


# LOUISIANA BAR JOURNAL

June / July 2022

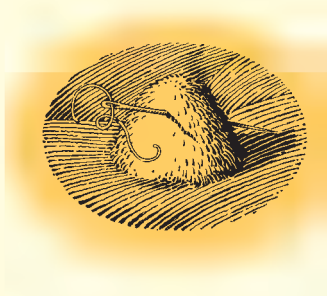
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Stephen I. Dwyer with his wife,  
Jennifer Van Vrancken. Photo by  
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The Louisiana Bar Journal (ISSN 0459-8881) is published bimonthly by the Louisiana State Bar Association, 601 St. Charles Avenue, 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. PM 41450540. Return undeliverable Canadian addresses to: 4240 Harvester Rd #2, Burlington, ON L7L 0E8.

**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.

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By C.A. (Hap) Martin III

# Bumps in the Road

It is hard to believe that it has been a full year since I began my service as Louisiana State Bar Association (LSBA) secretary and editor of the *Louisiana Bar Journal*. It has been an interesting year and a pleasure to collaborate with wonderful colleagues who will no longer be with me as closely as they have been this past year. The rotation of leadership is the way of our system, and it works well. However, there have also been bumps in the road this year.

The first bump, of course, was getting acclimated to this new office and the responsibilities that are incumbent on the position. Then, there were the combined bumps of a resurgence of COVID and the arrival of Hurricane Ida, both within the first two months. Those issues proved to be just that, bumps, and despite their serious natures and consequences, everyone pulled together to complete the needed tasks. Everybody who was involved with the disaster response is to be commended, especially the Young Lawyers Division that performed yeoman's work during the hard times.

It is because of those types of responses that I am looking forward to the new year ahead. The willingness of Louisiana lawyers to volunteer and provide such needed services makes me proud to be a part of the LSBA. I have recently completed an orientation session that provided the participants with information on many of the activities conducted under the auspices of the LSBA. The length and breadth of the actions that are being performed for the public and to enhance the practice of law are truly amazing. From the Wills for Heroes project to the numer-



ous access to justice emphases, including among other things, Lawyers in Libraries, Louisiana lawyers are volunteering their time and talents to provide vital services which would otherwise go lacking.

As you will see from the interview with incoming LSBA President Steve Dwyer, Louisiana lawyers are gifted, talented and provided with professional opportunities which give us the ability to have wonderful careers. For those to whom much is given, much is required, and lawyers are no exception. Mandatory bars have been coming under attack in the last few years, and the LSBA is facing this challenge. When the activities of the LSBA are reviewed, it is a credit to our bar that we have undertaken those activities that make the practice of law better for not only Louisiana lawyers, but also for the litigants and those needing help in asserting their rights through the legal system.

Yes, we have had bumps in the road,

but we have many Louisiana lawyers who have stepped up both in leadership roles and as people making things happen where the rubber meets the road. A number of our Louisiana initiatives have received national recognition and are a credit to our state. I challenge you to spend a few minutes looking at the LSBA website and review the opportunities there for service. President Dwyer is making committee appointments, and there are always opportunities to serve. It is because of the willingness of Louisiana lawyers to fill those gaps and needs that there are not more bumps in the road, and the bumps that we do have are just bumps and not mountains. If you are serving, thank you. If you are not, take this as an opportunity to make a difference. It is a new year for the LSBA. Let's smooth out the bumps together.

A stylized, handwritten signature in black ink, likely belonging to C.A. (Hap) Martin III. The signature is fluid and cursive, with the first letters of the first and last names being prominent.



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# One on One with Stephen I. Dwyer, 82<sup>nd</sup> LSBA President: *On “Attempting the Summit,” Literally and Figuratively*

Interviewed by C.A. (Hap) Martin III

*Stephen I. Dwyer is a founding member and managing partner of Dwyer, Cambre & Suffern, APLC, in Metairie, La. He was born and raised in Metairie. Although a native of the New Orleans area, he received his undergraduate degree from Holy Cross College in Worcester, Mass., and then followed that with a master's degree, with distinction, in English from the University of New Orleans. He attended Loyola University College of Law, obtaining his JD degree, magna cum laude, in 1976.*

*Dwyer served as the Louisiana State Bar Association (LSBA) president-elect in 2021-22. He served on the LSBA's Board of*

*Governors as the Second District representative for two terms, 2011-14 and 2017-20. He has been a longtime member of the Louisiana Bar Journal Editorial Board and has served on numerous LSBA committees.*

*He has been recognized by New Orleans City Business' "Leadership in Law," "Who's Who Among American Lawyers," "Best Lawyers in America," "Top Attorneys in Louisiana" and Louisiana Super Lawyers. He is also a member of the Alpha Sigma Nu Honor Society.*

*Dwyer is married to Jennifer Van Vrancken and is the father of five children. He has six grandchildren.*



(Left) Stephen I. Dwyer with his wife Jennifer Van Vrancken at the Jefferson Parish Government Center. Photo by Steve Randon Studio.

(Above) Stephen I. Dwyer, the 82nd president of the Louisiana State Bar Association.



Stephen I. Dwyer, Alainna R. Mire and H. Minor Pipes III at the 2021 Louisiana State Bar Association Installation Luncheon during the LSBA Annual Meeting and LSBA/LJC Joint Summer School in June. Photo by Matthew Hinton Photography.

**Martin:** Steve, you're from the New Orleans area originally, correct?

**Dwyer:** Yes. I was born and raised in Metairie, attended Jesuit High School in New Orleans and then went away to college for four years at Holy Cross College, which is a Jesuit college in Massachusetts. I look back at those years with a little bit of a chuckle because, at that time, the last thing that I ever wanted to do was be involved in any type of business or institutional occupation. In those years of the hippie culture, I guess many of us were free spirits with dreams of writing the next great American novel.

**Martin:** Let me stop you there for a second, and go back, if I could. How did a boy raised in Metairie end up in a Massachusetts college?

**Dwyer:** I went to Jesuit High School and I had not visited any colleges. When it was time to apply to colleges, I started thinking that I should go somewhere out-of-state for both the educational and life experiences. But I knew that I had to somehow end up somewhere that could be affordable. We couldn't afford the kinds of tuition and expenses that come with many of those out-of-state schools.

So I just took a very practical approach. I said, "I'm going to apply to a handful of schools, and whoever gives me the most money, that's where I'm going." I applied to three Jesuit colleges, Georgetown, Boston College and Holy Cross. I also applied to Notre Dame and to Tulane. I had never seen any of them except for Tulane (and that was primarily from the inside of Tulane Stadium). I received offers from all of them but I got the highest offer from Holy Cross. And that's where I went. I'd never seen the campus. I had never travelled that far. I had never even been to an airport, much less on an airplane. When it was time to leave for college, my parents dropped me off at the airport, and I boarded a plane first to New York's JFK Airport where I had to find my way through the maze of that airport, locate a connecting airline and board another plane for Worcester, Mass. It was quite an intimidating task for a 17-year-old who had never even been to an airport. I arrived in Worcester and took a taxi to the Holy Cross campus where I was deposited at the bottom of the large hill where Holy Cross and its many buildings were situated. Carrying two big suitcases, I started walking up that hill that looked to me like a moun-

tain. We don't have hills in New Orleans! There I was, 17 years old, 1,500 miles from home, struggling up that hill, out of breath and wondering, "What are you doing here?!" But that was the beginning of a wonderful experience and four of the most formative years of my life where I learned in even greater depth the theme of the education that I had received at Jesuit High School, *i.e.*, "Strive to be a man for others."

**Martin:** What about law school?

**Dwyer:** I attended Loyola School of Law and immensely enjoyed my time there. I was married at the time and had one child. Initially, I attended the Evening Program and I taught high school English while coaching the Debate and Speech Team in order to pay my way through law school. It was extremely difficult to teach full time, to coach the Debate and Speech Team after school, and then to make it to law school every evening. (By the way, our Debate and Speech Team won the first debate and speech championship that it had ever won!) The money pressure was huge at the time. I went to see the Dean one day and I told him my tale of woe. He said, "Well, come back and see me tomorrow." So I went back and saw him the next day after he had talked with the President of Loyola and I was offered a full scholarship. I was then able to quit my day job of teaching, go to law school full time and work part time. The efforts of my Law School Dean, Marcel Garsaud, allowed me to continue my law school education. I eventually became editor-in-chief of the *Loyola Law Review*.

As a pleasant aside, I was also able to be a part of a flag football team which we formed and named the "Redactors." We ended up winning the Loyola University flag football championship and, ultimately, competed in a tournament against the flag football champions for each college in the state where we won the Louisiana State Colleges Flag Football Championship. That was an achievement never before accomplished by a law school and never again repeated.



**Martin:** Tell me how you got started working in the law.

**Dwyer:** I always had been interested in real estate. When I was in law school, I would read the real estate section of the newspaper, sometimes before reading the sports section, which was saying a lot for me in those days. So I really wanted to do something involving real estate. At the time, there were a handful of firms in New Orleans that specialized in real estate and they tended to be fairly small-sized firms. I accepted a position with one of those firms because I knew that I'd get thrown into the fire immediately and I would either be burnished or burned up. I've been doing real estate transactional work ever since. So, that's the way that happened. I don't know exactly what led me in that direction other than reading the real estate section of the newspaper every day.

**Martin:** But what led you into the interest in real estate?

**Dwyer:** Attending college in the Northeast, I got a chance to travel a bit and see different towns and cities in that part of the country. As I spent time in those places, I would see growth and activities spawned by creative ideas and concepts; and I would see neighborhoods, buildings and public spaces developing, happening and changing the faces of these cities and their environments. I really love the city of New Orleans and always have. When I first went to Holy Cross and met students from towns all over the country, I remember thinking, "Well, you sure are lucky to have been born and raised in a city like New Orleans. God really smiled on you, and you're really fortunate." I was very proud of being from New Orleans. When I saw these other cities, though, I saw things happening and developing and growing that I wasn't seeing in New Orleans. It lit a fire in me that I wanted to see similar things happen in New Orleans. I began to intently follow news about real estate and new projects in the New Orleans area. That made me want to get more involved in helping things change and develop for the city and for all of us working, living and playing there. I think the spark



Jennifer Van Vrancken and Stephen I. Dwyer at the 2022 Louisiana Bar Foundation Gala in April. Photo courtesy Louisiana Bar Foundation by Matthew Hinton Photography.

that first lit this interest in me came from my summer job while I was in college. I worked as a carpenter's helper building houses. At the end of each day, I could walk away from the job site and turn around and see what we had accomplished. I could see the growth and creativity. I could see what we had built. That really got my interest in real estate and ultimately inspired my desire to be a part of things developing in my hometown. I wanted to be a part of bringing things to life and then watching people enjoy these new creations and hopefully bettering their lives.

**Martin:** You're one of the main partners in your present firm. When did that become established?

**Dwyer:** We started the firm at the end of 1993. So it has been almost 30 years. And we've been doing the same work of commercial real estate transactions ever since. We also handle commercial litigation primarily related to real estate transactions.

**Martin:** How, and when, did you get involved working with the Bar Association?

**Dwyer:** Right around 2010. You know, I realized that I had spent my career up to that time worried about raising a family, building a law firm and being able to support my family. And I began to understand how much the Bar does for our profession and for all of its members. But I felt like I had not given back. And I was involved in many other organizations and public service types of endeavors. I've served as president of the Loyola Law Alumni Association. I've served on the board of directors of the Alumni Association of Loyola Law School, the board of directors of the Alumni Association of Holy Cross College, the Loyola Law School Visiting Committee, the Jefferson Performing Arts Society, Coquille Parks and Recreation and many other activities. But I had done very little for our Bar Association. I never had given back to what supports my profession, my passion, my ability to make a living and which supports my ability to do so much of the very volunteer work that I do. So I decided to change that. In 2011, I ran for the Board of Governors and served a three-year term. Thereafter, I continued serving on various committees for the





Jennifer Van Vrancken and Stephen I. Dwyer at the 2021 Louisiana State Bar Association Annual Meeting and LSBA/LJC Joint Summer School. Photo by Matthew Hinton Photography.

next three years and then ran again for a second term on the Board of Governors, which I served from 2017-20. I've just been very actively and happily involved in the Bar ever since that first election. I've come to know and appreciate so much more fully our Bar Association and its myriad activities serving our members. I've especially come to appreciate and deeply admire both the many volunteers who assist our Bar and who serve on our various committees and the selfless, dedicated individuals who work for the Bar. I've gotten to fully appreciate the various programs that we have and the assistance which we provide for so many of our members in so many ways. I'm immensely happy that I became involved over 10 years ago and don't intend for that involvement to stop. That's really why I ran for President and I intend to give back as much as I can.

**Martin:** You and I parallel each other somewhat in coming to the Bar Association later in our careers, I must say, the same issue. So now, with starting your presidential year with the meeting in Destin, your theme was "Attempting the Summit." Where did that theme come from?

**Dwyer:** Well, first of all, I think, in my life in general, I have never wanted to shirk away from anything that I thought was difficult. I didn't want to not do something because I thought I couldn't. I didn't want to not do something because I thought it was too difficult. I always wanted to work at the challenge that was there and overcome it as best I could. So there was a point in my life, 10 years ago or so, where I felt that I needed two things. I felt that I needed a physical accomplishment. I guess I just wanted to know that I could be physically active and physically accomplished. But at the same time, I needed something spiritually. I needed my faith strengthened and I needed to become closer to God.

In pursuit of these two things, I got on a plane by myself and flew to Africa. I've never been to Africa. But I went to a town called Arusha and hired a guide and spent a week climbing Mount Kilimanjaro. That was just an incredible experience. We took the steepest, most difficult way up the mountain, not chosen by me but chosen by the two people who were on my climb and who had scaled mountains around the world. So that was the "attempting the summit" for me. The route was indeed very diffi-

cult. The last part of the ascent from the base camp to the summit at 10 degrees below zero with strong winds required incredible stamina and willpower to attempt the summit. We finally made it. It was an excruciating climb to get to the summit. As we made the summit, we basically collapsed in a worn-out heap and the guide started passing around hot tea. People today tell me, "Well, you didn't have champagne?" It was not a party. There was no champagne to be had, nor did anyone want champagne. It was very difficult, but it was an achievement. We attempted the summit and we made it. Very difficult climb. And that was the physical achievement for which I yearned.

But there also was the spiritual component. The climb was with an experienced mountain climbing couple from California. At the summit, the husband grabbed his head and screamed out in extreme excruciating pain. He continued to scream as his wife and I tried to get to him. We moved very slowly because, at over 19,000-foot altitude, we couldn't breathe and had to trek very slowly. We reached him in the midst of this screaming anguish. The guide ripped open a medical duffle bag and tried to get oxygen to the husband. It did no good. He continued to grab his head in pain and scream in anguish. Suddenly, he stopped screaming, looked at me and looked at his wife, saying, "I love you. I'm dying!" He then stopped breathing and fell back. His wife jumped on him and started compressing his chest as the guide screamed that she was going to hurt him. But he was gone. His wife continued. Time stood still. I continued to stand at his head and to look down in fear and disbelief. I didn't know what to do. We prayed and she continued doing the compressions. I don't know how much time passed. Suddenly, his body jumped. He opened his eyes. As I stood at his head, he looked up at me and he looked over at her and said, "I was dead." Just like that, "I was dead." So they tried to give him more oxygen. He didn't really fully recover, but his eyes were open and he was able to speak. The guide sent me back down the mountain to the base camp. Of course, I had never



before been to the top of Kilimanjaro but he, nevertheless, sent me down to the base camp by myself. So I had to find my way down the mountain — not an easy feat. I found out later that they carried the husband part of the way down the mountain. He ultimately recovered as he descended. What affected him was something called HACE, high-altitude cerebral edema. It swells the brain and it can kill you. Later, as I sat at base camp with the wife, the husband and the guide, we cried and blankly stared at each other, still unable to fully comprehend what had happened. The husband was the first one to speak. He said, “I have to tell you what happened to me.” He said, “I knew I died, but I was always aware of myself. I was always aware of myself.” He said, “I knew I wasn’t with you anymore. I knew I was in a totally different place. I wasn’t with you. A totally different place. And there were many, many people around me. I recognized none of them. And they all tried to bring me with them into this bright light. I knew that that was my life now and I was ok with it. I knew that’s what I had to do. And I started following them, and suddenly, without warning, I got yanked back.”

So that’s the story of what happened when I attempted the summit. I was trying to achieve two things, a physical accomplishment and a spiritual awakening. I think God was listening.

**Martin:** How do you equate that with the Summer School and the Bar’s Annual Meeting and the theme “Attempting the Summit”?

**Dwyer:** It’s this way. I think that in any field, any endeavor you’re in, there are challenges, challenges that are particular to your field. On the Board of Governors, like any active group, we’ve got challenges and things that we need to do. I’ve got things that I want to address, things that need to be done. You should never be afraid to take on tasks and you should never be afraid to work hard. You should never be afraid to attempt the summit, to attempt to accomplish things and change things where they need to be changed and preserve them where they need to be preserved.



LSBA President Stephen I. Dwyer’s children are, from top to bottom, Rachel Mantooth, Jeremy Dwyer, Jessica Dwyer, Meaghan Dwyer and Brooke Lee. Photo provided by Dwyer Family.



LSBA President Stephen I. Dwyer’s grandchildren are, from left, baby Laken Lee, John Mantooth, Collin Mantooth, London Lee, Emma Mantooth and baby Kate Dwyer. Photo provided by Dwyer Family.





Stephen I. Dwyer, Jennifer Van Vrancken, Sandra K. Cosby, Barry H. Grodsky and Judge Raymond S. Steib, Jr. at the 2021 Louisiana State Bar Association Annual Meeting Opening Reception in June. Photo by Matthew Hinton Photography.

We need to always roll up our sleeves. We always must begin the task at hand with the concept that we're not here to merely be a placeholder. We are here to *create* the places, to get things done, to accomplish that which is before us. So I'm always thinking about what summit I should be attempting. What summit should I climb? And I think it's a good attitude for everybody to have. It represents an optimistic view of the world. Let's always strive to achieve more, not for the sake of achievement but to better our place in life and the lives of our fellow men and women.

**Martin:** What are the things that you're looking to move forward for this year?

**Dwyer:** I have given that quite a bit of thought. There are two areas that have jumped out at me as I have contemplated the coming year. These are things that I have considered for a long time. One is access to justice. And one is not just professionalism, but civility in our profession. And I'm not entirely sure how we improve access to justice, because I think that there are things that

we have to concentrate on in ways that we haven't done before. So let's talk first about access to justice. We are in a profession as lawyers that afforded us the opportunity to help others. We have an obligation. *Noblesse Oblige*. I believe we have been given a gift to be able to be lawyers, and we have an obligation to give back to people who need to use our skills in order to help themselves in their daily lives. But not everybody has the same access to the judicial system that our typical clients have because of many reasons, such as lack of funds, lack of education, lack of knowledge. But what I've noticed is something else that I want to focus on. Many people who need legal services are not even aware that they need legal services, much less how to get them. We have very robust programs of access to justice within the Bar Association. But access to justice programs are not funded very well. Since the early 1990s, the funding for legal services for the poor has increased less than 1% per year for more than 25 years. It does take money to do the things that need to be done. I plan to work on that problem both lo-

cally and nationally. We've already been having Zoom calls with the staffs of our congressional representatives and senators. We're going to continue pursuing whatever routes we can pursue to find better funding for access to justice services. So there's that.

But in terms of making people aware that they even need legal services, I'll give you an example. From a real estate perspective, there are many people in the poorer communities that are living in properties that have actually been inhabited by their ancestors for years. In many cases, successive family members have been in these houses for 50 to 75 years or more. But in many such situations, no one ever knew that there is a process to pass title as owners pass on and that titles have to be transferred and perfected. In many cases, relatives of a deceased owner move into a property. And then their relatives do likewise. Title has never lawfully transferred. Although there is some amount of wealth that is inherent in these properties, that wealth cannot be realized because there is no lawful title. That's just one example where people who need





Sunday family dinner at the Dwyers, prepared by Chef Stephen. Photo courtesy of the Dwyer family.

legal services don't even realize they need legal services, much less how to get such services. It's one thing to build a robust structure of access to justice programs, but that doesn't address the whole community of people who don't even know what they need. They need to be educated about what they need. This problem must be addressed. We need to create the framework to educate those who need our services, as well as to educate those who can provide the services so that they're available when those in need come to us.

**Martin:** And then, the other one was civility.

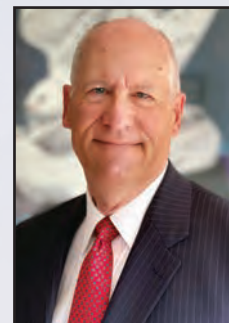
**Dwyer:** Civility and professionalism. We are required to complete a minimum number of professionalism CLE hours every year. I don't think that has created civility among lawyers. I think that we check a box to fulfill that professionalism requirement. Then we go back to arm wrestling and being gladi-

ators with each other. I don't think it serves the profession well. I don't think it serves the reputation of the profession to see lawyers at each other like gladiators out for the kill. I think there needs to be greater civility in our profession. I'm really not sure how we do that, but I am sure that I want to make that a topic of discussion. I want to see if there's something that we can come up with, probably starting in the law schools, that would introduce civility as a way of life among lawyers. We must develop greater respect for each other as professionals, respect for each other in what we have to do and whom we have to represent and how we conduct ourselves. This should start with respecting each other simply as people. I think that type of respect is often missing from the practice of law today.

**Martin:** I think with that, we'll wrap up. I look forward over this next year to working up that summit with you.

**Dwyer:** I hope you do. That's fantastic. I appreciate that.

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# The **RULE** of **LAW**

## What Is It and Is It Still Relevant?

By Nadia E. Nedzel



The rule of law is much talked about, and claims are often made that so-and-so is violating it. But what does that mean? It is regarded as important by many, including the World Justice Forum. Nevertheless, some very questionable leaders (*e.g.*, Vladimir Putin and Robert Mugabe) have claimed that their country has the rule of law,<sup>1</sup> and some scholars claim that it is irrelevant<sup>2</sup> or never existed<sup>3</sup> — but very few define it or explain it. The rule of law, however, does exist, even if (as with all other ideals) it is never fully realized. The fact that it can never fully be realized does not mean that it should be jettisoned. Without it, we would have neither liberty nor economic stability.

This short article will provide a workable definition of the rule of law, a bit of history of how the concept has developed and an explanation of why it remains extraordinarily relevant. History is used to both describe the rule of law and explain how it developed from Anglo-American custom, culture and practical solutions.

As attorneys, we overestimate what law can do and think that we can solve any problem just by passing more law. Ironically, doing so jeopardizes the rule of law. Increased legislation, regulation and the resulting increased bureaucracy creates difficulty knowing or complying with the law and creates incentive to bypass it, leading to corruption and crony capitalism as well as limiting individual liberty and creating expenses for small business.<sup>4</sup>

If we have a better understanding of the rule of law, however, as well as an understanding that we cannot (and should not even try to) create a utopia, we can sustain a country that values individual liberty and promotes prosperity.



## The Rule of Law — Definition and Description

The rule of law (“and not of man”) is “the supremacy of regular law as opposed to arbitrary power.”<sup>5</sup> Substantively, it includes both law and order and limited government,<sup>6</sup> and it describes the relationship between government and governed. Tyrants claim they have the rule of law because they impose law and order, but they certainly do not have what we would recognize as the rule of law. A lack of law and order — a government that cannot or does not enforce laws or stop criminal behavior — means mob violence and chaos (e.g., Afghanistan, Venezuela and Liberia<sup>7</sup>). Thus, a societal expectation of enforcement of the law coupled with a government ready, willing and able to do so is part of the rule of law. However, mere enforcement is insufficient.

The rule of law qua limited government has several identifiable characteristics. It limits legislative power such that all laws must conform to certain principles, not merely that they were passed according to a recognized procedure. Under positivism, a legal theory prevalent in the early 20th century, the morality or lack thereof of law was considered irrelevant, and only the fact that the law was legitimately promulgated was important.<sup>8</sup> Any law passed by means of a legitimate process was unassailable or nearly so in much of the world. Consequently, positivists regarded the abhorrent laws that were passed under Adolph Hitler as lawful because they were passed by recognized legislative process. After World War II, however, legal scholars the world over — including Lon Fuller<sup>9</sup> and Friedrich Hayek<sup>10</sup> — rejected such extreme positivism, emphasizing that law must protect all citizens equally and must be grounded in some sort of morality, though admittedly law and morality are not synonymous. Critical Legal Study/CRT theorists similarly regard law as merely the exercise of power of one group over another, and thus believe that most law is immoral. However, the protection of life and liberty, whether from a mob or from governmental tyranny, enables both liberty and prosperity, and those (I believe) are values most of us would support.

In addition to protecting life and liberty, laws must be certain and known in advance and must apply equally to all. Law

should not target some groups or favor others. As philosopher Michael Oakeshott describes this moral dimension, a “civil association” is a society that does not have an agenda favoring one group over another and does not coerce behavior according to some utopian ideal.<sup>11</sup> Thus, law should be non-instrumental.<sup>12</sup> In other words, the best laws are like traffic rules that are designed to enable smooth, safe and efficient travel for all. They do not dictate where you can go or what you must do, but only how to do it.

Separation of powers is another hallmark of the rule of law, as are procedural rules that prescribe when, where and how the executive may exercise coercive powers, and that exercise of both legislative and executive action must be subject to (judicial) review. The government should not infringe on individual liberty except when the actions of one citizen interfere with the personal liberty of another, and that includes the liberty to compete in the marketplace.

Separation of powers, consistency with fundamental principles, equality under the law and adherence to procedural norms are still not sufficient to ensure the presence of the rule of law. More is needed because power corrupts, and those who have power (or money or both) often do what they can, fair or foul, to impose on others. By the time the Constitution was written in 1787, the Drafters had been writing state constitutions for 10 years and were intimately aware of the problems created by out-of-control legislatures and tyrannical executives.<sup>13</sup> They were also aware of the chaos resulting from weak government. As Madison famously wrote in *Federalist 51*:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed, and in the next place oblige it to control itself.<sup>14</sup>

Consequently, the Framers included in their experimental Constitution a variety of checks and balances in an effort to limit governmental power while at the same time creating a government strong enough

to defend against the potential tyranny of the majority and inherent instability that has long been known as the hallmark of direct democracy.<sup>15</sup> They hoped that the Supremacy Clause would allow the federal government to check misbehaving state governments, and that the sheer number of state governments would check the federal government when necessary (i.e., the vertical checks and balances of a compound republic). They built horizontal checks to stabilize the distribution of power among the three branches of government, and adopted an electoral college to prevent large, urban states from running roughshod over small, rural ones.

As *Federalist 51* further explains, constitutional mechanisms were developed with an aim of ensuring that each branch is financially independent of the others, each branch is given the means and motives to resist encroachment by the others, and personal ambition is made to counteract personal ambition. Powers and limitations were given to all three branches in a structure, resembling the game of rock/paper/scissors, so that each branch can challenge the other two, and no branch has the final word. The Bill of Rights was another effort to circumscribe the power of the federal government. One can argue that none of these measures has performed as anticipated, but they have been effective to varying extents. They are bolstered by Anglo-American legal habits such as *stare decisis* and the jury system.

Case law is another limit on governmental power, whether one considers doctrines such as judicial review or simply the traditional roles jurisprudence and the adversarial system have played. Most of us immediately think of *habeas corpus*, but the jury system and *stare decisis* also limit governmental power. *Stare decisis*, the demand that judges write out their opinions and follow prior case law, adds accountability as well as predictability, while at the same time allowing for incremental change. Thus, jurisprudence grows spontaneously out of perceived need.<sup>16</sup>

The jury system limits power, whether governmental or big money. A jury of people untrained in the law but experienced in real life usually reaches a sensible decision<sup>17</sup> and can send a broad message. Two such examples include the McDonald’s hot coffee case<sup>18</sup> and O.J. Simpson’s acquittal. A jury, angered by the imperious

way McDonald's treated Stella Liebeck's injury claim as compared to 700 similarly burned customers, awarded Liebeck two days' worth of coffee profits as punitive damages.<sup>19</sup> Without discussing the controversy surrounding the verdict, the Simpson jury sent a strong message to the entire nation about racism in the Los Angeles police department.

In any democracy, both government and populace must be constrained. The majority must be stopped from tyrannizing the minority (e.g., witch hunts, lynchings and political/religious oppression). As explained in Madison's *10th Federalist*, democracies are torn apart by such factions, and the only two ways to prevent that harm is either remove the causes of faction or control its effects.<sup>20</sup> Attempts to remove the causes of faction (e.g., the French Reign of Terror) destroy liberty. People have unequal abilities, unequal resources and different morals. Government must protect diversity, that is, civil association, recognizing that at best we can only manage conflict, not resolve it.<sup>21</sup> A compound republic with a large population will develop a multiplicity of factions, making it less likely that any one faction will gain enough power to tyrannize the rest. Consequently, Madison predicted that the multiplicity of factions would have a stabilizing effect in the United States.

At the time of the Framing, it was recognized that a polity was necessary if self-government is to survive. Translated into modern terms, this means a public that recognizes that corruption exists but does not accept it as "normal," and which recognizes that intolerance and crime exist but does not tolerate them.

### Five-Minute Cultural History

A legal system reflects local cultural values. The Anglo-American rule of law grew out of long-standing customs and cultural habits. A.V. Dicey popularized the term "rule of law" in the 19th century to describe the Anglo-Saxon tradition,<sup>22</sup> but the English habit of limiting government predates that by more than a thousand years. Roman historian Tacitus described how the Anglo-Saxons voted to approve or disapprove a king's proposed law and dethroned unpopular kings.<sup>23</sup> That tradition continued after the Norman Conquest. Bracton, the 13th century jurist, stated,

"[I]f the king should be without a bridle, that is without the law, they ought to put a bridle on him."<sup>24</sup> Sixteenth century jurist Sir Edward Coke informed James I that he had to obey the common law.<sup>25</sup> Because Parliament controlled the purse and backed Coke, James I conceded. On eight occasions, English barons forced abusive kings to sign *Magna Carta* and other documents, dethroned them and generally killed them.<sup>26</sup> The French called this the "English Disease," and "absolutist" kings like James I were undoubtedly keenly aware of it.

England never adopted Continental feudalism.<sup>27</sup> English peasants were much more mobile, wealthy and independent than Continental serfs. English children left home in their early or middle teens instead of remaining in one household headed by a dominant male figure as was typical on the Continent. English freemen were leasing and selling land they owned in fee simple long before the Black Death of 1348-1349 as shown in innumerable records. Even peasants who held only copyhold tenure could both inherit and sell the tenure. By the 16th century, private property rights in England were highly developed. Continental visitors who dealt with English peasants described them as very wealthy and individualistic to the point of being arrogant, in contrast with European serfs.

The same individualism was seen in English thought. William of Ockham (1287-1347), a friar, argued with the Catholic Church's view that every being had a preordained place. He believed that God gave man free will, that individuals must govern themselves and have a right to choose rulers in both church and state, and that they have a right to depose rulers who behave badly.<sup>28</sup> Although the Church excommunicated him, those beliefs were consistent with English attitudes at that time and were seen again 500 years later in English and Scottish Enlightenment thinkers Locke, Smith and Hume.

### A Global Value?

Multinational entities like the World Justice Forum portray the rule of law as a global value<sup>29</sup> and incorporate Fuller's principles into their definition of the rule of law, but not the peculiarly Anglo-American focus on law above man. There are, in fact, two related — but not synony-

mous — concepts.

The rule of law grew out of Anglo-American customs and puts law above man. The other concept, *rechtsstaat* (German) or *l'état de droit* (French), translates as "rule through law." R. von Jhering, the "Dicey" of Germany, posited that the state has supreme power, grants individual rights and limits its own power in compliance with its own law. Civil law, as established by Justinian's Digest, originally posited that the emperor is the law, and it can be argued that post-Napoleon the legislative body inherited the emperor's supreme power. Legislated law remains the primary legitimate source of law in the civilian tradition.<sup>30</sup> To this day in France, once passed, a law cannot be attacked as unconstitutional and can never be challenged by an individual. The French concept of judicial review is quite different from ours.<sup>31</sup>

Under positivism, *rechtsstaat* became mere formalism, but was rehabilitated after World War II. It is now enshrined in the German *Grundgesetz für die Bundesrepublik Deutschland* or Basic Fundamental Law. It consists of two components, the formal (procedural) *rechtsstaat*, which focuses on guarantees of supremacy of law and checks on state power; and the substantive *rechtsstaat*, which guarantees basic rights. It has eliminated the theory that the state must limit itself and postulates that it is the government's duty to protect individual rights.<sup>32</sup>

Significant differences remain, however. The Anglo-American conception of rights traditionally is negative — it is the right to be left alone, unconstrained by government. In contrast, *rechtsstaat* posits that the government must respect human dignity and reflects other values that grew out of Rousseau's (as opposed to Locke's) philosophy.<sup>33</sup> Government must guarantee and nurture a person's dignity, but that guarantee is offset by the constraints of social solidarity and the individual's responsibilities to the state. The Federal Republic of Germany is defined as a social state whose goal is to provide social-welfare benefits to remedy social inequality, protect the socially weak and "balance or correct the unfortunate effects of a market economy." Thus, in contrast with the Anglo-American conception of government as a civil association, under *rechtsstaat*, government is an enterprise association: its fundamental goals include



instrumental laws to remedy what it perceives as society's ills.<sup>34</sup>

Rule of law and *rechtsstaat* lead to different results. *Rechtsstaat* jurisdictions like France and Germany are much more cautious about market freedom and recognize many more things as rights (e.g., housing, health care and employment), though they may or may not be able to protect or provide for those rights. Sadly, often the only legal philosopher American law students are exposed to is Ronald Dworkin. Dworkin's view is more *rechtsstaat* than rule of law because he posits that equality trumps liberty.<sup>35</sup> Roberto Unger goes beyond and rejects individualism entirely, regarding society as an eternal conflict between the haves and the have-nots, rejecting both the rule of law and *rechtsstaat*.<sup>36</sup> Law students should be exposed to all views.

## Relevant? More Than Ever!

Although 90% of the world's jurisdictions are civilian, common-law countries tend to be more entrepreneurial and have stronger, more vibrant economies<sup>37</sup> (e.g., the United States developed three of the four successful COVID-19 vaccines). Regardless of whether you prefer the rule of law or *rechtsstaat*, we are currently facing severe challenges to both. COVID has challenged our conception of what governments should and should not do to protect health. Some protections have been both ineffective and intrusive. Governmental malfeasance seems widespread, with corruption and crony capitalism more prevalent than ever. Furthermore, the increasing inability or unwillingness of local governments to stop or discourage crime threatens basic safety and security for the majority, most of whom are law-abiding. The greatest threat to the long-term stability of the legal system, however, may be the cynical view that law is grounded immorally in power, and not in universal values. If this view becomes widely accepted, we will face catastrophic civil instability. We will never achieve the ideal of the rule of law, but reaching for it to improve our legal system and our expectations of both it and ourselves is necessary.

The rule of law bakes no bread, it is unable to distribute loaves or fishes (it has none), and it cannot protect itself against external assault, but it remains the most

civilized and least burdensome conception of a state yet to be devised.<sup>38</sup>

## FOOTNOTES

1. Nadia E. Nedzel, "The Rule of Law: Its History and Meaning in Common Law, Civil Law, and Latin American Judicial Systems," 10 Rich. J. Global L. & Bus. 57, 59 (2010).

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11. Michael Oakeshott, "The Rule of Law" in *On History and Other Essays* 178 (1986).

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14. James Madison or Alexander Hamilton, *The Federalist No. 51* (Feb. 6, 1788), available at: <https://founders.archives.gov/documents/Hamilton/01-04-02-0199>.

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18. *Liebeck v. McDonald's Restaurants*, 1995 WL 360309 (N.M. Dist. Ct. 1994).

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30. Nedzel & Capaldi, *supra* note 21, at 104.

31. Nedzel, *supra* note 8, at 73; Louis Favoreu & Loïc Philip, *Les Grandes Décisions Du Conseil Constitutionnel* (11th ed. 2001); Bernard Chantebout, *The French constitution: Its Origin and development in the Fifth Republic* (David Gruning trans., 1998) (Louisiana, as a mixed jurisdiction, has substantive civil law but Anglo-American procedure and legal philosophy).

32. Heuschling, *État de Droit, Rechtsstaat, Rule of Law* 149-54 (Dalloz 2002); "The German Idea of Freedom," 10 Or. Rev. Int'l. L. 1, 4 (2008); Ranier Grote, "Chapter 13: The German Rechtsstaat in a Comparative Perspective," 38 IUS Gentium 193, 199-200 (2014).

33. See Nedzel, *supra* note 8, at 65-66, 67, 75, 85, 111, 141.

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35. Ronald Dworkin, *Sovereign Virtue* 1 (2000), discussed in Nedzel *supra* note 8, at 136-40.

36. Unger, *supra* note 3; Alan Hunt, "The Theory of Critical Legal Studies," 6 Oxford J. L.S. 1 (1986).

37. Svetozar Pejovich, *Law, Informal Rules, and Economic Performance: The Case for Common Law* (2008); see also, Nedzel, *supra* note 8, at 178-97 & sources cited therein.

38. Michael Oakeshott, *supra* note 11, at 178 (1986).

Nadia E. Nedzel, JD, LL.M., is Professor of Law Emeritus at Southern University Law Center (SULC), where she taught both common law and civil law. Her primary research focus is on the rule of law, and she has published seven articles and two books on the topic as well as books and articles on other topics. She has lectured in the United States and in several foreign countries, including Russia where she addressed the Russian Constitutional Court. She organized a global conference on corporate governance conducted at SULC from June 8-10, 2022. (nnedzel@sulc.edu; P.O. Box 9294, Baton Rouge, LA 70813)





## Pro Bono Campaign Launched: **GET INVOLVED!**

By H. Minor Pipes III

*“Equal justice under the law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society . . . it is fundamental that justice should be the same, in substance and availability, without regard to economic status.”*

— U.S. Supreme Court Justice Lewis Powell, Jr.

### The Need for Pro Bono

In the wake of the COVID-19 pandemic and numerous named hurricanes over the past two years, Louisiana’s low-income and vulnerable populations need legal help now more than ever. Before COVID-19 hit, Louisiana had the second highest poverty rate in the country. Call volume to Southeast Louisiana Legal Services for civil legal aid increased overwhelmingly the first eight weeks of 2021, as compared to the first eight weeks of 2020. There was a 100% increase for family law issues; a 200% increase in calls for both consumer/finance issues and employment discrimination; a 291% increase in housing matters; and a 2020% increase in calls about unemployment compensation.<sup>1</sup> Similar increases

in other areas of the state demonstrate the incredible need for legal help.

Additionally, the national Justice Gap, written before the pandemic, reported that, each year, approximately 86% of those low-income people facing civil legal issues received little to no help resulting in their issues being unresolved.<sup>2</sup> With the number of those living in poverty ever increasing and the numerous barriers low-income people face in accessing civil legal resources, the need for pro bono legal representation is greater than ever. With the help of the private bar, more Louisianans will be able to access relief through the courts.



## Why Do Pro Bono?

Rule 6.1 of the Louisiana Rules of Professional Conduct suggests that every attorney in Louisiana should aspire to “render at least 50 hours of pro bono publico legal services per year.”<sup>3</sup> Every Louisiana attorney is encouraged to meet that goal, but Bar leadership also recognizes that this can be a difficult task when juggling work and personal commitments.

This is why Louisiana attorneys are asked to join the Louisiana State Bar Association Access to Justice Commission’s “20 in 2022” campaign that sets an attainable goal of performing 20 hours of pro bono services in 2022. Recommit to assisting those who may not have fared as well during the past two years. Louisiana pro bono organizations are onboard to help attorneys meet this goal. These organizations can provide opportunities that meet the attorney’s willingness to give, and include both virtual and remote volunteer opportunities.

“Whether one wishes to help a person in need with one hour or one month of services, contact your local Louisiana pro bono organization. Not only are families, children, veterans and persons with disabilities benefiting from your gift, there are numerous advantages to you and your practice. Through CLE trainings, mentorship and additional training resources, Louisiana’s pro bono programs provide everything you need to provide your legal knowledge pro bono, not to mention the personal validation you will feel when helping those in need,” campaign organizers said.

The website, [www.probono.net/la](http://www.probono.net/la), provides numerous training resources including recorded CLE sessions and training manuals. Further, attorneys can obtain CLE credit for providing pro bono; for every five hours of pro bono work, attorneys can receive one hour of CLE credit (with a maximum of three hours of CLE credit a year).<sup>4</sup>

Christopher K. Ralston, immediate past president of the Louisiana Bar Foundation, said, “Phelps Dunbar LLP encourages all of our attorneys to provide pro bono service. Not only is providing pro bono work the right thing to do because of the incredibly high rate of vulnerable populations in Louisiana, but it provides our attorneys, especially our younger attorneys, with invaluable legal experience.”

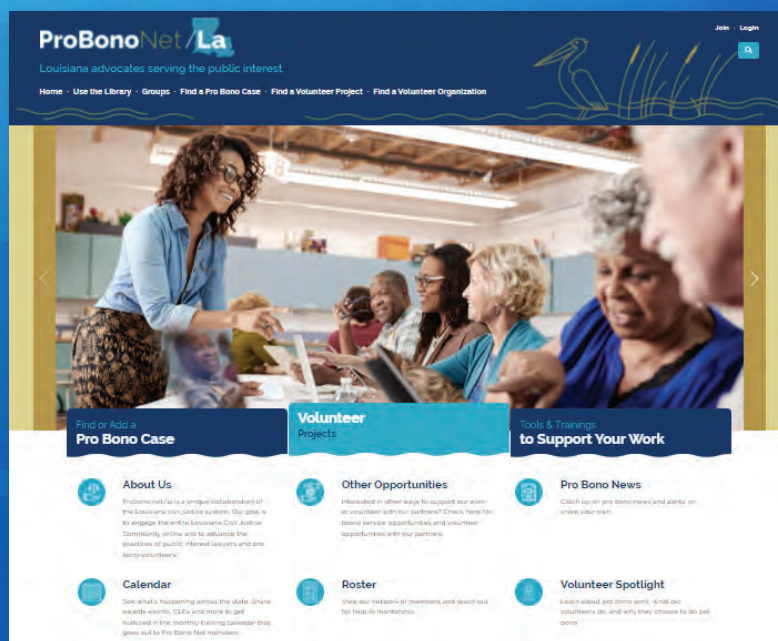
## Top 5 Reasons to Do Pro Bono Through a Pro Bono Program

- 1 CLE credit for pro bono hours.
- 2 Guidance from experienced mentors.
- 3 Pro bono programs provide malpractice insurance.
- 4 CLE training on critical issues like family law, consumer issues and successions.
- 5 Networking with colleagues and potential employers.

## How to Do Pro Bono

Contact one of our state’s pro bono programs to get started on your 20-hour commitment. Our pro bono programs have cases spanning the breadth of civil legal issues, including domestic, consumer, wills and estates, child welfare, and immigration matters. Further, there are both in-person and remote volunteer opportunities. Find a list of statewide pro bono programs at: [www.lsba.org/documents/ATJ/ProBonoOpportunities2.pdf](http://www.lsba.org/documents/ATJ/ProBonoOpportunities2.pdf).

To learn more about the numerous pro bono opportunities available across the state and to access the many pro bono resources, join [www.probono.net/la](http://www.probono.net/la).



# PRO BONO VOLUNTEER OPPORTUNITIES

## Acadiana Legal Service Corp.

[www.la-law.org](http://www.la-law.org)  
Offices in Alexandria, Franklin,  
Lafayette, Lake Charles, Monroe,  
Natchitoches, & Shreveport  
Main Office: 1020 Surrey St.  
Lafayette, LA 70501  
(337) 237-4320  
Greg Landry, Director  
greg@la-law.org

## Baton Rouge Bar Foundation Pro Bono Project

[www.brba.org](http://www.brba.org)  
544 Main St., Baton Rouge, LA 70802  
(225) 344-4803  
Robin Kay, Pro Bono Coordinator –  
robin@brba.org  
R. Lynn Haynes, Pro Bono Coordinator –  
lynn@brba.org

## Central La. Pro Bono Project, Inc.

[www.clpbp.net](http://www.clpbp.net)  
610 Murray St., Alexandria, LA 71301  
(318) 449-9778  
Lizz Moreau White, Executive Director  
probonopro.lizz@yahoo.com

## CrescentCare Legal Services

[www.crescentcare.org](http://www.crescentcare.org)  
Main Office: 1631 Elysian Fields Ave., New  
Orleans, LA 70117  
504-323-2642  
Ranie Thompson, Director of Legal Services  
Ranie.Thompson@crescentcare.org

## Justice & Accountability Center of Louisiana

[www.jaclouisiana.org](http://www.jaclouisiana.org)  
4035 Washington Avenue, Suite 203, New  
Orleans, LA 70125  
Sherie Thomas, Outreach & Engagement  
Director  
Sherie@JACLouisiana.org

## Lafayette Bar Foundation – Lafayette Volunteer Lawyers

[www.lafayettebar.org/volunteer](http://www.lafayettebar.org/volunteer)  
2607 Johnston St., Lafayette, LA 70503  
(337) 237-4700  
Marilyn Lopez, Director of Pro Bono Services  
marilyn@lafayettebar.org

## LA.FreeLegalAnswers.org

Online pro bono program  
(virtual opportunity)  
504-619-0104  
Rachael Mills, ATJ Projects Counsel  
rachael.mills@lsba.org

## Louisiana Appleseed

[www.louisianaappleseed.org](http://www.louisianaappleseed.org)  
1615 Poydras St., Ste 1000, New Orleans,  
LA 70112  
(504) 561-7312  
Adrienne Wheeler, Executive Director  
awheeler@louisianaappleseed.org

## Shreveport Bar Foundation Pro Bono Project

[www.shreveportbarfoundation.org](http://www.shreveportbarfoundation.org)  
625 Texas St., Suite 100, Shreveport, LA 71101  
(318) 221-8104  
Lucy Espree, Pro Bono Coordinator  
lespree@shreveportbar.com

## Southeast Louisiana Legal Services

[www.slls.org](http://www.slls.org)  
Offices in Baton Rouge, Covington,  
Gretna, Hammond, Houma,  
New Orleans & St. Charles  
Main Office: 1340 Poydras St., Suite 600,  
New Orleans, LA 70112  
(504) 529-1000  
Elena Perez, Pro Bono Program Managing  
Attorney • eperez@slls.org

## Southeast Louisiana Legal Services – North Shore Pro Bono Project

[www.slls.org](http://www.slls.org)  
423 N. Florida St.  
Covington, LA 70433  
(985) 893-0076, ext. 519  
Cynthia Bordonaro, North Shore Pro Bono  
Coordinator  
cbordonaro@slls.org

## Southwest Louisiana Bar Foundation

[www.swlabf.org](http://www.swlabf.org)  
P.O. Box 1139  
Lake Charles, LA 70602  
(337) 564-6413  
Leslie Mize  
lesliemusso@gmail.com

## The Pro Bono Project

[www.probono-no.org](http://www.probono-no.org)  
935 Gravier Street, Ste. 1340  
New Orleans, LA 70112  
(504) 581-4043  
C.C. Kahr  
cckahr@probono-no.org

## FOOTNOTES

1. See, Southeast Louisiana Legal Services March 2021 Newsletter, <https://slls.org/march-2021-newsletter/>.

2. See, the Justice Gap Report, [www.lsc.gov/our-impact/publications/other-publications-and-reports/justice-gap-report](http://www.lsc.gov/our-impact/publications/other-publications-and-reports/justice-gap-report).

3. See, Louisiana Rules of Professional Conduct, [www.ladl.org/Material/Publication/ROPC/ROPC.pdf](http://www.ladl.org/Material/Publication/ROPC/ROPC.pdf).

4. See, Louisiana Supreme Court Rule XXX, Rule 3, Regulation 3.21.

*H. Minor Pipes III served as the 2021-22 Louisiana State Bar Association (LSBA) president and is currently serving as immediate past president. He is a founding member of the New Orleans firm of Pipes Miles Beckman, LLC. He received a BA degree in 1991 from Penn State University and his JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. He also served as 2016-18 LSBA treasurer and as 2015-16 president of the Louisiana Bar Foundation. (mpipes@pipesmiles.com; Ste. 1800, 1100 Poydras St., New Orleans, LA 70163)*







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# MEMBER BENEFITS: LSBA's Travel Discounts for Members

By Elizabeth S. Sconzert

**T**he Louisiana Bar Journal Editorial Board, in collaboration with the Louisiana State Bar Association's (LSBA) Outreach Committee, continues its series of articles highlighting benefits available to LSBA members. This article profiles various travel discounts.

It's been a long two years, especially when Zoom and Teams meetings replaced travel and in-person meetings. Now that the travel restrictions have eased somewhat, clients are back in their office, and depositions and hearings are going forward in person, remember that the LSBA has many travel discounts that can provide a significant savings for you — both professionally and personally.

With discounts statewide, including luxury hotels such as the Four Seasons and the Ritz-Carlton, you can treat yourself to a staycation in New Orleans, like my husband and I recently enjoyed, with the added bonus of up to 40% off your nightly rate. With the Ritz-Carlton, for example, you can use your LSBA discount online (corporate code = VUD) or call the Reservation Hotline, request the Business Travel Coordinator and ask for the Louisiana State Bar Association rate. Either way, our LSBA Member Benefit Team has made the process simple,

and I can offer from experience that the significant discount on the room frees up some room in the budget for a nicer meal, spa services or both.

While I'm touting the benefits of the LSBA discounts, remember that the LSBA has also negotiated discounts with Avis and Budget. If you're lucky enough to find a rental car these days, use your LSBA discount when booking. Each of these companies has a specific discount code, so you'll need to check out the car rental tab on the LSBA website for the specific details. With prices as high as they are, I can confirm that both my clients (and my personal pocketbook) have appreciated the 20% discount. Be sure to book directly through the link on the LSBA website at: [www.lsba.org/Members/TravelServices.aspx](http://www.lsba.org/Members/TravelServices.aspx).

Do yourself a favor and peruse the "Members Resources" tab on the LSBA website at [www.lsba.org](http://www.lsba.org). Check out "Tools, Services and Discounts," then move on to the "Discount Business Services" section, where you'll see the various travel discounts link that shares the hotel and rental car relationships that our LSBA team has created for its members. It's definitely worth a look.

*Have you used a member benefit through the LSBA? Tell us about it! Contact the Outreach Committee at [outreach@lsba.org](mailto:outreach@lsba.org) with questions, comments and ideas for future "Member Benefits" articles. Remember . . . you can always learn more about discounts on the LSBA's website at [www.lsba.org/Members/DiscountBusinessServices.aspx](http://www.lsba.org/Members/DiscountBusinessServices.aspx).*

*Elizabeth S. Sconzert is a partner in the Mandeville office of Blue Williams, LLC. She is a member of the Louisiana State Bar Association's Outreach Committee. ([esconzert@bluewilliams.com](mailto:esconzert@bluewilliams.com); 1060 W. Causeway Approach, Mandeville, LA 70471)*



## Other Business Discounts

- ▶ ABA Members Retirement — (800)826-8901  
[abaretirement.com/welcome/louisiana](http://abaretirement.com/welcome/louisiana)
- ▶ Avis — (800)633-3469  
Discount #A536100
- ▶ Budget Rent A Car — (800)527-0700  
Discount #Z855300
- ▶ Clio — (888)858-2546
- ▶ CosmoLex — (866)878-6798
- ▶ Dell — (800)999-3355 or 1-877-568-3355
- ▶ Gilsbar — (504)529-3505  
(800)GIL-SBAR
- ▶ LawPay — (866)376-0950
- ▶ Office Depot — (800)650-1222
- ▶ Shop ABA — (800)285-2221

For more information on LSBA Member discount business services, visit [www.lsba.org/goto/businessservices](http://www.lsba.org/goto/businessservices)



# 22<sup>ND</sup> ANNUAL LOUISIANA STATE BAR ASSOCIATION COMPLEX LITIGATION SYMPOSIUM

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**For more information and to register online, please visit: [www.lsba.org/CLE](http://www.lsba.org/CLE)**

# 2022-2023 Louisiana State Bar Association Officers and Board of Governors

## Officers 2022-23

### Stephen I. (Steve) Dwyer President

Stephen I. (Steve) Dwyer is a founding member and managing partner of Dwyer, Cambre & Suffern, APLC, in Metairie. He received a BA degree in 1970 from Holy Cross College in Worcester, Mass.; an MA degree, with distinction, in 1972 from the University of New Orleans; and his JD degree, *magna cum laude*, in 1976 from Loyola University College of Law (editor-in-chief, *Loyola Law Review*).

Dwyer served as 2021-22 president-elect of the Louisiana State Bar Association (LSBA) and as the Second District representative on the LSBA's Board of Governors from 2011-14 and 2017-20. He served on the *Louisiana Bar Journal's* Editorial Board. He is a member of the Committee on the Profession, the Bar Governance Committee and the Audit Committee. He served as an adjunct faculty member for Loyola University College of Law and as a lecturer for various CLE programs.

He has been recognized by *New Orleans City Business* "Leadership in Law," "Who's Who Among American Lawyers," *Best Lawyers in America*, "Top Attorneys in Louisiana" and *Louisiana Super Lawyers*. He is a member of Alpha Sigma Nu Honor Society.

Dwyer chaired the award-winning St. Tammany Recreation District #14 (Coquille Parks and Recreation) and led the financing and development of the 150-acre sports, recreation and park complex in western St. Tammany Parish. He chairs the Miracle League Northshore for special needs children, serves as president of the Jefferson Performing Arts Society, is a member of the Loyola University College of Law Visiting Committee, and serves on the Holy Cross College President's Council and on the boards of directors of the Holy Cross Lawyers' Association and the Holy Cross Alumni Association. He has served as president of the Loyola Law School Alumni Association and on the Loyola Alumni Association's Board of Directors.

He is married to Jennifer Van Vrancken, an attorney and Jefferson Parish Councilwoman, and is the father of five children. He has four grandchildren.

*Ste. 200, 3000 W. Esplanade Ave., Metairie, LA 70002*  
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*email: sdwyer@dwycambre.com*  
*website: https://dwycambre.com*

### Shayna L. Sonnier President-Elect

Shayna L. Sonnier is a partner in the Lake Charles firm of Hunter, Hunter & Sonnier, LLC. She received



Stephen I. Dwyer



Shayna L. Sonnier



C.A. (Hap)  
Martin III

a bachelor's degree in 2000 from the University of Louisiana-Lafayette and her law degree in 2003 from Dedman School of Law, Southern Methodist University. She was admitted to practice in Texas in 2003 and in Louisiana in 2005.

Sonnier served as 2018-20 treasurer of the Louisiana State Bar Association (LSBA). She also served as the Fourth District representative on the LSBA's Board of Governors. She served as chair, immediate past chair, chair-elect, secretary and District 4 representative on the LSBA's Young Lawyers Division (YLD) Council. She also co-chaired the YLD's Wills for Heroes Committee.

She currently serves on the boards for the Louisiana Bar Foundation and the Louisiana Center for Law and Civic Education.

Sonnier has served as secretary, treasurer, president-elect, president and past president of the Southwest Louisiana Bar Association (SWLBA) and is a past president of the SWLBA's Young Lawyers Section.

In her community, she is a member of St. Luke Simpson United Methodist Church, where she serves as secretary on the Church Council.

*1807 Lake St., Lake Charles, LA 70601*  
*(337)436-1600 • fax (337)439-2505*  
*email: ssonnier@hunterlaw.com*

### C.A. (Hap) Martin III Secretary

C.A. (Hap) Martin III is a member in the Monroe firm of Shotwell, Brown & Sperry, APLC. He received a BS degree in civil engineering in 1977 from Louisiana Tech University and his JD degree in 1980 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1980.

Martin served as the Seventh District representative on the Louisiana State Bar Association's (LSBA) Board of Governors from 2015-18. He is a former member of the Judges and Lawyers Assistance Program Board, and serves on the *Louisiana Bar Journal's* Editorial Board, the LSBA's Bar Governance Committee, the Mandatory CLE Committee and on the Governing Council of the Insurance, Tort, Workers' Compensation and Admiralty Law Section. He is a former member of the LSBA's House of Delegates. He is a master emeritus of the Judge Fred Fudickar, Jr. American Inn of Court.

In his community, he is a member of St. Paul's United Methodist Church and has held several leadership positions in his denomination on the local, district and conference levels. He has served as legal counsel volunteer with the Louisiana Purchase Council of the Boy Scouts of America (and its predecessor) and has coached several youth sports organizations.



Martin and his wife, Diane Caraway Martin, have been married for more than 40 years and are the parents of two children.

1101 Royal Ave., Monroe, LA 71201  
P.O. Box 14140, Monroe, LA 71207-4140  
(318)388-4700 • fax (318)388-4736  
email: camiii@centurytel.net  
website: www.shotwell-law.com

### **Lawrence J. (Larry) Centola III** **Treasurer**

Lawrence J. (Larry) Centola III is a principal member of the New Orleans firm of Martzell, Bickford & Centola. He received a BA degree in political science in 1998 from Louisiana State University and his JD degree in 2001 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2001.

Centola has served as the First District representative on the Louisiana State Bar Association's (LSBA) Board of Governors. He also serves on the Client Assistance Fund Committee. He served as the LSBA Young Lawyers Division chair in 2012-13.

He serves on the board of directors of the Federal Bar Association New Orleans Chapter as the membership chair and on the Board of Governors for the Louisiana Association for Justice. He served as the torts bar examiner for the Louisiana Bar exam.

In a ceremony at the United States Supreme Court, he was presented with the 2008 Sandra Day O'Connor Award for Professional Service from the American Inns of Court. The national award is presented to an attorney who has been practicing for fewer than 10 years.

He and his wife Amy are the parents of three girls.  
338 Lafayette St., New Orleans, LA 70130  
(504)581-9065 • fax (504)581-7635  
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website: www.mbfirm.com

### **H. Minor Pipes III** **Immediate Past President**

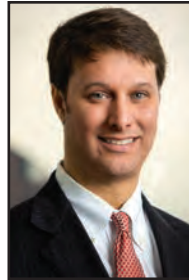
H. Minor Pipes III is a founding member of the New Orleans firm of Pipes Miles Beckman, LLC. He received a BA degree in 1991 from Penn State University and his JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1996.

Pipes served as Louisiana State Bar Association (LSBA) president in 2021-22, president-elect in 2020-21 and treasurer in 2016-18. He represented the First District on the Board of Governors and has served in the House of Delegates. He has co-chaired the LSBA's Summer School for Lawyers. He was a member of the Leadership LSBA Class in 2002 and received the LSBA's President's Award in 2009. He served as 2015-16 president of the Louisiana Bar Foundation.

In his community, he volunteers his time with the Hogs for the Cause program, Kid Smart and Trinity



**Lawrence J. (Larry)  
Centola III**



**H. Minor Pipes III**



**Scott L. Sternberg**

Episcopal School.

Pipes and his wife, Jill McKay Pipes, have been married for 23 years and are the parents of three children.

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website: www.pipesmiles.com

## **Board of Governors 2022-23**

### **Scott L. Sternberg** **First Board District**

Scott L. Sternberg is the managing partner of Sternberg, Naccari & White, LLC, with offices in New Orleans and Baton Rouge, where he focuses on business, general litigation and media matters. His media focus has involved litigation for media, including *The Times-Picayune* and *The Advocate*, and legal and legislative work for the Louisiana Press Association. He loves the evolution of legal workflow and is a regular speaker and writer on innovations in the practice. He received his journalism and law degrees from Louisiana State University. He was admitted to practice in Louisiana in 2010.

Sternberg is entering the last year of his three-year term on the Louisiana State Bar Association's (LSBA) Board of Governors. Prior to his Board service, he was the 2019-20 LSBA Young Lawyers Division (YLD) chair and served on the YLD in various capacities for six years. On the YLD, he founded and chaired the first Louisiana Young Lawyers Conference in 2019. He has served on numerous LSBA committees and was a member of the 2012-13 Leadership LSBA Class.

He currently serves on the boards of the Public Affairs Research Council of Louisiana, the Federal Bar Association of New Orleans, the American Red Cross for Southeast Louisiana, the Pro Bono Project and the Louisiana Center for Law and Civic Education. He has been recognized as one of *Gambit Weekly's* "40 Under 40" and, for multiple years, as a *Louisiana Super Lawyer* and a *New Orleans Magazine* "Top Lawyer." In 2019, he received the LSBA's Citizen Lawyer Award for his pro bono, professional and charitable activities. He has twice received the Stephen T. Victory Memorial Award for most outstanding *Louisiana Bar Journal* article and serves on the *Journal's* Editorial Board. In 2020, he was named a "Leader in Law" by *New Orleans CityBusiness*. In 2021, the Louisiana Foundation Against Sexual Assault named him the "Ally of the Year" for his work representing and advocating for victims of sexual assault. He has taught at LSU and Loyola.

Sternberg and his wife Breland are the parents of four children.

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email: scott@snw.law  
website: www.snw.law

**J. Christopher Zainey, Jr.**  
**First Board District**

J. Christopher (Chris) Zainey, Jr. is a partner with Lambert Zainey Smith & Soso, PLC, in New Orleans. Upon graduation from Loyola University College of Law in 2008, he served as a federal judicial law clerk to Judge James J. Brady of the U.S. District Court for the Middle District of Louisiana. Since entering private practice, his practice has focused primarily on representing plaintiffs in maritime personal injury and Jones Act cases, wrongful death cases, catastrophic personal injury cases and complex tort litigation.

Zainey serves as chair of the Louisiana State Bar Association's Community Action Committee and is a member of the House of Delegates and Nominating Committee. He is a regular lecturer discussing maritime law updates for the LSBA's Annual Meeting and is a regular panelist for the LSBA's Admiralty Law Symposium in New Orleans every fall. He also frequently lectures, speaks and/or moderates legal panels for various organizations, including the Louisiana Association for Justice (where he serves on the Board of Governors and co-chairs the New Lawyers Division), the Federal Bar Association (where he serves on the YLD Board of Directors), Loyola University College of Law and Tulane University Law School, on topics including federal practice and procedure, professionalism, maritime law, oral arguments and environmental toxic torts. He has taught trial advocacy at Louisiana State University Paul M. Hebert Law Center and has been recognized by *Louisiana Super Lawyers* for the past several years.

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**Erin O. Braud**  
**Second Board District**

Erin O. Braud is staff counsel for The Hartford Insurance Co. (Law Offices of Julie E. Vaicius) in Metairie. She received a BA degree in mass communications in 2002 from Louisiana State University and her JD degree in 2005 from Loyola University College of Law. She was admitted to practice in Louisiana in 2005.

Braud has served as chair, chair-elect, secretary and District 2 representative on the Louisiana State Bar Association's Young Lawyers Division Council. She has participated in several Law Day and Constitution Day presentations.

In her community, she serves as a board commissioner of the Plaquemines Medical Center.

Braud and her husband, S. Jacob Braud, are the parents of three children.

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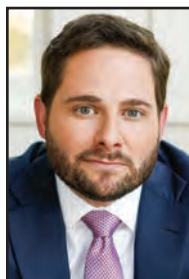
J. Christopher  
Zainey, Jr.



Erin O. Braud



Dwazendra J.  
Smith



Adam P. Johnson

**Dwazendra J. Smith**  
**Third Board District**

Dwazendra J. Smith is a solo practitioner at D. Smith Legal, LLC, in Lafayette. She received a BA degree in political science in 2006 from Louisiana State University-Shreveport and her JD degree in 2009 from Southern University Law Center. She was admitted to practice in Louisiana in 2009 and in Texas in 2015.

Smith is a board-certified family law specialist, certified by the Louisiana Board of Legal Specialization. In addition to family law, her practice includes criminal defense (state and federal), personal injury (state and federal), wills and successions.

In addition to her current service on the Louisiana State Bar Association's (LSBA) Board of Governors, she served in the LSBA's House of Delegates from 2014-20. She was a member of the 2013-14 Leadership LSBA Class and served on the LSBA Continuing Legal Education Program Committee and the Access to Justice Subcommittee on Pro Bono Award Nominations.

Smith is a member of the Lafayette Parish Bar Association (since 2009), the American Bar Association (since 2009) and the Lafayette Volunteer Lawyers (LVL) Committee (since 2013). She provides pro bono services through the LVL and the Lafayette Bar Association's Protective Order Panel. She currently chairs the Pro Bono Advisory Committee. She served as president of the Lafayette Young Lawyers Association in 2015-16. She was a member of the Louisiana Bar Foundation's Acadiana Community Partnership Panel in 2015-16.

She is the recipient of the LSBA's Pro Bono Publico Award, the LSBA's Pro Bono Century Award, the Lafayette Bar Association's Outstanding Attorney Award and the Lafayette Bar Association's Top LVL Award.

Smith is the mother of one child.

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**Adam P. Johnson**  
**Fourth Board District**

Adam P. Johnson is a partner in The Johnson Firm in Lake Charles. He received a BS degree in business management in 2006 from Louisiana State University and his JD degree in 2009 from Southern University Law Center. He was admitted to practice in Louisiana in 2009.

After clerking for Judge Robert Wyatt and Judge Ronald Ware, Johnson joined his father Terry and brother Jonathan in the practice of law. He and his brother now own The Johnson Firm in Lake Charles. The firm's attorneys focus on family, criminal defense and personal injury law.

Johnson served in the Louisiana State Bar Association's (LSBA) House of Delegates. He was a member of the 2013-14 Leadership LSBA Class and co-chaired the 2014-15 Leadership LSBA Class. He served as the LSBA Young Lawyers Division (YLD) District 4 representative from 2015-19. He also assists with writing and grading



the Criminal Law Section of the Louisiana Bar Exam.

He is the president-elect of the Southwest Louisiana (SWLA) Bar Association and a former president of the SWLA Young Lawyers Division.

In his community, he is a member of Trinity Baptist Church.

Johnson and his wife, Ashley Leonards Johnson, principal of T.H. Watkins Elementary School in Lake Charles, are the parents of three children.

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### **Adrian G. Nadeau**

#### **Fifth Board District**

Adrian G. Nadeau is an equity partner and member of the Management Committee for Long Law Firm, LLP, in Baton Rouge. He received a BA degree in political science and history in 1999 from Louisiana State University and his JD/BCL degree in 2002 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2002.

Nadeau served in the Louisiana State Bar Association's (LSBA) House of Delegates and was a member of the 2008-09 Leadership LSBA Class and co-chair of the 2009-10 Leadership LSBA Class.

He is a member of the Baton Rouge Bar Association and chair of its Construction Law Section. He also is a member of the American Bar Association's Forum on the Construction Industry.

In his community, he is a member of the board of directors for Heritage Ranch, a nonprofit Christian children's home in the Baton Rouge area for youth experiencing personal crises. He is a Eucharistic minister at St. Jude the Apostle Catholic Church in Baton Rouge.

Nadeau and his wife, Carol Ann Nadeau, are the parents of four children.

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### **Carrie LeBlanc Jones**

#### **Fifth Board District**

Carrie LeBlanc Jones is the chief legal officer and general counsel for the Louisiana State Board of Nursing (LSBN), where she focuses on administrative and regulatory law. She has successfully represented the LSBN in state and federal court, served as prosecuting attorney in disciplinary matters, and advised board members and staff on a variety of legal issues. Prior to joining the LSBN, she was a partner at the law firm of Shows, Cali & Walsh, LLP. She received a BA degree in mass communication from Louisiana State University, her JD/BCL degree from LSU Paul M. Hebert Law Center and a MBA degree from Southeastern Louisiana University. She was admitted to practice in Louisiana in 2008.

Jones has served as immediate past chair, chair, chair-



**Adrian G. Nadeau**



**Carrie LeBlanc Jones**



**Charles D. Elliott**

elect, secretary and District 5 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division (YLD) Council. She helped plan the inaugural Louisiana Young Lawyers Conference, co-chaired the Richard N. Ware High School Mock Trial Competition, served as the Professional Development Seminar coordinator, chaired the Bridging the Gap Committee and served on the Awards Committee. She received the LSBA YLD Chair's Award in 2016 in recognition of her ongoing commitment and service to the Richard N. Ware High School Mock Trial Competition. She served as a member of the *Louisiana Bar Journal* Editorial Board and was a member of the 2013-14 Leadership LSBA Class. She also volunteered as a mentor in the LSBA's Transition into Practice Mentoring Program.

Her commitment to the legal profession includes two terms on the Louisiana Attorney Disciplinary Board. After the Louisiana Supreme Court appointed her to a second term, she served as the board's chair in 2017, the youngest board member to hold this position. She is a member of the Baton Rouge Bar Association and serves on the Louisiana Bar Foundation's Capital Area Community Partnership Panel.

In her community, she is a parishioner of St. George Catholic Church. She also serves on the board of directors for Livingston Parish SADD. She and her husband, Aaron Jones, have been married for 11 years and have two children.

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### **Charles D. Elliott**

#### **Sixth Board District**

Charles D. Elliott is a solo practitioner at Charles Elliott & Associates, LLC. He received a BS degree in science/math education in 1986 from Louisiana Tech University, an MS degree in computer science in 1989 from Louisiana State University and his JD degree in 1993 from LSU Paul M. Hebert Law Center (graduating Order of the Coif and a member of the *Louisiana Law Review*). He was admitted to practice in Louisiana in 1993.

Elliott is a former member of the Louisiana State Bar Association's (LSBA) House of Delegates, a prior member of the Board of Governors and a member of the Legal Malpractice Insurance Committee and the Medical/Legal Interprofessional Committee.

He is a member of the Alexandria Bar Association, the Alexandria Crossroads Inn of Court and the Louisiana Association for Justice. He was president of the Central Louisiana Pro Bono Project for several years.

In his community, he has served on the Salvation Army's board and is the current president of the Pineville Rotary Club. His wife Kathleen is a nurse. He is the father of one child.

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**W. Michael Street**  
**Seventh Board District**

W. Michael Street is a partner in the Monroe firm of Watson, McMillin & Street, LLP, and a member of Marathon Title Co., LLC. He received a BA degree in philosophy and a BA degree in political science, *cum laude*, in 1991 from Centenary College and his JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1996.

Street served in the Louisiana State Bar Association's (LSBA) House of Delegates from 2014-21 and is a current member of the Mandatory Continuing Legal Education Committee. He served on the LSBA's Young Lawyers Division Council from 2002-06, chairing the State Mock Trial Committee from 2004-06. He received the Bat P. Sullivan, Jr. Chair's Award in 2006.

A current Fellow of the Louisiana Bar Foundation (LBF), he served as LBF president in 2018-19; vice president, 2017-18; treasurer, 2016-17; secretary, 2015-16; board member, 2013-15; and chair of the Northeast Louisiana Community Partnership Panel, 2010-13.

Street served as 2019-21 president of the Lagniappe Law Lab and is a current member of its board of directors. He is secretary/treasurer of the Judge Fred Fudickar, Jr. American Inn of Court. He is a former president of both the Fourth Judicial District Bar Association and its Young Lawyers Section. He received the Outstanding Young Lawyer Award in 2000. He also is a member of the American Bar Association and the Bar Association of the Fifth Federal Circuit.

In his community, he was a board member of the Northeast Louisiana Arts Council from 2004-10. He also was pioneer district chair and Troop 231 committee chair for the Boy Scouts of America Louisiana Purchase Council.

Street and his wife Jennifer have been married for 29 years and are the parents of three children.

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**Curtis R. Joseph, Jr.**  
**Eighth Board District**

Curtis R. Joseph, Jr. is of counsel in the Shreveport firm of Blanchard, Walker, O'Quin & Roberts, APLC. He handles defense and plaintiff-oriented litigation. He attended Washington & Lee University in Lexington, Va., earning his BA degree in mass communications in 1993 and his JD degree in 1996.

While at Washington & Lee, he performed clinical work, focusing on post-conviction relief, for the inmates of the Federal Women's Prison Camp in Alderson, W.Va. He taught language arts, social studies and religion at Bishop Perry Middle School in New Orleans.

Joseph has served in the Louisiana State Bar Association's House of Delegates.

He is vice chair of the Metropolitan Planning Commission and serves on the boards of the Louisiana



W. Michael Street



Curtis R. Joseph, Jr.



Danielle L. Borel

State Licensing Board for Contractors, the Biomedical Research Foundation, the Committee of One Hundred and the Rotary Club of Shreveport. He is a recipient of the Dr. Jesse N. Stone Pioneer Award.

He is a founding member of Washington & Lee's chapter of Alpha Phi Alpha Fraternity, Inc. He is a former president of the Shreveport Bar Association and the North Louisiana Jewish Federation and the immediate past chair of the Strategic Action Council and North Louisiana Holocaust Remembrance Service.

In his community, Joseph is a local jazz/blues drummer. He and his wife Barbara have been married for 18 years and are the parents of two children.

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**Danielle L. Borel**  
**Chair, Young Lawyers Division**

Danielle L. Borel is a partner in the Baton Rouge office of Breazeale, Sachse & Wilson, LLP, practicing commercial litigation and healthcare litigation. She advises clients on general business issues. She has a focus on supporting and defending women-owned or led businesses and handling complex healthcare litigation.

She received a BS degree, *magna cum laude*, in 2011 from Louisiana State University and her JD degree, *magna cum laude*, in 2014 from LSU Paul M. Hebert Law Center (*Louisiana Law Review*, 2012-14; Order of the Coif). She was admitted to practice in Louisiana in 2014.

Borel has served on the Louisiana State Bar Association's (LSBA) Young Lawyers Division (YLD) Council as the 2021-22 chair-elect, 2020-21 secretary and the American Bar Association's (ABA) Young Lawyers Division representative in 2018-20. In 2019, she received the LSBA YLD's Bat P. Sullivan, Jr. Chair's Award in recognition of her contribution to the LSBA YLD. She is a leader in the ABA's Young Lawyers Division and the ABA Health Law Section. She has been recognized by the ABA as a Star of the Year (2021), On the Rise: Top 40 Young Lawyer (2020), Emerging Young Lawyer in Healthcare (2019) and Star of the Quarter (2017, 2019). She also is a member of the Louisiana Hospital Association and participates in the Baton Rouge Bar Association's Holiday Star Program.

In her community, she is a member of the board of directors and chairs the Baton Rouge advisory board for Lighthouse Louisiana. She was recognized three times with the Lighthouse Louisiana Door Knocker Award for her service. She also volunteers as a trial advocacy coach and judge for LSU Law Center. Her commitment was recognized with the Kalinka Award for Advocacy Programs Coach of the Year (2021).

Borel and her husband, Nathan Judice, have been married for 10 years and are the parents of one child.

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**Adrejia L.A. Boutté****At-Large Member**

Adrejia Lajoy Ann Boutté, a native of New Iberia, works as in-house counsel for the state of Louisiana and is a licensed title insurance producer. Previously, she worked as an insurance defense litigator and a co-arbitrator on issues related to creditor/debtor and landlord/tenant disputes.

Boutté received a BS degree in psychology in 1999 from Xavier University School of Louisiana and her JD degree in 2003 from Southern University Law Center. She also has a LLM degree in business law, with a certificate in compliance studies, from Loyola University of Chicago Law Center.

She has been a member of several Louisiana State Bar Association committees, including the Committee on Diversity (and co-chair of its Communications Subcommittee), the Legal Services for Persons with Disabilities Committee and the Ethics Advisory Committee. She also has been a member of the *Louisiana Bar Journal's* Editorial Board for several years.

She has presented programs nationally on cyber risk insurance, diversity and the Innocence Project. Statewide, she has presented programs on cyber risk, the value of multicultural organizations, Louisiana Vocational Rehabilitation Services, the value of a written contract, diversity, and ethics and professionalism. She has volunteered with the MDA Telethon Executive Lock-up, the Pro Bono Project, the Louisiana Center for Law and Civic Education's "We the People" competitions, the Lawyers in Libraries Program, the New Orleans Teen Court, the Baton Rouge Bar Foundation, and other community organizations in the state and across the nation.

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**Blake R. David****At-Large Member**

Blake R. David is a founding partner of the Lafayette firm of Broussard & David, LLC. He received a BA degree in 1997 from Louisiana State University and his JD degree in 2001 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2001. Prior to litigating, he worked as a registered lobbyist with Haynie & Associates in Baton Rouge.

David represented the Third District on the Louisiana State Bar Association's (LSBA) Board of Governors from 2014-17 and served on the LSBA's Nominating Committee. He was the recipient of the LSBA Young Lawyers Division's Outstanding Young Lawyer Award in 2009.

He is board-certified by the National Board of Trial Advocacy in civil trial advocacy. He also is an advocate in the American Board of Trial Advocates. Annually, he teaches trial advocacy at the LSU Law Center. In 2017, he was appointed to the Louisiana Board of Regents by Gov. John Bel Edwards and currently serves as past chair



Adrejia L. A. Boutté



Blake R. David



Jeffrey A. Riggs

of the board and a member of the Executive Committee.

David is president of the Louisiana Association for Justice (Executive Committee member, past chair of the Maritime Section). He is a former president and Foundation board member for the Lafayette Bar Association, a former president of the American Inn of Court of Acadiana and a member of the International Society of Barristers. He also is a founding board member and former president of the Lafayette-Acadiana Chapter of the Federal Bar Association. He is AV-rated by Martindale-Hubbell. From 2012-22, he was recognized by *Louisiana Super Lawyers* and is included in the list of *Louisiana Super Lawyers* Top 50 Lawyers in Louisiana (2019-22).

In his community, he is involved with the Lafayette Economic Development Authority, Catholic Charities of Acadiana, ABC Art Fund and the Acadiana Tigers.

David and his wife Amber are the parents of three children.

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**Jeffrey A. Riggs****At-Large Member**

Jeffrey A. Riggs is a partner in the Lafayette office of Lewis Brisbois Bisgaard & Smith, LLP. He received his BS degree in 1983 from Indiana University and his JD degree in 1986 from Indiana University School of Law (*Indiana Law Review*; Dean Frandsen Award; Moot Court Award). He was admitted to practice in Louisiana in 1986 and in Texas in 2005.

Riggs served in the Louisiana State Bar Association's House of Delegates (15th Judicial District) for several years and was a member of the House of Delegates Liaison Committee in 2007-08, 2010-13 and 2017-20. He is a member of the Client Assistance Fund Committee and the Unauthorized Practice of Law Committee.

He is a member of the Lafayette Bar Association, the Duhe American Inn of Court, the Federal Bar Association and the Acadiana Society for Human Resource Management.

Riggs and his wife, Colin Neblett Riggs, have been married for 33 years. He is the father of four children.

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**John M. Church****Faculty, Louisiana State University Paul M. Hebert Law Center**

John M. Church is an associate professor of law at Louisiana State University Paul M. Hebert Law Center. He received a BS degree in 1983 from Central Michigan University, an MS degree in economics in 1985 from the

University of Illinois and his JD degree in 1988 from the University of Colorado. He was admitted to practice in Colorado in 1988.

Professor Church has served as LSU's representative on the Louisiana State Bar Association's (LSBA) Board of Governors 14 different times between 1998-present. He is a member of the American Law and Economics Association, the American Association of Wine Economists and the American Intellectual Property Association. He is the director of Apprenticeship Week, an intensive program to introduce law students to the practice of law. He has taught a short course three times in American torts at Université Lyon 3 Jean Moulin, Lyon, France, and has directed the LSU Law Summer in Lyon program 11 times over the past 15 years.

Since his arrival at LSU in 1991, he has taught torts, toxic torts, products liability, antitrust and other subjects. He has presented recent developments in torts as part of the LSU Continuing Professional Development CLE program annually since 2004. He is a common fixture on tort-related presentations for the LSU Continuing Professional Development CLE program, the LSBA and the Baton Rouge Bar Association.

In his community, he is a member of Sacred Heart of Jesus Catholic Church. He and his wife Karen have been married for nine years. He is the father of four children.

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John M. Church



Ronald J. Scalise, Jr.



Lila Tritico Hogan

### **Ronald J. Scalise, Jr.**

#### **Faculty, Tulane University Law School**

Ronald J. Scalise, Jr. is the John Minor Wisdom Professor of Civil Law at Tulane University Law School. He joined the Tulane Law faculty in 2009 and held the A.D. Freeman Professorship from 2009-18. He served as vice dean of the law school from 2012-16. Prior to arriving at Tulane, he served on the faculty of Louisiana State University Paul M. Hebert Law Center from 2004-09. In 2007, he was awarded the McGlinchey Stafford Associate Professorship there, and, in 2009, he served as acting vice chancellor for academic affairs.

He received a BA degree in 1997 from Tulane University and his JD degree in 2000 from Tulane Law School (articles editor for the *Tulane Law Review*). After graduating from law school, he clerked on the U.S. 5th Circuit Court of Appeals for Judge James L. Dennis and then worked as an associate in the New Orleans law firm of Stone Pigman Walther Wittmann, LLC. He earned an LLM in 2003 from Trinity College, Cambridge University, on a Gates Fellowship.

During his career, Professor Scalise has served on several law reform projects. He currently serves as reporter for the Louisiana State Law Institute's Successions and Donations Committee, the Trust Code Committee, the

Prescription Committee and the Committee on Aleatory Contracts/Signification of Terms. He also is a member of the Law Institute's Council and a committee member of more than a dozen other subject-matter specific revision committees.

From 2013-15 and from 2017-19, he was a member of the Louisiana State Bar Association's Board of Governors. From 2011-17, he served on the Louisiana Board of Legal Specialization, including as chair and vice chair.

In 2011, he was appointed as an appeals judge in cases contesting decisions made by the BP oil spill compensation system. In 2012, he was elected as an associate member of the International Academy of Comparative Law. As a board member of the American Society of Comparative Law, he has written extensively on civil law topics, including successions and inheritance. He is the primary author for the annual updates for five volumes in the *Louisiana Civil Law Treatise* series on property and obligations. In 2014, he was elected as an academic fellow to the American College of Trusts and Estates Counsel. In 2015, he received the Leadership in Law Award by *New Orleans City Business*. In 2018, he was awarded both the Felix Frankfurter Award for law teaching and the John Minor Wisdom Award for the best civil law article published in the *Tulane Law Review*. Also in 2018, he assumed editorial responsibility for the annual pamphlet edition of the Louisiana Civil Code.

In 2019, Scalise was elected to the American Law Institute and was appointed by the Uniform Law Commission as reporter for the revision of the Uniform Disposition of Community Property at Death Act. Since 2021, he has served as reporter for the Uniform Law Commission's project on Uniform Conflict of Laws in Trusts and Estates.

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### **Lila Tritico Hogan**

#### **Louisiana State Law Institute**

Lila Tritico Hogan is a partner in the Hammond firm of Hogan Attorneys. She received a BA degree in history, with honors, in 1972 from Louisiana State University and her JD degree in 1975 from LSU Law School. She was admitted to practice in Louisiana in 1975. She is a board-certified family law specialist (by the Louisiana Board of Legal Specialization). She also is a family law mediator.

Hogan is a current Louisiana State Bar Association (LSBA) Transition Into Practice (TIP) Program mentor and has served in the LSBA's House of Delegates. She has chaired the Louisiana Attorney Disciplinary Board and served on several LSBA committees, including the Practice Assistance and Improvement Committee, the



Rules of Professional Conduct Committee, the Ethics Advisory Service Committee and the Practice Aid Guide Subcommittee. She received the LSBA Citizen Lawyer Award in 2015, the LSBA President's Award in 2001 and the LSBA Young Lawyers Division's Outstanding Young Lawyer Award in 1986-87.

She is a member of the Louisiana State Law Institute Council and the Law Institute's Marriage-Persons Committee. She also is a member of the LSU Family Law Seminar Advisory Committee. She has been recognized by *Louisiana Super Lawyers* as a Top Family Lawyer for the past 16 years. She is the recipient of the 2013 Woman of Excellence Award from the Tangipahoa Parish Library and the 2015 Annie Award from the Hammond Area Chamber of Commerce.

In her community, Hogan is a Governor's appointee to the Louisiana Domestic Violence Prevention Commission, a member of the Greater Hammond Chamber of Commerce and a member of PRIDE (SLU Lady Lions basketball support group.)

She and her husband, Thomas J. Hogan, Jr., have been married for 43 years and are the parents of four children. They have two grandchildren.

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#### **Keenan K. Kelly**

##### **Chair, House of Delegates Liaison Committee**

Keenan K. Kelly has practiced in the Natchitoches firm of Kelly & Townsend, LLC, for 27 years. His primary practice areas are personal injury and criminal defense. He is licensed to practice law in both Louisiana and Texas and is admitted to practice in the U.S. District Courts for the Western, Middle and Eastern Districts of Louisiana and the U.S. 5th Circuit Court of Appeals.

Kelly attended Fort Lewis College from 1984-86 (where he played football) but returned to Northwestern State University to complete his undergraduate degree in 1990. He earned his JD degree in 1993 from Loyola University College of Law. While attending law school, he clerked for the New Orleans law firm of Martzell & Bickford.

He is a current member of the Louisiana State Bar Association's (LSBA) Nominating Committee and is beginning his term as chair of the LSBA's House of Delegates Liaison Committee, previously serving as a committee member. He has served in the House of Delegates, representing the 10th Judicial District, since 2002. He chaired the LSBA's Legislation Committee from 2015-20.

Kelly has served as the vice president of the Natchitoches Parish Bar Association since 1996. He is married to Jennifer Anderson Kelly and has two children.

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**Keenan K. Kelly**



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#### **D. Skylar Rosenbloom**

##### **Member, House of Delegates Liaison Committee**

D. Skylar Rosenbloom is senior counsel for Entergy Services, LLC, where he represents Entergy Louisiana in legal and regulatory matters before the Louisiana Public Service Commission and various courts. He received a BS degree in 2001 from Georgetown University's McDonough School of Business and his JD degree in 2007 from Washington & Lee University School of Law. He was admitted to practice in Louisiana in 2007. He also is admitted in Washington, D.C. (2013) and in New York (2014).

Rosenbloom is a member of the Louisiana State Bar Association's (LSBA) House of Delegates, the Committee on the Profession and the Practice Assistance and Improvement Committee and a former member of the Legislation Committee. Previously, he served as a member of the LSBA's Board of Governors (First District representative) and the Nominating Committee. He was a member of the 2012-13 Leadership LSBA Class.

He and his wife Brittany are the parents of three children.

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#### **Sandra K. Cosby**

##### **Member, House of Delegates Liaison Committee**

Sandra K. Cosby is an associate with Frederick A. Miller & Associates in Metairie. She received a BA degree in 1974 from Lincoln Memorial University and her JD degree, *magna cum laude*, in 1990 from Loyola University Law School. She was admitted to practice in Louisiana in 1990.

Cosby serves in the Louisiana State Bar Association's (LSBA) House of Delegates and is a former chair and current member of the Committee on the Profession. She has previously served on (and chaired) the House Liaison Committee. She is co-chair of the Loyola Law School Professionalism Orientation and a member of the Louisiana Bar Foundation.

She was case note and quantum editor of the *Loyola Law Review* from 1989-90 and was a Loyola Moot Court semi-finalist. She is a former president and member of the local advisory board of directors for the American Lung Association of Louisiana.

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## LSBA Issues Notice for 2022-23 Dues Cycle; July 1 Deadline for Payments

The purpose of the Louisiana State Bar Association (LSBA) is set forth in Art. III § 1 of its Articles of Incorporation. The expenditure of funds by the LSBA is limited as set forth in the LSBA's Articles and Bylaws; Supreme Court Rule XVIII § 6; *Keller v. State Bar of California*, 496 U.S. 1 (1990); and *McDonald v. Longley*, 4 F.4th 229 (5th Cir. 2021).

A member may object to the use of any portion of the member's bar dues for activities he or she considers inconsistent with the foregoing constitutional standards. Member objections must be filed within 45 days of the date of the Bar's publication of notice of the activity to which the member is objecting. Details on the objection, refund and arbitration procedures are included in Article XII of the LSBA By-Laws. Review the LSBA's Articles and By-Laws at: [www.lsba.org/BarGovernance/ByLawsAndArticles.aspx](http://www.lsba.org/BarGovernance/ByLawsAndArticles.aspx).

Review additional information on annual LSBA expenditures online at: [www.lsba.org/documents/BOG/2223BudgetLetter.pdf](http://www.lsba.org/documents/BOG/2223BudgetLetter.pdf).

Review the LSBA's annual reports at: [www.lsba.org/NewsAndPublications/AnnualReports.aspx](http://www.lsba.org/NewsAndPublications/AnnualReports.aspx).

### Payment of Dues and Assessment

LSBA members have the option to pay their 2022-23 LSBA dues and Louisiana Attorney Disciplinary Board (LADB) assessment by ACH electronic check, credit card, or download and mail their Attorney Registration Statement and checks for the payment of fees. Members are encouraged to pay and file electronically. Electronic payment gives members more control over their information in the database and allows for more timely updates to their member records. Online access is avail-

able, through the LSBA website, when the Bar Center is closed or mail service is disrupted. The website is unavailable nightly between 10 p.m.-1 a.m. CST.

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

Emeritus Status is available for lawyers who only handle pro bono work or uncompensated work for family members (subject to certain guidelines and restrictions) and who meet age and practice criteria. Lawyers should review the Emeritus Status guidelines and restrictions for possible eligibility. Members who want to choose Emeritus Status for the 2022-2023 membership year must make that determination prior to submitting the Dues and Assessment payments and before June 30, 2022. Review the "Emeritus Status Guidelines and Restrictions and Notice of Application" at: [www.lsba.org/Members/EmeritusStatus.aspx](http://www.lsba.org/Members/EmeritusStatus.aspx).

Filing electronically can be a quick and simple process, utilizing the online member accounts that participants have relied on for years to register for CLE seminars and to access Fastcase. If an attorney has not yet set up a member account, one can easily be created at: <https://www.lsba.org/Members/memberaccts.aspx>. This webpage also allows members to edit their existing accounts and reset a lost or forgotten account password.

After member data is confirmed but before the payment/filing process begins,

members will be advised that they also need to go to <https://www.LADB.org> to complete the Louisiana Supreme Court Trust Account Disclosure and Overdraft Notification Authorization Form and will be asked to confirm that they understand this requirement. The Louisiana Attorney Disciplinary Board is the certifying agency for the Trust filing for LSBA members' IOLTA accounts. Filing is quick and easy at [www.ladb.org](http://www.ladb.org) and any issues concerning trust accounts should be directed to LADB at (504)834-1488.

The collection schedule will be the same as in prior years. In lieu of mailing a statement to each member, in mid-May, the LSBA will mail a postcard to each member, which will provide instructions to go online to <https://www.LSBA.org> to complete the registration process, pay the annual dues and assessment, and go online to <https://www.LADB.org> to complete the Trust Account Form. ***This is the only mailing members will receive prior to the July 1, 2022, due date; attorney registration statements will NOT be mailed.***

Throughout the dues collection period, the LSBA will email reminders to those who have not yet paid, using the email address [compliance@lsbamembership.com](mailto:compliance@lsbamembership.com). Members are encouraged to add this email address to their contact list to avoid missing important reminders. Members should not reply to this email address, but rather direct questions to [processing@lsba.org](mailto:processing@lsba.org).

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

Continued next page



# LBSL Accepting Bankruptcy Law Certification Applications Through Sept. 30

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

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

recognition as having a level of competence indicating proficient performance handling the usual matters in the specialty field. Refer to the LBSL standards for the applicable specialty for a detailed description of the requirements for application: [www.lbsa.org/documents/Specialization/LSBAPlanofLegalspecialization2017.pdf](http://www.lbsa.org/documents/Specialization/LSBAPlanofLegalspecialization2017.pdf).

In addition to the above, applicants must meet a minimum CLE requirement for the year in which application is made and the examination is administered. Bankruptcy Law CLE is regulated by the American Board of Certification, the testing agency.

Approved specialization CLE courses can be viewed on the LBSL Approved Course Calendar at: [www.lbsa.org/MCLE/MCLECalendar.aspx?L=S](http://www.lbsa.org/MCLE/MCLECalendar.aspx?L=S). Check off your specialization and click on "Search Courses"

to find approved specialization CLE.

With regard to applications for business bankruptcy law and consumer bankruptcy law certification, although the written test(s) is administered by the American Board of Certification, attorneys should apply for approval of the Louisiana Board of Legal Specialization simultaneously with the testing agency in order to avoid delay of board certification by the LBSL. Information concerning the American Board of Certification will be provided with the application form(s).

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

## Dues continued from page 34

who fail to meet the deadlines.

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

- ▶ LSBA dues (practicing more than three years): \$200;

- ▶ LSBA dues (Emeritus Status): \$100; and

- ▶ LSBA dues (practicing three years or less): \$80;

- ▶ LADB assessment (practicing more than three years): \$235;

- ▶ LADB assessment (Emeritus Status): \$117.50; and

- ▶ LADB assessment (practicing three years or less): \$170.

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

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

- ▶ LSBA dues (practicing more than three years): \$206.20;

- ▶ LSBA dues (Emeritus Status): \$103.20; and

- ▶ LSBA dues (practicing three years

or less): \$82.60;

- ▶ LADB assessment (practicing more than three years): \$242.25;

- ▶ LADB assessment (Emeritus Status): \$121.23; and

- ▶ LADB assessment (practicing three years or less): \$175.30.

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

- ▶ Email — [processing@LSBA.org](mailto:processing@LSBA.org)

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

## Check-Off Boxes for Donations

Using either the online payment/filing procedure, or via the downloadable form, LSBA members may make voluntary, tax-deductible contributions to the *Louisiana Bar Foundation Access to Justice Fund*, the *Judges and Lawyers Assistance Program, Inc.*, the *Louisiana Bar Foundation* and the *Louisiana Center for Law and Civic Education*.

- ▶ **Louisiana Bar Foundation Access to Justice Fund.** Donations benefit Louisiana's justice community efforts in statewide technology, intake and referral, and disaster response. Include a separate

check made payable to the "Louisiana Bar Foundation Access to Justice Fund."

- ▶ **Judges and Lawyers Assistance Program, Inc. (JLAP).** Donations will directly further JLAP's mission of providing *confidential* life-saving assistance to lawyers, judges and their family members who suffer from alcohol/drug abuse, depression, gambling addiction, or any other mental impairments. Include a separate check made payable to "JLAP, Inc."

- ▶ **Louisiana Bar Foundation.** Donations support the network of civil legal aid organizations across the state that are leading community-driven efforts to help hundreds of thousands of Louisiana residents gain access to the legal system. Include a separate check made payable to "Louisiana Bar Foundation."

- ▶ **Louisiana Center for Law and Civic Education (LCLCE).** Help the LCLCE continue to assist people to develop an understanding of, and respect for, the law and legal system. Donations will be used to fund operations and support programs that bring lawyers and judges into the classroom and provide free professional development for social studies teachers and free civics education for adults. Include a separate check made payable to "Louisiana Center for Law and Civic Education."

## Application Deadline is June 24 for Leadership LSBA 2022-23 Class

Louisiana State Bar Association (LSBA) President-Elect Stephen I. Dwyer is currently seeking applications from young lawyers for the Leadership LSBA 2022-23 Class. Deadline for return of applications, along with a CV or résumé, is Friday, June 24.

The program, created in 2002 by then-LSBA President Larry Feldman, Jr., provides exposure on how the LSBA functions as well as on the pressing issues facing the association and the legal profession. Participants also receive information on the responsibilities of volunteer leaders. Through at least one class project, the program further develops young attorneys' leadership skills and provides them with opportunities for statewide networking. (Previous projects

included a 5K benefiting the Lawyers Assistance Program, Inc., a legal aid hackathon, and a special edition of the *Louisiana Bar Journal*.)

Dwyer's goal is to appoint 14 members.

By conclusion of FY 2022-23 (ends in June 2023), participants will be required to:

- ▶ attend one meeting of the Board of Governors;
- ▶ attend one meeting of the House of Delegates;
- ▶ attend one meeting of the Young Lawyers Division Council;
- ▶ attend one Budget Committee meeting;
- ▶ attend one meeting of the Access to Justice Committee;
- ▶ attend one meeting of an LSBA committee of their choice;

▶ work with the class to develop and implement a class project with the help of staff; and

▶ commit to serve on an LSBA committee for 2023-24.

Expenses for attendance at meetings and activities will be reimbursed in accordance with LSBA policies.

Interested candidates should submit applications, along with a CV or résumé, by the June 24 deadline to: Danielle E. Boveland, LSBA Communications Coordinator/Online Media, 601 St. Charles Ave., New Orleans, LA 70130; fax (504)566-0930; or email [danielle.boveland@lsba.org](mailto:danielle.boveland@lsba.org).

To download an application, go to: [www.lsba.org/goto/classapplication2022](http://www.lsba.org/goto/classapplication2022).

## Louisiana Supreme Court Adjusts Online MCLE Limit for 2022

In consideration of the continuing need to take measures to stop the spread of COVID-19, the Louisiana Supreme Court issued an Order on Feb. 11 regarding online MCLE credit for compliance year 2022.

For MCLE compliance year 2022, the limitation on "self-study" credits (as defined in Rule 3(d) of Supreme Court Rule XXX) has been increased to six hours annually.

Rule 5(b) of Supreme Court rule XXX has been modified to permit up to eight excess hours earned in the 2019 compliance year to be carried forward to compliance year 2020, 2021, 2022 or 2023.

For MCLE compliance year 2022, the limitation of "self-study" credits (as defined in Rule 3(d) of Supreme Court Rule XXX) has been increased to a maximum of one-half the total number of credits required to complete the certification requirements for the approved fields of law set forth in the Louisiana State Bar Association Plan of Legal Specialization.

To review the court Order, go to: [www.lsba.org/documents/News/LSBANews/OnlineMCLEOrder2022.pdf](http://www.lsba.org/documents/News/LSBANews/OnlineMCLEOrder2022.pdf).

## LASC Issues Orders Increasing MCLE Accreditation Fees, Imposing MCLE Requirement on Judges Aged 65 and Over

The Louisiana Supreme Court in April signed two Orders amending Supreme Court Rule XXX, Rules for Continuing Legal Education. Both Orders are effective immediately:

- ▶ Order amending the Rule to increase the course accreditation fee from \$50 to \$75, with an exemption for

Louisiana local and specialty bar associations; and

- ▶ Order amending the Rule to require Louisiana state court judges aged 65 and over to complete five (5) hours of CLE annually from programs sponsored by the Louisiana Judicial College.

Read the court orders at: [www.lsba.org](http://www.lsba.org).

## Report Your Pro Bono Hours Today!

Your local pro bono and civil legal aid organizations benefit from your reporting. Each year attorneys provide thousands of hours of pro bono work to those who can't afford to pay for legal services – and each year thousands of hours go unreported. Some attorneys say its self-aggrandizement to report. Others say only the office manager sees the reporting form. When seeking funding, your local organizations are frequently asked "What are attor-

neys doing to help?" Help the LSBA support your local public interest organizations by reporting your hours and giving them information to respond to that question. Please complete the online "Voluntary Pro Bono Reporting Form" at: <https://www.lsba.org/ATJ/ProBonoVoluntaryReporting.aspx>. Should you need assistance completing the online form, please feel free to contact Jordan Maier at 800.421.5722, ext 145.



# LSBA Conducts Two-Day Criminal Justice Summit

The Louisiana State Bar Association's (LSBA) Criminal Justice Committee hosted a Criminal Justice Summit on the intersection of mental health and the criminal justice system. The March 10-11 event was co-sponsored by the LSBA's Criminal Law Section.

The purpose of the summit was to bring together a diverse group of stakeholders to learn and identify ways agencies can work together to address the major challenges faced when a person experiencing mental illness comes into contact with the criminal justice system. Through CLEs and keynote presentations, attendees learned:

- ▶ how to use an evidence-based communication program called LEAP as a tool for those working with people unable to understand they are ill;
- ▶ best practices when working with mental health experts on competency and "not guilty by reason of insanity" cases;
- ▶ about collaborative mental health programs that provide crisis intervention services;
- ▶ ways prosecutors, defenders and

mental health advocates can work together to address mental health needs in the criminal justice system;

▶ about mental health court programs in civil and criminal jurisdictions; and

▶ how mental health advocates are using their own experiences to change the system and provide support to people suffering from mental illness.

More than 100 stakeholders attended each day of the summit, representing the courts, public defenders' and prosecutors' offices, private law firms, law enforcement, state mental healthcare providers, nonprofit mental health programs, and healthcare programs in all parts of the state. The diverse stakeholders allowed for robust discussions in the working group sessions and seemed to agree on the need for more cross-trainings, access to mental health services, and programs that present alternatives to incarceration to address the issues raised.

The next steps include a discussion on ways the committee can continue to address the issues raised during the working group sessions.

## Special thanks to the Criminal Justice Summit Planning Committee

**Norma Dubois**

Jefferson Parish District Attorney's Office  
*Criminal Justice Committee Vice Chair*

**Jennifer Eagan**

Louisiana Supreme Court

**Jean Faria**

Louisiana Mental Health  
Association Board  
*Criminal Justice Committee Co-Chair*

**Barksdale Hortenstine**

Orleans Public Defenders  
*Criminal Justice Committee Co-Chair*

**Professor Katherine Mattes**

Tulane Law Criminal Justice Clinic

Save the date

Louisiana State Bar Association

# 14<sup>TH</sup> ANNUAL CONCLAVE ON DIVERSITY IN THE LEGAL PROFESSION

August 12, 2022

**Four Seasons New Orleans Hotel  
2 Canal Street, New Orleans, LA**

The Conclave will encourage discussion among judges and attorneys, primarily hiring and managing attorneys with law firms and law departments, about the importance of diversity within the legal profession and how to improve diversity within the profession in Louisiana.

# PRACTICE Makes Perfect

By LSBA Practice Assistance and Improvement Committee

## LAW OFFICE PROCEDURES AND TRAINING

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

The information discussed in this article can be found in Section 4. To read the full Section 4, and to access the referenced forms, sample letters and checklists, go to: [www.lsba.org/PracticeAidGuide/PAG4.aspx](http://www.lsba.org/PracticeAidGuide/PAG4.aspx).

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

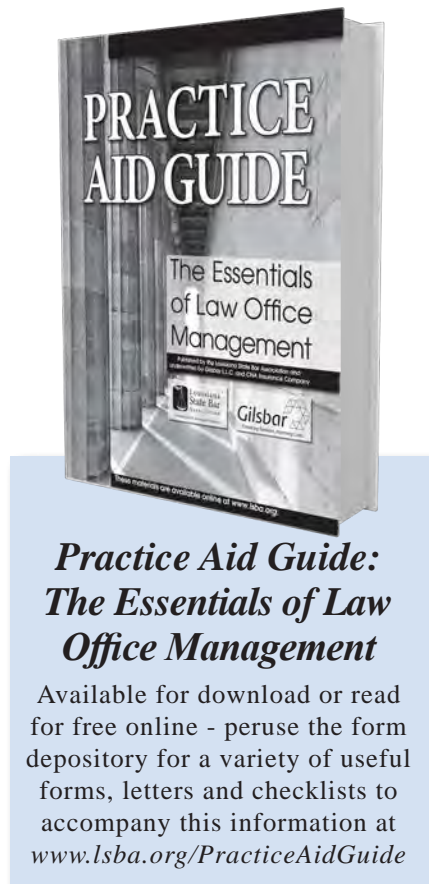
### Law Office Procedures and Training

Law office procedures and proper training are important to maintaining a positive attorney-client relationship because they keep you and your staff organized and your client treated fairly, competently and courteously. Your personnel should be polite, qualified and understanding. A few areas in law office practice deserve special attention — confidentiality, phone call and walk-in procedures, and mail procedure.

#### Confidentiality

Every member of your firm, from the senior attorney to the part-time file clerk, is under a strict obligation to protect the client's privacy. The following are some points to remember about client confidentiality:

- ▶ Do not discuss clients outside the office.
- ▶ Do not discuss client information with another client or in any place where



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

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

another client or third person can hear.

▶ Remember that your duty of confidentiality continues even after the case is closed. It also continues after you leave the firm.

▶ You should be wary when clients or strangers want to use your office to make a few telephone calls. Make sure no client files or documents are lying around.

▶ Never release information to callers such as a client's accountant or an insurance adjuster without authorization.

▶ Be careful when disposing of confidential papers, even rough drafts or duplicates. Use shredders or other secure disposal methods for sensitive material.

▶ Never forget that the attorney-client relationship is built on mutual trust

and confidence. Clients come to you expecting a form of sanctuary. You must honor that.

▶ A good idea is for firms to require all employees to sign confidentiality forms, which are placed in personnel files. Review a sample confidentiality form online at the above website.

▶ Remember computer encryption and digital file security measures.

### Phone Call and Walk-in Procedures

Office personnel should be trained to be courteous and accurate in taking messages and setting appointments. The staff should be trained regarding what to say when answering the phone or greeting walk-ins. When you are unavailable, a message — complete with date, time, caller's name, phone number and reason for the call — should be electronically documented, saved in the client's electronic file, and delivered to you immediately via email. If preferable, the emailed electronic message may be printed for your convenience.

Non-attorneys should not give legal advice. An electronic or written record of all client contact should be maintained. Except in cases of emergencies, you should not take any telephone calls or interruptions while you are with another client.

### Mail Procedure

Establish a procedure for opening, date-stamping, distributing, scanning and electronically saving to the client's file all incoming mail. You or your staff should review the incoming mail immediately and enter any court dates and deadlines on the electronic and/or manual calendar system. File all hard copies of mail immediately upon review by you after

Continued page 40



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## Practice Makes Perfect continued from page 38

scanning or copying and emailing or mailing the document to the client. To ensure that outgoing mail is properly reviewed, signed and sent, have a designated proofing stack and a separate stack for urgent matters. If copies are sent to any third parties, always note on the document the persons to whom copies are sent. Certified or registered mail procedures should be established to ensure that the proof of delivery, the “green card,” is attached to the appropriate file copy of the letter or pleading when the card is returned.

Routine procedures ensure proper representation and ensure the attorney can defend themselves in the event of an ethical complaint or malpractice claim.



### Documentation and File Organization

Standard procedures for documentation and file organization (preferably electronic) are important. A record should be kept of all contacts with a client or third party. Correspondence is self-proving. But telephone or in-person

conferences should be memorialized, electronically if possible, by the person who handled the contact and saved to the client’s electronic file. This will assist in ensuring that the status of the case is up to date every time you review the client’s electronic file. This procedure will help protect you should a dispute or confusion arise concerning actions taken by you or your office staff on behalf of a client. Keeping files organized and in chronological order will help you represent your clients and will document the services rendered in the representation should a disciplinary complaint or malpractice suit be filed. Further, it is advisable to maintain all drafts of pleadings and drafts of other substantive documents that reflect the date the draft was composed.



### Pro Bono Hero



## Commit to 20 hours pro bono in 2022

### Providing Justice for ALL



My wife is Deputy Director of Southeast Louisiana Legal Services, and she encouraged me to participate in its pro bono program about 11 years ago now. I have done so since then, taking simple matters that would, if left undone, become complicated, and providing a little help to those whose legal situations have left them unable to move on with their lives. In addition to my wife’s urging, pro bono work is important to me because I can do these simple things with comparatively little effort, and it means so much to those for whom I perform these services - they should not be deprived of their chance to move on and solve their legal snarls for want of money.



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- Served on LADB Hearing Committee from 2008-2013, and currently serves on LSBA Rules of Professional Conduct Committee
- Named a "Nation's Top Attorney Fee Expert" by NALFA, 2018
- Has been asked to serve as an expert in fee disputes and legal malpractice cases
- Is in New Orleans CityBusiness Leadership-in-Law Hall of Fame



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LA-22-13020

What if your client only wants to hire you to handle a portion of his case while he or someone else handles the other piece? According to Louisiana Rules of Professional Conduct Rule 1.2(c), an attorney may undertake a “limited scope” representation of a client by “unbundling” services to meet that client’s needs. However, the limitation must be reasonable under the circumstances, and the client must give informed consent to the representation. Rule 1.0(h) defines reasonable as “the conduct of a reasonably prudent and competent lawyer.” Rule 1.0(e) defines informed consent as “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.”

A wise attorney once advised me that, although you *can* take a course of action, you should always ask yourself *should* I take that course of action. Limited-scope representation has many benefits to the client and lawyer, with one benefit being a reduction in the cost of representation for the client. But it also comes with many downfalls, with the main risk being that it can lead to malpractice claims. Therefore, you should always carefully evaluate whether the limited-scope representation works for the type of situation and client at hand. Some engagements may work well with a limited-scope representation, such as representing a client to handle his community property partition while the client handles the dissolution of the marriage, but there are some legal matters that aren’t as clear cut and, therefore, a limited-scope representation would not be reasonable. The attorney should also evaluate whether a limited-scope representation is truly in the attorney and

the client’s best interest. As you know, not all clients are equipped to handle this type of representation and the attorney could be subject to scope creep if boundaries aren’t followed. You don’t want to get half the fees and all of the blame.

To have a successful limited-scope representation, you should do the following.

► **Do your research and take advantage of available resources.** The American Bar Association and the Louisiana State Bar Association are good resources to review the rules, opinions and court cases surrounding limited-scope representation. Specifically, the Louisiana State Bar Association’s website has a Limited Scope Representation Toolkit that contains samples forms and checklists that would assist any attorney considering this type of engagement.

► **Evaluate the case to confirm the representation meets the requirements of Rule 1.2 and is reasonable under the circumstances.** There are some types of cases that limited-scope representation is a great fit, but there are others that may not be reasonable to limit the scope of representation. Carefully review each engagement to determine if limiting the representation would be deemed reasonable under the circumstances.

► **Evaluate the case and client to make sure that limiting the scope of representation is an overall good fit.** This goes back to the “although I can do this, should I do this” question. You may determine that a case would be reasonable to limit the scope of representation, but, in speaking with the client, you may determine that the client isn’t equipped to handle this type of representation. If you have doubts, you may want to decline the representation. This needs to be a good fit for you and the client.

► **Obtain informed consent before commencing limited-scope representation.** In accordance with Rule 1.0(e) comment 6, you should make reasonable efforts to ensure that the client has reasonably adequate information to make an informed decision. This means disclosing of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client of the material advantages and disadvantages of the proposed course of conduct, and a discussion of the client’s options and alternatives.

► **Memorialize the limited-scope representation in writing.** Have the client execute an engagement letter that lays out what you will handle, what you will not handle, and what is expected of the client to handle. Also, operate within the boundaries that you set and beware of scope creep.

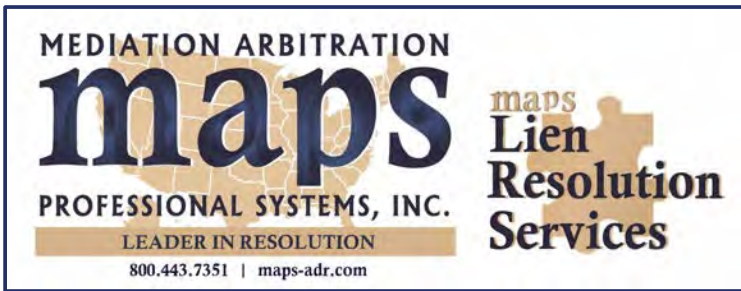
► **Utilize a file closing letter or termination letter once your representation concludes.** This will confirm to the client that what you were hired to do is complete and the attorney/client relationship has ended. If the client wishes for you to handle additional matters, execute a new engagement agreement for any additional matters.

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

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







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Hon. Caroline Gill-Jefferson (ret)



Joe Messina



Melanie Mulcahy



Nick Zeringue



Ashley Bass



Robert Jenks



Colby Wenck



Dale Clary



Hon. Franz Zibilich (ret)



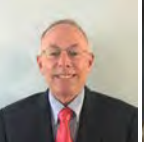
Gary Zwain



Glenda Barkate



Grady Hurley



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Jay Ginsberg



John Lawrence



John Young



Kathryn Platt



Lourdes Martinez



F.M. Rae Turner



Robert Baudouin



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(ret)



Keith Giardana



Randy Russell



Thomas Smith



Eric Skrmetta



# Lawyers ASSISTANCE

By Dr. Angela White-Bazile, Esq.

OFF-BALANCE?

Glance at this to-do list:

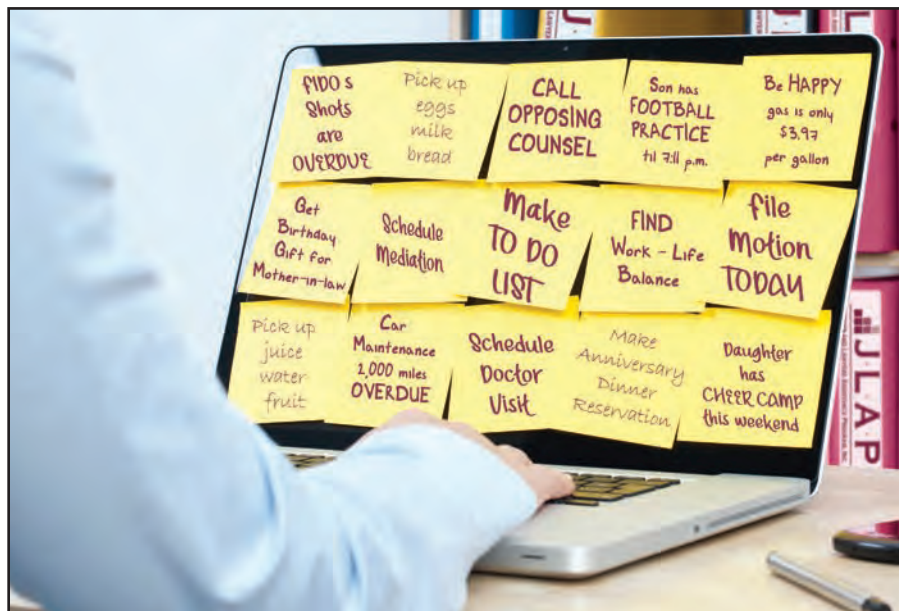
- ▶ Pick up eggs, milk, juice, bread, water, fruit
- ▶ My son has football practice until 6 p.m.
- ▶ My daughter has cheer camp this weekend
- ▶ Pet's shots are overdue
- ▶ Maintenance of car was required 2,000 miles ago
- ▶ Call opposing counsel re:
- ▶ File motion(s)
- ▶ Make anniversary dinner reservation
- ▶ Buy mother-in-law a birthday gift
- ▶ Be happy that gas is only \$3.97/gallon
- ▶ Schedule mediation and doctor's visit

Does this list look familiar?

As judges, lawyers, spouses, parents, caregivers, employers or employees, team parents, chairs or members of an organization, we wear many hats and have a never-ending to-do list. We are pulled in various directions and sometimes feel that we are not in control of our lives.

Think about how you juggle family duties, job stresses and relationship expectations? How do you feel when you do not finish what is on your to-do list? Is it even possible to have a fulfilling career and a great personal and family life?

Long hours and a demanding workload are synonymous with being a lawyer and often take precedence over everything else in our lives.<sup>1</sup> Even our well-being takes a back seat. Not surprisingly, time outside of work is usually spent commuting, caring for children or other dependents, preparing for a trial, waiting to receive notice of the next motion hearing, fulfilling community organizational obligations, and more that has to do with others.<sup>2</sup> You may feel



like personal time is a foreign concept or a thing of the past, but creating a work-life balance will lead to a healthier and happier you. Balance reduces stress and prevents burnout in the workplace.<sup>3</sup>

The National Institute of Mental Health defines stress as how the brain and body respond to any demand.<sup>4</sup> According to the National Institute for Occupational Safety and Health, job stress is the harmful physical and emotional response when job requirements do not match the employee's capabilities, resources or needs.<sup>5</sup>

Numerous studies have determined that stress negatively impacts physical health and mental health; affects concentration and work productivity, and weakens our immune systems, making us susceptible to various ailments from colds to backaches to heart disease.<sup>6</sup>

Do you know that prolonged stress or chronic stress is one of the most common health issues in the workplace and is linked to a higher risk of depression, anxiety and insomnia?<sup>7</sup> Additional research shows that chronic stress can

also double the risk of a heart attack.<sup>8</sup>

Furthermore, stressful work situations can lead to burnout — a specific type of work-related stress defined as a state of physical or emotional exhaustion involving a sense of reduced accomplishment and loss of personal identity.<sup>9</sup> Employees who consistently work overtime, whether at home or the office, are at an elevated risk of burnout.<sup>10</sup>

Research proves that burnout can cause fatigue, mood swings and a decrease in work performance.<sup>11</sup>

Many of us want to feel strong on the outside and be perceived as put together and perfect. We strive to protect how others perceive us instead of being honest and admitting when we need a break to relax and recover.

Remember, we are human, and we cannot always do everything for everyone. Also remember when you say "yes" to everyone, you may be saying "no" to yourself. Steve Jobs once said, "It's only by saying 'no' that you can concentrate on things that are really important."<sup>12</sup> Tim Ferriss, author of "4-Hour" self-



help books, explains, “What you don’t do determines what you can do.”<sup>13</sup>

The first step towards better managing stress and avoiding burnout is creating a healthy work-life balance that works for you.<sup>14</sup> Work-life balance means different things for different people because the demands of our days vary based on practice area, law firm culture, the structure of our families, and the personal and professional support we have.<sup>15</sup>

Work-life balance will not happen overnight but is a continuous process.<sup>16</sup> We must decide our priorities to figure out what balance means to us individually.<sup>17</sup> Stephen Covey, business professor and author of “The 7 Habits of Highly Effective People,” stated, “The key is not to prioritize what is on your schedule, but to schedule your priorities.”<sup>18</sup> He also opined that too much time is spent on what is urgent and not enough time on what is important.<sup>19</sup> Dr. Myles Munroe offered, “Don’t be pushed by your problems. Be led by your dreams. Govern your life by priorities not your pressures.”<sup>20</sup>

Here are some tips to start making more time for yourself and your family.

1. Unplug. Mute your notifications and disconnect. Shift your full attention to your family and home life.

2. Take care of yourself. Health and happiness are the foundation for work-life balance. Make sure you are eating well, exercising, relaxing and having fun. Regular exercise reduces stress, depression and anxiety.

3. Do not overcommit and overschedule activities. Learn to say “no” and protect your personal and family time.<sup>21</sup>

4. When working:

- ▶ Create a designated space at home.
- ▶ Be realistic about workloads and deadlines. Ask for help when necessary.
- ▶ Take five. Small breaks at work — or on any project — will help clear your head.<sup>22</sup>

- ▶ Tune in. Listen to your favorite music to foster concentration, reduce stress and anxiety, and stimulate creativity.<sup>23</sup>



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While our jobs are important, our jobs should not be our entire lives, and we should prioritize the activities or hobbies that make us happy.<sup>24</sup> Work-life balance is about not allowing stress, anxiety, burnout or dissatisfaction to stand in the way of health and happiness.<sup>25</sup>

Make your mental health a priority. Making time for self-care is necessary for prolonged success in your personal and professional lives. Self-care is not selfish, a waste of time or a luxury.

As lawyers, we are accustomed to advocating for others. Now is the time to advocate for ourselves and our well-being to achieve our visions of a balanced, well-lived life.<sup>26</sup>

If you are struggling with stress, anxiety or burnout, I encourage you to speak with a professional. Reach out to JLAP for resources and to find the help you need. JLAP is here to serve and support you.

To learn more or seek confidential, non-disciplinary, meaningful assistance with any chemical dependency or mental, emotional or physical health issue, contact our professional clinical staff at JLAP at (985)778-0571, email [jlap@louisianajlap.com](mailto:jlap@louisianajlap.com), or visit our website at [www.louisianajlap.com](http://www.louisianajlap.com).

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## FOOTNOTES

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Work-Life Balance,” Forbes (March 27, 2018), [www.forbes.com/sites/alankohll/2018/03/27/the-evolving-definition-of-work-life-balance/?sh=51d1e2c99ed3](http://www.forbes.com/sites/alankohll/2018/03/27/the-evolving-definition-of-work-life-balance/?sh=51d1e2c99ed3).

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18. Kevin Kruse, “Stephen Covey: 10 Quotes That Can Change Your Life,” Forbes (July 16, 2012), [www.forbes.com/sites/kevinkruse/2012/07/16/the-7-habits/?sh=72710c4639c6](http://www.forbes.com/sites/kevinkruse/2012/07/16/the-7-habits/?sh=72710c4639c6).

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26. MacDonald, *supra* note 1.

Dr. Angela White-Bazile, Esq., is the executive director of the Louisiana Judges and Lawyers Assistance Program, Inc. (JLAP) and can be reached at (985)778-0571, toll-free (866)354-9334 or by email at [jlap@louisianajlap.com](mailto:jlap@louisianajlap.com).



## Statement of Diversity Signatories Spotlighted

The Louisiana State Bar Association's (LSBA) Committee on Diversity in the Legal Profession would like to acknowledge the newest signatories of the LSBA Statement of Diversity Principles. Those signing this Statement of Principles commit themselves to foster diversity in the legal profession. The LSBA recognizes that diversity is an inclusive concept that encompasses race, color, ethnicity, gender, sexual orientation, age, religion, national origin, disability and other aspects of diversity.

To access the Statement online, go to: [www.lsba.org/Diversity/DiversityPrinciples.aspx](http://www.lsba.org/Diversity/DiversityPrinciples.aspx).

Forms may be returned to the Department of Member Outreach and Diversity, Attn: Tricia R. Pierre, at [diversity@lsba.org](mailto:diversity@lsba.org) or by mail to 601 St. Charles Ave., New Orleans, LA 70130-3404.

### 2021-22 Signatories

Barbara L. Edin  
Betty A. Maury  
Barasso Usdin Kupperman Freeman & Sarver, LLC  
Caddo Parish District Public Defender Office  
Chaffe McCall, LLP  
CoreServe Legal, LLC  
Evans & Clesi, PLC  
First City Court, Orleans Parish  
Glago Williams, LLC  
Law Office of Rhett P. Spano  
Malika L. Howard  
Mouledoux, Bland, Legrand & Brackett, LLC  
Ristroph Law, Planning and Research

## CLE Webinar on Fair Voting Practices Conducted

The Louisiana State Bar Association Committee on Diversity in the Legal Profession's Pipeline to Diversity and Outreach Subcommittee, in partnership with Adams and Reese, LLP, hosted a Black History Month CLE webinar on Feb. 24.

The webinar, titled "Fair Voting Practices: Ensuring Proportional Representation," featured speakers Judge (Ret.) Janice Clark, attorney at law; U.S. Attorney Ronald C. Gathe, Jr., U.S. District Court, Middle District of Louisiana; Charles A. Person, Freedom Rider; and Chancellor John K. Pierre, Southern University Law Center.

During the webinar, speakers explored the historical impact of the Voting Rights Act and the potential implications that gerrymandering has on the democratic process.



Judge (Ret.)  
Janice Clark



U.S. Attorney  
Ronald C. Gathe, Jr.



Charles A. Person



Chancellor John  
K. Pierre

## CLE Webinar on LGBT Legal Issues Conducted

The Louisiana State Bar Association Committee on Diversity in the Legal Profession's LGBT Subcommittee hosted a CLE webinar on Feb. 24.

The webinar, titled "LGBT Legal Issues: Louisiana and Nationally," featured speaker Professor Todd Brower, judicial education director of the Williams Institute on Sexual Orientation Law and Public Policy, UCLA School of Law, Los Angeles, CA. During the webinar, he discussed the legal issues that gender diverse people face and how attorneys and firms can serve their needs.



Professor Todd  
Brower



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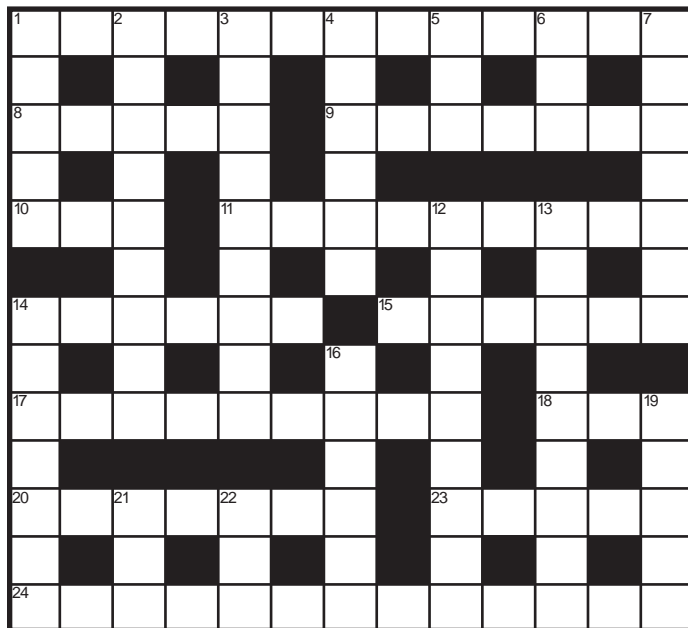
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# Crossword PUZZLE

By Hal Odom, Jr.

## A MERRY MARITIME



### ACROSS

- 1 Fitness of vessel for intended use (13)
- 8 “\_\_\_ at ‘em!” (Scrappy-Doo catchphrase) (5)
- 9 Kind of small anchor, or large hook (7)
- 10 Mal de \_\_\_ (3)
- 11 “Rule \_\_\_” (Royal Navy anthem) (9)
- 14 Young and inexperienced (6)
- 15 Opposite of “Down Under” (6)
- 17 Reason for sitting in dock or in chemical dependency (6, 3)
- 18 \_\_\_ economy (marked by freelance and short-term work) (3)
- 20 Avery, Demourelles and Timbalier (7)
- 23 Striped creature (5)
- 24 Longshore and \_\_\_ Compensation Act (6, 7)

### DOWN

- 1 Port city famous for Witch Trials (5)
- 2 Maritime jurisdiction (9)
- 3 Exaggerated; too windy (9)
- 4 Major river at Baghdad (6)
- 5 AFL-CIO org. for 24 Across (1, 1, 1)
- 6 Sea eagle, ubiquitous in crosswords (3)
- 7 Breeze that blows in off the sea (4, 3)
- 12 Canapé or antipasto (9)
- 13 Affording a channel for useful commerce (9)
- 14 Popular catch off New England coast (7)
- 16 Hand-held, bladed cutter (3, 3)
- 19 Objectives; scores in soccer (5)
- 21 Agency for state tax returns (1, 1, 1)
- 22 Not *paleo*-(3)

Answers on page 87.

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

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

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## REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date March 31, 2022.

### Decisions

**Brad Thomas Andrus**, Lafayette, (2021-B-01508) **Disbarred from the practice of law, subject to conditions**, by order of the Louisiana Supreme Court on Jan. 19, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 2, 2022. *Gist*: Neglect of a legal matter; charging and collecting an unreasonable fee; converting client funds; failure to return client file upon request; engaging in deceptive and dishonest behavior in the course of the disciplinary proceedings; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; engaging in conduct prejudicial to the administration of justice; and violating or attempting to violate the Rules of Professional Conduct.

**Michael P. Arata**, New Orleans, (2022-OB-00262) **Readmitted to the practice of law** by order of the Louisiana Supreme Court on March 22, 2022. JUDGMENT FINAL and EFFECTIVE on March 22, 2022.

**Claude P. Devall, Jr.**, Lake Charles, (2021-OB-01899) **Reinstated to ac-**

**tive status with conditions** by order of the Louisiana Supreme Court on Jan. 12, 2022. JUDGMENT FINAL and EFFECTIVE on Jan. 12, 2022.

**Patrick Hale DeJean**, Marrero, (2021-OB-01890) **Permanently resigned from the practice of law in lieu of discipline** by order of the Louisiana Supreme Court on Feb. 8, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 8, 2022. *Gist*: Convicted by a federal jury of multiple counts of mail fraud and making false statements to a bank.

**Kelly Rae Englert**, Baton Rouge, (2021-B-01819) **By consent, suspended from the practice of law for one year and one day, fully deferred, subject to probation**, by order of the Louisiana Supreme Court on Feb. 8, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 8, 2022. *Gist*: Commission of a criminal act (DWI).

**Corrie Ruth Gallien**, Lafayette, (2022-OB-00226) **Transferred to interim disability inactive status** by order of the Louisiana Supreme Court on Feb. 10, 2022. JUDGMENT FINAL and

EFFECTIVE on Feb. 10, 2022.

**Joseph S. Giardina**, Baton Rouge, (2022-B-0130) **By consent, suspended from the practice of law for two years, fully deferred, subject to probation**, by order of the Louisiana Supreme Court on March 15, 2022. JUDGMENT FINAL and EFFECTIVE on March 15, 2022. *Gist*: Commission of a criminal act (possession of controlled dangerous substance).

**C. Kevin Hayes**, Baton Rouge, (2022-B-00105) **On joint motion, intermily suspended from the practice of law** by order of the Louisiana Supreme Court on Jan. 26, 2022. JUDGMENT FINAL and EFFECTIVE on Jan. 26, 2022.

**William F. Henderson**, Alexandria, (2022-OB-0216) **Immediately readmitted to the practice of law in Louisiana, subject to a one-year period of supervised probation**, by order of the Louisiana Supreme Court on March 15, 2022. JUDGMENT FINAL and EFFECTIVE on March 15, 2022.

**Travis Mitchell Hill**, Moulton, Texas, (2021-B-1616) **Enjoined for a period of one year and one day from seeking admission to the Louisiana bar or seeking admission to practice in Louisiana on a temporary or limited basis, including but not limited to seeking pro hac vice admission for a Louisiana court pursuant to Supreme Court Rule XVII, § 13, or seeking limited admission as an in-house counsel pursuant to Supreme Court Rule XVII, § 14**, by order of the Louisiana Supreme Court on Feb. 8, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 22, 2022. *Gist*: Respondent engaged in the unauthorized practice of law and in conduct that is prejudicial to the administration of justice.

Continued next page

## CHRISTOVICH & KEARNEY, LLP ATTORNEYS AT LAW

### DEFENSE OF ETHICS COMPLAINTS AND CHARGES

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**Discipline** continued from page 50

**Lynn Plaisance Johnson**, Baton Rouge, (2021-B-01580) **Had the order of disbarment imposed by the Supreme Court of Missouri made reciprocal in the State of Louisiana** by order of the Louisiana Supreme Court on Jan. 26, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 9, 2022.

**Myles Julian Johnson**, Tacoma, WA, (2021-B-01558) **Suspended from the practice of law for six months** by order of the Louisiana Supreme Court on Jan. 26, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 10, 2022. *Gist:* Respondent neglected a legal matter, failed to communicate with a client, failed to properly withdraw from a representation, failed to fulfill his professional obligations, and failed to cooperate with the ODC in its investigation.

**Edmond H. Knoll**, Lafayette, (2022-B-00107) **By consent, suspended from the practice of law for one year and one day, fully deferred, subject to probation**, by order of the Louisiana Supreme

Court on March 15, 2022. JUDGMENT FINAL and EFFECTIVE on March 15, 2022. *Gist:* Respondent engaged in criminal conduct.

**John Lynn Ponder**, Amite, (2022-OB-0218) **Permanently retired from the practice of law** by order of the Louisiana Supreme Court on March 3, 2022. JUDGMENT FINAL and EFFECTIVE on March 3, 2022.

**Richard L. Reynolds**, Lacombe, (2021-B-1638) **By reciprocal discipline, disbarred from the practice of law** by order of the Louisiana Supreme Court on Jan. 26, 2022, as set forth by the sanction imposed by the Mississippi Supreme Court. JUDGMENT FINAL and EFFECTIVE on Feb. 9, 2022. *Gist:* Pleading guilty in federal court to misprision of a felony; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and violating or attempting to violate the Rules of Professional Conduct.

**Frances M. Robinson Smith**, Baton Rouge, (2021-B-1534) **Suspended from the practice of law for a period of one**

**year and one day. This suspension is deferred in its entirety, subject to respondent's successful completion of a two-year period of probation with appropriate conditions**, by order of the Louisiana Supreme Court on Feb. 15, 2022. JUDGMENT FINAL and EFFECTIVE on Feb. 15, 2022. *Gist:* Respondent mishandled her client trust account.

**Elizabeth Anne Spurgeon**, Alexandria, (2022-OB-0395) **Reinstated to active status** by order of the Louisiana Supreme Court on March 17, 2022. JUDGMENT FINAL and EFFECTIVE on March 17, 2022.

**Barron M. Whipple**, Houma, (2022-OB-00344) **Transferred to disability inactive status** by order of the Louisiana Supreme Court on March 9, 2022. JUDGMENT FINAL and EFFECTIVE on March 9, 2022.

**Greta L. Wilson**, New Orleans, (2021-B-1579) **Permanently disbarred from the practice of law and ordered to pay restitution** by order of the Louisiana Supreme Court on Jan. 26, 2022.

Continued next page



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

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of April 4, 2022.

Respondent	Disposition	Date Filed	Docket No.
Eugene P. Redmann	Reciprocal public reprimand.	2/23/22	21-1913
Alphonse M. Thompson, Jr.	Reciprocal public reprimand and suspension.	2/7/22	20-3186
Joseph Harold Turner, Jr.	Disbarred.	3/14/22	21-2018
Jerome M. Volk, Jr.	Reciprocal suspension.	3/14/22	21-2017

### Discipline continued from page 51

JUDGMENT FINAL and EFFECTIVE on Feb. 9, 2022. *Gist:* Conduct involving knowingly and intentionally violating duties owed to her client, the public, the legal system and the legal profession; failed to communicate and to remit funds to a client causing significant harm; and failed to cooperate with a disciplinary investigation.

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

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

1 Violation of Rule 1.9(a) — Duties to former clients.

2 Violations of Rule 1.15(a) — Commingling.

1 Violation of Rule 5.1 — Failure to supervise subordinate attorney.

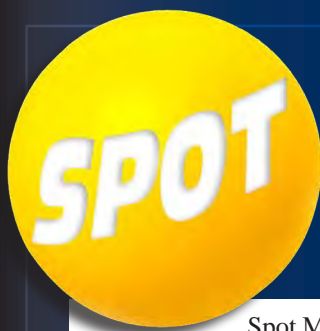
1 Violation of Rule 7.2(a)(1)(2) — Required content of advertisements and unsolicited written communications; name of lawyer; location of practice.

1 Violation of Rule 7.2(a)(2) — Required content of advertisements and unsolicited written communications; location of practice.

1 Violation of Rule 7.2(c)(1)(h) — Prohibitions and general rules governing content of advertisements and unsolicited written communications; statements about legal services; contains a paid testimonial or endorsement, unless the fact of payment is disclosed.

1 Violation of Rule 7.7(g) — Notice of noncompliance; effect of continued use of advertisement.

1 Violation of Rule 8.3(a) — Duty to report.



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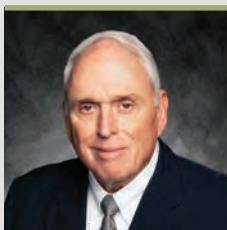
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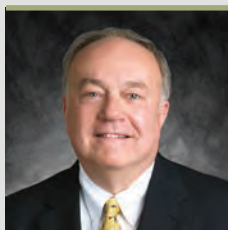
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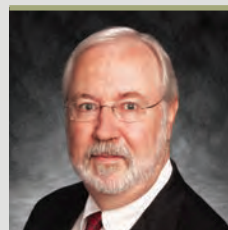
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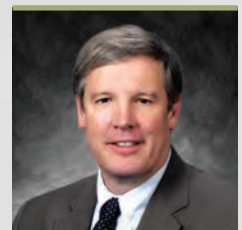
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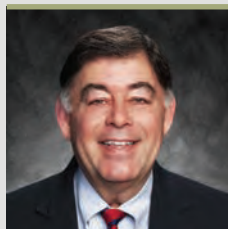
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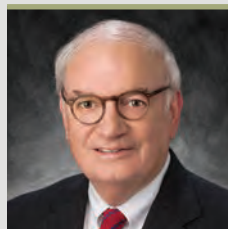
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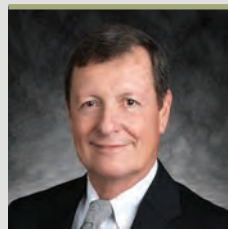
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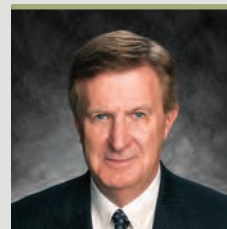
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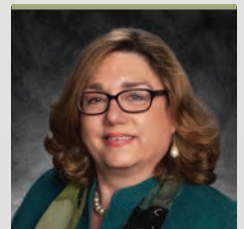
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### LASC Resolves Circuit Split on Summary Judgment Opposition Deadlines

*Auricchio v. Harriston*, 20-1167 (La. 12/10/21), 332 So.3d 660.

The Louisiana Supreme Court granted a supervisory writ in this case arising out of the Orleans Parish Civil District Court for the express purpose of resolving a circuit split as to the interpretation of La. C.C.P. art. 966, the article governing summary judgment procedure. Section (B)(2) of art. 966 states that, “Any opposition to [a] motion [for summary judgment] and all documents in support of

the opposition shall be filed and served in accordance with Article 1313 not less than fifteen days prior to the hearing on the motion.”

In *Auricchio*, the plaintiffs’ motion for summary judgment was set for July 31, 2020. On July 20, less than 15 days before the scheduled hearing date, defendant filed a motion to continue, and in the alternative, a request to file evidence in support of her opposition past art. 966(B) (2)’s 15-day deadline. Defendant’s counsel cited issues with COVID-19 as the reason for the delay and subsequent request. Defendant filed its opposition to summary judgment the next day. The trial court denied the continuance, but did entertain the opposition, ultimately denying plaintiffs’ motion for summary judgment based on the late-filed opposition evidence. The Louisiana Supreme Court granted plaintiff’s writ for review of the trial court’s decision.

Defendant argued that the trial court’s decision to deny the continuance but allow the untimely opposition was within its discretion under 966(C)(2), which al-

lows a summary judgment hearing to be continued for good cause. Because the trial court could have continued the hearing and thereby extended the time to file an opposition, defendant reasoned, the court also had the discretion to take up the late-filed opposition that day without continuing the hearing.

The Court delved into the history of art. 966, which previously allowed trial courts to give additional time for filing oppositions “for good cause.” This provision was removed in 2015, with the circuit courts of appeal interpreting the deletion variously. Whereas the 1st and 3rd Circuit Courts of Appeal have since held that the new art. 966 allows a trial court no discretion to allow late-filed opposition evidence, the 2nd, 4th and 5th have done the opposite. The Supreme Court examined the clear and unambiguous language of art. 966(B) (2), which states that an opposition *shall* be filed not less than 15 days before the hearing date. Finding the mandatory language to be an intentional expression of the Legislature’s will in service of judicial efficiency, the Court held that a trial court has



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no discretion under art. 966 to extend the 15-day deadline for filing an opposition, unless it continues the hearing date itself. Because the hearing was not continued, the untimely opposition could not be considered. The case was remanded to the trial court for a ruling in accordance therewith, without consideration of the opposition.

Justice Crain penned the Court's unanimous opinion, with Justices Hughes and Griffin additionally concurring.

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## La. 3rd Circuit Puts the “Fair” Back in Fair Value

*Shop Rite, Inc. v. Gardiner*, 21-0371  
(La. App. 3 Cir. 12/29/21), 333 So.3d  
506.

In February 2018, Shawne Gielen Gardiner sent formal notice of her withdrawal from Shop Rite, Inc. and Tobacco Plus, Inc. pursuant to Louisiana's shareholder oppression statute, La. R.S. 12:1-1435. Under the statute, Gardiner's notice operated as a 60-day irrevocable offer to sell her shares to each company at fair value. Both companies denied that Gardiner was an oppressed shareholder but accepted her offer to sell, triggering a 60-day window during which the parties negotiated the fair value of her shares. The parties were unable to agree on fair value, so both companies filed

a declaratory action against Gardiner, asking the court to determine the fair value of the shares. In November 2020, a valuation trial concluded that, when Gardiner gave notice of withdrawal, her Shop Rite shares had a fair value of \$1.25 million and her Tobacco Plus shares had a fair value of \$608,000.

Of note, fair value, as contemplated by the shareholder oppression statute, is not equivalent to fair *market* value. An earlier case on the fair value of an oppressed shareholder's shares clarified that, while fair *market* value represents the amount a buyer would pay for the shares in a hypothetical, arms-length transaction, fair value represents the shareholder's pro rata claim to the net value of a company's assets. *Kolwe v. Civil & Structural Eng'rs, Inc.*, 18-0398 (La. App. 3 Cir. 2/21/19), 264 So.3d 1262, *writ denied*, 19-0483 (La. 5/20/19), 271 So.3d 1269. That is, while fair *market* value accounts for such factors as market conditions and the time-value of money, fair value simply looks to the current value of a company's assets less its liabilities.

In Gardiner's case, the focus was not on the definition of fair value but instead on the calculation of fair value. In valuing each company's net assets, the trial court made downward adjustments for (1) “trapped-in capital gains” and (2) the collectability of related-party receivables, both of which Gardiner appealed.

With respect to capital gains, the trial court considered the current value of each company's real estate assets, but it adjusted current value down for the amount of capital gains taxes that would need to be paid in the event the real estate was sold. The estimated tax in the event of a hypothetical sale is the “trapped-in capital gain.” Gardiner argued that the trial court's write-down of company real estate assets for trapped-in capital gains artificially understated each company's fair value. The 3rd Circuit agreed. The 3rd Circuit explained that, because neither company actually had plans to sell its real estate, the inclusion of tax liability in the fair value calculation was inappropriate. The court reasoned that, because the tax consequence arises upon the occurrence of an unknown future

event, it should not be considered in determining the fair value of the shares.

In addition, the trial court considered the current value of each company's outstanding receivables from related parties, but it adjusted the current value of those receivables down for “collectability.” The trial court discounted the value of the receivables for each company's cost of capital and assumed that the receivables would remain outstanding for an additional five years. However, as the 3rd Circuit pointed out, there was no documentation associated with the debts, no interest rate or term given, and no evidence that the debtors were insolvent. In the absence of such evidence, the 3rd Circuit found that the downward adjustment was unwarranted.

After reversing both downward adjustments, the 3rd Circuit determined that, when Gardiner gave notice of withdrawal, her Shop Rite shares had a fair value of \$1.55 million, and her Tobacco Plus shares had a fair value of \$686,000. The 3rd Circuit also awarded legal interest from the date of the trial court's decision.

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## **Ramos v. Louisiana: Two Years Later**

In April 2020, the U.S. Supreme Court held that unanimous jury verdicts are required in all felony criminal cases. *Ramos v. Louisiana*, 139 S.Ct. 1390 (2020). This ruling affected two states — Louisiana, which had authorized non-unanimous jury verdicts since 1898; and Oregon, which had authorized non-unanimous jury verdicts since 1934.

The Louisiana Supreme Court has held that *Ramos* applies to all persons convicted by non-unanimous juries whose convictions were not yet final when *Ramos* was decided. *See, e.g., State v. Corn*, 19-1892 (La. 6/3/20), 296 So.3d

1043 (citing *Griffith v. Kentucky*, 479 U.S. 314 (1987)). That much is settled.

But what about persons convicted by non-unanimous juries whose convictions were already final when *Ramos* was decided? In other words, does *Ramos* apply retroactively? The U.S. Supreme Court has said “no” as a matter of federal law. *Edwards v. Vannoy*, 141 S.Ct. 1547, 1551 (2021). But the Court also said that states are free to apply *Ramos* retroactively as a matter of state law. *Edwards*, 141 S.Ct. at 1559 n. 6 (2021).

The question then becomes: Does *Ramos* apply retroactively as a matter of state law? As this issue goes to print, the answer is an unequivocal “we don’t know yet.” But in both Louisiana and Oregon, this very question is pending before the state supreme court. At the time this article went to print, oral arguments before the Louisiana Supreme Court were scheduled to be held on May 10, 2022. The case is *State v. Reginald Reddick*, docket no. 2021-KP-1893.

Oral arguments before the Oregon

Supreme Court were scheduled to be held May 12, 2022. The issue is presented in three consolidated cases — *Bethanie J. Jones v. Nichole Brown*, docket no. A175780; *Jacob Keith Watkins v. Richard Ackley*, docket no. A176245; and *Troy Kevin Huggett v. Brandon Kelly*, docket no. A174444. (In these cases, the plaintiff is the inmate seeking relief and the defendant is the warden of the facility where the plaintiff is housed.)

This question may have been answered by the time this article is published. To be among the first to find out any decision from the Louisiana Supreme Court, go to [www.lasc.org](http://www.lasc.org) and click the link associated with the text: “Subscribe to the Court Actions alert service.”

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## Courts Grapple with Executive Order on Social Costs of Greenhouse Gases and Major-Questions Doctrine

In *Louisiana v. Biden*, the U.S. 5th Circuit Court of Appeals stayed an injunction granted to several states that challenged President Biden's Executive Order 139990, which reinstated consideration of the Social Cost of Greenhouse Gases (SC-GHG). 22-30087, 2022 WL 866282, at \*1 (5 Cir. Mar. 16, 2022) (per curiam) (granting stay pending appeal of *Louisiana v. Biden*, 2:21-cv-01074, 2022 WL 438313

(W.D. La. Feb. 11, 2022)).

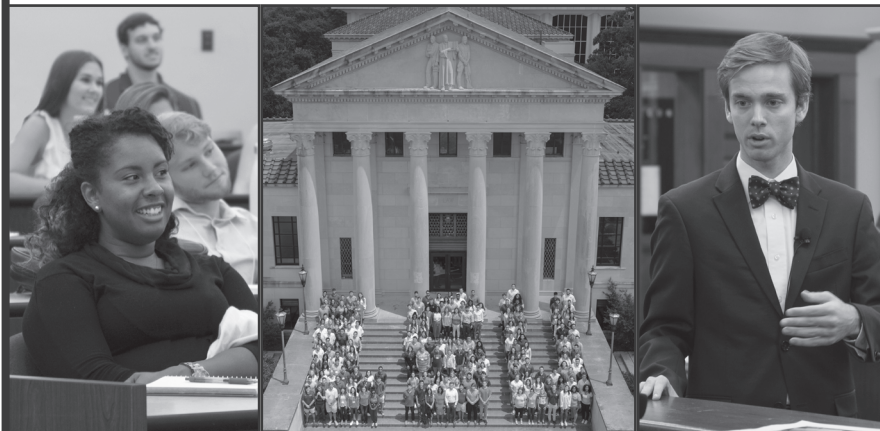
The SC-GHG is an estimate of the future cost of the detrimental effects of greenhouse-gas emissions, including agricultural productivity, human health, property damage from increased flood risk and the value of ecosystem services. Biden's Executive Order 139990 reinstated the Interagency Working Group on SC-GHG and directed the group to put into economic terms, via a per-ton estimate, the social costs of carbon so that policymakers can consider the economic impacts of agency actions that may increase or decrease emissions.

Plaintiff States challenged the order and requested that the Western District of Louisiana grant an injunction partly on the grounds that the order violated the "major-questions" doctrine, which aims to ensure that "agencies do not impose new obligations of vast economic and political significance upon private parties and States unless Congress speaks clearly." *Louisiana*, 2022 WL 438313, at \*15. The district court concluded, in part, that because the changes imposed by the order required the inclusion of global emissions in SC-GHG

calculations, as opposed to solely domestic ones, it contradicted Congress' intent regarding legislative rulemaking and violated the major-questions doctrine. As grounds for granting the injunction, the court cited, among other considerations, the public interest in maintaining balance among the three branches of government in the implementation of regulatory schemes.

At the time of writing this article, however, the 5th Circuit granted the Government defendants' stay request, concluding the appeal had a likelihood of success on the merits based on a standing inquiry. The court found that the claims of the plaintiff States only "amount to a generalized grievance of how the current administration is considering SC-GHG; [failing] to meet the standards of Article III standing." *Louisiana*, 2022 WL 866282, at \*2. In concluding that the defendants would suffer irreparable harm, the 5th Circuit reasoned that the "preliminary injunction's directive for the current administration to comply with prior administrations' policies on regulatory analysis absent a specific agency action to review also appears outside the authority of the federal courts." *Id.* at \*3. The major-questions doctrine was not considered in the 5th Circuit's decision to grant the stay but, depending on the outcome of the appeal, the doctrine may become more prevalent in challenges to broad environmental regulatory regime changes going forward.

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## Expert Testimony Relying on "Tangential Facts" of Pit Usage Insufficient to Overturn Summary Judgment

In *Andrepoint v. Chevron USA Inc.*, 21-0357 (La. App. 3 Cir. 2/23/22), \_\_ So.3d \_\_\_, 2022 WL 534231, the Louisiana 3rd Circuit Court of Appeal affirmed a summary judgment dismissing Chevron USA Inc. from a legacy oilfield contamination case. Plaintiffs' expert established that Chevron's predecessor Gulf Refining Co. operated wells near earthen storage pits — which allegedly caused contamination on plaintiffs' property — but plaintiffs failed to create a genuine issue of material fact as to whether Gulf actually used the pits.



The 3rd Circuit reasoned that plaintiffs' expert report was not based on sufficient facts or data to demonstrate that Gulf used two unlined, earthen pits (referred to as the Wilkins Tanks) or a flowline in the vicinity of wells operated by Gulf. Plaintiffs' expert opined that it was more likely than not that Gulf used the Wilkins Tanks because Gulf had the most fluid production in the area and the most wells in the vicinity and, therefore, would have needed and used the excess storage. Additionally, plaintiffs' expert opined that a flowline shown in a historic field map must have been utilized by Gulf since it appeared in close proximity to wells operated by Gulf. Plaintiffs' expert admittedly had no specific historical evidence that Gulf used the pits or flowline, but instead based the conclusion on his experience and the totality of the circumstances. The 3rd Circuit agreed with the trial court's reasoning that plaintiffs' expert "‘tried to morph’ ‘tangential facts’ into evidence that Gulf put oil or salt-water into the Wilkins Tanks and that his opinions ‘depend on a lot of assumptions, suppositions, [and] extrapolations.’" *Id.* at \*\*21-22. As such, plaintiffs' expert's opinion did not create a genuine issue of material fact necessary to overcome a grant of summary judgment.

In rebuttal, plaintiffs asserted that inasmuch as Chevron's expert's report relied on his personal attestations that nothing existed to show Gulf ever made use of the pits, it likewise lacked sufficient factual basis. Nevertheless, the panel's focus remained on the principle that causation was plaintiffs', not Chevron's, burden to carry. The decision in *Andrepoint* reinforced the principle that tangential facts and tenuous assumptions are insufficient to create a genuine issue of material fact in summary judgment proceedings.

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## Divorce

***Benoit v. Benoit***, 21-0865 (La. App. 1 Cir. 2/25/22), \_\_\_So.3d\_\_\_, 2022 WL 575301.

In this covenant marriage case, after the parties were granted a judgment of separation, Mr. Benoit later filed a petition for divorce, to which Ms. Benoit objected. She argued that it was premature because the parties had not complied with the required counseling. Although she was not properly served with the date set for hearing on his divorce, she appeared in court and filed that day an additional opposition claiming that the petition was premature. The trial court instructed her to argue her exceptions, which the court then denied; however, the court continued and reset the hearing on the divorce.

At the time of the divorce hearing, she re-urged her objections, but the court granted the divorce. She then appealed, alleging that the hearing on her exceptions was improper because she did not have notice of the hearing set that day. The court of appeal rejected that argument, finding that her exception to service was waived by her appearance and that she had the opportunity to be heard and to argue her exceptions that day. Regarding the granting of the divorce, she argued that the statute provides that the parties are to obtain counseling between the time they begin living separate and apart and the date of the divorce. Although they had received joint counseling for a period of time, she terminated that, but Mr. Benoit continued in personal counseling himself through the date of the divorce. The court found that that was sufficient to meet the requirements of the statute "based on the unique facts and circumstances of this case."

## Child Support

***Kendrick v. Estate of Barre***, 21-0993 (La. 3/25/22), \_\_\_So.3d\_\_\_, 2022 WL 888105.

The Supreme Court reversed the court of appeal's decision and reinstated the trial court's ruling, holding that an initial child support claim cannot be brought after the father's death. Here, the father was shot and killed prior to the child's birth. Thereafter, the mother filed a petition for filiation and child support, among other relief. The Louisiana Supreme Court found that because child support was dependent on the establishment of a paternal relationship, no support could be owed or accrue prior to a suit being

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filed to establish paternity and to demand child support. Because the obligation to pay child support is a personal obligation, it terminates upon the father's death.

## Custody

**Smith v. Harmon**, 21-0772 (La. App. 3 Cir. 4/6/22), \_\_\_ So.3d \_\_\_, 2022 WL 1021322.

Following Ms. Harmon's and Mr. Smith's consent judgment providing that Mr. Smith's mother, the paternal grandmother, Ms. Lyons, would have sole custody of their biological child, Ms. Harmon sought to modify that judgment after she had completed rehabilitation and treatment from drug abuse and other issues that affected her ability to provide an adequate and stable environment for the child. The trial court entered two judgments, awarding joint custody of the child to Ms. Harmon and Ms. Lyons, but not designating a domiciliary parent; and issuing a joint-custody-implementation plan providing for shared physical custody on an alternating seven-day basis. Ms. Harmon appealed both judgments. The court of appeal affirmed the trial court's standard regarding the burden of proof, namely, that Ms. Harmon was required to show that a material change in circumstances had occurred, and that, if so, it was in the child's best interest to modify the judgment. The appellate court also found that the trial court did take into consideration Ms. Harmon's fundamental rights as a biological parent. It also affirmed the joint-custody-implementation plan and the non-designation of a domiciliary parent.

**Cochran v. Foreman**, 19-0527 (La. App. 1 Cir. 3/4/22), \_\_\_ So.3d \_\_\_, 2022 WL 630877.

Mr. Cochran obtained an emergency custody order over the parties' minor child in Mississippi. Ms. Foreman then instituted a custody proceeding in Louisiana, which ruled that it had exclusive jurisdiction. Mississippi had also determined that it had jurisdiction. He moved to annul the Louisiana rulings, alleging that Ms. Foreman committed fraud and ill-practices by not providing

him notice of the Louisiana proceedings. The trial court denied the motion, leading to this appeal.

The court first found that pursuant to a prior Louisiana Supreme Court opinion on writs, Mr. Cochran did receive adequate notice of the Louisiana proceedings. On the present appeal, the court found that because Mississippi's jurisdiction was under the emergency jurisdiction section of the UCCJEA, that order remained in effect only until an order was obtained from a state having appropriate jurisdiction to render an initial custody judgment, and that Louisiana had such jurisdiction. The court found that Louisiana was the child's home state to make an initial custody determination. Further, there was no fraud or ill-practices in her obtaining the Louisiana order. The court noted that since Mr. Cochran had notice of the proceedings, he could have appeared and raised his defenses. Instead, he chose not to appear, and, thus, "a defendant cannot seek to annul a judgment simply because he failed to present a valid defense that could have been pled before rendition of the judgment."

## Community Property

**Collins v. Collins**, 21-0572 (La. App. 3 Cir. 2/16/22), \_\_\_ So.3d \_\_\_, 2022 WL 471617.

Ms. Collins obtained a consent judgment against Mr. Collins for an equalizing payment to equalize the community property partition. The judgment also called for a stipulated per diem penalty of \$50 per day for each day that the equalizing payment was not paid after the due date. When he determined that he would not be able to make the payment, he filed a motion to modify the judgment, which was denied. Ms. Collins filed a motion to enforce the agreement, for contempt and for garnishment. The trial court found him in contempt and ordered a garnishment of his wages.

Eight years later, Mr. Collins filed a rule to show cause to have the garnishment terminated, arguing, in part, that the property partition judgment had prescribed and had not been timely reinscribed. The trial court denied his rule,

finding that the garnishment judgment could not prescribe because it was part of the judicial partition. The court of appeal reversed, finding that although there is disagreement as to whether a consent judgment with an equalizing payment is a money judgment or a personal action, both, nevertheless, prescribe in 10 years. Further, the obligations under the garnishment judgment did not serve to prevent the original partition judgment from prescribing, and the involuntary seizures of his wages did not act to interrupt the prescriptive period. Thus, the court of appeal reversed and canceled the garnishment judgment because it was based on a prescribed partition judgment.

**M.B. v. T.B.**, 21-0580 (La. App. 3 Cir. 2/23/22), 2022 WL 534310 (unpublished).

M.B., the husband, appealed numerous issues in this community property partition, and all of the trial court rulings were affirmed. Most significantly, the trial court did not err in accepting the testimony of a forensic accountant appointed by the court to determine the community ownership interest value in the husband's law practice. The expert used a "time-line" approach based on the date of the engagement of the client, the date of the settlement of the suit, the funds deposited to M.B.'s account and his share of the fee. The trial court did not err in assessing the burden of proof for the valuation. The trial court was entitled to accept the conclusions of the expert and, further, M.B. testified as to his position regarding the fees. The court did not err in pretermitted ruling on reimbursement claims for state and federal taxes that had not yet been paid. The trial court did not err in denying M.B.'s last-minute request for a continuance, as the matter has been continued before. Further, the court found that most of the records at issue were M.B.'s own records.

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## 1st Circuit Upholds Arbitration Award, Holds Arbitrator Not Evidently Partial and Did Not Exceed Powers

*DeArmond v. E. Jacob Constr., Inc.*, 21-0981 (La. App. 1 Cir. 4/8/22), \_\_\_\_ So.3d \_\_\_\_, 2022 WL 1055594.

Allen DeArmond and E. Jacob Construction, Inc. (EJC) entered into a contract for EJC to repair flood-related damages to DeArmond's home. At the close of the project, DeArmond refused to pay the remaining installments owed to EJC totaling \$29,548.20 because of

what DeArmond categorized as incomplete punch-list items. In response, EJC filed a lien on DeArmond's property.

Subsequently, DeArmond filed suit against EJC, and EJC reconvened to recover its contract balance. In May 2020, the parties agreed to retain an arbitrator to conduct a binding arbitration. The arbitrator held a proceeding at the site of DeArmond's home and, afterward, rendered a decision finding in favor of EJC, awarding damages of \$40,598.20 to EJC, which included an award of \$10,000 in attorney fees and \$1,830 in interest on unpaid invoices.

After the award was rendered, DeArmond filed a motion to vacate, modify or correct the arbitration award. In response, EJC filed a motion to confirm the arbitration award. After hearing arguments from both parties, the trial court granted EJC's motion to confirm and denied DeArmond's motion. DeArmond appealed.

DeArmond's first issue on appeal was that the arbitrator's adverse decision as to

certain punch-list items showed that he was evidently partial. In finding against DeArmond, the 1st Circuit Court of Appeal explained that DeArmond "failed to produce evidence showing that a reasonable person would have to conclude that the Arbitrator was evidently partial to EJC." It further commented that "[t]he fact that the Arbitrator ruled against Mr. DeArmond on the punch list items is not evidence that he was partial to EJC."

The second issue argued by DeArmond on appeal was that the arbitrator exceeded his power by awarding interest and attorney fees to EJC on unpaid invoices. As it relates to attorney fees, the arbitrator awarded fees under the Louisiana Open Account Statute, La. R.S. 9:2718D. In finding that the arbitrator did not exceed his powers by awarding attorney fees under the statute, the court of appeal explained that, under *Frey Plumbing v. Foster*, 07-1091 (La. 2/26/08), 996 So.2d 969, the Open Account Statute was to be applied "as written," that "open account" includes "any account" and nowhere in the statute are construction accounts or contracts specifically excluded. It further found that the reconventional demand filed by EJC satisfied the written demand requirement of 9:2781A.

As it relates to the arbitrator's interest award, although the court of appeal noted that the arbitrator gave no specific grounds for his reliance on unpaid invoices to calculate the award and no statutory authority for awarding interest, the court of appeal did not overturn the award and instead noted "[e]ven in the absence of a contractual or statutory provision authorizing such, and even if an error of law or fact, the Arbitrator's interest award does not meet one of the exclusive grounds for vacating, modifying, or correcting an arbitration award specified in La. R.S. 4210 and 4211."

Finally, the last issue argued by DeArmond was there was a mathematical error by the arbitrator in rendering the award. The court of appeal agreed with DeArmond and, in doing so, reversed the trial court judgment confirming the arbitrator's award and modified

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the award to correct the \$80 mathematical error.

—**Luke P. LaRocca**  
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## The Hague / International Court of Justice

*Allegations of Genocide Under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Case No. 2022/11, Order (March 16, 2022).

The International Court of Justice (ICJ) is the judicial organ of the United Nations, sometimes also referred to as the “World Court.” The ICJ consists of 15 judges elected by the United Nations General Assembly and Security Council. The court’s judgments are binding between United Nations States and not subject to appeal. Ukraine and the Russian Federation (RF) are States of the United Nations.

Ukraine initiated ICJ proceedings against the RF on Feb. 26, 2022, two days after Russian military troops invaded Ukraine’s territorial boundaries. Just prior to the invasion, the RF recognized as sovereign two breakaway Russian groups in Eastern Ukraine that have been actively fighting Ukrainian troops since 2014. Further, the RF justified its invasion and use of lethal force all over Ukraine on the grounds that Ukraine was committing or condoning acts of genocide in Eastern Ukraine. Genocide is prohibited under the 1948 Genocide Convention. The RF and Ukraine are signatories to the Genocide Convention, which allows par-

ties to take certain actions to prevent and punish genocide. However, as the court noted in its opinion, “it is doubtful that the Convention, in light of its object and purpose, authorizes a Contracting Party’s unilateral use of force in the territory of another State for the purpose of preventing or punishing an alleged genocide.” *ICJ Order* at ¶ 59.

Ukraine denies any acts of genocide in Ukraine and its ICJ application seeks, *inter alia*, (1) provisional measures ordering an immediate suspension of RF military operations throughout Ukraine, including any military or irregular armed units directed or supported by the RF; (2) final judgment that no acts of genocide were committed by Ukraine; (3) final judgment that Russia made false claims of genocide and, therefore, any military measures taken by it are illegal under the Genocide Convention; and (4) final judgment that the RF military operation is based on false claims entitling Ukraine to full reparation for all damages caused by Russia. *Id.* at ¶ 2.

The ICJ scheduled a hearing on Ukraine’s request for provisional measures, and the RF declined to participate. *Id.* at ¶ 12. However, after oral proceedings, the RF sent a letter to the ICJ contending that it lacks jurisdiction to entertain the case. *Id.* at ¶ 16. The ICJ issued its order on March 16, 2022, granting Ukraine’s application for provisional measures. At the outset, the ICJ took judicial notice of the military invasion and issues presented as follows:

The context in which the present case comes before the Court is well-known. On 24 February 2022, the President of the Russian Federation, Mr. Vladimir Putin, declared that he had decided to conduct a “special military operation” against Ukraine. Since then, there has been intense fighting on Ukrainian territory, which has claimed many lives, has caused extensive displacement and has resulted in widespread damage. The Court is acutely aware of the extent of the human tragedy that is taking place in Ukraine and is deeply concerned about the continuing loss of

life and human suffering.

The Court is profoundly concerned about the use of force by the Russian Federation in Ukraine, which raises very serious issues of international law. The Court is mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of international peace and security as well as in the peaceful settlement of disputes under the Charter and Statute of the Court. It deems it necessary to emphasize that all States must act in conformity with their obligations under the United Nations Charter and other rules of international law, including international humanitarian law.

*Id.* at ¶¶ 17-18.

The court accepted jurisdiction under Article IX of the Genocide Convention and concluded that Ukraine’s request for provisional measures was warranted and that, “[u]nder these circumstances, the court considers that Ukraine has a plausible right not to be subjected to military operations by the Russian Federation for the purpose of preventing and punishing an alleged genocide in the territory of Ukraine.” *Id.* at ¶ 60. The court ordered the RF to “suspend the military operations that it commenced on 24 February in the territory of Ukraine.” *Id.* at ¶ 81.

The vote of the court granting provisional measures in favor of Ukraine was 13-2. The two court members voting against Ukraine’s request were Mr. Kirill Gevorgian (Russian Federation) and Ms. Xue Hanqin (China). Despite the court’s March 16, 2022, order, the RF continues to wage war in Ukraine. The ICJ will presumably take up the merits of the case in due course, unless the parties reach an agreement to terminate the proceedings.

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## EEOC Warns Against Caregiver Discrimination

Guidance released by the Equal Employment Opportunity Commission (EEOC) on March 14, 2022, makes clear that the EEOC cares about helping caregivers balance work-life responsibilities by protecting these workers from discrimination under equal employment opportunity (EEO) laws. Although the guidance stems from unique circumstances resulting from the COVID-19 pandemic, such as caring for a child in quarantine, it is intended to preserve work-life balance for caregivers well beyond the pandemic and into whatever “new normal” the pandemic evolves.

See Equal Employment Opportunity Commission, *The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws* (March 14, 2022), <https://www.eeoc.gov/laws/guidance/covid-19-pandemic-and-caregiver-discrimination-under-federal-employment>.

According to the guidance, caregivers — though not a protected class of workers under EEO laws — may bring claims of unlawful discrimination when workplace policies adversely impact them as either job applicants or employees. For example, the guidance suggests that using archaic gender-role stereotypes to make employment decisions is an unlawful form of discrimination based on sex. Caregiver discrimination based on sex may include decisions such as:

- ▶ assuming that a female applicant cannot be hired because she would need to care for her children while they attend school remotely;

- ▶ issuing stricter guidelines or punishments to female employees than their similarly situated male co-workers

when missing deadlines or accumulating absences due to COVID-19-related caregiving responsibilities;

- ▶ assigning only males to projects requiring overtime or travel based on the belief that female workers are not available to work extra hours due to COVID-19-related caregiving duties;

- ▶ exempting female employees but not male employees from return-to-work policies based on the assumption that males are not primary caregivers at home; and

- ▶ granting leave requests to female caregivers caring for family members with COVID-19 but denying equivalent leave requests to male employees.

Caregiver sex discrimination may also include discrimination based on a person’s gender identity or sexual orientation. Requiring that LGBTQI+ employees with caregiver responsibilities provide credentials to be considered for leave or other requests (such as proof of marital status or proof of relation to their child), if these credentials are not required of other employees, constitutes unlawful caregiver sex discrimination. Additionally, denying leave to an employee with a same-sex partner because of his or her sexual orientation or gender identity could also be caregiver sex discrimination.

The guidance further provides that it is unlawful to discriminate against a caregiver responsible for providing care to an individual with a disability, including when the disability is either COVID-19 or long-COVID. Caregivers responsible for an individual with a disability are protected under the Americans with Disabilities Act (ADA). Therefore, the refusal to hire, promote or grant requests for unpaid leave to care for a family member with COVID-19 or long-COVID because that family member has a disability would be unlawful.

Race or national-origin-based caregiver discrimination is also unlawful. This includes employment decisions made based on either the caregiver’s race or national origin or that of the care recipient. Thus, requiring that minorities adhere to different procedures when submitting caregiver-related requests as well as denying caregiver requests be-

cause of the care recipient’s nationality are both forms of unlawful caregiver discrimination.

The guidance also provides that employees 40 years of age and older are protected from caregiver discrimination under the Age Discrimination in Employment Act (ADEA). Adversely impacting older workers by requiring a reduced work schedule when caring for a family member with COVID-19 because of age is an unlawful form of discrimination.

Pregnant workers are also protected as caregivers pursuant to the EEOC’s COVID-19 caregiver guidance. One specific protection for pregnant workers makes it unlawful for employers to require only pregnant employees be vaccinated to help keep them safe. Pregnant employees are provided additional protection, such as rights to accommodations, under Title VII, the ADA and Louisiana’s pregnancy discrimination statute (La. R.S. 23:342).

However, according to the guidance, all other caregivers are generally not afforded reasonable accommodations under federal EEO laws, like telework or flexible schedules, because of their caregiving responsibilities. Nor are employers required to accept poor performance due to caregiving duties. If, however, the employer’s performance policies are not uniformly applied to all workers but are instead used to penalize caregivers performing caregiving responsibilities or if similarly requested accommodations are granted to only non-caregivers, then those policies could result in unlawful discrimination.

Another facet of caregiver discrimination regards harassment and retaliation. Per the EEOC, it is unlawful to foster hostile work environments for those employees serving as caregivers. Examples of harassing behaviors include, but are not limited to, asking intrusive questions, making offensive comments, questioning an employee’s professional dedication and distributing unreasonable work assignments based on caregiving requests. Should an employee report discrimination based on his or her caregiver responsibilities, it would be unlawful to retaliate against



the employee. Not recalling an employee from a pandemic-related furlough, transferring an employee to another location and changing work schedules to make it difficult to tend to caregiver responsibilities because an employee reported discriminatory conduct are all examples of prohibited retaliation.

This EEOC guidance is indicative of increased efforts to provide greater rights and protections to caregivers serving in dual roles as employees, even as more of the workplace experience seems to be returning to pre-COVID-19. From the now expired Families First Coronavirus Response Act, which provided paid sick leave or expanded family and medical leave to caregivers caring for another for COVID-19-related reasons, to the pending Build Back Better Act, which if passed by the Senate would provide four weeks of paid leave to caregivers providing care to family members due to a serious health condition, to this new EEOC COVID-19 caregiver guidance, caregivers are certainly a new focus of employment laws.

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## Panel Request Filing Fee

*Waters v. Lam*, 22-0098 (La. 3/22/22), \_\_\_\_ So.3d \_\_\_\_, 2022 WL 842521 (per curiam).

Waters filed a request for review with the Division of Administration (DOA). The DOA responded on Oct. 9, 2020, with a letter advising that the defendants were state health-care providers and that Waters had 45 days from receipt of its letter to pay a filing fee to the DOA for each named defendant. Within the 45 days of receipt of the DOA's letter, Waters sent the filing fee to the Patient's Compensation Fund (PCF), not the DOA. There were no further communications between Waters and the DOA or the PCF.

Waters filed a lawsuit on Jan. 5, 2021. The defendants filed an exception of prescription based on Waters' failure to pay the filing fee to the DOA. The district court denied the exception, and the appellate court denied the defendants' supervisory writ application.

The Louisiana Supreme Court granted the defendants' writ and noted that the

single question before it was whether the filing fee had been paid in accordance with the Medical Malpractice Act's statutory rules. Unquestionably, the fee was timely paid, but Waters admitted that she paid the fee to the PCF, not the DOA. Waters argued that La. R.S. 40:1237.2(C)(1) permitted the payment to be made to either, relying on the language that states the filing fee must be "received by the commissioner or the patients compensation board as required by Subparagraph (A)(1)(c) . . . ."

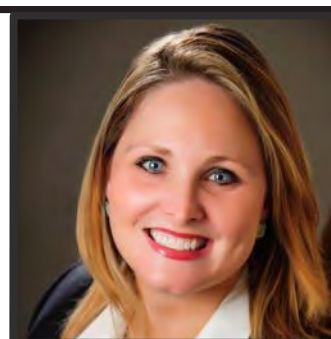
The Court noted that "a careful examination of that statute" indicated otherwise: "Clearly, this language is not intended to govern the requirements for submitting the filing fee, but simply lists the receipt of the filing fee as a prerequisite for allowing the attorney for the plaintiff to appoint the attorney member of the panel for purposes of convening the panel." Waters' proposal that medical-review-panel requests in which the State is the defendant could be filed in her agency of choice is contradicted by the language of La. R.S. 40:1237.1(A)(2)(a), which states: "Filing a request for review of a malpractice claim required by this Section with any agency or entity **other than the division of administration** shall not suspend or interrupt the running of prescription."

The Court concluded that the failure to perfect the panel request by virtue of sending the payment to the PCF instead of the DOA rendered the request invalid. Therefore, prescription was not suspended.

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The Court reversed the trial court and sustained the exception as the suit was prescribed on its face.

## Panel Opinion

*Kelley v. State*, 22-0057 (La. 3/15/22), \_\_\_\_ So.3d \_\_\_\_, 2022 WL 780702 (per curiam).

Following a hearing, the medical-review panel rendered an opinion of no failure to meet the standard of care and no causation of damages. The plaintiffs subsequently moved to strike the panel opinion and prohibit the panelists from testifying at trial.

The trial court denied the plaintiffs' motions to strike, one based on a relationship between a defendant and a panelist, the other between a panelist and defense counsel. An appellate court reversed, explaining that only when a breach of the standard of care is found by the panel is it allowed to determine whether the conduct "was or was not a factor of the resultant damages," *i.e.*, panels are not allowed to determine causation absent a finding of a breach. The appellate court thus found that the panel "exceeded its statutory authority and sought to resolve a material issue of fact explicitly reserved to the jury."

In a per curiam opinion, the Louisiana Supreme Court reversed insofar as the trial court excluded the entire medical-review panel opinion. The Court directed the trial court "to redact these portions of the opinion in which the panel exceeded its statutory authority under La. R.S. 40:1231.8(G). Subject to these redactions, the remainder of the opinion is admissible. *See, McGlothlin v. Christus St. Patrick Hosp.*, 10-2775 (La. 7/1/11), 65 So.3d 1218.

The Supreme Court also reversed the portion of the court of appeal's opinion excluding the testimony of the medical-review panel members. The Court stated that the "members can testify to any issues within the scope of their expertise."

The Court remanded the case to the district court for further proceedings.

—**Robert J. David**

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## Challenge to Louisiana's Sales Tax Collection Scheme

*Halstead Bead, Inc. v. Lewis*, Docket No. 2:21-cv-02106 (E.D. La. 2022).

On Nov. 15, 2021, Halstead Bead, Inc. filed suit in the U.S. District Court for the Eastern District of Louisiana against Kimberly Lewis, in her capacity as secretary, Louisiana Department of Revenue (LDR); and Lafourche Parish, Tangipahoa Parish and Washington Parish (local collectors) and their respective tax collectors. Halstead is an out-of-state, family-owned business specializing in jewelry-making supplies that uses an e-commerce business model.

The lawsuit alleges a problem selling into Louisiana as the state Constitution requires each of the state's 64 parishes to collect sales and use taxes, with each parish setting its own tax rates and categories, and state law requiring out-of-state businesses that sell to Louisiana customers to register and file reports in jurisdiction each where sales are made. Halstead alleges such compliance is an undue burden on interstate commerce and in violation of due process. Halstead alleges it ensures that it makes less than 200 transactions or less than \$100,000 in taxable sales in Louisiana in any single year to fit under the exemption for collection and reporting (La. R.S. 47:301(m)(i)(bb)).

Under the Commerce Clause, Halstead asserts that Louisiana does not have the hallmarks of a system that does not impose an undue burden as referenced in *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080, 2089-90 (2018). Under the Due Process Clause, Halstead asserts the high compliance burden is not reasonably related to a legitimate purpose. Halstead seeks to enjoin defendants from enforcing local sales and use tax registration and reporting requirements against

out-of-state sellers, \$1 in damages, and costs and attorney's fees.

The LDR filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) and alternatively sought dismissal for misjoinder under Federal Rule of Civil Procedure 21. The motion sought the LDR's dismissal from the litigation because none of the complained of tax-collection procedures deal with state collection. The motion noted that no factual allegation has been made against the LDR, and no allegations have been made that LDR violated any constitutional provision. The motion also asserted that Halstead had no standing to bring the lawsuit and that there are no due process violations based on the ruling in *Wayfair*.

The local collectors also filed a motion to dismiss. The local collectors asserted under Federal Rule of Civil Procedure 12(B)(1), the lawsuit does not present a case or controversy based on standing/ripeness/mootness. It was asserted the Tax Injunction Act (28 U.S.C. §1341) deprived the court of jurisdiction to hear the lawsuit. The local collectors asserted Halstead failed to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). The local collectors also asserted the Commerce Clause and Due Process claims should be dismissed because of the availability of the Remote Sellers Commission, which streamlined the registration and reporting/filing process for out-of-state sellers.

The LDR and local collectors' motions to dismiss were heard on March 17, 2022. The motions were taken under advisement.

—**Antonio Charles Ferachi**

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## Marks Aviation

In *Marks Aviation Group LLC v. Robinson*, Docket No. 11576D, 2021 WL 7084883 (La. Bd. Tax App. 12/8/21), the



Louisiana Board of Tax Appeals held that a transfer of aircraft between two related legal entities for no consideration was not subject to sales or use tax because it was more akin to a gratuitous donation than a traditional transfer for value. Alternatively, the Board held that the transferee entity should be disregarded from the transferor entity, and thereby, no taxable event occurred.

Marks Aviation Group, LLC, the taxpayer, was a limited liability company that purchased used aircraft and refurbished them for sale or lease to third parties. Marks Aviation's sole owner was also the sole owner of another limited liability company, Ranger Aviation Leasing, LLC. The aircraft Marks Aviation purchased for lease to third parties were transferred for no consideration to Ranger, which subsequently leased the aircraft to third parties. On audit, the Louisiana Department of Revenue

asserted that the transfer from Marks Aviation to Ranger was a taxable use and subject to use tax based on the value of the refurbished aircraft.

The Board disagreed and concluded that the transfer from Marks Aviation to Ranger was not taxable because it was, in substance, a distribution from Marks Aviation to its owner and a subsequent contribution by the owner to Ranger. According to the Board, the distribution and subsequent contribution were similar to a non-taxable gratuitous donation rather than a traditional transfer for value. In the alternative, the Board also concluded that Ranger should be disregarded as a separate legal entity from Marks Aviation for sales and use tax purposes. As a result, the Board attributed the leases to Marks Aviation for sales and use tax purposes and concluded there was no taxable event between Marks Aviation and Ranger.

In general, sales and use taxes are con-

sidered entity level taxes. As a result, it is unusual for a tribunal to disregard the separate existence of a legal entity for purposes of sales and use taxation. While there is some limited support for the Board's decision in Louisiana jurisprudence, sales and use tax decisions that disregard the separate existence of a legal entity could have unintended consequences. While the Board ultimately decided no tax was due on the transfer at issue, the Board's decision in *Marks Aviation* illustrates the sales and use tax risks associated with related-party transfers. A taxpayer that engages in similar types of transactions should take care that the transactions are properly documented.

—William J. Kolarik II

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## CHAIR'S MESSAGE

# Lessons Learned from Two Weird Years

By Danielle L. (Dani) Borel

In April 2020, for the first time in my career, I did not have a single state court deadline. Over the next two years, things continued to get weird. The Louisiana State Bar Association's (LSBA) Annual Meeting and Summer School were cancelled, LSU tailgating was not allowed, and jury trials ceased. Many would say that it was a great time to be a young lawyer. We were given a lot of flexibility to work remotely, became firms' coveted Zoom experts overnight, and our work/life balance was at an all-time high. So, too, were the uncertainties of our careers.

Now, we have finally reached the point where Zoom meetings are no longer considered fun, in-person conferences are craved, and the excitement of wearing pajama pants as we argue has worn off. Where does this leave us as a profession? What have we learned?

Some of the lessons that emerged from our pandemic years showed me that the needs of young lawyers are not all that different from that of our more senior counterparts. The pandemic re-emphasized some old-school principles and ushered in some new schools of thought, both of which should be embraced as we progress.

### Preparation is Always Key

Judge Scott U. Schlegel often discusses technology by asking whether the "court" is a building or a service. The pandemic displayed that the service of carrying out justice can and will

continue, even when the buildings are inaccessible. It also demonstrated that old-fashioned preparation is always the key to success, regardless of whether the proceeding is in a courtroom or virtual.

While many of us can avoid being a "Zoom cat" in a hearing without much forethought, presenting a successful argument always takes preparation and practice. The challenges of arguments shifted from not swaying at a podium or projecting loud enough, to smoothly presenting exhibits via Zoom and balancing the slight sound delay with the need for a well-timed objection. The forum of our presentations changed, but the importance of preparation did not.

### Technology is Integral to the Practice of Law

Maybe this one was not surprising to young lawyers, but the changes in the way we practice law that occurred during the pandemic overwhelmingly involved an increased utilization of available technologies. Yes, Zoom's stock soared, but the changes we saw were broader than that. We started questioning our methods of service, whether in-person scheduling conferences were prudent, and when a signature or notarization could be electronically obtained.

We also learned that the effective



Danielle L. Borel

utilization of technology can bridge the gap between the flexibility sought by younger lawyers and the productivity sought by supervising lawyers. When our work was no longer confined to the walls of an office, our work hours were no longer confined to expected business hours. The concept of, and importance placed on, "face-time" evolved. Young lawyers tasted a control over their work and schedule that now informs how they approach their practice.

### A Community is Vital to Happiness and Success

The current generations of young lawyers tend to be more open than prior generations. Maybe it is the fact that we have grown up with lives documented on social media, or the fact that we are used to having all the information we could want on a topic available to us at the click of a button. We have grown into a generation of sharers — of our feelings, of our struggles, and of our salaries. As a result, young lawyers look for communities where they can discuss their experiences.

The importance of "community" to young lawyers became apparent when they were forced to distance from their support systems. I was pleasantly surprised to find that many of my peers rediscovered their dining tables and took the time to meet their neighbors — aspects of community that many young lawyers had previously ignored. As we reemerge into the practice of law, we are

Continued on page 70



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## YOUNG LAWYERS SPOTLIGHT

### Ebony S. Morris New Orleans

The Louisiana State Bar Association's Young Lawyers Division Council is spotlighting New Orleans attorney Ebony S. Morris.

Morris is an associate attorney in the New Orleans office of Garrison, Yount, Forte & Mulcahy, LLC. She is a graduate of Southeastern Louisiana University (BA, *cum laude*, 2011) and Southern University Law Center (JD, *cum laude*, 2014). She became a member of the Louisiana Bar in 2014 and is admitted to practice before the U.S. District Courts for the Eastern, Middle and Western Districts of Louisiana and the U.S. 5th Circuit Court of Appeals.

She is a member of the New Orleans Bar Association, the Greater New Orleans Chapter of the Louis A. Martinet Legal Society, Inc. (2021-22 president), the Defense Research Institute, the Claims

and Litigation Management Alliance and the National Bar Association. She is also a proud member of Delta Sigma Theta Sorority, Inc.

Morris has extensive experience in defending premise liability, product liability, trucking liability, retail and hospitality liability, and mass tort litigation matters. In those areas, she represents product manufacturers, corporations, national franchise restaurants, insurers and their policyholders through all phases of litigation. She has successfully obtained summary judgment in favor of a premises owner seeking additional insured status under a commercial general liability policy and has successfully obtained summary



Ebony S. Morris

judgment in favor of a restaurant franchise owner in a premises liability matter.

She was selected for inclusion in the 2020, 2021 and 2022 *Louisiana Super Lawyers* "Rising Stars" Lists; 2021 *New Orleans CityBusiness* "Ones to Watch;" the National Black Lawyers "Top 40 Under 40;" the 2020 Lawyers of Color "Hot List;" the National Association of Women Lawyers 2021 Rising List; and the 2021 New Orleans *Gambit's* 40 Under 40 Class.

She is also a recipient of the 2021 Young Outside Counsel of the Year Award from the Claims and Litigation Management Alliance, the 2020 Outstanding Young Woman Lawyer Award from the National Bar Association Women Lawyers Division, and the 2021 Louis A. Martinet Award from the Greater New Orleans Louis A. Martinet Legal Society, Inc.

YLD continued from page 68

reminded that we are all members of a valuable and honorable community — the bar of Louisiana lawyers.

### Nothing Replaces In-Person Networking

Zoom happy hours allowed many of us to connect with others at a time when physical social interaction was discouraged. Over time, however, it became apparent that nothing replaces breaking bread with others. The camaraderie and conversation that results from an in-person interaction is unparalleled. As young lawyers reintegrate into in-person work life and society, there is a renewed desire for in-person experiences.

### Civility Benefits Us All

The changes that were ushered in during the COVID-19 pandemic were humbling. To say many people were faced with circumstances beyond their control is an understatement, particularly for those of us balancing family or childcare obligations with trying to work from home. I've been touched and

proud to hear that this experience has positively impacted young lawyers by reminding them to approach others with the same level of patience and grace that we each required at some point during these weird two years.

These lessons have not fallen on deaf ears. The LSBA's Young Lawyers Division (YLD) strives to be an essential part of the young lawyer journey. This bar year, you can expect the YLD to provide the education and training young lawyers need to be fully prepared to tackle the demands of this profession. We will provide an array of networking opportunities between young lawyers and with members of the judiciary. The YLD offers meaningful public service projects that put young lawyers in touch with their communities at large. All the while, the YLD strives to foster conversations between its members about our shared experiences. As members of your LSBA YLD Council, we are here to serve and look forward to an amazing bar year.

## Caddo Magnet Wins 2022 State High School Mock Trial Competition

The mock trial team from Caddo Magnet High School in Shreveport was the winner of the 2022 Richard N. Ware IV State High School Mock Trial Competition. The competition was conducted virtually on March 26. The team will represent Louisiana at the national competition.

Also recognized were Anika Alla, Caddo Magnet High School, Best Attorney; and Jordan Sutton, Zachary High School, Zachary, Best Witness.

The State High School Mock Trial Competition is the culmination of four regional championships coordinated annual by the Louisiana State Bar Association's Young Lawyers Division. The competition is named in memory of Hon. Richard N. Ware IV, who enthusiastically volunteered for nearly a decade as the presiding judge of the final round of the state competition.





# 2022-2023 Louisiana State Bar Association Young Lawyers Division Officers and Council

## YLD Officers 2022-23

### Danielle L. Borel

#### Chair, Young Lawyers Division

Danielle L. Borel is a partner in the Baton Rouge office of Breazeale, Sachse & Wilson, LLP, practicing commercial litigation and healthcare litigation. She advises clients on general business issues. She has a focus on supporting and defending women-owned or led businesses and handling complex healthcare litigation.

She received a BS degree, *magna cum laude*, in 2011 from Louisiana State University and her JD degree, *magna cum laude*, in 2014 from LSU Paul M. Hebert Law Center (*Louisiana Law Review*, 2012-14; Order of the Coif). She was admitted to practice in Louisiana in 2014.

Borel has served on the Louisiana State Bar Association's (LSBA) Young Lawyers Division (YLD) Council as the 2021-22 chair-elect, 2020-21 secretary and the American Bar Association's (ABA) Young Lawyers Division representative in 2018-20. In 2019, she received the LSBA YLD's Bat P. Sullivan, Jr. Chair's Award in recognition of her contribution to the LSBA YLD. She is a leader in the ABA's Young Lawyers Division and the ABA Health Law Section. She has been recognized by the ABA as a Star of the Year (2021), On the Rise: Top 40 Young Lawyer (2020), Emerging Young Lawyer in Healthcare (2019) and Star of the Quarter (2017, 2019). She also is a member of the Louisiana Hospital Association and participates in the Baton Rouge Bar Association's Holiday Star Program.

In her community, she is a member of the board of directors and chairs the Baton Rouge advisory board for Lighthouse Louisiana. She was recognized three times with the Lighthouse Louisiana Door Knocker Award for her service. She also volunteers as a trial advocacy coach and judge for LSU Law Center. Her commitment was recognized with the Kalinka Award for Advocacy Programs Coach of the Year (2021).

Borel and her husband, Nathan Judice, have been married for 10 years and are the parents of one child.

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Danielle L. Borel



Senae D. Hall

### Senae D. Hall

#### Chair-Elect

Senae D. Hall is an assistant district attorney in the Caddo Parish District Attorney's Office in Shreveport. She also is the Human Trafficking Victims Diversion coordinator. She received a BA degree in mass communications in 2008 from Dillard University and her JD degree in 2011 from Southern University Law Center. She was admitted to practice in Louisiana in 2011.

Hall has served as the 2021-22 secretary and as an at-large representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division (YLD) Council. She was a member of the 2018-19 Leadership LSBA Class and served on the LSBA YLD Awards Committee for two years. She also volunteered as a mock trial competition judge from 2017-20.

She is a member of the Shreveport Bar Association, the Louisiana District Attorneys Association and the Harry V. Booth/Judge Henry A. Politz American Inn of Court. She is currently the Social Media chair for the Shreveport Bar Association's Young Lawyers Section.

She was recognized as the Teen Court Volunteer of the Year in 2018 and the Abounding Faith Temple Youth Leader Volunteer of the Year in 2017. She was featured as the February 2019 Member Spotlight by the Shreveport Bar Association Women's Division and was a 2019 panelist for Macy's Black History Month Historical Black Colleges and Universities Program. She was recognized as a 2021 and 2022 "Top Attorney" by *SB Magazine* and was selected for the 2020-21 Dillard University's "40 Under 40" list. She also was selected for the Shreveport Chamber of Commerce's 2021 "40 Under 40" Class.

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### Kristen D. Amond

#### Secretary

Kristen D. Amond is a founding member of Mills & Amond, LLP. She served as a clerk to Judge Susie Morgan of the U.S. District Court, Eastern District of Louisiana. In law school, she served as an intern for Judge Brian A. Jackson of the U.S. District Court, Middle District of Louisiana.

She received her JD/DCL degree, *magna cum laude*, in 2016 from Louisiana State University Paul M. Hebert Law Center (editor-in-chief of the *Louisiana Law*

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*Review*; chair of SBA's Ethics Board; 3L representative of the Diversity and Inclusion Committee; member of LSU Law Powderpuff Football team).

Before law school, Amond taught second and third grades in New Orleans charter schools and has been an advocate for public education ever since. She has a special commitment to Louisiana's economic development, its culture, and, in particular, its underserved communities. As a member of the Eastern District of Louisiana's civil pro bono panel, she regularly volunteers her professional time to the representation of plaintiffs in civil rights cases.

Amond served two terms as the District 1 representative on the Louisiana State Bar Association's Young Lawyers Division Council. She serves on the boards of the New Orleans Federal Bar Association Younger Lawyers Division and Emerging Philanthropists of New Orleans and is a recent alumna of the New Orleans Regional Leadership Institute and the Council for a Better Louisiana's Leadership Louisiana program.

She is currently an adjunct professor at Tulane University, where she teaches a class on the First Amendment and the media. She taught the course "Making Your Case: What Makes Judges Read and Hear What Lawyers Say" with Judge Susie Morgan at LSU Law's Apprenticeship Week.

Amond loves all things New Orleans and looks forward to traveling the world with her wife, Nancia Sterling.

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**Kristen D. Amond**



**Graham H. Ryan**



**Collin R. Melancon**

## **Graham H. Ryan**

### **Immediate Past Chair**

Graham H. Ryan is a partner in the New Orleans office of Jones Walker LLP, where he focuses on business and commercial litigation for a regional and national client base. He graduated, *summa cum laude*, in business finance from Louisiana State University, received his law degree from LSU Paul M. Hebert Law Center (*Louisiana Law Review*) and is an alumnus of the Harvard Negotiation Institute's dispute resolution program.

Ryan has served on the Louisiana State Bar Association (LSBA) Young Lawyers Division (YLD) Council as 2021-22 chair, 2020-21 chair-elect, 2019-20 secretary and as the delegate to the American Bar Association (ABA) House of Delegates. He has served on the LSBA's Legislation Committee, Access to Justice Committee and CLE Committee. He was a member of the 2014-15 Leadership LSBA Class. He received the LSBA YLD Chair's Award in 2016 and 2018 and was named as a 2017 Louisiana Bar Foundation Fellow for his role in leading various access to justice initiatives. He has served as a council member for the Louisiana State Law Institute, the ABA YLD, the New Orleans Association of Defense Counsel and the Jefferson Bar Association YLD.

He was named to the 2020 Leadership in Law Class by *New Orleans CityBusiness* and to the 2018 "40 Under 40" Class by *Gambit Weekly*. He was honored as a "Top 40 Young Lawyer" nationally by the ABA in 2018. He was named a fellow of the Loyola Institute of Politics and is a graduate of Leadership Louisiana and the New Orleans Regional Leadership Institute.

In his community, Ryan is a board member of Lakeview Civic and a commissioner of the Lakeview Crime Prevention District. He is a former chair of HandsOn New Orleans, a nonprofit volunteer center founded after Hurricane Katrina that engaged more than 60,000 volunteers to rebuild south Louisiana. He also is an attorney volunteer and board member of the Pro Bono Project and several other community organizations.

Ryan and his wife Erin are the parents of two sons.

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## **YLD Council 2022-23**

### **Collin R. Melancon**

#### **District One Representative**

Collin R. Melancon is a partner/owner of Mansfield, Melancon, Cranmer & Dick, LLC, in New Orleans. He received a bachelor's degree in international studies in 2011 from Louisiana State University and his JD degree in 2015 from Loyola University College of Law. He was admitted to practice in Louisiana in 2015.

Melancon serves as the Louisiana State Bar Association (LSBA) Young Lawyers Division's representative on the Louisiana Judicial Council. He has been a speaker for several conferences and CLEs, including the LSBA Young Lawyers Conference, the Bridging the Gap CLE program and the LSBA Professionalism Orientations.

He is a member of the New Orleans Bar Association and the Louisiana Association for Justice. He served on the Planning Committee for the Pro Bono Project's Justice for All Ball in 2019. He was recognized as a *Louisiana Super Lawyer* "Rising Star" in 2020, 2021 and 2022.

While in law school, he was a member of the *Loyola Law Review* and was selected as a *Law Review* board member in his 3L year. He received the Spirit of St. Ignatius Award for Outstanding Law Graduate (highest award given to a graduating law student) at Loyola Law School. He also received the LSBA Civil Code Award at Loyola Law School for graduating first in his class in the civil law division.

Melancon and his wife, Jillian Melancon, have been married for four years.

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**Jennifer Gordon Lampton**  
**District One Representative**

Jennifer Gordon Lampton is senior law clerk for Judge Nakisha Ervin-Knott, Orleans Parish Civil District Court. She received a BS degree in management in 2009 (majors in legal studies in business and political science) from Tulane University and her JD degree (Civil Law Division, Common Law Certificate) in 2012 from Loyola University College of Law. She was admitted to practice in Louisiana in 2014.

Lampton is a member of the Louisiana State Bar Association's Diversity Committee and Outreach Committee and was a member of the Leadership LSBA Class of 2019-20.

She is a member of the New Orleans Bar Association (2021-22 Young Lawyers Section treasurer), the Greater New Orleans Louis A. Martinet Legal Society, Inc. and the A.P. Tureaud American Inn of Court.

In her community, she is a board member for VIBE (Voices for International Business and Education).

Lampton and her husband Kevin have been married for eight years and are the parents of one child.

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**Jennifer Gordon  
Lampton**



**Rory V. Bellina**



**Rachal Cox Cassagne**



**Jared E. Nelson**

**Rory V. Bellina**  
**District Two Representative**

Rory V. Bellina is an associate in the Metairie office of Chehardy, Sherman, Williams, Recile & Hayes, LLP. He received a BS degree in 2010 from Louisiana State University and his JD degree in 2013 from Loyola University College of Law. He was admitted to practice in Louisiana in May 2014.

Bellina is a health law specialist certified by the Louisiana Board of Legal Specialization and a member of the Louisiana State Bar Association's Health Law Section. He is a member of the American Health Law Association and the American Bar Association's Health Law Section. He was recognized by *New Orleans Magazine* as one of the "Top Lawyers" in 2020 and 2021.

In his community, he is president of the St. Dominic School Board and vice president of the St. Dominic Fathers Club. He is a board member of the Lakeview Civic Improvement Association.

Bellina and his wife Danielle have been married for 10 years and are the parents of three children.

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**Rachal Cox Cassagne**  
**District Two Representative**

Rachal Cox Cassagne is an assistant United States attorney for the Eastern District of Louisiana. Prior to joining the U.S. Attorney's Office, she worked as a

commercial litigation associate in a defense firm and as a law clerk for U.S. District Judge Greg G. Guidry.

She received a BA degree in English in 2011 from Louisiana State University-Shreveport, a MA degree in literary studies in 2013 from Universiteit van Amsterdam and her JD degree, *magna cum laude*, in 2016 from Southern University Law Center. She studied at the Universiteit van Amsterdam as a Rotary Ambassadorial Scholar and gave presentations to various Rotary Clubs throughout the country. She was admitted to practice in Louisiana in 2016.

Cassagne is a volunteer for the Louisiana State Bar Association's Disaster Recovery Hotline. She is an active member of the Jefferson Parish Bar Association and the Federal Bar Association. She previously served as an observer with the Louisiana State Law Institute for the Louisiana State Bar Association's Young Lawyers Division. She participated in Forum 35's John W. Barton, Sr. Community Leadership Program in 2018.

In her community, she attends St. Anthony Church in Gretna. She and her husband, Craig Cassagne, Jr., have been married for three years.

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**Jared E. Nelson**  
**District Three Representative**

Jared E. Nelson is an associate in the Lafayette office of Liskow & Lewis, APLC. He received a BA degree in government in 2008 from the University of Virginia, Charlottesville; a master's in public administration in 2010 from Southern University and A&M College in Baton Rouge; and his JD degree in 2018 from Southern University Law Center. He was admitted to practice in Louisiana in 2018.

Prior to joining the law firm, he served as an assistant attorney general for the Louisiana Department of Justice, Office of the Attorney General, handling tort and civil rights litigation for the state of Louisiana. Prior to practicing law, he served as a probation and parole officer for the Louisiana Department of Public Safety and Corrections for seven years.

Nelson is a member of the Louisiana State Bar Association's (LSBA) House of Delegates, representing the 15th Judicial District. He also is a member of the LSBA's Criminal Justice Committee and the Diversity Committee. He was a member of the Leadership LSBA 2019-20 Class and co-chair of the Leadership LSBA 2020-21 Class.

He is a member of the Louisiana Association of Defense Counsel and its Young Lawyers Committee, the Institute of Energy Law and its Young Energy Professional Committee, and the Lafayette Bar Association's Young Lawyers Division.

He was recognized by National Black Lawyers in the "Top 40 Under 40" in 2020 and 2021 and was a participant in the Leadership Council on Legal Diversity's

Continued next page

Pathfinders Program in 2021-22.

In his community, he is a lector at St. Benedict DeMoor Church in Duson. He and his wife, Joelle Mary Nixon, have been married for nine years and are the parents of one child.

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### **Brooke A. Roach**

#### **District Four Representative**

Brooke A. Roach is an attorney in the Lake Charles law firm of Larry A. Roach, Inc. She received a bachelor's degree in human resources in 2016 from Louisiana State University and her JD degree, *magna cum laude*, in 2019 from Southern University Law Center. She was admitted to practice in Louisiana in 2019. She clerked for Chief Judge Ulysses G. Thibodeaux, Louisiana 3rd Circuit Court of Appeal.

Roach followed in her father's and grandfather's footsteps, becoming the third generation to practice law at Larry A. Roach, Inc. Her practice focuses on personal injury litigation and first-party bad faith property damage litigation. She is admitted in all Louisiana state courts; the U.S. District Courts for the Western, Middle and Eastern Districts of Louisiana; and the U.S. 5th Circuit Court of Appeals.

She is a member of the Louisiana Association for Justice, the Southwest Louisiana Bar Association (SWLBA) and is currently serving as treasurer of the SWLBA's Young Lawyers Section.

In her community, Roach volunteers for the Louisiana Organ Procurement Agency and teaches catechism at St. Margaret of Scotland Catholic Church in Lake Charles.

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### **Camille E. Walther**

#### **District Five Representative**

Camille E. Walther is a financial advisor with The Walther-duPassage Group at Morgan Stanley in Mandeville. She received her JD/GDCL degree in 2016 from Louisiana State University Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2016.

Prior to her career change in 2019, she was an associate attorney in environmental law at Harrison Law Firm in Baton Rouge.

In her community, she serves as treasurer on the board for the Junior League of Greater Covington and participates in Open Table: Relationships Transform Communities, a youth mentoring program.

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Brooke A. Roach



Camille E. Walther



Brad W. Cranmer



Joshua J. Dara, Jr.

### **Brad W. Cranmer**

#### **District Five Representative**

Brad W. Cranmer is a partner in the Baton Rouge office of Mansfield, Melancon, Cranmer & Dick, LLC. He received a bachelor's degree in political science, with a minor in criminology, from Louisiana State University and his JD/DCL degree from LSU Paul M. Hebert Law Center.

In law school, he served on LSU Law's Trial Advocacy Board as a member, competitor and coach, and in Student Government. He has competed and coached for LSU Law in mock trial competitions. He attained the highest grade in his law school class for White Collar Crime and Insurance Law.

Following law school graduation, he opened his own law practice. He also spent several years as a prosecutor for the City of Baton Rouge, prosecuting cases ranging from DWI to domestic abuse battery.

Since helping form Mansfield, Melancon, Cranmer & Dick in 2018, he has devoted the majority of his practice to family law, assisting hundreds of clients with divorces, custody, visitation, community property, domestic restraining orders, spousal support and other family law issues. He is admitted to practice in all Louisiana state courts, the U.S. District Courts for the Middle and Eastern Districts of Louisiana, and the U.S. 5th Circuit Court of Appeals.

Cranmer is a member of the Baton Rouge Bar Association's Young Lawyers Section Council and the Family Law Section. He has taught legal seminars on litigating family law issues.

In 2017, he received Avvo's Clients' Choice Award for his dedicated legal service. He received awards from the Expert Network as a Distinguished Lawyer; American Law Society's America's Top Lawyers 2018; the American Institute of Personal Injury Attorneys 10 Best Attorney Client Satisfaction Award; Club Blue 2020 Great Futures Honoree; and *Louisiana Super Lawyers Rising Star 2020-2022*.

In his community, he is involved with Sigma Phi Epsilon Fraternity, Boys & Girls Club of Greater Baton Rouge, Club Blue, St. Vincent DePaul and the Louisiana Association of Justice.

Cranmer is married to his wife Chloe and has one child.

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### **Joshua J. Dara, Jr.**

#### **District Six Representative**

Joshua J. Dara, Jr. is a shareholder in the Alexandria firm of Gold, Weems, Bruser, Sues & Rundell, APLC. He received a BS degree in finance in 2010 from Louisiana State University and a JD/GDCL degree in 2014 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2014. His practice focuses on employment law, Civil Service law and municipal defense.



Dara is a member of the Crossroads American Inn of Court of Alexandria/Pineville, the Louisiana Association of Defense Counsel, the Defense Research Institute and the Alexandria Bar Association. He recently served as president of the Kiwanis Club of Pineville.

In law school, he was a member of the Christian Legal Society and the Black Law Students Association. He also received recognition for outstanding advocacy skills in LSU's NITA Trial Advocacy Program.

He and his wife, Aziza Dara, have been married for six years.

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### **Breshatta M. Davis**

#### **District Seven Representative**

Breshatta M. Davis opened The B Law Firm in Monroe in July 2020. She received a BA degree, with honors, in political science from Southern University and her JD degree in 2019 from Southern University Law Center. She was admitted to practice in Louisiana in 2019.

She is licensed to practice law in all Louisiana courts. She focuses her practice in criminal cases, personal injuries and notary services. She also has a private consulting business that focuses on marketing and public relations for marginalized business owners.

While attending Southern University, she joined the sorority of Alpha Kappa Alpha and has remained an active member.

Davis serves on the board of directors for Ivy Elite, where they help shape young African-American women. She would like to expand to the Houston, Atlanta and Ruston areas.

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### **Elizabeth P. (Liza Beth) Grozinger**

#### **District Eight Representative**

Elizabeth P. (Liza Beth) Grozinger is an assistant attorney general with the Louisiana Department of Justice and is based in the Shreveport office. She received a BS degree in psychology in 2005 from Louisiana State University and her JD degree in 2012 from Southern University Law Center. She was admitted to practice in Louisiana in 2013.

Grozinger is a member of the Shreveport Bar Association, the Baton Rouge Bar Association and the Harry V. Booth/Judge Henry A. Politz American Inn of Court.

In her community, she is a member of the First United Methodist Church in Shreveport.

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**Breshatta M. Davis**



**Elizabeth P.  
(Liza Beth) Grozinger**



**Justin A. Jack**



**Josef P. Ventulan**

### **Justin A. Jack**

#### **At-Large Representative**

Justin A. Jack is an assistant United States attorney for the U.S. Attorney's Office for the Middle District of Louisiana. He received his BA degree in 2012 from Carleton College in Northfield, MN, and his JD degree in 2015 from Tulane University Law School. He was admitted to practice in Louisiana in 2015.

Prior to his current position, he was an associate with Adams and Reese, LLP. He also worked as a judicial law clerk for Judge Ulysses Gene Thibodeaux, former chief judge of the Louisiana 3rd Circuit Court of Appeal; and for Magistrate Judge Karen Wells Roby, U.S. District Court for the Eastern District of Louisiana.

Jack is a member of the Louisiana State Bar Association's (LSBA) Diversity and Outreach committees. He was a member of the 2019-20 Leadership LSBA Class and a member of the 2020-21 American Bar Association Young Lawyers Division Scholars Class.

He is a member of the Federal Bar Association and the Louis A. Martinet Legal Society, Inc.

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### **Josef P. Ventulan**

#### **ABA YLD Representative**

Josef P. Ventulan is a staff attorney with the Louisiana State Law Institute (LSLI). He also instructs students as a professional responsibility fellow of Southern University Law Center. Prior to joining the LSLI, he served as the staff attorney for Judge Lisa M. Woodruff-White (Ret.).

He received his undergraduate degree in accounting from Louisiana State University and his law degree from Southern University Law Center, where he graduated first in his class and received a certification in tax law. He also served as the editor-in-chief of the *Southern University Law Review*. He was admitted to practice in Louisiana in 2020.

Ventulan is an active member of the American Bar Association and currently serves on the Louisiana State Bar Association's Access to Justice Committee and the Baton Rouge Bar Association's Publication and Pro Bono Committees. He formerly served as a junior council member of the LSLI. He is a member of the Wex S. Malone American Inn of Court and the Louis A. Martinet Legal Society, Inc., Greater Baton Rouge Chapter.

In his community, he serves on the board of directors of Forum 225, a Baton Rouge nonprofit focused on creating opportunities for young professionals to grow philanthropically, professionally and civically. His professional interests include economic and tax policy and local economic development. His articles have been published in the *Southern University Law Review*, the American Bar Association for Law Students and the *Baton Rouge Lawyer*.

He is the husband of Wilson Alvarez.

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### Megan S. Peterson

#### Young Lawyer Member/ABA House of Delegates

Megan S. Peterson is a partner at Simon, Peragine, Smith & Redfearn, LLP, in New Orleans, where she represents local, regional and national clients in litigation and alternative dispute resolution. Although she handles a variety of civil litigation matters, her practice focuses on defense of clients in the retail, restaurant, hospitality, trucking and transportation industries. She is licensed in all state and federal courts in Louisiana and Mississippi.

Peterson received her BA degree in political science and business administration from Louisiana State University. She earned her JD degree, *magna cum laude*, from Loyola University College of Law and was honored



Megan S. Peterson

as a William L. Crowe, Sr. Scholar. While at Loyola, she served as print managing editor of the *Loyola Law Review* and participated in Moot Court.

She served as the 2022 co-chair for the Louisiana State Bar Association's Young Lawyers Conference.

She is an active member of the Defense Research Institute, serving on the steering committee for the Young Lawyers Division and as 2022 co-chair of the Retail and Hospitality Seminar. She also is active in the American Bar Association and is a former president of the Association for Women Attorneys in New Orleans.

Peterson and her husband, Matt McCluer, have been married for 10 years and are the parents of one child, with another child on the way.

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Hon. Carl E. Stewart, U.S. Fifth Circuit Court of Appeals, Shreveport, gave the keynote address during the Louisiana Young Lawyers Conference.

## 2021-22 LSBA YLD Award Finalists and Winners Announced

The Louisiana State Bar Association Young Lawyers Division's 2021-22 awards were presented on April 8 during the Louisiana Young Lawyers Conference, "Amplify Your Voice." Winners and finalists include:

**Outstanding Young Lawyer Award.** This award is given to a young lawyer who has made exceptional contributions to the legal profession and his/her community.

**Winner:** Yasha L. Clark, New Orleans

**Finalists:** Brittany B. Arvie, Shreveport; Chelsea G. Caswell, Baton Rouge

**Pro Bono Award.** This award is given to a young lawyer for commitment and dedication to providing pro bono services in his/her community or the state at large, beyond his/her primary job requirements.

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#### Louisiana Young Lawyers Conference Awards Recognition.

Back row, from left, Derek G. Hoffman, Lake Charles; Christopher D. Billings, Baton Rouge; Jason A. Matt, Lafayette; Kennard Davis, New Orleans; Jonathan T. Jarrett, Lafayette; and Derek Aswell, Lafayette YLS President.

Front row, from left, Yasha L. Clark, New Orleans; ReAzalia Z. Allen, Baton Rouge; Chelsea G. Caswell, Baton Rouge; Quinn K. Brown, Baton Rouge; Brittany B. Arvie, Shreveport; Audrius M. Reed, Shreveport; Ebony S. Morris, New Orleans; Bianca Moore, New Orleans; Kenneth P. Hebert, Lafayette; and Graham H. Ryan, 2021-22 YLD chair.



**Winner:** Jonathan T. Jarrett, Lafayette

**Finalists:** Quinn K. Brown, Baton Rouge; Audrius M. Reed, Shreveport

**The Hon. Michaelle Pitard Wynne Professionalism Award.** This award is given to a young lawyer for commitment and dedication to upholding the quality and integrity of the legal profession and consideration towards peers and the general public.

**Winner:** Kenneth P. Hebert, Lafayette

**Finalists:** ReAzalia Z. Allen, Baton Rouge; Christopher D. Billings, Baton Rouge

**Outstanding Program of the Year Award.** This award is given to an organization (bar association, firm or other entity) that has implemented an outstanding program or service that serves the public or the profession and enhances the lives of young lawyers or was primarily planned by young lawyer(s).

**Winner:** Southwest Louisiana Bar Association YLS Holiday Helping Hands

**Finalists:** Greater New Orleans Louis A. Martinet Legal Society, Inc.'s Raising the Bar Initiative; Lafayette Bar Association YLS Birdie with the Bar Golf Tournament



**Outstanding Young Lawyer of the Year honorees:** Chelsea G. Caswell, Baton Rouge; Yasha L. Clark, New Orleans; Brittany B. Arvie, Shreveport; and Graham H. Ryan, 2021-22 YLD chair.

**Outstanding Local Affiliate Award.** This award is given to a local affiliate organization that has impacted the lives of young lawyers in an outstanding way.

**Winner:** Greater New Orleans Louis A. Martinet Legal Society, Inc.

**Finalists:** New Orleans Chapter of the Federal Bar Association Younger Lawyers Division; Shreveport Bar Association Young Lawyers' Section



**Outstanding Local Affiliate representatives:** Palmer Lambert, New Orleans; Audrius M. Reed, Shreveport; Ebony S. Morris, New Orleans; Kristin D. Amond, New Orleans; and Graham H. Ryan, 2021-22 YLD chair.



**Outstanding Program of the Year representatives:** Jason A. Matt, Lafayette; Derek G. Hoffman, Lake Charles; Ebony S. Morris, New Orleans; Bianca Moore, New Orleans; Kennard Davis, New Orleans; and Graham H. Ryan, 2021-22 YLD chair.



**Pro Bono Award honorees:** Quinn K. Brown, Baton Rouge; Audrius M. Reed, Shreveport; Jonathan T. Jarrett, Lafayette; and Graham H. Ryan, 2021-22 YLD chair.



**The Hon. Michaelle Pitard Wynne Professionalism Award honorees:** ReAzalia Z. Allen, Baton Rouge; Kenneth P. Hebert, Lafayette; Christopher D. Billings, Baton Rouge; and Graham H. Ryan, 2021-22 YLD chair.

By Trina S. Vincent, Louisiana Supreme Court

NEW JUDGE... MEMORIAM

### New Judge

#### 13th Judicial District Court Judge Gary J. Ortego

was elected as judge for the 3rd Circuit Court of Appeal, Division A, effective March 7, 2022. He earned his bachelor's degree in 1976 from the University of Southwestern Louisiana (currently the University of Louisiana at Lafayette) and his JD degree in 1982 from Louisiana State University Paul M. Hebert Law Center. He worked in private practice from 1982-2015 when he was elected as 13th JDC judge. He served on the 13th JDC until his election without opposition to the 3rd Circuit Court of Appeal. Judge Ortego is married to Carlene Fontenot Ortego. They are the parents of one daughter.



Judge Gary J. Ortego

### Deaths

► **Retired Louisiana Supreme Court Justice Jack Crozier Watson**, 93, died Feb. 11, 2022. He earned his bachelor's degree in 1949 from Southwestern Louisiana Institute (currently the University of Louisiana at Lafayette) and his LL.B. degree in 1956 from Louisiana State University Law School. In 1950, he enlisted in the U.S. Air Force. Having served in the Philippines, Japan and Korea as a psychological warfare officer, he was discharged in 1954 as a first lieutenant. From 1956-64, he practiced law in Lake Charles. In 1965, he was elected to the 14th Judicial District Court, where he served until his election to the 3rd Circuit Court of Appeal in 1974. In 1979, he was elected to the Louisiana Supreme Court and served until his retirement in 1996.

► **Retired 4th Circuit Court of Appeal Judge Robert J. Klees**, 81, died March 17, 2022. He earned his bache-

lor's degree in 1963 from the University of Southwestern Louisiana (currently the University of Louisiana at Lafayette) and his JD degree in 1966 from Loyola University New Orleans College of Law. He earned his Master of Law in Judicial Process in 1969 from the University of Virginia. From 1966-69, he served as a judge advocate in the U.S. Air Force, attaining the rank of captain. He worked in private practice and served as an assistant district attorney in St. Bernard and Plaquemines Parishes from 1972-78. Before his election to the bench, he was elected to the St. Bernard Parish Police Jury, serving as vice president. Judge Klees was elected judge for the 4th Circuit Court of Appeal in 1981 and re-elected in 1990, where, before his retirement in 2000, he served as chief judge. After retiring, he served as an *ad hoc* judge and *judge pro tempore* in state district courts in St. Bernard, Orleans, Plaquemines and Jefferson Parishes and for the Louisiana Supreme Court.

## DISPUTE OVER LEGAL FEES?



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# PEOPLE

## LAWYERS ON THE MOVE . . . NEWSMAKERS

### LAWYERS ON THE MOVE

Bienvenu, Bonnez, Foco & Viator, LLC, announces that **Jeremy D. Carter** has joined the firm as an associate.

Breazeale, Sachse & Wilson, LLP, announces that Terrel A. Thomas has joined the firm's Baton Rouge office as a partner. Also, Kayla M. Jacob has joined the New Orleans office as an associate.

Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, LLC, announces that Robert S. Stassi has been named managing member in the New Orleans office. Also, Haley E. Nix has been named a partner in the New Orleans office, and Conor T. Lutkewitte has joined the New Orleans office as a partner.

Coats Rose, PC, announces that Molly L. Stanga has been promoted to director in the New Orleans office. Also, Jamia P. Love and Chelsea P. Fitzgerald have joined the New Orleans office as associates.

Courington, Kiefer, Sommers, Marullo & Matherne, LLC, in New Orleans announces that Ronald G. Cantin III and Connor H. Fields have joined the firm as associates.

Forman Watkins & Krutz, LLP, announces that **Chandler C. Agee** has joined the New Orleans office as an associate.

Hammonds, Sills, Adkins, Guice, Noah & Perkins, LLP, announces that **Alejandro R. Perkins** has been named as the new managing partner. He practices in the Baton Rouge office.

Irwin Fritchie Urquhart & Moore, LLC, announces that **Kelly Juneau Rookard** has been elected equity partner in the New Orleans office.

Kelley Kronenberg, PA, announces that Michael E. Hill has joined the New Orleans office as a partner, and Francine M. Giugno, Jonathan E. Ley and Gary Williams II have joined the New Orleans office as associates.

McGlinchey Stafford, PLLC, announces that Remington M. Angelle has joined the firm's Baton Rouge office as an associate and Casey Q. O'Flynn has joined the New Orleans office as an associate.

Melchiodi Marks King, LLC, announces that **Jennifer L. Simmons** has been promoted to equity member in the New Orleans office. Also, **Benjamin M. Pri-Tal** has been named a member of the firm's New Orleans office and **Tiffany A. Mann Collins** has been promoted to special counsel in the New Orleans office.

Mouledoux, Bland, Legrand & Brackett, LLC, in New Orleans announces that **Raymond P. Augustin, Jr.** has joined the firm as special counsel.

Perrier & Lacoste, LLC, announces that **Sean M. McAllister** has joined the firm's New Orleans office as an associate.

Preis PLC announces that Patrick T. Duncan has joined the firm's Lafayette office as an associate.

Continued next page



Chandler C. Agee



Richard J. Arsenault



Raymond P. Augustin, Jr.



Kim Tran Britt



Jeremy D. Carter



Tiffany A. Mann Collins



Allison R. Colón



Angelica Dubinsky



Elizabeth L. Gordon



Stephen J. Herman



Meaghan A. Jeansonne



Charles M. King

Shields Law Partners, LLP, in New Orleans announces that **Allison R. Colón** as joined the firm as senior counsel and **Angelica Dubinsky** has joined the firm as of counsel.

Strauss Massey Dinneen, LLC, in New Orleans announces that **Kim Tran Britt** has joined the firm as of counsel and **Meaghan A. Jeanson** has joined the firm as an associate.

Jason M. Welborn and Jacob H. Hargett announce the one-year anniversary of the formation/founding of their firm, Welborn & Hargett, Injury Attorneys, located at 1540 West Pinhook Road in Lafayette.

## NEWSMAKERS

**Richard J. Arsenault**, a partner in the Alexandria firm of Neblett, Beard & Arsenault, chaired a Baylor Law School LLM Program on complex litigation management and resolution strategy. He chaired and spoke at a HarrisMartin seminar on mass tort litigation. He was selected for inclusion in the Top 50 Lawyers List by Top Lawyers in America.

Jeffrey M. Barbin, a partner in the Baton Rouge office of Phelps Dunbar, LLP, was named treasurer for the International Association of Gaming Advisors.



Steven J. Lane



Sean M. McAllister



Alejandro R. Perkins



Jeffrey K. Prattini

U.S. Attorney Brandon B. Brown of the Western District of Louisiana (Shreveport) has been appointed by U.S. Attorney General Merrick B. Garland to serve on the Attorney General's Advisory Committee of U.S. Attorneys.

Clay J. Countryman, a partner in the Baton Rouge office of Breazeale, Sachse & Wilson, LLP, was elected chair of the American Bar Association's Health Law Section.

Jan M. Hayden, a shareholder in the New Orleans office of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, was elected chair of the American College of Bankruptcy Foundation.

**Stephen J. Herman**, a partner in Herman, Herman & Katz, LLC, in New Orleans, received the 2022 International Advisory Experts Award in Louisiana for complex litigation.

**Charles M. King**, an attorney with Herman, Herman & Katz, LLC, in New Orleans, received Louisiana Appleseed's "Good Apple Award" for his outstanding work for Louisiana Appleseed's Pro Bono Network.

## PUBLICATIONS

### Best Lawyers in America 2022

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

**Herman, Herman & Katz, LLC** (New Orleans): **Steven J. Lane**, Top 50 List.

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

**Shields Law Partners, LLP** (New Orleans): **Lloyd N. Shields** (Lawyer of the Year, Construction Law and Litigation-Construction), **Elizabeth L. Gordon** and **Jeffrey K. Prattini**.



Benjamin M. Pri-Tal



Kelly Juneau Rookard

### Chambers USA 2021

**Herman, Herman & Katz, LLC** (New Orleans): **Stephen J. Herman**.

### Louisiana Super Lawyers 2022

**Herman, Herman & Katz, LLC** (New Orleans): **Steven J. Lane**, Top 50 List.

**Shields Law Partners, LLP** (New Orleans): **Lloyd N. Shields**, **Elizabeth L. Gordon** and **Jeffrey K. Prattini**.

### Acadiana Profile Magazine Top Lawyers 2022

**Gordon Arata Montgomery Barnett McCollam Duplantis & Eagan, LLC** (Lafayette): Bobby J. Duplantis, Gregory G. Duplantis, Armistead M. Long, Samuel F. Masur, Judge (Ret.) Gerald H. Schiff and Paul B. Simon.

### New Orleans Magazine Top Lawyers 2021

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

**McGlinchey Stafford, PLLC** (New Orleans): Stephen P. Beiser, Magdalen Blessey Bickford, Rudy J. Cerone, Katherine Conklin and Kathleen A. Manning.

**Phelps Dunbar, LLP** (New Orleans): Lee R. Adler, M. Nan Alessandra, Jane E. Armstrong, Isabel Bonilla-Mathé, Kim M. Boyle, Craig L. Caesar, Philip deV. Claverie, Sr., Miles P. Clements, Brandon E. Davis, Mark A. Fullmer, Pablo Gonzalez, David M. Korn, Daniel Lund III, David L. Patrón, Christopher K. Ralston, Harry Rosenberg, Mary Ellen Roy, James A. Stuckey, Patrick M. Shelby and Patrick A. Talley, Jr.

**Shields Law Partners, LLP** (New Orleans): **Elizabeth L. Gordon**.



Lloyd N. Shields



Jennifer L. Simmons



## UPDATE

### Francophone Section Helps Fund Frenchie Podcast

Warren A. Perrin, co-chair of the Louisiana State Bar Association's (LSBA) Francophone Section, along with Louis R. Koerner, Jr., made a presentation in New Orleans on the history of the Cajun soldiers' contribution to World War II and the Frenchie Podcast. The Frenchie Podcast was primarily funded by a \$10,000 grant from CODOFIL, under the leadership of CODOFIL Executive Director Peggy Feehan. It was also partially funded and facilitated by the Acadian Museum and the LSBA's Francophone Section.

The first podcast of its kind was launched for International Francophone Day. The Frenchie Podcasting Team — Dr. Jason Theriot, Perrin, Chris Segura with UL Center for Louisiana Studies and Matt Mick with CODOFIL — developed the program featuring actual stories from the French-speaking Cajuns of World War II, as told by the veterans themselves.

The first podcast episode featured Abbeville native and living legend Brig. Gen. (Ret.) Robert LeBlanc. The podcast can be heard on all major podcasting platforms and at <https://jasontheriot.com/the-frenchie-podcast/>.

## SEND YOUR NEWS!

Email your news items and photos to:  
LSBA Publications Coordinator  
Darlene LaBranche at [dlabranche@lsba.org](mailto:dlabranche@lsba.org).



Southern University Law Center Chancellor John K. Pierre, far right, with 2022 Hall of Fame honorees, from left, Roderick D. Vereen, Domoine D. Rutledge, Antonio D. Robinson, Yvette P. Cravins, Todd S. Clemons, Frank E. Brown III and Col. Michael R. Black.

### 2022 SULC Alumni and Friends Round-Up Conducted in April

Southern University Law Center hosted the 2022 Alumni and Friends Round-Up from April 6-9. The event featured CLE webinars, a Distinguished Alumni Reception, the Chancellor Golf Scramble and the Hall of Fame Gala.

The 2022 Distinguished Alumni honorees included Christopher B. Hebert, Louisiana Attorney General's Office, Class of 2003; Jennifer Ashley Mitchell-Carter (posthumously), Class of 2011; Jacqueline C. Williams, Acadiana Legal Service Corp., Class of 2002; Trenika L. Fields-Smith, Splunk Inc., Class of 2013; Brandon B. Brown, U.S. Attorney's Office, Class of 2007; Morgan P. Lamandre, Sexual Trauma Awareness and

Response Center, Class of 2012; and Ruth B. Wesley, attorney at law, Class of 1992.

The 2022 Hall of Fame honorees included Col. Michael R. Black, Office of the Army General Counsel, Class of 1990; Frank E. Brown III, Frank E. Brown III Attorney at Law, Class of 1998; Yvette P. Cravins, Pillsbury Winthrop Shaw Pittman, LLP, Class of 1996; Antonio D. Robinson, Carters Inc., Class of 1998; Domoine D. Rutledge, Rutledge Law Firm, LLC, Class of 1997; Todd S. Clemons, Todd Clemons & Associates, Class of 1987; M. Joy Clemons (posthumously), Class of 1977; and Roderick D. Vereen, Law Office of Rod Vereen and Associates, Class of 1989.



Southern University Law Center Chancellor John K. Pierre, far left, with 2022 Distinguished Alumni, from left, Trenika L. Fields, Brandon B. Brown, Jennifer Gail Walker-Mitchel (on behalf of Jennifer Ashley Mitchell-Carter), Ruth B. Wesley, Morgan P. Lamandre, Christopher B. Hebert and Jacqueline C. Williams.

# LSBA Outreach Committee Conducts Two Seminars

The Louisiana State Bar Association's (LSBA) Outreach Committee, joined by the Slidell Bar Association, conducted a Member Outreach CLE in Slidell on March 3. The seminar featured speaker Betty A. Maury, judicial law clerk to Judge Lee V. Faulkner, 24th Judicial District Court.

The LSBA's Outreach Committee, joined by the Southwest Louisiana Bar Association (SWLBA), conducted a Member Outreach CLE at the SWLBA's Bench Bar Conference in Houston, Texas, on March 26. The seminar featured speaker attorney Dwazendra J. Smith.



Betty A. Maury



Dwazendra J. Smith

The LSBA Member Outreach CLE series informs members about the LSBA and the services included with their membership.

# La. District Judges Association Elects Officers

The Louisiana District Judges Association's officers, serving through Oct. 4, 2022, are President Judge Scott U. Schlegel, 24th Judicial District Court; First Vice President Judge Daniel J. Ellender, 4th Judicial District Court; Second Vice President Judge Patricia E. Koch, 9th Judicial District Court; Secretary Judge Timothy S. Marcel, 29th Judicial District Court; Treasurer Judge Lala B. Sylvester, 10th Judicial District Court; and Immediate Past President Judge Brady D. O'Callaghan, 1st Judicial District Court.



The Alexandria Bar Association's Young Lawyers Section (YLS) hosted its annual Bench Bar Conference on April 1. From left, YLS President Stephen J. Spurgeon, with speakers Samuel J. Spurgeon and Jeff D. Easley from the Spurgeon Law Firm who presented a program on "Tort Reform."

# Louisiana City Judges Association Elects Officers

The Louisiana City Judges Association's officers for the 2021-22 term are President Judge Raylyn R. Beevers, Jefferson Second Parish Court; Vice President Judge Brian H. Barber, Shreveport City Court; Secretary Judge Theodore M. (Trey) Haik III, New Iberia City Court; and Treasurer Judge Veronica E. Henry, Orleans Parish First City Court.

# LBF Announces New Fellows

The Louisiana Bar Foundation welcomed the following new Fellows:

Travis A. Beaton .....	New Orleans
Talya J. Bergeron .....	Baton Rouge
Hon. Frank A. Brindisi .....	Gretna
Hon. Stephen D. Enright .....	Gretna
Hon. Tony C. Fazzio .....	Lake Charles
Hon. Kendrick J. Guidry .....	Lake Charles
Hon. Derrick D. Kee .....	Lake Charles
Pam Landaiche .....	Lafayette
Marilyn Lopez .....	Lafayette
Hon. W. Mitchell Redd .....	Lake Charles
Jonathan David Stokes .....	Alexandria



The Jefferson Bar Association (JBA) hosted its annual CLE by the Sea in Biloxi, MS, from March 16-19. The event featured a CLE seminar, welcome reception, president's reception and a golf tournament. Attending, from left, Jason A. Cavignac, Couhig Partners, LLC; Frederick L. Bunol, 2022 JBA president; Blair C. Constant, 2022 JBA president-elect; Davidson S. Ehle, 2022 JBA secretary; and Judge Shayna B. Morvant, 2022 JBA vice president.



The Southwest Louisiana Bar Association hosted its annual Bench Bar Conference from March 24-26 in Houston, Texas. The event featured seminars and a tennis and basketball tournament. Attending, from left, Todd S. Clemons, Todd Clemons & Associates; Judge Derrick D. Kee, 14th Judicial District Court; Associate Justice James T. Genovese, Louisiana Supreme Court; and Ezra Pettis, Delphin Law Offices, PLC.



# 2023 EXPERT WITNESS, CONSULTANT AND LEGAL SERVICES DIRECTORY

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

- ▶ Reach 21,000+ practicing attorneys
- ▶ Listings indexed THREE ways:  
alphabetical, geographical & by category
- ▶ View last year's publication at  
[www.lsba.org/expertwitness](http://www.lsba.org/expertwitness)

## Technical Details

- ▶ **Publication size:** 8 ½ inches wide x 10 7/8 inches tall
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Louisiana State Bar Association, 601 St. Charles Ave., New Orleans, LA 70130-3404

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	Early Bird Deadline Sept. 2, 2022	Final Deadline Oct. 18, 2022
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# Brackett to Lead the LBF's 2022-23 Board

Alan G. Brackett of New Orleans was installed as the 2022-23 president of the Louisiana Bar Foundation (LBF) during the 36th Annual Fellows Gala on April 22. Also installed were Vice President Deidre Deculus Robert, Baton Rouge; Treasurer Judge John C. Davidson, Alexandria; and Secretary Edmund J. Giering IV, Baton Rouge.

Brackett is the managing member of Mouldoux, Bland, Legrand & Brackett, LLC, in New Orleans.

Robert is the director of rural development for Louisiana under the U.S. Department of Agriculture. Until recently, she was the executive counsel for the Louisiana Department of Transportation and Development.

Davidson was elected as a judge for the 9th Judicial District (Rapides Parish) in 2004.

Giering is general counsel to the Baton Rouge Area Foundation.

New LBF board members are Linda Law Clark, Baton Rouge; George D. Ernest III, Lafayette; Theresa D. King, Houma;



Louisiana Supreme Court Chief Justice John L. Weimer, far left, swore in the 2022-23 Louisiana Bar Foundation officers at the 36th Annual Gala. From left, President Alan G. Brackett, Vice President Deidre Deculus Robert and Treasurer Judge John C. Davidson. Not in photo, Secretary Edmund J. Giering IV. Photo by Matthew Hinton Photography.

and Judge Page McClendon, Madisonville.

Other members of the 2022-23 LBF board of directors are Stephen I. Dwyer, Metairie; Wendy E.W. Giovengo, Monroe; Judge Cynthia Clay Guillory, Lake Charles; Colleen C. Jarrott, New Orleans; Julie M. Lafargue, New Orleans; Ashley Kelton (Kelly) Longwell, New Orleans;

Michael J. Mestayer, New Orleans; John C. Nickelson, Shreveport; Christopher K. Ralston, New Orleans; Maggie T. Simar, St. Martinville; Shayna L. Sonnier, Lake Charles; Anthony J. Staines, Metairie; Judge Ray S. Steib, Jr., Gretna; Adrienne D. White, Mansfield; and Zebulon M. Winstead, Alexandria.

## LBF Presents President's Award, Horn Blower Award at Gala

The Louisiana Bar Foundation (LBF) presented its President's Award and Horn Blower Award during the 36th Annual Fellows Gala in April.

The LBF 2022 President's Award was presented to Maggie T. Simar of St. Martinville and to Zebulon M. Winstead of Alexandria in recognition of their outstanding support, dedication and advancement of the LBF's mission and goals. Presenting the awards was 2021-22 LBF President Christopher K. Ralston.

Simar has been a LBF Fellow since 2010 and a member of the LBF board since 2020.

Winstead has been a LBF Fellow since 2006 and a board member since 2018.

The LBF's 2022 Horn Blower Award was presented to Judge Guy E. Bradberry in recognition of his outstanding support and leadership in assisting the LBF in advancing an initiative project.

Judge Bradberry is on the 14th Judicial District Court bench in Lake Charles. He has been a LBF Fellow since 2002 and a



Christopher K. Ralston, left, 2021-22 president of the Louisiana Bar Foundation, presented the 2022 President's Award to Maggie T. Simar.



Christopher K. Ralston, right, 2021-22 president of the Louisiana Bar Foundation, presented the 2022 President's Award to Zebulon M. Winstead.



Christopher K. Ralston, right, 2021-22 president of the Louisiana Bar Foundation, presented the 2022 Horn Blower Award to Judge Guy E. Bradberry.

board member since 2014. He has served on the Kids' Chance Committee and has been a member and chair of the Southwest Community Partnership Panel since 2014. He has served on the Development Committee since 2019 and as chair of the Membership Subcommittee for the past two years, focusing on increasing LBF membership and outreach.



## President's Message

# Updates on Major Projects for the New Term

*By Alan G. Brackett, 2022-23 President*

I'm excited to begin this year as Louisiana Bar Foundation (LBF) president. The LBF has been fortunate to have extraordinary leadership over the past three decades and I'm humbled to serve. As the Foundation has matured, it's time to take the next steps to ensure its mission is fulfilled, both today and in the future. In the coming year, our Board will be focused on institutional advancement. Raising funds to support the operations of the LBF is critical to ensure that the funds in our care — whether from IOLTA accounts, Children in Need of Care funding, the general appropriation from the Legislature or other sources — can go directly to provide legal services to the tens of thousands of people in need in our state.

I'm extremely proud that the LBF Board has approved \$3.69 million in annual, sustaining grants to support the civil legal aid network this year. We anticipate awarding close to \$8.5 million for social justice initiatives for the 2022-23 fiscal year. These funds, along with countless volunteer hours, allow the LBF to continue its commitment to ensuring that Louisiana's civil justice system is truly accessible.

Civil legal aid is free legal advice, representation or other legal assistance provided to low-income and vulnerable people who cannot otherwise afford legal help. The number of our citizens facing life-changing challenges increases every day. Through no fault of their own, more families find themselves qualifying for civil legal aid. Without civil legal assistance, these Louisiana citizens often experience serious consequences, including losing custody of their children, being evicted from their homes, being subject to domestic violence, and struggling to recover from natural disasters.

The LBF remains the trusted authority for and the state's largest funder of civil legal aid. Our decades of experience as a

responsible steward of funds, along with our well-established partnerships across all 64 parishes, has allowed us to help hundreds of thousands of Louisiana citizens gain access to the legal system.

As a high-poverty state with ever-limited resources, Louisiana's civil justice system has been in crisis for years. The tremendous economic fallout from the pandemic has had a devastating impact on Louisiana's civil legal aid network and drastically increased the number of people who cannot afford legal help.

This year, we will work towards increasing grant funding and services in communities statewide. We will strive to expand the delivery of legal representation to civil legal aid clients, supporting the civil legal aid network and our strategic partners, while reducing the LBF administrative cost footprint so more grant funding and services flow into communities statewide.

We are working towards providing support to rural community providers to create access for people living in Civil Legal Resource Deserts. These are high-poverty areas where access to free civil legal services is more than a 45-minute drive. Distance, coupled with high poverty rates and a lack of Internet access, put these regions at the top of the list in need of access to legal services and resources.

Our Pop-Up Tour will start back up in September. LBF leadership will visit each region of our state and highlight civil legal aid, increased client needs and legal deserts. These events will include our regional Community Partnership Panel chairs, local judicial officers, local grantees and other local leadership. I hope you'll join



Alan G. Brackett

us at one of our regional events.

We have strategic partnerships with the Louisiana Supreme Court and the ATJ Commission, and we continue to work with the Governor's office and the Legislature to improve the delivery of legal representation across the state. To expand LBF's reach, we are working directly with local and specialty bars and other organizations with similar missions and goals as the LBF.

We are working to expand services to those served by civil legal aid organizations by improving data collection, quality assurance and federal reporting with the technical assistance of the Lagniappe Law Lab. Launched with LBF funding, Lagniappe Law Lab continues to excel in creating and improving technology to help deliver civil legal aid.

Our newly established Infinity Fund is designed to provide long-term support for LBF operations and meet all the administrative expenses of awarding and monitoring grant awards. This fund will ensure that LBF can meet staffing and operational expenses so that every dollar received for civil legal aid can be granted to our statewide partners and additional services provided for our vulnerable population.

Every day attorneys across this state help Louisiana by helping others. The LBF is the premier public service organization of Louisiana attorneys. Membership in the LBF is a statement of commitment to fairness and equal access to justice for everyone in our state. I hope you will become a part of the LBF. Become a Fellow, join a committee, attend your local Pop-Up event, and support our Infinity Fund. Our work is important to so many people, and while we have an outstanding professional staff, the work of the LBF requires the support and efforts of members of the Bar. Visit [www.raisingthebar.org](http://www.raisingthebar.org) today.

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**ANSWERS** for puzzle on page 48.

1	S	2	E	3	A	4	W	5	O	6	R	7	T	8	H	9	I	10	N	11	E	12	S	13	S
14	A	15	D	16	V	17	I	18	L	19	R	20	A												
21	L	22	E	23	M	24	M	25	E	26	G	27	R	28	A	29	P	30	N	31	E	32	L		
33	E	34	I	35	R	36	R																		
37	M	38	E	39	R	40	B	41	R	42	I	43	T	44	A	45	N	46	N	47	I	48	A		
49							A				L				S					P		A		I	
51	C	52	A	53	L	54	L	55	O	56	W	57	U	58	P	59	O	60	V	61	E	62	R		
63	O	64	T	65	W	66	B	67	E	68	I														
69	D	70	R	71	I	72	N	73	G	74	O	75	U	76	T	77	G	78	I	79	G				
81	F						W				I					A									
83	I	84	S	85	L	86	A	87	N	88	D	89	S	90	Z	91	E	92	B	93	R	94	A		
95	S	96	D	97	E	98	A	99	E	100	L	101	L												
103	H	104	A	105	R	106	B	107	O	108	R	109	W	110	O	111	R	112	K	113	E	114	R	115	S

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# Spice of Life

By E. Phelps Gay

*A little sugar helps the broccoli go down.*  
—*Science Magazine*, February 2013

**S**tudies show many lawyers are unhappy with their lot — intense pressure, demanding clients, heavy workloads, constant deadlines, timekeeping, unreasonable client guidelines, non-payment or reduction of bills, and the like. But, from my humble point of view, we tend to overlook something most of us enjoy that others don't — variety, the spice of life.

Unlike doctors and engineers, lawyers are generalists. With some exceptions, we are not scientists or mathematicians, but readers and writers, steeped in history, government, philosophy, economics, literature and art.<sup>1</sup> We are communicators, trained in the art of effective oral argument. Our field encompasses all aspects of life — birth, death, health, safety, education, employment, marriage, divorce, succession, business, finance, real estate, crime, punishment, accidents, environmental quality and civil rights. In every field of human endeavor there is law, and where there is law there are lawyers.

Looking back, like most litigators, over the years I had to learn about a lot of subjects “on the fly.” Medicine, for example — often about the human spine (cervical, thoracic and lumbar), but occasionally about the eye (what is the recommended treatment for dry-eye syndrome?), the jaw (can minor trauma cause temporomandibular joint dysfunction?), blood (can a transfusion cause Hepatitis C?), even once about an obscure condition called eosinophilic granuloma. In a case where the plaintiff developed this bone tumor immediately after suffering a traumatic accident, my expert witness, a professor at Harvard Medical School, insisted the accident had nothing to do with its onset. Medically, he was right, although we had to rebut a presumption of causation.<sup>2</sup>

In one case, plaintiff got hit on the head by a falling roll of carpet being delivered (or misdelivered) to a French Quarter hotel. As a result, she permanently lost her sense of taste and smell, a condition known as anosmia. Questions: How can this condition be verified; and, assuming it

is, how much money is this injury worth?

Over the years, I had to learn about oil and gas, nursing, construction, the cause and origin of fires, and the chemical components of paint. One day, a deponent might be testifying on the dangers presented by closed saltwater pits. The next, an appellate argument might address whether a hotel owner should be liable when a bartender serves one too many to a late-night patron; and the next, trial testimony might focus on whether a tenant should have read the fine print on page 12 of a lease, obligating her to arbitrate, or whether the landlord should have flagged this provision and obtained specific written consent.

Metallurgy, engineering, architecture, agriculture, gastroenterology, in vitro fertilization, meteorology, geology, riparian rights, pipeline servitudes, product design, land surveying, discounting economic loss to present value — you name it; in the life of a lawyer, these subjects may crop up and demand your close study and attention.

Of course, in the words of Alexander Pope, “a little learning is a dangerous thing.” No doubt those who are qualified as experts in these fields may look skeptically on lawyers who pretend to know something about them as well as judges and jurors who are called upon to decide cases on the basis of scientific or technical evidence they may not fully understand. On the other hand, our justice system relies upon the collective wisdom, judgment and common sense of the community, and sometimes the uncredentialed amateur and ordinary, fair-minded citizen may know something a board-certified expert doesn't.

As we know, this was memorably dramatized in the 1992 movie *My Cousin Vinny*. Two defendants, charged with murdering a convenience store clerk, were seen driving away in a 1964 Buick Skylark. Rebutting testimony of a prosecution expert, Ms. Mona Lisa Vito, an out-of-work hairdresser with experience working as a mechanic in her father's garage, looked at the tire marks in a photograph, and the lights went on. She explained: “The car that made these two, equal-length tire marks had positraction. You can't make those marks without positraction, which was not

available on the '64 Buick Skylark!”

By contrast, the 1963 Pontiac Tempest *did* have positraction, and it was also available in metallic mint green paint. Sealing the deal, local sheriff Dean Farley testified that two other men fitting the defendants' descriptions had just been arrested on similar charges in a nearby county. What were they driving? A 1963 Pontiac Tempest.

Aside from handling cases and transactions with diverse people and issues, most lawyers enjoy the benefit of travel from time to time — and by “travel” I mean not just the occasional trip to New York or San Francisco, but the unique and under-rated pleasures of practicing law in places like Leesville, Cameron, Benton, Oak Grove, Greensburg, Houma and Pointe a la Hache. All New Orleans lawyers (I editorialize, as one of them) should get out of the office from time to time and expand their horizons.

Back to the proverb, it comes from an English poet named William Cowper, who in 1875 wrote this in a blank-verse poem called “The Task.”

Variety is the very spice of life  
That gives it all its flavour

So, yes, there will always be briefs to write, statutes and cases to read, pleadings and contracts to draft, and deadlines breathing down your neck, but with a little sugar the broccoli may go down just fine.

## FOOTNOTES

1. Accepting an award in 2007 as outstanding LSU Law alumnus, my friend Mike Rubin illustrated with arrows the two directions he faced in considering a post-college career. His PowerPoint slide read: “Math” or “No Math.”

2. See, *Housley v. Cerise*, 579 So.2d 973 (La. 1991).

E. Phelps Gay is a partner and former managing partner of Christovich & Kearney, LLP. He also is an arbitrator and mediator with The Patterson Resolution Group. A graduate of Princeton University and Tulane Law School, he served as 2000-01 president of the Louisiana State Bar Association and as 2016-17 president of the Louisiana Association of Defense Counsel. (epgay@christovich.com; Ste. 2300, 601 Poydras St., New Orleans, LA 70130)





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