Custody

Robert v. Robert, 25-0957 (La. 08/05/25), 415 So.3d 931.

The Louisiana Supreme Court reversed a judgment rejecting an arbitrator's decision regarding the child's high school enrollment. The parties stipulated that the arbitrator's ruling would carry the same legal effect as a decision by a domiciliary parent. Because the father failed to rebut the presumption that the decision was in the child's best interest under La. R.S. 9:335(B)(3), the arbitrator's ruling was reinstated and made the judgment of the court.

Thibodeaux v. Thibodeaux, 25-0972 (La. 08/06/25), 415 So.3d 932.

The Louisiana Supreme Court reversed a provision in a custody judgment requiring the children to remain enrolled in a specific school district as long as the mother resided there. Because the judgment failed to designate her as having legal authority over school choice under La. R.S. 9:335(B)(3), it was not a valid implementation order. The father, as domiciliary parent, retained sole authority to select the children's school, subject to judicial review upon motion by the mother.

Community Property – Partition

LeBlanc v. Guillot, 25-0070 (La. App. 1 Cir. 08/05/25), 418 So.3d 1065.

Luke Guillot appealed the trial court's partition judgment awarding Michelle LeBlanc $256,780 for reimbursement of the income used to discharge his premarital medical school loans while they lived in Florida.

The 1st Circuit reversed in part and affirmed in part as amended. In reviewing the issue *de novo*, the appellate court held that the trial court committed legal error in applying La. C.C. art. 3526(1) to classify as community property the income used to discharge Guillot's premarital student loans. It reasoned that because the wages were no longer in existence, "there is no existing property at issue in this matter, [and thus] there can be no classification of movable property" under the code article. The trial court likewise erred in applying La. C.C. art. 3526(2) to classify as a separate obligation Guillot's premarital student loans. It reasoned that even if the loans "had not been extinguished prior to the community property regime, La. C.C. art. 3526(2) only allows classification of property, not an obligation." Thus, LeBlanc did not meet her burden of proving her reimbursement claim.

Finley v. Finley, 24-0618 (La. App. 5 Cir. 09/24/25), ___So.3d___, 2025 WL 2715281.

Susan Finley appealed the trial court's community-property partition judgment, arguing that the court failed to allocate several liquidated assets and improperly denied reimbursement for community expenses.

The 5th Circuit affirmed in part, reversed in part and amended, finding that the trial court erred in omitting from the partition a cashed annuity and a liquidated Roth IRA. Because the annuity proceeds had been deposited into the parties' joint account during the community regime and the Roth IRA had been liquidated by Mr. Finley without allocation, the appellate court awarded the wife one-half of the annuity ($2,063.87) and the full value of the IRA ($16,334.66). The court otherwise affirmed the denial of Susan's claims for reimbursement related to credit card payments, a damaged gun safe and

the alleged loss of a 2020 tax refund. The matter was remanded for recalculation of the net equalizing payment.

Post-Separation Family Violence Relief Act

Marshall v. Thurman, 25-0309 (La. App. 5 Cir. 09/24/25), ___So.3d___, 2025 WL 2715416, *writ denied*, 25-1266 (La. 11/12/25), ___So.3d___, 2025 WL 3157768.

Travis Thurman appealed the trial court's judgment awarding sole custody of the parties' child to Laurie Marshall under the PSFVRA. The 5th Circuit affirmed and remanded for a determination of attorney fees. It found no violation of Thurman's due process rights in allowing Marshall to expand the scope of the custody hearing by presenting evidence of domestic violence because the testimony was admitted without objection. It also found no error in applying the PSFVRA based on evidence of emotional abuse toward the child and past acts of violence against former intimate partners.

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Allocation Of Fault

Driver v. Willis Knighton Pierremont Health Ctr., 25-0391 (La. 6/25/25), 412 So.3d 215.

A court of appeal reversed a jury's verdict finding in favor of the defendants and rendered judgment against the defendants. The court of appeal did not, however, allocate fault between the two defendants.

The Louisiana Supreme Court noted that Louisiana Civil Code article 2323 requires that "[i]n any action for damages where a person suffers injury, death, or loss, the degree or percentage of fault of all persons causing or contributing to the injury, death, or loss shall be determined … regardless of the basis of liability," and when multiple tortfeasors negligently injure a patient "the liability between them will be a joint and divisible obligation; they will not be solidarily liable, and each tortfeasor will be liable for only their portion of the fault." The court added that "comparative fault must be allocated prior to imposition of the Louisiana Medical Malpractice Act's damages cap." *Id.* at 216. The judgment was vacated, and the case was remanded to the court of appeal to perform the comparative-fault analysis.

Admissibility of Panel Opinion

Almon v. Laborde, 25-0217 (La. 4/23/25), 406 So.3d 1172.

The plaintiff filed a motion to exclude a portion of the medical-review panel's opinion. The district court granted the plaintiff's motion, and the appellate court denied the defendant's writ application. The Supreme Court reversed the lower court's opinions, ruling that panel opinions are subject to mandatory admission unless the panel exceeded its statutory authority. The court noted that unlike the ruling in *McGlothlin v. Christus St. Patrick Hospital*, 10-2775 (La. 7/1/11), 65 So.3d 1218, "there is no indication the medical review panel … found any inconsistencies in the evidence or made any credibility determinations." *Almon*, 406 So.3d at 1173. The court determined that the panel "relied on undisputed facts contained in the medical records and other evidence in reaching its opinion." *Id.* Thus, the entire panel opinion was admissible.

Direct Action In A Medical Malpractice Claim

Farque v. La. Med. Mut. Ins. Co., 25-0022 (La. App. 3 Cir. 6/18/25), 416 So.3d 796, *writ denied*, 25-0912 (La. 11/5/25), ___So.3d___, 2025 WL 3088979.

In this medical-malpractice action, the 3rd Circuit addressed whether recent amendments to Louisiana's Direct Action Statute, La. R.S. 22:1269, applied retroactively to bar plaintiffs' claims against a medical-liability insurer.

Plaintiffs, the family of the decedent Susan Farque, alleged negligence by CHRISTUS Ochsner St. Patrick Hospital and Dr. Justin Rudd during her hospitalization in early 2022. Suit was filed in September 2024 against the hospital, Dr. Rudd and his insurer, LAMMICO. By that time, Act 275 of 2024 had taken effect, amending La. R.S. 22:1269 to restrict direct actions against insurers except under limited circumstances. LAMMICO filed a peremptory exception of no cause of action, asserting the amendment was procedural in nature and thus retroactively eliminated plaintiffs' right to name it directly. The trial court denied the exception, and LAMMICO sought a supervisory writ.

The court first clarified that the insurer's challenge was properly one of no right of action, as the Direct Action Statute governs a plaintiff's procedural right to proceed directly against an insurer. Louisiana courts have historically classified the statute as procedural, ordinarily subject to retroactive application. However, retroactivity cannot impair vested rights. The court examined federal and state precedent, including *Baker v. Amazon Logistics, Inc.* and *Smith v. Fortenberry*, which recognized that once a plaintiff exercises the right to bring a direct action prior to the amendment's effective date, that right becomes vested and cannot be divested retroactively.

Here, although plaintiffs filed their petition after Aug. 1, 2024, the effective date of Act 275, they had already instituted their malpractice claim by filing a request for a medical-review panel in January 2023, as mandated by La. R.S. 40:1231.8. The court reasoned that the filing of the panel request was the legally operative step to institute the malpractice action, thereby vesting plaintiffs with the right to pursue the insurer. To hold otherwise would undermine the procedural scheme of the Medical Malpractice Act, which requires such filings before suit can be brought in court.

Accordingly, the 3rd Circuit held that plaintiffs had a vested right in their direct action against LAMMICO and that the 2024 amendments could not be applied to extinguish that right. The writ was granted, relief denied and the matter was remanded for further proceedings.

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IRA Distribution Not Made Under LASERS Provisions Was a Taxable Event

Dowd v. La. Dep't of Rev., BTA Docket No. 13841A (9/11/25).

John Dowd and Evelyn Dowd (Taxpayers) filed an appeal with the Louisiana Board of Tax Appeals (Board) from the Louisiana Department of Revenue's (Department) Notice of Assessment and Notice of Right to Appeal, which assessed Taxpayers with additional income tax, penalties and interest.

John Dowd was employed by the State of Louisiana, Department of Public Safety. As a state employee, Mr. Dowd participated in the Louisiana State Employees' Retirement System (LASERS). Mr. Dowd participated in the Louisiana Deferred Retirement Option Plan (DROP) and ultimately retired from state service in 2002. On or around Dec. 31, 2003, Mr. Dowd requested a rollover of the balance of his DROP account into an Edward Jones Individual Retirement Account (IRA). The rollover occurred in 2004. There was no dispute that the rollover was not a taxable event, and the treatment of the rollover is not at issue.

In 2022, Taxpayers received a gross distribution from the IRA in the amount of $61,447. On their 2022 Louisiana individual-income-tax return, Taxpayers claimed an exemption for "other retirement income" in the amount of $61,447. The Department denied exempt treatment for the $61,447. The Department proceeded to issue the Assessment for the additional tax due based on the denial of the exemption. The Department filed a motion for summary judgment arguing that the Taxpayers are not entitled to treat the $61,447 claimed on their return as exempt LASERS retirement benefits under La. R.S. 11:405.

Louisiana Revised Statutes 11:405 provides an exemption for LASERS retirement benefits; the benefits paid to any person under the provisions of the LASERS statutes are exempt from any state tax. The problem for the Taxpayers, and the linchpin of the Department's argument, was that the distribution from the IRA to the Taxpayers in 2022 was not paid "under the provisions" of the LASERS statutes.

The Board noted the Taxpayers did not provide any provision in the LASERS statutes that would bear upon the 2022 distribution. The Board held there is nothing in the statutory law or the competent summary judgment evidence that suggests that the LASERS provisions governed or had any bearing on the 2022 distribution from the IRA to the Taxpayers. The 2022 distribution from the IRA to the Taxpayers was held to be a taxable event. It was held that the exemption does not apply to a payment not made under the LASERS provisions of Chapter 1 of Subtitle 11 of the Louisiana Revised Statutes. The Board granted the Department's motion for summary judgment, finding that the Taxpayers are not entitled to treat the IRA distribution of $61,447 as tax exempt under La. R.S. 11:405.

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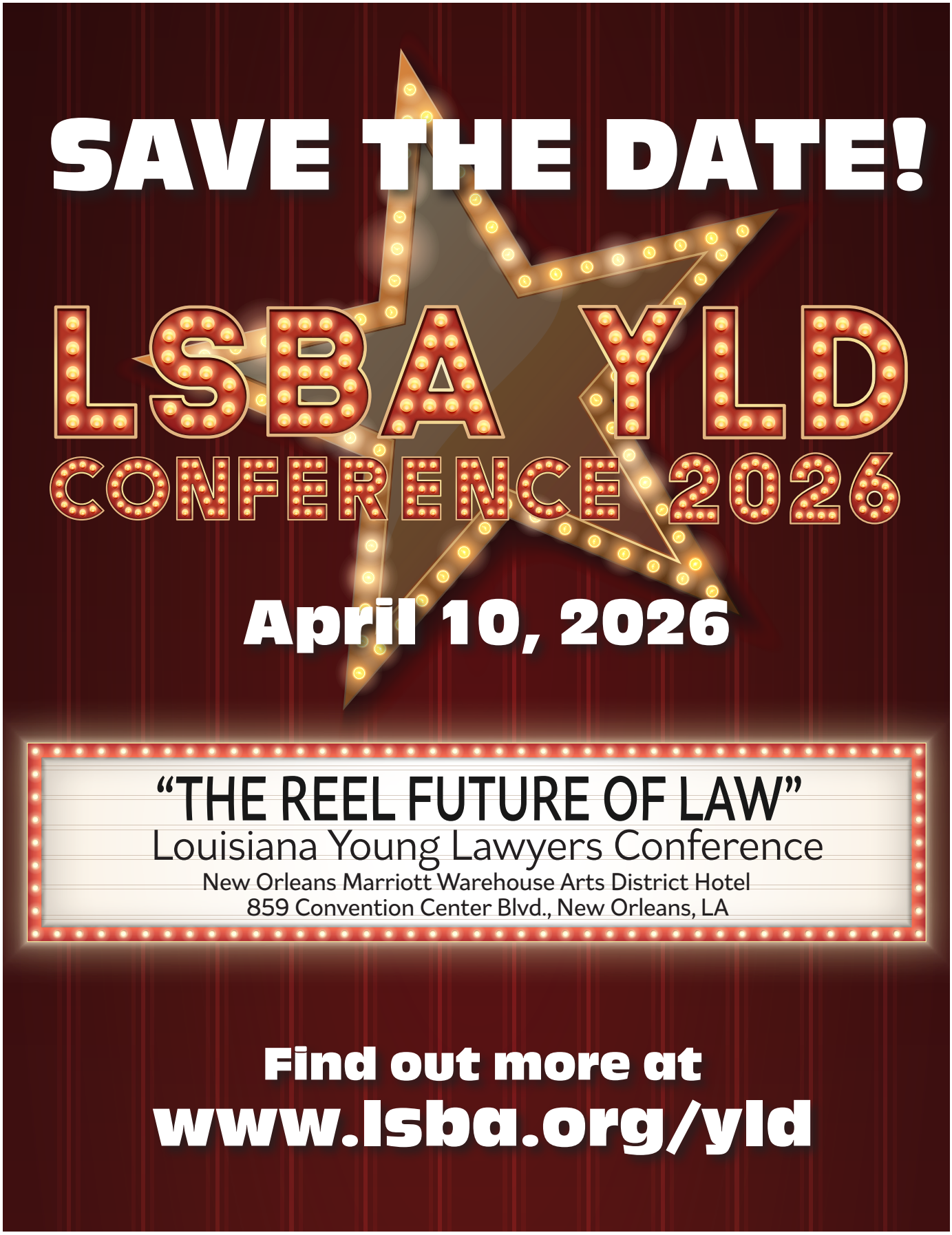
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