursday, June 6

► Ethics: Bar Complaints from the Perspective of the Subject of the Complaint (Lawyer Only)

Thomas M. Flanagan • *Flanagan Partners • New Orleans*
Leslie J. Schiff • *Schiff, Scheckman & White • Opelousas*
Richard T. Simmons, Jr. • *Hailey, McNamara, Hall, Larmann & Papale • Metairie*

► Professionalism: Working with the Media to Your Advantage (Professionalism)

Ritschard P. Homberg • *President, Detroit Public Television • Wixom, MI*

Judicial Track*

► Judiciary Commission Complaints From the Perspective of the Subject of the Complaint (Judge Only Ethics)

Pauline F. Hardin • *Jones Walker • New Orleans*
Harry Rosenberg • *Phelps Dunbar • New Orleans*
Steven R. Scheckman • *Schiff, Scheckman & White • New Orleans*

► Pro Se Litigants: The Continuing Saga

Hon. Lisa M. Woodruff-White • *East Baton Rouge Family Court • Baton Rouge*

► Professionalism and Wellness: How Your Mental and Physical State Affect Your Professional Abilities

Hon. Hans J. Liljeberg • *5th Circuit Court of Appeal • Gretna*
Hon. Michael A. Pitman • *1st Judicial District Court • Shreveport*
Terry A. Maroney • *Professor, Vanderbilt University • Nashville, Tenn.*

Family Law Track

(These sessions approved for Louisiana Specialization credit)

► Interviewing Children-The Watermeier Standard and the Harm that May Occur as a Result of Such Inquiry

Stacie L. Schrieffer • *The Audrey Hepburn CARE Center of Children's Hospital • New Orleans*
Neha Harish Mehta, MD • *Sunrise Children's Hospital: Med-naz Medical Group • Las Vegas, NV*

Friday, June 7

► Should We Change the Amount in Controversy Threshold for Civil Jury Trials

S. Gene Fendler • *Liskow & Lewis • New Orleans*
Irving J. Warshauer • *Gainsburgh, Benjamin, David, Meunier & Warshauer • New Orleans*

► Is It Time For a Constitutional Convention

Neil C. Abramson • *Liskow & Lewis • New Orleans*

► What Criminal Lawyers Would Like Criminal Judges to Do

James E. Boren • *Attorney at Law • Baton Rouge*

► Nuts and Bolts of the Bail Bond

Jancy C. Hoeffel • *Tulane University Law School • New Orleans*

► The Louisiana Sentencing Commission — the 2013 Work

Hon. Fredericka H. Wicker • *5th Circuit Court of Appeal • Gretna*
Natalie R. LaBorde • *Louisiana Governor's Office • Baton Rouge*
James M. LeBlanc • *Louisiana Dept. of Public Safety and Corrections • Baton Rouge*

CIVIL TOPICS FOR JUDGES AND LAWYERS

Produced by the Civil Law and Litigation Section in Conjunction with the Minority Involvement Section, Solo and Small Practice Section, Young Lawyers Division, and the LSBA Member Outreach and Diversity Committee

► What Is This Thing and How Do I Turn It On? — The Young Lawyers Section Explains the Use of Technology in Litigation

Kristin L. Beckman • *Barrasso, Usdin, Kupperman, Freeman & Sarver • New Orleans*

Lawrence J. Centola III • *Martzell & Bickford • New Orleans*
Sarah E. Stogner • *Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux • New Orleans*

► Defining Injured Worker Remedies and Defenses for Litigation: The Who, What, When and How Questions

J. Robert Ates • *Ates Law Firm • Destrehan*

► How to Talk to Jurors When We Are Not All The Same Age, Gender, or Race

Lawrence J. Centola III • *Martzell & Bickford • New Orleans*
Kelly McNeil Legier • *LSBA • New Orleans*
Lynn Luker • *Lynn Luker & Associates • New Orleans*
Sharonda R. Williams • *City of New Orleans Law Dept.*

► Professionalism: Making the Hard Decisions in the Face of Adversity — A Discussion about Hon. J. Skelly Wright

Hon. Roland L. Belsome, Jr. • *4th Circuit Court of Appeal • New Orleans*

James E. Wright III • *Jones Walker • New Orleans*

Family Law Track

(These sessions approved for Louisiana Specialization credit)

► Is Mediation or the Use of Special Masters an Effective Tool in Community Property Partitions?

David M. Prados • *Lowe, Stein, Hoffman, Allweiss & Hauver • New Orleans*

Frank P. Tranchina, Jr. • *Tranchina & Mansfield • Covington*
Robert S. Buhner • *Attorney at Law • Metairie*
Gregory M. Verges, CPA • *Covington*

► Domestic Violence - OR IS IT?

Ayn W. Stehr • *Louisiana Protective Order Registry • Baton Rouge*

► Parental Alienation: Fact or Fiction

Alfred A. Mamo • *McKenzie Lake Lawyers • London, Ontario*

For more information and the most up-to-date schedule, visit www.lsba.org/AnnualMeeting

2012 Secret Santa Project a Success! 719 Children Assisted

The Louisiana State Bar Association/Louisiana Bar Foundation's Community Action Committee would like to thank all legal professionals who participated in

the 2012 Secret Santa Project.

Because of the generous participants throughout the state — from “adopting” Santas and from monetary donations — 719 children, represented by 13 social service agencies in five Louisiana parishes, received gifts.

These children were represented by St. John the Baptist, Boys Hope Girls Hope, Southeast Advocates for Family Empowerment (SAFE), El Yo Yo Head Start, Jefferson Parish Head Start Program, Children's Special Health Services Region IX, Children's Special Health Services New Orleans Region, Children's Bureau, CASA of Terrebonne, CASA of Lafourche, CASA of New Orleans, North Rampart Community Center and Metropolitan Center for Women and Children.

This was the 17th year for the Secret Santa Project. Several of the children send “thank you” cards and drawings to their “Santas.” A few of those items are included here. Thank you!



New Orleans Jones Walker staff deliver a large friend as part of the Secret Santa Program. *Staff photo.*



Lawrence Centola III, Young Lawyer Division chair, helps to deliver presents for the Secret Santa Program. *Staff photo.*

Legal Specialization Board Accepting Applications in 5 Areas

The Louisiana Board of Legal Specialization (LBLS) is currently accepting requests for applications for 2014 certification in five areas — business bankruptcy law, consumer bankruptcy law, estate planning and administration, family law and tax law. The deadline to submit applications for consideration for estate planning and administration, family law and tax law certification is April 15, 2013. Applications for business bankruptcy law and consumer bankruptcy law certification will be accepted through Sept. 30, 2013.

The LBLS earlier announced that the application and exam fees for 2013 applicants seeking certification will be waived. This translates to a \$400 savings.

The minimum requirements for certification are:

- ▶ A minimum of five years in the practice of law on a full-time basis.
- ▶ Satisfactory showing of substantial

involvement in the particular field of law for which certification is sought.

▶ Passing a written examination applied uniformly to all applicants to demonstrate sufficient knowledge, skills and proficiency in the area for which certification is sought.

▶ Five favorable references. Peer review shall be used to determine that an applicant has achieved recognition as having a level of competence indicating proficient performance handling the usual matters in the specialty field.

In accordance with the requirements of the LBLS, as set forth in the individual standards for each field of legal specialization, board-certified attorneys in a specific field of law must meet a minimum CLE requirement for the calendar year ending Dec. 31, 2013. The requirement for each area of specialty is:

- ▶ Estate Planning and Administration

Law — 18 hours of estate planning law.
▶ Family Law — 18 hours of family law.

▶ Tax Law — 20 hours of tax law.

▶ Bankruptcy Law — CLE is regulated by the American Board of Certification.

CLE credits are computed on a calendar-year basis and all attendance information should be delivered to the Mandatory Continuing Legal Education (MCLE) Department. Deadline for filing annual CLE is Jan. 31 of the following year. Failure to timely report specialization CLE hours will result in a penalty assessment.

Anyone interested in applying for certification should contact LBLS Executive Director Barbara M. Shafranski, email barbara.shafranski@lsba.org or call (504)619-0128. For more information, go to the LBLS's website at www.lascmcle.org/specialization.

Honor Roll: 2012 Signatories to Statement of Diversity Principles

The Louisiana State Bar Association (LSBA) would like to congratulate the 2012 Signatories to the LSBA Statement of Diversity Principles. By executing the Statement, the leaders of a legal organization or court demonstrate that diversity and inclusion are priorities and agree to use their best efforts to advance diversity and inclusion within their respective organizations. The LSBA's Committee on Diversity is asking all Louisiana law firms, law departments and courts to execute the voluntary Statement. Signatories have many benefits available to them. (*See box on this page.*)

Law Firms and Law Departments

Cao Law Firm
Davillier Law Group, L.L.C.
Dunn Law Office
Four Points Strategies, L.L.C.
G. Karl Bernard & Associates, L.L.C.
Jeffrey S. Malfatti, L.L.C.
Kuchler Polk Schell Weiner & Richeson, L.L.C.
Law Office of Ann Duvic
Law Office of Eric A. Holden
Law Office of Morris H. Hyman
Randall M. Alfred, A.P.L.C.
Susan G. Guillot, L.L.C.
U.S. Attorney's Office, Middle District of Louisiana
The Washington Law Group, L.L.C.

Bar Associations

Baton Rouge Bar Association
Southwest Louisiana Bar Association

Attorneys

Robert S. Abdalian
Cody W. Cervantes
Desiree C. Calvin
Dian Evans
Catherine Fairchild
T. Semmes Favrot
Linda L. Holliday
Ava de Montagne
Lon E. Roberson

Incentives for Diversity Principles Signatories

- ▶ Certificate of recognition from the LSBA
- ▶ Free CLE registrations to diversity/inclusion roundtable discussions
- ▶ Opportunity to be featured signatory in the "Spotlight" section of the *Bar Briefs*
- ▶ Recognition on the LSBA website
- ▶ Recognition on signage at major LSBA meetings and Diversity Conclaves
- ▶ FREE facilitated diversity/inclusion discussions within their offices (schedule permitting)
- ▶ Recognition in a "Roll Call" of New Signatories in the *Journal and Bar Briefs*
- ▶ Chance in raffle for LSBA Annual Meeting or CLE registration

Year of the SOLO

By Shawn L. Holahan

NEW MEMBER SERVICE: CLIO

The Louisiana State Bar Association (LSBA) has joined 25 other bar associations in offering Clio, a cloud-based practice management tool, at a discount to all members.¹ The Clio membership benefit was launched formally at the sixth annual Solo and Small Firm Conference in February. Throughout 2013, Clio representatives will present CLE programs statewide to introduce LSBA members to its product. This Q&A with Jack Newton, Clio co-founder and president, is a basic introduction to the product.

Journal: What is Clio?

Newton: Clio is a leading cloud-based practice management,² time and billing, and client collaboration platform for lawyers. Clio helps manage nearly every aspect of running an efficient, effective law office, including matter management, contact management, to-do/task management, calendaring, time tracking, billing, secure client collaboration, online invoicing, document management, reporting and trust accounting. The best way to familiarize yourself with Clio is to take an online full feature tour: www.goclio.com/tour/. Or, take our video tour: <http://vimeo.com/56707833>.

Journal: What does a lawyer need to start using Clio?

Newton: A lawyer needs a device with an Internet connection. Because Clio is cloud-based, no software has to be installed or configured — simply access the service through a secure web browser connection. Best of all, there are no upfront costs to start with Clio: you get your first 30 days free. Clio's cost structure is simple: \$49/attorney and \$25/support staff on a month-to-month subscription. Better yet, because Clio is an LSBA member benefit, LSBA members are able to receive a lifetime 10 percent discount on Clio subscriptions.



To sign up for a Clio account with the member discount, go to: www.goclio.com/landing/labar.

Journal: Are there any costs or upfront costs to use Clio?

Newton: No. Clio offers a simple month-to-month subscription, meaning there are no upfront licensing or hardware purchase costs. Additionally, Clio handles all upgrades at no extra costs.

Journal: Is Clio cheaper to have than traditional desktop solutions?

Newton: With no upfront costs, Clio will cost less over the long term. "Total Cost of Ownership" (TCO) analyses show cloud-computing solutions offer a 50-75 percent cost advantage over traditional desktop-based solutions. With full implementation of a desktop solution, you've likely ended with a "sunk cost" of \$5,000-\$25,000. With Clio, there is no upfront investment. Cloud-based systems provide flexibility on a month-to-month basis; without a sunk capital investment in hardware and software, you're free to switch at any time.

Journal: Where can a lawyer use Clio?

Newton: Clio is accessible on any device

with an Internet connection. You can access your practice's data from your law office, from home, from court or even on vacation if the need arises. Cloud computing offers an unparalleled level of freedom to get your work done where and when you choose because your software and data are available on any device with an Internet connection.

Journal: Can I access Clio and my data from a tablet like an iPad or a smartphone?

Newton: Cloud computing offers "live" access to your cloud-computing software and data via any Internet-enabled device, allowing you to access your key practice data anytime, anywhere.

Journal: How fast can I learn to use Clio?

Newton: Clio is very easy to learn and can be implemented in just a few minutes. This contrasts with traditional client/server software which usually requires long implementation times and a long learning curve.

Journal: Where does Clio store my data?

Newton: All data for Clio's U.S.-based customers is stored and processed in the United States. In the event Clio opens additional data centers internationally, Clio would continue to provide U.S.-based data storage and processing for our U.S.-based customers. Clio's primary data center is in Chicago, Ill., and redundant data centers are located throughout the continental United States. Clio's data centers all adhere to the strict SSAE 16 Attestation Standard and are subject to round-the-clock security and fire and theft protection with redundancy for virtually every point of failure.

Journal: Is my data secure with Clio?

Newton: Clio uses military-grade, end-to-end 256-bit SSL encryption. 256-bit SSL represents the highest level of data encryption available. Clio provides a level

of security and data protection superior to on-premise solutions. Additionally, Clio performs routine and intensive server penetration testing which, when coupled with high levels of physical security at the data center level, offers an unprecedented level of data protection. All critical systems at Clio have full redundant failovers, including servers, power, network and HVAC systems. Feel free to visit the Clio website for more information about how Clio safeguards data.

Journal: Does Clio back up data?

Newton: For key systems involving client data, backups are performed continually in real-time. Off-site backups of Clio's operating systems are performed multiple times per day.

Journal: How and where are backups stored?

Newton: Backups are stored on-site at Clio's primary data center and replicated to other geographically redundant data centers to protect against disaster scenarios.

Journal: Have you ever had an information breach?

Newton: No.

Journal: Who owns my data and can Clio staff access it?

Newton: In our privacy statement and end user license agreement, we make it clear that the data stored in Clio belongs to the account owner or a named administrator of the Clio account. *It is not Clio's property* and can be retrieved into open-source data formats at any time via a user-facing export. We also offer a unique data escrow service, which automates a backup of user data into an Amazon S3 account. In addition, Clio staff cannot access user data without expressed written permission and would do so only to provision our application. The data cannot be used for any other purpose. Clio's privacy policy has been reviewed and granted the TRUSTe certified privacy seal.

Journal: What happens if a lawyer wants to terminate the relationship with Clio? What happens to the lawyer's data?

Newton: Again, the data remains the property of the customer. Should the Clio relationship be terminated for any reason,

database information is returned, via the Data Escrow facility, in Excel compatible formats and documents are returned, organized by matter.

Journal: Is it possible to maintain a copy of data locally?

Newton: Yes. Via the Data Escrow facility, you can keep an up-to-date copy of the firm information locally. Users also can perform an any-time data export to a local device on demand.

Journal: Can a Clio account holder get usage reports to see who is using the account? Can a Clio account holder terminate a user?

Newton: Clio account holders can review which users are currently logged into their account, and, if needed, terminate a connection.

Journal: What happens if Clio is served with a subpoena or a demand for data?

Newton: As per our terms of service and privacy policy, we maintain that our primary duty is to protect client information to the extent the law allows. Clio's policy is to notify the user of any data demand made by law enforcement agencies, allowing them to intervene and/or object should they choose to, before disclosing any data. Additionally, given that we are a Canadian company, subpoenas would need to be enforceable under Canadian law in order to require our compliance.

Journal: Can I selectively share documents with clients or other relevant parties?

Newton: Putting your practice in the cloud means it's easy to selectively share data with clients and other parties. A secure collaboration feature named "Clio Connect" provides the ability to securely share files and messages with your clients. Cloud-based collaboration is more efficient, more secure, and can be a value-add service that gives you a competitive advantage.

Journal: What about tech support?

Newton: Clio offers unlimited access to customer support via live agent or email. There is no extra fee for the support. Clio's tech support is offered 8 a.m. to 8 p.m. (Eastern Time) Monday through Friday.

Journal: Where are Clio's offices?

Newton: Clio's headquarters are located at Suite 404, 999 Canada Place, Vancouver, BC. Most of Clio's staff is headquartered in Vancouver, British Columbia. We also have several branch offices across the country to provide comprehensive support hours.

Journal: Where do I start? How hard is it to move my data to Clio?

Newton: You can start with your next case or all your files. Clio provides tailored and free-of-charge data migration services to make the switch to the cloud painless. You may move all your existing contacts, documents, matters and other data in an automated fashion. So, get started at: www.goclio.com/landing/labar.

FOOTNOTES

1. Clio is a member benefit for several state bar associations, including Alabama, Arizona, California, Colorado, Connecticut, Hawaii, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Vermont and Wisconsin.

2. For more information about cloud computing, see "Year of the Solo: Silver Lining in That Cloud" in the December 2012/January 2013 *Louisiana Bar Journal*.

Jack Newton is co-founder and president of Clio, a leading provider of cloud-based practice management software. He holds an M.Sc. in computer science from the University of Alberta and holds three software-related patents in the United States and the



European Union. He has written and spoken extensively on cloud computing in general, and specifically on the ethics, privacy and security issues relating to the use of cloud computing in the legal market.

Louisiana State Bar Association's Practice Management Counsel Shawn L. Holahan is a member of the Publications Board of the American Bar Association's Law Practice Management Section and secretary of the ABA's Practice Management Group of North America. She can be



contacted via email at shawn.holahan@lsba.org.

CRYSTAL GAVEL AWARD RECIPIENTS

Five Louisiana State Bar Association members were selected as recipients of 2012-13 Crystal Gavel Awards. Two of the recipients—attorney Wilson C. Boveland of New Orleans and Judge James R.E. (Jim) Lamz of Slidell — are profiled in this issue. The other three recipients — attorney Ryan E. Gatti of Bossier City, law professor John K. Pierre of Baton Rouge and attorney Michael S. Walsh of Baton Rouge — will be profiled in the next issue.

Wilson C. Boveland, a solo practitioner in New Orleans, was recognized for his long-standing commitment to volunteering in legal and non-legal capacities in his community. As a former teacher and vice principal at Andrew J. Bell Junior High School, he is deeply dedicated to education and the teaching profession. He has provided free notary services for New Orleans public school employees since 1991. Since 1996, he has provided free workshops and seminars to retiring educators on pensions, insurance and other retirement issues. For the past six years, he has provided free food and school supplies for the United Teachers of New Orleans' Back to School event for needy children in the community. In 2005 and 2006, he led a nationwide drive to collect books and school supplies to provide to public schools and children.

In 2006, Boveland began providing free legal advice to the Hume Child Development Center, a pre-school education center for underprivileged children in New Orleans. He accepted a position on the board of directors for the Center last year. Since 2007, he also has provided free legal services for the United Educators, Inc., a non-profit organization that provides training to public school teachers throughout the parish. He is an officer of the Beau Brummells Club, Inc., which in 2006 began collecting and



Crystal Gavel Award recipient Wilson C. Boveland, a solo practitioner in New Orleans.

distributing toys and gift certificates for underprivileged children at Christmas.

For the past 12 years, he has provided free workshops and seminars to various churches throughout the community regarding wills and successions. In January 2009, Boveland provided the pro bono legal services that merged two historically significant churches that had been devastated and partly damaged by Hurricane Katrina — Central United Church of Christ and St. Matthew United Church of Christ. Since 1990, he has provided free notary services to members of the Central Church of Christ in New Orleans.

Boveland is a lifetime member of the New Orleans Chapter of the NAACP. He has been a member of the New Orleans Martin Luther King, Jr. Holiday Planning Committee for more than 10 years. He is the chair of the televised MLK Holiday Choral Concert, which has brought together public school choirs throughout the city each year since 1992 in tribute to Dr. King.

“Wilson is genuinely dedicated to using

his skills, both professional and personal, for the greater good of the community,” said Larry J. Carter, president of the United Teachers of New Orleans. “His efforts are remarkable and commendable; he has touched the lives of countless New Orleans residents, both young and old.”

Boveland earned his law degree from Loyola University College of Law.

Hon. James R.E. (Jim) Lamz, a judge for Slidell City Court, was recognized for his outstanding work in educating the public and students about legal matters. He has opened the doors of Slidell City Court to civic and community organizations so the public can watch and learn about the judicial process and the court's functions. Each year, the Leadership Slidell Class, of which Judge Lamz is a 1992 graduate, visits the court for an in-depth presentation on how the court operates and the roles played by lawyers, litigants, court staff and the judge. Since 2011, the Slidell Police Citizens' Academy has attended briefings by Judge Lamz on the court's operations, jurisdiction and case trends, and now his presentations are a part of the Academy's regular program.

He has spoken before various organizations about the need for Court Appointed Child Advocates (CASA), and he appeared in a public service announcement encouraging volunteers for CASA. He also has spoken before several organizations urging adoption or becoming a foster parent for children who cannot be returned to their parents or guardians because of abuse or neglect. Needing a tool to help get his message across to children in the court system, Judge Lamz enlisted the help of his administrative assistant, Kasey, and the two collaborated to develop a coloring book which is now being used in presentations to local children. He is hoping to make the book available on the court's

Continued next page

website so everyone can have access to it.

Judge Lamz began the first “judicial ride-along” program in Slidell City Court in which area legislators are invited to attend sessions with the court to improve communication and awareness between courts and lawmakers. State Rep. Pete Schneider, State Sen. Walter Boasso and State Rep. A.G. Crowe participated in the program and provided positive responses, viewing it as a wonderful opportunity to see firsthand the drug court in action and the results it produces.

“Jim Lamz has performed above and beyond the position to which he was elected in November 2004,” said attorney Deanna J. Hamilton-Lamz. “Judge Lamz has administered justice in a manner that is exemplary, he has implemented projects to educate the public about the court and its functions, and he continues to work in conjunction with the court system to make it welcoming, inviting and understandable for all who have to experience the legal system.”

Judge Lamz earned his law degree from Loyola University Law School.



Hon. James R.E. (Jim) Lamz, right, a Slidell City Court judge, received his Crystal Gavel Award from Louisiana State Bar Association President John H. Musser IV.

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Stephen Romig, CPA, CFP; Jennifer Bernard-Allen, CPA; Anna Breaux, CPA, JD, LLM; Ryan Retif, MS;
seated: Irina Balashova, CPA, MBA, CIA; Chav Pierce, CPA/ABV, MS; Holly Sharp, CPA, MS, CFE, CFF

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LAWYERS Assistance

By J.E. (Buddy) Stockwell

AGING IN THE LEGAL PROFESSION

The Baby Boomer generation is now reaching retirement age and the issue of aging in the legal profession is coming our way in huge proportions never before experienced. In the 2009 Missouri Bar Association article, “SURF’S UP, WAY UP: Preparing for the Senior Tsunami,” author Cynthia K. Heerboth states:

“They are called master attorneys, seasoned lawyers, and senior lawyers. They comprise the wave of Baby Boomers who will be reaching retirement age in the next few years. There are more than one million licensed lawyers in the United States, according to the American Bar Association. A quarter of those, 250,000, are expected to start the retirement process in 2011. That’s not a wave. It’s a tsunami.”¹

With so many lawyers and judges at the threshold of retirement, our profession will soon be forced to face the challenges of aging as never before. The most difficult challenge will be how to determine when a member of our profession is no longer competent and should retire. At what point are a person’s mental abilities negatively affected by the aging process such that he or she is no longer fit to practice law?

Perhaps more important: When that point is reached, how can the situation be handled respectfully and in a caring way that preserves the dignity of the individual while concurrently protecting the public and the profession from damage that can be caused by an impaired person?

The painful issue of aging and dementia is especially personal to me in that I still remember the day our family had to take away my mother’s car keys. She was in the early stages of Alzheimer’s disease and, as her dementia increased, I witnessed one of the most capable, independent and quick-witted people I have ever known fall victim to a disease that viciously destroyed her mental faculties and ultimately took her life.

Lawyers Assistance Program, Inc. (LAP)

Your call is absolutely confidential as a matter of law.

Toll-free (866)354-9334
Email: lap@louisianalap.com

I know all too well that the issue of aging and incompetency is extremely difficult to address straightforwardly and responsibly in our private, personal lives, much less in the public context of the licensure of professionals and the duty to protect the public from harm.

In the past, large law firms have relied on mandatory retirement policies to reduce the potential for lawyers practicing beyond their years, but now those policies have become problematic against the backdrop of recent litigation wherein 32 plaintiff partners, as forced retirees, sued and settled a discrimination lawsuit against Sidley Austin, L.L.P., a Chicago-based law firm, for \$27.5 million.

State bar associations and lawyers’ assistance programs across the nation are trying to work in concert to establish voluntary services that can help identify and assist senior lawyers who need help transitioning out of the practice.

One of the barriers to formulating a uniform approach, however, is that different practice settings can govern whether a senior lawyer presents a risk. A large firm can provide support and backup in the form of law partners and law associates who can effectively buttress an aging lawyer’s practice and allow him or her to continue to practice safely.

Conversely, an aging solo practitioner with the same level of competency might run afoul of disciplinary problems if he or she is not being supported by fellow practitioners but instead by paralegals, secretaries and law clerks that, despite not being licensed to practice law, are now making decisions about a client’s representation.

Of course, all cases will have to be viewed independently. Aging lawyers are quick to point out that many in their ranks are sharper at 75 than some of their counterparts who are “burned out” at 50. But if age alone cannot establish when a lawyer should retire, what other mechanism can be utilized to detect and deal with the issue? Some have suggested that an anonymous online cognitive test should be made available so that aging lawyers can discreetly obtain feedback on where they stand—not compared to 25-year-olds but to their aging peers—so as to determine if they are experiencing any unusual difficulty. In the fullness of time, such tools may be available.

The Lawyers Assistance Program is already equipped to provide confidential help to aging members of our profession in the form of facilitating evaluations for those who are experiencing the adverse effects of aging or have otherwise become concerned about their ability to function. Also, it is important to know that some forms of dementia can be caused by conditions that are treatable.

By contacting the Lawyers Assistance Program, you can confidentially discuss concerns that you have about yourself, or a fellow practitioner, and discreetly and responsibly meet the challenges of aging in the legal profession. Call LAP toll free at (866)354-9334, email LAP@louisianalap.com, or visit LAP online at: www.louisianalap.com.

FOOTNOTE

1. To read the full article, go to: <http://tinyurl.com/aginginlegal>.

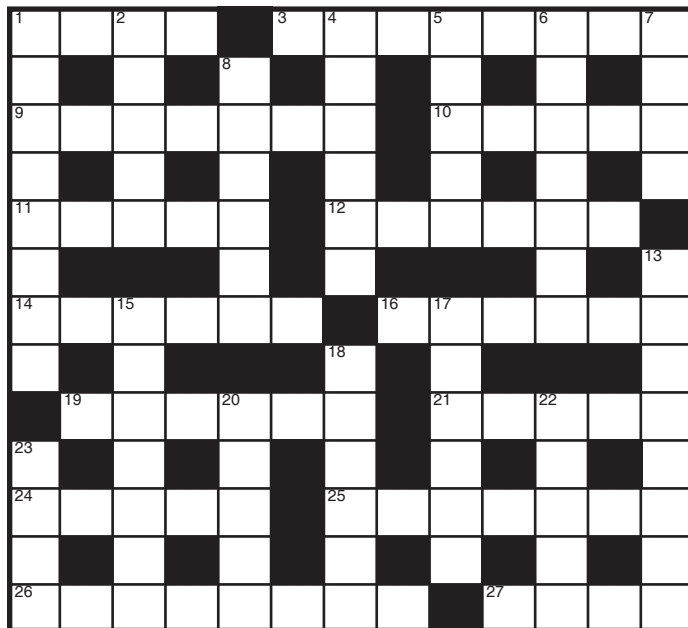
J.E. (Buddy) Stockwell is the executive director of the Lawyers Assistance Program, Inc. (LAP) and can be reached at (866)354-9334 or via email at LAP@louisianalap.com.



Crossword PUZZLE

By Hal Odom, Jr.

WE'RE IN THE MONEY



ACROSS

- 1 10-cent piece (4)
- 3 Impinge or overstep, as a building over the property line (8)
- 9 Dull and uninspired, as poor writing (7)
- 10 Like a cliché (5)
- 11 44th President (5)
- 12 Kicks out (6)
- 14 Find not guilty (5)
- 16 Money in Mexico, or in slang (6)
- 19 Charles de ____ (6)
- 21 \$10 gold piece (5)
- 24 Put counterfeit money into circulation (5)
- 25 Kind of pizza turnover (7)
- 26 Without delay or deviation (8)
- 27 Small coin often mistakenly called a "penny" (4)

DOWN

- 1 Sheepskins (8)
- 2 Money, in slang (5)
- 4 Five-cent piece (6)
- 5 Money in Russia (old spelling) (5)
- 6 Bening of "American Beauty" (7)
- 7 50-cent piece (4)
- 8 Big game expedition (6)
- 13 Furniture item bigger than a chair but smaller than a sofa (8)
- 15 25-cent piece (7)
- 17 Standards of excellence (6)
- 18 Implement for the cautious crossword solver (6)
- 20 Like a song (5)
- 22 \$1,000 bill (1-4)
- 23 British pound, in slang (4)

Answers on page 447.

Alcohol and Drug Abuse Hotline

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Houma	Bill Leary.....(985)868-4826		Dian Tooley(504)861-5682 (504)831-1838
Lafayette	Alfred "Smitty" Landry(337)364-5408, (337)364-7626	Shreveport	Michelle AndrePont(318)347-8532
	Thomas E. Guilbeau(337)232-7240		Nancy Carol Snow(318)272-7547
	James Lambert(337)233-8695 (337)235-1825		William Kendig, Jr.(318)222-2772 (318)572-8260 (cell)
			Steve Thomas.....(318)872-6250

The Lawyers Assistance Program, Inc. provides confidential assistance with problems such as alcoholism, substance abuse, mental health issues, gambling and all other addictions.

FOCUS on Professionalism

By Lauren E. Godshall

ABA MODEL RULES: THE DIGITAL AGE

The American Bar Association (ABA) has recognized the need to balance the use of technology in lawyer-client communication with the constant need to maintain professional standards of decorum and integrity in its latest updates to the Model Rules of Professional Conduct.¹ While the Model Rules themselves are nonbinding guidelines, they are extremely influential and serve as the model for Louisiana's own Rules of Professional Conduct (along with every other state and the District of Columbia, with the sole exception of California).

These revisions focused on lawyers' use of technology and client communication and made a few small — but potentially important — changes in the Model Rules to better reflect the technological age in which we now operate. For example, the term “writing” or “written” has been redefined to include the broader term “electronic communication” in lieu of “email.”² The term “email” was insufficiently broad to cover the range of instant messaging, texting, g-chats and other electronic means by which quick communication with clients is now possible. Even when texting “meet 2day?” to a client, a lawyer has not escaped the need to maintain professional confidences.

Perhaps more significantly, the Model Rules changed a comment to Rule 1.1, which addresses “competency.” The old comment stated that lawyers “should keep abreast of changes in the law and its practice.” The new addition now adds that the lawyer also should keep abreast of “the benefits and risks associated with relevant technology.” Louisiana does not incorporate the comments to the Model Rules as part of our own rules — but this at least demonstrates that the competency of an attorney includes knowledge and awareness of the digital age in which we operate and to respond accordingly. An attorney need

not develop a LinkedIn presence and a blog to represent a client “competently” — but may need to ensure that the client's claims and defenses are not compromised by that attorney's failure to request relevant electronically stored information.

Model Rule 1.6, which deals with keeping client information confidential, now includes a new section (c), which reads: “A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.” Information itself is a commodity that is vulnerable to theft and targeted frequently for its value. Lawyers must guard against the errant email to the wrong recipient or the thumb drive left behind in a courtroom that contains confidential client materials but lacks simple password protection.

Model Rule 4.4, also revised, is titled “Respect for Rights of Third Persons.” Part of this rule already deals with inadvertently produced documents and the lawyer's ethical obligation to recognize and promptly return such documents. Our Louisiana version currently reads: “(b) A lawyer who receives a writing that, on its face, appears to be subject to the attorney-client privilege or otherwise confidential . . . shall refrain from examining the writing, promptly notify the sending lawyer, and return the writing.” The ABA's new version of this rule provides that: “A lawyer who receives a document or electronically stored information relating to the representation . . . and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.” Interestingly, there is no “return the writing” requirement imposed by the ABA version of Rule 4.4, although there is here in Louisiana. Regardless, Louisiana attorneys must recognize that whether they receive a paper letter marked “attorney-client; do not produce” or an electronically stored

database of post-litigation attorney-client email exchanges, such information should be returned, not filed away for later use as an explosive trial exhibit.

These are not sweeping changes, and they should not affect the routine and daily practice of law for any attorney. They simply reflect today's need to balance the benefits of technology with the lawyer's obligations to protect client interests. When introducing these changes, the ABA Commission on Ethics 20/20 reported: “Technology can increase the quality of legal services, reduce the cost of legal services to existing clients and enable lawyers to represent clients who might not otherwise have been able to afford those services. Lawyers, however, need to understand that technology can pose certain risks to clients' confidential information and that reasonable safeguards are ethically required.”³

FOOTNOTES

1. Sean Doherty, “ANA Adopts Ethics Policy on Lawyers' Use of Technology,” *Law Technology News*, Aug. 8, 2012.

2. Louisiana's current rule, reflecting the old Model Rule, defines “writing” or “written” as “a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and email.” Louisiana Rules of Professional Conduct (with amendments through Sept. 30, 2011); www.ladb.org/Publications/ropc.pdf.

3. ABA Commission on Ethics 20/20 Reports to the House of Delegates, www.americanbar.org/content/dam/aba/administrative/ethics_2020/2012_hod_annual_meeting_105a_filed_may_2012_authcheckdam.pdf.

Lauren E. Godshall is a senior associate at Curry & Friend, P.L.C., in New Orleans and a member of the Louisiana State Bar Association's Committee on the Profession. She can be reached at laurengodshall@curryandfriend.com.



REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date Dec. 4, 2012.

Decisions

Evelyn Shahan Adams, Baker, (2012-OB-2220) **Transfer to disability inactive status** ordered by the court on Oct. 24, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 24, 2012.

Jarvis Martez Antwine, Baton Rouge, (2012-B-1797) **Public reprimand by consent** ordered by the court on Sept. 28, 2012. JUDGMENT FINAL and EFFECTIVE on Sept. 28, 2012. *Gist:* Failed to return an unearned fee; and failed to properly withdraw from the representation of a client.

Daniel E. Becnel III, Laplace, (2012-B-2139) **Suspension of nine months** ordered by the court as consent discipline on Nov. 2, 2012. JUDGMENT FINAL and EFFECTIVE on Nov. 2, 2012. *Gist:* Engaged in a consensual sexual relationship with a client.

Michael T. Bell, Baton Rouge, (2012-B-1689) **Interim suspension** ordered by the court on Sept. 19, 2012.

Joan S. Benge, Kenner, (2012-B-0619) **Suspended for three years, retroactive to her interim suspension** of Feb. 10, 2010, ordered by the court on Oct. 16, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 30, 2012. *Gist:* Removed from judicial office in November 2009 for her willful misconduct which undermined the integrity of the judiciary by showing her inability to remain impartial. Her misconduct is in violation of the Rules of Professional Conduct by engaging in conduct prejudicial to the administration of justice and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

William M. Claudel, Baton Rouge, (2012-OB-2425) **Transfer to disability/inactive status** ordered by the court on Nov. 21, 2012. JUDGMENT FINAL and EFFECTIVE on Nov. 21, 2012.

Steven C. Coward, Lake Charles, (2012-B-2002) **Suspended for two years, fully deferred, and placed on probation for five years, subject to conditions**, ordered by the court on Oct. 12, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 12, 2012. *Gist:* Commission of a criminal act that reflects adversely on

the lawyer's honesty, trustworthiness or fitness as a lawyer.

Jeffrey Wayne Davidson, Cutler, ME, (2012-B-1728) **Public reprimand** ordered by the court as reciprocal discipline for discipline imposed by Maine on Oct. 12, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 26, 2012. *Gist:* Making an unprofessional and offensive remark to a witness just prior to her taking the stand to testify.

Continued next page

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Jeff David Easley, Pineville, (2012-B-1565) **Conditional admission revoked** ordered by the court on Nov. 21, 2012. JUDGMENT FINAL and EFFECTIVE on Nov. 21, 2012. *Gist*: Conditional admission to practice law revoked.

Johnnie A. Jones, Jr., Baton Rouge, (2012-B-1701) **Suspension for two years** ordered by the court on Oct. 12, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 26, 2012. *Gist*: Failed to cooperate in the probation process following reinstatement; and engaged in the unauthorized practice of law while suspended.

Michael Wayne Kelly, Lake Providence, (2012-B-2105) **Disbarred by consent** ordered by the court on Oct. 26, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 26, 2012. *Gist*: Neglect of legal matters; failure to communicate; failure to return unearned fees; making false statements to clients; accepted representation while suspended from the practice of law; and making false statements to ODC in connection

with investigation.

Alfred F. McCaleb III, Livingston, (2012-OB-1460) **Permanent resignation in lieu of discipline** ordered by the court on Sept. 12, 2012. JUDGMENT FINAL and EFFECTIVE on Sept. 12, 2012. *Gist*: Multiple offenses of alcohol-related misconduct.

Brian Lee McCullough, Denham Springs, (2012-B-2040) **Suspended for one year and one day, fully deferred, subject to two years of unsupervised probation**, ordered by the court on Oct. 12, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 12, 2012. *Gist*: Commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer.

Paul S. Minor, Biloxi, MS, (2012-B-1006) **Permanent disbarment** ordered by the court on Oct. 16, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 30, 2012. *Gist*: Commission of a criminal act; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Scott E. Oliphant, Gray, (2012-B-1973) **Public reprimand** ordered by the court as consent discipline on Oct. 12, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 12, 2012. *Gist*: Notarized a document outside the presence of the signatory.

Walter Brent Pearson, Alexandria, (2012-B-0940) **Disbarment** ordered by the court on Oct. 16, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 30, 2012. *Gist*: Commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; and conduct involving dishonesty, fraud, deceit and misrepresentation.

Steven L. Rushing, Longview, TX, (2012-B-1172) **Four-year suspension (beginning Nov. 15, 2012, through Nov. 14, 2016) and then six-year suspension (beginning Nov. 15, 2016) with three years probated, with conditions imposed by the Supreme Court of Texas made reciprocal in the State of Louisiana**, ordered by the court on Sept. 14, 2012. JUDGMENT FINAL


Continued next page



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

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of Dec. 1, 2012.

Respondent	Disposition	Date Filed	Docket No.
Michael T. Bell	[Reciprocal] Interim suspension.	11/30/12	12-2373
Raymond Canzoneri, Jr.	[Reciprocal] Interim suspension.	11/8/12	12-2163
Alfred F. McCaleb III	Permanent resignation.	11/8/12	12-2372
Don L. Simmons, Jr.	[Reciprocal] Interim suspension.	11/8/12	12-2164

Discipline continued from page 413

and EFFECTIVE on Sept. 28, 2012. *Gist:* Neglecting a legal matter; failure to keep a client reasonably informed about the status of a matter; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Joyce Sainabou Sallah, New Orleans, (2012-B-1906) **Public reprimand by consent** ordered by the court on Sept. 28, 2012. JUDGMENT FINAL and EFFECTIVE on Sept. 28, 2012. *Gist:* Failed to respond to a client's request for his file; and failed to cooperate with the Office of Disciplinary Counsel in its investigation.

Jeananne Self, Shreveport, (2012-B-2170) **Interim suspension** ordered by the court on Oct. 9, 2012.

David C. Voss, Baton Rouge, (2012-

B-2282) **Suspended by consent for 90 days, fully deferred, subject to condition attending Ethics School**, ordered by the court on Nov. 16, 2012. JUDGMENT FINAL and EFFECTIVE on Nov. 16, 2012. *Gist:* Violating the Rules of Professional Conduct; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Eric F. Wright, Sr., New Orleans, (2012-B-1681) **Conditional admission permanently revoked** ordered by the court on Oct. 26, 2012. JUDGMENT FINAL and EFFECTIVE on Oct. 26, 2012. *Gist:* Conditional admission permanently revoked. Applicant has ignored his obligations under prior orders of the court; he has demonstrated that he lacks the character and moral fitness to practice law in Louisiana.

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

	No. of Violations
Advertisement that failed to disclose office location by city or town and addressing fees without disclosing client liability for costs	1
A fee may be contingent on the outcome of the matter for which the service is rendered. A contingent fee agreement shall be in writing and signed by the client.....	2
A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance.	2
Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation	1
Knowingly assisting another attorney in violating the Rules of Professional Conduct.....	1
The lawyer shall give the client sufficient information to participate intelligently in decisions that concern the objectives of the representation.....	2
TOTAL INDIVIDUALS ADMONISHED.....	4

— Laura N. Buck —

Attorney-at-Law

❖ **Visa and Naturalization Matters**

❖ **All Cases before the U.S. Immigration Courts**

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CLIENT ASSISTANCE FUND PAYMENTS - SEPTEMBER & NOVEMBER 2012

Attorney	Amount Paid	Gist
Brandi T. Boutwell	\$5,000.00	#1364 – Unearned fee in a domestic matter
Brandi T. Boutwell	\$2,700.00	#1373 – Unearned fee in a collection matter
Brandi T. Boutwell	\$4,650.00	#1375 – Unearned fee in a domestic matter
Brandi T. Boutwell	\$3,350.00	#1393 – Unearned fee in a domestic matter
Brandi T. Boutwell	\$3,500.00	#1414 – Unearned fee in a collection matter
James P. Gaharan, Jr.	\$4,850.00	#1398 – Unearned fee in a domestic matter
Marti Grosjean-Pearson	\$5,000.00	#1379 – Unearned fee in a criminal matter
Edwin D. Hawkins	\$750.00	#1399 – Unearned fee in a criminal matter
Johnnie A. Jones, Sr.	\$7,500.00	#1068 – Unearned fee in succession and property matters
Charles T. Phillips II	\$1,250.00	#1285 – Unearned fee in a community property matter
Charles T. Phillips II	\$5,000.00	#1386 – Unearned fee in a succession matter
Sherman G. Ruth	\$2,000.00	#1406 – Unearned fee in a criminal 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.

How do I qualify for the Fund?

Clients must be able to show that the money or property came into the lawyer's hands.

How do I file a claim?

Because the Client Assistance Fund Committee requires proof that the lawyer dishonestly took your money or property, you should register a complaint against

the lawyer with the Office of Disciplinary Counsel. The Disciplinary Counsel's office will investigate your complaint. To file a complaint with the Office of Disciplinary Counsel or to obtain a complaint form, write to: Disciplinary Counsel, 4000 South Sherwood Forest Blvd., Suite 607, Baton Rouge, LA 70816-4388. Client Assistance Fund applications are available by calling or writing: The Client Assistance Fund, 601 St. Charles Ave., New Orleans, LA 70130-3427, (504)566-1600 or (800)421-5722. Applicants are requested to complete an Application for Relief and Financial Information Form.

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.

Who can, or cannot, qualify for the Fund?

Almost anyone who has lost money due to a lawyer's dishonesty can apply for reimbursement. You do not have to be a United States citizen. However, if you are the spouse or other close relative of the lawyer in question, or the lawyer's business partner, employer or employee, or in a business controlled by the lawyer, the Fund will not pay you reimbursement. Also, the Fund will not reimburse for losses suffered by government entities or agencies.

Who decides whether I qualify for reimbursement?

The Client Assistance Fund Committee decides whether you qualify for reimbursement from the Fund, and, if so, whether part or all of your application will be paid. The committee is not obligated to pay any claim. Disbursements from the Fund are at the sole discretion of the committee. The committee is made up of volunteer lawyers who investigate all claims.



No Final Decision, No Judicial Review

An applicant for a gambling license requested that the Louisiana Gaming Control Board amend its meeting agenda to include consideration of its application to be awarded a recently surrendered license. The Board refused to do so because of the deficiencies in the applicant's timely filed but incomplete application. The applicant filed a petition for judicial review of that decision in the 19th Judicial District Court, which was dismissed when the trial judge maintained the Board's exception for the lack of subject matter jurisdiction.

In *Tomorrow's Investors, L.L.C. ex rel Jones v. State*, 92 So.3d 364 (La. App. 1 Cir. 2012), 11-1616 (La. App. 1 Cir. 3/23/12), writ denied, 12-0886 (La. 6/1/12), 90 So.3d 444, the appeals court upheld the decision of the trial court because there was no "final decision or order" to be judicially reviewed, as required by La. R.S. 27:26 (which is similar in wording and intent to La. R.S. 49:964 A). The court rejected Tomorrow's Investors' (TI) claim that the Board's refusal to amend its agenda to include TI's application was properly before the trial court. TI based this argument on *Delta Bank & Trust Co. v. Lassiter*, 383 So.2d 330, 334 (La. 1980), which concerns a finding that if life, liberty or property deprivation is at stake, there is jurisdiction for judicial review. The Court found that TI suffered no actual deprivation of property when its deficient license application was not placed on the Board's agenda and considered by it.

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State Law Authorizing Confidential Arbitration Proceedings Violates First Amendment

Del. Coalition for Open Gov't v. Strine,
___ F.Supp.2d ___, 2012 WL 3744718
(D. Del. Aug. 30, 2012).

On Aug. 30, 2012, the United States District Court of Delaware handed down its decision in a lawsuit initiated by the Delaware Coalition for Open Government (DelCOG) against the Hon. Leo R. Strine, Jr. and the Court of Chancery. The plaintiffs in the case sought to challenge the confidential-dispute-resolution proceeding laws established by the State Legislature in April 2009 on the basis that they violated the First Amendment qualified right of public access to judicial proceedings. The controversial laws granted the Court of Chancery "the power to arbitrate business disputes when the parties request a member of the Court of Chancery, or such other person as may be authorized under rules

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of the Court, to arbitrate a dispute.” Even though arbitration is a very common dispute-resolution procedure and often conducted by former judges, the issue in the new Delaware laws was that *sitting* judges were performing the arbitrations.

The new confidential-dispute-resolution laws did not open such proceedings to everyone and were not available in every case. The laws required that the parties must consent either by arbitration agreement or stipulation in order to have the Court of Chancery arbitrate their dispute. Access was authorized only if at least one of the parties was a business entity and one a Delaware citizen; however, no party could be a consumer, meaning “an individual who purchases or leases merchandise primarily for personal, family, or household purposes.” 6 Del. C. § 2731(1). The guidelines did not require a monetary minimum amount in controversy if the damages sought were for equitable relief; however, if only monetary damages were sought, then the amount in controversy had to be over \$1 million. This was a significant change because before the Court

of Chancery had limited jurisdiction to hear only equitable disputes. The new law now allowed the court to hear controversies involving monetary damages.

Many national corporations are based in Delaware, so the state courts are often the choice forum for many business disputes. The Delaware Legislature proposed the new laws as an attempt “to preserve Delaware’s pre-eminence in offering cost-effective options for resolving disputes, particularly those involving commercial, corporate, and technology matters.” They were meant to keep the Court of Chancery “at the cutting-edge in dispute resolution.” Del. H.B. 49 syn., 145th Gen. Assem. (2009).

Attacking the arbitration laws, DelCOG argued that they denied the public its right of access to judicial proceedings granted by the First Amendment because the laws authorizing these arbitration proceedings were merely disguised litigation. They claimed that these arbitrations resembled bench trials in a civil suit in the following ways:

▶ the arbitrator is not privately retained

by the parties, but rather a sitting judicial officer whose powers are granted by the state;

▶ the arbitrator functions similarly to a judge in a bench trial by analyzing evidence and hearing arguments;

▶ the costs and fees are paid to the court;

▶ the proceeding is conducted in a courthouse;

▶ the government pays the salary of the arbitrator and provides the resources needed in the courthouse; and

▶ the arbitrator’s decision is legally binding without any further judicial confirmation. Finally, DelCOG argued that the importance of the public’s right to access civil trials was necessary because it “enhances the quality and safeguards the integrity of the factfinding process” and “fosters an appearance of fairness, and heightens public respect for the judicial process.” 457 U.S. 596, 606 (1982).

The defendants’ position was that the First Amendment does not afford the public access to arbitration proceedings, and this has been true historically, both

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nationally and internationally. The defendants also pointed out that the confidential dispute-resolution proceeding benefitted Delaware business entities by providing local confidential arbitration for commercial disputes, without which such businesses might choose to operate outside of Delaware altogether. They also pointed out that the new arbitration procedures could reduce the delays and costs of litigation, which would increase the appeal of conducting business within the state.

Ultimately, the federal judge assigned to hear the case ruled in favor of DelCOG and struck down the new Delaware laws. Her reasoning was that the arbitration procedures essentially resembled a civil trial, which the Constitution requires to be open to the public under the First Amendment. When there are state-paid judges presiding over the dispute in state-supported facilities, the public must have access to the proceedings.

In regard to Louisiana, while this case might not have immediate impact, it will discourage the Louisiana Legislature from

enacting any future laws authorizing sitting judges to arbitrate disputes. Even though the U.S. 5th Circuit Court of Appeals has not seen a case where the arbitration proceeding resembles a civil trial, it is highly likely that the courts will hesitate to forbid access to the media or the public. The First Amendment right of public access is an integral part of our judicial system, ensuring the fair administration of justice. After this case, we can expect that any legislative attempt to cut costs or increase the efficiency of litigation will not involve the authorization of confidential judicial arbitration.

—Hayne Beautrous Caliva

3rd-Year Student, LSU Paul M. Hebert Law Center, Civil Mediation Clinic Under the Supervision of Paul W. Breaux, LSU Adjunct Clinical Professor, and Chair, LSBA Alternative Dispute Resolution Section
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Baton Rouge, LA 70810



“Specific and Unequivocal” Requirement for Claim Reservations Under the Plan

Compton v. Anderson, 701 F.3d 449 (5 Cir. 2012).

The debtor, MPF Holdings, sold its construction and supply contracts (the vendor contracts) to its largest vendor, Cosco, after filing for chapter 11. Under the plan, Cosco paid a lump sum toward the balance on the secured loan as consideration for the purchase of the vendor contracts and equipment. Soon thereafter, the litigation trustee began initiating avoidance actions, including actions against vendors that had participated in the Cosco transaction. The bankruptcy court *sua sponte* raised the issue of whether the plan’s reservation of avoidance actions was sufficient under *Dynasty Oil & Gas, L.L.C. v. Citizens Bank*, 540 F.3d 351, 355 (5 Cir. 2008), which held that unless a debtor makes a “specific and unequivocal” reservation of a cause of action, the debtor will lack standing to bring the claim post-reorganization. The bankruptcy court found that the reservation language of the plan did not meet this standard and thus no causes of action were reserved to the trustee.

On direct appeal, the 5th Circuit held that under *Dynasty Oil*, a plan of reorganization must contain a specific and unequivocal reservation of a claim in order for a debtor to pursue the claim post-bankruptcy. Applying general contract interpretation rules, the court outlined that simply because one party’s interpretation of a plan is reasonable, that fact alone is not sufficient to support a finding that a plan is ambiguous. While there was some disagreement as to which parties were released, that did not create an ambiguity as to whether the debtors retained the right to pursue released causes of action, which they unambiguously did not.

The 5th Circuit vacated and remanded

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the decision of the bankruptcy court, holding that (1) to reserve avoidance actions, a plan could simply reserve claims that “may exist;” (2) the plan language was sufficiently specific and unequivocal as the exhibits identified each defendant by name; and (3) the reservation clause of the plan specifically carved out released claims and was, therefore, unambiguous. As to those claims not specifically carved out, the 5th Circuit found the trustee maintained standing to sue on those actions reserved in the plan.

Judicial Estoppel Does Not Require Creditors to Assert All Post-Petition Arrearages

Wells Fargo Bank, N.A. v. Oparaji, 698 F.3d 231 (5 Cir. 2012).

Debtor, Titus Oparaji, filed for chapter 13 bankruptcy, listing Wells Fargo Bank as a creditor holding a mortgage over his residential property. After falling behind on the post-petition mortgage payments,

debtor modified his plan to add the past due amounts and Wells Fargo amended its proof of claim accordingly. Two years later, debtor amended his plan once more, providing only for the ongoing mortgage payments owed to Wells Fargo, not providing for prior post-petition mortgage payments already in default. One year later, the bankruptcy trustee had the bankruptcy dismissed as the debtor was in default.

Some time thereafter, the debtor filed for bankruptcy once more. In response, Wells Fargo filed a proof of claim including the pre-petition arrearages to cover all of the missed mortgage payments, as well as escrow advances paid by Wells Fargo to cover the property taxes and insurance. The debtor then sought to prevent Wells Fargo from asserting portions of its claim under the theory of judicial estoppel. The bankruptcy court granted summary judgment in favor of debtor, and the district court affirmed.

On appeal, the 5th Circuit stated the criteria used in evaluating a defense of judicial estoppel to include whether (1) the party against whom judicial estoppel is sought has asserted a legal position that

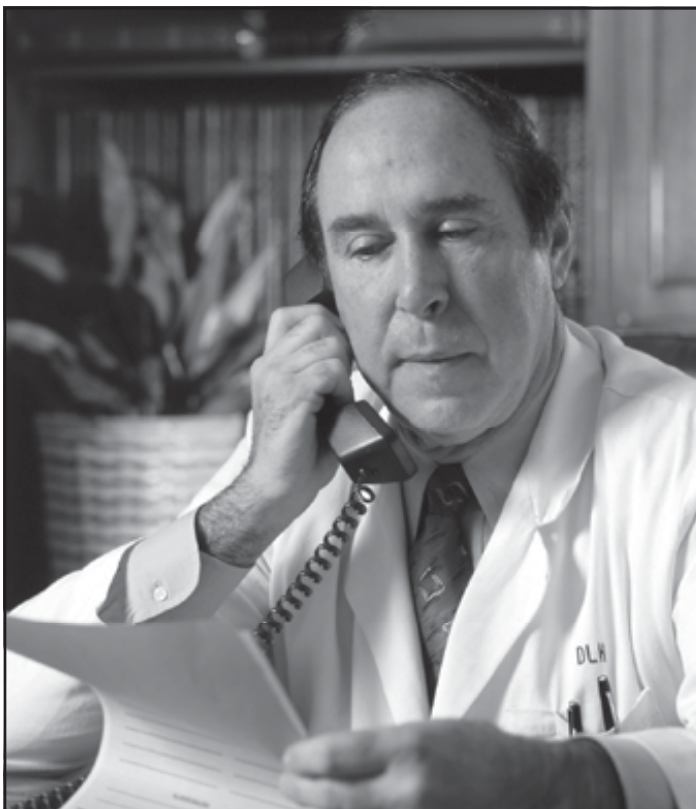
is “plainly inconsistent” with a position asserted in a prior case; (2) the court in the prior case accepted that party’s original position, thus creating the perception that one or both courts were misled; and (3) the party to be estopped has not acted inadvertently. Noting that the district court failed to identify any statute or judicial precedent that imposed a legal obligation on Wells Fargo to seek the total amount to which it was entitled in *each* amended claim, the 5th Circuit found that Wells Fargo was *not* required to include all of its post-petition arrearages in the amended claims. As Wells Fargo had not asserted legally inconsistent positions in the proceedings below, the 5th Circuit ruled the application of judicial estoppel was not warranted.

—Tristan E. Manthey

Chair, LSBA Bankruptcy Law Section
and

Alida C. Wientjes

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Settlement Reached with EPA on Clean Air Act Violations

In November 2012, Louisiana Generating, L.L.C., agreed to a settlement with the Environmental Protection Agency (EPA) and the U.S. Department of Justice regarding Clean Air Act violations

related to the company's Big Cajun II coal-fired power plant in New Roads, La. *See, United States v. Louisiana Generating, Inc.*, M.D. La., Case No. 3:09-cv-00100, Proposed Consent Decree filed Nov. 20, 2012 (Rec. Doc. No. 419).

According to EPA, this is the largest Clean Air Act settlement in Louisiana history. It also marks the 24th settlement under EPA's Power Plant Enforcement Initiative, the purpose of which is to reduce nitrogen oxide and sulfur dioxide emissions from coal-fired power plants under the Clean Air Act's New Source Review requirements. The Initiative began in 1999 when EPA filed seven lawsuits against electric utility companies in the Midwest and South for Clean Air Act

violations. EPA describes the Initiative as "[p]erhaps the most comprehensive, coordinated enforcement effort under the Clean Air Act to date." *See* EPA, Coal-Fired Power Plant Enforcement Initiative, available at: www.epa.gov/compliance/resources/cases/civil/caal/coal/index.html.

EPA's investigation of the Big Cajun II plant began in 2004. In notices of violations issued to Louisiana Generating in 2005 and 2006, EPA claimed that the company had made several major modifications to the facility, including replacing major portions of the primary and high-temperature boiler reheaters at two of the facility's electrical generating units, without obtaining a Prevention of Significant Deterioration permit.

As part of the settlement, Louisiana Generating agreed to implement several pollution control measures at the Big Cajun II plant at a capital cost of approximately \$250 million. These measures include:

- ▶ the installation of selective non-catalytic reduction (SNCR) technology, *i.e.*, pollution control technology that uses ammonia or urea injection into the boiler to reduce nitrogen oxide emissions, at all three of the facility's units;
- ▶ the continuous operation of dry sorbent injection at one facility unit to reduce sulfur dioxide emissions; and
- ▶ the operation of a particulate matter continuous emissions monitoring system (CEMS) at two facility units.

Louisiana Generating also agreed to pay a civil penalty of \$3.5 million (half of which goes to the state of Louisiana) and to spend an additional \$10.5 million on environmental-mitigation projects, including the installation of solar photovoltaic panels at local schools and government-owned facilities and the mitigation of nitrogen impacts in the False River area.

DNR Approves Second Act 312 Feasible Plan in *Savoie v. Richard*

On Nov. 10, 2012, pursuant to La. R.S. 30:29 (commonly referred to as



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Louisiana Act 312), the Louisiana Department of Natural Resources, Office of Conservation (DNR) approved an Assessment, Evaluation and Remediation Plan (plan) in *Savoie v. Richard*, No. 10-18078, 38th Judicial District Court, Cameron Parish. See, DNR Doc. No. ENV-2012-L-002. This is the second assessment plan that has been approved by DNR since Act 312 was passed in 2006.

The plaintiffs in *Savoie* filed suit in 2007 alleging property damage related to oil and gas operations in the Kings Bayou Oil and Gas Field in Cameron Parish, La. The case is governed by the Act 312 procedure that was in place prior to the 2012 amendments to the statute. The trial in *Savoie* occurred in fall 2011. The jury found that Shell Oil Co. and SWEPI, LP were responsible parties under Act 312. According to the jury verdict form, the jury awarded \$34 million in remediation damages and \$18 million for "additional or excess remediation that may be required" under the terms of a surface lease.

Act 312 requires that the party liable for environmental damage submit a plan for remediation to applicable standards of the contamination that resulted in the environmental damage. See, La. R.S. 30:29(C)(1) (prior to 2012 amendment). Shell submitted a proposed remediation plan to DNR on April 13, 2012. DNR held a public hearing on Shell's proposed plan

Aug. 7-13, 2012.

According to the plan, the site evaluation and cost estimate to implement the plan is \$3,963,003. With regard to chlorides, DNR concluded: "The remedial goal for chlorides is background. Background concentrations will be determined in accordance with section 2.13 of [the Louisiana Risk Evaluation/ Corrective Action Program ("RECAP")]." Plan Exhibit B, p. 14. DNR's written reasons supporting its approval of the plan provide that the plan "is both reasonable and compliant with all regulatory standards and is therefore the most feasible plan." Plan Exhibit C, p. 2.

The approved plan is now before the court, which, under Act 312, must adopt the plan unless a party proves by a preponderance of the evidence that another plan is a more feasible plan to adequately protect the environment.

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Procedure/Discovery

Sercovich v. Sercovich, 11-1780 (La. App. 4 Cir. 6/13/12), 96 So.3d 600.

Although Mr. Sercovich allegedly sold his interest in two L.L.C.s to his sons, Ms. Sercovich was entitled to obtain business records from the entities in discovery on her rule for final spousal support. She presented documents at the hearing on the motion to quash showing that Mr. Sercovich may still have had an interest in the entities, despite his claims that he did not. The court of appeal, however, ordered that the documents be produced *in camera* for an inspection by the court to limit the documents to those relevant to Mr. Sercovich's income and means.

Interim Spousal Support

Short v. Short, 11-1084 (La. App. 5 Cir. 5/22/12), 96 So.3d 552.

On her request for interim spousal support, Ms. Short did not produce the documentation required by La. R.S. 9:326. Instead, she relied on her income-and-



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expense form and on documents provided by Mr. Short regarding the family expenses. The trial court found, and the court of appeal agreed, that the expenses she listed were reasonable and in accordance with the parties' standard of living during the marriage. She also was not required to return to work after their physical separation because she was not working when they separated. He was entitled to credits for certain payments, but not toward payments on mortgages on their homes as those claims were more properly addressed in the community property partition and child support determinations and she did not list those expenses on her expense list. She also was entitled to interest on the support due even though it was an initial determination.

Custody

Schmidt v. Schmidt, 11-0833 (La. App. 5 Cir. 5/31/12), 96 So.3d 1276.

In allowing Mr. Schmidt physical custody on certain weekdays only from when the child got out of school until 7:30 p.m. when he had to go to work, the court of appeal seemed to agree with the trial court's reasoning not to allow him overnight visits because he was not home at night, even though his new wife was, and because there was "a preference for a biological parent to have custody."

Custody/Grandparents

Francis v. Francis, 11-2116 (La. App. 1 Cir. 6/13/12), 97 So.3d 1091.

The court of appeal held that visitation

rights allowed to certain nonparents under La. Civ.C. art. 136(B) were limited to nonparents "not granted custody," which "presupposes a custody dispute pursuant to Article 133, in which one nonparent person was granted custody and one nonparent person was not granted custody." In this case, because the dispute was between a parent and her parents, who sought visitation with their grandchild, there was no custody dispute in which the parents were not granted custody but, instead, custody was granted to a nonparent. Thus, the grandparents did not meet the requirement of not having been granted custody, so the mother's exception of no right of action was sustained.

Custody/Relatives

Cathey v. Ogea, 12-0324 (La. App. 3 Cir. 8/22/12), 98 So.3d 953.

The parents of the minor child were unwilling and unable to care for the child, so this custody matter was between the paternal aunt who originally sought custody of the child and the maternal aunt and uncle who intervened. La. Civ.C. art. 132 regarding parents' agreement as to custody does not apply to allow the parents to designate a nonparent to have custody when another nonparent is seeking to divest the parents of custody of the child; that article requires that one of the parents "provoked the jurisdiction of the trial court to decide a custody issue." Here, the real parties to the action were the relatives of the child, not the parents. Thus, La. Civ.C. arts. 133 and 134 apply. However, article 133 does not establish a

preference to a nonparent with whom the child has been living, but allows custody to be awarded to any person able to provide an appropriate environment.

In a *de novo* review of the record, the court of appeal affirmed the trial court's award of custody to the child's maternal aunt and uncle over the paternal aunt with whom the child had been living because, while she was in a stable relationship with her female partner, the aunt did not work and they lived in the partner's home. The court of appeal was concerned with the paternal aunt's financial stability, and the maternal aunt and uncle provided numerous advantages for the child. (Notably, the court of appeal did not comment on the two women's relationship.)

Child Support

Anderson v. Anderson, 11-0864 (La. App. 5 Cir. 5/31/12), 96 So.3d 1278.

Because Mr. Anderson lost his job and could not obtain a job at the same salary due to his taking narcotics from his employer and failing a drug test, he was found to be voluntarily unemployed. Further, he had agreed in a consent judgment after he lost his job to pay child support based on his prior income. Because she was found to be disabled by the Social Security Administration, she was unable to work and was not voluntarily unemployed. Further, her Social Security payment could not be used as income to calculate child support; however, it could be attributed as income to her for interim spousal support

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purposes. Deposits to her account by her parents while Mr. Anderson was not paying monthly support were not included as income to her.

Community Property

Eustis v. Eustis, 11-0800 (La. App. 5 Cir. 3/27/12), 97 So.3d 1.

The parties' 50 percent undivided interest in a real estate development L.L.C. could be partitioned between them so that each individually owned a 25 percent membership interest, even though the other 50 percent was owned by Ms. Eustis's brother, and Mr. Eustis complained that he was subject to being taken advantage of by them due to his minority interest, the brother's sole management of the entity, and other restrictions and requirements in the Operating Agreement. The court of appeal distinguished between the allocation of community property interests in corporeal and incorporeal properties, finding that this asset could be fully partitioned by allocating each party a 25 percent membership interest.

—David M. Prados

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Jones Act Seamen: Maintenance and Cure

Jones v. Howard McCall, Inc., 12-0558 (La. App. 3 Cir. 11/7/12), ___ So.3d ___, 2012 WL 5423226.

Jones was employed by ABCCO to sandblast and paint an offshore platform, a job that lasted five months. In late December, ABCCO, as was its practice, contracted with Cameron Charter to provide a vessel, the M/V Howard McCall, to transport its workers to the rig, provide a work platform, a storage site for equipment, a place for the workers to eat and sleep and to transport them back upon completion of the job. In mid-January, in accordance with the terms of its contract, ABCCO dispatched Jones and another worker to Grand Chenier to sandblast and paint portions of the M/V Howard McCall so that the vessel finished the contract in the same condition it began. On Jan. 18, while exiting the wheelhouse, Jones fell and sustained personal injury. Soon thereafter, Louisiana Workers' Compensation Corp. (LWCC), ABCCO's workers' compensation insurer, began paying benefits.

Jones filed suit in state district court alleging two causes of action. First, that as a Jones Act seaman, all three defendants

were liable to him under federal general maritime law and the Jones Act, 46 App. U.S.C.A. § 688, or alternatively, under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C.A. § 901 *et seq.* Second, that as he was rendered unfit for duty as a result of his accident, he was entitled to maintenance and cure. These pleadings raised three claims for relief: negligence, unseaworthiness, and maintenance and cure. LWCC intervened, seeking recovery of the workers' compensation it had paid Jones on behalf of ABCCO. The trial court granted directed verdicts against all defendants on the negligence issue. The jury found that Jones was a Jones Act seaman, that he was injured, that he had reached maximum medical improvement and that he was entitled to awards of maintenance and cure. On appeal, ABCCO asserted two assignments of error: (1) the jury erred in finding that Jones was a Jones Act seaman; and (2) the court erred in failing to offset the jury's maintenance-and-cure awards by the amounts previously paid in workers' compensation benefits and medical expenses.

Any discussion of who is a Jones Act seaman necessarily begins with reference to the United States Supreme Court's decision in *Chandris, Inc. v. Latsis*, 115 S.Ct. 2172 (1995). Justice O'Connor's opinion, to state the matter briefly, established a two-pronged test. First, the employee's duties must contribute to the function of the vessel or to the accomplishment of its mission. Quoting *McDermott International, Inc. v. Wilander*, 111 S.Ct. 807, 817 (1991), the court stated: "All who work at sea in the service of a ship' are *eligible* for seaman status." *Chandris*, 115 S.Ct. at 2189. Second, the seaman "must have a connection to a vessel in navigation . . . that is substantial in terms of both its duration and its nature." *Id.*

The determination of seaman status a mixed question of law and fact. "The Jones Act remedy is reserved for sea-based maritime employees whose work regularly exposes them 'to the special hazards and disadvantages to which they who go down to sea in ships are subjected.'" *Id.* at 2190, quoting *Seas Shipping Co. v. Sieraki*, 66 S.Ct. 872, 882 (1946).

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to Jones's undisputed testimony of his factual scenario, the appellate court found no manifest error (the standard of review) in the jury's finding that Jones was a Jones Act seaman.

As to ABCCO's assertion that maintenance-and-cure awards should be offset by amounts previously paid to Jones under its workers' compensation policy, the 3rd Circuit found no merit. Describing maintenance and cure as "an ancient duty imposed upon the owner of a ship to provide food, lodging and necessary medical services to seamen who become ill or injured during service to the ship," the court noted that recovery does not depend on the negligence of the vessel or its owner, and the burden of proof is "relatively light."

The judgment of the trial court was affirmed in all respects.

Tort: Immunity under Louisiana Workers' Compensation Act

Bougere v. Northrop Grumman Sys. Corp., 12-0181 (La. App. 5 Cir. 11/13/12), ___ So.3d ___, 2012 WL 5500497.

Fernand Bougere worked for Avondale for 41 years, retiring as a welding supervisor in 1986. He developed mesothelioma, allegedly caused by exposure to asbestos during his employment, from which he died in 2010. His family filed suit against Avondale's executive officers' insurers. They asserted survival and wrongful death claims under La. Civ.C. arts. 2315.1 and 2315.2 and alleged the officers' negligence in failing to provide a safe workplace. The trial court granted defendants' exception of no cause of action and dismissing plaintiffs' wrongful death claims, citing the officers' tort immunity under the exclusivity provision of the Louisiana Workers' Compensation Act, La. R.S. 23:1032, as amended by Act 147 of 1976. The amendment further extended tort immunity to any "principal, officer, director, stockholder, partner, or employee of the employer."

Plaintiffs asserted that because Bougere was exposed to asbestos and was subjected to the executive officers' negligence prior to the 1976 amendment, the pre-1976 law should apply. The leading case on the question is *Walls v. American Optical Corp.*, 98-0455 (La. 9/8/99), 740 So.2d 1262.

Citing *Walls*, the court held:

An action for wrongful death is authorized by La. C.C. art. 2315.2 and compensates beneficiaries for their own injuries suffered as a result of the victim's death. The Louisiana Supreme Court has consistently recognized that an action for wrongful death does not and could not arise until the date of the victim's death.

The 5th Circuit found that the plaintiffs' wrongful death action arose in 2010 when Mr. Bougere died. Thus, the post-amendment law applied, extending tort immunity to Avondale's executive officers and barring plaintiffs' wrongful death claims against them.

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Russia and Moldova Jackson-Vanik Repeal & Sergei Magnitsky Rule of Law and Accountability Act of 2012 (H.R. 6156).

President Obama signed groundbreaking legislation on Dec. 14, 2012, repealing a Cold War-era law prohibiting normal trade relations with Russia. The legislation grants Russia and Moldova Permanent Normal Trade Relations (PNTR) status, allowing the United States to take full advantage of the tariff cuts and market access opportunities negotiated in Russia's Aug. 22, 2012, accession to the World Trade Organization (WTO). The legislation passed the Senate by a vote of 92-4, with an equally overwhelming 365-43 vote by the House. Russia criticized the legislation as it continues to allow the United States to sanction Russian officials for human-rights violations. Russia is an important growing market for Louisiana. The state's exports to Russia increased by 64 percent in the third quarter of 2012, compared to 8 percent for the rest of the world. PNTR not only opens the Russian market but provides American businesses with access to the WTO dispute-settlement system to resolve trade disagreements.

NML Capital, Ltd. v. Argentina, 699 F.3d 246 (2 Cir. 2012).

The 2nd Circuit issued an important ruling on a sovereign debt default generating international headlines and resulting in the seizure of an Argentine naval-training vessel docked in Ghana. The Republic of Argentina defaulted on roughly \$80 billion of its public sovereign external debt in 2001 by issuing a temporary moratorium on principal and interest payments. The moratorium has renewed annually with no payments made to bondholders since 2001. Two exchange offers were made in 2005 and

2010, allowing bondholders to exchange defaulted debt for new unsecured and unsubordinated debt. Many bondholders accepted the exchange and waived various bondholder rights and remedies.

NML Capital declined the exchange and filed suit in the Southern District of New York against Argentina seeking specific performance of the equal-treatment provision of the bonds, which prevents the issuer from discriminating against original bonds in favor of new, unsecured and unsubordinated bonds. NML Capital alleged breach of contract and sought an injunction preventing payments on the reissued 2005 and 2010 debt. The district court granted permanent injunctions preventing Argentina from making the payments without issuing comparable payments to the original debtholders under the equal-treatment provision. The 2nd Circuit affirmed, upholding the equal-treatment provision and declining to find violations of the Foreign Sovereign Immunities Act. The court remanded for a determination on how the payment formula fashioned by the district court will operate and impact third parties.

While the decision is a victory for NML Capital and similarly situated hold out bondholders, it is not without its detractors. Many nations and credit markets criticized the court for interfering with international relations and the sovereign ability to restructure debt for the public good. President Kirchner of Argentina continues to reject the claims

of the so-called "vulture" funds that purchased much of the defaulted debt. In the meantime, the sailing vessel Liberty remains in a Ghanaian port awaiting a ruling from either the Law of the Sea tribunal or the International Court of Justice.

Resource Guide to the U.S. Foreign Corrupt Practices Act

On Nov. 14, 2012, the Criminal Division of the U.S. Department of Justice and the Enforcement Division of the U.S. Securities and Exchange Commission issued long-awaited guidelines on the U.S. Foreign Corrupt Practices Act (FCPA). FCPA prosecutions have skyrocketed in the past five years, resulting in some of the largest fines in U.S. history. The guidance provides an in-depth examination of what constitutes bribery under the FCPA and what affirmative defenses are available to businesses caught in the crossfire of an investigation. Both external and in-house counsel should familiarize themselves with the publication before advising clients on overseas business practices.

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Judicial Ascertainment Clause

B.A. Kelly Land Co., L.L.C. v. Questar Exploration & Prod. Co., 47,509 (La. App. 2 Cir. 11/14/12), ___ So.3d ___, 2012 WL 5503665.

After the primary term of a mineral lease, there was a period of several

consecutive months in which the lessees did not produce minerals or conduct operations. The lessor sought a declaration that the lack of production had caused the lease to terminate.

The lessees contested the lessor’s claim, arguing that the lease had not terminated for two independent reasons. First, the lease’s habendum clause provided that the lease would remain in effect for the primary term “and as long thereafter” as minerals were produced or the lease was “maintained in any other manner provided.” The lessees asserted that the lease’s shut-in clause provided one of the “other manners” for maintaining the lease and that the lease had been maintained pursuant to that clause.

Second, the lease contained a clause

stating that, once the lessee had produced minerals:

[T]his lease shall not be subject to forfeiture or loss, either in whole or in part, for failure to conduct operations in compliance with this contract except after judicial ascertainment that Lessee has failed to conduct such operations and has been given a reasonable opportunity after such judicial ascertainment to prevent such loss or forfeiture by complying with and discharging its obligations as to which Lessee has been judicially determined to be in default.

The lessees argued that this “judicial ascertainment clause” prevented lease termination because the lessor had never obtained the required “judicial ascertainment” or given the lessees a chance to cure any default.

The lessor replied that the shut-in clause did not apply under the circumstances that had existed during the period of non-production. Further, the lack of production was a resolatory condition that caused automatic termination of the lease. Thus, the judicial ascertainment clause did not apply. Moreover, the lessees were not entitled to an opportunity to cure because once the lease has terminated for non-production, subsequent production cannot retroactively revive the lease.

The district court dismissed the lessor’s claims on summary judgment and denied the lessor’s request to amend its petition to request a judicial ascertainment. The lessor appealed.

The Louisiana 2nd Circuit concluded that the judicial ascertainment clause would prevent automatic termination, provided there was a bona fide dispute regarding termination, and that there was a bona fide dispute regarding whether the shut-in clause had prevented termination of the lease. Accordingly, the lessor’s suit seeking a declaration that the lease had terminated was premature. But instead of affirming the dismissal, the appellate court remanded, holding that the district court had erred when it denied the lessor’s request for leave to amend its petition to seek a judicial ascertainment.

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Usufructs

Quantum Res. Mgm't, L.L.C. v. Pirate Lake Oil Corp., 12-0256 (La. App. 5 Cir. 11/13/12), ___ So.3d ___, 2012 WL 5500501.

Mr. and Mrs. Jones had three children. Mrs. Jones died testate, bequeathing to Mr. Jones all her property, including certain land that was separate property and subject to a mineral lease. But the children were forced heirs, and in a succession proceeding, the legacy to Mr. Jones was reduced to a one-half interest in the property and a usufruct over the remaining one-half interest. No oil or gas well existed on the property at the time Mrs. Jones died, but a well was drilled between the time of her death and the time of the order reducing Mr. Jones's legacy. Mr. Jones and a daughter disputed who was entitled to royalties from the well, so the operator of the well filed a concursus.

Mineral Code article 190(B) governs the extent to which a usufructuary of land has a right to proceeds from minerals when the "usufruct is that of a surviving spouse," but the Louisiana 5th Circuit concluded that article 190(B) did not apply. The court reasoned that Mr. Jones had inherited the usufruct in the capacity of a legatee, not as a "surviving spouse."

The court determined that Mr. Jones's usufruct was a conventional usufruct and that Mineral Code article 190(A) applied. It provides that:

if there is no provision including the use and enjoyment of mineral rights in a conventional usufruct, the usufructuary is entitled to the use

and enjoyment of the landowner's rights in minerals as to mines or quarries actually worked at the time the usufruct was created.

With respect to oil and gas, Mineral Code article 191 explains that this means the usufructuary is entitled to "the landowner's rights in minerals as to all pools penetrated" by any wells that were producing or capable of producing when the usufruct was created.

The daughter argued that the father's usufruct was created at the time of his wife's death (before any wells existed) because a legatee's right to inherited property arises at the time of a testator's death, but the court disagreed. The mother's testament had granted the father full ownership. The succession proceeding court reduced his legacy (and substituted a usufruct) because it impinged on the children's rights as forced heirs, but forced heirs can waive their rights, and such rights do not affect a succession until asserted and recognized by a court. Thus, the father was entitled to proceeds from the well that was drilled after his wife died and before the judgment reducing his legacy.

—**Keith B. Hall**

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90-Day Suspension and Failure to Appoint an Attorney Chair

Turner v. Willis Knighton Med. Ctr., 12-0703 (La. 12/4/12), ___ So.3d ___, 2012 WL 6015598.

Mrs. Turner filed a medical-review-panel request on Aug. 20, 2009, claiming negligent care caused the death of her husband on Aug. 20, 2008, and naming as respondents a hospital and four doctors. On Aug. 27, 2009, the PCF acknowledged receipt of the panel request, advised that the hospital was a qualified health-care provider under the private MMA, but reported it did not have enough information to qualify the doctors. On April 1, 2010, the Division of Administration acknowledged that the doctors were qualified health-care providers under the public MMA.

On May 24, 2010, Turner was notified her panel request would be dismissed unless an attorney chairperson was appointed "within one year from the date of filing as indicated above." The PCF's letter showed the date of filing to be Aug. 20, 2009, and stated that the chair had to be appointed from that "file date."

On July 14, 2010, new counsel enrolled for Turner and requested that claims against the private and public health-care providers should proceed as a "joint medical panel."

By Aug. 20, 2010, no attorney chair having been appointed, the PCF sent a certified letter dated Aug. 25 to newly enrolled counsel advising that the failure to appoint a chair within one year caused it to close the claim and deem the Medical Review Panel to have been waived. It also advised that a lawsuit must be filed within 90 days after the dismissal in accordance with the MMA. The PCF's letter was received by counsel on Aug. 27, 2010.

Turner's lawsuit was filed on Nov. 23, 2010, alleging malpractice against the same providers. The hospital filed an exception

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of prescription, claiming the suit was filed beyond the one-year anniversary of the initial complaint plus the 90-day statutory suspension of prescription. The doctors also filed an exception of prescription and alternatively an exception of prematurity. Turner responded that the claim was filed within 90 days after the PCF's August letter notifying her that her claim had been dismissed. The trial court granted the exceptions of prescription, following which the doctors withdrew their exception of prematurity. The 2nd Circuit Court of Appeal reversed the decision on prescription and ruled that the parties' prematurity exception should also be dismissed.

La. R.S. 40:1299.47(2)(C) is the controlling statute. It requires the selection and appointment of the attorney chair within one year from the date a Request for Review is filed. In Turner's case, that was Aug. 20, 2009. The statute also provides for two warning notices to be sent by the PCF, the first sometimes referred to as the "nine-month letter" to be sent within nine months of the filing date, advising the parties by certified or registered mail that the claim is to be dismissed in 90 days absent the appointment of an attorney chair. The letter sent to Turner's counsel warned that the entire appointment process had to be completed within a year from the "file date"

of Aug. 20, 2010, in the absence of which the PCF would "close the claim," further advising that even if the "strike process" was used, the appointment must nevertheless be complete by the one-year file date.

The second-notice provision requires the PCF to "promptly send notice" to all parties that the claim has been dismissed, that the medical-review-panel requirement has been waived and that prescription is suspended for 90 days after the dismissal of the panel request. This notice to Turner's lawyer was dated Aug. 25 and received by him on Aug. 27.

The Supreme Court stated that the issue presented centered around the date of the PCF's dismissal of the claim "because that is what statutorily commences the statutory 90-day grace period, the completion of which recommences the running of prescription."

For instance, here, the date of the nine-month letter was May 24, 2010, and 90 days from that date was Aug. 22, 2010. However, even if the statutory 90-day grace period began on that date, this suit would still be prescribed as it was filed on Nov. 23—more than 90 days from Aug. 20. The court set forth the issue as "whether notice of dismissal or actual dismissal commences the statutory 90-day grace period continuing suspension of the prescriptive period."

The court concluded that irrespective of

possible confusion over whether dismissal "actually occurs 90 days after the nine-month letter, or one year after the request for review is filed, there is no question that dismissal, not notification, triggers the 90-day grace period in which prescription continues to be interrupted."

The court's holding was that failing to appoint a chair within one year from filing is deemed a waiver of the panel process and leaves the plaintiffs 90 days (plus time remaining on the one-year prescriptive period of La. R.S. 9:5628(A)) in which to sue. The court also said that while the statute requires the parties to be notified of the consequences for failing to appoint nine months after filing the claim, and that they must also be "properly" notified after the claim has been dismissed, neither of these notifications initiates the running of the 90-day grace period. The court held: "As dismissal, not notification, begins the 90-day grace period, Mrs. Turner's suit, filed more than 90 days after the suit was dismissed, has prescribed."

—Robert J. David

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Servient Estate Owner's Right to Relocate a Right of Passage

Thibco Investments, L.L.C. v. Thibodeaux,
12-0427 (La. App. 3 Cir. 11/7/12), ___
So.3d ___, 2012 WL 5417133.

The Louisiana 3rd Circuit Court of Appeal held that the relocation clause in a deed to the owner of an enclosed estate that attempted to limit the servient estate owner's right to relocate the right of passage and the roadway and that shifted the allocation of costs to the owner of the dominant estate was not enforceable as a predial servitude.

The servitude in dispute was originally created on Aug. 9, 1982, in an act between the predecessors in title to the properties at issue. The act provided certain obligations and stipulations regarding the exercise of

the servitude. Specifically, the act reserved the right of the owner of the servient estate to require the owner of the servitude of passage to move the servitude one time at his expense.

After concise and clear recitation of the applicable law, the appellate court affirmed the trial court's finding that the plaintiff had no right of action, reasoning that the relocation clause impermissibly altered the Louisiana Civil Code articles addressing rights of passage and was, therefore, unenforceable. The court first noted that pursuant to La. Civ.C. art. 689, the owner of an enclosed estate may claim a right of passage over neighboring property to the nearest public road. However, "[t]he owner of the enclosed estate has no right to the relocation of this servitude after it is fixed. The owner of the servient estate has the right to demand relocation of the servitude to a more convenient place at his own expense, provided that it affords the same facility to the owner of the enclosed estate." La. Civ.C. art. 689.

Citing Yiannopoulos, *Predial Servitudes* § 159 at 440, the court further noted that "[t]he right of the owner of the servient estate to demand relocation of the servitude is

imprescriptible." Additionally, "[p]redial servitudes are perpetual in the sense that, if properly used, they do not terminate upon the lapse of any period of time." *Id.*, § 10 at 35.

Reasoning that the Civil Code articles on right of passage clearly meant for the servient estate to retain the right, at its own expense, to relocate the right of passage as often as necessary with the only limitation being that the new location afford the same facility to the owner of the dominant estate, the court held that the clause restricting relocation of the right of passage and the private road and shifting the allocation of costs to the owner of the dominant estate was unenforceable as a predial servitude. As a result, the court held that plaintiff did not have an interest in enforcing the provision and upheld the trial court's grant of the exception of no right of action.

—Christina Peck Samuels

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Mr. Stovall has conducted trainings for over 2000 individuals including judges, attorneys, executives, human resource personnel and mental health professionals. He has taught mediation at five universities and conducted in house training for: EEOC, the US Postal Service, the US Department of Veteran's Affairs, Altus Air Force Base, Fort Sill Army Base, and Lucent Technologies.



He holds a Master of Divinity from Phillips Theological Seminary, a BA from the University of Illinois, and attended Louisiana State University Law School. He is a practitioner member of the Association for Conflict Resolution, and is a member and past president of the Oklahoma Academy of Mediators and Arbitrators.

CHAIR'S MESSAGE

Law Office Practice: Seminar Highlights

By Larry Centola

The Louisiana State Bar Association's Young Lawyers Division held its annual Professional Development Seminar in New Orleans on Jan. 18. The event was well attended and the attendees learned a lot. Plus, where else can you get 4 hours of CLE for \$30?



Larry Centola

Tobin J. Eason presented the Law Office Practice hour at the seminar and I served as his sidekick. Tobin, a partner with Weiss & Eason in Mandeville, practices primarily in the fields of maritime, environmental and corporate defense litigation. Here are some of the highlights of the presentation:

Trust Account

I am sure that everyone reading this article has a trust account. The Supreme Court requires that every Louisiana attorney must disclose the existence of his/her trust account. Further, you must agree that the Office of Disciplinary Counsel will be notified by the bank if you overdraft your trust account. If you do not have a trust account, stop reading and go get one. Call the Louisiana Bar Foundation at (504)561-1046 and ask about banking institutions in your area that offer attorney trust account services.

When you receive a check, it is likely

that it is the client's and not your money. There are rules you must adhere to when handling other people's money. Unfortunately, lawyers often have to deal with the Office of Disciplinary Counsel as a result of mishandling client funds or overdrawn trust accounts. If you want to learn more about the trust account rules, attend one of the free CLEs offered by the Louisiana Attorney Disciplinary Board. For a list of CLEs in your area, go online: www.ladb.org.

Going the Extra Mile

Many times, going the extra mile does not take that much more effort and the payoff is exponentially greater than the effort. Think about this—the average male in the United States is 5-feet-10-inches. If a 6-foot-4-inch person walks into a room, we all notice the 6-foot-4-inch person; yet, that person is only about 8 percent taller than the average man. The 8 percent increase makes a perceptively large difference.

The same theory is true in your practice. If you are doing 8 percent more than your competitor or your opponent, your extra effort will be perceptively large. Strive to give that extra 8 percent.

We Are Like Mechanics

When your car breaks down, what are you looking for in a mechanic? We usually look for someone who will address our needs for a fair price. Once we find that person, we tend to trust that person and

may become repeat customers.

The same is true in a law practice. Clients are looking for someone to address their needs for a fair price; once you build trust, that client will come back to you time and time again. If you are going the extra 8 percent mentioned above when that client gives you the first piece of business and you charge a fair rate, that client is likely to return.

Billable Hour

Many of us dread the billable hour. If your firm does not have a billable-hour requirement, it is likely there is some other measure of productivity. Take the time to sit down with your immediate supervisor and talk about productivity. Although many of us practice purely for the love of the law, it is part of our supervisors' jobs to make sure we are productive. Plus, most of us have to make money for ourselves and our families, so it is good to be productive. Yes, it is OK to make money while practicing law.

Take the time with your supervisor to learn the different billing codes and functions. Learn the difference between block billing and itemized billing. Different clients have different rules and different expectations. Learn what clients expect their bills to look like. Billing can be an art, it can be a skill, and it is often a necessity at your firm. If it is a necessity, the earlier you learn how to manage billing, the happier you will be in the practice of law.

YOUNG LAWYERS SPOTLIGHT

Emily Gremillion Meche Marksville

The Louisiana State Bar Association's Young Lawyers Division is spotlighting Marksville attorney Emily Gremillion Meche.

Meche, an attorney in the firm of Brian Caubarreux & Associates in Marksville, earned a BS degree, *summa cum laude*, in criminal justice in 2004 from the University of Louisiana-Lafayette (ULL). While at ULL, she was recognized as the Out-



Emily Gremillion
Meche

standing Graduate in Criminal Justice. She resumed her education at Southern University Law Center, graduating *cum laude* in 2007. While at Southern, she was a member and officer in the Phi Alpha Delta Legal Fraternity, and she clerked at the law firm of Forrester & Dick for Shelly Dick, who has been appointed by President Barack Obama to assume a federal judgeship in the Middle District of Louisiana.

After graduating from Southern, she began work as a judicial law clerk to Judge William J. Bennett and Judge Mark A. Jeansonne with the 12th Judicial District Court in Avoyelles Parish. After completing her clerkship, she joined Brian Caubarreux & Associates, practicing in the areas of plaintiff personal injury, workers' compensation and Social Security disability.

Meche is heavily involved in various legal groups and associations. She is

currently president of the Avoyelles Parish Bar Association, having previously served as vice president and secretary/treasurer. She is a member of the Louisiana Association for Justice and the American Bar Association. She also has participated as a volunteer for the Avoyelles Parish Teen Court.

Outside of her legal career, she serves as the Family Readiness Volunteer/Director of the 259th Air Traffic Control Squadron in Alexandria. In 2010, she was the recipient of the Louisiana Family Readiness Volunteer of the Year Award for the Louisiana National Guard's Office of Family Programs.

Meche enjoys spending time with her husband, Scott Meche, and their 3-year-old son. She and her family are members of the Sacred Heart Catholic Church in Moreauville.

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Voting/Good Citizenship Program Benefits 3,300 Students

The “Citizens, Not Spectators” program is a free voting curriculum that emphasizes the importance of voting and good citizenship. This program aids in demystifying the voting process by teaching elementary, middle and high school students how to cast a vote, how the voting process works, and why it is important to cast an informed vote. Teachers who utilize this curriculum for the first time can earn up to \$300 for the purchase of law-related materials for their classrooms. This year, the Louisiana Center for Law and Civic Education (LCLCE) was instrumental in engaging more than 3,300 students in the program and in bringing more than \$5,000 to participating Louisiana schools for the purchase of law-related education materials. More than 175 students registered to vote.

The Louisiana teachers and schools participating in this year’s program included: Virginia Reedy-Lindsey, Westdale Heights Academic Magnet School; Joelle Flaherty, Montessori Educational Center; Emily Antrainer, Cedarwood Middle School; Carrie Menge, Southeast Middle School; Zana Curley, Belle Chasse Middle School; Carla Powell, Belaire High School; Evelyn Longino, Red River High School; Brendan Gonzalez, Benjamin Franklin High School; Wanda Murphy, Claiborne Christian School; Robyn Verbois, Christian Life Academy; Jordan Smith, Jennings High School; Monica Speyrer, C.E. Byrd High School; Missy Varnado, Bowling Green School; Shannon Hudson, St. Amant High School; Mallory Manuel, Academy of the Sacred Heart; Jennifer Donewar, Mandeville High School; and Liz Tullier, Academy of Legal Studies at Northside High School.

Several of the teachers provided positive feedback on the program.

Wanda Murphy, a teacher at Claiborne



Students at Benjamin Franklin High School in New Orleans were among the 3,300 Louisiana students participating in the “Citizens, Not Spectators” program this year.

Christian School in West Monroe, said even her younger students were excited. “I have taught the ‘Citizens, Not Spectators’ curriculum, supplemented with *geauxvote.com* and ‘We the People’ materials. We have analyzed each of the planks in the platforms of the Republicans, Democrats and Libertarians. It has been an eye-opener for each of my high school classes. Thank you for giving us the nudge to educate students in this way.”

Evelyn Longino, a teacher at Red River High School in Coushatta, agreed. “I used the program in all my civics classes, which impacted 57 students. The program was great and aligned with our civics standards. I feel the students better understand the importance of being an informed and involved citizen. I think they have a better understanding of the election process and the voting procedures.”

“The kids absolutely loved it,” said Brendan Gonzalez, a teacher at Benjamin Franklin High School in New Orleans.

This program is made possible through a cooperative effort of the Center for Civic Education, the Arsalyn Program of Ludwick Family Foundation and the Louisiana Center for Law and Civic Education.



Students at Claiborne Christian School in West Monroe were among the 3,300 students statewide participating in the “Citizens, Not Spectators” voting/good citizenship program.

By Robert Gunn, Louisiana Supreme Court

APPOINTMENTS

Appointments

► Judges M'elise Trahan and Michael A. Pitman were reappointed, by order of the Louisiana Supreme Court, to the Louisiana Judicial College Board of Governors for terms of office which end on Sept. 30, 2015.

► Frank A. Fertitta was reappointed, by order of the Louisiana Supreme Court, to the Attorney Disciplinary Board for a term of office which began Jan. 1, 2013, and will end on Dec. 31, 2013.

► Samuel Christopher Slatten was reappointed, by order of the Louisiana Supreme Court, to the Committee on Bar

Admissions for a term of office which began Dec. 5, 2012, and will end on Dec. 4, 2017.

► Larry Feldman, Jr. was appointed, by order of the Louisiana Supreme Court, to the Committee on Bar Admissions for a five-year term of office which began Jan. 1, 2013, and will end on Dec. 31, 2017.

► J. Patrick Beauchamp was reappointed, by order of the Louisiana Supreme Court, to the Committee on Bar Admissions for a five-year term of office which ends on March 31, 2017.

► Allen P. Jones and J. Kevin Stelly were appointed, by order of the Louisiana

Supreme Court, to the Louisiana Board of Legal Specialization for terms of office which end on June 30, 2015.

► Kendrick J. Guidry was reappointed, by order of the Louisiana Supreme Court, to the Louisiana Board of Legal Specialization for a term of office which ends on June 30, 2015.

► Stephen F. Chiccarelli, Robert S. Tew, Kim Leija and Edwin G. Preis, Jr. were reappointed, by order of the Louisiana Supreme Court, to the Attorney Disciplinary Board for terms of office which began Jan. 1, 2013, and will end on Dec. 31, 2015.

TECH TUESDAYS A MONTHLY LAW PRACTICE MANAGEMENT CLE AT THE BAR CENTER

LSBA presents *TECH TUESDAYS*, an hour-long CLE presentation highlighting current technology to keep you abreast of what's out there and how technology can help your office run more efficiently. Registration is only \$50 and lunch is included. Join us for these monthly programs held at the Louisiana Bar Center and earn one Law Practice Management (LPM) CLE credit while networking with colleagues over lunch.

Register early as space is limited!

**UPCOMING TECH TUESDAYS:
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FOR MORE INFORMATION, VISIT WWW.LSBA.ORG/CLE

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PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., announces that Joseph A. Atiyeh and Joseph S. Green have joined the firm's New Orleans office as associates. Also, Kent A. Lambert, a shareholder in the New Orleans office, was named vice chair of the firm's Business Litigation group.

Baldwin Haspel Burke & Mayer, L.L.C., in New Orleans announces that **J. Michael Bowman** has joined the firm as an associate.

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C., in New Orleans announces that **Zachary I. Rosenberg** has joined the firm as an associate. Also, **Kristin L. Beckman**, **Jamie L. Berger** and **Larry E. Mobley** have become members of the firm.

Boyer, Hebert, Abels & Angelle, L.L.C., announces that **Scott H. Nettles** and **Maryanna J. Broussard** have joined the firm's Denham Springs office as associates.

Court Watch NOLA in New Orleans announces that **Bradley D. Cousins** has been hired as the new executive director. The non-profit group promotes efficiency, accountability and transparency in New Orleans' criminal justice system.

Curry & Friend, P.L.C., in New Orleans announces that **Heather M. Valliant** has joined the firm as a partner and **Alicia E. Wheeler** and **Lauren E. Godshall** have become associated with the firm.

Dimos Erskine, L.L.P., in Monroe announces that Arthur L. Stewart has joined the firm as a partner.

Donohue Patrick, P.L.L.C., in Baton Rouge announces that Keely Y. Scott, Leigh F. Groves, Catherine Saba Giering, Christopher J. Bourgeois and Jennifer Wise Moroux have joined the firm, and the firm has been renamed Donohue Patrick & Scott, P.L.L.C.

Dunlap Fiore, L.L.C., in Baton Rouge announces that **Susan N. Eccles** has become a partner in the firm.

Duplass, Zwain, Bourgeois, Pfister & Weinstock, A.P.L.C., in Metairie announces that Abraham Hamilton III and Geoffrey A. Mitchell have joined the firm as associates.

Hailey, McNamara, Hall, Larmann & Papale, L.L.P., in Metairie announces that Justin E. Alsterberg has been named a partner in the firm and Philip D. Lorio IV has joined the firm as an associate.

Jones Swanson Huddell & Garrison, L.L.C., in New Orleans announces that Kerry A. Murphy and Rose Murray have joined the firm as associates.

Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., announces that Stephen M. Waguespack has joined the firm's Baton Rouge office as special counsel.

Continued next page



Richard J. Arsenaault



Hillary M. Barnett



Kristin L. Beckman



Jamie L. Berger



J. Michael Bowman



Maryanna J. Broussard



James A. Brown



L. Ashley Bynum



D. Lance Cardwell



Bradley D. Cousins



Lauren J. Delery



Sarah Y. Dicharry

NEWSMAKERS

Juneau David, A.P.L.C., in Lafayette announces that **Jonathan T. Jarrett** has joined the firm as an associate.

King, Krebs & Jurgens, P.L.L.C., in New Orleans announces that Carolyn S. Buckley, Benjamin E. Gonsoulin and Kourtnei R. Mason have joined the firm as associates.

Leake & Andersson, L.L.P., in New Orleans announces that **Mia R. Scoggin** has joined the firm as an associate.

Liskow & Lewis, P.L.C., announces that seven new associates have joined the firm: **Lauren J. Delery, Sarah Y. Dicharry, Jonathan J. Fox, William Brian London** and **Laura E. Springer** in the New Orleans office; and **Christopher M. Rhymes** and **Nicholas S. Wise** in the Lafayette office.

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard in New Orleans announces that **D. Lance Cardwell** has joined the firm as an associate.

McGlinchey Stafford, P.L.L.C., announces that **Hillary M. Barnett** has joined the firm's New Orleans office as an associate and **L. Ashley Bynum** has joined the firm's Baton Rouge office as an associate.

Attorney David O. Mooney announces the relocation of his office to 201 St. Charles St., Baton Rouge, LA 70802, phone (225)387-8122.

Neil Erwin Law, L.L.C., in Shreveport/Bossier City announces the association of **Susannah O. Stinson** with the firm.

Patrick Miller, L.L.C., in New Orleans announces that **Michael M. Noonan** has joined the firm as a partner.

Preis & Roy, P.L.C., announces that Craig R. Bordelon II, Jared O. Brinlee, Christopher M. Ludeau, John L. Robert III and Kellye E. Rosenzweig have joined the firm's Lafayette office.

Rainer, Anding & McLindon in Baton Rouge announces that **Drew M. Talbot** has been named a partner and that the firm's name has been changed to Rainer, Anding, McLindon & Talbot.

Stegg Law Firm, L.L.C., in New Orleans announces that **Jennifer I. Tintenfass** has joined the firm as an associate.

Sutterfield & Webb, L.L.C., in New Orleans announces that **Lauren C. Masur** has joined the firm as an associate.

Taylor, Porter, Brooks & Phillips, L.L.P., in Baton Rouge announces that **Jonathan A. Moore** has joined the firm as an associate.

Richard J. Arsenault, with the Alexandria firm of Neblett, Beard & Arsenault, has been named to the Advisory Board of the Center on Civil Justice at New York University School of Law. He also chaired a Litigation Group Symposium at the AAJ Annual Convention in Chicago, discussing aggregate settlement issues.

James A. Brown, head of commercial litigation and professional liability practices in the New Orleans office of Liskow & Lewis, P.L.C., was inducted as a Fellow of the American College of Trial Lawyers.

R. Keith Colvin, special counsel in the New Orleans office of Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., is serving as president of the American College of Mortgage Attorneys.

David C. Coons, an associate in the New Orleans office of Adams and Reese, L.L.P., was accepted into the 2012-13 class of Loyola University's Institute of Politics program.

Thomas J. Cortazzo, a partner in the New Orleans office of Baldwin Haspel Burke & Mayer, L.L.C., is serving as 2013 president-elect of the Loyola University New Orleans College of Law Alumni Association.



Susan N. Eccles



Jonathan J. Fox



Lauren E. Godshall



Joseph P. Hebert



Jonathan T. Jarrett



William Brian London



Lauren C. Masur



Larry E. Mobley



Jonathan A. Moore



Scott H. Nettles



Michael M. Noonan



Mindy Brickman Patron

Michelle D. Craig, a partner in the New Orleans office of Adams and Reese, L.L.P., was selected by the National Diversity Council as one of the 2012 “Most Powerful and Influential Women in Louisiana” during the annual Louisiana Women’s Conference.

J. Kelly Duncan, a partner in the New Orleans office of Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., was re-elected president of the International Masters of Gaming Law.

Ira J. Gonzalez, an associate in the New Orleans office of Adams and Reese, L.L.P., has been appointed one of the Young Lawyers Subcommittee co-chairs of the American Bar Association’s Section of Litigation Products Liability Committee.

Joseph P. Hebert, a shareholder in the Lafayette office of Liskow & Lewis, P.L.C., earned his master of laws in taxation, *summa cum laude*, from the University of Alabama School of Law.

Steven J. Lane, an attorney with Herman, Herman & Katz, L.L.C. in New Orleans, is serving on the New Orleans Bar Association’s board of directors for a three-year term.

Jon F. (Chip) Leyens, Jr., a shareholder in the New Orleans office of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., was appointed to a one-year term as chair

of the Ground Leasing Committee of the American Bar Association Section of Real Property, Trust and Estate Law. He also was appointed as a member of the section’s Continuing Legal Education and Community Outreach standing committees.

Don S. McKinney, a partner in the New Orleans office of Adams and Reese, L.L.P., was inducted as a Fellow in the American College of Trial Lawyers.

Patricia B. McMurray, a partner in the Baton Rouge office of Adams and Reese, L.L.P., has been elected to the Fellows of the American Bar Foundation.

Mindy Brickman Patron, a member in the New Orleans office of McGlinchey Stafford, P.L.L.C., was selected by the National Diversity Council as one of the 2012 “Most Powerful and Influential Women in Louisiana” during the annual Louisiana Women’s Conference.

William B. Schwartz, a partner in the New Orleans office of Baldwin Haspel Burke & Mayer, L.L.C., is serving as 2013 president of A Child’s Wish of Greater New Orleans, Inc.

Robert J. Stefani, Jr., an attorney with King, Krebs & Jurgens, P.L.L.C., in New Orleans, was elected to the board of directors for the Louisiana Chapter of Turnaround Management Association.

Matthew A. Treuting, an attorney in the New Orleans office of Baldwin Haspel Burke & Mayer, L.L.C., is serving as 2013 president-elect of the Young Leadership Council.

Quentin F. Urquhart, Jr., a member in the New Orleans firm of Irwin, Fritchie, Urquhart & Moore, L.L.C., was elected 2012-13 president of the International Association of Defense Counsel.

Paul S. West, Louisiana vice chair of the Gaming Industry Service Team in the Baton Rouge office of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., was inducted as a counselor of the International Association of Gaming Advisors.

Robert L. Wolfarth, Jr., of counsel in the New Orleans office of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., is serving on the board of directors of the New Orleans Business Alliance.

PUBLICATIONS

Baton Rouge Business Report 2012

Breazeale, Sachse & Wilson, L.L.P. (Baton Rouge): Van R. Mayhall III, “Forty Under 40.”

Ogwyn Law Firm, L.L.C. (Baton Rouge): David H. Ogwyn, “Forty Under 40.”

The Best Lawyers in America 2013

Adams and Reese, L.L.P. (Baton Rouge, New Orleans): Henry B. Alsobrook,

Jr., E. Gregg Barrios, Mark R. Beebe, Philip O. Bergeron, Virginia Boulet, Charles A. Cerise, Jr., Robin B. Cheatham, V. Thomas Clark, Jr., O. Ray Cornelius, Scott E. Delacroix,



Christopher M. Rhymes



Zachary I. Rosenberg



Mia R. Scoggin



Laura E. Springer



Susannah O. Stinson



Drew M. Talbot



Jennifer I. Tintenfass



Quentin F. Urquhart, Jr.



Heather M. Valliant



Alicia E. Wheeler



Nicholas S. Wise

Kathleen F. Drew, John M. Duck, Brooke Duncan III, Richard B. Eason II, Richard B. Easterling, Mark S. Embree, Philip A. Franco, A. Kirk Gasperecz, William B. Gaudet, Charles F. Gay, Jr., C. Kevin Hayes, E.L. (Bubba) Henry, Edwin C. Laizer, Leslie A. Lanusse, Frank V. Liantonio, Jr., Joseph W. Looney, Donald C. Massey, Don S. McKinney, Patricia B. McMurray, Conrad Meyer, Malcolm A. Meyer, Robert B. Nolan, Glen M. Pilie, Jane C. Raiford, Daniel K. Rester, Jeffrey E. Richardson, Edward J. Rice, Jr., James T. Rogers III, Deborah B. Rouen, Robert C. Schmidt, E. Paige Sensenbrenner, Ronald J. Sholes, Mark J. Spansel, Martin A. Stern, Mark C. Surprenant, Janis van Meerveld, Robert A. Vosbein and David M. Wolf.

Chaffe McCall, L.L.P. (New Orleans, Houston, Texas): Brent A. Talbot and Harold K. (Hal) Watson.

Cook, Yancey, King & Galloway, A.P.L.C. (Shreveport): Samuel W. Caverlee, Sidney E. Cook, Jr., William C. Kalmbach III and Kyle C. McInnis.

Gainsburgh, Benjamin, David, Meunier & Warshauer, L.L.C. (New Orleans): Robert J. David, Stevan C. Dittman, Gerald E. Meunier and Irving J. Warshauer.

Gordon Arata McCollam Duplantis & Egan, L.L.C. (Baton Rouge, Lafayette, New Orleans, Houston Texas): Steven W. Copley, Donna Phillips Currault, Bob J. Duplantis, Ewell E. Egan, Jr., A. Gregory Grimsal, C. Peck Hayne, Jr., Terrence K. Knister, Martin E. Landrieu, Samuel E. Masur, John M. McCollam, Cynthia A. Nicholson, Scott A. O'Connor, Louis M. Phillips, Loulan J. Pitre, Jr., Gerald H. Schiff, Howard E. Sinor, Jr., Marion W. Weinstock and J. Lanier Yeates.

Herman, Herman & Katz, L.L.C. (New Orleans): Leonard A. Davis, Russ M. Herman, Stephen J. Herman, Brian D. Katz, James C. Klick and Steven J. Lane.

Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P. (Baton Rouge, New Orleans, Birmingham, Ala., Gulfport, Miss., Houston, Texas): Robert B. Acomb, Jr., H. Mark Adams, Jesse R. Adams III, William M. Backstrom, Jr., Edward B. Benjamin, Jr., Edward H. Bergin, Richard D. Bertram, Robert B. Bieck, Jr., John C. Blackman IV, Timothy P. Brechtel, John J. Broders, Andre B. Burvant, Robert R. Casey,

Thomas A. Casey, Jr., Susan K. Chambers, Scott D. Chenevert, Michael A. Chermekoff, Fred L. Chevalier, R. Keith Colvin, Mark A. Cunningham, Steven R. Cupp, J. Kelly Duncan, David F. Edwards, Madeleine Fischer, Elizabeth J. Futrell, Leon Gary, Jr., Covert J. Geary, Glenn G. Goodier, Jeffrey W. Gray, Alida C. Hainkel, Carl C. Hanemann, Harry S. Hardin III, Pauline F. Hardin, Curtis R. Hearn, Miriam Wogan Henry, Cornelius R. Heusel, William H. Hines, Thomas P. Hubert, Grady S. Hurley, Jonathan R. Katz, Tracy E. Kern, Edward J. Koehl, Jr., Charles A. Landry, Keith M. Landry, Charles W. Lane III, Andrew R. Lee, F. Rivers Lelong, Jr., Robert T. Lemon II, Sidney F. Lewis V, Joseph J. Lowenthal, Jr., B. Michael Mauldin, R. Lewis McHenry, Stanley A. Millan, Katharine F. Musso, Kenneth J. Najder, Louis S. Nunes III, A. Justin Ourso III, J. Marshall Page III, James C. Percy, Louis S. Quinn, Jr., David B. Radlauer, Rudolph R. Ramelli, Kimberly Lewis Robinson, Carl D. Rosenblum, Dionne M. Rousseau, Robert W. Scheffy, Jr., Jack H. Shannon, William H. Strait, Jefferson R. Tillery, Alex P. Trostorff, Robert C. Tucker, Richard J. Tyler, Susan M. Tyler, R. Patrick Vance, Edward Dirk Wegmann, Richard P. Wolfe, James E. Wright III and Scott T. Zander.

Louisiana Super Lawyers 2013

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C. (New Orleans): Judy Y. Barrasso, George C. Freeman III, Craig R. Isenberg, Stephen H. Kupperman, H. Minor Pipes III, Thomas A. Roberts, Richard E. Sarver and Steven W. Usdin.

New Orleans Magazine Top Lawyers 2012

Chaffe McCall, L.L.P. (New Orleans): Walter F. Becker, Jr., Keith M. Benit, G. Wogan Bernard, Charles P. Blanchard, Shawn M. Bridgewater, H. Michael Bush, Stephanie W. Cosse, E. Howell Crosby, Skye Eiswirth Prince, Adelaida J. Ferchmin, Robert B. Fisher, Jr., Mandy Mendoza Gagliardi, Edward N. George III, William F. Grace, Jr., Douglas L. Grundmeyer, Harry R. Holladay, Douglas R. Holmes, Loretta O. Hoskins, William H. Langenstein III, J. Dwight LeBlanc, Jr., Julie D. Livaudais, Charles D. Marshall III, Jonathan C. McCall, Corinne A. Morrison, Sarah Voorhies Myers, John F. Olinde, Kathleen S. Plemmer, Robert S. Rooth, Peter J. Rotolo III, John C. Saunders, Jr., Philip B. Sherman, G. Phil Shuler III, Daniel A. Tadros, Brent A. Talbot, Sabrina Cook Vickers, Derek A. Walker, J. Gregory Wyrick and James C. Young.

People Deadlines & Notes

Deadlines for submitting People announcements (and photos):

Publication	Deadline
June/July 2013	April 4, 2012
Aug./Sept. 2013	June 4, 2013

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

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

Important Reminder: Lawyer Advertising Filing Requirement

Per Rule 7.7 of the Louisiana Rules of Professional Conduct, all lawyer advertisements and all unsolicited written communications sent in compliance with Rule 7.4 or 7.6(c) — unless specifically exempt under Rule 7.8 — are required to be filed with the LSBA Rules of Professional Conduct Committee, through LSBA Ethics Counsel, prior to or concurrent with first use/dissemination. Written evaluation for compliance with the Rules will be provided within 30 days of receipt of a complete filing. Failure to file/late filing

will expose the advertising lawyer(s) to risk of challenge, complaint and/or disciplinary consequences.

The necessary Filing Application Form, information about the filing and evaluation process, the required filing fee(s) and the pertinent Rules are available online at: <http://www.lsba.org/LawyerAdvertising>.

Inquiries, questions and requests for assistance may be directed to LSBA Ethics Counsel Richard P. Lemmler, Jr., RLemmler@LSBA.org, (800)421-5722, ext. 144, or direct dial (504)619-0144.

UPDATE

Law Firm Creates Endowed Professorship of Advocacy, Professional Practice

Louisiana State University Paul M. Hebert Law Center Chancellor Jack M. Weiss announced the creation of the Preis and Roy Director of Advocacy and Professional Practice Endowed Professorship, an endowment established through a \$250,000 gift by the Preis & Roy, P.L.C., law firm.

The endowed professorship gift will support the director of the Law Center's Advocacy and Professional Practice program, a position responsible for the activities of the Law Center's 27 Trial Advocacy and Moot Court teams and its externship program, and provide funds to support the activities of the program.



The Preis & Roy, P.L.C., law firm established the Preis and Roy Director of Advocacy and Professional Practice Endowed Professorship at Louisiana State University Paul M. Hebert Law Center. On hand for the announcement were, from left, LSU Law Chancellor Jack M. Weiss, L. Lane Roy and Edwin G. Preis, Jr.



For the 16th consecutive year, attorneys and employees in the New Orleans office of Adams and Reese, L.L.P., participated in the Secret Santa Project, a project of the Louisiana State Bar Association/Louisiana Bar Foundation's Community Action Committee. Adams and Reese attorney David C. Coons, standing right, organized the participation through the firm's HUGS (Hope, Understanding, Giving and Support) program. This year, the firm assisted 60 children and conducted a "wrapping" party on Dec. 5.



In recognition of Professional Legal Management Week, the New Orleans Chapter of the Association of Legal Administrators (ALA) hosted a Legal Leadership Luncheon in October 2012. During the luncheon, law firm consultant Michael Moore, left, spoke on the importance of succession planning within a law firm. With him is Cheryl Innis, ALA chapter president and firm administrator of Pugh, Accardo, Haas, Radecker & Carey, L.L.C.

LYLA Partners with Cancer Services' Giving Project

The Lafayette Young Lawyers Association (LYLA), a section of the Lafayette Bar Association, partnered with Miles Perret Cancer Services (MPCS) and participated in the organization's Giving Tree program during the holidays. Each year, the Giving Tree is filled with wish lists of children who have been diagnosed with cancer or have had an immediate family member diagnosed with cancer. With monetary contributions collected from attorneys, the LYLA purchased gifts for 50 families. The LYLA also donated money to help MPCS purchase gift cards to restaurants to give the families a hassle-free holiday meal.



The Lafayette Young Lawyers Association (LYLA) partnered with Miles Perret Cancer Services for the Giving Tree program. From left, April Lafargue, events coordinator, Miles Perret Cancer Services; Lindsay L. Meador, LYLA president; and Trey Hightower, LYLA secretary/treasurer.

Officers, Directors Installed at ACC Meeting

The 2013-14 officers and directors of the Louisiana Chapter of the Association of Corporate Counsel (ACC) were installed during the October 2012 annual meeting.

George J. Ditta II is serving as president; Sophia B. Ryan, vice president; Clay Cambre, treasurer; Randy J. Sutton, secretary; directors Herman L. Bastian, Jr., Clay D. Beery, Jose C. Corrada, Edmund J. Giering IV, Pamela V. Hansen, Franck F. LaBiche, Jr., Jim C. Moran and Molly K. Vigour; and Thomas O. Lind, immediate past president.

Three 2012 board members, whose terms expired, were recognized for their outstanding work: Joni A. Johnson, Raymond J. Munna and Daniel H. Schwarzenbach.

The ACC is a global bar association that promotes the common professional and business interests of in-house counsel who work for corporations, associations and other private-sector organizations. The ACC Louisiana Chapter, with 133 members statewide, supports numerous pro bono and education projects, including the Pro Bono Project, Louisiana law school scholarships, the Louisiana Bar Foundation, Louisiana Appleeed and the Esperanza Charter School.

In-house counsel interested in joining the ACC should email Thomas O. Lind at tlind@canalbarge.com, Randy J. Sutton at randy.sutton@spr.doe.gov, or Jose C. Corrada at jcorrada@panamericanlife.com.

Legal Marketing Association's City Group Announces 2013 Board

The Legal Marketing Association's New Orleans/Baton Rouge City Group announced its 2013 board. Jill Joffrion, marketing manager with Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P., is City Group chair. Steven Rossi, marketing director with King, Krebs & Jurgens, P.L.L.C., is City Group chair-elect. Rachel Koenig, director of marketing and human resources with Barrasso, Usdin, Kupperman, Freeman & Sarver, L.L.C., is City Group membership chair. Katie Kelly, marketing director with Baldwin Haspel Burke & Mayer, L.L.C., is City Group sponsorship chair.

Former City Group Chair Rebecca Wissler, business development manager with Adams and Reese, L.L.P., has been named treasurer of the Legal Marketing Association's Southeastern Chapter.



The incoming officers of the DeSoto Parish Bar Association are, from left, Katherine E. Evans, secretary/treasurer; Adrienne D. White, president; and Dave Knadler, vice president.

Daniels is 88th NOBA President; Board Members, YLS Officers Installed

New Orleans attorney Timothy F. Daniels, a member in the firm of Irwin Fritchie Urquhart & Moore, L.L.C., was installed as 2012-13 president of the New Orleans Bar Association (NOBA) during NOBA's Annual Dinner Meeting in November 2012.



Timothy F. Daniels

Also during the meeting, the 2012-13 board members and the Young Lawyers Section (YLS) officers were installed.

Several 50-year members were recognized. Honorees included Bernard H. Berins, Patrick J. Browne, Donald O. Collins, William L. Crull III, Hon. James L. Dennis, Hon. Eldon E. Fallon, Hon. Sol Gothard, Harvey J. Lewis, Hon. Salvatore T. Mule, Charles F. Seemann,

Jr. and John A. Stassi II.

Daniels received his BA degree, *cum laude*, in 1982 from Louisiana State University and his JD degree in 1985 from LSU Paul M. Hebert Law Center. He is a member of the International Association of Defense Counsel, the Defense Research Institute, the National Association of Railroad Trial Counsel, the American Bar Association and the Louisiana State University Paul M. Hebert Law Center board of trustees. He also has served as a member of the Louisiana Supreme Court Indigent Defender Board.

Joining Daniels on the NOBA 2012-13 board of directors are M. Nan Alessandria, president-elect; James C. Gulotta, Jr., vice president; Walter J. Leger, Jr., vice president; James M. Williams, vice president; Mark C. Surprenant, secretary; Judy Y. Barrasso, treasurer; and Monica J. Manzella, YLS chair.

Board members with terms expiring in 2013 are Angelina Christina, Brandon E. Davis, Jan M. Hayden and Justin I Woods. Board members with terms expiring in 2014 are Mark A. Cunningham, Christopher K. Ralston, Paul M. Sterbcow and Sharonda R. Williams. Board members with terms expiring in 2015 are Steven J. Lane, Robert P. Thibeaux and Joseph P. Tynan.

Serving as 2012-13 YLS officers are Monica J. Manzella, chair; Camala E. Capodice, chair-elect; Kristen H. Schorp, vice chair; Ross M. Molina, secretary; and Kelly G. Juneau, treasurer.

Members elected to the YLS Executive Board with terms expiring in 2013 are Carla D. Gendusa, Aaron B. Greenbaum, Thomas H. Peyton, Matthew D. Simone and Amanda W. Vonderhaar.

Stanley J. Cohn was elected treasurer of the New Orleans Bar Foundation.

LOUISIANA BAR FOUNDATION

Distinguished Honorees to be Recognized at LBF Annual Fellows Gala

By Kelsey Kornick Funes and Christopher K. Ralston
2013 Gala Co-Chairs

The Louisiana Bar Foundation's (LBF) 27th Annual Fellows Gala is set for Friday, April 12, at the Hyatt Regency New Orleans, 601 Loyola Ave. The LBF is honoring Distinguished Jurist, Eldon E. Fallon; Distinguished Attorney, Michael H. Rubin; Distinguished Professor, George W. Pugh; and Calogero Justice Award recipient Hon. Jay C. Zainey. This event brings together lawyers, judges and professors from across the state to support the LBF's mission. The gala begins at 7 p.m. and will feature a live auction. A patron party will be held prior to the gala.

Sponsors are being sought for this fundraising event. Proceeds raised will help strengthen and support several LBF programs. Sponsorships are available at the following levels:

► **Benefactor's Circle, \$5,000:** Includes 30 patron party tickets, 30 gala tickets with three reserved tables (seats

30) and recognition at the event.

► **Cornerstone Level, \$3,500:** Includes 20 patron party tickets, 20 gala tickets with two reserved tables (seats 20) and recognition at the event.

► **Capital Level, \$2,000:** Includes 10 patron party tickets, 10 gala tickets with one reserved table (seats 10) and recognition at the event.

► **Pillar Level, \$1,200:** Includes six patron party tickets, six gala tickets and recognition at the event.

► **Foundation Level, \$400:** Includes two patron party tickets, two gala tickets and recognition at the event.

Individual tickets to the gala are \$150. Young lawyer individual gala tickets are \$100.

Gala ticket reservations can be made by credit card at www.raisingthebar.org. For more information, contact Laura Sewell at (504)561-1046 or email laura@raisingthebar.org.

raisingthebar.org.

Serving on the 2013 Annual Fellows Gala Committee are Tara G. Richard, board liaison; Jaye A. Calhoun, Carla T. Dillon, Kelsey Meeks Duncan, Nakisha Ervin-Knott, Steven F. Griffith, Jr., Jan M. Hayden, Warren P. McKenna III, Alexander J. Mijalis, Adrian G. Nadeau, Hon. Paul N. Sens, David J. Shea, Hon. Raymond S. Steib, Jr., Brooke C. Tigchelaar, Laranda M. Walker and Sharonda R. Williams.

Discounted rooms at the Hyatt Regency New Orleans are available for \$209 a night for Thursday, April 11, and Friday, April 12. Reservations must be made before March 22 to get the discounted rate. Call the hotel directly at (888)421-1442 and reference group "Louisiana Bar Foundation" to make a reservation.

President's Message

Interview of 2012-13 Outgoing President Patricia A. Krebs

Interviewed by 2012-13 Secretary H. Minor Pipes III

Pipes: Did you learn anything new this year about the Louisiana Bar Foundation's (LBF) work?

Krebs: I absolutely did. I learned how truly important the Community Partnership Panels (CPP) are to the fulfillment of the LBF's mission, how well organized and how connected they are with the grantees in their communities. Each CPP works on the ground level directly with the grantees. They find out what the needs are and then they find a way to help. Because of this organization, the LBF effectively is able to help many more people in so many different areas. I have always believed that the best way to be an effective leader is to be inclusive and well organized. That is what I found at the LBF. I now know that is why the LBF is so successful.

Pipes: What do you believe was the biggest impact the LBF made this year?

Krebs: With interest rates down, lowering IOLTA income, and the economy decline resulting in even more people in need, we have had to focus on ways to increase available resources. We have to find a way to continue our mission, not just this year but for years to come. In collaboration with the Louisiana State Bar Association, the Louisiana Supreme Court and leaders from the bench and bar, we have spent much of this year working on a long-term financial stability plan to preserve civil legal aid. The other thing that I believe will help secure future funding was the Supreme

Court's adoption of Rule XLIII this year, which names the LBF as a permissible recipient of cy pres funds. The LBF is the only organization specifically identified in the rule. This Court Rule was very much unexpected but greatly appreciated.

Pipes: Has your service as president been eye-opening in any way?

Krebs: I have become keenly aware of the great number of people willing to give and to help in any way they can. I have always thought that our state's bench and bar were very giving of their time and talents. What I have seen this year has made me even more aware of that. Our volunteers have such a devotion and dedication to the work of the LBF. Every volunteer I have called has either taken my call or called me back and all have responded positively to my requests on behalf of the LBF.

Pipes: What is the most important thing you feel the LBF does?

Krebs: I respect, support and work to promote all LBF objectives, but the children in need are dearest to my heart. They are totally vulnerable and they need and deserve our support. Children's legal services grants were almost \$2 million this



Patricia A. Krebs

year. The Child in Need of Care Program, which provides free legal representation for children in foster care, and the Kids' Chance Scholarship Program, which provides scholarships to children of workers who have been killed or disabled at work, both are very important to me.

Pipes: What is your fondest memory from this year?

Krebs: We traveled the state the first two weeks of my presidency —north to south, east to west. I was able to witness firsthand how the LBF works as an inclusive statewide organization. I have made great friends this year and am very grateful. Working with LBF Executive Director Donna Cuneo and her staff has been a true pleasure.

Pipes: Do you have any advice for future leadership?

Krebs: People will help. Feel free to call on them. I want to thank all who have held this position and led before me, and those who have worked with me this year. I look forward to supporting those who will lead in the future in any way I can.

Review the LBF's 2012 Annual Report Online!

The Louisiana Bar Foundation's 2012 Annual Report is posted online. Go to: www.raisingthebar.org/AboutTheFoundation/annualreport2012.pdf.

Annual Fellows Membership Meeting April 12

The Louisiana Bar Foundation's (LBF) Annual Fellows Membership Meeting will be held at noon on Friday, April 12, at the Hyatt Regency New Orleans. This luncheon meeting is an opportunity for Fellows to be updated on LBF activities and elect new board members. The President's Award will be presented and recognition will be given to the 2012

Distinguished Honorees and the Calogero Justice Award recipient.

All LBF Fellows in good standing will receive an official meeting notice with the board slate and a committee selection form in early March. If you have any questions, contact Laura Sewell at laura@raisingthebar.org or (504)561-1046.

Louisiana Bar Foundation Announces New Fellows

The Louisiana Bar Foundation announces new Fellows:

Kathryn M. Knight.....New Orleans
Luis Arturo Leitzelar.....Baton Rouge

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Walter W. Gerhardt has filed a petition and application for reinstatement to the practice of law. Interested individuals may file notice of their concurrence or opposition with the reinstatement within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

Notice is hereby given that Craig T. Broussard intends on petitioning for reinstatement and readmission to the practice of law. Any person(s) concurring with or opposing this petition must file notice of same within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

Joan S. Benge has filed a petition and application for readmission and reinstatement to the practice of law. Interested individuals may file notice of their concurrence or opposition with the reinstatement within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

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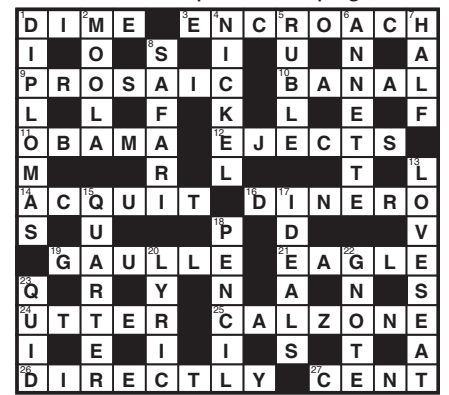


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Lucid INTERVALS

By Vincent P. Fornias

LEAVING THE HERD

“When I use a word,” Humpty Dumpty said in a rather scornful tone, “it means just what I choose it to mean — neither more nor less.”

—Lewis Carroll, *Through the Looking Glass*

Our hallowed profession’s toolbox contains many and varied instruments of the trade. None is more important than the words and phrases we use to advance and advocate our clients’ interests. Call me anal, and you are probably correct in discerning that I am in dire need of a life or medication. Until either of these kicks in, I present for your consideration my current list of words and phrases whose lazy overuse in general society makes them unworthy of abuse in our own profession.

▶ *“At the end of the day.”* What happened to “ultimately” or “when all is said and done”? When, oh when, will this “day” end?

▶ *“I get that.”* What you have “gotten” is a lethal overdose of triteness.

▶ *“Really?”* This one is on the shortlist of Sarcastics Anonymous. Forget direct confrontation. Better to try this cutesy end run that makes you feel like a cast member on “Saturday Night Live.”

▶ *“Icon” or “Iconic.”* How did the former word meaning a religious work of art transform into the noun or adjective *du jour* to describe *every* person of achievement in *every* field of endeavor?

▶ *“Past history.”* This one is actually gaining (eek!) traction. It is a close relative of the old Yogi Berra-ism that “our future is still ahead of us.”

▶ *“Transparent.”* No longer restricted to Plexiglas and Scotch tape, every pseudo-intellectual who used to cherish “paradigm” now resorts to this verbal security blanket at the expense of lunch bucket words like “public” or “open” or even “discloseable.”

▶ *Anything with the suffix “-geddon.”* From where did I awaken to discover that now every traffic jam is instantly called “carmageddon”? I suppose the administration’s proposed military budget cuts would instantly be christened “armygeddon.”

▶ *“Throwing under the bus.”* Somewhere “stab in the back” or “deceive” have been relegated to some linguistic penalty box with a nonfunctioning clock.



▶ *“Amazing.”* I dare you to start your own parlor shot-drinking game. Turn on any of these fashionable reality judging shows and everyone takes a snort whenever that word is uttered to praise a contestant’s performance. Note the signs of cirrhosis by the second commercial break . . .

Why, oh why, have we become a nation of linguistic lemmings leaping over cliffs of triteness? It’s not too late to resist the urge, fellow wordsmiths.

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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