

Around

THE MAGAZINE OF THE
BATON ROUGE BAR ASSOCIATION

No. 260, October 2011

the Bar

**Bar Luncheon:
Thursday, Oct. 6**



Inside:
GRAD Act & GRAD Act 2.0

Protecting the dead

Attorney spotlight:
Victor J. Suane Jr.

Interview with
Alejandro "Al" Perkins

In memoriam:
Judge Ralph E. Tyson

**Celebrate
Pro Bono Week
Oct. 23-29, 2011**



13th Annual

"Belly Up with the Bar" Entry Form

C o o k - o f f & B r e w f e s t

Event takes place Friday, Oct. 21, 2011

WHAT IS IT: The 13th Annual "Belly Up with the Bar" is a cook-off, brewfest and outdoor party with live music—sponsored by the Young Lawyers Section of the Baton Rouge Bar Association. Proceeds from this event will benefit the Baton Rouge Bar Foundation's Youth Education Program. Team and individual entries are welcome. Judges will select winners in a variety of categories. Advance general admission tickets are \$20 per adult, \$15 per law student, \$10 per child ages 7 to 12, and FREE admittance to children ages 6 and under. Prices at the door are \$25 per adult or law student, and \$10 per child, so buy 'em now!

WHEN & WHERE: The location is 6513 Perkins Rd., in the lot behind the law offices of Moore, Thompson & Lee. The date is Friday, Oct. 21, 2011, 5 p.m. - until — **mark your calendars NOW!**

WHO CAN ENTER:

Anyone who's willing to cook and serve enough to feed/water our local bar

The entry fee, which is \$100 per team (up to 5 members per team), gets you:

- (1) in the door to try all the fabulous food and drinks
- (2) all the beer you care to drink, and
- (3) the chance to show off your culinary talents

THINGS YOU'LL NEED TO BRING:

- Enough food to serve roughly 300 "sample size" portions
- Any cooking/heating/brewing equipment necessary to serve your entry
 - A team of no more than 5 members
 - A sign to indicate what you're making and who is on your team
 - Plastic serving bowls (serving size) or cups

THINGS WE'LL PROVIDE:

Forks and spoons; beer, live music . . . and fabulous prizes

ENTRY FORM — PLEASE FILL OUT THIS FORM AND FAX IT TO: (225) 344-4805 OR MAIL IT ASAP to: Baton Rouge Bar Association, ATTN: YLS, P. O. Box 2241, Baton Rouge, LA 70821. Register soon; event limited to 30 teams.

(CHECKS SHOULD BE MADE PAYABLE TO "BRBF - BELLY UP WITH THE BAR." CREDIT CARD INFORMATION CAN BE PROVIDED BELOW.) Booths are assigned as forms and payment are received, so submit your form ASAP!

TEAM NAME: _____

WHAT YOU'LL BE COOKING: _____

TEAM MEMBERS: CAPTAIN (1) _____

CONTACT NUMBER & E-MAIL: _____

(2) _____

(3) _____

(4) _____

(5) _____

FOR OFFICE USE ONLY

Ticket # _____

Ticket # _____

Ticket # _____

Ticket # _____

Ticket # _____

FOR "BELLY UP WITH THE BAR" TICKET INFORMATION, PLEASE CONTACT THE BRBA AT (225) 344-4803.

**If you are unable to participate or attend, but you wish to make a donation for the BRBF's award-winning Youth Education Program, please make your check payable to the BRBF.*

Credit Card Information: Type of card: (circle one) MC VISA AmExp	
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On the cover:

This month's cover image features the 2011 BRBF Pro Bono Committee. The members who were photographed are (L to R, standing) Alvin Washington, Linda Law Clark, Jacob Chapman, Judge Tony Marabella, Kenneth A. Mayeaux (chairman); Daina Bray, Emily Chambers, Emily Ziober, Mac Womack, Jeff Wittenbrink; (L to R, seated) Judge Kelli Terrell Temple, V. Charles Cusimano, Talya Bergeron, Judge Laura Davis and Sarah Campbell. Emily Chambers and Robin Kay (not photographed) are the coordinators of the Baton Rouge Bar Foundation Pro Bono Project.

The photo was taken in the meditation center of the First Presbyterian Church of Baton Rouge.

Cover photography by Pamela Labbe.



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Did you know that human skulls and other remains are housed at the Attorney General's Office? For more information, read the article by Ryan M. Seidemann on pages 14-16.

Scan this code with your smart phone. If you don't have a QR code reader for your smart phone, you can download one for FREE at www.beetagg.com. If you don't have a smart phone, enter www.BRBA.org to view our new website.



contributors



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letter from the president

BY PRESTON J. CASTILLE JR.

When I get to heaven

Like many of you, I attended the funeral of our friend and colleague, Judge Ralph Tyson. It was an incredible outpouring of love, affection and admiration. If you were unsure about what's important in life and how you measure the worth of a person, Judge Tyson's farewell celebration should have answered most of those questions. Sure, his professional accomplishments were great, but the personal lives he touched were far greater. I recall being enveloped in this enormous moment of personal introspection and wondering if I measured up in those areas that really count.



Preston J. Castille Jr.

Judge Tyson's success seemed measured most by the love of his wife, children and friends. Indeed, the image captured on the front page of *The Advocate* of his four children standing on stage bidding good-bye to their father told an incredible story of a legacy that was much deeper than a federal chief judge's legal career.

In May, I attended the U.S. Fifth Circuit Conference along with Judge Tyson, his wife Pat, and the other middle district judges. It was my first conference, and I was grateful to have been invited. Judge Tyson appeared to be in great health and more importantly in good humor and enjoying life to its fullest.

While there, I played in the conference golf tournament and was paired up with an older couple who appeared to be in their 70s. I'll just call them Max and Mary. It was a great lesson in life for me to watch them play. They decided to take up golf late in life and it had become a great hobby for them. But, more importantly, it was an opportunity to spend time together. They cheered each other on the whole time, consoled one another when a bad shot was made and celebrated the good ones with a "good one, honey" or a "well-played, sweetheart."

And, Max, a "semi" retired lawyer, defended his wife in golf as he had probably done for many years during their marriage.

I'm not a great golfer and was not having a particularly good game, but the 15th hole was the prize for the longest drive and I hit a great shot. In fact, it was probably my only great shot, and I was pretty excited to walk up to the marker and realize I'd just beat out Chancellor Jack Weiss for the longest drive. But, along came Mary. She hit the ball from the "ladies tee" and it rolled right pass my ball by a foot. We walked over to the balls and Mary said, "Oh, mine doesn't count. Look where I hit it from." Max would not hear it. Before I could blink, he had grabbed the marker, written Mary's name on it and moved it near Mary's ball.

"Darling, those are the rules and you earned the right to have your name on that marker," he said.

While there was a tiny part of me that wanted to say, "Get out of the way ole man, that's my ball," instead I chose to simply acknowledge the nobility of Max's chivalry and congratulated Mary on her shot.

As the years go by, we probably start to wonder what it will be like "when I go to heaven." As I reflect upon the life Ralph and Pat shared and the companionship of Max and Mary, it's clear that some find heaven right here, and you can see it in their everyday lives.

This month, as we celebrate National Pro Bono Week and our profession's spirit of giving, let us keep in mind what is truly important in life and the legacy we will leave when we go to heaven. ■

october bar luncheon

COMMUNITY JUSTICE SYMPOSIUM TOPIC: The State of Legal Education



Moderator
Jim Engster



Loyola Law School Dean
María Pabón López



Tulane Univ. Law School
Dean David D. Meyer



SULC Chancellor
Freddie Pitcher Jr.



LSU Law Chancellor
Jack Weiss

The BRBA will hold its Community Justice Symposium and October Bar Luncheon beginning at 11:45 a.m. **Thursday, Oct. 6, 2011**, at De La Ronde Hall. This is a joint luncheon of the BRBA, the Louis A. Martinet Legal Society and the Baton Rouge Association of Women Attorneys (BRAWA).

Jim Engster, a journalist and host of The Jim Engster Show on NPR affiliate WRKF-FM 89.3, will serve as our moderator for a panel discussion on The State of Legal Education. Members of the panel are Loyola University New Orleans College of Law Dean María Pabón López, LSU Law School Chancellor Jack Weiss, Southern University Law Center Chancellor Freddie Pitcher Jr. and Tulane University Law School Dean David D. Meyer.

Scholarship recipients of the BRAWA scholarship and the

Baton Rouge Legal Scholarship, which is jointly given by the BRBA and the Baton Rouge Bar Auxiliary, will be honored during the luncheon.

In addition, attendees can register to win a copy of the newly published book, *A More Noble Cause: A.P. Tureaud and the Struggle for Civil Rights in Louisiana*, autographed by authors Rachel Emanuel and A.P. Tureaud Jr. It will be given away during the bar luncheon.

Admittance to the bar luncheon is \$20 per BRBA member and \$30 per non-BRBA member. We accept payment in advance and at the door. All major credit cards are accepted. Fax this form to 225-344-4805 before 12 p.m. **Friday, Sept. 30, 2011**, to register. Checks are payable to the BRBA, P.O. Box 2241, Baton Rouge, LA 70821.

THE NEXT COMMUNITY JUSTICE SYMPOSIUM & BAR LUNCHEON:
THURSDAY, NOV. 3, 2011 — NOVEMBER BAR LUNCHEON — 11:45 a.m. at De La Ronde Hall.
 PANEL DISCUSSION TOPIC: ACCESS TO JUSTICE FOR ALL, featuring Judge Brian Jackson, Robert Lancaster, Brian Lenard, Judge Anthony Marabella and Michael A. Patterson. Moderator: Patricia A. McMurray.

Please check all appropriate options below and fax this entire page to the BRBA, (225) 344-4805, by 4:30 p.m. Friday, Sept. 30, 2011.

Bar Roll No. _____ Please check applicable boxes: BRBA member non-member law student

Name _____ Firm _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

E-mail _____ What law school did you attend? _____

LUNCH — **YES**, register me for the **OCTOBER BAR LUNCHEON** at DE LA RONDE taking place THURSDAY, OCT. 6 2011, at a cost of \$20 per BRBA member, and \$30 per nonmember. Lunch will be served at 11:45 a.m. Reservations may be transferred, but not canceled, after 4:30 p.m. **Friday, Sept. 30, 2011.** "No shows" will be billed.

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yls corner

BY AMANDA STOUT, YLS COUNCIL CHAIR

The Young Lawyers Section is pleased to announce that our annual Cocktails with the Court event has been scheduled for Nov. 17, 2011. Once again, Citizens Bank & Trust will sponsor this event.

We are pleased to announce that the City Club of Baton Rouge and the law firm of Saunders & Chabert have also agreed to sponsor Cocktails with the Court this year. The Young Lawyers Section Council thanks Citizens Bank & Trust, City Club of Baton Rouge, the Louisiana State Bar Association and Saunders & Chabert for supporting the Young Lawyers Section.

If you are a young lawyer and have never attended Cocktails with the Court, or if it has been a while since you last attended, I encourage you to attend our Nov. 17 event. It is a wonderful evening of food, drink and mingling with area judges and other young lawyers. In addition to honoring area judges and their law clerks, this reception provides the perfect opportunity for you to get to know our judges. We are also pleased to announce that copies

Cocktails with the Court and Holiday Star Project planned

of the award-winning YLS Survival Guide will be available to the first 75 attendees, thanks to a grant from the ABA/YLD. Cocktails with the Court is one of the highlights of the YLS calendar, and we hope to see you there.

This month also has the YLS and the Holiday Star Committee busy helping make Christmas wonderful for hundreds of children in our area. We are in need of generous volunteers to accept one or more stars. Without the Holiday Star Project, hundreds of children will not have the delight that every child should experience during the holidays. Please consider accepting a star and making a difference in the life of a child this year. To volunteer, contact the Holiday Star Committee or the BRBA office.

In other YLS news, the Young Lawyers Section has joined Facebook! For information about all YLS events, be sure to "like" us: <http://www.facebook.com/#!/pages/Baton-Rouge-Bar-Association-Young-Lawyers-Section/217453764943158>. 📌

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tales from the bar side

BY VINCENT P. FORNIAS

UFT


Some might say that Steve DeBosier is no stranger to conflict or controversy. And so it was just another day at the office when The Powers That Be at his University Club subdivision surroundings started making waves about the location of the brand-spanking-new trampoline he had erected on his property. Sure, things got a mite testy, but when you have the likes of James Peltier for a law partner, you sleep well at night, knowing that your back is well covered.

And that is precisely what Steve did at his U. Club digs, exhausted from a deposition trip that had not gotten him home until after dark. When he awakened the next morning, something seemed strange and out of place in his yard. It was more than the various broken limbs and assorted debris from an apparent thunderstorm that had happened while he was away. The trampoline was history. Gone. Nowhere around. His gut reaction was to take a hard look at his homeowner's association by-laws. Could



they really allow abject commandeering of his non-qualifying trampoline?

Even before he could summon Peltier, Steve received a call from a distant neighbor – distant as in not exactly in range to walk over and borrow a cup of sugar or somesuch. It was in fact another of his firm lawyers, Jill Brady. And she asked Steve if he was missing something big and bouncy and round and apparently very airworthy (see picture). Alas, the subdivision association had gotten a bum rap. The trampoline had pulled a Wright Brothers act in the storm and had flown the coop. Tranquility Base, the eagle had landed – over Jill and Scott Brady's eight-foot privacy fence and into their yard.

And now Peltier had himself a professional conflict. Possession being the proverbial nine-tenths of the law, Jill and Scott had dibs on the trampoline. But his bud DeBosier had something far more valuable – the keys to the office! 



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Why do pro bono?

BY KENNETH A. MAYEAUX

I must admit that as a young lawyer, I didn't value pro bono service as much as I do today. I was a busy commercial litigation associate in a large law firm. Billable-hour requirements, the stress of complex litigation and a firm culture that did not value pro bono service made it difficult to fit pro bono representation into my practice. But a lot changed over the next 25 years. As I moved up the associate ranks, I began taking on more pro bono clients. Over those years the profession's support for pro bono service also deepened.

I only wish I knew then what I know now about why pro bono service is so vital to the profession and to every lawyer's career. Why do pro bono? Let me share some lessons I and other attorneys have learned.

PRO BONO SERVICE IS MY PROFESSIONAL RESPONSIBILITY

The Model Rules of Professional Conduct opens with the statement that lawyers, as members of the legal profession, have a "special responsibility for the quality of justice." Rule 6.1 of the Louisiana Rules of Professional Conduct encourages attorneys to provide annually 50 hours of pro bono services to persons of limited means.

As the privileged keepers and ministers of our country's complex legal system, all attorneys clearly have a special responsibility to ensure that all people, regardless of the ability to pay, have access to justice.

PRO BONO SERVICE ATTRACTS TALENTED ATTORNEYS

Younger (and older) attorneys are often looking for deeper meaning in their careers. A firm with a strong pro bono culture attracts young attorneys and gives them an opportunity to feel connected to a larger mission of promoting justice, not simply providing legal services for pay. A firm's strong pro bono commitment can create a positive work environment and foster a sense of pride and accomplishment as the firm's attorneys perform pro bono service. This, in turn, can lead to greater attorney satisfaction and lower turnover. Larger firms have found that the attorneys who do the most pro bono work are also some of the firm's busiest and most profitable lawyers – doing pro bono is clearly not a zero-sum game.

PRO BONO SERVICE IS A GREAT WAY TO DEVELOP NEW PRACTICE AREAS AND SKILLS

Representing pro bono clients is also a great opportunity to extend the reach of your practice and develop new skills. For example, pro bono representation offers great opportunity for a lawyer to develop litigation skills and branch out into a whole new practice area. Many nonprofit legal service organizations provide mentoring, training and support to the attorneys who accept pro bono referrals, making those first tentative steps into a new practice area a little easier.

PRO BONO SERVICE ATTRACTS CLIENTS

As a lawyer in private practice, whether in a large or small firm or as a solo practitioner, attracting and keeping paying clients is always an important part of your work. More and more corporate clients consider a firm's pro bono program when selecting outside counsel. Pro bono service also raises your profile in the local legal community and helps you forge deep ties with the nonprofit legal providers, judges and attorneys.

PRO BONO SERVICE IS CRITICAL IN A TIME OF SHRINKING BUDGETS

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of persons who need legal assistance but can't afford it and the limited resources of nonprofit legal service organizations to meet those needs may be the defining challenge of our day for the legal profession. Recent proposals in Congress would slash 26 percent from the budget of the Legal Services Corp at a time when the need for legal services for the poor is at an all-time high. Only a sustained commitment to pro bono services by the private bar will assure that the poor have access to critical legal services.

PRO BONO SERVICE IS GOOD FOR THE SOUL

Pro bono service takes you out of the economy of exchange and puts you in touch with people who have nothing to offer in payment but their thanks. It brings you into contact with people and communities you might not have otherwise known. It expands your understanding of human suffering and the limitations of our legal system. And in addition to changing the lives of your clients, pro bono service just might change your own life.

As I moved up the associate ranks of my firm as a young lawyer,

I began to take more pro bono cases through our local pro bono project. After I became a partner, I came to appreciate and look forward to my pro bono cases as a respite from the often relentless grind of commercial litigation. More importantly, I experienced deep satisfaction getting to know my clients and the world of poverty and marginalization that brought them to me. Eventually, my work with poor clients opened up a new career path for me representing and advocating for immigrants in Louisiana. I know I've helped change some of my clients' lives for the better. But they've also changed and transformed mine. ■

Updated from AILA Pro Bono Newsletter (Summer 2011). Copyright (c) 2011, American Immigration Lawyers Association (AILA).

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attorney spotlight

BY CHLOE EUSTON

Interview with Belly Up Chair Victor J. Suane Jr.

Victor J. “Vic” Suane Jr. grew up in the Gentilly neighborhood of New Orleans in a family of five. Coming from a long line of brick masons and plasterers, he never thought of going to law school when he was younger. As a teenager, he often worked as a laborer on his father’s job sites, and he always assumed he would own his own business like his father—just one that would not require heavy lifting. “It’s funny how you think you know what you want in life or out of a job, but then a different opportunity presents itself and your childhood dreams are replaced with newer, updated versions.”

Suane graduated from Rhodes College in 1998, where he studied business administration and religion. An all-conference athlete, Suane played linebacker for the football team and threw the shot put, discus and javelin for the track team. After graduation, he remained in Memphis and began a career with Enterprise Rent-A-Car.

Although life was good, he felt something was missing, so he moved back to his home state, where a childhood friend and recent Southern University Law Center graduate convinced him that law school would be a good next step. Suane clerked for Kean Miller during law school at SULC, and is now an associate there. His practice areas include environmental and general litigation, toxic tort litigation and expropriation and land use.

Suane said that learning to compete as a college athlete has helped him stay on top of his game as an attorney. “As an athlete, you compete for your position every day at practice. Whether it’s through brief writing, in the courtroom or through business development efforts, as attorneys, we compete in some form or fashion on a daily basis.”

Suane is the chair of this year’s Belly Up with the Bar Committee. He said part of the reason he is involved is that BRBF projects like Easter Eggstravaganza, Holiday Star, Law Day and Mock Trial would not exist without the funds raised by Belly Up. “Once, after an Easter egg hunt I participated in during law school, a teacher thanked me



Victor J. Suane Jr.

PHOTO BY PAMELA LABBE

and mentioned that it would probably be the only Easter egg hunt several of the kids would experience,” Suane said. He grew up in a family that cherished holidays, and the thought that some children miss out on those experiences has remained with him in his volunteer work.

In addition to chairing the Belly Up with the Bar Committee, Suane is a board member for the Louisiana School for the Deaf Foundation and for Cancer Services of Greater Baton Rouge. Through his law firm, he volunteers with The Kean Miller Dictionary Project, a program that distributes dictionaries to third graders, and the Kean Miller Connection, a program that provides an intense overview of the law school experience to those traditionally underrepresented in law school.

Away from the office, Suane enjoys spending time with his two favorite ladies—his wife, Angela Joy Suane, who keeps him grounded and inspires him to be a better person, and his almost two-year-old daughter, Jordyn Lydia Suane, who keeps him young. In the Suane house, Saturday is “Daddy Day,” which means that Suane can be found taking his daughter out to breakfast and shopping at the toy store. “I can’t wait until she is old enough to go fishing.” ■

The GRAD Act and GRAD Act 2.0 — Are they the answer for higher education?

BY TRACIE J. WOODS & JOHN K. PIERRE



The Louisiana Granting Resources and Autonomy for Diplomas (GRAD) Act was enacted during the 2010 Louisiana legislative session as Act 741, due to state revenue declines and a general criticism from Gov. Bobby Jindal on the performance of Louisiana's public institutions of higher education related to undergraduate graduation rates.

Because state revenues are declining and funding levels for higher education in Louisiana are not protected by the Louisiana Constitution or other legislative acts, Louisiana higher education leaders were seeking opportunities to significantly raise tuition and resources without requiring legislative approval from a legislature that was not inclined to vote for significant tuition increases.

While graduation rates for Louisiana's publicly funded professional schools (law, medical and dental) were not low and were not cited as performance issues by Gov. Jindal, Louisiana's publicly funded law schools were unsuccessful in getting the Louisiana House of Representatives to consider a senate-supported bill that would have allowed publicly supported law schools to significantly raise tuition rates. A compromise was reached to allow publicly funded law schools to be included under the umbrella of the GRAD Act.

The GRAD Act is designed to support the state's publicly funded higher education institutions in their efforts to remain competitive in an era of declining legislative funding support for such institutions. In exchange for the institutions achieving specific and measurable performance goals, those institutions are granted the ability to increase tuition up to five percent per year without legislative approval and to exercise limited operational autonomies and flexibilities designed to help the overall effectiveness of those institutions.

With respect to Louisiana's publicly funded law schools, their ability to garner the additional resources and autonomies provided for the GRAD Act depends on their performance on student-success objectives and workforce and economic-development objectives. The student-success objectives include (a) first-to-second-year retention rates; (b) institutional graduation rates; (c) institutional median LSAT scores; and (d) institutional passage rates on the Louisiana Bar Exam. The workforce and economic-

development objective is tied exclusively to placement rates for law school graduates.

To access the resources and autonomies provided for in the GRAD Act, the institutions through their respective management boards enter into performance agreements with the Louisiana Board of Regents that are monitored by the Board of Regents. The institutions can increase tuition and access autonomies if they meet the performance goals. One important feature of the GRAD Act is that out-of-state fees are mandated to rise every year for six years to a level that equals the regional average for out-of-state fees of states in the southern region of the United States. Hence, the cost of attending Louisiana's publicly funded higher education institutions will rise, even if these institutions do not meet GRAD Act performance objectives.

On July 12, 2011, Gov. Jindal signed GRAD Act 2.0. The new and improved GRAD Act 2.0 builds on the 2010 GRAD Act. How did the GRAD Act 2.0 improve the GRAD Act for higher educational institutions?

GRAD Act 2.0 has new and improved autonomies. The autonomies are granted at different levels. The three levels include base level, intermediate level and high level.

The base level autonomies will allow publicly funded higher education institutions to carry forward funds, to execute contracts at a higher limit, to dispose of obsolete equipment and to allow exemptions of oversight for technology projects. Institutions are granted the base level autonomies if they meet their short-term targets established in their performance agreements. The institution has to apply for the autonomies based upon its 2009-2010 performance. The Board of Regents and the Division of Administration approve the application based on a review of several items, including the institution's most recent fiscal audit.

The intermediate level autonomies allow publicly funded higher education institutions to have all of the base level autonomies in addition to expanding an institution's authority for minor facility outlay projects and expanding purchasing authority. GRAD Act 2.0 allows those institutions to expand their purchasing authority through purchasing agreements that are either established through a competitive bid process or an existing agreement.

The high level autonomies allow publicly funded

higher education institutions to participate in a pilot procurement program, to apply for exemption from the state's risk management program, to invest funds and to administer all facilities projects funded with self-generated funds, federal funds, donations, grants or revenue bonds. Institutions must apply for this autonomy just as with the other two levels.

The high level autonomy allows an institution to participate in a pilot procurement program specific to higher education. This autonomy is estimated to save higher education institutions millions of dollars by eliminating the red tape in the state procurement program. GRAD Act 2.0 requires higher education institutions to meet several levels of performance for these new and improved autonomies. The levels of performance will require those institutions to expend financial and human resources to meet the requirements. It will be interesting to see to what extent higher education institutions, particularly the state's two publicly funded law schools, will be able to enjoy cost savings and enjoy operational flexibility in the coming years. Only time will tell if the GRAD Act and GRAD Act 2.0 are panaceas for higher education in Louisiana. ■

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Protecting the dead:

What NOT to do if you find a skull in your attic or a cemetery in your backyard

BY RYAN M. SEIDEMANN, RPA

The scenario is more common than people would think: A relative passes away and, as you are rummaging through the material remnants of their life, trying to sort through all of the stuff, you find a human head. No, not a fleshed head like something out of a horror movie, but a skull. Why did your relative have this? How did they acquire it? What do you do with it now? Questions such as these have been on the rise for the small number of government officials in Louisiana that regularly deal with the dead. The following is a brief guide (along with some anecdotes) to practitioners who may be faced with similar questions.

In collaboration with the Louisiana Cemetery Board, the Louisiana Division of Archaeology and several tribal and law enforcement entities around the country, the Louisiana Attorney General's Office has, since 2007, begun a crackdown on cemetery desecration and human-remains sales. This crackdown has resulted in the seizure and analysis, and will result in the eventual return or final disposition, of several dozen human skulls, including: one confirmed ancient Native American;¹ the recovery of skeletal remains from botched cemetery work; the securing of human remains from theft and damage after Hurricane Gustav; and the punishment of those who have desecrated cemetery property.²

The State's general jurisdiction over cemetery protection and human remains matters derives from several sources: the Louisiana Unmarked Human Burial Sites Preservation Act,³ the Louisiana Anatomical Gift Act,⁴ the Louisiana Anatomical Board Act,⁵ the Louisiana Cemetery Act,⁶ the Criminal Code⁷ and the Louisiana Historic Cemetery Preservation Act.⁸

In a general sense, Louisiana law forbids the sale, purchase, transfer or receipt of human remains.⁹ In fact, there is no ownership interest in human remains under Louisiana law.¹⁰ Thus, anyone purporting to "own" a human skull has acquired only a mere possessory interest in the remains rather than actual ownership. In addition to the general restrictions on the sale of human remains, it is also illegal to desecrate a grave.

In 2007, the Office of the Attorney General conducted its first seizure of human remains that were being offered for sale. This bust of an eBay seller in Lake Charles led to the acquisition of a human skull and numerous artifacts from around the world. Bioarchaeological analyses of the remains and palynological/sedimentological analyses

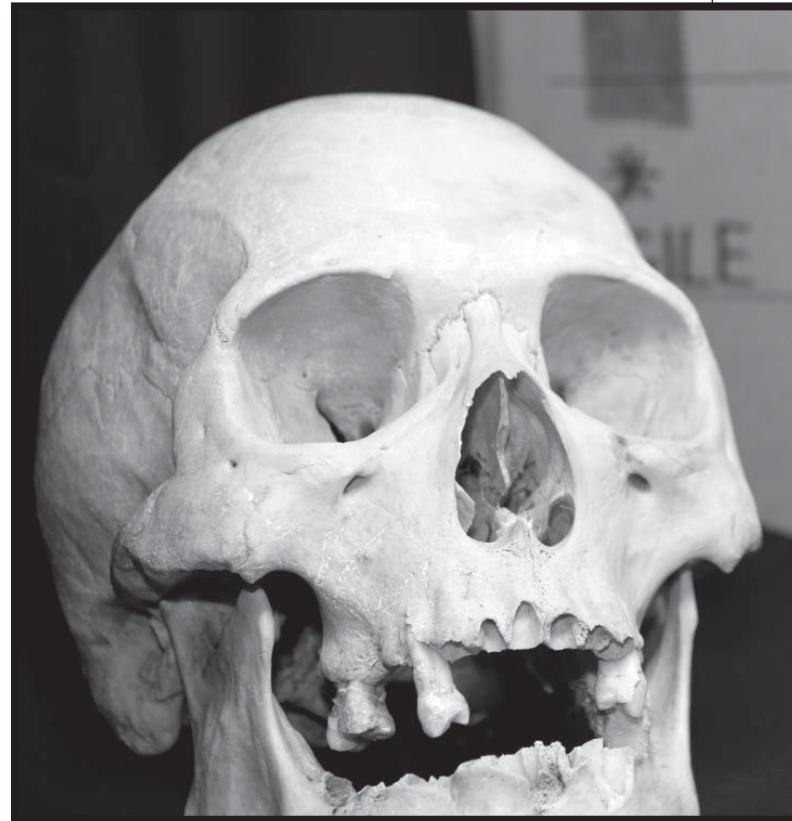


PHOTO BY PAMELA LABBE

of dirt associated with the remains allowed the Office to narrow the place of origin of these Native American remains to the lower Mississippi Valley, likely in and around Louisiana or Mississippi. The remains will likely be reinterred.

Since that initial bust, the Office has conducted numerous similar acquisitions of human remains – most of which have been offered for sale on eBay. As yet, no criminal charges have been brought against any of the sellers of the seized remains. As a general rule, the State's real interest is in the acquisition of the remains and in ensuring that they are treated properly (*i.e.*, not as items of commerce). In every instance thus far, the sale of the remains has been an isolated incident by someone who simply happened to have a human skull. There has been no indication of mal-intent on the part of the sellers, and none of the sellers have, themselves, actually dug up anyone's grave to acquire the remains that they are attempting to sell. In every case, the sellers have been cooperative and the remains have been secured, properly analyzed and treated with respect.

So, the answer to the question of what not to do with a skull you find in the attic is to sell it. The very simple thing to do, should you or a client find yourself in the possession of human remains, is to call the Attorney General's Office. We will take possession of the remains, analyze them and handle matters of final disposition. This proactive approach to seeing that human remains are dealt with according to the law and with dignity is a much more pleasant option than having investigators pounding on your door when you try to sell the remains.

It also must not be overlooked that, as written, the law makes any transmission of human remains illegal. Thus, it is not advisable for you or a client to simply say, "Well, I don't have any intention of selling the skull, so I'll just keep it." That may be true. However, in cases of successions, the skull will be "transmitted" when it leaves your patrimony and becomes part of the patrimony of your legatee.¹¹ Thus, hanging onto human remains simply because you do not have a desire to sell them may be subjecting your legatees to unintentional violations of

the law when they acquire human remains as part of a succession.

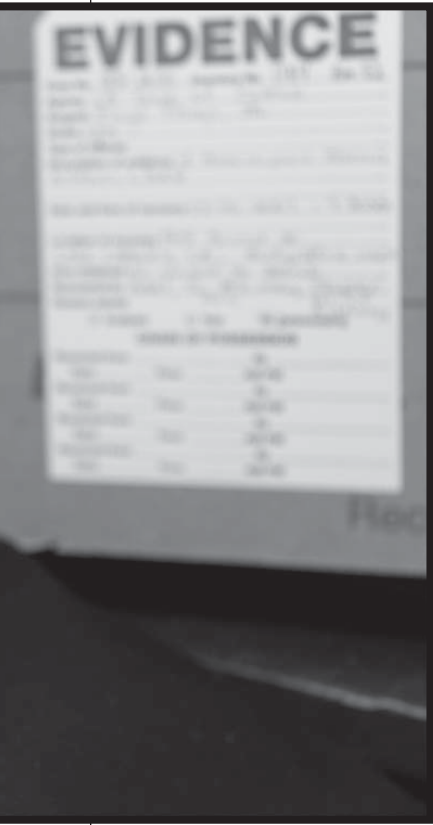
On the other end of the spectrum of "dead people problems" that the Attorney General's Office handles are reports of cemetery desecration. Generally, under La. R.S. 14:101, desecration is in the original jurisdiction of the district attorneys. The Office of the Attorney General does not seek to usurp that authority. However, under La. R.S. 8:308, 8:903 and 8:903.1, certain desecration activities are within the province of the Louisiana Cemetery Board which is, by law, represented by the Attorney General. Similarly, the Louisiana Division of Archaeology is charged with protecting against desecration of historic, prehistoric and unmarked cemeteries under La. R.S. 8:671, et seq., and La. R.S. 25:931, et seq. Once again, the Attorney General is the statutory entity responsible for representing these matters.

Among the responsibilities of landowners on whose property a cemetery may happen to be located is that under no circumstances can anyone disturb the cemetery

or even put the cemetery property to an alternative use. The disturbance is considered desecration, and it does not matter whether the cemetery is located on private property or whether it is a registered, recognized or unmarked cemetery. If you do have a cemetery on your property, it must remain a cemetery, and you cannot use it for any other purpose. This restriction is embodied in La. R.S. 8:304-306.¹² These provisions hold that, once human remains are placed in or on a particular piece of property, that property is forever a cemetery, and it cannot be used for anything else.¹³ Although this seems like a reasonable premise, there have been many examples of this concept being violated. One of the most famous examples comes from the case of *Humphreys v. Bennett Oil Co.*¹⁴ In this case, the Louisiana Supreme Court took a dim view of a mineral production company that drilled two oil wells directly into a cemetery in Acadia Parish and converted the rest of the cemetery to an industrial site.¹⁵

In the way of matters related to the protection of cemetery sites, the Attorney General's Office has investigated numerous allegations of desecration. Among them have been allegations that pipeline companies have plowed through cemeteries in an effort to get their minerals to market (which, as yet, is unfounded), that people have bulldozed tombstones on their (or others') property (which has happened), and that isolated, historic cemeteries are threatened by construction (which has also happened). In most cases, such matters are resolved by a simple field inspection of the alleged area. In many cases, the damage that leads to such allegations of desecration usually end up simply being the result of the ravages of time or weather. However, in situations where actual planned construction does threaten to impact a cemetery, the Attorney General's Office often works collaboratively with the Division of Archaeology and the developer to identify legal options for mitigating the potential impacts of the proposed project to the existing cemetery. Several such instances have occurred in New Orleans as the state and the federal government attempt to rebuild after Hurricane Katrina.¹⁶ Closer to home, the Attorney General's Office has addressed cemetery matters related to Baton Rouge's Green Light road improvement project, advising the City-Parish that it must avoid impacts to human remains even in situations of expropriation.¹⁷

Among the weeds and overgrown markers throughout Louisiana lie the remains of people that contributed to our shared heritage. Over the course of nearly 100 years, the Legislature and the courts have seen fit to provide these resting places with special protections that are not enjoyed by any other types of property. In addition, the Legislature has provided for the protection of the mortal remnants of those people (*i.e.*, the bones) from unscrupulous individuals who would profit from their macabre nature. From these parliamentary and court actions, there are two truisms



that emerge when dealing with the dead: (1) do not sell remains that you find – contact the local coroner, the State archaeologist, or the Attorney General’s Office; and (2) do not mess with a cemetery – these are sacred places that can teach us much about our history, and they are places that are specially protected by the law. ■



PHOTO BY PAMELA LABBE

¹ See e.g., Ryan M. Seidemann, Christopher M. Stojanowski, and Fred J. Rich, *The Identification of a Human Skull Recovered from an eBay Sale*, 54(6) *J. Foren. Sci.* 1247 (2009).

² See generally Ryan M. Seidemann, *Dispelling the Myth: Archaeology Is Not Grave Robbing*, *Nov. Amer. Cem.* 12 (2009).

³ La. R.S. 8:671, et seq.

⁴ La. R.S. 17:2351, et seq. Interestingly, the operative provision of this law, the one that defines a “part” of a human body, was amended by Acts 2010, No. 937. Instead of specifically enumerating that “bone” is included in the definition of “part,” the law now simply refers to “tissue.” La. R.S. 17:2351(18). The definition of “tissue” includes “bone.” La. R.S. 17:2351(29). This amendment does not affect the State’s jurisdiction or obligations.

⁵ La. R.S. 17:2271, et seq., especially La. R.S. 17:2280.

⁶ La. R.S. 8:1, et seq., especially La. R.S. 8:304-306.

⁷ Specifically, La. R.S. 14:101.

⁸ La. R.S. 25:931, et seq.

⁹ Scientific, educational, and medical institutions are generally exempted from these prohibitions.

¹⁰ See *French v. Ochsner Clinic*, 200 So.2d 371, 373 (La.App. 4 Cir.

1967), *writ refused* 202 So.2d 652 (La. 1967); A.N. Yiannopoulos, 2 LA. Civ. L. Treatise, Property § 17 (4th ed.) (2010).

¹¹ There is some room for debate as to whether a universal legatee would actually be “receiving” human remains by accepting the succession, as, from a hyper-technical perspective, the law does not recognize this as a new possession, but rather the legatee is stepping into the shoes of the ancestor. Nonetheless, it is still easier to divest yourself of human remains properly rather than to have to worry about such questions.

¹² A comprehensive analysis of the rights and obligations of landowners under La. R.S. 8:304-306 can be found in La. Atty. Gen. Op. Nos. 10-0018, 10-0258 and 10-0259.

¹³ La. R.S. 8:306 provides a process for the removal of this dedication. However, in practical terms, such a removal is often costly and time-consuming, because it requires the proper removal of all remains from the area and their reinterment elsewhere.

¹⁴ 197 So. 222 (La. 1940).

¹⁵ A complete analysis of *Humphreys* and its impacts on cemetery and property law may be found in Ryan M. Seidemann & Rachel L. Moss, *Preserving Places that Matter: A Legal Guide to the Protection of Historic Cemeteries in Louisiana and Recommendations for Additional Protection*, 55 *Loy. L. Rev.* 449 (2009). See also Ryan M. Seidemann, *Leasing from the Dead: Production in Cemeteries and Other Curious Corners of Louisiana Mineral Law*, 23 *Tul. Envtl. L.J.* 93 (2009).

¹⁶ One good example of this situation is described in La. Atty. Gen. Op. Nos. 10-0018 and 10-0259, both of which are related to rehabilitation efforts for the Thomy Lafon school site in New Orleans, which happened (in the early 1900s) to be built atop a closed indigent cemetery.

¹⁷ La. Atty. Gen. Op. No. 08-0100.



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An interview with Alejandro “Al” Perkins BY WENDY K. SHEA

ATB: Tell me about your family.

AP: My wife, Dina, is the director of Physicians Billing at East Jefferson General Hospital in Metairie. She is originally from St. Louis, Mo., and we met at Xavier University. When we met, I think we both knew that we were going to be together, but the thing that made me decide that I needed to get serious about her happened when we attended the convocation at Xavier. The students who maintained a 4.0 GPA were recognized. We had gone out one or two times before, so when they called her name I was like, “What, you’ve got a 4.0?” So I kind of locked in on her because I wanted someone who was handling her business. She was also valedictorian of her high school class, which was very impressive to me.

Our daughter, Alexia, just made five, and she has me wrapped around her little finger. She is quite the entertainer and loves to dance, sing and make crafts.

ATB: Tell me a little bit about your law career.

AP: My first job out of law school was with Judge Wilson Fields as his law clerk. That helped me tremendously, because I had the chance to meet just about every attorney in the city. This gave me the opportunity to view cases from

Vital Statistics

AGE: 35

POSITION: Associate,
Hammond & Sills

BORN & RAISED: Dallas, Texas

EDUCATION: Bishop Dunn
High School, Xavier University,
Southern University Law Center

ADMITTED TO BAR: 2006

MARRIED TO: Dina

CHILD: Alexia (5)

a judge’s perspective. That experience was invaluable.

Currently, I’m an associate at Hammond & Sills. Our firm primarily represents school boards throughout the state of Louisiana. My primary area is insurance defense and workers’ compensation, and I am also involved with employment issues that relate to superintendents and faculty tenure hearings.

I was recently in the Baton Rouge Chamber of Commerce’s Leadership Class – a cross section of the business world. It has been just an awesome program.

ATB: What is the best advice that you’ve ever received about being an attorney?

AP: From Professor Russell Jones at Southern, “Know the law. Know the law. Know the law.” That is all we used to hear in law school. I had him for Criminal Law my first year. He expected a lot, starting the first day. I came to school with little experience, but that advice has stuck with me.

My grandfather always told me to practice being intelligent. He said that if you practice that as a young kid, when all of the different opportunities of the world

present themselves, you will be ready to handle them.

ATB: You are actively involved with the Louis A. Martinet Legal Society, the Louisiana State Bar Association, and the Baton Rouge Bar Association. Why do you think bar association participation is so important?

AP: I want to improve the practice. I don't know if my daughter wants to be an attorney when she grows up, but if she does, I want to make sure that the bar is a better place for her as a female, African-American attorney. I want her to have an even better place to practice.

ATB: Will you tell us about your work with the different bar associations?

AP: I was chair of the 2011 BRBF Law Day Committee. That was an awesome event for middle and high school students. Working with the Law Day Committee and BRBA staff (Donna, Lynn, and Ann) was great experience.

Kim Boyle, the immediate past president of the Louisiana State Bar Association, really encouraged me to get more involved with that bar, and I did. In 2010, I graduated from the LSBA Leadership Class. Ten of us from around the state spent a year in the program learning the inner workings of the state bar. I also serve on the Crystal Gavel committee, the Client Assistance Fund committee, and the committee that was formed to study the proposed changes for the bar examination.

I'm glad I got involved because when I look around there are not a lot of attorneys who look like me on those committees. I think that it is so important as African-American attorneys that we sit at the decision-making table. We have to do our part in making sure that we are active and represented in national, state and local bar associations

ATB: Tell me about your role with the Martinet Society.

AP: I am the immediate past president. I just finished a two-year term as president. Before that, I was the treasurer for two years, and I oversaw the Membership Committee.

ATB: The Martinet Society accomplished a number of things during the last two years. What do you think the biggest accomplishments were?

AP: First, there was an increase in membership. That is huge. When I initially became involved with the chapter, we were struggling with membership. Right now we have over 100 attorneys and 40 law students. We worked hard to get the members back involved.

Second, in August 2010 we won the National Affiliate of the Year award from the National Bar Association. Out of all of the affiliate chapters in the nation, we were selected as the best. It was huge for us to get that nationally

recognized award from the president of the National Bar Association.

ATB: On what was the award based?

AP: It was based on a combination of things. They looked at whether we were following the mission that the organization set out and our overall participation with the NBA. In addition, they look to see what kind of involvement we had in our local community.

One of the big things was our involvement with the law schools at both LSU and Southern. We've have had an active role with developing students at both law schools.

At Southern, we've done a number of things including seminars, professional development panels and providing scholarship opportunities.

At LSU we hosted a social mixer with the LSU law students of the Black Law Students Association (BLSA). We provided 25 judges when the BLSA Frederick Douglass Regional Moot Court competition was held in Baton Rouge in January 2010.

We wanted to make sure that we reached out to those students because African-American students at both Southern and LSU need to see the African-American attorneys. There is a greater chance the students at Southern will see these attorneys walk through the building. There is less of a chance for that at LSU. We also wanted to make sure that we reached out to LSU because Martinet is not just an organization for graduates of Southern. We have graduates of LSU, Loyola, Tulane and the University of Las Vegas. You name it; we have it. We have members from all over.

ATB: Any other accomplishments you'd like to highlight?

AP: One of the things we were able to do during my last term as Martinet president was to hire a staff person. If you look at most established bar associations, they have paid staff. That makes a significant difference for how well the organization runs from year to year. We now have an office set up in the Leo S. Butler Center. We've increased our programming and collaborated with other organizations. We are not worried about top billing; we are just concerned about good programming. We have worked with LBF, LSBA, BRBA, BREC, NBA, Alpha Kappa Alpha Sorority, Inc., Louisiana Judicial Council, BRAWA, LSU Law School, Southern University Law Center, Legislative Black Caucus, Attorney General (Buddy Caldwell), other Martinet Chapters and EBR School System.

One of the really cool things that we did for a number of local churches was to hold a program for the ministers and the trustees about liability, bylaws and succession plans. Our CLE chair Arlene Knighten organized this program at Gloryland Baptist Church, and it went well.

ATB: The Martinet Society just held its annual Scholarship

and Awards Gala. Can you tell me about that?

AP: The Gala is something that we have done for several years. It was chaired by Eboni Townsend, and Deidra Roberts oversaw the selection of scholarship recipients. At the Gala, we give out scholarships to two high school students and four law students – two students from LSU and two from Southern.

This year we moved away from the hotel venue and instead had the program at the Louisiana State Museum on Fourth Street. We wanted to combine our heritage with the culture of Baton Rouge. Rep. Pat Smith was our speaker. We gave a community service award to Dwayne Murray, a U.S. bankruptcy trustee. I gave four president's vanguard awards to Judge Wilson Fields, Domoine Rutledge (general counsel for the East Baton Rouge Parish School Board), Monique Edwards and the law firm of DeCuir, Clark & Adams.

Our new board was also sworn in that night: Michael Tyler, president; Christopher Herbet, first vice president; Leticia Jackson-Mabry, second vice president; Leslie Ricard, treasurer; and Donna Lee, secretary.

It was an honor to hold the position of president of Martinet and to follow our past presidents Anderson Dotson III, Todd Manuel, Jonathan Holloway, Claire Fontenot, Jarvis Antwine, Russell Jones, Preston J. Castille Jr., Vanessa La Fleur, Dennis Blunt, Arthur Thomas, Dwayne Murray, Judge Luke Lavergne (Ret.), Ernest Johnson and Etta Kay Hearn.

ATB: You have so much going on in the legal field, do you have time for anything outside of the law?

AP: My hobby is gardening and landscaping. I love being in my yard. That is something my wife, my daughter and I can do together. We try to do it every weekend we are available because it allows us to not think about work. There is a thrill in being able to see if I can grow something, or nurture something, or at least keep from killing it. I didn't know anything about landscaping until

about four or five years ago. Then I really got into it. That is my natural personality. Once I lock in, I want to know everything about it. I find myself saying that I want to be a horticulturist now. I don't want to just be out there mowing the grass. I want to know what type of grass, what type of trees, when do they bloom, when do they need to be trimmed, what is the best mulch and what is best weed preventer. I need to know everything, and I love it!

I also enjoy attending church and am active in my local community. I love being around my friends, catching a meal after work. I've been blessed with a lot of really, really good people in my life.

I'm a movie buff and a music buff. I have over 4,000 CDs, from Bach to hip hop. I love music. That is probably one of the regrets that I have, not learning to play an instrument. I look at people in amazement when I see the music they create. My wife and I are also big readers and researchers. If we ever build our dream house, it is going to have an educational research center.

ATB: Do you have anything exciting coming up?

AP: My next big project will be to work with the Southern University Law Center Alumni Association. My goal is to try to get the association up and going. Alumni support for any law school is critical. Southern has alumni support, but we need a more active association. The Chancellor has asked me to come in and try to do that.

ATB: How about we end with some things people might not know about you?

AP: I was recently elected as the Regional Director of the National Bar Association and was selected as an American Bar Foundation Fellow. Also, I am an Eagle Scout. I was involved with a very active troop through my church in Dallas. In fact, in the 1990s there were more African-American Eagle Scouts awarded out of our troop than any other troop in the nation. ■



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in memoriam

BY CHANCELLOR FREDDIE PITCHER JR.

Judge Ralph E. Tyson

Ralph Eric Tyson, Chief Judge of the United States District Court, Middle District of Louisiana, passed away July 18, 2011. Ralph was my former law partner of some 10 years, my Sigma Pi Phi Fraternity brother, and most of all, my friend. We met during the summer of 1972 in an Evidence class at LSU Law School. I was the visiting black student and Ralph was the sole resident black student. That summer, we made up a total diversity population of two. I guess because Ralph was a little lonely, it was easy for him to gravitate to someone who looked like him. Although we didn't realize it at the time, that was the beginning of a friendship that would inextricably tie us together for the rest of our lives.

During our senior year in law school, we were hired as law clerks in the Criminal Division of the Louisiana Attorney General's Office. After we graduated from law school in 1973, we were hired as special counsels. Ralph, an excellent writer, was assigned to handle prisoner's writs; I was the talker and was assigned to a trial section.

We soon decided to open a law office together. We found a building on Plank Road in Baton Rouge and began a part-time practice as we both kept our jobs at the Attorney General's Office. Ralph's strong work ethic carried over to our practice on Plank Road, and we quickly developed a reputation of providing excellent client representation and service.

Ralph Tyson was a consummate professional who embodied the highest ideals of the legal profession. He held true, at all times, to the principles of knowledge, skills, professionalism and ethics. Albert Einstein advised, "Try not to become a man of success, but rather try to become a man of value." Ralph succeeded in becoming a man of value, which led to his successes.

Ralph engaged in private practice with the firm Pitcher & Tyson and later the firm Tyson, Avery & Cunningham from 1973 to 1988. During that time he also served an assistant district attorney for East Baton Rouge Parish and Baton Rouge chief city prosecutor.

He was elected Baton Rouge City Court judge in 1988 and district court judge for



Judge Brian A. Jackson, Fred T. Crifasi and Judge Ralph E. Tyson were photographed (above) Nov. 22, 2010, at a reception held following Judge Jackson's Installation Ceremony.

PHOTO BY PAMELA LABBE

the 19th JDC in 1993. He was appointed to serve pro tempore on the First Circuit Court of Appeal in 1997. In 1998 the Senate confirmed him as United States District Judge for the Middle District. He became chief judge in 2005. He did all of these things because he was a man of

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7:45am

BATON ROUGE:
November 18, 2011: Portobello's Ristorante • 8622 Old Hammond Hwy.
Topics: Ethics and Professionalism (2 hrs.)
Speakers: Paul Marks, Jr. & Michael W. McKay

December 16, 2011: 8550 United Plaza Blvd., 1st Floor
Topic: Mediation Advocacy
Speaker: Michael J. Moran

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value. He personified "Seriousness of Purpose."

He was a highly skilled and competent jurist. He embraced the four requirements that Socrates espoused of a good judge: to hear courteously, to answer wisely, to consider soberly and to decide impartially.

He maintained balance with the demands of his judicial duties by engaging in leisure pursuits that included photography, singing and working in the yard. He also refereed football with the Louisiana High School Athletic Association.

He was a person with a strong constitution. He personified C.C. Scott's declaration that the human spirit is stronger than anything that can happen to it. Ralph battled lung cancer for 12 years, yet he remained courageous and full of faith, never complaining during his entire struggle. From time to time, when I and others expressed deep concern and worry for his health, we walked away feeling consoled by Ralph, because of his brave outlook and positive disposition.

Ralph was a Christian and a true family man. He was a lifelong member of Wesley United Methodist Church,



(Above) Judge Ralph E. Tyson is sworn in as a district judge Feb. 26, 1993, by Judge Darrell White. Cara Elizabeth Tyson, Judge Tyson's daughter, is holding the Bible.

where he sang in several choirs and was a tenor soloist. He viewed his role as head of his household, as provider, protector and the one most responsible for the well-being of his family, as most paramount in his life. His devoted wife of 38 years, Patricia Jordan Tyson, and their four wonderful children, Chris, Todd, Eric and Cara, would all agree with me.

We often met at Christina's or at a Sigma Pi Phi Fraternity meeting and talked about what was going on with our families. But invariably, we would also walk down memory lane to 2024 Plank Road and points beyond; surely, we'd marvel at where fate took us. We set out on that road, a road less traveled, and as the poet Robert Frost said, that made all the difference.

Judge Ralph Eric Tyson was a role model for anyone to emulate. Life is all about challenges and choices. Ralph chose to respond to life's challenges in ways that proved him to be a man of value, a person with a strong constitution, consummate professional, a loyal friend, a Christian and true family man. What better attributes can one embrace along life's journey? ■

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West's Jury Verdicts - Baton Rouge

Venue/Case Type	Major Injury	Trial Type	Result
<u>East Baton Rouge Parish</u>			
Medical Malpractice	Death	Settlement	\$55,000
Premises Liability	Back, hip, knee, shoulder	Jury	\$5,000
Premises Liability	Neck, back, shoulder	Bench	Defense
Vehicle Negligence	Head, face, neck, shoulders	Bench	Defense
Vehicle Negligence	Back injuries	Bench	Defense

West's Case of the Month

Court Favors Homeowners, Insurer in Suit Involving Trip, Fall on Attic Stairs

Hamilton v. Rusoff

TYPE OF CASE:

Premises Liability • Slip/Trip & Fall
Premises Liability • Stairs
Premises Liability • Trip Over Object
Premises Liability • Residential Property
Premises Liability • Negligent Repair/Maintenance
Premises Liability • Fall from Elevation
Insurance • Homeowners Policy

SPECIFIC LIABILITY: Employee who provided personal care and domestic services to employers tripped and fell on attic stairway in their home while carrying laundry

GENERAL INJURY: Neck, back and shoulder injuries; aggravation of preexisting medical conditions; medical expenses; lost wages; loss of earning capacity

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

DOCKET/FILE NUMBER: 579,354

JUDGMENT: Defendants, \$0

JUDGMENT DATE: Dec. 13, 2010

JUDGE: William A. Morvant

ATTORNEYS:

Plaintiff: Gary P. Koederitz, Koederitz Law Firm, Baton Rouge
Defendants: Shelly D. Dick, Amy E. Newsom and Amanda G. Clark, Forrester & Dick, Baton Rouge

TRIAL TYPE: Bench

SUMMARY OF FACTS:

Shirley Hamilton was reportedly employed by Louis and Sylvia Rusoff to provide domestic services and personal care to Louis at their home located on Myrtle Dale Avenue in Baton Rouge, La.

Hamilton said on June 19, 2008, she climbed a stairway in the Rusoffs' home that went from the kitchen to the attic in order to place Louis' clothing in their usual storage area and obtain additional clothing. As she descended the stairs while carrying a laundry basket, Hamilton said she tripped on a

rug that had been rolled up and stored on a step on the attic stairway, which caused her to fall down the stairs.

Hamilton said she sustained personal injuries due to her fall, including injuries to her neck, back and shoulders. Hamilton further asserted the injuries she suffered aggravated some of her pre-existing medical conditions.

Hamilton filed a petition against Louis and Sylvia Rusoff and their reported liability insurer, Louisiana Farm Bureau Casualty Insurance Company, in the Nineteenth Judicial District Court for the Parish of East Baton Rouge in June 2009. The plaintiff asserted the Rusoffs' alleged negligence had caused her fall down the stairs and resulting injuries and damages.

Specifically, Hamilton argued the defendants had failed to provide a safe entrance and/or exit to and from their home's attic, failed to timely inspect the stairway where she fell, failed to warn her the rolled up rug was stored on the stairway and maintained hazardous and defective conditions in their residence.

Hamilton further asserted the stairs were narrow and steep, and had no handrail.

The plaintiff argued Louisiana Farm Bureau, as the Rusoffs' insurer, was liable for her injuries and damages. Hamilton sought damages for her personal injuries, pain and suffering, emotional distress, medical expenses, loss of life enjoyment, lost wages and loss of earning capacity.

In her pretrial memorandum, the plaintiff asserted she incurred medical expenses in the amount of \$13,052 due to injuries she sustained when falling down the stairs.

The defendants generally denied the plaintiff's allegations. They asserted the plaintiff's accident was caused by her sole fault and/or negligence by failing to maintain a proper lookout and being inattentive. They also denied the stairs in their home presented an unreasonable risk of harm to Hamilton.

The defendants further disputed the nature and extent of Hamilton's claimed injuries and damages, asserting she had an extensive medical history of pre-existing conditions that were not caused by the accident in question.

The matter proceeded to trial in November 2010 with Judge William Morvant presiding. In a judgment signed Dec. 13, 2010, the court entered judgment in the defendants' favor against Hamilton, dismissing the plaintiff's claims with prejudice and at her own costs.

CASE CITE: *West's J.V. La. Rep.*, Vol. 7, Iss. 1, p. 8 (2011); 2010 WL 6826532

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bar news

BY CHLOE EUSTON

Cocktails with the Court to be held at City Club Nov. 17 from 5 to 7 p.m.

The YLS Cocktails with the Court reception will be held Nov. 17, 2011, 5-7 p.m. at the City Club. This event provides young lawyers with the opportunity to meet local judges and their law clerks. Sponsors of this year's event include Citizens Bank & Trust, City Club, LSBA and Saunders & Chabert.

YLS Summer Sizzlin' seminar in July attracts standing-room-only crowd

The BRBA Young Lawyers Section held its annual Summer Sizzlin' CLE July 15, 2011, at the Middleton Bar Center. Four one-hour sessions were offered at a discounted rate for young lawyers in the BRBA.

YLS Secretary Lyla N. DeBlieux organized the event, and Amanda Stout is the YLS chairman.

The topics covered at the CLE were Social Media for Lawyers, Ethical Considerations with Kyle Ferachi; How to Survive and Thrive as a Solo or Small Firm with David Ogwyn; What Can a Lawyer Unfamiliar with Criminal Law Expect When a Friend or Family Member Calls at 2 in the Morning Because Junior Is in Jail? with Cliff Ivey and Professionalism with Judge Guy Holdridge.

Baton Rouge Bar Association website goes under the knife, receiving much more than just a facelift

The first thing users should notice about the new BRBA website (www.BRBA.org), which was unveiled in mid-September, is a new homepage with a dynamic Flash graphic. Of course, the new homepage isn't the only thing that has changed. Members can now register and pay online for CLE seminars, events and member dues using credit cards. They will also be able to update their contact information on the website. Members will have access to the members-only portion of the site with a pre-assigned username and password.

The Technology Committee has overseen the creation and implementation of the new website. Adrian Nadeau of Long Law Firm, LLP, is the Technology Committee chair, and Stephen Babcock of Babcock Partners, LLC is the vice chair. The Publications Committee, chaired by Edward J. Walters Jr. of Walters, Papillion, Thomas, Cullens, LLC, is responsible for content decisions. BRBA staff members handle content input and upkeep. Executive Director Ann G. Scarle and Communications Coordinator Pamela Labbe have been involved throughout the process.



PHOTO BY PAMELA LABBE

YLS Chairman Amanda Stout, Lyla DeBlieux, Judge Guy Holdridge, Jamie Watts and Scotty Chabert were photographed after the YLS Summer Sizzlin' CLE Friday, July 15, 2011. Judge Holdridge provided a presentation on Ethics.

In addition, the BRBA operates a listserv for attorneys to exchange information about Louisiana law. To subscribe to the listserv, email la-law-subscribe@lists.eatel.net.

Ball Maul to be held Nov. 7 at University Club

The BRBA's golf tournament and fundraiser, Ball Maul, will kick off at 10 a.m. Monday, Nov. 7 at the University Club. This year's major sponsor is Dr. Michael J. Goff / Louisiana Health & Injury Centers. Hole sponsors include Electronic Discovery of Baton Rouge, Perry Dampf Dispute Solutions, Strictly Legal, Postlethwaite & Netterville and Brian Prendergast. Verbatim Reporting LLC is the Poker Run sponsor and Dr. Jay Perniciaro with Total Care Pain & Injury Centers is the driving range sponsor. Other sponsors include LEX Litigation Group LLC and Manda Fine Meats.

Victor Loraso of Carleton Loraso LLC is the chair of the Ball Maul Committee. Contact Ann G. Scarle at 225-214-5563 for more information.

Teen Court completes fifth year of service to BR

Teen Court of Greater Baton Rouge, a program of the Baton Rouge Bar Foundation, completed its fifth year of helping young first-time offenders get on the right track.

Teen Court is a diversion program that gives teens the opportunity to be sentenced by their peers for first-time misdemeanor offenses—typically shoplifting, disturbing the peace, possession of marijuana or simple battery.

Under the guidance of adult volunteer attorneys, teen attorneys defend and prosecute the teen offender, and a teen jury determines a constructive sentence. Teen Court sentences consist of mandatory Teen Court jury service, community service hours, group sessions and additional measures such as written essays, letters of apology or anger management classes.

Teen volunteers serve as bailiffs, jurors and attorneys. Adult volunteers serve as judges, jury monitors, teen



PHOTO BY PAMELA LABBE

Judge James Brady along with his law clerks and interns attended the Aug. 23, 2011, Beer @ da Bar reception at the Middleton Bar Center.



PHOTO BY PAMELA LABBE

Attending the Beer @ da Bar Aug. 23, 2011, reception were Michael A. Patterson, Robert "Bubby" Burns Jr., Brooke Barnett, Judge Michael McDonald and Michael Rubin.



PHOTO BY PAMELA LABBE

Steve Carlton, Michael Choate, Dr. Laura Choate and BRBA President Preston J. Castille Jr. pose for a photo. Dr. Grover and Dr. Choate were honored during the reception.

attorney assistants, committee members, workshop presenters and training session presenters. The adult volunteers are attorneys or law students.

BRBA staff members Donna Buuck and Lynn Haynes coordinate Teen Court. Weldon Hill II chairs the Teen Court Committee, which oversees Teen Court.

BRBA members honored with mugs at August Beer @ da Bar reception

The third Beer @ da Bar of this year's reception series was held Aug. 23, 2011, at the Middleton Bar Center to honor Dr. Laura Choate, LSU Associate Professor of Counselor Education; Dr. Leslie T. Grover, SU Assistant Professor of Public Administration; Brooke Barnett of

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PHOTO BY PAMELA LABBE

BRBA President Preston J. Castille Jr. presents a beer mug to Charles Davoli during the Aug. 23, 2011, Beer @ da Bar reception.




PHOTO BY PAMELA LABBE


BRBA President Preston J. Castille Jr. presents a beer mug to Matt Tierney. Behind them stands Michelle Sorrells, co-chair of the BRBA Workers' Compensation Section.

Long Law Firm; Laranda Moffett Walker of Phelps Dunbar; Kyle Ferachi of McGlinchey Stafford; Charles Davoli of Davoli, Krumholt & Price; and Matt Tierney of Tierney and Smiley.

All BRBA members are invited to attend the next Beer @ da Bar, which will be held Thursday, Nov. 10, 2011, at the Middleton Bar Center, 544 Main Street.

Belly Up with the Bar offers many attractions, including food, drink and music



BRBA members are invited to attend Belly Up with the Bar Friday, Oct. 21 in the lot behind Moore, Thompson and Lee at 6513 Perkins Rd. Vic Suane of Kean Miller is the chair of the Belly Up with the Bar Committee. 



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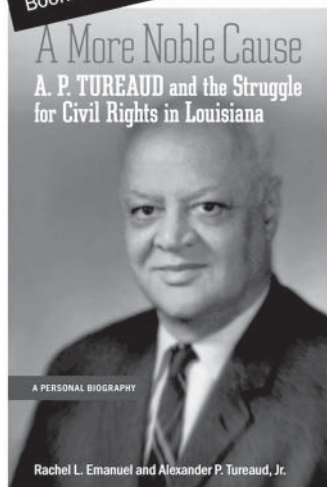
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Rachel L. Emanuel and Alexander P. Tureaud, Jr.

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 Ogden Museum, New Orleans, Oct. 20
 Louisiana Book Festival, Oct. 29
 SU Civil Rights Commemoration opening at SU Museum of Art, Nov. 9

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foundation footnotes

PRO BONO PROJECT & TEEN COURT JULY REPORTS

PRO BONO PROJECT REPORT

We would like to extend a special thanks to all of the volunteers who donated their time to the Pro Bono Project during the month of July.

The Thirst for Justice solo practitioner volunteers were Byron Kantrow, Allen Posey, Judge Melvin Shortess (Ret.), and Emily Ziober.

The Thirst for Justice volunteers from firms were Melissa Grand, Renee Crasto, Adams & Reese; Todd Gaudin, Kuehne, Foote & Gaudin APLC; Michael Malinowski, The Lucky Law Firm; Stephen Strohschein, McGlinchey Stafford, PLLC; Mac Womack, Taylor, Porter, Brooks & Phillips, LLP.

The law student intake volunteer was Cleveland Patterson, Southern University Law Center.

The Baton Rouge Bar Foundation interns were Katrina Jackson, Ben McDonald, Clare Svendson and Cleveland Patterson, Southern University Law Center.

The Ask-A-Lawyer volunteers were Scott Gaspard and Emily Ziober.

The volunteers accepting cases in the month of July included Samantha R. Ackers, Attorney at Law; Nicole Anthony, Thornton Law Office; Durward Casteel, Casteel & Associates; Jeffrey Rabb, Dudley DeBosier; and Doreen Taravella, Attorney at Law.

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; Family, District and City Court Filing Fees and the Baton Rouge Bar Foundation.

TEEN COURT REPORT

Matthew Belser and Lindsay Watts Sanchez served as judges for the July hearing. Shawn Gordon and Selmin Sipahi, licensed counselors, provided two parent/child workshops on a pro bono basis.

Graduate students from the LSU School of Counselor Education provided weekly group sessions for Teen Court defendants.

Volunteers are needed to serve as judges for the Teen Court hearings and to assist with training sessions. If you are interested in volunteering, please contact Donna Buuck at 225-214-5556 or via e-mail to donna@brba.org.

Teen Court of Greater Baton Rouge is funded by a grant from the Louisiana Office of Juvenile Justice (formerly the Office of Youth Development), a grant from the Louisiana Bar Foundation's IOLTA program and from the Baton Rouge Bar Foundation. This project is also supported in part by Grant No. 2009-JF-FX-0059 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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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

or
R. Lynn Smith Haynes
at 225-214-5564
or lynn@brba.org.



GAIL'S GRAMMAR

Cite means to quote or to mention in support. You wouldn't use the preposition *to* after quote or mention; you'd never say, "The judge quoted *to* Marbury v. Madison." So why would you use the phrase *cited to* instead of *cited*? In a recent interview, Justice Scalia described using *to* after *cite* as "basically illiterate." So be literate! *Cite* cases, don't *cite to* them.

Send suggestions for future
Gail's Grammar columns
to Gail Stephenson at
GStephenson@sulc.edu,
or call Gail at 225.771.4900 x 216.



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or e-mail: pamelab@BRBA.org

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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					



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

Duty Court Schedule

19THJDC CIVIL COURT

Sept. 26-Oct. 7 Judge Caldwell
Oct. 10-Oct. 21 Judge Fields
Oct. 24-Nov. 4 Judge Morvant

19TH JDC CRIMINAL COURT***

Sept. 30-Oct. 7 Judge Daniel
Oct. 7-Oct. 14 Judge Moore
Oct. 14-Oct. 21 Judge Johnson
Oct. 21-Oct. 28 Judge White
Oct. 28-Nov. 4 Judge Marabella

BATON ROUGE CITY COURT*

Sept. 26-Oct. 2 Judge Temple
Oct. 3-Oct. 9 Judge Wall
Oct. 10-Oct. 16 Judge Alexander
Oct. 17-Oct. 23 Judge Ponder
Oct. 24-Oct. 30 Judge Davis
Oct. 31-Nov. 6 Judge Temple

FAMILY COURT**

Oct. 3-Oct. 7 Judge Baker
Oct. 10-Oct. 14 Judge Woodruff-White
Oct. 17-Oct. 21 Judge Day
Oct. 24-Oct. 28 Judge Lassalle
Oct. 31-Nov. 4 Judge Baker

JUVENILE COURT

Oct. 1 - Oct. 31 Judge Richey

*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 changes at 4 p.m. each
Friday*

****19th JDC Criminal Court changes each Friday at noon*

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Monday, Oct. 10 Columbus Day
Tuesday, Nov. 1 All Saints Day



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Thursday, Dec. 15

Friday, Dec. 16

Thursday, Dec. 29

Friday, Dec. 30

Contact Ann G. Scarle
at 225-214-5563 or ann@brba.org
for more information.

Calendar of Events

- 4** YLS Council Meeting, 12 p.m.
- 5** Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 6** Ask-A-Lawyer workshop, 9-11:30 a.m., Delmont Service Center;
October Bar Luncheon, De La Ronde Hall, 11:45 a.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 10** Community Outreach Committee meeting, 12 p.m.;
- 11** Publications Committee meeting, 12 p.m.;
- 11** Belly Up with the Bar meeting, 12 p.m.;
- 11** Member Services Committee meeting, 12 p.m.
- 12** Pro Bono Committee meeting, 12 p.m.;
- 12** Operations & Finance meeting, 3:30 p.m.;
- 12** Executive Committee meeting, 4 p.m.
- 13** Volunteer Committee meeting, 12 p.m.;
- 13** Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 14** JPA presentation at Dalton Elementary, 8:15 a.m. - 12:35 p.m.
- 17** CLE Committee meeting, 12 p.m.
- 19** Ask-A-Lawyer workshop, 9-11:30 a.m., Catholic Charities;
Board of Directors Meeting, Mansurs On the Boulevard, 6 p.m.
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 20** Family Law Section meeting, 12 - 2 p.m., Carrabas Italian Grill;
Public Law Section meeting, 12 p.m.;
- 20** Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 21** Belly Up with the Bar Event, starts at 5 p.m., Moore, Thompson & Lee, 6513 Perkins Road
- 25** Youth Education Committee meeting, 12 p.m.
- 26** Teen Court Committee meeting, 12 p.m.;
- 26** Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 27** Bylaws & Elections Committee meeting, 12 p.m.;
- 27** Thirst for Justice, St. Vincent de Paul, 3-5 p.m.;
- 27** Workers' Comp. Halloween Party, Boudreaux & Thibodeaux's+, 5-7 p.m.

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