

THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION

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EVENTS AT A GLANCE

5/4	Give for Good Campaign
5/5	SBA Law Day Luncheon 12:00 p.m. - Petroleum Club
6/23	SBA Membership Luncheon 12:00 p.m. - Petroleum Club
8/20	4th Annual North Louisiana Appellate Conference
8/29	Member Sunday Fun Day



From The President

by Donna Frazier, dfrazier@caddo.org

Well, ladies and gents, the first quarter is done! Just like that, we're in the second quarter of the year, and spring has sprung! Spring is always a time of hope and new beginnings. This year, spring marks the one-year anniversary of the worldwide COVID-19 pandemic declaration, but also brings hope of relief from the pandemic in the form of a vaccine. I know we all hope the return of our "normal" is near.

The most immediate casualty of the pandemic has been the SBA monthly luncheon. At the beginning of the pandemic, we couldn't meet at all. Since we've been able to meet again in person, our meetings have been restricted in size. I'm happy to say that we can now have up to 75% of our normal capacity at our meetings in accordance with Phase Three restrictions, and I am really looking forward to it. One of the things the SBA had to change during the pandemic was the way we offered CLE. For the first time, we had to go "deep" into the world of virtual learning. Our former CLE chairs, Judges Mike and Frances Pitman, along with our Executive Director, Dana Southern, rose to the challenge and put on great programs that were a hybrid of in-person and virtual. But I know we all have missed the camaraderie of in-person CLE learning experiences.

I'm happy to announce that this year will bring a return (fingers crossed) of in-person programming. The timing of our programming will coincide with the months after COVID vaccines have been offered to everyone, hopefully decreasing the risk of contracting the disease as well as our individual anxieties. Please put the following dates on your calendars:

- August 20: North La. Appellate Conference**
- Sept. 15-16: Recent Developments by the Judiciary**
- Oct. 7: North La. Criminal Defense Seminar (State and Federal)**
- Dec. 15-16: CLE by the Hour**

Now more than ever, the SBA really needs the support of its members to make this return to in-person programming a success. CLE is one of the SBA's primary sources of income. More than that, though, it's a time for us to come together and fellowship as well as learn. One of the things I've learned during the pandemic is how isolating it is to go only from home to the office (or solely work from home) without having meetings and social events to attend. As a natural introvert, I need these gatherings to remind me to socialize and see what's going on with other people, particularly my colleagues. So, let's get back together and enjoy each other, and support the SBA while doing it.

Lastly, guess what's coming up – Law Week! The Shreveport Bar will observe Law Week May 3-7. The Law Week Committee, under the leadership of Sherron Phae Williams, is planning a week of virtual and in-person activities that are fun and creative and that will celebrate this year's theme, "Advancing the Rule of Law Now." We will have one luncheon for April and May to be held on Wednesday, May 5. It is also during that luncheon that the Liberty Bell Award will be presented. Every year since 1965, the Shreveport Bar Association has presented the Liberty Bell Award to a

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Save the Dates

2021

Shreveport Bar Association's
Continuing Legal Education



4th Annual North Louisiana
Appellate Conference



Recent Developments
by the Judiciary



North Louisiana
Criminal Defense
Seminar (State & Federal)



December CLE
by the Hour

continued from page 1

fellow citizen who has demonstrated a commitment to this community and has advanced the rule of law. Generally, the award is presented to someone who meets the following criteria:

Someone (usually a nonlawyer) who has demonstrated a commitment to selfless community service which strengthens the effectiveness of the American system of freedom under law; promotes a better understanding of our form of government, particularly the Bill of Rights; promotes a greater respect for law and the courts; promotes a deeper sense of individual responsibility in recognition of the duties as well as rights of citizens; promotes effective functioning of our institutions of government; promotes a better understanding and appreciation of the rules of law.

So, please mark May 5 on your calendars and make plans to attend the Law Week luncheon, and please participate in as many of the Law Week Events as you can.

Spring has sprung and with that, a renewed hope in the ability to get back to some semblance of normalcy. I certainly look forward to doing that with my fellow Shreveport Bar Association members.

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Shreveport Bar Foundation

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Pro Bono Project

Give For Good

SAVE THE DATE

Sunday, August 29

SBA Members, Spouses, Significant Others, Children and Grandchildren are invited to

Shreveport Bar Association's Sunday Fun Day Back to School Event

Location TBD



Second Circuit Highlights

by Hal Odom Jr., rhodom@la2nd.org

Nothing can stop peremption. Ms. Wright went to E.A. Conway Hospital (now part of Ochsner-LSU Health), in Monroe, with a sickle cell crisis. Doctors gave her a strong cocktail of narcotics, to control the pain, but she died two days later, August 7, 2008. Her father, Flintroy, filed a timely request for medical review panel, on July 31, 2009. The MRP absolved all healthcare providers, by opinion of August 1, 2011, and Flintroy filed a petition for medical malpractice on November 2, 2011. During discovery, in 2015, it transpired that Flintroy had never been married to Ms. Wright's mother. The defendants filed an exception of no right of action urging that unless he could prove filiation, Flintroy had no standing. Specifically, La. C.C. 198 gave him a preemptive one year from the death of the child to sue for paternity, but he had not done this, so he did not have the right to claim Ms. Wright's damages. Flintroy countered that filing a request for MRP stops prescription against all healthcare providers, La. R.S 40:1237.2 A(2)(a), including a claim of paternity.

The district court cited La. C.C. art. 3461, "Peremption may not be renounced, interrupted, or suspended," and held that the MRP request did not interrupt the peremption of Art. 198, so Flintroy lacked standing to sue. The court rendered judgment dismissing all claims, and Flintroy appealed.

The Second Circuit affirmed, *Flintroy v. State*, 53,777 (La. App. 2 Cir. 3/3/21), in an opinion by Chief Judge Moore. After tracing the straightforward application of La. C.C. arts. 198 and 3461, the court discussed significant jurisprudence that has treated *any allegation of paternity* in a tort suit as equivalent to a formal paternity claim under Art. 198. See, e.g., *Udomeh v. Joseph*, 11-2839 (La. 10/26/12), 103 So. 3d 343; *Miller v. Thibeaux*, 14-1107 (La. 1/28/15), 159 So. 3d 426. The court hinged its decision on the fact that in *Udomeh*, *Miller* and circuit court cases the plaintiffs timely alleged paternity in state district courts, which have jurisdiction to decide the issue; an MRP has no such jurisdiction, and is limited to questions of medical standard of care, breach and causation, La. R.S. 40:1237.2 A(2)(a). The court was unwilling to extend *Udomeh's* generous reading of Art. 198 to situations where the paternity claim could not be litigated. Finally, the court reiterated that a preemptive period really, really cannot be stopped. *Jenkins v. Starns*, 11-1170 (La. 1/24/12), 85 So. 3d 612; *Coté v. Hiller*, 49,623 (La. App. 2 Cir. 2/27/15), 162 So. 3d 608.

Even a longer preemptive period, such as two or three years for a paternity claim, would not have salvaged this case, given the timeframe involved. Probably the best alternative would be for the legislature to amend § 1237.2 A(2)(a) (with its analog in the private Medical Malpractice Act, § 1231.8 A(2)(a)), to say that filing a request for MRP will suspend time limits for all claims, not just medical malpractice. This writer will not predict the prospect of any legislative action!

Don't hold me quite so close. Chip Chisholm, an RN and avid

deer hunter in Mound, Madison Parish, developed an agricultural vending machine called CornXpress, to feed grain on-demand to livestock, wildlife and even zoo animals. He and a colleague, Barnes, formed a closely held LLC, Big Tyme Inventions LLC, to market CornXpress, and sold the device in 16 states. Chip held a 51% interest in the LLC. Unfortunately, Chip passed away in 2017, intestate, survived by a minor daughter, Emily, and by his dad, Dan. Dan was appointed succession representative and petitioned the court for authority to sell Chip's shares in the LLC, under La. C.C.P. art. 3285, as "marketable securities." The court granted an ex parte order authorizing the sale, which was made privately to Barnes (the other LLC member) for \$10,000. Three weeks later, the court rendered judgment approving and homologating the final account and discharging Dan as administrator. Oddly, no notice of any of these proceedings was ever served on Emily's mother (Chip's ex-wife), Rachael. About a year later, Rachael, on behalf of Emily, moved for new trial and judgment nullifying the sale of the LLC shares. The district court denied all motions, and Emily appealed.

The Second Circuit reversed, *Succession of Chisholm*, 53,771 (La. App. 2 Cir. 3/3/21), in an opinion by Judge Stephens. A private sale of succession property must be preceded by a petition setting forth the price and conditions of the sale, La. C.C.P. art. 3281, with plenty of notice, La. C.C.P. arts. 3282-3284. The succession representative may sell "bonds and shares of stock at private sale at rates prevailing in the open market" by court order. La. C.C.P. art. 3285. In essence, the court found that shares in a privately held LLC are not bonds or shares of stock; and, because they were never traded on the open market, they did not have a prevailing rate of exchange. The court noted the succession's argument that a flat \$10,000 was in the best interest of Emily, as the LLC "was about to be sued for approximately \$500,000," which would have bankrupted it, but found that these competing interests required judicial oversight and proceedings with proper notice. The court then found that because Rachael never received notice of the prior orders and judgments, the time delays of La. C.C.P. art. 1974 never began to run; the district court erred in denying her motion for new trial. The result was to reverse and remand.

Many people have turned to the LLC, and to the even smaller "L3C," for the convenience and cost savings they afford over corporations. This case, however, shows that our succession procedure has not necessarily kept up with the dynamic field of business organizations. Still, the outcome seems inevitable and equitable, to prevent an "insider" or "lowball" deal that might harm a deceased member's estate.

Summary judgments. The procedural device with favored status, La. C.C.P. art. 966 A(2), continues to fuel many appeals.

A little flick of the switch. Shields was an operator at the Lucas Wastewater Treatment Plant in 2016 when the facility was undergoing

extensive renovations. Even though scaffolding had been erected around the pumps and the switches that turned them on and off, Shields drove his golf cart next to the DP #2 switch, reached over to it with his double-gloved hand, touched the switch, and then got a strong electric shock. Claiming that he sustained an “electrocution injury,” he sued the city’s general contractor, McInnis Brothers, the electrical subcontractor, Trio Electric, and two other subcontractors, Yor-Wic and H&W. All defendants moved for summary judgment, urging a lack of evidence that any of them breached any duty to Shields. (Most of them also sought the immunity of La. R.S. 9:2771: they performed all work in accordance with plans and specs provided by the city.) The district court granted all motions, finding no breach of duty or negligence; Shields appealed.

The Second Circuit affirmed, *Shields v. McInnis Bros. Const. Co.*, 53,581 (La. App. 2 Cir. 3/3/21), in an opinion by Judge Garrett. The court observed that there was no shortage of summary judgment evidence; the exhibits exceeded 900 pages. However, a close, de novo review of the massive exhibits showed that none of the defendants (1) was required to examine the wiring on the DP #2 switch, (2) actually performed any work on it, or (3) damaged it in any way. In fact, internal memos showed that after Shields reported his accident, some Trio personnel went to the DP #2 switch and tried to replicate the incident; they couldn’t. The court noted Shields’s argument that “other parties” could provide depositions or affidavits establishing liability, but these documents were not introduced. Finally, the court rejected Shields’s contention that R.S. 9:2771 is “limited” by R.S. 9:2773 and 2775; in dictum, the court stated that these statutes are not interrelated.

The defendants’ meticulous assembly of a record, even a voluminous one, was instrumental in refuting all genuine issues.

Keep on truckin’, baby. Minion owned a Peterbilt 386 rig which he leased to TruCore energy. He also drove as an independent contractor for TruCore, had just dropped off a load of sand at a well site in Coushatta, and was returning from this delivery. Driving on Barksdale Blvd. in Bossier City, he rear-ended Ms. Gonzalez in her Ford Fusion. She sued Minion and his personal auto insurer, First Guard, as well as TruCore and its business insurer. First Guard moved for summary judgment on grounds that its policy limited coverage to “nontrucking activities,” as defined by the policy. The summary judgment evidence included Minion’s statement to an insurance investigator, in which he first said he was “going home” at the time of the accident, and later said he was going to park the rig at a truck stop before taking his own car home; however, in a deposition, he stated that he was going to the truck stop to await further instructions from TruCore. The district court denied summary judgment, reasoning that these inconsistent statements created a genuine issue as to whether the use was in fact nontrucking when the accident occurred. First Guard took a writ.

The Second Circuit granted the writ and heard oral arguments, but ultimately affirmed the denial of summary judgment, *Gonzalez v. Minion*, 53,477 (La. App. 2 Cir. 1/27/21), in an opinion by Judge Thompson. The court began by stating that summary judgment declaring lack of coverage may not be rendered unless there is no reasonable interpretation of the policy, as applied to the undisputed material facts, under which coverage could be afforded. *Hudson v.*

Jager Bomb LLC, 47,501 (La. App. 2 Cir. 11/14/12), 107 So. 3d 712. The court then noted the candid admission, at oral argument, of “at least three competing factual scenarios as to what Minion was actually doing at the time of the accident and where he was going and why.” The actual answer would determine coverage, making this a genuine issue of material fact. The judgment was therefore affirmed and the case remanded.

Judge Stone dissented, quoting the policy language providing coverage only when a truck is “operating solely for personal use and unrelated to any business activity.” In her view, any of the three factual scenarios yielded conduct *related* to Minion’s business activity and was thus excluded.

As an aside, both the majority and the dissent noted that if Minion’s conduct was nontrucking, First Guard’s auto policy would apply; if it was trucking, TruCore’s business policy would apply. Both insurers moved for summary judgment, each trying to lay liability on the other. The district court denied both motions, and the Second Circuit’s ruling will allow the parties to litigate which policy has to pay.

Slip slidin’ away. On a rainy day in early January 2019, Ms. Sisk went to the cleverly named Bayou Butts and Booze store on Hwy. 165 North, in Monroe, to pay a utility bill. Her third step on the concrete floor, however, was unfortunate, as her feet slipped and she landed on the floor. She sued the owner, La. Discount Tobacco Inc., alleging that rain had been falling, the floor was wet when she entered, but employees had placed no mat or warning sign on the floor. The owner moved for summary judgment citing Ms. Sisk’s admission in deposition that the only water present on the floor was whatever had dripped off her own boots. Ms. Sisk opposed, citing the deposition of a store employee who recalled having a rug and a “wet floor” sign in place. The district court granted summary judgment, and Ms. Sisk appealed.

The Second Circuit affirmed, *Sisk v. La. Discount Tobacco Inc.*, 53,684 (La. App. 1/13/21), in an opinion by Judge Boddie, pro tem (Judge Robinson filled the seat on February 11). The court discussed the merchant slip-and-fall statute, La. R.S. 9:2800.6, and asked whether the absence of a mat by the door might create an unreasonably dangerous condition. The court found, however, that the dispositive issue was whether the floor was wet before Ms. Sisk entered; if not, there was nothing unreasonably dangerous about it. The court distinguished several cases that did not involve merchants, and one that predated the enactment of § 2800.6, before agreeing with cases holding that a store does not have actual or constructive notice of water that drips off the plaintiff’s own clothes, *Boeshans v. Petsmart Inc.*, 06-606 (La. App. 5 Cir. 1/16/07), 951 So. 2d 414; *Olive v. Winn-Dixie La.*, 99-831 (La. App. 5 Cir. 1/4/00), 756 So. 2d 444. “Even assuming the water on her boots presented an unreasonably dangerous condition, that condition did not exist until she entered the store and stepped on the dry floor.” The court found, on de novo review, that the owner neither created nor had any notice of the condition before the plaintiff fell.

The case probably confirms that the purpose of R.S. 9:2800.6 is to protect merchants and to make it harder for unsure-footed patrons to sue successfully.

How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

That's not fair. The verb for *to have a particular outcome, or to end up or turn out*, is *fare*. It's a bit archaic, but it often appears in phrases before *well*, *poorly*, *better* or *worse*. The more common word, *fair* (meaning *sunny*, *impartial*, or *mediocre in quality*), an adjective, occasionally preempts *fare* in the hands of legal writers.

"The only other test where Doherty *faired* poorly in Dr. Brockman's assessment, the WIAT-II, also compared her only to other students her age[.]" *Doherty v. National Board of Med. Examiners*, 791 Fed. Appx. 462 (5 Cir. 2019). "Nor do Defendants-Appellants *fair better* in relying on the 2003 Justice Department Memorandum[.]" *United States v. Brooks*, 681 F.3d 678 (5 Cir. 2012). "[T]he efficacy of electronic records requiring notarization has not *faired well* under UETA and E-Sign." D. Benjamin Beard, 11 Hawklnd UCC Series § UETA 11:1 (Dec. 2020 Update). These should be *fared poorly*, *fare better* and *fared well*.

My proposed mnemonic: *fare* ends in *e*, like the vowel in *verb*. As in the old folk song, "Fare thee well, O honey, fare thee well," you should do fairly well.

A glimpse over the summit. The homophones for **peēk** don't seem to confuse legal writers very often, but they can lead to occasional gaffes. Consider these examples:

"[T]he particularly insightful comments anonymously posted by Perricone (and perhaps others) *peaked the interest* of other DOJ personnel to read, trade, and perhaps comment themselves upon other *Nola.com* comments[.]" *United States v. Bowen*, 2013 WL 6531577 (E.D. La. 2013).

"Schneider used the analogy of an athlete needing proper running shoes to achieve *peek performance*." Empl. Safety & Health Guide ¶ 13485 (CCH, 2019).

"The Fast Track Network grew exponentially, exceeding Napster's popularity *at its peek*." H. Michael Drumm, *Life After Napster: Will Its Successors Share Its Fate?*, 5 Tex. Rev. Ent. & Sports L. 157 (Fall 2003).

"The results of this research will be published in the *Vanderbilt Law Review*, but tonight I am going to give you a *sneak peek* of what I found." Brian T. Fitzpatrick, *Judicial Selection and Ideology*, 42 Okla. City L. Rev. 53 (2017).

Here is my proposed mnemonic for keeping them straight:

Peak, with an "A" as in *Alps*, means the pointy top of a mountain or roof, or the period of maximum use or demand.

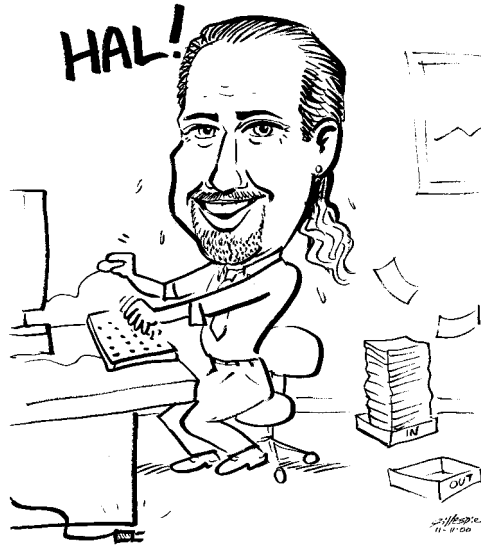
Peek, with an "E," like *peep*, means a quick look or secret glance.

Pique, with a "Q," means to excite someone's interest, or to irritate them badly – we'll just have to remember the queer spelling.

The writers quoted meant to say *peaked the interest* of DOJ personnel, *peak performance*, popularity *at its peak*, and *sneak peek* (watch out for the rhyme with unmatched spellings).

Pluralistic concerns. Bryan A. Garner recently wrote a "Standard Written English Aptitude Quiz" (ABA Journal, Oct.-Nov. 2020), focusing on tricky plurals. Some of these were so clever that

I couldn't resist borrowing them, and adding a few of my own.



1. The court issued separate [(a) mandamuses, (b) mandami] in the matter.
2. The case involved the killing of some 100 [(a) octopi, (b) octopuses] that are on the endangered species list.
3. These programs, however, are in continual danger from the state and federal budget [(a) crises, (b) crises)].
4. Gonzales meets all the [(a) criteria, (b) criterias] for serious medical conditions.
5. These [(a) apparatuses, (b) apparati] have never been considered infallible.
6. Subject matter not entitled to patent protection are laws of nature, natural [(a) phenomenons, (b) phenomenas, (c) phenomena], and abstract ideas.
7. Seventeen [(a) attorneys general, (b) attorney generals] joined the suit to overturn the election.

8. Spaghetti and meatballs [(a) is, (b) are] not even on the menu.
9. They decided to stop trying to keep up with the [(a) Joneses, (b) Jones, (c) Jones's].
10. Neither of them [(a) is, (b) are] a member of that organization.

And, the answers:

1. (a) mandamuses. Mandamus is not even a noun in Latin, so it can't take a Latin plural.
2. (b) octopuses. This one is actually from the Greek; can you imagine saying *octopoides*?
3. (b) crises. According to Garner, this mistake occurs in about 1 of 5,000 instances.
4. (a) criteria. The singular is *criterion*, and it's another Greek derivation.
5. (a) apparatuses. In Latin, the plural of *apparatus* is *apparatus* (macron over the U), but this would be confusing in English.
6. (c) phenomena. The singular is *phenomenon*. Strangely, this writer got it wrong, right before quoting the U.S. Supreme Court, which got it right.
7. (a) attorneys general. However, Garner acknowledges that *attorney generals* occurs in about one of eight instances.
8. (a) is. It's considered a single dish, like "Research & Development" is considered a single department.
9. (a) Joneses. Option (c) can be seen hand-painted on many mailboxes.
10. (a) is. The theory is that *neither* = *not either one*.

The Spell Check chronicles. An appellate court recently listed the plaintiffs' allegations, including that the accident was caused by one of the defendants "entering a dense *could* of smoke and fog at a speed too high to avoid a collision[.]" Well, they *could* have proofread and not driven into a *cloud* of error! *Lowe v. Noble LLC*, 2016-0165 (La. App. 1 Cir. 5/9/17), 220 So. 3d 761. Just one more reminder that spell check doesn't catch everything!



Worth Skimming

by Chris Slatten, Chris_Slatten@lawd.uscourts.gov

Self-Serving Testimony and Summary Judgment

The 5CA affirmed summary judgment for the employer in an age-discrimination case, noting that the plaintiff's "self-serving statements" that she was performing her job adequately were insufficient to create a triable issue of fact.

Judge Ho concurred. Summary judgment was appropriate, he agreed, but not because the plaintiff presented *self-serving* statements regarding her performance. Summary judgment was appropriate because her statements were *conclusory*.

There is nothing inherently wrong with self-serving statements, and parties on both sides file them in almost every summary judgment contest. Simply being self-serving does not prevent a party's testimony from creating a dispute of fact. The problem is when the testimony is not just self-serving, but conclusory. *Salazar v. Lubbock Cty. Hosp. Dist.*, 982 F.3d 386, 392 (5th Cir. 2020).

Personal Jurisdiction and Solidary Obligors

Plaintiff filed a royalty dispute in a Louisiana court against multiple out-of-state defendants who challenged personal jurisdiction. Plaintiff argued that, because the defendants were solidary obligors, each defendant's contacts with Louisiana should be imputed to every other defendant. No. Liability and jurisdiction are independent, and jurisdiction over each defendant must be established individually.

What about the fact that one defendant assigned the lease at issue to another defendant? Do the assignor's contacts get assigned as well? No. "Courts that have looked at assignor/assignee relationships have 'determined that an assignee does not step automatically into the shoes of the assignor for purposes of personal jurisdiction.'" *Libersat v. Sundance Energy, Incorporated*, 978 F.3d 315 (5th Cir. 2020).

Supervised Release and Fugitives

The feds abolished parole in the 80s. Most sentences are now for prison time plus a few years of supervised release (SR). If the defendant violates the terms of his SR, the court can revoke it and send him back to prison. The defendant in *US v. Cartagena-Lopez*, 979 F.3d 356 (5th Cir. 2020) was released from prison and directed to report to his probation officer to begin his three-year term of SR, but he skipped town instead. They didn't catch him until five years later, after the SR term had expired on its face.

The defendant challenged the timeliness of the government's request for SR revocation. The 5CA looked at the SR statute, which includes a congressionally-enacted tolling provision, but the provision did not apply to the facts. Undeterred, the

5CA joined the majority in a 5-1 circuit split and used the judge-created fugitive tolling doctrine to hold that revocation was nonetheless timely. Sometimes even strict constructionists break down and legislate from the bench.

Jackpot Denied; Tribal Immunity

Plaintiff claimed to have hit a slot machine jackpot at the tribal-owned Paragon Casino in Marksville, but management disagreed. Plaintiff appealed to the Tunica-Biloxi Gaming Commission, which denied his claim. He then sued the Tribe and the Commission in federal court.

In the Tribal-State Compact between the Tribe and Louisiana, the Tribe reserved its sovereign immunity with respect to patrons' disputes arising from a refusal to pay alleged winnings. Tribal sovereign immunity shields both the tribe and any "arm or instrumentality" of the tribe, which includes the tribal Gaming Commission. Plaintiff was out of luck. Case dismissed. *Dotson v. Tunica-Biloxi Gaming Commission*, 2020 WL 6386877 (5th Cir. 2020).

Contract Incorporates Terms of Another

A construction performance bond incorporated a subcontract ("Subcontract is by reference made a part hereof"), which in turn incorporated the prime contract ("The Prime Contract is incorporated herein by reference and made an integral part of the Subcontract.").

You see similar provisions in construction contracts all the time. Do they really work? Yes, they do.

When a lawsuit was filed in federal court to collect on the bond, the parties were bound by a forum selection clause in the prime contract that required suit be filed in a particular state court. *PCL Civil Constructors, Inc. v. Arch Ins.*, 979 F.3d 1070 (5th Cir. 2020) (applying Louisiana contract law and federal *forum non conveniens* law).

Quote of Note

A judge who can admit a past mistake possesses an admirable quality. Justice Frankfurter demonstrated it when he admitted that he voted the wrong way in a prior decision. He explained his change of mind in a line that is often quoted by others in similar settings. "Wisdom too often never comes, and so one ought not to reject it merely because it comes late." *Henslee v. Union Planters Nat'l Bank & Trust Co.*, 69 S.Ct. 290 (1949) (Frankfurter, J., dissenting).





Pro Bono Project

Do Good Work ~ Hon. Henry A. Politz

The Pro Bono Project provides free civil legal assistance to low-income clients that are at or below the federal poverty income level in the areas of family law, child custody, succession, leases and other miscellaneous civil legal matters.

OPEN CASES

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- Step 1: Search through available pro bono matters below.
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- Step 3: Fill out the form provided.
- Step 4: Click Send on the form, which will be sent to the Pro Bono Coordinator, who will be in contact upon receipt of your submission.

Case #1 Succession Wills and Estates

Client needs to file for a small succession on her mother's behalf. Client needs a volunteer attorney to negotiate with client's sister to transfer title of home.

Accept the Case

Case #2 Landlord/Tenant

Client was evicted from her apartment for non-payment of rent. Client would like to recover damages from her landlord for failing to make necessary repairs to her apartment.

Accept the Case

Case #3-Divorce

We currently have 48 eligible clients who need an attorney. Of those, 30 are uncontested divorces, 3 bankruptcy and 15 succession. Additionally, you can go the SBF website and look at "OPEN CASES" page to view a brief synopsis of a case and accept the case on the spot with a click of a button. This is significant! Were you aware that you could get FREE CLE credits by providing pro bono legal services? You can provide a great service to someone in need and receive your CLE credits at the same time. One hour of CLE per 5 hours of pro bono work! Didn't we all take an oath when we became lawyers to assist those in need? Only we can rise in court to speak for the most vulnerable and victimized members of our community—abused and neglected children, victims of domestic violence, the elderly poor, the mentally ill. If we do not help these people with their legal problems, no one will, and nothing we do as lawyers is more important than giving voice to those who otherwise would have none. To those lawyers who

have provided pro bono services in the past, thank you sincerely for your wonderful generosity! I humbly challenge you (and all lawyers in our community) to utilize the Shreveport Bar Foundation's website feature and accept at least one pro bono case. <https://shreveportbarfoundation.org/open-cases/>.

If you would like more information about volunteering or have any questions about our current open cases, please contact Lucy, 318-703-8381 or email lespree@shreveportbar.com

Give for Good Returns May 4, 2021. The Shreveport Bar Foundation Pro Bono Project online Give *for* Good site will go live in the next few weeks. You will receive an email with a link to schedule your online donation. We will have the link on our Facebook page as well. I kindly ask you as you read this article to go to your Facebook page and "like" The Shreveport Bar Foundation Pro Bono Project Facebook page. Look for the 2021 Give *for* Good Campaign information and share it on all your social media sites. For those not on social media, you can email the link to your family, friends and colleagues. For lawyers who are not able to volunteer to take pro bono cases, this is something you can do to help your local Pro Bono Project.

The Pro Bono Project is able to do all that we do because of the support we receive from our grantors, Louisiana Bar Foundation, Acadiana Legal Services Corporation, The Community Foundation, Carolyn W. and Charles T. Beard Family Foundation, First United Methodist Church, The Grayson Foundation and the SBA Krewe of Justinian.





We want to thank the following attorneys who accepted one or more Pro Bono cases and volunteered at our monthly Ask A Lawyer clinic since January 2021. Without our volunteer attorneys, we could not provide services to our clients who cannot afford legal assistance.

William Bradford
Blanchard, Walker, O'Quin & Roberts

Marianne Boston
Cook Yancey King & Galloway

Laura Butler
Attorney at Law

Dan Farris
Attorney at Law

Felicia Hamilton
Attorney at Law

David Hemken
Cook Yancey King & Galloway

Larry Pettiette
*Pettiette Armand Dunkelman Woodley Byrd
& Cromwell*

Davis Powell
Davidson Summers

Audrius Reed
Attorney at Law

Lauren Tarver
Caddo Parish District Attorney's Office

Angela Waltman
Waltman & Waltman

Tim Waltman
Waltman & Waltman

David White
Attorney at Law

Earlnisha Williams
Disability Adjudication & Review

Stacey Williams
Blanchard, Walker, O'Quin & Roberts

Mary Winchell
Winchell & Joseph



Captain Speaks

by Jimmy Franklin, jimmy@jimmyfranklin.net



I hope this finds you all safe and healthy. Just after Justinian XXVI came to a conclusion, our world quickly changed. We learned of a new dangerous virus, Covid-19. In order to allow our health care system to have a chance to catch up we began a lockdown that was projected to last two weeks. Things escalated quickly and all events for 2020 were canceled. For a while we had hoped that things would improve so that we could have Mardi Gras Bals and Parades. But that was not to be. Justinian XXVII ended before it even began.

Finally, the world is beginning to reopen, and we have hopes of having a full year for Mardi Gras. Planning for Justinian XXVIII is underway. Coronation is presently scheduled for August 6, 2021 at Sam's Town. Our Grand Bal is scheduled for Friday, January 21, 2022, at the Horseshoe Riverdome.

At this point, it would be very helpful for you to

immediately send in your membership application. Also, while we had no income, we still had some expenses last year. There is a place on the membership application for a voluntary contribution to offset losses from last year. The requested donation is \$150.00. Of course, any amount would be appreciated and helpful.

Future notices will be sent by email. Please make sure to include your email address on your application. You are welcome to add an additional email address to ensure you receive notices.

Thank you in advance for your prompt attention to your membership and for supporting the Krewe of Justinian! We need your financial support, we need your involvement, and most of all your prayers for a healthy and successful year.

Thank you for your help!

Captain Jimmy Franklin

Justinian XXVIII, "How Sweet It Is!!!!"



**KREWE OF JUSTINIAN
MEMBERSHIP APPLICATION
2021-2022**

CORONATION BAL ----- AUGUST 6, 2021
MIDWAY TO MARDI GRAS PARTY ----- TBD
JUSTINIAN GRAND BAL ----- JANUARY 21, 2022
ROYALTY BRUNCH ----- JANUARY 23, 2022

Your membership dues entitle you and your spouse/guest to attend four (4) parties at no additional charge.

Name _____ Spouse _____
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 Fax _____ Email _____

Krewe Dues:

Attorney and Spouse Membership (\$350.00)	\$ _____
Judge and Spouse Membership (\$350.00)	\$ _____
*Young Lawyer and Spouse Membership (\$225.00) *	\$ _____
Paralegal/Legal Staff and Spouse Membership (\$225.00)	\$ _____
Government Employee and Spouse Membership (\$225.00) ("Non-Lawyer/Non-Judge")	\$ _____
Associate and Spouse Membership (\$250.00) ("Friends of the Krewe")	\$ _____
Contribution to offset 2020-2021: (\$150.00)	\$ _____
TOTAL:	\$ _____

Make Checks Payable to: Krewe of Justinian

Mail to: Krewe of Justinian, 625 Texas Street, Shreveport, LA 71101

* Admitted to Bar for less than five (5) years



Young Lawyers' Section

by Luke D. Whetstone, President, luke.whetstone@cookyancey.com

MOCK TRIALS AND HAPPY HOURS

Although 2021 has just begun, I already have so many people to thank, and so much to be thankful for, as the president of the Young Lawyers' Section. First and foremost, on February 27, the Young Lawyers' Section helped put on the Louisiana High School Mock Trial Competition for Region 1. All of the local students performed fabulously, especially in light of the circumstances – the entire event took place over Zoom with the teams spread out across the city. Caddo Magnet's Mock Trial Team #1 ultimately prevailed at the Regional competition and has since gone on to win the State Mock Trial Competition. They will now compete at Nationals in May.

Team 1 is composed of the following members: Lachle Boniol, Joey Clary, Diya Desai, Henry Jones, Raj Letchuman, Ethan Mackowiak, Ashini Modi and Abigail Nickelson. Diya Desai won a 2nd place attorney award and Ashini Modi won a 3rd place witness award.

I want to thank all the lawyers who volunteered to coach the students involved in the competition. I also want to specifically thank Joshua Williams, the YLS Mock Trial Chair and the High School Mock Trial Regional Coordinator for our region. He put so much time and effort into getting this event off the ground and seeing that it went off without a hitch.

Finally, I want to thank the lawyers and judges who acted as

the mock jurors and judges for the competition. Everyone handled the new format with grace and helped provide a great event for the students. I know that all the lawyers and judges involved were encouraged that so many young (er than me) people are interested in the practice of law. I hope that at least some of them go on to become lawyers and return home to be a part of our legal community.

More recently, on March 11, the Young Lawyers' Section held its first happy hour of 2021. In fact, it was the first happy hour to have taken place in over a year. The event was held at Fat's Oyster House – coincidentally (or perhaps not coincidentally) on 50-cent oyster night – and provided a great outdoor space and environment for the young lawyers to be together and reconnect in a way that they had not previously been able.

I would also like to thank Blanchard Walker, O'Quin & Roberts which sponsored the happy hour. In addition to sponsoring, Tom Arceneaux also provided the young lawyers with a great message on the value of being coachable. Tom's message reminded me of the mock trial competition; like those students, we as lawyers (both young and not-so-young) should always be open and receptive to learning new things and taking advice. I hope that we take this lesson into the rest of this year and beyond, and I hope to see everyone again soon.





New Members

Meredith P. Bro

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Manushka Garcia-Desgage

Shreveport City Prosecutor's Office

Cytheria Jernigan

U.S. Attorney's Office WDLA

Cole, Evans & Peterson Certified Public Accountants

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SAVE THE DATE

Give for Good

The Shreveport Bar Foundation Pro Bono Project will be hosting an event at the downtown Rhino Coffee location on Tuesday, May 4. The SBF Pro Bono staff will be there to take donations from 8:00 a.m. - 3:00 p.m. Stop by, make your donations and get some amazing coffee!



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Shreveport Bar Foundation
Pro Bono Project





UPCOMING EVENTS

*2021 SBA MEMBERSHIP LUNCHEONS

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

MAY 4

Give for Good Campaign
Rhino Coffee Downtown

MAY 5

*Law Day Luncheon

JUNE 23

*SBA Member Luncheon

AUGUST 20

4th Annual

North Louisiana Appellate Conference
Second Circuit Court of Appeal

AUGUST 29

Member Sunday Fun Day Back to School Party
Location TBD

SEPTEMBER 15 & 16

Recent Developments by the Judiciary CLE
Hilton Garden Inn, Bossier City

SEPTEMBER 22

*SBA Member Luncheon

March Luncheon Highlights



SBA LAW DAY AND BOOTH-POLITZ INN OF COURT LUNCHEON MEETING – MAY 5

\$35.00 for SBA Members; cost includes lunch and 1 hour CLE credit with advance reservation (before 5 pm Monday prior to luncheon).

\$40.00 for Non-SBA Members and late reservation (after 5 pm Monday prior to luncheon).



ZOOM Option Attendees - To attend virtually through Zoom, please RSVP no later than Monday, May 3. \$25.00 includes 1 hour CLE credit.



What the LSBA Can Do for You

When: Wednesday, May 5 from 12:00 Noon to 1:00 p.m.
Where: Petroleum Club (15th floor)
**Featuring: Alainna R. Mire, President,
Louisiana State Bar Association**

***Ms. Mire's presentation is eligible for 1 hour CLE credit
The 2021 Liberty Bell recipient will be announced at the luncheon***

Alainna R. Mire is the chief resilience officer and an assistant city attorney for the City of Alexandria and a former human resources director. She received a BA degree in political science in 2000 from Louisiana State University and her JD/BCL degree in 2004 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2004.

Alainna served as Louisiana State Bar Association (LSBA) president-elect in 2019-20 and was a member of the Executive Committee, the Budget Committee and the Bar Governance Committee. She is a member of the Access to Justice Commission. She served as secretary and *Louisiana Bar Journal* editor in 2015-17. She served as LSBA Young Lawyers Division chair, chair-elect, secretary and District 6 representative. She served on the LSBA's Board of Governors as House of Delegates Liaison Committee chair and was a member of the LSBA's Legislation Committee, the Community Action Committee and the Public Information Committee.

She served on the Louisiana Bar Foundation's (LBF) Board and its Budget Committee and co-chaired the LBF's Membership Committee.

A former officer of the Central Louisiana Pro Bono Project and chair of the Alexandria Bar Association's Young Lawyers Council, she is a member of the Alexandria Bar Association and the American Bar Association. She is a former chair of the United Way of Central Louisiana. Please join us on May 5, as we celebrate Law Day and hear Ms. Mire's presentation to the SBA.

LAW DAY
2021



ADVANCING THE
RULE OF LAW NOW

#SHREVEPORTBARASSOCIATION

Inn of Court members will confirm reservation(s) to Jerry Edwards jerry.edwards.jr@gmail.com.

Non-Inn of Court members will confirm reservation(s) to the SBA office dsouthern@shreveportbar.com, 222-3643 Ext 3.

I plan to attend the April Luncheon.

Attorney: _____

Please remember to call and cancel if you are unable to attend.

The SBA pays for each reservation made.

No-shows will be invoiced.

Thank You!