

# THE BAR REVIEW

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9/13-14	Recent Developments by the Judiciary CLE
9/27	SBA Membership Luncheon – 12:00 Noon - Petroleum Club
9/29	SBA Golf Tournament

## From The President



by Nancy Cooper, [ngcoop23@gmail.com](mailto:ngcoop23@gmail.com)

I'm officially an empty nester! Neal and I dropped off our youngest child at college in New Orleans in August, and while moving him into his dorm I watched the students racing around campus with their backpacks and their bikes, meeting new people, making new friends and adapting to their new environment. It felt like yesterday that I was a law student living in New Orleans myself, within walking distance of Audubon Park, the St. Charles streetcar, and unlimited music, food and fun. Thirty years later, I still miss the buzz and the solidarity of life in a college town. What is it that makes a college town so exhilarating?

I've been thinking a lot about this lately in light of Southern University Law Center's "Semester in Shreveport" program. Having a law school in downtown Shreveport could be remarkably invigorating with its influx of youthful energy, contemporary ideas and cultural diversity. It would undoubtedly stimulate innovation, creativity and civic engagement that could tighten our community and strengthen our shared identity – in keeping with Mayor Arceneaux's "I ♥ Shreveport" campaign.

For our legal community, the experience of living and working near a law school could significantly enrich our practices and elevate our impact on the citizens of northwest Louisiana and beyond. Law schools provide opportunities for networking and collaboration and allow legal professionals, students and academics to interact and exchange ideas, form partnerships and mentorships, and share best practices. Moreover, law students and faculty often engage with the community through legal clinics, pro bono work and partnerships with area organizations that provide free or low-cost legal services to community members in need.

Southern University Law Center Chancellor John K. Pierre traveled from Baton Rouge to Shreveport in June to update SBA members on the status of SULC's Shreveport Pilot Program. "Shreveport is an important city with important resources and important assets," he said, speaking at our monthly luncheon at The Petroleum Club. "We are expanding at a time when law schools in the U.S. are declining, because we have partners who can help us do it differently."

One example of such a community partnership, Chancellor Pierre said, was when Shreveport's Downtown Development Authority director, Liz Swain, connected SULC with the Hilton Hotel to assist the "Semester in Shreveport" law students with housing. Other examples include a host of regional externship opportunities the Shreveport students have enjoyed from the Caddo Parish Commission, the Caddo Parish Clerk of Court, the Office of the City Attorney–City of Shreveport, Ochsner LSU Health, LSU Health Sciences Center Shreveport, the Louisiana Second Circuit Court of Appeal, Shreveport City Court, Caddo Parish Juvenile Court and the Law Offices of Felicia M. Hamilton.

In addition, two of the 2023 SULC-Shreveport graduates will be staying up here for clerkships with Judge Shonda Stone at the Second Circuit Court of Appeal and with Judges Ramon Lafitte and John Mosely at the First Judicial District Court.

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**2023 Shreveport Bar Association  
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# SEPTEMBER 2023

# Save the Dates 2023

Shreveport Bar Association's  
Continuing Legal Education



**Recent Developments  
by the Judiciary  
Seminar**



**North Louisiana  
Criminal Law  
Seminar**



**December CLE  
by the Hour**

These collaborations are examples of how our community is supporting SULC in its efforts to move forward from Phase 1 of the Shreveport Pilot Program – the establishment of an accredited spring semester curriculum for law students in their final year – to Phase 2 – accreditation for both semesters of the students' final year. Ultimately, Phase 3 of the plan would establish a fully accredited Shreveport Branch Campus, including a 4-year part-time evening/weekend 90-hour program designed to serve nontraditional students.

Also present at the June SBA luncheon with Chancellor Pierre was Professor Deleso A. Alford, Director of SULC's Shreveport Off-Campus Instructional Site (OCIS). Together they gave an enthusiastic presentation of SULC's experience over the last two years instituting the first phase of the pilot program and highlighting a few challenges, including an April fire at the downtown Shreve Memorial Library that resulted in water damage to the third- and fourth-floor spaces they were upgrading for the program.

In addition to the update on the SULC Shreveport Pilot Program, Professor Alford also treated SBA members and guests at the June luncheon with an update on her work surrounding the legacy of Henrietta Lacks. On top of her duties as the OCIS director, Professor Alford is also the Managing Fellow for the SULC Health Equity Law & Policy Institute and has become quite a celebrity as a result of her 2012 law review article titled "HeLa Cells and Unjust Enrichment in the Human Body" published in *Annals of Health Law* (which can be read here: <https://lawcommons.luc.edu/cgi/viewcontent.cgi?article=1029&context=annals>).

For almost two decades, Professor Alford has been researching and bringing awareness to individuals marginalized by the American healthcare and legal systems and providing input into policies and laws that impact health disparities. In recent years, she has teamed up with civil rights attorney Ben Crump and the family of Henrietta Lacks to help inform their case against a huge biotechnology company that cultivated and mass-produced HeLa cells for profit without permission or consent. Notably, on August 1, this case resulted in an historic settlement that could have significant ramifications for academic and corporate research and create a roadmap for new complaints going forward.

Meanwhile, Professor Alford and Chancellor Pierre, together with our community and the SULC team of lawyers, administrators and educators, will be tirelessly preparing for the "Semester in Shreveport" Spring 2024 class and working to satisfy the accreditation standards necessary to realize the next phase of the Shreveport Pilot Program. Our SBA plans to join this collaboration by offering student SBA memberships, cultivating more

work-study relationships with area lawyers, and perhaps organizing bar exam preparatory seminars taught by local experts.

If any SBA members have other suggestions about how we can help support and advance the SULC-Shreveport Branch, please let me hear from you. As Chancellor Pierre said: "We've got to intentionally cultivate a culture that Shreveport is a place people want to be. Our grads are choosing to stay in Shreveport and they have opportunities here."

In closing, I would invite all SBA members, along with their friends and families, to join our Mardi Gras Krewe of Justinian! We would especially love to welcome more law students into our Krewe to help capture that college town youthful energy and exhilaration that I felt in New Orleans last month with my son.

We are currently celebrating Justinian's 30th year with the theme Once Upon a Time in the Krewe of Justinian XXX. So if you haven't already, please join our Krewe and our northwest Louisiana Mardi Gras community here: <https://kreweofjustinian.com/join-now/>. Get to know Captain XXX Amy Gardner Day and her Royal Court: King Don Hathaway; Queen Alison Byrd; Dukes Thomas Mayfield and Mike Marino; Duchesses Claire Hill and Valerie DeLatte; Prince Thomas Hathaway; and Princess Codi Setters. (Thank you all for serving this year!)

We kicked off the 2024 Mardi Gras Season in August with our spectacular Coronation Bal. The theme this year was Alice in Wonderland's "Down the Rabbit Hole." Next on our calendar is TRIVIA NIGHT on Thursday September 7 at The Petroleum Club – you may register here: <https://kreweofjustinian.com/join-now/>. Following that is our MIDWAY TO MARDI GRAS PARTY on Friday, October 27, at Louisiana Daiquiri Cafe, 1881 Texas Ave in Shreveport; our RACE for the BEADS 5K Run on Sunday October 29; and our GRAND BAL on Friday January 13, 2024.

So please mark your calendars and join our Krewe of Justinian because in the words of Lewis Carroll: "The secret, Alice, is to surround yourself with people who make your heart smile. It's then, only then, that you'll find wonderland."



# How Write You Are

by Hal Odom Jr., [rhodom@la2nd.org](mailto:rhodom@la2nd.org)

**Don't cross this T.** In fact, leave it out! This synopsis of an Inn of Court program recently appeared in print: "Members and guests were divided into 10 teams and had *roughly* one minute to answer each question." "Inn the News," *The Bench*, Mar./Apr. 2023, 4. It joins some earlier entries. "That is not too wild an idea; Thomas Aquinas held something *roughly* similar." Judith Andre, "Respecting Pluralism; Respecting Complexity," 2002 L. Rev. Mich. St. U. Det. C.L. 911 (Winter 2002). "My polishing up your *roug*ht drafts is much more efficient than re-creating entire documents." Christine L. Sikula, "Dear Boss, Since You Asked..." 34 *Trial*, 70 (Feb. 1998).

Obviously these should be *roughly* one minute, *roughly* similar and *rough* drafts. We are so conditioned to type words like *thought*, *bought* and *sought* that the *t* flows automatically after the *ough*, despite the huge pronunciation difference in *rough*. The Detroit College Law Review and *Trial* articles may have predated Spell Check and the red squiggly line to catch this fraught error. For the same error to elude our current editing technology is a bit unusual. If you don't trust Spell Check, you *ought* to proofread.

**I'm not begging.** It's finally reached the highest court in the land: "The central question is thus whether defendants' conduct constitutes 'aid[ing] and abett[ing]', by knowingly providing substantial assistance, such that they can be held liable \* \* \*. Here, the text immediately *begs two questions*: First, exactly what does it mean to 'aid and abet'? Second, what precisely must the defendant have 'aided and abetted'?" *Twitter Inc. v. Taamneh*, 598 U.S. \_\_\_, 143 S. Ct. 1206 (2023). The unanimous court answered those questions, in Twitter's favor; my concern is about the court's choice of wording.

*Begging the question* is a term of art in logic and forensics (think high school debate team), and it means "assuming the truth of something which is in fact part of what is still to be proved." <https://chambers.co.uk/search/?query=beg&title=21st>. It is a form of circular reasoning dating back to Aristotle (who called it *to en arche aitein* or *petitio principii*, "assuming the original point"). One source gives an example: wool sweaters are superior to nylon jackets because wool sweaters have higher wool content. The speaker has muttered some words, but not explained why wool is superior to nylon. [www.law.cornell.edu/wex/beg\\_the\\_question](http://www.law.cornell.edu/wex/beg_the_question). It also means, somewhat casually, dodging an awkward subject.

More recently, and less artfully, *begging the question* also means "raising a very obvious question" or "demanding an answer." This is probably because *beg* sounds a bit urgent, as in the phrase *beg to differ*. In fact, dictionary.com states that the newer sense is "much more commonly used," and Merriam-Webster lists as the primary definition, "to elicit a question logically as a reaction or response." [www.merriam-webster.com/dictionary/beg#beg-the-question](http://www.merriam-webster.com/dictionary/beg#beg-the-question).

This appears to be precisely the meaning that Justice Thomas was begging to express.

The court has used the traditional sense. "But this argument



*begs the question*. It simply assumes that confirmation is appealable because it resolves a contested matter, and that therefore anything else that resolves the contested matter must also be appealable." *Bullard v. Blue Hills Bank*, 575 U.S. 496, 135 S. Ct. 1686 (2015). However, the sense of *raising an obvious question* or *begging for an answer* seems to have squeezed out the old Aristotelian concept.

Careful writers might want to avoid the phrase altogether. To convey the traditional sense of the logical fallacy, consider writing *assumes what it seeks to prove* or *is a circular argument*. To convey the new sense, consider *raises the obvious question* or *demands an answer*. We might

be better off if we quit begging.

**It's a billboard, not a noble.** I spotted this in a letter to the editor, outside the realm of legal lit: "The two *marquis events* of that decade [the 1960s] were the Vietnam War and the moon landing." Letters, "The Fall of Rationality," 47 *Skeptical Inquirer* 65 (Mar./Apr. 2023). This usage can appear in legal writing: "We offer numerous educational programs \* \* \* and, of course, our *marquis event*, the annual Product Liability Conference each February." From the Chair, "Build Your Practice, Enrich Your Life," 59 *DRI For the Defense* 38 (Apr. 2017).

Interesting, but a *marquis* or *marquess* was, in medieval times, a land-owning noble who ranked under a duke and above a count. A true *marquis event* might be a jousting match or a crown tournament.

The term intended was *marquee*, meaning a *large tent* or the *awning over a theater* listing the title of the movie, showtimes, a star's name, etc. If it's something to place on the marquee, it's a *marquee event*. "At that time, the Council's long-term strategic plan was to grow the conference into a stand-alone *marquee event* entirely dedicated to young lawyers." Carrie LeBlanc Jones, Chair's Message, 68 *La. B.J.* 444 (Apr./May 2021).

**A little stormy here.** If waters are turbulent, they are *wavy*. If they get more turbulent, they are *wavier*. Somehow, this concept was not intended in the following quotes: "I opine that the State must first offer the *wavier* of rights form into evidence before an officer's testimony can be used to support the admissibility of a confession." *State v. Turner*, 21-186 (La. App. 5 Cir. 6/23/21), 2021 WL 2582503 (Johnson, J, dissenting in part). "Furthermore, despite the defendant's appellate claim that her low intelligence rendered her *wavier* of rights \* \* \* involuntary, well established jurisprudence from this state shows otherwise." *State v. Holmes*, 06-2988 (La. 12/2/08), 5 So. 3d 42. "In his only assignment of error, defendant asserts that his *wavier* of a jury trial was not knowing and intelligent[.]" *State v. Wallace*, 17-622 (La. App. 5 Cir. 7/31/16), 252 So. 2d 569.

The word intended was *waiver*, but Spell Check will not say the similar *wavier* is wrong. Stay calm, and never relinquish the right to proofread!





# Federal Update

by Chris Slatten, [Chris\\_Slatten@lawd.uscourts.gov](mailto:Chris_Slatten@lawd.uscourts.gov)

**Baited Dove Field:** It is illegal to hunt migratory birds (doves) over a baited field. There is a safe harbor exemption that applies when grain or feed “has been distributed or scattered solely as the result of . . . a normal agricultural operation.” A “[n]ormal agricultural operation” is defined as one “that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.”

A farmer/hunter scattered wheat to grow forage for his farm operation (and in hopes that doves would stop to have a bite). He scattered it in mid-August, not covered by soil, and in great density, which were all against the recommendations of LA extension service pamphlets. The farmer pointed to a MS extension service publication that arguably supported his approach for wheat planted in the southeast. The 5CA held, “The Cooperative Extension Service’s recommendations are state-specific.” You must follow the guidance issued in your state if you want to depend on the safe harbor for normal agricultural operation. *US v. Holdman*, 2023 WL 4839608 (5th Cir. 2023).

**Title VII, Prima Facie Case, and Rule 12(b)(6):** An employment discrimination complaint need not allege a prima facie case to survive a motion to dismiss. Justice Thomas wrote for a unanimous court that the complaint need not “contain specific facts establishing a prima facie case of discrimination under the framework set forth . . . in *McDonnell Douglas*” and “instead must contain only ‘a short and plain statement of the claim showing that the pleader is entitled to relief’” per Rule 8(a). *Swierkiewicz v. Sorema N.A.*, 122 S.Ct. 992 (2002).

But the 5CA just can’t let go of the prima facie case. They conceded in *Norsworthy v. Houston ISD*, 2023 WL 3965065 (5th Cir. 2023) that, “The prima facie case under *McDonnell Douglas* . . . is an evidentiary standard, not a pleading requirement.” And they allowed that “the *McDonnell Douglas* standard does not govern at the motion-to-dismiss stage.” But in the next breath they slipped it back in by saying that a plaintiff is still required “to plead sufficient facts on all of the ultimate elements” of her claim” and “to frame that inquiry, a district court may find it helpful to reference *McDonnell Douglas*.” In reality, a district court’s reference often amounts to reliance.

**Border Search of Your Cell Phone:** Don’t skip this because you think the border search doctrine does not apply to you unless you’re crossing the US/Mexican land border. The same law applies at the functional equivalent of the border, such as DFW when you return from your trip to Italy, or New Orleans when you step off that Caribbean cruise. *U.S. v. Cardenas*, 9 F.3d 1139 (5th Cir. 1993).

The border exception to the Fourth Amendment allows law enforcement to (for any reason) conduct routine inspections and searches of individuals and conveyances that cross the border. Routine searches include looking through luggage and personal effects, and they can even include disassembling a fuel tank. Officers who want to escalate to a non-routine search need reasonable suspicion, but they do not need the more demanding probable cause.

What about a cell phone? Circuit courts have uniformly held that manual cell phone searches at the border are routine. The circuits differ on whether reasonable suspicion is required for a more intrusive forensic search of a cell phone at the border. The 5CA adopted the consensus view regarding manual searches, which allowed as routine a basic manual search. That search revealed child porn, and that discovery provided whatever cause was needed to then make a more intrusive forensic search of the phone that found even more evidence of crime. Denial of a motion to suppress was affirmed. *U.S. v. Castillo*, 70 F.4th 894 (5th Cir. 2023).

An attorney recently had his phone—full of privileged info—taken at the border and searched based on reasonable but incorrect suspicion of crime. He sued and lost. *Malik v. U.S.*, 2023 WL 5173796 (5th Cir. 2023).

**FLSA Overtime Claims; Poor Records:** A window blind company did not maintain records of the plaintiffs’ work hours. Instead, it paid flat fees for each job. When the plaintiffs sued for overtime under the FLSA, the company obtained summary judgment in the district court on the grounds that the plaintiffs could not substantiate their overtime claims with any specific facts.

The 5CA reversed in *Flores v. FS Blinds, LLC.*, 73 F.4th 356 (5th Cir. 2023) because the plaintiffs satisfied a special burden-shifting rule that is used when an employer does not keep good records. In such cases, a plaintiff need only present evidence that shows (1) he has performed work for which he was improperly compensated and (2) the amount and extent of unpaid overtime worked “as a matter of just and reasonable inference.” *Anderson v. Mt. Clemens Pottery Co.*, 66 S. Ct. 1187 (1946).

Testimony from the plaintiffs about their usual work schedule (11 to 17 hours a day), plus some corroboration by the company and sample work orders, was enough. That shifted the burden to the company to disprove the claim, and it could not do so. The plaintiffs were entitled to recover damages, but how much? The 5CA acknowledged the difficulty in determining the amount at trial when a company has not kept good records, but it has to be done, and the company can’t use its own poor record keeping as an excuse to avoid paying.



## Second Circuit Highlights

by Hal Odom Jr., [rhodom@la2nd.org](mailto:rhodom@la2nd.org)

**About that directed verdict ...** The Code of Civil Procedure authorizes the directed verdict, La. C.C.P. art. 1810, but does not set out a standard for granting one. Helpfully, the jurisprudence holds that in a jury trial, after one side has presented its case, the other side may move for directed verdict, on grounds that “it is clear that the facts and inferences so overwhelmingly favor a verdict for the movant, that reasonable minds could not have arrived at a contrary conclusion.” *Gray v. State Farm*, 53,554 (La. App. 2 Cir. 1/13/21), 310 So. 3d 768. So, when are facts and conclusions “overwhelming”?

Ms. Thomas was a regular patient of a chiropractor, Dr. Crawford, and saw him three times in May 2016 for a “crick in the neck.” After the first two visits provided only limited relief, Dr. Crawford offered something different, a “C-1 Toggle” maneuver. He placed Ms. Thomas on the table, laying her on her side and propping her head on a headrest. The idea was for Dr. Crawford to apply a quick, firm force to her neck, at which time the headrest would drop, ideally effecting an adjustment at C1. Unfortunately, the instant that Dr. Crawford applied the pressure and the headrest dropped, Ms. Crawford got dizzy, lost vision, went limp on her right side and started vomiting. She was taken by EMS to a local medical clinic and then airlifted to U-Health, in Shreveport. Doctors there determined that the C-1 Toggle had caused a vertebral artery dissection at C1-C2, resulting in a stroke.

Ms. Thomas applied for a medical review panel, in which the parties gave differing accounts of exactly how Dr. Crawford performed the C-1 Toggle. Ms. Thomas stated that he jerked her chin toward the ceiling during the maneuver (this is what started the symptoms); Dr. Crawford, however, said he never jerked her chin (in fact, he never touched it after he positioned her on the headrest). The MRP found no breach of the standard of care; Ms. Thomas filed suit.

At jury trial, one of the MRP members, a chiropractor named Dr. Abshire, recognized that the parties gave differing accounts of the treatment, but he had accepted Dr. Crawford’s account, basically assuming that there was no jerk to Ms. Thomas’s chin. He agreed, however, that if the jerk occurred, this would be a breach of the standard. Ms. Crawford’s expert, a neurosurgeon named Dr. Guthikonda, testified that the procedure she described was a “classic example of how someone might develop a vertebral artery dissection.” On cross-exam, though he denied doing it, Dr. Crawford admitted that lifting the chin before a C-1 Toggle was a breach of the standard of care. At the close of Ms. Thomas’s case, Dr. Crawford moved for directed verdict, which the district court granted. Ms. Thomas appealed.

The Second Circuit reversed, *Thomas v. Crawford*, 55,085 (La. App. 2 Cir. 5/10/23), in an opinion by

Judge Thompson. The court came down hard on the “overwhelming” quality of the facts and inferences needed to sustain the directed verdict, adding that the trial judge cannot make credibility determinations, *Barnes v. Thames*, 578 So. 2d 1155 (La. App. 1 Cir. 1991). Given the discrepancy between the parties’ accounts of this particular C-1 Toggle, and the consistency in the experts’ view that Ms. Thomas’s version would in fact be malpractice, the court found the directed verdict improper. The judgment was reversed and the case remanded.

The court stressed that on review, it would construe all standards in favor of the nonmoving party. This case illustrates that if there is a factual dispute as to a critical issue, the directed verdict probably will not survive.

**Amendment is allowed.** Ms. George was killed in a tragic auto accident in November 2019. Her southbound Hyundai Accent was struck head-on by a northbound Chevy Tahoe that was trying to pass another northbound vehicle in a no-passing zone. In March 2020, her parents sued the driver of the Tahoe, the driver’s employer and the Tahoe’s owner, alleging that the driver was intoxicated and acting in the course and scope of employment at the time; the employer was negligent in hiring, training and supervising him; and the owner allowed the driver to use the Tahoe with consent. In the course of discovery, it transpired that there was also a passenger in the front seat of the Tahoe; the parents amended their petition to join him as a defendant, in January 2022, on a claim of conspiracy or “joint negligence.” The passenger filed an exception of prescription urging the January 2022 amended petition was well over a year past the November 2019 accident. The district court sustained this and dismissed all claims against the passenger. The plaintiffs appealed.

The Second Circuit affirmed in part, reversed in part and remanded, *Hill v. State Farm*, 55,091 (La. App. 2 Cir. 5/10/23), in an opinion by Judge Stephens. The issue was whether the driver and the passenger were joint tortfeasors. Like the old rule of solidary obligors, a timely suit against one joint tortfeasor will interrupt prescription as to all. La. C.C. art. 2324 C. A joint tortfeasor is one whose conduct, intentional or negligent, “combines with another party” and causes injury. La. C.C. art. 2324 A. The court agreed that the amended petition lacked “allegations of specific acts” on the part of the passenger “to support his status as a joint tortfeasor or solidary obligor,” so the judgment was affirmed. However, when the ground of the exception can be removed by amendment, the court must permit amendment. La. C.C.P. art. 934. The court found that the plaintiffs should be allowed to “flesh out and fully allege” their new claims, so the matter was remanded for further proceedings.

The court did comment that the “likelihood of plaintiffs’ success” is not determinative, but at least they will get that chance.

**Abandonment strikes.** An action is abandoned when the parties fail to take any step in its prosecution or defense in the trial court for three years; abandonment is self-operating, needing no formal order, only the affidavit of any party. La. C.C.P. art. 561. There is much, much jurisprudence about what acts or filings constitute a “step.”

In connection with an expropriation suit dating back to 1986, *State v. Clark*, 53,197 (La. App. 2 Cir. 1/15/20), 289 So. 3d 226, writ denied, 20-00528 (La. 9/23/20), 301 So. 3d 1183, cert. denied, 142 S. Ct. 622, 211 L. Ed. 2d 388 (2021), the property owner filed a legal malpractice claim against his former attorneys, in 1990. Acting pro se, the owner served the attorneys with discovery requests on March 8, 2001, and they responded on March 28, 2001. The owner then filed a change of address notice in March 2002 and a duplicate copy of requests for production in February 2003 (the attorneys were never served with these); then, he filed interrogatories in February 2006, refiled them periodically over the next 15 years, through January 2021. On October 6, 2021, the attorneys filed a motion to dismiss the action as abandoned, as of March 29, 2004. The court granted this, ex parte, and dismissed the owner’s suit without prejudice. The owner appealed.

The Second Circuit affirmed, *Clark v. Mangham, Hardy, Rolfs & Abadie*, 55,073 (La. App. 2 Cir. 5/24/23), in an opinion by Judge Hunter. The court rejected a preliminary claim that Art. 561 is unconstitutional, and then found not only that discovery which is not served on all parties is not a step in the prosecution, but that *refiling* that discovery does not turn it into a step. Finally, the court dismissed an unfounded effort to recuse the district court judge. The court denied the owner’s application for rehearing on June 22, and for en banc rehearing on August 2, 2023.

Much of the trouble in this case can be ascribed to the owner’s dogged insistence on acting pro se to sue his old lawyers; did he really think a layman could bring them down? At any rate, between this opinion, and Judge (now Justice) McCallum’s opinion in the earlier, expropriation appeal, this owner can retire from amateur legal practice and get back to selling hair care supplies.

**A small opening for borrowers.** In a series of cases, the La. Supreme Court has hammered home that the La. Credit Agreement Statute, La. R.S. 6:1123 et seq., applies only to *written agreements*; if there is only an *oral agreement*, the borrower has no cause of action to make the lender comply with its terms. *Whitney Nat’l Bank v. Rockwell*, 94-3049 (La. 10/16/95), 661 So. 2d 1325; *Jesco Const. Corp. v. Nationsbank Corp.*, 02-0057 (La. 10/25/02), 830 So. 3d 989; *Hovell v. Origin Bank*, 20-01417 (La. 3/2/21), 311 So. 3d 340. In other words, the borrower cannot argue that the bank “promised” to forbear collection of a note, provide additional lending or help the borrower obtain collateral. However, if the bank makes the borrower sign an agreement, they both need to read this document very closely.

A northeast La. businessman, Jack Wyly Jr., owned four income-producing properties, three in Ouachita

Parish and one in St. Landry, worth about \$8 million and with (according to Wyly) income greater than the monthly mortgage payments. An agent from Cross Keys Bank approached him to solicit his business and service his capital needs. Wyly agreed, signing a collateral release agreement (“CRA”) to facilitate some significant restructuring, including a tax-deferred exchange. The details of Wyly’s deals, and Cross Keys’ participation, are set out in the opinion; suffice it to say, Wyly felt that Cross Keys failed to perform as promised, locking him out of a lucrative \$5.5 million deal. Through his corporation, Wyly sued for breach of contract, negligence and detrimental reliance. Cross Keys asserted, inter alia, no cause of action, based on the *Whitney-Jesco-Hovell* line of cases. The district court agreed, dismissing all claims with prejudice. The corporation appealed.

The Second Circuit reversed and remanded, *Brokenburn Inc. v. Cross Keys Bank*, 55,089 (La. App. 2 Cir. 5/10/23), in an opinion by Judge Marcotte. It came down to a sentence in the CRA: “Nothing in this agreement shall require Lender to make any loans, release any collateral, or otherwise provide funds to Borrower for the purpose of allowing Borrower” to complete a tax-deferred exchange of properties. The court construed this as meaning the CRA was *not a credit agreement*, but it did create certain rights and obligations which the parties were entitled to enforce.

*Brokenburn* is limited, perhaps, to its particular (and rather complex) facts. Still, it shows that the court will treat a case differently when there is a writing, and possibly crack open the window for some lender liability claims. It may also create an incentive for lenders to double-check what they’re saying in their CRAs.

**Not so late, buster!** Back in April, I wrote about *Green v. E. Carroll Parish Sch. Dist.*, 54,910 (La. App. 2 Cir. 3/1/23), 357 So. 3d 541, in which the Second Circuit affirmed a summary judgment in favor of the school board. The court had discussed the scope of duty to provide transportation to special-needs students, and how this did not include the risk that a parent might get hurt trying to move her kid’s wheelchair if the school bus is offline. The court considered it trivial that even though the MSJ was *filed* 69 days before trial, it was not *served* until 53 days before trial: filing was timely; ergo, no prejudice from the delayed service. Ms. Green took a writ.

The Supreme Court rendered a prompt and unanimous per curiam strictly applying La. C.C.P. art. 966 B(1), under which the motion “shall be filed *and served*” not less than 65 days prior to trial. *Green v. E. Carroll Parish Sch. Dist.*, 23-00466 (La. 5/23/23). Delayed service negates the MSJ, despite absence of prejudice! It’s back to the drawing board for these litigants, but now we know the Supremes will sternly enforce all time limits of Art. 966.



## SECOND CIRCUIT ATTORNEYS AND STAFF RECOGNIZED



Second Circuit honorees included, left-right: Janine Turner (5 years), Jessica Stephenson (10 years), Jennifer Brown (30 years), Vicki Rigdon (20 years), Brenda Baker (20 years)

The Second Circuit Court of Appeal recently honored employees who reached five-year anniversaries in their employment with the court. Chief Judge Frances Pitman presided over an awards ceremony in the courtroom on July 13.

**Jennifer Brown** received a rosewood picture frame for her 30-year award. She is a graduate of Mansfield HS, LSU (BS-Secondary Ed., 1988) and LSU Law Center (JD, 1992). Jennifer came to work for Judge Henry Brown in 1992, shortly after law school, stayed with him continuously until his retirement and recently began work for Judge Jimbo Stephens. In addition to her work at the court, Jennifer teaches legal research and writing at the LSUS Continuing Education Dept.'s paralegal certification program.

**Jessica Stephenson** received a brass Post-it® Note

dispenser for her 10 years. She is a graduate of Parkway HS, La. Tech (BS-Finance, 2009) and Loyola University (JD, 2012). She has worked on the court's central staff since September 2012. She has a one-year-old and is expecting a new son in three months.

**Janine Turner** received a brass coaster for her five years. She is a graduate of Houghton HS, LSUS (BS-Finance, 2007), LSU Law Center (JD, Grad. Diploma in Comp. Law, Cert. of Energy L. & Policy 2017), and has worked for Judge Jeff Cox since 2017. She is married to Justin Turner and has three boys, ages 13, 6 and 1.

Two honorees were unable to attend the ceremony but were recognized in absentia.

**David Tullis** has marked 25 years. A proud native of New Orleans, he is a graduate of Jesuit HS, LSU (BA-History, 1992) and LSU Law Center (JD, 1995). He has worked at the Second Circuit since 1997, for the late Chief Judge Charles Marvin, then for Judge Harmon Drew, Judge (now Justice) Jay McCallum, and currently for Judge Jeff Robinson. He and his wife, Kim, have two daughters, the older of whom just started LSU Law Center in August.

**Alex Radford** was recognized for five years. He is a graduate of McNeese State (BS-Finance, 2006), LSU Law Center (JD/DCL, 2012) and University of Florida Law (LLM-Taxation, 2013). He came to work for the court in September 2017, first for Judge Drew, then for Judge Gaskins, Judge McCallum and, currently, Judge Shonda Stone. He is married to Rebecca S.L. Radford.

Also thanked were Brenda Baker, judicial assistant to Judge Stephens, for 20 years; Vicki Rigdon, judicial assistant to Judge Ellender, 20 years; and Jack Hartman, IT Dept., 10 years. A brief reception with cake and cookies was held after the awards were presented.

## ASSISTANT EXAMINERS NEEDED

The Committee on Bar Admissions is in need of additional Assistant Examiners to help grade the Louisiana State Bar Examination. In order to be eligible for nomination, Assistant Examiners must have been admitted to the Louisiana State Bar for a minimum of five years and shall be a member in good standing during their appointment. Assistant Examiners receive 6 hours of CLE credits for grading the February and July Bar Examinations.

If you are interested in volunteering, please contact Megan O'Cain, Testing Director, at [MOcain@Lascba.org](mailto:MOcain@Lascba.org).



# SBA JUNE LUNCH & LEARN

We thank our presenters, **Judge Elizabeth E. Foote** and **Jim McMichael**, who presented Trial Advocacy- The Basics of Cross-Examination at our June 15 Lunch & Learn session at the Shreveport Bar Center.



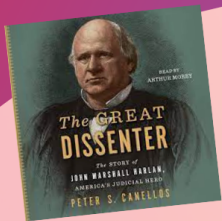
# KREWE OF JUSTINIAN MAKES DONATION TO SHREVEPORT BAR FOUNDATION

Nancy Cooper presented David White with a donation from funds raised during the XXIX Justinian year. The Krewe of Justinian's philanthropic mission seeks to raise funds in support of the Shreveport Bar Foundation's Pro Bono Project, the Self Represented Litigants Program and the Legal Representation for Victims of Domestic Violence Program. These programs provide legal assistance to low-income clients and to victims of domestic violence in Caddo and Bossier Parishes. Through the efforts of Justinian, a donation of \$15,000.00 with an additional \$3,600.00 contribution from the Justinian flag sale raised a total contribution of \$18,600.00.



## SBA Luncheon Save the Dates January–March 2024

More details announced soon!



**January 24**

Peter S. Canellos, Author of The Great Dissenter



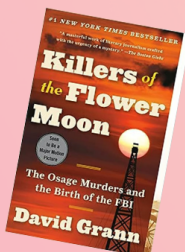
Peter S. Canellos

**February 28**

Speaker to be announced soon.



Chief Geoffrey Standing Bear



**March 27**

Chief Geoffrey Standing Bear, Principal Chief of the Osage Nation and source for the book Killers of the Flower Moon





# Memorial & Recognition Ceremony



## In Memory of:

*Randall "Randy" Stephen Davidson*

*Major General (Ret) James Graves*

*Honorable (Ret) Gayle Hamilton*

*Wellborn Jack Jr.*

*Rachel King*

*Joel L. Pearce*

*Billy Ray Pesnell*

*Claire Ellen Porter Sharp*

*David Gerald "Jerry" Tyler*



Members of the Shreveport Bar Association are encouraged to participate in the annual Memorial & Recognition Ceremony to be held Thursday, November 9 at 2:00 p.m. at the Caddo Parish Courthouse in Courtroom G. It is an opportunity for SBA members to honor the deceased and celebrate their contributions to the profession and to the sanctity of law. Their families are also invited and truly appreciate this show of honor and respect. The memorial service is followed by the introduction of new lawyers which is an important and meaningful kickoff tradition for those just starting to serve the legal profession.

In addition to honoring deceased members and recognizing new members, this gathering presents an occasion to reflect on your own legal career and to encourage those who are just entering the profession.

A reception following the Memorial & Recognition Ceremony will be held at the Shreveport Bar Center, 625 Texas Street.

### Attention All Attorneys!

New Attorneys will be honored on November 9. Please pass this information along to anyone who passed the Louisiana Bar Exam after October 2022.

In connection with the SBA's Memorial and Recognition Ceremony being held on Thursday, November 9, 2023, the following events have been planned for area new attorneys:

8:30 AM – 1:15 PM New Attorney Seminar – Petroleum Club (15th Floor) – Energy "A" Room (includes lunch). All new attorneys who have passed the Bar Exam in 2023 are invited to attend the seminar.

2:00 PM – Memorial & Recognition Ceremony – Courtroom G – Caddo Parish Courthouse

Reception immediately following at the Shreveport Bar Center, 625 Texas Street

All attorneys who have passed the Louisiana Bar Exam in 2023 will be recognized during the ceremony. Attorneys and judicial offices are asked to turn in any names of attorneys who have passed the bar to Dana at the SBA Office either by email: [dsouthern@shreveportbar.com](mailto:dsouthern@shreveportbar.com) or telephone (222-3643 Ext. 3).

The Shreveport Bar Association and Judges of the First Judicial District Court cordially invite you to attend the annual

## Memorial & Recognition Ceremony

honoring deceased and new members of the Bar Thursday, the Ninth of November at Two o'clock in the afternoon Courtroom G Caddo Parish Courthouse 501 Texas Street Shreveport, Louisiana Reception to follow At the Shreveport Bar Center 625 Texas Street Shreveport, Louisiana



# Pro Bono Project

*Do Good Work ~ Hon. Henry A. Politz*

## Shreveport Bar Foundation Receives Grant from Community Foundation of North Louisiana



Kristi Gustavson, Executive Director of the Community Foundation of North Louisiana (CFNLA), presented a grant to the Shreveport Bar Foundation (SBF) Board Members for \$71,250.00. This grant was made possible because of the Colonel and Mrs. John H. Tucker, Jr. Fund, a fund special to CFNLA, as Colonel John H. Tucker, Jr. is the founder of the Community Foundation of North Louisiana. As an attorney, Colonel Tucker worked with clients who sought to leave a financial legacy for the benefit of the Shreveport and Bossier communities. He had a vision of how a cooperative community foundation could provide a means to address the area's charitable and civic concerns. The groundwork for CFNLA was laid through Colonel Tucker's thorough research and the interest and determination of a small group of dedicated individuals. For 15 years Colonel Tucker handled the correspondence of the Foundation, dealt with legal matters and administered the daily operations. Colonel Tucker is known not only as the founder of CFNLA, but also as a benefactor. When Colonel and Mrs. Tucker died, they left one-third of the principal and income from their residual estate to the Foundation, as well as their McCormick Street residence and most of its contents. The legacy of Colonel and Mrs. Tucker lives on through their philanthropy, their generous donation to CFNLA and most importantly, the very existence of the Foundation itself. The SBF is very appreciative of CFNLA and of Colonel and Mrs. Tucker.

This grant will help fund our Legal Representation for Victims of Domestic Violence Protective Order Program. The program provides a free attorney to appear in Caddo and Bossier Parish District and Caddo Juvenile courts to assist victims of domestic violence in obtaining restraining orders and related orders when such actions are directly connected to family violence cases and are taken to ensure the health and safety of the victims. The CFNLA has donated \$478,264.00 since July 2016 to the Shreveport Bar Foundation's LRV DV program.



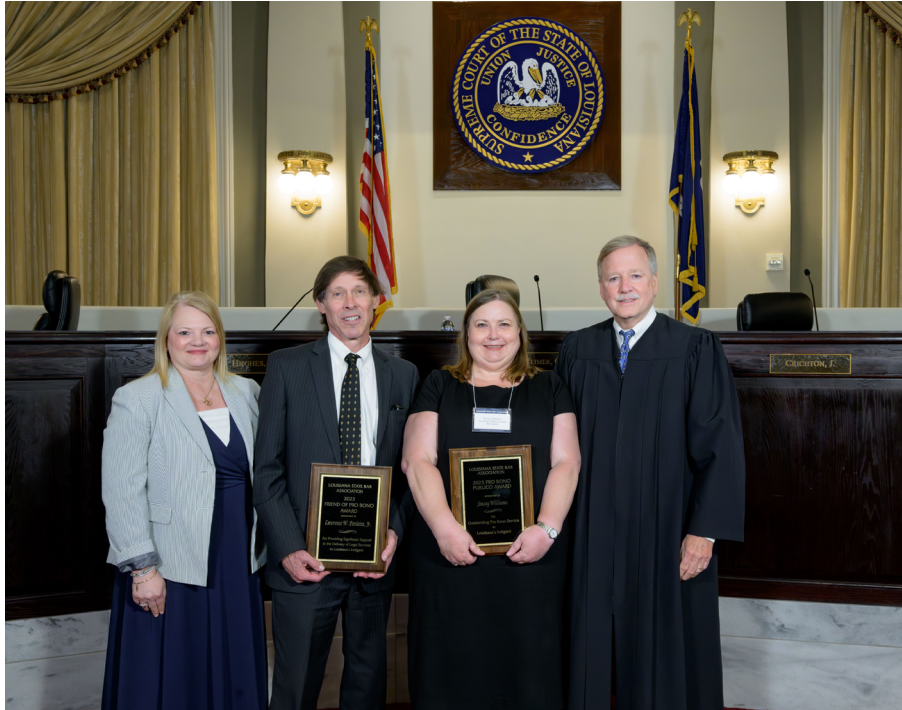
L-R are Sarah Giglio, Kristi Gustavson, Drew Martin, David White and Angela Waltman



## 2023 Access to Justice Pro Bono Award Recipients

The Louisiana State Bar Association Pro Bono Publico Awards Ceremony was held on May 17, 2023, at the Louisiana Supreme Court in New Orleans. The **2023 Louisiana State Bar Association Pro Bono Publico Award** was awarded to **Stacey D. Williams**, and the **2023 Louisiana State Bar Association Friend of Pro Bono Award** was awarded to **Lawrence W. Pettiette Jr.**

Associate Justice Scott Crichton presented their awards to both Stacey and Larry



L-R are Dana Southern, Larry Pettiette, Stacey Williams and Justice Scott Crichton

Stacey's dedication to pro bono began with her involvement as ex-officio member of the Shreveport Bar Foundation "SBF" board. She then moved to leadership positions on the board from 2014-2018, including president in 2018. Stacey has continued to serve as an SBF Member at Large since 2019.

Additionally, she is an active volunteer for the Pro Bono Project, primarily handling divorce cases. One of her most remarkable achievements was an interdiction case where she successfully had her client appointed as the administratrix of her adult brother, who has Down Syndrome.

Stacey is originally from Vivian. She graduated from Duke University, then obtained her law degree from LSU. Stacey practices at Blanchard, Walker, O'Quin & Roberts primarily in the area of litigation, including appellate matters. She is admitted to practice before all state and federal courts in Louisiana. Stacey has been a member of Shreveport Bar Association "SBA" for 30 years. Stacey has served in the SBA and SBF and supported its community services for many years. Stacey has served on the SBA Executive Council and was the SBA Women's Section president in 2013.

As the president of the SBF, Larry's work with the SBF began. He has served on the Executive Committee of the SBF for several years and is the immediate past president. During his time as president, Larry's efforts helped ensure the SBF's financial stability: the debt on its building was retired, a new roof was put on the building, a repaved parking lot was completed, and various pro bono and community outreach programs were expanded. In 2022, he was awarded the SBA Professionalism award. He continues to work with the SBF and various programs.

Larry has been a lawyer and a member of the SBA for 45 years. He was SBA President, Treasurer, and Archives Chairman. He is a founding and longtime key member of the SBA nonprofit committee, the Krewe of Justinian, whose purpose is to raise money to support the SBF and its pro bono activities. Larry has supported the Krewe's fundraising for the pro bono project in every key position – he served as a Duke, Krewe Captain and King.

Larry graduated summa cum laude from Northeast Louisiana University in 1975 with degrees in Spanish and Government. He graduated from Emory University School of Law in 1978. He served a two-year judicial clerkship with Judge Tom Stagg in the U.S. Western District of Louisiana. Since completing that clerkship, Larry has been a litigator. He is a founding member of his firm, Pettiette, Armand, Dunkelman, Woodley and Cromwell.

## Pro Bono Project Update

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

**Christopher Broussard**  
*Broussard & Newlen Law Firm, LLC*

**Coburn Burroughs**  
*Gordon McKernan Injury Attorneys*

**Valerie DeLette**  
*Jack Bailey Law Corporation*

**Jeffrey Little**  
*Attorney at Law*

**Felicia Hamilton**  
*Attorney at Law*

**Taunton Melville**  
*Attorney at Law*

**Holland J. Miciotto**  
*Law Office of Holland J. Miciotto LLC*

**Pamela King Newlen**  
*Broussard & Newlen Law Firm, LLC*

**Larry Pettiette**  
*Pettiette Armand Dunkelman Woodley Byrd & Cromwell*

**Audrius Reed**  
*Attorney at Law*

**Heidi Kemple Martin**  
*Nickelson Law*

**Gregory Trompe**  
*City of Shreveport*

**Earlnisha Williams**  
*Attorney at Law*

**Stacey Williams**  
*Blanchard, Walker, O'Quin & Roberts*

**David White**  
*Attorney at Law*

We were able to assist over 81 people collectively at our Ask A Lawyer clinic for June, July and August. We had 12 attorney volunteers to advise and assist everyone who attended. Below are photos from the June through August clinics.





## SBF Outreach Clinic Highlights

On June 20, we held an Immigration Law Clinic at Broadmoor Baptist Church, and it was a huge success. Katherine Evans Ferguson was able to answer everyone's questions. 318 Latino joined us, as well as Briana Bianca with Catholic Charities of North Louisiana.

On June 21, we enjoyed being with the Highland Neighborhood Association-HRA to discuss tenant/landlord law issues. A huge shoutout to Thomas Hamauei of Bayou Title Shreveport-Bossier City for being so wonderful and answering everyone's questions!

Finally, on June 22, we held a Q & A on expungements for the community of Cedar Grove. Thank you, Katherine Gilmer, of Gilmer & Giglio, LLC, for volunteering to teach the ins and outs of what you need to do to get one done. We had a great turnout at the Community Renewal International Friendship House and enjoyed partnering with The Highland Center to make this event happen.



The Shreveport Bar Foundation 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 of North Louisiana, Carolyn W. and Charles T. Beard Family Foundation, First Methodist Church, Grayson Foundation and the SBA Krewe of Justinian.



## Harry V. Booth – Judge Henry A. Politz American Inn of Court

by Jerry Edwards, President, [jerry.edwards.jr@gmail.com](mailto:jerry.edwards.jr@gmail.com)

The Booth-Politz Inn of Court kicked off its 2023-2024 year with a welcome reception for its new members on August 17, 2023, at the Tom Stagg United States Court House. Joining the Inn this year are:

**Chloe Moreno, Courtney Ray, Lee Harville, Chandler Higgins, Aaron Sanders, John Bokenfohr, Emmanuel Billy and Connor O'Brien**

The mission of the American Inns of Court is to inspire the legal community to advance the rule of law by achieving the highest level of professionalism through example, education and mentoring. Members are assigned to teams which are responsible for the development and presentation of monthly topics that are both educational and entertaining. The Booth-Politz Inn also sponsors outreach events, such as "Wills for Heroes," providing living wills and powers of attorney for first responders *pro bono*.

The Booth-Politz Inn has over 100 active members and has achieved Platinum status - the highest level of distinction given by the American Inns of Court to recognize an Inn as an example of best practices. You can learn more about Inns of Court at [insofcourt.org](http://insofcourt.org).

The 2023-2024 Officers are Jerry Edwards, President; Judge Michael Pitman, Vice-President; Robin McCoy, Secretary/Treasurer; and Judge Katherine Dorroh, Immediate Past President



# ANNOUNCING THE 2024 SBA OFFICERS

The Officer-Nominating Committee, consisting of the five immediate past presidents of the Shreveport Bar Association, recently met and nominated the following officers who will serve on the SBA Executive Council in 2024.

Vice-President	J. Marshall Rice
Secretary-Treasurer Elect	Garrett Hill

SBA President-Elect Kenneth P. Haines will automatically elevate to the office of President, Elizabeth M. Carmody to the office of President-Elect, and Valerie DeLatte will serve as Secretary-Treasurer.

The two Member-At-Large positions (serving in 2024 and 2025) on the Executive Council will be filled by Judge Emily Merckle and Heidi Kemple Martin.



Kenneth P. Haines



Elizabeth Carmody



J. Marshall Rice



Valerie DeLatte



Garrett Hill



Judge Emily Merckle



Heidi Kemple Martin



## The Captain Speaks

Amy Gardner Day, [amy@cbbd.law](mailto:amy@cbbd.law)

Once upon a time, a group of Shreveport attorneys joined together to form the Krewe of Justinian. Over the past 30 years, members of the Krewe of Justinian have embraced the traditions of Mardi Gras, fostered lifelong professional relationships and friendships, and carried the torch of the Krewe's charitable work. I am honored to serve as Captain of the Krewe of Justinian for this historic year.

The Krewe kicked off our year by going "Down the Rabbit Hole" at the recent Coronation Bal, where we welcomed the royalty of Justinian XXX: King Hon. Donald E. Hathaway, Queen Alison Byrd, Duke Michael Marino, Duke Thomas Mayfield, Duchess Valerie DeLatte, Duchess Claire Hill, Prince Thomas Hathaway and Princess Codi Setters!

As a committee of the Shreveport Bar Association, the Krewe of Justinian provides financial support for the Shreveport Bar Foundation in working to support the

legal needs of our low-income community and those in crisis through the Pro Bono Project, Self-Represented Litigants Program and the Legal Representation for Victims of Domestic Violence Program. The Krewe of Justinian also seeks to bring our local community of attorneys together in a social, fun-loving atmosphere that encourages camaraderie and civility as we work together to support and serve our clients. On behalf of the Justinian XXX Senate, our Carnival Court and all current and past Royalty, I cordially invite you to become a part of our extraordinary Krewe, where history, camaraderie and philanthropy converge. As a member, you will not only have the chance to revel in the excitement of Mardi Gras but also make a lasting difference in the lives of those in need. Visit [www.kreweofjustinian.org](http://www.kreweofjustinian.org) for more information!

***Laissez Les Bons Temps Rouler!***

Amy Gardner Day  
Justinian XXX

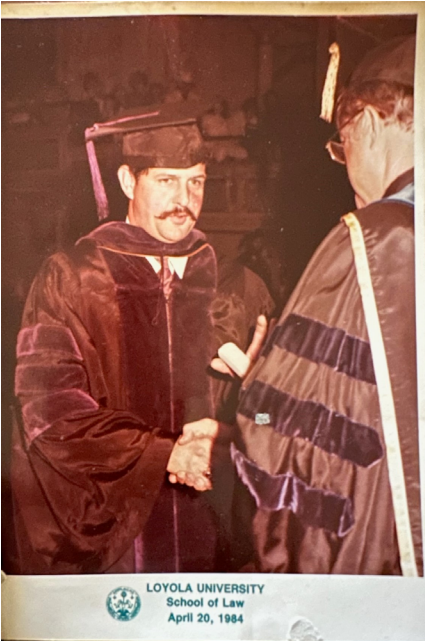


# A Dreamer's Mid-winter Night

by Ted Cox, [pelicanranger66@gmail.com](mailto:pelicanranger66@gmail.com)

Lying in bed, mildly frustrated because I am 30 minutes past my normal expiration of consciousness, I ponder, why should the completion of a simple statement keep me from a much deserved eight-hour hibernation? What is law?

This is a good question, and if I knew the answer, I would not have to spend \$15,000 over the next



**Ted Cox receiving his law degree from Loyola University in 1984**

three years in tuition, books and beer, trying to find the answer. <sup>1</sup> Damn, I should be intelligent enough to organize my thoughts and compose an essay on what the law is. From time immemorial, man, whether a half-naked caveman or a pompously dressed 18th century European nobleman, has continuously been making and writing the law.

Not a bad introduction for someone who made a C- in Creative Writing 15 years ago when heavily starched Gant shirts, highly shined Weejuns penny loafers, thin paisley ties and straight-legged Farrah slacks were the official collegiate uniform.

Those were the days when students had traditional values. Eureka, I've found it, the law has an element of tradition. I'll expound on the heritage of our great Anglo-Saxon legal system and how the theory of law has developed from the time Old John's arm was twisted to sign the Magna Carta until Ronnie kept a campaign promise and had a women's restroom built on the second floor of the Supreme Court Building. <sup>2</sup>

Good. Now that I have my literary notion that law is steeped in the richness of tradition, I'll peacefully fall off to sleep, arise early, and run off to the law library to find a few quotes from several old senile English jurists stating that man's law must be solidly entrenched in historical legal tradition. Damn, that sounds good. Look out Law Review, here I come.

Hold on a minute, law is more than tradition. Crap, maybe I'll get up and drink a glass of milk, then I can sleep. No, no, experience has taught me that I will have to get up again in 30 minutes and go to the bathroom.

**EDITOR'S NOTE:** Ted Cox recently retired after a long and distinguished career as judicial administrator at Caddo Parish Juvenile Court. We all know him as an efficient, military, no-nonsense guy, but he was – at one time – an idealistic law student with a bent for creative writing! Back in that life, he wrote an essay for *The Code*, Loyola Law School's newspaper. This was April 1984. Because of the insight it offers into Ted, we are reprinting it in *The Bar Review*. Also, it's fun reading. Enjoy.

That's it, law is experience. Yeah, I'll begin with Mr. Holmes' famous quote, "The life of the law has not been logic, it has been experience." From a lump on the west side of the bed, a pillow-muffled voice commands, "Honey, will you please be still and stop mumbling."

In typical Walter Mitty style, I slowly turned to face the west side pretending to be in a deep stupor and groggily replied, "Huh?" No answer. <sup>3</sup> After nine years of marriage, experience has taught me not to tamper with the precious sleep of a school teacher. I know it's late, but this paper is important and we did make a joint decision that I quit a \$29,000 a year job to attend law school. <sup>4</sup> Yes, I'll ask my spouse what she thinks law is.

Being a former paratrooper, I gained courage to speak. "Honey, I want to ask you a question?" That same muffled voice spoke again, but this time with a resonance of irritation, "Not tonight, dear, I'm too tired." I slowly made my cowardly retreat back to the east only to see the bright red digits on the clock reading midnight.

Maybe if I say my prayers, God will put me to sleep. Now that's a heavenly approach to the theory of law. I'll discuss Tom Aquinas' synthesis of Christian scriptural dogma and Aristotelian philosophy. I could throw in a few of his quotes on natural law.

An invisible theme in man's law is to try to do good and avoid evil. But I'll need to be tactful when writing about the divine and natural elements of law, because no one has adequately been able to describe these qualities.

Perhaps I could explain the natural element of law by analogy with Barry Goldwater's 1964 campaign theme, "In your heart you know he is right." But most

voters used their heads instead of their hearts.<sup>5</sup> The law must be cognizant of man's natural instinct for justice whether it comes from the heart or the head.

Now hold on, that does not balance out. Senator Goldwater voted against the Civil Rights Bill. The law before that used the color of a man's skin as the criterion to determine if he was eligible to eat in a Morrison's Cafeteria, drink from a fountain with chilled water, or use the clean restrooms on the side of the City Services gas station instead of the ones in the back next to the grease rack.

Maybe it was this natural law instinct for justice that gave Dr. King the conviction to break the law and select a seat in the front of the bus instead of the rear.

Sealed in concrete, I have got it. The law is rules made by man based on his experiences, measured by the traditional values of his particular society and ordained by the natural instincts of doing good and avoiding evil. Now, precious sleep.

Staring wide-eyed at the increasingly brighter red numbers, I knew I was not finished with my analysis of law. Somehow I have to figure out how to bring in the Ten Commandments. No freshman law student is worth his weight in salt if he fails to mention Moses' tabloid. I have it. The bottom line, or maybe the top line, but law has to be simple and direct for the proletariat to comprehend.

How much more direct and simple can law be than those ten rules etched on the stone tablet? Why I remember once, back during the '50s, watching Billy Graham on my grandmother's big black and white Zenith when he said that Congress has passed over 10,000 laws trying to enforce the Ten Commandments. I understand now why Billy and Dick Nixon were such good friends.

Law should be simple if it is to be understood. Once man begins to make his law complicated, it becomes difficult to determine what the law is trying to accomplish. Perhaps Mr. Nixon became confused about complicated criminal law procedure. I don't think he would have had the audacity to order Ehrlichman to stonewall the Ten Commandments.<sup>6</sup>

The Panasonic reads 4 a.m. I can still get in two hours of shut-eye before WGSO begins blaring its morning show. Finally, I think I have it. Chief Justice Burger, you may quote me.

Effective law is man's attempt to give structured order to society by creating law that embraces historically tested traditional values fraught with the human experiences, containing an inexplicable natural quality of justice, written simplistically for the masses. AMEN!

One more inquiry. What happens when man does not adhere to these qualities when making his law? Maybe *Time's* Man of the Year could give me this opinion. The only problem is no one seems to know where Lech can be reached for comment.<sup>7</sup>

Thank goodness I live in a nation that has a quality of law that prevents the Jefferson Parish Sheriff's deputies from breaking into my house and dragging me out of bed because I wrote a frivolous, inane and subversive essay on what law is.

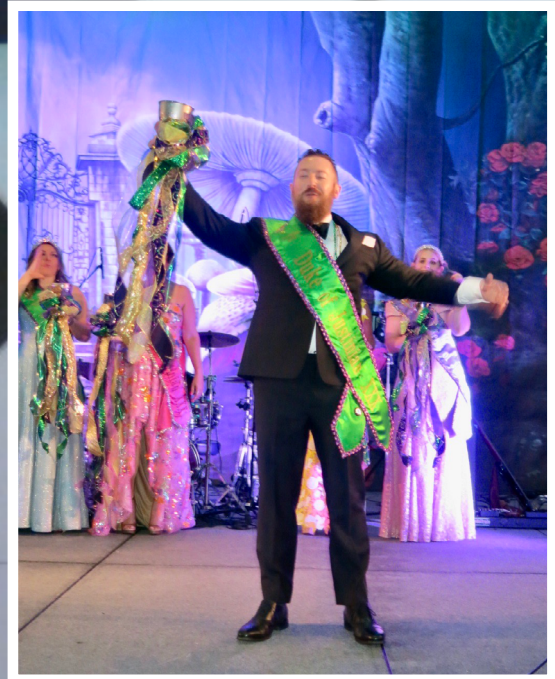
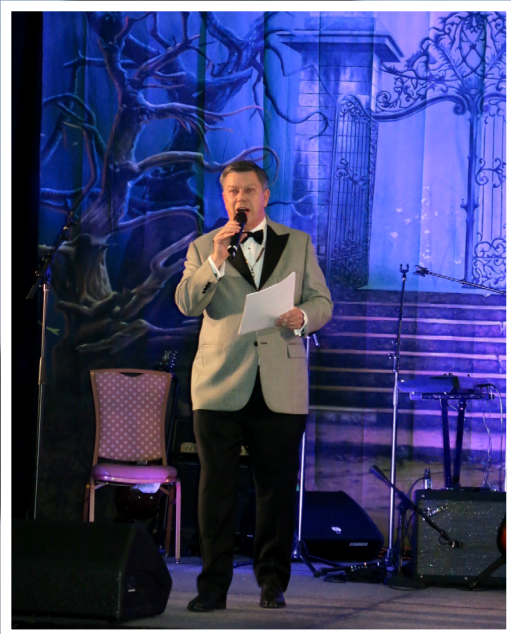
But wait, I am being dragged out of bed, I am being subjected to a crackdown on civil liberties – good law is being replaced by martial law. The deputies are going to send me up the river to Angola. I must resist. I feel my grip being pried loose from the headboard. General Jaruzelski, you may have crushed Solidarity, but the spirit of law still glows in Kenner. I'll never give in for freedom's sake.

I still feel a strong manhandling tug on my arm as one of the deputies barks, "Daddy, Daddy, wake up. It's Saturday morning and you always watch Scooby-Doo with us!"

- 
1. Current tuition and fees (2023) would be about \$150,000 for three years. Beer has gone up, too.
  2. That is President Ronald Reagan, of course, who appointed the first female member of the court, Justice Sandra Day O'Connor, in 1981.
  3. If you've never read James Thurber's short story "The Secret Life of Walter Mitty," or seen one of the movie versions, you won't appreciate the allusion to the hero-in-his-dreams.
  4. That's about \$95,000 a year today, according to the Bureau of Labor Statistics.
  5. Senator Goldwater lost in the biggest landslide (under 40% of the popular vote) of any contested race for U.S. President.
  6. John Ehrlichman, President Nixon's domestic affairs advisor, was famously convicted of obstruction of justice for his role in the Watergate scandal. Nixon never pardoned him.
  7. Lech Walesa, head of Poland's Solidarity labor union, was *Time Magazine's* 1981 "Man of the Year," after he and Solidarity defied Poland's Soviet-backed government. That was a big deal; he also won the 1983 Nobel Peace Prize.



# Down The Rabbit





# Home





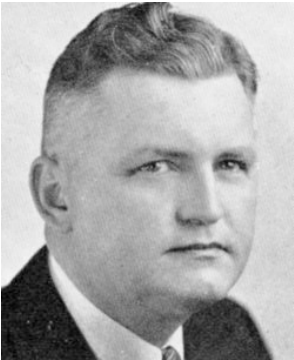
# SBA Member Memorials: A Look Back



by Chris Slatten, [Chris\\_Slatten@lawd.uscourts.gov](mailto:Chris_Slatten@lawd.uscourts.gov)

The SBA will hold its annual memorial and recognition ceremony in November, and our members who departed in the last year will be recognized. All past memorials are on the Caddo Clerk of Court website under the link for Memorials. In the months leading to this year's ceremony, we'll

take a look at a few of the many interesting tributes penned over the years.



**Judge James U. Galloway (1957):** After graduating from Vivian H.S., Judge Galloway's education was interrupted by WW I, in which he served as a lieutenant of infantry. He completed his studies and was elected Caddo DA

for two terms, stepping down after a term limit he announced when he took office. He was later elected as district judge. His survivors included a son, Sidney B. Galloway, whose name we know from Cook, Yancey, King & Galloway.

"The dignified manner in which he conducted the business of the court, his sense of honor and integrity in all matters, and his high standard of ethics in his relations with lawyers, litigants, and witnesses, were among his outstanding qualities as a judge. We shall always remember the courtesy and consideration he showed to counsel, litigants and witnesses in the course of any trial. The rare combination of all of these qualities, caused him to be recognized by so many attorneys as the outstanding jurist of his time in the State of Louisiana."

**Malcolm E. LaFargue (1963):** Born in Marksville as the son of an eminent attorney and grandson of a judge, Mr. LaFargue worked his way through Loyola University and opened a law office in Shreveport in 1933. He served as a U.S. Attorney for the WDLA from 1941 to 1950, after which he returned to private practice.



Malcolm "was somewhat of a perfectionist in outdoor sports. He was a good golf player, an excellent bird shot and a fine fisherman. He was also a connoisseur in the culinary art of cooking." He suffered an untimely and unexpected death at the young age of 54, passing away in his sleep at his home at 3945 Baltimore Avenue. Norman Lafargue reports that Malcolm was his distant relative and the grandfather of Lisa (Lafargue) Love.

**Thomas Overton Brooks (1961):** Mr. Brooks was born in Baton Rouge and attended LSU until he volunteered to serve in WW I, where he saw combat



duty in France and Belgium. He then served with the occupation forces in Germany. He completed his studies after the war, was admitted to practice in 1923, and moved to Shreveport. He served as a U.S. commissioner for 10 years and was elected to

Congress in 1936, where he served until his death in 1961.

Congressional records contain 10 pages of tributes that describe Mr. Brooks as a "man of principle," "the most unselfish and patriotic man I have known," and "industrious beyond belief." His SBA memorial noted, "President Kennedy and former President Eisenhower, each of whom claimed him as a personal friend, also paid tribute to his character and service to his country." We now see his name on the Overton Brooks VA Medical Center.

*Krewe of Justinian Trivia Night*

**Team Registration Form**

Team Name :

\_\_\_\_\_

Business/Organization :

\_\_\_\_\_

**Each team can have a maximum 6 members, including team captain\* :**

\*1. \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Other Team Members:

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

**THURSDAY  
SEPTEMBER 7, 2023**

**Petroleum Club of  
Shreveport**

**416 Travis Street  
15th floor**

BAR : OPENS 5:30 PM

CHECK-IN : 6:00 PM

TRIVIA : 6:15 - 9:00 PM

**Evening will include  
food and prizes!**

**PLEASE NOTE:**

**CASH BAR ONLY**

**beer, wine, and cocktails**

**NO CREDIT CARDS**

**Registration Deadline:**

**Mon. Sept. 4th**

**Online Registration Available for  
FULL TEAMS ONLY:**

**[kreweofjustinian.com/trivia-night](http://kreweofjustinian.com/trivia-night)**

**Completed forms can be returned to SBA,  
625 Texas Street, with a check made payable  
to the Krewe of Justinian.**

**REGISTRATION FEE  
TEAM \$300.00  
SPECTATOR \$50.00**

**For questions contact:  
Shreveport Bar Association  
318-703-8372**



# THE SHREVEPORT BAR ASSOCIATION

## ANNUAL GOLF TOURNAMENT



### RICHARD B. KING JR. MEMORIAL SHOOTOUT!

Enter to have your team represented in this 2-man team golf alternate shot contest. \$150 per team. Play begins immediately following the tournament. Only one team will be named KING! Limited to the first 8 teams registered. Call Dana at 222-3643 to register.

### SHOTGUN START

8:00 a.m.

### ENTRY FEE

\$600 per team  
4-Man Scramble

### LUNCH

Beginning at Noon  
Included with registration

### REGISTER

[www.shreveportbar.com](http://www.shreveportbar.com)  
Or call Dana at 222-3643 Ext 3

### PRIZES

Overall Low Gross and Low Net in each Flight  
Closest to the Hole Contest  
Long Drive Contest

Sept. 29, 2023

Querbes Park  
Golf Course  
Shreveport, LA

## REGISTRATION

### SHREVEPORT BAR ASSOCIATION - 2023 GOLF TOURNAMENT

Friday, September 29, 2023 at Querbes Park Golf Course, Shreveport  
Player gift and lunch is included – Awards given post play

Captain Name: \_\_\_\_\_ HDCP/Best Score: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Player2 Name: \_\_\_\_\_ HDCP/Best Score: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Player3 Name: \_\_\_\_\_ HDCP/Best Score: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Player4 Name: \_\_\_\_\_ HDCP/Best Score: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_



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*First Judicial District Court Law Clerk*



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CVA, MAFF, CFE, CTP, MBA

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- Divorce Settlements/Marital Disputes*

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# UPCOMING EVENTS

## \*2023 SBA MEMBERSHIP LUNCHEONS 12:00 Noon at the Petroleum Club (15th Floor)

### SEPTEMBER 7

Krewe of Justinian Trivia Night  
Petroleum Club (15th Floor)

### SEPTEMBER 13-14

Recent Developments by the Judiciary CLE  
Hilton Garden Inn  
Bossier City

### \*SEPTEMBER 27

Speakers: *Dr. Angela White-Brazile and  
Mr. Stephen I. Dwyer*

### SEPTEMBER 29

SBA Golf Tournament  
[Rescheduled from earlier this year]  
Querbes Park Golf Course

### OCTOBER 13

North Louisiana Criminal Law Seminar  
Shreveport Bar Center

### \*OCTOBER 25

Speaker: *Alston Johnson*  
Professionalism Award Presentation

### OCTOBER 27

Midway to Mardi Gras Party  
Louisiana Daiquiri Café  
1881 Texas Avenue

### OCTOBER 29

8th Annual Midway to Mardi Gras "Run  
for the Beads" 5K and Fun Run  
Cantina Laredo, Shoppes at Bellemead

### NOVEMBER 9

SBA Memorial & Recognition Ceremony  
2:00 p.m.  
at Caddo Parish Courthouse

## AMAZON WISH LIST

The Shreveport Bar Foundation is excited to announce the launch of its Wish List program for the Pro Bono Project, Legal Representation for Victims of Domestic Violence programs, and the Shreveport Bar Center through Amazon. This new wish list program allows our supporters to purchase supplies and other items needed to run our programs. This can range from pens (for the AAL clinics) to soap and paper products (for the building)! [Check out the full list of options!](https://www.amazon.com/hz/wishlist/ls/3EW9JTZSJNVEZ?ref=wl_share)

[https://www.amazon.com/hz/wishlist/ls/3EW9JTZSJNVEZ?ref=wl\\_share](https://www.amazon.com/hz/wishlist/ls/3EW9JTZSJNVEZ?ref=wl_share)

Or scan the QR code.



## SBA Luncheon & CLE Meeting –September 27

*Petroleum Club (15th Floor) Buffet opens at 11:30 a.m.*

*Program and Speaker from 12:00 Noon to 1:15 pm.*

*\$50.00 for SBA members includes lunch and one hour CLE credit or \$30 for lunch only;*

*\$60.00 for non-SBA members includes lunch one hour CLE credit or \$35 for lunch only;*

*Advance reservation is required no later than 5 p.m. Monday, September 25.*



**Dr. Angela White-Brazile**



**Stephen I. Dwyer**

**When:** 12:00 Noon on Wednesday, September 27

**Where:** Petroleum Club (15th floor)

**Featuring:** Dr. Angela White-Brazile, Louisiana Judges and Lawyers Assistance Program (JLAP) and Mr. Stephen I. Dwyer, Louisiana State Bar Association

**Topic:** JLAP: An Advocate, Not an Adversary!

*This presentation is approved for 1 hour of Professionalism CLE credit.*

**Dr. Angela White-Brazile**, the Executive Director of the Louisiana Judges and Lawyers Assistance Program (JLAP), has been a practicing attorney for over 20 years. She has held positions such as Judicial Law Clerk/Research Attorney at Orleans Parish Civil District Court, the Fourth Circuit Court of Appeal, and the Louisiana Supreme Court; Associate Attorney; and Professor of Law. She was also an In-House Counsel for Prudential Life Insurance in Jacksonville, Florida. Prior to being named the Executive Director of JLAP, Dr. Bazile was the Executive Counsel at the Louisiana Supreme Court under the 25th Chief Justice, Chief Justice Bernette Joshua Johnson. She was the Secretary of the Louisiana Human Trafficking Prevention Commission and the Louisiana Judicial Liaison for human trafficking. Dr. Bazile is a University

of Southwest Louisiana graduate in Lafayette, Louisiana, now known as the University of Louisiana at Lafayette. She received her juris doctorate from Southern University Law Center in Baton Rouge and has a Doctorate of Psychology & Counseling.

**Stephen I. Dwyer** is a founding member and managing partner of Dwyer, Cambre & Suffern, APLC, in Metairie. He received a BA degree in 1970 from Holy Cross College in Worcester, Mass.; an MA degree, with distinction, in 1972 from the University of New Orleans; and his JD degree, magna cum laude, in 1976 from Loyola University College of Law (editor-in-chief, Loyola Law Review). Dwyer served as 2022-23 president and 2021-22 president-elect of the Louisiana State Bar Association (LSBA) and the Second District representative on the LSBA's Board of Governors from 2011-14 and 2017-20. He serves on the Louisiana Bar Journal's Editorial Board. He is a member of the Committee on the Profession, the Bar Governance Committee and the Audit Committee.

Please join us on Wednesday, September 27, as we welcome **Dr. Angela White-Brazile** and **Mr. Stephen I. Dwyer**.

You may confirm your reservation(s) by email [dsouthern@shreveportbar.com](mailto:dsouthern@shreveportbar.com) or Phone 222-3643 Ext 3.

I plan to attend the September 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!**