

# LOUISIANA BAR JOURNAL

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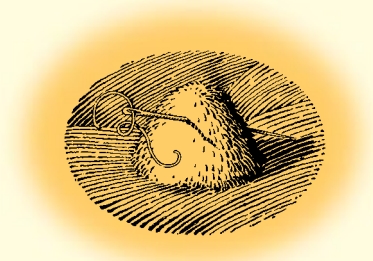
**Darrel J. Papillion**  
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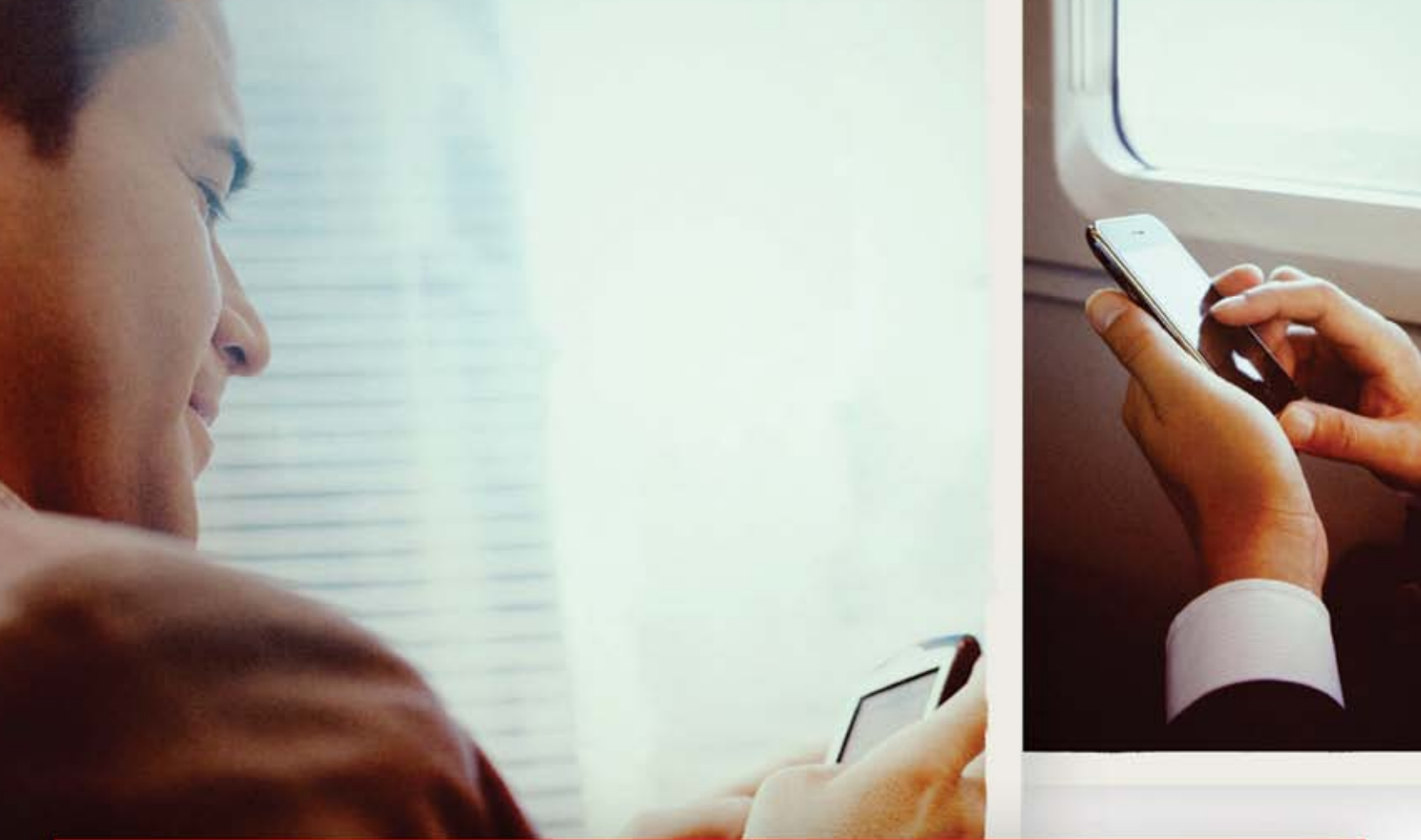
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Darrel J. Papillion, second from left, of Baton Rouge is the 76th president of the Louisiana State Bar Association. With him are family members, son Jude, 15; his wife, Shirley; and his daughter Anna Claire, 13. Photo by Heather Bush, with bush-photography in Baton Rouge.

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By Alainna R. Mire

# Celebrating the LSBA's 75<sup>th</sup> Anniversary All Year Long!

**T**his year, we celebrate the 75th anniversary of the Louisiana State Bar Association (LSBA) and, this month, we welcome Darrel J. Papillion as the 76th LSBA President. (Read more about Darrel's family and practice beginning on page 6.)

This issue of the *Journal* begins a year-long celebration of the "75th." Now, we don't have a music video like Red and Yellow were able to do to celebrate M&Ms 75th, but we do have this special *Journal*.

This *Journal* is the primary project of the 2015-16 Leadership LSBA Class and opens the door to this special anniversary. The Class members worked hard gathering material, conducting interviews and doing research. Because of limited space in this *Journal*, the Class members were selective in their content. But the content is interesting, including interviews with a Supreme Court justice, a state appellate court judge, a New Orleans district judge and a past LSBA president from the 1970s. There also articles on historic courthouses in Louisiana and a technological look ahead to the next 25 years. Also, don't miss an interview with Professor A.N. Yiannopoulos and a "perspectives" article from a longtime Shreveport attorney.

But, good news! The Editorial Board has decided to continue the historical coverage for the remaining issues of

Volume 64. So, look for more interviews, more perspectives, more courthouses and several glimpses through past issues of the *Journal*.

As I mentioned in the last *Journal*, the LSBA has experienced significant firsts as an association, including the first African-American LSBA president, the first female LSBA president and the first African-American female LSBA president.

As an officer of the LSBA, I am very proud to be a part of an organization that continues to adapt to meet the needs of its members. I tell people all the time that the accomplishment I am most proud of is being a lawyer. I remember graduating from high school and college without a whole lot of excitement. In my mind, those were milestones that I HAD to accomplish. I was happy when law school graduation day approached, although I knew graduation day also signified having to study for and pass the bar exam. I was at work the day I found out that I passed the bar exam. I was sitting at my desk staring at my cell phone waiting for it to ring. Needless to say, I did not accomplish much that day. Good thing I wasn't expected to bill. I was lucky enough (or unlucky if results would have been different) to have a friend go to the Louisiana Supreme Court to view results when posted. My classmates and I knew

that bar exam results would be posted at the Court before they were posted online. All the staff at the law office kept asking me if I had results yet, which made me even more nervous — if that was even possible. Next thing I know my cell phone rang. I was scared to answer it, but I did. By this time, I also had an audience in my office. All I remember next is hearing, "Alainna R. Mire, you have passed the bar." The emotions I felt were raw. I was so ecstatic and overwhelmed that I cried and kept crying. Clearly my reaction scared one of the partners who asked, "What happened? I thought she passed." That was one of the happiest days I have experienced thus far in my life.

All attorneys have their own stories and reactions to finding out they will soon become licensed to practice law in Louisiana. I am proud to continue to be a part of the association that all Louisiana attorneys are members of as a mandatory bar association. I am also proud to continue my term as secretary during the 75th anniversary of the LSBA.







# One on One with Darrel J. Papillion, 76th LSBA President:

## *Gen-X President to Focus on Plans to Evaluate and Streamline Essential LSBA Resources*

Interviewed by Alainna R. Mire, LSBA Secretary

**D**arrel J. Papillion, the 76th president of the Louisiana State Bar Association (LSBA), grew up in the rural St. Landry Parish community of Swords, a tiny country hamlet between the small Louisiana towns of Eunice and Opelousas. He attended public schools in Eunice, graduating from Eunice High School in 1986. He studied at three separate Louisiana State University institutions — LSU at Eunice, where he was student body president in 1987; LSU A&M in Baton Rouge, where he graduated in 1990; and LSU Paul M. Hebert Law Center, where he graduated in 1994.

Darrel J. Papillion, second from left, of Baton Rouge is the 76th president of the Louisiana State Bar Association. With him are family members, from left, son Jude, 15; his wife, Shirley; and his daughter Anna Claire, 13. Photo by Heather Bush, with bush-photography in Baton Rouge.

After law school, he worked for a year as a law clerk for Louisiana Supreme Court Justice Catherine D. Kimball before joining the New Orleans office of McGlinchey Stafford, P.L.L.C., in 1995. He practiced in McGlinchey's Products Liability Section until 1999, when he accepted a job as a plaintiff's lawyer at the Moore, Walters, Thompson firm in Baton Rouge. He would later become a named partner in that firm before leaving with three of his partners to start the firm of Walters, Papillion, Thomas, Cullens, L.L.C., also in Baton Rouge. He has been married to his wife Shirley Papillion, a former elementary school teacher, since 1991. Their son Jude is 15, and their daughter Anna Claire is 13.

Anyone who knows Darrel well knows he is really *busy*. He has been known to send very early — *as in 3:30 a.m.* — emails while juggling a very busy law practice, a growing family, bar activities, community service and volunteer work, and teaching numerous CLE courses in addition to teaching a class to juniors and seniors for the past 15 years at the LSU Law Center. Over the last few years, he has served as president of the Rotary Club of Baton Rouge, a 500-member Rotary club that is typically ranked as one of the 10 largest clubs in the world; as president of the Baton Rouge Bar Association; and as president of the Wex Malone Chapter of the American Inn of Court. He also has served on numerous community boards, including the Louisiana Bar Foundation, Teach for America and the Louisiana Public Broadcasting Foundation.

While he has started working more conventional hours over the last few years, he still packs in a full day before trying to have dinner with his family every night and before catching up on whatever Netflix or cable series he and Shirley are binge-watching at the time. He can typically be seen with a broad smile . . . and his ever-present smartphone — texting, emailing, calling and reading the latest news from his Twitter feed and several news apps. He jokes that he is either “the youngest old guy” (he still dictates and relies heavily on two legal assistants) or the “oldest young guy” (he embraces new technology and wants to stay at the cutting edge of information and technology in the handling of his cases and law practice).



**Darrel J. Papillion with his wife Shirley Papillion.** Photo by Heather Bush, with bush-photography in Baton Rouge.

**Journal:** First, thank you for granting the *Journal* the exclusive “one-on-one” interview. I, personally, enjoy engaging in ice-breaker games when meeting new people. As the new LSBA president, tell us something about yourself that most people do not know. For instance, do you speak a foreign language, play a team sport or play an instrument?

**Papillion:** People might be surprised to know I learned to speak French as a child at the same time I learned to speak English. I grew up in Acadiana in the little community of Swords, between Eunice and Opelousas in St. Landry Parish. My Papillion grandparents lived next door to us, and they could speak only a few words of English. I do not play any musical instruments, but I was a radio disc jockey in high school and college at radio stations in Eunice and Lafayette, in both French and English.

**Journal:** Well, I definitely learned something new because I have never heard of Swords. Being from Scott, I thought I knew the names of most Acadiana communities. Growing up in a small community, I am sure that family was very important to you. Tell us about your family.

**Papillion:** I have a beautiful family — just look at the cover of the *Journal*!

Seriously, I have been married to my lovely wife Shirley for 25 years. We met on a blind date and were married two years later. I could not be LSBA president, or much else, without her undying love and support. Shirley earned her college degree and a special certification to teach elementary school while I was finishing law school and clerking for the Louisiana Supreme Court. She taught school for 20 years in New Orleans and Baton Rouge and retired last year so we could both spend more time with our two teenage children, son Jude and daughter Anna Claire, before they leave home for college in a few years. Jude and Anna keep us very busy, and Shirley keeps us all in line.

Growing up, I had great parents. My dad was a rural school bus driver and deputy sheriff, and my mother worked for the local school system. They were very hardworking people who believed very strongly in education. I believe their proudest accomplishment was that all three of their children graduated from college. I have two sisters, both of whom are married and have families of their own. My sister Amanda lives in Baton Rouge and works for the Attorney General's Office, and my sister Kim lives in San Antonio and works as an elementary school assistant principal. My dad passed away last year, but my mother



lives in Baton Rouge, where my parents retired a little over 10 years ago.

**Journal:** When did you know you wanted to become a lawyer?

**Papillion:** I was one of those people who “always wanted to be a lawyer.” I remember inviting Jacques Pucheu, a lawyer in Eunice, to speak to my class about his work as a lawyer when I was in middle school, but I probably developed a strong interest in being a lawyer several years earlier. Jimmy Simien, a lawyer in Baton Rouge, married one of my cousins while Jimmy was an LSU Law student, and I was not quite in high school. Poor Jimmy probably dreaded family holiday dinners because I peppered him with questions about law school and being a lawyer over every holiday meal for years.

**Journal:** I am glad you bombarded Jimmy with questions about becoming a lawyer. But if you were not a lawyer, what would you be doing?

**Papillion:** That’s not a fair question. I could only be a lawyer. If I weren’t a lawyer, I’d have to do a job that is very busy and has lots of interaction with people. I sometimes secretly think that if I get bored when I retire from the practice, I’ll get a job as the very talkative driver of an airport shuttle bus, or be the “So, where are you folks from?” tour guide at a museum, ball park or historic site. My dad was like that. He retired from the sheriff’s department and went back to work after a couple of years because he missed working. Seriously, if I absolutely couldn’t be a lawyer, at this point in my life, I would choose a career in the judiciary or in non-profit public service.

**Journal:** Well, since you are a lawyer (and a very busy one), tell us about your practice.

**Papillion:** I am a partner at Walters, Papillion, Thomas, Cullens in Baton Rouge, a nine-lawyer plaintiff firm. I am really fortunate to represent a lot of wonderful people, most of whom have gone through some kind of tragedy. Most of my work involves representing people who are badly hurt, or the families of people who have been killed, in accidents. Because I work in Baton Rouge, where there are so many petrochemical plants, a busy port and a busy interstate system, my cases often



Shirley and Darrel Papillion, from left, with Louisiana Supreme Court Chief Justice Bernette Joshua Johnson and her daughter Rachael D. Johnson at the 2015 LSBA Annual Meeting. Photo by Matthew Hinton Photography.

arise out of plant explosions, deaths on the river, or serious traffic accidents. I practiced for several years as a defense lawyer at McGlinchey Stafford in New Orleans, where I did products liability defense work, so I am often referred products liability and other complex cases. Most of my work is referred to me by the defense bar, judges, other plaintiff lawyers or my former clients. I really enjoy my work. Our firm is able to handle complex and difficult cases, so even though I practice at a relatively small firm in a mid-sized city, I occasionally get to handle difficult cases against lawyers from some of the best firms in the country, and my work causes me to travel all over the country and sometimes out of the country for depositions and other legal work. I also work with the Perry Dampf Dispute Solutions Mediation Group as a mediator and have been appointed as a Special Master in complex litigation.

**Journal:** I was told by a mentor that as lawyers we need to schedule time for ourselves and our family. With your busy schedule, what do you do to relax and unwind?

**Papillion:** I often joke that I have “no hobbies,” but this is probably not true. While I do not engage in the usual south Louisiana hobbies of hunting, fishing or golf, I spend a lot of time reading, mostly history and biographies. I recently started reading historical fiction which I find enjoyable. I am also a huge LSU football fan — my wife might say “huge” is an understatement. I have missed only a handful of LSU home games over the past 25 years, and I usually go to a couple of away games every season. I have been to almost every SEC stadium



At the LSBA Annual Meeting in 2009, Darrel Papillion was awarded a certificate of appreciation for his service by Hon. Elizabeth Erny Foote, then-LSBA president. Photo by Matthew Hinton Photography.

and have seen the Tigers play all over the country. Aside from that, I enjoy spending time with my family. My wife and I also enjoy watching mysteries and thrillers, so we often find ourselves “binge watching” some newly discovered series on Netflix or cable, sometimes while drinking a glass of wine after putting our children to bed. My family thinks I am a pretty good cook, and I enjoy cooking mostly traditional south Louisiana food on the weekends.

**Journal:** Now you are just making me hungry. I am sure you learned to cook from your parents and grandparents, but what about learning the practice of law. Who were some of your role models in the practice of law and legal profession?

**Papillion:** I have been really blessed to have so many mentors and role models. You’re going to get me in trouble because I am going to not include one or more





At the 2016 LSBA Midyear Meeting, Darrel Papillion addressed attendees at the 50-, 60- and 70-Year Member Reception. Photo by Matthew Hinton Photography.



Darrel Papillion, right, and D. Abboud Thomas participated in the 2010 LSBA House of Delegates meeting at Annual Meeting. Photo by Matthew Hinton Photography.

people who deserve recognition. I have to start with my parents, especially my father. Even though he was not a lawyer, he was someone who people in our tiny rural community relied upon for help and advice with the ordinary problems of life. He was an elected member of the St. Landry Parish Police Jury, a deputy sheriff, and was active politically, so it was very common for people having some kind of problem to ask him for help and advice. I saw this as a young person, and I believe it made me want to be a lawyer.

I owe a debt of gratitude to almost all the lawyers in Eunice and several in Opelousas who were so helpful to me. I worked summers in the District Attorney's Office in Opelousas under District Attorney Morgan Goudeau, who remains a dear friend of mine. Assistant District Attorneys Jack Burson, Don Richard, Richard Millspaugh and Earl Taylor, who is now serving as district attorney, were my first real teachers in this profession. Past LSBA President Leslie Schiff was certainly a role model. I had great professors at LSU Law Center. I couldn't possibly list them all, but I have to recognize Frank Maraist and Bill Corbett. Once I became a lawyer, I had an incredible mentor in Justice Catherine Kimball, for whom I clerked over 20 years ago. She taught me a tremendous amount. I owe a great deal of thanks to all the Justices at the Louisiana Supreme Court from that era, including Chief Justice

Bernette Joshua Johnson, who is the only justice still on the court from those days. They were very kind and encouraging to me. It was a great first job.

My first law firm was McGlinchey Stafford, and I couldn't possibly list all the lawyers there who were role models for me, but I would be negligent if I failed to mention Woody Norwood who I am still trying, without complete success, to emulate. My long-time law partner and dear friend Ed Walters spent years training and teaching me. I can never repay him for all he has taught me. I owe him and all the lawyers I've worked with at Walters, Papillion, Thomas, Cullens and our former firm a great deal. My law partners Abboud Thomas and J. Cullens have been my friends since law school, and it is great to work with them every day. I also owe thanks to a lot of judges, going back over 20 years, all across the state, and especially those on the bench of my local courts in Baton Rouge. I couldn't possibly list them all, but Judges Ralph Tyson, Frank Polozola and my friend and neighbor Judge Jim Brady, all from the Middle District bench, have been great role models in all kinds of ways. I met Judge Carl Stewart when I was a law student, and he has been a friend and role model my entire career. Judge Beth Foote, a past LSBA president, is a dear friend of mine who gives me kind and patient advice. Judge Gene Thibodeaux and I are from the same area of St. Landry

Parish. I've been blessed with an awesome array of mentors, including so many past presidents of the LSBA (you know who you are and that I can't list all of you). I wouldn't be here without their combined efforts and gifts of time and patience.

**Journal:** The first time I met you was at a Board of Governors meeting about six or seven years ago. I became involved in bar activities thanks to an appointment by Karleen Green, a former chair of the Young Lawyers Division. How did you become involved in bar activities?

**Papillion:** I was lucky to work for firms that encouraged and supported my participation in the LSBA. My law partner Ed Walters encouraged me to become active years ago. I was elected to the House of Delegates almost 15 years ago, and, not long after that, President Larry Feldman appointed me chair of the Ethics Advisory Service. I was appointed to the Board of Governors to fill an unexpired term by President Guy DeLaup in 2008. I was later elected to a full term on the Board of Governors. I have also served for a number of years as one of the chairs of the CLE Committee and the Annual Meeting and Summer School Committee, and I have been on the Nominating Committee a few times. I can also thank all the Baton Rouge LSBA President "Mikes" (Rubin, McKay and Patterson) who encouraged and supported my LSBA involvement, as





Justice John L. Weimer, left, and Darrel Papillion spoke at the Supreme Court reception during the 2014 LSBA Annual Meeting. Photo by Matthew Hinton Photography.

did so many other past presidents. I also served for 10 years on the board of directors of the Baton Rouge Bar Association and was president of the Baton Rouge Bar Association in 2014.

**Journal:** The LSBA is celebrating its 75th anniversary this year. Although neither one of us has been practicing that long, how has the practice changed since you were first sworn in as a new lawyer? Has it changed for the better?

**Papillion:** We often hear the practice was once more civil or cordial. Honestly, in my experience, with only a few exceptions, I find lawyers to be as cordial today as when I started practicing. I believe “we get what we give.” In other words, cordiality and professionalism typically beget the same from our opponents. I believe the practice is more difficult today than it was 20 years ago because there is more competition across all practice areas for legal work, and many lawyers are having a hard time building, growing or maintaining their practices. This pressure forces lawyers to accept legal work they are not properly trained or equipped to handle. Years ago, lawyers were more likely to refer work outside of their practice areas or skill level to lawyers who might be better able to handle the work. Meanwhile, many clients have a hard time finding a lawyer who can solve their problems, making access to justice a bigger issue for some than it was 20 years ago.

On another level, I believe opportunities

for lawyers have, in many ways, dramatically improved over the past 20, and certainly 75, years. Many more women and minorities have been elected and appointed to the judiciary and have risen to leadership positions in law firms and in the legal profession. Today, men and women are entering the legal profession in almost equal numbers, so opportunity has certainly increased over the past 75 years for people who once had very little opportunity.

**Journal:** I agree that opportunities have increased because I never thought as a young lawyer I would be an officer of the LSBA. As the next Generation X president, this is going to be a big year for you. What are your objectives for your year as president?

**Papillion:** I believe every LSBA president approaches the job differently, but we should all remember it is a temporary job, and the year goes by very quickly. Next June, there will be a new president. Some presidents launch a bold new agenda and create several new programs. While this is very good, if each new president were to launch several new initiatives each year, we would also need a larger budget and more staff every year. My objective is to spend my year as president working to streamline our operations, evaluate our programs, and prudently manage our resources in a way that will allow us to effectively fulfill our mission as a mandatory bar association. The LSBA



Anna Claire, Shirley, Jude and Darrel Papillion at the Beach Bash during the 2014 LSBA Annual Meeting. Photo by Matthew Hinton Photography.

must be accountable, responsive and highly relevant to its core constituents which, of course, include the public, its 22,000-plus members, the Louisiana Supreme Court, Louisiana’s law schools, local bar associations, and the numerous affiliated entities that help serve the public and administer justice. The LSBA is an important arm of the Louisiana Supreme Court in the regulation of the practice of law. The public is best served when legal services are performed by providers who are properly educated and trained, carefully regulated and licensed, receive appropriate continuing legal education, and who adhere to the Rules of Professional Conduct and traditional standards of professionalism. The LSBA is critical to this important goal, and my goal is to work to keep the LSBA focused on this and to help provide equal access to justice for all the citizens of our state. I believe that’s enough to keep me, the LSBA board and the bar staff busy over the next year.

*Alainna R. Mire is serving her second year as secretary of the Louisiana State Bar Association and as editor of the Louisiana Bar Journal. She also has served as LSBA Young Lawyers Division chair and on the LSBA’s Board of Governors as House of Delegates Liaison Committee chair. She is the chief resilience officer and an assistant attorney for the City of Alexandria. (alainna.mire@cityofalx.com; 915 3rd St., Alexandria, LA 71301)*





# 2015-16 Leadership LSBA Class Celebrates LSBA's 75th Anniversary with Special *Louisiana Bar Journal*

The motto of the Louisiana State Bar Association (LSBA) is “Serving the Public. Serving the Profession.” That tradition of service manifests itself in many ways, including in this *Louisiana Bar Journal*, which is what makes this 75th anniversary issue so special. Its stories and interviews reflect three-quarters of a century of service to a profession whose business is serving the public.

The Leadership LSBA Class is a group of young lawyers who commit to participate in committees of the LSBA, both during the current year and the next, and to organize an original project in the service of the community or of the LSBA. This year, to commemorate the 75th anniversary of the LSBA, the Leadership Class presents this special edition of the *Louisiana Bar Journal*—a look back as we, the Bar, continue to move forward. Who better to tell that story than our next generation of LSBA leadership?

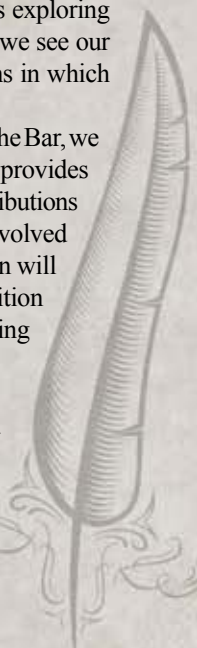
The Class's tribute to the history of the LSBA offers

the reflections of distinguished colleagues, including scholars, judges and one justice, who have seen firsthand the evolution of the law, the Bar and the profession. The Class also authored forward-looking articles exploring emerging issues in the profession. In these, we see our own future in the profession and innovations in which we might participate.

To seasoned, new and future members of the Bar, we hope this issue of the *Louisiana Bar Journal* provides you an opportunity to celebrate your own contributions to the LSBA and to encourage you to get involved in the leadership that this evolving profession will require. Now you may start your own tradition of service by “Serving the Public” and “Serving the Profession.”

—Micah J. Fincher and  
Lynette Roberson

Co-Chairs, 2015-16 Leadership  
LSBA Class



## LSBA: Historical Timeline

By Tara R. Jones and Jacqueline M. Epstein

**1847:** Creation of New Orleans Law Association, which begins working with the Louisiana Supreme Court to screen admittees and offer a court-administered exam.<sup>1</sup>

**1855:** Incorporation of the New Orleans Law Association.

**1862:** New Orleans Law Association ceases meetings due to the federal occupation of the city during the Civil War.<sup>2</sup>

**Aug. 21, 1878:** Creation of the American Bar Association, which begins recruiting local affiliate bar associations.<sup>3</sup>

**1899:** Creation of the Louisiana Bar Association, whereby federal and state judges obtained automatic membership in the Association and anyone in good standing was eligible to become a member.<sup>4</sup>

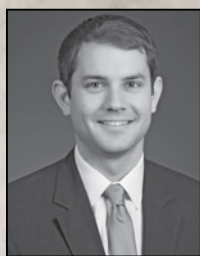
**1929:** Creation of the Louisiana State Bar Association (voluntary).<sup>5</sup>

**March 12, 1941:** The Louisiana State Bar Association, in the mandatory form which continues to exist today, was organized under the rule-making power of the Louisiana Supreme Court of Louisiana.<sup>6</sup>

**April 18-19, 1941:** First Annual Meeting held in Lake Charles, whereby the Board of Governors created the Junior Bar Section, voluntary membership in which was open to members under 36 years of age.<sup>7</sup>



# Leadership LSBA 2015-2016 Class



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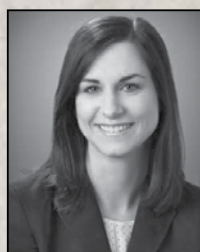
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Baton Rouge



Amani C. Perkins  
Alexandria



Lindsay E. Reeves  
New Orleans



Kimberly R. Silas  
New Orleans



David M. Stein  
New Orleans

**July 1941:** The newly appointed Committee on Bar Admissions held its first bar examination.<sup>8</sup>

**1942:** Enactment of the Louisiana Criminal Code.<sup>9</sup>

**1957:** The Articles of Incorporation were amended to allow for the creation of the House of Delegates, which serves as the policy-making body of the Association.

**1985:** Creation of the Louisiana State Bar Association Committee on Alcohol and Drug Abuse to provide confidential assistance to members. This was later named the Lawyers Assistance Program program in

1991 (and Judges and Lawyers Assistance Program in 2015).

**1990:** The Louisiana Supreme Court by Court rule created the Disciplinary Board of the Louisiana State Bar Association and the Office of Disciplinary Counsel of the Louisiana State Bar Association, separate arms of the court responsible for attorney discipline.

## FOOTNOTES

1. Warren M. Billings, "A Bar for Louisiana: Origins of the Louisiana State Bar Association," *Louisiana History: The Journal of the Louisiana Historical Association*, Vol. 41, No. 4 (Autumn, 2000), pp. 389-401.

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. Martindale Hubbell, retrieved 2012-09-04.

7. Dan Debaillon, "Association Activities," *Louisiana Bar Journal*, Vol. 1, No. 1 (January 1942), p 3.

8. *Id.*

9. J. Denson Smith "A comment on the Work of the Louisiana State Law Institute Including the Project of a Criminal Code," *Louisiana Bar Journal*, Vol. 1, No. 2 (April 1942), p 5.

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# Reflections on the Louisiana Legal Profession: Where We Have Been and Where We Are Headed

To commemorate the 75th anniversary of the Louisiana State Bar Association, the 2015-16 Leadership LSBA Class conducted a series of interviews with distinguished Louisiana jurists and practitioners regarding the history and future of the Louisiana legal profession.

Class members had the pleasure of interviewing Justice Jeannette Theriot Knoll, associate justice of the Louisiana Supreme Court; Judge Ulysses Gene Thibodeaux, chief judge of the Louisiana 3rd Circuit Court of Appeal; Judge Kern A. Reese, chief judge of Orleans Parish Civil District Court; and Bob F. Wright, the oldest living past president of the Louisiana

State Bar Association.

In these interviews, Justice Knoll, Judge Thibodeaux, Judge Reese and Mr. Wright bring their breadth of experience and unique and diverse perspectives to reflect on how the profession has changed over time, how technology has impacted the practice of law in Louisiana courts, the biggest challenges facing the profession and the Louisiana judiciary, and, ultimately, what the future holds for the profession.

We hope these interviews serve as a snapshot of where our profession has been and where it is headed — a bright future by all accounts.

## Interview: Louisiana Supreme Court Associate Justice Jeanette Theriot Knoll

Interviewed by Mark R. Deethardt

**Journal:** Tell us a little bit about your career as an attorney, a judge on the 3rd Circuit Court of Appeal and now as a Justice on the Louisiana Supreme Court?

**Knoll:** I was an attorney for 13 years before I was elected as the first woman to serve on a reviewing bench in the state. I just remember being extremely busy trying to meet the demands of my career at all levels while raising five active boys. I served the 3rd Circuit for 14 years, and I have now been on the Louisiana Supreme Court going on 20 years.

**Journal:** Since you began serving on the bench as a circuit judge in 1982, what is the biggest, or most dramatic, change you have seen in the practice of law in Louisiana appellate courts?

**Knoll:** At the Court of Appeal level, the appellate process hasn't changed all that much from what I have observed. In recent years on the Supreme Court, we have begun disposing of writ applications by per curiam much more frequently rather than by authored opinion. Consequently, we have many fewer cases docketed for oral argument.

**Journal:** How have you seen diversity improve in the Louisiana judiciary since you began serving on the bench?

**Knoll:** I have witnessed it, and I am part of it. When I was elected in 1982, there were approximately 48 all white male judges on the Louisiana Courts of Appeal and seven all white male Justices on the Louisiana Supreme Court. When I was elected, I was the first female elected to the Court of Appeal. There were only a handful of female judges at the District Court level in 1982. Judge Joan Bernard Armstrong was the first African-American woman elected to the 4th Circuit Court of Appeal in 1984. Former Chief Justice Catherine D. (Kitty) Kimball (who was the first woman elected to the Louisiana Supreme Court), Chief Justice Bernette Joshua Johnson (who was the first African-American to serve as Chief Justice) and I used to call ourselves "the icebreakers." It is so delightful to see how diversity has progressed in our state. Prior to the 1974 Louisiana Constitution, women were not among the jury pool unless they submitted

a specific written request to be included. It's amazing how far we've come!

**Journal:** How have you seen technology change the practice of law in Louisiana appellate courts and the Louisiana Supreme Court over the last 35 years?

**Knoll:** Technology has significantly impacted the processes that we use now. Eventually, the Supreme Court will become paperless just as the federal courts are now. Most attorneys conduct legal research almost exclusively using a computer. The older members of the bench and bar find this new technology rather difficult as we were not trained in how to use it and we were not exposed to it until very recently.

**Journal:** Do you think technology has improved the practice overall, or do you see any downsides to the use of technology in Louisiana appellate courts?

**Knoll:** I am sure that technology has been a great cost-saving and time-saving measure, with much less paper being used and much less storage space for books and with communication conducted practically instantaneously. Having said that, since I am



from the “old school,” I still prefer my pen and pad and a book in my hand!

**Journal:** What is the biggest challenge (or challenges) facing the Louisiana judiciary?

**Knoll:** Presently, the budget is a major challenge for the courts, especially with respect to paying for criminal indigent defense. As to civil representation for the poor, Louisiana is one of, I believe, three states that do not provide funding to help them. Civil legal aid for the poor comes primarily through pro bono work, and some federal grants that keep decreasing. Hopefully, this situation will improve as the Legislature works to get our state’s fiscal house in order.

**Journal:** What are some challenges you see facing the Louisiana Bar now and in the future?

**Knoll:** As a Justice on the Louisiana Supreme Court, I have noticed an appreciable increase in the number of attorney disciplinary matters over which the Supreme Court has exclusive and original jurisdiction. In my view, the legal market is flooded, and finding employment is very challenging for new lawyers. As a result, many strike out on their own without having the benefit of guidance which would come from more experienced members of a law firm. This is why the Louisiana State Bar Association’s (LSBA) efforts to develop a meaningful mentoring program are so important and would probably reduce the incidents of sanctionable conduct.

**Journal:** Are there any moments or cases—either on the 3rd Circuit or Louisiana Supreme Court—that you are most proud of, or that are particularly memorable for you?

**Knoll:** Actually, the most memorable moment of my career came before I was elected to the bench. *State v. Silton James* was a case I tried as an indigent defense attorney shortly after law school. Mr. James was an African-American man charged with the aggravated rape of a white woman, and he was facing the electric chair. He was truly innocent. I am very proud that I successfully defended him and saved his life. Shortly after the trial was over, the jury had the pen with which they signed the “not guilty” verdict mounted on a wood plaque



Associate Justice Jeannette Theriot Knoll

to present to me. I first gave that pen to the Louisiana Political Hall of Fame when I was inducted in 2000. I then donated the pen and plaque to the Louisiana Justice Hall of Fame when I was inducted, along with my entire family, in 2007.

As a jurist, one of the most incredible feelings you experience is when an opinion you authored “makes a difference” and has an effect on the practice of law. I remember authoring an opinion when I was on the 3rd Circuit called *Hayes v. Autin* in which we acknowledged that then-recent amendments to La. C.C.P. art. 966 removed the jurisprudential presumption in favor of trial on the merits and against summary judgment. The Legislature was so impressed with the opinion that, in a subsequent amendment clarifying art. 966, the Legislature included in its comments that “all cases inconsistent with *Hayes v. Autin*” were legislatively overruled. That was a good feeling.

I realize that all of my opinions have an effect on the litigants before us in that a legal dispute is resolved, and certainly that is very rewarding.

**Journal:** What do you enjoy most about serving Louisiana as a Justice on the Supreme Court?

**Knoll:** I have thoroughly enjoyed participating in the development of Louisiana jurisprudence. This is a very demanding job that requires tremendous dedication and many hours of research. I am very proud that the people of this state gave me their trust in four elections over 34 years. It has been my privilege and honor to serve them

as a jurist.

**Journal:** Do you have any advice for young lawyers who are just beginning their careers and entering the Louisiana Bar?

**Knoll:** Maintain the highest standards of professionalism and ethics. Be kind and courteous to your adversaries. Treat all courts with respect. Always be honest and do nothing that would impugn your integrity and good reputation. Work hard for your client, and always do your homework.

**Journal:** As we are celebrating the 75th anniversary of the LSBA, do you have any bold predictions for where the Louisiana Bar is headed in the future?

**Knoll:** I think technology will continue to have a major and increasing impact on the practice. It will be very exciting to watch the practice change from the sidelines! I hope that our profession continues to promote diversity of all kinds, including intellectual diversity. I hope that the LSBA will get involved in developing programs to provide legal representation to the poor. I also hope the Bar continues to encourage more experienced lawyers to participate in mentoring new lawyers.

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# Interview: Louisiana 3rd Circuit Court of Appeal Chief Judge Ulysses Gene Thibodeaux

Interviewed by L. Sean Corcoran

**Journal:** Tell us a little bit about your career.

**Thibodeaux:** After graduating from Tulane Law School in 1975, I began my legal career with the Legal Defense Fund in New York City as an intern/attorney. The Legal Defense Fund is one of the nation's preeminent public interest law firms and has participated in every major civil rights case and constitutional law case over the past 75 years or so. I focused primarily on fair employment, housing, school desegregation and capital punishment issues. I assisted in briefing the *Roberts v. Louisiana* brief to the United States Supreme Court while with the Legal Defense Fund. I returned to Lake Charles and began a two-and-a-half-year stint with the Calcasieu Parish District Attorney's Office under the leadership of Frank Salter. While there, I tried both misdemeanor and felony jury cases. I went into full-time private practice with Newman & Thibodeaux in 1980-92. My practice consisted of 40 percent personal injury, 40 percent criminal defense and 20 percent civil rights litigation.

I was appointed by the Louisiana Supreme Court to fill a one-year vacancy on the Lake Charles City Court in 1994 where I gained invaluable judicial experience in dealing with everyday legal problems of the average citizen. I had no plans to become a judge. However, when an opening on the 3rd Circuit became available in 1992, I decided to seek that office and ran unopposed. I have been there since 1992. I am now chief judge of that court. It is the largest appellate court in Louisiana from a geographic standpoint, covering 21 parishes in southwest and central Louisiana. It has a population base of approximately 1.1 million citizens. The 3rd Circuit is, of course, domiciled in Lake Charles where I live.

**Journal:** What are the most dramatic changes you have seen in the practice of law in Louisiana appellate courts?



Chief Judge Ulysses Gene Thibodeaux

**Thibodeaux:** The most dramatic change in the practice of law in Louisiana appellate courts has been the expanded use of technology. This expanded use has facilitated ease of research and has enhanced the quality of presentation before appellate court panels. Our system of document management at the appellate court enables attorneys to get voluminous records on disks at a very nominal charge as opposed to dealing with tons of paperwork. We also have seen the use of hyper-linked briefs which greatly assist the court in accessing documents, cases and codal authority relied upon by the attorneys, deposition excerpts, and even video presentations via a brief.

**Journal:** How have you seen diversity improve in the judiciary and the practice of law in general?

**Thibodeaux:** Louisiana has seen a

dramatic increase in both numerical and philosophical diversity since I began my legal career. When I started my legal career in 1975, Louisiana's judiciary and the Louisiana bar could be characterized as "too male and too pale." For example, there were only six black judges in the entire state of Louisiana in 1988. Four of those judges were in Orleans Parish; only two were not. Today, there are 82 black elected jurists in Louisiana. That number represents the highest number of minority judges on a proportionate basis than any other state in the country, and we should be proud of that. We now have 11 black judges on our five intermediate courts of appeal in Louisiana. That is more in absolute numbers than the states of New York, Texas, Florida and California. Those states, of course, have demonstrably larger populations than the state of Louisiana.

There were only three black attorneys in



Lake Charles in 1976. There are now at least 25 or 30 practicing in Lake Charles. The Louisiana State Bar Association (LSBA) has had two black presidents, Wayne Lee and Kim Boyle. A third, Darrel Papillion, will be installed this June.

Moreover, Louisiana has seen a dramatic increase in gender representation in both the judiciary and the bar. Justice Jeannette Theriot Knoll was the only woman on the 3rd Circuit Court of Appeal when I first became a judge. We now have three female judges. Our court pretty much is a microcosm of other appellate courts throughout the state. The presence of female attorneys is also demonstrated at the major law firms throughout the state of Louisiana.

So, in terms of diversity, Louisiana has a lot to be proud of. That is very healthy for our state and our Bar Association. Why? The increase in visibility has inspired a search for role models among minority and female youth. The enlarged visibility of black attorneys and judges and female attorneys and judges adds to the appearance of fairness in our judicial system. It

gives legitimacy to the system in the eyes of those who have been previously marginalized. Further, the presence of an otherwise previously-excluded group brings a different perspective to how a case is viewed. It may not always be outcome determinative. The point is that it brings a different perspective and different viewpoints to the resolution of legal issues, and that is important. Finally, the administration of our system is due in large part to the implementation of policies by committees, boards and commissions. Minorities and women form an essential part of those committees, boards and commissions. We add voices that have previously not been present.

**Journal:** Do you think technology has improved the practice overall in Louisiana appellate courts and are there downsides?

**Thibodeaux:** Yes, technology has definitely improved the practice overall in Louisiana appellate courts. (See my previous response to the changes brought by technology above). There are two downsides, however. Sometimes the overuse of technology

at oral argument can prove to be distracting. After all, attorneys have only 20 minutes to make their presentations. The overuse of technology tends to distract judges from giving full attention to the oral presentation. Also, the overuse of technology, *e.g.*, in the use of videoconferencing, tends to distract from collegiality, which is the fountainhead of every appellate court. It is important to have that personal contact with your colleagues to better understand the positions which they espouse in formulating a judgment or an opinion in the resolution of legal issues. Quite simply, it is important to know one's colleagues personally and to appreciate what makes them "tick."

**Journal:** What is the biggest challenge or challenges facing the Louisiana judiciary?

**Thibodeaux:** There are several challenges currently facing the Louisiana judiciary. (1) The influence of money in judicial elections has become particularly egregious after the United States opinion in *Citizens*.

Continued next page

## We don't just practice in this community WE'RE A PART OF IT

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Jones Walker LLP congratulates the Louisiana State Bar Association as it celebrates its 75th anniversary, and we salute the past and current presidents who have helped lead the LSBA in its mission, especially Jones Walker attorneys **John C. Combe, Jr.**, **Harry S. Hardin, III**, and current president **Mark A. Cunningham**.



JOHN C. COMBE, JR.

1979-1980



HARRY S. HARDIN III

1993-1994



MARK A. CUNNINGHAM

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## Interview continued

The quality and the representation on our courts will become a matter of who can raise and spend the most money in influencing our electorate. (2) The lack of appropriate budgetary allocation to the Louisiana judiciary threatens judicial independence and the proper and efficient functioning of our courts. (3) The alarming decrease in judge and jury trials means that judges will be coming to the bench with very little trial experience. The practical impact is that there is a likelihood of having judges with little or no actual in-court experience and who may tend to view the law in a vacuum and in a very abstract sense. Effective judicial decision-making is greatly enhanced, I believe, through actual participation in trials and the application of life experiences in reaching a fair judicial outcome.

**Journal:** What are the biggest challenges facing the Louisiana Bar now and in the future?

**Thibodeaux:** (1) Public cynicism about the legal profession and the judicial system as a threat. The public needs to see the law as something that is vibrant and helpful and not something that is threatening. It is incumbent upon lawyers and judges to restore confidence in the vitality of our law. We have not done enough to promote the good deeds and the altruistic programs of our bar associations throughout the state. (2) Lawyer advertising threatens to portray the legal community as strictly a business and not a profession. It also threatens the existence of small firms that cannot afford sometimes expensive advertising campaigns. (3) Access to the courts may become a major issue, particularly for those groups with language barriers. We must be sensitive to and cognizant of those needs.

**Journal:** Are there moments or cases that you are most proud of and particularly memorable for you?

**Thibodeaux:** There are several cases from a lawyer and judicial perspective. I represented Emerick Sonnier in a capital case where the first police officer in the history of Calcasieu Parish was killed. Mr. Sonnier, a black citizen, was exonerated by an all-white jury in Calcasieu Parish. Mr. Sonnier was

truly innocent, yet the DA sought the death penalty. Really sad. Former Judge Al Gray, now deceased, and I defended Joe Lewis Perry and were able to get his death sentence overturned because of ineffective assistance of counsel. Joe Perry was scheduled to die two days before we undertook his representation. I also participated in *Fisher v. City Service* when I was an intern with the Legal Defense Fund in New York City and upon my return to Lake Charles. At the time, *Fisher* was the largest Title VII settlement in this country. I was happy to have negotiated the consent decree in that case. *Bernard v. Gulf Oil* was the first case I ever filed as a lawyer after law school. That case went to the United States Supreme Court and was argued in 1981 on a First Amendment issue. We succeeded. The United States Supreme Court ruled unanimously in favor of our class action clients.

Another extremely significant case is *Clark v. Edwards*, a class action civil rights case which was argued before the United States Supreme Court. *Clark* challenged the method by which Louisiana judges were elected as violative of Sections 2 and 5 of the 1965 Voting Rights Act. Judge Parker of the Middle District of Louisiana ruled in favor of the plaintiffs. Consequently, the Legislature enacted subdistricts in 1992 and that has resulted in the increased diversity of Louisiana's judiciary.

I also sat by appointment on the Louisiana Supreme Court and participated in *In re: Office of Chief Justice, Louisiana Supreme Court*, 12-1342 (La. 10/16/12), 101 So.3d 9 (per curiam), which resulted in Chief Justice Bernette Joshua Johnson becoming the first black person to serve as chief justice of the Louisiana Supreme Court in 2012.

From a judicial standpoint, I am especially proud of *Maxie v. Brown Industries, Inc.*, 95-19 (La. App. 3 Cir. 5/31/95), 657 So.2d 443, writ denied, 95-1630 (La. 10/6/95), 661 So.2d 469. *Maxie* was a case which helped to expose the practice of sham rehabilitation in the workers' compensation arena. Another case is *Rachel v. Brouillette*, 12-794 (La. App. 3 Cir. 3/13/13), 111 So.3d 1137, writ denied, 13-690 (La. 5/3/13), 113 So.3d 217, which established a threshold amount for the wrongful death of a parent.

**Journal:** What do you enjoy most about serving as a chief judge of the 3rd Circuit Court of Appeal?

**Thibodeaux:** The most enjoyable thing about serving as the chief judge of the 3rd Circuit is being able to establish and retain collegiality among 12 prima donnas. Another very satisfying aspect of my job is to recruit and maintain a happy and productive employee workforce. Finally, I am very proud that the 3rd Circuit is seen as very attorney-friendly and public-friendly around the state. Image is very important, and we at the 3rd Circuit always attempt to project the most positive image possible to the constituency we serve and that is the public.

**Journal:** Any advice for young lawyers?

**Thibodeaux:** Do not attempt to go into solo practice after law school. You will make mistakes that you don't even know are mistakes. Align yourself with good practitioners who will be able to mentor and tutor you. Be prepared always. Do not overextend yourself by taking cases or causes you should not be taking and for which you could get no good result. If one has a judicial career in mind, save money early, be visible in the community, participate and contribute to your local community, and develop your political networks early.

**Journal:** Do you have any bold predictions for where the Louisiana Bar is headed in the future?

**Thibodeaux:** Our profession, I believe, is in very good shape. We have young, bright attorneys who are graduating from law school and Bar Association leaders who are very progressive thinkers and who believe in what Shonda Rhimes calls "normalcy." That is just another name for inclusion. I further predict that the LSBA is prepared to deal with the threats to and advantages of technology and social media and the need to cultivate good trial skills among our young lawyers.

L. Sean Corcoran is an attorney with Corcoran Law Firm, L.L.C., in Lake Charles and a member of the 2015-16 Leadership LSBA Class. (sean@sean-corcoranlaw.com; 4216 Lake St., Lake Charles, LA 70605)





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# Interview: Orleans Parish Civil District Court Chief Judge Kern A. Reese

Interviewed by Simone B. Boustead

**Journal:** Tell us a little about your legal background and career.

**Reese:** I graduated from Loyola University Law School in 1977. After passing the bar, I started working at the New Orleans Legal Assistance Corp. for \$10,000 a year. After that, I worked at Murray, Murray, Ellis and Braden, Landry. The firm dissolved and I started my own firm with Hank Braden (Braden and Reese). After the firm closed in 1985, I became a sole practitioner for 16 years. I worked in a variety of legal areas — tort litigation, family law, municipal law, general business law and criminal law. I was an “Old Country” lawyer. I eventually focused strictly on tort litigation and criminal law because that was what I did the best.

In May 2001, I was elected judge of Division “L” at Orleans Parish Civil District Court and, in September 2004, I moved to the general docket where I saw it all. I did make it a point to leave work at work and not bring it home.

**Journal:** Since you began serving on the bench in 2001, what is the biggest or most dramatic change you have seen in the practice of law?

**Reese:** The biggest change I have seen is technology. No one uses books anymore and everything is on a computer. While it is faster and more time is saved, it has been an adjustment to get used to.

**Journal:** How have you seen diversity improve in the Louisiana judiciary since you began serving on the bench?

**Reese:** Louisiana is quite unique in this regard because of *Clark v. Edwards*, which set up judicial subdistricts. Because of this, Louisiana has more minority judges per capita than any other state. The subdistricts carved out minority districts which gave minority judges a better opportunity to be elected.



Chief Judge Kern A. Reese

**Journal:** Do you think technology has improved the practice overall, or do you see any downsides to the use of technology in Louisiana courts?

**Reese:** Yes, it has improved the practice overall, but it depersonalizes the issues. Attorneys can write an email instead of speaking in person. Attorneys can hide behind the computer and be more hostile.

**Journal:** What is the biggest challenge or biggest challenges facing the Louisiana judiciary?

**Reese:** Attacks on the independence of the judiciary are the biggest challenge. For

example, laws that impose mandatory jail time. It prevents judges from having any flexibility. As a consequence, Louisiana incarcerates more people than anywhere else in the world. Louisiana spends a substantial amount of money on jail and we still have a major crime problem. These laws take away all of the judge’s discretion. Each case has a different set of facts and we must remember that when actions of the judiciary are limited. We have a system of checks and balances for a reason.

**Journal:** What are some challenges you see facing the Louisiana Bar now and in the future?



**Reese:** There needs to be more civility. I have increasingly had to moderate personal animus between attorneys. It has become more of a problem. There also needs to be better training for the judiciary.

**Journal:** Are there any moments or cases that you are most proud of, or that are particularly memorable for you?

**Reese:** Yes, I presided over the suit involving the City of New Orleans and New Orleans firefighters. It was a 35-year-old case. I would like to think I had some small part of it.

**Journal:** What do you enjoy most about serving Louisiana as a judge?

**Reese:** I enjoy the ability to make a difference in someone's life, bring justice and resolve legal issues.

**Journal:** Do you have any advice for young lawyers who are just beginning their careers and are entering the Louisiana Bar?

**Reese:** Yes, a few things. 1) Education is a lifetime process. 2) Acquire experience and appreciate it. It will help in practice. 3) Time management. Make the best use of it and be able to balance home and work life. 4) Develop a good network with strong positive people who will help you and vice versa. 5) Guard your reputation. How you are perceived will determine your own success.

The incoming generation is bold and not saddled with issues I had to work through. They have more diversity and institutionalized racism is not as overt.

### A little lagniappe . . .

As an aside, Judge Reese said that he enjoys hearing attorneys advocate for their clients and encourages them to think clearly, write clearly and speak clearly. If an attorney can accomplish that, he or she has a better opportunity to prevail. In addition, Judge Reese loves being a lawyer. He stumbled into the profession and it was one of the best trips he ever made.

*Simone B. Boustead is an attorney with Iberia Bank in New Orleans and is a member of the 2015-16 Leadership LSBA Class. (simone.boustead@iberiabank.com; Ste. 2075, 601 Poydras St., New Orleans, LA 70130)*



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# Interview: Bob F. Wright, 1978-79 LSBA President

Interviewed by Jamie Polozola Gomez

**Journal:** Can you tell us a little bit about your career as an attorney, what areas do you practice in, how many years have you practiced, and why did you decide to go to law school?

**Wright:** I was one of 10 children being raised by my mother after my father's death. This was during the depression years, and, while I had two older brothers who had become lawyers, I did not know if I would be able to further my education without financial assistance. Fortunately, I was able to obtain an athletic scholarship and I attended Centenary College in Shreveport. I graduated from Centenary in 1954. I was then granted a full scholastic scholarship to Tulane University Law School.

Upon graduation in 1957, instead of remaining in New Orleans with one of the large firms, I was introduced to Mr. James Domengeaux, who offered me a job for \$50 per month more than the going salary for a new lawyer in New Orleans.

**Journal:** What is the biggest, or most dramatic, change you have seen in the practice of law in Louisiana during your career?

**Wright:** A great change came about in the future of Louisiana when the United States Supreme Court made the Jones Act applicable to injured offshore workers. Theretofore, those individuals received only workers' compensation benefits if injured or killed. Accordingly, the maritime practice exploded in southwest Louisiana. Because Mr. Domengeaux had been a member of Congress and was very well known in the Lafayette area, this opened the door for my engaging in this new field of litigation. The number of lawyers in the Lafayette area dramatically increased over the ensuing years, and I was fortunate enough to benefit from the litigation that ensued.

Historically, Domengeaux & Wright (now Domengeaux, Wright, Roy, Edwards & Colomb, L.L.C.) has concentrated its practice in the area of tort litigation involving personal injury, death and property damage.



Bob F. Wright

In approximately 1980, our firm expanded to include commercial litigation, including anti-trust, unfair trade and toxic tort.

**Journal:** Can you tell us a little about why you decided to become involved in the Louisiana State Bar Association (LSBA)? When did you hold your first office with the LSBA? What year were you president?

**Wright:** I became involved in the LSBA upon graduation from law school in 1957 and was honored to be elected president of the Louisiana Trial Lawyers Association and, thereafter, the president of the LSBA in 1978.

**Journal:** While you were president, what was the biggest issue facing the LSBA?

**Wright:** The biggest issue facing our profession during my tenure as president of the LSBA was lawyer advertising, which was approved by the United States Supreme Court and became an issue as to how to handle such advertising in the state of Louisiana. During this time, I was a frequent speaker at legal seminars and panels throughout the United States on the subject of civil litigation, maritime law and professional ethics.

**Journal:** What is the biggest, or most dramatic, change you have seen in the prac-

tice of law in Louisiana during your career?

**Wright:** I believe the most dramatic change I've seen in the practice of law in Louisiana, or anywhere for that matter, has been the evolvement of electronics and computerization of virtually the entire practice. Technology has dramatically changed the practice of law, particularly regarding discovery, trial preparation and trial presentation. We have evolved into "paperless" offices. It has become necessary for lawyers to become literate in the use of technology in solving the court requisites of the profession. The rapid expansion of artificial intelligence will dramatically change the role of "legal advice" as we think of it today.

**Journal:** Are there any moments or cases in your career that you are most proud of, or that are particularly memorable for you?

**Wright:** The most rewarding aspect of my career has been dealing with people and trying to assist those who have need for an advocate in the legal process. It is my belief that young lawyers should be willing to devote the necessary time and energy to those who have problems which require the legal process, and not to over-emphasize the need for making money, but rather serve the public with their legal needs.

**Journal:** As we are celebrating the 75th anniversary of the LSBA, do you have any bold predictions for where the Louisiana Bar is headed over the next 75 years?

**Wright:** I see the litigation process becoming more and more secondary to mediation and arbitration in the resolution of legal issues.

Jamie Polozola Gomez is an attorney in the firm of Cashe Coudrain & Sandage in Hammond and a member of the 2015-16 Leadership LSBA Class. (jpg@ccsattorneys.com; P.O. Drawer 1509, Hammond, LA 70404)





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# Interview with Professor A.N. Yiannopoulos: Louisiana's Most Influential Jurist in Our Time

Interviewed by Tyler G. Storms

**Interviewer's Note:** *The reasons that I proposed, and the Louisiana Bar Journal Editorial Board agreed, to publish this article on Professor A.N. Yiannopoulos are twofold. First, one has to go back to its origins of the early 1800s to find anyone who has had a comparative impact on the Civil Code of Louisiana. Second, Yiannopoulos has helped and touched so many of us in the Bar. He cares about his students, and he consistently helps his friends. He is a good man, and he continues (usually without pay) in*

*his labor of love, which is the improvement of our Civil Code. My life has been much better because of him. Our state's law has been much better because of him, and the lawyers of this state have seen farther, much farther, because they have been able to stand on the shoulders of such a rare genius. We want to take this opportunity to honor him with this "thank you note" from the Bar to be published in his lifetime.*

**Journal:** Tell us about your childhood. What is your background?

**Yiannopoulos:** I was born in Thessaloniki<sup>1</sup> in 1928. My maternal grandfather was an attorney, and my father was an attorney who wound up serving as an artillery officer in the Balkan theater and Asia Minor before joining the Plastira Revolution.<sup>2</sup> He was a captain when I was born. He barely escaped a court-martial because of his outspoken democratic beliefs. After departing from the army, my father obtained his law license in 1935.

**Journal:** That was a difficult time with World War II about to start. How did it affect your family?

**Yiannopoulos:** I, personally, was a schoolboy in Thessaloniki when Italy declared war against Greece on Oct. 28, 1940.

**Journal:** Did your father remain out of the army?

**Yiannopoulos:** No, it was a time of desperate need. The army recalled my father in the summer of 1940, and he commanded forces who held the Nazi Panzers back for three full days with nothing but light artillery.

I eventually suffered the ignominy of Fascist occupation, as well as famine, in Thessaloniki. I was 15 when I joined the

youth resistance movement against the Fascists. A German officer caught me painting resistance slogans on a wall in Aristotle Square, in the heart of Thessaloniki. When he attempted to arrest me, I unloaded my entire paint bucket on his face and, of course, ran for dear life!

**Journal:** You come from a family of lawyers, and that certainly influenced your career choice. Where and when did you get your early legal training?

**Yiannopoulos:** I entered the University of Thessaloniki Law School in 1946. We had a class of 180 students. Four of my classmates became Supreme Court justices, and the second-ranking student in our class became the president of Greece.<sup>3</sup> My legal career was interrupted, however. My government sent me to the army after the national student organization, which I headed, had successfully protested against tuition hikes. Protests were in contravention of the law at that time.

The army eventually trained me to be an infantry reserve officer and an interpreter. They attached me to the British military mission in Athens. After the British mission disbanded, I served as military secretary for the commander in chief, who at that time was King Paul. I held that position until my discharge in 1953.

**Journal:** How did you get to America?

**Yiannopoulos:** While serving in Athens, I had applied for a Fulbright Fellowship. I was on a boat for New York on the third day following my discharge. After the hardships of war and reconstruction, life in the USA was a dream.

**Journal:** What did you do with the Fulbright?

**Yiannopoulos:** I chose to study at the University of Chicago Law School. My mentor at Chicago was the famous Max Rheinstein. After receiving a Master of Comparative Law in May 1954, I moved to UC Berkeley on a Walter Perry Johnson fellowship and received in 1955 the LL.M. In 1956, on a University of California scholarship, I continued my graduate studies and received the JSD degree under two world-renowned specialists, Professors Albert Ehrenzweig and Stefan Riesenfeld. My doctoral thesis on "Wills of Movables in International Conflicts of Law" was published in the *California Law Review* in a whole issue.

**Journal:** Did you start teaching after that?

**Yiannopoulos:** Yes, I studied and taught at the University of Cologne as an assistant to Professor Gerhard Kegel in



the framework of the Berkeley-Cologne Exchange of Faculty and Student Program, funded by the Ford Foundation. While I was in Germany, Dean William Prosser, author of the famous torts treatise, was at Berkeley. Dean Prosser recommended me for a faculty position at Louisiana State University (LSU). LSU offered me a position on the law faculty while I was still in Germany, but I delayed accepting that position. My intention had always been to return to Thessaloniki to serve on a law faculty there. I, therefore, returned to Greece and took the *Areios Pagos* (Supreme Court) examination in 1957, which allowed me to become a member of the Thessaloniki Bar. Soon thereafter, the University of Cologne also awarded me a Doctor of Jurisprudence *magna cum laude*, which later was published by the Louisiana State University Press. Many decades later, in reverence, the dedication page of the 4th Edition of the *La. Civil Law Treatise* reads as follows:

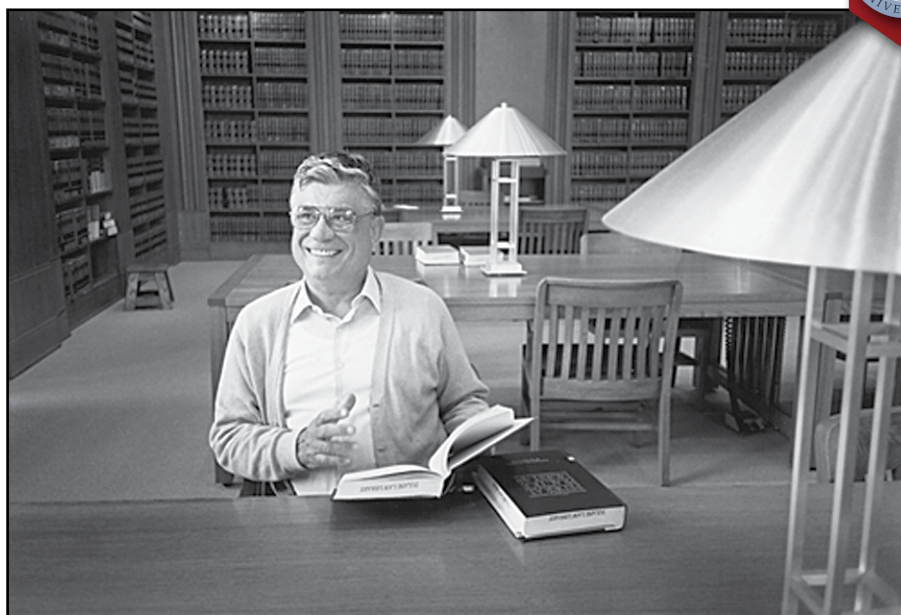
In gratitude to those who bestowed the gift of ευ ζέτιν<sup>4</sup>

Albert A. Ehrenzweig  
Gerhard Kegel  
Max Rheinstein  
Stefan Riesenfeld

**Journal:** How did you decide on Louisiana when you had been putting off the invitation to come here for so long?

**Yiannopoulos:** In 1958, looking at a minuscule map of Louisiana, I accepted the LSU offer under the mistaken impression that LSU was located, if not in New Orleans, at least in a suburb of the historical city. After a rude awakening, I considered my position at LSU temporary because I was ignorant of the essential fact that my initial appointment was as *Associate Professor of Law with tenure* — no need for promotion from the rank of Assistant Professor and no tenure qualification worries.

Eventually, Mississippi mud crept in between my toes, and I fell in love with Louisiana, with Baton Rouge, with New Orleans, and with all the small communities and big cities. As a result, my “temporary” appointment at LSU could be mentioned in *Guinness World Records* as one of the longest in that it lasted only



Professor A.N. Yiannopoulos

until 1979, a mere 21 years give or take, when I was asked to join the Tulane faculty. My presence in Louisiana has been even less temporary than 21 years. Long before going to Tulane, I became a U.S. citizen with Louisiana as my home state, and I continue to work on the fabric of our law to this day.

**Journal:** Did you make any changes when you arrived at LSU?

**Yiannopoulos:** I commenced the revision of the Louisiana Civil Code, having been appointed Reporter and Coordinator for Program and Research by the Louisiana State Law Institute's Council in 1965. I published the first Louisiana legal treatise in 1966, *Civil Law Property*.<sup>5</sup> I had to suggest the very idea of a Louisiana legal treatise to West.

**Journal:** Did you do anything to end your “temporary assignment” at LSU and return to Greece?

**Yiannopoulos:** Yes, a new chair had been created at the University of Thessaloniki in 1966. I was elected to that chair. Greece, unfortunately, had fallen under a military dictatorship, and in the fall of 1968, I had been advised to appear and assume my duties, or my election to the chair created for me would be cancelled. I was assigned an office, but not a class to teach. The political air was oppressive.

When I was offered to teach a class, I felt that I had to refuse because it would have been a slap in the face to one of my colleagues in exile; therefore, I graded examinations of students who needed to graduate. After such a disappointing experience, I tendered my resignation in January 1969 and returned to the United States. I left Greece without an “exit permit,” a defiant act, as such a permit was required by the dictatorial government at the time.

**Journal:** What did you do next?

**Yiannopoulos:** The LSU Dean, Paul Hebert, offered me a reappointment. After my return, it occurred to me that a penumbra of disenchantment and frustration surrounded provisions of the Civil Code. The Civil Code seemed irrelevant, out of touch with reality, and suspended in a vacuum. I, therefore, began the work of revision of the law of personal servitudes (usufruct, use and habitation) because I had just finished the first Louisiana treatise, which was on that subject. We used sources not only from France and Spain, but also from Greece, Germany and Switzerland. We additionally relied on contemporary civilian doctrine and jurisprudence. Book II, Title III of the Louisiana Civil Code acquired the force of law on Jan. 1, 1977.

Continued next page

## Selected Publications of Professor A.N. Yiannopoulos: Books

Professor A.N. Yiannopoulos has published a host of law review articles, books, book reviews and other materials. A complete list of his remarkable scholarship can be found at: <http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=480>. Among his books are:

1. American Greek Private International Law (with Professors Ehrenzweig and Fragistas, Oceana, 1957).
2. Negligence Clauses in Ocean Bills of Lading: A Comparative Study (LSU Press 1962).
3. Civil Law in the Modern World (LSU Press 1965, A.N. Yiannopoulos Ed.).
4. Matrimonial Regimes Coursebook (with Catherine Spaht, LSU Law School Press 1978).
5. Admiralty and Maritime Law (with Thomas J. Schoenbaum, Michie Co. 1984).
6. Ocean Bills of Lading: Traditional Forms, Substitutes, and EDI Systems (Kluwer Pub. Yiannopoulos ed. 1995).
7. Admiralty and Maritime Law (with Robert Force. Lupus Pub. 1997, updated 2011).
8. Louisiana Civil Law System (Claitor Pub. Baton Rouge, La.. 1978; 2d ed. 1998).
9. Civil Law Property Coursebook (Claitor Pub. Baton Rouge, La.. 9 ed. 2011).
10. Louisiana Civil Law Treatise, Volume 2 — Property, West Pub. Co., St. Paul, Minn. (4th ed. 2001, updated 2011).
11. Louisiana Civil Law Treatise, Volume 3 — Personal Servitudes (West Pub. Co., St. Paul, Minn. 4th ed. 2001).
12. Louisiana Civil Law Treatise, Volume 4 — Predial Servitudes, (West Pub. Co., St. Paul, Minn. (4d ed. 2013).
13. Louisiana Civil Code, Pamphlet Editions 1980-2011 (West Pub. Co., St. Paul, Minn.).
14. Selected Institutions in the Law of Obligations, a Casebook (Claitor Pub. Baton Rouge, La., 2003).

## Interview continued from page 25

**Journal:** It is unquestioned that you have served as the primary reporter<sup>6</sup> for the revisions of the Civil Code since then. How long did you stay at LSU?

**Yiannopoulos:** I joined Tulane University in 1979. I served as professor there until 2007, and continued to write and teach as an emeritus professor. I was the lead teacher for Tulane's Civil Law Seminar until 2015. I continue to teach at Tulane to this day.<sup>7</sup>

**Journal:** Is there anything you recall as being innovative in the area of legal education, as opposed to the law itself?

**Yiannopoulos:** I organized for LSU a first-ever summer session in Thessaloniki in 1972. American universities had established programs for a semester or a year abroad through exchanges of students and faculty members. We, however, actually created a fictitious campus where law students would take summer classes for LSU credits in Thessaloniki. Tulane sponsored a similar program in Thessaloniki in 1980 and consistently maintained summer sessions in the islands of Rhodes, Crete and Spetses while I served as director. While Tulane continues to operate the Rhodes summer session, Loyola University now maintains the Spetses program.

**Journal:** I know you are a titular member of the Hague Academy of Comparative Law and various other societies such as the American Law Institute. Have you done work in other jurisdictions?

**Yiannopoulos:** I was asked to help with the Estonian Civil Code in Tallinn, and the Harvard Institute for International Development appointed me to serve as an expert adviser for the codification of the Russian Civil Code.

**Journal:** Of all the special recognitions you have been awarded, do any stand out to you?

**Yiannopoulos:** Yes, Greece honored me with the Gold Cross of the Order of the Phoenix for cultural achievement, and the Archbishop of Australia presented me with the Gold Cross of the Order of Saint Andreas. The University of Thessaloniki honored me in 1991 with an LLD, Doc-



Professor A.N. Yiannopoulos during his time teaching at Louisiana State University. Photo provided by A.N. Yiannopoulos.

toral Degree, *honoris causa*. There is an A.N. Yiannopoulos Endowed Chair at the LSU Law Center, as well as an endowed scholarship in my honor, which is reported to be one of the largest privately funded scholarships at the school. There is also an A.N. Yiannopoulos Professorship at the Tulane Law School and an A.N. Yiannopoulos Endowed Scholarship for Civil Law Studies. Last but not least, I have particularly enjoyed being called “a legal lion” in a Louisiana Court of Appeal decision.

**Journal:** You have certainly published a phenomenal amount.<sup>8</sup> Will this be the last that the Louisiana Bar hears from you?

**Yiannopoulos:** I do not plan to stop working on the revision of the Civil Code. I hope to see a complete revision of all titles, recast into a modern, flawlessly and smoothly working whole without the continuous need for amendments. The Civil Code should be a well-organized legislative scheme without so-called “Official Revision Comments” — which, in reality, are Reporter's notes — that should be properly placed in legal archives or published in treatises and law review articles and comments.

**Journal:** What should be done about commentary on the Civil Code?



**Yiannopoulos:** I envision a commentary covering the entire Civil Code article by article, written by experts on the particular legal institution under review. As a matter of fact, WestGroup has accepted my proposal for such a series of volumes, and the Volume I of the Louisiana Civil Law Commentary is scheduled for submission for publication on July 5, 2017.

**Journal:** What do you enjoy doing outside of work?

**Yiannopoulos:** I enjoy traveling, reading literary works, attending classical music events, and participating in international conventions. The companionship of my friends has always formed an important part of my life. Unfortunately, close friends of my age have succumbed to the ravages of time or are no longer with us. I have found much comfort in the company of my family, a few remaining old friends in many parts of the world, as well as younger persons, such as law faculty members, former students, assistants and coworkers.

**Journal:** I personally know you have many acquaintances of the opposite sex who enjoy your company.

**Yiannopoulos:** Absurd, I object... Hearsay!<sup>9</sup>

**Journal:** Is there anything you would like to say to your former students?

**Yiannopoulos:** Yes, Αἰὲν ἀριστεύειν.<sup>10</sup> This quotation is from the sixth book of Homer's *Iliad*, wherein Glaucus delivers a speech to Diomedes: "*Hippo locus begat me. I claim to be his son, and he sent me to Troy with strict instructions: Ever to excel, to do better than others, and to bring glory to your forebears, who indeed were very great . . . This is my ancestry; this is the blood I am proud to inherit.*"

**Journal:** Is there anything you would like to say to the members of the Louisiana Bar?

**Yiannopoulos:** Yes, but I already said it in the dedication of two *La. Civil Law Treatises*. In Volume 3,<sup>11</sup> you will find, "For the Women and Men of the Law who Cherish the Beauty<sup>12</sup> of the Civil law of Louisiana." Also, I wrote in the dedication of *La. Civil Law Treatise*, Volume 2,<sup>13</sup>



Professor A.N. Yiannopoulos while consulting for the recodification of the Russian Civil Code. Photo provided by A.N. Yiannopoulos.

"Homage to Albert Tate, Jr., and Those Who Will Guard Thermopylae."

## FOOTNOTES

1. Also known as Thessalonica.
2. The 11 September 1922 Revolution was declared by Gen. Nikolaos Plastiras and led to the abdication of King Constantine I of Greece.
3. Although not stated by Yiannopoulos in his interview, it is the author's belief, on good authority, that the former president of Greece was second only to Yiannopoulos in class rankings. It has also been rumored that this erstwhile president of the Greek Republic was told that, even as executive leader, he was "not necessarily the top ranking dog!"
4. Alexander the Great: "I owe life to my parents, but I owe the good life (εὖ ζῆν) to my teacher" (viz., Aristotle). The author of this article feels the same gratitude toward his teacher and mentor, Professor Yiannopoulos.
5. *Personal Servitudes* originally came out in 1968, and *Predial Servitudes* originally appeared in 1980.
6. Professor Yiannopoulos has served as reporter on committees for the revision of the law of Absent Persons, Aleatory Contracts, Corporations, Boundaries, Building Restrictions, Community Property, Deposit and Sequestration, Domicile, Loan, Mandate, Master and Servant, Matrimonial Regimes, Natural and Juridical Persons, Occupancy and Possession, Ownership, Ownership in Indivision, Personal Servitudes, Predial Servitudes, Preliminary Title, Prescription, Property, Quasi Contracts, Rents and Annuities, Respite, Signification of Terms, Things, and Utility Servitudes or Louisiana Civil Code Revision, Book I, Titles I-III, Persons, Book II, Titles I-VII Property, Book III, Titles V, VI, XII-XV, XX, XXIII-XXV. Second to

Yiannopoulos in terms of production is the late Saúl Litvinoff, who served as reporter on the revision of the law of Conventional Obligations, Exchange, Obligations in General, Sales, Transaction or Compromise, and UCC 2 and 2A.

7. This interview was completed in February 2016.

8. In addition to his definitive *La. Civil Law Treatises*, Professor Yiannopoulos has published a host of law review articles, books and book reviews. A complete list of his remarkable scholarship can be found at: <http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=480>.

9. Author's note: Laughter follows the objection.

10. Roughly translated as, "Ever to excel!"

11. *Personal Servitudes* (5 ed. 2011).

12. "The Civil Law is beautiful." This is quoted from a mighty bas-relief celebrating the endowment of the A.N. Yiannopoulos Professorship of Law, courtesy of the generous donations of Richard J. Dodson, Esq., former LSU Law School student of Dr. Yiannopoulos, ca. 1960s, thereafter a self-described lifelong admirer and friend.

13. *Property* (3 ed. 1991).

Tyler G. Storms, an attorney in Ruston, serves on the Louisiana Bar Journal's Editorial Board, in the Louisiana State Bar Association's House of Delegates and on committees of the Louisiana State Law Institute. He is a graduate of Tulane University and its Law School (BA and JD). (tstorms@stormslaw.com; 941 N. Trenton St., Ruston, LA 71270-3327)



# Louisiana's Historic Courthouses: A Look at the Past and the Present

By Tracy O. Joseph, Richard D. Lamb III, Lisha C. Landry, Shayna B. Morvant,  
Kimberly R. Silas and Amani C. Perkins

*Editor's Note: These articles provide information on historic Louisiana courthouses. In this issue, the courthouses in 15 parishes are discussed. The Louisiana Bar Journal will provide more courthouse articles over the coming anniversary year.*

United States Supreme Court Justice Lewis F. Powell Jr. said it best, “[F]or much of our history, the courtroom has served not just as a local center of the law and government, but as a meeting ground, cultural hub and social gathering place.”<sup>1</sup> As attorneys, many of us are in courtrooms every day but few of us may take the time to truly appreciate the architectural detail and historical value these public buildings offer.

Louisiana’s courthouses are among the states most valuable resources and possessions that often go unappreciated. The many different and distinct architectural styles of these courthouses are deeply rooted in Louisiana’s rich history. Some courthouses dating back to the 1800s are still being used today. These courthouses, noteworthy for the places they hold in Louisiana’s history, are time capsules.

As this issue of the *Louisiana Bar Journal* begins the celebration of the 75th anniversary of the Louisiana State Bar Association, it is only fitting to dedicate a small portion of this publication to courthouses throughout this state.

## Ascension Parish

► The Ascension Parish Courthouse, located at 300 Houmas St. in Donaldsonville, was established in 1889 and designed by James Feret. A courthouse built in 1810 served the parish until 1846 when it was destroyed by fire. The building housing the next courthouse was destroyed by a federal



**Avoyelles Parish Courthouse.** Photo by John Deacon. Used with permission.

bombardment of Donaldsonville. The parish eventually outgrew the new courthouse built in 1862. The present-day Ascension Parish Courthouse in Donaldsonville was built in 1889, with additions made in 1974.<sup>2</sup> Despite these additions, the original structure is almost unchanged and still in use today.

► The Ascension Parish Courthouse, located at 820 S. Irma Blvd. in Gonzales, was established in 1975 and designed by August Perez and Associates. Ascension Parish is one of the parishes with two functioning courthouses. In 1974, the Ascension Parish Courthouse East was completed. This courthouse is considered an annex and not a separate entity.

## Avoyelles Parish

The Avoyelles Parish Courthouse is located in the parish seat of Marksville. The red-brick structure was completed in 1927 at a cost of \$250,000. It was designed in the neoclassical revival style by architect Herman Duncan and constructed by the Caldwell Brothers. The red-brick-and-concrete structure consists of two floors and a basement, with the top floor being used as a courthouse until the late 1970s. The building also houses the Avoyelles Parish Clerk’s Office. Still in use today, the courthouse was renovated in the 1970s.





A postcard view of the Caddo Parish Courthouse.

### Caddo Parish

The Caddo Parish Courthouse sits on a commanding site of approximately 2.5 acres on Texas Street, a major thoroughfare in downtown Shreveport. Two prior courthouses stood where the current courthouse stands today. The current courthouse was constructed in 1926 and is listed on the National Register of Historic Places.

The Caddo Parish Courthouse was designed by Edward F. Neild, a Shreveport architect. Once, upon a tour of Shreveport, President Harry S. Truman was so impressed with the design of the courthouse that he approached Neild to design the courthouse in President Truman's home county of Jackson County, Missouri. Subsequently, Truman enlisted the services of Neild as a consulting architect for the rehabilitation of the White House during Truman's term as president. He also enlisted Neild as the lead architect of the Truman Presidential Library in Independence, Missouri.

The courthouse itself is surrounded by grass and stately oak trees donated by Judge Thomas Fletcher Bell in the late 1800s.<sup>3</sup> The courthouse grounds are dotted with indigenous shrubs and seasonal plants. Benches are available for the enjoyment of the public. On the Texas Street side of the courthouse, a Confederate Veterans Reunion Monument honors those who died fighting for the Confederacy. Unbeknownst to many, this small tract of land within the perimeter of the courthouse

property is actually private property owned by the Daughters of the Confederacy and not to the Parish.

The design and décor of the inside of the courthouse is a fitting tribute to the people of Caddo Parish. The walls are made of Rosatta marble and have bronze torches lighting the way. The floors incorporate pink and gray Tennessee marble with a border of Belgian black marble, and opposite of these marble floors are bronze lamps hanging from the ceiling.

The inside has many stories to tell, including a history of Caddo Parish in a first-floor display of historical items. While the first-floor display manifests images of growth and prosperity, there is a darker side to the courthouse that has entertained thrill seekers and frightened courthouse employees. The 7th floor of the courthouse was the site of the old jail and contains old cells that are no longer in use but maintain their unnerving appearance as a place for the condemned. The 8th floor presents even more frightening displays as this floor was where convicted criminals were hanged.<sup>4</sup> As recent as 2014, a latch is still visible where the floor would drop to execute the execution.

In more recent years, Shreveport has gained the reputation as "Hollywood South" as film producers and movie stars migrated to the city. In 2009, the Caddo Parish Courthouse was the setting for "Beyond a Reasonable Doubt" starring Michael Douglas and Jesse Metcalfe.<sup>5</sup> While

the movie was a dud with critics, the courthouse looked great!

The Caddo Parish Courthouse has survived the Great Depression, World War II, the Civil Rights era, the Cold War and a few booms and busts in the oil and gas industry, but even still appears to be fully prepared to take on the 21st century.

### East Baton Rouge Parish

► The East Baton Rouge Courthouse, located at 300 North Blvd. in Baton Rouge, was established in 2007. The first courthouse that served the Baton Rouge area was a structure built in 1807 during the days of the Louisiana Territory until it was converted into a public school. A second courthouse was built and later leveled in 1922 to make way for a new courthouse to serve the parish. The third parish courthouse opened in 1923 and an addition was constructed in 1957 to install central air conditioning. It is now the location of the Baton Rouge City Court. In 1977, a new parish government and judicial complex served the parish until a new courthouse was built in 2007.<sup>6</sup>

► The Russell B. Long Federal Building and United States Courthouse, located at 777 Florida St. in Baton Rouge, was established in 1972. The U.S. Post Office, circa 1897, was the location of the U.S. District Court for the Eastern District of Louisiana until 1933. The U.S. Circuit Court of the Eastern District also met here until the court was abolished in 1912. This building is now the location of the City Club of Baton Rouge. The U.S. District Court for the Eastern District of Louisiana met at the U.S. Post Office and Courthouse built in 1933 until the creation of the Middle District in 1972. This building is still in use by the U.S. Bankruptcy Court for the Middle District of Louisiana.<sup>7</sup>

### East Feliciana Parish

The East Feliciana Parish Courthouse, located at 12305 St. Helena St. in Clinton, was established in 1840 and designed by J.S. Savage in 19th century American and Greek-Roman Classical Revival style. Today, only four courthouses built in Louisiana before the Civil War are still used for parish proceedings. The oldest and still functioning courthouse in Louisiana, the East Feliciana Parish Courthouse was built in 1840 after a fire destroyed the first courthouse in 1839.



**The present-day Natchitoches Parish Courthouse.** Photo by John Deacon. Used with permission.



**The Natchitoches Parish "Old Courthouse."** Photo by John Deacon. Used with permission.

But after years of deterioration, the local community banded together to raise almost \$3 million to update the National Historic Landmark for modern use. Thanks to its dedicated community, original specifications confirm that the East Feliciana Courthouse stands today as it did in 1840.<sup>8</sup>

#### **Iberville Parish**

The Iberville Parish Courthouse, located at 59705 Bayou Rd. in Plaquemine, was established in 1906 and designed by A.J. Bryan. In 1848, land was purchased and construction began on a courthouse which later became the City Hall. The present courthouse, built in 1906, had a top turret faced with clocks facing north, south, east and west. The original turret was destroyed by fire in the 1940s and not replaced. The present courthouse was remodeled to conform to that part of the structure that had been lost through the fire. The former Iberville Parish Courthouse built in 1848 now houses the Iberville Parish Museum which has been open since 2000.<sup>9</sup>

#### **Livingston Parish**

The Livingston Parish Courthouse, located at 20300 Government Blvd. in Livingston, was established in 2014. Livingston Parish may hold the record for having the most locations of parish courthouses in Louisiana. The first courthouse in the parish is generally considered to have been established in Van Buren on the east bank of the Tickfaw River.<sup>10</sup> In 1835, the first Livingston Parish courthouse was built in Springfield. In 1871, the courthouse

was moved to Port Vincent. During the 1872 legislative session, the ruling body changed the parish seat to Port Vincent. In October 1875, the Port Vincent courthouse was burned down in the middle of the night, destroying all of the records inside. After much controversy, a settlement was reached that the parish seat would be in a central location between the two towns on Highway 42. The little settlement was called Springville and later renamed to Centerville in the spirit of the compromise that had been placed there. The Livingston Parish Courthouse in Centerville remained the parish seat until 1941 when a courthouse was built in what is now the Town of Livingston. At the end of 2014, the construction of the new Livingston Parish Courthouse was completed. The old Livingston Parish Courthouse in Port Vincent is on the National Register of Historic Places.<sup>11</sup>

#### **Natchitoches Parish**

► The present-day Natchitoches Parish Courthouse was erected in 1940. Located on Church and Second Streets in Natchitoches, it was designed by architect J.W. Smith & Associates and constructed by T.M. Reed Construction. The building includes three stories and is a mixture of neutral-colored brick and concrete. An annex to the original structure was completed in 1959.

► The Old Natchitoches Parish Courthouse was built in 1896 at a cost of \$20,555. Portions of the "Old Courthouse" were damaged by fire in 1933. It has since been

restored several times, most recently in the late 1970s. The Old Courthouse currently houses the Old Courthouse Museum, a branch of the Louisiana State Museum. This structure was actually the second courthouse. The first Natchitoches Parish Courthouse was completed in 1828.

#### **Pointe Coupee Parish**

The Pointe Coupee Parish Courthouse, located at 201 E. Main St. in New Roads, was established in 1902 and designed by A.J. Company in Romanesque Revival Style. When Pointe Coupee was made one of the 12 parishes of Orleans, the chosen officials continued to use as a courthouse the same building that had served as such through French and Spanish possessions of the area. This building burned in 1846 and, two years later, the seat of government was moved to New Roads. On Sept. 1, 1847, a tract of land was purchased for \$1,600 from Baptiste LeJune for the courthouse, still located there today. The original section of the courthouse was built in 1902 in Romanesque Revival style. By the 1930s, this courthouse no longer fulfilled the needs of the growing parish. Instead of destroying the original structure, Pointe Coupee Parish built an annex at the rear of the existing structure. The annex was added in 1940 and, except for minor repairs, the courthouse has remained relatively untouched. This building is listed on the National Register of Historic Places.<sup>12</sup>

#### **Orleans Parish**

► During portions of the Spanish and



French administrations, the Cabildo served as the seat of the government. Completed in 1799, the Cabildo was designed by Don Gilberto Guillemard. Located at 711 Chartres St., the building's main hall, the Sala Capitular (Meeting Room), was used as a courtroom. The Cabildo served as the home of the Louisiana Supreme Court from 1853-1910. Landmark decisions in the Slaughterhouse cases and *Plessy v. Ferguson* were handed down there.

► The Presbytere was designed in 1791 by Don Gilberto Guillemard to mirror the Cabildo, which is positioned on the other side of St. Louis Cathedral. Built on the site formerly used a residence for the Capuchin monks, construction of the Presbytere was completed in 1813. The structure, located at 751 Chartres St., was originally rented for commercial use by private citizens. The Presbytere became a courthouse in 1834. Between the years of 1822 and 1853, the Presbytere was used to house the Louisiana Supreme Court, district courts, officers and clerks of courts, and other judicial offices. After the eventual move of the Louisiana Supreme Court to the Cabildo in 1853, the Presbytere continued to serve as a courthouse until 1911.

► The Carrollton Courthouse served as the seat of government for Jefferson Parish until the City of Carrollton was annexed by New Orleans in 1874. Title of the building was eventually transferred to the City of New Orleans in 1888 and has served as the site of several New Orleans public schools. The Carrollton Courthouse was added to the National Register of Historic Places in 2015.

► The Louisiana Supreme Court's current home is at 400 Royal St. Construction of the building, designed by Frederick and Ten Eyck Brown, began in 1908 and was completed in 1909. The courthouse was officially opened in October 1910. The structure originally housed the Louisiana Supreme Court, the 4th Circuit Court of Appeal, New Orleans Civil District Court, City Courts and other city and state agencies. After a temporary relocation to Duncan Plaza Civic Complex, the Louisiana Supreme Court and the 4th Circuit Court of Appeal returned to Royal Street in 2004 after the building underwent extensive renovations.



**Rapides Parish Courthouse.** Photo by John Deacon. Used with permission.

► Housed at 400 Royal St. since 1910, the Civil District Court relocated to its current building at the corner of Perdido Street and Loyola Avenue. Sitting adjacent to New Orleans City Hall, the structure was completed in 1959.

► The Algiers Courthouse, originally housed in the Duverje Plantation home, was built after the original site was destroyed during the Great Algiers Fire of 1895. Located at 225 Morgan St. in Algiers, the courthouse is home to 2nd City Court, the registrar of voters and other essential city government offices. Designed by Linus Brown and Alonzo Bell, the Algiers Courthouse is the third-oldest courthouse in continuous use in Louisiana.

► Built in 1929, the Criminal District Court was designed by Diboll & Owens in a combination of Roman Classic and modern Art Deco styles. Located at the corner of Tulane Avenue and Broad Street, the courthouse was added to the National Register of Historic Places on Jan. 12, 1984.

► The John Minor Wisdom U.S. Court of Appeals Building, originally serving as the U.S. Post Office and Courthouse, houses the 5th Circuit Court of Appeals. Styled in Italian Renaissance Revival, the structure was constructed between 1909-15. After vacating the premises in 1963, the 5th Circuit Court of Appeals returned to the building after it had undergone extensive renovation in 1971-72. In

1994, the building was renamed in honor of John Minor Wisdom, one of the "5th Circuit Four" and a respected judge who served on the 5th Circuit from 1957-99. The building, located at 600 Camp St., was listed in the National Register of Historic Places in 1974.

### **Rapides Parish**

The present-day Rapides Parish Courthouse, completed in 1939, is located in downtown Alexandria on Murray St. It was designed by architects Edward F. Neild, D.A. Somdal and Edward F. Neild, Jr. and constructed by contractor James T. Taylor. The seven-story building was designed in the Art Deco Modern style and features a limestone exterior with rectangular windows. The building also houses the Rapides Parish Clerk's Office and the Rapides Parish Detention Center. Previous courthouses were completed in 1859 and 1873. The 1859 courthouse was located on Second Street with a view of the Red River. This courthouse was destroyed by fire on May 13, 1864, during the Union Army's Red River Campaign. A replacement was later erected in 1873. The 1903 courthouse was designed by J. Rely Gordon and constructed by the F.B. Hull Construction Company of Jackson, Mississippi. This courthouse was in service for just 36 years before being replaced by the current courthouse.

### St. Helena Parish

The current St. Helena Parish Courthouse, located at 369 Sitman St. in Greensburg, was established in 1938. The first courthouse in the parish was located at Mount Peiler in the extreme southern part of the parish and was probably built about 1804. The building was constructed of brick and was later sold and used as Mount Peiler Academy, one of the parish's first schools. The second courthouse was built in 1832 of the log-cabin type of construction, but this structure burned to the ground at an unknown date. In 1938, the present courthouse was completed which housed a jail on the third floor.<sup>13</sup>

### St. Tammany Parish

The St. Tammany Parish Justice Center, unlike any courthouse in Louisiana, is a 312,000-square-foot structure containing 22,000 cubic yards of concrete and 25,000 St. Joe bricks and housing 12 courtrooms. It was built at an extraordinary cost of \$64 million. The opening of the Justice Center was such an epic event that the June 26, 2003, edition of the local newspaper—*The St. Tammany Farmer*—included a 45-page insert dedicated to the Justice Center that included well wishes from businesses, law firms and city officials. Though plans to construct this massive structure began in 2000, the Justice Center's history dates back much farther. The history began two centuries ago with the election of Louisiana's first governor, William Charles Cole Claiborne, who served as governor from 1812-16. About one year after his election, Gov. Claiborne signed legislation in March 1813 authorizing a commission consisting of Thomas Spell, Robert Badon, Benjamin Havard, Joseph Hertraise and Benjamin Bickham to locate a courthouse within three miles of the center of St. Tammany Parish, which at that time consisted of Washington Parish, St. Tammany Parish and the portion of Tangipahoa Parish east of the Tangipahoa River. To meet the Governor's charge, the commission established St. Tammany Parish's first courthouse along the Bogue Chitto River near Enon on property owned by Judge Thomas C. Warner — St. Tammany Parish's first parish judge. Four years after establishing the court near Enon, commissioners David



The St. Tammany Parish Justice Center opened in 2003. Photo by Kimberly R. Silas.

B. Morgan, Jesse R. Jones, John Wright, James Tate and Daniel Edwards were named to move the parish seat.

Some time before the parish seat was moved, the Claiborne Company had purchased a portion of the Kleinschmidt Spanish land grant in 1813. In exchange for the commission naming the Town of Claiborne as the parish seat, the Claiborne Company offered some of its land and agreed to build a courthouse and jail for the parish, free of charge. This resulted in the second St. Tammany Parish courthouse being built in the Town of Claiborne, which is believed to be named after Gov. Claiborne. Though construction of the second courthouse was completed in 1818, it is routinely referred to as the "1819 Courthouse" and is believed to have cost the Claiborne Company \$20,000 to erect. Within 10 years of the erection of the 1819 Courthouse, the Police Jury determined that the courthouse should be moved to Covington, previously known as the Town of Wharton and presumably named after John Wharton Collins who founded Covington in 1813.

On June 5, 1837, the Police Jury purchased Lots 12-15 on the corner of Boston and New Hampshire Streets in Covington as a courthouse site. The area between New Hampshire, Columbia, Boston and Gibson Streets in Covington is referred to "The Courthouse Square" on some of

Covington's older maps. The 1819 Courthouse was eventually sold and used as a private residence and Catholic seminary. In the late 1800s, a hotel known as the Claiborne Cottages was built next to the former 1819 Courthouse. Those cottages perished in a fire in the early 1900s.

In 1884, the Police Jury voted to demolish the courthouse located at The Courthouse Square. During the demolition and rebuilding period, Covington Town Hall was used as a courtroom. The new courthouse opened two years later in 1886 and was used for 73 years. As the population of Covington, Slidell and Mandeville flourished, however, demands were made to relocate the parish government yet again. In response, the Police Jury met secretly, erected a building, and then voted to move the parish offices to Mandeville on Koop Drive sometime around 1936. Once Covington's leaders discovered the Police Jury's plan, the city attorney, Peter Garcia, filed a lawsuit against the Police Jury to prevent the relocation of the courts. The City prevailed in its lawsuit, and the court issued a judgment ordering the courts to remain in the parish seat of Covington. This victory did not end the dispute, however. The battle regarding the location of the parish seat continued to wage between the City of Covington and St. Tammany Parish. The parties ultimately





resolved to let Covington remain the parish seat. Despite reaching this resolution, however, the existing courthouse could not keep up with the growing population of St. Tammany Parish. Also, the completion of the Lake Pontchartrain Causeway in 1956 magnified the need for a larger facility to conduct the parish's business. In 1959, the parish decided to build a new courthouse, completed in 1960. Within the year it took to complete the new courthouse, court was held in the basement gymnasium of the Jefferson Avenue grammar school. The 1960 courthouse was used until the St. Tammany Justice Center opened in 2003, which brought together many of the parish's offices that were scattered throughout the city.

### West Baton Rouge Parish Courthouse

The West Baton Rouge Parish Courthouse, located at 850 Eighth St. in Port Allen, was established in 1957. Little is known about the structure of the first courthouse in the parish, but it was located in a town known as West Baton Rouge, now Port Allen. The second courthouse was sold for a debt of the Police Jury in 1870 but was later rented by the Police Jury until 1882 when a new courthouse was erected. The third courthouse served the parish for 74 years. Official use of the building was eventually discontinued but it has become a landmark and has been renovated to accommodate the West Baton Rouge Museum. The fourth courthouse is the current one.<sup>14</sup>

### West Feliciana Parish Courthouse

The West Feliciana Parish Courthouse, located at 4789 Prosperity St. in St. Francisville, was established in 1903 and designed by A.J. Bryan. When Feliciana Parish divided, West Feliciana Parish chose St. Francisville as the location of its courthouse. Between 1824-29, the first parish courthouse was housed in a rented two-story building. The second courthouse was established in the Old St. Francisville Hotel. The third courthouse was built in 1852 at the present site in St. Francisville. In March 1903, a new courthouse was built, still in use today.<sup>15</sup>

### FOOTNOTES

1. U.S. Supreme Court Justice Lewis F. Powell, Jr., 1972-87. Lewis F. Powell, Jr., Forward to Virginia Historic Courthouses (John O. and Margaret T. Peters, authors), University of Virginia Press.

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3. Caddo.org.

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5. Film Trail Map, [www.shreveport-bossierfilm.com/2014-NW\\_LA\\_Film\\_Trail.pdf](http://www.shreveport-bossierfilm.com/2014-NW_LA_Film_Trail.pdf).

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7. Federal Judicial Center, [www.fjc.gov](http://www.fjc.gov), History of the Federal Judiciary, Historic Federal Courthouses.

8. National Trust for Historic Preservation, East Feliciana Parish Courthouse, [www.preservation.org](http://www.preservation.org).

9. *The Louisiana Parish Courthouses* (Betty L. Morrison), Her Publishing Co. (1975) Gretna, La., pages 66-68.

10. "History of Livingston Parish," mimeograph script courtesy of Livingston Parish Library.

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14. *The Louisiana Parish Courthouses* (Betty L. Morrison), Her Publishing Co. (1975) Gretna, La., pages 176-177.

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Congratulations to the Louisiana State Bar Association on its 75th Anniversary!

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# LSBA at 75: Perspectives on the Practice

By Arthur R. (Art) Carmody, Jr.

**T**his year marks the 75th anniversary of the Louisiana State Bar Association (LSBA), of which you and I are proud members. Originally founded as a voluntary organization, the LSBA was converted to a mandatory (or integrated) bar under the rulemaking power of the Louisiana Supreme Court in March 1941. Although the formation of the LSBA predates my legal career, at least by a few years, I am proud to share some of my recollections of the legal practice in the earlier years of the organization.

The first regular job I ever held was in the summer of 1948 when I started as an “office boy” (a politically incorrect term today) at the Wilkinson firm (Wilkinson, Lewis & Wilkinson, at the time), which was then housed in the Slattery Building across Marshall Street from the Caddo Parish Courthouse. My salary was \$20 a week, thanks to the senior partner, and my desk, such as it was, was in the library by a window, always open in the summer, overlooking a nearby building whose owner kept a large colony of roosters and hens on the roof! The cackling or crowing of the brood was one of my few sources of diversion.

My duties were to be there from 8:30 a.m. to 5 p.m., five days a week, and until noon on Saturday. At that time, all the lawyers in Shreveport wore matching conservative suits, white shirts and ties to work. There were no sports shirts or blue blazers. And there were no exceptions. Even in the hottest weather, I wore a shirt and tie to work, as it seemed appropriate; nobody ever had to tell me. There were no other “runners” in town at the time; my duties included filing documents in state and federal courts, proofreading property descriptions, and going to the Western Union office, which is no longer a factor in

the practice of law. Also, I had to maintain the firm’s large library, which acquainted me with West Publishing, CCH, Corbin and Wigmore. These duties reinforced my decision to attend law school and helped me make the journey a pleasant one.

I began my legal career on Sept. 1, 1952, at the Wilkinson firm. One of the partners, John Madison, Sr., was my best mentor, always full of wisdom expressed in the short, simple language he had learned at the U.S. Naval Academy. One of his standard sayings was that any Louisiana law school graduate should be able to (1) examine a title, (2) do a succession, and (3) try a simple case. He also encouraged the new lawyers, especially those who had an office practice, to visit city court at least once a year to see what the real world was like! John died in 1961, but his guidance and wisdom have never left me. I sincerely hope that the LSBA’s “Transition Into Practice” mentoring program will confer the same benefits on new law school graduates as I received from John Madison, Sr.

I miss the camaraderie and rapport among the Shreveport Bar of the past mid-century. We were all clustered within a tight area of downtown, and you soon got to know most of the lawyers by name and reputation. You soon learned that the great majority were quality individuals and true to their word. By the same token, you learned there were one or two you should not turn your back on, and always “get it in writing.”

There were several ways that respect, good will and collegiality were expressed within the Bar. One would be the Wednesday morning motion hour, another the 10:30 a.m. daily informal “soiree” at the coffee shop of the Washington-Youree Hotel, and the good times related to the Lawyers Softball Team, which played in a local fast-pitch league. Sadly, they no

longer exist.

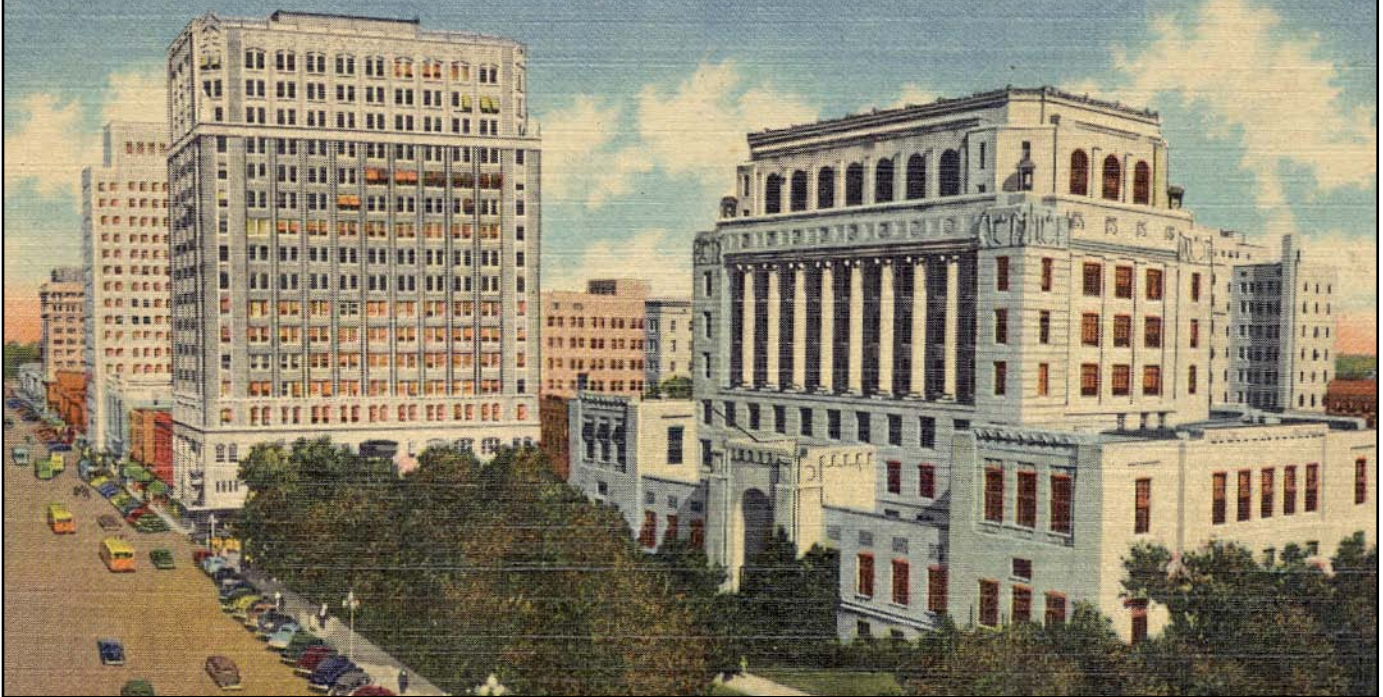
As to “motion hour,” it is hard to understand today how a routine, rather formal court proceeding could generate a good feeling about life and law, but somehow it did and was looked forward to. The tradition was long established. It started promptly at 10 a.m. each and every Wednesday in the “big courtroom” on the third floor of the Caddo Parish Courthouse. The room filled quickly with lawyers sitting on the courtroom benches, along the walls and inside the jury box. The scene was presided over by the popular chief deputy clerk, Eddie Goetz, a lawyer who did not practice, but, all in all, was highly knowledgeable and cooperative with all.

At 10 a.m., Mr. Goetz called the court to order, all rose, and the district judges, with black robes flowing, somberly marched in and seated themselves behind the high bench. The presiding judge politely but formally welcomed the audience and ordered the clerk to sound the docket. The first order of business was the reading of opinions. Occasionally, this was a long and dry exercise, especially when the opinions were lengthy and dull, but in the main they were short and of interest. Then Mr. Goetz called the cases tendered for trial in the following week, covering all the judges. Generally, there were no exceptions to a setting, but, when there was, the objector had to rise, approach the bench, state the reasons for the objection and hope for the best. Sometimes the reasons were petty or personal and caused embarrassment to the objectors and brought on a twitter in the audience. The judges normally ruled on the objections on the spot, occasionally ordering the parties back at 2 p.m. for a decision.

Next came the reading of preliminary defaults. Lawyers with busy trial dockets needed to be present to ensure there were



View of Caddo Parish Court House Square on Texas Street, Looking East  
Shreveport, La.



This 1940s-era postcard of the view looking east down Texas Street depicts the Caddo Parish Courthouse and the Slattery Building. Just south of the Slattery Building was a 10-story office on which the owner, Mr. Ricou, kept his rooftop rookery.

no unexpected surprises! Then came the confirmation of defaults. Usually these were debt collection cases, divorces and separations (the latter also no longer a feature of the legal practice), foreclosures and the like. Witness testimony was normally required to prove it up. In this way, many young lawyers got their first experience in questioning witnesses in a crowded courtroom before a knowing audience. Sometimes the answers were not as expected, and occasionally young lawyers fumbled or drew a blank and had to sit down embarrassed, garnering sympathy and suggestions from the audience. Most of the audience keenly remembered when it had happened to them.

There being no further business, Mr. Goetz adjourned court *sine die*. One usually left with a colleague for a coffee break and a conversation over what had occurred.

The Washington-Youree coffee shop was a rougher and less formal experience but always entertaining. The hotel, built in 1922, was a busy, vibrant, popular place located on Edwards Street at the present location of Louisiana Tower (Capital One Bank). It contained four restaurants (one

being the coffee shop), a 24-hour grill, gift shops, two bars, a deluxe supper club called the Zephyr Room, and the original offices and studio of KSLA-TV Channel 12. The coffee shop was seldom empty.

By the 1950s, a tradition had been established by a group of lawyers who were friends, or would soon become friends, to meet in the coffee shop around 10:30 a.m. for coffee and conversation or, more often, conversation and coffee. I have vivid and treasured recollections of the participants, especially Marlin Risinger of the Blanchard Firm, who was the champion of the liberal view on all subjects, and Horace Holder of the Tucker Firm, who was ready and able to come out swinging in support of all conservative causes. Many other lawyers joined in, either to support one side or the other, or just because it was so interesting. Strangely, these verbal free-for-alls did not diminish friendships but seemed to make them grow and flourish.

And then, the Lawyers Softball Team. Softball was incredibly popular in Shreveport in mid-century. Some of the enthusiasm can be garnered from the opinion of *Roos v. Metropolitan Cas. Ins. Co.*, 195

So. 655 (La. App. 2 Cir. 1938), in which an outfielder made a Willie Mays-quality catch but, unfortunately, collided with an automobile parked on the edge of the field! One judge had to recuse himself, as he was a member of the team, but justice was served.

The lawyers' fast-pitch softball team was also a morale and friendship builder. In the 1950s, our team played in the Industrial League along with teams from United Gas, Texas Eastern, SWEPCO, the young doctors from Confederate Memorial Hospital and other A-class teams. It soon became obvious there were not enough lawyers to play competitively in this league! A solution was proposed to allow us to include law enforcement personnel on the team. This was readily agreed to, and the improvement was immediate — almost like acquiring Babe Ruth and Lou Gehrig in their prime. One police captain was a former member of the Philadelphia A's (before the team's 1954 move to Kansas City), and several officers and deputies had done stints in the Texas League. At the end of each season, one of the lawyers, Leroy Smallenberger (later a bankruptcy judge for the Western





The Washington-Youree Hotel housed a coffee shop which was the unofficial meeting place for Shreveport lawyers in the 1940s and 1950s.

District of Louisiana), hosted a barbecue for the team at his home on Cross Lake. This was always an enjoyable occasion.

I said I missed the camaraderie and rapport that used to exist between lawyers. However, as I look back at the life and times of lawyers today, my perception is that these feelings are now improving to a high degree. We can take pride in the way we practice our profession. I think of the high accomplishments of the Inns of Court movement, and, in particular, Shreveport's Harry V. Booth/Henry W. Politz Inn of Court, which has fostered and fortified ethics, knowledge, mentoring and friendship, much in the way the Wednesday motion hour, the 10:30 coffee "soiree" at the Washington-Youree and the softball team used to.

I also have to mention, with pride, our local bar's participation in Carnival, with the Shreveport Bar Association's own Krewe of Justinian. This has proved to be a great opportunity for our lawyers to cooperate and interact outside the litigation setting and has raised our profile with much of the public. In 2015, the krewe made a contribution of \$25,000 to the Shreveport Bar Foundation, with proceeds used to provide free civil legal services through the Pro Bono Project, mobile clinics at local homeless shelters, Ask-A-Lawyer clinics and other worthwhile projects. Being a part of Carnival has added a touch of color, glitz and glitter, but it is so much

more than just that.

Of course, other beneficial changes have come to the practice of law. It would not be accurate to say that women were always precluded from the practice; most law schools, including LSU and Tulane, were open to women from the inception, around the turn of the 20th century. But it would certainly be true to say that their attendance was not encouraged, as evidenced by the fact that zero, or an occasional one or two, was the norm for the entering and graduating classes before World War II. But the G.I. Bill, the freedom of movement which resulted during or after the war, the employment of women in jobs which had not been open to them in the past, all with good results, opened the doors for women born after, say, 1950. This change, slow at first, has been open and encouraging.

The growth from the inexorable zero to the normal two or three has been eclipsed by the dramatic, exponential growth in the number and quality of women in our practice. At present, slightly over one-third of the members of the Shreveport Bar Association are women, numbers that are probably mirrored elsewhere in the state. Even more significant is the fact that almost without exception over one-half of the women have been admitted since 1980 and the number of women in graduating classes of all four state law schools exceeds the number of male graduates.

The participation of African-Americans

in the legal profession was slow at first, although we have documented that the first in Shreveport was an able gentleman named Charles Roberson, who opened his office in 1914 and continued on until his death in 1932. By the 1960s, others began to break down the walls of prejudice. I definitely feel that the profession, and society at large, have benefited from the infusion of African-American lawyers. The profession is a much more dynamic and rewarding place than ever before.

Finally, I would mention the enormous everyday mechanical changes to the practice of law. It may be shocking to younger practitioners to think that, in the 1950s, a Xerox machine seemed somewhat extravagant, and, not long after that, fax machines were almost miraculous! Computers and printers have enormously changed the way we practice, not to mention Westlaw and its competitors, and the dizzying array of phones, tablets, pads and other devices. It has been a long way from my daily trips to the Western Union office back in 1948, but the journey has been worth the ride.

Congratulations, LSBA, on its first 75 years. It has been my honor to be part of this organization for so much of its life. Embrace the change and the tradition, and we will have a bright future ahead.

Arthur R. (Art) Carmody, Jr. has practiced law in Shreveport for more than 50 years and serves as of counsel for the law firm of Wilkinson, Carmody & Gilliam, a firm he has been connected with since 1948. He was educated at the New Mexico Military Institute, Fordham University and graduated from the Louisiana State University Law School in 1952. He has extensive trial experience, having tried more than 550 railroad cases throughout Louisiana. He is a member of the Louisiana and Federal 5th Circuit Bar Associations. He is a former president of the Shreveport Bar Association, a Fellow of the American College of Trial Lawyers, and a member of the National Association of Railroad Trial Counsel, the Louisiana State Law Institute and the Louisiana Association of Defense Counsel. He is a master emeritus in the Harry V. Booth/Judge Henry A. Politz American Inn of Court and a charter member of the Louisiana Bar Foundation. (acarmody@wcglawfirm.com; Ste. 1700, 400 Travis St., Shreveport, LA 71101)





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# Technology and Innovation:

What Does the Next 25 Years Hold for the LSBA and the Legal Profession?

Interviewed by David M. Stein and Pete (PJ) Kee, Sr.

Let's go back 25 years ago. In 1991, CompUSA starts selling desktops at retail, running Windows 3.0, at the time a blazingly fast i486 Intel chip, 50 MHz, that was the state-of-the-art at the time, at least for retail. The Internet first gets turned on at CERN (even though there was nothing on it yet). A practicing lawyer at the time likely looked upon a computer as a glorified typewriter. Obviously, over the past 25 years, there have been some incredible advances in the ways computers and similar technologies have gone from expensive novelties to being integrated into almost every aspect of our lives.

Jeffrey E. Richardson, a partner in the New Orleans office of Adam and Reese, L.L.P., and Ernie Svenson, a New Orleans commercial litigator and founder of Small-FirmBootcam.com, discussed what may be on the technological horizon within the next 25 years.

Richardson's practice areas include appellate and complex litigation. He also publishes iPhoneJD.com, the oldest and largest website for attorneys who use iPhones and iPads.



Ernie Svenson



Jeffrey E. Richardson

Svenson spent 20 years practicing in a big firm until he learned the secret of paperless lawyering, which led him to create a streamlined and satisfying solo law practice. Now, he helps other lawyers learn to automate key aspects of their practices — even ones whose tech skills are limited to sending and receiving emails.

**Stein:** Let's talk about where we see the Bar Association in the future, about 25 years from now. What sort of technological enhancements or innovations will practicing lawyers be able to use or have to deal with? What sort of advances in computing technologies do you think lawyers will see over the next 25 years?

**Richardson:** I think we're going to see personal computers become even more personal. When I think back to 25 years ago, I was just starting law school and I had a little handheld Sharp organizer that stored my contact phone numbers and other info. It was ridiculously clunky, but it was the idea of assisted technology helping as an extra brain so I didn't have to remember all these arcane details. Fast forward 25 years. We have the iPhones in our pockets, which are far more powerful than the computers we were using in the past, and they can help us in so many ways. Now, I just say, "Siri, what is the phone number of Ernie Svenson" and it will tell me

without me having to reach in my pocket. I think we are going to see more of that in the future. Technology will be smart enough, using artificial intelligence, to second guess the information we'll likely need at any particular time. I don't know if the user interface will be a pair of glasses like the Google glass (hopefully, it will be far less geeky) or maybe something in your ear, but you'll walk into a room and your assisted device — the iPhone 26 — will say "that gentlemen over there, that's John Smith, remember you met him at the party 12 years ago." You won't have to memorize things, and your brain can use the assisted information more successfully. Maybe this is more of wish than a prediction, but it's certainly what I hope we will see as technology becomes more personal. Sort of like the assistant that's with you all the time.

**Svenson:** We're definitely going to see more automation in areas lawyers are starting now to grapple with — document automation, assembling documents based on conditions, and using the artificial intelligence.

Another area where you're going to see it is in litigation. Figuring out which documents are important, zeroing in on those documents and quickly sifting through them intelligently using predictive coding and other methods that get bandied about in the e-discovery world, that's coming. It's going to get better.

**Kee:** How do you see this technology changing the dynamic of a law firm? Assistants, paralegals, number of associates, how do you think that changes?

**Richardson:** We've seen that over the past 25 years. When I started practicing law, it was more of a one-to-one ratio between support staff and attorneys. Today, with attorneys knowing how to type and creating their own documents and things being even more automated, you can get by with multiple attorneys with one staff member. Many attorneys, especially solos and small firms, can probably get by without a staff member. When you're not mailing things anymore, you're emailing them. You don't have to worry about making photocopies because





the PDF is there and everybody can share the PDF. I think that's going to continue more in the future. There's going to be less of a need for support staff and perhaps a greater role, or a different role, for paralegals.

**Kee:** From a client perspective, are you getting questions about your or your firm's technology capabilities and has that affected how you staff matters?

**Svenson:** When I left the big firm, I went out as a solo. Clients and prospective clients would ask how I would handle this work without the big firm's resources. By then, I had already begun the transition from the reliance on support staff. When I started practicing in the big firm, I learned how to practice law, at least the case management side of it, from paralegals because they managed the documents. They were at ground level and understood the work flow and so I learned from them. I learned how to use the database and filter things to get my witness exhibit list or to get my witness questionnaire. All the things needed to create a pretrial order became a checklist. When you're using PDFs, you're not managing paper anymore, but you're managing digital documents, so I was able to practice law in the same way for a lot of the cases I worked on. The clients were happy because the work was done efficiently, reliably and professionally with me directing everything using software.

**Richardson:** You can see that we're in that transition period because, already in federal court, here in 2016, everything is e-filed. State courts are slowly moving that way. You can e-file in some state courts but not in others. It's a little haphazard in Louisiana because different courts have different systems. In the federal system, once you learn one, you learn them all. Already, the Code of Civil Procedure recognizes that you can agree through consent with your opposing counsel to serve via email instead of paper. We will look back years from now and realize these were the building blocks for this new type of litigation practice that the technology allows us to have.

**Stein:** Let's discuss hardware changes that might be coming. Do you think that, 25 years from now, there will be such a thing as a desktop computer?

**Richardson:** I think so. Law has been document-centric for a very long period of time, and I think it's going to continue to be that way for the next 100 years — certainly the next 25 years. As long as you have documents that are being read, you're going to have to create those documents with something that looks like a typewriter.

In an office environment, no one wants to be sitting next to people who are dictating briefs. I still think the typewriter keyboard works well, whether it's a desktop computer, a laptop computer, or something similar to an iPad with an external keyboard. I do think that lawyers will continue to type briefs and, from that standpoint, there will be a place for something like a computer — for lawyers. In some other fields, we may move away from that. But the law has always been about the words, and I think it's going to stay that way for a while.

**Stein:** Even in the past eight years, we've seen dramatic advances with smart phones and tablets. What sort of advances do you think are coming in the next 25 years to those types of devices? Do you think they could get any more close to paper thin or bendable or foldable displays?

**Svenson:** For sure. There are materials that are going to be developed to allow that to happen. Twenty-five years from now, I expect the computing powers to get faster. It's going to be more mobile. We are going to have desktop computers because it's just easier to work in a particular place that's dedicated to the complex work we do as lawyers. You're going to have your main device there, but it will be totally possible, in 25 years, that your computer that you're working with at your desk would be some kind of device that you carry around with you, so that all the important data you need is there and secure. You take it wherever you go, and you plug it in wherever you need it to work. But smart phones and mobile devices are obviously going to be huge. They already are.

**Richardson:** One interesting twist in all of this is something that people now call the internet of things — where so many devices, whether it be a Bluetooth speaker or other types of devices, are connected to the networks so they can all talk to each other. They can all do things. Already in my house, I have devices installed that I can just say to my phone, "set the lights in my TV room to 20 percent," and it will automatically do that without me actually doing it. We're at the early stages of this. I don't know how necessary it is for my toaster to be on the internet, but, as more and more devices become part of the internet or some sort of network, everything will be talking to each other. The lines between computers and objects will be blurred because they'll all talk to each other. They'll be able to interact with each other and use the information from each other.

**Stein:** It sounds like that might actually

be a nightmare depending on your perspective for electronic discovery. Right now, you ask, "Where were you on the night of December 12 at 8 p.m.? Let me see your iPhone history." In 25 years, with the internet of things, you may be asking, "Let me see what your toaster was doing" or "Let me see what your refrigerator says." Do you see that exponentially adding to discovery?

**Richardson:** We are watching this debate in real time right now with the ongoing issues between the FBI and Apple. Is it appropriate for the federal government to compel a company to create what many are calling back doors in devices? For now, the government is saying it is to prevent terrorism or future incidents by accessing the phone for more communications. But if the government is asking for that, it could very easily ask companies, "That device tracks you all the time and we'd like to know where everybody we're worried about is" or "All of those devices have microphones on them, and it would be really helpful for our investigations if we could listen to everybody." Movies like *Minority Report* that talked about pre-crime and predicting crime in the future sound very futuristic, but the technology that we have is actually not that far away. Issues like privacy versus security are going to become even more important in the future. As lawyers, protecting our clients through the laws, we're going to be at the forefront of that. Much like way back when the lawyers would be defending the Fourth Amendment of what places were appropriately private that you would need to have a search warrant to enter, what places were public, if you were in a car, is it a private place, is it a public place — those were the debates that were decided by the courts 50 and 25 years ago. Now, we're going to be seeing far more interesting debates on difficult issues because of technology.

**Stein:** We've come a long way from floppy disks and tapes. The next big thing in storage currently appears to be cloud-based. Do you believe there are ethical issues with storing certain information in the cloud?

**Svenson:** Any time you're storing information that relates to your clients' matters, there will be ethical issues. That's true for paper and equally true if it's stored in the cloud. Often when discussing this topic, we deal with the fear mongering first — "Oh my, something horrible could happen." Yes, something could happen horribly everywhere. The questions to consider are what's likely to occur and what steps can be taken to prevent those things from becoming problems. Since it will make sense for lawyers to use the cloud to some extent,



what are reasonable precautions to prevent client data from being accessed by hackers or people who shouldn't have access to it? Number one is password protection. We should have strong passwords. People should be taught how to manage their passwords and to use password managers. If you're doing that correctly, you're going to have less risk with the cloud. I get upset when people start talking about the problems with the cloud without talking about the basic problem which is . . . people use crummy passwords. Every year there's a list showing the top 15 most commonly used passwords. Every hacker knows those passwords, and those are the first ones they try. If people are using those kinds of passwords, then they are going to have trouble in the cloud. And they're going to have ethics issues.

**Richardson:** What makes it tough is the question of what is reasonable. If you asked attorneys if it is reasonable to keep a client's documents in a filing cabinet in their offices, everyone would say yes. But if a thief wanted to pick your lock, get into your office and open up the filing cabinet, they could take whatever they want. None of us are under the illusion that keeping things in our office makes it impossible for bad guys to access our information. Yet we as a profession have decided that that's reasonable. You don't have to have Fort Knox inside of your law office. You just need to have reasonable precautions on locks and security. Those same issues that we've considered in the analog world are now being applied to the digital world. Is it reasonable to keep client-sensitive documents on a cloud-based service that theoretically could be accessed? Unlike your office where you're going to see that somebody backed a truck into your front door and broke in, there may not be any signs that a hacker around the world has broken into your Dropbox folder and has taken your files. On the one hand, you have the opportunity to use encryption on the digital files whereas you can't encrypt the paper documents in your office. There are pros and cons on both sides. There is no question that our practices are moving towards cloud-based solutions, for good reasons, I believe, but we're going to have to be careful about privacy and security. As lawyers, we have a duty toward our clients to be reasonable and to protect their confidences.

**Stein:** Let's discuss software. Over the past 25 years, we used 1991 as a reference for how technological advances have revolutionized how lawyers work. Now a practicing lawyer need never pick up a physical book with the availability of WestlawNext,

Lexis and similar services. But what happens when, instead of assisting the lawyer in his/her work, the technology starts performing some of the work that used to be done by the lawyer? Let's talk about predictive coding. Briefly, this technology allows a user, such as a tech-savvy lawyer or paralegal, to train a system to recognize "good documents" from "bad documents," "relevant" versus "irrelevant," "responsive" to a certain request versus "non-responsive" and, in some cases, "privileged" versus "non-privileged." Once the lawyer trains the system with a sample set of review documents, the system can then, nearly instantaneously or in a very short period of time, review millions of documents and identify the ones that meet that given criteria. In the past, where a lawyer or lawyers might have spent significant time and money reviewing each page of an enormous document set, now the majority of the set can be reviewed by predictive coding algorithm and produced without a lawyer laying eyes on all the documents. This technology appears to be here to stay with at least one court ordering parties to use it to cut down on discovery costs. What ethical issues do think technology like predictive coding will raise as it gains steam?

**Svenson:** First of all, the word "review" means to be analyzed when we start talking about predictive coding because you're not necessarily reviewing the documents but filtering them. Then at that point, the decision must be made if the documents will be looked at by a human being. That's where the strain is going to come into play because, as lawyers, we want to be as close to perfect as we can. The idea of lawyers suddenly transitioning to the world where we say, "I'm not going to review that and it's probably good enough," that's not in our DNA. But, in the future, the amount of data that can be conceivably relevant in a case is going to be so huge because of all this internet of things that we've been talking about—all this data is automatically being collected—there has to be a way to sift through it and computers are going to help us do that. Of course, there are ethics issues embedded in all of this. There's really more logistics questions because, at some point, we're going to have to make some decisions about doing things differently because it's not humanly possible to review all of that data in a lot of cases.

**Richardson:** I think the ethical responsibilities come into the attorney understanding the issues so that he/she can explain them to the client and make the appropriate decisions of where to draw the line. We're headed to the point where, unlike in the old days where there may have been 100 letters to review, there's going to be 10,000 emails or text

messages or recorded voice conversations and it's just going to be ridiculous in many cases to have a bunch of associates sitting in a room going through all of that. You will need to filter and you will need to use predictive coding. Although it presents the risks of missing something, it also gives you the opportunity to catch things that humans late at night may fail to see. So I think the pros and cons go both ways. The key is going to be the lawyer understanding what the risks are so that the lawyer and the client can make the appropriate decisions for themselves. Then when you need to explain to a court and to opposing parties what you've done, you can do so in a rational and intelligent way.

**Svenson:** Yes, lawyers need to understand how that information is gathered in the first place. One of the things we tend to assume when we start talking about predictive coding is the computer is perfect at figuring out just even simple words. I've heard presentations by people like Craig Paul, who is an expert in this area, talk about how in certain key cases the company failed to find its own documents because they didn't even think about how people within the company were using a different name for something that was their own product. You have to think about what kind of words you are looking for, how reliably you can find documents, what assumptions you are making about whether the documents will contain those words, whether those words will be spelled correctly, etc. It's not enough for lawyers to just search around and see what they can find. They will need to understand the actual technological limitations and framework for how this stuff is done. It's not something that lawyers want to do because they didn't go to law school to study technology, but it's a fact of life and I think it's going to be an important part of what lawyers do.

**Stein:** Building on that, with a predictive coding system, training becomes very important. Do you believe the training should be done by someone who is both an expert lawyer and knowledgeable about the system because that's the person who has to teach the system what is good, what is bad?

**Svenson:** There are a lot of components that go into good training . . . psychological elements, cognitive learning elements. Lawyers who are using this system will need to understand how the data gets collected technologically because that's going to determine what kind of documents they get and the reliability of the documents.

**Kee:** What advice do you have for a lawyer working in this backdrop who may not be



as practiced and well-versed in this as you?

**Richardson:** This is not a new problem. Already, lawyers have to deal with doctors explaining medical conditions of people and the lawyer may not understand that. But that one lawyer at your firm who was a former doctor or nurse or knows the medicine, that's going to be a valuable part of the team. I think this is the same thing. If you're not the person who understands the technology, then you will need someone on your team who does so when you need to explain it to the court you can do so. As technology becomes more and more a part of practicing the law, I think the bar of what each lawyer needs to know is going to rise every year.

**Stein:** Do you think it will ever be the norm to use something like predictive coding, assuming that the data set was big enough, to do a privilege review?

**Svenson:** Yes, I do because it's an algorithm. There's a thought process. Anything that lawyers do involve some kind of algorithm, whether they're conscious of it or not. We go through a logical sequence and that's what computers do. Software is just algorithms mapped out by really smart people who are anticipating what conditions are likely to occur. So, yes, there will be predictive coding and it will be commonplace because, and this is my view, it's going to have to happen. You won't be able to review all of this data that we're now having to deal with and the amount of data is growing exponentially. You're going to have to have some system for filtering. I think it's inevitable.

**Stein:** Over the next 25 years, do you see any other technological advances on the horizon that could change the way we practice law? I know it's a broad question but, for instance, do you see more products like Legal Zoom that try to chip away at what used to be exclusively a function of a lawyer and automate it and package it and give it to the consumer?

**Richardson:** Technology will give us assistance in various different ways. One of things that technology does really well is, when you have a lot of information, it can help make intelligent decisions about that information because it can quickly go through it and give you output. We talked about that in the context of discovery production with predictive coding. But it is just as useful in other areas. I can see technology that can look at all of the information that you have on a case and help you put together timelines or make connections that you might miss because we're just talking

about so much data and so much information. This will be an aid to attorneys. Already when you're using Westlaw, you have your main search results, and then on the side it has some things that may be helpful to you based upon Westlaw giving an interpretation of what you're looking at. Not that it's going to be making the analysis that the lawyers would need to do, but it could help to bubble some things up to the surface that you may not necessarily see yourself.

**Kee:** How has this affected trial or hearing presentations?

**Svenson:** I think the use of visuals in explaining and in persuading is something we are not tapping as much as we should. If you want to persuade somebody, you have to explain the underpinnings of whatever it is you're trying to persuade people to understand. So you have to explain first. There's nothing better at explaining quickly and efficiently and in a memorable way than incorporating visuals. This is not something new. What's new is that lawyers need to learn how to do that and, to some extent, they need to be given permission to use it in different ways. That's something that maybe has to be addressed as a procedural requirement, but there's no question that using visuals to explain helps people remember and understand.

**Richardson:** I don't think we are far away from a time period where some of the wearable technology could have an impact on trials as well. Already, you're starting to see more lawyers wear an Apple watch or something like that and have somebody sitting in the back of the courtroom feeding information or alerting them to something they may have missed. We're already at that point where the technology that we're wearing can assist us in different ways and I think that's going to be happening more and more in the future. I'm not saying we need to become Robocop, but I do think we're going to become smarter. Already today your opponent mentions a case that he "forgot" to give you until the day of trial and we have the technology with laptops, iPhones and iPads to quickly shepardize or key cite the case and decide why that case is inapplicable right there in the courtroom. Years ago, you didn't have the ability to research while you were approaching the bench and I think that technology has some opportunities to assist lawyers in trials in those ways as well.

**Kee:** We've talked about practicing lawyers, but how do you see this affecting law students? Is this something you're asking

about in interviews?

**Richardson:** When I interview new lawyers, there are the things that everyone wants. You want them to be smart and you want them to have a certain degree of charisma and the ability to articulate their thoughts well. But it's always nice when they bring something else to the table. For some people, it may be their scientific background. They used to be an engineer or they have something else that they bring to the table that makes them a unique member of your law firm. I think that there's certainly an understanding that every new lawyer nowadays needs to know their way around technology a heck of a lot better than the older lawyers at the firm do. But because technology is becoming such an important part of the practice of law and a part of our clients lives as well, those lawyers who excel in technology have more to bring to the table in hiring decisions.

**Svenson:** I pay a lot of attention to the person's mindset for finding information. I have kids who are now adults and I saw that they and their peers were more inclined to look up information using their smart phone devices. Part of it is multitasking, but putting aside the attention-dividing deficits of multitasking. People who are adept and have a mindset of finding information are running circles around the people who are waiting for the mother bird to bring the worm home to them. That's the way I look at. That's the digital divide. I don't think the digital divide is as much about how much money you have, but about your resourcefulness and your curiosity and acting on that curiosity. We've never lived in a world where there has been more information instantaneously available to you in your pocket, at your fingertips, then we are today and that's just where we're going to be for the foreseeable future.

David M. Stein is a partner in the New Orleans office of Adams and Reese, L.L.P. Pete (PJ) Kee, Sr. is an associate in the New Orleans office of Jones Walker LLP. Both are members of the 2015-16 Leadership LSBA Class. (david.stein@arlaw.com; Ste. 4500, 701 Poydras St., New Orleans, LA 70139) (pkee@joneswalker.com; 201 St. Charles Ave., 47th Flr., New Orleans, LA 70130)





# Future of Louisiana's Ethics and Professionalism Rules: As Technology Changes, Will Ethics Stay the Same?

By Cassandra R. Hewlings

If Dane Ciolino had it his way, the future of Louisiana's ethics and professionalism rules would be rather dull.

As the Louisiana State Bar Association reflects on where it has been in its first 75 years, it is only natural to look forward and ponder what lies ahead. It is easy to wonder what novel technologies today will be commonplace to attorneys years from now, or how the legal profession will be accessed by clients in the future.

But as far as the Louisiana Rules of Professional Conduct are concerned, Ciolino cautions against revising the rules to address each advancement in technology. That's because, regardless of the technology, he says, ethics issues generally remain the same when that technology is applied to the practice of law. Still, the ethics expert and Loyola University law professor notes, as each new technology integrates into the practice of law, the questions of how and what extent the ethics rules address the use of technology always arise.

"I remember when fax machines first came out, the issue was can you send confidential communications over fax.

Then that same question was raised with regard to cell phones, and then email, and now storage of information in the cloud," Ciolino says. "The questions are always asked when new technologies come along, and eventually the answer is first, 'Yes,' and then later, 'Of course.'"

There is a lot to talk about these days as far as new technology and its integration into the legal profession, such as the use of social media, online review sites such as Yelp and Avvo, and cloud computing and virtual offices. As Ciolino notes, Louisiana tends to follow the American Bar Association (ABA) in terms of modeling its ethics and professionalism rules, and the ABA is constantly grappling with the reconciliation of new technologies with ethical obligations.

Indeed, the ABA has issued a number of Formal Opinions in recent years that relate to the permissible use of specific technology by lawyers and judges. Just in the last three years, the ABA has released formal opinions discussing the use of social media by judges (Formal Opinion 462); identifying the ethical pitfalls associated with lawyers marketing

through "deal-of-the-day" websites such as Groupon (Formal Opinion 465); and cautioning that a lawyer may not attempt to access information on a juror's social media accounts that the juror has not made public (Formal Opinion 466). In other words, a lawyer cannot send a "friend request" to a juror on Facebook.

The ABA is not alone, either. A number of states have issued ethics opinions targeted at the use of a specific technology, with at least seven states -- North Carolina, Massachusetts, Oregon, Florida, New York, Pennsylvania and Iowa -- having opined in the last five to six years on the use of cloud-based storage of client information.

As the breadth of these opinions suggest, each new technology comes with its own set of ethical pitfalls and, unfortunately, cautionary tales from lawyers who fail to mind them. Most recently, for instance, the Indiana Supreme Court disbarred a lawyer for manipulating his Avvo reviews. In *In the Matter of David J. Steele*, attorney David J. Steele enacted a system of reward and punishment for his clients, providing monetary incentives





for positive reviews, and releasing confidential information and making false statements for negative reviews. For this, the Court found Steele violated the duties of confidentiality to existing and former clients in Indiana Professional Conduct Rules 1.6 and 1.9(c), and the duty to refrain from making false or misleading communications about the lawyer or the lawyer's services embodied in Rule 7.1.

Despite the fact that online reviews of legal services are relatively new, each advancement in technology does not necessarily require an amendment or addition to Louisiana's ethical rules, Ciolino says.

"Rules don't really need to be changed to accommodate new technologies because all of the ethical issues are the

same," Ciolino says. "New technologies just give lawyers the opportunity to violate the rules on a much grander scale."

Using Louisiana's rules regarding advertising a lawyer's services, Ciolino notes that the detail to which those rules regulate lawyer conduct may be unnecessary. The rules contained in Article 7, "Information about Legal Services," of the Louisiana Rules of Professional Conduct were adopted in 2008 and became effective in 2009, although some rules have been amended since then.

"At their core, the rules prohibit false and misleading ads," he says. "That's true whether you're doing it on a stone tablet or Snapchat, so I don't think we need new rules for those."

Instead, Ciolino says, Louisiana's ethics and professionalism rules should stay true to the state's civilian roots and maintain broad, generalized rules that can flex and adapt to new technologies.

All of which is to say that, in Ciolino's mind, perhaps the more technology changes, the more ethics issues stay the same.

*Cassandra R. Hewlings is an associate in the New Orleans firm of Krebs Farley, P.L.L.C., and is a member of the 2015-16 Leadership LSBA Class. (chewlings@kfplaw.com; Ste. 2500, 400 Poydras St., New Orleans, LA 70130)*



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# A Look Back: *The Louisiana Bar* Published from 1942-1953

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*The Louisiana Bar*

April, 1942

## **The Second Annual Meeting of the Louisiana State Bar Association**

*By Harry B. Kelleher, Chairman General Arrangements Committee*

The second annual meeting of the Louisiana State Bar Association will be held this year in Monroe, on Friday and Saturday, May 1st and 2nd.

One of the important features of the Convention will be the organizing of Sections created by the Board of Governors in accordance with Article IX of the Charter of the Association "in furtherance of the unity of the Law as a science and in the interest of the profession and the performance of its public obligations." Each Chairman has specially requested that members of the Association interested in his section and desiring to become members thereof, communicate with him in advance of the meeting and be present at the organizing session thereof.

### **JUNIOR BAR SECTION**

The Junior Bar Section of the Association will meet on Friday, May 1, 1942, at a luncheon to be held at 12:15 P.M. in the Cameo Room, Virginia Hotel. Dean Paul Brosman, College of Law, Tulane University will address the meeting.

The members of the Junior Bar Section are urgently requested to attend this meeting and each of them is further requested to notify George M. Snellings, Jr., Esq., Chairman, Junior Bar Section, Ouachita Bank Building, Monroe, whether or not he will attend the meeting.

### **BANQUET**

The Banquet will be held on the roof of the Virginia Hotel at 7:00 P.M. on Friday, May 1st, 1942. It will be informal.

### **DANCE**

An informal dance will be held at the Hotel Frances, on Friday, May 1st, at 10:00 P.M.

### **BOAT RIDE—BARBECUE**

Two of the main entertainment events of the meeting will be the Boat Ride and Barbecue. It is the urgent desire of the local Committee in charge to ascertain as soon as possible the approximate number who will attend these functions. Especially is this true with respect to the Barbecue. R. H. Oliver, Jr., Chairman, Boat Refreshment—Barbecue Committee, Ouachita Bank Building, Monroe, should be notified.

### **GOLF**

The facilities of the Monroe Municipal Golf Course and the McGuire Golf Course will be at the disposal of the visiting delegates. Those interested may make necessary notation when registering at the Convention. S. L. Digby, Esq., is Chairman of the Golf Committee.

### **HOTELS**

The Virginia Hotel and Hotel Frances will be the Convention's headquarters; there will be registration booths at both hotels.

The rates for the Virginia and the Hotel Frances, with bath, are: Single Room \$2.50, \$2.75, \$3.00, \$3.50, \$4.00; Double (one double bed) \$3.50, \$3.75, \$4.00, \$5.00; Double (Twin Beds) \$4.00, \$5.00, \$6.00. Two Room Suites, Bedroom and Parlor, Three Room Suites, Two Bedrooms and Parlor, rates upon application. Hotel Monroe and Hotel Alvis, rates \$1.50 up.

Reservations should be made through C. T. Munholland, Esq., Chairman, Hotel Reservations, Amman Building, Monroe, or direct with the hotel.

### **RAILROAD**

The delegates leaving New Orleans for the Convention will have special Pullmans leaving over the Missouri-Pacific Lines, Annunciation and Thalia Streets, on Thursday, April 30, 1942, at 9:40 P.M.

Fare: Round trip, with tax \$15.75; lower berth, round trip, with tax, \$6.20; upper berth, round trip with tax \$4.62; drawing room, round trip with tax, \$21.84. The train arrives at Monroe at 5:50 A.M., May 1st, with occupancy until 8:00 A.M.. Returning May 2nd, the train leaves Monroe at 11:25 P.M., with occupancy at 9:30 P.M., arriving at New Orleans, 7:59 A.M. May 3rd. Make reservations City ticket office, 207 St. Charles Street. (St. Charles Hotel).

The Missouri-Pacific has emphasized the following suggestion:

"In view of the present emergency, attention of the members should be called to the importance of making their Pullman reservations early, in order that arrangements may be completed for the special Pullman cars required."



## Watch for "A Look Back" in future issues of the Louisiana Bar Journal.

The LSBA will celebrate the 75th Anniversary of the Association all year long! Email Darlene LaBranche at [dlabranche@lsba.org](mailto:dlabranche@lsba.org) with your historical perspectives or news items.

July, 1947

The Louisiana Bar

### A Woman Layer Appraises Profession and Colleagues

by Portia Borgia\*

"So I'm a woman lawyer. So what?"

It seems that today I almost have to be belligerent when telling people my occupation. Women raise an eyebrow and say "what in the world ever possessed you," while men simply mutter, "heli."

To quiet the women I always tell them that I started out to be a doctor. When they get over the shock of that statement they usually are much more complacent about my profession.

With men it's a different proposition. Men are just jealous. First, it was at the polls that women found equality with men. Next, and this men have never forgiven females for, women got a thorough foothold on the bar rail. But when a woman tries to take her place before the bar of justice then the real trouble starts.

Men use all the subtle, cunning tricks they can think of to embarrass you. They stare at you with unbelieving eyes, they ridicule you personally, they throw out sarcastic barbs to unnerve you, or in short, they're out to wreck you professionally and mentally.

But the worse troubles come from those people, men and women, who try to type the female attorney. They're the ones who say, "Oh, but you don't look like a woman lawyer." I guess they intend that to be a compliment, but what gripes me is the idea that the typical woman lawyer is an unprepossessing soul who wears severe suits, flat shoes, and horn-

rims glasses. Personally, I don't have a pair of flat shoes to my name.

Some enlightened idiots have the idea that women will have difficulties in practicing law. That I've found is ridiculous. There have been no handicaps that have come to my attention during the time I have been actively practicing.

Take arguing in court. A lot of people might think a woman lawyer has a couple of strikes against her—for just being a woman. But on the many occasions I've argued in court I've found that judges are very sympathetic toward women lawyers. It appears that when a man gets elevated to the bench he forgets his natural animosity toward women and becomes apparently sexless. They give you every bit as good a chance to state your case as they do a man.

Law is definitely a good profession for a woman to enter. It is an occupation where a woman can keep her hands clean and her mind busy. I have found, and this without prejudice, that women are much more methodical than men. In law research where it takes a great deal of patience and diligence women have a wide open field. There has been in the past and there will be in the future much need for legal research. I feel that a woman is much more temperamentally suited to this task than is a man.

In other fields of law where law is only one of the prerequisites—the others being sympathy and understanding—I again feel that there is much room for women lawyers.

(\*nom de plume of a New Orleans attorney)

The Louisiana Bar

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### ATTEND THE CONVENTION

We could here and now make an appeal to the Louisiana bench and bar to attend en masse the annual meeting of the State Law Institute and Bar Association in Lake Charles, April 15, 16 and 17, and could enumerate in great detail the benefits to be gained thereby—but this we need not do as the program's attractions are self-evident.

To those who fail to attend and too late become aware of what has been missed, we'll simply say "We told you so!"

—o—

The Louisiana Bar

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### Legal Aid And Legal Internship

The Journal of the American Judicature Society has aired, in its two most recent issues, views on the question of "internship" of lawyers in preparation for practice. To most of those participating in the discussion, apprenticeship in law offices is assumed as the only possible kind of legal internship. Numerous objections to this are stated, particularly due to the difficulty of finding enough offices for such "clinical" training. As a substitute for internship in offices attention is drawn to the availability of practice work for law students or young lawyers in legal clinics conducted by various law schools of the country, and in legal aid offices such as those—one for civil, another for criminal law—sponsored by the New Orleans Bar Association in co-operation with the New Orleans Community Chest. The widespread interest in legal aid work and in the welfare of the young lawyer, as manifested by the activities of the American Bar Association and by both the New Orleans Bar Association and Louisiana State Bar Association, makes the subject of legal aid and legal internship worthy of fresh examination by our readers. Judge Dale Souter of Grand Rapids, Michigan, in an article which posed the question, stated that the training period for prospective lawyers should be reduced either in academic college or law school by one or two years and the time thus saved should be spent with some established lawyer preparatory to taking the Bar examinations. The Judge's main point is that practice and procedure can be learned efficiently and effectively only by practice, and the lawyer should not be admitted to the Bar without a working knowledge of court and office routine.

There follow a few points brought out in the discussion:

1. Internship in a hospital is requisite to the practice of medicine but anyone may practice law who has had theoretical training in a law school and has passed a bar examination. In Europe, apprenticeship is an essential part of legal education. In this country the one great experiment in clinical training is conducted at Duke University, where law students are assigned to real, live cases.
2. Pennsylvania since 1928 has required a six months' law practice clerkship prior to admission to the bar, and Rhode Island and New Jersey have similar systems, all of which have been attacked by some as of little value because of the difficulty of establishing uniformity of experience during the internship or minimum requirements or standards.
3. There is no substitute for a sound legal education, obtainable only in a law school, and so far as practice is concerned only a minor proportion of legal practice is today represented by litigation in court.

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The Louisiana Bar

April, 1949

### The Nurnberg Subsequent Trials

By PAUL M. HEBERT

Confusion of thought and misinformation concerning the Nurnberg trials continue to exist. It is, therefore, completely understandable that intelligent Americans should raise the question of whether justice, pursuant to law, has been meted out in the trial of the major war criminals of the Axis powers. A host of questions are implicit in the inquiry. Were the proceedings *ex post facto* in character and for that reason abhorrent to the sense of justice civilized nations? Were the trials conducted in accordance with concepts of fair trials to which fairminded Americans can subscribe? What do the trials mean for our leaders should we lose a war we are seeking to avert? Critics of the trials ask, among other things, how could the law accepted in

one of the announced war objectives of the allied powers. By the Moscow Declaration of 30 October 1943, Great Britain, the Soviet Union and the United States denounced the atrocities being perpetrated by the Nazis in the countries overrun by them and gave warning that those who were individually responsible for or who took a consenting part in the atrocities would be sent back for trial to the countries in which their crimes were committed. Jurisdiction was reserved in the cases of those criminals, whose offenses had no particular geographical localization, who were to be punished by joint decision of the Allies. The action of the Allied Powers after the war was pursuant to the aim so expressed. War crimes trials, however, do not fall in-



## 2016-2017 Officers and Board of Governors

### Officers 2016-17

#### Darrel J. Papillion President

Darrel J. Papillion is a partner in the Baton Rouge firm of Walters, Papillion, Thomas, Cullens, L.L.C. He received a BA degree in 1990 from Louisiana State University and his JD degree in 1994 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1994.



Darrel J. Papillion

Darrel served as president-elect of the Louisiana State Bar Association (LSBA). He served two terms on the LSBA's Board of Governors as the Fifth District representative and as an at-large member. He co-chaired the LSBA's Continuing Legal Education Committee (2009-16), chaired the Ethics Advisory Service Committee (2002-04) and was a member of the Federal Bench-Bar Liaison Committee (2000-06). He also served several terms in the House of Delegates. He received the 2005 LSBA Young Lawyers Section's Hon. Michaelle Pitard Wynne Professionalism Award.

He is a member of the board of directors of the Louisiana Bar Foundation (2009-present). He was a member of the U.S. District Court Middle District of Louisiana Magistrate Selection Committee in 2013 and served as 2013-14 president of the Baton Rouge Bar Association.

Darrel is AV-rated by Martindale-

Hubbell and was recognized by *Louisiana Super Lawyers* (2008-present), *Best Lawyers in America* (2015-present) and the *Baton Rouge Business Report's* Top 40 Under 40 (2006). In his community, he was the 2013-14 president of the Rotary Club of Baton Rouge.

Darrel and his wife, Shirley, have been married for 25 years and are the parents of two children.

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#### Dona Kay Renegar President-Elect

Dona Kay Renegar is a member in the Lafayette office of Huval, Veazey, Felder & Renegar, L.L.C. She received two BA degrees, *magna cum laude*, in 1988 in English and French, both from the University of Louisiana-Lafayette. She was named the Fall 1988 Outstanding Graduate at the University of Louisiana-Lafayette. She received her JD degree, *cum laude*, in 1992 from Tulane Law School. She was admitted to practice in Louisiana in 1992.

Dona served a three-year term as the Third District representative on the Louisiana State Bar Association's (LSBA) Board of Governors and also served



Dona Kay Renegar

in the House of Delegates (15th Judicial District). She was a member of the LSBA's Client Assistance Fund Committee and a member of the Louisiana Board of Legal Specialization. She also was a member of the Committee to Review Proposed Changes to the Louisiana Bar Exam I and II. She has held several leadership positions in the LSBA's Young Lawyers Division, including chair, chair-elect, secretary and District 3 Council representative. She received the LSBA's President's Award in 2009 and the Outstanding Young Lawyer Award in 1999.

She was a member of the Lafayette Bar Association's board of directors and served for several years on the Louisiana Bar Foundation's Grants Committee. She is a past president of the John M. Duhe, Jr. American Inn of Court.

In her community, Dona is an instructor of the "Parents and the Law" course and is an avid sports fan of the University of Louisiana-Lafayette.

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#### Alainna R. Mire Secretary

Alainna R. Mire is the chief resilience officer and an assistant attorney for the City of Alexandria and a former human resources director. She received a BA degree in political



Alainna R. Mire



science in 2000 from Louisiana State University and her JD/BCL degree in 2004 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2004.

Serving the second year of a two-year term as secretary, Alainna also served as Louisiana State Bar Association (LSBA) Young Lawyers Division chair, chair-elect, secretary and District 6 Council representative. She served on the LSBA's Board of Governors as House of Delegates Liaison Committee chair.

A former officer of the Central Louisiana Pro Bono Project and chair of the Alexandria Bar Association's Young Lawyers Council, she is a member of the Alexandria Bar Association, the American Bar Association and the Louisiana Bar Foundation's Budget Committee. She is currently serving as chair of the United Way of Central Louisiana.

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### H. Minor Pipes III Treasurer

H. Minor Pipes III is a founding member of the New Orleans firm of Barrasso Usdin Kupperman Freeman & Sarver, L.L.C. He received a BA degree in 1991 from Penn State University and his JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1996.

Minor represented the First District on the Louisiana State Bar Association's (LSBA) Board of Governors and has served in the House of Delegates. He has co-chaired the LSBA's Summer School for Lawyers. He was a member of the Leadership LSBA Class in 2002 and received the LSBA President's Award in 2009. He served as 2015-16 president of the Louisiana Bar Foundation.

In his community, he volunteers his time with the Hogs for the Cause program, Kid Smart and Trinity Episcopal School.

Minor and his wife, Jill McKay Pipes,



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have been married for 17 years and are the parents of three children.

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### Mark A. Cunningham Immediate Past President

Mark A. Cunningham is a partner with the Corporate Compliance and White Collar Defense Team in the New Orleans office of Jones Walker LLP. He received a BA degree in 1989 from Claremont Colleges (Pitzer College), his JD degree in 1992 from Tulane University Law School (senior managing editor, *Tulane Law Review*, 1992) and an LLM (Trade Regulation) degree in 1994 from New York University Law School. He was admitted to practice in Louisiana in 1996.

Before entering private practice, he clerked for U.S. District Court Judges Sarah S. Vance and Charles Schwartz, Jr. He has been an adjunct professor of antitrust law at Loyola University College of Law since 2001.

Mark has served in several leadership positions for the Louisiana State Bar Association (LSBA), including president, president-elect, treasurer, secretary, *Louisiana Bar Journal* editor and Executive Committee member. He also served on the Board of Governors and in the House of Delegates. He chaired the LSBA Lawyer Advertising Committee from 2000-04 and has served on the Committee on the Profession and the Client Assistance Fund Committee.

He serves on the boards of directors of the Louisiana Center for Law and Civic Education (president, 2011-14), the New Orleans Regional Leadership Institute and the New Orleans Bar Association. He chaired The Pro Bono Project (New Orleans) in 2009-10 and received the Project's 2009 Leadership Award and the Project's 2007 and 2008 Distinguished Service Award. He has been annually rec-



Mark A.  
Cunningham

ognized by other publications, including *Benchmark Litigation*, *Super Lawyers* and *The Best Lawyers in America*.

Mark was appointed to the National Center for State Courts' Lawyers Committee and to the Louisiana Supreme Court's Post-Conviction Relief Ad Hoc Committee. He has edited the American Bar Association's Trade Associations Committee newsletter since 2003 and has been an American Bar Foundation Fellow since 2011.

He is a former board chair of WRBH Radio for the Blind and Print Handicapped and a former board member for the New Orleans Center for the Creative Arts.

Mark and his wife, Meredith, have been married for 16 years and are the parents of three children.

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### Board of Governors 2016-17

### Patrick A. Talley, Jr. First Board District

Patrick A. Talley, Jr. is a partner in the New Orleans office of Phelps Dunbar, L.L.P. He received a BA degree in 1976 from Armstrong College, his JD degree in 1982 from Louisiana State University Paul M. Hebert Law Center and an LLM in Energy and Environmental Law in 1993 from Tulane Law School. He was admitted to practice in Louisiana in 1980. He also is admitted in Texas.

Patrick has served on the Louisiana State Bar Association's (LSBA) Board of Governors since 2014. Prior to this service, he was a member of the LSBA's House of Delegates (since 1994). He is a member of the Louisiana Bar Foundation.

He is a member of the New Orleans, American, Federal, 5th Circuit and Baton Rouge bar associations, the State Bar of Texas, the National Association of Railroad Trial Counsel (Executive Committee member), the Maritime Law Association of



Patrick A. Talley, Jr.

the United States (proctor), among others.

He is AV-rated by Martindale-Hubbell and has been recognized in several editions of *Best Lawyers in America*, including as the 2016 New Orleans Lawyer of the Year in railroad law. He also has been recognized in several editions of *Louisiana Super Lawyers* and in *New Orleans CityBusiness*’ “Leadership in Law.”

In his community, Patrick currently serves on the boards of the Louisiana Southeast Council Boy Scouts of America and Holy Name of Jesus School. He also was a member of the Louisiana Recovery Authority (Environmental Task Force member), the New Orleans Charter Schools Foundation (vice president), Pi Kappa Alpha Fraternity (international president), the Carrollton Boosters, Inc. (president), the Louisiana Children’s Museum, St. George Episcopal School (trustee) and the Academy of the Sacred Heart (president).

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#### **D. Skylar Rosenbloom**

##### **First Board District**

D. Skylar Rosenbloom is an associate in the New Orleans office of Fishman Haygood, L.L.P. He received a BS degree in 2001 from Georgetown University’s McDonough School of Business and his JD degree in 2007 from



**D. Skylar  
Rosenbloom**

Washington and Lee University School of Law. He was admitted to practice in Louisiana in 2007. He also is admitted in Washington, D.C. (2013) and in New York (2014).

Skylar was a member of the Leadership LSBA 2012-13 Class and is a member of the Louisiana State Bar Association’s Committee on the Profession and the Practice Assistance and Improvement Committee.

In his community, he is a member of the National World War II Museum Young Benefactors and serves as a Louisiana Philharmonic Orchestra Prelude advisory board member.

Skylar and his wife, Brittany Rosenbloom, have been married for five years and are the parents of two children.

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#### **John E. McAuliffe, Jr.**

##### **Second Board District**

John E. (Eddie) McAuliffe, Jr. is an attorney in the Metairie office of Frederick A. Miller & Associates. He received a BS degree in accounting in 1975 from the University of New Orleans and his JD degree in 1978 from Loyola University Law School. He was admitted to practice in Louisiana in 1978.



**John E.  
McAuliffe, Jr.**

Eddie chairs the Louisiana State Bar Association’s (LSBA) Unauthorized Practice of Law Committee, has presented programs on State Court Rules and Motions for the LSBA’s Bridging the Gap CLE seminar, and is a participant for the LSBA’s Law School Professionalism Orientations at Loyola University College of Law. He received the LSBA President’s Award in 2012 and the LSBA Pro Bono Publico Award in 2003.

He is a member of the Louisiana Association of Defense Counsel, the New Orleans Association of Defense Counsel (president, 1998-99) and the New Orleans Bar Association.

Eddie and his wife, Jean, have been married for 32 years and are the parents of two children.

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#### **Blake R. David**

##### **Third Board District**

Blake R. David is founding partner of the Lafayette firm of Broussard & David, L.L.C., where he is a practicing trial lawyer representing individuals and their

families in injury and death cases. He received a BA degree in 1997 from Louisiana State University and his JD degree in 2001 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2001.



**Blake R. David**

Blake served in the Louisiana State Bar Association’s (LSBA) House of Delegates from 2010-12. He was a presenter for the LSBA’s Admiralty Symposium from 2009-15 and for the LSBA’s CLE “Preparing and Handling the Big Case” in 2012 and 2013. He was the recipient of the LSBA Young Lawyers Division’s Outstanding Young Lawyer Award in 2009.

He is Maritime Section chair and a Board of Governors member for the Louisiana Association for Justice. He is a former president of the Lafayette Bar Association and serves on the Foundation Board. He is a former president of the Federal Bar Association’s Lafayette Chapter and of the American Inn of Court of Acadiana. He is AV-rated by Martindale-Hubbell and was recognized by *Louisiana Super Lawyers* (2012-16), National Trial Lawyers Top 100 (2012-16) and the Lafayette *Daily Advertiser* (20 Under 40) in 2006.

In his community, Blake is a current board member and a past chair of the Lafayette Downtown Development Authority. He serves on the IberiaBank Advisory Board, on the Miles Perret Cancer Services Board and with the Community Foundation of Acadiana. He is a founding board member of the ABC Art Fund (executive committee). He is co-chair of Opus Christi Magnum fundraisers for Catholic Charities of Acadiana and is a foundation board member and Eucharistic minister for Our Lady of Fatima Church. He serves on the Acadiana Tigers board.

He and his wife, Amber, have been married for 11 years and are the parents of three children.

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**J. Lee Hoffoss, Jr.  
Fourth Board District**

J. Lee Hoffoss, Jr. is a partner in the Lake Charles firm of Hoffoss Devall, L.L.C. He received a BA degree and an MA degree in 2000 and 2001, respectively, from Louisiana Tech University and his JD degree in 2004 from Southern University Law Center. He was admitted to practice in Louisiana in 2004 and in Texas in 2010.



**J. Lee Hoffoss, Jr.**

Lee served as chair, chair-elect, secretary, immediate past chair and the American Bar Association's Young Lawyers Division representative on the Louisiana State Bar Association's Young Lawyers Division Council. He is a member of the Louisiana Association for Justice, the Southwest Louisiana Bar Association and the Judge Albert Tate, Jr. American Inn of Court.

He was chosen as a Young Lawyers Fellow by the ABA GP Solo Division. He also was recognized as a "Top 40 Under 40" trial lawyer and as a *Louisiana Super Lawyers* "Rising Star."

In his community, he works with St. Nicholas Center for Children and is a member of Immaculate Conception Cathedral.

Lee and his wife, Corlissa Nash Hoffoss, have been married for nine years and are the parents of three children.

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**C. Kevin Hayes  
Fifth Board District**

C. Kevin Hayes is the owner of Hayes Strategic Solutions, L.L.C., a governmental relations and lobbying firm in Baton Rouge. He received a BA degree in 1987 from Louisiana State University and his JD



**C. Kevin Hayes**

degree in 1991 from Southern University Law Center. He was admitted to practice in Louisiana in 1992.

Kevin has served in the Louisiana State Bar Association's (LSBA) House of Delegates and is a member of the LSBA's Bar Governance Committee. He received the LSBA Young Lawyers Division's Outstanding Young Lawyer Award in 2001. He serves on the board for the Louisiana Center for Law and Civic Education. In 2014, he was named a Fellow of the Louisiana Bar Foundation.

He served as 2008 president of the Baton Rouge Bar Association (BRBA), chaired the BRBA's Young Lawyers Section in 1998 and received the BRBA's Judge Keogh Memorial Award in 2002. He was the 2010 president of the Association of Louisiana Lobbyists and is a member of the State Capitol Group and the Supreme Court of Louisiana Historical Society. He was a member of the 2011 Leadership Louisiana class for the Council for a Better Louisiana. He was recognized by the *Baton Rouge Business Report* (40 Under 40) in 2001. In 2014, he was chosen as the Baton Rouge Government Relations Lawyer of the Year by *Best Lawyers in America*.

In his community, he is a member of the Rotary Club of Baton Rouge, the Baton Rouge Area Chamber of Commerce and First Presbyterian Church.

Kevin is the father of two children.  
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**Edward J. Walters, Jr.  
Fifth Board District**

Edward J. Walters, Jr. is a partner in the Baton Rouge firm of Walters, Papillion, Thomas, Cullens, L.L.C. He received a BS degree in accounting in 1969 from Louisiana State University and his JD degree in 1975 from LSU Law School. He was admitted to practice in Louisiana in April 1976.



**Edward J.  
Walters, Jr.**

Ed served as Louisiana State Bar Association (LSBA) secretary and editor of the *Louisiana Bar Journal* in 2012-13. He continues to serve on the *Louisiana Bar Journal* Editorial Board. He is currently chair of the LSBA's Senior Lawyers Division and is editor of the Division's quarterly e-newsletter, *Seasoning*. He also is a member of the LSBA's Rules of Professional Conduct Committee.

He received the LSU Law Center's Distinguished Alumnus Award in 2015, the LSBA's President's Award in 2011, the Louisiana Bar Foundation's Distinguished Attorney Award in 2008 and the Baton Rouge Bar Association's President's Award in 1995, 1998 and 2014. He is a member of the American College of Trial Lawyers, the International Academy of Trial Lawyers and the LSU Law Center Board of Trustees.

Ed and his wife, Norma, have been married for 47 years and are the parents of two children.

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**Charles D. Elliott  
Sixth Board District**

Charles D. Elliott is a partner in the Alexandria firm of Vilar & Elliott, L.L.C. He received a BS degree in science/math education in 1986 from Louisiana Tech University, an MS degree in computer science in 1989 from Louisiana State University and his JD degree in 1993 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1993.

Charles is a member of the Louisiana State Bar Association's (LSBA) House of Delegates, a former member of the Board of Governors and a member of the LSBA's Legal Malpractice Insurance Committee.

He is a member of the Alexandria Bar Association, the Alexandria Crossroads Inn of Court and the Louisiana Association for Justice. He is president of the



**Charles D. Elliott**

Central Louisiana Pro Bono Project.

In his community, he serves on the Salvation Army's board. He is the father of one child.

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### **C. A. (Hap) Martin III** **Seventh Board District**

C. A. (Hap) Martin III is a member in the Monroe firm of Shotwell, Brown & Sperry, A.P.L.C. He received a BS degree in civil engineering in 1977 from Louisiana Tech University and his JD degree in 1980 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1980.



**C. A. (Hap)  
Martin III**

Hap is a former member of the Louisiana State Bar Association's (LSBA) House of Delegates. He serves on the Governing Council of the LSBA's Insurance, Tort, Workers' Compensation and Admiralty Law Section and is a member of the LSBA's Alternative Dispute Resolution Section.

He is a member of the American Arbitration Association, serving on the Commercial Arbitration Panel and the Construction Arbitration Panel. He also is a master emeritus of the Fred Fudickar Inn of Court.

In his community, he is a member of St. Paul's United Methodist Church and has held several leadership positions in his denomination on the local, district and conference levels. He also has volunteered with the Louisiana Purchase Council of the Boy Scouts of America and with several youth sports organizations.

Hap and his wife, Diane Caraway Martin, have been married for 38 years and are the parents of two children.

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### **Marjorie L. (Meg) Frazier** **Eighth Board District**

Marjorie L. (Meg) Frazier is a shareholder in the Shreveport firm of Wiener, Weiss & Madison, A.P.C. She received a BA degree in 2001 from Hendrix College and her JD degree in 2004 from Washington University in St. Louis. She was admitted to practice in Ohio in 2004, in Arkansas in 2009 and in Louisiana in 2010.



**Marjorie L. (Meg)  
Frazier**

Meg is a member of the Shreveport Bar Association and the Society for Human Resources Management.

In her community, she is a member of the Junior League of Shreveport/Bossier and is a youth basketball coach.

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### **Scotty E. Chabert, Jr.** **Chair, Young Lawyers Division**

Scotty E. Chabert, Jr. is an assistant district attorney for the 18th Judicial District and a partner in the Baton Rouge law firm of Saunders & Chabert. He previously served as an adjunct professor at Southern University Law Center. He received a BS degree in 2002 from Louisiana State University and his JD degree in 2006 from Southern University Law Center. He was admitted to practice in the state and federal courts of Louisiana in 2006 and in Mississippi in 2007.



**Scotty E.  
Chabert, Jr.**

Scotty served as chair-elect, secretary and District 5 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. He was a member of the 2009-10 Leadership LSBA Class and co-chaired the 2010-11 Leadership LSBA Class. He is a past chair of the Baton Rouge Bar Association's (BRBA) Young Lawyers Section and a 2010 recipient of

the BRBA's President's Award.

In his community, he is a member of First United Methodist Church.

Scotty and his wife, Katie D. Chabert, have been married for seven and a half years and are the parents of three children.

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### **John M. Frazier** **At-Large Member**

John M. Frazier is a shareholder in the Shreveport law firm of Wiener, Weiss & Madison, A.P.C. He also has worked as an assistant city attorney for the City of Shreveport for more than 35 years. He attended Louisiana Tech University and received his JD degree in 1976 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1976.



**John M. Frazier**

John served in the Louisiana State Bar Association's (LSBA) House of Delegates, on the LSBA's Board of Governors as the Eighth District representative and on the LSBA's Committee to Review Proposed Changes to the Louisiana Bar Exam. He also was a member of the LSBA's Legislation Committee and Nominating Committee and chaired the Outreach Committee.

He is a former president of the Shreveport Bar Association, a former president of the Shreveport Bar Foundation and a former chair of the board of directors of the Caddo Parish Public Defenders' Office. He received the Shreveport Bar Association's Professionalism Award. He served on the Louisiana State Senate Citizens' Committee on Indigent Defense.

In his community, he served as president of the Shreveport Chamber of Commerce and president of the Shreveport Committee of One Hundred. He chaired the Independence Bowl and served as board and campaign chair of the United Way of Northwest Louisiana. In 1996, he carried the Olympic torch on one leg of



the relay in connection with the Atlanta Olympics. He is the recipient of the Clyde E. Fant Memorial Award for Community Service presented by the United Way of Northwest Louisiana and the Distinguished Leadership Award presented by the National Association of Community Leadership Organizations.

John and his wife, Alice, have been married for 42 years and are the parents of a daughter, Meg, also a shareholder in Wiener, Weiss & Madison, A.P.C.

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### **Rachael D. Johnson At-Large Member**

Rachael D. Johnson is senior staff attorney with the Law Offices of Julie E. Vaicius (employees of The Hartford) in Metairie. She received a BA degree in psychology in 1998 from Spelman College in Atlanta, Ga., an MSW degree in 2000 from Smith College School for Social Work in Northampton, Mass., and her JD degree in 2005 from Tulane University Law School. She was admitted to practice in Louisiana in 2005 and in Florida in 2006.

Rachael has participated in Louisiana State Bar Association Diversity Committee projects as a member of the Louis A. Martinet Legal Society, Inc. Executive Board.

She is a board member of the Louisiana Association of Defense Counsel, the Pro Bono Project and the New Orleans Bar Association. She is a 2015 graduate of the Loyola Institute of Politics.

In her community, Rachael is a member of the New Orleans Chapter of The Links and a board member of the Paul S. Morton Scholarship Foundation.

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**Rachael D. Johnson**

### **Jermaine Guillory At-Large Member**

Jermaine Guillory is section chief for the 19th Judicial District Attorney's Office. He received a BA degree in 2005 from McNeese State University and his JD degree in 2008 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2008.

Jermaine has served as a mock trial team coach for Mentorship Academy. He has participated in various community outreach activities with the district attorney's office including neighborhood canvass and cleanup. He was honored as Outstanding Prosecutor in 2014.

He and his wife, Stephanie, were recently married.

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**Jermaine Guillory**

### **Monica Hof Wallace Faculty, Loyola University College of Law**

Monica Hof Wallace is the Dean Marcel Garsaud, Jr. Distinguished Professor of Law at Loyola University College of Law. She received a BS degree, *cum laude*, in finance in 1993 from Louisiana State University and her JD degree, *summa cum laude*, in 1998 from Loyola University College of Law. She was admitted to practice in Louisiana in 1998. Before entering private practice, she clerked for Judge Jacques L. Wiener, Jr. of the U.S. 5th Circuit and Judge Barry Ted Moskowitz of the U.S. District Court in San Diego.

Monica is a reporter for the Louisiana State Law Institute's Tutorship Procedure Committee, an Educating Tomorrow's Lawyers Fellow and a member of the St. Thomas More Inn of Court Executive Committee. She received the Gillis Long Poverty Law Center's Public Service



**Monica Hof  
Wallace**

Award and the Outstanding Research in Law Faculty Award and is a three-time honoree of Professor of the Year.

In her community, she is a board member for Cancer Crusaders, a member of the Lakeview Civic Improvement Association and a board member for Archbishop Chappelle High School.

Monica and her husband, Todd Wallace, have been married for 14 years and are the parents of two children.

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### **Donald W. North Faculty, Southern University Law Center**

Donald W. North is a law professor at Southern University Law Center. He joined the faculty in 1998. He received a BS degree in political science in 1980 from Grambling State University and his JD degree in 1983 from Southern University Law Center. He was admitted to practice in Louisiana in 1984. He also is admitted to the U.S. District Court for the Middle District of Louisiana and the U.S. 5th Circuit Court of Appeals.

Also, he is a 1988 graduate of the Combined Army and Services Staff College in Fort Leavenworth, Kan., and a 1997 graduate of the Command General Staff College, also in Fort Leavenworth.

He served on the Louisiana State Bar Association's (LSBA) Board of Governors for several terms and has served on the LSBA's Committee on the Profession and the Client Assistance Fund Committee. He is a member of the American Bar Association.

In his community, Donald is a church deacon, volunteers with the Zachary Food Bank and is a pro bono worker at Baton Rouge City Court.

He and his wife, Jyotibala, have been married for 28 years and are the parents of two children.

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**Donald W. North**

**Kevin C. Curry**  
**Louisiana State Law Institute**

Kevin C. Curry is a partner in the Baton Rouge firm of Kean Miller, L.L.P. He received a BS degree in accounting in 1991 from Louisiana State University, his JD degree in 1994 from LSU Paul M. Hebert Law Center (Order of the Coif) and an LLM degree in taxation in 1995 from New York University. He was admitted to practice in Louisiana in 1994.



**Kevin C. Curry**

Kevin is a board-certified tax law specialist and a board-certified estate planning and administration specialist, both certified by the Louisiana Board of Legal Specialization. He is a member and former chair of the Estate Planning and Administration Advisory Commission.

He has been a Louisiana State Law Institute Council member since 2004, serving on various committees. He is a member and former president of the Estate and Business Planning Council of Baton Rouge. He has volunteered for the Louisiana State Bar Association's Wills for Heroes program, is AV-rated by Martindale-Hubbell and has been listed in *Louisiana Super Lawyers*.

In his community, he serves as a board member for the Ollie Steele Burden Manor, Inc. and recently completed several years of service as treasurer for St. James Episcopal Church in Baton Rouge.

Kevin and his wife, Melissa N. Curry, have been married for 20 years and are the parents of two children.

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**Julie Baxter Payer**  
**Chair, House of Delegates**  
**Liaison Committee**

Julie Baxter Payer is deputy chief of staff for communications/legal/special projects for Louisiana Gov. John Bel Edwards. She formerly served as senior communications advisor for the Louisiana Legislative Auditor's Office and as staff counsel for the Louisiana Senate. After earning a BA degree

in broadcast journalism in 1993, she earned her JD/BCL degree in 2005 from Louisiana State University Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2005.

Julie is a member of the Louisiana State Bar Association's (LSBA) House of Delegates, co-chairs the Public Information Committee and serves on the Summer School CLE Committee. She also served on the LSBA's Legislation Committee from 2008-11. She is a member of the Baton Rouge Bar Association and the Wex Malone American Inn of Court.

She received the Edward R. Murrow Award for television investigative reporting, is a Distinguished Academy Fellow with the Academy of Applied Politics in the LSUanship School of Mass Communications, and was named one of the "Top 40 Under 40" by the *Baton Rouge Business Report* in 2004.

In her community, she is board president for both Rebuilding Together Baton Rouge and The ARC Baton Rouge. She has volunteered as a mentor in public schools. She is the founding chair of the Tiffany Circle Society of Women Leaders and previously served on the boards of the Baton Rouge Blues Foundation, Yelp! Baton Rouge and the Capital City Rotary Club.

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**S. Jacob Braud**  
**Member, House of Delegates**  
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S. Jacob Braud is a partner in the Belle Chasse firm of Ballay, Braud & Colon, P.L.C. He received a BA degree in mass communications in 1999 from Louisiana State University and his JD degree in 2002 from Loyola University College of Law. He was admitted to



**Julie Baxter Payer**



**S. Jacob Braud**

practice in Louisiana in 2003.

Jacob serves in the Louisiana State Bar Association's (LSBA) House of Delegates, representing the 25th Judicial District (Plaquemines Parish). He also has participated as a judge in the LSBA Young Lawyers Division's mock trial competitions.

He is a member of the Plaquemines Parish Bar Association, the Jefferson Bar Association, the Louisiana Association for Justice, the American Association for Justice and the Louisiana Association of Independent Land Title Agents.

Jacob and his wife, Erin O. Braud, have been married for nine years and are the parents of three children.

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**Sandra K. Cosby**  
**Member, House of Delegates**  
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Sandra K. Cosby is an associate with Frederick A. Miller & Associates in Metairie. She received a BA degree in 1974 from Lincoln Memorial University and her JD degree, *magna cum laude*, in 1990 from Loyola University Law School. She was admitted to practice in Louisiana in 1990.

Sandra serves in the Louisiana State Bar Association's (LSBA) House of Delegates and is a former chair and current member of the Committee on the Profession (previously the Professionalism and Quality of Life Committee). She is co-chair of the Loyola Law School Professionalism Orientation. She is a member of the Louisiana Bar Foundation.

She was case note and quantum editor of the *Loyola Law Review* from 1989-90 and was a Loyola Moot Court semi-finalist. She is a former president and member of the local advisory board of directors for the American Lung Association of Louisiana.

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**Sandra K. Cosby**



## Rule Change Addresses Unidentified Funds in IOLTA Accounts

Effective March 23, the Louisiana Supreme Court amended Louisiana Rule of Professional Conduct 1.15 concerning how lawyers and law firms should handle unidentified funds accumulated in their IOLTA accounts.

The amended rule directs lawyers who discover unidentified funds in an IOLTA account for at least one year, and, after reasonable due diligence, those funds cannot be documented as belonging to a client, a third person or the lawyer or law firm, to remit the funds to the Louisiana Bar Foundation.

The heart of the changes to the rule is in new paragraphs (g)(7) and (h), which instruct lawyers about what to do after discovering unidentified funds in an IOLTA account. The rule provides that “no charge of misconduct shall attend to a lawyer’s exercise of reasonable

judgment under this paragraph (h).” Paragraph (h) also includes a provision regarding the refund of unidentified funds remitted to the Louisiana Bar Foundation in error.

Unidentified funds in IOLTA accounts commonly result from bookkeeping errors, mistaken bank interest payments or failures to collect earned fees in a timely manner. The resulting unidentified fund balances cannot be traced to a client or third-party owner. The amendments to Rule 1.15 provide a mechanism for lawyers or their successors to remove unidentified funds from IOLTA accounts after making diligent efforts to identify the owner and secure their return. Funds remitted to the Louisiana Bar Foundation will support grants made to non-profit organizations providing civil legal aid to the poor throughout Louisiana.

The rule does not provide for the remittance of unclaimed funds, whose owner is known but to whom payment cannot be effected (typically because the owner cannot be located or will not cash a check). Unclaimed funds should be handled in accordance with the provisions of the Louisiana Unclaimed Property Act.

The Louisiana Bar Foundation has published additional guidance for lawyers, including detailed instructions for remitting unidentified funds and claiming refunds, on its website: <http://raisingthebar.org/iolta/IOLTAAttorneys.asp>.

Questions about the unidentified funds rule should be directed to LBF Executive Director Donna Cuneo at (504)561-1046 or email [donna@raisingthebar.org](mailto:donna@raisingthebar.org).

## Attorneys Qualify as Board-Certified Specialists

In accordance with the requirements of the Louisiana Board of Legal Specialization (LBLS) and the Plan of Legal Specialization, the following individuals have satisfactorily met the established criteria and are qualified as board-certified specialists in the following areas for a five-year period which began Jan. 1, 2016, and will end on Dec. 31, 2020.

### Estate Planning and Administration

Beth-Anne Perez Bracey..... Metairie  
Erin E. Kriksciun ..... New Orleans

### Family Law

J. Marie Rudd..... Mandeville  
Krystal R. Treadaway..... Metairie

### Tax Law

Matthew P. Miller..... New Orleans  
Daniel J. Walter..... New Orleans

The LBLS was established in 1993 by the Louisiana Supreme Court to assist consumers in finding lawyers who have demonstrated ability and experience in specialized fields of law. To become a certified specialist, an attorney must be an active member in good standing with the Louisiana State Bar Association, have a minimum of five years of full-time practice, demonstrate substantial experience in the specialty area and pass a written examination. Presently, the areas of law for which the LBLS is offering certification are appellate practice, business bankruptcy law, consumer bankruptcy law, estate planning and administration, family law and tax law. The LBLS anticipates offering specialization certification in employment law and labor law in 2017.

For more information on specialization, email LBLSExecutive Director Barbara M. Shafranski at [barbara.shafranski@lsba.org](mailto:barbara.shafranski@lsba.org).



The highs and lows of litigation can present a particular dilemma for attorneys who may view court appearances as performance art but must understand that legal performance has everything to do with preserving the administration of justice, not auditioning for an episode of “Law and Order.” In the age of social media, lawyers must take special care not to lose sight of ethical and professional standards. Here are a few practical tips to keep in mind when faced with issues of social media and legal practice.

First, no matter how strongly you may feel, do not communicate over social media about any pending legal matter in which you are engaged, regardless of the stage of litigation. It is not appropriate and extremely risky to post a Facebook comment, tweet or blog about pending legal matters in which you are involved. Rule 8.4(d) expressly prohibits a lawyer from engaging in conduct that is prejudicial to the administration of justice. This includes online posts about pending proceedings, opposing counsel or court rulings. The dissemination of such “information” may be tantalizing, but it has no place in legal advocacy. The risks also include violating prohibitions against revealing confidential information (Rule 1.6). Online posts about a lawyer’s current work only serve to compromise the judicial process by undermining the court’s impartiality or encouraging public debate about the pending matter, thereby jeopardizing the fairness of the proceedings and possibly leading to suspension or disbarment.<sup>1</sup> In all cases, the proper method for challenging a court’s ruling is appellate procedure.

Second, never engage in personal, *ad hominem* attacks of the court, court personnel or opposing counsel. Lawyers have displayed extraordinarily poor judgment in response to courtroom setbacks, resulting in sanctions. Certain areas of law may

lend themselves to emotionally charged proceedings, *e.g.*, criminal law, family law, domestic matters and successions since they involve lives, families and livelihoods. Regardless, lawyers must bear in mind the obligations to uphold the impartiality and integrity of court proceedings and to preserve the administration of justice. Rule 3.5, in part, prohibits a lawyer from seeking to influence a judge, juror, prospective juror or other official by means prohibited by law, from engaging in *ex parte* communications with such a person during the proceeding unless authorized to do so by law or court order, or from engaging in conduct intended to disrupt a tribunal. Whether the matter is civil or criminal, a lawyer cannot forfeit reasonableness to impress a client or a courtroom gallery of observers or to influence the court.

Finally, keep in mind that the First Amendment will not immunize a lawyer from the consequences of his/her statements about pending matters nor justify a lawyer in making hard to prove or inappropriate accusations about proceedings.<sup>2</sup> In legal writing, lawyers may argue points about court proceedings but are prohibited from bringing non-meritorious and frivolous claims. Making false and misleading statements to a tribunal is misconduct. Rules 3.1, 3.3, 8.2(a), 8.4(c).

Lawyers are subject to restrictions on “free speech” inside and outside of the courtroom.<sup>3</sup> Rule 8.2(a) prohibits a lawyer from making a statement he/she knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office. A lawyer’s unsubstantiated, subjective belief in the truth of the accusations he/she has made will not excuse the violation.<sup>4</sup> Furthermore, Rule 8.4(c) prohibits an attorney from engaging in conduct involving dishonesty, fraud, deceit

or misrepresentation.

Grandstanding and courtroom theatrics can be disastrous for the lawyer who sees himself/herself as a rogue crusader. Lawyers hold a special privilege in society:

An attorney is trained at law, has taken an oath, assumes a position of public trust and holds himself out to the public as being fit and capable of handling its funds and problems. The attorney has assumed a position of responsibility to the law itself and any disregard for the law is more serious than a breach by a layman or non-lawyer. He is an officer of the Court. *In re Thomas*, 38 So.3d 248, 255 (La. 6/25/10).

Keep professionalism and civility front-and-center. You will serve your clients, your peers, the legal system and the public with the value, respect and standards expected.

## FOOTNOTES

1. *In re McCool*, 172 So.3d 1058, (La. 6/30/15).
2. *In re Mire*, 2016 La. LEXIS 228, 2015-1453 (La. 2/19/16).
3. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 111 S.Ct. 2720, 115 L. Ed. 2d 888 (1991) (internal citations omitted).
4. *In re Simon*, 913 So.2d 816 (La. 6/29/05) (analyzing Rule 8-102(B), the predecessor to Rule 8.2(a)); *see also*, *In re Mire*, 2016 La. LEXIS 228 at p. 27 (discussing *In re Simon* and Louisiana State Bar Ass’n v. Karst, 428 So.2d 406 (La. 1983)).

Nisha Sandhu is a contract attorney for Gilsbar, L.L.C., in Covington. She received a BA degree in history from the University of Chicago and her JD degree from Loyola University College of Law. Her practice includes appellate law and criminal defense. Email her at [nfirm@nsacla.com](mailto:nfirm@nsacla.com).





# LAWYERS Assistance

By J.E. (Buddy) Stockwell

75 YEARS OF HOPE, RECOVERY AND JLAP

It is my humble honor to contribute to this issue of the *Louisiana Bar Journal* celebrating the 75th anniversary of the Louisiana State Bar Association (LSBA). It's a great opportunity also to reflect upon the history of our Judges and Lawyers Assistance Program, Inc. (JLAP) and how far it has come in its mission to confidentially save lives and protect the public from impaired lawyers and judges.

In 1941, when the LSBA was formed, in that very same year, Pennsylvania Supreme Court Justice Curtis Bok, then owner and publisher of *The Saturday Evening Post*, had just learned about a new organization called Alcoholics Anonymous (AA). According to AA history,<sup>1</sup> Justice Bok assigned Jack Alexander, a "hard-nosed reporter," to investigate this new organization called AA: "The resulting 7,500-word article was published in the magazine on March 1, 1941, putting Alcoholics Anonymous on the map of public consciousness and spurring a dramatic increase in Big Book sales and membership alike."

It was big news. With AA, there was hope. Prior to that, the medical profession had all but surrendered that there was no effective treatment for alcoholism and that a chronic alcoholic's likely fate was some combination of jails, institutions and death.

By 1949, the "Minnesota Model" of alcoholism treatment was pioneered by a small not-for-profit organization called the Hazelden Foundation. This new approach developed in the 1950s incorporated the AA principles for living into abstinence-based inpatient treatment, dispensed by teams comprised of alcoholics already in recovery and professional medical staff. It also included addiction education for the patients' families. From 1960 onward, millions of alcoholics from around the world have been successfully treated using practices based upon the Minnesota Model.

While the general public was just beginning to consider alcoholism as an actual dis-

ease and how one might survive it, in 1958, the Federation of State Medical Boards was already realizing that disciplinary complaints against doctors are often rooted in their own personal alcohol and drug problems. Two missions were presented: 1) saving the lives of addicted physicians and helping them overcome alcoholism and addiction to regain their fitness to practice; and 2) protecting the public from impaired physicians by requiring highly-effective treatment and recovery monitoring.

According to the Federation of State Physicians Health Programs, it was not until 1975 that the American Medical Association officially acknowledged the problem of physician impairment. In the late 1970s, there was an increase in education and awareness about physician addiction, and "by 1980, all but three of the 54 U.S. medical societies of all states and jurisdictions had authorized or implemented impaired physician programs."<sup>2</sup>

The medical profession led the way in designing specific professionals' programming. Other professions soon followed. In the 1980s, Judges and Lawyers Assistance Programs began to spring up in various states. In Louisiana, the LSBA's Impaired Professionals Committee was formed in 1985. Soon thereafter, in 1992 and under the auspices of the LSBA and its newly-created Committee on Alcohol and Drug Abuse, the Lawyers Assistance Program, Inc. (LAP) was formed.

In the last five years, LAP has dedicated unflagging effort and industry toward improving its programming. In 2013, LAP expanded its professional clinical staff and now has three licensed professional counselors, all qualified to diagnose mental health issues. Concurrently, LAP began incorporating necessary medical guidelines and criteria so as to develop a truly comprehensive professionals' program that offers reliable full-service assistance to the legal profession.

In 2014, LAP's governance was re-

structured to facilitate necessary fiduciary oversight by the LSBA, clearing the way for the LSBA's commitment to significantly increase funding for LAP. This provided the level of sponsorship necessary for LAP to finally mature into a top-tier professionals' program.

In 2015, and with the approval of the Louisiana Supreme Court, LAP was renamed the Judges and Lawyers Assistance Program (JLAP) so as to formally acknowledge that JLAP provides full services to all classes of legal professionals, including all members of the judiciary. JLAP's statute on confidentiality and immunity, La. R.S. 37:221, was amended to recognize JLAP's new name and also to formally broaden the scope of JLAP's mission to include *all* mental health issues, not just alcoholism and addiction.

Moreover, in 2015, JLAP launched one of the most comprehensive LAP/JLAP websites in the nation, offering a plethora of mental health information specific to each category of persons JLAP assists, including lawyers, judges, law students, employees and family members. Learn more at: [www.louisianajlap.com](http://www.louisianajlap.com).

JLAP salutes the LSBA's 75 years of service to the profession and is ever so grateful for the LSBA's robust support of JLAP's mission to literally save lives and protect the public. If you or someone you know needs help, make a confidential call to JLAP at (985) 778-0571 or visit the website.

## FOOTNOTES

1. [www.aa.org/pages/en\\_US/aa-timeline](http://www.aa.org/pages/en_US/aa-timeline).
2. [www.fsphp.org/about](http://www.fsphp.org/about).

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





# FOCUS ON Diversity

THROUGH THE LENS: 3/4/16 DIVERSITY CONCLAVE

**9<sup>TH</sup> ANNUAL DIVERSITY & INCLUSION:**  
**MOVING FROM A "FOOT IN THE DOOR" TO A "VOICE AT THE TABLE"**



All photos by Matthew Hinton Photography.



The plenary sessions began with a welcome from Louisiana State Bar Association (LSBA) President Mark A. Cunningham, right. He reminded participants of the purpose and importance of diversity in the legal profession. LSBA Conclave Subcommittee Co-Chair Barbara B. Ormsby, Deutsch Kerrigan, L.L.P., seated, introduced and welcomed the facilitator Kimberly Papillon.



Louisiana State Bar Association (LSBA) President Mark A. Cunningham, left, recognized the Louisiana Supreme Court and Chief Justice Bernette Joshua Johnson for their annual support of the Diversity Conclave. Cunningham also announced the LSBA's launch of a namesake award, the Chief Justice Bernette Joshua Johnson Trailblazer Award.



Kimberly Papillon, with *The Better Mind*, facilitated the session, "The Neuroscience of Decision-Making in the Practice of Law." Her highly interactive session highlighted the split-second decisions people make based on previous experience and assumptions. The course explored how reactions in human brains affect assessments of threat, intelligence, veracity and competence in a diverse environment.



Luncheon keynote speaker Roderick A. (Rick) Palmore, standing, senior counsel of Dentons US, L.L.P., spoke passionately about the insidiousness of images today and the implications they have in institutions and the legal profession in his presentation, "The Power of Expectations: The Impact of Expectations on Performance and Success." Seated from left, LSBA President Mark A. Cunningham, Louisiana Supreme Court Chief Justice Bernette Joshua Johnson and Diversity Committee Co-Chair Quintillis K. Lawrence, commissioner for the 19th Judicial District Court.





Panel members for the Best Practices session, “The Difference Between Getting In and Staying In: Moving Toward Inclusion,” included, from left, Marcus V. Brown, Entergy, Inc.; moderator Liwen Mah, Fenwick & West, L.L.P.; Lori A. Chumbler, senior associate general counsel, legal operations, Walmart; and Hon. Jenny Rivera, New York State Court of Appeal.



Panel members for the Immigration Law breakout session, “How Immigration Law Can Impact Your Practice,” included moderator Troy N. Bell, standing, Courington, Kiefer & Sommers, L.L.C.; and, from left, Jonathan A. Grode, Green and Spiegel, L.L.C.; Lauren R. Aronson, Louisiana State University Paul M. Hebert Law Center; and Gordon J. Quan, Quan Law Group, P.L.L.C.



Panel members for the LGBT breakout session, “The Illusion of Equality,” included, from left, moderator J. Dalton Courson, Stone Pigman Walther Wittmann, L.L.C.; Daniel J. Canon, Clay Daniel Walton Adams, P.L.C.; and Laura E. Landenwich, Clay Daniel Walton Adams, P.L.C.



Panel members for the Criminal Law breakout session, “Assessing Eyewitness Identification,” included Dylan C. Alge, left, East Baton Rouge Parish District Attorney’s Office; and Professor Thomas D. Albright, Salk Institute for Biological Studies.



Panel members for the Legal Pipeline session, “The Path to Saving the Legal Profession,” included, from left, Donald R. Cravins, Jr., National Urban League; Linda Perez-Clark, Kean Miller, L.L.P.; and John R. Kouris, DRI.



Conclave participants included, from left, Stephen A. Dixon, Children’s Rights; Judge Piper D. Griffin, Orleans Parish Civil District Court; and Diversity Committee Co-Chair Troy N. Bell, Courington, Kiefer & Sommers, L.L.C.



Luis A. Leitzelar (Jones Walker LLP), left, accepted the recognition award on behalf of Platinum Plus sponsor Jones Walker LLP. Diversity Committee Co-Chair Barbara B. Ormsby (Deutsch Kerrigan, L.L.P.) presented the award.

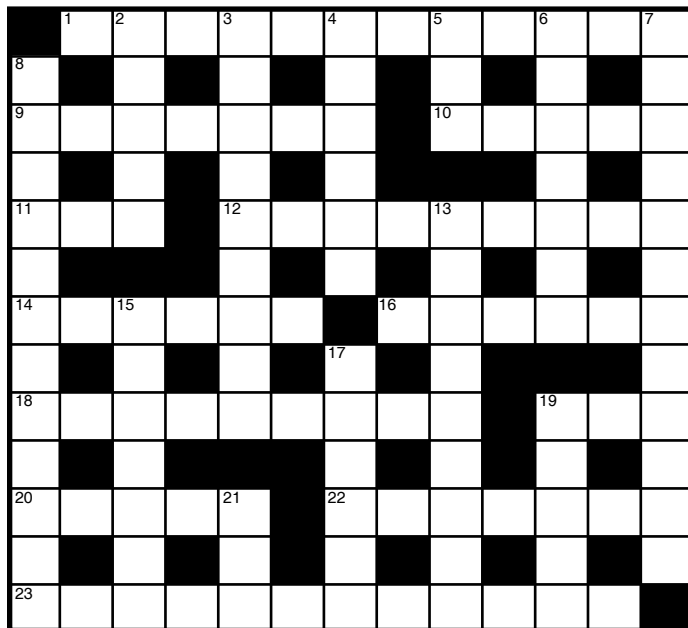


Jason R. Brown (Kean Miller, L.L.P.), left, accepted the recognition award on behalf of Platinum Plus sponsor Kean Miller, L.L.P. Diversity Committee Co-Chairs Barbara B. Ormsby and Troy N. Bell presented the award.

# Crossword PUZZLE

By Hal Odom, Jr.

## NORTHERN NEIGHBOURS



### ACROSS

- 1 Where to find Regina (12)
- 9 Beef or lamb, for example (3, 4)
- 10 Stitch again (5)
- 11 "O Canada, terre de \_\_\_ aïeux" (3)
- 12 Defy (5, 2, 2)
- 14 I have found it! (6)
- 16 Org. with 12 steps (2-4)
- 18 Annihilate (9)
- 19 Mo. for Canada Day (3.)
- 20 Had dinner at home (3, 2)
- 22 Instruction, or the cost thereof (7)
- 23 Sentence you can't get in Canada (5, 7)

### DOWN

- 2 Assistants (5)
- 3 Memorabilia (9)
- 4 "The Rape of Europa" artist (6)
- 5 Lk. to the south of Ontario (3.)
- 6 Rested atop (3, 4)
- 7 It is paired with Labrador, provincially (12)
- 8 Island between New Brunswick and Nova Scotia (6, 6)
- 13 "La \_\_\_," 1960 Fellini film starring Anouk Aimée (5, 4)
- 15 Another name for Côte d'Azur (7)
- 17 "Huis clos" playwright (6)
- 19 Collaborative (5)
- 21 Unspecified degree (3)

Answers on page 93.

## Alcohol and Drug Abuse Hotline

Director J.E. (Buddy) Stockwell III, 1(866)354-9334

1405 W. Causeway Approach, Mandeville, LA 70471-3045 • email [jlapp@louisianajlap.com](mailto:jlapp@louisianajlap.com)

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



## REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date April 5, 2016.

### Decisions

**Michael Peter Arata**, New Orleans, (2016-B-0203) **Interimly suspended from the practice of law** ordered by the court on Feb. 17, 2016.

**Carla Ann Brown-Manning**, Kenner, (2015-B-2342) **Suspended for one year and one day, subject to conditions**, ordered by the court on March 4, 2016. JUDGMENT FINAL and EFFECTIVE on March 18, 2016. *Gist:* Neglect of clients' matters; failure to communicate with clients; failure to return unearned fees;

obligations upon termination; failure to cooperate with the Office of Disciplinary Counsel in its investigation; and violating or attempting to violate the Rules of Professional Conduct.

**Melanie Smith Daley**, Lake Charles, (2016-B-0024) **Adjudged guilty of additional violations that warrant discipline and which may be considered in the event she applies for reinstatement from her suspension in *In Re: Daley*, 13-0846 (La. 5/17/13), 117 So.3d 93**, ordered by the court as consent discipline on Feb. 26, 2016. JUDGMENT FINAL and EFFEC-

TIVE on Feb. 26, 2016. *Gist:* Neglecting a legal matter and failing to communicate with a client.

**Walter C. Dumas**, Baton Rouge, (2016-B-0131) **Interim suspension** ordered by the court on Feb. 4, 2016.

**Janinne Latrell Gilbert**, Delcambre, (2016-B-0044) **Disbarred** by order of the court on March 4, 2016. JUDGMENT FINAL and EFFECTIVE on March 18, 2016. *Gist:* Respondent neglected legal matters, failed to communicate with clients, failed to

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 April 1, 2016.

Respondent	Disposition	Date Filed	Docket No.
Jade Rachelle Blasingame	[Reciprocal] Interim suspension.	3/15/16	16-876
Anthony T. Marshall	[Reciprocal] Suspension.	3/10/16	16-452
Stanley S. Spring II	[Reciprocal] Transfer to disability inactive status.	3/10/16	16-431
Kenneth T. Wallace	[Reciprocal] Interim suspension.	3/10/16	16-433

### Discipline continued from page 59

account for or refund unearned fees, failed to properly withdraw from representation, engaged in dishonest conduct, and failed to cooperate with the Office of Disciplinary Counsel.

**Katherine M. Guste**, Metairie, (2016-B-0077) **Suspended from the practice of law for a period of two years and ordered to provide an accounting to client, return client's file, return the unused court costs and refund any unearned fees**, by order of the court on March 4, 2016. JUDGMENT FINAL and EFFECTIVE on March 18, 2016. *Gist*: Respondent was suspended for violating Rules 1.16(d) and 8.4(a) of the Rules of Professional Conduct. Respondent shall also pay all costs and expenses assessed in the matter with legal interest. She may not practice law in the state of Louisiana or any other jurisdiction.

**Ronald Sidney Haley, Jr.**, Baton Rouge, (2015-B-2285) **Suspended (consent) for one year and one day, fully deferred, subject to conditions**, ordered by the court on Feb. 19, 2016.

JUDGMENT FINAL and EFFECTIVE on Feb. 19, 2016. *Gist*: Commission of a criminal act reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; and violating or attempting to violate the Rules of Professional Conduct.

**Maurice D. Hall**, Plaquemine, (2016-B-0025) **Suspended on consent from the practice of law for a period of six months, fully deferred, to be followed by a two-year period of supervised probation**, ordered by the court on Feb. 26, 2016. JUDGMENT FINAL and EFFECTIVE on Feb. 26, 2016. *Gist*: Commingling personal funds with client funds in his trust accounts, allowing the trust accounts to become overdrawn on two occasions, and making a trust account check payable to "Cash" to accommodate a client's request.

**Naveen R. Kailas**, Metairie, (2015-B-2261) **Suspended for three years** ordered by the court as consent discipline on Feb. 19, 2016. JUDGMENT FINAL and EFFECTIVE on Feb. 19, 2016. *Gist*: Criminal conduct.

**Yolanda Julie King**, New Orleans, (2016-B-0331) **Interimly suspended**

**from the practice of law** ordered by the court on March 14, 2016.

**Ashton DeVan Pardue**, Springfield, (2016-B-0109) **Suspended (consent) for three months** ordered by the court on March 4, 2016. JUDGMENT FINAL and EFFECTIVE on March 4, 2016. *Gist*: Commission of a criminal act reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; and violating or attempting to violate the Rules of Professional Conduct.

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

No. of Violations

Communication with a person represented by counsel in violation of Rule 4.2 ..... 1

Failure to communicate with a client in violation of Rule 1.4 ..... 1

**TOTAL INDIVIDUALS**

**ADMONISHED..... 2**

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***Boudreaux v. Thibodeaux (Oil Co):***

**A Tour Through the Swamps of a Louisiana Maritime Case**

**Judge John W. deGravelles**

U.S. District Court Middle District of Louisiana, Baton Rouge

**J. Neale deGravelles**

deGravelles, Palmintier, Holthaus & Frugé LLP, Baton Rouge

***McBride v. Estis Well Service: An Examination of the Past, Present, and Future of Punitive Damages in Maritime Law***

**Magistrate Judge Carol B. Whitehurst**

U.S. District Court Western District of Louisiana, Lafayette

**Jerome H. Moroux**

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**Investigation of Offshore Marine Casualties**

**Charles C. Bourque Jr.**

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**Commander Matthew W. Denning**

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**The Interplay Between OPA, OCSLA and the General Maritime Law**

**Paul M. Sterbcow**

**Ian F. Taylor**

Lewis, Kullman, Sterbcow & Abramson, New Orleans

Moderator for the conference is LAJ Maritime Law Section Chair

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### Customary Commercial Practice in a Commercial Acquisition Must Be Supported by a Reasonable Basis

*Red River Waste Solutions, L.P.*, B-411760.2 (Jan. 20, 2016), available at [www.gao.gov/assets/680/674948.pdf](http://www.gao.gov/assets/680/674948.pdf).

On May 8, 2015, the Department of the Army (agency) issued a request for proposals under the Federal Acquisition Regulation (FAR) Part 12 for solid-waste-management services at Fort Polk, La. The solicitation required offerors to submit proposals with prices that reflected all costs on a per-ton basis and permitted the contractor to invoice only on tonnage collected.

Before proposals were due, on July 10, 2015, Red River Waste Solutions, L.P. (Red River) protested the solicitation to the Government Accountability Office (GAO). Red River alleged, among other things, that the solicitation's pricing based on a per-ton basis was inconsistent with customary commercial practice (CCP) and that various estimated quantities under the

solicitation were overstated. The agency agreed to take corrective action and, after the GAO dismissed the protest, did make several solicitation amendments, provided additional information, responded to offerors' questions and extended the proposal due date to Oct. 21, 2015. On Oct. 13, 2015, Red River again protested at the GAO, challenging generally the same grounds as before.

A protest is a written objection by an interested party to a solicitation or other (federal) agency request for bids or offers, cancellation of a solicitation or other request, award or proposed award of a contract, or termination of a contract if terminated due to alleged improprieties in the award. See FAR 33.101 (2014). Three are available to potential protestors to hear these challenges, and reasons for protesting in each are litiga-

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tion-strategy dependent. The fora are: (1) the federal agency soliciting the requirement; (2) the Court of Federal Claims; and (3) the GAO. The GAO adjudicates protests under the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. §§ 3551-56. The GAO hears the majority of reported protests. That is likely due to two unique characteristics of a GAO protest — the 100-day decision, and the CICA automatic statutory stay of contract award. *See* 31 U.S.C. §§ 3553(c)-(d); FAR 33.104(b)-(c), (f) (2014).

In this case, Red River alleged two points of error — (1) that the agency's determination that the solicitation's pricing terms were consistent with CCP under FAR Part 12 was not reasonably supported by evidence; and (2) that other terms within the solicitation were not based on the best available information. The CCP question is discussed below.

### Reasonable Basis for Customary Commercial Practice

Important to note, CCP is not defined in the FAR; nonetheless, the FAR does suggest that such practice varies from market to market. *See* FAR § 12.404(b)(2) (2016). Further, CCP is determined on a case-by-case basis. *See generally, Northrop Grumman Tech. Servs., Inc.*, B-406523 (June 22, 2012), available at [www.gao.gov/assets/600/592154.pdf](http://www.gao.gov/assets/600/592154.pdf) (discussing the requirement to conduct market research to establish CCP).

The question presented before the GAO was whether there exists a reasonable basis for the agency's determination that price-per-ton provisions in the subject solicitation were consistent with CCP. The GAO noted that, to establish CCP, the agency

used market research that consisted of: (1) a review of federal government refuse contracts; (2) requests for feedback from industry in a sources sought notice (SSN); and (3) contact with a sales representative from a trash company in New York. These are discussed below.

First, the GAO found the use of other federal government contracts to be an unreasonable method to establish CCP. In the opinion, the GAO found that "contracts with the federal government are not generally considered to be a part of the commercial marketplace." In support, the GAO looked to the FAR's definition of the term commercial item: "[a]ny item, other than real property, that is of a type *customarily used by the general public or by non-government entities for purposes other than government purposes* . . ." FAR § 2.101 (2016) (emphasis added). Further, the GAO in reliance on its own precedent opined that if government contracts were considered part of the marketplace, everything the government would procure could be considered a commercial item and a significant portion of FAR Part 12 would be rendered superfluous. *See generally, Smelkinson Sysco Food Servs.*, B-281631 (March 15, 1999), available at <https://www.gpo.gov/fdsys/pkg/GAOREPORTS-B-281631/html/GAOREPORTS-B-281631.htm> (explaining that the protest was sustained despite the agency's assertion that the challenged solicitation provisions appeared in other government contracts).

Next, the GAO examined the feedback the agency received from the SSN in January 2015. The agency asked if the potential offerors had any suggestions or comments on the anticipated pricing structure within

the subject solicitation. The GAO noted that, of the seven responses received, four suggested pricing should be *monthly* and three had *no comments*. Therefore, the evidence received by the agency seemed to suggest that the CCP reflected monthly, not tonnage, based pricing.

Lastly, the agency relied on contact with a trash company sales representative from New York State that tonnage-based pricing could be used for the subject requirement. However, the GAO pointed out that the administrative record did not contain any documentation from the sales representative, any particular commercial refuse contract to which the referred New York Company was a party, or why the agency considered the sales representative to have specialized expertise and knowledge in this matter.

Consequently, the GAO rejected the agency's assertion that its market research provided a reasonable basis for determining CCP in this case and sustained the protest on this ground. When an agency avails itself of the commercial-item-acquisition process under FAR Part 12, it gets the benefit of a summarized process to quickly procure commonly used items and services. However, it still must follow that process and be able to reasonably support its conclusion that the terms in that FAR Part 12 procurement are consistent with CCP.

—Bruce L. Mayeaux

Member, LSBA Administrative  
Law Section  
Major, Judge Advocate  
U.S. Army



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## Drafter Beware: Exercise Caution When Choosing the Law

*DIRECTV, Inc. v. Imburgia*, 136 S.Ct. 463 (2015).

In 2008, two DIRECTV customers in California brought suit against the company seeking damages for early termination fees that they believed violated California law. Section 9 of the service agreements signed by the customers in 2007 required any disputes be resolved by arbitration. Section 9 also contained a class-arbitration waiver; however, it further stipulated that if the “law of your state” makes the waiver of class arbitration unenforceable, then the entire arbitration provision would be unenforceable. Finally,

Section 10 of the agreement made clear that Section 9 “shall be governed by the Federal Arbitration Act.”

In 2005, California law provided that the enforcement of class-arbitration waivers in “consumer contract[s] of adhesion” that “predictably involve small amounts of damages” and meet certain other criteria is “unconscionable under California law and should not be enforced.” *Imburgia*, 136 S.Ct. at 466 (quoting *Discover Bank v. Sup. Ct.*, 113 P.3d 1100, 1110 (Cal. 2005)). Because neither party disputed that this rule — the “*Discover Bank* rule” — prohibited the class-arbitration waiver in the service agreements and thus invalidated DIRECTV’s arbitration clauses with its California customers, the dispute proceeded to litigation.

During the pendency of this litigation in a California court, the United States Supreme Court held the *Discover Bank* rule “stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress” embodied in the Federal Arbitration Act (FAA). *AT&T Mobility, L.L.C. v. Concepcion*, 131 S.Ct. 1740,

1753 (2011). In other words, the Supreme Court determined that the FAA “pre-empt[s] and invalidates th[e] rule.” *Imburgia*, 136 S.Ct. at 466.

After the Court’s decision in *Concepcion*, DIRECTV moved the California trial court for an order staying the litigation and compelling arbitration. DIRECTV’s request was denied, an appeal ensued, and the California Court of Appeal affirmed. The court reasoned that “just as the parties were free in their contract to refer to the laws of different States or different nations, so too were they free to refer to California law as it would have been” without federal preemption. *Id.* at 467. In other words, the appellate court read the phrase “law of your state” as indicating that state law, without consideration for federal preemption, was to be applied, and, therefore, the parties had contractually agreed to the *Discover Bank* rule. This conclusion was premised on general construction principles of contract law.

In particular, the *Imburgia* court reasoned that Section 10 of the contract, stating that the FAA governed the

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arbitration provision contained in Section 9, was a general provision, but the provision voiding arbitration if the “law of your state” would invalidate the class-arbitration waiver was a specific provision. Applying longstanding rules of contract interpretation, the court concluded that the specific invalidation provision must control over the general FAA enforcement provision within the DIRECTV agreement. The court further explained that the meaning of the phrase “law of your state” in this specific context was ambiguous and should, therefore, be construed against DIRECTV. The California Court of Appeal affirmed the lower court’s order denying DIRECTV’s request that the parties be compelled to arbitrate the dispute, and writs of certiorari were granted noting that the United States 9th Circuit Court of Appeals had reached the opposite conclusion on exactly the same question.

Overturning the California court’s decision, the Supreme Court explained that the logical conclusion of the appellate court’s holding would be to allow the “law of your state” phrase to apply invalid state law to the dispute. *Id.* at 469. Because the Court could find no other examples of a California court applying that meaning to the phrase “law of your state” in other contractual contexts, it concluded that the California court was interpreting the arbitration clause differently than it would other types of contracts. This method of analyzing an arbitration clause, the Court explained, is not allowed under established FAA jurisprudence. *Id.* Further, the Court noted that although the parties could have selected pre-*Concepcion* California law, there was nothing about use of the phrase “law of your state” that indicated that was their intent. *Id.*

Although the Supreme Court’s decision in *Imburgia* dealt with a California law and a California state court’s decision, its holding should be noted by practitioners in Louisiana and elsewhere. Practically speaking, attorneys drafting arbitration agreements who wish to take advantage of specific state laws favorable to their clients’ interests may find those efforts frustrated if, later, federal courts conclude that state laws affecting the arbitrability of the claim are preempted by federal law. Although these state laws may still

have independent force where wholly intrastate relationships are in play, and it may very well have been the parties’ intent to disregard federal preemptive effects, arbitrators should be aware of *Imburgia*’s potential to undermine their decisions in later enforcement actions when a subsequent change in federal law occurs. Further, where federal law preempts state law in certain areas, drafters of arbitration agreements should be mindful of this fact and carefully draft clauses making absolutely clear which of the two laws is meant to apply.

—**Jacqueline M. Brettner** and  
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## Alter Egos and Corporate Veils

***Judgment Factors, L.L.C. v. Packer (In re Packer)***, 816 F.3d 87 (5 Cir. 2016).

Plaintiff/creditor filed an adversary proceeding against a Chapter 7 debtor objecting to his discharge based on 11 U.S.C. § 727. Plaintiff alleged that various entities owned by the debtor were his alter egos and requested the court reverse pierce their corporate veils. Plaintiff argued that the debtor should have listed these entities’ assets in his schedules and those assets should be subject to plaintiff’s claims.

On appeal, the 5th Circuit affirmed the lower court’s ruling that since plaintiff failed to obtain leave from the trustee to pursue the claims of alter ego and piercing the corporate veil, which constitute property of the debtor’s estate and are controlled by the trustee, plaintiff could not seek a judicial determination that any

of the debtor’s entities were his alter egos.

The 5th Circuit also held plaintiff failed to prove the debtor transferred property belonging to the debtor with the intent to hinder, delay or defraud under section 727(a)(2)(A). In support of its claim, plaintiff argued that the debtor’s use of his 100 percent-owned company to pay his personal expenses was an attempt by the debtor to conceal assets. Plaintiff also argued that the debtor’s company entered into four contracts worth more than \$1 million right before and after the debtor filed for bankruptcy, which was also an attempt to conceal assets. The 5th Circuit found debtor was forthcoming with the trustee and answered all of her questions about his company (and its payment of his personal bills), the contracts of the company and his interactions with the company, and therefore affirmed the lower court’s refusal to deny discharge under section 727(a)(2)(A) and (a)(4)(A), which provides for denial of a discharge if the debtor knowingly and fraudulently makes false statements.

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## Attorneys' Fees and Costs

*In re Clean Fuel Technologies II, L.L.C.*, 544 B.R. 591 (Bankr. W.D. Tex. 2016).

The putative debtor in a Chapter 7 involuntary petition, which was successfully dismissed, filed a counterclaim against the petitioning creditors seeking an award of attorneys' fees and costs pursuant to 11 U.S.C. § 301(i)(1), which provides that a court "may" grant judgment for costs and reasonable attorneys' fees when an involuntary petition is dismissed.

Noting the 5th Circuit has not yet addressed the approach to be used in awarding fees and costs under section 301(i), the bankruptcy court adopted the apparent "majority" approach. The bankruptcy court applied a presumption that attorneys' fees will be awarded; however, the presumption is rebuttable by the petitioning creditor based on the totality of the circumstances. The bankruptcy court adopted this approach

recognizing the seriousness of filing an involuntary petition by creating a presumption in favor of awarding fees but also affording the court the discretion to award fees consistent with the "may" language in section 303(i). The bankruptcy court considered the following factors in analyzing the "totality of the circumstances": (1) the merits of the involuntary petition; (2) the role of any improper conduct by the alleged debtor; (3) the reasonableness of actions taken by petitioning creditors; (4) the motivation and objectives behind involuntary bankruptcy filing; and (5) other material factors and considerations including the practical operation of any award.

Based on the following factors, among others, the bankruptcy court found the petitioning creditors properly rebutted the presumption and declined to award the debtor attorneys' fees and costs: (1) the involuntary petition was dismissed due to a recent change in the law that made the creditors ineligible to file the petition; (2) the dismissal was a "close" and "technical" call; (3) the petitioning

creditors acted reasonably and in good faith; (4) the putative debtor had ceased doing business and was not paying its creditors; and (5) the fees sought to be paid were by an attorney who was an officer and part owner of the debtor, had no engagement letter and failed to show he was paid by the debtor.

## PACA Funds

*Kingdom Fresh Produce, Inc. v. Stokes Law Firm, L.L.P. (In re Delta Produce, L.P.)*, 817 F.3d 141 (5 Cir. 2016)

On appeal of a final fee application order, the main issue before the 5th Circuit was whether the fees and expenses of special counsel for claimants under the Perishable Agricultural Commodities Act (PACA) could be disbursed from the PACA fund. The court held that 7 U.S.C. § 499(e)(c)(2) of PACA required that a PACA trustee (or special counsel) not be paid from trust assets until "full payment of the sums owing" are paid to all PACA claimants. Through the PACA trust



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provisions, Congress provided unpaid produce sellers with greater protection from risk of default by buyers, and, in turn, the attorneys are required to bear the greater risk of nonpayment.

The court also addressed two jurisdictional issues. First, the court held that the bankruptcy court had jurisdiction over PACA claims because the PACA claimants consented to its jurisdiction, thus refusing to resolve “doubts about the bankruptcy court’s constitutional authority to adjudicate PACA claims.” Second, the court held the district court lacked appellate jurisdiction over the first two interim fee orders of the special counsel because they were not final orders and there was no indication that the district court realized they were interlocutory orders and believed there was a benefit to hearing them in a piecemeal manner.

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## Apparent Authority

***Fluid Disposal Specialties, Inc. v. UniFirst Corp.***, 50,356 (La. App. 2 Cir. 1/13/16), 186 So.3d 210.

A shop foreman of Fluid Disposal Specialties, Inc. was contacted frequently by a sales representative of UniFirst Corporation, a uniform supplier. Ultimately, the Fluid foreman signed his name on a form service agreement presented by the sales representative. Later, after the charges turned out to be higher than anticipated, Fluid objected, maintained the foreman did not have authority to bind Fluid to the agreement, and stopped using UniFirst’s services. UniFirst instituted arbitration proceedings based on an arbitration clause in the agreement. Fluid sued in state court and obtained an injunction barring the arbitration based on its foreman’s lack of authority.

On appeal, the court stated:

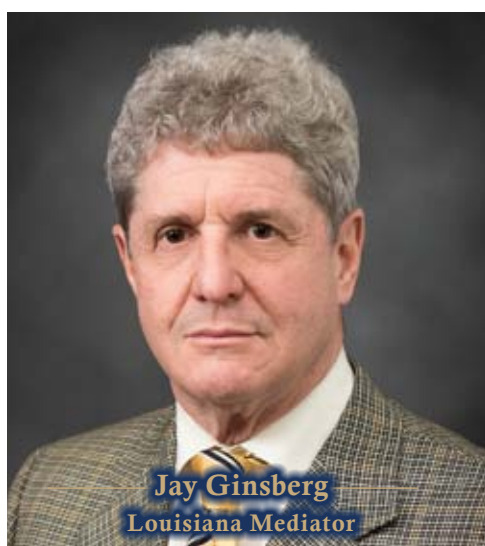
An agency relationship is never presumed; it must be clearly established. . . . The burden of proving apparent authority is on the party seeking to bind the principal. A third party may not

blindly rely on the assertions of an agent, but has a duty to determine, at his peril, whether the agency purportedly granted by the principal permits the proposed act by the agent.

The court noted that, although Fluid was identified as a corporation on the upper part of the form agreement, the foreman had simply signed his name on the signature line without indicating he was signing as a representative of Fluid. Noting that the foreman was also a dispatcher for Fluid, the court opined that “[t]here is nothing inherent in either of these positions that would lead a third party to believe that [the foreman] had authority to enter into an expensive and long-term agreement on behalf of Fluid.” The court found that “[t]he corporate officers of Fluid who had authority to bind the company never had any contact with [the sales representative] and never made any manifestations to her that [the foreman] had authority to sign an agreement on behalf of the company.” The court concluded the foreman did not have apparent authority (or actual authority), and Fluid was not bound by the agreement or its arbitration clause.

## Liability of LLC Member

***Wilson v. Two SD, L.L.C.***, 15-0959 (La. App. 1 Cir. 12/23/15), 186 So.3d 159, *writ denied* (La. 04/08/16), \_\_\_\_ So.3d \_\_\_\_, 2016 WL 1660755; and ***Nicholas v. BBT***



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**Constr. Mgmt., L.L.C.**, 15-1009 (La. App. 1 Cir. 12/23/15), 2015 WL 9466864.

These two cases each addressed whether an LLC member was personally liable under either the “breach of professional duty” or the “negligent or wrongful act” exception to the liability shield for LLC members in La. R.S. 12:1320(D).

Alleging deficiencies in the construction plans used for their new house, plaintiffs in *Wilson* sued both the limited liability company that provided the plans and the individual member of the company who had previously created the plans. The member did not personally participate in the project, but the plans bore a legend stating they were his property.

Considering the negligent or wrongful act exception on appeal, the court reasoned that evidence of the member’s ownership of the plans, alone, was “insufficient to establish a separate tort duty sufficient to engage his personal liability,” where the obligation to provide the plans arose from the agreement between the plaintiffs and the company. *Wilson*, 186 So.3d at 115. As none of the other factors pointed toward liability, the court concluded that the negligent or

wrongful act exception did not apply. As for the breach of professional duty exception, the court reasoned that “professional” refers only to persons engaged in a profession identified in Title 12 (such as an architect), and not to persons who falsely hold themselves out to be such professionals. Commenting that “such misrepresentations might give rise to causes of action on other grounds,” the court concluded that the member had “no personal liability for the alleged deficiencies in the plans” and granted summary judgment in favor of the member. *Id.* at 115-16.

In *Nicholas*, the plaintiff entered into a contract for the construction of a home with a limited liability company. The contract was signed on behalf of the company by its manager, who was also its sole member. The plaintiff paid the entire contract price up front. After completing about 40 percent of the work, the company ceased work on the project. The plaintiff sued both the company and the member. After the plaintiff obtained a default judgment, the member alone appealed.

The appellate court concluded that the breach of professional duty exception did not apply, as an individually licensed

contractor is not considered a professional under La. R.S. 12:1320(D) and the record did not even show that the member had such a license. Regarding whether the member had committed a negligent or wrongful act, after noting the plaintiff had asked the defendants to “refund the unused portion of the contract price” but they had refused to do so, the court found that the member’s failure to return the unused funds could be characterized as a tort, such as conversion, could be perceived as a crime of theft, and “was clearly not required by or in furtherance of the contract.” The court added that, even if the member was acting within the structure of the LLC, that factor alone would not be determinative, and affirmed the default judgment against the member personally.

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## Custody

**Hodges v. Hodges**, 15-0585 (La. 11/23/15), 181 So.3d 700.

The Supreme Court held that the law does not allow for “co-domiciliary” parents. There is either sole custody, joint custody or joint custody with a designation of one parent as the domiciliary parent. Moreover, when there is joint custody, there must be a joint-custody-implementation plan, and that plan must address the allocation of physical custodial time, as well as allocate the legal authority and responsibility of the parents. The court is not required to designate a domiciliary parent and may allocate decision-making authority through the implementation order.

**Sorrells v. Sorrells**, 15-0500 (La. App. 3 Cir. 11/4/15), 178 So.3d 288.

A Lake Charles police department Internal Affairs Report regarding Ms. Sorrells’ then-boyfriend, whom she later married, although hearsay, was appropriately admitted, since for impeachment purposes, rather than for the truth of the contents of

the report itself. Moreover, the court noted that evidentiary rules are relaxed in child custody matters under Louisiana Code of Evidence art. 1101(B)(2). There was no error in the trial court’s interviewing the children in chambers without a court reporter because one of the children testified at trial and the court did not consider the other child’s in-chambers testimony.

**Hilkirk v. Johnson**, 15-0577 (La. App. 4 Cir. 12/23/15), 183 So.3d 731, writ denied, 16-0083 (La. 2/19/16), 186 So.3d 1172.

The trial court determined that the mother had alienated the daughter from the father. The court ordered that the child be immediately transferred to the father’s custody and that the mother have limited contact with the child for seven months. The court-appointed custody evaluator testified that that was the only method to break the cycle of alienation and reestablish the relationship between the child and the father. The court of appeal reversed, finding that Mr. Johnson had not met the requirements of *Bergeron*. It reviewed the record *de novo* and found that the continuation of primary custody with the mother would not be harmful or deleterious to the child and that the harm caused by removing the child would not be substantially outweighed by the advantages of doing so. However, since the child had been in the father’s physical custody for approximately 10 months, it remanded for the trial court to determine

whether the child should be moved from the father back to the mother and whether a domiciliary parent should be named. It further ordered that contact be reinstated between the mother and child pending the trial court’s hearing to address the ongoing physical custody arrangement.

**Cloud v. Dean**, 15-1050 (La. App. 3 Cir. 1/13/16), 184 So.3d 235, writ denied, 16-0216 (La. 3/4/16), \_\_\_ So.3d \_\_\_, 2016 WL 1042946.

A custody judgment under the Post-Separation Family Violence Relief Act (PSFVRA) does not give rise to the *Bergeron* standard when the spouse has completed the required treatment and counseling and seeks to amend the judgment. Effectively, once a court finds that a parent has a history of perpetuating family violence and orders domestic-violence counseling, the court does not proceed to the child custody case itself until the treatment to resolve the problem has been concluded. A finding that a spouse is abusive under the PSFVRA gives rise to a presumption that prohibits that parent from being awarded custody. Moreover, the judgment being rendered is not intended to be a permanent custody arrangement, since once the parent completes the required counseling/treatment, he can file to establish custodial rights upon a full hearing of the custody matter.



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## Interim Spousal Support

**Hogan v. Hogan**, 49,979 (La. App. 2 Cir. 9/30/15), 178 So.3d 1013, *writ denied*, 15-2018 (La. 1/8/16), 182 So.3d 953.

Because of Mr. Hogan's egregious failure to produce documents, failure to pay support and failure to comply with court orders, as well as his collaboration with his fiancé to hide his income, it was not error for the trial court to continue his obligation to pay interim spousal support beyond the six months after the parties' divorce and for as long as he owed arrearages, particularly given the destitute position he placed her and the children in as a result of his "reckless financial shenanigans." He was also found in contempt for nonpayment of support, including a jail sentence and probation pending his compliance. The court found that he was voluntarily underemployed and had "engaged in a deliberate, malicious scheme to reduce his reportable income in order to frustrate his support obligations."

## Child Support

**Boudreaux v. Boudreaux**, 15-0536 (La. 10/14/15), 180 So.3d 1245.

In this child support matter, the Supreme Court granted writs, reversed the court of appeal and reinstated the trial court's judgment, allowing Mr. Boudreaux to obtain support-enforcement services under La. R.S. 46:236.1.2 and La. R.S. 46:236.2, as a payor parent, even though he was not delinquent in his support payments and was not actually receiving public benefits.

## Procedure

**Mier v. Mier**, 15-0378 (La. App. 3 Cir. 11/4/15), 178 So.3d 270.

There is no cause of action in Louisiana by children against a parent's paramour for alienation of affection. The children's attempt to characterize their allegations as tortious interference with a contract was rejected, particularly given the very limited situation in which that cause exists.

## Community Property

**Succ. of Sylvester**, 15-0125 (La. App. 5 Cir. 12/9/15), 181 So.3d 250.

Immovable property purchased in both spouses' names in Florida was not community property, but passed to the surviving co-owner alone after the other co-owner's death under Florida law. The Louisiana conflict of law articles regarding spouses were inapplicable, since this was a succession matter. The surviving spouse was not entitled to reimbursement for expenses to maintain community properties because she had use of that property to the exclusion of other co-owners by allowing her children to use the property or to use it for storage, and an offset under La. Civ.C. art. 806 applied.

**Benedetto v. Benedetto**, 15-0373 (La. App. 5 Cir. 12/9/15), 182 So.3d 344.

Spouses are not required to appear in court to receive authority to terminate their community regime and to enter into a separate property regime under La. Civ.C. art. 2329. The court's finding that the agreement

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serves as the best interest of the parties, and that they understand the governing rules and principles of the regime, can be satisfied by the joint petition and the parties' sworn affidavits and/or certifications.

## Divorce

**Matthews v. Matthews**, 15-0499 (La. App. 5 Cir. 12/23/15), 184 So.3d 173.

Ms. Rogers' use of marijuana during the marriage for medicinal purposes, of which Mr. Matthews was aware and had not complained, did not rise to fault to preclude her from receiving final spousal support. The court found that while daily drug usage could be considered "habitual intemperance," it also found that "the consumption must be to such an extent that it substantially interferes with the spouse's marital duties or inflicts great mental anguish upon the other spouse." *Id.* at 178. Here, Ms. Rogers was able to perform the tasks typically expected of a homemaker, including taking care of the children. He also complained that she was at fault for denying his sexual advances, but the court rejected this, too.

—David M. Prados

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## Tort: Federal Officer Removal Statute

**Savoie v. Huntington Ingalls, Inc.**, \_\_\_\_ F.3d \_\_\_\_ (5 Cir. 2016), 2016 WL 1138841.

Joseph Savoie was a laborer at Ingalls' Avondale Shipyards from 1948-96 when Avondale was principally engaged in building ocean-going vessels for the U.S. Navy. The contractual specifications for these vessels included the use of asbestos for thermal insulation. The government

exercised quality-control supervision to ensure compliance with the specifications. Savoie contracted mesothelioma, allegedly caused by exposure to asbestos. Before his death, Savoie filed suit in state court against Ingalls and its prior incarnations, including Avondale, and their insurers. The defendants timely removed to federal court under the federal officer removal statute, and the plaintiffs sought remand. The federal district court construed all of plaintiff's claims as negligence claims and found that federal jurisdiction did not exist because the shipyard retained discretion in its safety policies and could have complied with both the government's requirements for the vessels' construction and its state law duties of care. Plaintiffs appealed.

The statute governing removal, 28 U.S.C. § 1447(d), holds that orders remanding to state court are not reviewable, with two exceptions—certain civil rights cases, and remand orders involving the federal officer removal statute. The first federal officer removal statute was enacted in 1815 to address state court claims brought by shipowners against federal customs officials in New England states that opposed a trade embargo with England enacted during the War of 1812. Thus it predates the general federal question jurisdiction statute by 60 years. It addresses a historic concern about state court bias. Among its purposes is to ensure that federal officers have a federal forum in which to assert federal immunity defenses.

Two inquiries are the subject of this appeal: first, whether the federal government was directing the defendant's conduct and whether that federally-directed conduct caused plaintiff's injuries, *i.e.*, a causal nexus. The district court did not find such causal nexus, and thus did not reach the final inquiry, whether the defendant asserts a colorable federal defense. The court noted that, while the principal of limited federal court jurisdiction generally compels resolution of any doubts about removal in favor of remand, the legislative and judicial history of the removal statute clearly mandate that, when federal officers and their agents are seeking a federal forum, section 1442 is to be interpreted broadly in favor of removal.

Plaintiff's claims mostly allege the shipyard's negligence in failing to act when it would have been reasonable to take

some additional measures, *e.g.*, providing clean, respirable air and proper ventilation, necessary showers and special clothing, and warning of the dangers of exposure to asbestos. The Savoies' negligence claims thus challenge discretionary acts of the shipyard free of federal interference. As a result, the government's directions to the shipyard via the contract specifications did not cause the alleged negligence, and those claims do not support removal.

The Savoies assert strict liability causes of action under La. Civ.C. art. 2317. The court noted that removal of the entire case is appropriate so long as a single claim satisfies the federal officer removal statute. The court quoted Professors Maraist and Galignan for the proposition that the Legislature effectively eliminated strict liability under article 2317 in 1996, turning it into a negligence claim, by requiring knowledge or constructive knowledge under article 2317. However, the court found that pre-1996 law governed because Savoie worked at the shipyard "for almost half a century prior to Louisiana's abolition of strict liability," and survival claims based on asbestos exposure are governed by the law in effect when the exposure occurred.

The court then considered whether the survival claims alleging strict liability based on mere use of asbestos give rise to federal jurisdiction. The court stated:

[O]ur best reading of Louisiana law is that a strict liability plaintiff need only prove the following: (1) that the asbestos-containing products that caused his damages were in the "care, custody and control" of the defendant; (2) that the asbestos-containing products had a "vice, ruin, or defect that presented an unreasonable risk of harm"; and (3) "that the vice, ruin, or defect was the cause-in-fact of the plaintiff's damage." . . . This analysis of the elements of strict liability under pre-1966 Louisiana law largely resolves the "causal nexus" inquiry for federal officer removal.

The court noted that the Savoies' strict liability claims "rest on the mere use of asbestos, and that use at the shipyard was pursuant to government directions via contract specifications. Unlike claims based on

negligence, those based on strict liability do not turn on discretionary decisions made by the shipyard.” The court stated that it had previously recognized that strict liability claims support federal officer removal when the government obligates the defendant to use the allegedly defective product that causes the plaintiff’s harm.

The court then remanded the case to the district court to consider whether the defendant possessed a colorable federal defense. The shipyard proposed two — the federal contractor defense, and a preemption defense under the Longshore and Harbor Worker’s Compensation Act — and the district court had considered neither.

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## U.S. International Trade Commission

*In re Primary Unwrought Aluminum*, Inv. No. TA-201-\_\_\_\_ (April 18, 2016).

The United Steelworkers (USW) launched a major volley in the international trade game by filing a Section 201 safeguard petition against imported aluminum. The last successful Section 201 case was brought on imported steel, with tariffs being imposed by then-President George W. Bush on March 5, 2002. The USW petition seeks to impose up to a 50 percent tariff on aluminum imports from China and other countries that are allegedly causing serious injury to the domestic aluminum industry. The aluminum safeguard petition comes during a very sensitive time in the trade world. Chinese steel overcapacity is dominating trade headlines, while President Obama prepares to submit the Trans-Pacific Part-

nership Agreement to Congress and many presidential candidates heap criticism on U.S. trade policies.

The USW petition seeks relief pursuant to Section 201 of the Trade Act of 1974, which allows the U.S. President to provide unilateral trade relief in the form of tariffs if the International Trade Commission (ITC) determines that imports are a substantial cause of serious injury to the domestic industry. Section 201 actions are rare inasmuch as they require tariffs to be employed on a Most Favored Nation basis, meaning that they are applied to imports irrespective of country of origin. An ordinary Section 201 investigation takes approximately six months. The USW is seeking to shrink the typical time frame by requesting a finding of “critical circumstances,” which if found gives the President only 30 days to apply some type of provisional relief while the full investigation proceeds.

## U.S. Congress

*Miscellaneous Tariff Bill Process*, H.R. 4923 and S. 2794 (114th Congress).

The U.S. House and Senate introduced companion legislation on April 13, 2016, to restart the Miscellaneous Tariff Bill (MTB) process that has languished since 2012. The House bill, American Manufacturing Competitiveness Act of 2016, establishes a new process for American businesses to seek tariff relief. This particular process has been on hold because House Republican rules consider the benefits of miscellaneous tariff relief to be earmarks, which are banned under House rules. The new process shifts consideration from Congress to the ITC. U.S. businesses will now file a petition for tariff relief directly with the ITC, which issues a report to Congress with appropriate recommendations after a public comment period. The ITC will continue to use MTB standards, including the requirement of no domestic production. The House Ways & Means Committee and the Senate Finance Committee will review the ITC’s recommendations and draft a MTB proposal.

## Customs Bill

As previously reported in this section, the Trade Facilitation and Trade Enforcement Act (Customs Bill) was recently signed into law by President Obama. One particular provision of the Customs Bill is already being implemented by U.S. business. The legislation eliminates the “consumptive demand” exception to the prohibition on importing goods produced by convict, forced or indentured labor. U.S. Customs and Border Protection issued a Detention Order on March 29, 2016, preventing shipments of soda ash, calcium chloride, caustic soda and rayon fiber from the Chinese company Tangshan Sanyou Group based on suspicions that it is using prison labor in the production of those goods.

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## EEOC Files Title VII Suits Alleging Sexual Orientation Discrimination

On March 1, 2016, the U.S. Equal Employment Opportunity Commission (EEOC) filed two actions in two federal district courts asking the courts to recognize sexual orientation discrimination as sex discrimination under Title VII.

The two suits are *EEOC v. Pallet Companies*, filed in the U.S. District Court for the District of Maryland, Baltimore Division, and *EEOC v. Scott Medical Health Center*, filed in the U.S. District Court for the Western District of Pennsylvania. The *Pallet* case in-



volves a lesbian employee whose superior allegedly harassed her because of her sexual orientation. Complaint at 3-4, *EEOC v. Pallet Companies*, No. 1:16-cv-00595-RDB (D. Md. Mar. 1, 2016). The complaint alleges that after the employee reported the harassment to her employer, the employer fired her. *Id.* at 4. The *Scott Medical* case involves a gay male employee whose supervisor also allegedly harassed him because of his sexual orientation. Complaint at 3-4, *EEOC v. Scott Medical Health Center*, No. 2:16-cv-00225-CB (W.D. Pa. Mar. 1, 2016). The complaint alleges that when the defendant employer failed to take action to prevent the harassment, the employee resigned to avoid working in a hostile environment. *Id.* at 4.

In both complaints, EEOC argues that the defendant-employers' actions amounted to discrimination based on sexual orientation, which discrimination "necessarily entails treating an employee less favorably because of [his or her] sex." *Scott Medical*, No. 2:16-cv-00225-CB, at 4; *Pallet*, No. 1:16-cv-

00595-RDB, at 5. In essence, the EEOC argues that sexual orientation discrimination amounts to sex discrimination because it arises out of the homosexual employee's failure to conform to his or her harasser's notions of gender norms. *See id.*

Title VII of the Civil Rights Act prohibits employers from discriminating based on "race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a). However, Title VII does not expressly prohibit discrimination based on an employee's LGBT status. Furthermore, although lower federal courts are split on the issue, the Supreme Court has yet to rule on whether Title VII's prohibition against sex discrimination covers LGBT-related discrimination.

The EEOC, the agency charged with interpreting and enforcing Title VII, is authorized to bring Title VII enforcement suits. 42 U.S.C. §§ 2000e-5(f)(1) and (3). While the EEOC has brought suit alleging that discrimination based on an employee's transgender status constitutes Title VII sex discrimination

(see, e.g., *EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, 100 F. Supp. 3d 594, 595 (E.D. Mich. 2015)), *Pallet* and *Scott Medical* are the first EEOC suits to allege sex discrimination based on sexual orientation. The suits are part of the EEOC's Strategic Enforcement Plan, which prioritizes coverage of "lesbian, gay, bisexual and transgender individuals under Title VII's sex discrimination provisions, as they may apply." U.S. Equal Emp't Opportunity Comm'n, *Strategic Enforcement Plan (SEP)*, at 10 (Dec. 17, 2012), available at: [www.eeoc.gov/eeoc/plan/upload/sep.pdf](http://www.eeoc.gov/eeoc/plan/upload/sep.pdf). Thus, *Pallet* and *Scott Medical* represent the EEOC's latest strategic move in a continuously developing area of Title VII law.

The EEOC is also engaged in LGBT-related Title VII litigation within the 5th Circuit. In *EEOC v. Boh Bros. Construction Co.*, the 5th Circuit ultimately upheld a jury verdict in favor of the EEOC, holding that the EEOC had sufficiently shown that the harasser discriminated against the employee

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on the basis of sex because the harassment arose from the employee's failure to conform to the harasser's subjective perception of gender stereotypes. 731 F.3d 444, 451, 460 (5 Cir. 2013). In *Broussard v. First Loan Tower, L.L.C.*, the EEOC intervened in a suit filed in the Eastern District of Louisiana by Tristan Broussard, a transgender man. 2016 U.S. Dist. LEXIS 29523, at \*5-7 (E.D. La. March 8, 2016). Broussard's suit alleges that Loan Tower committed sex discrimination when it fired him for refusing to sign a statement agreeing to act as a woman at work. *Id.* at \*6. Using the rationale from *Boh Bros.*, the EEOC argues that transgender discrimination involves gender stereotyping and violates Title VII. Memorandum in Support of Motion to Intervene at 2, No. 2:15-cv-01161-CJB-SS. The court stayed both Broussard's and the EEOC's suits while Broussard and Tower Loan undergo arbitration. *Broussard*, 2016 U.S. Dist. LEXIS 29523 at \*7-8. The EEOC made similar arguments in an amicus brief to the 5th Circuit in *Eure v. Sage Corp.* on behalf of the transgender plaintiff-appellant, arguing that where a plaintiff alleges transgender discrimination, he necessarily states a sex discrimination claim because transgender discrimination involves consideration of gender stereotypes. *Fact Sheet: Recent EEOC Litigation Regarding Title VII & LGBT-Related Discrimination*, Equal Opportunity Employment Commission, [https://www.eeoc.gov/eeoc/litigation/selected/lgbt\\_facts.cfm](https://www.eeoc.gov/eeoc/litigation/selected/lgbt_facts.cfm) (last updated March 1, 2016). However, the appellant ultimately withdrew the appeal. *Id.* Adding to the relevance of these issues in Louisiana, Governor John Bel Edwards recently issued an executive order directing that no state employer may discriminate on the basis of sexual orientation or gender identity "in any matter pertaining to employment by the state." La. Exec. Order No. JBE 2016-11 (April 13, 2016).

As *Pallet*, *Scott Medical* and similar suits percolate through the federal court system, it is unclear whether the Supreme Court will ultimately recognize a prohibition against LGBT-related discrimination within Title VII's sex discrimination clause, or whether the Court

will wait for Congress to decide whether to amend Title VII to include an express prohibition against sexual-orientation and gender-identity discrimination. In sum, the EEOC's latest efforts in this developing area of law are worth watching.

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## Well Drilling Issue

*St. Tammany Parish Gov't v. Welsh*, 15-1152, \_\_\_ So.3d \_\_\_ (La. App. 1 Cir. 3/9/16), 2016 WL 918361.

In 2014, the Louisiana Commissioner of Conservation issued a permit to Helis Oil to drill a well at a site in St. Tammany Parish. There were no buildings or structures within one mile of the proposed site, which had been used as a pine tree farm for at least 30 years, but the area was zoned for residential use and St. Tammany Parish's zoning ordinances purported to prohibit drilling at the site. The Parish filed suit against the Commissioner, seeking a declaratory judgment that the Parish's prohibition on drilling was enforceable. Helis intervened on the side of the Commissioner, and a nonprofit organization intervened on the side of the Parish.

The Commissioner argued that the Parish's prohibition on drilling is preempted by La. R.S. 30:28, which provides that political subdivisions of the state are "hereby expressly forbidden, to prohibit or in any way interfere with

the drilling of a well . . . by the holder of . . . a [duly-authorized] permit." The district court agreed and dismissed the case. The Parish appealed.

The Louisiana 1st Circuit affirmed, holding that La. R.S. 30:28 expressly preempts the Parish's prohibition on drilling. The court also stated that Louisiana's comprehensive system of oil and gas statutes implicitly preempts any local regulation of oil and gas activity. The court rejected arguments that certain provisions in the Louisiana Constitution that grant zoning authority and other powers to local governments prevent La. R.S. 30:28 from preempting the Parish's ban on drilling. The court noted that each of those provisions contains a qualifier that the authority being granted is subject to any "general laws" of the State.

Finally, the appellate court rejected an argument that La. R.S. 33:109.1 prohibited the Commissioner from granting a drilling permit that would be inconsistent with the Parish's master land use plan. The court explained that the statute merely provides that state agencies must "consider" such local plans, and that the record demonstrated that the Commissioner considered the Parish's plan.

## Full Ownership or Right of Way?

*Keystone Energy Co. v. Denbury Onshore, L.L.C.*, 15-0999, \_\_\_ So. 3d \_\_\_ (La. App. 3 Cir. 3/30/16).

In this concursus proceeding, the parties disputed whether a 1904 notarial act transferred full ownership of certain land in Jefferson Davis Parish to Union Pacific Railroad Company's predecessor or whether the 1904 act conveyed only a right of way. If it conveyed ownership, Union Pacific and its lessee, Keystone Energy Company, L.L.C., would own mineral rights in the land. If not, other persons would own those rights.

Three copies of the 1904 act existed. A handwritten version was recorded in Orleans Parish in 1904 (a copy of this version was recorded in Jefferson Davis Parish in 2010). A typed copy was recorded in Calcasieu Parish in 1904



(as of 1904, the land in question was part of Calcasieu Parish). An identical typed version appears in the records of Jefferson Davis Parish, which was later carved from Calcasieu. The handwritten and typed versions are virtually identical, except that the typed versions include a caption to the left of the text that includes the phrase “right of way.”

Keystone and Union Pacific argued that the 1904 act conveyed ownership. Denbury Onshore, L.L.C., and Hilcorp, the current operators of the unit well on the property, argued that the act conveyed only a right of way. Following a hearing on cross motions for partial summary judgment, the trial court ruled that the 1904 act conveyed ownership and that Union Pacific and Keystone, therefore, were entitled to production revenues being held in the registry of the court.

Denbury and Hilcorp appealed. They argued that the handwritten version was not binding on third persons because it was not recorded in Jefferson Davis Par-

ish until 2010, after they had acquired their rights. The Louisiana 3rd Circuit rejected this argument, concluding that the district court had not relied on the 2010 recordation of the handwritten version. The district court relied on the 1904 recordation of the typed version and had simply disregarded the caption that included the phrase “right of way.” The 3rd Circuit concluded that this was proper. It was clear that the caption had been added by a clerk in the recordation office. The 3rd Circuit stated that there was no genuine dispute regarding the facts that the caption had not been part of the original act and that the act had been recorded in 1904 in Calcasieu Parish, where the land was located at the time.

Denbury and Hilcorp also argued that the act unambiguously conveyed only a right of way. They pointed to language in the act that referred to “right of way.” The 3rd Circuit disagreed with their argument that the acts unambiguously conveyed only a right of way. But

the court concluded that the act was ambiguous — that is, the act did not unambiguously convey full ownership. Further, extrinsic evidence regarding the meaning of the act was conflicting. Accordingly, neither Keystone and Union Pacific on the one hand, nor Denbury and Hilcorp on the other, were entitled to summary judgment. The 3rd Circuit, therefore, reversed and remanded for further proceedings.

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## Sterilization of Hospital Equipment and the Medical Malpractice Act

*Dupuy v. NMC Operating Co.*, 15-1754 (La. 3/15/16), 187 So.3d 436.

Several news reports have appeared concerning the seemingly nationwide issue of sterilization of surgical and diagnostic equipment. The issue in *Dupuy* was whether a claim for the failure to properly maintain and service surgical equipment used in the sterilization process could properly fall within the ambit of the Medical Malpractice Act.

The plaintiff developed a post-operative infection following spinal surgery and filed a lawsuit in which he contended, among other things, that the hospital “fail[ed] to properly sterilize and/or clean surgical instrumentation” used during the surgery and/or that its employees failed to use proper “aseptic technique” prior to surgery. The hospital filed exceptions of prematurity based on its qualified health-care-provider status, which entitled it to a medical-review panel.

The district court found that one of the plaintiffs’ allegations fell outside the ambit of the Act. The appellate court denied the hospital’s writ without comment. The Supreme Court, however, granted the hospital’s writ.

In its argument to the Supreme Court, the hospital contended that the lower courts misapplied the *Coleman v. Deno* factors, 01-1517 (La. 1/25/02), 813 So.2d 303, which are used to determine whether a cause of action sounds in medical malpractice or general tort. It argued that one of the obvious obligations of a hospital is to provide patients with clean and sterile facilities, which necessarily includes proper cleaning of instruments, and thus the Act applied. The plaintiffs countered that the mandatory strict construction of the Act and the *Coleman* factors resulted in applicability of general tort liability.

The *Dupuy* court found persuasive that other courts had found that infectious

diseases acquired during surgery were “treatment related.” Two Louisiana appellate court cases and a Louisiana Eastern District case were cited by the court, each of which ruled that the claimed negligence was treatment-related and thus deserved the protections of the Act. The court also cited two cases in which it had previously found that the acts of negligence were not treatment related, but distinguished them from *Dupuy*, as neither case involved infection or aseptic sterilization.

The court found unpersuasive the plaintiff’s argument that the failure to maintain and service the sterilization equipment occurred *before* the patient entered the hospital, as it found no requirement in the Act that the negligent act must be “contemporaneous with a patient’s treatment in order to fall under the MMA.” To buttress this conclusion, the court said that the Act itself specifies that “training and supervision” of health-care providers is within the definition of malpractice, and it opined that those measures “necessarily” occur before treatment.

The plaintiff’s argument that maintenance and service of sterilization equipment may have been performed by “plant operations, rather than by physicians” was likewise unconvincing to the *Dupuy* court, as “[n]othing in the statute’s plain language limits its application to direct treatment” by any health-care provider. Thus, the Act “necessarily includes actions which are treatment related and undertaken by the Hospital in its capacity as a health care provider — even if those actions are not performed directly by a medical professional.”

The court then discussed the remainder of the *Coleman* factors, which it concluded likewise favored coverage under the Act, *i.e.*, medical testimony would be required, without which the plaintiffs would be unable to meet their burden of proof; and the incident occurred in the context of a physician-patient relationship.

The district court’s denial of the hospital’s exception of prematurity was error, and as such, it was reversed.

## What about Credentialing?

The 3rd Circuit was presented with the question of whether “negligent credential-

ing” of a physician constituted medical malpractice that was subject to the Act. *Billeaudeau v. Opelousas Gen. Hosp. Authority*, 15-1034 (La. App. 3 Cir. 4/6/16), \_\_\_ So.3d \_\_\_, 2016 WL 1358014.

Here, the patient had a stroke, and the plaintiffs filed a request for a panel to review Dr. Zavala’s treatment. They also filed a lawsuit against the hospital based on the general tort of the negligent credentialing of a physician in emergency medicine and stroke diagnosis. The district court granted the plaintiff’s partial summary judgment motion, finding credentialing negligence outside the Act’s coverage and certified it as a final judgment, from which the defendants appealed.

As did the Supreme Court in *Dupuy*, *supra*, the *Billeaudeau* court examined the alleged negligent acts pursuant to the *Coleman v. Deno* factors, first noting the difficulty of applying those factors to a negligent credentialing claim, which it declared was not “purely a medical decision.” For example, the first *Coleman* factor asks whether the particular wrong is treatment-related, but this patient’s claim was that the hospital was negligent in hiring a physician to treat him who was inexperienced in both emergency medicine and stroke diagnosis.

Citing its earlier case of *Plaisance v. Our Lady of Lourdes Regional Medical Center, Inc.*, 10-0348 (La. App. 3 Cir. 10/6/10), 47 So.3d 17, *writ denied*, 10-2520 (La. 1/14/11), 52 So.3d 904, wherein it had “engaged in an exhaustive examination of each of the *Coleman* factors,” the *Billeaudeau* court said that the particular wrong in *Plaisance* — despite a negligent credentialing claim by the plaintiffs — was treatment-related. The court explained that in light of the allegations as to substandard care, the court had to review the treatment that the physician provided as well as the hospital’s decisions thereafter. In *Billeaudeau*, however, the court did not have to review the treatment to determine whether the hospital was negligent in hiring the physician; thus, the court concluded the first *Coleman* factor weighed against associating negligent credentialing with medical malpractice.

Conversely, whether the wrong required expert testimony to determine there was a breach (the second *Coleman* factor) weighed in favor of finding the claim to be covered by the Act. However, again using *Plaisance*



as a guide, the court noted that the expert testimony in *Billeaudeau* would be of a different nature than what was required in *Plaisance*.

The court decided credentialing methods did not involve the assessment of the patient's condition, *i.e.*, the third *Coleman* factor, thus, militating against the applicability of the Act.

The fourth *Coleman* question is whether the negligence "occurred in the context of the physician-patient relationship, or was within the scope of activities which a hospital is licensed to perform." Again, citing *Plaisance*, 47 So.3d at 22, the court explained that La. R.S. 40:2114(E) provides that hospitals shall establish the rules concerning qualifications for clinical privileges for all of their health-care providers. Thus, the *Billeaudeau* court decided that credentialing was within the scope of those activities, weighing in favor of treating the claim as malpractice.

Would the injury have occurred if the patient had not sought treatment? The oddity of this fifth *Coleman* factor was noted by the

court in *Billeaudeau*: "We find this to be a particularly circular type of analysis." If a patient never sought treatment, the claim obviously never would have been filed, a circumstance that is almost always present in these types of cases. Here, while the patient's injuries were surely related to the treatment provided by Dr. Zavala, the hospital's credentialing decisions were not necessarily tied to the treatment he rendered. The court agreed with the trial court's observation that it was difficult to apply this factor to the case before it, but nevertheless concluded that this factor also weighed against treating the claim as malpractice. Likewise, the sixth *Coleman* factor (whether the tort was intentional) is seldom an issue in deciding coverage under the Act, as was the case in *Billeaudeau*, and the court found that the final factor was not applicable.

The *Billeaudeau* court opined that this claim for negligent credentialing did not warrant the protections of the Act. In reaching that conclusion, it noted its mindfulness that

the limitations of the Act are in derogation of general tort law and should be strictly construed in favor of plaintiffs, citing *Williamson v. Hospital Service District No. 1 of Jefferson*, 04-0451 (La. 12/1/04), 888 So.2d 782. It also wrote that the Legislature amended the definition of malpractice in 2001 (La. R.S. 40:1299.41(A)(8)) to include "acts or omissions" in the training or supervision of health-care providers and noted three later attempts to add "credentialing" in the definition of malpractice: "Each of these bills failed to become law. We will not create law by judicial fiat when, as here, the legislature clearly failed to do so."

The judgment of the trial court was affirmed.

—Robert J. David

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## Inventory Tax Credit- Lease/Rental Equipment

**Bridges v. Bullock**, 50,297 (La. App. 2 Cir. 2/19/16), \_\_\_\_ So.3d \_\_\_\_, 2016 WL 683817.

The 2nd Circuit Court of Appeal affirmed a decision by the Louisiana Board of Tax Appeals (BTA) that held equipment that was leased/rented before the item was sold qualifies as “inventory” for purposes of the inventory tax credit provided by La. R.S. 47:6006.

Kenneth and Margaret Bullock are members of JPS Equipment, L.L.C., a multi-member Louisiana limited liability company in the business of selling and leasing new and used construction equipment. JPS is treated as a partnership for federal and state income tax purposes, so that the tax consequences of its business activities “flow through” to its members. As a result, the Bullocks are allowed to claim on their joint individual tax return their proportionate share of any inventory tax credit the law allows for ad valorem taxes paid by JPS.

For income tax years 2004, 2005 and 2006, the Bullocks claimed inventory tax credits for ad valorem taxes paid by JPS for construction equipment that had been leased prior to sale. The Louisiana Department of Revenue (LDR) allowed the credit for taxes paid on items reported to the local tax assessors as inventory and issued a refund. However, the LDR disallowed the portion of the inventory tax credit claimed by the Bullocks for taxes paid on leased equipment and denied that portion of the requested refund.

The Bullocks filed a petition with the BTA alleging that they were entitled to the inventory tax credit for taxes paid on the property leased before sale. The BTA found that every item for which a credit was requested was held for sale and that the items were rented to promote their sale. The BTA further found that JPS is a retailer engaged in the sale of products to the ultimate consumer and, as members of JPS, the Bullocks are entitled

to the credit for ad valorem taxes paid on the inventory of JPS as requested. The LDR sought judicial review. The district court agreed with the BTA, reasoning that there is nothing in the statute that provides that an item held for resale cannot be rented while it is in inventory awaiting a buyer. The district court affirmed the BTA judgment, but did not order payment of the refund amount sought by the Bullocks. The LDR and the Bullocks appealed the judgment.

The LDR argued that the district court and BTA erred in finding that inventory includes leased property and that the forums below improperly interpreted the statute providing the tax credit. The court relied on the testimony of the Bullocks that JPS seeks to sell all of its equipment and that many customers lease the equipment for a period of time before a purchase. The Bullocks testified that at times, when a customer wanted to buy a particular type of equipment that was being leased, JPS had provided a similar piece of equipment to the lessee and then sold the equipment that had been leased. The court held the testimony supported the BTA’s finding that all of the items were goods awaiting sale, thereby constituting the inventory of JPS, and that JPS is a retailer engaged in the sale of products to the ultimate consumer. The court remanded the matter to the BTA to determine the specific amount of refund due the Bullocks.

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## Rental of Sports Facility Not Rental of Immovable; Subject to Sales Tax on Services

**Topshelf Sports v. Simpson**, 15-1111 (La. App. 3 Cir. 3/23/16), 186 So.3d 1288.

The Louisiana 3rd Circuit Court of Appeal has upheld the BTA’s decision in favor of Lafayette Parish School System Sales Tax Division (LPSS). The LPSS had determined that the facility, Topshelf

Sports, Inc., which “rented” space for sports activities and other activities, was charging for taxable admission to its facilities under La. R.S. 47:301(14)(b)(i), making the facility liable for failing to collect sales taxes, and also for penalties and interest. Topshelf rented its recreational facility in Youngsville, La., for a variety of activities, including sporting and trade events, exhibitions and birthday parties. The facility was equipped with a skating rink, volleyball court, locker rooms, bathrooms and a concession stand, which Topshelf operated at its discretion. Though Topshelf did collect state taxes on concession items sold, no tax was collected on the rental charges. Topshelf argued that amounts collected from customers were for the rental of an immovable, thus not subject to sales tax. The BTA sided with LPSS, finding that Topshelf was providing “sale of services” within the meaning of R.S. 47:301(14)(b)(i).

The appellate court upheld the BTA’s decision, stating that R.S. 47:301(14)(b)(i) provides that the “Sales of Services” includes:

The sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges, universities, and recreational events, and the furnishing, for dues, fees or other consideration of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities.

Despite Topshelf’s contention that its customers were paying “rent” in exchange for full use of the facility, the court found that it was a “mischaracterization,” noting that Topshelf never at any time fully relinquished possession of the building as would occur under a non-taxable “lease” agreement as envisioned by the Legislature. Thus, the court found that LPSS rightfully taxed Topshelf for its sale of services pursuant to R.S. 47:301(14)(b)(i).

—**Jaye A. Calhoun**  
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## 108-Year-Old Mineral Lease Survives

*Regions Bank v. Questar Expl. & Prod. Corp.*, 50,211 (La. App. 2 Cir. 1/13/16), 184 So.3d 260.

Pursuant to civilian tradition, Louisiana law prohibits perpetual leases as an infringement on ownership and has long viewed 99 years as the time at which a lease becomes perpetual. The issue presented to the 2nd Circuit was whether mineral leases are exempt from this general rule.

The three mineral leases at issue in the case were executed in 1907 and granted for a primary term of 10 years "and as much longer thereafter as gas or oil is found or produced in paying quantities...." Plaintiffs sought a judicial declaration of termination by operation of law based on La. Civ.C. art. 2679, which limits the duration of a lease to 99 years. The trial court concluded that article 2679 was inapplicable to mineral leases and dismissed the case. Plaintiffs appealed.

The 2nd Circuit agreed with the trial court's findings, reasoning that the general lease provision cannot apply to mineral leases because mineral leases have their own maximum term as provided by the Mineral Code. Specifically, the Louisiana Mineral Code provides for a maximum primary term of 10 years and a maximum secondary term based upon continued drilling or mining operations or production. La. R.S.

31:115. The Civil Code, on the other hand, provides for a maximum term based on a stated number of years. Accordingly, the court held that "the general lease provision providing that a maximum lease term is 99 years clearly conflicts with the maximum term established for mineral leases as provided by the Mineral Code."

While the appellate court found that the Civil Code's term limitation of 99 years did not apply to mineral leases, it agreed that perpetual leases are void from their inception. However, the appellate court reasoned that the leases at issue were not perpetual, but rather, by way of the habendum or "thereafter" clause, were based on the occurrence of an express resolutive condition. The habendum clause, the use of which the court noted is standard practice in the industry, is two-tiered. The first is of a definite duration and the second is of an indefinite duration. The leases at issue provided for a primary term of 10 years within which to commence drilling. Only then would a secondary term commence, and would continue only so long as there is an established oil or gas well that is actually producing or capable of producing in paying quantities. That the "secondary term" is limited to 99 years is contrary to the concept of maintaining a lease for as long as minerals are producing in paying quantities. As a result, the appellate court found that the trial court properly determined that the leases were not perpetual in nature, and therefore not void ab initio as against public policy.

—Christina Peck Samuels

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*Following approval by the Louisiana State Bar Association House of Delegates and the Board of Governors at the Midyear Meeting, and approval by the Supreme Court of Louisiana on Jan. 10, 1992, the Code of Professionalism was adopted for the membership. The Code originated from the Professionalism and Quality of Life Committee.*

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## 2016-2017 LSBA CLE Calendar

### **Employment Law**

Aug. 19, 2016 • New Orleans

### **Appellate Law**

Aug. 26, 2016 • New Orleans

### **Ethics & Professionalism**

Sept. 6, 2016 • Lafayette

### **In-house Counsel/Outside Practice**

Sept. 9, 2016 • New Orleans

### **Insurance Law**

Sept. 12, 2016 • New Orleans

### **Vegas Multi-Topic CLE**

Sept. 12-14, 2016  
Encore Resort • Las Vegas, NV

### **23<sup>rd</sup> Annual Admiralty Symposium**

Sept. 16, 2016 • New Orleans

### **Ethics & Professionalism**

Sept. 23, 2016 • New Orleans

### **Personal Injury**

Sept. 30, 2016 • New Orleans

### **Energy & Environmental Law Summit**

Oct. 6 & 7, 2016 • New Orleans

### **10th Annual Dispute Resolution Seminar**

Oct. 14, 2016 • Baton Rouge

### **56th Bi-Annual Bridging the Gap**

Oct. 18 & 19, 2016 • New Orleans

### **Military Law**

Oct. 21, 2016 • New Orleans

### **Voodoo Fest CLE**

October 28, 2016 • New Orleans

### **Ethics & Professionalism**

Nov. 4, 2016 • Bossier City

### **Workers' Comp CLE**

Nov. 4, 2016 • Baton Rouge

### **15th Annual Class Action/ Complex Litigation Symposium**

Nov. 11, 2016 • New Orleans

### **New York, New York CLE**

Nov. 19-21, 2016 • New York, NY

### **Ethics & Professionalism:**

#### **Watch Your P's & Q's**

Dec. 2, 2016 • New Orleans

### **25th Summer School Revisited**

Dec. 8 & 9, 2016 • New Orleans

### **Trial Practice CLE**

Dec. 13, 2016 • New Orleans

### **Quality of Life CLE**

Dec. 13, 2016 • New Orleans

### **CLE Wrap Up**

Dec. 16, 2016 • New Orleans

### **Dazzling Disney CLE**

Feb. 27-March 1, 2017  
Disney's Grand Floridian  
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### **French Quarter Fest CLE:**

#### **9th Annual White Collar Crime Symp.**

April 7, 2017 (Tentative Date)  
New Orleans

### **Medical Malpractice**

April 7, 2017 • New Orleans

### **Immigration Law**

April 21, 2017 • Shreveport

### **57<sup>th</sup> Bi-Annual Bridging the Gap**

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### **Jazz Fest CLE**

April 21, 2017 (Tentative Date)  
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## CHAIR'S MESSAGE

### Striving to Provide Enough for Those Who Have Too Little

By Scotty E. Chabert, Jr.

**S**eventy-five years ago, in the year the Louisiana State Bar Association was created, Franklin D. Roosevelt said, "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little." As chair of the Young Lawyers Division (YLD), I personally and kindly ask for help with the upcoming, very enthusiastic and busy year for the YLD. Together we embark on a mission



Scotty E.  
Chabert, Jr.

to get young lawyers from every "mapdot" around the state engaged in helping those in our community that "have too little." I encourage every young lawyer to get involved with the YLD through its statewide projects.

When I ask fellow colleagues why they chose this profession, one of the most common answers I receive is that they want to help people who cannot help themselves. With that altruistic theme in mind, the YLD continues to be very active in our volunteer efforts. The YLD has yearly projects that are extremely effective and make a positive difference across the Bar and the communities we serve. In this coming year, the YLD will continue to sponsor the following projects — high

school mock trial competitions, law school outreach program, the Barristers for Boards program, law-related education programs and our extremely successful Wills for Heroes program.

There is no better time to get involved, both to help your state and local bars and your community as well. This past January, the YLD kicked off its statewide "Louisiana64" program. The goal of this new undertaking is to strengthen communication, resources and coordination among all legal communities in Louisiana's 64 parishes, no matter the size or location.

It is with great pleasure that I introduce you to the 2016-17 YLD officers and council members on the following pages. Reach out to your local council member to learn about the personal and professional benefits you can gain from involvement in the YLD. We all have very busy lives, and it's not easy to donate our time, but trust me, when you do, the personal satisfaction you will receive knowing you have used your talents to help others is immeasurable. Volunteer today!



## YOUNG LAWYERS DIVISION NEWS

Get the latest Young Lawyers  
Division news online

Go to: [www.lsba.org/YLD](http://www.lsba.org/YLD)

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

## YOUNG LAWYERS SPOTLIGHT

### Jaclyn Bridges Bacon Lafayette

The Louisiana State Bar Association's (LSBA) Young Lawyers Division is spotlighting Lafayette attorney Jaclyn Bridges Bacon.

As an associate at NeunerPate in Lafayette, Bacon practices in civil defense litigation, with a primary focus on workers' compensation, personal injury and insurance defense.

Bacon earned her BA degree in finance, with a concentration in internal audit and a minor in English, in 2005 from Louisiana State University. She earned her JD degree and bachelor of civil law degree in 2008 from LSU Paul M. Hebert Law Center. A



Jaclyn Bridges  
Bacon

native of Minden, she moved to Lafayette following her graduation from law school. She served as a judicial clerk for two years to Judge Ellis Daigle (Ret.) in the 27th Judicial District Court in Opelousas before joining NeunerPate in 2010. She also has worked as an adjunct instructor at Louisiana Technical College's T.H. Harris campus teaching a Louisiana notary public examination preparation course.

As an active member of the Lafayette Young Lawyers Association (LYLA), she currently chairs the Membership Committee and is a past chair of the Social and Law Week Committees. In connection with her LYLA service, she has volunteered for Wills for Heroes, Counsel on Call, as a scoring judge for regional mock trial competitions, and as a mentor to a new LYLA member.

Bacon is the president-elect of the Lafayette-Acadiana Chapter of the Federal Bar Association, previously serving as secretary and public relations chair and recognized as the 2014 recipient of the President's Award. In 2011, she received an Outstanding Attorney Award from the

Lafayette Volunteer Lawyers for her pro bono service to indigent clients.

Also involved in the Lafayette community, she is a member of the 705 Young Leaders of Acadiana, previously serving as secretary, co-chair of the 20 Under 40 Awards Committee and co-chair of the Professional Development Committee. She is a 2015 graduate of One Acadiana's (formerly Lafayette Chamber of Commerce) Leadership Lafayette Class XXVIII. She currently serves on the Acadiana Symphony Orchestra's Generation ASO board, where she has assisted at the committee level with planning the inaugural Symphony of Cravings Tour and Day at the Derby events.

Bacon is a member of the John M. Duhe, Jr. American Inn of Court, the Louisiana Association of Defense Counsel, the United Way of Acadiana's Women's Leadership Council and the Krewe of Bonaparte. She has played USTA league tennis on women's and mixed-doubles teams in Lafayette for several years.

She and her husband, Kirk, have been married since 2014.

## YOUNG LAWYERS DIVISION OFFICERS 2016-17

### Scotty E. Chabert, Jr. Chair

Scotty E. Chabert, Jr. is an assistant district attorney for the 18th Judicial District and a partner in the Baton Rouge law firm of Saunders & Chabert. He previously served as an adjunct professor at Southern University Law Center. He received a BS degree in 2002 from Louisiana State University and his JD degree in 2006 from Southern University Law Center. He was admitted to practice in the state and federal courts of Louisiana in 2006 and in Mississippi in 2007.

Scotty served as chair-elect, secretary and District 5 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. He was a member of the 2009-10 Leadership LSBA Class and co-chaired the 2010-11 Leadership LSBA Class. He is a past chair of the Baton Rouge Bar Association's (BRBA) Young Lawyers Section and a 2010 recipient of the BRBA's



Scotty E.  
Chabert, Jr.

President's Award.

In his community, he is a member of First United Methodist Church.

Scotty and his wife, Katie D. Chabert, have been married for seven and a half years and are the parents of three children.

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### Bradley J. Tate Chair-Elect

Bradley J. Tate is tax manager for the firm of Carr, Riggs & Ingram, L.L.C. He received a BS degree in accounting in 2005 from Southeastern Louisiana University, his JD degree in 2008 from Louisiana State University Paul M. Hebert Law Center and an LLM in taxation in 2012 from the University of Alabama. He was admitted to practice in Louisiana in 2009.



Bradley J. Tate

Brad has served as secretary and the District 5 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. He was a member of the 2011-12 Leadership LSBA Class and co-chaired the 2012-13 Leadership LSBA Class. He is a member of the *Louisiana Bar Journal's* Editorial Board.

He is a member of the American Bar Association and serves as chair of the ABA YLD Committee on Real Property, Estates and Trusts

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### Dylan T. Thriffley Secretary

Dylan T. Thriffley is a compliance director for Ochsner Health System in New Orleans. She received a BS degree, *magna cum laude*, in 2005 from the University of Tennessee at Chattanooga



Dylan T. Thriffley



and her JD degree, *cum laude*, in 2008 from Louisiana State University Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2008.

Dylan served as a District 1 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council from 2012-16. She was a member of the 2010-11 Leadership LSBA Class and co-chaired the 2011-12 Leadership LSBA Class. She is a member of the Committee on the Profession and the Bar Governance Committee. She also is a member of the *Louisiana Bar Journal* Editorial Board and serves on the board of the Louisiana Civil Justice Center.

She is a former president of the New Orleans Association for Women Attorneys and a member of the American Health Lawyers Association. In 2015, she was named a *Louisiana Super Lawyers* "Rising Star."

In her community, Dylan is the volunteer coordinator for Hogs for the Cause, an organization which provides funding to families whose children are being treated for pediatric brain cancer.

She and her husband, Peter S. Thriffley, Jr., have been married for four years and are the parents of one child.

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#### **Erin O. Braud** **Immediate Past Chair**

Erin O. Braud is staff counsel for GuideOne Insurance Co. in New Orleans. She received a BA degree in mass communications in 2002 from Louisiana State University and her JD degree in 2005 from Loyola University College of Law. She was admitted to practice in Louisiana in 2005.

Erin served as a member of the Louisiana State Bar Association's (LSBA) Board of Governors in 2015-16. She also served as chair, chair-elect, secretary and District 2 representative on the LSBA's Young Lawyers Division Council. She has participated in several Law Day and Constitution Day presentations. She is a member of the



**Erin O. Braud**

Plaquemines Parish Bar Association and the Jefferson Bar Association.

She and her husband, S. Jacob Braud, live in Belle Chasse, have been married for nine years and are the parents of three children.

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### **YOUNG LAWYERS DIVISION COUNCIL 2016-17**

#### **Scott L. Sternberg** **District One Representative**

Scott L. Sternberg is an attorney at Baldwin Haspel Burke & Mayer, L.L.C., in New Orleans. He received a BA degree in journalism in 2006 from Louisiana State University and his JD/DCL degree in 2010 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2010.

Scott was a member of the 2012-13 Leadership LSBA Class and is a former member of the Louisiana State Bar Association's (LSBA) Crystal Gavel Committee and the Publications Subcommittee. In 2015, he received the LSBA's Stephen T. Victory Memorial Award for most outstanding *Louisiana Bar Journal* article.

He serves as treasurer of the Federal Bar Association New Orleans Chapter's Younger Lawyers Division and is an adjunct professor for the Loyola University School of Mass Communication. He has been recognized as one of Gambit Weekly's "40 Under 40," as a *Louisiana Super Lawyers* "Rising Star" and on *New Orleans Magazine's* "Top Lawyers" lists.

A graduate of the Loyola Institute of Politics, he is active with the Young Leadership Council in New Orleans.

Scott and his wife, Breland, have been married for six years and are expecting their second child this summer.

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**Scott L. Sternberg**

#### **Cristin F. Bordelon** **District One Representative**

Cristin F. Bordelon is an associate in the New Orleans office of Leake & Andersson, L.L.P. She received a BAS degree in 2001 from Louisiana State University and her JD degree in 2005 from Loyola University College of Law. She was admitted to practice in Louisiana in 2005 and is admitted in New York and Georgia.

Cristin served as Louisiana's representative on the American Bar Association Young Lawyers Division Council for three years and assisted in disaster recovery operations in Louisiana following Hurricane Isaac. She also participated in the Louisiana State Bar Association Young Lawyers Division's Wills for Heroes program.

She serves on the board of directors for the Louisiana Civil Justice Center and on the advisory board for the Legal Innovators for Tomorrow (LIFT) Program. She also is a member of the New Orleans Bar Association and the New York Bar Association.

Cristin and her husband, Lanson Bordelon, have been married for three and a half years and are the parents of one child.

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**Cristin F. Bordelon**

#### **Jeffrey D. Hufft** **District Two Representative**

Jeffrey D. Hufft is an associate with Colvin Law Firm, A.P.L.C., in Gretna. He received a BA degree in psychology in 2003 from Louisiana State University and his JD degree in 2009 from Loyola University College of Law. He was admitted to practice in Louisiana in 2009.

Jeffrey serves on the board of directors for the Louisiana Center for Law and Civic Education. He is a board member of the



**Jeffrey D. Hufft**

Jefferson Bar Association's Young Lawyers Division and a member of the Louisiana District Attorneys Association.

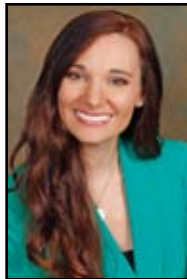
In his community, he is the vice president of the Homestead Brockenbraugh Civic Association and is an annual speaker for the Jesuit High School Career Day Law Curriculum.

Jeffrey and his wife, Danielle Treadaway Hufft, have been married for three years and are the parents of one child.

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**Shayna B. Morvant**  
**District Two Representative**

Shayna B. Morvant is managing partner of the Gretna firm of Beevers & Beevers, L.L.P. She received a BSM degree in 2009 from Tulane University's A.B. Freeman School of Business and her JD degree in 2012 from Tulane Law School. She was admitted to practice in Louisiana in 2012.



Shayna B. Morvant

Shayna serves in the Louisiana State Bar Association's House of Delegates and is a member of the Civil Law and Litigation Section. She is a 2015-16 member of the Leadership LSBA Class. She is the current secretary for the Tulane Inn of Court and is a former chair of the Jefferson Bar Association's Young Lawyers Division.

In her community, she is a member of the Junior League of New Orleans, the New Orleans Children's Museum Chairish Committee and the Italian American Ladies Auxiliary.

Shayna and her husband, Wesley C. Morvant, are the parents of one child.

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**Lauren L. Gardner**  
**District Three Representative**

Lauren L. Gardner is an associate in the Onebane Law Firm in Lafayette. She received her BA degree in 2003 from Louisiana State University and her JD/BCL degree in 2006 from LSU Paul M. Hebert Law Center. She was admitted to

practice in Louisiana in 2006 and is admitted in Texas.

Lauren is a member of the Lafayette Association of Professional Landmen, the Women's Energy Network and the Acadiana Society of Human Resource Management. She also is involved with the Lafayette Education Foundation and is a member of St. Pius X Catholic Church in Lafayette.

She and her husband, Paul Gardner, have been married for six years and are the parents of two children.

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Lauren L. Gardner

**Adam P. Johnson**  
**District Four Representative**

Adam P. Johnson is an attorney in the Lake Charles firm of Johnson & Vercher, L.L.C. He received a bachelor's degree in business management from Louisiana State University and his JD degree from Southern University Law Center. He was admitted to practice in Louisiana in 2009.



Adam P. Johnson

Adam was a member of the 2013-14 Leadership LSBA Class and co-chaired the 2014-15 Leadership LSBA Class.

He was the 2014 president of the Southwest Louisiana Bar Association Young Lawyers Section. He was recognized as a "Top 40 Under 40" professional and as a "Top Criminal Defense Lawyer" by *Acadiana Magazine*. He also currently serves on the Executive Council for the Southwest Louisiana Bar Association.

Adam and his wife, Ashley Leonards Johnson, have been married for five years and are the parents of two children.

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**Kristi W. Richard**  
**District Five Representative**

Kristi W. Richard is a senior associate in the Baton Rouge office of McGlinchey Stafford, P.L.L.C., and an adjunct instructor of business law and sports law at Louisiana State University. She received a BS degree in management, *summa cum laude*, in 2004 from LSU, a master's degree in business administration in 2009 from LSU, and her JD/BCL degree, *magna cum laude*, in 2009 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2009.



Kristi W. Richard

Kristi was a member of the 2012-13 Leadership LSBA Class and has served as co-chair of the Wills for Heroes program for the past two years. She is a member of the Baton Rouge Bar Association, serving as chair of its Holiday Star Project last year.

In her community, she is a community council member of the Junior League of Baton Rouge, serving on the board of directors in 2016-17. She was a member of the 2015 class of the Baton Rouge Area Leadership Program.

She and her husband, Daniel Richard, have been married for 13 years and are the parents of one child.

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**Carrie L. Jones**  
**District Five Representative**

Carrie L. Jones is a partner in the Baton Rouge firm of Shows, Cali & Walsh, L.L.P. She received a BA degree in mass communication in 2004 from Louisiana State University, an MBA degree in 2005 from Southeastern Louisiana University and her JD/BCL degree in 2008 from LSU Paul M. Hebert Law Center.



Carrie L. Jones



She was admitted to practice in Louisiana in 2008.

Carrie is a member of the Louisiana State Bar Association's (LSBA) Continuing Legal Education Committee. She is co-chair of the Richard N. Ware High School Mock Trial Competition and serves on the Young Lawyers Division's Awards Committee. She was a member of the 2013-14 Leadership LSBA Class.

She is the vice chair of the Louisiana Attorney Disciplinary Board and a member of the Baton Rouge Bar Association and the Bar Association of the 5th Federal Circuit. She also serves on the Louisiana Bar Foundation's Capital Area Community Partnership Panel.

In her community, she is a parishioner of St. George Catholic Church. She and her husband, Aaron Jones, have been married for five years and are the parents of one child.

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**Christie C. Wood**  
**District Six Representative**

Christie C. Wood is an associate in the firm of Faircloth Melton & Keiser, L.L.C., in Alexandria. She received a BA degree in 1999 from Louisiana Tech University and her JD degree in 2008 from Louisiana State University Paul M. Hebert Law Center.

She was admitted to practice in Louisiana in 2008.

Christie is a young lawyer observer for the Louisiana State Law Institute.

She is a former chair of the Alexandria Bar Association's Young Lawyers Council and a member of the Crossroads American Inn of Court in Alexandria-Pineville. In law school, she was named to the Chancellor's List and was a member of the Legal Association of Women and the Civilian Student Society.

She and her husband, Jeremy Wood, have been married for eight years and are the parents of two children.

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Christie C. Wood

**Ethan A. Hunt**  
**District Seven Representative**

Ethan A. Hunt is an associate in the firm of Dean Morris, L.L.C., in Monroe. He received a BS degree in 2001 from Louisiana Tech and his JD degree in 2006 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2006.

Ethan is a member of the 4th Judicial District Bar Association and a Fellow of the Louisiana Bar Foundation.

In his community, he is a member of the board of directors for Habitat for Humanity, a member of Delta Waterfowl and a Sunday school teacher for First Methodist Church in Monroe.

Ethan and his wife, Erin, have been married for 12 years and are the parents of three children.  
1505 N. 19th St., Monroe, LA 71201  
(318)235-1412  
email: [ethanh007@gmail.com](mailto:ethanh007@gmail.com)



Ethan A. Hunt

**Allison C. Foster**  
**District Eight Representative**

Allison C. Foster is an associate in the Shreveport firm of Cook, Yancey, King & Galloway, A.P.L.C. She received a BS degree in general business in 2006 from Louisiana State University and her JD degree in 2009 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2009.

Allison was a member of the 2014-15 Leadership LSBA Class. She is a member of the Shreveport Bar Association, the Louisiana Association of Defense Counsel and the Defense Research Institute.

In her community, she is involved with Holy Angels Champions for Individuals with Disabilities.

Allison and her husband, Ben, have been married for two years and are the parents of one child.

333 Texas St., 17th Flr., Shreveport, LA 71101  
(318)227-7712 • fax (318)227-7850  
email: [allison.foster@cookyancey.com](mailto:allison.foster@cookyancey.com)  
website: [www.cookyancey.com](http://www.cookyancey.com)



Allison C. Foster

**Kellen J. Mathews**  
**At-Large Representative**

Kellen J. Mathews is an associate in the litigation practice group in the Baton Rouge office of Adams and Reese, L.L.P. He received a BA degree in political science in 2004 from Millsaps College and his JD degree in 2008 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2008.

Kellen was a member of the 2010-11 Leadership LSBA Class and co-chaired the 2011-12 Leadership LSBA Class. He currently serves as the Louisiana State Bar Association (LSBA) Young Lawyers Division (YLD) Diversity Committee chair and is a member of the LSBA Conclave on Diversity Subcommittee. He also has chaired the YLD's Law School Outreach Committee, helping to put on the Law School Mock Trial competition in 2013.

In his community, he is a board member of the Greater Baton Rouge Food Bank, assisting more than 130 charitable agencies in Baton Rouge and 11 surrounding parishes. He also is a member of the City Year Baton Rouge Associate Board, serving on the Host Committee charged with coordinating City Year Baton Rouge's signature fundraiser, the School House Rock Gala.

Kellen and his wife, Mikki Ceasar Mathews, have been married for three years.  
Ste. 1900, 450 Laurel St.  
Baton Rouge, LA 70801  
(225)336-5200 • fax (225)336-5220  
email: [kellen.mathews@arlaw.com](mailto:kellen.mathews@arlaw.com)  
website: [www.adamsandree.com](http://www.adamsandree.com)



Kellen J. Mathews

**Graham H. Ryan**  
**ABA YLD Representative**

Graham H. Ryan is a business litigation associate in the New Orleans office of Jones Walker LLP. He received a BS degree, *summa cum laude*, in finance in 2007 from Louisiana State University and his JD/DCL degree in 2011 from LSU Paul M. Hebert Law Center, where he served on the



Graham H. Ryan

*Louisiana Law Review*. He was admitted to practice in Louisiana in 2011.

Graham serves on the Louisiana State Bar Association Access to Justice Committee's Disaster Leadership Team and as co-chair of the LSBA's Annual Meeting and Summer School Planning Committee. He was a member of the 2014-15 Leadership LSBA Class.

As the Louisiana representative on the American Bar Association's Young Lawyers Division Council, he is responsible for implementing disaster legal services in Louisiana following a presidentially declared disaster. He also serves on the board of the Jefferson Bar Association's Young Lawyers Division and is a member of the New Orleans Bar Association and the New Orleans Chapter of the Federal Bar Association.

In his community, he is chair of HandsOn New Orleans, a nonprofit volunteer center founded to assist rebuilding efforts post-Hurricane Katrina. He also provides pro bono legal services to the homeless and veterans at the Father Harry Thompson Rebuild Center in New Orleans.

Graham and his wife, Erin, are recently married and live in New Orleans.

*Ste. 5100, 201 St. Charles Ave.  
New Orleans, LA 70170  
(504)582-8370 • fax (504)589-8370  
email: gryan@joneswalker.com  
website: www.joneswalker.com*

### **Kristen L. Burge Young Lawyer Member/ABA House of Delegates**

Kristen L. Burge is an associate in the firm of Beahm & Green in New Orleans. She received a BS degree in neuroscience in 2005 from Vanderbilt University, her JD degree in 2010 from Samford University's Cumberland School of Law and an LL.M. in 2011 from the University of Washington School of Law. She was admitted to practice in Louisiana in 2014 and is admitted in Washington (2012) and



**Kristen L. Burge**

Florida (2013).

Kristen is a member of the Louisiana State Bar Association's Diversity Committee and its Pipeline to Diversity Subcommittee. She also is an editor for the American Bar Association Section of Litigation and a member of the A.P. Tureaud American Inn of Court and the Defense Research Institute. She also has volunteered as a mock trial judge.

In law school, she was recognized for the best thesis in the LL.M. intellectual property program (2010-11), the best casenote in the *Law Review* and the highest grade in law school courses. She also has published three articles in law reviews and two online articles for the ABA.

In her community, she is a youth soccer coach and plays on a tennis team.

Kristen and her husband, Chris Burge, have been married for eight years and are the parents of three children.

*Ste. 408, 145 Robert E. Lee Blvd.  
New Orleans, LA 70124  
(504)288-2000 • fax (504)288-2099  
email: kristen@beahm.com  
website: www.beahm.com*

## **LSBA Member Services – Louisiana Hotels**

The following hotels have agreed to corporate discount rates for LSBA members. Call, e-mail or check the website link for the current discounted rates. When making reservations, you must identify yourself as an LSBA member.

### **New Orleans**

- ▶ **Blake Hotel** • (504) 962-7220  
alebouef@nolahotelgroup.com
- ▶ **Hampton Inn Hotels & Suites of New Orleans**  
cmohamed@highpointe.com  
(504) 529-5077
- ▶ **Hotel Monteleone** • (504) 648-4717  
mlopez@hotelmonteleone.com  
www.lsba.org/GoTo/HotelMonteleone
- ▶ **Hyatt French Quarter** • (504) 266-6362  
csoler@hriproperties.com
- ▶ **Hyatt Regency New Orleans**  
(888) 591-1234 • Corporate ID #: 95147
- ▶ **Intercontinental Hotel** • (504) 585-4309  
judith.smythe@icneworleans.com
- ▶ **Le Meridien Hotel** • (504) 207-5025  
Christopher.Couvillion@starwoodhotels.com
- ▶ **Le Pavillon Hotel** • (504) 620-4132

- ▶ **Loews New Orleans Hotel** • (504) 595-5314  
dpembo@loewshotels.com
- ▶ **Maison Dupuy Hotel** • (504) 648-6117  
jneyrey@maisondupuy.com
- ▶ **Omni Hotels of New Orleans**  
(504) 756-1141 • Jyates@omnihotels.com
- ▶ **The Ritz-Carlton** • (504) 670-2845  
Matthew.Mcdaniel@ritzcarlton.com
- ▶ **The Roosevelt New Orleans**  
(504)335-3008 • Corporate ID #: 2742353  
peter.honan@waldorfastoria.com
- ▶ **Sheraton New Orleans** • (800) 937-8461  
dana.smith@sheraton.com
- ▶ **St. James Hotel** • (504) 926-7720  
alebouef@nolahotelgroup.com
- ▶ **W French Quarter Hotel** • (504) 207-5025  
Christopher.Couvillion@starwoodhotels.com
- ▶ **Westin New Orleans Canal Place**  
(504) 553-5110  
robin.mccoy@westinneworleans.com
- ▶ **The Whitney Hotel** • (504) 212-8688  
Stephanie.Borrello@whitneyhotel.com
- ▶ **Windsor Court** • (504) 596-4364  
plambert@windsorcourthotel.com

### **Baton Rouge**

- ▶ **Crowne Plaza Baton Rouge**  
(225)930-0100  
dbond@executivecenterbr.com
- ▶ **Hilton Baton Rouge Capitol Center**  
(800)955-6962, (225)906-5754  
Corporate ID #0921780 • sdair@hiltonbr.com  
www.lsba.org/GoTo/HiltonBRCapitol

### **Lafayette**

- ▶ **SpringHill Suites Lafayette South at River Ranch**  
www.lsba.org/GoTo/SpringHill

### **Lake Charles**

- ▶ **Best Western Richmond Suites** • (337)433-5213

### **Shreveport**

- ▶ **Clarion Shreveport Hotel** • (318)797-9900
- ▶ **The Remington Suite Hotel** • (318)425-5000

### **National Hotel Chains\***

- ▶ **Holiday Inn** • (800)HOL-IDAY • ID: 100381739
- ▶ **LaQuinta Inns & Suites** • (866)725-1661  
www.LQ.com • Corp. rate code: LABAR

\*Discounts not guaranteed at every hotel property within a national chain. Contact specific property to inquire about availability of LSBA discounted rates.



For more information on  
LSBA Member discount business services,  
visit [www.lsba.org/goto/businessservices](http://www.lsba.org/goto/businessservices)



# PEOPLE

## LAWYERS ON THE MOVE . . . NEWSMAKERS

### LAWYERS ON THE MOVE

Adams and Reese, L.L.P., announces that David C. Coons and David M. Stein have been elected partners in the New Orleans office. Also, Edwin C. Laizer, a partner in the New Orleans office, was elected to the firm's Executive Committee.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., announces that Nancy Scott Degan has been named managing shareholder for the New Orleans and Mandeville offices. Also, Matthew J. Guy has joined the firm's Mandeville office as an associate.

Bradley Murchison Kelly & Shea, L.L.C., announces that **Michael R. Brassett** has been named a partner in the firm's Baton Rouge office.

Retired 2nd Circuit Court of Appeal Judge **James E. Stewart, Sr.** was sworn in as Caddo Parish district attorney in December 2015.

Cashe Coudrain & Sandage in Hammond announces that Lindon Bennett Magee has joined the firm as an associate.

Chaffe McCall, L.L.P., announces that Michael D. Carleton has joined the firm as a partner in the Lake Charles office. Also, Lisa M. Kaufmann has joined the firm as a partner in the Houston, Texas, office.

Deutsch Kerrigan, L.L.P., announces that **Sean P. Mount**, **Anne E. Medo**, **Shannon C. Burr** and **Lauren E. Brishbi** have joined the firm as attorneys in the New Orleans office.

Didriksen Law Firm in New Orleans announces that Erin B. Saucier, Carl A. (Trey) Woods and Jeremy J. Pichon have been named partners. The firm has restructured as Didriksen, Saucier, Woods & Pichon, A.P.L.C., still located at 3114 Canal St., New Orleans, LA 70119; [www.dswplaw.com](http://www.dswplaw.com). Also, **Michael S. Finkelstein** has joined the firm as an associate.

Faircloth Melton, L.L.C., in Alexandria announces that the firm's name has changed to Faircloth, Melton & Sobel, L.L.C. **David R. Sobel** has joined the firm as a partner.

Fishman Haygood, L.L.P., announces that Alysson L. Mills and Benjamin D. Reichard have been named partners in the New Orleans office. Also, Sharonda R. Williams has joined the firm's New Orleans office as special counsel.

Fowler Rodriguez announces that Jeffrey S. Hall, Jr. has joined the firm as an associate in the New Orleans office.

Hammonds, Sills, Adkins & Guice, L.L.P., with offices in Baton Rouge and Monroe, announces that **Tyrell T. (Ty) Manieri III** has joined the firm as an associate in the Baton Rouge office.

Kantrow, Spaht, Weaver & Blitzer, A.P.L.C., in Baton Rouge announces that Traci S. Thompson has joined the firm as of counsel.

Continued next page



Heather LaSalle  
Alexis



Richard J. Arsenaault



Jack C.  
Benjamin, Jr.



Magdalen Blessey  
Bickford



Michael R. Brassett



Lauren E. Brishbi



Shannon C. Burr



Angelina Christina



Blake R. David



Michael S.  
Finkelstein



David M. Flotte



William H. Goforth

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard announces that Cassie E. Felder has joined the firm as a shareholder in its Baton Rouge office.

Manion Gaynor & Manning, L.L.P., announces that Jeanette S. Riggins has joined the firm's New Orleans office as a partner.

McGlinchey Stafford, P.L.L.C., announces that **Magdalen Blessey Bickford** has joined the firm's New Orleans office as of counsel.

Pecoraro Law in Lafayette announces that **Anna M. Grand** has joined the firm as an associate.

Perrier & Lacoste, L.L.C., announces that **Jack C. Benjamin, Jr.** has become a member in the New Orleans office.

Perry Dampf Dispute Solutions in Baton Rouge announces that David T. Butler, Jr. and James A. Lochridge, Jr. have joined the firm as mediators. Butler practices with Funderburk & Butler in Baton Rouge. Lochridge practices with Voorhies & Labbe in Lafayette.

Phelps Dunbar, L.L.P., announces that Marshall M. Redmon has been named managing partner in the New Orleans office. Bart C. Bacigalupi and Colin B. Cambre have been promoted to partner in the New Orleans office. MaryJo L. Roberts has been named counsel in the New Orleans office. Amanda W. Messa has been promoted to counsel in the Baton Rouge office. Also, Sarah S. Faris, Arthur R. Kraatz, Talbot M. Quinn, Matthew

G. Greig, Jennifer R. Kretschmann and Katherine L. Wyly have joined the firm as associates in the New Orleans office.

Salley, Hite, Mercer & Resor, L.L.C. in New Orleans announces that **David M. Flotte** and **J. Ashley Inabnet** have joined the firm as partners.

Sessions, Fishman, Nathan & Israel, L.L.C., announces that **Spencer M. Schulz** and **Stephannie M. McKinney** have joined the Metairie office as associates.

Simon Greenstone Panatier Bartlett, P.C., in Dallas, Texas, announces that Hutton W. Sentell has joined the firm as an associate.

Steeg Law Firm, L.L.C., in New Orleans announces that **Ryan M. McCabe** has been named a partner.

Stone Pigman Walther Wittmann, L.L.C., announces that Edward B. Poitevent and John C. Overby have joined the firm as special counsel in the New Orleans office.

Wilson Elser Moskowitz Edelman & Dicker, L.L.P., announces that Lisa M. Africk has been named regional managing partner in the New Orleans office.

## NEWSMAKERS

**Heather LaSalle Alexis**, a member in the New Orleans office of McGlinchey Stafford, P.L.L.C., was selected to participate in the 2016 Fellows Program of the Leadership Council on Legal Diversity.

**Richard J. Arsenault**, a partner in the Alexandria firm of Neblett, Beard & Arsenault, was appointed by the Louisiana Supreme Court to serve on a new committee regarding Rules of Professional Conduct for Complex Litigation. He also was recognized as one of America's 100 Most Influential Trial Lawyers by *Trial Lawyer* magazine.

**Angelina Christina**, a member in the New Orleans office of McGlinchey Stafford, P.L.L.C., was named a Fellow of the American Bar Foundation.

Megan H. Guy, executive counsel and producer for Gillis, Ellis & Baker in New Orleans, was named to the board of directors for the Louisiana Chapter of the Association of Corporate Counsel.

Jan M. Hayden, a shareholder in the New Orleans office of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., is the 2016 Louisiana recipient of the Center for American and International Law's Michelle Mendez Serviam Award, recognizing accomplishments by 5th Circuit bankruptcy professionals.

Stephen J. Herman, managing partner of Herman, Herman & Katz, L.L.C., in New Orleans, was named a senior Fellow with the Litigation Counsel of America.

William H. Hines, managing partner of Jones Walker LLP in New Orleans, was recognized by the Southeast Louisiana Council Boy Scouts of America as the 2015 Distinguished Citizen for his community leadership.



Anna M. Grand



J. Ashley Inabnet



Jane A. Jackson



Stephanie S. Lintern



Tyrell T. Manieri III



David A. Martinez



Valerie Theng  
Matherne



Ryan M. McCabe



Stephannie M.  
McKinney



Anne E. Medo



Sean P. Mount



Randy Opotowsky



Kelly Hart & Pitre announces that two of its New Orleans office associates, **Jane A. Jackson** and **Stephanie S. Lintern**, were recognized for their pro bono achievements. Jackson received the 2016 Louisiana State Bar Association Pro Bono Publico Award, and Lintern was honored with one of the 2016 Pro Bono Century Awards.

**Valerie Theng Matherne**, a member in the New Orleans office of Courington, Kiefer & Sommers, L.L.C., co-chaired the 2016 National Association of Minority and Women Owned Law Firm's business meeting in New Orleans.

**Lillian Evans Richie**, clerk of court/judicial administrator for the 2nd Circuit Court of Appeal in Shreveport, was elected to the Executive Committee of the National Conference of Appellate Court Clerks.

David R. Sherman, a partner in the Metairie firm of Chehardy, Sherman, Williams, Murray, Recile, Stakelum & Hayes, L.L.P., was elected 2016 chair of the Greater New Orleans Sports Foundation. He also was elected to the board of directors of Flying Tigers Properties, L.L.C., a wholly owned subsidiary of the National World War II Museum, Inc.

## IN MEMORIAM

**Michael Frederick (Mike) Little** died Feb. 29 in New Orleans. He was 72. He also was a resident of Highlands, NC. A native of New Orleans, he attended Newman School and graduated from Berkshire School in Sheffield, MA. He earned his JD degree in 1968 from Tulane University Law School, where he served on the board of editors of the *Tulane Law Review* and was inducted into the Order of the Coif. He served for many years as a member of the Louisiana Attorney Disciplinary Committee. He also served as president of the World Trade Center of New Orleans and the Cancer Association of Greater New Orleans. He will be

remembered by his clients, friends and colleagues as a "gentleman attorney." He pursued his career in the finest tradition of the Bar, holding to the highest standards of ethics, professionalism and competency, representing the very best of his profession. He is survived by his wife of 34 years, Elizabeth Sherman Little; two sons, Michael F. Little, Jr. and Graham P. Little; a brother, John P. Little, Jr.; two grandchildren; and other relatives. He is the son of the late John Patterson Little, a former president of the Louisiana State Bar Association.



**Michael Frederick Little**

## PUBLICATIONS

### *Best Lawyers in America 2016*

**Beirne, Maynard & Parsons, L.L.P.** (New Orleans): Thomas L. Colletta, Jr., Ernest L. Edwards, Jr., William R. Forrester, Jr., Patrick Johnson, Jr., Benjamin R. Slater III and Scott J. Sonnier.

**Chehardy, Sherman, Williams, Murray, Recile, Stakelum & Hayes, L.L.P.** (Metairie): James M. Fantaci, Conrad Meyer IV, Julian R. Murray, Jr. and David R. Sherman.

### *Chambers USA 2016*

**Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.** (Baton Rouge, Mandeville, New Orleans): Edward H. Arnold III, Phyllis G. Cancienne, Roy C. Cheatwood, Nancy Scott Degan, Matthew R. Emmons, Donna D. Fraiche, Steven F. Griffith, Jr., Jan M. Hayden, Errol J. King, Jr., Kenneth M. Klemm, Amelia W. Koch, M. David Kurtz, Kent A. Lambert, Jon F. Leyens, Jr., Mark W. Mercante, William N. Norton, Dickie W. Patterson, David C. Rieveschl, James H. Roussel, Danny G. Shaw, Danielle L. Trostorff, Paul S. West and Adam B. Zuckerman.

**Breazeale, Sachse & Wilson, L.L.P.** (Baton Rouge, New Orleans): John T. Andrishok, Robert L. Atkinson, Thomas M. Benjamin, David R. Cassidy, Murphy J. Foster III, Gregory D. Frost, Alan H. Goodman, Emily Black Grey, David R. Kelly, Richard D. Leibowitz, Steven B. Loeb, Eve B. Masinter, Wesley M. Plaisance, E. Fredrick Preis, Jr., Claude F. Reynaud, Jr. and Melissa M. Shirley.

### *Louisiana Super Lawyers 2016*

**Beirne, Maynard & Parsons, L.L.P.** (New Orleans): Thomas L. Colletta, Jr., William R. Forrester, Jr., Patrick Johnson, Jr. and Benjamin R. Slater III.

**Chehardy, Sherman, Williams, Murray, Recile, Stakelum & Hayes, L.L.P.** (Metairie): Steven E. Hayes, Conrad Meyer IV, Julian R. Murray, Jr., Inemesit U. O'Boyle, David R. Sherman, P.J. Stakelum III and James M. Williams.

**Flanagan Partners, L.L.P.** (New Orleans): Sean P. Brady, Andy J. Dupre, Harold J. Flanagan, Thomas M. Flanagan and Charles-Theodore Zerner.

**Goforth & Lilley, P.L.C.** (Lafayette): **William H. Goforth.**

**Steeg Law Firm, L.L.C.** (New Orleans): **Robert M. Steeg, Charles L. Stern, Jr. and Ryan M. McCabe.**

### *Acadiana Profile*

**Broussard & David, L.L.C.** (Lafayette): **Blake R. David**, 2016 Top Lawyers.

### *New Orleans Magazine Top Lawyers*

**Steeg Law Firm, L.L.C.** (New Orleans): **David A. Martinez, Ryan M. McCabe, Randy Opatowsky and Robert M. Steeg.**



**Lillian Evans Richie**



**Spencer M. Schulz**



**David R. Sobel**



**Robert M. Steeg**



**Charles L. Stern, Jr.**



**James E. Stewart, Sr.**

## UPDATE

### University of Moncton to Offer Annual Law Scholarship

The Louisiana State Bar Association's Francophone Section hosted a dinner in March at the Lafayette home of Francophone Section Chair Warren A. Perrin and his wife Mary Perrin in honor of Fernand de Varennes, dean of the University of Moncton Faculty of Law. At the dinner, an agreement was reached to annually provide an opportunity for one Louisiana student to attend the law school at the University of Moncton in New Brunswick, Canada.

Also attending the dinner were several Louisiana college representatives and Lafayette area judges, including E. Gerald Hebert, former chair of the University of Louisiana System of Colleges and Universities; Professor Olivier Moreteau, representing Louisiana State University Paul M. Hebert Law Center; Charles Larroque, executive director of CODOFIL; Dr. Claire



The Louisiana State Bar Association's Francophone Section hosted a dinner in March at the Lafayette home of Francophone Section Chair Warren A. Perrin, left, in honor of Fernand de Varennes, dean of the University of Moncton Faculty of Law.

LeBas, representing Loyola University College of Law; Judge Marilyn C. Castle, president of the Louisiana District Judges' Association; and former district Judge Durwood W. Conque.

### Rizzo-Choi Named New Executive Director of Pro Bono Project

Jennifer Rizzo-Choi was selected as the new executive director of The Pro Bono Project in New Orleans. She served for the past three years as the national pro bono promotion counsel for Washington D.C.-based Human Rights First.

She received a BA degree, *cum laude*, in journalism from Ithaca College in New York and her JD degree from SUNY Buffalo Law School. She assumed the director's seat in May.

She launched and developed the Louisiana Immigration Working Group in 2014. She collaborated with Group Chair Judge Jay C. Zainey, with the U.S. District Court for the Eastern District of Louisiana, and others within the legal and non-profit communities to provide the immigrant population in Louisiana with pro bono legal services.



On April 13, the Young Lawyers Section of the 4th Judicial District Bar Association presented the United Way of Northeast Louisiana (UWNELA) with a donation of \$5,000 to the UWNELA Flood Response and Recovery Fund, established to support immediate response and long-term recovery efforts following the extensive flooding in northeast Louisiana in March. Front row from left, Wade L. House, Campbell & House, L.L.C.; Amey Crousillac, UWNELA; Janet Durden, UWNELA; Sarah M. Smith, Law Office of J. Garland Smith; and attorney Keith T. Whiddon. Back row from left, Mario Leija, Law Office of Amado Leija; Amy P. Sawyer, North Delta Title Co.; Jessica M. Crain, Law Offices of Harold G. Toscano; and Christopher S. Holtzclaw, Progressive Bank.



In commemoration of World Francophone Day 2016, Vasken Khabayan, right, consul and attorney on behalf of the Consulate General of Canada in Dallas, Texas, was the guest at a March 24 luncheon and reception in Lafayette, attended by representatives of Lafayette Consolidated Government, CODOFIL, the Louisiana State Bar Association (LSBA) and others. Warren A. Perrin, left, is chair of the LSBA's Francophone Section.





Members attending the St. Patrick's Day joint Inn meeting of the Harry V. Booth/Judge Henry A. Politz Inn of Court (Shreveport) and the Judge Fred J. Fudickar, Jr. Inn of Court (Monroe) enjoyed a presentation on cyber law. U.S. 5th Circuit Court of Appeals Chief Judge Carl E. Stewart, center, delivered a heartfelt admonition to the Inns to continue mentoring young associates. From left, David H. Nelson, incoming president for the Judge Fred J. Fudickar, Jr. Inn; Chief Judge Stewart, National Inn of Court president; and Lawrence W. Pettiette, Jr., president of the Harry V. Booth/Judge Henry A. Politz Inn.

## Sherman to Lead LBF's 2016-17 Board

E. Jane Sherman of Baton Rouge was installed as the 2016-17 president of the Louisiana Bar Foundation (LBF) on April 8. Other officers are Vice President Valerie Briggs Bargas, Baton Rouge; Treasurer W. Michael Street, Monroe; and Secretary Amanda W. Barnett of Alexandria.

Sherman is a charter Fellow of the LBF, joining in 1987 while serving as chair of the Louisiana State Bar Association's Young Lawyers Section. She is a senior counsel in the Baton Rouge office of Phelps Dunbar, L.L.P. She received her BA and JD degrees from Louisiana State University.

Bargas is a founding member of Kinchen, Walker, Bienvenu, Bargas, Reed & Helm, L.L.C. She received her BA degree in environmental science and policy from Smith College and her JD degree from Tulane University Law School.

Street is a partner of Watson, McMillan & Harrison, L.L.P., in Monroe. He received BA degrees in philosophy and political science from Centenary College of Louisiana and his JD degree from Louisiana State University Paul M. Hebert Law Center.

Barnett is general counsel and corporate secretary for Red River Bank and Red River Bancshares, Inc., with corporate offices in Alexandria. She received a BA degree in English literature from Newcomb College of Tulane University and her JD degree

from Louisiana State University Paul M. Hebert Law Center.

New board members are H. Dunbar Healy, Covington; Shayna L. Sonnier, Lake Charles; Dona Kay Renegar, Lafayette; and Erin O'Brien Braud, New Orleans.

Other members of the 2016-17 board of directors include Mathile W. Abramson, Gonzales; Hon. Marc T. Amy, Abbeville; David F. Bienvenu, New Orleans; Charles C. (Chuck) Bourque, Jr., Houma; Elwood F. Cahill, Jr., New Orleans; Mark A. Cunningham, New Orleans; Hon. John Davidson, Alexandria; Hon. Eldon E. Fallon, New Orleans; Donna D. Fraiche, New Orleans; Marcel Garsaud, Jr., New Orleans; Cyrus J. Greco, Baton Rouge; Karleen J. Green, Baton Rouge; Leo C. Hamilton, Baton Rouge; Harry S. Hardin III, New Orleans; Rebekah R. Huggins, Lafayette; Suzanne M. Jones, Covington; Patricia A. Krebs, New Orleans; Julie M. Lafargue, Shreveport; Hon. C. Wendell Manning, Monroe; Michael J. Mestayer, New Orleans; Darrel J. Papillion, Baton Rouge; Harry J. (Skip) Philips, Jr., Baton Rouge; H. Minor Pipes III, New Orleans; Christopher K. Ralston, New Orleans; Drew Ranier, Lake Charles; Herschel E. Richard, Shreveport; Garland R. Rolling, Metairie; John G. Swift, Lafayette; and Paul W. Wright, Wimberley, Texas.

## Judge Barbier Receives ABOTA Award; Officers Installed

The Louisiana Chapter of the American Board of Trial Advocates (ABOTA) presented the "Thomas Jefferson Justice By the People" Award to U.S. District Court Judge Carl J. Barbier (Eastern District of Louisiana) during its February annual dinner and meeting. The award, conceived by the Louisiana Chapter, recognizes individuals in Louisiana who exemplify respect for and devotion to the right to trial by jury.

Judge Barbier received his BA degree in 1966 from Southeastern Louisiana College and his JD degree in 1970 from Loyola University Law School. After working in the private sector from 1971-98, he was nominated by President William J. Clinton in 1998 for the judicial seat.

Officers for the Louisiana chapter were installed by 3rd Circuit Court of Appeal Chief Judge Ulysses Gene Thibodeaux. J. Michael Veron is president; Don S. McKinney, president-elect; Greg Schafer, secretary; and Helen H. Babin, treasurer. Sharon Stickling is executive director.

National ABOTA President Charles A. Baumberger also attended the event.



Christopher K. Ralston, right, a partner in the New Orleans office of Phelps Dunbar, L.L.P., received the Louisiana Bar Foundation's (LBF) President's Award at the LBF's Annual Fellows Membership Meeting on April 8. Presenting the award is 2015-16 LBF President H. Minor Pipes III. The award recognizes outstanding support and volunteer service to the LBF. Ralston serves on the LBF's board of directors and on the Development Committee and served as co-chair of the 30th Anniversary Gala.

*Photo by Matthew Hinton Photography.*

## President's Message

# Louisiana Civil Legal Aid – Are We There Yet?

*By President E. Jane Sherman*

Hot summer months spark memories of my childhood family road trips. The six of us, and often our two basset hounds Maude and Claude, would cram in our Vista Cruiser station wagon with its stylish woodgrain paneling, and off we would go from our home in Monroe to adventures to be discovered. My three siblings and I would draw straws for who would get the two prime locations on the back seat and who would have to curl up on the hard floor board and risk first-degree burns if flesh skimmed the scalding metal seatbelt bolts. At least hourly, one of us would send out a plea to our parents, “Are we there yet?” We journeyed many miles in that Vista Cruiser with high and sometimes low experiences. Such is true of our Louisiana Bar Foundation’s funding journey of civil legal aid.

The Louisiana Bar Foundation (LBF), although founded in 1969, reactivated its charter in 1985 and gained resources primarily from voluntary IOLTA (Interest on Lawyers’ Trust Accounts) income and memberships. Thus began the journey of LBF’s funding of civil legal aid to low-income qualifying citizens. In 1990, the Louisiana Supreme Court initiated mandatory IOLTA, requiring interest on all pooled attorney-client trust accounts to be paid to the LBF for funding of state civil legal aid services. This mandatory IOLTA ruling, along with a later Louisiana Supreme Court order (LASC) implementing rate comparability—requiring financial institutions to pay the same interest rate on IOLTA accounts as on similarly situated accounts—helped to fuel the LBF funding efforts. Although the LBF funding journey experienced a federal fund target rate of 5.25 percent post the LASC order, interest rates began falling significantly thereafter to a new historic range of 0-.25 by the end of 2008. Like all journeys, there are unexpected encounters

that bring challenges. Since the interest rate market decline in 2008, the funding road has suffered several bumps. In 2010, Louisiana lost approximately 40 percent of its federal funding from LSC due to census adjustments. In 2011, the Louisiana Legislature ceased providing a general appropriation for civil legal services. In 2014, Louisiana lost an additional approximately 16 percent of its federal LSC funding from the previous year due to significant poverty population increases in other states, thus lowering Louisiana’s percentage of the total. In other words, Louisiana’s poverty population had not decreased but its share of federal funding decreased. As a result, in 2015, LBF’s funding to legal service providers was sufficient to serve only 25,000 of the 161,000 total households in poverty.

The LBF wisely sought supplemental funding sources and, with these new resources and the use of reserve funds, has managed to stay the course and maintain its grant funding levels despite the cuts from state and federal funds, as well as the interest rate decline. However, continued use of reserve funds will cause us to come to a dead halt if not refueled with other funding.

I am happy to report that the LBF has recently secured three new funding sources to maintain our journey of funding civil legal aid services during these next few years of low interest rates.

In June 2015, the LBF and the Louisiana Attorney Disciplinary Board (LADB) entered into an agreement regarding the increase of pro hac vice fees from \$250 to \$450 to be in line with other state’s fees. The LADB agreed to transfer to the



E. Jane Sherman

LBF, in an annual single payment, funds generated by the fee increase. Through this agreement, the LBF will award the funds to the three legal services corporations for the provision of civil legal aid services to the indigent. The funds generated by the increase in the initial period of July through Dec. 31, 2015, totaled \$54,400 and were disbursed to our three Louisiana legal service corporations in January 2016. We thank Chris Ralston, Larry Shea and the Access to Justice Committee for their work on this new source of funding for civil legal aid.

In March 2016, the LBF, with the support of the Louisiana State Bar Association’s (LSBA) Rules of Professional Conduct Committee and the Louisiana disciplinary counsel, submitted a proposed amendment to the Louisiana Rules of Professional Conduct Rule 1.15, “Safekeeping Property.” The amendment will help lawyers properly dispose of unidentified funds remaining in their IOLTA accounts for at least one year after diligent efforts to document them as belonging to a client. The Louisiana Supreme Court adopted the amendment on March 23 mandating the unidentified funds be transferred to the Louisiana Bar Foundation. The funds will generate revenue to support legal aid. Guidance and instructions for remitting unidentified funds are available on the LBF’s website, [www.raisingthebar.org](http://www.raisingthebar.org).

Finally, and most financially impactful, the LBF was advised in April of a distribution to be made from the U.S. Department of Justice Bank of America settlement of just over \$6.5 million to the LBF. Last year, the LBF received \$532,000 from the U.S. Department of Justice Bank of America settlement. This year’s new funds of \$6.5 million will be used over the next few years to continue helping families stay in their homes and out of foreclosure and bankruptcy. More specifically, the LBF

Continued next page



**LBF** continued from page 92

will utilize these funds to restore some of its reserves and to provide sustainable direct legal services with an increase in grant awards moving into future years until hopefully more funds become available.

These three new funding sources bring continued mileage to civil legal aid services in Louisiana. Are we there yet? Are we able to fully serve the legal needs of our Louisiana poverty population? Sadly, no. Our journey this year has new vistas, but our destination of full funding of our civil legal needs is yet ahead. Our Campaign to Preserve Civil Legal Aid will soon begin. With funding efforts from

the LBF, the LSBA and the new Access to Justice Commission, along with all legal aid stakeholders in Louisiana, it is hoped that funding for civil legal aid will continue its long journey to help those in need who cannot help themselves. Are we there yet? No, but we are motoring ahead and making history. These new funding sources will provide us with funds these next few years to sustain our grantees and offer some expansion of service. More is needed. More will be done. After all, as the adage says, life is a journey, not a destination.

**Louisiana Bar Foundation  
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The Louisiana Bar Foundation announces new Fellows:

Michael W. Rutledge .....New Orleans  
Hon. E. Paul Young.....Shreveport  
Hon. Glenn B. Ansardi .....Gretna  
Hon. Edward D. Rubin.....Lafayette

**ANSWERS** for puzzle on page 58.

1	S	A	S	K	A	T	C	H	E	W	A	N
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3	R	E	D	M	E	A	T		R	E	S	E
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Lafayette Area	Josette Abshire director@lafayettebar.org	(337)237-4700			
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For more information, go to: [www.lsba.org/goto/solace](http://www.lsba.org/goto/solace).

## CLASSIFIED NOTICES

Standard classified advertising in our regular typeface and format may now be placed in the *Louisiana Bar Journal* and on the LSBA Web site, [LSBA.org/classifieds](http://LSBA.org/classifieds). All requests for classified notices must be submitted in writing and are subject to approval. Copy must be typewritten and payment must accompany request. Our low rates for placement in both are as follows:

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## NOTICE

**Notice is hereby given** that Keith David Thornton is filing a petition and application for reinstatement to the Louisiana State Bar Association. Any person(s) concurring with or opposing the petition and application for reinstatement may file notice of their concurrence or opposition with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002, within 30 days.

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## FIRST WORDS FROM 1978-79 LSBA PRESIDENT

**Editor's Note:** For this issue's "The Last Word," we chose to republish the first words from Bob F. Wright, the Louisiana State Bar Association president in 1978-79. Mr. Wright's first President's Message in Volume 26 touches on some issues still being addressed today. See Mr. Wright's interview in this issue on page 22.

# PRESIDENTS MESSAGE

Dear Fellow Lawyers:

Working with President Howard Gist, Jr., Tom Collins, Jr. and his staff, during the past year was most enjoyable and enlightening for me. Personally, and on behalf of the Bar Association, I would like to extend to Mr. Gist our deep appreciation for his excellent leadership during the year where many important issues confronted the Association not the least of which was lawyer advertising.

For the 1978-79 year, your president's by-words will be *involvement* and *unity*.

*Involvement* by all of our 9,000 members in the activities and projects may be too much to expect but not too much to seek.

The many lawyers who have been, and still are, involved in Bar Association activities will attest to the real need for more individual lawyer participation in order to accomplish the Association's goals. Greater participation with the resulting input will be of benefit to all.

More *unity* within the Association, between all segments whether it be the plaintiff or defense bar—commercial practitioners or trial lawyers—more seasoned lawyers and young lawyers—will most certainly strengthen our voice and improve the Association's public image. Both strength and imagination will be needed if your Association is to effectively represent all lawyers in pending concerns over lawyer advertising, continuing legal education, self-designation or certification of lawyers, legal malpractice insurance, anti-trust threats, contingency fees and "no fault" insurance, to mention a few.

Some of our specific objectives for the ensuing year are:

1. Further consideration of the enactment of a program for self-designation of lawyers in Louisiana.
2. Distribution of permanent type laminated membership cards to all members.
3. Creation of a "Task Force" for long-range planning for the Louisiana State Bar Association.
4. Stimulating more interest within the sections and committees of the State Bar Association.
5. Holding regular meetings with the Supreme Court to allow the Court and the Association to maintain a closer relationship.
6. Creating and maintaining a better relationship with the press.
7. Institution of a more active public relations program in order to counteract complaints concerning the unavailability and/or difficulty in obtaining legal services.



BOB F. WRIGHT

8. Institution of a Watts Line in the State Office to allow free and easy contact between Association members and our Executive Counsel's Office.
9. A regular Louisiana Bar Association Newsletter to supplement the Louisiana Bar Journal so that members will be kept more current on Association activities.
10. Expanding upon the continuing legal education programs sponsored by the Bar Association.
11. Inviting a larger number of exhibitors to annual conventions to better inform busy lawyers of changing practices and law office equipment as well as to increase Bar Association income.
12. Arranging what we expect to be the largest Louisiana State Bar Association Convention in Louisiana history to be held in Las Vegas, Nevada, May 6, 1979 through May 10, 1979.

In assuming the Presidency of this Association, I am, of course, proud, but also humble. One old colleague often reminds me that I practice law like I used to plow fields in Illinois—straight ahead and with little imagination. My response to this analysis (probably true) is that with a good team of horses pulling the plow, we will not only sow but reap a fine yield for the Louisiana State Bar Association in 1978-79.

We earnestly urge each of you to join the team.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Bob F. Wright". The signature is written in a cursive, flowing style.



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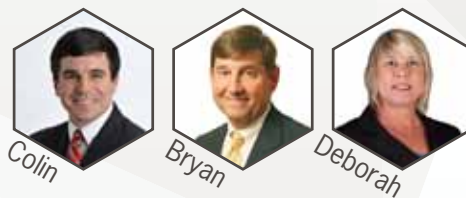
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