

Louisiana Supreme Court Chief Justice Bernette Joshua Johnson

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

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

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

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

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

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



One on One

with Louisiana Supreme Court Chief Justice Bernette Joshua Johnson

Interviewed by Stephen I. Dwyer

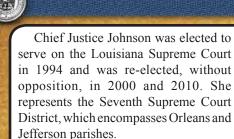


Chief Justice Bernette Joshua Johnson, far left, with the other Justices at her Feb. 28 investiture ceremony. Photo by Matthew Hinton Photography.

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

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

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

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

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

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

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



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

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

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

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

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

Supreme Court?

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

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

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

each other and with the court.

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

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

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

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

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

Johnson: Just diversity. I think we need women lawyers. We need representation from every sector. I think we benefit from a diverse legal profession. We benefit from a diverse judiciary because we all bring different experiences to the table. **Journal:** What are your plans for the Supreme Court?

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

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

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

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

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

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

Johnson: I think we've made great progress. That is certainly true when Kim Boyle was president of the LSBA. As I can recall, that was one of our main efforts to promote diversity, to promote inclusion. Everybody who's part of this mandatory Bar and pays their dues must feel a part of the organization. I think we want to make an increased effort to reach out to solo practitioners and small firms to be sure they have adequate resources. Those are the people to whom the Bar Association needs to lend resources. Folks who are in large firms have resources and mentors. Lawyers working with public entities like district attorneys and city government have resources and mentors. It's those solo practitioners who are out there on their own who are the ones to whom we should continue to reach out and to make resources available.

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

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

Journal: What is your favorite restaurant in New Orleans?

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

Stephen I. Dwyer, a partner in the Metairie firm of Dwyer, Cambre & Suffern, A.P.L.C., is currently serving as Second Board District representative on the Louisiana State Bar Association's Board of Governors. He also is a member of the Louisiana Bar Journal Editorial



Board. He received an AB degree in 1970 from the College of the Holy Cross, a MA degree in 1972 from the University of New Orleans and his JD degree in 1976 from Loyola University College of Law. (Ste. 200, 3000 W. Esplanade Ave., Metairie, LA 70002)

From the Beginning:

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

By Judge Tiffany Gautier Chase



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

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

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

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

After graduation from law school, Justice Johnson became a zealous advocate protecting the rights of children, the elderly and the disadvantaged. She served as the managing attorney with the New Orleans Legal Assistance Corp. where she provided affordable legal services to residents of the greater New Orleans area. In 1981, Justice Johnson became a deputy city attorney under the administration of Ernest (Dutch) Morial, the first African-American mayor of New Orleans. As a deputy city attorney, Justice Johnson defended the city of New Orleans in a multitude of lawsuits filed against the city, including police brutality claims, general tort claims and civil service litigation. Her message to young lawyers has always been "to respect your client and understand that you serve as their voice."

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

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

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

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

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

FOOTNOTE

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

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



Law School Years:

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

By Rachel L. Emanuel, Ph.D.



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

hen Bernette Joshua Johnson enrolled in Louisiana State University Law School in the fall of 1965, she was one of two African-Americans, both female, in that entering class of 152 students. Johnson graduated in January 1969 in a class of 44. In 1954, Ernest N. (Dutch) Morial had been the first African-American to earn a law degree from LSU. Johnson worked for Morial in the office he shared with prominent civil rights attorney A.P. Tureaud. Roy Wilson (the plaintiff in the 1950 lawsuit, *Wilson v. LSU*, brought by Tureaud that opened the law school to African-American students), Morial and Judge Robert Collins had been the first African-Americans to attend LSU Law School. All were in the 1950s.

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

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

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

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

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

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

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



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

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

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

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

Blum said Johnson shared a story with him regarding assistance he gave to her and Gray, when he informed them of a change in time for their legal writing class. Apparently Johnson and Gray had not gotten the word and would have missed the class, which was rescheduled for an earlier time. Johnson said she remembered that gesture because he was nice enough to help.

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

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

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

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

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

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



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

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

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

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

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

In 1996, Justice Johnson's law school showed appreciation to its trailblazing alumna when her portrait was unveiled and she was inducted into the LSULaw Center's Hall of Fame.

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

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

Correro remembers when Johnson first went to work in New Orleans, she had been told"when you meetreally dyed-in-the-wool segregationists and you knew that they were, just keep smiling and be polite. I think that was easy for her because I think that's what she did at LSU. She just kept being polite and friendly and doing her work and getting the job done . . . and (showing) that she could handle controversy and not give up but just be steadfast." No doubt, Justice Bernette Joshua Johnson can attribute much of her career success to her experiences inside and outside of the classroom at LSU Law School through lessons in the law, perseverance, patience and overcoming challenges. The lessons learned were mutual and mutually beneficial.

FOOTNOTE

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

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



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

From Augustine to Johnson: Toward Equal Justice

By Marc H. Morial

s we progress toward an ever more equitable society, racial and gender "firsts" become fewer and farther between. But the significance of Justice Bernette Joshua Johnson's ascension to chief justice of the Louisiana Supreme Court — the first African-American to hold that office — can hardly be overstated. When Chief Justice Johnson was born in the mid-20th century, racial segregation still was strictly enforced. Only 1 percent of eligible African-American Louisianians were registered to vote.

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

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

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

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Neither Delayed Nor Denied

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

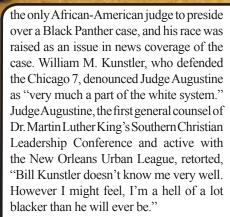
The Louisiana legal system has a long and stormy history concerning how issues of color and fairness are addressed. Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, respected by the legal community, will lead the court into a new era and all of the citizens will be better served with her at the helm. There is no perfect legal system but we should always strive to seek justice and fairness. Chief Justice Johnson has always shown herself to be a proponent for those principles.

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

"A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgment of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law — in the larger sense — cannot fulfill its primary function to protect them and their families in their homes, at their work, and on the public streets."

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

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



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

Continuing the wave that began with Judge Augustine, Judge Joan M. Armstrong became the first female African-American judge in Louisiana, joining the Orleans Parish Juvenile Court in 1974. Justice Revius O. Ortique, Jr. began his tenure as a judge in 1978 as the first African-American appointed to a seat on the Orleans Parish Civil District Court bench in 1978. He later became the first African-American chief judge of Civil District Court. In 1992, he reached the historic milestone of becoming the first African-American elected to the Louisiana Supreme Court. He and Chief Justice Johnson remain the only African-Americans in history to serve on the high court. Later, Judge Lionel R. Collins and Judge Freddie Pitcher, Jr. became district court judges in Jefferson Parish and East Baton Rouge Parish, respectively.

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

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

Champion of Civil Rights

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

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

Now in 2013, we celebrate again as she has become the first African-American chief justice of the Louisiana Supreme Court. This achievement has special significance for the Lawyers' Committee as we celebrate our 50th anniversary.

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

-Barbara R. Arnwine, Jon M. Greenbaum and Meredith Horton

President/Executive Director, Chief Counsel and Counsel, respectively, for the Lawyers' Committee for Civil Rights Under Law African-American judges so that Louisiana, with 80 African-American judges, has the most representative judiciary in the nation. Justice Johnson was appointed to the new Supreme Court district in 1992, then elected in 1994, and re-elected in 2000 and 2010.

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

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

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

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

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

Marc H. Morial, a member of the Louisiana State Bar Association and the 1988 winner of the Pro Bono Publico Award, is a former Louisiana state senator, a former mayor of New Orleans and a former president of the U.S. Conference of Mayors. Heis currently the president and CEO of the National Urban



League. (120 Wall St., 8th Flr., New York, NY 10005)

Chief Justice Johnson:

Reflections and Insights from Colleagues

The Year was

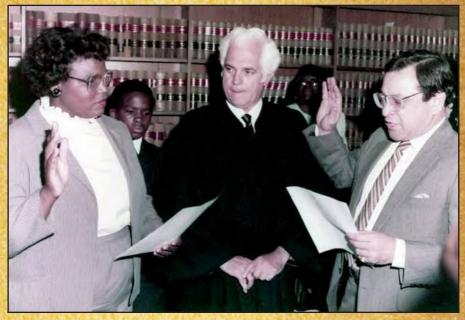
1984...

By Val P. Exnicios

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

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

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



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

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

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

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

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

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

Continued next page



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

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

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

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

Chief Justice Johnson is unequivocally deserving of her position as chief justice, not because of her race, not because of her gender, not because of anything other than fundamental fairness, equality, recognition of her longevity and, in my opinion, perhaps most of all, the exceptional individual and jurist that she has become through her hard work and commitment to her passion and profession, the law. Congratulations, Your Honor! Well done, well deserved! I am indeed honored to have you as our chief justice and am confident that, under your exceptional leadership, our Bench and our Bar will become the very best that they can possibly be.

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

Achieving Despite Challenges, Unknowns and Sacrifices

By Judge Ivan L.R. Lemelle

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



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





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

and personal sacrifices.

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

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

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

Blazing Yet Another Trail for Us All

By Judge Amy L. Nechtem

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

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

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

In late 2012, Justice Johnson spearheaded

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

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

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

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

The Real Justice Johnson

By David K. Johnson and Rachael D. Johnson



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

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

Insights from David K. Johnson

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

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

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

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



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

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

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

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

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

Insights from Rachael D. Johnson

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

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

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



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

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

Lesson 2: Life is reciprocal.

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

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

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

Lesson 3: Never give up!

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

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