Bar Luncheon:
Thursday, June 14

Inside:
Tenth Amendment revisited

Federal court’s shift from conceivable to plausible

Interview with John Smart Jr.

Summer Games
Bench Bar Conference: July 26-28
Softball Tournament: Aug. 17-18
BRBA BENCH BAR CONFERENCE 2012
Summer Games
July 26 - 28 • Perdido Beach Resort • Orange Beach, Ala.

RESERVATION INFORMATION
To make your hotel reservation, call 1-800-634-8001 or visit the hotel website at www.perdidobeachresort.com and enter group code 7714. If you call, identify that you want to be placed in the BRBA block.

CONFERENCE HIGHLIGHTS
FIRST-TIMER REGISTRATION PRICE IS $300
Registration begins Thursday, July 26 at 1 p.m. • 10.5 hours of CLE are being offered • CLE Seminars begin Thursday, July 26 at 3 p.m.
CLE Seminars break at 12:15 p.m. Friday, July 27 to allow free time to spend with family and friends
CLE seminars from 8 a.m. to 12 p.m. Saturday, July 28
Tennis tournament on Friday • Golf tournament on Saturday • Musical entertainment by The Bucktown All-Stars

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First-timer registration rate is limited to the first 20 who register by June 25, 2012.
For more information, contact Ann K. Gregorie at 225-214-5563 or ann@brba.org.

BRBA BENCH BAR CONFERENCE 2012
July 26 - 28
Perdido Beach Resort, Orange Beach, Ala.
The cover photo features members of the 2012 Bench Bar Conference and Athletic committees. Both events are taking place this summer and will make up the BRBA’s “Summer Games.” Photographed are (standing, L to R) BRBA President Gail S. Stephenson, Michael Lutgring, Jordan Faircloth, Eric R. Miller, Lawrence G. Gettys, Judge Pamela Moses-Laramore, Emily Grey; (seated, L to R) Athletic Committee Co-Chair Chris Jones, Bench Bar Conference Committee Chair Patrick Broyles and Dana Brown.

The cover photograph was taken at the BREC Perkins Road Skate Park at Perkins Road and Kenilworth. In the background is the newly opened climbing wall. This year’s BRBA Bench Bar Conference theme is “Summer Games.”

Cover photography by Pamela Labbe.
Robert “Bubby” Burns Jr., a partner with Perry, Atkinson, Balhoff, Mengis & Burns, LLC, is a contributing writer.

Albert Dale Clary, a partner with Long Law Firm, is a contributing writer.

Vincent P. Fornias, an assistant editor of Around the Bar, is a solo practitioner whose practice focus is alternative dispute resolution.

Pamela Labbe is the communications coordinator of the Baton Rouge Bar Association.

Gail S. Stephenson, an assistant editor of Around the Bar and the 2012 BRBA president, is the director of legal analysis and writing and an associate professor of law at the Southern University Law Center.

Adam Thames, an associate with Taylor, Porter, Brooks & Phillips, is a contributing writer.

Sharon S. Whitlow, a solo practitioner and of counsel with Long Law Firm, is a contributing writer.

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**PLAN TO ATTEND THE 2012 LAW EXPO & SEPTEMBER BAR LUNCHEON**

**Wednesday, Sept. 12**

**Baton Rouge River Center**

*Add a little magic to your business day!*

**During the event you can:**
- Visit with local business representatives at the tradeshow
- Enjoy camaraderie with local judges and attorneys
- Win great door prizes • Earn CLE credit in ethics and professionalism
- Listen to a legislative update • Enjoy a delicious lunch
- Attend a magical reception

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**CONTRIBUTORS**

- Robert “Bubby” Burns Jr.
- Albert Dale Clary
- Vincent P. Fornias
- Gail S. Stephenson
- Adam Thames
- Sharon S. Whitlow

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- Asst. Eds.: Vincent P. Fornias — 769-4553
- Graphic Design / Ad Sales: Pamela Labbe — 225-214-5550

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It’s summertime, your kids are out of school, and it’s time for the beach or softball or whatever it is you and your family do to have fun. But the office beckons – got to meet that billable hours quota, settle one more case or if you’re a professor like me, finish that law review article. How do you balance it all?

I’ve pondered this dilemma for years. Nineteen years ago I missed kindergarten roundup because the deposition I was taking in New Orleans ran late. To this day I remember my son’s disappointment. I also had a hard time explaining to my son that practicing insurance defense kept me too busy to be first grade room mother. By the time he was in second grade I decided to give up insurance defense to become an appellate court research attorney with a much more flexible schedule. I used to tell people I took a $15,000 a year pay cut so I could be a room mother. That conscious choice meant I drove a Mercury Topaz while my friends were buying Beemers, but it was worth it to me.

Maybe you aren’t ready to make that kind of choice, but you still want to have time for the things you want to do. Planning and organization go a long way toward achieving that goal. With better planning, I could have attended kindergarten roundup by not scheduling an out-of-town deposition on that day. Those personal priorities need to make it onto your office calendar.

Sharing those personal priorities with others can help, too. Recently one of the BRBA officers wanted to attend his child’s softball game, but it happened to be on the same date as an executive board meeting. He asked if we could try to conclude the meeting early so he could make it to the game on time. This request motivated the rest of the board to move things along, and the meeting finished in plenty of time for him to make it to the game.

Prioritizing your work obligations and making the most of your time also helps. Ask yourself: “Do I really need to attend that meeting? Is there a real reason for me to stay late at the office, or am I just trying to impress the senior partners? Is there something on my to-do list that will wait until next week so I can do that fun thing I want to do today? If I miss my child’s softball game, will I regret it years later?

Bronnie Ware, an Australian nurse who spent several years caring for patients in their last 12 weeks of life, wrote a book called Top Five Regrets of the Dying. Not one of her patients said they wished they’d worked more. Instead, they all regretted that they’d spent “so much of their lives on the treadmill of a work existence.”

Avoiding regrets about overwork at the end of your life is a good reason to seek work/life balance, but Margaret Heffeman, a writer for BNET, an online magazine dedicated to business management, has an even better reason. She says: “Overwork doesn’t make us productive, it makes us stupid.” According to studies over the last century, the quality of your work starts to degrade and you begin to make mistakes after 40 hours a week. So working 60 hours a week may result in you working even more hours the next week to fix the mistakes you made when you were tired.

Don’t let overwork make you regretful or stupid! Instead, grab your summer hat and head for the place that makes you happy, whether it’s the beach, the golf course or the ball park. Work on that summer hattitude. And be sure to join us July 26-28 at Perdido Beach Resort for Summer Games at the BRBA Bench Bar Conference.
The June Bar Luncheon will feature guest speaker John Maginnis at De La Ronde Hall Thursday, June 14, 2012, at 11:45 a.m.

This month’s luncheon has been organized by the Young Lawyers Section of the Baton Rouge Bar Association. Law firms are encouraged to bring their summer law clerks (at the BRBA member rate) to this luncheon, where partners or associates can introduce them.

John Maginnis, who has been writing about Louisiana politics since 1972, publishes *LaPolitics Weekly*, an email newsletter. The independent journalist also writes a weekly syndicated column that appears in 16 daily and weekly newspapers around the state. Maginnis is the author of two books on Louisiana politics – *The Last Hayride* in 1984 and *Cross to Bear* in 1992 – and he frequently comments on Louisiana politics for the national media. In 2000, the Baton Rouge native was inducted into the Hall of Fame of the LSU Manship School of Mass Communication. He is currently working on a project to encourage first-time candidates to run for office, with the launch of his web site [www.howtogetelected.com](http://www.howtogetelected.com).

Admittance to the Bar Luncheon is $20 per BRBA member, and $30 per non-member or guest. We accept payment in advance and at the door. All major credit cards are accepted.

There are three ways to register: (1) register online at www.BRBA.org and pay via credit card; (2) fax this form to 225-344-4805 before 12 p.m. Friday, June 8, 2012; or mail this form in with your check payable to the BRBA, P.O. Box 2241, Baton Rouge, LA 70821.

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**Please check all appropriate options below and fax this entire page to the BRBA, (225) 344-4805, by 4:30 p.m. Friday, June 8, 2012.**

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**Firm**

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☐ LUNCH — YES, register me for the [JUNE BAR LUNCHEON](#) at DE LA RONDE taking place THURSDAY, June 14, 2012, at a cost of $20 per BRBA member, or $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, June 8, 2012.**

“No shows” will be billed.

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To register for this luncheon online and pay by credit card, go to [www.BRBA.org](http://www.BRBA.org), select the EVENTS tab, then click on LIST and choose the appropriate event.

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If paying by credit card, please include the following:

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This series of continuing legal education seminars teaches the fundamentals needed to build your law practice.

**LIMITED SEATING AVAILABLE:** Sessions are limited in size to 25 attendees and are designed to be hands-on.

**PARKING:** Included in the seminar price.

**OPTIONAL LUNCH AND Q&A AVAILABLE:** This is an optional opportunity for you to ask the presenters additional questions.

**CORE CURRICULUM OFFERINGS:** Ethics or Professionalism will be offered during each 4-hour seminar, of which there are five in the 2012 Summer CLE Seminar Series.

**INDIVIDUAL SEMINAR PRICING**

Early registration is available for seminar registrations received by the Wednesday prior to each seminar.

- Member rates for BRBA members admitted to the bar PRIOR TO 2011—Early registration: $100; Late registration: $125;
- Member rates for BRBA members admitted to the bar in 2011 and 2012—Early registration: $50; Late registration: $75;
- Non-member rates—Early registration: $160; Late registration: $180.

**CONVENIENT LOCATION:** Middleton Bar Center, 544 Main Street (Baton Rouge Bar Association building)

Complete this form and fax it to the Baton Rouge Bar Association — 225-344-4805.

**SEMINAR SCHEDULE**

**ALL SEMINARS ARE 8:00 A.M. TO 12:30 P.M.**

- Friday, June 1, 2012 — Hanging Out Your Shingle, Part I – Infrastructure Needed to Start Your Own Business  CLE Credit: 4
- Friday, June 15, 2012 — Hanging Out Your Shingle, Part II – Running an Ethical, Successful and Profitable Business  CLE Credit: 4
- Friday, June 29, 2012 — Criminal Law  CLE Credit: 4
- Friday, Aug. 10, 2012 — Nuts & Bolts of a Succession  CLE Credit: 4
- Friday, Aug. 24, 2012 — Nuts & Bolts of Estate Planning  CLE Credit: 4

**REGISTRATION FORM**

**PLEASE SELECT THE SEMINARS YOU PLAN TO ATTEND & YOUR DESIRED PRICING:**

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<tr>
<th>Optional Lunch:</th>
<th>CLE Seminars:</th>
<th>Pricing Choices:</th>
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<td>YES, I plan to stay after the CLE for the Lunch and Q&amp;A.</td>
<td>Hanging Out Your Shingle, Part I</td>
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<td>Nuts &amp; Bolts of a Succession</td>
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Firm___________________________________________
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Phone ___________________________________________________ Fax ___________________________________________
Email ___________________________________________________

Each seminar is designed to teach interviewing skills and document design, and to provide forms to add to your tool box. For more information about the Nuts & Bolts Baton Rouge Bar Association 2012 Summer CLE Seminar Series, contact Ann K. Gregorie at 225-214-5563 or ann@BRBA.org. Cancellations received within 48 hours of each seminar may be subject to penalty. “No shows” will be billed. Fax completed form to 225-344-4805.

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Name on credit card__________________________________
Type of card: (circle one):  MC     VISA      AmericanExpress
Card Number:______________________________________
Exp. Date: ___________________  Security code:_________
Hat’s off yet again, President Gail, for the fodder behind this month’s message.

By the time our signature as lawyers starts declining precipitously in comparison to what originally appeared in our bar admission certificates, most of us have learned the hard way that different worlds deal in different dialects. And if we are to communicate effectively in our world, we must learn quickly and effectively to both understand and be understood in these various and diverse environments. It is no accident that in addition to the Secret Civilian Handshake, Louisiana lawyers share a vocabulary that would test the perceptual abilities of your average Wall Street lawyer. By the same token, when we go “home” to our respective roots (be that Chackbay or Chalmette) our automatic pilot will click on to blend in with our homeboys (or girls).

Sometimes the chains of communication are broken by weak links that may be either generational or cultural – or both. Take, for example, a local story involving a bench trial for a crime that occurred early in the morning (or very late at night) in a part of town not known for ice cream socials or Kiwanis picnics. The defense lawyer, chumming for a solid alibi, asked his client on the stand to tell the judge what he was up to at 2 a.m. in that part of town on the night in question. Yes, dear tacky incorrigible reader(s), that query is a hanging curve of possibilities if there ever was one.

The nonchalant reply was, “I was lookin’ to get some trim.”

At this point, the presiding judge lost both his patience and his urban dictionary, for he proceeded to interrupt the defendant and lecture him incredulously, “Surely you do not expect me to believe that you thought there was a barber shop open at that time of the morning.”

Alas, the annals of time (and the limits of good taste) have saved us from any synonyms used by the surprised defendant to further explain that his quest that night was anything but tonsorial.
Typically, pleadings unlock the door of the judicial system for aggrieved persons looking to have their day in court. While getting through the courthouse door is a necessary step, one’s day will be short lived if the initial pleading does not meet the requirements of the chosen venue. Rule 8 of the Federal Rules of Procedure sets the tone for those filing a complaint in federal court, requiring, among other things, “a short and plain statement of the claim showing that the pleader is entitled to relief.”

For more than half a century, federal courts were content that under Rule 8, a complaint should not be dismissed for failure to state a claim “unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” This pleading standard, which the Supreme Court first enunciated in Conley v. Gibson in 1957, essentially endorsed notice pleading as opposed to fact pleading. The Conley court declared that “the Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome.”

The Supreme Court’s interpretation of Rule 8, and particularly the concept of notice pleading, changed in 2007 with Bell Atlantic Corp. v. Twombly, an antitrust case alleging conspiracy to restrict competition among telecommunication providers. For the first time in more than 50 years, Twombly heightened the federal pleading standard, requiring that a complaint include “only enough facts to state a claim to relief that is plausible on its face.”

In so holding, the Court recognized the tension between the new “plausibility” requirement and a literal interpretation of Conley’s “no set of facts” standard, and unequivocally stated that the latter had “earned its retirement” and “is best forgotten.” Dissenting Supreme Court Justice Stevens and Ginsburg lamented Conley’s demise, stating that “[i]f Conley’s ‘no set of facts’ language is to be interred, let it not be without eulogy.”

Despite the express holding of Twombly, uncertainty remained as to whether the “plausibility” requirement should apply to all civil claims, or instead to only antitrust claims—the claims at issue in Twombly. Notably, just two weeks after Twombly, the Supreme Court ruled on another motion to dismiss in Erickson v. Pardus. There, in finding for the plaintiff, the Court reiterated that Rule 8 requires only a “short and plain statement” and held that “[s]pecific facts are not necessary; the statement need ‘only give the defendant fair notice of what the … claim is and the grounds upon which it rests.’” For many, Pardus seemed to suggest that the heightened standard set forth in Twombly was limited solely to antitrust claims.

Any question as to the scope of Twombly’s reach, however, was necessarily put to rest by Ashcroft v. Iqbal. The Supreme Court’s decision in Iqbal made it clear that the Twombly “plausibility” standard applied to all cases in federal court, explaining that Conley’s “no set of facts” standard was no longer the law of the land. Instead, per Iqbal, a plaintiff must now demonstrate to the Court that
his complaint possesses “facial plausibility” and must plead enough “factual content that allows the court to draw reasonable inference that the defendant is liable.”13

Iqbal concerned the federal government’s allegedly discriminatory detention of Muslim men following the infamous Sept. 11, 2001, terrorist attacks on U.S. soil. In dismissing the action, the Court, pursuant to Twombly, held that Iqbal’s accusations that he was confined because of race, religion, or national origin had “not ‘nudged [his] claims’ of invidious discrimination ‘across the line from conceivable to plausible.’”14 In particular, the Court found the allegations to be too “conclusory.”15

Under Iqbal, the facts pleaded must now represent more than a “mere possibility” of wrongdoing.16 To determine whether the plaintiff’s claims are “plausible,” the Court encouraged jurists to draw on their “judicial experience and common sense.”17 Because experience and common sense are certainly relative, such a subjective standard could be difficult to apply uniformly across the judiciary. For example, in Boykin v. KeyCorp, the Second Circuit stated that the Court intended to “make some alteration in the regime of pure notice pleading” but “does not offer much guidance to plaintiffs regarding when factual ‘amplification [is] needed to render [a] claim plausible.’”18 Similarly, in Courie v. Alcoa Wheel & Forged Products, the Sixth Circuit recognized the new pleading standard set forth by Iqbal and explained that “[e]xactly how implausible is ‘implausible’ remains to be seen.”19

Despite the initial uncertainty following Iqbal, appellate courts have since settled into the post-Twombly/Iqbal framework, and extended discussions of the “plausibility” standard are becoming less common in judicial opinions.20 Nonetheless, the heightened pleading standard of Twombly/Iqbal has undoubtedly made it more difficult to bring claims in federal court. According to Stephen B. Burbank, an authority on federal civil procedure at the University of Pennsylvania Law School, Twombly/Iqbal serves as “a blank check for federal judges to get rid of cases they disfavor.”21 Judge Posner of the United States Court of Appeals for the Seventh Circuit wrote in August 2009 that Twombly was “fast becoming the citations du jour in Rule 12(b)(6) cases, as authority for the dismissal of the suit.”22

At least one scholar found that there has been a statistically significant increase in the likelihood that a motion to dismiss will be granted under Twombly/Iqbal. Specifically, Professor Hatamyar, Associate Professor at St. Thomas Law, found that under Twombly/Iqbal, the odds of a 12(b)(6) motion being granted rather than denied were greater than under Conley, holding all other variables constant.23 Admittedly, this increase could be due to the fact that the heightened standard encourages...
the filing of 12(b)(6) motions that likely would not have been filed under Conley. Thus, even though Twombly/Iqbal may make it easier to win a 12(b)(6) motion, there may be more long shot motions filed, leaving the overall likelihood of success unchanged.24

The debate on the Court’s major departure from the established precedent of Conley and the proper role of pleadings and pretrial motions continues to rage on among those advocating for plaintiffs and defendants, respectively.25 The defense bar, along with the large entities it typically represents, believe that a heightened pleading standard is necessary to reduce the cost of litigation, weed out abusive lawsuits and protect American business interests.26 The plaintiffs’ bar, supported by various civil rights, consumer and environmental protection groups, believes that heightened pleading will prohibit meritorious claims before ample discovery, undermine various state and national policies, and increase the burden on under-resourced plaintiffs.27

Despite ongoing debate over Twombly’s and Iqbal’s implications, advocates and critics alike can agree that preparing a complaint in federal court that will withstand a Rule 12(b)(6) motion to dismiss is now far more demanding than it once was under Conley. In his dissent in Iqbal, Justice Souter wrote that judges should accept the accusations in a complaint as true, “no matter how skeptical the court may be.”28

“The sole exception to this rule,” at least according to Justice Souter, “lies with allegations that are sufficiently fantastic to defy reality as we know it: claims about little green men, or the plaintiff’s recent trip to Pluto, or experiences in time travel.”29 That, however, is arguably no longer the law. Under the Twombly/Iqbal framework, federal judges will now decide at the genesis of litigation whether a plaintiff’s allegations ring true, and they will effectively close the courthouse door if they do not.30

2 Lori Andrus, In the Wake of Iqbal, Trial Magazine, March 2010.
3 See id.; Conley, 78 S.Ct. at 103.
5 Id. at 1960.
6 Id. at 1969.
7 Id. at 1978 (Stevens, J., dissenting).
10 Id. at 2200 (quoting Twombly, 127 S.Ct. at 1955).
12 Id. at 1953.
13 Id. at 1949.
14 Id. at 1950-51.
15 Id. at 1951.
16 Id. at 1950.
17. Id.
18. 521 F.3d 202, 213 (2d Cir. 2008).
19. 577 F.3d 625, 629 (6th Cir. 2009).
20. See Summers & Gadarian, supra note 8 at 37.
23. Id., citing letter from John Vail, Vice President, Ctr. for Const. Lit., to the Advisory Comm. on Civil Rules (Nov. 10, 2008).
24. For further discussion of this point, see see Summers & Gadarian, supra note 8 at 38-39.
27. Id., citing letter from John Vail, Vice President, Ctr. for Const. Lit., to the Advisory Comm. on Civil Rules (Nov. 10, 2008).
28. 129 S. Ct. at 1959 (Souter, J, dissenting);
29. Liptak, supra note 21.
30. Id., citing letter from John Vail, Vice President, Ctr. for Const. Lit., to the Advisory Comm. on Civil Rules (Nov. 10, 2008).
West’s Jury Verdicts - Baton Rouge

<table>
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<th>Trial Type</th>
<th>Result</th>
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<td>Necks, backs, shoulders, arms, hands, legs</td>
<td>Bench</td>
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<td>Back injuries, lumbar fusion surgery</td>
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<td>Back, neck, head, jaw</td>
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<td>Head, back, hip, legs</td>
<td>Bench</td>
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<tr>
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<td>Head, thoracic, cervical and lumbar spine</td>
<td>Jury</td>
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West’s Case of the Month

Hwy. 61 Rear-Ender Results in $50.5K Verdict For Injured Driver

Dupuy v. Nobile

**TYPE OF CASE:**
Vehicle Negligence • Motor Vehicle v. Motor Vehicle
Vehicle Negligence • Rear-End
Vehicle Negligence • Parked/Stalled/Stopped Vehicle
Vehicle Negligence • Inattention

**SPECIFIC LIABILITY:**
Motorist rear-ended another vehicle stopped for a red traffic signal, injuring the driver of the other vehicle

**GENERAL INJURY:**
Back, neck, head and jaw injuries; medical expenses; lost wages; loss of earning capacity; property damage

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

**DOCKET/FILE NUMBER:**
577,134

**VERDICT:**
Plaintiff, $50,501.37

**VERDICT DATE:**
Sept. 13, 2011

**JUDGE:**
R. Michael Caldwell

**ATTORNEYS:**
*Defendants* (Nobile and Allstate): Jeffrey S. Vallerie and Deanne Vaughn Murrey, Law Offices of Harold G. Toscano, Baton Rouge

**TRIAL TYPE:**
Jury

**BREAKDOWN OF AWARD:**
$10,501.37 to plaintiff for past medical expenses
$25,000.00 to plaintiff for physical pain and suffering

$10,000.00 to plaintiff for permanent impairment and/or disability
$5,000.00 to plaintiff for loss of enjoyment of life

**SUMMARY OF FACTS:**
Brooke Dupuy reportedly was traveling north on Highway 61 in East Baton Rouge Parish, La., July 31, 2008. Dupuy apparently stopped for a red traffic signal near Pecue Lane and her automobile was rear-ended by a vehicle driven by Marine Nobile and owned by Price LeBlanc Inc.

Dupuy claimed she sustained injuries in the accident, including injuries to her back, neck, head and jaw.

Dupuy filed a lawsuit against Nobile and her reported insurers, Allstate Insurance Company (Allstate) and Tokio Marine & Nichido Fire Insurance Company Ltd. (Tokio Marine). In her petition, the plaintiff alleged Nobile was negligent in that she had failed to keep a proper lookout, failed to keep her vehicle under proper control, failed to avoid what was directly in front of her path of travel, operated her vehicle in a wanton and reckless manner and followed too closely.

The plaintiff asserted the defendant’s negligence proximately caused her injuries and damages. She sought compensation for her physical pain and suffering, mental pain and anguish, medical expenses, lost wages, loss of earning capacity, residual disability, property damage, loss of use and loss of enjoyment of life.

Court documents indicated Nobile admitted fault for the accident; however, Nobile and Allstate contested the degree, nature, extent and causation of the plaintiff’s alleged injuries and damages.

According a pretrial order filed in November 2010, Tokio Marine tendered a $10,000 check to the plaintiff for the limits of its liability in the matter. The pretrial order further indicated Allstate, Nobile and Dupuy were the remaining parties in the lawsuit.

A jury trial was held in September 2011 with Judge R. Michael Caldwell presiding. Jurors returned a verdict in favor of the plaintiff, Sept. 13. The jury awarded the plaintiff $10,501.37 for past medical expenses, $25,000 for physical pain and suffering, $10,000 for permanent impairment and disability, and $5,000 for loss of enjoyment of life.

**CASE CITE:** West's J.V. La. Rep., Vol. 7, Iss. 9, p. 9 (2012); 2011 WL 7432088
Political issues in the last few years have heightened public scrutiny of the relationship between the federal government and state governments. The greater expansion of the federal government into more and more areas of private life has prompted public discussions over whether there is any limit to the federal government's power. The Tenth Amendment to the United States Constitution lies at the heart of those discussions.

The amendment has been mentioned in the news as part of GOP presidential debates and commented on by several popular op-ed writers. New words like “nullification” and “Tenther” have reached political lexicons. Additionally, the Tenth Amendment is included in early opinions regarding the Patient Protection and Affordable Healthcare Act of 2010, which have held that the Act both comports with and violates the Tenth Amendment. In order to understand the ramifications of the U.S. Supreme Court’s anticipated ruling, we first revisit the Tenth Amendment and refresh our understanding of this Amendment.

**Text and context**

The Tenth Amendment provides:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is, of course, part of the Bill of Rights, historically considered a set of amendments offered to offset the “tyranny by the central government” feared by opponents of the Constitution.

The context of the Tenth Amendment suggests it is the culmination of the Bill of Rights. The last of the 10 amendments contained in the Bill of Rights, the Tenth Amendment follows another oft-forgotten amendment, which also relates to the relationship between the federal and state governments:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

**Early commentary**

The wording and context of the Tenth Amendment suggested to the authors of the Constitution that the powers of the federal government would be limited compared to those of the states:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.

In 1788, it was written:

> [T]he powers proposed to be lodged in the federal government are as little formidable to those reserved to the individual States, ... and that all those alarms which have been sounded, of ... annihilation of the State governments, must, on the most favorable interpretation, be ascribed to the chimerical fears of the authors of them.

Those who wrote the Constitution also regarded the structure of separate state and federal governments as another level of governmental checks and balances beyond the legislative, executive and judicial branches of the federal government.

The original authors also envisioned a difference in the types of powers allocated between the federal and state governments. The federal powers would be exercised “principally on external objects, as war, peace, negotiation, and foreign commerce.” However, the powers reserved to the States would “extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order,
improvement and prosperity of the State.”

20th century interpretation

The intentions of the original authors continued to be reflected in United States Supreme Court opinions of the early 20th century in such statements as

“The question is not what power the Federal Government ought to have but what powers in fact have been given by the people. It hardly seems necessary to reiterate that ours is a dual form of government; that in every state there are two governments, – the state and the United States. Each State has all governmental powers save such as the people, by their Constitution, have conferred upon the United States, denied to the States, or reserved to themselves.


However, shortly after Butler, a run of opinions dramatically changed the course of power between the federal and state governments. In a series of opinions arising out of the New Deal legislation between 1935 and 1937, the Court reversed the course of power between the two governments.

In 1935 and 1936 the Court struck down several New Deal enactments as outside the power of the federal government. These acts included the Agricultural Adjustment Act (“invades the reserved rights of the states...a statutory plan to regulate and control agricultural production, a matter beyond the powers delegated to the federal government”10), the National Industrial Recovery Act (“Extraordinary conditions do not create or enlarge constitutional power”11), the Railroad Retirement Act (“These matters obviously lie outside the orbit of Congressional power”12) and the Bituminous Coal Conservation Act (“The Tenth Amendment ... disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted ...”13).

However, in 1937, the Court reversed field and handed down a series of decisions upholding greater expansion of federal power after what has been called a “court packing scheme” by then-President Roosevelt.14 These include unemployment compensation provisions of the Social Security Act (“There was need of help from the nation if the people were not to starve. ...in a crisis so extreme the use of the moneys of the nation to relieve the unemployed...is a use for...the promotion of the general welfare”15), the old age benefits of the Social Security Act (“this statute is to save men and women from the rigors of the poor house....when journey’s end is near”16), the National Labor Relations Board (“activities ... intrastate in character ...[which] have such a close and substantial relation to interstate commerce that their control is ... appropriate to protect ... commerce from burdens and obstructions, Congress cannot be denied the power to ... control”17), and the Railway Labor Act. (“The ... Cases, ...which mentioned railroad repair shops as a subject beyond the power to regulate commerce, are not controlling here”18).

Following the post-New Deal decisions, the Court began to view the Tenth Amendment as merely a historical point of interest and nothing more than a “truism that all is retained which has not been surrendered.”19 The Court found “nothing in the history of its adoption to suggest that it was more than declaratory of the relationship between the national and state governments...or that its purpose was other than to allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers.”20

What followed was a further expansion of the Commerce Clause21 and decreased emphasis on the Tenth Amendment. The Court “rejected the suggestion that Congress invades areas reserved to the States by the Tenth Amendment simply because it exercises its authority under the Commerce Clause in a manner that displaces the States’ exercise of their police powers.”22 Eventually, the Tenth Amendment limits on Congress’ authority were viewed as merely “structural, not substantive – i.e., that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity.”23

Ultimately, this led to the conclusion that the Tenth Amendment no longer even allows a court to examine a substantive basis for congressional legislation.

But nothing in Garcia or the Tenth Amendment authorizes courts to second-guess the substantive basis for congressional legislation .... Where, as here, the national political process did not operate in a defective manner, the Tenth Amendment is not implicated.24

It is against this backdrop that the Court now considers the constitutionality of the Affordable Care Act.

The Affordable Care Act

In June, the United States Supreme Court is expected to render its decision on the constitutionality of the Act. The lower court decisions under review by the Court focus primarily on whether the federal government has authority under the Commerce Clause to mandate the purchase of health insurance.

The trial courts have not shied from the constitutional question presented by the Act. As noted in Virginia v. Sebelius, “this case does not turn on the wisdom of Congress or the public policy implications ....The Court’s attention is focused solely on the constitutionality of the enactment.”25 The Sebelius court ultimately found the
individual insurance mandate unconstitutional under the Tenth Amendment, noting that “Article I, Section 8 of the Constitution confers upon Congress only discrete enumerated governmental powers ....” Some lower courts, however, avoided the question by finding that the Anti-Injunction Act applies and that no subject matter jurisdiction exists. There has indeed been a split in the circuit courts, with some finding the Act unconstitutional, while others concluded that the Act’s minimum coverage provision “is a valid exercise of Congress’ power under the Commerce Clause ....”

The general trend of the Court has been to expand the reach of the Commerce Clause and correspondingly minimize the impact of the Tenth Amendment. As Justice Thomas has noted, the Court’s 1995 decision in United States v. Lopez marked the first time in half a century that this Court held that an Act of Congress exceeded its commerce power.” If the Court finds the insurance mandate unconstitutional, the question remains whether that ruling will mark the beginning of a constriction of the previously ever-expanding Commerce Clause and a resulting strengthening of the Tenth Amendment.

4 U.S. Const. Amend. 9
5 Federalist No. 45 (emphasis added).
6 Federalist No. 46.
The scope of this article does not include analysis of why the Court so dramatically altered course on these topics, but many authors do address the Roosevelt “court packing scheme” and its possible impact on the decisions of the mid-1930s. See, e.g., Marian C. McKenna, Franklin Roosevelt and the Great Constitutional War: The Courtpacking Crisis of 1937 (Fordham U. Press. 2002); Burt Solomon, FDR v. the Constitution (Bloomsbury Pub. USA 2009); Jeff Shesol, Supreme Power: Franklin Roosevelt vs. the Supreme Court (W. W. Norton & Co. 2010).


Id.

U.S. Const. Art. I, § 8, Cl. 3.

GAIL'S GRAMMAR

If a sentence refers to two persons or characters of the same gender, the reader can become confused when the writer uses a singular pronoun to refer to one of them.

For example, in the following sentence, who has had too much to drink? The man told his son that he’d had too much to drink.

A careful writer avoids confusing pronouns. If your sentence involves two actors, be specific. This sentence above could be rewritten as follows: The man told his son, “You’ve had too much to drink.” Or, if the father was the intoxicated one, you could write, “I’ve had too much to drink,” the man told his son.

Due to an overwhelming response, RCL Portrait Design will continue taking member photos June 19-28, and July 16-20.

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Call 1-800-580-5562
Interview with Commissioner John Smart Jr.

VITAL STATISTICS
Full Name: John Smart Jr.
Age: 56
Position: Commissioner, 19th Judicial District Court, Section B
Born & Raised: Leesville, La.
Education: Leesville High School, Louisiana State University (1978) and LSU Law Center (1988)
Married to: Emilie R. Smart
Hobbies: Music, Houston Astros

ATB: When were you appointed to serve as Commissioner?
JS: In 2002, following the retirement of Commissioner Allen Bergeron.

ATB: How is the Commissioner selected?
JS: Selected by a vote of the civil and criminal judges of the 19th Judicial District Court.

ATB: Is there a term?
JS: No, the Commissioner serves at the pleasure of the judges.

ATB: What did you do before you became a Commissioner?
JS: I worked as a law clerk for Judge Kay Bates when she was Commissioner of Section A. I went with Judge Bates as her law clerk when she was elected to serve Judge Keogh’s old seat on the civil bench.

ATB: Why did you become a lawyer?
JS: The short answer is to please my dad. My father always wanted me to be a lawyer. He was chief deputy in Vernon Parish for 26 years and when I was a kid, I often hung out with him at the courthouse. I always enjoyed my time there. I thought that the courthouse was just a place where old men hung out to tell crazy stories.

ATB: Tell us about a typical day on the bench and in the office.
JS: The most interesting part of this job is the wide variety of activities we are asked to perform, and it is different every day. We usually start the day with jail callout by video hook-up with the Parish Prison. Commissioner Morgan and I rotate this duty each week. Callout is where persons arrested from the night before are brought in and informed of the charges against them, the amount of their bond, and right to counsel. After callout is complete, I review and sign pending executory process requests and expungements.

In the afternoons, I hear civil suits filed by inmates against the Department of Corrections (this is the prime responsibility of Commissioners). I conduct most hearings utilizing video hook-up with various Department of Corrections institutions. We hear suits from around the state and make recommendations to the civil judges on the inmate suits.

Also, on occasion, I fill in for criminal judges. I have conducted arraignments (wherein defendants enter not guilty pleas), status conferences, and probation reviews. In addition, I have been asked to fill in for criminal judges while on duty. This involves setting bonds, signing arrests and search warrants.

ATB: What was the best part of your day?
JS: Having lunch with Judge
Daniel and Frank Howze, our bailbond coordinator.

ATB: What did you like most about being a Commissioner?

JS: The best thing about being Commissioner was the fact that I was able to work with many dedicated people. The judges and their staffs are extremely talented and creative. The 19th JDC is one of the largest court systems in the state and deals with cases from all over the state. This is because the venue for administrative review is vested with the 19th JDC.

Throughout my time as Commissioner, there were numerous interesting inmate cases. The facts are never the same and these are truly some of the most unique cases. There is no doubt that some of the most interesting people in our state are found in the prison system.

ATB: When is your last day?

JS: My last day is June 30, 2012.

ATB: What will you do when you retire?

JS: I will focus on playing music. That’s what I did before law school. I am in a band named Righteous Buddha. It is a three-piece jazz funk band. We have put out a couple of CDs over the past 12 years and I hope to get back to doing that. I play the organ, piano and keyboard. I also plan to travel and play more out of town gigs. We used to play live in New Orleans and I want to get back to doing that and other places.

ATB: Where is the first place you will travel?

JS: My wife and I enjoy traveling overseas. We are planning a trip to Rome in the fall.

ATB: Will you miss the courthouse?

JS: Yes, very much. I will miss the work and the chance to participate in the judicial system.

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For more information, contact Meredith French at the Baton Rouge Bar Association:

225-344-4803

FORMER SOCIAL SECURITY JUDGE

PETER J. LEMOINE

Social Security Disability Law
Offices in Alexandria, Baton Rouge, Cottonport

Adjunct Professor (1994-1997), Northwestern State University

MEMBER: Louisiana State Bar Association, Baton Rouge Bar Association, Avoyelles Parish Bar Association, National Organization of Social Security Claimant Representatives, Legal Services for Purposes of Disability Committee (Louisiana State Bar Association).


225-922-4551
BRBF Law Day 2012 activities attract 900 students and teachers to downtown area

The BRBF Law Day Committee hosted the 2012 Law Day opening ceremony Friday, April 27, 2012, at the Baton Rouge River Center Theatre in Baton Rouge, La. Lt. Gen. Russel L. Honoré was the guest speaker. About 900 middle and high school students and their teachers attended the Baton Rouge Bar Foundation Law Day opening ceremony beginning at 9:15 a.m. at the River Center Theatre. After the ceremony, students attended mock trials that took place in Baton Rouge City Court and 19th Judicial District Court.

BRBA President Gail S. Stephenson welcomed all opening ceremony attendees. This year’s Law Day event followed the theme of the Louisiana Bicentennial Celebration, and the Bicentennial Commission was a sponsor of this year’s event. Law Day video, essay and poster contest winners were presented with awards during the ceremony. A naturalization ceremony was held during the opening ceremony.

Beau James Brock is the chairman of the Law Day Committee, which planned this year’s Law Day event, and Jeffrey Wittenbrink is the vice chair. Donna Buuck is the coordinator of the BRBF Law Day event. Ann K. Gregorie is the executive director of the BRBF.

State Bar selects Young Lawyers Section Council of BRBA as Service to the Bar Award recipient

The 50 Billable Hour Club, a project of the BRBA Young Lawyers Section Council that was initiated in January 2012, was selected by the LSBA to receive a Service to the Bar Award in June 2012 at the LSBA Annual Conference.

The 50 Billable Hour Club is a partnership of the YLS and the 19th Judicial District Court with a primary goal of providing young lawyers the opportunity to observe experienced litigators in the courtroom so that they may develop their own litigation skills with the guidance of local judges. So far a total of 34 young lawyers are participating in this program, which provides the mentorship of five 19th Judicial District Court judges. This program has an enormous potential impact on the litigation skills of an entire generation of young lawyers, and the number of participating young lawyers and judges is only expected to rise as the project continues.
Stout honored with Outstanding Young Lawyer Award by Louisiana State Bar Association

Amanda S. Stout, a former BRBA board member and a past chair of the BRBA Young Lawyers Section, has been selected as an Outstanding Young Lawyer by the Louisiana State Bar Association and will be honored in June 2012 at the LSBA Annual Conference.

Stout regularly accepts pro bono cases and volunteers with numerous projects, including the Belly Up with the Bar, the 50 Billable Hour Club, Law Day, the Holiday Star Project, Habitat for Humanity, the LSBA Statewide Mock Trial Competition and the LSU Law Center’s Student Government Association’s annual Networking Event for law students. In addition, she has been elected to the LSBA House of Delegates, and her term begins June 2012.

BRBA members and one law firm expected to receive awards at the LSBA Pro Bono Publico & Children’s Law Awards Ceremony

Several BRBA members and one law firm will be honored for their dedication toward pro bono work Tuesday, May 29, 2012, during a ceremony held for the 2012 LSBA Pro Bono Publico & Children’s Law Awards at the Louisiana held at the Louisiana Supreme Court building in New Orleans.

Receiving this year’s 2012 Pro Bono Publico Awards are the Baton Rouge office of Adams and Reese, LLP; Scott P. Gaspard, (solo practitioner), Melanie Newkome Jones (solo practitioner), Byron R. Kantrow (retired) and Emily Ziober (solo practitioner).

Garth J. Ridge, a solo practitioner, was selected as the David A. Hamilton Lifetime Achievement Award recipient. He has dedicated 21 years to the legal profession, championing a spirit of pro bono service since the start of his legal career. He has been an avid volunteer of the BRBF Pro Bono Panel since 1991, and chaired the Pro Bono Committee from 2006 to 2010. He has donated more than 600 hours handling pro bono cases and volunteering at Thirst For Justice and Ask-A-Lawyer legal clinics.

Garth Ridge and Ken Mayeaux. This award is given for the completion of 100 hours of pro bono service in 2011.

U.S. Army War College Eisenhower Series College Program Panel Discussion featured military experts at Louisiana First Circuit Court of Appeal

A panel discussion of military experts from the U.S. Army War College was held at the Louisiana First Circuit Court of Appeal Wednesday, April 18, 2012.

Featured panelists were Lt.Col.(P) Tony Nesbitt (USA), Col. Dave Morrissey (USAF), Col. Scott Patton (USA) and Lt.Col. Brian Scott (USA). Capt. Stephen Krotow, faculty advisor and director of the Eisenhower Program - U.S. Navy, was also present.

The officers participated in a panel discussion and in individual presentations on topics that included: NATO and Operations in Libya; Strategic Shift to the Western Pacific; Humanitarian Ops in Haiti; Military Health Systems and Wounded Warriors; North Korea; The Divide Between the Military and Society; and Inter-Agency Cooperation. The Baton Rouge Bar Association, Judge Jimmy Kuhn and the Louisiana First Circuit Court of Appeal jointly hosted this event.

On Tuesday, April 17, the panelists visited with the BRBA Board of Directors at Juban’s Restaurant prior to the Board’s monthly meeting. Skip Phillips organized a dinner with the scheduled panelists, which took place in another room while the BRBA Board held its meeting.

BRBA Executive Director Ann K. Gregorie was present at both events.

Consider joining the BRBA LRIS for client referrals

BRBA members should consider joining the Lawyer Referral & Information Service to receive referrals and to expand their client base. Contact LRIS Coordinator Carole McGehee for more information at 225-214-5557 or carole@brba.org.
Schedule your free professional portrait today

The BRBA has partnered with RCL Portrait Design to photograph our members so that we will have updated color photos for the BRBA website. Several more weeks of photography appointment times and dates have been added due to popular demand (June 19-28, and July 16-20), so call 1-800-580-5562 to set up your appointment today.

If you’d prefer to submit a recently taken digital headshot, please email your high resolution, color image (300 dpi) to: pamela@brba.org. Call 225-344-4803 with any questions.

BRBA softball tournament planned for Aug. 17-18

The annual BRBA softball tournament usually takes place on the hottest days of the year, and we expect this year to be no different. Aug. 17-18, 2012, are the planned dates for this year’s tournament, which will be co-chaired by Adrian Nadeau and Chris Jones.

The location of this year’s tournament is to be announced. For more information on how to register your team, please contact Meredith French at 225-344-4803 or Ann K. Gregorie at 225-214-5563.

BRBA Law Expo 2012 & September Bar Luncheon to take place Wednesday, Sept. 12

The BRBA Law Expo 2012 & September Bar Luncheon will take place Wednesday, Sept. 12, at the BR River Center. Michael Platte is the Law Expo chair and Bryan Jeansonne is the vice chair. This year’s theme is magic.

At least two CLE seminars will be available at no cost to BRBA members who pre-register. Visiting Law Expo booths are a requirement to receive the seminars for free.

Luncheon speaker H. Alston Johnson III will provide a legislative update. Sponsorships and booth space are available; door prizes are needed.

For more information regarding this year’s event or the Law Expo Committee, please contact Pamela Labbe at 225-214-5560 or pamela@brba.org.
Board voted to: (1) publish synopsis of meeting minutes in *Around the Bar*; and (2) participate in University of Chicago Law School Post-graduate Fellowship program. If candidate is selected, the University will give BRBA funds to pay fellow’s salary and insurance; BRBA will be responsible for FICA and Medicare taxes.

Received reports on Bench-Bar (hotel block is filling up); Cocktails with the Court and Opening of Court/Memorial Ceremony (LSBA wants to co-sponsor Opening of Court instead of Cocktails because of focus on new members); CLE (expanding to 23rd JDC with event in November); 19th JDC Judges Meeting (judges want bar members’ suggestions on how to improve duty court); 75th Anniversary Gift (sculptor is working on model of kinetic sculpture for 19th JDC courthouse).
PRO BONO PROJECT REPORT

The Thirst for Justice solo practitioner volunteers in March were Terry L. Bonnie, Emma F. Burke, Scott Gaspard, Byron Kantrow, Allen Posey and Judge Melvin Shortsess (Ret.). Thirst for Justice volunteers practicing with firms were Jim Austin, Melissa Grand, Adams and Reese; J. Brian Juban, Keegan, DeNicola, Kiesel, Bagwell, Juban & Lowe; Chris Keyser, Stephanie Legros, Ken Miller, and Jeff Rabb, Dudley DeBosier.

The March Ask-A-Lawyer volunteers were Samantha R. Ackers; Jim Austin, Adams and Reese; Todd Gaudin, Kuebne, Foote & Gaudin APLC; Brandon Hudson, Southeast Louisiana Legal Services; Jane Thomas and Emily Ziober.

Students volunteering with Thirst for Justice and Ask-A-Lawyer included Amber Amore, Sarah Aycock, Kathryn Dufrene, Cyromia Hughes-Love and Amelia Hurt, LSU Law Center; Shannyn T. Collins, Jessica Cook, Chiquita Hall, Crii Spears-De Leo, Briana Westry, Adrianna Williams and Jennifer V. Williams, Southern University Law Center.

The Self Help Resource Center attorney volunteers were Samantha R. Ackers; Roy Bergeron, Annette Peltier, Alex J. Velazquez, Phelps Dunbar; Ryan Brown, Roedel, Parsons, Koch, Blache, Balhoff & McCollister; Dean Esposito, Ezim & Associates; Jennifer Gauthreaux, Anthony, Prescott & Gauthreaux; Bryan Jeansonne, Christensen Dore Jeansonne & Shabla; Ken Mayeaux, LSU Law Center; Wendra Moran; Talya J. Bergeron and Hanna Thomas, Southeast Louisiana Legal Services. Students volunteering with the Self Help Resource Center were Amber Amore, Hayne Caliva, Denise Farrior, and Matthew Schafer, LSU Law Center; Quinn M. Eubanks, Shandell C. George, Chiquita Hall, Avia Rice Gauthier, Eric M. Scott, Elisa Stephens, Michael Victorian, Briana Westry and John Willis, Southern University Law Center.

Accepting pro bono cases in March were E’Vinski Davis, Terry J. Butcher & Associates; Erica Edwards, Saunders & Chabert; Jennifer Gauthreaux, Anthony, Prescott & Gauthreaux; Deborah Gibbs, Joanna Hynes, Derren Johnson, Johanna Landreneau, Seale & Ross; Victor Loraso, Carleton Loraso, LLC; Crosby Lyman, Lyman Law Firm; Jeffrey Rabb, Dudley DeBosier Injury Lawyers; and Rebecca Wisbar, Akers & Wisbar, LLC. Interning with the BRBF were Oni Groves, Southern University Law Center; and Ben McDonald.

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

Amanda Darby, Raveen Hills and Josh Melder served as judges for the March hearings. Beau Armentor, Elizabeth Cuttner and Samantha Mallett served as jury monitors. If you are interested in volunteering, contact Donna Buuck at 225-214-5556 or donna@brba.org.

Amanda Darby, Jamie Gurt, Raveen Hills and Curtis Nelson conducted the May 5, 2012, Teen Court training session. Judge Darrell White (Ret.) performed the swearing in ceremony.

JUNIOR PARTNERS ACADEMY

Wendy Shea coordinated a JPA field trip to Southern University Law Center March 16, 2012. A group of third and fourth grade students participated in the “Gold E. Locks v. Three Bears” mock trial and an interactive session on the three branches of government. The JPA students enjoyed working with the SULC students to present the mock trial and complete the interactive lesson.


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.

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.
The Baton Rouge Bar Association presents

**PRACTICING LAW IN THE 19TH JDC**

**Thursday, June 21, 2012**

**CREDIT:** 4.0 hours

**LOCATION:** In the complex litigation courtroom, 11th Floor of the 19th Judicial District Court Courtroom 11-A, 300 North Blvd., Baton Rouge, LA 70801

**COST:**
- *Member rates for BRBA members admitted to the bar PRIOR TO 2011*
  - Early registration: $100; Late registration: $125;
- *Member rates for BRBA members admitted to the bar in 2011 and 2012*
  - Early registration: $50; Late registration: $75;
- *Non-member rates*
  - Early registration: $160; Late registration: $180.

Early registration is available for seminar registrations received by June 15, 2012.
The Regular registration rate applies to anyone registering after 4:30 p.m. June 15, 2012.
Reservations may be canceled without penalty by Monday, June 18, 2012, at 4:30 p.m.
Make checks payable to the BRBA, P.O. Box 2241, Baton Rouge, LA 70821 or fill out the credit card information below and fax the form to: 225-344-4805. “No shows” will be billed.

**SEMINAR SCHEDULE**

11:30 a.m. - 12 p.m. **Registration & Box Lunch**

12 - 1 p.m. **A Review of Criminal Duty Court at the 19th JDC** — Judge Trudy White

1 - 2 p.m. **How Civil Duty Court Really Works** — Judge Bill Morvant

2 - 2:15 p.m. **Break**

2:15 - 3:15 p.m. **The 19th Judicial District Court Drug Court: Sentencing in the 19th JDC** — Judge Tony Marabella

3:15 - 4:15 p.m. **What the Law Clerks Can Teach Us** — Jody Emonet, Megan Foco, Judy Moore and Jennifer Motlow

*Materials will be distributed electronically.*

Please fax this page to the Baton Rouge Bar Association, (225) 344-4805, or mail it to: BRBA, P.O. Box 2241, Baton Rouge, LA 70821.

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June 2012

19TH JDC CIVIL COURT
May 21-June 1 Judge Morvant
June 4-June 15 Judge Kelley
June 18-June 29 Judge Hernandez
July 2-July 13 Judge Clark
July 16-July 27 Judge Bates
July 30-Aug. 10 Judge Caldwell
Aug. 13-Aug. 24 Judge Fields
Aug. 27-Sept. 7 Judge Morvant

19TH JDC CRIMINAL COURT**
May 25-June 1 Judge Daniel
June 1-June 8 Judge Moore
June 8-June 15 Judge Johnson
June 15-June 22 Judge White
June 22-June 29 Judge Marabella
June 20-July 6 Judge Anderson
July 6-July 13 Judge Ervin
July 13-July 20 Judge Jackson
July 20-July 27 Judge Daniel
July 27-Aug. 3 Judge Moore
Aug. 3-Aug. 10 Judge Johnson
Aug. 10-Aug. 17 Judge White
Aug. 17-Aug. 24 Judge Marabella
Aug. 24-Aug. 31 Judge Anderson

BATON ROUGE CITY COURT*
May 28-June 3 Judge Temple
June 4-June 10 Judge Wall
June 11-June 17 Judge Alexander
June 18-June 24 Judge Davis
June 25-July 1 Judge Davis
July 2-July 8 Judge Temple
July 9-July 15 Judge Wall
July 16-July 22 Judge Alexander
July 23-July 29 Judge Ponder
July 30-Aug. 5 Judge Davis
Aug. 6-Aug. 12 Judge Temple
Aug. 13-Aug. 19 Judge Wall
Aug. 20-Aug. 26 Judge Alexander
Aug. 27-Sept. 2 Judge Ponder

FAMILY COURT**
May 28-June 1 Judge Day
June 4-June 8 Ad Hoc
June 11-June 15 Judge Lassalle
June 18-June 22 Judge Baker
June 25-June 29 Judge Woodruff-White
July 2-July 6 Judge Day
July 9-July 13 Judge Lassalle
July 16-July 20 Judge Baker
July 23-July 27 Judge Woodruff-White
July 30-Aug. 3 Judge Day
Aug. 6-Aug. 10 Judge Lassalle

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JUVENILE COURT
June 1-June 30 Judge Richey
July 1-July 31 Judge Taylor-Johnson
Aug. 1-Aug. 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

COURT HOLIDAYS
Monday, May 28 Memorial Day
Wednesday, July 4 Independence Day
Monday, Sept. 3 Labor Day

Calendars of Events
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

Photo sessions (June 19 - June 28, and July 16 - 20) can be scheduled with RCL Portrait Design. Photographers will be taking photos upstairs at the Middleton Bar Center.

1. Nuts & Bolts CLE Seminar, 8 a.m.
2. LSBA Annual Summer School & Annual Meeting, Sandestin, Fla.
3. Teen Court hearing, Juvenile Court, 6 p.m.;
4. LSBA Annual Summer School & Annual Meeting, Sandestin, Fla.
5. YLS Council Meeting, 12 p.m.;
6. LSBA Annual Summer School, Sandestin
7. BRBA Employee Training Day;
8. LSBA Annual Summer School, Sandestin
9. Ask-A-Lawyer, Delmont, 9 a.m. - 11:30 a.m.;
10. LSBA Annual Summer School, Sandestin
11. Bench Bar Conference Committee meeting, 12 p.m.;
12. Publications Committee meeting, 12 p.m.
13. Appellate Law Section CLE, 11:45 a.m.;
14. Operations & Finance Committee meeting, 3:30 p.m.
15. Executive Committee meeting, 4 p.m.
16. Pro Bono Committee meeting, 12 p.m.
17. BRBA June Luncheon, 11:45 a.m., De La Ronde Hall
18. Nuts & Bolts CLE Seminar, 8 a.m.
19. Ask-A-Lawyer, Delmont Gardens Branch, 9:30 a.m.-11:30 a.m.
20. CLE Committee meeting, 12 p.m.
21. Teen Court Hearing, EBR Parish Juvenile Court, 5:45 p.m.
23. Practicing Law in the 19th JDC (CLE Seminar)
24. Bankruptcy CLE, U.S. District Court
25. Youth Ed Committee meeting, 12 p.m.
26. Teen Court Committee meeting, 12 p.m.
27. Nuts & Bolts CLE Seminar, 8 a.m.
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