

The background of the cover is a photograph of a sunset over the ocean. The sun is a bright orange circle on the horizon, with the sky transitioning from a deep orange near the horizon to a pale blue at the top. Two dark wooden posts are visible in the water in the foreground, one slightly to the left of the center and one to the right. The water has a textured, rippled surface.

# Around the Bar

THE MAGAZINE OF THE  
BATON ROUGE BAR ASSOCIATION

No. 306, April 2016

**Inside:**

**Attorney spotlight:**

**Robert Savage**

**Interview with Max C. Marx**

**Why student records  
are so hard to access**

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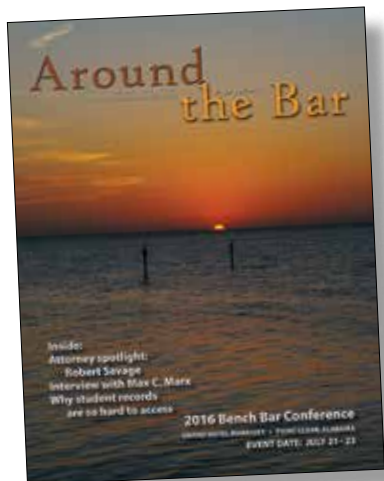
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## On the cover:

Featured on the cover of the April 2016 issue of *Around the Bar* magazine is a photo that was originally taken in 2007 of the sunset reflected on the Bay, a view from the Grand Hotel Marriott in Point Clear, Alabama. The photograph was taken during the Bench Bar Conference.

The 2016 BRBA Bench Bar Conference, which will take place once again at the Grand Hotel Marriott, promises equally spectacular views, continuing legal seminars and fun for the entire family. Register online for the conference today at [www.BRBA.org](http://www.BRBA.org).

Co-chairing the 2016 Bench Bar Conference are Carroll Devillier Jr. and Judge Guy Holdridge of the Louisiana First Circuit Court of Appeal.

Cover photography by Pamela Labbe.



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Carroll Devillier Jr.



Judge Guy Holdridge

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*The "Future Legal Eagles" law club is funded by a grant from the South Burbank Crime Prevention and Development District.*



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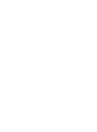
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Contact Pamela Labbe at [pamela@brba.org](mailto:pamela@brba.org)  
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AROUND THE BAR supports participation of the membership in its production. We encourage the submission of articles and letters to the editor. Articles should be less than 1,800 words, typed and single-spaced. A Word file should be emailed as an attachment to: [pamela@BRBA.org](mailto:pamela@BRBA.org).

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# letter from the president

BY JEANNE C. COMEAUX

## What would you do if you did not practice law?

Many of us can't even imagine a different career, even if we fantasize about one from time to time. Contrary to what people may think, lawyers are a multi-dimensional and talented group of people. Some of our most revered actors, writers, musicians, educators, entrepreneurs and leaders also happen to be attorneys.

Did you know that John Cleese, Geraldo Rivera, Ben Stein, Raul Julia, Gerald Butler, Jerry Springer and Ozzie Nelson are/were all attorneys before they became film and television stars? Musicians Andrea Bocelli and Julio Iglesias, and composer Cole Porter, are all law school graduates, and artists Henri Matisse and Wassily Kandinsky are also our "brothers-in-law."



Jeanne C. Comeaux

Howard Cosell graduated from NYU School of Law, and practiced in Manhattan, where he represented Willie Mays, among others, before ABC discovered his skill at sports reporting. Steve Young, former San Francisco 49ers quarterback, received his law degree from BYU and won the Super Bowl in the same year—1994. Paul Roberson graduated from Columbia Law School while playing in the NFL, all before he became an award-winning Broadway and film star, and a social activist.

Some career paths are not a big stretch from practicing law, such as politics, education and literature. For example, Alan Dershowitz has maintained a high-profile practice while also teaching at Harvard Law School. He is known most for his work as a criminal appellate lawyer and has represented numerous celebrity clients, including Patty Hurst, Jim Bakker, Mike Tyson, Claus Von Bulow and O.J. Simpson. Dershowitz is also a prolific author and political commentator. John Grisham was a practicing trial lawyer when he was inspired to write *A Time to Kill* after he witnessed a heart-wrenching rape case involving a young girl. Washington Irving, attorney by trade and author of *Rip Van Winkle* and *The Legend of Sleepy Hollow*, attended and reported on the 1807 trial of Aaron Burr for the murder of Alexander Hamilton. Many a talented writer has been inspired by the justice and, perhaps more importantly, the injustices dispensed in courts of law.

It probably would not surprise you to know that Mahatma Gandhi and Nelson Mandela were both attorneys. What you may not know is that, after receiving his law degree from University College London in 1891, Gandhi returned to the practice of law in India, but was too shy to speak aloud in court. This thoughtful leader obviously found a better way to put his training and unique sensibilities to use. On a similar note, in 1952, Nelson Mandela and his law partner, Oliver Tambo, formed the very first law partnership in South Africa with black attorneys. Their office, located in Johannesburg, was besieged with clients from day one because they were the only firm composed of black lawyers — the firm of "first choice and last resort" — in South Africa.

Are you inspired yet? There is no need to look any further than our own Bar Association to find amazing talent. For example, Michael Rubin, Glenn Marcel, Bill Grimley and Van Mayhall Jr. are all published authors. Randy Roussel is an amazing photographer, and has published a beautiful book, *Baton Rouge Views Along the Meander*, featuring his insightful photos of the unique places and things that make us Baton Rouge. And if you frequent the many art galleries in the city, you have no doubt seen beautiful paintings and watercolors by artists Judge Shelly Dick and Len Kilgore.

Renee Chatelain was (and still is) an accomplished dancer and an active member of the BRBA before becoming the president and CEO of the Arts Council of Greater Baton

Rouge. The Bar Association is also well-represented on the music scene. These attorneys are seasoned musicians, who manage to practice law between their many public appearances: Glen Petersen, Sonny Chastain, Alan Berteau, Steve Judice, Jim Standley and Mike Palmintier, just to name a few. And last, but certainly not least, Doug Moreau was a professional football player for the Miami Dolphins before becoming an attorney, the District Attorney for East Baton Rouge Parish, a 19th Judicial District Court judge and a sports analyst for LSU football broadcasts.

Suddenly, I am feeling a little lazy and sadly void of talent. Maybe I'll take piano lessons, or enroll in an art class, or two. Who am I kidding? I think I will stick to practicing law, and just continue to enjoy the amazing talent all "around the bar." 🎷

## GAIL'S GRAMMAR

When describing things that happen daily or are commonplace, do we use *every day* or *everyday*? If we are describing a thing, we use the compound word; if we are describing an activity, we use the phrase. An easy way to remember which form to use is if you can substitute *each day*, you need the phrase *every day*. If *each day* doesn't fit, it should be one word.

### EXAMPLES:

He goes to work *every day*.

The judge's *everyday* robe was black; she wore a kente cloth robe for special occasions.

*Send suggestions for future Gail's Grammar columns to Gail Stephenson at [GStephenson@sulc.edu](mailto:GStephenson@sulc.edu), or call Gail at 225.771-4900 x 216.*

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# tales from the bar side

BY VINCENT P. FORNIAS

Some of you may know that I have basically been a full-time mediator for a while now. Don't get me wrong. I love my job and am quite lucky to do it. But 3,400 or so mediations into my second career it's time to 'fess up. Yes, you will often find me guffawing at your lame attempts at humor and oohing and ahing at your inane legal arguments as I figure out how best to help get you and your client out of the corner you've painted for yourself. And once — just once — if there were transparency to my brain, you would see what my REAL reaction is to stuff I hear time and time again. For example:

- “Boy, you're really going to earn your money today (or its close cousin, “I sure hope you brought your ‘A’ game today”)” — I suppose the underlying assumption is that on most days I just mail it in and should feel guilty for even charging for my services?

- (In the opening session, addressing plaintiff in ever so avuncular fashion): “At the end of the day, we are going to make you a really good faith offer.” — I halfway

## True confessions

expect the plaintiff to turn to his lawyer and announce he has things to do, but to call him to return when it's time to get that promised good faith offer. Exactly what does that make all offers before your last one?

- “This thing needs to settle in a couple of hours.” — Oh, really? Tell you what. You start with a reasonable demand based on the facts and law and we'll see what I can do.

- (In a rear-end collision case): “I think the Sudden Emergency defense puts the plaintiff dead in the water.” — Is this an entry into the CLEAN version of the old joke about The World's Three Greatest Lies? If you win on that defense more than once in a career I will personally sponsor you for permanent status in the defense lawyer hall of fame.

- “Let me tell you the truth.” — You mean, as opposed to everything else you've told me so far?



The advertisement graphic is divided into four quadrants. The top-left quadrant shows a path through a forest of large trees. The top-right quadrant is green and contains the text "Grow with purpose". The bottom-left quadrant is dark teal and contains the text "compete with strength". The bottom-right quadrant is purple and contains the text "THRIVE with vision". In the center, overlapping the bottom two quadrants, is a black and white photograph of three people (two women and one man) in business attire.

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- “This case would be worthless in Wisconsin (or Dallas), where I come from.” Guess what, Bunky? Unless your lawyer has a REAL creative venue change exception, we’re not in Kansas — or Wisconsin or Dallas — anymore.

- (In a case where no surgery has been scheduled, much less performed): “We gotta get surgical money today or else the deal is off.” — Sooooo, I’m supposed to go in the other room and motivate that paranoid cynical bureaucrat whose settlements are monitored like someone wearing a turban at an airport that he may as well take the Greyhound bus back home, because he’s about to lose his job?

- “Why can’t they just be reasonable?”— Gee, guess what I’m hearing in the other room?

- “Come on, Vince. Go work your magic.” — Before any magician can do his trick, he needs an actual living, breathing rabbit to pull out of his top hat — like maybe a credible argument with some reasonable support.

- “We really need to get interest on this settlement.” — I’m sorry. I guess I’m just not up to date on the law. Did the Legislature just pass an act granting interest on settlements and making it retroactive to your case?

- “Are you telling the other room how they’re going to get poured out by the jury?” — Not really. All we’re doing in the other room is hobnobbing about LSU sports and exchanging war stories. Tell you what. If you want me to tell them what you’ve just said, then the good news is you can call for an earlier flight, because your mediation will be over.

- “We need to cancel tomorrow’s mediation.” — Sure, I understand. Lord knows you couldn’t know before today that that you didn’t have enough authority (or that your client needed more treatment). So what if I reserved the day for you three months ago? I can always go work on my golf game.

There. I feel better. Thank you for listening, dear reader(s). ■



## TEEN COURT OF GREATER BATON ROUGE

needs attorneys to volunteer to assist with the program.

To find out more, contact Donna Buuck at 225-214-5556 or [donna@brba.org](mailto:donna@brba.org) or R. Lynn Smith Haynes at 225-214-5564 or [lynn@brba.org](mailto:lynn@brba.org).



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## Law Day ties into Supreme Court case anniversary

The BRBF Law Day will be held Monday, May 2, at the Baton Rouge River Center Theatre. Robert Savage will chair the 2016 BRBF Law Day Committee. In celebration of the 50th anniversary of the landmark Supreme Court case *Miranda v. Arizona*, this year's theme is "Miranda: More than Words." Essay, poster and video contests are available for middle and high school students.

The BRBF's Law Day activities include a formal naturalization ceremony of new American citizens, followed by interactive sessions with a panel of judges, lawyers and law enforcement officers at the various Baton Rouge courts. The students will also participate in a mock vote. Approximately 1,000 students and their teachers are expected to attend the event.

Donna Buuck is the staff liaison of the Law Day Committee. To volunteer, contact Donna at 225-214-5556 or donna@brba.org.

## June Bar Luncheon to feature Sara "D-D" Breaux as the BRBA guest speaker June 14

LSU Gymnastics head coach Sara "D-D" Breaux will speak during the June Bar Luncheon at Ruffino's Catering at De La Ronde Hall Tuesday, June 14, 2016.

Breaux has 38 years of coaching experience and was named 2015 SEC Coach of the Year after guiding LSU to a 13-1 overall regular season record. She was an assistant coach for Southeastern University's Lady Lions for three seasons before transferring to LSU in 1976 to earn her bachelor's and master's degrees.

The BRBA June Bar Luncheon is sponsored each year by the Young Lawyers Section of the BRBA. Partners at law firms are encouraged to invite and to introduce their summer law clerks during the luncheon.

To register, contact Kelsie Bourgeois at 225-344-4803 or kelsie@brba.org.



A mock trial team from Zachary High School placed first in the Region III High School Mock Trial Competition, which was held Feb. 26-27, 2016. The teacher coach (far left) is Chris Staggs and the lawyer coach (far right) is Craig Kaster.



Magistrate Judge Erin Wilder-Doomes and City Court Judge Tarvald Smith served as the luncheon speakers during the February Bar Luncheon, held Feb. 17, 2016, at Ruffino's Catering at De La Ronde Hall. (Above) Wilder-Doomes and Smith are photographed with BRBA President Jeanne C. Comeaux.

## LSU Alumni Association inducts individuals with BRBA ties into Hall of Distinction

The LSU Alumni Association inducted five alumni into its Hall of Distinction at the Lod Cook Alumni Center March 4, 2016. Two of these alumni with ties to the BRBA are Bernette Joshua Johnson of New Orleans, Louisiana Supreme Court chief justice; and Frank Simoneaux of Baton Rouge, an attorney and former state cabinet secretary and speaker pro tempore.

The LSU Alumni Association annually recognizes alumni who have distinguished themselves and the university in their careers as well as their personal and civic accomplishments.

## BRBA Law Expo celebrates 30th anniversary during September Bar Luncheon at L'Auberge Casino

The BRBA will celebrate the 30th anniversary of the Law Expo event Wednesday, Sept. 8, 2016, at L'Auberge. The Fall Expo & Conference will be held in conjunction with the September Bar Luncheon. Luncheon speaker H. Alston Johnson III will provide his annual legislative update. Sponsorships are available. Contact Pamela Labbe at pamelal@brba.org or 225-214-5560.



A mock trial team from West Feliciana High School placed second in the Region III High School Mock Trial Competition, which is organized by the Baton Rouge Bar Foundation. Both first and second-place teams from each region competition are invited to the state-wide competition.

## Region III Mock Trial Competition held Feb. 26-27

The BRBF Mock Trial Committee, chaired by Tavares Walker, organized the 2016 Region III Mock Trial Competition, held Feb. 26-27 at the 19th Judicial District Court. Lynn S. Haynes is the staff liaison of the committee.

The regional competition winners were Zachary High School (first place) and West Feliciana High School (second place). Both teams represented Region III March 12 at the state competition. Awards for Best Attorney and Best Witness went to students Evan Doomes and Julia Kirschner, respectively, of Baton Rouge Magnet High School.

A total of 22 teams from the following high schools participated: Baton Rouge Magnet High, Belaire High, Catholic High, Central High, Donaldsonville High, Episcopal High, Franklinton High, Loranger High, Mentorship Academy, Scotlandville Magnet High, Southern University Laboratory, West Feliciana High and Zachary High.

Thanks to all who volunteered as courtroom judges, competition judges, timekeepers and mock trial coaches: Gail Adkins Grover, Ashley Beck, Alan Berteau, Dani

Borel, Chet Boudreaux, Harley Brown, Ryan Brown, Chris Cascio, Don Cazayoux, Scotty Chabert Jr., Christie Chapman, Jeanne Comeaux, Rebecca Cunard, Judge Shelly D. Dick, Kathryn Dufrene, Shannon Eastman-Stuart,



PHOTO BY MONICA VELA-VICK

Photographed (above) during the final round of the Region III High School Mock Trial Competition with the West Feliciana High School team, Zachary High School — the first-place Region III winner — also placed first at the state competition March 12, 2016, and will advance to the National Championship May 12-14, 2016, in Boise, Idaho.

Joycelyn Y. Elmore, John Fenner, Amanda Gros, Ken Hawkins, Maryanna Haynes, George Holmes, Courtney Joiner, Sherry King, Harry Landry III, Dana Larpenteur, Commissioner Quintillis Lawrence, Ross LeBlanc, Blake Leger, Randy Ligh, Maimuna Magee, Ne'Shira Millender,

Barry Miller, Carlton Miller, Jennifer Moroux, Anne Marie Muller, Otha Curtis Nelson Jr., Scott Nettles, Lori Palmintier, Cody Passman, David Peterson, Johanna Posada, Jennifer Prescott, Lindsay Rabalais, Courtney Richardson, Mary Roper, Henri Saunder, Michael Schllage, Wendy Shea, Judge Tarvald Smith, Elisa Stephens, Brandon Stockstill, Vernon Thomas, Hanna Thomas, Lykisha Vaughan, Judge Jason Verdigets, April Williams and Rebecca Wisbar. Law student volunteers were Carolina De La Pena, Lynzee Cannon, Jordan Franklin, Kalyn Garner, Andrea Hawkins, Jackie Murphey, Alexis Quiller, Barb Pilat and Brittany Tassin. ■



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## West's Jury Verdicts – Baton Rouge

Venue/Case Type	Major Injury	Trial Type	Result
<u>East Baton Rouge Parish</u>			
Construction Contracts	Monetary Damages	Bench	\$5,500
Medical Malpractice	Death	Jury	Defense
Vehicle Negligence	Spinal strains, disc bulge	Bench	\$24,753

## West's Case of the Month

### **Homeowner Recovers \$5.5K in Suit Involving Claims for Defective Workmanship Related to Residential Repairs**

#### ***Bonfanti v. Broussard***

**TYPE OF CASE:** Construction Defects • Defective Workmanship

**SPECIFIC LIABILITY:** Homeowner sought damages from an individual who had been hired to repair concrete around the homeowner's residence's swimming pool and driveway, but failed to properly perform the repairs

**GENERAL INJURY:** Monetary damages

**COURT:** District Court of Louisiana, Nineteenth Judicial District, Parish of East Baton Rouge.

**DOCKET/FILE NUMBER:** 583744

**RESULT:** Plaintiff, \$5,500

**RESULT DATE:** April 02, 2015

**JUDGE:** Timothy Kelley

**ATTORNEYS:**

*Plaintiff:* A. Gregory Rome, Lockwood & Rome L.L.C., Baton Rouge, LA

*Defendant:* Kevin P. Landreneau, Baton Rouge, LA

**RESULT TYPE:** Bench

**BREAKDOWN OF AWARD:**

\$5,000.00 to plaintiff for damages

\$500.00 to plaintiff for payment of expert witness fees

**RELATED COURT DOCUMENTS:**

Plaintiff's petition: 2009 WL 10417756

Defendant's pretrial brief: 2013 WL 10724626

Judgment: 2015 WL 3525037

**SUMMARY OF FACTS:**

Lewis Bonfanti reportedly contacted Stonewall Broussard to cut trees down at his home located in the Riverbend Subdivision in Baton Rouge, La. According to Bonfanti, he also requested that Broussard repair concrete related problems to his residential swimming pool and driveway. Bonfanti said that Broussard began to repair his home's swimming pool and driveway; however, Broussard allegedly failed to put an expansion joint in the concrete around the swimming pool. As a result, Bonfanti said that the concrete buckled and caused damage to bricks surrounding the swimming pool. Bonfanti also said that Broussard failed to properly repair the driveway, which resulted in the driveway sustaining numerous cracks. Bonfanti said that Broussard's alleged poor workmanship caused damage to his swimming pool and driveway, and that he had demanded that Broussard remedy the defective workmanship. However, Broussard allegedly refused to do so.

Bonfanti filed a lawsuit against Broussard in the Nineteenth Judicial District Court for the Parish of East Baton Rouge. In his petition, the plaintiff asserted that the defendant was liable for his alleged poor workmanship, including but not limited to the \$4,800 that Bonfanti had reportedly paid to Broussard for the construction work. The plaintiff also requested damages for the cost to repair the swimming pool and driveway, together with costs of the proceedings.

The defendant admitted entering in an agreement with Bonfanti to remove and repair his residence's concrete sidewalk and remove and repair a limited amount of concrete on one side of his swimming pool; however, Broussard generally denied the plaintiff's allegations and denied liability in the matter. The defendant asserted that the damage to bricks around the plaintiff's swimming pool existed prior to the time he performed concrete work on the pool; moreover, Broussard said that Bonfanti refused to allow him to install an expansion joint between the pool's bricks and concrete. The defendant also asserted that the plaintiff lacked any evidence that his construction work was defective or that his work had caused the damage of which Bonfanti complained.

The matter proceeded to a bench trial in March 2015 with Judge Timothy Kelley presiding. In a judgment signed April 2, 2015, Judge Kelley ordered that Broussard would pay Bonfanti special damages in the amount of \$5,000, with interest from the date of judicial demand. Judge Kelley also ordered that the defendant would pay expert witness fees in the amount of \$500, together with all costs of the proceedings.

**CASE CITE:** 2015 WL 3542983

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# Access denied! Student-record access is more challenging now than ever

BY DIANNE M. IRVINE

A student asks you for a recommendation. You would like to review the student's overall academic record to see if there is other information to include in your letter, such as class rank or GPA. The registrar refuses to let you see the student's transcript.

You want to investigate a client's alibi that he was in school at the time a crime was committed 100 miles away. You ask for your client's class attendance records. You also ask for a list of other students in the class. Both requests are refused.

To serve a student who has been difficult to locate, you ask for the student's class schedule. Again, the registrar refuses your request.

As part of a discovery request, you ask for a list of students in a particular class. You are told that you need a court order or subpoena to obtain it.

You are defending a school in an action brought by the student's parents against the school concerning a grade dispute. You ask to see all of the student's records, including the student's medical records. The school informs you that it cannot provide the student's medical records because they are not relevant to the lawsuit.

You want to see your 25-year-old son's transcript to confirm that he is finally graduating from college. The registrar tells you that you first need to get your son's written permission, unless you can show that he is a dependent for federal tax purposes.



What's going on? Why can't you get this information? All of the above situations are governed by what was once a rather obscure law passed in the 1970s in the aftermath of the Watergate scandal and the country's heightened concern about privacy. In 1974, Congress passed the Family Educational Rights and Privacy Act (FERPA),<sup>1</sup> or Buckley Amendment, a federal law that protects the privacy of student educational records. Since its passage, American schools have been subject to significant regulation with regard to the collection, storing and use of personal information concerning their students.

FERPA applies to all schools (public or private, kindergarten through professional or postgraduate) that receive any funds from any U.S. Department of Education applicable programs, and covers virtually all records related to an individual's status as a student.<sup>2</sup> Records are broadly defined under FERPA to include any information maintained in any form, such as handwritings, video or audio tapes, microfilm or microfiche, computer media, film and print. "Education records" are defined quite broadly to include any records containing any information directly related to a student that is maintained by an educational agency or institution, or by a party acting for the agency or institution.<sup>3</sup> Thus, in addition to academic records such as grades, transcripts or exams, FERPA also covers virtually all non-academic records maintained by schools, such as those relating to financial aid, bursar accounts,



class schedules, disability accommodation, gender, race, nationality, residency status, campus ID or disciplinary actions. The Family Policy Compliance Office, which is the office within the Department of Education charged with oversight of FERPA, considers any record to be "directly related" to a student if it contains "personally identifiable information" about the student.

There are limited exceptions to the definition of "records" under FERPA.<sup>4</sup> These include records made, maintained or used solely for medical treatment purposes, and records created by a school's law enforcement unit and used exclusively for law enforcement purposes. Alumni records also are not included in this definition (*i.e.*, those created after an individual is no longer a student and are not directly related to the individual's attendance as a student, such as alumni achievement or fundraising records generated by an institution's alumni office after the student has graduated or left the school). Similarly, employment records are excluded if they are not related in any way to an individual's status as a student.

Another notable exception exists for records kept in the sole possession of the maker as a memory aid and not shared with anyone except a substitute for the maker (*e.g.*, a professor's personal notes on class participation). More recently, an exception was identified for grades on peer-graded papers before they are collected and recorded by a teacher.

FERPA gives parents and "eligible" students certain

rights with respect to students' educational records.<sup>5</sup> These rights include: (1) the right to inspect and review their educational records; (2) the right to request that a school correct records that they believe to be inaccurate or misleading; (3) the right to confidentiality of their educational records; (4) the right to request a copy of their educational records; (5) the right to receive notice of their rights under FERPA; and (6) the right to file a complaint with the U.S. Department of Education, if they believe their rights under FERPA have been violated. These rights continue after the student leaves the school and expire only upon the destruction of the records or death of the student.

Information from a student's education records may be disclosed if it is "directory information,"<sup>6</sup> the parents or the eligible student has consented to the disclosure,<sup>7</sup> or it falls within one of the exceptions to the law's prior consent requirement.

Consent to disclosure must be in writing, signed and dated by the student's parents or by the eligible student. It must also specify the records that may be disclosed, the purpose for the disclosure and the persons or classes of persons to whom they may be disclosed.<sup>8</sup> Valid consent gives the institution the discretion to disclose student records, but does not require the institution to do so.<sup>9</sup> Thus, for example, parents of a college student never have the right under FERPA to see their son's or daughter's college educational records, even if they fall within one of the exceptions to prior consent if the institution elects not to release such records. Similarly, an institution may choose not to release directory information under any circumstances. A subpoena, a court order or another law may require disclosure in certain circumstances, but FERPA does not.

In general, a school may disclose "education records" without such consent only if it first redacts all "personally identifiable information" from the records or one of the specifically enumerated exceptions applies.<sup>10</sup> Exceptions to FERPA's prior written consent requirement include disclosure to:

- a. Other school officials with legitimate educational interests;
- b. Another school to which a student is transferring;
- c. Specified officials for audit or evaluation purposes;
- d. Appropriate parties in connection with financial aid to a student;
- e. Organizations conducting certain studies for or on behalf of the institution;
- f. Accrediting organizations;
- g. A party who has obtained a judicial order or lawfully issued subpoena for the record(s);
- h. State and local authorities within a juvenile justice system pursuant to a specific state law;
- i. Parents of a "dependent" student as defined by the Internal Revenue Code;

- j. Appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals;
- k. Parents of a student who is over the age of 18 and/or in college, but only if the information concerns the student's violation of the use or possession of alcohol or a controlled substance and the student is under the age of 21 at the time of disclosure;
- l. The FBI pursuant to a court order issued upon application of the Attorney General for investigating or prosecuting an act of domestic or international terrorism as defined in the Patriot Act;
- m. The victim of a violent crime, but only the results of a disciplinary hearing involving a student charged with the violent crime;
- n. The victim and the accused in a disciplinary proceeding involving a sex offense, but only the results of the proceeding;
- o. Child welfare agencies and tribal organizations pursuant to the Uninterrupted Scholars Act of 2013; or
- p. The student's parents or to the eligible student him/herself.

Each of these prior consent exceptions to disclosure is independent of the others.

FERPA also requires schools to keep records of requests for access and disclosure of student educational records.

The Family Policy Compliance Office of the U.S. Department of Education (FPCO) is responsible for enforcing FERPA. There is no private right of action under FERPA. Parents or students who suspect a violation of FERPA can file individual written complaints. Noncompliance can result in the loss of federal funds.

A number of types of compulsory legal requests (such as subpoenas, court orders, search warrants or national security letters) may merit special attention under FERPA's disclosure requirements. For example, FERPA generally requires an educational institution to make a reasonable effort to notify parents or eligible students of subpoenas or judicial orders before complying with them to allow the parents or student to seek to quash the subpoena or order, or to seek protective action, unless one of the enumerated exceptions to prior consent applies. However, in the case of a federal grand jury or other subpoena issued for law enforcement purposes, the institution may not be allowed to give notice to the student or his or her parents if the court or agency that issued the subpoena has ordered that the existence or contents of the subpoena or the information furnished in response to it cannot be disclosed.

There are also other laws that regulate the release of certain student records, including, the following federal statutes:

1. **Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule** — covers student medical

records not covered by FERPA.

2. **Campus Sex Crimes Prevention Act** — clarifies that FERPA does not prohibit release of data on registered sex offenders as mandated by this law, which requires sex offenders who must register under state law to provide notice of enrollment or employment at any institution of higher education in the state where the offender resides.

3. **Patriot Act** — provides for the disclosure of educational records pursuant to a court order issued upon application of the Attorney General for official purposes in relation to an investigation or prosecution of an act of domestic or international terrorism as defined in the Patriot Act.

4. **Uninterrupted Scholars Act (USA)** — permits (a) disclosure of student educational records in foster care cases to state and local social service or child-welfare agencies, and (b) disclosure of educational records pursuant to judicial order without requiring notice to the parent in specified types of judicial proceedings in which a parent is involved, such as child abuse or neglect, and dependency matters.

4. **Gramm-Leach-Bliley Act** — requires a minimum level of security for “confidential customer information,” which may apply to schools based on certain activities, such as providing financial aid to students.

State privacy and other relevant records laws may impose additional restrictions on disclosure. Why does all of this matter? Basically, because schools are custodians of a lot of data. To put this in perspective, consider the records universities routinely keep, including:

- Academic records (applications, reference letters, transcripts, grades, exams and disciplinary records)
- Extensive financial records about students and their parents
- Medical records
- All sorts of electronic records
- Location of individuals on campus at particular times (collected through use of parking passes, magnetic key cards or passwords)

- Books checked out of libraries, accessed on electronic servers or bought at campus bookstores
- Data on vehicles that access or park on campus
- Miscellaneous data collected from external sources for background checks, admission, debt collection or litigation.

The key to gaining access to this data, or to protecting it from disclosure, is likely to be found in FERPA or one of the other data privacy laws. It is also inevitable that new issues relating to data creation, collection, storage and usage will only increase the complexity of legal constraints on gaining or preventing access to records.■

<sup>1</sup>20 U.S.C. § 1232g) and the regulations found at 34 C.F.R. Part 99.

<sup>2</sup>A “student” is “any individual who is or has been in attendance at an educational ... institution and on whom the institution maintains education records.” Attendance can be “in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information or telecommunications technologies for students who are not physically present in the classroom.” 34 C.F.R. 99.3. The definition of a student does not include an applicant unless the applicant later enrolls in the school. At that point, FERPA reaches back to cover the student’s application.

<sup>3</sup>34 C.F.R. 99.3.

<sup>4</sup>See the exclusions listed in 34 C.F.R. 99.3.

<sup>5</sup>A student becomes “eligible” under FERPA when he or she reaches the age of 18 and/or attends a postsecondary educational institution.

<sup>6</sup>Information that is designated as “directory information” by the institution may be released to anyone without the student’s consent. It includes name, address (local, permanent and email), telephone number (local and permanent), dates of attendance at the institution, major, degrees and awards received, participation in officially recognized activities and sports, photograph, and date and place of birth. An institution that elects to make directory information available must first give parents or eligible students an opportunity to block the release of their own directory information, generally by written request to the registrar’s office.

<sup>7</sup>To comply with FERPA’s requirements, the consent must be written, signed and dated; specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or class of parties to whom disclosure may be made.

<sup>8</sup>See 34 C.F.R. 99.30 for consent requirements.

<sup>9</sup>34 C.F.R. 99.31(b).

<sup>10</sup>See 34 C.F.R. 99.31(a) for exceptions to prior consent requirement.

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## Interview with Law Day Chair Robert Savage

Although his career path was not always clear-cut, Robert Savage has consistently been involved in pursuits that led him to law school and his current position as an assistant district attorney for the EBR District Attorney's office.

Savage said his post-collegiate experiences as a teacher in the Peace Corps and work for a non-profit organization were turning points for him.

Savage initially studied music at Centenary College in Shreveport, but was recruited to the communications program during its inception. He received his degree in the subject in 2004.

Acting on a desire to travel after graduation, Savage joined the Peace Corps and served as a high school teacher in Azerbaijan. "I used to think that I joined the Peace Corps to buy some time to figure out what I wanted to do for the rest of my life. In retrospect, I did it because I was always happiest doing work that helped other people," Savage said.

His work there involved teaching English as a second language (ESL) and strategizing with the teachers to help them implement interactive lessons. One of his lasting accomplishments was equipping his school with a computer lab, which led to ancillary benefits for the school. His work prompted the regional government to provide reliable electricity for the school and prompted the school to provide a secure facility for its students.

Returning from his stint overseas, he worked for a non-profit organization in Lafayette and focused on a project to reduce crime in the Hispanic community. Through his experience, Savage realized that he needed to have more knowledge of the legal system as a whole if he wanted to pursue this type of work. He received his J.D. from the LSU Paul M. Hebert Law Center in 2010.

During his final year of law school, Savage became a student member of the BRBA. He increased his involvement in the Association after being sworn in, joining the BRBF Pro Bono Committee. He also participated in Young Lawyers Section events, Wills for Heroes, Holiday Star Project and Belly Up with the Bar.



Robert Savage

In addition to his involvement in these programs, Savage serves as the 2016 chair for the BRBF Law Day event. This year's event is May 2 and the theme is "Miranda: More than Words."

Savage became involved with the Law Day Committee after making a New Year's resolution a few years ago to be more active in the BRBA. Being part of the committee made him realize the importance of mentoring young students who might have an interest in the legal field.

"Attorneys went out of their way to teach me what they did when I was a student. It occurred to me that it is my turn now to do the same thing," Savage said. "It is a great program that teaches our kids how the legal system works. I strongly encourage other attorneys to join us and volunteer."

Law Day is an annual event that allows middle and high school students to gain an inside look at the inner workings of the legal field. During the event, students attend a formal naturalization ceremony, engage in interactive sessions with a panel of judges, lawyers and law enforcement officers and participate in a mock vote.

"Our goal is to promote the role of the law in our communities and to cultivate a better understanding of the legal profession," Savage said.

Outside of work, Savage enjoys spending time with his family, playing guitar, traveling and reading, as his desire to learn new things has not diminished over the years.

He credits his family for helping him prioritize. "I get a lot of guidance from my wife and value my time with my family. They help remind me of the things that are important," Savage said.

Savage understands the difficulty in becoming established in the field of law and recommends getting involved in the community and staying grounded, as this kind of work can become overwhelming occasionally. "Join the bar association. Find a mentor. It is important to know that the challenges we face as attorneys are usually not unique," Savage said. ■

# Interview with Max C. Marx

PHOTO BY PAMELA LABBE

BY JOHN FENNER

*Interviewer's note: Upon my return to the BRBA Publications Committee, after a Van-Winkle-esque absence, I was tasked to conduct an interview on someone within our bar who has traveled far and wide, and to exotic locations — or at least to locations other than Bunkie. Alas, I needed to look no further than my own general counsel office at Turner Industries, where my assistant general counsel, Max C. Marx, has indeed been a globetrotter. Below please find and enjoy a snippet of Max's interests, including his commentary on the interesting locations where he has practiced law.*



*ATB: Where are you from?*

MCM: I am from Bogalusa, Louisiana, but have not lived there since high school graduation. For those who do not know Bogalusa, it has had a very tumultuous history. It was founded by the Goodyears of Buffalo, New York,<sup>1</sup> in 1902. My namesake, Max Marx,<sup>2</sup> was the scion of one of the founding families of Bogalusa, arriving around 1906 from Russia (what is now present day Minsk, Belarus) along with his wife, Minnie, also coming from Russia (what is now present day Pinsk, Belarus) via New York and New Orleans.

Two famous persons from Bogalusa include (a) Professor Longhair<sup>3</sup> (who needs no introduction to those from Louisiana) and (b) Yusef Komunyakaa,<sup>4</sup> the renowned poet and 1994 Pulitzer Prize winner in poetry. Bogalusa is also known thanks to the music of Clarence "Gatemouth" Brown<sup>5</sup> (actually born in Vinton, Louisiana) and particularly his album "Back to Bogalusa" (including the song "Bogalusa Boogie Man"). Bogalusa is now the site of the annual Bogalusa Blues and Heritage

Festival.<sup>6</sup> I am probably Bogalusa's least celebrated son (especially since I have lived so many years away from it), but Bogalusa appears to have its historical, if not cultural, charms.

*ATB: Where did you go to college and law school?*

MCM: I went to LSU in Baton Rouge, where I obtained a B.A. in philosophy and then to LSU Law School, where I obtained my J.D. After law school, I went to graduate school at Columbia University in New York, where I obtained my Master of Philosophy.

*ATB: We understand you have worked extensively with Professor Paul Baier over the years. Tell us what that has been like, and share any stories that are appropriate for public consumption.*

MCM: Professor Paul R. Baier<sup>7</sup> is a dear friend, colleague and mentor. As a somewhat freshly minted Harvard Law School graduate and having served as a Judicial Fellow

with the U.S. Supreme Court and at other distinguished teaching posts, Professor Baier arrived as a new and exciting law professor at LSU Law School when I was a law student. He never left LSU Law School, and meeting him was one of the professional high points of my life and career. At LSU Law School, I was for a time his personal research assistant, focusing on the U.S. Supreme Court and constitutional law matters, which represent Professor Baier's passion and focus. At that time, we gave special focus to the law clerks of the U.S. Supreme Court. We have kept in touch over the years despite the long distance apart for most of that time.

Upon my return to Louisiana, he invited me to guest lecture at his constitutional law seminar on a number of constitutional law topics. One of my first presentations at the constitutional law seminar was on the much discussed *Citizens United v. Federal Elections Commission* case<sup>8</sup> (the earth-shattering campaign finance case that appeared to give corporate entities an enhanced right of free speech, elevating corporate entities to the status of sentient beings). I have reprised that presentation to his seminarians just about every year since. It seems to have constant appeal. The theme in all of my presentations to his class is the convergence of law and philosophy in U.S. Supreme Court opinions.

*ATB: Why did you want to become an attorney?*

MCM: At the very beginning, I was reluctant to go into law, since philosophy was my primary interest. I came around to the law, mainly because I saw the strong nexus between the law and philosophy, and the overlapping focus of both on analytical skills. Philosophy was my first focus, but law was always there, because my father was a trial attorney all of his life before he passed away. That familial connection doubtless planted a seed that the law and philosophy might be a good mix, despite my original efforts to stay within philosophical studies. From one perspective, law and philosophy could not be more different (law being steeped in practical issues and philosophy being the paragon of abstract thought). But I found them to have great overlap, and even a synergy, in my practice and thinking. History shows, early on, that quite a few philosophers were lawyers.<sup>9</sup>

Once I opened up my mind to the law, I also enjoyed studying the law in my philosophy studies both at LSU and at Columbia University. While at Columbia University, I also attended some of the Columbia Law School classes, particularly those that were focused on the philosophy of law (also known as jurisprudence).

I believed and still believe that philosophy and law mutually support each other in ways that enhance both, owing to its focus on analytical skills and the parsing of language and its myriad meanings, although I may be in the minority opinion in that regard. Certainly, there are Supreme Court justices who would take strong issue

with permitting philosophy in the law, the most vocal of whom was the late Justice Antonin Scalia, who strongly eschewed philosophy.<sup>10</sup> Another famous curmudgeonly (yet philosophically well-read) justice opposed to too much philosophy (or at least an excess of pure philosophical logic<sup>11</sup>) in U.S. Supreme Court opinions was none other than Justice Oliver Wendell Holmes Jr.<sup>12</sup>

The most famous or infamous (depending on your point of view) example of the U.S. Supreme Court (both conservative and liberal justices) flatly ignoring philosophy (as well as moral philosophy) is the 1997 example of the "Philosophers' Brief." This amicus curiae brief was submitted to the Court by a number of (legal) philosophers — Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon and Judith Jarvis Thomson — in connection with two controversial cases involving the legality of assisted suicide, *Vacco v. Quill*<sup>13</sup> [New York] and *Washington v. Glucksberg* [Washington].<sup>14,15</sup> In both cases, the Court uniformly ignored the hectoring of the august (legal) philosophers. That was not philosophy's finest moment. A more enlightened approach has been argued over time more successfully, and some justices have broken new ground in inviting philosophical thought into their opinions.<sup>16</sup>

*ATB: What kind of law do you practice?*

MCM: Corporate law has been a delight and my primary focus in my career, but as a general counsel, that is, indeed, a very broad array of legal matters, covering the gamut of all areas of the law. For most of my career, I practiced international corporate law in New York and part of the time in Tokyo, Japan, with the broadest of application.<sup>17</sup> That was both exotic and stimulating, especially as it immersed me in comparative law systems, new languages, and even systems of the law based on different political and religious systems. I have worked on projects involving socialist legal systems, African legal systems, European legal systems and Islamic legal systems. Most of the companies that I have worked for over the years have had some relationship to Asia, and Asia has always been broad-minded about doing business throughout the world.<sup>18</sup>

*ATB: What is it like being in the legal department at Turner?*

MCM: With three lawyers (headed by our general counsel, John Fenner, and Hampton West), we have a small, constantly interesting and busy legal department at Turner. Turner is a fascinating place to work, for a lawyer. The sheer scope of legal issues and the tens of thousands of employees make for a robust and cutting-edge legal practice. The continual growth of Turner promises to serve up more and more interesting legal matters. In my particular case, I am heavily involved with employment and labor law, intellectual property matters, contract



matters, litigation and arbitration management and others. It is an embarrassment of legal riches here, and I enjoy it.

*ATB: Where have you practiced?*

MCM: Most of my career was in New York with four years in Tokyo, Japan. Since 2009, I have been in Louisiana. For a brief period I also worked in Tennessee and in Texas. My international corporate practice (prior to Turner Industries) has afforded me the opportunity of a great deal of international travel to countries both near and far worldwide.

*ATB: What types of companies have you served as general counsel?*

MCM: Largely Asian-based companies but also U.S.-based companies of all types have been my employers over the years. I worked for an insurance company in Texas, a pet products company in New Jersey (which was acquired by a Japanese company) and Gibson Guitar in Nashville, Tennessee. The large Asian-based companies have a myriad of subsidiaries and affiliates that got me directly involved in a variety of businesses: *e.g.*, securities, manufacturing,

silicon wafer production, rare earth metals, construction, telecommunications, oil and gas, defense and military procurement, government contracts and many, many others. These same Asian-based companies have afforded me the opportunity to travel and/or work regarding matters in around 85 countries.

*ATB: What has been your favorite domicile, other than Baton Rouge?*

MCM: Baton Rouge is a wonderful place. Of course, there is no place like New York. What can I say? But Tokyo also has its unique charms. A close second is Prague, Czech Republic, mainly for its architecture.

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*ATB: Please comment about how you indoctrinated yourself to Japanese culture.*

MCM: Living in Japan is its own indoctrination. Osmosis is critical to understanding a new or foreign culture, especially legal culture. Gaining some purchase on the Japanese language is also a big plus. But it is also clear that no matter how long one lives in Japan (with few exceptions), an expatriate is never 100 percent Japanese. That is to be expected, but it does not diminish the excitement of working and living in Japan or any foreign country.

*ATB: We understand you were across the Hudson on 9/11. Tell us about that day and those that followed.*

MCM: 9/11 was a day that cannot be forgotten, especially for those like me in the midst of it. The Earth literally appeared to be coming to an end. It is hard to explain. Despite the news and some movies about that cataclysmic event, nothing can capture the heart-stopping immediacy of that day. I was in Secaucus, N.J., on that day. Eerily, the sky was a gorgeous crystalline blue. This perfect weather made what happened thereafter utterly unreal. After hearing that the first tower of the World Trade Center was on fire, I ran outside, and I watched the second plane hit the second tower. At that point, communications became

impossible and roads, bridges and tunnels started to close. It was (so we thought) an invasion, with military jets strafing the skies. Every decision that day became a life-and-death decision. Do we leave? Do we release our employees? Do we stay to keep safe? Finally, we released all of our employees to take care of their families and await the fallout. It took me about five hours to get home, because of the traffic and road closings. Things remained uncertain and skittish for weeks thereafter. Two weeks thereafter I flew to Washington, D.C., to meet with the EPA on some regulatory matters. That plane was full of military personnel with high-powered rifles. Getting into any federal building, owing to the threat of terrorism, was very difficult and time-consuming. Since 9/11, much has changed in New York, but the threat apparently remains.

*ATB: Besides the BRBA, are you involved with any other organizations or causes?*

MCM: I am also admitted to the New York Bar naturally and stay apprised of New York Bar matters when time permits. The Association of Corporate Counsel and other groups interest me, again when work allows.

I am particularly interested in diversity in the legal profession and have attended numerous MCLE seminars regarding diversity in the legal profession, especially the series hosted by the Louisiana State Bar Association, the

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so-called "Diversity Conclave."<sup>19</sup>

*ATB: What is the last book you read?*

MCM: When I am not poring over legal texts and court opinions (I find reading Fifth Circuit opinions very satisfying), I like fiction. The last books I finished and enjoyed were *The Goldfinch* by Donna Tartt and also a book by my favorite Japanese author, Haruki Murakami, his 925-page book, *IQ84*.<sup>20</sup>

*ATB: If you were not practicing law, what would be your alternate profession?*

MCM: In addition to teaching philosophy and/or law, my fantasy profession would be to teach snow-skiing, but that is highly unlikely. I learned to snow ski in the Japan Alps and have been smitten and besotted with skiing ever since. Apparently pure philosophy will not pay the bills for most, even if it is rewarding in other respects. Upon graduation from Columbia University with my Master in Philosophy, we were warned that philosophers will starve.<sup>21</sup> The late Professor Saul Litvinoff<sup>22</sup> also warned me that I would starve as a lawyer in New York. Professor Baier thought otherwise.<sup>23</sup> Philosophy is best enjoyed but rarely a subject of being gainfully employed. The law has more lucre, but the law without philosophy can be somewhat dull.

*ATB: What is the best piece of advice you have received?*

MCM: Travel broadens the mind and gives one perspective like no other activity can.

*ATB: What is one thing you wish you had known before you went to law school?*

MCM: I can only think of pleasant (and not unpleasant) surprises here. The law has not been a disappointment to me as a profession. If I had known of the thrilling excitement surrounding legal systems other than our own, I probably would have chosen a foreign law school or a law school with more focus on foreign legal systems. But LSU Law School was, after all, a uniquely cosmopolitan and exotic place to learn law, particularly Professor Saul Litvinoff (I was also a part-time research assistant for the LSU Civil Law Institute) and Professor Baier, to name a few. I studied philosophy of law (or jurisprudence) at LSU Law School with the great Professor Robert A. Pascal.<sup>24</sup> And while at LSU Law School, I attended summer law courses at the University of Grenoble in Grenoble, France, and made










the acquaintance of the great Russian law scholar (born in Nigeria), Professor Christopher Osakwe,<sup>25</sup> whom I remain in contact with on occasion.

*ATB: Tell us something else interesting about yourself.*

MCM: I tell this story often. I call it the Guyana story. I flew to Georgetown, Guyana, regarding a joint venture of Korean and Italian companies. In order to negotiate the benefits of the project, our delegation was required to meet with the then-president of Guyana, President Desmond Hoyte,<sup>26</sup> while Guyana was a socialist country. My Korean colleague and I were taxied into downtown Georgetown and were dropped off at what we thought was our meeting place with the President. Because my colleague was Korean (from South Korea), the taxi driver mistakenly dropped us off at, of all places, the North Korean Embassy. Not knowing where we were, we went through the gate. Upon hearing that we had just crossed into technical North Korean territory, we made a hasty retreat. We then finally found President Hoyte and sealed our deal. An international incident was averted and another one consummated. Travel has given me many such savory memories and rich experiences, all the while enjoying the life of the law (with just a surreptitious dollop of philosophy). ■

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<sup>1</sup> See [https://en.wikipedia.org/wiki/Charles\\_W.\\_Goodyear](https://en.wikipedia.org/wiki/Charles_W._Goodyear).

<sup>2</sup> See <http://www.isjl.org/louisiana-bogalusa-encyclopedia.html>.

<sup>3</sup> See [https://en.wikipedia.org/wiki/Professor\\_Longhair](https://en.wikipedia.org/wiki/Professor_Longhair).

<sup>4</sup> See [https://en.wikipedia.org/wiki/Yusef\\_Komunyakaa](https://en.wikipedia.org/wiki/Yusef_Komunyakaa).

<sup>5</sup> [https://en.wikipedia.org/wiki/Clarence\\_%22Gatemouth%22\\_Brown](https://en.wikipedia.org/wiki/Clarence_%22Gatemouth%22_Brown).

<sup>6</sup> See <http://www.bogalusablues.com/>.

<sup>7</sup> See <http://faculty.law.lsu.edu/paulrbaier/>.

<sup>8</sup> See <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

<sup>9</sup> Examples include Thrasymachus, Protagoras, Demosthenes, Cicero, Francis Bacon, Hugo Grotius, Jeremy Bentham, H.L.A. Hart and Ronald Dworkin.

<sup>10</sup> The late Justice Scalia wrote in an anti-Platonic tirade: “We reject the dissent’s contention that our approach, by “largely return[ing] the task of defining the contours of Eighth Amendment protection to political majorities,” leaves “[c]onstitutional doctrine [to] be formulated by the acts of those institutions which the Constitution is supposed to limit,” [...] By reaching a decision supported neither by constitutional text nor by the demonstrable current standards of our citizens, the dissent displays a failure to appreciate that “those institutions which the Constitution is supposed to limit” include the Court itself. To say, as the dissent says, that “it is for us ultimately to judge whether the Eighth Amendment permits imposition of the death penalty,” (quoting *Emmund v. Florida*) — and to mean that as the dissent means it, *i.e.*, that it is for us to judge, not on the basis of what we perceive the Eighth Amendment originally prohibited, or on the basis of what we perceive the society through its democratic processes now overwhelmingly disapproves, but on the basis of what we think “proportionate” and “measurably contributory to acceptable goals of punishment” — to say and mean that, is to replace judges of the law with a committee of philosopher-kings.” *Stanford v. Kentucky* (1989) (plurality part, case later overruled by Roper). [*emphasis supplied*].

<sup>11</sup> In *The Common Law* (1881), Holmes was clear: “The life of the law has not been logic: it has been experience. ... The substance of the law at any given time pretty nearly corresponds, so far as it goes, with what is then understood to be convenient.” See <http://www.gutenberg.org/files/2449/2449-h/2449-h.htm>.

<sup>12</sup> “We cannot all be Descartes or Kant, but we all want happiness. And happiness, I am sure from having known many successful men, cannot be won simply by being counsel for great corporations and having an income of fifty thousand dollars. An intellect great enough to win the prize needs other food beside success. The remoter and more general aspects of the law are those which give it universal interest. It is through them that you not only become a great master in your calling, but connect your subject with the universe and catch an echo of the infinite, a glimpse of its unfathomable process, a hint of the universal law.” Oliver Wendell Holmes Jr., “*The Path of the Law*,” 10 *Harvard Law Review* 457, 478 (1897). See [http://www.constitution.org/lrev/owh/path\\_law.htm](http://www.constitution.org/lrev/owh/path_law.htm).

<sup>13</sup> See <https://supreme.justia.com/cases/federal/us/521/793/> written by Chief Justice Rehnquist.

<sup>14</sup> See <https://supreme.justia.com/cases/federal/us/521/702/> also authored by Chief Justice Rehnquist.

<sup>15</sup> See <http://www.nybooks.com/articles/1997/03/27/assisted-suicide-the-philosophers-brief/>.

<sup>16</sup> See [http://www.academia.edu/175846/Does\\_Philosophy\\_Deserve\\_a\\_Place\\_at\\_the\\_Supreme\\_Court](http://www.academia.edu/175846/Does_Philosophy_Deserve_a_Place_at_the_Supreme_Court). Justice Breyer for one has a degree in philosophy from Stanford. See <http://www.npr.org/templates/story/story>.

<http://www.npr.org/templates/story/story.php?storyId=129831688>.

<sup>17</sup> While in Tokyo at first at a Japanese law firm and then at a very large Japanese trading company (sogo shosha or 総合商社), I was an international securities lawyer representing both underwriters and issuers. But even there, I worked on all aspects of international corporate law, including ship financing, project and construction financing, government-backed projects and some challenging legal disputes on an international scale.

<sup>18</sup> I have found, as a result, that each foreign legal system is an interesting study itself. Japan, for example, has a legal system combining aspects of the German Civil Code and the French Civil Code. Like Louisiana, Japan is a country of codal law. The six Japanese codes and main bodies of law are now: The Civil Code (民法 Minpō, 1896), The Commercial Code (商法 Shōhō, 1899), The Criminal Code (刑法 Keihō, 1907), The Constitution of Japan (日本国憲法 Nippon-koku-kenpō, 1946), The Code of Criminal Procedure (刑事訴訟法 Keiji-soshō-hō, 1948), and The Code of Civil Procedure (民事訴訟法 Minji-soshō-hō, 1996).

<sup>19</sup> See <http://www.lsba.org/diversity/diversityconclave.aspx>.

<sup>20</sup> On my nightstand, glaring at me and with me glaring at them, are Salman Rushdie, “Two Years, Eight Months and Twenty-Eight Days”; Louis de Bernières, “The Dust That Falls From Dreams”; Harper Lee, “Go Set A Watchman” [re-reading this]; Haruki Murakami, “Kafka On The Shore”; Haruki Murakami, “Wind/Pinball”; Herman Melville, “Moby Dick” [must re-read this based on the advice of a very good friend, Scott Purdin, and in light of the recent movie “In the Heart of the Sea”]; Teffi, “Subtly Worded”; and Mikhail Bulgakov, “Black Snow,” among many others. My nightstand has a tower of books that threatens to topple with the next Baton Rouge earthquake.

<sup>21</sup> “Beauty is the only thing that time cannot harm. Philosophies fall away like sand, creeds follow one another, but what is beautiful is a joy for all seasons, a possession for all eternity.” Oscar Wilde.

<sup>22</sup> See <http://www.law.lsu.edu/news/2010/01/05/law-center-mourns-passing-of-professor-sal-litvinoff/>.

<sup>23</sup> See Professor Baier’s “Foreword: Volume 75—Of Legal Scholarship and the Louisiana Law Review,” <http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=6522&context=lalrev>. Professor Baier recently wrote (much to my surprise):

The civil law is a doorway to global jobs. Take Max Marx, a former research assistant of mine and editor of *The Civilian*, as an example. Max went to New York City, passed the New York bar exam, and then lightning struck: He was invited to join [the law firm of] Mori Hamada & Matsumoto [correction: the firm was then called [the law firm of] Hamada & Matsumoto], a giant international law firm in Tokyo, Japan. Max flew to Tokyo, learned Japanese, and practiced international corporate law at Mori Hamada & Matsumoto, and later as legal counsel to Sumitomo Corporation, Tokyo. Max is now back in Baton Rouge as Assistant General Counsel with Turner Industries. I am very proud of Max Marx, Esq. Max is a golden exemplar of Dean Hebert’s dream come true.

Professor Baier has never been one for understatement or half measures.

<sup>24</sup> See <https://www.law.lsu.edu/ccsl/lecture/196/>.

<sup>25</sup> See [http://www.chrisosakwe.info/main\\_en](http://www.chrisosakwe.info/main_en). Before the fall of the U.S.S.R., Professor Osakwe taught me about the various Soviet legal systems.

<sup>26</sup> See [https://en.wikipedia.org/wiki/Desmond\\_Hoyte](https://en.wikipedia.org/wiki/Desmond_Hoyte).

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# foundation footnotes

PRO BONO & TEEN COURT REPORTS — FEBRUARY 2016

The Pro Bono Project is financially assisted by the Interest on Lawyers' Trust Accounts (IOLTA) Program of the Louisiana Bar Foundation; Southeast Louisiana Legal Services; Franciscan Ministry Fund; Family, District and City Court Filing Fees and the Baton Rouge Bar Foundation. Teen Court of Greater Baton Rouge is funded by the South Burbank Crime Prevention and Development District and the Baton Rouge Bar Foundation. The Youth Education Program is financially assisted by the Interest on Lawyers Trust Account (IOLTA) of the Louisiana Bar Foundation. The Future Legal Eagles Law Club is funded by a grant from the South Burbank Crime Prevention and Development District.

The Baton Rouge Bar Foundation Pro Bono Project would like to thank everyone who volunteered in February 2016.

**ASK-A-LAWYER VOLUNTEERS** — Barbara Baier, *Louisiana Public Defender Board*; Donald Dobbins; Emily Ziober; James Austin, *Adams & Reese*; Rodney Hastings, *Southeast Louisiana Legal Services*; Bryan Kantrow, *Connectivity Source*; and John Hopewell, *Certain Title*. Thanks to our law student volunteer at Ask-A-Lawyer, Lauren Bradberry, *LSU Law Center*.



**THIRST FOR JUSTICE VOLUNTEERS** — Fred Crifasi; V. Charles Cusimano, *Hebert, Spencer, Cusimano & Fry*; Scott Gaspard; Willie Joseph, *The Law Offices of Willie R. Joseph Jr.*; Allen Posey; Willie Stephens, *The Stephens Law Firm*; and James Zito.

**SELF HELP RESOURCE CENTER ATTORNEY VOLUNTEERS** — Steven Adams, *Adams Law Office APLC*; Joseph Ballard, *Entergy Services, Inc.*; Ryan Brown, *Roedel Parsons Koch Blache Balhoff & McCollister*; Janeane Gorcyca, *Joubert Law Firm*; Nicholas Graphia, *Law Office of Nicholas M. Graphia, LLC*; Gregory Hughes, *Southeast Louisiana Legal Services*; Adekunle Obebe, *East Baton Rouge Office of Public Defender*; Carolyn Ott; Paula Ouder; Renee Pennington, *McGlynn, Glisson & Mouton*; Jennifer Prescott, *deGravelles, Palmintier, Holthaus & Fruge*; Cynthia Reed, *Southern University Law Center*; Lesia Warren, *Louisiana Division of Administration*; and Alvin Washington, *Southern University Law Center*.

**THOSE ACCEPTING PRO BONO CASES IN FEBRUARY** — Siobhan Leger, *Leger Law Group, LLC*; Rodney Erdey, *Rodney N. Erdey, ALC*; Willie Joseph, *The Law Offices of Willie R. Joseph Jr.*; Rena Hester; Paulette

Porter LaBostrie; Shannon Battiste; and J. Keith Friley.

*Thanks to all who volunteered for the BRBF Youth Education programs, including Teen Court and the Future Legal Eagles Law Club.*

**TEEN COURT REPORT** — Jamie Flowers and Monica Vela-Vick served as judges for the February Teen Court hearing. Professor Paul Guidry, *Baton Rouge Community College*, served as jury monitor. Caroline Donze and Austin Glascoe, *LSU Law Center* students and Draylan Gant, Pamela King and Needum Lekia, *Southern University Law Center* students, served as jury monitors.

**TEEN COURT REPORT** — Gail Grover, Professor Shenequa Grey, *Southern University Law Center*, and Professor Paul Guidry, *Baton Rouge Community College*, spoke with high school students Feb. 19, 2016, about careers and goal setting at the Southern University First Annual Teen Summit.

**THE FUTURE LEGAL EAGLES LAW CLUB** — The club held its February monthly meeting at the Gardere Initiative Thursday, Feb. 18, 2016. ■

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We wish to thank John F. Claitor and Claitor's Law Books & Publishing Division, Inc., for the donation of two sets of the 2015 Louisiana Civil Code, which includes Vol. 1 & Vol. 2, for the Baton Rouge Bar Foundation outreach programs (Self Help Resource Center, Thirst for Justice and Ask-A-Lawyer).



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or email: [pamela@BRBA.org](mailto:pamela@BRBA.org)

## Duty Court Schedule

### 19<sup>TH</sup> JDC CIVIL COURT

April 1	Judge Hernandez
April 4-April 8	Judge Fields
April 11-April 15	Judge Fields
April 18-April 22	Judge Clark
April 25-April 29	Judge Clark

### 19<sup>TH</sup> JDC CRIMINAL COURT\*\*\*

April 1	Judge Daniel
April 2-April 8	Judge Moore
April 9-April 15	Judge Higginbotham
April 16-April 22	Judge White
April 23-April 29	Judge Marabella
April 30	Judge Anderson

### BATON ROUGE CITY COURT\*

March 28-April 3	Judge Temple
April 4-April 10	Judge Smith
April 11-April 17	Judge Alexander
April 18-April 24	Judge Ponder
April 25-May 5	Judge Prosser

### FAMILY COURT\*\*

April 1	Judge Day
April 4	Judge Day
April 5	Judge Greene
April 6	Judge Baker
April 7	Judge Woodruff-White
April 8	Judge Greene
April 11	Judge Day
April 12	Judge Greene
April 13	Judge Baker
April 14	Judge Woodruff-White
April 15	Judge Baker
April 18	Judge Day
April 19	Judge Greene
April 20	Judge Baker
April 21-22	Judge Woodruff-White
April 25	Judge Day
April 26	Judge Greene
April 27	Judge Baker
April 28	Judge Woodruff-White
April 29	Judge Day

### JUVENILE COURT

April 1-April 30	Judge Haney
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# April 2016

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3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30



\*Unless otherwise noted, all meetings will  
be held at the Baton Rouge Bar office.

## Calendar

**Ongoing:** Every Wednesday & Thursday, 3-5 p.m.,  
Thirst for Justice takes place at St. Vincent de Paul.

**Ongoing:** Every Tuesday & Thursday,  
10 a.m.-2 p.m., Self Help Resource Center, 19th JDC.

*NOTE: Duty Court changes at 5 p.m. each Friday unless  
otherwise specified. \*City Court's Duty Court schedule  
changes each Monday at 8 a.m. \*\*Family Court's Duty Court  
schedule is completely different each day, rotating on Fridays  
\*\*\*19th JDC Criminal Court changes each Friday at noon.*

### COURT HOLIDAYS

April 14-15 Spring Judges' Conference  
April 21-24 Constable's Conference  
(No session of Baton Rouge City Court open;  
Clerk's Office will be open for business.)

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Internet, etc. Some over-flow work available.  
Call Scott Gegenheimer: 225-346-8722.

**JOIN THE LAW EXPO COMMITTEE:**  
The BRBA Law Expo Committee plans  
the annual Fall Expo & Conference, which  
takes place along with the September Bar  
Luncheon. This year's event will be held Sept.  
8, 2016, at L'Auberge Casino & Hotel Baton  
Rouge. Contact Pamela Labbe for more info.:  
225-214-5560 or [pamela@brba.org](mailto:pamela@brba.org).

**LAW DAY VOLUNTEERS NEEDED!**  
Contact Donna Buuck at 225-214-5556 or  
[donna@brba.org](mailto:donna@brba.org) to volunteer to assist with  
the Baton Rouge Bar Foundation Law Day  
Activities Monday, May 2, 2016.

- 1 Teen Court Committee meeting, 12 p.m.
- 4 Law Expo Committee meeting, 8:30 a.m.
- 5 Finance Committee meeting, 8-9 a.m.
- 6 Young Lawyers Section Council  
meeting, 8:30-9:30 a.m.;
- Law Day Committee meeting, 12 p.m.;
- Volunteer Committee, meeting, 12 p.m.
- 7 Ask-A-Lawyer, Charles R. Kelly  
Community Center, 9-11:30 a.m.
- 11 Publications Committee meeting,  
8:30 a.m., Walters, Papillion, Thomas,  
Cullens, 12345 Perkins Rd., Bldg. 1;
- Bench Bar Conference Committee,  
12-1 p.m.
- 12 Executive Committee meeting,  
Breazeale, Sachse & Wilson, 8-9 a.m.
- 13 Pro Bono Committee, meeting, 12-1 p.m.
- 15 Youth Education Committee meeting,  
12-1 p.m.
- 18 Teen Court Hearing, EBR Parish Juvenile  
Court, 5:30-8 p.m.
- 19 Ask-A-Lawyer, Gonzales Senior Center,  
526 South Irma Blvd. (Gonzales)  
in Ascension Parish, 9:30-11:30 a.m.;
- 20 Ask-A-Lawyer, Catholic Charities,  
9-11:30 a.m.;
- Board of Directors meeting, City Club  
of Baton Rouge, 5-6:30 p.m.
- 21 FLS Meeting & CLE, 12-2 p.m.,  
Your Mom's Restaurant & Bar;
- Future Legal Eagles Law Club, Gardere  
Initiative, 5-6:30 p.m.,
- 26 Ask-A-Lawyer, Livingston Parish  
Council of Aging, 949 Government Drive,  
Denham Springs, 9:30-11:30 a.m.
- 27 Law Day Committee meeting, 12-1 p.m.
- 28 LRIS Committee meeting,
- 30 Ask-A-Lawyer, Baker Branch Library,  
3501 Groom Rd., 9:30-11:30 a.m.



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