

LOUISIANA BAR JOURNAL

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Children's Law



LSBA Children's Law Committee:

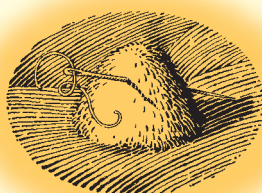
Continuing Advocacy
for Louisiana's Future

Also Inside:

- Using ACES and TBRI to Implement a Trauma-Informed Courtroom
- Court Appointed Special Advocates (CASA)
- Children in Today's Courtroom
- Recap: 2022 Annual Meeting / Joint Summer School



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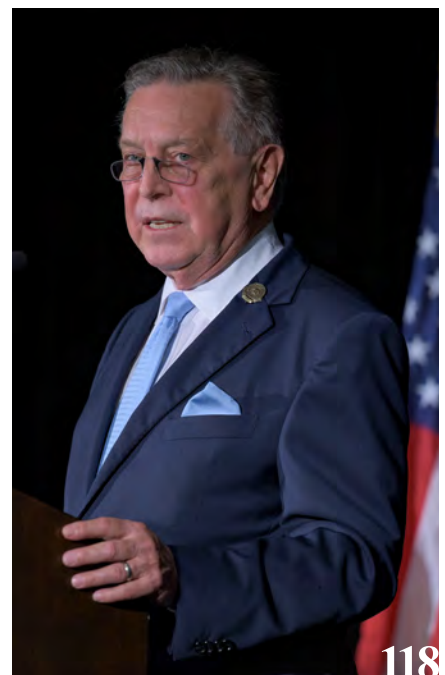
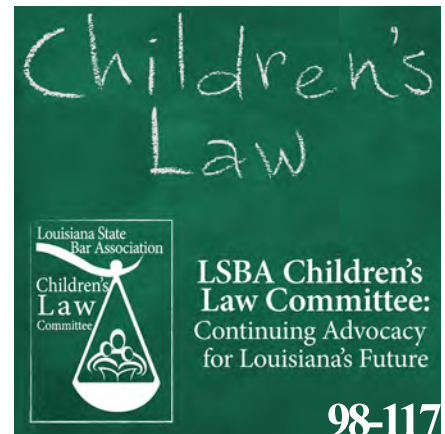
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By C.A. (Hap) Martin III

This issue of the *Louisiana Bar Journal* focuses on topics relating to children's law. Members of the Louisiana State Bar Association's (LSBA) Children's Law Committee asked for the opportunity to publish another focused issue as the previous themed issue appeared in August/September 2018; the Editorial Board agreed wholeheartedly. In fact, committee members came through so strongly that we had more feature articles than could be published in one issue, so you will see additional articles from time to time during the upcoming year. Well done and thank you to the Children's Law Committee for being so committed to the *Louisiana Bar Journal*, and another thank you to all of you who have provided feature articles to us over the past year as well.

The Children's Law Committee was established in 2008 as a standing committee of the LSBA and is composed of judges, lawyers and other advocates who work with children. The committee works to improve the legal system and its interface with, and effects on, children and families.

When I began thinking about this Editor's Message, the first thing that came to mind was the opening line from the Whitney Houston song "Greatest Love of All," which says, "I believe the children are our future." How can we not all believe this statement? Of equal truth is the later line, "Let the children's laughter remind us how we used to be."

It made me curious about other quotes regarding children and the future. Frederick Douglass, the abolitionist and statesman, stated, "It is easier to build strong children than to repair broken men." On the other side of the spec-



trum was Dr. Seuss, who said, "Adults are just outdated children." President John F. Kennedy said, "Children are the world's most valuable resource and its best hope for the future." The last statement that caught my attention, and one we should all strive for, was from Billy Graham. He said, "The greatest legacy one can pass on to one's children and grandchildren is not money or other material things accumulated in one's life, but rather a legacy of character and faith."

Unfortunately, not all children are in a place where they can receive such a legacy. I believe that is where many lawyers provide a wonderful service to those who cannot protect themselves. Another significant help to children in the legal system is CASA (Court Appointed Special Advocates), which can make such a difference. One of the articles in this issue highlights CASA and provides insight into the program. I have a staff member who has joined

CASA, and she said it allows her to do something bigger than herself. One of my daughters-in-law has also worked closely with CASA. If you get a chance, promote CASA and the people who sacrifice their time and efforts to assist with that program.

This issue also includes articles and photos recapping the activities of the LSBA Annual Meeting and joint LSBA/Louisiana Judicial College Summer School in June in Destin, Fla. The number of meeting registrations reflected that everyone had been missing the sessions and camaraderie (with both lawyers and judges) that make these events such an outstanding opportunity for LSBA members to obtain CLE credit, network and reconnect with friends from over the years. Harkening back to the quote from Dr. Seuss, it also gave us opportunities to be those outdated children.

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By Stephen I. Dwyer

Installation Message: Achieving the Summit Together on Civility and Access to Justice

(Editor's Note: Excerpts from the June 9 Installation Speech delivered by 2022-23 Louisiana State Bar Association President Stephen I. Dwyer.)

This is my first opportunity to communicate with my fellow members of the Louisiana State Bar Association (LSBA) since I was sworn in as the 82nd president of the LSBA. There are simply no words adequate enough to express the deep gratitude in my heart for your entrusting me with this important position. I approach the coming year with deep humility, great expectations for our achievements, and a deep commitment to carrying on the traditions of the LSBA and to living up to the standards of the distinguished prior leadership of this great organization.

The theme of the recent Annual Meeting was "Attempt the Summit." In choosing this theme, my thoughts were that we all have challenges in our lives, whether personal or work related. We all have our individual summits and we are measured by how we embrace these challenges and how we strive to achieve our summits. With eager anticipation, I wholeheartedly embrace this new summit. As I strive to realize this summit,

I am not doing so to check a box on a résumé. Instead, I recognize and accept this challenge as an opportunity to serve — to serve you, the members of the LSBA, to serve our exemplary Bar Association and to serve our community and its varied groups of people, all of whom we touch and affect in some way nearly every day.

Service to others has been, and will be, my guidepost in life and in this new position as LSBA president. I was raised in a solidly blue-collar family; my parents, through their respect for others, taught me that same fundamental quality. My education at these Jesuit institutions — Jesuit High School, Holy Cross College and Loyola University School of Law — solidified the creed by which I live and want to be measured: "A Man for Others."

Our legal profession is a noble and necessary profession. I ask that you ignore what you may have read in Shakespeare's *Henry VI, Part 2*, "The first thing we do, let's kill all the lawyers." Rather, I choose to remember the words of Sir Thomas More, the lord chancellor to Henry VIII, in famously exclaiming prior to his execution, "I die the King's good servant and God's first."

We are indeed a noble profession, one that protects and upholds the law. We are members of the most brilliant and attractive of professions and we serve society. As such, we have responsibilities both inside and outside of the law. Our underlying ethos is, and must be, "service to others," for it is our profession that allows society to function, that brings order to our dealings with others.

It is with these thoughts in mind and with a firm commitment to these noble aims of our profession that I have charted my path for the coming year. I will strive to emphasize two important goals: (1) Civility and (2) Access to Justice.

Justice Louis Brandeis once wrote that "Civility is a life skill, not just a legal skill. It represents the ability to disagree without being disagreeable, disrespectful." We need to resist going into our respective corners like gladiators preparing for a kill. Civility starts with each one of us as responsible individuals. It starts with respect and a willingness to listen even when we disagree. I believe that we must instill civility by starting with law students and continuing with our attorneys. Let us team with our law schools to do all that we can to bring these precepts of civility into the

curricula, classrooms and communities of students. Let us team with our local Bar Associations to create programs that develop a focus on civility and its importance to how we conduct ourselves with each other, with the judiciary and with our fellow citizens. We must be a beacon of how a civil society operates for the good of all of us. Civility must start outside of the courtroom in order to carry over into the courtroom.

As important as civility is in our lives, is there anything more important than ensuring that there is adequate access to justice in our communities? We must always be dedicated to doing all that we can to provide access to justice to those of us who are underserved, underprivileged and underrepresented. This is the task of all lawyers who must embrace the notion of “noblesse oblige” which has often been applied to the duties and responsibilities of the legal profession. “Noblesse oblige” is a precept that holds that with wealth, power and prestige come responsibilities. Simply stated, to whom much has been given, much is expected. Despite the exemplary efforts of our various organizations in reaching out to our communities with legal services, there are so many people who are not even aware that they require legal assistance, much less where to go to find it. The LSBA and the Louisiana Bar Foundation, along with local Bar Associations and various legal services corporations, offer robust and varied programs. But we must expand these programs to not only be a provider of legal services but also to be a teacher in our communities to make the underserved aware of their various needs for these services in order to better and improve their lives.

With the effort to provide access to justice comes the frustration of inadequate funding in many situations. Since the 1990s, federal funding for legal services corporations has grown at a rate of less than 1% increase per year. This is simply inadequate. We must work to maintain existing funding and to improve future funding to fully serve our communities.

It is my pledge to work with our various programs and activities providing



Stephen I. Dwyer presenting his Installation Speech during the 2022 Louisiana State Bar Association Annual Meeting and Joint Summer School in Destin, Fla. Photo by Matthew Hinton Photography.

access to justice to:

1. Ensure their continued success.
2. Protect existing funding and increase funding.
3. Promote these access to justice activities within the Bar to encourage more attorney volunteers to provide pro bono legal services and to work with our various committees.
4. Educate our communities and make our services widely known, especially to the underserved and underrepresented populations who frequently are not even aware of the legal services that they need.

These are my beliefs and my thoughts for the coming year as I attempt this great new summit. I will do all that I can to make you proud of my efforts and proud of the activities and many services provided by your LSBA.

In closing this first communication with you, let me suggest a summit that we can all achieve together.

Let us embrace the ethos of civility.

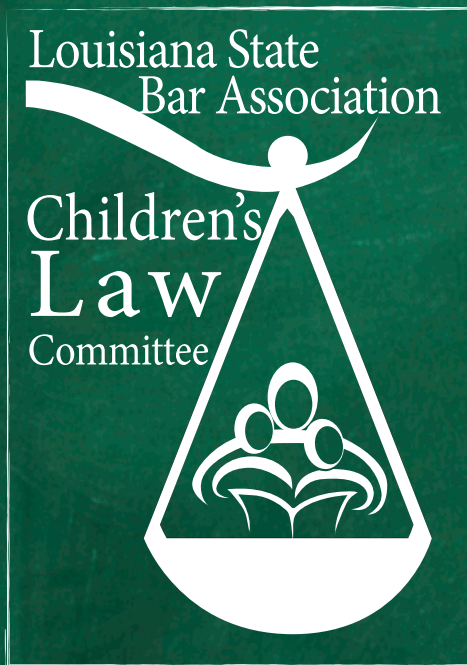
Let us be men and women for others.

Let us implement “noblesse oblige” in our lives, in our profession and in our communities.

We are proud to serve as lawyers. Let us bring that sense of service to each other and to those in need in our communities. I ask you as I challenge myself, “Make us proud.” I know that you will as you always have.

Stephen I. Dwyer

Overview: Children's Law



LSBA Children's Law Committee: Continuing Advocacy for Louisiana's Future

By Curtis Nelson, Jr., Kellie J. Johnson and Mariarenee Contreras

The Children's Law Committee was created in 2008 as an ad hoc committee at the request of the state Legislative Task Force on Legal Representation in Child Protection Cases. Since then, the committee has become a positive forum for dialogue and mentorship to all members of the Bar and Bench in the practice of children's law. As part of these efforts, the committee has presented continuing legal education programs on legal updates and changes affecting children to the state's legal community. In 2017, the Children's Law Committee was redesignated as a standing committee of the Louisiana State Bar Association (LSBA). Its current membership is composed of private and public practitioners, legal aid attorneys, judges and law professors.

In 2018, the *Louisiana Bar Journal* published a Children's Law-themed issue with articles focusing on child in need of care advocacy, adoption law, expungement in juvenile proceedings, the impact of domestic violence on children, and examination of disproportionalities in the child welfare and juvenile justice systems.

For this 2022 issue, authors have written articles focusing on trauma, community-based services, children in the courtroom and how Bar members can volunteer on behalf of a child. All of these articles will shine a light on how far-reaching and pervasive children's law issues are to all Bar members. The authors are hopeful that more members with general practice areas will become involved in the work addressed by these articles and become part of the committee's current and future initiatives.

Initiatives

The committee is actively engaged with several initiatives.

► The ongoing revision of the LSBA's "Coming of Age" manual and its mobile website to provide legal information to children reaching the age of 18. The committee is working on the distribution of QR cards to public libraries and resource centers to ensure easy access to the manual. To access the manual online: www.lsba.org/ChildrensLaw/BecomingAnAdult.aspx.

BecomingAnAdult.aspx.

► In-person and virtual outreach to law schools promoting careers in children's law and providing the necessary legal skills to adequately assist children.

► Continuing legal education and training opportunities for advocates and the public on children's law topics, including special education and trauma-informed lawyering.

NACC Child Welfare Law Certification

Children's law is not a specialization offered by the Louisiana Board of Legal Specialization. However, the National Association of Counsel for Children (NACC) provides a Child Welfare Law Certification, accredited by the American Bar Association and endorsed by the National Council of Juvenile and Family Court Judges and the Conference of Chief Justices/Conference of State Court Administrators. Child Welfare Law Specialist (CWLS) certification signifies an attorney's specialized knowledge and skill in the field of child welfare law. The specialization area is defined as "the practice of law representing children, parents or the government in all child protection proceedings including emergency, temporary custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption."

Child Welfare Law Certification requires a rigorous application process, including 36 hours of specialized child law-related education prior to completing the comprehensive examination. To date, 31 attorneys in Louisiana have become NACC Child Welfare Law Specialists and many others are in the process. Of the 31 CWLS, one juvenile court judge (Judge Amanda Chauvin Calogero) is a CWLS.¹

Children's Law Award and Moving Forward

Each year, the Children's Law Committee recognizes an attorney or Louisiana-based organization dedicated to the development of innovative approaches to child advocacy. Meet our 2022 honorees on page 130.

Whether it is assisting in a pro bono

case, serving as a CASA volunteer, representing the state's interest, a child's attorney, a parent's attorney, mental health advocate, or simply having a caregiver with their child walk into your office, we all have a duty to serve the children of our state. For information about joining the committee, email Mariarenee Contreras at mariarenee.contreras@lsba.org.

FOOTNOTE

1. See, "Promoting Excellence: CWLS Certification," www.naccchildlaw.org/page/Certification.

Otha (Curtis) Nelson, Jr. is 2020-22 co-chair of the Louisiana State Bar Association's Children's Law Committee. He is deputy judicial administrator, Division of Children and Families, Louisiana Supreme Court. He is chair of the Juvenile Detention Alternatives Initiative Leadership Collaborative, a member of the Louisiana Children Justice Task Force and the Governor's Advisory Board of Juvenile Justice and Delinquency Prevention, and an advisory board Fellow for the Pelican Center for Children and Families. (cnelson@lasc.org; Ste. 1190, 400 Royal St., New Orleans, LA 70130)



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Using ACES and TBRI[®] to Implement a Trauma-Informed Courtroom

By Mark Harris, Josephine C. Vanderhorst and Kellie J. Johnson



Above, left, the 22nd Judicial District Court's sensory room is named the Kidsense Room.

Above, right, the 22nd Judicial District Court's sensory room in Covington.

Left, the 21st Judicial District Juvenile Court Annex's sensory room in Livingston Parish.

Adverse childhood experiences (ACEs) are defined in Louisiana law (R.S. 17:437.2) as “all types of abuse, neglect and other types of traumatic childhood experiences linked to lifelong health and social problems including physical, sexual and emotional abuse; physical or emotional neglect; domestic violence; divorce or separation of a parent or caregiver; substance abuse by a household member; mental illness of a household member; and incarceration of a household member.” In Louisiana, there are a plethora of additional traumatic experiences impacting families — natural disasters (hurricanes, floods and tornadoes), high crime rates, gun violence, unexpected death of family members and poverty.

In essence, the ACEs study conducted by California’s Kaiser-Permanente, in collaboration with the national Centers for Disease Control (CDC), for the first time linked certain traumatic childhood experiences with an elevated risk of serious medical and mental health issues later in life. According to the CDC:

- ▶ one in six adults experienced four or more types of ACEs;
 - ▶ at least five of the top 10 leading causes of death are associated with ACEs; and
 - ▶ preventing ACEs could reduce the number of adults with depression by 44%.
- Toxic stress from ACEs can change brain development and affect how the body responds to stress. However, ACEs can be prevented, according to the CDC. Prevention could dramatically influence a number of key issues including, but not limited to:
- ▶ lower risk for conditions like depression, asthma, cancer and diabetes in adulthood;
 - ▶ reduce risky behaviors like smoking and heavy drinking;
 - ▶ improve education and job potential; and
 - ▶ stop ACEs from being passed from one generation to the next.

Breaking the intergenerational cycle of child abuse and neglect requires systems like child welfare and the courts to foster change in how people think about the causes of ACEs and how they can be prevented. This paradigm shift recognizes that many of the children who come to the

attention of the state are more likely than not to have parents who also have experienced multiple ACEs.

Recognizing the myriad challenges that families face and offering support and encouragement, while keeping children safe until they can be safely parented, can help to minimize or eliminate further trauma to children and families by undue or lengthy separation. In addition, shifting focus from individual responsibility to community solutions (*e.g.*, *My Community Cares*, see page 108) can further promote safe, stable and nurturing relationships where children live, learn and play.

Trauma-Informed Courts

A trauma-informed court is described as one in which judges and attorneys recognize that people appearing before them have personally experienced acts of violence or other traumatic life events and are also cognizant of how the stress of the courtroom environment impacts trauma survivors. A trauma-informed court process can help reduce stress to families, thereby creating an environment more likely to achieve success in parenting challenges and help keep families intact.

Trauma-informed practices are the current focus in addressing generations of adverse experiences, and there is currently a shift to having a more trauma-focused approach when serving youth and families and victims of crime. One significant mechanism that courts may utilize in understanding and addressing the trauma that families have experienced is Trust-Based Relational Intervention (TBRI®), a research-based, holistic approach to address trauma created by Dr. Karyn Purvis and Dr. David Cross.¹ The core of TBRI’s approach uses empowering, connecting and correcting principles. Use of the TBRI elements can help legal stakeholders become more trauma-informed in their approach to child in need of care and other case types.

A good first step for anyone interested in implementing trauma-informed practices into a courtroom is attending a TBRI Friday introductory training session through Crossroads NOLA.²

Other small, but impactful, steps can be taken to ensure that courts engage with children, parents and families in a trauma-

informed way. One movement that has spread across the state is the implementation of sensory rooms. Sensory rooms have been established in the 22nd Judicial District Court, the Caddo Parish Juvenile Court, the Orleans Parish Justice Center and 21st Judicial District Juvenile Court Annex in Livingston Parish.

The Orleans Parish Justice Center’s Calming Studio features soothing artwork and colorful wall designs, child-friendly games, Hula hoops and more.

In the 22nd Judicial District Court’s sensory room (appropriately named the Kidsense Room), Judge Scott C. Gardner provides snacks and treats. There are even hopes to utilize a therapy dog in court.

The 21st Judicial District Juvenile Court Annex’s sensory room implemented colorful lights, fidget spinners, comfortable chairs and a relaxing environment to help the children pass the time between cases or take a break after their cases are heard.

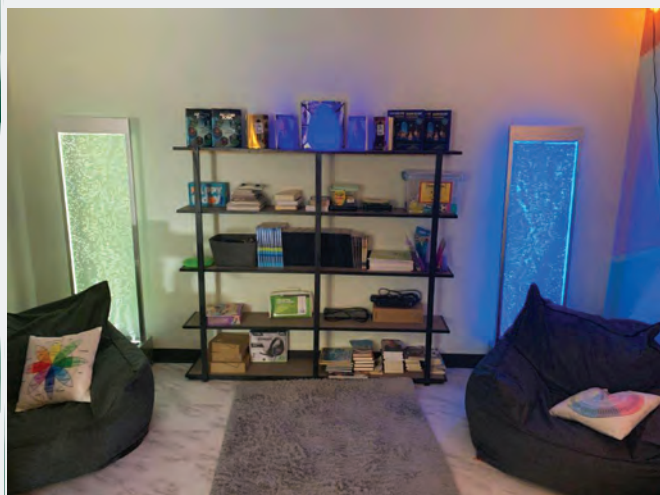
The Tangipahoa Parish Juvenile Justice Center is planning its own sensory room.

In addition to the tangible ways to assist families in passing time at the courthouse, time and energy can be conserved. One way to prevent long wait times and stressful court days is to stagger dockets.

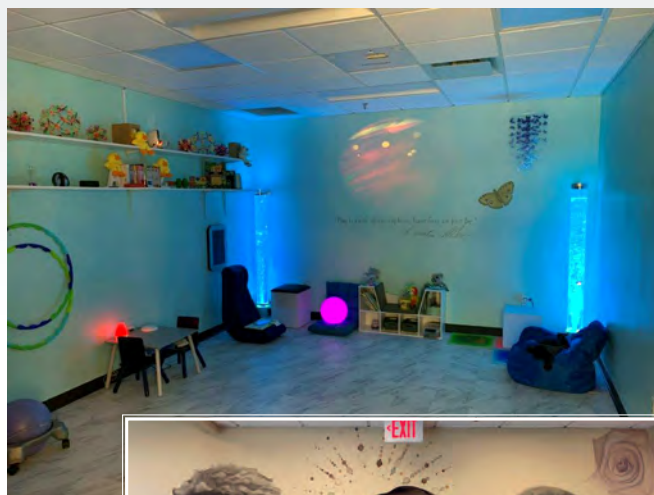
Judge Scott C. Gardner in the 22nd Judicial District Court staggers dockets with up to three cases scheduled per half an hour. Judge Alvin Turner, Jr. in the 23rd Judicial District conducts court on a schedule based on the complexity of issues and by grouping cases with the same Department of Children and Family Services worker together. Judge Erin W. Lanoux in Ascension Parish holds delinquency court in the morning and starts her Child in Need of Care docket at 1 p.m. to allow a break between dockets. This cuts down wait times for children and assists parents and family members in maneuvering around their already hectic work and school schedules.

Creating a more trauma-informed courtroom can start with small changes, including:

- ▶ allow time for attorneys to meet with clients they may not have been able to speak to before the hearing;
- ▶ engage children and families (a simple “hello, how are you?” shows acknowledgment of the people entering the courtroom);



Above, Orleans Parish Justice Center's calming studio has child-friendly games and child-sized furniture.



Right, Orleans Parish Justice Center's calming studio also features soothing artwork, inspirational quotes and colorful wall designs.



► provide nutritious snacks (trail mix, granola bars) and water to allow court attendees to tend to their basic needs while waiting;

► allow bathroom breaks for court staff and attorneys on long dockets;

► provide bailiffs, and any other courthouse staff, with introductory trauma training;

► have a family-friendly waiting area so everyone can sit comfortably instead of sitting on the floor;

► separating morning and afternoon dockets; and

► staff cases prior to the court date.

Sometimes virtual hearings are requested by parties involved in the proceedings. A virtual setting may be less traumatic to participants under certain circumstances. The National Center for State Courts (NCSC) released guidance for trauma-responsive virtual hearings.³ To keep all participants engaged, NCSC suggests asking for feedback and input. This empowers participants and gives them a voice.

For more information on TBRI and ACEs, visit:

<https://child.tcu.edu/about-us/tbri/#sthash.GnMj0XYR.oPzRACul.dpbs> and <https://partnersforfamilyhealth.org/aces/>.

For more resources from the Pelican

Center for Children and Families, visit: <https://www.pelicancenter.org/index.html>.

FOOTNOTES

1. Karyn Purvis Institute of Child Development, <https://child.tcu.edu>.

2. www.crossroadsnola.org/tbri-fridays-register. The Crossroads NOLA introductory Trust-Based Relational Intervention course provides direct insight into how adverse childhood experiences (ACEs) impact children and families while providing solutions to build more trusting relationships with those affected by trauma. The interactive, virtual trainings are not limited to Friday offerings. Trainings are approved for 6 (online) foster parent training hours, MCEs, LCA CEU hours distance learning, and clinical social work CEUs distance learning. Trainings are free for Department of Child and Family Services staff and foster parents, and \$25 for all other attendees.

3. https://www.ncsc.org/_data/assets/pdf_file/0023/75812/Trauma-Responsive-Virtual-Hearing.pdf.

Mark Harris is the executive director of the Pelican Center for Children and Families. He formerly served as the project coordinator for the Louisiana Supreme Court's Louisiana Court Improvement Program for 15 years and has been recognized by the U.S. Department of Health & Human Services for outstanding efforts in promoting



the safety, permanency and well-being of Louisiana's at-risk children. He earned BA degrees in English and history from Tulane University and his JD degree from Loyola University College of Law. (mark.harris@pelicancenter.org; www.pelicancenter.org)

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ABCs of ACES

Interview with Louisiana ACE Educators

Interviewed by Kellie J. Johnson

Caitlin LaVine and H. Clay Walker V are Louisiana educators on Adverse Childhood Experiences (ACEs). LaVine is the trauma and resilience strategy lead with the Louisiana Department of Health's Bureau of Family Health. Walker is the director of juvenile services for Caddo Parish.

Johnson: What are ACEs?

LaVine: ACEs stands for Adverse Childhood Experiences. The term is from a study conducted by the Centers for Disease Control and Prevention in partnership with Kaiser Permanente, a major California healthcare provider. The research team surveyed 17,000 adults about a certain set of 10 childhood experiences — emotional abuse, emotional neglect, physical abuse, physical neglect, sexual abuse, mental illness, incarcerated parent, substance abuse, parental divorce or separation, and domestic violence.

The researchers found that, as the number of types of adverse experiences increased prior to the age of 18, individuals experienced a much higher risk for multiple chronic diseases, higher risk of homelessness and unemployment, lower educational achievement, higher risk of substance abuse, and higher rates of relationship conflict and domestic violence — all kinds of things relating to physical, emotional and social hardships.

Johnson: Can you each tell us why Louisiana is interested in ACEs?

Walker: I think of ACEs in two ways; as Caitlin explained, with all of the physical problems attributable to ACEs. The other is, to some extent, the social side caused by brain development. It is important to look at this in terms of public health because the general notion is that prevention is easier and cheaper than intervention later. I am interested in

the court system's response, the reactive side, because there are relatively simple solutions. If the court system, particularly juvenile court — but really all courts — understood ACEs better and reacted to families coming before the court in a more trauma-responsive way, we would actually help people solve their problems, heal and not re-offend.

Johnson: Caitlin, anything to add from the public health perspective?

LaVine: I have a statistic that supports everything Clay is saying. According to the CDC, 64% of the general U.S. population has experienced at least one ACE, and 97% of the prison population has experienced at least one ACE. There is a huge connection there and clearly a correlation. We want people to be productive, self-sustaining and lead satisfying lives. ACEs get in the way of healthy, productive lives on multiple levels. We

know that ACEs exist inter-generationally as well, so the more that we do to prevent ACEs today for people of all ages, the more we do to prevent ACEs for future generations as well.

Johnson: How do you deal with ACEs in your professional role?

LaVine: At the Louisiana Department of Health, we have the ACE Educator Program. It is both professional-capacity building and community-capacity building. The most exciting thing that we are working on right now is supporting an effort by First Lady Donna Edwards to convene stakeholders and create a plan for trauma-informed, multi-sector change in Louisiana. We are working with Louisiana Department of Education on trauma-informed education. We are also working on the final stages of a trauma-informed approaches training that can be used in multiple professional capacities.

Walker: I oversee juvenile detention and juvenile probation, so I am dealing with children coming into juvenile court. We now recognize that 73% of children in juvenile court have experienced four or more ACEs. This number causes an increased risk for things like suicide. We need to understand trauma so we can better serve the children and families who enter the court system. Long-term, we are using our understanding of ACEs to better inform the idea of rehabilitation.

Johnson: Can you elaborate on the ACE trainings?

LaVine: We have a network of trainers across the state. Clay is one of them. We offer a one-to-three-hour foundational talk, "Understanding Aces," where we discuss the ACEs study and community-capacity building. These are all free of charge and anyone can request a presentation by emailing ACEpresentation@la.gov. We also have a film, "Resilience," a moving documentary that speaks to many leaders in the field of ACEs research. We can screen that statewide. We use the Brain Game, an interactive, hands-on game where trainees pull random experiences from the life of a child aged 0-7 and build a brain. It helps one to see how supportive relationships can add

strength to the brain and how stressful experiences can tax the brain's resources.

Walker: I became an ACEs trainer and then trained our staff here and anyone who would listen. Frankly, the material speaks for itself. When people see it and hear it, they are really blown away.

Johnson: How do you evaluate someone's ACEs?

LaVine: The ACEs screener was developed as a public health tool to describe populations and to inform prevention. I am going to say something that Clay says, "If you have a room full of people, and they all have the same ACEs score, half of them may have these higher-risk outcomes, and half of them won't." ACEs are just one factor, among many, in a person's life-long health trajectory.

Walker: What's very important is that the danger of taking the screening tool alone is you can misinterpret it. It is not diagnostic. We use ACE screenings for children in juvenile court because it gives us a heads-up that we are dealing with a trauma history and we can look to see how it is impacting them, how they respond to situations, and their resilience. Some people have a sense that if you have an ACE score of 9, you must be unhealthy. That misconception is unfair.

Johnson: Are there specific methods of prevention that can show others how ACEs awareness is making a difference?

Walker: There are two things I would piece together: ACEs and juvenile justice reform. In 2013, the Louisiana Legislature passed the Juvenile Detention Center Standards. The Standards required that we remove all weaponry and mandated a certain-sized cell to house more than one child per cell. In July 2013, we were already years into de-escalation training, and we became a single-bed detention center. Children are now in cells by themselves. On July 2, 2013, incidents of violence in our detention center went down by 62%. The numbers plummeted overnight and stayed there. That alone, to me, speaks to better conditions of confinement and lower recidivism rates. There is a ton of stuff that goes into that, it is not just ACEs, but ACEs is the common philosophical change that we have

made: understanding ACEs and being trauma-informed.

Johnson: Can you think of any other instances where the effects of ACEs have a far reach?

LaVine: Yes, we have a high rate of substance abuse and chronic diseases in Louisiana and dealing with ACEs can help with those issues. It also makes something like a hurricane strike harder for parts of the population. ACEs make your community a lot less resilient to disasters and pandemics because you already have some fragility.

Walker: Knowledge about ACEs is insightful to everyone and relevant to the general population in talking about the cost to society for things such as incarceration, preventative health issues, dropouts and needs systems. We could save billions of dollars if we were focused more on prevention.

Johnson: Why is it important that all entities involved in a child's life be included in this process?

LaVine: We want as many settings as possible that children move through to be safe, stable and nurturing to the utmost degree. Those benefit all children, whether they have experienced ACEs and trauma or not. The same goes for trauma-informed healthcare; it benefits all clients. A lot of things that we are advocating leads to a better environment for all consumers of services and leads to better overall health and well-being outcomes.

Walker: On an individual level, hurt people hurt other people. We have a portion of our community that is hurting. We have 37% of children in Caddo Parish under the age of 5 who live in poverty. It is untenable, and we cannot afford it. We cannot afford to have people continue hurting this way, and we will get to the point where the cost of incarceration and the cost of social service needs are too expensive. It is not just reaching back to help these people, which is what we should do because they are human beings. It is for all of us to make Louisiana healthier. We have to do something.

Continued next page

Johnson: What suggestions would you have to those who are in courts of general jurisdiction to promote ACEs education?

Walker: Judges have incredible authority to call a meeting and have people attend. Judges, working in their communities in general jurisdictions, can reach out to school board members, superintendents, city council members, mayors, sheriffs, public health and mental health officials. Form a group to determine if parishes or judicial districts are doing things that are trauma-informed. Reach out to your local juvenile detention center or local prison. You can get ACEs training and that is a good start. You can form committees to address problems you want to solve. Judge David N. Matlock (Caddo Parish Juvenile Court) has an outline that he will share with anyone who will listen. First Lady Donna Edwards is planning to convene those meetings to determine how we can systematically create a playbook for judges, parish presidents and others. There is a lot going on, but it is not necessarily orchestrated. Judges are good conveners to put all of the necessary people together.

LaVine: A lot of systems and service providers have similar issues across settings. If our traditional approaches worked, the same problems would not continue to be problems day after day. What trauma-informed approaches provides us are new perspectives that address all those things at once. This one shift in perspective can solve many issues that service providers have historically been dealing with across the state. So, why not try it?

Johnson: How did you get people on board?

Walker: To some extent, the material did it by itself. Two things happened in Caddo Parish that made a difference. One, Judge Matlock was seeing an intergenerational cycle of abuse and neglect that was repeating itself over and over again. It was this cycle that got his attention. He was just driven to do something different. Two, Community Foundation: They came in and said that more people need to hear about ACEs. It went from just me being a trainer to having 27 peo-

ple as trainers. This changed the pace and scope of things.

LaVine: One of the strategies that has been the most helpful is the ACEs Educator Program. It has allowed us to start at the beginning as many times as we need to with each new group that wants to get involved. We give everyone the same language, the same foundational understanding of what we are talking about when we say ACEs. One of the things that has also been important is building hope that things can change. I think there is a lot of frustration, especially when we are talking about statewide systems and the levers of government and changing generations-old cycles. It can be easy to feel like this is always how it has been, that this is how it is always going to be. But, there is so much evidence that change is possible, that trauma awareness does make a difference, that healing is possible for every individual and every community. ACEs are not destiny. The systems that provide care can elevate the quality and responsiveness of the care they provide.

Johnson: If someone was hesitant to fill out the ACE assessment, what would you say to them?

LaVine: I would say that no one has to fill out the ACE assessment to understand himself or herself. I think that whatever strategies a person has employed have worked because that person is still here. This is the important thing. They have learned how to survive, and that is what matters. I think something to understand from the professional perspective is, if you are working with a client and the client does not want to talk about his/her trauma with you, it is possible that talking about the trauma in that setting is a trigger and that may be a secondary trauma experienced on top of the original traumatic experience.

Walker: It should not be a fear-filled situation. Most people, when they learn about ACEs, experience an incredible epiphany of understanding about issues and patterns in their life. Most people that I have worked with are almost relieved to understand that this is a thing, this has affected my brain development, and there are paths to healing.

Johnson: Any final thoughts?

Walker: The legal community can have a significant influence on the community's understanding of trauma and its effects. ACEs understanding is becoming a part of the professional development in our school system. It should be part of the professional development in many different disciplines. This impacts so many different areas.

LaVine: As one person learning about ACEs within a system, you can have a lot of impact. But when you are educating the entire system, when you are giving personnel across the system access to the information, that is when you really start to see change happen.

Caitlin LaVine, LMSW, is the trauma and resilience strategy lead for the Louisiana Department of Health's Bureau of Family Health. She works with stakeholders and advocates at the state and local levels to increase awareness of ACEs, build capacity for prevention and develop a comprehensive strategy to reduce ACEs in Louisiana. She has 10 years of experience working in mental health and advocacy roles.



H. Clay Walker V has been the director of juvenile services in Caddo Parish since 2011. He oversees 85 employees who run the parish's Juvenile Detention Center and the Probation Services for Caddo Juvenile Court. Previously, he was appointed as the director of juvenile defender services for the State Public Defender Board. He has worked with the Southern Poverty Law Center on its Juvenile Justice Initiative.



Kellie J. Johnson is co-chair of the Louisiana State Bar Association's Children's Law Committee. She is deputy general counsel for the Mental Health Advocacy Service, Child Advocacy Program. She is a member of the Children's Justice Act Task Force and is a Child Welfare Law Specialist, as certified by the National Association of Counsel for Children. (kellie.johnson@la.gov; Ste. 4, 29565 S. Magnolia St., Livingston, LA 70754)



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My Community Cares:

Strengthening Families and Supporting Communities

By Michelle R. Gros



My Community Cares event in East Baton Rouge Parish. Photo provided by My Community Cares.

What do Louisiana judges and attorneys, pots of gumbo, popsicles in parks, medical mobile units, egg hunts, care baskets, block parties, drive-through services and resources, supporting families, foster care and community conversations have in common? My Community Cares (MCC)!

MCC is a community-driven, neighborhood-based approach bringing together families with lived experience in the child welfare system, community members and agencies to identify and connect families to a network of quality services and support designed to promote child and family well-being and prevent children from entering foster care. The mission of MCC is to strengthen families and support communities. The vision of MCC is for children and families to have access to services, activities, programs, resources and support in the communities where they live.

MCC was developed in response to the 2018 Child and Family Services Review (CFSR)¹ conducted on Louisiana's child welfare system and inspired by the federal Children's Bureau's² new vision to shift from a reactive system to one centered on family strengthening. Many Louisiana judges, attorneys and legal and child welfare stakeholders chose to stir the pot and try something different than a one-size-fits-all approach to preventing children from entering foster care. Stakeholders co-designed strategies with community members to find ways to serve families before they became entangled with the court, juvenile services and foster care systems. To implement MCC, the Court Improvement Program (CIP) of the Louisiana Supreme Court,³ the Pelican Center for Children and Families⁴ and local courts partnered with the Department of Children and Family Services (DCFS),⁵ the Louisiana Children's Trust Fund,⁶ the Louisiana Children's Justice Act (CJA) Task Force,⁷ the Casey Family Programs,⁸ other agencies, parents and families who had experienced the child welfare system firsthand, and community members.

Importantly, Louisiana's child welfare data showed that many families involved with the child welfare system historically live within the same neighborhoods. The

poverty, employment, housing, crime, healthcare and education data in these neighborhoods further revealed that families living in these areas have the odds stacked against them and that they face layers upon layers of social, physical and economic challenges. Stakeholders agreed to seek the voice of residents in these neighborhoods to find out what community-based programs and support they felt families needed that were supportive, racially equitable, culturally relevant, and built on the strengths of their community. In 2019, four parishes with high numbers of children entering foster care were chosen to pilot MCC — Caddo, East Baton Rouge, Livingston and Rapides. Fourteen priority neighborhoods were identified within those four parishes.

Over the past three years, MCC has partnered with thousands of families in these communities to assess opportunities and challenges and co-design solutions to prevent children from entering or remaining in foster care. While each community took its own approach to implementing MCC, there are key tenets across the parishes.

Guiding Principles. MCC's foundational assumption is that communities know the best solutions to their unmet needs and challenges. While each parish and neighborhood customized their unique approach, every MCC site is purposed to spark community organizing and engagement; connect families in the community; and provide individual family support.

Teaming Structure. MCC neighborhood, parish and state teams meet regularly to actively listen to and support one another, improve communication between community members and agency partners, identify and remove barriers to quality services, advocate for change, promote racial and socioeconomic equity, and build a network of services, activities, programs, resources, and support unique to each community. "In the past, we have been completely disconnected from each other. MCC brings community partners together with residents to learn from one another, share the work they are doing, and find ways to collaborate. It provides a powerful environment to get everyone on the same level and progressing toward a common goal," said Caddo Parish Juvenile Court Chief Judge David N. Matlock.

Leadership. MCC is led by community members and agency partners:

► **Community members** include families with lived experience with the child welfare system as well as individuals invested in the health of the community where they live, such as residents, business owners, service providers, clergy and others unique to each community. Some community members conveyed their mistrust of government agencies and service providers. They further expressed that they are often the last ones to know when someone or something comes into their neighborhood to "save" them and have conveyed that, by the time they know about it, it is too late for their input. Thus, finding trusted and credible members of the community itself to lead within MCC is critical — and takes time.

► **Agency partners** include judges, Family in Need of Services (FINS),⁹ CASA (Court Appointed Special Advocates),¹⁰ attorneys, DCFS, Family Resource Centers, service providers, schools, emergency responders, healthcare providers, non-profit organizations, local government, etc. Judicial leadership and the involvement of attorneys are crucial to MCC. Judges are in a unique position to observe and understand the needs of families and convene and support the communities they serve to influence positive community change. Attorneys are experienced in advocating for clients and can apply those same skills to advocating for communities and fighting or addressing systemic barriers families experience in Louisiana's most vulnerable neighborhoods. The role of DCFS is important because it is responsible for the safety and well-being of children in communities and working in partnership with other community entities to ensure the availability of services and supports.

► **A MCC Parish entity** coordinates the work of the local members and agencies in each community. The entities include Step Forward of the Community Foundation of North Louisiana¹¹ in Caddo Parish, Empower 225¹² in Livingston Parish and Fostering Community¹³ in Rapides Parish.

Strategies. Each community has its own strategies, but overall MCC strategies include hosting and supporting



My Community Cares event in Livingston Parish. Photo provided by My Community Cares.

community events and conversations to engage community members in identifying needed support; conducting ongoing assessments of community strengths, challenges and opportunities; using information shared by community members through listening circles, community conversations and activities as well as data collected by parishes and the state to inform decisions and track outcomes; implementing strategies recommended by the community and providing a way for information, strategies and solutions to flow between the neighborhood, parish and state teams to meet the unique needs of communities; and advocating for system changes as needed.

Central Point of Contact. MCC serves as a single point of contact in communities for families in need of support before (or when) crisis hits. Judges and attorneys not only participate in MCC teams and advocacy efforts, but they can refer families to MCC. MCC connects families to each other and/or agencies for support and resources as well as connects agencies to each other to improve coordination, quality and availability of services and referrals. Connections are made to meet basic needs such as food, shelter and clothing. Additional help is provided to identify root contributors of “the cri-

sis” and find resources for employment, housing stability, parenting support and education, financial management, mental health, etc.

Each parish has experienced successes, including:

- Intentional processes and programs are being created with local government, schools, FINS, courts, law enforcement and DCFS to support parents, caregivers and children. In Rapides Parish, in-school mental health programs have expanded from nine to 23 schools. In Caddo Parish, the school district has adopted a trauma-informed lens and plans to place TBRI® (Trust-Based Relational Intervention)¹⁴ practitioners in all 64 schools. Trauma support and TBRI® trainings are being provided to parents, caregivers and children in Caddo Parish through collaborations between the Caddo Parish Juvenile Court and Volunteers for Youth Justice.¹⁵

- In Livingston and East Baton Rouge Parishes, communities are overcoming barriers to healthcare in neighborhoods with limited access to public transportation by building strategic partnerships with local healthcare providers.

- MCC partners have engaged with the community in Livingston Parish through drive-through events where needs assessments were completed and families



My Community Cares event in Caddo Parish. Photo provided by My Community Cares.

were connected with services and support and invited to advocate for their community; “back to school” bashes with petting zoos, balloon animals, free school supplies and parent support; weekly popsicles for children in parks and support information for parents; and partnering with local law enforcement to provide car seats and car seat safety training for families in the community.

- In Rapides Parish, MCC has a strategic partnership with the court, FINS and local schools to support families and connect them to needed resources.

- All MCC parishes are offering environments where families and community members can come together to establish relationships, share experiences, support one another and build community resiliency.

Over the last three years, there has been a significant decrease in the number of reports of abuse and neglect and children entering foster care in the MCC pilot parishes. For example, there was a decrease from 325 children in 2018 to 70 children in 2021 entering foster care in Caddo Parish, and a decrease from 187 children in 2018 to 51 children in 2021 entering foster care in Livingston Parish.

While the MCC pilot sites have seen success, recent data shows that Louisiana’s children are faring significantly low as to child well-being than most children in the United States. According to the 2021 Kids Count Profile Data Book,¹⁶ Louisiana ranks 48th as it relates to overall child well-being, 49th as it relates to family and community well-being, 49th as it relates to economic well-being, 48th as it



My Community Cares event in Rapides Parish. Photo provided by My Community Cares.

relates to education, and 48th as it relates to health. Also, 27% of children residing in Louisiana are living below the poverty level compared to a national average of 17%; 33% of parents residing in Louisiana lack secure employment.

In the federal fiscal year 2020, Louisiana received 45,158 reports of child abuse or neglect, 6,181 children were served in foster care, and 3,162 families were served in their homes.¹⁷ Due to the continued need to support Louisiana families and the successful impact of the pilot of MCC, MCC will be expanded to all nine regions of Louisiana by the end of 2022. MCC lead agencies will continue to be selected in the parish in each region with the historically highest number of children entering foster care, which includes Rapides Parish in Alexandria Region; East Baton Rouge Parish in Baton Rouge Region; Livingston Parish in Covington Region; Lafayette Parish in Lafayette Region; Calcasieu Parish in Lake Charles Region; Ouachita Parish in Monroe Region; Orleans Parish in Orleans Region; Caddo Parish in Shreveport Region; and Terrebonne Parish in Thibodaux Region.

The leadership and advocacy of judges and attorneys has proven to be pivotal to the success of MCC and the prevention of child abuse and neglect across the state of Louisiana. Judges and attorneys are encouraged to join their local MCC team.

There are numerous ways for judges and attorneys to get involved with MCC and even obtain pro bono hours. “We are better together, and together we can strengthen Louisiana children and families.”¹⁸

To get involved or for more information on My Community Cares, contact:

► Jenny Forrest, MCC State Director, Pelican Center for Children and Families, mcc@pelicancenter.org.

► Melody Weaver, MCC State Data and Community Support Coordinator, Pelican Center for Children and Families, spadmin@pelicancenter.org.

► Michelle R. Gros, Chief Operations Officer, Pelican Center for Children and Families, specialprojects@pelicancenter.org.

FOOTNOTES

1. Child & Family Services Reviews (CFSR), Children’s Bureau (July 1, 2021), www.acf.hhs.gov/cb/monitoring/child-family-services-reviews.

2. Administration for Children & Families, www.acf.hhs.gov.

3. Louisiana Court Improvement Program, Louisiana Supreme Court, www.lasc.org/Children_Families?p=CIP.

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Michelle R. Gros is the chief operations officer for the Pelican Center for Children and Families, where she assists in implementing the Louisiana Court Improvement Program on behalf of the Louisiana Supreme Court. She has personal experience as a foster parent and adoptive parent. She earned a BS degree in family, child and consumer sciences, with a concentration in human services management and a minor in sociology, in 2003 from Louisiana State University; a master’s degree in Christian education in 2005 from New Orleans Baptist Theological Seminary; and her JD degree in 2018 from Southern University Law Center. (specialprojects@pelicancenter.org; www.pelicancenter.org)





CASA

Court Appointed Special Advocates
FOR CHILDREN

LOUISIANA

Becoming the “Chance” for Louisiana’s Youth

By Judge (Ret.) Kathleen Stewart Richey

Lawyers understand the anxiety associated with going to court. Imagine being 7 years old, removed from your home by a child welfare worker and going to court alone! You are taken to a building you have never been in, where there are a lot of adults in suits, all seeming to be in a hurry and using words you don’t understand. Then you are led into the courtroom where another adult, dressed in black, is sitting at a desk that is higher than everyone else and this is the person who will decide if you can go home. It can be overwhelming. About 6,000 Louisiana children are in this situation each year.

Judges understand the importance of the decisions they are making. The child’s safety, and sometimes their lives, depends on the soundness of the court’s decision. The child and his or her family will be impacted for generations. Judges worry that they are not receiving all the information needed for a sound decision. That very concern is what led Judge David Soukup to create CASA (Court Appointed Special Advocates) in Seattle in 1977. In 1985, the first CASA program in Louisiana began in New Orleans. Today, there are 17 local CASA programs serving 41 of 42 Judicial Districts in the state.

Court Appointed Special Advocates are community volunteers trained by local CASA programs in the basics of the child welfare system, court processes and child development. They are then appointed by a juvenile judge and assigned to the case of one child who is in court due to abuse or neglect. These volunteer advocates get to know the child, gather facts about the case, interview the important people in the child’s life and then make recommendations to the court to ensure that the child’s best interest is considered. The objective is that every child finds a safe, permanent home as soon as possible.

Lawyers are particularly well suited to serve as CASA volunteers given their knowledge of the law and familiarity with court processes. There is a certain altruism in lawyers using their advocacy skills on behalf of a child in need. "Participation in activities for improving the law, legal system or the legal profession" is encouraged to achieve the aspirational goal of "rendering at least fifty (50) hours of pro bono publico legal services" per year (Rule 6.1). In addition to qualifying as pro bono hours, efforts are underway to qualify CASA advocacy work for CLE credit.

While pro bono hours and CLE credit might be a motivation to volunteer, lawyers who have served children as a CASA volunteer identify much more compelling reasons.

Sarah Ann Legendre, an attorney with the Law Office of Risley C. Triche, LLC, in Lafouche Parish, has been a CASA volunteer since 2009 and currently advocates for three children in one case. "Being a CASA volunteer is self-rewarding and a positive way to give back. While it is a time commitment, it is manageable particularly since there is a CASA program supervisor to pick up the slack when you need them. Being a lawyer with court experience makes it easier to speak up for a child and seeing the joy on the children's faces lets you know that you have made a difference," Legendre said. All of the children that Legendre has served since 2009 have found safe, permanent homes.

CASA volunteers do make a difference in the outcomes for the children they serve; they make a difference in the courts in which they serve; and they make a difference in their home communities. But the CASA volunteer gains as well. As Stephen P. Strohschein, a lawyer in the Baton Rouge office of Hinshaw & Culbertson, LLP, and a former CASA volunteer, noted, "I think being a CASA volunteer enables attorneys to help the most vulnerable in our community in a very real way, and with a time commitment that fits within their practice, like another file. But perhaps just as important, being a CASA volunteer opens our

Source: National CASA

eyes to the complexities and challenges that our marginalized neighbors and their children are confronted with on a daily basis — challenges that too often end up on the front page of our paper or as the lead story on the nightly news. So, the CASA volunteer will not fix all of society's ills and may not bring about a Disney ending for the case, but he or she will be a better informed and more empathetic member of our community."

Abused and neglected children have suffered unspeakable trauma and are thrust into a child welfare and court system that can be complicated even for trained professionals. These children deserve an advocate to ensure that their needs are met, to monitor the progress of the case, and to make a recommendation to the court that is in the child's best interest. Every child deserves a chance — that chance just might be you.

To learn more about CASA or to

locate a program in your judicial district, go to: www.louisianacasa.org.

Judge (Ret.) Kathleen Stewart Richey is executive director of the Louisiana CASA Association and 2022-23 co-chair of the Louisiana State Bar Association's Children's Law Committee. She began her career as an attorney representing children in child dependency and delinquency matters. During this time, she served on the Children's Code Project Committee which drafted the Louisiana law regarding children's issues. In 1991, she became the first juvenile judge in East Baton Rouge Parish. During her 24 years on the bench, she was instrumental in establishing Capital Area CASA. She has served on several legislative task forces, most notably the Legislative Task Force on Legal Representation in CINC Matters which created the Child Advocacy Program in Louisiana. (krichey@louisianacasa.org; Ste. 240, 2051 Silverside Dr., Baton Rouge, LA 70808)



CASA Best-Interest Advocacy



Children in Today's Courtroom

By Franchesca L. Hamilton-Acker, Kellie J. Johnson and Josephine C. Vanderhorst

There are multiple layers to the child welfare system. One of these layers is peeled back when there is a need to remove a child from his/her parents or caretakers because of allegations of abuse, neglect or abandonment. This removal requires the involvement of the court system.

At the beginning of these proceedings, the parties involved are entitled to, and appointed, an attorney to represent them. In Louisiana, there is a child representation system that affords legal advocates to every child in these proceedings. The entities that make up the child representation system are listed below. As managers of the entities that make up the child representation system, we want to provide a glimpse into our world and share some of our best practice tips regarding child representation.

The Child Representation System in Louisiana

The child representation system in Child in Need of Care (CINC) cases in Louisiana is comprised of three entities — the Mental Health Advocacy Service, Child Advocacy Program (MHAS); Acadiana Legal Service Corp. (ALSC); and Southeast Louisiana

Legal Services (SLLS).

MHAS was established pursuant to La. R.S. § 28:64. Act 271 created the Child Advocacy Program (within MHAS) to provide for specialized representation of children in child protection cases. MHAS/CAP currently provides attorneys in 19 parishes to represent children in abuse and neglect cases, in addition to its work dedicated to adult and juvenile mental health.

ALSC, incorporated in 1978, offers services to the economically challenged in the most pressing civil legal issues and needs, ensuring equal justice for all. ALSC is comprised of four substantive law units — Litigation, Family Law, Administrative Law and Child in Need of Care (CINC). The CINC Unit was created in 2010 and provides specialized legal representation to children in CINC cases in 36 parishes and 47 jurisdictions.

SLLS was created in 1978 and eventually became the main legal services entity for Southeast Louisiana when it merged with New Orleans Legal Assistance Corp. and Capital Area Legal Services. SLLS provides access to legal services in 22 parishes in the areas of CINC, Family Law and Domestic Violence, Housing, Veteran/Homeless, Consumer, Tax, Elder Law and Public Benefits. The CINC unit was created in

2010 and currently represents children in nine parishes.

Rules and Standards

The Louisiana Supreme Court Rule XXXIII outlines the standards and qualifications for children's attorneys. All assigned attorneys working with the above entities are specifically qualified to represent children involved in CINC proceedings in Louisiana in accordance with this Court rule. The three entities work collaboratively to provide a uniform standard of representation across Louisiana.

With regard to the specific rules and qualifications of children's attorneys, it is important to note that children are not incidental to CINC or juvenile mental health hearings in court; they are essential parties. Children are owed the same duties of competent and confidential representation as would a parent or another adult in the same proceeding. Right to notice of hearings and the right of the child to be heard are enumerated under Louisiana Children's Code article 623. The article specifies that any testimony given by a child may be taken by a videotaped interview, by closed-circuit television, or by an in-chambers conference attended only by the judge, court

reporter and counsel for the child, for the petitioner and for the parents. (This may seem different from what is experienced in family court as there is no requirement for a *Watermeier* hearing to obtain a child's testimony in CINC proceedings.) Article 623 also sets out that any child 12 or older shall be present in court unless the court waives the child's presence upon motion of the child's attorney. Additionally, a child under 12 shall be present in court if the court or the child's attorney requests the child's presence.

A child's attorney must evaluate many factors and circumstances to make sure the rights of the child are preserved. In regards to a child's testimony, in-person testimony is often the preferred method as with any other party to a proceeding but there are various circumstances wherein a child may not want to present himself/herself in court. A child could be a victim of abuse and/or neglect and wish to avoid contact with the perpetrator, or a child could simply be worried about addressing concerns or questions in an open courtroom full of people. A child may wish to attend court but not want to miss an ACT practice test or a class party. As any attorney should consult with his/her client about the desired participation in court and outcome, the attorney for the child shall elicit any and all information from the client prior to, and in conjunction with, each hearing. Advocacy on behalf of the child is essential and ensuring that the child is in a position to make a well-reasoned and informed decision is essential. Utilizing legal options to preserve the interest of the child-client is also very important.

Surmounting Pandemic Challenges

Challenged by the impact of the COVID-19 pandemic, these entities altered their practices to better assist clients in the post-pandemic world.

Attorneys and court systems had to explore all options to get important hearings back on track despite some courts being closed to the public for a long length of time. Attorneys used cre-

ative methods to maintain contact with their clients, such as Zoom, FaceTime, Google Duo and Marco Polo, while continuing to build rapport and engaging them in the court process. It is always the priority to ensure that clients are included and allowed to participate at their comfort level. Clients may not wish to attend in person and some jurisdictions continue to allow them to participate virtually, as permitted by law.

Some courts still permit a child to attend court via virtual means in order for the child to maintain the least invasive schedule change as possible. This alternate means of participation could be of great benefit to the child-clients. On the other hand, even if it means that children must miss a day of school, they maintain the right to be present and to be heard, and counsel for the children must request their presence. There are numerous factors to consider, but the child's wish is the attorney's and the court's primary concern. In some exceptional circumstances, it may be necessary to request another court date to ensure the participation of the child-client if that is the child's will. It is important to remember that the right to attend the hearing is that of the child's and the only proper person who can make a motion to waive the child's attendance is his/her attorney.

Conclusion

Representing children in CINC proceedings requires the attorney to be versed in other areas of the law to ensure competent representation. A familiarity with the basics of child development is essential. All three entities of the child representation system aim to provide holistic representation to their clients. A holistic approach may include addressing some of the following issues — mental health, education, LGBTQ, delinquency, substance abuse, and other issues that impact the child during an active case. Because of the complexity of these cases, holistic representation involves a substantial amount of out-of-court advocacy and meetings with doctors, teachers, therapists, etc. Even

though children hold a lot of information, they are often not treated as a party in proceedings that affect their lives directly. The unfortunate result is that this important information from an essential party gets lost. This can be very disheartening and discouraging to a child who wants to participate and engage in his/her own hearings. As a system, we have to realize that these cases change children and families' lives, and they deserve a voice in the decisions that are being made for them.

Franchesca L. Hamilton-Acker is a senior managing attorney at Acadiana Legal Service Corp., where she has practiced public interest law for 25 years. She focuses in general litigation, domestic violence, elder and juvenile law. Her exclusive focus in the past 12 years has been in juvenile law, where she has worked on system reforms on the state and national level, co-authored a book, published articles, and conducted trainings in Louisiana, throughout the country and abroad. (franchesca@la-law.org; P.O. Box 4823, Lafayette, LA 70502-4823)



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Louisiana FINS

Louisiana's Families in Need of Services Laws Providing the Right Services to Children and Families

By Curtis Nelson, Jr.

Everyone monitoring news outlets have heard comments that more needs to be done to prevent children from engaging in criminal activity, which, due to their minor status, is referred to as delinquency activity. Concerns about public safety and how to effectively work with youth engaging in risky and sometimes dangerous behavior have once again become a hot topic for the Louisiana Legislature, juvenile justice stakeholders and the public.

Louisiana Children's Code and FINS

In Louisiana, the Children's Code specifically provides an early intervention process to help the state's troubled youth avoid going into the deep end of the juvenile and criminal justice system. The laws are found under the provisions of Title VII of the Louisiana Children's Code in the section "Families in Need of Services" (the FINS statutes). The FINS provisions were enacted to address the various status offenses that, if not properly addressed, could contribute to a child engaging in delinquency later in life; or, putting the child at a higher risk for victimization; or placing an overall increased potential for physical and mental health issues, including addiction.¹ A status offense is a non-criminal act considered a law violation only because of the youth's status as a minor.² Typical status offenses include

truancy, running away from home, violating curfew, underage use of alcohol, and general ungovernability.³

In Louisiana, the status offender's laws begin in the Children's Code at article 726 through article 791.1. Louisiana's recognized status offenses are specifically found at Children's Code article 730 which lists 10 grounds to allege that a family is in need of services. Under Louisiana law, allegations can be made directly against both the child and caretaker.

Intent of the FINS Provisions

Louisiana Children's Code article 726 provides that the purpose of the FINS is to define self-destructive behaviors by the child and conduct by other family members which contribute to the child's harm and which warrant court intervention in the family's life so that appropriate services to remedy the family's dysfunction can be secured.⁴ Herein lies the legislative emphasis on the state's need to quickly identify self-destructive activity and to quickly put in place appropriate intervention services before a Louisiana child starts engaging in criminality. The social research has shown the need for immediate and efficacious community-based alternatives to help status-offending youths and their families strengthen family relationships, adopt social-control mechanisms, and develop protective fac-

tors to prevent future criminality among status offenders.⁵

Under Louisiana law, the Legislature put in place two very specific mechanisms that allow state juvenile courts to work directly with children and families to prevent delinquency and further criminality — the Informal FINS and the Formal FINS processes. The Informal FINS process is contained within Louisiana Children's Code articles 732, 743, 744 and 745. These four articles establish Louisiana's informal FINS process that allows the child and caretaker to voluntarily work with trained professionals to identify the problems within the home and to connect the family with community-based services (*i.e.*, tutoring, counseling, parenting classes, family or individual therapy, or mentoring). The Informal FINS process should be short in duration to quickly address the disruptive behavior and to eliminate the unnecessarily prolonged involvement with the family. In Louisiana, the intake FINS staff develops an informal family services plan agreement with an initial six-month duration period that can be extended for an additional six months if there are no improvements.

In situations where the voluntary services are not correcting the family's problems, or the circumstances are so severe that the child's protection or control is at risk, then Louisiana law allows for the

district attorney or any other attorney authorized by the court to file a Formal FINS Petition alleging one of the 10 grounds found at Louisiana Children's Code article 730.⁶ The nature of the proceeding before the juvenile court judge is civil without a jury, and the burden upon the petitioner is to prove the allegations of the petition by a preponderance of evidence.⁷ Should the juvenile court find that the evidence supports a finding that the family is in need of services, then the court has the authority to place the child on probation in the home of the caretaker or other suitable person to receive community-based services; or, the court can assign the child to the custody of a private or public institution (*i.e.*, Office of Juvenile Justice, Department of Children and Family Services, or Louisiana Department of Health) to receive more intensive treatment services. Louisiana law is clear that, if the court assigns the child to the custody of a private or public institution, that child shall not be placed in a correctional facility designed and operated exclusively for delinquent children.⁸

Many juvenile justice stakeholders believe that removal of a child from his/her home or community should be the last option to address the underlying problems of the family. Researchers have examined the general impact of institutionalization on juvenile offenders, and it has been consistently demonstrated that confinement in correctional facilities does not reduce reoffending and may increase it for certain youths.⁹ In some cases, if a status offender is placed in the same facilities with youth who have committed more serious crimes, that status offender's deviant attitudes and behaviors may increase and create more antisocial behaviors.¹⁰ And lastly, research has shown that confinement fails to address underlying causes of status-offending behavior, and thus may not deter youths from committing future crimes.¹¹

The Informal and Formal FINS processes, if used appropriately, can be an effective tool to address anti-social adolescent behavior to prevent youth from engaging in delinquency behavior. The caution, however, is to not criminalize what otherwise would be considered normal adolescent behavior. Children and adolescents commonly experiment with

behaviors that are not considered positive or prosocial, such as lying, being truant, or defying parents.¹² Such experimentation allows youth to discover the negative consequences of their behaviors and learn from their mistakes; and most of the youths who engage in status or other minor offenses never progress to more serious behaviors.¹³

While the Informal and Formal FINS processes are available legal tools to help children and teens, the processes should only be used when the behavior being exhibited in the home or community is self-destructive and the child's protection or control is at severe risk. Consistently going to school is necessary for the proper development of all children. Following the reasonable rules of a caretaker's home that allows the child to thrive in a safe and healthy home is important. Running away from home can put a child at risk to dangers such as human trafficking. Cyberbullying and bullying can have damaging effects on the targeted child. No child should engage in underage drinking due to their lack of maturity. Louisiana status offender laws address all of the above risky behaviors.

Conclusion

Louisiana has a statutory court process to intervene early in the lives of children and adolescents to address risky behavior that could be a precursor to delinquency. A review of the Louisiana Supreme Court statistical data reveals that, for calendar year 2021, the juvenile courts handled 3,045 Informal FINS cases. Of those 3,045 cases, 60.53% were cases involving truancy; 28.14% were cases involving reports of ungovernable behavior; 3.12% were cases involving reports of runaway behavior; 5.25% involved matters of willful violations of school rules; and 2.96% were other reasons.¹⁴

Louisiana has the statutory framework in place to do more to keep young people from going down the road of involvement in the juvenile and criminal justice system. More efforts should be made to build the capacity of the state's FINS process in order to serve more children and families. For every child the state can provide early intervention community-based

services to, that is one less child who has to be arrested, detained or removed from the community to be put in either a group home or secured facility for the commission of a delinquent act which annually costs the state millions of dollars.¹⁵ For every child that our state can prevent from engaging in a delinquent act, that single prevention effort improves our state's overall goal of having safe, healthy and thriving communities.

FOOTNOTES

1. Greenwood and Turner, 2011; Chuang and Wells, 2010; Buffington, Dierkhising and Marsh, 2010; Henry, Knight and Thornberry, 2012; Mersky, Topitzes and Reynolds, 2012.
2. Development Services Group, Inc., 2015. "Status Offenders." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, www.ojjdp.gov/mpg/litreviews/Status_Offenders.pdf.
3. *Id.*
4. La. Children's Code art. 726.
5. Development Services Group, Inc., 2015, *supra* note 2.
6. La. Children's Code art. 746.
7. La. Children's Code art. 768, 769 and 770.
8. La. Children's Code art. 779.
9. *Id.*
10. Levin and Cohen, 2014.
11. Hughes, 2011; Holman and Ziedenberg, 2006.
12. Development Services Group, Inc., 2015, *supra* note 2.
13. *Id.*
14. Statistics provided by the Louisiana Supreme Court Families in Need of Services Assistance Program.
15. <https://ojj.la.gov/data-resources/data-reports/>.

Otha (Curtis) Nelson, Jr. is 2020-22 co-chair of the Louisiana State Bar Association's Children's Law Committee. He has more than 30 years of experience working with children and families. He has worked as an adolescent mental health technician, a court appointed special advocate, a parents' attorney in child in need of care proceedings, a child's attorney in delinquency proceedings and a juvenile prosecutor. He currently is deputy judicial administrator, Division of Children and Families, Louisiana Supreme Court. He is chair of the Juvenile Detention Alternatives Initiative Leadership Collaborative, a member of the Louisiana Children Justice Task Force and the Governor's Advisory Board of Juvenile Justice and Delinquency Prevention, and an advisory board Fellow for the Pelican Center for Children and Families. He received his JD degree from Loyola University College of Law. (cnelson@lasc.org; Ste. 1190, 400 Royal St., New Orleans, LA 70130)





ATTEMPT

the summit



Stephen I. Dwyer, a founding member and managing partner of the Metairie law firm Dwyer, Cambre & Suffern, APLC, gives his installation speech after becoming the 82nd LSBA president. Photo by Matthew Hinton Photography.



The Louisiana State Bar Association's (LSBA) 2022-23 officers and members of the Board of Governors. Seated from left, Jeffrey A. Riggs, at-large; W. Michael Street, District 7; C.A. (Hap) Martin III, secretary; H. Minor Pipes III, immediate past president; Stephen I. Dwyer, president; Lawrence J. Centola III, treasurer; Shayna L. Sonnier, president-elect; and Carrie LeBlanc Jones, District 5. Standing from left, Sandra K. Cosby, House of Delegates Liaison Committee member; Danielle L. Borel, Young Lawyers Division chair; Charles D. Elliott, District 6; Adam P. Johnson, District 4; Scott L. Sternberg, District 1; Curtis R. Joseph, Jr., District 8; Keenan K. Kelly, House of Delegates Liaison Committee chair; Adrian G. Nadeau, District 5; Dwazendra J. Smith, District 3; and John M. Church, Louisiana State University Paul M. Hebert Law Center. Not in photo, J. Christopher Zainey, Jr., District 1; Erin O. Braud, District 2; Adreja L.A. Boutté, at-large; Blake R. David, at-large; Ronald J. Scalise, Jr., Tulane University Law School; Lila Tritico Hogan, Louisiana State Law Institute; and D. Skylar Rosenbloom, House of Delegates Liaison Committee member. Photo by Matthew Hinton Photography.

LSBA Installs 2022-23 Officers and Board of Governors

The Louisiana State Bar Association's (LSBA) 2022-23 officers and members of the Board of Governors were installed June 9 at a ceremony at the LSBA's Annual Meeting in Destin, Fla. Louisiana Supreme Court Chief Justice John L. Weimer administered the oath of office.

Stephen I. Dwyer, a founding member and managing partner of the Metairie law firm of Dwyer, Cambre & Suffern, APLC, was installed as the 82nd LSBA president.

Shayna L. Sonnier, a partner in the

Lake Charles firm of Hunter, Hunter & Sonnier, LLC, was installed as the 2022-23 president-elect. She will assume the presidency in 2023-24.

C.A. (Hap) Martin III, a member in the Monroe law firm of Shotwell, Brown & Sperry, APLC, is beginning the second year of a two-year term as secretary. He also serves as editor of the *Louisiana Bar Journal*.

Lawrence J. (Larry) Centola III, a principal member of the New Orleans law firm of Martzell, Bickford & Centola, is

beginning his first year of a two-year term as treasurer.

H. Minor Pipes III, a founding member of the New Orleans law firm of Pipes Miles Beckman, LLC, will continue his service to the LSBA as the 2022-23 immediate past president.

Danielle L. Borel, a partner in the Baton Rouge office of Breazeale, Sachse & Wilson, LLP, was installed as 2022-23 chair of the LSBA Young Lawyers Division.

Continued next page



Louisiana Supreme Court Chief Justice John L. Weimer swears in the 2022-23 Louisiana State Bar Association Board of Governors during the Installation Luncheon at the Annual Meeting in Destin, Fla. Photo by Matthew Hinton Photography.

Installation continued from page 119

Members of the 2022-23 Board of Governors also were sworn into office:

First District

► **Scott L. Sternberg**, managing partner of the law firm of Sternberg, Naccari & White, LLC, with offices in New Orleans and Baton Rouge.

► **J. Christopher Zainey, Jr.**, a partner with Lambert Zainey Smith & Soso, PLC, in New Orleans.

Second District

► **Erin O. Braud**, staff counsel for The Hartford Insurance Co. (Law Offices of Julie E. Vaicius) in Metairie.

Third District

► **Dwazendra J. Smith**, a solo practitioner at D. Smith Legal, LLC, in Lafayette.

Fourth District

► **Adam P. Johnson**, a partner in The Johnson Firm in Lake Charles.

Fifth District

► **Adrian G. Nadeau**, an equity partner in the Long Law Firm, LLP, in Baton Rouge.

► **Carrie LeBlanc Jones**, the chief legal officer and general counsel for the Louisiana State Board of Nursing.

Sixth District

► **Charles D. Elliott**, a solo practitioner at the law firm of Charles Elliott & Associates, LLC, in Alexandria.

Seventh District

► **W. Michael Street**, a partner in the Monroe law firm of Watson, McMillin & Street, LLP, and a member of Marathon Title Co., LLC.

Eighth District

► **Curtis R. Joseph, Jr.**, of counsel in the Shreveport law firm of Blanchard, Walker, O'Quin & Roberts, APLC.

At-Large Members

► **Adrejia L.A. Boutté** works as in-house counsel for the state of Louisiana and is a licensed title insurance producer in Baton Rouge.

► **Blake R. David**, a founding partner of the Lafayette law firm of Broussard & David, LLC.

► **Jeffrey A. Riggs**, a partner in the Lafayette office of Lewis Brisbois Bisgaard & Smith, LLP.

Louisiana State University Paul M. Hebert Law Center/Faculty Representative

► **John M. Church**, an associate professor of law at Louisiana State University Paul M. Hebert Law Center in Baton Rouge.

Tulane University Law School/Faculty Representative

► **Ronald J. Scalise, Jr.**, the John Minor Wisdom Professor of Civil Law at Tulane University Law School in New Orleans.

Louisiana State Law Institute Representative

► **Lila Tritico Hogan**, a partner in the Hammond law firm of Hogan Attorneys.

House of Delegates Liaison Committee

► Chair **Keenan K. Kelly**, an attorney in the Natchitoches law firm of Kelly & Townsend, LLC.

► Member **D. Skylar Rosenbloom**, senior counsel for Entergy Services, LLC, in New Orleans.

► Member **Sandra K. Cosby**, an associate with Frederick A. Miller & Associates in Metairie.

Awards Presented to LSBA Members, Legal Organization at Annual Meeting

Several Louisiana State Bar Association (LSBA) members and a legal organization received awards June 9 during the association's 2022 Annual Meeting in Destin, Fla.

President's Awards

Four LSBA members received 2022 President's Awards. Recipients were chosen by 2021-22 LSBA President H. Minor Pipes III. Recognized were **Judge Fredericka Homberg Wicker**, 5th Circuit Court of Appeal, Gretna; **Dean Madeleine M. Landrieu**, Loyola University New Orleans College of Law, New Orleans; attorney **Robert J. David**, New Orleans; and attorney **Frank X. Neuner, Jr.**, Lafayette.

Judge Fredericka Homberg Wicker, a judge for the Louisiana 5th Circuit Court of Appeal since 2006, was recognized for her exemplary leadership, overall commitment to the profession and myriad contributions to the training of lawyers and judges. She served as an assistant district attorney in Orleans and Jefferson parishes and as an assistant U.S. attorney for the U.S. District Court, Eastern District of Louisiana, serving as chief of narcotics. In 1996, she was elected to the Louisiana 24th Judicial District Court, serving there until her election to the 5th Circuit bench. She was a member of the adjunct faculty at Tulane Law School and taught trial advocacy at Loyola University College of Law and for the National Institute of Trial Advocacy. She has been a lecturer for the Louisiana and National Judicial Colleges and for the National Center for State Courts.

Dean Madeleine M. Landrieu, dean of Loyola University New Orleans College of Law since 2017, was recognized for her exemplary leadership as a



President's Award recipient Dean Madeleine M. Landrieu, left, with 2021-22 Louisiana State Bar Association President H. Minor Pipes III. Photo by Matthew Hinton Photography.

judge and law school dean and for her overall commitment to the practice of law in Louisiana. Landrieu served as a judge on the 4th Circuit Court of Appeal and on the Orleans Parish Civil District Court. She served as president of the Louisiana District Judges Association, president of the Louisiana Judicial College and chair of the New Judges Training Committee. She advocates for improvements in laws and policies relative to children who come before the courts because of abuse or neglect. She is a founding board member of the Louisiana Institute for Children in Families and has been instrumental in the launch of Louisiana's Quality Parenting Initiative and Louisiana Fosters. She teaches Trial Advocacy and the Comparative Rights of Children.

Robert J. David, a partner in the New Orleans office of Gainsburgh, Benjamin, David, Meunier & Warshauer, LLC, was recognized for his myriad contributions to the profession and the LSBA. He chaired the Louisiana Attorney Disciplinary Board Hearing Committee from 2004-06, was attorney-chair of the LSBA's Medical/Legal



President's Award recipient Judge Fredericka Homberg Wicker, left, with 2021-22 Louisiana State Bar Association President H. Minor Pipes III. Photo by Matthew Hinton Photography.



President's Award recipient Robert J. David, left, with 2021-22 Louisiana State Bar Association President H. Minor Pipes III. Photo by Matthew Hinton Photography.

Interprofessional Committee from 1991-94 and was an assistant bar examiner for the LSBA's Committee on Bar Admissions from 1974-93. He has authored the Professional Liability Recent Developments article for the *Louisiana Bar Journal* since 1989. He served on the Lawyer Disciplinary Committee of the U.S. District Court for the Eastern District of Louisiana and the Governor's



President's Award recipient Frank X. Neuner, Jr., left, with 2021-22 Louisiana State Bar Association President H. Minor Pipes III. Photo by Matthew Hinton Photography.

Commission of Medical Professional Liability. He was on the adjunct faculties for Loyola and Tulane law schools.

Frank X. Neuner, Jr., a founder and the managing partner of NeunerPate in Lafayette, was recognized for his exemplary leadership of the Louisiana Client Assistance Foundation (LCAF) and his myriad contributions to indigent defense in Louisiana. As president of LCAF since 2001, he oversees reimbursement of funds to clients who lose money due to lawyer misconduct. He served as LSBA president in 2005-06 during the tumultuous Hurricanes Katrina and Rita and as LSBA treasurer in 2002-04. During his 2008-13 tenure as chair of the Louisiana Public Defender Board, he spearheaded the drive for legislation to provide legal protection and access to justice for the indigent defendants. In 2013, he was honored as the Louisiana Bar Foundation's Distinguished Lawyer. In 2018, he was awarded the American Bar Association's Solo and Small Firm Lifetime Achievement Award.

Distinguished Service to the Profession Award

Robert A. Kutcher, managing partner in the Metairie law firm Kutcher Tygier & Luminais, LLP, received the LSBA's Distinguished Service to the Profession Award, recognized for his many years of exemplary service and accomplishments as a leader of the LSBA. He served as LSBA president in 2019-20, president-



Distinguished Service to the Profession Award recipient Robert A. Kutcher, left, with 2021-22 Louisiana State Bar Association President H. Minor Pipes III. Photo by Matthew Hinton Photography.

elect in 2018-19 and treasurer in 2014-16. He began service in the House of Delegates in 1998 and served several terms on the House Liaison Committee. He was a member of the *Louisiana Bar Journal* Editorial Board and is a co-chair of the Summer School Planning Committee. He served on the Nominating Committee and the Rules of Professional Conduct Committee and chaired the Audit Committee in 2013. He was a board member of the Louisiana Civil Justice Center from 2015-18 and the Pro Bono Project from 2014-17 and chaired the Louisiana Attorney Disciplinary Board in 1999.

Stephen T. Victory Memorial Award

Zachary S. Miller of Baton Rouge received the 2022 Stephen T. Victory Memorial Award, recognizing outstanding contributions to the *Louisiana Bar Journal*. He was recognized for his article, "Space Law for the Louisiana Practitioner: 37 Years Later." He is an associate in the Baton Rouge office of Chaffe McCall, LLP. A 2019 graduate of Louisiana State University Paul M. Hebert Law Center, he concentrated his studies in space law and is building a practice aimed at advising space industry clients. He interned for the White House Office of Science and Technology Policy and served as a law clerk for the Louisiana Solicitor General. He coaches the LSU Law team for the Manfred



Zachary S. Miller, left, recipient of the Stephen T. Victory Memorial Award, with 2021-23 Louisiana State Bar Association Secretary C.A. (Hap) Martin III. Photo by Matthew Hinton Photography.



David E. Marcantel of Jennings, third from left, received the 2022 John A. "T-Jean" Hernandez III Memorial Award on June 11 from the Executive Committee of the Louisiana State Bar Association's Francophone Section. From left, W. Thomas Angers, Warren A. Perrin, Marcantel and Judge Durwood W. Conque.

Lachs International Space Law Moot Court Competition.

John A. "T-Jean" Hernandez III Memorial Award

David E. Marcantel of Jennings received the 2022 John A. "T-Jean" Hernandez III Memorial Award, presented for achievements in Francophone leadership. Marcantel has been in private practice in Jennings since 1976. For the last 20 years, he has served as the chief public defender of the 31st Judicial District. He is a member of the LSBA's Francophone Section. Promoting Louisiana French, Cajun and Louisiana Creole has been a large part of his life. He has published short stories, songs, poems and a play in French and owns a Cajun music company called Musique



Judge (Ret.) William A. Morvant, left, recipient of the Catherine D. Kimball Award for Advancement of the Administration of Justice, with 2021-22 Louisiana State Bar Association President **H. Minor Pipes III**. Photo by Matthew Hinton Photography.

Acadienne. He has been a member of the board of the Council for the Development of French in Louisiana for more than 40 years. He is a former president and present board member of *La Fondation Louisiane*, which gives scholarships to Louisiana students to study in French-speaking countries.

Catherine D. Kimball Award for Advancement of the Administration of Justice

Judge Randall L. Bethancourt of Houma and **Judge (Ret.) William A. Morvant** of Baton Rouge both received the 2022 Catherine D. Kimball Award for Advancement of the Administration of Justice.

Judge Randall L. Bethancourt has served as a judge for the 32nd Judicial District Court in Terrebonne Parish since 2003. Before his election to the bench, he practiced law for 22 years. He worked as an assistant district attorney from 1997-99 and was the founding director of the Terrebonne Children's Advocacy Center. He is a graduate of the inaugural class of the Louisiana Judicial Leadership Institute. He serves on the board for the



Judge Randall L. Bethancourt



Louisiana Supreme Court Associate Justice Scott J. Crichton, right, received the 2022 Judge Benjamin Jones Judges in the Classroom Award from 24th Judicial District Court Judge **Shayna Beevers Morvant**, president of the Louisiana Center for Law and Civic Education. Photo by Matthew Hinton Photography.

Louisiana Center for Law and Civic Education (president from 2018-20). He serves on the Louisiana Supreme Court's Judges in the Classroom Task Force. His Judges in the Classroom program has had more than 20,000 student participants over the years. He has been involved with the National Council of Juvenile and Family Court Judges and the Advisory Committee of the Performance Audit on Jury Practices for the Louisiana Supreme Court.

Judge (Ret.) William A. Morvant served as a judge for the 19th Judicial District Court (East Baton Rouge Parish) from 1997 until his retirement in 2021. From 1997-2002, he also presided over the 19th JDC's Drug Court. Prior to being elected in 1996, he was a partner in the firm of Shows, Cohn & Cali in Baton Rouge. He is an alumnus of the National Judicial College. He currently serves on the Judicial Supplemental Compensation Board and is an adjunct faculty member at LSU Law Center, teaching Louisiana Civil Procedure. He also has served on the I-Care Advisory Council and on the boards of Family Services of Greater Baton Rouge, the Paula Manship YMCA and the Baton Rouge CYO.

Judge Benjamin Jones Judges in the Classroom Award

Louisiana Supreme Court Associate



Judge (Ret.) Freddie Pitcher, Jr., left, recipient of the Chief Justice Bernette Joshua Johnson Trailblazer Award, with 2021-22 Louisiana State Bar Association President **H. Minor Pipes III**. Photo by Matthew Hinton Photography.

Justice Scott J. Crichton of Shreveport received the 2022 Judge Benjamin Jones Judges in the Classroom Award. Prior to his election to the Supreme Court, he served 24 years as a judge with the 1st Judicial District Court (Shreveport/Caddo Parish), presiding in both the civil and criminal divisions. He is a member of Chief Justice John L. Weimer's Judges Imparting Knowledge, Education and Skills Task Force. Through this program, he has designed a PowerPoint presentation for high school students titled "Crime, Consequences and The Power of Choice." He serves on the adjunct faculty of Tulane Law School and is a member of the teaching faculty for LSU Law Center Trial Advocacy Program. He serves on the board of directors of the Louisiana Center for Law and Civic Education. He is a graduate of the inaugural class of the Louisiana Judicial Leadership Institute.

Chief Justice Bernette Joshua Johnson Trailblazer Award

Judge (Ret.) Freddie Pitcher, Jr. of Baton Rouge received the 2022 Chief Justice Bernette Joshua Johnson Trailblazer Award. Pitcher, former chancellor of Southern University Law Center, has a career of many firsts. He became the first African-American elected to a judgeship in Baton Rouge with his election to the City Court in 1983. He was



The Greater New Orleans Chapter of the Louis A. Martinet Legal Society, Inc. received the 2022 Guardian of Diversity Award. Accepting the award on behalf of the Chapter was Ronald J. Sholes, Jr., left. With him is 2021-22 Louisiana State Bar Association President H. Minor Pipes III. Photo by Matthew Hinton Photography.

the first African-American elected to the 19th Judicial District Court in 1987. He achieved another first with his election to the Louisiana 1st Circuit Court of Appeal in 1992, without opposition. He joined the law firm of Phelps Dunbar, LLP, upon his retirement from the bench in 1997. His memoir, which will be released in October 2022 by LSU Press, titled *Breaking Barriers: A View from the Bench*, highlights his efforts to diversify the judiciary through the electoral process in Baton Rouge.

Guardian of Diversity Award

The Greater New Orleans Chapter of the Louis A. Martinet Legal Society, Inc. received the 2022 Guardian of Diversity Award. The GNO Martinet Chapter has actively promoted diver-



Josef P. Ventulan, left, recipient of the Louisiana State Bar Association Young Lawyers Division's Bat P. Sullivan, Jr. Chair's Award, with 2021-22 LSBA YLD Chair Graham H. Ryan. Photo by Matthew Hinton Photography.

sity since its founding in 1957. The Chapter's programs include Pathways and Pipelines to Success (recognized nationally by the American Bar Association and National Bar Association Young Lawyers Division), the Raising the Bar Initiative and the Judicial Internship Diversity Project.

LSBA Young Lawyers Division Bat P. Sullivan, Jr. Chair's Award

Josef P. Ventulan of Baton Rouge received the 2022 LSBA Young Lawyers Division's Bat P. Sullivan, Jr. Chair's Award. Ventulan is a staff attorney with the Louisiana State Law Institute and instructs students as a professional responsibility fellow of Southern University



Harry J. (Skip) Philips, Jr., left, recipient of the Louisiana Bar Foundation's Curtis R. Boisfontaine Trial Advocacy Award, with 2022-23 LBF President Alan G. Brackett. Photo by Matthew Hinton Photography.

Law Center. He is currently serving as the American Bar Association Young Lawyers Division (YLD) representative on the LSBA's YLD Council. He serves on the YLD's Awards and Membership/Affiliates Committees, the LSBA's Access to Justice Committee and the Baton Rouge Bar Association's Publication and Pro Bono Committees.

Louisiana Bar Foundation's Curtis R. Boisfontaine Trial Advocacy Award

Harry J. (Skip) Philips, Jr. of Baton Rouge received the 2022 Louisiana Bar Foundation's Curtis R. Boisfontaine Trial Advocacy Award. Philips, of counsel in the Baton Rouge office of Taylor, Porter, Brooks & Phillips, LLP, received the award in recognition of his long-standing devotion to and excellence in trial practice and for upholding the standards of ethics and consideration for the court, litigants and counsel. He has selected Catholic Charities Diocese of Baton Rouge to receive the \$1,000 stipend to be donated in his name. He is a former president of the Louisiana Bar Foundation (also a Fellow and 2020 President's Award recipient) and a former president of the Louisiana Association of Defense Counsel. He was a LSU Law Center Distinguished Achievement honoree in 2018. He is the former director of Character and Fitness for the Louisiana Supreme Court's Committee on Bar Admissions and has served as a bar examiner.



Members of the Leadership LSBA 2021-22 Class were recognized for their efforts during the General Assembly. Photo by Matthew Hinton Photography.

LSBA Young Lawyers Division's 2022-23 Officers, Council Installed

The Louisiana State Bar Association Young Lawyers Division's (LSBA YLD) 2022-23 officers and Council were installed June 9 at the LSBA Annual Meeting in Destin, Fla. Louisiana Supreme Court Chief Justice John L. Weimer administered the oath of office.

Danielle L. Borel, a partner in the Baton Rouge office of the law firm Breazeale, Sachse & Wilson, LLP, was installed as 2022-23 YLD chair.

Other officers sworn in include:

► Chair-Elect **Senae D. Hall**, an assistant district attorney in the Caddo Parish District Attorney's Office in Shreveport and the Human Trafficking Victims Diversion coordinator.

► Secretary **Kristen D. Amond**, a founding member of the law firm Mills Amond, LLP, in New Orleans.

► Immediate Past Chair **Graham H. Ryan**, a partner in the New Orleans office of the law firm Jones Walker LLP.

Installed as members of the 2022-23 YLD Council were:

District 1: Collin R. Melancon, a partner/owner of the law firm Mansfield, Melancon, Cranmer & Dick, LLC, in New Orleans; and Jennifer Gordon Lampton, senior law clerk for Judge Nakisha Ervin-Knott, Orleans Parish Civil District Court.

District 2: Rory V. Bellina, an associate in the Metairie office of the law firm Chehardy, Sherman, Williams, Recile & Hayes, LLP; and Rachal Cox Cassagne, an assistant United States attorney for the Eastern District of Louisiana in New Orleans.

District 3: Jared E. Nelson, an associate in the Lafayette office of Liskow & Lewis, APLC.

District 4: Brooke A. Roach, an attorney in the Lake Charles law firm of Larry A. Roach, Inc.

District 5: Camille E. Walther, a financial advisor with The Walther-duPassage Group at Morgan Stanley in Mandeville;

and Brad W. Cranmer, a partner in the Baton Rouge office of Mansfield, Melancon, Cranmer & Dick, LLC.

District 6: Joshua J. Dara, Jr., a shareholder in the law firm Gold, Weems, Bruser, Sues & Rundell, APLC, in Alexandria.

District 7: Breshatta M. Davis, owner of The B Law Firm in Monroe.

District 8: Elizabeth P. (Liza Beth) Grozinger, an assistant attorney general with the Louisiana Department of Justice, based in the Shreveport office.

At-Large Representative: Justin A. Jack, an assistant United States attorney for the Middle District of Louisiana in Baton Rouge.

American Bar Association Young Lawyers Division Representative: Josef P. Ventulan, a staff attorney with the Louisiana State Law Institute in Baton Rouge.

Young Lawyer Member/American Bar Association House of Delegates: Megan S. Peterson, a partner at the law firm Simon, Peragine, Smith & Redfearn, LLP, in New Orleans.



2021-22 Young Lawyer Chair Graham H. Ryan receives a plaque and gavel from 2022-23 Chair Danielle L. Borel.



2022-23 YLD Chair Danielle L. Borel is sworn in by Louisiana Supreme Court Chief Justice John L. Weimer during the Installation Luncheon. All photos by Matthew Hinton Photography.



Louisiana Supreme Court Chief Justice John L. Weimer swears in the 2022-23 Louisiana Young Lawyers Division Council and Chair Danielle L. Borel during the Installation Luncheon at the Annual Meeting.



Top left, A CLE on professionalism featuring moderator Hon. Guy P. Holdridge, with a panel of speakers including Allison A. Jones, E. Phelps Gay and Justice Piper D. Griffin.

Top right, Stephen I. Dwyer presents H. Minor Pipes III with a commemorative plaque for his service as LSBA president.

Middle left, Shayna L. Sonnier, Chief Justice John L. Weimer and Stephen I. Dwyer at the LASC reception.

Middle right, group of presidents: Shayna L. Sonnier, Robert A. Kutcher, Barry H. Grodksy, Alainna R. Mire, Stephen I. Dwyer, H. Minor Pipes III, Joseph L. (Larry) Shea, Jr. and S. Guy deLaup.

Bottom left, Justice Jay B. McCallum chats with exhibitors at the CRI booth during the popular Opening Reception.

Bottom right, the 2022-23 Young Lawyers Division meets for the first time during Annual Meeting.

All photos by Matthew Hinton Photography.



Service Email Addresses Available to Members Via Online Member Directory

Louisiana State Bar Association (LSBA) members are reminded that they can access service email addresses for their colleagues by using the member directory portal available when logged into their member accounts. (The service email addresses are not accessible via the public directory.)

As a reminder, Act No. 68, which modernizes certain provisions of the Louisiana Code of Civil Procedure, was

signed into law by Gov. John Bel Edwards after the 2021 legislative session and became effective on Jan. 1, 2022.

In addition to lawyers being required to include an email address on every pleading filed for service of process (*see*, La. C.Civ.P. arts 863(A) & 891 (A)), service of court hearing dates will now be permitted by email under La. C.Civ.P. 1313 (C). Service is complete upon transmission provided the sender receives a delivered receipt.

LSBA members are encouraged to make sure their email addresses in their member records are current. Supreme Court Rule XIX, Section 8C, requires each lawyer to file with the LSBA any change in the information submitted on the annual Attorney Registration Statement, including address, phone, fax, email, etc. Review your member record (as it exists in the LSBA permanent database) and make any necessary changes now. Go to: www.lsba.org/Members/MembershipHome.aspx.

LBLS Accepting Bankruptcy Law Certification Applications Through Sept. 30

The Louisiana Board of Legal Specialization (LBLS) will be accepting applications for business bankruptcy law and consumer bankruptcy law certification from now through Sept. 30, 2022.

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 LBLS 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 LBLS 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 LBLS. Information concerning the American Board of Certification will be provided with the application form(s).

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

BOG Approves FY 2022-2023 Budget

The 2022-2023 Louisiana State Bar Association's Board of Governors, at its meeting on June 10, approved the FY 2022-2023 budget as recommended by the Budget Committee.

Review the budget online at: www.lsba.org/documents/BOG/2223BudgetLetter.pdf?v=2/.

Nominating Committee to Meet Aug. 25 to Nominate President-Elect, Secretary; Other Leadership Positions on Ballot

The Nominating Committee of the Louisiana State Bar Association (LSBA) will meet on Thursday, Aug. 25, in New Orleans to nominate a president-elect for the 2023-24 term and a secretary for the 2023-25 term. The president-elect will automatically assume the presidency in 2024-25.

According to the president-elect rotation, the nominee must have his/her preferred mailing address in Nominating Committee District 1 (parishes of Orleans, Plaquemines, St. Bernard and St. Tammany).

According to the secretary rotation, the nominee must have his/her preferred mailing address in Nominating Committee District 2 (parishes of Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana).

Any member interested in seeking the position of president-elect or secretary should contact members of the Nominating Committee. Go online to: www.lsba.org/GoTo/NominatingCommittee.

Election Schedule

For the 2022-23 election cycle, balloting will be conducted electronically only, as approved by the LSBA Board of Governors and provided for in the Association's Articles of Incorporation. No paper ballots will be provided.

The Nominating Committee report will be submitted to the Board of Governors on Saturday, Aug. 27.

On Monday, Sept. 26, notice of the action of the Nominating Committee and self-qualification forms for positions on

the Board of Governors, LSBA House of Delegates, Nominating Committee, Young Lawyers Division and American Bar Association House of Delegates will be provided to the membership.

Deadline for return of nominations by petition and qualification forms is Monday, Oct. 24. First election ballots will be available to members on Monday, Nov. 21. Deadline for electronically casting votes is Monday, Dec. 19.

Other Positions Open

Other positions to be filled in the 2022-23 elections are:

Board of Governors (three-year terms beginning at the adjournment of the 2023 LSBA Annual Meeting and ending at the adjournment of the 2026 LSBA Annual Meeting) — one member each from the First, Second, Third and Fifth Board Districts.

LSBA House of Delegates (two-year terms beginning at the commencement of the 2023 LSBA Annual Meeting and ending at the commencement of the 2025 LSBA Annual Meeting) — one delegate from each of the Twentieth through Forty-Second Judicial Districts, plus one additional delegate for every additional district judge in each district.

Nominating Committee (15 members, one-year terms beginning at the adjournment of the 2023 LSBA Annual Meeting and ending at the adjournment of the 2024 LSBA Annual Meeting) — District 1A, Orleans Parish, four members; District 1B, parishes of Plaquemines, St. Bernard and St. Tammany, one member; District 2A, East Baton Rouge Parish, two members; District 2B, Jefferson Parish, two members; District 2C, parishes of Ascension, Assumption, East Feliciana,

Iberville, Lafourche, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana, one member; District 3A, Lafayette Parish, one member; District 3B, parishes of Acadia, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Martin, St. Mary and Vermilion, one member; District 3C, parishes of Allen, Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry and Vernon, one member; District 3D, parishes of Bossier and Caddo, one member; and District 3E, parishes of Bienville, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll and Winn, one member.

Young Lawyers Division Secretary (2023-24 term), nominee **shall** be a resident of or actively practicing law in any parish in Louisiana, based on preferred mailing address. Petitions for nomination must be signed by 15 members of the Young Lawyers Division. Also to be elected, one representative each from the First, Second, Fourth, Fifth, Sixth and Eighth districts (two-year terms).

American Bar Association House of Delegates (*must be members of the American Bar Association*) — one delegate from the membership at large. The delegate will serve a two-year term, beginning with the adjournment of the 2023 ABA Annual Meeting and expiring at the adjournment of the 2025 ABA Annual Meeting, as provided in Paragraph 6.4(e) of the ABA Constitution.

For more information on the election procedures and the schedule, go to: www.lsba.org/goto/elections.



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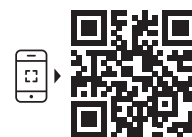


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Argent Financial Group is the recipient of the inaugural Growth Leader Legend award by Louisiana Economic Development.
This award celebrates organizations who have exemplified continued success.





Congratulations to all award recipients at the Louisiana State Bar Association's 37th annual Pro Bono Publico & Children's Law Awards Ceremony on May 26 at the Louisiana Supreme Court in New Orleans. For the first time in the ceremony's history, all justices were available to attend and presided over the ceremony from the bench in an official court session. Photo by Matthew Hinton Photography.

LSBA Honors Louisiana Pro Bono Work

After two years of virtual celebration, the Louisiana State Bar Association (LSBA) held its 37th annual Pro Bono Publico & Children's Law Awards Ceremony on May 26 at the Louisiana Supreme Court in New Orleans. For the first time in the ceremony's history, all of the justices were available to attend and presided over the ceremony from the bench in an official court session to demonstrate their fervent support for pro bono.

Following welcoming remarks by 2021-22 LSBA President H. Minor Pipes III and 2022-23 Louisiana Bar Foundation President Alan G. Brackett, Louisiana Supreme Court Chief Justice John L. Weimer commended the award recipients for going above and beyond their professional duties to ensure access to legal services for low-income Louisianans, calling them "shining stars in the galaxy of the legal profession."

Master of ceremonies for the event was 2022-23 LSBA President Stephen I. Dwyer.

The LSBA recognized the following individuals and organizations.

2022 Career Public Interest Award

Elizabeth A. (Liz) Betz, Baton Rouge. A graduate of Baton Rouge High School and Louisiana State University, Betz became the executive director of the Capital Area CASA (Court Appointed Special Advocate) Association in 1993. Her experience includes more than 35 years with volunteer-based, mission-

focused organizations. During her tenure with CASA, the program has provided volunteer advocates for 3,400 children, growing from a staff of one to 11 full-time positions, and with more than 100 volunteers active annually. She was instrumental in the development of the Louisiana CASA Association, serving on its board of directors for seven years and as board president.

2022 Children's Law Award

► **Mary Ann McGrath Swaim, Houma.** A graduate of Loyola University New Orleans College of Law, Swaim has practiced law in insurance, contracts and corporate litigation in both state and federal courts. Once being introduced to children's law about 10 years ago, she joined CASA (Court Appointed Special Advocate) in Orleans Parish and began representing children in the courtroom across Louisiana.

► **The Advanced Advocacy Project, Baton Rouge.** The Project is a collaboration between the Baton Rouge Juvenile Public Defenders and the Louisiana Center for Children's Rights. The Project began in 2017 with the hiring of one social worker, then expanded in 2020 when the Louisiana Public Defender Board secured federal funding for three additional advocates, allowing the Project to exponentially increase its advocacy.

2022 Law Student Pro Bono Award

► **Adreaynne N. Hutchison, Louisiana State University Paul M.**

Hebert Law Center. Hutchison, a native of New Orleans, graduated from LSU Law Center in May 2022. She was involved with the Public Interest Law Society and did extensive pro bono work with the LSU Parole and Reentry Clinic and the Parole Project for Louisianans wrongly denied parole.

► **Devon J. Clancy, Loyola University College of Law.** Clancy, from Basking Ridge, New Jersey, is a May 2022 graduate of Loyola Law. She served as a family law student practitioner for the Stuart H. Smith Law Clinic & Center for Social Justice and, in 2021, was awarded the Pro Bono Law Student of the Year Award by the Pro Bono Project for her outstanding work as its summer and fall intern.

► **Christopher M. Jordan, Southern University Law Center.** Jordan is a May 2022 graduate of Southern University Law Center and was a lead volunteer for the Pro Bono Project. He works with the Baton Rouge Youth Coalition Upperclassman Transition Program and mentors at-risk males in reading, math and writing. He contributed more than 100 hours of community service in his 3L year.

► **Jacob D. Edwards, Tulane University Law School.** Edwards, originally from San Jose, California, is a graduate of Tulane University Law School. Prior to law school, he worked with autistic children and teenagers as a behavioral therapist. He performed pro bono hours at Disability Rights Louisiana, assisting clients seeking reasonable accommodations and appropriate living conditions.

2022 Friend of Pro Bono Award

► **George D. (Dave) Ernest III, Lafayette.** Ernest graduated from Louisiana State University Paul M. Hebert Law Center in 1985. As a partner at Hurlburt, Monroe & Ernest, his practice focuses on defense casualty litigation. He has been a board member for Acadiana Legal Service Corp. since 1996 (current vice president). He is a board member for the Louisiana Bar Foundation, the Lafayette Bar Association and the Lafayette Bar Foundation (current chair).

► **Paula K. Woodruff Family Law Section, Lafayette.** Established in 1997, the Paula K. Woodruff Family Law Section has about 100 members from Lafayette, Vermilion, Acadia, Iberia and St. Landry Parishes. The members of the section have adopted a mission of pro bono service in response to the overwhelming need for family law services for the indigent. In 2021, members litigated 38 pro bono cases.

2022 Pro Bono Publico Award

► **Lauren M. Barletta, New Orleans.** Barletta attended Louisiana State University Paul M. Hebert Law Center. She practiced law at Southeast Louisiana Legal Services in the areas of veterans' benefits and Social Security disability benefits. She currently works for the Department of Veterans Affairs. She volunteers for the Justice and Accountability Center at their monthly Expungement Clinics and Reentry Legal Clinics.

► **Karen (Kasi) Colleen Brannan, Covington.** Brannan received her law degree from Loyola University College of Law and is a sole practitioner focusing in all areas of family law. She has been providing pro bono services in St. Tammany and Washington Parishes for more than 20 years. She also participates in the Wills for Heroes Program, drafting wills and other documents for first responders.

► **Laura Peterson Butler, Denver, CO.** Born and raised in Shreveport, Butler received her law degree from University of Texas at Austin. She worked for law firms in Virginia and in Shreveport before starting a solo practice in 2014. She volunteered at the Shreveport Bar Foundation's Ask-A-Lawyer Clinics and annual will and power of attorney events. She moved to Denver in 2021 and continues her estate planning and pro bono legal work.

► **William J. Faustermann, Jr., Slidell.** Faustermann earned his law degree in 1979 from Louisiana State University Paul M. Hebert Law Center. Following graduation, he opened his general litigation law practice in Slidell and has been board-certified in family law since 1997. His pro bono activities are principally in the area of family law and he accepts referrals from Southeast Louisiana Legal Services.

► **Johanna R.H. Fini, Baton Rouge.** Fini, a graduate of Southern University Law Center, opened her own firm, Fini Firm, focusing on personal injury, litigation and family and criminal defense matters. She is active in the Baton Rouge Bar Association's Pro Bono Project, where she uses her fluency in Spanish to help low-income, Spanish-speaking clients.

► **Scott P. Gaspard, Baton Rouge.** A sole practitioner in Baton Rouge, Gaspard received his law degree from Louisiana State University Paul M. Hebert Law Center in 1992. He is a qualified domestic mediator and a collaborative divorce professional. He was a member of the Louisiana Chapter of the Association of Family and Conciliation Court's formation committee. He has been involved with the Baton Rouge Bar Association's Ask-A-Lawyer, Thirst for Justice, Wills for Heroes and Pro Bono Project for 30 years and has provided more than 600 volunteer hours.

► **James S. Knight, Franklinton.** A graduate of Loyola University College of Law, Knight has been practicing law for more than 15 years, with a general practice in family law, criminal law, successions, real estate and litigation. He focuses his pro bono work through Southeast Louisiana Legal Services.

► **Paulette Porter LaBostrie, Baton Rouge.** A 1992 graduate of Louisiana State University Paul M. Hebert Law Center, LaBostrie started the nonprofit, Legal Clinic, Inc., in 1997 to offer low-cost legal services to people of modest means. She has also handled complex, time-consuming pro bono cases through the Baton Rouge Pro Bono Project, defending indigent clients in housing matters, contractor and consumer fraud, and evictions. Prior to opening her solo practice in 2008, she was a staff attorney for Louisiana State Employees Retirement System and in administrative positions for



Louisiana State Bar Association 2022-23 President Stephen I. Dwyer, left, served as master of ceremonies for the Pro Bono Publico & Children's Law Awards Ceremony. With him is Louisiana Supreme Court Associate Justice Piper D. Griffin. Photo by Matthew Hinton Photography.

the Department of Health and Hospitals and the Department of Children and Family Services.

► **Sarah A. Simmons, Lafayette.** Simmons graduated *cum laude* from Louisiana State University Paul M. Hebert Law Center in 2020. She practices at NeunerPate in Lafayette, handling insurance defense claims. She also has committed time to pro bono representation of domestic violence victims and in divorce and child custody matters.

2022 LA.FreeLegalAnswers.org Award

Amber C. Sheppard, Slidell. Sheppard focuses on small business, nonprofit and service dog laws at Sheppard Law PLLC. She is a frequent contributor for magazines, continuing education courses, Wills for Heroes programs and the Lawyers in Libraries Project. She answered 139 legal questions through LA.FreeLegalAnswers.org in 2021. She is currently working alongside the 22nd Judicial District Court through her nonprofit, Be Fierce & Kind Canine, to implement a landmark therapy dog program in Child In Need of Care, Juvenile Delinquency and Mental Health courts.

2022 Pro Bono Century Club Award

W. Scott Brown.....	New Orleans
Robert William Knights	Mandeville
Gregory J. Reda	New Orleans
Gary J. Williams	Slidell

To review all award ceremony photos, go to:
www.lsba.org/NewsAndPublications/PressPhotos.aspx?PRPA=78.

LSBA 70-, 60-, 50-Year Members Recognized at April Ceremony

Louisiana State Bar Association members who have reached half a century and beyond in their professional careers were recognized during an April 23 ceremony in Baton Rouge. The members honored reached their milestones in 2021 or 2022. (The 2021 ceremony was postponed due to COVID-19 precautions.) The following Bar members were recognized.

70-Year Members Admitted in 1951

James G. Boyer
Lake Charles, LA

William M. Cady III
Shreveport, LA

Frank J. D'Amico, Sr.
Slidell, LA

Lawrence E. Donohoe
Lafayette, LA

Frederick S. Ellis
New Orleans, LA

Forrest F. Foppe
Shreveport, LA

Carmen M. Moore
La Jolla, CA

William F. Pipes, Jr.
Monroe, LA

Byrum W. Teekell
Shreveport, LA

70-Year Members Admitted in 1952

James C. Azcona
Rayne, LA

Milton E. Brener
New Orleans, LA

Paul V. Cassisa, Sr.
Metairie, LA

James D. Clause
Annandale, VA

Camille Anthony Cutrone
New Orleans, LA

L. Carroll Fogleman
Georgetown, TX

Richard Arnold Kuntz
New Orleans, LA

Harold J. Lamy
New Orleans, LA

J. Noland Singletary
Baton Rouge, LA

George L. Wax
Metairie, LA

60-Year Members Admitted in 1961

Stanley P. Babin
Duson, LA

Richard L. Bodet
Shreveport, LA

Bernard E. Boudreaux, Jr.
Baton Rouge, LA

Arion R. Boyle
Jefferson, LA

Robert P. Broussard
Houston, TX

Donald R. Brown
Heber Springs, AR

Gerald L. Brown
Gulf Breeze, FL

James A. Churchill
New Orleans, LA

Harry F. Connick
New Orleans, LA

Hillary J. Crain
Bogalusa, LA

John J. Cummings III
New Orleans, LA

Lawrence J. Ernst
New Orleans, LA

Charles A. Ferguson, Jr.
New Orleans, LA

Charles J. Ferrara
Metairie, LA

William M. Ford
Alexandria, LA

George F. Fox, Jr.
Lake Providence, LA

Raymond B. Gautreau
Donaldsonville, LA

Quintin T. Hardtner III
Shreveport, LA

Edgerton L. Henry
Baton Rouge, LA

Hon. Jacob L. Karno
Metairie, LA

Victor E. Kellner
Lafayette, LA

Neville M. Landry
Covington, LA

Merrill T. Landwehr
New Orleans, LA

Hon. Walter I. Lanier, Jr.
Thibodaux, LA

Joel J. Lanoux
Dallas, TX

J. Dwight LeBlanc, Jr.
New Orleans, LA

Ben W. Lightfoot
Baton Rouge, LA

Charles R. Lindsay
Shreveport, LA

Hon. F. A. Little, Jr.
Alexandria, LA

C. King Mallory III
Washington D.C.

Timothy J. McNamara
Lafayette, LA

W D. Meriwether, Jr.
New Orleans, LA

Lawrence Miller
Rutland, VT

William S. Moss, Jr.
Houston, TX

Donald T. W. Phelps
Baton Rouge, LA

David D. Plater
Thibodaux, LA

Jerome John Reso, Jr.
New Orleans, LA

Hon. Anthony J. Russo
New Orleans, LA

J. Paul Salley
Shreveport, LA

Thomas Robert Shelton
Lafayette, LA

Mettery I. Sherry, Jr.
Metairie, LA

Charles O. Simmons, Jr.
Baton Rouge, LA

E. Robert Sternfels, Jr.
Napoleonville, LA

Capt. Alvin S. Transeau
Cape Girardeau, MO

Jorge L. P. Valdivieso, Jr.
Penuelas, PR

Bruce C. Waltzer
New Orleans, LA

Charles S. Ware, Jr.
Lake Charles, LA

Jack B. Weldy
Lumberton, MS

Hon. Jacques L. Wiener, Jr.
New Orleans, LA

Gordon F. Wilson, Jr.
New Orleans, LA

Phillip A. Wittmann
New Orleans, LA

Wayne S. Woody
Metairie, LA

Robert J. Young
Houston, TX

60-Year Members Admitted in 1962

Daniel R. Atkinson, Sr.
Baton Rouge, LA

Troy E. Bain
Shreveport, LA

Ralph Leon Barnett
Franklin, TN

Lawrence K. Benson, Jr.
Poplarville, MS

Thomas M. Bergstedt
Sulphur, LA

A. J. Block, Jr.
Atlanta, GA

Charles F. Boagni III
Opelousas, LA

Anthony J. Bonfanti, Sr.
Hahnville, LA

Owen J. Bradley
New Orleans, LA

Donald J. Brannan
New Orleans, LA

William H. Brown
Baton Rouge, LA

Patrick J. Browne
New Orleans, LA

Patrick Lawrence Burke
New Orleans, LA

Charles Edmond Cabibi, Jr.
Metairie, LA

Richardson A. Caffery
Pensacola, FL

Donald K. Carroll
Oak Grove, LA

William G. Christian, Jr.
Houston, TX

Donald O. Collins
New Orleans, LA

Hani E. Dehan
Shreveport, LA

Hon. James L. Dennis
New Orleans, LA

John K. Dubiel
Houston, TX

Hon. John J. Erny, Jr.
Larose, LA

Hon. Eldon E. Fallon
New Orleans, LA

John F. Fant
Huntsville, TX

James E. Franklin, Jr.
Memphis, TN

A. Remy Fransen, Jr.
New Orleans, LA

Janet Smith Freund
Newark, DE

James A. George
Gulf Breeze, FL

Joseph D. Guerriero
Monroe, LA

John L. Hantel
Mandeville, LA

Ashton R. Hardy
Metairie, LA

Robert A. Hawthorne, Jr.
Baton Rouge, LA

Lawrence F. Henneberger
Washington DC

Hon. Lemmie O. Hightower
Monroe, LA

Terry D. Hubbs
Baton Rouge, LA

William D. Hunter
Morgan City, LA

Robert P. Jackson
Natchez, LA

Lawrence M. Johnson
Shreveport, LA

Hon. Kenneth L. Johnson
Atlanta, GA

Harvey Jay Lewis
New Orleans, LA

F. Pierre Livaudais
Covington, LA

Marian M. Livaudais
Covington, LA

Hon. Ruche J. Marino
Norco, LA

Milton P. Masinter
Collins, MS

John W. Montgomery
Minden, LA

Paul G. Moresi, Jr.
Abbeville, LA

Hon. Salvatore T. Mulé
Folsom, LA



60-Year honorees at the April Reception at the Renaissance Baton Rouge Hotel. Attending in person were, from left, Jerry R. Osborne; James D. "Don" Thomas II; Thomas M. Bergstedt; Philip J. Shaheen, Jr.; John A. Stassi II; J. Paul Salley; and Hon. Anthony J. Russo. Photo by Matthew Hinton Photography.

**60-Year Members
Admitted in 1962 (con't)**

Richard A. Najolia
Baton Rouge, LA

Adam G. Nunez
Sulphur, LA

John W. Ormond
New Orleans, LA

Jerry R. Osborne
New Orleans, LA

Martin Petitjean II
Rayne, LA

Theodore J. Pfister, Jr.
Houston, TX

Eddie L. Sapir
New Orleans, LA

Philip J. Seeber
Metairie, LA

Charles F. Seemann, Jr.
Prairieville, LA

Philip J. Shaheen, Jr.
Baton Rouge, LA

John R. Simmons, Jr.
Covington, LA

Margaret Cleve Spedale
River Ridge, LA

Rhodes J. Spedale, Jr.
New Orleans, LA

John A. Stassi II
New Orleans, LA

George N. Stich, Jr.
Covington, LA

James D. Thomas II
Baton Rouge, LA

Lloyd R. Walters
Hoover, AL

Fritz H. Windhorst
New Orleans, LA

Gerald H. Zackin
Mandeville, LA

**50-Year Members
Admitted in 1971**

Hirschel T. Abbott, Jr.
New Orleans, LA

Sharon D. Abels
Gulf Breeze, FL

Mac Allynn J. Achee
Baton Rouge, LA

Herbert R. Alexander
Mandeville, LA

J. Wayne Anderson
Metairie, LA

Lawrence R. Anderson, Jr.
Baton Rouge, LA

Carl L. Aspelund
Metairie, LA

Kenneth E. Badon
Lake Charles, LA

Broderick A. Bagert
New Orleans, LA

Denis G. Bandera
Palm Springs, CA

Larry C. Becnel
New Orleans, LA

Robert H. Belknap
Pearl River, LA

Leonard M. Berins
Metairie, LA

Henry Bernstein
New Orleans, LA

Albert T. Berry
Arlington, VA

James W. Berry
Rayville, LA

Jacques F. Bezou
Covington, LA

Samuel A. Blaize
Mandeville, LA

Harold M. Block
Thibodaux, LA

Jerald P. Block
Thibodaux, LA

Robert J. Boitmann
Palm Harbor, FL

John J. Broders
New Orleans, LA

Dracos D. Burke
New Iberia, LA

Janice P. Campbell
Metairie, LA

Edward J. Castaing, Jr.
New Orleans, LA

John H. Chavanne
New Roads, LA

Fred Lee Chevalier
Baton Rouge, LA

D. Michael Clasen
Reno, NV

Rutledge C. Clement, Jr.
New Orleans, LA

William R. Coenen, Jr.
Baton Rouge, LA

Hon. Charlotte M. Cooksey
Lexington, KY

Clarence L. Cooper
Newton, TX

Luther P. Cooper, Jr.
Plano, TX

Hon. Ronald D. Cox
Lafayette, LA

David F. Craig, Jr.
Covington, LA

Samuel H. Craven
Austin, TX

Marena Lienhard Crosby
Metairie, LA

Allen Harold Danielson, Jr.
New Orleans, LA

Michael H. Davis
Alexandria, LA

Hon. James P. Doherty, Jr.
Opelousas, LA

Elizabeth H. Doucet
Lake Charles, LA

Hon. Dee D. Drell
Alexandria, LA

Jean Talley Drew
Minden, LA

Kenneth Addison Duncan
Baton Rouge, LA

Allen M. Edwards
Baton Rouge, LA

Thomas R. Elkins
Baton Rouge, LA

Howard P. Elliott, Jr.
Baton Rouge, LA

David G. Erskine
Monroe, LA

J. Harold Fontenot
Ville Platte, LA

Michael R. Fonham
New Orleans, LA

Terrence C. Forstall
New Orleans, LA

J. Isaac Funderburk
Abbeville, LA

Robert C. Funderburk, Jr.
Baton Rouge, LA

John E. Galloway
Kenner, LA

Hon. Anita H. Ganucheau
Baton Rouge, LA

Herbert G. Gautreaux
Marrero, LA

Thomas L. Geneux
Shreveport, LA

Thomas A. Gennusa II
Metairie, LA

Julian L. Gibbens
New Iberia, LA

David N. Gillis
Jackson, MS

Glenn G. Goodier
New Orleans, LA

Francis M. Gowen, Jr.
Shreveport, LA

Tilden H. Greenbaum III
Metairie, LA

John C. Grout, Jr.
New Orleans, LA

Charles C. Grubb
Shreveport, LA

Phillip T. Hager
Slidell, LA

Harry S. Hardin III
New Orleans, LA

LeRoy A. Hartley
New Orleans, LA

Robert M. Hearin, Jr.
New Orleans, LA

Matthew J. Hill, Jr.
Lafayette, LA

Ted A. Hodges
Houston, TX

Herman C. Hoffmann, Jr.
New Orleans, LA

Thomas W. Hornsby, Jr.
Los Alamos, NM

John C. Hose
Metairie, LA

Charles A. Imbornone
New Orleans, LA

Allen R. Ingram
Lafayette, LA

Kenneth W. Jacques
New Orleans, LA

Robert A. Jahnke
Shreveport, LA

Hon. Robert G. James
Dubach, LA

Raymon G. Jones
Metairie, LA

Lee C. Kantrow
Baton Rouge, LA

Peter C. Keenan
New Orleans, LA

Patrick C. Kelley
Metairie, LA

David A. Kerstein
New Orleans, LA

David C. Kimmel
Baton Rouge, LA

Paul E. Kitchens
Minden, LA

Leonard Kennedy Knapp, Jr.
Lake Charles, LA

Clayton S. Knight
Franklinton, LA

Continued next page

**50-Year Members
Admitted in 1971 (con't)**

Edward J. Koehl, Jr. New Orleans, LA	James M. Miller, Jr. Rayne, LA	J. Michael Robbins Juneau, AK	William E. Tilley Anacoco, LA	Robert J. Barbier New Orleans, LA
Stephen C. Kogos Metairie, LA	Philip Montelepre Kenner, LA	James H. Ross, Jr. Beverly Hills, CA	Hon. Max N. Tobias, Jr. New Orleans, LA	George B. Barron Orange, TX
Marianne N. Koorie New Orleans, LA	Brainerd S. Montgomery, Jr. New Orleans, LA	Dominick Savona, Jr. Gretna, LA	James M. Tompkins Houston, TX	Michael C. Barron Baton Rouge, LA
Frederick H. Kroenke, Jr. Baton Rouge, LA	Jefferson J. Moss, Jr. Lafayette, LA	Edwin O. Schlesinger Metairie, LA	Sidney D. Torres III Chalmette, LA	Hilton S. Bell New Orleans, LA
Carlos E. Lazarus Houma, LA	Richard L. Muller Covington, LA	William A. Schroeder III Oxford, MS	Louis B. Trenchard III Cypress, TX	Darryl D. Berger New Orleans, LA
Joseph E. LeBlanc, Jr. The Woodlands, TX	Hon. George C. Murray, Jr. Vidalia, LA	David P. Schulingkamp New Orleans, LA	C. Lynn Tubb Chatham, LA	Michael B. Billeaud Lafayette, LA
Charles E. Leche New Orleans, LA	David W. Oestreicher II New Orleans, LA	Donald A. Shindler Chicago, IL	Michael S. Tudor Alexandria, LA	Miles J. Blazek, Jr. Jonesville, SC
Albert J. Leger Lafayette, LA	Michael R. O'Keefe III New Orleans, LA	Irving B. Shnaider New Orleans, LA	Hon. Ralph E. Tureau Gonzales, LA	Andris Blomkalns Metairie, LA
R. Bradley Lewis Bogalusa, LA	Clifford E. Olsen Metairie, LA	David L. Sigler Lake Charles, LA	Hon. Jeffrey P. Victory Shreveport, LA	Alexander L. Blondeau, Jr. Baton Rouge, LA
Hon. Joel P. Loeffelholz New Orleans, LA	Michael G. Page Houston, TX	Mark R. Simmons Franklinton, LA	David E. Walker Mandeville, LA	Joseph T. Bockrath Baton Rouge, LA
James C. Lopez Opelousas, LA	John W. Parra, Jr. Metairie, LA	Raymond L. Simmons Baton Rouge, LA	Milton O'Neal Walsh Baton Rouge, LA	Hon. Charles W. Borde, Jr. Denham Springs, LA
H. James Lossin, Sr. Jonesville, LA	Michael A. Patterson Baton Rouge, LA	John W. Sinquefield Baton Rouge, LA	Hon. Miriam G. Waltzer New Orleans, LA	John S. Bordelon Gulf Breeze, FL
Ringgold H. Luke New Roads, LA	Dennis A. Pennington Baton Rouge, LA	Stephen G. Sklamba New Orleans, LA	Dennis C. Weber Baton Rouge, LA	Burton B. Bossley, Jr. Houston, TX
Sharon Frazier Lyles Baton Rouge, LA	Lyle R. Philipson Lakeland, FL	David P. Smith Alexandria, LA	Karl S. Weill, Jr. Abbeville, LA	Riley F. Boudreaux, Jr. Baton Rouge, LA
Robert M. Mahony Lafayette, LA	Donald J. Pickney Metairie, LA	James Randolph Smith Monroe, LA	Jack M. Weiss III New Orleans, LA	John T. Bourgeois Thibodaux, LA
John P. Manard, Jr. New Orleans, LA	Robert L. Picou, Jr. Houma, LA	Edmund R. Spahn Covington, LA	Ralph S. Whalen, Jr. New Orleans, LA	St. Paul Bourgeois IV Lafayette, LA
Arthur S. Mann III New Orleans, LA	Robert Polack Murrells Inlet, SC	Katherine S. Spaht Baton Rouge, LA	Hon. Darrell D. White Baton Rouge, LA	Paul Philip Breaux, Jr. St Gabriel, LA
David A. Marcello New Orleans, LA	Gregory M. Porobil Metairie, LA	Paul H. Spaht Baton Rouge, LA	David S. Willenzik New Orleans, LA	Paul J. Breaux Lafayette, LA
Sidney A. Marchand III Donaldsonville, LA	John J. Prat, Jr. New Orleans, LA	Harry C. Stansbury Mandeville, LA	James D. Wilson Hendersonville, NC	Donald C. Brown Lake Charles, LA
Charles D. Marshall, Jr. New Orleans, LA	Lionel F. Price Panama City, FL	Lynne Rothschild Stern New Orleans, LA	Joseph E. Windmeyer Metairie, LA	Elliot E. Brown Metairie, LA
Jon G. Massey New Orleans, LA	Eddy M. Quijano Arroyo Grande, CA	James C. Stevens Shreveport, LA	Judson I. Woods, Jr. Edgewater, FL	Ronald J. Brumfield Franklinton, LA
Van R. Mayhall, Jr. Baton Rouge, LA	Clayton G. Ramsey Seattle, WA	J. Byron Stringer Baton Rouge, LA	John J. Zamora III Metairie, LA	David W. Burton DeRidder, LA
Stephen A. Mayo Mill Valley, CA	Hon. Harry F. Randow Alexandria, LA	Helen L. Sullivan San Antonio, TX	Ralph J. Zatzkis Dallas, TX	Edwin L. Cabra Baton Rouge, LA
Earl R. McCallon III Madisonville, LA	William T. Reeves, Jr. Baton Rouge, LA	Fred H. Sutherland Shreveport, LA	50-Year Members Admitted in 1972	Eugene V. Callaway Houston, TX
Edward J. McCloskey Metairie, LA	Marshall Carl Rice Shreveport, LA	John Swanner Baton Rouge, LA	Lawrence E. Abbott New Orleans, LA	John P. Campbell III Metairie, LA
William Robert McKenzie Shreveport, LA	Winston E. Rice Covington, LA	Judy N. Tabb Atlanta, GA	J. Donice Alverson New Orleans, LA	Ralph Capitelli New Orleans, LA
John G. McLure Woodworth, LA	Larry T. Richard Rayne, LA	Kenneth W. Tanana Covington, LA	W. Paul Andersson Metairie, LA	Burt K. Carnahan New Orleans, LA
Malcolm A. Meyer Metairie, LA	F. Kelleher Riess New Orleans, LA	Walter C. Thompson, Jr. Metairie, LA	Judith R. Atkinson Baton Rouge, LA	Capt. James A. Carnes Hammond, LA
	Margaret M. Ritchey Lafayette, LA	Robert W. Tillery Hammond, LA	Gilbert Wayne Aucoin Ville Platte, LA	Daniel J. Caruso New Orleans, LA



50-Year honorees at the April Reception at the Renaissance Baton Rouge Hotel. Back row, Arthur D. (Art) Mouton; Hon. C. Stokes McConnell, Jr.; St Paul Bourgeois IV; J. Marvin Montgomery; James H. (Chuck) Morgan III; Ronald R. Thompson; Lawrence R. (Larry) Anderson, Jr.; Don C. Gardner; Gustav A. Manthey, Jr.; Jerry L. Saporito; James J. Zito; J. Courtney Wilson; A. Michael Dufilho; Hon. Patrick C. Morrow; John S. Bordelon; Donald J. Richard; Floyd J. Falcon, Jr.; Lawrence J. Centola, Jr.; and Warren A. Perrin. Front row, Hon. Jacqueline Mae Goldberg; Hon. William L. Goode; Hon. James A. Carnes; Hon. Cathey L. Wetzel; Steven F. Griffith, Sr.; Kenneth V. Ward, Jr.; John M. Lawrence; Danny R. Dorsey; A. Robert McComiskey; John H. Gniady; Hon. John L. (Larry) Vidrine; and David R. Frohn. Photo by Matthew Hinton Photography.

**50-Year Members
Admitted in 1972 (con't)**

Roy A. Casey Metairie, LA	Huntington B. Downer, Jr. Houma, LA	Diego O. Giordano Fort Worth, TX	Eugene M. Katz Charlotte, NC	Ralph Drury Martin Washington D.C.
J. Donald Cascio Denham Springs, LA	Hon. R. Harmon Drew, Jr. Minden, LA	Stephen A. Glassell Shreveport, LA	Stephen J. Katz Bastrop, LA	Patricia A. Mathes New Orleans, LA
Charles M. Cassidy Franklinton, LA	A. Michael Dufilho Baton Rouge, LA	John H. Gniady Metairie, LA	Thomas S. Keaty, Jr. New Orleans, LA	William B. Matthews, Jr. Mandeville, LA
Lawrence J. Centola, Jr. New Orleans, LA	William J. Dwyer, Jr. Pensacola Beach, FL	Hon. Jacqueline Mae Goldberg New Orleans, LA	J. Ransdell Keene Shreveport, LA	A. Robert McComiskey Metairie, LA
Ernest C. Chen Beaverton, OR	David F. Edwards New Orleans, LA	Hon. William L. Goode Lafayette, LA	Hon. Clement J. Kennington New Orleans, LA	Hon. C. Stokes McConnell, Jr. Baton Rouge, LA
J. Edgar Clayton, Jr. Houston, TX	Vance E. Ellefson Stockholm, Sweden	Thomas J. Grace Metairie, LA	Roger J. Larue, Jr. New Smyrna Beach, FL	Allen A. McElroy, Jr. Berwick, LA
Kathryn Hendon Colbert Albuquerque, NM	W. John English, Jr. Houston, TX	Charles F. Griffin New Orleans, LA	Wiley G. Lastrapes, Jr. Metairie, LA	Edmund McIlhenny, Jr. Avery Island, LA
Michael E. Coney Metairie, LA	Floyd J. Falcon, Jr. Baton Rouge, LA	Edward A. Griffis Covington, LA	John M. Lawrence Benton, LA	L. Richards McMillan II New Orleans, LA
Paul M. Cooke Shreveport, LA	James M. Fantaci Metairie, LA	Steven F. Griffith, Sr. Destrehan, LA	Leslie E. LeDoux II Lafayette, LA	Edward B. Middleton Plaquemine, LA
Louis M. Corne, Sr. Lafayette, LA	Michael S. Fawer New Orleans, LA	Gerard J. Haddican Metairie, LA	Maurice J. LeGardeur, Jr. Covington, LA	John C. Miller Baton Rouge, LA
Richard G. Crane Mandeville, LA	Cynthia Felder Fayard Wilson, WY	Terrence J. Hand Abita Springs, LA	David C. Lensing Memphis, TN	C. Gary Mitchell Shreveport, LA
Thomas Crichton IV Dallas, TX	John H. Fetzter III Baton Rouge, LA	Aaron Harris Washington, LA	Howard S. Linzy New Orleans, LA	Guy O. Mitchell Ville Platte, LA
Lauric J. Cusack League City, TX	Michael K. Fitzpatrick New Orleans, LA	Robert E. Harroun III Baton Rouge, LA	John F. Lipani Metairie, LA	Armin J. Moeller, Jr. Jackson, MS
John T. David Baton Rouge, LA	Daniel S. Foley New Orleans, LA	Richard D. Hoffman Houston, TX	Rainer Lorenz Covington, LA	Robert K. Moffett New Orleans, LA
Robert J. Delaney New Orleans, LA	A. J. Paul Fredrickson II Baton Rouge, LA	David F. Huddle Lake Charles, LA	Hon. Jennifer Luse Baton Rouge, LA	J. Marvin Montgomery Thibodaux, LA
John F. DeRosier Lake Charles, LA	David R. Frohn Lake Charles, LA	Kenneth J. Hurst Marrero, LA	Thomas L. Mahfouz Morgan City, LA	Richard B. Montgomery III New Orleans, LA
Michael J. Dicharry Bridgeton, MO	Michael R. Fugler Kissimmee, FL	Richard P. Ieyoub, Sr. Baton Rouge, LA	Robert L. Manard III New Orleans, LA	Charles R. Moore Baton Rouge, LA
Samuel J. Dileo, Jr. Hammond, LA	Don C. Gardner Harahan, LA	James K. Irvin New Orleans, LA	Gustave A. Manthey, Jr. Metairie, LA	Hon. Louis Moore, Jr. New Orleans, LA
Danny R. Dorsey River Ridge, LA	F. Randall Garrett Baton Rouge, LA	Lawrence Blake Jones New Orleans, LA	Janet Wessler Marshall New Orleans, LA	James C. Moran River Ridge, LA
	Louis G. Garrot III Abbeville, LA	Gaven T. Kammer Pass Christian, MS	Dale P. Martin Broussard, LA	James H. Morgan III Baton Rouge, LA

Continued next page



50-Year honorees at the April Reception at the Renaissance Baton Rouge Hotel. Attending in person were, back row, Hon. James P. Doherty, Jr.; Hon. Joel P. Loeffelholz; David L. Sigler; Paul E. Kitchens; David C. Kimmel; Harry C. Stansbury; and Michael H. Davis. Front row, Marena Lienhard Crosby; Karl S. Weill, Jr.; Allen H. Danielson, Jr.; James C. Lopez; William R. Coenen, Jr.; Leonard K. Knapp, Jr.; John W. Sinquefield; and Francis M. (Frank) Gowen, Jr. Photo by Matthew Hinton Photography.

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PRACTICE Makes Perfect

By LSBA Practice Assistance and Improvement Committee

PROPER FILE MANAGEMENT

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.

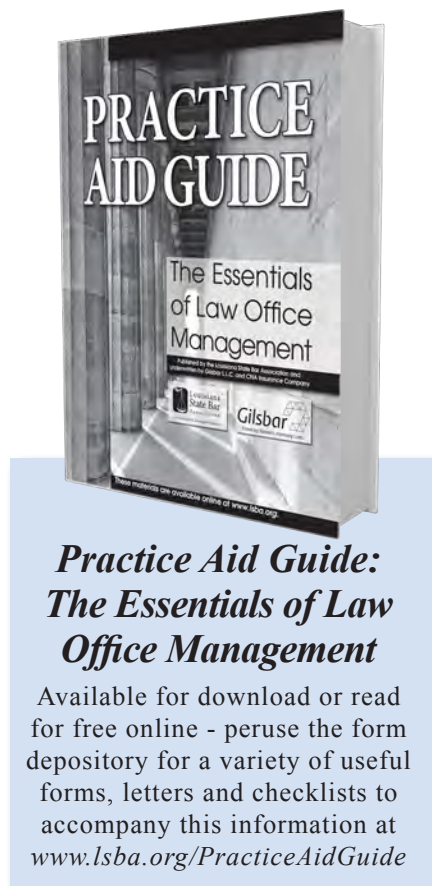
The information discussed in this article can be found in Section 5. To read the full Section 5, and to access the referenced forms, sample letters and checklists, go to: www.lsba.org/PracticeAidGuide/PAG5.aspx.

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

Proper file management is integral to avoiding malpractice and disciplinary matters. If no conflicts preclude your representation and you have accepted the matter, it is time to open a new file and devise a system for managing the documents for your client's matter.

File management is the creation of a system which results in the filing of every document of every client matter. Good file management helps to discharge your obligation of competent representation and to safeguard client confidences, with the easy retrieval of needed documents. It is important to note that proper file management continues through the life of the representation and for a time thereafter. After a matter concludes, the file should be stored and eventually destroyed and/or electronically copied to make room for new files. To determine when and what types of files can be destroyed and how long files need to be stored, refer to Practice Aid Guide Section 7, Termination of the Representation, at: www.lsba.org/PracticeAidGuide/PAG7.aspx.

Effective file management depends on a system of centralized storage for all files — whether that method is electron-



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

ic, through a “cloud” service or through local storage on your server or computer; by paper; or both. If storing files electronically, provide for regular redundant backup of your files. If using a “cloud” provider for file management, inquire how documents are backed up on the company's end. If storing files through a combination of electronic and paper, be clear which documents are to be stored electronically or by paper, and communicate this to staff. Whichever methods are chosen, basic file organization achieves the same purpose — the easy and efficient retrieval of client documents. Regardless of method, good categorization of the documents contained within a file is key to a good file management

system.

For example, a personal injury matter might require the following document subfolders (whether labeled as such in separate manila folders in a larger expandable folder sleeve for the entire client matter, or in your server directory):

- ▶ File Opening Form (online form access below);
- ▶ Intake Notes;
- ▶ Pleadings (in chronological date order);
- ▶ Discovery (Propounded; Responses) (in chronological date order);
- ▶ Client Correspondence (Letters, Emails) (in chronological date order);
- ▶ Research and Your Notes;
- ▶ Client-Provided Documents; and
- ▶ File Closing Form (online form access below).

A transactional file might require different subfolder titles. The point is to create a filing system whereby you can retrieve documents quickly and efficiently.

Organize documents that you have on computers using the same categories that you would use if the file was a paper file. Create and adhere to a standard document naming and storage convention for your electronic file. Each file should have its own electronic file name with subfolders for the particular document categories. If you have many client matters that need organizing electronically, do one file at a time and chip away at the files, starting with the ones which are the most active.

You might consider a file-naming convention that incorporates a date. For instance, instead of “Client Letter 1” and “Client Letter 2” to identify documents in your Correspondence subfolder, use “Client Letter 6-15-2022.”

If scanning documents, make sure that the scanned document finds its way to the correct subfolder for the client matter.

Good, secure, electronic file management services in the cloud will allow you



to organize your files efficiently. Adapt them to meet your file needs.

Note that Rule 1.6(c) provides that a lawyer must make reasonable efforts to prevent inadvertent or authorized release of client information.

Here is a checklist for General File Management that will assist lawyers in managing their files:

- Create a File Opening Checklist for basic file information. Best practices would include a paper copy and the creation of an electronic, appropriately named copy. This document should be very easily retrieved.
- Maintain a master list of all files.

Best practices would include a paper copy and the creation of an electronic, appropriately named master copy.

► If storing files by paper, use a sturdy OUT CARD when removing a file. The OUT CARD should indicate who removed the file, when it was removed, and which file was removed.

► Create a policy for identifying physical objects or other documents that cannot be stored with the original file, whether electronically or by paper. This policy will help you locate these necessary objects and documents when needed during the matter, or at the close of the matter when it is time to return them to the client.

► Return any original documents to the client when the matter has ended.

► If requested, return the file to the client, whether or not the client still owes fees and expenses. Store the file in a safe place (electronic storage with redundant backup will suffice, except for those documents which must be stored in their

original forms (e.g., last wills, promissory notes, etc.) Never hold a client's file hostage for fees, and you should always keep a copy of the file.

► Create a File Closing Checklist, and when the matter concludes, place it with each file. Best practices would include a paper copy and the creation of an electronic, appropriately named copy; however, if you are "paperless," best practices would include redundant electronic digital backups.

► Maintain a master list of destroyed files, including name, file number, date opened, date closed, date destroyed, and whether it was duplicated using another medium.

The Practice Aid Guide has detailed checklists for Opening Files and Closing Files online at: www.lsba.org/PracticeAidGuide/PAG5.aspx. These checklists can help a practitioner manage their files to avoid the most common malpractice and disciplinary mistakes.

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According to Internet researcher Statista, more than 82% of people in the United States currently use social media. What happens when those people become clients in litigation? Can social media users delete documents or evidence off their social media account? What can you advise your client with respect to his/her social media account? Opposing counsel will inevitably scour your client's social media account to obtain any evidence to help their case. Anyone who practices law in the age of social media needs to know what you can obtain from an opposing party's social media account. There are a few ethics opinions that give attorneys some guidance regarding how some jurisdictions handle evidence on social media platforms, what clients can and cannot do with respect to their social media platform, and what to do with information that may be relevant to a client's case that is contained on a social media platform.

The Professional Ethics Committee of The Florida Bar issued Prop. Adv. Op. 14-1 (Jan. 23, 2015), which states that an attorney may advise a client to change privacy settings on the client's social media pages so that they are not publicly accessible. As long as there is no violation of the rules or substantive law pertaining to the preservation and/or spoliation of evidence, an attorney may also advise that a client remove information relevant to the proceeding from social media pages as long as the social media information or data is preserved.

North Carolina Formal Ethics Opinion 5 (July 25, 2014) states that an attorney must advise clients about information on social media if information is relevant and material to the client's representation and the attorney may advise the client to remove information on social media if it is not spoliation or otherwise illegal.



In New York, NYCLA Ethics Opinion 745 (2013) concludes that lawyers may advise their clients to use the highest level of privacy settings on their social media pages and may advise clients to remove information from social media pages unless the lawyer has a duty to preserve information under law and there is no violation of law relating to spoliation of evidence.

Pennsylvania Bar Association Opinion 2014-300 states that an attorney may advise a client to delete information from client's social media provided that it does not constitute spoliation or is otherwise illegal but must take appropriate action to preserve the information.

Lastly, the Philadelphia Bar Association Professional Guidance Committee issued Opinion 2014-5, which states that an attorney may advise a client to change the privacy settings on the client's social media page but may not instruct client to destroy any relevant content on the page.

The general consensus among various jurisdictions is that attorneys may advise clients to change their security settings on the client's social media account. However, when it comes to posts or evidence on social media, posts/evidence should be treated like any other evidence, which means the rules of spoliation apply. If the posts or evidence would be rel-

evant to the case or otherwise constitute a spoliation issue, then the client must be advised to preserve the posts.

A good rule of thumb is to handle existing social media posts carefully. With respect to all future posts, advise your client to refrain from posting on any social media platform while litigation is pending, but at the very least, advise your client not to post about the case on social media. If you do not have a good understanding of how some of the most popular social media platforms operate, then you may want to reach out to a teenager or college student to get you up to speed because you will need to understand how the various social media platforms function to competently advise your client on the do's and don'ts of social media.

Ashley Flick Anglin is professional liability loss prevention counsel for the Louisiana State Bar Association and is employed by Gilsbar, LLC, in Covington. She received her BA degree in political science in 2005 from Southeastern Louisiana University and her JD degree in 2010 from Loyola

University College of Law. As loss prevention counsel, she lectures on ethics as part of Mandatory Continuing Legal Education requirements for attorneys licensed to practice law in Louisiana. Email her at aanglin@gilsbar.com.



Lawyers ASSISTANCE

By Dr. Angela White-Bazile, Esq.

TIME TO REBOOT

Everyone admires Sam. Sam is kind and intelligent. Sam has a beautiful family and is always well-dressed. Sam made the “Top 40 Under 40” List for three consecutive years and reached the pinnacle of a lawyer’s career at an early age.

Sam looks great on the outside, but no one can see the mounting struggles on the inside.

“One drink won’t hurt to unwind,” Sam thought. Then the drinking increased to nightly.

“I can survive on four hours of sleep,” Sam reasoned. “This is a big case.”

Sam ignores the headache that will not go away, the muscle pains and digestive issues. Sam is ignoring the drastic weight changes. Sam thinks nothing of increasing the dosage of over-the-counter medications — something to sleep, something to rise and definitely a little something to relax.

No one notices that Sam is quickly spiraling out of control because Sam shows up every day and continues to generate high-quality work.

Sam could be any one of us.

Social distancing and remote work made it easier to hide from colleagues, but we could not escape ourselves. We were forced to spend time with ourselves and stare in the mirror to evaluate who was staring back.

Since returning to brick-and-mortar offices, who checks on you and sees beyond the forced smile, beyond the suit and beyond the conquer-at-any-cost determination? Do you know what is going on with your colleagues and those closest to you? Have you taken a moment to check on them personally, especially after seeing a slight change in their behavior and personality?

Some gamble. Some abuse and misuse substances. Someone else may lash out and have violent urges. These



habits — including smoking, drinking, abuse of prescription medicine to cope, sleeping little, barely exercising, eating unhealthy foods, acting highly irritated, excessively social or quietly isolated — create a cycle that can impair the ability to practice law competently.

Practicing law is a vital public service, so what happens when practicing law takes a physical and emotional toll on us? Who advises the public adviser?

Mental health and substance abuse issues are well documented among lawyers who, like anyone else, encounter stress, burnout, anxiety, depression, addiction, insomnia and suicidal ideations.¹ Too often, we feel helpless as substance abuse, mental health or other personal issues worsen and threaten our careers and lives.

Lawyer assistance programs, bar associations and law schools all around the country have been encouraging an open and honest conversation about mental health and other issues and concerns that negatively affect the legal profession, such as stress.

The American Bar Association (ABA) lists 12 common symptoms of stress — headache; muscle tension or pain; chest pain; fatigue; change in sex

drive; stomach upset; sleep problems; anxiety; restlessness; lack of motivation or focus; irritability or anger; and sadness or depression.²

When ignored, stress can lead to burnout, substance abuse, or physical or mental illness, such as depression and suicide.³

Deadlines, billing pressures, client demands, long hours, changing laws, competitive environments, evolving legal technologies and climbing law school debt are just a few aspects of being a lawyer that can be stressful.⁴ Parents also are facing additional stress with concerns about the impact of COVID-19 on their children’s social development, academic development and emotional health.⁵

How do you cope in the moments when your thoughts are overwhelming, when an outcome for a client will be undesirable, or when conflicts at work and home are happening simultaneously?⁶

How many of us disregard how we feel to get more work done, have an extra coffee, eat something sugary, or drink a high-voltage energy drink or loaded tea to push through fatigue rather than slowing down or resting?⁷

Mindfulness and meditation are en-

couraged, with numerous studies revealing that both can reduce anxiety and teach you how to slow your thoughts down and not become overwhelmed in stressful situations.⁸ Mindfulness makes way for positive thinking as you become aware of your feelings, thoughts, actions and surroundings.⁹

Some of us may need to turn off our cell phones and other devices. We are inundated with emails, texts and Zoom meeting requests, but social media also impacts our overall well-being. Social media platforms have emerged as popular venues for sharing individual experiences, seeking information and offering support. However, social media use has been linked to depression, anxiety, loneliness and low self-esteem.¹⁰ A break from smartphones, and especially social media, increases productivity, lifts your mood and allows you to spend more time with loved ones.¹¹

Remember that social media is not reality. Most people only post an achievement. They rarely show long nights, never-ending tears or the overwhelming moments when it feels as if breath has left the body. Many only show the highlights of their lives, which can be demotivating. Some only show their successes, but never touch their experiences of defeat or distress.

We should be more willing to admit that we do not always have “it” altogether. We also need to stop comparing ourselves to others. Everyone has his/her own path and own story. Focus on your lane and what makes you joyful.

Also, think about your mindset. When you think about yourself and why you may not be achieving your goals, do you ever consider that you may be standing in your own way? What may be stopping you or holding you back is you. Do you ever down-talk yourself or come off as negative about your work, others or your life? Sometimes you are the negative energy but know that you have the power to change that.

To improve your well-being, first recognize that the most exciting, challenging and significant relationship of all is the one you have with yourself. Second, make your mental health a priority. It is okay not to be okay. Take care



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of yourself first and it will be easier to care for others, including family, friends and the greater community. Third, spend time outside of work with family or socializing with friends. Use time away from work to intentionally recharge and create balance to avoid burnout.¹²

Some coping strategies for stress suggested by the ABA include realizing your limitations, setting healthy boundaries, prioritizing, improving communication, sharing your feelings with someone trustworthy and nonjudgmental, eating and sleeping well, and seeking help.¹³

It is time to reboot! Know that JLAP is here to serve and support you. We work with judges, lawyers, law students, family members and the entire legal community. Our areas of support include aging, alcohol and drugs, compassion fatigue, depression, gambling, suicide prevention, wellness and other mental health concerns. JLAP is here if you need someone to talk to.

Social media offers the option of using a filter before posting a picture or video. Filters create false illusions. Now is the time to remove all the filters. Yes, reboot!

To learn more or seek confidential, non-disciplinary help with personal issues, including mental health and substance abuse, you can contact the professional clinical staff at JLAP at (985)778-0571, email jlap@louisianajlap.com, or visit our website at www.louisianajlap.com. The call costs nothing but could make an enormous difference.

We are a CONFIDENTIAL Safe Haven of Healing.

FOOTNOTES

1. Nefra MacDonald, “Work-Life Balance for Lawyers,” Clio (Feb. 28, 2022), www.clio.com/blog/lawyer-work-life-balance/.

2. “Stress,” American Bar Association (Jan. 18, 2022), www.americanbar.org/groups/lawyer_assistance/resources/stress/.

3. “How to Handle Stress While Practicing Law,” Partner Up LLC (April 19, 2019), www.partnerupcoaching.com/how-to-handle-stress-while-practicing-law/; John Allison, “How to Reduce Stress in the Legal Profession,” NWSidebar (Jan. 14, 2019), <https://nwsidebar.wsba.org/2019/01/14/how-to-reduce-stress-in-the-legal-profession/>.

4. Sally Kane, “The 10 Challenges about a Career as a Lawyer,” The Balance Careers (Nov. 20, 2019), www.thebalancecareers.com/lawyer-career-drawbacks-2164594#:~:text=The%20Stress&text=Deadlines%2C%20billing%20pressures%2C%20client%20demands,no%20wonder%20lawyers%20are%20stressed.

5. Kristi Pahr, “American Parents are Ridiculously Stressed Out, Survey Shows,” Fatherly (March 12, 2022), www.fatherly.com/news/american-parents-are-ridiculously-stressed-out-survey-shows/.

6. MacDonald, *supra* note 1.

7. Stephanie Recupero, “Reducing Stress as a Lawyer: Avoiding Burnout,” Practus (Sept. 12, 2021), <https://practus.com/reducing-stress-as-a-lawyer-how-to-avoid-lawyer-burnout/>; Aytekin Tank, “6 red flags your body is breaking down from overwork,” Fast Company (Jan. 26, 2022), www.fastcompany.com/90715596/6-red-flags-your-body-is-breaking-down-from-overwork.

8. MacDonald, *supra* note 1.

9. Recupero, *supra* note 7.

10. Christine M. Stabler, “The Effects of Social Media on Mental Health,” Penn Medicine Lancaster General Health (Sept. 1, 2021), <https://lancastergeneralhealth.org/health-hub-home/2021/september/the-effects-of-social-media-on-mental-health>.

11. Helen Lee Bouygues, “Social Media Is a Public Health Crisis. Let’s Treat It Like One,” US News (July 20, 2021), www.usnews.com/news/health-news/articles/2021-07-20/social-media-is-a-public-health-crisis.

12. Anne E. Collier, “The Thriving Lawyer: Compartmentalize Your Stress to Optimize Success,” American Bar Association (March 1, 2022), www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2022/ma22/ttl/.

13. “Stress,” American Bar Association, *supra* note 2.

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Focus on DIVERSITY

EVENTS RECAP



The Louisiana State Bar Association (LSBA) Diversity Committee's Specialty Bars Subcommittee sponsored the Specialty Bars Reception on June 6, 2022, at Hotel Effie Sandestin, Ara Rooftop Pool and Lounge. The free reception was held during the LSBA's Annual Meeting and featured an evening of networking. Attending, from left, James M. Williams, Chehardy, Sherman, Williams, Recile & Hayes, LLP; Judge Royale L. Colbert, Jr., 15th Judicial District Court; and Christopher B. Hebert, assistant attorney general, Louisiana Attorney General's Office.

Greater New Orleans Chapter of the Louis A. Martinet Legal Society, Inc.



The Greater New Orleans Chapter of the Louis A. Martinet Legal Society, Inc. hosted a crawfish boil on June 9, 2022. Attending, from left, Bianca N. Moore, Orleans Parish Criminal District Court; Marc Barnes, 3L, Notre Dame Law School; Michael S. Harrison, Jr., Kuchler Polk Weiner, LLC; Meagan R. Impastato, Impastato Law Firm, LLC; and Hunter P. Harris IV with Darlene M. Jacobs, APLC.



Nicholas (Guilly) Guillory, left, and Shelly L. Skeen, both with Lambda Legal in Dallas, Texas, presented the May 26 LGBT webinar.

Diversity Committee's LGBT Subcommittee Hosts CLE Webinar

The Louisiana State Bar Association Committee on Diversity in the Legal Profession's LGBT Subcommittee hosted a CLE webinar on May 26, 2022.

The webinar, titled "Securing Identity Documents for Your Transgender and Gender Diverse Clients: What Practitioners Need to Know," featured speakers Nicholas (Guilly) Guillory, Lambda Legal, Dallas, Texas; and Shelly L. Skeen, Lambda Legal, Dallas, Texas.

During the webinar, Guillory and Skeen discussed the state and federal laws affecting transgender and gender diverse persons' access to housing, employment, education, public accommodations, credit and healthcare, as well as the law applicable to obtaining accurate identity documents and why it is so critical that transgender persons and gender diverse persons have identity documents that match who they are.

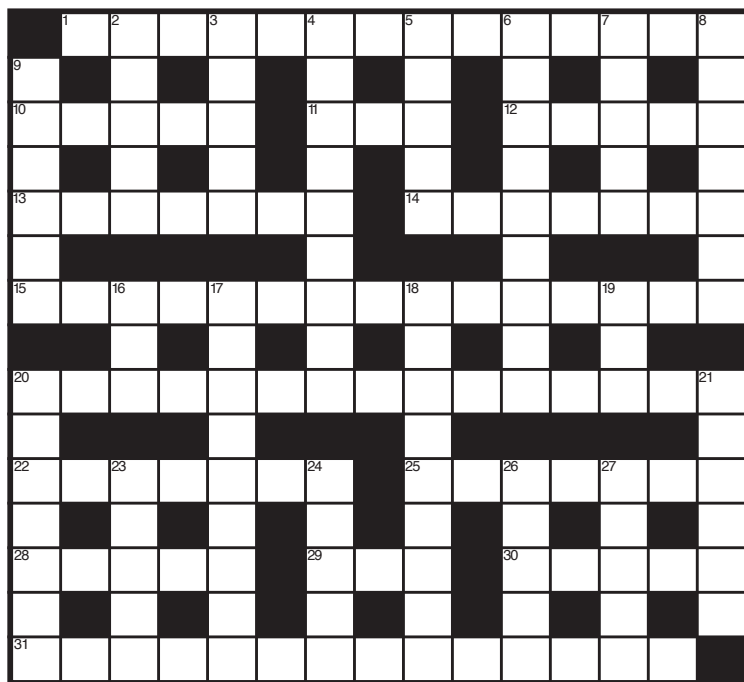


Attending the New Orleans Martinet crawfish boil were, from left, Leroy Carter III, Porteous, Hainkel & Johnson, LLP; Edwin T. Murray, Chehardy, Sherman, Williams, Recile & Hayes, LLP; and Trevor C. Mosby, Hinshaw & Culbertson, LLP.

Crossword PUZZLE

By Hal Odom, Jr.

PREDIALLY DISPOSED



ACROSS

- 1 Legal servitude to the nearest public road (5, 2, 7)
- 10 Kind of statesman or berry (5)
- 11 Idiot boxes (3)
- 12 Parts of roof that might have right of projection or drip (5)
- 13 Not subject to governmental levy (3-4)
- 14 In its entirety (7)
- 15 Allocation not by licitation (9, 2, 4)
- 20 Parts of adjacent vegetation that the dominant estate may cut (8, 2, 5)
- 22 Big football academy in Shreveport (7)
- 25 Endlessly (2, 3, 2)
- 28 "___ Frutti," Little Richard hit (5)
- 29 "What Kind of Fool ___?" (2, 1)
- 30 When a natural servitude prescribes (5)
- 31 Kind of property entitled to a 1 Across (8, 6)

DOWN

- 2 Pointer (finger) (5)
- 3 Personnel director, often (5)
- 4 Where common walls are situated; at risk (2, 3, 4)
- 5 State as a major premise (5)
- 6 Inducement, or sugar substitute (9)
- 7 Block for a blacksmith (5)
- 8 Strove (7)
- 9 Place on the stove; get more competitive (4, 2)
- 16 Mens ___, the element of intent (3)
- 17 With one's identity concealed (9)
- 18 Make up new words (9)
- 19 Vow at the altar (1, 2)
- 20 Inhale and exhale (7)
- 21 Ronald's first appointee to the Supreme Court (6)
- 23 Playful prank (5)
- 24 Rental agreement (5)
- 26 As often __ (about half the time) (2, 3)
- 27 A little chunk of the green (5)

Answers on page 175.

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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For more information, go to: www.lsba.org/goto/solace.

REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date June 3, 2022.

Decisions

Sedric E. Banks, Monroe, (2022-B-00073) **Suspended from the practice of law for one year, with six months deferred, followed by a one-year period of probation**, by order of the Louisiana Supreme Court on May 13, 2022. JUDGMENT FINAL and EFFECTIVE on May 27, 2022. *Gist:* Failed to withdraw from representation when client terminated his services; filed meritless claims against his client; and engaged in a conflict of interest.

Lane N. Bennett, Baton Rouge, (2021-B-1198) **Suspended for three years from the practice of law** by order of the Louisiana Supreme Court on March 25, 2022. JUDGMENT FINAL and EFFECTIVE on April 8, 2022. *Gist:* Respondent engaged in dishonest conduct and conduct constituting a conflict of interest.

Michelle Andrica Charles, Harvey, (2021-B-01853) **Suspended from the practice of law for a period of nine months, with six months fully deferred, followed by a two-year period**

of supervised probation, by order of the Louisiana Supreme Court on May 13, 2022. JUDGMENT FINAL and EFFECTIVE on May 27, 2022. *Gist:* Respondent failed to file her state income tax return for 2015, which resulted in her disqualification as a judicial candidate. Respondent also neglected a legal matter, failed to communicate with a client, and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Nicholas Cusimano, Sr., Meraux,

Continued next page



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Discipline continued from page 144

(2022-B-00270) **By consent, suspended from the practice of law for one year and one day, fully deferred, subject to probation**, by order of the Louisiana Supreme Court on April 5, 2022. JUDGMENT FINAL and EFFECTIVE on April 5, 2022. *Gist:* Respondent was arrested for driving while intoxicated.

Tara Elwell, Lafayette, (2022-B-0390) **By consent, suspended from the practice of law for 18 months, with all but six months deferred, subject to a one-year period of probation**, by order of the Louisiana Supreme Court on April 20, 2022. JUDGMENT FINAL and EFFECTIVE on April 20, 2022. *Gist:* Charged and failed to account for an excessive legal fee.

Michael Ralph Erwin, Baton Rouge, (2022-OB-0518) **Permanently retired from the practice of law** by order of the Louisiana Supreme Court on May 10, 2022. JUDGMENT FINAL and EFFECTIVE on May 10, 2022.

Steven Courtney Gill, Metairie, (2022-OB-00265) **Denied reinstatement to the practice of law** by order of the Louisiana Supreme Court on May 10, 2022. JUDGMENT FINAL and EFFECTIVE on May 10, 2022.

Michael Blake Hale, Lake Charles, (2022-B-0660) **Suspended from the practice of law on an interim suspension basis** by order of the Louisiana Supreme Court on April 21, 2022. JUDGMENT FINAL and EFFECTIVE on April 21, 2022.

Joseph B. Morton III, New Orleans, (2022-B-00029) **Suspended from the practice of law for six months, fully deferred, subject to a six-month period of probation**, by order of the Louisiana Supreme Court on March 15, 2022. JUDGMENT FINAL and EFFECTIVE on March 29, 2022. *Gist:* Billing clients for deposition he did not attend and billing travel and mileage expenses for deposition taken by phone.

David James Motter, Metairie, (2021-B-1779) **Consented to three-year suspension, with all but one year and one day deferred**, by order of the Louisiana Supreme Court on

April 12, 2022. JUDGMENT FINAL and EFFECTIVE on April 12, 2022. *Gist:* Respondent neglected legal matters, failed to communicate with clients, failed to promptly refund unearned fees, engaged in the unauthorized practice of law, and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Timothy D. Ray, New Orleans, (2021-B-01439) **Suspended from the practice of law for a period of one year and one day** by order of the Louisiana Supreme Court on March 25, 2022. JUDGMENT FINAL and EFFECTIVE on April 8, 2022. *Gist:* Respondent misused public funds and provided misleading information to a judge investigating the expenditures.

Brian D. Smith, Shreveport, (2022-B-0565) **Interimly suspended from the practice of law** by order of the Louisiana Supreme Court on April 6, 2022. JUDGMENT FINAL and EFFECTIVE on April 6, 2022. Mr. Smith may not practice law in Louisiana until further orders of the court.

Michael Allen Smith, Jr., Leesville, (2022-OB-0301) **Permanently resigned from the practice of law in lieu of discipline** by order of the Louisiana Supreme Court on April 5, 2022. JUDGMENT FINAL and EFFECTIVE on April 5, 2022. *Gist:* Grand jury indictment and plea on charges of production and possession of child pornography.

Ned Franklin Pierce Sonnier, Sr., Scott, (2022-B-0584) **Interimly sus-**

pended from the practice of law by order of the Louisiana Supreme Court on April 8, 2022. JUDGMENT FINAL and EFFECTIVE on April 8, 2022. Mr. Sonnier may not practice law in Louisiana until further orders of the court.

Elizabeth A. Spurgeon, Leesville, (2022-B-0493) **Suspended by consent from the practice of law for a period of two years, fully deferred, subject to probation**, by order of the Louisiana Supreme Court on May 3, 2022. JUDGMENT FINAL and EFFECTIVE on May 3, 2022. *Gist:* Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another, and commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

Dewanna Latasha Stewart, Prairieville, (2022-B-0517) **Consented to being transferred to interim suspension status** by order of the Louisiana Supreme Court on April 6, 2022. JUDGMENT FINAL and EFFECTIVE on April 6, 2022.

Rolando Roberto Urbina, Zachary, (2022-B-00394) **Suspended from the practice of law for one year and one day** by order of the Louisiana Supreme Court on May 10, 2022. JUDGMENT FINAL and EFFECTIVE on May 24, 2022. *Gist:* An insufficient funds notice suggests that respondent mishandled client property. Client funds were not properly maintained and thereby

Continued next page

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DEFENSE OF ETHICS COMPLAINTS AND CHARGES

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

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of June 2, 2022.

Respondent	Disposition	Date Filed	Docket No.
Cecelia Abadie	Reciprocal suspension.	5/13/22	21-1289
Jonathan B. Andry	Suspension and public reprimand.	4/20/22	15-2478
Laura L. Davenport	Reciprocal public reprimand.	5/10/22	21-2202
Ronald Sidney Haley, Jr.	Reciprocal suspension.	5/16/22	22-42
Dwan S. Hilferty	Reciprocal suspension.	6/1/22	22-105
Joseph N. Mayer III	Reciprocal suspension.	5/10/22	21-2019
Aaron Paul Mollere	Reciprocal interim suspension.	4/12/22	21-1962

Discipline continued from page 145

converted to personal use. Respondent failed to register his current address; failed to cooperate with the disciplinary process; and made it difficult for the legal system to properly supervise its own licensee and maintain public trust and faith in the legal system.

Robert Weigand II, Denver, CO, (2022-B-0043) **Reciprocal discipline publicly reprimanded** by order of the Louisiana Supreme Court on March 15, 2022. JUDGMENT FINAL and EFFECTIVE on March 29, 2022. *Gist*: Failure to communicate with his client,

negligently engaged in a conflict of interest and negligently engaged in conduct that is a violation of a duty owed as a professional, and caused injury or potential injury to his client, the public or the legal system.

Derrick K. Williams, Minnesota, (2022-B-00350) **Suspended from the practice of law for one year and one day** by order of the Louisiana Supreme Court on May 24, 2022. JUDGMENT FINAL and EFFECTIVE on June 7, 2022. *Gist*: Allowed trust account to become overdrawn on numerous

occasions; engaged in the unauthorized practice of law while ineligible to do so; and failed to cooperate with ODC investigations.

ADMONITIONS

1 Violation of Rule 1.15 — Safekeeping property.

1 Violation of Rule 8.4(b) — Misconduct, commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.



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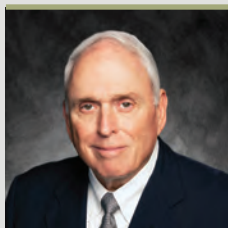
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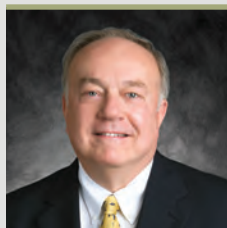
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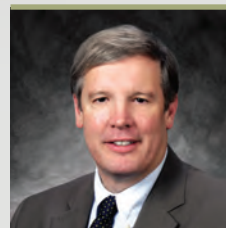
Martin **Coady** ■



Guy **deLaup** ■



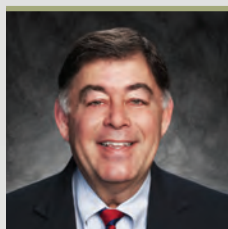
W. Ross **Foote** ■



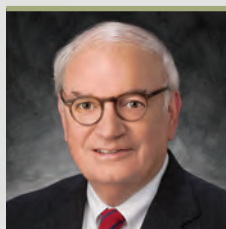
E. Phelps **Gay** ■



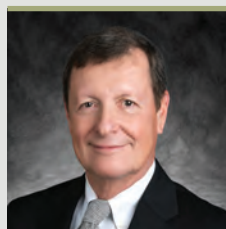
Thomas **Hayes, III** ■



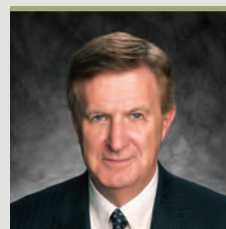
Mike **McKay** ■



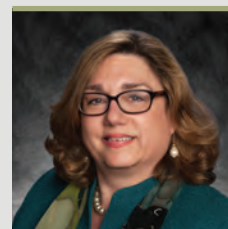
Patrick **Ottinger** ■



Mike **Patterson** ■



Larry **Roedel** ■



Marta-Ann **Schnabel** ■

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Issues Involving Proof of Claim Bar Date

W. Wilmington Oil Field v. Nabors Corp. Servs., Inc. (In re CJ Holding Co.), 27 F.4th 1105 (5 Cir. 2022).

In April 2015, two employees of C&J Well Services, Inc. (CJWS) filed a putative class action lawsuit against the employer in California state court, alleg-

ing various wage-related claims. CJWS removed the action to federal court and moved to compel arbitration pursuant to a company-wide arbitration agreement, which included a class action waiver. The district court denied the motion, holding that the arbitration agreement and its class action waiver were unenforceable. The employer appealed to the 9th Circuit.

While the appeal was pending, the employer filed Chapter 11 bankruptcy petitions in the Southern District of Texas, and the wage litigation in California and the 9th Circuit was stayed. On Sept. 25, 2016, the bankruptcy court issued an order setting the claims bar date, "the date by which all creditors

must file their proof of claim." The order required all non-governmental entities wishing to assert a claim against the employer to file their respective proofs of claim by Nov. 8, 2016. The debtors served the bar date notice on all putative class members and published the notice in *USA Today*. On Nov. 7, the two employees, acting as class representatives, each filed a proof of claim for \$14 million. In addition, 27 class members filed individual proofs of claim.

On Feb. 1, 2017, the bankruptcy court lifted the automatic stay and allowed the employees to pursue their claims in the California wage litigation. The following February, the 9th Circuit reversed the district court, holding that

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the arbitration provision, including the class-action waiver, was enforceable. That decision had the practical effect of disallowing any class from being certified. In response to the 9th Circuit's decision, 96 putative class members initiated individual arbitrations against CJWS regarding the California wage-related claims. Of those 96, 29 had filed individual proofs of claim in the bankruptcy proceeding by the bar date; the remaining 67 had not. The debtors objected to the 67 claims, asserting that those claimants could not rely on the proofs of claims filed by the representatives of the putative class in light of the 9th Circuit decision.

The bankruptcy court sustained the objection and disallowed the putative "class" proofs of claim. The employees subsequently filed a motion seeking leave to file late proofs of claim. The bankruptcy court denied the employees' motion, holding that the employees had failed to meet their burden of showing excusable neglect under the factors announced by the Supreme Court in *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993). The district court reversed and remanded the case to the bankruptcy court for further proceedings. The employer appealed.

The 5th Circuit reversed the judgment of the district court and reinstated the judgment of the bankruptcy court. In determining whether the employees established excusable neglect, the 5th Circuit considered the four *Pioneer* factors: (1) "the danger of prejudice to the debtor," (2) "the length of the delay and its potential impact on judicial proceedings," (3) "the reason for the delay, including whether it was within the reasonable control of the movant," and (4) "whether the movant acted in good faith." *Id.* at 1112.

The 5th Circuit held that the bankruptcy court erred in finding for the debtors as to the first *Pioneer* factor — the danger of prejudice to the debtor. The 5th Circuit determined that this factor weighed in favor of the employees since the employer had notice of the employees' claims from virtually the beginning of the California wage litigation.

However, the 5th Circuit held that the bankruptcy court did not err in finding for the debtors as to the other three factors. First, the length of the delay and its potential impact on judicial proceedings weighed in favor of the debtors because the employees did not file their motion for relief from the bar date until *two years and nine months* after the bar date passed. Allowing the late-filed claims would add two to three months of litigation to the bankruptcy. Second, the reason for the delay, including whether it was within the reasonable control of the movant, weighed in favor of the debtors because there was no valid explanation why the employees did not or could not themselves file individual proofs of claim once they received the bar-date notice. Last, whether the movant acted in good faith weighed against the employees primarily due to the "acts of their counsel." The 5th Circuit found that the employees' and their counsel's failure to act diligently throughout the bankruptcy proceeding was so severe that it undermined their argument that they acted in good faith. Because the prejudice factor does not outweigh the other three *Pioneer* factors, the 5th Circuit ruled that the bankruptcy court did not abuse its discretion by denying the employees' motion for relief from the proof-of-claim bar date.

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Motion to Compel

Fields v. Ochsner Med. Ctr. – Kenner, LLC, 22-0064 (La App. 5 Cir. 5/11/22), ____ So.3d ____, 2022 WL 1486065.

The parents of a stillborn child sued the delivering hospital for the alleged loss of the child's remains while in the hospital's care. In the discovery stage, the parents moved to compel more complete responses from Ochsner regarding the incident, seeking the identity of potential witnesses or persons with information as well as other data. Prior to the hearing on the motion to compel, Ochsner filed a so-called "Stipulation of Responsibility" in which the company "stipulate[d] that it is solely responsible for the inability to locate" the remains. Ochsner subsequently argued that the "Stipulation" rendered the motion to compel moot because it effectively removed all facts surrounding the loss of the remains from controversy. Accepting Ochsner's pleading as an effective stipulation, the trial court denied the motion to compel.

Plaintiffs filed for a writ, which the Louisiana 5th Circuit Court of Appeal granted. The crux of the unanimous opinion lay in the very definition of a stipulation. As the court explained, a stipulation is based on the *agreement* of the parties, as opposed to one party's



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unilateral act. Ochsner never offered any factual stipulation to plaintiffs, who in turn never agreed to stipulate. Thus, Ochsner's admission to certain facts by its own pleading did not constitute a stipulation. Moreover, the court drew from criminal jurisprudence to add that, even if Ochsner had properly offered a stipulation to plaintiffs, an offer of stipulation in itself could not infringe on plaintiffs' right to prove their case by evidence of their own choosing.

Continuing its analysis, the court opined that the contents of Ochsner's pleading were better understood as an attempted judicial confession under La. Civ.C. art. 1853. Nevertheless, jurispru-

dential rules state that a judicial confession must constitute the express acknowledgment of an adverse fact as set forth in a petition. Here, while Ochsner claimed responsibility for "inability to locate" the remains, such admission was not responsive to plaintiffs' allegations that Ochsner *lost* the remains; therefore, Ochsner did not acknowledge an adverse fact alleged in plaintiffs' petition, meaning plaintiffs were still entitled to the discovery.

The court observed that Ochsner could have resolved the factual dispute by various other means, such as filing an answer, admitting in discovery or making an offer of judgment. Because

it had failed to do so, and because the "Stipulation of Responsibility" was neither a stipulation nor a judicial confession, plaintiffs' motion to compel was not moot. The court remanded the matter to the trial court to consider the motion to compel in accordance with its analysis.

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LLC Books and Records

Sanctuary Cap., LLC v. Cloud, 54,364 (La. App. 2 Cir. 4/5/22), 336 So.3d 1040.

In a partially derivative action against North Louisiana BIDCO, LLC (NLB) and its managers, members of NLB sought to enforce their right to examine certain financial and other records of NLB, which the managers had refused to make available to the members. The court found, among other things, that NLB's operating agreement was ambiguous regarding the definition of "books and records." Basing its decision in part on the nature of NLB's business to determine what constitutes books and records, the court held that loan documents concerning related-party transactions and associated correspondence were books and records that the members were entitled to inspect.




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In 1999, NLB was organized and licensed as a Business Industry Development Corporation for the purpose of providing financing to small businesses throughout North Louisiana. In 2000, the members of NLB entered into an operating agreement, which contains certain provisions related to the company's books and records and the rights of the members. The operating agreement states that the term "records shall include, but not be limited to, complete and accurate information regarding the state of the business and financial condition of the Company for the last three most recent years" and that such records shall be generally available at the company's principal office for examination by any member. The operating agreement also states that a member's membership rights include, among other things, the "right to inspect the Company's books and records."

In 2013, NLB, its managers and two other companies affiliated with its managers were sued by a company claiming that NLB's managers committed various acts of self-dealing with NLB, fraud and forgery. In 2014, in light of the allegations against NLB and its managers and a \$6 million bad debt expense on NLB's 2013 financial statement, 11 minority members of NLB filed suit to enforce NLB's own right to inspect the

company's book and records. In their petition, the members requested access to a variety of documents, including all loan agreements and related correspondence.

In the 2020 bench trial, the lower court concluded that, based on a plain reading of NLB's operating agreement, the company's books and records "would encompass particularly for an entity like this the loan documentation," noting that "the records of . . . [NLB] would include the very core of what the company does which is the loan documentation."

On appeal, the court considered the scope of the term "books and records." While the defendants asserted that "records," as defined in the company's operating agreement, do not include "supporting documents like loan documents," the plaintiffs argued that "documentation regarding the state of the business and its financial condition clearly includes loan documents, as [the] business was created solely for making loans." The court stated that the definition of "records" in the operating agreement is vague and does not include an exhaustive list of documents required to be made available to the members. The court ultimately concluded that the documents constituting complete and accurate information regarding the state of the business and financial condition of a company may vary depending on the nature of the business

and, by their nature, NLB's business and financial condition includes loan information. The court also noted:

As stated by the trial court, if [p]laintiffs are not given the opportunity to review loan documents and transactions, "the members would have to take the word for and of the [d]efendants that everything was done above board." . . . All records of the business are vital for determinations of whether self-dealing took place in the matter, and no piece of paper or digital record should be withheld from examination by the members.

Id. at 1054. For these reasons, the court held that the trial court did not err in finding that the plaintiffs were entitled to all the requested documents.

—William R. Bishop

Secretary-Treasurer, LSBA Corporate
and Business Law Section

and
Evan C. Bell

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Legislative Season Wrap-Up

It was a busy season at the Louisiana Legislature. From whistleblower protections for police officers to capital punishment, legislators debated bills that had serious implications for the practice of criminal law in Louisiana.

A number of notable bills will go to Gov. Edwards for his signature. House Bill 517 (Larry Selders) sets up a medical-advisory panel within the Department of Public Safety and Corrections. House Bill 745 (Kyle Green) requires that sustained complaints against a law-enforcement officer remain in his or her personnel file indefinitely and provides they are subject to a public records act request. This bill also provides for whistleblower protections for police officers who report malfeasance. House Bill 8 (Bryan Fontenot) expands exceptions to concealed-carry restrictions to city prosecutors, current and retired members of the U.S. Congress and current designated congressional staffers. House Bill 615 (Aimee Freeman) adds “iden-

tity of witnesses” as a statutory requirement to initial law-enforcement reports and permits access to law-enforcement records to victims and family members of victims. House Bill 729 (Royce Duplessis) limits the dissemination of booking photos.

Already signed into law by Gov. Edwards is House Bill 601 (Jason Hughes), which grants a limited immunity to persons trying to help someone who is experiencing a drug overdose.

There were also some notable legislative failures this session — House Bill 262 (Joseph Marino) would have added an exception to the public records law for work product of certain employees of district attorney offices; House Bill 700 (Lawrence Bagley) would have provided for jail sentences for minors found in possession of small amounts of marijuana; and Senate Bill 294 (Katrina Jackson) and House Bill 106 (Kyle Green) would have abolished the death penalty prospectively.

Depending on when bills are sent to the Governor, under Louisiana law, he has between 10 and 20 days to veto a bill. To track bills next session, visit www.Legiscan.com/LA and sign up for alerts.

—**Talia N. MacMath**
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Capital Post-Conviction Project
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New Orleans, LA 70112



5th Circuit Stays Injunction; Social Cost of Greenhouse Gases Can Be Used

In conducting cost benefit analyses, agencies consider the Social Cost of Greenhouse Gases (SC-GHG). *Louisiana v. Biden*, ___ F.4th ___ (2022), 2022 WL 866282. This quantifies health, agriculture and sea levels into dollars per ton of emitted gas. President Obama created the Interagency Working Group (IWG) in 2009 to encourage consistency in SC-GHG determinations, and President Trump disbanded the IWG in 2017. President Biden signed Executive Order (EO) 13990 in January 2021 to reinstate the IWG to advise him on the SC-GHG. The order also directed the IWG to develop new estimates for the SC-GHG and to develop Interim Estimates. The EO required agencies to use the Interim Estimates when conducting cost-benefit analyses for regulatory agency action.

Plaintiff states (Louisiana, Alabama, Florida, Kentucky, Mississippi, South Dakota, Texas, West Virginia and

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Wyoming) sued the United States' government to preemptively challenge the Interim Estimates under the Administrative Procedures Act. The states claimed it would cause increased regulatory burdens for agencies conducting cost-benefit analyses, and the district court entered a preliminary injunction enjoining the government from using the Interim Estimates. The government moved to stay the injunction, and the 5th Circuit agreed and granted the stay.

The 5th Circuit considered four factors in staying the injunction — public interest, the likelihood of success on the merits, whether the applicant will be irreparably injured without a stay, and whether the stay will substantially injure other parties. First, the government would likely succeed on the merits because the states lack standing. The states' claimed injury of increased regulatory burdens that may result from the Interim Estimates is only hypothetical. Additionally, the states failed to meet their burden on causation and redressability because they did not challenge a specific regulation or action.

Second, the government showed irreparable harm absent a stay. A preliminary injunction would stop the President's directive in making agency decisions. The injunction also "sweeps broadly" and prohibits reliance on EO 13990 that created the IWG, which advises the President on policy questions.

Third, a stay would impose minimal injury to states. By the time the district court entered the preliminary injunction, the Interim Estimates had been in place for a year. The 5th Circuit reasoned that continuing to use Interim Estimates would maintain the status quo. Additionally, because no agency has created a regulation or action using the Interim Estimates yet, the states experienced no harm. Therefore, that states' claims were for a generalized grievance and were based on speculative or unknown regulations that *may* place a burden on them. It then concluded the public interest also favored granting the stay.

Second Decision Reverses Prior Supreme Court Decision in Same Case

The Vermillion Parish School Board (VPSB) controls lands set aside to support public schools. *State v. La. Land & Exploration Co.*, 20-0685 (La. 6/30/21), ____ So.3d ____, 2021 WL 2678913. For decades, Union Oil Company of California, Union Exploration Partners (UNOCAL), conducted oil exploration and production on these lands. VPSB learned of the site's contamination sometime in 2003 or 2004.

The Louisiana Legislature intended Act 312 to ensure funds awarded for remediation of contaminated property are spent to remediate the property and bring it to current environmental standards. Under this Act, VPSB sought damages for the cost of evaluating and remediating its property's contamination and diminution of property value, mental anguish, inconvenience, punitive damages and stigma damages. UNOCAL filed an exception of prescription, arguing that VPSB's cause of action was prescribed because it hired counsel over one year earlier, which the trial court denied.

In a 2015 trial, the jury awarded VPSB \$3.5 million for land remediation and \$1.5 million for the private strict liability action but denied all other causes of action. The court denied VPSB's motion for a new trial, which argued that the jury verdict was inconsistent because it awarded damages for remediation and strict liability but not contract actions. The court of appeal affirmed the trial court's prescription ruling, found VPSB's strict liability action imprescriptible, found the jury verdict inconsistent, vacated the trial court's judgment and remanded for a new trial.

The Louisiana Supreme Court first affirmed the court of appeal's decision that UNOCAL failed to show VPSB's strict liability claim was factually prescribed. It explained that whether VPSB had actual or constructive knowledge of the injury when it hired counsel is a

question of fact that the court reviews for manifest error. It then concluded that the trial court was not clearly wrong.

The court also found no inconsistency by the jury. It explained an incorrect, previous iteration of this case caused a legal inconsistency between the jury's role in that case and the jury's statutorily permitted role in Act 312 remediation lawsuits. When the Louisiana Supreme Court first heard the case in 2013, it incorrectly held that Act 312 allowed juries to decide damage amounts and award damages in addition to remediation damages. *State v. Louisiana Land and Expl. Co.*, 12-0884 (La. 1/30/13), 110 So.3d 1038. In the present case, the jury was incorrectly told to find UNOCAL liable for remediation damages and find the damage amount necessary for remediation.

In this second consideration, the court looked to Act 312 itself instead of previous jurisprudence interpreting the law. It held that Act 312 does not allow juries to determine remediation amount or grant damages greater than remediation cost. The court concluded that the

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2013 decision contained “palpable error” and remanded the case to the trial court. It also reversed remediation damages and remanded all other private causes of action.

Chief Justice Weimer dissented. He agreed with the majority opinion in the 2013 case that granted damages above the remediation amount, finding it inappropriate to abandon the court’s prior decision. Justice Crain also dissented, reasoning that VPSB had sufficient knowledge to commence prescription when it hired an attorney, so the issue was prescribed.

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Custody

Garcia v. Hernandez, 21-0338 (La. App. 5 Cir. 4/11/22), ____ So.3d ____, 2022 WL 1075530.

Mr. Garcia was not served until the Friday evening before a Monday hearing before the Domestic Commissioner (DC) and did not appear at the hearing. The DC ruled against him, and the district court accepted the DC’s findings. The court of appeal reversed and vacated the DC’s ruling, finding that Mr. Garcia was deprived of due process by such a quick hearing after service and by the DC ruling in his absence. The court of appeal also reversed and vacated the district court’s acceptance of the DC’s ruling. The court of appeal

found that he was entitled to a *de novo* hearing before the district court, including being allowed to introduce evidence, and that evidence introduced before the DC should have been re-introduced in the trial court.

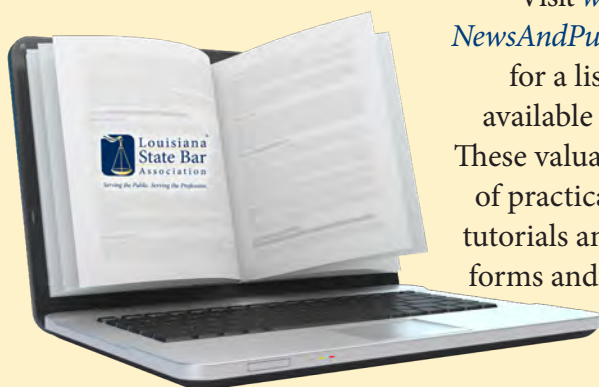
Service, which was made on Mr. Garcia’s girlfriend, was also an issue. No proof was submitted that his home was her usual and customary abode to suffice for domiciliary service. Further, the district court improperly shifted the burden of proof to him in the hearing because he was the one who objected to the DC’s ruling. However, the burden was on Ms. Hernandez as the mover to change custody. The DC and the district court also failed to consider whether she met her burden under *Bergeron* in addressing the alleged changes of circumstances. The trial court also failed to consider all the provisions of the Post-Separation Family Violence Relief Act. Ms. Hernandez’s complying with a court-monitored intervention program was only part of the requirements under La. R.S. 9:362-364 for demonstrating compliance with those statutes.

Divorce

Gamble v. Gamble, 22-0102 (La. 4/20/22), 336 So.3d 452.

Mr. Gamble filed a suit for divorce in Caddo Parish seeking only an article 102 divorce. Three days later, Ms. Gamble filed a petition for an article 102 divorce in Orleans Parish. She also sought spousal support and partition of the parties’ co-owned property (they were separate in property). Mr. Gamble then made several amendments to his original petition to address spousal support and partition issues. Each party filed exceptions of *lis pendens* to the other’s petitions, alleging he or she had raised the particular claims first. Mr. Gamble argued that his amendments after she filed her petition related back to the filing date of his original petition, and were, therefore, *lis pendens* to her claims. The trial court maintained his Orleans Parish exception, but the 4th Circuit reversed, finding that she was the first to raise the ancillary claims. On Mr. Gamble’s writ application, the Supreme Court, *per curiam*,

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reversed, finding that because the two suits were on the same “transaction or occurrence,” the “termination of the marriage” and “logically related events,” La. C.C.P. art. 531 required that her claims in Orleans Parish be dismissed, and that all proceedings take place in Caddo Parish. The ruling makes a sweeping change to *lis pendens* and available venues in family law matters, essentially holding that all matters related to the divorce must proceed in the parish of the first filed suit. Ms. Gamble has filed for a rehearing.

Boudreaux v. Boudreaux, 21-1050 (La. App. 1 Cir. 6/3/22), 2022 WL 1830833 (unpublished).

Mr. Boudreaux filed a petition for divorce pursuant to La. Civ.C. art. 102. He later filed a supplemental and amending petition to aver that sufficient time had passed since the parties’ physical separation such that he was entitled to a divorce pursuant to La. Civ.C. art. 103(1). The court ordered that his initial petition be “amended to a Petition for Divorce pursuant to La. Civ.C. art. 103(1).” Following Ms. Boudreaux’s answer to that petition, Mr. Boudreaux filed a motion to show cause why the divorce should not be granted pursuant to article 102. Ms. Boudreaux filed an exception of improper use of summary proceeding, arguing that his supplemental and amended petition changed his request to an article 103(1) divorce, which cannot be obtained by summary proceeding. The trial court denied her exception and granted the divorce pursuant to article 102. The court of appeal reversed, finding that his amended petition converted the original article 102 petition to an article 103(1) petition and extinguished his right to seek a divorce under article 102. Thus, the trial court erred in denying Ms. Boudreaux’s exception of improper use of summary proceeding, as the rule to show cause was to obtain an article 102 divorce, and the only pending matter was an article 103(1) divorce.

Community Property

Girouard v. Girouard, 21-0758 (La. App. 3 Cir. 4/27/22), 2022 WL 1233946 (unpublished).

After Ms. Girouard failed to timely file her sworn detailed descriptive list, Mr. Girouard filed a rule to show cause why his list should not be deemed to constitute a judicial determination of the community. After the trial court denied his motion, he appealed, arguing that she failed to show “good cause” to allow her additional time to file a list. The court of appeal first found that it lacked appellate jurisdiction because the judgment was not a final judgment but was a non-appealable interlocutory judgment. Because the appeal had been filed within the 30-day period allowed for the filing of a writ application, however, it converted the appeal to a writ application. The appellate court then reviewed cases defining good cause, as it was not defined in La. R.S. 9:2801. The court held that she failed to show good cause for not filing her list. Her attorney stated that the fault was his, that the filing of the list “got away from me,” that a list had since been filed and that Mr. Girouard was not prejudiced by the delay. The court found that those reasons were insufficient to establish good cause, and thus, reversed the trial court and ruled that Mr. Girouard’s list constituted a judicial determination of the community.

Contempt

Carter v. Carter, 21-1173 (La. App. 1 Cir. 5/12/22), ____ So.3d ____, 2022 WL 1510485.

The trial court found Mr. Carter in contempt and ordered him to pay Ms. Carter’s attorney’s fees and costs, as well as other child-support obligations that he had failed to pay that were the subject of the rule for contempt. The court of appeal reversed, finding that the contempt judgment lacked sufficient decretal language and specificity, and therefore, was not a valid final judgment. It dismissed the appeal. The contempt judgment did not specify amounts owed by him for specific child-support expenses and was thus not a proper judgment. The court further found that the judgment giving rise to the rule for contempt was itself ambiguous regarding his child-support obligations. The appellate court noted that because the trial court had continuing jurisdiction over the original consent judgment, “Ms. Carter could

elect to take further steps in the lower court proceedings to obtain a precise and certain judgment delineating Mr. Carter’s obligations.” The appellate court also noted that while it had discretion to convert the appeal of a non-appealable judgment to an application for writs, it would refrain from doing so because an adequate remedy existed by appeal once an appropriate judgment was entered.

Protective Orders

Graugnard v. Graugnard, 22-0252 (La. App. 4 Cir. 6/9/22), ____ So.3d ____, 2022 WL 2072669.

Ms. Graugnard filed a petition for protection from abuse, which was dismissed with prejudice upon the parties reaching a consent judgment on custody and supervised visitation as well as other protections vis-a-vis the abuse allegations. Subsequently, she filed a request to modify custody based on the same allegations of abuse that she had previously raised, as well as new allegations since the time of the judgment, arguing that the new abuse allegations had to be considered in light of Mr. Graugnard’s alleged history of abuse, namely, the prior allegations. He filed an exception of *res judicata* as to the prior allegations, which the trial court granted. The 4th Circuit granted her application for writs, but denied her relief, affirming the trial court’s granting of Mr. Graugnard’s exception of *res judicata*. The court held that her prior claims had been litigated and that the judgment was final and met all of the requirements for *res judicata* to apply. The court of appeal framed the issue as “whether the relator is entitled to demonstrate a history of family violence which includes allegations dismissed, with prejudice, as part of the consent judgment.” Nevertheless, she was entitled to pursue her new allegations, as they arose after the judgment and had not yet been litigated.

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U.S. Supreme Court Issues Key Arbitration Decision

On June 15, 2022, the U.S. Supreme Court held that the Federal Arbitration Act (FAA) — which governs private-dispute-resolution contracts — partially preempts a unique California law under the Private Attorneys General Act (PAGA). The California law allows employees to enforce labor code violations on behalf of other allegedly aggrieved employees and permits civil penalties against the employer, awarded on a per-person basis. The law further invalidates contractual waivers between employers and employees of the right to assert these representative claims under PAGA.

In *Viking River Cruises, Inc. v. Moriana*, No. 20-1573, ___ S.Ct. ___ (2022), 2022 WL 2135491, the Supreme Court held that the FAA requires enforcement of contractual arbitration agreements that waive employees' rights to bring *individual* claims under PAGA. The Supreme Court held that PAGA's "joinder device," which permits individual employees to include in their lawsuit representative claims on behalf of other

employees, conflicts with the FAA's directive to enforce arbitration agreements as written. Thus, to the extent the California law prohibits arbitration of individual PAGA actions, it is preempted by the FAA. However, since PAGA doesn't have a mechanism for courts to hear representative claims brought by an individual who is forced into arbitration under the contractual agreement, the Supreme Court held that those representative claims must be dismissed.

The decision left open the possibility for California courts and/or the state legislature to rectify the standing issue and provide a mechanism by which the representative claims survive separate from the individual PAGA claim in arbitration.

CROWN Act Officially Becomes Law in Louisiana

Gov. John Bel Edwards signed House Bill 1083, which prohibits discrimination based on natural and protective hairstyles, into law on June 21, 2022. The bill, also known as the CROWN Act (Creating a Respectful and Open World for Natural Hair), passed favorably in both the Louisiana House and Senate and is part of a national effort to correct racial and cultural inequities in the workplace.

The bill includes skin color, facial characteristics, hair texture, natural hairstyles and protective hairstyles as traits protected against employment discrimination in Louisiana and adds these characteristics as a subset of discrimination based on race or national origin.

The Louisiana CROWN Act became effective on Aug. 1, 2022. Louisiana joins 15 other states that have recently enacted similar laws and becomes the first southern state to do so.

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Louisiana Amends Risk Charge Statute

Act 5 of the 2022 Regular Session of the Louisiana Legislature amended the "risk charge statute" found in La. R.S. 30:10. The changes took effect Aug. 1, 2022.

Under the statute, the operator of a drilling unit created by the Office of Conservation may send a notice to non-operator mineral lessees in the unit, informing them of a proposed unit operation and giving them a choice of whether to participate in the operation. If a non-operator lessee agrees to participate, that lessee becomes obligated to pay its proportionate share of costs.

If a lessee chooses not to participate, that lessee need not pay a share of costs. Further, if the operation results in production of minerals, the operator must pay the non-participating lessee an amount sufficient to cover the lessee's lease royalty and overriding royalty obligations on that production. However, except for the amount needed to pay those royalties, the non-participating lessee does not receive any share of production until the well has earned enough to pay both its costs and an additional risk charge. The operator and any participating lessees retain the risk charge to compensate them for assuming the economic risks of the operation.

Prior to Act 5, a non-operator lessee who chose to participate in a proposed operation was required to pay its proportionate share of costs within 60 days of receiving detailed invoices. If a lessee did not pay timely, that lessee would be treated as a lessee that had chosen not to participate. Some operator representatives expressed concern that allowing 60 days for payment gave non-operator lessees an opportunity to "game" the system if a proposed operation was one that would be completed before the deadline to make payment



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expired. These representatives explained that a non-operator lessee could elect to participate, but if the completed operation turned out to be unsuccessful, the lessee that had agreed to participate could refuse to pay. Such a lessee would be treated as a non-participating lessee and would be subject to a risk charge but given that the risk charge is only “paid” out of production, such a lessee might escape with no real liability in the event of a dry hole.

Act 5 gives the operator an option to require that any lessee electing to participate in a proposed operation pay its share of the estimated costs at the time the lessee submits its election to participate. If the non-operator lessee fails to submit payment with its election to participate, the lessee is treated as if it chose not to participate.

Act 5 also amends the risk charge statute to place a condition on the operator’s obligation to pay non-participating lessees an amount sufficient to cover their lease royalty and overriding royalty obligations. Act 5 provides that the operator need not make such payments unless the non-participating lessee has provided certain information to the operator, including a complete or redacted copy of the lease or other agreement that creates the royalty obligation. If the non-participating lessee chooses to provide a redacted copy, rather than a complete copy, the redacted copy must provide in full the provisions relating to the determination and calculation of the royalty. The non-participating lessee must also provide a sworn statement of its ownership interest.

In addition, Act 5 provides:

(1) no transfer of interest by a non-participating lessee is binding on the operator until the new owner provides the operator with a certified copy of the instrument(s) that constitute the chain of title from the original lessee to the new owner;

(2) if the operator secures a title opinion covering a tract burdened by a lease held by a non-participating lessee, the operator may treat the costs of that title opinion as costs recoverable from that tract’s share of the proceeds of production from the operation (in that event, the non-

participating lessee is entitled to a copy of the title opinion); and

(3) an operator can use the risk charge process for “subsequent unit operations,” which is defined to mean “a recompletion, rework, deepening, sidetrack, or extension conducted within the unitized interval for a unit or units” created by the Office of Conservation.

Amendment to CCS Provisions

The Louisiana Geological Sequestration of Carbon Dioxide Act authorizes the owner of a carbon dioxide storage facility to use eminent domain to acquire the right to store CO₂ in the subsurface. *See* La. R.S. 30:1108. Prior to Act 163 of the Louisiana Legislature’s 2022 Regular Session, the statute expressly provided that the acquisition of storage rights by eminent domain would not prevent an owner of mineral rights from drilling through a subsurface storage formation. Act 163 authorizes the use of eminent domain in Caldwell Parish to acquire storage rights that would preclude others from drilling through the storage formation, provided that there have been no mineral operations at depths below the storage formation (in an area within the boundaries of the storage facility) for the past five years, and any reservoirs beneath the storage formation are no longer capable of producing minerals in paying quantities. Such a prohibition on drilling through the storage formation terminates if the storage operator abandons efforts to use or cause others to use the subsurface for storage.

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Louisiana Health Emergency Powers Act

In re Med. Rev. Panel Proc. of Welch, 21-0624 (La. App. 5 Cir. 1/26/22), 2022 WL 242683 (unpublished writ denial), writ denied, 22-0230 (La. 4/20/22), 336 So.3d 894;

In re Med. Rev. Panel Proc. of Welch, 21-0622 (La. App. 5 Cir. 11/18/21), ____ So.3d ____, 2021 WL 5869131, writ denied, 21-1900 (La. 4/20/22), 336 So.3d 451.

How should an attorney chair explain the standard of care to medical-review panelists while a declared state of public health emergency under the Louisiana Health Emergency Powers Act (LHEPA) is in effect? The defendant asked the chair to instruct the panelists to assess the medical care rendered by him pursuant to the LHEPA in light of the COVID-19 pandemic. The LHEPA provides: “During a state of public health emergency, any healthcare providers shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.” La. R.S. 29:771(D) (2)(c)(i). The plaintiffs objected, claiming that the “gross negligence/willful misconduct” standard of care is not part of the MMA, that neither the MMA nor LHEPA apply the gross negligence standard to panel proceedings, and that such an instruction would be contrary to the MMA.

The attorney chair advised the defendant that he did not have the “latitude” to deviate from the LMMA.” He stated that “[h]e would need a judge to order [him] to instruct the expert panelists differently.”

The defendant sought a declaratory

judgment concerning the chair's duty to charge the panel pursuant to LHEPA's modified gross negligence standard of care. The plaintiffs responded that the panel is not a judicial proceeding, and the chair is primarily an administrator who has no authority to discuss with panelists the applicable medical standard of care. They argued that the LHEPA standard of care was an affirmative defense that must be alleged in response to a lawsuit.

The trial court overruled the plaintiffs' exceptions yet denied the defendant's petition for declaratory judgment. The trial judge wrote that the chair "[h] as the duty to provide legal advice to the panel and to advise them on what standards of care may be applied' and is ordered to 'consider the governor's order and any and all other case law that he or she may be instructive on what standard of care to apply in this case.'"

The plaintiffs asked whether the panel chair was to instruct the panelists that La. R.S. 29:771 applied to their case. The judge said, "No, that's not the Court's ruling," further explaining that he was not making a ruling on the appropriate standard of care but was "or-

dering the . . . chairman attorney to consider the case law, the governor's order and determine whether or not he should be advising the panel on the application of the standard of care."

Both parties filed writ applications with the court of appeal. The defendant argued in his writ application that the trial judge committed error "by ordering the attorney chairman to only *consider* the Governor's executive order" while the emergency statute was in effect (emphasis by court).

The appellate court explained that a court order instructing the chair on the appropriate standard of care "would be tantamount to the trial court interjecting itself into a non-judicial proceeding and issuing a declaratory judgment, which we have already determined the trial court does not have the authority to do under the LMMA," ultimately ruling that there was "no reason to disturb the trial court's judgment at this time."

In their writ application, the plaintiffs argued that the trial court's ruling was inconsistent with the MMA: "[I]t is solely the duty of the physician panelists to determine the applicable standard of care based on the evidence presented and whether defendant breached that standard," while the attorney chair is limited to an administrative role of facilitating "the selection of other panel members, . . . conven[ing] the panel, and . . . expedit[ing] the panel's review of the proposed complaint." The plaintiffs reiterated the argument made before the trial court that La. R.S. 29:771 in LHEPA does not modify the standard of care under the MMA but instead creates qualified immunity to be asserted by defendants after the panel process as an affirmative defense. Lastly, the plaintiffs contended that La. R.S. 29:771 as written is unconstitutionally overbroad and violates the due process rights of medical malpractice victims.

The appellate court similarly denied the plaintiffs' writ application. The court acknowledged that the attorney chair serves in an "advisory capacity" under the MMA, but the attorney chair's duties include "advis[ing] the panel members concerning matters of law and procedure" and "advis[ing] the panel

relative to any legal question involved in the review proceeding" (emphasis omitted). Finding that the trial court correctly ordered the attorney chair to perform his duties under the MMA by instructing the panel "regarding what standards of care may be applied to the [plaintiffs'] claims of medical malpractice considering [the governor's] executive order declaring a state of public health emergency and other applicable case law," the appellate court declined to disturb the trial court's ruling.

Both parties subsequently sought writs with the Louisiana Supreme Court. Both writ applications were denied.

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Exorbitant Expenses Disallowed as a Business Expense Deduction

Ougel v. Robinson, BTA Docket No. 12536C (La. Bd. Tax App. 5/4/22).

The Secretary of the Louisiana Department of Revenue (LDR) issued a Notice of Assessment and Right to Appeal (Assessment) to the Louisiana Board of Tax Appeals to Reggie J. Ougel, assessing additional individual income tax.

Ougel owns and operates Ougel Diving Services, LLC (ODS). Ougel's work for ODS consists of diving underwater to perform repairs and maintenance on vessels (e.g., removing debris, plugging leaks, removing barnacles



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from the underside of ships). He began work through ODS in 2015. In that year, ODS generated \$2,000 in gross receipts and invoiced two jobs. First-year expenses were reported to be \$73,082. Ougel continued to perform jobs and promote his business for the next five years. His reported expenses increased each year until they peaked in 2018 at \$129,060.

Ougel's income from ODS did not begin to approach 50% of its expenses until 2019, even before factoring in depreciation. Nevertheless, reported receipts grew in four of the five years after 2015 (2016: \$16,000; 2017: \$38,000; 2018: \$40,000; 2019: \$39,477; 2020: \$59,671). Reported expenses also decreased in 2019 and 2020. As a result, in 2020, Ougel reported a profit on his Schedule C for the first time.

In addition, Ougel is a salaried employee of Galliano Marine Services, LLC. During the tax periods at issue, Ougel earned a very respectable salary working for Galliano. Thanks to his Schedule C losses from ODS, however, he paid no income taxes. In fact, his losses from ODS led to sizable income-tax refunds in each of the tax years at issue.

Ougel's Schedule C losses were audited by the IRS. The IRS concluded he evidenced a profit motive for operating ODS. The LDR commenced its own audit. Unlike the IRS, the LDR recharacterized his claimed expenses for ODS as hobby losses, which led to the Assessment. The question of whether Ougel operated ODS for profit or as a hobby was the core dispute.

After discussion of 26 CFR § 1.183-2 and the nine factors for determining whether an activity is engaged in for-profit, the Louisiana Board of Tax Appeals (BTA) concluded Ougel did operate ODS with a profit motive. The BTA found Ougel's work for ODS when making underwater repairs was dangerous, difficult and not in any way recreational. The BTA also noted that Ougel's reported profits and losses show a steady improvement in the business's outlook.

However, the BTA ruled Ougel did not provide evidence to explain how the

exorbitant expenses incurred in promotional and recreational activities were ordinary and necessary expenses of the business. The BTA noted Ougel did not keep a business plan or other record to show a pre-conceived strategy behind his significant expenditures on fishing trips, meals, vacations, etc. Based on such finding, the BTA examined the questionable expenses to determine whether such expenses should be allowable as a business-expense deduction. The BTA disallowed the following expenses — camper/RV, utility vehicle, gifts and donations, fishing rods and reels, meals, groceries, entertainment, travel, uniforms, attire and clothing. The BTA accepted Ougel's acquiescence at the BTA hearing to disallow business expenses for capital gains for the sale of boat motors, the purchase of a handbag, and depreciation on a BMW.

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Taxpayers May Have Refund Claims for Recovery of Tax Paid to Oil Spill Liability Trust Fund

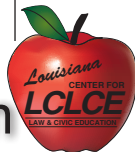
Broadway fans may appreciate the opinion recently issued in *Trafigura Trading, LLC v. United States*, 29 F.4th 286 (5 Cir. 2022), which discusses, in lyrical fashion, Alexander Hamilton's unsuccessful effort during the Constitutional Convention to secure for the new federal government the power to tax exports, which effort resulted in "a six-hour speech (no break for lunch) that was brilliant, courageous, and, in retrospect, completely daft." Ultimately, the 5th Circuit suggests that, because the Southern states strongly opposed granting the federal government the power to tax exports, a compromise was reached whereby the federal government was given its power to regulate

commerce instead, as a compromise between the Northern and Southern states. Accordingly, in *Trafigura*, the 5th Circuit affirmed a district court ruling that Internal Revenue Code section 4611(b), which imposes a tax on domestic crude oil exported from the United States, is unconstitutional.

The Trafigura company was seeking a refund of more than \$4 million in taxes paid over the course of several tax years into the Oil Spill Liability Trust Fund pursuant to IRC section 4611(b). Trafigura's refund claims were based on the argument that the tax was unconstitutional under Article I, Section 9, Clause 5, of the United States Constitution — the Export Clause, which provides that "[n]o tax or duty shall be laid on Articles exported from any State." In denying the refund, the IRS took the position that it "does not consider arguments based on constitutional grounds." *Trafigura Trading, LLC v. United States*, 485 F.Supp.3d 822, 824 (S.D. Tex. 2020). In the ensuing refund litigation, however, the government argued that IRC section 4611(b) was, in fact, constitutional. It cited *United States v. U.S. Shoe*, 523 U.S. 360 (1998), and *Pace v. Burgess*, 92 U.S. 372 (1875), in support of that proposition. Both of those cases sanctioned the imposition of a "legitimate user fee" as compensation for services rendered by the government but also discussed the possibility that a prohibited tax could be fashioned as a user fee. The government argued that the imposition under section 4611(b) was in the nature of a user fee rather than a tax. Neither the lower court nor the 5th Circuit were persuaded, however, and the imposition was struck down as unconstitutional. Taxpayers who now have potential refund claims for recovery of the unconstitutional tax will want to keep an eye on the applicable federal statute of limitations.

—Jaye A. Calhoun

Member, LSBA Taxation Section
Kean Miller, LLP
Ste. 3600, 909 Poydras St.
New Orleans, LA 70112



Recapping Lawyers in the Classroom/Judges in the Classroom Programs

The Louisiana Center for Law and Civic Education (LCLCE), as part of its “Lawyers in the Classroom/Judges in the Classroom” programs, endeavors to provide year-round classroom visits from lawyers and judges to Louisiana schools. A special emphasis is made to have visits coincide with Constitution Day in September and Law Day in May. For Constitution Day 2021, the LCLCE organized a record number of Lawyers in the Classroom/Judges in the Classroom presentations. Following Constitution Day, the LCLCE continued to organize presentations statewide.

The Louisiana Supreme Court’s Judges in the Classroom/Students in the Courtroom initiative encourages lawyers and judges to not only volunteer to be paired with a school for an in-class presentation by the LCLCE, but to set up their own visits to schools in their community. It also encourages members of the judiciary to invite students to visit their courtrooms. There has been an excellent response from the Louisiana legal community benefitting hundreds of students statewide.

Since Constitution Day 2021, in-class presentations organized by the LCLCE impacted more than 2,800 students, teachers and school administrators. The volunteers that made these programs possible include Louisiana Supreme Court Chief Justice John L. Weimer, Louisiana Supreme Court Associate Justice William J. Crain, Judge Marla M. Abels, Judge W. Gregory Beard, Judge Guy E. Bradberry, Judge Michelle M. Breaux, Judge Laurie R. Brister, Judge Amanda C. Calogero, Judge Clayton A. Davis, Judge William S. Dykes, Judge Stephen D. Enright Jr.,



Louisiana Supreme Court Associate Justice William J. Crain made a virtual visit to teach Gregory Greely’s social studies students at Lucille Nesom Memorial School in Tickfaw. The presentation was viewed by three other classes simultaneously.

Judge Valerie Gotch Garrett, Judge J. Keith Gates, Judge Rhonda J. Goode-Douglas, Judge John Michael Guidry, Judge Kendrick J. Guidry, Judge Bryan D. Haggerty, Judge Theodore M. Haik III, Judge Bruce E. Hampton, Judge Patricia E. Koch, Judge C. Wendell Manning, Judge Johnell M. Matthews, Judge Walter E. May, Jr., Judge Jennifer M. Medley, Judge Shayna Beevers Morvant, Judge Robin D. Pittman, Judge C. Sherburne (Sherb) Sentell III, Judge Karelia R. Stewart, Judge Alvin Turner, Jr., Judge Warren D. Willett and Judge H. Stephens Winters.

Schools participating in these programs included Barbe High School, Boyet Junior High School, Briarfield Academy, Buckeye High School, Buckeye Junior High School, Carroll High School, Cedar Creek School, Cedarcrest Southmoor Elementary School, Columbia Elementary, Crawford Elementary School, Cypress Springs Elementary School, Dutchtown High School, E.D. White Catholic School, F.K. White School, Glenbrook School,

Hammond High Magnet, Holy Savior Menard Central High School, Immaculate Conception Cathedral School, Lafayette Middle School, Loreauville High School, Lucille Nesom Memorial School, Muslim Academy, Ovey Comeaux High School, Ponchatoula Junior High School, Robert Russa Moton Charter School, Rosenwald Elementary School, Rusheon Middle School, Sherwood Forest Elementary School, South Grant High School, St. Genevieve School, St. Margaret Mary School, Warren Easton Charter High School and Winnfield Senior High School. There was also an informative presentation made to university students at the 24th Judicial District Court.

The LCLCE partners with the Louisiana Supreme Court, the Louisiana District Judges Association and the Louisiana State Bar Association to bring lawyers, judges and educators together to deliver interactive, law-related presentations to Louisiana classrooms. For more information, visit the LCLCE website at: www.lalce.org.

CHAIR'S MESSAGE

Maximizing Your “Young” Years

By Danielle L. (Dani) Borel

One of the struggles of being a young lawyer is finding ways to utilize these “young” years in a way that sets you up for long-term success. For some, that takes the form of acquiring specialized knowledge. For others, it entails establishing a network of referral sources. For all young lawyers, it includes obtaining education and training relevant to their jobs.

Whether you’ve just finished the bar exam and are looking to begin your career or are using the beginning of our bar year as a reset, the Louisiana State Bar Association (LSBA) and the Young Lawyers Division (YLD) are here for you. The YLD is here to serve as an essential part of your young lawyer journey and to provide invaluable support. The YLD offers educational, networking and community service opportunities that set young lawyers on a path to success.

Education & Networking

For those lawyers in waiting looking to get ahead on their CLE requirements before the swearing-in ceremony, the LSBA hosts its Bridging the Gap seminar twice a year. This program is geared towards recent law school graduates and is designed to acquaint them with many of the practical aspects of law practice.

For those looking to snag professional, ethics and law practice management CLE, the YLD hosts its Professional Development CLE every January. This virtual event allows young lawyers to start off the year on the right foot. Each year, the presentation offers helpful and practical advice to young lawyers. Past speakers have

included Judge Jay C. Zainey, Judge Shelly D. Dick and Judge Richard L. Bourgeois, Jr., discussing best practices for being an ethical and professional attorney. In years past, this event has sold out, so be on the lookout for the event announcement!

For those looking to complete their CLE and to network with other young lawyers as well as judges from across the state, the annual Young Lawyers Conference is a great option. Last year’s conference featured a judicial networking hour, writing tips from several judges and a keynote speech by Judge Carl E. Stewart. The Young Lawyers Conference also honors the YLD’s Young Lawyer Awards recipients. The Young Lawyers Conference is currently scheduled for March 2023. For information, email Young Lawyer Conference Committee Chair Josef Ventulan at ventulanj@lsli.org.

In addition to these formal programs, be on the lookout for skills training programs the YLD will be hosting, focusing on topics such as depositions and oral argument. These programs are designed to be hands-on training rather than your normal hour of instruction.

Meaningful Public Service

Living a fulfilling career sometimes involves more than your job. The YLD offers several opportunities for young lawyers to give back and have a meaningful impact on their communities.



Danielle L. Borel

First, with the new school year approaching, the YLD is busy preparing for the annual Richard N. Ware IV State High School Mock Trial Competition. Young lawyers and volunteers are vital to a successful program by coaching at high schools and judging at the regional and state competitions. To participate, email High School Mock Trial Committee Chair Rachal Cassagne at Rachal.Cassagne@usdoj.gov.

Second, the YLD hosts Wills for Heroes events across the state, year-round. In these events, young lawyers assist first responders, including firemen, police officers, sheriff’s deputies and state troopers, with their estate planning documents. Last year, the YLD completed more than 200 wills with the assistance of volunteers. To participate in a Wills for Heroes event, email Wills for Heroes Committee Chair Elizabeth Grozinger at GrozingerE@ag.louisiana.gov.

Third, the YLD hosts a Barristers for Boards program every spring to assist young lawyers in finding an opportunity to serve on a non-profit board. In addition to education regarding board service, the Barristers for Boards program seeks to match attendees up with participating non-profits. For more information on next year’s program, email Barristers for Boards Committee Chair Justin Jack at justin.a.jack@gmail.com.

We hope these programs enhance your professional development and serve you as a young lawyer. As always, I am open to program suggestions and am available to assist members in finding resources that would be most valuable to them. I am always accessible at danielle.borel@bswllp.com

YOUNG LAWYERS SPOTLIGHT

Thomas P. Sanderson Gretna

The Louisiana State Bar Association's Young Lawyers Division Council is spotlighting attorney Thomas P. Sanderson.

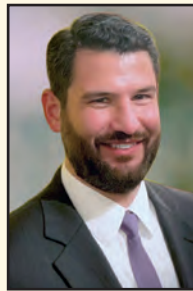
Sanderson is an assistant district attorney (ADA) in the Jefferson Parish District Attorney's Office (JPDA), where he serves as a lead prosecutor in the felony trials division for District Attorney Paul D. Connick, Jr. He graduated, *cum laude*, from Louisiana State University, receiving dual degrees in criminology and anthropology. He earned his JD degree in 2010 from Loyola University New Orleans College of Law (chief of staff of the Trial Advocacy Program and three-time national competition advocate and national competition coach).

Prior to law school, Sanderson served

as a legal assistant at the JPDA, then continued his prosecutorial career as a law clerk for the JPDA and the U.S. Attorney's Office for the Eastern District of Louisiana, before becoming an ADA in Orleans Parish.

After five years of serving as an ADA for the JPDA, he clerked for Judge Stephen C. Grefer of the 24th Judicial District Court for four years, then returned to prosecuting felony trials for the JPDA in March 2021.

He has served as first-chair counsel on multiple serious felony offenses, including murders, rapes and robberies, and recently obtained convictions at tri-



Thomas P.
Sanderson

al on two homicides and an aggravated burglary. He is frequently called upon to mentor younger attorneys at the District Attorney's Office due to his extensive trial experience and ability to instill confidence in attorneys learning how to analyze and build a case for trial. He relies on the mentorship he received as a young prosecutor from multiple senior attorneys whose patience and guidance imparted in him the skills to lead a successful prosecution.

Sanderson served for the past two years as a director on the Jefferson Bar Association's Young Lawyers Division (2020-21). He proudly holds the title of co-captain and position of pitcher for the JPDA's softball team. When not working, he can be found going on adventures and making memories with his two young sons.



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FIND OUT MORE! CONTACT

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.



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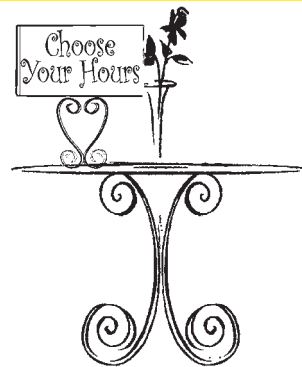
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For additional information about either conference, visit www.lafj.org or call 225-383-5554.



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By Trina S. Vincent, Louisiana Supreme Court

JUDGES... APPOINTMENTS

New Judges

Bradley C. Myers was elected 19th Judicial District Court Division E judge, effective May 13. He earned his bachelor's degree in 1978 from Louisiana State University and his JD degree in 1982 from LSU Paul M. Hebert Law Center. He worked as a law clerk at the 19th JDC from 1979-82. From 1982-87, he worked at the U.S. Department of Justice as an assistant U.S. attorney, Middle District of Louisiana, and as a special assistant U.S. attorney, Eastern and Western Districts of Louisiana. He worked at Kean Miller LLP from 1987-2022 — an associate from 1987-90, a partner from 1990-2021 and senior counsel until his election to the 19th JDC. Judge Myers is married to Judy Atkinson and they are the parents of two children.



Judge Bradley C. Myers

Douglas M. Stinson was elected 26th Judicial District Court Division D judge, effective April 25. He earned his bachelor's degree in 2004 from Louisiana State University and his bachelor of civil law and JD degrees in 2008 from LSU Paul M. Hebert Law Center. He worked at Bradley Murchison Kelly & Shea, LLC, from 2008-13. In 2012, he was sworn in as an assistant district attorney in Bossier Parish and was assigned to the juvenile division. In 2013, he worked in private practice and, in 2014, in the district attorney's office, Criminal Division. He served as the town attorney for Benton, as in-house counsel for the DeSoto Parish Sheriff's Office and as an



Judge Douglas M. Stinson

instructor at the Bossier Parish Sheriff's Training Academy. Judge Stinson is married to Lauren Tanner Stinson and they are the parents of three children.

Appellate Judge

1st Judicial District Court Judge Craig O. Marcotte was elected 2nd Circuit Court of Appeal Division I judge, effective April 25. Judge Marcotte earned his bachelor's degree in 1984 from Louisiana Tech University and his JD degree in 1988 from Louisiana State University Paul M. Hebert Law Center. He worked in private practice before his election to the 1st JDC in 2009. He was reelected in 2014 and served until his election to the 2nd Circuit. He is the father of three children.



Judge Craig O. Marcotte

Appointments

► Edwin G. Preis, Jr. was designated, by order of the Louisiana Supreme Court, as chair of the Louisiana Judicial Campaign Oversight Committee for a term of office which commenced on April 13 and will remain in full force and effect thereafter until amended through future orders of the court.

► 1st Judicial District Court Judge John D. Mosely, Jr. was appointed, by order of the Louisiana Supreme Court, to the Louisiana Judicial Campaign Oversight Committee for a term of office which began May 1 and will end on April 30, 2026.

► 27th Judicial District Court Judge D. Jason Meche was reappointed, by order of the Louisiana Supreme Court, to the Louisiana Judicial Campaign Oversight Committee for a term of office which ends on Jan. 31, 2026.

► Angelette A. Jackson was reappointed, by order of the Louisiana Supreme Court, to the Louisiana Judicial Campaign Oversight Committee for a term of office which ends on April 21, 2026.

► Sheri M. Morris was reappointed, by order of the Louisiana Supreme Court, to the Louisiana Judicial Campaign Oversight Committee for a term of office which ends on April 30, 2026.

Resignation

Orleans Parish Criminal District Court Magistrate Commissioner Albert A. Thibodeaux resigned, effective May 1, 2022. He earned his bachelor's degree in 1991 from Xavier University of Louisiana and his JD degree in 1996 from Tulane Law School. He worked as a summer associate at State Farm Insurance In-House Claims Litigation Counsel and with the City of New Orleans Law Department from 1994-97. He was a staff attorney at the Housing Authority of New Orleans from 2001-02. From 2002-10, he was chief deputy city attorney, City of New Orleans Law Department. From 1997-2012, he worked in private practice. He was appointed to serve as magistrate commissioner of Orleans Parish Criminal District Court in 2014.

Retirement

11th Judicial District Court Chief Judge Stephen B. Beasley retired, effective April 1, 2022. He earned his bachelor's degree from Northwestern State University and his JD degree from Loyola University New Orleans College of Law. He served as an assistant district attorney for Sabine and DeSoto parishes and as a public defender in Caddo Parish. He worked in private practice from 1991 until his election to the bench in 1995.

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LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, announces that Tessa P. Vorhaben has been elected as a shareholder in the firm's New Orleans office. Also, Ryan B. Gonzales has joined the New Orleans office as an associate.

Barrasso Usdin Kupperman Freeman & Sarver, LLC, announces that **Robert A. Waldrup** has joined the firm's New Orleans office as an associate.

Breazeale, Sachse & Wilson, LLP, announces that Jené C. Clayton has joined the firm's Baton Rouge office as an associate.

Chaffé McCall, LLP, announces that Rachel A. Meese has joined the firm's New Orleans office as a partner.

Chehardy, Sherman, Williams, Recile & Hayes, LLP, announces that Jeremy N. Gettes has joined the Metairie office as an associate.

Degan, Blanchard & Nash, APLC, an-

nounces that five attorneys have been promoted to partner — Travis L. Bourgeois, Philip C. Brickman and Matthew F. Morgan, all in the New Orleans office; Mandy A. Simon in the Lafayette office; and Janna C. Underhill in the Baton Rouge office.

Foley & Mansfield, PLLP, announces that Shelley K. Napolitano has joined the firm's New Orleans office as a litigation partner.

Gordon, Arata, Montgomery, Barnett, McCollam, Duplantis & Eagan, LLC, announces that John Philip (J.P.) Graf has joined the firm's Lafayette office as an associate and Katherine E. (Kate) Clark has joined the firm's New Orleans office as an associate.

Hinshaw & Culbertson, LLP, announces that **Bonnie E. Dye** has joined the firm's New Orleans office as a partner.

Kaufman Dolowich & Voluck, LLP, announces that it has opened an office in New Orleans, located at Ste. 2602, 1100 Poydras St. Angella H. Myers has been named managing partner in the firm's New Orleans and Dallas, TX, offices.

Mark C. Carver has joined the firm as a partner in the New Orleans office.

Mouledoux, Bland, Legrand & Brackett, LLC, in New Orleans announces that **Taylor L. Tran** and **Alicia D. Frison** have joined the New Orleans office as associates.

Perry Dampf Dispute Solutions announces that **Coleman T. Organ**, **Kelly C. Bogart**, **J. Scott Loeb** and **Judge (Ret.) William A. Morvant** have joined its mediation panel. Bogart will continue as a litigator at Duplass, Zwain, Bourgeois, Pfister, Weinstock & Bogart, APLC, in Metairie. Loeb remains as a member of the Loeb Law Firm in Mandeville.

Phelps Dunbar, LLP, announces that Shaun G. Clarke has joined the New Orleans office as a partner. Also, partner S. Dennis Blunt has been named the Baton Rouge office's vice managing partner.

Preis PLC announces that attorney Zachary R. Smith has joined the firm's New Orleans office.

Simon, Peragine, Smith & Redfearn, LLP,



Richard J. Arsenault



Kelly C. Bogart



Joseph E. Cain



Blake R. David



Leonard A. Davis



Bonnie E. Dye



Thomas M. Flanagan



Alicia D. Frison



Soren E. Gisleson



Russ M. Herman



Stephen J. Herman



Brian D. Katz

in New Orleans announces that Kelly A. Gismondi and Reshonda Whitney Thompson have joined the firm as associates.

NEWSMAKERS

Rodolfo J. (Rudy) Aguilar, Jr., a member (partner) in the Baton Rouge office of McGlinchey Stafford, PLLC, was elected to the board of directors of the Foundation for Woman's Hospital.

Richard J. Arsenault, a partner in the Alexandria firm of Neblett, Beard & Arsenault, was awarded the Top Lawyer rating for 2022 in the AVVO Legal Directory, was nominated by his peers for inclusion in the *Acadiana Profile Magazine's* 2022 Top Lawyers in Acadiana, and was selected for 2022 renewal as a member of the Nation's Top One Percent by the National Association of Distinguished Counsel.

Camille R. Bryant, a member (partner) in the New Orleans office of McGlinchey Stafford, PLLC, was selected to serve on the Louisiana Board of Ethics.

Blake R. David, senior partner at Broussard & David, LLC, in Lafayette, was appointed to the Executive Committee of the Lafayette Economic Development Authority.

Emily Black Grey, a partner in the Baton Rouge office of Breazeale, Sachse & Wilson, LLP, was elected to the board of directors of the American Health Law Association for a three-year term.

Deirdre C. McGlinchey, head of the general litigation section in the New Orleans office of McGlinchey Stafford, PLLC, was inducted into the Louisiana Chapter of the International Women's Forum.

Matthew J. Pertuit, an associate in the Metairie office of Chehardy, Sherman,

Williams, Recile & Hayes, LLP, received the 2022 "Top 10 Under 40" Attorney Award in Louisiana from the National Academy of Personal Injury Attorneys.

Sara V. Pic, head of public services for the Law Library of Louisiana, was elected as American Association of Law Libraries' (AALL) secretary-treasurer of the Government Law Libraries Special Interest Section. Also, Law Library of Louisiana Director Miriam D. Childs was elected AALL treasurer.

Anna Brown Priestley, vice president and trust advisor for Regions Private Wealth Management in Shreveport, earned the Certified Trust & Fiduciary Advisor (CFTA) professional certification from the American Bankers Association.

Milele N. St. Julien, a special partner at Pugh, Accardo, Haas, Radecker & Carey, LLC, in New Orleans, accepted an invitation to join the International Association of Defense Counsel.

PUBLICATIONS

Chambers USA 2022

Barrasso Usdin Kupperman Freeman & Sarver, LLC (New Orleans): Judy Y. Barrasso, Jamie L. Berger, George C. Freeman III, Craig R. Isenberg, Stephen H. Kupperman, Richard E. Sarver and Steven W. Usdin; and Kyle W. Siegel, Up and Coming.

Breazeale, Sachse & Wilson, LLP (Baton Rouge, New Orleans): Thomas M. Benjamin, David R. Cassidy, V. Thomas Clark, Jr., Clay J. Countryman, Murphy J. Foster III, Nicole Gould Frey, Gregory D. Frost, Alan H. Goodman, Emily Black Grey, David R. Kelly, John B. King, Steven B. Loeb, Catherine M. Maraist, Eve B. Masinter, Van R. Mayhall, Jr. Catherine B. Moore, E. Fredrick Preis, Jr.

and Claude F. Reynaud, Jr.

Gordon, Arata, Montgomery, Barnett, McCollam, Duplantis & Eagan, LLC (Lafayette, New Orleans): Michael E. Botnick, Bob J. Duplantis, Ewell E. (Tim) Eagan, Jr., C. Peck Hayne, Jr., Samuel E. Masur, Cynthia A. Nicholson, Scott A. O'Connor, Kelly D. Perrier, Howard E. Sinor, Jr. and Marion Welborn Weinstock.

Irwin Fritchie Urquhart & Moore, LLC (New Orleans): Douglas J. Moore, Kim E. Moore and Quentin F. Urquhart, Jr.

Lugenbuhl, Wheaton, Peck, Rankin & Hubbard (New Orleans): Alicia M. Bendana, Delos E. Flint, Jr., Benjamin W. Kadden, Rose McCabe LeBreton and Stewart F. Peck.

McGlinchey Stafford, PLLC (Baton Rouge, New Orleans, Cleveland, OH, Dallas, TX): Rodolfo J. (Rudy) Aguilar, Jr., Samuel A. Bacot, J. Patrick Beauchamp, Stephen P. Beiser, Magdalen Blessey Bickford, Rudy J. Cerone, Katherine Conklin, Ronnie L. Johnson, Christine Lipsey, Jean-Paul Perrault, Michael H. Rubin, Robert W. Savoie and S. Jess Sperry.

Phelps Dunbar, LLP (Baton Rouge, New Orleans): Lee R. Adler, M. Nan Alessandra, Jane E. Armstrong, Jeffrey M. Barbin, William R. Bishop, Shelton Dennis Blunt, Kim M. Boyle, Philip deV. Claverie, Sr., Philip deV. Claverie, Jr., Virginia Y. Dodd, Warner J. Delaune, Jr., Mark A. Fullmer, Kelsey K. Funes, Susan W. Furr, Cecile L. Gordon, Karleen J. Green, J. Alan Harrell, David D. (Beau) Haynes, Jr., Gary A. Hemphill, Michael D. Hunt, Nathan G. Huntwork, Thomas H. Kiggans, Errol J. King, Jr., David M. Korn, Kevin J. LaVie, Steve J. Levine, Daniel Lund III, Daniel T. Pancamo, David L. Patrón, Christopher K. Ralston, P. Ragan Richard, Harry Rosenberg, Randy

Continued next page



J. Scott Loeb



Judge (Ret.) William
A. Morvant



Coleman T. Organ



Anna Brown
Priestley



Taylor L. Tran



Robert A. Waldrup

P. Roussel, Mary Ellen Roy, Rick M. Shelby, John O. Shirley, James A. Stuckey, Michael S. Williams and Alan C. Wolf.

Simon, Peragine, Smith & Redfearn, LLP (New Orleans): Denise C. Puente, H. Bruce Shreves and Douglass F. Wynne, Jr.

Benchmark Litigation 2022

Flanagan Partners, LLP (New

Orleans): **Thomas M. Flanagan.**

Biz New Orleans 2022

Chaffe McCall, LLP (New Orleans): Julie D. Livaudais, New Orleans 500.

McGlinchey Stafford, PLLC (New Orleans): Magdalen Blessey Bickford and Camile R. Bryant, New Orleans 500.

Lawdragon 2022

Herman, Herman & Katz, LLC (New Orleans): **Joseph E. (Jed) Cain, Leonard A. (Lenny) Davis, Soren E. Gisleson, Russ M. Herman, Stephen J. Herman and Brian D. Katz.**

McGlinchey Stafford, PLLC (New Orleans): Rudy J. Cerone.

2023 EXPERT WITNESS, CONSULTANT AND LEGAL SERVICES DIRECTORY

The Louisiana State Bar Association is publishing its Expert Witness, Consultant and Legal Services Directory. The supplement to the *Louisiana Bar Journal* will be printed separately and shrink-wrapped for mailing with the December 2022/January 2023 *Louisiana Bar Journal*. The directory is published annually, guaranteeing a year's worth of exposure in print and on the LSBA Web site.

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The minimum qualifications, conditions and procedures for appointment as a Special Assistant Attorney General in risk litigation are listed below.

1. The attorney shall be admitted to practice law in the state of Louisiana, unless the action is pending in another state, in which event the attorney shall be admitted to practice in the state where the action is pending.
2. If the action is pending before a federal court or other court with special admission requirements, the attorney shall be admitted to practice before such court.
3. The attorney shall not be under suspension by the Louisiana Supreme Court or any court in which the action is pending.
4. The attorney and any attorney with whom he is engaged in the practice of law shall not represent any plaintiff in any tort claim against the state and/or its departments, commissions, boards, agencies, officers, officials or employees unless specifically waived in writing by the Attorney General and the Office of Risk Management, or, if applicable, the institutions exempted from the state risk management program pursuant to La R.S. 17:3139.5(B)(2)(e)(i) and/or 17:3393(A)(2)(e)(i) (hereinafter exempted institutions).
5. The attorney shall not have a conflict of interest as provided by the Rules of Professional Conduct of the Louisiana State Bar Association.
6. The attorney shall have and maintain professional malpractice insurance with minimum coverage of \$1 million per claim with an aggregate of \$1 million.
7. The attorney must be a subscriber to an electronic billing program designated by the Office of Risk Management or, if applicable, the exempted institutions.
8. The attorney should have a Martindale-Hubbell rating of "distinguished" or better.
9. The attorney should have been admitted to and engaged in the practice of law for a minimum of three years.

10. The requirements set forth in 8 and 9 may be waived by the Attorney General, in which event the attorney will be placed in a probationary status for a period of three years. During the period of probation, the attorney's performance will be evaluated annually by the State Risk Administrator-Claims and the Assistant Director for Litigation Management of the Office of Risk Management or, if applicable, the Director for the Office of Risk Management of the exempted institutions, and the Director of the Litigation Program of the Louisiana Department of Justice.

In the event that the attorney's performance is acceptable during the three-year probationary period, he shall be removed from probationary status. In the event the attorney's performance is unsatisfactory, he may be removed from the probationary list or, at the discretion of the State Risk Administrator-Claims, the Assistant Director for Litigation Management of the Office of Risk Management or, if applicable, the Director for the Office of Risk Management of the exempted institutions, and the Director of the Litigation Program of the Louisiana Department of Justice, the probationary period may be extended.

Additional Requirements for the Defense of Medical Malpractice Claims

11. The attorney should have three years' experience in the defense of medical malpractice claims.
12. The attorney should have participated as counsel of record in at least two medical malpractice trials.
13. Professional malpractice limits shall be at least \$1 million per claim with an aggregate of \$1 million.
14. Requirements 11 and 12 may be waived by the Attorney General, in which event the attorney will be placed on probation

as to medical malpractice defense as provided in paragraph 10 above.

Conditions

1. Any attorney appointed by the Attorney General serves at the pleasure of the Attorney General and may be removed by the Attorney General at any time without cause.
2. The Office of Risk Management or, if applicable, the exempted institutions, may only remove an attorney for cause.
3. All contracts must comply with the Ethical Standards for Public Servants, Title 42, Section 15, Part II of the Louisiana Revised Statutes, including, but not limited to, La. R.S. 42:1113.

Procedures

1. In order to be considered for appointment as a Special Assistant Attorney General in risk litigation, an attorney must provide proof to the satisfaction of the Attorney General that the firm meets the minimum qualifications.
2. The Attorney General shall notify in writing the Office of Risk Management or the exempted institutions, if applicable, of the attorney assigned in all risk litigation. The Office of Risk Management shall advise the Attorney General of its concurrence in the attorney assignment in writing. The exempted institutions, if applicable, shall advise the Attorney General of its acknowledgement of the attorney assignment in writing. Written concurrence by the Office of Risk Management or written acknowledgement by the exempted institutions, if applicable, constitutes notification of the contract attorney assignment. The Attorney General shall send a letter to the attorney stating that the firm has been assigned as defense counsel. The Attorney General's appointment letter shall serve as signatory evidence of the Attorney General's approval for any contract for legal services resulting from the appointment.

UPDATE

LASC, 40th JDC, 5th Circuit Join Forces for Law Day Event

Louisiana Supreme Court Chief Justice John L. Weimer joined judges of the 40th Judicial District Court and the 5th Circuit Court of Appeal for a May 6 Law Day event with students from throughout the St. John the Baptist Parish School District. The event was conducted at the 40th JDC courthouse in Edgard.

With a courtroom at capacity, students were engaged in a discussion about the Constitution with Chief Justice Weimer, 40th JDC Chief Judge Nghana Lewis and 40th JDC Judges Vercell F. Fiffie and J. Sterling Snowdy. Retired 40th JDC Chief Judge Madeline Jasmine, as well as 5th Circuit Court of Appeal Judges Jude G. Gravois and Marc E. Johnson, also participated in the Law Day panel.

The event, organized and sponsored by the judges of the 40th JDC, has been a Law Day fixture for many years.



40th Judicial District Court Chief Judge Nghana Lewis, left, and retired 40th JDC Judge Madeline Jasmine, rear, were among the judges hosting a Law Day event for St. John the Baptist Parish students.

A special acknowledgment was extended to St. John the Baptist Parish School District teachers, parents and students and to St. John the Baptist Parish Sheriff Michael Tregre for their support of the event.



Louisiana Supreme Court Chief Justice John L. Weimer discussed the U.S. Constitution with students from the St. John the Baptist Parish School District during a 40th Judicial District Court Law Day event.



Retired Orleans Parish Juvenile Court Judge Ernestine S. Gray received the 2022 American Bar Association's Mark Hardin Award for Child Welfare Legal Scholarship and Systems Change.

Judge Gray Receives ABA Mark Hardin Award

Retired Orleans Parish Juvenile Court Judge Ernestine S. Gray received the 2022 American Bar Association's (ABA) Mark Hardin Award for Child Welfare Legal Scholarship and Systems Change for her service in improving the welfare of children through legal representation and advocacy. Judge Gray is the first Louisiana recipient of the award.

Though retired, she serves as the Louisiana Court Improvement Program Judicial Fellow, providing technical assistance to state judges in matters concerning child welfare litigation. She also assists the Louisiana Supreme Court with its Court Improvement Strategic Plan.

Judge Gray has served as chair of the ABA Commission on Youth at Risk for the last three years and has been an active member of the Commission and the ABA for decades.

She was elected to the Orleans Parish Juvenile Court bench in 1984 to fill an unexpired term. She was reelected in 1986, 1994, 2002, 2010 and 2018, where she served until her retirement in 2020.

LOCAL / SPECIALTY BARS



The Greater New Orleans Louis A. Martinet Legal Society Inc. and Dillard University hosted a CLE seminar, "Securing your Financial Future," on April 27. The seminar featured speakers Brian H. Jones and Chris McGhee, Northwestern Mutual. From left, Dante J. Butler, Pre-Law Program director, Dillard University; Jones; McGhee; and Ebony S. Morris, 2021-22 president, Greater New Orleans Louis A. Martinet Legal Society Inc.



The Lafayette Bar Association held its annual Opening of Court ceremony on May 6. Chief Judge Laurie A. Hulin, 15th Judicial District Court, opened the ceremony. Lafayette Bar Association President Shannon Seiler Dartez, right, provided introductory remarks, and J. Derek Aswell, with the Lafayette Bar Association Young Lawyers Section, welcomed new attorneys. Also attending the event was Alainna R. Mire, left, 2020-21 Louisiana State Bar Association president.



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President's Message

Hear Their Voices

By Alan G. Brackett, 2022-23 President

Jay, a 2nd-grade student, has been in a mental health facility three times in less than two months. He attends the neighborhood elementary school and received seven school referrals, seven days of suspensions and was about to be expelled. His mom contacted the T.E.A.M.S. (Training, Education and Mediation for Students) office to be able to participate in the expulsion meeting via Zoom. During the meeting, it was agreed that Jay would be placed at another school for behavior support. T.E.A.M.S. and the parent agreed to placement without filing a formal complaint against the parish if they agreed to provide an interim Individual Education Plan while they conducted the evaluation. T.E.A.M.S. and the parent were prepared to file a formal complaint to the state because the parish failed to identify this child under Child Find law based on his history from the previous school year. Two weeks later, in his new school with behavior support, Jay has been successful and is a happy thriving student.

Michael's school day started like any other. He had breakfast with his family, walked his usual route to school, while wearing the special shirt he was given for making the honor roll again. A couple of hours into the school day, the police arrived at his classroom claiming Michael committed an armed robbery earlier that morning. He was handcuffed in front of his classmates and taken to jail. His tears and pleas of innocence were ignored. He spent the night in a cell alone and afraid. The Louisiana Center for Children's Rights (LCCR) team sent out investigators to canvass the neighborhood where the crime occurred to find out what happened. They found that: 1) several witnesses said the suspect wore a plain black t-shirt. Michael's shirt was bright blue, with big yellow letters saying, Honor Roll; 2) the crime happened a full 15 minutes after Michael arrived

at school that morning; 3) Michael's arrest hinged on a single witness who said she thought she saw Michael in the area of the crime. Michael's LCCR team presented its findings before a juvenile court judge, who immediately dismissed the case and released Michael home to his family. Michael is happy to have this ordeal behind him, but the trauma he experienced left him feeling unsafe and vulnerable. LCCR also connected him with a therapist to help.

Jay and Michael, like many of our children, are considered the most vulnerable members of our society. As a result of the pandemic, plunging economy, multiple natural disasters and many other factors, more and more children are living in poverty and more and more children are experiencing abuse, abandonment or neglect.

The Louisiana Bar Foundation (LBF) works hard to support organizations that provide children with a voice. The LBF provides funding to organizations providing direct legal representation of children, in matters ranging from delinquency to access to special education, mental health and foster care services; organizations engaging in impact litigation and/or systemic legal reform efforts on behalf of children; organizations that provide lay advocacy for children in legal proceedings; and organizations that assist with the administration of justice with respect to children.

This year, the LBF granted more than \$2.6 million to Louisiana programs that provide free legal assistance to needy children. I am proud to say that the LBF is dedicated to making sure that every



Alan G. Brackett

CINC Outcomes for 2020-2021

The 2020-2021 Child in Need of Care (CINC) outcomes are based upon quarterly LSC reporting:

- ▶ Number of Louisiana judicial districts served: 34.
- ▶ Number of Louisiana courts served: 64 (includes city courts).
- ▶ Number of Children in Need of Care served: 4,401 (prior FY year: 4,008).
- ▶ Total number of court appearances: 13,201.
- ▶ Total number of child client visits: 1,693.
- ▶ Total number of staffing attended: 1,810.
- ▶ Percentage of Children in Need of Care represented in courts served: 100%.
- ▶ Percentage of children's attorneys meeting child attorney qualification standards: 100%.

child's voice is heard.

"Not only are we a voice in the school systems but also in the community. We link families to other support and resources that they may not be aware of. As an advocate and parent, I truly fear what will happen if there is no one left to help be their voice. Training, educating and empowering through knowledge is very important," said Cassie Hubble, director and advocate for T.E.A.M.S.

As a Fellow, you are instrumental in providing legal assistance to the underprivileged and disadvantaged members of our community. On behalf of our children, who cannot help themselves, we truly thank our contributing Fellows.

If you would like to become a Fellow and support the LBF and support all of our grantees, contact the Foundation at (504)561-1046. To make a donation to the LBF or to review a list of our grantees, go to www.raisingthebar.org.

LBF President Appoints Leadership Positions

Louisiana Bar Foundation President Alan G. Brackett appointed members to chair the nine Community Partnership Panels (CPP), committees and subcommittees.

CPP chairs are Elizabeth Schutz, Acadiana; Hon. Vanessa Guidry-Whipple, Bayou Region; Mark L. Barbre, Capital Area; Barbara Bell Melton, Central; Hon. Dana Douglas, Greater Orleans; G. Adam Cossey, Northeast; William J. Dutel, Northshore; Paul L. Wood, Northwest; and Hon. Guy E. Bradberry, Southwest.

Committee and subcommittee chairs and co-chairs include Zebulon M. Winstead, chair of the Development Committee and the Major Gifts Subcommittee; Colleen C. Jarrott and Brett Mason, co-chairs of the Annual

Fellows Gala Subcommittee; Hon. Page McClendon, chair of the Kids' Chance Sponsorship Subcommittee; Hon. Guy E. Bradberry and Maggie T. Simar, co-chairs of the Membership Subcommittee; Edmund J. Giering IV, chair of the Communications Committee; Linda Law Clark and Michael J. Mestayer, co-chairs of the Education Committee; Alan G. Brackett, chair of the Executive and the Nominating Committees; Hon. John C. Davidson, chair of the Finance and the Investment Committees; Christopher K. Ralston, chair of the Governance Committee; Diedre D. Robert, chair of the Grants Committee; and George D. (Dave) Ernest, chair of the Grantee Audit and Training Committee.

LBF Seeking Project Proposals; Response Deadline is Sept. 23

Speak Out for Justice! Focus on Civil Legal Aid is a project of the Louisiana Bar Foundation's (LBF) Education Committee. The purpose of this program is to support the LBF's educational goals by increasing the understanding of the vital need for civil legal aid services for those who cannot afford them, as well as the need to measure the effectiveness of ongoing programs. The LBF plans to engage multiple content creators for this project.

The LBF is seeking proposals from qualified individuals for two separate focus areas.

► **Public Awareness.** Partner with content authors to produce short articles, podcasts, videos, commercials and other content that are current and relevant to the topic of civil legal aid. This project should reflect the creativity of the applicant (so there is no set media type that is preferred) as long as the proposal reflects the parameters of the Speak Out for Justice! Focus on Civil Legal Aid educational theme.

► **Research.** Partner with the academic community and other like-minded individuals who are interested in studying these important issues and proposing solutions to the problems, so the limited resources available can best be put to use. The LBF seeks to partner with content creators to produce short articles, studies, analyses and other content that are current and relevant to the topic of civil legal aid and how best to make it available to the vulnerable population that needs it.

Each selected contributor will receive a \$500-\$2,500 honorarium, depending on content.

Deadline to submit proposals is Sept. 23. Proposals must be received by the LBF on or before this date. Proposals submitted after the deadline will not be considered.

Access Request for Proposal forms for each focus area online at: <https://raisingthebar.org>. The news item with form access is listed under "LBF News."

LBF is Popping Up in Your Area!

The Louisiana Bar Foundation (LBF) is planning another round of Pop Up Tour visits throughout the state. Save the date to visit with colleagues and meet new people. These events are open to all interested in learning about the LBF, how it operates, the growing need for civil legal aid, and how the LBF is trying to meet these needs. Attendees also can connect with local people and organizations with first-hand experience with civil legal aid issues.

► Northshore, Wednesday, Sept. 14, Pat Gallagher's 527 Restaurant & Bar, noon.

► Greater Orleans, Wednesday, Sept. 14, Urban South Brewery, 5 p.m.

► Bayou Region, Thursday, Sept. 15, Dominique's Bistro, noon.

► Central, Wednesday, Sept. 21, Huckleberry Brewing Company, 5 p.m.

► Northwest, Thursday, Sept. 22, Hilton Shreveport, 8 a.m.

► Northeast, Thursday, Sept. 22, Restaurant Cotton, noon.

► Southwest, Wednesday, Sept. 28, Pujo Street Café, noon.

► Acadiana, Thursday, Sept. 29, Double Tree by Hilton, 8 a.m.

► Capital Area, Thursday, Sept. 29, Ruffino's Catering at De La Ronde Hall, noon.

Check the LBF's website, www.raisingthebar.org, for updates. Contact Danielle Marshall at (504)561-1046 or email danielle@raisingthebar.org.

LBF Announces New Fellows, Lists New Membership Level

The Louisiana Bar Foundation welcomed the following new Fellows:

Hon. Amanda Chauvin Calogero	Harvey
Donna Cuneo	New Orleans
Elroy A. James	Baton Rouge
Tina Dixon	New Orleans

Did you know that you do not have to be an attorney to be an LBF Fellow? The new Civil Legal Aid Fellow membership level is designed for individuals who support the LBF's mission and are not attorneys. Learn more: <https://raisingthebar.org/component/content/article/80-news/lbf-news/713-ambassadors-for-free-civil-legal-aid?Itemid=636>.

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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:

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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 December issue of the Journal, all classified notices must be received with payment by Oct. 18, 2022. Check and ad copy should be sent to:

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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.

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).

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.

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NOTICE

Notice is hereby given that Timothy Baron Holden intends on petitioning for reinstatement/readmission to the practice of law. Any person(s) concurring with or opposing this petition must file notice of same within 30 days with the Louisiana Attorney Disciplinary Board, Ste. 310, 2800 Veterans Memorial Blvd., Metairie, LA 70002.

Notice is hereby given that Brian D. Williams intends on petitioning for reinstatement/readmission to the practice of law. Any person(s) concurring with or opposing this petition 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 143.



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Review LSBA eBooks online 24/7. Working from home or on the road and you need to access practice-related information? Access one of the LSBA's eBooks on various aspects of the practice of law. The newest is *Hanging Out Your Shingle: Louisiana Style*. This e-publication joins *Practice Transition Handbook: Shutting Down a Law Practice in Louisiana*, *Disaster Planning: It's Not Just for Hurricanes, Are You Ready?*, and *Practice Aid Guide: The Essentials of Law Office Management*. Access online: www.lsba.org/NewsAndPublications/eBooks.aspx.

LSBA TECH HELP

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/

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Who Let the Dogs Out?

By Kent Moroux

In law school, our LSU professor wrote an unorthodox torts final that included a cruise ship out of New Orleans, a love triangle between two carnies and a Bywater interloper, a tattoo artist using ink filled with an allegedly carcinogenic livestock additive, and sado-masochism gone wrong.

Did we need such a prurient fact pattern to test “consent?” Debatable, but real life practice presented me with the salacious case of *Graham v. Struppeck*, tried December 2021 in East Feliciana Parish.

A Lady and the Tramp Story

The case arose from the alleged May 2018 mating between star-crossed lovers — Kayda, an American Kennel Club-registered, full-bred, female French bulldog belonging to plaintiff, a dog breeder; and Jackster, a good-natured (but unfortunately named) and itinerant mutt, fed and watered by plaintiff’s non-contiguous neighbors, the defendants.

Dogs only breed when the female is in heat. Females go through a one- to two-week period of heat every six months, emitting a scent hormone that male dogs can smell over a mile away. Jackster caught the scent, wandered away from the defendants’ property, and, well . . .

The plaintiff did not see what happened to Kayda on the night in question. She only knows she let Kayda out one night in May 2018 for a moment of privacy, and Kayda ended up pregnant.

French bulldog puppies go for \$1,500 to \$7,500 each, depending on the condition and coloring of the puppy. However, Frenchies cannot efficiently mate on their own. The breeder typically arranges artificial insemination to produce six to nine puppies per litter, and the puppies are delivered by Cesarean section.

A vet delivered Kayda’s mixed-breed litter. After weaning, the puppies were sent to good homes — quietly and free-of-charge — so as not to damage Kayda’s reputation as a producer of future full-bred French bulldog litters.

Plaintiff filed suit alleging Jackster interrupted an otherwise profitable pure-bred French bulldog litter. At trial, plaintiff claimed \$20,000 in lost profits for the

mixed-breed litter and vet fees.

Torts and Defenses

Defendants’ Liability for Feeding and Watering Jackster

Defendants did not consider themselves Jackster’s owner. Jackster simply wandered onto the defendants’ property, and defendants gave him food and water. Nonetheless, “harboring” a dog can create liability under La. Civ.C. art. 2321. By regularly feeding him over a significant period of time, the trial court ruled defendants can be liable for Jackster’s actions.

Could the Injuries Have Been Prevented by the Defendants?

Strict liability remains in place for dogs, but whether Jackster was an unreasonable risk of harm depends on balancing claims and interest, a weighing of the risk and gravity of harm, and a consideration of individual and societal rights and obligations.

Important here: A year before the sued-upon litter, Jackster and Kayda had another “dalliance.” That time, plaintiff saw the act in progress and took Kayda directly to the vet to get a “Plan B” shot for dogs. (Yes, that exists.)

Although the parties disputed whether plaintiff explicitly told defendants about this prior incident, defendants acknowledged plaintiff asked them to stop Jackster from roaming the neighborhood. The judge ruled against the defendants. It is difficult to stop young love.

Wait, How Do We Know It Was Jackster?

There were no witnesses on the night in question in May 2018, and plaintiff admitted multiple stray dogs wandered on her property. Plaintiff tried to prove Jackster’s paternity with a BioPet Laboratories DNA testing kit. (Yes, that also exists.) She swabbed Kayda, one of the puppies and Jackster, and then mailed the samples for testing. BioPet mailed back a certificate — Jackster is the father. The judge declared the DNA report inadmissible hearsay because the plaintiff did not provide any witnesses for authentication, but did rule the “totality of circumstances” showed Jackster more likely than not the

sire of Kayda’s litter because of a pattern of uninvited behavior.

Comparative Fault / Negligence Per Se

Should a professional dog breeder have comparative fault for failing to protect a prized French bulldog who is only in heat twice a year for one to two weeks at a time? The court found defendants 100% liable because of a per se violation of Louisiana’s leash law. The trial court admitted East Feliciana has a stray animal problem, but Jackster entered onto plaintiff’s property and impregnated Kayda. If the impregnation had happened off of plaintiff’s property, then her ruling may have been different.

Cause-in-Fact

Plaintiff admitted that, after the “Plan B” incident, she bred Kayda in January 2018. She typically waited a year between breedings. Jackster impregnated Kayda in July 2018. Nonetheless, the vet cleared Kayda to breed again in January 2019 — faster than plaintiff’s yearly scheduled breeding. Plaintiff admitted her life got in the way of breeding Kayda in January 2019, and plaintiff began planning to breed Kayda in December 2021.

The trial court was unconvinced Jackster caused the missed litter, but instead found it more attributable to plaintiff’s admission that other things in life took priority. The trial court found defendants liable only for the veterinarian charges for delivering Kayda’s litter with Jackster (a total of \$605.35), plus judicial interest and costs.

Yes, litigation can be a dog-fight (pun intended), but the best part of this case was the professionalism of both opposing counsel and the judge working through this unforgettable set of facts.

Gregory Kent Moroux, Jr. is a partner in the Baton Rouge law firm of Kinchen Walker Bienvenu Bargas Reed & Helm, LLC, and a mediator with Perry Dampf Dispute Solutions. He earned his JD degree in 2007 from Louisiana State University Paul M. Hebert Law Center. He is a member of the Baton Rouge Bar Association. (kmoroux@kwbbirlaw.com; 9456 Jefferson Hwy., Ste. F, Building III, Baton Rouge, LA 70809)



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