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Dec. 2020 / Jan. 2021

Volume 68, Number 4



Louisiana Supreme Court
Chief Justice
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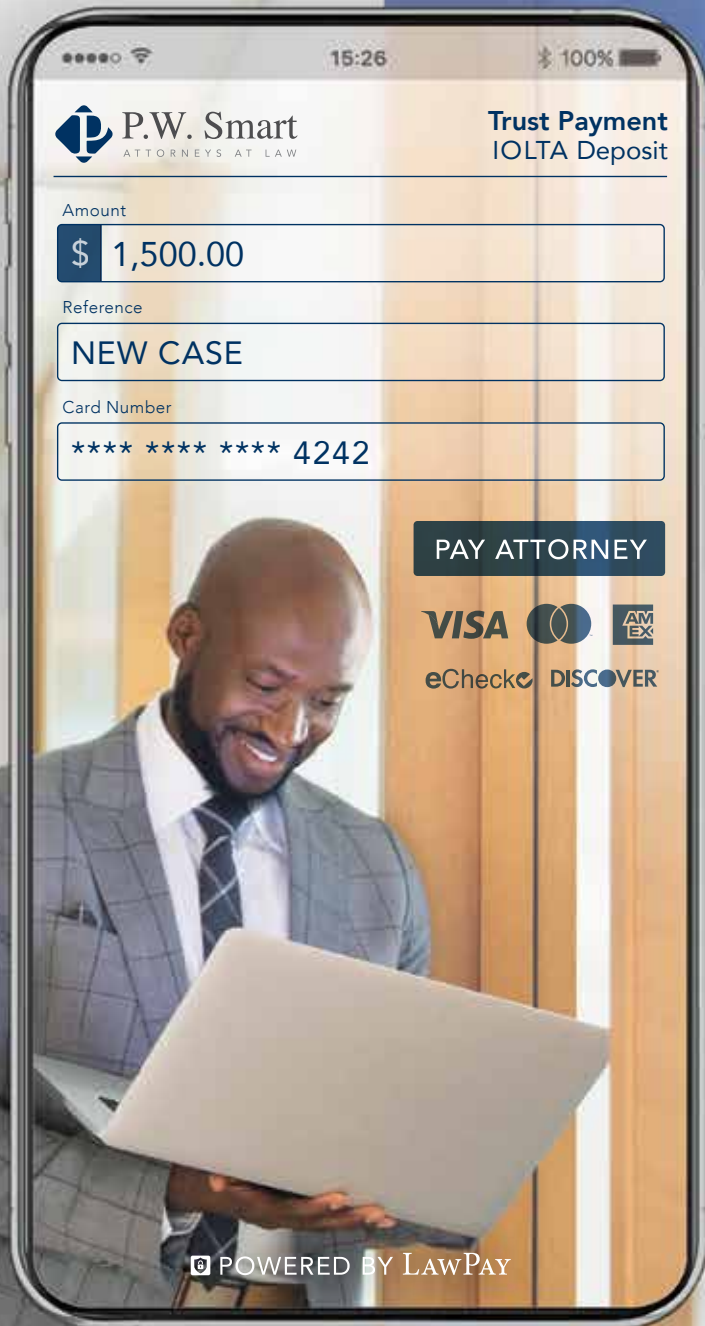
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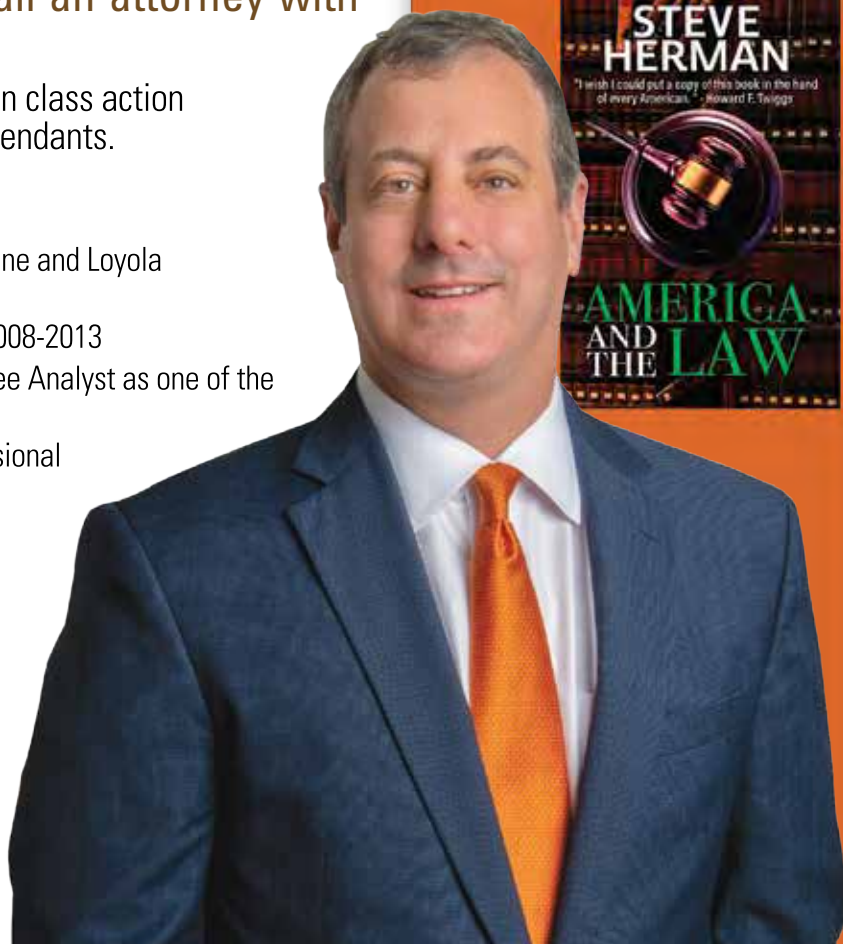
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By Patrick A. Talley, Jr.

In Remembrance of Deceased Members of the LSBA in 2020

As many of you know, our annual Memorial Service — during which we remember our colleagues of the Louisiana Bar who died during the past year, which normally follows the Red Mass in October — unfortunately had to be canceled this year because of COVID-19. Parenthetically, for those of you who have never attended, it is a beautiful and moving service held at the Louisiana Supreme Court with all of the Justices in attendance. However, we don't want to simply let COVID get the better of us and move on without any ceremony and some remembrance of our colleagues who died this past year. So, I am dedicating this Editor's Message in remembrance of them; in this small way, we can honor and pay tribute to the lives of these great men and women of the Louisiana Bar and express our admiration for them.

I'd like to start out by quoting from the eulogy that I delivered at the LSBA Memorial Service in 2015. "Different people have different ways to memorialize and remember those who have preceded us. Some build monuments of stone or statuary; some erect shrines; some keep the shrines in their hearts. In ancient times, the Pharaohs built their own memorials. However, pyramids and tombs, for all their awesome grandeur, are merely impersonal structures. But every human being leaves another memorial of his or her own building. It

is the impact of one's life on those lives that remain and follow. And so, we remember the impact on our lives by our colleagues of the Bar whose journey through life ended this year. We are reminded of what that journey left behind and we honor our colleagues who spent their lives in distinguished legal careers and have served their fellow man as distinguished lawyers and jurists."

It has been said that "the law is but words and paper without the hands and swords of men." And so it is, that but for the hands and swords of men and women like our deceased colleagues who we remember today, the law would truly be meaningless. In remembering them, we are proud that they used their talents and abilities to make the law more than mere words and paper. Our deceased colleagues, in their own individual ways, added honor and dignity to our legal profession and we are proud to have known such distinguished people.

Although these men and women whom we remember have passed on, they leave us with the good they did and their contributions to the legal profession, which remain as their legacy. We hope that, in some way, by showing

our own sense of loss and fond remembrance, we can help further the sense of a life well lived, a time on earth well spent, a heritage of lasting meaning in the noble career of the law.

It has been said that what distinguishes mankind following death is not the construction of monuments nor the composition of epitaphs, but rather the privilege of memory. Memorials can be found in many places and many times, but principally in our hearts. The epitaph of Sir Christopher Wren in St. Paul's Cathedral in London, the cathedral he designed, reads, "*Lector, si monumentum requiris circumspice*," in translation from the Latin, "If you would seek his monument, look around you." That is apropos for us today, as all we need to do is to look around us and we will find many "monuments" to our deceased colleagues in their life-long contributions to our profession.

In closing this Editor's Message, let's all take a moment out of our busy schedules in remembrance of our deceased colleagues in 2020 listed on the next page.

Requiem aeternam dona eis Domine.

"Grant to them, our dear departed friends and colleagues, eternal rest, Lord, and let perpetual light shine upon them."

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August 9, 2019

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April 11, 2020

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March 10, 2020

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June 29, 2019

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February 29, 2020

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July 7, 2019

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November 16, 2019

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Alexandria, LA
March 16, 2020

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Reserve, LA
April 7, 2020

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August 2, 2020

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Monroe, LA
September 12, 2019

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New Orleans, LA
July 16, 2020

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New Orleans, LA
April 9, 2020

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November 14, 2019

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April 11, 2020

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June 29, 2020

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2020: A Vision for the Future



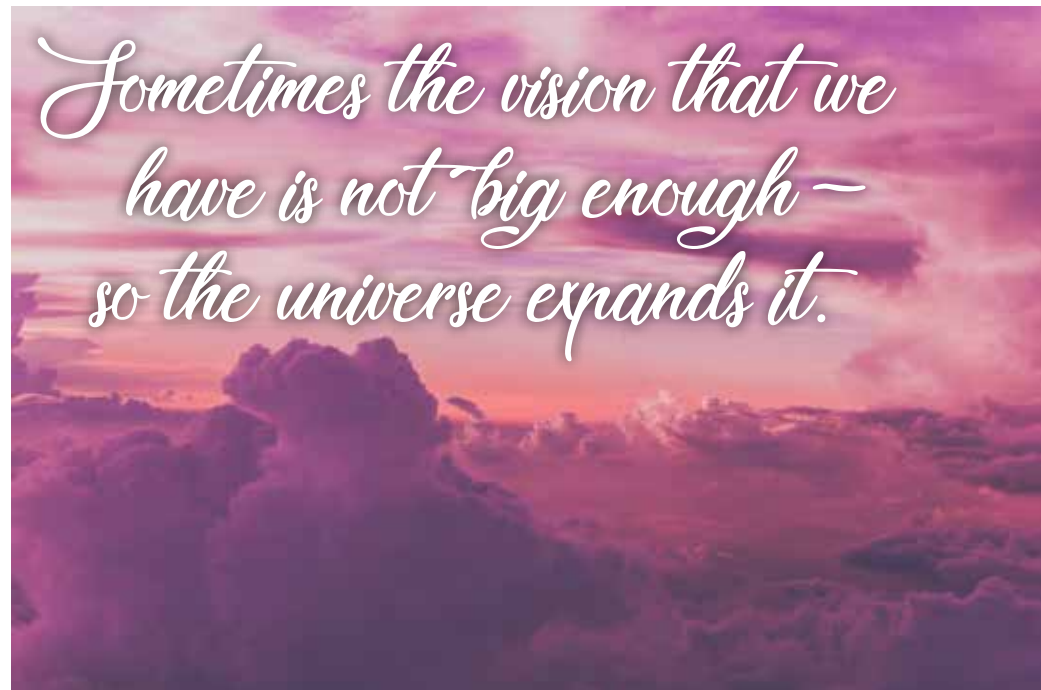
By Alainna R. Mire

Yes, you read that headline correctly. The headline is actually my theme for the 2020 Annual Meeting. Needless to say, the Annual Meeting never happened. It was cancelled, along with many other events planned for the year, due to the COVID-19 pandemic. As disappointing as cancellations were, the well-being of all of our members comes before any one person's individual needs and wants.

Do I think about the Annual Meeting programming that was being scheduled, the swearing in ceremony and the genuine camaraderie that could have been? Yes. I would be lying if I said I did not, especially since this appears to be one of the few times, or maybe the only time, the Annual Meeting was ever cancelled.

Like many of you, I have struggled with my feelings during this time. For example, am I being selfish by acknowledging my disappointment in not being able to experience events that I have excitedly had on my calendar for years? Is it wrong to not want to close down certain aspects of the economy and worry about individuals losing their jobs or homes? Well, I've decided that all of our feelings are valid, no matter what other people may think of them.

But, there were some positive aspects of the year 2020. This year commemorated the 100th anniversary of the passage of the 19th Amendment. I have been fortunate enough to assist in two CLEs commemorating this amazing time in American history. At first, I wondered if this milestone would receive the recognition it deserved with everything going on in the world today, and I soon realized that it would. With the election of Joe Biden as president-elect of



the United States, Kamala Harris will be the first female vice president — and not only the first female, but the first female of color representing African-Americans and Asian-Americans.

I thought that the vision I had for 2020 wouldn't be manifested, but I was wrong. Sometimes the vision that we have is not big enough so the universe expands it.

This year, I was able to join Judy Perry Martinez (American Bar Association president, 2019-2020), Louisiana Supreme Court Chief Justice Bernette Joshua Johnson (who is retiring at the end of December) and, now, Vice President-Elect Kamala Harris as a female leader during a time of uncertainty in all of our lives. I am honored to serve alongside such amazing women.

To quote Chief Judge Nannette Jolivet Brown during "The Centennial of the 19th Amendment" CLE: "Why be afraid of a

culture of women?" I'm not. Are you?

Also, on behalf of the Louisiana State Bar Association, I would like to offer my best wishes and highest regards to Chief Justice Johnson on her retirement. Her contributions to the legal profession spanned decades and her influence on the profession will be felt for many decades to come. (*Read the Chief Justice's interview starting on page 242 of this issue.*)

Finally, in a normal year, I would end this message with some type of holiday greeting. But as many of us are still dealing with COVID, hurricane cleanup and any number of other disruptions this year, I will leave you with this instead. Stay safe and healthy, persevere in your daily lives and law practices as best as you can, and believe that our resilience will get us through all these crises. The LSBA will always be here to help you during these challenges.

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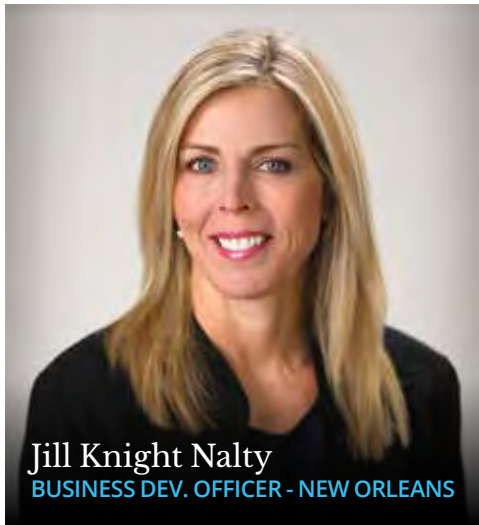
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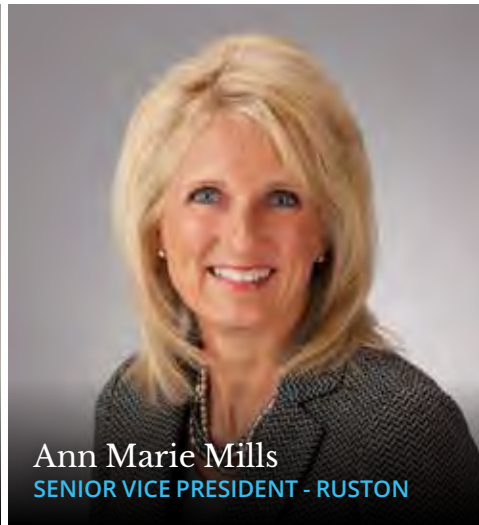
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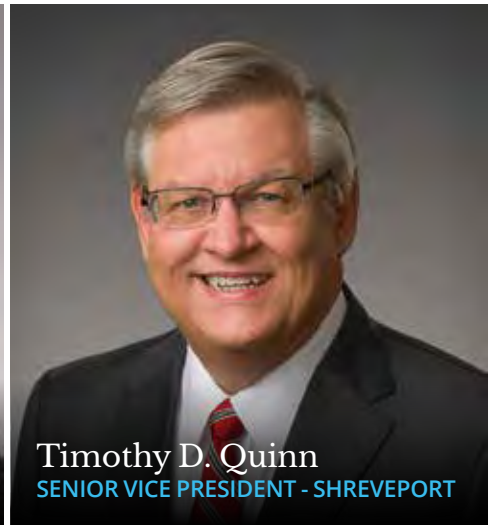
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The “Farewell” Interview:

On the Retirement of Louisiana Supreme Court Chief Justice Bernette Joshua Johnson

Interviewed by Patrick A. Talley, Jr. and Kim M. Boyle

Chief Justice Bernette Joshua Johnson is the Louisiana Supreme Court’s 25th Chief Justice, its second female Chief Justice and its first African-American Chief Justice. Her professional career has included a series of “firsts.” She was one of the first African-American women to attend and earn a JD degree in 1969 from Louisiana State University Paul M. Hebert Law Center. Her judicial career began in 1984 when she was the first woman elected to serve as a judge on the Orleans Parish Civil District Court. She was then elected to serve on the Louisiana Supreme Court in 1994 and was re-elected without opposition in 2000 and 2010. As the senior justice on the Court, she was sworn in as Chief Justice on Feb. 1, 2013. Now, she is planning to retire from the Supreme Court at the end of December 2020.

Talley: Chief Justice Johnson, you have served the Louisiana judiciary with distinction and honor for almost four decades. In doing so, you have exemplified judicial excellence and integrity at the highest level. You have been prominently recognized on numerous levels for your accomplishments and contributions to the Louisiana legal profession. Now, after 36 years on the bench, including 26 years on the Louisiana Supreme Court and currently the Court’s Chief Justice, you are retir-

ing in December (2020). How do you feel about that?

Chief Justice Johnson: I think there is a time for everything and everything has a season. I think about it in that light. I was born in 1943, which means I’m 77 years old. It is time for me to move on and do some other things and rely on younger lawyers and others to take up the gauntlet and continue the work that needs to be done.

Talley: You have had many interviews

and articles written about you during your tenure as Chief Justice, including several in this *Journal* over the years. Kim (Boyle) and I are honored to be able to co-author this interview. We call it a “farewell interview,” but I know you’re not going anywhere.

Chief Justice Johnson: I will just try to ease back into private life. That’s the goal right now. Maybe just simple things like going through the grocery store without being recognized. (Laughs).

(Left) Louisiana Supreme Court Chief Justice Bernette Joshua Johnson’s official portrait. Photo courtesy of Louisiana Supreme Court.

Talley: Let me ask a few questions about early in your career before you became a judge. I grew up in the 1960s and I have a lot of memories of my childhood days. One of the vivid memories I have is of the gas stations where we would stop on our family trips and they'd have separate restrooms labeled "men," "women" and "colored." I was very young then, but I remember thinking how odd that was. I'm sure you recall those gas stations, too. In fact, you've had to face that and overcome many other vestiges of discrimination, not just racial, but gender, your entire life, starting early in your professional career. You fought against discrimination working as a community organizer for the NAACP. You also worked at the Department of Justice's Civil Rights Division. You spent much of your early career working to ensure that the Civil Rights Act and the Voting Rights Act were recognized and enforced. Tell us what it was like working as an advocate for social justice and civil rights in the 1960s and how did this influence your judicial philosophy in the years to come?

Chief Justice Johnson: I remember those "colored" signs as well. I'm talking about my background and growing up in a segregated South. After I graduated from Spelman College (in Atlanta, GA), I had a chance to work for the Legal Defense Fund. One of my assignments was to work in those areas where the Legal Defense Fund had secured a judgment against the school district to desegregate schools. I grew up in the Lower Ninth Ward. I'd get on the St. Claude bus and pass Francis T. Nicholls High School every day. I thought that after *Brown v. Board of Education* was decided, I would have an opportunity to attend that high school. I was in middle school when *Brown* was decided. But, because we allowed the states to put the judgment in place over a period of years, I had already graduated from Walter L. Cohen High School by the time the schools were desegregated in New Orleans.

But I am familiar with those colored signs. They were everywhere. When we talk about my work at the Civil Rights Division of the Department of Justice, we were dealing with public accommodations, hotels and restaurants, and all of them were public places that were open to just one race. It was where African-Americans were

segregated by race. I'm talking about the Commerce Clause because, if you read the cases that struck down segregation and public accommodation (restrictions), they did it on the basis of the Commerce Clause. The cases say that segregation was a burden on interstate commerce because African-Americans could not travel freely. We all knew that growing up. If you left New Orleans for Chicago, you needed to land somewhere by evening where you could spend the night in a hotel or motel that would accept black folks. So, if you left New Orleans, you needed to get to Memphis by evening. In Memphis, you spent the night there in a colored hotel. Then you drove the rest of the way to Chicago. We have a period of time throughout (the history of) segregation where African-Americans were limited in every area, including travel and education. You read stories all the time about lack of access to health care, not just education, but lack of access to everything. Other Americans had easy access. I can tell you from living through that era that it was exciting work to be in your 20s and trying to bring down a system that had been in place and ingrained (for many years).

Look at this generation of young people and how they are determined to bring down this fascination with assault weapons in America...the parents of students from Sandy Hook Elementary School (Newtown, Conn.) and the young people who witnessed their classmates slaughtered at Marjory Stoneman Douglas High School (Parkland, Fla). When I saw them, at 15 and 16 (years old), standing up to folks, saying, "We are going to get rid of assault weapons in America," I knew they are the ones who have the energy to do something and to make America better.



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

Talley: How do you think that impacted your judicial philosophy?

Chief Justice Johnson: It formed my life. It says that if you work hard and you are energized, you can change the system for the better and we can make America better and get rid of racism. Hopefully, that's what this young generation is trying to do, end racism. We finally need to get past all of the ghosts that keep us trapped into the system. America has to live up to its creed. We must have justice for all. And that drives what I've been doing in recent years with regards to incarceration rates.

Boyle: Obviously, your career is foremost a career of firsts. You serve as a mentor for so many of us coming up as lawyers in Louisiana and around the country. You were the first African-American and the first female, or a combination of the two, in so many different venues and so many different roles. You were one of the first African-American females to attend and graduate from Louisiana State University Law School in Baton Rouge. You were the first female to sit on Orleans Parish Civil District Court. This was in a period when



Louisiana Supreme Court Chief Justice Bernette Joshua Johnson with Ruby Bridges Hall, a civil rights activist and the first African-American child to desegregate the William Frantz Elementary School in New Orleans. Bridges Hall was a keynote speaker at the 2014 Annual Meeting in Destin, Florida, and Chief Justice Bernette Joshua Johnson introduced her. *Photo by Matthew Hinton Photography.*

not a lot of women were practicing law. And, of course, you were the first African-American female to sit on the Louisiana Supreme Court, and the list goes on and on. So many of us have tried to follow you and model our careers after the numerous things you've done. Going back to the previous question, growing up during this period in the 1950s and 1960s, graduating from high school, attending Spelman (one of the top HBCU, historically black colleges and universities) in the country at that time and still an iconic university, then deciding to come back to Louisiana. People would say, "Wow, how could she look at this situation and say, I'm going to be a lawyer. I'm going to be a judge. I'm going to be successful." How did you make that happen? What do you attribute your success to with all the barriers you had to knock down and all the challenges you had to face, and continue to face even to this day?

Chief Justice Johnson: I will start with my parents, Frank Joshua and Olivia Joshua, parents who always encouraged excellence. My Dad loved to read and he would come home in the evening and read his *Time Magazine*. We'd also watch the evening news. That's when there were a

few channels and it went to the national anthem at 11 o'clock. In another interview I did, while talking about my parents, I said I grew up in a house where my parents didn't discourage me and tell me what I couldn't do. They realized I had promise. And I would say all sorts of audacious things. I think I told my Dad one day that I was going to Columbia University. But, I didn't know at the time that Columbia University didn't admit women. The women went to Barnard College. So, it was really an obstacle of gender rather than race. But my Dad never said, "No, you can't go to Columbia." In addition to excellent parents who encouraged me, I'll say I could get out of doing anything if I said I had to study. I wouldn't do the dishes because "Bernette has to study." I also had excellent teachers. When you talk about the segregated South, I just have to always give credit to teachers who inspired us and poured everything they could into us, teachers who prepared us for whatever was coming. I went to Cohen High School. I remember all my teachers. These are the people who inspired us and, even during segregation, did not limit us. I wound up at Spelman College because a team of Spelman recruiters came to our

high school and showed the movie about Spelman College. I went home and told my folks, "I'm going to Spelman College." Spelman gave me a scholarship, so I headed to Atlanta. I found a little note (recently) that room and board were \$50 a month. Spelman College opened up a whole new world for me because we had a faculty that was diverse.

I landed in Atlanta in the midst of the civil rights struggle. I was there from 1960 to 1964. For entertainment, we would go to rallies at churches and go listen to speeches. On Saturdays, we'd picket at Rich's Department Store. To their credit, there were many folks I know who dropped out of Spelman and became involved in the struggle full time. I didn't do that. Instead, I got my degree and had the great opportunity to work for the Legal Defense Fund. I worked for the NAACP Legal Defense Fund the summer after graduating from Spelman. I didn't come back to New Orleans. I left Atlanta and flew to New York to get oriented for the new job. I had never met lawyers until I worked for the Legal Defense Fund. All of my role models until then had been school teachers. I did a gap year where I lived in New York City and worked as a social worker with foster kids. I took the LSAT and was admitted to Boston College and the University of North Carolina and other schools.

But I decided to come back to Louisiana and attend LSU Law School, specifically because LSU had not had a black student enrolled in 10 years. (Ernest N.) "Dutch" Morial and (Judge) Robert Collins were the first two black students at LSU. They graduated and, then for 10 years, there were no students of color. Then Gammie B. Gray and I entered LSU Law School in the fall of 1965. You know, when I was a trial judge, you'd always try to remember something and connected it to a hurricane. Was it before Hurricane Betsy or after? Was it before Hurricane Katrina? I was in a shelter in September 1965 when Hurricane Betsy came through. I can remember being in that shelter with others, with the waters coming up on the bottom level, and we all went to the second floor. Our rescuers got us out in boats. Then, my brother drove me to Baton Rouge to start law school at LSU.

Boyle: I would like to follow up on your time at LSU because I have always been personally interested and intrigued about this period. You have that background of working with the Legal Defense Fund and being in Atlanta at the height of the civil rights movement. Dr. King and his team had that base in Atlanta and then you spent time in New York. So what was the pull towards LSU? We have seen photos from LSU where you obviously stand out from your classmates, not just from the gender standpoint but from the racial standpoint. We heard some of those horror stories about what you had to deal with and what it felt like to be in a segregated legal environment back then. Did you have any thoughts about transferring after the first year and going back to the East Coast? What kept you there for three years where you just plowed through?

Chief Justice Johnson: In terms of enrolling, our work with the Legal Defense Fund involved school desegregation cases in Louisiana, Montgomery, Alabama, South Carolina, Tennessee, and all over the South. What folks don't understand is, once you get a judgment like *Brown v. Board of Education*, then you have to convince some families to take advantage of it. My job was called disseminating information, going to these places, and meeting with usually the NAACP president where we had filed a lawsuit. Then you have to convince parents that it's worthwhile to take advantage of that opportunity. Most school districts desegregated from first grade, except for Little Rock, Arkansas, where they desegregated the high school first. You've got to tell parents that it might be dangerous, your child might be harassed or might be at risk, but it's worth it to send your child to this newly desegregated school. I spent the whole summer doing that. After you have spent time convincing parents to send 5- and 6-year olds into what you know will be a hostile environment, I knew I needed to go to LSU. I couldn't say, "Look, send somebody else to do it." So I enrolled in LSU and had no idea whether there would be any other black folks when I got there. Fortunately, Gammie Gray had the same idea. She was from Baton Rouge and had attended Indiana University. She came back to Louisiana and enrolled at LSU. So, we were classmates. When I walked



Chief Justice Bernette Joshua Johnson is awarded the 2018 LSU Distinguished Alumnus Award by LSU Dean Thomas Galligan. Photo provided by LSU Paul M. Hebert Law Center.

into that classroom, I wasn't expecting her. And I'm sure she wasn't expecting me. We became study partners and friends over the years. So, I had a support system. You know, folks ask me all the time, "Were you harassed?" I'm in Baton Rouge at a time when David Duke is in undergrad school and they were still showing "The Birth of a Nation" in the Student Union. But I'm in a law school environment where I wasn't really openly harassed. I would suggest I was more ignored. But in every situation, there will always be folks who will support you and provide what you need. Margaret O'Meara (Correro) was a class ahead of me and made sure I had everything I needed, all the notes I needed. My classmates had the advantage of the fraternities that provided them with the materials and the environment. Margaret gave me everything I needed. Also, I had teachers like Benjamin M. Shieber, who was a senior faculty member at the Law Center. So, I had what I needed to get through law school. At that point, I think Southern University might have had around 10 or 15 students, and I'd go down to Southern University Law Center and use the library there and interact and study with their students. Southern University Law Center is now the most diverse law school in the state. I think they probably had 300 or 400 students at one time. To go from 10 or 15 students to over 300 or 400 students, you've got to give Chancellor Agnihotri the credit for building that Law Center.

Talley: Chief, I've seen that LSU photograph of your law school class in 1968. It's just amazing to me every time I see it. I wonder how someone could have the courage to be in that environment when you're surrounded by what appears to be 40 or 50 white men. It had to be an intimidating situation for you. But now, I understand you had to practice what you preach, right?

Chief Justice Johnson: Yes. You know, you can't be intimidated. I mean, you may look different, but as long as you have confidence that you belong there and you can do the job, the rest falls into place. Gammie and I were the only two black students at LSU Law School. Now, I'm the only female and the only African-American on the Supreme Court. You just have to walk into the situation and be assured that you are prepared. You are intelligent. You can do the work. I knew I needed to get this degree and then I'd go off and do what I needed to do.

Talley: Your LSU experience was probably good training for what was to come because, in 1984, you were elected as the first woman to the Orleans Parish Civil District Court. That was a male-dominated bench at that time. You served as a district judge for 10 years. Tell us about the challenges you faced at that time. Were they different than your law school challenges or similar? What stands out about your years as a district judge?

Chief Justice Johnson: I always start the conversation by saying I loved being a district judge. I loved being a trial judge.



The Louisiana State University Law School Class of 1968 photo was provided by classmate Thomas R. Blum, standing behind Bernette Joshua Johnson, second row, second from right. Inset are Bernette Joshua Johnson and Gammie Berthella Gray, the first African-American female law students at LSU Law School, taken from the 1968 LSU Law School Class photo. Photo provided by Thomas R. Blum.

In fact, I loved being a trial lawyer. There are some folks who don't like to litigate. They don't want to go to court. I practiced in federal courts and state courts, and I enjoyed the process, the interaction, the winning. I really enjoyed the winning.

Talley: I can empathize with that. We like that, too.

Chief Justice Johnson: There are a lot of lawyers who just want to do transactions. Some want to just write briefs. Others want to do contracts, but they don't want to go to the courthouse. I enjoyed being at the courthouse. When I got to Civil District Court, my colleagues had to get used to me and I had to tell them, "Look, our conference room is not a men's locker room." But in terms of helping me, I can't say enough times how much I appreciated my colleagues. Henry Roberts was Chief Judge when I got there. You have to talk with young judges about judging. You have to say things like he told me, "Don't worry about making a decision. Your job is to be an umpire and call the strikes." You can't make everybody happy. Somebody is going to like what you did and someone's going to be unhappy. So, that's what the Fourth Circuit is for. Let them take a writ. I learned that early on. We have judges who have too much trepidation in making a decision. Study the case. Look at the jurisprudence. Review the testimony and make the call. We had to put a rule in place

just to jump start judges who wanted to delay it. You can't delay making a decision if you're a judge. I learned that early from Henry Roberts. Make a decision. Don't worry about whether it's right or wrong. If you've done your best with it, make the call. And the appellate court will tell you whether you are right or wrong, and then lawyers take it to the Supreme Court.

I had a couple of cases where the Supreme Court agreed with me after the Fourth Circuit reversed me. But usually I told the staff, if someone files a writ, just put it in the drawer. If I get reversed, bring it to my attention and I'll read it and see what the court said. Lawyers tend to think of judges as taking everything personally. I tell a story about being at an event and a lawyer came up to me to apologize for taking a writ. I said, "Oh, I don't even remember what case you're talking about." I tried to pull my docket and set cases, pack them deep, maybe five-case sets of trials so that, if some of them are continued, we can be sure to move things along. Nothing settles a case like making the lawyers get ready for trial. I enjoyed being a trial judge. But you were asking me about other challenges?

Talley: I was asking about challenges you faced at that time being with an all-male bench. Was it different than your experiences at LSU? And how did it impact

your judicial career?

Chief Justice

Johnson: It was collegial. The judges at Civil District Court were great to me. They gave me advice and assistance. I tell folks the story about my first jury trial. After handling the conference on the jury charges, I was sitting at my desk struggling with it. Then, there's a knock on my chambers and it was Tom Early (Judge Thomas A. Early, Jr.) coming to help me with my jury charges. You always have what you need. There are folks who are collegial and want to assist and help you succeed.

Boyle: To change topics, we want to talk briefly about the Court's relationship with the Louisiana State Bar Association (LSBA). You swore me in as president of the LSBA and that's something I've always treasured. Pat is currently the LSBA secretary and editor of the *Journal*. From the lawyer's standpoint, we know how important the relationship is between the LSBA, particularly its officers and Board of Governors, and the Louisiana Supreme Court and, to a large degree, with the Chief Justice of the Louisiana Supreme Court. Tell us about the relationship between the Court and the LSBA while you have been Chief Justice and why that is important to you.



Chief Justice Johnson: It's valuable. It's important. It's something I treasure, the good relationship with lawyers. I know that all states don't have that experience. I talked with past LSBA President Barry Grodsky to understand the disparity. He talks about the good relationship in Louisiana. With other bar leaders in other states, that's foreign to them. I'm hoping in future years, we will still have that collaboration with each other. I think the Joint Summer School for judges and lawyers is a big part of the relationship. Judges are encouraged not to set trial so lawyers are able to participate in the summer program. The Judicial College happens at the same time. The judges and lawyers collaborate on planning that meeting, and it encourages all to take advantage of the event. And you can't worry about the critics. I know there have been a lot of critics, particularly a lot of criticism towards New Orleans judges who go to the summer program in Florida. What folks don't understand is the value of that interaction between judges and attorneys, outside of the courtroom, even if it's a reception or a lunch. I get more work done in Destin than I do anywhere else in a week because I can put meetings back to back. In 15-minute segments, I can meet with everybody. Also, you don't have those emails back and forth when something may be misunderstood. In a face-to-face 15-minute meeting, you can get more done than a year of emails back and forth. I know some of the criticism about Florida is: Why aren't we doing the events in Louisiana? Well, because experience tells us, in terms of hotels, it was a problem trying to find some way to accommodate the entire bench and bar. I can recall, once, we had the Annual Meeting in New Orleans. Local judges signed up, but then they went to work. You have to disconnect folks from the work. I try to disconnect myself by just leaving the work phone somewhere else so you are not answering emails and tied into what's going on. I think it's important. I think it's valuable. And I'm hoping that the bench and bar summer program will continue into the future.

Boyle: Chief, I would just like to say, as a former president of the LSBA — and I know Pat echoes me as a current officer — the LSBA, its president and its officers have always appreciated the manner in



Three Louisiana Supreme Court Justices, from left, Justice Jeannette Theriot Knoll, now retired; Chief Justice Catherine D. Kimball, now retired; and Chief Justice Bernette Joshua Johnson. Photo provided by Louisiana Supreme Court.

which you have remained involved with the LSBA. Whenever we call, whenever we ask, whenever we need you to swear in someone or give a speech, you are always there unless you are involved with a pressing concern. That is definitely one of the things that will be missed when you end your tenure as Chief because you've always been there for all of us. Thank you.

Chief Justice Johnson: Well, it's been reciprocal because, you know, as judges, we can't defend ourselves. There's no way the judges can go stand on Tulane Avenue (in New Orleans) on the front steps of the courthouse and explain why they ruled in a certain way. Judges cannot defend themselves. So, we have to rely on lawyers to explain the process and why things happen the way they do.

Talley: Kim said it much better than I could have, but I also appreciate your making it a priority to have a good relationship with the LSBA. For me personally as a lawyer, I've gotten to know many judges, including yourself, during those summer events. It means there's more to practicing law than just practicing law. Speaking of the Bar Association, we have recently admitted a new group of members to the LSBA this year and there has been some discussion about how they came into the Bar. Tell us about the Court's role in the dissemination of the July 22, 2020, Order, which waived the requirement for 2020 law graduates that a Bar applicant must take and pass the Louisiana bar exam,

a/k/a the diploma privilege. What was the basis for the majority's decision and what do you say to those who disagree with the Order?

Chief Justice Johnson: Yes, the diploma privilege waived the bar exam for this class of 400 or 500 young people. It's not something they asked for. When we begin this discussion, we have to begin with the coronavirus, COVID-19, and all of the limitations of people being in a closed space. We have had just about every disruption possible. In addition to the virus, we had a live exam scheduled and then we had a hurricane coming through and we were worried about the connectivity of the Internet and whether the graduates have what they needed to finish the exam. So I don't think these young people should be labeled in any fashion or that anyone should expect that they were less prepared. They had tremendous obstacles to overcome this year. As they enter the profession, I'm hoping they'll fold in with other lawyers and be accepted. We did the best we could. We tried as long as we could to plan for a live exam. It wasn't working and there was nothing else to do. We can't keep the graduates in limbo forever. So going back to Barry Grodsky, he put together the mentoring program, Transition Into Practice (TIP), some years ago. We put it on the shelf because we didn't need to put it fully into place, but it was wonderful to dust it off and implement it with regard to this class. I have not had a chance to check recently, but I'm hoping they have been

able to get every young lawyer connected with a mentor. I'm always saying: When you get to the end of the list and there's a few folks needing mentors, just get back with me and I'll mentor those young lawyers.

Talley: You've had a long and wonderful career. What advice would you give to these young lawyers as they are starting out on their journey?

Chief Justice Johnson: Don't worry about making a decision. Don't worry about how taking a position will impact your future career. Don't be afraid to make mistakes. If you see a need, step up. If you see an issue that you think requires your attention, be involved. And I think that goes back to the civil rights struggle. Just have the courage. We see it with young people with Black Lives Matter. We see young people rally about gun control and many issues that impact this nation. We want to get to a point where there is justice for all in America. I still believe in that. I think we can do it. I think we can get there.

Talley: We're going to change tracks and ask a few questions about your judicial philosophy. In other interviews, you have said that you believe the greatest natural resource and most valuable asset are children. Why do you believe this? And how has this impacted your judicial philosophy over these many years?

Chief Justice Johnson: That's why I've spent so much time trying to mentor young lawyers. I have interacted with law clerks and other young lawyers over the years, always trying to encourage them and motivate them, because that's what moves us forward. Young people understand that we have the same system of morality. We all believe in the Constitution and we all believe in fundamental fairness. That's what we all want. We want to try to implement that. We want that for America. We want to get past the right-wing pieces, the white nationalism and all the rest that is damaging the country right now. And the original Americans, the Native Americans; It has distressed me greatly during the coronavirus to learn there are so many of them who are on reservations without water, medical attention and all the things we need. They have to advocate for the pockets of America where we've been ne-

glectful. There's just so much work to be done, and you can't get discouraged about the scope of the work. We just have to motivate and encourage young people to be energized and to keep working.

Boyle: As a lawyer, as a judge on the Civil District Court, and certainly in your role on the Supreme Court, in particular as Chief Justice, you have always talked about respecting the Rule of Law and that's how you've lived your career. But you also talk about the fact that "laws are not the same as justice," which, to me, is a very, very strong statement. I think I understand what you mean. But there are some in our profession who purport not to understand what you mean by that. How do we respect the Rule of Law as we understand and define it, but, at the same time, ensure that justice is actually being accomplished?

Chief Justice Johnson: I've had a long history with justice reinvestment and that has taken up a lot of my time over the last five years or so. I tell this story. I went to a meeting of the Conference of Chief Justices in San Antonio, Texas. The speaker at that luncheon was William C. Hubbard, then-president of the American Bar Association (2014-15). He talked about how South Carolina was able to get its prison population down. Now, he said, when they started out about 10 years ago, South Carolina was number 11. Since they have put some things into place, South Carolina is now number 26. I said to him, "In Louisiana, we'd be dancing in the streets if we were number 11." And number one is the worst and not the best. The United States imprisons more people than anybody else in the world. So, our country is the worst in the world, and, in the United States, Louisiana is the worst in the nation. That's nothing to be proud of. Everyone was proud to see LSU number one in collegiate football. Now, are we proud of the fact that we lock up more people than just about anyone else in the world? I am always trying to get an answer to that. We are going through an election cycle now where judges are campaigning for election and I do support the election of judges. But there are still judges who campaign and talk about "I'm going to be tough on crime, lock 'em up and throw away the key." William Hubbard and the folks in South Carolina, their point is: Is that smart? Are there more crimi-

nals in Louisiana than anywhere else in the world? Did they all migrate here from other places? Alabama is number three. Mississippi is number five. So, maybe all the worst people came here? We are spending enormous amounts of money to lock up people and it has to do with how we use habitual offender laws. I say all the time, charging a defendant as a habitual offender is discretionary. A district attorney is not required to use the habitual offender law in every case, and we certainly should not be using it for nonviolent crimes and property crimes. I mean, in a time of coronavirus, do you really want to prosecute somebody who is stealing bread to go home and feed their kids? Do you really want to? No, you don't. When I got to the Supreme Court, one case involved a defendant who stole a pair of \$5 tennis shoes from Family Dollar. Do we really want to spend a million dollars locking up somebody who stole a \$5 pair of tennis shoes? I'm trying to get the Chambers of Commerce and business people to understand this. What we do in Louisiana doesn't make good financial sense. At one time, our budget for the Department of Corrections was something like \$700 million. But do you really want to spend \$700 million to lock somebody up where a lot of them just stole cheap tennis shoes, hedge clippers or bread? I mean, good grief! At some point, even folks who want to be tough on crime need to be smart. Now I've never shied away from saying that we need to lock up the sociopaths, child molesters, armed robbers, axe murderers and all the rest. We must operate a prison system for folks who cannot be rehabilitated. But in Louisiana, we are not being smart. Maybe in future years, I'll be involved with some business people who finally understand that we could save a whole lot of that \$700 million budget if we're not building prisons and spending it to incarcerate low-level offenders, not violent crimes, but just property crimes, and so forth.

Talley: From your perspective as the 25th Chief Justice of the Louisiana Supreme Court, how has the judiciary changed over the years?

Chief Justice Johnson: In terms of diversity, yes, for sure. I just went through a book titled "The Biographies of Louisiana Judges." At that point in 1985, I think there

might've been about eight black judges, six women, all total...in the whole state. If you look at where we've come from 1985, when I joined the bench to where we are now, we have diversity and we have women at every level. We have women as trial judges and appellate-level judges. We have African-Americans as trial judges and on the courts of appeal. I think, in that regard, we're doing better because now the folks who are bringing their cases to the courts are seeing people in the judiciary who look like them.

Boyle: As you are aware, your letter of June 8, 2020, to colleagues in the judicial, executive and legislative branches of Louisiana government (asking them to consider ways in which they can improve the justice system) received a tremendous amount of national publicity. I've talked about the letter with my friends in other parts of the country who are involved in civil rights and criminal justice issues. The letter was positively received around the country. One question I had, and other members of the Bar had, it seems like it was a full circle career-wise for you. You began your career doing civil rights work and fighting against these injustices. And as you get to the close of your career, you write this phenomenal letter. Can you tell us, Chief, what were you intending to accomplish with the letter? (The letter is accessible on the Louisiana Supreme Court's website at: www.lasc.org.)

Chief Justice Johnson: To get to the point of having the courage to say something when it's necessary. North Carolina Supreme Court Chief Justice Cheri Beasley did a video where she lamented the death of George Floyd and expressed her concerns for twin sons. You have to have the courage to speak out. If you've got black sons and brothers, you have to speak out if you have a voice. You're saying, "Look, an African-American man should not be at risk when they are walking around doing the same things other folks do." What if George Floyd had been white? Would there be someone standing on his neck? It was on every TV station; every time I turned on the television, they were showing the whole film again and again, where this police officer is kneeling on George Floyd's neck for eight minutes and he is saying that he can't breathe. He



Chief Justice Bernette Joshua Johnson hosts the 2014 Access to Justice Pro Bono Awards ceremony at the Louisiana Supreme Court. Photo by Matthew Hinton Photography.

keeps his knee on Floyd's neck until he's dead. And I just got to the point where I couldn't watch them kill George Floyd another time. When I tell young people that they must have courage to speak up, I mean it. I can't worry about who may be displeased or upset or angry because I wrote the letter. I'm just speaking for myself. I'm saying that, as Chief Justice of the Louisiana Supreme Court, it disturbs me to be part of a system where we don't acknowledge the fact that there are disparities and there's systemic racism. And that's how I got into the piece. I've observed for several years that we incarcerate more black men for little things. Let's just start with the minor drug offenses. We did oral arguments at Loyola and Tulane law schools, and you talk about marijuana use and everybody kind of giggles nervously. It's because folks use marijuana on college campuses. And drug use in black and white communities is at about the same rate, but the only people who are locked up are African-Americans. And we just

kind of go along. Police officers do drive-throughs of what they call "high-crime areas". They see three young black males standing around talking to each other or sitting on a stoop and they stop and shake them down to see if they have marijuana on them. The letter really comes back to my foundation. If we really believe in the Constitution, then we really believe in the Fourth Amendment. If African-Americans don't have the same constitutional protections, then you need to tell me. After 50 years as a lawyer, I need to come to grips with this. I've gone through the time when "colored" was on the restrooms and we took them down. But if black men are not protected on the streets of America by the Fourth Amendment, you need to tell me.

Boyle: To follow up, do you consider the June 8 letter to be your closing statement to the Louisiana judicial system as you end your term as a jurist and as Chief Justice of the Louisiana Supreme Court?

Chief Justice Johnson: I like the letter as well, and I stand by it. I tell people all the time, that's how I try to live my life. I wrote it and I'm standing by it. We plan to do a couple of other pieces that may well be on public television that talk about justice reinvestment and incarceration and what we need to do moving forward.

Boyle: That sounds great, Chief. To switch gears a bit, we've spent time talking about you as a jurist, talking about what you accomplished as a lawyer, as well as a jurist breaking so many barriers. You talked a little bit at the beginning about growing up in segregated New Orleans and going to segregated schools. Can you tell us about Bernette Joshua Johnson? So many of us have found a model for our careers in you. But I think a lot of lawyers in the state would like to know a little bit about you as a person, in addition to everything you've accomplished.

Chief Justice Johnson: Remembering back to when I was a teenager, everybody thought I was pretty boring. All I would do is study. I can remember back in middle school, when the teacher would need to step out of the room, they'd assign one person to report if the kids were misbehaving and I was often the one the teacher chose. Because I sure didn't mind telling the teacher who misbehaved. I grew up in a family of Baptist preachers and my faith is part of who I am. My paternal grandfather was superintendent of the Sunday school. I grew up with a lot of cousins who were Baptist preachers. So, religion and faith and what Christianity teaches us is part of who I am. Don't steal. Don't lie. Always tell the truth. You've got to have a moral compass. And so, in these trying times, some kids have got to have something to feel grounded. When I first got to the court (I'll get back to family shortly), it always amazed me that some lawyers would study hard, get law degrees and, when the ink is barely dry on their certificates, we've got to disbar them because they steal the client's money. I finally realized that some folks grew up in families where "don't steal" wasn't taught. In CLE classes and ethics and professionalism courses, we can't teach everything. You've got to come to the law with a moral compass. If you did not grow up in a family where your parents told you that you should not steal,

then how can we teach you about commingling? We can't teach it at 25. But that's the kind of family I grew up in. I grew up with brothers. I don't have a sister. So that's another thing that comes from a framework of growing up with brothers, which means that I have a different perspective. My sister-in-law grew up with sisters and she talks to her sisters every day on the phone about everything. Her husband is my brother. If I called Sigmond every day, he'd say, "What's wrong? What do you need?" I don't call my brothers to chat every day. I have a son, David, and a daughter, Rachael. My son lives in New Orleans and Atlanta, where his son, Noah, is 15 and plays soccer. My daughter, Rachael, is a trial judge and I'm very proud of her. She has been married a couple of years and has a wonderful spouse and three stepchildren. Other than that, I am fairly boring. I just work and, when I'm relaxing, I'm with family. I've been involved with a lot of different associations and I served on the board of trustees at my church. In the early years, I would do a free lunch program at the church. I've been active with the Links Incorporated, my Zeta sorority. And, of course, I've been active with the bar associations, the National Association of Women Judges and the ABA. I think all of that's important to be well-rounded.

Talley: Chief, what are you going to do after December? Presumably, you'll have a little bit more free time on your hands to enjoy yourself and relax.

Chief Justice Johnson: I will. I'll relax and rest some. Before the virus, I think everybody was saying, after retirement, it's time to travel. I was talking with one of the other retired justices and she took a round-the-world cruise. Well, you can't do that now. So I guess I've got to adjust to the times.

Talley: Are you planning any trips back to Lemannville, Louisiana? I understand you were born there. I had to look up its location.

Chief Justice Johnson: My birth certificate actually says Donaldsonville, Louisiana. Lemannville is an unincorporated part of Donaldsonville. But I grew up in New Orleans. My family moved here when I was 5 years old. So I've been here a number of years. My father served in the

Navy. Lemannville was a rural community and had few job opportunities. When my father was discharged, he moved our family to New Orleans because of job opportunities.

Talley: You've been a judge for 38 years and you've had a stellar legal career. As you near the end of your career as a jurist, how do you want to be remembered?

Chief Justice Johnson: I say this all the time, you have to keep your ego in check. I think I was a great trial judge. I enjoyed that. I enjoyed the trial work and I enjoyed interaction with trial lawyers. In terms of my writing and my work on the Louisiana Supreme Court, there are not a lot of dissents, but I think it's been consistent because I've tried to focus on fundamental fairness and due process. I wanted everybody who came through my court to leave saying, I disagree, but I think she was fair. All of the other things didn't really matter. If the litigants thought that I was fair and they were treated fairly, all of the rest pales in comparison. If there's some litigant out there or some person who thinks I compromised or didn't treat everyone fairly, then somebody needs to let me know.

Boyle: Your daughter, Judge Rachael Johnson, who is doing a phenomenal job on a trial court bench, said that one of the most meaningful and important lessons that she has learned from you is, "In life, you are guaranteed to face challenges; your approach to the challenges is a true test of your character." Starting as a young child, through college, as a law student at LSU, in your career as a civil rights attorney, being on the trial court bench, being a justice on the Supreme Court, every step of the way, you have faced challenges. How would you sum that up to help guide a young lawyer, judge or justice?

Chief Justice Johnson: It goes back to the other answer, be courageous. You can't worry about the critics. You can't worry about pleasing folks. If you hesitate to do something because you are afraid of how it will be received, if it's the right thing, go ahead and have the courage to do it. And then, like I say to young judges all the time, just have the courage to rule. You can't worry about how it's going to be perceived and whether someone will disagree with

what you're saying. Which is why, I guess, I've written dissents in some instances. In some instances, some of them have been well received and some have not.

Talley: Let's focus on your legacy. I was a history major and I often take a look at legacy. Many people have called you a trailblazer. In my opinion, you are the quintessential trailblazer. It takes a lot of perseverance, patience and courage to be a trailblazer and to overcome many of the challenges you've had to face. What does this mean to you? And do you think this is your legacy?

Chief Justice Johnson: Well, being a trailblazer to me just means the first person to do something. I have tried to be sure that, if I was the first, I was not the only person to do something. You may get to a meeting/event and you're the only African-American in the room. If you look around the room and say, "Well, wait a minute. I shouldn't be the only one here. There should be other voices." You want to be sure that all voices are being heard. So, being a trailblazer is okay. But I think what you need to ask is, as a result of that first person doing something, what did it look like afterwards? If I'm still the only one, then we have a problem.

Talley: That's a good point.

Boyle: I was talking the other day about when you were first elected to the Supreme Court. Many young African-American lawyers did not know anything about the various Supreme Court committees. One of the things you've done that we all appreciate is you went out of your way to appoint and open up that process of committee service to young lawyers of color and to women. You appointed me to some committees I didn't know existed until I received the appointment letter. So, to your point of not just to be the first, but to make sure that you weren't the last, we appreciate it.

Chief Justice Johnson: Let's talk about the Committee on Bar Admissions. When I got to the Supreme Court, I remember the meeting because the court was still over on Loyola Avenue. I was sitting in the conference room when we were talking about the Committee on Bar Admissions, nine sections to the bar exam



Chief Justice Bernette Joshua Johnson with her daughter, Judge Rachael D. Johnson, and her son, David K. Johnson, at the Feb. 28, 2013, investiture ceremony. Photo by Matthew Hinton Photography.

and nine white male examiners. I asked, since women and African-Americans and others are taking the bar exam, why do we have nine examiners and they are all white males? They explained to me: Usually how it works is, the examiner goes down the hall at whatever big law firm they are in and recruits a junior associate and that person assists as a grader. Then that person works his way up to be examiner to replace the current examiner. And so on. I asked about inclusion and was told it would take something like 10 years for someone to work their way from grader to examiner. My response was we can't wait 10 years for inclusion, with all of these women and African-Americans taking the bar exam now. That's just one example. We've got to jump in and move forward. You just can't allow that kind of disparity to exist forever.

Talley: Thank you, Chief. But one question just occurred to me. Your successor on the Supreme Court is an African-American woman. What advice would you give to her?

Chief Justice Johnson: I'll just give my advice to her directly. I'm going to be around to do the same things that Henry Roberts and Tom Early did for me. I'll sit down and tell her what I've done and just offer whatever assistance I can.

I will be happy to do that. (Note: Judge Piper D. Griffin was elected and will be sworn in as the next associate justice of the Louisiana Supreme Court — the third African-American justice and the second African-American woman on the Court.)

Talley and Boyle: On behalf of the LSBA and its members, we would like to thank you for your decades of service to the legal profession and wish you the very best of luck in all your new endeavors.

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In Memoriam:

Former Louisiana Gov. Murphy J. (Mike) Foster, Jr. 1930-2020

By Bernard E. Boudreaux, Jr.

Editor's Note: *Former Louisiana Gov. Murphy J. (Mike) Foster, Jr. died on Oct. 4, 2020, at his home in Franklin. He was 90. To recognize Gov. Foster's life and career in a more personal way, the Louisiana Bar Journal turned to someone who knew him best: Bernard E. Boudreaux, Jr., who served as Gov. Foster's executive counsel from 2000-04. Boudreaux offers an inside look at the businessman, sugar cane farmer, governor and lawyer. The Louisiana State Bar Association extends its sympathies to Gov. Foster's family and friends.*

In response to a motion and order to compel obtained by (Louisiana Bar Journal Editorial Board member) Edward J. Walters, Jr., I have prepared the following observations about my old and dear friend, former Gov. Murphy J. Foster, Jr.

I knew him as "Mr. Mike," his affectionate appellation by which he is often addressed, and I knew him very well, very well indeed. So it is difficult to prepare an unbiased article about a man much admired, this truly remarkable man.

Several concepts came to mind while I was trying to think of something appropriate, and one was from Shakespeare's work, *Julius Caesar*, and Mark Antony's eulogy for Caesar. "I have come to bury Caesar, not to praise him." Well, a warning, I come to praise Mike, not to bury him.

Most of what he accomplished as governor was in his published obituary. So I speak of this great friend as a close observer of how he personally conducted himself in his private and public life, the personal things about him that you may not know.

One person who knows very much about state government told me: "Wow, I didn't know he'd done all that." There was a reason that person didn't know, and that was because of Mike's humility, a charac-

teristic that few of the public know about. His humility was demonstrated by the fact that he never bragged about what he had accomplished.

When people run for office, almost all brag about what they have accomplished. Mike never did that. In his first campaign, he could have said, "I served in the Korean War as a captain" and "I gave a lot of money to poor people." He refused to use any of that information in his campaign because Mike thought that military service is a duty and charity is a private thing between you and your God. They are not to be used in politics. So much for humility.

Next there is his generosity about which he refused to boast.

After his stint in Korea, he returned to Franklin and started farming sugar cane. He worked on Maryland plantation, owned by his family, for about a year to learn the trade and to learn how to do the things his laborers did. After that year of learning the trade, he went out on his own and leased small tracts of land from others, one tract at a time. Basically, he was a share cropper. But there are a few months in the sugar industry when there is nothing to do but watch the sugar cane grow. During this time, his employees had to be let go and to rely on welfare for survival. That was the custom of the trade in the sugar industry and no one, not even the employees, expected anything different. But Mike believed that he could change that annual misfortune for his people, so he formed a company, Bayou Sale Contractors. The only business that it had was to keep pipeline rights-of-way free of weeds and trees during the summer time. It owned yo-yos and a truck or two, barely breaking even financially. But at least his employees had jobs all year round and, therefore, could support their families all year round. He grew Bayou Sale Contractors to where it

eventually employed over 500 people and owned more cranes than any other company between New Orleans and Houston. But he never used that caring gesture toward his employees in any of his campaigns.

At Christmas time, he gave an open party at Bayou Sale Contractors' office for all the children in the Franklin area. He fed their families dinner and he gave every child who came a Christmas present. But he never used that gesture in any of his campaigns.

Also at Christmas, he would call City Marshall Josh McDaniel and give him a check for \$1,000 for every African-American church in the area. But he never used that caring gesture in any of his campaigns.

All of these charitable acts took place long before he had any thought of running for public office.

You can see the blend of generosity and humility.

Mike's campaigns were only a story of what he was going to do when he was in office, not about what he had done in the past. He was never a historian. He only looked forward.

He ran for the Senate because his senator wouldn't return his phone calls. He thought if he won he could "fix what he thought was broken." But he ran as a Democrat and won handily. When he decided to run for governor as an obscure senator, he was going to run as a Democrat. After much conversation, he agreed that he couldn't win as a Democrat. But in public office, he was neither a Democrat nor a Republican. He was a populist. He wanted to be sure he represented all of the people. A very large amount of all of the state money expended was spent on education and healthcare to help people who needed help and to improve the condition

of Louisiana's people of all backgrounds.

There is a long list of the public things that he did. Who is this wealthy Republican who does such things?

The first thing Mike did upon becoming governor was to hand to his senior staff members coins that read, "Do the Right Thing." That was the mantra by which he lived, the standard to which he held his staff and to which he insisted Louisiana government aspire.

Also, immediately after taking office, he invited the entire Supreme Court to dinner at his home. He wasn't happy about some of its opinions. Cheney Joseph, his first executive counsel, and I warned him about the doctrine of separation of powers, and that he should be very careful and circumspect in his conversation with the justices. He acknowledged the existence of such an ambiguous concept but he wanted to have a friendly conversation with the justices. Cheney and I invited ourselves to that dinner just to be sure that the line between the powers was not crossed. All justices came, and all went well. The line was not crossed.

Another attribute was his openness. He sincerely believed that the people have a right to know what their government was doing, and why. To that end, during his first term, he had a radio program once a week where he took phone calls from whomever called to ask a question about government. There was no screening of the calls in the process. He answered every question that he could. For those questions which he could not answer, he took the name and phone number of the person calling and had the appropriate person in government call back with an answer. You can see the combination of generosity, humility and openness in government.

There was his work with the "Stelly Plan," which slightly raised taxes on the wealthy so the sales tax, a regressive tax, could be lowered. The sales tax expired every couple of years and had to be renewed by the Legislature. The financial stability of the state was in jeopardy each time the tax had to be renewed. Budgeting was very difficult. The Stelly legislation made the taxes permanent and stabilized state income for proper budgeting. Mike sat on the floor of each house and called the legislators to the rail one by one to convince



Former Louisiana Gov. Murphy J. (Mike) Foster, Jr., seated, with his son Murphy J. Foster III, a partner in the Baton Rouge office of the law firm Breazeale, Sachse & Wilson, LLP. Photo provided by the Foster Family.

them to vote for the bill. He went to them. He didn't summon them to his office. He had great respect for the Legislature because he had served there. The Stelly law has been repealed and the state's budgeting is now a scramble.

Mike's image as a fair and impartial governor was reinforced by the fact that four of the major agencies of Louisiana government were headed by African-Americans, a first. Mike appointed Terry Landry as the first African-American ever to serve as head of the Louisiana State Police.

He also caused to be created a non-traditional law student program at Southern University Law Center to provide opportunities for those who could not afford to enter law school as full-time students.

But there was more personal and amusing information that helps to describe the real Mike Foster.

When he was first elected as governor, he was not comfortable with the ever-present closeness of the police required for the personal safety of a governor. He would drive his own car with the police detail following him. He thought it was great fun to try to lose the detail, and he was occasionally successful. Finally, the police told him that he was making their work more difficult, so he stopped. He established a close friendship with his police detail and a generous Christmas "surprise" was theirs to enjoy every year.

He loved to pilot his own plane, and he and his friend, Sidney Richard, often

flew to remote areas where the ducks were "supposed" to be. On one such trip, they were flying to a lake about which Mike knew nothing. As he started his landing procedure, he asked, "Sidney, are there any stumps in that lake?" Sidney said, "No, I'd bet my life on it." Mike said, "Well, that's exactly what you're about to do." On another trip, he tied a pirogue to a pontoon. But the rope used lengthened with stress and the pirogue was soon flying alongside them but a few inches away, all which caused a tense landing experience.

He called a special session early in his first year in office and successfully pushed the Legislature to restore balance to Louisiana's legal system, which it did. He created the Louisiana Workforce Commission and then persuaded legislators and voters to catch Louisiana up with the rest of the country by creating the Louisiana Community and Technical College System, which has been Louisiana's fastest growing workforce development system. He ensured that money was available for the Children's Health Insurance Program. He brought the Charity Hospital system under the supervision of the LSU Medical School instead of under a board of several who were not professionally trained for such supervision.

In a special session in 2002, he not only ensured that the Saints would stay in New Orleans, but he also authorized the building of an arena so that Louisiana could secure an NBA franchise. He planted the seeds for economic development successes to come by modernizing the Quality Jobs Act, expanding the film and video production incentives, and creating the research and development and technology commercialization tax credits. He also guided \$100 million in investments in biosciences and information technology to build Louisiana's capability in the industries of the future.

He paid down state debt more than any other governor while investing hundreds of millions of dollars into new university buildings and deferred maintenance on all university campuses. He reimaged the entire state government complex which rebuilt and revitalized downtown Baton Rouge to what it is today. The consolidation of government resulted in millions of dollars saved in rent payments to private owners.

He was an avid hunter and fisherman and made restoring Louisiana's coast a national issue as well as a statewide priority, endorsing constitutional amendments that required new federal funding dedicated to coastal restoration.

In K-12 education, he passed teacher pay raises and created opportunities for charter schools to start up. The LA-4 pre-K program and the school academic performance and high school graduation rates were initiated. To retain Louisiana's most talented high school students, he created the TOPS scholarship program that has provided scholarships to tens of thousands of students in the past two-plus decades.

Mike also spearheaded the building of the renowned New Orleans Center for the Creative Arts, giving New Orleans the finest performing, visual, literary and culinary arts programs in the nation.

Mike graduated from Louisiana State University in 1952 with a bachelor's degree in chemistry. Because of his eternal curiosity about law, he also managed to complete his courses at Southern University Law Center and graduated with a juris doctorate in 2004. He was never happy with lawyers telling him he couldn't accomplish his objectives in state government because it "was against the law" and sought to change those laws by further understanding how it could be done.

His curiosity and commitment to learning new things that were practical always drove him. He was always looking to learn a new craft. He was a certified welder, had a fixed wing and helicopter pilots' license and had a 20-ton boat captain's license. He completed EMT courses just in case there was ever a need for such abilities.

As an attorney, I represented Mike's father, his brother and his businesses. So I knew Mike's business style very well. He was a very difficult client because he always wanted the law to be what he thought it should be, not what it actually was. After he began his law student days, he was a much easier client to manage because he realized the importance of jurisprudence and the how and why it came to be, both by statute and by judicial interpretation. He always knew how the law could be changed because of his service in the Louisiana Senate. In fact, as stated, the only reason he ran for the Senate was because he want-



Former Louisiana Gov. Murphy J. (Mike) Foster, Jr., seated, with, from left, grandson Clark E. Foster, grandson Murphy J. Foster IV, great-grandson Murphy J. Foster V (James) and son Murphy J. Foster III. Photo provided by the Foster Family.

ed to change the law involving workers' compensation. Insurance companies were leaving the state, and businesses were unable to obtain such insurance. His creation of the Louisiana Workers' Compensation Corporation has resulted in a tremendous reduction in the cost of workers' compensation insurance. Dividends to its customers are unusually high.

In an effort to reduce insurance rates in all categories and to show that Louisiana was a good state where insurance companies would be comfortable working, he invited the presidents of all major insurance companies for dinner at the Governor's Mansion, and most came. The effect was very positive, across the board. These important people were able to meet together and see the real Gov. Foster.

In 2002, it became evident that Louisiana had too many people in prison — 800 people per 100,000 in population — while all of Louisiana's neighbors, Texas, Oklahoma, Arkansas, Mississippi and Alabama, averaged about 600 confinees per 100,000 in population. Obviously, Louisiana was out of line. So he caused to be passed legislation, now repealed, to reduce that confinement rate.

Mike had deep faith, but he didn't wear that religiosity on his sleeve. During the second year of his first term, he decided to invite Brother Larry Stockstill to conduct a Bible study breakfast at the mansion once a week on every Wednesday morning. All senior

staff members were invited, and many came. Brother Larry was not an Episcopalian — Mike's choice of worship — but he had seen Brother Larry on television and liked his message and how he delivered it. Brother Larry immediately accepted the invitation and came to the mansion "religiously" every Wednesday morning.

When Mike left office in 2004, Louisiana was in a dramatically better place financially, and the foundation had been laid for future success in all other areas of state government. He credited his success as a legislator and as governor to his non-partisan approach and always putting Louisiana's needs and priorities first, above political purposes. It was never "my party right or wrong."

He restored fiscal sanity by balancing budgets, running surpluses, ending the repeated pattern of budgeting by crisis, and making massive new investments in infrastructure and education, both K-12 and higher education, in order to position Louisiana more competitively for the future.

So that, in general, is more than you probably wanted to know about the life and times of a truly great governor.

I close by quoting Professor J. Denson Smith (for those who remember him). At the end of a class *on a Saturday* when he was anxious to play golf at the Sherwood Forest Country Club, he would declare, "And I refuse to admit that I've been rambling."

I quote his declaration for its application here.

Bernard E. Boudreaux, Jr. is an attorney in the Baton Rouge office of Jones, Swanson, Huddell & Daschbach, LLC. Prior to joining Jones Swanson, he was a partner for 10 years with Breazeale, Sachse & Wilson, LLP, in Baton Rouge. From 2000-04, he was executive counsel to Gov. Murphy J.



Foster, Jr. Prior to his service as executive counsel, he served as the district attorney for the 16th Judicial District. He is currently general counsel for the St. Mary Sugar Cooperative, Inc. and Louisiana Sugar Cane Cooperative. He received a BA degree in 1960 from the University of Louisiana-Lafayette and his JD degree in 1961 from Louisiana State University Law School. He was inducted into the Louisiana Justice Hall of Fame in 2006. (bboudreaux@jonesswanson.com; Ste. 1920, 301 Main St., Baton Rouge, LA 70801)

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Suit Up for the Future High School Summer Legal Institute and Internship Program:

Achieving Diversity in the Profession, One Student at a Time

By Chief U.S. Magistrate Judge Karen Wells Roby



Justin DiCharia, Louisiana State University Paul M. Hebert Law School graduate, now with Squire Patton Boggs in Washington, D.C., and 2011 Suit Up for the Future Program participant.



Journee Berry, Fordham University School of Law graduate and 2012 Suit Up for the Future Program participant.



Former Suit Up for the Future Program participants have all attended law school. From left, Janae Torrence, Loyola University New Orleans College of Law, 2013 Suit Up Program; Theresa Aubert, Loyola University New Orleans College of Law, 2011 Suit Up Program; Calli Farrell, University of Mississippi Law School, 2012 Suit Up Program; and Darla Nguyen, Loyola University New Orleans College of Law, 2013 Suit Up Program.



Hannah Lampo, Tulane University Law School student and 2014 Suit Up for the Future Program participant.



In June 2011, the Suit Up for the Future High School Summer Legal Institute and Internship Program was created to encourage students from diverse backgrounds to consider law school as a career option. Through the support of the members of the Louisiana State Bar Association, practitioners and the judiciary, high school students were immersed in a three-week legal experience like none other. The students visited area courts, met with judges, and watched proceedings in criminal, civil and federal court. During their “working” lunches, the students heard from lawyers about their career choices.

While some of the students participated in the program to learn more about the legal profession, others saw the Suit Up

Program as a precursor for their dreams of one day becoming lawyers. They learned how to write a legal memo and argued an appellate matter in federal court before a three-judge panel of state and federal judges. This rich experience has motivated and steered several of the program’s participants to attend law school.

The very first Suit Up participant to attend law school was Justin DiCharia. DiCharia, a dynamic high school student and 2011 Suit Up participant, demonstrated a level of mock trial skill not often seen in many. He received the Best Oralist Award. He went on to attend college and studied journalism. After working at the State Capitol, he attended Louisiana State University Paul M. Hebert Law Center. His talents again shined brightly as he fin-

ished first in his class during his 1L, 2L and 3L years. He graduated in 2019 and lives and works in Washington, D.C. as an associate with Squire Patton Boggs.

In 2012, Journee Berry, a native of New Orleans, participated in the Suit Up program. Like DiCharia, Berry exhibited unique skills and she received the Best Oralist Award. After completing her undergraduate studies, she enrolled at Fordham University School of Law where she just completed her final year. In 2018, she returned home and externed for U.S. Magistrate Judge Janis Van Meerveld, U.S. District Court, Eastern District of Louisiana. In 2019, she served as a legal intern at Lincoln Square Legal Services, Inc. in New York City.

Theresa Aubert and Calli Farrell, par-

ticipants in the 2011 and 2012 Suit Up programs, respectively, are both currently in law school. Farrell attends the University of Mississippi Law School and Aubert attends Loyola University New Orleans College of Law. Prior to law school, Aubert interned with Liskow & Lewis, APLC. In 2019, Aubert worked as a summer law clerk at Acadiana Legal Services Corp. in Lafayette. Farrell returned to the Suit Up Program in 2013 and served as a summer intern.

Darla Nguyen (2013 Suit Up Program), Janae Torrence (2013 Suit Up Program) and Hannah Lampo (2014 Suit Up Program) each remained steady in the course through their undergraduate studies.

Nguyen attends Loyola University New Orleans College of Law and worked as a paralegal at Kanner & Whiteley in New

Orleans from 2019-20. Torrence attends Loyola University New Orleans College of Law. Lampo attends Tulane University Law School. Lampo externed for Judge Jay C. Zainey, U.S. District Court, Eastern District of Louisiana. She also works with the *Tulane Maritime Law Journal*.

While it takes five years to evaluate the effectiveness of the program, these students demonstrate that the Suit Up Program is effectively diversifying the profession, one student at a time. June 2021 will mark the program's 10th year. A 10-year celebration is being planned for next summer. The program thanks everyone who volunteers each summer to make this program a success. All attorneys are encouraged to celebrate the achievements of these students and to recognize the efforts made to increase diversity in the legal profession.

Karen Wells Roby, chief magistrate judge for the U.S. District Court for the Eastern District of Louisiana, is the coordinating judge for the Suit Up Program. She was appointed to the court in 1998 after a distinguished career in private practice, including as a litigation partner with the New Orleans law firms of Deutsch, Kerrigan & Stiles and Vial, Hamilton, Koch & Knox. She earned a BS degree in business administration in 1983 from Xavier University and her JD degree in 1987 from Tulane Law School (TLS). She is an adjunct professor at TLS, teaching E-Discovery and Digital Evidence. She also served as chair of TLS Black Law Alumni Reunion which celebrated 50 years of graduating African-American lawyers in 2019. She is a former president of the Federal Magistrate Judges Association. (karen_robby@laed.uscourts.gov; 500 Poydras St., New Orleans, LA 70130)



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13TH ANNUAL CONCLAVE ON DIVERSITY IN THE LEGAL PROFESSION

EARLY REGISTRATION DEADLINE: FEBRUARY 5, 2021

The Conclave will examine the history and future of civil rights, paying homage to the trailblazers of the past and looking to the future. Highlights include:

- **Breakout Sessions:** Two breakout sessions (Criminal Justice and Voting Rights) facilitated by highly credentialed speakers that will provoke discussions regarding the scope and meaning of inclusion, the state of the profession, and the case for a diverse and inclusive legal profession.
- **Civil Rights Sessions:** Two Civil Rights sessions featuring a panel of academics and Civil Rights pioneers. Charles Person, one of the 13 original Freedom Riders, will share insights on the Civil Rights movement.

FEATURING
Freedom
Rider
Charles A. Person

www.lsba.org/diversity/ConclaveLegalProfession.aspx

Lawyers ~~in~~ ^{and} Libraries 2020:

A Winning Combination of Virtual Services

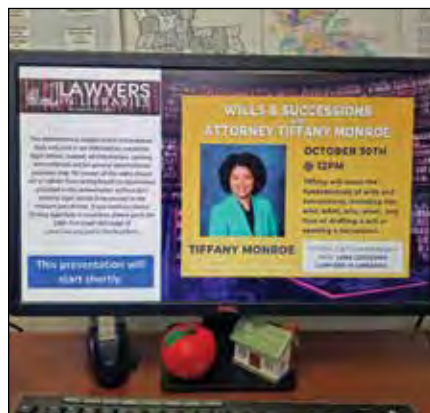
By Stephanie M. Beaugh and Jordan M. Maier

Facing a pandemic and a hurricane, attorney volunteers across Louisiana, nevertheless, turned out to provide free, virtual legal assistance to the public during the Louisiana State Bar Association's (LSBA) "Lawyers in AND Libraries" Week of Service. Events were held Oct. 26-31 in conjunction with National Celebrate Pro Bono Week, a week also designated as Pro Bono Week in Louisiana by Gov. John Bel Edwards.

Since 2014, public libraries have partnered in the Lawyers in Libraries program to host attorney volunteer Ask-A-Lawyer events and presentations on legal topics in local library branches throughout the state. The COVID-19 pandemic, which caused suspension of in-person events, also caused an increase in pandemic-related legal needs. Upon evaluation, librarians and program organizers determined the much-needed legal assistance to individuals could be provided virtually.

Organizers leveraged existing LSBA pro bono programs, including *LA.FreeLegalAnswers.org* and Legal Innovators for Tomorrow (LIFT), to complement the "Ask-A-Lawyer" services. *LA.FreeLegalAnswers.org* is an American Bar Association-developed pro bono site where people who cannot afford legal representation can submit civil legal questions and have them answered by attorney volunteers. The LIFT incubator program provides new attorneys with the resources they need to build public interest-focused solo practices that increase access to legal services for low- and moderate-income residents of Louisiana.

As the plan for virtual services came together, organizers arranged for attorneys to answer patrons' questions in one-



Tiffany E. Monroe, an attorney and Legal Innovators for Tomorrow (LIFT) Fellow, presented a webinar on "Wills & Successions."

on-one Ask-A-Lawyer sessions over the phone and on *LA.FreeLegalAnswers.org*. Additionally, to expand the reach, attorney volunteers, including LIFT Fellows, gave live presentations on pressing and pandemic-related legal issues via a Lawyers and Libraries Facebook page, specifically created for this year's event. The State Library of Louisiana and public librarians throughout Louisiana promoted events by distributing bookmarks via drive-through library services and sharing on library websites and social media platforms.

While the midweek arrival of Hurricane Zeta threatened to derail events, with the rescheduling of a few consultations, all Lawyer and Libraries events were able to proceed as planned, including the following webinars hosted live on the Lawyers and Libraries Facebook page:

- Oct. 26: "Understanding Unemployment Laws during COVID-19" by Mariarenee Contreras and Constance E. Tullier, staff attorneys at Southeast Louisiana Legal Services;
- Oct. 27: "Family Law" by Amber



Louisiana State Bar Association President Alainna R. Mire with the proclamation signed by Gov. John Bel Edwards recognizing Pro Bono Week in Louisiana.



Attorney Amber C. Sheppard presented a webinar on "Family Law."

C. Sheppard, Sheppard Law, PLLC;

- Oct. 28: "Housing & Evictions" by Hannah D. Adams, staff attorney at Southeast Louisiana Legal Services; and
- Oct. 30: "Wills & Successions" by LIFT attorney Tiffany E. Monroe, the Law Office of Tiffany E. Monroe.

Lawyers and Libraries attorney volunteers assisted more than 84 library patrons from 25 different parishes through Ask-A-Lawyer sessions and



Louisiana State Bar Association Immediate Past President Robert A. Kutcher volunteering his time during a virtual “Lawyers AND Libraries” event, answering civil legal questions from the public by phone.



During the “Housing & Evictions” webinar presented by Southeast Louisiana Legal Services staff attorney Hannah D. Adams, she explained that the public could ask questions via the LA.FreeLegalAnswers.org site.

LA.FreeLegalAnswers.org, and the webinars have already reached more than 2,500 viewers, thanks in large part to the libraries who shared them on their Facebook pages.

“Through this year’s Lawyers and Libraries program, LSBA members and public librarians truly demonstrated their resilience, ability to adapt, and determination to serve the people of Louisiana,” said LSBA President Alainna R. Mire. “These innovative approaches are vital to ensuring that our communities and the people who are in need of legal assistance now more than ever receive equal access to justice,” she added.

The LSBA would like to acknowledge Louisiana library staff and the

Attorney Volunteers

Hannah D. Adams	Burton P. Guidry	John L. Norris IV
Lauren R. Anderson	Felicia M. Hamilton	Meghan E. Notariano
Jason D. Asbill	E. Holden Hoggatt	David C. Peltier
Dara L. Baird	Gregory D. Hopkins	Mark A. Perkins
Marlon C. Battley	Kaila M. Hutchison	Ramesh K. Reddy
Troy N. Bell	Pamela R. Jones	Mary A. Reed
J. McCaleb Bilbro	Suzanne M. Jones	Joseph J. Schilleci III
Eric A. Bopp	Diedre P. Kelly	Cynthia F. Schmidt
Maura E. Bowlin	Teresa D. King	Justin B. Schmidt
Melissa H. Brink	Robert A. Kutcher	Amber C. Sheppard
Shentell W. Brown	Angela M. Leonard	Madeline G. Smith
Lakethia B. Bryant	Jeanne O. Liles	Matthew S. Smith
Jules R. Cattie III	Anthony J. Livaccari, Jr	Sarah M. Smith
Candace Cenac Chauvin	James G. (Jim) Maguire	Scott L. Smith, Jr.
Mariarenee Contreras	Katherine P. (Katie) Martin	Briana C. Spivey
Keith M. Couture	Jessica P. McClain	Myles B. Steib
Blake R. David	Walter P. McClatchey, Jr.	Vincent J. Trombatore
Erin E. Dearie	Matthew M. McCluer	Constance E. Tullier
A. Patrick Dehon, Jr.	T. Simon Menard	Yovanna Y. Vargas
Shereba L.M. Diaz	Elizabeth S. Meneray	Rachel T. Vogeltanz
Chase J. Edwards	Tiffany E. Monroe	Angela G. Waltman
J. Morgan Field III	Janice Montague-Myles	Pascale B. Watson
Lewis M. Gladney	Natalie M. Morris	Kirk A. Williams
Kandice N. Guice		

Special Thanks to:

Southeast Louisiana Legal Services
Acadiana Legal Service Corporation
Law Library of Louisiana
State Library of Louisiana
Louisiana Library Association
Dedicated staff members of libraries across Louisiana

LSBA members who volunteered in their communities, and the pro bono agencies, local bar associations, private practitioners and legal service providers who helped to coordinate events in individual parishes. The names of attorneys who offered their time are listed above.

The LSBA encourages attorneys to volunteer at their local libraries, when permissible, or with LA.FreeLegalAnswers.org throughout the year. More information is available at: www.LouisianaLawyersinLibraries.org.

Stephanie M. Beaugh is the Louisiana State Bar Association's Access to Justice (ATJ) projects counsel. She is the liaison to the Children's Law Committee, the Legal Services for Persons with Disabilities Committee and the ATJ Commission's

Self-Represented Litigation Committee. She also works to develop and implement court-based Self-Help Resource Centers. (stephanie.beaugh@lsba.org; 601 St. Charles Ave., New Orleans, LA 70130-3404)

Jordan M. Maier is the Louisiana State Bar Association's Access to Justice administrative assistant. She administers the LSBA's Pro Bono Awards Program and the Lawyers and Libraries Program. (Jordan.maier@lsba.org; 601 St. Charles Ave., New Orleans, LA 70130-3404)



Attorneys Apply for Certification as Legal Specialists

Pursuant to the Rules and Regulations of the Louisiana Board of Legal Specialization, notice is hereby given that the following attorneys have applied for certification as legal specialists. Any person wanting to comment upon the qualifications of any applicant should submit comments no later than Dec. 30, 2020, to the Louisiana Board of Legal Specialization, 601 St. Charles Ave., New Orleans, LA 70130, c/o Specialization Director Mary Ann Wegmann.

It is also requested that any knowledge of sanctions or other professional action against an applicant be reported during this comment period.

Appellate Practice

Kelly Brechtel Becker..... New Orleans
Jack E. Morris.....Metairie

Estate Planning & Administration

Alison C. Bondurant..... Madisonville
Kody Cannon.....Lake Charles

Family Law

Mandi Borne Bucher.....Lafayette
Rachael P. Catalanotto..... Mandeville
Louis J. Cosenza..... Gonzales
A. Casey Desselles..... Albany
Shelley Ann Goff.....Ruston
Natalie Caro Roy..... Baton Rouge

Tax Law

Daniel H. Bruni.....Metairie

Attorneys Apply for Recertification as Legal Specialists

Pursuant to the Rules and Regulations of the Louisiana Board of Legal Specialization, notice is hereby given that the following attorneys have applied for recertification as legal specialists for the period Jan. 1, 2021, to Dec. 31, 2025. Any person wanting to comment upon the qualifications of any applicant should submit comments no later than Dec. 30, 2020, to the Louisiana Board of Legal Specialization, 601 St. Charles Ave., New Orleans, LA 70130, or by email to maryann.wegmann@lsba.org.

It is also requested that any knowledge of sanctions or other professional action against an applicant be reported during this comment period.

Estate Planning & Administration

Kevin Courtney Curry..... Baton Rouge
Mary Cole Hester..... Baton Rouge
David Gregory Koch..... Baton Rouge
Erin Elizabeth Kriksciun.. New Orleans
Carl Joseph Servat III.....Metairie
James Graves Theus, Jr. Alexandria
Beth-Anne Perez Watson.....Metairie

Tax Law

Stanley B. Blackstone..... Lafayette
Dorrell J. Brister..... Alexandria

Jacob S. Capraro..... Baton Rouge
Susan K. Chambers..... New Orleans
Kevin Courtney Curry..... Baton Rouge
Michele Moore Echols..... Mandeville
Jeffrey Wood Koonce..... Baton Rouge
Caroline Devereaux

Lafourcade..... New Orleans
Brett Salvatore Lala..... Madisonville
Alyce B. Landry..... Gulf Breeze, FL
Francis Joseph Lobrano ... Belle Chasse
Ashley Kelton Longwell.. New Orleans
Matthew P. Miller..... New Orleans
Joseph Michael Placer, Jr. Lafayette
Brianna Star Rome..... New Orleans
Daniel Joseph Walter..... New Orleans

Family Law

Layne M. Adams.....Downsville
Charlene Ory Kazan.....Mandeville
Bernadette Rocco Lee..... New Orleans
Mark Joseph Mansfield..... Covington
Terri McDonough Miles Gretna
Evelyn M. Oubre.....Lake Charles
Frank R. Tranchina, Jr. Covington
Kristyl R. Treadaway.....Metairie
Angela Cox Williams.....Slidell
Jeffrey S. Wittenbrink..... Baton Rouge

Consumer Bankruptcy Law

Robin Ronquillo De Leo..... Mandeville

JLAP Board president announces job opening for Executive Director

Shayna L. Sonnier, board president of the Louisiana Judges and Lawyers Assistance Program, Inc. (JLAP), announces plans to hire an Executive Director.

"We are hiring an Executive Director. My hope is that you will take a look at the accompanying job description and forward it to anyone you know who may be qualified and interested. Perhaps that person is you! The position will remain open until filled; however, we are eager to find and bring on board our new leader. Submit your résumé or CV, along with a cover letter outlining the ways in which you meet the stated qualifications. You should email them to me, Shayna Sonnier, at shayna78@yahoo.com."

Review the full job description at: www.lsba.org/goto/JLAPjobED.

2020
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Deadline for CLE Compliance for Board-Certified Specialists is Dec. 31, 2020

In accordance with the requirements of the Louisiana Board of Legal Specialization (LBLS), as set forth in the individual Specialty Standards for each field of legal specialization, board-certified attorneys in a specific field of law must meet a minimum CLE requirement for the calendar year ending Dec. 31, 2020. The requirement for each area of specialty is:

- ▶ Appellate Practice — 15 hours of approved appellate practice.
- ▶ Estate Planning and Administration — 18 hours of approved estate planning and administration.
- ▶ Family Law — 15 hours of approved family law.
- ▶ Health Law — 15 hours of approved health law.
- ▶ Tax Law — 18 hours of approved tax law.
- ▶ Bankruptcy Law — CLE is regulated by the American Board of Certification. CLE credits will be computed on a

calendar year basis and all attendance information must be delivered to the Committee on Mandatory Continuing Legal Education (MCLE) no later than Jan. 31, 2021. Failure to earn and/or timely report specialization CLE hours will result in a penalty assessment.

On Sept. 1, 2020, considering the continuing need to take measures to stop the spread of the coronavirus (COVID-19), the Louisiana Supreme Court increased the limitation on “self-study” credits to a maximum of 18 hours for board-certified specialists. In compliance with the Court order, the LBLS Estate Planning and Administration specialists and Tax Law specialists may earn up to 18 hours of approved specialization “self-study” credits on or before Dec. 31, 2020. LBLS Appellate Practice specialists, Family Law specialists and Health Law specialists may earn up to 15 hours of approved specialization “self-study” credits on or before Dec. 31, 2020. LBLS Business Bankruptcy

Law specialists and Consumer Bankruptcy Law specialists must satisfy the continuing legal education requirements of the American Board of Certification.

Preliminary specialization transcripts were sent in late November to all specialists who are delinquent in their specialization CLE hours for 2020.

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

To obtain a copy of your specialization transcript, go to the LBLS’s website at: www.lsba.org/Specialization/. Specialization transcripts may be accessed directly at: www.lsba.org/Specialization/SpecializationTranscripts.aspx. To find approved specialization CLE courses, consult the specialization CLE calendar at: www.lsba.org/MCLE/MCLECalendar.aspx?L=S. Check off your specialization and click on “Search Courses” to find approved specialization CLE.

La. Board of Legal Specialization Accepting Requests for Applications

The Louisiana Board of Legal Specialization (LBLS) is accepting applications for certification in five areas — appellate practice, estate planning and administration, family law, health law and tax law — from now through March 1, 2021.

In accordance with the Plan of Legal Specialization, a Louisiana State Bar Association member in good standing who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. Further requirements are that each year a minimum percentage of the attorney’s practice must be devoted to the area of certification sought, passing a written examination to demonstrate sufficient knowledge, skills and proficiency in the area for which certification is sought, and five favorable references. Peer review shall be used to determine that an applicant has achieved recognition as having a level of competence indicating proficient performance handling

the usual matters in the specialty field. Refer to the 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:

- ▶ Appellate Practice — 15 hours of appellate practice law.
- ▶ Estate Planning and Administration — 18 hours of estate planning law.
- ▶ Family Law — 15 hours of family law.
- ▶ Health Law — 15 hours of health law.
- ▶ Tax Law — 18 hours of tax law.
- ▶ 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 “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/.

TIP Mentor Program: More Mentors Needed!

The Louisiana State Bar Association (LSBA) Committee on the Profession's "Transition Into Practice" (TIP) mentor program is seeking additional mentors.

The Louisiana Supreme Court issued an order which waives the bar exam for recent law school graduates because of coronavirus concerns. The order also requires the graduates to participate in the TIP mentor/mentee program. The Court's order makes it mandatory for the new lawyers.

Already numerous mentor and mentee pairings have successfully occurred across the state since the program was first implemented in 2015. The mentor program not only gives new lawyers a great opportunity to learn practical experience from seasoned lawyers, but it also gives experienced Bar members a chance to give back and to guide new lawyers in the right direction.

Through the program, new lawyers admitted into practice will be paired with mentors (one on one) to assist in learning



practical knowledge of what they will encounter in the profession. Mentors must be in good standing, have no public disciplinary history and must have at least 10 years of experience. Mentors can receive up to 6.0 hours of free CLE credit by volunteering.

The mentees must complete the program by Dec. 21, 2021.

Mentors and mentees will meet four times over the course of the program to discuss various well-defined and organized topics. These meetings can take place by Zoom or possibly in-person later during the process. There is a handbook available which contains all the information mentors would need to cover the topics required by the program. Mentors are not required to do any independent preparation other than reviewing the handbook; most of the information shared will come from personal experience. Topics such as civility, professionalism, work/life balance, careers and career objectives, law school debt, conflicts, ethics issues for the new lawyer, dealing with the "difficult" client, time records, billing, fees, trust accounts and sharing fees and expenses are included.

To learn more about the program or to register as a mentor, go to: www.lsba.org/Mentoring/.

Deadlines Approaching for Earning, Reporting CLE Credits

The deadlines are quickly approaching for earning and reporting continuing legal education credits for the year. Preliminary transcripts were mailed to the membership in early December.

Remember that all hours must be **earned** by Dec. 31, 2020, and must be **reported** no later than Jan. 31, 2021, or late penalties will apply.

The annual requirement for attorneys is 12.5 hours, including 1 hour of ethics and 1 hour of professionalism credit. Because of the COVID-19 pandemic, the Louisiana Supreme Court has lifted the limitation on self-study credits from 4 to 12.5 hours annually (for 2020 only).

Attorneys admitted in 2019 are also required to earn a total of 12.5 hours but must have 8 hours of ethics, professionalism or law office management credits included within that total. Hours earned in the calendar years 2019 and 2020 are counted together for this initial compliance period.

In-house counsel admitted to practice under LASC 12, Section 14, must earn 12.5 hours annually, including 1 hour of ethics and 1 hour of professionalism, and must follow the same reporting requirements as all other attorneys. They do not qualify for the MCLE exemption.

The form for attorneys who do qualify for an MCLE exemption will be avail-

able online on Dec. 1. Attorneys may mail or email the exemption form to the MCLE Department, and it is recommended that attorneys keep a copy of any documentation related to that exemption on file. Attorneys who were impacted by this past year's severe weather events will again have the option to claim a disaster exemption. Exemption forms must be reported by Jan. 31, 2021.

Information regarding attorney requirements and pre-approved courses can be found on the website at: www.lsba.org/MCLE. Click "MCLE" on the header for information on the calendar, rules, forms and transcript information.

LAWYERS Give Back

By Jack K. Whitehead, Jr.

GODFREY, ADAMS AND 100 BLACK MEN

The organization 100 Black Men of America began in 1963 in New York City amid the civil unrest facing the country. The founders included Jackie Robinson, former NYC Mayor David Dinkins and leading African-American businessmen. The 100 mission is grounded on four pillars — 1) mentoring; 2) education; 3) economic empowerment; and 4) health and wellbeing.

The Baton Rouge Chapter was founded by the late Brace B. Godfrey, Jr. in 1993 amid the rash of violence in the Baton Rouge community. In late 1992, Godfrey and his son were among the crowd following an Istrouma High School football game when gunfire erupted. Godfrey's son, and current Chapter Executive Director Brace B. (Trey) Godfrey III, recounts that people were running and screaming hysterically in fear of their lives. Trey ducked into his father's car and watched as the elder Godfrey stood in the middle of the sidewalk, arms crossed, with a stern look that would rival the scowl of General George S. Patton, observing the mayhem.

This night was the genesis of 100 Black Men of Metro Baton Rouge, today considered one of the top 100 Black Men organizations in the United States. Baton Rouge is considered on the same level as the New York City and Los Angeles chapters. The parent organization, 100 Black Men of America, recognized the Baton Rouge 100 as the 2019 Chapter of the Year.

The mission continues into its 27th year under the helm of Chair Michael R.D. Adams, partner at the Baton Rouge law firm DeCuir, Clark & Adams, L.L.P. Adams' law practice takes him across Louisiana representing higher education institutions as well as select high-profile litigation matters.

In a recent discussion with this writer, Adams recounted, "I remember the early days of the 100 . . . We were committed to leave our egos at the door and roll up our sleeves and go to work. I was the youngest man in

the group at the time. I was surrounded by giants in business, law, education and politics. We all had the same vision, to make Baton Rouge a better place for all of its young people. We knew if we were to be successful, we had to start with young black men."

Adams further shared there are some scholarly books that members of the Bar can read to help grasp the undercurrent of the history of African-American race relations in our society today.

In 1948, the late Judge A. Leon Higginbotham, Jr. was a student at Purdue University where he and a group of African-American students were forced to live in an unheated attic. When they complained to the university president, the response was "Mr. Higginbotham, you can either accept it or resign." Judge Higginbotham's two books, *In the Matter of Color: Race and the American Legal Process* and *Shades of Freedom: Racial Politics and Presumptions of the American Legal Process*, chronicle the status of laws dealing with slavery and indentured servitude from 1620 forward.

Williams College Professor Charles B. Dew offers his own account of growing up in the South in *The Making of a Racist: A Southerner Reflects on Family, History and The Slave Trade*, where he concludes "racism is taught." Professor Dew's second book, *Apostles of Disunion: Southern Secession Commissioners and the Causes of the Civil War*, debunks the myth of states rights as a cause of the Civil War and squarely shows it was the economics of slavery as a labor force in the agricultural economy.

A fifth book, *Development Arrested: The Blues and Plantation Power in the Mississippi Delta* by the late Professor Clyde



Michael R.D. Adams

Woods, offers a cogent analysis of the long-term effects on race relations due to the agricultural economy along the Mississippi Delta from Memphis to New Orleans. In some form or fashion, this legacy exists today.

When members of the Bar read this article, 100 Black Men of Baton Rouge will be in the trenches mentoring nearly 100 Baton Rouge young men ranging in age from 12 to 18 in the areas of the organization's four pillars.

One of the most successful areas for The 100 is its ACT Prep Academy, a 17-year partnership between Louisiana State University, Southern University and The 100. Historically, students who have taken this course have averaged at least a 2-point increase in their ACT exam scores. Last year, a high school senior spent \$100 for the class that raised his ACT from 25 to 30. This student's life trajectory changed remarkably as one of the members of the Baton Rouge Chapter worked tirelessly with this young man's parents and found him a full four-year scholarship at Tulane University.

"One Hand Up at a Time, One Step at a Time, One Person at a Time," shared Chair Michael Adams.

With lawyers such as the late Brace B. Godfrey, Jr. and Michael R.D. Adams, our profession has true examples of attorneys who unselfishly make a difference with a vision of a better tomorrow.

Jack K. Whitehead, Jr. is the senior managing partner of the Whitehead Law Firm in Baton Rouge and a member of the Louisiana Bar Journal's Editorial Board. His frustration over the state of race relations in Louisiana compelled him to join the 100 Black Men of Metro Baton Rouge. He is proud



to be one of two white members. He quietly stays in the background helping make a difference with the mentees. (jwhitehead@whitehead-law.com; Ste. W-3, 11909 Bricksome Ave., Baton Rouge, LA 70816)

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Due to the recent pandemic, the landscape of the practice of law has changed. Some attorneys have experienced virtual court and conducted depositions via Zoom, and many are working at least part-time from home. Although there may be a new normal, we cannot forget about the basics of the practice of law. We still need to be diligent in calendaring, interviewing potential clients, conflict checking, communicating with clients, and utilizing engagement/non-engagement letters. This article offers a quick refresher on basic lawyering practices.

Client Consultation. It is important to interview all potential clients to determine the suitability. Take care to identify potential bad or high-risk clients. Choosing not to represent those clients will reduce your risk of a malpractice claim or unjustified disciplinary complaints. High-risk clients generally include family and close friends; people who are financially unstable; people with questionable integrity (if they aren't truthful with you up front, there is a good chance they won't be truthful as the case progresses); or people who are hard to reach, have unrealistic expectations, have hired and fired a string of lawyers in a single legal matter, have sued other lawyers, or who refuse to listen to your advice and act contrary to what you advise them to do.

Conflict Checking. After your initial consultation, remember to perform your conflicts check. Don't take any confidential information from a potential client until you have performed your conflicts check and determined that there is no conflict or have resolved any conflicts. You want to per-

form your conflicts check after your initial consultation because you have a continuing duty with respect to confidentiality and conflicts of interest to former and current clients. If you run into a conflict of interest, refer to Rule 1.7 and 1.8 of the Rules of Professional Conduct for guidance. You may be able to waive some conflicts by securing signed waivers from all affected parties, but some conflicts may not be waivable. If you can't waive a conflict, you should send a declination letter to the potential client advising that you will not be taking the case.

Engagement Letters. If you decide to accept an engagement, provide the client with an engagement letter. Use engagement letters for all cases, not just cases where an engagement letter is required. Engagement letters establish a clear understanding of services you will perform for the client, minimize fee and scope of services disputes, and manage your client's expectations. You will want to review your engagement letter with the client to ensure he/she understands the specifics. Periodically review your engagement letter and make necessary updates as needed. Remember, do not work on the client's file until the engagement letter is signed by the client.

Communicate with Clients. Lack of communication is the easiest way for an attorney to get into trouble with a client. Clients want to feel like they matter and are important, so make it a point to communicate with your client regularly even if nothing is happening with the case. It is also good practice to follow up phone calls regarding substantive topics in writing. Settlement discussions, case strategies and deadlines should all be communicated in

writing. Swearing contests are hard to win in court. Remember to return client calls in a timely manner, *i.e.*, 24-48 hours. If that is not reasonable, return calls and emails within the week or have an assistant reach out and schedule a time that works best for you and your client.

Calendaring. Remember to calendar and back up your calendars. The best practice is to have a dual calendaring system. This means utilizing two calendaring types so, if one calendar goes missing or is unavailable, you have a backup to ensure deadlines aren't missed. Backup calendar systems could be as simple as a hard-copy calendar, which you copy periodically to an electronic calendar. Make sure you are adding deadlines for items that do not necessarily have a firm deadline, such as drafting a status letter to your client every month. Also, add deadlines 15 and 30 days ahead so you stay on top of prescription dates and other important time limits.

If you would like any additional information on these topics, email lossprevention@gilsbar.com.

Ashley M. Flick is professional liability loss prevention counsel for the Louisiana State Bar Association and is employed by Gilsbar, L.L.C. 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 aflick@gilsbar.com.



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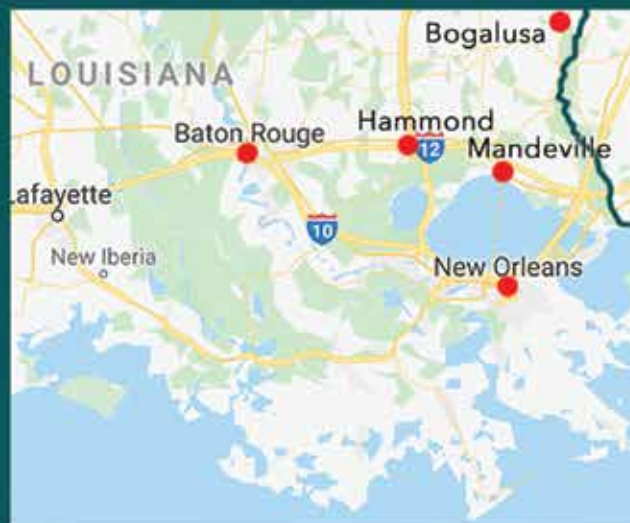


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The Judges and Lawyers Assistance Program (JLAP) is a 501(c)(3) non-profit corporation intended to provide confidential, life-saving assistance to the profession and their family members. JLAP understands that competition, long hours, perfectionism and high stress can wear down even the most competent individuals. This often leads to quality of life issues including depression, anxiety, alcohol/drug use, addiction and compassion fatigue, to name a few. Regardless of what the mental health issue may be, or how early or late in its development, JLAP offers immediate and confidential assistance.

The Lawyers Assistance Program (LAP) was formed in 1992 and changed its name to JLAP in 2015. Originally designed with only addiction in mind, JLAP has grown into a comprehensive mental health and wellness program staffed with full-time licensed professional counselors who are able to diagnose all disorders of DSM (Diagnostic and Statistical Manual of Mental Disorders). One of JLAP's primary goals is to provide confidential assistance to Louisiana judges and lawyers before any issues they are facing become debilitating or cause an ethical violation. Early intervention is the key to saving lives and careers while also helping to protect the public from the harm that an impaired professional can cause.

How can JLAP help me?

JLAP provides, above all else, a safe haven to reach out and explore reliable options for mental health assistance without anyone else ever knowing. It's free. It's safe. It's completely confidential. There are no barriers whatsoever to simply picking up the phone and calling or emailing to access JLAP's free advice

and support. You do not have to give a name or identify yourself and can remain anonymous if you so desire.

What happens when I call JLAP for help for myself or someone else?

JLAP receives direct, confidential calls from judges, lawyers and law students who are in distress and seeking help. Calls are also received from family members, peers, law partners and judges who may have become concerned about a person's mental health wellness and ability to practice law.

When a person reaches out to JLAP for the first time, he/she is connected to a Louisiana licensed professional counselor. A brief interview is conducted, and the individual is provided with referrals that match his/her unique needs. Some calls require a more in-depth view of the individual's current mental health status and appropriate evaluation recommendations are made. In both cases, follow-up is done with the caller to ensure the caller is able to access the resources provided and to provide ongoing case management.

Will JLAP report my call to the Office of Disciplinary Counsel?

No. JLAP is a separate organization from the Office of Disciplinary Counsel (ODC). Any information that JLAP shares with the ODC is only done so with the explicit consent of the individual by way of an executed waiver. Pursuant to La. R.S. 37:221 and Louisiana Supreme Court Rule XIX, Sec. 16(J), all communications with JLAP are both confidential and privileged, unless otherwise waived.

Regardless of how or why JLAP is contacted, all such communications are strictly confidential. Individuals retain full control of whether they decide to

participate in JLAP's efforts and only they can waive their confidentiality.

What is JLAP monitoring and why is it necessary in some cases?

The purpose of JLAP monitoring is to establish a record of accountability and oversight of an individual's recovery. Monitoring programs have been identified as therapeutically critical to one's recovery. Even if a person has no external need to prove his/her recovery, JLAP monitoring is still recommended when appropriate to provide the structured support that is key to long-term success following treatment for substance use disorders or mental health issues that require long-term clinical interventions.

JLAP's professional clinical staff can help you. If you are interested in obtaining information on ways to beat burnout, stress, anxiety and depression, or you feel that you could possibly benefit from an evaluation, contact JLAP. Your call is confidential. You do not have to give your name. For more information, call JLAP at (985)778-0571; email JLAP@louisianajlap.com; or visit the website at: www.louisianajlap.com.

Jennifer Gros, clinical director for the Judges and Lawyers Assistance Program, Inc., earned a BA degree in 2004 from Louisiana State University. She graduated cum laude in 2007 with a MS degree in rehabilitation counseling from the University of North Texas. She is a

master addiction counselor and a licensed professional counselor in Louisiana. She has been with JLAP since 2014. Email jlap@louisianajlap.com.





Louisiana State Bar Association Awards

Chief Justice Bernette Joshua Johnson Trailblazer Award

Nomination Period: October – February

This award recognizes individual attorneys and judges who champion the ideals set forth by Chief Justice Bernette Joshua Johnson, the first African American chief justice of the Louisiana Supreme Court.

Guardian of Diversity Award

Nomination Period: October – February

This award recognizes local and specialty bar associations, courts, law firms/departments, community organizations (which includes non-profits and public interest organizations), and educational organizations (which include law schools and schools with a law-related program) that implement and advance diversity programs to promote and support diversity in the legal community.

For more information and/or to submit a nomination visit:

www.lsba.org/Members/Awards.aspx

For questions, please email the Member Outreach and Diversity Team at diversity@lsba.org.

Newest Diversity Signatories Spotlighted

The LSBA's Committee on Diversity in the Legal Profession would like to acknowledge and thank the newest signatories of the LSBA Statement of Diversity Principles.

Those signing this Statement of Principles hereby commit themselves to foster diversity in the legal profession. The LSBA recognizes that diversity is an inclusive concept that encompasses race, color, ethnicity, gender, sexual orientation, age, religion, national origin, disability and other aspects of diversity.

To access the Statement online, go to: www.lsba.org/Diversity/DiversityPrinciples.aspx. Forms may be returned to Department of Member Outreach and Diversity, Attn: Tricia R. Pierre at diversity@lsba.org or by mail to 601 St. Charles Ave., New Orleans, LA 70130-3404.

2020-21 New Signatories

Amanda L. Russell
Big Easy Law Group
Claire Edwards Law Firm
Federal Bar Association, New Orleans Chapter
Gordon Rees Scully & Mansukhani, LLP
Hon. John M. Guidry
Hurley & Cot, APLC
Keith Consulting Group
Ochsner Health
Pipes Miles Beckman, LLC
Ross E. Mouhot
Stanley J. Bordelon

Become a Signatory

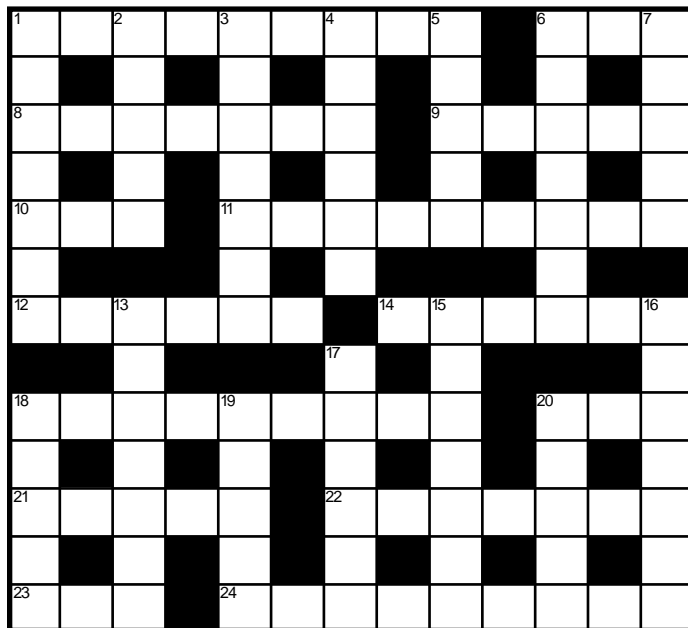
to the LSBA Statement of Diversity Principles

For more information or to view the statement online, visit
www.lsba.org/Diversity/DiversityPrinciples.aspx

Crossword PUZZLE

By Hal Odom, Jr.

STATELY CANINES



ACROSS

- 1 Hunting dog named after a Louisiana parish (9)
- 6 Car for hire; popular red wine (3)
- 8 Instructor at 18 Across (7)
- 9 One color for 1 Across (5)
- 10 Tight embrace (3)
- 11 Rescue dog that shares its name with a Louisiana parish (2., 7)
- 12 Sport watched at tracks (6)
- 14 Pursues relentlessly (6)
- 18 Kind of school for dogs (9)
- 20 Sales and ___ tax (3)
- 21 Pertaining to the eyes or vision (5)
- 22 What hogs do (7)
- 23 Attempt; judicially determine (3)
- 24 Kind of terrier named after a former English county (9)

DOWN

- 1 "Why, he couldn't even run for dog ___!" (7)
- 2 Nasal sound (5)
- 3 Kind of experience or manager (5-2)
- 4 Remove the dress from (6)
- 5 Knight in shining ___ (5)
- 6 In no doubt (7)
- 7 Kennel club classification (5)
- 13 Plaything for a teething puppy (4, 3)
- 15 Unity, as of opinion or purpose (7)
- 16 Another name for Shetland Sheepdog (7)
- 17 Not outside (6)
- 18 "Are You In ___?" song from "Aladdin & The King of Thieves" (2, 3)
- 19 Needing to be scratched (5)
- 20 Where embryos develop (5)

Answers on page 301.

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.

Area	Coordinator	Contact Info	Area	Coordinator	Contact Info
Alexandria/Sunset Area	Richard J. Arsenault rarsenault@nbalawfirm.com	(318)487-9874 Cell (318)452-5700	Monroe Area	John C. Roa roa@hhsclaw.com	(318)387-2422
Baton Rouge Area	Ann K. Gregorie ann@brba.org	(225)214-5563	Natchitoches Area	Peyton Cunningham, Jr. wpcjrra@gmail.com	Cell (318)332-7294
Covington/ Mandeville Area	Suzanne E. Bayle sebayle@bellsouth.net	(504)524-3781	New Orleans Area	Helena N. Henderson hhenderson@neworleansbar.org	(504)525-7453
Denham Springs Area	Mary E. Heck Barrios mary@barrioslaw.com	(225)664-9508	River Parishes Area	Judge Jude G. Gravois judagravois@bellsouth.net	(225)265-3923 (225)265-9828 Cell (225)270-7705
Houma/Thibodaux Area	Danna Schwab dschwab@theschwablawfirm.com	(985)868-1342	Shreveport Area	Dana M. Southern dsouthern@shreveportbar.com	(318)222-3643
Jefferson Parish Area	Pat M. Franz patfranz@bellsouth.net	(504)455-1986	For more information, go to: www.lsba.org/goto/solace .		
Lafayette Area	Pam Landaiche director@lafayettebar.org	(337)237-4700			
Lake Charles Area	Melissa A. St. Mary melissa@pitrelawfirm.com	(337)942-1900			

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REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date Oct. 1, 2020.

Decisions

Justin Edward Alsterberg, New Orleans, (2020-B-0801) **Consented to a six-month suspension, fully deferred, subject to a two-year period of probation**, ordered by the Louisiana Supreme Court on Sept. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Sept. 8, 2020. *Gist:* Respondent mishandled his client trust account and failed to supervise a non-lawyer employee.

Samuel Robert Aucoin, Patterson, (2020-B-0979) **Interimly suspended** by order of the Louisiana Supreme Court on Aug. 10, 2020. JUDGMENT FINAL and EFFECTIVE on Aug. 10, 2020.

Wesley Tyron Bishop, New Orleans, (2020-B-0962) **Consented to being transferred to interim suspension** status ordered by the Louisiana Supreme Court on July 31, 2020. JUDGMENT FINAL and EFFECTIVE on July 31, 2020.

Francis C. Broussard, formerly of West Monroe, (2020-B-00366) **The minimum period within which he may seek readmission from his disbarment in *In re: Broussard*, 16-1441 (La. 1/25/17), 219 So.3d 290, be extended for a period of one year and one day**, ordered by the Louisiana Supreme Court on June 22, 2020. JUDGMENT FINAL and EFFECTIVE on July 6, 2020. *Gist:* Failing to timely update change of address to the Bar; failing to act with reasonable diligence and promptness in representing a client; failing to communicate with client; failing to cooperate in a disciplinary investigation; failing to safekeep property of client; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and violating the Rules of Professional Conduct.

Lynden James Burton, New Iberia, (2020-OB-00755) **Reinstated to the practice of law, subject to a two-year period of probation**, by order of the Louisiana Supreme Court on Sept. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Sept. 8, 2020.

Samuel C. D'Aquila, Jackson, (2020-B-0942) **Consented to a public reprimand** by order of the Louisiana Supreme Court. JUDGMENT FINAL and EFFECTIVE on Sept. 29, 2020. *Gist:* Respondent engaged in conduct constituting a conflict of interest and made a false statement of material fact to the ODC.

Brian Anthony Dragon, Slidell, (2020-B-00519) **By consent, suspended for three years retroactive to 10/8/18, the date of his interim suspension, subject to conditions**, ordered by the Louisiana Supreme Court on June 12, 2020. JUDGMENT FINAL and EFFECTIVE on June 12, 2020. *Gist:* Failing to act with reasonable diligence and promptness in representing a client; failing to communicate with client and complying with a reasonable request for information; failing

to return unearned fee; conflict of interest concerning current client; conflict of interest concerning former client; improper withdrawal and failing to return file; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; conduct prejudicial to the administration of justice; and violating the Rules of Professional Conduct.

William C. Gore, Baton Rouge, (2020-B-01023) **Interimly suspended from the practice of law** by order of the Louisiana Supreme Court on Sept. 8, 2020. JUDGMENT FINAL and EFFECTIVE on Sept. 8, 2020. *Gist:* Gore may not practice law in Louisiana until further orders of the Court.

Sanda B. Groome, New Orleans, (2020-B-00737) **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 Sept. 29, 2020. JUDGMENT FINAL and EFFECTIVE on Sept. 29, 2020. *Gist:* Respondent was arrested for driving under the influence of alcohol.

Continued next page

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— ATTORNEYS AT LAW —
DEFENSE OF ETHICS COMPLAINTS AND CHARGES

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H. CARTER MARSHALL

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NEW ORLEANS, LA 70130

John Hoychick, Jr., Rayville, (2020-B-0532) **By consent, publicly reprimanded, subject to conditions**, ordered by the Louisiana Supreme Court on June 22, 2020. JUDGMENT FINAL and EFFECTIVE on June 22, 2020. *Gist*: Respondent violated Rule 1.15(a) of the ROPC by failing to timely remit funds from the client trust account to respective parties. Said violation resulted in inadvertent commingling of earned legal fees with client funds.

Joseph Aiavolasiti Kott, Mandeville, **Transferred to active status** by order of the Louisiana Supreme Court, FINAL and EFFECTIVE on July 2, 2020 (2020-OB-0648); placed on **interim suspension status** by order of the Louisiana Supreme Court, FINAL and EFFECTIVE on July 2, 2020 (2020-B-0752); and **permanently resigned from the practice of law in lieu of discipline** by order of the Louisiana Supreme Court, FINAL and EFFECTIVE on Sept. 23, 2020 (2020-OB-0918). *Gist*: Criminal misconduct.

J. Renee Martin, Baton Rouge, (2020-B-0119) **Permanently disbarred from the practice of law** by order of the Louisiana Supreme Court on March 16, 2020. ORDER FINAL and EFFECTIVE on July 6, 2020. *Gist*: Conduct involving knowingly and intentionally violating duties owed to her clients, the public, the legal system and the legal profession, causing significant harm to her clients.

Donna Orjuela, New Orleans, (2020-OB-1033) **Transferred to disability/inactive status** by order of the Louisiana Supreme Court on Aug. 27, 2020. JUDGMENT FINAL and EFFECTIVE on Aug. 27, 2020. Ms. Orjuela may not practice law until further orders from the Court.

John J. Radziewicz, New Orleans, (2020-B-0641) **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 Aug. 5, 2020. JUDGMENT FINAL and EFFECTIVE

on Aug. 5, 2020. *Gist*: Respondent was arrested for driving under the influence of alcohol.

Cynthia Ann Sternberg, Houston, TX, (2020-OB-00751) **Transferred to active status** by order of the Louisiana Supreme Court on Sept. 8, 2020. ORDER FINAL and EFFECTIVE on Sept. 8, 2020.

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

Rule 4.2 — Communication with persons represented by counsel.

Rule 8.4(a) — It is professional misconduct for a lawyer to: (a) 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.

Continued next page



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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 Oct. 5, 2020.

Respondent	Disposition	Date Filed	Docket No.
Michael Doherty Breeden III	Disbarred.	9/4/20	19-14652
Matthew B. Collins	[Reciprocal] Suspension.	8/26/20	20-1807
P. David Carollo	[Reciprocal] Suspension (fully deferred).	8/26/20	20-1805
Susan Heard Crawford	[Reciprocal] Suspension.	9/16/20	20-2088
Charles L. Dirks III	[Reciprocal] Suspension.	9/16/20	20-2087
Tara F. Gilder	[Reciprocal] Suspension (partially deferred).	8/26/20	20-1802
Darrell K. Hickman	[Reciprocal] Suspension (partially deferred).	9/16/20	20-2081
Ella D. Kliebert	[Reciprocal] Suspension (fully deferred).	8/28/20	20-2010
Tedrick K. Knightshead	[Reciprocal] Suspension (fully deferred).	8/26/20	20-1809
Stephen Michael Smith	[Reciprocal] Suspension (partially deferred).	9/16/20	20-2085
Alex Washington, Jr.	[Reciprocal] Suspension (fully deferred).	9/16/20	20-2084
Tyrone F. Watkins	[Reciprocal] Suspension.	8/26/20	20-1806
Keith T. Whiddon	[Reciprocal] Public reprimand.	8/28/20	20-1804

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MEDIATION AND ARBITRATION *of* COMPLEX DISPUTES



Guy deLaup



Larry Feldman



W. Ross Foote



E. Phelps Gay



Thomas Hayes, III



Mike McKay



Patrick Ottinger



Larry Roedel



Marta-Ann Schnabel

THE Patterson RESOLUTION GROUP

◀ **Michael A. Patterson** is a partner with Long Law Firm in Baton Rouge, LA. He is the managing member of PRG. He has been mediating and arbitrating cases for over 25 years with a concentration on construction, business and employment cases. He is a member of the Construction and Employment panels of the American Arbitration Association. He received his BA and JD from Louisiana State University and his LLM in Dispute Resolution from Pepperdine University. He is on the adjunct faculty of the Louisiana State University Law School where he teaches a skills course on trial advocacy and evidence. He was an American Arbitration Association mediator for over 350 Hurricane Katrina homeowners cases, acted as settlement counsel for the City of Baton Rouge in resolving a number of judgments against the City and served as Discovery Special Master involving the construction of the University Medical Center in New Orleans.





Timing of Discovery Impacts *Contra Non Valentem*

Desi v. Thomas Jefferson Constr. Corp., 19-0502 (La. App. 5 Cir. 10/5/20), ____ So.3d ____, 2020 WL 5885334.

On March 14, 2017, Cher Desi filed suit in the 24th Judicial District Court for Jefferson Parish for injuries allegedly sustained in a slip-and-fall onto tile outside a Best Western hotel on March 18, 2016. Desi originally named Best Western, the construction company that built the hotel, and the hotel owner as defendants.

On June 25, 2018, more than one year after filing suit and more than two years after falling, Desi learned from a C.C.P. art. 1442 deposition that Mohawk Industries, Inc. manufactured the floor tile in question, and Versailles Interiors, Inc. had installed it. Desi amended her petition to add both parties as defendants

on July 31, 2018.

In February 2019, the trial court granted summary judgment in favor of the three original defendants, dismissing them from the suit. The only remaining defendants were Mohawk and Versailles, the later-added defendants.

Mohawk and Versailles both filed exceptions of prescription asserting that Desi's claims against them had prescribed before they were added as defendants, and the fact that the original defendants had been dismissed prevented Desi from claiming interruption of prescription due to timely filing against solidary obligors.

Desi argued that although Mohawk and Versailles were added more than one year after the alleged tort, prescription was actually suspended as to them due to *contra non valentem*, because she could not reasonably have known their identities until the June 2018 deposition.

The trial court granted the exceptions of prescription, giving rise to plaintiff's appeal. The 5th Circuit Court of Appeal — Judges Windhorst, Gravois and Liljeberg presiding — affirmed the trial court's order granting the exception of prescription and dismissing plaintiff's claims.

In an opinion penned by Judge Windhorst, the panel acknowledged that the doctrine of *contra non valentem* does

include the "Discovery Rule," whereby prescription does not run against a plaintiff who did not know and could not reasonably have known of a cause of action. The court added, however, that this relief does not extend to a plaintiff whose ignorance is due to her own willfulness or neglect. To this end, a plaintiff is deemed to know what could have been learned by reasonable diligence.

For her claim to fall under *contra non valentem*, Desi therefore had to (1) allege sufficient facts to show that her claims against Mohawk and Versailles were neither known nor reasonably knowable until the 2018 deposition; and (2) demonstrate reasonable and diligent efforts to obtain discovery up to that point.

A review of the record indicated that Desi waited 15 months after filing suit — a period longer than the prescriptive period — to conduct discovery as to the identities of the tile manufacturer/installer during the June 2018 deposition. While the court declined to expound upon what *would* constitute reasonable diligent discovery conduct, it unequivocally held that Desi's conduct did *not* meet that standard and, therefore, did not deserve the protection of *contra non valentem*.

The 5th Circuit's decision in *Desi* serves as a reminder for attorneys to practice (pro)active case management, particularly in discovery.

—Lawrence J. Centola


Member, LSBA Civil Law and
Litigation Section
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New Orleans, LA 70130
and

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Capt. Gregory Daley
International Maritime Consultancy
Marine Safety & Operations Expert

M.S. Mechanical Engineering, MIT
USCG Ocean Master Unlimited
Certified Safety Professional
Experienced Expert Witness
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There Are Limits to Limited Liability of LLC Members

In Re Areno, 615 B.R. 449 (2020).

Redguard, LLC is a company that manufactures blast-resistant buildings for sale or lease to individual users. Micah Keith Areno became an independent dealer of Redguard by forming and becoming the sole member of Industrial Safety Modules, LLC (ISM). In 2016, ISM ceased doing business while owing Redguard \$351,257.25 for unpaid rentals. In 2018, Areno filed for bankruptcy under Chapter 7.

Redguard filed an adversary proceeding seeking a determination that the debt owed to it by ISM was nondischargeable as to Areno, who allegedly disregarded the separate corporate existence of ISM to fund his personal lifestyle and financial needs. Redguard argued that traditional veil-piercing doctrines apply to LLCs and established Areno's liability for the debt. Areno then filed a motion for summary judgment arguing that corporate veil piercing is inapplicable to LLCs. The issue

before the bankruptcy court was whether corporate-veil-piercing doctrines are equally applicable to limited-liability companies to hold their owners liable for company debts. Since the Louisiana Supreme Court had not squarely addressed this question, the bankruptcy court was tasked to make an "Erie guess" to determine what the Louisiana Supreme Court would do if faced with this issue. To predict how the state's highest court would rule, the bankruptcy court reviewed La. R.S. 12:1320 and looked primarily at the decisions of the Louisiana Supreme Court in *Ogea v. Merritt*, 13-1085 (La. 12/10/13), 130 So.3d 888, and *Nunez v. Pinnacle Homes, L.L.C.*, 15-0087 (La. 10/14/15), 180 So.3d 285.

In *Ogea*, the Louisiana Supreme Court found that while La. R.S.12:1320 (B) establishes a presumption that members of an LLC are not personally responsible for liabilities of an LLC, 12:1320(D) provides the three exceptions the general rule is subjected to: (1) fraud, (2) breach of professional duty and (3) other negligent or wrongful act. The Louisiana Supreme Court in *Nunez* clarified and restated the *Ogea* analysis, holding that limited liability of an LLC member shall be construed as the general rule and that personal liability as an exception strictly framed by the law. The bankruptcy court noted that, following the *Ogea* and *Nunez* rulings, Louisiana courts of appeal have continued to apply veil-piercing doctrines to LLCs.

Under the Louisiana Supreme Court's

reasoning in *Ogea*, while both the LLC and corporate statutes establish the general rule that a company's owners are shielded from personal liability, Louisiana courts may pierce the veil when the business owners or members of an LLC engage in fraudulent activity or wrongful acts.

The bankruptcy court, therefore, predicted that veil-piercing doctrines under corporation law are applicable to LLCs and their members. As such, the court denied Areno's motion for summary judgment.

Korrapati v. Augustino Bros. Constr., LLC, 19-0426 (La. App. 5 Cir. 7/31/20), ___ So.3d ___, 2020 WL 4381850.

In 2017, a homeowner, Kanaka Korrapati, hired Augustino Brothers Construction, LLC to work on her home for her daughter's wedding. Korrapati negotiated the contract with the sole member of Augustino, Christopher Perdomo. The parties agreed to a project of three months, with Augustino acquiring a permit for the work.

In January 2018, Korrapati cancelled the construction contract after paying \$79,050 under the contract. Shortly thereafter, Jefferson Parish posted a notice of violation at the worksite because there was no permit for the project despite Perdomo's assurance that he obtained a permit. In late January 2018, Korrapati filed suit in 24th Judicial District Court of Jefferson Parish against Augustino and Perdomo, seeking to recover the amount paid, the costs of



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removing improperly constructed work and other damages to be proven at trial. In her petition, Korrapati alleged, among other things, that because Perdomo intentionally and purposely misrepresented that he acquired a permit, he was liable for her damages.

Typically, no member, manager, employee or agent of a limited-liability company is liable in such capacity for a debt, obligation or liability of the limited-liability company. However, a member's protection against personal liability is not unlimited. La. R.S. 12:1320(D) provides a cause of action against a member of a limited-liability company due to any breach of a professional duty, including fraud among other wrongful acts. At trial, Perdomo testified that he did not have a permit. Instead of providing Korrapati with a permit, Perdomo told her that he "paid for a permit" and "sent Ms. Korrapati the application for the permit when she asked for a copy of the permit." The trial court found, and the court of appeal affirmed, that this was an intentional misrepresentation of fact made with the intent to deceive for personal gain. Thus, Perdomo, the sole member of the LLC, was held individually liable for damages due to his misrepresentations.

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EPA Must Set Emissions Limits for All Emissions of Pulp Mills

In *Louisiana Environmental Action Network v. EPA*, 955 F.3d 1088 (D.C. Cir. 2020), a Louisiana environmental group sued the EPA for failing to promulgate emissions standards for all of the hazardous air pollutants that pulp mills are known to

emit.

Under the Clean Air Act, the EPA is required to set emissions standards for every recognized hazardous pollutant that a regulated source category is known to emit. The problem here arose because, in 2001, when setting pulp-mill combustion-sources standards, the EPA addressed some but not all of the hazardous air pollutants they are known to emit. The Clean Air Act also requires review and revision of these standards every eight years. While it took the EPA 16 years to belatedly revisit the pulp-mill standards, in 2017, it reviewed only the pollutants it had already set standards for in the 2001 rule.

LEAN sued, arguing that several members lived near pulp mills in Louisiana and were injured by exposure to unregulated emissions. The EPA argued that it was not required; under section 112(d)(6), it only has to review and revise existing air pollutant emissions limits, not add new limits to previously unlimited pollutants. Paper mill companies also intervened in the suit to argue that any challenges to the failure of the EPA to regulate every emission type should have been brought in 2001 when the rule was originally promulgated.

The D.C. Circuit court disagreed with both the EPA and the paper mills, holding that a plain reading of the Clean Air Act requires emissions standards be set for each source category, and the section 112(d)(6) review requires that all listed hazardous air pollutants emitted by every source category be limited: "We read the statutory text to require EPA during its section 112(d)(6) review to establish any missing limits. Because we conclude that the test of the statute unambiguously supports Petitioners' reading, we resolve the case without resort to any deference to EPA under [the *Chevron* agency deference standard]." *Id.* at 1096.

5th Circuit Continues to Deny Associational Standing in Citizens Suits

In a suit arising under the Clean Air Act, two Texas organizations, a group of shrimpers and an environmental group, requested a hearing to contest the issuance

of air-quality permits to a natural-gas company, Rio Grande LNG. While suing the Texas Commission on Environmental Quality (TCEQ) in state court for its failure to grant a hearing on the contested permit, the petitioners also sued simultaneously in federal court, arguing that the TCEQ erred in granting air-quality permits to Rio Grande LNG and that petitioners were "affected persons" entitled to request a contested-case hearing under Texas law. Given the unusual posture of this case — a petition seeking direct review of a state agency's decision in the 5th Circuit — the 5th Circuit asked petitioners to submit a letter brief explaining what source of law provided them with a cause of action. However, despite this request, the 5th Circuit then went on to determine that "[w]e need not decide whether Petitioners have a cause of action because they do not have standing." *Shrimpers and Fishermen of RGV v. Texas Commission on Environmental Quality*, 968 F.3d 419, 423 (5 Cir. 2020).

The 5th Circuit recited the various tests for standing in citizens suits and associational standing:

The familiar elements of standing are (1) an injury in fact, (2) that is fairly traceable to the challenged conduct of the respondent, and (3) that is likely to be redressed by a favorable judicial decision Because Petitioners are membership organizations, they must make the additional showing of associational standing. To establish associational standing, Petitioners must show that (1) their members would independently have Article III standing to sue, (2) the interests they seek to protect are germane to their purposes, and (3) neither the claim asserted nor the relief requested requires the participation of individual members.

Id. at 424. The court determined, however, that it needed to "only consider the first prong of both tests: We conclude Petitioners have not satisfied their burden to show their members' injuries in fact." *Id.*

The petitioners provided evidence that their members lived, worked or traveled within a few miles of the facility and

claimed that “evidence in the record from Rio Grande LNG’s and TCEQ’s modeling shows elevated risks of harm from the facility’s air emissions at distances of more than 14 miles from the facility.” *Id.* at 425. The court decided this proximity was too “generalized” to prove that these specific members were actually harmed, as this evidence failed to identify what specific health risks their members expect to suffer and what risks would increase as a result of the facility being built. Further, the court held the evidence of harm from exposure to emissions from the facility consisted of “mere allegations.” *Id.* Thus, lacking standing to attack the proceedings through a federal lawsuit, the petitioners’ case was dismissed.

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Community Property

Sanders v. Sanders, 53,454 (La. App. 2 Cir. 5/20/20), 296 So.3d 1188.

The trial court denied Ms. Sanders’ reimbursement claims regarding alleged community funds and her alleged labors used to improve the value of Mr. Sanders’ separate property. The parties’ home, which was his separate property, burned down. The insurance check was paid in both names, and the funds were used to rebuild the home. She argued that they were community, since the check was written in both of their names; he argued that, under the principle of real subrogation, the funds were his separate property. She also alleged that she did work to rebuild the home and was entitled to reimbursement under La. Civ.C. art. 2368. The trial court did not take any evidence or testimony in denying her claims. She also appealed that

the trial court failed to partition the entire community. The court of appeal reversed and remanded for an evidentiary hearing but did not answer the question as to the classification of the insurance funds.

Harp v. Succession of Bryan, 19-0062 (La. App. 1 Cir. 9/3/20), ____ So.3d ____, 2020 WL 5249135.

Prior to his death, Mr. Bryan purportedly sold pieces of immovable property to the Harps and two other couples; however, Mr. Bryan’s wife did not sign those acts, which purported to be lease-purchase agreements. After his death, the three purchasers sued to enforce their agreements. The trial court found the contracts to be invalid. The court of appeal reversed, finding, first, that the contracts did not contain required provisions for bond-for-deed contracts. Further, the contracts were not in the form of authentic acts to transfer immovable property. However, because the defendants acknowledged Mr. Bryan’s signature on the contracts, the appellate court found that the contracts were acts under private signature. Because Ms. Bryan did not sign the contracts, and La. Civ.C. art. 2347

provides that both spouses must concur in the alienation of community immovables, the appellate court found that the contracts were relatively null. Nevertheless, because Ms. Bryan’s actions indicated that she renounced her right to concur and also confirmed the contracts, the relative nullity was cured. Finally, because the trial court had found the contracts to be unenforceable, it did not address the plaintiff’s claims for damages and specific performance, and the appellate court remanded the matter to the trial court to address those issues. The dissent argued that Ms. Bryan’s failure to sign the agreements as required by La. Civ.C. art. 2347 made them invalid, distinguishing the authority relied on by the majority.

Custody

Bailey v. Bailey, 19-0644 (La. App. 3 Cir. 3/11/20), 297 So.3d 58.

The trial court did not err in naming Ms. Bailey the domiciliary parent. Although the parties were even on the La. Civ.C. art. 134 factors, the court found

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(1) Mr. Bailey was more likely to make decisions to hurt or harass Ms. Bailey; (2) the court-appointed evaluator opined she had a slight advantage “primarily because of gender” (the child was a girl); and (3) his employment situation fluctuated and included work overseas. The trial court did not err in averaging Mr. Bailey’s last three years of income to determine his income for child support purposes because of the variations and unknowns related to his income, including his work overseas, and his failure to produce evidence regarding costs and expenses that may have affected his testimony as to his gross income. Regarding his requests for visitation with Ms. Bailey’s son from a previous marriage, the trial court had noted that it had no authority to order such visitation, and the court of appeal found that the matter was moot, as the child reached the age of majority after the judgment was issued. The trial court did not err in finding Mr. Bailey in contempt for numerous posts on Facebook, which it found to be harassing toward Ms. Bailey, despite his claim that

he was only “venting” and did not intend to harass her.

Smitko v. Achee, 20-0576 (La. App. 1 Cir. 9/14/20), 2020 WL 5517601.

The 1st Circuit granted the grandparent intervenors’ application for writs, finding that a prior consent judgment could not affect the rights of the biological grandparents beyond those required by law, and that the parents could not use La. Civ.C. art. 132 to give custody to a third party to attempt to preclude the biological grandparents from seeking custody. The matter was remanded to the trial court to conduct a custody trial after discovery and court-ordered evaluations.

Pretrial Procedure

Rouzan v. Rouzan, 20-0240 (La. App. 4 Cir. 9/30/20), ____ So.3d ____, 2020 WL 5819545.

Following a status conference, a custody trial date was apparently agreed on, but no pretrial order was issued or

signed by the court. When the father and the custody evaluator appeared on the apparently scheduled date, the trial court proceeded without the mother and her attorney and entered a custody judgment. The mother appealed, stating that she had requested under La. C.C.P. art. 1572 notice of any hearings, and that she had never received any signed order setting the custody hearing. Moreover, she stated that several dates had been discussed, but that there had been no agreement on a specific date, and that she had not waived notice and service. The court of appeal found that the trial court abused its discretion in proceeding without a signed pretrial order setting the date of the hearing; it vacated the judgment and remanded the matter.

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2021 Judicial Interest Rate is 3.5%

Pursuant to authority granted by La. R.S. 13:4202(B)(1), as amended by Acts 2001, No. 841, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2021 will be three and one-half (3.5%) percent per annum.

La. R.S. 13:4202(B), as amended by Acts 2001, No. 841, and Acts 2012, No. 825, requires the Louisiana Commissioner of Financial Institutions to determine the judicial interest rate for the calendar year following the calculation date. The commissioner has determined the judicial interest rate for the calendar year 2021 in accordance with La. R.S. 13:4202(B)(1).

The commissioner ascertained that on Oct. 1, 2020, the first business day of the month of October, the approved discount rate of the Federal Reserve Board of Governors was zero and one-quarter (0.25%) percent.

La. R.S. 13:4202(B)(1) mandates that on and after Jan. 1, 2021, the judicial interest rate shall be three and one-quarter percentage points above the Federal Reserve Board of Governors-approved discount rate on the first business day of October 2020. Thus, the effective judicial interest rate for the calendar year 2021 shall be three and one-half (3.5%) percent per annum.

La. R.S. 13:4202(B)(2) provides that the publication of the commissioner’s determination in the Louisiana Register “shall not be considered rulemaking within the intentment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953.” Therefore, (1) a fiscal impact statement, (2) a family impact statement, (3) a poverty impact statement, (4) a small business statement, (5) a provider impact statement, and (6) a notice of intent are not required to be filed with the Louisiana Register.

— John P. Ducrest, CPA

Commissioner of Financial Institutions

Date: October 15, 2020

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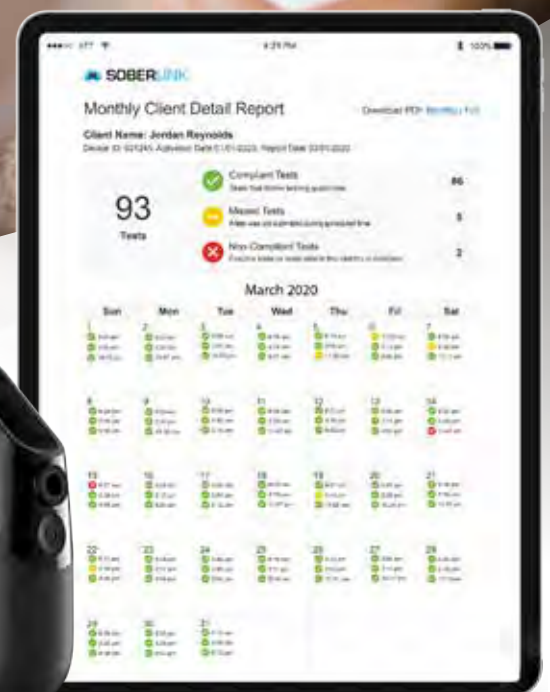
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Plaintiffs Alleging Negligence by Land Manager They Hired Can Assert Claim in Contract or Tort

Franklin v. Regions Bank, No. 19-30684, ____ F.3d ____, 2020 WL 5587417 (5 Cir. Sept. 18, 2020).

The plaintiffs contracted for Regions Bank to manage the plaintiffs' mineral interests in a large tract. Regions granted a mineral lease with a three-year primary term to an original lessee, which later assigned the lease to Matador Resources. The lease contained a Pugh Clause. It also contained a depth-severance clause, which stated the lease would lapse after the primary term as to depths more than 100 feet beneath the deepest depth drilled. Near the end of the primary term, the lease was set to expire altogether as to 169 undeveloped acres and as to the deep rights elsewhere, absent further action or agreement. Regions intended to grant Matador an extension of the lease as to the 169 undeveloped acres, but Regions negligently executed a document that extended the lease as to all areas and all depths. In a lawsuit that the plaintiffs brought prior to the case discussed here, the plaintiffs sought to rescind the lease extension, but the Louisiana Supreme Court upheld the extension in *Peironnet v. Matador Resource Co.*, 12-2292 (La. 6/28/13), 144 So.3d 791, 796.

Three years later, the plaintiffs sued Regions, alleging that Regions' negligence in executing a lease extension as to all depths had cost the plaintiffs about \$30 million in lost lease bonuses and royalties. Regions moved to dismiss the case on the basis that the plaintiffs' claim was prescribed under La. Civ.C. art. 3492's one-year prescriptive period for tort claims. The plaintiffs countered that they were asserting a contract claim that was not prescribed because it was subject to a 10-year

prescriptive period under Civ.C. art. 3499. The district court dismissed the case based on prescription, but the U.S. 5th Circuit reversed. The 5th Circuit noted that Civ.C. art. 2989 requires mandataries (agents) to perform their mandate (agency) "with prudence and diligence." Further, Civ.C. art. 1994 imposes liability on persons for "defective performance" of contractual obligations. Accordingly, explained the 5th Circuit, if parties to a contract allege that they were damaged by a counterparty's negligence in performing contractual obligations, the aggrieved parties can assert tort claims or contract claims. Here, the plaintiffs chose to assert contract claims.

The 5th Circuit, therefore, reversed, noting that tort claims would have been prescribed, but that the plaintiffs asserted contract claims that were not prescribed.

Lessor's Release of Lessee Enforced

Prairie Land Co. v. ConocoPhillips Co., No. 2:20-CV-00748, 2020 WL 5647300 (W.D. La. Sept. 22, 2020).

In 2020, the plaintiffs filed suit against ConocoPhillips in state court, alleging that the company's oil and gas activities pursuant to a 1943 lease had caused contamination of the plaintiffs' land. The plaintiffs asserted claims that included (1) breach of contract; (2) a tort pursuant to Civ.C. art. 2315; (3) punitive damages pursuant to former Civ.C. art. 2315.3; (4) fraud; (5) a continuing tort; and (6) strict liability under Civ.C. arts. 667, 2317 and 2322. ConocoPhillips removed the case to federal court and filed a Rule 12(b)(6) motion to dismiss.

The district granted the motion to dismiss as to the plaintiffs' contract claims. The court noted that ConocoPhillips had previously assigned the lease to Prairie Land Co. Further, at the time of the assignment, the plaintiffs executed a document recognizing that ConocoPhillips had fulfilled all its obligations and "expressly released" the company from liability for "obligations under the terms of the lease." The plaintiffs argued that this release applied to the oil and gas lease, but not to ConocoPhillips' obligations under surface leases that the company had with the plaintiffs. The court disagreed, noting that

the release referred to "all contracts [and] agreements . . . pertaining to the assigned interest."

The court concluded that the release probably applied to any article 2315 tort claims for negligence relating to ConocoPhillips' activities under its contracts. However, the court denied the motion to dismiss after determining that the plaintiffs had alleged facts sufficient to state a claim that ConocoPhillips had committed negligence with respect to activities outside the scope of the parties' contracts.

The pre-1996 version of Civ.C. art. 667 imposed strict liability on landowners for ultrahazardous activities that harm neighbors. The court denied the motion to dismiss the plaintiffs' article 667 claims, concluding that the plaintiffs had alleged facts sufficient to state such claims. In contrast, the court dismissed (without prejudice) the plaintiffs' strict liability claims under articles 2317 and 2322, which (prior to 1996) provided for a strict premises liability in certain circumstances, after finding that the plaintiffs did not allege facts sufficient to state claims under those articles.

Similarly, the court dismissed (without prejudice) the plaintiffs' punitive damages claims under former article 2315.3, concluding that the plaintiffs had not alleged facts to state a claim under the article for activities conducted during the period of time when the article was in effect. The court also dismissed without prejudice the continuing-tort claims, noting that a continuing tort must involve continuing tortious conduct, not just the continuing effect of a prior tortious act. Finally, the court dismissed without prejudice the plaintiffs' fraud claims and their miscellaneous other claims.

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Multiple Issues

Thomassie v. Amedisys LA Acquisitions, L.L.C., 19-0173 (La. App. 1 Cir. 8/18/20), ____ So.3d ____, 2020 WL 4783550.

Mr. Thomassie developed pressure wounds while a patient of Amedisys. A medical-review panel (MRP) opined in favor of the patient on breach and causation. The trial court issued a judgment approving a \$100,000 settlement between Mr. and Mrs. Thomassie and Amedisys, reserving to the Thomassies all rights against the PCF.

The PCF intervened and objected to any claim over \$100,000 until it had an opportunity to prepare for trial. The Thomassies' response was that payment of \$100,000 established liability, allowing them to pursue excess damages over \$100,000 without the need to prove liability. They also moved for partial summary judgment to exclude evidence of medical-expense payments by TRICARE, a government-provided insurance plan, contending that these payments were subject to the collateral-source rule.

Mr. Thomassie (patient) died, after which the PCF filed exceptions of prescription, no right of action for Mrs. Thomassie (wife) in her individual capacity because she was never a "claimant," and no independent cause of action for her attendant-care claim. The trial court sustained the PCF's exception of prescription for the claims of the patient and the wife, holding that the wife's independent claims were prescribed because they were not pled until years after the Amedisys events and that the wife had no right or cause of action under the MMA for attendant care because she was not a patient and did not submit her claim to the MRP.

Prescription

On appeal, the plaintiffs argued that the PCF had no standing to raise a prescription issue because the \$100,000 payment mooted that defense. The PCF countered that the MMA gave it the right to prepare a defense in advance of trial, including the prescription defense.

The appellate court referenced Louisiana Supreme Court cases, including *Graham* and *Khammash*, and, while agreeing that the PCF had the right to prepare a defense and fully contest damages even when liability was statutorily admitted, the appellate court noted that the Supreme Court has failed to address whether a statutory admission precludes the right to raise a prescription objection.

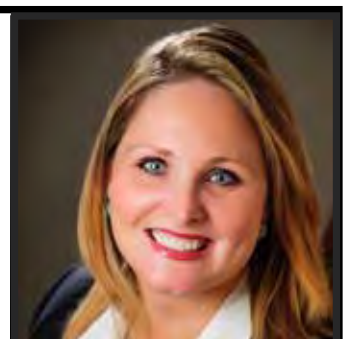
The court decided that the MMA does not give the PCF "a substantive right to assert an objection of prescription as to the claimant's underlying malpractice action" because the PCF is a statutory intervenor, not a "party defendant." The court cited 3rd, 4th and 5th Circuit opinions that held the PCF may not plead prescription once the statutory maximum has been paid, with the 3rd and 5th Circuits further holding that the "PCF may not raise *any* exceptions" after the defendant's limitation of liability is satisfied because the PCF does not stand in the shoes of a defendant. The judgment sustaining the PCF's exception of prescription was reversed.

No Cause of Action

The PCF contended the wife had no cause of action for an "independent claim" for attendant-care costs through the survival action. She responded that, as a legal representative of her husband's estate, she is a "claimant," as defined by the MMA, *e.g.*, she was "a patient or representative of any person, including a decedent's estate." The court agreed that she was a claimant and had stated a cause of action for future care on behalf of her husband's estate. However, the court then decided that, while an MMA claimant, the wife was not a patient entitled to recover for her individual losses, having received no healthcare from the defendant, *i.e.*, any losses she sustained were "not the result

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of direct health care afforded to her.” The trial court’s sustenance of the exception of no cause of action was reversed in part and affirmed in part.

No Right of Action

The PCF argued that the wife had no right of action because she had not submitted a claim for healthcare costs to a medical-review panel and, therefore, was not a claimant. She responded that, as the legal representative who is defined as a claimant, she had the right to seek damages for attendant care on behalf of the patient’s estate. The court agreed and reversed the trial court’s judgment sustaining the exception of no right of action for these expenses asserted by the wife in her capacity as legal representative of the estate. However, the court then ruled that the wife had no right of action for her individual claim for such services because she was not a patient, affirming the trial court’s decision in that regard.

Plaintiffs’ Motion for Summary Judgment on Collateral Source

The Thomassies made annual payments to TRICARE and contended that these payments were a collateral source. The PCF countered that TRICARE was a government-funded program that did not involve a contract between an insurer and an insured, and thus the United States held the right to recover the medical expenses. The appellate court wrote that as the PCF was not the tortfeasor, “[t]he application of the collateral-source rule in this instance will not serve the goal of deterring wrongful conduct by imposing responsibility on the PCF.” The court also commented that payments by TRICARE come from the general U.S. treasury, which did not “directly” receive money from the Thomassies; thus, the TRICARE payments were not a collateral source. The court found that to hold otherwise “would constitute an impermissible double recovery,” affirming the trial court’s denial of the plaintiffs’ motion for partial summary judgment.

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Wrongful Seizure Claim Against the Department Dismissed

Cheniere Constr., Inc. v. State, 19-1471 (La. App. 1 Cir. 9/18/20), ____ So.3d ____, 2020 WL 5586718.

The Louisiana Department of Revenue issued a sales-and-use tax assessment to Cheniere Construction, Inc. for \$320,664.43 in taxes, interest and penalties for the filing periods of March 31, 2009, through Sept. 30, 2012. Cheniere appealed to the Louisiana Board of Tax Appeals (BTA). Cheniere and the Department reached a consent judgment, whereby Cheniere agreed to pay \$139,349.84 in taxes for the subject period. According to Cheniere, the agreement was silent as to interest and penalties, but the parties agreed that the Department’s collections department would address these issues. The BTA issued an order dismissing Cheniere’s appeal with prejudice. Thereafter, the Department issued a revised Notice of Assessment for \$139,349.84 in taxes, plus \$59,266.98 in interest and \$25,659.10 in penalties. Cheniere

disputed the inclusion of interest and penalties.

On Nov. 3, 2016, Cheniere sent a check for \$139,349.84 with a cover letter stating that the check represented a “full satisfaction and compromise” of all sales taxes and related interest and penalties. In addition, the letter provided that if the Department did not wish to accept the tendered amount in full satisfaction of its debt, the Department should return the check to the Cheniere. The Department negotiated the check.

About a year later, the Department seized \$97,491.57 from Cheniere’s bank account, representing the outstanding interest and penalties. Within a year of seizure, Cheniere filed a petition for damages against the Department. Cheniere alleged that its \$139,349.84 payment was a full accord and satisfaction of its debts and the Department’s seizure of its bank account funds was a wrongful seizure, entitling it to tort damages. The district court dismissed Cheniere’s suit with prejudice, finding Cheniere had not stated a cause of action because it failed to allege proper compliance with Louisiana tax law. Cheniere appealed.

The court said the facts showed that, after the Department issued the revised Notice of Assessment, Cheniere neither timely appealed the revised assessment to the BTA nor timely paid the disputed amount under protest, both requirements under the statute. In upholding the district court’s dismissal, the court noted

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- *Practice Aid Guide: The Essentials of Law Office Management*
- *Hanging Out Your Shingle Louisiana Style*
- *Disaster Planning: It's Not Just for Hurricanes - Are You Ready?*
- *Practice Transition Handbook: Shutting Down a Law Practice in Louisiana*

that a taxpayer cannot dictate the manner by which it protests the Department's assessments. Because the statute provides a specific scheme that expressly provided Cheniere's available remedies, it cannot circumvent that scheme by relying on general Civil Code principles regarding compromise in an attempt to characterize its cause of action as one for wrongful seizure. The court held the Department did not wrongfully seize Cheniere's funds to obtain the disputed portion of the assessment.

—**Antonio Charles Ferachi**

Member, LSBA Taxation Section
Director of Litigation-General Counsel
Louisiana Department of Revenue
617 North Third St.
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La. Supreme Court Issues Major Decision in Oil and Gas Property Tax Case

On Oct. 20, 2020, the Louisiana Supreme Court issued a major decision in an *ad valorem* (property) tax case involving oil and gas wells. *D90 Energy, LLC v. Jefferson Davis Par. Bd. of Rev.*, 20-0200 (La. 10/20/2020), ____ So.3d ____, 2020 WL 6145158.

D90 Energy, an independent oil-and-gas operator, purchased two gas wells and one salt-water disposal well for \$100,000. Facing an assessment of more than \$3 million, the producer paid more than \$100,000 in taxes under protest for two of the tax years and appealed the assessor's decision. The Louisiana Tax Commission reduced the value to \$235,000, considering a Tax Commission regulation that allows recent, valid sales that are properly documented to be a measure of fair-market value. The district court for Jefferson Davis Parish affirmed the Tax Commission's correction of the assessor's valuation, but the 3rd Circuit Court of Appeal reversed, reasoning that the Tax Commission should have afforded "much discretion" to the assessor's determination of value. The

Louisiana Supreme Court granted D90 Energy's writ application to review the 3rd Circuit's decision.

In a unanimous decision, the Supreme Court reversed the Court of Appeal's decision and reinstated the Tax Commission's decisions in favor of D90 Energy. The Supreme Court found that the Tax Commission properly corrected the assessor's fair-market-value determination by considering the recent arms-length sale to D90 Energy. The Supreme Court found that the Tax Commission possessed the authority to correct the assessor's valuation, and the record evidence supported the correction. The recent sale, as opposed to regulatory tax tables, was a proper measure of value for D90 Energy's wells under the facts. The Supreme Court also found that the Tax Commission was not limited to reviewing only the information provided to the assessor, but could take evidence, hear testimony and consider the administrative record established before it in an appeal of an assessor's

determination. Finally, the Supreme Court addressed the effect of a taxpayer's failure to pay under protest when it is successful at a Tax Commission hearing, finding that such payment is not required when the taxpayer prevails before the Tax Commission.

This ruling is a key Louisiana tax decision on the scope of authority possessed by assessors in *ad valorem* tax matters and for the Louisiana Tax Commission as a reviewing body.

—**Kyle P. Polozola**

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Phyllis D. Sims

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CHAIR'S MESSAGE

Despite Disruptions, YLD Programming Goes On!

By Carrie LeBlanc Jones

The Louisiana State Bar Association's (LSBA) Young Lawyers Division Council (YLDC) has been busy despite the recent shifting of council members, COVID-19 disruptions and an overly active hurricane season.

The Wills for Heroes Committee did an excellent job of updating and streamlining the training materials during the COVID-19 downtime. The High School Mock Trial Committee released this year's problem and adapted the competition to go virtual, consistent with other states and the national competition. We are also exploring a virtual option to host a Barristers for Boards event.

The Professional Development Seminar (PDS), in connection with the LSBA's Midyear Meeting, is scheduled for Friday, Jan. 22, 2021. Hon. Shelly D. Dick, chief judge of the U.S. District

Court, Middle District of Louisiana, will discuss professionalism. The PDS also will offer CLE hours in ethics and law practice management.

The Young Lawyers Conference, *Shaping the Future*, is shaping up nicely. The conference is scheduled for Friday, May 14, 2021, at Galerie de Galatoire in New Orleans. Newly elected Louisiana Supreme Court Justice Piper D. Griffin agreed to give the keynote presentation. She is among a great lineup of speakers and topics selected specifically for young attorneys.

As much as I'm excited about our upcoming events and volunteer opportunities available through the




Carrie LeBlanc
Jones

YLDC, one of my favorite things is networking with other young attorneys from around the state. My YLDC colleagues quickly become dear friends. The Council enjoys sharing in each of its members' professional and personal accomplishments, whether someone makes partner, starts their own firm, receives a prestigious award, wins a big case, becomes a judge or welcomes a new baby. The YLD is also supportive of its members during challenging times such as sickness, loss and natural disasters. This year is no different in shared celebrations and lending support during troubled times.

I could not be more proud of our very own Shayna Beevers Morvant. She was recently elected and sworn in as 24th Judicial District Court judge, Division M. As one of the newest members of the judiciary, Shayna resigned from her YLDC District 2 seat. The YLDC will miss Shayna's contributions as a council member; however, I'm confident that Judge Morvant will continue to support and encourage young attorneys from the bench.

Rachal Cox Cassagne will move into the District 2 seat. Rachal joined the Council as a District 5 representative; however, she relocated to the District 2 region. Rachal ran unopposed for the vacated District 2 seat and will assume her new position immediately, leaving the District 5 seat open. As luck would have it, Camille Walther ran unopposed for District 5 representative. Typically, newly elected representatives are sworn in at the Annual Meeting in June; however, Camille graciously agreed to hit the ground running and join the Council early. Welcome aboard, Camille. We are excited to have you as our newest member.



YOUNG LAWYERS DIVISION NEWS

Get the latest Young Lawyers Division news online:
www.lsba.org/YLD

The Young Lawyers Division Web site is a public service of the LSBA-YLD Council, providing YLD information to the public and communicating with YLD members.

YOUNG LAWYERS SPOTLIGHT

Rachael M. Mills New Orleans

The Louisiana State Bar Association's Young Lawyers Division Council is spotlighting attorney Rachael M. Mills.

Mills is the Louisiana State Bar Association (LSBA) Access to Justice (ATJ) Program's projects counsel. In this role, she manages, administers and directs various projects of the LSBA ATJ Program, strengthening relationships and fostering coordination among Louisiana's civil justice community members and partners.

As part of those duties, she is staff liaison to several committees and subcommittees of the Access to Justice Committee and the Access to Justice Commission. For the ATJ Committee, she works with the Pro Bono and Disaster Response

subcommittees.

The Pro Bono Subcommittee supports activities coordinated through local pro bono entities to engage and recognize the private bar and judiciary in pro bono efforts. In her role as staff liaison with the Disaster Response Subcommittee, she facilitates coordination of the subcommittee and the American Bar Association/Young Lawyers Division (ABA/YLD) Disaster Response Hotline. For the ATJ Commission, she serves as staff liaison for the Funding Committee which explores ways to increase funding for civil legal aid.

Mills also oversees the ATJ Developing Leadership Intern Program which pro-



Rachael M. Mills

vides a unique opportunity for 1Ls to learn about Louisiana's civil justice network. Further, she is the local administrator of *LA.FreeLegalAnswers.org*, the online pro bono program created and supported by the ABA. This program is always in need of additional pro bono volunteers.

Originally from Birmingham, Ala., Mills graduated *magna cum laude* and Phi Beta Kappa from George Washington University. Later, she moved to Louisiana as an AmeriCorps disaster relief volunteer. She completed three terms of service with AmeriCorps (primarily with nonprofit organizations focused on rebuilding after Hurricane Katrina) before initially joining the LSBA's Access to Justice Department.

After a three-year hiatus to earn her JD degree from Louisiana State University Paul M. Hebert Law Center, Mills rejoined the LSBA's Access to Justice Department as ATJ projects counsel.

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By Trina S. Vincent, Louisiana Supreme Court

NEW JUDGE... RETIREMENTS...

New Judge

Tiffany

Foxworth-Roberts

was elected judge, Election Section 2, Division M, 19th Judicial District Court. She earned her bachelor's degree in 2001 from Southern University of Baton Rouge and her JD degree in 2005 from Southern University Law Center. Following law school, she practiced law at the Foxworth Law Firm from 2006 until her election to the bench. She worked as a registered nurse from 2001-07 and served for 13 years in the U.S. Army as an enlisted soldier post-Desert Storm and as a commissioned officer in the Iraq and Afghanistan Wars. She is married to Dr. Jonathan J. Roberts, MD, and they have one daughter.



Tiffany Foxworth-Roberts

Retirements

► 2nd Circuit Court of Appeal Chief Judge Felicia Toney Williams retired effective Oct. 1, 2020. She earned her bachelor's degree in 1977 from Southern University of Baton Rouge and her JD

degree in 1980 from Southern University Law Center. Prior to her election to the 2nd Circuit in 1993, she served as a U.S. Department of Justice attorney in 1980 and worked as an attorney at Central Louisiana Legal Services. In 1981, she worked as a central staff law clerk at the Louisiana Supreme Court. From 1982-90, she served as Madison Parish assistant district attorney and as a partner at Williams and Williams, A.P.L.C. She was elected as 6th Judicial District Court judge, Division B, in 1991, where she served until her election to the 2nd Circuit bench. In 1994, she served as Louisiana Supreme Court associate justice *pro tempore*.

► Shreveport City Court, Division A, Judge R. Lee Irvin retired effective July 2, 2020. He earned his bachelor's degree in 1976 from Northeast Louisiana University (currently the University of Louisiana-Monroe) and his JD degree in 1979 from Louisiana State University Paul M. Hebert Law Center. He served in the First Judicial District as an assistant district attorney from 1980-89 and was a partner in the firm of Waddell, Irvin & Thomas from 1983-90. He was elected to Shreveport City Court in 1991, where he served until his retirement.

Resignation

► 40th Judicial District Court, Division B, Judge E. Jeffery Perilloux resigned effective Sept. 22, 2020. He earned his bachelor's degree in 1989 from Southeastern Louisiana University and his JD degree in 1993 from Loyola University New Orleans College of Law. He began work as an attorney in 1994. He served as an assistant district attorney for 12 years until his election to the 40th JDC in 2017.

Death

► Retired West Monroe City Court Judge Charles A. Traylor II, 87, died Aug. 8, 2020. He earned his bachelor's degree in 1955 from Northeast Louisiana State College (currently the University of Louisiana-Monroe) and his JD degree in 1960 from Louisiana State University Law Center. He became West Monroe's city attorney in the early 1960s. In 1966, he joined the Fourth Judicial District Attorney's Office, where he worked for eight years as an assistant district attorney. He also served as a faculty member and teacher at United Theological Seminary in Monroe. In 1974, he was appointed West Monroe City Court judge and was reelected without opposition in 1978, 1984 and 1990. He served at the City Court until he retired in 1996.

LSBA Member Services

The mission of the Louisiana State Bar Association (LSBA) is to assist and serve its members in the practice of law. The LSBA offers many worthwhile programs and services designed to complement your career, the legal profession and the community.



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Shown seated: Holly Sharp, CPA, CFE, CFF Shown standing from left: Gilbert Herrera; Michele Avery, CPA/ABV, MBA, CVA, MAFF

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PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Adams and Reese, LLP, announces that Justin R. Glenn has joined the firm's New Orleans office as an associate and Taylor M. LeDuff has joined the firm's Baton Rouge office as an associate.

Dispute Resolution Institute of Louisiana, Ltd. in Baton Rouge announces that **Lisa R. Mondello** has joined the business as a mediator, consultant and investigator.

Betsy A. Fischer, LLC, announces that **Kathleen McNelis Legendre** has joined the firm's Metairie office as an associate. The firm's new location is Ste. 216, 3636 S. I-10 Service Road W, Metairie, LA 70001; website www.louisianafamilyandelderlaw.com.

Fishman Haygood, LLP, in New Orleans, along with Alysson L. Mills and Kristen

D. Amond, announce the formation of Mills' and Amond's new firm, Mills & Amond, LLP, located at Ste. 1525, 650 Poydras St., New Orleans, LA 70130; website www.millsamond.com. Mills & Amond will work with Fishman Haygood on projects of mutual interest.

Forman Watkins & Krutz, LLP, announces that Jordan B. Nixon and Taylor Delrie Waxley have joined the firm as associates in the New Orleans office.

Hinshaw & Culbertson, LLP, announces that **Heather LaSalle Alexis, Lauren E. Campisi, Eric J. Simonson, E. Stewart Spielman** and **Stephen P. Stroschein** have joined the firm's New Orleans office as partners. Also, **Dustin C. Alonzo** and **Adair L. Kingsmill** have joined the New Orleans office as associates.

Investar Bank in Baton Rouge announces the hiring of **Van R. Mayhall III** as its general counsel and senior vice president.

Irwin Fritchie Urquhart & Moore, LLC, announces the relocation of its Baton Rouge office to Chase North Tower, Ste. 1150, 450 Laurel St., Baton Rouge, LA 70801. The office is under the leadership of partner **Matthew W. Bailey**, along with associates **Hillary A. Brouillette** and **Shannon M. Jaeckel**.

Kean Miller, LLP, announces that of counsel Michael W. McLoughlin, senior counsel Janice M. Culotta and associate Anne C. (Annie) Lemelin have joined the firm's New Orleans office. Also, partner Tammy B. Scelfo and associate Z. Ambrose Stearns, Jr. have joined the firm's Lafayette office.

King & Jurgens, LLC, announces that Patrick T. Isacks and Jamia P. Love have joined the firm's New Orleans office as associates.

The Panagiotis Firm, A.P.L.C., in Lafayette announces that Dan C. Panagiotis has



Heather LaSalle
Alexis



Dustin C. Alonzo



Richard J. Arsenault



Laura E. Avery



Matthew W. Bailey



Wilton E. Bland III



Alan G. Brackett



Hillary A.
Brouillette



Lauren E. Campisi



Trevor M. Cutaiair



Adrian A. D'Arcy



Blake R. David

been appointed as U.S. administrative law judge, Department of Labor, Longshore Division, effective Nov. 8, 2020.

Pipes, Miles, Beckman, LLC, in New Orleans announces that Christopher R. Teske has joined the firm as a member and Alexis Polk Joachim, Ryan M. Hall, Jennifer S. Martinez and Katherine (Katie) Seegers Roth have joined the firm as of counsel. Also, Lindsey M. Soboul, Arianna E. (Ari) de Goede and Andrew C. Rayford have joined the firm as associates.

Staines, Eppling & Kenney, LLC, in Metairie announces that Michael W. Maldonado has joined the firm as an associate.

NEWSMAKERS

Richard J. Arsenault, a partner in the Alexandria firm of Neblett, Beard & Arsenault, participated in seven separate presentations for Baylor Law School's Complex Litigation LLM program. He chaired the Louisiana State Bar Association's 27th Annual Admiralty Symposium in September 2020. He has chaired the symposium since its inception. He was selected as one of Louisiana's Top 10 Attorneys by *Attorney and Practice Magazine* and was nominated as a member of Louisiana's Top 10 Attorneys in personal injury law in 2020.

Blake R. David, senior partner at Broussard & David in Lafayette, was named president-elect of the Louisiana Association for Justice.

Mark A. Doré, senior counsel in the Lafayette office of Kean Miller, LLP, was elected to the Board of Commissioners of the Lafayette Economic Development Authority.

Edmund J. Giering IV, general counsel of the Baton Rouge Area Foundation, is the 2020 recipient of the Outstanding In-House Counsel Award, presented by the Nonprofit Organizations Committee of the American Bar Association's Business Law Section to recognize distinguished service by a nonprofit in-house counsel.

Allison A. Jones, counsel in the firm of Downer, Jones, Marino & Wilhite, LLC, in Shreveport, was elected as a Fellow of the College of Labor and Employment Lawyers.

Linda A. Liljedahl, with Dispute Resolution Institute of Louisiana, Ltd. in Baton Rouge, was featured in the *Baton Rouge Business Report's* October 2020 Annual Report with an article on juvenile mediation.

Michael H. Rubin, a former president of the Louisiana State Bar Association and a member in the Baton Rouge office of McGlinchey Stafford, PLLC, received the 2020 Frederick S. Lane Award from the American College of Real Estate Lawyers. The lifetime achievement award, not given annually, has been granted to only 12 others since 1993.

David A. Strauss, Adam P. Massey and Susan E. Dinneen recently celebrated the first anniversary of the founding their New Orleans firm Strauss Massey Dinneen, LLC. The firm is located at Ste. 1450, 935 Gravier St., New Orleans, LA 70112, website www.smd-law.com.

Victor J. Suane, Jr., a partner in the Baton Rouge office of Kean Miller, LLP, was selected for the National Black Lawyers' top 100.

Irving J. Warshauer, a member in the New Orleans office of Gainsburgh, Benjamin, David, Meunier & Warshauer, L.L.C., is serving as chair of the Anti-Defamation League's South Central Regional Board.

Adrienne D. White, a partner in the Law Offices of White & White in Mansfield, was included in "The Zeta 100" presented by Zeta Phi Beta Sorority, Inc.



Jessica R.
Derenbecker



Susan E. Dinneen



Patrick R. Follette



Edmund J.
Giering IV



Elizabeth L.
Gordon



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Allison A. Jones



Adair L. Kingsmill



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Steven J. Lane

PUBLICATIONS

Best Lawyers in America 2021

Adams and Reese, LLP (Baton Rouge, New Orleans): E. Gregg Barrios, Mark R. Beebe, Philip O. Bergeron, Charles A. Cerise, Jr., Robin B. Cheatham, Jaimmé A. Collins, Chris A. D'Amour, Johnny L. Domiano, Jr., Kathleen F. Drew, John M. Duck, Brooke Duncan III, Richard B. Eason II, Mark S. Embree, Philip A. Franco, A. Kirk Gasperecz, William B. Gaudet, Charles F. Gay, Jr., Matthew C. Guy, Lisa Merz Hedrick, E.L. Henry, Christopher J. Kane, Edwin C. Laizer, Leslie A. Lanusse, Francis V. Liantonio, Jr., Kellen J. Mathews, Lisa E. Maurer, Don S. McKinney, Robert B. Nolan, Glen M. Pilié, Jane C. Raiford, Lee C. Reid, Robert L. Rieger, Jr., Edward J. Rice, Jr., Jeffrey E. Richardson, James T. Rogers III, Gregory F. Rouchell, Deborah B. Rouen, Elizabeth A. Roussel, E. Paige Sensenbrenner, William D. Shea, Philip B. Sherman, Tyson B. Shofstahl, Ronald J. Sholes (New Orleans "Lawyer of the Year," Arbitration), Mark J. Spansel, Martin A. Stern, Mark C. Surprenant, Lauren L. Tafaro, Roland M. Vandenberghe, Jr., David M. Wolf and Laurie Briggs Young; and Gerard J. Gaudet, Grant J. Guillot and G. Robert Parrott II, Ones to Watch.

Baldwin Haspel Burke & Mayer, LLC (New Orleans): David L. Carrigee, Lawrence R. DeMarcay III, Brian R. Johnson, Joel A. Mendler, Matthew P. Miller, Jerome J. Reso, Jr., Leon H. Rittenberg III, John A. Rouchell (New Orleans "Lawyer of the Year," Business Organizations and Closely Held Companies and Family Business Law), William B. Schwartz, John A. Stewart, Jr. Andrew T. Sullivan (New Orleans "Lawyer of the Year," Corporate Law), Matthew A. Treuting and Karl J. Zimmermann; and George A. (Jack) Casanova, Jr., Ones to Watch.

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C. (New Orleans): Michael A. Balascio, Judy Y. Barrasso (New Orleans "Lawyer of the Year," Bet-the-Company Litigation), Jamie L. Berger, Christine M. Calogero, Celeste R. Coco-Ewing (New Orleans "Lawyer of the Year," Mass Tort Litigation/Class Actions-Defendants), George C. Freeman III (New Orleans "Lawyer of the Year," Litigation-Securities), Craig R. Isenberg, John W. Joyce, Stephen H. Kupperman, Richard E. Sarver (New Orleans "Lawyer of the Year," Product Liability Litigation-Defendants), Kyle W. Siegel and Steven W. Usdin; and Viviana H. Aldous, Chloé M. Chetta, Robert J. Dressel, Laurence D. LeSueur, Shaun P. McFall, Janelle E.

Sharer, Madison A. Sharko and Lance W. Waters, Ones to Watch.

Breazeale, Sachse & Wilson, L.L.P. (Baton Rouge, New Orleans): Robert L. Atkinson, John W. Barton, Jr., Thomas M. Benjamin, Robert T. Bowsheer, Jude C. Bursavich, Peter J. Butler, Jr., David R. Cassidy, David M. Charlton, V. Thomas Clark, Jr., Jeanne C. Comeaux, Clay J. Countryman, Carroll Devillier, Jr., Cullen J. Dupuy, Murphy J. Foster III, Gregory D. Frost, Judith W. Giorlando, Alan H. Goodman, Emily Black Grey, Leo C. Hamilton (Baton Rouge "Lawyer of the Year," Administrative/Regulatory Law), Paul M. Hebert, Jr. (Baton Rouge "Lawyer of the Year," Family Law), Scott N. Hensgens, Michael R. Hubbell, David R. Kelly, Lance J. Kinchen, Michael C. Luquet, Catherine M. Maraist, Eve B. Masinter, Van R. Mayhall, Jr. (Baton Rouge "Lawyer of the Year," Corporate Law), C. Stokes McConnell, Jr., Tracy Averett Morganti, Trenton J. Oubre, Richard G. Passler, James R. Raines, Claude F. Reynaud, Jr., Melissa M. Shirley, Jerry L. Stovall, Jr., Thomas R. Temple, Jr. (Baton Rouge "Lawyer of the Year," Mass Tort Litigation/Class Actions-Defendants), B. Troy Villa, Stephen R. Whalen and Douglas K. Williams; and Danielle L. Borel, Joseph J. Cefalu III, Kelsey A. Clark, David C. Fleshman, Druit G. Gremillion, Rachael



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Linda A. Liljedahl



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A. Jeanfreau, Sunny Mayhall West, Matthew M. McCluer, Catherine Breaux Moore and Jacob E. Roussel, Ones to Watch.

Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, LLC (New Orleans): Raymond G. Areaux (New Orleans “Lawyer of the Year,” Litigation-Intellectual Property), Roy E. Blossman, M. Hampton Carver (New Orleans “Lawyer of the Year,” Oil and Gas Law), M. Taylor Darden, Matthew J. Fantaci, William T. Finn (New Orleans “Lawyer of the Year,” Banking and Finance Law), Russell L. Foster, Leann Opatowsky Moses, Philip D. Nizialek, Robert S. Stassi, Frank A. Tessier, Robert P. Thibeaux (New Orleans “Lawyer of the Year,” Financial Services Regulation Law) and David F. Waguespack.

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Frank A. Piccolo, Robert S. Rooth, Peter J. Rotolo III, G. Phillip Shuler III, Benjamin R. Slater III, Brent A. Talbot, Sabrina C. Vickers, Harold K. Watson and Jon W. Wise; and Amy L. McIntire and Nicole C. Katz, Ones to Watch.

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Herman, Herman & Katz, L.L.C. (New Orleans): **Steven J. Lane**, New

Orleans “Lawyer of the Year,” Family Law.

Jackson Lewis, P.C. (New Orleans): Stacey C.S. Cerrone, Susan Fahey Desmond, Robert W. Rachal, Charles F. Seemann III and Ren  E. Thorne.

Kean Miller, LLP (Baton Rouge, Lafayette, New Orleans, Shreveport): Jaye A. Calhoun, Randal R. Cangelosi (Baton Rouge “Lawyer of the Year,” Product Liability Litigation-Defendants), Jason R. Cashio, Chelsea Gomez Caswell, Dean P. Cazenave, James R. (Sonny) Chastain, Jr. (Baton Rouge “Lawyer of the Year,” Trademark Law), G. Blane Clark, Jr. (Baton Rouge “Lawyer of the Year,” Mergers and Acquisitions Law), Kevin C. Curry (Baton Rouge “Lawyer of the Year,” Trusts and Estates), Meaghan M. Donovan, James P. Dor , Jessica C. Engler, Mallory McKnight Fuller, Vance A. Gibbs, Isaac McPherson Gregorie, Jr. (Baton Rouge “Lawyer of



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Matthew A. Sherman



Lloyd N. (Sonny) Shields



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the Year,” Real Estate Law), Hattie V. Guidry, David J. Halpern, Maureen N. Harbourt (Baton Rouge “Lawyer of the Year,” Environmental Law), Melissa A. Hemmans, Esteban Herrera, Jr., John F. Jakuback, M. Dwayne Johnson, Ben K. Jumonville, Robert M. Kallam, R. Chauvin Kean, Leonard L. Kilgore III, Katherine W. King (Baton Rouge “Lawyer of the Year,” Energy Law), Tyler Moore Kostal, Susan M. Lewis, Michael D. Lowe, Terry D. McCay, Charles S. (Trey) McCowan III, Charles S. McCowan, Jr., Michael A. McGlone, Carey J. Messina, Edwin R. Noland III, Kristi D. Obafunwa, Michael R. Phillips, Kyle P. Polozola, Russel O. Primeaux (Baton Rouge “Lawyer of the Year,” Patent Law and Trademark Law), Hannah D. Robinson, Linda G. Rodrigue, Alexandra E. Rossi, Rachel M. Scarafia, Robert C. Schmidt, James R. Silverstein, Charles R. Talley, Edward H. Warner, David M. Whitaker and J. Randy Young.

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Stone Pigman Walther Wittmann, L.L.C. (Baton Rouge, New Orleans): Hirschel T. Abbott, Jr., Stephen G. Bullock, Joseph L. Caverly (New Orleans “Lawyer of the Year,” Mergers and Acquisitions Law), Douglas J. Cochran, John W. Colbert, Noel J. Darce, James T. Dunne, Jr., Michael R. Fontham, James C. Gulotta, Jr., Kathryn M. Knight, John M. Landis, Michael D. Landry, Wayne J. Lee (New Orleans “Lawyer of the Year,” Insurance Law), Heather S. Lonian, Paul J. Masinter, W. Brett Mason, Michael W. McKay, C. Lawrence Orlansky, Laura Walker Plunkett, Edward B. Poitevent II, David C. Rieveschl, Michael R. Schneider, Dana M. Shelton, James E.A. Slaton, Susan G. Talley, Peter M. Thomson, William D. Treeby, Michael Q. Walshe, Jr., Nicholas J. Wehlen, Scott T. Whittaker, Rachel Wendt Wisdom, Phillip A. Wittmann and Paul L. Zimmering; and Barbra Barnett, Edward F. Bukaty, Tina C. Hebert, Annie G. McBride and Justin A. Swaim, Ones to Watch.

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Louisiana Super Lawyers 2021

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Lawdragon 2020

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C. (New Orleans): Judy Y. Barrasso, Lawdragon Legend.

New Orleans Magazine 2020

Barrasso Usdin Kupperman Freeman & Sarver, L.L.C. (New Orleans): Michael A. Balascio, Judy Y. Barrasso, Celeste R. Coco-Ewing, George C. Freeman III, Craig R. Isenberg, John W. Joyce, Stephen H. Kupperman, Richard E. Sarver and Steven W. Usdin, 2020 Top Lawyers List.

Lamothe Law Firm, L.L.C. (New Orleans): **Frank E. Lamothe III**, 2020 Top Lawyers List.

Shields Mott, L.L.P. (New Orleans): **Elizabeth L. Gordon** and **Lloyd N. (Sonny) Shields**, 2020 Top Lawyers List.

IN MEMORIAM

Robert Bernard Vincent



Robert Bernard Vincent

attorney, Erath community leader and town historian, died Oct. 8, 2020. He was 41. A lifelong resident of Erath and a 1997 graduate of Erath High School, Vincent earned a BS degree in business administration in 2002 from the University of Louisiana-Lafayette and an MBA degree in 2004 from UL-Lafayette. In 2010, he received his JD degree from Southern University Law Center. He enjoyed practicing law in a small town in his law firm, the Law Office of Robert B. Vincent. He also served as of counsel with the law firm of Perrin, Landry & deLaunay. He served as prosecutor for the Town of Erath from 2011-14. He was a member of the Louisiana State Bar Association. He served on the Vermilion Parish Board of Election Supervisors from 2012-15. He was named a Louisiana Young Hero by Louisiana Public Broadcasting in 1996 and was inducted into the Order of Living Legends by the Acadian Museum in 2015. In March 2020, he received Southern University Law Center’s Distinguished Alumnus Award. In June 2020, he received the Louisiana State Bar Association’s John A. (T-Jean) Hernandez III Memorial Award for the perpetuation and enhancement of the Francophone legal tradition. At the time of his death, he was serving his third term on the Erath City Council. At age 19, he was elected to serve his first term on the Erath City Council. He was Mayor-Pro Tem for the Town of Erath from 1999-2003. At age 10, he helped his cousin, Warren Perrin, cofound the Acadian Museum in Erath and served on the museum’s board of directors since 1990. He is survived by his parents Douglas and Jackie Vincent, his brother Joseph Vincent and several other relatives.

UPDATE

Louisiana Supreme Court Creates Technology Commission

The Louisiana Supreme Court created the Louisiana Supreme Court Technology Commission this past September. The standing Commission consists of judges from throughout the state and from various levels of the judiciary charged with identifying technology needs, establishing goals for implementation, devising best practices, and suggesting necessary rule changes and steps towards implementation of articulated technology goals for the judiciary.

"In today's environment of rapidly advancing technology, creating this Commission of legal minds committed to addressing how to best ensure the judiciary's application and utilization of technological innovations will position us to better serve our citizens and to further advance Louisiana's judiciary," said Louisiana Supreme Court Chief Justice Bernette Joshua Johnson.

Judge Scott U. Schlegel, 24th Judicial District Court, chairs the Commission

which will make recommendations to the Louisiana Supreme Court related to technology. Judge Schlegel is the recent recipient of the American Legal Technology Award, earned by a court or judicial officer for displaying outstanding use of technology that achieves a significant benefit to the public.

Also appointed to the Commission for two-year terms are Louisiana Supreme Court Justice John L. Weimer and Justice William J. Crain; Louisiana Appeal Court Judge Susan M. Chehardy and Judge Jonathan W. Perry; Louisiana District Court Judge Brady D. O'Callaghan, Judge Laurie R. Brister, Judge Marcus L. Hunter, Judge Nakisha Ervin-Knott, Judge John E. LeBlanc and Judge Clayton A. Davis; Louisiana Juvenile Court Judge Blair D. Edwards; Louisiana Family Court Judge Hunter V. Greene; and Louisiana City Court Judge Bryan D. Haggerty and Judge Kelli T. Temple.

LSU Law Receives U.S. DOJ Grant to Establish Innocence Project Clinic

Louisiana State University Paul M. Hebert Law Center, in partnership with the Innocence Project New Orleans (IPNO), received a nearly \$500,000 grant from the U.S. Department of Justice to review select cases of incarcerated people who have claims of innocence. The two-year grant establishes the Innocence Project Clinic at the LSU Law Center and LSU Law students will review cases to identify those that may benefit from DNA testing.

The partnership between LSU Law and IPNO will expand IPNO's capacity to review cases, locate evidence and conduct DNA testing that may prove innocence and ultimately exonerate the innocent. It will also provide LSU Law students with a new avenue to gain practical experience working in the criminal legal system.

"The Bureau of Justice Affairs DNA grant is a win-win for LSU Law and IPNO," said Frank X. Neuner Jr., managing partner at NeunerPate in Lafayette and a 1976 LSU Law graduate who was instrumental in establishing the collaboration between LSU Law and IPNO. "It will provide the students with practical experience and an opportunity to learn from experienced IPNO lawyers while providing IPNO with additional resources for its core mission of freeing wrongly convicted innocent people," he said.

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

Or mail press releases to:
Darlene LaBranche, Publications Coordinator
Louisiana State Bar Association
601 St. Charles Ave.
New Orleans, LA 70130-3404

Griffith Installed as 2020-21 President of FBA New Orleans Chapter

Steven F. Griffith, Jr., a shareholder in the New Orleans office of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, was elected 2020-21 president of the Federal Bar Association (FBA) New Orleans Chapter during the Sept. 8, 2020, Chapter Annual Meeting.

During the (virtual) Annual Meeting, Immediate Past President Judge Nannette V. Jolivet Brown, U.S. District Court, Eastern District of Louisiana, presided over the election of officers.

In addition to Griffith, other officers are Hon. Donna P. Currault, president-elect; Michael J. Ecuyer, treasurer; Brian J. Capitelli, recording secretary; Jose R. Cot, membership chair; and Laura F. Ashley, Young Lawyers Division chair.

Following the election of officers, Judge Brown presented several awards. Jose R. Cot, with Hurley & Cot, APLC, received the President's Award. Kathryn M. Knight, with Stone Pigman Walther Wittmann, LLC, received the John R. (Jack) Martzell Professionalism Award. Attorney William C. Snowden received the Camille F. Gravel, Jr. Public Service Award.

The Annual Meeting concluded with remarks from Chapter President Griffith.



Steven F. Griffith, Jr.



During the Shreveport Bar Association's (SBA) Sept. 23, 2020, luncheon at the Petroleum Club, Caddo Parish District Attorney James E. Stewart, Sr., second from left, was presented with the SBA's Liberty Bell Award. Presenting the award was Curtis R. Joseph, Jr., 2019-20 SBA president. From left, Judge Carl E. Stewart, U.S. 5th Circuit Court of Appeals; DA Stewart; Helen Stewart; and Judge Karelia R. Stewart, First Judicial District Court.



Candice Battiste, second from left, with Legal Services of North Louisiana, was the guest speaker during the Shreveport Bar Association's (SBA) Sept. 23, 2020, luncheon. From left, Caddo Parish District Attorney and Liberty Bell Award recipient James E. Stewart, Sr.; Battiste; Kendra Joseph; and Curtis R. Joseph, Jr., Winchell & Joseph, LLC, 2019-20 SBA president.

LBF's 35th Annual Fellows Gala is April 23, 2021

The Louisiana Bar Foundation (LBF) will celebrate the 35th Annual Fellows Gala on Friday, April 23, 2021. The gala, the LBF's largest annual fundraiser, is at the Hyatt Regency New Orleans, 601 Loyola Ave.

This year, the LBF will honor the 2020 Distinguished Jurist Guy P. Holdridge; 2020 Distinguished Attorney Linda Law Clark; 2020 Distinguished Professor Donald W. North; and the 2020 Calogero Award recipient Hon. William J. Knight.

In addition to celebrating the 2020 honorees, the LBF will recognize 2019 Distinguished Jurist Robert H. Morrison III; 2019 Distinguished Attorney Marcus V. Brown; 2019 Distinguished Attorney Mary Terrell Joseph; 2019 Distinguished

Professor John M. Church; and 2019 Calogero Justice Award Hon. Bernette Joshua Johnson.

In the event of a resurgence of COVID-19, the LBF will host a hybrid/virtual Gala.

The LBF is also seeking Gala sponsors. Sponsorship levels include tickets to the Patron Party and Gala, recognition in various printed and online products, and a sponsor gift by New Orleans artist India Stewart. Read more about the various sponsorship levels and benefits at: www.raisingthebar.org/gala.

Individual tickets to the gala are \$200. Young lawyer individual gala tickets are \$150. Purchase tickets online at: www.raisingthebar.org/gala.

Also available are sponsorship opportunities for 365 Days of Justice, an interactive fundraiser featuring each day of the year. For more information on the 365 Days of Justice or the Gala, contact Laura Sewell at (504)561-1046 or email laura@raisingthebar.org. For more Gala information, contact Danielle J. Marshall at (504)561-1046 or email danielle@raisingthebar.org.

Discounted rooms are available Thursday, April 22, and Friday, April 23, 2021, at \$259 a night. To make a reservation, call the Hyatt at 1(800)233-1234 and reference "Louisiana Bar Foundation" or go to <https://www.hyatt.com/en-US/group-booking/MSYRN/G-LARB>. Reservations must be made before Thursday, March 25, 2021.

President's Message

The Spirit of the Season: Giving

By 2020-21 President Harry J. (Skip) Philips, Jr.

As we reach the end of the year, and this has been a heck of a year, let us not overlook the spirit of the season — Giving. During this busy holiday season, our personal and professional to-do lists grow increasingly long. Please remember to put the Louisiana Bar Foundation (LBF) on your list this year and consider a tax-deductible gift.

The LBF is the state's largest funder of civil legal aid. We partner with a trusted network of more than 70 organizations that lead community-driven efforts to help families facing non-criminal, civil legal challenges. Our goal is to make sure that all Louisianans, regardless of their background or income level, have

access to civil legal services that they need. Working together, we can meet the legal needs of our state's most vulnerable people.

Because of your support, the LBF is able to:

- ▶ help communities by helping their citizens devastated by natural disasters and the pandemic;
- ▶ empower women who are victims of domestic violence;
- ▶ protect children who need a stable home or special education;
- ▶ aid the elderly whose economic se-



Harry J. (Skip)
Philips, Jr.

curity or health care is in jeopardy;

- ▶ assist consumers impacted by improper lending practices;
- ▶ keep people in their homes;
- ▶ advise workers denied lawful wages and benefits;
- ▶ support disabled people denied opportunities; and
- ▶ guide immigrants who work the lowest-wage jobs without benefits or contracts.

Make your gift online at www.raisingthebar.org/YearEnd or mail directly to the LBF, Ste. 1000, 1615 Poydras St., New Orleans, LA 70112. If you have any questions, contact Development Director Laura Sewell at (504)561-1046 or email laura@raisingthebar.org.

Gov. Edwards Proclaims Kids' Chance Awareness Week; Applications Online

Gov. John Bel Edwards proclaimed Nov. 9-13, 2020, as Kids' Chance Awareness Week in Louisiana. The Louisiana Bar Foundation's (LBF) Kids' Chance Scholarship Program is for dependents of Louisiana workers' killed or permanently and totally disabled in a work accident. Every year, the entire Kids' Chance community (now in 48 states) dedicates one special week to raise awareness of Kids' Chance Scholarship Programs nationwide.

Applications for the 2021-22 academic year are now available online. The deadline to apply is Feb. 26, 2021.

Do you have clients whose dependents are eligible for a Kids' Chance scholarship but are too young for college? Advise them to sign up for "Planning for the Future." When the time is right, Kids' Chance will make contact: www.kidschance.org/planning-for-the-future/.

For more information about LBF Kids' Chance: <https://raisingthebar.org/programs-and-projects/kids-chance-scholarship-program>. For program guidelines: <https://raisingthebar.org/kids-chance-scholarship-program/kids-chance-scholarship-guidelines>.

For more information, contact Dee Jones, (504)561-1046 or email dee@raisingthebar.org.

LBF Seeking Nominations for 2021 Boisfontaine Award

The Louisiana Bar Foundation (LBF) is seeking nominations for the 2021 Curtis R. Boisfontaine Trial Advocacy Award. Nominations must be received in the LBF office by Monday, Feb. 8, 2021.

Nominations should include the nominee's name and contact information, a brief written statement on the background of the nominee, as well as reasons why the nominee is proposed as the award recipient. Nominations should be forwarded to LBF Communications Director Dennette Young, Ste. 1000, 1615 Poydras St., New Orleans, LA 70112, or email dennette@raisingthebar.org by the deadline.

The recipient will receive a plaque and \$1,000 will be donated in the recipient's name to a non-profit, law-related Louisiana program or association of the recipient's choice.

This trial advocacy award was established through an endowment to the Louisiana Bar Foundation in memory of Curtis R. Boisfontaine, who served as president of the Louisiana State Bar Association and the Louisiana Association of Defense Counsel. Generous donations from Sessions, Fishman, Nathan & Israel, LLP, the Boisfontaine Family and friends established the fund.

The award is given to a Louisiana attorney who exhibits long-standing devotion to and excellence in trial practice and upholds the standards of ethics and consideration for the court, litigants and all counsel.

CLASSIFIED NOTICES

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

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For the April issue of the Journal, all classified notices must be received with payment by Feb. 18, 2021. Check and ad copy should be sent to:

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Aaron & Gianna, PLC, a mid-sized New Orleans firm with a national practice, seeks an attorney with three-seven years of litigation experience who desires to grow in the profession to reach the highest level of skill as an advocate. The firm trains in-house, through the National Institute for Trial Advocacy, and offers opportunities for professional growth

and development. Email résumé and one writing sample to Dominic Gianna, dgianna@aarongianna.com.

Established New Orleans law firm seeks an experienced associate in litigation to focus on a practice predominately in the arena of personal injury and contract litigation. Firm offers the opportunity to grow and is looking for a person with two or more years of experience who can handle all aspects of the motion and discovery practices as well as appear in court. The ideal candidate will have some trial experience and be flexible. The position is available to include full-time and part-time positions with a competitive salary. The firm also needs an experienced legal secretary and paralegal. Email résumés to: accounting@otbtlaw.com.

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ANSWERS for puzzle on page 272.

1	C	A	T	A	H	O	U	L	A	17	C	A	B
2	A	W	A	N	R	E	R						
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On the Sunny Side of the (2020) Street

By Edward J. Walters, Jr. and Vincent P. Fornias

Much has been written, texted, blogged, podcasted and tweeted (and cursed) about this year. Let's look at 2020 in our rearview mirror from a different angle . . . a good angle . . . a positive angle, and, hopefully, a humorous angle. As *Mad Magazine* used to say: Humor in a Jugular Vein.

What can we take from this bucket of vermin that has interrupted and changed our lives, and our practice of law, forever?

Forever?

Yes, forever.

Life can change in an instant and we need to be prepared and resilient. Next to sharks and armadillos, lawyers are the most resilient species that exists. We are used to adversity. We THRIVE on adversity. If there were no adversity, we'd be out of business.

We ALL have learned to appreciate what we had, even though we didn't appreciate it at this time last year — workers in our grocery stores, health care providers, pizza deliverers, SCHOOL TEACHERS!

OK, enough of that. BUT 2020 WAS kinda funny, right? Right? Consider . . .

Virtual lawyering means not having to wear pants to go to a hearing . . . or socks or shoes for that matter. Depos are even MORE casual. You can attend in your jammies.

You get drive-by continuances in all of those dog cases you didn't want to try, anyway.

Think of the savings on gas and depreciation. "Zoom" deposits in far-off towns and not having to go to Podunkville to attend a pretrial conference conducted by the judge's law clerk.

Time is like the old *Twilight Zone*. All of a sudden, it's 3:30 and you haven't done jack diddly. You were gonna finish that memo and return some calls or emails, but Judge Mathis came on.

For years you always wanted to clean that closet or the garage but you didn't have time. Now you know that wasn't the reason.

Yes, we've all understood social distance, but what about all the social closeness? Being around everyone in your family 24/7 is great . . . for a while. But then you see them reach for the Cutty Sark on the rocks. Also, who taught YOU how to be a teacher?

Binge-watching: You get caught up on every episode of *The Office*, *Seinfeld* and *The Andy Griffith Show*.

What is your preferred way to say hello now that you can't shake hands? You surely don't want to actually TOUCH another human being, do you? So you've devised a few greeting choices — the fist-bump, the elbow tap, the nod, the thumbs-up, or the ever-popular "don't even look in their direction."

Hygiene now includes free hand sanitizer and masks everywhere we go. We can have clean hands and clean shopping carts while everything else in the store is probably contaminated.

Vacation travel has evolved into the novel "staycation" where you don't go on a trip, but you just stay home . . . like you did yesterday and the day before, but you rent a movie, order a pizza and convince yourself that this is fun.

You are "working" at home. Your fridge is right there. Enough said. And you can't find your scale.

Stockpiling was rampant at the beginning of this pandemic. Just WHY did everyone feel like they needed 50 rolls of toilet paper, just in case? In case of what? And don't even THINK about trying to buy a bottle of Lysol. Now we've all learned to pace our panic.

How fun is this? Have you ever watched a Zoom conference and tried to read the names of the books in the background to see what this lady is reading, or what she puts in her background to make you think she actually read all those gold-leafed, leather-bound books?

Suddenly we all have a failsafe response to fundraisers: "I'm sorry. I think I got exposed and I am quarantining." (Incidentally, do you know the derivation of the word quarantine? Well, according to the fountain of all knowledge — Google — ships arriving in Venice from infected ports were required to sit at anchor for 40 days before landing as disease prevention related to the plague. This was derived from the Italian words *quaranta giorni* which either means 40 days or a new flavor of pizza.)

2020 liberates YOU from the *res ipsa* old codger line, "You think this is bad, you should have been here in 1968."

Selfishly, one of the co-authors gets to don a facemask featuring Van Gogh's "Starry Night," allowing him to tell everyone who sees it that his namesake couldn't use it anyway.

You can read (or do) what you want during CLE presentations. No more dirty looks if you take a call, shop or play Battleship.

Think of the savings on Starbucks, dry cleaning, event tickets and parking expenses.

Hallelujah! Your senior partner is finally divested of two conference rooms and three assistants.

Of course, superimposed on this life in *The Twilight Zone* is the sobering and unprecedented devastation of all those hurricanes and the threat of those yet to come. A bright side? Look at how we, as lawyers, came together to help others. And we did, after all, get a refresher course on the Greek alphabet. May we never know what comes after Omega.

And soon, if all goes right, you will be spared scores of messages a day declaring "we're all in this together."



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