Bar Luncheon: Thursday, Jan. 12

Inside:
- Forum-selection clauses void as against public policy
- Solo / small firms: How to spend less, do more
- Attorneys spice up retirement by following passions

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On the cover:
This month’s cover photo features 2012 BRBA President Gail S. Stephenson; her husband, Joe; Scott Stephenson; and Bonny McDonald. The cover image was photographed on the bluffs at Southern University.

Cover photography by Alison Adams.
When do you capitalize titles of honor or respect? Always capitalize the title when it is used before a person’s name. If it is used after the name or substitutes for a person’s name, however, capitalize the title only if it identifies a head or assistant head of state or state, a head or assistant head of a national governmental unit, a diplomatic title, a ruler or royalty.

**EXAMPLES:**

**Gail Stephenson,** president of the Baton Rouge Bar Association

Darrel Papillion will be installed as treasurer of the BRBA on Jan. 12.

President-Elect Michael Walsh

Barrack Obama, President of the United States

Charles, Prince of Wales

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

**GAIL’S GRAMMAR**

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**Around the Bar**

January 2012

4 Around the Bar

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Anyone who has seen me at church or bar functions knows that I love to wear hats. My husband says I have too many. He means it literally. I also have many figurative hats – wife, mother, lawyer, professor, grammaniac – and now president of the Baton Rouge Bar Association. I’m proud and excited to add this new hat to my collection.

Presidents are supposed to have themes or goals for their terms as president. Preston J. Castille Jr. made us all think about the meaning of community justice with luncheon symposiums. Fred T. Crifasi focused on bringing our diverse membership together, a membership that Trent Oubre had increased during his term as president. I plan to concentrate on two things during my presidency: continuing the capital campaign to raise funds for the Baton Rouge Bar Foundation, our charitable arm that supports our many fine youth education programs, and encouraging our members to maintain a healthy work/life balance.

You’ll be hearing more about the capital campaign in the coming months. For now, though, I want to talk about the struggle we all have to maintain that delicate balance between our personal lives and our work, which sometimes threatens to overwhelm us.

In the ‘80s, one of my best friends went to work for a big firm in Baton Rouge. At the end of her first year, as part of her evaluation she was asked how she could improve her performance. The only thing she could think of (and what she actually wrote on the form) was, “Move a cot into my office.” She was already spending 18 hours a day at work and figured she might as well sleep there too. Unfortunately, the 2012 economy isn’t much better than it was in the mid-1980s. I hear many similar stories about long work hours from young lawyers. In November, a 32-year-old attorney in California died from a cardiac problem linked to her 80-hour work week.

On Jan. 25, we’ll hold a ceremony at the 19th JDC to memorialize members of our Association who have died in the past year and meet our new members. I’ve attended funerals and memorial services for many of these lions of the bar, and at not one did anyone mention how many hours the deceased had billed. Instead, the mourners focused on the good times spent with their families and the activities the deceased truly enjoyed. If we as lawyers want to maintain our health and sanity, we need to find ways to spend enough time with the people we love and to participate in the activities that bring us satisfaction and happiness.

Of course that’s easier said than done. We all have bills to pay, but we have to ask ourselves whether that extra money we’re making will do us any good if we don’t have time to spend it. As attorneys we are constantly being asked to serve on boards and committees – to take on more hats. While I don’t believe a person can have too many literal hats, too many figurative hats can be overwhelming. Psychologists call that feeling “Too Many Hats Syndrome.” The key is to be selective, taking on the hats that bring us satisfaction and not just more stress.

So for 2012, plan something fun to balance out those hours you spend working. Join us in Perdido in July for the Bench Bar Conference. Find a bar or civic activity or a hobby that gives you a sense of accomplishment. Spend time with the people who love you. For me, that means making time for my husband, Joe, who for 35 years has put up with me and my passion for too many hats.
PLEASE ATTEND THIS SPECIAL EVENT:

**Opening of Court, Memorial & New Member Ceremony,**

Wednesday, Jan. 25, 2012

19th Judicial District Courthouse, 8:30 a.m., 11th Floor, in the Complex Litigation Courtroom.

A remembrance of those who have passed away and recognition of attorneys admitted to the bar in 2011 will take place.

Please check all appropriate options below and fax this entire page to the BRBA, (225) 344-4805, by 4:30 p.m. Monday, Jan. 9, 2012.

Bar Roll No.__________________________
Name____________________________________________________ Firm___________________________________________
Address_________________________________________________________________________________________________
City ________________________________________________________ State ____________  Zip _______________________
Phone ___________________________________________________ Fax ___________________________________________
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☐ LUNCH — YES, register me for the **JANUARY BAR LUNCHEON** at DE LA RONDE taking place THURSDAY, JAN. 12, 2012, 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. **Monday, JAN. 9, 2012.** "No shows" will be billed.

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

**If paying by credit card, please include the following:**

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The January Bar Luncheon will feature the installation of bar leaders and officers of the BRBA at De La Ronde Hall Thursday, Jan. 12, 2012, at 11:45 a.m.

Judge Melvin Shortess (Ret.) will officiate the swearing in ceremony. Judge Frank Polozola will lead the Pledge of Allegiance, and Father Schatzle will give the invocation.

The following are the newly elected members of the BRBA Board of Directors: Gail S. Stephenson, president; Michael S. Walsh, president-elect; Darrel Papillion, treasurer; Robert “Bubby” Burns Jr., secretary; and Preston J. Castille Jr., past president. The 2012 Directors at Large are Shelton Dennis Blunt, Linda Law Clark, Jeanne Comeaux, Kyle Ferachi, Karli Glascock Johnson and Amy Lambert.

Young Lawyer Section officers are Jamie Hurst Watts, chair; Scotty E. Chabert, chair-elect; Laranda Moffett Walker, secretary; and Amanda Stout, past chair. Young Lawyers Section Council members are Jodi Bauer, Kara Bergeron Kantrow, Scott Levy, Loren D. Shanklin and Victor J. Suane Jr.

Family Law Section officers for 2012 are Wendy Edwards, chair; Thomas Hessburg, chair-elect; Melanie Walters Chatagnier, secretary; and Laurie Marien, past chair.

Also during the luncheon, Preston J. Castille Jr. will present the 2011 President’s Awards, and the Young Lawyers Section Keogh Award will be presented.

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.

Three ways to register: (1) Register online at www.BRBA.org; (2) fax this form to 225-344-4805 before 12 p.m. **Monday, Jan. 9, 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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I titled my last letter from the president “It’s midnight, Cinderella,” recounting the magical journey of my presidency. The clock struck midnight on my term in office, so I’ve returned to reality and the “full-time” practice of law. While I’ve always had my princess at home at the Castille Castle, my fairy tale would have been far less magical without the help of some really sensational characters. With the Bar Association now up to 2,500 members, it is difficult to choose among the so many of you who made my year as president such a success. However, the following are my selections for the 2011 President’s Awards:

John Pierre, Eric Miller, Jeffrey Wittenbrink and Kenneth Mayeaux for their service on behalf of our Association on the CALSC board of directors as pro bono services transitioned to our new pro bono legal services provider, Southeast Louisiana Legal Services Corporation. I believe the poor in our community will be better served because of these guys’ selfless service. Their work inspired our 2011 Community Justice Symposiums and the programs that have evolved from them.

Steve Carleton, Gail Grover, Melanie Fields and Donna Buuck for their incredible devotion to the successful launch of the Junior Partners Academy program. Our Youth Education and Juvenile Justice program has had a long history of successful programs, such as Teen Court, Mock Trial and Law Day, but this new program is reaching children in need at a much earlier age and we hope will improve their chances of a successful and productive adult life.

Abboud Thomas, Randi Ellis, Brooke Barnett and Judge Pamela Moses Laramore for their creative genius and service on the Bench Bar Committee that made our 2011 Bench Bar Conference phenomenal. The record number of judges and past presidents who participated in our conference in 2011 and sang the night away with yours truly was undeniably a magical night that even Cinderella would have envied! Congratulations everyone!
All of us in our profession are asked occasionally to pen letters of recommendation for current or former employees. Our own Gail S. Stephenson recalls receiving one letter espousing that the applicant had “the moral turpitude” for the position. Another letter spoke of “the benefits of hiring” the person “outweighing the risk.”

When you think about it, these letters of recommendation are minefields, veritable tightrope-walking exercises. On the one hand, you don’t want to insult or hurt the feelings of the people who hand picked you to be their sponsor (query: ever wonder why you and not someone else? Is it your influence – or is it your soft heart?). On the other hand, it is your credibility at stake here, and you don’t want to go overboard over some whacko slacker.

The outstanding candidate obviously is no problem. But what about that gray area person, who badly needs your help (or is related to a good client), and isn’t exactly someone that you would ordinarily stamp with the Good Housekeeping seal of hiring approval?

Wordsmiths that we are supposed to be, as “recommending” authors there are situations in which we are presented with this daunting dilemma – keep the customer satisfied, but signal ever so subtly that where there is smoke, there may just be a conflagration. Accordingly, submitted for your approval is a tactfully waffling letter of recommendation:

I have been requested to provide you with my professional and personal evaluation of Mr. Charles Manson. Initially, I apologize for my delay in responding to this request. My recovery from frontal lobe surgery was more taxing than expected. Now where was I? Oh yes, Mr. Manson. In my limited contact with Charles, I found him to use consistently good hygiene. He also was never known to welsh on office football pool entry fees. There was never a situation where I found him unwilling to respond enthusiastically to fire drills. His parole officer would often visit to rave about his almost perfect attendance at the meth clinic. He is obviously motivated to obtain his GED certificate, a distinct honor that no one else in his family has ever attained. Lastly, please be assured that as a cross dresser, Mr. Manson has maintained impeccable taste and creativity. I trust that this letter answers any questions you may have about Mr. Manson’s prospective performance.

P.S. – That shotgun incident was way overblown. He had no clue there was anyone on the other side of the wall.
Most people are not in love with the idea of being a party to a lawsuit. After all, litigation is usually expensive, time consuming and inconvenient. Therefore, contracting parties often execute a forum-selection clause in order to minimize the expense and inconvenience. However, for most contracting parties in Louisiana, the current status of the law continues to breed uncertainty as to whether forum-selection clauses agreed to prior to the institution of an action are enforceable.1

Under the legislation of the State of Louisiana, i.e., the supreme law of Louisiana,2 a forum-selection clause agreed to prior to the institution of an action is absolutely unenforceable.3 Nonetheless, up until June 2011,4 the courts, the Louisiana Supreme Court has addressed the contradiction between the legislation and the custom of the Louisiana courts, i.e. the merely illustrative, non-binding, secondary source of law in this state,3 has been to defy Louisiana legislation and presumptively enforce forum-selection clauses.6

Under Louisiana Code of Civil Procedure article 44A, “[a]n objection to...venue may not be waived prior to the institution of...[an] action.”7 In executing a forum-selection clause agreeing to a particular forum as the exclusive venue, a contracting party effectively waives venue in all other forums and its objections thereto.8 The only apparent rationale for article 44A is the legislature’s stated finding that contractual selections of venue violate Louisiana public policy.9 Louisiana Revised Statutes 51:1407A provides that a contractual selection of venue contrary to the provisions of the Louisiana Code of Civil Procedure is against public policy. As a forum-selection clause is a contractual selection of venue contrary to article 44A, forum-selection clauses violate Louisiana public policy per the clear language of R.S. 51:1407A.

Even though article 44A is arguably justified by the legislature’s statement of Louisiana public policy, the Louisiana courts have repeatedly given absolutely no effect to article 44A in their decisions.10 Despite this contradiction between the legislation and the custom of the courts, the Louisiana Supreme Court has addressed the issue of forum-selection clauses on only two occasions, neither of which was helpful in resolving the contradiction or providing any guidance on the enforceability of forum-selection clauses in Louisiana.

On the first occasion, the Louisiana Supreme Court in Lejano v. Bandak decided an issue involving admiralty law by applying the federal principle presuming validity of forum-selection clauses.11 The Court recognized the procedural nature of issues concerning enforceability of forum-selection clauses and that generally state law governs procedural issues in matters involving federal substantive issues. Nonetheless, the Court chose to follow federal law in its decision to enforce the clause at issue and made no mention of Louisiana law.

On the second occasion, the Louisiana Supreme Court in Power Marketing Direct, Inc. v. Foster decided an issue wholly irrelevant to forum-selection clauses and venue, but stated in dicta that forum-selection clauses seeking to waive venue prior to the institution of an action are generally enforceable under Louisiana law unless against public policy.12 The Court cited Lejano as support for its dicta on Louisiana law, even though Lejano made no mention of Louisiana law when it exclusively applied federal law.

Recently, the Louisiana Supreme Court was presented with a third opportunity to reconcile the language of article 44A with its past decisions and the custom of the courts.13 In June 2011 the Louisiana Third Circuit Court of Appeal, in Thompson Tree v. White-Spunner, made an unprecedented and bold move and followed the language of article 44A. The defendant in Thompson Tree applied for a writ to the Supreme Court on the issue of whether the court of appeal erred in declaring the forum-selection clause at issue unenforceable under article 44A. Unfortunately, the Supreme Court denied the writ.14

The issue in Thompson Tree was squarely whether the forum-selection clause agreed to between the plaintiff and the defendant prior to the institution of the action was enforceable under Louisiana law. The defendant and plaintiff entered into a subcontractor agreement that designated Mobile County, Ala., as the exclusive venue for litigation. Nonetheless, when a dispute arose between the parties, the plaintiff filed suit for breach of contract in Rapides Parish, La. In responding to the suit, the defendant filed an exception of improper venue, pointing to the forum-selection clause in the subcontractor agreement.

The court held the forum-selection clause unenforceable under Louisiana law. The court began its analysis with article 44A and R.S. 51:1407A. The court reasoned forum-selection clauses seeking to waive venue prior to the institution of an action are unenforceable per the clear and unambiguous language of article 44A. The court further reasoned forum-selection clauses are against Louisiana public policy per the clear and unambiguous

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BY DENA M. SONBOL, ESQ. & REBECCA H. BLOCK, J.D. CANDIDATE

January 2012
language of R.S. 51:1407A.

The court went on to acknowledge that all prior decisions of the Louisiana courts of appeal and the Louisiana Supreme Court have held forum-selection clauses presumptively enforceable. In acknowledging these prior decisions, the court proceeded to dismiss each decision as nonbinding for either being erroneous in its disobedience to the clear rule of Louisiana law or being inapplicable in its application of federal law or statement on the issue merely in dicta.

Upon detailing and dismissing all prior decisions, i.e., the present custom of the courts, the court proceeded to apply the legislation, i.e., article 44A and R.S. 51:1407A, in accordance with the clear mandate of Civil Code article 3: “Custom may not abrogate legislation.” The court provided further support for disregarding prior decisions by quoting Judge Dennis of the United States Court of Appeals for the Fifth Circuit, who stated, “If a judge ignores a clearly applicable Code rule and follows another case, his example of using the wrong starting point or source of law should not be influential at all.”

With its decision in *Thompson Tree*, the Third Circuit became the first and only court in Louisiana to actually follow Louisiana legislation concerning the enforcement of forum-selection clauses. It is questionable whether other courts will follow *Thompson Tree* or will instead opt to continue the custom of all other courts. Therefore, until a new custom in line with the legislation is established, or the legislature amends article 44A and R.S. 51:1407A to be in line with the present custom, the current conflict and uncertainty it breeds as to the enforceability of forum-selection clauses will gracefully persevere.

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2 La. C.C. arts. 1–3.
3 La. C.C.P. art. 44A; La. R.S. 51:1407A.
4 See *Thompson Tree & Spraying Serv., Inc. v. White-Spunner Constr., Inc.*, 10-1187 (La. App. 3 Cir. 6/1/11), 68 So.3d 1142, writ denied, 11-1417 (La. 9/30/11), 71 So.3d 290 (giving effect to Louisiana legislation by declaring a forum-selection clause unenforceable per the clear and unambiguous language of the Louisiana Code of Civil Procedure).
6 See e.g. *Reynolds v. Paulson*, 03-1884 (La. App. 4 Cir. 3/31/04), 871 So.2d 1215; *Vallejo Enter. L.L.C. v. Boulder Image, Inc.*, 05-2649 (La. App. 1 Cir. 11/3/06), 950 So.2d 832; *Garrity Painting, L.L.C. v. M & M Mortgage, Inc.*, 10-290 (La. App. 5 Cir. 11/9/10), 54 So.3d 81[hereinafter Court Custom].
7 La. C.C.P. art. 44A.
8 If a party agrees to language typical to many forum-selection clauses, such as: “In the event of any dispute concerning this Agreement, suit must be brought in a court of competent jurisdiction in the State of Texas;” the party has agreed it cannot bring suit in any forum other than Texas, consented to venue in Texas and waived its objections to venue in all other jurisdictions.
9 La. R.S. 51:1407A.
10 Court Custom, supra note 6.
11 *Lejano v. K.S. Bandak*, 97-0388 (La. 12/12/97), 705 So.2d 158.
12 *Power Mktg. Direct, Inc. v. Foster*, 05-2023 (La. 9/6/06), 938 So.2d 662.
13 *Thompson Tree*, 68 So.3d 1142.
14 *Thompson Tree & Spraying Serv., Inc. v. White-Spunner Constr., Inc.*, 2011-1417 (La. 9/30/11), ___ 71 So.3d 290.
15 Id. at 1153. (“[A] prior judicial (mis)construction of a statute does not ‘insulate’ the Louisiana judge...from returning to the legislation itself to ascertain its correct meaning and application.”).
16 Id. at 1156.
My main goal for my solo law firm practice might seem ambitious to some folks: I want to handle client matters better than I could if I were in a larger firm. Handling client matters mostly involves use of my knowledge and skill as an attorney, so there’s no reason why I can’t meet my primary goal.

My secondary goal is even harder for people to accept, and to many it seems outrageous: I want people to believe that my firm has all the resources of a larger firm. In other words, I don’t want people who deal with me in my law practice to think, “Yeah, he’s a solo and that’s why he can’t do xxxxx as well as a large firm.”

While this second goal might seem like unattainable folly to many, it’s actually not that hard. Technology has made it pretty easy, and fairly inexpensive.

First let me start with where I save money and don’t waste resources: I don’t have a fancy office with an expensive, long-term lease. I have a great office at home, and one in a co-working facility. The co-working office is downtown, and gives me access to several conference rooms and the use of a color printer. My business mail goes there. The cost is minimal, and I’m on a month-to-month arrangement. So, my office is pretty much the only thing that looks vastly different to the outside world, but it still has all of the things that any lawyer would need.

If I weren’t paperless, then I’d probably have lots of boxes and maybe the co-working space wouldn’t work for me. Or if I had several people who worked for me, then maybe it wouldn’t work. But I’m paperless so I don’t need lots of storage space, and I don’t need people to move boxes of paper and find documents for me. I can manage a lot of information very efficiently without help, and without expensive space.

Phone calls

People who call my business are greeted by a friendly receptionist. She has received extensive training on telephone etiquette, almost certainly more training than large firm receptionists receive. The only days that my receptionist doesn’t answer my phone are major holidays. There is no “sick day” issue. If it’s not a major holiday my phones are answered professionally every time someone calls.

Many solo lawyers don’t want to pay for a receptionist, or even an answering service. I feel like it’s an expense that’s worth it; after all, my goal is to appear to outside callers as having the same resources as a large firm. Plus, my receptionist isn’t that expensive given the high-touch service that is provided.

My receptionist is a service called Ruby Receptionist, which is to say a virtual service based in Portland, Ore. They have a pool of highly trained receptionists who are all available to answer calls, based on preferences that I prescribe.

If a prospective client calls, they gather preliminary information and relay it to me before they transfer the call. If I’m in the office, they contact me there; if I’m out they contact me on my cell phone. The caller probably assumes I’m in the office, or that my secretary simply connected them to my cell phone (which probably impresses them). The folks at Ruby Receptionist will even make return calls for you if you want.

What do I pay for this service? About $220 a month, which is well worth it. If I change my mind, I can cancel at any time. No long-term contract, which is key to my operation (and never possible for large law firms). The way I see it, I’m working at a major advantage over large law firms here.

Secretarial & administrative assistance

I type my own documents for the most part, but occasionally I’ve needed some outside help preparing my documents. I’ve tried various services, and can safely say that—if you look around—there are folks who can do as good a job as any large firm secretary, at least when it comes to simply typing and formatting documents. When I first went solo I used a service called Speak-Write, which charged about a penny per word to type documents. They give you a phone number and you can call in and dictate.

GROWTH & SURVIVAL TIPS FOR SMALL FIRMS AND SOLOS: HOW TO SPEND LESS, DO MORE

BY ERNEST E. SVENSON
Within about an hour (sometimes less) they’ll email you your document in Word or Wordperfect format.

More recently, I’ve worked with a service called LegalTypist, which does more than just typing. They provide virtual assistance with scheduling, client contact and other things. As with Speak-Write I pay only for the services I actually use. I can send your requests by web, phone or fax, and the turnaround time for most things is 24 hours or less.

Even though I do a lot of my own “secretarial/administrative” work, it’s nice to know that—in a crunch—I can engage the services of LegalTypist when I need to. They’re professional and understand the demands of the legal profession as well as any full-time secretary or office assistant I might hire. But I don’t have time to train new employees, so this service is perfect for solo and small firms.

Paying for top-notch secretarial and administrative help only when you need it is the way to go. Large firms can’t do this, and never will. But they have no advantage over me.

Website & email

I put up a website the day I went out on my own, at minimal cost (partly since I did it myself and knew how to design and publish a website). Many law firms have no website, or they contract for a web presence from Westlaw. Some lawyers who have wonderful style in every other aspect of their professional and personal lives overpay for kitschy websites, which almost certainly haven’t been updated in over five years.

My current site is certainly professional and sufficient to inform potential clients and others about the nature of my practice and how to contact me. I update it at least once every year.

Every lawyer should have their own web domain name, and should pay the minimal cost needed to host a basic website. Having your own domain costs about $20/year at most, slightly more if you have a few domain specific email addresses. And you should have an email address like yourname@yourlawfirm.com (as opposed to jname21@aol.com).

Publicity

Every lawyer should have some good photos that they can use (1) on their website, (2) in promotional materials, or (3) for speaking engagements. Everyone knows someone with a decent digital SLR, and if you know someone who knows how to take portraits you can get some decent pictures this way.

But, if you don’t, then don’t worry. You can hire someone to do it for you at a reasonable cost.

And it will come as no surprise that I favor having a blog, and using social media. But there is no point in dwelling on this. I will note that most large law firms now blog and use Twitter, often not very effectively.

Your published documents

As a lawyer, your documents say as much about you as your website and your attire in court. Poorly written documents can’t be disguised by swank formatting, but I’m assuming you know how to craft words. If you are a good writer, then why wouldn’t you want your documents to herald your professionalism through elegant style? Big firms have word processing departments with people who can help them create a “document brand,” if you will.

Many large firms have gotten so confused by technology and bogged down by committee-malaria that they’ve lost their ability to uniformly produce well-formatted documents. If you want to do a better job than most law firms (including the large ones), get a copy of Matthew Butterick’s Typography for Lawyers and apply the principles he illuminates in that book. He even tells you exactly how to set up your word processor to get the professional look he describes.

Butterick is a professional design guy who attended Harvard and then went to UCLA law school. He’s picky about design, but in a practical way. For example, he tells you how to get a great looking letterhead with just a basic laser printer and some decent laser paper. One bit of advice I took from him: I paid for some special fonts that I use in my letters and pleadings. I guarantee my pleadings and correspondence are as good (in many cases, better) than anything that the large firms are cranking out.

Technology

Large firms own lots of technology, and they pay people a lot of money to maintain it. A small firm or solo lawyer can do a lot with off-the-shelf technology, although it does require know-how. Fortunately for me, when I was working at the big firm I spent time learning how to use copy machines, fax machines, and computers. As a solo lawyer this puts me at a huge advantage over 80 percent of the lawyers I come across.

The practice of law is—in many ways—an information processing enterprise. The lawyer who can gather key information quickly, and then process it efficiently (at
a reasonable cost to the client) will do better in the long run than his or her competitors. Large law firms have no advantage whatsoever when it comes to technology; if anything technology is a hidden trap. Lawyers who believe that they don’t need to know much about technology in order to make good decisions are dangerous to their clients.

Conclusion

The days of wine and roses are over for large and semi-large law firms. They’ll innovate to ensure their profit stream stays high, but not to deliver better services at lower cost. Frankly, they can’t lower their costs. They’re locked into long-term contracts, and bound to expensive administrative systems.

A friend of mine at a mid-sized law firm lamented the other day that their costs were well over 50 percent of total billings. In other words, the firm pays something like 65 cents in expenses for every dollar they collect. Firms like that are stuck in a rut that runs to the edge of a cliff.

A small or solo firm can do the same or better quality of work as a large firm, and it can present an outward appearance that’s as professional or more professional. The solo/small can accomplish this at not very much cost. I know because I’ve done it.
Attorneys spice up retirement by following passions  
BY PAMELA LABBE

After practicing law for 48 years in Baton Rouge, **Joe E. Thompson** decided to pursue his long-time hobby of art by enrolling as a graduate student at Louisiana State University. Thompson practiced in his law office on Main Street beside his wife of 40 years, who was also his secretary, but once she passed away, his solo practice wasn’t fun anymore. His hobby had always been wood carving and art projects, including painting. After practicing law for 48 years, he finally decided to call it quits; it was too challenging to take art classes at night and to practice law in the day. So Thompson, now a widower with grown children and grandchildren, decided to follow his heart and to become a full-time non-matriculating graduate student to study art. In Fall 2011, Thompson was enrolled in a furniture-making class, which officially is an interior design class. He mentioned that his classmates this semester are all female, and strangely they all rush to his aid when he forgets one of his tools or pieces of equipment.

**John “Reggie” Keogh** of Keogh, Cox & Wilson is now a retired lawyer who lives in Lake Charles. He travels the world, photographing everything interesting that crosses his path. From Aug. 19 to Oct. 22, Keogh had 77 colorful photographs on display at an artshow titled “Places, Faces & Wildlife Around the World,” in the Historic City Hall Arts & Cultural Center in Lake Charles.
Keogh began his interest in photography in high school in Baton Rouge. As he became better at his hobby he started working for various professional photographers. He operated his own photography business until he finished his law degree from LSU Law School in 1969.

After serving five years in the U.S. Army JAG Corps, he returned to the private practice of law and teaching. Keogh has visited 137 countries and 48 U.S. states, spending a month each year in Southern Africa. He has taught classes and exhibited his work throughout the world. He is also the author of the book Roadside Louisiana – The Cajun Country.

When asked what else he does other than photography in his spare time, Keogh replied, “I mainly write, do photo books, travel adventure trips or with family, do school slide shows and presentations, do photography exhibits, and sit on ethics panels for the Louisiana Attorney Discipline Board.”

Keogh posts many of his photos in organized albums on Facebook, if anyone would like to follow him and learn more about his adventures.

Joe E. Thompson holds a birdhouse he fashioned out of leather and made to look like a teepee.

Thompson stands in the center of his body of work of oversized paintings that are housed on his assigned wall space in the LSU art studio.

In photo right, Keogh is photographed with his wife Jennifer.

In far left photo, Keogh befriends a cheetah in South Africa. The top left photo is of two giraffes that Keogh included in his Lake Charles artshow.

John “Reggie” Keogh (top, right) greets a visitor at his artshow, which was held this summer in Lake Charles, La. A total of 77 colorful paintings were on display Aug. 19 - Oct. 22, 2011.

In photo right, Keogh is photographed with his wife Jennifer.

In far left photo, Keogh befriends a cheetah in South Africa. The top left photo is of two giraffes that Keogh included in his Lake Charles artshow.
Judge Curtis Calloway (Ret.) left the bench in January 2009, after serving 20 years as a judge and another 20 years of practicing law as an attorney. However, today Judge Calloway retains a limited private practice and serves as an ad hoc judge for the Louisiana Supreme Court. In addition, he and Judge Frank Foil have been appointed to hear criminal cases in Plaquemines Parish. Calloway is rotating off the CASA board and currently serves on the AMIKids Baton Rouge Executive Committee.

With the spare time he does have, he and his wife enjoy traveling. For instance, he has gone whitewater rafting in N.C., SCUBA diving in Key West and Key Largo, Fla., and to see the Martin Luther King Jr. monument unveiling in Washington, D.C.  

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Charles Moore, Steve Thompson & Layne Lee are responsible for the content of this advertisement.
Opening of Court, Memorial & New Member Ceremony scheduled Wednesday, Jan. 25

The 19th Judicial District Courthouse will be the location of this year’s Opening of Court, Memorial and New Member Ceremony, which will be held Wednesday, Jan. 25, 2012. BRBA members who have passed away will be remembered and new lawyers will be recognized. The ceremony will take place on the top floor of the 19th JDC, in the Complex Litigation Courtroom. All BRBA members are invited. A brief reception will follow the ceremony.

For more information, contact Ann K. Gregorie at 225-214-5563 or ann@brba.org.

Mock Trial Competition to take place March 2 & 3

The BRBF Region III High School Mock Trial Competition is scheduled to take place March 2-3, 2012, at the 19th Judicial District Courthouse. Lauren Byrd Reed is the chair of the committee. If anyone is interested in volunteering to help with the competition, please contact Lynn Haynes, staff liaison to the Mock Trial Committee, at 225-214-5564 or lynn@brba.org.

Law Day date changed to April 27, 2012

The BRBF Law Day activities have been rescheduled to Friday, April 27, 2012, and will take place at the Baton Rouge River Center Theatre, the 19th Judicial District Court and the Baton Rouge City Court.

Donna Buuck, staff liaison to the Law Day Committee, should be contacted with any questions. Contact her at 225-214-5556 or donna@brba.org.

Bench Bar Conference 2012 to take place July 26-28 in Orange Beach

Make plans to attend the annual BRBA Bench Bar Conference, scheduled to take place at the Perdido Beach Resort in Orange Beach, Ala. July 26-28, 2012. This year’s chair is Patrick Broyles.

For conference or sponsorship information, contact Ann K. Gregorie at 225-214-5563 or ann@brba.org.

Holiday Star Project delivery day was Friday, Dec. 2, 2011. Special thanks to all volunteers, committee members and BRBA staff who assisted. Diesel Driving Academy provided the truck. Cori Blache chaired this year’s committee and Zelma Frederick co-chaired. Susan Kelley is the staff liaison.
Attorney volunteers are needed to help with three different legal clinics

BY EMILY CHAMBERS


Thirst for Justice will celebrate its 11th year at St. Vincent de Paul in June 2012. The clinic is open Wednesday and Thursday, 3-5 p.m., and two attorney volunteers are needed for each shift.

After a successful pilot program, the Self-Help Resource Center will reopen Jan. 17. The project is managed by the BRBF and is in cooperation with the EBR Family Court, the LSU Paul M. Hebert Law Center, the Southern University Law Center and Southeast Louisiana Legal Services. The number of self-represented litigants creates significant challenges for the courts in administering justice and for litigants in their access to justice. This project and its partners will better address these issues.

At the Help desk, law students assist pro se litigants in document preparation and filing on specific domestic matters. The desk is open Tuesday and Thursday, 10 a.m. - 2 p.m., and one attorney is needed to supervise the law students. Attorneys in all areas of practice are invited to participate. Interested parties are invited to attend a training session available for 1.0 hours of CLE credit with the Family Court judges Jan. 6, 12 - 1 p.m. at the EBR Family Court (19th JDC, 4th Floor, Courtroom 4B). We hope to see all our interested volunteers at the training.

The Pro Bono Project is in the process of scheduling 2012 Ask-A-Lawyer program dates. This year, two dates in Livingston Parish and two dates in Ascension Parish will be included, in addition to the events in East Baton Rouge Parish. Two attorney volunteers for each shift are needed.

If your firm is interested in volunteering for a block of dates for the Pro Se Help Desk or if you are interested in volunteering for the Ask-A-Lawyer or Thirst for Justice programs, contact Emily Chambers at emily@brba.org or 225-214-5558.
BRBA Volunteer Committee members who helped with the Nov. 19, 2011, project, which was Brave Heart-Children in Need, Inc., were (L to R, back row) Erik Kjeldsen, James d’Entremont, Jesse Bankston; (front row) Jeanne Rougeau, Michelle Lacaste-d’Entremont, Jennifer Efferson and Donna Lee.

Judge John V. Parker (Ret.) was honored Wednesday, Nov. 16, 2011, at St. James Place. Pictured above are (L to R, seated) Judge Parker, Judge James Brady, Judge Frank Polozola; (L to R, standing) Jim George, Dale Baringer (president of the Dean Henry George McMahon Inn of Court), Ronnie L. Johnson (president of the Wex S. Malone Inn of Court), Ashley L. Belleau (immediate national past president of the Federal Bar Association), Charles S. McCowan Jr. and J. Peyton Parker.

Attending the Annual Past Presidents’ Dinner Tuesday, Nov. 8, 2011, were Fred T. Crifasi, Trent Oubre and Preston J. Castille Jr.

Gerald Walter, Preston J. Castille Jr., Jim Toups and Edward J. Walters Jr. attended the Annual Past Presidents’ Dinner at the Middleton Bar Center.

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West’s Jury Verdicts - Baton Rouge

Venue/Case Type
East Baton Rouge Parish

Major Injury
Trial Type
Result
Animals
Lip, nose
Jury
$112,847
Construction & Industrial Accidents
Back, head, shoulder, arm, leg
Jury
$343,856
Shoulder
Jury
$55,600
Insurance
Neck, back, hip
Bench
$12,871
Construction & Industrial Accidents
Abdomen, leg
Jury
Defense
Premises Liability

West’s Case of the Month

$55.6K Verdict Returned For Truck Driver Injured on Construction Site
Bu ford v. Entergy Inc.

TYPE OF CASE:
Construction & Industrial Accidents • Other
Negligent Hiring & Supervision • Negligent Supervision
Negligent Hiring & Supervision • Negligent Hiring
Labor & Employment • Safety & Health
Vicarious Liability

SPECIFIC LIABILITY: A semi-truck driver, who was delivering utility poles to a construction site, was injured when his truck tipped over in wet dirt at the site

GENERAL INJURY:
Shoulder injuries; medical expenses; lost income; property damage

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

DOCKET/FIELD NUMBER: 571636

VERDICT: Plaintiff, $55,600.00; reduced in judgment to $33,360.00 per fault apportionment

VERDICT DATE: March 23, 2011

JUDGE: Timothy E. Kelley

ATTORNEYS:
Plaintiff: John B. Wells, Slidell
Defendant (Auger): Michael M. Thompson, Law Offices of Keith S. Giardina, Baton Rouge

TRIAL TYPE: Jury

BREAKDOWN OF AWARD:
$45,600.00 to plaintiff from defendant Auger Services for physical pain and suffering
$4,000.00 to plaintiff from defendant Auger Services for medical expenses
$6,000.00 to plaintiff from defendant Auger Services for past lost wages

The jury determined defendant Auger Services was 60 percent at fault for the accident and the plaintiff was 40 percent at fault. The court, in final judgment, reduced the plaintiff's total recoverable damages to $33,360.00, reflecting the jury's fault allocation.

SUMMARY OF FACTS:
Gregory Buford said he was delivering utility poles to a site owned, leased or operated by Entergy Inc. and located at South Choctaw Drive near Rushmore Drive in East Baton Rouge Parish, La., Oct. 17, 2007. Auger Services Inc. was apparently the contractor on the site responsible for accepting the delivery.

When he arrived at the delivery site, which was located off the roadway, Buford reportedly told Auger representatives that the surface might not support the weight of his semi-truck because the area was wet with standing water and a previous truck had allegedly become mired. However, Buford claimed he was assured by Auger representatives that the area was safe and that he would be directed by an Auger employee to ensure the truck would not become stuck.

An Auger employee named Charlie reportedly directed Buford to back his truck into the area; however, Charlie allegedly directed Buford too close to the ditch. The wet dirt near the ditch apparently gave way and caused the semi-truck to turn over.

Buford claimed he was injured in the incident, which included injuries to his shoulder.

Buford filed a lawsuit against Entergy and Auger in the Nineteenth Judicial District Court for the Parish of East Baton Rouge. In his petition, the plaintiff alleged the defendants were liable for negligent selection and supervision of their contractors, subcontractors, agents, employees and servants.

In addition, Buford asserted the defendants had negligently allowed work to proceed in an unsafe environment and induced him to enter the unsafe environment.

The plaintiff sought damages for his pain and suffering, medical expenses, lost income and property damage.

The defendants generally denied the plaintiff's allegations. They asserted Buford was solely at fault for the accident because he recognized the muddy conditions as hazardous before entering the area in question. The defendants further argued the plaintiff had suffered only minor shoulder injuries due to the accident, and was only treated twice for his injuries.

The matter proceeded to a jury trial in March 2011 with Judge Timothy E. Kelley presiding. Jurors returned a verdict March 23, finding defendant Auger was 60 percent at fault for the incident, while the plaintiff was 40 percent at fault.

The jury awarded Buford $45,600 for physical pain and suffering, $4,000 for medical expenses, and $6,000 for past lost wages.

Judge Kelley entered judgment on the jury’s verdict in a judgment signed April 8, 2011. The court reduced the plaintiff’s total recoverable damages to $33,360, reflecting the jury’s fault apportionment.

The plaintiff was awarded legal interest from the date of judicial demand until satisfaction of judgment. Auger was taxed with 60 percent of the plaintiff's court costs.

CASE CITE: West's J.V. Lu. Rep., Vol. 7, Iss. 4, p. 9 (2011); 2011 WL 4564068
PRO BONO PROJECT REPORT

We would like to thank all of our Pro Bono Project volunteers for their contributions during the month of October. The Thirst for Justice solo practitioner volunteers were Byron Kantrow and Judge Melvin Shortess (Ret.).

Thirst for Justice volunteers practicing with firms were Melissa Grand and Danny Rester, Adams and Reese; Brad Axelrod, Bill Davis, Zelma Frederick, Jon Ann Giblin, Stewart Spielman, Katie Sumner and Dan West, McGlinchey Stafford, PPLC; and Mac Womack, Taylor, Porter, Brooks & Phillips, LLP.

Students volunteering with Thirst for Justice were Justin Bello, LSU Paul M. Hebert Law Center; Nicole Edwards, Nathan Salvail and Jennipher Williams, Southern University Law Center.

The Ask-A-Lawyer solo practitioners volunteering in October were Terry Bonnie, Scott Gaspard, Allen Posey and Emily Ziober. Ask-A-Lawyer volunteers practicing with firms were Jim Austin, Adams and Reese; Todd Gaudin, Kuebne, Foote & Gaudin APLC; and Gordon McKernan, McKernan Law Firm. Students volunteering for Ask-A-Lawyer were Nicole Edwards, Asha Green, David Kinsaul, Cleveland Patterson, Shanaia L. Pettaway and Maridra Starks, Southern University Law Center.

The following volunteers accepted cases during the month of October: Samantha R. Ackers, Alton Tony Bates, Erika Green, Nancy Sue Gregorie, Joanna Hynes, Paulette LaBostrie, Kerri Landry-Thomas, Blake Leger, Siobhan Leger, Lynn Musumeche, Sherrye Palmer, Peter Ryan, M. Janice Villarrubia and Kenneth Williams. Lisa Leslie Boudreaux, Downs, Saffiotti & Boudreaux; J. David Andress, Grand Law Firm; Crosby Lyman, Lyman Law Firm; Dwayne Murray, Murray & Murray; Sarah Lunn, Shelby Law Firm; and Kathleen Wilson, Wilson Law Firm accepted cases in October as well.

Interning with the Baton Rouge Bar Foundation were Denise Farrior, LSU Paul M. Hebert Law Center; Oni Groves and Summer Miller, Southern University Law Center; and Ben McDonald.

TEEN COURT REPORT

Erika Green, Robert Ray and Lindsay Watts Sanchez served as judges and monitors for the October hearings. Treneisha Jackson and Ben McDonald served as jury monitors. Law student volunteers were Tina Brown and Samantha Mallet, Southern University Law Center and Savannah Steele, LSU Paul M. Hebert Law Center.

Interested in volunteering? Contact Donna Buuck at 225-214-5556 or donna@brba.org.

JUNIOR PARTNERS ACADEMY

Third- and fourth-grade students at Dalton Elementary School participated as judges and jurors Friday, Oct. 14, 2011, when they participated in the interactive lesson, “A Fish Tale.” During the classroom presentation volunteer judges, attorneys and law students helped the students determine the fate of “Tootsie the Goldfish.” Volunteers were Judge Trudy M. White, Gail Grover, Melanie Fields, Weldon Hill, Jamie Gurt, Aishala Burgess, LaKeesh Freeman, Rhonda Blacknell, Samantha R. Ackers, Wendy Shea, Michael Piper, Lesia Batiste, Yi Liu, Heather Duhon and Trenika Fields.

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.
January 2012

Calendar of Events

**SAVE THE DATE:**

2012 OPENING OF COURT, MEMORIAL & NEW MEMBER CEREMONY

19TH JUDICIAL DISTRICT COURTHOUSE

WEDNESDAY, JAN. 25

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

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**19TH JUDICIAL DISTRICT COURT***

Jan. 2-Jan. 13 Judge Bates
Jan. 16-Jan. 27 Judge Caldwell
Jan. 30-Feb. 24 Judge Fields

19TH JUDICIAL COURT***

Dec. 28-Jan. 6 Judge White
Jan. 6-Jan. 13 Judge Marabella
Jan. 13-Jan. 20 Judge Anderson
Jan. 20-Jan. 27 Judge Erwin
Jan. 27-Feb. 3 Judge Jackson

BATON ROUGE CITY COURT*

Dec. 26-Jan. 1 Judge Ponder
Jan. 2-Jan. 8 Judge Davis
Jan. 9-Jan. 15 Judge Temple
Jan. 16-Jan. 22 Judge Wall
Jan. 23-Jan. 29 Judge Alexander
Jan. 30-Feb. 5 Judge Ponder

FAMILY COURT**

Jan. 2-Jan. 6 Judge Woodruff-White
Jan. 9-Jan. 13 Judge Day
Jan. 16-Jan. 20 Judge Lassalle
Jan. 23-Jan. 27 Judge Baker
Jan. 30-Feb. 3 Judge Woodruff-White

JUVENILE COURT

Jan. 1-Jan. 31 Judge Taylor-Johnson

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

**OPENING OF COURT, MEMORIAL & NEW MEMBER CEREMONY**

19TH JUDICIAL DISTRICT COURTHOUSE

WEDNESDAY, JAN. 25

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

Office Closed — New Year’s
YLS Council meeting, 12 p.m.
Law Day Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
Self-Help Resource Center Training
& CLE, EBR Family Court, 300 North Blvd., 12 - 1 p.m., Courtroom 4A
Construction Law Section CLE seminar, 11:30 a.m.;
Operations & Finance Committee meeting, 3:30 p.m.
Executive Committee meeting, 4 p.m.
Pro Bono Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
January Bar Luncheon & Installation of Officers, De La Ronde Hall, 11:45 a.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
Office Closed — MLK Jr. Day
Board of Directors meeting, BRBA office, 5:30 p.m.
Ask-A-Lawyer, Catholic Charities, 9-11:30 a.m.;
Volunteer Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
LSBA Mid-Year Meeting, Marriott Convention Center, New Orleans;
Family Law Section CLE & Meeting, 12 - 2 p.m., Carrabba’s Italian Grill;
Mock Trial Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
LSBA Mid-Year Meeting, Marriott Convention Center, New Orleans;
JPA program, Dalton Elementary.
LSBA Mid-Year Meeting, Marriott Convention Center, New Orleans
Teen Court Hearing, EBR Parish Juvenile Court
Opening of Court, Memorial & New Member Ceremony, 19th Judicial District Courthouse, 8:30 a.m.;
Teen Court Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
LRIS Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
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