

LOUISIANA BAR JOURNAL

February/March 2008

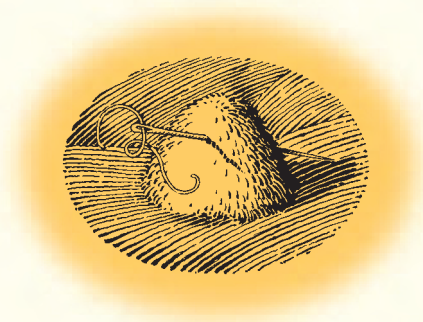
Volume 55, Number 5

CLOSING ARGUMENT





The Needle *In A* Haystack



Complex financial litigation cases often hinge on the engagement of experts who find the needle in a haystack. A substantial edge is gained when you have Legier & Materne's Forensic Accounting and Expert Witness Group on your team to help you find obscured financial facts that can ensure your success.



*Expert Testimony • Fraud & Forensic Accounting • Calculating and Refuting Financial Damages
Business Valuations • Bankruptcies • Shareholder Disputes • Lost Profits • Business Interruptions*

For more information, contact William R. Legier (504) 599-8300



*1100 Poydras Street • 34th Floor • Energy Centre • New Orleans, LA 70163
Telephone (504) 561-0020 • Facsimile (504) 561-0023 • <http://www.lmcpa.com>*



FORMDISK™ 2008

ORDER NOW

There has never been a better time to buy **FORMDISK™**, an extensive collection of annotated civil forms. Order **FORMDISK™ 2008** now for the low price of **\$198**. For 2007 customers, the 2008 update is now available for only **\$80**. Find out why thousands of Louisiana lawyers have relied on **FORMDISK™** during the last 17 years.

FORMDISK™ 2008 Order Form

Name: _____ Bar Roll #: _____ Firm Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone #: _____ Fax #: _____ Email Address: _____

I have (check one): ☐ PC ☐ Mac

I use (check one): ☐ Word ☐ Word Perfect ☐ Other _____

I want: qty. _____ \$198⁰⁰ Low Price

qty. _____ \$80⁰⁰ Update Price (for 2007 customers only)

qty. _____ \$25⁰⁰ Each additional disk

☐ Enclosed is my check made out to Template, Inc. for the amount of \$ _____

☐ Charge \$ _____ to my: ☐ VISA ☐ Mastercard

Card #: _____ Exp. Date: _____

Cardholder Signature: _____

Please allow 4-6 weeks delivery.

TEMPLATE, INC.
P. O. BOX 11810, NEW IBERIA, LA 70562-1810 PHONE: (337) 367-3643 / FAX: (337) 365-5965
WWW.FORMDISK.COM

SERVING LOUISIANA LAWYERS SINCE 1990

Want to reach more prospective clients?



Use *lawyers.com*sm

From the expert in legal marketing, Martindale-Hubbell®

The **lawyers.com** service is a leading resource that helps you attract and land the right consumers and small businesses to increase your firm's profitability.

- Our visitors are serious about finding legal counsel: 7 out of 10 people searching for a lawyer on **lawyers.com** plan to contact one they found on the site.*
- Potential clients gain more insight into what you do with new law firm videos, side-by-side comparisons, Martindale-Hubbell® Peer Review Ratings™ and the new Client Review Service.
- You can drive even more potential clients to your profile or Web site with attention-grabbing sponsorship opportunities.

A MEMBER BENEFIT OF



Call 800.526.4902 ext. 5095 for more information, or go to:
www.lawyers.com/walkthrough

*lawyers.com visitor survey, November 2007.

TOTAL PRACTICE SOLUTIONS
Client Development Research Solutions Practice Management Litigation Services



LexisNexis, the Knowledge Burst logo and Martindale-Hubbell are registered trademarks, Martindale-Hubbell Peer Review Ratings is a trademark and lawyers.com is a service mark of Reed Elsevier Properties, Inc., used under license. © 2008 LexisNexis, a division of Reed Elsevier Inc. All rights reserved. LCD00241-0 0108



LOUISIANA BAR JOURNAL

February / March 2008

Volume 55, Number 5

Departments

President's Message	314
Quality of Life	342
Practice Management	344
Local Practice Guide	345
Legal History	346
Puzzle	347
Ethics Opinions	348
Focus on Professionalism	350
Recent Developments	355
Young Lawyers	364
Lucid Intervals	384

Also Inside . . .

About the Cover Artist	312
Editor's Message	313
Letters	316
Member Services	317
Secret Santa Project Wrap ...	318
Association Actions	334
Discipline Reports	352
Client Assistance Fund	354
Judicial Notes	368
People	370
Classified	373
News	376

Features

- Louisiana Heirship Property:
Solutions for Establishing Record Title**
By Malcolm A. Meyer **328**

- Book Review**
My Wars: Nazis, Mobsters, Gambling & Corruption
by Colonel Francis C. Grevemberg
Reviewed by Gail S. Stephenson **332**

Special Supplements

- 2007 LSBA Annual Report** *follows 336*
- Louisiana Bar Foundation Annual Report** *follows 384*

Cover Art



Alan Gerson, *Closing Argument*, watercolor.
Reproduced with permission of the artist.

See page 312 for more information about the artist and his work.

Calling All Artists for Journal Covers!

The *Louisiana Bar Journal's* Editorial Board is interested in publishing original artwork on the *Journal* covers as one means to spotlight the stellar talents of Louisiana artists — many of them our fellow Louisiana Bar members!

Artists of any age, working in any genre, are encouraged to submit work for consideration. Legal and Louisiana themes are preferred. For submission information, see page 316.



Officers 2007-08

President

S. Guy deLaup • (504)838-8777

President-Elect

Elizabeth Erny Foote • (318)445-4480

Secretary

Mark A. Cunningham • (504)582-8536

Treasurer

James R. Nieset • (337)436-0522

Immediate Past President

Marta-Ann Schnabel • (504)799-4200

Board of Governors 2007-08

First District

Ronald J. Sholes • (504)585-0479

Beth E. Abramson • (504)596-2762

Second District

Joseph A. Conino • (504)834-9010

Third District

Steven G. "Buzz" Durio • (337)233-0300

Fourth District

John F. "Jack" Robichaux • (337)433-0234

Fifth District

James E. Boren • (225)387-5786

Sixth District

W. Jay Luneau • (318)767-1161

Seventh District

Carrick B. Inabnett • (318)376-4422

Eighth District

Donald R. Miller • (318)222-9417

Chair, Young Lawyers Section

Karleen Joseph Green • (225)346-0285

At-Large Members

Shannan L. Hicks • (318)222-6565

Kelly McNeil Legier • (504)310-8473

Walter M. Sanchez • (337)436-8401

Loyola University Law School

Dane S. Ciolino • (504)834-8519

Southern University Law Center

Russell L. Jones • (225)771-4900

Louisiana State Law Institute

James J. Davidson III • (337)237-1660

House of Delegates Liaison Chair

Richard L. Becker • (337)233-1987

Editorial Staff

Executive Director

Loretta Larsen, CAE

Communications Director

Kelly Wells Ponder

Publications Coordinator/Managing Editor

Darlene M. LaBranche

Communications Assistant

Krystal L. Bellanger

Advertising Questions?

Krystal L. Bellanger • (504)619-0131

Editorial Board

- | | |
|--|---|
| ▶ Mark A. Cunningham,
Editor
(504)582-8536 | ▶ Nicholas F. LaRocca, Jr.
(985)385-4800 |
| ▶ John S. "Chip" Coulter
(504)310-2340 | ▶ Lawrence E. Marino
(337)233-1100 |
| ▶ Meredith A. Cunningham
(504)589-9700 | ▶ Roy H. Odom, Jr.
(318)227-3762 |
| ▶ Brendan P. Doherty
(504)561-0400 | ▶ Aimee M. Quirk
(504)582-8256 |
| ▶ Warren A. Goldstein
(504)566-4990 | ▶ Daniel G. Rauh
(504)561-0400 |
| ▶ Shannan L. Hicks
(318)222-6565 | ▶ Coleman D. Ridley, Jr.
(504)582-8724 |
| ▶ Gerald J. Huffman, Jr.
(504)648-3840 | ▶ Gail S. Stephenson
(225)771-4900, ext. 216 |
| ▶ Carrick B. Inabnett
(318)376-4422 | ▶ Tyler G. Storms
(318)255-7805 |
| ▶ Ryan E. Johnson
(225)248-2000 | ▶ Lucie E. Thornton
(504)836-2220 |
| ▶ Margaret E. Judice
(337)828-1880 | ▶ Katherine Tonnas
(504)289-0618 |
| ▶ Garrett P. LaBorde
(866)263-2376 | ▶ Edward J. Walters, Jr.
(225)766-1100 |
| | ▶ Rachel G. Webre
(504)561-0400 |

The Louisiana Bar Journal (ISSN 0459-8881) is published bimonthly by the Louisiana State Bar Association, 601 St. Charles Avenue, New Orleans, Louisiana 70130. Periodicals postage paid at New Orleans, Louisiana and additional offices. Annual subscription rate: members, \$5, included in dues; nonmembers, \$45 (domestic), \$55 (foreign). Canada Agreement No. PM40063731. Return undeliverable Canadian addresses to: Station A, P.O. Box 54, Windsor, Ontario N9A 6J5. E-mail: returnsil@imex.pb.com.

Postmaster: Send change of address to: Louisiana Bar Journal, 601 St. Charles Avenue, New Orleans, Louisiana 70130.

Subscriber Service: For the fastest service or questions, call Darlene M. LaBranche at (504)619-0112 or (800)421-5722, ext. 112.

Editorial and Advertising:

Publication of any advertisement shall not be considered an endorsement of the product or service involved. Submissions are welcome and will be considered for publication by the Editorial Board. For submission guidelines, go online at www.lbsa.org, click on "Publications," then "Louisiana Bar Journal." Copyright © by Louisiana Bar Journal. All rights reserved. Reproduction in whole or part without permission is prohibited. Views expressed are those of the authors only.



Luminary Award 2003

National Association of Bar Executives
Communications Section
Excellence in Regular Publications



INTERNATIONAL
ASSOCIATION OF
BUSINESS
COMMUNICATORS
NEW ORLEANS
CHAPTER
BRONZE QUILL
AWARD OF MERIT



PUBLIC RELATIONS SOCIETY
OF AMERICA
NEW ORLEANS CHAPTER
AWARD OF
EXCELLENCE

SPRING MEETING DALLAS

The 2008 ABA Section of Business Law Spring Meeting will be held April 10-12, 2008, in Dallas at the Hilton Anatole.

Each year, participants say that the ABA Section of Business Law Spring Meeting is the highlight of their annual training and education. Over 80 educational programs and forums on all aspects of business law ensure a rich agenda that can fill your annual CLE requirements in one meeting. Committee and subcommittee meetings provide prime networking and business development opportunities in highly targeted practice areas.

Annual Reviews of Key Business Law Developments

- Alternative Energy and Natural Resources
- Antitrust
- Banking Law
- Business and Corporate Litigation
- Business Bankruptcy
- Corporate Governance
- Cyberspace Law
- Developments in Business Finance
- Employee Benefits & Executive Compensation
- Environmental Law
- LLC Case Law Developments
- Patent Law
- Tax

The Pressing Issues Facing Business Lawyers Today

- Current Tensions in Shareholder and Board Relationships
- Private Equity, Funds and Banks Investing in Financial Institutions
- Anatomy of a Middle Market Private Equity Deal
- Venture Capital and Private Equity Funds – New Issues for GP/LP Negotiation
- Alternative Dispute Resolution Techniques for Use In Commercial Finance Transactions
- Representing Creditors in Consumer Bankruptcies Three Years After BAPCPA
- Consumer Mortgage Industry in the Wake of the Subprime Mortgage Meltdown
- Data Security Breaches and Theft
- Executive Compensation
- Employee Benefits in Mergers & Acquisitions
- Career and Practice Development
- Business Bankruptcy and Corporate Restructuring

Emerging Areas of Global Business Law Practice

- Tax Issues in Cross-Border Acquisitions
- Cross-Border Due Diligence
- Identifying and Mitigating Credit Risk in Cross-Border Financing Transactions
- Secured Transactions South of the Border
- Cross-Border Issues in Internal Investigations
- Selected Aspects of Cross-Border M&A

Important Deadlines:

Early-Bird Registration: February 15, 2008
Meeting Registration: March 20, 2008
Hotel Reservations: March 20, 2008

Register now at
www.ababusinesslaw.org



Not Too Early to Begin Thinking About 2008 CLE Hours!

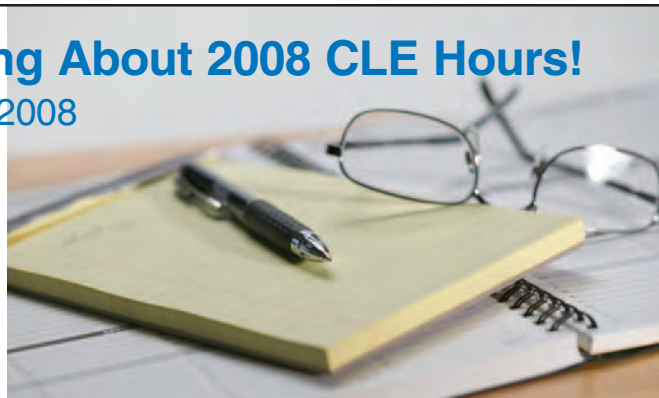
LSBA Planning a Series of Seminars for 2008

For more information on the programs, to register online or to download a mail-in registration form, go to: <http://www.lsba.org/2007cle/cle.asp>.

“What’s the Deal with Appeals? Views from the Inside” is set for Friday, March 28, at the Sheraton New Orleans Hotel, 500 Canal St. The program is approved for 6.75 hours of credit, including 1 hour of professionalism and 1 hour of ethics. Judges and their law clerks from the 1st-5th Circuit Courts of Appeal and the Louisiana Supreme Court will give an insider’s view to the appellate court procedure.

“Mediation with the Masters: Lessons from an ADR Pioneer” is set for Friday, April 18, at the Sheraton New Orleans Hotel, 500 Canal St. The program is approved for 6.5 hours of CLE credit, including 1 hour of ethics and 1 hour of professionalism.

“Ethics, Law Office Management and Professionalism for New Practitioners” is set for Friday, April 25, at the Sheraton



New Orleans Hotel, 500 Canal St. The program is approved for 8 hours of credit, including 5.25 hours of ethics, 1.5 hours of professionalism and 1.25 hours of law practice management.

“Jazz Fest 2008: The Art and Science of Effective Witness Preparation and Jury Selection” is set for Friday, May 2, at the Sheraton New Orleans Hotel, 500 Canal St. The program is approved for 6 hours of credit, including 1 hour of ethics. The fee includes two tickets to the New Orleans Jazz and Heritage Festival. To reserve seating, written materials and Jazz Fest tickets, registration MUST be received by April 25.

GROW
YOUR 401(k)
WISELY

Six things you won't hear from other 401(k) providers...



1. We were created as a not-for-profit entity, and we exist to provide a benefit
2. We leverage the buying power of the ABA to eliminate firm expenses and minimize participant expenses
3. Our fiduciary tools help you manage your liabilities and save valuable time
4. Our investment menu has three tiers to provide options for any type of investor, and our average expense is well below the industry average for mutual funds
5. We eliminated commissions, which erode your savings, by eliminating brokers
6. We have benefit relationships with 28 state bar and 3 national legal associations.* No other provider has more than one.

LEARN HOW YOU CAN GROW YOUR 401(k) WISELY

Call an ABA Retirement Funds Consultant at 1-877-947-2272
www.abaretirement.com

* Alabama State Bar
State Bar of Arizona
Arkansas Bar Association
Colorado Bar Association
Connecticut Bar Association
The District of Columbia Bar
State Bar of Georgia
Hawaii State Bar Association
Illinois State Bar Association
Indiana State Bar Association

Kansas Bar Association
Louisiana State Bar Association
Maine State Bar Association
Minnesota State Bar Association
The Mississippi Bar
State Bar of Nevada
New Hampshire Bar Association
State Bar of New Mexico
New York State Bar Association
North Carolina Bar Association

State Bar Association of North Dakota
Ohio State Bar Association
Oklahoma Bar Association
Rhode Island Bar Association
State Bar of Texas
Vermont Bar Association
Washington State Bar Association
State Bar of Wisconsin
Association of Legal Administrators (ALA)



For a copy of the Prospectus with more complete information, including charges and expenses associated with the Program, or to speak to a Program consultant, call 1-877-947-2272, or visit www.abaretirement.com or write ABA Retirement Funds P.O. Box 5142 • Boston, MA 02206-5142 • abaretirement@iclistreetonline.com. Be sure to read the Prospectus carefully before you invest or send money. The Program is available through the Louisiana State Bar Association as a member benefit. However, this does not constitute, and is in no way a recommendation with respect to any security that is available through the Program. 11/2007

A Louisiana Leader in providing
Litigation Services, Forensic Accounting, Business Valuations,
Disaster Recovery Services, Business Interruption Claims and Law Firm Management.



Chav Pierce, CPA/ABV, Samuel Smith, CPA, Cynthia Lee Sheng, CPA, CFE, Michele Avery, CPA/ABV, CVA, MBA, Holly Sharp, CPA, CFP, CFE, Stephen Romig, CPA, CFP, Brenda Christiansen, CPA, and Cara Strickland Buckner, CPA, MBA



RSM McGladrey Network
An independently owned member

Metairie 504.835.5522 | www.laporte.com | Covington 985.892.5850



Strength— when your client requires criminal defense.

A history of success.

- Drug Possession
- Drug Distribution
- Conspiracy
- Computer Crimes
- Mail/Wire Fraud
- Environmental Crimes
- DUI/OWI
- Juvenile Delinquency
- Sex Crimes
- State and Federal
- Trials and Appeals
- ALL CRIMES
- Serving South Louisiana

THE LAW OFFICE OF
KEVIN STOCKSTILL
CRIMINAL DEFENSE

117 CAILLOUET PLACE LAFAYETTE, LA 70501

337-262-0203

MEMBER OF: Louisiana Trial Lawyers Association, Louisiana Association of Criminal Defense Lawyers, National Association of Criminal Defense Lawyers

**LOUISIANA
BAR TODAY**

Get the latest Louisiana State Bar Association news
in the free, weekly e-mailed update. It's easy to subscribe.
Go to: www.lsba.org/2007NewsResources/LBT.asp.



Cover Artist Alan Gerson

Alan Gerson has been producing art in New Orleans for more than 30 years. He earned a BA degree in philosophy from Boston University and then a master of fine arts degree from the University of New Orleans in 1980. For the next five years, he worked as the visual arts director of the Contemporary Arts Center in New Orleans, while still creating and showcasing his own artwork.

Then, in 1986, he says he lost his mind and went to law school, earning a JD degree from Tulane Law School. He practiced law for three years but never stopped producing art. Eventually, he says, he regained his senses and went back to being an artist fulltime and stopped impersonating a lawyer. He left lawyering to his wife, Beth Meyer, an actual real-life lawyer.

Gerson has shown his artwork extensively and internationally. He is represented at LeMieux Gallery in New Orleans and in galleries in Miami, Fla., Santa Fe, N.M., Scottsdale, Ariz., and Los Angeles, Calif.



Alan Gerson, *Closing Argument*, watercolor. Reproduced with permission of the artist.

Since leaving the practice of law, Gerson has confined his legal knowledge to the creation of satirical paintings and watercolors of the legal profession in all its dark and mysterious glory. He has poked fun at all aspects of the profession, including its lawyers, judges, clients and juries. His work has been described as humorous, sardonic, dark, intensely colorful and rich in detail.

In 2001, Gerson's book, *Habeas Circus*, was published by NewSouth Books and features a sampling of the artist's huge body of artwork. The book is available at LeMieux Gallery in New Orleans and at many other bookstores in the state.

Gerson lives in New Orleans with his wife and currently teaches in the art department of Loyola University.

Gerson's work has been featured twice before in the *Louisiana Bar Journal* — first in the August/September 2001 issue focusing on "Lawyers in the Arts" (the artist was profiled in that issue as well) and again in December 2001/January 2002 on a cover illustrating "Investing in Louisiana."

Letters to the Editor



By Mark A. Cunningham

IOLTA

LAW SCHOOL
LOANS

SUMMER MEETING

TORT REFORM

PRO BONO

PROFESSIONALISM

JUDGMENTS

LEGISLATION

STATE OF THE
PROFESSION

MEMBER SERVICES

CRIME

JUDICIAL REFORM

CIVIL RIGHTS
SENTENCING

DISCIPLINE

ETHICS

EMPLOYMENT

COLLEGIALITY

JUDICIAL
ELECTIONS

MANDATORY
ASSESSMENTS

QUALITY OF LIFE

SANCTIONS

FREE SPEECH

LAWYER
ADVERTISING

CORRUPTION

CLASS ACTIONS

UNAUTHORIZED
PRACTICE OF LAW

RELIGIOUS
EXPRESSION

ADVOCACY

Thank you, Buzz Durio... You are the first member in far too long to send a letter to the editor. See page 316. Your letter will help inform the members about the good works of the Louisiana State Bar Association's (LSBA) Board of Governors and makes a strong case for how the LSBA recently made a significant difference in the professional lives of *all* of its members. My point here is not to talk up the LSBA. Rather, I want to encourage our members to speak out. There are many challenging issues facing our profession today, and your voice can make a difference. So pick up your pen or start pounding on the keyboard and tell us what you really think about an issue important to you. We will be happy to publish your ideas, comments and suggestions.

Thanks!

CLE Sponsor Acknowledged

The Louisiana State Bar Association would like to thank our generous CLE sponsor.

Robin Young & Company, Inc.

CLE: Jan. 25, 2008

Medicare Setasides in Liability & Workers' Compensation Cases

Why the LSBA Annual Meeting is in Sandestin



By S. Guy deLaup

At the recent Midyear Meeting in New Orleans, the Louisiana State Bar Association's (LSBA) House of Delegates voted unfavorably on a resolution that sought to mandate the holding of all House of Delegates meetings within the state of Louisiana. The fact that such a resolution was offered reflects disagreement among our members regarding where the LSBA should hold its Annual Meeting. Some members believe that we should meet only within the boundaries of Louisiana. Others enthusiastically endorse the beach tradition that has developed and some would like to see alternate out-of-state venues selected. This proves that, "You can't please all of the people all of the time." I hope the following information and history concerning the Annual Meeting will assist in understanding where we find ourselves today.

The first meeting of the Louisiana State Bar Association was held in Lake Charles on April 18, 1941. We have been meeting at least once a year ever since. The House of Delegates, however, was not formed as the Association's policy-making body until 1957. Many of you will remember that the Annual Meeting was held in Biloxi, Mississippi, for many years during the month of April. It was originally held at the Buena Vista Hotel, now the site of the Beau Rivage Resort. Later and for many years, the Annual Meeting was co-headquartered at both the Broadwater and Hilton hotels on the Mississippi coast.

In 1988, when both the Hilton and Broadwater hotels were on the brink of closure, then-LSBA President Jacob Landry decided to move the Annual Meeting to Sandestin, Florida, and combine it with the Summer School for Lawyers, which had been held during August in

Sandestin for the previous three years. Sandestin was extremely accommodating with issues such as transportation, parking and housing. The new format also provided an opportunity for lawyers and their families to combine attendance at the Annual Meeting and Summer School with a full week at a great resort with many amenities, such as the beach, golf, bicycle riding, fishing, etc. The feedback from members was generally very positive.

There were concerns that Sandestin was too far for members to travel, too expensive and that many more would attend if the meeting were held in state. The Annual Meeting returned to New Orleans the following year. Despite significant time and effort by Jake Landry's successor as LSBA president, Wood Brown, and many of the New Orleans law firms, attendance at the meeting in New Orleans was approximately one-half that of the previous year in Sandestin.

In those days, just like the present, approximately 50 percent of the registrants for the Annual Meeting lived in the New Orleans metropolitan area. The hope was that lawyers from other parts of the state would travel to the meeting if it were held in New Orleans, thereby increasing registration and filling the hotel block. However, what we discovered was that when the meeting was in New Orleans, those attorneys who lived nearby were not inclined to sign up for events or book a hotel room. They did make appearances at the House of Delegates meeting, section or committee meetings and law school parties, but otherwise did not participate. The 1989 Annual Meeting was less than a success.

The Annual Meeting returned to Sandestin in 1990 and continued to be

held there for six years. The Destin area developed tremendously and members became accustomed to the accommodations, restaurants, shopping and activities. Everyone knew what to expect. Some members and judges purchased condos in the Destin area.

In 1996, then-LSBA President Jay Zainey moved the Annual Meeting to Gulf Shores, Alabama. Troubled by the rising cost to the Association of staging events in Sandestin, as well as the increases in cost for accommodations, Judge Zainey also saw the nearer destination as more appealing to those who had enjoyed the Mississippi Gulf Coast. Unfortunately, the Gulf Shores area did not then and does not today have sufficient meeting facilities to accommodate the number of programs, events and meetings conducted at the Annual Meeting. The Annual Meeting returned to Sandestin in 1997 for another eight years.

In 2005, then-LSBA President Mike McKay, in an effort to attract additional and new members to our Annual Meeting, moved it to Las Vegas, Nevada. Attendance was significantly higher than the previous year's meeting in Sandestin. This was despite the fact that the Summer School remained in Sandestin that year, so the Annual Meeting did not have the benefit of crossover from the Summer School registrants. The facilities at Caesars Palace were well suited to our needs, although meetings and events were tweaked a bit to accommodate the differences between a casino atmosphere and a beach atmosphere. We also learned that approximately 62 percent of the registrants at the Las Vegas Annual Meeting had not been to an Annual Meeting in five or more years, so Mike's idea worked.

Following the tradition of the Ameri-

can Bar Association and most other states, members of the House of Delegates are reimbursed for travel and hotel expenses associated with attending the LSBA Mid-year Meeting. However, no member is reimbursed expenses for attending the Annual Meeting. The Bar leadership has long been aware of the expense and inconvenience associated with the commitment to serve in the House of Delegates, on the Board of Governors, or to be actively involved in the many committees and sections which meet during the Annual Meeting.

While those who believe that we should have both of our House of Delegates business meetings in the state of Louisiana are a vocal minority, the attendance statistics do not support their position. More importantly, our Annual and Midyear Meetings are more than just an opportunity to attend the Bar's legislative session. They are also an opportunity for the House, leadership and our members to meet in a social setting to attend CLE programs, section and

committee meetings and interact with the judiciary. Since the vast majority of members who attend the Annual Meeting are from the New Orleans area, we know that they are less likely to attend a meeting in their own town. It would be difficult to find accommodations for our meeting needs and social functions in other Louisiana cities. Our Bar Association has 28 voluntary sections and 28 committees. Many of these groups like to meet during the Annual Meeting and require a room or meeting space to do so. Our significant demands for meeting space are not justified by the reduced number of hotel rooms that are rented when the Annual Meeting is held in Louisiana. Sandestin Golf and Beach Resort provides very adequate facilities for our many business meetings and social functions. The accompanying Village of Baytowne Wharf also provides great restaurant venues for the law school parties which are in close proximity to each other.

Still, it may be time to hold the Annual Meeting in state again and determine if

times have changed. LSBA President-Elect Beth Foote is considering locations for the 2009 Annual Meeting as this goes to press and New Orleans is definitely on the list of possible sites. We are also investigating the feasibility of allowing the House of Delegates members to participate at an out-of-state meeting by video conference. This may be an acceptable and affordable option for those House members who wish to participate, but cannot attend the meeting in person.

As the summer approaches, I sincerely hope that all of you will consider attending the Summer School and Annual Meeting June 8-13, especially those of you who have never come to Sandestin. There are several reasonable accommodation alternatives, both on and off the Sandestin property, especially on the bayside of Highway 98. More importantly, Sandestin has an excellent convention facility in a very scenic location to hold our numerous section and committee meetings, House meeting and social functions. I hope to see you there.

Save the Dates!

The Louisiana State Bar Association's Summer School is Sunday through Wednesday, June 8-11, 2008.

The Annual Meeting is Wednesday through Friday, June 11-13, 2008.

Both events will be conducted at the Sandestin Golf and Beach Resort in Sandestin, Fla.

More information will be included in upcoming print and online publications!



IOLTA Rate Comparability

Members who wonder what the Louisiana State Bar Association (LSBA) does for them should take note of the Board of Governor's involvement in the Louisiana Supreme Court's recent modification of the Rules of Professional Conduct to adopt IOLTA rate comparability.

As all practitioners realize, like it or not, an IOLTA trust account bearing interest payable to the Louisiana Bar Foundation (LBF) has been required by the Rules of Professional Conduct for almost 15 years.

After rule modifications to increase interest rates on such accounts were proposed directly to the Supreme Court, the Court requested input from the Board of Governors. Timing did not allow referral to the House of Delegates, so the Board of Governors undertook review and comment which resulted in two extremely significant protections for lawyers and

their clients.

First, a presumption of compliance was added to protect lawyers who select accounts and institutions which have the prior approval of the Louisiana Bar Foundation. This substantially reduces risk and simplifies compliance with the increasingly complex aspects of the rule dealing with more aggressive interest-bearing accounts. It also adds a level of protection against Office of Disciplinary Counsel (ODC) prosecution for inadvertent error which was not previously available, even under the prior, simpler rule, which may be especially appropriate in the new era of automatic overdraft notification to ODC. Now, all a careful professional need do to protect herself and her client is to select an LBF-approved financial institution and account.

Second, any high-interest-rate account which carries a corresponding risk of principal, no matter how small, must now be guaranteed against loss of principal by the responsible financial institution.

These significant additional protec-

tions for the typical lawyer and client were only achieved through the constant and reliable awareness and involvement of a series of dedicated LSBA volunteer professionals, led by your current, future and immediate past Presidents, Guy deLaup, Beth Foote and Marta Schnabel, respectively, and the elected and appointed members of your current Board of Governors.

This process exemplifies how the LSBA's ongoing efforts, though often unheralded, make the professional lives of its members simpler.

Steven G. "Buzz" Durio
1987 LBF Fellow and
3rd District Elected Member,
2005-08 LSBA Board of Governors
Lafayette

*For more information on the
IOLTA rate comparability issue,
see page 322.*

Calling All Artists for Journal Covers!

The *Louisiana Bar Journal's* Editorial Board is publishing original artwork on the *Journal* covers to spotlight the stellar talents of Louisiana artists — many of them our fellow Louisiana Bar members! Artists of any age, working in any genre, are encouraged to submit artwork. Legal and Louisiana themes are preferred.

Artwork may be oriented vertically or horizontally. The *Journal* trim size is 8.5 inches wide by 10 7/8 inches tall. The bleed size is 8 5/8 inches wide by 11 1/8 inches tall. Artists wishing to submit a full-page vertical piece of artwork (with or without a bleed edge) should make the active portion of the design at least 2 inches from the top edge and 2 inches from the bottom edge to accommodate the *Journal's* masthead and mailing label.

To submit artwork for review, artists may mail a photocopy or a photograph of their original artwork. (Do not submit

original artwork at this stage. If your artwork is in color, send a color photocopy.) Or, artists may e-mail a low-resolution scan or a photo of the artwork (either as a PDF, JPG or TIF file). The *Journal* staff will contact artists whose work has been selected to make arrangements for submission of original art or high-resolution digital files.

After a piece of artwork is accepted for publication, artists will be asked to sign a release form and provide a short biography, photo and explanation of the artwork. No monetary compensation will be paid, but artists will receive copies of the *Journal*.

Mail or e-mail your art to: Darlene M. LaBranche, Publications Coordinator, Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130-3404; e-mail dlabranche@lsba.org. Direct your questions to LaBranche at (504)619-0112 or (800)421-5722, ext. 112.

Louisiana State Bar Association

601 St. Charles Ave. • New Orleans, La. 70130
(504)566-1600 • (800)421-LSBA Nationwide WATS line/members only
Fax (504)566-0930 • Web site: www.LSBA.org

Programs

For information about these LSBA programs, contact the Bar Office by calling (504)566-1600 or (800)421-LSBA.

- ▶ Alternative Dispute Resolution Program
- ▶ Client Assistance Fund
- ▶ Continuing Legal Education Program
- ▶ Ethics Advisory Service
- ▶ Lawyers' Substance Abuse Hotline • (800)354-9334 • (504)868-4826
- ▶ Legal Specialization Program
- ▶ Loss Prevention Counsel Johanna G. Averill, Cynthia O. Butera and Lindsey M. Ladouceur (800)GILSBAR
- ▶ SOLACE (Support of Lawyers/Legal Personnel All Concern Encouraged)

Publications

- ▶ *Louisiana Bar Journal*
- ▶ "Bar Briefs"
- ▶ Louisiana Bar Today (online newsletter)

Online Services

- ▶ Louisiana Bar Today Opinion Service
- ▶ Membership Directory
- ▶ Fastcase (free online legal research)
- ▶ Law Office Management Assistance Program

Young Lawyers Section

- ▶ Bridging the Gap
- ▶ Mentor Program
- ▶ Young Lawyers' Directory
- ▶ Choose Law
- ▶ Barristers for Boards

Insurance through Gilsbar

- ▶ Group Insurance
 - ▶ Major Medical
 - ▶ Disability
 - ▶ Malpractice
- (800)GILSBAR • (504)529-3505 • See inside back cover

Louisiana Hotels

The following hotels have agreed to corporate discount rates for LSBA members. Call the hotel for the current discounted rates. *When making reservations, you must identify yourself as an LSBA member.*

New Orleans

- ▶ Hotel InterContinental (504)525-5566
- ▶ Wyndham Canal Place (504)566-7006
- ▶ Royal Sonesta Hotel (504)553-2345
- ▶ "W" Hotel French Quarter (504)581-1200
333 Poydras St. (504)525-9444
- ▶ Whitney Wyndham (504)581-4222
- ▶ Loews New Orleans Hotel (504)595-5370

Baton Rouge

- ▶ Holiday Inn Select (225)925-2244
- ▶ Sheraton Hotel & Convention Center (225)242-2600
- ▶ Marriott (225)924-5000
- ▶ Richmond Suites Hotel (225)924-6500
- ▶ Hilton Capitol Center (800)955-6962

Lafayette

- ▶ Hotel Acadiana (800)826-8386
(337)233-8120
Use VIP No. 71 when making your reservations.
- ▶ Hilton Garden Inn Lafayette/Cajundome (337)291-1977

Lake Charles

- ▶ Best Western Richmond Suites (337)433-5213

Shreveport

- ▶ Clarion Shreveport Hotel (318)797-9900

Chain Hotels

The following national hotel chains have agreed to corporate discount rates for LSBA members. Call for the current discounted rates.

- ▶ Holiday Inn (800)HOLIDAY
Use ID No. 100381739 for reservations.
- ▶ La Quinta (866)725-1661
www.lq.com
Rate Code: LABAR

Car Rental Programs

The following car agencies have agreed to discount rates for LSBA members.

- ▶ Avis Discount No. A536100 (800)331-1212
- ▶ Hertz Discount No. 277795 (800)654-2210

Other Vendors

The following vendors have agreed to discount rates for LSBA members.

- ▶ ABA Members Retirement Program (800)826-8901
- ▶ Lexis/Mead Data Central (800)356-6548
- ▶ Bank of America (800)441-7048
- ▶ United Parcel Service (800)325-7000

A Success!

2007 Secret Santa Project Assists More Than 900 Children



All artwork provided by children assisted in the Secret Santa Project.

More than 900 children, represented by 13 nonprofit agencies, were assisted in 2007 in the 11th annual Secret Santa Project, a program spearheaded by the Louisiana State Bar Association (LSBA)/Louisiana Bar Foundation's Community Action Committee.

The program was developed to assist disadvantaged children (from very young to 18 years old) who may be overlooked during the holiday season. The program begins each year with the Community Action Committee members identifying agencies serving these children. Next, Bar members and others in the legal community are asked to "adopt" these children, shopping for gifts and clothing from "wish lists" specially prepared by the children themselves.

Nicholas J. Zeringue, 2007-08 chair of the Community Action Committee, said one of his goals was to help less fortunate children, not only in the New Orleans metro area but also in other areas of the state.

"Committee members from Shreveport, Monroe, Lafayette, Alexandria, Lake Charles and Baton Rouge gave great efforts, and, in addition to what the New Orleans legal community always does for Secret Santa, we had an abundance of resources. Sponsors were burning up the phone lines as soon as Secret Santa's banner went up on the LSBA's Web site, www.lsba.org," Zeringue said.

In 2007, more than 400 members of the legal community "adopted" the children in record time. Also, monetary donations topped \$4,800 this year.

The list of 2007 Secret Santa participants begins on the next page. Firms "adopting" several children were given the option of being listed as a firm or listing individual participants.

We give all our participants a round of applause!



Nicholas J. Zeringue, center, 2007-08 chair of the Community Action Committee, on gift pickup day with agency representatives.



2007 Secret Santa Law Firm Participants

Abbott, Simses & Kuchler
 Adams and Reese, L.L.P.
 Ardoin Law Firm
 Aultman, Tyner, Ruffin, Bell and Swetman
 Batiza, Godofsky and Schroeder
 Bernard, Cassisa, Elliot and Davis
 Brown and Mary
 Caraway LeBlanc, L.L.C.
 Cascio and Cashio, L.L.C.
 Chaffe McCall
 Christovich and Kearney
 David J. Lukinovich, A.P.L.C.
 DeLeo Law Firm
 Deutsch, Kerrigan and Stiles
 Duncan, Courington and Rydberg, L.L.C.
 Dysart and Tabary
 Eckstein Law Firm
 Everitt, Pratt and Latham
 Faculty, Staff and Students of Loyola University College of Law
 Galloway, Johnson, Tompkins, Burr and Smith
 Gieger, Laborde and Laperouse
 Gordon, Arata, McCollam, Duplantis and Eagan
 Harrison Law Group, P.L.L.C.
 Irwin, Fritchie, Urquhart and Moore
 John G. Poteet, Jr., P.L.C.
 Johnson Gray McNamara, L.L.C.
 Kenneth J. Beck, P.L.C.
 King, LeBlanc & Bland
 Krousel Law Firm
 Lambert and Lambert
 Law Office of Nora Chapkovich
 Law Office of Sheryl Story
 Law Offices of Mary H. Slavich, L.L.C.
 Lisa Brener, L.L.C.
 Lugenbuhl, Wheaton, Peck, Rankin and Hubbard
 McAlpine and Cozad
 McGlinchey Stafford
 Montgomery Barnett
 Murray Law Firm
 Nicaud, Sunseri and Fradella
 Noto Law Firm, L.L.C.
 Orrill, Cordell and Beary, L.L.C.
 Phelps Dunbar
 Quick and Associates
 Robein, Urann, Spencer, Picard and Cangemi
 Scafidel Law Firm
 Sessions, Fishman and Nathan
 Sirmon Law Firm, L.L.C.
 Smith Stag, L.L.C.
 Staines & Eppling
 St. Amant Law Firm
 The Reeves Law Firm
 The United States 5th Circuit Staff Attorneys' Office
 Waller and Associates
 Waltzen and Associates



2007 Secret Santa Individual Participants

Michele Abadie	Rocky Bourg
Charles H. Abbott	Travis Bourgeois
Ardis M. Agosto	Angela Bowlin
John Alford	Chaile M. Bowman
Denise Alix	Nancy Brechtel
Ruth Angotti	Tim Brechtel
Elizabeth Armstrong	Laura Brock
Quida Armstrong	Danielle Brown
Susan Atchley	Matt Brown
Ruben Bailey	Melinda Bengé Brown
Deborah Barbé	Andrew Bruns
Charlotte Barker	Tracy Buccino
Rhonda B. Barney	John H. Butler II
Peggy Barton	Michelle T. Butler
M.K. Bech	Suzanne Butler
Jennifer B. Bechet	Jen Capitelli
Erica Beck	Dawn Capponi
Sarah Belter	Denise Carbo
Lisa Benefield	Ben Castoriano
Thomas Bethune	Chris Castro
Edward Benjamin	Danell Catron
Dori Bernos	Susan Cavet
Elaine Bienvenu	John Cazale
Adrienne L. Black	Christie Changho-Bruneau
Holly Black	L.L. Chimento
Tina Blanchard	Susan Ciaravella
Kurt S. Blankenship	Matthew Clark
Michelle Bonin	
Mary Bosworth	

Continued next page

2007 Secret Santa Individual Participants

Maria Clementin
Jaimme Collins
Christy Coleman
Fatimah Conley-Mayfield
Donna Conrad
Denise Cooper
Theresa Cormier
Richard Cortizas
James Coullard
Jackie Cristina
Nicole Csintyan
Renee Culotta
David Curtis
Michelle Dale-St. Cyr
Frank J. D'Amico, Jr.
Julie Danos
Sonya Danos
Michelle Mayne Davis
N. Renae Davis
Renee and Ryan Davis
Judith A. DeFraites
Margaret DeMartini
Michael DePetrillo
Michele H. DeShazo
Joyce M. Dombourian
Remy Donnelly
Zenel Doucet
Erin Dufour
Debbie Dugas
Rick Duplantier
Charmaine Durand
Lacy L. Durham
Irene Durio
Emily Eagan
Leslie Ehret
Jennifer Englander
R. Bruce Evanick
Lillian Eyrich
Carol Faison
Mary Ferry
Marcella Fink
Christin Fitzgerald
Linda Fleck
Phillipina Flowers-Bishop
Annette M. Fontana
Janice Foster
Josh Force
Patty Franklin
Elizabeth Frederickson
Kathryn Friel
Louis Leonard Galvis

Julie Ann Gardner
Marianne Garvey
Ney J. Gehman
Karen Gervais
Lauren Godshall
John Gomila
Brian Greffenius
Arrin Gresse
Sandra Grimes
Cheri Grodsky
Anne and Chuck Guajardo
Darrin M. Guillot
Ginger Gundlach
Lynne Hamilton
Steve Hamilton
Harry Hardin
Pauline Hardin
Amanda Harris
Mark Harris
Schalyece Harrison
Sherron Harrison
Gennie Hartel
Lambert J. Hassinger, Jr.
Jessica W. Hayes
Linda Hazelton
Marc Hebert
Marshall Hebert
Jane Heidingsfelder
Carl Helmers III
Meda Hemelt
Miriam Henry
Michelle Herrera
Paul Hesse
Victoria Hines
Keith Hinson
Hon. Guy M. Huard
Joe Hugg
Angelia F. Husza
Sarah E. Iiams
Mark and Susanne Inman
Jean Isreal
Gwendolyn Jackson
Andrea Janzen
Joseph S. Jarreau
Kerri Johnson
Lynn Johnston
Sheila Joseph
Patty Jumonville
Valerie Welz Jusselin
Retha E. Karnes
Angelle Keller
Rachel S. Kellogg
Roma Kent
Kristin King
Jennifer Kogos
Tracy Knight



Andrew L. Kramer
Debbie Kranske
Scott Kryder
Kevin Kwon
Patty Laborder
Faye Lala
Gail Lamousin
Gwendolyn Lanasa
Charlie Lane
Jovondra Larks
Loretta Larsen
Greg Latham
Debra Laurent
Joe Lavigne
Shea Lawrence
Donna LeBlanc
Michelle LeBlanc
Willa LeBlanc
Andy Lee
Bob Lemon
Gaynelle Lerille
Candace Levy
Christina Lewis
Jesse P. Lind
Charlotte P. Livingston
Rosalie Lobrano
Mary Ann Locantro
Gina Locascio
Kathi Logan
Mary E. Lorenz
William M. Lucas, Jr.
Tonya Lurry
Andrew Maestri
Mark Mahfouz
Andre E. Mailho
Kathy Manchester
Jacqueline Manecke
Tiffany A. Mann
Juanita R. Marino
Eve B. Masinter
Doug Matthews

Karen Mayeaux
Adrienne McCall
Katherine McCoy
Jackie McCreary
Lauren McHugh
David McLendon
Patrick McShane
Samantha M. McVay
Patricia Melancon
Andy Mendez
Lucy Meyer
Ramona Meyers
Meredith Miceli
Julia Michel
Larry Michiels
Joan L. Miller
Derek Mills
Deborah Moench
Monte Mollere
Mollye Monceaux
Debi Moore
Chad Morrow
David S. Moyer
William R. Mustian III
Jessica Natali
Korey A. Nelson
Michaela E. Noble
Tom Nosewicz
Jennifer O'Neal
Pat Oster
Patrick S. Ottinger
Alina Pagani
Dawn Palermo
Roxann Palmisano
Avery Pardee
Nancy Pavon
Laurie Pelleer
Patricia Percle
Shirley Perdeauville

Continued next page

2007 Secret Santa Individual Participants

Railey Peters
 Lezly Petrovich
 Mary K. Peyton
 Kelli Badeaux Phillips
 John Pieksen
 Anatole J. Plaisance
 Ric Poirier
 Katie Pontier
 Shelley Poore
 Julie Prechter
 Doris Pringle
 Michael Pyle
 L. Marline Quarles
 Karen Rackle
 Jessica Radermacher
 Rudolph Ramelli
 Eddie Rantz
 Tanius N. Reddix
 Brittany L. Reed
 Linda Rice
 Tara Richard
 McGready L. Richeson
 Stuart G. Richeson
 Coleman Ridley
 Michael G. Riehlmann
 Jeffrey H. Riggs
 Robert Rivers
 Debbie Rivolo
 Tom Roberson
 Kim Rodriguez
 Becky Rolland
 Robbie Romaine
 Jeannine Roques
 Laci Roth
 Beau Sagona
 Shannon S. Sale
 Lance Sannino
 Whitney Santora
 Stephanie Saul
 Amy Scafidel
 LeighAnn Schnell
 Celeste Schmitt
 Ansley Seaver
 Susan Seidel
 Ann Sens
 Michael Sevante
 Caryl Shade
 Bambi Shamah
 Karen Sher

Lloyd N. Shields
 James F. Shuey
 Kelly Simoneaux
 Marguerite T. Sims
 Cameron B. Smith
 Elsbet Smith
 Julie Smith
 Nora Smith
 Isaac H. Soileau
 Kyle Spaulding
 Kimberly Spiehler
 Cindy St. Amant
 Myles Steib
 Mark Stein
 Mick Stein
 Shelby Stone
 Robert Thibeaux
 Paul Thibodeaux
 Debby Thomas
 Margery Thomas
 Laura Thompson
 Ophelia Thompson
 Claudia Thrasher
 Gay Trepagnier
 Eric L. Trosclair
 Dorian Tuminello
 Hal D. Ungar
 Kim Unglesby
 Sara Valentine
 Patrick Vance
 Melanie Verzwylvelt
 Gilda B. Walker
 Robby Walsh
 Tina Walsh
 Kathryn Washington
 Jennie Lynn Waters
 Dirk Wegmann
 Judith Wenger
 Patti Westgate
 Barbara E. Wheeler
 Katherine Wilkinson
 Sharonda R. Williams
 Chris Wilson
 Jacqueline Bordelon Wilson
 Micheal Winsberg
 Suzanne Wisdom
 Donna Bramlet Wood
 Kathy M. Wright
 Milisa C. York
 Carlos and Kandance
 Zelaya
 Zara Zeringue
 Mary Ziegler
 Michelle Zornes



On behalf of the Board of Directors and the children served by CASA (Court-Appointed Special Advocates) of New Orleans, I wish to thank you for your overwhelming and impressive effort in this past year's Secret Santa Program.

CASA's mission is to be the voice of abused and neglected children in juvenile court. As we work to make a positive difference in the lives of our community's most needy kids, you have made our goal that much more successful. To see the looks of excitement and smiles of joy when our kids received their Christmas presents was overwhelming.

I am proud to tell all who will listen of the generosity of the members of Louisiana's Bar, and how they made Christmas 2007 unforgettable for CASA's kids. Likewise, I encourage every member of the community to make a difference in a child's life by supporting our mission either through contributing to the Secret Santa Program, volunteering as a CASA advocate or providing financial support to our organization.

With sincerest appreciation and heart-felt gratitude, I remain

Sincerely,

Justin I. Woods
 Justin I. Woods
 Board President
 CASA of New Orleans



Boys Hope Girls Hope
 New Orleans

On behalf of the Board of Directors and the children of BOYS HOPE GIRLS HOPE, please accept our deepest gratitude and utmost appreciation for your continuous support and for making each Boys Hope Girls Hope scholar's Christmas wish list become a reality. Due to your incredible generosity, this holiday season has proven to be a wonderful success and a joyous time for the entire Boys Hope Girls Hope family.

BOYS HOPE GIRLS HOPE has reopened our Boys Hope home and is now in the process of designing and rebuilding our Girls Hope home. We could not have faced these challenges without your help.

We look forward to rebuilding together and invite you to visit our website www.bhghnola.org for continued updates on the children, special events, and the rebuilding process.

We appreciate all the **HOPE** you provide for the children and thank you for sharing with us your blessings during this time of need.

Sincerely,

Cory J. Howat
 Cory J. Howat
 Executive Director

Announcement by Louisiana Bar Foundation: Supreme Court Adoption of IOLTA Rate Comparability

The Louisiana Supreme Court amended the Rules of Professional Conduct Rule 1.15, Safekeeping and Interest on Lawyers Trust Accounts (IOLTA) Rules, on Jan. 3, 2008, so that IOLTA accounts must now earn the same (or comparable) interest or dividend rates generally available to similarly situated non-IOLTA customers at the same institution.

The 1990 IOLTA rule provided for interest rate parity for similar accounts, which pegged IOLTA to low-rate interest checking accounts, even when balances exceeded minimum requirements for higher-rate products. The rule change requires higher-rate options for qualifying IOLTA accounts, but financial institutions do not have to create new products if the higher-rate products are not already available to their other customers. A number of IOLTA programs in other states have similar rate parity provisions. Of course, neither lawyers nor clients lose any funds since IOLTA only involves funds that a lawyer would not otherwise invest on the client's behalf because those funds would not produce income over the costs of investing them.

"This rule change assures that the IOLTA program will get comparable treatment by receiving the same interest rates as non-IOLTA accounts," said Louisiana Bar Foundation (LBF) President Elwood F. Cahill, Jr. "This is truly a great day for Louisiana and all of the legal services programs supported by the Louisiana Bar Foundation."

IOLTA participation remains voluntary for financial institutions; however, lawyers may not keep an IOLTA account at an institution that does not participate or meet IOLTA requirements. Virtually all banks and savings and loan associations in Louisiana have participated in IOLTA since its inception. Most appear on the *IOLTA Honor Roll* because they have waived all IOLTA account fees to make more charitable grant dollars available.

The LBF is currently working with financial institutions in Louisiana to become eligible institutions, which would mean lawyers who have IOLTA accounts at those banks would not be required to take any action at all. If financial institutions choose not to pursue eligibility, lawyers will be required to move their IOLTA accounts to an eligible institution. The LBF will advise lawyers if they will be required to make such a move, but this has not been necessary in any of the other states that have already adopted a comparability rule. Among the states that have

previously made the rule change are Florida, Texas, Mississippi, Alabama and Arkansas.

Commenting on the amendments to Rule 1.15 of the Rules of Professional Conduct and the IOLTA Rules, Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr. said, "The new rate comparability rules and regulations permit IOLTA accounts to generate higher rates of return that are now available principally to non-IOLTA customers. It is hoped that these rule changes will result in increased income to the Bar Foundation which, in turn, will result in increased funding for programs that provide legal services to our poorer citizens, as well as for other meritorious programs that benefit the public and the legal system of Louisiana. I would also like to compliment the officials of the Bar Foundation and the Bar Association who worked tirelessly to reach a consensus on these rule changes."

The LBF worked closely with the Louisiana Supreme Court and the Louisiana State Bar Association to study the implications of this rule change. "We are grateful to the Louisiana Supreme Court for adopting the amendments to Rule 1.15 and are fortunate to have the Court's support of increased funding for legal services," said Louisiana State Bar Association President S. Guy deLaup.

The IOLTA program was created by the Louisiana Supreme Court in 1985 and generates interest that helps finance civil legal services for the poor. The interest earned on these accounts is distributed by the LBF to Louisiana's legal service providers, pro bono programs, battered women shelters and numerous other community organizations that provide civil legal assistance to Louisiana's poor. To date, the LBF has distributed more than \$32 million throughout the state to help address the civil legal needs of the indigent, provide a basic understanding of the law and assist with improvement to the justice system.

Beginning April 1, the list of eligible banks will be available on the LBF's Web site at www.raisingthebar.org. Information for lawyers will also be available on the Web site.

See the amended rule on pages 323-326.

Amended Rule

AMENDMENTS TO RPC 1.15 SAFEKEEPING PROPERTY AND IOLTA RULES AS ADOPTED BY THE LOUISIANA SUPREME COURT ON JANUARY 3, 2008, EFFECTIVE APRIL 1, 2008:

- (a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Except as provided in (g) and the IOLTA Rules below, funds shall be kept in one or more separate interest-bearing client trust accounts maintained in a bank or similar institution in the state where the lawyer's office is situated; a bank or savings and loan association: 1) authorized by federal or state law to do business in Louisiana, the deposits of which are insured by an agency of the federal government; 2) in the state where the lawyer's primary office is situated, if not within Louisiana; or 3) elsewhere with the consent of the client or third person. No earnings on a client trust account may be made available to or utilized by a lawyer or law firm. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.
- (b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account or obtaining a waiver of those charges, but only in an amount necessary for that purpose.
- (c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred. The lawyer shall deposit legal fees and expenses into the client trust account consistent with Rule 1.5(f).
- (d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. For purposes of this rule, the third person's interest shall be one of which the lawyer has actual knowledge, and shall be limited to a statutory lien or privilege, a final judgment addressing disposition of those funds or property, or a written agreement by the client or the lawyer on behalf of the client guaranteeing payment out of those funds or property. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property. **(Amended 05/24/01)**
- (e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(f) Every check, draft, electronic transfer, or other withdrawal instrument or authorization from a client trust account shall be personally signed by a lawyer or, in the case of electronic, telephone, or wire transfer, from a client trust account, directed by a lawyer or, in the case of a law firm, one or more lawyers authorized by the law firm.

(g) ~~(f)~~ A lawyer shall create and maintain an "IOLTA Account," which is a pooled interest-bearing client trust account for funds of clients or third persons which are nominal in amount or to be held for such a short period of time that the funds would not be expected to earn income for the client or third person in excess of the costs incurred to secure such income in compliance with the following provisions:

(1) IOLTA Accounts shall be of a type approved and authorized by the Louisiana Bar Foundation and maintained only in "eligible" financial institutions, as approved and certified by the Louisiana Bar Foundation. The Louisiana Bar Foundation shall establish regulations, subject to approval by the Supreme Court of Louisiana, governing the determination that a financial institution is eligible to hold IOLTA Accounts and shall at least annually publish a list of LBF-approved/certified eligible financial institutions. Participation in the IOLTA program is voluntary for financial institutions.

IOLTA Accounts shall be established at a bank or savings and loan association authorized by federal or state law to do business in Louisiana, the deposits of which are insured by an agency of the federal government or at an open-end investment company registered with the Securities and Exchange Commission authorized by federal or state law to do business in Louisiana which shall be invested solely in or fully collateralized by U.S. Government Securities with total assets of at least \$250,000,000 and in order for a financial institution to be approved and certified by the Louisiana Bar Foundation as eligible, shall comply with the following provisions:

~~(1)(A)~~ No earnings from such an account shall be made available to a lawyer or law firm.

~~(2)(B) Such~~ The account shall include all funds of clients or third persons which are nominal in amount or to be held for such a short period of time the funds would not be expected to earn income for the client or third person in excess of the costs incurred to secure such income, except as described in (6) below.

~~(3)(C) An interest bearing trust any bank or savings and loan association or credit union authorized by federal or state law to do business in Louisiana and insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.~~ Funds in each interest-bearing client trust account shall be subject to

Continued next page

withdrawal upon request and without delay, except as permitted by law.

~~(4)-(2) The rate of interest payable on any interest bearing trust account shall not be less than the rate paid by the depository institution to regular, non-lawyer depositors. To be approved and certified by the Louisiana Bar Foundation as eligible, financial institutions shall maintain IOLTA Accounts which pay an interest rate comparable to the highest interest rate or dividend generally available from the institution to its non-IOLTA customers when IOLTA Accounts meet or exceed the same minimum balance or other eligibility qualifications, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA accounts, eligible institutions may consider factors, in addition to the IOLTA Account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided that such factors do not discriminate between IOLTA Accounts and accounts of non-IOLTA customers, and that these factors do not include that the account is an IOLTA Account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers, but the eligible institution may elect to pay a higher interest or dividend rate on IOLTA Accounts.~~

(3) To be approved and certified by the Louisiana Bar Foundation as eligible, a financial institution may achieve rate comparability required in (g)(2) by:

(A) Establishing the IOLTA Account as:

~~(1) an interest-bearing checking account; (2) a money market deposit account with or tied to checking; (3) a sweep account which is a money market fund or daily (overnight) financial institution repurchase agreement invested solely in or fully collateralized by U.S. Government Securities; or (4) an open-end money market fund solely invested in or fully collateralized by U.S. Government Securities. A daily financial institution repurchase agreement may be established only with an eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money market fund must be invested solely in U.S. Government Securities or repurchase agreements fully collateralized by U.S. Government Securities, must hold itself out as a "money-market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940, and, at the time of the investment, must have total assets of at least \$250,000,000. "U.S. Government Securities" refers to U.S. Treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.~~

~~(B) Paying the comparable rate on the IOLTA checking account in lieu of establishing the IOLTA Account as the higher rate product; or~~

~~(C) Paying a "benchmark" amount of qualifying funds equal to 60% of the Federal Fund Target Rate as of the first business day of the quarter or other IOLTA remitting period; no fees may be deducted from this amount which is deemed already to be net of "allowable reasonable fees."~~

~~(4) (5) Lawyers or law firms depositing the funds of clients or third persons in an IOLTA trust savings Account shall direct the depository institution:~~

A. To remit interest or dividends, net of any ~~service charges or fees~~, allowable reasonable fees on the average monthly balance in the account, or as otherwise computed in accordance with an eligible institution's standard accounting practice, at least quarterly, to the Louisiana Bar Foundation, Inc.;

B. to transmit with each remittance to the Foundation, a statement, on a form approved by the LBE, showing the name of the lawyer or law firm for whom the remittance is sent and for each account: the rate of interest or dividend applied; the amount of interest or dividends earned; the types of fees deducted, if any; and the average account balance for each account for each month of the period in which the report is made; and

C. to transmit to the depositing lawyer or law firm at the same time a report showing the amount paid to the Foundation, the rate of interest applied, and the average account balance of the period for which the report is made; a report in accordance with normal procedures for reporting to its depositors.

~~(5) (6) Any account enrolled in the program which has or may have the net effect of costing the IOLTA program more in bank fees than earned in interest over a period of time may, at the discretion of the program's administrator, be exempted from and removed from the IOLTA program. Exemption of an account from the IOLTA program revokes the permission to use the administrator's tax identification number for that bank account. Exemption of a pooled clients' trust account from the IOLTA program does not relieve an attorney or law firm from the obligation to maintain the property of clients and third persons separately, as required above, in a non-interest-bearing account. "Allowable reasonable fees" for IOLTA Accounts are: per check charges; per deposit charges; a fee in lieu of minimum balance; sweep fees and a reasonable IOLTA Account administrative fee. All other fees are the responsibility of, and may be charged to, the lawyer or law firm maintaining the IOLTA Account. Fees or service charges that are not "allowable reasonable fees" include, but are not limited to:~~

the cost of check printing; deposit stamps; NSF charges; collection charges; wire transfers; and fees for cash management. Fees or charges in excess of the earnings accrued on the account for any month or quarter shall not be taken from earnings accrued on other IOLTA Accounts or from the principal of the account. Eligible financial institutions may elect to waive any or all fees on IOLTA Accounts.

(6) A lawyer is not required independently to determine whether an interest rate is comparable to the highest rate or dividend generally available and shall be in presumptive compliance with Rule 1.15(g) by maintaining a client trust account of the type approved and authorized by the Louisiana Bar Foundation at an "eligible" financial institution.

IOLTA RULES **Effective January 1, 1991**

- (1) The IOLTA program shall be a mandatory program requiring participation by lawyers and law firms, whether proprietorships, partnerships, limited liability companies or professional corporations.
- (2) The following principles shall apply to funds of clients or third persons which are held by lawyers and law firms:
 - (a) No earnings on the IOLTA Accounts may be made available to or utilized by a lawyer or law firm.
 - (b) Upon the request of, or with the informed consent of a client or third person, a lawyer may deposit funds of the client or third person into a non-IOLTA, interest-bearing client trust account and earnings may be made available to the client or third person, respectively, whenever possible upon deposited funds which are not nominal in amount or are to be held for a period of time long enough that the funds would be expected to earn income for the client or third person in excess of the costs incurred to secure such income; however, traditional lawyer-client relationships do not compel lawyers either to invest clients' such funds or to advise clients or third persons to make their funds productive.
 - (c) Funds of clients or third persons which are nominal in amount or to be held for such a short period of time that the funds would not be expected to earn income for the client or third person in excess of the costs incurred to secure such income shall be retained in an interest-bearing checking or savings trust account with the interest an IOLTA Account at an eligible financial institution as outlined above in section (g), with the interest or dividend (net of any service charge or allowable reasonable fees) made payable to the Louisiana Bar Foundation, Inc., said payments to be made at least quarterly.
 - (d) ~~In determining whether a client's funds are nominal in amount, the lawyer or law firm shall take into consideration the following factors:~~

- (i) ~~The amount of interest which the funds would reasonably be expected to earn during the period they are to be deposited;~~
- (ii) ~~The lawyer's cost to establish and administer the account, including the cost of preparing any required tax reports for interest accruing to a client's benefit; and~~
- (iii) ~~The capability of financial institutions to calculate and pay interest to individual clients.~~

In determining whether the funds of a client or third person can earn income in excess of costs, a lawyer or law firm shall consider the following factors:

- (1) The amount of the funds to be deposited;
- (2) The expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
- (3) The rates of interest or yield at financial institutions where the funds are to be deposited;
- (4) The cost of establishing and administering non-IOLTA accounts for the benefit of the client or third person including service charges, the costs of the lawyer's services, and the costs of preparing any tax reports required for income accruing to the benefit of the client or third person;
- (5) The capability of financial institutions, lawyers or law firms to calculate and pay income to individual clients or third persons;
- (6) Any other circumstances that affect the ability of the funds of the client or third person to earn a positive net return for the client or third person.

The determination of whether funds to be invested could be utilized to provide a positive net return to the client or third person rests in the sound judgment of each lawyer or law firm. In making the determination, the attorney or law firm may assume that \$50.00 is a reasonable estimate of the minimum amount of interest that a segregated trust account for an individual client must generate to be practical in light of the costs involved in earning or accounting for any such income. The lawyer or law firm shall review its IOLTA Account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of any client or third person.

- (e) Although notification of a lawyer's participation in the IOLTA Program is not required, to be given to clients or third persons whose funds are held in IOLTA Accounts, many lawyers may want to notify their clients or third

Continued next page

persons of their participation in the program in some fashion. The Rules do not prohibit a lawyer from advising all clients or third persons of the lawyer's advancing the administration of justice in Louisiana beyond the lawyer's individual abilities in conjunction with other public-spirited members of the profession. The placement of funds of clients or third persons in an IOLTA Account is within the sole discretion of the lawyer in the exercise of the lawyer's independent professional judgment; notice to the client or third person is for informational purposes only. In fact, it is recommended that this be done. Participation in the program will require communication to an authorized financial institution.

- (4) The Louisiana Bar Foundation shall hold the entire beneficial interest in the interest or dividend income derived from client trust accounts in the IOLTA program. Interest or dividend earned by the program will be paid to the Louisiana Bar Foundation, Inc. to be used solely for the following purposes:

- (a) to provide legal services to the indigent and to the mentally disabled;

- (b) to provide law-related educational programs for the public;
- (c) to study and support improvements to the administration of justice, and

- (d) for such other programs for the benefit of the public and the legal system of the state as are specifically approved from time to time by the Supreme Court of Louisiana.

- (5) The Louisiana Bar Foundation shall prepare an annual report to the Supreme Court of Louisiana that summarizes IOLTA income, grants, operating expenses and any other problems arising out of administration of the IOLTA program. In addition, the Louisiana Bar Foundation shall also prepare an annual report to the Supreme Court of Louisiana that summarizes all other Foundation income, grants, operating expenses and activities, as well as any other problems which arise out of the Foundation's implementation of its corporate purposes. The Supreme Court of Louisiana shall review, study and analyze such reports and shall make recommendations to the Foundation with respect thereto.



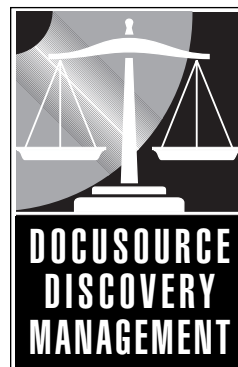
World Class Technology. Local Commitment.

DOCUSOURCE DISCOVERY MANAGEMENT offers best practices consulting and services including:

- Management Plans • Training • ESI Processing • Collection • Review • Production • Mock Trial

DDM is Louisiana's largest independent provider of consulting services and document outsourcing. **For over 20 years,** **DocuSource Discovery Management** has provided experts in the field including practicing attorneys, analysts and information technology professionals.

- Certified E-discovery Consultants
- Certified Trial Consulting
- Certified Concordance Training
- Certified Summation Training
- Certified Case Map Training



Call today 1-800-588-1779 or (504) 588-2679

New Orleans Baton Rouge Lafayette

201 St. Charles Ave., CapitalOne Bldg., Suite 1401, New Orleans, LA 70170 www.docusource-lss.com

Visit Docusource-lss.com/resources for your free pocket guide to electronic discovery "Digital Discovery Guide"

IT'S TIME TO BOOK A LISTING IN 'WHO'S WHO IN ADR 2008'

***Arbitrators and Mediators:
The October/November 2008 Louisiana Bar Journal
is focusing on YOU!***

**One price gets
you in the print
directory and
on the Web!**

**View the 2007
directory at
[www.lsba.org/
2007Membership
Directory/
arbitratorsdirectory.asp](http://www.lsba.org/2007MembershipDirectory/arbitratorsdirectory.asp)**

The special Arbitrators and Mediators Directory will feature brief articles and photographs of arbitrators and mediators (**INDIVIDUALS ONLY**).

The articles should be **150 words MAXIMUM**. Please provide your address, phone, fax, e-mail address and Web site information at the end of the listing (not part of the word count).

Submit either original photos or digital photos. Digital photos should be submitted separately from the article, in either .tif, .eps or .jpg format (the order of preference). **DO NOT** submit digital photographs embedded in word processing programs; send the photograph as a separate file. High-resolution digital photos work best (at least 300 DPI/dots per inch).

**Deadline is July 31
for all listings and photos!**

Directory/Web Combo price is \$125.

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

If you would like to repeat a prior listing and photo, you may send us a photocopy of that listing along with your check; please provide the year the listing appeared. (Digital photos appearing in ADR directories are archived back to 2000.)

To reserve space in the directory, mail your article, disk, photo and check (**payable to Louisiana State Bar Association**) to: **Publications Coordinator Darlene M. LaBranche, 601 St. Charles Ave., New Orleans, La. 70130.**

Articles and photos may be e-mailed to dlabranche@lsba.org, and checks should be mailed or hand-delivered.

If you require more information, please contact: **Darlene M. LaBranche, (504)619-0112 or (800)421-5722, ext. 112.**

Sample of the Individual Listings

**Jane Smith
XYZ Arbitration Services, Inc.**

Jane Smith has been affiliated with XYZ Arbitration Services, Inc. for five years, handling dispute resolution mainly for the insurance industry. Smith received a BS degree in political science in 1982 from Tulane University and her JD degree in 1987 from Louisiana State University Paul M. Hebert Law Center. Prior to joining XYZ, she was in private practice. Smith believes her professional experience is well suited to the field of arbitration. "This growing trend, to arbitrate rather than litigate, will be beneficial to the legal profession and the burgeoning court system," Smith said.

5555 W. Main St., New Orleans, La. 70130

(504)555-XXXX • fax (504)555-XXXX

E-mail: jsmith@net.com • Web site: www.xyz.com

**Your
photo**



Louisiana Heirship Property

Solutions for Establishing Record Title

By Malcolm A. Meyer

Five hundred years ago, Hernando de Soto (the explorer) trekked through what would later be the southeastern United States seeking to uncover secrets of wealth. He never found what he sought. In the last 20 years, Hernando de Soto¹ (the Peruvian economist) traveled through the world seeking to discover the secrets of capital growth. Prof. de Soto ultimately determined a land registry system to be a major factor contributing to wealth creation. He postulated that such a system allowed for the use of land as a fungible asset.

Western title systems assure that property rights are protected by formal rules and by transparency through public recordation and indices. The certainties of ownership and of the ranking of rights make borrowed capital available at competitive rates. Nowhere else in the United States is the real estate recordation system more transparent and the rules governing property rights clearer than in Louisiana, which coupled its civil law preference for the notarial document with the strictest recordation² and race³ standards in the nation, our “Public Records Doctrine.” If Prof. de Soto had visited

my real estate class at Tulane Law School, he certainly would have labeled our Louisiana system as one of the “. . . Triumphs in the West . . .” about which he referred when he titled his book.⁴

But there are flaws in Louisiana’s system. The *ad valorem* assessment method, as it was historically applied, encouraged a “lay low” posture. Any filing in the conveyance office normally results in a copy being sent to the assessor for revaluation. Thus, an heir whose parents’ property is totally exempt from *ad valorem* taxes might perceive a financial incentive *not* to file a descriptive list

with true values and not to obtain a judgment of possession which would alert the assessor. That same heir in possession might also not wish to alert siblings, nieces or nephews of the true value of inherited property by instituting a formal succession proceeding.

I use the term “heirship property” to describe the undivided ownership interest of heirs, when there is non-compliance with recordation formalities. It is a term, along with “heirs’ property,” in common use in the southeastern United States.⁵ Many decedents have no mortgage debt, and their heirs in possession have no intention of borrowing. Therefore, the heir in possession may see no immediate need to remain within what Prof. de Soto termed “an integrated property system.”⁶ The heir living in the family home is out of sight and, hopefully, out of mind. He is secure in the possession of the family home, backed by the doctrine of “le mort saisit le vif” — “the dead give seisin to the living.”⁷ There is no need for written notarial documents or recordation — two of the chief ingredients of Prof. de Soto’s discovery. Actually, Louisiana law does not require a succession or a probate to pass ownership to universal heirs, but merely to judicially recognize heirs’ identities and to date the commencement of various prescriptive periods. In some areas of the state, filing an Affidavit of Death and Heirship has been an inexpensive method of documenting inherited ownership.

Possessors of heirship property are not on the horizon of real estate practitioners because these possessors do not participate in recordable and insurable real estate transactions. However, Hurricane Katrina destroyed housing on thousands of parcels of heirship property in Louisiana, leaving possessors homeless, without title, and facing significant hurdles in proving ownership, as described below.

The federal government and the state of Louisiana funded the Road Home Program, which is now helping compensate property owners for their losses. The Road Home Program must operate within acceptable parameters for proving en-

titlement.⁸ That portion of the Road Home Program, *i.e.*, confirming the identity of the claimants as property owners, at the outset would not seem to be an area of contentious dispute. Claimants may disagree on the amount of damage suffered, whether they want to or have to move back home, or whether their existing insurance provided any compensation. But proof of ownership would be an easy task. Prof. de Soto, the Road Home Program and I would have agreed: this is the United States, just get a copy of your deed.⁹

The Road Home Program assigned the task of title searching and checking to First American Title Insurance Company of Louisiana (FATIC-L). In carrying out this task, FATIC-L discovered that approximately 15 percent of the property titles did not have record owners who corresponded to the named claimants.¹⁰ This author estimates that this astoundingly high percentage could potentially translate into 20,000 or more “non-merchantable”¹¹ titles.

Prof. de Soto had postulated how necessary it was to the developing world to establish an equitable and transparent real estate system. Neither he nor I nor any other attorney I have ever met ever theorized why people in the developed West would have opted out of an existing equitable and transparent system with all its economic benefits. However, FATIC-L quickly recognized the problem and came up with solutions by shortcutting the title examination process.¹² As the Road Home Program increasingly acted as a compensation program to help those injured, rather than a loan program with traditional standards of a mortgage lender, FATIC-L reduced the requirements for title searches, especially for those who did not wish to sell their properties to the state, but who wanted to rebuild.¹³

Nevertheless, the Road Home Program uncovered four issues which should be addressed by the Louisiana Bar and the Louisiana Legislature.

First, why did so many people drop out of what was generally regarded by all practitioners, writers and professors as an excellent real estate records system?

In other words, why did heirship property come about in the first place?

Second, what is the extent of heirship property in Louisiana’s real estate portfolio?

Third, what solutions are available to re-establish the efficacy of the land title system over heirship property and to encourage future compliance?

Fourth, is eliminating heirship property a good thing for everyone?

Why Did Heirship Property Come About?

Cost of compliance is the primary reason many people on the cusp of poverty have resisted taking steps to establish formal title to inherited property in the New Orleans area. Without recording a Judgment of Possession in the conveyance records, some owners with no spare cash perceive that they can avoid an upward adjustment of their *ad valorem* assessment. Additionally, filing costs¹⁴ and attorneys’ and appraisers’ fees, even at the lowest levels imaginable, could equal several months of income to a person limited to Social Security benefits. Second, some people likely resist formalizing their titles out of fear that their possession will be threatened by the very succession proceedings needed to establish legal title.¹⁵ As long as relatives are not alerted to their practically absolute right to force a partition sale of urban property, those in possession are protected by a veil of ignorance.¹⁶ Third, some possessors of heirship property likely perceive that creditors could be held at bay by a world of opaque titles. As long as a succession is not opened, the judgment debtor’s name would remain “below the radar,” never appearing in the vendee’s index. Finally, because some federal programs limit benefits to those who own property and might even require reimbursement, an heir can hope that he does not “own” property if the succession is never opened. But the doctrine of seisin is applicable regardless of recordation.¹⁷ The lower interest rates and fluid capital for investment are not an

enticement for one with no intention of employing capital except as a roof over one's head.¹⁸ The fact that "the single most important source of funds for new business in the United States is a mortgage on the entrepreneur's home"¹⁹ is not relevant to some people.

What is the Extent of Heirship Property?

This article was prompted by the author's discovery of heirship property in the urban New Orleans area, although, as indicated above, the phenomenon, in the author's view, will turn out after further research to be a statewide problem.²⁰ If the estimate of a 15 percent divergence between owners with seisin and owners with recorded titles by FATIC-L holds true for all of Louisiana, urban and rural, mathematical extrapolation suggests the possibility that problem titles in Louisiana may number as many as 100,000.²¹

What Solutions Are Available to Establish Record Title to Heirship Property?

The Road Home Program illustrates the need for one-on-one help by *pro bono* nonprofits. The most immediate and pressing problem is to solve each Road Home claimant's right to compensation or to clear the titles sufficiently to satisfy the insurability standard of FATIC-L. Ultimately the solution for each family is such a one-to-one approach, as there are many issues which can only be solved on an individual attorney-client basis. However, a more comprehensive approach to solutions, addressing the causes of heirship property and legislatively eliminating unnecessary work, would reduce the time and effort required on each of the 20,000 or so titles to bring them to a state of merchantability. I am a volunteer attorney with Appleseed,²² a *pro-bono* organization which takes such a comprehensive approach to solutions, and write



this article to propose just such an approach for Louisiana.

The state of Mississippi recently adopted legislation to facilitate the establishment of titles to heirship property that might be considered as a model. Under Mississippi law, property passes to heirs at the time of death, just as in Louisiana.²³ However, under Mississippi law, a testament is ineffective until probated and the land may be dealt with as if the decedent died intestate.²⁴ Very similar to the 1995 *Stoufflet*²⁵ decision in Louisiana, the 2005 Mississippi Supreme Court decision in *Ferrara v. Walters*²⁶ held that marketable title could be established only through a judicial determination of heirship. Just as the Louisiana Legislature addressed *Stoufflet* by changing the law,²⁷ the Mississippi Legislature overruled the *Ferrara* decision, but with a different solution: House Bill 947 of 2007 specifically permits the use of an heirship affidavit to establish ownership and merchantable title, bypassing formal probate proceedings.²⁸ It is a solution worthy of emulation because it brings heirship property into the transparent title system in a way that is easier and less

expensive for landowners.

Louisiana legislation addressing heirship property is called for in five areas. First, the practically unlimited right of partition in Louisiana law should be curtailed. Judges should be given equitable power over heirship property to devise alternative methods to a sheriff's auction both to satisfy minority interest owners and to give possessors an opportunity to stay in their homes. Louisiana judges have had such power when considering the dissolution of community property.²⁹ Second, total curtailment of the right of partition of co-owners limiting them to a buy-out over time might be considered. Third, affidavits in lieu of formal judicial proceedings to establish heirship and merchantable titles should be permitted in reasonable circumstances, at least for decedents who died long ago. Fourth, the common law concept of "tenants in common with right of survivorship," allowing for a complete bypass of a judicial proceeding upon death of a co-owner for a particular property, should be considered.³⁰ This would allow a deed to be the testament of the decedent for that property, just like a beneficiary is designated in a life insurance policy. Fifth, the Orleans Parish Documentary Transfer Tax should be eliminated, at least for all intra-family transfers, as it is regressive and unfair to those with limited income.³¹ These five changes will aid in the restoration of merchantable titles for those who wish to bring their property back into the legal framework.

Is Eliminating Heirship Property a Good Thing for Everyone?

Prof. de Soto observed tremendous economic loss to those who were locked out of the legitimate economy, calling their assets "dead capital."³² Clearly, the potential to build wealth, to the professor, rested on a formal system which catalogued and legitimized property rights. In Louisiana, where a customary legal interest rate of 7 percent or less on first mortgages secured by a merchant-

able title can jump to 42 percent for unsecured loans, opting to return to the Public Records system can save great expense for people who wish to free their capital for entrepreneurial uses. But not everyone wishes to borrow money. In Louisiana, there may be many people who do not wish to exchange their "dead capital" for transparent and public ownership.

Conclusion

The Louisiana Legislature should call for an analysis of the issues giving rise to heirship property. Where the present system works hardship or injustice, changes should be sought. There is a social concept, part of our shared culture, that the one who cared for parents should be protected. But our partition and intestate succession laws really do not foster this protection, forcing some people out of the land records system in order to maintain the possession which their parents wanted them to have but were perhaps too poor, uneducated or fearful of the system to accomplish. Costs of compliance are too high for many people and should be reduced so that those who wish to comply can do so. Fear of the system can be overcome through education that we attorneys have a duty to provide.³³ Our goal should be to assure that those who wish to have transparent and public titles have that opportunity.

FOOTNOTES

1. (b. 1941), Professor de Soto is the president of Peru's Institute for Liberty and Democracy and author of *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York, Random House 2000) (hereinafter "Mystery of Capital").

2. See *McDuffie v. Walker*, 125 La. 152, 51 So. 100 (La. 1909).

3. La. R.S. 9:2756 (West 2007). "Race" means "the first to record at the courthouse."

4. See de Soto, *supra*, note 1.

5. Hugo A. Pearce III, "Heirs' Property": The Problem, Pitfalls and Possible Solutions," 25 S.C.L. Rev. 151 (1973).

6. de Soto, *supra*, note 1, at 53.

7. In brief, the doctrine of "seisin." Succession of Stoufflet, 665 So.2d 98 (La. App. 1 Cir. 1995), writ denied, 667 So.2d 1052

(1996), briefly questioned the doctrine of seisin until Act 556 of 1997 was passed to amend La. Civ.C. art. 938 (West 2007) and added La. R.S. 9:2502(A) (West 2007), which allowed all heirs to alienate or encumber or to file suit for partitioning heirship property prior to formal succession proceedings.

8. <http://www.road2la.org/homeowner/eligibility-info.htm> requires "documents concerning your ownership" and lists title policy, deed, mortgage, tax bill, mortgage coupon as examples. (Last visited Dec. 26, 2007.) Fee simple and usufruct are eligible for compensation.

9. Actually not so easy in Orleans Parish. In Jefferson, most deeds (at least those back to 1968) were available on Jeffnet by the end of the same day Katrina hit. Records and indices were damaged in Orleans and staff was disbursed hither and yon. The effort to get copies of deeds was complicated by office relocations of the three separate real estate offices, by staff shortage and by lack of digital storage of documents. The Notarial Archives fared the best, as it had been relocated above sea level before the storm, with a secure filing system.

10. Telephone interview with Peter Keenan, vice president, First American Title Insurance Co. (2007).

11. A merchantable title is one that can be bought or sold in ordinary commerce not suggestive of serious litigation. *Doll v. Meyer*, 214 La. 444, 38 So.2d 69, 71 (La. 1948).

12. HUD rules adopted effective April 11, 2007. See generally, "Program Ends Title Checks for Builders," *Times Picayune*, April 11, 2007. Article IC-L adopted a rule that the titles to properties returned to the state would be insured without succession proceedings but only with affidavits of death and heirship for those who died over 10 years ago. See *supra*, note 8, at "Frequent Questions."

13. FATIC-L recognized the need to insure under the concept of seisin as an acceptable business risk. The Web site cited *supra*, at note 8, refers to a "full title examination" for options 2 and 3.

14. The Orleans Parish documentary transfer tax could be exceedingly burdensome for intra-family transfers necessary to establish ownership in one heir. It is \$325 per transfer with a value more than \$9,000. See www.notarialarchives.org/doctax.htm for details (last visited Dec. 26, 2007).

15. See La. Uniform Title Standards § 15.1, "A recorded Judgment of Possession is prima facie evidence of the relationship to the deceased . . . and of their right to possession of the estate of the deceased."

16. The right to partition is never prescribed. La. Civ.C. art. 817 (West 2007). The suit for partition may be instituted by any heir. La.

Civ.C. art. 1307 (West 2007). "[O]ne heir alone can force all the rest to a partition . . ." La. Civ.C. art. 1311 (West 2007). But see La. R.S. 9:1113 by which owners of at least 85 percent of the property may prevent a sale by purchasing the petitioners' share at a court-determined fair value. It is a minimum protection, especially if you don't have money.

17. See e.g. Succession of Rosinski, 158 So.2d 467 (La. App. 3 Cir. 1963).

18. Inertia and fear of lawyers and judges might also be two more factors.

19. de Soto, *supra*, note 1, at p. 6.

20. Typical of other southern states is South Carolina, where repeatedly "heir property" often occurred in rural coastal areas where freed slaves' descendants owned small interest of bottom land. See generally "Faith Rivers, the Public Trust Debate: Implications for Heirs' Property," 15 S.E. Envtl. L.J. 147 (2006).

21. In fact, in my personal career, I have encountered heirship property in rural titles far more often than in urban titles.

22. www.appleseednetwork.org (last visited Dec. 26, 2007).

23. In *Re Estate of McRight*, 766 So.2d 48, 49 (Miss. App. 2000).

24. *Virginia Trust Co. v. Buford*, 123 Miss. 572, 573, 86 So. 356, 357 (Miss. 1920).

25. de Soto, *supra*, note 1.

26. 919 So.2d 876 (Miss. 2005).

27. See de Soto, *supra*, note 1. Louisiana's solution was to allow heirs to legally deal with their heirship property, but not making the result merchantable.

28. "Any affidavit relating to . . . the heirship . . . of any person who is a party to an instrument affecting the title to real estate . . . shall be prima facie evidence of the facts stated therein and the marketability as to the title . . ." Compare *supra*, note 15.

29. La. Civ. C. art. 2369.7 (West 2007).

30. See, e.g. Miss. Code Ann. § 89-1-7; Tex. Prob. Code Ann. § 46 (Vernon 2007).

31. See *supra* note 14.

32. See *supra*, note 1, at pp. 30, *et seq.*

33. La. R.P.C. § 6.1.

ABOUT THE AUTHOR

Malcolm A. Meyer is a partner at Adams and Reese, L.L.P., with more than 30 years' experience in the areas of real estate and ethics. He was an adjunct professor at Tulane Law School for 20 years and has written or edited several treatises on Louisiana real estate. (4500 One Shell Square, 701 Poydras St., New Orleans, LA 70139)



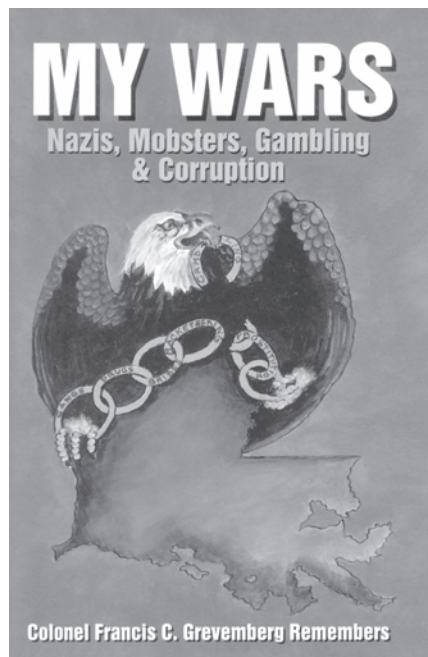
My Wars: Nazis, Mobsters, Gambling & Corruption by Colonel Francis C. Grevemberg

Reviewed by Gail S. Stephenson

My Wars: Nazis, Mobsters, Gambling & Corruption by Colonel Francis C. Grevemberg. (Beau Bayou Publishing Co., Lafayette, La.).

Francis C. Grevemberg, superintendent of the Louisiana State Police from 1952-55 under Gov. Robert F. Kennon and two-time gubernatorial candidate, sees his life as a series of wars to protect his country and state. With the help of Lafayette attorney W. Thomas Angers, Grevemberg, now 93, chronicles those struggles in *My Wars: Nazis, Mobsters, Gambling & Corruption*.

Grevemberg's book, an interesting and fast read, begins with his Prussian and French genealogical background and his early life in New Orleans. He then sets forth his first set of battles, those arising from his military career. He joined a cavalry outfit of the National Guard in 1932 because of his love for horses. He was activated in 1941 and had been promoted to first lieutenant when the United States entered World War II. He describes training in the Mojave Desert with an anti-aircraft battery but never firing their guns, hearing "The Star-Spangled Banner" played by a British military band in Scotland and knowing he was "an American soldier in Great Britain, here to save the British from the Germans," and being strafed on a beach in North Africa by a British Spitfire flown by a German infiltrator. Particularly eye-opening are his depictions of French cruisers sinking British and Dutch ships, killing American soldiers aboard, because



the "French Foreign Legion was mad at the British for sinking all the French ships when Germany invaded France." Grevemberg's combat experience in North Africa led to his being "volunteered" for D-Day landings in Sicily, Salerno and Anzio in Italy. Among his awards for bravery were the Soldier's Medal for Heroism and the Croix de Guerre Medal. He returned to the United States after the Battle of the Bulge as a colonel and left active duty in 1946.

Grevemberg's next series of battles begins with his appointment as superintendent of the Louisiana State Police under reform Gov. Kennon. According

to Grevemberg, when he took over as superintendent, "the department was in pitiful shape" because most of the former superintendents "had been glorified satchel men" for the past governors, and the troopers felt they were "non-entities because they were not permitted to truly enforce the law" due to interference by politicians.

Grevemberg began his fight against corruption by turning down kickbacks for the purchase of automobiles at inflated prices and declaring war on illegal gambling that existed in 62 of Louisiana's 64 parishes. (He never tells which two parishes were "clean.") He issued an order closing down all gambling, stating that the state police would take action "when dirty parishes like Jefferson and St. Bernard slop over into a clean parish like Orleans." He was soon advised that Orleans was actually "slopping over" into the other parishes. He proceeded to raid casinos, lotteries, bookies, bingo parlors, pinball joints and other gambling establishments, despite offers of "wads" of money to look the other way.

His declaration of war on gambling included slot machines, but this battle was delayed by a year because the state had been collecting a \$100-per-year tax on them, which made them "quasi-legal." Grevemberg was offered a payoff from a representative of mobster Frank Costello to back off his anti-slots campaign; this simply increased Grevemberg's anti-slots zeal. After the 1953 tax stamps expired, state police

used bulldozers and sledgehammers to destroy 8,229 slot machines as contraband.

When bribing Grevemberg did not work, gambling interests tried several different tacks, including lobbying for the state Legislature to restrict the state police to enforcement of traffic laws, making death threats (including a Mafia "Black Hand" letter) and attempting to kidnap his son. He was undeterred, however. Even an attempt on his life by a pistol shot to the back of the head, fortunately deflected by his bodyguard, did not stop him.

Grevemberg expressed frustration that of the 150 arrests the state police made in New Orleans, only one case went to trial. The defendant in that case, a New Orleans police officer, was acquitted. Grevemberg attributed this to racketeers having "bought" all of the necessary officials because illegal gambling was so profitable. Even federal officials were bribed; his attempts to have the cases prosecuted by federal officials were equally unsuccessful. Grevemberg stated that New Orleans city officials believed that illicit activities such as gambling and prostitution boosted the city's economy; tourists came to New Orleans because of its reputation as "Sin City."

One intriguing chapter is entitled, "Who Killed Huey Long?" That chapter reprints Grevemberg's affidavit based on anecdotes told by state police officers who were on the force at the time Huey Long was killed. According to these stories, it was "common knowledge" among state troopers that Long was accidentally killed by his bodyguards and that the superintendent of state police planted a gun in the hand of Carl Weiss, who had been unarmed.

Grevemberg states that 99 percent of the corruption in Louisiana was gone by the time Earl K. Long took office in 1956. Grevemberg ran for governor in 1956 and 1960 to "continue the fight against gambling and vice." He was un-

successful, and, according to Grevemberg, Long "restored gambling to Louisiana."

The book concludes with Grevemberg's thoughts on gambling, which he refers to as "legalized theft." He does not have a high opinion of the current laws permitting "gaming" in Louisiana: "Gaming is the new name for gambling because a corrupt legislature made 'gaming' legal. In my judgment, the people of Louisiana were foolish and partners in a crime perpetuated by the legislators they elected who passed this subterfuge law."

Numerous black-and-white photographs enhance the book, and newspaper editorials from the 1950s add interest. Appendices document his stories, including a transcript of testimony before the United States Senate Special Committee to Investigate Organized Crime in Interstate Commerce in 1951. Frank Costello testified at that hearing that in 1935 Huey Long went to New York and invited Costello to bring slot machines to Louisiana.

Grevemberg tends to repeat his favorite stories. For example, he twice tells the tale of outwitting the Mafia during a raid on a book-making operation in Arabi by distracting two vicious male police dogs using "a little bitch in heat." He also overuses exclamation points. These mi-

nor flaws can be overlooked, however, for the sake of the message that one right-minded person can make a difference.

In 1959, Hollywood made a move about Grevemberg entitled *Damn Citizen*. This autobiography of a "damn citizen" who believed in civics book type government [and] decided to take [his] state back" should be read by those interested in Louisiana history and by anyone who needs a bit of reassurance that corruption in Louisiana can be overcome.

For information on purchasing the book, contact Beau Bayou Publishing Co. in Lafayette, phone (337) 769-1272 or check the Web site at www.beaubayoupublishing.com.

ABOUT THE AUTHOR

Gail S. Stephenson is the director of legal analysis and writing and an assistant professor of law at Southern University Law Center. She is a 1984 graduate of Louisiana State University's Paul M. Hebert Law Center, where she was a member of the Law Review and Order of the Coif. She has been a member of the Louisiana Bar Journal Editorial Board since 1999. (2747 Purvis Dr., Baton Rouge, LA 70809)



1-800-LAWYERS

This could be *your*
office phone number!

Best advertising tool on the market today.
Phone rings geographically
based on your area code.
Call NOW
to see if your area code is available!

281-615-4269 Ask for John.

LSBA Recognizes 70-, 60- and 50-Year Members at Midyear Meeting Reception

Louisiana State Bar Association (LSBA) members who have reached half a century and beyond in their professional careers were honored during the LSBA's Midyear Meeting in January.

During a special reception, 108 Bar members were recognized for their years of service to the legal profession. Of the 108 recognized, 40 honorees attended in person to receive their certificates and pose for photographs with LSBA President S. Guy deLaup and Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr.

70-Year Members

Two honorees reached the 70-year milestone this year.

Sam J. D'Amico of Baton Rouge, a 1938 graduate of Louisiana State University Law School, attended the reception with his family and friends.

Charles M. Horton, Jr. of Metairie, a 1938 graduate of Tulane Law School, also was recognized for his years of legal service.

60-Year Members

These LSBA members were admitted to the Bar in 1948. They are listed with their hometowns and law schools.

James T. Adams	Shreveport	Tulane
Robert J. Adams	Lafayette	Tulane
Michael H. Bagot	New Orleans	Tulane
Charles L. Beck	Owens Cr., Ala.	LSU
Benjamin C. Bennett, Jr.	Marksville	LSU
Nicholas D. Bernard	Lafayette	Tulane
Henry W. Bethard III	Coushatta	LSU
Julian P. Brignac	New Orleans	Tulane
Hon. Ted R. Broyles	Leesville	LSU
George E. Burgess, Jr.	Lacombe	Tulane
George Denègre	New Orleans	Tulane
Thomas A. Durham	Natchitoches	LSU
Edward N. Engolio	Plaquemine	LSU
Roy M. Fish	Shreveport	LSU
Hon. Robert M. Fleming	Lafayette	Tulane



Sam J. D'Amico, center, was recognized for his 70 years of service to the legal profession. Also attending the Midyear Meeting reception were LSBA President S. Guy deLaup, right, and Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr.

Photo by J.F. Bergeron Studio and Gallery.

Gerald J. Gallinghouse	The Woodlands, Texas	LSU
George C. Gibson	Ponchatoula	LSU
Hon. Edmond L. Guidry, Jr.	St. Martinville	LSU
Roy F. Guste	New Orleans	Loyola
Carol B. Hart	Brunswick, Ga.	Tulane
Richard A. Hinckley	New Orleans	Loyola
Philip K. Jones	Baton Rouge	LSU
William M. King	Covington	Loyola
Hon. Thomas H. Kingsmill, Jr.	New Orleans	Loyola
Bernard L. Knobloch	Thibodaux	LSU
Charles A. Koehler, Jr.	Raleigh, N.C.	Tulane
Hon. Edgar H. Lancaster, Jr.	Tallulah	LSU
Robert E. Leake, Jr.	New Orleans	LSU
Milton L. LeBlanc, Jr.	Dallas, Texas	Tulane
James N. Lee	Bunkie	LSU
Paul R. Mayer	Shreveport	Tulane
Richard C. Meaux, Sr.	Lafayette	Tulane
William M. Meyers	Covington	LSU

Continued next page



60-year honoree Benjamin C. Bennett, Jr. Photo by J.F. Bergeron Studio and Gallery.



60-year honoree Iddo Pittman, Jr. Photo by J.F. Bergeron Studio and Gallery.

Sam J. D'Amico, seated far right, is a 70-year honoree. Among the 60-year honorees attending the reception were, seated from left, Hon. Ted R. Broyles, Hon. Robert M. Fleming, Hon. Edmond L. Guidry, Jr., Hon. Edgar H. Lancaster, Jr., Carol B. Hart and D'Amico. Middle row from left, Roy M. Fish, George E. Burgess, Jr., Nicholas D. Bernard, Michael H. Bagot and Richard A. Hinckley. Back row from left, George C. Gibson, Philip K. Jones, Dewell D. Pittman and George O'Dowd.

Photo by J.F. Bergeron Studio and Gallery.

George O'Dowd	New Orleans	Loyola
Dewell D. Pittman	Bogalusa	LSU
Iddo Pittman, Jr.	Hammond	LSU
Donald F. Robillard	Plano, Texas	Tulane
C. Lenton Sartain	Baton Rouge	LSU
Robert C. Smith	New Orleans	Tulane
Gerard F. Thomas	Natchitoches	LSU
William J. Wegmann, Sr.	Metairie	Loyola
John H. White	Milton, Fla.	LSU

50-Year Members

These LSBA members were admitted to the Bar in 1958. They are listed with their hometowns and law schools.

Allain C. Andry III	New Orleans	Tulane
Jerald N. Andry	New Orleans	Tulane
Louis G. Baine, Jr.	Jackson, Miss. ...	Univ. of Miss.
Hon. Russell Bankston	Zachary	LSU
Edgar F. Barnett	Houston, Texas	LSU
Hon. Denis A. Barry	Mandeville	Loyola
Orlando G. Bendana	New Orleans	Loyola
Robert E. Blackwell	Baton Rouge	Tulane

Carole A. Breithoff	Metairie	Loyola
Hon. Burrell J. Carter	Greensburg	LSU
Noble M. Chambers, Jr.	Crowley	LSU
Gilbert P. Cohen	Deerfield Beach, Fla.	Tulane
William H. Cook, Jr.	Shreveport	LSU
John E. Cox	Arvada, Colo.	Centenary
Carl A. Dengel	New Orleans	Tulane
Peter E. Duffy	New Orleans	Loyola
Edward V. Fetzer	Baton Rouge	LSU
Norman P. Foret	Lafayette	LSU
George A. Frilot III	New Orleans	Loyola
John N. Gallaspy	Bogalusa	LSU
David H. Garrett	Baton Rouge	LSU
E. Clark Gaudin	Baton Rouge	LSU
Hon. H. Charles Gaudin	Metairie	Loyola
Hon. Fred R. Godwin	Lake Charles	LSU
Ronald J. Gossen	Lafayette	LSU
Robert G. Haik	New Orleans	Loyola
Charles L. Hamaker	Monroe	Tulane
C. Ellis Henican, Jr.	New Orleans	Tulane
Paul E. Hurley	Metairie	Loyola

Continued next page



Among the 50-year honorees attending the reception were, seated from left, Jerald N. Andry, W. Monroe Stephenson, Richard F. Knight, W.P. Wray, Jr., Hon. Melvin A. Shortess, Hon. Burrell J. Carter, Rader E. Jackson III and Hon. H. Charles Gaudin. Middle row from left, Hon. Arthur J. Planchard, Hon. Fred R. Godwin, Ralph R. Miller, Hon John A. Shea, Edgar F. Barnett, E. Clark Gaudin and Jeron J. LaFargue. Back row from left, John N. Gallaspy, Hon. Russell Bankston, Ralph J. Wicker, Hon. Walter E. Kollin and Hon. Denis A Barry.

Photo by J.F. Bergeron Studio and Gallery.



50-year honoree C. Ellis Henican, Jr.

Photo by J.F. Bergeron Studio and Gallery.



50-year honoree Bernard Marcus.

Photo by J.F. Bergeron Studio and Gallery.

John B. Hussey	Shreveport	LSU
John H. Jackson	Madisonville	Loyola
Rader E. Jackson III	New Orleans	Tulane
Richard F. Knight	Mandeville	LSU
Hon. Walter E. Kollin	River Ridge	Loyola
Jeron J. LaFargue	Lafayette	Tulane
Will E. Leonard, Jr.	Washington, D.C.	Tulane
Guy C. Lyman, Jr.	Monteagle, Tenn.	Tulane
Frank L. Maraist	Baton Rouge	LSU
Bernard Marcus	New Orleans	Harvard
W.J. McAnelly, Jr.	Houston, Texas	Loyola
William H. McClendon III ...	Baton Rouge	Tulane
Donald A. Meyer	Sante Fe, N.M.	Tulane
Samuel A. Miceli, Jr.	Covington	Loyola
Ralph R. Miller	Norco	LSU
Rene S. Paysse, Sr.	Metairie	Tulane
Hon. Arthur J. Planchard	Lake Charles	LSU
Charles H. Ryan	West Monroe	LSU
Hon. John A. Shea	New Orleans	Loyola
Hon. Melvin A. Shortess	Baton Rouge	LSU
Cecil G. Smith, Jr.	Natchez, Miss.	Tulane
James A. Smith	Baton Rouge	Loyola
John S. Stephens	Shreveport	LSU
W. Monroe Stephenson	New Orleans	Tulane
Ray W. Talley	New Orleans	LSU

Hon. Thomas W. Tanner	Covington	LSU
William O. Templet	Plaquemine	LSU
Robert K. Tracy	New Iberia	Loyola
Leon C. Vial III	Hahnville	Tulane
Hon. Michael M. Wahlder	Dry Prong	Tulane
Hon. Charles R. Ward	New Orleans	Tulane
Francis G. Weller	New Orleans	Loyola
Robert I. White	Bryan, Texas	Tulane
Ralph J. Wicker	Monroe	Tulane
W.P. Wray, Jr.	Baton Rouge	LSU

Thanks to LSBA Midyear Meeting Sponsors!

The Boles Law Firm
 Jones, Walker, Waechter, Poitevent, Carrère
 & Denègre, L.L.P.
 Leake & Andersson, L.L.P.
 Lehmann Norman & Marcus, L.C.
 Mayer, Smith & Roberts, L.L.P.
 Taylor, Porter, Brooks & Phillips, L.L.P.
 Wray & Pierce, L.L.P



Kenneth L. Lerchie, second from left, a teacher at Caddo Parish Magnet High School in Shreveport, received the 2007-08 President's Education Award, jointly presented by the Louisiana State Bar Association (LSBA) and the Louisiana Center for Law and Civic Education (LCE). The award was presented to Lerchie by LCE President Val P. Exnicios, second from right, during the LSBA Midyear Meeting reception in January. Also on hand for the presentation were, from left, Hon. Marc T. Amy and LSBA Executive Director Loretta Larsen. Photo by J.F. Bergeron Studio and Gallery.

Shreveport Teacher Receives President's Education Award

Kenneth L. Lerchie, a teacher at Caddo Parish Magnet High School in Shreveport, received the 2007-08 President's Education Award, jointly presented by the Louisiana State Bar Association and the Louisiana Center for Law and Civic Education (LCE). The award was presented to Lerchie by LCE President Val P. Exnicios during the LSBA Midyear Meeting reception in January.

The annual award honors a Louisiana teacher who promotes the practical understanding of and respect for the law.

Lerchie has been an educator for more than 35 years. From 1972-2003, he served in several capacities, including principal of Loyola College Prep Junior High School in Shreveport, chair of the Department of Social Studies and a teacher of history, theology, economics and sociology. Since 2003, he has taught civics, free enterprise and social studies at Caddo Magnet.

He brings law-related education alive in his classrooms and teaches his students

how to be good citizens by educating them in the Constitution, its history, amendments and core principles. Students also are shown the voting process, political parties, Electoral College and the qualifications of candidates for various offices.

Lerchie also requires his students to prepare reports on each U.S. Supreme Court justice and the issues currently pending before the court, as well as past cases. His students also report on current local, state and national news issues, discussing their relationship to the laws and how they will be tried in courts.

Legier Joins LSBA Staff as Director of Member Outreach and Diversity

Kelly McNeil Legier joined the Louisiana State Bar Association (LSBA) staff in January as Director of Member Outreach and Diversity. In this position, she is responsible for outreach efforts, with specific emphasis on diversity initiatives and local bar relationships.



Kelly McNeil Legier

A 1993 graduate of Loyola University Law School, Legier most recently worked as a staff attorney with the United States 5th Circuit Court of Appeals. She also has worked for the law firms of Stone Pigman and Proskauer Rose and has clerked at both the Federal 5th Circuit and Eastern District courts.

Legier has served as an at-large member of the LSBA Board of Governors. She is a 2004 recipient of the LSBA President's Award and has served the LSBA as chair of the Bar Governance Committee, chair of the Minority Involvement Section and as a member of the Public Information Committee.

GARVEY, SMITH, NEHRBASS & NORTH, L.L.C. PATENT ATTORNEYS

We are pleased to announce that Jacqueline M. Daspit, Patent Attorney, formerly with Lexmark International, Inc., has joined us. Our Northshore office is now open in Covington!

Our firm members are all registered patent attorneys, having over 100 years of combined patent law experience.

3838 N. Causeway Blvd., Suite 3290 • Metairie, LA 70002-1767

Tel.: (504) 835-2000 • Fax: (504) 835-2070 • E-mail: patents@gsnn.us

No. 7 Boston Commons, 832 East Boston St., Covington, LA 70433

Tel.: (985) 635-6892 • Fax: (985) 635-6972

Visit our website at www.gsnn.us for a listing of patents that we have obtained for clients.

Patents • Trademarks • Copyrights

Lawyer Specialization Available in Five Areas

The Louisiana Board of Legal Specialization (LBLS) is accepting applications for 2009 certification in the following areas: business bankruptcy law, consumer bankruptcy law, estate planning and administration, family law and tax law.

Deadline for accepting applications for estate planning and administration, family law and tax law certification is April 15, 2008. Applications for the two areas of bankruptcy law will be accepted through September 2008.

In accordance with the Plan of Legal Specialization, any

Attorneys Qualify as Board-Certified Specialists

In accordance with the requirements of the Louisiana Board of Legal Specialization (LBLS), as approved by order of the Louisiana Supreme Court, the following members of the Louisiana State Bar Association (LSBA) have satisfactorily met the established criteria and are qualified as board-certified specialists in the following areas for a five-year period beginning Jan. 1, 2008, and ending Dec. 31, 2012.

Business Bankruptcy Law

David J. Messina New Orleans

Family Law

Teresa Culpepper Carroll Jonesboro

Tax Law

David Michael Hansen Baton Rouge
Cherish D. van Mullem Baton Rouge
Theodore David Vicknair Alexandria

Estate Planning and Administration

Valerie Van Matherne Monroe
Theodore David Vicknair Alexandria

The LBLS was established Aug. 6, 1993, by the Louisiana Supreme Court to assist consumers in finding a lawyer who has demonstrated ability and experience in specialized fields of law. To become a certified specialist, an attorney must be an active member of the LSBA, have a minimum of five years of full-time practice, demonstrate substantial experience in the specialty area, and pass a written examination. Presently, the five areas of law for which the LBLS is offering certification are business bankruptcy law, consumer bankruptcy law, estate planning and administration, family law and tax law.

Applications for 2009 certification in consumer bankruptcy law, business bankruptcy law, estate planning and administration, family law or tax law may be obtained by e-mail (czulli@lsba.org) or by calling (480)699-0786.

Louisiana State Bar Association member who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. The five-year practice requirement must be met for the period ending Dec. 31, 2008. A further requirement is that each year a minimum of 35 percent of the attorney's practice must be devoted to the area of certification sought.

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:

- ▶ Estate Planning and Administration — 18 hours of estate planning law.
- ▶ Family Law — 18 hours of family law.
- ▶ Tax Law — 20 hours of tax law.
- ▶ Bankruptcy Law — CLE is regulated by the American Board of Certification, the testing agency.

Applications for business bankruptcy law and/or consumer bankruptcy law certification will be accepted through September 2008. 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).

Lawyer Specialization Application

Deadline for accepting applications for estate planning and administration, family law and/or tax law certification is April 15, 2008. Applications for Business Bankruptcy Law and Consumer Bankruptcy Law will be accepted until September 2008. To receive an application, complete the following.

PLEASE PRINT OR TYPE

Name _____

Address _____

City/State/Zip _____

Please indicate area of certification desired _____

Mail to:

Catherine S. Zulli, Executive Director
Louisiana Board of Legal Specialization
601 St. Charles Ave., New Orleans, LA 70130-3404

Or e-mail your request to: czulli@lsba.org.

Deadline is April 15 for Crystal Gavel, McKay Memorial Award Nominations

The Louisiana State Bar Association (LSBA) is seeking nominations for its Crystal Gavel Awards and the Leah Hipple McKay Memorial Award for Outstanding Volunteerism. The nomination deadline for all awards is Tuesday, April 15.

The awards recognize outstanding lawyers and judges who have been unsung heroes and heroines in their communities, who have performed services in any of the listed categories out of a sense of duty, responsibility and professionalism, and who have made a difference in their local communities, in local organizations or even in the life of one person.

The awards are presented to those who have served the public by:

- ▶ aiding the administration of justice;
- ▶ assisting groups or individuals on a volunteer basis in a non-legal capacity;
- ▶ educating the public or individuals or students about legal matters;
- ▶ providing pro bono legal services, in a matter of a significant nature, or in a significant number of cases, or in a way that significantly changed the life of one person or group; or
- ▶ working in conjunction with the court system to make it more welcoming, inviting and understandable for jurors, witnesses or victims of crime.

The McKay Award is presented in memory of Leah Hipple McKay, LSBA member and wife of former LSBA President Michael W. McKay of Baton Rouge. The award, presented annually to the Louisiana lawyer who has made significant long-term contributions to his/her state or local community by providing volunteer services, is the only Crystal Gavel award being presented at the 2008 LSBA Annual Meeting.

Other Crystal Gavel Awards will be presented throughout 2008 in the recipients' communities.

Nomination Form

Louisiana State Bar Association Crystal Gavel Award & Leah Hipple McKay Memorial Award for Outstanding Volunteerism

Send to:

Kelly Wells Ponder, Communications Director
Louisiana State Bar Association
601 St. Charles Ave.
New Orleans, LA 70130-3404

Date: _____, 2008

Name of Nominee: _____

Office Address: _____

Phone: _____

Fax: _____

Name of nominator (if different from the nominee; self-nominations are permitted)

Name of Nominator: _____

Office Address: _____

Phone: _____

Fax: _____

Category of Nomination

Awards are given in the following categories. Please check the appropriate area in which you are making the nomination:

- ☐ Aiding the administration of justice.
- ☐ Assisting groups or individuals on a volunteer basis in a non-legal capacity.
- ☐ Educating the public or individuals or students about legal matters.
- ☐ Providing pro bono legal services: in a matter of a significant nature; or in a significant number of cases; or in a way that significantly changed the life of one person or group.
- ☐ Working in conjunction with the court system to make it more welcoming, inviting and understandable for jurors, witnesses or victims of crime.
- ☐ Leah Hipple McKay Memorial Award for Outstanding Volunteerism

Please attach a *signed*, written statement describing the work of the nominee in the category selected, along with a detailed description of why the nominee should be considered for the Crystal Gavel and/or McKay Memorial award.

The McKay Memorial Award will be presented during the LSBA's Annual Meeting each year. Recipients of the Crystal Gavel Award will be notified by the Louisiana State Bar Association and will be presented with the awards in their local communities.

Nomination deadline is Tuesday, April 15, 2008.

The Crystal Gavel Awards are presented to attorneys and judges who have performed public services out of a sense of duty, responsibility and professionalism. Because the LSBA wishes to acknowledge these unsung heroes and heroines in the communities where they live and work, the nominator(s) is responsible for selecting a forum for the nominee to receive his/her award and for facilitating the event.

Committee Preferences

Get Involved in Your Bar!

Committee assignment requests are now being accepted for the 2008-09 Bar year. The current committees of the Louisiana State Bar Association are listed here. President-Elect Elizabeth Erny Foote will make all committee appointments. Widespread participation is encouraged in all Bar programs and activities. Appointments to committees are not guaranteed, but every effort will be made to accommodate members' interests. When making selections, members should consider the time commitment associated with committee assignments and their availability to participate. The deadline for committee assignment requests is April 11.

Access to Justice Committee

The mission is to support and help strengthen an integrated statewide network to increase the delivery of legal services to the poor of Louisiana.

Committee on Alcohol and Drug Abuse

The mission is to protect the public by assisting, on a confidential basis, lawyers and judges who have alcohol, drug, gambling and other addictions. The committee works with the Lawyers Assistance Program, Inc. to counsel, conduct interventions and locate treatment facilities for impaired lawyers, and to monitor recovering attorneys and attorneys referred by the Louisiana Attorney Disciplinary Board or Office of Disciplinary Counsel.

Bar Governance Committee

The mission is to ensure effective and equitable governance of the Association by conducting an ongoing evaluation of relevant procedures and making recommendations to the House of Delegates regarding warranted amendments to the Association's Articles of Incorporation and/or Bylaws.

Client Assistance Fund Committee

The mission is to protect the public and to maintain the integrity of the legal profession by reimbursing, to the extent deemed appropriate, losses caused by the dishonest conduct of any licensed Louisiana lawyer practicing in this state.

Community Action Committee

The mission is to serve as a catalyst statewide for lawyer community involvement through charitable and other public service projects.

Continuing Legal Education Program Committee

The mission is to fulfill the Louisiana Supreme Court mandate of making quality and diverse continuing legal education opportunities available at an affordable price to as many members of the Louisiana State Bar Association as possible.

Crystal Gavel Awards Committee

The mission is to solicit and review nominations for the Crystal

Gavel Awards, and to make recommendations to the Board of Governors for recipients of these awards. The awards recognize outstanding lawyers and judges who have been unsung heroes and heroines in their communities by performing volunteer services out of duty, responsibility and professionalism.

Diversity Committee

The mission is to assess the level of racial, ethnic and gender diversity within all components of the legal profession in Louisiana, to identify barriers to the attainment of full and meaningful representation and participation in the legal profession by persons of diverse races, ethnicity and gender, and to propose programs and methods by which the LSBA can most effectively work to remove those barriers and achieve greater diversity.

Group Insurance Committee

The mission is to ensure the most favorable rates and benefits for members of the Louisiana State Bar Association and their employees and dependents for Bar-endorsed health, life and disability insurance programs.

Legal Malpractice Insurance Committee

The mission is to ensure the most favorable rates, coverage and service for Louisiana lawyers insured under the Bar-endorsed legal malpractice plan by overseeing the relationship between the Louisiana State Bar Association, its carrier and its third party administrator, and to consider on an ongoing basis the feasibility and advisability of forming a captive malpractice carrier.

Legal Services for Persons with Disabilities Committee

The mission is to provide members of the bench, bar and the general public with a greater understanding and knowledge of the legal needs and rights of persons with disabilities, to better meet the legal needs of persons with disabilities, and to increase the knowledge that persons with disabilities have regarding their rights and resources.

Legislation Committee

The mission is to inform the membership of legislation or proposed legislation of interest to the legal profession; assist the state Legislature by providing information on substantive and procedural developments in the law, disseminating information to the membership, identifying resources available to the Legislature, and providing other appropriate non-partisan assistance; and advocate for the legal profession and the public on issues affecting the profession, the administration of justice and the delivery of legal services.

Medical/Legal Interprofessional Committee

The mission is to work with the joint committee of the Louisiana State Medical Society to promote collegiality between members of the legal and medical professions by receiving and making recommendations on complaints relative to physician/lawyer relationships and/or problems.

Military Law Committee

The mission is to coordinate statewide efforts to assist in legal matters affecting active, reserve and other members of the military

and their families and to inform and advise Bar members of matters relating to the practice of military law in Louisiana.

Practice Assistance and Improvement Committee

The mission is to serve the Bar and the public in furtherance of the Association's goals of prevention and correction of lawyer misconduct and assistance to victims of lawyer misconduct by evaluating, developing and providing effective alternatives to discipline programs for minor offenses, educational and practice assistance programs, and programs to resolve minor complaints and lawyer/client disputes.

Professional Assessment Committee

The mission is to study the profession of law in Louisiana, identify areas where the profession is either improving or failing to improve the practice of law and the system of justice, and develop programs to either promote the successes or correct the failures.

Professionalism and Quality of Life Committee

The mission is to promote professionalism in the practice of law through education, communication and understanding, and to study ways in which members of the legal profession may balance their personal and professional lives.

Public Access and Consumer Protection Committee

The mission is to protect the public from incompetent or fraudulent activities by those who are unauthorized to practice law or who are otherwise misleading those in need of legal services.

Public Information Committee

The mission is to promote a better understanding of the law, legal profession, individual lawyers and the Louisiana State Bar Association through a variety of public outreach efforts.

Right to Counsel Committee

The mission is to develop programs and methods which most effectively allow the bar to work with the courts, other branches of government, and the public to ensure that the constitutionally mandated right to counsel is afforded to all who appear before the courts.

Rules of Professional Conduct Committee

The mission is to ensure appropriate codes of ethical conduct for lawyers by studying, considering and recommending amendments to the Rules of Professional Conduct and by making suggestions to the Louisiana Supreme Court for improvements in the disciplinary process.

State Bench/Bar Committee

The mission is to engage the state judiciary, determine issues of mutual interest and concern, and develop programs to address those issues with the goal of improving the system of justice.

Technology Committee

The mission is to guide the Association in the implementation and utilization of new technologies to provide greater service to its members and the public.

Louisiana State Bar Association 2008-09 Committee Preference Form

Please indicate below your committee preference(s). If you are interested in more than one committee, please list in 1-2-3 preference order.

Please Print or Type

- ☐ Access to Justice
- ☐ Alcohol and Drug Abuse
- ☐ Bar Governance
- ☐ Client Assistance Fund
- ☐ Community Action
- ☐ Continuing Legal Education Program
- ☐ Crystal Gavel Awards
- ☐ Diversity
- ☐ Group Insurance
- ☐ Legal Malpractice Insurance
- ☐ Legal Services for Persons with Disabilities
- ☐ Legislation
- ☐ Medical/Legal Interprofessional
- ☐ Military Law
- ☐ Practice Assistance and Improvement
- ☐ Professional Assessment
- ☐ Professionalism and Quality of Life
- ☐ Public Access and Consumer Protection
- ☐ Public Information
- ☐ Right to Counsel
- ☐ Rules of Professional Conduct
- ☐ State Bench/Bar
- ☐ Technology

Response Deadline: April 11, 2008

Mail or fax your completed form to:

**Christine A. Richard
Program Coordinator/Marketing & Sections
Louisiana State Bar Association
601 St. Charles Ave., New Orleans, LA 70130-3404**

fax (504)566-0930

LSBA Bar Roll Number _____

Name _____

Address _____

City/State/Zip _____

Telephone _____

Fax _____

QUALITY of Life

By R. Webre, L. Thornton and M. Cunningham

IN PURSUIT OF THE CREATIVE

Creativity is a type of learning process where the teacher and pupil are located in the same individual.

— **Arthur Koestler, novelist**

Conditions for creativity are to be puzzled; to concentrate; to accept conflict and tension; to be born everyday; to feel a sense of self.

— **Erich Fromm, psychologist**

All children are artists. The problem is how to remain an artist once he grows up.

— **Pablo Picasso**

Happiness is not in the mere possession of money; it lies in the joy of achievement, in the thrill of creative effort.

— **Franklin D. Roosevelt**

It is better to create than to be learned, creating is the true essence of life.

— **Barthold Georg Niebuhr**

At its heart, law is a creative pursuit. Using the information we are given by the client and finding ways to meld those facts upon the framework of a particular statute or case or contract provision in a way that supports the client's position and results in a good outcome requires us to be resourceful, innovative and even imaginative, at times, but regardless of the creative skills that we rely upon and develop every day in our practices, so many of us simply leave these at the office. The lawyers profiled in this column use those skills outside of their legal careers to enrich their lives, and even their law practices, by pursuing the artistic sides of their personalities. These lawyer-artists have all faced the external barriers of time, money and other distractions, but have made the choice that the rewards of the

creative process are worth the effort. So if you have always wanted to write that novel, take that photography class or audition for that local theater, here are three lawyers who might ask, "What's stopping you?"

Tony Dunbar is a member of the Bar whose career has led him to a law firm, to a solo practice and, currently, to an in-house-counsel position at an international corporation. He also is an accomplished author, having explored non-fiction topics such as Southern history and politics and having created the popular fictional lawyer, Tubby Dubonnet, in a mystery series set in Dunbar's home base of New Orleans. He won the Lillian Smith Book Award for his non-fiction and has been nominated for the Edgar and the Anthony Awards for his mysteries.

Dunbar has written since the age of 12. Through dedication to both his law practice and to writing (for years, he committed to, and did, write three legal-pad pages a day), Dunbar has found the two complement each other well. Tubby, for example, is an amalgam of Louisiana lawyers Dunbar has met over the years. The characters Tubby encounters are derived from Dunbar's observations in New Orleans's civil, criminal and traffic courts. The Dubonnet series also has provided a vehicle for Dunbar, who served as a hearing officer on the Louisiana Attorney Disciplinary Board, to explore ethical dilemmas within the profession as well as other practice areas, without having to experience them firsthand. (Incidentally, Tubby is an ethical lawyer — with one or two minor lapses — dedicated to clients and family.)

Outside of benefiting his practice directly, Dunbar has found that writing fiction forces him to lead a more attentive life and to take notice of smaller details that readers demand successful fiction

convey — the sights, scenes, sounds and smells of the city and South Louisiana, not just within its courthouses but outside. This attribute, coupled with a more informed and thoughtful practice, suggests that dedication to creative energies — whatever they may be — can and does lead to a fuller career and an enhanced quality of life.

Harmon Drew, Louisiana 2nd Circuit Court of Appeal judge, has never considered a life without music. Since junior high when he learned to play the keyboard by ear, performing music has been a constant in his life. His current band, the Harmon Drew Super Group, was formed in 1972, just after he returned to Minden from law school to begin his practice when, according to Drew, "the weekends were quiet" and he needed something to do. The widely popular band specializes in Motown and classic rhythm and blues, with Louisiana flair.

Judge Drew makes no bones about the fact that he feels he doesn't have a great deal of talent, calling himself "no virtuoso," but for him, it is and has always been about the sheer pleasure that music and performing bring him. He never considered majoring in music as an undergraduate at Louisiana State University, and he is proud to be a fifth-generation lawyer; however, at times in his career, his successful band has performed 70 nights a year. Despite the effort made in coordinating band members and attending performances, Judge Drew says that working with his band leaves him refreshed and gives him an energy that he brings to his position on the bench. If given a second chance at life, Judge Drew says he would marry the same woman and have the same children, he might still be a lawyer, but he would definitely play music.

Continued next page

David Nelson always enjoyed art and made visiting museums a regular part of his travels, but he did not begin to paint until seven or eight years ago. The post-Impressionist artists' work appealed to him and frustration from not being able to own their work lead him to art lessons and the satisfaction of creating his own art. Nelson likes to emulate paintings he admires by other artists and tends to focus on landscapes. He works in oil, particularly enjoying the feel of it and the texture that it adds to a painting that other media don't offer. Sometimes he borrows aspects from two or three different paintings and combines them into his expression of the essence of those works, *et voila!* — his own work of art.

Nelson characterizes his painting as a hobby and finds that the focus he must bring to a work of art takes him away from the practice of law and the daily concerns of the office. Like so many of

us, Nelson has trouble finding the time to pursue his art, but makes an effort for it to be a regular part of his week. While providing a release and escape, the act of creating his art is also a satisfying process, especially when other people enjoy his work, too. Many of his pieces are gifts for friends and family, while others decorate the walls of his home and law office. And as a bonus of this creative pursuit, Nelson enjoys being surrounded by art — even when back at the practice of law.

Tony Dunbar is senior director and bank senior vice president at CapitalOne, N.A. He most recently took pen to paper following Hurricane Katrina, after a five-year hiatus, to write the first-published novel about the storm, Tubby Meets Katrina (New South Books 2006). Additional information about Dunbar and Tubby Meets Katrina, which the Atlanta Journal-Constitution described as a

"masterful job," can be found at New South Books' Web site: <http://www.newsouthbooks.com>.

David Nelson is a partner at Nelson, Zentner, Sartor & Snellings, L.L.C., a defense firm in Monroe, and invites anyone interested to visit the firm's offices and view his paintings.

We want your ideas, solutions and suggestions! Tell us how you add to the quality of your life, or let us know if there is something you would like to see addressed in this column. E-mail or call Louisiana Bar Journal Editorial Board members Lucie E. Thornton, lthornton@burglass.com, (504)836-2220; Meredith A. Cunningham, mcunningham@barrassousdin.com, (504)589-9700; or Rachel G. Webre, rwebre@glllaw.com, (504)561-0400.



Experience settles cases.

F. A. Little, Jr., former Chief Judge of the U.S. District Court for the Western District of Louisiana, is now available to mediate or arbitrate your cases.



STANLEY
FLANAGAN
& REUTER

909 Poydras St., Suite 2500
New Orleans, LA 70112
Telephone: (504) 523-1580

934 3rd St., Suite 600
Alexandria, LA 71301
Telephone: (318) 445-0002

fal@sfrlawfirm.com
www.sfrlawfirm.com

Today's lawyer has a dizzying array of technological advancements to make his or her practice easier. Here are a few I have used, with my own commentary on their usefulness.

Mac vs. Windows. By now, every reader should be able to operate word processing computers in a networked environment. You should be connected to the Internet yet firewalled for privacy of your clients. You should be virus free and routinely backed up. Most readers have Windows-based networks.

However, Apple's innovations allow you to operate both separately from, and cooperatively within, a Windows network. I mention these because Apple has been the most innovative company on earth for the last five years!

Apple is more expensive, but the value is in the bundled productivity. I do not have to spend time trying to get my camera to work before I video-conference; my microphone and camera are both high quality and built-in. The Apple wireless network is easy to set up. And, yes, I carry a backup of the Windows-based office documents on my Mac. This assures an additional periodic backup and protection against viruses.

Portable organization. Get a laptop that serves as your central office. It must be high quality and hold all your data, word process, virtually print PDF (portable document format) files, send and receive *all* e-mail, store contacts, and connect wirelessly or via cat-5. Also, get a pocket computer that syncs with your laptop automatically. This keeps me constantly productive, and I need only have my laptop with me at all times.

My iPod with video and Mac Book Pro form a perfect business tool. My contacts, address book and calendar sync so effortlessly it is like magic in compari-

son to Palms or pocket PCs. iPods also can serve as portable disc drives.

However, it will take some effort to redo your calendar and contacts into iCal and Mac's address book if you are currently using Windows-based files such as v-cards and Outlook calendar files. There are various import/export solutions, but I found it easier just to re-enter the basics and let them grow over time. Many contacts I had 10 years ago are people I can barely recall today!

If you need to economize, try a Mac Book (starting at \$1,099 before tax); the Mac Book Pro is higher (currently \$1,999 before tax). Just remember that you will need the more expensive "Pro" to run a 30-inch cinema display. You also can pay \$100 a year to join "Dot Mac." With this, all your calendar, contact and other important files can be backed up seamlessly in case your laptop fails.

Easy on the eyes. A big advance you can truly "see" is the 30-inch Apple cinema display (currently \$1,799 before tax). It is the best and most useful peripheral I have ever had. (You need Mac Book Pro or Mac Pro to power it; the regular Mac Book will not suffice.) When you scan a document into PDF, it will be enlarged on the display. It is huge, with resolution beyond anything else I have ever seen. Nothing is better for helping you catch typos while drafting. When I hook the cinema to my Mac Book Pro, the laptop's built-in monitor serves as an additional monitor — in effect, a dual monitor system that works as one. iCal and e-mail can sit on the 17-inch until something pops up, while the actual document work is done on the 30-inch. It's just marvelous.

Innovations in the basics. A lawyer lives by his notes. Now you can take manual notes, have them stored in paper format to put in the client's file, but also

have an exact digital copy stored in your own computer's file. Your notes have become paperless and practically indestructible after proper backup.

I use a Logitech IO2 digital pen (currently \$126.52 on Amazon). In conjunction with a proprietary type of paper from Logitech (yes, the more you write, the more it costs), the pen (with an internal camera and CPU) records my notes and allows me to save the image of what I wrote in the client's file on the network, using the USB docking port that comes with the pen. This is not available on the Mac, so I download the pen's digital image into the appropriate file folders in my networked office computer that runs Windows XP.

Always adapt. No matter how advanced your technology, you should always use the type of file that is compatible with your client's equipment. I still find it cost-effective to run Windows at work, but I primarily draft documents on my Mac Book Pro. This runs Microsoft Office, including the ubiquitous MS Word. Having gadgets that are fun to use, and convenient for my clients, is the ultimate proof of their value to your practice.

Tyler G. Storms is a member of the Louisiana Bar Journal's Editorial Board and a member of the Practice Management Team.

We want your ideas, solutions and suggestions! Tell us your practice management tips, or let us know if there is something you would like to see addressed in this column. E-mail or call Louisiana Bar Journal Editorial Board members Shannan L. Hicks, hickslaw@msn.com, (318)222-6565; Margaret E. Judice, margarettjudice@cox-internet.com, (337)828-1880; Garrett P. LaBorde, garrettlaborde@hotmail.com, (866)263-2376; or Tyler G. Storms, tstorms@stormslaw.com, (318)255-7805.

By Daniel G. Rauh

FOCUS: ORLEANS PARISH

Louisiana's Constitutional Convention of 1879 gave Orleans Parish its unique — and maligned — system of two separate district courts, one civil and one criminal. On Jan. 1, 2009, the civil and criminal courts will be consolidated, along with their respective clerk's and sheriff's offices. A lawsuit has been filed to block the consolidation, and there are some rumblings that it may be revisited during the next session of the Legislature. But as things stand, practicing in the civil district court (CDC) will be very different a year from now, a topic that will merit discussion in the coming months.

Further out on the horizon is a controversial proposal to relocate the court to the so-called Tulane and Broad Recovery Zone, outside of New Orleans' Central Business District. As Chief Judge Nadine M. Ramsey recently wrote in CDC's periodical, *The Court Crier*: "Our bench is very concerned that such a move is not in the best interest of the court, the legal community or the long-term viability of the Central Business District." Needless to say, these issues are all the talk around the courthouse.

Currently, CDC is one of the busiest trial courts in the state, with 16,267 cases filed in 2007 alone, and allotted among its 14 divisions. This fact seems to underlie many of the suggestions for practitioners from the bench and from the clerk of court. CDC is also one of the most technologically progressive state courts, offering a host of electronic tools to inform and assist practitioners and the general public. These tools can all be accessed through the court's Web site: <http://www.orleanscdc.com>. A wide array of information is available there, including case-specific information by subscription. There also is a link to the Orleans Parish Civil Sheriff's Web site where you can check on service issues. Alas, pleadings and judgments are not yet available for online viewing but, according to

Clerk of Court Dale Atkins, the court "expects to make pleadings available through the Web site this year."

Friday is "rule day" in CDC. It is not uncommon for each judge to have 50 or more matters on his/her rule day docket. Practices vary somewhat by division and, therefore, Judge Robin M. Giarrusso advises lawyers, "Know your judge's preferences for the scheduling of rules, and be intimately familiar with the local rules and how they apply to the rule docket."

For example, in Judge Giarrusso's division, any matter requiring live testimony will be scheduled at a different time, so you need to let the court know that you will have testimony well in advance. In other divisions, however, matters requiring live testimony are placed on the trial docket, not the rule docket. As such, it behooves you to know how your division handles live testimony before you appear with your client prepared to testify on rule day.

The typically heavy rule dockets have led some divisions to enforce the District Court Rules much more strictly than some other courts — particularly Rule 9.9 concerning timely filing, serving and furnishing the trial judge with a copy of any supporting or opposing memorandum. Many who regularly practice in CDC forget to furnish the trial judge with a courtesy copy of any memorandum they file. Rule 9.9 requires it, and compliance does much to ensure that the court has the opportunity to be persuaded by your work. Even more importantly, you may not be allowed to argue if you do not timely file and serve a memorandum as Rule 9.9 requires.

By the same token, if you are not served with an opposition, come to court with proof of service of your rule (which can be printed from the Civil Sheriff's Web site or obtained from his office on the fourth floor). As elsewhere, it is always a good practice to inform the court in advance when a motion is unopposed.

The judge and law clerk will appreciate your saving them from wasting time that could be spent on contested motions. Several divisions have posted some of their specific rule day practices and preferences on the court's Web site.

With regard to trial settings, be aware that each division generally only has four or five months each year available for jury trials. This is due to space limitations for the jury pool. In certain divisions, jury trials are being set as few as six months in advance; the post-Katrina "crush" has been abating. Two separate payments and a bond are required to perfect a jury demand. The jury request fee is due with the jury demand and was recently increased to \$600. Most divisions require that the jury bond be posted 60 days before the first trial setting. Some divisions require that the jury costs be posted with the bond, while others allow you to post the costs (\$300 per day plus \$25 per alternate) the morning of trial. Failing to post timely can forfeit the right to a jury trial, so this is yet another area where verifying the practice in your division is important.

As to lodging and dining options, there are now more restaurants open in the city than before Hurricane Katrina, and the only major hotel that has not reopened is the Hyatt.

Daniel G. Rauh is a member of the Louisiana Bar Journal Editorial Board and a member of the Local Practice Guide team.

E-mail article ideas to Editorial Board members: Hal Odom Jr., rhodom@lasscoa.state.la.us; Tyler G. Storms, tstorms@stormslaw.com; Lawrence E. Marino, lmario@oatshudson.com; Daniel G. Rauh, drauh@glllaw.com; Edward J. Walters, Jr., walters@mwtlaw.net; or Margaret E. Judice, margaretjudice@cox-internet.com.

By James J. Devitt

THE LOUISIANA LOTTERY COMPANY

Why does the Louisiana lottery have such a checkered history?

Article 12, Section 6 of the Louisiana Constitution of 1974 mandates that “gambling shall be defined by and suppressed by the legislature.” Nevertheless, in 1991, the Louisiana Legislature sought to legalize riverboat casinos. Amending the Constitution to permit gambling would have required a statewide vote and probably would not have passed. Instead, the Legislature defined riverboat casino activity as “gaming,” which was not prohibited by name, and passed Act 753 of the 1991 Legislative Session to legalize “gaming.” Gov. Buddy Roemer signed the act into law in July 1991. This word swap was upheld by the Louisiana Supreme Court in a civil suit challenging Act 753. *Polk v. Edwards*, 626 So.2d 1128 (La. 1993).

To understand why the suppression of gambling found its way into the Constitution, a look back at the history of the lottery in Louisiana is helpful.

After losing public favor in the early 1800s, lotteries began a comeback after the Civil War. Following a long national tradition, Southern states turned to lotteries to generate revenue to rebuild the war-ravaged region. States such as Kentucky, Alabama, Georgia and Mississippi held lotteries to finance projects for the public good, such as the purchase of fire-fighting equipment.

Spurred by the economic crisis facing the state after the Civil War, Act 25 of the 1868 Louisiana Legislative Session granted the Louisiana State Lottery Company a 25-year monopoly for a lottery, along with a \$40,000 tax exemption. A syndicate from New York had bribed the Legislature into passing the charter and establishing the syndicate as the sole lottery provider.

The Louisiana Lottery was an interstate venture, with more than 90 percent of the company’s revenue coming from outside

Louisiana. This lottery was a prolific moneymaker, the most successful lottery in America. Agents for the Louisiana Lottery were located in every city in the United States. Total sales were \$2 million per month at its peak. Monthly drawings generated prizes up to \$250,000 and twice-yearly prizes went as high as \$600,000.

Scandals and anti-gambling sentiment led to state and federal legislation against lotteries. At first, attempts to repeal the 25-year charter of the Louisiana Lottery were defeated with the assistance of bribes to legislators. Because of its extensive influence, the Louisiana Lottery was known by names such as “The Serpent” and “The Octopus.” Lotteries in other states were abolished and, by 1878, Louisiana was the last of the legal lotteries in the country.

On Aug. 7, 1890, an anti-lottery Democratic Convention met in Baton Rouge. Called the Anti-Lottery League, 959 delegates from all but six parishes convened to hear passionate anti-lottery speeches by Edward D. White, Sen. Murphy J. Foster and others. White went on to become the first (and only) U.S. Supreme Court justice from Louisiana. The convention approved a resolution calling upon the federal government to abolish lottery activities.

Later in 1890, President Benjamin Harrison condemned lotteries as “swindling and demoralizing agencies.” Also in 1890, Congress enacted a prohibition against moving lottery tickets across state lines by mail. In 1895, Congress banned all lottery materials from interstate commerce.

After repeated attempts, the Louisiana Legislature abolished the Louisiana Lottery Company in 1895. State legislators known as the “Twelve Apostles” helped to defeat it. One of them was Sen. Auguste Levert, Jr. (1831-1916) from the West Baton Rouge and Iberville parishes area. Sen. Levert and Gov. Francis T. Nicholls refused bribes of as much as \$100,000 to support continuation of the lottery.

Sen. Foster (grandfather of Gov. Mike Foster) was another ardent gambling opponent. In 1888, as president pro tem of the State Senate, he opposed the constitutional amendment to recharter the Louisiana Lottery. He was nominated for governor in 1892 on the Anti-Lottery Democratic ticket. Foster was elected in 1892 and re-elected in 1896 by wide margins. Removing political corruption by outlawing lotteries was a focal point of his tenure as governor.

After the lottery was finally disbanded in 1895, it was discovered that promoters had made huge sums of ill-gotten gains. The Legislature was riven with accusations of bribery. By the end of the century, 35 states had prohibitions against lotteries in their constitutions and no state permitted lotteries again until 1963. This was the backdrop in 1974 for Louisiana citizens to instruct the Legislature to suppress gambling and to memorialize that sentiment in their Constitution.

Sources: Louisiana Secretary of State’s Office, timeline; The Louisiana Governors by J.G. Dawson III; North American Association of State and Provincial Lotteries, <http://www.naspl.org/>; The California Research Bureau of the California State Library; Southern Medical Journal 93(9):850-858 (2000); Louisiana State Museum, <http://lsm.crt.state.la.us/CABILDO/cab-reconstructionII.htm>; History of New Orleans by John Smith Kendall (1922).

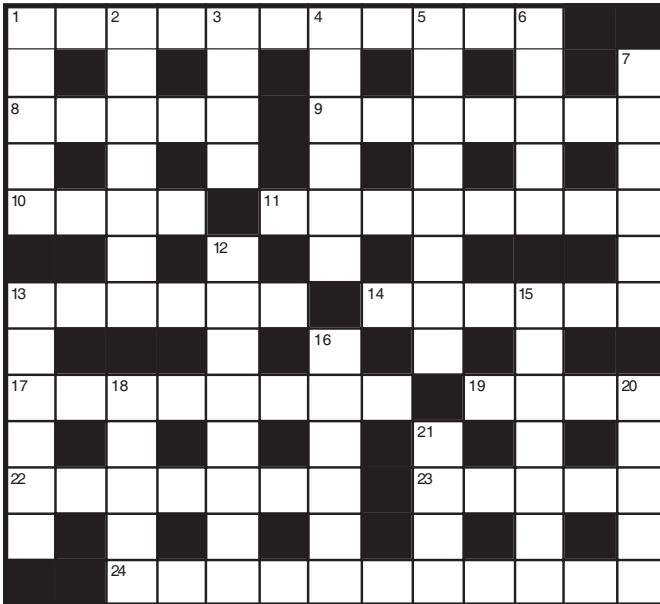
James J. Devitt presently serves as deputy general counsel for Louisiana’s Department of Natural Resources. He is engaged in advising the department on coastal restoration and management issues. Prior to public service, he maintained a private law practice in Baton Rouge. He received his JD degree from Louisiana State University Paul M. Hebert Law Center in 1989 and is a descendant of former state senator Auguste Levert, Jr. (617 North Third St., LaSalle Building, Baton Rouge, LA 70802)

P U Z Z L E

CROSSWORD

Criminal Procedure

By Hal Odom, Jr.



ACROSS

- 1 May be preliminary or cross (11)
- 8 Assignments of _____ (5)
- 9 Clone (7)
- 10 Similar to 9 across (4)
- 11 Cost projection (8)
- 13 Avenge Swiss city? (6)
- 14 See 7 down (6)
- 17 *Terry* concept: Stop _____ (3, 5)
- 19 Captain Hook's bosun (4)
- 22 Paltrow (7)
- 23 Shorthand name (5)
- 24 Subject of interstate and international concern (11)

DOWN

- 1 Opt for trial by judge (5)
- 2 Cause to answer a criminal charge (7)
- 3 _____ *Winship* (2, 2)
- 4 Often occurs after 17 across (6)
- 5 Sentence to hard labor (8)
- 6 Currency in Nigeria (5)
- 7 With 14 across, The Great Writ (6)
- 12 Essential element of indictment (8)
- 13 Farmers' co-op (6)
- 15 Famous buried city (7)
- 16 Breathing problem (6)
- 18 Holmes's creator (5)
- 20 Incite (3, 2)
- 21 Unattractive fruit (4)

Answers on page 383.

Free for Bar Members:

TechnoLawyer Online

Access a wealth of legal technology
and practice management information.
Go to the LSBA's Web site, www.lsba.org, and click
on the TechnoLawyer icon on the home page.

PUBLIC Ethics Advisory Opinions

These Public Opinions have been prepared by the Publications Subcommittee of the Louisiana State Bar Association's Rules of Professional Conduct Committee. The issues and topics covered within these opinions originate from actual requests for ethics advisory opinions submitted to the Ethics Advisory Service by lawyer members of the Association.

In selecting topics and issues for publication, the Publications Subcommittee has reviewed opinions referred to it by Ethics Counsel and/or panel members of the Ethics Advisory Service for purposes of determining whether the opinions submitted address issues of interest, importance and/or significance to the general bar and which are not highly fact-sensitive. The Publications Subcommittee has made every effort to promote and maintain confidentiality of the parties involved in the original requests.

Recommended format for citation of PUBLIC opinions: e.g., "LSBA-RPCC PUBLIC Opinion 05-RPCC-001 (04/04/2005)".

Questions, comments or suggestions regarding the opinions, the publication process or the Ethics Advisory Service may be directed to Richard P. Lemmler, Jr., Professional Programs Counsel for Ethics, Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130; direct dial (504)619-0144; fax (504)598-6753; e-mail: RLeemmler@lsba.org.

PUBLIC Opinion 07-RPCC-015¹

Gifts to Clients

The Louisiana Rules of Professional Conduct do not specifically prohibit gifts by lawyers to clients. However, the Committee believes that any gift made by a lawyer to a client should be made only as a modest expression of thanks and appreciation but should not be portrayed or perceived as some form of compensation in exchange for, or as a result of, the referral of prospective new clients.

The Louisiana Rules of Professional Conduct do not specifically prohibit gifts by lawyers to clients. Nevertheless, there are still a few rules that must be considered in connection with any proposed gift to a client.

Rule 7.1(c)² states "... A lawyer shall not accept a referral from any person, firm or entity whom the lawyer knows has engaged in any communication or solicitation relating to the referred matter that would violate these rules if the communication or solicitation were made by the lawyer..." Rule 7.2³ provides, in pertinent part, that "... A lawyer shall not give anything of value to a person for recommending the lawyer's services..." Rule 7.3(a)⁴ states "... A lawyer shall not solicit professional employment in person, by person to person verbal telephone contact or through others acting at his request or on his behalf from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain..."

In light of these Rules, a lawyer should be careful, when selecting and giving gifts to clients, to ensure that no one

misunderstands or mistakenly concludes that the gift represents some sort of payment or compensation in exchange for — or as some form of a *quid pro quo* incentive for — referral of prospective new clients.⁵ While many lawyers depend heavily upon word-of-mouth referrals of prospective new clients from existing and former clients and often wish to show their gratitude and appreciation for that new business, a lawyer should be cognizant of and careful with the limitations on solicitation of prospective new clients: 1) a lawyer cannot solicit new legal business in person or over the telephone from someone with whom the lawyer has no family or prior professional relationship when a significant motive for doing so is the lawyer's pecuniary gain,⁶ and more importantly for this discussion, 2) the lawyer cannot solicit new legal business from such persons through the actions of others acting at the lawyer's request or on the lawyer's behalf.⁷

As a result, prospective recipients of proposed gifts from lawyers should not be encouraged or allowed to conclude easily but mistakenly that, in exchange for or as a result of the gift(s), the recipients are expected to try and solicit prospective new clients for the lawyer. Glowing recommendations from satisfied clients made to others that they know or with whom they do business are one thing (and generally quite acceptable); active pursuit and solicitation of new legal business for a lawyer from virtual strangers, even when done by clients acting at the lawyer's request or on the lawyer's behalf, is entirely different and would be a violation of the Rules.⁸ If those clients are improperly soliciting prospective new clients for a lawyer and also being somehow compensated for those referrals, there would be additional violations of the Rules.⁹ Therefore, whenever a lawyer might consider making a gift to a client,

it would be best to keep the size/value of the gift at a very reasonable — perhaps even nominal (*de minimis*)¹⁰ — level so that it appears clearly to everyone to be nothing more than a simple token/expression of the lawyer's appreciation, gratitude, friendship, etc., as opposed to some form of payment, bonus, incentive or other compensation in exchange for or in consideration of the solicitation and/or referral of prospective new clients.

Conclusion

The Louisiana Rules of Professional Conduct do not specifically prohibit gifts by lawyers to clients. However, the Committee believes that any gift made by a lawyer to a client should be made only as a modest expression of thanks and appreciation but should not be portrayed or perceived as some form of compensation in exchange for, or as a result of, the referral of prospective new clients.

FOOTNOTES

1. The comments and opinions of the Committee — public or private — are not binding on

any person or tribunal, including — but not limited to — the Office of Disciplinary Counsel and the Louisiana Attorney Disciplinary Board. Public opinions are those which the Committee has published — specifically designated thereon as “PUBLIC” — and may be cited. Private opinions are those that have not been published by the Committee — specifically designated thereon as “NOT FOR PUBLICATION” — and are intended to be advice for the originally-inquiring lawyer only and are not intended to be made available for public use or for citation. Neither the LSBA, the members of the Committee or its Ethics Counsel assume any legal liability or responsibility for the advice and opinions expressed in this process.

2. Rule 7.1(c) of the Louisiana Rules of Professional Conduct.

3. Rule 7.2 of the Louisiana Rules of Professional Conduct.

4. Rule 7.3(a) of the Louisiana Rules of Professional Conduct.

5. See *In Re: Lawrence D. Sledge*, 2003-1148, 859 So.2d 671 (La. 10/21/2003), wherein the lawyer was disciplined for, among other things, improper solicitation of clients and paying money to current and former clients for referring prospective clients to him. Of particular interest, the Court, in footnote 23 of the opinion, mentions that: “. . . Although our finding of solicitation is limited to three specific instances, there are hints of a much wider practice of solicitation in the record. In particular, we note the record contains references to a ‘ham list,’ a list for clients to

whom respondent sent a ham at Christmas time. There is a suggestion that clients who referred new clients would be placed on this list”

6. Rule 7.3(a) of the Louisiana Rules of Professional Conduct.

7. Rule 7.3(a) of the Louisiana Rules of Professional Conduct.

8. It should also be noted that, aside from improper solicitation by clients, solicitation of legal business in exchange for any manner of payment is a criminal offense if done by: sheriffs, clerks of court, constables or their deputies or any police officer or detective, whether commissioned without pay or not (see La. R.S. 14:356); wrecker drivers, owners or any other person engaged in providing wrecker services (see La. R.S. 14:356.1); or ambulance drivers, owners or any other person involved in providing ambulance services (see La. R.S. 14:356.3).

9. See Rule 7.2 and Rule 7.1(c) of the Louisiana Rules of Professional Conduct.

10. See ABA/BNA Lawyers' Manual on Professional Conduct, 18 LMPC 133, citing Arizona Ethics Opinion 2002-01 (February 27, 2002): “. . . Where the independent judgment of the attorney giving the gift is not affected or influenced, the intent of the rule is not to prohibit a de minimis gift as an expression of thanks and professional courtesy after the referral has been made. . . . The panel emphasized that the gifts were to be given after the referral, that they were intended as an expression of thanks rather than compensation, and that they would not have significant value. . . .”

Ethics Advisory Service

- Unsure of your ethical obligations as a lawyer?
- Worried about doing the right thing or wrong thing?
- Need some advice or just someone to bounce your ideas off of before going forward?

The Louisiana State Bar Association offers completely confidential, totally FREE ethics advice and opinions to each of its licensed members in good-standing.

Call, email, fax or write us with questions about your own prospective conduct. Don't struggle by yourself with these difficult questions- we're here and ready to help you!

Louisiana State Bar Association
Ethics Advisory Service
601 St. Charles Avenue
New Orleans, LA 70130

Phone: (504)619-0144 Fax: (504)598-6753 Email: RLemmler@lsba.org



FOCUS ON

Professionalism

By Nannette Jolivet-Brown

COPING WITH PSYCHOLOGICAL TRAUMA

Lawyers understand trauma in the legal sense. We can evaluate its impact and effects in the cases we litigate, but can we recognize trauma in our own lives and its effect on our professional responsibilities? Do we know where to turn for help? Do we ignore the warning signs and try to cope on our own out of fear that our reputations will suffer?

Considering the damage a lawyer can do to others by not addressing his or her own trauma-related behavior, we have a public responsibility as a profession to address this condition and its effects on how we practice law and how we treat our clients and colleagues.

Defining Psychological Trauma

Psychological trauma is a type of damage to the psyche caused by a traumatic event. It can result from a sudden shock, such as a natural disaster, a physical attack, a car accident, a crime, a death of a loved one or other violent events. It also can develop over time in response to chronic or repetitive stressful experiences, such as child sexual and physical abuse, unhappy relationships, bullying, neglect, urban violence and combat.¹ Setbacks inherent in the rebuilding process after a natural disaster also can cause it. Studies show that nearly half of all lawyers will have an alcohol, drug or mental disorder at some point in their lifetime. As many as one lawyer in four suffers from stress-related issues, and lawyers suffer the highest rate of clinical depression of all professions. Suicide remains one of the leading causes of premature deaths in lawyers.²

Emotional trauma can result from the breakup of a significant relationship, a humiliating or deeply disappointing experience, the discovery of a life-threatening

illness or disabling condition, or other similar situations. Even the highs and lows of living and the stress of work can result in trauma. For many of us accustomed to being in control, it may be surprising, and even embarrassing, to admit that we have been traumatized. There is evidence to support the fact that the practice of law attracts certain personality types prone to addictive compulsions and mental imbalance.

Accordingly, lawyers share traits that seemingly predispose them to developing mental health issues. Many in recovery talk about the compulsive need for achievement, self-reliance and perfection in the profession.³ Therefore it should be no surprise that dealing with the aftermaths of Hurricanes Katrina and Rita could tilt the balance for many lawyers who before then were able to keep things under control.

Common Elements of Trauma

Regardless of its source, an emotional trauma contains three common elements: it was unexpected; the person was unprepared; and there was nothing the person could do to prevent it from happening. Important, however, “it isn’t the event that determines whether something is traumatic to someone, but the individual’s *experience* of the event.”

Symptoms of an Emotional Trauma

As survivors of traumatic events of historic proportions — the 2005 hurricanes — we may all suffer from many of the same problems, despite our individual circumstances and personalities. Common physical symptoms include eating disturbances (more or less than usual),

sleep disturbances (more or less than usual), sexual dysfunction, low energy, and chronic, unexplained pain.⁴ Emotional symptoms include depression, spontaneous crying, despair, hopelessness, anxiety, panic attacks, fearfulness, compulsive and obsessive behavior, an out-of-control feeling, irritability, anger and resentment, emotional numbness, withdrawal from normal routine relationships, difficulty making decisions, decreased ability to concentrate, and a feeling being distracted.

Many people may find themselves experiencing the effects of the trauma repeatedly through intrusive thoughts, flashbacks or nightmares, sudden floods of emotion or images related to the traumatic event, bouts of amnesia, avoidance of situations that resemble the initial event, detachment, guilt feelings, depression, grief reactions, and an altered sense of time.⁵ Moreover, trauma victims may experience jumpiness, an extreme sense of being “on guard,” or overreacting to stress, including sudden unprovoked anger, general anxiety, insomnia and obsessions with death.

Possible Effects of Emotional Trauma

Emotional trauma can create lasting difficulties in an individual’s life. Certain kinds of recurring problems serve as clues to a past emotional trauma. They include substance abuse, self-destructive and impulsive behavior patterns, uncontrolled reactive thoughts, and the inability to make healthy professional or lifestyle choices.

What Can the Bar Do to Help?

Currently, the Louisiana State Bar

Association's Lawyers Assistance Program, Inc. (LAP) provides confidential assistance with problems such as alcoholism, substance abuse, mental health issues, gambling and all other addictions. For a list of program contacts, see page 378. For more information on LAP and for numerous articles and presentations on a variety of topics, go to the LSBA's Web site, www.lsba.org/2007MemberServices/lap.asp.

Behaving irrationally or unprofessionally from extreme and unmanageable stress brought on by trauma harms us, our clients and our fellow

citizens. We must recognize the warning signs of emotional trauma in ourselves and our fellow lawyers and help those among us in psychological pain for the good of the public we all serve.

FOOTNOTES

1. See, Self-Help Brochures, "Surviving Psychological Trauma," <http://www.couns.uiuc.edu/brochures/survivetrauma.htm>.
2. "Are We in Denial?," For the Defense, October 2007, p. 14.
3. *Id.*
4. See, Emotional and Psychological

Trauma; Causes, Symptoms, Effects and Treatment, www.helpguide.org/mental/emotional_psychological_trauma.htm-36K.

5. See, *Id.*

Nannette Jolivette-Brown is a former partner in the law firm of Chaffe, McCall, L.L.P., and is currently visiting assistant clinical professor of law at Loyola University Law School Mediation Clinic. She can be reached by phone at (504)861-5740 or by e-mail at njbrown@loyno.edu.

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 events. For assistance, contact a coordinator.

Area	Coordinator	Phone	E-mail
Alexandria Area	Elizabeth Erny Foote	(318)445-4480	efoote@psflp.com
Baton Rouge Area	Ann G. Scarle	(225)214-5563	ann@brba.org
Covington/Mandeville Area	Suzanne E. Bayle	(504)524-3781	sebayle@bellsouth.net
Denham Springs Area	Mary E. Heck Barrios	(225)664-9508	mary@barrioslaw.com
Houma/Thibodaux Area	Danna Schwab	(985)868-1342	dschwab@theschwablawfirm.com
Jefferson Parish Area	Pat M. Franz	(504)455-1986	patfranz@bellsouth.net
Lafayette Area	Susan Holliday	(337)237-4700	susan@lafayettebar.org
Lake Charles Area	Joel Lutz	(337)433-0022	joel@stuteslaw.com
Monroe Area	Daniel J. Ellender	(318)647-3311	mail@ellenderlaw.com
Natchitoches Area	Peyton Cunningham, Jr.	(318)352-6314 (318)481-5815	peytonc1@bellsouth.net
New Orleans Area	Helena N. Henderson	(504)525-7453	hhenderson@neworleansbar.org
Opelousas/Ville Platte/Sunset Area	John L. Olivier	(337)662-5242 (337)942-9836 (337)232-0874	johnolivier@centurytel.net
Shreveport Area	Patti Guin	(318)222-3643	pguin@shreveportbar.com

For more information, go to: www.lsba.org/2007InsideLSBA/solace.asp.

REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date Dec. 18, 2007.

Decisions

David H. Bernstein, Metairie, (2007-B-1049) **Disbarment** ordered by the court on Oct. 16, 2007. JUDGMENT FINAL and EFFECTIVE on Oct. 31, 2007. *Gist:* Violating the Rules of Professional Conduct; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Jesse Clarence Brown, Baton Rouge, (2007-B-0995) **Public reprimand** ordered by the court on Oct. 17, 2007. JUDGMENT FINAL and EFFECTIVE on Oct. 31, 2007. *Gist:* Respondent failed to competently handle a client matter; neglected a personal injury suit; and failed to expedite the litigation consistent with the interests of his clients.

John E. Brown, Lake Charles, (2007-OB-1961) **Conditional reinstatement from disability/inactive status** by order of the court on Oct. 24, 2007. JUDGMENT FINAL and EFFECTIVE on Oct. 24, 2007.

Edwin E. Burks, New Orleans, (2007-B-0637) **Permanent disbarment** ordered by the court on Aug. 31, 2007. JUDGMENT FINAL and EFFECTIVE on Sept. 14, 2007. *Gist:* Commission of a criminal act reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer.

Barrett B. Daly, New Orleans, (2007-B-1053) **Reciprocal three-year suspension** ordered by the court on Nov. 9, 2007. JUDGMENT FINAL and EFFECTIVE on Nov. 23, 2007. *Gist:* Failure to abide by a client's decisions concerning objectives of representation; failure to act with diligence and promptness; failure to communicate with client; knowingly making a false statement of material fact to a tribunal; ignoring the disciplinary process; and conduct prejudicial to the administration of justice.

Lynn B. Hughes, Jr., Metairie, (2007-OB-1732) **Permanent resignation** ordered by the court on Sept. 18, 2007. JUDGMENT FINAL and EFFECTIVE

on Sept. 18, 2007. *Gist:* Numerous complaints of serious professional misconduct, including conversion of client and third-party funds.

Christopher D. Matchett, Baton Rouge, (2007-B-2115) **Interim suspension** ordered by the court on Oct. 31, 2007.

Mark Todd McCrumb, Lake Tapps, WA, (2007-B-1112) **Reciprocal disbarment** ordered by the court on Sept. 21, 2007. JUDGMENT FINAL and EFFECTIVE on Oct. 5, 2007. *Gist:* Conduct involving dishonesty, fraud, deceit and misrepresentation; and commingling and conversion of client funds.

Mark Steven Smith, Baton Rouge, (2007-B-1845) **Interim suspension** ordered by the court on Oct. 3, 2007.

Arden Wells, Ponchatoula, (2007-B-1071) **Interim suspension for threat of harm** ordered by the court on Nov. 7, 2007.

Dwayne V. Williams, Baton Rouge, (2007-B-0504) **Permanent disbarment** ordered by the court on Oct. 26, 2007. JUDGMENT FINAL and EFFECTIVE on Nov. 9, 2007. *Gist:* Failure to act with reasonable diligence and promptness in representing clients; failure to communicate with clients; failure to comply with obligations upon termination of representation; failure to return unearned fees; engaging in unauthorized practice of law; engaging in conflicts of interest through prohibited transactions; engaging in dishonesty and deceitful conduct; and failure to cooperate with the ODC in investigation of disciplinary matters.

Counselor, advocate, and expert witness



Practice limited to matters involving legal and judicial ethics

Elizabeth A. Alston
322 West 26th Avenue
Covington, LA 70433
(985) 809-6779 Toll-free: 877-809-6779

Alston Law Firm, LLC
<http://LawyerRisk.com>

Continued next page

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 Dec. 1, 2007.

Respondent	Disposition	Date Filed	Docket No.
Jeffrey Wittenbrink	Reinstated.	10/18/07	03-2113 M
Rejonna Brown Mitchell	Restitution and community service.	10/22/07	07-1927 B
Robert C. Arledge	Interim suspension.	10/24/07	07-4305 S
Stephen K. Peters	Suspended (three years).	10/24/07	07-3803 S
Craig King	Interim suspension.	10/26/07	07-3804 A

Discipline continued from page 352

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

No. of Violations

Lack of diligence	1
Lack of communication	1
Commingling of personal funds in a client trust account	3
Collecting an unreasonable fee	1
Failure to timely comply with Supreme Court rules regarding registration	1

TOTAL INDIVIDUALS

ADMONISHED 4

Law Office of *Julie Brown White, LLC*

Former Prosecutor, Office of Disciplinary Counsel



8714 Jefferson Hwy., Suite A
Baton Rouge, LA 70809
225-927-4774
jbrownwhite@cox.net

- Advice for preventing and responding to complaints of ethical misconduct
- Representation in all stages of disciplinary proceedings

LA. BAR TODAY

Get the latest Louisiana State Bar Association news in the free, weekly e-mailed update. It's easy to subscribe. Go to: www.lsba.org/2007NewsResources/LBT.asp.

CHRISTOVICH & KEARNEY, LLP

Counsel and Advice in Defense
Of Ethics Complaints and Charges



E. Phelps Gay
Kevin R. Tully

(504)561-5700
601 Poydras Street, Suite 2300
New Orleans, LA 70130

CLIENT ASSISTANCE FUND PAYMENTS

Attorney	Amount Paid	Gist
Phillip Lucius Alleman	\$1,000.00	#939 - Unearned fee in a domestic matter and a bankruptcy matter.
Mel L. Credeur	\$2,391.66	#826 - Conversion in a personal injury matter.
Mel L. Credeur	\$5,504.27	#827 - Conversion in a personal injury matter.
Mel L. Credeur	\$3,655.00	#828 - Conversion in a personal injury matter.
Mel L. Credeur	\$3,421.66	#829 - Conversion in a personal injury matter.
Mel L. Credeur	\$2,539.00	#830 - Conversion in a personal injury matter.
Mel L. Credeur	\$666.66	#837 - Conversion in a personal injury matter.
Mel L. Credeur	\$666.66	#838 - Conversion in a personal injury matter.
Mel L. Credeur	\$2,517.20	#840 - Conversion in a personal injury matter.
Mel L. Credeur	\$1,8502.34	#841 - Conversion in a workers' compensation matter.
Mel L. Credeur	\$14,196.00	#842 - Conversion in a workers' compensation matter.
Mel L. Credeur	\$22,931.74	#851 - Conversion in a personal injury matter.
Mel L. Credeur	\$22,935.09	#852 - Conversion in a personal injury matter.
Mel L. Credeur	\$13,546.66	#854 - Conversion in a personal injury matter.
Mel L. Credeur	\$5,600.00	#866 - Conversion in a workers' compensation matter.
Mel L. Credeur	\$16,666.66	#871 - Conversion in a personal injury matter.
Mel L. Credeur	\$7,341.84	#873 - Conversion in a personal injury matter.
Mel L. Credeur	\$6,866.66	#877 - Conversion in a personal injury matter.
Mel L. Credeur	\$4,453.85	#885 - Conversion in a personal injury matter.
Mel L. Credeur	\$2,780.00	#888 - Conversion in a personal injury matter.
Mel L. Credeur	\$25,000.00	#892 - Conversion in a workers' compensation matter.
Mel L. Credeur	\$318.40	#911 - Conversion in a personal injury matter.
Mel L. Credeur	\$4,552.67	#915 - Conversion in a personal injury matter.
Mel L. Credeur	\$2,217.66	#916 - Conversion in a personal injury matter.
Mel L. Credeur	\$4,221.70	#917 - Conversion in a personal injury matter.
Mel L. Credeur	\$1,807.40	#919 - Conversion in a personal injury matter.
Mel L. Credeur	\$4,517.55	#927 - Conversion in a personal injury matter.
Mel L. Credeur	\$1,599.26	#928 - Conversion in a personal injury matter.
Mel L. Credeur	\$2,900.00	#929 - Conversion in a personal injury matter.
Mel L. Credeur	\$12,376.34	#930 - Conversion in a personal injury matter.
Mel L. Credeur	\$6,421.66	#931 - Conversion in a personal injury matter.
Mel L. Credeur	\$6,268.86	#932 - Conversion in a personal injury matter.
Mel L. Credeur	\$428.34	#933 - Conversion in a personal injury matter.
Mel L. Credeur	\$25,000.00	#934 - Conversion in a workers' compensation matter.
Mel L. Credeur	\$2,016.14	#935 - Conversion in a personal injury matter.
Mel L. Credeur	\$5,582.52	#941 - Conversion in a personal injury matter.
David M. Dickson	\$3,000.00	#797 - Unearned fee in a criminal matter.
Troy DeWayne Jackson	\$3,000.00	#896 - Unearned fee in a discrimination matter.
Keith J. Labat	\$900.00	#908 - Unearned fee in a criminal matter.
Stevens J. White	\$335.00	#673 - Unearned fee in a domestic matter.



Administrative Law

When Is Mandamus the Right Remedy?

Once she completed the appropriate training, Pauline Poole sought a license as an electrology instructor. The Louisiana Board of Electrolysis Examiners administered a written test, which Poole passed. However, the board, relying on La. R.S. 36:3077C(3)(a), which provides that the board may require a practical exam, insisted that Poole submit to it. However, even though the statute was passed in 2001, no practical exam had been created until the day Poole was to take it. The board did not allow her adequate time to prepare or to review her notes during the practical exam. Determining that the practical exam was incomplete, the board refused to issue an instructor's license to her. She filed a "Rule to Show Cause for Mandamus," claiming that the board did not have the right to refuse to issue the license she sought, and the trial court agreed.

In *Poole v. Board of Electrolysis Examiners*, 06-0810 (La. App. 1 Cir. 5/16/07), 964 So.2d 960 (quoting *State v. City of Shreveport*, 93 So.2d 187, 189 (1957)), the court of appeal affirmed, stating that mandamus is the proper remedy where there has been an "arbitrary or capricious abuse of discretion by public boards . . . such as the arbitrary refusal to grant a license."

— **Brian M. Bégué**
Chair, LSBA Administrative
Law Section
2127 Dauphine St.
New Orleans, LA 70116



Alternative Dispute Resolution

Contracts of Employment of Labor Not Arbitrable Under La. Arbitration Law

Wright v. 3P Delivery, L.L.C., 07-0683

(La. App. 3 Cir. 10/31/07), ____ So.2d ____.

This proceeding arose from a breach of contract suit filed by the plaintiff, an individual who contracted to provide transportation services, including loading and unloading of shipments, to the defendant, a delivery company. The defendant filed a motion to compel arbitration and to stay the trial court proceedings. The district court denied the defendant's motion after finding that the arbitration agreement was not enforce-

MAPS is
mediation,
arbitration,
and more...



Robert A. Jenks



Michael J. Moran



Roger J. Larue

free monthly breakfast seminars

Metairie/New Orleans:

Lakeway One • 3900 N. Causeway Blvd. • 2nd Floor
March 20, 2008: Intellectual Property (Speaker: To Be Announced)
April 18, 2008: Katrina Issues (Speaker: Martin J. Simone)

Baton Rouge:

Two United Plaza • 8550 United Plaza Blvd. • 1st Floor
March 28, 2008: Intellectual Property (Speaker: To Be Announced)
April 25, 2008: Katrina Issues (Speaker: To Be Announced)

Shreveport:

330 Marshall St. • Suite 300
April 16, 2008: Employment Law
SPEAKER: To Be Announced

For more information contact MAPS:
800.443.7351 504.831.2141
504.837.2566 (fax)
Email: resolutions@maps-adr.com
Website: www.maps-adr.com



MAPS has a panel of over 50 mediators throughout Louisiana and Mississippi with experience in a broad range of specialties to accommodate any mediation even on short notice.

able under La. R.S. 9:4216 of the Louisiana Arbitration Law (LAL). Section 9:4216 states that the LAL does not apply to “contracts of employment of labor.” Because the plaintiff was engaged to provide physical labor — transportation services such as driving, handling, loading and unloading of shipments — the trial court found that the contract was intended as a contract of employment of labor and was excluded from the LAL.

On appeal, the defendant urged that the arbitration agreement between the parties was valid and binding. The 3rd Circuit affirmed the trial court’s decision, holding that loading, unloading and handling of shipments and equipment clearly require the application of physical force, or brawn and muscle, and as a result the contract at issue was a contract for labor that was excluded from binding arbitration under the provisions of La. R.S. 9:4216.

Trial Court Must Grant Motion to Confirm Arbitration Award

CACV of Colorado, Inc. v. Coston, 06-1460 (La. App. 1 Cir. 9/19/07) (unpublished).

The plaintiff instituted proceedings to confirm an arbitration award pursuant to La. R.S. 9:4209, which states in part, “the court shall grant such an order unless the award is vacated, modified, or corrected” The arbitration award was based on

a \$2,000 loan that the defendant had taken out to purchase a computer. At the hearing on the motion to confirm the arbitration award, the defendant appeared at the hearing but did not attempt to have the award vacated, modified or corrected. Although the plaintiff followed the proper procedure in seeking confirmation of the award, the trial court denied the motion to confirm the arbitration award because the situation “did not seem fair” and dismissed the matter with prejudice.

On appeal, the 1st Circuit stated that a simple reading of the plain language of La. R.S. 9:4209 led to the conclusion that the trial court erred in refusing to grant the motion to confirm. Finding that the word “shall” is universally considered to mean mandatory, the 1st Circuit found that the trial court lacked the discretion to decline to grant the motion to confirm. Consequently, the court reversed the judgment on appeal, rendered judgment in favor of the plaintiff and assessed costs of the appeal to the defendant.

Waiver of Right to Arbitrate Occurs After Year-Long Delay

Miller v. Conagra, Inc., 07-0747 (La. App. 3 Cir. 12/5/07), ____ So.2d ____.

The 3rd Circuit found that a party’s refusal to timely pay the arbitration fee after the arbitration proceeding was initiated, thereby causing a year-long delay, resulted in the waiver of the party’s right

to demand arbitration. As such, the court held that the trial court did not err in failing to compel arbitration as required by the contract between the parties.

New Home Warranty Act and Binding Arbitration

Robert Angel Builder, Inc. v. Gilbert, 42,340 (La. App. 2 Cir. 8/15/07), 962 So.2d 1162.

Homeowners sued the contractor they hired to build a home on their lot in Bossier City, La., for alleged construction defects. The contractor filed a dilatory exception of prematurity, asserting that the homeowners’ claims were subject to arbitration pursuant to the terms of their contract. The contract stated that the arbitration provision applies only to claims arising under and governed by the New Home Warranty Act, La. R.S. 9:3143, *et seq.* (NHW), and that other claims arising under the contract shall not be subject to binding arbitration. Believing that its claim for the balance due under the contract was not subject to arbitration, the contractor filed a separate lawsuit seeking the balance due under the contract, costs of additions, extras and overages, as well as other damages. The homeowners also filed a dilatory exception of prematurity, again based on the arbitration provision of the contract, as well as a motion to consolidate the two lawsuits. The trial court sustained the contractor’s exception of prematurity and ordered that the homeowners’ claim against the builder be submitted to arbitration. However, the trial court denied the homeowners’ exception of prematurity and motion to consolidate.

The 2nd Circuit found that the NHWA exclusively applies to claims between a builder and an owner relative to construction defects in a new residence. The court noted that the subject matter, as well as the occurrences and transactions alleged, of both claims were interrelated, arising out of actions, inactions or breaches of the residential construction contract. Additionally, the court found

HURRICANE MEDIATIONS





THOMAS KEASLER FOUTZ
TOLLFREE 800.884.9939
WWW.ADRINCORPORATED.COM

that both claims involved the homeowners in the posture of buyers/owners, and the builder as builder/seller. In this regard, under the facts and circumstances of the case, the court found that the builder's claims arose under the NHPA and were therefore subject to arbitration. The court stated that to hold otherwise would be a strained interpretation of both the NHPA and the clear intent of the parties as expressed in their contract. As a result, the 2nd Circuit remanded the matter to the trial court so that the claims of both parties could be consolidated and submitted to arbitration.

General Negligence Claim Against Hospital Does Not Require Medical Panel Review

Duplessis v. Tulane University, 07-0647
(La. App. 4 Cir. 11/21/07), ____ So.2d ____.

The plaintiff was undergoing an X-ray procedure when an X-ray cassette fell onto her foot and ankle. The plaintiff filed a general negligence action against the hospital. The hospital filed a dilatory exception of prematurity, alleging that the claims should be submitted to a medical-review panel before the claims could be filed in a court of law. The district court agreed, granted the exception, and dismissed the claims against the hospital.

The plaintiff argued on appeal that the case should be governed by the principles of general tort law and not by the Louisiana Medical Malpractice Act, La. R.S. 40:1299.41, *et seq.* (LMMA), because her injury was caused by the general negligence of the hospital's personnel in failing to properly maintain, inspect and/or repair the device that caused the injury, and not by the negligence of a qualified health-care provider while performing an action arising from medical care or treatment. In other words, the plaintiff argued that her cause of action was based on principles of general tort law and not on principles of medical malpractice. Applying the *Coleman* factors, the 4th Circuit agreed with the plain-

tiff, held that the claims do not fall within the provisions of the LMMA and reversed the judgment of the trial court.

— **Bobby Marzine Harges**
Member, LSBA Alternative
Dispute Resolution Section
Loyola University New Orleans
College of Law
7214 St. Charles Ave., CB 901
New Orleans, LA 70118



Art, Entertainment and Sports Law

Louisiana Entertainment Law Litigation

Major legal developments have occurred in two cases relating to Louisiana's entertainment industry involving criminal charges, a plea bargain and related civil litigation. One of this section's goals for its members, members of the Bar, other attorneys and the public is to keep them informed of legal matters in the industry.

Tax Credit Felony Plea Bargain by State Film Commissioner

On Aug. 17, 2007, the United States Attorney filed a bill of information in United States District Court for the Eastern District of Louisiana against Mark S. Smith for conspiracy and bribery in connection with a program receiving federal funds. Smith is the former director of the Louisiana Governor's Office of Film and Television, a department of the Louisiana Department of Economic Development. The charges state Mark Smith "did knowingly and willfully combine, conspire and agree to knowingly and cor-

ruptly solicit and demand for the benefit of any person, and to accept and agree to accept anything of value from a person known to the United States Attorney, intending to be influenced and rewarded in connection with any business, transaction, and series of transactions of the State of Louisiana involving anything of value of \$5,000 or more, namely the issuance of Louisiana State Tax credits" in violation of Title 18, U.S.C. § 371 and Title 18, U.S.C. § 666 (a)(1)(B). Smith was charged on Aug. 17, 2007, with the felonies of bribery concerning programs receiving federal funds and conspiracy to commit such bribery.

The United States reached a plea agreement on Sept. 7, 2007, with Smith, who pleaded guilty to both counts. *U.S. v. Smith*, 07-0305 (U.S. E.D. La. 9/7/2007).

In the plea bargain, Smith admitted that in 2003, 2004 and 2005 he "knowingly and willfully allowed and approved inflated budgets to be submitted to the state by a film

Kay E. Donnelly & Associates

Certified Court Reporters
Full Service
Court Reporting Firm
Complete Litigation Support

24 HOUR SERVICE

Video Depositions
Video Conferencing
Real Time Transcription
Complete Computerized Services
Conference Room

*Knowledgeable
Efficient
Dedicated*

Suite 2025 Energy Centre Phone: 504.229.8220
1100 Poydras Street Toll Free: 866.301.8220
New Orleans, LA 70163 Fax: 504.229.8219
email: kaydonnell@bellsouth.net

production company known to the United States Attorney and caused to be issued inflated and fraudulent State tax credits based upon the falsely inflated budgets.” *Id.*

Smith also admitted he received payments totaling \$67,500 in January, April, September and November of 2004 “in compensation for allowing for the issuance of these inflated fraudulent state tax credits.” *Id.* Smith further admitted he “solicited and demanded payment in exchange for issuance of state tax credits through Louisiana’s Department of Economic Development.”

A civil suit was also filed against the Louisiana Department of Economic Development, Mark Smith and others, as discussed below.

Louisiana Producers File Suit Against LIFT of New Orleans

In this petition, plaintiffs are Hollywood South Productions, L.L.C. (HSP), Satchmo Productions, L.L.C., Ralphie Boy Productions, L.L.C., Lonny Kaufman and Ralph Fletcher. The named defendants are LIFT (Louisiana Institute of Film Technology, L.L.C.), Malcolm Petal, Kimberly Anderson, ABC Insurance Co. (unknown insurer of LIFT), the Louisiana Department of Economic Development (DED) and Mark Smith.

Satchmo Productions, owned by Lonny Kaufman, and Ralphie Boy Pro-

ductions, owned by Ralph Fletcher, held majority ownership in HSP. Kaufman was the chief executive officer and Fletcher was the chief financial officer of HSP.

The petition alleges that Kaufman brought his prospective clients to Louisiana Film Commissioner Mark Smith, that all of these prospective clients were later contacted by LIFT and that every one of these clients or prospective clients that produced their movie in Louisiana hired LIFT instead of Kaufman’s company.

Plaintiffs allege not only that “Mark Smith was receiving direct payment from Malcolm Petal on behalf of LIFT to inflate the value of a project’s budget to increase the amount of tax credits the project received, as well as direct all production services prospects to LIFT,” but also that Mark Smith accepted this money in exchange for “directing all production services prospects to LIFT.” Plaintiffs allege “Mark Smith made it clear to prospective projects that it was ‘impossible’ to shoot in Louisiana without LIFT” and that actions of Mark Smith and Malcolm Petal “created a monopoly in favor of LIFT.”

Plaintiffs further allege that defendant Kimberly Anderson was responsible for directing the internal accounting of LIFT and that she “negligently failed to discover monies being paid from LIFT to Mark Smith.” The petition states Mark Smith was operating as an employee of the DED and, therefore, “the State of Louisiana, Department of Eco-

nomic Development is vicariously liable for the actions of Mark Smith.”

Plaintiffs claim that due to the unfair business practices of the defendants, HSP lost \$100,000 in capital costs and Ralphie Boy Productions lost \$135,000 in capital costs. The petition was filed in the 19th Judicial District Court in East Baton Rouge Parish on Sept. 7, 2007. As of Dec. 20, 2007, service was still pending and no answer has been filed on behalf of the defendants. *See Hollywood South Productions, L.L.C. v. Louisiana Institute of Film Technology, L.L.C.*, No. 559,019 (19th JDC 9/7/2007).

Thanks to Derek Tanner, AES Section law clerk, for research.

— LSBA Art, Entertainment and Sports Law Section Officers and Council Members **W. Thomas Angers, Michele LeBlanc, William A. Pigg and John C. Roa**
P.O. Box 3153
Baton Rouge, LA 70821



Criminal Law

Reasonableness Review for Sentencing Guidelines Deviations

Gall v. United States, 128 S.Ct. 586 (2007).

Brian Gall used and sold marijuana, cocaine and Ecstasy in college, participating in a drug conspiracy. In 2000, he affirmatively withdrew from the conspiracy and spent the next three and a half years as a model citizen, working and ceasing the use of narcotics. He was then indicted for his participation in the conspiracy and pled guilty. At sentencing, his United States Sentencing Guidelines range was 30 to 37 months, and the judge sentenced him to three years’ probation, stating that he was impressed by the voluntary withdrawal from the conspiracy,

Providing Litigation Support Services For The Legal and Insurance Professions

“Knowledge of business, finance and accounting may be needed at any stage of the litigation process. Therefore, we can be an important member of any successful litigation team. From contemplation of action to expert testimony, we can complement attorneys in ways that increase the likelihood of a desired outcome. We can support your litigation efforts to save you time and strengthen your case.”

—Kernion T. Schafer, CPA



Certified Public Accountants

701 Aurora Avenue • Suite A • Metairie, LA 70005

Phone 504.837.6573 • Fax 504.837.6570 • Email tina@schafergroup.net

Forensic Accounting Emerging Issues Financial Services Litigation Services Legal Services Emerging Business



his cessation of drug use and his productivity as a citizen. The United States appealed the sentence, and the 8th Circuit Court of Appeals reversed and remanded, relying on 8th Circuit case law holding that a sentence outside of the sentencing guidelines range must be supported by a justification that is proportional to the extent of the difference between the advisory range and the sentence imposed. As the sentencing guidelines range was incarceration, and the sentence imposed probation, the district court's perceived variance was 100 percent.

The Supreme Court granted certiorari and reversed the 8th Circuit, reinstating the district court's sentence. Justice Stevens, writing for the majority, explained that the court rejects appellate rules requiring proportionality, extraordinary circumstances to justify a sentence outside of the sentencing guidelines range or the imposition of mathematical formulas to create a percentage of variance to determine the strength of justification required. The district courts must properly calculate the sentencing guidelines range, consider all of the factors under 18 U.S.C. § 3553 (2003) and then explain the sentence in terms of sentencing guidelines and statutory factors so as to provide an adequate record

of reasons for appellate review. On review, the appellate courts are to apply a deferential abuse of discretion standard, provided that there has been no significant procedural error, such as improper or absent sentencing guidelines calculation, treating the sentencing guidelines as mandatory, failing to consider statutory factors, basing the sentence on clearly erroneous facts or failing to adequately explain the chosen sentence. If the sentence is within the sentencing guidelines range, the appellate court may, but does not have to, apply a presumption of reasonableness; if it is outside the sentencing guidelines, there may not be a presumption of unreasonableness, only a consideration of the facts and factors.

Supreme Court Holds 100:1 Crack Guideline as Advisory

Kimbrough v. United States, 128 S.Ct. 558 (2007).

Defendant pled guilty to a variety of drug charges, including possession with intent to distribute 50 grams or more of crack cocaine, a 10-year-to-life charge, and possession of a firearm in furtherance of a drug crime, a five-year manda-

tory minimum consecutive charge. At sentencing, after enhancements, his total United States Sentencing Guidelines range was 228 to 270 months. After consideration of the 18 U.S.C. § 3553 (2003) factors, the district court determined that the range was "greater than necessary" to achieve statutory goals, that the sentence exemplified the "disproportionate and unjust effect that crack cocaine guidelines have in sentencing" and imposed a 15-year sentence — the minimum, given the statutory minimums involved. The United States appealed, and the 4th Circuit vacated the sentence, under circuit precedent holding that a sentence is per se unreasonable when a departure is based on disagreement with the sentencing disparity between crack and powder cocaine.

The Supreme Court granted certiorari, reversed the 4th Circuit, and remanded to the district court for further proceedings. The court held that under *United States v. Booker*, 125 S.Ct. 738 (2005), the sentencing guidelines for cocaine, like all the other sentencing guidelines, are in fact advisory. The sentencing guidelines must be properly calculated, but individual district court judges may decide, based on 18 U.S.C. § 3553 (2003) factors, that a particular sentence is "greater than necessary" to



CLIFFORD E. CARDONE

CARDONE LAW FIRM

A PROFESSIONAL LAW CORPORATION

Select Referrals Concentrating In:

- NURSING HOME LIABILITY CASES
- SERIOUS PERSONAL INJURY & WRONGFUL DEATH CASES

— AV RATED —

State-wide practice with offices located in
NEW ORLEANS • WESTBANK • METAIRIE
(504) 581-1394

achieve the sentencing goals set forth under the statute.

Supreme Court Holds Receiving Gun for Drugs is not a Violation of 18 U.S.C. § 924(c)(1)(A) (2006)

Watson v. United States, 128 S.Ct. 579 (U.S. 2007).

Watson told a confidential informant that he wanted a gun and offered drugs in exchange for the weapon. The confidential informant obliged him and, as a result, he was indicted for distributing Schedule II controlled substances and for "using" the pistol during and in relation to the crime. Watson pled guilty, reserving the right to challenge the 18

U.S.C. § 924(c)(1)(A) (2006) charge.

The 5th Circuit affirmed, relying on precedent foreclosing any argument, and the Supreme Court granted certiorari. A unanimous court held that a person who receives the firearm and pays in narcotics does not "use" the weapon within the "everyday meaning" of the term and within 18 U.S.C. § 924(c)(1)(A) (2006).

Sentencing Commission Adjusts Crack Guidelines and Makes Change Retroactive

The United States Sentencing Commission has adjusted U.S.S.G. § 2D1.1, reducing the penalty for crack by a flat two levels. The Commission also has

ruled this change retroactive and amended U.S.S.G. § 1B1.10 to allow for resentencing of existing cases under the revised United States Sentencing Guidelines. Although the Bureau of Prisons and Sentencing Commission are expected to produce lists of eligible candidates, it is probably not too early for defense attorneys to do a file review and see if their client was sentenced on the basis of crack cocaine. The change to the United States Sentencing Guidelines does not appear to help defendants who were convicted of a crack charge but sentenced on the basis of career offender (U.S.S.G. § 4B1.1), as the sentence is no longer related directly to their crack offense, but instead solely on their habitual offender status.

— **Michael S. Walsh**

Chair, LSBA Criminal Law Section

Lee & Walsh

628 North Blvd.

Baton Rouge, LA 70802

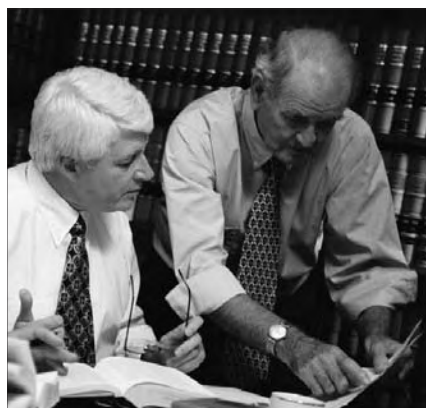
and

Joseph K. Scott III

Member, LSBA Criminal Law Section

830 Main St.

Baton Rouge, LA 70802



Need Qualified Courtroom Experts?

The Lafayette office of
Rimkus Consulting Group, Inc.
has moved. The new address is:

218 Rue Beauregard, Suite B
Lafayette, LA 70508
337-237-1511

We also would like to welcome
to our staff

F. Loring Bugbee, Jr., P.E.
Electrical Engineer

Call Rimkus Consulting Group, Inc.

Rimkus Consulting Group, Inc. is a full service forensic consulting firm. Since 1983 we have provided reliable investigations, reports and expert witness testimony around the world. Our engineers and consultants analyze the facts from origin and cause through extent of loss.



New Orleans 888-474-6587 • Lafayette 877-746-5875
www.rimkus.com



Family Law

Custody

Hobbs v. Hobbs, 42,353 (La. App. 2 Cir. 8/15/07), 962 So.2d 1148.

After a nine-day trial over six months, the trial court maintained the existing custody arrangement. The court of appeal affirmed, finding that although different factors favored each parent, the 15-year-old child was doing well, he was not adversely affected by his home life with the mother and his preference to maintain the current physical schedule was entitled to substantial weight.

Whittington v. Stracener, 07-0191 (La. App. 3 Cir. 6/6/07), 964 So.2d 407.

The court of appeal affirmed the trial court's change to name the father as domiciliary parent due to the mother's drug use and arrest, the child's behavioral problems and the child's poor school record.

Hendrick v. Hendrick, 42,566 (La. App. 2 Cir. 8/22/07), 964 So.2d 454.

The juvenile court's finding that Mr. Hendrick sexually abused the parties' daughter was not manifestly erroneous or clearly wrong. However, the court of appeal stressed that the juvenile court should maintain continuing jurisdiction over the matter and that a sexual-perpetrator evaluation of Mr. Hendrick would be relevant to a review hearing as to his visitation.

Child Support

Barton v. Barton, 06-2032 (La. App. 1 Cir. 8/8/07), 965 So.2d 939.

Dr. Barton's motion to reset his rule to reduce child support was a step in the prosecution of the rule so as to prevent abandonment. However, the trial court could still consider whether to limit the retroactivity of any reduction for good cause shown.

Property

Wilkerson v. Wilkerson, 42,324 (La. App. 2 Cir. 8/15/07), 962 So.2d 1137.

An agreement between the spouses as to the value of a sublease made in pleadings presented to the court-appointed special master and in the traversal process was a judicial confession that bound Mr. Wilkerson such that he could not later amend his pleadings to vary the value. The court stated:

Particularly, with the give and take of a complex and extensive community property partition process, a party should not be allowed to withdraw prior incremental concessions and stipulations made within the process leading to the property division and accounting.

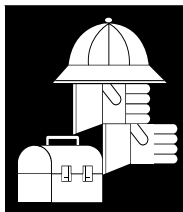
Procedure

Mathis v. Mathis, 06-1589 (La. App. 4 Cir. 7/25/07), 964 So.2d 426.

Mr. Mathis's counsel's filing of a Petition for Divorce alleging Ms. Mathis was domiciled in Orleans Parish when she was not may subject counsel to sanctions for not reasonably inquiring into the facts under La. C.C.P. art. 863, and counsel for Mr. Mathis was entitled to a hearing on his motion for sanctions.

— **David M. Prados**

Member, LSBA Family Law Section
Lowe, Stein, Hoffman, Allweiss &
Hauver, L.L.P.
Ste. 3600, 701 Poydras St.
New Orleans, LA 70139-7735



Labor and Employment Law

Remedial Bargaining Order Warranted Where Employer Engaged in Anti-Union Campaign

California Gas Transport, Inc. v. NLRB, 507 F.3d 847 (5 Cir. 2007).

The National Labor Relations Board (NLRB) found that the defendant com-

mitted a number of unfair labor practices against its employees under the National Labor Relations Act (NLRA), specifically, 29 U.S.C. §§ 158(a)(1), (a)(3) and (a)(5). The violations included, *inter alia*, interrogating employees, failing and refusing to bargain with the union, engaging in direct-dealing, threatening discharge and other unspecified reprisals, and creating the impression of surveillance. The NLRB imposed a remedial bargaining order, a cease-and-desist order and other remedies.

On appeal to the 5th Circuit Court of Appeals, the defendant challenged only the NLRB's imposition of a remedial bargaining (Gissel) order. The court agreed with the NLRB that the defendant "had engaged in a 'calculated and systematic campaign to frustrate and suppress the [protected] activities of its employees.'" The court also agreed with the NLRB that the defendant "committed 'hallmark' violations of the NLRA, namely beginning an anti-union campaign immediately after learning of unionization efforts" and "[i]n light of the small size of the unit, the flagrancy of the violations, and the fact that high-level [employees of the defendant] supported the anti-union campaign," the "traditional remedies would be insufficient to negate the coercive impact of the violations on the employees' right to choose whether to be represented."

The court was unpersuaded by the defendant's argument that the NLRB should not have issued a Gissel order

CONSTRUCTION MANAGEMENT SOLUTIONS, LLC

Baton Rouge, LA

Construction Experts

Schedules • Estimates
Claims • Consulting
50 years' experience

225-751-5477 • kyle@cmscorp.biz

because changed circumstances would have permitted a fair union election at the time of the NLRB's decision. The 5th Circuit agreed with the NLRB that "the effects of the unlawful conduct are unlikely to be sufficiently dissipated by turnover to ensure a free election."

ERISA Claimant Need Not Show Reliance on Summary Plan Description

Washington v. Murphy Oil USA, Inc., 497 F.3d 453 (5 Cir. 2007).

The plaintiff was employed as a plant operator beginning in 1990 and was covered by the defendant's ERISA-governed retirement plan. In October 1999, the plaintiff suffered a workplace injury and began a medical leave of absence. The plaintiff received paychecks until August 2001. The plaintiff then sought per-

mission to return to work but was unable to obtain medical clearance. The plaintiff then brought separate employment discrimination and workers' compensation claims. With respect to disability benefits, the defendant informed the plaintiff that because its ERISA plan required at least 10 years of service to qualify for disability benefits and the plaintiff had fewer than nine years of vesting credit, he did not qualify for disability benefits. However, the defendant's summary plan description (SPD) that had been provided to the plaintiff showed that only five years of service was required to qualify for disability benefits.


As part of the settlement of the discrimination and workers' compensation claims, the parties agreed that plaintiff's termination date was the date of the settlement agreement, June 14, 2002. The plaintiff then maintained that this date should be used to calculate the plaintiff's


disability benefit vesting period, bringing his service to more than 10 years. The defendant maintained that the calculation was in error and that, under the plan, the plaintiff's service ended in October 2000. The district court did not reach this issue, finding instead that the five-year requirement of the SPD controlled, relying on *Hansen v. Continental Ins. Co.*, 940 F.2d 971 (5 Cir. 1991).

The 5th Circuit agreed with the district court that the SPD provided to plaintiff as part of the benefits plan was in conflict with the plan itself. Following *Hansen*, the court held that because the SPD required only five years of service as opposed to the 10-year requirement in the plan, the five-year requirement controlled. The court also stated that when the terms of an SPD unequivocally grant the employee a vested right to benefits, the employee need not show reliance or prejudice. The court cautioned that its holding is limited to situations in which the conflicting terms of an SPD unequivocally grant the employee with a vested right to benefits, and not when the terms of the conflicting SPD are susceptible to different interpretations or the conflict between the SPD and the plan is *de minimis*.

— **Kevin R. Mason**

Member, LSBA Labor and
Employment Law Section
Robein, Urann, Spencer, Picard
& Cangemi, A.P.L.C.
Ste. 400, 2540 Severn Ave.
Metairie, LA 70002





DAVID S. COOK
ATTORNEY • MEDIATOR

30 years practice • AV rated • Over 1500 Mediations

(337) 234-4155

No charge for travel throughout the State of Louisiana



Professional Liability

La. R.S. 9:5628: Is the Three-Year Period Prescriptive or Peremptive?

Borel v. Young, 07-0419 (La. 11/27/07), ____ So.2d ____.

Mrs. Borel's survivors filed a medical

malpractice claim with the Patient Compensation Fund against Dr. Young, Dr. Castor and Lafayette General Medical Center (LGMC). The medical review panel found no breaches of any standard of care. A lawsuit was subsequently filed against only LGMC. Two years later, the plaintiffs contend that they first discovered that one of LGMC's experts would testify that doctors Young and Castor were negligent.

The plaintiffs attempted, by several means, to sue the physicians and their insurer, Louisiana Medical Mutual Insurance Co. (LAMMICO), *e.g.*, by amendment of the suit against LGMC and by filing a separate claim in which they contended that the physicians were severally and *in solido* liable with LGMC.

Dr. Young and LAMMICO filed an exception of prescription in response to the second lawsuit. The district court ruled that the claims against them were

perempted. The 3rd Circuit affirmed the dismissal, but ruled that the claims were prescribed and that both of the time provisions of La. R.S. 9:5628 (one year and three years) were prescriptive.

In *Hebert v. Doctors Memorial Hospital*, 486 So.2d 717 (La. 1986) — the case upon which the 3rd Circuit based its decision — the Louisiana Supreme Court held that both time frames were prescriptive. The *Borel* court noted, however, that *Hebert* was decided before a change in the relevant law. Specifically, the *Borel* court decided that Act 915 of the Louisiana Legislature, which amended La. R.S. 9:5628, was significant in that it changed the language with respect to the three-year period provided for in La. R.S. 9:5628 from “... *provided, however, that* even as to claims filed within one year from the date of such discovery, in all such events such claims *must* be filed at the latest within a period of three years

from the date of the [malpractice],” to read “. . . *however*, even as the claims filed within one year from the date of such discovery, in all such events such claims *shall* be filed at the latest within a period of three years from the date of the alleged [malpractice].”

The *Borel* court ruled that the words emphasized above were changed by the Legislature because it must have intended to change the law. The court placed great emphasis on the Legislature's substituting the word “shall” in 1987 for the word “must,” and this is the principal reason for the court's conclusion that La. R.S. 9:5628 establishes a peremptive time period.

— Robert J. David

Gainsburgh, Benjamin, David,
Meunier & Warshauer, L.L.C.
Ste. 2800, 1100 Poydras St.
New Orleans, LA 70163-2800

You'll call him an **Expert Witness.** Your clients **Expert Physician.** will call him an

Respected and trusted by both plaintiff and defense lawyers, Dr. Darrell L. Henderson is one of the nation's leading reconstructive and plastic surgery experts. Throughout his 30 year practice, he has followed single cases for multiple years, giving him the experience and knowledge to make accurate projections on future patient care. But it's not just his legal expertise that patients appreciate: his genuine care and compassionate bedside manner keeps them coming back, year after year. He understands that just because the case is closed, doesn't mean it's over.

Total Care for the Patient.

It's the way we operate. It's the way we practice medicine.

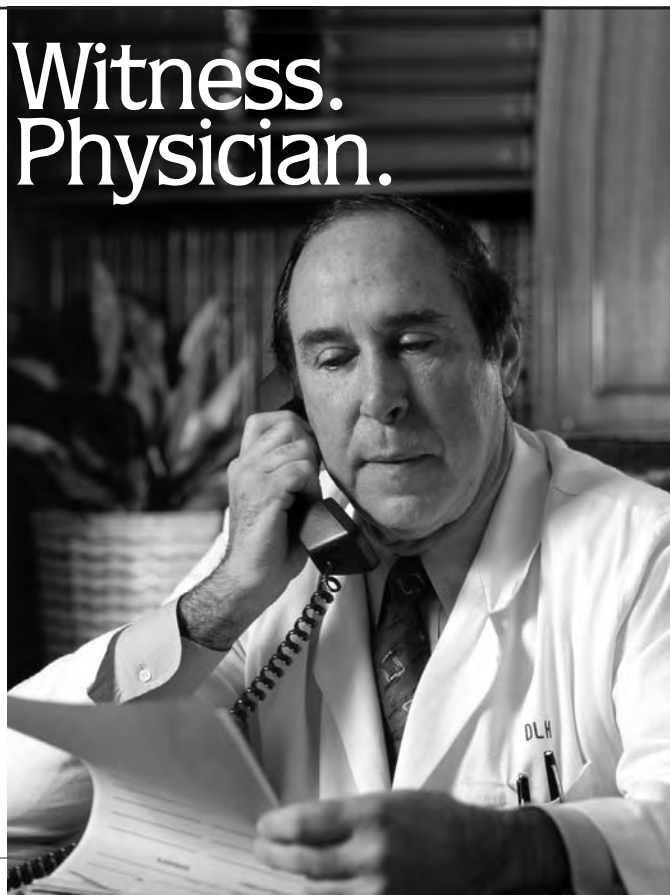


PLASTIC SURGERY
ASSOCIATES

Serving Acadiana for 30 Years

Darrell L. Henderson, MD

1101 S College Rd., Suite 400 / Lafayette, LA 70503 / 337.233.5025 / www.psassoc.com



CHAIR'S MESSAGE

A New Year's Resolution for All

By Karleen J. Green

At this time of the year, many people vow to make certain changes in their lives. We often hear people declaring that they will lose weight, quit smoking, begin exercising, or engage in some other conduct to improve themselves. As lawyers, we should all add an additional item to the list; we should resolve to be more professional.



The practice of law is more than a job; it is a profession. However, much to our dismay, too often we find ourselves either engaging in or witnessing less than professional behavior. This behavior has been the basis for numerous lawyer jokes that we grow weary of hearing.

As members of the Louisiana State Bar Association, we pledge to uphold a Code of Professionalism. Among other things, the Code requires us to conduct ourselves with dignity, civility, courtesy and a sense of fair play; cooperate with counsel and the court; and refrain from making personal attacks on other counsel or the court. These are only a few highlights from the Code. If you have not read the Code recently, I encourage you to do so.

When I think of professionalism, I often reflect on that popular book by Robert Fulghum, *All I Really Needed to*

Know I Learned in Kindergarten. The first essay of the book explains that the world would be a better place if everyone adhered to the lessons we learned early in our lives. Among others, those lessons include:

Play fair.

Apologize if you have done something wrong.

Follow the Golden Rule.

Do these rules not describe what it means to act professionally? These are the values that our parents and teachers instilled in us and that we teach our children. Unfortunately, many times we find ourselves falling short of these expectations.

The practice of law is inherently adversarial. Parties have competing interests, and we as lawyers must represent those interests. As a result, we must balance our competitive spirits with the notion of playing fair. Above all, it is imperative that we do not confuse being adversarial with being confrontational. Being a good advocate does not require us to be rude or disrespectful. We can represent our clients' interests vigorously while maintaining a cordial relationship with opposing counsel.

I have always believed that a person's reputation is his or her most important asset. As practitioners, it is important to have credibility among our coworkers, colleagues and members of the judiciary. Conducting ourselves in a professional manner is key to safeguarding that reputation.

As we begin this new year, let us all resolve to be more professional. We should all heed the advice of William Shakespeare in *The Taming of the Shrew*: "And do as adversaries do in law, Strive mightily, but eat and drink as friends."

YLS NEWS

LSU Team Wins Final Round of Law School Mock Trial Competition

The mock trial team from Louisiana State University (LSU) Paul M. Hebert Law Center won the final round of the Louisiana State Bar Association (LSBA) Young Lawyers Section Council's annual Law School Mock Trial competition in October 2007. All four of the state's law schools participated in the competition held at the United States Courthouse for the Eastern District of Louisiana in New Orleans.

The competition followed the rules of the American Association for Justice National Student Trial Advocacy Competition. Each team was comprised of four persons — two attorneys and two witnesses. The teams did not know whether they were plaintiffs or defendants until soon before each round. The problem was a wrongful death case arising from the repossession of a vehicle.

Judges of the rounds were Skye Fantaci, law clerk to Hon. G. Thomas Porteous, Jr., United States district judge for the Eastern District of Louisiana; Suzy Scalise, law clerk to Hon. Mary Ann Vial Lemmon, United States district judge for the Eastern District of Louisiana; and Larry Centola, associate at Martzell & Bickford.

The final round featured LSU on the plaintiff side and Loyola University Law School on the defense. The final round was extremely close, with LSU's team prevailing.



The mock trial team from Louisiana State University Paul M. Hebert Law Center won the final round of the Louisiana State Bar Association Young Lawyers Section Council's 2007 Law School Mock Trial competition. Team members are, from left, Ben DiPalma, Tiffany Bourque, Katie Barrios and David Geerken.

YOUNG LAWYER SPOTLIGHT



A. Edward Hardin, Jr. Baton Rouge

The Louisiana State Bar Association's (LSBA) Young Lawyers Section Council is spotlighting A. Edward Hardin, Jr.

Hardin is a partner in the law firm of Kean Miller Hawthorne D'Armond McCowan & Jarman, L.L.P., in Baton Rouge, where his primary practice areas are labor and employment law. He earned his BA degree in history from Spring Hill College in 1990 and his JD degree from Louisiana State University Paul M. Hebert Law Center in 1997. Prior to beginning his legal career, he taught high school religion at Catholic High School in Baton Rouge from 1990-94. He and his wife, Nancy, have three children.

A member of the Order of the Coif and an associate with the *Louisiana Law Review*, Hardin was inducted into the LSU Law Center Hall of Fame in 1997.

In 2007, Hardin was nominated for the LSBA Young Lawyers Section's Michaelle Pitard Wynne Professionalism Award. His professional association memberships include the Baton Rouge Bar Association, the American Bar Association, the Federal Bar Association and the Bar Association of the 5th Federal Circuit.

He has participated in and completed numerous marathon and triathlon competitions, including two full Ironman competitions. He has parlayed his love of sports into a way to assist children by dedicating countless volunteer hours to coaching children in middle school football, CYO youth basketball, children's baseball, and volunteering with youth triathlon programs.

Hardin also has enriched his community through volunteering with organizations such as Baton Rouge Green, the Baton Rouge Symphony, St. Aloysius Catholic Church, Catholic High Men's Club, Mary Bird Perkins Cancer Center, Capitol Area United Way Investing in Our Youth Committee, the Big Buddy Program of Baton Rouge, Alzheimer's Services of the Capital Area, and acting as an ombudsman with the Employer Support of the Guard and Reserve (ESGR).

One of Hardin's colleagues recognized that Hardin has "a history of leading by example and community service" and that "Ed epitomizes the ideals which most young lawyers strive for in a way that better the world around him. He is a fine example of professionalism, integrity and intelligence and a great ambassador of our profession to the community."

LOCAL AFFILIATES

Ralston Installed as NOBA's 2007-08 YLS Chair

Christopher K. Ralston was installed as chair of the New Orleans Bar Association's (NOBA) Young Lawyers Section at the NOBA's 83rd Annual Dinner meeting.

Other 2007-08 YLS officers are Maurice S. Ruffin, Deborah McCrocklin, Carey L. Menasco, Larry Demmons and Dana M. Douglas.

The NOBA Young Lawyers Section develops and staffs numerous programs and events that provide opportunities and practical experience and serve the community and the legal system.



New Orleans Bar Association Young Lawyers Section 2007-08 officers are, from left, Chair-Elect Maurice Ruffin, Vice Chair Deborah McCrocklin and Chair Christopher K. Ralston.

Judicial Interest Rate Calculator Online!

Need to calculate judicial interest? Check out the Judicial Interest Rate Calculator on the Louisiana State Bar Association's Web site.

Go to: <http://www.lsba.org>.
Click "Judicial Interest Rate Calculator"
on the left side
of the home page.

LOUISIANA BAR TODAY

Get the latest Louisiana State Bar Association news
in the free, weekly
e-mailed update.

It's easy to subscribe.

Go to: [www.lsba.org/
2007NewsResources/LBT.asp](http://www.lsba.org/2007NewsResources/LBT.asp).

Need some help managing your law office?

The Louisiana State Bar Association
is coming to the rescue!

The Louisiana State Bar Association (LSBA) has established the Law Office Management Assistance Program (LOMAP, for short). The program is designed to assist lawyers in increasing the quality of the legal services they provide.

LOMAP was launched on Aug. 1, 2006, with a Lending Library and other resources available online at the LSBA's Web site, www.lsba.org. Questions or comments about LOMAP may be sent to Eric K. Barefield, ebarefield@lsba.org or call (504)619-0122 or (800)421-5722, ext. 122.

*For more information on all LSBA programs,
go to www.lsba.org.*



FREE to LSBA Members!

FREE to LSBA Members!

Requests from LSBA Members: Fastcase Launches New Features

In response to requests from Louisiana State Bar Association members, Fastcase has launched new features.

Fastcase, the online legal research service, is offered free to Louisiana lawyers as a benefit of LSBA membership.

Now when users log in to Fastcase, they access a customized home page rather than being directed to "Search Cases." The home page includes a list of the different types of materials available on the member benefit (not just cases), as well as a customized search history and a customized "Quick Search" feature.

Also, many members have requested more prominent "Print/Save" buttons and the ability to personalize font sizes; both have been included in the updates. The ability to search newspapers also has been added, and the Authority Check feature has been made more prominent.

To take advantage of all that Fastcase has to offer, go to: www.lsba.org/2007MemberServices/fastcase.asp.

FREE* legal research login now

The search feature allows users to customize their search by entering all jurisdictions, or a combination of any jurisdiction available in the Fastcase database. This includes Federal Appellate, State, all District Courts and Bankruptcy Courts. From this page, users can choose to enter Natural Language, Boolean Phrases, Keywords or to search by Citation.

Search results can be viewed by titles only, first paragraph or by the most relevant paragraph. Fastcase allows the user to filter and resort findings of the search in six different ways. It also informs the user of the most often cited cases.

The Fastcase view screen displays the document's complete text. Findings can be saved to the user's computer, viewed online, or printed in court-admissible format.

fastcase
Accelerated legal research.

*Free to LSBA members.

FASTCASE

To access all the FREE services, go to:
www.lsba.org/2007MemberServices/fastcase.asp

JUDICIAL Notes

By Robert Gunn, Louisiana Supreme Court

NEW JUDGES . . . APPOINTMENTS

New Judges

Judge Judi F. Abrusley, 46, was elected to Ward V, Oakdale City Court, Allen Parish. She earned her undergraduate degree in elementary education from Northwestern State University in 1983, her master's in education from Northwestern State in 1985 and her JD degree from Southern University Law Center in 1996. She has been a member of the National and Louisiana Association of Criminal Defense Counsel and is a member of the Allen Parish and Louisiana State bar associations.



Judi F. Abrusley

Judge James M. "Jimbo" Stephens, 50, was elected to Division B, 5th Judicial District Court, Franklin, Richland and West Carroll parishes. He earned his BA degree from Louisiana State University in 1978 and his JD degree from LSU Paul M. Hebert Law Center in 1982. An avid sportsman, he enjoys hunting, fishing, and building and flying his own airplanes. He is married to Faith Stephens and they are the parents of three children.



James M. Stephens

Judges

Judge C. Steve Gunnell, 50, was elected to the 31st Judicial District Court, Jefferson Davis Parish. Prior to his election to that seat, Judge Gunnell served as judge of the Jennings City Court. He

received a BS degree in accounting from Louisiana State University in 1979 and his JD degree from LSU Paul M. Hebert Law Center in 1982. He is a former Jennings city attorney and former Jennings city prosecutor. He is married to Michelle Gunnell and they are the parents of two daughters.

Judge Larry D. Jefferson, 54, was elected to Division C, Monroe City Court, Ouachita Parish. Judge Jefferson was first elected to Division A of Monroe City Court in 1991 where he served until his election to Division C in 1997. He earned a BA degree, *cum laude*, in government from the University of Louisiana at Monroe (formerly Northeast Louisiana University) in 1974 and his JD degree from The American University Law School in 1978. From 1974-76, he worked as a planner for the City of Monroe Planning Department. From 1977-78, he served as a staff aide to Sen. J. Bennett Johnston, Jr. before joining the U.S. Department of Labor as a legal intern (1978-79). He was an attorney for North Louisiana Legal Assistance in 1980 and was in the private practice of law from 1981-90. He was a part-time instructor in government at Northeast Louisiana University from 1981-84. He served as an assistant professor from 2004-05 and an adjunct associate professor from 2005-06 at Grambling State University. He is the father of one son.



C. Steve Gunnell



Larry D. Jefferson

Retired Judge

5th Judicial District Court Judge Glynn D. Roberts retired effective Nov. 9, 2007. First elected to the 5th JDC bench in 1983, Judge Roberts was re-elected in 1985, 1991, 1997 and 2003. Before his election to the bench, he was a partner in the Rayville law firm of Cotton, Bolton, Roberts and Hoychick. For four years, he represented the school boards and the police juries of the 5th Judicial District as an assistant district attorney.

Appointments

- Samuel Christopher Slatten was appointed, by order of the Louisiana Supreme Court, to the Committee on Bar Admissions for a term of office which began on Dec. 5, 2007, and will end on Dec. 4, 2012.
- Martin Louis Chehotsky, James R. Dagate and Michael S. Walsh were reappointed, by order of the Louisiana Supreme Court, to the Louisiana Attorney Disciplinary Board for a term of office which began on Jan. 1 and will end on Dec. 31, 2010.
- William F. Grace, Jr. and Paul Henry Kidd, Jr. were reappointed, by order of the Louisiana Supreme Court, to the Louisiana Board of Legal Specialization for a term of office which will end on June 30, 2010.
- Chauntis T. Jenkins was appointed, by order of the Louisiana Supreme Court, to the Louisiana Board of Legal Specialization for a term of office which will end on June 30, 2010.

Deaths

- Retired Orleans Parish Juvenile Court Judge Clarence B. Giarrusso, 86, died Nov. 2, 2007. Judge Giarrusso served

as a juvenile court judge from 1979-81 after working in different capacities on the New Orleans Police Department from 1949-78, including serving as head of the narcotics division and later as superintendent from 1970-78. A World War II veteran, he enlisted in the Marines as a teenager. After returning from service, he earned his high school diploma and later enrolled at Tulane University, earning a degree in public business administration. He also earned a degree in criminology and a JD degree from Loyola University Law School.

► Retired Orleans Parish Juvenile Court Judge Edward G. Gillin, 82, died Dec. 6, 2007. Judge Gillin took the bench in 1970 as a juvenile court judge and served until his retirement in 1986. He was a graduate of Spring Hill College and Loyola University Law School. He served as an officer of the Louisiana Council of Juvenile and Family Court

The current term of office of United States Magistrate Alma L. Chasez is due to expire Sept. 23, 2008. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of a magistrate judge to a new eight-year term.

The duties of a magistrate judge include the following: (1) conducting most preliminary proceedings in criminal cases; (2) trial and deposition of misdemeanor cases; (3) conducting various pretrial matters and evidentiary proceedings on delegation from the judges of the district court; and (4) trial and disposition of civil cases upon consent of the parties.

Comments from members of the bar and the public are invited as to whether the incumbent magistrate judges should be recommended by the panel for reappointment by the court and should be directed to Loretta G. Whyte, Clerk, United States District Court, 500 Poydras St., Room C-151, New Orleans, LA 70130. Comments must be received by April 4, 2008.

Judges and of the Blue Ridge Institute for Southern Juvenile and Family Court Judges, and was a member of the executive committee of the National Council of Juvenile and Family Court Judges. He was a former assistant district attorney,

chief of the Juvenile Division, Orleans Parish District Attorney's Office; former faculty member, Tulane Evening Division; and a member of the American, Louisiana State and New Orleans bar associations.

"You've Seen The Difference And It's Getting Better All The Time."

MODERN ENGLISH



We know that we aren't the only firm around that can benefit your firm and your clients by offering specialized services. We also know that few can match our range of offerings and the experience we've acquired since 1923. This could be the reason that Louisiana's most prominent attorneys count on Bourgeois Bennett's full-time Litigation Consulting and Forensic Accounting Group. Along with our sound advice and expert testimony, we provide business valuation, practice management advice, tax preparation and planning and more. If you haven't seen the difference then give us a call and experience it for yourself.

Financial Damage
Analysis

Discovery
Assistance

Business Valuations

Expert Testimony

Commercial Litigation

Fraud and
Embezzlement
Investigations

Insurance Claims

A Sound Choice.

New Orleans
504.831.4949

Houma
985.868.0139

Thibodaux
985.447.5243

PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Adams and Reese, L.L.P., announces that **James R. Austin** has been named partner in charge of the firm's Baton Rouge office. Also, three new associates have joined the firm: **Whitney B. Little** in the Baton Rouge office and **Lauren J. Delery** and **Michael H. Rodrigue, Jr.** in the New Orleans office.

Blue Cross and Blue Shield of Louisiana announces that Robin W. Bueche has been promoted to vice president of legal affairs.

Breazeale, Sachse & Wilson, L.L.P., announces that Emily Black Grey has joined the firm as a partner in the Baton Rouge office.

Todd S. Clemons announces the opening of his law office, Todd Clemons and

Associates, located at 4216 Lake St. in Lake Charles, (337)477-0000.

Fidelity National Title Insurance Co. announces that **Jama R. Vicknair** has joined the Louisiana office to work with its state counsel.

Fisher & Phillips, L.L.C., announces that John J. Fletcher has joined the firm's New Orleans office.



Ralph J. Aucoin, Jr.



James R. Austin



Ashley L. Belleau



Alan J. Berteau



Guy H. Bumpas IV



Katie M. Caswell



Todd S. Clemons



Lauren J. Delery



Julie E. Deshotels



James M. Dill



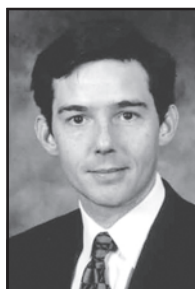
Dana M. Douglas



Dana E. Dupre



Heather A. England



G. Trippe Hawthorne



Kindall C. James



Gene W. Lafitte



Whitney B. Little



Michael J. Madere

Gieger, Laborde & Laperouse, L.L.C., announces that Tara E. Clement, Kelley W. Strain, Carson W. Strickland, Elizabeth A. Chickering, Nicole M. Bowen and Eric C. Walton have joined the firm as associates.

Gordon, Arata, McCollam, Duplantis & Eagan, L.L.P., announces that **William A. Sherwood** has joined the firm as a partner in the Houston, Texas, office; **Julie E. Deshotels** has joined the firm as an associate in the Lafayette office; **Weston W. Sharples, Dana E. Dupre** and **Michelle C. Purchner** have joined the firm as associates in the New Orleans office; and **Ryan J. Richmond** has joined the firm as an associate in the Baton Rouge office.

Hargrove, Smelley, Strickland & Langley, A.P.L.C., announces that Julianna Petchak Parks and Chad E. Sepulvado have joined the firm as associates.

Hulse & Wanek, A.P.L.C., announces that Tammy D. Harris and Laurent J. Demosthenidy have joined the firm as associates.

Jackson Lewis, L.L.P., announces that René E. Thorne will become resident manager of the newly established New Orleans office. Jason M. Stein, a senior associate, will join the firm in the New Orleans office.

Kean Miller Hawthorne D'Armond

McCowan & Jarman, L.L.P., announces that **G. Trippe Hawthorne, Alan J. Berteau, Michael J. O'Brien** and **Anthony M. Williams** have been elected to the partnership.

Lehmann Norman & Marcus, L.C., announces that **Shelley A. Martin** has joined the firm as an associate.

Liskow & Lewis, A.P.L.C., announces the firm's 2008 new partners: Endya E. Delpit in the Houston, Texas, office, and **Dana M. Douglas, Mark L. McNamara** and **Kelly T. Scalise** in the New Orleans office. Also, **Katie M. Caswell, Kindall**

Continued next page



Marilyn C. Maloney



Jamie S. Manuel



Shelley A. Martin



Kevin R. Mason



Mark L. McNamara



Kerry A. Murphy



Michael J. O'Brien



Michelle C. Purchner



Ryan J. Richmond



Michael H. Rodrigue, Jr.



Stacey G. Roland



Kelly T. Scalise



Weston W. Sharples



William A. Sherwood



Mark J. Spansel



Jama R. Vicknair



W. Jill Ruddick Walker



Anthony M. Williams

People continued from page 371

C. James and **Kerry A. Murphy** have joined the firm as associates in the New Orleans office.

Mayer, Smith & Roberts, L.L.P., in Shreveport announces that **W. Jill Ruddick Walker** has joined the firm as an associate.

Mayhall & Blaize, L.L.C., announces that **Jamie S. Manuel** has become a partner of the firm.

McGlinchey Stafford, P.L.L.C., announces that Daniel P. Guillory has joined the firm as an associate in the Baton Rouge office; Heather A. LaSalle has joined the firm as an associate in the New Orleans office; Lorraine Perkins McInnis has joined the firm's New Orleans office; and Lance A. Bowling has returned to the firm and is practicing in the Houston, Texas, office.

Richard G. Perque announces the opening of his new firm, Law Offices of Richard G. Perque, L.L.C., located at 700 Camp St., New Orleans, LA 70130, (504)681-2003.

Porteous, Hainkel and Johnson, L.L.P., announces that five new associates have joined the firm: **Ralph J. Aucoin, Jr.**, **Guy H. Bumpas IV**, **Heather A. England**, **Michael J. Madere** and **Stacey G. Roland**.

Robein, Urann, Spencer, Picard & Cangemi, A.P.L.C., formerly known as Robein, Urann & Lurye, A.P.L.C., announces that **Kevin R. Mason** has joined the firm as an associate.

Staines & Eppling, A.P.L.C., announces that Melissa M. Fuselier has become an associate with the firm located at Ste. 820, 3500 N. Causeway Blvd., Metairie, LA 70002.

NEWSMAKERS

Ashley L. Belleau of Patrick, Miller, Burnside & Belleau, L.L.C., has been elected a Fellow of the American Bar Foundation.

Christopher J. Couch, with the Metairie firm of Babovich Spedale & Chauvin, P.L.C., has been re-elected to the board of directors of the National Association of Retail Collection Attorneys.

James M. Dill, founder of the The Dill Firm in Lafayette, was elected president of the Trucking Industry Defense Association for a two-year term.

Gene W. Lafitte, special counsel with Liskow & Lewis, A.P.L.C., received the Institute for Energy Law's "Special Achievement in Energy Litigation" Award at the sixth annual Energy Litigation Conference.

Frank E. Lamothe III with the Lamothe Law Firm in Covington has been elected to the Board of Governors of the Louisiana Association for Justice for 2007-08.

Marilyn C. Maloney, currently in the Houston, Texas, office of Liskow & Lewis, A.P.L.C., has been elected to the Board of Governors of the American College of Real Estate Lawyers.

Harry J. (Skip) Philips, Jr., a partner in the firm of Taylor Porter, has become a Fellow of the American College of Trial Lawyers.

Mark J. Spansel, a partner in the New Orleans office of Adams and Reese, L.L.P., received the International Risk Management Institute's "Words of Wisdom" Award. The award recognizes a speaker who has made an outstanding contribution to the construction and insurance industries.

People Deadlines & Notes

Deadlines for submitting People announcements (and photos) :

Publication	Deadline
June/July 2008	April 4, 2008
Aug./Sept. 2008	June 4, 2008
Oct./Nov. 2008	Aug. 4, 2008
Dec. 2008/Jan. 2009	Oct. 4, 2008

Announcements are published free of charge for members of the Louisiana State Bar Association. Members may publish photos with their announcements at a cost of **\$50 per photo**. Send announcements, photos and photo payments (checks payable to Louisiana State Bar Association) to: **Publications Coordinator Darlene M. LaBranche, Louisiana Bar Journal, 601 St. Charles Ave., New Orleans, LA 70130-3404 or e-mail dlabranche@lsba.org.**

PUBLICATIONS

- **James A. George of George & George, Ltd.**, was named to *The Best Lawyers in America*® 2008.
- **Heller Draper Hayden Patrick & Horn, L.L.C.**, attorneys received several honors: Jan M. Hayden, Douglas S. Draper and William H. Patrick were named to *Louisiana Super Lawyers* for 2007 and 2008, *The Best Lawyers in America*® for 2007 and the 2007 Chambers USA list. Also, the firm was chosen as a Louisiana "Go-To" firm.

CLASSIFIED

Review past ads at www.lsba.org

CLASSIFIED NOTICES

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

RATES

CLASSIFIED ADS

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

Non-members of LSBA

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

Members of the LSBA

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

Screens: \$25

Headings: \$15 initial headings/large type

BOXED ADS

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

DEADLINE

For the June issue of the Journal, all classified notices must be received with payment by April 18, 2008. Check and ad copy should be sent to:

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

RESPONSES

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

Journal Classy Box No. _____
c/o Louisiana State Bar Association
601 St. Charles Avenue
New Orleans, LA 70130

POSITIONS OFFERED

Shuart & Associates, Legal Search and Staffing, is the leader in legal search and strategic placement of attorneys at all levels throughout Louisiana and the Southeast. With 20 years invested in developing relationships with legal community leaders, and knowing firm cultures and current hot practice areas, Shuart has gained trust and respect as "Louisiana's Leader in Legal." Our accomplishments include hundreds of attorney placements, successful negotiations of practice groups into other firms, and numerous completed searches on behalf of local corporations. We also provide top-caliber legal support staff candidates for both direct hire and contract/temporary placement. All inquiries are held in the strictest of confidence. Shuart & Associates, Legal Search & Staffing, Ste. 2125, 650 Poydras St., New Orleans, LA 70130; (504)836-7595; www.shuart.com; info@shuart.com.

Immediate openings with competitive compensation for attorneys with two to 20 years of experience. Multiple positions available in Lafayette, New Orleans and Mandeville. Practice areas include: tax/estate planning, commercial

real estate, maritime, insurance coverage and defense, medical malpractice, commercial litigation, products liability and oil and gas. All inquiries will be handled with the utmost of confidentiality. All résumés should be e-mailed to contact@lalawrecruit.com. You also may contact Michelle Voorhies Bech, Esq., or Jenny P. Chunn with Legal & Professional Search Group, L.L.C., Ste. 304, 757 St. Charles Ave., New Orleans, LA 70130, telephone (504)388-3463 or (504)343-6644, or fax (504)522-6226.

Attorney. AV-rated Metairie law firm has a position for an attorney practicing in taxation. The ideal candidate would have three to six years' recent experience in tax practice, either with a law firm or with the tax department of a CPA firm. This is a good opportunity with a quality, boutique business firm which is expanding its practice. Please send all replies to P.O. Box 8176, Metairie, LA 70011-8176.

Lafayette law firm. AV-rated law firm seeks attorney with five-plus years' experience in transactional/commercial (litigation or office) practice. Health care transactional and regulatory experience a plus. Great opportunity for progression to partnership or lateral placement. Send résumé to C-Box 229.

FORENSIC DOCUMENT EXAMINER

ROBERT G. FOLEY

Handwriting • Typewriting • Copies
Ink/Paper Analysis & Dating

Certified & Court Qualified in
Federal, State, Municipal &
Military Courts since 1972

Phone: (318) 322-0661
www.robertgfoley.com

TCS Liberty Legal

CORPORATE KITS

STOCK CERTIFICATES

EMBOSSING SEALS

STAMPS/TABBIES

WILL STATIONERY

LASER ENGRAVING

www.tcs-libertylegal.com

800-392-3720

Lafayette law firm. AV-rated law firm with offices in Texas and Louisiana seeks contract and coverage attorney with exceptional legal research and writing skills. Excellent fringe benefits and compensation opportunities commensurate with experience. Willing to consider a flexible work schedule. All replies held in strictest of confidence. Send résumé to C-Box 230.

Suburban New Orleans AV-rated law firm seeks attorneys to practice in the areas of business, transactional and insurance coverage and defense. Three years' minimum experience preferred but will consider other applicants with excellent academic background or experience. Competitive salary and benefits. Please send résumé, transcripts and writing sample to: C. Brechtel, P.O. Box 1910, Gretna, LA 70054, fax (504)362-5938, or e-mail cjb@grhg.net. All replies confidential.

Dugas LeBlanc & Associates, L.L.C., with offices in Donaldsonville and Gonzales, is looking for an associate to work out of its Gonzales office. Compensation based on experience and performance. General law practice with emphasis on personal injury. Contact Bill LeBlanc or Malcolm Dugas at (225)473-3106.

Young firm with expanding business seeks three-plus-year litigation attorney. Perrier & Lacoste offers competitive salary plus excellent benefits. Please forward all résumés to admin@perrierlacoste.com.

Orleans Parish District Attorney is seeking experienced attorneys. Résumés should be mailed to Ste. 700, 1340 Poydras St., New Orleans, LA 70112, Attn: Loretta Brown.

Small uptown firm. AV-rated law firm seeks attorney with five-plus years' experience in insurance coverage and defense. Employment law experience a plus. Excellent fringe benefits and compensation opportunities commensurate with experience. All résumés should be faxed to (504)524-1024.

Small AV-rated New Orleans law firm with national practice in complex litigation, class action and environmental law seeks associate with zero-three years' experience. Competitive salary and benefits commensurate with experience. Please send résumés to 701 Camp St., New Orleans, LA 70130, attention M. Gutierrez.

Travelers, a market leader in the property/casualty insurance industry, has an immediate opportunity in its Mandeville Staff Counsel office for an experienced insurance defense attorney able to handle complex, large exposure cases, with a minimum of seven years' civil litigation experience. Must be a licensed attorney in both Louisiana and Mississippi. Very competitive base salary, outstanding benefits package and a great working environment. For immediate consideration, please visit Travelers.com, search by job number 783952. Travelers is an equal opportunity employer and promotes a drug-free work place.

SERVICES

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

Lee A. Archer, Esq. Superior appellate briefs, comprehensive legal research, statewide service. Assisting Louisiana attorneys since 1992. Call (337)474-4712, e-mail lee@leeaarcher.com, or visit www.leeaarcher.com.

Legal research/writing. Top of spring 1967 class, LSU; LLM, Yale, 1968. Writings include briefs, memoranda and pleadings at courts of all levels, plus law review articles. Experience includes both general civil practice and major litigation. Statewide e-mail service. References upon request. William T. Tête, (504)914-6064.

Brief writing/legal research. Columbia Law School graduate; former U.S. 5th Circuit staff attorney; former U.S. District Court, Western District of Louisiana, law clerk; more than nine years of legal experience; available for brief writing and legal research; references and résumé available on request. Douglas Lee Harville, lee.harville@theharvillelawfirm.com, (318)222-1700.

EXAMINER OF QUESTIONED DOCUMENTS

Wills • Checks
Altered Records
Disputed Signatures

Mary Ann Sherry, M.B.A., C.D.E.

Board Certified; Court Qualified
DIPLOMATE

NAT'L ASSOCIATION OF DOCUMENT EXAMINERS

Greater N.O. Area (504) 889-0775
Outside Greater N.O. (888) FORGERY

Discovery and Analysis of Digital Evidence

- Recover Deleted Documents
- Determine Patterns of Use
- Reconstruct E-mail
- Identify Crucial Evidence

www.DigitalForensicsSolutions.com

GIAC Certified Forensic Analysts (GCFA)

(504) 957-5814



Want MORE from Your Legal Practice?

Are you a Solo Practitioner looking for the resources of a larger firm? Or, is your present firm not managed the way you prefer? If you think Covington is the place you want to be, we have the answer! Let us be Your Office, Resource and Efficiency Solution.

Give Us a Confidential Call.

(985) 789-7397

FOR RENT MANDEVILLE

Three offices for rent together or individually in new building in Old Mandeville. Utilities included, copier available for use, use of two conference rooms, kitchen and patio included. (504)491-1330.

FOR RENT NEW ORLEANS

Luxury 2,000 square feet of office space available, 670 Robert E. Lee Blvd., New Orleans, LA 70124. Open floor plan downstairs, including conference area with fireplace, travertine floors, full kitchen with granite, patio and atrium. Three offices on second floor; wood floors, 2.5 baths and alarm system. Call Andree Pitard, (504)288-9960, (504)231-7333 or (504)599-1213. \$2,250 a month.

WANTED TO PURCHASE

Law Firm Wanted to Purchase

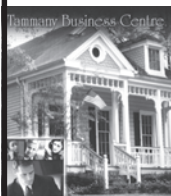
My client is seeking to purchase a solo practice or single-partner Northshore law firm (Mandeville, Covington or Madisonville, not Slidell). Current partners/owners to remain until smooth transition is accomplished (including particulars of the areas of law, client introductions and operational matters). If you are looking to retire, relocate or pursue other interests, this could be your perfect opportunity. Please contact Jennifer at The Lemmon Law Firm, P.O. Box 904, Hahnville, LA 70057, (985)783-6789. All inquiries strictly confidential.

INDEX TO ADVERTISERS

ABA Retirement Funds	310
ABA Section of Business Law	309
ADR inc/Thomas K. Foutz	356
Alston Law Firm, L.L.C.	352
Aubert Law Firm	374, 375
Bourgeois Bennett	369
Cardone Law Firm, A.P.L.C.	359
Christovich & Kearney, L.L.P.	353
Construction Management Solutions, L.L.C.	361
David S. Cook	362
Digital Forensics Solutions	374
Docusource	326
Kay E. Donnelly & Associates	357
DV Consulting Co., L.L.C.	379
Robert G. Foley	373
Garvey, Smith, Nehrbass & North, L.L.C.	337
Gilsbar, Inc.	IBC
The Law Offices of Deborah M. Henson	381
LaPorte, Sehr, Romig, Hand	311
Legier & Materne	IFC
LexisNexis	306
MAPS, Inc.	355
Montague, Pitman & Varnado	375
Plastic Surgery Associates	363
Rimkus Consulting Group, Inc.	360
Schafer Group, Ltd.	358
Mary Ann Sherry	374
Stanley, Flanagan & Reuter	343
The Law Office of Kevin Stockstill	311
John Talamas	333
Template, Inc.	305
Texas Corp. Supplies	373
West, A Thomson Business	OBC
Law Office of Julie Brown White, L.L.C.	353

FOR RENT IN COVINGTON

Prime location in downtown Covington has office suites to rent for lawyers and other professionals. Monthly rentals range from \$400 to \$500 and include high-speed Internet (including wireless), full use of conference room and reception area and other amenities. Please call (985)264-0667 or e-mail info@aubertlaw.com.



MISSISSIPPI ATTORNEY CAREY R. VARNADO

Tulane Law 1976
Selected to "Best Lawyers in America"

Available for case referrals and
to attend depositions and hearings

Post Office Drawer 1975
Hattiesburg, MS 39403
(601) 544-1234
cvarnado@mpvlaw.com

UPDATE

LSBA Bill of Rights Section Holds 20th Anniversary Luncheon

The Louisiana State Bar Association's (LSBA) Bill of Rights Section celebrated its 20th anniversary at a November 2007 luncheon honoring Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr.

At the luncheon, Robert G. Pugh of Shreveport was remembered as an early founder of the section, which was approved by the LSBA House of Delegates in 1987.

Attending the luncheon were Immediate Past Section Chair Samuel S. Dalton ("Old Salt of the Bill of Rights"), current Chair Charles R. "Chick" Moore, Vice Chair (and another founder) Professor Paul R. Baier, Secretary-Treasurer Jelpi P. Picou, Jr. and special guests Judge James C. Gulotta, Judge James L. Dennis and Judge Eldon E. Fallon. Stalwart section members A.J. Levy, Raul R. Bencomo, Scott U. Schlegel and Keith Daigle welcomed new members Raymond S. Steib, Jr., Anthony J. Guarisco (one of the framers of Louisiana's Declaration of Rights and former state senator) and Marjorie R. Esman (executive director of the ACLU of Louisiana).

Table talk guided by Chick Moore prompted Judge Dennis to remark that the Bill of Rights is in danger unless its spirit is rekindled in the hearts of judges and lawyers of each new generation, one of the aims of the section. Ideas focused on future programs, the section's newsletter (soon to be electronic), increasing membership, the section's Executive Council (of which Judge Dennis is a member), and taking section programs

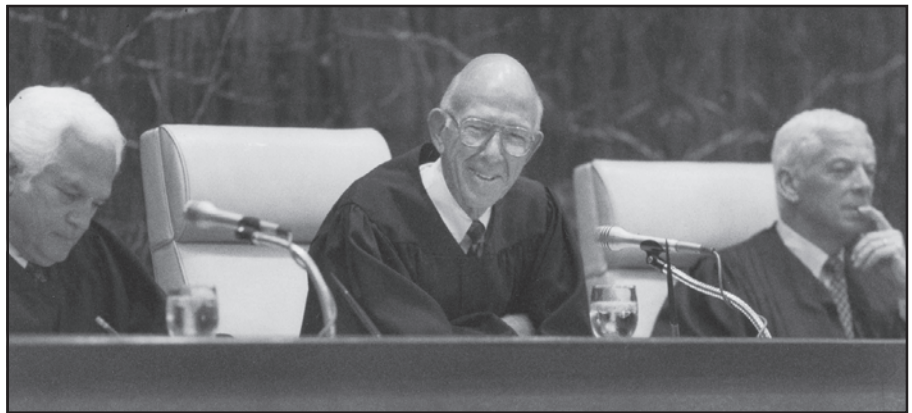
on the road to Shreveport, Monroe, Lafayette and Lake Charles, with evening roundtables on Bill of Rights issues.

Urging caution before surrendering precious freedoms, Judge Gulotta spoke passionately on the Patriot Act and the Fourth Amendment.

Chief Justice Calogero discussed the history over the past generation of the

Louisiana Supreme Court's encounters with the Bill of Rights, both state and federal, with personal reflections on his predecessor and friend, Chief Justice John A. Dixon, Jr., and Justices Tate, Barham and Dennis, all bulwarks of the Bill of Rights, spanning 30 years of public service and "judicial backbone."

U.S. Supreme Court Justice Hugo



This photograph of former Louisiana Supreme Court Chief Justice John A. Dixon, Jr., center, with Justice Pascal F. Calogero, Jr., left, and Justice Walter Marcus, taken at Dixon's retirement proceedings in 1990, greeted guests as they arrived at the Bill of Rights Section luncheon.



Attending the anniversary luncheon of the Louisiana State Bar Association's Bill of Rights Section were, from left, Section Vice Chair Professor Paul R. Baier, Judge James C. Gulotta, honoree Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr. and Section Chair Charles R. "Chick" Moore.

Black joined the table talk via sound recordings from the Library of Congress: "Why did they write the Bill of Rights? They were written to make it more difficult to convict people of crime. They were, every one, intended to make it more difficult before the doors of a prison closed on a man because of his trial." Justice Black's faith ("No higher duty, no more solemn responsibility, rests upon this Court, than that of translating into living law and maintaining this constitution shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution — of whatever race, creed or persuasion") is on the masthead of the section's newsletter.

A photograph of Chief Justice Dixon, Justice Calogero and Justice Walter Marcus, taken at Dixon's retirement proceedings in 1990, greeted guests as they arrived at the luncheon. It added a touch of nostalgia as Chief Justice Calogero approaches the longest tenure of any Louisiana Supreme Court justice. Through the initial pledge of the late James A. Coleman, Sr., the Bill of Rights Section is sponsoring the painting of an oil portrait of Chief Justice Dixon, to be hung in the gallery of Chief Justices in the new museum of the Louisiana Supreme Court. Former Dixon law clerks, Robert G. Szabo, Van Ness Feldman and Judge Max N. Tobias, Jr., are members of the John A. Dixon, Jr., Portrait Committee. To make a contribution towards Chief Justice Dixon's portrait or to join the section, contact Chair Chick Moore, moore@mwflaw.net.

Francophone Section Initiates Internships of French Attorneys

The Louisiana State Bar Association's Francophone Section has been developing closer ties with attorneys from France.

In 2003, Section President John A. Hernandez III met Philippe Billon, then bâtonnier of the Versailles Bar. They developed plans on "twinning" the two bar associations. In 2006, a document was signed in Versailles by members of

the Versailles Bar, Richard L. Becker of the Lafayette Parish Bar Association and then-Louisiana State Bar Association President Marta-Ann Schnabel. Representing Louisiana at the signing ceremony was Warren A. Perrin, president of CODOFIL (Council for Development of French in Louisiana).

As a result of these relationships, two French lawyers have benefitted by being invited to complete internships in Lafayette.

Marlène Durand is a law student from Bordeaux, France. She has completed a three-month internship for Perrin, Landry, deLaunay, Dartez & Ouellet. She has a five-year degree in both American and French law from Clermont-Ferrand in Paris and Bordeaux, France. She also worked for U.S. Federal Magistrate Mildred E. Methvin.

Karel Roynette, an attorney from Versailles, is currently undertaking a six-month internship with Perrin, Landry, deLaunay, Dartez & Ouellet. When he returns to France, he plans to work in the international business law field.

Rubin Receives 2007 LSU Law Center Alumnus Award

Michael H. Rubin, a senior attorney in the Baton Rouge office of McGlinchey Stafford, P.L.L.C., and a former Louisiana State Bar Association president, was honored in November 2007 with the Louisiana State University Paul M. Hebert Law Center Distinguished Alumnus Award. He is a 1975 graduate of the Law Center.

This award is presented to individuals who exemplify the highest quality and ethical standards of the Law Center. The award recognizes personal and professional achievements and loyalty to the Law Center. Nominations are submitted by members of the Law Center Alumni Board of Trustees and the chancellor of



Michael H. Rubin

the Law Center. A final selection is determined by an advisory committee.

Rubin is the immediate past president of the American College of Real Estate Lawyers. He also served as president of the Southern Conference of Bar Presidents, the U.S. 5th Circuit Bar Association and the Baton Rouge Bar Association. He has served on the boards of the Louisiana Bar Foundation and the National Conference of Bar Presidents and on the Louisiana Supreme Court Committee on Judicial Ethics.

He also is a member of the American Academy of Appellate Lawyers, the American Law Institute, the American College of Commercial Finance Lawyers and the American College of Mortgage Attorneys.

Judge Young Elected President of Juvenile and Family Court Judges Group

Judge Paul Young of the Caddo Parish Juvenile Court in Shreveport has been elected president of the Louisiana Council of Juvenile and Family Court Judges.

Judge Young attended Centenary College in Shreveport from 1972-76 and earned his law degree from Vanderbilt Law School in Nashville, Tenn., in 1980. Returning to Shreveport, he worked as a staff attorney at Northwest Louisiana Legal Services in 1980-81, as a law clerk for Judge James Clark and the late Judge Paul Lynch of the First Judicial District Court from 1981-82, and then served as senior staff attorney with the Louisiana Mental Health Advocacy Service from 1982-92. He was appointed executive director of Northwest Louisiana Legal Services and served from 1992 until his election to the Caddo Parish Juvenile Court in 1999.

The Louisiana Council of Juvenile and Family Court Judges is a voluntary organization to educate judges in juve-



Judge Paul Young

nile and family law issues; to build appropriate collaborative relationships with other juvenile justice stakeholders; and to provide leadership at a statewide level in children and family issues affecting the judicial system.

Appellate Judges Conference Conducted in New Orleans

The Council of Chief Judges of the State Courts of Appeal recently held its annual conference in New Orleans. The

Council is part of the American Bar Association Judicial Division and is a nationwide network of chief judges of intermediate state courts. The council's mission is to afford a body for consultation concerning the improvement of the administration of justice, rules and methods of procedure, and the organization and operation of state intermediate appellate courts. The council is associated with the National Center for State Courts.

Chief Judge Ulysses Gene Thibodeaux is the president-elect of the Council of Chief Judges of the State Courts of Appeal.



Among the attendees at the Council of Chief Judges of the State Courts of Appeal conference in New Orleans were, from left, Judge Edwin A. Lombard, Louisiana 4th Circuit Court of Appeal, as the designee of Chief Judge Joan Armstrong; Judge Vanessa G. Whipple, Louisiana 1st Circuit Court of Appeal; and Chief Judge Ulysses Gene Thibodeaux, Louisiana 3rd Circuit Court of Appeal. Photo by Susan Crapanzano Kalmbach.

Alcohol and Drug Abuse Hotline

Director William R. Leary 1(866)354-9334
Ste. 4-A, 5789 Hwy. 311, Houma, LA 70360

Area	Committee Contact	Phone
Alexandria	Stephen E. Everett	(318)640-1824, (318)443-6312
Baton Rouge	Steven Adams David E. Cooley John A. Gutierrez	(225)753-1365, (225)924-1510 (225)751-7927, (225)753-3407 (225)715-5438, (225)744-3555
Houma	Bill Leary	(985)851-0611, (985)868-4826
Lafayette	Alfred "Smitty" Landry Thomas E. Guilbeau James Lambert	(337)364-5408, (337)364-7626 (337)232-7240 (337)233-8695, (337)235-1825
Lake Charles	Thomas M. Bergstedt Nanette H. Cagney	(337)433-3004, (337)558-5032 (337)437-3880
Monroe	Robert A. Lee Nancy Carol Snow	(318)387-3872, (318)388-4472 (318)366-1820
New Orleans	Deborah Faust Donald Massey Dian Tooley	(504)304-1500 (504)585-0290 (504)861-5682, (504)831-1838
Shreveport	Bill Allison Ed Blewer Steve Thomas	(318)221-0300, (318)865-6367 (318)227-7712, (318)865-6812 (318)872-6250

The Lawyers Assistance Program, Inc. provides confidential assistance with problems such as alcoholism, substance abuse, mental health issues, gambling and all other addictions.

NW La. Pro Bono Project Recognizes Outstanding Attorney Volunteers

Judges of the First Judicial District Court and the Northwest Louisiana Pro Bono Project in November 2007 recognized the contributions of time and talent by volunteer attorneys who assisted Pro Bono Project clients in the past year.

Three attorneys received outstanding service awards: Richard E. Hiller of Smith Shuey; Nyle A. Politz of Jones Odom Davis & Politz; and Sarah L. Giddens of the Caddo Parish Public Defenders Office.

The Pro Bono Project is financially assisted by the IOLTA program of the Louisiana Bar Foundation, by district and city court filing fees and by the Shreveport Bar Association.

By the end of December 2007, nearly 500 people received legal assistance from the efforts of the following attorneys:

Tom Arceneaux
Steve Baker
Mary Lou Blackley
Gordon Blackman
Claude Bookter
Tom Bordelon
Danielle Brown
Laura Butler

James Caldwell
 Nelson Cameron
 Steve Carby
 Cynthia Carroll
 Billy Casey
 Ree Casey
 Emily Chafin
 Trina Chu
 Kelly Curry
 Katherine Dorroh
 Robert Eatman
 Melissa Flores
 Margrett Ford
 Krystil Garrett
 Sarah Giddens
 Kent Gill
 Harold Gilley
 Joseph Gilsoul
 Lake Hearne
 Kenneth Hickman
 Richard Hiller
 Erika Hyde
 T. Haller Jackson III
 Robert Jahnke
 Keisha Jones-Joseph
 Bill Kendig
 Ray Kethely
 Norman Lafargue
 Sean Landry
 Samantha McAllister
 Deryl Medlin
 Lance Mosely
 Edward Mouton
 Ross Owen
 Margaret Patton
 Charles Phillips
 Nyle Politz
 David Rabb, Jr.
 John Ratcliff
 Chatham Reed
 Alex Rubenstein
 John Settle
 Curtis Shelton
 Sherlyn Shumpert
 Craig Smith
 Steve Soileau
 Warren Thornell
 Charles Tutt
 Erin Lee Waddell
 Vickie Warner
 Don Weir, Jr.
 David White
 Clair White
 Fiona York

Pro Bono Project Announces 2008 Officers and Board Members

The Pro Bono Project (New Orleans) recently installed its 2008 officers and board members.

Mark C. Surprenant is serving as chair; Mark A. Cunningham, first vice chair; Justin I. Woods, second vice chair; Judge Jay C. Zainey, secretary-treasurer; and A. Wendel Stout, immediate past chair.

Serving on the 2008 board are David Anderson, Judge Robin M. Giarrusso, Jan M. Hayden, Brian A. Jackson, Catherine E. Lasky, Bernadette R. Lee, William Lurye, Mark A. Moreau, Carole Cukell Neff and Marta-Ann Schnabel.

Ex officio board members are David J. Krebs, 2006 chair; Marion D. Floyd, representing the Jefferson Bar Association; John E. McAuliffe, Jr., representing the New Orleans Bar Association; Cindy M. Petry, representing the 22nd Judicial District; J. Van Robichaux, representing the St. Bernard Bar Association; and Rachel Piercey, executive director, The Pro Bono Project.

Volunteers Recognized for Service to The Pro Bono Project at Annual Event

Several attorneys and law firms were honored at The Pro Bono Project's (New Orleans) annual Volunteer Appreciation

and Recognition Awards Ceremony in December 2007. Presiding over the event was Louisiana Supreme Court Associate Justice Catherine D. "Kitty" Kimble.

The law firms of King, LeBlanc & Bland, P.L.L.C., Chaffe McCall, L.L.P., Adams and Reese, L.L.P., and Leake and Andersson, L.L.P., were collectively awarded the 2007 Law Firm of the Year Award for instituting mandatory pro bono requirements for all attorneys.

Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr. was recognized as 2007 Jurist of the Year for his commitment and advocacy of an adequately funded system of criminal and civil defense for the indigent. In 2007, Chief Justice Calogero worked tirelessly with Judge Jay C. Zainey and retired Judge Melvin A. Shortess, at the request of the Louisiana State Bar Association, to pass a series of emergency orders which allowed non-admitted lawyers from out of state to provide civil legal assistance to those affected by Hurricanes Katrina and Rita under certain circumstances. The court recently extended this rule through 2008.

LexisNexis received the 2007 Corporate Pro Bono Partner Award for being the first corporate sponsor of The Project's annual fundraiser, the Justice For All Ball. LexisNexis also donated monthly research hours to The Project in support of the volunteer private attorneys and paralegals that work on The Project's cases.

The David A. Clarke Law School of

10% discount off first time clients with mention of this ad

- Critical analysis of complex medical records
- Medicare Set-asides
- Catastrophic Case Management
- Chronological timeline
- Expertise in workers compensation, catastrophic injury, traumatic brain injury, spinal cord injury

Legal Nurse Consulting and Case Management Services


Tel: 985-876-7801

DV Consulting Co. L.L.C.

Dawn Vincent RN CRRN LNCC MSCC has services designed to save you both time & money in your practice. Experienced in legal nurse consulting, rehab, case management, workers comp with multi-jurisdictional knowledge, she will provide detailed review of your medical records and assist you with winning your cases.

P.O. Box 1594
 Houma, LA 70361
dawn@dvconsulting.org
 AND
dvconsulting@sw.m.com

View our website at
www.dvconsulting.org for a comprehensive list of services



Dawn Vincent RN CRRN LNCC MSCC President/Owner

PROUD MEMBER

AALNC

AMERICAN ASSOCIATION OF
 LEGAL NURSE CONSULTANTS

Baton Rouge Bar Association

the University of the District of Columbia was recognized as the 2007 Law School of the Year for sending volunteers and for being the first law school to institute a course on the legal, social and cultural ramifications of the Katrina/Rita devastation of New Orleans.

Two awards recognized the importance of language and translation skills. The 2007 Friend of Pro Bono Award recipient is Alianza del Derecho, a law student organization of Spanish-speaking students who provided legal translation services to The Project. The 2007 Pro Bono Interpreter Award recipient is Renata Nasciminto, who is fluent in Portuguese.

Tom Arnold, a retired Boston attorney, and Steve Fischback, a Rhode Island attorney, were named the 2007 Collaborative Team of the Year for working countless hours to assemble a consortium of attorneys from the New England area to handle FEMA appeals cases.

Zakiya LaGrange was recognized as the 2007 Paralegal of the Year for her work on Road Home and succession cases. She is now on staff at The Project.

The 2007 Distinguished Service Award recipients are Chris Ralston and Harry Barton of Phelps Dunbar; Harvey S. (Tad) Bartlett of Krebs, Farley & Pelleteri; Jennifer Wong from the California Bar; John F. Shreves of Simon Peragine Smith and Redfearn, L.L.C.; Julia C. Spear, a staff attorney at the City Court of Slidell, Juvenile Division; Paul H. Villalobos of Jones, Swanson, Huddell & Garrison; Peter Ryan, a Tulane Law student; Steve Anderson, a Florida Coastal Law School student; and the national legal group, Dechert Law Firm, and its pro bono coordinator Suzie Turner.

Attorneys and other professionals were honored for their volunteer services of 50 to 100 and more hours, as were 2007 Contributing Out-of-State Law Firms and 2007 Contributing Law Schools. To review the full 2007 Pro Bono Honor Roll, go to: www.probono-no.org/volapp/.



The Baton Rouge Bar Association's (BRBA) December 2007 luncheon featured Louisiana State University Paul M. Hebert Law Center Chancellor Jack M. Weiss, center. This luncheon was the last one presided over by 2007 BRBA President Barbara G. Baier, left. With them is Gail S. Stephenson, a member of the BRBA board of directors and the Southern University Law Center director of legal analysis and writing and assistant professor of law.



The Baton Rouge Bar Association (BRBA) held its annual Past Presidents' Dinner in October 2007 at the Middleton Bar Center. Attending the event were former BRBA presidents, from left, Gene R. Groves, 1997; Mathile W. Abramson, 2003; Paul Marks, Jr., 1988; and Frank A. Fertitta, 1989.



Greater Covington Bar Association

Roy K. Burns, Jr., 2007 president of the Greater Covington Bar Association, passes his "baby" off to incoming President Phyllis Gremillion at the November 2007 luncheon and CLE.



Perry R. Staub, Jr., right, is the 2007-08 president of the New Orleans Bar Association. With him is outgoing President Judge Carl J. Barbier.

Staub Installed as President of New Orleans Bar Association

Perry R. Staub, Jr., currently the managing partner of Taggart, Morton, Ogden, Staub & O'Brien, L.L.C., was installed as president of the New Orleans Bar Association (NOBA) at the 83rd Annual Dinner meeting in November 2007.

Joining Staub on the NOBA 2007-08 board of directors are Stanley J. Cohn, president-elect; Patricia A. Krebs, first vice president; Brian P. Quirk, second vice president; M. Nan Alessandra, third vice president; R. Patrick Vance, secretary; Mary L. Meyer, treasurer; Judge Carl J. Barbier, past president; and Christopher K. Ralston, Young Lawyers Section chair.

Board members with terms expiring in 2008 are Walter J. Leger, Jr., Judge Nadine M. Ramsey and Sharonda R. Williams. Members with terms expiring in 2009 are Joseph P. Tynan, James M. Williams and Justin I. Woods. Members with terms expiring in 2010 are Dana M. Douglas, James C. Gulotta, Jr. and Timothy F. Daniels.

Judge Barbier was honored in appreciation of his work and dedication as the 2007 NOBA president.

Dana M. Douglas, the 2007 Young Lawyers Section chair, was recognized for her service. She passed the YLS gavel to Christopher K. Ralston.

Fifty-year members in attendance were honored. They were Henry B. Alsobrook, Jr., Judge Martin L.C. Feldman, Fernand F. Willoz III and Sylvan J. Steinberg.



Fifty-year members attending the New Orleans Bar Association's Annual Dinner meeting were, from left, Fernand F. Willoz III, Henry B. Alsobrook, Jr., Sylvan J. Steinberg and Judge Martin L.C. Feldman.

Mintz Receives NOBA's 2007 Arceneaux Professionalism Award

Albert Mintz, a 1951 graduate of Tulane Law School and a partner in the firm of Montgomery, Barnett, Brown, Read, Hammond & Mintz, received the 2007 Arceneaux Professionalism Award at the 83rd Annual Dinner meeting of the New Orleans Bar Association (NOBA). This award, bestowed by the New Orleans Bar Foundation in memory of former NOBA President James C. Arceneaux III, is awarded to one whose practice has exemplified the highest levels of integrity, honor and civility.

Mintz is a member of the American Bar Association, the Louisiana State Bar Association (chair, Indigent Clients Funds Committee), the Louisiana Association of Defense Counsel and the American Law Institute. He also serves as a member of the *Tulane Law Review* Board of Managing Editors, on the Advisory Board of Tulane Law School, and on Tulane's Corporate Law Institute Advisory Committee. He is a life member of the Louisiana Bar Foundation and served as an advisor to the



Albert Mintz



The Law Offices of Deborah M. Henson

New Orleans, Louisiana
504/232-8884

Austin, Texas
512/636-8044

**APPELLATE BRIEF-WRITING
MEMORANDA IN SUPPORT & IN OPPOSITION of MOTIONS
AFFORDABLE REPRESENTATION for DISCIPLINARY MATTERS**

Former Judicial Law Clerk, LOUISIANA SUPREME COURT
Former Counsel, LOUISIANA ATTORNEY DISCIPLINARY BOARD
Appellate & Construction Defect Litigation, Austin Texas - since Katrina

Admitted: Louisiana, Texas, U.S. Supreme Court, U. S. Fifth Circuit

www.deborahmhenson.com

Tulane Law School trial advocacy program. He has been a member of the American Law Institute for more than 25 years and is a Fellow of the American College of Trial Lawyers. He also serves on the Executive Committee of the Tulane Emeritus Club and has served as its vice chair and president.

LOUISIANA BAR FOUNDATION

LBF's Annual Fellows Gala Set for April 18

The Louisiana Bar Foundation (LBF) will hold its 22nd annual Fellows Gala — Advancing Justice and Education through Fellowship — on Friday, April 18. The gala, honoring Distinguished Jurist Thomas F. Daley, Distinguished Attorneys Harry S. Hardin III and Thomas L. Lorenzi and Distinguished Professor Cynthia A. Samuel, will be held at the Ritz-Carlton New Orleans. Cocktails, in conjunction with a silent auction, begin at 6:30 p.m. and dinner and presentations will follow at 7:30 p.m. A patron party will be held the evening before in New Orleans.

Rooms at the Ritz-Carlton are available for both Thursday and Friday. Call the hotel directly at (800)826-8987 and reference the Louisiana Bar Foundation to make the reservation.

Sponsorships are available at the following levels:

Cornerstone Level: \$3,000

Includes 20 patron party tickets, 20 gala tickets with two reserved tables and program recognition.

Capital Level: \$2,000

Includes 10 patron party tickets, 10 gala tickets with one reserved table and program recognition.

Pillar Level: \$1,200

Includes six patron party tickets, six gala tickets and program recognition.

Foundation Level: \$400

Includes two patron party tickets, two gala tickets and program recognition.

Individual tickets to the gala are available for \$150. Young lawyer individual gala tickets are \$100.

Reservations can be made by credit card at www.raisingthebar.org. For more information, contact Danielle Marshall at (504)561-1046 or danielle@raisingthebar.org.

LBF Awards More Than \$2.3 Million in Grants for 2008

The Louisiana Bar Foundation's (LBF) board of directors in November 2007 approved more than \$2.3 million in 2008 funding in the following categories: Administration of Justice, Building Capital Development, Community Partnership Panels, Law-Related Education, Legal Assistance to the Poor, and Loan Repayment Assistance.

The LBF supports programs that provide free legal services for the poor in all 64 parishes of Louisiana. Since 1989, the LBF has distributed more than \$32 million throughout Louisiana to help address the legal needs of indigent citizens, provide a basic understanding of the law, and assist with improvements to the justice system. The funding breakdown follows:

Administration of Justice

Administration of Justice (AOJ) programs work to improve administration of justice and access to justice in Louisiana. AOJ programs include juvenile justice programs such as Teen Courts and Court Appointed Special Advocate (CASA) programs. Teen Courts are diversionary programs for youth, and CASA programs provide a voice in court for abused and neglected children. The AOJ category also includes other juvenile justice and access to justice programs.

Baton Rouge Bar Foundation Teen Court	\$2,000
CASA of Natchitoches	\$10,000
CASA of the 16th JDC	\$7,510
CASA of the 18th JDC	\$3,897
CASA of West Cenia	\$6,943
Iberia Teen Court	\$15,000
Louisiana Access to Justice Program	\$42,693
Mental Health America of Louisiana	\$48,000
Plaquemines Community Care Centers	\$2,000
Teen Court of Morehouse	\$4,649
	\$142,692

Building Capital Development

Annual grants, up to \$25,000, are made to grantees for the purchase of an office building or renovation to existing space.

Acadiana Legal Services Corp.	\$20,000
Calcasieu Women's Shelter	\$25,000
Chez Hope	\$25,000
Lafayette Parish Bar Foundation	\$25,000
Legal Services of North Louisiana	\$15,000
Metropolitan Center for Women and Children	\$25,000
Southeast Louisiana Legal Services Corp.	\$25,000
The Wellspring Alliance for Families	\$25,000
YWCA of Northwest Louisiana/Family Violence Shelter	\$25,000
	\$210,000

Community Partnership Panel

The new Community Partnership Panels act as regional chapters of the Foundation which will identify unmet needs in their community and fund new or existing organizations to address those unmet needs. Each panel has an annual budget of \$15,000.

Alexandria Bar Association	\$1,977
CASA of Jefferson Parish	\$5,000
CASA of Northeast La.	\$10,000
Central Louisiana Pro Bono	\$2,023
Family Violence Intervention Program (FVIP)	\$5,400

Lafayette Bar Foundation	\$750
Orleans Parish Juvenile Court/Youth Empowerment	\$5,000
Southeast La. Legal Services	\$15,000
The Pro Bono Project	\$5,000
The Wellspring Alliance for Families	\$5,000
The Whistle Stop	\$5,000
Training, Education and Mediation for Students	\$15,000
	\$75,150

Law-Related Education

Law-related education programs teach legal rights, responsibilities and the role of the citizen by bringing together teachers, community leaders and legal professionals.

Baton Rouge Bar Foundation	\$6,000
Lafayette Parish Bar Foundation	\$5,000
Louisiana Center for Law and Civic Education	\$34,667
Louisiana Justice Coalition	\$15,000
LSBA Young Lawyers Section	\$10,000
Youth Service Bureau of St. Tammany	\$3,500
	\$74,167

Legal Assistance to the Poor

Legal Assistance to the Poor grants support entities that provide free direct legal services to indigent clients, such as domestic violence programs which enable people to leave abusive relationships and seek safety for themselves and their children; legal services corporations which provide civil legal services to the indigent in each parish of the state; other legal services which provide specialized legal services, such as immigration or health-related services; and pro bono projects, which utilize the local private bar to handle cases for the poor pro bono.

Domestic Violence Programs	\$256,201
Beauregard Community Concerns	\$13,000
Calcasieu Women's Shelter	\$15,000
Capital Area Family Violence Intervention Services	\$12,000
Catholic Charities/Project SAVE	\$26,500
Chez Hope	\$12,000
D.A.R.T. of Lincoln	\$13,000
Faith House	\$16,000
Family Counseling Agency/Turning Point Shelter	\$11,000
The Haven	\$13,000
Metropolitan Center for Women and Children	\$31,000
My Sister's House of the Felicianas	\$2,501
New Start Center	\$9,500
Project Celebration/Taylor House	\$9,600
Safe Harbour	\$9,600
Safety Net for Abused Persons	\$17,000
Southeast Spouse Abuse Program	\$12,500
St. Bernard Battered Women's Shelter	\$5,500
The Wellspring Alliance for Families	\$14,000
YWCA of Northwest Louisiana	\$13,500

Legal Services Corporations	\$980,038
Acadiana Legal Services Corp.	\$274,411
Capital Area Legal Services Corp.	\$166,616
Legal Services of North Louisiana	\$245,000
Southeast Louisiana Legal Services Corp.	\$294,011

Other Legal Services Providers	\$254,092
AidsLaw of Louisiana	\$39,000
Arts Council of New Orleans	\$4,000
Catholic Charities/Immigration Legal Services	\$30,682
Catholic Legal Immigration Network	\$6,410

Innocence Project of New Orleans	\$60,000
Legal Aid Bureau	\$57,000
Louisiana Appleseed	\$3,500
Louisiana Civil Justice Center	\$16,000
Southwest Louisiana Legal Services	\$37,500

Pro Bono Projects	\$184,599
Baton Rouge Bar Foundation	\$25,000
Central Louisiana Pro Bono Project	\$19,000
Lafayette Parish Bar Foundation	\$25,000
Legal Services of North Louisiana	\$20,843
Northwest Louisiana Pro Bono Project	\$22,000
The Pro Bono Project	\$72,756
	\$1,674,930

Loan Repayment Assistance Program

\$84,844
The Loan Repayment Assistance Program provides one-year loans, up to \$5,000, to public interest attorneys with law school debt employed by LBF grantees. Participants are eligible for five years of funding. The loan is forgiven after completion of 12 months of employment with the grantee. Twenty-four grants were awarded for 2008.

For more information, contact Grants Coordinator Kevin Murphy at (504)561-1046.

LBF Welcomes New Fellows

The Louisiana Bar Foundation welcomes the following new Fellows:

Gary A. Bezet	Baton Rouge
I. Jay Krieger	Mandeville
Alainna R. Mire	Alexandria
Mark E. Morice	Gretna

ANSWERS for puzzle on page 347

1	E	X	2	A	M	3	I	N	4	A	T	5	I	O	6	N			
	L			R			N			R		M			A			7	H
8	E	R	R	O	R				9	R	E	P	L	I	C	A			
	C		A		E					E		R			R				B
10	T	W	I	N					11	E	S	T	I	M	A	T	E		
				G			12	A		T		S							A
13	G	E	N	E	V	A				14	C	O	R	15	P	U	S		
	R					E			16	A		N			O				
17	A	N	18	D	F	R	I	S	K			19	S	M	E	20	E		
	N			O			M	T			21	U		P					G
22	G	W	Y	N	E	T	H				23	G	R	E	G	G			
	E			L			N					L		I					O
				24	E	X	T	R	A	D	I	T	I	O	N				

Lucid INTERVALS

By Vincent P. Fornias

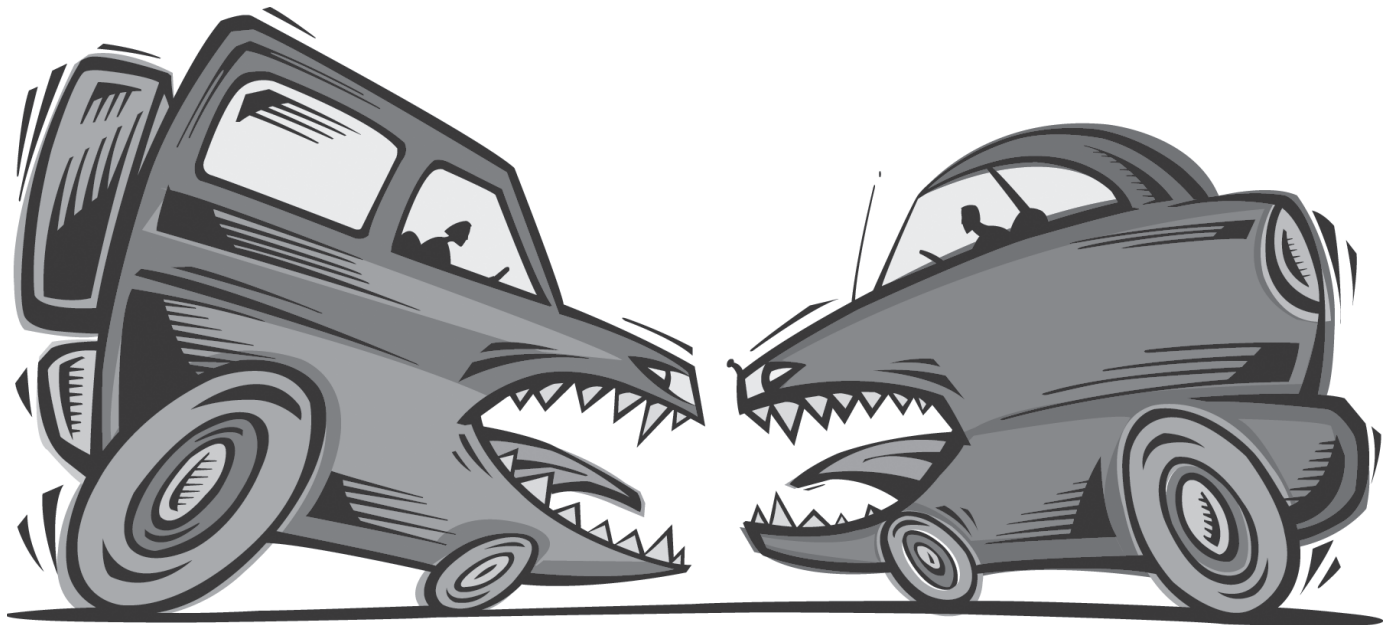
WORDS FROM THE LOVELORN

Whenever writer's block hits and you write legal humor (?) columns, you can always resort to cheap shortcuts. Stuff like consortium testimony, war stories or "she done me wrong" divorce court quotes. You know what I'm talking about. They're out there as plentiful as bad country-and-western song titles. (My personal favorite is "If the Phone Don't Ring, It's Me Not Calling You Up.") So, on a slow news day, here are a couple to test your palette for this genre.

Bob Johnston of the Orleans Bar dusts off this story of his zillionth defense discovery deposition of an injured male plaintiff. Meticulously, Johnston probed the often fertile area of prior injuries, prior accidents . . . and basically any incident since the day the plaintiff was conceived in which he could possibly have been hurt or damaged. Finally, the plaintiff had had enough: "How about my first marriage? Does *that* count? Because she damaged me — *really* bad."

For the sake of equal time, we share the tale of Gary Koederitz of the Baton Rouge Bar in which his female plaintiff was being deposed by a defense lawyer who, with some note of cynicism, wanted to cut to the chase. So with a resigned I've-heard-it-all tone to his voice, he jumped into the consortium issue: "And I suppose you're going to testify that since the accident you haven't had much sex with your husband . . ." Quicker than Gary could painfully flinch or kick her under the conference room table, she replied, "Yeah, that's about the only *good* thing that's come outta this whole ordeal."

Keep the cards and letters coming in. As you can see, I need the material. By the way, my second favorite country-and-western song title is "I Would Have Wrote You a Letter, But I Couldn't Spell Yuck!"



If you have experienced, seen or heard something humorous in your day-to-day legal practice, or if you just have an idea for a Lucid Intervals column, by all means, let the Louisiana Bar Journal know. Mail, fax or e-mail your stories, anecdotes, quotes or ideas c/o Publications Coordinator Darlene M. LaBranche, Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130-3404; fax (504)566-0930; e-mail dlabranche@lsba.org. She'll make sure your "gems" get into the right hands. Keep smiling!



Save on your medical insurance rates with Gilsbar!

If you're not covered by the LSBA sponsored group medical plan with Gilsbar, you may be paying more for your coverage than you have to.

Not to worry. You could save with Gilsbar.

Gilsbar offers LSBA members several high deductible health plan options at competitive rates. Call today for a comparison quote.

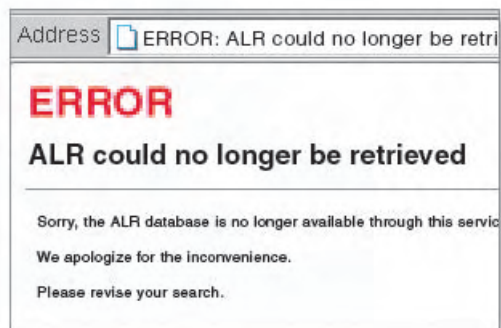
1-800-445-7227
extension 672

**Disability • Life • Long-term Care • Medical for LSBA Members
CNA Lawyers Professional Liability Insurance Program**



Gilsbar, Inc. • P.O. Box 998 • Covington, LA 70434 • www.gilsbar.com

This ad is for informational purposes only and is not a contract. Contact your Gilsbar representative for complete terms, conditions, definitions, exclusions, limitations and renewability. Disability, Life and Medical Insurance (HDHP) are underwritten by New York Life Insurance Co., 51 Madison Avenue, New York, NY 10010. Policy Form GMR. The Health Savings Account (HSA) is subject to limitations and restrictions under the Medicare and Prescription Drug Improvement and Modernization Act of 2003. New York Life bears no responsibility for the establishment and administration of an HSA. One or more of the CNA companies provide the products and/or services described. The information is intended to present a general overview for illustrative purposes only. It is not intended to constitute a binding contract. Please remember that only the relevant insurance policy can provide the actual terms, coverages, amounts, conditions and exclusions for an insured. CNA is a service mark registered with the United States Patent and Trademark Office. Copyright (c) 2007 CNA. All rights reserved.



V.



ALR: Now available only on Westlaw.

Now there's only one screen showing ALR®: Westlaw®. No matter how new, narrow or unfamiliar your legal topic is, ALR gives you a solid understanding of it in a matter of a few clicks. Written by attorney-experts, each ALR article impartially examines a single point of law in great depth, then lists every case in every jurisdiction that discusses it.

**For more information, call 1-800-207-9378 (WEST)
and enter code 69450.**

**ALR exclusively on Westlaw starting 1/1/08*

© 2007 West, a Thomson business L-335686/12-07

Better results faster.

Westlaw®

THOMSON
WEST