

# THE BAR REVIEW

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## EVENTS AT A GLANCE

Date	Event
9/17	Lunch & Learn CLE – 12:00 Noon – SBC
9/23	SBA Membership Luncheon – 12:00 Noon – Petroleum Club of Shreveport (15th Floor)
9/29	Legal Technology Seminar CLE – 10:00 a.m. – SBC
10/2	Justinian Midway Party – 7:00 p.m. - Chandler Event Center, Bossier City
10/15 & 16	Recent Developments by the Judiciary Seminar – Hilton Garden Inn, Bossier City
10/28	SBA Membership Luncheon – 12:00 Noon – Petroleum Club of Shreveport (15th Floor)



## From The President

by Bennett L. Politz, SBA President, [blp@blplaw.com](mailto:blp@blplaw.com)

### "All politics is local" – Tip O'Neill

After Labor Day, the traditional political season will be upon the electorate. Politics should interest us as lawyers. Law is government process, and lawyers are trained in government process. While we may lament the polarization of the political process in Washington, D.C., and to an increasing extent in Baton Rouge, I am reminded of the quip from former Speaker of the U.S. House Tip O'Neill that "All politics is local." The prediction is that most people who vote are concerned with resolution of local issues, not casting a vote to "send a message" to the highest levels.

There is an alarming trend that fewer lawyers offer themselves for public office, particularly local and state elected positions. Let's set aside the local election of a judge or district attorney since we all have a stake in electing capable and competent lawyers to those positions. We need to encourage and support colleagues for parish commission, school board, city council and state legislature positions. Lawyers by unique training have a valuable perspective for these elected bodies. Since modern campaigns are expensive, we should financially support lawyers who seek public office. We should readily serve on campaign committees or, when asked, volunteer to assist campaigns.

While we may debate the effectiveness of term limits, 32 of 144 state legislature seats are up for election this fall without an incumbent. We also know, depending on the outcome of the upcoming elections, upwards of 40% of the Legislature could be term limited in 2019. There will be sea change in the Louisiana Legislature by the end of the decade and a siren's call for interested colleagues to consider public office. It is a heady commitment by an elected attorney which needs to be encouraged and supported by the bar.

Mea culpa! Even though it was admittedly a representative sample, I should have known that my listing of the local lawyer Eagle Scouts over time in the last bar newsletter would leave somebody off the list it should not. In the spirit of full disclosure, I now add to the list John Gallagher (1978), son of Judge Andrew B. Gallagher (Ret.), and colleague Jack Shuey (1967). Judge James E. Stewart and brother US Chief Judge Carl E. Stewart reminded me that Judge James earned the Eagle award in 1970. My bad! The Judges Stewart have a longstanding deep commitment to the Scouting program. Chief Judge Carl (not an Eagle Scout) holds the prestigious Silver Beaver (local), Silver Antelope (regional) and Silver Buffalo (national) distinctions to which brother Judge James readily quipped "those honors were awarded, not earned!" Priceless!

Remember - do good work!

Ben

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# SHREVEPORT BAR FOUNDATION COSTUME PARTY FRIDAY, OCTOBER 30

The Shreveport Bar Foundation (SBF) will host a Costume Party on Friday, October 30. This event will be held from 8:00 p.m. until Midnight at the Shreveport Supper Club, located at 610 Commerce Street.

Come out and enjoy an evening full of ghostly libations and great food. Music will be provided by the band, Caravan, as we dance the night away, counting down the hours to Halloween. Everyone is encouraged to dress in a costume, though cocktail attire is appropriate as well.

Tickets are now on sale through the SBF's website [www.shreveportbarfoundation.org](http://www.shreveportbarfoundation.org). General admission is \$35 per person and includes food and unlimited domestic beer and wine. Sponsorship VIP bundle is available for \$1,500 and it includes admission for 10 people with 4 liquor tickets per admission, food, unlimited domestic beer and wine, and VIP parking. For more information about the event, including sponsorship opportunities, please contact Courtney Turner at 318-222-3643, extension 2 or email [cturner@shreveportbar.com](mailto:cturner@shreveportbar.com).

The Costume Party serves to raise funds for the SBF, which provides free civil legal services to the poor through the Pro Bono Project. The SBF's Pro Bono Project also operates community outreach clinics at the Bar Center as well as at mobile clinics at local homeless shelters, a transitional home for veterans, and a domestic violence shelter. The SBF operates a Pro Se Library open to the public at the Bar Center that is staffed by our Pro Bono employees and attorney volunteers.

The Shreveport Bar Foundation is a 501(c)(3) organization formed with the purpose of performing charitable and educational services in the Shreveport and Bossier communities. It is a nonprofit corporation supported by grants, fundraising events, and other self-generated revenue.

*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.*



## Women's Section

by Elizabeth Liner  
eliner@wcglawfirm.com

We hope that you have enjoyed your summer fun with friends and family, and we hope you are ready to get back into the swing of things now that summer is coming to an end. Before everyone went off on wonderful summer vacations, we had a lovely luncheon with Judges Katherine Dorroh and Jeanette Garrett, who provided us with helpful hints for maintaining "balance." They shared real life experiences about being women attorneys and judges while raising children and keeping their homes in balance. Thanks to Judge Dorroh and Judge Garrett for taking time out to give a wonderful presentation to the ladies of the Shreveport Bar Association.



Judge Jeanette Garrett and Judge Katherine Dorroh



Natalie Howell, Pam Moser, Judge Jeanette Garrett,  
Judge Katherine Dorroh, Elizabeth Liner and Janet Silvie

To kick off the fall, we hope you will join us for a cocktail hour with the ladies of the Shreveport Bar Association at Ristorante Giuseppe on Thursday, September 24, 2015, at 6:00 pm, but please feel free to arrive earlier as your schedules allow.



## Young Lawyers' Section

by Ryan Goodwin, rog@lunnirion.com

The Young Lawyers' Section will be throwing a kickball party at Betty Virginia Park on Saturday, September 12 at 1:00 p.m. Hot dogs, refreshments and snacks will be served. This will be a family friendly event, so bring the kids out for a fun afternoon of kickball. Please email rog@lunnirion.com with any questions.

We have been getting word that not everyone is receiving email blasts from the YLS, so if you would like to be included on the email chain please email your contact information to shreveportbarassocyls@gmail.com. You can also follow us on Facebook at Shreveport Bar Association – Young Lawyers Section.



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Bobby S. Gilliam, a longtime member of the Shreveport Bar Association, has been elected President of the Louisiana Association of Defense Counsel (LADC), the largest organization of defense counsel in Louisiana. The LADC, founded in 1963, is one of the largest defense organizations in the country, with over 1400 members. Mr. Gilliam

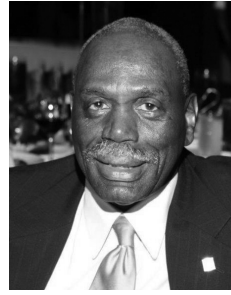
has served on the board and most recently as Vice-President of the organization, with Professor William Corbett of the LSU Law Center serving as Executive Director.

Mr. Gilliam is the managing partner of Wilkinson, Carmody & Gilliam, the oldest law firm in North Louisiana, which was founded in 1895. He is registered with the Bar Register of Preeminent Lawyers and is also listed in Best Lawyers in America and Super Lawyers, most recently in 2015. He has an active Federal and State litigation and appellate practice, appearing in courts throughout Louisiana and in surrounding states, including the U.S. 5th Circuit Court of Appeals. He also practices extensively before the Louisiana Public Service Commission. His practice focuses on corporate and commercial litigation and includes public utility and regulatory law, railroad law, employment and labor law, and insurance litigation.

Brian Joffrion of the Caddo Parish District Attorney Office, 1st JDC, was selected by Louisiana Child Support Enforcement as the Outstanding Assistant District Attorney for the State of Louisiana and was honored at the Louisiana Child Support Enforcement conference in Marksville, LA, in March. Congratulations, Brian.



Byron Inman and Brian Joffrion



Judge Curtis A. Calloway, of Baton Rouge, has been appointed judge pro tem for the Second Circuit Court of Appeal. Judge Calloway is a Marine Corps veteran and Purple Heart recipient, a graduate of Miles College in Birmingham, Alabama (B.A. in history), and of Southern University Law Center in Baton Rouge (J.D.). He practiced law

in Baton Rouge from 1969 until 1989, when he was elected to Baton Rouge City Court, and was elected to the 19th JDC in 1992. There, he served on the criminal bench, the civil bench starting in 1997, and was chosen chief judge of the court in June 1998. He retired from the 19th JDC in December 2008.

Judge Calloway's appointment from the Supreme Court was effective at the beginning of the Second Circuit's August cycle, August 10, 2015, and included three argument panels that week. He is sitting in the place of Judge James E. Stewart Sr., who announced his retirement to seek other political office.

## AMERICAN CANCER SOCIETY CATTLE BARON'S BALL 2015 HONORARY CHAIR

Rebecca Edwards was this year's Honorary Chair for the American Cancer Society 8th Annual Cattle Baron's Ball that was held Saturday, August 22 at Harrah's Louisiana Downs.

*Pictured L-R are Steve and Berry Glassell, Patrick Day and Amy Gardner, Buddy and Melissa Allen, Bill and Rebecca Edwards, Edmund Brown and Kammi Whatley, Chris and Tommie Slatten*





Gernine Mailhes



# Pro Bono Update

**ASK - A - LAWYER CLINICS ARE ONCE A MONTH!**

**KEEP CALM AND VOLUNTEER ON**



**ATTORNEYS: CLICK HERE TO HELP MAKE A DIFFERENCE!**

**Ask-A-Lawyer.** The Pro Bono Project is now promoting its Ask-A-Lawyer Clinics by using **Postcards** which list the date, place and time of our clinics. These have been distributed throughout Caddo and Bossier and may now be found at local libraries, legal service, nonprofits and public offices. On the reverse there is a calendar that gives the dates of all our clinics for 2015 and 2016.

In addition, the Board members have agreed to help the Pro Bono Project by recruiting more attorneys for our monthly Ask-A-Lawyer clinics. Each member has a month that he/she will recruit three attorneys, plus himself. It has been a huge success! We are happy to bring on several new attorneys to Pro Bono: **David Hemken, Luke Thaxton, Irenya Clark-Sam, Jack Bailey** and **Jena Hogan**. All new attorneys have thoroughly enjoyed their experience. **Luke Thaxton** said he is “looking forward to doing it again ... maybe next month.”



The new attorneys have energized our regular volunteers. For example, **Bernard Johnson** and **Lake Hearne** each brought a junior partner. They mentored a while, and then Jena and David took over.

Special thanks to volunteers **Jim McMichael, Lake Hearne, Earlnisha Williams, David White, John Nickelson** and **Ben Politz**.

Congratulations go to President-Elect **Don Hathaway**, who has taken six uncontested divorces since 2015.

If anyone is interested in volunteering for an Ask-A-Lawyer, please check out our revised Website at [www.shreveportbarfoundation.org/events/category/pro-bono-project/upcoming/](http://www.shreveportbarfoundation.org/events/category/pro-bono-project/upcoming/).

**Pro Bono Week.** October 23-29 is Pro Bono Week. LSBA President Mark Cunningham has encouraged “Lawyers in the Libraries” events. Pro Bono will be collaborating with North Louisiana Legal Services to sponsor a “Self-Represented” Uncontested Divorce Clinic on October 27 from 5:30-7:30 pm. It is open to any Caddo or Bossier resident. The venue is the Bossier Parish Central Library. We will have attorneys on hand to help the clients

The Bar Foundation is urging a little friendly competition among law firms and solo practitioners. In the past, the Bar Foundation would award an individual attorney the Pro Bono Volunteer of the Year. The Pro Bono Project has decided in 2016 to have three awards, based on the size of the firm. The categories will be Large Law Firm, Small Law Firm and Solo Practitioner. Then competition will end next October. The challenge is on!



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## Remembering Judge Tom Stagg

by: Mark L. Hornsby, U.S. Magistrate Judge,  
mark\_hornsby@lawd.uscourts.gov

Judge Tom Stagg passed away at his home on June 23, 2015. He was 92. Judge Stagg was a lifelong resident of Shreveport. He was married to the love of his life, Miki, for 69 years. They had two daughters, Julie Harrington and Margaret Sour, and several grandchildren and great-grandchildren.



Judge Stagg served his country during World War II in France and Germany and received numerous medals for his valor and leadership. He narrowly survived several wounds from German machine gun fire.

Judge Stagg was a 1949 graduate of LSU Law School. He practiced law in Shreveport and was very involved in the community, civic affairs and politics. He was appointed to the federal bench in 1974 by President Richard Nixon. Judge Stagg would often say, perhaps in jest, that his appointment was the only good decision President Nixon ever made.

Judge Stagg was an exemplary trial judge. His opinions were well researched and well written, and his trial preparation was legendary. He brought out the very best of the attorneys who appeared before him. He was a mentor to many lawyers and judges and a father figure to his law clerks, who, without exception, loved and respected him.

Judge Stagg is greatly missed by all who knew and worked with him. He was one of a kind. The void he leaves will never be filled.

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# Welcome TO THE SBA

**Ms. Danika Benjamin**

*Legal Services of North Louisiana, Inc.  
Shreveport, LA*

**Ms. Sarah Giglio**

*Elton B. Richey & Associates  
Shreveport, LA*

**Ms. Felicia Hamilton**

*The Law Office of Felicia M. Hamilton  
Shreveport, LA*

## NOTICE TO ALL SHREVEPORT BAR ASSOCIATION MEMBERS

**The Louisiana State Bar  
Association provides the  
appointment list for  
criminal and juvenile court  
appointments in Caddo  
Parish.**

**Appointments are not drawn  
from the Shreveport  
Bar Association  
membership list.**

# Announcing the 2016 SBA Officers

The Officer-Nominating Committee, consisting of the five immediate past presidents of the Shreveport Bar Association, recently met and nominated the following officers who will serve in 2016.

Vice-President  
Secretary-Treasurer Elect

**James C. McMichael Jr.**  
**Jason B. Nichols**

SBA President-Elect **Donald E. Hathaway Jr.** will automatically elevate to the office of President, **Rebecca Edwards** will elevate to the office of President-Elect, and **Amy Gardner** will serve as the office of Secretary -Treasurer.

The two Member-At-Large positions (serving in 2016 and 2017) on the Executive Council will be filled by **Curtis R. Joseph Jr.** and **Eron J. Brainard**.



Donald E.  
Hathaway Jr.

Rebecca Edwards

James C.  
McMichael Jr.

Amy Gardner

Jason B. Nichols

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# MENTORING: The Pilot Program Begins

by: Larry Pettiette, [lpettiette@padwbc.com](mailto:lpettiette@padwbc.com)

On May 21, 2015, the Louisiana State Bar Association hosted a reception for the mentors and mentees of the Shreveport pilot program. The event, at the Shreveport Bar Center, was well attended. For the first time ever, we held a simulcast between those in attendance at the Shreveport Bar Center and the LSBA's Transition into Practice seminar in New Orleans. The Shreveport group heard remarks from LSBA President Larry Shea (Shreveport's own), Justice Scott Crichton (Shreveport's own), and Barry Grodsky, outgoing secretary treasurer of the LSBA and chairman of the Committee on the Profession.

The Shreveport Bar Association, along with the Harry V. Booth-Judge Henry A. Politz American Inn of Court, introduced the mentees and mentors with remarks from program chairs, Magistrate Judge Mark Hornsby and Inn President Larry Pettiette, and Shreveport Bar President Ben Politz. The program directors, Leland Horton and Sam Gregorio, also participated in the introduction of this year's participants.

The Louisiana Supreme Court has announced that mentoring will be a mandatory component of practice for the legal profession in Louisiana next year. Shreveport is one of three cities designated for the pilot program. Quite a bit of planning and effort has gone into Shreveport's pilot program, which included the orientation by Judge Ross Foote for the mentors. Federal District Judge Beth Foote, along with Second Circuit Judge Jay Caraway, also attended the event. A list of mentors and mentees for 2015 is as follows:

### **Mentee**

Lakethia Bryant  
Jabrina Clayton  
Michael R. Carney  
Ashley Cunningham  
Ashley Gable  
Shelvia Grant  
Kendra Joseph  
Heidi Kemple Martin  
Zachary Moffett  
Maggie Pressly  
Anne Shores  
Brittany Walker  
Noah Baker  
Sam Crichton  
Valerie DeLatte

### **Mentor**

Reggie Abrams  
Mary Lou Blackley  
Larry Pettiette  
Deryl Medlin  
Leland Horton  
Dannye Malone  
Tom Arceneaux  
Ron Raney  
Pat Hennessey  
Sam Gregorio  
John Odom  
Larry Shea  
Frank Spruiell  
Judge Brady O'Callaghan  
Dhu Thompson



*Mentors Sam Gregorio and Jerry Edwards*



*Mentor Ron Raney and Mentee Michael Carney*



*Ann Rene Shores and John Odom*

A special thank you to Dana Southern for coordinating this first simulcast between the local and state Bars.





*Mentors Ron Raney, Dhu Thompson, Leland Horton, Sam Gregorio, Tom Arceneaux, Larry Pettiette and Judge Mark Hornsby*



*Mentor and Mentees watching simulcast as Justice Scott Crichton speaks*



*Leland Horton and Larry Pettiette*



*Valerie DeLatte, Tom Arceneaux and Dhu Thompson*



*Shelvia Grant, Heidi Martin and Kendra Joseph*



*Noah Baker, Jerry Edwards and Sam Crichton*



**Shreveport Bar Association  
Summer Litigation Series  
Lunch & Learn CLE**

**Shreveport Bar Center  
625 Texas Street, Shreveport  
Registration 10:30 a.m.**

The SBA 2015 Summer Lunch & Learn programs will be "Fundamentals of Litigation." The four-part series, coordinated by Jim McMichael, will feature practical presentations by experienced litigators. The series will most benefit new attorneys or those with less experience in litigation, but any attorney who values effective litigation is encouraged to attend.

**Session 4— Thursday, September 17, 2015**

*Ethics & Professionalism*

**11:00 a.m.—1:00 p.m. (lunch included)**

**2.0 Hours Louisiana CLE Credit**

11:00-12:00 "Professionalism Palooza: 15 Rockin' Reminders"

12:00-1:00 "Ethics— How to Play Hard, but Still Play Fair"

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone No. \_\_\_\_\_ Email Address \_\_\_\_\_

**Registration Fee:**

SBA Members - \$100

Non-SBA Members - \$120

Questions? Please contact Dana Southern at  
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*Federal  
Court  
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# Recent Developments By the Judiciary

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## Thursday, October 15, 2015

- 7:30 A.M. Registration & Continental Breakfast**
- 8:30 A.M. Civil Procedure, Evidence and Writs**  
60 minutes *Judge D. Milton Moore, III and Attorney Michael Collum – Second Circuit Court of Appeal*
- 9:30 A.M. Civil Mediation**  
60 minutes *Attorney Robert Dampf - Perry Dampf Solutions*
- 10:30 A.M. Sponsor Break (Refreshments)**
- 10:45 A.M. Technology Update**  
60 minutes *Attorney Melissa Allen - United States Fifth Circuit Court of Appeals and Bob Foil - Thompson Reuters*
- 11:45 A.M. Lunch (included with full registration)**
- 1:00 P.M. United States Supreme Court Update 2014-2015 Term**  
60 minutes *Chief Judge Carl E. Stewart – United States Fifth Circuit Court of Appeals*
- Break-Out Session 1**  
**(Break-Out Session 1A)**
- 2:00 P.M. Torts Update**  
75 minutes *Attorney Jerry Edwards - Blanchard, Walker, O'Quin & Roberts*  
**(Break-Out Session 1B)**  
**Juvenile Court Issues**  
*Judge Shonda Stone - Caddo Parish Juvenile Court*
- 3:15 P.M. Sponsor Break (Refreshments)**
- Break-Out Session 2**  
**(Break-Out Session 2A)**
- 3:30 P.M. Criminal Law for Court Appointed Civil Lawyers**  
75 minutes *Attorney Alan Golden - District Defender, First Judicial District and Attorney Donald E. Hathaway Jr. - Sockrider, Bolin, Anglin, Batte & Hathaway*  
**(Break-Out Session 2B)**  
**Service Members Civil Relief Act-Overview and Practice**  
*Attorney John S. Odom Jr. - Colonel USAF (Ret.) Jones and Odom, LLP*

## Friday, October 16, 2015

- 7:30 A.M. Continental Breakfast**
- 8:30 A.M. Helpful Hints from A to Z from Fannin Street**  
60 minutes *Judge Jeanette Garrett - Second Circuit Court of Appeal*
- 9:30 A.M. Recent Updates in Louisiana Oil and Gas Law**  
60 minutes *Patrick H. Martin, Professor Emeritus of Law - LSU Law Center*
- 10:30 A.M. Sponsor Break (Refreshments)**
- 10:45 A.M. Hot Ethics and Frustration by the Louisiana Supreme Court**  
75 minutes **(Ethics Hour)**  
*Justice Jeanette Theriot Knoll, Justice Marcus Clark and Justice Scott J. Crichton - Louisiana Supreme Court*
- 12:00 Noon Lunch (included with full registration or with Ethics/Lunch/Professionalism Combo Package)**
- 1:00 P.M. A Father's Perspective: Transcending Generations on Professionalism from Baby Boomers to Generation X to Millennials (Professionalism Hour)**  
60 minutes *Judge Stephens Winters - Fourth Judicial District Court*
- Break-Out Session 3**  
**(Break-Out Session 3A)**
- 2:00 P.M. Federal Procedure**  
75 minutes *Magistrate Judge Mark Hornsby - U.S. District Court, Western District*  
**(Break-Out Session 3B)**  
**Law Practice Management: Avoid Being a Victim of Employee Theft**  
*Attorney Kelly Long - Flowers & Long, Det. Bobby Herring - Caddo Parish Sheriff's Office, Kim Bailey and Debbie Jones - Citizens National Bank*
- 3:15 P.M. Sponsor Break (Refreshments)**
- Break-Out Session 4**  
**(Break-Out Session 4A)**
- 3:30 P.M. City Court Practice and Procedure**  
75 minutes *Judge John B. Slattery Jr. - Springhill City Court, Judge R. Lee Irvin - Shreveport City Court and Attorney William Bradford - Shreveport City Attorney*  
**(Break-Out Session 4B)**  
**Successions**  
*Attorney Bennett L. Politz - Booth, Lockard, Politz & LeSage*

**REGISTRATION FORM**

Name \_\_\_\_\_  
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Email \_\_\_\_\_

**BREAK-OUT SESSION OPTIONS**

Please register me for the following Break Out

Sessions **Thursday, October 15**

Choose One

2:00 P.M. (Break-Out Session 1A)

\_\_\_\_\_ Torts Update  
(Break-Out Session 1B)

\_\_\_\_\_ Juvenile Court Issues

Choose One

3:30 P.M. (Break-Out Session 2A)

\_\_\_\_\_ Criminal Law for Court Appointed Civil Lawyers  
(Break-Out Session 2B)

\_\_\_\_\_ Service Members Civil Relief Act-Overview and Practice

**Friday, October 16**

Choose One

2:00 P.M. (Break-Out Session 3A)

\_\_\_\_\_ Federal Procedure  
(Break-Out Session 3B)

\_\_\_\_\_ Law Practice Management: Avoid Being a Victim of  
Employee Theft

Choose One

3:30 P.M. (Break-Out Session 4A)

\_\_\_\_\_ City Court Practice and Procedure  
(Break-Out Session 4B)

\_\_\_\_\_ Successions

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**Registration Fees:**

\$400.00 for Non-SBA Members (\$425 after September 25) Full program  
\$375.00 for SBA Members (\$400 after September 25) Full program  
\$60.00 Ethics Only \$60.00 Professionalism Only  
\$140 for Ethics/Lunch/Professionalism Combo Only

Full refund until September 1, 2015, less a \$25 Administrative Fee  
After September 1, Full Credit Less a \$25 Administrative Fee May Be  
Applied To Future SBA sponsored CLE Seminar For Up To One Year

For Questions and to find out the Special Rate for Government Employees  
Please Contact the SBA Office at (318) 222-3643

Please remit with payment to:

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Important Note: A link to the seminar materials will be sent via email to you  
prior to the seminar. Because neither internet access nor electrical outlets  
are guaranteed, we suggest that you either print or save the PDF materials  
to your laptop, and fully charge your batteries, if you wish to review them at  
the seminar. If you select hard-copy materials, they will be distributed upon  
check-in at the seminar.

Walk-In Registration: Must pay the registration price and receive hard-copy  
materials by default.

Materials: The registration fee includes course materials provided  
electronically. Other options are available for an additional cost when pre-  
registering. A printed manual can be purchased for an additional \$45 and  
seminar materials on a flash drive can be purchased for \$25.00. Be sure to  
make your selection by checking the appropriate box on the registration  
form.

Materials: Please  select your materials  preference below:  
Electronic FREE Printed Manual \$45 Flash Drive \$25





## Inn Of Court Update

by: Larry Pettiette,  
lpettiette@padwbc.com

On May 12, 2015, Team 7, chaired by Tom Arceneaux, presented a lively program on the zoning issues triggered by the Little Free Library. In attendance were Jimmy Benton and his Civics class from Caddo Magnet High School. The program began with a presentation by Lamont Pearson, the local advocate of the Little Free Library, who had recently moved to Shreveport. He explained that the movement is international, as indicated by the photographs of the book kiosks located in many places other than Shreveport, Louisiana.

Jeff Everson, Shreveport City councilman, chaired a mock City Council meeting to receive citizen input on the zoning issues presented. The mock City Council meeting starred Allison Jones as Henrietta Pecker; Judge Maury Hicks as Reb L. Rouser; Ed Jones as Tyre D. Reeder; Sara Smith as Fifi Lyons; and Kevin Payne as Shifty Powers, along with other great talents. All presented very different perspectives, supporting both the pros and the cons of having a book exchange housed in a decorative kiosk on public street corners throughout the City of Shreveport.

The handout materials included a proposed city ordinance as well as information on municipal zoning generally. The program concluded with an unplanned address to the City Council by one of Mr. Benton's civics students, leading to a lively exchange between Federal District Court Judge Beth Foote and the student on the issues that had been discussed during the course of the presentation.

The program played to a packed courtroom and has been submitted for consideration for national recognition by the American Inns of Court. Judge Carl Stewart, Chief Judge of the United States Fifth Circuit Court of Appeals, serves as president of this national organization and is a founding member of the Harry V. Booth-Judge Henry A. Politz local Inn of Court.



(L-R) Kyle Moore, Stacey Williams, Jeff Everson, Kevin Molloy and Linda Millhollon Ryland



(L-R) Tom Arceneaux, Team Leader; U.S. Federal District Court Judge Maurice Hicks and Jimmy W. Benton, Magnet High School Social Studies Department and his students seated



## The Captain Speaks

by: Susie O. Stinson, Captain XXII,  
susie.stinson@neilerwinlaw.com

The Krewe of Justinian began its celebration of Hollywood cinema at its 1920s-inspired Coronation Bal on Friday, August 7, 2015, at Diamond Jacks Casino, based on the 2003 Academy Award Best Picture Winner "**Chicago**." Coronation chairpersons Julianna Parks and Marie Vanderlick worked tirelessly to give Justinian XXII a fantastic kick-off event. Thank you, Julianna and Marie! Royalty XXII were introduced to classic swing songs and theme music from the Chicago soundtrack. Justinian's new King and Queen are **Edwin H. Byrd III** and **Judge Katherine Dorroh**. New Dukes are **Richard D. Lamb III** and **Thomas Pressly**. **Nancy Cooper** and **Emily Settle** were announced as our new Duchesses. Prince and Princess XXII are **Connor Hennessey**, son of the Queen, and **Leigh Anne Evensky**. Please join me in congratulating our new royalty for Justinian XXII. They are excellent representatives of our Krewe, and I am very excited to have them on board with me this year.

Next up – Our Midway to Mardi Gras Party will celebrate "**Sports at the Movies**" on October 2 at the Chandler Event Center in Bossier. Our Midway chairpersons, Amy Bokenfohr and Jamie Huguet, are already planning a great tailgate-style event. Throw on your favorite sports team attire, and join us for this casual, fun party.

In addition, I am very excited to preview our signature fundraising event for the Krewe this year – the Midway to Mardi Gras 5K "**Run For the Beads**" to be held on Saturday morning, November 21. Sponsorships are now available. If you or someone you know may be interested, please contact the SBA office, Melanie Johnson, Brenda Haines or me. On top of race bag goodies and long-sleeve t-shirt, every runner or walker who crosses the finish line will receive a custom-made, signature bead!

Membership in the Krewe is still a great value. With the Midway party, the Grand Bal and the Krewe Brunch still to come, joining the Krewe is still a bargain over purchasing individual tickets to these events. You can join the Krewe online at [www.kreweofjustinian.com/join-now](http://www.kreweofjustinian.com/join-now) or call Dana or Courtney at the SBA office. All of these events will be fantastic, and you do not want to miss them!

*Susie O. Stinson*

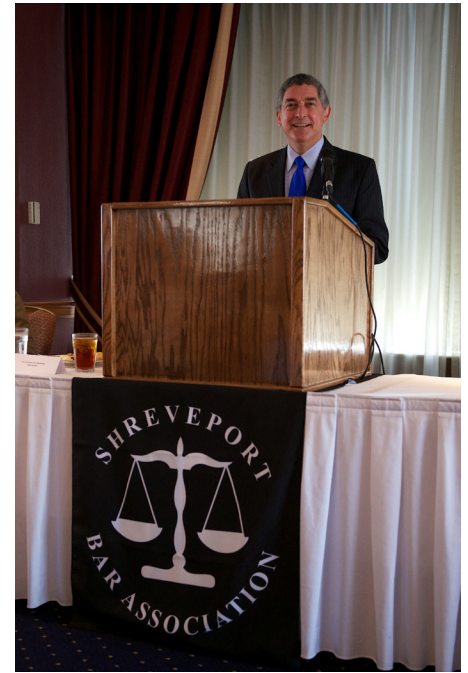
# Chicago

# Bal



# CHICAGO

# JUNE LUNCHEON *Highlights*



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Shreveport Bar Association  
*Memorial & Recognition Ceremony*

Thursday, November 5, 2015

2:00 PM

First United Methodist Church

Main Sanctuary

500 Common Street

**Please note the location and time**



## 2015 Louisiana Federal Courts Admission Ceremony

Obtain Admission to the  
Eastern, Middle and Western Districts of Louisiana  
and U.S. Fifth Circuit Court of Appeals

Thursday, December 3, 2015

4:00 p.m. | Reception following

United States Court House  
300 Fannin Street | Shreveport, Louisiana

Applications must be submitted by: November 17, 2015  
Please apply at: [www.lawd.uscourts.gov](http://www.lawd.uscourts.gov)

All members of the Bar are invited to attend.  
Hosted by: The North Louisiana Chapter of the Federal Bar Association





# Legal Hist

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

## The Short Life of the Law Library of the Shreveport Bar Association In the Caddo Parish Courthouse (Part II)

Before reaching the 1970s, the last decade of life for the SBA law library, when it was moved to the eighth floor of the courthouse, it is appropriate on behalf of the Shreveport Bar Association to give a great thank you to Sharon Porter, longtime legal assistant to Judge Roy Brun. On looking through the many books and records placed up on the eighth floor, Sharon saw what we are calling the “bar library register” over the signature of Leonard Lockard on March 3, 1958. Although the book was somewhat disheveled, she gave it to Larry Pettiette as chairman of the Archives Committee, and he gave it to me for use on these papers. I am tendering it back to Larry and understand he will present it to Ben Politz at a forthcoming SBA meeting and thereafter it will be permanently filed in the archives. We have had the book rebound by the Restor-a-Book people in Oil City and hopefully it will last another 75 years.

Again, Sharon, thanks for your perception and judgment in realizing this was a valuable artifact for the association. We thank you and are in your debt.

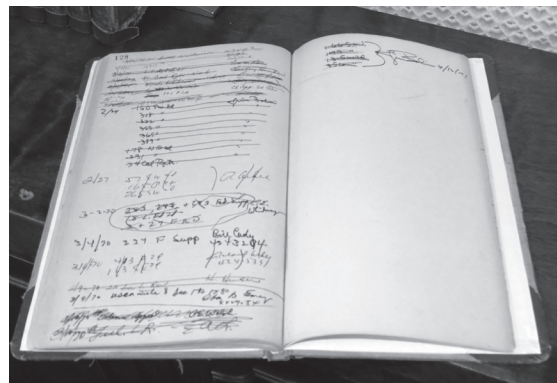
In the first installment of this paper, we have seen that the decade of the '50s for the library concerned primarily the use of Louisiana books and not the massive collections of the National Reporter System (“NRS”) which would come into vogue later. At any rate, the '50s were not as flamboyant and wild as Don Draper and Mad Men would have us believe, and in the sad '60s, the deaths of JFK, RFK and MLK did not seem to affect, one way or the other, the use of the library or the nature of the books withdrawn.

At the end of the 1950s, we find Richard McDaniel, a lawyer from Center, Texas, using the library, as well as the signature of one W. Driarsin of New York City, also with us. At the beginning of 1960, Bill Pesnell, then a young associate with the Hargrove firm and already a frequent user of the library, checked out six books from the NRS and returned them promptly. Then followed Val Irion, a principal and well versed scholar in the Lunn Irion firm – whose written

correspondence was always a pleasure to read, as he would often refer to Moses, Aristotle, Homer, Justinian, Shakespeare and others in well making his point – checking out two volumes of the Pacific 2d. It is a fair observation that the South Western Reporter was the most popular book in the NRS, perhaps because of the large array of Texas oil and gas decisions which it contained.



*The SBA's bar library register has a freshly rebound spine allowing it to stand upright on a library shelf. An intriguing glimpse of the membership and practice from 1949–1971, the register will be formally transferred for preservation in the archives. (Photos by Hal Odom Jr.)*



*The last two pages of the register, with the final entry being the return of several books checked out by Jim Bolin on April 16, 1971.*

Early in 1960, A.J. Buchanan, of 2600 Creswell, checked out the ever-popular Woodward's Louisiana Notarial Manual. Soon appears the signature of John Madison Sr. and ARC of the Wilkinson firm, both checking out the Pacific 2d, and then there appears the signature of John Theus, a preeminent Monroe lawyer and principal in the Theus Grisham firm in that city, who wrote that he was “just using the library” and not checking out anything. Mr. Theus was followed by another out-of-town lawyer, John T. Campbell, a leader and self-confident lawyer of the Minden bar who also simply wrote that he was “using the library.” Then appeared the signature of Scott Wilkinson checking out two volumes of the S.W. 2d, followed by Franklin Jones Sr. of Marshall, Texas, a past president of the Texas bar who apparently did not take any books across the state line, and also was simply a “user.”

Before the year was out, Jim Adams, who later became general counsel for Southern Bell Telephone and was a valued member of the lawyers' fast-pitch softball team, checked out the Woodward Manual, followed by Frank Jameson, on the staff of the juvenile court, who took another copy of Woodward's popular book to the Legal Aid office, located on the fifth floor of the courthouse.

As 1960 rolled on, one Kelly Upson of Denver, Colorado, noted that he was searching the library for the Alabama statutes, although his note does not indicate whether or not he was successful. Then followed Gus Hirsch, an active Shreveport realtor, working with the commercial code, and the ever prolific Ken Rigby and Judge Ayres of the Second Circuit, both checking out the South Western Reporter. Then followed the signature

of Willis Meadows, then with the Wilkinson firm, taking out another South Western Reporter, followed by Ben S. Jones, a lawyer from Woodville, South Carolina, who was using the library. Then follows an interesting notation stating that everyone needs “to save the Southern Reporter advance sheets for Malcolm Feist.” More on this later.

On the second day of 1961, we find one Dee Talmadge, who identifies himself with the Second Circuit Court of Appeal, using the library followed by Judges Ayres, Hardy and Gladney. Shortly thereafter, Judge Ayres again checks out three volumes of the Federal Supplement, as well as a South Eastern Reporter and a North Western Reporter, reflecting probably his inquisitive mind and the type of cases he was working on at the time.

On April 11, an unknown party checked out a volume of the New York 2d Reporter. This is significant for it shows the broad range of books maintained in the library. At the end of April comes a flurry of seven books checked out by Judge Ayres and Judge Hardy for the Second Circuit, all coming from the NRS, as well as the signature of C.J. Bolin Jr., then an assistant district attorney and later an exemplary judge who drew down several Southern Reporters.

Next in the month appears Brian Bailey, a lawyer from Carthage, Texas, who was using the library, as well as Franklin Jones Jr. of the preeminent Jones firm in Marshall, Texas, who obtained many multimillion dollar judgments and was feared and respected by corporate defendants all over the South.

An interesting note appears on June 1, 1961, when one R.B. Lay of Southside Finance Company checked out and returned *Woodward's Notarial Manual*. At the same time, a Mrs. Imogene McCullough, of 229 Arthur Avenue, whose name is not otherwise familiar, appeared also to check out the *Woodward Manual*. Before the month was out, Judge Gladney checked out six volumes from the NRS and law clerks George Fox and Arthur Wallace, both of the Second Circuit, have signed in, and for whatever reason, each given a number of 274,<sup>1</sup> allowing them to take out several Louisiana statute books which one would have speculated would also be in the private library of the Second Circuit.

In August 1961, the signature of Wellborn Jack, the younger brother of Whitfield, appears for the first time, taking out three volumes of the Pacific 2d and one of the Atlantic 2d. Wellborn, the father of SBA member Wellborn Jr., was a highly popular and successful longtime member of the legislature and formidable criminal lawyer.

On November 4, 1961, appears a difficult signature to read which I believe is that of Joe Bethard,<sup>2</sup> a well-known and successful lawyer who was taking a look at the *Tulane Law Review*. Soon followed the signature of K.H. “Hill” Harris, a popular and able assistant U.S. attorney, looking up a decision from Nevada. And, finally, came another pencil note in the distinctive handwriting of Malcolm Feist to the effect that he would like the advance sheets of the Federal Reporter and the Federal Rules of Decision saved for him. Malcolm had many talents and interests, but I never knew him to try a single case in the federal court. This request was

surely not due to personal finances, for Malcolm Feist was able to purchase libraries many times over, but simply represents an unusual quirk in his makeup. On the last day of December 1961, Vernon Woods checked out three South Western Reporters, ARC took a North Eastern Reporter, and Richard Switzer returned a volume of the Atlantic 2d. Richard was an accomplished trial lawyer in the Lunn Irion firm.

1963 began with George Fox, one of the first clerks with the Second Circuit, checking out both Federal and North Eastern Reporters, and Jared Evans returned a volume of the Pacific 2d.

Ray Barlow, a solid, popular new lawyer in the Hargrove firm, took out four volumes of the NRS and F.S. Kranze, whose name is not familiar, returned several Federal Supplements.

In the summer of 1963, one Bailey Perkins, identified as a clerk in U.S. Judge Ben C. Dawkins Jr.'s office, checked out a North Western Reporter and on July 19, ARC returned five volumes of the S.W. 2d and one of the Atlantic 2d. Before the summer was over, Rand Hawthorne, a well-liked and effective young lawyer, Judge Ayres and Judge Hardy were well in evidence, as was Ken Rigby, Jim Thornton and Jim Wood. Thornton would soon form a partnership with Bennett Johnston Jr.

Frank Kennedy and Rand Hawthorne used the library in March, as did Bill Cady, looking at one of the volumes of *Blashfield Automobile Law*, another rare set, like *Corbin on Contracts*, maintained in the library.

An active John Richie, founding partner of the Richie & Richie firm, father of Vernon and Byron Richie and grandfather of Margaret Gaskins, appears in April 1963, working on the Southern Reporter, as does one Lloyd Robertson, then a clerk for the Second Circuit. Gayle Pontz, one of the permanent law clerks of the Second Circuit, appears again in September, checking out volumes of the New York Supplement and Atlantic 2d, and Frank Kennedy's and Judge Ayres's names appear again as heavy users of the library.

In November 1963, the month in which President Kennedy was assassinated, few entries appear. On the 13th of that month, Ken Rigby borrowed a volume of the Southern 2d and Jack Barnett, whose practice was to be short-lived, returned three volumes of American Jurisprudence.

In January 1964, Richard Switzer, an accomplished trial lawyer, checked out two NRS books and Richard Barnes, who identified himself as being with the Court of Appeal, checked out a Federal Supplement and a S.E. 2d.

1964 is generally an eventful year for the library with Judge Ayres, Rand Hawthorne, Scott Wilkinson, Jack Barnett and Hugh Ward appearing to be the principal users. In September of that year, Charles Peatross, later a productive and well-liked judge on the Second Circuit, appeared as a law clerk to Judge Hardy and took out a Pacific 2d and Federal Supplement.

The able and popular Joel Sermons appears for the first time in November 1964, as does T.K. Giddens Jr. and one Joe E. Barnes, identified as a clerk with the Court of Appeal.

As 1965 rolled in, the names of Charles Peatross, then an appellate clerk, and Robert Schulman, a well-liked deputy clerk in the Caddo Parish clerk's office, appear, along with that of

<sup>3</sup> No one else was ever given a number, and it is speculative as to what the number 274 assigned to both of these lawyers really meant. Perhaps it was a precursor to Baskin & Robbins.

<sup>3</sup> Some will recall that Joe purchased a Ferris wheel from a bankrupt circus and installed it in his backyard, which many Broadmoor children enjoyed.

Robert J. Jones and Joe S. Thompson, also of the Second Circuit. In the summer of 1965, Judge Ayres's name frequently appears on use of the ALR 2d and numerous books in the NRS. He was the most frequent judicial user of the law library, perhaps due to his inquisitive mind and deep understanding of the law. Perhaps that is why I have never known of one of his decisions to be reversed.

In July 1965, we find the strong signature of Harry A. Johnson, a principal in the Lunn Irion firm, and father of the well-known Alston and Bernard Johnson and grandfather of Bernard's son, Slattery, now with the Blanchard firm. Before the year is out, we see the distinctive signature of Tom Stagg, then still an active lawyer in the Beck Building, but beginning to consider the federal bench, as well as Judge Fleniken, new to the Caddo bench, and Charles Peatross, now with the Wilkinson firm, formerly the first law clerk for the Second Circuit.

Later in the year we see the neat signature of Jim Reeder, then with the Booth Lockard firm and a well-known and popular character known as "The Green Hornet" on a local radio station. Elton Holmes, a mineral law expert, then with the Hargrove firm, appears for the first time checking out two volumes of the North Eastern Reporter and again Gayle Pontz appears, checking out two volumes of *Nichols on Eminent Domain* – yet another reflection of the broad range of books maintained at the library.

As the end of 1965 approached, we see the familiar signatures of Judge Ayres, ARC, Val Irion, and, for the first time, that of Fred Simon, founder of the bankruptcy firm which bears his name, checking out two NRS volumes. At the end of the year, we see the signatures again of Frank Kennedy, Jim Thornton, Val Irion, Peyton Moore and Wellborn Jack Jr.

1967 provides the signature of Mabel Roshton, secretary to the judges of the First Judicial Court, at a period in time in which it was customary and past practice for one secretary to handle the work for all three or four judges then on the Court. As the year progressed, we see repeatedly the signatures of Jack Barnett, Judge Ayres, Joel Sermons, ARC, Tom Stagg (now checking out Federal volumes), Jim Reeder and Simon Herold. 1967 closes with the signatures of Tom Stagg returning two Federal books, Ferd Cascio returning NRS volumes, and Lewis Weinstein "just using the library."

1968 was launched by Val Irion with Pacific 2d books, Ken Rigby taking a Louisiana Annual Reporter, Scott Wilkinson checking out a North Eastern Reporter and Steve Cowell with a Southern Reporter. C.J. Bolin Jr., still with the D.A.'s office, checked out five volumes of the S.W. 2d and returned them all after keeping them a week. Hugh Ward appears to check out a half dozen volumes of the Federal Reporter and the Federal Supplement, and Charles Peatross pulls Volume 112 of the North Eastern Reporter. As the year turns into summer, we find the signature of Don Levine, checking out three volumes of the Civil Code, and Hugh Ward with four Federal Reporters. For the first time we see the signature of Bennett Johnston Jr., then practicing with his father, checking out a North Western Reporter; Lawrence May Jr., son of an active realtor, and an accomplished lawyer, also pulling a Federal book; and Bob Eatman and Ken Rigby, taking older Louisiana volumes. The year ends with Fred Sexton, Steve Cowell and Val Irion, all working the NRS, and Ken Rigby pulling a Martin's report of Louisiana cases decided before the Civil War.

1969 was not a remarkable year as far as the library went.

Gayle Pontz, Charles Peatross, Frank Kennedy, Ken Rigby, Bill Crain, later a member of the Texas bar, Fred Sexton, then an assistant D.A. and later a well-respected district judge and Second Circuit judge, and ARC are all in evidence before the year closes. Also appearing that year for the first time is the signature of Joe Greenwald, working the Atlantic Reporter, and one Susanne Richardson signing out three books for the Cook firm, as well as Lee Anne Pliner and Bill Murdock appearing for the first time as "users" of the library.

The last date in the Register is April 16, 1971, when Jim Bolin checked out four volumes of the South Western Reporter. By that time, the second floor of the courthouse had been completely redone to its present configuration and the books moved and stored somewhat haphazardly on the largely vacant eighth floor.

Prior to the computer days, it is clear that the SBA library was a popular, well used, valuable asset of the local bench and bar and to an extent has been missed to this day. The fact that its considerable cost and expense was paid for by the Caddo Parish Police Jury, a practice soon to cease, was a big plus. But the '70s marked the beginning of the computer age. Hardbound books and their xeroxed pages, the principal authorities cited to the courts, were of limited or no value, yielding to the instant print of the computer.

Again, Sharon, thank you for your perception and judgment in realizing this register was valuable and of interest and placing it in Larry's hands. Reading the names of the local lawyers and judges who patronized the library is like reviewing a list of personal friends and great lawyers and judges. May they rest in peace.



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# Mark Your Calendar



## SEPTEMBER 17

Lunch & Learn CLE

Litigation Summer Series Seminar IV

12:00 Noon at Shreveport Bar Center

## SEPTEMBER 23

SBA Member Luncheon/CLE

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

Speaker: H. Alston Johnson III

## SEPTEMBER 29

Lunch & Learn CLE

Legal Technology Seminar

10:00 a.m. at Shreveport Bar Center

## OCTOBER 15-16

Recent Developments by the Judiciary CLE

Hilton Garden Inn, Bossier City

## OCTOBER 28

SBA Member Luncheon

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

Speaker: Professor Paul Baier,  
Paul M. Hebert Law Center

## OCTOBER 30

Shreveport Bar Foundation Costume Party

8:00 p.m. at The Supper Club,  
610 Commerce Street

## NOVEMBER 5

SBA Memorial & Recognition Ceremony

2:00 p.m. at First United Methodist Church

## NOVEMBER 11

SBA Member Luncheon

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

Speaker: TBD (Veterans' Program)

## DECEMBER 15-16

December CLE By the Hour Seminar

Petroleum Club (15th Floor)

## DECEMBER 20

Area Law Student Holiday Reception

3:00 p.m. to 5:00 p.m. at Wine Country

# Mediation AND Arbitration OF COMPLEX DISPUTES

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## Second Circuit Highlights

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

A recent law review article has caught the attention of at least one appellate judge. The director of the legal writing program at Southern University Law Center has pulled together the statutes, rules and cases pertaining to frivolous appeals. Gail S. Stephenson, *Sanctions for Frivolous Civil Appeals in Louisiana*, 75 La. L. Rev. 1125 (Summer 2015). She suggests that sanctions are warranted, inter alia, “where the appellant files poorly written appellate briefs that lack citations to authority” and makes the “additional recommendation \* \* \* that Louisiana courts penalize the attorneys who are responsible for bringing the frivolous appeals, starting with cases involving *briefs with no authority cited* and counsel who fail to appear at oral argument.” *Id.* at 1134, 1162 (emphasis added).

At oral arguments in August, one of the judges asked counsel if he had seen Ms. Stephenson’s research and recommendation; counsel admitted he had not. The judge mentioned the title and gist of the article. Counsel appeared unfazed, but may have been slightly concerned, as he was representing the appellant in a complex and high-dollar dispute over the rental of a horizontal drilling rig and crew, in a trial that had taken two days and involved 22 lbs. of paper exhibits. However, his 17-page brief cited *not one statute or case*. I suspect opposing counsel wished he had come across Ms. Stephenson’s article.

A closely related subject is civil contempt, about which the Second Circuit has rendered several opinions in the last few months. The first two arose from acrimonious domestic cases.

In *Fox v. Fox*, 49,619 (La. App. 2 Cir. 4/22/15), 164 So. 3d 359, the court mostly affirmed a finding of contempt. The former wife, Harriet, sought financial information that she suspected her former husband, Michael, was shielding in family-owned companies. She filed a subpoena duces tecum and notice of records deposition against I.C.C.D. Fox LLC, one of the companies. The LLC responded with a motion to quash and for a protective order, but these were all denied. The Fourth JDC ordered the LLC to produce all the requested documents. The LLC appealed; the Second Circuit granted a stay, but ultimately affirmed the discovery order and lifted the stay.<sup>1</sup>

Predictably, the LLC did not comply, and its counsel, Stephen Fox (presumably a family member), filed additional motions for rehearing and protective orders. Harriet responded with a motion to compel and for contempt sanctions. Attorney Fox produced a few documents which he had already redacted. The district court was seriously unimpressed with the LLC’s dilatory maneuvers and minimal compliance. It granted Harriet’s motion to compel, awarded an attorney fee of \$1,824,

and found the LLC in contempt to the tune of \$10,000.

On appeal, the LLC argued the finding of contempt was unjustified because there was “no court judgment expressly lifting the stay issued by [the Second Circuit] and ordering the production of documents by a date certain.” The court rejected this claim, noting that its prior opinion, rendered in April 2013, lifted the stay; once the stay was lifted, the district court was not required to render another order compelling discovery.

The LLC also argued that the (unusually large) fine of \$10,000 was illegal, as La. R.S. 13:4611 (1)(d) restricted such to “not more than five hundred dollars, or imprisonment for not more than three months, or both.” The court rejected this too, noting jurisprudence treating each day of noncompliance as a separate act of contempt. It affirmed the finding of contempt and the fine of \$10,000.

The court made one technical adjustment, ruling that the fine must be paid to the clerk of the district court, and not to the prevailing party; for now, Harriet’s attorney will have to settle for \$1,824. The opinion contains a good synopsis of the law of contempt, and illustrates that even though penal statutes (like R.S. 13:4611) are strictly construed, not all defenses will defeat a finding of contempt. The contemnor may get relief when the court of appeal issues a stay, but once that stay is lifted, the district court is not required to issue a new discovery order. The old one is still valid, and the clock is ticking.

In *Rodgers v. Rodgers*, 50,044 (La. App. 2 Cir. 6/10/15), 2015 WL 3608914, the court reversed a finding of contempt. The parties, David and Leslie, and their four children had apparently lived very well; however, after David filed for divorce, in 2009, he claimed that his income stream disappeared. The district court referred the matter to a Fourth JDC hearing officer, where David persistently refused to file the requested financial information. He told the hearing officer that he made a mere \$30,000 a year, but during a court-ordered psychological evaluation he told Dr. Mark Vigen he “grosses more than \$1 million a year.” Dr. Vigen included this detail in his report to the hearing officer, who imputed David’s monthly income to be \$25,000 and, pursuant to the formula of La. R.S. 9:315.13 B, fixed David’s support obligation at \$3,300 a month. The court rendered a temporary order adopting the recommendation and giving the parties until December 3, 2012, to object. Both sides objected.

The case was then rotated to a new district court judge, who began trying to move his docket in January 2013. The parties appeared for ancillary matters (child custody, additional psych evaluations) over the next year and a half, but never moved forward with their objections to the HOC. In July 2014, the

<sup>1</sup> *Fox v. Fox*, 47,937 (La. App. 2 Cir. 4/10/13), 113 So. 3d 457, writ denied, 2013-1320 (La. 6/21/13), 118 So. 3d 426..

district court rendered judgment, *sua sponte*, adopting the hearing officer's report and recommendations. David filed a motion for new trial, which the court denied. The court also said it would hold him in contempt for failure to pay the \$3,300 a month. David appealed.

The Second Circuit granted the new trial and vacated the contempt holding. The court cited the special circumstances of the case<sup>2</sup> but mostly focused on the fact that the child support award was based on an unsworn statement to a psychologist and completely lacking in documentation. The court stated that the district court may well hold David in contempt for refusing to provide the requested financial data, but could not hold him in contempt for failing to pay a child support order for which no evidence had ever been introduced and no true judicial determination ever made.

Although David escaped this contempt ruling, some of the court's language strongly suggested that continued refusal to comply with discovery would very likely warrant a future contempt judgment.

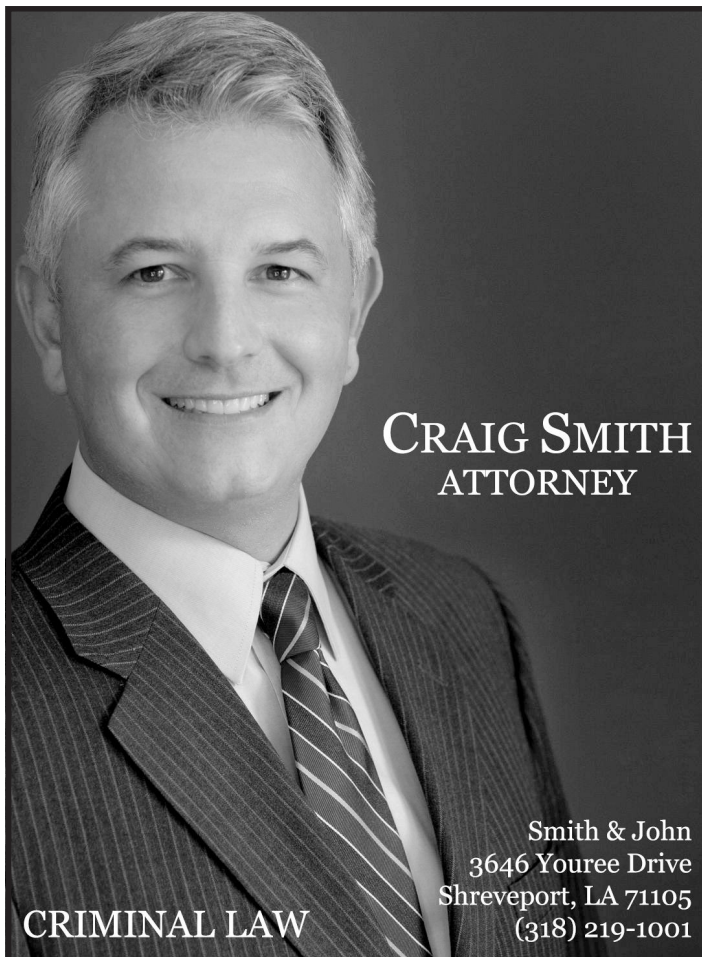
In a much less complex case, an inmate tried – and failed – to get a contempt ruling against a former medical provider. In *Rice v. Coroner of Winnfield*, 49,748 (La. App. 2 Cir. 4/15/15), 163 So. 3d 876, the plaintiff was serving a life sentence in Angola.<sup>3</sup> In March 2013, he filed a pro se petition for mandamus against Dr. Randolph Williams, alleging that Dr. Williams had evaluated his mental competency in 1995, and he (Rice) was entitled to a copy of his medical records. He cited the health care provider's duty under to furnish these, under La. R.S. 40:1299.96 A(2) (b)(iii), alleged that Dr. Williams had failed to comply with numerous requests, and demanded penalties and attorney fees. Later, he refiled his petition to call the defendant "The Coroner of Winnfield," a title that obviously does not exist. Dr. Williams responded that he retained medical records for only 10 years and had nothing on Rice. Rice then filed a motion for contempt, which was denied. He appealed.

The Second Circuit gently advised Rice that when he uses a statute, he should read the whole thing; notably, R.S. 40:1299.96 A(3)(a) requires a physician to retain records for "a minimum period of six years." No court will penalize a doctor for failing to retain 18-year-old records.

This particular inmate has been something of a "frequent filer" and will likely continue to generate thoroughly uncontroversial rulings on discovery, mandamus and contempt.

<sup>2</sup>In particular, the court discussed Fourth JDC Family Court Rule 35(H), and its elastic treatment of "good cause." The rule is fairly detailed, so I have omitted the technical discussion from this summary.

<sup>3</sup>While being held in Winn Parish jail, in September 1997, Rice attacked a jailer, resulting in his conviction for aggravated escape and first degree robbery and adjudication as a third felony offender. *State v. Rice*, 31,871 (La. App. 2 Cir. 3/31/99), 736 So. 2d 956, writ denied, 99-1314 (La. 10/15/99), 748 So. 2d 464.



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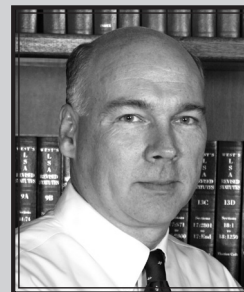
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# How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

**Not among you and me.** A Louisiana appellate court recently wrote, “In *Williams*, the claim arose out of a dispute *amongst* two sets of lawyers, and did not involve a claim with a former client and an attorney.” Some years earlier, another Louisiana appellate court wrote, “The effect of the trial court’s summary judgment was to treat this dispute as though an agreement *among* two of the co-owners had been reached as to thing, price and consent.” Something is amiss here.

When writing about two things that are clearly separated, use *between*. We would hardly think of saying, “Just *among* you and me.” In the quotes given, the courts probably meant to write *between two sets of lawyers* and *between two co-owners*.

When writing about things that are not clearly separated, or are part of a group or mass of objects, use *among*. Common phrases include “first among equals” and “among other things.” Consider: “She was walking *between* the oak trees” suggests following a precise path in the middle of two rows of trees; “She was walking *among* the oak trees” suggests a ramble through the woods.

Of course, there are exceptions. *Between* may apply to more than two things if they are truly distinct alternatives. “Each contestant may choose between ballet, modern jazz and hip hop,” as the options are distinctly offered, but “Each contestant may choose from among the three styles of dance.” “The differences between Cabernet, Pinot Noir and zinfandel are quite subtle,” but “I have my preference among the Big Reds.”

Most of all, never use *among you and me*.

**Did I say “I”?** This leads to an abomination much more common in spoken speech but able to seep into writing: “between you *and I*.” Equal atrocities: “She rode over with Karen *and I*”; “Are you speaking to Allen *and I*?” After a preposition, always use *me*, even if another word is placed between (not *among*) the pronoun and the preposition.

This solecism arises in early childhood, when the inclination is always to say *me and Karen*, and a parent or teacher always admonishes, “No, it’s *Karen and I*.” Perfectly valid in “Can Karen and I get some ice cream,” but perfectly atrocious in “Can Chelsea ride with Karen and I?”

If any readers have examples of the I/me error in briefs, memos or judicial opinions, please forward them to me.

**The last antecedent.** This is a useful – and perhaps obscure – rule of statutory construction. The Louisiana Supreme Court stated it concisely in *Louisiana Associated Gen’l Contractors v. La. Dept. of Agriculture*, 2005-0131 (La. 2/22/06), 924 So. 2d 90:

There is a rule of statutory interpretation that the presence of a comma separating a modifying clause in a statute from the clause immediately preceding is an indication that the modifying clause was intended to modify all the preceding clauses and not just the



last antecedent one.

At issue in that case was R.S. 3:266 (14), which granted the La. Agricultural Finance Authority powers to

Acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, or otherwise, movable or immovable property or any interest therein; own, hold, clear, improve, lease, construct, or rehabilitate, and sell, invest, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same, subject to the rights of holders of the bonds of the Authority, at public or private sale, with or without public bidding.

The question was whether the modifying phrase, *with or without public bidding*, applied to everything preceding it or just to the last antecedent, *at public or private sale*. The court held that because of the comma after *at public or private sale*, the phrase *with or without public bidding* applied to *all the powers* enumerated in the subsection.

Conversely, in *State v. Burns*, 29,632 (La. App. 2 Cir. 9/24/97), 699 So. 2d 1179, the defendant cited a portion of the habitual offender statute, La. R.S. 15:529.1 A(1):

Any person who, after having been convicted within this state of a felony or adjudicated a delinquent under Title VIII of the Louisiana Children’s Code for the commission of a felony-grade violation of either the Louisiana Controlled Dangerous Substances Law \* \* \* or a crime of violence as listed in Paragraph (2) of this Subsection, \* \* \* thereafter commits any subsequent felony within this state, upon conviction of said felony, shall be punished as follows[.]

He cleverly argued that the long phrase beginning with *for the commission of a felony-grade violation* applied both to the first element, *convicted within this state of a felony*, and to the second element, *adjudicated a delinquent*. The court held that the absence of a comma before *for the commission* meant that this modification applied only to the last antecedent, a delinquency adjudication.

The rule will apply, however, only when the statute (or contract) is found to be ambiguous. The court declined to apply it in *Regional Urology LLC v. Price*, 42,789 (La. App. 2 Cir. 9/26/07), 966 So. 2d 1087, on a finding that other provisions of the noncompetition agreement made clear that the modifier applied to all preceding terms. As in most other situations, careful drafting will avoid the need for interpretative tools!

**The court reporter sighted it!** In *State v. Baptiste*, 2008-0054 (La. App. 4 Cir. 10/1/08), 995 So. 2d 1242, the court quoted counsel’s argument on a motion to quash: “It is at issue, because it deals with the State’s contention that under article 579.3, and the cases *sighted* to the Court from the Third Circuit, and also adopted by the First Circuit[.]” Oops, that should have been *cited*, or *advanced as authority*. A simple “[sic]” would have put this error out of sight.

# 2015 SBA Golf & Tennis Tournament

Golf, tennis and fish fry were on the agenda at the annual Golf & Tennis tournament held at East Ridge Country Club on July 13. Golf Committee Co-Chairs Curtis Joseph and Jimmy Mijalis and Tennis Committee Co-Chairs Donald Hathaway and Karen Tyler planned the event, which was enjoyed by over 150 SBA members and guests.

Thanks to all of our golf teams, tennis players, sponsors, committee members and volunteers!

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# Richard King Memorial Shootout

The Fourth Annual Richard B. King Memorial Shootout was a great success. Four teams participated in the shootout that began after the SBA golf tournament concluded on July 13. The participating teams were: Jim Colvin and Cole Smith; Kyle Robinson and Justin Dewett; Jimmy Mijalis and Alexander Mijalis; Walter Gerhardt and Brad Peace, who were the winning team of the tournament.

Trophies were presented to the victorious team by Jett King, son of Richard and Renee King. Congratulations Walter and Brad on a job well done!

## Golf Tournament Winners:

**Overall Low gross was Jim Colvin's team which included Cole Smith, Gerald Adams and James Manning**

**1st Flight, 1st Place was Trey May's team which included Sam May, Danny Mortimer and Jeff Monsour**

**1st Flight, 2nd Place was Walter Gerhardt's team which included Brad Peace, Rodney Sharber and Beaux Waddell**

**2nd Flight, 1st Place was Deryl Medlin's team which included Phillip Medlin, Tyler Williams and Reed Sikes**

**2nd Flight, 2nd Place was Zach Shadinger's team which included Kyle Robinson, Justin Dewett and Cassidy King**

**Tom Bordelon won Closest to the Hole on hole #13**

**Congratulations to Michael Ameen who got a hole in one on hole #9. No prize was awarded for this hole but hey, he made a hole in one and that alone deserves recognition!**

## Tennis Tournament Winners:

**1st Place: Karen Tyler**

**2nd Place: Jay Myers**

**Most Improved: Davis Powell**



Walter Gerhardt, Jett King and Brad Peace



Michael Ameen





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## SBA LUNCHEON MEETING SERIES – SEPTEMBER 23

*Petroleum Club (15th Floor) – Buffet opens at 11:30 a.m. Program and Speaker from 12:00 Noon to 1:15 p.m.  
 \$30.00 for SBA members includes lunch with advance reservation and \$35.00 for late reservation  
 (after 5:00 pm the Monday prior to the luncheon) and Non SBA Members*



# 2015 LEGISLATIVE UPDATES

**When:** Wednesday, September 23 from  
 12:00 Noon to 1:15 p.m.

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

**Featuring:** H. Alston Johnson III

H. Alston Johnson is a favorite presenter at the SBA luncheon series. His annual Louisiana legislative update CLE is highly anticipated and well-attended. Johnson was for many years senior counsel in the Baton Rouge office of Phelps Dunbar LLP, with a particular emphasis on complex litigation and appellate matters. He received his J.D. from the Paul M. Hebert Law Center and is now an adjunct member of the LSU Law faculty.

He is the author or co-author of three books on Louisiana law, published by West Publishing Company in the Louisiana Civil Law Treatise series: *Louisiana Worker's Compensation Law and Practice* (Fourth Edition); *Louisiana Insurance Law and Practice* (Second Edition-with Shelby McKenzie); and *Louisiana Civil Jury Instructions* (Second Edition). He was Associate Editor of the Louisiana Law Review and member of the Order of the Coif. In 2005, he was chosen for the Curtis R. Boisfontaine Trial Advocacy Award by the Louisiana State Bar Association. In May, 2006, he was honored by the Louisiana Bar Foundation with its Distinguished Attorney Award for 2005.

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