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Barry H. Grodsky
78th LSBA President
New Orleans





The
Needle
In A
Haystack



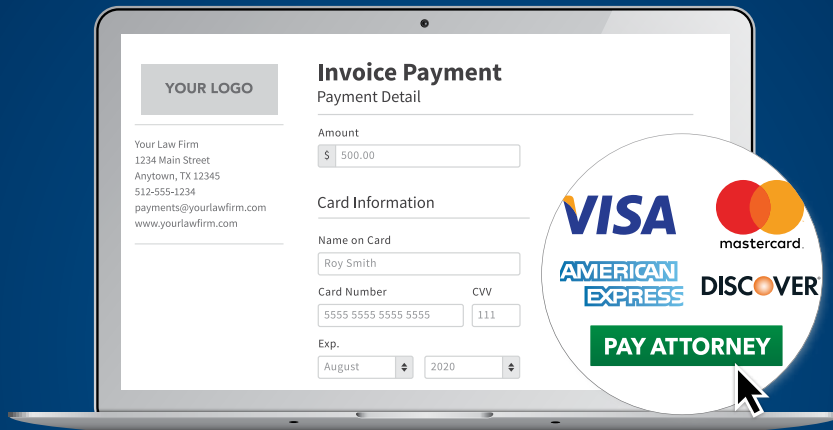
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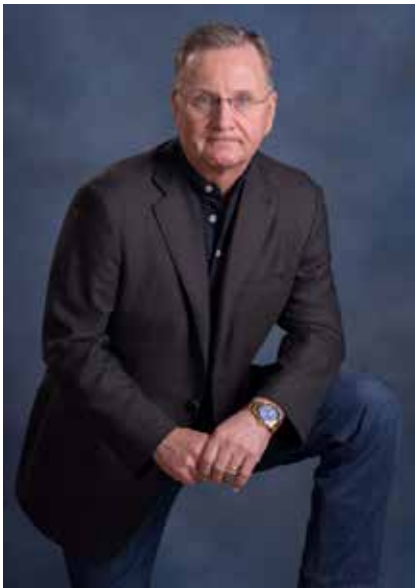
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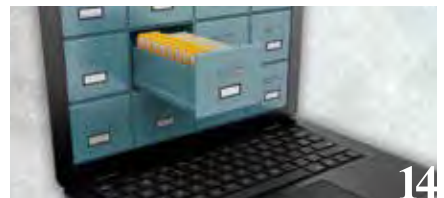
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Barry H. Grodsky, the 78th president of the Louisiana State Bar Association, with his wife, Cheri Cotogno Grodsky, and their daughter, Caroline. The photo was taken in City Park in New Orleans. Read the President's Interview beginning on page 6. Photo by Stephany Cure/Wise Girl Design and Photography.

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By John E. McAuliffe, Jr.

Changing of the Guard: LSBA Presidents Pass the Baton

With the coming of summer, we will encounter several “rites” of passage. Snowball stands will open. Baseball will begin to get serious. The NBA playoffs will come to an end (or, is that in October?). Moms will get some needed rest as their little ones play outside to a pleasant exhaustion.

In our legal circles, SCOTUS will shutter its doors. Many lawyers will take their annual vacation. And, the Louisiana State Bar Association (LSBA) will hold its Annual Meeting which brings us a change in leadership. There are new members of the Board of Governors, a new Treasurer, Shayna Sonnier, and, of course, a new President, Barry Grodsky. (Sorry, you have one more year of me.)

By the time this issue arrives, Dona Kay Renegar will officially be our immediate past president. She is likely somewhat relieved and thankful that her practice will get back to normal. But, what she should be feeling is satisfaction and pride in her accomplishments. (I know she would also say she had help from the Board and the LSBA staff.)

The LSBA continues to be in a solid financial position. As our leader, Dona kept her eye on the piggy bank no matter what person or program was asking for money. Just before she took office, she headed a committee charged with the task of dissecting every aspect of the LSBA to



find ways to save money. So, she came in with that mindset.

During her administration, the Louisiana Supreme Court mandated that the Legal Specialization Program and the Mandatory Continuing Legal Education (MCLE) Program will now be administered by the LSBA. These programs are very important to our members and the LSBA. The administration of Specialization and MCLE by the association will be a critical factor to all of us as our unified bar moves forward.

Finally, Dona spent untold hours traveling the state, meeting the public and our members and attending functions. She spread the LSBA’s messages of inclusion and access to justice to all corners of Louisiana. We all owe our thanks to Dona for her enduring efforts during her year as our president.

As for our new president, I have

known Barry Grodsky for more than half of my life. (That WAS a frightening statement to make.) No member of the LSBA “deserves” to be president. But, in Barry’s case, one has heard that statement from more than a few of our attorneys. His many years of active and productive service to our members and the public have generated that reasoning.

Barry has been the chair of the LSBA’s Committee on the Profession for many years. He previously served as secretary and editor of this *Journal*. He has been on the Budget Committee, the Audit Committee, the board of JLAP, etc, etc. Anything he has been asked to do, he has done.

I will not tell you about Barry’s plans for “his” year (but you can get a clue in his President’s Interview in this issue). He discussed some of his objectives in his swearing-in speech to the members attending the Annual Meeting. He will make his plans known to the full membership via his *Journal* President’s Messages throughout his year.

I know this. He cares about this profession. He respects and cares for our members and our judiciary system. He will meet any crisis directly and with measured actions.

President's Interview



One on One with Barry H. Grodsky, 78th LSBA President: *On Professionalism, Mentoring, Strategic Planning and Family*

Interviewed by John E. (Eddie) McAuliffe, Jr.

Barry H. Grodsky, a partner in the New Orleans firm of Taggart Morton, L.L.C., has filled many Louisiana State Bar Association (LSBA) leadership roles since his first foray in 2002 as a member of the LSBA's Professionalism and Quality of Life Committee (the precursor to today's Committee on the Profession).

He received a BBA degree, with honors, in 1979 from the University of Texas-Austin and his JD degree in 1982 from Tulane University Law School. He was admitted to practice in Louisiana in 1982.

Grodsky served as LSBA president-elect in 2017-18 and as secretary and editor of the *Louisiana Bar Journal* from 2013-15. He represented the First Board District on the LSBA's Board of Governors. For many years, he has chaired the Committee on the Profession and coordinated several law school professionalism programs for the Bar on behalf of that committee. In 2009, the LSBA received the American Bar Association's Smythe Gambrell Professionalism Award for the Bar's ground-breaking professionalism efforts. He also has served on the Budget Committee, the Bar Governance Committee, the Continuing Legal Education Committee and the LSBA Fee Arbitration Panel. He received the LSBA's President's Award in 2008 and 2010 and the award for outstanding service to the Bar in 2013-14.

He is an instructor at Tulane University and received the Tulane University Teacher Recognition Award in 1993. He was a Tulane University Faculty Fellow from 2000-02 and received the Distinguished Faculty Award in 2016.

Grodsky and his wife, attorney and LSBA Associate Executive Director Cheri Cotogno Grodsky, are the parents of a 9-year-old daughter, Caroline.

Eddie: We've known each other a long time and I know you are very worried about this interview. But let's start by telling the members about your education and your career path.

Barry: I started my education at Sam Barthe School for Boys. My "formative" years were spent there. Having survived that, I started my education at the University of New Orleans. I later transferred and graduated with a business degree from The University of Texas in 1979. Then, I graduated from Tulane Law School in 1982.

Eddie: Because I've known you for so long, I know how important family is to you. Your Dad was in the clothing business and your brother Mel took over the business eventually. So, why did you decide to go to law school?

Barry: I made a decision to file suits rather than sell them. My family had a number of different clothing stores. My

brother Mel still works in the clothing business. I worked there in high school, and parts of college and law school as well, but I realized retail wasn't for me and I wanted to practice law. Also, my oldest brother was in law school when I was a teenager and that process fascinated me.

Eddie: Your wife Cheri Cotogno Grodsky is an attorney and the associate executive director at the LSBA. How will working with Cheri affect your year as president? Will you finally feel like you are in charge?

Barry: Cheri has been instrumental in a lot of what I've done for the Bar. She is the attorney liaison for the Committee on the Profession. She introduced me to Bar activities when I was attending events as a spouse. That first enabled me to see what the Bar was doing and I became involved.

Eddie: In Bar circles, you are known for always having a joke or funny story. That's not by accident. Tell us about your Mom, Jenny, a wonderful lady!

Barry: My mother had a great sense of humor. My father, too, but my mother spent a bit of time doing some stand-up comedy. She passed away right after Hurricane Katrina. In going through material in her apartment, we found stacks and pages of jokes and material. Her notebooks! All good stuff.

Barry H. Grodsky, the 78th president of the Louisiana State Bar Association, with his wife, Cheri Cotogno Grodsky, and their daughter Caroline.
Photo by Stephany Cure / Wise Girl Design and Photography.



Barry Grodsky with former President Richard K. Leefe at the 2014 Annual Meeting in Destin, Fla. Photo by Matthew Hinton Photography.

Eddie: How did your Mom's attitude about comedy affect your outlook in the practice of law?

Barry: If you don't have a sense of humor in what we do, you will go crazy faster. We have to have a good light heart and a smile. It's important to keep happy, funny thoughts and don't take ourselves too seriously.

Eddie: I know you are still close to your brother Mel. How does Mel's counsel and your relationship with him affect your practice of law?

Barry: We both attended Sam Barthe's School for Boys so are we cut from the same cloth there. He's practical, a level-headed common-sense person. After high school, he joined the Army. Then he went to work for himself at age 20. He's now 71. He has always worked for himself and has pride in what he does. He's a great role model and mentor. He's very bright. He shows what a person can do by seeing how hard he works and what he has accomplished.

Eddie: You were a law clerk in Orleans Parish Civil District Court. Who were your mentors? What attorneys helped you on your path?

Barry: It's interesting that a lot of what I do now for the Bar through the Committee on the Profession is mentoring. My earliest role model, though, was before high school, attorney Peter Michel, my high school basketball coach. Peter was

a superb high school All-American basketball player. He played at Georgetown and for a brief stint with the New Orleans Buccaneers. He also practiced law. I looked up to him and am still friends with him now. A coach is a mentor. I did some interning with Judge Morey Sear in federal District Court. I clerked for (Civil District Court) Judge Steven Plotkin. He was the role model for me and many others. He gave a lot of responsibility to his law clerks. It was my first real interaction in court and a great experience. We worked together writing opinions. I was introduced to judges and formed good relations. The irony is this was in 1982-83. In my early years of practice, though, I didn't have any real mentors. When I look back and see what I didn't have, that was part of the reason we pressed so hard to put a mentor program in place. I have worked in various firms and have since been given good advice along the way. I first started to see what a mentor could be when I practiced at Shushan, Meyer, Jackson, McPherson & Herzog. Looking back, I understood the importance of mentoring.

Eddie: Is that why you are so interested in giving back to young lawyers through the LSBA's Mentoring Program?

Barry: Absolutely. To give young lawyers this opportunity is wonderful. We often learned through trial and error. Now we can teach and assist young lawyers to make their paths easier. That's a fundamental element of professionalism. It's important to have this program in place now.

Eddie: What is your general practice now?

Barry: It's equally divided. I represent financial institutions doing mostly creditor and bankruptcy work as well as handling litigation, transactional matters and regulatory litigation. The other half is property management law representing landowners and property management companies. Everything from negotiating, preparing and enforcing leases, housing defense work, fair housing litigation, and all the administrative aspects of that. It's an area that I've grown into and I really enjoy it.

Eddie: What was your worst day in court?

Barry: Even though I won this hearing, my single worst day in court, which I hope never to duplicate, was this... After I had been practicing for about five or six years, an attorney in my office asked me to go to bankruptcy court for a hearing for a brand new client. I never met the guy. I had a broken toe, so I went into court with one nice dress shoe and a tennis shoe to meet the client for the first time. Then, during the hearing, the zipper of my pants broke. (No, that pair of pants didn't come from my brother's store.) During the hearing, I had to hold on to my pants. But I won the hearing. I had to keep holding the pants up while walking out of court carrying a heavy briefcase. The client, thereafter, reported back to the attorney that we won. Then he fired me.

Eddie: What was your best day in court?

Barry: That's a good one.

Eddie: Any day you don't lose?

Barry: That, too. I was involved in litigation dealing with an employee compensation case. We lost at trial, a disappointing result. I felt bad for the client who was duped by the employer. We appealed and the decision was unanimously reversed. The client, an engineer, put his faith in me to clear the matter up on appeal. It was a fair result. It gave the client an opportunity to right a wrong. It was a good resolution.

Eddie: Have you had more good days or bad days?

Barry: Absolutely, more good days. Going to court, with extremely rare exceptions, no matter if it's a win or a loss, if I can shake my opponent's hand at the end and walk out in a professional and civil manner (nothing personal), then it's a good day. It's also a good day when I think of all the friends I have made along the way — good people and good lawyers. People who have worked hard to improve the profession. These are wonderful relationships. Adding in a few characters always puts a smile on my face.

Eddie: You talked about getting involved in Bar activities. You've been involved with the Committee on the Profession for several years. Why did you

get involved in that committee?

Barry: That was my first endeavor with the Bar in 2002. I wrote a letter to then-LSBA President Larry Feldman and asked to be placed on the Professionalism and Quality of Life Committee (its precursor). I went to my first meeting. Bobby Delise, Larry Feldman, Steven Plotkin were there, those were the few people who I knew. I served on the committee for a few years and had the opportunity to engage in professionalism programs. In 2006, I became vice chair. Since 2008-09, I chaired the committee.

Eddie: Why is the work of the Committee on the Profession important to the Bar and the public?

Barry: This committee epitomizes what the state Bar is supposed to do and what we do for the public and profession. We engage in professionalism activities in several areas, including law school students — our prospective lawyers — by offering a number of innovative programs to promote and teach professionalism. Because whether you are an admiralty lawyer, a bankruptcy lawyer, etc., we all need to maintain a level of professionalism.

Eddie: You are being modest here. You were the main person who started many of these professionalism programs.

Barry: When I started work on the Committee on the Profession, the only law school program in place was the 1L Orientation Program. Via that program, we go into law schools a few days before the first day of classes with an impressive contingent, including the Bar President, other officers and Louisiana Supreme Court justices. Then we go into breakout groups with prominent lawyers and judges dedicated to professionalism. But that was the only program we had at the time. Some students were not focused on that. Then we understood there were problems with character and fitness, that component of Bar admissions.

Eddie: That's a process our generation didn't have to go through.

Barry: In the "old" days, the character and fitness portion for Bar admissions was one page with just basic questions. You



Barry, Caroline and Cheri Grodsky at the 2015 Annual Meeting in Destin, Fla. Photo by Matthew Hinton Photography.

completed the form and someone signed it if they knew you. It seemed that possibly some people who got through maybe shouldn't have. The Louisiana Supreme Court then put in a more rigorous test through the National Conference of Bar Examiners. Now the character and fitness questionnaire is 32 pages long, intrusive, invasive. You are asked where you worked for the past 10 years, your schooling, your debt information, etc. It takes a long time to complete. This has caused students to do some real hard self-assessment and students needed some help in answering questions and addressing personal concerns such as addiction or psychological problems. We knew we could get them help. We created the character and fitness program and visited students in the first-year spring semester and second-year first semester to teach them how to complete the character and fitness test. We worked with the Committee on Bar Admissions, the Office of Disciplinary Counsel and the Judges and Lawyers Assistance Program.

We give the students hundreds of pages of information on how to answer specific questions. This program was the first of its kind in the country and the LSBA was recognized with the American Bar Association's Smythe Gambrell Award. Prestigious. We are proud of that. This program is helping a lot of people. We received feedback that students were getting the help they needed to become productive lawyers.

Eddie: A number of law school graduates are not able to find a job. What's the Bar doing about that?

Barry: The job search is difficult. Many law school graduates are still trying to find jobs in the profession for quite a while after law school graduation. We encourage young lawyers to find work through access to justice programs and be matched with pro bono and low bono clients. We also created the Transition Into Practice (TIPS) Mentoring Program for students out for a year. While we don't put



Barry and Cheri Grodsky at the 2018 Louisiana Bar Foundation Gala in April. Photo by Scott Threlkeld Photography.

them in touch with employers for a job, the program exposes them to legal settings and explains to them how a law office works, how to get clients, ethical rules, where the courts are, etc. The one-to-one mentoring program gives young lawyers assistance if they want to hang out their own shingle if they can't get a job. There were no programs like this before TIPS.

Eddie: What has been the feedback on TIPS?

Barry: Positive feedback in the 90 percent range. When we first discussed the pilot program (in New Orleans, Baton Rouge and Shreveport), the biggest concern from the Louisiana Supreme Court is that we wouldn't get enough mentors. For the first year, we had 120 mentees and 250 mentors. We have a waiting list for mentors, and several mentors sign up to participate in the program again and again.

Eddie: Do you get feedback on mentor/mentee pairs? Do they continue to communicate after the program is completed?

Barry: Yes, there are good relationships formed. It's a voluntary program. Some law school graduates don't choose to participate. But those who have completed the program tend to stay in touch with their mentors. It's

a one-year program commitment but it does give the mentee a person to talk to down the road for additional guidance.

Eddie: My first mentee called and asked if I would introduce her to the federal court. It was a privilege to do that for her.

Barry: We also have several other programs in law schools, including 3L Programs. We are getting ready to introduce programs on debt service. After the mentoring program is complete, we knew we couldn't just leave the young lawyers on the doorstep. So we are now creating programs for lawyers in practice from two to seven years. These lawyers deal with different issues than a one-year lawyer. Do I still want to be a lawyer? Do I want to stay in a big firm? Go to a smaller firm? What can I do to change my practice? My work-life balance is out of whack. What to do? These are all issues faced later in a practice. We are going to continue to work on more programs.

Eddie: For several years, the Bar has had a Code of Professionalism. I've heard there's a new Code of Professionalism in the works.

Barry: It's not a new one. A subcommittee of the Committee on the Profession was created to amend our Code of

Professionalism. We haven't updated it in quite a while. It was created by the LSBA and Louisiana Supreme Court 26 years ago. It needed to be updated for the 21st century. Subcommittee Chair Alicia Bendana has done a lot of work on the updates. It was a two-fold process. First, we wanted to keep the good parts, such as "My word is my bond" and "Respect to the court." Second, we needed to add things that are topical now, such as the proper use of social media. Who knew about that 26 years ago? The updated Code has been approved by the subcommittee, the full Committee on the Profession and the LSBA's House of Delegates. The updated Code has been approved by the Louisiana Supreme Court. It will be sent to all 22,000+ lawyers with my sincere hope that everyone will take just a few minutes to read and reflect upon it. It is aspirational, not mandatory, but it is a good thing. It will spur a lot of updated professionalism programs. It needed to be done.

Eddie: You mentioned you are working with the Louisiana Supreme Court on the new Code of Professionalism. Do Bar presidents often work with the Supreme Court?

Barry: Yes, we do. The Bar president and the Supreme Court justices often work together. We have an excellent relationship with our Supreme Court. The justices support our Bar programs. We are under the auspices of the Louisiana Supreme Court. The more involved I get with the National Conference of Bar Presidents and the Southern Conference of Bar Presidents, I have noticed that the states with Bars controlled by their Legislatures sometimes have issues and concerns we never seem to face. We are so fortunate to have the relationship we have with our Supreme Court and I believe this strong relationship will continue. Chief Justice Bernette Joshua Johnson has been a fantastic supporter of the Bar and we are truly appreciative of that.

Eddie: I notice that for most programs involving law students and young lawyers, we see Louisiana Supreme Court justices in attendance.

Barry: Yes, it's important for law students and young lawyers to be addressed by the Louisiana Supreme Court justices. It speaks volumes about how important the relationship is between the LSBA and the Court. Plus, it shows the students how involved the Supreme

Court is in the profession.

Eddie: One facet of the LSBA is to foster access to justice, as it is for the Supreme Court as well. What is the Bar doing for citizens of Louisiana in that respect?

Barry: This is an extremely difficult issue. (Our Immediate Past President) Dona Kay Renegar laid a lot of groundwork on this issue during her term, which will serve as a foundation for future presidents. This is not about criminal representation. For the criminal system, there are constitutional protections to obtain legal representation. But there are no guarantees in the civil litigation area. For instance, in the housing areas, I often have to litigate with self-represented parties. The attorneys and the judges are trying to make the system work, but it is not easy. We are taking a hard look at this. First and foremost, the issue is funding. Louisiana is one of only three states which does not fund access to justice programs, and, although Congress does provide resources, these programs are still underfunded. We need to work closely with the Louisiana Bar Foundation, which does a magnificent job of getting money in and allocating it to the various legal services agencies, and we need to continue supporting its efforts. We need to let citizens know we have ways to communicate with us about their problems. We are blessed to have a great staff that deals with access to justice issues. We are currently compiling material (such as the online Modest Means Directory) which will connect lawyers and citizens needing help and who can pay something. It's a win-win for everyone. The citizens are getting the help they need, and the lawyers are getting contacts, some moderate fees, experience handling cases, and good word-of-mouth support. We need to identify and promote every possible program we can to aid in this endeavor.

Eddie: In the recent past, the Louisiana Supreme Court has ceded regulatory functions back to the LSBA? What are those functions?

Barry: Years ago, the LSBA handled most mandatory Bar functions. Later, areas like Discipline and Bar Admissions became under the governance of the Louisiana Supreme Court. But the Bar's strong administrative capacities and physical facility have allowed some governance

and regulatory functions to come back to the LSBA from the Supreme Court. Legal specialization is one area that has come back. Recently, the Supreme Court signed an order for Mandatory CLE to come back under the Bar's jurisdiction.

Eddie: Is taking over regulatory functions good for the Bar? From a lawyer's standpoint, it seems like a one-stop shop.

Barry: A lot of members associate some duties with the LSBA that are not under the Bar's jurisdiction (like discipline). But, we feel that, the more regulatory functions that a mandatory Bar has under its jurisdiction and control, it shows overall significance and importance in the Bar's role and strengthens our position as a mandatory Bar.

Eddie: I have traveled around the state and I've noticed that some lawyers in rural parishes say the LSBA has no relevance to them. How do you answer that?

Barry: And, I must note, that this question comes from a person who has been to all 64 parishes. Let me answer this way. Once, a Shreveport attorney, a good consumer lawyer, commented to me that, in Shreveport, they perceive the State Bar stopping just north of I-10. That struck a nerve with me. It's true that about 75 percent of our lawyers practice from I-10 south, and the farther you get away from that corridor, it becomes more of a challenge. Shreveport is an interesting city. It has a wonderful Inn of Court and an active local Bar. With the assistance of former LSBA President Larry Shea, I had a great opportunity to work with Larry Pettiette and Judge Mark Hornsby on the Bar's Mentoring Program. I remember the first time I went there to give a speech. I was expecting to address five to 10 people from the Inn of Court and local Bar. Well, they rolled out the red carpet and there were 130-140 people there, including (U.S. 5th Circuit Court of Appeals Chief) Judge Carl Stewart. We need to address the needs in all parts of the state. We need to do a better job of outreach and explain to all members the Bar's resources and relevance. It's not just Alexandria, Shreveport, Monroe, but more rural areas as well. Some parishes just have a handful of lawyers, but they need to become part of what we do. We have too many resources for them not to take ad-



Barry Grodsky holds Caroline Grodsky during the LCLCE reception at the 2014 Annual Meeting in Destin, Fla. Photo by Matthew Hinton Photography.

vantage of them. We need to improve outreach and educate them. I applaud Dona Renegar for her efforts on this and future Bar leaders must follow her lead.

Eddie: What would you tell urban and rural lawyers about getting involved?

Barry: The first thing is get involved in an LSBA committee or a section that interests you or perhaps serve in the House of Delegates. Find an LSBA project or program that you know about or heard about. Contact the Bar and get involved. Just get involved, period. There are 60 local and specialty Bars in the state. Get involved there as well. I want to have more interaction with local Bars and Inns of Court, especially on mentoring. Don't forget about online CLE. It's limited to how many hours you can take in a year but the program is there. We also offer CLE programs in many places throughout the state.

Eddie: You've been involved with the LSBA for several years and are familiar with the staff. How important are staff members to your work, the Board's work and the work of all attorneys?

Barry: That's a softball question. We can't operate without the staff members. When you first start working with the Bar, it doesn't take long to know that the staff members are both friends and colleagues. It would be 100 percent impossible to accomplish anything without the staff. Before I was the *Journal* editor, and clueless, the Communications Department staff helped me with many aspects of that



Barry Grodsky and Eddie McAuliffe in 2005.

job. But it really does start at the top with Executive Director Loretta Larsen. We recently celebrated Loretta's 25 years as Executive Director with the Bar, calling it her "first 25 years." (Loretta has worked for the LSBA for a total of 32 years.) We are so fortunate to have her and her institutional knowledge. Plus, Cheri was with the Office of Disciplinary Counsel for 15 years and has been with the Bar for 20 years. That's a lot of experience.

Eddie: Loretta surrounds herself with good people.

Barry: Yes, there's a lot of institutional knowledge at the top. I can research something for three or four days or I can call Loretta. I have my answers instantaneously. We also have magnificent directors, many who are staff liaisons to various committees. As you go through Bar leadership, it is easy to understand that the success you achieve would not have been attained without the selfless work of the Bar personnel. The more you become involved the more you understand their importance and significance. These are the silent heroes who deserve the true credit. The committees could not do what they do without the staff assistance. The best part is that I don't think of the Bar "staff" as much as I think of it as my friends at the Bar office.

Eddie: And most LSBA staff members multi-task?

Barry: Yes, they do. Having staff members who do a multitude of tasks is inevitable and invaluable. Every staff member makes sure everything goes right. Without the staff handling some of the heavy lifting, those of us in leadership would never get to practice law. You can't put a price tag on that.

Rapid-Fire Round: What Do You Prefer?

Eddie: Shoes, tie or slip-on?

Barry: Now, it's "big boy" tie-up shoes.

Eddie: Belts or suspenders?

Barry: Belts.

Eddie: Neckties or bow ties?

Barry: Few people are talented like you to be able to tie a bow tie. I use neckties.

Eddie: CDC Rule Day or Bankruptcy Court Day?

Barry: That's 50-50.

Eddie: CLE programs, live or via Internet?

Barry: Ironically, most of my CLE hours are earned from the teaching/lecturing side. In fact, the last CLE I attended was the LSU year-end program which involved civil procedures and lease law. Both presenters discussed, in painstaking detail, a case that I lost in the 4th Circuit.

Eddie: Research preference, books or Internet?

Barry: Associates.

Eddie: What do you see as challenges to the practice of law?

Barry: The biggest challenge is lawyers who are unemployed or underemployed. How do we help them? Sometimes there may be an abuse/addiction connection, so we have to be supportive of the work of the Judges and Lawyers Assistance Program (JLAP). We have to make sure the lawyers, judges, their families, law students and other legal professionals get the confidential JLAP assistance they may need. We also have to make sure that we are doing what we can to promote access to justice. There are too many self-represented people needing lawyers, as in wrongful foreclosures, wrongful evictions and domestic cases, where one side has an attorney and the other side does not, etc. These are difficult times and scary for individuals to go to court with no training or background. That's a need to address.

Eddie: You discussed young lawyers without employment. Any problems with lawyers on the back end as we grow older, like the two of us?

Eddie: Client communications, telephone or email?

Barry: First choice, I talk to the client in person. Second choice, I talk to the client by phone. If I can't reach them in person or by phone, then, and only then, do I place something in writing via email.

Eddie: Paper or paperless office?

Barry: My office is paperless. But I am "old school" and I still write things out. I am fortunate to have a spectacular paralegal and my clients and attorneys I work with all know Courtney.

Eddie: Courthouses, modern or pre-1900s?

Barry: I love the old courthouses.

Eddie: For filing pleadings, via Internet or walk to the courthouse?

Barry: Walk to courthouse, because I can never be sure where my online filings may end up.

Eddie: University of Texas or anywhere else?

Barry: That's THE University of Texas!

Barry: We are addressing it. We have a Senior Lawyers Division. Statistically, that Division is growing very quickly. With economic forces at work and tough times, some lawyers have to work longer and for more years. That's part of the society and economy we are in. There are other issues as well. Some lawyers want to get out of practice and want to know if they can sell their viable practice. What are the parameters to do that? With solo practitioners in rural parishes facing catastrophic events, what happens to the lawyers' files, pending cases and court hearings? We have to have things in place to protect our lawyers and their clients. One of the benefits of having this division is that with age, comes wisdom. Many of these lawyers also serve as mentors. We have active leadership in that Division with such respected attorneys as Ed Walters, Richard Leefe and Mike Patterson. They have all been mentors to me.

Eddie: Here's a practical question. How often do you hear attorneys say dues are too high? How are the LSBA's finances?

Barry: I haven't heard too much

legitimate squawking about dues. Our dues haven't been raised for a while. We are very fiscally and financially solid. It's a good position to be in. We have been blessed over the past few years to have outstanding treasurers, individuals like President-Elect Bob Kutcher and Minor Pipes who understand the budgeting process and who have strong financial backgrounds. We also are fortunate to have good outside counselors for financial management and investments. We are hoping there are no catastrophes. We are in a good spot.

Eddie: There is a lot of stress in the daily practice of law. What do you do to de-stress?

Barry: My 9-year-old daughter, Caroline, who is in charge of just about everything, is my number one stress reliever. We have a lot of fun. I did play golf but my friends encouraged me to stop for good reasons. Also, losing golf balls was expensive. I also enjoy reading and, periodically, exercising, but chasing after a 9-year-old is a full-time occupation. But, I am also putting what I hope to be the last touches on a novel I wrote and hope to one day get it published.

Eddie: What are your goals for your year as Bar president?

Barry: I've received good advice from past presidents who have said establish a few core goals and projects. If you can get those done, and the ship doesn't sink, you will be successful. Here are some of my goals:

- 1) Have the updated Code of Professionalism signed, sealed and delivered when I start in June and begin promoting it statewide. As a profession, we simply need to be more professional.
- 2) Continue the focus on law students about to become lawyers and instruct them on how to pay back debt. All of the law schools are amenable to this idea.
- 3) Bolster access to justice in all ways we can and work with the Louisiana Bar Foundation to aid in these endeavors.
- 4) In the fall of 2018, we will start formulating our next Long-Term Strategic Plan. We need to get another plan in place with three components — 0-2 years; 2-4 years; and beyond 4 years. Our President-Elect Bob Kutcher is on board with this. This will lay the groundwork and become a road map for those who come after to



Barry Grodsky and Eddie McAuliffe in 2018. Photo by Darin Trittel.

steer the organization. We are doing some of the work now. Once we get back surveys to start the process, we will hit the ground running. We have set up a committee to create the long-term plan and will have a facilitator come in to help us set goals and chart the course. We are due for this update as the last plan was implemented by then-LSBA President Mike Patterson.

5) A few surprises along the way. I also want to promote the fantastic committees we have. I am truly amazed at the hard work and dedication of all of our committee chairs and leaders. This is volunteerism at its best. I could not be prouder of their efforts. As much as their members give, they get even more in return by serving on a committee. I want to encourage participation.

Eddie: During your Bar year, you will have some important guests coming into New Orleans, the Southern Conference of Bar Presidents.

Barry: Yes, to coincide with the New Orleans Tricentennial, the Southern Conference of Bar Presidents will hold its Annual Meeting in the city. We are going to put on a show for the 19 southern states. It's a great collegial group and there are great opportunities for building relations and sharing projects and programs. For instance, Virginia's incoming Bar president is providing extremely important information to me on a wellness program being instituted by the Virginia Supreme Court. When they work out the kinks, we will be looking at that program, too. Working with the National Conference of Bar Presidents, I have learned that Arizona is adopting a pairing process for young lawyers with-

out work and those people needing legal services who can pay something. It's a sophisticated system and will take about two years to implement. Once Arizona figures it out and tests it, their Bar leadership will assist us with this program. These relationships with the Southern Conference of Bar Presidents and the National Conference of Bar Presidents are critical.


Eddie: Your daughter, Caroline... What else would you like to say?

Barry: We don't have enough time. She is in third grade at Trinity School. She loves school. She is very bright, very pretty, with a lot of personality and pizzazz. She loves her Mom and she's a Daddy's girl. She is keeping me young. She is very conversant and can have a 20-minute conversation with an adult. I just let her go. She is truly a joy.

Eddie: Let me conclude by saying that, if you don't like your LSBA Secretary, it's your fault.

Barry: You were widely recruited to fulfill these obligations. We are thankful you have taken on this role in Bar leadership. You've done a great job. And nobody on the Editorial Board or the staff has taken a shot at you yet, so that's a good thing.

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Overview of Louisiana's Public Records Law

By Davis B. Allgood

The Louisiana Public Records Law (LPRL), La. R.S. 44:1, *et seq.*, provides a useful addition to almost any Louisiana lawyer's toolbox. Lawyers invoke the LPRL in widely varied contexts to discover how the government is affecting their clients. Business attorneys for clients in regulated industries, criminal defense attorneys searching for exculpatory information, lawyers for landowners with zoning concerns, these and many others routinely and profitably use the LPRL. For litigation attorneys, the LPRL provides a valuable adjunct to traditional discovery — they need not show relevance nor endure the extended delays of the discovery process to obtain information.

The LPRL's Purpose and Construction

Louisiana's Constitution guarantees the right to inspect public records,¹ and the LPRL implements this right. Under the LPRL, "any person of the age of ma-

jority may inspect, copy, or reproduce any public record,"² and "any person may obtain a copy or reproduction of any public record."³ The LPRL makes it a criminal offense for a public record custodian to violate the law or for a third party to participate in such a violation.⁴ Because it reflects an important public policy, "the Public Records Act should be construed liberally, and any doubt must be resolved in favor of the right of access."⁵

Who Must Retain and Produce Records?

The LPRL charges "custodians" with retaining and producing public records.⁶ The LPRL says "the word 'custodian' means the public official or head of any *public body*" that has custody or control of a public record, or the official's designated representative.⁷ The term "public body" includes "any . . . instrumentality of state, parish, or municipal government, including a public or quasi-public nonprofit corporation designated as an

entity to perform a governmental or proprietary function."⁸

What Is a Public Record?

The LPRL's definition for the term "public records" covers most public information, regardless of the media on which it has been stored.⁹ According to the 1st Circuit, the "Public Records Law covers virtually every kind of material or information which is recorded for some use in the performance of any public function."¹⁰

Despite the broad definition for "public records," multiple exceptions and exemptions to LPRL coverage exist, both within the LPRL itself¹¹ and in other statutes. The Legislature has collected and listed within one section of the LPRL the exceptions and exemptions contained in other statutory material.¹²

Characterization as a "public" record depends more on the record's use and purpose than the medium or method of its transmission or storage. The Attorney

General has said that emails of a personal nature, unrelated to public business, are not public records even though sent on a public email account.¹³ On the other hand, when public officials conduct official business using private email servers, the LPRL may apply.¹⁴ The Supreme Court has said that, where personal emails sent and received by a public employee at work became the subject of audits conducted on his employer's email system, their "use" in the audits made the personal emails public records.¹⁵

The fact that a public body uses a private firm to carry out some of its public responsibilities does not necessarily protect the resulting records. Where public bodies have hired private entities to perform their functions,¹⁶ or where private entities have received public funds,¹⁷ the resulting records have been subject to production.

Retention Requirements for Public Bodies

The LPRL generally prohibits a custodian from disposing of public records for three years from creation.¹⁸ The State Archivist may establish retention schedules for specified records that deviate from this three-year default period.¹⁹ The LPRL itself creates special retention periods for some records.²⁰ Custodians must retain other records, such as conveyance and mortgage records, permanently.²¹

Production Requirements for Public Bodies

Under the LPRL, a custodian must "present any public record to any person of the age of majority who so requests."²² The custodian "shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person."²³

The custodian may require the requesting person to sign a register,²⁴ but the custodian may not "review, examine or scrutinize any copy, photograph, or memoranda in the possession of any such person."²⁵ The custodian also may not discourage public records requests by making conditions difficult or uncomfort-

able for the requester.²⁶ Examinations occur during regular business hours, unless the custodian agrees to another time.²⁷

A requesting person ordinarily has the right to inspect records and to make his or her own copies or to have the custodian provide copies.²⁸ Requesters have the right to obtain their copies in electronic format.²⁹

Local bodies may collect "reasonable" fees for making copies, which fees may vary between local bodies.³⁰ The state commissioner of administration maintains a uniform fee schedule for state agencies.³¹

Custodians ordinarily may not charge requesters for examining records or making their own copies.³² Absent a court order, custodians may not charge for reviewing records to decide whether records are subject to disclosure.³³

Custodians need not create new records that do not already exist. For example, a custodian need not compile lists of information extracted from existing records.³⁴

Ordinarily, custodians must segregate requested records for inspection from other records,³⁵ and they may withhold from the production any nonpublic material.³⁶ However, if segregating the record would be unreasonably burdensome or expensive, or if the custodian already maintains the record in a fashion that makes it readily identifiable, the official may say so in writing and direct the requester to the record's location.³⁷

Requesters may not make such burdensome demands for access and copies that they interfere with execution of a custodian's duties. However, the custodian bears the burden to justify any limitation on a requester's right to view records or obtain copies.³⁸ Moreover, the cumulative effect of existing or possible future requests by other persons should not be a factor in determining whether a particular request is burdensome.³⁹

If a public official receives a request for a record over which he does not have "custody or control," the official must "promptly certify this in writing."⁴⁰ The certificate must "state in detail . . . the reason for the absence of the record . . . its location, what person then has custody . . . and the manner and method in which,

and the exact time at which, it was taken from his custody or control."⁴¹

The fact that an official lacks physical possession of a record does not mean that the official does not have "custody or control" that requires production. A custodian may not avoid its responsibility to control public records by transferring physical possession to a private entity.⁴²

Mechanics of Making a Request

The LPRL prescribes no particular format for requests. The enforcement provisions let a requestor sue to enforce "his in-person, written, or electronic request."⁴³ However, one court has said that to bring an enforcement action the requester must have presented a written or electronic request that adequately identifies both the requester and the records at issue.⁴⁴ Multiple cases recognize the right to make requests for copies by mail.⁴⁵

Time Delays for Production and Remedies for Enforcement

The LPRL says that a custodian must "immediately" present any public records not then in "active use" upon request.⁴⁶ If the record is unavailable because it is in "active use," the custodian must promptly certify this in writing and fix a day and hour within three business days when the requester may access the record.⁴⁷

If the custodian questions whether the record is subject to production, he or she has three business days from the receipt of a written request to consider and then to respond in writing with his or her position.⁴⁸ The custodian must provide written reasons for the determination, including the legal basis for a finding that the record is exempt.⁴⁹

Although the LPRL says that the custodian must provide a determination within three business days, it, in effect, allows five. Under the enforcement provisions, a requester may sue to obtain documents if production has been "denied."⁵⁰ Denial consists either in a determination, or in the passage of five

business days without the custodian having provided either a written determination or an estimate of the time necessary to collect, segregate, redact, examine or review the request.⁵¹

In an LPRL enforcement suit, a requester may seek mandamus, injunctive relief, declaratory relief, attorney's fees, costs and damages.⁵² The requester must sue in the parish where the custodian's office is located,⁵³ and the court must try the suit by preference using summary procedure.⁵⁴ The court reviews the custodian's determination *de novo*, and the custodian bears the burden to justify withholding records.⁵⁵ A requester who prevails in such a suit "shall be awarded reasonable attorney's fees and other costs of litigation;" where the request prevails only in part, the court has discretion to award reasonable attorney's fees.⁵⁶

The LPRL lets requesters recover actual damages caused by an arbitrary and capricious denial of access or an unreasonable or arbitrary failure to respond timely.⁵⁷ An untimely response, if unreasonable or arbitrary, also may justify a discretionary award of civil penalties up to \$100 per day.⁵⁸

Conclusion

The LPRL provides a powerful vehicle for citizens to enforce their right to monitor those who govern them. Legal practitioners will find it worthwhile to obtain and maintain a ready familiarity with its terms.

FOOTNOTES

1. La. Const. art. XII, § 3.
2. La. R.S. 44:31(B)(1) (emphasis added).
3. La. R.S. 44:31(B)(2).
4. La. R.S. 44:37.
5. City of Baton Rouge/Parish of East Baton Rouge v. Capital City Press, L.L.C., 07-1088, 07-1089, p. 14 (La. App. 1 Cir. 10/10/08), 4 So.3d 807, 817, writ dismissed, 08-2507 (La. 1/16/09), 998 So.2d 100, writ dismissed, 08-2525 (La. 1/16/09), 998 So.2d 99, judgment modified on rehearing, 07-1088, 07-1089 (La. App. 1 Cir. 2/13/09), 7 So.3d 21, writ denied, 09-0422 (La. 5/15/09), 8 So.3d 582, writ denied, 09-0530 (La. 5/15/09), 8 So.3d 583, writ denied, 09-0581 (La. 5/15/09), 8 So.3d 584, writ denied, 09-0587 (La. 5/15/09), 8 So.3d 585.
6. La. R.S. 44:31(A).
7. La. R.S. 44:1(A)(3).
8. La. R.S. 44:1(A)(1).

9. La. R.S. 44:1(A)(2)(a).
10. Capital City Press v. East Baton Rouge Parish Metropolitan Council, 95-1345 (La. App. 1 Cir. 6/28/96), 676 So.2d 793, 796, writ granted, 96-1979 (La. 11/15/96), 682 So.2d 745, rev. on other grounds, 96-1979 (La. 7/1/97), 696 So.2d 562.
11. E.g., La. R.S. 44:3; La. R.S. 44:3.1; La. R.S. 44:3.2; La. R.S. 44:3.3; La. R.S. 44:3.4; La. R.S. 44:4; La. R.S. 44:5; La. R.S. 44:19; La. R.S. 44:408; and La. R.S. 44:425.
12. La. R.S. 44:4.1.
13. La. Atty. Gen. Op. No. 10-0272.
14. La. Atty. Gen. Op. No. 01-155 ("If Board members or employees are actually conducting official business through electronic communications [on their personal computers], these private communications then become part of the public record and are subject to production under the Public Records Act.")
15. Shane v. Parish of Jefferson, 14-2225 (La. 12/8/15), 209 So.3d 726.
16. New Orleans Bulldog Society v. Louisiana Society for the Prevention of Cruelty to Animals, 16-1809 (La. 5/3/17), 200 So.3d 996; Burkett v. UDS Management Corp., 99-82 (La. App. 3 Cir. 6/2/99), 741 So.2d 838, writ denied, 99-1970 (La. 10/15/99), 748 So.2d 1150; La. Atty. Gen. Op. No. 86-772.
17. State ex rel. Guste v. Nicholls College Foundation, 564 So.2d 682 (La. 1990); Lewis v. Spurney, 456 So.2d 206 (La. App. 4 Cir. 1984), writ denied, 457 So.2d 1183 (La. 1984), writ denied, 458 So.2d 488 (La. 1984).
18. La. R.S. 44:36(A).
19. *Id.*
20. E.g., La. R.S. 44:36(B) (five years for Department of Revenue records); La. R.S. 44:36(C) (agencies receiving federal grants or participating in federal programs must comply with the federal record retention policy); La. R.S. 44:36(D) (Department of Public Safety and Corrections records on adult offenders are kept six years from expiration of the offender's sentence or the offender's death); La. R.S. 44:36(E) (prosecution records kept three years after exhaustion of appeals); and La. R.S. 44:36(F) (audio and video recordings of public meetings kept two years).
21. La. R.S. 44:36(A).
22. La. R.S. 44:32(A).
23. *Id.* La. R.S. 44:31.1 provides an exception to this rule. An individual who is "in custody after sentence following a felony conviction [and] who has exhausted his appellate remedies" is not a person entitled to request public records unless the request relates to efforts to obtain post-conviction relief. The custodian may ask whether the requestor is such an individual.
24. La. R.S. 44:32(A).
25. *Id.*
26. *Id.*
27. *Id.*
28. Title Research Corp. v. Rausch, 450 So.2d 933, 937 (La. 1984); La. R.S. 44:31(B)(2); La. R.S. 44:32(C).
29. St. Tammany Parish Coroner v. Doe, 10-0946 (La. App. 1 Cir. 10/29/10), 48 So.3d 1241; Johnson v. City of Pineville, 08-1234 (La. App. 3 Cir. 4/8/09), 9 So.3d 313; La. Atty. Gen. Op. No. 11-0155.
30. La. R.S. 44:32(C)(1)(a).

31. La. R.S. 44:32(C)(2). See, La. Admin. Code Title 4, § 301 (2013).
32. Foster v. Kemp, 94-1228 (La. App. 1 Cir. 6/23/95), 657 So.2d 681.
33. La. R.S. 44:32(C)(3).
34. Nungesser v. Brown, 95-3005 (La. 2/16/96), 667 So.2d 1036.
35. La. R.S. 44:33(A)(1).
36. La. R.S. 44:32(B).
37. La. R.S. 44:33(A)(2).
38. Elliott v. District Attorney of Baton Rouge, 94-1804 (La. App. 1 Cir. 9/14/95), 664 So.2d 122, 126; Vandenberg v. Parish of Jefferson, 11-52 (La. App. 5 Cir. 5/24/11), 70 So.3d 51, writ denied, 11-1333 (La. 9/30/11), 71 So.3d 289; Beckett v. Serpas, 12-1349 (La. App. 4 Cir. 3/20/13), 112 So.3d 348.
39. Elliott, 94-1804, 664 So.2d at 126.
40. La. R.S. 44:34.
41. *Id.*
42. Alliance for Affordable Energy v. Frick, 96-1763 (La. App. 4 Cir. 5/28/97), 695 So.2d 1126. See also, Times-Picayune Pub. Co. v. Johnson, 94-0790 (La. App. 4 Cir. 10/3/94), 645 So.2d 1174, writ not considered, 95-0212 (La. 3/17/95), 651 So.2d 259, writ denied, 95-0083 (La. 3/17/95), 651 So.2d 260.
43. La. R.S. 44:35(A).
44. Lewis v. Morrell, 16-1055 (La. App. 4 Cir. 4/5/17), 215 So.3d 737.
45. Elliott v. District Attorney of Baton Rouge, 94-1804 (La. App. 1 Cir. 9/14/95), 664 So.2d 122; State ex rel. Denning v. State, 00-2047 (La. 3/30/01), 788 So.2d 437; Bozeman v. Mack, 97-2152 (La. App. 1 Cir. 12/21/98), 744 So.2d 34, writ denied, 99-0149 (La. 3/19/99), 740 So.2d 113.
46. La. R.S. 44:33(B)(1).
47. *Id.*
48. La. R.S. 44:32(D).
49. *Id.*
50. La. R.S. 44:35(A).
51. *Id.* Cf. Foster v. Kemp, 94-1228 (La. App. 1 Cir. 6/23/95), 657 So.2d 681 (*dicta* that the statutory delays do not apply to mail-in requests).
52. La. R.S. 44:35(A).
53. *Id.*
54. La. R.S. 44:35(C).
55. La. R.S. 44:35(B).
56. La. R.S. 44:35(D).
57. La. R.S. 44:35(E)(1).
58. *Id.*

Davis B. (Pepper) Allgood is a senior partner in the Business and Commercial Litigation Practice Group in the Baton Rouge office of Jones Walker LLP. He has litigated and resolved complex business disputes for more than 30 years, including corporate, construction, eminent domain and business tort claims. He is the chair of the Construction Subcommittee of the Expert Witness Committee of the American Bar Association's Section of Litigation. (dallgood@joneswalker.com; Ste. 500, 8555 United Plaza Blvd., Baton Rouge, LA 70809)



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Financial Fraud

August 2017

Result: **Not Guilty** **on All Counts**

- ▶ **Case:** A Louisiana business owner accused of criminal *insider trading*



Public Corruption

October 2017

Result: **All Charges** **Dismissed**

- ▶ **Case:** Member of the Texas House of Representatives accused of *public corruption*

EACH CASE IS UNIQUE
INDIVIDUAL RESULTS MAY VARY



Environmental & Industrial Catastrophes

November 2017

Result: **All Charges** **Dismissed**

- ▶ **Case:** Leading national residential housing company accused of *water pollution*

The Deepest White-Collar Bench in Texas

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PARTNER
✉ dball@skv.com

DAVID ISAAK
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SHAUN CLARKE
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Book Review

Louisiana Legal Research ***(Third Edition)***

by Mary Garvey Algero

Reviewed by Gail S. Stephenson

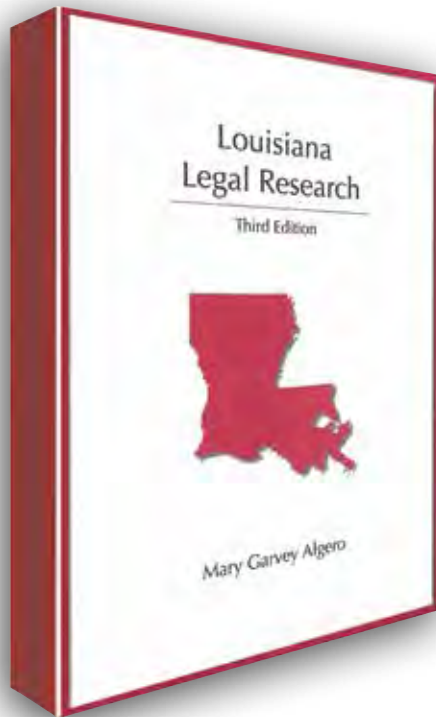
Employers are looking for practice-ready law school graduates, and legal research is one of the most important skills those grads need. Professor Mary Garvey Algero, the Warren E. Mouldoux Distinguished Professor and Associate Dean for Academic Affairs and Faculty Development at Loyola University New Orleans College of Law, has written a guide to Louisiana legal research that is essential for novice researchers and valuable for experienced attorneys, paralegals and librarians.

Unlike flashier legal research texts written for the national law-school market, Algero's book, *Louisiana Legal Research*, contains no colorful diagrams or student exercises. Instead, this unassuming paperback is jam-packed with practical information for researching Louisiana and federal administrative law and other executive documents, statutes and cases in both print and online sources. While most textbooks begin with secondary sources, Algero approaches research as one would in actual practice; she shows how to research from many different starting points — a statute, a known case, commercial digests, legal encyclopedias or treatises.

The book begins with the fundamental principles of legal research and emphasizes the importance of Louisiana's civilian legal tradition to legal research. It explains the research process step by step, provides several methods of generating search terms for computer-assisted legal research and details numerous considerations in deciding whether to research online or in print.

If the researcher determines that online sources are more appropriate than print for a particular project, the book gives the URLs for all seven commercial providers, as well as for free online legal research sources, such as the Library of Congress' Guide to Law Online and Google Scholar. It compares and contrasts these sources and explains differences in search techniques among them. For example, it explains how Westlaw interprets a blank space as *or* while Lexis reads adjoining words as a phrase. Thus, a search for *negligent homicide* without quotation marks yields cases on negligent homicide from Lexis but on Westlaw yields cases with either the word *negligent* or *homicide*, resulting in many irrelevant searches.

Algero's book provides URLs for researching all forms of Louisiana enacted law — such as the Louisiana Legislature's free web portal for researching statutes and the Louisiana Constitution — and gives detailed instructions for using state and federal websites to search legislative history. A chart lists websites for court rules for Louisiana and federal courts. And if the reader is researching administrative rules or executive documents, this book is a jewel, whether looking for a provision of the Louisiana Administrative Code, Louisiana Attorney General opinions or executive orders and



proclamations.

Because I teach legal analysis, I appreciate the way the book ties together two essential legal skills, research and analysis. It emphasizes how civilian analysis begins with legislation whenever possible and that technically case law is only persuasive authority, but adds that for pragmatic reasons, judges tend to follow the decisions of higher courts. It demonstrates how to use one's research to create an analysis chart and how to use prior decisions properly to support the analysis. It also teaches law students how to critically read and analyze cases.

My favorite feature of this book is what Algero calls "Louisiana Lagniappe," text boxes with "historical notes of interest and quotes about Louisiana law and the Louisiana legal system." These inserts reveal the depth of Algero's own re-

search into Louisiana law. One made me laugh aloud. In the section on Louisiana legislative history, she includes an excerpt from a speech by the governor at the start of the legislative session. The governor states that a delegation from Louisiana had gone to Washington "to lay before our representatives and before Congress the condition of the levees, and the inability of the State to rebuild and maintain them, with a view of inducing the government to take upon itself the rebuilding and maintenance of the larger levees as a national work." The wry humor was that this speech was not after Hurricane Katrina; it was from 1875. The more things change, the more they stay the same.

Louisiana Legal Research is an excellent reference for attorneys, paralegals and law librarians and an indispensable tool for law students. The in-depth information combined with Algero's practical approach makes this a book students will use long after law school.

Louisiana Legal Research is part of the Legal Research Series published by Carolina Academic Press (Durham, NC). For more information on the book, go to www.caplaw.com.

Gail S. Stephenson is the Louisiana Outside Counsel A.A. Lenoir Endowed Professor and Director of Legal Analysis & Writing at Southern University Law Center. She is a 1984 graduate of Louisiana State University Paul M. Hebert Law Center, where she was Order of the Coif and a member of the Louisiana Law Review. She was the 2014 Louisiana Bar Foundation's Distinguished Professor. (gstephenson@sulc.edu; P.O. Box 9294, Baton Rouge, LA 70813)



Distinguished Access to Justice Pro Bono Fellows Program: One Should Never Retire from Doing Good for Others

By Mark C. Surprenant



Louisiana Supreme Court Chief Justice Bernette Joshua Johnson addressed the Distinguished ATJ Fellows, representatives of partner host entities and other guests attending the program launch in January.

The headline of this article is a most appropriate motto for the new Louisiana State Bar Association (LSBA) Distinguished Access to Justice (ATJ) Pro Bono Fellows Program, launched with a special ceremony at the Louisiana Supreme Court on Jan. 11, hosted by Chief Justice Bernette Joshua Johnson, one of the foremost leaders in Louisiana, and nationally, from an access to justice standpoint.

The program (a pilot program for 2018), under the purview of the LSBA's Access to Justice Commission, is for judges and lawyers who have transitioned, or are in the process of transitioning, from their service on the bench or from their law practice and who are interested in spending at least 20 hours per month in access to justice service to those in need. Louisiana is now only the second state in the nation, with Massachusetts being the other, to offer such a program.

Each Distinguished ATJ Fellow will partner with a particular host entity as they work together on critical issues in the access to justice community.

Unfortunately, Louisiana is one of the poorest states in the country and one of only a handful where there is no state funding for civil legal aid. Despite the work of many caring individuals and legal service providers throughout Louisiana, there are still far too many individuals and families who are shut out of the legal system each year because there is no lawyer available to assist them.

The "superstars" in the first class of Distinguished ATJ Fellows, along with their partner host entities, will make a significant difference in the lives of many during 2018 and will serve as role models for other Fellows and partner host entities to follow in their footsteps for years to come.

"Louisiana is fortunate to have such outstanding lawyers named as the first Distinguished Access to Justice Pro Bono Fellows," said Chief Justice Johnson. "These lawyers continue to make a significant contribution to our community, even after retirement, when they could be devoting their time to personal projects. We honor their continued involvement and dedication in the delivery of legal services to those most in need of assistance."

Below are profiles of the first class of Distinguished ATJ Fellows, listed with



The members in the first class of the Louisiana State Bar Association Distinguished Access to Justice Pro Bono Fellows Program are, from left, Sarah J. (Jamie) Campbell, Hugh R. Straub, Valerie T. Schexnayder, Judy Perry Martinez and Thomas E. Gibbs (inset).



their partner host entities.

Sarah J. (Jamie) Campbell / Acadiana Legal Services

Campbell retired in 2017 from her position as directing attorney for the Baton Rouge office of Southeast Louisiana Legal Services. Throughout her approximate 40-year legal career, she worked on a daily basis serving the poor and the needy in many ways as they struggled to participate in a meaningful way in the justice system.

In addition to working at Southeast Louisiana Legal Services for 12 years, she worked for 23 years with Kisatchie Legal Services, 19 of those years as executive director. She also worked for three years with Legal Services of North Louisiana as its litigation director.

Campbell has received numerous awards for her service to the poor, including the LSBA Career Public Interest Award, the LSU Law Center Public Interest Law Society Alumni Pro Bono Service Award and, in 2017, the LSBA President's Access to Justice Award.

As a Distinguished ATJ Fellow for 2018, she will partner with Acadiana Legal Services and continue to make a difference in the lives of those less fortunate in the areas of Louisiana served by Acadiana Legal Services.

Thomas E. Gibbs / East Baton Rouge Family Court

Gibbs has been a practicing lawyer (sole practitioner) in Baton Rouge for the past 42 years, focusing his practice in family law.

For the past two years, he has offered his services to the East Baton Rouge Family

Court and other courts adjacent to East Baton Rouge. Specifically, Judge Lisa M. Woodruff-White and other judges assign particular self-represented litigant matters to him. He serves as a pro bono mediator for the court, whereby he meets with the parties and helps them work through their differences with the goal of reaching a settlement which can be approved by the court on that same day.

Gibbs also has been serving as a parenting coordinator on a pro bono basis. In that role, he manages high-conflict custody cases, facilitates communication between the adverse parents, helps them improve their parenting skills, and, hopefully, gets them to resolve their conflicts and disputes in an amicable manner.

Judge Woodruff-White said Gibbs has provided, and continues to provide, an invaluable service to her court and to many self-represented litigants. In December 2017, he successfully mediated all eight self-represented litigant matters pending on Judge Woodruff-White's docket.

As a Distinguished ATJ Fellow for 2018, Gibbs will continue his access to justice pro bono work for the East Baton Rouge Family Court and other courts in the Baton Rouge area.

Judy Perry Martinez / Southeast Louisiana Legal Services

Martinez is presently of counsel with the New Orleans firm Simon, Peragine, Smith & Redfearn, L.L.P. She was a partner in the firm from 1982-2003 before she joined Northrop Grumman and became

assistant general counsel for litigation and vice president and chief compliance officer. She retired from Northrop Grumman in 2015 to become a Fellow at the Advanced Leadership Initiative at Harvard University, where she spent a year in residence. Her commitment to public service began years ago when she and other members of the Louisiana bar established the New Orleans Pro Bono Project.

Over the years, she has been extensively involved with the American Bar Association (ABA). She was appointed chair of the ABA Standing Committee on the Federal Judiciary which evaluates all perspective nominees to the federal bench. She also served as the ABA lead representative to the United Nations, chaired the ABA Presidential Commission on the Future of Legal Services, and was a member of the ABA task force on building public trust in the American justice system. She is a past chair of the ABA Young Lawyers Division and is currently a special advisor to the ABA Center for Innovation.

Martinez has received numerous awards for her public service, including the LSBA President's Award twice, the Camille Gravel Public Service Award from the Federal Bar Association-Eastern District of Louisiana Chapter, the LSBA's David A. Hamilton Lifetime Achievement Award and the Presidents' Award from the New Orleans Bar Association.

As a Distinguished ATJ Fellow for 2018, she will partner with Southeast Louisiana Legal Services (SLLS) for several projects during the SLLS's 50th anniversary. She will continue her work supporting Flood Proof and its expansions. She will work with SLLS to create a Veterans Legal Needs Check-Up App and web-based platform that can be used by veterans, VA hospital social workers and case managers to help screen, identify and refer veterans to civil legal resources. She will also help SLLS further explore and develop the use of technology to better assist clients in rural areas.

**Valerie T. Schexnayder /
Baton Rouge Bar Association**

Schexnayder was an attorney with Zurich Insurance Co. in Baton Rouge for nine years at the time of her retirement in 2016. Previously, she was a partner in the



Mark C. Surprenant, chair of the LSBA Distinguished Access to Justice Pro Bono Fellows Program Committee, addressed those attending the program launch ceremony.

firm Hailey, McNamara, Hall, Larman & Papale, L.L.P., and was a founding partner of the firm deLaup, Schexnayder & Miranda. She is currently a certified mediator.

Active in LSBA leadership for many years, she currently serves on the Board of Governors and was a member of the House of Delegates. For the past 14 years, she has been a Louisiana bar assistant examiner for the Louisiana Code of Civil Procedure. She is a recipient of the LSBA's Michelle Pitard Wynne Professionalism Award and is a Louisiana Bar Foundation Fellow.

As a Distinguished ATJ Fellow for 2018, Schexnayder will partner with the Baton Rouge Bar Association as it develops and grows its pro bono outreach to veterans and their families and plans other significant access to justice projects. When asked on her application why she was interested in becoming a Distinguished ATJ Fellow, she said, "I want to spend my retirement years making a difference in the lives of others."

**Hugh R. Straub /
The Pro Bono Project**

Straub retired as a partner in the firm Phelps Dunbar, L.L.P., in 2011. Since then, he has served in an of-counsel-retired capacity with the firm. Before joining Phelps Dunbar in 2006, he was the co-managing partner of Terriberry, Carroll & Yancey, L.L.P.

He has a strong military and marine background. He received his undergraduate degree from the SUNY Marine College, achieved the rank of lieutenant in the U.S. Naval Reserve, is a merchant marine officer, and holds a U.S. Coast Guard license.

Straub has made numerous access to justice contributions over the years. Immediately upon retirement from Phelps Dunbar, he took on the pro bono defense of an 18-year-old accused of second-degree murder of one person and the attempted mur-

der of another. Following a plea agreement reached on the morning of trial, whereby the person agreed to serve a 21-year sentence, Straub has visited that person in prison each month to provide him with emotional support and to encourage him to participate in available educational programs.

For the past several years, he has overseen and actively participated in a joint effort by the Order of St. Lazarus and the New Orleans Public Library to provide free instruction to documented immigrants, preparing them for their citizenship examination.

For the past five years, Straub has served as a volunteer for the Louisiana Civil Justice Center at the Orleans Parish Civil District Court Self-Help Desk two mornings each week.

As a Distinguished ATJ Fellow for 2018, Straub will continue his work in connection with the Self-Help Desk at the Orleans Parish Civil District Court, which service to self-represented litigants now falls under the supervision of The Pro Bono Project which has agreed to serve as his partner host for 2018.

**Future Fellows and Partner
Host Entities**

Anyone interested in participating in this program, either as a Fellow or as a partner host entity, should email Mark C. Surprenant at mark.surprenant@arlaw.com. Judges and attorneys are needed to continue reaching for the goal of ensuring that all needy Louisiana individuals and families receive meaningful access to the legal justice system.

Mark C. Surprenant, a partner in the New Orleans office of Adams and Reese, L.L.P., is the chair of the LSBA Distinguished Access to Justice Pro Bono Fellows Program Committee. (mark.surprenant@arlaw.com); One Shell Square, Ste. 4500, 701 Poydras St., New Orleans, LA 70139)

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Catching Up with the 2016 and 2017 ATJ Developing Leadership Interns

By Rachael M. Mills



Members of the 2016 and 2017 classes of the ATJ (Access to Justice) Developing Leadership Intern Program with representatives of the sponsoring law firms and other program participants. From left, Monte T. Mollere, Louisiana State Bar Association ATJ; Annie Lemoine, 2016, Loyola University College of Law; Anais Moore-Jaccard, 2017, Tulane University Law School; Christopher K. Ralston, Phelps Dunbar, L.L.P.; Judge Bernadette G. D'Souza, Orleans Parish Civil District Court; Leila Abu-Orf, 2017, Loyola University College of Law; Monette Davis, 2017, Southern University Law Center; Louisiana Supreme Court Chief Justice Bernette Joshua Johnson; MJ Hernandez, 2017, Louisiana State University Paul M. Hebert Law Center; Rachael M. Mills, Louisiana State Bar Association ATJ; Kara Brown, 2016, Southern University Law Center; Micah J. Fincher, Jones Walker LLP; Professor Robert E. Lancaster, LSU Paul M. Hebert Law Center; Christopher M. Vitenas, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.; and Mark C. Suprenant, Adams and Reese, L.L.P.

When the concept of the ATJ (Access to Justice) Developing Leadership Intern Program was first developed three years ago, it quickly became apparent it would be unlike any other internship program. Only four interns are selected for each class — one from each of Louisiana’s four law schools and each sponsored by a law firm with a demonstrated commitment to access to justice — with the goal of cultivating the next generation of access to justice leaders in Louisiana.

To develop the skills necessary to become access to justice leaders, the interns divide their time between working with civil legal aid programs, observing district judges and shadowing access to justice leaders. Weekly programming focuses on the civil legal needs of low-income people; the ways in which organizations within the justice community address those needs; and how these services are increasing the quality of life for those served. The skills and lessons learned in the six-week program have already heavily influenced the participants’ law school careers and future legal plans.

When representatives of the Louisiana State Bar Association, the Louisiana Bar Foundation, Louisiana civil legal aid providers, the Louisiana District Judges Association, Louisiana law schools, the Louisiana Supreme Court and private bar law firms joined forces to create the intern program, the goal was not only to develop the necessary understanding of Louisiana’s indigent population but also to develop leadership skills within the interns. One of the advantages of the program is that interns are able to see the varied ways lawyers can work to support Louisiana’s civil legal aid network, whether it is working for a legal aid organization, volunteering pro bono hours while working with a law firm, becoming involved with a local or state bar association, or educating colleagues and peers about the dire need for civil legal aid and the huge impact it has on the individual receiving legal assistance and the community as a whole.

With the first class of interns now graduating from law school, the program organizers wanted to “catch up” with the



The 2016 class of the ATJ (Access to Justice) Developing Leadership Intern Program with representatives of the sponsoring law firms. From left, Christopher K. Ralston, Phelps Dunbar, L.L.P.; Sarah Smith-Clevenger, Tulane University Law School; Annie Lemoine, Loyola University College of Law; Louisiana Supreme Court Chief Justice Bernette Joshua Johnson; Kara Brown, Southern University Law Center; Hilary Renshaw, Louisiana State University Paul M. Hebert Law Center; Christopher M. Vitenas, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.; and Mark C. Suprenant, Adams and Reese, L.L.P.

Dedicated Sponsoring Law Firms

- ▶ Adams and Reese, L.L.P.
- ▶ Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.
- ▶ Jones Walker LLP
- ▶ Phelps Dunbar, L.L.P.

2016 Participating Judges

- ▶ Judge Bernadette G. D’Souza, Orleans Parish Civil District Court
- ▶ Judge John J. Molaison, 24th JDC
- ▶ Judge Suzan S. Ponder, Baton Rouge City Court
- ▶ Judge Lisa M. Woodruff-White, East Baton Rouge Family Court

2017 Participating Judges

- ▶ Judge Jeffrey C. Cashe, 21st JDC
- ▶ Judge Bernadette G. D’Souza, Orleans Parish Civil District Court
- ▶ Judge Timothy S. Marcel, 29th JDC
- ▶ Judge John J. Molaison, 24th JDC
- ▶ Judge Lisa M. Woodruff-White, East Baton Rouge Family Court

Baton Rouge Participating Legal Aid Providers

- ▶ Baton Rouge Bar Foundation’s Pro Bono Program
- ▶ Catholic Charities of the Diocese of Baton Rouge
- ▶ Southeast Louisiana Legal Services (BR Office)
- ▶ The Parole Project

New Orleans Participating Legal Aid Providers

- ▶ Catholic Charities of the Archdiocese of New Orleans
- ▶ Louisiana Appleseed
- ▶ Louisiana Civil Justice Center
- ▶ Southeast Louisiana Legal Services (NOLA office)
- ▶ The Pro Bono Project of New Orleans

eight previous interns —what they are doing, what they are planning, and how the internship has shaped their law school experience and future career.

2016 ATJ Developing Leadership Interns

Kara Brown, intern for Jones Walker LLP, has served in several leadership positions in Southern University Law Center (SULC) organizations, including 3L class representative for SULC’s Student Bar Association, secretary for SULC’s Women in Law and clerk for rules for Delta Theta Phi Law Fraternity. She is the co-chair for the Fall Fest Committee, Beautification Committee, Elections Committee, Law Week Committee, the Barrister’s Ball Committee and the Big L/Lil L Committee. She is employed as a law clerk for the Louisiana State Employment Retirement System.

Annie Lemoine, intern for Adams and Reese, L.L.P., was appointed editor-in-chief of the *Loyola Journal of Public Interest Law*. She was responsible for organizing the *Journal’s* 2017 symposium, “Champions for Justice: Celebrating the Lives of Lolis Elie, J.D. ’59 and Sam Dalton, J.D. ’54,” publishing two volumes of the journal, and organizing service events with Hagar’s House and The ARC

of Greater New Orleans.

Hilary Renshaw, intern for Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., has clerked for Phelps Dunbar, L.L.P., and Breazeale, Sachse, & Wilson, L.L.P. She is a senior associate of the *LSU Journal of Energy Law & Resources*.

Sarah Smith-Clevenger, intern for Phelps Dunbar, L.L.P., has clerked for Phelps Dunbar and King, Krebs & Jurgens, P.L.L.C., and was an extern for Judge James L. Dennis, U.S. 5th Circuit Court of Appeals. Following her May law school graduation, she is clerking for Judge Sul Ozerden of the U.S. District Court for the Southern District of Mississippi before joining Phelps Dunbar’s New Orleans office.

2017 ATJ Developing Leadership Interns

Leila Abu-Orf, intern for Adams and Reese, L.L.P., is a member of the *Loyola Law Review* and her casenote, “State ex rel Alden Morgan: A Small Step in the Right Direction for Louisiana’s Incarcerated Youth,” was published in the spring issue. This summer, she is working at the Southern Poverty Law Center in the criminal justice reform sector of the New Orleans office.

Monette Davis, intern for Jones Walker LLP, has become a member of the *Southern University Law Review* and won the best case note in the write-on competition. She will serve as editor-in-chief of the *Law Review*.

MJ Hernandez, intern for Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., serves as the Louisiana State University Public Interest Law Society’s Community Service chair. He helped coordinate a donation drive for Lonestar Legal Aid in Texas after Hurricane Harvey. He will serve as editor-in-chief of the *Louisiana Law Review*.

Anais Moore-Jaccard, intern for Phelps Dunbar, L.L.P., is spending the summer at Cleary, Gottlieb, Steen & Hamilton, L.L.P., in New York City. Next year, she will serve as the editor-in-chief of Volume 93 of the *Tulane Law Review*.

Rachael M. Mills is the Louisiana State Bar Association’s Access to Justice projects counsel. She earned her JD degree in 2015 from Louisiana State University Paul M. Hebert Law Center and was admitted to practice in Louisiana the same year. (rachael.mills@lsba.org; 601 St. Charles Ave., New Orleans, LA 70130)



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

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

Area	Coordinator	Contact Info	Area	Coordinator	Contact Info
Alexandria Area	Richard J. Arsenault rarsenault@nbalawfirm.com	(318)487-9874 Cell (318)452-5700	Monroe Area	John C. Roa roa@hhsclaw.com	(318)387-2422
Baton Rouge Area	Ann K. Gregorie ann@brba.org	(225)214-5563	Natchitoches Area	Peyton Cunningham, Jr. peytonc1@suddenlink.net	(318)352-6314 Cell (318)332-7294
Covington/ Mandeville Area	Suzanne E. Bayle sebayle@bellsouth.net	(504)524-3781	New Orleans Area	Helena N. Henderson hhenderson@neworleansbar.org	(504)525-7453
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Lafayette Area	Josette Gossen director@lafayettebar.org	(337)237-4700			
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The Legal Malpractice Insurance Committee of the Louisiana State Bar Association holds the endorsed insurance carrier to a high standard of accountability for the benefit of all its members.

Deadline is July 1 for Payment of 2018-19 LSBA Dues and LADB Assessments

Louisiana State Bar Association (LSBA) members have the option to pay their 2018-19 LSBA dues and Louisiana Attorney Disciplinary Board (LADB) assessment by ACH electronic check or credit card, or members may download and mail their Attorney Registration Statement and checks for the payment of fees. The deadline is July 1, 2018, for all payments and submission of all forms.

Members are encouraged to pay and file electronically, as this access will be available 24/7, including times when the Bar Center is closed or if mail service is disrupted due to inclement weather. Further, electronic payment gives members more control over their information in the database and allows for more timely updates to their member records.

Electronic filing is handled through the online member accounts that participants have relied on for years to register for CLE seminars and to access Fastcase. If an attorney has not yet set up a member account, one can easily be created at: www.lsba.org/Members/memberacct.aspx. This webpage also allows members to edit their existing accounts and to reset a lost or forgotten account password.

After member data is confirmed but before the payment/filing process begins, members will be advised that they also need to go to www.LADB.org to complete the Louisiana Supreme Court Trust Account Disclosure and Overdraft Notification Authorization Form and will be asked to confirm that they understand this requirement.

The collection schedule is the same as in prior years. In lieu of mailing a statement to each member, in May, the LSBA mailed members a postcard, which provides instructions to go online to www.LSBA.org to complete the registration process, and also go online to www.LADB.org to complete the Trust Account Form. **This is the only mailing members will receive prior to the July**

1, 2018, due date; attorney registration statements will NOT be mailed.

Once members have electronically filed their Attorney Registration Statements (including any necessary changes and/or updates) and made the required payments, they will receive email confirmations. The filing and payment deadline is July 1. The LSBA will continue to mail delinquency and ineligibility notices to those who fail to meet the deadlines.

Members who elect to pay by electronic check will continue to pay the following fees:

- ▶ LSBA dues (practicing more than three years): \$200;
- ▶ LSBA dues (practicing three years or less): \$80;
- ▶ LADB assessment (practicing more than three years): \$235; and
- ▶ LADB assessment (practicing three years or less): \$170.

Those who are planning to pay by electronic check should contact their financial institutions to confirm that their accounts allow payment by this method.

As was the case last year, processing fees of 3%, plus a .20 transaction fee, will be passed along to those choosing to pay by credit card. Total amounts, including credit card processing fees, are as follows:

- ▶ LSBA dues (practicing more than three years): \$206.20;
- ▶ LSBA dues (practicing three years or less): \$82.60;
- ▶ LADB assessment (practicing more than three years): \$242.25; and
- ▶ LADB assessment (practicing three years or less): \$175.30.

Bar staff members will be available to answer questions and provide assistance to members. All questions and concerns should be directed to:

- ▶ Email — processing@LSBA.org
- ▶ Telephone — (504)566-1600 or (800)421-LSBA; ask for Payment Processing.

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Officers 2018-19

Barry H. Grodsky President

Barry H. Grodsky is a partner in the New Orleans firm of Taggart Morton, L.L.C. He received a BBA degree, with honors, in 1979 from the University of Texas-Austin and his JD degree in 1982 from Tulane University Law School. He was admitted to practice in Louisiana in 1982.



Barry H. Grodsky

Barry served as Louisiana State Bar Association (LSBA) president-elect in 2017-18 and as secretary and editor of the *Louisiana Bar Journal* from 2013-15. He represented the First Board District on the LSBA's Board of Governors and chaired the Committee on the Profession. He coordinates several law school professionalism programs for the Bar. In 2009, he accepted the American Bar Association's Smythe Gambrell Professionalism Award on behalf of the Committee on the Profession. He is a member of the Budget Committee and the Bar Governance Committee and serves on the LSBA Fee Arbitration Panel. He also served on the Continuing Legal Education Committee. He received the LSBA's President's Award in 2008 and 2010 and the 2013-14 Outstanding Service Award.

He is an instructor at Tulane University and received the Tulane

University Teacher Recognition Award in 1993. He was a Tulane University Faculty Fellow from 2000-02.

Barry and his wife, Cheri Cotogno Grodsky, are the parents of a daughter.

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**Robert A. Kutcher
President-Elect**

Robert A. Kutcher is the managing partner in the Metairie firm of Wagar Richard Kutcher Tygier & Luminais, L.L.P. He received his BS degree in 1972 from Cornell University and his JD degree, *cum laude*, in 1975 from Loyola University Law School. He was admitted to practice in Louisiana in 1976 and in New York in 1976.



**Robert A.
Kutcher**

Bob was the treasurer of the Louisiana State Bar Association (LSBA) and served on the House of Delegates Liaison Committee on four occasions. He is a member of the LSBA's Legislation Committee, a member of the *Louisiana Bar Journal* Editorial Board and a co-chair of the Summer School Planning Committee. He is a Fellow of the Louisiana Bar Foundation and the American Bar Foundation.

He has been listed in *Best Lawyers* (2012-2018), including 2013 New Orleans Litigation-Real Estate Lawyer of the Year and Lawyer of the Year 2018 in the practice areas of closely held companies and family businesses law; *Louisiana Super Lawyers* (2008-2018); and New Orleans *CityBusiness* "Leadership in Law," 2007.

Bob and his wife, Renee B. Kutcher, have been married for 32 years. They have four children.

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**John E. McAuliffe, Jr.
Secretary**

John E. 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 served as the Second District representative on the Louisiana State Bar Association's (LSBA) Board of Governors from 2014-17. He is chair of the LSBA's Unauthorized Practice of Law Committee, has presented programs on state court rules and motions for the Bridging the Gap CLE seminar and participated in the Law School Professionalism Orientations at Loyola University College of Law. He received the LSBA's President's Award in 2012 and the LSBA's 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 35 years and are the parents of two children.

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**Shayna L. Sonnier
Treasurer**

Shayna L. Sonnier is a partner in the Lake Charles firm of Hunter, Hunter & Sonnier, L.L.C. She received a bachelor's degree in 2000 from the University of Louisiana-Lafayette and her law degree in 2003 from Dedman School of Law,



Shayna L. Sonnier

Southern Methodist University. She was admitted to practice in Texas in 2003 and in Louisiana in 2005.

Shayna served as Fourth District representative on the Louisiana State Bar Association's (LSBA) Board of Governors. She also served as chair, immediate past chair, chair-elect, secretary and District 4 representative on the LSBA's Young Lawyers Division (YLD) Council. She co-chaired the YLD's Wills for Heroes Committee.

She currently serves on the boards for the Louisiana Bar Foundation, the Louisiana Center for Law and Civic Education and the Louisiana Civil Justice Center.

Shayna has served as secretary, treasurer, president-elect, president, and past president of the Southwest Louisiana Bar Association (SWLBA) and is a past president of the SWLBA's Young Lawyers Section.

In her community, she is a member of St. Luke Simpson United Methodist Church, where she serves as secretary on the Church Council.

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**Dona Kay Renegar
Immediate Past President**

Dona Kay Renegar is a member in the firm of Veazey, Felder & Renegar, L.L.C., in Lafayette. She received two BA degrees in English and French, *magna cum laude*, in 1988, both from the University of Louisiana-Lafayette.



Dona Kay Renegar

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 University Law School. She was admitted to practice in Louisiana in 1992.

Dona served as 2017-18 Louisiana State Bar Association (LSBA) president and 2016-17 president-elect. She also served a three-year term as the Third District representative on the Board of Governors and as a member in the House

of Delegates (15th Judicial District).

She was a member of the LSBA's Client Assistance Fund Committee, a member of the Louisiana Board of Legal Specialization and 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 (YLD), including chair, chair-elect, secretary and District 3 Council representative. She also co-chaired the 2008-09 Leadership LSBA Class.

Dona received the YLD's Outstanding Young Lawyer Award in 1999, the LSBA's President's Award in 2009, the LSBA's Pro Bono Century Award in 2014 and the LSBA's Stephen T. Victory Memorial Award in 2014 for co-authoring the *Journal* article on the Bar Exam changes.

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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Board of Governors 2018-19

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 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



D. Skylar
Rosenbloom

of the Louisiana State Bar Association's Committee on the Profession and the Practice Assistance and Improvement Committee.

In his community, he serves on the Steering Committee of the National World War II Museum Young Benefactors and serves as chair of the Louisiana Philharmonic Orchestra Prelude advisory board.

Skylar and his wife Brittany have been married for seven years and are the parents of three children.

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Darryl J. Foster First Board District

Darryl J. Foster is a partner in the New Orleans office of Bradley Murchison Kelly & Shea, L.L.C. He attended Louisiana State University in Baton Rouge and the University of New Orleans. He earned his JD degree, with honors, in 1975 from Loyola University College of Law (*Law Review*, 1973-75). He was admitted to practice in Louisiana in 1975.

Darryl served on the Louisiana State Bar Association's (LSBA) Board of Governors in 2002-05. He served in the House of Delegates from 1995-2002 and from 2005-17. He also has been a member of the Bar Governance Committee since 2013.

He is a member of the Louisiana Association of Defense Counsel, the New Orleans Association of Defense Counsel (past chair) and the Defense Research Institute. He has been recognized in *Best Lawyers in America* since 2010.

Darryl and his wife Jamie have been married for 24 years and are the parents of two children.

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Darryl J. Foster

Stephen I. Dwyer Second Board District

Stephen I. Dwyer is the managing partner in the Metairie firm of Dwyer, Cambre & Suffern, A.P.L.C. He received an AB degree in 1970 from the College of the Holy Cross, an MA degree in 1972 from the University of New Orleans and his JD degree in 1976 from Loyola University College of Law. He was admitted to practice in Louisiana in 1976. He also is admitted in Texas.

Stephen is a member of the *Louisiana Bar Journal's* Editorial Board. He is an active pro bono volunteer. He is a member of the American Bar Association, the New Orleans Bar Association, the Jefferson Bar Association and the State Bar of Texas. He also serves as an adjunct faculty member for Loyola University College of Law.

He was named to the 2011 *CityBusiness* Leadership in Law list and has been listed in "Who's Who Among American Lawyers." He is a member of Alpha Sigma Nu Honor Society.

In his community, Stephen chaired the founding and development of St. Tammany Recreation District #14 (Coquille Parks and Recreation), chairs the Miracle League Northshore 501(c)(3) for special needs children, is the president of the Jefferson Performing Arts Society, is a member of the Loyola University College of Law Visiting Committee, and serves on the boards of directors of the College of the Holy Cross Lawyers' Association and the College of the Holy Cross Alumni Association.

Stephen is the father of five children.
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Shannon Seiler Dartz Third Board District

Shannon Seiler Dartz is an attorney with the Glenn Armentor Law Corporation in Lafayette. She received a BA degree in 1990 from Louisiana State University and her JD degree in 1994 from LSU Paul M.



Stephen I. Dwyer

Hebert Law Center. She was admitted to practice in Louisiana in 1994.

Shannon has served on the Louisiana State Bar Association's (LSBA) Board of Governors and House of Delegates and chairs the LSBA's Group Insurance Committee. She is the recipient of the 2002 LSBA Young Lawyers Division's Outstanding Young Lawyer Award.

She chairs the Louisiana Bar Foundation's Acadiana Community Partnership Panel, serves on the Lafayette Bar Association's board and is a member of the Louisiana Association for Justice.

In her community, Shannon has co-chaired the Leadership Institute of Acadiana's Lafayette Junior Leadership Program for two years. She is a eucharistic minister for Our Lady of Fatima Church and a former president of the Junior League of Lafayette and the Healing House Hope for Grieving Children.

She and her husband Mike have been married for 19 years and are the parents of two 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.

Lee served as chair, chair-elect, secretary, immediate past chair and the American Bar Association's Young Lawyers Division representative on the



Shannon Seiler
Dartez

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 Lawyer*.

In his community, he works with the 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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**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.

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 a former member of the Rules of Professional Conduct Committee. He is currently a member of the Louisiana Judiciary Commission.

He has been the editor of the Baton Rouge Bar Association's monthly publication, *The Baton Rouge Lawyer*, since its first issue in 1985. 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



Edward J.
Walters, Jr.

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 49 years and are the parents of two children.

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**Valerie Turner Schexnayder
Fifth Board District**

Valerie Turner Schexnayder currently serves as a Louisiana State Bar Association (LSBA) Distinguished Access to Justice Pro Bono Fellow, partnering with the Baton Rouge Bar Association as it develops and grows its pro bono outreach to veterans and their families. She also is a mediator in Baton Rouge. She received a BBA degree in 1986 from Loyola University and her JD degree, *cum laude*, in 1989 from Tulane University Law School. She was admitted to practice in Louisiana in 1989.

Valerie previously represented the 19th Judicial District in the LSBA's House of Delegates. She also is a member of the Bar Governance Committee and served on the Continuing Legal Education Committee from 1999-2002. She is the recipient of the 1999 LSBA Young Lawyers Division's Michaelle Pitard Wynne Professionalism Award.

She is a member of the Baton Rouge Bar Association and the Defense Research Institute. In her community, she currently serves on the board of directors for the Junior League of Baton Rouge and as vice chair of the Capital Area Finance Authority's board of trustees.

Valerie and her husband Todd have been married for 30 years and are the parents of two children.

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Valerie Turner
Schexnayder

Edward L. Tarpley, Jr.
Sixth Board District

Edward L. Tarpley, Jr. is the owner of Edward L. Tarpley, Jr., A.P.L.C., in Alexandria. He received a BA degree in history in 1976 from Louisiana State University and his JD degree in 1979 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1980.



Edward L. Tarpley, Jr.

Ed served in the Louisiana State Bar Association's House of Delegates from 1992-94 and 2016-18. He is a member of the Alexandria Bar Association, the Louisiana Association of Criminal Defense Lawyers and The Federalist Society.

In his community, he is a member of the Alexandria Rotary Club, vice president and a board of trustees member for the Cenla Pregnancy Center and a member of the Louisiana Governor's Prayer Breakfast Steering Committee.

Ed and his wife, Deborah Campbell Tarpley, are the parents of four children.
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Paul L. Hurd
Seventh Board District

Paul L. Hurd is the sole shareholder in Paul Loy Hurd, A.P.L.C., and in Home Title Guaranty Co., both in Monroe. He received a BA degree in philosophy in 1976 from Tulane University and his JD degree in 1978 from Tulane Law School. He was admitted to practice in Louisiana in 1978.



Paul L. Hurd

Paul is a former member of the Louisiana State Bar Association's House of Delegates and a current member of the LSBA's Criminal Justice Committee.

In his community, he is a member of Parkview Baptist Church in Monroe.

He and his wife, Cathy Vines Hurd,

have been married for 42 years and are the parents of three children.

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Patrick J. Harrington
Eighth Board District

Patrick J. Harrington is an associate in the Law Offices of J. Dhu Thompson, A.P.L.C., in Shreveport. He received a bachelor's degree in 2012 from Louisiana State University-Shreveport and his JD degree in 2016 from Southern University Law Center. He was admitted to practice in Louisiana in 2016.



Patrick J. Harrington

Patrick is a member of the Young Professional Initiative of the Greater Shreveport Chamber of Commerce, the North Shreveport Business Association and the March of Dimes Advocacy and Governmental Affairs Committee.

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Dylan T. Thriffley
Chair, Young Lawyers Division

Dylan T. Thriffley is assistant vice president of compliance and regulatory affairs for Ochsner Health System in New Orleans. She received a BS degree, *magna cum laude*, in 2005 from the University of Tennessee at Chattanooga 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 T. Thriffley

Dylan served as the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council chair-elect in 2017-18,

secretary in 2016-17 and as a District 1 Council representative 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 LSBA's Committee on the Profession and the Bar Governance Committee. She also was a member of the *Louisiana Bar Journal* Editorial Board and serves on the board of trustees for 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 2016, she became certified in healthcare compliance.

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 six years and are the parents of two children.

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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 Guillory

Jermaine is president of the Louisiana Chapter of the National Black Prosecutors Association. 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 married in 2016.

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Monique Y. Metoyer
At-Large Member

Monique Y. Metoyer is an assistant district attorney / homicide screening chief for the Caddo Parish District Attorney's Office in Shreveport. She received a BS degree in criminal justice in 1985 from St. Mary's Dominican College and her JD degree in 1988 from Southern University Law Center. She was admitted to practice in Louisiana in 1988.



Monique Y. Metoyer

Monique is a member of the Louisiana District Attorneys' Association, the Shreveport Bar Association and the Internet Crimes Against Children Task Force. She is a recipient of the Service to the Children Award presented by the Rapides Parish Advocacy Center and the Member of the Year Award presented by the Children's Advocacy Centers of Louisiana.

In her community, she is social media director for the St. James Memorial Catholic Church in Alexandria.

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Lynn Luker
At-Large Member

Lynn Luker is of counsel in the New Orleans law firm of Stanley, Reuter, Ross, Thornton & Alford, L.L.C. She received a BA degree in psychology in 1978 from the University of New Orleans, her JD degree in 1981 from Tulane University Law School (Order of Barristers), an LLM (with distinction) in admiralty law in 1985 from Tulane Law School and an LLM in energy and environmental law in 1992 from Tulane Law School. She was admitted to practice in Louisiana in 1981 and in Massachusetts in



Lynn Luker

2007.

Lynn chairs the Louisiana State Bar Association's (LSBA) Civil Law and Litigation Section and is a member of the LSBA's Committee on the Profession and the CLE Committee.

She is an adjunct professor at Tulane Law School and co-director of the Trial Advocacy and Civil Pre-Trial Boot Camp. She is also a mediator/arbitrator for Perry Dampf Dispute Solutions and a proctor in admiralty for the Maritime Law Association. She has served as judge pro tempore for Orleans Parish Civil District Court and is a former chair of the Louisiana Judiciary Commission. She has received several awards, including the LSBA's Human Rights Award, the Tulane Law School Distinguished Teaching Award and the Association of Women Attorneys' Michaelle Pitard Wynne Professionalism Award.

In her community, she mentors women, minorities, young lawyers and young people. She is a Sunday school teacher and lecturer for Trinity Episcopal Church. She is the mother of two children.

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John M. Church
Faculty, LSU Paul M. Hebert
Law Center

John M. Church is a professor of law at Louisiana State University (LSU) Paul M. Hebert Law Center. He received a BS degree in 1983 from Central Michigan University, an MS degree in economics in 1985 from the University of Illinois and his JD degree in 1988 from the University of Colorado. He was admitted to practice in Colorado in 1988.

John has served as LSU's representative on the Louisiana State Bar Association's Board of Governors 11 times between 1998-2017. He is a member of the American Law and Economics Association, the American



John M. Church

Association of Wine Economists and the American Intellectual Property Association.

In his community, he is a member of the Sacred Heart of Jesus Catholic Church. He and his wife Karen have been married for four years. He is the father of three children.

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Ronald J. Scalise, Jr.
Faculty, Tulane University Law School

Ronald J. Scalise, Jr. is the A.D. Freeman Professor of Civil Law at Tulane University Law School where he served as vice dean from 2012-16. He received a BA degree in 1997 from Tulane University, his JD degree in 2000 from Tulane Law School and an LLM in 2003 from Cambridge University (Trinity College). He was admitted to practice in Louisiana in 2000.



Ronald J. Scalise, Jr.

Ronald served on the LSBA's Board of Governors from 2013-15. He has served on the Louisiana Board of Legal Specialization since 2011 and the Louisiana Bar Exam Advisory Committee since 2008.

He was elected as an academic fellow of the American College of Trusts and Estate Counsel in 2014 and as an associate member of the International Academy of Comparative Law in 2013. He is a member of the American Society of Comparative Law, the American Bar Association and the Louisiana State Law Institute (council member, committee member and reporter). He received the *New Orleans City Business Leadership in Law Award* in 2015, the Chancellor's Distinguished Service Award from Louisiana State University Paul M. Hebert Law Center in 2009, the Hessel Yntema Prize for Outstanding Comparative Law Scholarship in 2008 and a Gates Fellowship in 2003.

Ronald is married to Sally Richardson and is the father of a daughter.

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L. Kent Breard, Jr.
Louisiana State Law Institute

L. Kent Breard, Jr. is an attorney in the Monroe firm of Snellings, Breard, Sartor, Inabnett & Trascher, L.L.P. He received a BA degree in English in 1973 from Davidson College and his JD degree in 1976 from Louisiana State University Law School. He was admitted to practice in Louisiana in 1976.



L. Kent Breard, Jr.

Kent was a member of the Louisiana State Bar Association's Group Insurance Committee from 2005-17. He is a member of the Louisiana State Law Institute's Council and the Louisiana Bankers Association (Bank Counsel Committee) and is an agent for First American Title Insurance Co.

He is a member of Grace Episcopal Church. He and his wife, Charlotte Wilton Breard, have been married for 35 years and are the parents of three children.

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Sandra K. Cosby
Chair, House of Delegates
Liaison Committee

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 K. Cosby

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. She has served on the House Liaison Committee for two years. She is co-chair of the Loyola Law School Professionalism Orientation and 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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Jeffrey A. Riggs
Member, House of Delegates
Liaison Committee

Jeffrey A. Riggs is a partner in the Lafayette office of Lewis Brisbois Bisgaard & Smith, L.L.P. He received his BS degree in business/accounting in 1983 from Indiana University and his JD degree in 1986 from Indiana University Law School (associate editor, *Indiana Law Review*; National Order of Barristers, Dean Frandsen Award). He was admitted to practice in Louisiana in 1986 and in Texas in 2005.



Jeffrey A. Riggs

Jeff is a member of the Louisiana State Bar Association's House of Delegates (15th Judicial District) and served on the House of Delegates Liaison Committee in 2007-08, 2010-13 and since 2017. He currently serves on the Client Assistance Fund Committee.

He is a member of the Acadiana Society for Human Resource Management, the Duhe Inn of Court (master) and the Maritime Law Association of the United States (proctor). He served on the Lafayette Bar Association's board of directors from 2009-12. He was a member of the Central Louisiana Pro Bono Project board (1991-96), chairing the board in 1994-96. He received the Central Louisiana Chamber of Commerce Member of the Year Award in 2001.

Jeff and his wife, Colin Neblett Riggs (from Alexandria), have been married for 29 years. He is the father of four children.
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Shayna B. Morvant
Member, House of Delegates
Liaison Committee

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 is currently the District 2 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. She also serves in the LSBA's House of Delegates and is a member of the Civil Law and Litigation Section. She was a member of the 2015-16 Leadership LSBA Class. She is the current membership chair for the Tulane Inn of Court, is a former chair of the Jefferson Bar Association's Young Lawyers Division and is a representative at large on the Jefferson Bar Association's board.

In her community, she is chair of business evaluation and legislative affairs for the Junior League of New Orleans and a member of the Italian American Ladies Auxiliary.

Shayna and her husband, Wesley C. Morvant, have been married for four years and are the parents of one child, currently expecting their second.

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Louisiana State Bar Association Secretary John E. McAuliffe, Jr. joined members of the LSBA Leadership 2017-18 Class at the New Orleans Bar Relief event. From left, Bethany A. Blackson, Gerald J. Hampton, Jr., Arielle L. Young; McAuliffe; Kathleen M. Legendre, J. Reed Poole, Jr., Betty Ann Maury, Todd C. Taranto, Christopher J. Sellers, Jr. and Micah C. Zeno.



Members of the LSBA Leadership 2017-18 Class at the Lafayette Bar Relief event were, from left, Christopher J. Sellers, Anna Brown Priestley, Kathleen M. Legendre, Elizabeth Fontenot Shea, Betty Ann Maury, Arielle L. Young and Alexander L. Reed.

LSBA Leadership Class Hosts “Bar Relief” Events Targeting Disaster Relief

The LSBA Leadership 2017-18 Class hosted “Bar Relief: When Disaster Strikes, the Bar is Here,” a series of organization fairs to raise awareness for disaster relief volunteer opportunities. The fairs were April 6 at Red-Eye Bar and Grill in New Orleans and April 7 at The Tap Room in Lafayette.

Each year’s Leadership Class is tasked with creating a project to impact the Louisiana legal market and its constituents in a meaningful way. This year, the Leadership Class elected to focus on disaster relief. Louisiana has, unfortunately, been hit with numerous natural disasters over the years. Most recently, the devastation brought on by the Great Flood of 2016

and Hurricane Harvey has spurred a need in local organizations for volunteers who are willing to get involved when disasters strike. Bar members were invited to attend Bar Relief to learn more about these organizations that help with disaster relief efforts in various ways.

The New Orleans Bar Relief event connected attorneys with disaster relief volunteer opportunities with Evacuteer, Southeast Louisiana Legal Services, Second Harvest Food Bank, The Pro Bono Project of New Orleans, Camp Restore, La.FreeLegalAnswers.org and Louisiana Appleseed.

The second Bar Relief event connected Lafayette attorneys with volunteer op-

portunities with Cajun Navy Relief, the Lafayette Bar Foundation, Second Harvest Food Bank, Volunteer Louisiana, Louisiana Appleseed and Acadiana VOAD (Voluntary Organizations Active in Disasters).

Members of the LSBA Leadership 2017-18 Class are Bethany A. Blackson, Anna Brown Priestley, Kristian B. Dobard, Shanerika M. Flemings, Gerald J. Hampton, Jr., R. Gary Higgins, Jr., Kathleen M. Legendre, Betty Ann Maury, J. Reed Poole, Jr., Alexander L. Reed, Christopher J. Sellers, Jr., Elizabeth Fontenot Shea, Todd C. Taranto, Arielle L. Young and co-chairs Brittany O. Rosenbloom and Micah C. Zeno.

LBLS Accepting Bankruptcy Law Certification Applications

The Louisiana Board of Legal Specialization (LBLS) is accepting applications for business bankruptcy law and consumer bankruptcy law certification through Sept. 30, 2018.

In accordance with the Plan of Legal Specialization, a Louisiana State Bar Association (LSBA) member in good standing who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. Further requirements are that each year a minimum percentage of the attorney’s practice must be devoted to the area

of certification sought and a written examination must be passed to demonstrate sufficient knowledge, skills and proficiency in the area for which certification is sought.

Applicants must meet a minimum CLE requirement for the year in which application is made and the examination is administered. CLE is regulated by the American Board of Certification, which is also the testing agency.

With regard to applications for business bankruptcy law and consumer bankruptcy law certification, although the written test(s) is administered by the American Board of Certification, attorneys should ap-

ply for approval of the LBLS certification simultaneously with the testing agency in order to avoid delay of board certification by the LBLS. Information concerning the American Board of Certification will be provided with the application form(s).

To receive an application, email Specialization Director Mary Ann Wegmann, Louisiana Board of Legal Specialization, at maryann.wegmann@lsba.org.

For more information about specialization, go to the LBLS website at: www.lasc-mcle.org/specialization/.

By Nisha Sandhu

CYBERSECURITY FOR LAWYERS

As the practice of law changes to incorporate new technologies and capabilities, lawyers and law firms must consider new safeguards to protect client information. Law firms are especially vulnerable to data breaches and data loss. The fallout from a law firm's data breach can be devastating. Consider the Mossack Fonseca data breach of 2016, also known as the "Panama Papers" hack. The firm's client portal was inexcusably out-of-date, exposing client data to basic security flaws that were preventable. The failure to properly safeguard client information is a risk that no lawyer or law firm can afford to ignore. In addition, some level of a cyber risk policy to facilitate restoration and cover damage costs is needed.

However, data breaches are not only caused by hackers. A common cause of data breach is a lawyer's lost or stolen laptop or device. Law firms have increasingly allowed employees access to client data through the use of "Bring Your Own Device" (BYOD) policies. BYOD policies allow employees to download sensitive client data onto their own devices. Not only is the device vulnerable to breach, but a firm's entire network could be exposed to significant security risks through malware downloaded on the device. At a minimum, law firms should consider security protocols such as mandatory password protection, encryption and remote wiping of the device to prevent data loss. Data loss protection systems or data leak prevention systems also can help protect client data from access by unauthorized third parties or end-users. These systems restrict access to and even limit the ability of an employee to use certain types of files. For instance, an employee could be denied permission to upload a file in certain circumstances.

Rule 1.1(a) of the Louisiana Rules of Professional Conduct requires that a lawyer "provide competent representation to a client. Competent representation requires

the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." It is worth noting that the ABA Model Rules of Professional Conduct incorporate a duty to consider technological risks in providing competent representation. Specifically, Comment 8 to Rule 1.1 of the Model Rules of Professional Conduct requires lawyers to "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology." To provide competent legal representation, lawyers should increasingly weigh the risks presented by technological capabilities against the benefits expected to be gained through the use of those technologies.

Additionally, under Rule 1.6(a), a lawyer is prohibited from disclosing confidential client data unless authorized under certain circumstances ("a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b)"). Rule 1.6(c) further requires a lawyer to "make *reasonable efforts* to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client" (emphasis added). Determining what constitutes "reasonable efforts" may include the sensitivity of the information at risk, the types of safeguards that could be implemented for protection of data, costs associated with implementing such safeguards and whether implementing certain safeguards would "adversely affect" representation of the client. See Comment 18 to Rule 1.6 of the ABA Model Rules of Professional Conduct.

Incorporating best practices to secure law firm data not only presents ethical obligations but legal and even business considerations as well. Law firms working with the financial services and healthcare industries must often submit to security

audits to ensure compliance with state and federal obligations to safeguard protected categories of information. Noncompliance by law firms to protect certain types of client data can include civil suits and civil monetary penalties. Additionally, in the aftermath of a data breach, law firms can expect to provide crisis management, breach notification, forensic investigation and credit monitoring services to those whose data was compromised. The average cost of a data breach in the United States in 2013 was more than \$5 million. See CNA Professional Counsel, "Safe and Secure: Cyber Security Practices for Law Firms" (March 2015).

Basic methods traditionally used to protect networks and data include anti-spy software, virus scanning tools and email filters. Lawyers and law firms, however, should implement comprehensive security measures to ensure compliance with ethical obligations and to help mitigate professional liability. Practices to help strengthen security protocols include encryption of files, emails and hard-drives, password protection for files and devices, researching security features and capabilities of cloud services and applications, employing BYOD policies, checking that vendors' security practices are compatible with professional obligations required of law firms and lawyers, training staff on Internet and email use, and even using secure wireless networks when working remotely. In the next installment of this series, these areas will be explored in more detail.

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, family law and criminal defense. Email her at firm@nsacla.com.



LAWYERS Assistance

By J.E. (Buddy) Stockwell

ADDICTIVE TECHNOLOGY

The concepts of self-care, life balance and mindfulness remain extreme challenges for legal professionals. Relentless workloads, rigid deadlines, clients' expectations and the overall pressures of practicing law are more challenging than ever.

In my personal experience, perhaps no single development has increased pressure on lawyers more so than advances in communications technology. A hyperflow of information comes at lawyers via "screens" (smartphones, iPads and computers) that they constantly monitor all hours of the day and night.

We hear a lot about the opioid epidemic and the perils of addiction to drugs. But there is another "addiction" that is even more widespread — Addictive Technology. It, too, can be deadly. Smartphones have significantly increased traffic deaths.¹

Social psychologist Dr. Adam Alter takes on this topic in his 2017 book, *Irresistible: The Rise of Addictive Technology and the Business of Keeping Us Hooked*. According to Alter, many of us are literally addicted to modern digital products: "In the past, we thought of addiction in terms of being hooked on chemical substances. But now we are seeing an epidemic of behavioral addictions."

In the 2017 *New York Times* article, "Why We Can't Look Away From Our Screens,"² Alter speaks further about addiction to digital devices and social media. Surveys indicate that 60 percent of people keep their smartphones next to their beds and 50 percent check emails during the night.

Smartphones deliver a constant stream of addictive media. Many people's lives have been disrupted by an obsession to continuously monitor incoming information — texts, emails, Instagram, Facebook, Twitter, national and local news, weather, and all that advertising pointed at us personally based on our profiles.

According to Alter, an addicted person's dopamine brain activity looks the same for a heroin user, a slot machine player and a video game player. He also finds it telling that in a 2010 interview Steve Jobs said his children didn't have iPads, and that many Silicon Valley titans refuse to let their children near devices. One private school in the Bay Area does not allow any tech devices — no iPhones or iPads — and 75 percent of the parents who send their children there are tech executives.

In general, our very concept of rest and relaxation has been altered. For many, "quiet time" includes a smartphone being monitored and always within reach. If you want to take your pulse on just how "addicted" to technology you may be, test your comfort level with being away from all technology.

Can you leave your smartphone at home while running errands? What about turning it off at night, or at least not checking emails or texts after 6 p.m.? Can you leave your smartphone in the car while in a restaurant or at the movies? For some, thoughts of being "off the grid" for more than a minute produces high anxiety.

The younger generation may not believe it but people led enjoyable lives for centuries with no instant access to information. Not that long ago, a car ride meant being in the "present moment" and focused on the world around you instead of being focused on trying not to rear-end another vehicle while managing your smartphone.

Alter suggests that people need to deliberately carve out time for a return to mindfulness: "In general, I'd say find more time to be in natural environments, to sit face-to-face with someone in a long conversation with no technology in the room. There should be times of the day where it looks like the 1950s or where you are sitting in a room and you can't tell what era you're in. You shouldn't always be looking at screens."

This whole issue is tough for lawyers. Their interest in information is supercharged compared to the general public. Deadline-driven and often on the edges of their professional seats, lawyers want work-related information as soon as possible. In between work-related communications, they fully engage in all of the other information streams that have the general population hooked. It's a double-whammy.

Some lawyers are becoming overwhelmed because they either don't realize, or don't believe, it is perfectly acceptable to set boundaries. Everyone has the right to unplug for a while each day, take a break, and be mindful in the present moment without any interruptions. Your smartphone can run meditation and mindfulness apps that support well-being, but it requires the discipline to silence and ignore other phone functions. The best medicine is to experience some of your life each day without a smartphone around.

If you need help with technology addiction or would like to know more about setting healthy boundaries and practicing mindfulness, JLAP can help. Call (985)778-0571, email jlap@louisianajlap.com, or visit the web at: www.louisianajlap.com. All communications are confidential as a matter of law.

FOOTNOTES

1. *Smartphones are Killing Americans, But Nobody's Counting*, Bloomberg Oct. 2017, Stock, Lambert & Ingold.

2. <https://www.nytimes.com/2017/03/06/science/technology-addiction-irresistible-by-adam-alter.html>.

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



FOCUS ON Diversity

CONCLAVE ON DIVERSITY MARCH 9, 2018



Conclave Subcommittee Chair Troy N. Bell (Courington, Kiefer & Sommers, L.L.C), far left, and co-chairs Deidre D. Robert (Louisiana Department of Justice), second from left, and, Denia S. Aiyegbusi (Deutsch Kerrigan LLP), second from right. With them are interactive workshop speaker Ritu Bhasin (Bhasin Consulting, Inc.), center; and 2017-18 Louisiana State Bar Association President Dona Kay Renegar (Veazey Felder & Renegar LLC), far right.



Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, third from left, with Conclave Subcommittee chair and co-chairs, from left, Troy N. Bell, Deidre D. Robert and Denia S. Aiyegbusi.



“It Takes All Types: A Discussion of Different Ways to Stay Community-Focused While Practicing Law” Plenary Session panelists, from left, James B. Letten (Butler Snow LLP), attorney Joey Jackson and Jonathan S. Aronie (Sheppard, Mullin, Richter & Hampton LLP).



Paulette Brown (Locke Lord LLP), center, provided the keynote address, “Moving from Reaction to Action.” With her are Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, left, and 2017-18 Louisiana State Bar Association President Dona Kay Renegar.



Conclave law student volunteers included, from left, Monika Briggs, Natalie Ebolum, Brenna Coleman and Natalie Awad.



Attorney L.J. Clark-Sam, at podium, received the Committee on Diversity in the Legal Profession Award.



Commitment to Excellence Award recipients were Lynn Luker (Stanley, Reuter, Ross, Thornton & Alford, LLC), left, and Val P. Exnicios (Liska, Exnicios & Nungesser), right. They were recognized for going above and beyond to promote diversity in the legal profession. With them is Conclave Chair Troy N. Bell, center.



“The Connect” In-House Corporate Breakfast “Pitch Perfect” session featured moderator Courtney T. Joiner (Hammonds, Sills, Adkins & Guice, LLP), right, and panelists Michelle C. Ifill (Verizon Corporate Services Group, Inc.), center, and Bruce Jackson (Microsoft). Gold sponsor WalMart, Inc. sponsored the session.

11th Annual Conclave on Diversity in the Legal Profession “Diversity & Inclusion: From Rhetoric to Reality”

Photos by Emily Scaff, Sunlit Studios Photography.



Co-hosts of the 2018 Conclave on Diversity (not all co-hosts in photo).



“Workplace Analytics” breakout session panelist Eric J. Felsberg (Jackson Lewis P.C.).



“Workplace Diversity Geared Toward Women (Particularly Women of Color) in the Legal Profession” breakout session panelists, from left, Rahwa H. Ghebre-Ab (LionsGate) and Theodora R. Lee (Littler Mendelson, P.C.).



“ABA Resolution 113 — Model Diversity Survey — Wins, Challenges & the Way Forward” Plenary Session panelists, from left, Gretchen Bellamy (Bellamy Management Consulting, LLC) and Alan Bryan (WalMart, Inc.).



Micah J. Fincher (Jones Walker LLP), left, accepted the Platinum Plus Sponsor recognition award from Conclave Chair Troy N. Bell. Not in photo, Platinum Plus Sponsor LSBA Corporate and Business Law Section.



Suzan N. Richardson (Deutsch Kerrigan LLP), left, accepted the Platinum Sponsor recognition award from Conclave Chair Troy N. Bell.



Isidro R. DeRojas (McCranie Sistrunk Anzelmo Hardy McDaniel & Welch LLC), left, accepted the Platinum Sponsor recognition award from Conclave Chair Troy N. Bell.



Thanks to the Corporate Breakfast Sponsor WalMart, Inc. From left, Alan Bryan and Tara N. Smith, both with WalMart, Inc.; and Conclave Chair Troy N. Bell.

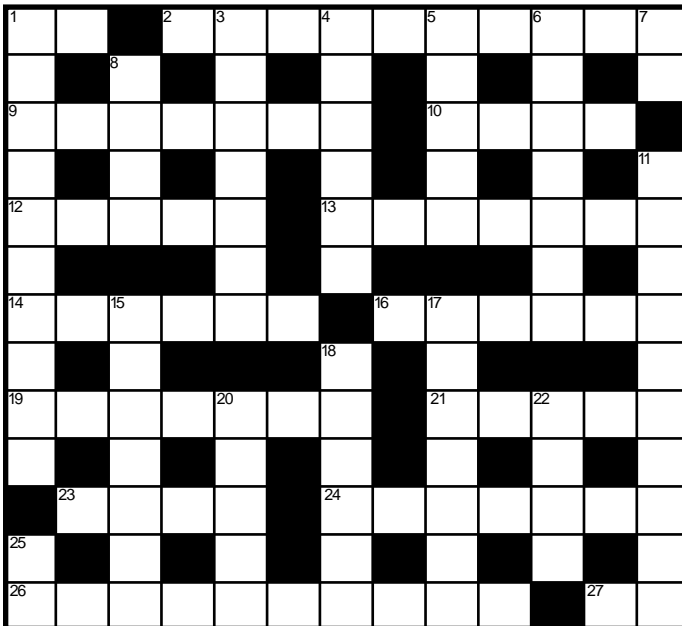


Jason R. Brown (Kean Miller LLP), left, accepted the Platinum Sponsor recognition award from Conclave Chair Troy N. Bell.

Crossword PUZZLE

By Hal Odom, Jr.

DO AS YOU WILL



ACROSS

- 1 Prosecutor (2)
- 2 Written entirely by hand (10)
- 9 What witnesses must be before they can testify (5, 2)
- 10 Immovable, as property (4)
- 12 Female collateral relative (5)
- 13 Alleviate pain, or assume another's duties (7)
- 14 Opposite of friendship, in voir dire (6)
- 16 Kind of review without deference to prior findings (2, 4)
- 19 Offensive remarks (7)
- 21 Donation mortis ___ (5)
- 23 Fieri facias, for short (4)
- 24 Presumptively (1, 6)
- 26 Wills (10)
- 27 Resting atop (2)

DOWN

- 1 Exclude a forced heir (10)
- 3 "The ___ Day," epic war movie set in Normandy (7)
- 4 Social stratum just below nobility (6)
- 5 Busy month for CPAs (5)
- 6 Unceremonious ejection (5-2)
- 7 ___-près doctrine (2)
- 8 Judicial outerwear (4)
- 11 Accomplished by physical destruction of, or execution of a new, will (10)
- 15 Occultists (7)
- 17 Contents of a block quote, usually (7)
- 18 Subject of any will (6)
- 20 Andean pack mammal (5)
- 22 Saucers overhead (4)
- 25 @, in full (2)

Answers on page 59.

Alcohol and Drug Abuse Hotline

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

1405 W. Causeway Approach, Mandeville, LA 70471-3045 • email jlap@louisianajlap.com

Alexandria	Steven Cook.....(318)448-0082	Monroe	Robert A. Lee....(318)387-3872, (318)388-4472
Baton Rouge	Steven Adams.....(225)921-6690 (225)926-4333	New Orleans	Deborah Faust.....(504)304-1500 Donald Massey.....(504)585-0290 Dian Tooley.....(504)861-5682 (504)831-1838
Lafayette	David E. Cooley.....(225)753-3407		
	Alfred "Smitty" Landry.....(337)364-5408 (337)364-7626	Shreveport	Michelle AndrePont.....(318)347-8532 Nancy Carol Snow.....(318)272-7547 William Kendig, Jr.(318)222-2772 (318)572-8260 (cell)
	Thomas E. Guilbeau.....(337)232-7240 James Lambert.....(337)233-8695 (337)235-1825		
Lake Charles	Thomas M. Bergstedt.....(337)558-5032		Steve Thomas.....(318)872-6250

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 6, 2018.

Decisions

Elaine Appleberry, Gretna, (2018-B-0025) **Consented to six-month suspension, fully deferred, subject to a one-year period of supervised probation from the practice of law**, by order of the Louisiana Supreme Court on Feb. 9, 2018. JUDGMENT FINAL and EFFECTIVE on Feb. 9, 2018. *Gist:* Mismanaged client trust account, which resulted in the negligent commingling and conversion of funds.

Ivory Batiste, Addis, (2017-BA-0098) **Conditional admission revoked** as ordered by the Louisiana Supreme Court on Feb. 2, 2018. JUDGMENT FINAL and EFFECTIVE on Feb. 2, 2018. *Gist:* Conditional admission to the practice of law revoked.

Wiley J. Beevers, Gretna, (16-DB-014) **Public reprimand** by ruling of the Louisiana Attorney Disciplinary Board on Jan. 22, 2018. JUDGMENT FINAL and EFFECTIVE on Jan. 22, 2018. *Gist:* Conflict of interest.

Chester Quinton Bell, Shreveport, (2017-B-2137) **By consent, suspended from the practice of law for 18 months, retroactive to his June 15, 2016, interim suspension**, by order of the Louisiana Supreme Court on Feb. 2, 2018. JUDGMENT FINAL and EFFECTIVE on Feb. 2, 2018. *Gist:* Commission of a criminal act, especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; unauthorized practice of law; and violat-



Advice and Counsel Concerning Legal & Judicial Ethics
Defense of Lawyer & Judicial Discipline Matters
Representation in Bar Admissions Proceedings

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Discipline continued from page 41

ing or attempting to violate the Rules of Professional Conduct.

David L. Bell, Gretna, (2018-B-0392) **Interimly suspended from the practice of law** by order of the Louisiana Supreme Court on March 16, 2018. ORDER FINAL and EFFECTIVE on March 16, 2018. Bell may not practice law in Louisiana until further orders of the Court.

Laetitia Black, Shreveport, (2017-B-1546) **Suspended from the practice of law for one year, with all but six months of the suspension deferred, followed by a period of unsupervised probation for one year**, by order of the Louisiana Supreme Court on March 13, 2018. *Gist*: Respondent knowingly violated duties owed to her clients and the legal profession. Her conduct harmed her clients and the disciplinary system.

Lewis B. Blanche, Baton Rouge, (2018-OB-0022) **Reinstated to the practice of law, subject to a two-year period of supervised probation**, by order of the Louisiana Supreme Court on Feb. 9, 2018. JUDGMENT FINAL and EFFECTIVE on Feb. 9, 2018. Blanche has proven by clear and convincing evidence that he satisfies the criteria for reinstatement to the practice of law in Louisiana.

John Arthur Brittain, Natchitoches, (2018-B-0188) **Consented to disbarment, to run retroactive to his March 29, 2017, interim suspension**, by order of the Louisiana Supreme Court on March 2, 2018. JUDGMENT FINAL

and EFFECTIVE on March 2, 2018. *Gist*: Converted client funds.

Kenneth James Culotta, Lafayette, (2018-OB-0190) **Transferred to disability/inactive status** by order of the Louisiana Supreme Court on Feb. 9, 2018. JUDGMENT FINAL and EFFECTIVE on Feb. 9, 2018. Culotta may not practice law until further orders from the Court.

Christa Hayes Forrester, Covington, (2018-B-0287) **Suspended six months (consent), fully deferred, subject to probation with conditions**, by order of the Louisiana Supreme Court on March 23, 2018. JUDGMENT FINAL and EFFECTIVE on March 23, 2018. *Gist*: Lack of diligence; failure to communicate with a client; engaging in conduct prejudicial to the administration of justice; and violating or attempting to violate the Rules of Professional Conduct.

James Casey Fos, Covington, (2017-B-2108) **Suspended for a period of three years on consent, with the condition that he make restitution**, by order of the Louisiana Supreme Court on March 2, 2018. JUDGMENT FINAL and EFFECTIVE on March 2, 2018. *Gist*: Filed frivolous claims; conversion and commingling in client trust account; lack of candor toward tribunal; conduct prejudicial to the administration of justice; and engaging in conduct involving dishonesty.

Louella P. Givens-Harding, New Orleans, (2018-B-0055) **Interimly suspended from the practice of law** by order of the Louisiana Supreme Court

on Feb. 2, 2018. ORDER FINAL and EFFECTIVE on Feb. 2, 2018. She may not practice law in Louisiana until further orders of the Court.

James A. Gray II, New Orleans, (2017-B-1929) **Suspended for one year, followed by one year of probation, from the practice of law**, by order of the Louisiana Supreme Court on Jan. 29, 2018. JUDGMENT FINAL and EFFECTIVE on Feb. 13, 2018. *Gist*: Respondent failed to cooperate in a disciplinary proceeding.

Joseph Aiavolasiti Kott, Covington, (2018-OB-0338) **Transferred to disability/inactive status** by order of the Louisiana Supreme Court on March 9, 2018. JUDGMENT FINAL and EFFECTIVE on March 9, 2018. Kott may not practice law until further orders from the Court.

Kevin D. McCleary, Baton Rouge, (2017-B-2158) **By consent, disbarred from the practice of law, retroactive to his interim suspension of May 28, 2015**, by order of the Louisiana Supreme Court on Feb. 2, 2018. ORDER FINAL and EFFECTIVE on Feb. 2, 2018. *Gist*: Commission of a criminal act; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; failure to account for funds entrusted; and violating or attempting to violate the Rules of Professional Conduct.

James E. Moore, Jr., Baton Rouge, (2018-B-0140) **Interimly suspended by consent from the practice of law** by order of the Louisiana Supreme Court on Jan. 31, 2018. ORDER FINAL and EFFECTIVE on Jan. 31, 2018. He may not practice law in Louisiana until further orders of the Court.

Gregory J. Noto, Chalmette, (2018-B-0179) **Consented to six-month suspension, fully deferred, subject to a six-month period of probation**, by order of the Louisiana Supreme Court on March 2, 2018. JUDGMENT FINAL and EFFECTIVE on March 2, 2018. *Gist*: Admitted that he violated the Rules of Professional Conduct by engaging in conduct that constitutes a conflict of interest.

Joseph G. Pastorek II, Slidell, (2017-B-1473) **Permanently disbarred**

Continued next page

CHRISTOVICH & KEARNEY, LLP
— ATTORNEYS AT LAW —

DEFENSE OF ETHICS COMPLAINTS AND CHARGES

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

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of April 2, 2018.

Respondent	Disposition	Date Filed	Docket No.
Timmy James Fontenot	(Reciprocal) Disbarment.	2/16/18	18-69
Joshua Paul Melder	(Reciprocal) Suspension.	2/16/18	18-518
Peggy M. Hairston Robinson	(Reciprocal) Disbarment.	3/28/18	18-1161
Timon V. Webre	(Reciprocal) Suspension.	3/28/18	18-1160

Discipline continued from page 42 from the practice of law by order of the Louisiana Supreme Court on Jan. 30, 2018. ORDER FINAL and EFFECTIVE on March 13, 2018. *Gist:* Conduct involving dishonesty, fraud, deceit and misrepresentation; commission of a criminal act; and violating or attempting to violate the Rules of Professional Conduct.

Eric O. Person, New Orleans, (2017-B-2159) **Consented to discipline and suspended from the practice of law for**

six months. This suspension is deferred in its entirety and subject to respondent's successful completion of a two-year period of supervised probation, by order of the Louisiana Supreme Court on March 2, 2018. JUDGMENT FINAL and EFFECTIVE on March 2, 2018. *Gist:* Mishandled client trust account and failed to keep client funds safe; and entered into an improper business relationship with a client.

Harold D. Register, Jr., Lafayette, (2017-B-1547) **Disbarred, retroactive**

to his April 27, 2017, interim suspension, by order of the Louisiana Supreme Court on Feb. 14, 2018. JUDGMENT FINAL and EFFECTIVE on March 1, 2018. *Gist:* Respondent failed to provide competent representation to a client, neglected a legal matter, and converted client and third-party funds.

Peggy M. Hairston Robinson, Baton Rouge, (2017-B-1290) **Permanently disbarred from the practice of law and ordered to make restitution to former clients or the Client Assistance**

STANLEY, REUTER, ROSS, THORNTON & ALFORD LLC

Legal & Judicial Ethics



William M. Ross
wmr@stanleyreuter.com

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

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(504) 523-1580 • www.stanleyreuter.com

Fund, as appropriate, by order of the Louisiana Supreme Court on Dec. 6, 2017. JUDGMENT FINAL and EFFECTIVE on Jan. 30, 2018. *Gist*: Engaged in criminal conduct; converted client and third-party funds; engaged in conduct involving dishonesty, fraud, deceit and misrepresentation; engaged in conduct prejudicial to the administration of justice; engaged in the unauthorized practice of law; engaged in a conflict of interest; initiated frivolous litigation; failure to exercise reasonable diligence; failure to communicate; and violating the Rules of Professional Conduct.

W. Glenn Soileau, Breaux Bridge, (2018-B-0394) **Interim suspension**

by order of the Louisiana Supreme Court on March 23, 2018. JUDGMENT FINAL and EFFECTIVE on March 23, 2018. He may not practice law until further orders from the Court.

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

Violation of Rule 1.3 — Lack of diligence.

Violation of Rule 1.4(a)(3) — Failure to keep the client reasonably informed about the status of the matter.

Violation of Rule 1.16(a)—Representing a client if the representation will result in a violation of the Rules of Professional Conduct or other law.

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Mandatory Arbitration Agreements and the Power of the Tweet

Mandatory arbitration clauses have become commonplace in corporate employment agreements, fueled by a push over the past three decades by the court system's expansion and application

of the Federal Arbitration Act (FAA), 9 U.S.C.S. § 3. While commonplace, commentators have expressed significant concern with the direction of this push and its effects on employment discrimination, harassment and the protection of employee's rights. Take, for instance, the placement of a mandatory arbitration clause in a summer associate's employment contract. Law students, like many new employees, are faced with a power imbalance in the negotiation of summer associate positions. Given a high supply of students, a small number of very competitive positions and careers at stake, most students are in no position to negotiate with law firms or decline an offer due to a mandatory

arbitration clause.

Using the widespread power of the social media platform Twitter, Ian Samuel, a lecturer at Harvard Law School, recently posted a tweet detailing the prominent firm Munger Tolles & Olson's practice of requiring all summer associates to sign employment contracts that included mandatory arbitration agreements, which he stated were "plainly calculated to shield [the firm] from claims of harassment." Included in the stream of tweets were photos of the alleged mandatory arbitration agreement obtained by an "anonymous Firstie," requiring mandatory arbitration for all "employment-related claims." Among the claims that require arbitra-



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tion are those arising under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Equal Pay Act of 1963 and the Americans with Disabilities Act.

Samuel's call for the removal of mandatory arbitration agreements is not the only call that has gathered significant attention lately. His tweets come on the heels of the National Association of Attorneys General sending a letter, signed by all 56 attorneys general and chief legal officers of every state and U.S. territory, calling on Congress to enact "needed legislation to protect the victims of sexual harassment in the workplace." The letter detailed the custom that has emerged of using employment contracts that contained boilerplate "take-it-or-leave-it" clauses, written in the "fine print," which the National Association of Attorneys General stated results in the deprivation of an employee's fundamental right to access the judicial system.

These events also follow the recent discussion of the protection of judicial law clerks and legal externs from similar claims, expressed by Chief Justice John G. Roberts, Jr. as a "problem of sexual harassment in the workplace" that the "judicial branch is not immune" to. The report detailing this discussion was issued less than two weeks after Judge Alex Kozinski of the 9th Circuit an-

nounced his retirement while facing multiple accusations of sexual misconduct with clerks.

With this discussion piercing a number of communities, it is apparent that an issue has been identified. Potential for reform came in 2017 when a bill sponsored by Rep. Henry Johnson, Jr., titled the "Arbitration Fairness Act of 2017," was introduced. The bill provides, in general, that "[n]otwithstanding any other provisions of this title, no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of an employment dispute, consumer dispute, antitrust dispute, or civil rights dispute." <https://www.congress.gov/bill/115th-congress/house-bill/1374/text>. As of the drafting of this article, the bill still sits idle before the Subcommittee on Regulatory Reform and has a 3 percent chance of passing, according to <https://www.govtrack.us>.

Notwithstanding congressional inaction, change may be coming through the use of non-legislative methods, like Twitter, by advocates fighting what they believe to be injustice. With attention being drawn to these mandatory arbitration agreements, firms like Munger Tolles & Olson are being forced to reconsider their current employment contracts and the provisions in them. In fact, it did not take long for the firm to reconsider its agree-

ment after Samuel drew attention to it. The firm released a tweet within two days stating that it was "wrong" and that the firm "will no longer require any employees, including summer associates, to sign any mandatory arbitration agreements."

For more information on these issues, see:

- ▶ <https://www.epi.org/publication/the-arbitration-epidemic/>
- ▶ <https://twitter.com/isamuel/status/977700343789314050>
- ▶ [https://myfloridalegal.com/webfiles.nsf/WF/HFIS-AVWMYN/\\$file/NAAG+letter+to+Congress+Sexual+Harassment+Mandatory+Arbitration.pdf](https://myfloridalegal.com/webfiles.nsf/WF/HFIS-AVWMYN/$file/NAAG+letter+to+Congress+Sexual+Harassment+Mandatory+Arbitration.pdf)
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Safe Harbor Provision of Bankruptcy Code

Merit Mgmt. Grp., L.P. v. FTI Consulting, Inc., 138 S.Ct. 883 (2018).

This March, the Supreme Court resolved a circuit split regarding whether the safe harbor provision of Bankruptcy Code section 546(e) protects all transfers conducted through a financial institution from avoidance as a fraudulent conveyance. While the code permits trustees to recover certain fraudulent transfers, section 546(e) protects certain transfers made by, to or for the benefit of financial institutions (among other entities). However, it was unclear among the circuits whether transactions are

protected when the financial institution merely acts as a “conduit” through which the funding passed.

In *Merit Management*, Valley View Downs, L.P., and Bedford Downs Management Corp. entered into a leveraged buyout wherein Valley View agreed to purchase Bedford’s shares for \$16.5 million. Two banks acted as intermediaries, wiring the purchase price from Valley View to Bedford’s shareholders, its largest being Merit Management Group, L.P. One of the banks also held the Bedford stocks in escrow as security for Bedford’s post-sale obligations to Valley View. Valley View later filed for Chapter 11 bankruptcy, and the litigation trustee challenged the sale as a fraudulent transfer, arguing that Valley View was insolvent at the time of the transaction. Merit Management countered that the transaction was protected from avoidance under the safe harbor provision of section 546(e), as the transaction was made between two financial institutions. The bankruptcy

court agreed, but the 7th Circuit reversed, reasoning that this interpretation was too broad and that section 546(e) cannot be read to protect transactions where a financial institution acts as a “mere conduit” in the transaction.

The Supreme Court affirmed, ruling that the relevant consideration is the transfer the trustee actually seeks to avoid. The Court noted that, where a transfer from A to D is executed, using B and C as intermediaries, the court should look to the transfer the trustee seeks to avoid (*i.e.*, A→D) to determine whether that transfer meets the safe-harbor criteria, and should not look to any “component parts” of the transfer (*i.e.*, A→B→C→D). Therefore, the Court determined that only the \$16.5 million transfer from Valley View to Merit Management was relevant to its determination. Because neither Valley View nor Merit (neither A nor D) were entities covered under section 546(e), the transfer did not fall within the purview of the safe harbor provision.



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Stated plainly, a transaction wherein the parties use a financial institution merely as an intermediary is not protected by section 546(e).

Equipment Lease

Kimzey v. Premium Casing Equip., L.L.C., No. 16-01490 (W.D. La. March 14, 2018), 2018 WL 1321971.

The debtor leased equipment from Premium Casing Equipment, L.L.C., prior to filing its bankruptcy petition. At the time of the bankruptcy filing, the debtor's principals decided to continue leasing the equipment as backup in case the debtor's owned equipment malfunctioned. However, the leased equipment was never used after the bankruptcy petition was filed, and the debtor moved to reject the Premium lease.

Premium subsequently sought allowance of an administrative-expense claim pursuant to section 503(b)(1)(a) for post-petition rentals owed on the equipment. Two unsecured creditors challenged the claim, but the bankruptcy court allowed the administrative claim in the amount of \$57,752.93, reasoning that the equipment was an actual, necessary expense of preserving the estate. The court noted that the 5th Circuit does not require that the expense confer a financial benefit on the estate in order to be "necessary." The court also noted that the debtor's principals exercised sound business judgment in deciding to retain the equipment.

On appeal, the district court agreed that the post-petition equipment rentals were actual, necessary expenses for the preservation of the debtor's estate. The district court noted that a prima facie case under section 503(b)(1) can be established by showing that the claim arose from a transaction with the debtor-in-possession, and that the goods or services enhanced the debtor's ability to operate as a going concern. The appellants argued that, because the leases pre-dated the bankruptcy, Premium could not establish that it had transacted with a debtor-in-possession. The court dismissed this argument.

The court reasoned that the ongoing nature of a lease facilitates the legislative purpose behind section 503(b), which is to foster continued operations between a debtor and its creditors. The court held that the debtor's principals' post-petition decision to retain the leased equipment sufficed to constitute a "transaction with the debtor-in-possession" as required by the first prong necessary to establish a prima facie case for the administrative-expense claim.

The court further held that it was not necessary that the debtor use the equipment, or incur a tangible benefit for the estate, in order to satisfy the second prong requirement that the transaction enhanced the debtor's ability to operate as a going concern. The court held that the business judgment exercised by the debtor's principals was reasonable, and, ultimately, retaining the leased

equipment increased the debtor's capacity to handle potential new business or overcome any unexpected equipment shortfalls that might have arisen post-petition. The district court thus affirmed the bankruptcy court's decision, finding that an actual financial benefit is not necessary to approve an administrative expense, and less calculable benefits, such as the ability to continue business as usual, may be sufficient.

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Identifying an Agent of a Limited Liability Company

Spinks Constr., Inc. v. Quad States Constr., L.L.C., 17-0580 (La. App. 1 Cir. 12/21/17), ___ So.3d ___, 2017 WL 6523080.

In 2008, Spinks Construction, Inc. executed a subcontracting agreement to provide various materials and labor to Quad States Construction, L.L.C. After completion of the work, Spinks claimed Quad States failed to pay \$162,597.40 of the total balance. In March 2015, Spinks filed a petition against Quad States and three individuals, Dale Lancaster, James Richard Lancaster and Kris Ainsworth, claiming: (1) Quad States owed the remainder of what

was due; (2) Dale Lancaster was personally liable as the “sole member” of Quad States; and (3) James Richard Lancaster and Ainsworth were personally liable as “qualifying parties” of Quad States.

In response, the three individuals filed a peremptory exception of no cause of action, claiming that they could not be personally liable for the business debts of a limited liability company. Answering the exception, Spinks argued the individuals were liable under La. R.S. 9:4814, which establishes personal liability of agents of contractors who knowingly fail to pay subcontractors with money received from construction contracts. Identifying Dale Lancaster as the “sole member” of Quad States, and James Richard Lancaster and Ainsworth as the “qualifying parties” of Quad States, Spinks argued the three individuals were “agents” under 9:4814. The trial court disagreed, finding: (1) prescription of the claim under the broader Louisiana Private Works Act; and (2) failure of Spinks to properly claim the three individuals were agents of Quad States. The trial court did not provide Spinks with

an opportunity to amend its petition.

Considering Spinks’ three assignments of error, the 1st Circuit affirmed in part, reversed in part, and remanded the case to the trial court. The 1st Circuit declined to consider Spinks’ first two assignments regarding prescription because it was unnecessary to its ultimate holding. Addressing the third assignment regarding the appropriateness of the exception, the 1st Circuit agreed that Spinks’ petition failed to state a legal cause of action against the three individuals. Considering only the petition and its attachments, Spinks failed to state a cause of action under R.S. 9:4814. The petition did not properly allege the individuals to be “agents” of Quad States according to the meaning of the statute.

The 1st Circuit interpreted R.S. 9:4814’s reference to “agent” to be an incorporation of Louisiana’s general law on agency, or mandate. According to Louisiana law, an agent, or mandatary, can represent a principal under either actual or apparent authority. Actual authority is based on express or implied agreement, and apparent authority is based on the conduct between

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the principal and the putative agent. In this case, none of the three individuals were alleged to have such power.

Spinks alleged James Richard Lancaster and Ainsworth to be “qualifying parties” of Quad States. The term “qualifying parties” is statutorily defined and refers to certain individuals who represent contractors on matters of state licensing and regulation. As qualifying parties, James Richard Lancaster and Ainsworth may have had limited agency power but were not agents within the meaning of R.S. 9:4814.

Spinks further alleged that, as a sort of “default” rule, Dale Lancaster, as the “sole member” of Quad States, could be presumed to be the general agent of the company. Disagreeing with this assertion, the 1st Circuit cited La. R.S. 12:1305(C), 1311 and 1317 as standing for the proposition that a third person must consult a company’s articles of organization and written operating agreement, if any, to determine which individuals have the authority to act on behalf of that company. Reliance on the fact of membership alone — even if an individual is the sole member — is insufficient. Spinks should have consulted Quad States’ organizational documents to determine whether Dale Lancaster was an agent of the company.

In addition to its inadequate assertions of agency power, Spinks failed to allege that any of the three individuals actually received money on behalf of Quad States and failed to apply the money to the balance owed to Spinks. By not properly addressing the legal elements of R.S. 9:4814, Spinks failed to state a cause of action in its petition, and the 1st Circuit affirmed the exception of no cause of action. Reversing the trial court in part, however, the 1st Circuit ruled Spinks was entitled to an opportunity to amend its petition under La. C.C.P. art. 934. The 1st Circuit remanded the case to the trial court for further proceedings consistent with its ruling.

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Custody

In re C.A.C., 17-0108 (La. App. 4 Cir. 11/2/17), 231 So.3d 58.

After this long-term, same-sex couple separated, the non-biological mother sought custody of the child they had raised together since her birth. After the trial court awarded joint custody, with the biological mother as the domiciliary parent, and a physical custody schedule, the biological mother appealed. The court of appeal first found that the allegation in the non-biological mother’s petition that removal from the non-biological mother’s care would result in substantial harm to the minor child and was not in her best interest was sufficient to state a cause of action. The biological mother argued that the non-biological mother failed to show that sole custody to the biological mother would cause substantial harm to the child. The case turned, in large measure, on what was meant by “substantial harm.” The trial court, and the court of appeal, found that substantial harm could be caused to the child by an emotional separation from the non-biological mother, whom the child considered her mother, and with whom she had a strong bond.

The biological mother’s expert testified that the child was showing no symptoms of substantial harm, and that, therefore, there was no substantial harm. The biological mother further argued that there was no present substantial harm shown, and that the possibility for assumed future substantial harm was not sufficient to deprive her of her constitutionally guaranteed rights as the biological mother. To that end, the court of appeal noted: “As with all constitutional rights, a parent’s right must be balanced with the child’s right to a custodial arrangement which promotes his or her best interests.” The biological mother also argued that the mother’s rights as the natural tutor of the child were violated by requiring a joint


custody arrangement with a non-parent. Important in the court’s analysis was the biological mother’s apparent pattern, and continuing desire, despite her testimony, to restrict and exclude the non-biological mother from access to the child and her activities and care.

The appellate court determined that the trial court did not err in finding that the biological mother was a fit parent but further finding that substantial harm would occur to the child if the biological mother were awarded sole custody. The court examined the La. Civ.C. art. 134 custody factors and found that it was in the child’s best interest to have a joint custody arrangement. Importantly, the court of appeal noted that La. Civ.C. art. 133, which provides for custody for a non-parent, was not designed to address the situation where a same-sex couple had acted as parents for a child over an extended period of time, and where the child had a strong attachment to both adults. The dissent argued that no present substantial harm was shown, and, therefore, the mother’s constitutional rights should not have been infringed upon.

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Howze v. Howze, 17-0358 (La. App. 1 Cir. 9/28/17), 232 So.3d 606.

Although the trial court found that Ms. Howze did not meet the *Bergeron* burden to modify this considered decree of legal and physical custody, it nevertheless revised the physical-custody schedule to an alternating-week schedule. The court of appeal found that although a more “flexible” standard might be applied to “tweak” visitation schedules, changing the access schedule here to alternating weeks was more than “tweaking,” and that since Mr. Howze failed to meet the *Bergeron* burden, the trial court’s judgment was reversed.

Community Property

Vedros v. Vedros, 16-0735 (La. App. 5 Cir. 10/25/17), 229 So.3d 677, writ denied, 18-0004 (La. 2/23/18), 237 So.3d 520.

The court of appeal reversed the trial court’s denial of Mr. Vedros’ reimbursement claim for community funds used to make mortgage payments on Ms. Vedros’ separate property. Since the property was not used as the family home, Mr. Vedros was entitled to reimbursement for the entire note, not just the reduction in the principal. Further, Ms. Vedros admitted that community funds were used to pay the notes, even though the actual checks were

not allowed into evidence. The trial court did not err in ordering Mr. Vedros to pay to Ms. Vedros one-half of the funds that he withdrew from accounts registered in the parties’ children’s names. The court of appeal affirmed the application of lack of marketability and minority interest discounts regarding the value of the community portion of a business after discussing prior jurisprudence and finding that discounts were acceptable in the present case. Distributions made by the business entity to Ms. Vedros were reported on K-1 forms, rather than W-2 forms, and were, therefore, treated as profit distributions, rather than salary or bonuses, and Mr. Vedros was entitled to one-half of those distributions. The court of appeal addressed and distinguished whether those distributions were properly treated as payments to the owners as business profits, or compensation to Ms. Vedros for post-termination efforts, skills and labor.

Relocation

Holley v. Holley, 17-0325 (La. App. 5 Cir. 11/20/17), 232 So.3d 717.

The court of appeal found that 75 miles under the relocation statute is to be measured “‘as the crow flies,’ rather than by surface or road miles.” The parties’ re-

spective measurements of the distance, depending on the route taken, was in some cases more and in some cases less than 75 miles. Thus, the relocation statutes did not apply, since the move here was less than 75 straight-line miles from home to home.

Cohabitation

Ronquille v. Ronquille, 17-0207 (La. App. 5 Cir. 11/15/17), 233 So.3d 189.

Even though Mr. Ronquille showed that Ms. Ronquille’s male friend had spent eight consecutive nights at her home, the trial court found, and the court of appeal affirmed, that they were not cohabitating in the manner of married persons so as to extinguish Mr. Ronquille’s spousal-support obligation. The trial court had also found that Ms. Ronquille’s testimony regarding the living arrangement lacked credibility, and there was evidence indicating a relationship, but the record as a whole did not present sufficient evidence to establish that they were cohabitating.

—David M. Prados

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Recordation of Statement of Claim Before Recordation of Substantial Completion Appropriate with Proper Notice

Nu-Lite Elec. Wholesalers, L.L.C. v. Axis Constr. Group, L.L.C., 17-1204 (La. App. 1 Cir. 4/9/18), ___ So.3d ___, 2018 WL 1703964.

Nu-Lite Electrical Wholesalers, L.L.C., the supplier to an electrical subcontractor on a public project, alleged that it was not paid in full by the subcontractor.

On Sept. 20, 2010, Nu-Lite sent notice of its intent to file a sworn statement of claim to the owner, the general contractor and the payment bond surety. Nu-Lite recorded its statement of claim on Oct. 1, 2010. On May 11, 2011, Nu-Lite filed suit against the general contractor, the payment bond surety and the subcontractor. Thereafter, on Dec. 12, 2011, the owner recorded a certificate of substantial completion, which constituted a notice of acceptance of the work. Thus, Nu-Lite's statement of claim was recorded well before the recordation of substantial completion.

The general contractor and surety filed a peremptory exception of no right of action, arguing that Nu-Lite failed to comply with the recordation and notice requirements of the Louisiana Public Works Act. They argued that a bond claim (set forth in La. R.S. 38:2247) was predicated on compliance with La. R.S. 38:2242(B), which requires a claimant to record a sworn statement of the amount due within 45 days from the recordation of the notice of acceptance, which Nu-Lite failed to do. The trial court agreed, relying on *Gootee Constr., Inc. v. Atkins*, 15-0376 (La. App. 4 Cir. 11/4/15), 178 So.3d 639, and determined that Nu-Lite had no right of action because it recorded its statement

of claim prematurely — well before the recordation of the certificate of substantial completion. The trial court dismissed the claims against the general contractor and surety, and Nu-Lite appealed.

The court of appeal noted that, in *Pierce Foundations, Inc. v. Jaroy Constr., Inc.*, 15-0785 (La. 5/3/16), 190 So.3d 238, the Louisiana Supreme Court held that the recordation provision in La. R.S. 38:2242(B) was permissive and was not a mandatory requirement for a bond claim under La. R.S. 38:2247. The court then concluded that Nu-Lite's filing of its claim prior to the filing of the notice of acceptance was not detrimental to Nu-Lite's claim. Relying on *Pierce* and "*K*" *Constr., Inc. v. Burko Constr., Inc.*, 629 So.2d 1370, 1374 (La. App. 4 Cir. 1993), the court found that "La. R.S. 38:2242(B) only contemplates a situation in which the notice of acceptance is filed prior to the lien having been filed." The court reasoned that the issue was whether the supplier's actions were sufficient to provide notice to the general contractor and the surety of its claims. The court found that the supplier notified the general contractor and surety of its intention to file a claim, subsequently recorded its claim in the public records and commenced a lawsuit to enforce its claim, which lawsuit was answered by the general contractor and surety. The court concluded that Nu-Lite's actions provided the defendants with sufficient notice of the claim and, therefore, satisfied the requirements of 38:2242(B).

The court also addressed the requirement in 38:2247 to provide notice to the contractor within 45 days of the recordation of the notice of acceptance. The court examined the record and concluded that the contractor had actual notice of the claim stated with substantial accuracy within 45 days of the notice of acceptance.

The court held that the provisions of 38:2242(B) and 38:2247 were satisfied. It reversed the judgment of the trial court and remanded for further proceedings.

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Interpretation of Maritime Insurance Contracts

Cont'l Ins. Co. v. L&L Marine Transp., Inc., 882 F.3d 566 (5 Cir. 2018).

Three tugs were towing a barge, FSB 101, on the Mississippi River, with the M/V ANGELA RAE (lead tug) and the M/V FREEDOM positioned behind FSB 101 and the M/V MISS DOROTHY positioned at its head. The MISS DOROTHY allided with a fender system on the Sunshine Bridge and sank, setting off a dispute between P&I and Atlantic Specialty, both insurers of the ANGELA RAE, as to which policy covered the loss.

The Atlantic Specialty policy covered the following situations: (1) the ANGELA RAE collides with something else, (2) the ANGELA RAE strands her tow, (3) the ANGELA RAE causes her tow to come into collision with anything else, or (4) the ANGELA RAE causes any damage to her tow or her tow's freight.

P&I sued because its policy covered only situations that Atlantic Specialty's does not. P&I contended that the MISS DOROTHY'S loss falls within the third situation covered by Atlantic Specialty's policy, *i.e.* that the ANGELA RAE caused her "tow" to come into collision with the fender system, urging application of the "dominant-mind" doctrine to define "tow"

for the purposes of this insurance contract.

The dominant-mind doctrine is a principle of maritime tort law holding that when a flotilla, *i.e.*, the tugs and tow as a unit, causes damage to some third party, typically only the tug is liable, given that it is usually in control of the operation. P&I argued, and the district court agreed, that because the ANGELA RAE was the lead tug and responsible for the navigation of the flotilla, the MISS DOROTHY was the "tow" of the ANGELA RAE.

The 5th Circuit declined this application of tort principle to the interpretation of an insurance contract, instead relying on the eight corners rule to assess whether there is a duty to defend by applying the allegations of the complaint to the underlying policy without resort to extrinsic evidence. The court assumed the facts in Continental's complaint: "the ANGELA RAE was the lead tug; the MISS DOROTHY was assisting the ANGELA RAE with the towage of FSB 101; and the ANGELA RAE negligently caused the MISS DOROTHY's allusion." Thus the issue was narrowed and framed: Was the MISS DOROTHY the "tow" of the ANGELA RAE for purposes of Atlantic Specialty's policy?

The court noted that, under Louisiana law, the interpretation of insurance policies is governed by general rules of contract interpretation, and thus courts should seek to determine the parties' common intent, as reflected by the words of the policy. Seeking the "plain, ordinary and generally prevailing meaning" or "technical meaning" of the word "tow," the court consulted dictionaries, including Black's Law, Merriam-Webster and the Oxford English; case law including Supreme Court and 5th Circuit opinions; and Schoenbaum's treatise on Admiralty and Maritime Law to synthesize a definition of tow — some ship or boat "that is being provided extra motive power from another vessel by being pushed or pulled."

The court concluded that "'tow,' as used in Atlantic Specialty's policy, is defined by its plain, ordinary meaning: a vessel that is provided auxiliary motive power by being pushed or pulled. A tug remains a tug when it is tugging (*i.e.*, pushing or pulling), and a tow is a tow only when it is being towed (*i.e.*, being pushed or pulled). And because the MISS DOROTHY was not provided any extra motive power, it was not a tow. Atlantic Specialty's policy does not apply."

Federal Officer Removal Statute – 2011 Amendment

Legendre v. Huntington Ingalls, Inc., 885 F.3d 398 (5 Cir. 2018).

Four Legendre brothers filed suit in state court against Huntington Ingalls (Avondale) for the death of their sister, Mary Jane Wilde, from mesothelioma, allegedly caused by defendants having exposed her to asbestos. Avondale removed to federal district court under the federal officer removal statute, 28 U.S.C. §1442. The 5th Circuit affirmed the district court's decision to remand to state court, holding that, under controlling precedent, Avondale must show a causal connection ("causal nexus") between the federal officer's direction and the conduct that is the subject of the complaint. Avondale appealed.

To remove, a defendant must show, *inter alia*, that it acted pursuant to a federal officer's directions and that a causal nexus

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exists between its actions under color of federal office and the plaintiff's claims. In the past, §1442 permitted removal "only when the state suit was 'for any act under color of such office.'" Congress amended the statute in 2011 "to allow the removal of a state suit 'for or relating to any act under color of such office.'"

The Legendres' un rebutted evidence showed that while the government required Avondale to use asbestos, it neither required nor restricted its use of safety measures. Safety was Avondale's responsibility, and government inspectors neither monitored nor enforced safety regulations. To remove, "Avondale must show a causal connection between the federal officer's direction and the conduct challenged by the Legendres . . . Avondale has not made this showing."

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International Trade Law Actions

The United States has undertaken several unilateral international trade law actions in the past few months, spurring vocal reaction and retaliation from United States' trading partners. The following is a brief summary of the measures taken, or proposed to date, with references to specific retaliatory measures where appropriate.

Presidential Proclamations 9704 and 9705

Adjusting Imports of Aluminum into the

United States, 83 Fed. Reg. 51, 11619 (March 8, 2018). *Adjusting Imports of Steel into the United States*, 83 Fed. Reg. 51, 11625 (March 8, 2018).

On March 8, President Trump issued two presidential proclamations seeking to adjust imports of steel and aluminum into the United States pursuant to Section 232 of the Trade Expansion Act of 1962, 19 U.S.C. § 1862. The proclamations follow findings by the U.S. Department of Commerce that imports of certain steel and aluminum products are impairing the national security of the United States. President Trump's executive orders impose a 25 percent import tariff on various categories of steel and a 10 percent import tariff on numerous aluminum products.

Reaction to the tariffs was swift. On March 22 — the day before the tariffs became effective — the United States instituted two separate procedures for exclusions and exemptions. First, product-specific exclusions from the tariffs may be sought from the U.S.

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Department of Commerce. Second, country-wide exemptions are permitted at the discretion of the United States Trade Representative (USTR) and White House. Canada and Mexico were granted immediate exemptions pending negotiations on an updated NAFTA. Temporary exemptions were also granted to Australia, Argentina, South Korea and Brazil. Japan is expected to seek an exemption during an upcoming state visit to the United States.

China responded to the tariffs on April 2 by imposing its own import tariffs on various U.S. commodities produced in politically sensitive jurisdictions. China also requested dispute-settlement consultations with the United States under the World Trade Organization (WTO) Dispute Settlement Understanding, the first step in the process of formal dispute proceedings. China is treating the U.S. tariffs as a safeguards measure and contends that the steel and aluminum tariffs violate various provisions of the WTO Agreement on Safeguards.

China's Policies and Practices Related to IP

Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, 83 Fed. Reg. 67, 14906 (April 6, 2018).

On Aug. 18, 2017, the USTR initiated an investigation into whether certain policies of the Chinese government constitute impermissible restrictions on U.S. intellectual property rights. The USTR investigated Chinese forced technology-transfer practices, whereby China allegedly requires the transfer of U.S. intellectual property to Chinese companies in order to do business in China. The USTR also examined non-market-based, technology-licensing requirements and Chinese government direct investment in the United

States seeking to procure the transfer of important intellectual property. On March 22, 2018, the USTR published its full report, which concluded that the Chinese acts, policies and practices impose an unreasonable burden or restriction on U.S. commerce under Section 301 of the Trade Act of 1974, 19 U.S.C. 2411. The USTR published a list of \$50 billion worth of proposed tariffs on Chinese goods that benefit from Chinese industrial policies, including the Made in China 2025 initiative. The recommended action is currently in a public comment period, with a public hearing conducted on May 15, 2018. China has not formally responded to the proposed measures, but retaliation is expected once the tariffs are final.

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WELCOMES
JOSEPH I. GIARRUSSO III
TO THE BKC TEAM.

Joe Giarrusso joined BKC as of counsel in 2018. After a year-long appellate clerkship, he went into private practice extensively litigating cases in state and federal court for the next fifteen years. Joe will continue his general litigation practice at the firm, focusing his practice on litigation in all Louisiana state courts.

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Early Termination; Drilling Contract; Damages

Baywater Drilling, L.L.C. v. Sw. Energy Partners, L.L.C., No. 17-30615, 2018 WL 501387 (5 Cir. Jan. 19, 2018).

Baywater Drilling, L.L.C., was hired by Southwest Energy Partners, L.L.C., to perform drilling services on a well located in Cameron Parish. Shortly after Baywater began its work, Southwest terminated the operations because the well “took a kick” (i.e., started flowing early due to high pressure). Southwest based its stoppage on Section 6.3(b) of the contract, which stated, “Operator [Southwest] shall have the right to direct the stoppage of the work to be performed by Contractor [Baywater] . . . at any time prior to reaching the specified depth . . . even though Contractor has made no default . . . Operator shall reimburse contractor as set forth in subparagraph 6.4 . . .”

Prior to the termination, Southwest paid Baywater \$490,500 — \$400,000 for 20 days of worked performed, \$20,000 for hiring a tug boat to move Baywater’s rig from the well and \$70,500 for various other expenses. Despite receiving this amount, Baywater filed a lawsuit claiming that it was entitled to an additional \$300,000 as an early termination payment. Baywater based its claim on Section 6.4 of the contract, which provided that the operator was to pay the contractor “for all applicable daywork rates and all other charges and reimbursements due to Contractor; but in no event shall such sum, exclusive of reimbursements due, be less than would have been earned for 15 days [of work].”

Baywater argued that the “but in no event” language of Section 6.4 required that Southwest pay an additional \$300,000. The trial court disagreed. On summary judgment, it de-

nied Baywater’s claim and held that Southwest’s prior payments satisfied its obligation under the contract. On appeal, the U.S. 5th Circuit Court of Appeals affirmed the trial court’s interpretation of the drilling contract. The court found that Section 6.4 was not a liquidated damages clause; instead, it was a minimum payment requirement in the event the contract terminated before the 15th day of performance. Here, Southwest’s payment of \$490,500 by the 20th day exceeded the minimum payment requirement. The court further found that Southwest did not breach the contract; instead, it exercised its right to terminate it. The court did not find that Baywater was entitled to an additional \$300,000 early termination payment, which would have amounted essentially to a windfall for Baywater.

Pugh Clause; Lease Interpretation

J&L Oil Co. v. KM Oil Co., L.L.C., La. App. 2 Cir. 2/28/18, ___ So.3d ___, 2018 WL 1075402.

A 1951 mineral lease required that the lessee drill certain wells to a specific depth by certain dates. The first well was to be completed by Jan. 1, 1952, to a depth of 1,700 feet. Thereafter, successive wells were to be drilled on a continuous basis, e.g., the second well was to be started 30 days after the completion or abandonment of the first well, the third well was to be started after the completion or abandonment of the second well, and so on, up to five wells. The 1951 lease also required that if this successive completion schedule was not followed, the 1951 lease would terminate and the lessee would have no right to resume drilling. It also stated that if five wells were timely drilled, the lease would remain in effect as long as the wells were producing in paying quantities. If fewer than five wells were timely drilled or one of the five wells stopped producing in paying quantities, then lessee would retain only five acres in a square with the well in the center for those wells that continued to produce. Any well that failed to produce

in paying quantities would not hold any portion of the lease as to any acreage. A total of 13 wells were ultimately drilled.

This case turns on the interpretation of the Pugh clause in the 1951 lease and whether it was satisfied. The current operator, J&L Oil, sued defendants — KM Oil Co., L.L.C., et al. — for affecting its mineral lease. At the district court level, the parties filed cross-motions for summary judgment, including affidavits. The trial court ruled in favor of defendants’ motion for summary judgment and denied J&L’s motion. The trial court found that the affidavits submitted in support of J&L’s motion for summary judgment did not demonstrate that the 1951 Pugh clause was satisfied.

The appellate court affirmed the trial court’s ruling. The appellate court found that the affidavits submitted in support of J&L’s motion for summary judgment were insufficient because they did not provide the dates the wells were drilled, nor did J&L provide evidence that the five required wells had consistently produced since being drilled in 1951-1952. The court further found that a statement in the 1977 lease, noting that the 1951 lease remained “a producing mineral lease,” was not sufficient to show that the Pugh clause of the 1951 lease had been satisfied.

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Summary Judgment

Thomas v. Drew, 17-0818 (La. App. 3 Cir. 3/7/18), ___ So.3d ___, 2018 WL 1178109.

Thomas underwent shoulder arthroscopy to repair his rotator cuff syndrome. He was administered a number of anesthetic/pain-relieving/anti-emetic medications pre-, peri- and post-operatively. He was discharged from the surgical center that same day, apparently in good condition. But six hours later, he was found at home unconscious, after having taken only one oxycodone after discharge. He remained in a coma for five days. Upon his release, he had lost the use of the left side of his body.

Following a medical-review-panel opinion in favor of the healthcare providers, Thomas filed a lawsuit against Dr. Drew claiming that he had been released too early following his surgery, thus causing the complications that followed.

Drew filed a motion for summary judgment, offering the unanimous medical-review-panel opinion in support. Thomas opposed the motion with the affidavit of an anesthesiologist-pain-management physician, Dr. Gros, who opined that Thomas was “not monitored long enough prior to discharge from the Recovery Room at Lafayette Surgery Center.” Drew claimed that Gros was not qualified to render an opinion about the standard of care of an orthopedic surgeon, further arguing that Thomas provided no expert testimony to show Drew’s alleged breach of any standard of care caused or contributed to any damages.

Thomas argued that Drew failed to follow proper procedure for objecting to Gros’ expert opinion when he failed to challenge Gros’ qualifications as an expert as required by La. C.C.P. art. 1425, *i.e.*, a *Daubert* challenge or a motion *in limine*. The trial court found that Drew did challenge the qualifications of Gros in his re-

ply memorandum supporting the motion for summary judgment, thereby following the proper procedure of La. C.C.P. art. 966(D)(2) in objecting to Gros’ affidavit.

The appellate court agreed with Thomas that *Daubert* standards should be considered by the trial court in determining whether the expert is qualified. However, the appellate court noted that, at the hearing on the summary judgment motion, defense counsel extensively discussed the applicability of *Daubert*, and the transcript showed that the trial judge did conduct a *Daubert* analysis concerning Gros’ qualifications to testify about an orthopedist’s standard of care. The trial and appellate courts agreed that the alleged malpractice was not peculiar to orthopedic surgery and thus an expert in orthopedic surgery was not required; nevertheless, they found that Gros’ affidavit was insufficient to establish that Dr. Drew breached the standard of care because it never stated “what standard of care was owed to Mr. Thomas by Dr. Drew post-operatively or that Dr. Drew breached any standard of care at all in his care of Mr. Thomas.” Drew was never mentioned in Gros’ affidavit, and it simply made a conclusory statement about the patient’s post-operative care. “Affidavits that are conclusory with no supporting underlying facts are legally insufficient to defeat a motion for summary judgment.” The trial court’s granting of the motion for summary judgment in favor of Dr. Drew was affirmed.

HCP Claim of Malicious Prosecution and Defamation

Jeansonne v. Bonano, 17-0828 (La. App. 1 Cir. 1/23/18), ___ So.3d ___, 2018 WL 525367.

Mr. Bonano filed a medical-review-panel (MRP) complaint against Dr. Jeansonne arising from Mrs. Bonano’s death. The panel exculpated Jeansonne. Bonano did not file a lawsuit. Jeansonne, nevertheless, sued Bonano, alleging malicious prosecution and defamation, claiming that Bonano “knew” Jeansonne could not be responsible for Mrs. Bonano’s death

and “had no evidence to support or even suggest such a claim.” Bonano responded with exceptions of no cause of action and prescription. The trial court sustained the exception of no cause of action as to Jeansonne’s malicious prosecution claim and sustained the exception of prescription as to the defamation claim.

The appellate court reviewed statutory law pertaining to medical-review panels, noting that, irrespective of the findings of the panel, it is the court that decides the rights of the parties, not the panel, which simply renders an opinion. Therefore, no cause of action existed.

As to the defamation claim, the court noted that the panel reached its opinion on Dec. 3, 2013, during a telephone conference in which Jeansonne’s counsel participated, and Jeansonne’s counsel received a copy of the signed opinion on Jan. 14, 2014. Jeansonne’s defamation claim was filed on Jan. 7, 2015.

The trial court ruled that prescription began to run on Dec. 3, 2013, when the panel made its ruling during the telephone conference. Jeansonne argued that an action for defamation based on allegations made in a judicial proceeding against a party cannot be filed until the proceeding is concluded, which he claimed would not occur until 90 days after a claimant receives the panel’s final opinion, as required by the MMA, *i.e.*, prescription on the defamation claim did not begin until Bonano’s right to file a malpractice claim terminated. Alternatively, Jeansonne argued that the opinion was finalized on the date on which Bonano received the panel’s opinion by certified mail (Jan. 16). The trial court disagreed and found “no requirement that an action for defamation arising out of allegations made in a [MRP] cannot be brought until the [MRP] is terminated. Instead, prescription begins to run when the plaintiff has knowledge of the allegedly defamatory publication,” a finding with which the court of appeal concurred.

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Valuation of Unusable Salt Caverns

Blanchard v. Axiall, L.L.C., No. 035890, 23rd Judicial District Court (12/19/17).

Axiall, L.L.C., owns a number of salt caverns in Assumption Parish, Louisiana, where several years ago a salt cavern failed. The Louisiana Department of Natural Resources subsequently promulgated regulations that severely curtailed Axiall's ability to use its salt caverns. However, the local assessor rejected Axiall's assertion that, under the new regulations, the property was essentially worthless. Upon review, the Louisiana Tax Commission agreed with Axiall. The Commission found that the salt caverns were to be valued under the guidelines for oil and gas properties and that they were not being, nor could they be, used for a commercial purpose due to the new restrictive regulations. The Commission determined a nominal fair market value for the properties.

On appeal, the district court in Assumption Parish reversed. The district court found first that the properties should have been valued as ordinary business assets, not oil and gas properties, despite their intended use for oil and gas storage. The district court next found that Axiall used the caverns for commercial production of brine for its manufacturing establishment and for disposal. Accordingly, the district court reinstated the assessor's valuations. The matter is currently on appeal to the Louisiana 1st Circuit Court of Appeal.

In the meantime, the Louisiana Tax Commission considered a very similar case by another taxpayer. See, *Blue Cube Operations, L.L.C. v. Assumption Parish Board of Review*, No. 16-22007-001. In its decision, the Commission doubled down and emphasized that brine wells are no different from oil and gas wells and that the local assessor's refusal to value brine wells under the guidelines for oil and gas properties was invalid, incorrect and an abuse of

the assessor's discretion. The Commission further noted that the local assessor had submitted no evidence explaining or justifying his valuation of the salt caverns. The Commission noted that it could only speculate that the assessor must have determined the salt caverns to have some commercial use. However, the taxpayer presented specific and compelling evidence establishing that the salt caverns had no separate commercial value and were not (and could not) be used to store hydrocarbons as intended. Finally, the Commission concluded that, until the process to convert the caverns for the storage of hydrocarbons is completed, they are simply holes in the ground without any inherent additional commercial value. The Commission then determined a nominal fair market value for the properties. The local assessor has appealed this decision to the district court in Assumption Parish.

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Latest Act of the Legislature Controls

Metals USA Plates & Shapes Se., Inc. v. La. Dep't of Rev., 17-0699 (La. App. 3 Cir. 3/21/18), ___ So.3d ___, 2018 WL 1464054.

The 3rd Circuit Court of Appeal held a corporation engaged in the metals business was not entitled to a sales-tax refund on purchases of welding gases because certain commercial purchases of fuels and gases were not excluded from sales tax under La. R.S. 47:301(10)(x).

The resolution of the dispute hinged entirely on the interpretation of two acts passed by the Louisiana Legislature in the same session, each applicable to the purchase of the welding gases at issue, and certain exemptions from sales taxes for those purchases. Act 1 of the 2008 Second Extraordinary Session excluded from tax any fuel or gas purchased, and Act 9 of the same session excluded only butane and propane gases. Each act attempted to amend and reenact the same provision of La. R.S. 47:301(10)(x). Both acts in question were

passed in the same legislative session, but evidence in the record established that Act 9 was passed following the passage of Act 1.

The taxpayer contended that the two acts could be read together and harmonized; however, the 3rd Circuit found the two acts were plainly irreconcilable. Acts 1 and 9 could not be harmonized to give effect to both acts consistent with legislative intent. The 3rd Circuit referenced the Louisiana Department of Revenue's attempt to resolve the conflict between Acts 1 and 9 in Louisiana Revenue Information Bulletin No. 08-022, 07/21/08 (RIB). The RIB stipulated that the Department's position has been that, since Act 9 was the last expression of the Legislature, the amendments to La. R.S. 47:301(10)(x) made by Act 9 are controlling and supersede the amendments to the same statute by Act 1. Moreover, the 3rd Circuit looked to the testimony in the record that established that welding gases, such as those at issue, have been taxed by the Department consistently at all times pertinent. Thus, the Department maintained its current position with respect to Acts 1 and 9 since their enactment. Accordingly, based on a thorough reading of the plain wording of the two acts, the 3rd Circuit found Acts 1 and 9 were in conflict, and the last expression of legislative will, Act 9, impliedly repealed Act 1.

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ANSWERS for puzzle on page 40.

D	A		O	L	O	G	R	A	P	H	I	C
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CHAIR'S MESSAGE

Busy? Yes, But There's Still Time to Make a Difference

By Dylan T. Thriffiley

Welcome to the 2018-19 Bar year! It's hard to believe that half of 2018 has come and gone, but here we are. I am thrilled to be sworn in as the Young Lawyers Division (YLD) chair and look forward to serving Louisiana's young lawyers in the coming year. I must be honest when I tell you that if I'd known 10 years ago when I graduated from law school what my life would look like today, I might have thought twice before diving head-first into the Bar leadership track. Like many young lawyers, I struggle every day with how to juggle it all.

But here I am, being sworn in as the next YLD chair, married with two young children, with a job I love, and more personal and professional commitments than my Outlook calendar can handle.

What's my point? My point is that we are all busy and, best I can figure, there doesn't appear to be any sign of slowing down in the near future. So, let's make the best of the time we have and get involved where we can to improve our communi-



Dylan T. Thriffiley

ties and enhance the legal profession in Louisiana. Not everyone needs to run for an office or serve as a district representative (although, if this is something that appeals to you, send me an email and let me know!). But the YLD offers numerous opportunities throughout the year for young lawyers to make a difference.

The YLD is the service arm of the Louisiana State Bar Association (LSBA) and, as such, is tasked with carrying out projects that serve both the public and members of the profession. Some of my personal favorites are our Wills for Heroes Program and our high school mock trial competition. Volunteering for either of these programs can consist of committing to several hours on a Saturday once a year. There is nothing more fulfilling than spending time with local first respond-

ers and providing them with the peace of mind to know that their final wishes are in place in the event of the worst-case scenario. And, if you think that your law school mock trial competitions were intense, then you've never witnessed the four Louisiana regional champions face off in the Richard N. Ware IV State High School Mock Trial Competition. Those "kids" never cease to amaze me.

If you can't commit to an entire Saturday away from your work or family commitments, there are many other opportunities for you to get involved. Reach out to your YLD district representative if you are interested in an appointment to the YLD Awards Committee. Nominate yourself or a colleague for a YLD award. Attend the annual Professional Development Seminar during the LSBA's Midyear Meeting in January and network with some of your peers. (You can't beat \$30 for four hours of CLE specifically designed for young lawyers.) Volunteer to moderate a Bridging the Gap CLE for newly admitted young lawyers. Keep in mind that all of these activities look great on a law firm bio.

If nothing else, contact your district representatives or YLD officers (all introduced on the following pages) if you have any thoughts or concerns about issues affecting young lawyers in Louisiana today. We would love to hear from you and I look forward to working together with all of you this year.



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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.

SAVE THE DATE

NOVEMBER 9, 2018 – NEW ORLEANS

LOUISIANA STATE BAR ASSOCIATION COMPLEX LITIGATION SYMPOSIUM



Richard J. Arsenault, Seminar Chair

For nearly 20 years, our speakers have included the nation's leading complex litigation academicians, jurists, and members of the bar from both sides of the "V." These are the folks that are presiding over, writing about, and litigating the most significant cases in the country. They are the who's who of the complex litigation bench and bar.

Last year's speakers included:



Hon. Ken Starr • Hon. Eldon Fallon • Hon. Rebecca Doherty • Hon. Patrick Hanna
Prof. Arthur Miller • Prof. Tom Galligan • Prof. Jaime Dodge • Prof. Lynn Baker
Prof. Francis McGovern • Mark Geragos • Mark Lanier • Daniel Garrie • Teny Geragos
Hezekiah Sistrunk • Aimee Wagstaff • Thomas Anapol • Lori Cohen • Kenneth DeJean
Nicholas Drakulich • Sara Gourley • Steve Herman • Eric Holland • Jane Lamberti
Shean Williams • Rachel Lanier • Douglas Marvin • Paul Pennock • Gary Russo
Robert Shelquist • John Sherk • Ginger Susman • Shannon Pennock • Robert Drakulich
Joseph Thorpe • Jennifer Hoekstra • Dustin Carter

YOUNG LAWYERS SPOTLIGHT

Alan W. Stewart Lafayette

The Louisiana State Bar Association's (LSBA) Young Lawyers Division Council is spotlighting Lafayette attorney Alan W. Stewart.

Stewart is a partner in the new Lafayette law firm, Gibson Law Partners, L.L.C., which opened its doors in March. The firm focuses in professional liability and business



Alan W. Stewart

litigation matters.

After graduating with a BA degree in 2007 from Louisiana State University, he decided to follow in the footsteps of his father, Larry Stewart, who practiced law in Alexandria for nearly 40 years. "I saw the long hours that my Dad worked," Stewart said, "but I also saw the rewards reaped from those long hours."

Stewart enrolled in LSU Paul M. Hebert Law Center and graduated, *magna cum laude*, in 2011. During law school, he was a member of the *Louisiana Law Review*, publishing an article about the evidentiary doctrine *res ipsa loquitur*. His moot court team was a semi-finalist in the Judge John R. Brown Admiralty Moot Court Competition in Houston, Texas.

He moved to Lafayette after passing the bar exam. "Lafayette is a vibrant community," he said. "It has the accoutrements of

a large town with the ambiance of a small town." He joined the law firm Allen & Gooch where he practiced maritime law under the tutelage of Randy Theunissen. In 2015, Stewart and Theunissen had the privilege of presenting a program to the Greater New Orleans Barge Fleeting Association on the topic of Jones Act seaman status.

These days, Stewart enjoys representing attorneys and judges in professional liability and disciplinary matters. He is also excited about the opening of Gibson Law Partners, L.L.C. "I'm honored to work with a brilliant group of lawyers and excited about the bright future of the firm," he said.

In his spare time, he enjoys live music, running, international travel, playing guitar and watching LSU football.

YOUNG LAWYERS DIVISION OFFICERS 2018-19

Dylan T. Thriffiley Chair

Dylan T. Thriffiley is assistant vice president of compliance and regulatory affairs for Ochsner Health System in New Orleans. She received a BS degree,



Dylan T. Thriffiley

magna cum laude, in 2005 from the University of Tennessee at Chattanooga 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 the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council chair-elect in 2017-18, secretary in 2016-17 and as a District 1 Council representative 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 LSBA's Committee on the Profession and the Bar Governance Committee. She also was a member of the *Louisiana Bar Journal* Editorial Board and serves on the board of trustees for 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 2016, she became certified in healthcare compliance.

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. Thriffiley, Jr., have been married for six years and are the parents of two children.

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Scott L. Sternberg Chair-Elect

Scott L. Sternberg is a partner at Sternberg, Naccari & White, L.L.C., in New Orleans, where he focuses on business and media matters. His media focus has involved litigation for newspapers, including *The Advocate*, and legal and legislative work for the Louisiana Press Association. He received a BA degree in journalism from Louisiana State University and his JD/DCL degree from LSU Paul M. Hebert Law Center. He was admitted to practice in



Scott L. Sternberg

Louisiana in 2010.

Scott has served as secretary and District 1 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. He has served on the LSBA's Public Information Committee, was a member of the 2012-13 Leadership LSBA Class and is a former member of the Outreach and Crystal Gavel Committee. In 2015, he received the LSBA's Stephen T. Victory Memorial Award for most outstanding *Louisiana Bar Journal* article.

He serves as chair of the Federal Bar Association New Orleans Chapter's Younger Lawyers Division and works with college students as a professional-in-residence at Loyola University's School of Mass Communication. He serves on the board of the Louisiana Center for Law and Civic Education. 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" list.

In his community, he serves on the board of the Jefferson Parish Chamber of Commerce.

Scott and his wife Breland are the parents of three children.

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email: scott@snw.law

**Carrie L. Jones
Secretary**

Carrie L. Jones is a partner at Shows, Cali & Walsh, L.L.P., in Baton Rouge. 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. She was admitted to practice in Louisiana in 2008.



Carrie L. Jones

Carrie previously served as the District 5 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. She has co-chaired the Richard N. Ware High School Mock Trial Competition, served as the Professional Development Seminar coordinator, chaired the Bridging the Gap Committee and served on the Awards Committee. She was a member of the 2013-14 Leadership LSBA Class.

She is a member of the Louisiana Attorney Disciplinary Board and chaired the board in 2017. She is 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 seven years and are the parents of two children.

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**Bradley J. Tate
Immediate
Past Chair**

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



Bradley J. Tate

and an LLM in taxation in 2012 from the University of Alabama. He was admitted to practice in Louisiana in 2009.

Brad has served as chair, chair-elect, 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 has served on the *Louisiana Bar Journal's* Editorial Board and on the LSBA's Budget Committee.

He is a member of the American Bar Association (ABA) where he has served as chair of the ABA Young Lawyers Division's (YLD) Committee on Real Property, Estates and Trusts and the ABA YLD's Committee on Taxation.

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**YOUNG LAWYERS
DIVISION COUNCIL
2018-19**

**James E. Courtenay
District One
Representative**

James E. (Jimmy) Courtenay is an attorney with The King Firm in New Orleans, handling all aspects of personal injury litigation. He received a bachelor's degree in accounting in 2003 and a master's degree in public administration in 2005, both from Louisiana State University, while playing football for the Tigers. He earned his JD degree in 2008 from Southern University Law Center. He was admitted to practice in Louisiana in 2008.



James E. Courtenay

Jimmy served as the District 1 representative on the Louisiana State Bar Association's Young Lawyers Division Council from 2013-15. He is a member of the American Bar Association, the New Orleans Bar Association and the Jefferson Bar Association. He was recognized as a *Louisiana Super Lawyers* "Rising Star" from 2015-18 and has an AV rating from Martindale-Hubbell (2014-18).

He and his wife Brittany have been married for eight years and are the parents of four children.

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**Randy J. (R.J.)
Marse, Jr.
District One
Representative**

Randy J. (R.J.) Marse, Jr. is an associate in the New Orleans office of Liskow & Lewis, A.P.L.C. He received his undergraduate degree in 2000 from Louisiana State University and his JD degree in 2012 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2012.



Randy J. (R.J.)
Marse, Jr.

R.J. is a member of the Federal Bar Association. He was recognized as *Louisiana Super Lawyers* "Rising Star" in 2017-18 for commercial litigation.

He and his wife Courtney have been married for five years.

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**Jeffrey D. Hufft
District Two
Representative**

Jeffrey D. Hufft is the sole member of Jeffrey D. Hufft, Attorney at Law, L.L.C., in New Orleans. 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 where he began his career as a criminal prosecutor for the State of Louisiana before opening his own firm in 2017.



Jeffrey D. Hufft

Jeffrey serves on the board of directors for the Louisiana Center for Law and

Continued next page

Civic Education. He is a member of the Jefferson Bar Association and a member of the Jefferson Parish Alliance for Good Government.

In his community, he is the president of the Homestead Brockenbraugh Civic Association and is a coach of the Jesuit High School Mock Trial Team.

Jeffrey and his wife, Danielle Treadaway Hufft, have been married for five 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



Shayna B. Morvant

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 is serving on the Louisiana State Bar Association's (LSBA) House of Delegates Liaison Committee. She is a member of the Civil Law and Litigation Section and was a member of the 2015-16 Leadership LSBA Class. She is the current membership chair for the Tulane Inn of Court, is a former chair of the Jefferson Bar Association's Young Lawyers Division and is a representative at large on the Jefferson Bar Association's board.

In her community, she is chair of business evaluation and legislative affairs for the Junior League of New Orleans and a member of the Italian American Ladies Auxiliary.

Shayna and her husband, Wesley C. Morvant, have been married for four years and are the parents of one child, currently expecting their second.

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**Megan E. Réaux
District Three
Representative**

Megan E. Réaux is an associate in the Lafayette firm of Hill & Beyer, A.P.L.C. She handles maritime defense litigation and employment discrimination plaintiff litigation. She received a BA degree, *magna cum laude*, in English literature and Spanish in 2008 from the University of Louisiana-Lafayette and her JD/DCL degree in 2011 from Louisiana State University Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2011.



Megan E. Réaux

Megan is a member of the Louisiana State Bar Association's Insurance, Tort, Workers Compensation and Admiralty Law Section. She is a frequent contributor to the *LA Free Legal Answers* online program.

She is a member of the Lafayette Bar Association, the Louisiana Association for Justice and the Bar Association of the Federal 5th Circuit. In 2010, she received the Public Interest Law Society Fellowship for work with Hearts of Hope in Lafayette.

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**Adam P. Johnson
District Four
Representative**

Adam P. Johnson is a partner in The Johnson Firm in Lake Charles. He received a bachelor's degree in business management in 2006 from Louisiana State University and his JD degree in 2009 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 co-chairs the Louisiana State Bar Association Young Lawyers Division's Wills for Heroes Committee.

He serves on the Executive Council for the Southwest Louisiana Bar Association and is a member of the American

Association of Premier DUI Attorneys. He was recognized as a "Top 40 Under 40" professional and as a "Top Criminal Defense Lawyer" by *Acadiana Magazine* (2014 and 2017).

In his community, he is a member of the V.I.S.A. Coalition of Lake Charles and Trinity Baptist Church in Lake Charles.

Adam and his wife, Ashley Leonards Johnson, have been married for seven years and are the parents of two children.

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**Loren D. Shanklin
District Five
Representative**

Loren D. Shanklin is a partner in the Baton Rouge firm of Smith Shanklin Sosa, L.L.C. She received a BS degree in secondary education (concentration in history)



Loren D. Shanklin

in 2005 from Louisiana State University and her JD/GDCL in 2010 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2010.

Loren participated in the Louisiana State Bar Association's Young Lawyers Division (YLD) Symposium in 2016 and 2017. She is the 2018 recipient of the YLD's Outstanding Young Lawyer Award.

She is a former chair of the Baton Rouge Bar Association's Young Lawyers Section and a member of the Louisiana Association for Justice. In law school, she received the LSU Law Center's 2006 Exceptional Volunteer Award and was recognized in 2010 for volunteering more than 100 hours of pro bono services.

In her community, she is involved in the K.I.D.S. (Karing is Doing Something) Program and is a member of St. Aloysius Catholic Church.

Loren and her husband, David C. Fleshman, have been married for four years and are the parents of two children.

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Kristi W. Richard
District Five
Representative

Kristi W. Richard is a member 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 served as co-chair of the Wills for Heroes Program in 2014-16. She served as chair of the Young Lawyers Professional Development Seminar in 2017 and as chair of the Awards Committee this year.

In her community, she is a member of the Junior League of Baton Rouge, serving on the board of directors in 2016-18. She is a member of St. Aloysius Catholic Church and was named a 2018 Susan G. Komen-Baton Rouge "Big Wig." She was a member of the 2015 class of the Baton Rouge Area Leadership Program. She received the Dermot S. McGlinchey Commitment to Pro Bono Award in 2016 and was recognized as a *Louisiana Super Lawyers* "Rising Star" for business/corporate work in 2018.

She and her husband, Daniel Richard, have been married for 15 years and are the parents of two children.

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Jessica Perez Reynolds
District Six Representative

Jessica Perez Reynolds is an associate in the Plaquemine office of Pendley, Baudin & Coffin, L.L.P. She received a BS degree in biology in 2005 from Campbell University, a MS degree in forensic sciences in 2007 from the University of Colorado at Colorado Springs and her JD degree and

graduate diploma in comparative law in 2011 from Louisiana State University Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2011.



Jessica Perez Reynolds

Jessica is a member of the Louisiana Association for Justice and the American Association for Justice (AAJ). She is co-chair of the Taxotere MDL Litigation Group for AAJ and has worked on several complex litigations. She also has lectured at CLE programs.

While attending law school, she served as a judicial extern to Louisiana Supreme Court Justice Bernette Joshua Johnson. She was captain of LSU's National Moot Court Team and a member of LSU's AAJ National Trial Advocacy Team. In 2011, she was awarded the Wex Malone Scholarship for Outstanding Oral Advocacy.

In her community, she is a member of St. Jude Catholic Church. She and her husband, Aidan Reynolds, have been married for two years. She is the stepmother of two children.

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Russell A. Woodard, Jr.
District Seven
Representative

Russell A. Woodard, Jr. is a sole practitioner in the Law Offices of Russell A. Woodard, Jr., L.L.C., in Ruston. He received an undergraduate degree in 2008



Russell A. Woodard, Jr.

from Louisiana State University and his JD degree in 2011 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2011. He is admitted to practice in the U.S. District Court for the Middle and Western Districts of Louisiana.

In law school, Russell finished first in legal writing and was a member of LSU's Sports Law Moot Court team. He also competed in LSU's annual Flory Trial

Competition, finishing second place overall.

In his community, he has coached youth baseball and football for several years and has served in a leadership role with youth sports organizations.

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Joshua K. Williams
District Eight
Representative

Joshua K. Williams is an assistant district attorney for Caddo Parish in Shreveport. He received a BS degree in business in 2009 from the University of New Orleans and his JD degree in 2013 from Southern University Law Center. He was admitted to practice in Louisiana in 2014.



Joshua K. Williams

Joshua was a member of the 2016-17 Leadership LSBA Class.

He is a member of the Shreveport Bar Association, the Louisiana District Attorneys Association and the National Association of Bond Lawyers. He was recognized by *SB Magazine* as a "Top Attorney" in 2017 and 2018.

Joshua and his wife Samerial have been married for two years.

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Travis J. Broussard
At-Large
Representative

Travis J. Broussard is a partner in the firm of Durio, McGoffin, Stagg & Ackermann in Lafayette. He received a BA degree in sociology in 2003 from Louisiana State University and his JD degree in 2010 from Southern University Law Center. He was admitted to practice in Louisiana in 2010.



Travis J. Broussard

Travis was a member of the 2013-14 Leadership LSBA Class and co-chaired the 2014-15 Leadership LSBA Class. He is secretary-treasurer of the Louisiana State Bar Association's (LSBA) Civil Law

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and Litigation Section and a member of the LSBA's Outreach Committee.

He is the immediate past president of the Lafayette Young Lawyers Section, a member of the board of directors of the Lafayette Bar Association and a member of the American Inn of Court. He was named the Lafayette Bar Association's Outstanding Young Lawyer in 2016. He is a member of the board of directors of the Lafayette Education Foundation.

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Danielle L. Borel
ABA YLD Representative

Danielle L. Borel is an associate in the Baton Rouge office of Breazeale, Sachse & Wilson, L.L.P. She received a BS degree, *magna cum laude*, in 2011 from Louisiana State University and her JD degree, *magna cum laude*, in 2014



Danielle L. Borel

from LSU Paul M. Hebert Law Center (member, *Louisiana Law Review*, 2012-14; Order of the Coif). She was admitted to practice in Louisiana in 2014.

Danielle is a member of the American Bar Association's (ABA) Young Lawyers Division and the ABA Health Law Section. She was recognized as the ABA

Young Lawyers Division Star of the Quarter in spring 2017 and fall 2017. She also is a member of the Louisiana Hospital Association and has participated in the Baton Rouge Bar Association's Holiday Star Program.

In her community, she is an advisory board member for Lighthouse Louisiana Baton Rouge and a volunteer for PulseBR (American Heart Association).

Danielle and her husband, Nathan Justice, have been married for seven years.
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Graham H. Ryan
**Young Lawyer Member/
ABA House of Delegates**

Graham H. Ryan is a business litigation associate in the New Orleans office of Jones Walker LLP, where he represents businesses and individuals in all phases of litigation and appellate practice. He graduated *summa cum laude* in finance from Louisiana State University and received his JD/DCL degree in 2011 from LSU Paul M. Hebert Law Center (*Louisiana Law Review*).



Graham H. Ryan

Graham serves on the Louisiana

State Bar Association (LSBA) Access to Justice Committee's Disaster Leadership Team and chairs the Barristers for Boards Project. He was a member of the 2014-15 Leadership LSBA Class. He received the 2016 LSBA Young Lawyers Division Chair's Award.

He was named a 2017 Louisiana Bar Foundation Fellow and has served as a council member of the Louisiana State Law Institute. He was a board member of Young Lawyers Divisions of the American Bar Association and the Jefferson Bar Association. He is an active member of the New Orleans Bar Association and the New Orleans Chapter of the Federal Bar Association. He served a three-year term overseeing the American Bar Association-FEMA partnership providing free legal services to low-income Louisiana residents following a presidentially declared disaster.

In his community, he is past chair of HandsOn New Orleans, a nonprofit volunteer center founded after Hurricane Katrina that has engaged more than 60,000 volunteers to rebuild south Louisiana. He also is an attorney volunteer to the homeless and veterans at the Father Harry Tompson Rebuild Center in New Orleans.

Graham and his wife Erin are the parents of one child.

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Important Reminder: Lawyer Advertising Filing Requirement

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

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

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

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



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www.louisianajlap.com
Email: jlap@louisianajlap.com



Students from Haynes Academy for Advanced Studies won the “We the People” state competition and advanced to the national competition in Washington, D.C. The team is led by teacher Chris Totaro.

Metairie School Advances to “We the People” National Competition

Haynes Academy for Advanced Studies won the “We the People” (WTP) state competition hosted by Loyola University in New Orleans. The team, led by teacher Chris Totaro, advanced to the WTP national competition in Washington, D.C., joining more than 1,200 high school students from throughout the nation to demonstrate their understanding of government and the Constitution.

Also competing in the state finals were teams from Edna Karr High School, John Ehret High School and Glenbrook School. Team teachers Haley Bonsall, Marie Hoeven, Bradley Kiff and Totaro were commended for bringing their students to this level of academic achievement.

WTP is one of the programs that the

Louisiana Center for Law and Civic Education utilizes to promote civic competence and responsibility among Louisiana’s students. Taken to its highest level, this instructional civics curriculum has students “testify” at simulated congressional hearings before a panel of judges. Students demonstrate their knowledge and understanding of constitutional principles and have opportunities to evaluate, take and defend positions on relevant historical and contemporary issues.

Guest speakers at the state finals were Sen. Troy A. Carter, Sr.; Jabarie R. Walker, staff assistant to New Orleans Mayor Mitchell J. Landrieu; and Donald Songy, education policy advisor, Office of the Governor.

The panel of judges consisted of attorneys, judges, educators and WTP alumni,

including attorney and WTP alumna Heather W. Angelico; attorney Ellen K. Baggett; attorney and WTP alumna Lori D. Barker; Louisiana WTP Alumni Representative Tyler Barker, Ph.D.; educator Belinda M. Cambre, J.D., Ph.D.; WTP alumna Mariarenee Contreras; Loyola University Political Science Chair Philip A. Dynia, Ph.D.; attorney Lauren F. Godshall; attorney Nahum D. Laventhal; WTP alumna Philip Lundy; attorney Christopher A. Meeks; WTP alumni Bryce Menge, Sabine Mohamed, Hugh Ngo and Alexia Perilloux; Judge Raymond S. Steib, Jr.; WTP alumni Ameer Thabata, Rana Thabata, Brandon Thornton and Jabarie R. Walker; and Loyola University Associate Professor of Political Science Roger White, M.A., Ph.D.

By David Rigamer, Louisiana Supreme Court

APPOINTMENT... RETIREMENTS... MEMORIAM

Appointment

27th Judicial District Court Judge D. Jason Meche was appointed, by order of the Louisiana Supreme Court, to the Judicial Campaign Oversight Committee for a term of office which began Feb. 1 and will end on Jan. 31, 2022.

Retirements

► 5th Judicial District Court Judge Terry A. Doughty retired effective March 9, following his confirmation as judge on the U.S. District Court for the Western District of Louisiana. He earned his undergraduate degree in 1981 from Louisiana Tech University and his JD degree in 1984 from Louisiana State University Paul M. Hebert Law Center. Prior to his 2008 election to the 5th JDC, he served as an assistant district attorney for 24 years.

► 19th Judicial District Court Commissioner Quintillis K. Lawrence retired effective March 15. He earned his BA and JD degrees in 1998 and 2001, re-

spectively, from Southern University and its Law Center, where he chaired the Moot Court Board and was contributing editor of *Reflections Magazine*. Also during his career, he served as a public defender in the 19th JDC, as an assistant district attorney in Orleans Parish and as a judicial clerk in the 18th JDC.

Deaths

► Retired U.S. District Court Judge Peter H. Beer, 89, died Feb. 9. Following service as an infantry corporal at the end of World War II, he earned his undergraduate and law degrees from Tulane University. After graduation, he served as a first lieutenant and later a captain in the Air Force Judge Advocate General's Corps. He was awarded an Air Force Commendation Medal and a Bronze Star. After his active service, he continued on as a reservist, retiring as a lieutenant colonel. He served on the New Orleans City Council from 1970-74. Judge Beer was elected to the 4th Circuit Court of Appeal in 1974. President Jimmy

Carter appointed him to the U.S. District Court in 1979. He served in that capacity for 30 years, retiring at the end of 2009.

► Retired 2nd Circuit Court of Appeal Judge John Larry Lolley, 71, died Feb. 18. He earned his BA degree in 1968 from Northeast Louisiana University and his JD degree in 1971 from Loyola University College of Law. He served as prosecuting attorney for the City of Monroe from 1973 until his election as judge of Monroe City Court in 1979. Judge Lolley was elected to the 4th Judicial District Court in 1997 and to the 2nd Circuit Court of Appeal in 2003. He served there until his retirement from the bench in 2017. He also served in the U.S. Army Reserve and, in 1995, retired as a colonel after 27 years of service.

► Retired 24th Judicial District Court Judge Ernest V. Richards IV, 81, died March 31. He earned his undergraduate degree in 1957 from the University of Houston and his JD degree in 1961 from Tulane University Law School. He was elected to the 24th JDC in 1986 and served there until his retirement in 1996.

LSBA Member Services – Business Services

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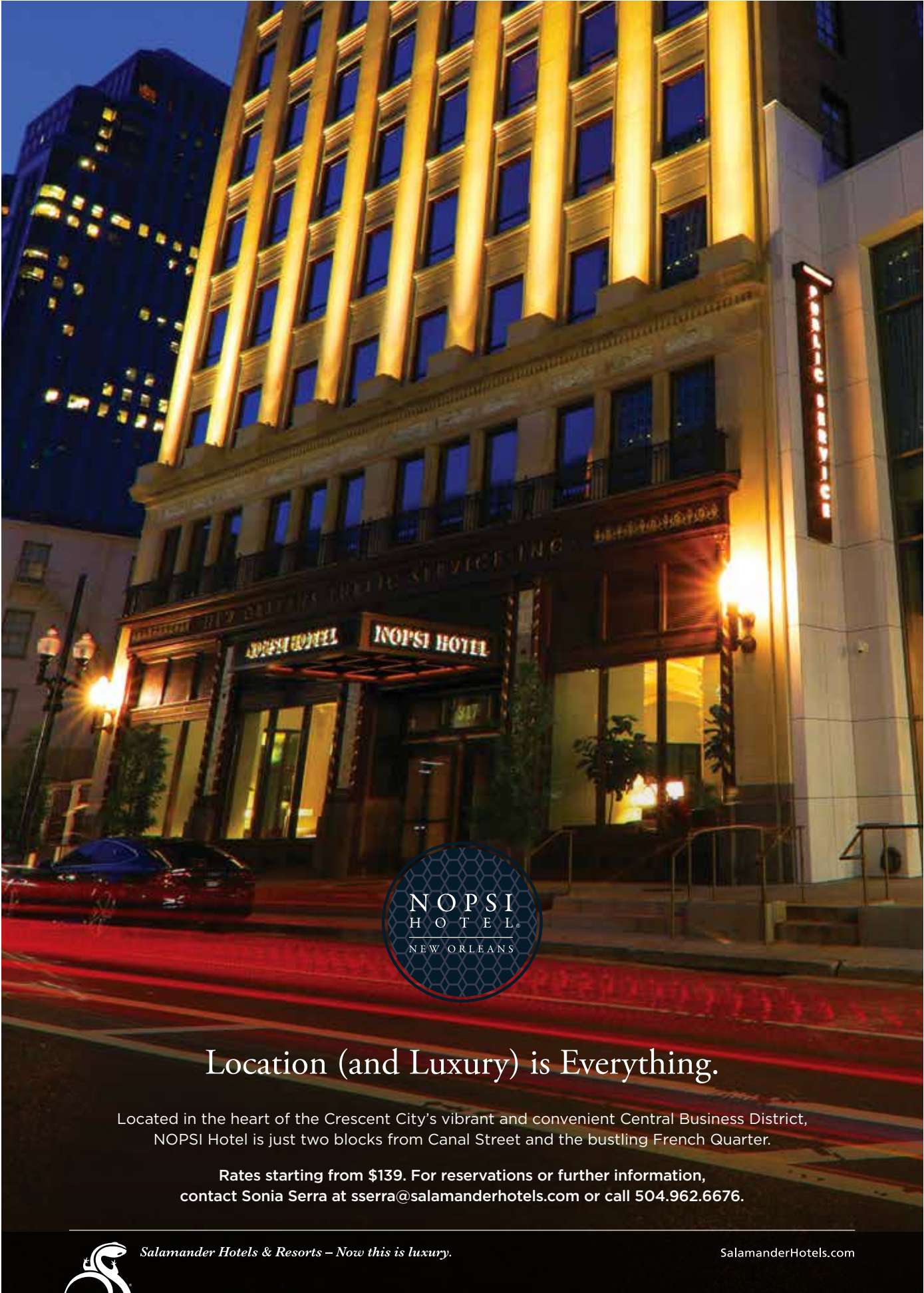
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PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Baldwin Haspel Burke & Mayer, L.L.C., announces that **Andrew T. Sullivan** has been promoted to partner in the New Orleans office.

Breazeale, Sachse & Wilson, L.L.P., announces that it has opened a new office in Monroe, located at Ste. 210, 300 Washington St., Monroe, LA 71201; phone (318)398-4330. The office is led by new partner **Harry M. (Hal) Moffett IV**.



Laura S. Achord



Richard J. Arsenaunt



Christy R. Bergeron



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Anne E. Briard



Joseph P. Briggett



Daniel B. Centner



Charles B. Colvin



Brendan P. Connick



Jonathan S. Forester



Gregory C. Fuxan



Alan H. Goodman

Associate **Laura S. Achord** is working in the Monroe office.

The Chopin Law Firm, L.L.C., in New Orleans announces that Michael D. Letourneau has joined the firm.

Kathleen C. Gasparian and Leah Spivey announce the formation of Gasparian Spivey Immigration, located at 829 Baronne St., New Orleans, LA 70113; phone (504)262-9878; website www.gsimmigrationlaw.com.

Heller, Draper, Patrick, Horn & Dabney, L.L.C., announces that the firm's name has changed to Heller, Draper, Patrick, Horn & Manthey, L.L.C. Also, the firm announces that Cherie Dessauer Nobles is a member in the New Orleans office.

Johnson, Yacoubian & Paysse, A.P.L.C., in New Orleans announces that attorney **Darren P. Tyus** has joined the firm as an associate.

Joubert Law Firm, A.P.L.C., in Baton Rouge announces that **Kevin P. Kleinpeter** has joined the firm as an associate.

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard announces that six attorneys have been named shareholders in the firm — **Anne E. Briard, Joseph P. Briggett, Daniel B. Centner, Meredith S. Grabill** and **Shaundra M. Schudmak** in the New Orleans headquarters; and **Heather N. Sharp** in the Baton Rouge office.

Mayer, Smith & Roberts, L.L.P., in Shreveport announces that Marcus E. Edwards has become a partner in the firm.

Mouledoux, Bland, Legrand & Brackett in New Orleans announces that **Brendan P. Connick, Melissa A. Miller, Matthew T. Montoya** and **Derek W. O'Connor** have joined the firm as associates. Also, **Gregory C. Fuxan** has joined the firm as special counsel.

Michael R.C. Riess and **Christopher K. LeMieux** announce the formation of the law firm Riess LeMieux, L.L.C., located at Ste. 3300, 201 St. Charles Ave., New Orleans, LA 70170; phone (504)581-3300; website www.rllaw.com. The firm announces that **Thomas P. Henican**, **Michael D. Lane** and **Jonathan S. Forester** have been named partners. **Marguerite K. Kingsmill**, founding partner of Kingsmill Riess, L.L.C., will serve as of counsel. Also, **Christy R. Bergeron**, **John W. Bihm**, **Cynthia M. Bologna**, **Charles B. Colvin**, **Johanna E. Lambert** and **M. Robert C. Riess, Jr.** have joined the firm as associates.

Michael J. Thompson, Jr. announces the formation of Thompson Law Office, P.L.L.C., P.O. Box 280, Gulfport, MS 39502; phone (228)265-5010; website www.mjtlaw.com.

The U.S. District Court, Western District of Louisiana, Attorney's Office announces that David C. Joseph was sworn in as U.S. attorney for the Western District. He will base his office in Shreveport, while maintaining regular office hours in Lafayette, Monroe, Lake Charles and Alexandria.

NEWSMAKERS

Richard J. Arsenault, a partner in the Alexandria firm of Neblett, Beard & Arsenault, presented a program at Tulane University Law School on "Cause Lawyering," an exploration of how lawyers in different fields use the law to effect change and promote justice.

Miriam K. Crespo, owner/lead attorney of the Law Offices of Miriam K. Crespo in Harvey, is one of the Hispanic National Bar Association's "Top Lawyers Under 40" for 2018.

Louisiana Appleseed announces that three New Orleans attorneys have been added to its board of directors — Christy C. Harowski, director of special projects, Business Council of New Orleans; Stephen J. Herman, partner, Herman Herman & Katz, L.L.C.; and Brooke C. Tigchelaar, member, Stone Pigman Walther Wittmann, L.L.C.

Randall A. Smith, founding member and managing partner of the law firm Smith & Fawer, L.L.C., in New Orleans, was selected by the Owner's Counsel of America to serve as chair of the board of directors for 2018.

Angela White-Bazile, executive counsel under Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, reigned in February as the first African-American queen of the Krewe of Selene, a Mardi Gras organization in Slidell.



Meredith S. Grabill



Thomas P. Henican



Marguerite K. Kingsmill



Kevin P. Kleinpeter



Johanna E. Lambert



Michael D. Lane



Christopher K. LeMieux



Melissa A. Miller



Harry M. Moffett IV



Matthew T. Montoya



Derek W. O'Connor



Michael R.C. Riess



M. Robert C. Riess, Jr.



Shaundra M. Schudmak



Heather N. Sharp



Randall A. Smith



Andrew T. Sullivan



Darren P. Tyus

PUBLICATIONS

Chambers USA 2018

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, Mark W. Frilot, 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, Danielle L. Trostorf, Paul S. West and Adam B. Zuckerman.

Louisiana Super Lawyers 2018

The Chopin Law Firm, L.L.C. (New Orleans): Richard A. Chopin and Justin M. Chopin (Rising Star).

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans): Ashley L. Belleau, Top 25 Women.

New Orleans City Business

Breazeale, Sachse & Wilson, L.L.P. (New Orleans): **Alan H. Goodman**, 2018

Leadership in Law Class.

Heller, Draper, Patrick, Horn & Manthey, L.L.C. (New Orleans): Tristan E. Manthey, 2018 Leadership in Law Class.

Mouledoux, Bland, Legrand & Brackett (New Orleans): **Alan G. Brackett**, 2018 Leadership in Law Class.

New Orleans Magazine Top Lawyers 2017

The Chopin Law Firm, L.L.C. (New Orleans): Richard A. Chopin and Justin M. Chopin.

IT'S TIME TO BOOK A LISTING IN 'WHO'S WHO IN ADR 2018'

The print version of the directory for arbitrators and mediators will be mailed with the October/November 2018 Louisiana Bar Journal. For the one low price of \$125, your listing is first published in the print directory, then the directory is uploaded to the LSBA website in interactive PDF format (email addresses and website URLs are activated and instantly accessible). The Web version of the directory remains active for one full year!

The special Arbitrators and Mediators Directory will feature brief articles and photographs of arbitrators and mediators (**INDIVIDUALS ONLY**). The articles should be **150 words MAXIMUM**. Provide your address, phone, fax, email address and website information at the end of the listing (not part of the word count).

Submit either original photos or digital photos. Digital photos should be submitted separately from the article, in either .tif, .jpg or .eps format (the order of preference). **DO NOT** submit digital photographs embedded in word processing programs; send the photograph as a separate file. High-resolution digital photos work best (at least 300 DPI/dots per inch).

DEADLINE IS JULY 27 FOR ALL LISTINGS AND PHOTOS! DIRECTORY/WEB COMBO PRICE IS \$125.

Articles and photographs must be for individuals only. No group articles or group photographs will be used. But, as an **ADDED BONUS**, firms which have three or more arbitrators/mediators purchasing individual listings will receive a free **firm** listing in the section. (Firms are responsible for submitting the additional information, 150 words maximum.)

If you would like to repeat a prior listing and photo, you may send us a photocopy of that listing along with your check; please provide the year the listing appeared. (Digital photos appearing in ADR directories are archived back to 2000.)

IT'S EASY TO RESERVE SPACE IN THE DIRECTORY!

► Email your listing and photo to Publications Coordinator Darlene M. LaBranche (email: dlabranche@lsba.org). Then mail your check for \$125 (payable to *Louisiana State Bar Association*) to: **Publications Coordinator Darlene M. LaBranche, 601 St. Charles Ave., New Orleans, La. 70130-3404.**

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One price gets you in the print directory and on the Web!

View the 2017 directory at

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UPDATE

LSU Law Center Recognizes 2018 Distinguished Alumni, Achievement Honorees

Louisiana State University Paul M. Hebert Law Center recognized Louisiana Supreme Court Chief Justice Bernette Joshua Johnson and U.S. District Court Judge John W. deGravelles as its 2018 Distinguished Alumni of the Year during a March 2 ceremony. Also, Jane Politz Brandt, James A. Brown, Thomas M. Hayes III and Harry J. (Skip) Philips, Jr. were recognized as the Distinguished Achievement honorees. The awards recognize alumni for professional achievement, community service and loyalty to LSU Law Center.

Chief Justice Johnson was one of the first African-American women to attend LSU Paul M. Hebert Law Center, receiving her JD degree in 1969. She was sworn in as the Louisiana Supreme Court's 25th chief justice in 2013, becoming the second female chief justice and the first African-American chief justice. She was inducted into LSU Law Center's Hall of Fame in

1996 and was named an honorary inductee into the LSU Order of the Coif.

Judge deGravelles, a 1974 graduate of LSU Paul M. Hebert Law Center, has served on the U.S. District Court, Middle District of Louisiana, since his nomination by President Barack Obama and Senate confirmation in 2014. He has been an adjunct professor at the Law Center since 1994.

Brandt graduated with honors in 1986 from LSU Paul M. Hebert Law Center (*Louisiana Law Review*, Phi Kappa Phi and Order of the Coif). She is of counsel at Thompson & Knight, L.L.P., in Dallas, Texas. She has represented national and international clients in intellectual property disputes.

Brown, a 1984 graduate of LSU Paul M. Hebert Law Center, is a partner in the New Orleans office of Liskow & Lewis, A.P.L.C., and heads the firm's Commercial Litigation Section and Professional

Liability Practice Group. He serves as the firm's loss prevention partner.

Hayes, a partner in Hayes, Harkey, Smith & Cascio, L.L.P., in Monroe, is a 1977 graduate of LSU Paul M. Hebert Law Center. He was trained as a mediator at the Straus Institute for Dispute Resolution at Pepperdine University School of Law. He is a council member of the Louisiana State Law Institute, serving on the Committee on Louisiana Civil Procedure. He was a member of the Louisiana State Bar Association's Board of Governors from 1991-93 and 2012-15.

Philips, a 1983 graduate of LSU Paul M. Hebert Law Center (*Louisiana Law Review* editor-in-chief, Order of the Coif), is managing partner of Taylor, Porter, Brooks & Phillips, L.L.P., in Baton Rouge and a member of the firm's Executive Committee. An adjunct professor at LSU Law, he teaches professional responsibility, law and medicine, and insurance law.



Six Louisiana State University Paul M. Hebert Law Center alumni were honored in March for their lifetime of service to the Law Center and the legal profession. From left, Distinguished Achievement honoree Harry J. (Skip) Philips, Jr.; Distinguished Achievement honoree Thomas M. Hayes III; Alumna of the Year Chief Justice Bernette Joshua Johnson; LSU Law Center Dean Thomas Galligan, Jr; Alumnus of the Year Judge John W. deGravelles; Distinguished Achievement honoree Jane Politz Brandt; and Distinguished Achievement honoree James A. Brown. Photo provided by LSU Law Center.

Leger Elected President of New Orleans Bar Foundation

Walter J. Leger, Jr., senior partner in the New Orleans law firm Leger & Shaw, was elected president of the New Orleans Bar Foundation. He is a past president of the New Orleans Bar Association.



Walter J. Leger, Jr.

During his term, Leger plans to further bolster the New Orleans Bar Foundation's Veterans Justice Fellowship. The Fellowship's directive is to provide life-changing civil legal help to veterans in the areas of housing law, consumer issues, discharge upgrades, child support, and the removal of legal barriers to employment.

To donate to the Fellowship online, go to: www.neworleansbar.org. Or call (504)525-7453.



Community Mediation Services, Inc. (CMS) in New Orleans is the recipient of a grant presented by the Louisiana State Bar Association's (LSBA) Alternative Dispute Resolution Section. The grant will cover various 2018 mediation-related projects, including an apprenticeship program, a law school internship program, a referral network program and community mediation training. From left, David Zalkind, CMS executive director; Betty DiMarco, CMS board member; Julianna Padgett, CMS board president; and Mark A. Myers, chair of the LSBA ADR Section Council.



The Baton Rouge Bar Association (BRBA) was recognized by East Baton Rouge Parish for its work with the "Flood Proof" Project. From left, Latisha Nixon-Jones; BRBA Executive Director Ann K. Gregorie; Talya J. Bergeron; East Baton Rouge Parish Councilwoman Erika Green; Laura Tuggle; Gerren Sias; BRBA President Linda Law Clark; and Christy F. Kane.

BRBA Recognized for "Flood Proof" Project

The Baton Rouge Bar Association (BRBA) was recognized by East Baton Rouge Parish Metro Councilwoman Erika Green and Baton Rouge Mayor-President Sharon Weston Broome for its collaboration and work with the "Flood Proof" Project.

After the 2016 historic flood, many citizens were displaced and left with minimal resources. The "Flood Proof" Project was created to help these citizens secure clear titles to their property for free. The BRBA assisted more than 334 disaster-impacted homeowners over the past year.



The Baton Rouge Bar Association's (BRBA) Volunteer Committee collected nearly 20,000 pre-filled Easter eggs from BRBA members, law firms and community organizations. The BRBA hosted Easter Eggstravaganza egg hunts in March at St. Francis Xavier, Bernard Terrace and University Terrace elementary schools. Volunteers included, from left, Megan P. Foreman, GeFranya M. Graham, John Corine, William J. Wilson, Gregory L. Hughes, Jeremy R. Gathe, Lisha C. Landry, Jeanine Green, Cathryn E. Gits, Cherita R. McNeal, Erica R. Burrell and Amy Monet.



The softball team from the East Baton Rouge Parish District Attorney's Office — the Aggravated Batters — won the 2018 Baton Rouge Bar Association's Softball Tournament in March. Seven teams competed in the double-elimination tournament.

OUR LEADING WOMEN IN RESOLUTION



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President's Message

365 Days of Justice

By 2018-19 President W. Michael Street

If you attended the Louisiana Bar Foundation's (LBF) 32nd annual Fellows Gala, you know what I am talking about. "365 Days of Justice" is a new, interactive fundraiser that we launched at the Gala in April. The goal is to sell each day of the year while promoting "Justice for Every One, Every Day." Donations range from \$1 to \$365, depending on which days of the year you select. Donors can celebrate special events or loved ones by dedicating a day in their honor. The donor's name and the tribute will be displayed on our website.



W. Michael Street

Here's how it works. Go to: www.raisingthebar.org/365daysofjustice. Choose a day that is meaningful to you or a loved one. It can be a birthday, anniversary or special event, in honor of, or in memory of, someone special. Then, you can dedicate the day by personalizing your message. Finish with your donation by following the easy, secure online process. You will receive an email confirmation to document the donation.



"365 Days of Justice" is a new, interactive fundraiser that launched at the Louisiana Bar Foundation's Gala. The goal is to sell each day of the year while promoting "Justice for Every One, Every Day." Photo by Scott Threlkeld.

"365 Days of Justice" will be promoted and housed on the LBF's website throughout the year. Stop by the LBF booth in Destin, Fla., in June and join in the excitement. Special thanks to the Louisiana State Bar Association for its

sponsorship of "365 Days of Justice." This generous donation is helping the Louisiana Bar Foundation promote "Justice for Every One, Every Day." For more information, contact Laura Sewell at (504)561-1046.



The 2018-19 Louisiana Bar Foundation's officers were installed at the 32nd annual Fellows Gala in April. From left, Secretary Harry J. (Skip) Philips, Jr., Baton Rouge; Treasurer Christopher K. Ralston, New Orleans; Vice President Amanda W. Barnett, Alexandria; and President W. Michael Street, Monroe. Photo by Scott Threlkeld.



The Louisiana Bar Foundation (LBF) celebrated the 32nd annual Fellows Gala on April 20. The LBF honored the 2017 Distinguished Jurist James J. Brady (posthumously), Distinguished Jurist W. Eugene Davis, Distinguished Attorney Kim M. Boyle, Distinguished Professor Oliver A. Houck and Calogero Justice Award recipient Robert S. Noel II. From left, Houck, Mrs. Karen Brady, 2018-19 LBF President W. Michael Street, Noel, Davis and Boyle. Photo by Scott Threlkeld.

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Preparing for Maritime Settlement Conferences

Magistrate Judge Michael B. North;

U.S. District Court Eastern District of Louisiana, New Orleans

Comparison of the Varying Remedies for Those Lost at Sea

Blake R. David Sr.; Broussard & David, LLC; Lafayette

Charles C. Bourque Jr.; St. Martin & Bourque; Houma

Jerome H. Moroux; Broussard & David, LLC; Lafayette

Punitive Damages After *Batterton*, *Tabingo*, and *McBride*: What's Next?

Stephen J. Herman; Herman, Herman & Katz, LLC; New Orleans

Maritime Rights and Remedies Revisited

Paul M. Sterbcow; Lewis, Kullman, Sterbcow & Abramson; New Orleans

Moderator: Hugh P. "Skip" Lambert; The Lambert Firm, P.L.C.; New Orleans;

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For the October issue of the Journal, all classified notices must be received with payment by Aug. 17, 2018. Check and ad copy should be sent to:

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The Last WORD

By Edward J. Walters, Jr.

IPSE DIXIT: THE DIFFICULT CLIENT

All Clients Are Difficult

There ARE no easy clients. ALL clients are difficult. Just recognize that from the get-go. Have you ever heard a lawyer, at the conclusion of a matter, say, “Well, that sure was easy”? There’s always a problem. The facts. The law. The client. Opposing counsel. The court. Something. Recognize this going in and you will expect it. You may not see it at the beginning, but it’s coming. Be ready.

Try to Represent Clients You Like

You may have no choice, of course, but it is difficult to deliver high-quality legal services to a client you don’t like. You may have to do it, but it’s not easy. Practicing law the right way, and with enthusiasm, is hard enough. As a lawyer, you owe allegiance to your clients, but you will not do good work very long for a client you do not like.

If you don’t like the client on Day One, and if you have a choice, don’t represent that client. Some people just make the hair stand up on the back of your neck. Avoid them if you can. Don’t represent them for a little while to see how it goes. It won’t go well.

Remember: The Client Is the Reason

The client is the reason you have a job. Make sure everyone around you knows that the client is the reason we are here. If we all remember that, the work is better. When the lawyers and the staff are pulling in the same direction for the client, morale is good.

Remember, we get many of our clients because of prior client word-of-mouth. We want them to say good things about their lawyer, their law firm and our system of justice.

You Are the Professional

Just because your client wants you to do something doesn’t mean you HAVE to do it. Some clients want a “tough lawyer” or a “bulldog.” Some clients want to dictate what you do. It’s a difficult position to be in, but YOU are the professional. YOU have standards of conduct to live up to. YOU have ethics rules and a Code of Professionalism. YOUR license is on the line, not the client’s.

Be Realistic About the Case

The case usually looks its best on Day One. It’s all downhill from there. Investigate the case to see what it really is. Be realistic about the merits of the case and make your feelings known to the client so that the client can be realistic about the case.

Don’t promise an unrealistic result at the beginning to convince the client to hire you. The facts usually change after discovery and that wonderful case you told your client about may turn sour.

Underpromise and overdeliver.

Communicate More Than Usual

Difficult clients are ALWAYS “high maintenance.” They are sorry they are in this situation and they are skeptical and distrustful of everything — you, the other side, the judge. They don’t understand our system and interpret silence as something sinister going on.

Overcommunicate with the difficult clients. Bombard them with information. It’s easier now with email and text messages. Just do it. Let them know what’s happening . . . even if NOTHING is happening. Just the communication gives them some comfort that nothing bad is happening.

Know Your Clients

In order to properly represent your clients, you need to know their issues. What do they want? Why? What do they expect? Why? What do they really need? Why? What can you deliver? Know this from the beginning or find out as soon as possible. Can you deliver what the client expects? Can anyone deliver what the client expects?

Have you told them? Be sure that both you and your client have realistic expectations.

Be Accurate, Thorough and Timely

When you communicate with your clients, be sure to tell them the truth. Tell them early and tell them often. As the case progresses, explain what is happening and why.

Don’t wait until trial to tell them there are problems. Don’t wait until a mediation to tell them that their case is not as good as you told them it was on Day One. Remember, cases are not like fine wine — they usually don’t get better with age.

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