

THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION

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EVENTS AT A GLANCE

Date	Event
3/25	SBA Membership Luncheon – 12:00 Noon – Petroleum Club of Shreveport (15th floor)
4/27-5/3	Law Week
4/29	Law Day Luncheon – 12:00 Noon – Petroleum Club of Shreveport (15th floor)
5/1	Red Mass-Holy Trinity Catholic Church
5/3	Members/Family Day- 4-7 P.M. - East Ridge Country Club



From The President

by Bennett L. Politz, SBA President

Civil Legal Aid - The Local History of Legal Services

The United States Supreme Court in *Gideon v. Wainwright* (1963) instructed that defendants in criminal cases have a constitutional right to counsel. If a criminal defendant cannot afford counsel, the court will appoint a lawyer to represent the defendant. In Louisiana, the Indigent Defender System shoulders this heavy burden. However, in the context of criminal law, the *Gideon* rule was hardly a startling revelation in Louisiana because the pronouncement that an individual be represented in the process had been part of the civilian tradition since our early Civil Codes. In civil matters, for individuals who cannot afford counsel, Legal Services shoulders the heavy burden of representation.

The earliest attempt at local civil legal aid assistance was a periodic volunteer effort by local lawyers to man an office in the Caddo Parish Courthouse. Young associates from the city's law firms provided the manpower. Then, in the early 1960s, a one-lawyer legal aid office known as the Shreveport Legal Aid Society was established. The caseload grew burdensome on minimal pay. In 1967, the Caddo-Bossier Legal Aid Society was officially formed and funded by the War on Poverty Program during President Lyndon B. Johnson's Administration. The office was expanded to four lawyers, and more attorneys were added over time. In 1979, the name was changed to Northwest Louisiana Legal Services (NWLLS).

The Legal Services Corporation (LSC) was established by Congress in 1974 and promotes equal access to justice by funding high-quality civil legal assistance for low-income Americans. LSC is the single largest funder of civil legal aid for the poor in the country and currently funds 134 independent legal aid organizations. Three in the state of Louisiana are Southeast Louisiana Legal Services (New Orleans, Hammond, Baton Rouge), Acadiana (Lafayette, Lake Charles) and Legal Services of North Louisiana (LSNL) (Shreveport, Bossier City, Natchitoches and Monroe – the rest of Louisiana).

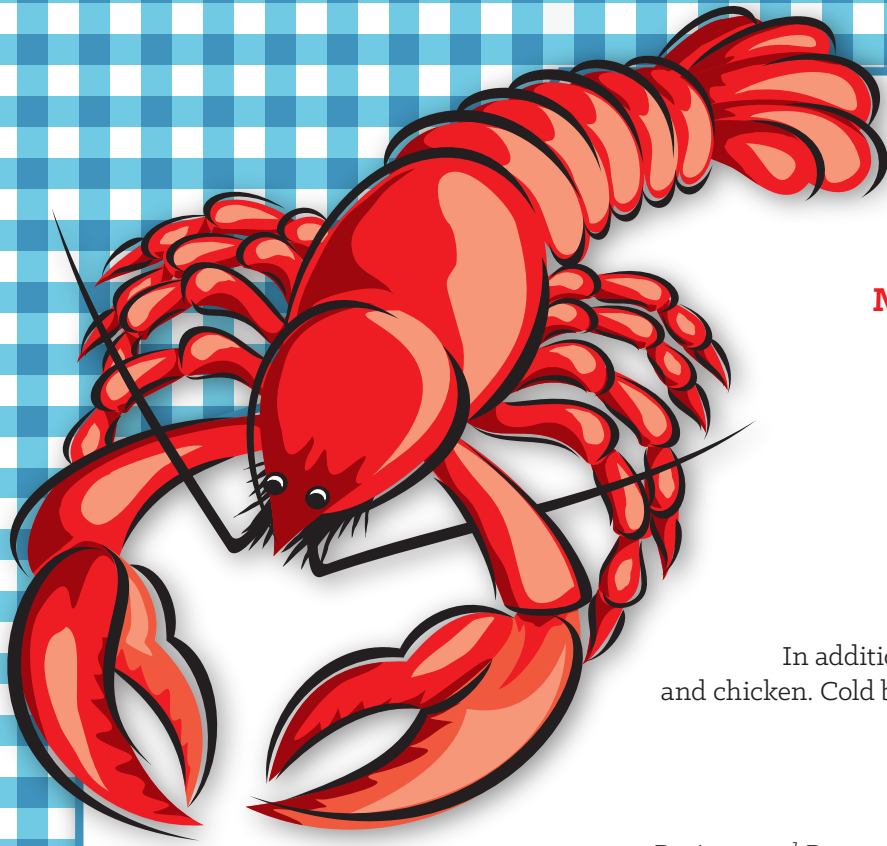
With more than 800 offices nationwide, LSC's organizations serve thousands of low-income individuals, children, families, seniors and veterans. LSC grantees handle basic civil legal needs of the poor, addressing matters involving safety, subsistence and family stability. Most legal aid practices are focused on family law, including domestic violence, child support and custody, and housing matters, including unlawful evictions and foreclosures.

LSNL was formed on February 11, 2002, by merger of NWLLS and Kisatchie Legal Services Corporation of Natchitoches, Louisiana. LSNL's service area includes 26 parishes across north Louisiana. An eligible client must meet stringent income and financial requirements, reside in the 26-parish area and present a non-fee generating civil case consistent with the agency's priorities.

Key players in the history of civil legal aid in the area are:

- (1) Shreveport Legal Aid Society – Joel M. Sermons
- (2) Caddo-Bossier Legal Aid Society – J. Waddy Tucker (until 1978)
- (3) Northwest Louisiana Legal Services (NWLLS)
 - (i) A. Mills McCawley (1978-1982)
 - (ii) Ed Dixon (1982-1984)

Continued on page 4



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 3 from 4:00 to 7:00 p.m.
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Music / Bounce House / Swimming

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Shreveport Bar Staff

Executive Director
 Dana Southern
 dsouthern@shreveportbar.com

Pro Bono Coordinator
 Gernine Mailhes
 gmailhes@shreveportbar.com
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Continued from cover

- (iii) Leon L. Emanuel (1984-1992)
- (iv) Paul Young (1993-1999)
- (v) Alma S. Jones (2000-2002)
- (4) Legal Services of North Louisiana (LSNL)
 - (i) Alma S. Jones (2002-2013)
 - (ii) Judge Leon L. Emanuel (Ret.) (2014-present)

The basic unmet civil legal needs of the poor are staggering despite the best efforts of the three Legal Services Corporations in Louisiana due to not only eligibility guidelines and priorities but also recent drastic cuts in congressional funding. Pro Bono Projects like our Bar's program help. The Louisiana Bar Foundation is addressing this crisis with its "It's Not Justice If It's Not Equal" campaign in order to preserve essential legal services for those who would otherwise go unrepresented. That discussion is for another day.

Do good work.
Ben



Women's Section

by Elizabeth Aycock,
eaycock@wcglawfirm.com

I am so happy to announce that the Annual Tax Luncheon was a smashing success. We had wonderful attendance, and everyone was full of questions for our very insightful speaker, Miss Claire Adkins, tax senior at Heard, McElroy & Vestal LLC. Many of our attendees took home new ideas for reducing their taxable income and protecting themselves in case of an audit by the IRS. Thanks again to Claire for taking time out during her busy tax season to speak with our great group of women of the Shreveport Bar Association.

In celebration of getting our taxes prepared and filed early (hopefully) or just in celebration of warmer weather coming, we will have a **Women's Section Spring Social on March 18, 2015, at 5:30 pm at 2 John's**. Come have a couple of drinks with the girls again, wear your green from the day before and carry on the St. Patty's Day party an additional day. Our social in January was quite a hoot, and we hope to have as good a turnout in March.

The Shreveport Bar Association is looking for a fulltime administrative assistant to assist the Executive Director with managing the day to day operations of the office. **Please email your resume to dsouthern@shreveportbar.com.** Salary is based on experience.



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Professionalism

by Marcus Edwards,
marcus@msrlaw.com

One of the few indisputable characteristics of professionalism is competence. David F. Butterfield has highlighted this immutable truth in my short career, and that's why we highlight his professionalism this month.



David Butterfield

David F. Butterfield has the proud distinction of receiving both his BA and his JD from Louisiana State University in 1980 and 1983, respectively. He was a member of central staff of the Louisiana Second Circuit Court of Appeal in 1984 before joining Mayer, Smith & Roberts L.L.P. in 1985. He is now in his 30th year with the firm. Butterfield's rich areas of practice include professional liability law, insurance defense and civil rights law.

A friend once told me that when he was a young associate, he represented a client who was a codefendant with the client David represented. In depositions in that litigation, David was sure to warn my friend of potential pitfalls. David was courteous in this way because my friend was a young attorney and because their interests were aligned. As a young associate, having a more experienced attorney provide that sort of professional courtesy is memorable and meaningful.

My own experience with David highlights perhaps a more fundamental professionalism. I was excited to be receiving a file from David that I was encouraged to work "from start to finish." Eager to attack the file, I asked whether to ask for help from his legal assistant or another, since our offices are on separate floors. His surprising answer was, "Before you start telling anybody how to prepare your files, you should know how to prepare it yourself." Apparently, "from start to finish" included doing the filing, drafting and transmitting myself.

I am reminded of that lesson in competence anytime someone is looking for a piece of correspondence that they can't seem to put their hands on, anytime another attorney asks about the status of discovery without warning, and anytime a partner pops into my office to ask about a file. Competence and professionalism start with knowing what you're talking about, because you did the due diligence yourself. (A little lagniappe: doing a little of our own filing can also help remind attorneys how frustrating the work can sometimes be for legal staff. That should go a long way in encouraging us to deal more civilly with those who work in our courthouses and offices.)

David loves music of all kinds and has various interests ranging from farming to the US Tax Code. He has served as a volunteer for numerous organizations, including the Shreveport Pro Bono Project and the Shreveport Volunteers for Youth Justice Program. Most of all, David is competent, and he requires competence out of his clients and fellow attorneys. The friend mentioned earlier later told me a story about mediating a case with David. Suffice it to say that when it became clear that their interests were not aligned, David's zeal in advocacy was also revealed. That's competence. That's professionalism.

Keep up the great work David.



Young Lawyers' Section

by Ryan Goodwin,
rog@lunnirion.com

Renee Goudeau has accepted a position in New Orleans and cannot finish her term as Young Lawyers' Section president. We want to thank her for her leadership and wish her much success.

On February 26 the Young Lawyers' Section held a social at Noble Savage that was sponsored by Choice Copy Service, and a presentation was made by the Cinderella Project of Shreveport-Bossier.

Thomas Pressly is spearheading some of the Law Week activities. If you are interested in volunteering, please contact him at thomas.pressly@cookyancey.com.

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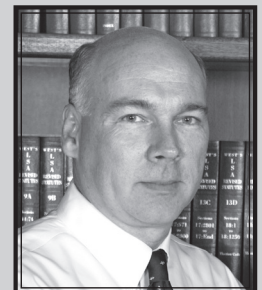
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Charles D. Elliott



Inns of Court Update

by Hal Odom Jr., rhodom@la2nd.org

The 800th anniversary of the Magna Carta was the topic of a joint meeting of the Judge Fred J. Fudickar Jr. (Monroe) and Harry V. Booth-Judge Henry A. Politz (Shreveport) chapters of the American Inns of Court in February. Some 100 people were in attendance, including members of both Inns, their spouses and guests.

Judge Donald Walter, senior judge for the Western District of La., spoke about the historical significance of the Magna Carta, calling it the “best known, but perhaps the most misunderstood document in U.S. history.” He stated that the modern interpretation of the document did not arise until the 17th century. He stressed that the Magna Carta is notable for its judicial provisions and the birth of due process, but also had certain immediate, practical effects, such as removing foreign mercenaries from England. The document’s most famous expression came over 500 years later, in the U.S. Declaration of Independence.

Dr. Jeffery Hankins, associate professor of history at La. Tech, presented a fairly detailed historical background of the Magna Carta, including the French conquests of the Angevin monarchs (Henry I and Henry II) in the 1100s, the loss of territory to France in the early 1200s, and King John’s dismal lack of support among the English nobles by 1215. The document, drafted by Stephen Langton, Archbishop of Canterbury, was a compromise between the king and a group of 25 barons. The barons eventually became the House of Lords, and the Magna Carta was the first time in history that someone other than the king would have the say-so over government. Dr. Hankins rounded out his talk by noting the Magna Carta’s enduring influence, including the 1628 Petition of Right, requiring Parliamentary approval of taxes, the 1689 English Bill of Rights, recognizing the

authority of Parliament and freedom of the press, and of course the U.S. Bill of Rights, establishing our modern panoply of due process rights.

Prior to the formal program, Chief Judge Carl Stewart of the U.S. Fifth Circuit, also president of the AIC Board of Trustees, gave opening remarks, noting that the inspiration for the topic was an exhibit at the Library of Congress, and that Texas Tech University, in Lubbock, Texas, houses an early copy of the Magna Carta. John S. Odom Jr., a master in the Shreveport Inn, added a light touch by playing a clip from the 1975 movie “Monty Python and the Holy Grail,” which offers a satirical take on the Divine Right of Kings.

David Verlander III, president of the Monroe Inn, took a slightly different historical angle, recognizing Judge Walter as a founder and moving force in the creation of the Monroe Inn, back in 1990, when he was still presiding in the Monroe Division. Larry Pettiette Jr., president of the Shreveport Inn, called out the numerous judges in attendance, and amplified Judge Stewart’s sentiment that vigorous judicial participation is the key to the vitality of the Inns.

The meeting was held on Thursday, February 26, at Squire Creek Country Club, in Choudrant. This was the first-ever joint meeting between the Monroe and Shreveport Inns, and despite three days of road closures and governmental paralysis owing to ice and snow, a capacity crowd came for the program, buffet dinner and interaction between the Inns. Sixteen tables with 100 seats were reserved, and there was not one empty chair. This strong attendance and enthusiastic response bode well for future joint meetings of the Inns.



Tyler Storms, of Ruston, and Pamela Stewart, of Genesis Energy LLC in Ruston, had perhaps the shortest drive of anyone in attendance. Retired bankruptcy judge Stephen Callaway joined them for this group shot.

Photos on opposite page:

- 1) David Verlander III, of McLeod Verlander in Monroe, and president of the Monroe Inn, provided both introductory and closing remarks.
- 2) Dr. Jeffery Hankins, PhD, used the overhead projector to illustrate the history of the conflict that culminated in the Magna Carta, on June 15, 1215.
- 3) Judge Donald Walter presented part of the program on the Magna Carta, calling it “the best known, but perhaps the most misunderstood document in U.S. history.”
- 4) Diane Martin, Sandra Caraway, Judge Jay Caraway, of the Second Circuit, and Mac Wear, of Shotwell, Brown & Sperry in Monroe, were among attendees taking a table by the fireplace.
- 5) Retired Judge Leon Emmanuel and current First JDC Judge Ramona Emmanuel were among the 100 people in attendance.
- 6) Mike Street, of Watson, McMillin & Harrison in Monroe, and long-serving secretary of the Monroe Inn; his wife, Jennifer Street; and Janie Pettiette.



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Judge Charles Tutt's Investiture
January 29, 2015



Judge Jeff Thompson Investiture
January 30, 2015

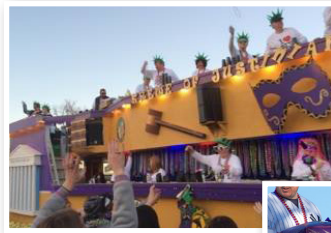


The SBA would like to congratulate each of these judges!

Justinian 's NEW YORK



Royalty Brunch



Centaur Parade



The Queen's Tea



Welcome TO THE SBA

J. Spencer Hays
Solo Practitioner

Mary L. Jackson
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2015 SBA Dues Reminder

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Marta-Ann Schnabel has joined the Patterson Resolution Group. Her practice areas include professional liability, business and commercial litigation, construction disputes, insurance coverage, and casualty litigation.

Her training as a mediator includes studies at the Straus Institute for Dispute Resolution, Pepperdine University. She is currently the Chair of the Louisiana Supreme Court's Judicial Oversight Committee and served as the first woman president of the Louisiana State Bar Association.



Thomas M. Hayes, III has also joined the Patterson Resolution Group. His practice has focused on product liability, redhibition, insurance coverage, industrial accidents, medical malpractice, lawyer's professional liability and professional responsibility,

construction, architect and engineering liability, successions, real estate disputes, realtor issues, employment law, and worker's compensation. He has been designated as a Louisiana SuperLawyer in civil litigation and has been appointed Special Master by the Fourth and Eighth Judicial Districts.

Contact Mike Patterson at 866-367-8620 or visit the group's website at www.pattersonresolution.com for more information.

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Legal Hist

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

A History of the Wilkinson Firm Shreveport, Louisiana 1895-2015 Part 2

In the long litany of cases ARC has tried, there are several that were both colorful and of importance. In the late '60s and '70s, there were the motion picture cases (*The Stewardesses*, *Elmer Gantry* and *Last Tango in Paris*) all arising out of the fact that the Caddo Parish Police Jury and the Shreveport Police Department concluded, on the basis of oral testimony of one individual, that these movies were "obscene" and subject to an injunction on the theaters under a state statute affecting houses of prostitution and gambling establishments. The result was that the films were seized with patrons still in their seats, the doors padlocked and the showing of the films prohibited. The projectionist and theater manager were arrested. After the denial of a motion for a short continuance to allow for expert witnesses Rex Reed and Judith Crist to travel from New York to Shreveport, the suits were tried in the Caddo District Court, the temporary restraining order earlier issued made permanent and the action of the State approved. An appeal followed to the Second Circuit, which in a short, unanimous opinion written by Judge Heard, found the conduct of the plaintiffs to constitute a "prior restraint" of First Amendment rights protected by the state and federal constitutions and the proceedings dismissed.¹ Writs were sought by the state, and granted. In a 4-3 opinion, the La. Supreme Court reversed and reinstated the injunction and validated the State's actions. A rehearing was granted and resulted in the same 4-3 opinion with the three younger members of the court (Tate, Barham and Dixon) all writing short dissents, including reference to the long-accepted (and tacitly approved) conduct on Bourbon Street over so many years. Writs were applied for and granted by the U.S. Supreme Court, which ultimately agreed with the Second Circuit, reinstating their opinion and reversing the action of the La. Supreme Court.

Near the end of 1968, United Gas Corporation, which had been and was the most significant client of the firm, both in terms of work and revenue, was being acquired by the Zapata Oil Co. of Midland, Texas. All of the members of the firm were offered the opportunity to move to Houston, where the new company, now named Pennzoil, would be located. At that time, the firm consisted of WSW, VWW, ARC, WLM, Pike Hall ("PH"), Charles Peatross ("CBP"), John Hayter ("JH") and Bill Crain ("BC"). This was hard news indeed, for it meant that the firm's principal client, responsible for over half the income, would be no more. The Zapata representatives were upfront in their approach. They stated that the legal department would be located in Houston and responsible for all legal work, that any and all of us were invited to come with this new department in Houston at no financial loss, and so it was. It was a memorable and traumatic day and called for some serious soul-searching. In the end, only one lawyer (BC) took the Houston offer. VWW became general counsel for the newly formed Mid-Louisiana Gas Co., but continued to keep

his office at the firm. WLM left to become president of The Hunter Co., a firm client for which he was responsible; WSW, ARC, PH and CBP elected to stay the course; JH went into private practice, although PH began to eye a judicial career at the time, which was wholly successful. All in all, things seemed to work out for all of us.

There were other able lawyers at the firm prior to the United Gas issue. John Madison Jr. was present from 1970 until the summer of 1975; Sam Caverlee came in 1972 and remained until 1979.

During the 1970s, ARC also successfully defended three major employment discrimination cases brought in federal court in Shreveport. The suits, filed at different times, were against Schumpert Medical Center, Sears Roebuck & Co., and Southwestern Electric Power Co. The SWEPCO case was a class action suit based on eight counts of alleged discrimination. The EEOC was not an original party to the suit, but at an early stage, it sought permission to intervene, claiming that it was a matter of "national interest." Permission was granted and thereafter, the EEOC took over management of the suit. In the end, following a long trial, SWEPCO prevailed on each of the eight counts and won a complete victory. It is understood that this was the first time the EEOC had lost a case against an electric public utility out of some 60 it had handled. Thereafter, in a rare development, the EEOC invited ARC to come to Washington, DC, at its expense and speak to its lawyers on the subject of "Litigating against the EEOC." With his client's permission, ARC made the trip and enjoyed the experience. There was no appeal of the decision, and the result is history. The suits against Schumpert and Sears also resulted in complete defense verdicts. The Sears case was appealed to the Fifth Circuit, which affirmed the decision, *Carroll v. Sears, Roebuck & Co.*, 708 F. 2d 183 (5 Cir. 1983).

Other major litigation during the 1970s included ARC's representation of the NCAA against Robert Parish and Centenary College over the recruitment of Mr. Parish and awarding him an athletic scholarship in violation of the NCAA's academic rules and practices. The case was tried before Judge Ben Dawkins, who had issued a preliminary injunction against the NCAA denying the validity of its relevant rules, but following a trial, dissolved the injunction against the NCAA and upheld its handling of the affair.

By the end of 1970s, lignite mining had become an issue in northwest Louisiana, particularly in DeSoto Parish, where much of the rural property was also subject to traditional oil and gas leases covering "all minerals." Lignite is, of course, a mineral, and some lessees argued that the lease necessarily gave the right to mine lignite. But the landowners contended it was never their intent to surrender the surface right to mine lignite when they signed the usual lease. ARC represented the landowners. The case was tried before Judge Burgess, who agreed with the landowners' position; an appeal to the Second Circuit reached the same result.

¹ Part of this opinion is reproduced in "From the Stacks," *The Bar Review*, Sept. 2014, p. 12.

Late in 1979, Bobby S. Gilliam (“BSG”) joined the firm and soon was doing the principal trial and commission work. In 2003, he became the managing partner of the firm. In 1985, his brother, Mark E. Gilliam (“MEG”), joined the firm and soon developed an extensive trial practice with emphasis on medical/legal issues, hospitals and nursing homes, successions, trusts, and the like.

Lawrence W. Pettiette Jr. joined the firm early in 1980 and soon demonstrated the outstanding traits which enabled him to establish his own firm, which successfully practices today under the name of Pettiette, Armand, Dunkelman, Woodley, Byrd & Cromwell.

In 1990, Jerry N. Jones (“JNJ”), who had joined the firm in 1983, resigned to become the city attorney of Shreveport for Mayor Hazel Beard, and subsequently became a partner in the Baton Rouge office of Bradley, Murchison, Kelly & Shea. At the same time, Mayor John B. Hussey (“JBH”) and his son Brennan joined the firm and provided an emphasis on governmental affairs, contracts, corporate and trial issues which lasted until their return to private practice 10 years later.

Before closing, it is appropriate to discuss the relationship between the firm and Huey Long, who, since 1918, had been practicing law in Shreveport and was running the Public Service Commission out of his local office. Long was never popular with the majority of Shreveport lawyers and the business community of the city. Three incidents of Long’s poor personal behavior are documented. The first involves J.U. Galloway, a lawyer and later a district judge; the second, JDW; the third, Huey’s own law partner, W.W. McDonald.

The New Orleans *Times Picayune* of August 30, 1933, ran an article entitled “Six Weeks of Boxing Lessons Failed to Help Long; Excels at Sprints.” The article reports the well-publicized incident in a private club in New York where Long engaged in a fistfight in the men’s room, and then recounts an incident in the lobby of the Roosevelt Hotel in New Orleans where he attacked the elderly Jared Y. Sanders, a former governor of the state, and then left the scene through a nearby elevator.

J.U. “Chug” Galloway of Shreveport was a well-built, physically impressive man, who was also the father of the late Sid Galloway, former SBA president and a partner in the Cook Yancey law firm. Judge Galloway’s reputation was that of a straight shooter who did not suffer fools or unprepared lawyers lightly. The article states that Galloway gave Long a black eye because he said something that was imprudent and insulting.

The second lawyer to encounter Long physically was JDW, who died in 1929 while in his 60s. The article states in full: “John D. Wilkinson, aged attorney, gave Long a thrashing with a closed umbrella. Long got away and another race was chalked up in his favor.” I do not recall any specific conversation within the firm about this incident, although the Wilkinsons were fast chargers and did not shy away from problems.

The third incident concerns W.W. McDonald, who was an older lawyer at the time, and Huey’s partner briefly while he made the transition from the PSC to governor. The article simply states that “while in the office, McDonald punched Long in the face and Long ran away from him, dodging around a table.”

In the majority of these incidents, Long was usually the aggressor, but distinguished himself more by his running than by his fighting.²

The firm has never had a rule, either pro or con, relating to public service. However, in practice, it has ample proof that such was encouraged. Two members, JDW and WSW, were elected to both the house and senate of the Louisiana legislature. One member, PH, was elected to both the Second Circuit Court of Appeal and the La. Supreme Court; the late Charles Peatross (“CBP”) was also elected to the Second Circuit; two members, JMM and SWC, were elected to the Caddo Parish School Board. One member, JNJ, served as the city attorney for Mayor Hazel Beard, and another, ARC, was chairman of the Metropolitan Shreveport Zoning Board of Appeals for 10 years, serving under three different mayors. In addition, three members of the firm, WSW, JMM and ARC, have been inducted into the iconic American College of Trial Lawyers.

The present members of the firm are BSG, MEG, ARC, Jonathan P. McCartney (“JPM”), David L. Bruce (“DLB”) and Elizabeth A. Aycock (“EAA”).

JPM comes to the firm from the University of Texas and LSU Law School, after clerking with Judges Garrett and Crichton. He primarily practices public utility and railroad law, as well as work in the lignite and oil and gas area.

DLB is a graduate of both LSU and its law school and practices primarily in railroad law, environmental matters and insurance defense work.

EAA is also a product of LSU and its law school and works primarily in the federal arena, concentrating on employment law, insurance issues and public utility law.

CONCLUSION

And so it began, 125 years ago, when the lawyer (John D. Wilkinson) took a horse and buggy over the dusty river road from Coushatta to Shreveport. He took the first steps on the west bank of the Red River to establish an entity that would survive two world wars, two great depressions, and constant political upheaval to prosper and happily thrive, all the while making Shreveport and its environs a more prosperous and better place.

² The full article (under the Universal Services byline, not signed) can be viewed at <http://www.la-cemeteries.com/Governors/Long,%20Huey%20Pierce/Articles/H%20LONG%2019330830%20TP.pdf> (retrieved 2/10/15).



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Mark Your Calendar



MARCH 25

SBA Members Luncheon

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

Speaker: Jeremy Alford, publisher and editor of LaPolitics.com and *LaPolitics Weekly*

APRIL 29

Law Day Luncheon

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

Speaker: U.S. District Judge S. Maurice Hicks Jr.

APRIL 27 - MAY 3

Law Week Activities

MAY 1

Red Mass – Holy Trinity Catholic Church

MAY 3

Members/Family Day

4-7 pm East Ridge Country Club

JUNE 24

SBA Members Luncheon

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

Speaker: Lt. Governor Jay Dardenne

AUGUST 14

Justinian Coronation Bal

SEPTEMBER 23

SBA Members Luncheon/CLE

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

Speaker: Alston Johnson

OCTOBER 15-16

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

OCTOBER 22

SBA Memorial & Recognition Ceremony
2:30 at the Caddo Parish Courthouse

OCTOBER 28

SBA Members Luncheon 12:00 Noon at the
Petroleum Club (15th Floor)
Speaker: Professor Paul Baier, Paul M. Hebert
Law Center

NOVEMBER 11

SBA Members Luncheon 12:00 Noon at the
Petroleum Club (15th Floor) Speaker:
[Veterans Day Program]



Reason #4

ENVIRONMENTAL IMPACT IS REDUCED

Small local businesses usually set up shop in the town/village center, providing a centralized variety that is much friendlier to a community's walk score than out of town shopping malls.

This generally means contributing less to sprawl, congestion, habitat loss and pollution.



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How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

A string of bad breaks. A Louisiana court of appeal recently wrote, “The defendant was driving 99 miles per hour on Highway 171 south, failed to apply his *breaks*, and hit a pedestrian, causing the pedestrian’s death.” Well, no; the things that stop (or slow) the car are the *brakes*. When you apply the *brakes*, you hope they don’t *break*.

Oddly, the mistake is fairly common. A different appellate court has written, “Mr. Gutierrez, who was traveling eastbound on North Rampart Street, applied his *break* in [an] attempt to avoid the collision.” Even the La. Supreme Court has intoned, “Buckner immediately applied heavy *breaking* and put the train into emergency seconds later.” *LeJeune v. Union Pacific R.R.*, 97-1843 (La. 4/14/98), 712 So. 2d 491. These should be *brake* and *braking*.

In all fairness, the distinction between the words can be a fine one, as when we try to *break* our fall. One scholar says that the word for *to pull apart* originated in the 14th century as *breach*, a word we still use; he adds, “Possibly related words include *brake*, *bark* ‘sound made by a dog,’ and *brigade*.” The word for “decelerating mechanism” arose in the 15th century, and meant *bridle*; he suggests, “There may well be some ultimate connection with *break* here too.” John Ayto, *Dictionary of Word Origins*, London: Columbia Marketing, 1994.

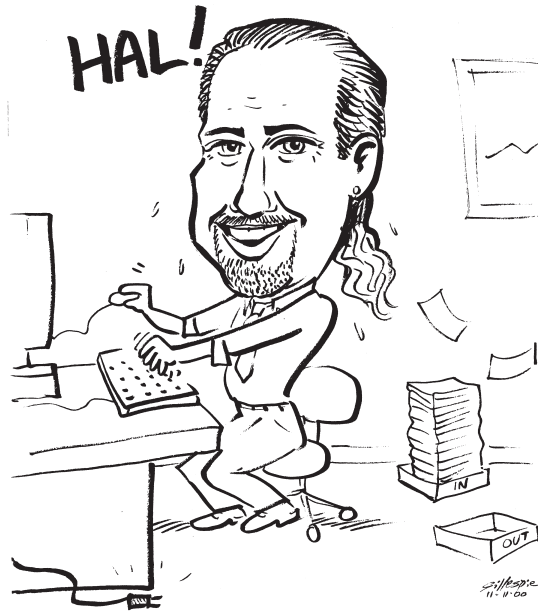
Spell Check will not catch these words. If you are one of those few writers in the habit of confusing *brake* and *break*, please break that habit. If you are writing too fast, just apply the brakes.

Timing is everything. Some of our most common words to express time are ambiguous. Consider the following:

- *presently*. Most often this means *shortly* or *in a little while*, but can also mean *at the present time*. Avoid confusion: to express the near future, use the future tense. “The judge will read the verdict presently.” To express the present time, use the present tense. “We are presently conducting discovery in this matter.” Better yet, use *now*, *currently* or *at this moment*.

- *when*. This can mean *at the same time as* or *immediately after*. In the second sense, it usually implies causation, and *after* might be clearer. Simultaneous: “When Smith was arrested for DWI, he was on probation for another DWI.” Immediately after / because of: “When Smith was arrested for DWI, State Farm canceled his insurance policy.” This actually means, *after* or *because of* the DWI, he lost his coverage.

- *then*. This also can mean *at that time*; it can mean *next*; and it can mean *as a conclusion*. Usually not confusing, but avoid using *then* if you mean to express no connection between the events:



“Bobby Jindal was elected governor, and then Louisiana’s economy tanked.” Causation?

- *since*. In legal writing, this most often means *because*, but it also often means *in the time after*. In the first sense, I prefer to use *because*, a word that clearly alerts the reader to cause-and-effect relationship. In the second sense, *since* should always be followed by the past tense. Temporal relationship: “Since Louisiana repealed forced heirship, the number of will challenges *has increased*.” Causal: “Since Louisiana has repealed forced heirship, it *is* much easier to contest a will.” Better yet: Use *because* or rewrite to use *on account of*. Another possibility: “Thanks to the repeal of forced heirship, it is now much easier to

contest a will.”

The prevention convention. A reader asks, what is the correct word for *servicing to prevent*? Is it *preventive*, or *preventative*? All the major authorities say the shorter *preventive* is preferable, and that the longer *preventative* is an awkward back-formation, like *orientate* or *improvisate*. (If I could prevent the use of those words, I would do it!)

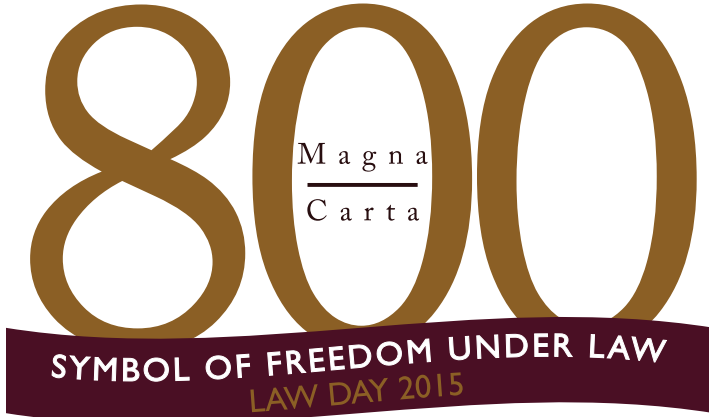
Congress has shown a definite preference for *preventive measures*, using the expression in about a dozen statutes, and using it exclusively in the titles for conservation (16 U.S.C.) and public health and welfare (42 U.S.C.), while using *preventative measures* only three times. The Louisiana legislature uses *preventive measures* exactly once, La. R.S. 30:2474 (Mineral Code), and never uses the other form.

In the judicial field, that magisterial word maven Justice Antonin Scalia recently used *preventative measures*, in *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 131 S. Ct. 1068 (2011). However, he used *preventive measures* in his dissent in *Nevada Dept. of Human Res. v. Hibbs*, 538 U.S. 721, 123 S. Ct. 1972 (2003), and Westlaw confirms that *preventive* is the overwhelming preference of The Mighty Nine. The same resource shows a huge preference for *preventive medicine*.

I was afraid I had rattled off *preventative* a hundred times, but I now see that caution (and Judge Bill Norris!) prevailed, starting with an opinion early in my career, *Sellers v. Caddo Parish Comm’n*, 503 So. 2d 1073 (La. App. 2 Cir.), *writ denied*, 506 So. 2d 1229 (1987).

The long word is not wrong, but *preventive* is the careful writer’s choice.

LAW WEEK 2015 APRIL 27-MAY 3



This year's Law Day theme is "Magna Carta: Symbol of Freedom Under Law." Please join us as we commemorate the 800th anniversary of the Magna Carta and celebrate symbols of freedom under law by volunteering to help with the week of festivities.

Law Week Chairman Thomas Pressly and his committee are working on several events for this year's Law Week activities. If you are willing to serve on the committee, and or help out with the events, please email Thomas Pressly at thomas.pressly@cookyancey.com.

Tuesday, April 28 - Young Lawyers' Section members are going to local schools to talk about the legal system.

Wednesday, April 29 - Shreveport Bar Association Law Day luncheon at the Petroleum Club. Judge S. Maurice Hicks Jr. will be the guest speaker. Community dinner and a movie night at Robinson Film Center.

Thursday, April 30 - High school student event at Robinson Film Center from 9:30 a.m. - 2:30 p.m.

Friday, May 1 - Red Mass at Holy Trinity Catholic Church

Sunday, May 3 - SBA Member/Family Day Crawfish Boil at East Ridge Country Club from 4 p.m. - 7 p.m.

There will be a short video contest (3-5 minutes) for high school students. The winning videos will be shown at both of the Robinson Film Center showings.

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

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DEADLINE FOR APRIL ISSUE: MARCH 15, 2015

SBA LUNCHEON MEETING SERIES - MARCH 25

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



2015 FALL ELECTION SEASON, THE GUBERNATORIAL RACE

When: Wednesday, March 25 from 12:00 Noon to 1:00 p.m.

Where: Petroleum Club (15th floor)

Featuring: Jeremy Alford, publisher and editor of *LaPolitics.com*
 and *LaPolitics Weekly*

On March 25, Jeremy Alford will discuss the 2015 fall election season, especially the gubernatorial race, and the spring legislative session where lawmakers will have to tackle a \$1.6 billion budget hole -- and growing. He will also talk about tort reform, budget for the public defender, and ongoing litigation the Legislature may try to interfere with.

Jeremy Alford is the publisher and editor of *LaPolitics.com* and *LaPolitics Weekly*. Jeremy is a regular guest on radio and television news programs, having served as an analyst-source for CNN, FOX News, MSNBC, C-SPAN and NPR. He can be heard every Thursday morning on TALK 107.3 FM in Baton Rouge and can often be seen on Fridays on WYES-TV's "Informed Sources" and on LPB's "The State We're In." Jeremy's opinion columns and syndicated news appear in 34 newspapers and magazines throughout Louisiana. He also produces a political news feed for television stations in the Shreveport, Lafayette and Monroe markets. In 2015, he was recognized as one of the state's best political reporters by *The Washington Post's* Fix blog.

**YES, I'M
 ATTENDING**

You may confirm your reservation(s) by email, telephone, or fax.
 Email: dsouthern@shreveportbar.com Phone: 222-3643 Fax: 222-9272

I plan to attend the March luncheon. Attorney: _____

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