Inside:

United States v. Jones – GPS tracking device & the Fourth Amendment

CASA volunteers highlighted


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CLE Seminars break at 12:15 p.m. Friday, July 27 to allow free time to spend with family and friends
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First-timer registration rate is limited to the first 20 who register by June 25, 2012. Special rates available for those who register early!

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.
On the cover:
The cover photo features the 2012 Young Lawyers Section Council of the Baton Rouge Bar Association. Photographed (standing, L to R) are Scott Levy, Kara Bergeron Kantrow, Jodi Bauer, Victor J. Suane Jr., (seated, L to R) Jamie Hurst Watts (chair), Laranda Moffett Walker (secretary), Amanda Stout (past chair) and Loren Shanklin. Scotty Chabert (not pictured) is the chair-elect of the Young Lawyers Section. The YLS Council will coordinate the June 14, 2012, bar luncheon.

The cover image was photographed in North Boulevard Town Square, across from the 19th Judicial District Court (300 North Blvd.), with a backdrop of the Old Louisiana State Capitol and majestic oaks.

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

Emily Kern Hebert, recruitment coordinator for the Capital Area CASA Association, is a contributing writer.

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

John McIndon, a partner with Rainer, Anding & McIndon, is a member of the Publications Committee.

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.

Edward J. Walters Jr., a partner with Walters Papillion Thomas Cullens LLC, is the editor of Around the Bar.

Jamie Hurst Watts, a partner with Long Law Firm, is the 2012 chair of the Young Lawyers Section Council of the BRBA.

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When I was admitted to the bar in 1984, I was too old to get involved with the Young Lawyers Section. Now, before some of you young lawyers do the math and conclude that I’m pretty well preserved for someone who is eligible for Medicare, let me explain. I was what is now called a “nontraditional student.” I worked as a legal secretary and paralegal for five years before starting law school. So I was 29 years old when I was admitted to the bar. Today a BRBA member can belong to the Young Lawyers Section (YLS) until age 39 or, if over 39, up to five years after being admitted to the bar. But in 1984, the age cutoff was 29, with no provision for nontraditional students.

Things have certainly changed in the past 28 years, and it’s a change for the better. Our YLS is a vibrant, essential part of the BRBA. Its signature projects are Holiday Star, which provides gifts for 1,000 children each year, and Belly Up with the Bar, a brewfest and cookoff that raises money for our many youth education programs. But the YLS does so much more! The YLS introduces new lawyers at the Opening of Court, Memorial and New Member Ceremony. Then it makes it possible for young lawyers to meet local judges up close and personal at Sidebar Luncheons and network at Thirsty Thursday events, Cocktails with the Court and a bar luncheon in June planned by the YLS. And in July, the YLS sponsors its Summer Sizzlin’ CLE seminar with topics focused on YLS members.

This litany of projects and events is certainly impressive, but our YLS didn’t stop there. In 2008, it took on the ambitious project of creating The New (and not-so new) Lawyers’ Survival Guide (available on the BRBA website), which contains “need to know” practical information on practicing law in Louisiana. This project won the Louisiana State Bar Association’s Service to the Bar Award for 2008-2009.

As if that weren’t enough, in 2011 the YLS took on another major project, the 50 Billable Hours Club. This project was the brainchild of Judge Tim Kelley, who realized that many young lawyers needed advice on courtroom behavior. In years past, attorneys gained this information by acting as second chairs or “briefcase toters.” But with today’s tough economic times, more young attorneys have been going into solo practice or were being left at the office when motions were argued because clients won’t pay for the second chair. The 50 Billable Hours Club provides the sort of experience new lawyers used to get from their firms.

Here’s how it works. Attorneys sign up for the club, and on the first Monday Rule Day of each month, they watch the attorneys’ arguments in the 19th JDC. Five district judges are currently participating – Judges Kay Bates, Janice Clark, Todd Hernandez, Tim Kelley and William Morvant. Afterward, the participants meet with the judge to discuss what they’ve witnessed. Rule days generally last about five hours, and the participants’ goals are to spend two rule days with each judge. By the end of the program, participants will have spent approximately 50 hours in the courtroom. Judges and the YLS have encouraged firms to allow their new associates to participate and to count the time participating in this program toward their billable-hour quota.

The BRBA is understandably proud of its YLS. The YLS members and programs are feathers in the cap of the BRBA – and we just added two new feathers. The LSBA announced in April that the 50 Billable Hours Club won the 2011-2012 Service to the Bar Award, and Amanda Stout, 2011 BRBA YLS Chair, has been named the Louisiana State Bar Association’s 2011-2012 Young Lawyer of the Year. Congratulations, YLS and Amanda, and keep up the good work!
Not again

Only a select few of those in our midst – say James Carville, Gail Stephenson or the late, great Buffington Mayer – have attained the celestial status of celebrity. The rest of us are consigned to the drab and humdrum existence of our everyday lives, well under the radar of media recognition.

But wait. What about those in our profession who happen to share names with the rich and famous? Let’s see...there’s a lawyer in New Orleans whose name is all but identical to that of an ex-baseball slugger of Oakland A’s “Bash Brothers” fame, the one whose career came crashing down after the steroid scandals. Sticking to baseball themes, we have our own Ted Williams, he of the (as of press time) non-frozen head. Then there is Chuck Norris, a Vidalia lawyer known for his martial courtroom antics. And Laura Ashley is a stylish litigator in The Big Easy.

But when talk shifts to celebrity rock stars, who could forget Keith Richards? Recently Keith had been contacted by a prospective client pursuing a possible liability claim against a nursing home. After dispensing with the standard shop talk preliminary matters – stage of decubitus ulcers and the like – the lady could no longer control her urge to pop the question, and sheepishly asked Keith if he was “the real Keith Richards.” Certainly Keith wishes he had an insured nursing home case for every time he has been asked a variation of that question, and he gave the lady his standard response, i.e., that the celebrated Rolling Stones guitarist probably gets asked if he is a Baton Rouge lawyer just as often.

A wise and clever person once noted that when you “assume” something, it “makes an ass out of ‘u’ and ‘me.’” This time, it hit home to Keith, who was dutifully informed by the client that “the” Keith Richards she was referring to was a cause célèbre at Picayune High School in the 1980s, scoring the hat trick of star quarterback, student body president, and all around general uberstud.

And after the humbling dialogue concluded, Richards realized that his status in the realm of notable Keith Richardses of the world had been downgraded to third – and counting. ☹

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RCL PORTRAIT DESIGN will be at the Middleton Bar Center May 14 - May 31 to help the BRBA in our task of updating our website directory photos.

Photo sittings will take place at the BRBA Office, 544 Main St.

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Looking for ways to meet other lawyers, interact with judges in informal settings, have access to CLEs designed and priced for young lawyers, and learn about ways to serve our profession and the community? The BRBA Young Lawyers Section is the place for you. Be introduced at the Opening of Court, Memorial & New Member Ceremony and join BRBA lawyers and judges in recognizing deceased members. Sign up for the 50 Billable Hour Club to observe 19th JDC rule days and discuss the do’s and don’ts of litigating with the presiding judge. After work, mingle at one of the Thirsty Thursdays and attend the Cocktails with the Court reception. Have lunch with a local judge at a Sidebar Luncheon. Attend the June Bar Luncheon hosted by the YLS. Earn CLE credit at the Summer Sizzlin’ CLE and the Bench Bar Conference. Raise money for the BRBA’s youth education programs at Belly Up to the Bar and participate in the Holiday Star program’s collection of Christmas gifts for needy children in the area. Seek leadership positions in the YLS Council and the BRBA. Then start all over again the next year.

Remember, you’re only a young lawyer once!
West’s Jury Verdicts - Baton Rouge

Venue/Case Type
East Baton Rouge Parish

Insurance
Premises Liability
Vehicle Negligence
Vehicle Negligence
M.D. Louisiana
Vehicle Negligence

Major Injury
Neck, back, shoulders, arms, teeth, legs
Unspecified personal injuries
Unspecified personal injuries
Unspecified personal injuries
Spine

Trial Type
Bench
Jury
Jury
Bench
Jury

Result
$20,000
$15,000
$17,527

West’s Case of the Month

Jury Finds Defendant 20% at Fault for Chain Reaction MVA on Interstate 10
Ellis v. Martinez

Type of Case:
Vehicle Negligence • Motor Vehicle v. Motor Vehicle
Vehicle Negligence • Interstate/Freeway
Vehicle Negligence • Truck
Vehicle Negligence • Chain Reaction Collision
Vehicle Negligence • Inattention
Insurance • Automobile Policy

Specific Liability: Motorist was struck by a Mack truck while traveling on the interstate due to a chain reaction collision, causing the motorist to enter the median and strike several trees.

General Injury: Unspecified personal injuries; medical expenses; loss of economic opportunity

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

Docket/File Number: 562-452

Verdict: Plaintiff, $15,000.00

Verdict Date: May 18, 2011

Judge: Wilson Fields

Attorneys:
Plaintiff: Kevin Patrick Monahan, Baton Rouge; Donna U. Grodner, Grodner & Associates, Baton Rouge
Defendants (Bias, Oakley and AIG): A. Spencer Gulden, Bastian & Associates, New Orleans

Trial Type: Jury

Breakdown of Award:
$7,500.00 to plaintiff for pain and suffering
$7,500.00 to plaintiff for medical expenses
The jury determined Martinez was 20 percent at fault for the collision, while another individual was 80 percent at fault.

Summary of Facts:
Leroy Ellis said he was driving a 2001 Ford F-150 truck owned by his employer, Rittmier Equipment Company, west in the left lane of Interstate 10 in Ascension Parish, La., Dec. 22, 2006. Ellis said as he was driving, a vehicle operated by Daniel Martinez was located directly in front of him.

Ellis said Martinez's vehicle suddenly swerved to avoid a ladder that had fallen on the interstate. When doing so, Ellis said Martinez lost control of his automobile and veered into the right lane of travel, directly in front of a 2005 Mack Tractor truck driven by Johnny Bias and owned by Oakley Groves Inc.

According to Ellis, Bias' truck subsequently veered in the left lane and struck the right, rear side of his truck, causing Ellis' truck to enter the median and strike several trees.

Ellis said he suffered severe personal injuries due to the collision and incurred property damage.

Ellis filed a petition against Martinez, Martinez's reported automobile insurance provider, Allstate Property & Casualty Insurance Company, Bias, Oakley Transport Inc. and their reported insurance provider, American Home Assurance Company (AIG), in the Nineteenth Judicial District Court for the Parish of East Baton Rouge alleging negligence.

Specifically, the plaintiff asserted both Martinez and Bias had failed to see what they should have seen, failed to keep proper lookouts and drove in careless and reckless manners. Ellis sought damages for his personal injuries, medical expenses, physical and mental pain and suffering, permanent disfigurement and disability and loss of economic opportunity.

The defendants generally denied the plaintiff's allegations. Allstate, as Martinez's insurance provider, denied liability. The insurance company asserted the accident was caused solely by an unknown driver who had a ladder fall from his vehicle onto the interstate. As a result, the ladder present in the interstate created an emergency situation.

Allstate further argued if Martinez was found to be at fault, Bias and Ellis were also contributorily or comparatively negligent in causing the collision.

Allstate further contested the nature, extent and causation of the plaintiff's injuries and damages.

The matter proceeded to trial in May 2011. Jurors returned a verdict in the plaintiff's favor May 18, finding Martinez's negligence was a cause-in-fact for the December 2006 accident. Specifically, the jury determined Martinez was 20 percent at fault, while another person's negligence had also caused the collision, and he/she was 80 percent at fault.

Jurors also determined Ellis was injured due to the collision, and awarded him $7,500 for pain and suffering, and $7,500 for medical expenses.

Case Cite: West's J.V. La. Rep., Vol. 7, Iss. 8, p. 8 (2012); 2011 WI. 7121543
Three BRBA members highlighted for outstanding volunteerism with Capital Area CASA Association

BY EMILY KERN HEBERT

When a child abuse case involving sexual assault of a teen girl appeared on her caseload, CASA Advocate Supervisor Susan Murrell immediately thought to assign CASA volunteer Amy Newsom to the case because of her objectivity and skills as an attorney.

The experience as a CASA volunteer has been eye-opening, said Newsom, a lawyer with Forrester, Dick & Clark.

As CASA volunteers, Newsom and attorneys Patricia Wilton and Crystal French advocate on behalf of children in East Baton Rouge Parish who have been abused, neglected or abandoned by their caregivers and are placed in foster care. All three women are also members of the Baton Rouge Bar Association.

In 1992, a group of concerned citizens founded the local CASA program, Capital Area CASA Association. CASA stands for Court Appointed Special Advocates. The nonprofit organization has grown, and from 1992 through Dec. 31, 2011, 931 volunteer advocates have provided a voice in court to 1,768 children, according to Capital Area CASA Association Executive Director Liz Betz.

CASA volunteers get to know the child, foster parents and biological parents, if they are available, along with teachers and other professionals involved in the child’s life. Information is provided to a juvenile court judge through a court report containing the CASA volunteer’s recommendation about what is in the child’s best interest, Betz said. CASA volunteers do not replace a child’s attorney or social worker.

Newsom, who has been a CASA volunteer since 2009, is serving on her second case. Her first case, involving a 17-year-old girl who had given birth to a daughter, ended when the girl turned 18.

Newsom’s second case has been open for about a year and a half.

Along with her advocacy efforts aimed at achieving a safe and permanent home for her CASA child, “it has been very rewarding to develop a relationship with her and help guide her through the challenges life has thrown at her,” Newsom said.

Newsom said the case has shown her that the system does sometimes work. “This child’s life has greatly improved since being placed in the custody of the state. She has been blessed to have been placed in two separate foster families that have been exceptional. Over the last year and a half, I have watched her become a happier and stronger human being,” Newsom said.

French, an attorney with a private practice, has served as a CASA volunteer for several years for a girl who is now nine. The child had been placed in the custody of a great aunt years ago, said CASA Advocate Supervisor Ricketta Cotton-Monroe, but now the mother would like to regain custody.

Recently, French said, the mother had made great strides in stabilizing her life and, in general, it seemed like a good idea for the mother to reunite with her child. However, the uncertainty of her future living arrangements caused further stress on the child, who began acting out.

A child’s CASA volunteer must make a recommendation that openly recognizes the strengths and flaws of all the options, French said.

In addition to her advocacy work on behalf of the girl, French served on a committee at Capital Area CASA Association that created a manual for children who would soon reach their 18th birthday and no longer be in foster care.

“After turning 18, these children are kicked out of even the housing provided by foster care,” French said. “A child raised by ‘the system’ has often missed fundamental life lessons.”

It is often taken for granted that a child has learned what to eat, how to cook or even how to grocery shop, as well as how to do housework or laundry, she said.

“Basics like how to apply for housing, jobs, higher education, loans or open a bank account are unknowns for a child who lacked the parents and family to teach it,” French said.

Wilton, an assistant attorney general with the Louisiana Attorney General’s...
Office, said she was looking for a volunteer opportunity that would combine her love of working with children with her desire to use her legal skills to give back to the community. After attending an orientation in April 2010, Wilton said she became even more convinced that she wanted to become a CASA volunteer.

Wilton was assigned a case involving a now 17-year-old girl with cerebral palsy who was placed in foster care at age 10 due to her mother being incarcerated. Luckily, Wilton said, the girl had been in a stable foster home for more than five years when Wilton took the case after the previous CASA volunteer moved out of state.

“There were challenges associated with stepping into a case with such a long history,” Wilton said.

For instance, she said, as a new person in this child’s life, it was a struggle to gain the foster parent’s trust and cooperation and to establish her own way of doing things differently from the previous volunteer. Plus, there was six years worth of case file materials to digest in order “to get up to speed and be able to interact competently with everyone else involved in the case,” she said.

To help her CASA child achieve a permanent home, Wilton said she investigated to confirm that neither reunification with the girl’s biological parents nor placement with another relative were viable options. She said she observed and closely monitored progress in the foster home to determine whether it was suitable and desirable as a permanent placement. She also participated in meetings and attended court hearings to complete the steps necessary for the court to move forward with an adoption.

“One factor that added a sense of urgency to the case was that my CASA child would turn 18 and ‘age out’ of care if a permanent plan were not achieved.”

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“May” and “might” imply different degrees of uncertainty. “You may win a motion for summary judgment in front of Judge X” implies a real possibility of winning. “You might get out of this case without a full-blown trial” implies a much more remote possibility. Both “may” and “might” mean “maybe,” and your word choice denotes your opinion of the likelihood of the event occurring.

One exception to this rule applies. If your sentence uses another verb in the past tense, you must use might.

For example:
He was afraid he might lose the case.
He thought the judge might rule against him.

Thanks to Erin Campbell for suggesting this topic.
Send suggestions for future Gail’s Grammar columns to Gail Stephenson at GStephenson@ulc.edu, or call Gail at 225.771.4900 x 216.

Fifteen months after accepting her case, Wilton said she is proud to report her CASA child’s story is on its way to a happy ending. “The process is nearly complete for my CASA child’s foster parent to adopt her,” Wilton said.

One of the most fulfilling experiences she had as a CASA volunteer was the opportunity to testify in support of adoption by the foster parent.

“I was able to share with the court my observations of the loving and stable home that the foster parent has provided for my CASA child for nearly seven years,” Wilton said. “That was a day when I truly felt that I made a difference in the life of a child.”

Capital Area CASA Association will offer pre-service training sessions in June and September 2012 for people who want to become CASA volunteers, but the first step is to attend an orientation.

To learn more about how you can be a voice for an abused or neglected child while they await a safe and permanent home, attend a 45-minute orientation at the CASA office, 848 Louisiana Ave.

Upcoming orientation dates and times:
Thursday, May 3, 12 p.m.
Thursday May 12, 10 a.m.
Tuesday, May 15, 12 p.m.
Thursday, May 22, 5 p.m.
Friday, May 25, 12 p.m.
Friday, June 1, 12 p.m.
Thursday, June 7, 12 p.m.
Saturday, June 16, 10 a.m.
Tuesday, June 19, 5 p.m.

For more information, visit www.casabr.org or call the CASA office, (225) 379-8598.
United States v. Jones:
The government’s use of a GPS tracking device constitutes a search within the meaning of the Fourth Amendment

BY JOHN McLINDON

On Jan. 23, 2012, the United States Supreme Court handed down the decision of United States v. Jones, 132 S.Ct. 945 (2012), which held that the government’s attachment of a GPS tracking device to a vehicle and its use of that device to monitor the vehicle’s movements constitutes a search under the Fourth Amendment.

Antoine Jones was the owner and operator of a night club in the District of Columbia. He was under investigation by the FBI for suspicion of trafficking narcotics. Based on the investigation, the government applied to the United States District Court for the District of Columbia for a warrant authorizing the use of an electronic tracking device on Jones’s Jeep Grand Cherokee. The warrant was issued authorizing the installation of the device within 10 days from the signing of the warrant. For unexplained reasons, the device was not installed until the 11th day and it was not installed in the District of Columbia, but in Maryland.¹

Over the following 28 days the government used the device to track the vehicle’s movements. On one occasion, government agents replaced the device’s battery when the vehicle was parked in a public lot in Maryland.

Eventually the United States obtained a multiple-count indictment, charging Jones and several others with conspiracy to distribute cocaine and cocaine base in violation of 21 U.S.C. §§ 841 and 846. Jones filed a pretrial motion to suppress evidence obtained through the GPS device, which was granted in part by the United States District Court, suppressing the data obtained while the vehicle was parked in the garage adjoining Jones’s residence. The court held that the remaining data was admissible because “[a] person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another,” citing as authority United States v. Knotts, 460 U.S. 276, 281 (1983). Jones’s trial in October 2006 produced a hung jury. In March 2007 a grand jury returned another indictment charging Jones with the same conspiracy. This jury returned a guilty verdict, and Jones was sentenced to life in prison.

The United States Court of Appeals for the District of Columbia Circuit reversed the conviction because of admission of evidence obtained by a warrantless use of the GPS device. The United States Supreme Court granted writs.

Justice Scalia authored the opinion. He was joined in it by Chief Justice Roberts and Justices Kennedy, Thomas and Sotomayor. Justice Sotomayor filed a concurring opinion. Justice Alito also filed a concurring opinion in which Justices Ginsburg, Bryer and Kagan joined. The Court began its analysis noting that it is beyond dispute that a vehicle is an “effect” as contemplated by the Fourth Amendment and that the government’s installation of a GPS device and its use of that device to monitor that vehicle’s movements constitutes a search. The Court held: “The government physically occupied private property for the purpose of obtaining evidence.” Justice Scalia noted that the text of the Fourth Amendment reflects its close connection to property. Fourth Amendment jurisprudence has been tied to common law trespass up until the latter half of the 20th century, when it deviated from the exclusively property-based approach. For example in Katz v. United States, 389 U.S. 347, 351 (1967), the Court held that “the Fourth Amendment protects people, not places,” finding a violation in attachment of an eavesdropping device to a public telephone booth. Cases following Katz have applied the analysis that was provided by Justice Harlan in a concurring opinion, which stated that a violation occurs when government officers violate a person’s “reasonable
expectation of privacy.”

In Jones, the government contended that the Harlan standard shows that no search occurred here as Jones had no “reasonable expectation of privacy” in the area of the Jeep accessed by the government agents (its underbody) and in the locations of the Jeep on the public roads. The Supreme Court held it did not need to address the government’s contentions because Jones’s Fourth Amendment rights did not rise or fall with the Katz formulation. Justice Scalia reiterated that most of the history of the Fourth Amendment was understood to embody a particular concern for government trespass upon the areas it enumerates (persons, houses, papers and effects). Katz did not repudiate that understanding. Katz established that property rights are not the sole measure of Fourth Amendment violations. Katz did not “snuff out” the previously recognized protection for property.

The government countered that several post-Katz cases “foreclosed the conclusion that what occurred here constituted a search.” The government cited two cases that involved the placement of “beepers”— electronic tracking devices that represent another form of electronic monitoring. The Supreme Court quickly distinguished the facts of these two cases, United States v. Knotts, 460 U.S. 276 (1983), and United States v. Karo, 468 U.S. 705 (1984). In both of these cases, a beeper was installed in a container that belonged to a third party (who consented to the installation of the beeper) and did not come into possession of the defendant until later. Therefore, the question in Knotts and Karo was whether the installation “with the consent of the original owner constitute[d] a search or seizure...when the container is delivered to a buyer having no knowledge of the presence of the beeper.” Jones, 132 S. Ct. at 952. The Court found that Jones possessed the Jeep at the time the government trespassorily inserted the information-gathering device, thus making the Jones case distinguishable from Karo and Knotts.

The government next cited New York v. Class, 475 U.S. 106 (1986), which held that the exterior of a car “is thrust into the public eye and thus to examine it does not constitute ‘search.” Id. Justice Scalia found that statement of “marginal relevance” because as the government acknowledged, the officers in this case did more than conduct a visual inspection of the respondent’s vehicle. They encroached on a protected area.

Finally, the government argued that if the attachment of the GPS device was a search, it was reasonable (and therefore lawful under the Fourth Amendment) because the officers had reasonable suspicion and probable cause to believe that Jones was a leader a large-scale cocaine-distribution conspiracy. The Court noted that this issue had not been raised at trial and the appellate court did not address it. The Supreme Court considered this argument forfeited.

The Jones opinion may be of marginal relevance itself. What is unanswered, but implied in this opinion, is that a search warrant is all that is necessary to attach the GPS device. As noted above, a search warrant was obtained in this case, but, for unexplained reasons, the device was not placed on the vehicle until after the expiration of the time allowed in the search warrant. Moreover, the search, i.e., the placement of the GPS device, took place in a different judicial district. The government should be able to remedy this situation easily by obtaining a search warrant and attaching the device within the time limits set forth in the warrant.

It seems that there should be a limit on the amount of time that a GPS device is allowed to remain attached to a person’s vehicle. By analogy, when the government taps a person’s phone, the government must obtain authorization from the Justice Department and then apply to a United States district court judge for an order authorizing the interception of the wire, oral or electronic communication. See 18 U.S.C. §§ 2510-2522 (commonly referred to as Title III Wiretaps). The interception of these communications is allowed for only 30 days. See 18 U.S.C. § 2518(5). Extensions of this 30-day period may be granted upon application to a United States district court judge. Similar protections should be put in place for GPS tracking devices.

¹ In court, the government conceded non-compliance with the warrant but argued that the warrant was not required.
What I’ve learned...
Interview with Daniel R. “D.R.” Atkinson Sr.  BY EDWARD J. WALTERS JR.

VITAL STATISTICS
Full Name: Daniel R. “D.R.” Atkinson Sr.
Age: 76
Parents’ occupations: Accountant and teacher
Spouse: Jimmie Carol “J.C.” Tregre – Married in 1957
Family: Five children: Michael; Susan (deceased – survived by husband, Tom Wells – attorney in Alexandria); Danny; Paul; and Nancy; 15 grandchildren, one great-grandson

People call me “D.R.” and I call Jimmie Carol “J.C.” because it’s easier to sign Christmas cards that way. I have been called D.R. since I was born, and while in the service most people thought my name was “Dior,” as in Christian Dior, because of J.C.’s southern accent.

My life was formed by my attendance at Catholic High School in Baton Rouge from third through 12th grade.

Growing up I always wanted to be a Religious Brother of the Sacred Heart. When I was in the eighth grade, my mother would not let me go. Later (after my vocation was excluded by maternal power), I decided I would be a professional athlete. Accordingly, I ceased any academic effort and gave all my efforts to being an athlete. This resulted in being all-city in basketball for three years, all-city in baseball my sophomore year and finally, in my senior year, I was all-state in basketball, second team all-city in football and in baseball we won the State championship. I then received an athletic scholarship in basketball/baseball to Spring Hill College and lettered three years in basketball and four years in baseball. Near the end of my college career my coach decided that I would not be a starter, and I realized that I was not really that good as an athlete. I decided to resume my academic career.

The greatest lesson I ever learned is that sometimes failure is a good thing.

I went to law school because my mother (a former teacher on the first faculty of Istrouma High School) decided I should be a lawyer and she convinced me to go to law school. I believe this was because she had known Dean Paul Hebert and had a great deal of admiration for him.

One of my first memories of law school was Professor J. Denson Smith giving his famous talk that some people were meant to be lawyers and some people were meant to be piccolo players, but in any event only about 50 percent of us were going to make it. Luckily I was not part of the 50 percent that did not make it.

I got my first job thanks to Dean Henry George McMahon who took a personal interest in me and convinced George Mathews to hire me.

My law practice is a long story of involvement with a group of wonderful people: George Mathews (1963-1965); George Mathews & E. Leland Richardson (1965-1968); 1968 - Dale Owen, Richardson Taylor & Mathews (name change evolved in 1980 to Mathews, Atkinson, Guglielmo, Marks & Day until dissolution of law firm
I realized early on that I was a member of a profession that was akin to a religious vocation. I quickly learned that I owed a duty to my client to always give my best effort and that the payment of a fee was secondary to the obligations owed to the client and court.

My most memorable case: Early in my practice, I was appointed to represent a young black man charged with possession of drugs. Judge Mickey Parker found the young man guilty and imposed a long jail sentence. I was shocked – not that he was found guilty, but that he was sent to prison. I appealed. During the appeal, I was visited frequently by this young man’s mother, who was a beautiful and devoted person. I can still remember her great concern and love for her son. In December of that year, our case was scheduled for oral argument before the Supreme Court of Louisiana. I had appealed this case on a ruling by Judge Parker concerning the number of jurors required to hear the case, 12 and not 6. Fortunately,
the Supreme Court agreed with my argument. When I argued the case, I shared my admiration for this young man’s mother, his service in Vietnam, and suggested that Christmas was in a week and this young man should be with his family at Christmas. (He had been in jail since his conviction.) I will never forget the compassion of Justice Al Tate. He invited me to his chambers and assured me that he would get this young man released – that day. Justice Tate was a wonderful person and was a judge for the people, especially widows and children. I believe it was the next day that my young man was released, and I drove him from the East Baton Rouge Parish Prison to his home, south of Port Allen. When we arrived his mother had a glow of happiness that brought tears to my eyes. I hugged her and we both cried. I was very proud, on that day, to be a member of the legal profession.

My profession has given me the opportunity to lead a comfortable life with some “leisure time” to enjoy my family and think about many things. I know I was not a great lawyer, probably not even a good lawyer, but I know that I always attempted to give my best effort. But most importantly, I was involved in a “profession,” not a job, and it was an experience of a “lifetime.”

My children are so special and it was not easy, but J.C. pulled us through, with a lot of help from others. Michael is my prodigal son (saved by a great judge, Bill Morvant); Susan, my beautiful daughter, now sharing the beatific vision in paradise; Danny, my namesake and law partner (a lot more conservative than me); Paul, my “911 to Milagros” (Miracle) child; and Nancy, my beautiful and talented artist who I thought would sing in the Metropolitan Opera. She did not, but her husband has performed there on several occasions. And Becky Bourgeois, my secretary for almost my entire career, who is loved like my own child.

Recently I have been spending a great deal of time in New York City (Manhattan) and have become a pretty good “tour guide.” I have spent countless hours reading many books in Central Park, most in theology, but explored quantum mechanics, read all of Grisham’s novels and attended many operas.

My biggest regret is in failing to get Frank Maraist to New York so I could be his tour guide.
Young Lawyers Section to organize the next BRBA Bar Luncheon Thursday, June 14

The Young Lawyers Section of the BRBA will organize the next BRBA Bar Luncheon, which is Thursday, June 14, 2012, at De La Ronde Hall. All summer law clerks and young law firm associates are encouraged to attend this luncheon.

Pictured on the cover of this month’s issue are the 2012 YLS Council members.

To register for this luncheon, please contact the BRBA at 225-344-4803 or register online at www.BRBA.org.

Local Mock Trial Competition results in two West Feliciana High teams placing first and second

Ten teams from seven high schools located in three parishes competed in this year’s Region III High School Mock Trial Competition, hosted by the Baton Rouge Bar Foundation Friday, March 2, and Saturday, March 3, 2012, at the 19th Judicial District Courthouse.

West Feliciana High School entered three teams into the competition, resulting in wins at the first- and second-place levels. Both teams competed at the state level two weeks later in Lake Charles, and each made it into the state-level winner’s bracket.

Episcopal High entered two teams, while all other participating schools – including Baton Rouge High, Redemptorist High, St. Helena Central High, St. Joseph’s Academy and Zachary High – entered one team each.


Those serving as timekeepers for this year’s event were Rachel Abadie, Ben Comeaux, Oni Graves, Marcie Hartman, Michael Heier, John Richards, Whitney Sheppard, Jessica Smith, Lykisha Vaughan and Charles Watkins.

A special thank you to Louisiana State Bar Young Lawyers’ Section members Laura Hart Bryan and Erin Braud; Georgia Dudley (teacher from West Feliciana High); and attorney coaches Luke Williamson, Sidney Picou and Sam D’Aquilla.
Members of the 2012 Mock Trial Committee include Lauren Byrd Reed (chair and Region III coordinator), Tavares A. Walker (co-chair), Karli G. Johnson (board liaison), Lynn Haynes (staff liaison), Samantha R. Ackers, Benjamin M. Anderson, Connell Archey, Donna Buuck, David Caldwell Jr., Jason R. Cashio, Carla Courtney Harris, Ann K. Gregorie, Mackenzie S. Ledet and Elizabeth A. Spurgeon.

BRBA members are encouraged to schedule free portrait sittings in May for BRBA website

During the last three weeks in May, Baton Rouge Bar Association members will have the opportunity to sit for complimentary portraits at the Middleton Bar Center. The BRBA has agreed to partner with RCL Portrait Design, which will be scheduling the photo sessions and are providing photographers to capture images that will be used on the BRBA's website and in Around the Bar.

The photo sittings begin Monday, May 14, and continue through the end of the month. A letter was mailed to each BRBA member in April inviting him or her to call (800) 580-5562 after April 14 to set up an appointment with RCL Portrait Design. Please make a note to set your photo appointment soon so that you will have a new full-color photo on the BRBA's website.

BRBF Volunteer Committee holds Easter egg hunts for inner-city elementary school children

The Volunteer and Easter Eggstravaganza committees, coordinated by Carole McGehee, worked non-stop stuffing candy into thousands of colorful, plastic Easter eggs to spice up this holiday event for local school children during the last week in March. Total eggs collected for 2012 were 9,497. Half of these eggs (4,431) were donated by St. Joseph's Academy.

Members of the Easter Eggstravaganza Committee, including chairman Erik Kjeldsen, hid eggs from participating students during Easter egg hunts scheduled March 27-30, 2012, at Buchanan, Dufrocq, St. Francis Xavier and University Terrace elementary schools.

Special thanks to everyone who donated candy, eggs, baskets, donations or time to make this year's Easter Eggstravaganza event a success. Firms contributing to
Southern University Law Center students performed the scripted mock trial
_Emerald City Murder and Mayhem_, written and moderated by Beau Brock,
March 14, during SULC’s Law Week. The production was sponsored by the
BRBA. Gail Stephenson portrayed the Judge. Pictured are (L to R) Amber
Owens, Markita Hawkins, BRBA President Gail Stephenson, Beau Brock,
Tiffany Ford and Carlton Miller. Other students participating in the trial
were Ryan Hart, Amanda Henderson, Abigail Cole, Jamal Chatman, Hollis
Lewis, Kerry Hill, Adam Kwentua and Sawyer Halbrook.

The BRBA Volunteer Committee served lunch at St. Vincent de Paul as its
March 13, 2012, project. Pictured above (L to R) are David Ogwyn, Mac
Womack, Bridget Denicola and Conrad Rolling.

Easter Eggstravaganza 2012 included Adams & Reese; Baker Donelson Bearman Caldwell Berkowitz, PC; Baton Rouge Association of Women Attorneys; Baton Rouge Paralegal Association; Davoli, Krumholt & Price; Decuir, Clark & Adams, LLP; Department of Health and Hospitals; East Baton Rouge District Attorney; Louisiana First Circuit Court of Appeal; Go Physical Therapy; Jackson, Gilmour & Dobbs; Joubert Law Firm, APLC; Law Office of Chambolyin Terrance; Long Law Firm, LLP; LSU Law School; Maricle & Associates; McGlinchey Stafford, PLLC; U.S. District Court, Middle District of Louisiana; Milling Benson Woodward, LLP; Phelps Dunbar; Southern University Law Center; Steffes, Vingiello & McKenzie; Taylor Porter; U.S. Attorney General’s Office; and Watson, Blanche, Wilson & Posner.

Also special thanks to: Therese Addington, Donna Adomo, Judy Amick, Jessie Bankston, Beryl Bourgeois, Anna Brown, Ryan Brown, Jessica Chapman, Laura Christenson, Rebecca Clement, Rebecca De La Salle, Bridget Denicola, Sallie Dupont, Jennifer Durham, Shannon Fay, Meredith French, Jennifer Gautreaux, Wren’nel Gibson, Chiquita Hall, Susan Kelley, Erik Kjeldsen (event chair), Rob Krumholt, Heather Landry, Rebecca Hill, Judge Pamela A. Moses-Laramore, Mackenzie Ledet, David McCay, Shanda McClain, Ben McDonald, Stephanie Marshall, Tina Marshall, Chris Morris, Barbara Parsons, Tiffany Pucheu, Janice Reeves, Jeanne Rougeau, Allison Rovira, Erin Sayes, Diana Serrano, Susan Severance, Heather Simien, Emily Spence, Cindy Stanford, Stephen Sterling III, Gail Stephenson, Katie Sumner, Maurice Thigpen (parent volunteer), Jennifer Thomas, Jay Thompson, Amanda Walker, Gloria Wall, Mac Womack, Betty Uzee and Emily Ziober.

BRBA Law Expo 2012 date selected: Wednesday, Sept. 12

The BRBA Law Expo & September Bar Luncheon will take place Wednesday, Sept. 12, 2012. Chairing this year’s Law Expo event is Michael Platte. Bryan Jeansonne will serve as the vice chair.

Luncheon speaker H. Alston Johnson III will provide a legislative update. The annual tradeshow will be held at the BR River Center. Anyone interested in joining the Law Expo Committee should contact the BRBA office.

In addition, sponsorships and booth space are available. 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
Nuts & Bolts Summer CLE Seminar Series

The BRBA Summer Nuts & Bolts CLE Seminars will take place June 1, June 15, Aug. 10 and Aug. 24. These Friday seminars tackle a variety of topics and are held at the Middleton Bar Center, 544 Main Street. Call Ann K. Gregorie for information at 225-214-5563.

The 2012 Baton Rouge Paralegal Association Paralegal of the Year Award was presented to Archie Kranske, who works for Kean Miller, LLP. Judy Amick, winner of the 2011 award, served as the chair of the Paralegal of the Year Committee. Photographed above are Amick, Kranske and Jennifer Thomas, BRPA president.

Published Articles: “The Worn-Out Worker Rule Revisited,” “Significant Work-Related Limitations of Function Under §12.05C,” “Questionable Retirement and the Small Business Owner”

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Tyler & Possa participated in the Race for the Cure Saturday, March 10, 2012, and raised approximately $6,000 in donations. Because of the efforts of Race Team Captain Stephanie Possa (pictured above), Tyler & Possa won the 2012 People’s Choice Award for Jambalaya and an award for the Largest Team for Companies with less than 100 employees (for the second consecutive year). In addition, Possa organizes her firm’s participation in Pink Out! and Bowl for the Cure. Congratulations to Stephanie Possa, a BRBA member who is also an active volunteer in the Baton Rouge community for a cause that is close to her heart.
PRO BONO PROJECT REPORT

We would like to thank all of our Pro Bono Project volunteers for their contributions during February.

The Thirst for Justice solo practitioner volunteers were Terry L. Bonnie, Hansel Harlan, Byron Kantrow, Ross Leblanc, Alexis Luker, Allen Posey and Judge Melvin Shortess (Ret.). Thirst for Justice volunteers practicing with firms were Jim Austin, Melissa Grand, Tracy Morganti and Robert Wooley, Adams and Reese; William G. Davis, McClintchey Stafford, PLLC; and Jessica Thorhill, Louisiana Dept. of Justice.

The Ask-A-Lawyer volunteers in February were Jim Austin, Adams and Reese; Barbara Baier, Louisiana Dept. of Treasury; Steve Leblanc; and Emily Zieber.

Students volunteering with Thirst for Justice and Ask-A-Lawyer included Amber Amore, Justin Bello, Amelia Hurt, Christopher Thagard, LSU Law Center; and Jennifer Williams, Southern University Law Center.

The Self Help Resource Center attorney volunteers were Samantha R. Ackers; Roy Bergeron, Phelps Dunbar; Ryan Brown, Roedel, Parsons, Koch, Blache, Balhoff & McLcoillister; Nicolette C. Colly, Louisiana Dept. of Justice; E’Vinski Davis, Terry J. Butcher & Associates; Lyla DeBlieux, First Circuit Court of Appeal; Jennifer Gauthreaux, Anteny, Prescott & Gauthreaux; Bryan Jansonne, Christensen, Doré, Jansonne & Shahta; and Talya J. Bergeron and Raveen Hills, Southeast Louisiana Legal Services.

Students volunteering with the Self Help Resource Center were Amber Amore, Hayne Caliva, Denise Farris, and Matthew Schaefer, LSU Law Center; Audrius Ball, Quinn M. Eubanks, Shandell C. George, Chiquita Hall, Sonji Moore, Hillary Nixon, Eric M. Scott, Elisa Stephens, William Stewart, Michael Victorian and Briana Weston, Southern University Law Center.

The following volunteers accepted pro bono cases in the month of February: Samantha R. Ackers; Deborah Berthelot; Garth Ridge; Amanda Stout, McClintchey Stafford, PLLC; and Hany Zohdy. Oni Groves, Southern University Law Center; and Ben McDonald served as interns for the Baton Rouge Bar Foundation.

TEEN COURT REPORT

Raveen Hills and Lindsey Watts Sanchez served as judges for the February hearing. Beau Armentor, Bethany Bedsole, Megan Herbert and Autumn Warner, LSU Law Center, served as jury monitors. If you are interested in volunteering, contact Donna Buuck at 225-214-5556 or donna@brba.org.

Gail Grover, Raveen Hills, Gregory Moroux, Curtis Nelson, Lindsey Watts Sanchez and Andrea Savorgnan conducted the Feb. 4, 2012, Teen Court training session. Law student volunteers were Savannah Steele, Elizabeth Cattner, Autumn Warner, Marcie Hartman, Bethany Bedsole, Beau Armentor, Brent Huckabay, James Klock and Jody Clark McMillan.

JUNIOR PARTNERS ACADEMY

Black History Month was celebrated during the Feb. 17, 2012, presentations at Dalton Elementary. Samantha R. Ackers, Steve Carleton, Linda Law Clark, Ethel Clay, Melanie Fields, Gail Grover, Jamie Gurt, Jonathan Howard, Mike Piper and Wendy Shea conducted presentations.

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.
May 2012

19TH JDC CIVIL COURT
April 23-May 4 Judge Caldwell
May 7-May 18 Judge Fields
May 21-June 1 Judge Morvant

19TH JDC CRIMINAL COURT***
April 27-May 4 Judge Marabella
May 4-May 11 Judge Anderson
May 11-May 18 Judge Erwin
May 18-May 25 Judge Jackson
May 25-June 1 Judge Daniel

BATON ROUGE CITY COURT*
April 30-May 6 Judge Wall
May 7-May 13 Judge Alexander
May 14-May 20 Judge Ponder
May 21-May 27 Judge Davis
May 28-June 3 Judge Temple

FAMILY COURT**
April 30-May 4 Judge Day
May 7-May 11 Judge Lassalle
May 14-May 18 Judge Baker
May 21-May 25 Judge Woodruff-White
May 28-June 1 Judge Day

JUVENILE COURT
May 1-May 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

COURT HOLIDAYS
Monday, May 28 Memorial Day

OFFICE SPACE FOR LEASE:
PRIME LOCATION, IDEAL FOR MEDIUM LAW OFFICE – Large office space, reception area, conference room, library, 5 executive offices, 4 secretarial spaces and kitchen - located at 214 Third Street – 2nd floor, Baton Rouge, LA. 2800 sq footage. Very nicely built out. High exposed ceilings, large antique doors, etc. Located Downtown – lots of parking and restaurants close by. Walking distance to new Courthouse. $4,200.00/mo - negotiable. Call Susie for more details 225-344-3555.

LAW FIRM DIRECTOR OF MARKETING FOR HIRE. I am a highly skilled, Top-5 university MBA, non-attorney in Baton Rouge with valuable expertise in marketing, business development, editing, and writing. I am currently self-employed, but want to make a permanent career change into the legal industry – specifically, a full-time marketing position in a Baton Rouge law firm of any size. I have strong skills in sales, business operations, and professional business services, plus, I am almost finished with a legal studies course, so I will come armed with business experience and legal knowledge. Let me free you and your legal staff to do what you do best: legal work; let me help you and your team with marketing your firm and obtaining new clients through strategic and tactical methods. Please send me your valid contact information and I will respond promptly with my resume. Thanks. BRLawFirmMarketer@gmail.com.

Classifieds

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CLOSING BATON ROUGE LAW OFFICE: Two large oak executive desks and law library (Louisiana case law back to the beginning) for sale. Make offer. Call (225) 266-4451 or email office@legalsmith.com.

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., (Pro Se) Self Help Resource Center,19th Judicial District Court

Photo sessions from May 14 to May 31 can be scheduled with RCL Photography. Photographers will be taking photos upstairs at the Middleton Bar Center.

Calendar of Events

May 2012

1 2 3 4 5
6 7 8 9 10
11 12 13 14 15
16 17 18 19 20
21 22 23 24 25
26 27 28 29 30
31

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

1 YLS Council meeting, 12 p.m.
2 Ask-A-Lawyer, Livingston Parish Library, 9-11:30 a.m.
3 Fifth Circuit Conference in Santa Fe
4 Teen Court hearing, Juvenile Court, 6 p.m.;
5 Fifth Circuit Conference in Santa Fe
6 Workers’ Comp Section meeting, 12-2 p.m.;
7 Operations & Finance meeting, 3:30 p.m.;
8 Executive Committee meeting, 4 p.m.
9 Pro Bono Committee meeting, 12 p.m.
10 Volunteer Committee meeting, 12 p.m.
11 Ask-A-Lawyer, Carver Branch Library, 9-11:30 a.m.;
12 Board of Directors meeting at Mansur’s, 5:30 p.m.
13 Ask-A-Lawyer, Catholic Charities, 9-11:30 a.m.;
14 Bench Bar Conference meeting, 12 p.m.
15 Family Law Section CLE seminar, 11:45 a.m., BR City Club
16 Law Expo Committee meeting, 12 p.m.
17 CLE Committee meeting, 12 p.m.
18 Construction Law Section CLE & meeting, 11:30 a.m. at Kean Miller;
19 Youth Education Committee meeting, 12 p.m.
20 Teen Court Committee meeting, 12 p.m.
21 LRIS Committee meeting, 12 p.m.
22 Office Closed — Memorial Day
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