An Interview with a Living Legend
By Roger A. Stetter

Earlier this year, I had the privilege of interviewing the most senior lawyer in Louisiana, Marian Mayer Berkett. Marian, who was born and raised in Baton Rouge, has dedicated her life to helping others and fighting injustice. While still in college, she was an outspoken critic of Huey Long and his political machine. Through her work with the People’s League, a coalition of young people dedicated to good government, Marian helped Sam Jones defeat Huey’s brother, Earl, in the 1940s governor’s race. Some years later, she successfully campaigned for Hale Boggs, her law school classmate, and he became the youngest elected member of Congress at age 26.

In her third year of law school, Marian was offered a job as a legal secretary — the kind of job women legal graduates were offered back then. But she was determined to practice law. Without an appointment (and without ever having met him), Marian went to see Eberhard Deutsch, one of New Orleans’ most prestigious lawyers, to ask for a job. He was impressed with her book on Louisiana workers’ compensation law, published before she graduated from law school, and hired her on the spot. Marian credits Mr. Deutsch with starting her career as a successful trial lawyer at a time when few women were arguing cases in court.

While in law school and afterwards, Marian loved to go ballroom dancing. On Saturday nights, she and a fellow law student went dancing at the New Orleans Country Club, but there were also many places in the French Quarter where students and young professionals could go to dance. Thanks to a cousin from Memphis, Marian had beautiful ballroom dresses to wear and, some would say, she was the best-dressed woman on the dance floor.

During WWII, Marian married George Berkett, an orthopedic surgeon from Canada. She used all of her war rations for sugar to bake their wedding cake. But it toppled over in her car on the way to the wedding. Coming to the rescue, her sister used her sugar rations to repair the cake in time for the wedding.

Marian was also an avid tennis player and the ladies champion of Baton Rouge. But after her marriage, she found herself on the golf course with her husband, who preferred to play golf. It was not until later that he learned to play tennis. She played into her late 90s and earned a tennis ranking in Louisiana.

Until the late 1950s, most lawyers were general practitioners in all areas of the law (except those specializing in criminal law) and charged flat-rate legal fees. Marian thinks
specialization has some advantages but that a broad knowledge of the law and its origins is essential to being a good lawyer, and that hourly billing is bad for the legal profession. 

Although most lawyers play by the rules, Marian recalls one who failed to do so and had to sell his law library. A horde of lawyers descended upon his office to buy books at firesale prices. Two Supreme Court librarians purchased several risqué books, but none could ever be found in the Supreme Court library.

Marian is now 103 years old. Although she has given up dancing and active sports, she exercises by taking walks in the garden of her condo and through its long corridors. During the hurricane season, she escapes to Bronxville, a suburban village in Westchester County, New York. She is an avid reader and is particularly fond of history, biography and archaeology.

Marian’s father lived to be 90 years old and she thinks that he may be the secret of her longevity. That, and the good fortune to have a wonderful legal career and a husband who traveled with her all over the world, including to such remote places as Tibet and Antarctica. Her goal now is simply to live peacefully and be with friends.

Marian Mayer Berkett is the kind of lawyer we should all be: true to oneself, dedicated to clients, and willing to take on very difficult, and sometimes unpopular, cases. A living legend, she is a shining example of professionalism in the law and an inspiration to all lawyers.

FOOTNOTES

1. Marian graduated from Tulane Law School in 1937 and has been a partner in the New Orleans law firm of Deutsch Kerrigan for more than 75 years. She is the 10th woman to be admitted to the Louisiana Bar in the history of the state.

2. Marian’s mother played a vital part in helping victims of the Great Flood of 1907. Among other accomplishments, she also translated a French textbook into braille for a blind student.

3. At the time, and for many years afterward, most women practiced law with their fathers or husbands.

4. Sugar was the first food item to be rationed during WWII.

5. A 1957 survey showed that dentists were making more money than lawyers. The ABA endorsed hourly legal fees as the “solution.” However, a return to flat-rate legal fees is now underway as lawyers compete for legal work in a world market governed by the Internet.

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Photo: Marian Mayer Berkett
Photo courtesy of the Louisiana Bar Journal.
After nearly 45 years as a lawyer, 30 of them as a judge, I have gained some insights from experience and observations into human nature and its intersection with the law and the profession of lawyer. They are, among others, as follows:

• Litigants and lawyers should mind the warning of Mark Twain: Never tell fish stories where people know about fishing; but, more importantly, never tell fish stories where people know the fish.

• The egg came first. What laid the egg was not a chicken; what emerged from the egg was.

• In 1992, having been on the trial bench for about six years, one of my colleagues remarked: “Max, you have only one fault. When a lawyer acts like a jackass in front of you, you take it personally. You shouldn’t. Ten percent of the lawyers are jackasses and they are that way with everyone.” My response to him, being smart-alecky, was: “You’re absolutely wrong. It’s at least 50 percent.”

• Thirty-seven and six tenths percent of all statistics are made up on the spot. However, when dealing with expert witnesses, it’s sixty-one and three tenths percent.

• Young lawyers cannot write the English language correctly or punctuate with any consistency. Old lawyers are not much better. This reminds me of what Danish writer Piet Hein once wrote:

Why do bad writers win the fight?
Why do good writers die in need?
Because the bad writers who can’t write
Are read by readers who can’t read.

• Sleazy clients are adept at finding sleazy lawyers to represent them. Nice clients are adept at finding nice lawyers to represent them. And vice versa.

• The simpler the issue before the court, the longer it takes for the lawyer to explain the issue . . . and the longer it takes for the judge to understand it.

• A judge’s cynicism is directly proportional to a litigant’s illogical explanation of why he is not at fault.

• Greed is universal. Think Powerball tickets!
• A party’s truthfulness is directly proportional to the version of the facts found to be accurate by the trier of fact, except when a hometown decision is likely to occur.

• Juries come up with rational conclusions even though they have no idea of what the law is, regardless of how many times the judge or the lawyers explain the law to them.

• The shortest distance between two points is normally closed for construction.

• All judges suffer from PDS (prima donna syndrome). Many also suffer from “robe-itis.”

• An open mouth gathers many feet.

• Rumors about my colleagues on the trial bench were confirmed when I read the transcripts of their trials. Ergo, rumors about me on the trial bench were probably true.

• When the Supreme Court reverses me, it does not mean I was wrong. Only that we have a difference of opinion. It follows that I am never wrong until a higher court says so.

• Persons charged with cruelty to animals are always found guilty. So why don’t they just plead guilty?

• Plaintiffs frequently want more money for their injuries than their claims are worth. Lawyers tend to overvalue their cases.

• Defense lawyers with unlimited time for discovery and unlimited financial resources will learn more about the facts of a case than a satyr married to a nymphomaniac will learn about his partner’s sexual preferences after 40 years.

• Defense lawyers are excellent at churning butter by hand because they’ve been doing the same with billable hours for years.

• Two plus two equals anything you want it to if you’re willing to pay your lawyer enough to try and obtain the result you want.

• A lawsuit will get you a resolution of a case. Hopefully, the result will be based on the facts and the law, rather than the prejudices of the trier of fact. In other words: He who seeks justice should not look to the courts for it; he will, however, get a result there, possibly within his lifetime and at a reasonable cost.

• Professionalism and courtesy are, for the most part, dead. It is a useless subject to lecture upon.

• Over the years, the profession of lawyer ceased being a profession and became a business.

• Where there’s smoke, there’s usually fire. That is what circumstantial evidence is all about.

• Judges should visit the restroom before beginning a trial. Lawyers should do likewise.
• Oral argument in an appellate court is a waste of time. The record and the law say what they say or do not. A lawyer once changed my mind during oral argument, until I discovered that I was right in the first place, after reading the record.

• A bad settlement is better than no settlement. And the judge is always happier regardless of what the settlement is.

• There are some dumb criminals. There are also some dumb law enforcement personnel.

• Police officers would rather lie than say they don’t remember.

• Eyewitness identification gets hazier from a distance and clearer over time.

• Would you really want to be treated by a physician who spends a lot of time in depositions or court?

• Criminal prosecutions are stacked against the defendant. This is not necessarily bad, but it isn’t necessarily good, either.

• Judges put on their clothes the same way everyone else does, with the possible exception of lawyers.

• A cynic is a frustrated idealist. A curmudgeon is just a curmudgeon, but rightfully so because of his experience.

• As Woody Allen said in *Annie Hall*, “I heard that Commentary and Dissent had merged and formed Dysentery.”

• The real facts and law in a brief (or opinion) are found in the footnotes.

• Dictum is bad, except when it is good.

• God bless the client who knows he is right. It makes it easier for a psychiatrist to diagnose him as a narcissist.

• “If no thought your mind does visit, make your speech not too explicit.” (Another saying of Piet Hein.)

• No complex society can function without law or lawyers. And it would not be fun to try to do so. (Think of the French Revolution.)

• If you cannot laugh at yourself, the law or lawyers, you probably are a lawyer.

• Lawyering is the oldest profession, as confirmed in the Book of Genesis: “In the beginning the world became chaos.”

• Trying to find a lawyer on a Friday afternoon is less difficult than trying to find a judge at that time of day.
• Lawyers owe a duty of truth to the court. The court does not necessarily owe a duty of truth to the lawyer; otherwise, the judge would never have time to go fishing or play golf.

• When it rains, the clerk’s office is mostly empty.

• Emails are not a substitute for snail mail. And, no, one does not have to respond to an email immediately. However, if you want to communicate with your kids, try texting.

• As Chief Justice John Marshall once said: “The acme of judicial distinction means the ability to look a lawyer straight in the eye for two hours and not hear a damned word he says.”

If you don’t like my comments, get over it. I am relatively normal for a person who grew up in the Roosevelt Hotel of New Orleans.

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Memories that Define Who We Are
By Ben R. Hanchey

Memories are not only windows to the past. They also define who we are, and why we are who we are. It is pleasant to remember and relive the things that gave us pleasure. The stories our parents told us, like how they walked uphill to school in the snow, carrying their lunch in syrup cans, or rode in horse-drawn carriages.

I was born in Lake Charles in 1945, after WWII ended in Europe but was still being waged in the Pacific. I lived downtown until third grade, when my parents purchased their first house. It was located along Contraband Bayou, named after pirate John Lafitte who reportedly hid his contraband somewhere along the shores of the bayou.

I used to go to the “picture show” with my brother, Bob, to see the latest Roy Rogers or Lash LaRue film, preceded by a reel of serials and cartoons. It cost us each 25 cents for a movie ticket and treats. Walking to the theater one day, I saw a beautiful Bowie knife in a pawn shop window. I wanted it badly but it cost Ten Dollars, more money than I had ever known. Mercifully, the pawn shop owner let me buy it on installments. I sold soda bottles for a penny each, raked leaves and did odd jobs. After over a year’s time, I was able to acquire the Bowie knife, which became one of my most treasured possessions. Getting that knife taught me that one could get many things through hard work and perseverance. I still have it and it sparks memories.

Every now and then, my mother would give me a nickel to ride the bus downtown. I noticed the “Whites” and “Colored” signs on the bus and asked my father why they were there. He told me some white folks thought they were better than blacks, but that their beliefs were based on ignorance and prejudice. This awakened me to the fact that our society was segregated by race in virtually every aspect of our lives. People of color went to separate schools, used separate restrooms, ate at separate lunch counters and swam in separate swimming pools. I thank my parents for teaching their children that all people, white and black, rich or poor, are equal human beings.

When we lived on Contraband Bayou, I went gar fishing and my brothers and I built a raft. We took the raft on its maiden voyage on a day we were supposed to be in school. My BB gun and dog Buck were frequent companions wherever I ventured. Using salvage lumber from an old house, my family built a camp on Whiskey Chitto Creek, the “Hanchey Camp,” where I learned to trap for small animals. By the time I was 12, my parents allowed me to go to the camp with a friend and my dog, a freedom that regrettably is no longer available to children today. But I am pleased to say that the Hanchey Camp is still in the family, a place where my children and grandchildren swim and fish, hunt and go canoeing on the creek.
Hunting and fishing have been a big part of my life. When I was a kid, I followed my father and his two bird dogs to go hunting for quail and woodcock. Duck hunting later became, and still is, my passion, but advancing age has slowed me down quite a bit. Those wonderful days of hunting with my father and brother, or with friends, are the kind of memories that stay with you for life.

I attended college at Louisiana Tech in Ruston, La., a small city in Lincoln Parish, a “dry parish” where the sale of any kind of alcoholic beverages was prohibited by law. But that didn’t stop the beer from flowing at fraternity parties and we had a great time. Remarkably, the undergraduate women were not allowed to wear slacks or shorts on campus, except under a raincoat, and then only on the tennis courts.

After finishing college, I decided I wanted to become a lawyer like my older brother, Jim. My grades weren’t that good but I aced the LSATs and got into LSU Law School in Baton Rouge. Although Jim had his doubts, I took to law school like a fish to water, made good grades and became a successful lawyer. I married after my first year at LSU and, despite our limited school budget, my wife and I took frequent trips to New Orleans. Once there, we could have lots of fun and enjoy a bottle of wine and a loaf of French bread for under $15.

After law school, I joined the Army and then a law firm in north Louisiana. My wife and I settled down and had two children, a girl and boy named after my mother and father. Now we have six grandchildren, Alicia’s children (Peter, Patrick and Libbie) and Clint’s children (Clinton, Bennett and Meredythe). They are the joy of our lives, making new memories for my wife and me, their parents and themselves.

May I suggest that you let your mind wonder as you wander through your memories. And that you share them with your children, just as my parents did with my siblings and me. The practice of law is just one part of our lives. Our memories fill up the entire canvas.

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Find Your Inner Clark Griswold: Take a Real Vacation
By Francis H. (Rasch) Brown III

Ten days of paid vacation per year is fairly standard for American workers. In Europe, 30 days is the norm. The American vacation seems downright uncivilized by comparison. Yet the surprise is not that U.S. workers are offered less time for “holiday,” but that American workers take only slightly more than 50 percent of their eligible vacation time.

You can find lawyers on both sides of almost any political or social issue, but virtually all would agree that a high level of stress is inherent in the legal profession. Taking a real vacation won’t eliminate the stress, of course, but it will provide a needed break from the stress rut. This is one reason I believe the two-week vacation offers significant advantages over taking a few days here and there. With cell phones, emails and texts, lawyers are continuously connected to their colleagues, opponents and clients. Taking a few days from work offers little opportunity to truly disconnect. By the time you reach your destination and unpack — both physically and mentally — it’s time to return. With a two-week vacation, however, those first few days are followed by still others, less tethered to work and office. My general practice is to check emails once, and only once, each day. I find that I can then focus almost exclusively on the history, culture, food and music of the vacation spot and leave the worries of work behind until the return flight or drive home.

There are many reasons that lawyers and others do not use their allocated vacation time. I had lunch recently with a former colleague who has never taken a two-week vacation in almost 35 years of law practice. He and his wife had given some thought about taking a trip to Europe this summer. Neither of them have looked at available flights or even identified where they want to go, however. Unless they soon take action to actually plan a trip, the likelihood is that the summer will pass without the couple leaving New Orleans, much less heading to Europe.

Being overscheduled is a major impediment to a real vacation. Unless you take the time, months in advance, to block out the dates for the vacation and work to protect those dates, your schedule will inevitably fill with trials, hearings, closings or other “can’t miss” events that preclude a vacation. If you say to yourself that you will take the vacation later but take no steps to plan the vacation, the cycle will begin anew with different legal tasks filling the void that would be your vacation.

Still not persuaded? There’s more! In addition to taking a break from keeping the little hamster wheel of billable hours going, several studies have shown that even anticipating a vacation is a mood-booster. A two-week vacation is also a golden opportunity to become closer to your family. In today’s world, children are often as overscheduled as their parents. (I know my daughter has a far more active social life than I do!) A two-week vacation offers the chance for
spouses and children to reconnect and to share sights, scenes and memories that will last a lifetime. It is precisely for this reason that, according to a recent survey, one in five boomers identified not traveling enough as one of their biggest regrets.

Of course, not everything will go as planned. There will inevitably be the missed connection, the luggage the airline misplaces or a rental car flat tire. When the trip is over, you are far more likely to remember the beautiful scenery, activities and culture from your vacation than you are to remember the mishaps. Besides, I have an admittedly dubious authority (okay, just wishful thinking) that if you do think about work while on vacation, you can write the trip off as a business expense!

I have by no means always taken my own advice. In 2015, my vacation consisted of four business days away from work. In 2016, I have made amends and have a two-week vacation planned starting at the end of May. Walley World, here I come!

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My soccer team wore red shirts with a logo of the sponsor on the back, little running billboards for what I believe was a tree service, but don’t hold me to that. The kids were under-8s, although at that age some looked barely out of the crib and others seemed ready to drive a car. What I liked best was our tactics, clustering together in a scrum, a flying wedge, irresistible, and at the far end, they would all pile into the opposing net, sometimes with the ball. I was their coach. I knew nothing about passing. I’d never heard of off-sides.

The fact is I got drafted. I arrived late for the all-important signup day at Carrollton Boosters and the rosters were already filled. The supervisors were gathering up their papers. I pleaded with them. We were new in town. This would mean a lot to my boys, a way of connecting. One of the men hesitated and then said, “Can you coach?” What’s to know, I was thinking, you kicked the ball, right? So I said, “Sure,” and they said we need one for the Killer Bees and I said “we’re on.”

This was the early 1980s. I’d never touched a soccer ball. If soccer games were on television, I never saw one of those either. As it turned out, however, the Killer Bees had a big year. My youngster started out in the goal, moved up to defense, which he loved (“they can’t win if they don’t score,” he would say) and went on to play for a traveling team (along with his older brother), and then for Ben Franklin. Good times, for which I am grateful.

There was something unique about kids’ soccer back then, beginning with the fact that for the games at Carrollton, Lafreniere (a juggernaut at the time), the West Bank, and away in Hammond, Biloxi, the Florida panhandle, nobody had a stadium. They had open fields with parents on the sidelines, lawn chairs, the mothers chatting among themselves, the fathers working the sidelines and barking at the referee and even their own sons as if their lives were on the line, which in some terrible father-son sense they were.

What kept things sane, for me at least, was this low-rise environment. Carrollton baseball had already gone pro, permanent stands, dugouts even, and coaches flashing signs to hit or take . . . to batters 8 and 9 years old. I remember a player on my son’s team stepping out of the box to tap non-existent dirt from his non-existent cleats. Little adults, playing for adult audiences. Soccer, it seemed, was more up to the players themselves than any other team sport I knew. Which felt right.

Along the way, I fell into the game, its constant flow, its improvisation, its adherence to an old-fashioned notion that scores were hard-earned, few, and quite far between. Great plays might not score at all. What a lesson that was. And how easy a game for the players of all ages to put
together. T-shirts could mark the boundary lines. Spare shoes the goals. Any number could play, and did. In every country I’ve visited, all over the world.

Less and less, however, in America. Inevitably, soccer too was going to go pro right down to the early levels of the game. One plus, of course, was that young players acquired coaches who knew what they were doing, and skills that could compete at high levels. The flying scrum of the Killer Bees became a thing of the past. More doubtful was the extent to which the game became adult-driven, organized by, paid for, performed for. Something dropped out. I have difficulty recalling the last time I saw youngsters out on their own playing soccer (or baseball for that matter), just for fun.

All of this came to mind when the ruckus erupted over the Carrollton Booster’s proposal for a new soccer stadium on the Audubon Fly, overlooking the Mississippi River. Big parking, naming rights, everything adults do. The process behind the proposal was dismaying, disclosed in the newspapers as a fait accompli. The location chosen was also dismaying, the last open green in uptown New Orleans with a magnificent horizon, a magnet for families, barbecues, flying Frisbees, and happy dogs. When our parents came to visit, we’d stop here to watch the boats go by. When college kids sortied out for a weekend break, this is where they’d come, too. No fences, no admission. A hard place to lose.

As taken as I am by soccer, it is a relief to see this particular proposal withdrawn. If such a facility is needed, it does not seem insurmountable to find a location more accessible to the wider city, and less damaging to amenities that have largely dropped away. The Killer Bees are no more, its memory rests in peace, but there is surely room for the new world of soccer and the old world of natural space to respect each other. One, fortunately, has multiple venues. The other, these days, has very few.

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