The Bar Review

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION Volume XXXIII, Number 1 • Jan. 2026

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EVENTS AT A GLANCE

1/16	Krewe of Justinian Bal at Horseshoe Casino Riverdome
1/28	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club
2/7	Krewe of Centaur Parade
2/15	Krewe of Highland Parade
2/25	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club

From The President

by J. Marshall Rice, jmrice@ricekendig.com

Theme for 2026: Connected by Purpose. United in Service.

It is an extraordinary honor to write my first message as president of the Shreveport Bar Association. This Bar shaped me as a young lawyer more than 20 years ago, and it continues to anchor my professional life today. As I step into this role, I do so with a clear sense of responsibility to lead an organization defined not simply by membership, but by connection, community and a shared calling. Our theme for 2026 reflects that foundation: Connected by Purpose. United in Service.

My legal career has deep roots in Shreveport. I come from a family with a long history in the practice of law in this community, and that legacy has shaped my perspective from the start. I joined my father's practice and, alongside my law partner, Bill Kendig, helped guide it through a period of transition. What began as a traditional, paper-based office has steadily evolved to reflect changes in technology and client expectations, changes familiar to many of us across the profession.

That evolution mirrors the broader experience of practicing law today. Over time, I have wrestled with the balance between the calling of law and the business of law. Technology, data and efficiency now shape much of how we work. Yet despite these changes, the heart of our profession remains the same. We are still guided by service, justice, integrity, compassion and growth, values that align closely with the mission of the Shreveport Bar Association.

As I reflect on my own journey, one question continues to surface. What is the value of the Shreveport Bar Association today?

To me, the answer is simple and enduring. The SBA gives us a home. It is a place to learn from one another. It is a place to meet judges outside the courtroom. It is a place where young lawyers find mentors, friendships and their professional identity. It is also a place where seasoned lawyers remain connected, supported and grounded.

Many of the lawyers I met through the SBA early in my career are now partners in major firms, state and federal judges, and respected colleagues. Through those relationships, I learned professionalism, not from rules or lectures, but by watching it practiced daily by lawyers who understood that how we treat one another matters.

The SBA also serves as an important bridge between the legal community and the public. Through Ask-A-Lawyer events, school outreach, mock trials and community programs, we demonstrate the generosity and commitment that define our profession. Our Bar has also expanded to include meaningful opportunities for paralegals and legal assistants, strengthening the broader legal community and reinforcing the sense of connection that sustains us all.

In every respect, the Shreveport Bar Association remains connected by purpose and united in service, to one another, to the profession and to the community we proudly serve.

I am honored to serve as your president in 2026. I am grateful to those who have carried this organization forward through years of leadership and service, and I thank Elizabeth Carmody for her steady guidance in 2025, which positioned the Bar well for the year ahead. I am especially thankful for the commitment of our Executive Council and for Dana Southern, whose dedication ensures the continued strength of the SBA.

I look forward to serving you, working alongside you and strengthening the connections that define us as we continue the long tradition of excellence of the Shreveport Bar Association.

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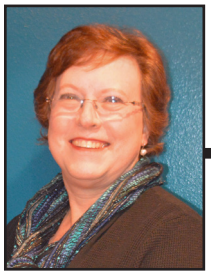
JAN 2026

SBA Membership Renewal Forms have been mailed. Please renew by March 22, 2026



NEWS FROM THE SBA LEGAL COMMUNITY SUPPORT STAFF COMMITTEE (LCSSC)

by Karen McGee, Committee Chair, kgmcgee2@gmail.com

Happy New Year!

The hardworking members of the LCSSC are thrilled to start this new year with so many exciting developments. First, we want to acknowledge the generosity of local attorneys Kenneth Haines and Marshall Rice, both of whom have been ardent supporters of the LCSSC for the last two years.

They now have made generous financial contributions to support the expanding work of the Committee this year. Thank you Kenny and Marshall for all you do!

In December, members of the Committee began high school visits with students at Byrd High School and the response was very enthusiastic. January visits are scheduled at Caddo Magnet High and Parkway High School. Donors have stepped forward to underwrite at least 10 student memberships this year, and two local law firms – Rice & Kendig and the Gatti Law Firm – have offered use of their in-house "courtrooms" for use by the Mock Trial students. The Committee's social media outreach is growing – follow the "Shreveport Bar Association Legal Community Support Staff Committee" Facebook page and watch for the first in our series "Interview with the Attorney."

The Committee had a fun December dinner social where money was raised to support the important work of the Shreveport Bar Foundation. Upcoming programs include a January 13 program on "Battling Burnout." Another educational program will be offered on February 10. Stay tuned for more details.

Membership renewal and recruitment notices were sent out, and firms are reminded that for every four paying members of their organization, the fifth membership is free. Scan the QR code below for a link to the membership application.

Scan Me!

Nonlawyers and those working in, or whose goal is to work in the legal profession, are encouraged to submit their voting or student membership application to be part of this exciting Committee. Watch for SBA Communiqués, emails and SBA newsletters for more information about professional education, networking and service opportunities.

Second Circuit Highlights

by Hal Odom Jr., rhodom@la2nd.org

Read before you sign. Felicia and John were planning to get married in July 2003. Both had been previously married and, according to Felicia, about a month before they tied the knot John suggested they get a prenuptial agreement. She agreed and, three days before the wedding, they signed a prenup, prepared by John's lawyer, that renounced the community regime: "The intended husband and wife hereby establish a regime of separation of property as allowed by Civil Code Article 2329. * * * They expressly renounce all provisions of law which establish a legal community of acquets and gains[.] * * * All property of the intended husband and wife, whether owned at the time of the ceremony of marriage or acquired during the marriage, is declared to be separate property." The wedding proceeded as planned and they lived together as husband and wife until 2021, when Felicia filed for an Art. 102 divorce. In her petition she alleged the prenup was invalid because she was not fully advised by her own counsel of the content and consequences of the agreement and she was unduly influenced.

John filed a motion in limine, as a result of which the Third JDC excluded evidence of fraud and duress but allowed evidence of error. At trial, Felicia testified she did not read the document before signing it because she would not have understood it; she did not hire a lawyer; and she thought the prenup would preserve their premarital property but allow them to live in a community together. In support, she showed the couple's joint tax returns, which she assumed were available only for couples in a community. At the close of Felicia's evidence, John moved for involuntary dismissal (counsel incorrectly called it a "directed verdict"), which the court granted, dismissing Felicia's claim to nullify the prenup. Felicia appealed.

The Second Circuit affirmed, ***Crow v. Crow,*** 56,445 (La. App. 2 Cir. 11/19/25), in an opinion by Judge Stone. Parties are presumed to be aware of the contents of writings to which they have affixed their signatures, *Bagneris v. Oddo*, 2 Pelt. 278 (La. App. Orl. 1919), and the passages quoted above used the "simplest layman's language." The court also rejected Felicia's claim nullity was warranted because the attorney who drafted the prenup failed to advise her he was representing his client (John), and not her (Felicia). All he did was notarize her signature; there was no attorney-client relationship.

The glaring message is that any claim that the client didn't read the document before signing will probably not go far. This prenup, to John's credit, granted Felicia a one-half interest in the family home John had bought before their marriage, so the result was not terrible for her. But it will be hard to do anything for a client whose only claim is "I didn't read it."

Read the contract, part 2. Ms. Winzer was a teacher in the Bienville Parish School system. In July 2023, the superintendent offered her a "promotional contract" to become principal at Bienville High School for a term of two years; she signed. Although BHS was getting minimal use (mostly alternative education for disciplinary issues, with one or two teachers and about six students), she was principal. Perhaps because of this minimal use, BPSB voted, in 2024, to close BHS. In October 2024, BPSB notified her she was being "transferred" to Gibsland-Coleman HS, as an English teacher, at the same pay; she never showed up for this position. A month later, it transferred her to the position of librarian at Gibsland-Coleman, at the same pay; she never showed up for this position either. She complained she was not certified either to teach high school English or to be a librarian; BPSB replied that she *was* certified to teach middle school English, the class to which she was assigned, and no certification was needed to be librarian. In January 2025, she sued BPSB and its superintendent alleging she had been demoted without compliance with the Teacher Tenure law and demanding reinstatement. After a hearing, the Second JDC rejected her claim. She appealed.

The Second Circuit affirmed, ***Winzer v. Bienville Parish Sch. Bd.,*** 56,529 (La. App. 2 Cir. 12/3/25), in an opinion by Judge Robinson. The thrust of Ms. Winzer's case was the Teacher Tenure law, particularly La. R.S. 17:444 B(4)(c)(iii), which states that an employee "shall be retained during the term of a contract unless the employee is found incompetent or inefficient or * * * failed to fulfill the terms and performance objectives of his contract." Further, before a teacher can be "removed," he is entitled to "written charges and a hearing before a disciplinary hearing officer." However, under the promotional contract Ms. Winzer agreed that the superintendent "has the right to transfer or reassign [her] to another position for which [she] is certified and * * * is of equal pay when it is considered to be in the best interest of the school system to do so." Citing authority from the Fourth and Fifth Circuits, the court found that *transfer* does not equal *removal* and, thus, did not activate the disciplinary process. Moreover, transfer was written right into her promotional contract. In short, there was no basis for relief.

There was no allegation that Ms. Winzer lost a dime because of the transfers to Gibland-Coleman HS, which she declined to accept. Still, as Ms. Crow found out, it is difficult to argue a position contrary to the plain wording of the contract.

Put it in the contract. In 2022, French Engineering and Cooterville Sand & Gravel were looking to build a frac sand plant on the bank of the Red River in Atkins. At their request, Ardaman & Associates, a geotechnical consulting firm, submitted a proposal to perform engineering services for the project. The proposal, for $87,500, called on Ardaman to "perform marine borings to determine sand depths in the Red River in the vicinity of the new proposed Frac Sand Facility[,]" specifically, "Grain Size Analyses (2" through 200 Sieve; ASTM C136) performed on every sample and estimate a total of 250 samples." French's principal accepted the proposal as written, and Ardaman went on the job. By late 2022 Ardaman sent two invoices for the contract amount, but these went unpaid. It filed suit for the contract amount plus interest, contractual attorney fees and costs. The defendants denied all claims and filed a reconvention.

Ardaman later moved for partial summary judgment on its principal demand. The defendants opposed, arguing the contract and supporting documents left open the genuine issue whether Ardaman was supposed to evaluate whether the extracted sand could be used as frac sand. At a hearing, the court noted that Cooterville's principals both agreed the contract did not explicitly require this evaluation, but "just general analysis

for a frac sand plant." The court granted summary judgment for the principal amount, $87,500, and legal interest. French and Cooterville appealed.

The Second Circuit affirmed, ***Ardaman & Assocs. Inc. v. French Eng'g Inc.,*** 56,620 (La. App. 2 Cir. 11/19/25), in an opinion by Judge Marcotte. The court began with a full exposition of the law of summary judgment and contract interpretation. The meat of the issue was a close reading of the contract: it required Ardaman to perform marine borings "to determine sand depths in the Red River in the vicinity of" the new proposed frac sand plant, but it did not specify a "frac sand analysis requirement." Given that sand has "multiple industrial uses," the court refused to read the defendants' implications into the contract. The court wrapped up by rejecting a claim that the district court improperly shifted the burden of proof under La. C.C.P. art. 966.

It is worth noting that the contract was, in fact, the proposal submitted by Ardaman, and the defendants made no revisions or insertions. Had they intended Ardaman to evaluate the sand for suitability as frac sand, presumably they were free to add this provision. If it's that important, be sure to write it into the contract.

The tale of the traveling notary. Ms. Brocato died in January 2024 but she had the foresight to execute two wills shortly before her death. The first, in November 2023, declared that "because of my visual impairment this entire document has been read to me prior to affixing my signature." This will, drafted by a "mobile notary," left her entire estate to a friendly coworker but, critically, did not include the special attestation clause for a testator "unable to read," as prescribed by La. C.C. art. 1579. The second will, dated January 5, 2024, said nothing about Ms. Brocato's visual impairment. It was drafted by an attorney, left her estate to a niece-in-law and nephew, and included the standard attestation clause of La. C.C. art. 1577. Ms. Brocato died five days after signing the second will; the executors of both wills teed it up to see which beneficiary would walk away with the estate.

After a trial in October 2024, the district court found the first will invalid: after it declared Ms. Brocato was vision-impaired, it failed to use the special attestation clause of Art. 1579, which was fatal. (It also found the witnesses were not present when Ms. Brocato signed the will and the second will revoked it, both also fatal.) The court then approved the second will: because it never stated the testator was vision-impaired, the special attestation clause was not required; the law presumes any testator can read; and the evidence showed that Ms. Brocato's vision, though diminished, was adequate to read and sign the will. The judgment sent the second will to probate, and the executor of the first will appealed.

The Second Circuit affirmed, ***Succession of Brocato,*** 56,615 (La. App. 2 Cir. 11/19/25), in an opinion by Judge Ellender. The court noted the legislature's massive rewrite of the law of testaments in 2025. Also, at oral argument the parties readily agreed the new law applied to their case, so the court fully analyzed the change. The new law, La. C.C. art. 1576, removed the requirement of an attestation clause of any kind; the repeal of Arts. 1578 and 1579 abolished different forms for testators who are vision-impaired or illiterate. In short, the attestation clause is now completely superfluous, so the absence of the special Art. 1579 clause in the first will was not a basis to nullify it. However, the second will, which included a standard Art. 1577 attestation clause, satisfied all the requirements of the new Art. 1576; the evidence supported Ms. Brocato's testamentary capacity; and the second will automatically revoked all prior wills. In other words, under the old law, the first will failed because of a formal defect; under the new law, it failed because it was revoked by a subsequent, valid will.

The reassuring thing about the 2025 revision, which took effect August 1, 2025, is that old wills are not invalid for using an attestation clause. Many attorneys will feel the traditional attestation clause is a strong aid to proving the will; it probably is, and there is no need to excise it from your forms. But we all need to learn the new law!

Another interesting point in this case is that the first will was drafted by a "mobile notary," whose format did not comply with Art. 1579 *as it provided at the time*. The use of a "traveling notary" resulted in an invalid will in *Succession of Baggett*, 56,266 (La. App. 2 Cir. 5/21/25), 412 So. 3d 247 (see "Second Circuit Highlights," Sept. 2025). Is it likely that in a drafting contest between a mere notary and a licensed attorney, the latter is likely to win?

The tale of the traveling will. Ms. Neal and her husband lived and owned a house in Monroe. They had three children, of whom two survived them – Patrick, who also lived in Monroe, and Raven, who had moved to Midlothian, Texas. After Ms. Neal's death in March 2023, Raven filed a petition, in the Fourth JDC, to probate a notarial will that left the entire estate to Raven. This will was executed in March 2022 before a notary and two witnesses "in the County of Ellis, State of Texas." Patrick, predictably, moved to annul the will. He alleged his mother signed the will in Louisiana, but then Raven carried the signed document to Texas, where she found a notary and two witnesses to sign it there.

After a hearing held over two days in June and September 2024, the district court found Ms. Neal's will was notarized in Texas and satisfied all formal requirements of Texas law; citing La. C.C.P. art. 2888, it ordered the will probated. Patrick passed away shortly after judgment was rendered, but the trustee of his testamentary trust appealed.

The Second Circuit reversed, ***Successions of Neal,*** 56,470 (La. App. 2 Cir. 11/19/25), in an opinion by Judge Cox. The court quoted La. C.C.P. art. 2888: a will "subscribed by the testator and made in * * * another state * * * in a form not valid in this state, but valid under the law of the place where made, * * * may be probated in this state[.]" The court found, however, that Ms. Neal did not "subscribe" the will in Texas: she did so in Louisiana, so the district court was plainly wrong to apply Art. 2888. The court further found that Ms. Neal's signature did not appear on each page of the 9-page will, as required by La. C.C. art. 1577 at the time. Because of this formal defect, the will was invalid and the judgment reversed. Presumably the parties will have to litigate by intestacy.

The court carefully noted the 2025 amendment to La. C.C. art. 1576 and repeal of Art. 1577, but found the case was adjudicated on the merits by a final and definitive judgment before the effective date, so the old law applied.

The important lesson of the case is the choice-of-law issue of Art. 2888. "Subscribed" means "signed." If you sign a will in Louisiana, you can't carry it to another state to be notarized and witnessed. This time, however, we can't blame it on a traveling notary – it was a traveling heir, presumably just trying to help!

Federal Update

by Chris Slatten, Chris_Slatten@lawd.uscourts.gov

Freight Brokers and Federal Preemption: Freight brokers are middlemen who arrange for a trucking company to transport a shipper's goods. When a truck is in an accident, an injured plaintiff often sues everyone associated with the truck. That includes the broker, who is often accused of negligent hiring/entrustment of the trucking company and its driver.

The broker has a potential defense that the claim is preempted by federal law. When Congress deregulated the trucking industry, it included a provision that states may not enforce any law "related to a price, route, or service of any motor carrier … or any … broker … with respect to the transportation of property." But a safety exception says the federal law does not restrict a state's ability to enforce safety regulations with respect to motor vehicles. 49 U.S.C. **§ 14501(c)**.

Most courts agree that negligence claims against the broker are within the scope of the federal preemption statute, but they are divided over whether the claims are saved by the safety exception. The Supremes have granted certiorari in a case that may resolve the applicability of the preemption defense. *Montgomery v. Caribe Transp. II, LLC*, 124 F.4th 1053 (7th Cir. 2025), *cert. granted*, 2025 WL 2808807 (2025).

Some brokers are not satisfied with raising their federal preemption defense in a state court tort suit; they want to be in federal court. It is hornbook law that a federal defense to a state law claim does not allow removal to federal court, but the brokers argue that they can remove based on the theory that the federal trucking law "completely preempts" the field and allows for federal question jurisdiction.

Complete preemption does not mean that the preemption defense is *really* good. It means that the preemptive force of a federal statute is so extraordinary that it converts the plaintiff's state law claim into one that states a federal claim. This is rare. The Supremes have recognized only three areas of complete preemption. The most well-known example is that a claim for benefits under an ERISA policy is necessarily federal.

Judge Hornsby recently joined several judges who have rejected a broker's argument for federal question jurisdiction based on the preemption statute. Judge Doughty agreed, and the case was remanded. The R&R rounds up the competing cases on the preemption defense, points out the critical distinction between ordinary (also known as conflict, defensive, or statutory) preemption and complete preemption, and cites the key decisions on the complete preemption issue. *Brown v. Clear Blue Ins. Co.*, 2025 WL 3170748 (W.D. La. 2025).

Lawyers and judges confuse ordinary and complete preemption so often that I propose the complete preemption doctrine be renamed to distinguish it from a preemption defense. Maybe the "federal claim-replacement doctrine" would be a more accurate description and less prone to confusion.

The R&R explains that state courts are perfectly competent to adjudicate federal preemption defenses, and the Louisiana Third Circuit has already tackled one broker's preemption defense. Article III of the Constitution does not even require that Congress create lower federal courts, so we could have a country where all federal laws were litigated in state court, with the Supreme Court being the only federal court. *Nevada v. Hicks*, 121 S. Ct. 2304, 2314 (2001). Also, the federal question jurisdiction statute, § 1331, once included an amount in controversy requirement that did not go away completely until 1980. Before then, smaller federal cases had to be litigated in state courts. The state courts may not enjoy messing with such federal laws, but they are fully competent to do so under our legal system.

Lawyer v. Lawyer for IIED: A lawyer represented a plaintiff in a state court case under the Louisiana Racketeering Act and a similar RICO case in federal court. The state court granted a request for over $300,000 in sanctions against the lawyer. Said lawyer then filed suit against the defense lawyers who got him sanctioned; he asserted claims of defamation and intentional infliction of emotional distress based on what they said about him in the sanctions proceedings.

The lawyer's IIED claim was based on the other lawyers (1) accusing him of fabricating evidence; (2) calling him "sophomoric" and "ignorant" in open court and in pleadings; and (3) causing him to undergo a JD exam. The 5CA affirmed dismissal of the claim because the statements did not meet the "extreme and outrageous" requirements of Louisiana law, and imposing the JD exam did not state a claim because there is no IIED liability "where the actor has done no more than to insist upon his legal rights in a permissible way." *English. v. Crochet*, 154 F.4th 369 (5th Cir. 2025). The lawyer's claims for defamation and conspiracy survived a *Rooker-Feldman* challenge and were sent back to district court. More to come.

Garnishment of Disability Payments: Defendant was convicted and ordered to pay restitution. The feds garnished his bank account and snagged over $46,000. Defendant objected based on a statutory exemption for "[a]ny amount payable to an individual as a service-connected ... disability benefit." 26 U.S.C. § 6334(a)(10).

The feds admitted that the funds originated from a service-connected disability benefit. But they argued that funds received before the writ of garnishment issued were not exempt, because "amount payable" means an amount to be paid in the future—not an amount already received in the past. The 5CA agreed, joining several other courts that have addressed similar cases. *U.S. v. Allen-Shinn*, 150 F.4th 687 (5th Cir. 2025).

Monroe Inn of Court

by Hal Odom Jr., rhodom@la2nd.org

Legislative (mostly) 2025 wrap-up for December presentation

The Judge Fred Fudickar Jr. AIC (Monroe, La.) concluded the calendar year with one of its most popular programs. Prof. Bill Corbett, of LSU's Paul M. Hebert Law Center, presented "All I Want for Christmas is Torts and Procedure," a wrap-up of the 2025 legislative session with time for a brief run through significant cases.

Prof. Corbett made a number of points about the unusually comprehensive civil procedure omnibus act of 2025.

The outline and PowerPoint presentation, he admitted, were borrowed from a program he was to give at the La. Association of Defense Counsel later that week, in New Orleans, but it showed his usual keen insight into legislative action and his mildly critical view of some of their actions. "For a *fiscal* session," he began, "we produced a lot of civil procedure!" He first cited the repeal of the *Housley* presumption, with the enactment of La. C.E. art. 306.1. "Except for workers' compensation cases, since May 28, the burden has been on the plaintiff," he concluded. He also mentioned the amendment to legislative continuances, R.S. 13:4163, as an effort to return ultimate control of legal practice to the Supreme Court. Turning to the new, two-year prescription for wrongful death and survival actions, La. C.C. arts. 2315.1 A and 2315.2 A, he commended the effort to mesh this with the general tort prescriptive period of two years enacted in 2024. "I have great respect for the Law Institute," Prof. Corbett said. "After that amendment, what happened with special statutes that still stated one year? This area, wrongful death and survival actions, bothered me the most, but I think this legislation fixed it."

Prof. Bill Corbett, of LSU Law Center, visited with Mike Street, of Watson, McMillin & Street, in Monroe, before the presentation.

Prof. Corbett devoted most of his time and analysis to Act 250, the omnibus civil procedure bill. He questioned the amendment to La. C.C. art. 3462, which now states that if suit is filed in a competent court of improper venue, prescription is suspended for seven days for a defendant not served with process within the prescriptive period. "This is a compromise," he said, "but I don't see how it's going to help anybody." He was also critical of the wording of the amended La. C.C. art. 2323, comparative fault, which refers in one place to "percentage of fault" but, elsewhere, to "percentage of negligence." This semantic shift is likely to cause confusion, and he projected fact scenarios (concocted by his colleague, Prof. Thomas Galligan) to illustrate the potential issues. However, he complimented the revamp of La. C.C.P. art. 1915, final and interlocutory judgments. Under the revision, with a partial judgment there is no need to ask the trial court to designate it (usually called "certification") as immediately appealable; the article simply lists such judgments, and they are immediately appealable. "I like it," he concluded.

In his remaining time, Prof. Corbett ran through *Campbell v. Orient-Express Hotels La. Inc.*, 24-00840 (La. 3/21/25), 403 So. 3d 573, and *Irwin v. Brent*, 24-01043 (La. 6/27/25), 413 So. 3d 342, cases that literally bristle with tort doctrine and warm the cockles of any veteran torts or civil-procedure professor.

The meeting was held at The Lotus Club, on the ninth floor of the Vantage ONB Tower in downtown Monroe. The 18 members in attendance enjoyed the open bar and heavy hors-d'oeuvres before the meeting and received one hour of CLE credit. The Inn's secretary, Mike Street, announced we would take a hiatus for January but meet again on February 9, 2026.

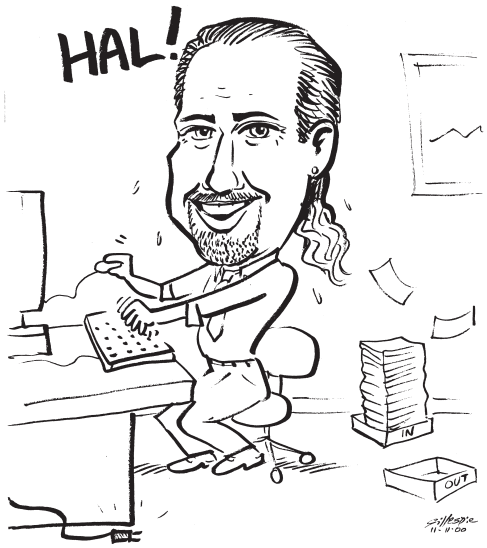
James Carroll and James Mixon, of Mixon, Carroll & Frazier, in Columbia, La., and David F. Verlander, of the Fourth DA's office, were early arrivals for the Dec.

Leah Sumrall, of LaSalle Corrections, in Ruston, Hal Odom Jr., of the La. Second Circuit, and Cyd Page, recently retired from Voorhies & Labbé, are pictured left to right.

How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

Take protective action. An internal memo in our office stated, "A unanimous jury * * * returned a responsive verdict of guilty of a misdemeanor violation of a *protected order*." This slip of the finger can occur inadvertently. "To the extent a party is overreaching in its confidentiality designations, the final *protected order* * * * will provide procedures for challenging the designations." *U.S. Equal Emp. Opportunity Comm'n v. Exxon Mobil Corp.*, 347 F.R.D. 451 (M.D. La. 2024). "Indeed, if [the plaintiffs] had wished to limit paragraph 11 disclosure in such a fashion, these sophisticated parties could certainly have drafted the *protected order* to so state." *Moore v. Ford Motor Co.*, 755 F. 3d 802 (5th Cir. 2014) (Elrod, J, dissenting).



This is a perfect example of a slip of the finger, because nobody would actually say "protected order." However, it's a slip that Spell Check will not catch, so legal writers just need to be on the lookout for the roving hand on autopilot.

This is not convenient. Consider Article 1770, as it appeared in the Civil Code of 1870: "A contract containing mutual *convenants* shall be presumed to be commutative, unless the contrary be expressed." The original promulgation, in 19th-century French, referred to "engagemens," and apparently the translator or typesetter of the English version inserted an extra *n* in the English equivalent. Until the enactment of La. C.C. art. 1911, in 1984, editors always had to insert "[covenants]." Still, for over 100 years, legal writers could regretfully copy out the nonword *convenants* or silently correct the 19th-century translator.

This is an example of how an error in the original can perpetuate itself. One court quoted a conveyance that was "made subject to all easements, right of ways, * * * *convenants* * * * and other instruments[.]" *Roy v. Bordelon*, 14-976 (La. App. 3 Cir. 4/29/15), 164 So. 3d 367. The same court earlier quoted a letter agreement by which "Bass shall assume all responsibility for the Properties as of the Effective Date, and agrees and *convenants* to protect, defend, release, indemnify[.]" *Carmichael v. Bass P'ship*, 11-845 (La. App. 3 Cir. 2/1/12), 95 So. 3d 1069. A federal court referred to a buyout agreement that "would not contain non-competition *convenants*." *Robin v. Binion*, 469 F. Supp. 2d 375 (W.D. La. 2007).

These are mistakes that got reproduced in litigation, and in published opinions, decades after being written. Today, fortunately, Spell Check will alert when it sees *convenants*, but many other mistakes will slip past. It's not a convenient situation.

Punctuate the appositive. Not as catchy as "accentuate the positive," but this mistake keeps popping up so I offer a periodic refresher! If you read these sentences, do you sense a lack of clarity, an imbalance, or something missing? "My brother, Kevin just bought a Tesla." "The defendant, Arthur Smith contends the evidence was insufficient to convict."

You should. These examples show the importance of punctuating the appositive. An appositive is a noun or phrase that identifies, describes or renames the noun or phrase in front of it. In the examples given, *Kevin* identifies your brother and *Arthur Smith* identifies the defendant. This much is simple enough. More challenging is the fact that appositives can be *nonrestrictive* or *restrictive*.

Nonrestrictive appositives give supplemental information about, and can be omitted without obscuring the identity of, the first noun. The rule of style is that a nonrestrictive appositive takes a comma before and after. The rule of thumb is that if the first noun is one of a kind, use commas. *The Chicago Manual of Style* gives some interesting examples:

- K. Lester's only collection of poems, *An Apocryphal Miscellany*, first appeared as a series of mimeographs. (The collection is clearly identified as his *only* one, so the title provides only additional rather than essential information.)
- This year's poet laureate, K. Lester, spoke first. (There is only one poet laureate this year.)
- Ursula's husband, Jan, is also a writer. (Ursula has only one husband.)
- Ursula's son, Clifford, was a student at Northwestern. (Ursula has only one son.)

Restrictive appositives, by contrast, limit the meaning of the first word, or give essential information about it; these take no commas. The rule of thumb is that if the first noun is one of many, and the appositive tells you which one it is, no commas. *CMS* offers these literate examples:

- O'Neill's play *The Hairy Ape* was being revived. (O'Neill wrote many plays; the title identifies the one being revived.)
- The renowned poet and historian K. Lester scheduled a six-city tour for April. (K. Lester is not the world's only renowned poet and historian.)
- Caligula's sister Drusilla has been the subject of much speculation. (Caligula had three sisters.)
- The playwright's son Julio was there. (Whether the playwright has sons in addition to Julio is not known.)

Applying these rules to our earlier examples, if you have one brother, and his name is Kevin, you write, "My brother, Kevin, just bought a Tesla." But if you have more than one brother, you write, "My brother Kevin just bought a Tesla." If there is only one defendant in the case: "The defendant, Arthur Smith, contends the evidence was insufficient to convict." But if there are multiple defendants: "Defendant Arthur Smith contends the evidence was insufficient to convict."

Very small progress. The current edition of MS Word now pegs that tiny error *de minimus* as a typo for *de minimis*. Some courts are using this help: "The 'physical injury' required by § 1997e(e) 'must be more than de minimus [*sic*], but need not be significant." *Dantin v. Dauzat*, 2025 WL 2463180 (W.D. La. 2025). The persistence of the error elsewhere is hard to grasp. "At most, the advertisement involved a *de minimus* violation, if there was any violation at all." *In re Palmintier*, 22-01406 (La. 1/18/23), 352 So. 3d 962 (Weimer, CJ, concurring). With a little help from Word, we may leave this typo in the dust.

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Shreveport Bar Association
Christmas Party

The Shreveport Bar Association hosted its annual Christmas party for its members and local law students at Silver Star Grille on Sunday, December 4, 2025.

Attendees gathered to visit with one another and enjoyed a spread of delicious food. It was great to see those who could come, and we understand for the ones who could not and look forward to seeing you at next year's party.

Christmas magic is in the air!


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UPCOMING EVENTS

*2026 SBA MEMBERSHIP LUNCHEON

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

JANUARY 16
Krewe of Justinian Grand Bal
Horseshoe Riverdome

***JANUARY 28**
SBA MEMBER LUNCHEON
Speaker: Dr. Andrew McKevitt, author of Gun Country: Gun Capitalism, Culture, and Control in Cold War America

FEBRUARY 7
Krewe of Centaur Parade
Krewe of Justinian Participates

FEBRUARY 15
Krewe of Highland Parade
Krewe of Justinian Participates

***FEBRUARY 25**
SBA MEMBER LUNCHEON
Guest Speaker: Dr. Clinton Wilson, Director of LSU Center for River Studies

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

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SBA Luncheon Meeting – January 28

Petroleum Club (15th Floor) – Buffet opens at 11:30 a.m. Program and Speaker from 12:00 Noon to 1:15 p.m.

$50.00 for SBA members includes lunch and one hour of CLE credit or $30 for lunch only.

$60.00 for non-SBA members includes lunch one hour of CLE credit or $35 for lunch only.

Dr. Andrew McKevitt

No Compromise: Understanding the Second Amendment as a Cold War Creation.

When: **12:00 Noon on Wednesday, January 28**

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

Featuring: **Dr. Andrew McKevitt, author of *Gun Country:***

Gun Capitalism, Culture, and Control in Cold War America

This presentation is eligible for 1 hour CLE credit.

Please join us on Wednesday, January 28, for the first SBA meeting of 2026 as we welcome Dr. Andrew McKevitt, Professor, Louisiana Tech University.

ABOUT THE AUTHOR

Andrew C. McKevitt is the John D. Winters Endowed Professor of History at Louisiana Tech University, where he has taught since 2012. He is the author of two books, both published by the University of North Carolina Press: *Consuming Japan: Popular Culture and the Globalizing of America* (2017), and *Gun Country: Gun Capitalism, Culture, and Control in Cold War America* (2023), which was shortlisted for the Cundill History Prize and named one of the best books of the year by *The Washington Post*. His writing has appeared in publications like *Time*, *Slate* and *The Washington Post*, and he has commented on contemporary politics for the BBC, Al Jazeera, MSNBC and Democracy Now. He is currently working on a biography of twentieth-century America's most prolific gun seller. He grew up in New Jersey and is a graduate of St. Joseph's University and Temple University, where he received a Ph.D. in 2009. He lives in Shreveport, Louisiana.

We will have a limited number of copies of his book, *Gun Country: Gun Capitalism, Culture, and Control in Cold War America*, for sale at the luncheon. Books will be sold and signed by the author after the presentation.

Confirm your reservation(s) by email at **dsouthern@shreveportbar.com** or by phone at **703-8372.**
Please remember to call and cancel if you can't attend.
The SBA pays for each reservation made. No-shows will be invoiced.