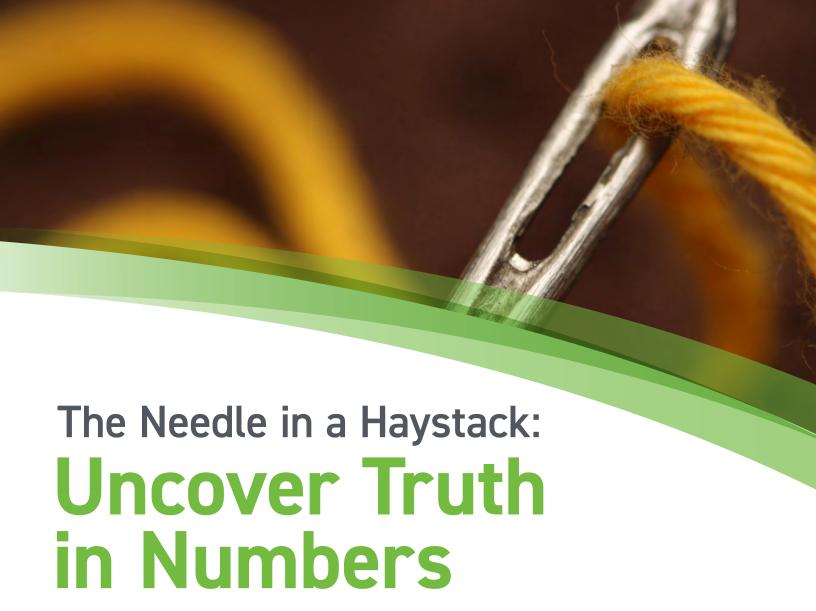
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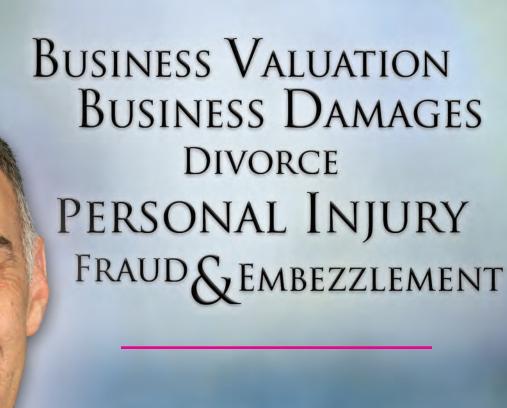
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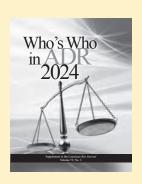
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Overcoming Barriers to Accessibility to Legal Services



By Valerie T. Schexnayder

ditor's Messages and President's Messages at this time of year have often included references to pro bono, reminding attorneys that, each October, pro bono organizations throughout Louisiana participate in National Celebrate Pro Bono Week (Oct. 21-26) and thanking volunteers who work hard to provide legal services for individuals most in need of accessing justice.

This issue of the Louisiana Bar Journal focuses on providing legal services to people who have a disability and/or barrier to accessing justice. According to Disability Rights Louisiana, "Louisiana's rate of disability is higher than the national rate. Approximately one in three Louisiana residents have a disability, whereas approximately one in four U.S. residents have a disability." A recent presentation by Disability Rights Louisiana showed that limited accessibility, insufficient support services, inadequate accommodations and other barriers often result in people with disabilities being at least twice as likely to be unemployed, to leave high school without graduating, to live in poverty, to be abused and to die in a disaster as their nondisabled peers. These barriers lead to our citizens with disabilities having numerous varied legal needs throughout their lifetimes.

The Louisiana State Bar Association (LSBA) has two committees dedicated to supporting the efforts of the many attorneys and organizations in our state who provide legal services to our citizens with disabilities — the Legal Services for Persons with Disabilities Committee and the Louisiana Access

to Justice Commission's Accessibility Committee. These committees work to provide members of the bench, bar and the general public with a greater understanding and knowledge of the legal needs and rights of persons with disabilities. Committee members from the private, public interest and educational sectors were instrumental in contributing articles to this edition of the *Journal*.

The articles highlight certain areas of legal need, including advocating for benefits for clients with disabilities, the legal needs of school-aged children and the need for appropriate individualized education programs. This issue also includes articles on sign language interpreters in the courtroom, navigating disaster preparedness and recovery for disabled clients, and supported decision making.

The articles demonstrate that the need for legal services is great for people with disabilities, as it is for many of our citizens, and the need for volunteers to assist our vulnerable populations is also great. Every attorney has a talent from which our pro bono organizations and their clients could benefit.

As we celebrate National Pro Bono Week from Oct. 21-26, I wholeheartedly encourage everyone to get involved with their local pro bono organization this year.

If you are interested in getting involved and volunteering, contact your local pro bono coordinator:

- ► C.C. Kahr, The Pro Bono Project, cckahr@probono-no.org
- ► Cynthia Bordonaro, SLLS' Northshore Pro Bono Program, cbordonaro@slls.org
- ► Lucy Espree, Shreveport Bar Association, lespree@shreveportbar.com

- Louisiana Pro Bono Project, Inc., probonopro.lizz@yahoo.com
- ► Lynn Haynes, Baton Rouge Bar Foundation Pro Bono Project, lynn@brba.org
- ► Robin Kay, Baton Rouge Bar Foundation Pro Bono Project, robin@brba.org
- ► Marilyn Lopez, Lafayette Volunteer Lawyers, marilyn@lafayettebar.org
- ► Gregory Hopkins, Acadiana Legal Services Corp., ghopkins@la-law.org
- ► Doug Carey, Southeast Louisiana Legal Services, dcarey@slls.org
- ► Juanita Gooding, NELA Bar Foundation, juanita@nelabarfoundation.org

Alternatively, search for volunteer opportunities in your area or search for a pro bono provider at www.probono.net/la/opportunities. For information about volunteer opportunities with Disability Rights Louisiana, email info@disabilityrightsla.org.

FOOTNOTE

1. Centers for Disease Control and Prevention. (n.d.). Disability and health data system: Louisiana. Retrieved Sept. 4, 2024, from www.cdc.gov/ncbddd/disabilityandhealth/impacts/louisiana.html; Centers for Disease Control and Prevention. (n.d.). Disability impacts all: Infographic. Retrieved Sept. 4, 2024, from www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html.

Valerie T. Schernayder

Neurodiversity & Access To Justice

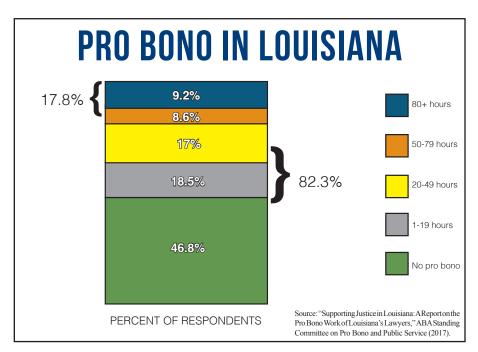


By Patrick A. Talley, Jr.

n this issue of the *Louisiana Bar Journal*, you will find several articles addressing disability and accessibility issues that affect our legal system and practices daily. As you read, I urge you to keep in mind the stark fact that, today, one in five children is diagnosed with some degree of autism, which is a disability in the context of neurodiversity, whether that be in the classroom or the courtroom. Additionally, the same major challenges related to disability arise regardless of whether a person has autism or another disability, such as visual impairment, hearing loss or intellectual disability.

An ongoing concern which we must address is the ability of the children and youth who fall on this autism spectrum to access the courts and justice system. Neurodivergent individuals — those who think differently and do not respond in a typical manner — are often vulnerable to bullying, harassment, and discipline without due process. More specifically, neurodivergent youth are often unfairly treated, potentially resulting in significant educational and social consequences. They may face exclusion, restraint and seclusion from authority figures who perceive their behaviors as disruptive.

Furthermore, when a child's fundamental right to an education is violated, such as being denied the special education benefits to which the child is legally entitled, the impact can be profound and far-reaching. This type of violation not only hinders the child's academic progress but also affects his/her social development, self-esteem and future opportunities. In essence, the denial of the right to education is not just an issue of access; it is a violation of a child's rights that can have lasting consequences on overall development and quality of life.



Thus, addressing these violations is crucial to fostering an inclusive and equitable educational system.

Many programs currently exist in Louisiana to help youth in the legal system. For example, the Louisiana Bar Foundation helps administer and/or fund the following programs:

- ► Children's Legal Services grant program, which helps to provide legal assistance to needy children in areas of law which affect their safety, well-being and future development;
- ▶ My Community Cares, which is a community-driven, neighborhood-based approach to strengthening families and preventing child abuse and neglect in the state of Louisiana; and
- ► Child in Need of Care (CINC) program, which provides free legal representation to children in foster care in partnership

with the legal services corporations, the Louisiana Department of Child and Family Services and the Louisiana Supreme Court.

While these programs are vital to the community, more can be done to help youth with disabilities and neurodivergent youth.

One way to help neurodivergent youth in the legal system is by developing specialized courts to address the needs of youth involved in dependency cases, particularly those who have experienced abuse or neglect, like the Dependency, Abuse and Neglect Youth (DAAY) court system in Nevada. This court aims to provide a more supportive and focused approach to help these young people navigate the legal system while promoting their well-being and stability. The DAAY court prioritizes the cases of neurodivergent youth and allows them to proceed differently than any other cases on the dockets of the courts, thus ensuring that

they do not get neglected.

In addition to these education issues, additional challenges arise as individuals with disabilities age and become a part of the workplace. These challenges can include misunderstandings related to communication styles, differing social cues, and unique work habits that may not align with conventional workplace norms. As a result, conflicts may arise, impacting both the employees with disabilities and their colleagues. Workplace conflicts involving neurodiverse employees require careful consideration and tailored approaches to resolution. Traditional conflictresolution methods may not be effective or appropriate, as they might overlook the specific needs and perspectives of individuals with disabilities and neurodivergent individuals. Effective resolution processes, like mediation, are essential for fostering productive environments and safe spaces for neurodiverse employees.

When individuals face challenges, such as being denied access to education, experiencing expulsion, or encountering conflicts in the workplace, they often find themselves in situations laden with legal

implications. Unfortunately, many may not recognize that these circumstances involve specific rights and protections under the law, leading to feelings of helplessness and confusion about how to proceed. What do they do if they are unable to afford a lawyer or even find a lawyer? What do they do if they cannot access court to address their grievances? This situation creates a ripple effect that exacerbates existing inequalities and barriers within the legal system.

Theresponsibility to address these access to justice barriers for individuals with disabilities, including the neurodiverse population in our state, falls to us, the members of the Louisiana State Bar Association. We must ensure that all citizens in Louisiana have an opportunity to seek justice and have their grievances addressed in the courts, particularly when these issues involve our children's education and workplace issues that face the neurodivergent population in our state. One small way to increase access to justice is by increasing pro bono services in Louisiana.

Rule 6.1 of the Louisiana Rules of Professional Conduct states that every lawyer

should strive to provide legal services to those unable to pay and it sets up an aspirational goal of every attorney providing 50 hours of pro bono work per year. However, based on the reporting that we receive from our lawyers, many Louisiana lawyers do no pro bono work at all.

As President of the LSBA, I am committed to addressing this issue in the coming year. I have asked the Senior Lawyers Division to lead initiatives aimed at increasing lawyer participation in pro bono work. The LSBA will also launch the 25-in-25 Program, which is an effort to encourage all lawyers in Louisiana to strive for the goal of at least 25 hours of pro bono service next year. This program has the potential to make a significant impact on access to justice issues, particularly for the neurodiverse community.

Together, we can make sure that access to justice for all, including those with neurodiverse needs, becomes a reality — not just an aspiration.

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BY LUZ M. MOLINA AND Debra J. Weinberg



ACCESSIBIL LEGALSERV EOR PERS MISSIONS AND HISTORY



FOOTNOTES

1. The Language Access Committee supported the efforts of the Louisiana Supreme Court's Office of Language Access and the implementation of the statewide Language Access Plan. The goal of the committee was to expand efforts to ensure litigants in Louisiana's court are not denied due process because of an inability to communicate with court personnel. Of note, the committee developed a Bench Card and Attorneys' Reference Guide for engaging interpreters and an interpreter services brochure for members of the public who need to request interpreter services from the court. The committee also provided research for identified revisions of court rules and state law regarding interpreter qualifications to comply with the Language Access Plan.

2. A listing does not constitute a recommendation or endorsement by the Louisiana State Bar Association

any Louisiana residents do not yet have full access to the legal system by virtue of deafness, hearing difficulties, physical and mental disabilities, and limited language proficiency. This special issue of the Louisiana Bar Journal seeks to highlight the ongoing work of the Louisiana State Bar Association's (LSBA) Legal Services for Persons with Disabilities Committee and the Louisiana Access to Justice Commission's Accessibility Committee in ensuring that individuals who face those barriers are able to fully participate in and seek redress through the legal system. This work is critical in ensuring that all individuals in our state are able to seek legal protection in those instances where the rights granted to all individuals by the Louisiana Constitution of 1974, Article 1, and all other laws, are in jeopardy.

The Accessibility Committee, formerly known as the Language Access Committee, has been active since 2015 when the Access to Justice Commission was established. The mission of the Accessibility Committee, as reconstituted, is to support issues of language access, disability, and other tangential and collateral areas through research and the development of empirical evidence which informs further initiatives related to the critical need for impartiality in Louisiana's justice system.

The collective effort of the Accessibility Committee and the Legal Services for Persons with Disabilities Committee has steadfastly focused on educating the profession — both bench and bar — on various aspects of accessibility which require particular and special measures to ensure access for those who face barriers.

The Legal Services for Persons with Disabilities Committee was established by Judge Jay C. Zainey, U.S. District Court, Eastern District of Louisiana, during his 1995-96 tenure as LSBA president. Since then, the committee has sponsored training programs to support attorneys within the practice area of disability law, law students interested in disability advocacy, and all practitioners in understanding how disability plays a role in client relationships. In short, its mission has been to provide members of the bar and the general public with a greater understanding and knowledge of the legal needs and rights of persons with disabilities, to better meet the legal needs of persons with disabilities, and to increase the knowledge that persons with disabilities have regarding their rights and resources. In this regard, the committee initiated a Disabilities Assistance Network (DAN). DAN provides a listing of attorneys who have indicated they have experience in, or are willing to assist with, one or more disability law issues. The network is organized by parish to make information and possible resources available to the public and other practitioners handling disability rights cases² easily accessible. For more information, go online: www.lsba.org/ Members/DANsearch.aspx.

Professor Luz M. Molina is a 1979 graduate of Tulane Law School and a law professor at Loyola University College of Law. She chairs the Access to Justice Commission's Accessibility Committee. She is an active member of the Louisiana State Bar Association where she works to improve vulnerable citizens' access to the courts, notably those marginalized by a lack of legal resources, inability to pay, limited English proficiency and/or disability. (molina@loyno.edu; 7214 St. Charles Ave., Campus Box 902, New Orleans, LA 70118)

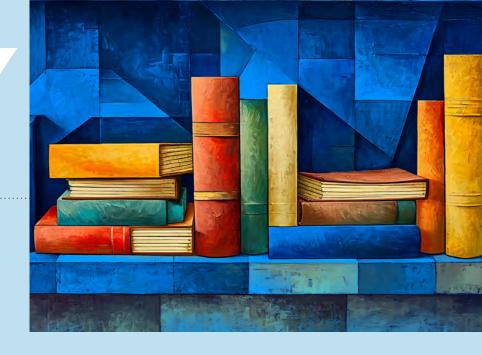


Debra J. Weinberg is the Director of Community Advocacy at Disability Rights Louisiana and currently serves as co-chair of the Louisiana State Bar Association's Legal Services for Persons with Disabilities Committee. She has represented people with disabilities in administrative hearings, mediation, state complaint proceedings, state court and federal court on disability-related issues, with a focus on Medicaid, special education and vocational rehabilitation. She has trained doc-



tors, medical students, attorneys, judges, court staff, advocates, social workers and parents on disability-related issues. (dweinberg@disabilityrightsla.org;8325OakSt.,NewOrleans,LA70118) BY JUDGE LAURIE R. BRISTER





COMMENTARY: A WORD ABOUT ACCESSIBIL REYO DISABILITY AN LANGUAGE

s we explore ways in which individuals face barriers to meaningful access to our judicial system, by virtue of language, disability or other circumstances, it is important to broaden our scope to include those who simply do not have the financial means. Barriers to access, no matter the reason, militate against the promise of equality, fairness and legal protections afforded by law. Louisiana courts work every day to deliver that promise because it is essential in upholding the rule of law. To fully understand the importance of access, we must ascribe to the principle that each of us has fundamental rights which, if in jeopardy, must have an accessible means of redress; many still do not. They cannot afford it. It is incumbent on the legal profession, both bench and bar, to ensure that everyone does its part.

More particularly, we should acknowledge, as a profession, that an ever-increasing number of individuals have no choice but to represent themselves in civil proceedings. Louisiana continues to have the second highest rate of poverty in the United States at 18.6%.1 By metro area, for example, Opelousas has an even higher rate of 29.8 %. Such high poverty often causes self-represented litigants (SRL) to represent themselves before our courts. In fact, around 75% of cases involve at least one self-represented litigant, even though many of these

FOOTNOTES

- 1. U.S. Census Bureau. (2022), American Community Survey. See www.census.gov/content/dam/Census/library/publications/2023/acs/acsbr-016.pdf.
- 2. Self-Represented Litigation Network, SRLN Brief: How Many SRLs? (SRLN 2019), available at: www.srln.org/node/548/srln-brief-how-many-srls-srln-2019.
- 3. See generally, Louisiana Code of Judicial Conduct, Canons 1-3, available at: www.lasc.org/Court Rules?p=CJC.
- 4. See www.lsba.org/Public/FindLegalHelp/ SelfRepresentation.aspx.
- 5. See Louisiana's Rules of Professional Conduct 1.1, 1.3 and 1.4.

individuals lack the necessary tools to fully participate in the legal process.² And although it is important to ensure that SRLs have the same access to the courts as those represented by counsel, judges face the conundrum imposed by judicial ethics which prohibit them from giving advice to litigants.³ What is a judge to do?

One of the biggest challenges faced by the court system is determining how to connect services to those individuals in need. In my experience, healthy and robust partnerships between all constituents in the judicial system are key. I wholeheartedly encourage other courts to openly discuss this need and communicate regularly with their Clerk of Court to ensure that it is thoroughly equipped to provide clear materials and helpful resources which adequately orient the SRL as to what is relevant and necessary in terms of process and evidence, albeit not as legal advice. Resources can include pamphlets and forms, as well as links to the Louisiana State Bar Associations' SRL website.4

To the Bar, I urge that you undertake creative efforts to provide meaningful representation to those left out by financial barriers. Join a Pro Bono Project. Volunteer to help an SRL. Advocate for the idea that all litigants should stand equal before the court. Equality before the court is not always the case when an individual does not have the necessary education, tools or resources to present his or her case. An SRL without adequate resources is at a distinct disadvantage in in a court of law. Accessibility for all litigants should be the goal for all who value the effective

and fair administration of justice.

As practicing lawyers, ensuring access to the justice system is imperative to the practice of law. Central to the ethical responsibilities of a lawyer is the commitment to providing meaningful representation. Ensuring accessibility aligns with legal and ethical obligations to provide equal access to justice and services for everyone, including those who may face the barriers discussed in articles in this issue of the Louisiana Bar Journal. Accessibility is not only necessary; it is also a legal obligation. It can negatively impact a law firm's reputation and finances. Thus, prioritizing accessibility is not only about compliance, but also about upholding legal duties, enhancing client relationships, managing risks, building a positive reputation, and supporting personal and professional growth in the legal field and the community.

The Louisiana Rules of Professional Conduct⁵ emphasize the importance of principles such as equality before the law and the fair application of legal procedure. Enhancing access to justice involves improving the quality of legal services by better trained attorneys and making access to the judicial system more meaningful, be it by providing interpreters, assistive devices, physical modifications to its buildings and courts, increasing awareness of the legal needs and barriers faced by many citizens, or in any other way deemed effective. The foundation of justice is ensuring access to the court for all with impartiality, without discrimination, and with a keen awareness that economic disparities undermine justice for all.

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BY MELANIE A. BRAY



WHO MAKES THE DECISIONS: A LOOK AT SUPPORTED DECISION MAKING

hat is autonomy and do I have it? For most, having autonomy means the right for each person to make his or her own decisions on their own terms. It means having the right to live your life without undue interference from someone else. It means having the final say over decisions that affect your life, without anyone else having control to override those decisions. Conversely, losing autonomy could mean a restriction of the ability to control one's circumstances. For many others, it may mean a total loss of the ability to make decisions and determine how to live their lives. This total loss of decision-making authority is seen in many interdictions in Louisiana.

Imagine being served with court papers informing you that someone you may know, possibly a family member, is seeking a court order to take away your right to make your own decisions and gives that power to the family member. What follows may feel like an impossible battle to make your voice heard so you can prove that you do not need anyone else to make decisions for you. In this process, you are fully exposed. Personal and intimate details of your life, including sensitive medical information, become public record and are put on display to justify the need to restrict your rights. Despite pleas and evidence to the contrary, a court may determine that the person filing the request has proven enough to restrict or remove your rights. Suddenly, the life that once was yours is now under the control of someone else.

Think of all the rights you have as a bundle of sticks. Each one of the rights you have is a separate stick. These rights include the ability to make your own medical decisions, to choose where you live, to sue or be sued, to accept or renounce a succession, to enter into a contract such as a lease, to choose how you spend your money, or to choose who you associate with in your personal life. The rights at stake include everyday decisions that most people take for granted such as what you eat, what shows you watch, whether you can have sex, have a job, get married, have children, have friends, go on vacation . . .

the list goes on. With a full interdiction, the entire bundle of sticks is often taken from you and given to another person. In many cases, the person appointed by the court may not consider what you want or what might provide you quality of life and may unnecessarily restrict you when alternative options could have sufficed.

For decades, this restrictive, rights-revoking process was the only option available for individuals who need some assistance with decision making. However, that is no longer the case. With the passage of the Dustin Gary Act in Louisiana, a new rights-affirming alternative became legally recognized: Supported Decision Making.

Supported Decision Making (SDM) has been available in some parts of the United States since 2006 after it was endorsed by the United Nations' Convention on the Rights of Persons with Disabilities2 with the adoption of Article 12 which states: "persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life" and that "[all] parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity." This paradigm shift away from guardianship, or interdiction, and toward supported decision making is evident with SDM legislation that has been adopted throughout the United States.

What is SDM?

SDM is the process nearly everyone uses on a daily basis when making decisions. Every time you seek the advice of a close friend or colleague about a decision you are going to make, that is supported decision making. SDM legislation is simply the formalization of a process that all individuals rely upon when making decisions, and a recognition that individuals with disabilities are entitled to the same rights. While some may perceive this to be a revolutionary idea, SDM is simply an attempt to change the way society and the law view and treat people with disabilities or other neuro-divergent issues.

The most important aspect to remember about SDM is the individual with a disability is the decision maker. The individual chooses people who he/she knows and trusts to be part of the decision-making support network. The support network does not supplant decision making authority; they offer guidance and support to ensure all the necessary information is available in an understandable manner. This trusted network can field questions and review options to help the person with the disability make his/her own decisions.

A SDM agreement identifies who the individual would like to have as supporters, or the people he/she will rely upon when making decisions about various issues. An individual may choose as many or as few supporters as makes sense. For instance, an individual may choose a parent to assist with medical or financial decisions, but may choose a close friend to help with nutritional or general health decisions. The agreement identifies the decision area for which each supporter is responsible for providing assistance or advice.

The agreement also can be changed as the individual's needs change. Supporters can be added or removed and the agreement may be amended to reflect life changes. The identified supporters commit to providing information and guidance to the individual in the areas they are identified for. Supporters commit to honoring the individual's decisions, even if they disagree.

How Does SDM Benefit the Individual?

Where SDM has been implemented and utilized as a less restrictive alternative to guardianship, individuals report an increase in confidence and independence in expressing their opinions, increased willingness to try new things, and a greater desire to engage in social interactions. Individuals who utilize SDM are also more likely to maintain gainful employment and report feeling safer and more secure.

In Louisiana, the catalyst and namesake

of the SDM legislation is Dustin Gary. At the time the legislation finally passed, Dustin, who has a developmental disability, was turning 18 years old. His mother, Liz Gary, feared that under Louisiana law it was quite possible that her son would lose his decision-making rights. Prior to this legislation, there were no formally recognized less restrictive alternatives to interdiction. The lack of meaningful alternatives convinced many individuals associated with the provision of care and services for individuals with disabilities that it was necessary to change the law. Liz Gary, the everfierce advocate and mother, fought for an alternative for her son. She pushed for an option that would allow her son to have the same rights and opportunities as his older siblings and other persons without disabilities.

From the time that Dustin was very young, Liz Gary was passionate about affording Dustin the opportunity to be part of decisions that impact his life. From choosing what snacks to eat to what activities he participates in during the week, she made sure he understood the pros and cons for each decision, as well as the potential consequences. As with her other children, she educated Dustin about his decisions to ensure that he understood the consequences of each decision and how he can make better decisions in the future. These lifelong efforts set the stage for Dustin to utilize SDM as he transitions into adulthood because he has been making decisions in an informal SDM

model his entire life.

While the formalized SDM agreement is in progress of being developed, it is still too new for Dustin to reap the full benefits of having this less restrictive option in place as he traverses the many challenges in life as an adult. Dustin is currently finishing his final year of high school and, while he has expressed interests for what post-high school may hold for him, he has not made any final plans.

What is significant is the impact the informal SDM usage has had on Dustin. Dustin's teachers and peers have watched Dustin grow into an independent and confident young man over the years. He has excelled at developing social skills and taking initiatives to try new things that he observes his peers involved in. In the process, he has been able to make decisions with input from his family and friends as needed. For instance, Dustin is prediabetic so he has to be cautious about his diet and the food choices he makes. As a result of the lifelong support and guidance from his parents, Dustin is often able to make decisions about food and snacks that he wants, while balancing it with his health needs.

It is this lifelong reliance on a SDM model that has fostered Dustin's independence and confidence. Far too often children with disabilities are not provided adequate opportunities to learn and develop decision-making skills. Without those skills, they will lack the confidence in themselves or situations and will have difficulty socializing, taking





SCAN CODE FOR LINK

NEW RESOURCE:

LSBA REFERENCE CARD ON INTERDICTION PROCEDURES & LESS RESTRICTIVE ALTERNATIVES

The LSBA recently published a reference card to educate the bench and the bar on the interdiction process and less restrictive alternatives, such as Supported Decision Making. An electronic version of the Reference Card can be accessed through the QR Code. Physical copies can be obtained at the Bar Center.



FOOTNOTES

- 1. La. R.S. 13:4261.101 through 4261.302 (enacted August 2020).
- 2. https://www.centerforpublicrep. org/initiative/supported-decisionmaking/#:~:text=Supported%20 decision%2Dmaking%20(SDM),the%20 United%20States%20as%20well.
- 3. https://legis.la.gov/legis/ViewDocument.aspx?d=1370243.
- 4. Access the Bench/Reference Card for Interdiction Procedure & Less Restrictive Alternatives: www.lsba.org/documents/LSPD/RefCardInterdictionLessRestAlts.pdf.

initiative, or trying new things.

Dustin and his family have also benefitted from the guidance and support they have received in going through the process to develop a SDM agreement. It is often difficult to take a step back from the day-to-day decisions and look at the bigger picture, which can be overwhelming. Dustin and his family have been part of the Arc of Louisiana's SDM mentoring program to guide them through the process. This program has provided them with the tools and resources they need to make SDM a great success.

How Can the Legal Community Help?

Lawyers and judges play a key role in protecting the rights of individuals with disabilities and other neuro-divergent issues. The legal community is the front line for education and advocacy for the least restrictive option for individuals with disabilities. When families seek legal counsel to guide them when they are considering changing the legal status of a loved one, attorneys need to be able to present all the available options, including SDM.

In Louisiana, the passage of the SDM legislation included an amendment to interdiction law that specifies all less restrictive options must be considered or tried before seeking an interdiction. If a less restrictive option is not considered or tried, the reasons must be specifically detailed in the petition for an interdiction. The intention behind the amendment was to add a layer of protection to avoid unnecessarily restrictions on individual

rights. It is incumbent upon attorneys to provide information about SDM and encourage families to try it when appropriate for the individual.

The 2024 legislative session passed House Concurrent Resolution 38, which urges the Louisiana State Bar Association (LSBA) to "raise awareness about all legal options including but not limited to supported decision-making, power of attorney, continuing and permanent tutorship, and limited and full interdiction, and to assist parents and guardians of children with disabilities to obtain the best legal option that best suits their families." This resolution reinforces the idea that all options must be considered, including less restrictive alternatives, to find the best option to meet the needs of the individual. The national push for SDM has resulted in a plethora of resources, trainings, studies and articles available to both the legal community and the general public. In response, the LSBA has published a bench card to educate the bench and bar on SDM.4

Individuals with disabilities and other neuro-divergent issues deserve the same opportunities and dignity of risk to make decisions and learn from their experiences as individuals without disabilities. Supported decision making can have an immense positive impact on someone's life by fostering independence and avoiding a potentially catastrophic loss of rights as an alternative. In many cases, it should be the first step for individuals with disabilities before a more restrictive alternative is sought.

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BY SARAH HOLLAND BACOT



DISASTER, DISABILITY AND CHANGES FROM FEMA: **INFORMATION FOR ATTORNEYS NAVIGATING** DISASTER PREPAREDNESS AND RECOVERY

ttorneys are in a unique position to provide disaster-related assistance, whether lending aid in the creation or understanding of important personal documents, such as healthcare directives and estate planning documents, or representing disaster survivors in civil matters related to recovery. As attorneys practicing in a state that is especially vulnerable to natural disasters, Louisiana attorneys have even more of an opportunity to use their professional skills in service to their communities. This could occur through the formal mechanisms mentioned above or as trained volunteers post-disaster. This article offers some insight into the unique challenges faced by a particular group in disaster preparation and recovery — those with disabilities as well as information about new federal policies related to aid with the hope that this knowledge will be useful to those who find themselves in a position to provide disaster-related assistance to those in need.

Unfortunately, many Louisiana residents have a deeply personal understanding and experience of disaster preparation and recovery, both on a community and individual level. For Louisiana residents with disabilities, the difficulties and dangers of disaster can be compounded. In fact, those with disabilities are two to four times more likely to die due to natural disaster than those without disabilities.

Elevated risk for people with disabilities begins before a disaster strikes and runs through recovery. During preparation and evacuation, many disabled people do not have access to accessible vehicles, do not receive effective communication about evacuation options, and do not have any guarantee that a shelter will be able to accommodate their needs. During recovery, shelters may lack accessible showers, deny access to those who use service animals, or have no means of communicating with those who are deaf or use assistive technologies. Moreover, applications for aid may fail to take into consideration the needs of people with disabilities, making it difficult or impossible for people with disabilities to complete requests for assistance.

Advocates have been working for a long time to address these disparities and to ensure that individuals with disabilities are incorporated into disaster planning at the local, state and federal level. The refrain of "nothing about us without us" is as relevant in disaster spaces as everywhere else, and advocates regularly remind those responsible for disaster planning to include meaningfully those with disabilities in that process. While mutual aid and community work have always been and remain essential, advocates have also focused on the law, bringing suit and working to change policy across the country.

Recently, thanks in no small part to the persistent work of disabled advocates, FEMA has made significant changes to its Individual Assistance (IA) programs. These changes will be helpful to everyone seeking assistance after a disaster, and some will have an especially positive impact on those with disabilities. Because the changes only began to apply to disasters on March 22, 2024, these new policies have not been tested in a widespread way. However, as Louisiana navigates another hurricane season, having a clear understanding of some of these new policies and what they mean for disaster survivors is one way to be prepared.

Some of the major changes in the process include:

- ► Immediate Assistance. Replacing FEMA's previous Critical Needs Serious Assistance (CNA), Needs Assistance (SNA) will be available in all disasters where IA is granted. Survivors with serious needs after a storm will receive \$750 to address immediate expenses. Similarly, Displacement Assistance will now be available to help survivors who cannot return home with up-front expenses related to housing.
- ▶ U.S. Small Business Administration (SBA) Loan. Previously, to be considered for certain types of assistance, FEMA required applicants to apply for an SBA loan at the same time that they applied for aid.

This is no longer the case. While the option to apply for a low-interest SBA loan remains, it is not mandatory to be considered for other assistance.

- ▶ Underinsured Survivors. FEMA is no longer disqualifying from aid anyone who receives \$42,500 in insurance reimbursement. Now, if a survivor receives an insurance payout but has needs not covered by that amount, they may qualify for additional aid up to that \$42,500.
- ► Home Repairs and Habitability. Previously, assistance for home repairs was limited based on the condition of the home or status of the damage prior to the storm. Now, FEMA may grant assistance to repair damage regardless of pre-existing condition, allowing homeowners to ensure their homes are habitable and better prepared for any future disaster. Additionally, individuals with disabilities are now able to use FEMA assistance to increase accessibility in their homes. Previously, FEMA assistance could only be used to repair storm-damaged features or if accessibility additions were necessary due to a stormcaused disability.
- ▶ Procedural Barriers. FEMA has removed some documentation requirements for late applicants, those seeking temporary housing assistance, and those seeking to appeal a FEMA award decision. The new regulations also formally include the alternate documentation that FEMA will accept as evidence of homeownership when formal title is not available.

All of these improvements will make a major difference for those seeking aid after a disaster. While the hope is that these new policies will not be needed soon, having an understanding of them and what they mean for survivors puts everyone in a better position to navigate, and advocate, after a storm.

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BY DENISE CROCHET

AND JAY ISCH



AMERICAN SIGN NGUAGE INTERPRETERSIN THE COURTROO SPECIAL CONSIDERATIONS

nterpretation for those who are Deaf, DeafBlind and Hard of Hearing requires special considerations. The right to interpretation is drawn from federal and state law. Under federal law, the Americans with Disabilities Act (ADA) codifies individuals' rights to access court proceedings in the language or communication modality of their choice, free of charge. Louisiana law also has special provisions. Pursuant to La. R.S. 46:2364, inter alia, "... during any judicial or quasi-judicial proceeding . . . the appointing authority shall appoint and pay for a qualified interpreter/transliterator . . . " to interpret the proceedings to the Deaf, DeafBlind or Hard of Hearing, as well as interpret or transliterate the testimony of such individuals. Additionally, the appointing authority must make a preliminary determination of the qualifications and is otherwise authorized to remove any interpreter who is unable to communicate with such individuals.1 However, it also allows for an "intermediary" interpreter to assist the qualified interpreter. La. R.S. 46:2365, La. R.S. 46:2366.

Generally, the Louisiana Supreme Court provides a list of two types of interpreters: Registered Court Interpreters (intermediate level) and Certified Court Interpreters (highest level).

In Louisiana, an interpreter is listed as "registered" in the language (for which they have tested) when the interpreter:

- ► completes a two-day training course;
- ▶ passes a standard written English examination as provided by the National Center for State Courts;
- ▶ passes a written translation examination;
- ▶ agrees to be bound by the Code of Professional Responsibility for Language Interpreters; and
- ▶ passes a criminal background check
- ► American Sign Language interpreters are not required to take the written translation examination, but instead shall provide proof of a valid Specialist Certificate Legal (SC: L) or

a national generalist certificate from the Registry of Interpreters for the Deaf (RID).

To become a "certified" court interpreter in Louisiana, a candidate must already be a "registered" court interpreter and additionally must pass the National Center of State Court (NCSC) Oral Certification Examination (oral exam) as administered in Louisiana in accordance with NCSC testing protocols. A "certified" court interpreter has tested skills in simultaneous and consecutive court interpreting, well as in sight translation, and has scored at least 70% on each testing section. However, this is not the case as to Deaf, DeafBlind and Hard of Hearing individuals. In those instances, pursuant to La. R.S. 46:2368, a list of interpreters/transliterators qualified is maintained and coordinated by the Louisiana Commission for the Deaf. La. R.S. 46:2368 (B) mandates that "... the appointing authority shall use one of the interpreters/transliterators on the Louisiana Commission for the Deaf list." Nevertheless, the Louisiana Supreme Court does list "registered" American Sign Language interpreters in its court interpreter registry.

Who is the court interpreter there for?

An interpreter for the Deaf, DeafBlind or Hard of Hearing individual is there to provide accessibility to the court proceedings and all its participants. This may include the attorneys, the judge, the bailiff, the court reporter, the clerk, etc., assuming they are not fluent in American Sign Language themselves.

Is accessibility for Deaf, DeafBlind and Hard of Hearing individuals satisfied by providing the materials, documents or captioning in English?

Absolutely not. While English captions are great, they might not be effective for every individual in the Deaf community including those who are DeafBlind and Hard of Hearing. To be clear, American Sign Language is distinctly different than English.

Here's why from a Deaf individual's perspective:

- ▶ Think of English as a second language. For some Deaf individuals, American Sign Language (ASL) is their primary language and, for them, written English can be tricky with complex grammatical rules, exceptions to those rules and numerous synonyms. Even captions in English might be misconstrued as something else entirely simply because a Deaf individual may translate the message into different context since the syntax and structure is different than ASL. Tricky, right? This is exactly why ASL users can be considered second language users of English.
- ▶ Missing the little things. Captions are not known to be 100% accurate. Generally, automatic captions are frowned upon by the Deaf community.
- DeafBlind considerations. Captions are a definite no-go for DeafBlind individuals. They might need other ways to access the information, such as signing (as a "Regular" interpreter would do) directly into their hands. This is called Tactile interpreting. There is an advanced version of Tactile interpreting called Pro-Tactile though it is less frequently seen in Louisiana. Lastly, for translations written in Braille, it should also be noted that not all DeafBlind individuals are knowledgeable of Braille as some might not have taken the opportunity to learn while struggling with the slow deterioration of their vision (which also takes a toll on their mental health.)

Can the interpreter meet with the attorney and his/her client who is Deaf, Hard of Hearing or DeafBlind to discuss strategies of the case?

The court interpreter cannot and should meet with the attorney and client individually.² The interpreter's role in this setting is to provide access to court proceedings. Interpreting for an attorney and the client is a conflict of interest for the interpreter. They are also not permitted to discuss the case with law enforcement, family members





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FOOTNOTES

- 1. Louisiana's Language Access Judicial Bench Card provides guidance for the judiciary when working with LEP individuals, accessible at: www.lasc.org/court_interpreters/Language_Access Bench Card.pdf.
- 2. See generally District of Columbia Courts' Office of Court Interpreting Services Interpreter Etiquette & the Do's and Don'ts of Working with an Interpreter, available at: https://www.dccourts.gov/sites/default/files/divisionspdfs/Dos-and-Donts-When-Working-With-an-Interpreter.pdf.

or witnesses. Attorneys should provide their own accessibility (in this setting, interpreter) to discuss confidential information with their clients.

What if I know sign language or the client's family member is present? Can they simply interpret for them in court?

The court should never allow family members, friends or the party's attorney to interpret inside the courtroom. Only court personnel who are appropriately qualified may interpret in such instances.

Qualified interpreters are essential

Interpreters play a vital role in equal access to not only court proceedings but other legal processes, such as Miranda warnings, interrogations, depositions, translation of written documents, settlement arbitration. agreements. protective orders, etc. Without this important work, participants who are Deaf, Hard of Hearing or DeafBlind cannot assist with their own defense, bring lawsuits on their own behalf, or have fair and equal access to the judicial system. This brief tutorial on the role and responsibilities of American Sign Language interpreters is just the start of a deeper conversation with members of the court and Bar in order to strive toward a more equitable future. For more in-depth information, visit the Louisiana Supreme Court Language Access website at www.lasc.org/ Language Access.

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BY MELANIE A. BRAY



DISABILITIES AND AND EVERYDAY BARRIERS



ndividuals with disabilities may have a need for assistance and may benefit from services to remain living in a community setting, but they can come at a cost. The processes for individuals with disabilities or other neuro-divergent conditions to obtain needed services and or access to tools that aid in accessibility are often cumbersome and rife with roadblocks. Attorneys are often the answer to removing the hurdles to accessibility and, as a profession, attorneys should be educating themselves to be the advocates for their clients' needs. Some common areas where attorney intervention could be valuable include Medicaid or waiver eligibility, financial planning and reasonable accommodations in employment.

Waivers, Medicaid Services, Barriers to Approvals

Medicaid Eligibility Generally

Individuals with disabilities or other neuro-divergent conditions may be eligible for a variety of Medicaid paid services and programs to meet needs and address barriers to accessibility, enabling people to remain living in a community setting. For many individuals, simply qualifying for Medicaid coverage can present barriers. In Louisiana, individuals are automatically eligible for Medicaid if they receive a social security benefit, Supplemental Security Income (SSI). If

not, individuals may still be eligible if they have a disability, according to the Social Security Administration's definition;² have corrected vision no better than 20/200; are a low-income parent of a child under age 19; are a child under age 19; are pregnant; have no insurance and need treatment for breast and/or cervical cancer; receive Medicare coverage and are low-income; or are between 19-64, meet income requirements and do not already qualify for Medicaid or Medicare.³

Some of the pitfalls in Medicaid eligibility deal with the income and asset limits.

Medicaid Waiver Programs

For individuals with disabilities and older adults, they may qualify for services through Louisiana's Medicaid waiver programs. A Medicaid waiver is a program that allows for a change in eligibility requirements for Medicaid in order to receive home- and community-based services (HCBS). These HCBS waiver programs are intended to meet the needs of individuals so they may live the life they choose in an integrated setting. For individuals with developmental disabilities, the waiver options include the Residential Options Waiver (ROW), the New Opportunities Waiver (NOW) and the Supports Waiver. For children, there is the Children's Choice Waiver (CCW). Each waiver option offers a different package of services and limits to service hours, intended to provide only the necessary level of services that an individual needs.

The first step to receiving services under one of the developmental disability waivers is to qualify for those services with the Office for Citizens with Developmental Disabilities (OCDD). Individuals will need to demonstrate they meet the definition of a developmental disability to qualify for waiver services, found in La. R.S. 28:451.2 (11). Frequently, individuals are found ineligible for services due to a failure to demonstrate they met a piece of the criteria such as a qualifying diagnosis made by an appropriate medical or mental health professional. A common hurdle for adults seeking eligibility is having records that show they have been diagnosed with a qualifying intellectual or physical impairment before the age of 22. Additionally, individuals diagnosed with autism face challenges when they have not received the diagnosis from a qualified professional, as defined by the Louisiana Department of Health.

Once an individual is found eligible to receive waiver services, the next hurdle to clear is finding a provider able to staff the hours that have been approved to provide the services the individual needs. Providers have historically been challenged to employ enough staff to meet the needs of all the clients they have, in part due to the low rates of pay they offer to the direct care workers. The COVID-19 pandemic exasperated the worker shortage.

What Can Lawyers Do to Help?

Lawyers can assist individuals by representing them in appeals for denials of eligibility to receive waiver services. The process can be confusing and technical for a layperson to follow. The entire foundation of a lawyer is created by untangling and understanding the confusing and technical. Lawyers can also assist by appealing provider discharges, particularly when the discharge does not follow legal requirements and may be deemed invalid.⁴

Financial Planning and Considerations to Protect Benefit Eligibility

Individuals with disabilities or other neuro-divergent conditions need to take precautions when financial planning to ensure they aren't putting their eligibility for necessary public benefits at risk. While eligibility for waiver services is not tied to income and resources, general eligibility for Medicaid coverage is. As of June 2024, there were 1,674,556 individuals enrolled in Medicaid benefits in Louisiana.5 These individuals have to meet specific criteria for the program that they are eligible for under Medicaid. For an adult in Louisiana, without Medicare. the monthly income limit is \$1,732, or \$20,030 annually before taxes, to qualify for Medicaid coverage.6 In addition to income, Medicare also considers resources, such as property ownership, when determining eligibility. A primary residence, one vehicle and life insurance policies with a combined face value of \$10,000 or less are not counted as assets for Medicaid eligibility.7 Anything else is counted and could cause the individual to be denied eligibility.



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- Eminent domain

So what happens if an individual suddenly comes into a sum of money, such as an inheritance or back payment of social security benefits? An individual will need to spend down the amount of money that exceeds eligibility limits. Alternatively, an option such as an Achieving a Better Life Experience (ABLE) account or a Special Needs Trust (SNT) may be appropriate.

An ABLE account is a tax-advantaged savings account for people with disabilities and their families to save and invest money for qualified disability expenses.8 It is a beneficial option for families who want to provide financial assistance to an individual with a disability on a regular basis, without endangering the individual's eligibility for public benefits such as Medicaid or social security benefits. An annual total of \$18,000 may be added to an ABLE account. The money in an ABLE account may be used by the individual with a disability for education, food, housing, transportation, employment training and support, assistive technology, personal

FOOTNOTES

- 1. https://ldh.la.gov/page/about-medicaid, last visited July 18, 2024.
- 2. www.ssa.gov/benefits/disability/qualify. html#anchor3, last visited July 18, 2024.
- 3. https://ldh.la.gov/page/about-medicaid, last visited July 18, 2024.
- 4. See Louisiana Administrative Code Title 48, Part I, Chapter 50, §5037; https://ldh.la.gov/assets/medicaid/hss/docs/HCBS/HCBS_regs_as_of_3-14-22.pdf, last visited July 18, 2024.
- 5. https://ldh.la.gov/assets/medicaid/ MedicaidEnrollmentReports/EnrollmentTrends/ EnrollmentTrends_202406.pdf, last visited July 18, 2024.
- 6. https://ldh.la.gov/page/medicaid-eligibility-income-limits, last visited July 18, 2024.
- 7. See www.medicaidplanningassistance.org/ medicaid-eligibility-louisiana/, last visited July 18, 2024.
- 8. See www.ablenrc.org/what-is-able/what-are-able-acounts/, last visited July 18, 2024.
- 9. www.ablenrc.org/able-account-contribution-limits-2023/, last visited July 18, 2024.
- 10. www.ablenrc.org/what-is-able/what-are-able-acounts/, last visited July 18, 2024.
- 11. See www.lsba.org/documents/Members/ DisabilityResourcePamphlet.pdf, last visited July 18, 2024.
- 12. https://adata.org/factsheet/reasonable-accommodations-workplace, last visited July 18, 2024.
 13. Id.
- 14. www.eeoc.gov/laws/guidance/enforcementguidance-reasonable-accommodation-and-unduehardship-under-ada#general, last visited July 18, 2024.

support services, health care expenses, financial management and administrative services and other expenses which help improve health, independence, and/or quality of life.¹⁰

A SNT is a type of trust that provides financial support for people with disabilities, without impacting eligibility for public benefits. A SNT may be a smart option if an individual receives a large asset, such as property from a succession or a payout from a lawsuit. When the amount is greater than could be spent down in the allowable time period and it is a one-time acquisition of the asset, placing that asset into a SNT will ensure the resource is available to the individual with the disability without endangering eligibility of necessary benefits and services.

Knowing the financial and asset limitations for eligibility is the first step in planning for economic stability for an individual with a disability. Knowing the tools and resources available to protect the individual's public benefits, while still ensuring they have access to financial means to provide a more substantial quality of life, is the role lawyers can play.

Employment and Reasonable Accommodations

Individuals with disabilities or other neuro-divergent conditions may need reasonable accommodations in the workplace to engage in competitive employment. A reasonable accommodation (RA) is any change to the application or hiring process, to the job, to the way the job is done, or the work environment that allows a person with a disability who is qualified for the job to perform the essential functions of that job and enjoy equal employment opportunities. An accommodation is considered "reasonable" if it does not create an undue hardship on the employer. While

it isn't required under the Americans with Disabilities Act (ADA) for an RA request to be in writing, best practice is for a formal letter to be submitted to the employer. If an employer refuses to provide a reasonable accommodation, that is discrimination under the ADA. ¹⁴ You do not need to say specifically what diagnosed disabilities you have. The individual only needs to describe the ways that the disability interferes with work and how the requested accommodation would assist. The employer may request verification of a disability from the individual's doctor.

When an individual submits a request for a reasonable accommodation, the employer is required to engage in an interactive process to talk about all the possibilities and alternatives if the requested accommodation is not available. It is important to note that an individual may not be entitled to a specific requested accommodation if an alternative is available that poses a lesser burden on the employer.

Attorneys can assist at all stages of this process, including helping individuals in drafting an appropriate letter requesting an accommodation so they have proof of the request in writing, assisting with employer negotiations if they allege the requested accommodation is burdensome, or assisting with filing an EEOC complaint if the employer unlawfully refuses an accommodation or terminates the individual following the request.

Conclusion

The programs and services that are intended to assist individuals with disabilities or other neuro-divergent conditions can sometimes be complicated, burdensome and time-consuming. As lawyers, we can assist individuals in navigating these barriers to ensure they have access to what they need to enable them to live an integrated life in the community, safeguard their financial interests, and secure or maintain gainful employment.

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BY CAITLIN P. MORGENSTERN



WORKING TOWARDS MEANINGFUL **COURT ACCESS: INNOVATIONS AND EFFORTS BY LOUISIANA** SUPREME COURT



ccess to justice is a cornerstone of a fair legal system, ensuring that all individuals, regardless of their background, can effectively participate in judicial processes. In addition, the integrity, independence and impartiality of the judiciary are essential to ensuring access to the justice system. The Louisiana Supreme Court recognizes the importance of these principles and has implemented several initiatives to improve court accessibility throughout the state. This article explores these efforts, highlighting their impact and significance, including the expansion of the Court's Office of Language Access into the Office of Court Access.

Over the last few years, the Supreme Court's meaningful access initiatives have evolved significantly, especially following oversight from the U.S. Department of Justice (DOJ). Initially, the DOJ's involvement highlighted critical deficiencies in the provision of language access for limited English proficient (LEP) individuals. In response, to further access to justice in Louisiana courts, the Supreme Court implemented rigorous standards and practices, transforming its language access program into

FOOTNOTES

1. See Deborah L. Rhode, Access to Justice (2004).

a model for other states.

Key components of the Supreme Court's initiatives include: (1) development and implementation of a comprehensive language access plan for courts across the state; (2) creation of a centralized complaint system that addresses concerns about retaliation and includes an online complaint form in Spanish, Vietnamese, Arabic and Chinese; and (3) the promulgation of rules and statutes which embrace language access in Louisiana courts, including the enaction of Supreme Court Rule, Part G, Section 14, which provides requirements for language access in court proceedings and operations. This year, the Office of Court Access supported the Louisiana State Law Institute's efforts to enact Act 32 of the 2024 Regular Session, which amends Code of Evidence art. 604 to reflect the procedures to ensure the qualifications of court-appointed interpreters and enacts Code of Evidence art. 604.1 to provide the framework through which interpreters are qualified, and the procedure with which to challenge interpretations and translation. These endeavors have not only complied with DOJ requirements but have also enhanced the overall quality and reliability of language services in Louisiana courts.

Through its language access efforts, the Supreme Court became more aware of other tangential and or collateral issues that could benefit from broader review and support of accessibility issues. To further support issues of language access as well as issues related to disability, and other tangential and/or collateral areas all of which relate to the critical need for impartiality in Louisiana's justice system, the Supreme Court has now broadened its focus from solely language access to a more comprehensive approach by expanding the Office of Language Access into the Office of Court Access (OCA).

This strategic shift underscores the Court's commitment to addressing various barriers that impede access to justice. The new Office of Court Access is tasked with ensuring that individuals with limited English proficiency, disabilities and other challenges receive the necessary support to fully engage in judicial proceedings.

Recognizing the pivotal role judges play in ensuring court access, OCA has instituted training to equip judges with the knowledge and tools necessary to create an inclusive and accessible judicial environment. In addition, to ensure clarity and comprehension, the Supreme Court has revised its ADA Statement to be written in plain language. This revision aims to make the Supreme Court's accommodations protocol more understandable and accessible to all individuals. Additionally, the OCA is working with Louisiana courts to develop and revise their own accommodations protocols and ADA Statements. Further, the OCA works with courts across Louisiana to support various access initiatives. By fostering a collaborative environment, the Supreme Court aims to create a unified and consistent approach to court access across Louisiana.

By expanding the scope of its access programs, implementing rigorous language access standards, providing comprehensive training for judges, revising ADA protocols, and fostering collaboration with local courts, the Supreme Court has set a precedent for other states to follow. These efforts not only enhance compliance with federal mandates but also embody the fundamental principles of justice and equality. The Louisiana Supreme Court's initiatives represent significant strides towards ensuring meaningful access to the courts for all individuals.

Caitlin P. Morgenstern is the Deputy Judicial Administrator for Court Access at the Louisiana Supreme Court. She serves as Louisiana's statewide Language Access Coordinator and spearheads efforts to ensure that courts are open and accessible to all. She also staffs the Supreme Court Committee on Judicial Ethics. (cmorgenstern@ lasc.org; Ste. 1190, 400 Royal St., New Orleans, LA 70130)



BY AMBER SHEPPARD





COURT OF PAW: SERVICE AND THERAPY DOGS IN THE COURTHOUSE



early every lawyer feels nervous before arguing a case in a courtroom. Consider the heightened anxiety of a regular person, especially a child or someone with a disability, when testifying. To help alleviate this stress, many courts across the country, including those in Louisiana, have implemented assistance dog programs.

The Court(s) of PawTM is a new program where assistance dogs are on-site for specific purposes. Before you grab your phone to call your judge for a dog at your next hearing, keep reading. This article will explain the differences among assistance dogs, their uses, qualifications for a program and how the use of these dogs can improve legal services as a whole.

What Are the Types of Assistance Dogs?

Many people mistakenly interchange "service dog" and "therapy dog," but they serve a distinct purpose. Here is a brief overview of the different types of assistance dogs.

Service Dogs are trained to perform specific tasks for individuals with disabilities, as defined by the Americans with Disabilities Act (ADA)¹ and Louisiana law.² They can accompany their owner (al-

most) anywhere without restriction. There is no requirement for a national registry, no breed restrictions, or service dog label requirement. Louisiana's "White Cane Laws" protect these animals and their handlers. Under the ADA, you can only ask: 1) Is the dog required because of a disability? 2) What work or tasks has the dog been trained to perform? Asking for a demonstration of the tasks is not allowed.

Emotional Support Animals (ESA) provide comfort to their disabled owners as part of their treatment. They can be any small, domesticated pet. ESAs have no public access rights except for housing under the Fair Housing Act.⁴ There is no national registry, but housing authorities can request reliable documentation, such as a doctor's note or a household member's statement.

Therapy Dogs provide comfort to specific populations in settings like hospitals, schools, disaster relief shelters or court-houses. They have no federal legal protections and are pets, even when working.

Facility Dogs are legally authorized by Louisiana law,⁵ which allows criminal witnesses under 18 or those with developmental disabilities to have a facility dog while testifying. The dog must be certified, insured and trained by an accredited organization. Courts can extend this accommodation on a case-by-case basis, requiring certification and insurance evidence for the dog. The dog cannot interfere with the proceeding. A facility dog is essentially a type of therapy dog for the purposes of this article and ease of explanation.

Dogs in the Courtroom

Only controlled service dogs and service dogs in training *must be allowed* into the courtroom. Permission from the court is required for other types of assistance dogs. A therapy dog program must be sanctioned and approved through a contract with the judicial district, presiding judge(s), and, if applicable, the parish's risk management office. A facility dog request requires consent by the hearing's presiding judge after filing a formal motion.

The first dog used in Louisiana courtrooms was Kimberly Beshear's yellow lab Suzy in Orleans Parish. Suzy has since retired, but her legacy lives on. There are currently eight facility dogs, including my sidekick Tubbs, in Louisiana courts.

22nd Judicial District Court Programs

The therapy dog program in St. Tammany Parish offers therapy dogs in two specialty courts. Being an attorney having worked in Child In Need of Care (CINC) court and knowing firsthand the benefits a dog can have on a person's well-being, I approached the court about the possibility of a therapy dog program in Juvenile Courts (Judge Scott Gardner) and Assisted Outpatient Treatment (AOT) hearings (Judge Alan Zaunbrecher, directed by Wendy Griffith).

After nearly a year and a half of discussions, St. Tammany Parish now has its first "Court of PawTM" through the nonprofit Be Fierce & Kind® Canine. Tubbs is the first dog in the program thanks to the collaborative efforts of Judge Gardner, Judge Zaunbrecher, the Department of Children and Family Services (DCFS) and the Northshore Public Defenders Office.

Tubbs is an 8-year-old Labrador/ Bassett Hound mix specially trained by an assistance dog organization to perform deep-pressure therapy. She is also trained to intervene and alert when an individual is showing signs of distress so we can provide therapy tasks or talk them through it. Thanks to Tubbs' short stature, she is nonconfrontational, compact and easily able to reach any person of any size in the courthouse.

Juvenile Court

Juvenile Court handles cases involving minors charged with delinquency and dependency through CINC proceedings. CINC proceedings occur where a nonparent may be chosen to care for a neglected child. Children aged 12 or older must be present in a CINC proceeding⁶ unless waived by the court.

Tubbs stays with juveniles before they enter the courtroom and sits beside them during proceedings. One DCFS caseworker said, "When Tubbs was there, the children were distracted in a good way." Tubbs often accompanies youth into the judge's chambers, laying at their feet or sitting on a couch next to them during difficult discussions.

Judge Gardner noted the difference a dog can make in determining the best interests of the children in his courtroom.



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"Having a dog when they walk in, introduce herself to them, sit with them and spend the necessary time to bring their heartbeat back down to a normal range is the best opportunity that I have to find out from the children what they think is in their best interest. And after all, that's the reason that we have this court for Children In Need of Care."

Assisted Outpatient Treatment (AOT) Program

Tubbs is also the first therapy dog used in a Louisiana AOT program. AOT is court-ordered, community-based mental health treatment under civil court commitment⁷ for adults who are diagnosed with a serious mental illness. These adults have a history of treatment non-compliance. Many participants have schizophrenia, bipolar disorder or major depression.

AOT Director Wendy Griffith noted, "Most if not all the male participants would engage Tubbs, rubbing and petting her throughout their time inside and in the lobby of court."

Benefits of a Therapy Dog

A therapy dog is a form of animal-assisted therapy (AAT). Therapeutic experiences include walking next to, sitting with, and petting an animal.

Studies have shown the presence of a dog for AAT can lower heart rate, blood pressure and reduce anxiety. Judge Scott Gardner stated, "Having a dog in the courtroom instantly humanizes the process, humanizes the staff, and makes us all a little bit more approachable."

Children are not the only individuals benefiting from the support of a therapy dog like Tubbs. Judge Gardner explained that there are "parents in court that hear the failures and intergenerational trauma that they've suffered come back and visited on their children." Tubbs provides animal-assisted therapy for them as well by provid-

ing deep-pressure therapy like leaning on their leg or nudging their hand.

Therapy dogs have a calming effect in high-conflict courtrooms. DCFS attorney Kim Debrock stated, "When Tubbs is there, the energy shifts from fear and anxiety to calm and hopeful. Tubbs brings peace into a chaotic setting and centers us on helping children and families holistically."

Even adult witnesses feel the calming effect. One DCFS caseworker noted, "She must have felt my anxiety" after Tubbs laid her head in their lap. Tubbs often nudges a hand to help individuals stay grounded in the moment.

Over the course of our time in these courts, we saw individuals open up to Tubbs. They began to not only trust her but trust me as well. They became more talkative and edged away from the walls to be closer to other people. One AOT participant noted that "Tubbs calmed me when she was there and made me better at collecting my thoughts to talk to the judge."

Considerations When Using a Dog in Practice

These dogs benefit the fact-finding aspect of many types of cases where emotions and traumas may run high. For example:

- ► Criminal cases involving abuse or violence
- ► Juvenile delinquency
- ► Family law cases involving children, especially at *Watermeier* hearings
- ► Mental health hearings where individuals may have cognitive concerns
 - ► Protective order hearings

The presence of the trained dog during depositions or on the stand during examination can help the fact-finding process as it allows for witnesses to answer questions, from both sides, in a more relaxed state. A common misconception is that these dogs are only for witnesses. While some organizations use them solely for child witnesses, facility dogs are available to any person who needs it: plaintiff, defendant or witness.

Many lawyers bring their dog to their

office. If you want to incorporate a therapy dog into your practice, have that dog trained by a third-party organization. It can be your own dog so long as they have the temperament for it. Have a disclaimer about your use of the animal on your website and a policy that removes the dog if a client does not wish to engage with it. I have a sign on my private practice door that reads "Amber Sheppard And Tubbs the Therapy Dog." Check your lease to make sure a dog is allowed. If not, ask your landlord if it can be amended so long as you provide liability insurance covering the animal.

Prior to bringing in a dog, conduct a poll of staff to gauge their comfort levels of having the animal present. Staff training of how to engage with the dog when it's working is paramount. For example, the dog should not be fed during working hours, given breaks, and removed when a sign of distress is shown.

Ensure you have ample liability insurance on the dog that covers the animal as a pet and as a therapy animal. Always display signage of the presence of the animal being used in a court program at the entrance of the courthouse as well to alert patrons there is a dog on site. The dog should always be in a marked vest, leashed, and under control when working.

Conclusion

The presence of assistance dogs in courtrooms has the potential to transform the atmosphere, making it more conducive to the well-being of witnesses, court personnel, and all parties involved. These programs require thoughtful implementation and cooperation among various stakeholders. The benefits they bring to reduce anxiety and provide emotional support are invaluable. As more courts recognize the positive impact of these programs, we can hope to see a wider adoption of the Court(s) of Paw TM, bringing comfort and calm to those who need it most.

FOOTNOTES

- 1. 28 C.F.R. § 35.136 and § 36.302.
- 2. La. R.S 46:1953(A-C) and La. R.S 46:1971-1978.
 - 3. La. R.S § 46:1953.
 - 4. 42 U.S.C.A. 3601 et seq.
 - 5. La. R.S. §15:284.
 - 6. La. Civil Code art. 1244.
 - 7. La. R.S. 28:65-76.
- 8. www.uclahealth.org/programs/pac/about-us/animal-assisted-therapy-research.

Amber Sheppard is a disabled attorney who practices alongside her service dog Tubbs at Sheppard Law, PLLC, in Slidell. In 2021, she founded the nonprofit Be Fierce & Kind® Canine to implement therapy dog programs in courthouses. Court of Paw™ is the intellectual property of Amber Sheppard. (amber@ambersheppardlaw.com; Ste. 19, 1527 Gause Blvd., Slidell, LA 70458)



BY HECTOR A. LINARES



SPECIAL EDUCATION REFORMS STRENGTHEN PROCEDURAL PROTECTIONS AND PARENT ACCESS TO FORMAL DISPUTE RESOLUTION



number of recent amendments to the state's special education laws and regulations have gone into effect with new provisions that strengthen procedural safeguards for students with disabilities and increase the ability of parents to access formal dispute resolution when they believe their child's educational rights have been violated. The reforms include several tweaks aimed at increasing transparency and making the system easier to use for parents as well as major changes creating stricter timelines for schools to respond to parental requests and lengthier time periods for parents to file complaints. These statutory and regulatory changes come on the heels of a series of state and national reports that found serious deficiencies in Louisiana's special education dispute resolution and monitoring systems maintained by the Louisiana Department of Education (LDOE). Attorneys and advocates representing students with disabilities and their parents should be familiar with these developments to help parents take advantage of the enhanced protections and new procedures since navigating the special education system can still be quite daunting to families.

Students with disabilities who are eligible for special education services are guaranteed the right to a Free and Appropriate Public Education in the Least Restrictive Environment. A federal law known as the Individuals with Disabilities Education Act (IDEA), along with corresponding

state laws and regulations, guarantee this right through a series of procedural protections for identifying and evaluating students with disabilities and providing those who are eligible with an Individualized Education Program (IEP) detailing accommodations and services which must be provided to meet their unique needs. Special education laws and regulations also mandate an oversight and monitoring system and multiple free formal dispute resolution mechanisms be made available through the state department of education that parents can resort to when they disagree with a school district or need to seek redress for a violation of their child's educational rights. These enforcement mechanisms, however, have historically often been ineffective and difficult for parents to access.

In September 2023, the Louisiana Legislative Auditor issued a report on the LDOE's formal administrative complaint system, a type of dispute resolution mechanism in which a complaint by a parent triggers an investigation by LDOE with a written decision that includes corrective action for the school system if violations are found. The audit found that the agency investigated and issued findings against a school system in only seven out of 61 complaints it took up in an academic year while failing to investigate at all another 42 submissions for technical issues like failing to sign the complaint. The report also found parents had a lack of trust in the dispute resolution system expressing opinions like "LDOE always sides with the school system, the informal complaint process often places parents in the position of being bullied by the school system, the school systems are like the 'wild west' because no one holds them accountable, and the State has 'no teeth'." A separate report analyzing state complaint systems throughout the country issued the same month by COPAA, a national special education advocacy organization and legal non-profit, found that "Louisiana was the only state that appeared in the bottom decile for each of the four metrics analyzed."2 The metrics analyzed in the report included the number of complaints withdrawn or dismissed, findings of non-compliance issued, the ratio of finding of non-compliance versus no findings, and extended time required for investigations. Finally, in May 2024, a second legislative audit, this one on the LDOE's monitoring of special education services, found that only 43% of sampled school systems had been monitored through a desk or on-site review within the past seven years.³ The deficiencies identified in these reports underscore the difficulties families of students with disabilities have faced when seeking justice through the state's special education system.

In its response to the legislative audit regarding the state's administrative complaint system for special education, the LDOE concurred with all of the recommendations of the audit report, which included numerous suggestions for making the complaint process more accessible and transparent to parents. The response also noted internal changes LDOE had already begun implementing, such as hiring an additional complaint investigator and creating a special education ombudsman position within the agency to assist parents with the complaint process. LDOE representatives and members of the Board of Elementary and Secondary Education (BESE) also sat down with parent advocates and attorneys from the Loyola Law Clinic multiple times in the fall of 2023 to discuss the issues parents were facing and to attempt to identify potential solutions.

These efforts culminated in the promulgation by BESE of new regulations in Bulletin 1706, the set of policies which govern special education procedures, and the filing of multiple special educationrelated bills enacted into law during the most recent legislative session. On the regulatory side, the rulemaking changes include doubling the time parents have to file a formal state complaint after the date of the violation from one year to two years, improving the transparency of LDOE's monitoring process by requiring the posting of monitoring results and corrective action online, specifying a 15-day timeline for responding to requests for evaluations and other types of parental requests, and requiring school districts to provide parents with drafts of a student's IEP at least three business days before the IEP team meeting. The expanded time for filing formal complaints is important because parents are often unaware of their children's special education rights and that formal dispute resolution procedures are available to them until they consult with an advocate or attorney after the situation becomes untenable, often many months or more than

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a year after the initial violations occurred. Attorneys representing parents of students with disabilities should now ensure that information obtained in the parent interview and through a request for educational records span a period going back at least two years so they can uncover all violations that have occurred during the applicable period and include the allegations and corresponding requests for remedies in any complaint that is filed.

The new, stricter timelines imposed on the school districts are significant because the regulations previously required school districts to respond to parental requests with written notice of proposed action or refusals only within a reasonable amount of time. The problem was that nothing in the regulations defined what period of time is considered "reasonable," resulting in many parents waiting months for a response to an urgent request with little other recourse available. The new regulations also clarify that formal state complaints can address both substantive and procedural violations of special education rules, whereas previously LDOE interpreted the federal regulations as only requiring findings related to substantive violations. Consequently, parents or the attorneys representing them may now file administrative complaints as soon as a school district fails to respond to

FOOTNOTES

- 1. Louisiana Legislative Auditor, Complaint Process for Students with Disabilities Receiving Special Education Services, 12 (September 2023).
- 2. COPAA, IDEA Written State Complaints: Making the System More Accessible, Equitable and Responsive for Students with Disabilities, 14 (September 2023), available at: www.copaa.org/general/custom.asp?page=state-complaint-summary-report.
- 3. Louisiana Legislative Auditor, Risk-Based Monitoring of Special Education Services, 7 (May 2025)

a parental request for an evaluation or IEP change within the new 15-day timeline. Finally, the regulations add an important clarification to disciplinary protections for special education students, specifying that reviews to determine if a student's conduct is a manifestation of his or her disability must consider any available medical history related to behavior. Under the previous version of the regulations, school districts often argued that only a student's educational records should be considered in determining whether the behavior was a manifestation of the student's disability, making it easier for school systems to issue a disciplinary change of placement like an expulsion or long-term suspension. Attorneys representing parents and their child at a Manifestation Determination Review (MDR) should provide school district members of the IEP team with all pertinent medical records and information prior to the meeting and insist the team consider such information in determining whether the disability is directly and substantially related to the behavior in question.

On the legislative reform side, Act 198 expanded the time period for filing a request for a due process hearing from one year to two years. Due process hearings are another type of formal dispute resolution that culminate with a trial in front of an Administrative Law Judge who determines if there has been a violation of the student's right to a Free and Appropriate Public Education. The new law, which went into effect Aug, 1, also mandates special education training for local school board members, the creation of a dispute resolution mechanism for issues related to the right to have behavioral health services from outside providers delivered in school, and the provision of more information through an annual report to local special education advisory councils. The legislation also empowers BESE to develop rules governing an early resolution process for informal complaints and specifies that a written agreement developed as a part of this early resolution process is enforceable in any court of competent jurisdiction. The enforceability of written agreements developed at this stage will hopefully incentivize parents and school systems to resolve disputes informally and alleviate some of the pressure on the formal complaint and due process hearing systems.

A separate bill that became Act 512 requires school districts to provide a minimum 10-day notice to parents before making any changes to a student's IEP that result in a reduction or removal of any special education course or related service. This time period gives parents an opportunity to invoke their child's stay-put rights by filing a request for a due process hearing, which means the status quo with regard to placement and services will stay in place until the conclusion of the due process proceedings. Attorneys advising or representing parents should be alert to any proposals to change a student's IEP in a written notice or at an IEP meeting and assist the parent with the filing of a due process complaint within the 10-day period if the parent wishes to preserve the status quo. At a minimum, filing even a bare bones due process complaint will allow the parent to avoid the unwanted change for the 60 days or so it takes to hold a hearing and obtain a written decision, but this will also give the parent time to work out a compromise during the mandatory resolution period or could result in the school district backing down from the proposed change.

While many other issues must be resolved before Louisiana has a special education system that truly meets the needs of students with disabilities, the community of special education parents and advocates are hopeful that these legislative and regulatory reforms are positive first steps towards such a system.

Professor Hector A. Linares III is a Clinic Professor and the Director of Skills and Experiential Learning at Loyola University New Orleans College of Law. He teaches the Youth Justice section of the Loyola Law Clinic, training student attorneys to defend youth in delinquency proceedings and to advocate for the educational rights of students with disabilities through individual representation, impact litigation and other systemic reform strategies. He received his undergraduate degree in 2000 from Tulane University and his JD degree in 2003 from New York University School of Law. Prior to entering academia, he was a youth public defender in New Orleans at the Louisiana Center for Children's Rights, a supervising attorney in the Los Angeles office of Disability Rights California and the Southern Poverty Law Center Special Education Fellow at the Juvenile Justice Project of Louisiana. (halinare@loyno.edu; 7214 St. Charles Ave., Box 902, New Orleans, LA 70118)





ELECTIONS... HOD... SPECIALIZATION

LSBA Elections: First Election Ballots Available on Nov. 4

everal leadership positions are open in the 2024 Louisiana State Bar Association (LSBA) election cycle. Balloting will be conducted electronically only, as approved by the LSBA Board of Governors and provided for in the Association's Articles of Incorporation. No paper ballots will be provided.

First election ballots will be available to members on Monday, Nov. 4. Deadline for electronically casting votes is Monday, Nov. 18.

Ballots and candidates' biographies will be available online by Nov. 4.

Positions to be filled in the 2024-25 elections are:

Board of Governors (three-year terms beginning at the adjournment of the 2025 LSBA Annual Meeting and ending at the adjournment of the 2028 LSBA Annual Meeting) — one member each from the First, Fourth and Fifth Board Districts.

LSBA House of Delegates (two-year

terms beginning at the commencement of the 2025 LSBA Annual Meeting and ending at the commencement of the 2027 LSBA Annual Meeting) — one delegate from each of the Twentieth through Forty-Second Judicial Districts, plus one additional delegate for every additional district judge in each district.

Nominating Committee (15 members, one-year terms beginning at the adjournment of the 2025 LSBA Annual Meeting and ending at the adjournment of the 2026 LSBA Annual Meeting) — District 1A, Orleans Parish, four members; District 1B, parishes of Plaquemines, St. Bernard and St. Tammany, one member; District 2A, East Baton Rouge Parish, two members; District 2B, Jefferson Parish, two members; District 2C, parishes of Ascension, Assumption, East Feliciana, Iberville, Lafourche, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana, one member; District 3A, Lafayette Parish, one member; District 3B, parishes of Acadia, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, St. Martin, St. Mary and Vermilion, one member; District 3C, parishes of Allen, Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry and Vernon, one member; District 3D, parishes of Bossier and Caddo, one member; and District 3E, parishes of Bienville, Caldwell, Catahoula. Claiborne. Concordia. DeSoto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll and Winn, one member.

Young Lawyers Division Secretary (2025-26 term), nominee shall be a resident of or actively practicing law in the parishes of Orleans, Jefferson, St. Bernard or Plaquemines, based on preferred mailing address. Petitions for nomination must be signed by 15 members of the Young Lawyers Division. Also to be elected, one representative each from the First, Second, Fourth, Fifth, Sixth and Eighth districts (two-year terms).

American Bar Association House of Delegates (must be members of the American Bar Association) — one delegate from the membership at large. The delegate will serve a two-year term, beginning with the adjournment of the 2025 ABA Annual Meeting and expiring at the adjournment of the 2027 ABA Annual Meeting, as provided in Paragraph 6.4(e) of the ABA Constitution.

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

House Resolution Deadline is Dec. 11 for 2025 Midyear Meeting

The Louisiana State Bar Association's (LSBA) Midyear Meeting is scheduled for Thursday through Saturday, Jan. 16-18, 2025, at the Renaissance Hotel in Baton Rouge. The deadline for submitting resolutions for the House of Delegates meeting is Wednesday, Dec. 11. (The House will meet on Jan. 18, 2025.)

Resolutions by House members and committee and section chairs should be

mailed to LSBA Secretary Valerie T. Schexnayder, c/o Louisiana Bar Center, 601 St. Charles Ave., New Orleans, LA 70130-3404. All resolutions proposed to be considered at the meeting must be received on or before Dec. 11. Resolutions must be signed by the author. Also, copies of all resolutions should be emailed (in MS Word format) to LSBA Executive Assistant Jen France at jen. france@lsba.org.

Amendments Approved to LBLS Appellate Practice Standards and Health Law Standards

The Louisiana State Bar Association's (LSBA) House of Delegates, at its June 6 meeting, approved two resolutions presented by the Louisiana Board of Legal Specialization (LBLS) and LBLS Chair Richard K. Leefe.

The first resolution amended the Appellate Practice Standards to clarify that the five oral arguments required of applicants must be in an appellate court (including the Louisiana Supreme Court or the U.S. Supreme Court) and may be in appeals or on writ applications where oral argument is granted or referred to the merits. The resolution also exempted Appellate Practice applicants who have served on the appellate bench for three or more years in the five

years immediately preceding the date of application from the five oral arguments requirement.

The second resolution amended the Health Law Standards to add "Emerging Treatment Modalities" as a health law topic under "Provider Regulation."

By unanimous vote on June 7, the LSBA's Board of Governors ratified and approved the two Resolutions.

Copies of the amended LBLS Appellate Practice Standards and Health Law Standards may be downloaded from the LBLS website at: www.lsba.org/specialization.

For more information, email LBLS Specialization Director Mary Ann Wegmann at maryann.wegmann@lsba.org.

Second Disaster Law Collaboration Summit Conducted in June

Louisiana's civil justice community held its second Disaster Law Collaboration Summit in Lafayette on June 20-21. The Summit brought together Louisiana's disaster response and recovery organizations with the state's civil legal aid providers to share their experience and learn about the critical role civil legal aid plays before, during and after disasters.

The event was hosted by the Louisiana State Bar Association's (LSBA) Access to Justice Program, Acadiana Legal Service Corporation (ALSC) and Southeast Louisiana Legal Services (SLLS).

Lafayette Mayor-President Monique Blanco-Boulet delivered the keynote address emphasizing the importance of events like the Summit to encourage cross-collaboration among disaster response service providers. The first day's programming focused on the critical role civil legal aid plays and how disaster response organizations can collaborate with legal aid providers to enhance recovery and resiliency efforts. At the end of the first day, a reception honoring the 50th anniversary of the Legal Service Corporation (LSC) was hosted by the Louisiana Bar Foundation.

The second day of the Summit offered seven hours of legal training for Louisiana attorneys and legal aid organization staff who provide disaster response legal assistance. Judge (Ret.) John C. Davidson, the Louisiana Bar Foundation president, delivered the keynote address highlighting the significant impact collaborative efforts can make to address the challenges posed by disasters. The programming covered topics ranging from the reforms made to FEMA's Individual Assistance Programs to homeowners' insurance and the National Flood Insurance Program. Additionally, LSBA's LIFT Legal Incubator Fellows Amber Mason and Paul Brazil were presented with certificates recognizing their completion of the LSBA/SLLS Disaster Title Clearing Project working with disaster survivors of Hurricane Ida.

More than 130 people attended the Summit, including disaster responders from government and non-government agencies, nonprofit organizations, librarians, and civil legal aid, pro bono and community partners. Emergency Legal Responders, Louisiana Appleseed, ALSC and SLLS were featured exhibitors. Also featured was the ALSC's new Justice Bus, which allows ALSC to quickly respond during disasters and provide mobile legal services to disaster survivors.

The Summit was made possible through funding from the LSC to Acadiana Legal Service Corporation and Southeast Louisiana Legal Services.

Applications Mailed on Sept. 30, Due on Nov. 4

The Louisiana Board of Legal Specialization has mailed recertification applications to specialists whose certification is due to expire on Dec. 31, 2024. The completed application, together with a check payable to the "Louisiana Board of Legal Specialization" for \$100, should be mailed or delivered to the LBLS office, c/o Mary Ann Wegmann, Specialization Director, 601 St. Charles Ave., New Orleans, LA 70130, no later than Monday, Nov. 4, 2024, to avoid penalties. For more information, contact Wegmann at (504)619-0128 or email maryann.wegmann@lsba.org.

National Celebrate Pro Bono Week Will Be Recognized from Oct. 21-26

Every October, the American Bar Association (ABA) sponsors National Celebrate Pro Bono Week to highlight the vital role lawyers play in providing free legal services to those in need. The Louisiana State Bar Association (LSBA) participates by coordinating Lawyers in Libraries events throughout the state. Events this year will take place Oct. 21-26. During this week, LSBA members and libraries across Louisiana will come together to provide free, limited services to the public, in-person and virtually.

For more information about Louisiana events, go online: www. LouisianaLawyersinLibraries.org. For more information about the ABA's Celebrate Pro Bono, go online: www. americanbar.org/groups/center-pro-bono/celebrate-pro-bono/.

LBLS Accepting Applications for Board Certification Beginning on Nov. 1

The Louisiana Board of Legal Specialization (LBLS) is accepting applications for board certification in seven areas — appellate practice, employment law, estate planning and administration, family law, health law, labor law and tax law — from Nov. 1, 2024, through Feb. 28, 2025. The LBLS is accepting applications for business bankruptcy law and consumer bankruptcy law certification from Jan. 1, 2025, through Sept. 30, 2025.

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

certification is sought and five favorable references. Peer review shall be used to determine that an applicant has achieved recognition as having a level of competence indicating proficient performance handling the usual matters in the specialty field. Refer to the LBLS standards online for the applicable specialty for a more detailed description of the requirements for application.

In addition to the above, applicants must meet a minimum CLE requirement for the year in which application is made and the examination is administered:

- ▶ Appellate Practice 15 hours of approved appellate practice.
- ► Employment Law 15 hours of approved employment law.
- ► Estate Planning and Administration
 18 hours of approved estate planning and administration.
- ► Family Law 15 hours of approved family law.

- ► Health Law 15 hours of approved health law.
- ► Labor Law 15 hours of approved labor law.
- ► Tax Law 18 hours of approved tax law.
- ▶ Bankruptcy Law CLE is regulated by the American Board of Certification, the testing agency.

Approved specialization CLE courses may be viewed online on the LBLS Approved Course Calendar.

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 LBLS simultaneously with the testing agency in order to avoid delay of board certification by the LBLS. Information concerning the American Board of Certification will be provided with the application form(s).

Anyone interested in applying for certification should contact LBLS Specialization Director Mary Ann Wegmann, email maryann.wegmann@lsba.org, or call (504)619-0128, for an application packet.

To access the Plan of Legal Specialization and the approved course calendar online, go to: www.lsba.org/Specialization/.

Attorney Reinstated as Board Certified Specialist

In accordance with the requirements of the Louisiana Board of Legal Specialization (LBLS) and the Plan of Legal Specialization, the following individual has satisfactorily met the established criteria and is reinstated as a LBLS board certified specialist in the following area for a five-year period which began on May 16, 2024, and will end on Dec. 31, 2028.

Reinstated Specialist:

Estate Planning and Administration
Todd Michael Villarrubia..... New Orleans



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By Andrea Brewington Owen

BEAT PROCRASTINATION, INCREASE PRODUCTIVITY

ome lawyers, like many people, procrastinate. Do you have big ideas but trouble focusing on the details? Do you need the adrenaline rush of a looming deadline to do your best work? Are you a perfectionist who spends too much attention on each detail so the task never feels good enough or complete? Are you easily distracted? Whatever form procrastination takes, it can result in the failure to meet professional standards and can harm clients and result in malpractice claims and disciplinary complaints. Rule 1.1, 1.3 and 1.4 of the Louisiana Rules of Professional Conduct outline the duty to work competently, diligently for your client, and timely communicate with your client. Malpractice insurance carriers report that missed deadlines and failure to communicate with clients are some of the top malpractice errors committed each year. These errors often have roots in procrastination.

On top of the potential risks for malpractice and disciplinary complaints, procrastination affects us personally. When we feel anxious or stressed about an item, we may be prone to putting it off. Delaying a phone call to a difficult client or putting a stressful task on the back burner compounds anxiety and creates stress, feeling overwhelmed, guilt and lack of productivity. There are ways to break the procrastination habit. Here are a few tips.

Address the Why. Why are you procrastinating on specific tasks? If you are burnt out or overwhelmed, you may need a break. Depression and anxiety can cause procrastination as well. Did you take on more than you can handle? Are you struggling with where to begin? Consider calling a mentor or colleague for advice. Are you tired? Set an earlier bedtime. Figure out the why and start addressing the root causes.



Prevent being overwhelmed. Avoid taking on more work than you can accomplish. Be realistic about your workload. Learn to say no. Don't accept cases that are outside the scope of your practice area. If you procrastinate because you bit off more than you can chew, consider referring the case out to another lawyer for completion.

Eat the frog. Adopt this productivity method that centers on beginning your workday with the hardest and most important task first. We often start our day reactively responding to emails and calls and, before we know it, part of the day is over, the important looming task is still hanging over our head, and we now have less energy and focus to do it. Tackle the task you want to do least first.

Implement a time management strategy that works for you. Many legal writers swear by the Pomodoro Technique in which time is split into 25-minute increments followed by a five-minute break. There are many other useful techniques like this one that could work for you.

Work smarter at the outset. Create a detailed plan at the inception of each legal matter. First, identify and calendar filing deadlines or firm deadlines set by the client. Second, set interim deadlines to complete each item on your list. Don't leave any matter without a calendared deadline. Create an internal deadline for files that don't have external ones. Hold yourself accountable and complete the deadlines that you set for

yourself. Allot the right amount of time to a task. Too little time and your work product will suffer. Allotting too much time is illustrated in Parkinson's Law, a concept that states that work expands to fill the time available for its completion.

Apply the Swiss Cheese Method and break the task into smaller pieces. Sometimes we procrastinate because the task ahead of us could take eight hours of focused time and we know that we don't have that much time today. We put it off until tomorrow hoping for a bigger time block. Break your task into manageable projects of two- or three-hour increments. Rather than the large task of "write brief," you may want to block off a few hours to research issue 1, another block to research issue 2 and a third block to draft the brief.

Reduce distractions. Avoid your preferred avoidance behavior. Disable auto notifications in your email system, silence your phone, log off social media, and block off your calendar to focus.

Just take action. Quit waiting for a better, more ideal time to start or complete the task that's hanging over your head. Go ahead and make that tough client call, respond to the opposing counsel and file the suit.

Andrea Brewington
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She is licensed to practice law in Louisiana and Alabama. She assists the Louisiana practitioner in preventing legal malpractice, improving office practices and procedures, and lectures on ethics as part of MCLE requirements. Email her at anowen@gilsbar.com.

By Dr. Angela White-Bazile, Esq.

CAMP JLAP 2024 RECAP

he professional and personal lives of attorneys, judges, law students and others in the practice of law can often lead to anxiety, stress, depression, burnout and substance abuse. It is crucial to find healthy outlets to combat these challenges. Camp JLAP was created to provide strategies and methods to help individuals cope and focus on wellbeing. The 4th Annual Camp JLAP, with the theme "Self-Care is NOT Selfish," was July 19-20 in Loranger. Camp JLAP offered 7.0 hours of CLE credits, including ethics and professionalism, through sessions on mental health topics. The goal was to demonstrate how self-care can positively affect the practice of law.

Camp JLAP addressed life's challenges, introduced coping tools for substance abuse and mental health issues, and fostered relationships with peers and colleagues. The event attracted a diverse audience of judges, lawyers with varying years of experience, JLAP volunteer monitors, sponsors and spouses.

Judge M. Lauren Lemmon presented the first session on "Mindfulness, The Powerful Pause: From Reaction to Compassion." Mindfulness means paying attention to the present. Mindfulness for lawyers means letting go and staying focused when spending time with family instead of worrying about the work waiting at the office. When you are mindful, you recognize when you are engaging in unproductive or unfocused behavior. Judge Lemmon gave tips on using mindfulness during the workday to decrease stress and anxiety and increase focus and productivity.

Clinical neuropsychologist Dr. Matthew Holcomb discussed "The Aging Legal Brain." As a person ages, changes occur in all parts of the body, including the brain. A lawyer's mind is arguably his/her most used and valued



instrument. The aging legal brain is a sensitive and difficult subject to broach, especially after a long, successful and well-respected career; however, declining cognitive abilities can have devastating consequences for the lawyer and the client. Cognitive impairment is when a person has trouble remembering, learning new things, concentrating or making everyday decisions. As a lawyer's identity is often directly related to his/her title, employer and profession, sometimes the problem of cognitive decline is ignored until it is too late and leads to an ethics or malpractice claim.

Camp JLAP featured an open 12-Step meeting where Noah¹ shared details of his alcohol addiction, his experience as a professional and well-known figure, and what Alcoholics Anonymous (AA) has meant to him. Noah described being in denial until he hit rock bottom and how you cannot outthink or outsmart addiction. He credits AA with saving his life and career and allowing him the opportunity to rebuild his relationships with his wife and children. He described each day in recovery as a step towards personal growth and lasting positive change.

Louisiana Supreme Court Chief Justice John L. Weimer, Louisiana State

Bar Association President Patrick A. Talley, Jr. and JLAP Board President Robert A. Kutcher welcomed all attendees on the second day. JLAP's efforts would not be possible without the continuous support of the Louisiana Supreme Court, the Louisiana State Bar Association and JLAP's Board of Directors

Arkansas JLAP Director Jennifer Donaldson, a certified master WRAW (Workplace Resilience and Wellbeing) practitioner, presented "Health & Happiness: Cultivating Individual Team Wellbeing." She educated attendees about getting treatment and how to engage in preventative measures to live a happy and healthy lifestyle and be motivated at work. She fielded questions on improving employees' lives and creating a healthier work environment by listening to employees' feedback to understand rather than to respond. A workplace flourishes when its leaders prioritize the health and wellbeing of their employees.

Attorney Penya M. Moses, chief operating officer at Grambling State University, discussed "Self Service of Process/You've Been Served." Suppose your family and friends were to serve you with claims of irritability, tiredness, sadness, trouble concentrating, problems with substance abuse, depression or anxiety. Would you accept service, waive service or evade service? Would a private process server or curator need to be appointed? Would you answer the claim, or would a default be taken? What will you do to change and live a happy and healthy life and not allow life's ups and downs to overwhelm you? Stop burying negative emotions and pretending that everything is great. Do not ignore stress until you can no longer function at all.

Judge Jules D. Edwards III educated

attendees on "Mental Health First Aid." Sometimes first aid is not a bandage, CPR, or calling 911. Sometimes first aid is us, and few of us know how to respond if we see someone having a panic attack. The National Council for Mental Wellbeing offers a certification course to identify, understand and respond to someone experiencing a mental health problem or crisis. The course uses community-specific scenarios, activities and videos to teach the skills to recognize and respond to signs and symptoms of mental health and substance use challenges and how to provide initial support until the person is connected with appropriate professional help. The course also covers content on trauma and self-care. The Louisiana Public Health Institute (LPHI) is committed to providing tools and training to build community awareness. LPHI offers adult and youth Mental Health First Aid trainings. Visit https://lphi.org/services/ mhfatraining/.

Psychologist Dr. Lacey Herrington presented "When Healing is Hard: The Impact of Personality on Change." How we present ourselves and respond to situations is directly related to our experiences. Experiences, such as marriage, divorce, childbirth, death and trauma, shape who we are in unexpected ways. When we think about healing, we think about rest and recovery, but sometimes healing is complicated and hurts as much as, if not more, than what hurt us. Healing is about going through the pain of uncovering buried feelings, fears and memories from past abuse, betrayal, loss or disappointment. Healing is about doing the inner work.

Judge Timothy S. Marcel concluded Camp JLAP with "In re Impaired Lawyer: Alcohol and Drug Abuse in Attorney Discipline Jurisprudence." Lawyers are reluctant to seek help out of a deep-rooted fear of professional consequences, so they keep their addictions hidden. The addiction grows and gets worse. Judge Marcel used case illustrations to examine how the Louisiana Supreme Court has adjudicated disciplinary actions when misconduct stemmed from addiction. Over the

last 40 years, the Louisiana Supreme Court has significantly contributed to increasing awareness within the profession designed to overcome the pervasive stigma surrounding substance use disorders. JLAP was established after research revealed that addiction is a disease. Judge Marcel said, "Addiction is not a mitigating factor; recovery is." He included jurisprudence which described how substance use disorders specially impacted the practice of law, and how JLAP successfully intervened to improve those individuals' law practices moving forward.

Overall, the 4th Annual Camp JLAP was a successful event that promoted mental health and wellbeing within the legal profession. Camp JLAP 2025 will be July 18-19, 2025. Visit www. louisianajlap.com to join the email list for updates on Camp JLAP, upcoming speaking engagements and the latest on optimal mental health.

For more information about JLAP or to seek confidential, non-disciplinary assistance with any impairment that poses health or ethical concerns, contact the professional clinical staff at JLAP at (985)778-0571, email jlap@louisianajlap.com or visit the website. The call is free. We are a CONFIDENTIAL Safe Haven of Healing.

FOOTNOTE

1. Name and identifying details changed to protect the privacy of the speaker.

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.





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By Sheila M. Wilkinson, LMSW, Esq.

MANAGING EXPECTATIONS: FRAMEWORK FOR ATTORNEYS

ttorneys often struggle with managing the expectations of those around them, including partners, clients, colleagues and even themselves. This challenge can lead to feelings of frustration, stress, isolation, anger and a sense of inadequacy, as they attempt to meet unrealistic standards that may not align with their own values or capabilities. I believe these feelings arise from the tension between attorneys' personal beliefs about their role in the legal profession and the broader expectations placed on them by the profession itself. This dissonance can ultimately drive attorneys to engage in behavior that may be perceived as "unprofessional" or "uncivil."1

To navigate this issue and resolve this dissonance in my work with clients, it is crucial to categorize expectations into four types — expectations we have of ourselves; expectations we have of others; expectations others have of us; and the expectations we believe others have of us. By recognizing and addressing these categories, attorneys can more effectively manage their emotional responses and interactions, reducing the pain and frustration associated with unmet or misaligned expectations. This, in turn, allows them to become better legal professionals.

The first type of expectation — those we have of ourselves — is often shaped by past experiences and societal conditioning. For instance, many attorneys hold themselves to high standards of productivity and perfection, believing they must be constantly available and capable of resolving every issue before they can take time for themselves. These internalized expectations of what it means to be a "zealous" and "top-rated" attorney can actually lead to self-criticism and burnout.

The second type involves the expectations we have of others. This is a common source of frustration, as we may unconsciously project our standards onto colleagues or clients. For example, expecting others to be as meticulous or responsive as we are creates friction when these expectations are not met. Moreover, the lack of explicit communication often exacerbates this issue, leaving room for misunderstanding, bitterness and disappointment.

The third type, the expectations others have of us, includes the demands placed upon us by clients, courts and peers. These expectations, if not clearly communicated, can lead to preventable misunderstandings and unmet needs. Coupled with the uncertainty around the boundaries allowable in each unique circumstance, an attorney may feel pressured to deliver results in unrealistic time frames or to take on responsibilities beyond their capacity, leading to burnout, regret and resentment.

The fourth type — expectations we think others have of us — is particularly insidious because it is based on assumptions rather than explicit communication. These assumptions can lead to unnecessary stress, overcommitment, and even depression and hopelessness. For instance, attorneys might believe that their colleagues expect them to handle a case single-handedly and to have an opposition memo ready by Monday at 7 a.m., even when the expectation has not been explicitly stated.

I would proffer that the mismanagement of expectations not only leads to personal frustration but also contributes to the broader issue of incivility within the legal profession. Unmet or unspoken expectations can manifest as impatience, disrespect, and a lack of empathy in professional interactions. By changing the way we work within our profession, we can change the profession itself. To effectively manage expectations and reduce associated stress, focus on three key strategies:

1) Clarify. Make it a habit to regularly

seek clarification from others, including opposing counsel. If the next step or expected outcome is unclear, take the time to ask a question you're afraid to ask. It's better to blush than to rush.

- 2) Communicate. Explicitly communicate your expectations. Whether it's a client deadline or a colleague's role on a case, clear communication aligns everyone's understanding and reduces the potential for conflict.
- 3) Challenge. Periodically evaluate and challenge the expectations you believe others have of you. This involves acknowledging and letting go of assumptions that are not explicitly confirmed, thereby reducing unnecessary stress.

"When we expect of others what we expect of ourselves, we will always find pain." I learned this lesson the hard way, as much of our frustration arises from our own projections and assumptions. By consciously addressing and managing these expectations, we can foster healthier relationships and a more professional and fulfilling practice of law.

FOOTNOTE

1. This article is a modified excerpt from a current work-in-progress. All opinions are the author's and do not reflect the LSBA.

Sheila M. Wilkinson is a Joyful and ThrivingTM attorney, licensed master social worker, coach, consultant, educator and the host of two podcasts, Build Your Joyful and Thriving Lawyer LifeTM and What Would Sheila Say?. The Splits her time between New Orleans and Brussels, serves several



nonprofits in the Greater New Orleans area and is a member of the Louisiana State Bar Association's Committee on the Profession and CLE Committee. Her website is: sheilawilkinson.com. (sheila@smwplc.com; P.O. Box 9012, Metairie, LA 70055)

Focus on DIVERSITY

SUIT UP 2024

18 Students Complete LSBA's 2024 Suit Up for the Future Program

The Louisiana State Bar Association's (LSBA) Suit Up for the Future High School Summer Legal Institute and Internship Program had another successful year, with 18 students completing the program. The three-week program from June 10-28 included abridged law school sessions; job shadowing opportunities at law firms, courts and agencies; and tours of courts and agencies.

During the program, students prepared written memorandums to support their oral arguments. Oral arguments were presented on the last day of the program to a panel of judges at the U.S. District Court, Eastern District of Louisiana.

The Suit Up 2024 winners for Best Oral Argument and Memorandum included Sydnee D. Ragas (Best Prosecution Memorandum, Best Prosecution Oral Argument, Morning Session); Allison L. Honeywood (Best Defense Memorandum); Emma M. Bonney (Best Defense Oral Argument, Morning Session); Matthew F. Bancroft (Best Defense Oral Argument, Afternoon Session); and Avishka R. Fernando (Best Prosecution Oral Argument, Afternoon Session).

The LSBA Suit Up for the Future program is an award-winning Diversity Pipeline program and a 2013 American Bar Association Partnership recipient.

The success of the Suit Up Program is possible with the help of dedicated volunteers.

Diversity Committee, Pipeline to Diversity and Outreach Subcommittee 2023-24 Co-Chairs: Denia S. Aiyegbusi, Deutsch Kerrigan, LLP, New Orleans; and Denice Redd-Robbinette, Liskow & Lewis, APLC, Baton Rouge.

Instructors: Professor Emily A. Bishop, director of the Lawyering Program and professor of practice, Loyola University New Orleans College of Law, New



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Suit Up students and judges. Front row from left, Magistrate Judge Eva J. Dossier, U.S. District Court, Eastern District of Louisiana, New Orleans; Dasia T. Ball; Magistrate Judge Karen Wells Roby, Just the Beginning coordinator, U.S. District Court, Eastern District of Louisiana, New Orleans; and Judge LaKeisha N. Jefferson, Orleans Parish Civil District Court, Division H, New Orleans. Second row from left, Dillon C. Banks; Matthew F. Bancroft; Avishka R. Fernando; Magdalena A. Sisto; Le'Ge P.J. Watts; Anisa M. Cleggett; Sia P. Mirpuri; and Ferdell A. Handy. Third row from left, Olivia E. Magee; Ray'ven A. Chancellor; Emma M. Bonney; and Allison L. Honeywood. Back row from left, Charles N.H. Andrews; Sydnee D. Ragas; Mia M. Mornay; and Korry J. Hill.

Orleans; Professor Kenya J.H. Smith, associate law professor, Southern University Law Center, Baton Rouge; Professor Angela A. Allen-Bell, B.K. Agnihotri Endowed Professor, Southern University Law Center, Baton Rouge; and Professor Jeffrey C. Brooks, assistant professor of

Professional Practice, Louisiana State University Paul M. Hebert Law Center, Baton Rouge.

Job Shadowing Employers: 24th Judicial District Court (Judge Lee V. Faulkner, Jr., Division P; Judge June B. Darensburg, Division C); Adams and Reese, LLP; City



Suit Up co-chairs. From left, Denia S. Aiyegbusi, co-chair, 2023-24 LSBA Pipeline to Diversity and Outreach Subcommittee, Deutsch Kerrigan, LLP, New Orleans; Stephen I. Dwyer, LSBA President 2022-23, Dwyer, Cambre & Suffern, APLC, Metairie; Magistrate Judge Karen Wells Roby, Just the Beginning coordinator, U.S. District Court, Eastern District of Louisiana, New Orleans; and Denice Redd-Robinette, co-chair, 2023-24 LSBA Pipeline to Diversity and Outreach Subcommittee, Liskow & Lewis, APLC, Baton Rouge.

of New Orleans Law Department, City Attorney Donesia D. Turner; Courington, Kiefer, Sommers, Marullo & Matherne, LLC; Deutsch Kerrigan, LLP; Entergy Services, LLC; Hair Shunnarah Trial Attorneys, LLC; Kelly Hart Pitre; Liskow & Lewis, APLC; Loyola University New Orleans College of Law; Orleans Parish Civil District Court (Judge Bernadette D'Souza, Division K); Simon, Peragine, Smith & Redfearn, LLP; and Stone Pigman Walther Wittmann, LLC.

Judges' Panel: U.S. District Court, Eastern District of Louisiana, New Orleans (Magistrate Judge Karen Wells Roby, Just the Beginning coordinator; Magistrate Judge Eva J. Dossier; Judge Brandon S. Long, Section O); Judge LaKeisha N. Jefferson, Orleans Parish Civil District Court, Division H, New Orleans.

Tour Presenters: Loyola University New Orleans College of Law, New Orleans (Kimberly Jones, JD, associate dean of Admissions; Allyson LaBruzza, Law Admissions counselor); Tulane University Law School, New Orleans (Alexandra Garon, associate director of Admissions; Tracie N. Ransom, JD, assistant dean for Equity, Diversity & Inclusion; Julia M. Spencer, JD, assistant director of Admission; Emily Wojna-Hodnett, JD, assistant dean of Students); Judge Tracey E. Flemings-Davillier, Section B, Orleans Parish Criminal District Court, New Orleans; Daniel L. Engelberg, chief district defender, Orleans Public Defenders Office, New Orleans; Orleans Parish District Attorney's Office,



Suit Up interns. From left, intern Brinley B. Pethe, 2022 Suit Up alumna, Tulane University, New Orleans; intern Claire H. Carter, Loyola University New Orleans College of Law 3L, New Orleans; intern Sarah K. Warren, Loyola University New Orleans College of Law 3L, New Orleans; intern Kiera C. Martin, Southern University Law Center 2L, Baton Rouge; and intern Eric J. Roshak, Louisiana State University Paul M. Hebert Law Center 3L, Baton Rouge.

New Orleans (District Attorney Jason R. Williams; Michelle Woodfork, Forensic & Intelligence Investigations director; Micah Ince, chief of staff); Louisiana Supreme Court, New Orleans (Miriam D. Childs, library director; Robert Gunn, deputy judicial administrator/Community Relations); and Magistrate Judge Karen Wells Roby, Just the Beginning coordinator, U.S. District Court, Eastern District of Louisiana, New Orleans.

College and Law School Admission Presenters: Addrianne Davis, associate director of Recruitment, Dillard University, New Orleans; Diamond Lee, admissions counselor, Southeastern Louisiana University, Hammond; Breleigh Bentivegna, admissions counselor, Southeastern Louisiana University, Hammond; Kristin Guidry, associate director, Tulane University, New Orleans; Victoria Parenti, MA, LPC, NCC, regional admissions counselor, University of Louisiana at Lafayette, Lafayette; and Dylan G. Rhoton, 2022 Suit Up alumnus, Harvard University, Cambridge, MA.



Suit Up students and judges. Back row from left, Charles N.H. Andrews; Sydnee D. Ragas; Olivia E. Magee; Judge Brandon S. Long, Section O, U.S. District Court, Eastern District of Louisiana, New Orleans; Magistrate Judge Karen Wells Roby, Just the Beginning coordinator, U.S. District Court, Eastern District of Louisiana, New Orleans; Dillon C. Banks; Mia M. Mornay; and Ferdell A. Handy. Front row from left, Dasia T. Ball; Ray'ven A. Chancellor; Magdalena A. Sisto; and Emma M. Bonney.

Career Path Session: Leadership LSBA 2023-24 Class members (Andrew M. Albritton, McGlinchey Stafford, PLLC, New Orleans; Kristina F. Douglas, City of Shreveport, Shreveport; Stephanie M. Poucher, Phelps Dunbar, LLP, New Orleans; Karina Shareen, Deutsch Kerrigan, LLP, New Orleans); and Donovan J. Stone, Williams & Connolly, LLP, law clerk for U.S. Supreme Court Associate Justice Ketanji Brown Jackson, Washington, DC.

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Interns: Loyola University New Orleans College of Law, New Orleans (Sarah K. Warren, 3L; Claire H. Carter, 3L); Louisiana State University Paul M. Hebert Law Center, Baton Rouge (Eric J. Roshak, 3L); Tulane University, New Orleans (Brinley B. Pethe, 2022 Suit Up alumna; Sania B. Islam, 2021 Suit Up alumna); Southern University Law Center, Baton Rouge (Kiera C. Martin, 2L; Kaleena Arnold, 2L).



Suit Up 2024 students. Back row from left, Olivia E. Magee; Korry J. Hill; Charles N.H. Andrews; Ferdell A. Handy; Deshan R. Joseph, Jr.; Avishka R. Fernando; Mia M. Mornay; Matthew F. Bancroft; Allison L. Honeywood; and Dillon C. Banks. Front row from left, Le'Ge P.J. Watts; Sydnee D. Ragas; Anisa M. Cleggett; Dasia T. Ball; Magdalena A. Sisto; Ray'ven A. Chancellor; Emma M. Bonney; and Sia P. Mirpuri.



REPORTING DATES 7/30/24 & 8/2/24

REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date July 30, 2024.

Decisions

John C. Alexander, Baton Rouge (2024-B-00703), Consented to suspension from the practice of law for a period of one year, by Order of the Louisiana Supreme Court on June 19, 2024. JUDGMENT FINAL and EFFECTIVE June 19, 2024. *Gist*: Respondent engaged in the unauthorized practice of law following his suspension.

Alton Bates II, Baton Rouge, (2024-B-0584) Consented to suspension from the practice of law for 18 months, retroactive to the effective date of the suspension imposed in *In re: Bates*, 22-1357 (La. 1/27/23), 356 So.3d 980, by order of the Louisiana Supreme Court on June 19, 2024. JUDGMENT FINAL and EFFECTIVE on June 19, 2024. *Gist:* The respondent neglected a legal matter, failed to communicate with his client, and failed to supervise a non-lawyer assistant. The misconduct occurred during the same time period as the misconduct for which the respondent was previously suspended.

Irvin Joseph Celestine, Jr., Lafayette, (2024-B-00759) Consented to being suspended from the practice of law for a

period of one year. The suspension shall be deferred in its entirety and shall run consecutively to the one-year-and-one-day suspension imposed by the court in *In re: Celestine*, 2024-0187 (La. 4/30/24), 383 So.3d 913, by order of the Louisiana Supreme Court on June 19, 2024. JUDGMENT FINAL and EFFECTIVE on June 19, 2024. *Gist*: Celestine was twice arrested on drug-related charges and failed to cooperate with the Office of Disciplinary Counsel in its investigation.

Marc G. Dorsey, Baton Rouge, (2024-B-0567) By consent, suspended from the practice of law for a period of six months, fully deferred, subject to a two-year period of probation, by order of the Louisiana Supreme Court on June 12, 2024. JUDGMENT FINAL and EFFECTIVE on June 12, 2024. *Gist*: Respondent mismanaged his client trust account, which resulted in the commingling and conversion of funds, and failed to register his client trust account with the Louisiana State Bar Association.

Mark El-Amm, New Orleans, (2024-B-0656) Consented to a six-month suspension from the practice of law, deferred in its entirety, subject to a

one-year period of supervised probation governed by conditions, by order of the Louisiana Supreme Court on June 25, 2024. JUDGMENT FINAL and EFFECTIVE on June 25, 2024. *Gist*: Mismanaging client trust account.

N. Sundiata Haley, New Orleans, (2024-B-0568) Consented to a public reprimand by order of the Louisiana Supreme Court on June 19, 2024. JUDGMENT FINAL and EFFECTIVE on June 19, 2024. *Gist*: The respondent was a litigant in a domestic matter when he encountered the attorney for his spouse in a court hallway and walked into her, causing her emotional upset but no physical injuries.

Robert W. Hjortsberg, New Orleans, (2024-B-00149) Suspended from the practice of law for six months, with all but 30 days deferred, followed by a one-year period of probation, by order of the Louisiana Supreme Court on June 28, 2024. JUDGMENT FINAL and EFFECTIVE on July 12, 2024. *Gist*: Respondent willfully failed to file income tax returns for 2017 and 2018 and did not actively participate in the criminal trial of his client.

Tamara K. Jacobson, New Orleans, (2024-B-0652) Consented to a public reprimand, subject to conditions, by order of the Louisiana Supreme Court on June 25, 2024. JUDGMENT FINAL and EFFECTIVE on June 25, 2024. *Gist*: Mishandling of client trust account.

Robert C. Jenkins, Jr., New Orleans, (2024-B-0733) By consent, suspended from the practice of law for a period of one year and one day by order of the Louisiana Supreme Court on June 20, 2024. JUDGMENT FINAL and EFFECTIVE on June 20, 2024. *Gist*: Failed to inform a client of his suspension, failed to withdraw from the representation

Continued next page

CHRISTOVICH & KEARNEY, LLP ATTORNEYS AT LAW

DEFENSE OF ETHICS COMPLAINTS AND CHARGES

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

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of Aug. 2, 2024.

| Respondent | Disposition | Date Filed | Docket No. | |
|------------------------|---|------------|------------|--|
| David Band, Jr. | [Reciprocal] Suspension (partially deferred). | 7/2/24 | 24-464 | |
| G. Karl Bernard | [Reciprocal] Suspension (partially deferred). | 7/2/24 | 24-296 | |
| Christopher D. Granger | [Reciprocal] Suspension (fully deferred). | 7/2/24 | 24-298 | |

Discipline continued from page 197

of his client, and filed two false affidavits with the Court.

Sylvester K. Johnson, New Orleans, (2024-B-0744) Issued a public reprimand by order of the Louisiana Supreme Court on June 20, 2024. JUDGMENT FINAL and EFFECTIVE on June 20, 2024. *Gist*: Engaging in the practice of law during a period of ineligibility.

Garrett M. Joffrion, Prairieville, (2024-B-0633) By consent, suspended from the practice of law for a period of one year and one day, with all but 30 days deferred, subject to a period of probation with conditions, by order of the Louisiana Supreme Court on June 25, 2024. JUDGMENT FINAL and EFFECTIVE on June 25, 2024. *Gist*: Engaging in the practice of law during a period of ineligibility and arrested for driving under the influence of alcohol.

William Magee, Pearl River, (2024-B-000647) Reinstated to the practice of law by order of the Louisiana Supreme Court on June 25, 2024. JUDGMENT FINAL and EFFECTIVE on June 25, 2024.

Edward Moses, Jr., Baton Rouge, (2024-B-00295) Suspended from the practice of law on a reciprocal basis for a period of one year, subject to conditions, by order of the Louisiana Supreme Court on May 29, 2024. JUDGMENT FINAL and EFFECTIVE on June 12, 2024. Gist: Respondent was suspended by the United States District Court for the Middle District of Louisiana for a period of one year based on conduct involving the filing of frivolous litigation as well as attempts to co-opt his clients' cases to assert his own personal agenda.

Jonas K. Nash, New Orleans, (2024-B-0686) Consented to a period of suspension of one year and one day, deferred in

its entirety, subject to a two-year period of supervised probation with conditions, by order of the Louisiana Supreme Court on June 13, 2024. JUDGMENT FINAL and EFFECTIVE on June 13, 2024. *Gist*: Mismanaging client trust account.

Robert W. Sharp, Jr., Ruston, (2024-B-00329) Suspended from the practice of law for six months by order of the Louisiana Supreme Court on June 5, 2024. Order FINAL and EFFECTIVE on June 19, 2024. Gist: Respondent attempted to represent a criminal defendant, who was accused of abusing his minor daughter; the stepmother of the minor daughter; and the minor children, including the abuse victim; and then attempted to continue his representation after the court disqualified him from doing so.

Don Roshon Williams, Baton Rouge, (2024-B-00680) **Consented to a public reprimand** by order of the Louisiana

Supreme Court on June 12, 2024. JUDGMENT FINAL and EFFECTIVE on June 12, 2024. *Gist*: Negligent mishandling of the client trust account.

Adam Granville Young, New Orleans (formerly Lafayette) (2024-B-00248), Suspended from the practice of law for a period of one year and one day, with 90 days deferred, followed by a two-year period of probation governed by conditions, by Order of the Louisiana Supreme Court on June 28, 2024. JUDGMENT FINAL and EFFECTIVE July 12, 2024. *Gist*: Respondent entered into an improper business transaction with a client.

Admonitions

1 Violation of Rule of Professional Conduct 7.2(a)(3) — Advertising without the required LSBA Registration Number.



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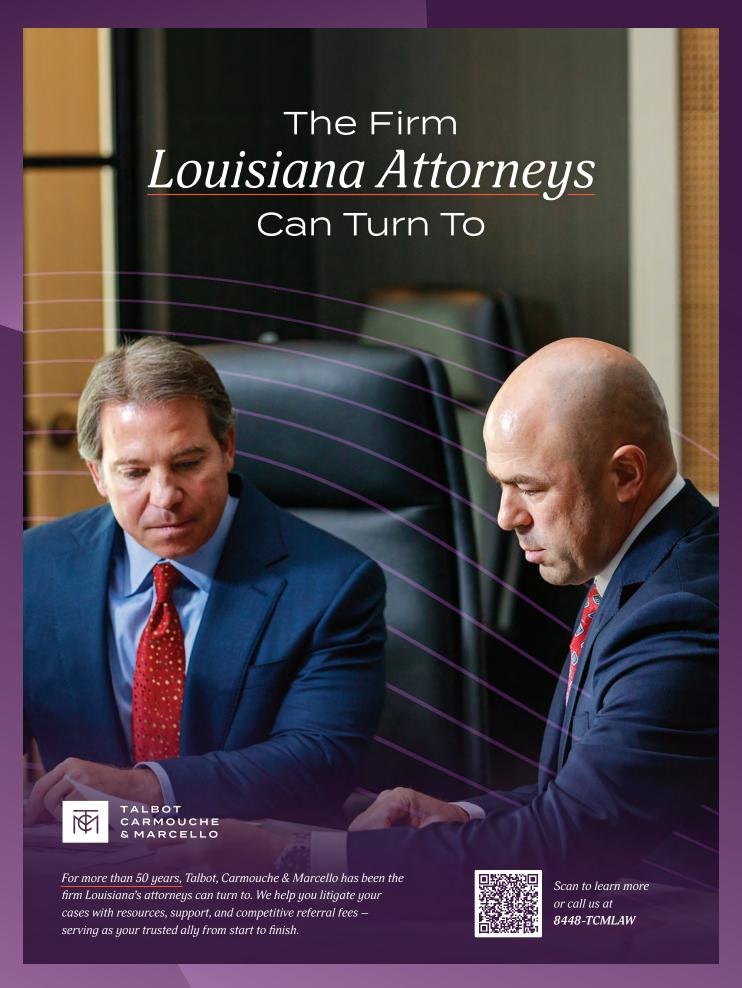
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ADMINISTRATIVE LAW TO TAXATION



One-Day Lapse in SAM **Registration During Government Contract Competition Can Make** Offeror Ineligible

TLS Joint Venture, LLC, B-422275, 2024 U.S. Comp. Gen. LEXIS 117 (Comp. Gen. April 1, 2024).

In August 2023, the U.S. Navy issued a solicitation to procure custodial services for an office of the Naval Surface Warfare Center in West Bethesda, Md. Among other terms, the solicitation incorporated by reference Federal Acquisition Regulation (FAR) provision 52.204.7, System for Award Management (SAM), and advised potential offerors that to be considered eligible for award, they must comply with all material aspects of the solicitation,

including regulatory requirements. Before the Sept. 15 deadline to submit proposals, the Navy received six offers, including from TLS Joint Venture, LLC and Silas Frazier Realty, LLC (Frazier). On Nov. 27, after conducting an initial evaluation of proposals, the Navy reviewed and noted that Frazier's SAM registration was "Active" through Dec. 11.

On Dec. 19, the Navy finalized its evaluation and determined Frazier's proposal was the best value for the government. It again reviewed Frazier's SAM registration and noted that it was "Active" as of Dec. 12. On Dec. 26, the Navy awarded the contract to Frazier and notified unsuccessful offerors, including TLS (the next-lowest-priced offeror), that their proposals were unsuccessful. On Dec. 29, TLS filed a bid protest with the Government Accountability Office (GAO) alleging one protest ground that Frazier was ineligible for award because its SAM registration had lapsed during the solicitation period.

TLS argued that FAR provision 52.204-7 "requires an offeror to be continuously registered from the submission of its proposal, through contract award, and until final payment on any contract." Id. at *3. Specifically, TLS alleged that Frazier failed to complete the renewal process for its SAM registration prior to its expiration. Id.

In its response, the Navy argued that: (1) "FAR provision 52.204-7 does not impose a requirement that an offeror maintain its SAM registration between the close of the solicitation period and award of the contract" and (2) "Frazier's registration never lapsed because Frazier submitted its renewal information before the expiration of its registration." Id. at

The GAO faced two central questions. First, does FAR provision 52.204-7 require an offeror to be continuously registered in SAM during the evaluation period, i.e., between proposal submission and the award of any contract? Second, if so, did Frazier maintain a continuously active SAM registration during the evaluation period?

Whether Offerors Must Maintain Continuous SAM Registration

FAR provision 52.204-7 unambiguously requires offerors to maintain continuous SAM registration during the evaluation period. Indeed, the GAO found that, when using regulatory interpretation rules, the ordinary and common meaning of the provision was clear - offerors are "required to be registered in SAM when submitting an offer or quotation, and shall continue to be registered until time of award." Id. at *6 (citing the exact language



Ronald E. Brian E.













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of FAR provision 52.204-7). While the Navy argued that regulatory history does not favor such an interpretation, the GAO noted that, when using regulatory interpretation rules, it relies on regulatory history as an interpretive aid only "when the regulation is ambiguous." Id. at *8 (citing Coast to Coast Computer Products, B-419624.2, 2021 Comp. Gen. Proc. Dec. ¶ 237 at 10). Here, the GAO found that the ordinary and common meaning of the language used in FAR provision 52.204-7 was not ambiguous. Thus, the GAO did not need to examine regulatory history as an interpretive tool. See also Myriddian, LLC v. United States, 165 Fed. Cl. 650 (2023) (finding similarly that FAR provision 52.204-7 requires offerors to continuously maintain their SAM registrations during the solicitation period by its plain language).

Frazier Did Not Maintain Continuous "Active" SAM Registration

The GAO found that Frazier did not maintain continuous "Active" SAM registration through the evaluation period; therefore, its SAM registration lapsed, and it was not eligible for award. Next, the GAO considered whether Frazier maintained continuous SAM registration during the evaluation period by completing the registration renewal process. In examining this matter, the GAO noted that the Navy provided two profiles recording Frazier's SAM

registration in its agency report, one from Nov. 23 and another from Dec. 21. *TLS Joint Venture* at *11. In the Nov. 23 profile, the GAO found that Frazier's SAM registration had an "expiration date" of Dec. 11, 2023. *Id.* However, in the Dec. 21 profile, the GAO found that Frazier's SAM registration had an "activation date" of Dec. 12, 2023. *Id.* Additionally, TLS provided a copy of Frazier's representations and certifications — which are included in SAM — that indicated they expired on 9:34 a.m. on Dec. 11, 2023. *Id.*

In an attempt to understand whether there was a lapse, the GAO reached out to the General Services Administration (GSA), the agency that manages SAM, for its views.

Based on the GSA's response and the information in the record, the GAO found that Frazier's SAM registration expired on the morning of Dec. 11, 2023, but was not reactivated until a day later, at 9:48 a.m., Dec. 12, 2023. *Id.* at *14. This created a lapse in Frazier's SAM registration by one day that, as TLS pointed out, made Frazier ineligible for award pursuant to the terms of the solicitation.

Conclusion

Because Frazier did not maintain continuous registration in SAM between proposal submission and award of the contract as required by FAR provision 52.204-7, the GAO found

that TLS suffered from competitive prejudice due to the Navy's failure to identify Frazier as ineligible for award. The GAO further found TLS would have had a substantial chance for award as one of the remaining offerors in the competitive field. Id. at *15. Consequently, the GAO sustained TLS' bid protest and recommended that it be awarded reimbursement of costs of filing and pursuing the protest, including reasonable attorneys' fees. This GAO decision provides a cautionary tale for industry in that even a one-day lapse in SAM registration during a government contract competition can lead to significant consequences. Additionally, this decision reminds agency counsel and acquisition professionals that, to protect the sanctity of their procurements, they must ensure the anticipated awardees have had continuous SAM registration from submission of offer to

Disclaimer: The views presented are those of the writer and do not necessarily represent the views of DoD or its components.

—Bruce L. Mayeaux On Behalf of the LSBA

On Behalf of the LSBA Administrative Law Section Lieutenant Colonel, U.S. Army Judge Advocate Washington, DC 20310-2200

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Contempt

Fraino v. Fraino, 24-0173 (La. App. 5 Cir. 6/17/24), ____ So.3d ____, 2024 WL 3023249.

Mr. Fraino sought supervisory review of the trial court's judgment overruling his exceptions of no cause and no right of action regarding a rule for contempt that a CPA filed against him. The rule alleged that two consent judgments in the case provided for the CPA's appointment as a joint expert and ordered Mr. Fraino to pay 100% of the associated fees.

The 5th Circuit Court of Appeal granted Mr. Fraino's writ application, reversed the trial court's judgment overruling his exceptions, and dismissed the CPA's rule. The appellate court agreed with Mr. Fraino that the rule did not assert a cause of action against him because:

(1) It failed to allege that he "intentionally, knowingly, and purposely" violated an order of the court;

- (2) It violated the purpose of a contempt proceeding under La. C.C.P. arts. 221 et seq. and La. R.S. 13:4611 to vindicate the authority and dignity of the court by improperly attempting to seek a money judgment in favor of the CPA; and
- (3) The consent judgments at issue did not specifically order Mr. Fraino to pay the CPA any particular invoices or amounts.

Additionally, the appellate court agreed with Mr. Fraino that, as a non-party, the CPA had no right of action to move for contempt, noting that while it is true that a judge may find a non-party in contempt of court for willful failure to abide by a lawful court order, the converse is not true.

Custody

Bridges v. Bridges, 23-0763 (La. App. 3 Cir. 7/3/24), So.3d , 2024 WL 3281667.

Mr. Bridges appealed the trial court's judgment sustaining Ms. Bridges's exception of no cause of action and dismissing his motion to modify the physical custody schedule, arguing that the Bergeron standard does not apply when a party only seeks to modify the nature of the physical custody arrangement under a considered joint custody decree.

The 3rd Circuit Court of Appeal, sitting en banc due to prior conflicting decisions, affirmed the trial court's judgment sustaining Ms. Bridges's exception but reversed the portion of the judgment dismissing Mr. Bridges's motion.

The appellate court reasoned that the law regarding visitation espoused in the prior conflicting decisions did not apply to a parent awarded custody, because the time that a parent with joint custody is exercising with the child as part of a joint custody plan is physical custody, rather than visitation. Thus, the Bergeron standard applied to Mr. Bridges's motion because, as the parent granted joint custody by a considered decree, his action was to modify the existing physical custody arrangement already in place.

Further, the appellate court reasoned that while the allegations in Mr. Bridges's motion did not meet the Bergeron standard, he should have been allowed to amend his motion to remove the grounds for the objection.

-Elizabeth K. Fox

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Legislature Reaffirms Wages Protected Under LWPA Cannot Be Extinguished or Forfeited

House Bill 352 of the 2024 Legislative Session added Section E to La. R.S. 23:631, the Louisiana Wage Payment Act (LWPA). The change became effective Aug. 1, 2024.

The legislative intent of subsection La. R.S. 23:631(E), as stated by the bill's author, Rep. Tarver, is to address three specific areas with regard to the timing for tendering an employee's commissions and non-discretionary bonuses. Generally, the LWPA mandates that an employer pay these wages "on or before the next regular payday or no later than fifteen days following the date of discharge, whichever occurs first." La. R.S. 23:631(A)(1)(a) & (b).

HB 352's author made clear that La. R.S. 23:631(E) in no way changes Louisiana law or public policy as to an employer's duty to pay an employee's commissions and non-discretionary bonus wages under the LWPA. Hearing on H.B. 352 before the House Committee on Labor and Industrial Relations, 2024 Leg., Reg. Sess. 2024 at 3:49:00 (La. April 11, 2024), https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2024/

apr/0411_24_LI, last visited Aug. 1, 2024. Proposed changes to the duty to pay failed. For example, a proposed subsection was deleted because it contained language akin to a forfeiture clause that would allow an employer to keep an employee's incentive wages simply because the employee is no longer employed when the accounting is completed or paychecks are issued. Another amendment that failed attempted to remove the words "or extinguished" from the original version of La. R.S. 23:631(E)(1).

This is in line with existing law that prohibits an employer from creating company policies that seek to subvert the LWPA. The Louisiana Supreme Court has held that La. R.S. 23:634 applies whether a forfeiture provision is in an employment agreement or a company policy, signed or unsigned.

Beard v. Summit Inst. of Pulmonary Med. & Rehab., Inc., 97-1784 (La. 3/4/98), 707 So.2d 1233, 1235 ("clearly if an employer may not require an employee to sign a contract providing for forfeiture of wages upon termination or resignation, an employer cannot require an employee to forfeit wages simply by enacting a policy to that effect.").

The Legislature also amended subsection La. R.S. 23:631(E)(3) related to the payment timeline of non-discretionary bonuses. Non-discretionary bonuses, like commissions, have become a popular wage incentive used by companies to attract employees. Similar to commissions, these bonus wages are typically tied to the employer and/or employee's performance where the wage is earned in relation to a formula or calculation on a periodic basis. The Legislature added language that a "reasonable amount of time" to calculate and pay those wages to a former employee shall not "exceed one hundred twenty calendar days from the end of such periodic basis" where the bonus wages are "determined by financial information" that becomes available at later times after the employee separates.

As enacted, La. R.S. 23:631(E) requires a *written* policy modifying the timing of payment of incentive-based wages in three ways:

- 1. A policy providing for adjustments to the amount based on changes to the order generating a commission that affects the amount of the commission. La. R.S. 23:631(E)(2)(a).
- 2. A policy providing that a payment to the laborer or employee is not earned unless and until the employer has received the payment that generates the commission, incentive pay or bonus. La. R.S. 23:631(E)(2)(b).

3. In the case of a bonus, the amount of which is determined by financial information reflecting the employee's or employer's performance on an annual, quarterly or other periodic basis, a reasonable amount of time, not to exceed 120 calendar days from the end of such periodic basis, shall be allowed based on standard accounting practices used by the employer to make the determination as to whether a bonus is due and the amount of that bonus. La. R.S. 23:631(E)(3).

Subsection (E)(2)(a) addresses only commissions and comes into play in cases where a customer may increase, decrease or cancel an order related to a former employee's work, but only to the extent necessary to make the correct calculation to tender the wages.

Subsection (E)(2)(b) provides for a written policy allowing an employer to await receipt of the customer payments generating the incentive wages before the mandated timelines noted in La. R.S. 23:631(A)(1)(a) and (b) are triggered.

Subsection (E)(3) addresses only bonuses that are based on financial information on a periodic basis and requires payment of those bonus wages within a specified time for related payments due to the former employee.

-Kenneth C. Bordes

On Behalf of the LSBA Labor Relations and Employment Law Section Law Office of Kenneth C. Bordes 4224 Canal St. New Orleans, LA 70119





Supreme Court Holds Doctrine of *Negotiorum Gestio* Does Not Apply to Unit Operators Selling Production Under La. R.S. 30:10(A)(3)

In Self v. BPX Operating Co., 23-1242 (La. 6/1/24), 388 So.3d 366, unleased mineral owners (UMOs) in a forced drilling unit, represented by James and Wilma Self, brought a putative class action against operator, BPX Operating Company, seeking a declaration that BPX was not entitled to deduct post-production costs from their pro rata share of proceeds from the unit wells' production, among other relief. BPX removed the action to federal court and moved for a partial dismissal, arguing the post-production costs it incurred to market the unleased mineral owners' share in gas production from the forced drilling unit (as set forth in La. R.S. 30:10(A)(3)) are not improperly deducted per se given the doctrine of negotiorum gestio (as set forth in Louisiana Civil Code art. 2292). The Western District of Louisiana granted BPX's motion, holding the doctrine of negotiorum gestio provides the mechanism for an operator to recover post-production costs from UMOs.

The Selfs appealed to the U.S. 5th Circuit Court of Appeals, where the court found there was no controlling decision to determine whether an operator may seek reimbursement of post-production costs as a manager or *gestor*. Given the significance of the issue, the 5th Circuit certified the following question to the

Louisiana Supreme Court: "Does La. Civ. Code art. 2292 apply to unit operators selling production in accordance with La. R.S. 30:10(A)(3)?" The Louisiana Supreme Court answered that question in the negative.

Louisiana law allows the commissioner of conservation to create pooled drilling units, name an operator of the unit and require the owners of mineral interests to share proportionally in unit production or proceeds from unit production. Section 30:10(A)(3) states:

If there is included in any unit created by the commissioner of conservation one or more unleased interests for which the party or parties entitled to market production therefrom have not made arrangements to separately sell or otherwise dispose of the share of such production attributable to such tract, and the unit operator sells or otherwise disposes of such unit production, then the unit operator shall pay to such party or parties such tract's pro rata share of the proceeds of the sale or other disposition of production within one hundred eighty days of such sale or other disposition.

The Selfs claimed BPX violated Section 30:10(A)(3) by failing to pay the unleased mineral owners the entirety of their pro rata share of proceeds (the gross amount free of deductions). BPX relied on the doctrine of negotiorum gestio to argue post-production costs incurred to market the unleased mineral owners' share of gas production could be deducted from the UMOs' share of proceeds. Article 2292 creates obligations arising from a quasi-contractual relationship when there is a management of affairs, i.e., "when a person, the manager, acts without authority to protect the interests of another, the owner, in the reasonable belief that the owner would approve of the action if made aware of the circumstances." In such a case, the "owner whose affair has been managed is bound to fulfill the obligations that the manager has undertaken as a prudent administrator and

to reimburse the manager for all necessary and useful expenses." La. Civ.C. art. 2297.

The Louisiana Supreme Court found the quasi-contractual relationship created between UMOs and unit operators under oil and gas conservation law "cannot not be applied consistently with the doctrine of negotiorum gestio." According to the court, these laws create distinct legal regimes with different requirements and different duties. One requirement of negotiorum gestio is that the party act without authority. Before 1995, negotiorum gestio required only that the party act "of his own accord." The court found this revision to article 2292 was intentional and made "clear that the requirement is not merely voluntariness but an 'absence of authority altogether,' including authority granted by statute." Self, 388 So.3d at 369. Because a unit operator is statutorily authorized under Section 30:10(A)(3) to sell a UMO's share of production when he or she has not made other arrangements, the court found negotiorum gestio inapplicable.

Chief Justice Weimer issued a robust dissent that carefully examined the history and purpose of the doctrine of negotiorum gestio and Section 30:10 and harmonized those provisions. Weimer recognized the case did not concern selling production but rather the processing, transporting and marketing of production for sale - post-production actions that must be taken for the commodity to have value and for the UMO to receive his or her share of proceeds. Because Section 30:10(A)(3) "is silent as to post-production costs, there is no inherent prohibition against a unit operator looking to the Civil Code for an available remedy ... to recoup these expenses." Id. at 373. Weimer reasoned that the "without authority" prong of negotiorum gestio should be understood to mean a lack of authority from the owner whose interests are being managed such that a unit operator could recover expenses incurred as a manager where it had no legal obligation to act under Section 30:10. This interpretation is in accord with the "long-held understanding that negotiorum gestio involves a voluntary act by one who is under no obligation to take action by law or contract." Id. at 378.

-Keith B. Hall

Member, LSBA Mineral Law Section Director, Mineral Law Institute LSU Law Center 1 E. Campus Dr. Baton Rouge, LA 70803-1000

Lauren Brink Adams

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC Ste. 3600, 201 St. Charles Ave. New Orleans, LA 70170-3600





Prescription and Peremption

In re Med. Rev. Panel Proc. of Singleton, No. 24-0415 (La. 6/19/24), 386 So.3d 306.

A patient filed a medical-review-panel complaint concerning "neck" injuries incurred during a "cervical procedure." He amended his complaint more than three years after the date of the surgical procedure, substituting the words "lumbar" and "back" for cervical and neck. The trial and appellate courts deemed the case prescribed because it had not been filed within a year from the date of discovery.

The Louisiana Supreme Court found that a discussion of the one-year discovery date was irrelevant because the original complaint involved a cervical surgery, not a lumbar surgery. Thus, the amended complaint "was a substantive change and asserted a wholly different claim than that originally alleged." Id. at 307. As the amended complaint was filed more than three years from the claimed malpractice, the court ruled that "the amended complaint cannot relate back to the original complaint so as to be considered timely." Id. The exception of prescription was granted "because plaintiff's amended complaint was filed after the threeyear period of repose set forth in La. R.S. 9:5628 elapsed . . . " *Id*.

Constitutionality of LHEPA

Welch v. United Med. Healthwest-New Orleans, No. 24-0065 (La. App. 5 Cir. 6/13/24), ____ So.3d _____, 2024 WL 2972753.

The appellate court had earlier remanded this case to allow the plaintiffs to challenge the constitutionality of La. R.S. 29:771(B)(2)(c) (i), hereafter "LHEPA." On remand, the trial court denied the motion to declare LHEPA unconstitutional and the case was again presented to the appellate court.

The plaintiffs argued that LHEPA was unconstitutional because:

- 1. Their cause of action was a vested property right taken from them without due process and an adequate remedy;
- 2. The blanket immunity provided during the emergency period does not

serve a compelling state interest;

- 3. It leads to absurd results;
- 4. It is not narrowly tailored to serve the objective of protecting citizens during the public health emergency;
- 5. There was no rational basis for providing immunity for negligent treatment unrelated to the public health emergency;
- 6. The patient's alleged negligent medical treatment was not COVID-19 related; and
- 7. The blanket immunity denied the patient an adequate remedy by due process.

The appellate court observed that the purpose of LHEPA was to protect public health during an emergency. During the pandemic, "the healthcare system was dangerously overburdened, affecting healthcare facilities and healthcare workers throughout the state." LHEPA alleviated the liability burden on healthcare providers, which was "the purpose" of the statute, and Welch's treatment was "during the early hectic and uncertain times" of the pandemic. Although Welch did not suffer from COVID-19, there may still have been a connection between her care and the COVID-19 pandemic "if the healthcare system during that time period was overburdened." The court decided that the statute is constitutional when applied to Welch's case, "as it is rationally related [to] the legitimate state purpose of providing healthcare" to Louisianians during a public health emergency.

The court rejected the plaintiffs' contention that they would be denied access to the judicial system, citing La. Const. art. III, §22 and the court's reliance on *Crier v. Whitecloud*, 496 So.2d 305 (La. 1986), wherein the court decided that "the Constitutional Convention did not intend to limit the legislature's ability to restrict causes of action or to bar the legislature from creating various areas of statutory immunity from suit." *Id.* at 309-10.

Insofar as plaintiffs' contention that the immunity was overly broad and allowed for "absurd and unconscionable results" over the two-year period it was in effect, the court cited its comments from Welch's earlier appellate appearance wherein the court stated that immunity did not necessarily lead "to an 'absurd consequence," in this case, especially considering the profound impact" of COVID-19 that caused Louisiana to experience "economic turmoil, a public health crisis, a substantial burden on the healthcare system, and a significant number of infections and deaths." Welch v. United Med. Healthwest-New Orleans, 21-0684 (La. 8/24/22), 348 So.3d 216, 222.

The plaintiffs posited that the statute created a prohibited "special class of tortfeasors" for every negligent healthcare provider, thus violating La. Const. Art. III, § 22(7), which states: "Prohibitions except as otherwise provided in this constitution, the legislature shall not pass a local or special law: ... [g]ranting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity."

The court decided that LHEPA was not a special law that affected "only a fraction of persons or . . . grant[ed] privileges to some persons while denying them to others. A special law is one that confers particular privileges or imposes peculiar disabilities or burdensome conditions in the exercise of a common right upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law" and is "directed to secure some private advantage or advancement for the benefit of private persons." The court decided that LHEPA was "applicable to all healthcare providers equally."

The motion to declare LHEPA unconstitutional was denied.

-Robert J. David

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



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Prescription Drug Purchases Qualify for Local Sales Tax Exemption

Fresenius Med. Care Lake Forest, LLC v. Gariepy, BTA Docket No. L00814 (6/5/24).

Fresenius Medical Care Lake Forest, LLC (Fresenius) operates a Medicare-certified dialysis clinic in Orleans Parish. Fresenius orders prescription drugs for dialysis treatments through Fresenius Medical Care Holdings, Inc. d/b/a Fresenius Medical Care North America's (FMC) procurement system. FMC also makes centralized purchases of drugs to fulfill clinic orders.

AmerisourceBergen Drug Corporation sold prescription drugs to FMC through Amerisource's specialty-drug-distribution unit, ASD Healthcare. For every month during the tax periods May 1, 2017, through Dec. 31, 2021, ASD provided reports that included the purchasing clinic, the drugs purchased, the cost per unit of each drug, the quantity of each drug purchased and the total cost of each drug purchased.

Fresenius argued that it purchased prescription drugs for administration to Medicare patients under the provisions of Medicare. It asserted that, pursuant to La. R.S. 47:337.9(F) (Exemption), its purchases of prescription drugs are exempt from local sales tax as purchases of prescription drugs pursuant to Medicare Part B. The director of the New Orleans Department of Finance and the City of New Orleans argued that the Exemption can never apply to the purchases of supplies or drugs by a medical-care provider from a wholesaler. Under the City's view, the Exemption cannot apply to any purchases of prescription drugs by FMC from Amerisource.

Fresenius paid the local sales tax at issue under protest and sued in the Local Tax Division of the Louisiana Board of Tax Appeals (BTA). Fresenius moved for summary judgment, attempting to connect its prescription drug purchases to the administration of that drug to a Medicare patient and establish a reliable methodology to support such position.

The BTA found that it could not reconcile the rationale advanced by the City with the clear text of La. R.S. 47:337.9(F)'s exemption for purchases made under the provisions of

Medicare Part B.

The BTA noted that Fresenius tracked the type and quantity of drugs administered, the patients to which they were administered and the patient's insurance provider. Fresenius' data collection occurred contemporaneously with the treatment of patients. Fresenius' patient data was robust enough for the doses administered to be calculated in consistent units of measurement. Likewise, FMC's accounting data showed the amount of drugs purchased in enough detail to enable it to calculate the doses purchased in equally consistent increments. The BTA found the connection between the purchase and the administration was quantifiable. Fresenius' Medicare ratio is derived from doses administered to Medicare patients and applied to the doses purchased. The BTA held Fresenius met the criteria to demonstrate the drug purchases were made under the provisions of Medicare Part B. The BTA found Fresenius was entitled to a refund on such purchases. The BTA partially granted Fresenius' motion for summary judgment based on this holding and granted a partial refund of the amounts paid under protest.

-Antonio Charles Ferachi

Chair, LSBA Taxation Section
Director of Litigation-General Counsel
Louisiana Department of Revenue
617 North Third St.
Baton Rouge, LA 70802

U.S. Supreme Court Affirms Constitutionality of Mandatory Repatriation Tax, Ends Chevron Deference

In its recent session, the U.S. Supreme Court issued an important ruling in a case that garnered significant attention in light of the potential implications of an adverse decision. On June 20, 2024, the Court held 7-2 in favor of the federal government in *Moore v. United States*, 144 S.Ct. 1680 (2024). The Court held that the mandatory repatriation tax (the MRT) under I.R.C. § 965 is an indirect tax on income and thus is not subject to the apportionment requirement under the Direct Tax Clause of the Constitution (Art. I, § 9, cl. 4).

Charles and Kathleen Moore challenged the constitutionality of the MRT, a one-time transition tax on certain undistributed earnings of "specified foreign corporations," including United States-controlled foreign corporations, that was enacted by the Tax Cuts and Jobs Act of 2017. The taxpayers argued that the MRT was a direct tax on property that was unap-

portioned among the states, in violation of the Direct Tax Clause. The taxpayers also argued that the MRT could not be a tax on income under the 16th Amendment because income taxes require "realization" of income, and they had realized no income from undistributed corporate earnings.

The federal government countered that the MRT is an indirect tax on income that did not require apportionment and that "income" captures "all economic gains," whether or not realized. Both the district court (W.D. Wash.) and the 9th Circuit held for the government, with the latter opining that the Constitution did not have a realization requirement.

On certiorari, the majority held that the MRT was an indirect tax on income that did not trigger the apportionment requirement. The Court also determined that the MRT did not tax unrealized income because it attributed the realized (but undistributed) income of the foreign corporation to its shareholders (akin to the taxation of other pass-through entities) — thereby rendering moot the constitutional question on the realization requirement. The Court noted that a ruling for the taxpayers on that issue could jeopardize "vast swaths" of the Internal Revenue Code and lead to "fiscal calamity."

Justice Thomas, joined by Justice Gorsuch, dissented on the basis that the "attribution" doctrine relied on by the majority was unfounded in precedent.

Had the majority addressed the issue of whether unrealized income can be constitutionally taxed under the 16th Amendment, the decision could have impacted the fundamental underpinnings of the federal income tax and in turn the income tax base of most states, like Louisiana, which conform to the federal tax base.

In the same session, the Supreme Court also issued its landmark ruling in *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244, overruling the Chevron deference doctrine that determined when federal courts defer to an agency's reasonable interpretation of an ambiguous statute (including taxing statutes). Although the decision is expected to have more of a potential impact in states that adopted Chevron deference, it remains to be seen how judges in other states, like Louisiana, may be influenced by the Court's observations.

—Divya A. Jeswant

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

Thomas J. Celles, CPA

JD Candidate, Tulane Law School Law Clerk, Kean Miller, LLP

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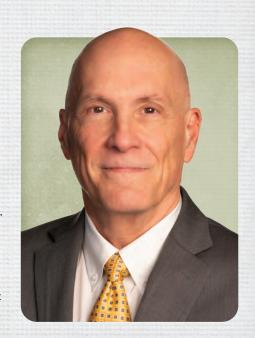


Meet RICK NORMAN

Rick, who has recently joined the Patterson Group, leads the Taylor Porter law office in Lake Charles. He concentrates his practice in the areas of business transactions, commercial litigation, employment, and construction law. He also serves as mediator and arbitrator in commercial and employment disputes and regularly serves as Special Master in the 14th Judicial District Court in matters involving business divorces. Rick received training as an American Arbitration Association (AAA) arbitrator and served on its arbitration panel. He also served on the panel of the Association of Professional Arbitrators and Mediators (APAAM). He is past president of the Louisiana State Law Institute.

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SUMMER INSTITUTE... PRESIDENT'S AWARD

Summer Institute Offers Teacher Training on "We the People" Civics Program

ouisiana middle school teachers met in New Orleans at the Chief Justice Pascal F. Calogero, Jr. Courthouse Building for the 2024 Justice Catherine D. Kimball Summer Institute to learn about the "We the People: Civics That Empowers All Students" civics curriculum.

Opening the Institute was Chief Judge Randall L. Bethancourt, 32nd Judicial District Court, past president of the Louisiana Center for Law and Civic Education and a member of the Louisiana District Judges Association Executive Committee.

Louisiana Supreme Court Chief Justice John L. Weimer presented the President's Award of Excellence for Outstanding Law-Related Education Teacher.

Judge Bruce E. Hampton, 3rd Judicial District Court, presented Louisiana Supreme Court Justice Scott J. Crichton's program on "Crime, Consequences and the Power of Choice."

Robert Gunn, Louisiana Supreme Court deputy judicial administrator/community relations, and Miriam Childs, director of the Law Library of Louisiana, provided a tour of the Louisiana Supreme Court and the Law Library.

Teachers attending included Cathryn Buller of Acadian Middle School, Ruby Celestine of Paul Breaux Middle School, Morgan Fletcher of Walnut Hill Elementary/Middle School, Portia Hall of Benjamin Franklin Elementary School, Victoria Herbert of Walnut Hill Elementary/Middle School, Dylan Hernandez of David Thibodaux STEM



Louisiana middle school teachers participated in the 2024 Justice Catherine D. Kimball Summer Institute to learn about the "We the People: Civics That Empowers All Students" civics curriculum.

Magnet Academy, Stacy Jefferson of Baker Middle School, Joan McKee-Ledet of Lafayette Middle School, D'Andre Narcisse of Dutchtown Middle School and Philip Thompson of Westdale Middle School.

Each teacher was paired with an experienced "We the People" mentor who provided pedagogy during the Institute and continues to serve as an ongoing mentor. Mentors included Vickie Hebert, Lafayette Parish Public School System 6-12 Social Studies Coach; Jamie F. Staub, retired high school teacher and past recipient of the President's Award of Excellence for Outstanding Law-Related Education Teacher; and Belinda Cambre, JD, Ph.D., teacher at the LSU Lab School.

On the last day of the Institute, teachers prepared and presented oral arguments for their simulated congressional hearing before a panel of judges. Teachers will utilize the "We the People" curriculum during this school year and students will participate in a simulated congressional hearing.

Coordinated by the Louisiana Center



Michael L. Snyder, right, a teacher at Washington-Marion Magnet High School in Lake Charles, received the President's Award of Excellence for Outstanding Law-Related Education Teacher. Louisiana Supreme Court Chief Justice John L. Weimer made the presentation at the Justice Catherine D. Kimball Summer Institute. This award is a joint partnership of the Louisiana State Bar Association and the Louisiana Center for Law and Civic Education.

for Law and Civic Education, the six-day Summer Institute was made available to educators at no cost. The Institute was financially assisted, in part, by the U.S. Department of Education administered through the Center for Civic Education.



CHAIR'S MESSAGE... SPOTLIGHTS

CHAIR'S MESSAGE

Finding Your Flow and Embracing Individuality

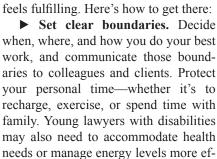
By Kristen D. Amond

alancing a legal career with personal life isn't easy, especially for young lawyers. The profession is demanding, and many of us struggle with imposter syndrome—feeling like we don't belong. For those with disabilities, including mental health or neurodivergent conditions, these challenges are even more pronounced. This article builds on previous discussions about non-traditional career paths and personal fulfillment, exploring how young lawyers can find their flow, embrace their individuality, and thrive in an inclusive legal profession that values diversity in all its forms.

Finding Your Flow

Rather than striving for the elusive "work-life balance," think of it as find-

ing your flow—a state where your professional and personal activities naturally complement each other. When you're in flow, your work feels purposeful and your personal life



► Prioritize your well-being. Take

fectively to maintain their flow.

care of your mental and physical health. The legal profession can be tough on mental health, exacerbating anxiety or depression—common yet invisible disabilities. Integrate self-care practices into your daily routine, whether it's exercise, meditation, or simply taking a break. Firms should encourage mental health days, provide accommodations, and foster a culture where discussing mental health challenges is normalized.

- ▶ Use time management tools. Time management tools are great for staying organized and efficient. Calendars, task managers, and project management software can help you structure your day and break your workload into manageable pieces. Assistive technologies such as voice-to-text, screen readers, and organizational apps can enhance workflow for lawyers with disabilities.
- ▶ Be flexible. Flexibility in work arrangements can be a game-changer. For lawyers with disabilities, this might mean requesting accommodations like a hybrid work schedule or the option to work from home. Tailor your work environment to suit your personal needs. Firms should support flexibility to meet each lawyer's individual needs, rather than imposing rigid, one-size-fits-all rules.

Continued next page





Embracing Individuality

Instead of focusing on "overcoming" imposter syndrome, think about embracing your individuality. The legal profession thrives on diverse perspectives, and your unique background adds value. Here's how to own your individuality:

- ▶ Recognize your strengths. Many young lawyers feel pressured to fit traditional molds of success, but the truth is, the legal profession benefits from diverse voices. Your background, strengths, and insights—whether shaped by disability, neurodivergence, or a non-traditional career path—are assets. Recognize that your individuality sets you apart and makes you valuable.
- ▶ Celebrate your accomplishments. When you start doubting yourself, reflect on your accomplishments. Whether it's a case you've won, a challenge you've navigated, or positive feedback you've received, these moments of success are proof that you're on the right track. This practice can be especially helpful for neurodivergent lawyers whose strengths may not always align with traditional metrics of success.

▶ Seek out mentorship. Mentorship can help you navigate challenges unique to your path. Find a mentor who understands your specific needs and experiences. For young lawyers with disabilities or neurodivergent conditions, a supportive mentor can provide tailored advice and advocacy, helping you feel more confident in your abilities. Mentors also play a crucial role in advocating for inclusive practices and creating a more welcoming environment for all lawyers.

Creating An Inclusive Legal Profession

Inclusion goes beyond compliance it's about fostering a culture that embraces diversity in all forms. The legal profession must ensure that recruitment practices are accessible and that lawyers, especially young lawyers with disabilities, can request accommodations without fear of stigma or judgment. Flexibility in work arrangements, accessible digital platforms, and mentoring programs that support inclusion are all critical to creating an environment where all lawyers can thrive.

Mental health is a key part of this inclusivity conversation. The pressures of

the legal profession can amplify mental health challenges, and young lawyers often feel isolated or stigmatized when dealing with these issues. Firms must offer tangible support, such as mental health days and access to therapy, while cultivating an environment where it's safe to discuss mental health without fear of repercussions.

We're Here to Help

If you have questions or ideas about how to create inclusive work environments or ideas, I welcome you to contact me directly. The Louisiana State Bar Association's Young Lawyers Division is committed to supporting young lawyers in finding their flow, embracing their individuality, and navigating the challenges of a legal career. Young lawyers, including those dealing with disabilities, mental health concerns, or neurodivergent conditions, have unique needs. We are working to bring those needs to the forefront of conversations about the legal profession's future.

YOUNG LAWYERS SPOTLIGHTS

Henry Elected as 2024-25 Chair of ABA Law Student Division

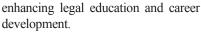
Jeremee A. Henry, a 3L student at Southern University Law Center (SULC) in Baton Rouge, was elected as 2024-25 chair of the American Bar Association's (ABA) Law Student Division. He served on the Division's Council as Delegate of Communications and Outreach for the 2023-24 term. He worked to increase student involvement in ABA programs and advocated for issues important to law students on a national level. This past year, the 2023-24 Law Student Division Assembly adopted three resolutions passed by the ABA House of

Delegates during the ABA's Annual Meeting in August.

Born and raised in New Orleans, Henry earned his bachelor's degree in political science from the University

of Tennessee at Chattanooga. He will receive his JD degree on May 17, 2025, from SULC, then will sit for the Louisiana Bar Exam.

Last year, he served on Southern's Student Bar Association as the ABA representative. In this capacity, he was the liaison between SULC and the ABA, ensuring that students were informed about ABA initiatives, opportunities and resources aimed at



Among Henry's goals as ABA Law Student Division chair is to increase law student membership within the Division by planning programming focused on bar prep resources, postgraduate employment and professional development.

The ABA Law Student Division presides over the Law Student Division Assembly at the ABA Annual Meeting. Members of the assembly are given an opportunity to advocate for, shape legislation and policy, coordinate outreach to law students regarding ABA resources and act as representatives for law students to the ABA and the legal profession.

Borel Sworn In as 2024-25 Chair of ABA's Young Lawyers Division

Danielle L. (Dani) Borel, a partner in the Baton Rouge office of Breazeale, Sachse & Wilson, LLP, was sworn in as the 2024-25 chair of the American Bar Association (ABA) Young Lawyers Division (YLD) during the ABA's Annual Meeting in August. As chair, she is responsible for overseeing the nation's largest network of young lawyers — a group that comprises more than 91,000 members, 32,000 of which are young attorneys from across the country.

Borel has been a member of the ABA YLD since 2015. She held several positions in the ABA YLD 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 will host the ABA YLD senior leadership in Baton Rouge for a Cabinet meeting in October and will host the 2025 Spring Conference in New Orleans.

Louisiana's last ABA YLD Chair was former ABA President Judy Perry Martinez in 1990-91.

Borel 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.

She served on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council as the 2022-23 chair, the 2021-22 chair-elect, the 2020-21 secretary and the ABA's YLD representative in 2018-20. In 2019, she received the LSBA YLD's Bat P. Sullivan, Jr. Chair's

Award. During her term as 2022-23 LSBA YLD chair, she implemented the LSBA YLD Top 40 Award and the Level Up Learning series.



She is a mem-

ber of the Baton Rouge Area Chamber's 2024 Leadership Class and serves on the Louisiana State Law Institute's Civil Procedure Committee. She also has been active with the Baton Rouge

Bar Association.

In her community, she served as a member of the board of directors and chaired 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).





By Trina S. Vincent, Louisiana Supreme Court

APPOINTMENTS... MEMORIAM

Appointments

- ▶ Nichole M. Buckle was appointed, by order of the Louisiana Supreme Court, to the Committee on Bar Admissions for a term of office which began June 20, 2024, and will conclude on June 19, 2029.
- ▶ Professor Tom Snyder was appointed, by order of the Louisiana Supreme Court, to the Bar Admissions Advisory Committee for a term of office which began on July 1, 2024.
- ▶ Professor Melissa T. Lonegrass was appointed, by order of the Louisiana Supreme Court, to the Bar Admissions Advisory Committee for a term of office which began on July 11, 2024.
- ▶ Professor Ronald J. Scalise, Jr. was appointed, by order of the Louisiana Supreme Court, to the Bar Admissions Advisory Committee for a term of office which began on July 11, 2024.

▶ Professor Shawn D. Vance was appointed, by order of the Louisiana Supreme Court, to the Bar Admissions Advisory Committee for a term of office which began on July 11, 2024.

Deaths

▶ Retired Vidalia City Court Senior Judge George C. Murray, Jr., 81, died July 19, 2024. He received his bachelor's degree in 1965 from Northeast Louisiana University and his JD degree in 1971 from Louisiana State University Law Center. He served as a captain in the U.S. Army Quartermaster Corps. He worked as a partner of Calhoun, Murray & McLemore law firm. He was appointed city attorney for the town of Vidalia and served as a president of the Louisiana City Attorney's Association. He served on the Louisiana Judges'

Legislative Committee. He was elected Vidalia City Court judge in 1978 and served until his retirement in 2016. He served as a member and as president of the Central Louisiana Juvenile Detention Facility Authority.

▶ Retired 24th Judicial District Court Judge Joseph Marcel Tiemann, 89, died July 25, 2024. He received his bachelor's degree in 1958 from Notre Dame Seminary and his JD degree in 1974 from Loyola University New Orleans College of Law. From 1972-82, he served as a Louisiana State senator. He served for four years as a deputy assessor in Jefferson Parish. In 1982, he was elected 24th JDC judge and was reelected without opposition in 1985 and 1991. He served until his retirement in 1996.





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PEOPLE

LAWYERS ON THE MOVE . . . NEWSMAKERS

LAWYERS ON THE MOVE

Barrasso Usdin Kupperman Freeman & Sarver, LLC, announces that **Chad Thornton** and **Aaron M. Steeg** have joined the New Orleans office as associates.

Breazeale, Sachse & Wilson, LLP, announces that **Jordan S. Varnado** has joined the firm's Baton Rouge office as an associate.

Fishman Haygood, LLP, in New Orleans announces that Sharonda R. Williams has rejoined the firm's litigation section as special counsel. She will retain her current position as vice president, general counsel and director of Government Affairs at Loyola University New Orleans.

Jackson Lewis, PC, announces that Andrew J. Baer has joined the firm's New Orleans office as of counsel. Also, Matthew T. Biggers, Margaret Viator Zazulak and Adrienne M. Wood have joined the firm's New Orleans office.

Mouledoux, Bland, Legrand & Brackett, LLC, in New Orleans announces that **James M. Montgomery II** has joined the firm as an associate.

Simon, Peragine, Smith & Redfearn, LLP, in New Orleans announces that **Brianna M. Cole** has joined the firm as an associate.

The attorneys and staff of VeazeyFelder, LLC, in Lafayette congratulate **Dona Kay Renegar** on her appointment as the administrative law judge for District 2 of the Louisiana Office of Workers' Compensation.

NEWSMAKERS

Richard J. Arsenault, a partner in the Alexandria firm of Neblett, Beard & Arsenault, served as the moderator of a Judicial Panel of Federal MDL Judges at a Mass Tort Conference in Las Vegas, NV. At the recent Lanier Trial Academy, he

was awarded the 2024 "Making the World a Better Place" Award.

Thomas M. Flanagan, a partner in Flanagan Partners, LLP, in New Orleans, and **Sean P. Brady** (posthumously) received the John R. (Jack) Martzell Professionalism Award. The award, sponsored by the Federal Bar Association New Orleans Chapter, recognizes the attorneys who best exemplify professionalism in the practice of law. Flanagan was president of the chapter from 2004-05 and Brady served on the board from 2019-23.

PUBLICATIONS

Best Lawyers in America 2025

Breazeale, Sachse & Wilson, LLP (Baton Rouge, New Orleans): Robert L. Atkinson, John W. Barton, Jr., Thomas M. Benjamin, Robert T. Bowsher, Jude C. Bursavich, Peter J. Butler, Jr., David R. Cassidy, David M. Charlton, V. Thomas Clark (Lawyer



Richard J. Arsenault



Wilton E. Bland III



Wilton E. Bland IV



Alan G. Brackett



Sean P. Brady



Justin M. Chopin



Brianna M. Cole



Trevor M. Cutaiar



Gerard J. Dragna



Lillian E. Eyrich



Thomas M. Flanagan



Daniel J. Hoerner

of the Year, administrative/regulatory law), Jeanne C. Comeaux, Clay J. Countryman, Carroll Devillier, Jr., Murphy J. Foster III, Gregory D. Frost (Lawyer of the Year, health care law), Nicole Gould Frey, Alan H. Goodman, Emily Black Grey, Leo C. Hamilton, Timothy W. Hardy, Paul M. Hebert, Jr., Scott N. Hensgens (Lawyer of the Year, litigation-intellectual property), Michael R. Hubbell, Lance J. Kinchen, John King, Eric B. Landry, Michael C. Luquet, Catherine M. Maraist, Eve B. Masinter, Christopher A. Mason, Van R. Mayhall, Jr., C. Stokes McConnell, Jr., Tracy Averett Morganti, Trenton J. Oubre, Richard G. Passler, James R. Raines, Claude F. Reynaud, Jr., Melissa M. Shirley, Thomas R. Temple, Jr., B. Troy Villa, Stephen R. Whalen and Douglas K. Williams (Lawyer of the Year, medical malpractice law-defendants); and Danielle L. Borel, Alexa

N. Candelora, Joseph J. Cefalu III, David C. Fleshman, Philip Giorlando, Alexandra Cobb Hains, Kayla M. Jacob, Rachael Jeanfreau, Kourtney D. Jones, Mary Katherine Loos, Kelsey C. Luckett, Catherine Breaux Moore, Kristin Oglesby, Jacob E. Roussel and Robert M. Schmidt, Ones to Watch.

Chopin Law Firm, LLC (New Orleans): Justin M. Chopin and Philip D. Lorio IV.

Flanagan Partners, LLP (New Orleans): Thomas M. Flanagan, Harold J. Flanagan (Lawyer of the Year, betthe-company litigation), Anders F. Holmgren, Caitlin J. Flanagan (Lawyer of the Year, energy law) and Laurent J. Demosthenidy; and Camille E. Gauthier, Gabrielle A. Ball, Ally L. Duplechain and Matthew R. Slaughter, Ones to Watch.

Gertler Law Firm (New Orleans): Meyer H. Gertler, Lawyer of the Year, product liability litigation; and M.H. Gertler, Louis L. Gertler and Helen H. Babin.

Mouledoux, Bland, Legrand & Brackett, LLC (New Orleans): Wilton E. Bland III, Alan G. Brackett, Gerard J. Dragna, Daniel J. Hoerner, Georges M. Legrand, André J. Mouledoux (Lawyer of the Year, admiralty and maritime law) and C. Michael Parks; and Wilton E. Bland IV, Trevor M. Cutaiar, JoAnn H. John, Lindsay F. Louapre, J. Edward McAuliffe III, Michael T. Neuner and Simone H. Yoder, Ones to Watch.

Simon, Peragine, Smith and Redfearn, LLP (New Orleans): David F. Bienvenu, Daniel J. Caruso, M. Claire Durio, Benjamin R. Grau, Jay H. Kern, Susan B. Kohn, Luke P. LaRocca, Denise C. Puente (Lawyer of

Continued next page



JoAnn H. John



Georges M. Legrand



Philip D. Lorio IV



Lindsay F. Louapre



David A. Martinez



J. Edward McAuliffe III



James M. Montgomery II



André J. Mouledoux



Michael T. Neuner



Randy Opotowsky



C. Michael Parks



Dona Kay Renegar



Aaron M. Steeg



Robert M. Steeg



Charles L. Stern, Jr.



Chad Thornton



Jordan S. Varnado



Simone H. Yoder

the Year, construction law), M. Davis Ready, Douglas W. Redfearn, Robert L. Redfearn, Jr., H. Bruce Shreves, John F. Shreves and Douglass F. Wynne, Jr.; and Alexandra E. Celio, Joshua D. Ecuyer and Windsor V. Richmond, Ones to Watch.

Steeg Law Firm, LLC (New Orleans): Lillian E. Eyrich, David A. Martinez, Randy Opotowsky, Robert M. Steeg and Charles L. Stern, Jr.

Chambers USA 2024

Chaffe McCall, LLP (New Orleans): Walter F. Becker, G. Wogan Bernard, E. Howell Crosby, Leah Nunn Engelhardt, Julie D. Livaudais and Harold K. Watson.

Fishman Haygood, LLP (Baton

Rouge, New Orleans): Brent B. Barriere, Jason W. Burge, Scott D. Chenevert, Maureen B. Gershanik, Stephen J. Herman, Charles A. Landry, Tristan E. Manthey, Lance C. McCardle, Kerry J. Miller, Lori G. Mince, Cherie D. Nobles, William H. Patrick III, Louis S. Quinn, Jr., Albert O. (Chip) Saulsbury, E. Blair Schilling, Steven C. Serio, James R. Swanson, John D. Werner and S. Scott Willis; Louis Y. Fishman, senior statespeople; and J. Tyler Marquette, Up and Coming.

Benchmark Litigation 2024

Fishman Haygood, LLP (New Orleans): Lori G. Mince, Top 250 Women in Litigation; and Daniel J. Dysart, E. Blair Schilling and Rebekka

C. Veith, 40 & Under List.

New Orleans CityBusiness 2024

Fishman Haygood, LLP (New Orleans): E. Blair Schilling and Rebekka C. Veith, Leadership in Law

Mouledoux, Bland, Legrand & Brackett, LLC (New Orleans): J. Edward McAuliffe III, Leadership in Law

2024 Lawdragon 500

Fishman Haygood, LLP (New Orleans): Brent B. Barriere, Tristan E. Manthey, Cherie D. Nobles and William H. Patrick III; and E. Blair Schilling, Next Generation.

AWARD NEWS

St. Martin Parish Child Support Program Receives Cantor Innovative Program Award

he Association of Family and Conciliation Courts (AFCC) Award Committee selected the St. Martin Parish Family-Centered Child Support Program as this year's Irwin Cantor Innovative Program Award recipient. The award was created to recognize innovation in court-connected or court-related programs. The award is named after the late Hon. Irwin Cantor, former AFCC president.

The St. Martin Parish Child Support Program was recognized for a new focus on employment and training of parties who appear in non-support court. With cooperation among community stakeholders, including the 16th Judicial District Court, the Family Court hearing officer, the 16th Judicial District Attorney, the Department of Children and Family Services Child Support Enforcement Agency, the CSE Employment and Training Agency and Eckerd Connect Community agency, the program was instituted to overcome barriers to employment so parents could focus on parenting their children. To date, several dozen litigants have been enrolled.



The St. Martin Parish Family-Centered Child Support Program received the Irwin Cantor Innovative Program Award. Front row from left, Markaishia Lindon, CSE social service analyst; Danielle Champagne, CSE social service analyst; Maggie Trahan Simar, 16th Judicial District Family Court hearing officer; Shentell W. Brown, 16th Judicial District, IV-D nonsupport/Juvenile assistant district attorney; and Wendy Angelle, St. Martin Parish clerk of court. Back row from left, Dilandos Johnson, CSE specialist; Alexis Batiste, Child Support Enforcement supervisor; and Rebekka Brown, CSE social service analyst.

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Ann Marie Mills Ruston



Timothy D. Quinn Senior Vice President Senior Vice President Shreveport



UPDATES... LOCAL BARS... LBF

UPDATES

Legal Help Access Point Launched in Chalmette

The Louisiana Access to Justice (ATJ) Commission and the Justice for All (JFA) Project launched another Legal Help Access Point with a ribboncutting ceremony on July 9 at the St. Bernard Parish Government Complex in Chalmette. This new community resource, located in the first-floor lobby at 8201 W. Judge Perez Dr., provides vital legal resources to the community, offering assistance at no cost on a walk-in basis to those needing assistance with civil legal matters. This access point is part of the Louisiana ATJ Commission's JFA initiative to ensure equitable and accessible legal services in underserved areas. This marks the sixth opening of a Legal Help Access Point in Louisiana.

The Legal Help Access Point gives St. Bernard Parish residents a spectrum of options for legal assistance by allowing them to access self-help resources and automated court forms, determine if they qualify for free civil legal aid, get customized legal help and referrals through the Louisiana Bar Foundation and Lagniappe Law Lab's Civil Legal Navigator, meet virtually with an attorney in a confidential enclosed space, and attend court virtually with participating jurisdictions.

The ribbon-cutting ceremony was attended by St. Bernard Parish President Louis Pomes, members of the St. Bernard Parish Chamber of Commerce, Director Rhett Pritchard, St. Bernard Parish Sheriff James Pohlmann and Louisiana Supreme Court Chief Justice John L. Weimer. Chief Justice Weimer, instrumental in delivering this program to St. Bernard Parish, also delivered opening remarks.

Also in attendance were Judge Kim C. Jones, Judge Jeanne N. Juneau and Judge



The Louisiana Access to Justice Commission and the Justice for All Project launched another Legal Help Access Point with a ribbon-cutting ceremony on July 9 in Chalmette. From left, Rachael M. Mills, Louisiana State Bar Association; Amanda Brown, Lagniappe Law Lab; Judge Kim C. Jones, 34th JDC; Judge William M. McGoey, 34th JDC; St. Bernard Parish District Attorney Perry M. Nicosia; Judge Jeanne N. Juneau, 34th JDC; St. Bernard Parish President Louis Pomes; St. Bernard Parish Sheriff James Pohlmann; Patrice Cusimano, St. Bernard Parish Council; Louisiana Supreme Court Chief Justice John L. Weimer; and Ryan Randall, St. Bernard Parish Council.

William M. McGoey, all with the 34th Judicial District Court, District Attorney Perry M. Nicosia and Parish Council members Patrice Cusimano and Ryan Randall, along with several members of the Louisiana State Bar Association and local community members.

These access points are essential to the communities they serve, especially to low-income and disadvantaged individuals. Together, these six locations serve their communities with much needed resources while also reducing the amount of Louisiana encompassed by "civil legal resource deserts," identified through the ATJ Commission's JFA Project as areas within the state that are outside a 45-minute drive for an in-person civil legal resource like a civil legal aid office, self-help center or law library.



Members of the 2023-24 Leadership LSBA class were awarded certificates of completion on June 6 for their participation in the program. The program's goal is to provide exposure to young lawyers on how the LSBA functions and on the pressing issues that face the legal profession. The 2023-24 class project was "Demystifying the Legal Profession." From left, Shayna L. Sonnier, 2023-24 LSBA president, Lake Charles; Nicholas S. Bergeron, Gieger, Laborde & Laperouse, LLC, New Orleans; Candace B. Ford, 2023-24 Leadership LSBA Class co-chair, Baton Rouge; Micah O. Clemons, Todd Clemons & Associates, APLC, Lake Charles; Stephanie M. Poucher, Phelps Dunbar, LLP, New Orleans; Kristina F. Douglas, City of Shreveport, Shreveport; Reed K. Ellis, Broussard, David & Moroux, Lafayette; Brian J. Lindsey, Kean Miller LLP, Lafayette; Karina Shareen, Deutsch Kerrigan, LLP, New Orleans; and Josef P.M. Ventulan, Louisiana State Law Institute, Baton Rouge. *Photo by Matthew Hinton Photography*.

LOCAL / SPECIALTY BARS



The Louisiana State Bar Association Diversity Committee's Specialty Bars Subcommittee sponsored the Specialty Bars Reception on June 3 in Destin, Fla., during the Annual Meeting. The event featured an evening of networking. From left, Angela White-Bazile, executive director, Judges and Lawyers Assistance Program, Inc.; Kim M. Boyle, Phelps Dunbar, LLP, New Orleans; Judge Karelia R. Stewart, 1st Judicial District Court, Shreveport; Judge Rachael D. Johnson, 4th Circuit Court of Appeal, New Orleans; Sharonda R. Williams, general counsel, Loyola University New Orleans; Cordelia D. Tullous, Redstone Strategy Group, Dallas, TX; Deidre Deculus Robert, director of state operations, U.S. Department of Agriculture Rural Development, Washington, DC; and Shawn Lindsay, City of New Orleans Law Department.



The 2024-25 Executive Board of the Black Lawyers Association of Shreveport-Bossier (BLASB) was installed on July 18 by Judge Jerry Edwards, Jr., U.S. District Court, Western District of Louisiana. The installation meeting also included a CLE seminar presented by Sen. Sam Jenkins and the adoption of the association's bylaws. From left, Felicia M. Hamilton, 2024-2025 BLASB president, Shreveport; Judge Edwards; Senae D. Hall, 2024-25 BLASB vice president, Shreveport; Jasmine C. Cooper, 2024-25 BLASB secretary, Shreveport; and Monique I. Davis, 2024-25 BLASB treasurer, Shreveport.



The 4th Judicial District Bar Association held its Annual Meeting and networking event on June 20 in Monroe. The event included a celebration of 40-year Bar members and the installation of the 2024-25 board of directors. Board members, from left, Amy C. Johnson, vice president, attorney, Bastrop; Leah D. Sumrall, president, LaSalle Management Company, LLC, Ruston; Alexandra L. Barham, secretary/treasurer, attorney, Monroe; and Tyler J.R. Sanderson, director, Sanderson Legal Solutions LLC, Monroe. Not in photo, Thomas H. Fields III, director, Acadiana Legal Service Corporation, Monroe.

LOUISIANA BAR FOUNDATION

Sewell Named LBF Executive Director/Chief Executive Officer

The Louisiana Bar Foundation (LBF) announced the appointment of Laura Cangelosi Sewell as its Executive Director/ Chief Executive Officer.

"We are thrilled to appoint Laura Cangelosi Sewell as our Executive Director/Chief Executive Officer," said LBF President Judge (Ret.) John C. Davidson. "Laura's extensive experience and proven leadership within the Foundation make her the ideal person to guide us forward. We are confident in her ability to continue advancing our mission and expanding our impact."

Sewell has been an integral part of the LBF for 19 years. She began her tenure with the Foundation as development director in 2005. In 2020, she was appointed associate executive director, and she subsequently advanced to chief operations of-ficer/associate executive director. Her journey through various leadership positions has equipped her with deep insights and a

strategic vision for the Foundation. She is a seasoned fundraiser with a background in corporate fundraising, state contracts and nonprofit management.

As Executive Director/Chief Executive Officer, she will lead the LBF in its role as the largest state funder of civil legal aid in Louisiana. The LBF also administers the Interest on Lawyers Trust Accounts Program (IOLTA) on behalf of the Louisiana Supreme Court, and, under her leadership, the Foundation will continue to champion access to justice for Louisiana's most vulnerable citizens.

"I am honored and excited to step into this new role," Sewell said. "I look forward to working with our dedicated team and partners to further our mission and drive meaningful change. Together, we will build on the Foundation's achievements and continue to make a positive impact in our community."

LBF Is Popping Up in Your Community!

The Louisiana Bar Foundation (LBF) is currently coordinating its Pop Up Tour throughout the state and offering a free one-hour (professionalism) CLE program on "Why the LBF is Good for the Profession." These events are open to all interested in learning about the LBF, how it operates, the growing need for civil legal aid, and how the LBF is trying to meet these needs. Attendees can connect with local people and organizations with first-hand experience with civil legal aid issues.

The tour schedule is Dec. 4, Central; Dec. 5, Northwest; Dec. 5, Northeast; Jan. 8, Southwest; Jan. 8, Acadiana; Jan. 9, Bayou Region; and Jan. 16, Capital Area.

For more information, go online to: www.raisingthebar.org or https://raisingthebar.org/events-2/pop-up/.

President's Message

Banks and the Legal Community: A Unique Partnership

By Judge (Ret.) John C. Davidson, 2024-25 LBF President

or many of us in the legal community, IOLTA is a familiar acronym that stands for Interest on Lawyers Trust Accounts. For those who are unfamiliar with it, here's how it works.

Lawyers routinely receive client funds that are held in trust accounts for future use. When the amount is substantial or intended to be held for an extended period, these funds are placed in interest-bearing accounts to benefit the client. When it is not feasible for client funds to earn income individually, they are deposited into a pooled account known as an IOLTA Account. On Jan. 14, 1985, the Louisiana Supreme Court (LASC), by a unanimous decision, approved and ordered a voluntary IOLTA program. On Dec. 13, 1990, the Court converted the voluntary program to a mandatory one, effective Jan. 1, 1991. The Louisiana Bar Foundation (LBF) administers the IOLTA Program on behalf of the LASC.

Access to an attorney is not a fundamental right in civil matters. The funds generated by the IOLTA program help overcome the barriers to civil legal representation. On behalf of the LBF, and me personally, I would like to thank the LASC for its unwavering commitment to providing access to civil legal aid for everyone, including those who lack the means to hire an attorney. Our Justices lead by example

in supporting the work necessary to meet the civil legal needs of our underserved people.

The LASC order provides that all attorneys in the IOLTA program must place all client's deposits that



are "nominal in amount or to be held for a short period of time" in the interest-earning IOLTA account. The interest generated from these trust accounts is directed to the LBF. The LBF then awards grants to qualifying organizations, including legal service corporations, pro bono programs, battered women shelters, and numerous other community organizations that provide civil legal aid to Louisiana's low-income citizens.

The LBF IOLTA Program is a unique and innovative way to increase access to justice for individuals and families living in poverty. Without imposing taxes on the public or incurring costs for lawyers or their clients, the interest earned on specific funds in lawyers' trust accounts is used to fund civil legal aid and support improvements in the justice system. Since the attorney may not ethically receive the interest, and since neither the attorney nor the bank can practically allocate to multiple clients small amounts of interest, the interest is paid by the financial institution to the LBF.

This unique partnership between the banking and legal communities enhances our ability to meet the growing need for free civil legal aid to the poor.

The LBF Grants Committee reviews and evaluates grant applications then makes recommendations to the LBF Board of Directors. Grant applications for 501c3 organizations that lead community-driven efforts to help families facing non-criminal, civil legal challenges opened Oct. 1 and will close on Dec. 2, 2024. Applications ARE on our website, www. raisingthebar.org. Moreover, there is still time for you to join the LBF and participate on the Grants Committee and be at the table when the grant decisions are made.

Some financial institutions go above and beyond the minimum requirements of the program by choosing to pay 60% of the federal funds rate on all IOLTA accounts. We refer to them as our Prime Partner financial institutions. They are committed to the success of the IOLTA Program. Our statewide Prime Partner banks are Chase, First Horizon, Hancock Whitney and Regions. A list of local Prime Partner banks is on the LBF website, www.raisingthebar.org.

Visit our website at www.raisingthebar. org or contact us at (504)561-1046 if you are interested in finding out how you can support our mission.

LBF Sets Application Deadlines for 2025-26 Grants and Programs

The Louisiana Bar Foundation (LBF) has set application deadlines for 2025-26 Annual/Sustaining Grants, the Loan Repayment Assistance Program and the Kids' Chance Scholarship Program.

Annual/Sustaining Grant applications will be accepted from Oct. 1 through Dec. 2, 2024. Grants are available to 501(c)(3) organizations that lead community-driven efforts to help families facing non-criminal, civil legal challenges. Access the grant portal at: https://webportalapp.com/sp/login/lbfgrants. Applications also will be avail-

able online at: www.raisingthebar.org.

Applications for 2025-26 Loan Repayment Assistance (LRAP) Program funding will be available online from Dec. 2, 2024, through Feb. 14, 2025. LRAP provides forgivable loans of up to \$5,000 per year to attorneys working in a public interest position. For more information on LRAP, email Renee LeBoeuf at renee@raisingthebar.org or go online: https://raisingthebar.org/loan-repayment-assistance-program/.

Applications for the 2025-26 academic

year for the LBF Kids' Chance Scholarship Program will be accepted online from Dec. 2, 2024, through Feb. 14, 2025. Kids' Chance Scholarships are for dependents of Louisiana workers who have been killed or permanently and totally disabled in an accident compensable under a state or federal Workers' Compensation Act or law. For more information on Kids' Chance, email Renee LeBoeuf at renee@raisingthebar.org or go online: https://raisingthebar.org/kids-chance-scholarship-program/.



2024-25 **—\$ 14.6 Million**

for Civil Justice Initiatives

Louisiana Bar Foundation is the State's largest funder of civil legal aid. We partner with a network of more than 70 organizations that lead community focused efforts to help families facing non-criminal, civil legal issues. Since 1989 the LBF has granted more than \$133.3 million in grants to help disadvantaged people across a wide range of issues, including assistance for veterans and military families, domestic violence, senior and elderly services, child welfare services, housing, and unemployment.

Access to Justice Fund Grants

\$50,000

Promotes administration of justice and benefits Louisiana's statewide justice community. Initiatives for consideration must meet at least one of the following criteria: The advancement and maintenance of statewide technology, the coordination of statewide intake and referral, or disaster/emergency response.

Adult Civil Legal Aid Services

\$1,000,000

For the provision of adult civil legal services within the state's civil justice system.

Building Capital Development

\$281,831

Grants up to \$50,000, on a 50% to 50% ratio matching basis, to current grantees with the purpose of assisting in the acquisition or renovation of an office building and/or property.

Child in Need of Care

\$3,084,853

Through Acadiana Legal Service Corporation and Southeast Louisiana Legal Services this funding provides free legal representation to children in need of care, foster care, and non-custodial.

Children's Legal Services

\$400,000

Helps to provide legal assistance to needy children in areas of law which affect their safety, well-being, and future development.

Domestic Violence Programs

\$1,500,000

Essential services provided by these agencies are shelter, 24-hour crisis line, legal services, education of domestic/dating violence, and establishing collaborative relationships with law enforcement, judges, clerks of court, and prosecutors.

Jock Scott Community Partnership Panel Grants

\$475,650

Nine Community Partnership Panels act as regional chapters of the Foundation.

Kids' Chance Scholarships

\$67,000

The Louisiana Bar Foundation Kids' Chance Scholarship Program is helping kids achieve their dreams. The program provides scholarships to the children of Louisiana workers who have been killed or permanently and totally disabled in an accident compensable under a state or federal Workers' Compensation Act or law.

Law-Related Education

\$275,000

The LBF awards grants to entities for law-related educational programs benefitting children and/or the public.

Legal Services Corporations

\$4,000,000

Eligible programs are funded by the LSC federal agency and provide civil legal services to the indigent in each parish of the state.

Loan Repayment Assistance Program

\$5,000

The Loan Repayment Assistance Program provides forgivable loans of up to \$7,500 per year to attorneys working at an organization supported by the LBF. Recipient identities are kept confidential.

Louisiana Housing Corporation Grants

\$333,333

Funding is for education, counseling, and direct representation aiding impoverished citizens in matters of title clearing (as it relates to homeowner foreclosure), foreclosure prevention, mediation, and mortgage loan modifications.

My Community Cares

\$375,000

The LBF supports the MCC Program which strengthens families and prevents child abuse and neglect preventing the need for foster care. Funding is for full-time attorney positions fully dedicated to MCC work.

Other Legal Service Providers

672.520

Through staff attorneys and paralegals, these programs provide legal services of a special nature such as mental health and child advocacy mediation.

Pro Bono Projects

1.350.00

Often operated by the local bar association, these projects utilize the local private bar to handle cases for the poor pro bono in many legal areas.

Pro Hac Vice \$102,790

A portion of the fees collected by the Louisiana state courts through motions for pro hac vice admission filed by out-of-state lawyers not licensed to practice law in Louisiana are directed to the LBF for distribution for the Legal Service Corporation's programs providing civil legal aid in Louisiana.

Special Program and Project Grants

\$570,000

Collaboration with justice community stakeholders providing umbrella support services to several or all civil legal aid providers.

Become a Fellow!

LBF Fellows are critical for increasing access to civil legal aid, legal education, and legal awareness throughout the state.

Learn more by visiting www.RaisingTheBar.org/become-a-fellow or scan the QR code below.



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LaBarFoundation

1615 Poydras Street, Ste. 1000, New Orleans, LA 70112 phone: 504-561-1046 fax: 504-566-1926 www.RaisingTheBar.org

As of 8/24



ADS ONLINE AT WWW.LSBA.ORG

CLASSIFIED NOTICES

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

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Boxed ads must be submitted camera ready by the advertiser. The ads should be boxed and 21/4" by 2" high. The boxed ads are \$70 per insertion and must be paid at the time of placement. No discounts apply.

DEADLINE

For the February issue of the Journal, all classified notices must be received with payment by Dec. 18, 2024. Check and ad copy should be sent to:

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

RESPONSES

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

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POSITIONS OFFERED

Assistant district attorney, Civil Division in the 22nd Judicial District, Mandeville, LA. This position is responsible for providing legal counsel on all civil legal matters assigned, including advising St. Tammany Parish Government, Parish code enforcement cases, litigation and appeals. Minimum five years' experience as a licensed attorney. Prior government experience a plus. For further details, click link: https://recruiting.paylocity.com/recruiting/jobs/List/5750/District-Attorney-Office. Or go to the website: https://collinsimsda.org.

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JD with honors, federal judicial clerk, graduate of top 10 law school, 25 years' experience federal and state litigation, creative legal thinker. Available for briefs, research, court appearances, analysis of unusual or problem cases. References on request. Catherine Leary, (504)436-9648, statewide services, registered office Jefferson Parish. Email CatherineLeary2021@gmail.com.

Brief writing/legal research. Columbia Law School graduate; former U.S. 5th Circuit staff attorney; former U.S. District Court, Western District of Louisiana, law clerk; more than 20 years of legal experience; available for brief writing and legal research; references and résumé available on request. Appellate Practice specialist, certified by the Louisiana Board of Legal Specialization. Douglas Lee Harville, lee.harville@theharvillelawfirm.com, (318)470-9582 (Shreveport).

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NOTICE

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

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VOLUNTEERS NEEDED! A FREE ONLINE FORUM FOR CIVIL LEGAL QUESTIONS



Ipse Dixit: In Praise of the Lowly Legal Pad

By Edward J. Walters, Jr.

o you're in court waiting for your case to be called, watching the arguments before yours. Analyzing, as we all do.

A lawyer is at the lectern in the middle of a very-well-prepared oral argument. It's all laid out on his laptop. It's all running quite smoothly.

Then it happens.

You've seen it happen.

You're glad it didn't happen to you.

The court asks, "Where is that in the record?" Or, "You cited the Guidry case. Where does the Guidry case say that?"

Let's peek inside the courtroom.

The lawyer looks down at his laptop. It's ready. There's a tab for the record. There's a tab for the Guidry case.

He leaves the "Argument" screen and goes to the "Guidry" screen. OK, he's here on the "Guidry" screen. Now he needs to find his previously highlighted paragraph which answers the court's question.

Scroll. Scroll. Scroll.

That inquisitive judge is tapping a pen on the bench. Waiting.

Scroll. Scroll. Scroll.

Trying to help the lawyer, the judge says, "While you are looking for that, answer me this, 'What did Mrs. Smith say about that in her deposition?" A reprieve! Now he goes to the "Smith" tab to get to her deposition. It's all here and he has it highlighted in yellow. So, while the court is waiting, he heads to that paragraph which will answer the court's question.

Scroll. Scroll. Scroll.

Tap. Tap. Tap.

Scroll. Scroll. Scroll.

These electronic tools are magic. They truly are.

But when you should be having a CONVERSATION with the court, your focus should not be on looking down and away from the court to find the tab or to find the paragraph on the screen with the yellow-highlighted answer to the judge's question. Your focus should be on having a conversation with the court.

We all know that many lawyers have been raised in today's electronic world, starting in grammar school — no books, everything's on your laptop. We all agree it's truly amazing.

UNTIL you need it NOW. Immediately.

Had THAT lawyer had THAT page from THAT case with THAT yellow highlighting copied — on paper — and brought it with him to the lectern, he could have raised it in his right hand and read it to the court.

Or, if the outline of his argument was on a lowly legal pad, listed as "Issues Which May Come Up" and "Responses," he could have pulled his copy of the *Guidry* case from under his legal pad, with Post-it notes where the yellow highlighting gives the answer to the judge's question, and he could actually HOLD UP a copy of the *Guidry* case showing the court the yellow highlighting where the answer is.

We see this all the time.

Our goal is to have a conversation with the court. What we see too often is a lawyer looking down at a screen valiantly trying to find what the judge wants.

It's there. Of course it is.

In the meantime, there is no conversation occurring between the lawyer and the judge. It's a judge, a lawyer looking down, and an electronic screen dividing them.



Edward J. Walters, Jr., a partner in the Baton Rouge firm of Walters, Thomas, Cullens, LLC, is the Louisiana State Bar Association president-elect and a former secretary and editor-in-chief of the Louisiana Bar Journal. He is a member of the Journal's Editorial Board and a former chair of the LSBA Senior Lawyers Division. (walters@lawbr.net; 12345 Perkins Rd., Bldg. 1, Baton Rouge, LA 70810)





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