

THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION

Volume XXIII, Number 4 • April 2016

Lawyers at Leisure: **BOSTON MARATHON**

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EVENTS AT A GLANCE

Date	Event
4/15	May Bar Review Deadline
5/1	SBA Member/Family Day – 4 p.m.- East Ridge Country Club
5/3	Give For Good Campaign
5/4	SBA Law Day Luncheon – 12:00 p.m. - Petroleum Club of Shreveport
5/6	Red Mass- 9:00 a.m. Holy Trinity Catholic Church
5/9	Annual Golf/Tennis Tournament – 12:30 p.m. – Southern Trace Country Club
5/13	Criminal Law for Court Appointed Civil Lawyers Seminar – 9:00 a.m. – Caddo Parish Courthouse

Golf and Tennis TOURNAMENT



May 9, 2016
Southern Trace Country Club
Shreveport, Louisiana

SHOTGUN & TENNIS START

12:30 p.m.

ENTRY FEES

Golf:
 \$600 per team
 4-Man Scramble

Tennis:
 \$75 per player

LUNCH

11:00 a.m.
 included with registration fee

REGISTER

www.shreveportbar.com
 or call
 Dana at 222.3643 Ext. 3

PRIZES & CONTESTS

GOLF

Overall Low Gross and Low Net Scores in each flight
 Closest to the hole

TENNIS

Team Prizes will be awarded
 Teams chosen the morning of May 9



RICHARD B. KING, JR. MEMORIAL SHOOTOUT!

Enter to have your team represented in this 2-man, alternate shot contest. \$150 per team. Play begins after the scramble. Only one team will be named KING! Limited to the first 8 attorney teams registered. Call Dana at 222-3643 to register or go to www.shreveportbar.com

REGISTRATION

SHREVEPORT BAR ASSOCIATION - 2016 GOLF & TENNIS TOURNAMENT

Monday, May 9, 2016 at Southern Trace Country Club, Shreveport
Lunch Is Included, Serving at 11:00 a.m. – Awards Given Post Play



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 after the scramble. Only one team will be named KING! Limited to the first 8 attorney teams registered. Call Dana at 222-3643 to register.

GOLF – \$600 per team - Four Person Scramble – Shotgun Start at 12:30 p.m.

REGISTRATION

Captain Name: _____ HDCP/Best Score: _____ Tel: _____

Address: _____ Email: _____

Player 2 Name: _____ HDCP/Best Score: _____ Tel: _____

Address: _____ Email: _____

Player 3 Name: _____ HDCP/Best Score: _____ Tel: _____

Address: _____ Email: _____

Player 4 Name: _____ HDCP/Best Score: _____ Tel: _____

Address: _____ Email: _____

TENNIS – \$75 per player – Play Starts at 12:30 p.m.

NAME: _____ USTA RATING: _____ PHONE: _____

ADDRESS: _____ EMAIL: _____

You will be placed on a Team and Teams will be chosen on Monday morning, May 9

Make check payable to SHREVEPORT BAR ASSOCIATION and mail to:
2016 SBA Golf & Tennis Tournament Registration, 625 Texas Street, Shreveport, LA 71101

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From The President

by Donald E. Hathaway Jr., President, dhathaway@socklaw.com

It is hard to believe but as of March 18, 2016, Dana Southern has been with the Shreveport Bar Association for 20 years. That is a significant achievement, as she has survived the administrations of 20 bar presidents and numerous executive directors. Now as executive director, we can only hope she lasts 20 more years! When you see her at the next luncheon, be sure to thank her for her service and encourage her to continue to bless us with her talents.

Law Week 2016 begins April 29, and this year's theme is "Miranda: More Than Words." Law Week Chairman Brian Flanagan and his committee have scheduled a host of events for this year's activities. There will be a presentation to the Constitutional Law class at LSUS, a crawfish boil at East Ridge Country Club, presentations to elementary-age students, an Ask A Lawyer event at the Shreveport Bar Center, a high school student event and, on May 6, the Red Mass. Of special interest, the Chief Public Defender for Orleans Parish, Derwyn Bunton, will be the guest speaker for the Law Day luncheon, held at the Petroleum Club on Wednesday, May 4, 2016. Mr. Bunton will address the difficulties being encountered by local public defender offices due to inadequate funding and ways to solve the crisis created by massive funding cuts by the state legislature. If anyone wishes to help out with these events or serve on the committee, contact Brian Flanagan at bflanagan@bwor.com.

Also during Law Week, there will be a Give For Good Campaign at Rhino Coffee on Tuesday, May 3, 2016. The Give For Good Campaign benefits the Shreveport Bar Foundation's Pro Bono Project that in turn provides victims of domestic violence with help obtaining protective orders and assists the indigent with securing legal help for civil matters. Let's show our support by making a donation on the Give For Good website www.giveforgoodnla.com or by dropping by Rhino Coffee. If all of us gave just a little we could make a huge impact on Pro Bono's ability to serve those in need.

The Louisiana Bar Foundation honored our very own Herschel E. Richard Jr. as the recipient of the 2015 Distinguished Attorney Award. Herschel will receive the award at the Louisiana Bar Foundation's 30th Anniversary Gala being held at the Hyatt Regency New Orleans on April 8, 2016. Shreveport Bar Association Vice-President Jim McMichael and Shreveport Bar Foundation Immediate Past President Julie Lafargue will join Herschel for the occasion, as will numerous friends and colleagues.

We are doing well with collecting annual dues but are about 70 short of our expected number of members. If you have not yet submitted your dues for 2016, please do so soon. Also, remember that CLEs sponsored by the Shreveport Bar Association make up approximately 50% of our budget. The Judges Pitman are doing an excellent job as our CLE committee chairs. Please encourage your partners, associates and law clerks to attend the SBA seminars whenever possible.

GET INVOLVED!

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



SBA's "Boston Strong" Runners

by Hal Odom Jr., rhodom@la2nd.org



April 18, 2016, is Patriots' Day in Massachusetts. For the rest of the country, it is the date of the 120th running of the Boston Marathon, the world's oldest and most prestigious annual marathon.

Three SBA members – Frank Bright, Laura Nanda and Judge Mike Pitman – qualified and were accepted for the grueling, 26.2-mile race. Even qualifying is a “big deal,” Laura told me enthusiastically, and it's the pinnacle of achievement for runners. Only six from Shreveport, and 97 from the whole state, were accepted, and three are SBA members. We decided to talk to them about their marathon experiences, and what “makes 'em run.”

All three said running has been their passion for a long time. “I've been running since 1961,” Frank told me. “That was my senior year at Fair Park High School. I ran my first marathon in 1978, in Crowley, La., and rode down with the late Francis Bickham, the longtime Caddo Parish administrator.”

Mike started running after football season his senior year at Haughton High School. “I was a lineman and much heavier than I am now. I wasn't going to play football in college so I wanted to lose some of my football weight. However, to say I started ‘running’ is a stretch – it was more of a walk with short bouts of trotting! Over time, I was able to jog four or five miles, three or four times a week, which I did through law school.”

Laura shared a similar sentiment. “I think I've always been a runner. I ran track in high school, but even before that I loved to run. I didn't run in college, one of my biggest regrets, but I picked it up again when I graduated. I've been running ever since.

“My first marathon was the 1985 NYC Marathon. I was living in New Jersey and working in New York City at the time, so it was a natural. Registering for the marathon back then was a bit different from now. I was waiting in line in Central Park for an application, when Dustin Hoffman ran by! My race number for that race was 88, and the instructions for after the race were basically, ‘Meet your family in the park.’ I ran it with a few friends and one of their family members drove us to the Verrazano Bridge and let us off right near the start. Doesn't happen like that anymore!” Laura added that she will be back at the Verrazano Bridge this November, running in her fifth NYC Marathon.

Training and endurance set these marathoners apart from the casual, huffing jogger like myself. Mike told me, “When I am training for a marathon, I will step up the running with a short run being 4-5 miles, intermediate runs of 6-10 miles, and long runs of 11-22 miles. I also incorporate hill and ‘tempo’ (faster pace) runs.” It's apparent that athletics runs through his veins: “Exercise is like brushing my teeth or eating. I'm going to do it every day. I may go for a run, swim, bike ride or lift weight. I also enjoy stand-up paddleboarding, snow skiing, hiking and long walks with my dog.”

Frank described his training regimen. “I try to maintain the ability to run 10 miles year-round. In preparation for a marathon, I start adding two miles each weekend, ramping up from the 10-mile runs to 20-mile runs over about 10 weeks. I will run a couple of 20s, the last being a couple of weeks before the marathon.”

Laura's method is similar to Frank's. “Like most of the other runners, I have a pretty good base, so doing a 10- or 12-mile run isn't too difficult. Once the marathon is on the horizon, we increase our long runs by about two miles a week. I usually get in two 18-milers and two 20-milers. The last long run is usually about three weeks before the marathon. I try to change things up – run hill repeats once a week, a track workout on Wednesdays, strides, etc. Then it's time to taper.”

It isn't just about the athletics, however. All our marathoners were excited to talk about the camaraderie and the special experiences that come from the run. Laura truly runs for a cause. She ran the London Marathon for the Leukemia Society. “It was my personal record (3:13) and a great cause. And, since 2013, I've run the Boston Marathon for the Dana-Farber Marathon Challenge. I'll run it for them again this year. Listening to stories of why people run for this organization will bring you to tears. One year, at Boston, I ran for a short time alongside Bill Rodgers, a four-time winner of both the Boston and NYC Marathons.”

On a lighter note, Mike recalled his trip to Dallas White Rock Marathon, in December 2011, with his wife, Judge Frances Pitman, and with Joe and Sandra Haynes – the KTBS meteorologist and former SBA executive director. “The weather turned very cold and rainy the night before the race. I got out of bed around 5:00 a.m. and the rain was coming down harder than ever. I struggled with what to put on that would keep me warm and dry, but not too warm, for



Frank Bright, Laura Nanda and Mike Pitman at a recent practice run

the 26.2-mile run. I asked Frances what she was going to wear. She tugged on her pajamas and said, 'Exactly what I have on right now!' She promptly jumped back in bed, telling me to let her know how the marathon went when I got back.

"I met up with Joe at the starting line and asked where Sandra was. He said she was still cozy in bed. As Joe and I sloshed our way through 26.2 miles of driving rain, howling wind and cold that cut right through us, we decided that our wives were much smarter than we are!"

Frank shared a poignant story from an earlier Dallas White Rock marathon, in 1982: "It was my fastest one ever, as it turns out. On the way over to Dallas, we had a good visit with my 77-year-old bachelor uncle who claimed me as his 'favorite nephew.' He died between our visit that afternoon and the start of the race the next morning. Fortunately, my wife hid that news from me until immediately after the race. He was such a great guy. When I heard the news, being totally spent from the race, there was just no holding back the emotions."

My inevitable question for all our runners was where they were when the 2013 bombing occurred? Frank was off his feet, with knee surgery, and Mike was 1,600 miles away, signing orders in his office. Laura, however, was there, and gave this personal account:

"I finished the marathon about 15-20 minutes before the bombs exploded at the finish. Once I crossed the finish line, I went to the medical tent at the finish and grabbed a bag of ice for my legs. Little did I know how that medical tent would be transformed a short time later. A *Boston Globe* photographer asked to take my picture because I had a noted pinned to my back, FIGHT LIKE HELL ALEXANDER. BEAT CANCER. My son, Alexander, has been diagnosed with cancer two months earlier, and was being treated at Dana-Farber, and I had moved up to Boston in February to be with him for his treatment. The photographer who snapped my picture would go on to document the horror that followed.

"I made my way down Boylston Street after I finished, and claimed my bag. My son and my husband were supposed to be at the finish waiting for me, but I called and my husband said they decided not to wait, as there were too many people at the finish line and he was worried about my son's immune system; they had gone straight to Dana-Farber. Rather than go to my hotel, I decided to catch the T (the Boston transit system) to Dana-Farber and sit with them while my son had chemo. I changed into warmer clothes and walked toward the T station. It was on that walk to the T station that I heard the bombs go off.

"In a few moments, the world seemed to change. Police were tearing down barriers that had been set up, emergency vehicles were racing to the scene, everyone was checking their phones, confused runners were asking me (sometimes in broken English) how they could get the bags they checked. I finally found a runner who knew what had happened; she told me there were 'bombs at the finish and people lost limbs.' She was in shock."

Laura added that because she was staying in the Boston area, she was there for the aftermath – the manhunt for the Tsarnaev brothers, the memorials, the road signs that flashed Boston Strong. Obviously, the tragedy has only strengthened her devotion to Boston.

And so, when all is said and done, what makes them run? Laura answered, very simply, "Why not? It's a big part of my life, something that brings me joy. I'm really, *really* lucky I can run." Frank told me, with a laugh, "I run marathons because I can! It allows me to have a horrible diet and still not gain weight, it makes me sleep well every night. Also, running every day is a social event for me. The friendships I have made and maintained through running are valuable to me."

Mike took a slightly introspective tone: "My dad had a heart attack when he was just 49 years old. He survived but suffered tremendous damage to his heart. Since then, I have been very health-conscious. Several years ago, I started a wellness program through the La. Judicial College to promote a healthy lifestyle for judges and lawyers.

"Also, there are a lot of parallels between endurance sports and being a lawyer or a judge. Training for and running in marathons keeps me healthy so I'm able to do my job better. It teaches me patience and gives me strength to endure any situation that might come up. Just like training for a marathon, you have to put in the hours of hard work to be prepared for court. You can't fake it if you haven't put in the miles.

"For me, long runs are also a great way to relieve stress and clear my thoughts. I often do my best thinking on a long run."

I wanted to keep plying our marathoners with questions, but they've got to get back to their training! A word of thanks to each of you, Frank, Laura and Mike, and the best of luck April 18. We're honored to call you our own, and Boston strong.

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Spotlight on Professionalism

by J. Marshall Rice, jmrice@ricekendig.com

The Shreveport Bar Association

This month I wanted to take a moment to reflect on professionalism in the Shreveport Bar Association. I am a personal injury trial attorney. From time to time defense counsel is an attorney from New Orleans, Baton Rouge or Lafayette. On many of those occasions, the out-of-town attorneys compliment the professionalism of the attorneys in our area. I think this is the best compliment we could receive and worthy of sharing. I agree with them. The attorneys in northwest Louisiana are the most professional. Our attorneys as a whole are some of the nicest, caring, giving and professional attorneys. We may not always agree, but I truly believe we are the best at agreeing to disagree.

The Shreveport Bar Association is a big part of our regional success in professionalism. As I look back over my 12 years in practice, the SBA played a significant role in molding my career. It begins with the introduction to the SBA in your first year of practice at the Memorial and Recognition Ceremony and it carries forward as you become involved in SBA events. The Memorial and Recognition Ceremony also provides a foundation for professionalism through the memorials. So many lessons are learned listening to great stories and characteristics of professional attorneys who passed away. The ceremony is the greatest tradition in the bar association.

Justinian and other family SBA events are another great part of our bar's success. My wife and I have made so many friends through Justinian and other bar functions. Justinian, which is a part of the SBA, is a great outlet to get to know other attorneys outside the practice of law. The parties are certainly fun, but it is the ability to get to know the person beyond the daily grind of the practice of law that is important. The SBA provides these opportunities and they are a catalyst for professionalism and camaraderie among attorneys.

Membership in the SBA is important to promote professionalism. Please encourage attorneys to join our bar. Membership is important to our health and success.

This year started strong with a spotlight on Jerry Edwards. President Hathaway wrote that our bar needs to hear from you. If you would like to recommend an attorney for a spotlight article or overall professionalism award, please email me at jmrice@ricekendig.com. The candidate must be a member of the SBA, and the attorney cannot be on the executive committee of the SBA. My committee for selection of the professionalism award is Zelda Tucker, Jerry Edwards and Jason Nichols.



Pro Bono Project

by: Nellie Walton
nwalton@shreveportbar.com

Just a brief update on what's been happening in our office. Pro Bono has recently started to take referrals from Project Celebration to find attorneys to represent victims of violence in obtaining protective orders. With that being said, we are searching for attorneys to assist specifically with this project, along with volunteers for our Ask A Lawyer clinics and to take cases. Remember, Pro Bono is participating in this year's "Give for Good" through the Community Foundation. Your donation will be enhanced on this day!

If you would like to talk to me about how you can become a volunteer, please call me 221-8107 or email nwalton@shreveportbar.com.



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The Neutral Ground



by Billy Guin, bguin@billyguinlaw.com

Mediation – Tips to Remember

When you agree to mediate your case, you and your client should have a goal in mind as you prepare for and enter into the mediation process. Obviously, your number one goal is to settle the case. Yet sometimes mediations are begun with one side or the other knowing that the case will not settle at mediation, but that enough progress may be made so that subsequent settlement negotiations may be successful. In this situation, if the parties can show each other enough progress toward settlement, it can give hope to both sides that the case may be resolved in the future. In those situations, I call this scenario “Taking a Recess” at the end of the mediation to allow both parties to take some breathing time and continue evaluating the case for further settlement negotiations.

Typically, one side or the other will get back with the mediator two to three weeks after the mediation has ended to further discuss the case, often with a different offer or demand to be made by that party after consultation between the client, the attorney and any other interested entities. Many cases are settled this way, after the original mediation, by the parties continuing to work with the mediator or between each other to resolve any issues remaining in the case.

In preparation for a mediation, I believe that it is advisable to prepare as if the case were going to trial. You should have your evidence available to provide to the mediator to support and substantiate your arguments. As a mediator, I always encourage both sides to completely lay out their case so that the other side can see what they will be facing if the case goes to trial. The more ammunition that you use during the mediation, the more bullet holes you will render to the other side’s case. In that fashion, the other side can fully evaluate your evidence and make an intelligent decision (hopefully) to take that into consideration in responding to offers and demands in a reasonable fashion.

Another suggestion that I often make to attorneys at a mediation is to think outside the box. Is there anything that you can offer, besides money, to the other side that may help sweeten the deal to make the mediation successful? In clear liability situations, an apology from someone who really means it, and has some authority, is often helpful to soothe hurt feelings or perceived injustices. In a rape victim case, where the premises owner had been sued for lack of security

and maintaining a safe environment, the rape victim’s main goal, unbeknownst to anyone until after the mediation was completed, was to obtain an acknowledgment from the defendant that it had, in fact, faulty security. Once that admission had been made in the mediation by the defendant, the case settled shortly thereafter.

One of the worst things that a client or the client’s attorney can do is to be impatient with the process. You should work with the mediator and take the mediator’s advice on how the mediation is progressing. Almost all parties feel that the process should move quicker, but often the mediator needs time to work on or with the other side to have them completely understand the points that you are trying to make in defense of your position or fully explain the positive points that the mediator is trying to make for you. However, if you do have some type of time constraints on the day of the mediation, you should immediately inform the mediator of that situation so that the mediator will be aware of it and be able to craft the mediation around any restrictions that you or your client may have.

Last of all, know that the other side is very unlikely to settle with you if they have little or no risk in turning down your offer and going to trial. If the defense does not offer a reasonable sum in settlement, enough to make the plaintiff think hard about turning down the offer, then the plaintiff may as well go to trial. Likewise, the plaintiff must understand that if he or she is demanding too much and the defense has such a small possibility of being hit or tagged with everything that the plaintiff wants, then the defense may as well proceed to trial. Each side must understand and appreciate the risk or lack of risk that the other side faces at the end of the day when the final numbers and terms of a mediation are discussed.

SBA Members, Spouses, Significant Other, Children and Grandchildren
are invited to Shreveport Bar Association's

Member/Family Day Crawfish Boil

Presented by the
Shreveport-Bossier Bar Auxiliary

**Sunday, May 1 | 4:00 to 7:00 p.m. at
East Ridge Country Club**

Music • Bounce House • Swimming

In addition to crawfish we will have burgers, hot dogs
and chicken. Cold beer, sodas and plenty of food and fun for all!

\$15.00 per Adult \$5.00 per Child

**RSVP by
April 15!**

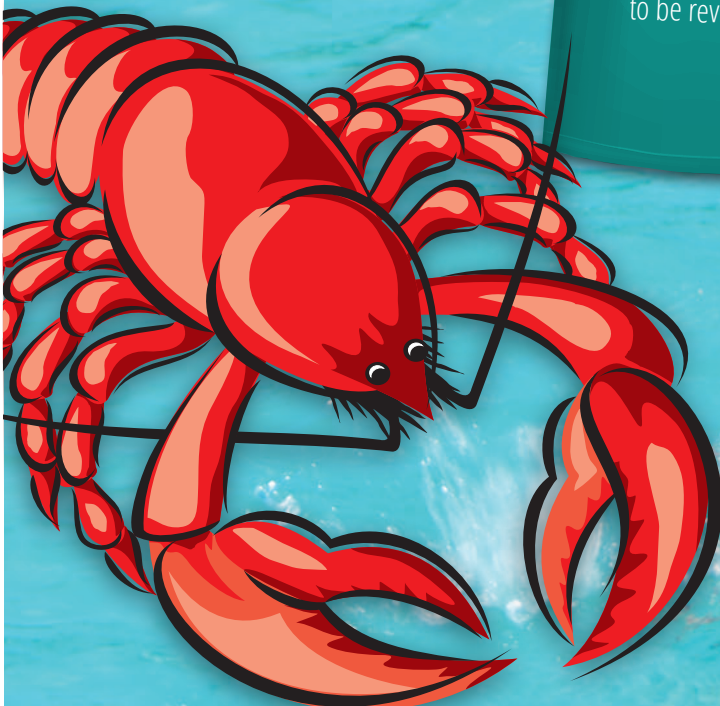
Register and Prepay by April 15
and get a commemorative T-Shirt!

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email dsouthern@shreveportbar.com

**Online Registration
is now open**

**2016
Family
Day**

T-Shirt design
to be revealed



March Luncheon Highlights



BAR BRIEFS

Lillian Evans Richie Elected to the Executive Committee of the National Conference of Appellate Court Clerks



Lillian Evans Richie, Clerk of Court/Judicial Administrator for the Second Circuit Court of Appeal, in Shreveport, was elected to the Executive Committee of the National Conference of Appellate Court Clerks at the organization's 2015 annual meeting.

Lillian Evans Richie was appointed Clerk of Court/Judicial Administrator for the Second Circuit Court of Appeal in November 2009. Before that appointment, she served as a judicial appellate staff attorney for 15 years and worked an additional 13 years in the active practice of law. A native of Natchitoches and a graduate of Northwestern State University and Paul M. Hebert Law Center, Louisiana State University, she is a member of the Louisiana State Bar Association, the Shreveport Bar Association, the Women's Section of the Shreveport Bar Association, the Louisiana Clerks of Court Association and the Louisiana Court Administrators Association.

The National Conference of Appellate Court Clerks was established in 1973 with the objectives of improving the skills and knowledge of its members, promoting effective court administration, providing a forum for the exchange of ideas, and maintaining facilities for the dissemination of information concerning appellate court operations. Its membership comprises state, federal and military appellate and Supreme Court clerks from the United States, District of Columbia, territories and possessions of the United States, and tribal appellate courts.



Arthur Carmody Jr. greets Bishop William Friend and Justice Antonin Scalia at the 2005 Red Mass Society dinner at East Ridge Country Club

The late Justice Antonin Scalia visited Shreveport in 2005 and participated in the Red Mass events. Art Carmody Jr. shared this recollection from that visit that reflects of Justice Scalia's well known sense of humor.

I presented him with a Bacarrat crystal pelican, being the State Bird of Louisiana and well represented on its flag and other symbols, on behalf of the Red Mass Society. I told the story of my father being stopped for speeding out of New Mexico in the 1930s and the policeman going to the back of the car to write up the ticket. At that time, the symbol of a pelican was in the middle of the Louisiana license plate with three numbers on either side. Finally the policeman came back to my father and said, "Mr. Carmody, I'm not giving you a ticket because I can write those numbers okay, but I can't draw that damn bird."

After the program, Scalia came up to me and asked if the story was really true, and I told him my father did not exaggerate, and he let out a loud laugh, chuckling all the way.

SBA Golf & Tennis Tournament Committee



Pictured L-R Judge Craig Marcotte, Walter Clawson, Curtis Joseph, Jim McMichael, Jimmy Mijalis, Courtney Turner, Woody Nesbitt, Dana Southern and Donald Hathaway

Not Pictured are Jarred Franklin, Trey May and Karen Tyler

Recently, the SBA Golf & Tennis Tournament committee met at the SBC to discuss plans for this year's Golf & Tennis Tournament. The tournaments will be held on Monday, May 9 at Southern Trace Country Club. The SBA Golf & Tennis committee is one of the hardest working, dedicated committees within the Shreveport Bar Association. Please take time to thank them by signing up to be a sponsor, and play in this year's tournament.

BILLY J. GUIN, JR.

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LAW WEEK 2016 APRIL 29 - MAY 6

Law Day 2016

MIRANDA

more than words

In 2016 the nation marks the 50th anniversary of perhaps the nation's best known U.S. Supreme Court case, *Miranda v. Arizona*. This year's Law Day theme — Miranda: More than Words — will explore the procedural protections afforded to all of us by the U.S. Constitution, how these rights are safeguarded by the courts, and why the preservation of these principles is essential to our liberty.

Law Week Chairman Brian Flanagan and his committee are working on several events for this year's Law Week activities. If you are willing to serve on the committee, or help out with the events, please email Brian Flanagan at bflanagan@bwor.com.

Friday, April 29 – Presentation to Constitutional Law class at LSU Shreveport;

Sunday, May 1 - SBA Member/Family Day Crawfish Boil at East Ridge Country Club from 4 p.m. - 7 p.m.;

Monday, May 2 – Young Lawyers go to Walnut Hill Elementary/Middle School and Forest Hill Elementary School to talk about the legal system;

Tuesday, May 3 – Give For Good Campaign at Rhino Coffee and Ask A Lawyer Event at the Shreveport Bar Center from 12 Noon -2 p.m.;

Wednesday, May 4 – Shreveport Bar Association Law Day luncheon at the Petroleum Club of Shreveport with guest speaker Derwyn Bunton, the Chief Public Defender for Orleans Parish;

Thursday, May 5 – High school student event details will be announced soon; and

Friday, May 6 – Red Mass at Holy Trinity Catholic Church

More details on all of these events will be announced in the April *Bar Review*.

Welcome TO THE SBA

Hunter Scott Crawford
Casten & Pearce, APLC

Penya Moses-Fields
Caddo Parish District Attorney's Office

Ross Owen
Caddo Parish District Attorney's Office

Kodie Smith
Caddo Parish District Attorney's Office

Mark Your Calendar



APRIL 15

May Bar Review Deadline

MAY 1

SBA Member/Family Day
4-7 p.m. at East Ridge Country Club

MAY 3

Give For Good Campaign and
Ask A Lawyer Event
Location TBD

MAY 4

Law Day Luncheon
12:00 Noon at the Petroleum Club (15th Floor)
Speaker: TBD

MAY 6

Red Mass
9:00 a.m. at Holy Trinity Catholic Church

MAY 9

Annual SBA Golf & Tennis Tournament
12:30 p.m. at Southern Trace Country Club

MAY 13

Criminal Law for Court Appointed
Civil Lawyers Seminar
9:00 a.m. at Caddo Parish Courthouse

MEDIATION AND ARBITRATION OF COMPLEX DISPUTES



Ross Foote



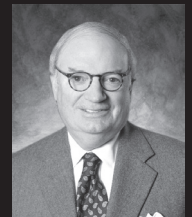
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Legal Hist

by Arthur R. Carmody, Jr., ACarmody@wcglawfirm.com

HUEY P. LONG – SHREVEPORT LAWYER 1918-1930 HPL – THE LAWYER

Huey's career as a lawyer was a remarkable one. As tracked by the Westlaw database, it was exceptional by standards of those days, and even more so today. Between 1916 and 1929, Huey appeared as counsel of record in 59 cases, 12 in the federal system and 47 in state court, practically all from Caddo Parish. His success rate was quite high, about 70% won in state court, about half in federal. Remarkably, four of these cases went to the United States Supreme Court, where he lost on one and prevailed in the others.

When it is realized that most of Huey's practice consisted of run-of-the-mill workers' compensation and tort cases, which are usually settled without ever being reported on appeal, this is a remarkable number of cases to have handled in a relatively short period of time, during all of which he was successfully pursuing political goals.

Leafing through some of these reported cases is of interest. Among the first to make the reporters is *State v Smith*, 139 La. 442, 71 So. 734 (1916), which made its way to the La. Supreme Court and was decided against Huey's client by a unanimous court. Huey is shown as counsel for Mr. Smith, who was convicted of selling intoxicating liquors without a license. On the other side, his brother Julius is shown as district attorney for Winn Parish (which he was) and a lawyer for the Attorney General's office as counsel for the State. It was not clear if the special counsel for the State was present due to the obvious conflict between the Long brothers, but we would assume this is so. Mr. Smith was convicted as charged and received a jail sentence and fine. Huey raised two thin points at the trial and on appeal.

First, he filed a bill of particulars served on the district attorney, aimed at obtaining the names of the purchasers of the liquors from his client, leaving aside the fact that Mr. Smith surely knew who his customers were. The embarrassment caused to members of the gentry in this small town by a "whisky connection" is obvious, and we are left to wonder why Huey couldn't get this information from his brother. The court rejected this contention, by citing four cases in which the high court had earlier held that the state was not required to deliver the name of the purchasers of intoxicants in a bill of particulars.

The second issue was equally weak. The evidence at trial showed that the offense occurred on December 21, while the bill



The Long House in Shreveport

of information said it was committed on the 22nd. Huey took no exception to this at trial, and the court cited five Louisiana cases saying this point was waived if not objected to, adding this was the law in all common-law states.

One can only speculate as to why Huey took this case on which the two main issues were foreclosed against his client, but Mr. Smith presumably wanted his day in court and received it.

In 1916, the United States was close to entering World War I. Huey was never involved with the military¹,

and his questionable deferment by the Winn Parish Draft Board became a political problem in later years. He was quoted as saying, "I did not go because I was not mad at anybody." The problem was that the law exempted "public officials" from the draft and Huey, with intuitive resourcefulness, unsuccessfully pled that his position as a Louisiana notary public made him a public official and entitled him to this exemption. The truth is that he was exempt because he had a wife and child, but he was creative.

Huey's first involvement with the federal court system occurred through state Senator S.J. Harper of Winnfield. Senator Harper loaned him \$250 upon his enrollment at Tulane. Harper's daughter told him the loan would never be repaid, but the senator replied that if he ever needed a good lawyer, Huey Long would help him. Early in 1918 the senator found himself greatly in need of serious legal talent. He was indicted by a federal grand jury in Alexandria for violating the Espionage Act and faced up to 20 years in prison.

Harper was a maverick in the Winn Parish tradition. A store owner, bank director and member of the legislature, he was in fact a left wing populist who greatly opposed America's entry into the war. He published a pamphlet claiming that international bankers on Wall Street were responsible for bringing us into the war. One of the charges in the indictment was that he had inhibited recruiting by writing "this is a poor man's fight and a rich man's war." He also wrote that President Wilson and all members of Congress should be assassinated. Defending him in the Alexandria courtroom were Winnfield's two best lawyers, Julius and Huey Long. This was

¹A possible exception was his support of legislation required by the City of Shreveport, the Chamber of Commerce and the local newspapers to obtain the land for Barksdale Field in return for dropping their opposition to Huey's plan for free schoolbooks for the state and Caddo Parish.

done, in Huey's words, because Harper was "my one great friend in Winnfield," and it was one of the most courageous and unselfish acts of Huey's life, coming in a year when Huey was running for the Railroad Commission, during wartime and with his own draft deferment being vulnerable.

The government's case against Harper was weak, but the Espionage Act was new, popular and had already resulted in numerous convictions. Huey's defense was based on "mouse-trapping" the jurors so that those he objected to would be challenged by the government. He had already evaluated those he believed to be particularly hostile to Senator Harper, and he also knew the potential jurors were being closely watched by the U.S. attorneys and federal agents. Thus, Huey openly approached those persons he did not want on the jury, treated them to drinks and dinners, making sure that they were seen talking and laughing together, but was scrupulous not to discuss the case with them in any way. While the jurors admitted their contact with Huey, they were uniform in saying the case was never discussed, but the U.S. attorneys had their doubts and challenged the seating of the tainted jurors whom Huey did not want in the first place.

The presiding judge, George W. Jack, the father of the late Gen. Whitfield Jack and Wellborn Jack, and the grandfather of Wellborn Jack Jr. (all SBA members), suspected Huey of mischief and was upset by his abrasive statements defending Harper prior to trial, which were published in statewide newspapers. Several times during the trial Judge Jack reprimanded Huey and at one point threatened him with contempt of court. Huey was of the belief that the court's hostility to him would reflect on Mr. Harper and agreed that Julius should make the closing argument. When the case went to the jury, they deliberated less than 10 minutes and returned a verdict of acquittal.

Nevertheless, Harper was pressured into resigning from the legislature, but continued to deny any act of disloyalty. His career in politics was finished, but that of his 24-year-old lawyer was just beginning.

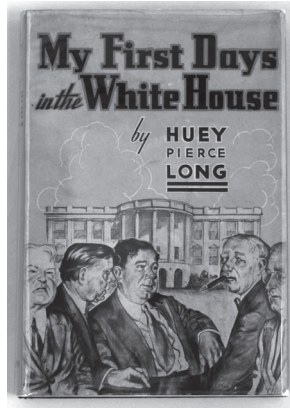
After Huey was elected governor in 1928, he associated George McSween and Robert A. Hunter, well-regarded Shreveport lawyers, on many of his pending cases. Looking through Westlaw, we find that Huey was willing to litigate a wide variety of issues, including his client's poverty in a successful effort to avoid costs; his own employment contract giving him a half interest in the mineral rights in a land title suit he lost; as a taxpayer and elector suing the City of Shreveport for increasing the street-car fare from 5¢ to 7¢ (he lost); whether it was error for a jury to change the word "charge" on a verdict form to the word "count" (it was not); whether a left-turning motorist was at fault for an automobile accident (he was); whether service of process on a defendant confined in a jail cell was lawful (it was); on the definition of "reasonable time" (it depends); on the propriety of a one-third fee in a worker's compensation case (it was), and preventing his client from having to undergo a hernia operation that was requested by his employer in another worker's compensation case (he won).

Huey's courtroom skills included ample portions of emotion,

sarcasm, humor and resourcefulness, all traits that stood him in good stead as a traveling salesman; yet, his relationship with the judiciary appears stable. Despite daily appearances in court, he was never found in contempt or threatened by the judiciary, notwithstanding the incident with Judge Jack in Alexandria. Perhaps this was a learning experience which he took to heart.

1918 brought the end of World War I and the beginning of Huey's political career. He considered all his options and elected to run for the vacancy on the little-known three-person La. Railroad Commission. This political entity was created under a 19th century constitution which, despite its impressive title, was of little importance. There were six persons in the race and Huey won a strong victory claiming a clear majority, concentrating his efforts in rural areas and ignoring the big cities. The 1921 Constitution changed the name to Public Service Commission, broadening its importance and authority. Huey also listed this position in large letters on his office door under the words "Attorney at Law."

Ahead for Huey were his election as governor in 1928; colorful efforts at recruiting football players for LSU and having his favorites reside in the Governor's Mansion; the ill-fated impeachment effort of 1929 led by two young, respected SBA members, Cecil Morgan and Pike Hall Sr.; his re-election in 1932 and entry into the national arena, with the gall to write and publish a new book, entitled *My First Days in the White House*.



Huey Long's Book

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Huey closed his Shreveport law office in 1930 but maintained his residence in Shreveport, where it remained on September 9, 1935. There is a belief that he used the \$40,000 fee he received for representing the plaintiff in *Bernstein v. Commercial Nat'l Bank*, 161 La. 38, 108 So. 117 (1926), to build his house on Forest Avenue, which is true. The story is embroidered by adding that Huey had the wrought-iron grillwork over the portico to bear the initials "CNB" for Commercial National Bank since they "paid for the house." This is simply a myth. The initials HPL overlooking the entrance at 305 Forest Avenue remain in place today.

Credits:

Alan Brinkley, *Voices of Protest: Huey Long, Father Coughlin and the Great Depression*. New York: Vintage Books, ©1983.

William I. Hair, *The Kingfish and His Realm*. Baton Rouge: La. State Univ. Press, ©1991.

Huey Long, *Every Man a King: The Autobiography of Huey P. Long*. Boston: Da Capo Press, 1996 rep. of 1933 orig.

Richard D. White Jr., *Kingfish: The Reign of Huey P. Long*. New York: Random House Trade Paperbacks, ©2006.

T. Harry Williams, *Huey Long*. New York: Vintage Books, ©1969.

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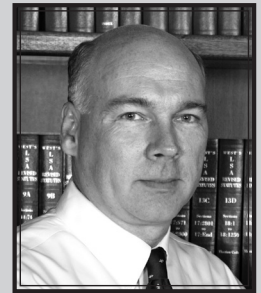
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Criminal Appointment for Civil Practice Attorneys Continuing Legal Education

Friday, May 13, 2016

9:00 a.m. to 12:00 Noon

Caddo Parish Courthouse

3 Hours Louisiana CLE Credit Approved



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Send registration form and payment to: SBA, 625 Texas Street, Shreveport, LA 71101 318-222-3643

How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

The basics of adoption. A reader asks if this usage is correct: “Kevin Credit, Sr. was dismissed on an exception of no right of action because he is not the biological or *adopted father* of Breana Howard.” The child is adopted, not the parent? The answer is, it’s not totally wrong, but it’s substandard usage.

You adopt a child, so she is adopted. You don’t adopt a parent, even though the expression occurs, as in *Huber v. Midkiff*, 2002-0664 (La. 2/7/03), 838 So. 2d 771, fn. 1 (“Alice is Ms. Huber’s biological mother, and Ronald is her *adopted father*”), and *In re J.E.C.*, 487 So. 2d 675 (La. App. 5 Cir. 1986) (“its mother, appellant here, resided with her own *adopted mother*”). The expression is at best imprecise.

The correct expression is *adoptive parent*, as in “private counsel for the prospective *adoptive parents*,” *State in Interest of K.C.C.*, 2015-1429 (La. 1/27/16), ___ So. 3d ___, or in “known to the offender to be related to the offender as any of the following biological, step, or *adoptive relatives*,” La. R.S. 14:78.1 A. *Adoptive* means “tending to adopt” or “acquired by adoption.”

The other correct expression is *adopted child*, which concretely states that the person was adopted. Recently, courts have set off “adoptive children” in quote marks when copied from a separate writing, as in *In re Lain*, 50,352 (La. App. 2 Cir. 2/24/16), ___ So. 3d ___, and *Fils v. Allstate Ins. Co.*, 2015-0357 (La. App. 1 Cir. 12/23/15), ___ So. 3d ___.

In a nutshell, *Adoptive* is customarily applied to the parent and *adopted* to the child.

Kevin Credit Sr. might have wished he could have stayed in this litigation, as the exceptions of no cause of action were thrown out, the case remanded for further proceedings, and the door opened for an award of damages. *Credit v. Richland Parish School Bd.*, 2011-1003 (La. 3/13/12), 85 So. 3d 669.

Run from this! The official revision comment (1966) to La. C. Cr. P. art. 575, “Interruption of Time Limitations,” is a beautiful illustration of two points.

First, it shows that the legislature, or supreme court, can make a word mean whatever it wishes. Comment (a) states: “The word ‘abscond’ includes the idea of *concealment without flight*; on the other hand, ‘fleeing from justice’ requires that there be a movement out of the jurisdiction. *State v. Stanton*, 200 La. 457, 24 So. 2d 819 (1946). Concealment without fleeing can be done by change of name, refraining from appearance in public, or other conduct that reflects intent to conceal oneself.” (*Emphasis supplied.*)

Stop right there! Random House Dictionary defines *abscond* as “to depart in a sudden and secret manner, especially to avoid capture and legal prosecution.” Merriam-Webster: “to go away or escape from a place secretly.” Collins English Dictionary: “to run



away secretly, esp from an open institution or to avoid prosecution or punishment.” Other dictionaries are the same: they uniformly define *abscond* as an act of departing, running away, going away. The legislature terribly confounds the matter, and defies common understanding, when it says *abscond* means *without flight*. Who proofreads this stuff?

Second point. The same comment (a), immediately before the “definition” of *abscond*, states: “A similar provision has been a part of every Louisiana statute of limitations since 1805 (Crimes Act of 1805, § 37; Act 121 of 1855, § 10; R.S. of 1870, § 986). Every provision has employed both the ‘*abscond*’ concept and the ‘fleeing from justice’ concept.”

Another fact check is due! Neither the current Art. 575, nor its predecessor, Art. 579 (1966), contains the word *abscond*. Why the long and counterintuitive analysis of a term that does not even appear in the statute?

Compounding the error is the fact that the case cited, *State v. Stanton*, also does not use or even mention the word *abscond*, although it does trace a fine distinction between a suspect who is a *fugitive from justice* (away from his usual abode, or holed up or lying low) and one who is *fleeing from justice* (actually leaves the jurisdiction to avoid capture). Not only does comment (a) disregard a standard definition, but it appears to misread the only case cited, *State v. Stanton*. It’s an exceptionally poor example of legal writing.

The simple solution is to use the wording of the statute: Periods of limitation are interrupted when the defendant “For purposes of avoiding detection, apprehension or prosecution, flees from the state, is outside the state, or is absent from his usual place of abode within the state[.]” This adequately covers (1) concealment or hiding and (2) fleeing or escaping. The legislature’s handling of the uninformative comment (a) makes me want to run and hide.

The tiniest error. This one keeps popping up, but with decreasing frequency. An independent CPA audited a parish economic development commission – a public body – and reported “ ‘*de minimus* use of JEDCO’s e-mail system’ by ‘certain JEDCO employees’ engaging in political activities” and that “ ‘the *de minimus* use of e-mails may not comply with La. R.S. 18:1465[.]’ ” Longtime readers of this column know that the correct expression is *de minimis*. In Latin, these words are as similar as *he* and *him*. The auditor’s note is about as grammatical as saying, “I got one email *from he*.”

Fortunately, the supreme court corrected this gaffe. *Shane v. Parish of Jefferson*, 2014-2225 (La. 12/8/15), ___ So. 3d ___. The emails may have been *de minimis*, or small in the big scheme of things, but watch out: if you got any email *from him*, it is subject to disclosure under Public Records Law! Redaction, anyone?



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SBA LUNCHEON MEETING SERIES – MAY 4

Petroleum Club (15th Floor) – Buffet opens at 11:30 a.m. Program and Speaker 12:00 Noon
\$20.00 for SBA members includes lunch with advance reservation
\$25.00 for Late Reservations (after 5:00 pm the Monday prior to the luncheon) and Non SBA Members

2016 LAW DAY THEME: MIRANDA: MORE THAN WORDS



When: Wednesday, May 4 from 12:00 Noon to 1:00 p.m.

Where: Petroleum Club (15th floor)

Featuring: Derwyn Bunton, Chief District Defender for Orleans Parish
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Derwyn Bunton is the Chief District Defender for Orleans Parish (New Orleans) Louisiana leading the Orleans Public Defenders Office (OPD). Prior to becoming Chief Defender, Derwyn was the Executive Director of Juvenile Regional Services (JRS). JRS is the first stand-alone juvenile defender office in the nation and the first nonprofit law office devoted to juvenile justice reform and front-line juvenile representation. Derwyn is also the former Associate Director of the Juvenile Justice Project of Louisiana (JJPL), a nonprofit juvenile justice reform and advocacy organization. Derwyn graduated from New York University School of Law in 1998. From 2000 to 2005, Derwyn aided in monitoring the settlement agreement between the United States Department of Justice, the Juvenile Justice Project of Louisiana, private plaintiffs and the State of Louisiana regarding Louisiana’s juvenile prisons. Derwyn was part of the litigation team that sued Louisiana over the conditions of its juvenile prisons. During Hurricane Katrina, Derwyn was part of a team of advocates and lawyers assisting the Orleans Parish Juvenile Court, the Louisiana Office of Juvenile Justice and the Louisiana Department of Public Safety and Corrections locate and reunite youth and adults evacuated to multiple DOC facilities across the state after being trapped by floodwaters in the Orleans Parish Prison in the wake of Katrina. In 2007, Derwyn was part of a team of lawyers representing the so-called Jena 6 in Jena, Louisiana. Please join us on May 4, as we celebrate Law Day and hear Derwyn’s presentation to the SBA.

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