

THE BAR REVIEW

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EVENTS AT A GLANCE

11/7	SBA Membership Luncheon (Veterans Program) – 12:00 p.m. - Petroleum Club
11/10	Justinian 5K Run and Midway to Mardi Gras Party
11/10	Justinian Midway to Mardi Gras Party at Petroleum Club of Shreveport
11/15	November Bar Review Ad & Article Submission Deadline
12/11-12	December CLE by the Hour Seminar at Petroleum Club of Shreveport



From The President

by Jim McMichael, President, jmcmichael@mmw-law.com

WE'RE A SUPERSTITIOUS BUNCH

Baseball players on winning streaks don't wash their uniforms, golfers only use balls with certain numbers, architects design buildings without 13th floors, most people knock on wood, avoid black cats and wouldn't dare walk under a ladder. And yes – even we attorneys use superstitions or odd little routines in hopes that they will improve our outcomes in court.

For me – I won't go to trial without my favorite beat-up brown briefcase that I've had since I started practicing in 1976. It looks terrible and will no longer stand up on its own – but I won't go into battle without it. And even weirder – I absolutely won't leave the courthouse during a trial day and prefer not to even leave the courtroom (bathroom breaks excepted). This means either packing a lunch in the aforementioned ancient briefcase or eating something from the courthouse snack bar.

Although we are schooled in logic and analysis, we lawyers may be more superstitious than other groups in society. Apparently, there were enough attorney superstitions to warrant a small section in the *Encyclopedia of American Popular Belief and Superstition* compiled in 1990 by the UCLA Center for the Study of Comparative Folklore and Mythology. The encyclopedia's executive editor reasoned, "They're in a profession where they're sort of under the gun all the time. When people are under a lot of stress – and lawyers are – they do things they might later recognize as irrational but which don't hurt anyone. And they might even help."

For instance, one superstition submitted by an Arkansas lawyer suggests that it is bad luck for a lawyer to get a haircut until a trial is finished.

Famed law professor Arthur R. Miller won't go to court without a three-piece suit, red tie and red pocket square. Some lawyers have lucky shoes.

One particular California assistant DA won't appear before a jury without her Batman watch. Her fellow prosecutor has to have three pens – one blue, one red and one black – in his shirt pocket when he argues in court.

A New York criminal defense attorney eats the same lunch at the same restaurant and the same table every day of trial.

And renowned plaintiff's attorney Steve Susman is never present when the jury returns the verdict – leaving that for an associate.

These sorts of rituals and superstitions involve behavior or actions that one carries out with the belief that the behavior has specific purpose or power to influence one's performance. A superstition is typically developed in hindsight – perhaps by accident – and then becomes required in future events to foster a particularly good outcome or performance or avoid a bad one. A lawyer might look back and notice things like what they ate or wore, or they'll notice something unusual that happened before a good outcome in a case, and ascribe a cause-and-effect relationship to them before every competition.

A study designed to determine why so many people rely on superstitious thoughts

continued on page 4

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The Shreveport Bar Review reserves the right, in its discretion, to decline to accept advertisements from any individual, corporation, partnership, entity, group or association, without the necessity of giving a reason for its declination.



Save the Date

The Shreveport Bar Association

Christmas Party

honoring

Area Law School Students

Will be held on

Sunday, December 16, 2018

3:00 p.m. to 5:00 p.m.

The Robinson Film Center

Invitations will be mailed mid November

*Support Shreveport Bar Foundation
Pro Bono Project when you shop
this holiday*

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December CLE By The Hour December 11 & 12, 2018

Petroleum Club, 15th Floor
416 Travis Street, Shreveport

12.5 Louisiana CLE Credits (including Ethics & Professionalism) Texas CLE Credit Approved (including Ethics)
Presented by SBA CLE Co-Chairs Judge Frances J. Pitman and Judge Michael A. Pitman
(Please Circle All Classes Attending)

Tuesday, December 11, 2018

Wednesday, December 12, 2018

- 8:00 A.M. Registration & Continental Breakfast
- 8:30 A.M. Criminal Law Recent Developments
60 Minutes Judge Brady O'Callaghan – First Judicial District Court
- 9:30 A.M. Helpful Hints from A to Z from Fannin Street
60 Minutes Judge Jeanette Garrett - Second Circuit Court of Appeal
- 10:30 A.M. Sponsor Break
- 10:45 A.M. Federal Procedure
60 Minutes Magistrate Judge Mark Hornsby - United States District Court, Western District
- 11:45 A.M. Lunch (included with all-day registration, or \$25)
- 1:00 P.M. 2018 Legislative Updates
60 Minutes Senator Ryan E. Gatti – Gatti & Merckle Law Firm
- 2:00 P.M. Sponsor Break
- 2:15 P.M. Employment Law
60 Minutes Allison Jones – Downer, Jones, Marino & Wilhite and Michael Lowe – Kean Miller
- 3:15 P.M. Sponsor Break
- 3:30 P.M. Bankruptcy
60 Minutes Judge John Hodge – United States Bankruptcy Court

- 8:00 A.M. Registration & Continental Breakfast
- 8:30 A.M. Appellate Practice
60 Minutes Kenneth P. Haines – Weems, Schimpf, Haines, Shemwell & Moore
- 9:30 A.M. Technology in the Courts: 2018 Update
60 Minutes Melissa Allen - United States Fifth Circuit Court of Appeals
- 10:30 A.M. Break
- 10:45 A.M. Successions
60 Minutes Ben Politz - Booth, Lockard, Politz & LeSage
- 11:45 A.M. Lunch (included with all-day registration, or \$25)
- 12:45 P.M. First, Make a Roux! A Recipe For Winning at Trial and Appeal Court
60 Minutes Judge Frances J. Pitman - Second Circuit Court of Appeal and Judge Michael Pitman – First Judicial District Court
- 1:45 P.M. Ethics
90 Minutes Associate Justice Scott J. Crichton - Louisiana Supreme Court
- 2:50 P.M. Break
- 3:00 P.M. Professionalism: Litigation and the Art of War
60 Minutes Judge Jeff Thompson– Twenty Sixth Judicial District Court and Jim McMichael - McMichael, Medlin, D'Anna, Wedgeworth & Lafargue

BACK BY POPULAR DEMAND!! Our Recent Developments seminar presenters were such a **HUGE** success, that by popular demand we are bringing some of them back for our **December CLE by the Hour seminar!** Some of the comments we received, “Great speakers, very knowledgeable and entertaining!” “The information presented was universal and interesting.” “The presenters were excellent!”

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 (Please include email for materials to be sent)

Registration Fees: [Complete this form or register online at shreveportbar.com](http://shreveportbar.com)

Hourly Rate	Non-Members - \$65 per hour (\$75 after Dec. 1) SBA Members - \$55 per hour (\$65 after Dec. 1)
Tuesday (6 hrs)	Non-Members - \$375 (\$400 after Dec. 1) SBA Members - \$275 (\$300 after Dec. 1)
Wednesday (6.5 hrs)	Non-Members - \$400 (\$425 after Dec. 1) SBA Members - \$300 (\$325 after Dec. 1)
Both Days (13 hrs)	Non-Members - \$550 (\$600 after Dec. 1) SBA Members - \$450 (\$500 after Dec. 1)

Materials: Please circle your materials preference below:
 Electronic - FREE Printed Manual - \$45 Flash Drive - \$25
 Full registration refund until November 15, 2018, less a \$25 administrative fee
 After November 15, full credit less a \$25 administrative fee may be applied to
 future SBA sponsored CLE for up to one year.

Materials: The registration fee includes course materials provided electronically. Printed Materials are available at an additional cost upon request.
Important Note: A link to the seminar materials will be sent to you via email prior to the seminar. Because neither internet access nor electrical outlets are guaranteed, we suggest that you either print or save the PDF materials to your laptop, and fully charge your batteries if you wish to review the materials at the seminar.
Walk-In Registration: Must pay the registration and materials price and receive hard-copy materials by default.

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and practices in their daily routines to gain “good luck” or optimum performance suggested that activating good-luck-related superstitions through a common saying or action (for example “Bless you” after a sneeze or “fingers crossed”) or by a lucky charm or symbol can improve one’s subsequent performance in sports, dexterity, memory and concentration. It suggests that these benefits are produced by changes in people’s perceived self-efficiency, which activates a boost in confidence that leads to successful completion of the upcoming tasks, which in turn improves their individual performance.

The real value in superstition or ritual is the boost of confidence and the sense of control that it can provide. If a person believes that doing a specific action or behavior will make them perform better, then maybe they will. Anything that tends to recreate a particularly successful outcome or trial as though it is happening now, prepares one both mentally and physically for a successful outcome.

So – go ahead, wear that lucky tie or rub that rabbit’s foot you have in your pocket. It can’t hurt – and might even help. Send me your superstition (the weirder, the better) at jmcmichael@mmw-law.com and I’ll pick out some good ones to share next month.

Until then, break a leg...

Welcome TO THE SBA

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**Watch your mailbox for your
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Second Circuit Highlights

by Hal Odom Jr., rhodom@la2nd.org

Attorney fee cases. Michael Carter, a member of the Municipal Fire & Police Civil Service Board, filed two suits against the City of Shreveport. The city then sued him to enjoin him from sitting on the Board. In the city's suit, Carter moved for summary judgment and requested sanctions in the form of attorney fees. The district court granted his MSJ but denied the claim for sanctions. Carter then asked the Board to indemnify him for attorney fees spent in defending the city's suit, and the Board agreed, giving him \$9,625. The city sought judicial review, but the district court (different judge) affirmed; the city appealed. In *City of Shreveport v. Shreveport Municipal Fire & Police Civil Serv. Bd.*, 52,304 (La. App. 2 Cir. 9/26/18), an opinion by Judge McCallum, the Second Circuit affirmed the indemnification. The biggest part of the opinion was determining that La. R.S. 33:2501.1, which would have disallowed indemnification, did not apply, and that R.S. 33:2506, which would allow it, did. However, the city also raised the intriguing argument that because the district court had previously denied sanctions in the form of attorney fees, the issue was res judicata. The court analyzed the elements of res judicata, R.S. 13:4231, and found "no second action or lawsuit seeking attorney fees." The Board member's attorney got to keep the \$9,625.

When the flood of March 2016 hit northeast Louisiana, Mike Jacobs tried to move his three cars to safe ground, but while driving his 2001 Honda Accord through high water, he saw it was suddenly overheating. He filed a claim for flood damage with his auto insurer, GEICO, but GEICO's appraiser said the upper radiator hose blew out, unrelated to flooding; the claim was denied. Jacobs sued GEICO for damages and attorney fees; at trial, he offered his own mechanic's report that the Honda had been damaged by flood water. The Monroe City Court accepted the mechanic's view, and awarded Jacobs \$2,000 in property damage and \$1,500 in attorney fees, both subject to legal interest from date of judicial demand. GEICO appealed, contesting the findings of insurance coverage, flood damage and arbitrary and capricious failure to pay a claim, and the award of interest. In *Jacobs v. GEICO Indem. Co.*, 52,372 (La. App. 2 Cir. 9/26/18), an opinion by Judge Williams, the court applied manifest error to affirm most of the judgment. However, it also ruled that interest on an award of attorney fees can begin only from the date of judgment, not judicial demand. *Arceneaux v. Amstar Corp.*, 2010-2329 (La. 7/1/11), 66 So. 3d 438. Considering the current judicial interest rate of 5%, the principal of \$1,500, and the difference of 318 days, this probably cost the attorney about \$65 in interest.

I'd be crazy to buy this car. In late 2010, Ms. McDonald went to Sparks Nissan Kia, in the Monroe Auto Mall, and bought a new 2011 Kia Optima LX, for \$23,225. However, she came back the next day and tried to rescind the sale, citing health reasons: although she was fine on her blood pressure meds, she had run out of test strips for her glucometer, could not test her blood sugar, had elevated blood glucose, and had not been able to take her insulin that day. Sparks Nissan refused to

rescind the sale. Ms. McDonald stopped two \$2,500 checks to Sparks Nissan, and never made any payments on the car. She filed suit to rescind the sale, and, over three years later, added a claim under the La. Unfair Trade Practices Act ("LUTPA"). Meanwhile, the Kia was repossessed and sold at auction, leaving an unpaid balance of \$198. Sparks Nissan reconvened for the \$5,000 in stopped checks. At trial, Ms. McDonald offered no medical evidence about how her blood sugar imbalance might have clouded her judgment. The Monroe City Court denied Ms. McDonald's principal claim and Sparks Nissan's reconvention, and both sides appealed.

The Second Circuit affirmed, *McDonald v. Orr Motors of Little Rock Inc.*, 52,225 (La. App. 2 Cir. 9/26/18), in an opinion by Judge Stone. The court found that the LUTPA claim was perempted, under R.S. 51:1409 E and *Glod v. Baker*, 04-1483 (La. App. 3 Cir. 3/23/05), 899 So. 2d 642, writ denied, 2005-1574 (La. 1/13/06), 920 So. 2d 238. Most interestingly, the court cited the presumption of capacity to contract, La. C.C. art. 1918, and the difficult burden of rebutting this. Finally, the court approved the City Court's finding that in light of Ms. McDonald's trade-in and the amount the Optima fetched at sheriff's sale, Sparks Nissan did not prove any loss from the stopped checks. That old standby from school days – a doctor's note – might have helped Ms. McDonald get out of this car deal.

Text messages as "writings." Shelly Stockton was president of the corporation that owned Smitty's Pizza, on Mansfield Road, but she was thinking about selling it. On February 21, 2016, she signed a listing agreement with Benchmark Business Brokers, giving them exclusive right to sell, for 12 months, at an asking price of \$499,000, and a 10% broker's commission. The agreement also stated that if Smitty's withdrew from the listing before the 12 months were up, it would immediately owe the \$49,900 commission. In late November, Marc Able, Benchmark's agent, texted Ms. Stockton, "Have you withdrawn your business for sale?" She replied, "No, I know the contract I signed with you is for a year," but she was still working on the 2015 profit-and-loss statement to show to prospective buyers. Able responded, "I'm not going to ask that you honor the contract[,] I just don't want to waste anymore [sic] time talking to people if you really don't want to sell." After a few texts about the still-unfinished P&L, Ms. Stockton texted him, on February 13, 2017, "I know you're going to think I'm crazy, but after this weekend I've decided I'm going to keep the place for a while." Benchmark filed suit for its commission; after Smitty's answered, Benchmark moved for summary judgment, which the district court granted. Smitty's appealed.

The Second Circuit affirmed, *Victus 1, Inc. v. Stocky's World Famous Pizza #14*, 52,221 (La. App. 2 Cir. 9/26/18), in an opinion by Judge Pitman. Smitty's argued that Able's text, "I'm not going to ask that you honor the contract," modified the agreement orally and by mutual action. The court considered

that a text message may constitute a writing, under La. C.E. art. 1001 (1). However, the court pointed to a provision (§ 18) of the agreement saying that “no amendment, material modification or extension of this Agreement shall be valid or binding unless made in writing and signed by both Seller and an Officer of the Broker.” Since the texts were not signed by Ms. Stockton or Mr. Able, there was no agreement to modify.

If you are inclined to do much business by text message, you might take a very close look at Art. 1001 (1). In the modern environment, “letters, words, numbers, sounds, or their equivalent,” or the catchall “other form of data compilation,” probably describe or encompass the cell-phone text message. And you are bound by your text/ writing.

And then there’s email. Dr. Munker was a tenured professor of medicine at LSU Med Center. He felt that Dr. Mills, head of Feist-Weiller Cancer Center, and various members of the faculty did not want him (Dr. Munker) to conduct important research, but just to teach classes. After a heated staff meeting in August 2015, Dr. Munker told Dr. Mills, “Well then, I’ll resign and I’ll go to Minnesota or Washington where they appreciate me and I can do research.” A few minutes later, Dr. Mills emailed Dr. Munker, “I will accept your letter of resignation today. * * * If you wish to remain a faculty member then I expect you to fully perform your faculty duties including teaching[.]” A few minutes later, Dr. Munker replied, “As you know, a letter of resignation has to be in writing.” About an hour later, Dr. Mills responded, “I was following up on your statement * * * you wished to resign. If you have changed your mind that is fine.” Dr. Munker replied that LSU’s system was inferior “by German standards.” Finally, Dr. Mills wrote, “Stop these emails. You are free to leave, send me your resignation.” Later, Dr. Mills emailed the chancellor, Dr. Barish, that Dr. Munker got into an argument “and threatened to resign.” About a week later, Dr. Mills emailed Dr. Munker, “I prefer you to stay but if you wish to leave then we will work out your departure date.” Dr. Munker replied, “If you want to discuss research, any time in the afternoon. If you want to discuss the conditions for me to stay, I will get a lawyer and/or a witness.” Two days later, Human Resources sent Dr. Munker a “Notice of Immediate Dismissal.” Dr. Munker then filed suit for wrongful termination; after responsive pleadings, both sides moved for summary judgment. The district court granted LSU’s motion and denied Dr. Munker’s; Dr. Munker appealed.

The Second Circuit reversed, *Munker v. Board of Supervisors*, 52,214 (La. App. 2 Cir. 9/19/18), in an opinion by Judge Williams. Unlike in the previous case, no argument was made that the parties’ emails did not constitute writings. Instead, the court read them literally and found a genuine issue of material fact as to whether Dr. Munker really resigned, or just intended to. The court noted his initial, conditional statement, “Well then, I’ll just resign,” and Dr. Mills’s inconclusive responses, “If you wish to remain a faculty member then I expect” and “If you have changed your mind, that’s fine,” as well as Dr. Mills’s email to the chancellor that Dr. Munker had only “threatened to resign.” The court considered Dr. Munker’s intent to resign a matter of motive, intent or good faith, and not suitable for summary judgment.

Creative concursus. It was a convoluted fact set. Leroy Crumpton owned a 1991 Ford F-150 pickup. In February 2009, he called Lennard Russell to ask if he could use Russell’s hoist to get the engine out of it. According to Russell, Crumpton promised he would finish this within three days, so Russell

agreed. However, Crumpton parked the truck at Russell’s house and then never came back for it. Russell called him a few times, finally leaving this message: come get that truck by March 24 or it’s going “on the street.” With no response from Crumpton, Russell put the old truck on the street. There it stayed until April 14, when Russell came home from a doctor visit and saw it was gone. He assumed Crumpton had finally come by to tow it off. A few weeks later, May 8, somebody named Edward Smith brought the truck to Monroe Iron & Metal, a/k/a Auto Shred, and sold it for scrap, for \$132.00. Crumpton alleged that on May 11, “a friend at Auto Shred” called him to say his truck was there. By the time Crumpton arrived to get it, the F-150 was already crushed. Certain that his truck was worth \$1,500, Crumpton sued Smith and Auto Shred; later, he added Russell as defendant.

Auto Shred then filed a most creative pleading, a petition for concursus. This alleged that Crumpton, Smith and Russell had competing claims for the \$132 scrap value of the truck, which Auto Shred placed in court registry. Crumpton objected that this was not the proper situation for a concursus proceeding, but after a hearing on rule, the Monroe City Court approved the concursus, dismissed Auto Shred from the suit, and ordered the clerk of court to give Crumpton the deposit, plus interest, a total of \$142.78. Crumpton appealed this small judgment.

The Second Circuit reversed and remanded, *Crumpton v. Smith*, 52,219 (La. App. 2 Cir. 9/26/18), in an opinion by Judge Moore. The first part of the opinion addressed whether Auto Shred complied with a special statute, R.S. 32:718, governing the sale of an “auto hulk” as scrap to a scrap metal processor. If you have ever wondered how to make a car really go away, you need to read this statute.

Even more interesting, however, was the discussion of whether concursus is proper in a situation like this. Ordinarily, an insurance company or an oil and gas operator files a concursus over policy proceeds or royalty payments, and all claimants can “fight it out” in accordance with La. C. C. P. art. 4651. The plaintiff has to admit owing the money, La. C. C. P. art. 4658. However, concursus must be tried as an ordinary proceeding, not as a rule to show cause, and it cannot be used to adjudicate claims raised in the main demand, *Collins v. Universal Cas. Co.*, 2010-844 (La. App. 3 Cir. 2/2/11), 54 So. 3d 1284; *Hollywood Casino Shreveport v. Shreveport Paddlewheels LLC*, 20-2134 (La. App. 4 Cir. 7/23/03), 853 So. 2d 660. Moreover, concursus does not relieve the depositor of *all liability*, but only the liability for the money deposited. In other words, Crumpton can try to prove that the 1991 Ford F-150 was worth more than \$132, and that perhaps Auto Shred was complicit in the loss.

Considering that that old truck is now just a cube of rusted metal, proving any kind of value might be a crushing burden.

Mark Your Calendar



NOVEMBER 7

SBA Member Luncheon

12:00 Noon at the Petroleum Club (15th Floor)

Speaker: U.S. Coast Guard Captain

Kristi M. Luttrell, Deputy Sector

Commander, Sector New Orleans

NOVEMBER 10

Justinian 5K Run

Rhino Coffee on Southfield Road

Midway to Mardi Gras Party

7:00 p.m. at the Petroleum Club (16th Floor)

DECEMBER 11-12

December CLE By the Hour Seminar

Petroleum Club (15th Floor)

DECEMBER 16

Area Law Student Holiday Reception

3:00 p.m. to 5:00 p.m.

The Robinson Film Center

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Harry A. Johnson, Jr. (deceased) - Army - Lt. Colonel
Tommy J. Johnson - Army - National Guard E4
Walter F. Johnson, III - Air Force - 1st Lieutenant
David C. Joseph - Army - Captain
Hon. Charles W. Kelly, IV - Army - Colonel
Benjamin King, Sr. (deceased) - Air Force - Lt. Colonel
David Klotz (deceased) - Army - Tech Sergeant
Norman Lafargue - Marine Corps - Corporal
William H. Ledbetter, Jr. - Army - Captain
Joe C. LeSage Jr. (deceased) - Army - Captain
Hon. Charles Lindsay - Army - Brigadier General
Stuart D. Lunn - Army - Captain
Wilburn V. Lunn (deceased) - Army - Colonel
Paul Lynch (deceased) - Army - Major
Hal V. Lyons (deceased) - Navy - AM 3C
John M. Madison - Army - 1st Lieutenant
Winfred L. Martin (deceased) - Army - Lt. Colonel
Kenneth Mascagni - Air Force - Captain
Robert K. Mayo (deceased) - Army - 1st Lieutenant
Lawrence McCollum (deceased) - Army Reserve - Lt. Colonel
Kyle McCotter - Army National Guard - Captain

TO OUR Veterans

Marshall McKenzie (deceased) - Army - Sergeant
 Donald R. Miller (deceased) - Air Force - Captain
 Garner R. Miller (deceased) - Army - Tech 5th Grade
 C. Gary Mitchell - Army National Guard - Sergeant
 J. Peyton Moore - Army - Captain
 John B. Morneau (deceased) - Coast Guard Reserve - E5
 Seth Moyers - Marine Corps - E-4
 Harry R. Nelson (deceased) - Air Force - Lt. Colonel
 Sydney B. Nelson - Navy - Lieutenant
 Jeffrey S. Norris - Army - Major
 John S. Odom, Jr. - Air Force Reserve - Colonel
 Ross Owen - Army - National Guard Specialist
 Curtis N. Petrey - Navy - Petty Officer 1st Class
 John R. Pleasant (deceased) - Navy - Lieutenant
 Hon. Henry A. Politz (deceased) - Air Force
 Staff Sergeant
 Robert G. Pugh (deceased) - Air Force - 1st Lieutenant
 David Rabb, Jr. - Army - Captain
 Cecil Ramey (deceased) - Army Air Corps - Sergeant
 Elton Richey - Army National Guard - Lt. Colonel
 C. Vernon Richie - Army National Guard - Specialist 4
 Hon. John Robinson - Army National Guard -
 Staff Sergeant
 Hon. Patrick Robinson - Army - Captain
 Gordon Rountree - Army - 1st Lieutenant
 Jennifer Sandusky - Air Force - Captain
 Daniel C. Scarborough (deceased) - Army Reserve -
 Major
 Hon. Fred C. Sexton (deceased) - Army - Captain
 John M. Shuey, Sr. (deceased) - Army - CIC 1st Lieutenant
 I. Henry Smith (deceased) - Navy - Lieutenant

James W. Spradling II - Air Force - Major
 Hon. Tom Stagg (deceased) - Army - Captain
 Hugh Milling Stephens (deceased) - Navy -
 Lt. Commander
 Hon. Carl E. Stewart - Army - Captain
 Hon. Ford Stinson, Jr - Army Reserve - Captain
 A. M. (Marty) Stroud III - Army National Guard - Major
 Fred Sutherland - Air Force - Sergeant
 Hon. Gorman Taylor (deceased) - Army - Corporal
 Edmund M. Thomas - Army - 1st Lieutenant
 Graham H. Todd - Air Force - Lt. Colonel
 Casper Ardis Tooke, Jr. (deceased) - Army -
 2nd Lieutenant
 John H. Tucker, Jr. (deceased) - Army - Colonel
 Yves M. Verret III - Marine Corps - Reserve E5
 Hon. Jeffrey P. Victory - Army National Guard - Spec. 4
 Glenn E. Walker - Air Force - Captain
 Walter Doug White - Army - Lt. Colonel
 Charles R. Whitehead, Jr. - Army - Captain
 William Scott Wilkinson (deceased) - Army - Colonel
 David S. Williams - Marine Corps - Corporal
 Navy - Lieutenant
 Thomas N. Williams - Air Force - Lt. Colonel
 Kenneth P. Wright - Army National Guard - Spec. 6
 Clarence L. Yancey (deceased) - Army - Lt. Colonel
 Steve R. Yancey II - Army - 1st Lieutenant

If you served in the Armed Forces and are not listed or if you know of a past or present SBA member who is not listed, please provide the information below, or call Dana Southern at the SBA office at 222-3643 Ext. 3.

Name

Branch of Service

Rank

Thanks For Your Valuable Contribution!

The planners and speakers of the SBA Recent Developments by the Judiciary CLE seminar are volunteers. Their gift of time and talent make this event successful. We acknowledge and greatly appreciate their work.

Melissa Allen

Michael Lowe

Marianne Boston

James C. McMichael Jr.

Honorable (Ret) Eugene Bryson Jr.

Honorable Brady O'Callaghan

Honorable Scott Crichton

Honorable Frances Pitman

Jerry Edwards

Honorable Michael A. Pitman

Honorable Jeanette Garrett

Bennett L. Politz

Kenneth Haines

Anna Priestley

Honorable John Hodge

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Recent Developments by the Judiciary

CLE Highlights



Captain Lyn Lawrence
invites you to a
BOURBON & BACON TASTING
with the
Krewe of Justinian XXV

Midway to Mardi Gras
November 10, 2018

7PM - 11PM

Petroleum Club

416 Travis St, 16th Floor
Shreveport, LA 71101
Valet Available

ATTIRE: Derby Festive
ENTERTAINMENT BY: The Mix
Bourbon Tasting & Bacon Station

TICKETS \$50

Available at www.kreweofjustinian.com

RSVP by Nov. 6th to Madeline at SBA

318-222-3643 Ext. 2

or mfarrar@shreveportbar.com

Complimentary Admission for Krewe of Justinian Members



Captain Speaks

by H. Lyn Lawrence Jr., Captain, lyn@lynlawrence.com

Much has happened since our last conversation. The Derby Days themed Justinian Coronation held August 17 was a smashing success. Almost 500 revelers – a Justinian record – pushed through the turnstiles at La Downs to welcome the new Royalty and enjoy the sounds of Empire 6. In one word – fantabulous!!!

I'm proud to say members of our Royalty attended each one of the 17 Coronations ending with the Krewe of Highland Oct. 12.

With Coronation season now behind us, the focus turns to Midway to Mardi Gras Nov. 10 from 7-11 at the Petroleum Club. Themed Bourbon and Bacon tasting, we have 4 Bourbon tasting stations planned with a bacon fete that includes everything from the standard bacon wrapped chicken to the more exotic bacon lettuce tomato on croustades and caramelized onion and bacon jam on a buttermilk biscuit. It isn't what your cardiologist recommended but remember – THERE ARE NO RULES!!!

Join us Nov. 10. It will be another Krewe of Justinian night to remember!!

TALK DERBY TO ME!!!

Captain Lyn Lawrence



Krewe of Justinian XXV 4th Annual

Midway to Mardi Gras 5K "Run for the Beads"

Saturday November 10, 2018

supporting the

Shreveport Bar Foundation

www.shreveportbarfoundation.org

**The first 300 finishers will receive a specialty bead!*

Date & Starting Time: Saturday, November 10, 2018 • Fun Run begins at 7:30 am • 5K begins at 8:00 am

Location: **RHINO COFFEE** • 721 Southfield Rd, Shreveport, LA 71106

Early Bird Registration: Sept 1 - Nov 9 • \$25 • Includes T-shirt

You may pay with a credit card **ONLINE ONLY** at www.sportspectrumusa.com or pay with cash, check, or credit card at Sportspectrum, 6970 Fern Ave, 71105.

Race Day Registration: \$35 • T-Shirts not guaranteed

T-shirt & Packet Pick-Up: Every pre-registered participant will receive an original race t-shirt. Packet pick-up will be held at Sportspectrum on Thursday, Nov 8 from Noon to 7 pm and Friday, Nov 9 from 10 am to 5:30 pm. You may also pick up your packet on Race Day at the race site at 7:00 am.

Awards: Overall Male & Female finishers in the 5k race will receive \$100. Overall M/F age group 1st place winners will receive \$25. Additionally, the first 300 finishers will receive a specialty bead.

Age Groups: <19, 20-29, 30-39, 40-49, 50-59, 60+

Post Party: Join us after the race for coffee and breakfast at **RHINO COFFEE!**

Special Note: Strollers, wagons, baby joggers and any hand-pushed or pulled vehicle will be allowed on the course, but at a walk pace only. Absolutely NO in-line skates, roller skates or runners with baby strollers will be allowed on run course. This is an RRCA regulation!

SIGN UP ONLINE at www.sportspectrumusa.com



WAIVER & RELEASE | THE KREWE OF JUSTINIAN'S MIDWAY TO MARDI GRAS 5K RUN FOR THE BEADS® OFFICIAL ENTRY FORM

In consideration of my being admitted to enter "Krewe of Justinian's Midway to Mardi Gras 5K Run for the Beads," I, for myself, my heirs, and assigns, executors and administrators, do hereby forever release and discharge Sportspectrum, RRCA, Sportspectrum Race Management, NWLRA, the Krewe of Justinian, Shreveport Bar Association, Shreveport Bar Foundation, their employees and agents, of and from any and all claims or demands for damages, injuries, or liability, in any manner rising out of participation in this event. I agree to indemnify and hold harmless the parties released above from any claims or demands for damages, for injuries or liability, in any way arising out of my participation in this event. I certify that I have prepared myself for this race and that I am in adequate physical condition to complete the event I have entered. I agree to follow all rules of this race and to permit myself be removed from the competition if in the opinion of Race Management that continuing would endanger my health.

LAST NAME _____ FIRST NAME _____

ADDRESS _____ CITY _____ ZIP CODE _____

BIRTH DATE ____/____/____ CIRCLE: Male or Female T-shirt Size (circle) YM YL S M L XL XXL (add \$2.00)

I understand and agree to all conditions of waiver. SIGNATURE _____

Parent/Guardian Signature for participant under 18 years old _____

And Justice For All



In Honor of National Pro Bono Week, the Shreveport Bar Foundation Pro Bono Project held a Celebration Breakfast to honor our dedicated volunteers and board members. Thank you for your generosity of time, knowledge, and supporting our community.

An ABA Day of Service



Yoga Veterans Gratitude Day



What: Yoga Nidra Class (relaxation, body awareness and breath work)

Why: Veterans Court is in need of funds to provide incentive awards for our veterans

When: Wednesday, Nov. 7

Time: 1:00 pm - 6:30 pm
(classes every half hour)

Where: Shreveport Bar Center,
625 Texas Street, Shreveport

Session Times	
Session 1: 1:00 pm	Session 6: 4:00 pm
Session 2: 1:30 pm	Session 7: 4:30 pm
Session 3: 2:00 pm	Session 8: 5:00 pm
Session 4: 3:00 pm	Session 9: 5:30 pm
Session 5: 3:30 pm	Session 10: 6:00 pm

Pricing	
Drop-In	\$10.00 / Person
Private Session	\$150.00 (up to 15 people)

*Facebook Event Page will update Private Sessions as reservations come in. Reservations will not be posted until donation is received.

All proceeds will benefit the Caddo Veterans Treatment Court Program.
All donations of \$150.00 or more will be recognized in the December *Bar Review*.
Reservations taken by Gernine Mailhes text or call 337-496-5760
Checks can be sent to Gernine Mailhes at 105 Leo Avenue , Shreveport, LA 71105.
Cash or checks accepted payable to "Yoga for Veterans"
All donations accepted
Please post this Flyer at your office



This Event is Sponsored by:
Shreveport Bar Association
Shreveport Bar Foundation
Louisiana Department of Parole
and Probation





What is Yoga Nidra?

by: Marcia Sample, Registered Yoga Teacher

Yoga Nidra is a guided meditation that can be used on a regular basis by a person without any prior knowledge or understanding of meditation. The benefits are usually realized early, especially for those suffering from PTSD and sleep deprivation. The U.S. military found the use of Yoga Nidra beneficial for returning soldiers suffering from battlefield fatigue, PTSD and TBI. Yoga Nidra is essentially making space for the brain to rewire negative thought patterns and destructive habits.

Described as “dynamic sleep,” the Yoga Nidra practice allows the body to deeply relax while the mind stays inwardly alert. Swami Satyananda Saraswati, who pioneered the practice in the early 1950s from ancient Tantric texts, calls it “reaching the border between waking and sleeping states.” Western medicine would call it the confluence of alpha and delta brainwaves

One of my students brought a book to me recently titled, *Yoga for Lawyers*. I had no idea the amount of stress there was in your profession. Laptops, cell phones, the entire digital revolution, all make it possible for clients to be “in touch” 24/7. The idea of being present in any one moment could be difficult to imagine. Yet, if you are not present in the moment, then where are you? Present moment, next moment, and the next. The pressure to be in the moment can seem overwhelming, impossible, yet it is not. The practice of Yoga Nidra teaches you to be present and in the moment.

Dear Attorney’s and Judge’s

November 7, 2018, is a special day in that the Shreveport Bar Foundation is hosting a yoga workshop on behalf of the Caddo Parish Veterans Treatment Program. As a newcomer to yoga, I didn’t know what to expect but have realized the many benefits of yoga. Please share with us in this wonderful event to support our veterans and de-stress from your practices. We would love for you to invite your staff to come along.

Craig Marcotte

Caddo Parish District Court Judge

The Journey begins with you:

You will begin by lying on your backs and covering up with a blanket. Mats and blankets will be provided. Wear comfortable clothing, if possible. You will listen to my voice and try not to sleep. Now take a deep breath in and as you exhale, feel your cares and worries fall away from you. Allow yourself another breath as you let go of any tension you may feel. Let go.



Pro Bono Project

by: Kelli Sanders, Coordinator
ksanders@shreveportbar.com

Happy Halloween from the Pro Bono Project! Happy All Saints’ Day as well! I know it has been a few months since I have written any updates on what has been going on in our corner of the Shreveport Bar Foundation.



I would first like to welcome Lucy Espree, who has joined the Pro Bono Project and has hit the ground running the last couple of months with events and deadlines. She has passed with flying colors. I am very excited to have her working with me on all the daily tasks and special events that we do. Some of you may have met her at an Ask a Lawyer Clinic, or more recently at the Recent Developments CLE. Please stop by and welcome her. She will always greet you with a smile and give you a reason to laugh.

I cannot thank enough the volunteers who go out of their way to make our monthly Ask a Lawyer Clinics a success, not just for us but also for the members of our community. It was a great pleasure to have the following volunteers join us this quarter:

- | | |
|---------------------|---------------------|
| David Hemken | Elizabeth Hancock |
| Elizabeth Carmody | Patrick D. Murphree |
| Heidi Kemple Martin | Aaron Wilson |
| Lauren Lock | Ebonee Norris |
| Stacey Williams | Claire White |
| Laura Butler | Luke Whetstone |
| Lauren Ray Anderson | |

I would also like to say thank you to Gernine Mailhes for her dedication in volunteering to instruct and lead five of the Pro Se Divorce Clinics we have held so far this year.

Thank you also to the following attorneys who signed up to volunteer at the Recent Developments by the Judiciary Seminar.

- | | |
|-----------------------|----------------|
| Karen Warren | Rachel King |
| Lori Graham | Molly Able |
| Garrett Hill | Brittany Arvie |
| Terri Bush | Steve Soileau |
| Shanerika Fleming | Dan Street |
| Patrick J. Harrington | Jessica Lustig |
| Jason Methvin | |

The Pro Bono Project could not be the success it is without your continued support. Thank you again for your support and assistance in recruiting volunteers.



Monroe Inn of Court

by Hal Odom Jr., rhodom@la2nd.org

The Fred Fudickar Jr. AIC (Monroe, La.) opened its 2018-'19 season on October 9, 2018, with a program on professionalism. Mike Street, of Watson, McMillin & Harrison, in Monroe, and David Verlander, of McLeod Verlander, also in Monroe, presented "Professionalism: Why the Louisiana Bar Foundation is Good for the Profession." Mike recently assumed the office of president of LBF, and David serves as its Northeast Community Partnership Panel Chair, so they were well positioned to provide this overview of LBF's work.

LBF's mission, Mike told the attendees, is to "preserve, honor and improve our system of justice by funding, developing or otherwise promoting efforts which enhance the legal profession, increase public understanding of the legal system and advance the reality of equal justice under the law." More specifically, LBF awards grants to nonprofit organizations throughout the state to address the civil legal aid needs of indigent citizens. It also has the educational mission of providing a basic understanding of the law. Some of the ultimate recipients of aid, according to Mike, are women who are victims of domestic abuse, children who need a stable home or special education, elderly whose economic security or health care is in jeopardy, consumers impacted by unfair lending practices, workers denied lawful wages and benefits, disabled people who are denied opportunities, and immigrants working the lowest-wage jobs without benefits or contracts. In the past fiscal year, LBF has awarded \$6.7 million in grants for social justice initiatives, including \$25,000 to the Shreveport Bar Foundation.

David showed two short promotional videos to illustrate LBF's work. One involved a special-needs child in LaCombe whose aunt, Alisha, used Southeast La. Legal Services to obtain guardianship, work with the OCS bureaucracy and ultimately get her nephew placed in an appropriate school setting where he is now thriving. The other involved a working man in Thibodaux who lost his job because of a diabetes-related infection to his leg; on the verge of losing his house to foreclosure, he Googled "free legal services," found Southeast La. Legal Services, received a knowledgeable attorney, and was able to arrange a loan modification, saving his family home. David reminded everyone that because of the Sixth Amendment, the legal profession, courts and bar associations are fully oriented toward providing assistance in criminal matters. By contrast, assistance for civil matters is a patchwork and must be supported by charitable efforts by attorneys. This is the role of the LBF, David concluded, "and its connection to professionalism."

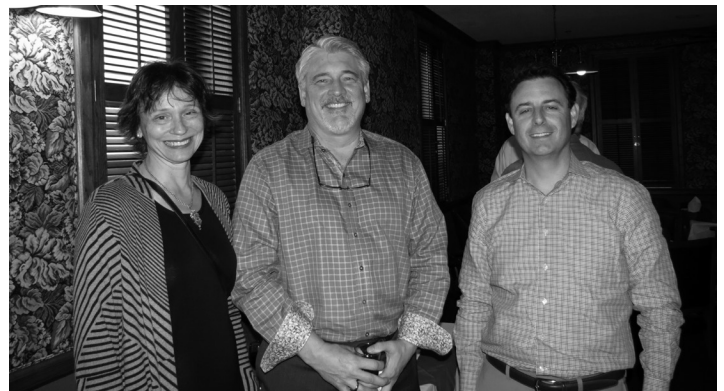
Mike wrapped up with some statistics. He cited an economist's study showing that for every \$1 invested in Louisiana's civil legal aid services, these programs yield \$8.73 in immediate and long-term financial benefits; by this measure, civil legal aid pumped nearly \$94 million into the economy in 2016. Also, legal aid organizations worked over 26,000 legal matters, covering over 100 kinds of legal problems, in 2016. He closed with sincere thanks to those attendees who had already joined or contributed to LBF, and urged others to consider joining.

The meeting was held on Tuesday, October 9, at 6:00 pm, at The Lotus Club, on the ninth floor of downtown Monroe's historic

Vantage-ONB Tower. The audience was a surprisingly small 13, perhaps because this was the first time in over 20 years that a meeting was scheduled for Tuesday night instead of Monday. The Inn's 2018-'19 president, U.S. Magistrate Judge Karen Hayes, said she had to make the change because she is now teaching a yoga class on Monday nights. However, members who attended each received one hour's CLE credit in professionalism, a valuable benefit of Inn membership. Attendees also enjoyed Chef Jim Lockhart's hors d'œuvres, including his ever-popular barbecue chicken sliders, and the Lotus Club's open bar. Judge Hayes announced that the Inn's next meeting would be Tuesday night, November 13, followed by a luncheon meeting on December 10.



Mike Street, left, and David Verlander used a new PowerPoint presentation to help illustrate LBF's role in promoting professionalism.



U.S. Magistrate Judge Karen Hayes, the Inn's current president, visited with James Carroll, the Inn's past president, and Max Cox, of CenturyTel, in the Lotus Club's lounge before the meeting. (Photos by Hal Odom Jr)

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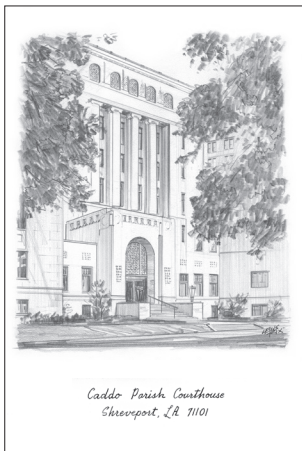


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Parish Courthouse approximately 35 years ago,
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print and/or note cards, please contact the SBA
Office at 222-3643



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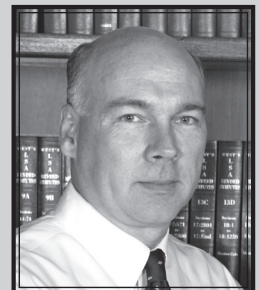
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ewmmediate@gmail.com

charles@elliott.legal



Elizabeth W. Middleton



Charles D. Elliott



Women's Section

by Anna Brown Priestley
anna.priestley@regions.com

Eat, drink, and be THANKFUL!

November is the month to remind us to be thankful for the many positive things happening in our lives, and the Women's Section is incredibly thankful for all the members who have shown us support this year!

We are especially thankful for the 26th Judicial District Court for hosting last month's "Coffee and Conversation." The event featured meet-and-greets with Court Administrator Melissa Fox, Clerk of Court Jill Sessions, and other judicial staff. Thank you again to everyone who attended!

This month, the Women's Section will be hosting "Wine Down Wednesday" on **November 7 from 5:00 – 6:30 PM** on the newly renovated patio of **Superior's Steakhouse** (855 Pierremont Road, #120). On Wednesday, Superior features their house wine for \$5 per glass all day and their regular happy hour menu is available between 4:00 – 6:00 PM. We look forward to seeing you there!

Also, please **SAVE THE DATE** for our annual **Lady Justice CLE**. The CLE will be from **12 - 1 PM on Thursday, November 15, at the Shreveport Bar Center**. The cost will be \$15, and lunch will be provided. Our guest speakers will be from the First Judicial District Court, Second Circuit Court of Appeal, and the 26th Judicial District Court. They will be sharing the "best practices" of their respective courts, and the credit you will receive qualifies as the mandatory one (1) hour of professionalism. **To download the registration form, please visit our webpage at www.shreveportbar.com/womens-section/.** We hope to see you there!

If you're not receiving our MailChimp Newsletter, please subscribe by visiting www.shreveportbar.com/womens-section/ and fill out the sign-up form. Also, if you haven't done so already, please "like" and follow our Facebook page at www.facebook.com/sbawomenssection.

The Women's Section wishes you and your family a Happy Thanksgiving, and we look forward to seeing you at "Wine Down Wednesday" on November 7th!

Classified

Blanchard Walker is seeking qualified applicants for an associate attorney position. All applicants must be licensed to practice in the state of Louisiana with at least 2 years litigation experience. Applicants should have experience preparing pleadings, discovery requests and motions; conducting basic depositions; and legal research, assisting senior attorneys in trial preparation. Position requires strong social skills to support interaction with clients and supervision of paralegals and staff. A positive attitude and an ability to work independently in a fast-paced environment with a close-knit team are essential.

Comprehensive benefits package with parking included. If interested, please send your resume and a cover letter including salary requirements to mflores@bwor.com.



Annual Lady Justice CLE
Thursday, November 15, 2018

12:00 – 1:00 PM
Shreveport Bar Center
Sponsored by the SBA Women's Section

1 hour of Louisiana Professionalism CLE Credit

Registration Form

or register online at www.shreveportbar.com/womens-section/.

Form MUST be submitted by Wednesday, November 7, 2018.

*Name	
Firm	
*Billing Address	
*City, State, Zip	
*Phone Number	
*Email Address	
*MANDATORY FIELDS	
Important Note: All seminar materials will be provided on-site on the day of the CLE.	
Walk-In Registration: Must pay the late registration price and lunch is not guaranteed.	
Registration Fees:	
<u>\$20.00 for Non-SBA Women's Section Members</u>	
\$15.00 for SBA Women's Section Members	
\$20.00 for Late Registration (Lunch Not Guaranteed)	
Checks (made payable to SBA Women's Section) or Cash Only.	
Late Registration Payment at Door Accepted. No Refunds.	
Please remit form with payment to:	
<u>Shreveport Bar Association</u>	
c/o Women's Section	
625 Texas Street, Shreveport, LA 71101	
For questions, please contact Anna Priestley at anna.priestley@regions.com .	

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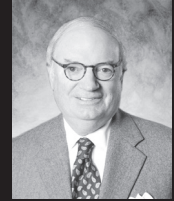
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Maritime	Healthcare
Construction	Professional Liability
Products Liability	Governmental

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BAR BRIEFS

Judge Williams is new Chief Judge at Second Circuit



Judge Felicia Toney Williams took the oath of office as Chief Judge of the Second Circuit Court of Appeal on October 4, 2018. A ceremony to honor her will be held at a later date.

Judge Williams was the first woman elected to the Second Circuit, in October 1992, and was reelected without opposition to a third 10-year term in 2012. She is now the first female chief judge of the Second Circuit.

Judge Williams is a native and lifelong resident of Madison Parish, a graduate of McCall Senior High, in Tallulah, of Southern University (BA, 1977) and Southern University Law Center (JD, 1980), both with honors, and of the NYU School of Law New Appellate Judges Seminar (1994). Immediately after law school, she worked on the La. Supreme Court Central Staff, before moving back to Tallulah in 1982 to become an assistant district attorney and to have a private practice with her husband, Moses Junior Williams. She was elected to the Sixth JDC in 1991, to the Second Circuit in 1992, and has also sat pro tem on the La. Supreme Court.

Judge Williams and Moses Junior are parents of Rhonda Jackson, Myra Williams and Justin Williams, and grandparents of Christian and Camryn Jackson. Judge Williams is also a member of various professional and social organizations, including the La. Judiciary Commission (chair, 2018), La. Conference of Court of Appeal Judges, National Association of Women Judges, La. Task Force on Racial and Ethnic Bias, National Judicial Council, Fred Fudickar Jr. AIC (Monroe, La.), Order of the Eastern Star and New Morning Star Missionary Baptist Church (Tallulah, La.).

Judge Williams is elected from the Second Circuit's Division C, Section 1, First District, which comprises East Carroll, Madison and Tensas Parishes, and portions of Morehouse, Ouachita and West Carroll Parishes. The office of chief judge is determined by length of service on the court and carries administrative duties pursuant to court rules. Judge Williams assumed the office upon the retirement of Judge Henry N. Brown, who had been first elected to the court in 1990 and had ascended to chief in August 2002.

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How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

Sort this one out. A reader sent this, from a popular Louisiana blogger (and former statewide elected official): “Many readers will remember the notorious Jim Leslie murder case that happened in Baton Rouge back in the 1970s. Leslie’s killer was gunned down in Concordia Parish and I was appointed to defend this killer. I can tell you the whole *sorted* story.” The reader comments, “This is a new one for me!”

This is the case of a homophone, or at least a near-homophone. The word used, *sorted*, means *separated* and *arranged* according to type or variety. The word intended was *sordid*, which means *dirty* or *degrading*.

The former Commissioner of Insurance is not entirely alone. “Denna relayed the *sorted* events of their relationship that endangered not only her, but her children and grandchild, as well.” State’s brief in *State v. Decuir*, filed in the Third Circuit. “Copyright has a *sorted* history, traceable to the Star Chamber and censorship laws in England in the 1500’s.” Rick G. Morris, “Use of Copyrighted Images in Academic Scholarship and Creative Work,” 33 *Idea: J.L. & Tech.* 123 (1993). “In *Stevens*, on the other hand, not only did the applicant fail to reveal his *sorted* past with the Internal Revenue and his creditors, but he also continued to neglect his obligations for years.” Brendalynn Burrell-Jones, “Bar Applicants: Are Their Lives Open Books?” 21 *J. Legal Prof.* 153 (1996). *Sordid* in each place.

In casual speech, we often drop the crisp sound of the letter T in favor of the flat sound of the letter D. The way most of us talk, you can’t be sure if *creative writing* is a literary or an athletic pursuit! You can write about sordid events, but don’t make it a *sorted affair*.

It’s not like “played.” Some of our most common verbs are irregular. No, not in the digestive sense, but in the grammatical one. They don’t form a past tense (or past participle) by simply adding *-ed*. One of these words is *lay*. Consider this footnote in a reported opinion: “The language is consistent with the language set forth in the RIF sections of the UTNO Bargaining Agreements mandating that *layed-off* employees be placed on a recall list for two years.” *Oliver v. Orleans Parish Sch. Bd.*, 2012-1520 (La. App. 4 Cir. 1/15/14), 133 So. 3d 38, fn. 10. Or this annotation, from a legal encyclopedia: “Genuine issues of material fact as to whether Caucasian employee, a construction worker, was *layed off* because of his race * * * precluded summary judgment[.]” 63 *Am. Jur. Trials* 127 (August 2018 update). Or this from a district court opinion: “[I]f it had implemented a reduction in force, it is likely that Blackmon, who had only worked for the company for several months, would have been *layed off*.” *EEOC v. Rite Aid Corp.*, 03-2079 (ED-La. 6/30/04).

Each of these, of course, should be *laid*. Careful legal writers will discreetly correct errors made by court reporters, police officers or insurance adjusters. You can use *[sic]*: “He was drinking still and he was asleep and he had a headache and he just *layed [sic]* down until we got there.” *State v. Womack*, 47,639 (La. App. 2 Cir. 1/16/13),



109 So. 3d 418. Or internal quote marks: “Villegas, after having already veered right towards the dumpster, *‘layed* his bike down.” *Villegas v. Waste Management of La. LLC*, 133 Fed. Appx. 966 (5 Cir. 2005).

We will defer discussion of *lie* vs. *lay* until a future column!

And not like “stayed.” Another irregular verb is *pay*, which is misspelled in the past tense surprisingly often. “The men *payed* the patients as much as \$50 each for their services.” *United States v. Oti*, 872 F. 3d 678 (5 Cir. 2017). “All costs of this appeal are to be *payed* by Lonnie E. Jackson, Jr. and Betty Lou Donahoe Jackson.” *Jackson v. Pride Oil & Gas Props.*, 47,319 (La. App. 2 Cir. 7/25/12), 104 So. 3d 6. “We upheld the trial court’s finding of fact that the amount B&B *payed* to Wilkins * * * were

payments for his commissions rather than simply wages[.]” *Goulas v. B&B Oilfield Servs.*, 2010-934 (La. App. 3 Cir. 8/10/11), 69 So. 3d 750.

Obviously, these should be *paid*. Again, credit is given to legal writers who discreetly correct their sources: “I plan to pay your money back by paying you \$5,000.00 to \$10,000.00 or more per month until *payed [sic]* out.” *State v. Richey*, 13-228 (La. App. 5 Cir. 10/30/13), 128 So. 3d 1143. “Though the plaintiffs *payed [sic]* the purchase price under their contract * * *, they never received the property or interests they purchased.” *Cole v. JEBF Holdings LLC*, 14-0298 (ED-La. 11/10/14). And, it is fair to note that in each of the opinions quoted in the preceding paragraph, the courts correctly used *paid* everywhere else.

And mostly not like “prayed.” One final word merits only fleeting mention. In all my reading and searching, I am aware of only one Louisiana case that misuses the past participle of *say*, and this was quoting a nearly antediluvian will which named executors, dispensed with security and added: “My *sayed* Executors shall receive the Usual Legal Commission.” *Miller v. Miller*, 105 La. 257, 29 So. 802 (1901). Let’s hope that this monstrosity remains deeply buried for at least another 117 years.

That radioactive error. *Curium* is a radioactive chemical element with a high atomic number. It has nothing to do with judicial opinions. It has no place in sentences like these: “A writ was taken on the denial and this Court ordered the issuance of a *per curium* on the defendant’s motion for special funding.” *State v. Trung Le*, 2017-0164 (La. App. 3 Cir. 4/11/18), 243 So. 3d 637. “Specifically, the Louisiana Supreme Court issued a *Per Curium* Ruling on April 4, 2016[.]” *Jones v. Vannoy*, 16-0346 (MD-La. 3/20/18).

The intended phrase is *per curiam*, meaning an opinion *by the court*, without a signed author, or perhaps a brief disposition without an opinion. The root word is *curia*, which also gives us the phrase *amicus curiae*. There is no form of *curia* that becomes *curium*. Keep this radioactivity out of your legal writing!

October Luncheon Highlights





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DEADLINE FOR DECEMBER ISSUE: NOVEMBER 15, 2018

VETERANS APPRECIATION LUNCHEON - NOVEMBER 7

*Hilton Garden/Homewood Suites Event Center – Buffet opens at 11:30 a.m. Program and Speaker from 12:00 Noon to 1:15 p.m.
 \$25.00 for SBA members includes lunch with advance reservation and \$30.00 for late reservation
 (after 5:00 pm the Monday prior to the luncheon) and Non SBA Members*



VETERANS LUNCHEON

When: Wednesday, November 7 from
 12:00 Noon to 1:15 p.m.

Where: Hilton Garden/Homewood Suites Event Center *(New Location for this event only)*

Featuring: U.S. Coast Guard Captain Kristi M. Luttrell,
 Deputy Sector Commander, Sector New Orleans

The 2018 Liberty Bell Recipient Will Be Announced at the Luncheon

Our keynote speaker for the 2018 SBA Veterans Day Program will be Captain Kristi M. Luttrell who assumed the role of Deputy Sector Commander in July 2016. Her previous operational tours include serving as the Response Department Head at Sector Delaware Bay in Philadelphia, PA, from 2010-2013 where she oversaw maritime Search and Rescue, Law Enforcement and Pollution Response operations for Pennsylvania, New Jersey and Delaware. From 2004-2005 she served as the Operations Officer at Group Galveston, TX, supervising 3 patrol boats, a construction tender, 3 multi-mission stations and 3 Aids to Navigation Teams. From 2005-2007 she was the Command Center Supervisor at Sector Houston-Galveston, TX. She also served as a Deck Watch Officer on USCGC DURABLE homeported in St. Petersburg, FL, from 1994-1996, and served as the Assistant Operations Officer at Group Milwaukee, WI from 1993-1994. Captain Luttrell's staff tours have included assignments to the Eighth Coast Guard District in New Orleans, LA, as the Assistant Director of Auxiliary, Command Duty Officer and Aide to the District Commander; the Seventh Coast Guard District in Miami, FL, as the Command Center Chief; the Department of Homeland Security Office of Policy as a Program Analyst and Planner; and Coast Guard Headquarters in the Office of Planning and Performance (CG-81) and the Office of Boat Forces (CG-731).

Please join us on Wednesday, November 7 as we honor our SBA Veterans and all those who have served our great nation.

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I plan to attend the Veterans Appreciation luncheon. Attorney: _____

Please remember to call and cancel if you're unable to attend. The SBA pays for each reservation made. Thank You!