



VOL. 1, ISSUE 2
FEBRUARY/MARCH 2018

THE MAGAZINE OF THE BATON ROUGE BAR ASSOCIATION

THE BATON ROUGE LAWYER



Inside:

Bring-Your-Own-Device, with caution

**Attorney Spotlight: Luke Williamson & Jennifer
Moisant**

Uncle Sam's cruel joke

**Mock Trial: Where the legal profession's fire is first
sparked**

Book Review: *Carnival in Louisiana*

**2018 Mock Trial Competition:
February 23 & 24, 2018**

OFFICIAL ENTRY FORM

2018 BATON ROUGE BAR ASSOCIATION SOFTBALL TOURNAMENT



- PLACE:** BREC's Oak Villa Sports Park - 2615 Oak Villa Park.
- DATE:** FRIDAY, MARCH 23 & SATURDAY, MARCH 24. Games begin Friday evening, resume on Saturday morning and conclude Saturday afternoon.
- ENTRY FEE:** \$750 per team - **Firms are allowed to field more than one team.**
- PRIZES:** As in prior years, each member of the winning team will receive an official BRBA Softball T-Shirt. Also, the winning team's name will be placed on the Bruce Macmurdo Memorial Trophy, which will be on display at the Middleton Bar Center *In addition, the winning team will bring home a custom-made bat donated by Marucci Bat Co.*
- FORMAT:** Friday: pool play. Saturday: Single elimination tournament based on pool play record. All teams will play at least three games.
- DEADLINE:** All entries must be received at the Bar Association Office (with entry fee) no later than March 16, 2018.

TEAM ENTRY FORM

(Complete one form per team; Fee: \$750 per team)

TEAM NAME _____ TEAM REPRESENTATIVE _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____ Cell Phone _____

Return entry fee along with form(s) to

Baton Rouge Bar Association, Post Office Box 2241, Baton Rouge, LA 70821-2241

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On the cover:

This month's cover features volunteers for our annual Mock Trial Competition being held on Friday, February 23-24, 2018.

Pictured:

Front row - Monica M. Vela-Vick, R. Lynn S. Haynes, Janeane Gorcyca Abbott and Sirena T. Wilson.

Back row - Connell Archey, K. Luke Williamson, John Fenner, Joshua J. Coleman, Christopher J. Day and J. E. Cullens Jr..

Cover photography by Landon T. Hester



4	Contributors
5	Letter from the president "We need you!" BY LINDA LAW CLARK
6	February Bar Luncheon
8	"Bring-Your-Own-Device, with caution" BY JUSTIN JACK
12	"Attorney Spotlight: K. Luke Williamson" BY JOSEPH J. CEFALU III
14	"Attorney Spotlight: Jennifer M. Moisant" BY JOSEPH J. CEFALU III
16	"Uncle Sam's cruel joke" BY DAVID GUNN
18	Gail's grammar
19	"What I've Learned: Paul Marks" BY MARY ROPER
22	Bar news
24	"Mock Trial: Where the legal profession's fire is first sparked" BY JOHN FENNER
27	"Book Review: <i>Carnival in Louisiana</i> " BY DIANNE IRVINE
28	"Interview with Federal Bar Association President John Parker" BY JONATHAN BLAKE
30	Foundation footnotes

SAVE THE DATE

2017 Tax Cuts and Job Act CLE on Feb. 23, 2018

Contact the BRBA for additional information

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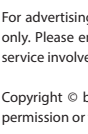
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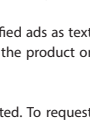


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Published by the Baton Rouge Bar Association
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Phone (225) 344-4803 • Fax (225) 344-4805 • www.brba.org

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letter from the president

BY LINDA LAW CLARK

We need you!

The New Year is in full swing! We hope you did “consider yourself one of us” and are a member! If not, there is still time! The BRBA offers a diverse range of activities to meet your needs this year. The association offers opportunities to interact with attorneys, the judiciary and legal scholars. The BRBA also offers legal support and CLEs for all areas of expertise throughout the year. Sponsored events bring together our diverse membership to work and/or play together and get to know each other. Anna in *The King and I* said it best, “Getting to know you, getting to know all about you! Getting to like you, hoping that you’ll like me. Getting to know you, getting to feel free and easy. When I am with you, getting to know what to say.” Why not find an event to attend or volunteer in a committee and get to better know others in our legal community this year?



Linda Law Clark

We have several committees actively planning our year and coordinating events to serve our membership and the community, but there is always room for new participants. If you have an area of interest, check with the BRBA office, and they can find the right place for you.

Our Pro Bono Project provides hundreds of hours of legal assistance to those in need. You can volunteer for the day in programs like Thirst for Justice or make a longer commitment and accept a case. Our Youth Education Committee prepares and conducts our award-winning Teen

Court and Law Day activities. The Volunteer Committee sponsors events all year round with the community, including the famous Easter egg hunts at area schools, volunteering at the Food Bank and many others. All of these programs could use another helping hand.

February is Black History month, and BRBA again partnered with the Louis A. Martinet Society, the Baton Rouge Chapter of the Federal Bar Association and Baton Rouge Association of Women Attorneys to host a luncheon, bringing us together to better know each other. February also brings the High School Mock Trial competition. Come volunteer and see what our colleagues will look like in another ten years.

In March, the annual Softball Tournament will pit various legal teams on the field rather than in court. There’s also lots of food and fun, and non-athletes (like myself) are invited to come on out. There will be many more opportunities to be involved, and we hope you will join us. We will be working with law schools to better get to know their students and their outstanding faculty. Watch for more details.

The Baton Rouge Lawyer will keep you abreast of legal trends, important events and court information. Watch for each issue to find out where and when you can network with others in our association. Is there something you would like to see offered? Suggestions to make our association even better? Please share them.

I hope to meet and get to know as many of you this year as possible. If you see me at an event and want to share a thought or idea, please come over and say hello! 📷

February Bar Luncheon


The BRBA will hold its February Bar Luncheon on Tuesday, February 6, 2018, at Ruffino's at De La Ronde Hall (320 3rd Street). This month's luncheon is a joint meeting of the BRBA, the Baton Rouge Association of Women Attorneys, the Federal Bar Association (Baton Rouge chapter) and the Louis A. Martinet Legal Society.

Speaking at this month's joint bar luncheon will be State Representative Ted James, a Democratic member of the Louisiana House of Representatives from East Baton Rouge Parish.

After graduating from historic McKinley Sr. High School, Ted obtained a Bachelor of Science degree in accounting from Southern University. He is a cum laude graduate of the Southern University Law Center, having served as President of the Student Bar Association.

Members of the BRBA, BRAWA, FBA-BR chapter and Louis A. Martinet Legal Society may attend the February Bar Luncheon at Ruffino's at De La Ronde Hall for \$30 per person. Guest price is \$40 per person. Please RSVP to Kelsie Bourgeois by noon Friday, Feb. 2, 2018. "No shows" will be invoiced.

BRBA to hold joint meeting with BRAWA, FBA (BR chapter) and Martinet Society

Cancellations must be made by noon Friday, Feb. 2, 2018. Fax this form to 225-344-4805 or email it to kelsie@brba.org. 



PLEASE COMPLETE THIS FORM AND FAX THIS ENTIRE PAGE TO THE BRBA AT (225) 344-4805 BY NOON FRIDAY, FEB. 2, 2018.

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☐ **LUNCHEON** — **YES**, register me for the **FEBRUARY BAR LUNCHEON** at Ruffino's at De La Ronde Hall, 320 Third St., which will take place **TUESDAY, FEB. 6, 2018, at 11:45 a.m.** at \$30 per BRBA, BRAWA, FBA (BR chapter) or Martinet member. Guests who are non-members may attend for \$40 per person. **SPACE IS LIMITED. Please reserve your seat by sending in this form to Kelsie Bourgeois at the BRBA by Friday, Feb. 2, 2018, at noon. Fax to 225-344-4805 or email to kelsie@brba.org.** Cancellations must be made by noon Friday, Feb. 2, 2018. "No shows" will be invoiced. Online registration is also available at www.BRBA.org.

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Bring-Your-Own-Device, with caution

A decade ago, the corporate world was obsessed with BlackBerry phones. They were secure, had a full keyboard, and had the ability to send and receive emails. They were perfect for business but generally not applicable for personal use. Blackberries, and their hip holsters, are now relics. Now, nearly three-quarters of Americans own a smartphone and more than half own a tablet computer. This is a significant increase from the 35 percent of smartphone users just six years ago.¹ A modern-day smartphone has the ability to manage contacts, record and edit audio and video, and send and receive emails from a work and a personal email account. For lawyers, smartphones and tablets have the ability to draft, edit and store legal documents, record depositions, review and store transcripts, and annotate and sign documents, amongst other features. In fact, a recent survey by the American Bar Association found that 95 percent of attorneys in the United States use a smartphone. Of that 95 percent, roughly 70 percent use an iPhone.²

With the increase in smartphone ownership, the days when an employee's work solely was done on a company-issued computer and phone are mostly gone as 84 percent of employees own the device they use for work.³ Recently, bring-your-own-device ("BYOD") policies have gained traction. A BYOD policy allows employees to use their personal device, including tablet, cell phone and laptop, for personal and work use. BYOD policies reflect the ongoing fluid margin between personal and work-related technology.⁴ Such policies allow an employee to access corporate emails and to view confidential information and documents on their personal device. Further, such a policy is convenient as it allows employees to carry one device instead of two.⁵ Additionally, the employees have a greater sense of comfort and familiarity with their personal devices and are prone to regularly upgrade those devices. From the employer's vantage, having such a policy is cost-effective as companies do not have to pay to service and maintain smartphones while still demanding increased productivity from its employees.⁶

The rise of BYOD policies requires companies to critically examine their policy regarding smartphones. Companies have different approaches to their BYOD policies. Some companies that allow employees to use their personal devices install partition software on their employees' smartphones that separates work from personal data. Other companies allow employees to take work-related phone calls on their personal devices but restrict email to corporate devices. Currently, there are no state statutes that specifically govern BYOD policies or practices. Typically, companies will provide their employees a stipend for their data usage as consideration for using their personal smartphones for work-related use. However, whether a company is required to subsidize an employee's cell phone bill because of work-related use has not been addressed by a Louisiana court.⁷

Most commonly, however, companies provide a work computer, but also allow their employees to access their work email from their personal smartphone and/or tablet.⁸ Further, common BYOD policies include provisions that allow an employer to remotely delete the contents of an employee's personal smartphone and restore it to its factory state if the device is lost or stolen. The same is true if the employee is terminated or leaves the company. A recent survey found that 21 percent of companies perform remote wipes when an employee quits or is terminated.⁹ Remotely wiping the device deletes both personal and work contents.

A common misconception among employees is that installing work email on their personal devices gives the employer only the ability to access and/or delete emails from those devices. Installing services like Microsoft Exchange Server on a personal smartphone is a common part of an employee's orientation process with a company. It is typically a quick process that involves adding the employee's network username and password and the company's server address to the smartphone's email application. However, depending on the

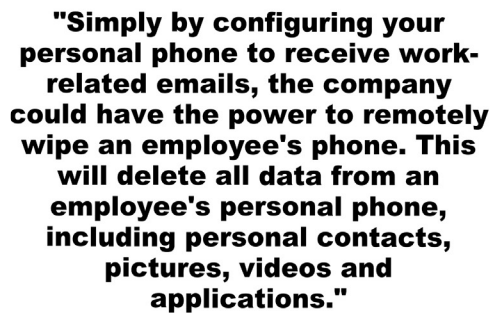


company's server software, simply doing so gives the company the ability to send a command to the employee's personal phone to remotely wipe the contents. No additional software is needed to do so.¹⁰ Simply by configuring your personal phone to receive work-related emails, the company could have the power to remotely wipe an employee's phone. This will delete all data from an employee's personal phone, including personal contacts, pictures, videos and applications.¹¹

Although Louisiana jurisprudence on the legality of this issue is limited, a case from the United States District Court for the Southern District of Texas provides guidance. In *Rajae v. Design Tech Homes*, 2015 U.S. Dist. Lexis 186723,¹² the plaintiff was experienced in the home construction industry and employed by the defendant, a home construction company, to perform sales and marketing tasks. His position required him to have access to his email outside of business hours to "answer customer requirements and be available as needed."¹³ He was not provided a company-issued cell phone or smartphone. Instead, he used his personal iPhone to access his work email. Although the parties disputed how it occurred, his phone was connected to defendants' Microsoft Exchange Server, which allowed the plaintiff to access his work email, contacts and calendar from his iPhone.¹⁴

After the plaintiff announced his resignation for reasons not stated in the courts' opinion, the defendants moved to terminate him before he could resign. Thereafter, the defendants' network administrator remotely wiped his iPhone, restored the factory settings, and deleted all data, both personal and work-related, contained on the iPhone.¹⁵ The plaintiff filed suit alleging a violation of the Electronic Communications Privacy Act ("ECPA"), the Computer Fraud and Abuse Act ("CFAA"), misappropriation of confidential information, and various state law claims.¹⁶ The ECPA makes it illegal to intentionally access electronic communication without consent. Further, the CFAA makes it unlawful to cause \$5,000 or more in damage to electronically stored information. The plaintiff alleged that defendants deleting personal data from his phone caused him to lose "family photos, business records, irreplaceable business and personal photos and videos and numerous passwords."¹⁷ Additionally, he alleged that the defendant remotely wiping his device caused him to lose hundreds of business contacts he had collected throughout his career.

The court held that the plaintiff's personal data that was stored on his smartphone was not protected by the ECPA. It cited Fifth Circuit precedent in which the court held that a smartphone device is not an "electronic communication service" as defined by the ECPA.¹⁸ The Fifth Circuit ruled that smartphones and home computers are not an



"Simply by configuring your personal phone to receive work-related emails, the company could have the power to remotely wipe an employee's phone. This will delete all data from an employee's personal phone, including personal contacts, pictures, videos and applications."

"electronic

communication service" such as telephone companies, internet or email service providers, and bulletin board services. The court in *Rajae* wrote that "information that an individual stores to his hard drive or cell phone is not in electronic storage under the statute."¹⁹ The court also held that personal pictures, contracts, videos, and passwords are not cognizable losses under the CFAA.²⁰

There are lessons that can be learned from *Rajae*, mainly, that there is federal precedent for a company to delete personal data on a former employee's smartphone without his or her consent. Another takeaway is that the law and federal statutes are slowly trailing the fast-pace of technology. With the advent of cloud-based technology where information is stored on the internet instead of physical hard drives, the court's reasoning in *Rajae* is now out of touch with current technology trends. But at present, at least under these statutes cited in *Rajae*, an employer can wipe an employee's personal smartphone. *Rajae* should also force companies to create formal, written BYOD policies, or to evaluate their current policy. At a minimum, an effective policy should: (1) define who owns what data, (2) outline security requirements, (3) have employee departure provisions, and (4) determine what devices are included in the policy.²¹

Recently, employers have also purchased enterprise mobility-management software, which partitions an employee's personal smartphone and separates personal data from work data. Thus, an employer can selectively wipe work-related data from a personal smartphone while leaving personal data untouched. For employees, it is important that they frequently back up personal data, in particular contacts, videos, pictures and applications to their personal computer or cloud storage platform as a way of protecting against an unexpected wipe. In all, with the popularity of smartphones, BYOD policies will present new challenges as technology continues to evolve and outpace jurisprudence. ■



WRITTEN BY JUSTIN JACK

¹Arron Smith, *Record Shares of Americans Now Own Smartphones, Have Come Broadband*, PEW RESEARCH CENTER (Jan. 12, 2017), <http://www.pewresearch.org/fact-tank/2017/01/12/evolution-of-technology/>.

²American Bar Association, *Vol. VI: Mobile Lawyers, in 2017 LEGAL TECHNOLOGY SURVEY REPORT* (Joshua Poje, ed., 2017).

³Kathy Gurchiek, *Personal Cellphone Privacy at Work*, SOCIETY FOR HUMAN RESOURCE MANAGEMENT (Aug. 8, 2013), <https://www.shrm.org/resourcesandtools/hr-topics/technology/pages/personal-cellphone-privacy-at-work.aspx>.

⁴Colin Steele, *BYOD or COPE: Which Enterprise Strategy Is Right for You?*, TECH TARGET, <http://searchmobilecomputing.techtarget.com/rip/BYOD-or-COPE-Which-enterprise-mobility-strategy-is-right-for-you> (last visited Dec. 31, 2017).

⁵DLA Labor Dish Editorial Board, *What Recent Case Law Can Teach About BYOD Workplaces*, DLA PIPER (Mar. 17, 2015), <https://www.labordish.com/2015/03/what-recent-case-law-can-teach-about-byod-workplaces/>.

⁶SIMPLEMDM (Jan. 5, 2017), *The Challenge of a Bring Your Own Device (BYOD) Policy*, [https://simplemdm.com/2017/01/05/challenges-](https://simplemdm.com/2017/01/05/challenges-of-bring-your-own-device-byod-policy/)

[of-bring-your-own-device-byod-policy/](https://simplemdm.com/2017/01/05/challenges-of-bring-your-own-device-byod-policy/).

⁷See Taylor Crousillac, *Bring Your Own Bill? Reimbursing Employee Use of a Personal Cell Phone for Work-Related Purposes*, LOUISIANA LAW REVIEW (Mar. 21, 2016), <https://lawreview.law.lsu.edu/2016/03/21/bring-your-own-bill-reimbursing-employee-use-of-a-personal-cell-phone-for-work-related-purposes-2/> (“Louisiana does not have an equivalent state statute, but there is an argument for employee reimbursement on the basis of Louisiana Civil Code article 2298.”).

⁸Matt Miller, *Developing a Bring Your Own Device Policy for Your Business*, ITFREEDOM (Jan. 28, 2016), <https://www.itfreedom.com/developing-a-byod-policy-for-your-business/>.

⁹Gretchen Gavett, *Yes, Your Company Can Wipe Your Personal Phone (for Now)*, HARVARD BUSINESS REVIEW, <https://hbr.org/2014/01/yes-your-company-can-wipe-your-personal-phone-for-now> (last visited Dec. 31, 2017).

¹⁰Martin Kaste, *Wipeout: When Your Company Kills Your iPhone*, NPR (NOV. 22, 2010), <https://www.npr.org/2010/11/22/131511381/wipeout-when-your-company-kills-your-iphone> (last visited Dec. 31, 2017).

¹¹Jason Fitzpatrick, *Adding Your Company's Exchange Server to Your Cellphone Enables Remotely Wiping*, LIFE HACK (Nov. 24, 2010), <https://lifehacker.com/5698197/adding-your-companys-exchange-server-to-your-cellphone-enables-remote-wiping>.

¹²*Rajae v. Design Tech Homes*, 2014 U.S. Dist. LEXIS 159180 (S.D. Tex. Nov. 11, 2014).

¹³*Id.* at *1.

¹⁴*Id.* at *2.

¹⁵*Id.* at *3.

¹⁶*Id.*

¹⁷*Id.*

¹⁸*Garcia v. City of Laredo, Tx.*, 702 F.3d 788, 791 (5th Cir. 2012) (“Electronic storage” as defined encompasses only the information that has been stored by an electronic communication service provider.”).

¹⁹*Rajae* at *5 (citing *Garcia*, 702 F.3d at 791).

²⁰*Id.* at *11.

²¹Kilpatrick Townsend & Stockton LLP, *BYOD (Bring Your Own Device) Policies and Best Practices*, LEXOLOGY (Nov. 17, 2017), <https://www.lexology.com/library/detail.aspx?g=46644cf7-b89d-494d-92b4-28463ee94983>.



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Contact Landon Hester at landon@brba.org or 225-214-5560.

Law Day 2018



Courtroom Session Volunteers Needed

The Baton Rouge Bar Foundation will celebrate LAW DAY on Tuesday, May 1, 2018. Following the opening ceremony, middle and high school students will converge on City Court, Family Court and the 19th Judicial District Court. The interactive sessions last from 10:30 a.m. to noon. This is where
WE NEED YOUR HELP!

Volunteers will be given a scenario to review with the students. Moderators will lead the sessions from approximately 10:30 a.m. to noon. Your participation will help students develop a deeper understanding of our legal system.

To volunteer, please complete the information below and fax this form to 225-344-4805 or call Donna at 225-214-5556 or e-mail to: donna@brba.org.

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Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ E-mail: _____
Attorney: _____ Moderator: _____ Judge: _____

Attorney Spotlight: Interview with K. Luke Williamson

BY JOSEPH J. CEFALU III

TBRL: Tell us about your education.

LW: I went to McKinley High School here in Baton Rouge and then Louisiana School for Math Science and the Arts. Then I went to LSU and majored in political science. Thereafter, I went on to Paul M. Hebert Law Center at LSU and graduated in 1996.

TBRL: Where are you from?

LW: I grew up in Baton Rouge where I met and married my high school sweetheart, Kati Meaux Williamson.

TBRL: Where and what type of law do you practice?

LW: Although my first year of practice was as an insurance defense lawyer at Hoffman Sutterfield, I was quickly called to the other side and have had my own personal injury trial practice since 1997.

TBRL: Why did you want to become an attorney?

LW: Ever since I got out of the “I wanna be a cowboy or army man” phase, I have known I was going to be a lawyer. I like solving problems and helping people. If a lawyer practices the right way, that is what we actually do every single day.

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

LW: That is tough, but I would probably have tried to make it as an author or screenwriter. That or running a beachside bar in the British Virgin Islands.

TBRL: What is one thing you wish you would have known before you went to law school?

LW: That I should have taken accounting classes in college. Make no mistake, running a law firm is a business just like any other, and knowing how to read a balance sheet and review a P & L statement is something that you should learn how to do before you open a firm.

TBRL: Are you involved with the BRBA?

LW: I was just elected to my first term on the Board of the Baton Rouge Bar in November. Prior to that I served as the Chair of the Mock Trial Committee back in the ‘90s and was Chair of the Athletic Committee for several years in the 2000s. I also love the Bench Bar Conference and have only missed one time since 1997.

TBRL: What motivated you to become involved with the BRBA?

LW: My kids have gotten older, and I decided that it was time to give something back to the profession that has given so much to me and my family.



TBRL: What is your favorite BRBA activity or event?

LW: Bench Bar Conference for sure since I retired from the Softball Tournament.

TBRL: Are you involved with any other organizations or causes?

LW: I was one of the founders of Baton Rouge Uncorked, which raised money for local charities through a quarterly wine-tasting event. I have also coached the West Feliciana High School mock trial team for the last half decade.

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

LW: That although you might have 100 cases, your client probably only has that one, and it might be the most important thing going on in his or her life. Therefore, listen to them and treat them with the respect they deserve for entrusting their case with you.

TBRL: What are your leisure activities?

LW: I enjoy going to my kids' athletic events, tailgating, playing golf at the Bluffs and working in my yard.

TBRL: What is the last book that you read?

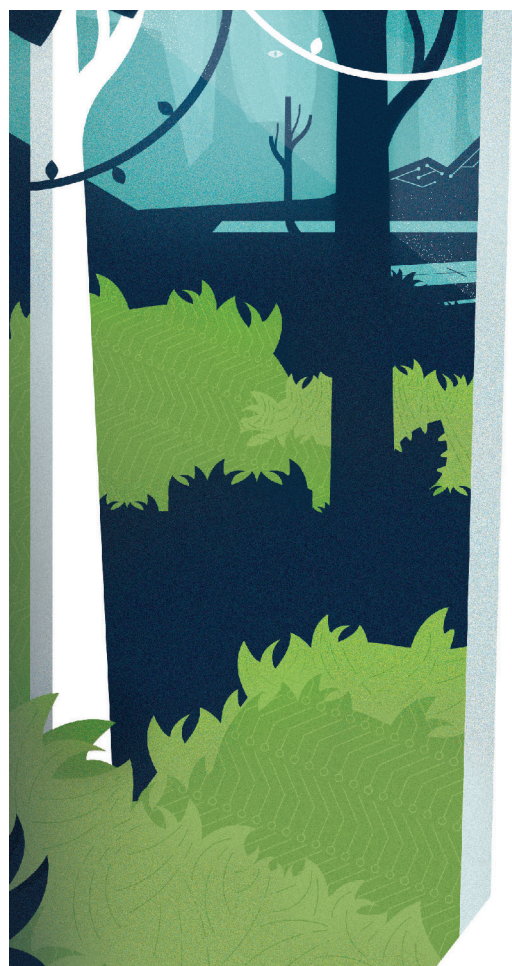
LW: I am currently reading *Origin* by Dan Brown.

TBRL: Tell us something interesting about yourself.

LW: I did not graduate from high school. 📖



INTERVIEW CONDUCTED BY JOSEPH J. CEFALU III



A Clearer Path



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Attorney Spotlight: Interview with Jennifer M. Moisant

BY JOSEPH J. CEFALU III

TBRL: Tell us about your education.

JM: I am a graduate of Mount Carmel Academy in New Orleans, UNO and Southern University Law Center.

TBRL: Where are you from?

JM: I am originally from New Orleans. I never left New Orleans until I moved to Baton Rouge for law school in 2000.

TBRL: Where and what type of law do you practice?

JM: I mostly practice family law, but will take personal injury suits as well.

TBRL: Why did you want to become an attorney?

JM: I just always knew I wouldn't be satisfied in a "job." I enjoy the strategic nature of practicing law, and I like helping people.

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

JM: Maybe something in the government, hospital administration or the service industry.

TBRL: What is one thing you wish you would have known before you went to law school?

JM: I wish I would have known you don't always end up practicing what you think you will practice, and that's ok.

TBRL: Are you involved with the BRBA?

JM: I am now a Director-at-Large of the BRBA. I have been on the Board of the Family Law Section for 5+ years. I have also frequently taken Pro Bono cases over the years. I participated in Belly Up to the Bar one year, but man, that was a lot of work. My chef/friend moved out of town, so I doubt you'll see me cooking for it again.

TBRL: What motivated you to become involved with the BRBA?

JM: I am lucky enough to be friends with a few past presidents who have encouraged me to become more involved in the Bar. They are the kind of people who see it as their duty to bring the younger generations into the

fold. I hope to be that type of practitioner one day.

TBRL: What is your favorite BRBA activity or event?

JM: I love the Holiday Star project. Giving to kids who really need it makes all the stress of the holidays fade away.

TBRL: Are you involved with any other organizations or causes?



PHOTO BY LANDON T. HESTER

JM: I am currently the Chairman of the Board of the Council on Aging. It's a lot of work, but I enjoy hanging out with the seniors and helping push the organization forward.

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

JM: If you find good help, hang on to that person. A more experienced lawyer told me when I got out of law school that finding a good secretary/paralegal was the hardest thing about practicing. We can't be everywhere all the time, and if you're practicing family or criminal law, you're in court quite a bit. You need to have someone you can trust at the office.

TBRL: *What are your leisure activities?*

JM: I enjoy running when my knee is cooperating. It clears my head. And although it's cliché, I enjoy and have really increased my travel. More experiences, less stuff.

TBRL: *What is the last book that you read?*

JM: I'm in the middle of a couple of books right now. They aren't holding my attention. Open to recommendations!

TBRL: *Tell us something interesting about yourself.*

JM: I was in the service industry for a decade. I find the skills I learned in dealing with people are useful in my practice. The customer/client isn't always right, but there's usually a diplomatic way to handle that. ■



INTERVIEW CONDUCTED BY JOSEPH J. CEFALU III



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UNCLE SAM'S CRUEL JOKE

Many of you know that I believe strongly that our great country has a huge problem. There are too few people pulling the wagon, and entirely too many that are just along for the ride. Recent government statistics indicate that less than half of all Americans pay any tax. (I will leave it to you as to whether you want to “take a knee.”) Here’s the story.

A while back, a successful physician was telling me about his retirement plans, when he off-handedly mentioned his \$1 million IRA. Since our discussion to that point had been very light-hearted, I pointed out that he only thought it was \$1 million, when in fact it was really closer to \$300,000. Although Doc initially thought I was still joking, his mood suddenly soured as he realized that my verbal calculations were no joke (more about that later). He turned stone cold and left my office very abruptly.

This is only one example of Uncle Sam’s Big Joke. The story goes something like this: you get out of school and get that first job, after which you live paycheck to paycheck for awhile, disbelieving that you are finally getting paid for all your work. After buying a few “things,” you begin putting a little aside, through savings, debt retirement and the 401k. Gradually, you start moving up, buying a house, and maybe investing independently through a couple of mutual funds or direct stock ownership. Before long, you’re in your thirties, and you’ve tasted the American dream. You work hard, trying to save, getting raises and promotions, or even open your own shop. By the time you’re forty, you’ve hit full stride, making good money but, all the while (and here’s the rub) watching things closely, taking coupons to the grocery, using a discount broker and just saving any way you can. Hey, you’re getting good at this asset accumulation game. Although you never noticed, your Silent Partner is lurking in the background, cheering you on every step of the way.

When the big Six-O rolls around, you know you’ve paid your dues. Maybe you have an address on Easy Street. The home mortgage is long gone and the kids are educated bread-winners (that’s right, they’ve formed their own Partnership with the Big Guy). You’ve already started backing off the accelerator, spoiling grandkids, looking at retirement havens with access to golf, fishing and shopping. Then, on that fateful day, you innocently make that ominous visit to your tax/estate planner, who

drops “the bombshell”.

The Revelation. As you listen to your tax adviser, it becomes crystal clear: you have saved and sacrificed all those years for The Partnership. You disbelievingly begin to understand the punch line to The Cruel Joke: your Silent Partner has annually taken roughly 45% (combined federal and state) in income taxes, and when you die, your Partner wants another 40%. As you begin to think of those endless “other” taxes (Social Security, gasoline, sales, property, etc., etc.), you begin to realize that Your Partner has played you. All this time, you thought that it was your money. You watched those nickels over the years, working hard to provide Your Partner (and his favorite beneficiaries) with a nice little stream of income, with the Big Bang coming at death. Your head begins to spin and, like Doc, you leave, suddenly needing a drink.

Defensive strategy. Later, you begin to think more clearly: wait a minute; I’m in charge here. Maybe “our” money should be “invested” differently (spent on that new Mercedes or Lexus, beach-front condo, upscale college for the kids, Dom Pérignon, etc.; some of us remember the President asking us after 9/11 to “live our lives and spend our money”?). We hear frequent complaints about the amounts “taken” by the government, during and after a lifetime of hard work and savings. One client complained that her share was less than that going to IRS, after her parents scrimped and saved their whole life.

Spend it all? Some say, if you are financially successful (and you don’t have a situation such as a “special needs” or disabled child), you’re foolish not to spend your money as you go, since Uncle Sam contributes such a big share {of any expenditures that qualify as an income-tax deduction¹, and another 40% of anything that would otherwise have been accumulated and held until death}.² As they say, the government is picking up the tab. While I don’t subscribe to the “spend it all” theory, I do believe that plenty can be done about our enormous tax load. Unfortunately, you may begin with only a grudging concession of your own mortality.

Several politicians have demanded elimination (death) of the federal estate tax (pitifully bad joke). Predictions of its expected demise have been gravely exaggerated. While I love being wrong, the budget of our federal government

is such a mess, I don't foresee a repeal of this counter-intuitive tax.

Start by adding it up. Many believe that the current \$5.49 million exclusion³ provides sufficient protection. While the existing exclusion does insulate a large percentage of estates, many families are surprised to learn what is actually included⁴ in the federal taxable estate. Assets subject to tax include qualified retirement plans, IRAs, annuities⁵ and life insurance proceeds,⁶ in addition to "traditional" assets such as the residence, investments, Fleetwood Mac albums and that Sandy Koufax rookie card (in general, all other assets). It is critical that you methodically add up the value of all assets in your estate, in order to get a handle on the scope of the problem – the projected amounts of federal estate tax. The amount of your estate that "noses over" (exceeds) the current \$5.49 million exclusion is taxed at a federal rate of 40%.

Wills for both spouses. If that's the starting point, what's next? Competent estate planners unanimously agree that the best family protection begins with a well-drafted will. Many families implement testamentary trusts (created in the will) for the management and protection of assets for the benefit of the surviving spouse and descendants (the "beneficiaries"). The testamentary credit shelter trust can protect the spouse financially while passing a small fortune (\$5.49 million under current law) free of federal death tax, with additional small future increases, each year (the best estate-planning advice: "Let's all live a long time"). This trust {also called a bypass trust, because the funds "bypass" the estates of both spouses, even though the survivor substantially controls and enjoys the trust assets (including the income) for her lifetime} receives assets valued at the maximum amount that can pass free of federal estate tax. Careful drafting will exclude the trust funds from ("bypass") the surviving spouse's estate, greatly reduce death taxes and provide monthly income to the widow, while safeguarding the \$5.49 million in principal for the kids⁷. Assuming the surviving spouse's estate is ultimately in a 40% bracket, this simple and inexpensive technique saves the family almost \$2.2 million⁸. This tragedy strikes (or threatens) thousands of families annually, with the hearty approval of Your Partner. The IRS leads us to believe, with the "marital deduction," that the property passes to the widow tax-free, not understanding that the tax is merely deferred¹⁰ until the widow's death (at which time the deceased husband's property is or may be, catastrophically, "stacked" onto her estate). Other popular planning techniques include the life insurance and educational trusts (to protect financially-immature spouses, children or grandchildren), charitable remainder trusts, Section 529 plans (for asset accumulation for college), etc.

Other techniques. Many clients need direction with wealth transfer, in which they shrink Uncle Sam's share of their estates using various tools, including the \$14,000

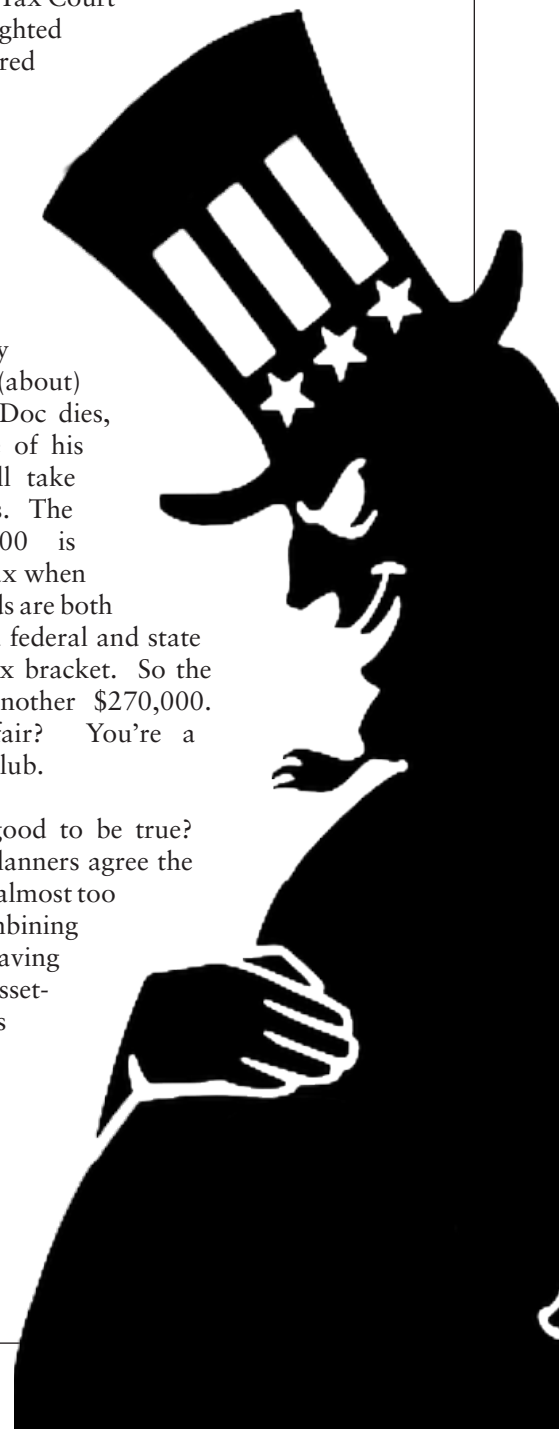
annual gift-tax exclusion¹¹. Many establish educational trusts for the benefit of children or grandchildren, which provide an extremely inexpensive vehicle for saving for their descendants' educational needs while denying an immature child access to the funds - at the ripe old age of 18. As described below, recent changes to the Section 529 plans now provide an attractive alternative.

Trusts may also provide asset protection from potential creditors. Experience is required to properly navigate this dangerous area. Several techniques that are frequently recommended are unworkable in Louisiana. {We believe the family limited liability company may be a superior vehicle for asset protection from creditors, considering liability protection, continued management (control) by the mature generation and large valuation discounts generally approved by the courts recent Tax Court cases¹² have highlighted the care that is required in this area.}

Oh yeah.
Remember Doc's IRA, with monthly statements that indicate a balance of \$1 million? Why is it only worth (about) \$300,000? When Doc dies, because of the size of his estate, the IRS will take 40% in estate taxes. The remaining \$600,000 is subject to income tax when received, and his kids are both in a 45% combined federal and state marginal income tax bracket. So the government gets another \$270,000. Think this is unfair? You're a member of a large club.

Section 529. Too good to be true? Tax and financial planners agree the new §529 plans are almost too good to be true, combining tax-free income, saving for college and asset-protection. What's it all about?

All states have authorized qualified tuition programs (known as §529 plans, since



that's the Internal Revenue Code section that established them) that allow investment of higher education costs ("qualified expenses") on a tax-favored basis. Funds placed in the program are intended to be used for the future higher education costs of the child (grandchild or friend) designated as beneficiary. Earnings aren't taxed while the funds are in the program and, importantly, distributions are tax-free if used for the student's qualified higher education expenses. Qualified expenses include tuition, fees, books, supplies, required equipment (laptop), and reasonable room and board, if the student is enrolled at least part-time. Distributions not used for qualified expenses are taxed to the beneficiary (possibly at the child's 10% bracket), and a 10% penalty will be imposed. Accredited colleges (including graduate school), junior colleges and vocational schools are qualified.

Contributions towards a §529 plan qualify for the \$14,000 annual gift tax exclusion. If contributions exceed this amount, you can elect to spread the donations over 5 years. As a result, without gift tax consequences you could contribute up to \$70,000 per year (\$140,000 with your spouse), subject to the limits imposed by the particular state plan. While distributions aren't taxable gifts, a change in beneficiary (for example, to another child) or rollover to a new beneficiary would be subject to gift tax. Should the beneficiary fail to attend college, you (as participant) can reclaim the funds, but you must pay tax (and the 10% penalty) on the income. We believe the funds held within most (state) plans are beyond the reach of creditors of either the participant (donor) or beneficiary.

Louisiana has an attractive plan (that provides a resident-participant with up to a \$2,400 income tax deduction on the state return); my family decided to make our contributions/investment through the plan of another state.

We've all worked too hard to let the IRS get its hands on our money. We witness a continuing horror story in watching our Clients (without proper planning) write checks for millions of unnecessary tax dollars. Why not do something about it? The typical comment is how painless and inexpensive these steps are to implement. In these uncertain times, this type of advice is critically needed by many of our Clients. ■

¹ If you are in the 45% federal/state income tax bracket, the government pays for exactly 45% of anything that qualifies as a deduction under, for instance, Internal Revenue Code sections 162 or 212. That new SUV just started looking better? Maybe a convention or seminar in Maui? Now you're getting the hang of your role as THE Managing Partner.

² Internal Revenue Code sections 2001 and 2501.

³ Internal Revenue Code section 2010(c)(3).

⁴ Internal Revenue Code section 2033.

⁵ Internal Revenue Code section 2039(a).

⁶ Internal Revenue Code section 2042(1).

⁷ The trust also protects against the risk of a potential tragedy that significantly increased when the Louisiana Legislature diluted forced heirship. LSA-C.C. Art. 1495. The story goes like this: the first-to-die leaves everything to the spouse, who gradually loses her faculties, and is then subjected to the influence of a new spouse, who encourages her to re-write the will, leaving everything to him (new husband), completely leaving the children out.

⁸ Fortunately, the enactment of legislation allowing "portability" of the "unused" exclusion, has tempered this risk.

⁹ Internal Revenue Code sections 2056 and 2523.

¹⁰ Internal Revenue Code section 2044.

¹¹ The federal gift tax exclusion has recently been increased to \$14,000, annually. Internal Revenue Code section 2503(b).

¹² *Hackl v. Commissioner of Internal Revenue*, 118 T.C. 279 (2002); *Estate of Harper v. Commissioner of Internal Revenue*, T. C. Memo 2002-121; see also *Shepherd v. Commissioner*, 283 F.3d 1258 (11th Cir. 2002).



WRITTEN BY DAVID GUNN

GAIL'S GRAMMAR

Woulda, coulda, shoulda — in everyday speech we use elisions that unfortunately bleed over into our writing. Because we hear *would of*, we write it that way. The grammatically correct version, however, is *would have*. Dialect is fine for speaking to friends — we wouldn't say the Saints would have, could have, should have beaten the Vikings — but for writing to clients or the court, correct grammar is important.

Send suggestions for future Gail's Grammar columns to Gail Stephenson at GStephenson@sulc.edu, or call Gail at 225.771-4900 x 216.



What I've Learned: Paul Marks

Vital Statistics

Age: 75

Profession: Lawyer

Born and Raised: Baton Rouge, Louisiana

Parents: Paul Lombroso Marks & Julia Cohn Marks

Parents' occupation(s): Ophthalmologist / homemaker & volunteer activist

Name of Spouse: Anne Plauche' Marks

Children: Paul Plauché (Sonny); Treanor; Charles

Grandchildren: Louis Albert Marks and Chester Plauche' Marks

College: B.S. in history LSU (1965)

Law School: J.D. Paul M Hebert Law Center (1969)

Synopsis of legal career: Abstracter Sanders Downing; law clerk Breazeale Sachse; instructor with NATO at U.S. Army School Europe (Oberammergau, Germany); prosecutor at Headquarters Area Command, Vietnam; practicing attorney at Dale, Owen, which became Matthews, Atkinson, Guglielmo, Marks and Day; later firm Guglielmo, Marks, Schutte, Terhoeve and Love.

What did you want to be when you were growing up? I wanted to be anything other than a physician because my father practiced alone for several years, during which we seldom took vacations.

When did you first decide that you wanted to be a lawyer and why? After winning the oratorical contest at the close of my senior year at Webb School in Bell Buckle, Tenn.. I enjoyed participating in debates as a member of the Hamiltonian Debate Society.

What was your first legal job? I abstracted for one year and decided real estate work was not for me. I also helped a judge who was temporarily assigned to the 19th JDC in drafting opinions.

Do you recall your first court appearance and how it went? As a captain attached to a JAG unit, I was assigned to prosecute a case against another U.S. officer accused of money laundering. When I came home to practice law, my first notice of a trial assignment simply said "Baton Rouge City Court." I went to the large (only known) courtroom and was embarrassed to eventually learn that my case was to have been tried in the judge's office.

What was your first or most memorable trial? My first, complete trial was defending an infantry soldier charged with possession. I lost, and the colonel thereafter decided

that I should only prosecute because a convicted soldier could state that he did not have the benefit of a JAG-trained captain. (I had obtained an ROTC commission before law school; a JAG application would have doubled my two-year obligation.)

My most memorable trial was *Ewell v Petro Processors*, which lasted six weeks when the courtrooms were on Florida Blvd. Two months before the trial, the Taylor, Porter firm asked me to defend one of the chemical plants because of a possible conflict. I got to work with and watch the late Charles Phillips, R. Gordon Kean, Roger Fritchie and others in action. A friend and classmate, Woody Callihan, one of the plaintiff attorneys, died in a motorcycle accident during the trial.

Did you have any mentors early in your career? D. R. Atkinson was a mentor as to preparing for and participating in trials. Henson Moore was a mentor for otherwise practicing law. He had persuaded me to join him as an attorney just before he accepted a job offer from a larger firm.



Paul Marks with Governor John McKeithen.

What do you like most about the practice? Least? I liked becoming friends with other attorneys, particularly when I seemed to be accepted by frequent opponents. I least liked billing for my work and (only in recent times) having some of the items challenged by third parties.

What is the focus of your practice these days? I now work only as a mediator and enjoy getting cases settled when the parties initially thought that such a result was unlikely.

Are you still working a full schedule, or have you slowed down any in the last few years? I have slowed down substantially and am quite happy.

How has the practice of law changed over the years? There seems to often be less trust between attorneys with a resulting need for more written agreements.

If you hadn't become a lawyer, what would you be? I truly cannot imagine any other profession.

It is my understanding that you had a special responsibility while you were at LSU. Can you tell me what this was? For two years while an undergraduate I took care of Mike III. It was before the Vet School was established, and I fed him daily, cleaned the cage, loaded him for home games and drove around the stadium.

I heard about an unusual incident while you had that job? Well, we heard that some Ole Miss students were planning to spraypaint the tiger on Friday night. We told Campus Security, but they would not agree to provide protection, so I loaded Mike into his trailer on Friday, put canvas all around it so no one could see, brought him in his trailer to my house and kept him there until the game on Saturday. No one ever knew then that there was a live tiger in the neighborhood.

Have you remained involved with LSU over the years? If so, in what way? I taught an office practice class at the Law Center for about four years. On one occasion Shelby McKenzie had me defend the athletic director because he had taken action considered to be outside the scope of his authority.

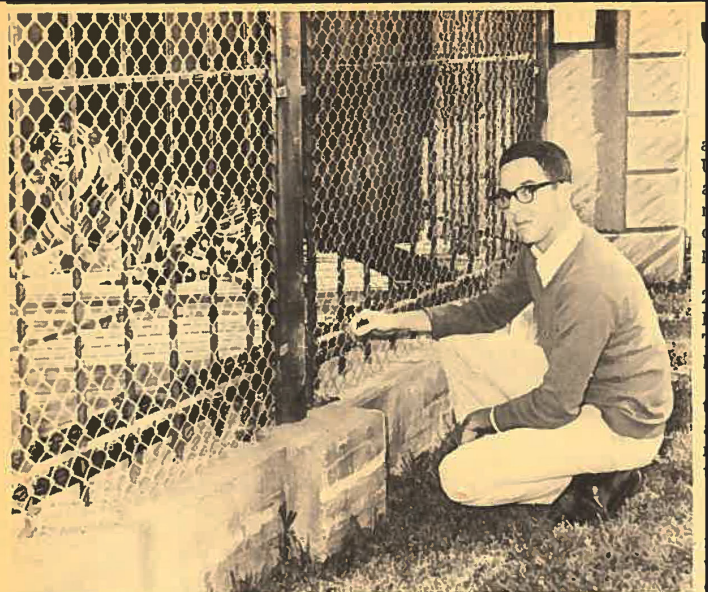
Do you still visit the tiger cage? I have only visited the tiger cage for enjoyment with our grandsons. For the delivery of meals I used to drive across the open area (before the PMAC was built), and Mike could hear my car a block before it arrived, which caused him to pace around the cage.

Have you been involved in any other community causes over the years? I was quite active in the establishment of the Garden District Civic Association, am on the board at Wrenwood and have done a little work with a few other groups.

What are you most proud of achieving or in your career or what has been the most fulfilling aspect of your career? I hope that I earned the respect of others within and around our profession. ■



INTERVIEWED BY MARY ROPER



PAUL MARKS JR., looks after Mike III for the Athletic Department. Marks, a senior in Pre-Law, drives Mike on the field before each game. He is also in charge of feeding and caring for the LSU mascot.

Paul Marks Cares for Tiger; Feeds Him, Cleans His Cage

By MARILYN SMALLWOOD

Most Tiger fans have heard of Mike III, the University's Royal Bengal mascot, but few know about the man behind the tiger.

The person closest to Mike and perhaps the tiger's greatest admirer is his keeper, Paul Marks Jr., a senior in pre-law from Baton Rouge.

Mark's duties include cleaning Mike's cage every three days and feeding him once a day, six days a week (standard zoo procedure), 52 weeks a year.

Weights 450 Pounds

And what does a 450-pound tiger eat for dinner?

Marks said for Mike III "tiger bait" is 14 pounds of raw, ground, vitamin-enriched horse meat daily.

This diet costs the SGA about \$1,200 annually, the tiger tender said.

The meat is usually kept at the LSU Meat Store on campus but during University holidays Marks has to store it in his home freezer.

Marks doesn't feed Mike the day of a game because the big cat would be too sluggish for his pre-game appearance.

Mike is in his sixth season as the living symbol of the Fighting Tiger spirit; Marks is in his second season as tiger trainer.

Got Job After Meyer

Marks got the job when the pre-

vious keeper and a friend of his, Alvin Meyer Jr., graduated.

A Baton Rouge resident, someone who could be on duty 365 days a year, was needed to fill the spot and as Marks had helped Meyer before in caring for the tiger he took over the \$40-a-month job.

"People worry a lot about the tiger getting out," Marks said, "but it's next to impossible." There's a complicated system of locks and doors which separates Mike from the outside.

Marks has 15 keys to unlock the cage and trailer in which Mike travels. "Even if someone else had the keys they couldn't get in," Marks said; "they'd never figure out the system."

During Hurricane Hilda's windy onslaught, Mike was locked inside his "house," the inner cage. "He was the safest being on campus," Marks said.

Students often complain that Mike's cage is not adequate.

"This just isn't true," said Marks. "People don't seem to realize that one tiger, Mike I, lived in this cage for 20 years, as long as any other tiger has lived in captivity."

Mike Lives Comfortably

Mike lives quite comfortably by zoo standards, Marks said. He has constantly running water, a raised platform to sun on and plenty of elbow room.

What if the tiger gets a hangnail or a toothache?

Dr. Joe M. Dixon, associate professor of veterinary science, checks on Mike regularly.

Except for some leg trouble his first season, the Bengal has had no serious illness or injury and is at the prime of his life.

Article written by
Marilyn Smallwood
and originally
published in The Daily
Reveille in 1964.

bar news

BY LANDON T. HESTER

Thanks to all who joined us at CLE by the Hour

Throughout the month of December, the BRBA hosted CLE by the Hour at the Renaissance Baton Rouge Hotel. We had 651 lawyers from Baton Rouge and the surrounding areas gather to participate in 6 days of programming that included 42 hours of CLE.

We would like to thank our sponsors Findlaw, a Thomson Reuters business and Total Care Injury & Pain Centers for making this event possible.



There was a full house at CLE by the Hour for Marsha Wade's presentation on Professionalism: The Future of the Profession on December 8, 2017.

BRBA Installation Ceremony & Reception

The BRBA held our annual Installation Ceremony and Reception on January 11, 2018, at the U.S. District Court for the Middle District of Louisiana.

At the ceremony, presided over by Judge Brian A. Jackson, Linda Law Clark was sworn in as the 89th president of the BRBA, and the 2018 BRBA officers and directors-at-large were sworn in, as well as Young Lawyer Section officers and council members were installed along with the officers from our Bankruptcy, Business/Corporate Law, Construction Law, Public Law Practice and Workers' Compensation sections.

Karli Glascock Johnson presented President's Awards to Hayden Moore, Jordan Bollinger, Michael Schillage, Harry J. "Skip" Philips, Renee Chatelain and Richard Williams for their devotion and service to the BRBA in 2017. Additionally, Anne Kaufman Smith was honored with the Judge Joseph Keogh Award.



2018 BRBA President Linda Law Clark and family at the BRBA Installation Ceremony and Reception.



Jordan Faircloth, Lauren Temento, Francisca M. M. Comeaux, Kellye Rosenzweig Grinton and Joseph J. Cefalu III were installed on January 11, 2018.



Melanie Newkome Jones, Amy C. Lambert, Kelly Balfour, Linda Law Clark, Jennifer Moisant, David Abboud Thomas and Shelton Dennis Blunt were at the BRBA Installation Ceremony and Reception.



Darrel Papillion presenting on Louisiana Civil Law & Procedure Updates on Friday, December 15, 2017, at the Renaissance Baton Rouge Hotel.

PHOTO BY ANN K. GREGORIE

PHOTO BY LANDON T. HESTER

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PHOTO BY LANDON T. HESTER

PHOTO BY LANDON T. HESTER



PHOTO BY LANDON T. HESTER

Judges from Baton Rouge and the surrounding areas attending the BRBA Opening of Court, Memorial & New Member Ceremony on January 24, 2018.

The BRBA Opening of Court, Memorial & New Member Ceremony

The BRBA, with the assistance of the Baton Rouge Association of Women Attorneys, the Louis A. Martinet Legal Society, the Louisiana State Bar Association and the 19th JDC, hosted a ceremony on January 24, 2018, to honor the bar members who passed away in 2017. The BRBA would like to thank everyone who attended the ceremony and the families and representatives who were there to honor the deceased. Each family member and representative shared with us touching messages on the meaningful life each deceased member lived, their passion for the legal profession and the impact they are leaving behind. It was a beautiful ceremony filled with tears, laughter and lots of love.

The BRBA Softball Tournament Moves to March

It's back! The annual softball tournament, normally scheduled for the hottest day of the year each August, has moved to March 23-24, 2018. The tournament will again take place at BREC's Oak Villa Sports Park. See page 2 of this issue for a team registration form.

Valerie Schexnayder Named 2018 Access to Justice Fellow

Valerie Schexnayder is the BRBA Access to Justice Fellow for 2018. The Access to Justice Distinguished Pro Bono Fellows Pilot Program, a project of the Louisiana Access to Justice Commission, enables retired or soon-to-be-retired judges and lawyers to partner with non-profit organizations, courts, and other public service entities to increase equal justice for all. The BRBA is delighted to host Valerie Schexnayder, who will focus on legal issues facing our veterans. ■

PHOTO BY PAM LABBE



Valerie Schexnayder, the 2018 BRBA Access to Justice Fellow.



The newest members of the BRBA: Caleb Huval, Katherine Cook and Megan Jay Rials.

PHOTO BY LANDON T. HESTER



2018 BRBA President Linda Law Clark, Maria Yiannopoulos and BRBA Executive Director Ann K. Gregorie at the Opening of Court, Memorial & New Member Ceremony.

PHOTO BY LANDON T. HESTER



LSBA President Dona K. Renegar, Ashley Greenhouse, Linda Law Clark and Talya Bergeron at the Opening of Court, Memorial & New Member Ceremony.

PHOTO BY LANDON T. HESTER



Katherine Cook, Amy Lambert and Caroline Darwin at the reception following the Opening of Court, Memorial & New Member Ceremony.

PHOTO BY LANDON T. HESTER

Mock Trial: Where the legal profession's fire is first sparked

Just as interstellar remnants of dust and gas serve as cosmic nurseries that ignite the formation of young stars, high school mock trial competitions have long served as a catalyst for teenage boys' and girls' interest and pursuit of the legal profession. Baton Rouge area high schools are no exception, and each February, hundreds of area students, accompanied by coaches, parents and school administrators, flock to the 19th Judicial District Courthouse to engage in an annual rite of examination, cross examination, and argument – all with a goal to advance to the Louisiana state competition, and then to Nationals.



John Fenner served as an attorney coach for St. Joseph's Academy in 2012.

ensure continuity across the regions. For example, schools across the state submit questions through the regional chairs. Those are answered by the drafter and distributed through the regional chairs so all the teams are on the same page as the competition approaches.”

The problem typically varies each year from civil to criminal. Both Archey and Vela-Vick agree that

the best problems involve a good crime scene with lots of blood and other forensic evidence. “I also love problems with technical experts,” Vela-Vick notes. “The kids get into the roles and really sound like scientific experts.”

Baton Rouge attorneys, Monica Vela-Vick and Connell Archey, ably assisted by BRBA staff members, Lynn Haynes and Donna Buuck, have during the last several years commanded a squadron of committee members, judges and local attorneys in coordinating a competition that is both exhilarating and daunting. Archey has served on the Mock Trial committee for over 20 years, in capacities ranging from member to Chair. Vela-Vick first joined the committee in 2013, and is in her second stint as Chair. “It has mushroomed,” says Archey. “What started in the late 80’s as just a few teams has expanded.”

“Our region [Region III],” Vela-Vick notes, “includes Assumption, Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge and West Feliciana. We are the only region in the state that has a two-day competition. Our competition is consistently the largest and I would say most competitive due to the number of schools that participate.”

As for numbers, Vela-Vick says that, “We had a small drop last year due to the flood. In 2016 and 2015, we had 22 teams. In 2014, we had 16. Participating schools typically send between 1 and 3 teams. We have participation from private and public schools. In the past couple of years, we’ve been excited to have many first-time schools.”

As to her duties as Chair, Vela-Vick says that, “The chair communicates regularly with the other regional chairs to coordinate competition dates and with the state chairs to

With so many schools and teams competing, a natural question is one of administrative coordination. “Without question, the hardest part of the competition is the initial round,” says Archey. “Generally, about 16 teams with coaches and parents all arrive at the same time. There are many things that must be handled within the first hour. Teams are randomly assigned color-coded names, and we’re getting them on their way to their designated courtrooms. While that’s taking place, we’re receiving our volunteer judges, and getting them to the judges meeting room.

“We make sure the judges know and understand the format and the problem, and get them to their assigned courtrooms. And then just when we think we can begin, we must ensure there are no conflicts in terms of the volunteer judges knowing any participant from a school. Due to the teams being assigned color names, the intent is that judges not know the schools or the students. The logistical headache for the first round is truly like herding cats.”

Vela-Vick concurs on the difficulties of the first round. “I’d say this is where the strength of the committee comes in because we have a group in the judge-training room, and then a group in the jury room dealing with antsy teens. It requires extensive coordination and patience.”

The Mock Trial Committee typically meets about six times per year. According to Archey, “We meet in the fall when the mock trial problem comes out to assess

concerns and logistics of communicating with the schools. We gauge interest from new schools and discuss whether adjustments are needed based on the previous year's experiences. We have several meetings as the competition draws near. We then meet after the competition to debrief and discuss problems and ways to improve."

Vela-Vick is quick to emphasize the importance of the Baton Rouge Bar Association staff. "Our amazing bar staff, including Lynn and Donna before her, does incredible behind the scenes work, enabling the committee to maximize its time on troubleshooting issues."

The Mock Trial program is so successful," Vela-Vick adds, "because of the strong core of committee members like Connell, Carla Courtney and Tavares Walker, who have been participating for many years, if not decades. In the same vein, we have many volunteers we consistently rely upon."

It truly is a team effort, Vela-Vick emphasizes. "The competition succeeds because of our experienced committee members, Bar staff, dedicated judges, committed attorney coaches and the outstanding relationship the Bar has with local schools. We appreciate the help of the sitting judges who graciously allow us to use their courtrooms. Without their help and the assistance of the staff at the 19th JDC, we would have no place to hold our competition."

Both Vela-Vick and Archey are astounded at the preparation and poise the competitors bring to the courtrooms. "When I participated as a judge," says Vela-Vick, "I was floored by the knowledge, talent, preparation and heart the students put into the competition. This is not a random after-school activity for these teens, it is a competitive sport. I love working with teens, so it was a no brainer to be a part of Mock Trial."

Archey is quick to agree. "I have stayed on the committee over the years

because the competition is a remarkable event. I am amazed every year at how good these teams are."

Both Vela-Vick and Archey agree as to the group that tirelessly and without fanfare serves as the backbone for a successful Mock Trial program. "The real heroes of the competition," says Archey, "are the attorneys and teachers who coach the teams. The attorney coaches and teachers spend many, many hours over several months coaching the teams. The competition could not work without the attorney coaches."

Vela-Vick wholeheartedly supports that notion. "I agree the attorney coaches are the unsung heroes because they're on the

ground at the respective schools giving the teens a crash course in evidence and case presentation. They do this after hours, on weekends and away from billable and family time."

Many members of the committee are also active in other youth education projects such as Teen Court of Greater Baton Rouge and Law Day. "Many of our mock trial youth participate in the other Bar Foundation programs," says Vela-Vick, "so I love that they get to know our BRBA staff and attorney volunteers."

Much like a certain unnamed college football team, some Baton Rouge area schools have enjoyed periods of sustained success. Baton Rouge High won numerous regional and state competitions in the late 1980s, early 1990s and mid 2000s. Coached by Jim Carver, Jason DeCuir, Beau Brock and Michelle Finnegan, the Baton Rouge High School team won Regional 9 or 10 times, won state at least 5 times and came in 11th at nationals.

In recent years, teams from West Feliciana and Zachary High have won both the Region III and state wide competition. The top two teams from each region advance to the state competition.



Chris Staggs, long time Zachary High teacher coach, convenes with his team during a Region III Competition.



2011 law student volunteers are photographed with committee chair, Lauren Byrd Reed, and long-standing committee member, Connell Archey.



U.S. Magistrate Judge Erin Wilder-Doomes and her son, Evan Doomes, a member of the 2013 and 2014 Baton Rouge Magnet High School team. Magistrate Judge Doomes coached the team.

As for unforgettable moments, Connell Archey and Donna Buuck have a favorite story. “Several years ago,” they noted, “Catholic High entered an extra team of eighth grade freshmen. That team included current lawyers Chris Day, Jack Stanley, Josh Coleman and Matt Juneau. The boys were rail thin and looked engulfed dressed up in their dads’ suits. They ended up winning the competition. Each time that they won a round, you could see the true surprise on their faces.”

Donna Buuck also recalls current committee member Carla Courtney from her days as a participant on one of BR High’s championship teams. “It was in the late 1980s or early 1990s. Not sure of the exact year, but they all had really big hair!”

This year’s competition is February 23rd and 24th at the 19th JDC. 📅



WRITTEN BY JOHN FENNER

ALL PHOTOS IN THIS ARTICLE WERE TAKEN BY PAM LABBE

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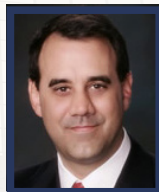
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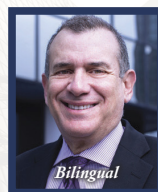
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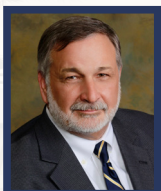
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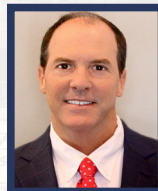
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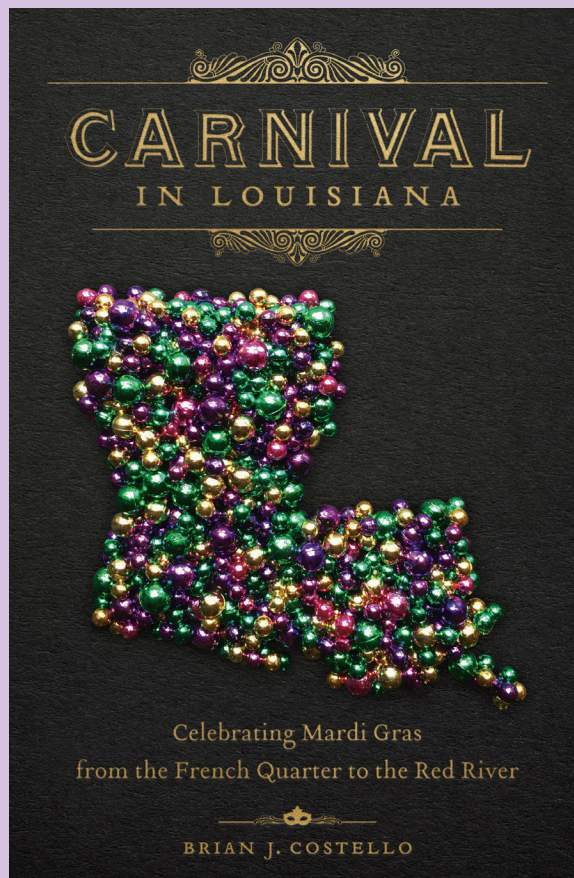
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Book Review: *Carnival In Louisiana*

Do you know how and when Mardi Gras took hold in Louisiana? Are you curious about the origin of Carnival balls? Any idea how many Carnival balls were held in New Orleans in 2002? Do you know when the Zulu Social Aid and Pleasure Club first marched in a parade? How much do you know about Mardi Gras celebrations outside of New Orleans? You are likely to find the answer to these and other Mardi Gras trivial pursuits in Brian J. Costello's "Carnival in Louisiana: Celebrating Mardi Gras from the French Quarter to the Red River" (Louisiana State University Press 2017). Mr. Costello has amassed a huge compendium of facts about Carnival celebrations all over Louisiana.

The book opens with an overview and brief history of the pre-Lenten Carnival season in Louisiana and its climax on Mardi Gras ("Introduction: Ancient Origins, Louisiana Adaptations"). Mr. Costello then takes the reader on a geographical/cultural tour of Carnival celebrations throughout the State, beginning with New Orleans, followed by Acadiana, Southeast Louisiana and, finally, Central and North Louisiana. Each part of the book is further divided into chapters addressing the major celebrations in each region. For instance, the Southeast Louisiana section has four separate chapters focusing on festivities in New Roads, Baton Rouge, St. Tammany and other Florida parishes, and the River Parishes.

While reading this book, I was taken back to a time 20-something years ago when a fellow native of Louisiana and I created a Carnival quiz for a Mardi Gras party we were hosting while living in the U.S. Territory of Guam.



We tried to come up with both widely known and obscure trivia about Mardi Gras to entertain our guests. This book has so many facts about Carnival that it would have sent us over the edge!

Perhaps that is part of the charm, as well as the shortcoming, of this book. At times, the facts are presented like a list of dull statistics (e.g., an extensive list of all the former Greater New Orleans parades, their routes, and the years of their first and final appearances) and cease to be entertaining. At other times, the author throws in an obscure or curious fact (Rex's 1920 throws consisting of bubble gum, candy, Crackerjacks and, since it was cold and rainy, cough drops). The book also could have used more enthusiasm and entertaining anecdotes to hold the reader's attention.

This is a book for those already somewhat familiar with Carnival.

The photographs in the book do not give the reader a good feel for Mardi Gras at all. They are small, black and white pictures of poor quality from various sources (state archives, newspapers, etc.). They do little to convey the Carnival spirit. Looking at the photographs, it is almost impossible for someone who is not familiar with Mardi Gras to grasp many of the things described in this book (costumes, floats, throws). But, for those of you who cannot get enough of Mardi Gras lore, this may just be the book for you. ■



WRITTEN BY DIANNE IRVINE

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Interview with Federal Bar Association President John Parker

BY JONATHAN BLAKE

TBRL: What is the mission or purpose of the Baton Rouge Chapter of the Federal Bar Association?

JP: Our main objective is to encourage, facilitate and improve the federal practice before the Middle District of Louisiana, for both the judges and local practitioners. Generally speaking, this involves exposing our members to the court, the judges and their staff through CLE opportunities hosted at the court house and/or by the judges themselves, through social functions, and through civic engagement opportunities. Baton Rouge has a beautiful federal courthouse and exceptional judges of whom our community can be proud. We seek to support the court's operational needs to the extent that we can and promote its more frequent, effective use by practitioners.

TBRL: How many members does the Baton Rouge Chapter of the Federal Bar Association have?

JP: Our membership has consistently increased over the past few years; we currently have 184 members.

TBRL: What are the requirements for membership in the Baton Rouge Chapter of the Federal Bar Association?

JP: All one need do is sign up for membership at <http://www.fedbar.org> and stay current with your annual dues. Our annual dues range from \$85-215 per year, depending on years of practice and whether you are in the public or private sector. We offer significant discounts to public sector attorneys. Law students can also become members for a one-time fee of \$20-50, depending on year, which includes the first year after graduation.

TBRL: How long have you been a member of the Baton Rouge Chapter of the Federal Bar Association?

JP: I joined shortly after starting practice and became part of the board as membership/recruiting chair in 2013.

TBRL: What are some of the benefits of membership in the Baton Rouge Chapter of the Federal Bar Association?

JP: Our biggest new benefit is that we will now be hosting at least 3-4 CLE credit hours every year, free of charge to members, but they'll also be open to non-members at very reasonable rates.

We really aim to cater to and improve our local federal practice, so every CLE will be geared toward issues or problems related to jurisdiction/procedure issues or specific practice areas that frequently arise in the Middle District. One or more of the CLEs will be given by the Middle District judges themselves, which is a huge perk, but we also intend to bring in outside "ringers" for certain practice areas such as labor and employment.

Otherwise, I think we've always been known for our networking events, namely happy hours at local watering holes that give our members the chance to meet other federal practitioners, summer associates and also the judges and law clerks of the Middle District. The judges and their staff regularly attend social events and go above



PHOTO BY LANDON T. HESTER

and beyond to assist with our chapter functions and solving common issues or concerns that pop up in the Middle District. Having spoken with members of other chapters across the country, we are really fortunate to have such good participation from our judges.

TBRL: What motivated you to run for President of the Baton Rouge Chapter of the Federal Bar Association?

JP: Hands down my late grandfather, John V. Parker, who served as a judge in the Middle District. He loved his grandchildren and would often bring us to the courthouse on Saturdays when we were kids. He would do some work and then we'd all grab lunch at his favorite spot, Jay's Barbeque. We'd sometimes go into the courtroom, and he'd let us "try" a case (one of my sisters was always the judge, so I always lost). Through these experiences I developed a strong sense that there was something special about federal court. There is a great reverence held for the courthouse and the function it performs by the people who work there, from the federal marshals who guard the building even on weekends to the attorneys who practice before it and up to the judges themselves. You feel like you are a living part of American history when you walk into a federal court, and I wanted to be a part of it.

No one held a larger sense of respect and admiration for the Constitution and the rule of law, than my grandfather. He had great faith in the American legal system. My grandfather sincerely believed that being a federal judge meant being a public servant whose sole duty was to apply the law no matter how difficult carrying out that duty might be. That was a principle he never wavered from, even when doing the right thing may not have been popular. For that I have profound respect for my grandfather as well as all other judges who sacrifice a large part of their pre-judge selves when they take the bench.

TBRL: Does the Baton Rouge Federal Bar Association ever file or intervene in any lawsuits or file amicus briefs?

JP: Because the FBA is a non-partisan organization, we do not file or intervene in lawsuits or file amicus briefs. Our advocacy efforts, as it were, are strictly limited to promoting the use and efficient operation of the federal court system with our main focus of course being the Middle District of Louisiana. One of the great benefits of becoming a board member of our chapter is that you have at least one opportunity to attend what is known as FBA's Capitol Hill day in Washington, D.C., where you get to relate the operational needs of Louisiana's federal district and appellate courts to our members of Congress. We have an excellent federal court system, but for it to remain so Congress must continue its commitment to confirm a sufficient number of judges and provide adequate funding to address the increasing number of filings and provide

essential updates to facilities, software and other security measures.

TBRL: During your tenure as President, do you have any projects or initiatives you would like to see get started?

JP: Our chapter has a lot to offer, but it's time to do a better job of articulating what our chapter does and what it offers to both current and prospective members. To this end we have already updated our by-laws to clarify our chapter's mission, the duties of each officer, and the concrete benefits that we offer members. We also intend to update our chapter website more regularly and get more participation from our membership through forming committees. As mentioned, beginning this year we also now annually offer 3-4 CLE credit opportunities catered to the federal practice.

We have more work to do, but I am truly excited about the steps our board is taking to better communicate what we do and improve upon the benefits of joining our chapter.

TBRL: What do you love most about the Federal Bar Association?

JP: Besides the points already mentioned, during last year's trip to Washington for Capitol Hill Day I got to witness our chapter's President-Elect Catherine Maraist order our table's dinner in excited, fluent Italian to a befuddled American waiter. At least it was an Italian restaurant! 🍷



INTERVIEW CONDUCTED BY JONATHAN BLAKE

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foundation footnotes

PRO BONO & TEEN COURT REPORTS — JANUARY 2018

The Pro Bono Project is financially assisted by the Interest on Lawyers' Trust Accounts (IOLTA) Program of the Louisiana Bar Foundation; Southeast Louisiana Legal Services; Franciscan Ministry Fund; Family, District and City Court Filing Fees; W. K. Kellogg Foundation; Baton Rouge Area Foundation; and the Baton Rouge Bar Foundation. Teen Court of Greater Baton Rouge is funded by the Interest on Lawyers' Trust Accounts (IOLTA) Program for the Louisiana Bar Foundation, Huey and Angelina Wilson Foundation, LANO Change Fund and the Baton Rouge Bar Foundation.

The Baton Rouge Bar Foundation thanks those who volunteered in November and December.

ACCEPTING PRO BONO CASES –

Denise Akers, *Akers & Wisbar, L.L.C.*; J. David Andress, *Andress Law Firm*; Nicole Buggs Hazey, *Rowe Law Firm*; Fred Crifasi, *Attorney at Law*; Arlene Edwards, *Delatte, Edwards & Marcantel*; La'Gretta Fortune-Lazard, *Attorney at Law*; J. Keith Friley, *Attorney at Law*; Wren'nel Gibson, *Attorney at Law*; Anthony Hebert, *Attorney at Law*; Rena Hester, *Attorney at Law*; Christopher Jones, *Keogh, Cox & Wilson*; David Koch, *Koch Law Firm*; Kellen Mathews, *Adams & Reese*; Gary McKenzie, *Steffes, Vingiello & McKenzie*; Paula Ouder, *Attorney at Law*; DeVonna Ponthieu, *Attorney at Law*; Cynthia Reed, *Southern University Law Center*; Gavin Richard, *Law Office of Gavin M. Richard, LLC*; Rebecca Wisbar, *Akers & Wisbar, L.L.C.*; Jeffrey Wittenbrink, *Rowe Law Firm*; and James Zito, *Attorney at Law*.

SELF HELP RESOURCE CENTER VOLUNTEERS –

Steven E. Adams, *Adams Law Office APLC*; Ryan Brown, *Roedel Parsons*; Sharon Florence, *Law Office of Sharon Y. Florence, LLC*; John Obebe, *EBR Office of Public Defender*; Jennifer Prescott, *Joubert Law Firm*; and Julia Wilson, *Southeast Louisiana Legal Services*.

ASK A LAWYER VOLUNTEER –

Scott P. Gaspard, *Attorney at Law*.

THIRST FOR JUSTICE VOLUNTEERS –

Terry L. Bonnie, *Attorney at Law* and Scott P. Gaspard, *Attorney at Law*.

TEEN COURT –

Jamie Flowers from the U.S. Attorney's Office and Farah Gheith from the 19th JDC served as judges for the January Teen Court Hearing.

RECENT GRANTS –

The Civil Law and Litigation Section of the LSBA presented the Baton Rouge Bar Foundation Mock Trial Committee with a grant in the amount of \$500.00 to help defray the cost of the 2018 competition. Monica Vela-Vick, Chair, accepted the check on behalf of the BRBF. The 2018 competition will be held Feb. 23-24 at the 19th Judicial District Court.



TEEN COURT OF GREATER BATON ROUGE

needs attorneys to volunteer to assist with the program.

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

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February 2018

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18	19	20	21	22	23	24
25	26	27	28			



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

Duty Court Schedule

19TH JDC CIVIL COURT

Jan. 22 - Feb. 2	Judge Kelley
Feb. 5 - Feb. 16	Judge Morvant
Feb. 19 - March 2	Judge Johnson
March 5 - March 16	Judge Hernandez
March 19 - March 30	Judge Fields

19TH JDC CRIMINAL COURT***

Jan. 26 - Feb. 2	Judge Marabella
Feb. 2 - Feb. 9	Judge Anderson
Feb. 9 - Feb. 16	Judge Erwin
Feb. 16 - Feb. 23	Judge Jackson
Feb. 23 - March 2	Judge Daniel
March 2 - March 9	Judge Moore
March 9 - March 16	Judge Higginbotham
March 16 - March 23	Judge White
March 23 - March 30	Judge Marabella
March 30 - April 6	Judge Anderson

BATON ROUGE CITY COURT*

Jan. 29 - Feb. 4	Judge Temple
Feb. 5 - Feb. 11	Judge Smith
Feb. 12 - Feb. 18	Judge Alexander
Feb. 19 - Feb. 25	Judge Moore Vendetto
Feb. 26 - March 4	Judge Prosser
March 5 - March 11	Judge Temple
March 12 - March 18	Judge Smith
March 19 - March 25	Judge Alexander
March 26 - April 1	Judge Moore Vendetto

FAMILY COURT**

Feb. 1	Judge Greene
Feb. 2 & 5	Judge Baker
Feb. 6	Judge Woodruff-White
Feb. 7	Judge Day
Feb. 8	Judge Greene
Feb. 9	Judge Woodruff-White
Feb. 12	Judge Baker
Feb. 14	Judge Day
Feb. 15	Judge Greene
Feb. 16	Judge Day
Feb. 20	Judge Woodruff-White
Feb. 21	Judge Day
Feb. 22 & 23	Judge Greene
Feb. 26	Judge Baker
Feb. 27	Judge Woodruff-White
Feb. 28	Judge Day
March 1	Judge Greene
March 2 & 5	Judge Baker
March 6	Judge Woodruff-White
March 7	Judge Day
March 8	Judge Greene

March 9	Judge Woodruff-White
March 12	Judge Baker
March 13	Judge Woodruff-White
March 14	Judge Day
March 15	Judge Greene
March 16	Judge Day
March 19	Judge Baker
March 20	Judge Woodruff-White
March 21	Judge Day
March 22 & 23	Judge Greene
March 26	Judge Baker
March 27	Judge Woodruff-White
March 28	Judge Day
March 29	Judge Greene

JUVENILE COURT

Feb. 1 - Feb. 28	Judge Haney
March 1 - March 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 is completely different each day, rotating on Fridays

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

COURT HOLIDAYS

Tuesday, Feb. 13	Mardi Gras
Monday, Feb. 19	President's Day
Friday, March 30	Good Friday

Classified Ads

Volunteer writers needed to submit substantive legal articles for publication in future issues of *The Baton Rouge Lawyer*. Contact Landon Hester at landon@brba.org or call 225-214-5560.

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JOIN THE VOLUNTEER COMMITTEE.
Contact Carole McGehee at 225-214-5557 or carole@BRBA.org.

February/March

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

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

1	Ask-A-Lawyer, 9:30-11:30 a.m. - Charles R. Kelly Community Center
5	Teen Court Hearing - EBRP Juvenile Court
7	Volunteer Committee Meeting - WLA 1 & 2
10	Ask-A-Lawyer, 9:30-11:30 a.m. - Carver Branch Library
13	Mardi Gras Day - Bar Office Closed
15	Family Law Section Meeting & CLE - Beausoleil Restaurant
21	Ask-A-Lawyer, 9:30-11:30 a.m. - Catholic Charities
23	Regional Mock Trial Competition - 19th JDC
24	Regional Mock Trial Competition - 19th JDC
26	Teen Court Hearing - EBRP Juvenile Court

MARCH

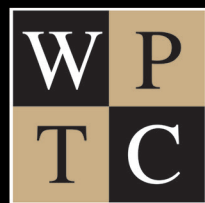
3	Teen Court Training Session - EBRP Juvenile Court
	Ask-A-Lawyer, 9:30-11:30 a.m. - Bluebonnet Regional Library
6	Ask-A-Lawyer, 9:30-11:30 a.m. - Iberville Parish Library
12	Teen Court Hearing - EBRP Juvenile Court
14	Ask-A-Lawyer, 9:30-11:30 a.m. - Gonzales Branch Library
15	Family Law Section Meeting & CLE - Mestizo's
21	Ask-A-Lawyer, 9:30-11:30 a.m. - Catholic Charities
23	BRBA Softball Tournament - BREC's Oak Villa Sports Park
24	BRBA Softball Tournament - BREC's Oak Villa Sports Park
26	Teen Court Hearing - EBRP Juvenile Court
30	Good Friday - Bar Office Closed

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