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“Mapping” the Future of JUSTICE FOR ALL

Inside:

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- Introducing the Newest Supreme Court Justices: Justice Piper D. Griffin Sworn in on Jan. 1



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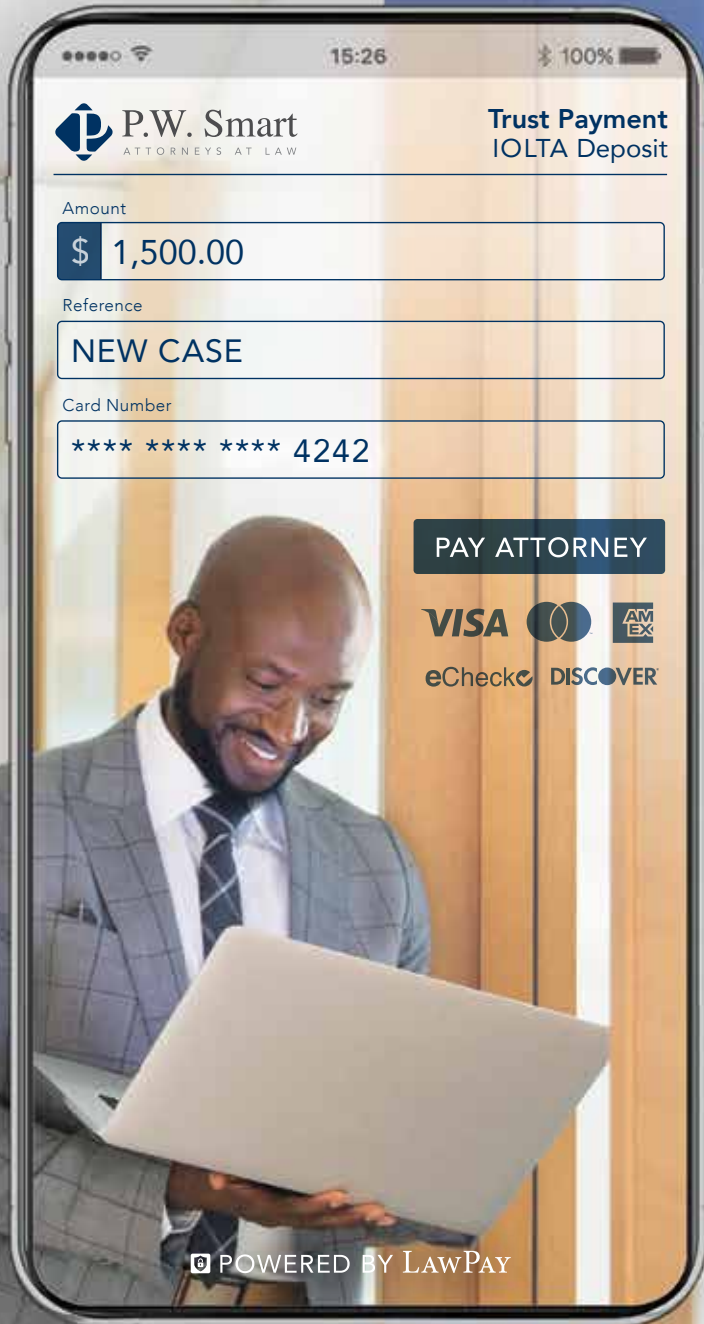
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By Patrick A. Talley, Jr.

Farewell! It Has Been an Honor

My tenure as secretary of the Louisiana State Bar Association (LSBA) and editor of the *Louisiana Bar Journal* is coming to an end. It's been an interesting two years, to say the least, and I have written numerous Editor's Messages during this time — 12, to be exact. Looking back, I said this in my first Editor's Message in Volume 67, No. 1:

As I become the Editor of the Louisiana Bar Journal, the historical significance of this publication and its importance to the law profession in Louisiana are not lost on me. To guide me in this new role, I have the shoulders of 66 volumes of Louisiana Bar Journal editors who have come before me and have made the Journal the quality publication it is today. Plus, I have the advantage of Managing Editor Darlene LaBranche and a professional LSBA communications staff. They are truly the best in the business and deserve all the credit for the success of this Journal.

At first, I was intimidated by the thought of having to write so many articles — what would I say? But then the ideas came. In the 2019 Editor's Messages, I wrote about the history of the *Journal*, the importance of professionalism and collegiality in our profession, and the annual Red Mass in October, sponsored in New Orleans by the St. Thomas More Catholic Lawyers Association.

As 2019 came to an end, and in the beginning of 2020, I looked back on accomplishments and things to be thankful for in 2019. Then, of course, I had to change focus rather quickly in subsequent issues

in 2020 and focus on our “new life” with COVID and the changes it hath wrought.

But I also found subjects to write about in 2020 other than COVID, including the LSBA's access to justice initiatives and the critical need for access to justice for all citizens in Louisiana. I even took on a little controversy in my Editor's Message supporting the Supreme Court's Order which waived the Bar Exam requirement for 2020 law school graduates. I also dedicated an Editor's Message on women in law leadership roles in our state, particularly three fabulous leaders in 2020 — Louisiana Supreme Court Chief Justice Bernette Joshua Johnson, American Bar Association President Judy Perry Martinez and LSBA President Alainna R. Mire.

Finally, I closed out 2020 with a tribute to our colleagues who died during the year. We published all their names, which I thought was only appropriate since COVID did not permit us to have the traditional Memorial Service for them at the Supreme Court.

There were other Editor's Messages as well and I enjoyed writing every one of them, all 12. And now, after two years, I have probably written and said enough, and I'm sure you'll probably agree!

***“Even if the skies turn scarlet and threatening,
If we are lucky enough to be alive,
We must give thanks for the miracle of every
moment of every day,
No matter how flawed.”***

(from Beneath a Scarlet Sky)

So, with this issue, I simply say farewell as your editor. I concluded my first Editor's Message by saying, “As I begin this journey, let me assure you that we will continue to strive to make this the best publication we can, a publication that continues to evolve as our profession evolves . . . a *Journal* of which you can truly be proud.” I think we have accomplished that and, hopefully, we did make you proud. I certainly have been proud to be your editor.

In closing, I leave you with a simple but profound message, one that has become even more important to me as time marches on. Hopefully, you will also find it to be meaningful to you.

***“Even if the skies turn scarlet and threatening,
If we are lucky enough to be alive,
We must give thanks for the miracle of every moment of every day,
No matter how flawed.”***
(from Beneath a Scarlet Sky).

It has been a tremendous honor for me to be editor of the *Louisiana Bar Journal* for the past two years. My best to each of you, my colleagues and friends of the Louisiana Bar, in all your endeavors.

What a Year: Looking Back to Look Forward



By Alainna R. Mire

For this message — my final one as Louisiana State Bar Association (LSBA) president — I want to take a look back before I look forward. When I served as LSBA secretary, I wrote the following message in October 2015. It is still relevant today.

While at a festival with friends, we started to reminisce about our childhoods. This started while at a lounge that served s'mores. While two of us just thought it was neat, our other friend was in heaven. He explained there was a technique to roasting the perfect marshmallow and a certain way to "make" your s'more. Apparently, as a child, someone would make a wood fire in the backyard so they could roast marshmallows and wieners.

After a good dose of laughter, we decided we wanted to experience this now as adults. We are planning an evening that will include roasting marshmallows for s'mores, Frito pies and hot dogs. Because he is our friend, we want to recreate and experience something that was such a positive experience in his life.

The idea of experiencing things as others do or learning about them is what it means to learn about and embrace diversity. Each person has different life experiences that impact who he or she becomes as an adult. These life experiences shape one's core values and beliefs. I am very fortunate to have a diverse family that is open and tolerant towards others. Not everyone is as open-minded and accepting. Some younger adults may think we already live in a society that is accepting of diverse people and cultures, yet older adults may not see it the same way. My parents lived through the civil rights movement as did the parents of others my age. My childhood was more open because of the movement experienced

by my parents. My friends are family by choice so we embrace each other as I was taught to embrace people from different backgrounds and socioeconomic status.

Now, as I near the end of my term as president, I began to think of that message due to the current state of the world today. Instead of embracing diversity in all respects, we appeared to have retreated into ourselves and blamed it on any number of factors, such as political party, gender, place of birth, ethnicity and even socioeconomic status.

But there is a positive. I had the opportunity to speak at the Investiture of Louisiana Supreme Court Chief Justice John L. Weimer on Jan. 7, 2021, the day after what I believe was an attack on democracy and the three branches of government. The significance of Jan. 6, 2021, stood in stark contrast to the celebration I was attending in honor of Chief Justice Weimer. All three branches of Louisiana government were represented during the ceremony, something you often don't see.

So, where have we been this year? It is very much an understatement to simply say this past year was "challenging." It was definitely that, but there were some bright moments, too.

As mentioned above, we celebrated the outgoing and incoming leadership of our Louisiana Supreme Court, as well as installing our two newest Justices. (Read the profiles of Justice Jay B. McCallum and Justice Piper D. Griffin in this issue of the *Journal*.)

Also this past year, we were able to make progress with our grand themes of diversity and, particularly, access to justice. (In this issue of the *Journal*, read the article, co-authored by Judge Lisa M. Woodruff-White and me, on "Mapping the Future of Justice

for All: Using the Geographic Information Systems Visual Mapping Tool," a project coordinated through the Louisiana Access to Justice Commission.)

In our August/September 2020 issue of the *Journal*, we celebrated the 100th anniversary of the passage of the 19th Amendment and recognized the leadership achievements of several LSBA women members. I was fortunate to assist in two CLEs commemorating this amazing time in American history. In 2020-21, I was able to join Judy Perry Martinez (American Bar Association president, 2019-2020), Louisiana Supreme Court Chief Justice (Ret.) Bernette Joshua Johnson and Vice President Kamala Harris as a female leader during a time of uncertainty in all of our lives. I was honored to serve alongside such amazing women.

It may not have been the year any of us wanted, but the Bar leadership and Bar members rallied to the challenge and managed to keep the day-to-day business of the Bar going, even though it was sometimes by "virtual/Zoom" means.

Our Bar had to rethink, retool and reassess some of our programming. Technology came into its full potential this past year and was the way we bridged the gap between all members.

In closing, I want to congratulate all LSBA members who volunteered their time and talent this past year to accelerate our programs and projects. I want to wish the best of luck to our new LSBA leadership taking over in June, headed by our incoming President H. Minor Pipes III.

As I mentioned in an earlier message, I thought that the vision I had for 2020 wouldn't be manifested, but I was wrong. Sometimes the vision that we have is not big enough so the universe expands it. Take care!

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Introducing the Newest Supreme Court Justices: Chatting with Justice Jay B. McCallum

Interviewed by C.A. (Hap) Martin III



Louisiana Supreme Court Justice Jay Bowen McCallum. Photo provided by the Louisiana Supreme Court.

Justice Jay Bowen McCallum took his seat on the Louisiana Supreme Court bench on Nov. 13, 2020. A lifelong resident of Union Parish, Justice McCallum was born and raised near Bernice, La., in the Pisgah Baptist Church community, which as he said “shaped much of his life.” He was the first person in his family to obtain a college education and, after graduating from Louisiana State University Paul M. Hebert Law Center in 1985, he started his law career in Union Parish.

Subsequently, he served for 11 years in the Louisiana Legislature. He was elected as judge for the 3rd Judicial District, serving Union and Lincoln parishes, and served in that capacity for 15 years. In 2018, he was elected, without opposition, to the 2nd Circuit Court of Appeal. He was then elected to represent District Four of the Louisiana Supreme Court, the largest geographic district of the Louisiana Supreme Court, serving the largest number of parishes in the state.

Justice McCallum and his wife, Deanna Dunham McCallum, also an attorney, have two children, a son and a daughter, and one grandson.

Martin: From your biography on the Louisiana Supreme Court website, from which I stole a lot of information, it indicated that you were the first person in your family to go to college.

McCallum: I was the first person in my family to get a college education, much less go to law school.

Martin: Well, that was going to be my next question. What got you to go beyond college to law school?

McCallum: I grew up working in the hayfield and my grandfather was not a very well-educated man. He had to drop out of school at the fourth grade because both his parents had died early in the Depression. He had seen lawyers on TV, I suppose, and he just thought that sounded like a good way to make a living and not have to work out in the hayfield and having an air conditioner. That piqued my interest and again he couldn't tell me exactly what he

thought a lawyer did but he thought it was a commendable profession. He had great respect for the profession of law and I think the public in general back then did and so he thought that would be a respectable career to follow. That got me interested and the more I found out about it the more I thought, that is something I want to do. Again, with my background, I thought it was a herculean task to undertake and to be able to do it.

Martin: Did you like law school?

McCallum: I did. I loved law school. I enjoyed college as well as law school, but I think a lot of that had to do with growing up working. I didn't have to work in a hayfield in college or law school so I thought it was great. It sure was a lot easier than putting shingles on a roof in August. I worked my way through college, and then clerkships and all when I was in law school. But again, that was better than what I had grown up doing.

Martin: Now, you went first into private practice?

McCallum: I did.

Martin: And later your wife became a lawyer as well?

McCallum: That is correct.

Martin: And she joined you in your practice?

McCallum: I had been practicing law for about three years when my wife asked me what I thought about her going to law school. I said, if that's what you want to do, then that's what you need to do. I don't want to be the one to keep you from that, so I will support you. She got her law degree and has a private practice now and also works as an assistant district attorney for the 3rd Judicial District Court.

Martin: I've got to ask, does being a Justice on the Supreme Court help you win any more arguments at home now?

McCallum: I don't win any more at home. I will tell you that if your wife is an assistant district attorney that trumps being a Justice on the Supreme Court.

Martin: What made you want to be a judge?

McCallum: It has been an interesting progression in my life. I have found that, even without great long-term planning, God has opened doors for me to step through where I didn't even realize doors existed. I didn't know I was going to run for state representative until a month before qualifying opened up for that job. The Legislature under Governor Roemer that year had done reapportionment in a special session and didn't complete its work until the end of June. We looked at the new district they had drawn for Union Parish and it looked like something we could have a valid chance of winning. So we did that and won. There was a third seat created on the 3rd Judicial District Court after I had been in the Legislature for 11 years and it did not appear that was going to happen. But then it did in kind of a sudden way, so I ran for that seat. The 2nd Circuit and Supreme Court, in succession, were just as much things that happened without much long-term planning. You can't plan on a judge or a justice retiring, which is exactly what happened on the 2nd Circuit and the Supreme Court, so it opened up those seats and the opportunities were there.

Martin: Was there anybody in particular that you looked to as a mentor with your judicial career?

McCallum: James Dozier was a judge on the 3rd Judicial District Court for a number of years. He and I were close and he was a great source of information and inspiration to me and helped me out in a lot of areas in my life. Theologically, he was a great help to me in my Christian beliefs, but also obviously as far as the role and function of being a judge and how to perform that office with dignity and with professionalism. Judge Dozier had a great respect for the law and had a great respect for the judiciary. It was important to him that we conduct matters in a dignified and professional type of way and he really impressed that upon me. He helped with the wording and how I would say things in court when I received a jury verdict.

Think about what's going on when you have a jury return a verdict. That's a really significant event in the lives of the people who are parties to that suit and a lot of times even beyond the people who are in the courtroom. You want to make sure that what you do gives the impression that things are being handled professionally and are being handled correctly. How you approach your job of being a judge helps send that signal. We are communicating as we go about doing our jobs as judges and we need to remember that the public is reading us. They are looking at us and the communication is not just verbal. It's also nonverbal. We need to uphold the dignity and respect that people have for our judicial system. It's critically important that we continue to be able to resolve our disputes in the courtroom rather than outside. Judge Dozier was instrumental in helping me understand that how we do our job and how we are perceived in doing our job is really important in maintaining the public's confidence and trust in the judicial system.

Martin: Now, you've been on the bench with the Supreme Court for a short time.

McCallum: That's correct. I took my oath of office and began Nov. 13, which was a Friday the 13th. I'm glad I'm not superstitious.

Martin: Has there been anything since you've been on the bench that surprised you?

McCallum: Yes, and I don't have to hesitate to answer that question. The number of disciplinary problems we are having to deal with, both in the legal profession, but also in the judiciary. I did not realize the volume of issues that we had in the state until I got on the Supreme Court.

Martin: Outside of the legal world, do you have any particular interests?

McCallum: My wife and I have two children. My son John has graduated from college and has a career in research and development for a company that develops video games. My daughter is a sophomore at LSU. So until they left the house, my hobbies and extracurricular activities revolved around them. Whatever they were interested in was a matter of great importance to me and my wife, so that's what we did. I like to hunt, but mainly I get to turkey hunt now more than anything else. I like to garden, but I don't vegetable garden so much as I garden for wild life — butterfly garden, for the birds and that sort of thing. I enjoy that a lot.

Martin: One of the things that I always noticed, when I practiced in front of you, was that you were a pretty dapper dresser. One thing in particular was that you usually wear a bowtie. How did that come to be?

McCallum: I'm that first person in my family, as I mentioned, to ever go to college, much less law school. The McCallums were not a very prolific bunch; there weren't many of us in

Union Parish or anywhere else. I told my wife when we got ready to come back to Farmerville to start practicing law, I said, you know, nobody knows who I am. They're not going to know my name, but they may remember that guy who wears a bowtie. So I started wearing a bowtie because it was a marketing device. I decided that if I was going to wear a bowtie, I didn't want a clip-on. I wanted to tie my own. So I went to the trouble of learning how to do that. Now, if I ever wear a straight tie, people get on me and demand that I go back to the other, so that's about all I own anymore. The other thing is, it does have the practical aspect of not getting in your soup or flying around so much. So that's always beneficial.

Martin: I appreciate the time that you've spent with us and good luck.

McCallum: Oh, my goodness, I enjoyed it! I appreciate your interest. Thank you for asking.

C.A. (Hap) Martin III is a member in the Monroe law firm of Shotwell, Brown & Sperry, APLC. He served as the Seventh District representative on the Louisiana State Bar Association's (LSBA) Board of Governors from 2015-18. He currently serves on the Judges and Lawyers Assistance Program Board and the Louisiana Bar Journal's Editorial Board. He will be sworn in as the next LSBA secretary and Journal editor in June 2021. (camiii@centurytel.net; 1101 Royal Ave., Monroe, LA 71201)



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Introducing the Newest Supreme Court Justices: Justice Piper D. Griffin Sworn In on Jan. 1

By Judge Tiffany G. Chase and Judge Karelia R. Stewart



Louisiana Supreme Court Justice Piper D. Griffin. *Photo provided by the Louisiana Supreme Court.*

On the morning of Nov. 3, 2020, when most candidates were casting their votes and preparing for a last-ditch effort of campaigning, Louisiana Supreme Court Justice Piper D. Griffin was baking her famous pound cake and brownies — in some instances, even delivering them to her dedicated campaign volunteers. You need only meet Justice Griffin once to immediately recognize her selflessness, dedication, generosity and compassion for the community she serves. Couple these personal characteristics with her effective leadership skills, love for the law, scholarship and analytical prowess and you have Piper D. Griffin, a jurist who has prepared and is ready to serve as the third African-American justice on the Louisiana Supreme Court.

A lifelong resident of New Orleans, Justice Griffin graduated from Xavier Preparatory High School in 1980 and the University of Notre Dame with a BA degree in 1984. Upon graduation from Notre Dame, she received the Leonard A. Collins Honorary Award in recognition of her contributions to student life, including her many volunteer and leadership roles at the university. In 1997, she was recognized as one of the 50 most distinguished African-American graduates in the history of the University of Notre Dame.

Justice Griffin returned to Louisiana and graduated from Louisiana State University Paul M. Hebert Law Center in 1987. She credits her return to her friend, Irma Dixon, who encouraged her, observing that Louisiana's best and brightest were not returning, thus creating a "brain drain" in the state. For 15 years, Justice Griffin practiced in the area of civil litigation, handling a plethora of complex casualty litigation cases in both state and federal courts. She was the first African-American female Louisiana Bar examiner, writing the Constitutional Law Bar Exam for 10 years.

In 2001, she was elected to the Orleans Parish Civil District Court and served with honor and distinction for nearly 20 years. During her tenure, she was unanimously elected by her peers to serve



Louisiana Supreme Court Justice Piper D. Griffin, fifth from left, was sworn in on Jan. 1 by Judge Tiffany G. Chase, far right. Attending the installation were, from left, Kaci Griffin, Keenan Fortenberry, Lisa Griffin, Betty Griffin, Justice Griffin, Cleo Brumfield, Jr. and Judge Chase.

as chief judge. Her extensive experience as a trial judge has afforded her keen insight into effectively interpreting legal policies and understanding how people are impacted by verdicts rendered. When asked "why" she wanted to be a justice on the Supreme Court, Justice Griffin's response, consistent with her core values, was, "I want to continue to serve the community that nurtured and afforded me the opportunity to uphold justice."

Justice Griffin has served in various leadership positions throughout her tenure in the judiciary. She served as president of the Louisiana Judicial Council of the National Bar Association, as well as president of the 4th and 5th Circuit Judges Association and second vice president of the Louisiana District Judges' Association. She has been actively involved with the Louisiana Judicial Council Foundation; served on the Greater New Orleans Louis A. Martinet Legal Society, Inc. Scholarship

Committee and the Louisiana Bar Foundation Board.

Additionally, and more germane to her role on the Supreme Court, Justice Griffin served on the board of the Louisiana State Law Institute and supplied her valuable insight on several Supreme Court committees, including the Committee on Bar Admissions Testing, Budgetary Control Board and the Committee on Judicial Ethics.

Never one to seek personal recognition for her deeds, nonetheless, Justice Griffin has received several honors from numerous organizations in recognition of her achievements. Specifically, she has received the Louis A. Martinet Lifetime Achievement Award, the National Bar Association Judicial Council's Sarah T. Harper Humanitarian Award, the Ernest N. Morial Judicial Pacesetter Award and, in 2020, the Thomas Jefferson Justice by the People Award from the American Board of Trial Advocates.

It is not the judicial accolades that define our newest Supreme Court justice. It is her humble beginnings, commitment to her community and dedication to uplifting others.

Justice Griffin's biggest influencer is her mother, Betty Griffin, who raised her and her sister, Lisa Griffin, as a single parent. When asked about her proudest accomplishment, Justice Griffin replied: "Personally, I am very proud of having served as a foster parent, the work I did with five other graduates to help my high school, Xavier Prep, stay open, as well as the mentoring I have done with high school, college and law school students. When I see the children that I have mentored achieve success, I am humbled and grateful for my role in giving them the opportunity to obtain an education. I thank God that I was able to help."

The common and quintessential theme that is embedded in her answer: uplifting others and giving a voice to those who are underrepresented. As a jurist, she offers a

depth of warmth and kindness grounded in analytical rigor. She cares about the judiciary and wants lawyers and judges to work towards justice and fairness. Justice Griffin will provide the diligence to master complex and competing issues, and a moral compass to make sure the system works for all. This is exactly what the judiciary needs.

The Brennan Center for Justice released an updated report in February 2020 which detailed vast racial, ethnic and gender disparities on state high courts across the country. Similar to other states, the diversity on Louisiana's highest court is disproportionate to Louisiana's racial demographics. Diversity is not just about gender or race but instead focuses on bringing different perspectives and ideas.

Justice Griffin became a member of Louisiana's highest Court on Jan. 1, 2021, in the midst of a worldwide pandemic, unprecedented political polarization and embattled debates of social injustice. This biographical information reveals that

Justice Griffin will undoubtedly be an asset to our judiciary. She brings her vast experiences, passion for justice, strong work ethic, scholarship and compassion.

In giving advice, Justice Griffin often says, "You have to be at the table" to effectuate change. Our judiciary, our state, is better knowing that she is at the table.

Judge Tiffany Gautier Chase has served on the Louisiana 4th Circuit Court of Appeal bench since 2017. Previously, she served on the Orleans Parish Civil District Court bench from 2007-17. (410 Royal St., New Orleans, LA 70130)



Judge Karelia Rachelle Stewart has served on the 1st Judicial District Court bench for Caddo Parish since 2014. (Ste. 300-D, 501 Texas St., Shreveport, LA 71101)



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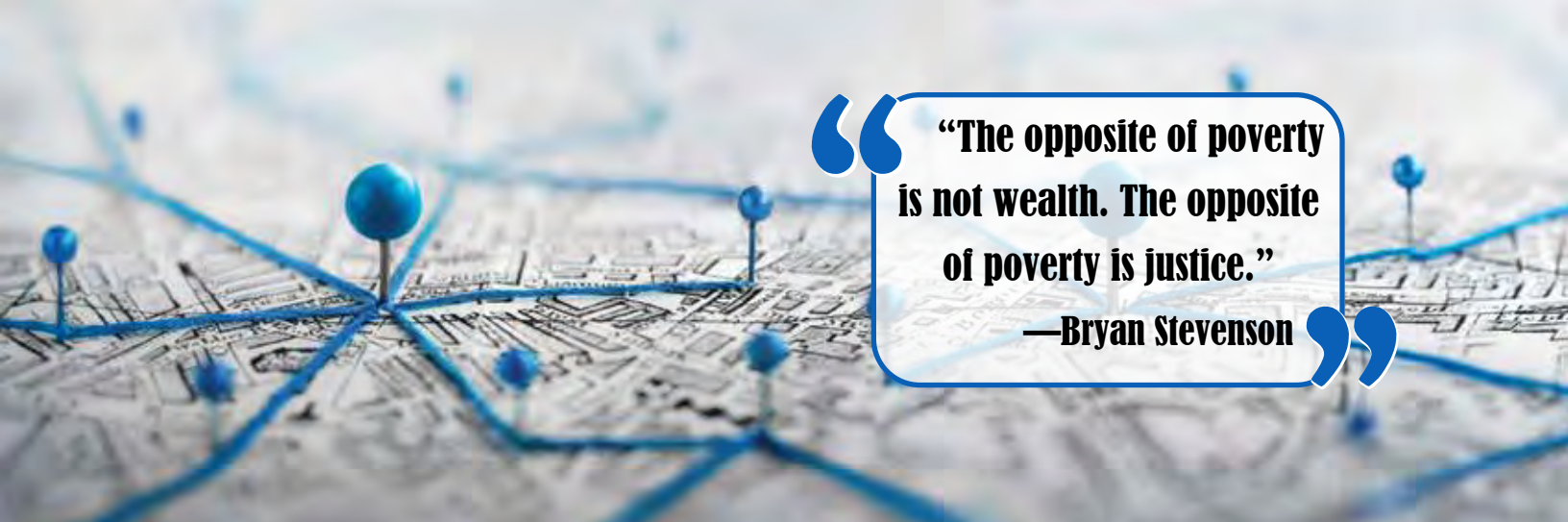


“Mapping” the Future of JUSTICE FOR ALL:

Using Geographic Information Systems

By Alainna R. Mire and Judge Lisa M. Woodruff-White

“The test of our progress is not whether we add more to the abundance of those who have much. It is whether we provide enough for those who have little.”
—Franklin D. Roosevelt”



**“The opposite of poverty
is not wealth. The opposite
of poverty is justice.”**

—Bryan Stevenson

The notion that civil equal justice is critical to the proper functioning of our democracy was the foundation for the formation of the Louisiana Access to Justice (ATJ) Commission.¹ Providing effective and economical civil legal service delivery for low- and moderate-income citizens of Louisiana can have a significant impact on individuals and our communities. Especially in times of crisis, civil legal aid stabilizes individuals, families and entire communities by improving economic security and increasing access to basic necessities like housing, healthcare, government benefits and disaster services. Applying resources to accomplish our goal of equal access to justice for all requires an understanding of the community’s needs, where resources are located, and what challenges lie ahead.

In the fall of 2019, the National Center for State Courts awarded the Louisiana ATJ Commission a Justice for All (JFA) grant. At its core, the JFA initiative is a commitment to ensuring meaningful access to justice for all,² accomplished by “[m]aking America’s justice system more responsive to people’s everyday civil legal needs through innovation, collaboration, and support of statewide efforts.”³ During the first phase of the JFA project, the ATJ Commission

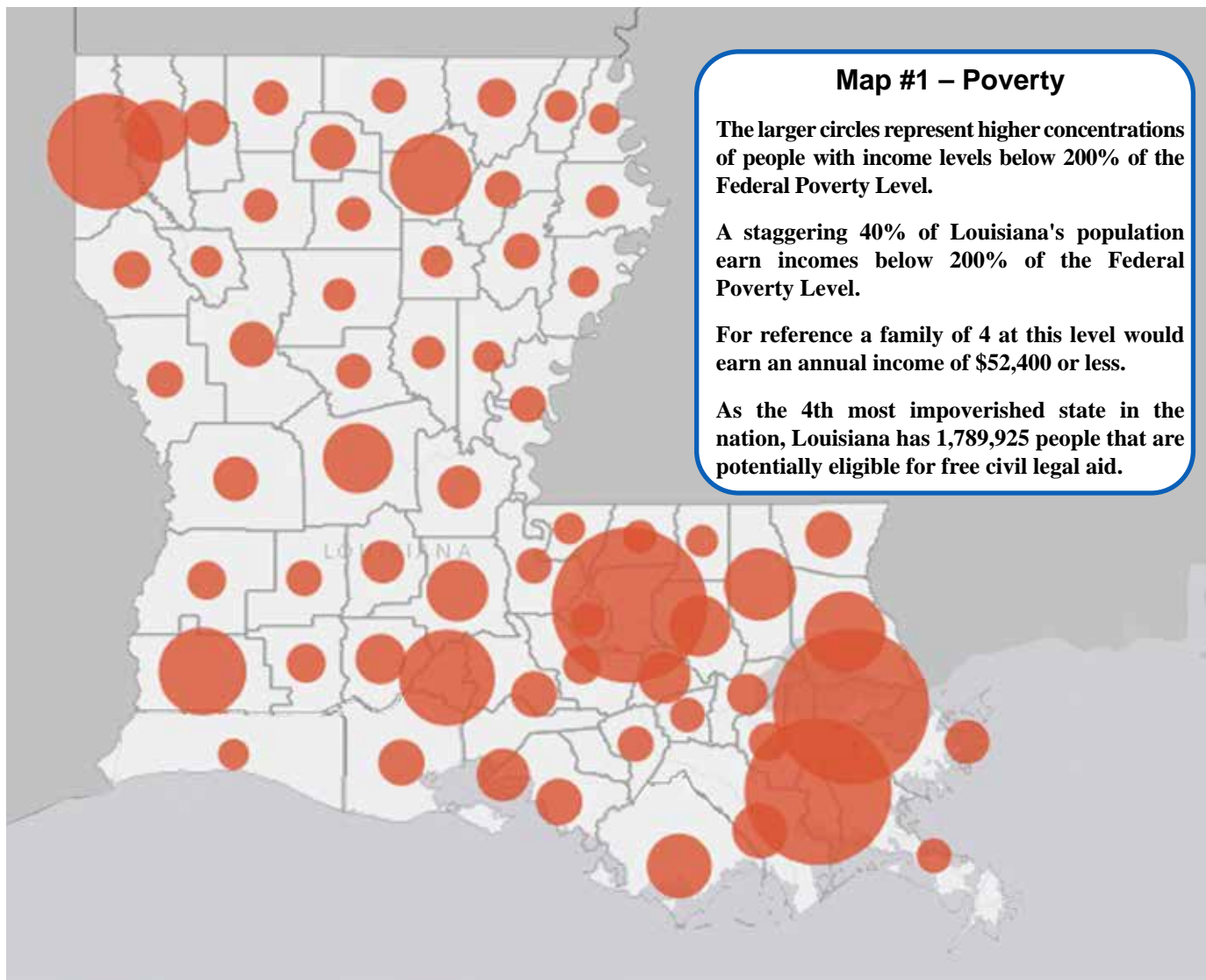
organized an in-depth study to understand the legal needs of the community. The study involved assessing current legal resources available in Louisiana, ascertaining where those resources are located, and identifying challenges to access legal help as well as opportunities for growth.

Like virtually every aspect of 2020, the assessment stage of the JFA project was filled with unexpected turns and challenges. COVID-19 caused the cancellation of multiple in-person community listening sessions throughout the state, and all stakeholder meetings were moved online. The pandemic, however, provided the ATJ Commission with the opportunity to take the data collected and use a powerful new Geographic Information Systems (GIS) visual mapping tool to demonstrate the layered barriers in Louisiana.

What Are GIS Maps?

GIS maps display data in a visual format by combining a database with spatial or geographic information.⁴ By plotting this information on top of a map, a visual story comes to life and becomes a powerful tool in understanding complex patterns and relationships that exist geographically and may not be otherwise obvious.

With the help of a cartographer from the Self-Represented Litigants’ Network, Lagniappe Law Lab, and the 2020 ATJ Developing Leadership Interns, the ATJ Commission mapped comprehensive data collected during the JFA project using GIS technology. Using this framework, the ATJ Commission compiled parish-specific maps illustrating the current state of access to justice efforts and information about Louisiana’s population. These maps created a story detailing the many challenges Louisianans face when accessing civil justice throughout the state, such as poverty, long travel distances to civil legal aid resources, and lack of internet access. Although the stories vary parish-to-parish because each area is affected differently, the overall effects on the state are readily apparent.



Map #1 – Poverty

The larger circles represent higher concentrations of people with income levels below 200% of the Federal Poverty Level.

A staggering 40% of Louisiana's population earn incomes below 200% of the Federal Poverty Level.

For reference a family of 4 at this level would earn an annual income of \$52,400 or less.

As the 4th most impoverished state in the nation, Louisiana has 1,789,925 people that are potentially eligible for free civil legal aid.

Map #1 — Poverty

The first map depicts the stark realities of poverty in Louisiana — a staggering 40% of Louisiana's population earns below 200% of the Federal Poverty Level (FPL) and are potentially eligible for civil legal aid. Generally, to be eligible for civil legal aid, a person must be within 125% of the federal poverty guidelines. In some circumstances, however, families may earn up to 200% of the FPL. An annual income for a family of four would be \$52,400 at this level. The larger circles in this map represent higher concentrations of people with income levels below 200% FPL.

With one of the highest poverty rates in the country, Louisiana's citizens face monumental challenges in accessing the civil justice system. From hiring an attorney to paying significant filing fees, those living in poverty struggle to address their civil legal issues.

“If indigent people can't effectively access the courts, they lose the ability to protect their vital interests such as housing, employment, health insurance and parental rights.”

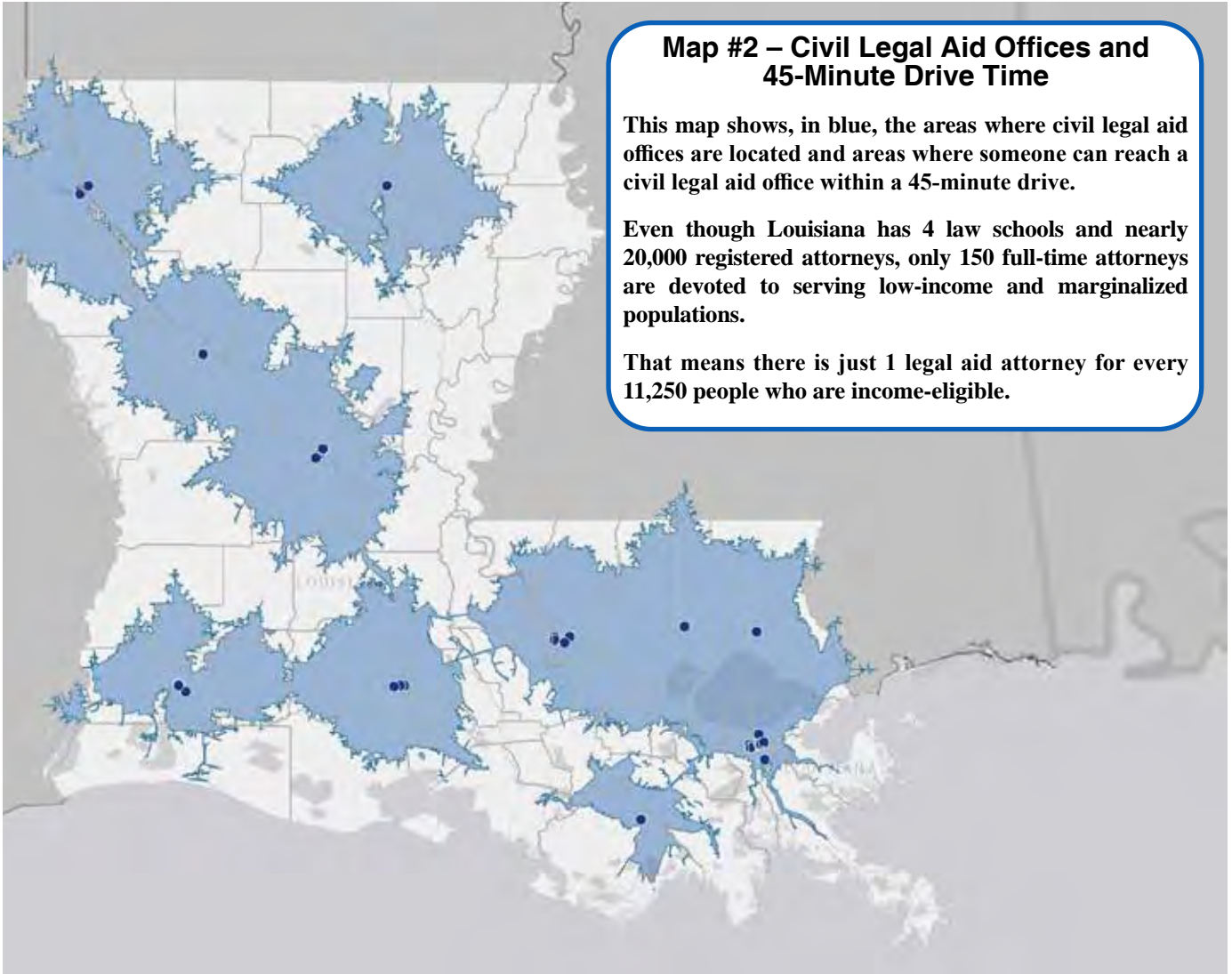
—Jim Sandman, former president of the Legal Service Corp., a national nonprofit that provides funding for civil legal aid.

Map #2 – Civil Legal Aid Offices and 45-Minute Drive Time

This map shows, in blue, the areas where civil legal aid offices are located and areas where someone can reach a civil legal aid office within a 45-minute drive.

Even though Louisiana has 4 law schools and nearly 20,000 registered attorneys, only 150 full-time attorneys are devoted to serving low-income and marginalized populations.

That means there is just 1 legal aid attorney for every 11,250 people who are income-eligible.



Map #2 — Distances to Civil Legal Aid Offices

Louisiana has a network of civil legal service providers that cover every parish in the state. Civil legal aid specifically refers to legal assistance provided by one of the Legal Service Corp. programs, pro bono or nonprofit programs providing legal services to low-income people. Unlike criminal cases, in civil matters, a person generally does not have a right to an attorney. They must either hire an attorney, get help from a legal aid organization, represent themselves, or not access the legal system altogether. Resolving civil legal problems helps families access basic necessities, such as housing, healthcare, government benefits, employment and disaster services. The impact of civil legal aid is great. For every \$1 invested in civil legal aid, these programs deliver \$9.18 in immediate and long-term consequential financial benefit, resulting in a net economic impact value of \$64,823,000 during the 2019-20 fiscal year.⁵

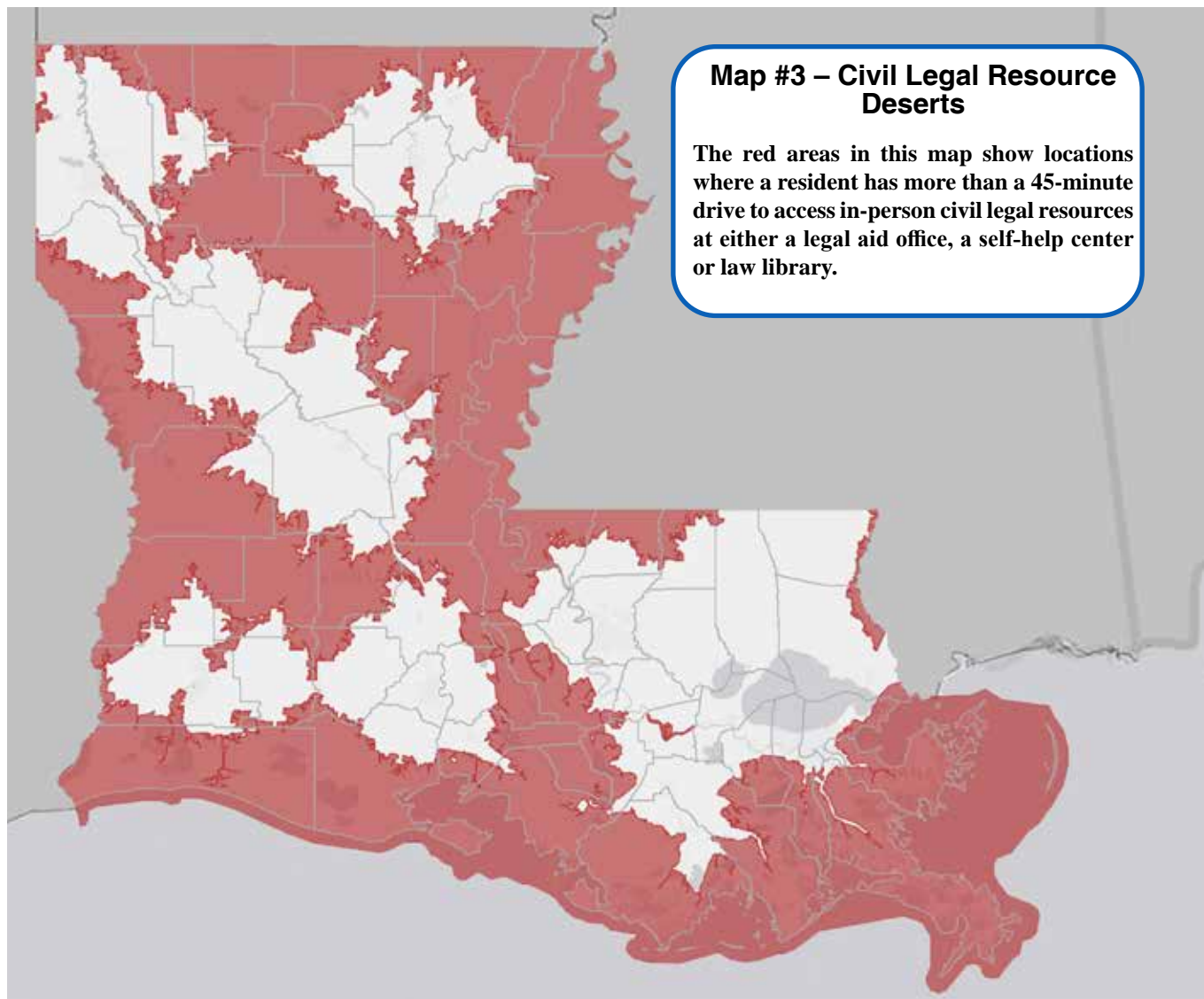
In Louisiana, Acadiana Legal Service Corp. (ALSC) and Southeast Louisiana Legal Services (SLLS) are the state's two

largest civil legal aid providers offering no-cost legal assistance to Louisiana's most vulnerable. These two civil legal aid organizations provide services in every parish of the state. Although ALSC and SLLS cover every parish in the state, they do not have physical offices in each parish. In fact, of the legal aid offices that exist, there is approximately one legal aid attorney for every 11,250 income-eligible people. In contrast, there is one Louisiana licensed attorney for every 200 residents.

Civil Legal Aid Success Stories

Unemployed due to COVID and unable to pay his bills, Mr. S and his young son lived in their home without electricity for nearly a year. After numerous failed attempts to work out a payment plan with the electric company, Mr. S spoke with an Acadiana Legal Service attorney who was able to negotiate a payment plan with the company, after which their electricity was restored.

- From Acadiana Legal Service Corporation



Map #3 – Civil Legal Resource Deserts

The red areas in this map show locations where a resident has more than a 45-minute drive to access in-person civil legal resources at either a legal aid office, a self-help center or law library.

Map #3 — Civil Legal Resource Deserts

Deserts in Louisiana? When one thinks of deserts, Louisiana is not the first place that comes to mind. Deserts are arid and harsh regions far different from Louisiana's wetlands. The GIS maps have changed this perspective, identifying much of the state as a civil legal resource desert (CLRD).

CLRDs are locations outside a 45-minute drive from an in-person civil legal resource. In addition to civil legal aid offices, these in-person legal resources include law libraries and self-help centers.

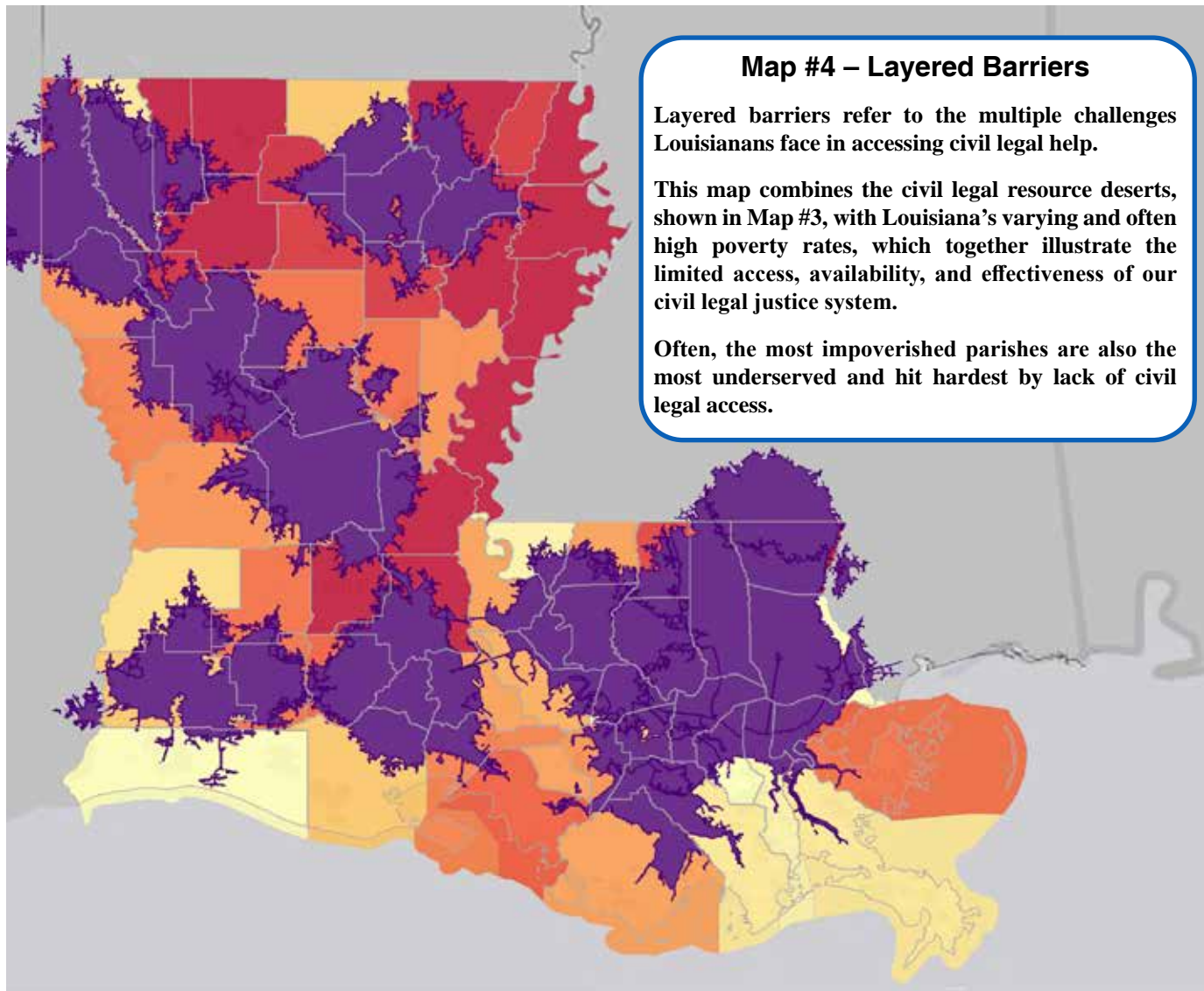
Civil legal resource deserts, shown above in red, account for 60% of the state's land area and 34% of the population earning below 200% of the Federal Poverty Level (FPL). In other words, more than 600,000 people who are potentially eligible for civil legal aid are living in these deserts where in-person resources essentially do not exist. Some entire parishes are civil legal resources deserts, including in the northeast part of Louisiana. In addition to the lack of legal resource access,

Civil Legal Aid Success Stories

Ms. T, a 65-year-old grandmother living in a rural parish, was frantic after her 13-year-old great niece disclosed the abuse she was suffering from her father. Ms. T took in her young great niece, but hit a roadblock when she couldn't enroll the child in school. Southeast Louisiana Legal Services secured emergency custody and then a permanent protective order in favor of child, establishing custody with Ms. T and allowing for the child to be enrolled in school.

- From Southeast Louisiana Legal Services

more than a third of households in many of these parishes report not having internet access in their home.



Map #4 – Layered Barriers

Layered barriers refer to the multiple challenges Louisianans face in accessing civil legal help.

This map combines the civil legal resource deserts, shown in Map #3, with Louisiana's varying and often high poverty rates, which together illustrate the limited access, availability, and effectiveness of our civil legal justice system.

Often, the most impoverished parishes are also the most underserved and hit hardest by lack of civil legal access.

Map # 4 — Layered Barriers

What makes these GIS maps so impactful is that they paint a more detailed picture of all the reasons someone in need might not be able to access the civil legal system in Louisiana. They show in alarming detail the layered barriers to access the civil justice system. But it is not just the lack of resources that makes justice for all so difficult. In addition to limited internet access, those living in civil legal resource deserts are often the most impoverished. The findings reveal that one in three people income-eligible for civil legal aid are living in a civil legal resource desert. Many of the issues these communities struggle with — employment, housing and benefits — have been exacerbated by the pandemic.

In this map, the darker red areas show parishes with more than 50% of the residents earning below 200% of the FPL, whereas the orange and yellow areas represent lower concentrations of poverty. The people living outside the purple areas in the map experience greater than a 45-minute drive to access

Online Resource

Review all the information collected by the GIS mapping project: www.bit.ly/JFAStoryMap

- View maps in detail
- Parish-specific data
- View unique challenges for each region

in-person civil legal resources. Some entire parishes are facing these extremely high poverty rates and are civil legal resource deserts.

As these maps illustrate, limited resources mean legal aid providers can only address a fraction of the total civil legal needs. When poverty increases, so does our communities' civil legal needs. The best way to ensure justice for all is to work together to help those most impoverished.

Continued next page

Call to Action! How to Help

Ultimately, the story map reveals that there is no “one size fits all” approach to address the needs of each parish in Louisiana. With this information collected, the ATJ Commission is working to address these challenges faced by community members in civil legal resource deserts. The plan involves working closely with judges, courthouses, members of the bar and community leaders to provide tools that can increase access and sustainably serve people in areas where legal help is difficult to obtain. The ATJ Commission plans to begin working with up to three parishes to create replicable pilot projects and access points for people with the greatest challenges to accessing legal help. The goal is to ensure that everyone has *meaningful* access to solve their justice problems.

To review all information collected from the GIS mapping project, go to: www.bit.ly/JFAStoryMap. There, you will be able to view all the maps that detail the layered barriers to accessing civil justice. You will also be able to see parish-specific data across the state and the unique challenges of each region.

But, how can you help now? There are numerous ways.

Spread the word about civil legal aid and the current resources that exist. Share this story map and the Louisiana State Bar Association’s “Find Legal Help” Portal (accessible at: www.lsba.org/public/findlegalhelp/), which provides a spectrum of legal services available to the public.

Members of the Bar and judiciary

can also **Get Involved**. Get connected to the Louisiana Access to Justice Commission by working with the Self-Represented Litigants or Technology Committees, which are developing strategic plans to address the obstacles identified through the GIS project.

Volunteer your time and experience with a pro bono or legal aid organization. To find volunteer opportunities and resources go to www.probono.net/la. Remote volunteer options are also available through LA.FreeLegalAnswers.org. If you are interested in helping expand the Justice for All efforts in the parishes most affected, take this survey to share your thoughts: www.surveymonkey.com/r/JusticeForAll. Not interested in volunteering? Make a tax-deductible donation to the Louisiana Bar Foundation or any of the legal aid organizations listed.

By working together to address access to justice issues, we will help family members, friends and neighbors — our communities — who are unable to get the legal help they need. Together, we can ensure that everyone has meaningful access to resources that assist with solving their justice problems.

FOOTNOTES

1. See the Louisiana Supreme Court Press Release announcing the Order establishing the Louisiana Access to Justice Commission, available at: www.lasc.org/PressRoom/2015.

2. See Resolution 5, the Conference of Chief Justices and Conference of State Court Administrators, available at: www.ncsc.org/_data/assets/pdf_file/0022/26392/5-meaningful-access-to-justice-for-all_final.pdf.

3. About Justice For All, National Center for State Courts, available at: www.ncsc.org/jfa/about.

4. “Basics of GIS Mapping,” Legal Services Corporation: America’s Partner for Equal Justice, available at: www.lsc.gov/grants-grantee-resources/resources-topic-type/basics-gis-mapping.

5. See “Civil Legal Aid is a Good Investment,” Louisiana Bar Foundation, available at: <https://raisingthebar.org/about-us/newsroom/80-lbf-news/591-civil-legal-aid-is-a-good-investment>. This reflects Louisiana’s civil legal activities during the 2019-20 fiscal year. According to the Foundation’s 2018 study, which is cited in the JFA Story Map, civil legal aid had a social return on investment of \$9.13, and, in 2018, the network of legal service partners provided over \$95 million in social economic benefits. See also “Funding Civil Legal Aid has a Ripple Effect,” Louisiana Bar Foundation, available at: www.raisingthebar.org/about-us/newsroom/80-lbf-news/458-2018-civil-legal-aid-social-impact-return-on-investment-is-914.

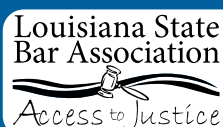
Alainna R. Mire is the 2020-21 Louisiana State Bar Association president and a member of the Louisiana Access to Justice Commission. She is the chief resilience officer and an assistant attorney for the City of Alexandria and a former human resources director. (alainna.mire@cityofalex.com; 915 3rd St., Alexandria, LA 71301)




Judge Lisa M. Woodruff-White has served on the East Baton Rouge Parish Family Court bench since 2008. She is a member of the Louisiana Access to Justice Commission and previously served on the Louisiana Supreme Court’s Self-Represented Litigants Committee. In 2013, she received the Louisiana State Bar Association’s President’s Award for her exemplary work to assist self-represented litigants. (lwoodruffwhite@familycourt.org; Ste. 4101, 300 North Blvd., Baton Rouge, LA 70801)



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alcohol
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Ross Garber • *Tulane University Law School* • New Orleans

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Professor Mary Algero • *Loyola University Law School* • New Orleans
Professor Marlene Krousel • *LSU Law School* • Baton Rouge
Professor Heidi Thompson • *LSU Law School* • Baton Rouge

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Professor Penny White • *University of Tennessee, College of Law* • Knoxville, TN

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Derrick Day • *360 Security Services* • Minneapolis, MN

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Thomas Galligan, Jr. • *Interim President, Louisiana State University* • Baton Rouge

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Get to know new colleagues and engage in a little friendly competition at the annual Golf and Tennis Tournaments.

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* Spouse/guest name must be indicated on the Registration Form to receive tickets included in registration. Additional tickets for children and guests are available for purchase for the social functions.

*To purchase additional tickets for events, please contact: Bridget Berins, CLE Secretary, Louisiana State Bar Association, bridget.berins@lsba.org or call (504)619-0137 or call tollfree (800)421-LSBA, ext. 137.

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CANCELLATIONS, REFUNDS & COURSE MATERIALS

Cancellation of registration must be received in writing by the LSBA no later than Friday, May 21, 2021. Cancellations will receive a full refund, less a \$30 administrative charge. Absolutely no refunds will be made after Friday, May 21, 2021. Requests should be mailed to the Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130-3404; faxed to (504) 598-6753; or e-mailed to aburas@lsba.org. Any questions, please contact Annette Buras, CLE Coordinator, (504)619-0102.

ATTENTION! To access and view the written CLE materials for each CLE presentation for Summer School, check www.lsba.org/annualmeeting shortly before the event to save the materials to your electronic device. Please note that Internet access WILL NOT be available in the Conference Center. It is suggested that you download/print OR download/save prior to arriving in Sandestin.

2021 Registration Form

☐ Judge Bar Roll Number _____ First Name for Badge _____

☐ Ms. ☐ Mr. Name _____

Firm Name _____

Address _____

City/State/Zip _____

Office Phone _____ Fax _____

☐ I am a local bar association president. ☐ I am a local bar association officer. ☐ I am a first-time attendee.

☐ Please register my spouse/guest for social events at no additional charge. (*Spouse/guest must be registered to receive tickets.*)

Spouse/Guest Name _____

First Name for Badge _____

In response to popular demand, a 4-day registration category is again being offered this year! This economical option allows you to attend only four days of the conference (your choice of days) for a steep discount to the on-site fee.

Registration Options	April 30	June 1	On-Site	Subtotal
Lawyers	\$825	\$875	\$925	_____
Lawyers 4-Day	\$750	\$795	\$850	_____
Judges	\$695	\$750	\$795	_____
Judges 4-Day	\$650	\$675	\$695	_____
Legal Services/Gov't/ Academia/YLD member**	\$695	\$750	\$795	_____
Legal Services/Gov't/ Academia/YLD member** 4-Day	\$650	\$675	\$695	_____

**Special Pricing applies to judges, lawyers employed full-time by local, state, or federal government, and lawyers employed full-time by legal aid agencies or indigent defense agencies or those lawyers who are members of the LSBA Young Lawyers Division. Members of the YLD are considered: Every member of the Louisiana State Bar Association who has not reached the age of thirty-nine (39) years or who has been admitted to the practice of law for less than five (5) years, whichever is later, is by virtue thereof a member of the Young Lawyers Division. (Article I, Section 1, Bylaws of the Louisiana State Bar Association, Young Lawyers Division).

*Important Note: A link to the seminar materials will be emailed prior to the event; it is suggested you print the materials in advance and bring them with you. The link will be sent to the email address of record you provided to the LSBA. If you choose to review the materials from your laptop, we strongly suggest you charge your laptop battery, as electrical outlets may be limited. Internet access will not be available in the meeting room. **PLEASE NOTE: Printed materials will not be available.**

Any questions? Contact

Annette Buras, CLE Coordinator
Louisiana State Bar Association
aburas@lsba.org or call (504)619-0102
or call toll-free (800)421-LSBA, ext. 102

To purchase additional tickets for events, contact

Bridget Berins, CLE Secretary
Louisiana State Bar Association
bridget.berins@lsba.org or
call (504)619-0137 toll-free (800)421-LSBA, ext. 137

☐ Pay by Check: Make checks payable to the Louisiana State Bar Association. Amount Enclosed \$ _____

☐ Pay by Credit Card: The LSBA accepts MC, Visa & Discover. Please visit www.lsba.org/AnnualMeeting to pay by credit card.

☐ Check here or contact the LSBA if you have a disability which may require special accommodations at this conference. The LSBA is committed to ensuring full accessibility for all registrants.

**Please return this form with your remittance to:
Seminar Registration – Louisiana State Bar Association
601 St. Charles Ave. • New Orleans, LA 70130-3404
(504)619-0137 • (800)421-5722 • fax (504)598-6753**

LBSL Accepting Certification Applications in Bankruptcy Law

The Louisiana Board of Legal Specialization (LBSL) will be accepting applications for business bankruptcy law and consumer bankruptcy law certification from now through Sept. 30, 2021.

In accordance with the Plan of Legal Specialization, a Louisiana State Bar Association member in good standing who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. Further requirements are that each year a minimum percentage of the attorney's practice must be devoted to the area of certification sought, passing a written examination to demonstrate sufficient knowledge, skills and proficiency in the area for which certification is sought, and five favorable references. Peer review shall be used to determine that an applicant has achieved recognition as having a level of competence indicating proficient performance handling the usual matters in the specialty field. Refer to the LBSL standards for the applicable specialty for a detailed description of the requirements for application: www.lsba.org/documents/Specialization/LSBAPlanofLegalspecialization2017.pdf.

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. Bankruptcy Law CLE is regulated by the American Board of Certification, the testing agency.

Approved specialization CLE courses can be viewed on the LBSL Approved Course Calendar at: www.lsba.org/MCLE/MCLECalendar.aspx?L=S. Check off your specialization and click on "Search Courses" to find approved specialization CLE.

With regard to applications for business bankruptcy law and consumer bankruptcy law certification, although the written test(s) is administered by the American Board of Certification, attorneys should 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 LBSL. Information concerning the American Board of Certification will be provided with the application form(s).

Anyone interested in applying for certification should contact LBSL Specialization Director Mary Ann Wegmann, email maryann.wegmann@lsba.org, or call (504)619-0128. For more information, go to the LBSL website: www.lsba.org/specialization/.

House Resolution Deadline is May 12 for Annual Meeting

The deadline for submitting resolutions for the next Louisiana State Bar Association's (LSBA) House of Delegates meeting is Wednesday, May 12.

The House will meet on Thursday, June 10, in conjunction with the LSBA's Annual Meeting at Sandestin Golf and Beach Resort in Destin, Fla.

Resolutions by House members and committee and section chairs should be mailed to LSBA Secretary Patrick A. Talley, Jr., c/o Louisiana Bar Center, 601 St. Charles Ave., New Orleans, LA 70130-3404. All resolutions proposed to be considered at the meeting must be received on or before May 12. Resolutions must be signed by the author. Also, copies of all resolutions should be emailed (in MS Word format) to LSBA Executive Assistant Jen France at jen.france@lsba.org.

Important Reminder: Lawyer Advertising Filing Requirement

Per Rule 7.7 of the Louisiana Rules of Professional Conduct, all lawyer advertisements and all unsolicited written communications sent in compliance with Rule 7.4 or 7.6(c) — unless specifically exempt under Rule 7.8 — *are required to be filed* with the LSBA Rules of Professional Conduct Committee, through LSBA Ethics Counsel, prior to or

concurrent with first use/dissemination. Written evaluation for compliance with the Rules will be provided within 30 days of receipt of a complete filing. Failure to file/late filing will expose the advertising lawyer(s) to risk of challenge, complaint and/or disciplinary consequences.

The necessary Filing Application Form, information about the filing

and evaluation process, the required filing fee(s) and the pertinent Rules are available online at: <http://www.lsba.org/members/LawyerAdvertising.aspx>.

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

Electronic Payment of 2021-22 LSBA Dues, LADB Assessment Accessible in Mid-May

Louisiana State Bar Association (LSBA) members have the option to pay their 2021-22 LSBA dues and Louisiana Attorney Disciplinary Board (LADB) assessment by ACH electronic check, credit card, or download and mail their Attorney Registration Statement and checks for the payment of fees. Members are encouraged to pay and file electronically, as this access will be available 24/7, including times when the Bar Center is closed or if mail service is disrupted due to inclement weather. Further, electronic payment gives members more control over their information in the database and allows for more timely updates to their member records.

Filing the Attorney Registration Statement is an important part of an LSBA member's annual requirement and can be completed by mail or electronically. Mailing in the Attorney Registration Statement with two separate payments of Dues and Assessment constitutes filing. When paying online, verifying and/or updating member demographic information serves as electronically filing the Attorney Registration Statement.

Again available in this year's dues cycle is the category of Emeritus Status for lawyers who only handle pro bono work or uncompensated work for family members (both subject to certain guidelines and restrictions) and who meet age and practice criteria. Lawyers should review the Emeritus Status guidelines and restrictions for possible election. Review the "Emeritus Status Guidelines and Restrictions and Notice of Application" at: www.lsba.org/Members/EmeritusStatus.aspx.

Election of emeritus status MUST be made prior to payment of the Dues and Assessment and the election deadline for the 2021-2022 membership year is June 30, 2021.

Filing electronically can be a quick and simple process, utilizing the online member accounts that participants have relied on for years to register for CLE seminars and to access Fastcase. If an attorney has

not yet set up a member account, one can easily be created at: <https://www.lsba.org/Members/memberaccts.aspx>. This webpage also allows members to edit their existing accounts and reset a lost or forgotten account password.

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

The Louisiana Attorney Disciplinary Board is the certifying agency for the Trust filing for LSBA members' IOLTA accounts. Filing is quick and easy at www.ladb.org and any issues concerning trust accounts should be directed to LADB at (504)834-1488.

The collection schedule will be the same as in prior years. In lieu of mailing a statement to each member, in mid-May, the LSBA will mail to each member a postcard, which will provide instructions to go online to <https://www.LSBA.org> to complete the registration process, and to go online to <https://www.LADB.org> to complete the Trust Account Form. ***This is the only mailing members will receive prior to the July 1, 2021, due date; attorney registration statements will NOT be mailed.***

With the introduction of the new email address, compliance@lsbamembership.com, the LSBA will email reminders throughout the dues collection period. Members are encouraged to add this email address to their contact list to avoid missing important communications. Members should not reply to this email address, but rather direct questions to processing@lsba.org.

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

delinquency and ineligibility notices to those who fail to meet the deadlines.

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

- ▶ LSBA dues (practicing more than three years): \$200;
- ▶ LSBA dues (Emeritus Status): \$100; and
- ▶ LSBA dues (practicing three years or less): \$80;
- ▶ LADB assessment (practicing more than three years): \$235;
- ▶ LADB assessment (Emeritus Status): \$117.50; and
- ▶ LADB assessment (practicing three years or less): \$170.

Those who are planning to pay by electronic check should contact their financial institutions to confirm that their accounts allow payment by this method. If your account is Positive Pay Protected, update the Company ID 1016207445.

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

- ▶ LSBA dues (practicing more than three years): \$206.20;
- ▶ LSBA dues (Emeritus Status): \$103.20; and
- ▶ LSBA dues (practicing three years or less): \$82.60;
- ▶ LADB assessment (practicing more than three years): \$242.25;
- ▶ LADB assessment (Emeritus Status): \$121.23; and
- ▶ LADB assessment (practicing three years or less): \$175.30.

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

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

LBS Amends Family Law, Health Law Specialization Standards for 2021

The Louisiana Board of Legal Specialization (LBS) announced that the Family Law Standards and the Health Law Standards and Health Law Topics have been amended for 2021. All amendments were approved by the Louisiana State Bar Association's House of Delegates and Board of Governors at Jan. 23 meetings.

Family Law

An amendment to the LBS Family Law Standards to add the topic of "Covenant Marriage" was approved. This topic may be included on the two-part Family Law Exam administered every year in July and August. An amendment to clarify the required minimum professional liability insurance coverage of \$500,000 per claim and \$500,000 in the aggregate was also approved. Download the amended Family Law Standards at:

www.lbsa.org/Specialization/FamilyLaw.aspx?Area=Standards.

Health Law

Several amendments to the LBS Health Law Standards were approved. A health law applicant is required to have a minimum of five years of actual practice of law on a full-time basis before applying. The applicant also must have worked 35% of a full-time work schedule in health law in 48 out of 60 months immediately preceding the year of application. Amended requirements for continuing legal education programs to qualify for health law specialization credit were approved. As in the other specializations, the language in the Health Law Standards was changed from "Louisiana Supreme Court Committee on Mandatory Continuing Legal Education" to "Mandatory Continuing Legal Education Committee"

in compliance with the 2018 revisions to the Rules of the Louisiana Supreme Court. The Health Law Standards have been updated with the current LBS website address of www.lbsa.org/specialization/HealthLaw.aspx?Area=Standards and www.lbsa.org/Specialization/HealthLaw.aspx?Area=Topics.

For more information or questions, contact LBS Specialization Director Mary Ann Wegmann, (504)619-0128, email maryann.wegmann@lbsa.org.



Louisiana State Bar Association
Continuing Legal Education Webinars

Aging Gracefully for Lawyers – PART 1 & 2 (Webinar) April 16, 2021	Spring Litigation CLE – Play a Simple Tune: How to Win Your Case by Keeping It Simple Part 1 & 2 (Webinar) April 23, 2021
Give Me Your Tired, Your Poor, Your Huddled Masses? Immigration Law – PART 1 & 2 (Webinar) April 16, 2021	Evidence CLE – PART 1 & 2 (Webinar) April 30, 2021
	Hanging Out Your Own Shingle (Webinar) May 4, 2021
	61st Bi-Annual Bridging the Gap (Webinar) May 5-7, 2021

Register today

www.lbsa.org/CLE

PRACTICE Makes Perfect

By LSBA Practice Assistance and Improvement Committee

CONFLICTS OF INTEREST: PART 1

The *Louisiana Bar Journal's* section — Practice Makes Perfect — focuses on practice tips and general legal information published in the Louisiana State Bar Association Practice Assistance and Improvement Committee's *Practice Aid Guide: The Essentials of Law Office Management*, available 24/7 online at: www.lsba.org/PracticeAidGuide.

The information discussed in this article can be found in Section 2. To read the full Section 2, and to access the referenced forms, sample letters and checklists, go to: www.lsba.org/PracticeAidGuide/PAG2.aspx.

To access the Louisiana Rules of Professional Conduct, go to: www.ladb.org/Material/Publication/ROPC/ROPC.pdf.

Conflicts of Interest

Regarding conflicts of interest, the best practice is to perform a preliminary conflicts check before the initial consultation with a potential client, and then another, more comprehensive, conflicts check after the initial consultation but before accepting the representation. Another conflicts check should be performed each time a new party enters into the legal matter. If a conflict is found and the conflict is one that is not consentable, or is consentable, but informed consent is not obtained, then the lawyer must decline the representation or, if already representing the client, withdraw from the representation. Otherwise, the lawyer may face grave consequences, including disqualification, mandatory withdrawal, disciplinary actions, reversal of proceedings, forfeiture of fees, and possibly malpractice claims. A non-engagement letter or a disengagement letter should be sent to document such declination or termination of the representation.

Consentable Versus Non-Consentable Conflicts

Attorneys must independently and objectively decide whether a conflict is



consentable.

“When a *disinterested* lawyer would conclude that the client should not agree to the representation under the circumstances, the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client’s consent.” Annotated Model Rule of Professional Conduct at p. 124 (ABA 2d ed. 1992) (emphasis added). When in doubt, the lawyer should decline the adverse representation.

While clients may consent to representation notwithstanding a conflict, some conflicts are non-consentable. When the lawyer is representing more than one client, the question of consentability must be resolved as to each client. Consentability is typically determined by considering whether the interests of the clients will be adequately protected if the clients are permitted to give their informed consent to a representation burdened by a conflict of interest. Representation is prohibited if, under the circumstances, the lawyer cannot reasonably conclude that the lawyer will be able to provide competent and diligent representation as required by Rules of Professional Conduct 1.1 and Rules of Professional Conduct 1.3. See also Restatement (Third) of the Law Governing Lawyers § 122(2)(c) (2000). For this reason, representing opposing parties in the same litigation is uniformly prohibited. This conflict cannot be waived and is non-consentable. Other conflicts are non-consentable because applicable law prohibits the representation. For example, under federal criminal stat-

utes, certain representations by a former government lawyer are prohibited, despite the informed consent of the former client.

Consentable Conflicts

Not all representations containing the types of conflicts described above have to be declined or terminated, if the potential or existing client gives informed consent. The following types of transactions can be entered into, but only with the client’s informed consent.

Business transaction or acquiring pecuniary interest adverse to the client — LA RPC Rule 1.8 (a). You may not enter into a business transaction or acquire an ownership or other pecuniary interest adverse to the client unless:

1. the transaction is fair and reasonable to the client;
2. the terms are fully disclosed and given to the client in writing, in a manner clearly understood by the client;
3. the client is advised in writing well in advance of the transaction and is given a reasonable opportunity to seek advice of independent counsel; and
4. the client consents in writing.

Using information relating to a client’s representation — LA RPC Rule 1.8 (b). You may not use information relating to the representation of an existing or former client to the disadvantage of the client, unless the client has been fully informed and consents to its use.

Compensation from another party — LA RPC Rule 1.8 (f). You may not accept compensation for representing a client from any person other than the client unless the client gives informed consent, or the compensation is provided by contract with a third person, such as an insurance contract or a prepaid legal service plan; there is no interference with a lawyer’s indepen-

dence or professional judgment or with the client-lawyer relationship; and the information relating to the representation of a client is protected as required by Rule 1.6 (Confidentiality of Information).

Multiple client settlements — LA RPC Rule 1.8 (g).

You may not enter into an aggregate settlement of the claims of or against multiple clients, or in a criminal case, an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent in a writing signed by the client, in a writing signed by the client or a court approves a settlement in a certified class action. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

Former clients — LA RPC Rule 1.9 (a).

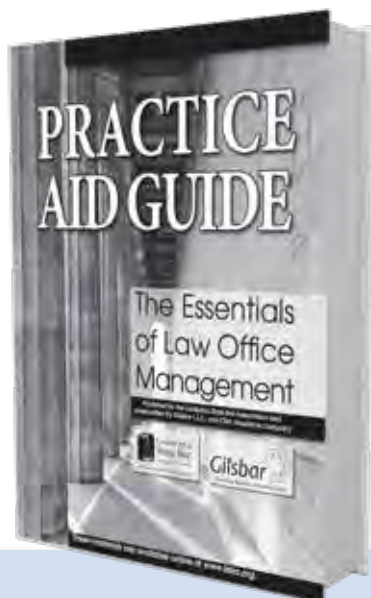
If you formerly represented a client in a matter, you shall not represent another person in the same or a substantially related matter if that person's interests are materially adverse to the interests of the former client, unless your former client gives informed consent, confirmed in writing.

Imputation of conflicts of interest — LA RPC Rule 1.10 (a).

While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by LA RPC Rules 1.7 or LA RPC Rules 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

Special conflicts of interest for former and current government officers and employees — LA RPC Rule 1.11 (a)(2) and Rule 1.11 (b)(1) & (b)(2).

A lawyer who has formerly served as a public officer or employee of the government shall not represent a client in connection with a matter in which the lawyer participated personally and substantially as a public government officer or employee, unless the government agency gives its informed consent, confirmed in writing, to such representation. Additionally, no lawyer in a firm with which that law-



***Practice Aid Guide:
The Essentials of Law
Office Management***

Available for download or read for free online - peruse the form depository for a variety of useful forms, letters and checklists to accompany this information at www.lsba.org/PracticeAidGuide

yer is associated may represent this client, unless the disqualified lawyer has been timely screened from any participation in the matter, is not given any part of the fee, and the former government agency is notified immediately in writing.

Former judge, arbitrator, mediator or other third-party neutral — LA RPC Rule 1.12(a) and Rule 1.12(c)(1) & (c)(2).

You may not represent a client in connection with a matter in which you participated personally and substantially as a judge, other adjudicative officer, or law clerk to such a person, or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing. Additionally, your firm may not represent this client, unless you are timely screened, you are not given any part of the fee, and written notice is given to the appropriate tribunal.

Organization as client — LA RPC Rule 1.13 (a) and Rule 1.13 (g).

If an organization is your client, you represent the organization acting through

its duly authorized constituents. If you represent an organization, you may also represent any of its directors, officers, employees, members, shareholders, or other constituents subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is being represented, or by the shareholders. Financial assistance to clients — LA RPC Rule 1.8 (e). Financial assistance to clients is allowed under certain circumstances. See LA RPC Rule 1.8.

Non-Consentable Conflicts

Some conflicts cannot be waived and are deemed non-consentable. Some examples of prohibited representations include, but are not limited to:

► Preparing an instrument giving yourself or any person related to you any substantial gift from your client, including a testamentary gift, unless you and your client are related. LA RPC Rule 1.8 (c).

► Negotiating an agreement giving yourself literary or media rights to a portrayal of the representation. LA RPC Rule 1.8 (d).

► Directly adverse representation in the same matter. LA RPC Rule 1.7(a)(1).

► Despite the prohibition in Rule 1.8(e) against providing financial assistance to clients, it is permitted under certain circumstances. (See also Practice Aid Guide, Section 3 on Fees, Billing and Trust Accounts.)

► Agreeing prospectively to limit your liability to a client for malpractice unless the client is independently represented in making the agreement or settle a claim or potential claim for malpractice liability with an unrepresented client or former client without first advising the client in writing that independent representation is appropriate. LA RPC Rule 1.8 (h) (1) and (h)(2).

► Acquiring a proprietary interest in the cause of action or subject matter of the litigation, except you may acquire a lien authorized by law to secure your fees/expenses and contract with your client for a reasonable contingent fee in a civil case. LA RPC Rule 1.8 (i)(1) and (i)(2).

By Andrea Brewington Owen

PROPERLY DISENGAGING CLIENTS

An attorney-client relationship may deteriorate even when given proper care and nurturing. While a client can always terminate the attorney-client relationship, the reverse is not true. An attorney must cautiously consider whether, within the bounds of law and ethics, he/she can or should withdraw. The potential for bar complaints, malpractice allegations, requests for a refund and negative online reviews are a few reasons an attorney may continue enduring his/her client's toxic behavior. The fear of the negative repercussions can prevent an attorney from even analyzing the rules to determine a potential withdrawal.

Rule 1.16(a) of the Louisiana Rules of Professional Conduct states that a lawyer shall withdraw from representation if the representation will result in violation of the rules or other law, if the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client, or if the lawyer is discharged. If the situation with the client does not fall into one of these "shall," the analysis turns to the "may." A lawyer may withdraw when:

(1) Withdrawal can be accomplished without material adverse effect on the interests of the client; (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent; (3) the client has used the lawyer's services to perpetrate a crime or fraud; (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement; (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (6) the representation will result in an unreasonable financial burden on the lawyer or has been

rendered unreasonably difficult by the client; or (7) other good cause for withdrawal exists. Rule 1.16(b).

The most commonly cited reason under these subsections is non-payment.

If a case is pending in front of a court when the attorney seeks withdrawal, the attorney must comply with applicable law of that tribunal under Rule 1.16(c). The rules typically require the attorney to seek the court's permission to withdraw. The court has the discretion to grant or deny counsel's motion to withdraw. Courts typically consent to withdrawal when the client consents and there is a replacement counsel but may deny the withdrawal if they believe a prejudice to justice will occur. If withdrawal is granted, the attorney must not forget to provide the client's address with the court so the client can receive notices until a new attorney is retained. If no litigation is involved, court permission is not required in order to withdraw.

Under all circumstances, the withdrawing attorney remains obligated to take steps reasonably practicable to protect the client's interests. Rule 1.16(d) requires the attorney to give reasonable notice to the client so that the client can hire a substitute attorney, surrender papers and properties that the client is entitled to, and refund any unearned advance fees. Subsection (d) further addresses the clients' right to their files. An attorney cannot condition the release of a client's files on payment.

Documenting the file is always of vital importance but takes on certain significance when there is a potential for an upset client. Don't forget that the Duty of Confidentiality and Duty to Avoid Conflicts of Interest continues toward these clients after representation ceases. Best practices dictate that, before withdrawing, the attorney give proper notice to the client of the intention to withdraw, along with an objective explanation of the implications including any upcoming deadlines and court dates. Besides being

non-confrontational, attorneys may even give their clients a reasonable chance to remedy a breach such as non-payment.

The use of an Engagement Letter at the outset of the representation can make withdrawal easier and should clearly define the expectations for the representation, including a "client cooperation clause" to express to the client that his/her failure to cooperate, at sole discretion of the attorney, will result in termination of the engagement; and that they must return calls, provide documents in a timely manner and pay their fees on time. This letter allows the attorney to set boundaries such as the hours the attorney is available and the preferred type of communication. An Engagement Agreement signed by the attorney and client is always the first tool to pull out of the arsenal when questioned by the judge or the Bar. The agreement in the engagement letter should clearly spell out the ways that the client can fail to abide by obligations in the attorney-client contract.

Finally, an ounce of prevention prevents a pound of pain down the road. Signs that a potential client will become a problem client can be seen during the consultation. Attorneys should decline representation if their gut tells them that this will be a problem client. The clients who have unrealistic expectations at the outset are oftentimes the same clients who file complaints to the Bar when the attorney doesn't meet their expectations.

Andrea Brewington Owen is a loss prevention counsel for the Louisiana State Bar Association and is employed by Gilsbar, L.L.C., in Covington. She received a BA degree in 2002 from Auburn University and her JD degree in 2005 from Loyola University New Orleans College of Law. She worked as an assistant district attorney in Alabama's 28th Judicial Circuit in Baldwin County, Ala. She also worked as the director of legal programs for the South Alabama Volunteer Lawyers Program. She has been a member of the Alabama State Bar Association since 2005 and was admitted to the Louisiana Bar in 2019. Email her at anowen@gilsbar.com.



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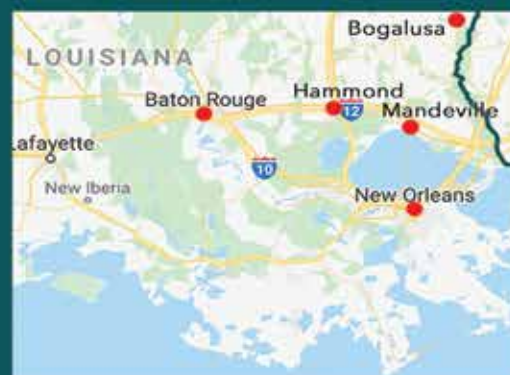


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Robert Receives 2019-2020 Committee on Diversity in the Legal Profession Award

Deidre Deculus Robert, executive counsel for the Louisiana Department of Transportation and Development, is the 2019-2020 recipient of the Louisiana State Bar Association's (LSBA) Committee on Diversity in the Legal Profession Award. The award recognizes a current member of the Diversity Committee who has demonstrated a commitment to diversity and has gone above and beyond his/her role on the committee to address the needs of under-represented groups of public interest causes.

A native of Mamou and a resident of Glynn, Robert is a graduate of Louisiana State University and Southern University Law Center. She joined the Diversity Committee in 2015 and served as co-chair from 2017-2019. She has made extensive contributions to the important work of the committee. She has assisted with the implementation of committee programming, in-

cluding the Conclave on Diversity in the Legal Profession and Suit Up for the Future High School Summer Legal Institute and Intern program, as well as programming at the LSBA Midyear and Annual Meetings.

She also regularly participates and coordinates CLE programming that highlights the work of the committee in the area of diversity, equity and inclusion.

Robert serves as a board member for the Louisiana Bar Foundation, the Southern University System Foundation and the Access to Justice Commission. She is a member of the Baton Rouge Bar Association, the American Bar Association, the National Bar Association, the Baton



Deidre D. Robert

Rouge Association of Women Attorneys, the Louis A. Martinet Legal Society, Inc. Greater Baton Rouge Chapter, Alpha Kappa Alpha Sorority, Incorporated, and the Junior League of Baton Rouge.

She is the founder of the Baton Rouge Chapter Louis A. Martinet Legal Society's "Reading from the Start" program, a program that places lawyers and law students in classrooms monthly to read to East Baton Rouge Parish Head Start students.

Robert is a recipient of the 2019 Distinguished Alumni Award (Southern University Law Center); 2018 nominee for the Distinguished Female Attorney in Government Award (National Bar Association, Women in Law Division); and the recipient of the 2011 Outstanding Member and Service Award (Louis A. Martinet Legal Society, Inc., Baton Rouge Chapter).

Kean Miller Connection Receives 2019-2020 Guardian of Diversity Award

Kean Miller Connection is the 2019-2020 recipient of the Louisiana State Bar Association's (LSBA) Guardian of Diversity Award. Established in 2013, the award recognizes local and specialty bar associations, courts, law firms/departments, community organizations (which includes nonprofits and public interest organizations) and educational organizations (which include law schools and schools with a law-related program) that implement and advance diversity programs to pro-

mote and support diversity in the legal community.

Kean Miller Connection, a diversity pipeline initiative, is organized, hosted and produced by attorneys. The pipeline initiative targets college students from groups traditionally underrepresented in law schools. The Kean Miller Connection provides mock law school classes, valuable information on law school admission standards, insight into opportunities in the field, and information designed to demonstrate that a career in the profession is an attainable

goal.

To date, more than 260 diverse college students have participated in the Kean Miller Connection program. A total of 22 participants have enrolled in law school after the program, and three participants are now employed with Kean Miller Connection.

Kean Miller is the recipient of several awards, including the YWCA Greater Baton Rouge "Racial Justice Award" (2007) and the LSBA's "You Make a Difference" Award.

Judge Stewart Receives 2019-2020 Chief Justice Bernette Joshua Johnson Trailblazer Award

United States 5th Circuit Court of Appeals Judge Carl E. Stewart is the 2019-2020 recipient of the Louisiana State Bar Association's (LSBA) Chief Justice Bernette Joshua Johnson Trailblazer Award. Established in 2016, the Trailblazer Award combined two previous diversity awards — the Trailblazer Award (established in 2013) and the Human Rights Award (established in 2010). The Chief Justice Bernette Joshua Johnson Trailblazer Award recognizes attorneys and judges who champion the ideals set forth by Chief Justice (Ret.) Johnson, the first African-American

chief justice of the Louisiana Supreme Court, who has always exhibited an unwavering commitment to enhancing diversity and inclusion in the legal profession.

A native of Shreveport, Judge Stewart is a graduate of Dillard University and Loyola University School of Law.

In 1994, Judge Stewart was appointed to the U.S. 5th Circuit by President



Judge Carl E. Stewart

William J. Clinton. He was the first African-American to serve on the court. In 2012, he became the first African-American chief judge to serve on the court.

Judge Stewart regularly shows his commitment to community and civic involvement by serving on numerous boards and committees. He is a charter member of the Harry V. Booth and Judge Henry A. Politz American Inn of Court in Shreveport. He is married Jo Ann Southhall and they have three children — Carl E. Stewart, Jr., Judge Karelia R. Stewart and Kyle L. Stewart.



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Amy Duncan, LSBA Access to Justice Training & Projects Counsel,
at amy.duncan@lsba.org with any questions.

Or for more information online, visit

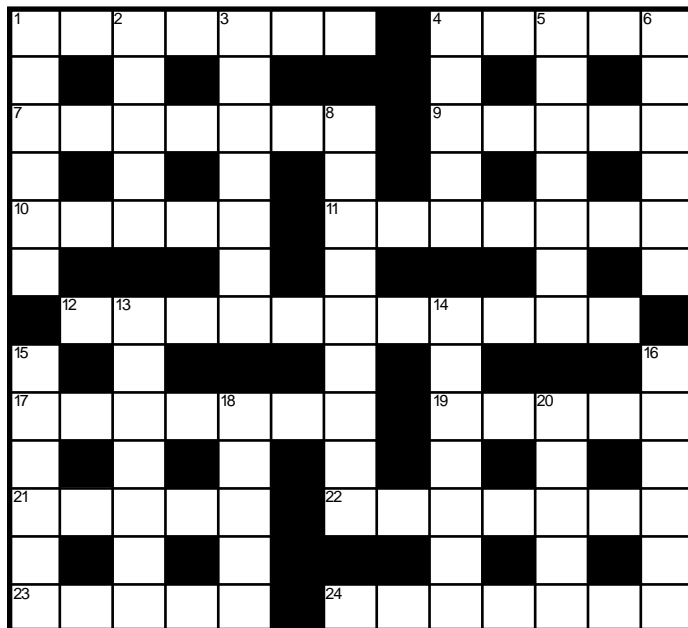
www.lsba.org/ATJCommission/ModestMeans.aspx



Crossword PUZZLE

By Hal Odom, Jr.

SOME OF THE HOT STUFF



ACROSS

- 1 Hot stuff made on Avery Island (7)
- 4 What Gov. Roemer promised to do to the budget in 1987 (5)
- 7 From the largest continent (7)
- 9 Polite refusal (2, 3)
- 10 TryMe ___ Sauce, hot stuff made in New Orleans (5)
- 11 Proverbial pseudonym (4, 3)
- 12 Ritual observances (11)
- 17 Mental ___, a major component of general damages (7)
- 19 Cider basis (5)
- 21 Bulb for sautéing (5)
- 22 Like a dandy (7)
- 23 Boring tool (5)
- 24 Hot sauce made in Mid City New Orleans (7)

DOWN

- 1 "Warm and ___" (6)
- 2 Existence; a human (5)
- 3 Release or liberate (3, 4)
- 4 Alignment, for short (5)
- 5 What is left of estate after payment of particular legacies (7)
- 6 Bayou Butt ___, hot stuff made in Prairieville (6)
- 8 Hot stuff made in St. Martinville (5, 4)
- 13 Not yet completed (7)
- 14 Family name of hot stuff made in New Iberia (7)
- 15 Hot stuff made in Lake Providence (6)
- 16 "___ Weapon," Danny Glover-Mel Gibson franchise (6)
- 18 Not outer (5)
- 20 Word processing order that depletes your toner (5)

Answers on page 463.

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

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

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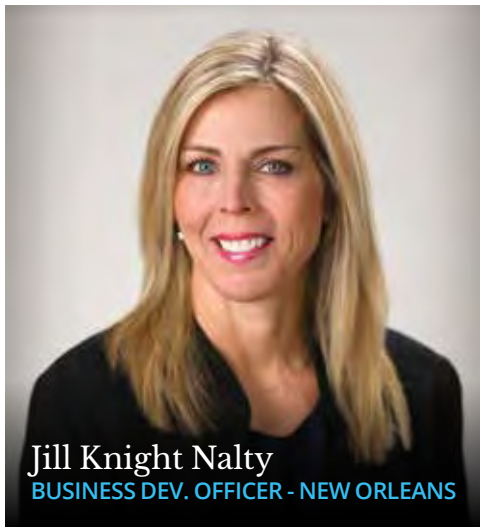
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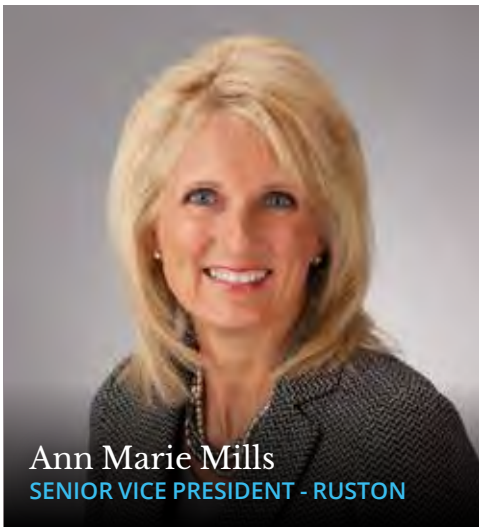
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REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date Feb. 4, 2021.

Decisions

Joslyn Renee Alex, Breaux Bridge, (2020-B-0916) **Suspended for one year** ordered by the Louisiana Supreme Court on Dec. 11, 2020. JUDGMENT FINAL and EFFECTIVE on Dec. 28, 2020. *Gist:* Respondent communicated with and obtained an affidavit regarding the subject of ongoing litigation from a represented party without the knowledge or consent of the party's counsel.

Mari Tara Bartholomew, New Orleans, (2020-B-1218) **Consented to a one-year-and-one-day suspension from the practice of law, with all but 30 days deferred, with a two-year period of probation**, ordered by the Louisiana Supreme Court on Dec. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Dec. 8, 2020. *Gist:* Respondent mismanaged her client trust account.

Amy Elizabeth Bateman, Metairie, (2020-B-1140) **Suspended from the practice of law for one year and one day** by order of the Louisiana Supreme Court on Dec. 8, 2020. JUDGMENT

FINAL and EFFECTIVE on Dec. 22, 2020. *Gist:* Criminal conduct (DWI).

Daniel Elmore Becnel III, Laplace, (2020-OB-01351) **Reinstated with two years of probation to the practice of law** by order of the Louisiana Supreme Court on Jan. 26, 2021. JUDGMENT FINAL and EFFECTIVE on Jan. 26, 2021.

Wesley Tyron Bishop, New Orleans, (2020-B-01298) **Consented to disbarment, retroactive to July 31, 2020, the date of his interim suspension**, ordered by the Louisiana Supreme Court on Jan. 20, 2021. JUDGMENT FINAL and EFFECTIVE on Jan. 20, 2021. *Gist:* Respondent pleaded guilty to making false statements to a federal agency, a felony violation of 18 U.S.C. § 1001(a)(3).

Fred A. Blanche III, Baton Rouge, (2020-OB-01241) **Reinstated to the practice of law in Louisiana, subject to a five-year period of supervised probation**, ordered by the Louisiana Supreme Court on Dec. 22, 2020. JUDGMENT FINAL and EFFECTIVE on Dec. 22, 2020.

Dounnisei Kuo Gbalazeh, Philadelphia, PA, (2020-B-01111) **Disbarred from the practice of law** by order of the Louisiana Supreme Court on Nov. 24, 2020. JUDGMENT FINAL and EFFECTIVE on Dec. 8, 2020. *Gist:* Conversion of unearned fees; engaged in the unauthorized practice of law; and failed to cooperate with disciplinary authorities.

Rudy W. Gorrell, Jr., New Orleans, (2020-B-0993) **Publicly reprimanded** by order of the Louisiana Supreme Court on Nov. 10, 2020. JUDGMENT FINAL and EFFECTIVE on Nov. 24, 2020. *Gist:* Making statements to a witness meant to delay, burden and intimidate the witness.

Sally Harrison Longmire Hingel, New Orleans, (2020-B-0092) **Permanently disbarred from the practice of law** by order of the Louisiana Supreme Court on Nov. 10, 2020. JUDGMENT FINAL and EFFECTIVE on Nov. 24, 2020. *Gist:* Failure to cooperate with ODC in its investigation; and commission of a criminal act (possession with intent to distribute marijuana).

Gregory Scott Johnson, Baton Rouge, (2020-OB-1256) **Permanently resigned from the practice of law in lieu of discipline** ordered by the Louisiana Supreme Court on Dec. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Dec. 8, 2020. *Gist:* Respondent engaged in serious attorney misconduct, including failure to communicate with his clients, neglect of legal matters and conversion of client and/or third-party funds.

Fred C. LeBleu III, Lake Charles, (2020-B-1162) **Suspended from the practice of law for a period of two**

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Continued page 426

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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 Feb. 2, 2021.

Respondent	Disposition	Date Filed	Docket No.
Leonard K. Fisher III	Reciprocal suspension (partially deferred).	1/6/21	20-3115
William C. Gore	Interim suspension.	12/15/20	20-2718
Sanda B. Groome	Reciprocal suspension (fully deferred).	12/30/20	20-2804
Connie P. Trieu	Public reprimand.	12/3/20	20-2079
John Edward Whalen, Jr.	Disbarred.	1/6/21	20-2976

Discipline continued from page 424

years, fully deferred, subject to probation, by order of the Louisiana Supreme Court on Dec. 22, 2020. JUDGMENT FINAL and EFFECTIVE on Jan. 5, 2021. *Gist*: Commission of a criminal act (drug possession).

Robert Wesley Malone, Alexandria, (2020-B-00762) **Suspended from the practice of law** for a period of two years ordered by the Louisiana Supreme Court on Nov. 4, 2020. JUDGMENT FINAL

and EFFECTIVE on Nov. 18, 2020. *Gist*: Failure to act with reasonable diligence; failure to communicate; failure to refund an unearned fee; failure to cooperate with ODC; and violating or attempting to violate the Rules of Professional Conduct.

Robert Christopher Oetjens, Baton Rouge, (2020-OB-01427) **Transferred to disability inactive status** ordered by the Louisiana Supreme Court on Jan. 12, 2021. JUDGMENT FINAL and EFFECTIVE on Jan. 12, 2021.

Elzey Jeffrey Perilloux, Edgard, (2020-B-01178) **Interimly suspended from the practice of law** by order of the Louisiana Supreme Court on Nov. 4, 2020. JUDGMENT FINAL and EFFECTIVE on Nov. 4, 2020.

Richard L. Reynolds, Lacombe, (2020-B-1340) **Interimly suspended from the practice of law** ordered by the Louisiana Supreme Court on Dec. 22, 2020. JUDGMENT FINAL and

Continued next page



Advice and Counsel Concerning Legal & Judicial Ethics

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damon@sswethicslaw.com

Discipline continued from page 426

EFFECTIVE on Dec. 22, 2020.

Jaymeski Shuntai Pullins-Gorham, Kenner, (2020-B-00692) **Suspended for six months, fully deferred, subject to one-year period of probation from the practice of law**, by order of the Louisiana Supreme Court on Dec. 11, 2020. Rehearing denied on Jan. 26, 2021. JUDGMENT FINAL and EFFECTIVE on Jan. 26, 2021. *Gist*: Respondent mishandled her client trust account, resulting in conversion of client funds.

Kathy D. Underwood, Baton Rouge, (2020-OB-01381) **Transferred to permanent retirement status** ordered by

the Louisiana Supreme Court on Jan. 26, 2021. JUDGMENT FINAL and EFFECTIVE on Jan. 26, 2021. *Gist*: Pursuant to Louisiana Supreme Court Rule XIX, Sec. 27, Underwood has been transferred to permanent retirement from the practice of law.

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

Rule 1.1(a) — Competence.

Rule 1.7(b)(4) — Conflict of interest.

Rule 1.9(a) — Duties to former clients.

Rule 5.3(a)(b)(c) — Supervisory authority and reasonable efforts to ensure compliance with RPC.

Rule 8.1(b) — Failure to disclose a fact or to respond to a lawful demand for information from an admissions or disciplinary authority.

Rule 8.1(c) — Failure to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it, except for an openly expressed claim of a constitutional privilege.

Rule 8.4(a) — Violate or attempt to violate RPC or assist another in doing so.

Rule 8.4(e) — Conduct involving dishonesty, fraud, deceit or misrepresentation.

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The print version of the directory for arbitrators and mediators will be mailed with the October/November 2021 Louisiana Bar Journal.

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Submit either original photos or digital photos. Digital photos should be submitted separately from the article as a high-resolution .jpg (at least 300 DPI at 4 inches wide). DO NOT submit digital photographs embedded in word processing programs; send the photograph as a separate file. High-resolution digital photos work best.

DEADLINE IS JULY 23 FOR ALL LISTINGS AND PHOTOS! DIRECTORY/WEB COMBO PRICE IS \$125.

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

If you would like to repeat a prior listing and photo, you may send us a photocopy of that listing along with your check; please provide the year the listing appeared.

IT'S EASY TO RESERVE SPACE IN THE DIRECTORY!

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

► Or, mail your listing, photo, disk and check to the above address.

For more information, contact **Darlene M. LaBranche** by email dlabranche@lsba.org or via phone at (504)619-0112 or (800)421-5722, ext. 112.

CLIENT ASSISTANCE FUND PAYMENTS - MAY & OCTOBER 2020

Attorney	Amount Paid	Gist
Michael T. Bell	\$2,000.00	#2034 — Unearned fee in a custody matter
Reule P. Bourque	\$3,500.00	#1949 — Unearned fee in a community property matter
Zachary R. Moffett	\$7,500.00	#1952 — Unearned fee in a succession
Zachary R. Moffett	\$2,000.00	#1965 — Unearned fee
Zachary R. Moffett	\$2,500.00	#1967 — Unearned fee
Zachary R. Moffett	\$3,000.00	#1989 — Unearned fee in a succession
Zachary R. Moffett	\$3,500.00	#1980 — Unearned fee in a divorce
Zachary R. Moffett	\$1,500.00	#1984 — Unearned fee in a succession
Zachary R. Moffett	\$7,500.00	#1959 — Unearned fee in a civil matter
Zachary R. Moffett	\$2,500.00	#2001 — Unearned fee in a real estate matter
Zachary R. Moffett	\$3,500.00	#1955 — Unearned fee in a property dispute
Harold D. Register	\$25,000.00	#1957 — Conversion in a personal injury matter
Michael Sean Reid	\$4,500.00	#2000 — Unearned fee in a domestic matter

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.

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.

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 Disciplinary 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.

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.

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5th Circuit Clarifies Issues on Cross Collateralization

Evolve Fed. Credit Union v. Barragan-Flores (In re Barragan-Flores), 984 F.3d 471 (5 Cir. 2021).

At the time of the debtor's Chapter 13 bankruptcy filing, he had outstanding balances on two car loans with Evolve Federal Credit Union (Evolve). The proceeds from the first loan were used to purchase a GMC Sierra (the Sierra loan) and the proceeds from the second loan were used to purchase a Toyota Camry (the Camry loan). The documents evidencing the Sierra loan and Camry loan

both contained cross-collateralization provisions such that each car served as collateral for both loans. Evolve filed two proofs of claim in the debtor's case in connection with the two loans.

In connection with the Evolve loans, the debtor's Chapter 13 plan proposed to (1) retain the Sierra and cram down the Sierra loan to the value of the Sierra, and (2) surrender the Camry in connection with the Camry loan. Evolve objected to the debtor's plan on the basis that the cross-collateralization language prevented the debtor from surrendering one car while retaining the other. The bankruptcy court confirmed the plan over Evolve's objection. Evolve filed a motion for new trial, which was denied, and then appealed the confirmation order and the order denying the motion for new trial. The district court reversed the bankruptcy court's order confirming the plan and remanded the case for further proceedings. The debtor then appealed the district court's order, which required the debtor to either cram down or surrender all the

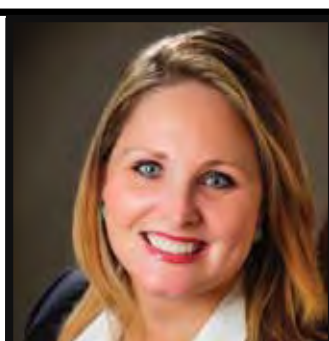
collateral securing the Camry loan, *i.e.*, both cars, to the U.S. 5th Circuit Court of Appeals.

The 5th Circuit looked to 11 U.S.C. § 1325(a) for requirements for confirming a Chapter 13 plan. Citing to the U.S. Supreme Court, the court noted that a plan's proposed treatment of secured claims can be confirmed if: (1) the secured creditor accepts the plan, (2) the debtor surrenders the property securing the creditor's claim, or (3) the debtor invokes cram-down, which allows the debtor to keep the collateral over a creditor's objection as long as payments over the life of the plan will total the present value of the collateral.

The debtor argued that Section 1325(a) (5) allows him to select an option for each secured claim, thereby allowing him to select a different option for each of the two cars regardless of the cross-collateralization provision. In contrast, Evolve argued that the debtor must select one of the three options for each claim, rather than each piece of collateral that secures one claim.

Jessica D. LeBlanc, CPA, CFF

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Agreeing with the district court, the 5th Circuit acknowledged that while Section 1325(a)(5) does allow the debtor to propose different options for each allowed secured claim, a debtor cannot select different options for two pieces of collateral securing the same claim. The court cited to its previous decision in *Williams v. Tower Loan of Mississippi (In re Williams)*, 168 F.3d 845 (5 Cir. 1999), where it held that a debtor must select the same option under Section 1325(a)(5) for all collateral securing a single claim. In light of that prior ruling and the facts before it, the court affirmed the judgment of the district court, finding that the debtor's plan must select the same option for both items of collateral securing the Camry loan in order to meet the requirement of Section 1325(a)(5). In doing so, the court noted that its ruling merely restricts a debtor's ability to select different options under Section 1325(a)(5) for different pieces of collateral that secure the same loan.

—**Heather LaSalle Alexis**

Secretary-Treasurer,
LSBA Bankruptcy Law Section
Hinshaw & Culbertson, L.L.P.
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5th Circuit Reviews Rules for Suits Against Political Subdivisions

Calamia v. Parish of Jefferson, 20-0284 (La. App. 5 Cir. 12/23/2020), 307 So.3d 1200.

Plaintiff filed suit in 2006 against Jefferson Parish and others for alleged injuries caused by occupational asbestos exposure. Plaintiff originally brought his suit in Orleans Parish Civil District Court. Service of process was made on the Jefferson Parish District Attorney.

The Parish was later dismissed from the suit without prejudice, however, and plaintiff died of malignant mesothelioma in 2007.

In 2013, the children of the decedent instituted a survivorship/wrongful death action against Jefferson Parish, this time in the 24th Judicial District Court for Jefferson Parish. Jefferson Parish responded with an exception of prescription, based on the fact that the delictual action had been filed more than seven years after Calamia's death. Plaintiffs appealed the trial court's sustaining the exception of prescription.

Plaintiffs asserted that the previous suit in Orleans Parish against Jefferson's alleged joint tortfeasors interrupted prescription, pursuant to La. Civ.C. art. 2324(C). However, the Parish raised issues of venue and service as preventing interruption from ever occurring.

The court first analyzed whether venue was proper as to Jefferson Parish in the 2006 suit. La. R.S. 13:5104 states that suits against political subdivisions of the state generally must be brought in the judicial district encompassing that political subdivision. For that reason, venue was *improper* as to Jefferson Parish in the 2006 Orleans Parish suit. Their analysis could not stop there, though, as La. Civ.C. art. 3462 states that prescription may still be interrupted despite improper venue, so long as a party is properly served.

The court turned to the question of whether Jefferson had been properly

served with the 2006 suit. According to La. R.S. 13:5107, political subdivisions of the state may be served through their designated agents, or if no such agent is designated, through the district attorney, parish attorney, city attorney or other proper officer. Here, service had been made on the Jefferson Parish District Attorney, but a contemporary Parish ordinance and evidence in the record showed that the Parish had designated its Parish Attorney as its agent for service at that point. Because the Parish Attorney had been so designated, service on the District Attorney was improper and, therefore, did not interrupt prescription under article 3462.

Having failed to file suit against Jefferson Parish in the proper venue and serve its designated agent with process, the plaintiffs' inherited cause of action against Jefferson Parish was never interrupted and so had prescribed by 2013. The 5th Circuit affirmed the trial court's judgment sustaining the Parish's exception.

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Piercing the Company Veil of an LLC and Choice of Law

Mathes Brierre Architects v. Karlton/ISG Enters., LLC, 19-0357 (La. App. 4 Cir. 12/3/20), ___ So.3d ___, 2020 WL 7066428.

In February 2007, a Louisiana-based architectural firm (Architect) signed an architectural services contract with a Florida limited liability company (the Developer) in respect of a real estate development proposed to be developed (Original Project) in Algiers, La. Developer was owned by two members, one a Florida limited liability company

(Fla. Member) and one a Delaware corporation.

Pursuant to the Contract, certain architectural services were to be provided for a fixed fee described in the Contract, while other services to be agreed in the future would be provided at hourly rates set forth in the Contract. The facts were largely not in dispute. The Architect provided the services described in the Contract between 2007 and 2012. Although Architect made multiple demands for payment between 2008 and 2012, the vast majority of the amounts owed to Architect by Developer under the Contract were not paid. Unbeknownst to Architect, near the end of 2007, the members of the Developer ceased making capital contributions to the Developer and the Developer entity ceased operations. However, during the period between 2009 and 2012, the members of the Developer independently retained and paid for services provided by other service providers rendering assistance to the Original Project.

Architect's representative testified that, at the direction of the principals of the Developer, Architect continued to provide services for the Original Project between 2008 and 2012, and at no time during such period did the principals of the Developer or its members advise the Architect that the members had ceased funding the Developer or that the Developer entity had ceased functioning. In addition, no one affiliated with the Developer informed the Architect that the Developer entity had abandoned the Original Project.

Architect initiated arbitration proceedings against the Developer in July 2013 to collect amounts due Architect under the Contract. The arbitration proceedings were later dismissed due to the Developer's failure to pay its share of the arbitrator's fees. Architect then filed suit against the Developer and its two members, asserting claims for unpaid invoices and breach of contract; Architect also sought to "pierce the veil" of the Developer, alleging that the two

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members were liable for the Developer's obligations under an alter ego theory. The trial court rendered judgment in favor of Architect for \$944,669.23, plus interest, holding the members of the Developer solidarily liable with the Developer for all amounts awarded. The 4th Circuit Court of Appeal affirmed the trial court's findings in all respects. The 4th Circuit found no legal error in the trial court's analysis of the alter ego issue and, therefore, applied the manifest error standard of review.

The 4th Circuit found the following testimony persuasive: (1) the principals of the Fla. Member formed a new entity and negotiated new agreements with the landowners of land that is part of the same series of riverfront tracts which were to be part of the Original Development, and as part of those new agreements, released assets previously held by the Developer entity as required by the landowners (and for the benefit of the new entity); (2) an improper tax treatment of the Developer by its members and principals; (3) the Developer entity failed to maintain its independent existence due to the actions of its members and their principals, which misled Architect, and other creditors, to their detriment; and (4) the members of the Developer failed to conduct business on a separate footing to such an extent that the company became indistinguishable from its members.

The court noted that, although the Louisiana Supreme Court has previously observed that piercing the corporate/LLC veil is governed by the law of the states where the entity at issue is organized (which would mean in this case the laws of the State of Florida would have governed the piercing the veil issue as relates to the Developer), the Louisiana Supreme Court also observed that if the state in which the foreign LLC is organized has a standard for piercing the LLC veil of such entity that differs from the veil-piercing standards under Louisiana law, the rules of the foreign jurisdiction will apply. The Court examined Florida law and found that Florida's veil-piercing standards are substantially similar to Louisiana law and, therefore, invoked the "false conflict" doctrine previously recognized by the 4th Circuit in 2015.

According to the court, a "false conflict" exists when the governing law of each jurisdiction is identical, or so similar that the same result would be reached under either law. Given that the 4th Circuit determined that a false conflict existed in the subject case, the 4th Circuit applied Louisiana law and Louisiana's veil-piercing standards.

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Air Permit Dispute Sent Back to LDEQ for Further Public Input on Environmental Justice

Rise St. James v. La. Dep't of Env'tl. Quality, No. 694,0239, Sec. 27, 19th JDC, Judgment (Dec. 14, 2020).

In one of several lawsuits pertaining to the development of a large plant in St. James Parish by Formosa Plastics, Judge Trudy White in the 19th Judicial District Court heard arguments as to whether air permits issued by the Louisiana Department of

Environmental Quality (LDEQ) for the facility were insufficiently supported by adequate, reliable evidence. An environmental group, joined by a local resident intervenor, sued LDEQ challenging the adequacy of the air-permitting process. At a November hearing, the intervenor asked the court to take judicial notice of "EJScreen" data, which is pollution and health-risk data compiled by the EPA and, further, to take judicial notice that the LDEQ did not consider this available data before granting Formosa its air permits. The court deferred ruling on the intervenor's motion but instead "recogniz[ed] the need for adequate environmental justice analysis . . . and the fact that LDEQ has no procedure for conducting an environmental justice analysis in connection with a permitting decision" The court ordered LDEQ to conduct an environmental-justice analysis that includes consideration of the EJScreen data that intervenor had raised, and specifically ordered LDEQ to "publicly notice and receive public comment on pollution and health risks from the people of Louisiana in its reconsideration of the environmental justice analysis." The court also ordered the agency to evaluate the information received in those public comments and then supplement its basis for decision that originally granted the air permits.

Both LDEQ and Formosa Plastics have filed supervisory writs, so this ruling may not hold, but it demonstrates that at least one state court has found that LDEQ should more thoroughly consider pollution and health-risk data to surrounding communities when making permit decisions, as well as better document that process.



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5th Circuit Has Jurisdiction to Hear EPA CAA Challenge; Defers to Agency Decision on Attainment

Texas v. U.S. EPA, 983 F.3d 826 (5 Cir. 2020).

In 2015, the EPA decreased its National Ambient Air Quality Standards for ozone to 0.07 ppm. The Clean Air Act requires states to monitor air quality and designate counties as in compliance with that standard or not (“attainment” or “nonattainment”). Texas initially designated Bexar County as nonattainment, then later asked the EPA in 2018 to redesignate the county as in attainment, since modeling suggested it would be at 0.07 ppm of ozone by 2020. The EPA refused and promulgated a final decision designating Bexar County as “marginal nonattainment” based on data from 2015-2017. The Sierra Club and the State of Texas both sued; the Sierra Club wanted additional counties surrounding Bexar to also be designated as nonattainment, based on that 2015-2017 data, while Texas wanted the EPA to consider the modeling trend that showed Bexar County eventually reducing its ozone emissions.

The 5th Circuit first addressed wheth-

er venue was proper. The Sierra Club, which had originally filed in the D.C. Circuit, argued that because the new designations were part of a nationally applicable regulation, venue was exclusive to the D.C. Circuit. The 5th Circuit disagreed and held that the case involved a locally or regionally applicable action, which meant it could be heard locally and that EPA had the direction to select the venue for judicial review (either the local venue or the D.C. Circuit).

The court then turned to Texas’s challenge to EPA’s designation of Bexar County as a nonattainment county. The EPA argued that it could change a county’s status from attainment to nonattainment at its own discretion, and its conclusion about the nonattainment status was correct. Texas argued that such a change in status was unnecessary and should not have been made. It contended that because Bexar County would have complied with the new NAAQS by 2020, the county should have been designated as attainment, and the EPA’s failure to consider the state’s modeling data was arbitrary and capricious.

The 5th Circuit agreed with the EPA, applying the *Chevron* deference standard of review to EPA’s interpretation of the Clean Air Act. The court determined that EPA’s own construction of the Clean Air Act language in question was permissible

and pointed that the Clean Air Act provides that a state must designate an area as nonattainment if it “does not meet” the NAAQS, which implied the use of current, actual data rather than future projections: “Even with the best available modeling data, Texas could not be certain of future events and future attainment.”

Regarding the Sierra Club’s argument that neighboring counties contributed to Bexar County’s ozone load and thus should also be designated nonattainment, the court similarly upheld the EPA’s decision. The Sierra Club argued that the EPA had previously considered counties to be in nonattainment if they contributed one percent or more to their neighbor’s air pollutants. The court found that the Clean Air Act did not mandate a one-percent rule and, moreover, that the EPA conducted a data-intensive, technical and complex analysis when making its attainment decisions. Thus, the agency was neither arbitrary nor capricious in declaring Bexar County’s three neighboring counties to be in attainment.

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Divorce

Nixon v. Nixon, 20-0694 (La. App. 1 Cir. 12/30/20), ____ So.3d ____, 2020 WL 7770881.

The trial court granted Mr. Nixon's exception of prescription/peremption to Ms. Nixon's claim for permanent spousal support. She initially filed her claim in her petition for divorce and then twice later in 2015 and 2019. The appellate court found that because she took no steps to prosecute her rule for more than three years between 2015 and 2019, she abandoned her claim under La. C.C.P. art. 561. Further, under La. Civ.C. art. 117, her claim was also preempted as, under abandonment, "the assertion of the claim is considered never to have occurred."

Dunn v. Dunn, 53,665 (La. App. 2 Cir. 1/13/21), ____ So.3d ____, 2021 WL 115925.

Ms. Dunn filed an exception of no right of action to Mr. Dunn's petition for divorce under La. Civ.C. art. 103(1), claiming that the alleged date of separation was not correct. The trial court denied her exception and granted the divorce, and she appealed. Due to serious medical issues, Ms. Dunn was hospitalized, and the dispute was over the date that she expressed her intention to live separate and apart from him, and the date of his understanding of her intent. She argued that she did not intend to separate from him until she was advised by her doctor that she needed to remain near the hospital after her discharge because of her condition. He, on the other hand, argued that she had made it clear to him once she left for the hospital that she was not going to return to the matrimonial domicile. She had asked that he bring her automobile and personal items to her sister's home, where she intended to go before and after the surgery. The court of appeal affirmed the trial court, finding that her words and

actions demonstrated her intent prior to her discharge from the hospital.

Hearing Officers

Fairbanks v. Beninate, 20-0206 (La. App. 5 Cir. 12/23/20), ____ So.3d ____, 2020 WL 7637948.

After a hearing officer recommended that Mr. Fairbanks receive sole custody of the parties' minor child, and that Ms. Beninate should have supervised visitation, she objected to the recommendations. She then also filed a motion to have La. R.S. 46:236.5.C declared unconstitutional on the ground of lack of due process because parents can lose custody of their children without a meaningful hearing. The trial court denied the motion, and she appealed. The appellate court found that while the "findings of fact" and "conclusions" of domestic hearing officers are recommendations, they are not final judgments, and that the trial court must hear the evidence and review the hearing officer's recommendations before accepting, rejecting or modifying them. Moreover, the burden of proof before the trial court remains on the moving spouse who originally had the burden of proof. The court found that as parties have the right to hearings, the procedures in the statute are not unconstitutional. Here, too, the trial court held a hearing, at which it took evidence, so the statute was not unconstitutionally applied to her.

The appellate court also found that the court's award of sole custody to him and supervised visitation to her was supported by the evidence. The appellate court also affirmed the trial court's finding her in contempt and ordering her to pay his attorney's fees and court costs. It also found that because there was insufficient evidence to support the child support award to him, and because required documents were not introduced into evidence, it could not determine whether the trial court erred in calculating the child support award; thus, it vacated the child support judgment and remanded to the trial court to take the required evidence.

Nullity

Anderson v. Anderson, 20-0186 (La. App. 5 Cir. 12/23/20), ____ So.3d ____, 2020 WL 7639094.

Mr. Anderson filed a petition to annul a child and spousal support judgment and a judgment partitioning the parties' community property. The trial court denied his petition, and the court of appeal affirmed. Although he had not been served with the original motion to set the trial on the community property partition, he was served with the motion to reset the hearing and had the opportunity to appear. Regarding the support judgment, he was served with the trial date. He did not appear, but claimed that he did not receive the hearing officer's recommendations, thus preventing him from filing an objection. However, the clerk of court did mail him a notice of the judgment. Rather than appealing the judgment, he attempted to attack it by a petition for nullity, which was improper, and the court found that it lacked jurisdiction to consider his appeal.

Custody of Embryos

Loeb v. Vergara, 20-0261 (La. App. 4 Cir. 1/27/21), ____ So.3d ____, 2021 WL 343415.

This case involved numerous procedural issues as to Mr. Loeb's suit against Ms. Vergara regarding two frozen embryos created by them, which were stored in a reproductive facility in California. Ms. Vergara filed numerous exceptions, all of which were sustained by the trial court, and also by the court of appeal, although with some amendments. The case is more than 40 pages long, with a wealth of procedural analysis.

The court of appeal reversed the trial court's ruling regarding the sealing of the record. After a thorough review of the law regarding the sealing of records, the court of appeal found that the record could not be sealed. However, it allowed those portions of the record that had previously been redacted to remain redacted. The court also addressed the claim of privilege between Mr. Loeb and his accountant and found that the exception to accountant/client privilege applied as Mr. Loeb was alleging the matter was a "domestic" and "custody

matter.” La. C.E. art. 515.(C)(10).

Because a prior matter on the same subject had been filed in the State of California by Ms. Vergara, the court found that the petition was *lis pendens* to the present petition in Louisiana. However, the trial court was not authorized to dismiss the Louisiana suit, but only to stay it under La. Civ.C. art. 532. The court of appeal also found that the matter was filed in an improper venue, as neither party was domiciled in the State of Louisiana. Particularly, the court found that Mr. Loeb’s claims that he was domiciled in Louisiana were false. Further, Mr. Loeb had testified that he filed in Louisiana only because Louisiana recognized embryos as persons, whereas California did not. The appellate court also found that Louisiana lacked subject matter jurisdiction under the UCCJEA, after reading it in *pari materia* with the Louisiana Human Embryo Statutes and delving into the Legislature’s intent in passing both of those statutes. The court found that the frozen embryos could not be classified as children.

The court also affirmed that Louisiana lacked both general and specific personal jurisdiction over Ms. Vergara. Further, the reproductive facility had not been joined and should have been made a party. Thus, the court found that the matter could be dismissed, without prejudice, as Mr. Loeb had an adequate remedy in the California suit. The court also affirmed the denial of Mr. Loeb’s motion for discovery, as his discovery went beyond the limited venue and jurisdiction issues before the court. He had attempted to issue discovery on the merits, which the trial court denied. The court did not address Mr. Loeb’s exceptions of no right of action, no cause of action and lack of procedural capacity because its other rulings rendered them moot.

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No Contractor’s License is an Absolute Nullity, Even with Respect to Indemnity

Maroulis v. Entergy La., LLC, 20-0241 (La. App. 5 Cir. 2/10/21), ____ So.3d ____, 2021 WL 484326.

Hotel Investors entered into construction contracts with Sigur Construction, LLC, and Castleman, Donlea and Associates, LLC, by which both parties agreed to operate as general contractors on a local hotel-renovation project. In connection with the work to be performed, Castleman hired Sunbelt Rentals Scaffold Services, LLC, as a subcontractor on the project. While working on the hotel, a Sunbelt employee was injured when a piece of scaffolding equipment contacted an overhead power line.

The injured Sunbelt employee sued Hotel Investors and various other defendants under negligence theory. In turn, Hotel Investors filed a third-party demand against Castleman and its insurer, alleging breach of the construction contract and seeking indemnity per the contract with Castleman as well as coverage under the insurer’s policy.

In response to this third-party demand, Castleman raised the affirmative defense of an illegal contract. Castleman, a Texas-based company, was not a licensed contractor in Louisiana. Castleman pointed to La. R.S. 37:2150, which requires construction projects of \$50,000 or more to be performed by a contractor licensed in Louisiana. Because Castleman did not have this license, it argued that the contract with Hotel Investors was absolutely null. However, the trial court was not persuaded by this argument, and Castleman filed a writ application with the Louisiana 5th Circuit seeking review of that decision.

The 5th Circuit examined several argu-

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ments raised by Hotel Investors that the contract was not null or that Castleman still owed indemnity. First, Hotel Investors argued that all the work performed on the project was lawfully performed because Sigur, a properly licensed Louisiana contractor, had what was styled by the 5th Circuit as a “joint venture-like endeavor” with Castleman. The 5th Circuit rejected this argument, finding that it is well established under Louisiana law that all members of a joint venture must be properly licensed for the venture as a whole to meet the licensing requirement.

The other major argument advanced by Hotel Investors was the “clean hands” doctrine. Hotel Investors argued that Castleman should not be allowed to invoke nullity to avoid obligations it knowingly undertook and paid for. However, the 5th Circuit noted that there was a distinction between this case and the typical application of this doctrine. The 5th Circuit noted that the typical case in this context involves an unlicensed contractor who performs work, and then the owner refuses to pay for the work on the basis of contract nullity. In those circumstances, the 5th Circuit noted that Louisiana courts have found the contractor is still entitled to recover costs for labor, services and materials under unjust-enrichment theory, preventing and estopping the owner from taking full advantage of the contract nullity.

However, in this case, the performance sought by Hotel Investors was contractual indemnity, an obligation that arose only by virtue of the contract — which was declared absolutely null and void *ab initio*. As such, the 5th Circuit found that Hotel Investors could not enforce the terms of a null and void contract and that Castleman was not required to provide indemnity. However, the 5th Circuit did note that the injured worker could potentially bring a claim against Castleman for negligence. Hotel Investors, on the other hand, was not so fortunate.

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Overtime Requirements of the Fair Labor Standards Act

Hewitt v. Helix Energy Sols. Grp. Inc.,
983 F.3d 789 (5 Cir. 2020), *vacating*
Hewitt v. Helix Energy Sols. Grp., Inc.,
956 F.3d 341 (5 Cir. 2020).

The 5th Circuit recently held that certain employees paid on a “day-rate” basis are *not* exempt from the overtime requirements of the Fair Labor Standards Act (FLSA). The plaintiff, Michael Hewitt, worked as a tool pusher for an oil and gas company and was paid \$963 per day without any guaranteed salary. In other words, he would not be paid at all unless he worked at least one day during the week. Thus, the issue presented was whether Hewitt, under this day-rate compensation system, was paid “on a salary basis” under 29 C.F.R. § 541.604(b).

One notable aspect of the decision was that the same three-judge panel issued a decision in April 2020 *unanimously* holding that Hewitt was non-exempt, but the later opinion (discussed in this article) had a divided panel. While Judges Ho and Higginson stuck with the panel’s initial reasoning, Judge Weiner changed his view and wrote a dissenting opinion explaining why, which prompted Judge Ho

to respond with his own concurring opinion.

Just over three weeks after this article was initially submitted for publication, on March 9, 2021, the 5th Circuit ordered that the case be reheard *en banc*. *Hewitt v. Helix Energy Sols. Grp.*, No. 19-20023, 2021 U.S. App. LEXIS 6848 (5 Cir. March 9, 2021). Thus, the entire 5th Circuit will now review the opinions of the majority, Judge Wiener’s dissent and Judge Ho’s concurrence, and the *en banc* court will have the final say as to the line of reasoning that should be adopted for “day-rate” cases such as this one.

The Majority Opinion

The majority first determined that, while a worker paid by the day can be exempt from overtime under the FLSA, two conditions must be satisfied to meet the salary-basis requirement: (1) the arrangement must include a “guarantee of at least the minimum weekly required amount paid on a salary basis [currently \$684/week] regardless of the number of hours, days or shifts worked,” and (2) there must be a “reasonable relationship . . . between the guaranteed amount and the amount actually earned.”

The majority then held that the defendant could *not* satisfy the first requirement of the salary-basis test because it paid a daily rate without any weekly guarantee that was paid “regardless of the number of hours, days or shifts worked.” As the majority explained, the weekly guarantee requirement “sets a *floor* for how much the employee can expect to earn,” no matter how much he works. And when an employee is paid a day rate and does *not* re-



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ceive a *guaranteed* amount of at least \$684/week, such an arrangement is “the very opposite of an amount that is paid ‘regardless of the number of . . . days . . . worked.’”

As to the “reasonable relationship” requirement, the FLSA’s regulations provide that it is satisfied so long as “the weekly guarantee is roughly equivalent to the employee’s *usual* earnings at the assigned hourly, daily or shift rate for the employee’s normal scheduled workweek.” 29 C.F.R. § 541.604(b). Applying this regulatory text to the day-rate compensation arrangement, the majority found that it did not satisfy the reasonable relationship test because Hewitt was paid “orders of magnitude greater than the minimum weekly guaranteed amount theorized by [the defendant] — namely, Hewitt’s daily rate.” In other words, even assuming the \$963 day rate was a guaranteed weekly amount, it did not have a reasonable relationship to the amount Hewitt would earn for a full week of work (which would total \$4,815/week for five days of work based on the \$963/day rate).

Judge Weiner’s Dissent

After initially siding with the majority, Judge Wiener changed his view and concluded that (1) Hewitt’s day-rate compensation satisfied the salary-basis test, and (2) the “reasonable-relationship” test did not apply to Hewitt because he was a “highly compensated employee” under the FLSA.

As to the salary-basis requirement, Judge Wiener determined that Hewitt’s day-rate compensation satisfied this condition because if he “performed any work — even for just one hour — he was paid his full daily rate” and, therefore, “[h]e was thus paid at least \$963 for each and every week he worked . . . without regard to the number of days or hours worked.” Judge Wiener believed that the plaintiff was paid on a salary basis because he received a guaranteed amount of \$963, his daily rate of pay, for any week in which he performed any work at all, even if just an hour.

Judge Wiener also found that the reasonable-relationship test was inapplicable because Hewitt was a “highly compen-

sated employee” under § 541.601 of the FLSA’s regulations. Thus, Judge Wiener concluded that the reasonable-relationship test set forth in § 541.604(b) was irrelevant because the highly compensated employee regulation includes no reference whatsoever to a reasonable-relationship condition.

Judge Wiener’s dissent also emphasized that Hewitt was a “highly skilled supervisor” who earned “a staggering \$200,000 or more per year.” According to Judge Wiener, the FLSA was intended to protect low-wage laborers and, therefore, should not be “interpreted to protect workers making high five-figure or six-figure incomes.” Finally, the dissent concluded that the majority opinion would have devastating effects on energy sector employers in the 5th Circuit by putting “the region, and the industry, at a significant disadvantage to other exploration operations elsewhere in the country and the world.” For all these reasons, Judge Wiener urged the 5th Circuit to grant rehearing *en banc*.

Judge Ho’s Concurrence

Judge Ho’s concurrence focused on the dissent’s determination that the reasonable-relationship test did not apply to Hewitt because he was a highly compensated employee. According to Judge Ho, the dissent’s legal reasoning would render the reasonable-relationship condition meaningless because *none* of the FLSA exemption regulations — whether the highly compensated, executive, administrative or professional exemptions — explicitly reference the requirement. Thus, the dissent’s interpretation would altogether eliminate the reasonable-relationship requirement for *all* FLSA exemptions and render it “a dead letter — contrary to the canon against surplusage.” Judge Ho also believed that the dissent erred by relying on the policy contentions advanced by an “armada of oil industry amici,” viz, that energy companies in the 5th Circuit would be at a significant economic disadvantage to their competitors if the majority’s decision were allowed to stand. In Judge Ho’s view, a true textualist should not buy into the “‘bad for business’ theory of statutory interpretation offered by the dissent under the purported flag of textualism”

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Conclusion

The majority's holding established a bright-line rule that a worker paid a daily rate, "with no minimum weekly guarantee," is not paid on a salary basis under "the plain language of the salary basis test." It also held that the reasonable-relationship test must be satisfied for the highly compensated employee exemption — and all other FLSA exemptions — to remove an employee from the statute's overtime protections.

The back-and-forth between Judge Weiner's dissent and Judge Ho's concurrence also was noteworthy. Both judges claimed that their legal analyses were rooted in textualism, yet they reached diametrically opposite conclusions as to (1) how the salary-basis test can be satisfied, and (2) whether the reasonable relationship condition applied to high-earning individuals like Hewitt.

Now that the 5th Circuit has decided to rehear the *Hewitt* decision *en banc*, its outcome is now in flux and it is an open question as to whose interpretation will carry the day. Regardless, given the importance of the decision on "day-rate" overtime cases, there is no question that FLSA lawyers on both sides of the aisle will be keeping a close eye on how the case plays out before the full 5th Circuit.

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Company Purchasing Oil from Operator that Committed Trespass Could Invoke Louisiana's Good Faith Purchaser Defense

Hill v. TMR Expl., Inc., 20-0667 (La. App. 1 Cir. 1/27/21), ___ So.3d ___, 2021 WL 267916.

The Hills brought a subsurface trespass action against TMR Exploration, Inc., Park Exploration, Inc. and Vitol Resources, Inc., seeking to recover the value of minerals that were produced from the Hills' land without authority. The Hills alleged that TMR drilled a well from the surface of a neighboring tract that TMR had under lease, but the well was bottomed beneath the Hills' land. The Hills had not granted a lease or consented to the well, and the Hills' land was not part of a drilling unit. TMR produced oil from the well for a time, then assigned its interest to Park, which subsequently assigned its interest to Vitol.

The Hills also sued certain Sunoco entities (collectively, Sunoco) that had purchased oil produced from the well. Sunoco filed a motion for summary judgment to dismiss the claims against it based on the good-faith-purchaser defense set forth in Louisiana Civil Code articles 521

through 524. The district court granted the motion, and the Hills appealed.

The Hills noted that, under La. Civ.C. art. 2452, "The sale of a thing belonging to another does not convey ownership." Further, although the Civil Code applies to mineral disputes if the "[Mineral] Code does not expressly or impliedly provide for a particular situation," the Mineral Code "prevails" to the extent that it provides for a particular situation. La. R.S. 31:2. The Hills argued that the Mineral Code provides a rule that applies to their dispute with Sunoco. Thus, the Mineral Code prevails over the Civil Code's good faith purchaser defense, and that defense does not apply.

In particular, the Hills relied on Mineral Code article 210. This article provides protection to "[a] purchaser of minerals produced from a recorded lease granted by the last record owner holding under an instrument translatif of title to the land or mineral rights leased . . . unless and until a suit is filed testing title to the land or mineral rights embraced in the lease and the purchaser receives notification of it by registered mail." However, the "purchaser is not entitled to this protection unless he has filed for registry in the conveyance records of the parish in which the land subject to the lease is located notice that the minerals produced have been and will be purchased by him." Because Sunoco did not file a notice in the conveyance records, the Hills argued Sunoco was not entitled to protection under Mineral Code article 210.

Sunoco argued, however, that Mineral Code article 210 did not apply, and the Louisiana 1st Circuit Court of Appeal agreed. The 1st Circuit stated: "The purpose and intent of La. R.S. 31:210 is to address rental and royalty payments due

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to parties holding an interest in the 'leased property' when a dispute or defect in the title exists." But here, the Hills' claims were based on a trespass beneath their unleased land, and these claims were "separate and distinct from the 'recorded lease' over the land of [the Hills' neighbor.]" For this reason, Mineral Code article 210 did not apply.

Because Mineral Code article 210 did not apply, it would not prevail over otherwise applicable Civil Code provisions. Moreover, the 1st Circuit concluded that Sunoco qualified for the Civil Code's good faith purchaser defense. Under La. Civ.C. art. 522, "A transferee of a corporeal movable in good faith and for fair value retains the ownership of the thing even though the title of the transferor is annulled on account of a vice of consent." Further, under article 524, "[t]he owner of a lost or stolen movable may recover it from a possessor who bought it in good faith . . . from a merchant customarily selling similar things," but only after the owner reimburses the possessor for "the purchase price." Article 523 specifies: "An acquirer of a corporeal movable is in good faith for purposes of this Chapter unless he knows, or should have known, that the transferor was not the owner." Here, the Hills did not produce any evidence to challenge Sunoco's status as a good faith purchaser. Therefore, Sunoco was entitled to summary judgment.

Further, the court noted another aspect of Louisiana law that might defeat the Hills' claim. In particular, the Hills' claim against Sunoco was based on a premise that the Hills were owners of the oil. But under Louisiana law, no one owns oil or gas naturally in place in the subsurface. La. R.S. 31:6. A landowner generally has the exclusive right to drill and produce oil, gas or other fugitive minerals from the land, "and to reduce them to possession and ownership," but his or her ownership of these fugitive minerals does not begin until the landowner reduces them to possession. Here, the Hills never possessed the oil sold to Sunoco.

Accordingly, the court found the Hills lacked any claim against Sunoco based on ownership of the oil, although the Hills might have trespass claims against TMR, Park and Vitol based on subsurface tres-

pass for the value of the oil produced by those defendant operators.

—**Keith B. Hall**

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Collateral Source

Thomassie v. Amedisys La Acquisitions, LLC, 20-1229 (La. 1/20/21), ____ So.3d ____, 2021 WL 193832.

The court of appeal ruled that TRICARE was a government-funded program that did not involve a contract between an insurer and insured, and it was therefore not a collateral source because only the United States held the right to recover medical expenses it paid in this medical malpractice case (*see LBJ* Vol. 68, No. 4, pages 385-286). The Louisiana Supreme Court reversed.

In a *per curiam* opinion, the Court examined the two factors that are determinative of whether payment of medical expenses by a third-party is a collateral source.

The first issue was whether application of the rule would "further the primary goal of tort deterrence," which it said, "has been an inherent, inseparable aspect of the collateral source rule since its inception over one hundred years ago." The Court reasoned that the PCF's capital comes from surcharges paid by healthcare providers and that the amounts of the charges are based on studies that consider "the healthcare provider's past and prospective loss

and expense experience." Increased costs of PCF coverage motivate healthcare providers to "avoid unreasonably dangerous conduct." As applied to the facts in *Thomassie*, the Court decided that the collateral source rule did act as a deterrent.

The second issue was whether the plaintiff paid for the coverage benefits or whether he received an actual windfall or double recovery. The Court found that Mr. Thomassie made payments to TRICARE for insurance coverage; thus, he did experience "some diminution in his patrimony so no actual windfall or double recovery result[ed]." The case was remanded.

Daubert Motion

Davis v. Ghali, 20-1260 (La. 2/9/21), ____ So.3d ____, 2021 WL 457192.

The plaintiff contended that the defendant doctor breached the standard of care during the performance of a robotic-assisted, sleep-apnea tongue surgery (UPPP). The defendants filed a *Daubert* motion, challenging the qualifications of the plaintiff's expert because he had never performed a robotic UPPP. The trial court granted the motion, ruling that the otolaryngologist would be permitted to testify as an expert in his specialty "but cannot testify as to the performance of [r]obotic surgery."

The appellate court denied the plaintiff's request for a reversal, following which the plaintiff filed a writ application to the Supreme Court.

The plaintiff showed that the expert in question had numerous peer-reviewed publications, had been admitted as an expert witness in several states and had performed more than 15,000 otolaryngological surgeries, but he had never performed a robotic UPPP. He had retired from private practice but remained on the teaching staff of a medical center, where he taught robotic and non-robotic otolaryngologic surgery. The plaintiff also argued that robotic surgery was not the only surgical procedure used for this condition but instead was "merely a choice made by the surgeon." The Court reversed the trial court's grant of the *Daubert* motion to prevent the physician from testifying as to the standard of care applicable to this case.

Default Judgment

Kimble v. Curahealth New Orleans, LLC, 20-0286 (La. App. 4 Cir. 7/8/20), 302 So.3d 579, writ denied, 20-0981 (La. 11/4/20), 303 So.3d 651.

The defendant failed to answer the plaintiff's petition for damages or otherwise make an appearance despite receiving valid service through its agent for service of process. A motion for a preliminary default was granted 50 days after service. The defendant did not respond to the motion or answer the petition. Months later, the plaintiff moved to confirm the default. The defendant was served through its agent and again did not respond. The default confirmation hearing was scheduled for September, but the plaintiff requested a special hearing for presenting live expert testimony and other evidence. A new hearing was scheduled for December. The defendant was not served with the order resetting the confirmation hearing. During the December hearing, plaintiff established a *prima facie* case for negligence and damages, and a monetary judgment was issued.

The defendant's first appearance in the case was in the form of a motion for a new trial, in which it contended that the judgment was null because of a lack of service. The plaintiff countered that the defendant's motion "improperly combined an insufficiency of evidence claim with a nullity claim." *Id.* at 581. The trial court ruled that the default judgment was null for lack of service and granted the motion for a new trial, deciding that the plaintiff should have served the defendant with the motion to reset the September hearing.

The appellate court reversed the trial court's ruling and found valid the initial default judgment. The court acknowledged that the defendant had not been advised of the new hearing date, but, as it had admitted receiving personal service of the original petition, it [i]ndisputably had adequate notice of the proceedings against it through verified service, and yet allowed nearly ten months to pass without taking any action." *Id.* at 585.

—**Robert J. David**

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Discounted and Complimentary Hotel Rooms Are Still Taxable

Jazz Casino Co., LLC v. Bridges, 20-1145 (La. 2/9/21), ____ So.3d ____, 2021 WL 457113.


Jazz Casino Company, LLC, and JCC Fulton Development, LLC (collectively Harrah's) sought a writ to the Louisiana Supreme Court to seek review of the Louisiana 1st Circuit Court of Appeal's decision to affirm a trial court judgment, granting a motion for partial summary judgment filed by the Louisiana Department of Revenue (Department). The trial court judgment declared that Harrah's owed state sales tax, as well as Louisiana Stadium and Exposition District and New Orleans Exhibition Hall Authority tax (collectively occupancy taxes), on all discounted and complimentary hotel rooms furnished to patrons at Harrah's New Orleans hotel as well as certain third-party hotels during the tax periods at issue.

The 1st Circuit held that Harrah's, as the casino gaming operator, is mandated to pay room taxes "on all discounted and complimentary rooms . . . at the applicable tax rates based on the average seasonal rates for the preceding year of hotels

in the [Central Business District] (CBD) and French Quarter." The 1st Circuit held that the trial court correctly concluded that "room taxes" referenced all taxes levied by the State and the City of New Orleans on the furnishing of sleeping rooms. The 1st Circuit found nothing in the plain language of Subsection (e) of La. R.S. 27:243(C)(1)(i)(2) that either limited its application to lodging physically connected to the official gaming establishment or excluded third-party hotels from its provisions. Room taxes are required to be paid by Harrah's as the casino-gaming operator on all discounted and complimentary rooms at the applicable tax rates based on the average seasonal rates for the preceding year of hotels in the CBD and French Quarter.


Mindful that businesses generally do not give their assets away, the 1st Circuit held the trial court correctly determined that a consideration was present in Harrah's furnishing of discounted and complimentary hotel rooms to its patrons in exchange for the patron's participation in gaming activities at Harrah's such that Harrah's owed room taxes as set forth in Subsection (e). The court noted the expert testimony of the Department's witness that said Harrah's provided their patrons discounted or complimentary hotel rooms in exchange for a statistically calculated return or a theoretical win that Harrah's anticipated receiving.

Judge Theriot of the 1st Circuit dissented in part. He opined that, under La. R.S. 27:243(C)(1)(i)(2)(e), a gaming casino operator does not own or operate lodging when providing complimentary rooms to a casino patron at third-party hotels. He stat-



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ed that the Department was not entitled to room taxes at the average seasonal rate for the third-party hotels comped by Harrah's. He signed onto the rest of the opinion.

The Louisiana Supreme Court issued a *per curiam* opinion that granted Harrah's writ application in part and reversed judgment in part. The Court held that, for the reasons assigned by Judge Theriot, the writ was granted in part to reverse the lower courts' grant of summary judgment in favor of the Department *only* as it relates to room taxes on third party-hotel rooms that Harrah's neither owns nor operates; otherwise, the writ was denied. The Court affirmed the majority of the 1st Circuit's ruling in favor of the Department. The Court only modified the lower court ruling in part by holding that Harrah's does not have to pay tax on the "average seasonal rate" when it provides a complimentary room at a third-party hotel. Instead, Harrah's would have to pay tax only at the discounted amount actually charged to Harrah's by the third-party hotel.

—Antonio Charles Ferachi

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1st Circuit Strikes Down Tax Regulation that Conflicts with State Law

The Louisiana 1st Circuit Court of Appeal in *Davis-Lynch Holding Co., Inc. v. Robinson*, 19-1574 (La. App. 1 Cir. 12/30/20), ___ So.3d ___, 2020 WL 7766314, held that the Louisiana Department of Revenue's corporate-income-tax-apportionment regulation (LAC 61:I.1134(D)) incorrectly excluded sales not made in the regular course of business from the sales ratio of the corporate-income-tax-apportionment formula. The court found that the clear language of the statute, and the legislative history behind it, indicated that there was no intention by the Legislature to impose such a narrow reading of the sales ratio as is found in the regulation.

La. R.S. 47:287.95(F)(1)(c) provides that the sales ratio of the apportion-

ment factor includes "net sales made in the regular course of business and other gross apportionable income attributable to [Louisiana]" in the numerator and "total net sales made in the regular course of business and other gross apportionable income of the taxpayer" in the denominator. The Department interpreted this provision as specifically excluding "sales not made in the regular course of business" from the numerator and the denominator of the sales ratio of the apportionment factor.

The court held that the Department's regulation excluding sales not made in the regular course of business from the sales factor was contrary to the clear wording of La. R.S. 47:287.95(F), as well as the legislative history excluding similar language from the statute. Thus, the taxpayer correctly included its gain from the sale of an LLC interest in the denominator, but not the numerator, of the sales ratio as "other gross apportionable income." The Department has elected not to appeal the decision; thus, the judgment is now final.

Supreme Court Declines to Hear Due Process Nexus Case

The Louisiana Supreme Court rejected the Department's appeal in a case addressing the extent of the state's jurisdiction under the

Due Process Clause of the U.S. Constitution. *Robinson v. Jeopardy Productions, Inc.*, 19-1095 (La. App. 1 Cir. 10/21/20), ___ So.3d ___, 2020 WL 6162836, writ denied, 20-1343 (La. 1/20/21), ___ So.3d ___, 2021 WL 193855. The 1st Circuit had held that a California company did not have due-process nexus with Louisiana for corporate-income-tax purposes based solely on indirectly licensing intangibles into the state. The Court did not provide any written reason for declining to hear the case.

In analyzing the due-process requirements, the 1st Circuit found that the taxpayer had not intentionally or directly engaged in activities within Louisiana. The court determined that the taxpayer's contact with Louisiana was random, fortuitous and attenuated, and was initiated by the independent activities of third parties. As there was no direct and intentional contact with Louisiana, the court determined that the taxpayer did not have sufficient minimum contacts with the state to satisfy the Due Process Clause and upheld the trial court's judgment sustaining the taxpayer's exception for lack of personal jurisdiction and dismissing the Department's petition to collect taxes.

—Michael McLoughlin

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CHAIR'S MESSAGE

Register Early for YLD Conference on May 14; Awards to Be Presented

By Carrie LeBlanc Jones

It is hard to believe this is my last message to write as the Young Lawyers Division (YLD) chair. This past year has flown by incredibly fast. It certainly was not the year I had envisioned, but it will be memorable. The 2020-21 YLD Council has overcome countless obstacles and burdens that I hope no other Council will have to experience. When I reflect on my year as chair, there are two sets of lenses. The first is through a lens of self-pity because the year that I looked forward to for so long did not turn out as I had imagined. The second is through a lens of optimism and pride because of the Council's accomplishments despite the unprecedented obstacles. In case you are wondering, I am an optimist at heart, so I consider the past year a smashing success.

In 2019, the YLD hosted the inaugural Young Lawyers Conference in connection with the Louisiana State Bar Association's (LSBA) Midyear Meeting. At that time, the Council's long-term strategic plan was to grow the conference into a stand-alone marquee event entirely dedicated to young lawyers. It's finally happening on Friday, May 14, 2021, at one of New Orleans's hottest new event spaces, Galerie de Galatoire. The Conference Committee placed a lot of thought into select-

ing relevant topics and speakers with young attorneys in mind. The Council is honored to have newly elected Louisiana Supreme Court Justice Piper D. Griffin as the keynote speaker at the 2021 Young Lawyers Conference, *Shaping the Future*. I strongly suggest registering early. Space is limited due to social distancing.

The YLD award winners will be announced at the Young Lawyers Conference. I was impressed by the slate of remarkable applicants. Louisiana's up-and-rising attorneys are nothing short of fantastic. Award finalists include:



Carrie LeBlanc Jones

Outstanding Young Lawyer Award:

Stuart R. Breaux
Lauren R. Bridges
Joseph J. Cefalu III
Sherron P. Williams

Honorable Michaelle Pitard Wynne Professionalism Award:

Roya S. Boustany
Druit G. Gremillion, Jr.
Kellye R. Grinton

YLD Pro Bono Award:

Candace B. Ford
Trinity A. Morale
Christopher B. Ortte

Outstanding Local Affiliate Award:

Greater New Orleans Martinet Legal Society, Inc.
Lafayette Bar Association YLS
New Orleans Federal Bar Association YLD

Outstanding Program of the Year Award:

Baton Rouge Bar Association's Belly Up with the Bar
The Ella Project (ellanola.org)
Greater New Orleans Martinet Legal Society's Pathways & Pipelines

The Louisiana High School Mock Trial Competition was hosted virtually on March 20. The regional coordinators and the YLD Committee successfully transitioned the entire program to a virtual platform. Thanks to all the students, teachers, coaches, judges and attorney volunteers for participating. The winning team will have the opportunity to participate in the national competition.

The Barristers for Boards Committee facilitated its first virtual event to pair young attorneys with nonprofits to encourage community involvement and

service to the public.

The Wills for Heroes Committee trained the entire council on the WFH program at our orientation. The committee took advantage of the COVID downtime to update the materials. We're looking forward to scheduling events in the near future.

In closing, I would like to give a heartfelt thank you to the 2020-21 YLD Council members and our LSBA staff liaison, Kelly W. Ponder. It has been a pleasure and highlight of my legal career serving as chair of the YLD. We grew as a Council, and, despite a once-in-a-lifetime global pandemic, multiple hurricanes and an ice storm, we pivoted to serve the profession and the public successfully. I'm excited for the future of young lawyers in our state. The upcoming leadership includes the best and brightest young lawyers that I know. As I pass the torch to Graham H. Ryan to replace me as chair in June, I am confident that he will be a phenomenal leader.

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YOUNG LAWYERS SPOTLIGHT

Camille E. Walther Covington

The Louisiana State Bar Association's Young Lawyers Division Council is spotlighting Covington attorney Camille E. Walther.

Walther graduated from Louisiana State University in three years and from LSU Paul M. Hebert Law Center in 2016. After a couple years of practicing in environmental law at Harrison Law in Baton Rouge, she took a sabbatical and completed one of her lifetime goals of traveling solo. She immersed herself into new cultures. She became scuba-certified in Thailand, climbed Mount Fuji in Japan, wrecked a scooter in Italy, took in the architecture of Singapore, hiked the Spicers Scenic Rim Trail in Australia, relaxed in Bali and met people from almost every continent.

Upon returning home from her trip, she was presented with the opportunity of a lifetime to work alongside her father, Jim Walther, as a financial advisor with the established Walther-duPassage Group at Morgan Stanley. Back in her hometown of Covington, she works closely with individual investors, families and small business owners to holistically and continually help preserve and grow their wealth. By utilizing a combination of savings, investments, insurance, tax and estate planning strategies, she supports clients in making informed, confident decisions that impact

their livelihood. (CRC#: 3454162.)

Her love of the law and wanting to maintain her connection with her fellow attorneys drew her to volunteer for the Young Lawyers Division Council District 5

representative seat (covering the 19th to 22nd Judicial District Courts). She looks forward to continuing to implement relevant and entertaining CLEs and socials for her district.

Walther, who is warm-hearted and approachable, brings a distinct perspective and strong willingness to serve young lawyers and the legal community.

She continues her philanthropic endeavors through the Junior League of Greater Covington and will be serving as the assistant treasurer on its board. This organization provides educational and cultural opportunities to enrich the lives of the citizens of the surrounding community.

She also spends much of her free time outdoors on the water. She hunts, fishes, slalom skis, plays beach volleyball and practices yoga. She owns an amazingly precious golden-doodle named Red. She looks forward to seeing old faces and meeting more members of the state's legal community.



Camille E. Walther



YOUNG LAWYERS DIVISION NEWS

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Preliminary Agenda May 14, 2021 • Galerie de Galatoire

- 8:30 a.m. - 9:00 a.m. **Registration**
- 9:00 a.m. - 9:40 a.m. **Welcome & Opening Networking Event**
- 9:40 a.m. - 10:40 a.m. **Professionalism in the Digital Age**
(1 hr CLE Prof.)
- 10:50 a.m. - 11:50 a.m. **Call to Serve: Public Office**
(1 hr CLE)
- 11:55 a.m. - 1:00 p.m. **Luncheon & Awards Ceremony**
- ◇ Noon - 12:30 p.m. **Keynote Speaker: Justice Piper D. Griffin**
(.5 hr CLE)
- ◇ 12:30 pm - 1:00 p.m. **Awards Ceremony**
- 1:10 p.m. - 2:10 p.m. **Implicit Bias: What Every Young Lawyer Should Know**
(1 hr Ethics CLE)
- 2:20 p.m. - 3:50 p.m. **Sprint Sessions**
(1.5 hrs CLE, three 30 minute sessions)
- ◇ Session 1: **Being a Good Manager**
- ◇ Session 2: **Preparing for Rule Day or Oral Argument**
- ◇ Session 3: **Marketing Workshop**
- 3:50 p.m. - 4:50 p.m. **From the Ground Up: Building Your Practice**
(1 hr LPM CLE)
- 4:50 p.m. - 5:00 p.m. **Closing Remarks**
- 5:00 p.m. - 6:00 p.m. **Networking Event**



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By Trina S. Vincent, Louisiana Supreme Court

JUSTICES... JUDGES... APPOINTMENTS

New Justices

Louisiana 2nd Circuit Court of Appeal Judge Jay Bowen McCallum

was elected as the Louisiana Supreme Court District 4 associate justice, effective Nov. 13, 2020. He earned his bachelor's degree in 1982 from Northeast Louisiana University (currently the University of Louisiana-Monroe) and his JD degree in 1985 from Louisiana State University Paul M. Hebert Law Center. Before his election to the Supreme Court, he worked in private practice at Rabun & McCallum and as an assistant district attorney for the 3rd Judicial District. From 1992-2002, he served as a member of the Louisiana House of Representatives. He served as a 3rd Judicial District Court judge from 2003-18, during which time he was chief judge. He was elected without opposition to the 2nd Circuit Court of Appeal in 2018, where he served until his election to the Supreme Court. He has served on the Louisiana State Law Institute Council and the Louisiana Sentencing Commission (by gubernatorial appointment) and is a CLE lecturer for the Louisiana State Bar Association and the Louisiana Judicial College. Justice McCallum is married to Deanna Dunham McCallum, a practicing attorney. They are the parents of two children.



Justice Jay B.
McCallum

Orleans Parish Civil District Court Division I Judge Piper D. Griffin was elected as the Louisiana Supreme Court District 7 associate justice, effective Jan. 1, 2021. She earned her bachelor's degree in 1984 from the University of Notre Dame and her JD degree in 1987

from Louisiana State University Paul M. Hebert Law Center. From 1987-89, she worked at Carmouche Gray Hoffman Law Firm. She practiced at George J. Nalley Law Firm from 1989-99. In 1999, she was appointed by the Louisiana Supreme Court to serve as judge *pro tempore* for Orleans Parish Civil District Court, Division M. She was elected to the Orleans Parish Civil District Court (CDC) in 2001, was reelected unopposed in 2007 and 2013, and served as chief judge from 2012-13. She served on the CDC bench until her election to the Supreme Court. Justice Griffin has served as the second vice president of the Louisiana Association of District Court Judges, the secretary of the Louisiana Judicial Council Foundation, the immediate past president of the Louisiana Judicial Council/National Bar Association, the immediate past president of the 4th and 5th Circuit Judges Association and a member of the Louisiana Supreme Court Budgetary Control Board. She has served as a member of the Louisiana Supreme Court Committee on Judicial Ethics and as a member of the Testing Committee of the Committee on Bar Admissions. She is a frequent speaker for programs for the Louisiana State Bar Association, the New Orleans Bar Association, the Louisiana Judicial College and other local and national programs. She has served on the Law Institute committee that rewrote the Louisiana Motion for Summary Judgment Statute. She was subsequently appointed and continues to serve as a member of the Louisiana State Law Institute Council.



Justice Piper
D. Griffin

New Judges

Walter E. May, Jr. was elected 2nd Judicial District Court, Division A, judge, effective Jan. 1, 2021. He earned his bachelor's and master's degrees from Louisiana Tech University in 1979 and 2010, respectively, and earned his JD degree in 1982 from Louisiana State University Paul M. Hebert Law Center. He served as lieutenant commander in the Naval Reserve Intelligence Program from 1986-98. He was a major in the Judge Advocate General's (JAG) Corps from 1998-2009. He was a civilian-military employee and served as legal counsel to Partnership Strategy Group-Iraq and adviser to Chief Justice Iraqi Security Forces Court, Multi-National Security Transition Command, from 2009-10. From 1979-80, he was a judicial clerk for the 3rd Circuit Court of Appeal. From 1980-82, he worked as an associate at the law firm of Stafford, Stewart & Potter. He worked as a felony assistant district attorney and was a partner at Blake & May Law Office from 1982-96. From 1985-90, he worked as a magistrate at the Mayor's Court in Jonesboro. He worked as district attorney, 2nd Judicial District, from 1991-2009 and entered private practice in 2009. Judge May is married to Robin May. They are the parents of six children.



Walter E. May, Jr.

Kendrick J. Guidry was elected 14th Judicial District Court, Division H, judge, effective Jan. 1, 2021. He earned his bachelor's degree in 1990 from McNeese State University and his JD degree in 2000 from Louisiana State University Paul M. Hebert Law Center. He served as a

Continued next page

second lieutenant in the U.S. Army Signal Corps from 1990-92. He worked as a legal assistant for the Carmouche Law Firm from 1986-90. He worked at CARC, Inc., where he was a residential services director from 1992-96 and an assistant executive director from 1996-97. From 1998-99, he worked as a law clerk at Guglielmo, Marks, Schutte, Terhoeve & Love, LLP. In 1999, he worked as a conference student worker at the Association of American Law Schools in New Orleans and as a law clerk for Jerry F. Pepper, APLC. He practiced as a partner at Plauché, Smith & Nieset, LLC, from 2006 until his election to the bench. Judge Guidry is married to Kimalee Guidry. They are the parents of two children.



Kendrick J. Guidry

Michelle S. Billeaud was elected 15th Judicial District Court, Division K, judge, effective Jan. 1, 2021. She earned her bachelor's degree in 1988 from the University of New Orleans and her JD degree in 1993 from Southwestern University School of Law, Los Angeles, CA. Before her election to the bench, she worked as a law clerk for the Orleans Parish District Attorney's Office from 1993-94 and was an assistant Orleans Parish district attorney from 1994-96. From 1996-98, she worked as an associate at Lisa Brenner & Associates and was in private practice from 1998-2001. She worked at the Public Defender's Office, Lafayette Parish, from 1998-2001 as section chief. She worked with the Lafayette Parish Drug Court Program and served in the 15th JDC District Attorney's Office from 2002 until her election to the bench. Judge Billeaud is married to Lawrence Billeaud. They are the parents of two children.



Michelle S. Billeaud

Christopher R. Dassau was elected 19th Judicial District Court, Division G, judge, effective Jan. 1, 2021. He earned his bachelor's degree in 2008 from Florida International University and his JD degree in 2012 from Southern University Law Center. After interning at Moss & Associates, LLC, from 2006-07, Skanska USA Building, Inc. in 2008, and the 5th Circuit Court of Appeal in 2011, he worked as a student clerk at the 19th JDC in 2011. He was a teaching assistant at Southern University Law Center from 2010-12 and worked as a judicial clerk/staff attorney at the 19th JDC in 2012. From 2012-20, he worked in private practice and as a city prosecutor for the City of Baker. Judge Dassau began serving as an adjunct law professor at Southern University Law Center in 2018.



Christopher R. Dassau

John A. Keller was elected 22nd Judicial District Court, Division D, judge, effective Jan. 1, 2021. He earned his bachelor's degree in 1984 from Northeast Louisiana University (currently University of Louisiana-Monroe) and his JD degree in 1987 from Loyola University New Orleans College of Law. He was a law clerk with Jones, Fussell, Derveloy & Schoen from 1985-86 and with Hailey, McNamara, Hall, Larmann & Papale, LLP, in 1986. From 1987-92, he worked as an associate at the law firm of Onebane, Bernard, Torian, Diaz, McNamara & Abell; he was a partner from 1992-96. From 1996-2000, he worked in private practice. He was a partner/owner of Keller & Trahan, LLC, from 2001 until his election to the bench. Judge Keller is married to Midge K. Keller. They are the parents of two children.



John A. Keller

Ellen M. Creel was elected 22nd Judicial District Court, Division J, judge, effective Jan. 1, 2021. She earned her bachelor's degree in 1991 from Mississippi College and her JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. She was in private practice in Covington from 1996-98 and in Franklinton and Bogalusa from 1998 until her election to the bench. She has served as board president for the Washington Parish Association for Challenged Citizens and was Washington Parish Bar Association president from 2004-07. Judge Creel is married to P. Brandon Creel. They are the parents of three children.



Ellen M. Creel

Patrice A. Oppenheim was elected 22nd Judicial District Court, Division K, judge, effective Jan. 1, 2021. She earned her bachelor's degree in 1984 from Louisiana State University and her JD degree in 1991 from Loyola University New Orleans College of Law. She was a shareholder at Abbott, Simses & Kuchler, APLC, from 1991-97. From 1999-2004, she was a senior associate at Reich, Meeks & Treadaway. From 2004-06 and 1997-99, she was a senior associate at Harry P. Pastuszek, Jr. & Associates, LLC. She was in private practice from 2007-08. From 2009-18, she worked as a staff attorney and hearing officer at the 22nd JDC. From 2018-20, she was a partner at Talley, Anthony, Hughes & Knight, LLC. Judge Oppenheim is married to Daniel A. Oppenheim. They are the parents of three children.



Patrice A. Oppenheim

R. Christopher Cox II

was elected 24th Judicial District Court, Division B, judge, effective Jan. 1, 2021. He earned his bachelor's degree in 1993 from Louisiana State University and his JD degree in 1999 from Tulane University Law School. He worked as a tax accountant at Arthur Andersen, LLP, from 1994-96 and as a judicial law clerk for the U.S. District Court, Eastern District of Louisiana, from 1999-2000. He served as an assistant district attorney in Jefferson Parish from 2000-04 and as an assistant U.S. attorney, Eastern District of Louisiana, from 2005-10. Judge Cox was employed as chief operating officer, Jefferson Parish, from 2010-14, and as executive assistant district attorney, Jefferson Parish, from 2014 until his election to the bench.



R. Christopher Cox II

Donald L. Foret

was elected 24th Judicial District Court, Division H, judge, effective Jan. 1, 2021. He studied at Louisiana State University and earned his JD degree in 1977 from Tulane University Law School. He began his legal career as an assistant district attorney in Orleans Parish and worked as a prosecutor in the Career Criminal Bureau, which prosecuted the most violent criminal offenders. In 1982, he worked for the Department of Justice as an assistant U.S. attorney; he was appointed to an elite special task force created and led by Vice President George H.W. Bush to combat drug trafficking in America. He worked in private practice for 20 years, during which time he represented dozens of businesses that were adversely affected by the BP oil spill tragedy in 2010. He served as an assistant attorney for Jefferson Parish and city attorney for the City of Harahan. He worked pro bono as the magistrate of the City of Harahan and as an ad hoc judge in New Orleans Municipal Court. Judge Foret is married to



Donald L. Foret

Laurie Foret. They are the parents of three children.

Gregory J. Doucet

was elected 27th Judicial District Court, Division A, judge, effective Jan. 1, 2021. He earned his bachelor's degree in 1983 from Northwestern State University and his JD degree in 1991 from Southern University Law Center. From 1984-2020, he was president and chief executive officer of Doucet Enterprises, Inc. In 1989, he served as sergeant at arms of the Louisiana House of Representatives and worked as a law clerk at the Law Office of Grayson Brown from 1989-91. He worked in private practice from 1991-2020 and was a hearing officer at the 27th JDC from 2012 until his election to the bench. Judge Doucet is married to Tammy King Fontenot Doucet. They are the parents of one child.



Gregory J. Doucet

Eric A. Bopp

was elected 34th Judicial District Court, Division E judge, effective January 1, 2021. He earned his bachelor's degree from Loyola University in 1982 and his JD degree in 1985 from Southern University Law Center. From 1983-85, he worked as Baton Rouge City Attorney's Office legislative coordinator and law clerk. From 1985-86, he worked as a law clerk for the 4th Circuit Court of Appeal. He was in private practice at Edward S. Bopp, A Law Corporation, from 1986 until his election to the bench. Judge Bopp is married to Lisa Ajubita Bopp. They have three children.



Eric A. Bopp

Nghana Lewis was elected 40th Judicial District Court, Division B, judge, effective Jan. 1, 2021. She earned her bachelor's degree in 1994 from Tulane University, her PhD in 2001 from the University of Illinois Urbana-Champaign and her JD de-

gree in 2007 from Loyola University College of Law. From 2005-11, she was executive director of The ESSENCE program. From 2008-11, she was director of operations at Brown & Lewis



Nghana Lewis

Education Consulting Firm, LLC, and worked as an adjunct professor at Tulane University Teacher Certification Program. Since 2011, she has worked as an adjunct professor in the Department of Psychology at Tulane University. She worked as an independent contractor at the Public Defender's Office, 40th JDC, from 2009-12, and worked as Center for Public Service delegate for the Greater New Orleans Imagining America Consortium from 2012-14. She worked as an affiliated faculty member at Tulane University Law School in 2013. She served as president of the St. John the Baptist Parish Bar Association from 2013-16. From 2015-17, she served as a 40th Judicial District delegate, Louisiana State Bar Association House of Delegates. From 2017-19, she worked as an instructor at the New Orleans Police Department Training Academy. Judge Lewis is married to Corey Hutchinson and has two children.

Sharlayne Jackson

Prevost

was elected Second Parish Court, Division A, judge, effective Jan. 1, 2021. She earned her bachelor's degree in 1998 from Southern University New Orleans and her JD degree in 2003 from Southern University Law Center. She worked as an Orleans Parish Criminal District Court intensive probation/Drug Court case manager from 1999-2000. She worked as a law clerk for the Innocence Project in Baton Rouge in 2001 and at



**Sharlayne Jackson
Prevost**

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the Sewerage and Water Board from 2002-03. She co-founded and served as co-chair of the Innocence Project at Southern University Law Center, New Orleans, from 2001-02 and served as a member of the Juvenile Division/Offenders Committee for the District Attorney Transition team in 2003. She was executive director of Making Great Strides and was vice president of human resources, contracts and legal at Nsoro, LLC, in Houston, Texas, from 2005-11. From 2011-17, she was senior regional human resources manager at MasTec. She was internal legal/senior human resources manager of Pensare Acquisition Corporation from 2017-20. She served as a Jefferson Parish hearing officer at the Bureau for Administration of Adjudication from 2017-20 and was a contract city attorney for the City of Kenner from 2018 until her election to the bench. Judge Jackson Prevost is married to Kyle Prevost and has two children.

Luke H. Abrusley was elected Oakdale City Court judge, effective Jan. 1, 2021. He earned his bachelor's degree in 2004 from Louisiana State University and his JD degree in 2007



Luke H. Abrusley

from South Texas College of Law. From 2008-11, he was an associate at Nesom Law Office and a partner from 2011-15. He worked as an Allen Parish assistant district attorney from 2009-20, and as magistrate and town attorney, Town of Oberlin, from 2014-20. In 2015, he began working in private practice. He was a member of the Louisiana District Attorneys Association from 2009-present and the American Immigration Lawyers Association from 2008-present. Judge Abrusley is married to Kelsey Abrusley. They are the expectant parents of twins.

Luke A. Beslin was elected Rayne City Court judge, effective Jan. 1, 2021. He earned his bachelor's degree in 1993

from Louisiana State University and his JD degree in 1997 from Loyola University New Orleans College of Law. He has worked in private practice at Beslin & Cunningham, LLC (formerly Chappuis & Beslin) in Rayne since 1998. He has served as a substitute prosecutor in Rayne City Court and Crowley City Court and served on the 15th Judicial District Indigent Defender Board. Judge Beslin is married to Dr. Maria (Chary) Tan Beslin.



Luke A. Beslin

Natalie R. Howell was elected Caddo Juvenile Court, Section B, judge, effective Jan. 1, 2021. She earned her bachelor's degree in 2003 from Louisiana State University and her JD degree in 2006 from Louisiana State University Paul M. Hebert Law Center. She worked as a law clerk at the District Attorney's Office, 18th Judicial District, from 2004-06 and at the 1st Judicial District Court in 2007. She served as an assistant district attorney in the 1st Judicial District from 2007-15 and as an associate attorney of John D. and Eric G. Johnson Law Firm, LLC, from 2016 until her election to the bench. Judge Howell is married to T. Issac Howell. They are the parents of two children.



Natalie R. Howell

New Chief Justice

Louisiana Supreme Court Justice John L. Weimer, first elected to serve District 6 in 2001, took his oath as Chief Justice, effective Jan. 1, 2021.

Judges / New Positions

► Oakdale City Court Judge Judi F. Abrusley was elected to the 33rd

Judicial District Court, effective Jan. 1, 2021.

► 15th Judicial District Court Judge Charles G. Fitzgerald was elected to the 3rd Circuit Court of Appeal, effective Jan. 1, 2021.

► 15th Judicial District Court Commissioner Thomas J. Frederick was elected to the 15th JDC, effective Jan. 1, 2021.

► Baton Rouge City Court Judge Christopher H. Hester was elected to the 1st Circuit Court of Appeal, effective Jan. 1, 2021.

► Winnfield City Court Judge K. Anastasia (Staci) Wiley was elected to the 8th Judicial District Court, effective Jan. 1, 2021.

► 14th Judicial District Court Judge Sharon D. Wilson was elected to the 3rd Circuit Court of Appeal, effective Jan. 1, 2021.

Retirements / Concluding Terms of Office

► Louisiana Supreme Court Chief Justice Bernette Joshua Johnson retired, effective Dec. 31, 2020, after serving 36 years in the Louisiana judiciary. She served on the Orleans Parish Civil District Court bench from 1984-94, serving as chief judge in 1994. She served on the bench of the Louisiana Supreme Court as an associate justice from 1994-2013 and as the first African-American female chief justice from 2013-20.

► Several judges retired or had terms of office concluding on Dec. 31, 2020 — 1st Circuit Court of Appeal Judge Toni Manning Higginbotham; 3rd Circuit Court of Appeal Chief Judge Ulysses Gene Thibodeaux; 3rd Circuit Court of Appeal Judge Phyllis Montgomery Keaty; 1st Judicial District Court Chief Judge Robert P. Waddell; 1st Judicial District Court Judge Charles G. Tutt; 2nd Judicial District Court Judge Jimmy C. Teat; 4th Judicial District Court Judge Frederic C. Amman; 6th Judicial District Court Chief Judge Michael E. Lancaster; 8th Judicial District Court Chief Judge Jacque D. Derr; 9th Judicial District Court Judge George C. Metoyer; 14th Judicial District Court

Judges Lilynn A. Cutrer and Ronald F. Ware; 15th Judicial District Court Judges Edward B. Broussard, John D. Trahan, Jules D. Edwards, Patrick L. Michot and Edward D. Rubin; 16th Judicial District Court Judge Gregory P. Aucoin; 19th Judicial District Court Judges Richard D. Anderson, Janice Clark and Bonnie F. Jackson; 20th Judicial District Court Chief Judge William G. Carmichael; 21st Judicial District Court Chief Judge Robert H. Morrison; 22nd Judicial District Court Judges Mary Clemence Devereux and William J. Knight; 23rd Judicial District Court Judge Thomas J. Kliebert; 24th Judicial District Court Judge Glenn B. Ansardi and Cornelius E. Regan; 27th Judicial District Court Chief Judge Alonzo Harris; 27th Judicial District Court Judge James P. Doherty; 32nd Judicial District Court Judges George J. Larke and John R. Walker; 33rd Judicial District Court Judge Joel Gerard Davis; 34th Judicial District Court Judge Jacques A. Sanborn; 39th Judicial District Court Chief Judge Lewis O. Sams; 40th Judicial District Court Judge Madeline Jasmine; Orleans Parish Civil District Court Chief Judge Christopher J. Bruno; Orleans Parish Criminal District Court Judges Paul A. Bonin and Franz L. Zibilich; Orleans Parish Criminal District Court Magistrate Judge Harry E. Cantrell; Orleans Parish Juvenile Court Judges Mark Doherty and Ernestine S. Gray; Bogalusa City Court Senior Judge Robert J. Black; Bossier City Court Senior Judge Thomas A. Wilson; Franklin City Court Senior Judge James B. Supple; Jeanerette City Court Senior Judge Cameron B. Simmons; 2nd Parish Court of Jefferson Senior Judge Roy M. Cascio; Lafayette City Court Judge Frances Moran Bouillion; Lake Charles City Court Senior Judge John S. Hood; Natchitoches City Court Senior Judge Fred S. Gahagan; New Orleans Municipal & Traffic Court Judge Herbert A. Cade; Opelousas City Court Senior Judge Vanessa G. Harris; and Rayne City Court Senior Judge James M. Cunningham.

Appointments

► Judge Kim C. Jones was appointed, by order of the Louisiana Supreme Court, to the Mandatory Continuing Legal Education Committee for a term of office which began Jan. 1, 2021, and will end Dec. 31, 2023.

► Curtis R. Joseph, Jr. was appointed, by order of the Louisiana Supreme Court, to the Mandatory Continuing Legal Education Committee for a term of office which began Jan. 1, 2021, and will end Dec. 31, 2022.

► 15th Judicial District Court Judge Royale L. Colbert, Jr. was appointed, by order of the Louisiana Supreme Court, to the Supreme Court Committee on Judicial Ethics for a term which began Jan. 20, 2021, and will end Jan. 19, 2023.

► East Baton Rouge Juvenile Court Judge Adam J. Haney was reappointed, by order of the Louisiana Supreme Court, to the Supreme Court Committee on Judicial Ethics for a term of office which began Jan. 29, 2021, and will end Jan. 28, 2023.

► Erin Wedge Latuso was appointed, by order of the Louisiana Supreme Court, to the Committee on Bar Admissions for a term of office which began Dec. 9, 2020, and will end Dec. 8, 2025.

► Todd Richard and Lori Allen Waters were appointed, by order of the Louisiana Supreme Court, to the Louisiana Attorney Disciplinary Board for terms of office which began Jan. 1, 2021, and will end Dec. 31, 2023.

► Valerie Briggs Bargas was appointed, by order of the Louisiana Supreme Court, to the Louisiana Attorney Disciplinary Board for a term of office which began Jan. 1, 2021, and will end Dec. 31, 2021.

Deaths

► 1st Circuit Court of Appeal Judge Douglas M. Gonzales, Sr., 85, died Jan. 22, 2021. He earned his bachelor's degree in 1959 from the University of

Notre Dame and his JD degree in 1963 from Louisiana State University Law Center. He worked in private practice from 1963-67. He worked as the first director of the Public Defender's Office, East Baton Rouge Parish, from 1971-72. He served as U.S. attorney for the Middle District of Louisiana from 1972-76. He served as assistant district attorney for East Baton Rouge Parish from 1967-71. He was elected judge of the 19th Judicial District Court in 1976 and was reelected in 1978 and 1984. Judge Gonzales served as chief judge from 1986-90. He was elected 1st Circuit Court of Appeal judge in 1991 where he served until his retirement in 2002.

► Retired Orleans Parish Civil District Court, Division D, Judge Louis A. DiRosa, 94, died Dec. 16, 2020. He earned his JD degree in 1950 from Loyola University School of Law. Before his election to the bench, he was in private practice for more than 33 years. He served on the Legislative Committee of the National Association of Housing and Redevelopment, the Louisiana Domed Stadium Commission and the Louisiana Development Board of New Orleans, and served as treasurer for the Louisiana Foundation for Private Colleges. He was elected Division D judge for Orleans Parish Civil District Court in 1983 and was reelected without opposition in 1985 and 1991, retiring in 1996.

► Retired New Orleans Municipal Court Judge John A. Shea, 86, died Jan. 27, 2021. He earned his JD degree in 1958 from Loyola University School of Law. He was first elected to the New Orleans Municipal Court bench in 1979. He was reelected in 1986, 1992 and 1997, serving as chief judge from 1997-2002. Judge Shea began his career as a public defender before becoming executive assistant district attorney under former Orleans Parish District Attorney Jim Garrison in the early 1960s. Judge Shea retired from the New Orleans Municipal Court bench in 2009.

PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Adams and Reese, LLP, announces that Gerard J. Gaudet has been elected to the partnership in the New Orleans office.

Breazeale, Sachse & Wilson, LLP, announces that **Kelsey A. Clark**, **David C. Fleshman** and **Catherine B. Moore** have been named partners in the Baton Rouge office.

Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, LLC, announces that Matthew Miller has been promoted to partner in the firm's New Orleans office.

Kean Miller LLP announces that Jessica C. Engler and Tyler Moore Kostal have been elected to the partnership in the New Orleans office.

maps announces the opening of its Mandeville office in The Sanctuary Office Park, Ste. 102, 3 Sanctuary Blvd., Mandeville, LA 70471; phone (800)443-7351.

Pendley, Baudin & Coffin, LLP, in Plaquemine and New Orleans announces that **Jessica P. Reynolds** has been named a partner in the firm.

Perrier & Lacoste, LLC, announces that **Jordan M. Jeanson** and **Cory T. Stuart** have become members in the firm's New Orleans office. Also, **Megan B. Jacqmin** has joined the firm's New Orleans office as an associate.

Phelps Dunbar LLP announces that three attorneys have become partners in the firm — Trevor J. Haynes in the Baton Rouge office; and Ashley J. Heilprin and David J. Topping in the New Orleans office.

The Law Office of John W. Redmann, LLC, announces that **Lisa Z. Gilmore** has joined the Gretna office as an associate.

Riess LeMieux, LLC, in New Orleans announces that **Michael S. Blackwell** has been named a partner in the firm. Also, **M. Alison (Ali) Barnes** has joined the firm as an associate.

Sessions, Fishman & Nathan, LLC, in New Orleans announces that Lawrence M. Lehmann and Laura E. Fine have joined the firm as members. Also, Lehmann and Eric M. Schorr have been named as the firm's managing members.

Sigler, Arabie & Cannon, Attorneys at Law, LLC, in Lake Charles announces that **John-Michael Lomzenski** has joined the firm as an associate.



Richard J. Arsenault



Patrick J. Babin



M. Alison Barnes



Michael S. Blackwell



Wilton E. Bland III



Alan G. Brackett



Kelsey A. Clark



Trevor M. Cutaia



Blake R. David



Gerard J. Dragna



Lillian E. Eyrich



David C. Fleshman

Staines, Eppling & Kenney, LLC, in Metairie announces that Corey P. Parenton has been promoted to partner.

Stone, Pigman, Walther, Wittmann, LLC, announces that John C. Overby has become a member in the New Orleans office.

Strauss Massey Dinneen, LLC, in New Orleans announces that **Shannon S. Sale** has joined the firm as of counsel and **Jacques P. Landrieu** has joined the firm as an associate.

Taylor, Porter, Brooks & Phillips, LLP, announces that **Ashley Carver Meredith** has been named a partner in the Baton Rouge office.

True Title announces that **Marlin N. Gusman, Jr.** has joined the business as the closing attorney for the new office located at The Rink, Ste. A, 1521 Washington Ave., New Orleans, LA 70130; website: www.truetitle.net.

NEWSMAKERS

Richard J. Arsenault, a partner in the Alexandria firm of Neblett, Beard & Arsenault, was appointed to the Louisiana State Bar Association's (LSBA) Theme

CLE Planning Committee; chaired the annual LSBA Complex Litigation Symposium; was selected by *U.S. News & World Report* for inclusion in the 2021 "Best Lawyers" rankings; was selected as one of the 2020-21 Top 10 Personal Injury Attorneys for Louisiana by the Best of the Best Attorneys; and received Martindale-Hubbell's 2021 AV preeminent rating. He also will serve as a member of the Baylor Law Executive LLM National Advisory Panel.

Blake R. David, founding partner at Broussard & David, LLC, in Lafayette, was sworn in as 2021 chair of the Louisiana Board of Regents.

Marlin N. Gusman, Jr., closing attorney with True Title in New Orleans, was appointed to the Title Insurance Advisory Council for the Louisiana Department of Insurance.

Rick J. Norman, Jr., special counsel in the Lake Charles office of Taylor, Porter, Brooks & Phillips, LLP, was re-elected for his second year as president of the Louisiana State Law Institute.

R. Andrew Patty II and Benjamin O. Schupp, members in the Baton Rouge and New Orleans offices, respectively,

of McGlinchey Stafford, PLLC, have been elected Fellows of the American Bar Foundation.

Leon H. Rittenberg III, an attorney in the New Orleans office of Baldwin Haspel Burke & Mayer, LLC, was elected as a Fellow of the American College of Tax Counsel.

PUBLICATIONS

Best Lawyers in America 2021

Flanagan Partners, LLP (New Orleans): Sean P. Brady, Brandon C. Briscoe, Caitlin J. Flanagan, Harold J. Flanagan and Thomas M. Flanagan (New Orleans Lawyer of the Year, Appellate Practice); and Camille E. Gauthier and Meghan F. Grant, Ones to Watch.

Steeg Law Firm, LLC (New Orleans): **Lillian E. Eyrich**, **David A. Martinez**, **Randy Opatowsky**, **Robert M. Steeg** and **Charles L. Stern, Jr.** (New Orleans Lawyer of the Year, Litigation-Real Estate); and **Margaret V. Glass**, Ones to Watch.

Chambers USA 2020

Flanagan Partners, L.L.P. (New Orleans): Thomas M. Flanagan.

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Lisa Z. Gilmore



Margaret V. Glass



Marlin N.
Gusman, Jr.



Mark E. Hanna



Megan B. Jacqmin



Jordan M. Jeansonne



Jacques P. Landrieu



Georges M. Legrand



John-Michael
Lomzenski



Lindsay F. Louapre



David A. Martinez



Ashley Carver
Meredith

Louisiana Super Lawyers 2021

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC (Baton Rouge, Mandeville, New Orleans): Jennifer L. Anderson, Edward H. (Hank) Arnold III, Brian M. Ballay, Alton E. (Biff) Bayard III, Phyllis G. Cancienne, Roy C. Cheatwood, Christopher O. Davis, Nancy Scott Degan (Top 50 Louisiana, Top 50 New Orleans, Top 25 Women Attorneys-Louisiana), Mark W. Frilot (Top 50 New Orleans), Steven F. Griffith, Jr. (Top 50 Louisiana, Top 50 New Orleans), Jan M. Hayden (Top 50 Louisiana, Top 50 New Orleans, Top 25 Women Attorneys-Louisiana), Kenneth M. Klemm, Amelia (Mimi) Williams Koch, Kent A. Lambert, Jon F. (Chip) Leyens, Jr. (Top 50 Louisiana, Top 50 New Orleans), Alexander M. McIntyre, Jr., Patricia B. McMurray, Mark W. Mercante, Matthew A. Woolf and Adam B. Zuckerman; and Laura E. Carlisle, Meghan E. Carter, Katie L. Dysart, Matthew R. Emmons, Paula Estrada de Martin, Melissa M. Grand, Camalla Kimbrough Guyton, Christopher M. Hannan, Kristen L. Hayes, Erin Pelleteri Howser, Benjamin West Janke, Elizabeth A. Liner, Lacey E. Rochester and Tessa P. Vorhaben, all Rising Stars.

Breazeale, Sachse & Wilson, LLP (Baton Rouge, New Orleans): Thomas M. Benjamin, Jude C. Bursavich, David R. Cassidy, Murphy J. Foster III, Alan H. Goodman, Scott N. Hensgens, David R.

Kelly, Eve B. Masinter, Van R. Mayhall, Jr., Richard G. Passler and Thomas R. Temple, Jr.; and Danielle L. Borel, Joseph J. Cefalu III, Carroll Devillier, Jr., Candace B. Ford, Druit G. Gremillion, Jr., Rachael A. Jeanfreau, Matthew M. McCluer and Sunny Mayhall West, all Rising Stars.

Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, LLC (New Orleans): Raymond G. Areaux, M. Hampton Carver, M. Taylor Darden, William T. Finn, Frank A. Tessier, Robert P. Thibeaux and David F. Waguespack; and Peter J. Segrist, Rising Star.

Chaffe McCall, LLP (New Orleans): Walter F. Becker, Jr., G. Wogan Bernard, Katharine R. Colletta, E. Howell Crosby (Top 50 Louisiana, Top 50 New Orleans), Adelaida J. Ferchmin, Edward N. George III, Douglas L. Grundmeyer, Douglas R. Holmes, Fernand L. Laudumiey IV, Julie D. Livaudais (Top 25 Women Attorneys-Louisiana), David J. Messina, Corinne A. Morrison, John F. Olinde, G. Phillip Shuler III, Daniel A. Tadros, Brent A. Talbot and Jon W. Wise; and Amy L. McIntire and Ryan C. Touns, both Rising Stars.

Flanagan Partners, LLP (New Orleans): Sean P. Brady; Harold J. Flanagan and Thomas M. Flanagan (both Top 50 Louisiana and Top 50 New Orleans); and Anders F. Holmgren, Camille E. Gauthier, Caitlin J. Flanagan and Meghan F. Grant, all Rising Stars.

Kean Miller LLP (Baton Rouge, Lafayette, New Orleans): Jaye A. Calhoun (Top 25 Women, Tax), Janice M. Culotta, Vance A. Gibbs, Isaac M. (Mack) Gregorie, Jr., Maureen N. Harbourt, Robert M. Kallam, Pamela R. Mascari, Michael A. McGlone, Carey J. Messina, Glenn P. Orgeron, Bradley J. Schlotterer, James R. Silverstein and Charles R. Talley; and Amanda M. Collura-Day, Jessica C. Engler, Erin L. Kilgore, Brian J. Lindsey, R. Devin Ricci, Timothy P. Robinson, Alexandra E. Rossi and Daniel B. Stanton, all Rising Stars.

Lamothe Law Firm, LLC (New Orleans): Frank E. Lamothe III.

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans): Ashley L. Belleau (Top 25 Women Attorneys-Louisiana), Christopher T. Caplinger, Todd G. Crawford, Celeste D. Elliott (Top 25 Women Attorneys-Louisiana), Delos E. Flint, Jr., Joseph P. Guichet, Benjamin W. Kadden, Rose McCabe LeBreton, Stewart F. Peck, Seth A. Schmeekle, Shaundra M. Schudmak, David B. Sharpe. S. Rodger Wheaton and Kristopher T. Wilson; and Tyler J. Arbour, Jennifer E. Barriere, Joseph P. Brigggett, Jay Farmer, Destinee F. Ramos and James W. Thurman, all Rising Stars.

McGlinchey Stafford, PLLC (Baton Rouge, New Orleans): Ricardo A. (Richard) Aguilar, Rodolfo J. (Rudy)



Catherine B. Moore



André J. Mouledoux



Rick J. Norman, Jr.



Randy Opotowsky



C. Michael Parks



Robert N. Popich



Jessica P. Reynolds



Shannon S. Sale



Robert M. Steeg



Charles L. Stern, Jr.



Cory T. Stuart



Simone H. Yoder

Aguilar, Jr., Stephen P. Beiser, Magdalen Blessey Bickford, Rudy J. Cerone, Katherine Conklin, Larry Feldman, Jr., Michael D. Ferachi, R. Marshall Grodner, Christine Lipsey, Kathleen A. Manning, Colvin G. (Woody) Norwood, Jr. and Michael H. Rubin; and Camille R. Bryant, Mark J. Chaney III, Bonnie E. Dye, Sarah Edwards, Zelma M. Frederick, Hillary Barnett Lambert and Kristi W. Richard, all Rising Stars.

Mouledoux, Bland, Legrand & Brackett, LLC (New Orleans): **Wilton E. Bland III, Alan G. Brackett, Gerard J. Dragna, Mark E. Hanna, Georges M. Legrand, André J. Mouledoux, C. Michael Parks and Robert N. Popich**; and **Patrick J. Babin, Trevor M. Cutaia, Lindsay F. Louapre and Simone H. Yoder**, all Rising Stars.

Riess LeMieux, LLC (New Orleans): Michael D. Lane; and Michael S. Blackwell, Jonathan S. Forester and M. Robert Riess, Jr., all Rising Stars.

Steeg Law Firm, LLC (New Orleans): **Lillian E. Eyrich, Randy Opatowsky**

and **Robert M. Steeg**.

Stone, Pigman, Walther, Wittmann, LLC (Baton Rouge, New Orleans): Hirschel T. Abbott, Jr., Matthew S. Almon, Stephen G. Bullock, Noel J. Darce, Michael R. Fontham (Top 50 Louisiana), Jay C. Gulotta, Jr., Kathryn M. Knight, Wayne J. Lee (Top 50 Louisiana), Paul J. Masinter, W. Brett Mason (Top 50 Louisiana), C. Lawrence Orlansky, Laura W. Plunkett (Top 50 Louisiana), David C. Rieveschl, Michael R. Schneider, Dana M. Shelton, James E. Slaton, Susan G. Talley (Top 10 Louisiana), Peter M. Thomson, Michael Q. Walshe, Jr., Nicholas J. Wehlen, Scott T. Whittaker, Rachel W. Wisdom and Phillip A. Wittmann (Top 10 Louisiana); and Edward F. Bukaty, Erin E. Kriksciun, Gary M. Langlois, Jr., Annie G. McBride and Walter F. Metzinger III, all Rising Stars.

Taylor, Porter, Brooks & Phillips, LLP (Baton Rouge): Robert W. Barton, Vicki M. Crochet, Mary C. Hester, Harry J. (Skip) Philips, Jr., Fredrick R. Tulley and Michael S. Walsh; and Ryan K. French,

Lauren R. Hadden, Erin Sayes Kenny, L. Adam Thames and Vincent V. (Trey) Tumminello III, all Rising Stars.

People Deadlines & Notes

Deadlines for submitting People announcements (and photos):

Publication	Deadline
Aug./Sept. 2021	June 4, 2021
Oct./Nov. 2021	Aug. 4, 2021
Dec. 2021/Jan. 2022	Oct. 4, 2021

Announcements are published free of charge for members of the Louisiana State Bar Association. Members may publish photos with their announcements at a cost of **\$50 per photo**. Send announcements, photos and photo payments (checks payable to Louisiana State Bar Association) to:

Publications Coordinator Darlene M. LaBranche, Louisiana Bar Journal, 601 St. Charles Ave., New Orleans, LA 70130-3404 or email dlabranche@lsba.org.

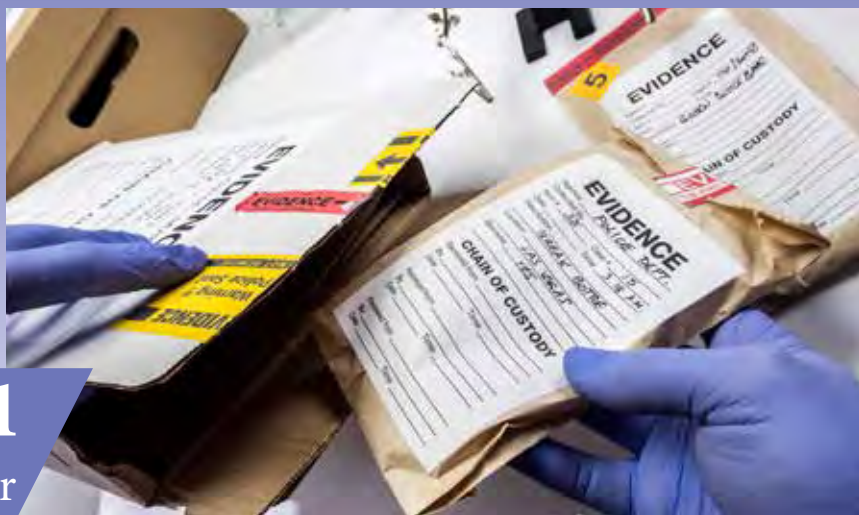
EVIDENCE

*Before,
During
and After*

TRIAL

April 30, 2021

Part 1 & Part 2 Webinar



Evidence is key in any trial. It's the difference between winning and losing your case. **Lynn Luker** and **Kent Lambert** co-chair this two-part webinar that includes tips and methods for handle the many tasks and questions that emerge before, during and after trial. Part 1 topics include important legislative updates on tort reform, pre-trial motions, and the required professionalism credit. Part 2 topics include authenticating evidence and getting it in, use of exhibits post-COVID, appellate issues, and the required ethics credit. **REGISTER NOW!**

For more information or to register online visit www.lsba.org/cle

UPDATE

Judge Ernestine Gray Recognized by ABA Criminal Justice Section

Orleans Parish Juvenile Court Judge (Ret.) Ernestine S. Gray received the American Bar Association (ABA) Criminal Justice Section's Charles R. English Award on Nov. 20, 2020. The award, named after California trial attorney Charles English, honors judges, academics and other attorneys who are members of the American Bar Association Criminal Justice Section and who have distinguished themselves by their work in the field of criminal justice.



Judge (Ret.) Ernestine S. Gray

Judge Gray was elected to the bench in 1984. Since her election, she has been a champion for youth with the goal of making the legal system more just and fair.

She was also recognized with a Calming Studio at the Orleans Parish Justice Center as a tribute to her work. The Calming Studio provides a quiet and safe space for children coping with trauma and it is a place where children can go before entering a courtroom. The Calming Studio is staffed by a professional trained in Trust-Based Relational Intervention.

Judge Gray's work for children of all ethnicities will be commemorated in a mural by a local artist.

LOCAL/SPECIALTY BARS

Baton Rouge Bar Association and YLS Install 2021-22 Officers

Christopher K. Jones, with Keogh, Cox & Wilson, Ltd., was sworn in as the 2021-22 Baton Rouge Bar Association (BRBA) president. Joining him on the 2021-22 board are David A. Thomas, with Walters, Papillion, Thomas, Cullens, LLC, president-elect; Melanie N. Jones, attorney at law, treasurer; K. Luke Williamson, with Williamson, Fontenot, Campbell & Whittington, LLC, secretary; and Shelton D. Blunt, with Phelps Dunbar, LLP, immediate past president.

The 2021-22 BRBA Young Lawyers Section (YLS) officers also were sworn in — Chelsea G. Caswell, with Kean Miller, LLP, YLS chair; Kellye



Christopher K. Jones



Chelsea G. Caswell

R. Grinton, with Porteous, Hainkel & Johnson, LLP, YLS chair-elect; and Ashley Nicole Butler, with the Louisiana Department of Education, YLS secretary-treasurer.



The Louisiana State Bar Association's (LSBA) Outreach Committee and the Judge Fred Fudickar, Jr. American Inn of Court hosted a Member Outreach CLE on Feb. 8, 2021, in Monroe. The featured speaker was Tyler G. Storms, right, Tyler G. Storms, Attorney at Law, LLC. The LSBA Member Outreach CLE series informs members about the LSBA and the services included with their membership. Also attending the CLE was Roy H. (Hal) Odom, Jr., left, Louisiana 2nd Circuit Court of Appeal.

GNO Martinet Society Hosts 6th Annual Pathways and Pipelines

The Greater New Orleans Chapter of the Louis A. Martinet Legal Society, Inc. hosted its sixth annual Pathways and Pipelines to Success program virtually on Feb. 2, 2021.

“The Louis A. Martinet Legal Society continues to fight for greater diversity and inclusion in the legal profession, and that starts with ensuring that diverse law students have the tools necessary to succeed,” said Camille R. Bryant, 2020-21 president of the GNO Louis A. Martinet Legal Society, Inc.

“As part of the 6th Annual Pathways and Pipelines to Success program, law students from each of the four Louisiana

law schools were able to hear from seasoned practitioners on personal branding, judicial clerkships, choosing a career path, and interviewing. To better manage the stressors of law school, students were also taught mindfulness practices. This year, 80 students and more than 50 practitioners committed their time to the program,” Bryant said.



Camille R. Bryant



The Shreveport Bar Association (SBA) hosted its annual holiday party on Dec. 20, 2020, at the home of 2020-21 SBA President M. Thomas Arceneaux. The socially distanced event was attended by SBA members, Shreveport Bossier Bar Auxiliary members and local law students. From left, Arceneaux, with Blanchard, Walker O’Quin & Roberts; Judge Brady D. O’Callaghan, 1st Judicial District Court; and Codi Setters, Louisiana State University Paul M. Hebert Law Center student.

LOUISIANA BAR FOUNDATION

New Infinity Fund Supports LBF’s Work to Increase Access to Civil Legal Aid

The Louisiana Bar Foundation (LBF) announces the first donation in the amount of \$25,000 to the newly established Infinity Fund by a generous longtime LBF Fellow and board member. The Infinity Fund is dedicated to supporting LBF’s work in funding civil legal aid and promoting access to justice. The need for civil legal aid and services is expected to further escalate

amid the pressures of the pandemic.

The Infinity Fund was created to provide long-term support for operations and administrative expenses of the LBF, a trusted community partner and funding steward. The funds will help ensure that the LBF is able to meet staffing and operational expenses, in good economic times and in bad.

Jefferson Bar Association Conducts Virtual Ceremony

The Jefferson Bar Association (JBA) held a virtual Opening of Court and officer installation ceremony on Jan. 15, 2021.

Letita Parker Davis, with the 24th Judicial District Court Public Defenders Office, was sworn in as the 2021-22 JBA president. Joining her are Frederick L. Bunol, with the Derbes Law Firm, LLC, president-elect; Blair C. Constant, with the Jefferson Parish District Attorney’s Office, vice president; Judge Shayna Beevers Morvant, with the 24th Judicial District Court, secretary; and Davidson S. Ehle III, with Marino & Ehle, LLC, treasurer.

Also sworn in were the 2021-22 JBA Young Lawyers Section officers — Rachel C. Schmidt, with Rachel C. Schmidt, LLC, YLS chair; John F. Lee, with Mollere, Flanagan & Landry, vice chair/chair-elect; and Sowmya Mandava, with the 24th Judicial District Court, secretary/treasurer.



Letita Parker Davis



Rachel C. Schmidt

SEND YOUR NEWS!

The *Louisiana Bar Journal* would like to publish news and photos of your activities and accomplishments.

Email your news items and photos to: LSBA Publications Coordinator Darlene LaBranche at dlabranche@lsba.org.

President's Message

Q&A with 2021-22 LBF President Christopher K. Ralston

Interviewed by 2021-22 Secretary Hon. John C. Davidson

Davidson: Tell us a little bit about your practice.

Ralston: I've been very fortunate to practice at Phelps Dunbar my entire career. I practice in the area of commercial litigation, so I see a great variety of intellectual property and trade secret disputes, cases involving antitrust and unfair competition claims, licensing and breach of contract disputes and even large real estate litigation. The firm's regional footprint and resources give me the added benefit of being able to work with clients and colleagues not just in New Orleans, but throughout the South and the Gulf Coast region. I really enjoy what I do and working with the clients and my colleagues here at the firm.

Davidson: How did you get involved with the Louisiana Bar Foundation (LBF)?

Ralston: I first learned about the Louisiana Bar Foundation from Judge Eldon Fallon when I served as a law clerk for him after law school. As a past president of the LBF, he told me about the mission, the history and the great work of the Foundation. It wasn't until years later that I was invited to become a Fellow. I've loved the work and the fellowship ever since.

Davidson: Why did you become a Fellow of the LBF?

Ralston: Honestly, I learned from Judge Fallon early on that work outside the office could be just as rewarding as success in the courtroom. His example inspired me to get involved in causes in the community. I also knew and respected many of the Fellows, leaders and past presidents of the LBF who continue to stay involved simply because they enjoy the work. So, when I got the invitation to

join the LBF, it was a very easy thing for me to do.

Davidson: Why do you think the LBF is important to the legal profession?

Ralston: Equal access to justice and to the courts is a cornerstone of our legal system. By helping to ensure that all of our citizens have access to counsel and to the courts, including representation in civil matters, the LBF is helping to ensure that fundamental principle is realized. Through its educational efforts, such as the Oral Histories projects and Scholar In Residence programs, the LBF fosters a better understanding of our state's legal system and the law. Finally, by honoring our most distinguished jurists, professors and lawyers, the LBF celebrates the best in the legal profession and the individuals and organizations that work for the betterment of our legal system, our communities and our state.

Davidson: Why do you think the LBF is important to Louisiana?

Ralston: With a poverty population as high as Louisiana's, the LBF's funding of the nonprofits and civil legal aid providers is really valuable. Last year, the LBF distributed more than \$8.7 million for social justice initiatives in Louisiana. We know that for every dollar invested in civil legal aid in Louisiana, the state realizes an economic benefit of \$9.18 in return on that investment. Simply stated, when we help our citizens better their situations and their futures that also benefits our economy, our communities and our state.



Christopher K.
Ralston

Davidson: What role does the LBF play in the Louisiana civil legal aid network?

Ralston: The LBF plays a central and a critical role in the provision of civil legal aid in Louisiana. For one, the LBF is the largest funder of civil legal aid in Louisiana. The LBF also promotes the provision of civil legal aid as well as education about its importance, its value and its positive impacts on Louisiana, our economy, our communities and our citizens. Among other things, the LBF also provides training, new and collaborative grant opportunities, and other resources for the nonprofits actually providing civil legal aid to our most disadvantaged and marginalized citizens.

Davidson: What do you hope to see the LBF accomplish during your year as LBF President?

Ralston: I am already very proud of the LBF, its Fellows and its mission. I hope to continue that work and to build on existing successes. We're working to increase the funding distributed to our grantees. I'd also like to see us promote stability in funding so that we are minimizing volatility and the stress that puts on the programs and the stakeholders. In addition, I hope to continue the push to expand our membership and to enhance the visibility of the good work done by the LBF and its Fellows and grantees. If we continue to do those things, we will continue the LBF's reputation as the preferred administrator of funding and other resources so that the stakeholders succeed in protecting and increasing equal access to justice in our state. Doing these things will ensure we continue to contribute to the betterment of Louisiana.

Problem Gambling? Get Free, Confidential Help.



Problem Gambling Resource Services
www.FreeGamblingHelpLA.org
1-877-770-STOP

What is Problem Gambling Resource Services ("PGRS")?

PGRS is a new program led by the Louisiana Department of Justice, Gaming Division in partnership with the Louisiana Department of Health, Office of Behavioral Health to bring awareness about problem gambling and the FREE gambling addiction services available to all Louisiana residents. Not only are attorneys in a unique position to determine that their clients may have a gambling problem, but attorneys are at a greater risk themselves.

A client's gambling addiction may be the underlying cause of what led them to seek your help:

Attorneys are in a unique position to identify problem gambling behavior in their clients because they have access to client information, financial records, and other documentation that is generally not available to others. Clients, protected by attorney-client privilege, may feel safe disclosing a gambling problem to their attorney.

Lawyers and their staff are at a high risk for Problem Gambling. Here's why:

- Lawyers are among the professionals most likely to suffer from stress and depression, which can play a role in the development of problem gambling behavior.
- Lawyers are risk takers. The legal profession is often a high risk, high reward environment, which may lead to risk taking behavior, such as gambling.
- Lawyers often have access to large sums of money, such as client trust accounts, retainers, settlement proceeds, etc.
- Lawyers are at a heightened risk for alcohol and drug misuse and dependency, which can increase the possibility for developing co-occurring alcohol/drug and gambling addictions.

What happens when someone calls 1-877-770-STOP?

- The Helpline, like all gambling addiction services offered by Louisiana, is confidential and **FREE**.
- The Helpline is answered by trained, certified and caring Helpline Specialists. The Specialists do not provide counseling, but they will refer you to a qualified counselor and all the **FREE** resources in your area.

If you have concerns about your own gambling or if you suspect that a client or colleague may have a problem, call or text 1-877-770-STOP for FREE help.

LBF to Honor Distinguished Award Recipients at Gala

The Louisiana Bar Foundation will celebrate its 35th Annual Fellows Gala on Friday, April 23, in honor of the 2020 Distinguished Jurist Guy P. Holdridge, Distinguished Attorney Linda Law Clark, Distinguished Professor Donald W. North, and Calogero Justice Award recipient Judge William J. Knight.

In addition, the 2019 Distinguished honorees will be recognized — Distinguished Jurist Robert H. Morrison III, Distinguished Attorney Marcus V. Brown, Distinguished Attorney Mary Terrell Joseph, Distinguished Professor John M. Church, and Calogero Justice Award recipient Louisiana Supreme Court Chief Justice (Ret.) Bernette Joshua Johnson.

More information on the Gala, as well as full biographies of the 2020 and 2019 honorees, can be found online at: www.raisingthebar.org/gala. Click on “Distinguished Honorees” and “Calogero Justice Award.”

2020 Distinguished Jurist Judge Guy P. Holdridge

Judge Guy P. Holdridge, currently serving on the 1st Circuit Court of Appeal bench, previously served as a 23rd Judicial District Court judge and chief judge. He earned a BA degree in 1974 from Louisiana State University and his JD degree in 1978 from



**Judge Guy P.
Holdridge**

LSU Paul M. Hebert Law Center (Order of the Coif and *Louisiana Law Review*). He is a member of the LSU Law Center Hall of Fame and serves on the adjunct faculty of LSU Law Center, teaching Louisiana Civil Procedure. He is a member of the LSU Trial Advocacy Program Committee. He is the 2021 editor of the *Louisiana Code of Civil Procedure* published by Thomson Reuters. He is a long-time member of the Louisiana State Law Institute Council and serves on several Law Institute committees. He is a former president of the Louisiana District Judges’ Association and the 1st Circuit Judges Association. He is a board member of the Louisiana Judicial College and co-chairs the Judicial College/LADC Torts Conference. In 2018, he received the Louisiana State Bar Association’s Catherine D. Kimball Award for the Advancement of the Administration of Justice. In 2020, he was named a Distinguished Alumnus of the LSU Law Center.

2020 Distinguished Attorney Linda Law Clark

Linda Law Clark, a partner in the Baton Rouge law firm DeCuir, Clark & Adams, LLP, earned a BA degree in psychology in 1972 from Wells College in Aurora, NY, and her JD degree in 1993 from Louisiana State University Paul M. Hebert Law Center (Order of the Coif, *Louisiana Law Review*). She worked as a solo practitioner until joining Winston G. DeCuir, Sr. in 1995, where they formed DeCuir & Clark, LLP. Her principal areas of practice are general civil litigation, administrative hearings for quasi-governmental and governmental bodies, education, employment law and public finance. Professionally, she has served on several committees with Inns of Court, the Baton Rouge Bar Association (BRBA), the Louisiana State Bar Association (LSBA) and the Louisiana



Linda Law Clark

Bar Foundation. She was recognized as the inaugural recipient of the LSBA’s David A. Hamilton Lifetime Achievement Award in 2003. As an active pro bono attorney, she recognized as one of the first attorneys in the Baton Rouge Bar to receive the 1,000 Hour Award. In 2018, she was the president of the Baton Rouge Bar Association. In her community, she has worked with the Louisiana PTA, the Louisiana League of Women Voters, the YWCA and the Louisiana Girl Scouts.

2020 Distinguished Professor Donald W. North

Southern University Law Center (SULC) Vice Chancellor of Student Affairs Donald W. North is the Johnny Cochran Endowed Law Professor. He received his associate degree in criminal justice and his bachelor’s degree in political science from Grambling State University and his JD degree in 1983 from Southern University Law Center. He accepted a commission in the Army ROTC Program and later selected as an officer to join the Judge Advocate General’s Corp. He is one of the first African-American Louisiana Army Judge Advocate General Reservists to be promoted to the rank of full colonel. After serving on active duty during Desert Storm One, he was a prosecutor in the Criminal Division of the Louisiana Department of Justice, handling cases in all 64 Louisiana parishes. In 1998, he served as a clinical professor at SULC before becoming director of clinical education. In 2013, he became director of the Pro Bono Project. In 2015, he was director of experiential learning and, in 2019, was promoted to vice chancellor. He is a three-time member of the Louisiana State Bar Association’s Board of Governors and a member of the Louisiana State Law Institute and the Public Defender Board.



Donald W. North

LBF Announces New Fellows

The Louisiana Bar Foundation welcomed the following new Fellows:

Taylor B. Ashworth Lafayette
Corinne M. Blache Baton Rouge
Miles C. Hesterly Lafayette

Continued next page

2020 Calogero Justice Award Judge William J. (Rusty) Knight

Judge William J. (Rusty) Knight began his legal career in 1976, graduating from Louisiana State University Paul M. Hebert Law Center (Order of the Coif and *Louisiana Law Review*). He was an associate with Hudson, Potts & Bernstein in Monroe from 1976-79. He was an assistant district attorney for Washington and St. Tammany parishes from 1979-85. He opened a private law practice, handling civil and criminal matters. In 2003, he was elected as a judge for the 22nd Judicial District Court. He has presided over juvenile and child in need of care proceedings and a section of adult Drug Court, in addition to his civil and criminal dockets. He worked to establish the 22nd Judicial District Court's Reentry Court. In 2015, the Louisiana Supreme Court requested that he create key components and best practices to be followed by Louisiana Reentry Courts. That work was presented to and adopted by the Louisiana Supreme Court in 2016.



**Judge William J.
Knight**

\$66,000+ Awarded to Louisiana Non-Profits for Civil Legal Aid

The Louisiana Bar Foundation (LBF) has nine regional Community Partnership Panels (CPP) that identify areas of need throughout the year, in addition to the regular LBF grant cycle.

The CPPs foster collaboration, respond to arising community needs, and encourage local involvement in the designation of grant funds. Each panel has an annual budget of \$10,000 for Jock Scott CPP Grants. The CPPs that have not yet designated all their funding will do so by June 30, 2021.

The 2020-21 Jock Scott CPP Grants are listed by region below (as of January 2021).

For a full list of 2020-21 grants, go to: www.raisingthebar.org/about-us/documents/grants-1/100-grantee-flyer/file.

Acadiana: \$10,000
CASA of SoLa \$5,000
Chez Hope..... \$5,000

Bayou Region: \$8,194
CASA of Terrebonne..... \$3,194
Chez Hope..... \$5,000

Capital Area: \$5,000
Chez Hope..... \$5,000

Central: \$3,500
Central Louisiana
Pro Bono Project..... \$3,500

Greater Orleans: \$10,000
Louisiana Fair Housing
Action Center \$9,500
Oral History Project \$500

Northeast: \$10,000
Pine Hills Advocacy Center \$9,000
Oral History Project \$1,000

Northshore: \$10,000
Children's Advocacy Center/
Hope House..... \$1,000
NAMI of St. Tammany \$5,000
STARC of Louisiana..... \$2,955
Oral History Project \$1,045

Northwest: \$10,000
Gingerbread House \$5,000
Volunteers for Youth Justice..... \$5,000

SROI Analysis: Civil Legal Aid is a Good Investment

The Louisiana Bar Foundation (LBF) engaged an independent organization, Community Services Analysis, LLC, to conduct a Social Return on Investment (SROI) analysis, an internationally standardized and accepted process, of more than 45 of Louisiana's civil legal aid organizations for the 2019-20 fiscal year.

The SROI analysis is a measurement of the values delivered during fiscal year 2019-20. The analysis revealed that the net economic impact value resulting from Louisiana civil legal activities during the year totaled \$64,823,000. This net impact is the outcome of the more than \$7 million the LBF granted for civil legal aid services. These values are

based on the number of clients and types of legal matters handled during the period. In fiscal year 2019-20, Louisiana's civil legal aid organizations helped in more than 100 types of civil legal problems, including family law, housing, healthcare, consumer protection, public benefits, employment and community support issues.

The total net social return on investment for Louisiana's civil legal aid programs during the 2019-20 fiscal year was 918%. In other words, for every \$1 invested in Louisiana's civil legal aid services, these programs deliver \$9.18 in immediate and long-term consequential financial benefits.

The SROI for Louisiana's civil legal aid organizations is higher than many other types of social service organizations. This is based on the high delivery and variety of legal services that result in significant future cost savings or additional income to the state of Louisiana and the number of volunteer (pro bono) hours of legal services delivered by attorneys in Louisiana.

To review the full study or summary of the "Economic Impact and Social Return on Investment of Civil Legal Aid Services for the State of Louisiana," go to: www.raisingthebar.org/about-us/newsroom.

CLASSIFIED NOTICES

Standard classified advertising in our regular typeface and format may now be placed in the *Louisiana Bar Journal* and on the LSBA Web site, LSBA.org/classifieds. All requests for classified notices must be submitted in writing and are subject to approval. Copy must be typewritten and payment must accompany request. Our low rates for placement in both are as follows:

RATES

CLASSIFIED ADS

Contact Krystal L. Bellanger at (504)619-0131 or (800)421-LSBA, ext. 131.

Non-members of LSBA

\$85 per insertion of 50 words or less
\$1 per each additional word
\$20 for Classy-Box number

Members of the LSBA

\$60 per insertion for 50 words or less
\$1 per each additional word
No additional charge for Classy-Box number

Screens: \$25

Headings: \$15 initial headings/large type

BOXED ADS

Boxed ads must be submitted camera ready by the advertiser. The ads should be boxed and 2¼" by 2" high. The boxed ads are \$70 per insertion and must be paid at the time of placement. No discounts apply.

DEADLINE

For the June issue of the Journal, all classified notices must be received with payment by April 16, 2021. Check and ad copy should be sent to:

LOUISIANA BAR JOURNAL
Classified Notices
601 St. Charles Avenue
New Orleans, LA 70130

RESPONSES

To respond to a box number, please address your envelope to:

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c/o Louisiana State Bar Association
601 St. Charles Avenue
New Orleans, LA 70130

POSITIONS OFFERED

Full-time associate attorney needed to assist partners in AV-rated personal injury firm (research, brief writing and discovery matters). Top academic background and five to seven years' personal injury experience (plaintiff or defense) required. Email résumés and writing samples to: donna@andersondozier.com.

SERVICES

Texas attorney, LSU Law 1985. Admitted in Louisiana and Texas. I am available to attend hearings, conduct depositions, act as local counsel and accept referrals for general civil litigation in the Houston area. Contact Manfred Sternberg, Jr. at (713)622-4300; email manfred@msternberg.com.

Briefs/Legal Research/Analysis of Unusual or Problem Cases

JD with honors, federal judicial clerk, graduate of top 10 law school, 25 years' experience federal and state litigation, creative legal thinker. Available for briefs, research, court appearances, analysis of unusual or problem cases. References on request. Catherine Leary, (504)436-9648, statewide services, registered office Jefferson Parish. Email CatherineLeary2020@gmail.com.

Brief writing/legal research. Columbia Law School graduate; former U.S. 5th Circuit staff attorney; former U.S. District Court, Western District of Louisiana, law clerk; more than 20 years of legal experience; available for brief writing and legal research; references and résumé available on request. Douglas Lee Harville, lee.harville@theharvillelawfirm.com, (318)470-9582 (Shreveport).

Personal property appraiser specializing in fine art and antiques. Graduate of the Smithsonian program in Decorative Art in Washington, DC. Member of the International Society of Appraisers (ISA) since 2017. Writing to the *Uniform Standards of Professional Appraisal Practice* (USPAP). Contact Gregory Bingham at (470)261-1071, email gregorius@comcast.net. Website: <https://www.gulfsouthappraisals.com/>.

Member benefits. The Louisiana State Bar Association works with businesses and service providers to offer a variety of discounted services to our members. The LSBA discount program is not a "daily deals" site. Members are offered permanently negotiated, amazing

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rates with national and local vendors. For general business, technology or travel discounts, we have you covered. Learn more: www.lsba.org/Members/DiscountBusinessServices.aspx.

The Louisiana Judges and Lawyers Assistance Program, Inc. (JLAP) has a proven 95% success rate in facilitating full recovery and abstinence from drug and alcohol addiction. If you or someone you know needs help with any type of addiction or mental health issue, make a confidential call to JLAP at (985)778-0571, email jlapp@louisianajlap.com, or visit the website at: www.louisianajlap.com.

Need tech help? The Louisiana State Bar Association's online Tech Center has myriad resources, many of which are relevant in this time of working remotely and relying more than ever on technology-focused business tools. Take advantage of these resources at: www.lsba.org/PracticeManagement/TechCenter.aspx.

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NOTICE

William M. Magee intends to file a petition seeking reinstatement of his license to practice law in Louisiana. Any person(s) concurring with or opposing this petition must file such within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

Notice is hereby given that Richard C. Oustalet, Jr. has filed a petition and has applied for reinstatement to the Louisiana State Bar Association. Any person(s) concurring with or opposing the petition and application for reinstatement must file notice of concurrence or opposition within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

Notice is hereby given that Christopher G. Young is filing a petition and application for reinstatement to the practice of law in Louisiana. Any person(s) concurring with or opposing the petition and application for reinstatement must file notice of same within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

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ANSWERS for puzzle on page 422.

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Iipse Dixit: Measure Twice, Cut Once

By Edward J. Walters, Jr.

We have all heard of Murphy's Law: Anything that CAN go wrong WILL go wrong.

And Murphy's Corollaries: If there is a possibility of several things going wrong, the one that will cause the most damage will be the one to go wrong.

And: If there is a worse time for something to go wrong, it will happen then.

It's a little-known fact that there are numerous similar Murphy-type laws that address the perils of being a lawyer. Here are a few:

- ▶ *Miranda in Reverse Law:* You have the right to remain silent, but, if you speak, you don't have the right to be taken seriously.
- ▶ *The Balancing Your Checkbook Law* (for older lawyers): When balancing your checkbook at your desk, your supervisor will immediately enter the room.
- ▶ *The Missing File Law:* It's on your desk.
- ▶ *The Client's Rule of Clutter:* If you walk into a lawyer's office and there are files stacked all along the walls and his desk is piled with clutter, the client should leave because his or her file will be in the middle of that clutter one day.
- ▶ *The Client's Rule of Clutter Corollary:* If you walk into a lawyer's office and his or her desk is incredibly neat, the client should leave because that person is not a lawyer.
- ▶ *Darrow's Law of Mootness:* If you think up a truly GREAT argument to win a case, someone had the idea before, tried it and lost.
- ▶ *Spouse's Rule of Deadlines:* Serious deadlines always coincide with serious family events.
- ▶ *Diminimus's Rule of Clients:* The smaller the case, the more pain in the ass the client.
- ▶ *Diminimus's Rule of Client Phone Calls:* See above.
- ▶ *Geographer's Law of Jurisdiction:* It's never here, especially when you need it here.
- ▶ *Donald T.W. Phelps's Rule of Plumbing* (applied to Law Firm Hierarchy): Water flows down, and it's not always water.
- ▶ *Vince's Rule of Mediation:* Exalted expectations render



unexalted results.

- ▶ *Achilles's Rule of Motions:* If you are late, you are first on the docket.
- ▶ *Debater's Rule of Motions:* The judge will always ask that one question you hoped she wouldn't.
- ▶ *The Courthouse Rule of Judicial Allocation:* You always get allotted to the judge you hate.
- ▶ *The Last Endorser Pays Law:* The last person who worked on the file is responsible for everything that went wrong in the file from the beginning.
- ▶ *Pennoyer's Law:* What in the world was this case about?
- ▶ *The Rule of Diminishing Returns:* The harder you work on a worthless case, the more you incorrectly think the case might have some value.
- ▶ *Discovery Rule:* If you find that perfect case, it will have been overruled.
- ▶ *The Expert Witness Equation:* For every expert, there's an equal and opposite expert.
- ▶ *Assumption:* The law assumes that every witness is telling the truth. Exception: Testimony on the stand and cross-examination.
- ▶ *First Rule of Office Dynamics:* The staff rules.
- ▶ *Second Rule of Office Dynamics:* See First Rule of Office Dynamics.
- ▶ *Maxim on Time:* There's never enough time to do it right, but always enough time to do it over.
- ▶ *Middleton's Law:* Measure twice, cut once.

When I was a baby lawyer, we were remodeling our office to incorporate a garage to get more office space. There was a very old, but very experienced, and crusty carpenter, Mr. S.F. Middleton, who was in charge of the project. (I never found out what the S.F. stood for.) He was more an artist than a carpenter. Anyway, he gave me some of the best advice I have ever received. It applies to all professions, including ours: "Measure Twice, Cut Once." Think about it.



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