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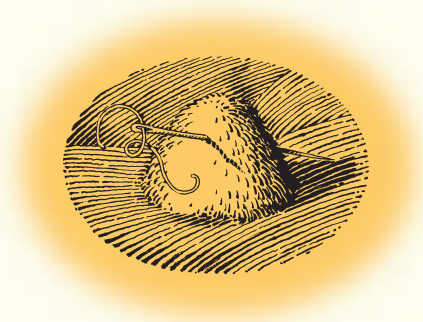
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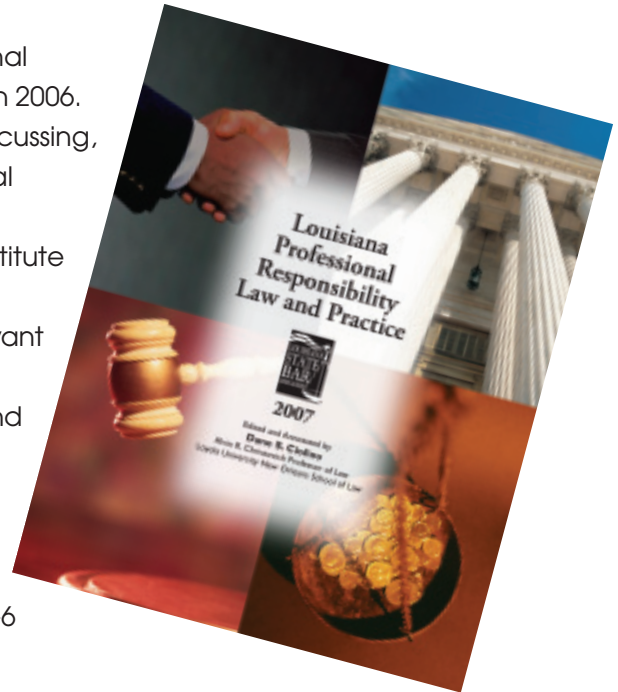
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We Do Pro Bono Work Because We Believe in Justice



By Marta-Ann Schnabel

One of the best programs the Louisiana State Bar Association (LSBA) sponsors is for first-year law students and is presented during their first week at law school. Originated during Phelps Gay's presidency, and perpetuated by the hard work of the Professionalism and Quality of Life Committee, the Law School Professionalism Orientation Program is virtually as popular with practicing lawyers as it is with the new students. Each year, scads of seasoned lawyers volunteer their time to spend a number of hours with the newbies so as to introduce them to the profession. It's fun and rewarding for the veterans and of immeasurable help to the students.

This year, I had the privilege of attending the orientations at three of the four in-state law schools. Although each school's approach to this educational event differs a bit, the general format involves a joint session of all the first-year students, faculty and lawyer volunteers at which the law school dean, a Supreme Court justice and a representative of the LSBA speak about the awesome privilege and responsibility inherent in becoming a lawyer. Gone, by the way, is the speech wherein the dean says, "Look to your left and right. One amongst you will not see graduation day." Law schools now prefer a more upbeat approach, not unlike the promoters of Hedge Funds.

The result is a generally enthusiastic and lively set of freshmen (hundreds of them at each school, I might add) who rather eagerly disperse into smaller classrooms to engage in a dialogue with their elders. The elders, themselves divided into sets of four or five, use a series of hypothetical problems prepared by the Professionalism and Quality of Life Committee as the basis of discussion. A couple



Professionalism and Quality of Life Committee Vice Chair Barry Grodsky and LSBA President Marta-Ann Schnabel.

Photo by John H. Williams Photography

of hours later, the whole group reunites for a reception.

Apparently concluding that my presence in any one room would be disruptive, I was asked to "audit" the small-group discussions. "Audit," I have since learned, is a code word for "don't let her stay too long." Thus, my keeper, Barry Grodsky, and I trekked from room to room and witnessed what is best described as "baby lawyer's first steps." Armed with no more than their personal sensibilities, these students began the process of grappling with the kinds of professional challenges few of us seasoned folk have yet mastered. Where is the line between polite conduct and zealous advocacy? What obligation is owed to the system of justice rather than the client? Should I listen to the senior part-

ner or adhere to my own sense of propriety? How much of a conflict can there be if I really want/need the client? Is it possible to bill 18 hours a day and only work 12 hours?

Then the big question: "Why do lawyers do *pro bono* work?"

And the answer offered by two out of three seasoned lawyer/discussion leaders? "Because the Rules of Professional Conduct tell us to!" Often this was followed by a little shrug. Occasionally, someone would say, "It's part of our Professional Responsibility." In one room, a portion of RPC 6.1 was read aloud: "Every lawyer should aspire to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of *pro bono publico* legal services a year."

Each time we entered a room where the discussion turned to *pro bono* service, Keeper Grodsky — exceptionally devoted to his appointed mission — would point at his watch, assume an urgent expression, and lead me back into the hallway.

Then disaster struck. As we entered one of the small-group rooms, a student offered the following comment: "If I owned a hardware store, I would not even consider sending one of my employees down the street to work for 50 hours on my nickel at another hardware store. Why would there be a rule telling a lawyer that he should *aspire* to do such a thing? I mean, charity is good and all, but business is business."

Now, I think it probably wise to digress here for a moment, as there are those who will read this column and conclude that I have invented this story — that, indeed, there was no student who made such a comment. Those readers are likely to believe that I invented the whole

soliloquy in order to flesh out this little parable. They, by the way, are the same people who do not believe that I was ever cross-examined by Professor Dane Ciolino, as reported in this column in the December 2006/January 2007 issue. But they are wrong on both counts. The LSBA presidency seems to invite a succession of truly surreal experiences.

At any rate, even the formidable Keeper Grodsky felt compelled to run for cover as I exploded the “law practice as a hardware store” model. And I suspect that this is the very last time the Professionalism and Quality of Life Committee will invite me to participate in anything — much less spend time around impressionable young law students.

As you read through this issue of the *Journal* devoted to *pro bono* work, be reminded that you did not go to law school to become a purveyor of hardware. Even as you struggle to make a profit after overhead, pay back your student loans, be in three courtrooms at once, keep the client happy, or elude the senior partner, remember that your law degree empowered you with a great deal of knowledge, the opportunity to make a good living, and more than a little insight into the inner workings of a democratic society.

Some days it would be nice to be just about business, but the privilege of being a lawyer encompasses a great deal more. A lawyer stands at the gate of the court

system and holds the key to access it. We do *pro bono* work because we respect and honor the people who have put their trust in us to open the gate for them. We do *pro bono* work as partial repayment for the opportunities made available to us. We do *pro bono* work to assure that the democratic society in which we believe and upon which our livelihood depends continues to survive.

We do *pro bono* work because we believe in justice.



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Commentary:

By Monte T. Mollere and
Stephanie McLaughlin

Translated literally, *pro bono publico* means “for the public good.” For many attorneys, the phrase also has come to mean the hours they donate doing legal work without the expectation of being paid. Louisiana’s aspirational Rule 6.1 of the Rules of Professional Conduct addresses the issue of pro bono: “Every lawyer should aspire to render at least 50 hours of pro bono publico hours per year.”¹ Louisiana attorneys have many opportunities to meet, and exceed, these goals.

The most recent United States census showed there are more than 850,000 people living below the poverty line in Louisiana. This means that more than 850,000 people in Louisiana earn \$9,570 or less a year. These citizens are often faced with incredible decisions regarding the basic needs of life — sometimes as basic as whether to pay the electric bill or feed their family. Their lives become even more complicated when they are faced with legal issues and have no place to turn.

For many of these people, pro bono legal assistance may mean the difference between a quick and satisfactory resolution to a possibly life-altering matter or a long, unnecessarily drawn-out legal process that also can drain resources from the legal system on the whole. Often these life-altering matters can be resolved with legal advice, a quick phone call by

(Top to bottom)

- 1) Judge Jay C. Zainey, right, addressed law students from the University of North Carolina on their first visit to assist The Pro Bono Project (New Orleans).
- 2) Several attorneys were recognized during the Lafayette Parish Bar Foundation’s Champions of Justice Breakfast for their extraordinary pro bono efforts in 2005.
- 3) Northwest Louisiana Pro Bono Project attorney volunteer Fiona York at Operation Stand Down.
- 4) Judge Melvin Shortess (Ret.) rang a cowbell to attract attention to the Baton Rouge Bar Foundation Pro Bono Project’s Lawyers Work for Food pro bono case drive and lunch.
- 5) Disaster Legal Assistance Call Center Director Gabrielle Jones, standing, and student worker Ingrid James.

Photos 1-4 provided by the agencies. Photo 5 by Ross Foote.

Pro Bono Attorneys Hold the Key to Justice

Maintaining Momentum

an attorney or the filing of a petition. Without this help, the legal problems of these citizens often snowball and create more disruption in the families' lives. The importance of providing pro bono legal assistance becomes apparent in these situations.

While Louisiana's nonprofit, civil legal service providers handle as many cases as possible, there is approximately one attorney for every 7,000 people needing their services. It is painfully obvious that, while legal services attorneys work extremely hard at what they do, more help is desired and necessary.

When Hurricanes Katrina and Rita ripped through Louisiana, many attorneys here stepped up to face the challenge head-on. While many were dealing with their own personal difficulties, they still found time and energy to provide volunteer pro bono hours or to coordinate measures to help victims of the storms. Attorneys in areas that were not necessarily affected by the storms jumped in to assist those who were victims of the storms and/or those who were displaced. Even attorneys from outside Louisiana offered their assistance — if they were unable to procure *pro hac vice* status, they still volunteered doing what they could, when and where they could.

Though it has been almost a year and a half since Katrina and Rita devastated portions of the state, many of the legal problems and issues brought on by the storms are not over and neither should the pro bono effort that gained momen-

tum during this time be over. While many people are still unsure of what their futures hold, Louisiana's justice community is reaching out to provide answers to questions people still have and provide help when it is needed. Many of our citizens are still in need of assistance in dealing with legal issues surrounding moving back to Louisiana, child custody issues that have become much more difficult because one parent relocated out-of-state, FEMA recoupment difficulties, property issues and much more.

While Louisiana's pro bono organizations gained momentum, it is imperative that we keep up the pace and standards set after the storms. This means recruiting attorneys new to pro bono and retaining attorneys who either currently volunteer or have done so in the past. To do this, we must look at current trends in pro bono, both from across the country as well as in Louisiana.

Attorneys give many reasons for not volunteering for pro bono service. In 2005, the American Bar Association (ABA) published a study on pro bono in the United States.² Though the study was performed with a representative sampling from across the United States, we can assume that responses from Louisiana would have been similar. In the study, attorneys said they would be more willing to volunteer if "a wide range of volunteer opportunities were available to them, if they were offered free training and CLE credit for services performed, if they were encouraged by a judge to take

a case, if courts made scheduling preferences for pro bono appearances, and if employers and bar associations gave more recognition for volunteer efforts."³

Little do these attorneys know that these efforts have been underway for some time now, both here in Louisiana and across the country. There are pro bono organizations in every major city in Louisiana. Many of these organizations are responsible for smaller, less-populated parishes as well, giving them more clients but fewer volunteer resources since attorneys oftentimes tend to be concentrated in more metropolitan areas.

All of the pro bono organizations in the state have training systems in place for their volunteers. In many instances, the pro bono programs will offer free or reduced-fee training, including those coveted CLE credits, as long as participants

Louisiana Pro Bono Hours by Board District

| Board District | Average # of Hours |
|----------------|--------------------|
| 1 | 74.5 |
| 2 | 69.4 |
| 3 | 60.3 |
| 4 | 112.0 |
| 5 | 65.6 |
| 6 | 79.4 |
| 7 | 87.1 |
| 8 | 54.5 |

Source: 2006 LSBA Voluntary Pro Bono Reporting Forms

agree to accept a case. CLE training programs are not easy to coordinate, and it is discouraging when attorneys attend and promise to take cases but never do.

All levels of the judiciary are beginning to take notice of pro bono activities in Louisiana. Pro bono is more often becoming mentioned at judges' conferences and many judges are taking it upon themselves to encourage attorneys to perform pro bono hours. It can be of tremendous help if judges schedule their dockets in such a way as to make a pro bono volunteer's court appearance less time-consuming, and thus less costly. Some courts allow pro bono attorneys' cases to be placed first on dockets.

Attorneys said they would be more willing to volunteer if their employers and bar associations gave more recognition for volunteer efforts. Many employers encourage pro bono activities and find that pro bono work can be educational for new attorneys and a connection with the realities of the poor for the more experienced. The most "forward-thinking" employers recognize each attorney's pro bono commitment and allow pro bono volunteer hours to be considered billable hours.

Additionally, the Louisiana State Bar Association (LSBA) and many local bar associations believe in recognizing pro bono service. Local bars and pro bono organizations distribute numerous awards to their volunteers and the LSBA presents five types of pro bono awards to attorneys and law students from around the state for their dedication to pro bono. "Recognizing pro bono" is why this issue is in your hands today, and why it includes a list of your peers from around the state who have made the decision to make a difference and have volunteered with their local pro bono organization.

Just as important as the reasons attorneys don't volunteer are the reasons that attorneys do volunteer. In the same ABA report, attorneys mentioned that the main reason they volunteer is the personal satisfaction they receive from actually putting in the time.⁴ In the end, the only way

Louisiana Pro Bono Hours by Years of Practice

| Years of Practice | # of Hours in 2006 |
|-------------------|--------------------|
| 50+ | 81.2 |
| 41-50 | 87.8 |
| 31-40 | 87.1 |
| 21-30 | 66.3 |
| 11-20 | 71.5 |
| Under 10 | 57.5 |

Source: 2006 LSBA Voluntary Pro Bono Reporting Forms

an attorney will volunteer is if he/she feels the desire to do so. That desire is not something that can be forced or fabricated. The future of pro bono in Louisiana depends on you, the Louisiana attorney. Opportunities for pro bono are abundant; one just has to have the desire to be involved.

The future of pro bono in Louisiana looks bright — more attorneys than ever before are realizing that any effort they give can make a big difference in someone's life. The state's law schools are encouraging their students to get involved and active members of the LSBA are recruiting peers to help out where they can. However, we must keep pro bono issues and efforts at the forefront of Louisiana's legal community to ensure that everyone gets involved.

Statistics gathered from 2006 LSBA Voluntary Pro Bono Reporting Forms show the average number of pro bono hours served by LSBA Board District, by law school, by gender and by years of practice (*see page 321 and this page*).

Articles in this special issue cover the pro bono work being done by organized pro bono programs, government attorneys and law schools. There is an update on the Legal Assistance Call Center, now in operation for 18 months. Don't miss the list of pro bono opportunities in the state, as well as recognition of attorneys who have many pro bono hours to their credit.

Louisiana Pro Bono Hours by Law School

| | Average # of Hours in 2006 |
|----------|----------------------------|
| Loyola | 61 |
| LSU | 63 |
| Southern | 92 |
| Tulane | 68 |
| Other | 73 |

Source: 2006 LSBA Voluntary Pro Bono Reporting Forms

Louisiana Pro Bono Hours by Gender

| | Average # of Hours in 2006 |
|--------|----------------------------|
| Male | 70 |
| Female | 67 |

Source: 2006 LSBA Voluntary Pro Bono Reporting Forms

FOOTNOTES

1. LA R. Prof. Conduct 6.1 (2005).
2. American Bar Association, The ABA Standing Committee on Pro Bono and Public Service, *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, August 2005, available at <http://www.abanet.org/legalservices/probono/report.pdf> (last visited Dec. 5, 2006).
3. *Id.* at 19.
4. *Id.*

ABOUT THE AUTHORS

Monte T. Mollere is the Louisiana State Bar Association's Access to Justice director. (601 St. Charles Ave., New Orleans, LA 70130)



Stephanie McLaughlin is the statewide training coordinator for the LSBA's Access to Justice Program. (601 St. Charles Ave., New Orleans, LA 70130)



Lost in the shuffle?

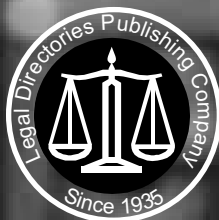
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Pro Bono
Attorneys
Hold the Key
to Justice



One Focus in Many Hands

Models for Organized Pro Bono Programs

By Sarah J. Campbell and Joseph R. Oelkers III

Opportunities to get involved in pro bono work in Louisiana have greatly expanded over the past 25 years with the creation and operation of organized pro bono programs. While there will always be an option for Louisiana lawyers to select pro bono clients during their day-to-day practices, the operation of organized pro bono programs provides the practitioner with a valuable resource to expand access to justice through an organized referral of pro bono cases. This allows an organization to screen the potential pro bono case for financial resources and, frequently, for merit, leaving the pro bono attorney more time to provide direct legal assistance.

Not all pro bono programs are alike. This article will explore some of the different organizational structures now being utilized to facilitate pro bono service in Louisiana.

Several pro bono programs in Louisiana are sponsored by local bar organizations. In Lafayette, the Lafayette Volunteer Lawyers (LVL) is sponsored by the Lafayette Parish Bar Foundation and operates from the bar offices. Jack

McElligott serves as chair of the Foundation and oversight is the responsibility of a committee chaired by Dave Ernest. Tammy DeRouen, LVL coordinator, said the Foundation, through partnerships with organizations such as the Acadiana Outreach, the Faith House and Acadiana Legal Service Corp., expands the availability of civil legal assistance in Lafayette Parish. The Baton Rouge Bar Foundation Pro Bono Project is coordinated with the Baton Rouge Bar Association and operates from the bar offices.

A variation on the local bar association-sponsored model involves a pro bono operation which functions "in-house" in a program providing full-time civil legal assistance to the poor. This model is utilized in the Lake Charles area by the Southwest Louisiana Bar Association Pro Bono Program. The program is staffed in-house at Acadiana Legal Service Corp. and Southwest Louisiana Legal Services Society, Inc., utilizing personnel of those organizations to coordinate pro bono case referral and follow-up. Pro bono efforts also are provided to 26 parishes of north Louisiana through in-house efforts at

Legal Services of North Louisiana in its offices in Shreveport, Natchitoches and Monroe.

Another model is utilized by the Central Louisiana Pro Bono Project, Inc., governed by a board of directors under the sponsorship of the Alexandria Young Lawyers Division. Debbie Smith, coordinator for the Project, said the attorneys who volunteer to accept cases recognize the importance of the services in light of the high poverty rate spread out in small towns and rural areas in the service area.

Yet another variation is the free-standing pro bono program. The Pro Bono Project, formerly the New Orleans Pro Bono Project, now serves five parishes in the New Orleans area. It is incorporated as a 501(c)(3) organization and maintains affiliations with local bar associations in the service area but has its own 15-member governing body, including representatives of solo, corporate, large firm and in-house counsel representatives of the legal community, the judiciary and private businesses. The board also includes six ex-officio positions representing the immediate past chair, the

executive director and others. Incoming Board Chair A. Wendel Stout began his term in January. As with any pro bono program, The Pro Bono Project relies on its panel of attorney volunteers but also on a staff attorney to coordinate its homeless and succession program. Post-Katrina, three additional full-time attorneys are working with The Pro Bono Project to assist in Katrina-related issues and needs. Rachel Piercey, longtime executive director, said, "The Pro Bono Project's independent existence affords our organization maximum opportunity to be accountable to and responsible for the Project's goals and missions, while creating a greater sense of ownership by the volunteer attorneys."

Interestingly, the New Orleans Pro Bono Project was originally a program sponsored by the Louisiana Bar Foundation in connection with its re-emergence as an active organization in the mid-1980s and became the first bar-sponsored pro bono project in Louisiana at that time, predating the IOLTA Program, which has been so important in the development of pro bono operations throughout the state. The Project became a free-standing organization in 1991.

In Shreveport, Ruth Moore directs the Northwest Louisiana Pro Bono Program, another free-standing entity. It is financially supported by the Shreveport Bar Association, filing fees from the City Court and the 1st Judicial District Court, as well as by the Louisiana Bar Foundation's IOLTA Program.

Other organized pro bono opportunities include projects sponsored by law schools. At Loyola University Law School, the Gillis Long Poverty Law Center provides opportunities for private attorneys to work with student interns both during the school year and on summer break. The summer internship program allows Loyola law students to be involved in special interest law in a variety of settings, not only in Louisiana but throughout the country. William P. Quigley, director of the Center, said,

"The internship program provides a unique opportunity for both the students involved in the provision of legal services to the poor and the private attorneys who supervise them." The law school also provides a loan forgiveness program for alumni involved in public interest employment. Tulane Law School and Southern University Law Center also have law clinics, with Tulane also having a loan forgiveness program. Louisiana State University Paul M. Hebert Law Center recently instituted a law clinic to provide such services.

Other models have been utilized around the country to expand opportunities for pro bono representation. One common characteristic, however, is the value derived from the volunteer attorneys who give their time and experience to disadvantaged clients. Another common trait is the collaborative relationship with other programs, including Legal Services Corp.-funded programs, specialty programs providing access to justice such as The Advocacy Center, and law school initiatives, among others. The variety of approaches maximizes the user-friendliness of the projects to the participating attorneys and the clients they serve, increasing legal assistance to poor clients who otherwise would not have full access to the justice system.

ABOUT THE AUTHORS

Sarah J. Campbell is managing attorney of the Covington office of Southeast Louisiana Legal Services Corp. (P.O. Box 2330, Covington, LA 70434)



Joseph R. Oelkers III is director of Acadiana Legal Service Corp. (P.O. Box 41002, Lafayette, LA 70504)



How Do I Get Involved in Pro Bono?

Complete the Access to Justice Volunteer Form under the Access to Justice Committee listing on the Louisiana State Bar Association's Web site (www.lsb.org/atj), or see below for agencies statewide seeking the assistance of dedicated volunteers.

17th Judicial District Pro Bono Project

Ste. 305, 801 Barrow St.
Houma, LA 70360
(800)256-1900
Lisa Lendo, Pro Bono Coordinator

18th Judicial District Pro Bono Project

23615 Railroad Ave.
Plaquemine, LA 70764
(800)256-1900
Lisa Lendo, Pro Bono Coordinator

20th Judicial District Pro Bono Project

P.O. Box 8181
Clinton, LA 70722
(800)256-1900
Lisa Lendo, Pro Bono Coordinator

23rd Judicial District Pro Bono Project

P.O. Box 100
Pierre Part, LA 70339
(800)256-1900
Lisa Lendo, Pro Bono Coordinator

32nd Judicial District Pro Bono Project

Ste. 305, 801 Barrow St.
Houma, LA 70360
(800)256-1900
Lisa Lendo, Pro Bono Coordinator

40th Judicial District Pro Bono Project

1107 Main St.
LaPlace, LA 70068
(800)256-1900
Lisa Lendo, Pro Bono Coordinator

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Pro Bono
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Judge Melvin A. Shortess (Ret.) rang a cowbell to attract attention to the Baton Rouge Bar Foundation Pro Bono Project's Lawyers Work for Food pro bono case drive and jambalaya lunch. Shortess received the 2006 Louisiana State Bar Association's David A. Hamilton Lifetime Achievement Award for his pro bono efforts. *Photo provided by Baton Rouge Bar Association.*

Pro Bono Projects: Answering the Call for Legal Services

Baton Rouge Bar Foundation Pro Bono Project

By Rebecca S. Myhand

In 2006, the Baton Rouge Bar Foundation Pro Bono Project continued to expand its outreach efforts to meet the legal needs of the poor. In addition to its traditional placement of cases with volunteer attorneys, the Project began a disaster recovery legal clinic at Renaissance Park to assist Hurricane Katrina victims. Through this clinic, 36 clients needing civil legal assistance and help with the "Road Home" forms were assisted.

Another 2006 outreach effort was a Social Security clinic that offered 10 Louisiana State University Paul M. Hebert Law Center students the opportunity to participate in a hands-on learning experience. The students zealously represented their clients under the watchful eye of a volunteer attorney.

The Project's legal clinic, Thirst for

Justice, began its sixth year and has assisted 1,572 clients since its inception. The law firms of Gordon Arata; Taylor, Porter, Brooks & Phillips; McGlinchey Stafford; Keogh Cox & Wilson; Phelps Dunbar; Jones Walker; and Adams and Reese played an active role in Thirst for Justice by volunteering once a week for an entire month. As the majority of the cases are in the area of family law, the Project continued the use of its pro bono curator, a Baton Rouge Bar Foundation volunteer, who has agreed to serve as curator for all family law cases requiring one. The volunteers are truly the backbone of the Project.

Barbara Baier, 2007 Baton Rouge Bar Association president, said, "My very first involvement with the Baton Rouge Bar Association was with the Pro Bono Committee. From that membership, I've made many friendships, learned a great deal, received a lot of personal satisfaction and realized how valuable our work is in the community. I have been a member of the Pro Bono Committee since 1992 and truly believe that the Pro Bono Project is one of the most important elements of our association."

In 2007, the Project will continue to develop innovative ways to provide legal assistance to the poor while increasing participation by volunteer attorneys.

• (225)344-4803

Rebecca S. Myhand has been a pro bono coordinator for the Baton Rouge Bar Association since 1998. She graduated from Louisiana State University in 1994 and received a paralegal certificate from LSU in 1997. (544 Main St., Baton Rouge, LA 70802)



Central Louisiana Pro Bono Project

By Debbie Smith

In 1991, members of the Alexandria Bar Association Young Lawyers Section organized the Central Louisiana Pro Bono Project, Inc. for the purpose of providing voluntary, uncompensated legal

services to qualified persons referred by Legal Services of Central Louisiana, Inc. The Project also was organized to sponsor free legal advice clinics for the public. Attorney volunteers answer questions and provide general information concerning various legal matters.

The Project, in connection with Legal Services of Central Louisiana, hosts several Pro Se Divorce Clinics during the year to help those who meet Legal Services' guidelines obtain an uncontested divorce. At this time, all cases are referred to the Project from Legal Services of Central Louisiana. The Project is working toward in-house intakes for the near future. With this in mind, the Project will be hosting more free legal advice clinics throughout the year to reach clients who ordinarily would not be referred by Legal Services.

In the last 14 years, the type and number of cases the Project receives from Legal Services has grown. When the Project was formed, Legal Services only referred uncontested family matters. Now various matters in several areas of law, including successions, bankruptcy, re-dhibition, mental health, interdiction, name change, custody and divorce, are referred to the Project for placement with the private bar. The Project refers approximately 125-150 civil cases each year.

The Louisiana Bar Foundation, through IOLTA funds, has been instrumental in helping the Project achieve its goals. Subgrant funds and project fundraising supplement these funds. The combination of these funds allows the Project to employ a project director, currently the Project's sole employee.

• (318)449-9778

Debbie Smith has been the project director of the Central Louisiana Pro Bono Project, Inc. for the past nine years. Among her many duties is referring cases to attorney volunteers in the Central Louisiana area, including Vernon, Avoyelles and Rapides parishes. (2015 MacArthur Dr., Bldg. #3, Alexandria, LA 71301)



Lafayette Volunteer Lawyers

By Tammy D. DeRouen

Lafayette Volunteer Lawyers (LVL) is a crucial resource within the community, assisting the needy in solving their legal problems. In an average year, LVL attorneys help more than 400 people navi-



Several attorneys were recognized during the Lafayette Parish Bar Foundation's Champions of Justice Breakfast for their extraordinary pro bono efforts in 2005. From left, Will Montz, Chris Bailey, Greg Koury, Elizabeth Dugal, Shawn Benoit, Biana Chretien, Charlie Hutchens, Sarah Giddens, Richard Mere, Judy Kennedy and Mike Wooderson. Photo provided by Lafayette Parish Bar Association.

How Do I Get Involved in Pro Bono?

Complete the Access to Justice Volunteer Form under the Access to Justice Committee listing on the Louisiana State Bar Association's Web site (www.lsb.org/atj), or see below for agencies statewide seeking the assistance of dedicated volunteers.

Advocacy Center for the Elderly & Disabled

Ste. 2112, 225 Baronne St.
New Orleans, LA 70112
(800)960-7705
Lois Simpson, Director
Ann MacLaine, Contact Person

Acadiana Legal Service Corp. (Main Office)

P.O. Box 4823
Lafayette, LA 70502-4823
(337)237-4320
Toll-free (800)256-1175
Joseph R. Oelkers III, Director

Acadiana Legal Service Corp. (Lake Charles Branch)

Ste. #710, 1 Lakeside Plaza
Lake Charles, LA 70602
(337)439-0377
Joseph R. Oelkers III, Director
Brenda Schexnider, Pro Bono Coord.

ACORN of Louisiana

1024 Elysian Fields Ave.
New Orleans, LA 70117
(504)943-0044, ext. 116
Beth Butler, Director

AIDSLaw of Louisiana, Inc.

2601 Tulane Ave., 5th Flr.
New Orleans, LA 70119
mail: P.O. Box 30203
New Orleans, LA 70190
(800)375-5035
Linton Carney, Director
Iska Beck, Contact Person

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gate their way through the legal system and courts by providing high-quality, pro bono legal assistance and representation.

LVL reaches into the community with three distinct programs: helping victims of domestic violence obtain a Title 46 protective order, providing self-help clinics for parties seeking a divorce, and assisting the homeless in obtaining valid identification. In addition to LVL's community outreach, the program is a referral source for the local LSC agency, Acadiana Legal Service Corp.

LVL is a progressive program with volunteers who are dedicated, compassionate and, most of all, innovative. Through LVL's leadership, the Lafayette Outreach for Civil Justice (LOCJ) campaign was created and raised significant funding to support pro bono efforts in Lafayette Parish for several years. The LOCJ campaign was awarded the ABA's Harrison Tweed Award for its continued dedication to support access to justice for the indigent. Lafayette lawyers are a shining example of how a group of committed people can make a difference in the community in which they reside.

In looking forward, LVL hopes to continue expanding programs and to utilize its resources to best serve its clients. The program is currently researching the possibility of establishing a clinic to assist the elderly in creating wills.

LVL continues to be dedicated to the advancement of the administration of justice and will persist in its objective to help resolve the legal issues of the underprivileged in Lafayette.

• (337)237-4700

Tammy D. DeRouen has served as the coordinator of the Lafayette Volunteer Lawyers for the past two years. She previously worked for 25 years in the insurance business. (P.O. Box 2194, Lafayette, LA 70502-2194)



Judge Jay C. Zainey, right, addressed a group of law students from the University of North Carolina on their first visit to assist The Pro Bono Project (New Orleans) in December 2005. The students will be making their fourth trip to New Orleans from March 12-16. Photo provided by The Pro Bono Project.

The Pro Bono Project (New Orleans)

By Rachel Piercey

As a service provider, The Pro Bono Project (PBP) is challenged to remain responsive to the community's needs in this post-Katrina environment by innovating ways to leverage the diverse talent and resources available. Over its 20 years of service, the PBP has expanded its range of services and its geographic scope through outreach and leveraging volunteer resources. As an organization dependent upon volunteers for the delivery of services, the PBP must balance the needs of the community with the needs and interest of its greatest resource, the volunteers. More than 1,600 lawyer volunteers served on the pro bono panel pre-Katrina and close to 20,000 cases were handled by the PBP. While the need for legal services has skyrocketed, the capacity of the local legal services system to respond has been severely crippled. The traditional base of support from the local bar and long-standing volunteers has been significantly impacted as most

are juggling increased personal and professional demands in this current environment.

While clients vary in age, race and ethnic background, one constant remains the same: an absolute need for pro bono civil legal services. The legal needs in post-Katrina New Orleans are even greater. Through outreach, staffing clinics and telephone intake, it is evident that low-income people have a myriad of civil legal needs directly related to or exacerbated by the social dislocation caused by the storm. Since the storm, FEMA appeals, family law, custody, evictions, bankruptcy and consumer-related matters, successions, special needs trust and insurance matters represent increasing problematic areas.

Coordination with out-of-state resources is particularly crucial now that local resources are limited. In an effort to broaden its volunteer base, the PBP has responded and become the "go-to" resource on all matters related to optimizing the utilization of out-of-state lawyers, including ongoing outreach and communication. Since mid-December 2006, the PBP has been assisted and visited by out-of-state lawyers and law

students representing a wide variety and number of schools and states. It is anticipated that these activities will continue in 2007 and beyond to effectively serve the community.

Post-Katrina, the PBP was further stressed by losing staff due to displacement, relocation or reduced funding streams and is currently struggling to replace capacity. Staff is supplemented by two AmeriCorp attorneys funded by a special grant from Equal Justice Works. Their duties include expansion of the bankruptcy and family law services. During their tenure, the AmeriCorp attorneys are expected to develop and implement models that will return to the volunteer panel as volunteers become trained and available. The additional support through Equal Justice Works has provided the PBP with the resources to shift to a hybrid model of staff and volunteer attorneys while addressing the community's increasing legal needs and stabilizing the volunteer base. Coordination of the implementation and development of programs with other service providers, both local and national, is critical in addressing continued post-Katrina legal needs arising as the com-

munity rebounds from the aftermath.

Over the years, the PBP has responded and expanded by stepping up to the plate, driven by the goal of being viewed as a community resource. Katrina tested The Pro Bono Project's flexibility, but The Project continues to be responsive to these needs, while maintaining and developing relationships to engage and leverage the legal community's resources.

• (504)581-4043

Rachel Piercey has served as the executive director of The Pro Bono Project for the greater metropolitan New Orleans area since the organization's inception in 1986. Her current role is an extension of more than 30 years of community and social services work within the greater metropolitan area. She was the 1994 recipient of the National Association of Pro Bono Coordinators' Pro Bono Coordinator of the Year Award. She also serves as a program consultant for the ABA's Center for Pro Bono consulting project. (Ste. 201, 615 Baronne St., New Orleans, La 70113)



Several pro bono liaisons from New Orleans law firms gathered to discuss the needs of The Pro Bono Project (New Orleans). Photo provided by The Pro Bono Project.

How Do I Get Involved in Pro Bono?

Complete the Access to Justice Volunteer Form under the Access to Justice Committee listing on the Louisiana State Bar Association's Web site (www.lsba.org/atj), or see below for agencies statewide seeking the assistance of dedicated volunteers.

Baton Rouge Bar Foundation Pro Bono Project

P.O. Box 2241
Baton Rouge, LA 70821
(225)344-4803
R. Lynn Haynes and Rebecca Myhand,
Pro Bono Coordinators

Capital Area Legal Services Corp.

200 North Third St.
Baton Rouge, LA 70801
(225)387-5173
Toll-free (800)256-1900
James A. Wayne, Sr., Director
Lisa Lendo, Pro Bono Coordinator

Central Louisiana Pro Bono Project

2015 MacArthur Dr., Bldg. #3
Alexandria, LA 71301
(318)449-9778
Debbie Smith, Program Coordinator

Lafayette Volunteer Lawyers

P.O. Box 2194
Lafayette, LA 70502-2194
(337)237-4700
Tammy D. DeRouen, Director
April Bailey, Pro Bono Coordinator

Legal Aid Bureau

Ste. #401, 3801 Canal St.
New Orleans, LA 70119
(504)488-1548
Kim Dugar-Glass, Director

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Northwest Louisiana Pro Bono Project

By Ruth F. Moore

The Northwest Louisiana Pro Bono Project began 2006 with a family law 5.5-hour CLE for attorney volunteers and a kickoff for the new mentoring program. The project now has 15 new volunteers and 10 mentors.

In April, the Project partnered with the YWCA Family Violence Program to offer protective order training for attorneys, clerks of court and domestic violence counselors. Two attorneys working with protective order cases, Trina Chu and Fiona York, speak languages other than English, a great asset.

In response to the number of evictions in Shreveport City Court, two of the Projects' board members, Mary Winchell and Anna Maria Sparke Keele, developed a public education program called "Renters Rights or How Not to be Evicted." The program was presented in November and will be offered again this



Northwest Louisiana Pro Bono Project attorney volunteer Fiona York at Operation Stand Down, sponsored by HOPE for the Homeless and the Veterans Administration. The lawyers assisted homeless people so they can receive state identification cards and birth cards, necessary items to get into shelters and to receive free meals. Photo provided by Northwest Louisiana Pro Bono Project.

winter and spring. The Project hopes to interest another community organization in partnering for this program to add a budgeting class to assist renters who do not have those skills.

Two long-standing and deserving volunteers, David Rabb, Jr. and Clay Walker, received the Louisiana State Bar Association's Pro Bono Publico Award in June.

The Project is a member of the Northwest Louisiana Volunteer Organizations Active in Disaster. The Project wants to organize a "lawyers reserve unit" of volunteers who would be on call in the event of disasters, such as Hurricanes Katrina/Rita.

• (318)221-6283

Ruth Foster Moore has worked for the Northwest Louisiana Pro Bono Project for seven years and has been the director for six years. She is the only full-time employee and there is one part-time assistant. Like most directors of small pro bono projects, she wears all the hats at one time or another, doing everything from administration to client interviews. (Ste. 950, 401 Market St., Shreveport, LA 71101)



Jeffrey Wittenbrink stirred the jambalaya pot for the Baton Rouge Bar Foundation Pro Bono Project's Lawyers Work for Food case placement drive and fund-raiser



Linda Law Clark, left, and Lisa Lendo made jambalaya plate lunches during the Baton Rouge Bar Foundation Pro Bono Project's Lawyers Work for Food event. Both photos provided by the Baton Rouge Bar Association.

probono.net/la

ProBono.Net/LA: The Online Resource for Louisiana Lawyers Serving the Public Interest

By Jerald L. White

Are you looking for a helpful and convenient online resource to support your public interest advocacy? ProBono.Net/LA is a free online resource for legal advocates, law professors and students, legal service organizations, and other social services advocates.

ProBono.Net/LA primarily serves as a clearinghouse of legal resources and online support for public interest attorneys and new attorneys who may be working on their first pro bono case. The Web site is easy to navigate and includes a password-protected library and access to five practice areas: civil law, asylum law, prisoners' rights, death penalty and health law.

What Will You Find on ProBono.Net/LA?

The Web site provides online support and resources to its members, including a calendar of events, news, training manuals, volunteer opportunities, member-driven list serves, model pleadings, and other helpful practice materials. *Resources will vary according to practice area.*

Who Should Join?

ProBono.Net/LA membership is open to advocates, students, pro bono projects and others working with public interest organizations to provide legal assistance to low-income people. To become a member, first select a practice area on the left-hand side of the ProBono.Net/LA navigation menu, then click on "join this area" and complete the registration form. Also, subscribe to Pro.Bono.Net News at www.news.probono.net.

ProBono.Net/LA is administered by Southeast Louisiana Legal Services, with funding from the Louisiana Bar Foundation and the Legal Services Corp. For more information, contact Jerald L. White at jlwhite@nolac.org.

Jerald L. White is a graduate of Indiana University School of Law. He has worked as a grassroots organizer, environmental activist and attorney with several national nonprofit environmental groups and government agencies. He currently works as the Web site administrator for New Orleans Legal Assistance Corp. (an office of Southeast Louisiana Legal Services). (Ste. 1400A, 1010 Common St., New Orleans, LA 70112)

probono.net/la

How Do I Get Involved in Pro Bono?

Complete the Access to Justice Volunteer Form under the Access to Justice Committee listing on the Louisiana State Bar Association's Web site (www.lsba.org/atj), or see below for agencies statewide seeking the assistance of dedicated volunteers.

Legal Services of North Louisiana, Inc. (Main Office)

720 Travis St.
Shreveport, LA 71101
(318)222-7186
Toll-free (800)826-9265
Alma S. Jones, Director
Verna Malone, Services Contact

Legal Services of North Louisiana, Inc. (Natchitoches Office)

P.O. Drawer 1189
Natchitoches, LA 71458
(318)352-7220
Lewis Gladney, Pro Bono Coordinator

Legal Services of North Louisiana, Inc. (Monroe Office)

3016 Cameron St.
Monroe, LA 71201
(800)259-6591 or
(318)699-0889
Kimberly Lanier, Pro Bono Coordinator

Loyola Law School Pro Bono Program

7214 St. Charles Ave., Box 901
New Orleans, LA 70118
(504)861-5590
Bill Quigley, Director
R. Judson Mitchell, Pro Bono Coor.

Northwest Louisiana Pro Bono Project

Ste. 950, 401 Market St.
Shreveport, LA 71101
(318)221-6283
Ruth Moore, Director
Dana Southern, Services Contact at
(318)221-2205

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Pro Bono
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to Justice



Government Attorneys Provide Pro Bono Publico Assistance

By Sachida R. Raman, Sheral C. Kellar, Lisa Woodruff-White and David E. Marquette

P*ro bono publico* services by government attorneys is not a new concept. Louisiana is fortunate to be at the forefront of governmental attorneys nationwide who are involved in *pro bono publico* services. The American Bar Association's *Rennaissance of Idealism in the Legal Profession*¹ has a best practices resource guide. The Louisiana Department of Justice is featured prominently in the government section of this guide.

Among the initiatives that the state's Justice Department is or has been involved with are Domestic Violence Initiative; Easter Sunday Meals on Wheels; Gambling Treatment Referral Program; Know the Law; School Safety Program; Stop Smoking Clinic; Trainings on Louisiana Open Meetings Law and Public Records Law; Trainings on Louisiana Public Bid Law and Public Lease Law; and the recent Pro Bono Pilot Program Initiative.

The Pro Bono Pilot Project was started in 2004 by Attorney General Charles Foti. It allows attorneys employed in the state's attorney general's office to represent Louisiana's citizens in civil legal cases — primarily in family law and Social Security benefits. Foti, a staunch supporter of pro bono, is the first state official to implement such a program. He recognized the ever-increasing gap

between the civil legal needs of the state's poorest citizens and inadequate legal representation, the obligations of lawyers to render pro bono services, and the disparate impact it has on the state's communities.

More than 850,000 Louisiana citizens live below the poverty level and, of that number, more than 680,000 cannot afford an attorney and thus cannot navigate the judicial system or have access to justice. For these 680,000 people, civil legal representation is the difference between hope and helplessness.

Some of these compelling civil legal cases include: an abused spouse in need of a protective order to escape domestic violence and to protect his/her children; an elderly citizen seeking Social Security benefits; a veteran seeking disability; a homeless person seeking safe and habitable housing; a parent seeking divorce or custody of minor children; and a family in need of services or a child in need of care. In all of these cases, legal representation is a basic need. Unfortunately, in each of these types of cases, the amount of resources or funding available is very limited.

Foti's program places such cases in the hands of experienced attorneys who provide free legal services to these clients without having to use their

personal leave time. Initially, a few cases were assigned. Since then, more than 20 cases have been assigned, all to attorneys in Foti's Baton Rouge office.

Capital Area Legal Services Corp. (CALSC), a federally funded legal services organization that provides legal services to eligible clients who are screened according to federal poverty guidelines, in conjunction with the Baton Rouge Bar Association, refers these cases to the Attorney General. CALSC, like other legal services programs throughout the nation, have been underfunded for years. While Hurricanes Katrina and Rita added to the number of poor clients these programs are committed to serving, proportionate funding has been limited. Consequently, CALSC, like the other legal service programs, depends on the generosity of government attorneys and other pro bono organizations to assist with the ever-increasing demand of clients it does not have the resources to serve.

The Baton Rouge Bar Association also assists in referring such cases to pro bono attorneys in private practice. Together with the private bar pro bono attorneys, Foti's 135 or so attorneys in Baton Rouge add greatly towards filling this huge gap. What is also more encouraging is that Foti heads a statewide legal office, which means that his attorneys are available to assist legal service organizations located in other parts of the state. Progress is being made to include these attorneys in regions such as Lafayette, Shreveport and Lake Charles.

Another important but yet untapped government attorney resource are attorneys in the classified state civil service system.² In Louisiana, government attorneys are divided into two categories — classified and unclassified.³ Generally, attorneys employed by the state are in the classified civil service system, except those in Foti's office.⁴ Foti directs the work of attorneys employed by the Attorney General's office and determines the appropriate use of their personal leave time.

Attorneys in the classified service are subject to the authority of the State Civil Service Commission.⁵ Interestingly, Civil

Service Rule 11.23(j) allows attorneys to provide legal representation to indigent criminal defendants without the loss of personal leave time.⁶ Rule 11.23(j) was enacted in 1976 at a time when indigent defense programs were chronically underfunded. Perhaps, the State Civil Service Commission recognized the state's need for additional attorneys to ensure that indigent criminal defendants received the legal assistance required by both the federal and state constitutions.⁷

Presently, attempts are being made to pursue the involvement of classified government attorneys. As a result, one of the governmental departments has requested a formal opinion from the Attorney General's office on this subject. The request poses the following question: *"Is it an unauthorized donation of state time to permit a classified state attorney to perform pro bono civil legal work without the loss of pay or annual leave and, if not, under what circumstances may such work be allowed?"*

As of presstime, the Attorney General's opinion had not been issued. The justice community eagerly awaits the opinion and anticipates that it will perhaps encourage and open the door for civil legal representation by classified state attorneys without the loss of personal leave time. If this does happen, policy should perhaps be drafted encouraging attorneys and supervisors to achieve at least the 50 hours of voluntary pro bono publico service recommended by the Louisiana State Bar Association.⁸

The governmental agency seeking the opinion plans to draft an internal policy that will encourage pro bono publico services with the hope that it can be emulated by other sister departments. In the interim, it is that agency's view that classified attorneys can and should donate some of their personal leave time to pro bono publico services because the value of pro bono is in the service and not in how easy it should be to serve.

With this array of governmental attorney involvement initiatives, the ability of indigents who need urgent and meaningful legal representation to preserve their family, property or income may become

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Southeast Louisiana Legal Services, Inc. (New Orleans Office)

Ste. #1400-A, 1010 Common St.
New Orleans, LA 70112
(504)529-1000, ext. 237
Toll-free (877)521-6242
Mark A. Moreau, Co-Director
Paul Tuttle, Pro Bono Counsel

Southeast Louisiana Legal Services, Inc. (Hammond Office)

P.O. Box 2867
Hammond, LA 70404
(985)345-2130
Brian D. Lenard, Co-Director

Southwest Louisiana Legal Services

1011 Lakeshore Dr.
Lake Charles, LA 70601
(337)436-3308
Jim Ortego, Director

The Pro Bono Project

Ste. #201, 615 Baronne St.
New Orleans, LA 70113
(504)581-4043
Rachel Piercey, Director

Volunteer Lawyer Project

Ste. #506, 130 DeSiard St.
Monroe, LA 71201
(318)323-8851
A.J. Jones, Executive Director

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more tangible. One thing is for certain: it will guarantee that fewer indigents go unrepresented and, hopefully, strengthen the resources of our communities and our state.

FOOTNOTES

1. http://www.abanet.org/renaissance/bestpractices/search_best_practices.html.

2. L.S.A.-Const. Art. 10, Section 1A.

3. *Id.*, Section 2.

4. *Id.*, Section 2(B)(10).

5. *Id.*, Section 10.

6. Civil Service Rule 11.23(j) states: An employee serving with job appointment, probationary or permanent status shall be given time off without loss of pay, annual leave, or sick leave when: (J) Engaged in the representation of a client in a criminal proceeding pursuant to an order of a court of competent jurisdiction, provided if compensation for such services is available from another source, he may not accept the special leave and the compensation.

7. U.S. Constitution Art. VI: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

8. Louisiana Rules of Professional Conduct, Rule 6.1(2004).

ABOUT THE AUTHORS

Sachida R. Raman, a graduate of Tulane Law School in 1991, is the managing attorney of family law at Acadiana Legal Service Corp. in Lafayette. Prior to this, he was a senior attorney at Southeast Louisiana Legal Services. He has been a member of the Louisiana State Bar Association's Access to Justice Committee since 1998 and is the present chair of the State Justice Planning Subcommittee. He was the 2005 president of the Lafayette Parish Bar Association's Family Law Section and also chaired the Louisiana Legal Services Task Force. (1020 Surrey St., Lafayette, LA 70502-4823)

Sheral C. Kellar has served as an administrative law judge since 1981, serving as chief judge of the Hearings Section of the Louisiana Department of Labor since 1999. She is a member of the Louisiana Bar Foundation, co-chair of the Louisiana State Bar Association's Access to Justice Committee, member of the LSBA Medical-Legal Interprofessional Committee, member of the National Legal Aid & Defender Association and a CASA volunteer. She is a former at-large member of the LSBA Board of Governors. (P.O. Box 94040, Baton Rouge, LA 70804-9040)

Lisa Woodruff-White has served as deputy secretary of Louisiana's Department of Social Services since 2004. She was the statewide director of the Louisiana Child Support Program from 2001-04 and chaired the Louisiana Child Support Guideline Review Committee in 1999 and 2004. She currently leads the Child Support Committee of the Louisiana State Law Institute. (627 N. 4th, Baton Rouge, LA 70802)



Assistant Attorney General David E. Marquette is the pro bono coordinator for the Department of Justice for Louisiana Attorney General Charles Foti's Pro Bono Project. A 1985 graduate of Southern University Law Center, he has served on the Baton Rouge Bar Foundation's Pro Bono Committee for 20 years. He is the recipient of the 1995 Louisiana State Bar Association Pro Bono Publico Award and serves on the LSBA Access to Justice Committee. (1835 N. 3rd St., Baton Rouge, LA 70802)



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Supreme Court Adopts Emergency *Pro Bono* Civil Legal Assistance Rule

By Mark A. Moreau

The Hurricanes Katrina and Rita disasters created unprecedented needs for *pro bono* civil legal aid in Louisiana. In response to these needs, the Louisiana Supreme Court adopted an emergency rule to allow out-of-state attorneys to provide temporary *pro bono* civil legal aid to low-income disaster victims.

Under this rule, out-of-state attorneys may apply for a limited certification of *pro bono* practice. Once certified, these *pro bono* attorneys may render civil legal aid under the supervision of certain Louisiana legal aid or *pro bono* programs. This limited license to practice enables *pro bono* attorneys to give legal advice and represent eligible clients in courts and administrative hearings.

Pro bono work by a "limited license" attorney is limited to persons and case types eligible for representation under the federal Legal Services Corp. rules. Each *pro bono* attorney practicing under a limited license must be supervised by a licensed Louisiana attorney who works with an approved legal aid or *pro bono* program. The supervising Louisiana attorney must co-sign pleadings with the "limited license" attorney and review his/her work.

As a result of the Supreme Court's rule, *pro bono* attorneys from outside of Louisiana were able to do much more for Louisiana disaster victims than otherwise would have been possible. One ex-

ample of vital *pro bono* work done under the Supreme Court's rule is Womble Carlyle's Katrina Successions Project. More than 40 Womble Carlyle attorneys applied for limited licenses and worked on successions for indigent Katrina victims who needed to clear title in order to rebuild their damaged homes.

The Womble Carlyle attorneys have used their limited Louisiana licenses to devote more than 3,000 hours of *pro bono* legal aid to Katrina recovery efforts in Louisiana. They worked on this project with Southeast Louisiana Legal Services, Stone Pigman, Sessions Fishman and Wachovia. Generally, each Womble Carlyle attorney gave up more than a week of his/her time to come to Louisiana and personally help indigent Louisiana disaster victims overcome daunting probate and title problems which block rebuilding efforts.

ABOUT THE AUTHOR

Mark A. Moreau is a co-director of Southeast Louisiana Legal Services. He has actively worked with many out-of-state *pro bono* attorneys on Katrina poverty law matters. He received his JD degree from Buffalo Law School and an LLM from New York University. (Ste. 1400A, 1010 Common St., New Orleans, LA 70112)



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Supreme Court Extends Supplemental Emergency *Pro Bono* Civil Legal Assistance Rule

The Louisiana Supreme Court has extended for another year the supplemental emergency *pro bono* civil legal assistance rule originally approved by the court on Jan. 20, 2006, and amended on July 7, 2006. The rule, as amended, permits non-admitted lawyers to provide limited *pro bono* civil legal services to victims of Hurricanes Katrina and Rita under restricted circumstances. The rule will remain in effect through Jan. 19, 2008.

To review the court order,
go to:

[www.lsba.org/Quick-Links/
ExtensionSupplementEmergency
ProBonoRule.pdf](http://www.lsba.org/Quick-Links/ExtensionSupplementEmergencyProBonoRule.pdf).

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Law Schools: Taking Pro Bono Services Seriously

Louisiana's four law schools take the concept of pro bono legal services seriously. Whether it be through a variety of law clinics, pro bono fellowship programs or direct hands-on assistance to the public, tomorrow's lawyers are being taught today about the importance of public service and are offered many opportunities to place that teaching into action by providing legal services to those needing them the most but least able to afford them.

The state's law schools have provided articles on how pro bono service is removed from the rhetoric and transformed into concrete action plans on their campuses.

Louisiana State University Paul M. Hebert Law Center

Public Interest Job Fairs at LSU Law Center

By Annie LeBlanc

For the third year in a row, a representative of Louisiana State University Paul M. Hebert Law Center's Career Services Office (CSO) and law students attended the annual Equal Justice Works Job Fair in Washington, D.C., this past October. Nine LSU students participated, each one securing multiple interviews with public interest and government employers. Many of the students commented on how inspiring it was to be with hundreds of other law students who feel passionate about the same areas that interest them.

Additionally this past fall, the CSO hosted its first Virtual Public Interest Job Fair. With the hope of exposing more students to public interest work, the CSO decided to bring employers to LSU in a

virtual format. Sixteen employers from Texas, Louisiana and Georgia agreed to participate and more than 20 law students applied for these jobs.

Often public interest employers do not have the budget or time to travel for recruiting. The virtual job fair prevented the need for travel and cost nothing for the employers. Students uploaded their résumés on the online job system eAttorney. The information was then mailed to the employers. In addition, students were allowed to record a short mock interview through the computer program InterviewStream. Employers were given access to the students' interviews. From the feedback received, these interviews were helpful to the employers and all employers intend to participate again next year. It added "life" to a student's résumé, according to one employer, and enabled a student to stand out from others.

Most of the employers cannot pay for these summer jobs, yet many students applied. Students are willing to forego pay when the work involves issues they are passionate about. Many students understand the need to use their legal edu-

cation to help others, and some carry this so far as to make it their main focus in law school.

LSU Public Interest Law Society

By John M. Church

In spring 2005, students at Louisiana State University prompted the Law Center to establish the LSU Public Interest Law Society (PILS), a student-run organization that facilitates and coordinates pro bono activities by LSU law students. One of PILS' missions is to provide opportunities for students to assist in providing legal services to the community.

PILS directly organizes and supervises student participation in several programs, including Thirst for Justice, a program started by Judge Melvin Shortess and the Baton Rouge Bar Association (BRBA) to help residents in blighted neighborhoods. Another PILS/BRBA collaborative project, the Social Security Assistance Program, allows students to serve as advocates at appeals from denials of disability benefits. Under the supervision of Eric Miller, the students file appeals, investigate and draft prehearing briefs, and argue at the hearings of the appeals.

A third project sends students to Renaissance Park, a FEMA trailer park housing people displaced by Hurricane Katrina, to assist with the Bar Association's Disaster Recovery Project. Under the supervision of Professor Elizabeth Murrill, the students help residents complete "Road Home" applications and assist with family law matters. PILS also has linked with the national Student Hurricane Network and will provide students and logistical support for Network projects in New Orleans and along the Gulf Coast.

PILS also organizes opportunities for students to do nonlegal community service work, including post-Katrina reconstruction, Habitat for Humanity, the St. Vincent de Paul Dining Room and the "Everybody Reads" literacy program.

The Law Center's Pro Bono Fellowship program provides fellowships to law students who spend their summers doing public interest work. Over the last two summers, the Law Center has funded 14 students who have worked at a variety of local and national public interest jobs. PILS assists with this program by helping identify and publicize opportunities for full-time public interest work and by reviewing student applications for summer fellowships.

In addition to these ongoing student-oriented initiatives, the Law Center provides space, logistical support and student workers for the Louisiana State Bar Association's Disaster Legal Hotline and its successor, the Louisiana Civil Justice Center. The Law Center also houses and supports the Pro Bono Legal Corps (PBLC), a collaborative project of the LSBA, the Louisiana Bar Foundation and Americorps. The PBLC employs two full-time attorneys, Susan Saba and Kathleen McNelis, who recruit, train and supervise students for a broad range of public interest projects and service providers.

Loyola University College of Law

By William P. Quigley

Loyola University College of Law makes service to the community a centerpiece of the educational mission. Every law student is required to provide 50 hours of *pro bono* service to the community, to participate in one of the many clinics and give service to the community, or to take the courses "Law and Poverty" or "Street Law" to learn how to be a people's lawyer.

The Loyola Law Clinic teaches students and serves people in the areas of family law, criminal defense, homeless advocacy, immigration and criminal prosecution. Post-Hurricane Katrina, the clinic has expanded to include a Workplace Justice Project and a Katrina Clinic.

The Loyola Workplace Justice Project assists workers in dealing with unscrupulous contractors, non-payment of wages, and other employment issues for low-wage workers.

The Katrina Clinic grew out of experiences with displaced people while the Loyola Law School was itself displaced to Houston. The Katrina Clinic now has two full-time staff attorneys and has worked with dozens of law students providing education and non-litigation advocacy to more than 1,000 people.

The Law Clinic also serves as an umbrella organization for the Extern Program and Street Law. The Extern Program places law students in local courts and agencies to assist in the provision of legal services. Street Law places law students in public and private schools in the community where they teach basic legal principles to high school

Annie LeBlanc, a 2002 graduate of Louisiana State University Paul M. Hebert Law Center, now works at the Law Center as a career counselor, aiding law students in finding clerkships and permanent employment. Her focus as a career counselor is the public interest sector, and she serves as the career services advisor to the Public Interest Law Society at LSU. (LSU Paul M. Hebert Law Center, Career Services Office, Ste. 101 Law Center, Baton Rouge, LA 70803-1000)



Professor John M. Church holds the Harry S. Redmon, Jr. Professorship at Louisiana State University Paul M. Hebert Law Center. He has a master's degree from the University of Illinois and a law degree from the University of Colorado, where he was a Harno Fellow, the case note editor of the University of Colorado Law Review, and was inducted into the Order of the Coif. Prior to joining the Law Center faculty in 1991, he practiced law in Denver. (LSU Paul M. Hebert Law Center, Career Services Office, Ste. 101 Law Center, Baton Rouge, LA 70803-1000)



William P. Quigley is the Janet Mary Riley Professor of Law, director of the Loyola Law Clinic and director of the Gillis W. Long Poverty Law Center at Loyola University College of Law. He teaches the courses "Law and Poverty," "Street Law" and "Law and Religion." He has published several books and law review articles dealing with human rights issues in the United States. (7214 St. Charles Ave., New Orleans, LA 70118-3538)



John K. Pierre was promoted to interim vice chancellor of Southern University Law Center in 2006. He has been on the law faculty since 1990. He is a member of the Louisiana State and Texas bar associations and the Louisiana Certified Public Accountants Association. He received a bachelor's degree in accounting from Southern University in 1980, a master's degree in tax accounting from Texas Tech University in 1982 and his JD degree from Southern Methodist University School of Law in 1985. (Southern University Law Center, P.O. Box 9294, Baton Rouge, LA 70815)

students. This year Street Law was expanded beyond schools to a juvenile prison, a women's shelter and St. Michael's School.

The Gillis W. Long Poverty Law Center provides summer internship stipends in legal services and other pro bono settings for up to 24 Loyola students each summer.

The Gillis Long Center also provides loan forgiveness assistance to graduates doing full-time public service work. Recently, the Loyola Loan Forgiveness Program was allowed to expand due to a generous grant from the Kendall Vick Foundation.

Southern University Law Center

By John K. Pierre

The Southern University Law Center, with a student body of 488, is an institution of higher education that has long valued *pro bono* activities and community service by its student body. The Law Center's commitment to *pro bono* dates back to its founding 60 years ago. Early graduates of the Law Center, such as Jesse N. Stone, Johnnie Jones, Murphy Bell, Sr. and Revius Ortique, engaged in public interest litigation, legal services activities for poor and indigent clients, and *pro bono* legal services.

The Law Center operates several legal clinics and outreach programs providing *pro bono* legal services to Louisiana citizens. These programs allow students to provide *pro bono* and public interest legal services to indigent clients while gaining practical experience in the preparation of cases, the representation of clients, and the development of real-world, problem-solving skills. These programs are designed to allow third-year law students the opportunity to apply theoretical knowledge acquired in the classroom to practical live-client situations. The clinical education and outreach programs that have been operated by the Law Center and that have a direct effect on indigent clients in Louisiana include the Criminal Law Clinic, the Low-Income Taxpayer Clinic, the Domestic Violence Clinic, the Juvenile Law Clinic, the Administrative/Civil Law Clinic, the Elder Law Clinic and the Louisiana Agricultural Mediation Program.

During the 2005-06 academic year, the Law

Center's legal clinics and outreach programs provided legal services to low-income or indigent clients in more than 300 cases, controversies and disputes with administrative agencies. Because of the variety of legal clinics available to third-year law students, approximately 60 percent of these students participate in the programs.

In addition to students enrolled in legal clinics, several Law Center students have been involved with projects such as the Innocence Project, the Student Hurricane Network, and the Louisiana Bar Foundation project and the Americorps volunteer project providing legal assistance to victims of Hurricanes Katrina and Rita. Also, during income tax season, law students operate a Volunteer Income Tax Assistance (VITA) site at the Law Center to assist low-income taxpayers file their federal and state income tax returns.

Tulane Law School

By Julie H. Jackson

Twenty years ago, Tulane Law School (TLS) broke new ground by requiring all its students to give back to the community — to share with those in need of legal assistance the skills and knowledge they were acquiring in the classroom. In 1987, Tulane became the first law school in the nation to impose *pro bono* work as a graduation requirement. Since this beginning two decades ago, Tulane has continued to build upon the original concept. The essential premise of the program is the "trickle-up" theory of moral obligation: once law students recognize the overwhelming need of the underserved and experience the difference they can make by providing *pro bono* assistance, they are more likely to continue as members of the bar to give of their time and skills in the public interest. As a bonus, students can gain firsthand experience in addressing a variety of legal issues.

When the requirement was originally implemented, each student was required to contribute 20 *pro bono* hours prior to graduation. TLS has now increased the requirement to 30 hours per student to give each individual more time for training as well as to provide needed services. But, as the total number of hours contributed by the law students annually reveals, many students far exceed the minimum requirement. During 2006, the students reported nearly 9,000 hours of service

donated in the public interest across the nation.

Twenty years later, more ways than ever exist through which the students can give back to the community. There are no geographical limits; the students make contributions across the country. However, the majority of students choose to do *pro bono* work in the New Orleans metropolitan area. A sample of placements reveals the variety of legal topics encountered and the endless array of needs the students tackle.

► **Blighted Housing Hearings.** The City of New Orleans has recently begun hearings on blighted housing determinations. These hearings are expected to be a critical step in addressing the issue of blighted and abandoned houses that pose an almost insuperable obstacle in the city's renewal. Students conduct research, help locate property owners now scattered across the country, prepare notice for absentee owners, and assist with hardship determinations. City legal staff and volunteer lawyers from the local bar conduct the hearings and students provide assistance as needed.

► **Homeless Assistance.** Several placements address this underserved population which finds fewer resources available to them. The newest project provides assistance in obtaining Social Security benefits, in conjunction with H.E.L.P., a program founded by Federal District Judge Jay C. Zainey. Students also work with the Homeless Legal Advocacy Project of the New Orleans Legal Assistance Corp. (NOLAC).

► **Katrina Legal Assistance Program** at NOLAC. This new program co-sponsored by TLS addresses the most urgent needs of those recently returned to New Orleans and those trying to return. The immediate need during the fall has been successions. Lack of clear title to the house is a principal deterrent to receiving federal and state assistance, such as "Road Home" grants. Particularly in the Ninth Ward, houses have been handed down, generation to generation, without concern for legal formalities. Students are now assisting in handling the staggering caseload of non-contested succession cases: they conduct interviews with prospective clients, assist in filing petition and help clients obtain necessary documentation, including birth or death certificates, tax records, divorce filings, etc., and draft pleadings.

► **ELLA** (Entertainment Law Legal Assistance). Jointly sponsoring this program are TLS's Pro

Bono Program, the Arts Council of New Orleans and the New Orleans Music Office Co-Op. The purpose is to address unmet legal needs of artists and entertainers of modest means.

► **POPS** (Project for Older Prisoners). TLS founded this program in 1989 to serve as advocates for the often overlooked population of elderly or infirm inmates who no longer pose a threat to society. Students conduct interviews and assist eligible inmates in the parole process.

► **Public Defenders.** Law students assist public defenders in several parishes of southeastern Louisiana with initial client interviews, research/writing, assessment of cases, tracking defendants and obtaining records.

Critical to the Tulane Pro Bono Program are the contributions of private practitioners and legal services attorneys who supervise law students in this wide array of *pro bono* placements. *Pro bono* attorneys extend the reach of their donated hours by joining with Tulane law students in offering free legal assistance. Thanks to the supervision provided by these dedicated members of the bar in the past two decades, *pro bono* students at Tulane have been able to give even more back to the community.

Tulane Law School Clinical Program

Also on the public interest front, Tulane has a well-established clinical program through which student attorneys, supervised by clinical faculty, handle cases for those who could not otherwise afford an attorney. The law school offers clinical opportunities in the areas of criminal law, civil rights, domestic violence, juvenile law and environmental law. For example, the Civil Litigation Clinic allows students to earn credit by representing indigent clients primarily in federal court. Students handle fair housing matters, employment discrimination and sexual harassment cases, and section 1983 actions relating to police misconduct and other constitutional violations. The students handle all aspects of the litigation, from client interviewing and counseling, to discovery, motion practice and trial work. The experience is invaluable and life-changing for both students and clients.



Julie H. Jackson is assistant dean for public interest programs at Tulane Law School. She is responsible for the implementation and administration of the first mandatory pro bono program to be established by a law school in the United States. She also teaches a seminar in mediation. Prior to joining Tulane, she clerked for a federal judge in Los Angeles, Calif., and practiced labor and employment law with the firm of Smith, Currie & Hancock in Atlanta, Ga. She received her JD degree from Harvard Law School in 1980. Contributing to this article was Professor Stacy Seicshnaydre. (Tulane Law School, Ste. 216, 6329 Freret St., New Orleans, LA 70118-6321)

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18 Months and Counting: Cooperative Efforts Keep Disaster Legal Assistance Call Center Available to Help Citizens

By Elizabeth Erny Foote

Within days of her own evacuation from New Orleans as a result of Hurricane Katrina, Louisiana State Bar Association (LSBA) Young Lawyers Section Council representative Beth Abramson had contacted the Baton Rouge Bar Association to set up a legal assistance call line. This job fell to Abramson because the Young Lawyers Division of the American Bar Association (ABA) has a contract with FEMA to provide legal disaster relief. Each year, the LSBA Young Lawyers Section appoints someone to head up the effort and 2005 was Abramson's year to serve.

Abramson's initial call began a cooperative endeavor that enlisted lawyers and bar staff across the state. Staff of the LSBA—all of whom were also evacuees—joined Executive Director Ann Scarle's staff of the Baton Rouge Bar Association to organize and man the legal hotline. The staff members provided "intake," getting basic information about the caller and the nature of the problem. Lawyer volunteers answered questions 12 hours a day, seven days a week, using a legal "hurricane manual" put together by Lafayette lawyer Susan Simon. The

intake forms from callers who could not be helped immediately by lawyer volunteers were delivered by the stacks to legal assistance providers, local bar associations and *pro bono* organizations statewide. And still the answering machine

was full every day with people who could not get through to a live volunteer.

The Call Center remained at the Baton Rouge Bar Association office until Oct. 14, 2005, when it moved to donated space at the Louisiana State University



Gabrielle Jones, standing, is the Call Center's full-time executive director. With her is Ingrid James, third-year law student at Southern University Law Center. Photo by Ross Foote.

Paul M. Hebert Law Center. In the time period between Katrina's landfall and the move date, the Call Center had handled 3,215 calls. The caseload remained steady as Hurricane Rita expanded the number of people in need. Although many of these "cases" involved only a phone call, some required more time-consuming legal help.

The move to LSU Law Center upgraded the services provided. LSBA staff members Monte Mollere, Linda Johnson and Christine Richard, commuting to Baton Rouge every day, set up 10 stations with donated laptops. Johnson worked with the Texas Rio Grande Legal Services representatives who came to Baton Rouge to outfit the computers with their own intake and referral software. The new software provided a more detailed and uniform intake procedure and allowed the caller's case to be referred via Internet to a lawyer volunteer or legal services provider. Richard recruited law students who were hired to handle the intake and coordinated their schedules. Mollere, as the LSBA's Access to Justice director, headed up the efforts which included obtaining complicated roll-over phone lines as well as simple tables and chairs.

Providing the upgraded services in the post-Katrina/Rita environment had its challenges. When it looked like the move to LSU would be delayed because it was going to take several weeks to open a billing account for the outgoing long-distance calls, Law Center Professor John Church volunteered the use of his personal phone account. Because there were no vacant hotel rooms in the Baton Rouge area, one volunteer from Texas slept on Professor Church's couch while another commuted from Lafayette. Mollere recalls how all of the things that are taken for granted in a modern office were nonexistent in the Call Center's early days. "One member of the bar leadership called and asked me to fax something to her. I had to explain that we did not have a fax machine much less an extra phone line to which to hook one up."

Today the Call Center operates more smoothly. Housed on the first floor of the "old" law school, the Call Center employs a full-time executive director,



The two staff attorneys working at the Call Center are Jim Harry, right, and Ashton Johnson. With them, standing, is Elizabeth Erny Foote, president of the Louisiana Center for Civil Justice. Photo by Ross Foote.

Gabrielle Jones; two staff attorneys, Jim Harry and Ashton Johnson; and about 15 law students who rotate schedules. From Oct. 14, 2005, to Nov. 29, 2006, the Call Center has opened an additional 11,532 cases, bringing the total to 14,737 cases. Although down from the 700 to 800 cases it handled per week in the months after the storm, the Center still averages about 70 cases per week. Today everyone who calls speaks with a lawyer that day.

The beneficiaries of the Call Center are not limited to the hurricane victims who seek legal advice. Staff attorney Jim Harry joined the Call Center in October 2006 after his own Jefferson Parish law practice was decimated by the hurricane. Law students from both Southern University Law Center and LSU gain first-hand experience dealing with clients as well as an hourly wage. With the help of Professor Church and the leadership of LSU Law Center Chancellor John Costonis, the Call Center has developed more than a physical presence at LSU. Law students will soon be able to participate for class credit in a joint project to draft simple wills, medical powers of attorney, and living wills for the elderly. Two Americorps lawyers — Kathy McNelis and Susan Saba — work with the Call Center, the law school, and the legal community encouraging public interest law and *pro bono* work.

What will happen to the Call Center when the personal legal crises created by

the hurricanes have passed? The Center convened LSBA leadership and *pro bono* and legal service providers to address that question. With its growing presence and its in-place infrastructure, the Center could provide a statewide point of access for legal help for the poor as well as some basic services. Helping individuals navigate the existing legal services Web site to create basic legal documents also could be a project. The think-tank group continues to meet with the help of a legal services consultant recommended by the ABA.

In the meantime, obtaining funding for the Call Center remains a challenge. Although the contract with FEMA provides for reimbursement of certain expenses, the Call Center has received only \$71,433 to date, with another \$66,000 promised but not received. More has been requested. The LSBA initially "fronted" all of the expenses with the help of the Louisiana Bar Foundation. In the early days after Katrina, the Foundation came forward voluntarily with the Center's first grant in the amount of \$70,000. Since then, the Foundation has granted the Center additional funds and also has funneled funds from the Louisiana Recovery Authority to the Center. The JEHT Foundation, a national foundation dedicated to "Justice, Equality, Human dignity and Tolerance," also has provided major funding. In order to attract grant funding, the Louisiana Civil Justice Center, a 501(c)(3) corporation, was formed early this year and now operates the Call Center. That corporation's board of directors, with help from the LSBA, struggles to obtain continuing funding and to provide a continuing vision for this project.

ABOUT THE AUTHOR

Elizabeth Erny Foote is president of the Louisiana Civil Justice Center and is president-elect designee of the Louisiana State Bar Association. She practices law in the areas of medical malpractice and commercial litigation. (P.O. Box 1632, Alexandria, LA 71309-1632)





Thanks for Your Service!

2006 Pro Bono Honor Rolls

Many Louisiana State Bar Association members have contributed hundreds of hours of pro bono service during the past year. We would like to recognize these attorneys for their efforts. Note that these lists of attorneys were provided to the Louisiana State Bar Association by the agencies.

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E'Vinski Davis
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Executive Office



Loretta Larsen, CAE

Loretta Larsen, CAE Executive Director

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

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



Ramona K. Meyers

Ramona K. Meyers Executive Assistant

Ramona works closely with the executive director in providing staff support to the Board of Governors and House of Delegates. In addition, she manages the Louisiana Bar Center and coordinates the LSBA's annual elections. Ramona joined the staff in 1994.

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



Brandi Heitkemper

Brandi Heitkemper Receptionist

Brandi is the first person callers and guests encounter when they phone or visit the Louisiana Bar Center. She answers routine questions, but primarily routes calls to the appropriate individuals or departments. She joined the staff in 2006.

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



Carolyn Nunez

Carolyn Nunez General Clerk

Carolyn handles all mailings originating from the Bar Center and is responsible

LSBA Staff

Contacting Staff Members by Phone, Fax and E-mail

for ordering all Bar Center supplies. She also assists staff members by performing any bulk copying and large copy projects, including material for the Board of Governors and House of Delegates.

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

Access to Justice Department

Monte T. Mollere Access to Justice Director

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

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



Monte T. Mollere

Linda K. Johnson Access to Justice Statewide Technology Coordinator

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

*direct phone: (504)619-0123
toll-free phone: (800)421-5722, ext. 123
fax: (504)528-9154
e-mail: ljohnson@lsba.org*



Linda K. Johnson



**Stephanie
McLaughlin**

**Stephanie McLaughlin
Access to Justice Training
Coordinator**

Stephanie serves as the statewide coordinator of legal training and education for Louisiana legal services providers. She is responsible for planning continuing legal education events on topics of particular interest to public interest attorneys. She works closely with legal services providers, task forces, the Access to Justice Committee and the LSBA's CLE department. Additionally, she works with the Access to Justice director on other ATJ projects as necessary. Stephanie joined the staff in 2006.

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



Oscar D. Avila

**Oscar D. Avila
Access to Justice Administrative
Assistant**

Oscar works closely with the Access to Justice director in coordinating and facilitating the work of the LSBA's Access to Justice Committee and the projects developed to foster a strong comprehensive statewide system for the delivery of legal services. Oscar joined the staff in 2006.

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

Administration Department



**Denise N.
Tingstrom**

**Denise N. Tingstrom
Administration Director**

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

direct phone: (504)619-0121

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

**Kim M. Lane
Member Records Coordinator**

Kim handles all membership data procedures including address changes, requests for certificates of good standing and new and replacement membership cards, and handles requests for rental of membership lists. She joined the staff in 2000.

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



Kim M. Lane

**Susan T. Heflin
Accounting Coordinator**

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

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



Susan T. Heflin

**Maryja Serigny
Member Records Secretary**

Maryja devotes most of her time to processing Attorney Registration Statements and updating the membership database. She also assists other department members as workloads merit. She joined the staff in 2005.

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



Maryja Serigny

**Sharon Matrana
Member Records Assistant**

Sharon assists in updating and maintaining the member data in the membership database and provides departmental support. Sharon joined the staff in 2006.

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



Sharon Matrana

Communications Department



Brooke Monaco

Brooke Monaco Communications Director

Brooke directs the Association's communications efforts, including the *Louisiana Bar Journal*, "Bar Briefs," the Annual Report and the Web site. She also serves as the primary staff liaison to the state's local and specialty bar associations, organizes media coverage for the LSBA's activities and serves as staff liaison to the Public Information Committee and the Community Action Committee. She joined the staff in 2006.

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



Darin P. Trittel

Darin P. Trittel Web Administrator

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

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



Darlene M.
LaBranche

Darlene M. LaBranche Publications Coordinator

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

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



Krystal Bellanger

Krystal Bellanger Communications Assistant

Krystal assists the communications director with publication of the *Louisiana*

Bar Journal and "Bar Briefs," specifically by coordinating publication and advertising schedules and by providing general clerical and administrative support. Krystal joined the staff in 2006.

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

Law-Related Education Department

Maria Yiannopoulos Law-Related Education Director

Maria has been the executive director of the Louisiana Center for Law and Civic Education since it was founded in 1993. She joined the LSBA staff in 1998 when the Center affiliated with the Bar Association. Maria coordinates law-related education in schools and conducts training workshops for both educators and lawyers. She also writes the grants that provide the funding for the Center's administration and programs.

direct phone: (504)619-0124
toll-free phone: (800)421-5722, ext. 124
fax: (504)569-8766
e-mail: maria@lalce.org



Maria
Yiannopoulos

Membership Services Department

Germaine A. Tarver Membership Services Director

Germaine's three main areas of responsibility are: providing staff support to the Young Lawyers Section; coordinating the LSBA's legislative initiatives; and planning Annual and Midyear Meetings, as well as other major Association events. She also serves as staff liaison to several committees and is the contact person for the LSBA's member benefit programs. She joined the staff as marketing coordinator in 2002 and was promoted to her current position in 2005.

direct phone: (504)619-0117
toll-free phone: (800)421-5722, ext. 117
fax: (504)528-9154
e-mail: gtarver@lsba.org



Germaine A.
Tarver



Christine A. Richard

Christine A. Richard

Section and Committee Coordinator

Christine has primary responsibility for providing staff support to the Association's voluntary sections and serves as liaison to the Section Council. She also works closely with the membership services director on committee administration. She joined the staff in 1995 and was promoted in 2000.

direct phone: (504)619-0105

toll-free phone: (800)421-5722, ext. 105

fax: (504)528-9154

e-mail: crichard@lsba.org

Professional Programs Department



Cheri Cotogno Grodsky

Cheri Cotogno Grodsky

Professional Programs Director

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

direct phone: (504)619-0107

toll-free phone: (800)421-LSBA, ext. 107

fax: (504)598-6753

e-mail: cgrodsky@lsba.org

William N. King

Practice Assistance Counsel

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

direct phone: (504)619-0109

toll-free phone: (800)421-5722, ext. 109

fax: (504)598-6753

e-mail: bking@lsba.org



William N. King

Richard P. Lemmler, Jr.

Ethics Counsel

Richard works with the Ethics Advisory Service Committee to render informal, non-binding ethics opinions to members of the Bar to assist them in resolving ethical dilemmas that arise in their practices. He also works with the Lawyer Advertising Advisory Service Committee to render informal, non-binding opinions to Bar members regarding their advertising-related issues. He joined the staff in 2002, after practicing law in New Orleans for 14 years as a solo general practitioner.

direct phone: (504)619-0144

toll-free phone: (800)421-5722, ext. 144

fax: (504)598-6753

e-mail: rlemmler@lsba.org



Richard P. Lemmler, Jr.

Eric K. Barefield

Deputy Practice Assistance Counsel

Eric works in the administration of the Practice Assistance and Improvement Program. He joined the staff in November 2005, after working with the Office of Disciplinary Counsel for seven years. He also worked as an assistant district attorney for three years with the Orleans Parish District Attorney's Office. He is responsible for the administration of the Law Office Management Assistance Program.

direct phone: (504)619-0122

toll-free phone: (800)421-5722, ext. 122

fax: (504)598-6753

e-mail: ebarefield@lsba.org



Eric K. Barefield

Annette C. Buras

CLE Coordinator

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

direct phone: (504)619-0102

toll-free phone: (800)421-5722, ext. 102

fax: (504)598-6753

e-mail: aburas@lsba.org



Annette C. Buras



Connie P. Sabio

Connie P. Sabio
Administrative Assistant

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

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



Kristy G. DelValle

Kristy G. DelValle
Practice Assistance Secretary

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

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



Wendy S. Roberts

Wendy S. Roberts
Practice Assistance Secretary

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

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

Dale C. LeBlanc
Ethics Assistant

Dale provides administrative support and works closely with ethics counsel in the operation of the Ethics Advisory Service. She joined the staff in 2003.

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



Dale C. LeBlanc

Vacant
CLE Program Administrative Assistant

This person handles processing of registrations for Bar-sponsored CLE seminars, as well as requests for seminar information and/or publications. This person also works on site at Bar-sponsored seminars.

Specialization Department

Catherine S. Zulli
Specialization Board Director

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

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



Catherine S. Zulli

"Online-Only" Voting Ends March 5

"Online-only" voting ended March 5. Members were voting in four runoff races and on an amendment to the Articles of Incorporation allowing the House of Delegates to adopt rules of procedure. As of presstime, the voting results were not available. To review all results, go to: www.lsha.org.

Other results in the first round of voting follow.

Runoff Races

Board of Governors

First Board District

Beth E. Abramson
Paul B. Deal

Nominating Committee

District 2A

William D. Grimley
Sheral C. Kellar

ABA House of Delegates

Elizabeth A. Alston
Daniel E. Becnel, Jr.

Young Lawyers Section Council

Fifth Board District

Carla S. Courtney
Erin Marie Lorio

Certified-Elected

Board of Governors

Fourth Board District

John F. Robichaux

Fifth Board District

James E. Boren

Nominating Committee

District 1A

Donald R. Abaunza
Brent B. Barriere
Ronald J. Sholes
Phillip A. Wittmann

District 2A

Frank A. Fertitta

District 2B

William "Chuck" Credo III
Mickey S. deLaup

District 2C

Nicholas J. Zeringue

District 3A

Lawrence "Larry" P. Simon, Jr.

District 3E

Thomas G. Zentner, Jr.

Young Lawyers Section Secretary

Melanie M. Mulcahy

Young Lawyers Section Council

First Board District

Walter J. Leger III

Second Board District

Jennifer L. Zeringue

Fourth Board District

Joel M. Lutz

Eighth Board District

Karelia R. Stewart

Articles of Incorporation Amendment

Insert in-house counsel rule as Article IV, Section 3 of the Articles of Incorporation and that the section on inactive members be renumbered as Section 4, and that all subsequent sections be appropriately renumbered.

For 2,191

Against 187

Attorneys Qualify as Board-Certified Specialists

In accordance with the requirements of the Louisiana Board of Legal Specialization, as approved by order of the Louisiana Supreme Court, the following members of the Louisiana State Bar Association have satisfactorily met the established criteria and are qualified as board-certified specialists in the following areas for a five-year period beginning Jan. 1, 2007, and ending Dec. 31, 2011.

Consumer Bankruptcy Law

Elizabeth G. Andrus Lafayette
Hilary Beth Bonial Dallas, Texas

Family Law

Teresa Culpepper Carroll Jonesboro
Desiree Duhon Dyess Natchitoches
David C. Hesser Alexandria

Tax Law

Lance J. Kinchen Baton Rouge

Estate Planning and Administration

Mark W. Fry Baton Rouge
Valerie Van Matherne Monroe
Joseph Mengis Baton Rouge
Dawn M. Rawls Baton Rouge
Chris A. Verret Lafayette

The Louisiana Board of Legal Specialization (LBLS) was established Aug. 6, 1993, by the Louisiana Supreme Court to assist consumers in finding a lawyer who has demonstrated ability and experience in specialized fields of law. To become a certified specialist, an attorney must be an active member of the Louisiana State Bar Association, have a minimum of five years of full-time practice, demonstrate substantial experience in the specialty area, and pass a written examination. Presently, the five areas of law for which the LBLS is offering certification

are business bankruptcy law, consumer bankruptcy law, estate planning and administration, family law and tax law.

Applications for 2008 certification in consumer bankruptcy law, business bankruptcy law, estate planning and administration, family law or tax law may be obtained by e-mail (czulli@lsba.org) or by calling (480)699-0786.

MCLE Transcripts Available Online on March 12

Final transcript records will be available online for all members who are compliant for the MCLE reporting term ending Dec. 31, 2006. The official transcript will be posted and downloadable on March 12. An e-blast is being sent to the membership with this information. Postcards will be sent to members with no e-mail addresses, advising them to go online to download their transcript records. Non-compliance notices will be mailed to the appropriate members in April.

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Suite 2025 Energy Centre Phone: 504.229.8220
1100 Poydras Street Toll Free: 866.301.8220
New Orleans, LA 70163 Fax: 504.229.8219
email: kaydonn@bellsouth.net

Letters to the Editor Policy

1. At the discretion of the Editorial Board (EB), letters to the editor are published in the *Louisiana Bar Journal*.
2. If there is any question about whether a particular letter to the editor should be published, the decision of the editor shall be final. If a letter questioning or criticizing Louisiana State Bar Association policies, rules or functions is received, the editor is encouraged to send a copy of that letter to the appropriate entity for reply within the production schedule of the *Louisiana Bar Journal*. If the editor deems it appropriate, replies may be printed with the original letter, or in a subsequent issue of the *Louisiana Bar Journal*.
3. Letters should be no longer than 200 words.
4. Letters should be typewritten, signed and, if applicable, include LSBA member number, address and phone number. Letters from non-members of the LSBA also will be considered for publication. Unsigned letters are not published.
5. Not more than three letters from any individual will be published within one year.
6. Letters also may be clarified or edited for grammar, punctuation and style by staff. In addition, the EB may edit letters based on space considerations and the number and nature of letters received on any single topic. Editors may limit the number of letters published on a single topic, choosing letters that provide differing perspectives. Authors, editorial staff or other State Bar representatives may respond to letters to clarify misinformation, provide related background or add another perspective.
7. Letters may pertain to recent articles, columns or other letters. Letters responding to a previously published letter should address the issues and not be a personal attack on the author.
8. No letter shall be published that contains defamatory or obscene material, violates the Rules of Professional Conduct or otherwise may subject the LSBA to civil or criminal liability.
9. No letter shall be published that contains a solicitation or advertisement for a commercial or business purpose.
10. Letters may be submitted:
 - ▶ by mail (send a hard copy and disk);
 - ▶ by fax (mail a disk);
 - ▶ or e-mail (preferred).Mail to: Louisiana State Bar Association,
Attn: *Louisiana Bar Journal*, 601 St. Charles Ave.,
New Orleans, LA 70130-3404.
Fax to (504)566-0930, Attn: *Louisiana Bar Journal*.
E-mail to dlabranche@lsba.org.

Lawyer Specialization Available in 5 Areas

The Louisiana Board of Legal Specialization is accepting applications for 2008 certification in the following areas: Business Bankruptcy Law,* Consumer Bankruptcy Law,* Estate Planning and Administration, Family Law and Tax Law.

In accordance with the Plan of Legal Specialization, any Louisiana State Bar Association member who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. The five-year practice requirement must be met for the period ending Dec. 31, 2007. A further requirement is that each year a minimum of 35 percent of the attorney's practice must be devoted to the area of certification sought.

In addition to the above, applicants must meet a minimum CLE requirement for the year in which application is made and the examination is administered:

- ▶ Estate Planning and Administration — 18 hours of estate planning law.
- ▶ Family Law — 18 hours of family law.
- ▶ Tax Law — 20 hours of tax law.
- ▶ Bankruptcy Law — CLE is regulated by the ABC, the testing agency.

* Applications for Business Bankruptcy Law and/or Consumer Bankruptcy Law certification will be accepted through September 2007. Although the written test(s) is administered by the American Board of Certification, attorneys should apply for approval of the Louisiana Board of Legal Specialization 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).

Legal Specialization

Deadline for accepting applications for estate planning and administration, family law and/or tax law certification is April 16, 2007. To receive an application, complete the following:

PLEASE PRINT OR TYPE

Name _____

Address _____

City/State/Zip _____

Please indicate area of certification desired _____

Mail or e-mail to:

Catherine S. Zulli, Executive Director
Louisiana Board of Legal Specialization
601 St. Charles Ave., New Orleans, LA 70130-3404
e-mail czulli@lsba.org • phone (480)699-0786

Application: Bankruptcy Law Certification

The Louisiana Board of Legal Specialization (LBLS) has announced that applications for 2008 certification in both Business Bankruptcy Law and Consumer Bankruptcy Law will be accepted through Sept. 28, 2007.

Both certifications may be simultaneously applied for with the LBLS and the American Board of Certification, the testing agency. Information concerning the American Board of Certification will be provided with the LBLS application form(s).

If you meet the minimum five-year, full-time practice requirement and are interested in applying, mail or e-mail the following information to:

Catherine S. Zulli, Executive Director
Louisiana Board of Legal Specialization
601 St. Charles Ave., New Orleans, LA 70130-3404
E-mail czulli@lsba.org • phone (480)699-0786

PLEASE PRINT OR TYPE

Name _____

Address _____

City/State/Zip _____

Please check either or both:

_____ Business Bankruptcy Law

_____ Consumer Bankruptcy Law

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (S. 256) adds an important new tool that will help bankruptcy courts ensure that attorneys paid by bankruptcy estates have the skill and expertise required for modern bankruptcy practice. The law now expressly authorizes bankruptcy judges to base their fee awards on whether the lawyer has met the high objective standards needed to become board certified.

COMMITTEE PREFERENCES / Get Involved in Your Bar!

Committee assignment requests are now being accepted for the 2007-08 Bar year. The current committees of the Louisiana State Bar Association are listed below and on page 354. President-Elect S. Guy deLaup will make all committee appointments. Widespread participation is encouraged in all Bar programs and activities. Appointments to committees are not guaranteed, but every effort will be made to accommodate members' interests. When making selections, members should consider the time commitment associated with committee assignments and their availability to participate. The deadline for committee assignment requests is March 15.

Access to Justice Committee

The mission is to support and help strengthen an integrated statewide network to increase the delivery of legal services to the poor of Louisiana.

Committee on Alcohol and Drug Abuse

The mission is to protect the public by assisting, on a confidential basis, lawyers and judges who have alcohol, drug, gambling and other addictions. The committee works with the Lawyers Assistance Program, Inc. to counsel, conduct interventions and locate treatment facilities for impaired lawyers, and to monitor recovering attorneys and attorneys referred by the Louisiana Attorney Disciplinary Board or Office of Disciplinary Counsel.

Bar Governance Committee

The mission is to ensure effective and equitable governance of the Association by conducting an ongoing evaluation of relevant procedures and making recommendations to the House of Delegates regarding warranted amendments to the Association's Articles of Incorporation and/or Bylaws.

Client Assistance Fund Committee

The mission is to protect the public and to maintain the integrity of the legal profession by reimbursing, to the extent deemed appropriate, losses caused by the dishonest conduct of any licensed Louisiana lawyer practicing in this state.

Community Action Committee

The mission is to serve as a catalyst statewide for lawyer community involvement through charitable and other public service projects.

Continuing Legal Education Program Committee

The mission is to fulfill the Louisiana Supreme Court mandate of making quality and diverse continuing legal education opportunities available at an affordable price to as many members of the Louisiana State Bar Association as possible.

Crystal Gavel Awards Committee

The mission is to solicit and review nominations for the Crystal

Continued Next Page

Louisiana State Bar Association 2007-08 Committee Preference Form

Please indicate below your committee preference(s). If you are interested in more than one committee, please list in 1-2-3 preference order.

Please Print or Type

- ☐ Access to Justice
- ☐ Alcohol and Drug Abuse
- ☐ Bar Governance
- ☐ Client Assistance Fund
- ☐ Community Action
- ☐ Continuing Legal Education Program
- ☐ Crystal Gavel Awards
- ☐ Diversity
- ☐ Group Insurance
- ☐ Legal Malpractice Insurance
- ☐ Legal Services for Persons with Disabilities
- ☐ Legislation
- ☐ Medical/Legal Interprofessional
- ☐ Practice Assistance and Improvement
- ☐ Professional Assessment
- ☐ Professionalism and Quality of Life
- ☐ Public Access and Consumer Protection
- ☐ Public Information
- ☐ Right to Counsel
- ☐ Rules of Professional Conduct
- ☐ State Bench/Bar
- ☐ Technology

Response Deadline: March 15, 2007

Download and complete this form and mail/fax to:

Germaine A. Tarver, Membership Services Director
Louisiana State Bar Association
601 St. Charles Ave., New Orleans, LA 70130-3404

fax (504)528-9154

LSBA Bar Roll Number _____

Name _____

Address _____

City/State/Zip _____

Telephone _____

Fax _____

Committees continued from page 353

Gavel Awards, and to make recommendations to the Board of Governors for recipients of these awards. The awards recognize outstanding lawyers and judges who have been unsung heroes and heroines in their communities by performing volunteer services out of duty, responsibility and professionalism.

Diversity Committee

The mission is to assess the level of racial, ethnic and gender diversity within all components of the legal profession in Louisiana, to identify barriers to the attainment of full and meaningful representation and participation in the legal profession by persons of diverse races, ethnicity and gender, and to propose programs and methods by which the LSBA can most effectively work to remove those barriers and achieve greater diversity.

Group Insurance Committee

The mission is to ensure the most favorable rates and benefits for members of the Louisiana State Bar Association and their employees and dependents for Bar-endorsed health, life and disability insurance programs.

Legal Malpractice Insurance Committee

The mission is to ensure the most favorable rates, coverage and service for Louisiana lawyers insured under the Bar-endorsed legal malpractice plan by overseeing the relationship between the Louisiana State Bar Association, its carrier and its third party administrator, and to consider on an ongoing basis the feasibility and advisability of forming a captive malpractice carrier.

Legal Services for Persons with Disabilities Committee

The mission is to provide members of the bench, bar and the general public with a greater understanding and knowledge of the legal needs and rights of persons with disabilities, to better meet the legal needs of persons with disabilities, and to increase the knowledge that persons with disabilities have regarding their rights and resources.

Legislation Committee

The mission is to inform the membership of legislation or proposed legislation of interest to the legal profession; assist the state Legislature by providing information on substantive and procedural developments in the law, disseminating information to the membership, identifying resources available to the Legislature, and providing other appropriate non-partisan assistance; and advocate for the legal profession and the public on issues affecting the profession, the administration of justice and the delivery of legal services.

Medical/Legal Interprofessional Committee

The mission is to work with the joint committee of the Louisiana State Medical Society to promote collegiality between members of the legal and medical professions by receiving and making recommendations on complaints relative to physician/lawyer relationships and/or problems.

Practice Assistance and Improvement Committee

The mission is to serve the Bar and the public in furtherance of the Association's goals of prevention and correction of lawyer misconduct and assistance to victims of lawyer misconduct by evaluating, developing and providing effective alternatives to discipline programs for minor offenses, educational and practice assistance programs, and programs to resolve minor complaints and lawyer/client disputes.

Professional Assessment Committee

The mission is to study the profession of law in Louisiana, identify areas where the profession is either improving or failing to improve the practice of law and the system of justice, and develop programs to either promote the successes or correct the failures.

Professionalism and Quality of Life Committee

The mission is to promote professionalism in the practice of law through education, communication and understanding, and to study ways in which members of the legal profession may balance their personal and professional lives.

Public Access and Consumer Protection Committee

The mission is to protect the public from incompetent or fraudulent activities by those who are unauthorized to practice law or who are otherwise misleading those in need of legal services.

Public Information Committee

The mission is to promote a better understanding of the law, legal profession, individual lawyers and the Louisiana State Bar Association through a variety of public outreach efforts.

Right to Counsel Committee

The mission is to develop programs and methods which most effectively allow the bar to work with the courts, other branches of government, and the public to ensure that the constitutionally mandated right to counsel is afforded to all who appear before the courts.

Rules of Professional Conduct Committee

The mission is to ensure appropriate codes of ethical conduct for lawyers by studying, considering and recommending amendments to the Rules of Professional Conduct and by making suggestions to the Louisiana Supreme Court for improvements in the disciplinary process.

State Bench/Bar Committee

The mission is to engage the state judiciary, determine issues of mutual interest and concern, and develop programs to address those issues with the goal of improving the system of justice.

Technology Committee

The mission is to guide the Association in the implementation and utilization of new technologies to provide greater service to its members and the public.

New McKay Memorial Award Established

March 15 is Deadline for Crystal Gavel Award Nominations

The Louisiana State Bar Association is seeking nominations for its Crystal Gavel Awards and newly established Leah Hipple McKay Memorial Award for Outstanding Volunteerism. The nomination deadline for all awards is Thursday, March 15.

The awards recognize outstanding lawyers and judges who have been unsung heroes and heroines in their communities, who have performed services in any of the listed categories out of a sense of duty, responsibility and professionalism, and who have made a difference in their local communities, in local organizations or even in the life of one person.

The awards are available to those who have served the public in a number of areas, including:

- ▶ aiding the administration of justice;
- ▶ assisting groups or individuals on a volunteer basis in a non-legal capacity;
- ▶ educating the public or individuals or students about legal matters;
- ▶ providing pro bono legal services, in a matter of a significant nature, or in a significant number of cases, or in a way that significantly changed the life of one person or group; or
- ▶ working in conjunction with the court system to make it more welcoming, inviting and understandable for jurors, witnesses or victims of crime.

The McKay Memorial Award will be presented during the LSBA's Annual Meeting each year. Recipients of the Crystal Gavel Award will be notified by the Louisiana State Bar Association and will be presented with the awards in their local communities.

The Crystal Gavel Awards are presented to attorneys and judges who have performed public services out of a sense of duty, responsibility and professionalism. Because the LSBA wishes to acknowledge these unsung heroes and heroines in the communities where they live and work, the nominator(s) is responsible for selecting a forum for the nominee to receive his/her award and for facilitating the event.

**Nomination deadline is
Thursday, March 15, 2007.**

Nomination Form

LSBA Crystal Gavel Award & Leah Hipple McKay Memorial Award for Outstanding Volunteerism

Send to:
Crystal Gavel Awards
Louisiana State Bar Association
601 St. Charles Ave.
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Date: _____, 200__

Name of Nominee: _____

Office Address: _____

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Name of nominator (if different from the nominee;
self-nominations are permitted)

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Category of Nomination

Awards are given in the following categories. Please check the appropriate area in which you are making the nomination:

- _____ Aiding the administration of justice.
- _____ Assisting groups or individuals on a volunteer basis in a non-legal capacity.
- _____ Educating the public or individuals or students about legal matters.
- _____ Providing pro bono legal services: in a matter of a significant nature; or in a significant number of cases; or in a way that significantly changed the life of one person or group.
- _____ Working in conjunction with the court system to make it more welcoming, inviting and understandable for jurors, witnesses or victims of crime.
- _____ Leah Hipple McKay Memorial Award for Outstanding Volunteerism

Please attach a signed, written statement describing the work of the nominee in the category selected, along with a detailed description of why the nominee should be considered for the Crystal Gavel and/or McKay Memorial award.



Louisiana Center for Law and Civic Education:

Education is the Key

By Val P. Exnicios



Education is the key. We all know it and we consistently say to all who will listen that we must improve our schools if we are to have any hope of improving our society . . . and yet, except for “preaching to the choir,” most of us take no tangible steps of our own to do anything to make our schools any better. We don’t volunteer our time or our services, or open our wallets and donate our money, to area schools or to the organizations that support them. Instead, we rely on government to solve the problem. We pay our taxes and say that we must elect officials who will do whatever is necessary to improve our schools. But if Hurricanes Katrina and Rita have taught us anything, it’s that we cannot rely solely on government officials, whether elected or appointed, to solve our problems for us. We must be proactive and get involved ourselves to achieve tangible results. Actively supporting the Louisiana Center for Law and Civic Education (LCE) is one way we can all get involved and achieve tangible, positive improvements in our educational system in Louisiana.

The LCE is dedicated to providing direct support to area schools through a variety of interactive and content-based programming. As noted by 2006-07 LCE President Karen Wells Roby (magistrate judge, U.S. District Court, Eastern District of Louisiana): “LCE, through its nationally recognized programming, has been quietly working to improve the content-based and participatory knowledge of Louisiana students by providing in-service training to Louisiana teachers in civics, bringing classrooms to the courts, and bringing lawyers, law enforcement officers and judges to the classroom.”

It’s time for LCE’s “quiet work” to be recognized by all of us in the legal community and for us to actively support LCE by donating our time, and/or our money, to its cause.

Webster’s dictionary defines igno-

rance as a lack of knowledge, education or awareness. We all recognize that the eradication of ignorance is the key to an improved and enlightened democratic society. LCE is dedicated to eradicating ignorance by improving the education of our area youth, primarily in the areas of law and civics. Why law and civics you might ask? The answer is simple: As U.S. citizens, we are citizens of the world’s oldest constitutional democracy. We know that civic education is education in democratic self-governance and that democratic self-governance demands that citizens be actively involved in their own governance. The ideals of democracy cannot be fully realized until every member of our political community shares in its governance. As Aristotle put it in 340 BC, “[I]f liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be attained when all persons share in the government to the utmost.” The first and most important step in educating our youth to be productive members of our democratic society is educating them as to the rights and responsibilities that are attendant to that membership. As then-Chief Justice Sandra Day O’Connor said in 2003:

[K]nowledge about the ideas embodied in the Constitution and the ways it shapes our lives is not passed down from generation to generation through the gene pool. It must be learned anew by each generation. It is NOT enough simply to read or memorize the Constitution. Rather, we should try to understand that which gave it life and that give it strength still today. Our understanding today must go beyond the recognition that liberty lies in our hearts to the further recognition that only citizens with knowledge about the content and meaning of our constitutional guarantees of liberty are likely to cherish those concepts.

The state of law and civic education in our area elementary and secondary schools in Louisiana is, to put it bluntly, abysmal. Louisiana requires only half of a credit hour of instruction in civics, despite the fact that preparing each new generation to be active participants in our democracy was a central reason for the creation of free public schools dating all the way back to the founding of our Republic. Our Founding Fathers recognized that we must educate our youth as to the principles of our democracy if successive generations were to have any hope of realizing its ideals. Upon leaving the Constitutional Convention of 1787, Benjamin Franklin was asked by a curious woman, “What kind of government have you given us, Dr. Franklin?” Franklin replied, “A Republic, madam, if you can keep it.”

Education in the rule of law and in the rights and responsibilities of our constitutional democracy are essential to the attainment of an informed, enlightened citizenry. An education in law and democratic self-governance enables our youth to develop critical thinking skills and identify and give meaning to both tangibles, such as our flag, our national monuments and our civic and political events, as well as to intangibles such as our concepts of liberty, equality, majority and minority rights, civil society and constitutionalism.

It is incumbent upon us as members of the legal community to actively support organizations such as LCE that are “quietly working” to improve our educational system. We can do that by donating our time, donating our money, or both, to LCE. LCE needs, and deserves, our support.

For information on how you can get personally involved by volunteering your time, and/or by making a donation to LCE, visit www.lalce.org or call (225)214-5570.

Val P. Exnicios is currently serving a two-year term on the board of directors of the Louisiana Center for Law and Civic Education. He is a partner in the New Orleans firm of Liska, Exnicios & Nungesser.

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FOCUS

on the Bar

By Katherine Tonnas

FASTCASE: FREE ONLINE LEGAL RESOURCE

The Louisiana State Bar Association began offering Fastcase (a Web-based legal research provider) as a free LSBA membership benefit in 2005.

Through the link on the LSBA Web site's home page (www.lsba.org) or www.lsba.org/Member_Services/fastcase.asp, all active Bar members are given information regarding free unlimited "online access to millions of cases, statutes and regulations via the American Law Library." This member benefit is accessible everywhere a member has Internet access.

Fastcase providers are always monitoring LSBA members' comments, questions and requests. Recently, Fastcase launched new features, following direct requests from LSBA members. Now when users log in to Fastcase, they access a customized home page rather than being directed to "Search Cases." The home page includes a list of the different types of materials available on the member benefit (not just cases), as well as a customized search history and a customized "Quick Search" feature. Also, many members have requested more prominent "Print/Save" buttons and the ability to

personalize font sizes; both have been included in the updates. The ability to search newspapers also has been added, and the Authority Check feature has been made more prominent.

Members logging into Fastcase are made aware of the capability to "search all jurisdictions at one time, resulting in the most often cited references from the database. Queries may be made using keywords, Boolean phrases and citations." In other instances, it may be necessary to use natural language searches where exact search terms are not available. Among other salient points, Fastcase features dual-column printing and hyperlinked citations. The service is updated daily; case law databases are updated between 24 and 48 hours from the date of decision.

A review of the literature published by various state bar associations (Illinois, Iowa and Virginia) offering Fastcase to their members indicates that each association's service may differ. The LSBA purchased the complete service package, which eliminates the need for upgrades, said Fastcase co-founder Ed Walters.

As members log in to Fastcase, below

the logo are links to post and review comments and responses given as feedback from the service staff. LSBA members are encouraged to review comments and post their own, whether positive, negative or requesting new features.

Katherine Tonnas is a solo practitioner. She is a 1994 cum laude graduate of Southern University Law Center, where she served as a member of the Law Review and as a teaching assistant. In 1980, she received a doctorate from Vanderbilt University in education administration. From August 1994 to February 2003, she was a judicial extern for Judge Helen "Ginger" Berrigan, United States District Court for the Eastern District of Louisiana, and for the local school board. Dr. Tonnas has been a member of the Louisiana Bar Journal Editorial Board since 2001. (1108 Lake St., Natchitoches, LA 71457)



Contact: Fastcase

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By Richard P. Lemmler, Jr.

DRAFT RULES ON LAWYER ADVERTISING

The Louisiana State Bar Association's (LSBA) Rules of Professional Conduct Committee has drafted proposed amendments to the Louisiana Rules of Professional Conduct dealing with lawyer advertising and solicitation and has received preliminary approval from the Louisiana Supreme Court's Committee to Study Attorney Advertising to proceed forward through the normal Rules recommendation and amendment process.

The proposed Rules, in their current draft form, may be viewed and/or downloaded from the LSBA Web site at: www.lsba.org/committees/ProposedLARules7-1_12-2006.pdf.

An important component of the draft Rules is the provision which requires evaluation by the Rules of Professional Conduct Committee of nearly all advertisements for compliance with the Rules governing lawyer advertising and solicitation, and provides for optional advance written advisory opinions concerning compliance. Exemptions from required compliance filing include: "safe harbor"/"tombstone"-type ads; brief public service announcements in any public media; listings in law lists or bar publications; communications mailed to existing clients, former clients or other lawyers; written communications requested by a prospective client; basic professional announcements mailed to certain persons; and Internet Web sites/home pages.

Hearings were held during November 2006 in Baton Rouge, Lafayette, New Orleans and Shreveport to allow members of the public, as well as lawyers, an opportunity to provide comment and feedback regarding the proposed Rules. The full transcripts of those hearings are available on the LSBA Web site through the link below.

Additionally, written comments on this proposal have been sought since late

October 2006 — and comments may still be submitted (as of this publication date) — by e-mail to RLemmler@lsba.org; fax (504)598-6753; regular mail: Rules of Professional Conduct Committee, Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130, Attn: Richard P. Lemmler, Jr., Ethics Counsel; or online at the LSBA Web site, using the same link below. Be advised that any comments which are forwarded may become matters of public record and/or subject to public inspection. Comments received to date also may be reviewed online at the LSBA Web site, using the link appearing below.

All comments received timely by the Committee will be thoughtfully reviewed and considered for incorporation into the

final draft of the proposal, currently anticipated to be submitted to the LSBA House of Delegates in June 2007. The Rules of Professional Conduct Committee submitted this matter as an informational item to the LSBA House of Delegates at its Midyear Meeting in January 2007 in New Orleans.

To view the proposed Rules or to submit comments online regarding the proposed Rules, go to: www.lsba.org/committees/ethicrulescomments.asp.

Richard P. Lemmler, Jr. is the Louisiana State Bar Association's ethics counsel. He can be reached by calling (504)619-0144 or (800)421-LSBA, ext. 144; by e-mail at RLemmler@lsba.org; or by fax or regular mail (see text above).

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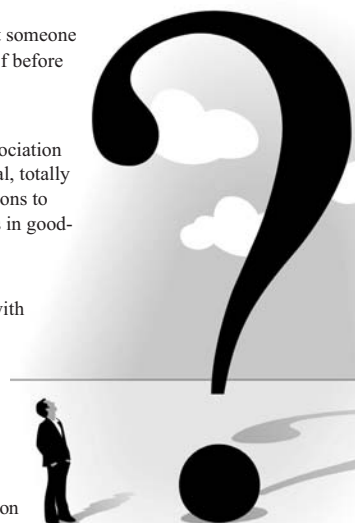
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FOCUS ON

Professionalism

By E. Phelps Gay

LET'S LIGHTEN UP!

Sometimes I hear lawyers, particularly those (like me) who are supportive of our professionalism movement, bemoan the fact that there are so many lawyer jokes. They seem to be under the impression that if we would only clean up our act and become perfectly pure and pristine in the pursuit of our profession, or perhaps launch a campaign to inform the public of our good works, everyone would come to love us and appreciate the wonderful service we provide. We would all be hailed as the second coming of Atticus Finch.

To which I can only respond: Yeah, right.

In my humble opinion, this point of view has it exactly wrong. It may be closer to the truth to say that those who get too preachy about professionalism and lose their sense of humor about lawyers and the practice of law display a lack of professionalism. Humor, including the ability to laugh at oneself, is in my view an essential ingredient (perhaps the roux) in the professionalism gumbo.

Which is why, I confess, I don't mind lawyer jokes. Here's an old one I still find amusing:

The doctor finally reached his table at a dinner, after breaking away from a woman who had sought his advice on a health problem.

"Do you think I should send her a bill?" the doctor asked a lawyer who sat down next to him.

"Why not?" the lawyer replied. "You rendered professional service by giving advice."

"Thanks," said the doctor. "I think I'll do that."

When the doctor went to his office the next day to send the bill to the woman, he found a letter from the lawyer. It read:

"For legal services, \$200."

Should lawyers take offense at this joke? It pokes fun at the legal profession, although not in a demeaning way. It allows us to laugh at ourselves. Like all good humor, it relaxes tension. It tells us not to take ourselves too seriously.

Granted, there can be an element of hostility in lawyer jokes, depending on how they are told, and some of them are decidedly off-color, but is this really cause for us to become unduly defensive about our profession, and to protest, in response, that we are dedicated professionals and virtuous public servants who work hard for our clients and believe devoutly in the fair and impartial administration of justice?

There's a joke about that, too:

Q. What's wrong with lawyer jokes?

A. Lawyers don't think they're funny and nobody else thinks they're jokes.

Several years ago I had the happy assignment of interviewing for the *Louisiana Bar Journal* the previous four winners of the Curtis Boisfontaine Award. This award is given to a person who has distinguished himself or herself as a trial lawyer over the length of a career. I spent one long afternoon in a conference room with the likes of Pat Juneau, Spike Scofield, Bill Christovich and Gene Lafitte. At this distance, I can't honestly tell you what we talked about, but I do recall that within five minutes they had me laughing until my stomach hurt, my



"Hey, it's OK. Just lighten up!"

eyes watered, and I nearly fell out of my chair. It dawned on me that being an outstanding lawyer and having a highly developed (maybe even slightly warped) sense of humor must go hand in hand. So I started thinking: What exactly is it about humor which is so important to the practice of law? For better or worse, here's what I came up with:

1. Humor helps you keep things in perspective. Some humor-challenged lawyers seem to want to fight every battle as if it were Armageddon. When those 15 days are up, it is time to run down to court with a motion to compel discovery. If your opponent neglected to list someone on her witness list, even though you were at all times aware of the witness, you must insist the witness cannot be called at trial. Lawyers with a good sense of humor know that life is too short for this game of "Gotcha." They know that over-reacting to minor matters and trying to humiliate your opponent will not, in the end, resonate with the finder-of-fact (whether judge or jury). This helps them to separate what's important from what's not, which can provide the key to victory.
2. Humor allows you to connect with people. Lawyers, especially trial lawyers, are in the business of effective communication. This often means getting across complicated ideas in simple terms, without condescending to the listener. Not infrequently, humor becomes the common coin of such communication. When used well, barriers come down, pretensions are punctured, and people come together in an effort to find the right result. The essence of humor, wrote Scottish essayist Thomas Carlyle, is not contempt, but warm tender feeling toward our fellow man.
3. Humor allows you to see more clearly. In the words of English author Horace Walpole: "The world is a comedy to those that think, a tragedy to those that feel." As a lawyer, you can't afford to

get emotional about every misfortune which comes your way. Having a well-developed sense of humor allows you to absorb adversity, digest it, and move on; it frees you up to stay focused on the task at hand.

4. Humor is good for your health. This may be debatable, and it is certainly out of my area of expertise (assuming I have any such area), but I'll throw it in anyway. Humor relaxes the muscles and eases the mind; it is a natural anti-depressant. "Laughter," someone said, "is a tranquilizer with no side effects." As any *Reader's Digest* reader knows, it is the best medicine.

During the 1960s, a well-known magazine editor named Norman Cousins was diagnosed with spondylitis. After extensive medical treatment, he checked himself out of the hospital and began taking high doses of vitamin C and equally high doses of humor. As I recall, the Three Stooges played a significant part in his recovery. Cousins later wrote a book on his experience called *Anatomy of An Illness*.

Now I'm in no position to suggest that comedy can cure cancer, but I do suggest that humor can play a positive role in one's overall health. In a field as stressful as the practice of law, the release of tension afforded by a healthy sense of humor goes a long way.¹

5. Humor is poetic. There are higher forms of communication than the literal. Some ideas and emotions can best be communicated through poetry, music or art. To express them literally is somehow to debase them, to miss their essence. This is true of the best humor as well. It is artistic, full of twists and turns, a little music, and some kind of powerful and memorable concision. This is why on occasion a good political cartoon says so much more than a long-winded piece by a political columnist. It also explains why a quick-witted, self-deprecating lawyer often carries the day.

6. Humor is professional. If you look at the LSBA Code of Professionalism, you can discern therein an injunction to keep your sense of humor while practicing law. Grant a reasonable request for an extension of time to your opposing counsel. Don't be quick to threaten your fellow lawyers with sanctions (it could be you next time—or next week). Forgo personal attacks on your colleagues. Such behavior is unprofessional and betrays a fatal lack of humor.

Shakespeare touches on this subject in *The Taming of the Shrew*, where the character Tranio says:

Please ye we may contrive this afternoon,
And do as adversaries do in law—
Strive mightily, but eat and drink as friends.

Not a bad prescription. To which I would add, borrowing again from the Bard of Avon: When you hear a good lawyer joke, do not "protest too much." Better to join in the laughter. A good lawyer, as I learned from those Boisfontaine winners, doesn't hesitate to laugh at himself. It's the professional thing to do.

FOOTNOTE

1. On reading this, my able office administrator noted that the word humor derives from the humoral medicine of the ancient Greeks. A mix of fluids known as "humours" was believed to control human health and emotion.

E. Phelps Gay is co-chair of the Louisiana State Bar Association's Professionalism & Quality of Life Committee. A past LSBA president, he is a partner in the New Orleans law firm of Christovich & Kearney, L.L.P. He received his undergraduate degree from Princeton University and his JD degree from Tulane Law School in 1979. He can be reached at (504)561-5700 or via e-mail at EPGay@christovich.com.

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Standing Under the LUTPA — The Circuit Split Widens

Louisiana appellate courts have long been split over who has standing to sue under the Louisiana Unfair Trade

Practices Act (LUTPA or statute), La. R.S. 51:1401-1430. *See, e.g., Gardes Directional Drilling v. U.S. Turnkey Exploration Co.*, 98 F.3d 860, 867-68 (5 Cir. 1996); *Nat'l Gypsum Co. v. Ace Wholesale, Inc.*, 98-1196 at 4-5 (La. App. 5 Cir. 6/1/99), 738 So.2d 128, 130. [Notably, this is not the only disagreement among courts in Louisiana concerning the interpretation of the LUTPA. *Compare Glod v. Baker*, 04-1483 (La. App. 3 Cir. 3/23/05), 899 So.2d 642, *writ denied*, 05-1574 (La. 1/13/06), 920 So.2d 238 (the “continuing tort” doctrine does not apply to extend the

Act’s one-year pre-emptive period), *with Benton, Benton & Benton v. La. Pub/Facilities Auth.*, 95-1367 (La. App. 1 Cir. 4/4/96), 672 So.2d 720, *writ denied*, 96-1445 (La. 9/13/96), 679 So.2d 110 (“continuing tort” doctrine applies to the LUTPA’s period of repose).]

The situation is made murkier in at least two Louisiana appellate districts, the 3rd Circuit and, quite recently, the 2nd Circuit, where there appear to be splits within the circuits themselves. [The origins of the circuit split were explored in “Recent Developments, Antitrust and Trade Regulation Law,” 47 La. B.J. 426 (Feb. 2000).]




The courts uniformly agree that under the LUTPA a practice is unfair if “it offends public policy and when the practice is unethical, oppressive, unscrupulous, or substantially injurious to consumers or business competitors.” *Doland v. ACM Gaming Co.*, 05-0427 (La. App. 3 Cir. 12/30/05), 921 So.2d 196, 202. Whether a practice is unfair under the LUTPA is a factual determination made by the courts on a case-by-case basis. *Id*; *see also Vermillion Hosp., Inc. v. Patout*, 05-0082 (La. App. 3 Cir. 6/8/05), 906 So.2d 688. Louisiana courts disagree, however, on the class of persons who may avail themselves of the protections of the LUTPA.

La. R.S. 51:1409(A) provides that a cause of action under the LUTPA is available to:

[a]ny person who suffers any ascertainable loss of money or movable property, . . . as a result of the use or employment by another person of an unfair or deceptive method, act, or practice.

Under the statute, “person” is defined broadly as a “natural person, corporation,

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trust, partnership, incorporated or unincorporated association, and any other legal entity.” La. R.S. 51:1402(8). The statute also defines “consumer” and “consumer transaction.” By just looking at the language in Section 1409(A) and the definition of “person,” the statute appears to be all-encompassing, granting standing to anyone who is the victim of an unfair trade practice.

However, only one of Louisiana’s five appellate courts, the 1st Circuit, has squarely held that the LUTPA applies to everyone, including the so-called “business consumer.” *E.g.*, *Capitol House Pres. Co. v. Perryman Consultants, Inc.*, 98-1514 at 12 (La. App. 1 Cir. 12/10/98), 725 So.2d 523, 530; *Belle Pass Terminal, Inc. v. Jolin, Inc.*, 618 So.2d 1076, 1081 (La. App. 1 Cir.), *writ denied*, 626 So.2d 472 (La. 1993); *but see Thibaut v. Thibaut*, 607 So.2d 587, 607 (La. App. 1 Cir. 1992), *writs denied*, 612 So.2d 37, 38, 101 (La. 1993) (holding that individual partners were not consumers or business competitors and thus lacked standing under the LUTPA). The Louisiana courts of appeal for the 4th and 5th Circuits, along with the federal courts in Louisiana, have looked beyond Section 1409(A) to the definitions of “consumer”

and “consumer transaction,” have declined such a broad interpretation and have strictly construed the LUTPA, concluding that only “consumers” and “business competitors” — but not business consumers — have a private right of action under the statute. *E.g.*, *Nat’l Gypsum*, 738 So.2d at 129-30; *Philips v. Berner*, 00-0103 (La. App. 4 Cir. 5/16/01), 789 So.2d 41, 49, *writ denied*, 01-1767 (La. 9/28/01), 798 So.2d 119; *Gardes*, 98 F.2d at 868.

Louisiana’s 2nd and 3rd Circuits’ jurisprudence on this issue is inconsistent. For example, in one case which, strictly speaking, was neither between competitors nor involved consumers, an early 2nd Circuit opinion cited to the Louisiana 5th Circuit and concluded:

LSA-R.S. 51:1409 confers a right of private action on “[a]ny person who suffers any ascertainable loss of money or movable property, corporeal or incorporeal” from unlawful trade practices. *This language has been held to confer the private right of action on both consumers and business competitors.*

Monroe Med. Clinic, Inc. v. Hosp. Corp.

of Am., 522 So.2d 1362, 1365 (La. App. 2 Cir. 1988) (emphasis added). The highlighted language is somewhat ambiguous; it can be read inclusively, that is, that the LUTPA confers standing on, *among others*, consumers and business competitors, or exclusively, that is, standing is reserved *only* for consumers and business competitors. Later panels of the Louisiana 2nd Circuit have interpreted the LUTPA both ways. *Compare Monroe Med. Clinic, Inc. v. Hosp. Corp. of Am.*, 622 So.2d 760, 763 (La. App. 2 Cir. 1993) (“The term ‘person’ includes, *but is not limited to* business competitors and consumers.”) (emphasis added), *with Double-Eight Oil & Gas, L.L.C. v. Caruthurs Producing Co., Inc.*, 41,451 (La. App. 2 Cir. 11/20/06), ___ So.2d ___; “[La. R.S. 51:1409] has been held to confer the private right of action on both consumers and business competitors. . . . Like the trial court, *we find that the plaintiffs were not business competitors of the defendants within the meaning of the Unfair Trade Practices Act during the relevant time period.*”) (emphasis added).

Similarly, the Louisiana 3rd Circuit has jurisprudence that also supports both interpretations, with at least one case relying on the plain language of the



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statute to interpret standing under the LUTPA broadly, while another, citing cases from the United States and Louisiana 5th Circuit appellate courts, adopted the more restrictive view. Compare *Doland*, 921 So.2d at 202 (the LUTPA “gives a right of action to *anyone who suffers any ascertainable loss...*”) (emphasis supplied), with *Vermillion Hosp.*, 906 So.2d at 693 (“LUTPA does not grant a right of action to every person or business that is a victim of unethical or unfair business practices.” Accordingly, plaintiff who was not a business competitor or consumer lacked standing to bring suit under the LUTPA.). These conflicting interpretations of the LUTPA create the situation where a person may have a cause of action in Baton Rouge, but not in New Orleans. One example suffices to underscore this anomaly.

In *National Gypsum Co. v. ACE Wholesale, Inc.*, the Louisiana 5th Circuit found that ACE Wholesale, Inc., a local distributor of National Gypsum Co. products, was not within the class of persons entitled to seek redress from this national, billion-dollar company. See Elana Varon, “IT Rocks the Web,” *CIO Magazine* (Aug. 15, 2005). National Gypsum sued ACE on an open account for unpaid invoices. ACE reconvened, alleging, among other things, that National Gypsum was engaging in unfair trade practices by: discriminating against ACE in the price it was charging; diverting customers to other distributors of National Gypsum; unfairly cutting off ACE’s credit line; and otherwise attempting to put ACE out of business. See *Nat’l Gypsum*, 738 So.2d at 129. The trial court dismissed the reconventional demand, and the 5th Circuit affirmed that ACE, not being a consumer or business competitor, lacked standing to bring suit under the LUTPA. *Id.* at 130-31. Given the split in the circuits, had ACE brought suit across Lake Pontchartrain or up river in Baton Rouge, and so within the jurisdiction of the 1st Circuit, it would have had the opportunity to prove its allegations and recoup possibly substantial, company-saving damages. And there is no telling how ACE would

have fared in the 2nd or 3rd Circuits.

As the foregoing discussion demonstrates, there is much confusion among the circuit courts in Louisiana — and among trial courts, practitioners and litigants — regarding who is entitled to bring a LUTPA claim. Clearly, attorneys counseling clients in this area must be especially vigilant about keeping up with the latest pronouncements from the circuit courts, and hopefully sooner rather than later the Louisiana Supreme Court will have an opportunity to address, and resolve, this division among, and within, the circuits.

— **Alexander M. McIntyre, Jr.**

Chair, LSBA Antitrust and Trade
Regulation Law Section

Gerardo R. Barrios and

Brian M. Ballay

Members, LSBA Antitrust and Trade
Regulation Law Section

Baker, Donelson, Bearman,
Caldwell & Berkowitz

Ste. 3600, 201 St. Charles Ave.
New Orleans, LA 70170



Appellate

Appealing Under the Wrong Name

The Louisiana Patient’s Compensation Fund (PCF) appealed from an adverse summary judgment. The PCF’s attorney, however, filed the appeal in his name individually. (Evidently this was on the motion for appeal in the trial court.) He later submitted to the court of appeal that his filing of the appeal in his name was a typographical error. Since appeals are favored, the court allowed the PCF’s attorney to file an amended motion for appeal naming the PCF as the appellant. *Miller v. Willis-Knighton Bossier*, 41,476 (La. App. 2 Cir. 9/20/06), 940 So.2d 54, 56 n.1.

Appellate Court’s Right to Remand for Additional Evidence

The homeowners sued State Farm for policy benefits after their house suffered damage in a fire. The trial court found State Farm liable under the homeowner’s policy and awarded \$95,000. The 3rd Circuit agreed that State Farm was liable to the plaintiffs, but set aside the \$95,000 award. It said that there was no evidence of the cost of repairs, salvage value and actual-cash value of the home. It remanded the case to the trial court for additional evidence.

In an initial opinion, the Supreme Court reversed the remand. *Nichols v. State Farm Fire & Cas. Co.*, 06-1017 (La. 7/10/06), 933 So.2d 786. On rehearing, the Supreme Court changed its mind. It reinstated the 3rd-Circuit opinion ordering the remand for additional evidence. *Nichols v. State Farm Fire & Cas. Co.*, 06-1017 (La. 9/29/06), 938 So.2d 692.

In majority and dissenting opinions in the original hearing, the Supreme Court expressed its reasons for its initial and final holdings. Appellate courts have the authority under La. C.C.P. art. 2164 to remand a case for additional evidence to prevent a grave injustice. Such a remand is warranted only when the new evidence is likely to affect the outcome of the case.

On the other hand, Louisiana law favors the prompt disposition of cases for the benefit of the litigants who have had their day in the trial court. A court’s right to remand for additional evidence must be sparingly exercised. Courts should not permit litigants to try their cases piecemeal, and litigants must exercise due diligence to obtain and introduce evidence in the trial court the first time.

The Supreme Court left the remand intact; the homeowners got a second chance to introduce damages evidence. But litigants should be aware of considerations weighing against a remand to the trial court to offer new evidence.

Law of the Case

FNBC sued to foreclose against its

mortgagor Levine. It claimed that he triggered the due-on-sale clause in his mortgage contract by entering into a bond-for-deed contract with a prospective purchaser. Levine responded with a separate suit for an injunction and for wrongful-seizure damages. The trial court granted a preliminary injunction in favor of Levine. The appellate court affirmed the preliminary injunction, and the Supreme Court denied FNBC's writ application.

With the preliminary injunction in place, Levine's wrongful-seizure suit then went to trial, where he won \$300,000 in general damages plus attorney fees. The 5th Circuit affirmed. FNBC asked the Supreme Court to reverse on the ground that the bond-for-deed triggered the due-on-sale clause in the mortgage, and hence the foreclosure-suit seizure was not wrongful.

In the Supreme Court, Levine made law-of-the-case arguments. *Levine v. First Nat'l Bank of Commerce*, 06-0394 p. 6,

n. 4 (La. 12/15/06), ____ So.2d _____. He argued that the trip up to the appellate courts before trial had settled the issue of whether the foreclosure suit and seizure were wrongful. The 5th Circuit had upheld the preliminary injunction, he said, and the Supreme Court had denied writs. Wrong on both counts, said the Supreme Court. First, its previous denial of FNBC's writ application did not make law of the case. A denial of supervisory review is merely a decision not to exercise the extraordinary powers of supervisory jurisdiction. It does not prohibit considering the same issue after trial on the merits and an appeal of the final judgment. Second, the 5th Circuit's judgment affirmed only the trial court's preliminary injunction halting FNBC's foreclosure. The preliminary injunction is merely an interlocutory ruling, preserving the status quo pending trial on the merits. There was no final decision on the merits until the jury trial and final judgment.

The Supreme Court proceeded to hold that the bond-for-deed triggered the due-on-sale clause, and reversed the damages judgment.

Writing Rant — The Apocryphal Entry of Judgment

Louisiana courts and attorneys regularly refer to "entering" judgment. There is no such construct in Louisiana law. In both federal and state court, lawyers and judges say "enter" when they really mean "grant" or "render." In federal court, *entry* refers to the clerk's notation in the civil docket book of the fact of a written judgment. FRCP 79(a). Moore's Federal Practice provides some definitions: 12 Joseph T. McLaughlin & Jerry E. Smith, *Moore's Federal Practice* 3rd ed. § 58.02[2], 58-11. Entry occurs when the clerk makes the necessary notation of the judgment in the official court docket.



E. JOSEPH BLEICH



JOHN E. CAULKING



J. GREGG COLLINS



THOMAS K. FOUTZ



JOEL W. FRIEDMAN



RICHARD J. GANUCHEAU



E. PHELPS GAY



JOEL E. GOOCH



BEN R. HANCHEY



MAURICE C. HEBERT, JR.



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Rendition is the judicial act of pronouncing the judgment.

In other words, Louisiana courts never enter judgment. They do render and sign judgments. La. C.C.P. arts. 1911, 1915A. Using these more-precise terms will reduce confusion in legal writing.

— **René B. deLaup**

Chair, LSBA Appellate Section
New Orleans, LA



56 Years Excessive for Video Voyeur

State v. Boudreaux, 41,660 (La. App. 2 Cir. 12/13/06), ____ So.2d ____.

The defendant, James Boudreaux, installed a wireless camera in his 18-year-old stepdaughter's bedroom and videotaped her and as many as five friends in states of undress at times over a period of months. The stepdaughter discovered the tapes and, a few months later, after she had moved out, she requested police assistance to recover some of her items. She described the videotapes to the police, who sought a warrant, and the tapes were discovered after a search by warrant.

Defendant was arrested on six counts of video voyeurism, in violation of La. R.S. 14:383, but the grand jury indicted defendant on 14 counts. Defendant, who had a prior felony conviction for attempted possession of cocaine, pled guilty to all counts. No sentencing agreement was reached, but the state did promise not to bill him as a habitual offender.

At sentencing, the state called several witnesses and the judge gave a lengthy analysis under La. C.Cr.P. art. 894.1, imposing four years per count, all to run consecutive to each other, without benefit of parole, probation or suspension of sentence. Defendant appealed his sentence as excessive.

The court of appeal reviewed the sen-

tence, noting that under La. C.Cr.P. art. 883, when two or more convictions arise from the same common scheme or plan, the terms of imprisonment shall be served concurrently unless the court expressly directs that they be served consecutively. The decision of whether to sentence concurrently or consecutively is within the discretion of the trial judge.

The defendant's argument focused on the fact that the victim was not a minor, although she did submit a written statement to the court at sentencing of the impact of the offense on her life, noting that his criminal history was primarily drug- and alcohol-related offenses. Defendant pointed out that sexual offenders who make actual contact with their victims often receive substantially lesser sentences than the ones imposed in this case.

The court of appeal agreed, stating that as a practical matter, a 56-year sentence, without benefit of parole, is effectively a life sentence, and that it was out of proportion to the offense and "appears to impose a purposeless and needless infliction of pain and suffering." The case was remanded for resentencing by the trial court for re-evaluation, with a specific instruction to address which of the counts represent a separate and distinct crime, and to impose consecutive and concurrent terms in a more appropriate fashion.

No Double Jeopardy Between Contempt and Theft

State v. O'Connor, 06-0262 (La. App. 3 Cir. 11/29/06), ____ So.2d ____.

Defendant Donald O'Connor was subject to a non-competition agreement with a business partner and was alleged to have violated that agreement. His former business partner filed a motion for contempt of court for violation of a preliminary injunction, which was part of a civil suit for enforcement of the non-competition agreement. In the civil proceeding, he was found in contempt of court, sentenced to serve 12 months in jail, with all but 25 days suspended, and to pay a fine of \$1,000, and was placed on probation

for approximately 18 months. At about the same time, defendant was charged with felony theft, based on same facts underlying the alleged violation of the preliminary injunction. Defendant filed a motion to quash, urging double jeopardy. The motion to quash was denied, and defendant sought writs.

According to the court of appeal, the defendant's argument was that he had already been punished for the behavior for which he was on trial (the cashing of certain specified checks), that the conversion of the checks pre-dated the issuance of the injunction, and that the facts surrounding the taking of the checks were in fact evidence in the contempt proceeding. Accordingly, defendant suggested that the prosecution for theft, using the same evidence, would violate double jeopardy.

After reviewing the same-evidence test, the court of appeal determined that the checks in question were not relevant to the contempt decision and could be used as evidence to convict the defendant.

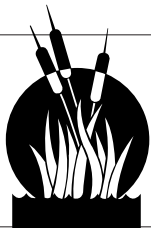
The court further stated that the prosecution was not double jeopardy by multiple punishments for the same offense, but distinguished the two actions by way of the parties and nature. Because the state was not a party to the issuance of the injunction that was violated, and because the criminal penalties serve two separate purposes — general police power as opposed to maintaining the authority of the courts — the dual punishments would not be double jeopardy.

— **Michael S. Walsh**

Chair, LSBA Criminal Law Section
Lee & Walsh
628 North Blvd.
Baton Rouge, LA 70802
and

Joseph K. Scott III

Member, LSBA Criminal Law Section
830 Main St.
Baton Rouge, LA 70802



Environmental Law

Use of "Extra Record" Information in NEPA Review

Holy Cross v. U.S. Army Corps of Eng'rs, 455 F.Supp.2d 532 (E.D. La. 2006).

A nonprofit organization composed of plaintiffs who would be impacted by the U.S. Army Corps of Engineers' decision to modernize a lock in the Industrial Canal brought suit to prevent the Corps from dredging and "stirring up" allegedly contaminated sediments in the course of performing the modernization project. Specifically, the plaintiffs alleged that the Corps was required under the National Environmental Policy Act (NEPA) to supplement an Environmental Impact Statement that it prepared prior to Hurricane Katrina to include "key information necessary to assess the environmental impacts from dredging the Industrial Canal and disposing of dredged material in the sensitive southeastern Louisiana ecosystem."

Prior to addressing the merits of the plaintiffs' claims, the court first addressed the Corps' argument that the court's review should be limited to the administrative record. Although the court noted that the "focal point" for judicial review under NEPA is the administrative record, the court held that this review "often requires a court to look at evidence outside the administrative record." Turning to the merits of the plaintiffs' claims, the court held that the Corps failed to take the NEPA-required "'hard look' at the environmental impacts and consequences of dredging and disposing of the canal's contaminated sediment" after the court considered information brought to light in the wake of Hurricane Katrina as well as the extra-record materials submitted by the plaintiffs.

Agencies Need Not Consider All Alternatives in NEPA Review

La. Crawfish Producers Ass'n-W. v. Rowan, 463 F.3d 352 (5 Cir. 2006).

A group of commercial crawfishermen brought suit to challenge the U.S. Army Corps of Engineers' determination that a project to improve interior water circulation and provide for better management of sediment within an area of the Atchafalaya Basin would not have a significant environmental impact. During a public comment period, the plaintiffs proposed an alternative that was not considered by the Corps in preparing its Environmental Assessment (EA). On appeal, the plaintiffs argued that the EA prepared by the Corps was defective under the National Environmental Policy Act (NEPA) because it failed to consider the alternative proposed by the plaintiffs. The U.S. 5th Circuit disagreed, reasoning that although NEPA does require an EA prepared by the Corps to consider alternatives, it does not require the consideration of all alternatives proposed by concerned parties. The court also rejected claims that the EA failed to address the cumulative impacts of the project, that the Corps was required to update an earlier-prepared Environmental Impact Statement, and that the Corps' finding of no significant environmental impact was arbitrary and capricious.

Court Recognizes DEQ's Great Discretion in Facility Classification/Categorization

Oakville Cmty. Action Group v. La. Dep't of Env'tl. Quality, 935 So.2d 175 (La. App. 1 Cir. 2006).

Community and environmental action groups brought suit to challenge the Louisiana Department of Environmental Quality's (LDEQ) decision to issue a permit to a waste processing facility. The LDEQ's decision to issue the permit was based on its reclassification of the facility as a Type III facility, thereby reducing

the size of the required buffer zone. The LDEQ argued that its reclassification of the facility was based on a change in solid waste regulations, causing the facility to fit squarely within the Type III classification. In agreeing with the LDEQ, the Louisiana 1st Circuit Court of Appeal underscored the extensive deference afforded to state agencies when interpreting their own rules and regulations:

A state agency is charged with interpreting its own rules and regulations and great deference must be given to the agency's interpretation. . . The district court properly afforded deference to LDEQ's determination regarding the facility's categorization.

— **Thomas D. Gildersleeve**
Member, LSBA Environmental
Law Section
Taylor, Porter, Brooks
& Phillips, L.L.P.
451 Florida St., Chase Bank, 8th Flr.
Baton Rouge, LA 70801

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Family Law

Custody

Findley v. Findley, 06-0266 (La. App. 3 Cir. 8/16/06), 937 So.2d 912, *writ denied*, 06-2280 (La. 10/6/06), 938 So.2d 88.

HIPAA's privacy requirements do not pre-empt state law and do not preclude disclosure of medical records when the parties are involved in a custody proceeding.

State ex rel. C.H., 06-0336 (La. App. 3 Cir. 9/27/06), 939 So.2d 732.

The trial court's judgment of legal custody to the state and physical custody to the father was reversed because it violated Children's Code art. 672(B).

Child Support

Barton v. Barton, 05-1190 (La. App. 1 Cir. 6/9/06), 938 So.2d 779.

The court of appeal vacated and remanded because the transcript of the child support hearing contained no testimony and no admission of evidence to allow the court of appeal to review the trial court's award.

Hernandez v. Hernandez, 05-1342 (La. App. 1 Cir. 6/9/06), 938 So.2d 1019.

Even if Dr. Boucher's payments from her business to her nanny for care of two children of this marriage and four from another were treated as income to her for child support purposes, the added \$200 per week to her income would not be a material change of circumstances since the caregiver expense is a necessary one for her. Because the court found that Mr. Hernandez continued to be voluntarily underemployed and continued to impute the same income to him, there was no change of circumstances to modify child support.

Spousal Support

Sharp v. Sharp, 05-1046 (La. App. 1 Cir. 6/28/06), 939 So.2d 418, *writ denied*, 06-1877 (La. 11/17/06), 942 So.2d 533.

After Ms. Sharp obtained a judgment for alimony *pendente lite* in 1992, Mr. Sharp filed a rule for an article 102 divorce, which was set for hearing but never actually heard, so the parties were never divorced. When he died in 2004, Ms. Sharp sought alimony arrearages. Because the rule for divorce had been filed within two years of service of the petition for divorce, the divorce action had not been abandoned, and the support was owed until he died, but for those payments that prescribed after five years under La. Civ.C. art. 3497.1.

Vicknair v. Firefighters' Pension & Relief Fund, 05-1327 (La. App. 4 Cir. 7/12/06), 936 So.2d 848.

Ms. Vicknair's claim for attorney's fees against the Firefighters' Pension plan was denied because the statute governing the fund did not allow it to be sued, only persons acting as fiduciaries for the fund, and she had not sued any fiduciary personally.

La. State Employees' Ret. Syst. v. McWilliams, 05-0938 (La. App. 1 Cir. 6/9/06), 938 So.2d 782.

A former spouse in community who does not meet the legislative definition of a surviving spouse at the time of the member's death is not entitled to survivor's benefits from LASERS; however, if all community contributions have not been paid out to the member, the former spouse is entitled to receive her share of the unpaid community contributions.

Procedure

Withers v. Withers, 41,072 (La. App. 2 Cir. 8/23/06), 938 So.2d 1063.

Even if Mr. Withers did not receive the notice of judgment mailed to him at a questionable address, once he was personally served with an income assignment order, he had actual notice of the

previous judgment and delays for filing a motion for new trial regarding the judgment began to run.

Paternity

Succ. of Faget, 05-1434 (La. App. 1 Cir. 6/9/06), 938 So.2d 1003, *writ denied*, 06-1719 (La. 11/9/06), 941 So.2d 40.

Ms. Colomb argued that even though her claim to establish paternity was prescribed under former Civil Code article 209, new article 197 applied to allow her to bring the claim. The court of appeal held that article 197 did not apply "to revive prescribed claims or to create new rights" in the absence of a clear legislative declaration that it do so.

— David M. Prados

Member, LSBA Family Law Section
Lowe, Stein, Hoffman, Allweiss
& Hauver, L.L.P.
Ste. 3600, 701 Poydras St.
New Orleans, LA 70139-7735



Illinois Tool Works Case

Ill. Tool Works Inc. v. Indep. Ink, Inc., 126 S.Ct. 1281 (2006).

Trident, Inc., and its corporate parent, Illinois Tool Works Inc. (Illinois), produces and sells printing systems which include (1) a patented ink jet printhead; (2) a patented ink container; and (3) unpatented, but specially designed, ink. Trident sells its printing systems to original equipment manufacturers (OEMs) who have been licensed to install the printheads and containers into printers that they manufacture and sell. The OEMs agree to purchase their ink exclusively from Trident and also agree that neither they nor their customers will refill the ink containers with any other kind of ink.

Independent Ink, Inc. (Independent) created an ink with an identical chemical composition as the ink sold by Trident. Following the dismissal of a patent infringement action that Trident and Illinois brought against Independent, Independent filed suit against Trident and Illinois, seeking a ruling of non-infringement and invalidity of Trident's patents. In an amended complaint, Independent asserted that Trident and Illinois were violating §§ 1 and 2 of the Sherman Act, through illegal tying and monopolization. The district court granted Trident and Illinois's motion for summary judgment regarding the Sherman Act claims. Independent settled its other claims with Trident and Illinois and appealed the ruling on summary judgment. The court of appeal for the Federal Circuit reversed the decision with regard to the § 1 claim, relying heavily on *International Salt Co. v. United States*, 68 S.Ct. 12 (1947), in which the Supreme Court held that leases of patented equipment requiring the lessees to use lessor's unpatented product with the equipment were a violation of § 1 of the Sherman Act as a matter of law.

The Supreme Court granted certiorari to determine:

whether the presumption of market power in a patented product [upon which *International Salt* relied] should survive as a matter of antitrust law despite its demise in patent law.

The court held that it should not.

Reviewing its history with regard to tying agreements, the court noted that over time its view of tying agreements had shifted from disapproval and strong reliance on the presumption that a patent provides market power, *Fortner Enters., Inc. v. U.S. Steel Corp.*, 89 S.Ct. 1252 (1969), to less reliance on the presumption, and more of a focus on proof of actual market power, see *Jefferson Parish Hosp. Dist. No. 2 v. Hyde*, 104 S.Ct. 1551 (1984).

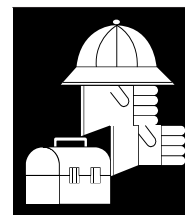
The court explained that the market power presumption originated in patent law, but was imported to antitrust law. The court pointed out, however, that in

1988 Congress amended the Patent Code to remove the presumption that a patent provides market power, making it clear that it "did not intend the mere existence of a patent to constitute the requisite 'market power' [necessary for a finding that a patentee has misused his patent]." The court found that while the 1988 amendment did not explicitly refer to antitrust law, it beckoned a re-evaluation of the market power presumption upon which *International Salt* relied.

Noting that Congress's amendment prohibited the application of the market power presumption to the determination of whether a patentee has engaged in patent "misuse," the court found it ridiculous to think that Congress did not mean for use of a patent, that warrants punishment as a felony, to qualify as "misuse." The court further found that, since the patent misuse doctrine was the basis for the market power presumption, it would be incongruous to keep the presumption in antitrust law after Congress had eliminated its foundation.

Thus, the court held that, in every case involving a tying arrangement, the plaintiff is required to prove that the defendant's tying product has market power.

— **Roland W. Baggott III**
Member, LSBA Intellectual
Property Law Section
The Baggott Law Offices, P.L.L.C.
Ste. 105, 4525 Harding Rd.
Nashville, TN 37205



Labor and Employment Law

Dec. 6, 2006: Busy Day for Circuit Opinions on Non-Compete Agreements

On Dec. 6, 2006, the 3rd and 1st Circuits released opinions dealing with non-compete agreements. The 1st Circuit, in *Ethan & Associates, Inc. v. McKay*, 05-2567, (La. App. 1 Cir. 12/6/06) (unpublished), upheld an injunction that reformed geographical limitation clauses in two agreements. Meanwhile, in *Advance Products & Systems, Inc. v. Simon*, 06-0609, ____ So.2d ____ (La. App. 3 Cir. 12/6/06), the 3rd Circuit denied the enforcement of two non-compete agreements because of a break in employment after signing the agreements.

In *Ethan & Associates*, Ethan was a commercial debt-collecting company that employed defendants McKay and Mosely. On a yearly basis, employees were required to sign non-compete agreements to continue their employment. Ethan's policy was to terminate any employees unwilling to sign its non-compete agreements. In February 2005, McKay refused to sign the 2005 agreement and was discharged. Mosely signed

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the agreement and shortly thereafter quit. Both became employees of Catalina & Associates, a newly formed debt-collection company. Ethan was unable to produce evidence of certain agreements signed by McKay and Mosely (including the 2004 and 2005 agreements). The trial court found that McKay had signed a 2004 agreement and Mosely had done such in 2005.

The agreements provided that the employees would not work for any debt-collection company for 120 days "in Louisiana in any of the parishes or municipalities and within a 150 mile radius" Catalina was located in St. Tammany Parish, one of the listed parishes in the agreement. At the hearing, Ethan demonstrated that Mosely had drafted a collection letter for Catalina and that McKay had sent e-mails to her former clients informing them of her move.

The court found that Ethan was entitled to a preliminary injunction enforcing the agreements in their entirety based on its showing of these actions by McKay and Mosely. Specifically, the court stated:

Pursuant to Louisiana Revised Statutes 23:921H, upon such proof of McKay and Mosely's failure to perform in accordance with their respective employment agreements, Ethan was entitled to injunctive relief enforcing the entirety of the employment agreements without establishing that McKay and Mosely had breached each individual obligation of the employment agreement.

The court further found that the preliminary injunction applies to all of the parishes listed in the agreement, despite Ethan presenting breaches of the agreements in only St. Tammany Parish. The 1st Circuit, based on the post-*Swat 24* agreements and the agreements' severability clauses, allowed reformation of the contracts eliminating the "150 mile radius" language, and considered the list of parishes satisfactory under the requirements of La. R.S. 23:921(C).

Finally, in addressing the issue of posting security for the granting of a prelimi-

nary injunction, the court, in the interests of justice and judicial economy, remanded the case for determination of security rather than setting aside the preliminary injunction because of a failure to set and post security.

In striking contrast, the dissenting opinion found the temporary restraining order, preliminary injunction and agreements lacking in the basic foundations required under Louisiana's non-compete law. Non-compete covenants and La. R.S. 23:921 must be strictly construed because of the derogation of common rights. "[S]imply complying with 'the spirit of [La. R.S. 23:]921' is not sufficient."

The dissent pointed to multiple flaws that should have caused the preliminary injunction against McKay and Mosely to fail. Judge Welch found that the TRO and preliminary injunction were issued without security, and therefore were invalid. The agreements' prohibitions against working in the commercial debt-collection business were overbroad because they failed to list geographic restrictions. The agreements used in support of the verified petition were McKay and Mosely's 2003 non-compete agreements, which were signed after *Swat 24*, but prior to the August 2003 revisions to La. R.S. 23:921, and therefore, Ethan could not prohibit McKay and Mosely from going to work for a competitor.

In continuing to demonstrate reasons that these agreements and the preliminary injunction were invalidly issued, Judge Welch pointed out that La. R.S. 23:921 provides an exception allowing employers to contract with employees to prohibit the solicitation of clients, but not "potential clients," and therefore, the agreement overstepped the boundaries

established in La. R.S. 23:921. Finally, the dissent found that an employer must show that it carries on like business in every parish where it seeks to enforce its agreement. No showing was made by Ethan, and jurisprudence prohibits a blanket listing of parishes. Judge Welch's overall concern with the majority's opinion is that simply severing invalid provisions encourages employers to continue drafting agreements in such a manner, knowing the only penalty suffered is severance of the invalid restriction, rather than invalidating the entire agreement.

In *Advanced Products & Systems v. Simon*, two employees signed non-compete agreements with APS in 1988. In 1990 and 1991, the two employees resigned their employment. Soon thereafter they returned to work for APS with their same benefits and accrued seniority and vacation, but never signed new agreements. In 2003, the employees resigned again, and APS attempted to enforce the 1988 non-compete agreements.

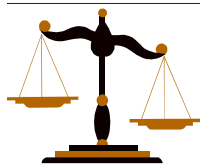
Based on the overriding principles of public policy against non-compete agreements in Louisiana, the court found the agreements invalid because of the break in service. Even if the court assumed the employees ratified the agreements, APS could not satisfy the pre-1990 standards of advertising and investing substantial sums in training.

— **Bryce G. Murray**

Executive Council, LSBA Labor and
Employment Law Section
Taggart, Morton, Ogden, Staub,
Rougelot & O'Brien, L.L.C.
Energy Centre
Ste. 2100, 1100 Poydras St.
New Orleans, LA 70163

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Professional Liability

Prescription

Bush v. Nat'l Health Care, 05-2477 (La. 10/17/06), 939 So.2d 1216.

Medical malpractice allegedly occurred on July 8, 1996. On July 8, 1997, the plaintiffs filed a lawsuit in district court against a physician (Baez) and a hospital (Byrd). On Sept. 23, 1997, the plaintiffs filed a medical-review-panel request, naming only Baez.

Baez filed an exception, contending that the lawsuit was premature until panel proceedings were complete. Prior to the hearing on the exception, the plaintiffs voluntarily dismissed their suit without prejudice against Baez but not against the nonqualified hospital.

On Jan. 10, 2000, the medical-review panel found that Baez did not breach any standard of care, and on Feb. 24, 2000, the plaintiffs filed a lawsuit against Baez. Baez then filed an exception of prescription, which the trial court denied, reasoning that the initial lawsuit filed on July 8 against Byrd interrupted prescription as to the claim against Baez because she was a potential joint or solidary obligor with the hospital. Byrd then filed a motion for summary judgment, contending that the plaintiffs could not produce any evidence of negligence on its part. This motion was granted, and the hospital was dismissed with prejudice. No appeal from that judgment was taken.

The suit against Baez then proceeded to trial, at the conclusion of which the trial court found that Baez had breached the standard of care and awarded \$50,000 in damages to the plaintiffs.

Baez appealed the judgment and filed an exception of prescription with the court of appeal. Baez relied on *LeBreton v. Rabito*, 97-0221 (La. 7/8/98), 714 So.2d 1226, for the proposition that the initial suit was premature and did not interrupt prescription. Furthermore, since

the hospital was dismissed from the lawsuit, she could no longer be a solidary or joint obligor, and prescription was not interrupted under that theory.

The court of appeal denied the physician's exception of prescription and affirmed the judgment on liability and damages. On the question of whether the lawsuit interrupted prescription, the court of appeal ruled that at the time the plaintiffs filed the first suit in district court, the Supreme Court had not yet rendered its opinion in *LeBreton* and, therefore, the prevailing jurisprudence in the 3rd Circuit at that time held that the filing of a suit in district court against a qualified healthcare provider did interrupt prescription. The court of appeal reasoned that to apply *LeBreton* retroactively would be "patently unfair" to parties who relied on prior "settled jurisprudence," thereby depriving plaintiffs of pre-existing vested rights in their claim.

The Supreme Court, in a *per curiam* opinion on a writ of certiorari, reversed the court of appeal. The Supreme Court noted the general rule that a court's decision "operates both prospectively and retrospectively, except that it will not be permitted to disturb vested rights." The Supreme Court also noted that in a 1979 alimony case, it had declared Louisiana art. 160 unconstitutional, but concluded that the decision should not be given retroactive effect. However, unlike the alimony case, *Lovel v. Lovel*, 378 So.2d 418 (La. 1979), the *LeBreton* opinion said nothing about limiting its holding

"to prospective application only." In fact, the language in *LeBreton* demonstrated the court's intent for the holding to apply retroactively. Furthermore, there was no basis not to apply *LeBreton* retroactively. Therefore, applying *LeBreton* to the instant case, the court granted Baez's exception of prescription.

Surgeon's Responsibility for Sponge Counts

McLin v. Breaux, 05-1911 (La. App. 1 Cir. 11/3/06), ____ So.2d ____.

A patient discovered several days after surgery that her abdominal pain was caused by a laparotomy pad/sponge left in her abdominal cavity. A second surgery was performed, and the patient recovered. She then filed a request for a panel that included the hospital, the surgeon and the assisting surgeon. The hospital settled before a panel of three physicians met and decided that neither of the surgeons had breached the standard of care. Suit was then filed only against the surgeon.

The facts were uncontested. The surgeon manually explored the patient's abdominal cavity and removed the sponges he had used. He then visually examined the area and did not see any remaining material. When the surgeon began to close, the nurses performed a surgical count and told the surgeon that all materials were accounted for and were outside of the patient's body. Another count



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was performed when the surgeon was finishing closure, again with the same result. However, the hospital staff admitted that it did not completely follow the hospital's policy for surgical counts, and the counts were obviously incorrect.

A jury found that the surgeon was not negligent. The trial court then granted the plaintiff's motion for JNOV and apportioned fault 50 percent to the surgeon and 50 percent to the hospital. The surgeon appealed.

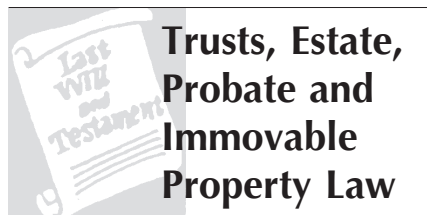
The surgeon argued that case law holding that a surgeon has a "nondelegable" duty to remove materials used during surgery is a form of strict liability that was legislatively overruled in 1975 with the passage of the Medical Malpractice Act (specifically, La. R.S. 9:2794). The surgeon also contended that the way in which the surgery is performed does not allow a surgeon independently to be in a position to ensure that every sponge has been removed, and in this case it was clear from the evidence that the hospital staff violated procedure and should be found to have been solely at fault. Evidence was presented by expert witnesses that the general practice was to rely on the nurses for the sponge count, together with a visual inspection of the area of surgery by the surgeon, prior to closure.

The court of appeal said that it found the surgeon's argument "quite persuasive and compelling," but it was nevertheless constrained by precedent and the "apparent continuing viability of the principle of a nondelegable duty" on the part

of the surgeon to affirm the lower court's JNOV ruling in which it apportioned fault equally between the surgeon and the hospital.

— **Robert J. David**

Gainsburgh, Benjamin, David,
Meunier & Warshauer, L.L.C.
2800 Energy Centre
1100 Poydras St.
New Orleans, LA 70163-2800



Encroachments on Public Property

Band v. Audubon Park Comm'n, 05-0937 (La. App. 4 Cir. 7/12/06), 936 So.2d 841, writ denied, 06-1990 (La. 11/3/06), 940 So.2d 640.

In 1981, the plaintiffs purchased a house on 315 Walnut St., adjoining Audubon Park. At the time of purchase, they noted visible encroachments consisting of a brick patio and a light metal fence, which intruded onto the park. In 2003, plaintiffs instituted proceedings against the Audubon Park Commission (Audubon), alleging ownership of park property through acquisitive prescription.

The trial court granted Audubon's motion for summary judgment, finding that the property in dispute was a "public thing" and was not susceptible of being acquired through prescription. Affirming the trial court's decision, the 4th Circuit held that Audubon Park was owned by the City of New Orleans in its public capacity and had been dedicated as a public park; therefore, it was insusceptible of private ownership and could not be acquired by acquisitive prescription.

The plaintiffs further argued that the encroachments satisfied the requirements of La. Civ.C. art. 459, which provides that the owner cannot be compelled to remove a building that merely encroaches on a public way and cannot be removed without substantial damage. The court rejected this argument, finding that the fence excluded all members of the public from enjoying that part of the park and that it was more than a "mere encroachment." Rather, the court found the encroachments were works obstructing the public use and held that Audubon had the right to demand removal of the encroachments at the plaintiffs' expense in accordance with La. Civ.C. art. 458.

Undue Influence on Testator's Will

Succ. of Berman, 05-0641 (La. App. 4 Cir. 7/26/06), 937 So.2d 437.

The testator executed three separate testaments in 1981, 1991 and 2001. Under the 1991 testament, he had left his business, as well as the building from which the business operated, to two of his sons. In his 2001 testament, however, the testator revoked the building legacy to his sons and instead left the building to all six of his children. The testator's sons instituted an action to annul his latest testament, claiming that their sister, who resided with testator until the time of his death, had unduly influenced their father into changing his testament. The trial court agreed and invalidated the 2001 testament.

The trial court considered the following facts, among others, in finding clear and convincing evidence of undue influ-

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ence: the prior wills were prepared by a different attorney, the daughter attempted to obtain a copy of her father's previous will and employed an attorney to assist her, the daughter requested an attorney to draft a new will and was present at all meetings between the attorney and the testator, and the daughter requested that the attorney correct typographical errors in the will.

The 4th Circuit reversed the trial court and found that the daughter had not unduly influenced her father into changing his will. The court began its analysis with the principle that the donee's influence must be so substantial that the donee's volition is substituted for that of the donor. La. Civ.C. art. 1479.

In rejecting the trial court's findings, the court noted that there was no evidence suggesting that the daughter attempted to gain a particular gift or bequest for herself. Rather, in the 2001 will, the testator left the building to all the children, and also revoked his previous disinheritance of one of his children. Based upon these facts, the court found that the testator wished to make things equal among his six children and held that the trial court's finding of undue influence to revoke the 2001 testament was manifestly erroneous.

Right of Habitation

Succ. of Firmin, 05-1218 (La. App. 4 Cir. 8/2/06), 938 So.2d 209.

The testator left his wife the use and habitation of decedent's home. She filed a motion to compel the estate to pay the mortgage on the property, but the executrix contended that Mrs. Firmin was obligated to pay the mortgage or, alternatively, the interest on the mortgage. The district court ruled in favor of Mrs. Firmin.

On appeal, the executrix argued that the Louisiana Civil Code articles relating to habitation impart usufructuary obligations on the legatee. *See* La. Civ.C. arts. 630-636. The court rejected this argument, finding that Mrs. Firmin's right of habitation was governed by the testamentary language that explicitly delineated her rights and responsibilities in accordance with La. Civ.C. art. 632.

The court also noted that legatee's financial responsibilities under the testament were substantially similar to those provided for in La. Civ.C. art. 636, which provides that the obligations of a person with the right of habitation include ordinary taxes, payment of taxes, and other annual charges "in the same manner as a usufructuary." The court determined that the applicable code article on usufruct was La. Civ.C. art. 584, under which "other annual charges" are determined to be public charges, not mortgage payments.

Other than the possible applicability

of art. 584, the court declined to extend any of the Code articles governing usufructs to Mrs. Firmin's right of use and habitation, and the court held that she was not responsible for either the mortgage payments or interest thereon.

— **Jonathan Cerise**

Member, LSBA Trusts, Estate, Probate and Immovable Property Law Section
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CHAIR'S MESSAGE

Pro Bono Publico: The Obligation and the Opportunity

By Mark E. Morice

The Obligation

WHEW! It has been a wild and crazy year since the Big K, but moving through it is inevitable and I say that you better just "paddle with it." As lawyers in our system of justice, whether criminal or civil, our obligation is greater than ever to serve our community's disadvantaged and show thanks for our abilities to assist. It is a privilege to serve as a member of the Louisiana Bar, and lawyers should take some time to assist the less fortunate in gaining access to justice.



Mark E. Morice

In 1975, the American Bar Association (ABA) House of Delegates adopted a resolution that formally acknowledges the basic responsibility of each lawyer engaged in the practice of law to provide public interest legal services (the Montreal Resolution). It defined *pro bono* in part by specifying areas in which the services should be rendered, namely, poverty law, civil rights law, public rights law, charitable organization representation and the administration of justice. Under the ABA ethical rules, it is recommended that lawyers in the United States contribute at least 50 hours of *pro bono* service per year and the Louisiana Su-

Continued on page 375

YOUNG LAWYER SPOTLIGHT



Tara G. Richard
New Orleans



The Louisiana State Bar Association's Young Lawyers Section Council is spotlighting Tara G. Richard, a partner in the Litigation Practice Group of Jones Walker. After graduating from Louisiana State University Paul M. Hebert Law Center in 1999, she completed a clerkship with Hon. Catherine D. Kimball, associate justice of the Louisiana Supreme Court. Richard primarily practices in the fields of bankruptcy and creditors-debtors rights and environmental and energy law.

In January 2006, Richard was elected to serve as chair of the New Orleans Bar Association's Young Lawyers Section (NOBA YLS). She lead the NOBA YLS in programs designed to make an impact on various constituencies in post-Katrina New Orleans. She also has served for several years on the governing body of the Women's Leadership Initiative of the United Way, which was formed to support the unique health and human services needs of women and children in the Greater New Orleans area. She currently serves as chair of the Women's Initiative, Next Generation (WINGS) Committee.

For the past five years, she served as the team leader for her firm's participation in the Louisiana State Bar Association/Louisiana Bar Foundation's Secret Santa Project. Through her efforts, more than 400 needy children have received gifts.

Richard serves on the board of the Younger Lawyers Division of the Federal Bar Association/New Orleans Chapter, where she assists various committees with execution of their programs. Also, she volunteers her time with the Young Leadership Council and various other organizations.

She is a member of the New Orleans Bar Association, Texas Bar Association, American Bar Association, American Inn of Court/New Orleans Bar Association Chapter, American Bankruptcy Institute and the Federal Bar Association/New Orleans Chapter.

Chair's Message continued from page 374

preme Court promulgates the same recommendation as the ABA.

In a recent conversation, the very famous "Louisiana Boudreaux" said, "Macher Clotile, you gotta help a neighbor when da alligators a' comin'." Well, the "alligators" are at the heels of many of Louisiana's broad-based impoverished groups. There is a direct connection between poverty and the inability of those citizens to have the same access to justice that we all deserve. This culminates with our neighbors, Louisiana citizens, facing the perils of losing their basic rights under our Constitution and under our laws.

The Opportunity

You don't even have to leave home to volunteer. Rather just search the Internet for "pro bono Louisiana" and you will find numerous opportunities to assist. If you are interested in finding a local interest to support, you can check with your local courts or your legal services groups for appointment opportunities. Also, the Louisiana State Bar Association (LSBA) Access to Justice Committee welcomes all volunteers and can assist you in finding a program suited to your field of practice or interest.

I also want you to know that the Young Lawyers Section of the LSBA has had a long tradition of public service projects designed to assist Louisiana citizens. We are currently seeking volunteers to help with three great programs for our communities. The first program is "Barristers for Boards," giving lawyers an opportunity to volunteer and serve on boards of non-profit organizations through a partnership established with the Louisiana Association of Non-Profit Organizations. The second program is "Wills for Heroes," giving lawyers an opportunity to spend a day with first responders, such as police, fire and paramedic personnel, so that their estate planning needs can be met. The third program is "Choose Law," giving lawyers the chance to promote the profession of law to minority children through an easy-to-use video and information package.

I know that in your community there are countless disadvantaged citizens who are currently in need of assistance with divorce, custody and adoption matters, landlord/tenant disputes, estate (succession) work, child abuse and neglect, tort defense and consumer problems. Please take the time to volunteer locally or get involved by signing on the LSBA Web site under the Access to Justice Committee.

Help the public. Help your profession. Give *pro bono* because you can.

LOCAL AFFILIATES

Baton Rouge Bar's YLS Holds Cocktails with the Court

The Baton Rouge Bar Association's Young Lawyers Section held its Cocktails with the Court reception in November 2006 to honor area judges and their law clerks. More than 100 guests attended. Catherine Saba Giering coordinated the reception. Kelsey Kornick Funes is the 2006 YLS chair. Susan Kelley is the staff liaison for the Young Lawyers Section.



2006 Baton Rouge Bar Association President Jay Jalenak Jr., from left, President-Elect Barbara Baier, Paul Baier and Judge Suzan Ponder attended the Cocktails with the Court reception in November 2006.

LSBA Young Lawyers Section Spotlighting Diversity Programs

The Louisiana State Bar Association's Young Lawyers Section wants to spotlight your organization's efforts to promote diversity in your community in promotion of its theme "Diversity: Prima Facie Evidence of Unity" this year. Forward a brief description of your past or upcoming programs to Chauntis T. Jenkins, LSBA YLS at-large representative, at cjenkins@phjlaw.com.

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Requests from LSBA Members: Fastcase Launches New Features

In response to requests from Louisiana State Bar Association members, Fastcase has launched new features.

Fastcase, the online legal research service, is offered free to Louisiana lawyers as a benefit of LSBA membership.

Now when users log in to Fastcase, they access a customized home page rather than being directed to "Search Cases." The home page includes a list of the different types of materials available on the member benefit (not just cases), as well as a customized search history and a customized "Quick Search" feature.

Also, many members have requested more prominent "Print/Save" buttons and the ability to personalize font sizes; both have been included in the updates. The ability to search newspapers also has been added, and the Authority Check feature has been made more prominent.

To take advantage of all that Fastcase has to offer, go to: www.lsba.org/Member_Services/fastcase.asp.

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The search feature allows users to customize their search by entering all jurisdictions, or a combination of any jurisdiction available in the Fastcase database. This includes Federal Appellate, State, all District Courts and Bankruptcy Courts. From this page, users can choose to enter Natural Language, Boolean Phrases, Keywords or to search by Citation.

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By Robert Gunn, Louisiana Supreme Court

JUDGE ELECTED . . . APPOINTMENTS

Judge Elected

Monroe City Court Judge Scott Leehy was elected to 4th Judicial District Court, Division A, to fill the vacancy created by the retirement of Judge Jimmy Dimos. Prior to his election to the bench, Judge Leehy received his undergraduate degree from the University of Louisiana at Monroe and his JD degree from Mississippi College of Law. He is a former assistant district attorney and served as a staff attorney for the Department of Social Services. He was elected as judge on Monroe City Court in 1996 and was re-elected without opposition in 2002. He has served as president of the Louisiana City Court Judges Association and served as a member of the Judicial Council of the Louisiana Supreme Court.

Appointments

► Lev M. Dawson, Richard E. Gerard, Jr., Dennis W. Hennen and Joseph R.

Ward, Jr. were reappointed, by order of the Louisiana Supreme Court, to the Louisiana Attorney Disciplinary Board for terms of office which began Jan. 1 and will end on Dec. 31, 2009.

► Glenn B. Adams was reappointed, by order of the Louisiana Supreme Court, to the Louisiana Attorney Disciplinary Board for a term of office which began Jan. 1 and will end on Dec. 31, 2007.

Death

Retired Louisiana Supreme Court Justice Mack E. Barham, 82, died Nov. 27, 2006. He attended Louisiana State University and the University of Colorado and received his LLB degree from LSU Law Center in 1946, where he served as chief justice of the Honor Court. Elected as judge of Bastrop City Court in 1948, he served until 1962 when he took office after his election to the 4th Judicial District Court bench. He served by as-

signment on the 2nd Circuit Court of Appeal. He was elected to the Louisiana Supreme Court from the 4th Supreme Court District, serving from 1968 until his retirement in 1975. He served as professor of law at Tulane Law School and as a reporter for the Louisiana State Law Institute. He was a member of a number of civic and professional organizations, including the Louisiana Juvenile Court Judges Association, the Board of Governors of the Louisiana State Bar Association, the Judicial Council of the Louisiana Supreme Court, the American, Louisiana and New Orleans bar associations, the American Judicature Society, the Council of the Louisiana State Law Institute and National Appellate Judges Conference. He was a graduate of the Trial Judges College at the University of Colorado, a faculty member of the American Academy of Judicial Education, a visiting professor at LSU Law Center and the author of a number of law review articles and other publications.

DISPUTE OVER LEGAL FEES?



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PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Abbott, Simses & Kuchler, A.P.L.C., announces that **Paul M. Lavelle**, **Lou Anne Gwartney**, **Kendra L. Duay**, **Jevan S. Fleming** and **Nancy A. Brechtel** have joined the firm as associates.

Adams and Reese, L.L.P., announces that **Christopher A. D'Amour**, a member of the firm's New Orleans office, has been selected for partnership. Also, **Eric B. Landry** and **David K. McCrory** have joined the firm as associates in the Baton Rouge office and **Christine Simons Fortunato**, **Chester G. Moore III**, **Danielle L. Pellegrin**, **Ravi Sinha**, **Shelly F. Spansel** and **Shana A. Stumpf** have joined the firm as associates in the New Orleans office. **Mark J. Spansel**, a

partner in the New Orleans office, has been elected to serve a three-year term on the firm's Executive Committee, effective Jan. 1.

Ansardi, Maxwell & Power, A.P.L.C., has relocated its offices to Ste. 102, 2200 Veterans Memorial Blvd., Kenner, LA 70062; phone (504)466-1331.

Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., announces that Anne Derbes Keller has joined the firm's New Orleans office as of counsel.

Black and Graham in Colorado Springs, Colo., announces that Oliver F. Johnson has been admitted to the Colorado Bar and has joined the firm.

Chehardy, Sherman, Ellis, Breslin, Murray, Recile & Griffith, L.L.P., has

changed its name to Chehardy, Sherman, Ellis, Murray, Recile, Griffith, Stakelum & Hayes, L.L.P. Also, **Jacqueline H. Blankenship** has joined the firm as a partner and **John H. Grimstad** has joined the firm as an associate.

Curry & Friend, A.P.L.C., announces that **Brett F. Willie** and **Rodi W. Culotta** have joined the firm as associates.

Deutsch, Kerrigan & Stiles announces that Kellie M. Rish, Jonathan M. Walsh, Paul D. Hale and Scott J. Hedlund have joined the firm as associates in the New Orleans office.

Woody Falgoust, A.L.C., has relocated its offices to 1050 Canal Blvd., Thibodaux, LA 70301; phone (985)447-6665. Also, the firm announces the association of **Rachael Bollinger Carothers**.



John G. Alsbrook



Jacqueline H. Blankenship



Nancy A. Brechtel



Rachael Bollinger Carothers



Cathy E. Chessin



Rodi W. Culotta



Christopher A. D'Amour



Anundra Martin Dillon



Kendra L. Duay



Woody Falgoust



Jevan S. Fleming



Christine Simons Fortunato

Frilot Partridge, L.C., announces that **Anundra Martin Dillon**, **T. Patrick O'Leary** and **Michelle C. Purchner** have joined the firm as associates.

Gachassin Law Firm announces that Janet C. Smith and Janice M. Culotta have joined the firm in Lafayette.

Gordon, Arata, McCollam, Duplantis & Eagan, L.L.P., announces that **Robert D. Jowers** has joined the firm as a partner in the Houston office; **Cathy E. Chessin** has joined the firm as of counsel in the Houston office; **Abaigeal L. Van Deerlin**, **Karen J. Ortego** and **Stephanie Chiasson Touns** have joined the firm as associates in the New Orleans office; and **Kate Bailey Labue** has joined the firm as an associate in the Baton Rouge office.

Hailey, McNamara, Hall, Larmann & Papale, L.L.P., announces that Michael J. Vondenstein has been named liaison managing partner. Joseph L. Spilman III and Caroline D. Ibos have been promoted to equity partner. Sean P. Mount and Gabriel J. Veninata have been named partners. Robert D. Ford is of counsel.

Daniel M. Redmann and Daniel R. Hynes have joined the firm as associates.

Hargrove, Smelley & Strickland, A.P.L.C., announces that Glenn L. Langley has become a shareholder and that the firm has changed its name to Hargrove, Smelley, Strickland & Langley, A.P.L.C. Also, T. Issac Howell and Magan F. Causey have joined the firm as associates.

Hilleren & Hilleren, L.L.P., has relocated its offices to 131 Oakwold Lane, P.O. Box 210, Evergreen, LA 71333.

McGlinchey Stafford, P.L.L.C., announces that Amanda S. Stout and Kathryn B. Larose have joined the firm in the Baton Rouge office, Ingrid M. Kemp has joined the firm in the New Orleans office, and Rusty M. Messer has joined the firm in the Monroe office.

Mouledoux, Bland, Legrand & Brackett, L.L.C., announces that **Jon B. Robinson** has joined the firm as an associate.

Ostendorf, Tate, Barnett & Wells, L.L.P.,

announces the election of **John G. Alsobrook** as a member of the board of directors. Alsobrook practices in the firm's New Orleans office.

Schonekas, Winsberg, Evans & McGoey, L.L.C., announces that **William P. Gibbens** and **Alvin J. Robert, Jr.** have joined the firm as associates.

Simien & Miniex, A.P.L.C., announces that Holli K. Yandle and Julie K. Steele have joined the firm as associates.

Stemmans & Alley, P.L.L.C., announces that Jennifer E. Frederickson has joined the firm as an associate.

Stone Pigman Walther Wittmann, L.L.C., announces that **Heather Begneaud McGowan** has joined the firm as an associate.

Wheelis & Rozanski, A.P.L.C., announces that Ryan C. Robison has joined the firm as an associate in its Alexandria office.

Continued next page



William P. Gibbens



John H. Grimstad



Lou Anne Gwartney



Robert D. Jowers



Kate Bailey Labue



Eric B. Landry



Paul M. Lavelle



David K. McCrory



Heather Begneaud
McGowan



Chester G.
Moore III



T. Patrick O'Leary



Karen J. Ortego

NEWSMAKERS

Abbott, Simses & Kuchler, A.P.L.C., has been selected by *Corporate Counsel* magazine as a Go-To Law Firm®, following a survey of Fortune 500® companies.

Alton E. (Biff) Bayard III, a shareholder in the Baton Rouge office of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., has been elected a Fellow of the American College of Trust and Estate Counsel.

George L. Clauer III, a Louisiana State Bar Association member practicing in the Greenville, S.C., firm of Skinner & Associates, L.L.C., has been appointed to the board of directors of the American Board of Certification.

Emily Black Grey, an attorney in the Baton Rouge office of McGlinchey Stafford, P.L.L.C., was named to the *Baton Rouge Business Report's* 2006 "Top 40 Under 40" list of professionals.

Chauntis T. Jenkins, an associate with

Porteous, Hainkel & Johnson, has been selected as a Fellow in the American Bar Association Tort, Trial and Practice Section Leadership Academy, one of only 25 people selected nationwide.

Donna G. Klein, managing partner of the New Orleans office of McGlinchey Stafford, P.L.L.C., was selected as one of *New Orleans CityBusiness's* 2006 Women of the Year.

Phyllis E. Mann, of the Law Office of Phyllis E. Mann, is the 2006 recipient of the Arthur von Briesen Award, presented by the National Legal Aid & Defender Association. The award honors a private attorney who has made substantial volunteer contributions in the delivery of civil legal aid or indigent defense representation.

B. Troy Villa, partner in charge of the Baton Rouge office of Adams and Reese, L.L.P., has been selected to participate in Leadership Louisiana 2007, a nationally recognized program that enhances the capacity of leaders from across the state.

People Deadlines & Notes

Deadlines for submitting People announcements (and photos) :

| Publication | Deadline |
|-----------------------|---------------|
| June/July 2007 | April 4, 2007 |
| Aug./Sept. 2007 | June 4, 2007 |
| Oct./Nov. 2007 | Aug. 3, 2007 |
| Dec./Jan. 2008 | Oct. 4, 2007 |

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New Orleans, LA 70130-3404
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CLIENT ASSISTANCE FUND PAYMENTS / DEC. 7, 2006

| Attorney | Amount Paid | Gist |
|------------------------|-------------|--|
| Akilah Mawusi Ali | \$7,500.00 | #730 - Unearned fee in an employment matter |
| Phillip Lucius Alleman | \$734.00 | #812 - Unearned fee in a bankruptcy matter |
| Jo Anne Fleming | \$1,500.00 | #794 - Unearned fee in a divorce matter |
| Troy DeWayne Jackson | \$600.00 | #807 - Unearned fee in a wrongful death matter |
| Troy DeWayne Jackson | \$2,250.00 | #811 - Unearned fee in an EEOC matter |
| Keith J. Labat | \$25,000.00 | #782 - Conversion of funds in a personal injury matter |
| W. Scott Maxwell | \$3,000.00 | #824 - Unearned fee in a succession matter |
| Martha E. Minniweather | \$3,400.00 | #713 - Unearned fee in foreclosure matter |

Need some help managing your law office?

The Louisiana State Bar Association
is coming to the rescue!

The Louisiana State Bar Association (LSBA) has established the Law Office Management Assistance Program (LOMAP, for short). The program is designed to assist lawyers in increasing the quality of the legal services they provide.

LOMAP was launched on Aug. 1, 2006, with a Lending Library and other resources available online at the LSBA's Web site, www.lsba.org. Questions or comments about LOMAP may be sent to Eric K. Barefield, ebarefield@lsba.org or call (504)619-0122 or (800)421-5722, ext. 122.

*For more information on all LSBA programs,
go to www.lsba.org.*



Q&A

Louisiana Client Assistance Fund

What is the Louisiana Client Assistance Fund?

The Louisiana Client Assistance Fund was created to compensate clients who lose money due to a lawyer's dishonest conduct. The Fund can reimburse clients up to \$25,000 for thefts by a lawyer. It covers money or property lost because a lawyer was dishonest (not because the lawyer acted incompetently or failed to take certain action). The fund does not pay interest nor does it pay for any damages done as a result of losing your money.

How do I qualify for the Fund?

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

Does the Fund cover fees?

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

Who can, or cannot, qualify for the Fund?

Almost anyone who has lost money due

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

Who decides whether I qualify for reimbursement?

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

How do I file a claim?

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

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

Are there other avenues to explore to obtain reimbursement?

Depending on the circumstances, you may be able to file a civil lawsuit or criminal charges against the lawyer. You should consult a new lawyer or the district attorney's office about these matters. Note that there are deadlines for starting this process.

I don't know another lawyer. How can I find someone?

Call the Lawyer Referral service in your area. These services are listed in the Yellow Pages of the telephone directory.

Is there any charge for seeking Client Assistance Fund help?

No. The process is free.

Do I need an attorney to seek Client Assistance Fund help?

You do not need a lawyer to apply but you may consult one if you wish. Also be aware that if you have a specific legal problem, you should not try to apply or interpret the law without the aid of a trained expert who knows the facts because the facts may change the application of the law.

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

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of Dec. 1, 2006.

| Respondent | Disposition | Date Filed | Docket No. |
|------------------------|--|------------|-------------|
| Mel L. Credeur | Interim suspension retroactive to 7/28/06. | 10/11/06 | 06-4491 "T" |
| Richard B. Cook | Suspended three years, all but 18 months deferred, retroactive to 6/30/06. | 11/13/06 | 06-3985 "C" |
| Ermenace Debose-Parent | Reinstated to practice. | 11/16/06 | 04-1217 "R" |
| Henry A. Dillon | Disbarred. | 11/16/06 | 06-645 "L" |
| Troy D. Jackson | Suspended until further order of this court. | 11/15/06 | 06-5727 "A" |
| John S. Keller | Disbarred. | 11/06/06 | 06-69 "R" |
| Randal L. Menard | Publicly reprimanded. | 11/14/06 | 06-6493 "N" |
| Kevin P. Monahan | Suspended six months, all but 45 days deferred, retroactive to 6/30/06. | 11/14/06 | 06-3986 "T" |

REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date Dec. 1, 2006.

Decisions

Lawrence Babineaux, Lake Charles, (2005-B-1257) **Year-and-a-day suspension with all but 90 days deferred** ordered by the court on Nov. 29, 2006. JUDGMENT FINAL and EFFECTIVE on Nov. 29, 2006. *Gist*: Failure to provide competent representation; conflict of interest; failure to protect client's interests upon termination of representation; and failure to exercise independent professional judgment.

James M. Banks, Jr., New Orleans, (2006-B-0398) **Adjudged guilty of additional violations which warrant disbarment and which may be considered in the event he applies for readmission from his disbarment after becoming eligible to do so** ordered by the court on Oct. 13, 2006. JUDGMENT FINAL and EFFECTIVE on Oct. 30, 2005. *Gist*: Neglected legal matters; failed to coop-

erate with the Office of Disciplinary Counsel in its investigations; failure to refund an unearned fee; and failure to communicate with a client.

Michael J. Bonnette, Natchitoches, (2006-B-0951) **Adjudged guilty of additional violations warranting disbar-**

ment with the minimum period for readmission for an additional five years from the date upon which he is eligible to seek readmission from the judgment of disbarment in *In re: Bonnette*,

Continued next page

Counselor, advocate, and expert witness



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Discipline continued from page 383

02-2596 (La. 1/24/03), to provide his clients with full accountings and refund of any unearned fees ordered by the court on Sept. 15, 2006. JUDGMENT FINAL AND EFFECTIVE on Sept. 30, 2006. *Gist:* Multiple instances of failure to communicate with clients; failure to withdraw upon being discharged; failure to provide accountings; failure to refund unearned fees; and failure to cooperate with the Office of Disciplinary Counsel in investigations of complaints.

John Ernest Brown, Lake Charles, (2006-OB-2210) **Transferred to disability inactive status** by order of the court on Sept. 13, 2006. JUDGMENT FINAL AND EFFECTIVE on Sept. 27, 2006.

Vincent C. Cofield, Natchitoches, (2006-B-0577) **Disbarment retroactive to the date of interim suspension (March 23, 2004)** ordered by the court on Sept. 1, 2006. JUDGMENT FINAL AND EFFECTIVE on Sept. 16, 2006. *Gist:* Failure to competently discharge his fiduciary obligations as trustee; engagement in a scheme intended to frustrate the beneficiary's attempts to remove him as trustee; and intentionally used his legal skills to the disadvantage of a mentally-disabled client by engaging in questionable transactions with him.

Donita Brooks Collins, Marrero, (2006-B-2356) **Consent public reprimand** ordered by the court on Nov. 3,

2006. JUDGMENT FINAL AND EFFECTIVE on Nov. 3, 2006. *Gist:* Engaging in conduct intended to disrupt a tribunal and engaging in conduct prejudicial to the administration of justice.

David Jack Dowell, Gretna, (2006-B-1201) **Disbarment and restitution** ordered by the court on Oct. 6, 2006. JUDGMENT FINAL AND EFFECTIVE on Oct. 21, 2006. *Gist:* Misappropriation of funds belonging to his law firm and client; misrepresentations to his law firm and client; neglect of a legal matter; and failure to cooperate with the Office of Disciplinary Counsel.

Troy DeWayne Jackson, Baton Rouge, (2006-OB-2297) **Permanent resignation in lieu of discipline** ordered by the court on Oct. 12, 2006. JUDGMENT FINAL AND EFFECTIVE on Oct. 12, 2006. *Gist:* Failure to act with reasonable diligence; failure to communicate with a client; failure to return unearned fees; failure to safe keep property; failure to return client file upon termination of representation; failure to cooperate with the Office of Disciplinary Counsel in its investigation; committing a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

James A. Norris, Jr., West Monroe, (2006-B-0671) **Permanent disbarment**

ordered by the court on Oct. 17, 2006. JUDGMENT FINAL AND EFFECTIVE on Oct. 31, 2006. *Gist:* Knowingly making false statements of material fact or law to a tribunal; offering evidence the lawyer knows to be false; falsifying evidence; knowingly disobeying an obligation under the rules of a tribunal; violating the Rules of Professional Conduct; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and engaging in conduct prejudicial to the administration of justice.

John M. Sartin, Jr., New Orleans, (2006-OB-2394) **Transfer to disability inactive status** ordered by the court on Oct. 12, 2006. JUDGMENT FINAL AND EFFECTIVE on Oct. 12, 2006.

Glen Edward Smith, Baton Rouge, (2006-B-1709) **Permanent disbarment** ordered by the court on Nov. 17, 2006. JUDGMENT FINAL AND EFFECTIVE on Nov. 17, 2006. *Gist:* Neglected legal matters; converted to his own use client and third-party funds; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; failure to act with reasonable diligence and promptness in representing a client; failure to communicate with his clients; failure to refund an unearned fee; failure to return a client's file; obligation upon termination of the representation; commission of a criminal act reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; and failure to cooperate with the Office of Disciplinary Counsel in its investigations.

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For the June issue of the Journal, all classified notices must be received with payment by April 18, 2007. Check and ad copy should be sent to:

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

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

Continued next page

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New Orleans AV-rated plaintiff firm seeks an associate with five or more years of experience in personal injury litigation, including medical malpractice. The position requires strong academic credentials and excellent writing skills. Competitive compensation and benefits with bonuses. Send résumé and writing sample in confidence to Recruiting Coordinator, P.O. Box

83, New Orleans, LA 70163, or by e-mail to sis0771@bellsouth.net.

Expanding law firm with national practice seeks lateral/partner with trans business. Louisiana, Texas or Mississippi locations available. Excellent growth opportunity. Great benefits and salary. Send résumé to R.B. Evanick, #200, 400 Lafayette St., New Orleans, LA 70130.

Expanding law firm with national practice seeks two- to five-year associate. Applicant needs strong academic writing and litigation experience. Louisiana, Texas or Mississippi license a plus. Top one-third of class preferred. Great benefits and salary. Send résumé to R.B. Evanick, #200, 400 Lafayette St., New Orleans, LA 70130.

Attorney position. Personal injury defense. Experience preferred. Contact Henry LeBas, LeBas Law Offices, A.P.L.C., Ste. 600, 201 Rue Iberville, Lafayette, LA 70508, (337)236-5500.

AV-rated CBD law firm is looking for a litigator with a minimum of two years' experience to join our team. Please send résumé and references to HR@millinglaw.com.

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Lafayette defense firm seeks full-time associate attorney with three to five years of experience in admiralty/maritime and insurance defense. Strong academic credentials and writing skills required. Salary will be competitive and will depend on experience and qualifications. Please send résumé in confidence to Mahtook & Lafleur, Associate Attorney Position, P.O. Box 3089, Lafayette, LA 70502.

Part-time (20 hours per week) attorney with at least two years' experience for hourly contract position assisting a solo practitioner in a plaintiff personal injury practice in CBD New Orleans, assisting with memoranda, briefs, discovery responses and some client management. Submit résumé and writing sample in confidence to C-Box 214.

Small New Orleans firm seeks associate attorney to handle insurance defense and personal injury matter. Litigation experience preferred. Interested applicants should send résumé by fax to (504)525-1909 or via e-mail to dmcnutt@barrypiccione.com.

McGlinchey Stafford, P.L.L.C., is looking for an associate attorney with three to six years of experience for the commercial litigation section of the firm's New Orleans office. Excellent academic record is required. Top 15 percent, *Law Review* and Moot Court are preferred. Please direct all inquiries to Erin Watson, 643 Magazine St., New Orleans, LA 70130 or e-mail to ewatson@mcglinchey.com.

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NOTICE

Curklin Atkins is submitting a petition and application for reinstatement. You have 30 days to raise objections to or support the petition by contacting: Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002; phone (504)834-1488; fax (504)834-1449.

Alfred L. Hansen has applied for readmission to the Louisiana State Bar Association. File any opposition or concurrence to his readmission with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002, within the next 30 days.

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UPDATE

Supreme Court Streaming Oral Arguments Live Via Web Site

The Louisiana Supreme Court has begun broadcasting its oral arguments live on the Internet through the court's Web site. The live stream of the oral arguments can be accessed by clicking on the icon on the court's Web site, www.lasc.org.

Oral arguments are scheduled every six weeks. The last session was mid-January. Usually, there are two sessions of arguments each day, beginning at 9:30 a.m. and again at 2 p.m.

"The court owes a debt of gratitude to Justice Kitty Kimball for her leadership in several recent technological advancements made by the Supreme Court, most notably our ability to now make our oral arguments available to anyone who wishes to watch them from wherever a computer with Internet access is located, whether at home, an office or a public library," said Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr.

Under the guidance of the court's Technology Committee, chaired by Justice Kimball, the Web stream (broadcast in real time) is one of several technology improvements the court has made recently, aimed at making the court's work more accessible to the public and easier to understand. The court's Web site also includes a list serve for e-mailing news and opinion releases.

Supreme Court Dedicates Cassibry Square

A dedication ceremony honoring deceased U.S. District Court Judge Fred J. Cassibry was held in November 2006 at the Louisiana Supreme Court, establishing the square city block on which the court's building sits as Judge Fred J. Cassibry Square. The naming of Cassibry Square was in accordance with Act 708 passed in 1999 by the Louisiana Legislature.

Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr. said the Supreme Court, in accordance with Act 708, commissioned the construction of two memorial plaques to be prominently placed on the square at Royal and St. Louis streets and Chartres and Conti streets in the French Quarter in New Orleans.

Fred J. Cassibry (1918-96) was appointed for life by President Lyndon B. Johnson to serve as a federal judge for the U.S. District Court, Eastern District of Louisiana, in 1966, where he served for more than 20 years.

Holliday Sworn In as Immigration Judge

Carey R. Holliday, a member of the Louisiana State Bar Association, was sworn in as an immigration judge for the Miami Immigration Court in October 2006.

He was appointed as an immigration judge in May 2006. He received his JD degree in 1977 from Louisiana State University Paul M. Hebert Law Center. From 1992-2006, he served as a senior litigator with the Louisiana Department of Justice. Prior to this position, he was a staff attorney for the Louisiana Senate, in private practice for 10 years and general counsel in the Louisiana Department of Insurance.

Adams and Reese Breaks Firm Record for Secret Santa Participation

Since the inception of the Louisiana State Bar Association's (LSBA) Secret Santa program 10 years ago, attorneys and staff at Adams and Reese have rallied together to provide needy children and teens with hope and happiness through holiday giving. Each year, the firm adopts more children than the year before, and this year members of the firm adopted a record-breaking 100 children and raised more than \$2,500. Members of the firm donated everything from bi-


Continued on page 390

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Marquis de Lafayette to be Fêted by LSBA Francophone Section

By Marie Breaux
Secretary,
LSBA Francophone Section

In 2007, the world celebrates the 250th anniversary of the birth of Marie Joseph Paul Yves Roche Gilbert du Motier, Marquis de Lafayette — hero of the American Revolution and an enduring icon of liberty and freedom. The Louisiana State Bar Association (LSBA) will join these celebrations through activities organized by a special Ad Hoc Committee and the Francophone Section.

This spring, the Francophone Section will host a short program on the afternoon of April 27 at the United States Courthouse in Lafayette. This program will be followed by a reception in honor of the Bâtonnier of the Ordre d'avocats (Bar Association) of Versailles, France. In ceremonies held in both France and Louisiana in 2006, the Versailles Bar "twinning" with the LSBA, the Francophone Section and the Lafayette Parish Bar Association. In the fall of 2007, the Francophone Section will return to France for CLE and further joint programs in honor of the Marquis de Lafayette with the Paris and Versailles bar associations, as well as a visit to the Champagne region hosted by the Association France-Louisiane.

This is not the first time the Louisiana Bar will participate in official celebrations in honor of Lafayette. The premiere event took place in New Orleans on April 12, 1825, when the Bar entertained the Marquis during his celebratory tour of the country he helped bring into being. Lafayette faced delegations of dignitaries and feasts in his honor seemingly every waking minute of the six days he spent in the city, including one "grand supper" described as having more than 800 guests in attendance.

Although the event is not confirmed by the official, publicized schedule, the descendents of voodoo priestess, Marie Laveau, claim Lafayette visited her at some point during his stay in New Orleans. A call upon Laveau or any African-American citizen would be in character for this man who fought for liberty his entire life and specifically included the abolition of slavery as part of that mission. During his celebratory tour of the United States, Lafayette insisted on meeting with Native Americans and African-Americans, and, while in Louisiana, received a delegation of "free men of color" who had fought with Andrew Jackson at the Battle of New Orleans.

Best known in this country as the youngest American general ever and as one of the authors of the defeat of Cornwallis at Yorktown, Lafayette's life was, if anything, even more dramatic after his return to Europe at the end of hostilities between the colonies and Great Britain: He had two more revolutions in front of him.

The success of the colonists in the American Revolution confirmed Lafayette's ardor for democracy. At the National Assembly formed before the start of the French Revolution, Lafayette proposed the now famous Declaration of the Rights of Man — instantly recognizable to Americans as our own Declaration of Independence and Bill of Rights folded into a single document. Appointed by the revolutionaries to head the National Guard, Lafayette escorted the King and Queen from Versailles to Paris for imprisonment in 1789.

Lafayette would not long remain in the ranks of revolutionary leaders. He staked out a centrist position in favor of a constitutional monarchy and against the more radical elements of the revolution. In 1792, not long before the start of the Terror, Lafayette was stripped of his military command. Sensing danger, he escaped into Belgium only to be captured and imprisoned by Austria's Hapsburg monarchs. While France's revolutionaries considered Lafayette a threat for being too moderate, Europe's monarchs considered him a threat for being too radical.

The Founding Fathers of the United States — Washington, Jefferson, Adams, Franklin — all feared their participation in the American Revolution would cause the loss of their liberty and property. They escaped this fate, but Lafayette lived their nightmare. The French revolutionaries took his property. The Austrians took his freedom. Despite pleas from the British Parliament, George Washington and other world leaders, Austria held Lafayette prisoner for five years.

In one of history's ironies, Lafayette was finally freed by Napoleon, the traitor of the democratic ideals of the Revolution. The release of Lafayette was one of the terms of the Treaty of Campo Formio signed in October 1797 following Austria's defeat earlier that year. Throughout Napoleon's reign, Lafayette kept up his advocacy for the ideals of democracy and freedom. He carried on active correspondence with leading revolutionaries throughout the world and advocated for the end of slavery.

Lafayette participated in his third and final revolution in 1830 — this one again overthrowing the Bourbons, who had been restored to the throne after Napoleon's defeat at Waterloo. In the "July Revolution" of 1830, Louis-Phillipe, the duc d'Orléans, was elected as a constitutional monarch. This "citizen king" quickly grew disdainful of his constitutional restraints, and Lafayette did not live to see true republican government restored in France. He died on May 20, 1834, in Paris and was buried along with soil he had brought back from America.

In 2002, Lafayette became only the sixth person ever named an honorary citizen of the United States, joining Winston Churchill, Mother Teresa, Raoul Wallenberg, and William Penn and his wife, Hannah. The authorizing legislation notes Lafayette "gave aid to the United States in her time of need and is forever a symbol of freedom."



For 10 years, the Louisiana State Bar Association's Secret Santa Project has been part of Adams and Reese's HUGS program. Senior partner in charge, Mark Surprenant, founded HUGS in 1988.

cycles to board games to crayons and coats.

"The generosity of our attorneys and staff never ceases to amaze me," said Robert Vosbein, partner in charge of the corporate volunteer program HUGS (Hope, Understanding, Giving and Support). "Despite the many hardships that many of our members still face post-Katrina, they still want to give and have made this project a priority amidst their very hectic holiday season."

Adams and Reese "wrapped" up the Secret Santa project with its annual pizza/gift-wrapping party.

This year, more than 1,200 children and teens received holiday gifts through the LSBA Secret Santa program.

Outside of the New Orleans office, several of the firm's other offices participate in similar holiday gift-giving projects. The HUGS program was designed to foster the spirit of giving among the Adams and Reese attorneys and staff. Adams and Reese is a recipient of the Excellence in Corporate Volunteerism Award by the Points of Light Foundation. The New Orleans office also was named "Corporate Philanthropist of the Year" for 2005 by the Greater New Orleans Association of Fundraising Professionals.

The Pro Bono Project Recognizes 2006 Volunteers

The Pro Bono Project (New Orleans) recently recognized its volunteers for donating several pro bono hours in 2006. The volunteer recognition event in December 2006 was paired with a CLE seminar on "Professionalism in the Courtroom by Attorneys and Judges," with speaker Judge Leon A. Cannizarro. The honorees included out-of-state volunteers and firms and a student.

Among the honorees were:

- ▶ 2006 Distinguished Service Awards — Bill Cherbonnier, Katie Lasky and Cindy Petry; and James Baillie and Elizabeth Royal (out-of-state).
- ▶ 2006 Distinguished Jurist — Hon. Madeleine Landrieu.
- ▶ Donating 100-plus hours in 2006 — Thomas Beh, Bill Cherbonnier, Shera Finn, Charles Long and Mark Surprenant; James Baillie and Elizabeth Royal, both out-of-state; and student volunteers Jennifer Bonesteel, Alex Chasick, Andrew Cowan, Sarah Dwyer-Heidkamp and Mark Fridman.
- ▶ Donating 50-plus hours in 2006 —

Ali Adams, Tad Bartlett, Shauna Dermody, Tracey Flemings, Marion Floyd, Tom Gottsegen, Marian Harrison, Jessica Hayes, Katie Lasky, James Maguire and Cindy Petry; and Anthony Barash and Gloria Jacobs, out-of-state.

- ▶ 2006 Pro Bono Law Firm — Kilpatrick Stockton (out-of-state).
- ▶ 2006 Law School — University of North Carolina (out-of-state).
- ▶ 2006 Pro Bono Corporate Partner — Courtroom Graphics, Inc.
- ▶ 2006 Friend of Pro Bono — Minnesota State Bar Association (out-of-state).

Law League Sets Plans for Coming Year

"Recover, Rebuild, Renew" is the unofficial motto of the Law League of Louisiana for 2007, said President Barbara Dallam. As such, the organization is anticipating a busy year.

Philanthropic projects this year will include supporting CASA (Court Appointed Special Advocates) for abused and neglected children; participating in



The Pro Bono Project (New Orleans) recently recognized its volunteers for donating several pro bono hours in 2006. Hon. Jay C. Zainey, far right, presented the awards. Award recipients attending the reception were, from left, Project Director Rachel Piercey, Mark Surprenant, Holly Martin, Marion Floyd, Cindy Petry, Judge Madeleine Landrieu, Charles Long, Ali Adams, William Cherbonnier, Elizabeth Royal, Tad Bartlett and Katherine Lasky.

the Louisiana State Bar Association's Secret Santa Project; participating in Law Week activities in May, including serving meals at several homeless missions and presenting "Goldilocks and the Three Bears" videos to elementary students; and organizing "Dress for Success," a program for obtaining suitable clothes for women who want to turn their lives around in the working world.

The Law League will present its annual awards at its installation luncheon in May, including Law School Merit Awards to law students for the most improved grade point averages; the Law-Related Education Teacher of the Year Award sponsored by attorney Mettery Sherry; and the Caillouet Award to an individual or group whose activities further the ideals of the Law League. Also at the luncheon, 2007-08 officers and board members will be installed, and past presidents will be honored in this 25th anniversary year.

Loyola Law Professor Receives Award from Stanford Law School

William P. Quigley, the Janet Mary Riley Distinguished Professor of Law and the director of the Loyola Law Clinic and the Gillis Long Poverty Law Center at Loyola University College of Law, was honored with the first



National Public Service Award from Stanford Law School's new Center for Public Service and Public Interest Law. The award is designated for an attorney whose work on behalf of the public has made a national impact and will be given annually to individuals who exemplify a commitment to public service, provide models of practice that are interesting and innovative, and have made a specific contribution for that year to the public interest legal field.

Quigley received the award for his



The 2006-07 Law League of Louisiana officers are, from left, Jean Russo, corresponding secretary; Edie Villarrubia, president-elect; Barbara Dallam, president; Patti Lee, recording secretary; and Stephanie Levenson, treasurer and immediate past president.



The Law League of Louisiana recently presented a contribution to the Friends of CASA (Court Appointed Special Advocates). From left, Kathy Cheramie, CASA advocate; Law League Treasurer Stephanie Levenson; and Jeannette Hew from Friends of CASA.

work on behalf of more than 4,000 low-income, New Orleans tenants who were displaced after Hurricane Katrina.

Directly after Katrina devastated New Orleans, Quigley volunteered in hospitals, then relocated to Houston where he created a Katrina Relief Center. He has continued helping Katrina victims by serving as co-counsel in a case representing more than 4,000 low-income tenants who were displaced and who still have not been allowed to re-enter their housing by HUD and local

agencies. He also is currently counsel on numerous other legal cases challenging FEMA procedures and supporting the voting rights of those displaced by hurricanes.

Quigley received the 2006 Camille Gravel Civil Pro Bono Award from the Federal Bar Association, New Orleans Chapter. He also has been an active volunteer lawyer with School of the Americas Watch and the Institute for Justice and Democracy in Haiti.

LOCAL & SPECIALTY BARS

Lafayette Parish Bar Installs Officers and Board Members

Richard Becker was installed as the new president of the Lafayette Parish Bar Association at the annual banquet in November 2006. Also installed as officers were President-Elect Miles Matt, Secretary/Treasurer Rebekah Huggins and Immediate Past President Kenny Oliver.

Serving as 2006-07 board members are Larry Curtis, Susan Daigle, Blake David, James Doherty III, Andre Doguet, Dave Ernest, John Grant, James Hollier, Thomas Juneau, Sr., Judith Kennedy, Gary Kraus, Elena Arcos Pecoraro, Tricia Pierre, Sachida Raman, Maggie Simar, Kevin Stockstill and Charles Ziegler.

Greater Covington Bar Association



Roy K. Burns, Jr., left, 2007 president of the Greater Covington Bar Association, presented a plaque of appreciation to 2006 President Susan B. Williams.



Above left, New Lafayette Parish Bar Association officers are, from left, Immediate Past President Kenny Oliver, President-Elect Miles Matt, Secretary/Treasurer Rebekah Huggins and President Richard Becker.

Above right, New Lafayette Parish Bar Association board members are, front row from left, Tricia Pierre, Gary Kraus, Dave Ernest, Maggie Simar, Rebekah Huggins, Miles Matt, Larry Curtis and Lafayette Parish Bar Association Immediate Past President Kenny Oliver. Back row from left, Charles Ziegler, Sachida Raman, James Doherty III, Elena Arcos Pecoraro, Andre Doguet and John Grant. Not in photo, Susan Daigle, Blake David, James Hollier, Thomas Juneau, Sr., Judith Kennedy and Kevin Stockstill.

Right, Several Lafayette Parish Bar Association members received awards for their past service to the association. From left, Glenn Armentor; Joe Giglio, Jr.; Kenny Oliver, Lafayette Parish Bar Association immediate past president; James Diaz; and Richard Becker, Lafayette Parish Bar Association president.



Davis Receives Shreveport Bar's 2006 Professionalism Award

Attorney and former Sen. Jackson B. Davis is the recipient of the 2006 Shreveport Bar Association's Professionalism Award.

This award was established in 1999 to honor those members of the Shreveport Bar Association who best exemplify the high ideals and standards set forth by the Louisiana State Bar Association's Code of Professionalism, as well as the aspirational goals for attorney conduct adopted by the Shreveport Bar Association.

Davis attended Louisiana College, Northwestern State College and ultimately Louisiana State University, where he received BA, MA and law degrees. He practiced law in Jena, La., for a few months following his graduation from law school in 1940. In August 1941, he was commissioned as an ensign in the United States Navy Reserve and was immediately ordered to active duty in the Intelligence Office at Pearl Harbor, arriving there on Sept. 7, 1941, just three months before it was bombed by the Japanese on Dec. 7.

During the war, Davis worked in the radio section of U.S. Naval Intelligence. This section was devoted to Japanese traffic analysis, directional finding and the breaking of various Japanese naval codes. They ultimately did break the codes, which resulted in the tremendous U.S. victory at the Battle of Midway, a turning point in the war in the Pacific.

After he was released from naval services, as a lieutenant commander, he established a law office in Shreveport and has continually practiced law in Shreveport since that time. In 1956, he was elected to the Louisiana Senate, serving in that capacity for 24 years until his retirement in 1980. During his years as a senator, he was instrumental in getting legislation passed to establish LSU-Shreveport and was well-known for his positions promoting responsible and honest government.



U.S. Attorney William Flanagan presented the 2006 Shreveport Bar Association Professionalism Award to his father-in-law, attorney and former Louisiana state Sen. Jackson B. Davis.

Stroud is 2007 Shreveport Bar Association President

Ansel M. (Marty) Stroud III, a member of the Shreveport law firm of Tutt, Stroud & McKay, is the 2007 president of the Shreveport Bar Association (SBA). He also served as SBA vice president in 2005 and president-elect in 2006.

Stroud attended undergraduate school at Saint Louis University in St. Louis, Mo., graduating *magna cum laude*. He received his law degree from Louisiana



2006 Shreveport Bar Association President John Frazier, left, and 2007 Shreveport Bar President Marty Stroud.

State University Paul M. Hebert Law Center, attaining membership in the Order of the Coif. He was admitted to practice in 1976. He is a member of the Shreveport, Louisiana and American bar associations, the Louisiana Association of Defense Counsel, the National Association of Criminal Defense Lawyers, the Criminal Defense Bar of Louisiana and the Criminal Defense Bar of Northwest Louisiana.

Serving with Stroud on the 2007 SBA Executive Council are John M. Frazier, immediate past president; John T. Cox, Jr., president-elect; Zelda Tucker, vice president; Rebecca L. Castillo, secretary-treasurer; Brian Barber, secretary-treasurer-elect; Julia E. Blewer, Billy J. Guin, Jr., Shannan Hicks and Bernard S. Johnson, members at large; Judge Jeanette G. Garrett, judicial liaison; Allison D. Bushnell, president of the Young Lawyers Section; Jeanne O. Liles, president of the Women's Section; and Deryl Medlin, captain of the Krewe of Justinian.

Shreveport Bar Recognition Ceremony Honors Deceased and New Attorneys

Attorneys, judges and family members paid tribute to four deceased members of the legal profession at the Shreveport Bar Association-sponsored (SBA) Memorial and Recognition Ceremony in November 2006. First Judicial District Court Judge Charles R. Scott presided over the ceremony and SBA Memorial and Recognition Chair Larry Pettiette served as master of ceremonies and delivered the general eulogy.

Deceased members being honored and their eulogy presenters were Gregory Lee Kelley, eulogy presented by Leslie W. Kelly; Michel Antoine Maroun, eulogy presented by Daryl Gold; William Harvey Parker, eulogy presented by Jack R. Brown; and Judge Oscar Ewing (O.E.) Price, eulogy presented by Judge Monty M. Wyche.

Following memorial honors, Allison Bushnell, president-elect of the SBA Young Lawyers Section introduced 25 new attorneys to the court: Casey

Bloxom, Christopher Broughton, Danielle N. Brown, Ree J. Casey, Magan F. Causey, Angela Claxton, Kellie Curry, Jerry Edwards, Krystil A. Garrett, Darius Q. Henderson, Daven M. Hill, T. Issac Howell, R. Bennett Langford III, Kathryn Maxwell, Kathleen McCoy, Adrienne Mouton, Julianna Petchak Parks, Santi Parks, Margaret Patton, Scott Patton, Heather Ray, Kodie Smith, Karelia R. Stewart, Amanda Waddell and Fiona C. York.

LOUISIANA BAR FOUNDATION

LBF Participates in Fundraiser, Names Two Appointments

The Louisiana Bar Foundation (LBF) participated in the Baton Rouge Bar Association's (BRBA) annual "Belly Up with the Bar" in October 2006. LBF AmeriCorps attorneys, Kathleen McNelis and Susan Saba, dished out salsa, guacamole and margaritas on the rocks. "It was a great opportunity to introduce ourselves to the legal community while helping the BRBA raise money for their youth education programs," McNelis said. Coordinators of one of LBF's newest programs, Pro Bono Legal Corps Law Students in Action, McNelis and Saba encourage law students to consider public interest law as a career and match law students with clients in need-based communities.

In another event, LBF President John (Jock) Scott spoke to the members of the Southwest Louisiana Bar Association at their annual membership luncheon in October 2006. Scott discussed the Foundation's three new initiatives: a Community Partnership Panel for each major region of Louisiana; the Building Capital Development Grants Program; and the Public Interest Attorney Loan Repayment Assistance Program. For more information on these programs, go to www.raisingthebar.org or contact Donna C. Cuneo at the LBF office, (504)561-1046 or donna@raisingthebar.org.

Lance Arnold, chair of the broadcast



Scott Wolf, left, chair of the 2007 Shreveport Bar Association (SBA) Memorial and Recognition Ceremony, SBA Young Lawyers Section President-Elect Allison Bushnell and Justinian Captain Deryl Medlin show off the 2007 Krewe of Justinian poster at the new attorney happy hour co-sponsored by the YLS Section and Krewe of Justinian.



About 100 of Shreveport-Bossier City's top legal minds, judges and attorneys alike, gathered in November 2006 to honor their peers who have served in various branches of the military. The event was sponsored by the Shreveport Bar Association's Military Affairs Committee. Master of ceremonies was Charles (Bill) Kelly, a Shreveport city judge and colonel in the Army Reserve. Guest speaker was Lt. Col. Scott Adams, commander of the Shreveport-based 1/108th Calvary Squadron. Participating, from left, Sgt. Maj. (Ret.) Charles Grubb, Lt. Col. (Ret.) Elton B. Richey, Military Affairs Chair Judge Bill Kelly, Lt. Col. Scott Adams, Col. (Ret.) W. James Hill III, Col. (Ret.) Homer T. (Ted) Cox and Maj. (Ret.) Daniel C. Scarborough IV.

journalism program at Nicholls State University, was appointed the LBF 2006-08 Scholar-in-Residence. Arnold's topic will focus on the impact of Hurricanes Katrina and Rita on the legal system and the response of lawyers and courts to the challenge of providing legal services in the wake of the hurricanes.

Beth E. Abramson, an associate with McGlinchey Stafford, has been contracted by the LBF to collect, analyze and report on data from the Call Center and Louisiana legal service agencies providing services to hurricane victims. Once analyzed, a report will be developed that discusses the legal issues faced by Louisiana's displaced citizens. This information will be used to help the state address systemic legal issues.

LBF Seeking Nominations for Boisfontaine Award

The Louisiana Bar Foundation (LBF) is seeking nominations for the 2007 Curtis R. Boisfontaine Trial Advocacy Award. Nominations must be received in the LBF office by Monday, April 2. The award will be presented at the Louisiana State Bar Association's 66th Annual Meeting in Sandestin, Fla. The recipient will receive a plaque, and \$1,000 will be donated in the recipient's name to a non-profit, law-related program or association of the recipient's choice.

Nominations should include nominee's name, contact information, a brief written statement on the background of the nominee, as well as reasons why the nominee is proposed as the award recipient. Nominations should be forwarded to Donna C. Cuneo, Executive Director, Louisiana Bar Foundation, 601 St. Charles Ave., 3rd Flr., New Orleans, LA 70130, or to donna@raisingthebar.org.

LBF Welcomes New Fellows

The Louisiana Bar Foundation welcomes the following new Fellows:

Beth Abramson New Orleans



The Louisiana Bar Foundation's President's Dinner was held in October 2006. Attending were, front row from left, Garland R. Rolling, 1998-2000; Hon. James C. Gulotta; Donna D. Fraiche, 2005-06; and Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr. Back row from left, Marcel Garsaud, Jr., 1991-93; Suzanne M. Jones, 2000-02; Harry S. Hardin III, 2002-03; John W. (Jock) Scott, 2006-07; David F. Bienvenu, 2004-05; Elwood F. Cahill, vice president, 2006-07.

Bertrand Artigues New Orleans
J. Roslyn Lemmon New Orleans
Wendy Hickok Robinson New Orleans
Kelly Scalise New Orleans
Paul H. Spaht Baton Rouge

LBF's 21st Annual Fellows Gala Set for April 20

The Louisiana Bar Foundation (LBF) will hold its 21st annual Fellows Gala on Friday, April 20. Celebrating Louisiana's recovery in progress, the theme of the gala is "Louisiana, There's No Place Like Home." Special guests of honor will be the LBF's 2006 Distinguished Jurist Justice Catherine D. (Kitty) Kimball, Distinguished Attorney Wayne J. Lee and Distinguished Professor Katherine Shaw Spaht.

This event will be held at the Ritz-Carlton New Orleans. Cocktails, in conjunction with a silent auction, begin at 6:30 p.m. celebrating the Fellows class of 2006 and the 20-year Fellows. Dinner and presentations will follow at 7:30 p.m. A patron party will be held the evening before, Thursday, April 19, at the home of Frances and Calvin Fayard.

Rooms at the Ritz-Carlton are avail-

able for \$259 a night for both Thursday and Friday. Reservations must be made by March 21 to get this discounted rate. Call the hotel directly at (800)241-3333 and reference the Louisiana Bar Foundation to make the reservation.

Sponsorships are available at the following levels:

Cornerstone Level: \$2,500

Includes patron party sponsorship, 10 patron party tickets, 20 dinner tickets, program recognition and two reserved tables with recognition.

Capital Level: \$1,500

Includes 10 patron party and dinner tickets, program recognition and one reserved table with recognition.

Pillar Level: \$1,200

Includes six patron party and dinner tickets and program recognition.

Foundation Level: \$375

Includes two patron party and dinner tickets and program recognition.

Individual tickets to the dinner are \$150 per person.

Reservations can be made by credit card at www.raisingthebar.org.

For more information, contact Laura Sewell at (504)561-1046 or laura@raisingthebar.org.

Lucid INTERVALS

By Vincent P. Fornias

FLYING SOLO

I admit it. In addition to being the jinx of all supermarket and bank lines, I am further cursed with the affliction of Airline Seat Nut Magnetism. Hopefully it's an "opposites attract" kind of deal. All I know is that on any business trip I will invariably find myself seated next to something out of the post office bulletin board or Jerry Springer Show. I once had someone squat down next to me and proceed to chug-a-lug an entire gallon of milk. Without a napkin.

Perhaps I simply cause these types of reactions. But I am hereby drawing the line in the sand. Determined to take this no more, I have devised a fool-proof list of tactful and subtle means to discourage future airborne undesirables. Timing is everything. The trick is to resort to these just as the nut *du jour* approaches up the aisle, attempting dastardly eye contact with you:

- ▶ Pick a bodily orifice. Any orifice.
- ▶ Spread those sticky rat-catching cards on the floor and the empty seat next to you.
- ▶ Don your trusty Saints Dome Patrol helmet, the one with the bookend tallboy holders and the IV tube running directly into your mouth.
- ▶ If he/she/it inquires if the seat next to you is taken, answer solemnly but matter-of-factly, "Only by our Lord."
- ▶ Coat the adjoining seat in Visqueen.
- ▶ Grab your trusty foreign language newspaper and start chanting something unintelligible, like the Federal Rules of Civil Procedure.
- ▶ Point a can of Kool-Whip at he/she/it.
- ▶ Commence doing your best rendition of the frug and/or the hully gully.

- ▶ Throw confetti into the air, yelling, "It's over! It's finally over!!"
- ▶ WWCTD (What Would Carrot Top Do?)

Next Issue: Dealing with Those Pesky FAA Marshals



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