

THE BAR REVIEW

PUBLICATION OF THE SHREVEPORT BAR ASSOCIATION

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EVENTS AT A GLANCE

3/28	SBA Membership Luncheon – 12:00 p.m. - Petroleum Club- Speaker: Emily Maw, Director of Innocence Project New Orleans
4/20	North Louisiana Appellate Conference CLE at Second Circuit Court of Appeal
4/23	Annual Golf Tournament – 12:30 p.m. – East Ridge Country Club
5/1	Give For Good Campaign-Rhino Coffee Downtown



From The President

by Jim McMichael, President, jmcmichael@mmw-law.com

MY WORST ENEMY

Confession – I am a lifelong, chronic procrastinator. It may be the worst of my many bad habits and I am apparently unable to do anything about it (at the moment, I am furiously writing this *Bar Review* column on the day it is due). But I know that I am not alone. I'm sure that if I ever got around to it, my nonscientific research would prove that procrastination is one of the biggest challenges for lawyers (and others) in managing time.

Mark Twain is reported to have said, "If it's your job to eat a frog, it's best to do it first thing in the morning. And if it's your job to eat two frogs, it's best to eat the biggest one first." My mother's version was less evocative, but just as direct – "If you hate carrots (as I did when I was a child), then eat your carrots first."

The obvious analogy is that your "frog" or your "carrots" represent your biggest, most important task – the one you are most likely to procrastinate on if you don't do something about it. It is also likely it's the one the task that can have the greatest positive impact on your life or work at the moment.

The word procrastination comes from the Latin words *pro*, meaning "in favor of," and *cras*, meaning "tomorrow." It is defined as "the act or the habit of delaying or putting things off." It can often lead to stress, guilt and a feeling of being overwhelmed.

I try to justify my procrastination by telling myself, "I have too many things to do to prioritize my tasks in any sort of orderly fashion," or "I need the pressure of a looming deadline to motivate me to do my best work." But, the question is not how do we justify procrastination, **but rather how can we stop it doing it?**

Some insist that overcoming procrastination is a learnable skill and we can acquire it through practice. According to experts, here are some of the ways to stop procrastinating and get more things done faster. A few of their tips:

1. Set the table. Decide exactly what we want. Write out our goals and objectives before we begin.
2. Plan every day in advance. Think on paper. Every minute we spend in planning can save our five or ten minutes in execution.
3. Practice creative procrastination. Since we can't do everything, we must learn to deliberately put off those tasks that are of low value so that we have enough time to do the few things that really count.
4. Focus on key result areas. Identify and determine those results that we absolutely, positively have to get to do our job well, and work on all day long.
5. Slice and dice the task. Break large, complex tasks down into bite-sized pieces, and then do just one small part of the task to get started.

All nice thoughts – in the abstract. You could cross-stitch and frame them all for your office wall and hope they motivate you to deal with our stubborn problem.

But, I know better. I plan to get around to dealing with my procrastination problem someday. Until then, I'll rely on Mark Twain's other quote on procrastination – "Never put off till tomorrow, what you can do the day after tomorrow."

Let me know how I can help.

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February LUNCHEON



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BAR BRIEFS

ATTORNEY ADRIENNE WHITE HONORED BY THE LOUISIANA STATE BAR ASSOCIATION



Attorney Adrienne White was honored with the Citizen Lawyer Award presented by the Louisiana State Bar Association. The Louisiana State Bar Association Awards Ceremony was held on January 20, 2018, at the Renaissance Baton Rouge Hotel in Baton Rouge, Louisiana.

Adrienne White received the Louisiana State Bar Association Citizen Lawyer Award in recognition of her efforts “in performing noteworthy public service or engaging in charitable and civic activities for the benefit of others out of a sense of concern, duty, responsibility, and professionalism.” The Louisiana State Bar Association Awards Ceremony Program highlighted Adrienne White’s community service contributions as the president of the DeSoto Parish Bar Association; as a Pro Bono Attorney for the Legal Services of North Louisiana; as a Louisiana Bar Foundation Fellow (which included service as a member of the Northwest Community Partnership Panel); and as a member and team leader of Zeta Phi Beta Sorority, Inc., Zeta Iota Zeta Chapter. Adrienne White is a Partner in the Law Offices of White & White in Mansfield, Louisiana.

JUDGE JAY McCALLUM JOINS SECOND CIRCUIT COURT



Judge Jay McCallum, left, took his oath of office at the Second Circuit Court of Appeal on Friday, Feb. 2, 2018. Also pictured is his wife, Deanna McCallum, his daughter, Sarah Katherine McCallum, and an old family friend, Jeanette Buckley, who administered the oath. Judge McCallum recalled that Ms. Buckley got him his first job out of law school, “sight unseen,” in 1985, at a law office on North Washington St. in Farmerville. “I was right between Kilpatrick Funeral Home and First United Bank, so I got ‘em going and coming,” he joked. Judge McCallum sat on his first appellate panel Monday morning, February 26. (Photo by Hal Odom Jr.)

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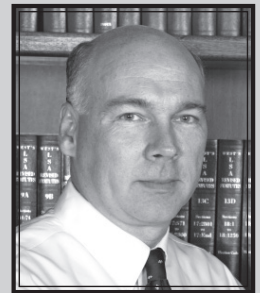
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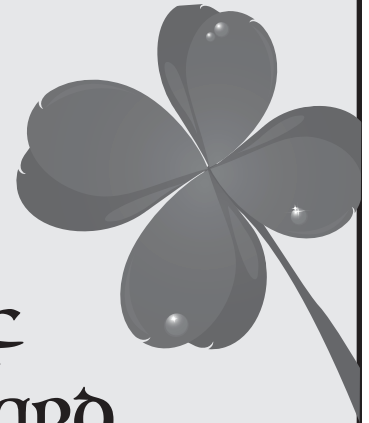


Elizabeth W. Middleton



Charles D. Elliott

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printer
is like a
four leaf
clover, hard
to find and
lucky to have.



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Pro Bono Project

by: Kelli Sanders, Coordinator, ksanders@shreveportbar.com

The heart and soul of the SBF Pro Bono Project is the collaborative effort between our staff and volunteer attorneys who open their doors and give their time and expertise allowing equal access to justice in civil matters across the Caddo and Bossier Parish area. Without this, the Pro Bono Project could not make the impact that we do on a daily basis. The SBF Pro Bono Project matters to this community, the volunteers matter to this community, the collaborative effort matters to everyone involved in making the Pro Bono Project better than it's ever been.

The SBF Pro Bono Project and the LRVDV program recently received some media attention. Lex Talamo, formerly of the Shreveport Times, wrote an article about the LRVDV program which garnered quite a bit of interest in our program. That article was published and shared on several different local community Facebook pages. And the SBF Pro Bono Project as a whole was featured in a 3-minute segment with Bob Griffin on KTBS that aired early on the Saturday morning after the Krewe of Justinian Bal, and the response has been considerable. We have received more calls in the past month, with someone qualifying their questions by stating I saw y'all on TV the other day. The Pro Bono Project has also been entered into the K94.5's Morning Madhouse #SUPPORTLOCAL Campaign.

Our online Give for Good site went live on March 1. You will soon receive in your email inbox a link to make your online donation. We have the link on our Facebook page as well. I kindly ask you as you read this article go to your Facebook page and "like" the Shreveport Bar Foundation Pro Bono Project Facebook page and look for the 2018 Give For Good Campaign information and share it, tweet it, hashtag it; for those not on a social media site, you can email the link. This is something you can do to help out your local Pro Bono Project, especially for lawyers not able to volunteer to take pro bono cases. Please consider taking just 30 seconds from now until May 1, sharing our 2018 Give for Good Campaign on social media.

I would like to thank the following volunteers, Mary Winchell, Luke Thaxton and Spencer Hays, for their extraordinary generosity in the last month by taking on a total of 18 pro bono cases. Without their effort and support 18 of the community's members would not have been able to proceed with their uncontested divorces, or gotten their hard-earned money paid to them in a wage dispute. So again Mary, Luke and Spencer THANK YOU!!

Our February Ask-A-Lawyer clinic volunteers were Ben Politz, Valerie DeLatte, Aaron Wilson, Pam Breedlove and Elizabeth Hancock. We are especially grateful to our Ask-A-Lawyer volunteers, many of whom are dedicated to volunteering monthly.

At the beginning of this article I started with the collaborative effort between the SBF Pro Bono staff and volunteer attorneys, so I will end on that same note. You the Volunteer Attorney make this

possible. Your altruism and generosity speak to hundreds of people when you spend just 2 hours a month at an Ask-A-Lawyer event, or sign up to take a pro bono case. I am currently trying to build the biggest and best volunteer pool this region has ever seen, but I cannot do it without you. So please, if you have volunteered before, were on a volunteer list in previous years and haven't received any cases recently, are interested in earning free CLE hours, want to volunteer to take a case but it is not in your usual field of practice, don't worry – I can help you with. We are planning to host a future CLE in the following practice areas: 103 Divorce, Landlord/Tenant, Chapter 7 Bankruptcy, Succession/Wills and Uncontested Adoptions. You will be able to attend the CLE free by accepting a pro bono case that day. I encourage you to set an aspirational goal of 50 hours of pro bono legal services per year. Not to mention I won't assail you at every bar event with a blue volunteer enrollment form. Let's collaborate and make our local Pro Bono Project something the rest of the state can be envious of. I want to thank the following attorneys who recently signed up to volunteer for the SBF Pro Bono Project:

Tom Arceneraux
Laura Butler
Justin Courtney
Valerie DeLatte
Jerry Edwards
Alan Golden
Spencer Hays
Julie Lafargue
Gernine Mailhes

Andrew Martin
Heidi Kemple Martin
John Nickelson
Gahagan Pugh
Andrew Randall
Luke Thaxton
Stacey Williams
Aaron Wilson
Mary Winchell

The Pro Bono Project is able to do all that we do because of the support we receive from our grantors, Louisiana Bar Foundation, Acadiana Legal Services Corporation, United Way of Northwest Louisiana, Carolyn W. and Charles T. Beird Family Foundation, First United Methodist Church, and the SBA Krewe of Justinian.



United Way of Northwest Louisiana





Women's Section

by Anna Brown Priestley, President
anna.priestley@regions.com

Hello March! While the spring weather is welcome, the last few weeks of winter didn't stop the Women's Section fun.

Though the January weather was frightful, the wine was sure delightful at our first "Wine Down Wednesday." New connections were made over delicious wine, cheese and charcuterie. Special thanks to the ladies who helped the Women's Section kick off the New Year.

In February, we let the "good times roll" with our first "Coffee with the Court." The event highlighted the female judiciary of the First Judicial District Court's Domestic and Criminal Divisions. Women's Section members did a meet-and-greet with the judges over coffee and pastries at the Shreveport Bar Association.

The camaraderie I saw at these events has me excited for the rest of the year! Members, mark your calendar for this month's event – "Wine Down Wednesday" on March 21 from 6 – 8 PM. Our hostess this month is Women's Section Treasurer, Katherine Gilmer. Be on the lookout for Katherine's address and more details via our MailChimp Newsletter.

If you are not receiving our MailChimp Newsletter, please subscribe by visiting www.shreveportbar.com/womens-section/ and fill out the sign-up form. Also, it has come to our attention that many email providers are marking the Women's Section Newsletter as "spam." If you have already subscribed but have not seen our newsletter, please check your "spam" folder and select the option to unmark the email as spam. Our newsletter is published the first Monday of every month at 9:00 a.m. Also, if you haven't done so already, please "like" and follow our Facebook page at www.facebook.com/sbawomenssection.

Please share the happenings of the Women's Section with fellow female attorneys you may know and, if they're not members of the Shreveport Bar Association, encourage them to join so they can participate in our fun!

Happy Spring, and I look forward to seeing our members at "Wine Down Wednesday" on March 21!

Welcome TO THE SBA

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Second Circuit Highlights

by Hal Odom Jr., rhodom@la2nd.org

Mustang love. Dr. Calvin Walker, a psychiatrist in Monroe, read an ad in *The News-Star* about Ford Motor Company's 50th-anniversary "limited edition" of its all-time favorite sports car, the Mustang. It must have been love at first sight. Production was a parsimonious 1,964 cars, available to Ford dealers only by lottery. Dr. Walker went to Hixson Ford of Monroe, in April 2014, and told the salesman that he would like to get one of these special cars. They were not yet available, so the salesman took down Dr. Walker's name and number. Meanwhile, Dr. Walker called some other dealerships, notably Rountree Ford in Shreveport. Rountree eventually told him it had won the lottery and was going to receive one of the 1,964 cars, so Dr. Walker paid Rountree a \$10,000 nonrefundable deposit, and agreed to pay \$15,000 over the sticker price whenever the special car arrived.

However, Ford was also planning to produce a 2014 "anniversary edition" of the classic 1964 Mustang, in much larger numbers, at a more moderate price, and without the elite cachet of the "limited edition." In October, the salesman from Hixson called Dr. Walker to say he had a vehicle he "might be interested in." Dr. Walker went to Hixson's lot, quickly inspected the car, and bought it for \$3,000 over sticker, \$51,000. He then called Rountree to get his \$10,000 deposit back.

Only then did he realize that what he had bought from Hixson was not the extremely rare "limited edition," but rather the more pedestrian "anniversary edition." The Rountree salesman told him that Hixson didn't win one of the lottery cars, and thus *could not* have sold a "limited edition." Fortunately, Dr. Walker was a person of some affluence, so he also bought the "limited edition" model from Rountree (the opinion does not disclose the total price). Still, he was galled when he tried to unload the "anniversary edition" and found that as a used car, it was worth \$11,000 less than a week earlier.

Dr. Walker filed suit against Hixson alleging a violation of the Louisiana Unfair Trade Practices Act ("LUTPA"), La. R.S. 51:1401, et seq. He contended that Hixson engaged in a deceptive trade practice, made misrepresentations, and sold an "anniversary edition" model that it knew or should have known was not the "limited edition" model that Dr. Walker wanted. After a bench trial, the district court rejected Dr. Walker's claim, and he appealed.

The Second Circuit affirmed, in an opinion by Chief Judge Brown, ***Walker v. Hixson Autoplex of Monroe LLC***, 51,758 (La. App. 2 Cir. 11/29/17). The court first addressed the evidentiary claim that the trial judge failed to read the Rountree salesman's deposition: this was indeed an error, but not one that "tainted" the factfinding process, so manifest error applied. The court then found no such error in the trial judge's conclusion that no "deceptive or coercive behavior" had occurred: apparently

both the Hixson salesman and Dr. Walker were unaware that Ford was rolling out concurrent special editions of the Mustang. In addition, Dr. Walker should have known that getting a car for only \$3,000 over sticker was inconsistent with a highly prized, 1,964-unit "limited edition." (He even testified that he looked at the anniversary edition's window sticker, but apparently didn't notice the difference.)

For a true collector, getting one of each special edition would be a source of great pride; I usually buy both the proof and uncirculated strikes of each new U.S. commemorative coin as it comes out. However, in the price range of new Mustangs, the magnitude of the outlay must be prohibitive, even for a successful physician. *Walker* shows that amateurs still must buy specialty items at their own risk.

Ants in their pants. Ms. Kennedy was a guest in Room 1723 of Sam's Town Casino, on the Shreveport riverfront. When she went to take a bath, however, she saw ants "in and around the shower," a sight that so startled her that she slipped and fell, injuring herself. She filed suit against Sam's Town, making the obligatory allegation that it had actual and/or constructive notice of the dangerous condition in Room 1723.

Sam's Town moved for summary judgment, contesting Ms. Kennedy's ability to prove actual or constructive notice. It attached an affidavit from its security and risk manager, Thomas, who said that housekeepers were trained to inspect for and report any pests they might see on their daily rounds. He also stated that Sam's Town had a pest control contract with Terminix, and three days before Ms. Kennedy's accident, he had called Terminix about bedbugs in Room 1823, exactly one floor above Ms. Kennedy's room; Terminix treated Room 1823 and, as part of its protocol, it also inspected all adjacent rooms, including Room 1723, finding no bugs anywhere else. Sam's Town also attached the Terminix report, which described its treatment of Room 1823 but was silent as to Room 1723, and an email from a Terminix employee saying that if she had seen ants in Room 1723, she would have reported this to Sam's Town.

Ms. Kennedy's opposition evidence included a later deposition from Thomas, saying that some 18 months before the accident, he'd received a report of ants in Room 1722 (across the hall from Ms. Kennedy's room), and that unlike with bedbugs, when Sam's Town got a report of ants in a room, it treated only that room, not the adjacent ones. Thomas also stated that the day *after* Ms. Kennedy's accident, he received complaints about ants in Rooms 1623 and 1823 (directly below and above).

The district court granted summary judgment, finding that the inspection in connection with bedbugs three days prior satisfied

Sam's Town's duty. Ms. Kennedy appealed; the Second Circuit affirmed, in an opinion by Judge Williams, **Kennedy v. Red River Entm't of Shreveport LLC**, 51,760 (La. App. 2 Cir. 12/13/17). The court recited the innkeeper's duty to maintain its premises in a reasonably safe and suitable condition, without being an insurer of the guest's safety, *Johnson v. Super 8 Lodge-Shreveport*, 47,081 (La. App. 2 Cir. 4/25/12), 92 So. 3d 519. It also cited the plaintiff's duty to prove that the owner knew or should have known of the defect, La. C.C. art. 2317.1. The combination of Sam's Town's policy to make housekeepers look out for pests every time they clean a room, and the fairly intensive inspections after the bedbug incident in Room 1823 three days earlier, satisfied Sam's Town's duty to provide a reasonably safe premises. The Second Circuit rejected Ms. Kennedy's contention that Sam's Town took only an "as needed" approach to pest control.

All this talk of bugs is a little creepy, but apparently, not every ant doth a defective premises make.

The single-vehicle clause. Randy owned a 2004 Kawasaki motorcycle that he insured through State Farm, with liability and UM coverage of 50/100. He and his wife, Brenda, both owned a 2004 Envoy and a 2005 Chevy truck; they insured these, under separate policies through State Farm, with liability and UM coverage of 50/100. In July 2012, Randy was driving the Kawasaki with Brenda as a passenger, when he lost control, ran off the road and sailed into a ditch. No other driver was at fault. Brenda was injured, running up hospital bills of \$42,000 in the initial days; she also sustained lost wages, lost employment benefits, pain and suffering, and other alleged damages.

State Farm promptly paid Brenda the \$50,000 policy limit on the liability policy covering the Kawasaki, but her losses exceeded this. She demanded UM benefits on all three of the separate policies; State Farm refused to pay. She filed suit. State Farm moved for summary judgment, which the district court granted. Brenda then appealed.

The Second Circuit affirmed, in an opinion by Judge Cox, **Mills v. Mills**, 51,509 (La. App. 2 Cir. 1/10/18). The State Farm policies contained an exclusion stating there is no coverage "for an insured who sustains bodily injury while occupying a motor vehicle owned by the insured if it is not your car or a newly acquired car." This mirrors a provision in La. R.S. 22:1295 (1)(e): "The uninsured motorist coverage does not apply to bodily injury * * * while occupying a motor vehicle owned by the insured if such motor vehicle is not described in the policy under which a claim is made, or is not a newly acquired" vehicle. In other words, the insured passenger can't collect UM when the insured driver wrecks his own car. The court rejected Brenda's claims that the Kawasaki's status as separate property altered the exclusion; that the policies were ambiguous; that recovering both liability and UM is not prohibited; and that she could "stack" the three UM policies.

Because of the content of Section 1295 (1)(e), I suspect that all UM policies issued in this state will feature an exclusion identical to State Farm's. The factual situation that Brenda faced is likely to be unusual, but the law and the policy exclusion apparently stand ready to help the UM carrier in the odd case.

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Captain Speaks

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



Lauren Sealy & David Pettiette were the 200th members of Justinian XXIV

When the experience becomes more significant and memorable in retrospect, the true measure of success has been met. The gatherings at members' homes, the New Orleans trip with French Quarter flooding, the well-attended and "one more song" parties, the record-setting 5-K race, are now memories to be enjoyed for a very large number of people. The jazz brunch was first held in Queen of Justinian I Janey Pettiette's home 25 years ago with guests arriving as off-duty firemen who had installed new carpet, greeted them at the front door. Judges Charles Scott, Gene Bryson, Hon. Robert Shemwell and Fred Miller served as bartenders to save money. This year over 150 enjoyed a great brunch but to raise more silent auction money we raffled off Duke Garrett Hill's car and a guest who did not know anyone really drew his name out of the Cuban fedora. I think Colonel Jim Hill holds the title anyway but really what are the odds!

You cannot ride a float in the rain, cold and light snow and not bond together. We used Judge Brady O'Callaghan's jambalaya packed in Ziploc bags to keep warm.

If you missed the Grand Bal you lost an opportunity of a lifetime – ask anyone who was there, most until midnight. Sharla McMichael, Berry Glassell and Anne Wilkes lived it for 12 months to deliver the best party I have ever attended. Night at the Tropicana Havana Cuba with music, dancing, fine dining and cabanas. Even a curious music video all raised money for the Shreveport Bar Foundation. Enjoy the pictures by going to the Krewe of Justinian Facebook page.

The trips to the schools, nursing homes and Holy Angels by Justinian Royalty and coordinated by Melanie Johnson started early and went late on Fat Tuesday.

Memories not soon to be forgotten. You should join and take part next year. If you do not meet great new friends and have a genuinely enjoyable experience, next year's Justinian Captain Lyn Lawrence will personally give you your money back. As for me, there's Havana. I intend to write a short novel and cultivate a taste for Cuban rum.

In keeping with our theme, "Havana" is the number one song on the national pop chart as we close out Justinian XXIV's *Welcome Back Cuba*. Our silent auction chairs Julia Brooks and Lynnette Pace are still collecting so if you want contribute there is still time.

Adios,
Larry Pettiette



KREWE OF
JUSTINIAN

Grand Bal





**Beginning at the
March Bar Membership
Luncheon, the Price for
Lunch will Increase to \$25
for SBA Members with
Advance Reservation**



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When you donate to
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on May 1 your donation
will support victims of
domestic violence with
obtaining Protective Orders
and will assist the indigent
with obtaining legal help
for civil matters.

Shreveport Bar Foundation



EST. 1986

Pro Bono Project

Give For Good

**SAVE THE
DATE**

SBA Members, Spouses, Significant Other,
Children and Grandchildren
are invited to

**Shreveport Bar Association's
Sunday Fun Day**

Sunday, May 6 from 4:00 to 7:00 p.m.
at East Ridge Country Club



SAVE THE DATE

The Shreveport Bar Foundation
Pro Bono Project will be hosting an
event at the downtown Rhino Coffee
location on Tuesday, May 1. The
SBF Pro Bono staff will be there to
take donations from 8:00 a.m. - 3:00
p.m. So, come by and support one of
your favorite nonprofit organizations
and get some amazing coffee!



**RHINO
COFFEE**



**2018 Louisiana Federal Courts
Admission Ceremony**

Obtain Admission to the
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and U.S. Fifth Circuit Court of Appeals

**Thursday, April 5, 2018
3:30 p.m.**

Reception following

The Tom Stagg United States Court House
Courtroom One
300 Fannin Street
Shreveport, Louisiana

Applications must be submitted by: Friday, March 16, 2018
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All members of the Bar are invited to attend.

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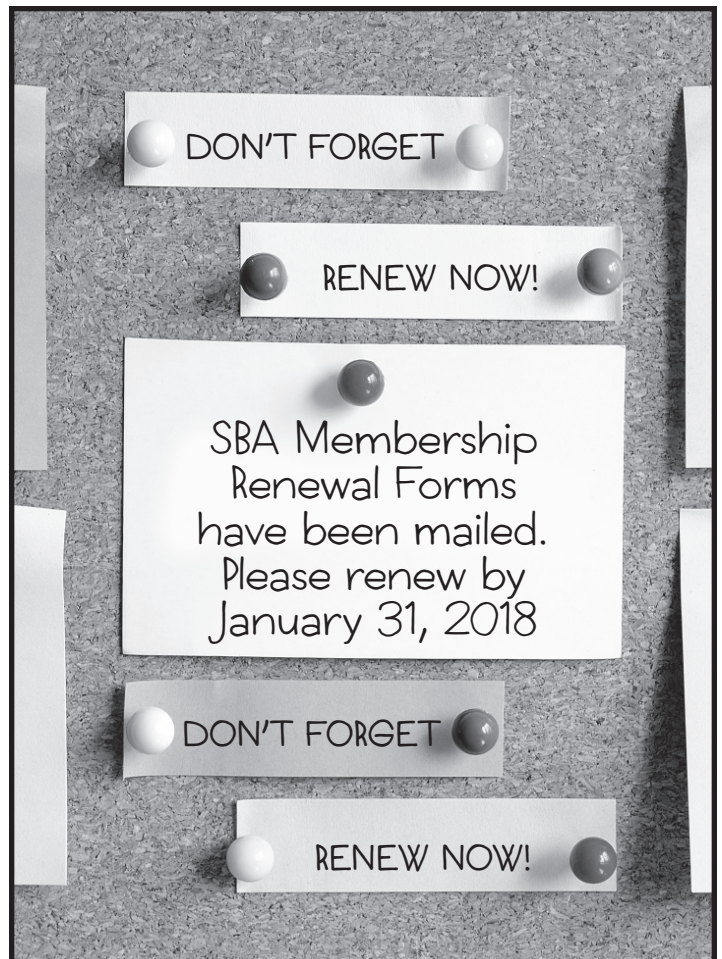
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**LEGAL SERVICES CORPORATION
Notice of Availability
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The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2019. The Request for Proposals (RFP), which includes instructions for preparing the grant proposal will be available from <http://www.grants.lsc.gov/grants-grantee-resources> during the week of April 9, 2018. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. On or around the week of March 12, 2018, LSC will publish the list of service areas for which grants are available and the service area descriptions at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant/lsc-service-areas>. Applicants must file a Notice of Intent to Compete (NIC) and the grant proposal through LSC's online application system in order to participate in the grants process. The online application system will be available at https://lscgrants.lsc.gov/EasyGrants_Web_LSC/Implementation/Modules/Login/LoginModuleContent.aspx?Config=LoginModuleConfig&Page=Login during the week of April 9, 2018.

Please visit <http://www.grants.lsc.gov/grants-grantee-resources> for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to LSCGrants@lsc.gov.





1st Annual North Louisiana Appellate Conference April 20, 2018

Second Circuit Court of Appeal
430 Fannin Street

Approved for 6 Hours
Louisiana Board of Legal Specialization
Credit in Appellate Practice
Including Ethics & Professionalism

- | | | | |
|-------------------|---|-------------------|---|
| 8:00 a.m. | Registration | 11:45 a.m. | Lunch with the Second Circuit Court of Appeal Judges |
| | | 90 Minutes | |
| 8:30 a.m. | Brief Writing from A Practitioner's Perspective | 1:00 p.m. | Professionalism: Top 10 Do's and Don'ts |
| 60 Minutes | <i>Kenneth P. Haines, Board Certified Appellate Specialist, Certified by the Louisiana Board of Legal Specialization - Weems, Schimpf, Haines, Landry, Shemwell & Moore</i> | 60 Minutes | <i>Judge Panel from the Second Circuit Court of Appeal</i> |
| 9:30 a.m. | Break | 2:00 p.m. | Break |
| 9:35 a.m. | Clerk's Office Rules and Procedure | 2:10 p.m. | Special Appeals |
| 60 Minutes | <i>Lillian Evans Richie, Clerk of Court and Karen McGee, Advanced Certified Paralegal, Chief Deputy Clerk - Second Circuit Court of Appeal</i> | 60 Minutes | <i>Catherine Crawford and Jessica Lustig - Second Circuit Court of Appeal</i> |
| 10:35 a.m. | Break | 3:10 p.m. | Break |
| 10:45 a.m. | Trends in Writs, Appeals and Procedure at the Second Circuit | 3:25 p.m. | Ethics |
| 60 Minutes | <i>Judge Frances Pitman, Molly Able, Staff Director and Jennifer Segner, Assistant Staff Director - Second Circuit Court of Appeal</i> | 60 Minutes | <i>Judge Brady O'Callaghan - First Judicial District Court</i> |

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Mark Your Calendar



MARCH 15

April Bar Review Deadline
For Ad Submission

MARCH 28

SBA Member Luncheon
12:00 Noon at the Petroleum Club (15th Floor)
Speaker: Emily Maw, Director of
Innocence Project New Orleans

APRIL 15

May Bar Review Deadline
For Ad Submission

APRIL 20

North Louisiana Appellate Conference CLE
at Second Circuit Court of Appeal

APRIL 23

Annual SBA Golf Tournament
12:30 p.m. at East Ridge Country Club

MAY 1

Give For Good Campaign
Rhino Coffee Downtown

MAY 2

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

MAY 4

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

MAY 6

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

MEDIATION AND ARBITRATION OF COMPLEX DISPUTES



Guy deLaup



Ross Foote



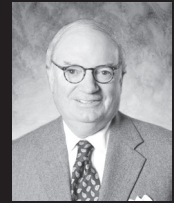
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How Write You Are

by Hal Odom Jr., rhodom@la2nd.org

Back-to-back redundancy. *Remand* means “to send (a case) back to the court from which it came for some further action,” or, in simple terms, *send back*. There is no need for the phrase *remand back*, since it would mean *send back back*.

However, this dubious phrasing still occasionally appears in formal writing. “[B]e cause Enterprise ‘failed to carry its burden of proving * * * that the amount in question exceeds the jurisdictional minimum for diversity jurisdiction’ the matter was *remanded back* to the 19th Judicial District Court.” *Willis v. EAN Holdings*, 2015-1538 (La. App. 1 Cir. 4/12/17), 218 So. 3d 177. “The matter was remanded back to the trial court on technical errors without getting to the merits of whether the sentence was excessive.” *State v. Shaikh*, 2015-687 (La. App. 3 Cir. 12/6/17), ___ So. 3d ___.

Let’s remand this redundancy to the distant history of careless writing.

What does *they* mean? Some time ago a reader asked about the use of *they* to refer to a single individual, in a sentence like, “It’s hard to tell a client that *they* have no case.” The examples are legion. “Somebody left *their* umbrella at my house last night.” “Now that we’ve moved, each kid has *their* own room.” Shouldn’t these more precisely be *he or she* and *his or her*?

My favorite authority, *The Chicago Manual of Style*, 16 ed. (Chicago: U. of Chicago Press, ©2010), says, “Many people substitute the plural *they* and *their* for the singular *he* or *she*. Although *they* and *their* have become common in informal usage, neither is considered acceptable in formal writing, so unless you are given guidelines to the contrary, do not use them in a singular sense.” *Harbrace College Handbook*, 13 ed., that nemesis of college freshmen, echoes, “Pronouns should agree in number and gender with the noun or phrase (antecedent) to which they refer” and suggests rewriting a sentence like “A student should hand his paper in promptly” by simply deleting the *his*, making it plural (“Students should hand their papers in promptly”), making it passive (“Papers are to be handed in promptly”), or making it imperative (“Hand your papers in promptly”). Bryan A. Garner, in his *Dictionary of Modern Legal Usage*, 2 ed. (Oxford: Oxford U. Press, ©1995), cautions that *he or she* should be used sparingly, and also suggests stating your concepts in the plural.

Outside academic and legal writing, however, *they* as singular is prevalent, natural, and is gaining some intelligent defenders. One leading British author and journalist recently wrote that using *they* in this manner is “completely justified,” is sanctioned by the new *Times* (London) style guide, and is “in accord with the grammar of standard English.” Oliver Kamm, “Using ‘they’ as a gender neutral singular pronoun is fine,” *The Times* (London), 2 Dec. 2017. In support, he cites such diverse authorities as Jane Austen, Lord Byron and President George W. Bush. A major online dictionary, *Chambers*, uses it in definitions: “**flatter** 1 to compliment someone excessively or insincerely, especially in order to win a favour with *them*.” A popular writer’s column in *The Economist* says this usage goes back to the 14th century “and has appeared in fine literary sources continually ever since.” Johnson: Unlocking pronouns, *The Economist*, 20 Jan. 2018.



However, in this sense, *they* can refer only to an indefinite antecedent. It’s acceptable to say, “*Somebody* left their umbrella at my house,” but not to say, “*Marcia* must have left their umbrella at my house.” That would confuse most people!

Given the popular acceptance of using *they* as a gender-neutral singular pronoun (though only with an indefinite antecedent), and the official sanction of some major English publications, it is probably only a matter of time before we admit it into good legal writing. For now, however, formal writing should probably stick with the occasional *he or she*, and with rephrasing into plural and passive forms.

Word order. Regular readers will recognize these as recurring items, but as long as they keep appearing in legal writing I will continue to notice them.

The pleading that seeks to dismiss a claim (usually the plaintiff’s) on limited documentary evidence, without a trial, is a *motion for summary judgment*. The pleading that seeks to dismiss one part of a claim, or one party, is a *motion for partial summary judgment*. The summary judgment is partial, not the motion, and passages like these are perplexing: “After the lawsuits were filed, Russell filed a *Partial Motion for Summary Judgment* in the suit for the intentional infliction of emotional distress[.]” *Perrone v. Rogers*, 2017-0509 (La. App. 1 Cir. 12/18/17), ___ So. 3d ___ . “Subpart B of La. C.C.P. art. 1915 provides that when a court renders a partial judgment, *partial motion for summary judgment*, or exception in part, it may designate the judgment as final when there is no just reason for delay.” *Wells Fargo Financial La. v. Galloway*, 2017-0413 (La. App. 4 Cir. 11/15/17), 231 So. 3d 793. (Please note, Art. 1915 B correctly refers to a “partial summary judgment”!) What is a partial motion? One that is missing a few pages?

The pleading that seeks to convert a verdict of guilty into a judgment of acquittal is called a *post verdict judgment of acquittal*. Occasionally, writers invert the concepts of *judgment* and *verdict*, as did Justice Per Curiam in *State v. Lemoine*, 2015-1120 (La. 5/3/17), 222 So. 3d 688: “We therefore vacate the First Circuit’s ruling and remand to the court of appeal for consideration of the two remaining grounds in the motion for *post-judgment verdict of acquittal*.” Sometimes, courts catch this: “Prior to sentencing, defense counsel filed motions for new trial and ‘post-judgment verdict of acquittal’ (sic).” *State v. Jackson*, 50,400 (La. App. 2 Cir. 2/24/16), 189 So. 3d 1150. If you keep in mind the difference between a *verdict* (finding of guilt by the jury or judge) and a *judgment* (final ruling of the court), you will likely avoid this reversal.

Additions welcome. A beautiful color photo in a recent (Feb. 11, 2018) issue of *The Times* bore this cutline: “Private cabanas at Krewe Justinian Grand Ball were sold out and made a new *edition* to the Mardi Gras grand bal scene.” In publishing, an *edition* is an *issue* or *installment* of a magazine, a (revised) version of a book, a TV or radio news program, or the release of a like or identical items produced as a set. Did you see the latest edition of “60 Minutes”? A much broader term, *addition* means *something added*, or the process of adding. Those cabanas looked like a most warming and welcome *addition* to the Grand Bal scene!

SHREVEPORT BAR ASSOCIATION GOLF SPONSORSHIP OPPORTUNITIES

The emphasis is on fundraising and golf fun at the 2018 Shreveport Bar Association Golf Tournament being held on Monday, April 23, 2018, at East Ridge Country Club. The money raised from this tournament helps fund many worthwhile programs and community services. We would not be able to put on this major event without the support of our sponsors, and we hope you will consider getting involved in this year's tournament. Listed below are the different levels of sponsorship.

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12:30 p.m.

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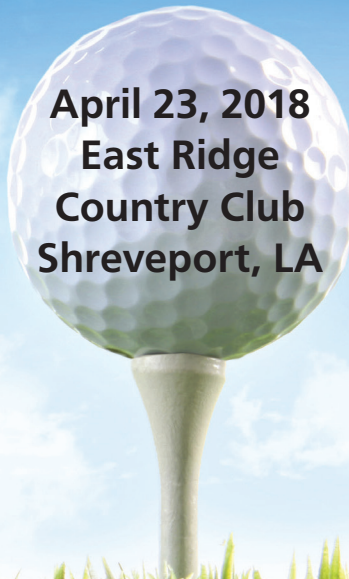
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DEADLINE FOR APRIL ISSUE: MARCH 15, 2018

SBA LUNCHEON MEETING – MARCH 28

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

\$25.00 for SBA members includes lunch with advance reservation

\$30.00 for Late Reservations (after 5:00 pm the Monday prior to the luncheon)



WRONGFUL CONVICTIONS IN LOUISIANA: WHEN? WHO? WHERE? WHY? HOW? AND...WHAT CAN LAWYERS DO ABOUT IT?

When: Wednesday, March 28 from 12:00 Noon to 1:00 p.m.

Where: Petroleum Club (15th floor)

Featuring: Emily Maw, Director of Innocence Project New Orleans (IPNO)

Emily Maw is the director of Innocence Project New Orleans (IPNO) where she has worked as a lawyer since 2003. IPNO is a nonprofit law office that represents innocent prisoners serving life sentences in Louisiana and south Mississippi, and assists them with their transition into the free world upon their release. IPNO also uses its cases to explain how wrongful convictions happen in the region and what we can all do to prevent them. IPNO works with legislators, judges, lawyers, law enforcement and policymakers to protect the innocent within the criminal justice system. Since its inception in 2001, IPNO has freed or exonerated 30 innocent men, who spent a total of over 655 years in Louisiana and Mississippi’s prisons. IPNO often spends many years fighting to prove a conviction was wrongful, often in cases that cannot be solved with DNA testing. In the 15 years that Emily has been with IPNO, she has directly represented or supervised the exoneration of 26 of the 30 men it has freed and has built the office into one of the largest free-standing (not associated with a law school) and successful innocence efforts in the world.

Emily came to New Orleans from her native Britain in 1998. She is a graduate of the University of Edinburgh and, later, Tulane Law School. Before joining IPNO, she worked on capital cases as a defense investigator for four years. She lives in New Orleans with her husband and their two daughters.

NOTE: The Cost of the Monthly Luncheons Has Increased to \$25 per person for Advance Reservation

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I plan to attend the March luncheon. Attorney: _____

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