

# THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION

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## EVENTS AT A GLANCE

1/24	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club
1/26	Krewe of Justinian Bal at Horseshoe Casino Rivedome
2/3	Centaur Parade
2/11	Highland Parade
2/28	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club



## From The President

by Jim McMichael, President, [jmcmichael@mmw-law.com](mailto:jmcmichael@mmw-law.com)

### IT'S MY JOB...

Becoming a lawyer was actually my third career choice. Originally, I planned to play second base for the New York Yankees, hoping to follow in the footsteps of my boyhood idol, Bobby Richardson. Being small (ok, short), slow and having a weak arm, second base was the logical spot for me on a baseball field.

However, my physical shortcomings proved insurmountable and led me to my second great love and career goal – golf. It was perfect – no running required and size and strength weren't essential. Golf was a good fit. (I later heard a comedian who was a golfer explain it for me – he only played sports that had waitresses). PGA, here I come. I spent eight or so years of my youth proving that not only does practice not make perfect, it doesn't even make adequate.

So, my fallback third plan was to become a lawyer. Thanks to a mother who loved and shared with me every television episode of Perry Mason, I fell in love with the courtroom and the idea of standing up for people who needed help. And it worked out – no running required, and size and strength aren't essential. And sometimes you get to go to nice places that have waiters and waitresses.

Over my 40-plus years in practice, I have always been proud to be a lawyer and proud to be a member of the Shreveport Bar Association. I appreciate your permitting me to serve you this year as president. I intend to do my best to continue the good work of my predecessors to maintain SBA's relevance in the lives of its members and to emphasize to the public the value to society that we lawyers bring.

What we do isn't easy – I've always said that as lawyers, we are often stressed, but seldom bored. I hope that membership in the SBA, with its many benefits, continues to provide some relief to our collective stress and to foster that sense of professionalism and purpose that makes what we do so rewarding.

Jimmy Buffett sums it up best in his song, "It's my Job":

*... in my contract there's this clause  
That says, "It's my job to be worried half to death  
And that's the thing people respect in me.  
It's my job, but without it I'd be less  
Than what I expect from me."*

*It's my job to be different than the rest  
and that's enough reason to go for me.  
It's my job to be better than the best  
and that's a tough break for me.  
It's my job to be cleaning up this mess  
and that's enough reason to go for me.*

So, let's proudly keep cleaning up our clients' messes and otherwise doing our jobs. And let's continue to stick together while doing them through the SBA.

Let me know what I can do to help.

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# Welcome TO THE SBA

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## Young Lawyers' Section

*by: Gahagan Pugh, President  
Gahagan@thepughlawfirm.com*

A new year is upon us, and I am pleased to announce our Shreveport Bar Association, Young Lawyers' Section Executive Committee members as follows:



**Valerie Delatte**  
Vice-President/  
President Elect



**Gordon Mosley**  
Secretary



**Ashby Davis**  
Treasurer

I want to thank our immediate past president, Thomas Pressly, who made this past year a great success. I would also like to thank all our past sponsors.

I am looking forward to a great year and getting to know all of our new members. We ask that all members whose contact information has changed, or who have not been receiving any emails from us, to email us their current contact information at [shreveportbarassocyls@gmail.com](mailto:shreveportbarassocyls@gmail.com) so we can notify you of all our activities.

We also post all our scheduled events on Facebook, so please follow our Facebook page "Shreveport Bar Association – Young Lawyers' Section" as well.



## Women's Section

*by Anna Brown Priestley  
anna.priestley@regions.com*

### Happy New Year, Shreveport Bar!



**Sarah Giglio**  
Vice-President/  
President Elect

It is a pleasure and honor to serve as the 2018 President of the Women's Section. Joining me as officers this year are Sarah Giglio, Vice-President/President-Elect; Elizabeth Wong, Secretary; and Katherine Gilmer, Treasurer.

The Women's Section had a successful 2017 under the terrific leadership of Past-President Jabrina Edwards. We used social media to enhance interest in our events from nonparticipating SBA members along with potential new members. We also revamped our Facebook page with a new logo and increased visibility. Additionally, the Women's Section created a monthly email newsletter to keep our members better informed and connected. The newsletter highlights members in a monthly spotlight, celebrates members' accomplishments and special announcements, and shares information about upcoming events.



**Elizabeth Wong**  
Secretary

The Women's Section is dedicated to strengthening the bond between female attorneys in the Shreveport-Bossier area, and we are committed to continuing the past year's success in 2018. We will implement two new social activities with the aim of advancing morale in our members' professional and personal lives. Beginning in January, the Women's Section will host "Wine Down Wednesdays" every other month. On the third Wednesday of select months, members will gather at a local eatery to share libations and conversation. Also, beginning in February, we will host "Coffee with the Court," which will highlight the female judiciary in Shreveport. On those select months, the Women's Section will host a meet-and-greet in the morning before court with local female judges over coffee and pastries. By creating these new events, the Women's Section hopes to increase fellowship and networking opportunities for our members.



**Katherine Gilmer**  
Treasurer

The first "Wine Down Wednesday" gathering will held at my home on Wednesday, January 17, 2018, at 6:30 p.m. More details and directions to follow in our January newsletter. You can sign up for our newsletter on our Facebook page at [www.facebook.com/sbawomenssection](http://www.facebook.com/sbawomenssection) or by email [sbawomenssection@gmail.com](mailto:sbawomenssection@gmail.com).

The Women's Section is looking forward to a successful 2018 and we hope you will join us in making this year great!

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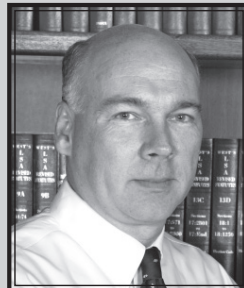
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# Monroe Inn of Court

by Hal Odom Jr., rhodom@la2nd.org

The Judge Fred Fudickar Jr. AIC (Monroe, La.) held its third meeting of the 2017-'18 season on December 11, 2017. Judge Alvin R. Sharp, of the Fourth JDC, presented "Cross-Examination: The Anatomy of the Leading Question." From the very beginning, he flashed his signature flair and enthusiasm. He asked everyone to recite Dean John Henry Wigmore's definition of cross-examination. "The greatest legal engine ever invented for the discovery of truth!" he exclaimed, before the audience could mumble. "But only if it's done *properly* can it genuinely advance the truth-finding function of our justice system."

What, then, is *proper* cross-examination? Judge Sharp generously expounded his notions, beginning with the need to be courteous, respectful and efficient. Other qualities are important, too. "Be sure to sit on a high note," he advised. "Once the witness says what you want him to say, it's time for you to sit down!"

Then there are the strategies for cross-examination, including having a goal and a plan, but once again, "Know when to stop." Judge Sharp recommended three techniques: direct, inverted "V" and slanted "S." In all events, avoid open-ended questions, such as those starting with "Did you," "Is there," "Can you," and others. "The objective is for *you* to tell the witness what to say."

Moving momentarily into the realm of the academic, Judge Sharp quickly recounted the "10 Commandments of Cross-Examination," made famous by Prof. Irving Younger, of Georgetown University Law Center. The Fifth Commandment, "Listen to the witness's answer," is perhaps the most challenging when you are trying to follow your plan. More recently, D.C.-based trial lawyer Patrick Malone has advocated "burying" the 10 Commandments, an action Judge Sharp is emphatically not ready to take. "Those 10 Commandments have stood the test of time!"

The actual anatomy of a good cross question includes the "body," the portion of the question that places words in the witness's mouth, and the "tag," the portion used to "eject out" the desired response. Various approaches are useful, but above all, do not use the same tag all the time. "That will just drive the jury crazy." A hint of a wink from Judge Sharp showed that this might also drive *the judge* crazy.

The program wrapped up with questions and open discussion from the audience, including the differences between cross-examination at trial and in discovery depositions, and the sticky problem of the witness who wants to explain his answer. Humorous anecdotes were exchanged, but none could outdo Judge Sharp's admission that he once "threw the code of criminal procedure right out the window!"

The meeting was a luncheon held at The Fat Pelican, on Tower Dr. in Monroe, at noon. In attendance were 19 members, who received one hour of CLE credit, and two guests. Inn President James Carroll wished everyone safe and happy holidays, and announced that the next regular meeting would be at the Lotus Club on February 12, 2018.



"What if I'm too broke to take a deposition? How do I prepare for cross-examination then?"  
— Judge Alvin R. Sharp, at The Fat Pelican, December 11, 2017 (Photos by Hal Odom Jr.)



Judge Sharp warmed up for the program by joking with Ty Storms, of Ruston, and his intern, Allison Powell.



James Carroll (Carroll & Mixon, Columbia, La.), Leah Sumrall (Crigler, LeBeau & Sumrall, Monroe) and Hal Odom Jr. visited in front of the Xmas tree before the meeting began.

# Captain Speaks

by: Captain Lawrence W. Pettiette Jr., [lpettiette@padwbc.com](mailto:lpettiette@padwbc.com)

The beginning of the new year is an exciting time for many reasons, including the start of the Mardi Gras season. The Krewe of Justinian's Grand Bal will be held on Friday, January 26, 2018, at the Horseshoe Riverdome. Bal chairs Berry Glassell, Sharla McMichael and Anne Wilkes have worked all year to create the electric atmosphere of the internationally famous Tropicana Club of Havana, Cuba. The ever-popular band Limelight will provide the music. Cuban cuisine will be served, all to ensure an enjoyable evening with friends, family and members of the Bar. Krewe membership and Bal tickets may be purchased through the Krewe of Justinian website [www.kreweofjustinian.com](http://www.kreweofjustinian.com) or by mailing in your payment to the Shreveport Bar Center, 625 Texas Street, Shreveport, LA 71101. Krewe membership includes admission to the Grand Bal. The annual Royalty Brunch will follow on Sunday, January 28, and will be held at the East Ridge Country Club. A classic event to close out an enjoyable Mardi Gras weekend.

The ultimate goal is to raise money for the Shreveport Bar Center and the Shreveport Bar Foundation and its many community activities.



Captain XXIV Larry Pettiette



King XXIV Bill Kelly



Queen XXIV Tracey Cox



Duchess XXIV  
Sarah Giglio



Duchess XXIV  
Margaret Pressly



Duke XXIV  
Jimmy Franklin



Duke XXIV  
Garrett Hill



Princess XXIV  
Gina Goorley



Prince XXIV  
Russell Dickson



Shreveport Crossword Dec. 2017

Celebrate It!  
by Hal Odom Jr.



## Announcement

Billy J. Guin, Jr. will be limiting his practice to mediations and Medical Review Panel Chairmanships as of November 30, 2017.

*His new contact information is:*

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# Mark Your Calendar



## JANUARY 24

SBA Member Luncheon  
 12:00 Noon at the Petroleum Club (15th Floor)  
 Speaker: Chris Lyon, Editor-in-Chief  
 Heliopolis, LLC

## JANUARY 26

Krewe of Justinian Bal  
 Horseshoe Casino Riverdome

## FEBRUARY 3

Centaur Parade  
 Krewe of Justinian Participates

## FEBRUARY 11

Highland Parade  
 Krewe of Justinian Participates

## FEBRUARY 28

SBA Member Luncheon  
 12:00 Noon at the Petroleum Club (15th Floor)  
 Speakers: Attorneys Allison Jones  
 and Michael Lowe  
**Sexual Harassment in the  
 Law Office Environment:**  
 Don't say that, don't touch there, or you'll  
 find yourself before the Ethics Chair



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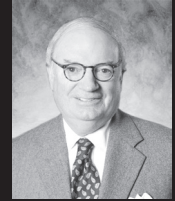
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# How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

**Give up that misspelling.** When you voluntarily give up or relinquish a right or privilege, you are said to *waive* it; when you flail your arms around to catch someone's attention, you are said to *wave* them. The first word, *waive*, is so frequent in legal vocabulary that we sometimes type it when we mean the second word, *wave*. "K.K.'s mother came toward them, *waiving* her arms and saying, 'I'm going to kill that MF'er.'" *State v. Williams*, 11-876 (La. App. 5 Cir. 3/27/12), 91 So. 3d 437. "[H]e also attempted to warn the oncoming traffic by *waiving* his arms." *Davis v. Witt*, 2002-3102 (La. 7/2/03), 851 So. 2d 1119. K.K.'s mother and Mr. Witt were not forgoing the use of their arms; they were gesturing for attention.

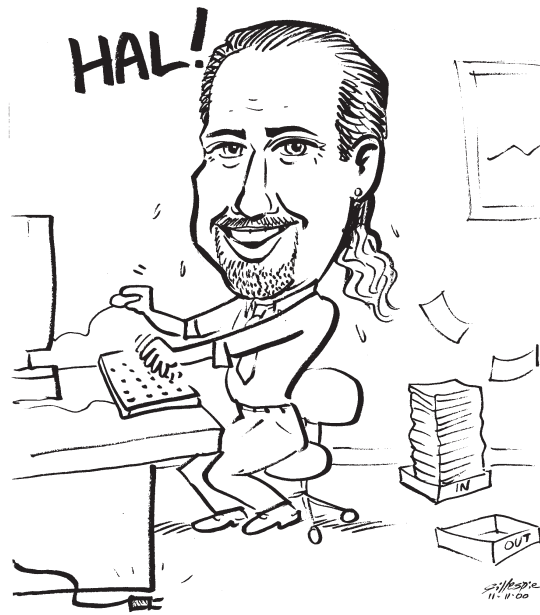
The opposite mistake can occasionally crop up. Consider: "[T]he doctrine of ancillary venue applied to governmental defendants who, by *waving* their right to mandatory venue in Caddo Parish, conceded that the case against them should proceed in East Baton Rouge Parish[.]" This rare error appeared in Headnote 1, supplied by Thomson Reuters to *Willis-Knighton Health Sys. Inc. v. Northwest La. Council of Gov'ts*, 49,282 (La. App. 2 Cir. 1/21/15), 162 So. 3d 396. The text of the opinion correctly refers to governmental defendants "*waiving* their own right to mandatory venue[.]" If I had made this typo, I would not be *waving* it about!

**Meeting the page limit.** The first draft of a memo or brief is supposed to be rough. The idea is to get every idea on paper, maybe without concern for elegance of expression. Just pour the content onto the page. Then, however, the rewriting must begin. Remember that the fewer words you use, the more likely your reader is to read them all. Most courts have page limits: in Louisiana appellate courts, the original brief cannot exceed 31 legal-size (41 letter-size) pages; the reply brief, 13 and 18 pages, respectively. URCA 2-12.2 D(1).

First, review for repetitive or redundant content. Often, we copy from a petition, police report, letter or other document that was perfectly good for its original purpose, but may contain extraneous facts. How much is really essential now? Also, owing to the ease of cut-and-paste, we effortlessly transplant a massive statute into a brief, but usually argue about one or two sentences. Is it possible to set out the general idea of the statute in the text of your brief, and then block-quote the precise passage at issue?

Skim the beginning of every sentence in your brief. If the same topic is addressed in multiple places, perhaps these can be combined into one section to reduce length. When every sentence in a paragraph starts with the same subject, you can qualify or modify the subject once, at the beginning, and save a lot of space.

Some purely mechanical suggestions are offered by Scribes, the American Society of Legal Writers: "Address each paragraph in turn and see if you can revise it to shorten it by one line. Substitute shorter words for longer ones, simplify sentence structure, and reduce



nounification. 'There is/are' can often be reworded and shortened." Ann Taylor Schwing, Writing Tip No. 12 (11/5/2013).

What is nounification? I think Ms. Schwing means what other writers call *nominalization*, the use of a noun form of a verb when just using the verb will do. "The issue is a determination of the applicability of R.S. 23:921 despite the plaintiff's designation as a shareholder" could become "The issue is whether R.S. 23:921 applies when the plaintiff is a designated shareholder." You've now cut three words, and 34 keystrokes, just by using verbs instead of long nouns.

**It's illegal, but ...** *Prescribe* means to define or dictate; *proscribe* means to forbid. Any conduct that is defined as criminal is also proscribed, right? Please note the subtle distinction in the definition of specific criminal intent, R.S. 14:10 (1): "Specific criminal intent is that state of mind which exists when the circumstances indicate that the offender actively desired the *prescribed* criminal consequences to follow his act or failure to act."

The reference is to the consequences defined by statute, whether or not they are otherwise criminal acts. Occasionally, courts insert *proscribed* even when they purport to quote R.S. 14:10 (1), as in *State v. Sosa*, 2005-0213 (La. 1/19/06), 921 So. 2d 94, and *State v. Brown*, 2014-1218 (La. App. 3 Cir. 5/6/15), 164 So. 3d 395. Remember, conduct must be prescribed before it is proscribed.

**How "to"?** A reader asks if I ever see errors involving the homophones *to*, *too* and *two*. Not many, in legal writing, but a brief refresher never hurts:

*To* is a preposition meaning (1) movement or direction, as in "All roads lead to Rome"; (2) the end point of a time period, as in "They're open from 8:00 to 5:00"; (3) the person receiving something; or (4) a change of state or condition, as in "The weather changed from fair to stormy in just 30 minutes." It is also a particle to introduce an infinitive, as in "I hate *to split* an infinitive."

*Too* is an adverb meaning *excessively* or *in addition*. Don't omit the second *o*, when needed, as in this comment in 2A West's Legal Forms, Business Orgs., VII § 129.51 (3 ed., May 2017): "All *to often* attorneys do not consider the effect of a severability clause." Obviously, this should be *all too often*.

*Two* is nothing but a number, the whole number greater than one and less than three. Just be sure not to type *tow*, as Spell Check will not tag that!

**Speaking of Spell Check**, it has almost eradicated that once-ubiquitous error (and favorite of mine), *de minimus*. Anyone spotting a recurrence of this mistake in formal legal writing is encouraged to forward it to me; full credit will be given to the sender, not the author.

**December CLE by the Hour  
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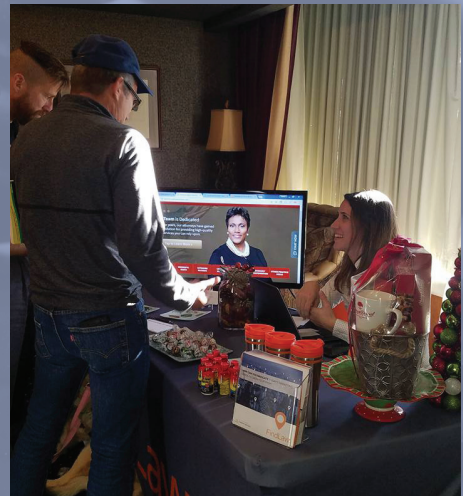
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**DEADLINE FOR FEBRUARY ISSUE: JANUARY 15, 2018**

**SBA LUNCHEON MEETING – JANUARY 24**

*Petroleum Club (15th Floor) – Buffet opens at 11:30 a.m. Program and Speaker begins at 12:00 Noon*

*\$20.00 for SBA members includes lunch with advance reservation*

*\$25.00 for Late Reservations (after 5:00 pm the Monday prior to the luncheon)*



**When:** Wednesday, January 24 from 12:00 Noon to 1:00 p.m.

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

**Featuring:** Chris Lyon, Editor-in-Chief *Heliopolis*, LLC

Chris Lyon is a filmmaker living in Shreveport. He has produced several shorts, features and documentaries in the northwest Louisiana area and is the Editor in Chief of *Heliopolis*, LLC. He is also an avid community activist and works to further equality of opportunity and progress on city development issues.

*Heliopolis* is an independent source for the latest in Shreveport news and culture. *Heliopolis* currently exists as a media-enriched website along with a social media presence on Facebook, Instagram and Twitter focused on providing relevant articles to those who are looking for something a little different from local mainstream media. Specialties are community culture, the arts, entertainment and local government along with related news stories to keep our followers in the know about all that's happening within the City of Shreveport and the Parish of Caddo.

Their dedicated readership is building momentum every day, they cover local arts, music, and news with passion and authority. The *Heliopolis* contributor group is made up of highly-active community-members who regularly attend, volunteer for, or even organize many of the Shreveport's coolest events and champion common sense public policy. Our writers and staff are among the many working to make Shreveport a better place, which makes it easy for us to provide the latest and greatest content to our readers. Join us on January 24 to learn more about *Heliopolis*.

**YES, I'M  
 ATTENDING**

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 Email: [bgreen@shreveportbar.com](mailto:bgreen@shreveportbar.com) Phone: 222-3643 Fax: 222-9272

I plan to attend the January luncheon. Attorney: \_\_\_\_\_

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