

THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION Volume XXIV, Number 8 • October 2017

INSIDE | OCTOBER

President's Message	1
Luncheon Highlights.....	2
Welcome New Members.....	3
Memorial & Recognition	5
Captain Speaks	6-7
Recent Developments	8-9
Second Circuit Update.....	10-11
Calendar of Events.....	12
How Write You Are.....	13
Spotlight on Professionalism.....	14
Veterans Day Program	15
Shreveport Bar Foundation	15
Luncheon.....	16

EVENTS AT A GLANCE

10/5 & 6	Recent Developments by the Judiciary CLE at Hilton Garden Inn Event Center Bossier City
10/13	Midway to Mardi Gras Party at Petroleum Club of Shreveport
10/15	November Bar Review Ad & Article Submission Deadline
10/25	Membership Luncheon 12:00 p.m. - Petroleum Club
11/2	Memorial & Recognition Ceremony – 2:00 p.m. Caddo Parish Courthouse
11/4	Krewe of Justinian 5K Run 8:30 a.m. – Marilyn's Place



From The President

by Rebecca Edwards, President, redwards@caddoda.com

At the luncheon this month, the Shreveport Bar Association will honor one of our members with the Professionalism Award. The recipient is selected by the Professionalism Committee from nominations submitted by members. It is not an easy decision. Each nominee is deserving of the recognition, and each exemplifies professionalism in his or her own way. Being involved in the selection process for the Professionalism Award has made me think about my first introduction to “professionalism.”

An adjunct law professor, whom I'll call Professor X, presented each student with a framed copy of the Code of Professionalism as a gift at the end of the semester. I still have it and display it in my office. The Code lists a number of things a professional will and will not do, but one sentence sums up the essence of professionalism: **I will conduct myself with dignity, civility, courtesy and a sense of fair play.** Every other statement in the Code is derivative of this guiding principle. For instance, one who acts with dignity, civility, courtesy and a sense of fair play will not make untrue statements to the court or other attorneys, will not abuse the law or judicial processes, will cooperate with other counsel in scheduling matters, will not use legal tactics to harass or cause undue delay, and will not engage in personal attacks on the court or other attorneys.

The do's and don'ts of professionalism can be taught, and we can choose to follow (or not) the rules required by our profession. Being a person who is civil, dignified, courteous and fair is about more than being a professional. It is about being a person who respects others. Professor X told our class a story about being asked for her identification when she wrote a check at a store. Instead of just giving the checkout clerk her information, she told her that she was an attorney. She felt that being an attorney gave her status that should exempt her from having to verify her identification to the clerk. Professor X's interaction with the clerk, who was just trying to do her job, and her attitude about what being an attorney means did not impress me as being very reflective of “professionalism.” I feel sure that she did not leave that person with a good impression of lawyers.

Professionalism is not limited to interactions with other attorneys, and it doesn't stop at the end of the workday. Civility, courtesy, dignity and fairness are attributes that should define us as attorneys and should be put into practice in all our interactions with others. I believe that the attorneys we have honored with the Professionalism Award in the past and the person we will honor this month exemplify civility, courtesy, dignity and fairness. That is a goal we should all strive to reach.

2017 Shreveport Bar Association
Officers & Executive Council

Rebecca Edwards
President

James C. McMichael Jr.
President-Elect

Curtis R. Joseph Jr.
Vice-President

Donald E. Hathaway Jr.
Immediate Past President

Jason Nichols
Secretary-Treasurer

Members at Large
Eron Brainard
Brian Carnie
Anna Brown Priestley
T. Luke Thaxton

Judicial Liaison
Judge Katherine Clark Dorroh

Young Lawyers' Section
Thomas A. Pressly IV
President

Women's Section
Jabrina Clayton Edwards
President

Krewe of Justinian
Lawrence W. Pettitte Jr.
Captain

Editor
Dana Southern

Editorial Board
Chris Slatten, Co-Chairman
Hal Odom, Co-Chairman
Arthur R. Carmody Jr.

Photography
Dana Southern
W. Ross Foote
Trudy Daniel
Marty Johnson

Shreveport Bar Staff

Executive Director
Dana Southern
dsouthern@shreveportbar.com

Administrative Assistant
Britni Green
bgreen@shreveportbar.com

Pro Bono Coordinator
Nellie Walton
nwalton@shreveportbar.com
(318) 221-8104

SBF Staff Attorney
Heidi Kemple Martin
hkemple@shreveportbar.com
(318) 221-8104

(318) 222-3643 • Fax 222-9272

www.shreveportbar.com

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.

September Luncheon Highlights



amazonsmile
You Shop. Amazon Gives.

Help the Shreveport Bar Foundation Pro Bono Project every time you purchase something through Amazon.com with AmazonSmile program.

Welcome TO THE SBA

Briana Bianca
Catholic Charities of North Louisiana

Ashley G. Gable
Bradley Murchison Kelly & Shea LLC

Ashley L. Jackson
Second Circuit Court of Appeal

Courtney Ray
Social Security Administration

Wade Visconte
Casten & Pearce APLC

COOK YANCEY

A PROFESSIONAL LAW CORPORATION

Cook, Yancey, King & Galloway, APLC,
is seeking to hire career-oriented attorneys
with at least two years' experience
in the following areas:

- Litigation
- Transactions
- Real estate and mineral title

Please submit a cover letter and résumé to
Candace Collette at candace.collette@cookyancey.com.
Submissions will remain confidential.

318.221.6277 shreveport.louisiana
cookyancey.com

ELIZABETH W. MIDDLETON MEDIATION SERVICES

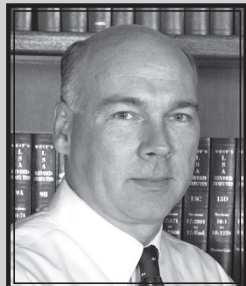
When just any mediator won't do...
experience counts!

OVER 3,000 MEDIATIONS

(318) 487-9406
(800) 355-1483
FAX (318) 448-8158
ewmmediate@gmail.com
c.elliott@fvelaw.com



Elizabeth W. Middleton



Charles D. Elliott

YOU ARE CORDIALLY INVITED BY
THE WOMEN'S SECTION OF THE
SHREVEPORT BAR ASSOCIATION TO ITS
ANNUAL

Lady Justice Luncheon and CLE

(ONE HOUR OF PROFESSIONALISM CREDIT)

THURSDAY, OCTOBER 12, 2017 AT NOON
SHREVEPORT BAR CENTER
625 TEXAS STREET

SPEAKER:

HONORABLE SHONDA D. STONE –
LOUISIANA COURT OF APPEAL, SECOND CIRCUIT

COST: \$15.00 PER PERSON

PLEASE MAKE CHECKS PAYABLE TO THE
SBA WOMEN'S SECTION

RSVP TO EDWARDSJA@AG.LOUISIANA.GOV



You are cordially invited to
the naming ceremony for the
United States Court House
in honor of

Judge Tom Stagg

**Friday, November 3, 2017
at 10:30 a.m.**

**United States Court House
Fourth Floor, Courtroom One
300 Fannin Street
Shreveport, Louisiana**

**Reception following
Shreveport Convention Center**

Cole, Evans & Peterson Certified Public Accountants

**For Support in Your Practice and in
Obtaining Financial Security**

Accounting and Auditing Services
Litigation Support
Income Tax Planning, Compliance and Advocacy
Personal Financial Planning
Family Investment Entities
Estate Planning
Gift and Estate Tax Planning, Compliance and Advocacy
Retirement Plan Design, Implementation and Administration
Investment Planning and Analysis
Life and Disability Insurance Analysis
Computer Hardware and Software Acquisitions and Operations
Computer Network Consulting
Data Processing

Fifth Floor, Travis Place
Post Office Drawer 1768
Shreveport, Louisiana 71166-1768
Telephone (318) 222-8367 Telecopier (318) 425-4101
www.cepcpa.com

Mediation AND Arbitration OF COMPLEX DISPUTES



Guy deLaup



Ross Foote



Phelps Gay



Thomas Hayes, III



Mike McKay



Pat Ottinger



Mike Patterson



Marta-Ann Schnabel

The Patterson Resolution Group offers dispute resolution services in complex cases to businesses and individuals across Louisiana and the Gulf South. Group members include six former presidents of the Louisiana State Bar Association and a retired district court judge. The members have substantive experience in disputes in areas such as:

Corporate and Business	Banking
Commercial Real Estate	Employment
Oil and Gas	Insurance
Maritime	Healthcare
Construction	Professional Liability
Products Liability	Governmental

Contact Mike Patterson at 866-367-8620. Or visit the group's website at www.pattersonresolution.com for more information and the article, "Getting Your Client and Yourself Ready for Mediation."

**THE
Patterson
RESOLUTION GROUP**

BATON ROUGE • NEW ORLEANS • LAFAYETTE • SHREVEPORT • MONROE

Memorial & Recognition Ceremony

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

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

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

Attention All Attorneys!

**New Attorneys will be honored on November 2.
Please pass this information along to anyone who
passed the Louisiana Bar Exam in 2017.**

In connection with the SBA's Memorial & Recognition Ceremony being held on Thursday, November 2, 2017, the following events have been planned for area new attorneys:

8:30 AM – 1:30 PM New Attorney Seminar – Petroleum Club (15th Floor) – Energy “A” Room (includes lunch). All new attorneys who have passed the Louisiana Bar Exam in 2017 are invited to attend the seminar.

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

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

All attorneys who have passed the Louisiana Bar Exam in 2017 will be recognized during the ceremony. Attorneys and judicial offices are asked to turn in any names of attorneys who have passed the bar to Dana at the SBA Office either by email: dsouthern@shreveportbar.com, telephone (222-3643) or fax (222-9272).

In Memory of:

Stephen Price Barker

James Patrick Bodenheimer

Steven D. Carby

James Robert Malsch

Judge Fred C. Sexton Jr.

H.F. “Sock” Sockrider Jr.

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

Memorial & Recognition Ceremony

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



Captain Speaks

by Lawrence W. Pettiette Jr., Captain, lpettiette@padwbc.com

WELCOME BACK CUBA

Ways to Help

The Friday October 13th Midway to Cuba party returns to the Petroleum Club in downtown Shreveport with the band Ambush providing the music. Cuba-themed with specialty drinks and food, this year's event is also in place of the Shreveport Bar Foundation's October fundraising event: so please come and help the SBF and the SBA this fall party. Trudy Daniel, Sally Gardner, Janey Pettiette and Julia Brooks have worked hard to put together an enjoyable evening:

7:00 p.m.

Come and enjoy a variety of Cuban foods & the band Ambush Attire: Cuban inspired, especially your Guayabera shirt and hat Please RSVP to 222-3643 ext. 2 or bgreen@shreveportbar.com

Valet Parking

Nonmembers \$25 per person

On Saturday, November 4, the annual 5K Midway to Mardi Gras Fun Run will start at Marilyn's Place on Fern Avenue with a Justinian T-shirt and specialty beads to the first 300 finishers. Early entry fee of \$25.00 for runners, walkers or spectators. Head to Marilyn's for brunch or coffee with 10% of proceeds donated to the SBA.

Help get the word out to runners, walkers, spectators and area running clubs.

Did you know that Mark Twain wrote a demand letter:

To an Unidentified Person

Hartford, September 19, 1883.

DEAR SIRs:

You have a contract with Mr. Will Gillette; and I am aware that you are trying (as usual with you) to sneak out of the performance of its conditions. I am personally interested in the matter; therefore I suggest to you couple of piety-mouthing, hypocritical thieves and liars that you change your customary policy this time.

Truly Yours
S. L. CLEMENS

KREWE OF JUSTINIAN MEMBERSHIP APPLICATION JUSTINIAN GOES TO CUBA

Your membership dues entitle you and your spouse/guest to attend four (4) parties at no additional charge

Coronation Bal - - - - - August 11, 2017

Midway to Mardi Gras Party - - - - - October 13, 2017

Justinian Grand Bal - - - - - January 26, 2018

Royalty Brunch - - - - - TBD

Name _____

Spouse _____

Firm Name _____

Home Address _____

Office Address _____

Home Phone _____

Office Phone _____

Fax _____

Email _____

Krewe Dues:

Attorney (\$350.00) \$ _____

Judge (\$350.00) \$ _____

Young Lawyer* (\$225.00) \$ _____

Government Employees (\$225.00) \$ _____

Paralegal/Legal Staff (\$225.00) \$ _____

Associate (\$250.00) \$ _____
["Friends of the Krewe"]

Checks Payable to:

Krewe of Justinian

Mail to:

Krewe of Justinian, 625 Texas Street, Shreveport, LA 71101

* Admitted to Bar for less than five (5) years



Krewe of Justinian XXIV

3rd Annual

Midway to Mardi Gras 5K

"Run for the Beads"

Saturday Nov 4, 2017

Supporting

The Shreveport Bar Foundation
& The Krewe of Justinian

*The first 300 finishers will receive a specialty bead!

Date & Starting Time: Saturday, November 4, 2017 • Fun Run begins at 8:30 am • 5K begins at 9:00 am

Location: Marilyn's Place • 4041 Fern Ave, Shreveport, LA 71105

Early Bird Registration: Sept 18 - Nov 2 • \$25 • Includes T-shirt

You may pay with a credit card **ONLINE ONLY** at www.sportspectrumusa.com or pay with cash, check, or credit card at Sportspectrum, 6970 Fern Ave, 71105.

Race Day Registration: \$35 • T-Shirts not guaranteed

T-shirt & Packet Pick-Up: Every pre-registered participant will receive an original race t-shirt. Packet pick-up will be held at Sportspectrum on Thursday, Nov 2nd from Noon to 7 pm and Friday, Nov 3rd from 10 am to 5:30 pm. You may also pick up your packet on Race Day at the race site at 8:00 am.

Awards: Overall Male & Female finishers in the 5k race will receive \$100. Overall M/F age group 1st place winners will receive \$25. Additionally, the first 300 finishers will receive a specialty bead.

Age Groups: <19, 20-29, 30-39, 40-49, 50-59, 60+

Post Party: Join us after the race for a NOLA style jazz party that includes music, food, water & awards!

Special Note: Strollers, wagons, baby joggers and any hand-pushed or pulled vehicle will be allowed on the course, but at a walk pace only. Absolutely NO in-line skates, roller skates or runners with baby strollers will be allowed on run course. This is an RRCA regulation!

SIGN UP ONLINE at www.sportspectrumusa.com



WAIVER & RELEASE | THE KREWE OF JUSTINIAN'S MIDWAY TO MARDI GRAS 5K RUN FOR THE BEADS® OFFICIAL ENTRY FORM

In consideration of my being admitted to enter "Krewe of Justinian's Midway to Mardi Gras 5K Run for the Beads," I, for myself, my heirs, and assigns, executors and administrators, do hereby forever release and discharge Sportspectrum, RRCA, Sportspectrum Race Management, NWLRA, the Krewe of Justinian, Shreveport Bar Association, Shreveport Bar Foundation, their employees and agents, of and from any and all claims or demands for damages, injuries, or liability, in any manner rising out of participation in this event. I agree to indemnify and hold harmless the parties released above from any claims or demands for damages, for injuries or liability, in any way arising out of my participation in this event. I certify that I have prepared myself for this race and that I am in adequate physical condition to complete the event I have entered. I agree to follow all rules of this race and to permit myself be removed from the competition if in the opinion of Race Management that continuing would endanger my health.

LAST NAME _____ FIRST NAME _____

ADDRESS _____ CITY _____ ZIP CODE _____

BIRTH DATE ____/____/____ CIRCLE: Male or Female T-shirt Size (circle) YM YL S M L XL XXL (add \$2.00)

I understand and agree to all conditions of waiver. SIGNATURE _____

Parent/Guardian Signature for participant under 18 years old _____



Recent Developments By the Judiciary
Sponsored by the Shreveport Bar Association
October 5 & 6, 2017

HILTON GARDEN INN / HOMEWOOD SUITES - BOSSIER CITY

13 Louisiana CLE Credit including Ethics & Professionalism
13 Texas Board of Legal Specialization CLE Credit Approved

Thursday, October 5, 2017

Friday, October 6, 2017

7:30 A.M. Registration & Continental Breakfast

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*

8:30 A.M. **Winning Your Case at Pretrial**
60 minutes *Judge Elizabeth Foote and Attorney Robin McCoy - U.S. District Court, Western District of Louisiana; Meg Frazier - Wiener, Weiss & Madison and John Nickelson - Attorney at Law*

9:30 A.M. **Successions**
60 minutes *Attorney Bennett L. Politz - Booth, Lockard, Politz & LeSage*

9:30 A.M. **Technology in the Courts: 2017 Update**
60 minutes *Attorney Melissa Allen - United States Fifth Circuit Court of Appeals*

10:30 A.M. **Sponsor Break (Refreshments)**

10:30 A.M. **Sponsor Break (Refreshments)**

10:45 A.M. **Understanding Clients with PTSD**
90 minutes *Col. John Odom - Jones & Odom LLP, Dozer Reed - Peer Mentor, National Campaign Team, Wounded Warrior Project and CGC Leyna Medical Service Animal*

10:45 A.M. **United States Supreme Court Update 2016 -2017 Term**
90 minutes *Chief Judge Carl E. Stewart - United States Fifth Circuit Court of Appeals*

12:15 P.M. **Lunch (included with full registration)**

12:15 P.M. **Lunch (included with full registration)**

1:15 P.M. **Criminal Law Recent Developments**
60 minutes *Judge Brady O'Callaghan - First Judicial District Court*

1:15 P.M. **Trends in Writs, Appeals and Procedure at the Second Circuit Court of Appeal**
60 minutes *Judge Frances J. Pitman, Attorney Molly Able and Attorney Jennifer Segner - Second Circuit Court of Appeal*

2:15 P.M. **How the IRS is Relevant to Your Legal Practice**
60 minutes *Attorney Angela Bryson, Attorney Cary Bryson and Kathryn Watson - Bryson Law Firm, LLC*

3:15 P.M. **Sponsor Break (Refreshments)**

2:15 P.M. **Professionalism Palooza: 15 Rockin' Reminders!**
60 minutes *Attorney Ben Marshall Jr. - Mayer, Smith & Roberts*

3:30 P.M. **Federal Procedure**
60 minutes *Magistrate Judge Mark Hornsby - U.S. District Court, Western District of Louisiana*

3:15 P.M. **Sponsor Break (Refreshments)**

3:30 P.M. **Ethics**
60 minutes *Judge Frances J. Pitman - Second Circuit Court of Appeal and Judge Michael Pitman - First Judicial District Court*

Recent Developments By the Judiciary

REGISTRATION FORM:

Name _____

Firm _____

Billing Address (Credit Card) _____

City, State, Zip _____

Email _____ Phone No. _____

Important Note: A link to the seminar materials will be sent via email to you prior to the seminar. 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 preregistering. A printed manual can be purchased for an additional \$45 and seminar materials on a flash drive can be purchased for an additional \$25.00. Be sure to make your selection by checking the appropriate box.

Please select your materials preference below:

Electronic (free) Flash Drive (\$25) Printed Manual (\$45)

Registration Fees:

\$400.00 for Non-SBA Members (\$425 after September 8) Full program

\$375.00 for SBA Members (\$400 after September 8) Full program

\$60.00 Ethics Only

\$60.00 Professionalism Only

Full refund until September 1, 2017, 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:

Shreveport Bar Association, 625 Texas Street, Shreveport, LA 71101

Credit Card Information Visa MasterCard Discover American Express

Card No. _____ Expiration Date _____

SIC _____ Amount to be Charged \$ _____

Signature _____



Second Circuit Update

by Hal Odom Jr., rhodom@la2nd.org

Random allotment required. The Second Circuit has reversed a judgment from Shreveport City Court, **Moore v. Nguyen**, 51,398 (La. App. 2 Cir. 8/16/17), ___ So. 3d ___, for failure to follow random assignment rules, La. C. C. P. arts. 253.1 and 253.2. The opinion, by Judge Williams, speculates that the case was reassigned to Division D because the defendant needed an interpreter. However, transfer of cases defeats random allotment, *State v. Sprint Comms. Co. LP*, 96-3094 (La. 9/9/97), 699 So. 2d 1058, and is prohibited except by the agreement of the parties or to effect a consolidation of cases. The Second Circuit did not even need to reach the merits of Ms. Nguyen's appeal. A judgment from an unassigned judge is completely invalid.

Dry rot is no accident. Ms. Henderson backed her 10-year-old Lincoln Town Car into a concrete pillar, damaging the left bumper, impact bar and reflector. She took it to her Ford dealer, who estimated the repairs at \$1,748; however, at her insurer's request, she also took it to the Mazda dealer, who appraised it at only \$1,167. Two weeks after the accident, she noticed the car suddenly "sat down on its tires," a condition she attributed to the collision. A mechanic at the Ford dealer found dry rot in the rubber bladders of the Lincoln's air compression system. The insurer, State Farm, refused to pay to replace these, saying the dry rot did not result from the accident. Ms. Henderson sued State Farm, alleging breach of its duty to adjust her claim fairly and in good faith, La. R.S. 22:1892 and 1973.

The district court heard testimony from the Ford dealer's mechanic and State Farm's adjuster, both of whom said dry rot was not collision-related, and took the case under advisement. Perhaps sensing a bad outcome, Ms. Henderson filed a motion for the court to receive additional testimony, which was granted. At the supplemental hearing, she called her own mechanic, who had actually replaced the parts. He testified that most air compressors fail because they get water in them, and could not say if Ms. Henderson's failed because of the accident. The court ruled in favor of State Farm, and Ms. Henderson appealed, chiefly contesting the denial of penalty and attorney fee under R.S. 22:1892 B(1).

The Second Circuit affirmed, **Henderson v. State Farm Mut. Auto. Ins. Co.**, 51,567 (La. App. 2 Cir. 8/9/17), ___ So. 3d ___, in an opinion by Judge Williams. To prevail under § 1892 B(1), the claimant must show that the insurer's failure to pay within 30 days was arbitrary, capricious, or without probable cause. The district court was not plainly wrong to accept the two witnesses' view that rubber bladders gradually deteriorate or dry rot, that the small cracks did not result from an impact,

and that the system failure shortly after the accident was a mere coincidence (it was, after all, an older car). Ultimately, State Farm was not "vexatious" in denying the claim. Most liability insurance covers accidents and incidents, not normal wear and tear, but, for reasons not apparent in the record, Ms. Henderson thought this one was worth pursuing.

The fat is in the fire. A more factually complex insurance claim arose in **Logansport Gaming LLC v. Ark La Tex Fire Sys. LLC**, 51,517 (La. App. 2 Cir. 8/9/17), ___ So. 3d ___. The plaintiff, a truck stop casino, contracted with Ark La Tex to install, maintain and inspect a fire suppression system in its kitchen. Ark La Tex installed it and, on July 12, 2010, inspected and certified it was up to code. However, on January 31, 2011, the gas stove caught fire, causing extensive damages (over \$500,000) to the facility. Ark La Tex's insurer, Scottsdale, denied coverage on grounds that the system was not maintained in complete working order. The casino sued for breach of contract, and a long jury trial in DeSoto Parish ensued.

Casino employees testified that the system had falsely alerted two times in the late summer of 2010, spewing foam all over the grill, stovetop and deep fryers, requiring them to shut down the kitchen for hours to clean up the mess. Several experts testified that airborne grease from deep-frying should not have disabled the system. The issue came down to the fact that somebody had removed a crucial CO₂ cartridge from the system, making it useless when the fire broke out, but no one knew who did this or when. Ark La Tex's tech was certain the cartridge was in place at the last official inspection, and after each false activation (requiring inconvenient service calls). The jury rejected the casino's claim, finding Ark La Tex more likely than not was not at fault for the fire.

The casino sought JNOV and new trial, which the trial judge denied with the comment that he was "surprised" by the jury's verdict but could not declare it unreasonable. The casino appealed. The Second Circuit affirmed, in an opinion by Judge Pitman. With the huge amount of lay and expert testimony, reports and videos, the issue came down essentially to manifest error. The jury was not plainly wrong to accept Scottsdale's theory that "someone tampered with the control box and removed the cartridge." The 24-page opinion contains telling discussion about the effects of ambient grease and fat build-up in ventilation systems. Also, a useful warning: if you get a grease fire, *don't* throw flour on it. Reach for the little red fire extinguisher, and be prepared to scrub up the foam.

What is fault, anyway? In 1991, fault was almost totally

removed as a ground for divorce in Louisiana. Does anybody actually miss the quaint concepts of habitual intemperance, excesses, cruel treatment, public defamation and flight from justice? However, fault survives as a feature of final periodic support, La. C.C. art. 111. To get support, a spouse must prove that she (or he) was “free from fault”; to defeat it, the defendant has to show his (or her) ex was guilty of “misconduct of a serious nature, providing an independent, contributory or proximate cause of the breakup,” *Brown v. Brown*, 50,833 (La. App. 2 Cir. 8/10/16), 200 So. 2d 887. The facts can run the gamut of human nature.

In *Welch v. Welch*, 51,566 (La. App. 2 Cir. 8/9/17), ___ So. 3d ___, the couple was actually *remarrying*, and Norman bought a house for them to make a second go at it. However, he never actually moved in; Angela did, bringing along her two adult sons, age 27 and 34, from a prior marriage. Norman didn’t object at first, thinking these boys would surely get jobs and move out on their own, but they never did, and Norman never moved in. After nearly four years, Angela sued for 102 divorce, plus interim and final support. The district court granted the divorce but denied all support. Angela appealed.

The Second Circuit affirmed, in an opinion by Judge Moore. The district court accepted Norman’s testimony that getting the sons to move out was a “condition” of the remarriage, and he “figured” they would do it, but they never did: “You cannot have grown men in the house and live together – it does not work.” He considered it deal-breaking fault for Angela not to kick out the adult sons, and the district court accepted it. (There was also an issue with Angela’s use of narcotic drugs, even though some years earlier Norman had bought her a little marijuana.) The thrust of the case, however, is that failing to make your adult children of a prior marriage move out of the marital home, when requested or expected, can indeed constitute fault that precludes final periodic support. Adult kids have minds of their own, but mama still might be at fault.



FISCHER & MANNO, P.L.C.

Timothy R. Fischer
Mark K. Manno

Accepting referrals for
Workers’ Compensation cases

318-869-0304
Fax 318-869-4911
3421 Youree Drive
Shreveport, Louisiana 71105

www.fhmlaw.net

**IT’S NOT THE WILL TO
WIN BUT THE WILL TO
PREPARE TO WIN THAT
MAKES THE DIFFERENCE.**

-BEAR BRYANT



PRINT • MAIL • SIGNS



MARKETING



PRINT



MAIL



DESIGN



WEB



SIGNS



PROMO



APPAREL

318 868 3555 • allegraarklatex.com
1115 Pierremont Road • Shreveport, LA 71106

Mark Your Calendar



OCTOBER 5-6

Recent Developments by the Judiciary CLE

Hilton Garden Inn, Bossier City

OCTOBER 13

Midway to Mardi Gras Party

Petroleum Club

OCTOBER 25

SBA Member Luncheon

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

Speaker: Alston Johnson

Professionalism Award Presentation

NOVEMBER 2

SBA Memorial & Recognition Ceremony

2:00 p.m. at the Caddo Parish Courthouse

NOVEMBER 8

SBA Member Luncheon

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

Speaker: Governor John Bel Edwards

DECEMBER 12-13

December CLE By the Hour Seminar

Petroleum Club (15th Floor)

DECEMBER 17

Area Law Student Holiday Reception

3:00 p.m. to 5:00 p.m. at Zocolo Eatery

[New Location]

Ferris OfficeSmart, LLC

Is pleased to offer an exclusive agreement between

**Shreveport Bar Association
and**

Ferris OfficeSmart, LLC

Effective April 1, 2017 Ferris OfficeSmart LLC will award a 1.5% rebate to the Shreveport Bar Association on all monthly purchases made by any SBA member

To place an order please call, email or order online

(318) 220-0988

Email: steve@ferrisoffice.com

www.ferrisofficesmart.com

We would like to thank the following law firms and courts for their support by participating in the SBA and Ferris OfficeSmart, LLC Co-Op Program:

BLANCHARD, WALKER, O'QUIN & ROBERTS

BRADLEY, MURCHISON, KELLY & SHEA

CASTEN & PEARCE

DAYE, BOWIE & BERESKO

DISTRICT ATTORNEY, CADDO PARISH

JUDGE KATHERINE DORROH

DURRETT LAW FIRM

KITCHENS LAW FIRM

LOVE, RIGBY, DEHAN & McDANIEL

McMICHAEL, MEDLIN, D'ANNA WEDGEWORTH & LaFARGUE

DAVID MOORE, ATTORNEY AT LAW

PETTIETTE, ARMAND, DUNKLEMAN, WOODLEY, BYRD & CROMWELL

SECOND CIRCUIT COURT OF APPEAL

SMITHERMAN LAW FIRM

SOCKRIDER, BOLIN ANGLIN BATTE & HATHAWAY

JUDGE KARELIA R. STEWART

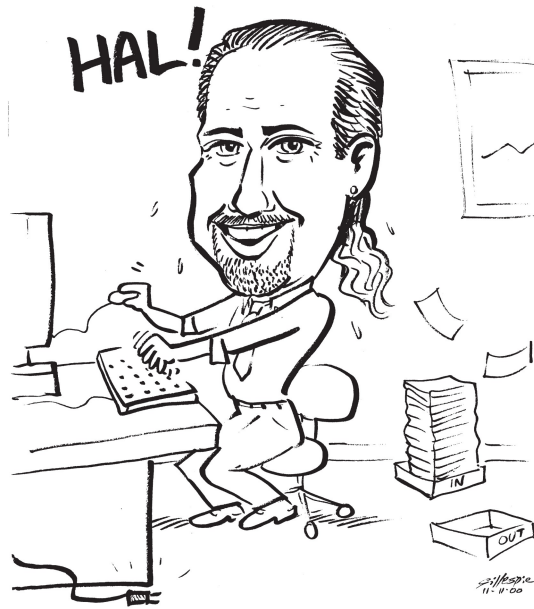
JUDGE CHARLES TUTT

WIENER, WEISS AND MADISON

How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

Unfair wording. The word for *to experience*, with reference to a good or bad result, is *fare*. Occasionally, legal writers confound this with its much more common homophone: “[T]he efficacy of electronic records requiring notarization has not *faired well* under UETA and E-Sign.” 10 Hawklund UCC Series UETA § 11:1 (Thomson Reuters, ©2016). “There is no indication that defendant would have *faired better* had Judge Buras been recused as to the firearms charge and a new judge appointed to accept defendant’s guilty plea.” *State v. Williams*, 2000-0011 (La. App. 4 Cir. 5/9/01), 788 So. 2d 515. “[W]e cannot statistically reject the possibility that random chance explains employees *fairing worse* with repeat employer-arbitrator pairings than with repeat employers in general.” Alexander J.S. Colvin, “Beyond the Protocol: The Future of Due Process in Workplace Dispute Resolution,” 11 *Employee Rts. & Emp. Pol’y* 405 (Chicago-Kent College of Law, ©2007).



The correct word phrase is to *fare well*, as Justice Douglas wrote in *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963): “Defendant received his constitutionally mandated fair trial and is not entitled to a new trial because he has decided after being found guilty by a judge that he might have *faired better* before a jury.” Or as quoted in *Louisiana Fed’n of Teachers v. State*, 2013-0120 (La. 5/7/13), 118 So. 3d 1033: “[T] his funding is intended to improve funding to districts that *faired worse* once the structure was changed.”

Be fair to opposing counsel, the judge and the law clerks. Give them a good reading experience, and thing will *fare* better.

Get a proper heading. In addition to word choice, grammar, spelling, and other fine points, effective legal writing must be organized. An excellent way to express your organization is to use headings. Some headings are much more effective than others.

Longtime readers of this column know that one of my favorite ready-reference guides is an older book from West’s “In a Nut Shell” series, Lynn B. Squires & Marjorie Dick Rombauer, *Legal Writing* (St. Paul, Minn.: West Pub. Co., ©1982). The authors advise that the entire writing should be easy to use for quick reference; divisions should be clearly marked; sections should be easy to locate.

They further suggest that topic headings should be used for major divisions of any legal document of more than two or three pages. Subheadings may also be used to identify the topic of a paragraph or block of paragraphs, thereby reinforcing the traditional topic sentence.

Finally, they give a list of suggestions as to form, five of which are still golden:

- (i) Topic headings should be short to help the reader locate the information quickly.
- (ii) Form should be consistent: Use either complete sentences

or topic summaries, but do not switch back and forth. (This is probably the most distracting quality of hastily written headings.) The questions presented may be effective headings.

(iii) All words in fragmentary topic headings should begin with capital letters except prepositions (such as *of* and *in*), articles (*a*, *the*), and conjunctions of four letter or fewer (*and*, *but*).

(iv) Fragmentary topic headings are not punctuated.

(v) A colon is used for compound topic headings, for example: *The Basics: When Partition is Available*.

I do not underscore the final suggestion. The authors’ final suggestion is:

(vi) Headlines are customarily underlined.

I would strongly advise against underlining any portion of your legal writing. Underlining makes the text look crowded, and actually makes it more difficult to read. It was an acceptable expedient in the typewriter era, when publishers always interpreted underlining as an indication that the author wanted the text *italicized*. And, indeed, *italics* or **boldface** is the font choice for emphasis in the word processing era.

An exception is noted in *The Chicago Manual of Style*, 16 ed., ¶ 13.8: “Underlined words in a quoted manuscript may be printed as italics, unless the underlining itself is considered integral to the source or otherwise worthy of reproducing.” This might encompass some older insurance policies, and probably olographic wills (especially any written in florid cursive). Otherwise, forget underlining.

Spelling is not hard to assess. A local political commentator recently weighed in on a controversial proposal to build a basketball arena and mixed-use development on Cross Bayou. Noting the potential environmental issues, he wrote: “The cost of remediation efforts frequently exceed[s] project estimates because * * * the extent of contamination is difficult to *access* from the limited soil bearings and water samplings.” In similar vein, a federal judge recently wrote, “[T]he decision was made to go back to Cook’s room to *access* the situation with the lamp and to investigate if there was further damage to the room.”

The word used, *access*, means to *make contact with or get one’s hands on*. The soil along Cross Lake, and the hotel room, were not really difficult to get to. However, they are hard to evaluate – or *assess*. A correct use: “They testified that the well Petro-Chem planned to spud in section 11, the Lott well, is *hard to access* because it is bounded by two rivers * * *, and because there are no roads to access the originally selected drill site.” *Petro-Chem Oper. Co. v. Flat River Farms LLC*, 51,212 (La. App. 2 Cir. 3/1/17), ___ So. 3d ___. Two rivers and no roads – that’s hard to access, but the difficulty is easy to assess.



Spotlight on Professionalism

by: Valerie DeLatte, vdelatte@la2nd.org

The recipient of the 2017 professionalism award will be announced later this month. The individual on whom this honor is bestowed embodies the aspirational qualities we should all strive to cultivate, and has been unfaltering and resolute in elevating the reputation of our legal community as a whole. We will soon celebrate the accomplishments of a bedrock member of this bar association – a role model for young attorneys, like myself.



But before we get to the annual award, this month, we recognize a young lawyer whose outstanding achievements can easily be attributed to his dedication to the ideals of professionalism.

Marcus E. Edwards earned a BA in political science from Morehouse College, where he served as Student Government president. He is a Tulane Law alumnus, was inducted into the Order of Barristers, and graduated with a certificate in International and Comparative Law. During law school, he interned for the U.S. State Department Office of War Crimes Issues and for U.S. 5th Circuit Court of Appeals Chief Judge Carl E. Stewart. After law school, he returned to Shreveport to begin a clerkship in the First Judicial District Court, chambers of Judge Leon L. Emanuel III and Judge Ramona L. Emanuel. Marcus is currently an associate at Mayer, Smith & Roberts, L.L.P.

Marcus consistently gives his time in service to the Shreveport community through pro bono work. Most recently, he was honored for his commitment to the Hugh O'Brian Youth ("HOBY") World Leadership Congress, a student leadership organization that inspires and prepares young people to lead a life of service and innovation. He has been involved with HOBY for 15 years, and this year served as Chair of the 50th HOBY World Leadership Congress, where 375 HOBY leaders from all 50 states and more than 10 countries met for a week of intensive training in Chicago, Illinois.

With experience beyond his years, Marcus relates what professionalism means to him and how he developed into the professional he is today:

Professionalism is a practice. Ultimately, whether or not a person is perceived as "professional" depends upon small, innumerable and repeated decisions over time. You have to practice at it, and hopefully get better.

Marcus believes that success is merely an aggregation of personal achievements over time, defined by individual metrics, but professionalism is a community achievement, measured by shared standards.

As an influence on his professional development, Marcus credits Professor Robert Westley, who began the first day of Legal

Profession Class dressed as if he were going to court, and conducted the entire class by Socratic Method examining the definitions of career, profession and practice. He remembers Professor Westley's announcement that each student's practice had already begun that very day. Marcus also looks to his parents as professional guideposts, stating:

"My dad believes in being overdressed, present, and gregarious 110% of the time. My friends joke that I'm a knock-off version of my dad on my best days (I'm still practicing). My mom has always been committed to overachieving and perseverance through whatever mission she's after. They set the bar pretty high."

"Personality and expression have value to the individual and the public," says Marcus. "The practice of professionalism encourages us to direct that expression in a way that supports our profession." Some attorneys are also musicians, photographers, athletes or avid collectors of coins in their free time. Those who are passionately pursuing something outside the legal profession also inspire Marcus and remind him that professionalism is a quality of the "whole person." Marcus quotes Benjamin Elijah Mays, "Whatever you do, strive to do it so well that no man living and no man dead and no man yet to be born could do it any better," when he needs that extra motivation to finish a task. He recommends: *Outliers* by Malcolm Gladwell; *Drive* by Daniel H. Pink; and *Mindset* by Carol Dweck as a few books that have impacted his perception of professionalism.

When asked how he feels about being distinguished as a top young professional, Marcus simply replied, "I have asked attorneys that I look up to basically the same question before, and the answer is always the same. The advice I am usually given is just to do what you are asked to do, and to do a good job at the tasks you are given, and one day you wake up and people are asking how you did it." Marcus mentioned Larry Pettiette and Ben Politz as examples of attorneys who have imparted this wisdom to him. To summarize, the secret formula for being a great professional is: accept tasks when asked and give your best effort in completing those tasks. It seems there is no substitute or short-cut for being considerate and diligent.



Marcus and his father, Thomas Edwards



Marcus and wife, Jabrina Clayton Edwards, at the 2017 HOBY World Leadership Congress in Chicago, IL.

Veterans Day Program



The Shreveport Bar Association **2017 Veterans Day program** will be held on Wednesday, November 8 beginning at 11:45 a.m. at a location to be determined.

Our Veterans Day Program special guest speaker is Governor John Bel Edwards.

Whether you have served or not, please join us on Wednesday, November 8 as we honor our SBA Veterans.

Shreveport Bar Foundation



Shreveport Bar Foundation Receives Donation from United Way of Northwest Louisiana

The United Way of Northwest Louisiana awarded the Shreveport Bar Foundation with a \$10,000 grant to help fund its Legal Representation for Victims of Domestic Violence Protective Order Program. The program provides a free attorney to appear in Caddo Parish District and Juvenile courts to assist victims of domestic violence obtain restraining orders and related orders involving custody, support and visitation rights, when such actions are directly connected to family violence cases and are taken to ensure the health and safety of the victim.

The check presentation was made to SBF President John Nickelson, Pro Bono Project Coordinator Nellie Walton, and staff attorney Heidi Kemple Martin at the Shreveport Bar Association monthly membership luncheon at the Petroleum Club of Shreveport.

The Shreveport Bar Foundation and the Pro Bono Project is able to provide services because of the support received from the Louisiana Bar Foundation, Legal Aid of North Louisiana, The Community Foundation, United Way of Northwest Louisiana, First United Methodist Church and the City of Shreveport.



LOUISIANA BAR FOUNDATION
FUNDING CIVIL LEGAL AID



United Way of Northwest Louisiana

The Pro Bono Project is always looking for volunteers at the monthly Ask A Lawyer clinic. If you would like to volunteer for our upcoming clinic, on Monday, October 16, or volunteer for other services, please contact Nellie Walton at 318-221-8107 or email nwalton@shreveportbar.com.

CADDO COURTHOUSE PRINTS AND NOTE CARDS AVAILABLE FOR PURCHASE

The Shreveport Bar Association has a limited number of prints of a sketch done of the Caddo Parish Courthouse approximately 35 years ago, along with note cards and envelopes.

12X18 PRINTS
\$15.00

NOTE CARD SET
25 note cards with envelopes
\$20.00

COMBO
one print and one note card set
\$30.00.



If you are interested in purchasing a print and/or note cards, please contact the SBA Office at 222-3643



SHREVEPORT BAR ASSOCIATION
 625 Texas Street
 Shreveport, LA 71101
 www.shreveportbar.com

PRSRT STD
 AUTO
 US POSTAGE PAID
 SHREVEPORT, LA
 PERMIT NO 6

DEADLINE FOR NOVEMBER ISSUE: OCTOBER 15, 2017

SBA LUNCHEON MEETING - OCTOBER 25

*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*

Mr. Johnson’s presentation is eligible for 1 hour CLE credit



2017 LEGISLATIVE UPDATES

When: Wednesday, October 25 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.

2017 SBA Professionalism Award will be announced at October Membership Luncheon

**YES, I'M
 ATTENDING**

You may confirm your reservation(s) by email, telephone, or fax.
 Email: bgreen@shreveportbar.com Phone: 222-3643 ext. 2 Fax: 222-9272

I plan to attend the October luncheon. Attorney: _____

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