

Around

THE MAGAZINE OF THE
BATON ROUGE BAR ASSOCIATION

No. 251, November 2010

25th
Anniversary

the Bar



Inside:

Build a better building defect petition
The uniform bid form
Health care tax legislation, Part II
Lawyers in disaster services
2011 Slate of nominees

**BRBA Construction
Law Section 2010**

CLE BY THE HOUR



CLE BY THE HOUR 2010 AT THE CROWNE PLAZA HOTEL

LOCATION: Crowne Plaza Hotel, Baton Rouge, La. — 4728 Constitution Ave.

EARLY REGISTRATION: \$30/hr. for BRBA members; \$45/hr. for non-members by 5 p.m., Friday, Nov. 19, 2010.

REGULAR REGISTRATION: \$45/hr. for BRBA members; \$60/hr. for non-members after 5 p.m., Nov. 19, 2010.

"No Shows" will be billed. To be considered registered, both payment and registration must be received by the BRBA office. It is the policy of the BRBA CLE Committee that no refunds will be given for cancellations received within 48 hours prior to each seminar. Time is allowed for lunch on your own each day from 12:31 to 1:39 p.m. **Wireless access is available in the meeting room. Materials will be made available online in advance of the seminar.**

*Ethics; **Professionalism, ~Law Office Management

Please check your requested seminars.

Thursday, Dec. 9, 2010

TIME	CREDIT	TOPIC	PRESENTER
☐ 8:00-9:00 am	1.0	Social Media	Kelly Balfour & Aaron Chasson
☐ 9:10-10:10 am	1.0	Commercial Leases	Randy Roussel
☐ 10:20-11:20 am	1.0	Employment Discrimination: The Basics	Jill Craft
☐ 11:30am-12:30 pm	1.0	Business Valuation	Ralph Stephens
☐ 1:40-2:40 pm	1.0	Professionalism**	Judge Jay Zainey
☐ 2:50-3:50 pm	1.0	Ethics*	TBA
☐ 4:00-5:00 pm	1.0	Integrated Productivity: Tools that Help You Focus on Winning	Robert R. Blair

Friday, Dec. 10, 2010

TIME	CREDIT	TOPIC	PRESENTER
☐ 8:00-9:00 am	1.0	Ethics*	TBA
☐ 9:10-10:10 am	1.0	Professionalism**	Gene Groves
☐ 10:20-11:20 am	1.0	Forensic Accounting: The Relationship between the Attorney & the Financial Expert	Robert Alexander & Jeffrey Aucoin
☐ 11:30am-12:30 pm	1.0	Buying or Selling a Business for the Attorney Advisor	David S. Gunn
☐ 1:40-2:40 pm	1.0	The Next Generation of Westlaw	Claire Glas
☐ 2:50-3:50 pm	1.0	Mortgage Foreclosures	Claiborne Tanner
☐ 4:00-5:00 pm	1.0	Louisiana Insurance Penalty Statutes	Shelby McKenzie

Thursday, Dec. 16, 2010

TIME	CREDIT	TOPIC	PRESENTER
☐ 8:00-9:00 am	1.0	Family Law	Michael Aaron
☐ 9:10-10:10 am	1.0	Overview of Bankruptcy	Stewart Spielman
☐ 10:20-11:20 am	1.0	Professionalism**	Mary Heck Barrios
☐ 11:30am-12:30 pm	1.0	Ethics*	Richard Lemmler
☐ 1:40-2:40 pm	1.0	Pitfalls of Death and Dying: The Things They Don't Teach You in Law School	Randy Trelles
☐ 2:50-3:50 pm	1.0	Criminal Law	Steve Moore & Jesse Bankston
☐ 4:00-5:00 pm	1.0	Protective Orders and Bail Bond Supervision	Melanie Fields & Frank House

Friday, Dec. 17, 2010

TIME	CREDIT	TOPIC	PRESENTER
☐ 8:00-9:00 am	1.0	Recent Developments in Employment & Labor Law	Michael Garrard
☐ 9:10-10:10 am	1.0	Workers' Comp Update	Charles R. Davoli
☐ 10:20-11:20 am	1.0	Law Office Management: Are You Being Swindled?	Jeffrey Aucoin
☐ 11:30am-12:30 pm	1.0	Fraud in Law Firms~ IP Due Diligence	Warner DeLaune
☐ 1:40-2:40 pm	1.0	Professionalism**	Panel of Judges from the 19th JDC
☐ 2:50-3:50 pm	1.0	Ethics: Recent Developments in Disciplinary Law*	Robert Kennedy
☐ 4:00-5:00 pm	1.0	Recent Developments in Product Liability Law	Michael Palmintier

Wednesday, Dec. 29, 2010

Sponsored by Gilsbar

TIME	CREDIT	TOPIC	PRESENTER
☐ 8:00-9:00 am	1.0	Recent Developments in Successions and Donations	Joseph W. Mengis
☐ 9:10-10:10 am	1.0	Litigation and Consideration in Estate Planning	Preston Castille Jr.
☐ 10:20-11:20 am	1.0	Workers' Comp	Tawnii Cooper-Smith
☐ 11:30am-12:30 pm	1.0	Class Action Update	J. R. Whaley
☐ 1:40-2:40 pm	1.0	Professionalism**	Judge Bonnie Jackson
☐ 2:50-3:50 pm	1.0	Ethics in a Successions Practice*	Steve Covell
☐ 4:00-5:00 pm	1.0	Administrative Law	Ann Wise

Thursday, Dec. 30, 2010

TIME	CREDIT	TOPIC	PRESENTER
☐ 8:00-9:00 am	1.0	Ethics*	Eric Miller
☐ 9:10-10:10 am	1.0	Professionalism**	Panel of Judges from the 19th JDC
☐ 10:20-11:20 am	1.0	Collections	Garth Ridge & Michael Dendy
☐ 11:30am-12:30 pm	1.0	Procedure and Evidence: The Latest Legislation and Jurisprudence	Keith Hall
☐ 1:40-2:40 pm	1.0	Social Networking and the Practice of Law	Kyle Ferachi
☐ 2:50-3:50 pm	1.0	Sports & Entertainment Law	Karl Bernard
☐ 4:00-5:00 pm	1.0	Adoptions	Todd Gaudin

To register please mail this entire page along with your payment to: BRBA, P. O. Box 2241, Baton Rouge, LA 70821. Questions? Contact Ann (225-214-5563/ann@brba.org) or Margaret (225-344-4803/margaret@brba.org). Registrants paying by credit card can fax form to 225-344-4805.

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On the cover:

This month's cover photo features members of the Construction Law Section of the BRBA and was photographed on the 24th floor West Conference Room of One American Place, home of Breazeale, Sachse & Wilson, LLP. Section members in the photograph are (L to R) Scott E. Frazier, Bert Robinson, Michael Platte (standing), Carey Messina, Katherine Eckert, David K. Nelson, Steven Loeb (chair), Brent Hicks, Kiki Bergeron, Bob Fenet (seated), John M. Madison III (standing), Eric A. Kracht (standing), John T. Andrishok (seated), and Jordan Faircloth (far right).

Around the Bar was first published in September 1985 and celebrates its 25th anniversary this year.

Cover photography by Pamela Labbe.



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— JOE MURRAY —

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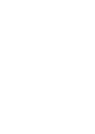
Gene Groves, a partner with Taylor Porter, is a contributing writer.



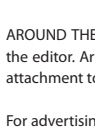
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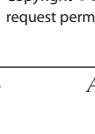
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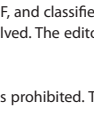
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letter from the president

BY FRED T. CRIFASI

Giving thanks for 25 years

November presents an opportunity to be thankful. This year, as an organization, we have had fun celebrating several silver anniversaries. Thanks to all who participated. We had a great Bench Bar Conference in April and a successful Law Expo in September. (This year's Law Expo marked the 25th annual event of its kind, but its 25th anniversary year is 2011.) In addition, *Around the Bar* celebrated its 25th anniversary by honoring past contributors and current editors at the June and September bar luncheons and at a reception following the Law Expo.

One might wonder who was at the helm 25 years ago to initiate these programs. These projects have not only stood the test of time, but have helped define our Association for the last quarter of a century. If you could go back to the year 1985, you would see that our president was James E. Toups Jr.



Fred T. Crifasi

Jim was gracious in providing me with some interesting details. He advised that the bar sent him to the ABA Leadership Institute in Chicago when he was president-elect. (A practice we maintain today.) Jim recalled a presentation by Elisabeth Price of Media, Pennsylvania, that suggested smaller bar associations could benefit from a director and staff. Up until this point, our Association had only one part-time employee available to assist the president and the Board. This employee worked out of a small office provided by the Clerk of Court.

Intrigued, Jim approached Ms. Price with questions. She eventually mentioned that she was scheduled to be in New Orleans and offered to drive to Baton Rouge to discuss this idea with the rest of our Board, which consisted of Past President Michael Patterson; President-Elect Michael Rubin; Treasurer Paul Marks Jr.; Secretary Gregory M. Eaton; and Directors-at-Large Cordell Haymon, Frank Fertitta, Mike McKay and Cyrus Greco. Is this a Who's Who amongst the bar or what!? Three of these (all named Mike) went on to become president of the Louisiana State Bar.

That board acted on the idea immediately, advertised for a bar executive, and eventually selected Bobbi Zaunbrecher as this Association's first executive director. One of her first assignments was to take a look at our newsletter. It was decided that an upgrade was in order and that the newsletter would become a bar journal. A contest was held among the membership to come up with a name for the magazine and, of course, *Around the Bar* was born. And now here we are, 251 issues later.

Jim says, later this same year, a bar executive from St. Petersburg, Florida, gave him the idea of a Bench Bar Conference. Our first was held at the Audubon Holiday Inn in St. Francisville. Justice Fred Blanche was the featured speaker. Judge Frank Polozola also scheduled a personal injury case in St. Francisville to try before a panel of jurors in a summary jury trial. Spouses were invited to serve on a shadow jury and delivered their own verdict. The evening included a cocktail supper at the antebellum home of Betsy and Irv Daniels. This, of course, has evolved into today's three-day coastal retreat that continues to be a favorite of the bench and bar.

For the initiative and creativity of Jim Toups and the 1985 board, WE THANK YOU!! The move to hire an executive director and staff has proven to be momentous. Today, we are thankful to have the support of our experienced Executive Director Ann G. Scarle and a friendly staff of nine, including Donna Buuck, Julie Ourso, Pamela Labbe, Robin Kay, Susan Kelley, Lynn Haynes, Margaret Johnson, Carole McGehee and Trang Nguyen.

Finally, we are truly blessed to work in the prolific environment of the greater Baton Rouge area. It is so, in part, due to the many projects and pursuits of this Association and the continued contributions of so many of our generous and talented members.

november bar luncheon

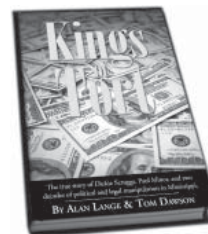
BY KELSEAY REED

The BRBA will hold its November Bar Luncheon at 11:45 a.m. **Thursday, Nov. 4, 2010**, at the Crowne Plaza. This month's guest speakers are Alan Lange and Tom Dawson. U.S. Attorney for the Middle District of Louisiana Don Cazayoux will briefly address our members prior to the introduction of our guest speakers by BRBA President Fred T. Crifasi.

This month's speakers, Alan Lange and Tom Dawson, both currently reside in Mississippi and are the authors of *Kings of Tort*. This novel depicts the tobacco litigation in Mississippi involved in bringing down Big Tobacco in the early 1990s. Lange is president of Kinetic Staffing and the founder of YallPolitics, the most popular political interest website in the Southeast. YallPolitics became the main tool in documenting the Scruggs and Minor scandals, which are depicted in *Kings of Tort*. Dawson, a 36-year veteran federal prosecutor, has served as a trial attorney with the Department of Justice in Washington, D.C., Associate Independent Counsel and Assistant U.S. Attorney. In addition, he has been widely acknowledged by his peers for his roles as lead counsel in the investigation and prosecution of the Scruggs cases.

Following the luncheon, there will be a 3.25 hour credit Class Action CLE seminar from 1:30 to 5 p.m., including four speakers at a cost of \$75 for BRBA members and \$100

Kings of Tort authors Lange and Dawson to speak



for non-BRBA members. The seminar is being moderated by J.R. Whaley of the Neblett, Beard & Arsenault Law Firm. Brad Myers and Glenn Farnet with Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, LLP, will present a CAFA Update (1:30-2:15 p.m.), followed by a presentation by Elizabeth Murrill, Interim Executive Counsel to Gov. Bobby Jindal, "BP-Local Issues, National Concerns" (2:15-3 p.m.). Professor Craig Freeman, JD, of the LSU Manship School of Mass Communication will present "What Constitutes Adequate Notice in the Digital Age?" (3:15-4 p.m.). The seminar will wrap up with Patrick A. Juneau of Juneau David (4-5 p.m.) with a presentation titled "Increased Stakes in Complex Litigation Raise the Need for Professionalism." Seats are limited for this CLE seminar so register today!

BRBA members who passed the Louisiana Bar in 1980 will be honored for having practiced law for 30 years.

VISA, MasterCard and American Express are accepted. Fax this form to 225-344-4805 before noon **Friday, Oct. 29, 2010**, to register. Checks are payable to the BRBA, P.O. Box 2241, Baton Rouge, LA 70821.

Please fax this page to the Baton Rouge Bar Association, (225) 344-4805, by noon Friday, Oct. 29, 2010.

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☐ **YES**, register me for the **NOVEMBER BAR LUNCHEON** at the CROWNE PLAZA HOTEL taking place Thursday, Nov. 4, 2010, at a cost of \$30 per BRBA member, and \$40 per nonmember. Reservations may be transferred, but not canceled, after noon **Friday, Oct. 29, 2010**. "No shows" will be billed.

☐ **YES**, I will attend the 3.25 hour credit **Class Action CLE Seminar**, which will follow the November Bar Luncheon, 1:30 to 5 p.m. Moderator: J.R. Whaley.

1:30 - 2:15 p.m. — SPEAKERS: Brad Myers and Glenn Farnet. SEMINAR: CAFA Update.

2:15 - 3 p.m. — SPEAKER: Elizabeth Murrill. SEMINAR: BP - Local Issues, National Concerns.

3:15 - 4 p.m. — SPEAKER: Professor Craig Freeman, JD. SEMINAR: What Constitutes Adequate Notice in the Digital Age?

4 - 5 p.m. — SPEAKER: Patrick A. Juneau. SEMINAR: Increased Stakes in Complex Litigation Raise the Need for Professionalism.

Seminar cost for BRBA members: \$75.

Cost for non-BRBA members: \$100.

Reservations may be transferred, but not canceled, after noon **Friday, Oct. 29, 2010**.

"No shows" will be billed.

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tales from the bar side

BY VINCENT P. FORNIAS

Catty comments

Yes, dear reader(s). It has been much too long since we reported on a knockem sockem genuine American cat fight. But here you have it. At long last, a trip-and-fall case involving a cat. Not kitty litter residue. Not slippery clouds of fluff. We're talking the cat itself.

The suit was filed by Alice Estill on behalf of the injured sitter of a blue-haired, 90-something lady who happened to own one Periwinkle the Cat. At press time, we were unable to determine the breed or sex of this creature, nor was Rick Reed, who was assigned the defense of this case, of much help. Because not even Rick could expand the merchant liability statute to protect little old ladies in their homes, he was rumored to have to rely on the "open and obvious feline" affirmative defense in his responsive pleadings.

In subsequent discovery, Rick was able to establish that in the four years that she had worked with the defendant, the injured plaintiff had never had any interaction with

Peri beyond replenishing his food and water bowls. Indeed, plaintiff had revealed her own prejudicial agenda by volunteering in her deposition that Peri looked more like a 'coon than any cat she had ever seen.

After exhaustive research, Rick proceeded with the filing of a defining motion for summary judgment, arguing nobly therein that neither the First Circuit nor the Louisiana Supreme Court had ever found liability in cases where a cat was simply doing what it did naturally – which was to just be there, taking up space and occasional oxygen. But Rick's opponent had her own nine lives, and Alice was not going down without a battle. Quicker than you could say "hairball," she subpoenaed the health records of Peri's veterinarian (is there no feline version of HIPPA?) and pounced upon an isolated reference therein to Peri's "personality (no, not purrsonality) disorder." This left Rick little choice but to depose the vet, who not only confirmed that Peri was anything but aggressive, but put

icing on the cake by resorting to a hall of fame TMI illustration: On March 23, 2003, Peri had been on the receiving end of a rectal thermometer without voicing as much as a malevolent meow.

All of the above was argued at the subsequent hearing on the summary judgment before the Hon. Wilson Fields. Rick embellished his presentation by referring to a case in which the Supremes adopted the T.S. Eliot work, "Old Possum's Book of Practical Cats," as the veritable bible of acceptable cat behavior, and submitted his case. Without cracking as much as an unprofessional smile, even in the midst of snickering in the courtroom, Judge Fields rewarded Rick's effort by granting the summary judgment.

And in honor of Mr. Eliot (the creative force behind that most overexposed musical in history, "Cats"), who decreed that every cat has a fancy name, a common name, and then a name that only he knows deep in his soul, we hereby forever christen Richard "Rick" Reed with his new soul name – Rum Tug Tugger.



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membership corner

BY SANETTRIA "SAM" GLASPER PLEASANT & GENE GROVES

SANETTRIA "SAM" GLASPER PLEASANT

The more appropriate question is, "How did I join the Baton Rouge Bar Association?"

As a newly licensed attorney, I was elated to be selected as an Assistant Attorney General during Richard Ieyoub's administration. I was so green and excited about being an Assistant Attorney General, I didn't realize that the Attorney General's Office had a group membership and that upon hire I became a member of the Baton Rouge Bar Association. Several months into my employment, a fellow Assistant Attorney General was unable to attend a monthly bar luncheon and offered to transfer his luncheon registration to me. I accepted and had the honor of socializing with judges and well-respected attorneys who treated me as their peer. I have never forgotten that experience. The ability to get to know judges and other

Why did I join the Baton Rouge Bar Association?

attorneys outside of a courtroom, provide community service and commune with others in my area of practice are benefits that compel me to remain an active member of the Baton Rouge Bar Association.

GENE GROVES

I joined the BRBA when I graduated from LSU and joined the law firm of Taylor, Porter, Brooks & Phillips. I quickly discovered that I could get the most out of my Bar membership by getting involved in Bar activities. The more active I became, the more benefits I received. I was actually privileged to be elected president. Now I'm on the Membership Committee inviting other lawyers to benefit from membership in the BRBA. Get on board. It's a wonderful ride.

It's about my future.



Name: Frank Tranchina

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Age: 57

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2011 SLATE OF NOMINEES:

BRBA Board of Directors

The following officers for the 2011 Board of Directors were elected without opposition: **Preston J. Castille Jr, president; Gail S. Stephenson, president-elect; Michael S. Walsh, treasurer; and Darrel J. Papillion, secretary.** Fred T. Crifasi is the immediate past president.

Seven BRBA members are running for six positions as Director-at-Large. Ballots have been mailed to all regular members of the Baton Rouge Bar Association. In order to vote for the 2011 officers, your 2011 dues must be paid by Friday, Nov. 12, 2010.

STEPHEN BABCOCK

Law School: LSU Paul M. Hebert Center. Year: 2000. Law Firm: Babcock Partners LLC. Seeking first term, director. Member: Technology Committee; Bench Bar Conference Golf Tournament, past chair; Bench Bar Conference Committee, past member; Million Dollar Advocates Forum. Other: AV-rated attorney; awarded the LSBA Stephen T. Victory Award; included in *The Best Lawyers of America*, 2010 edition; Louisiana Bar Foundation fellow. Specializes in complex commercial litigation. Bench Bar Conference sponsor.



ROBERT J. "BUBBY" BURNS JR.

Law School: LSU Paul M. Hebert Law Center. Year: 1991. Law Firm: Perry, Atkinson, Balhoff, Mengis & Burns LLC. Seeking sixth term, director. Activities: Ball Maul (1993-94); Young Lawyers Section Council (1996-98); and Belly Up with the Bar (co-chair, 1998); board liaison for the Operations & Finance (2006), Building (2006), Technology (2006), Publications (2007), Mock Trial (2010), Bench Bar (2010), and Volunteer (2010) committees. Contributing writer for *Around the Bar*. Member: LSBA House of Delegates (2001-present) and LSBA Leadership Class of 2003. Frequent CLE seminar presenter. Other: ADR Section Council of the LSBA, 2010; inducted into the American College of Civil Trial Mediators, 2010.



LINDA LAW CLARK

Law School: LSU Paul M. Hebert Law Center. Year: 1993. Law Firm: DeCuir, Clark & Adams LLP. Seeking third term, Director. Activities: Pro Bono (member: 11+ years; chair 2000) and Membership (member: 4+ years; chair 1998-99); and Law Expo (co-chair 1997) committees. Participant: Volunteer Committee, Law Day, Belly Up with the Bar, Bench Bar Conference Sponsor, Holiday Star Project. Awards: Century Club (700+ hours); BRBA 2005 David Hamilton Pro Bono Award; 2000 President's Award; 2003 LSBA David Hamilton Lifetime Achievement Award. Member: BRAWA; LSBA Access to Justice; Audubon Girl Scouts; LSU Order of the Coif; LSU Law Review; LSU Law Center Hall of Fame; Board of Directors, Wells College Alumni Association; City Court mediator; Leadership Baton Rouge; Fellow, Louisiana Bar Foundation.



JEANNE C. COMEAUX

Law School: LSU Paul M. Hebert Law Center. Year: 1994. Law Firm: Breazeale, Sachse & Wilson LLP (partner). Seeking fifth term, Director. Activities: Bench Bar Conference (chair 1999; member for 15 years); 75th Anniversary Event (co-chair 2004). Awards: BRBA President's Award: 1999, 2004. Member: ABA Antitrust and Healthcare Antitrust Sections; Leadership Baton Rouge Class of 2007; Junior League of Baton Rouge; past president of Louisiana Art and Science Museum Board of Trustees; National Association of Dealer Counsel member. Specializes in commercial litigation with emphasis on Antitrust, Healthcare Antitrust and Automotive Franchise Law. ABA Antitrust and Healthcare Antitrust Section Member; American Healthcare Lawyers Association member; LADC member; LADA co-general counsel; and Louisiana Motor Vehicle Commission specialist.



KYLE FERACHI

Law School: LSU Paul M. Hebert Law Center. Year: 2001. Law Firm: McGlinchey Stafford, PLLC (partner). Seeking second term, Director. Activities: 2009 chair YLS Section Council; past YLS Council chair-elect and secretary; board liaison to Technology and Personnel committees (2010). Ex-officio member of BRBA Board of Directors; 2005 President's Award recipient; past chairman of Belly Up with the Bar and Ball Maul committees; Thirst for Justice volunteer. Other Activities: LSBA YLS District 5 Rep.; LSU Paralegal Studies Instructor; Greater Baton Rouge Community Tennis Association president; Adult Literacy Advocates Board of Directors; and LSBA Public Service Committee chair.



AMY C. LAMBERT

Law School: LSU Paul M. Hebert Law Center. Year: 1996. Law Firm: Taylor Porter. Seeking second term, Director. Activities: Pro Bono volunteer; Law Day volunteer; past chair of BRBA Young Lawyers Section Council (2005); former Publications Committee member; board liaison to Athletic, Law Expo and Bench Bar Conference committees (2010). Activities: Former member of Executive Committee Wex Malone American Inns of Court; Federal Bar Association member; Louisiana Association of Defense Counsel member; past president of Board of Directors for Playmakers of Baton Rouge; active member of St. Aloysius Parish Church. Honors: Baton Rouge Business Report's "Top 40 Under 40" (2005); inducted into LSU Law Center Hall of Fame, selected for inclusion in *The Best Lawyers in America*; active member of St. Aloysius Catholic Church.



KARLI GLASCOCK WILSON

Law School: LSU Paul M. Hebert Law Center. Year: 1999. Law Firm: Partner with Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman. Seeking: third term, Director. Activities: Young Lawyers Section Council chairperson (2008); board liaison to the Law Day, Youth Education and Pro Bono committees (2010). Member: Youth Education, Holiday Star and Belly Up with the Bar committees; Law Day Essay Contest Subcommittee (2001, 2003); Region High School Mock Trial Coach for St. Joseph's Academy (1999-2003); Law Day volunteer. Member: ABA, LSBA Environmental Section, Executive Women International; LSBA Statewide High School Competition Committee Chair (2003-04).



2011 SLATE OF NOMINEES: Young Lawyers Section Council

The following officers for the 2011 Young Lawyers Section Council were elected without opposition: **Amanda Stout, chair; Jamie Hurst Watts, chair-elect; and Lyla N. DeBlieux, secretary/treasurer. Catherine Saba Giering is the past chair.**

The following eight BRBA members are running for five positions as YLS Council Members. Ballots have been mailed to all regular members of the Baton Rouge Bar Association and to members of the Young Lawyers Section. In order to vote for the 2011 officers, your 2011 dues must be paid by Friday, Nov. 12, 2010.

SAMANTHA R. ACKERS

Law School: Southern University Law Center. Year: 2009. Law Firm: Attorney at Law, Louisiana Center for Legal/Educational Services, LLC. Seeking first term, council member. Member: Teen Court, Law Expo, Mock Trial and Holiday Star committees; Pro Bono Panel. Volunteer: Ask-A-Lawyer workshops. Other: March of Dimes Barrister Committee Member 2010; volunteer attorney with the Battered Women's Program; certified children's advocate for CINC.



SEBASTIAN CABALLERO ASHTON

Law School: LSU Paul M. Hebert Law Center. Year: 2005. Law Firm: Long Law Firm. Seeking first term, council member. Member: Belly Up with the Bar and Teen Court committees; Law Day volunteer judge. Other: Junior League volunteer. Admitted to practice before all Louisiana state and federal courts. Practice areas: construction litigation, professional liability, commercial litigation, insurance defense and appellate litigation.



MIKE BUSADA

Law School: Loyola University. Year: 2008. Law Firm: Adams and Reese LLP. Seeking second term, council member. Past Belly Up with the Bar participant; organized Sidebar Luncheons. Member: BRBA Technology Committee; ABA; National Association of Bond Lawyers; Shack Harris Doug Williams Foundation Advisory Committee; and ODK honor society.



SCOTTY E. CHABERT JR.

Law School: Southern University Law Center. Year: 2006. Law Firm: Saunders & Chabert/18th JDC District Attorney's Office. Seeking third term, council member. Member: Belly Up with the Bar (2009 chair). Other: 2009 LSBA Leadership Committee; 2010 Chairman of LSBA Leadership Committee.



CAREY ELIZABETH MESSINA

Law School: LSU Paul M. Hebert Law Center. Year: 2008. Law Firm: Graves Carley LLP. Seeking first term, council member. Member: Volunteer Committee (past project chair); Construction Law Section; FBA-YLS.



MICHAEL E. PLATTE

Law School: Southern University Law Center. Year: 2008. Seeking first term, council member. Member: Volunteer and Law Expo committees. Selected to chair the 2011 BRBA Law Expo Committee.



ADAM THAMES

Law School: LSU Paul M. Hebert Law Center. Year: 2009. Law Firm: Taylor, Porter, Brooks & Phillips, LLP. Seeking first term, council member. Participated in BRBA softball tournament; assisted coordinating team for Belly Up with the Bar; contributor to *Around the Bar*.



LARANDA MOFFETT WALKER

Law School: LSU Paul M. Hebert Law Center. Year: 2007. Law Firm: Phelps Dunbar LLP. Seeking third term, council member. Member: Belly Up with the Bar Committee (2009-10). Other: 2010-11 LSBA Leadership Class; LSBA Public Information Committee; LBF Annual Fellows Gala Committee; Member of LADC.



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West's Jury Verdicts - Baton Rouge

Venue/Case Type	Major Injury	Trial Type	Result
<u>East Baton Rouge Parish</u>			
Contracts	Monetary damages	Bench	\$38,644
Intentional Torts	Broken jaw	Bench	\$60,899
Labor & Employment	Monetary damages	Jury	Defense
Vehicle Negligence	Neck and shoulder	Bench	\$49,000
Vehicle Negligence	Ribs	Bench	\$26,124

West's Case of the Month

Campus Visitor Ordered To Pay \$61K for Breaking College Student's Jaw

Brousseau v. Davis

TYPE OF CASE:

Intentional Torts • Assault & Battery
Negligence-Other

SPECIFIC LIABILITY: Campus visitor struck a college student in the jaw without provocation, and the student was injured

GENERAL INJURY: Broken jaw, loss of tooth, nerve damage to bottom front teeth; medical expenses

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

DOCKET/FILE NUMBER: 563,964

JUDGMENT: Plaintiff/defendant-in-reconviction, \$60,898.69

JUDGMENT DATE: April 22, 2010

JUDGE: Kay Bates

ATTORNEYS:

Plaintiff/defendant-in-reconviction: John P. Wolff III and Kimberly D. Higginbotham, Keogh, Cox & Wilson, Baton Rouge

Defendant/plaintiff-in-reconviction: J. Christopher Alexander Sr., J. Christopher Alexander Sr. Law Office, Baton Rouge

TRIAL TYPE: Bench

BREAKDOWN OF AWARD:

\$40,000.00 to plaintiff/defendant-in-reconviction for general damages

\$20,898.69 to plaintiff/defendant-in-reconviction for medical expenses

SUMMARY OF FACTS:

James Doyle Brousseau reportedly was standing outside his fraternity, Theta Xi, on the Louisiana State University campus in East Baton Rouge Parish in the early morning of Oct. 6, 2007, when Christopher Davis entered the Theta Xi premises without authorization. An altercation reportedly ensued. Brousseau said he was merely a bystander but was nevertheless struck in the jaw by Davis.

Brousseau reportedly suffered a broken jaw, the loss of one

wisdom tooth and nerve damage to his bottom front teeth. He said he underwent maxillofacial surgery to repair his jaw, which was subsequently wired shut for six weeks.

Davis reportedly was arrested by campus police officers and charged with second-degree battery. He was later convicted of simple battery and reportedly received a six-month suspended sentence and one year of probation.

Brousseau filed a lawsuit against Davis in the Nineteenth Judicial District Court for the Parish of East Baton Rouge in February 2008, asserting claims for intentional battery and negligence. Brousseau said Davis had the specific intent to hit Brousseau or someone else and, even if he did not, breached his duty to consider reasonable alternatives to harming Brousseau.

Brousseau sought damages for his injuries, pain and suffering, mental anguish, disability and disfigurement, and medical expenses. He also sought recovery for a delay in his college graduation, a loss of a scholarship, and a loss of the enjoyment of life.

Davis denied liability. He said he was on campus with several of his relatives for a party at Sigma Chi. The party reportedly was shut down one hour later, and Davis said he and his relatives were returning to their vehicle when they noticed an intoxicated Theta Xi member, Clay Stanley, sitting on the hood. Stanley refused to move, Davis said, and Davis' cousin pulled Stanley from the vehicle. A fight reportedly ensued between Stanley and the cousin, and Davis said he was approaching the fight to remove the cousin from harm's way when Brousseau grabbed his shirt. Davis said he instinctively turned and threw a punch in Brousseau's direction.

Davis raised several affirmative defenses, including contributory negligence, provocation and self defense.

Davis later filed a reconventional demand, asserting a claim for battery based on Brousseau's alleged act of grabbing him. He said he suffered injuries and resulting pain and suffering. He sought reasonable damages.

Brousseau denied liability in reconvention.

The matter proceeded to a bench trial. Judge Kay Bates concluded Brousseau did nothing to provoke the punch by Davis or create the situation that led to it. Rather, Judge Bates found, the Davis group allowed the situation to escalate to a physical altercation.

Accordingly, Judge Bates signed a judgment April 22, 2010, in favor of Brousseau and against Davis, awarding Brousseau \$40,000 for general damages and \$20,898.69 for medical expenses, plus interest and costs.

CASE CITE: *West's J.V. La. Rep.*, Vol. 6, Iss. 1, p. 6 (2010); 2010 WL 2612591

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2010 TAX LEGISLATION: HEALTH CARE REFORM (PART II)

BY WILLIAM C. POTTER, CPA, JD & BRANDON LAGARDE, CPA, JD

The Health Care Reform Acts of 2010 impact individuals, small businesses and large businesses differently in the form of requirements, penalties and tax credits. As provisions of the Patient Protection and Affordable Care Act and the Health Care and Education Affordability Reconciliation Act continue to be phased in, both businesses and individuals must look at the long-term effects of the new laws. Because the changes take effect over the next eight years, it can be difficult for businesses and individuals to assess both the short-term and long-term implications for their situation. It is necessary for attorneys to understand the impact health-care reform has on their own businesses as well as how it affects their clients.

In part I of this article, published in the October 2010 issue of *Around the Bar*, we addressed several of the tax changes taking effect in 2010 and 2011; this article will focus on provisions to go into effect after 2011. This article includes several key changes that businesses and individuals should consider as they forecast and plan for the future.

The individual mandate — Beginning Jan. 1, 2014, most U.S. citizens and legal residents are required to maintain minimum essential health coverage for themselves and their dependents. Failure to maintain the required coverage will subject the individual to a penalty, which is referred to as the “shared responsibility payment.” This penalty will be phased in as a dollar amount or a percentage of household income, whichever is greater. The penalty for minors is 50 percent of the adult penalty then in effect. The total household penalty cannot exceed 300 percent of the adult fee in effect or the national average cost of basic state exchange insurance, if greater. Exempt individuals include those whose (i) required contribution to employer-sponsored insurance exceeds eight percent of household income, (ii) religious reasons prevent them from accepting coverage, (iii) obtaining coverage would result in a hardship, (iv) lack of coverage results from a short gap in coverage, (v) income falls below the federal tax return



filing level, and (vi) residence is outside of the country.

Employer's responsibility for health coverage

Effective in 2014, a “large employer” is required to offer health coverage that meets minimum essential coverage requirements or pay a non-deductible, per-employee penalty. A “large employer” is one who, on average, had at least 50 employees for at least 120 business days in the preceding calendar year. A full-time employee is a person who averages at least 30 hours per week. Employers will not be required to provide coverage for part-time employees, but part-time employees may be counted as partial employees for the purposes of determining whether an employer has 50 employees. An excise tax of \$2,000 per employee is imposed on any large employer that does not offer employer-sponsored coverage and at least one of its employees obtains health insurance through a state exchange and receives a premium tax credit or cost-sharing subsidy.

Penalty for employers that offer coverage but whose employees receive government subsidies — An excise tax of \$3,000 per employee is imposed on any large employer that offers employer coverage to its employees for any month, but one or more of the employees enrolls in health insurance through a state exchange and receives a premium tax credit or cost-sharing reduction because the employer-provided coverage is either unaffordable or fails to pay at least 60 percent of covered claim costs. Insurance is considered unaffordable if the employee's share of the premium exceeds 9.5 percent of the employee's total household income. The maximum penalty under this section is capped at the maximum amount the employee would have paid if the employer did not offer any coverage at all.

Premium assistance credit — Effective Jan. 1, 2014, an individual with household income between 100 and 400 percent of the federal poverty line qualifies for a refundable health-insurance-premium-assistance credit if the individual purchases insurance through a state

exchange. An individual is not entitled to the premium-assistance credit if the employee is eligible for other adequate coverage such as Medicare or an affordable and adequate employer sponsored plan. The credit is paid directly to the insurer to obtain coverage through the state exchange. The individual pays the difference in the cost of coverage.

Free choice vouchers — As of Jan. 1, 2014, large employers (50 or more employees) that offer qualified health insurance to employees and pay for part of that coverage must provide free-choice vouchers to certain eligible employees. An eligible employee is an employee whose share of the health-insurance premium constitutes between 8 and 9.5 percent of his or her income and whose total household income is below 400 percent of the applicable poverty level. The employer must offer a voucher that is equal to the portion of the monthly cost of coverage that would have been paid by the employer (for either self or family coverage, depending on what the employee elects), to be used to purchase health insurance in an exchange. If the value of the free-choice voucher exceeds the cost of coverage that the employee purchases at the exchange, the excess is paid to the employee as wages. The value of the voucher is excluded from the employee's income only to the extent it is used to purchase coverage. The employer can deduct the value of the vouchers as a compensation expense. Employees who use a voucher are not eligible for the premium-assistance credit.

Cadillac health plan — Beginning in 2018, a 40-percent excise tax will be imposed on any provider if the annual premium for individual coverage is more than \$10,200 or family coverage is more than \$27,500. The dollar limits will be adjusted for sex and age. Stand-alone dental insurance and vision coverage are excluded from these calculations. Higher amounts are allowed for certain high-risk professions, as will be the case for retirees over age 55. The excise tax is payable by the provider, which is either a commercial carrier or, if the plan is self-insured, the employer.

Additional health insurance tax on earnings — An additional 0.9 percent Medicare tax is imposed on the wages and self-employment income of certain high-income taxpayers received with respect to employment for tax years beginning after Dec. 31, 2012. The additional Medicare tax is imposed on every taxpayer (other than a corporation, estate or trust) who receives wages or self-employment income in excess of \$200,000 (\$250,000 for joint filers, \$125,000 for married taxpayers filing separately). The additional Medicare tax will increase the employee portion of the Medicare tax to 2.35 percent, resulting in a total Medicare tax rate of 3.8 percent. The additional 0.9 percent is on the combined wages of the employee and employee's spouse in the case of a

joint return. An employer's obligation to withhold the additional Medicare tax is imposed only on the employer if the employee receives wages from such employer in excess of \$200,000. Otherwise, this tax is paid with the annual individual tax return.

Medicare tax on investment — Effective for tax years beginning after Dec. 31, 2012, a 3.8 percent Medicare tax is imposed on the lesser of an individual's net investment income for the tax year in excess of \$200,000 (\$250,000 for joint filers and surviving spouses, and \$125,000 for married taxpayers filing separately.) These thresholds for the additional Medicare taxes are currently not indexed for inflation.

FSA accounts — Beginning in 2013, contributions to health flexible spending accounts will be capped at \$2,500. The limit is indexed to inflation after 2014. Currently, there is no cap on contributions to flexible spending accounts.

1099 reporting requirement — Current law requires that every person engaged in a trade or business is required to report payments to any individual in an aggregate amount of \$600 or more. Payments to corporations and payments for property have historically been exempt from this requirement. Starting in 2012, payments to corporations and payments for property (such as merchandise, raw materials, and equipment) will be subject to the 1099 reporting requirement.

Employer information reporting — Beginning in 2014, large employers (50 or more employees) or any employer offering minimum coverage through an employer-sponsored plan will have to file an information return disclosing the type of insurance offered to its employees and other required information (*e.g.*, the length of any waiting period with respect to such coverage, the months during the calendar year for which the option is available, the premium for the lowest cost option in each of the enrollment categories, and the employer's share of the total benefit costs.) If the employer is not a large employer, only those that (i) offer minimum essential coverage through an employer-sponsored plan, (ii) pay any portion of the premium and (iii) require employee contributions in excess of 8 percent of their wages are imposed with this reporting responsibility. Employers must also provide employees with a statement regarding whether and when the individual was covered under the employer's health plan for the minimum essential coverage.

If you haven't already begun to see the effects of the Patient Protection and Affordable Care Act or the Health Care and Education Affordability Reconciliation Act, the next several years will bring several changes for individuals, employers and other organizations.

BUILD A BETTER BUILDING DEFECT PETITION:

Know when to state a cause of action for breach of contract
and when to state a cause of action in tort

BY TERESA L. FIORE HATFIELD

It is a basic premise of law that a party needs privity of contract to have a claim for breach of contract.¹ So why then should a party who never had a contract with a contractor be able to sue that contractor because that party does not agree with the work the contractor performs?

Imagine this common scenario: a plaintiff wants to sue for damages caused by defective work performed under a construction contract, but more than a year has run from the time he knew or should have known about the damage.² He has waited too long to state a claim in tort. Can he sue for breach of contract instead? Now imagine this scenario: a property owner buys a defectively constructed structure from another person, such that there is no privity of contract with the builder. For whatever reason, the property owner cannot or does not want to sue the person with whom he has privity. Can that property owner file a suit against the builder in tort as he does not have a cause of action for breach of contract?

While often attorneys try, and believe that they can, use causes of action in breach of contract and in tort interchangeably when a contractor does not perform in a workmanlike manner, the two causes of action are not interchangeable. While the caselaw pertaining to these issues is often overlooked, there is a body of caselaw that answers these questions. The law is simple: a cause of action for breach of contract applies to claims brought as to the defectively performed work itself, while a tort action should be brought for damages caused by the defective work.

While there are cases that have failed to follow this rule,³ and cases that have distinguished this rule,⁴ there is ample jurisprudence in Louisiana that holds that claims as to work performed lie in contract only, and therefore may be brought only by those with privity of contract. In *Lumber Products, Inc. v. Hiriart*,⁵ the Fourth Circuit Court of Appeal held that, with construction claims, if the damage sued for is defectively performed work itself, the action lies strictly in contract; only damages caused by or arising out of defective work may be properly recovered in a tort action, and even then the plaintiff must prove the necessary elements in tort. In *Lumber Products* the owner attempted to sue a subcontractor, with whom she had no privity, for defectively performed work. While the

subcontractor did file an exception of no cause of action, the homeowner recovered against the subcontractor at the trial court level. The subcontractor appealed. On appeal, the Fourth Circuit performed an extensive study of the cases in which a person was allowed to recover in tort when no privity of contract existed. The court ultimately concluded:

A careful examination of this case and other cases allowing recovery against a contractor in tort by one not privy to a contract with him reveals a significant and basic distinction from those cases denying recovery because of the absence of privity of contract. *Where the damage sued for is the defectively performed work itself, the action is strictly a contractual one and only those who are in privity with the contractor have an action against him. However, where the damage sued for [is] not the defective work but is instead damage caused by the defective work, a tort action against the contractor is proper when the elements of delictual recovery are present.*⁶

The court then held that because the owner's claim was to have the work performed properly, and not for collection of damages caused by the defective workmanship, the owner could not recover.

*State v. Simoni, Heck & Associates*⁷ is a First Circuit decision that followed *Lumber Products* shortly after the Fourth Circuit rendered its decision. The owners, the State of Louisiana and Louisiana Office Building Corporation, brought suit, *inter alia*, against the subcontractor, Pittman Construction Company, Inc., and its supplier, York Corporation, for installation of the wrong materials. In finding that the only damage claimed was that the wrong material was supplied and installed, the court upheld exceptions of no cause of action granted in favor of Pittman and York. The court quoted with approval the trial court's reasons:

Plaintiffs' pleadings herein allege only that exceptors negligently and willfully supplied the rubber-in-shear isolators. They do not claim any damages were caused by exceptors furnishing of said isolators; instead, they merely seek the difference in purchase price between the isolators supplied by exceptors and a type isolator which they say should have been provided. The pleadings in this matter sound wholly in contract and allege

none of the elements upon which a delictual claim can be based.⁸

Recently, the Second Circuit has applied and followed the ruling in *Lumber Products* in *Long v. Jeb Breithaupt Design Build, Inc.*⁹ In *Long*, the plaintiff homeowner (Plaintiff), Raymond Long, hired Jeff Breithaupt Design Build, Inc. (design builder) to remodel the Plaintiff's home. The design builder subcontracted out the roof removal and replacement to Ron Carroll Builder, Inc. (subcontractor). When disagreements arose between the parties, the Plaintiff not only filed suit against the design builder under various legal theories, but Plaintiff also filed suit against the subcontractor with allegations of negligence generally. Subcontractor filed an exception of no cause of action. Because there was no privity of contract between the Plaintiff and the subcontractor, the trial court granted the subcontractor's exception on the grounds that the allegations of negligence set forth in the petition were conclusory and that there was no privity of contract between the plaintiff and the subcontractor. Plaintiff appealed. The Second Circuit upheld the trial court's granting of the subcontractor's exception of no cause of action. In so holding, the Second Circuit cited *Lumber Products* and carefully examined the alleged "failures" of the roofing as pled by the plaintiff. Based upon the allegations of roofing "failures" set forth by plaintiff's petition, the Second Circuit found: "All of these alleged failures are related to workmanship or defects in the roofing work itself."¹⁰

The First Circuit's 2008 decision in *Walton Construction Company v. G.M. Horne & Co.*¹¹ also cites the *Lumber Products* rule in dicta.

For good reason, it is clear a party not in privity cannot claim "tort" to recover for work that is simply not in conformity with a contract, while, on the other hand, a party who claims damages arising out of defectively performed work cannot state his claim as a breach of contract claim. Attorneys drafting a petition for poor construction and/or the damages arising therefrom should be cognizant of the differences to avoid dismissal of their client's claims.

¹ *Block v. Fitts*, 274 So.2d 811, 813 (La.App. 3 Cir. 1973); *Ragusa v. Burns*, 462 So.2d 658, 660 (La.App. 1 Cir. 1984); *Soileau v. Yates Drilling Co.*, 183 So.2d 62, 65 (La.App. 3 Cir. 1966).

² A cause of action in tort would have a prescriptive period of a year, while a cause of action in breach of contract has a ten-year prescriptive period.

³ *Gurtler, Hebert & Co. v. Weyland Machine Shop*, 405 So.2d 660, 662 (La.App. 4 Cir. 1981). In *Gurtler*, the court summarized a number of cases, including *Lumber Products*, and concluded that the rule of law was "absent privity of contract a cause of action cannot be asserted based on breach of contract; however, this does not preclude asserting a claim for damages based on the wrongdoer's tort." It is notable that, in the *Gurtler* case, both Judges Samuel and Garrison dissented on the ground that the actions on which the plaintiff was seeking to base liability were contractual and not tortious.

⁴ See *Young v. City of Plaquemine*, 01-0063 (La.App. 1 Cir. 5/10/02), 818 So.2d 892, wherein plaintiffs Young and Sanchez were exposed to lead-based paint during their duties as employees of a subcontractor on a public project. While the court in *Young* recognized the rule as stated in *Lumber Products*, the plaintiffs were clearly not stating a cause of action for defective work, but for tortious activity giving rise to personal injuries.

⁵ 255 So.2d 783 (La.App. 4 Cir. 1971).

⁶ *Id.* at 787 (emphasis is added), citing and distinguishing, *Marine Ins. Co. v. Strecker*, 100 So.2d 493 (La. 1958), and *Pennington v. Campanella*, 180 So.2d 882 (La.App. 1 Cir. 1965).

⁷ 297 So.2d 918 (La.App. 1 Cir. 1974).

⁸ *Id.* at 924.

⁹ 44,002 (La.App. 2 Cir. 2/25/09), 4 So.3d 930.

¹⁰ *Id.* at 942.

¹¹ 08-0145 (La.App. 1 Cir. 2/20/08), 984 So.2d 827, 833 n. 6.

THE UNIFORM Bid Form

BY RUSSEL W. WRAY

The economy is a paramount concern these days keeping many of us up at night. The Governor is pushing state agencies to economize in anticipation of a \$3 billion drop in state revenue. This is not the time for state government in Louisiana (or elsewhere) to waste taxpayer dollars in procurement of public works. The Public Bid Law is designed and intended to obtain the best price for public work through open competitive bidding, and to avoid fraud and favoritism at taxpayer expense. Competitive bidding depends upon the scope of work as well as the terms and conditions being uniform for all bidders, the price being the sole distinguishing factor. Uniformity is critical to the competition.

When the economy turns sour, the number of bidders on public projects dramatically increases, and invariably, bid disputes erupt. During the economic downturn in the early 1980s, the Public Bid Law was amended in La. R.S. 38:2212 A(1)(b) to quell bid disputes and provide a bright-line rule to preclude waiver of bidding errors that could allow for mischief by public officials. Let's face it, bid disputes are costly to all parties involved, not the least of whom is the taxpayer.

Over the 25 years since it was first enacted in 1984, Section 2212 A(1)(b) has been clarified several times, most recently in 2001. Currently, it provides: "The provisions and requirement of this Section, those stated in the advertisement for bids, and those required on the bid form shall not be waived by any entity."

During that time, several appellate courts continued to employ the traditional substance-versus-form analysis to allow waiver despite the clear language of La. R.S. 38:2212 A(1)(b). The ability to waive minor errors allowed public agencies spending taxpayer dollars to pick

and choose the “low bidder,” who was not always the least expensive choice for the work.

After many writ applications were denied, the Louisiana Supreme Court in 2005 addressed the issue in *Hamp's Construction v. City of New Orleans*, 05-0489 (La. 2/22/06), 924 So.2d 104. In that case, the bidder at issue merely failed to attach a copy of the invitation to the bid form, an error that under the law prior to La. R.S. 38:2212 A(1)(b) would not only have been waivable, but would not likely have been just cause to reject the bid. Thus, the issue of the proper scope of interpretation of La. R.S. 38:2212 A(1)(b) was squarely before the court in *Hamp's*.

The high court in *Hamp's*, reaffirmed from its 2004 decision in *Broadmoor, L.L.C. v. Ernest N. Morial New Orleans Exhibition Hall Authority*, 04-0211 (La. 3/18/04), 867 So.2d 651, an held that: “La. R.S. 38:2212A(1)(b) mandates that “when a public entity elects to place certain requirements in its advertisement for bids and on its bid forms, that entity is bound by those requirements and may not choose to waive them at a later date.” The Court quoted Justice Weimer’s dissent in *Broadmoor*:

This prohibition against waiver furthers the public interest because it expressly prevents a public entity from specifying certain requirements in a bid and later changing those requirements to accept alternate or substitute proposals. In this sense, the law severely curtails the discretion of the public entity, thereby **insuring a level playing field** for all bidders and a fair and equitable means by which competing bids might be evaluated to determine the lowest responsible and responsive bidder. One bidder cannot be provided with an advantage over another bidder due to a waiver.

Broadmoor, 867 So.2d at 666.

The Court concluded that “[t]he most recent amendment to the statute serves to emphasize that these requirements cannot be waived under any circumstances, regardless of whether they could be considered as informalities. Accordingly, the public entity should not include any requirements in its advertisement for bids or bid form that it considers insignificant or waivable, because once included, these requirements are nonwaivable as a matter of law.” *Hamp's*, 924 So.2d at 110.

So now what? Bidders were given the “level playing field” they wanted but in the form of an unyielding rule requiring rejection of their bids for **any error** on the bid form. Rejected bidders were upset, and some didn’t see the big picture. Moreover,

the lowest prices offered were lost in favor of a higher bidder, sometimes due to technical errors. In response, the legislature passed an amendment to La. R.S. 38:2212 in 2009 to make the bid form uniform for all public works and instructed the Division of Administration to promulgate a uniform bid form. The bid form on all public works can now include only:

Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid, Alternates, Bid Total, Signature of Bidder, Name, Title and Address of Bidder, Name of Firm or Joint Venture, Corporate Resolution and Louisiana Contractors License Number, and on public works projects where unit prices are utilized, a section on the bid form where the unit price utilized in the bid shall be set forth. La. R.S. 38:2212 A(ii)(aa).

All other information requested is to be supplied at a later time by the bidder (which includes such things as DBE forms, financial information, and the non-collusive affidavit, etc.). The uniform bid form was officially promulgated Aug. 20, 2009. The purpose is to simplify the process and minimize the opportunity for errors requiring rejection of the bid.

Despite that, public agencies have continued to impermissibly require other information with the bid form. The Division of Administration itself has done so,

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and other public entities for various reasons have also done so. This leaves an unresolved issue as to whether doing so invalidates the process and requires all bids be rejected. The better solution is to treat the bid form (which forms parts of the contract) much like a statutory bond. Whatever extra that has been added is read out. La. R.S. 38:2216 M provides:

Any term, provision, or condition of any contract for public works which is contrary to or in violation of the provisions of the Public Bid Law, Chapter 10 of this Title, is against public policy and shall be invalid and unenforceable. When a contract contains a provision which is invalid and unenforceable under this Subsection, that provision shall be severed from the other provisions of the contract and the fact that the provision is void and unenforceable shall not affect the other provisions of the contract.

Thus, errors in extraneous forms should not be grounds for rejection based upon La. R.S. 38:2212 A(1) (b), under the *Hamp*'s standard.

The courts and the industry will continue to grapple with these issues, and despite the legislature's best efforts to do away with bid disputes, such disputes continue today. Courts will also need time to accept that the legislature said what it meant and apply the law as written.

GAIL'S GRAMMAR

Riffled and *rifled* are two verbs that are easily confused. *Riffle* means to hastily flip through; *rifle* means to ransack and rob. In addition to confusing the two words, people often use these verbs incorrectly. Using *riffled* with an adverb meaning "quickly" is redundant. And *riffling* needs a taking; simply rummaging through possessions without stealing is not *rifling*.

CORRECT: After his speed reading course, he was able to spot crucial information while *riffling* through the files.

She lost her favorite necklace when the burglar *rifled* her jewelry box.

WRONG: Her drawers had been *riffled*, but fortunately the burglars didn't take anything.

She hurriedly *riffled* through the file.

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

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Lawyers in disaster services

BY MAC WOMACK

Not long after Hurricane Katrina made landfall, and the City of New Orleans was without power and largely under water, it became obvious that many patients at hospitals in the New Orleans area would need to be transferred to facilities outside of the city. In response, the hospitals in Baton Rouge devised a plan to accept some of the New Orleans patients at their hospitals. This plan required coordination of the transfer in order that the distribution of patients would be orderly and equal. It was decided that the best place to coordinate the operation would be at the East Baton Rouge Parish Office of Emergency Preparedness (OEP) on Harding Boulevard in Baton Rouge.

The OEP is a state of the art operations center where most any governmental entity you can think of has a "seat at the table." The nerve center of the OEP is a large room that I would imagine resembles what the "situation room" at the White House must look like. The room itself is about 150 feet long by 50 feet wide. In the room is a large rectangular table, upon which is stationed dozens of telephones for the use of every imaginable governmental actor, and a number non-governmental organizations —

the Mayor's office, the City Police, the East Baton Rouge Parish Sheriff's office, the State Police, the Department of Wildlife and Fisheries, the U.S. Navy, the U.S. Coast Guard, the Louisiana Department of Family Services, just to name a few. Television screens are mounted around the room at the ceiling. At one end of the room is a very large screen television, and at the other is a kind of "inner sanctum" for the Mayor and his top brass. The Red Cross has a telephone bank at the OEP, and during the "standup" for Hurricane Katrina, the Red Cross telephone just happened to be situated next to the one provided to local hospitals for their patient-transfer operation.

During the patient-transfer operation, Taylor, Porter, Brooks & Phillips and Breazeale Sachse & Wilson were asked to assist Our Lady of the Lake Hospital at the OEP. Hiko Miyagi and I staffed the telephones for Taylor Porter. We were seated immediately next to a representative of the Red Cross. During the period I was at the table, it was obvious the Red Cross was being inundated with requests for assistance, and the lone Red Cross representative at the telephone was overwhelmed with the calls he was receiving. At some point the Red Cross representative had

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to take a short break and asked me if I would answer the telephone and take down any messages. I answered two calls I will never forget.

One call was from a religious organization in Arkansas. The organization had as its primary mission the goal of rescuing children in dire circumstances. The caller offered to come to New Orleans with adequate support staff to feed, clothe and shelter any child in need. The Arkansas group would bring their own food and water, and would sleep in their own tents. They asked for nothing. They wanted no pay or publicity. Their only desire was to help.

The second caller was a woman from North Dakota. North Dakota! She had seen the television coverage of the aftermath of the storm. She offered to drive to New Orleans and do anything she was asked to do. She did not care what her job might be; she just wanted to help.

I took their names and numbers and gave them to the Red Cross representative when he returned. Obviously, the Red Cross representative needed assistance. The Red Cross still does.

In this vein, Bobbi Zaunbrecher, the executive director of the Louisiana Capital Area Chapter of the Red Cross (www.batonrouge.redcross.org), has contacted the Baton Rouge Bar Association regarding the recruitment of a volunteer panel to be trained to serve as “governmental

liaison” representatives for the Red Cross.

During a disaster, the Red Cross deploys volunteers in 32 areas of activity. The primary and most visible activities are feeding and sheltering clients who are unable to stay in their homes due to evacuation or because of problems caused by the disaster. There are many Red Cross activities that require volunteers whose interests and abilities vary. Currently, members of the Baton Rouge Bar serve as leaders in several of those activities. One particular activity for which the Red Cross would like to prepare at least 30 volunteers is that of governmental liaison. Ms. Zaunbrecher has suggested to the BRBA Board of Directors that she believes that members of the Bar would be particularly well suited for this role. The Board, in turn, agreed and has approved the Red Cross’ overture to our members.

The governmental liaisons would represent the American Red Cross in one of the parish or state emergency operation centers, as well as the Louisiana Capital Area Chapter Emergency Operation Center, and at the Red Cross Disaster Response Headquarters.

In a nutshell, the governmental liaisons would be the Red Cross’ eyes and ears and voice discerning all that is going on in the busy, constantly changing environment of an operations center, keeping the Louisiana Capital Area Chapter Operations Center informed. Training is required,

but is offered in a combination of live and online sessions. All classes are free; the Red Cross proposes to conduct the live training over five evenings, scheduled within a two-week period. The online classes should take about six hours to complete at the participants’ convenience, but should be completed in advance of the live training.

The BRBA’s partnership with the Red Cross could be a model for the entire country.

The fundamental principals of the Red Cross are humanity, impartiality, neutrality, independence, voluntary service, unity and universality. To put these principals into action, the Red Cross needs our help. Please think about volunteering. For more information, contact Ann G. Scarle at 225-214-5563.

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Louisiana School for the Visually Impaired is added to the list of agencies already helped by the Holiday Star Project

BY BRANDI COLE

It's that special time of year again, and the BRBF Holiday Star Project has the opportunity to touch even more young lives at the Louisiana School For the Visually Impaired (LSVI), thanks to the East Baton Rouge District Attorney's Office.

The LSVI sits on a 116-acre fenced campus, shared with the Louisiana School for the Deaf, off Brightside Drive. This school looks like any other, with long hallways and classrooms, a library, a cafeteria and, of course, the dreaded principal's office. But it is different. Sixty-four children ranging in ages from five to 21 attend this school, all of whom reside in Louisiana and have a serious visual impairment. The classes are small, many with only two to three students. Much of the focus is on teaching children to read and write Braille from the very beginning of their school days, as well as mobility skills. Forget law school; my five-minute lesson in Braille, a tactile language in which every letter, number and word in the alphabet is represented through some variation of six dots, made me immediately impressed with these kids.

Although visually impaired children may attend public school, the LSVI is a place where they have a sense of belonging, a greater chance at success and a sense of pride. Two of the high-school aged boys beamed with pride as they talked about playing on the football team with the Louisiana School for the Deaf and begged the principal for practice not to be cancelled because of the rain.

As pointed out by the LSVI's director/principal, there is a lot to be learned from watching deaf and visually impaired children learn to communicate with each other on the football field. This school has a wrestling team, a track team and a cheerleading squad. The newest project

is the formation of a student government, something the kids are ecstatic about. Two students serve on the Mayor's Youth Advisory Committee. A few of the older teens are already attending BRCC at night, while a few plan to go next year. The school has had success with standardized testing, with two fourth graders passing the regular LEAP test last year and a high-school student who scored a 22 on the ACT. But as the Supervisor of Administration pointed out, it's not about the scores here, it's about the children. It is about teaching them that they can be successful in this diverse world.

In a favorite holiday classic for many of us, Charlie Brown — down on his luck as always — is on a quest for the true meaning of Christmas. The movie ends with the transformation of Charlie Brown's twig of a tree into something beautiful, all because it was touched by love. The true spirit of the holidays seems to be just this: transforming the lives of those in need, at least for a day, through love and generosity. Thanks to the generosity of the District Attorney's Office, which has agreed to be a sponsor for the LSVI, 21 children within a 25-mile radius of Baton Rouge — who otherwise may not receive Christmas gifts — will be a part of the Holiday Star Project this year. The students at the LSVI are bright spots in the Baton Rouge community, and it is an honor to be able to give them a little joy this holiday season.

For more information on the Louisiana School for the Visually Impaired, please visit www.lsvi.org. There are many more children in our community in need of sponsors. Your donation is deductible to the extent provided by law. To participate, contact Susan Kelley at 225-214-5559 or susan@brba.org.

The Young Lawyers Section Holiday Star Project

Sign up to sponsor a child. Please fill out the form below and fax it to the Bar office at (225) 344-4805. The Baton Rouge Bar Foundation is tax-exempt as a charitable organization by the Internal Revenue Service under section 501(c)(3) of the IRS Code.

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***Make a child's wish come true this holiday season! Fill out this form and fax it to the BRBA office at 225-344-4805.
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Questions? Please call Susan Kelley at (225) 214-5559.***

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bar news

BY KELSEY REED

BRBA celebrates 25 years of Law Expo

BRBA's 25th Annual Law Expo & September Bar Luncheon, held in the atrium of the Belle of Baton Rouge Casino & Hotel from 8 a.m. to 1:30 p.m., offered something different to each participant.

This tradeshow and BRBA fundraiser featured luncheon guest speaker H. Alston Johnson III, who provided his legislative update. The event also offered free CLE seminars for lawyers and paralegals. Louisiana State Rep. Franklin J. Foil – a U.S. Navy Captain, lawyer and state representative for District 70 – was the CLE professionalism speaker. Dr. Gavin W. Manes, president and CEO of Avansic E-Discovery & Forensics, was the speaker for the paralegal seminar on ethics. Michael H. Rubin, a member of McGlinchey Stafford's Baton Rouge office, was the presenter for the ethics CLE seminar.

H. Alston Johnson III of Phelps Dunbar, LLP, was honored for more than 25 years of service to BRBA. All BRBA members celebrating 25 years of law practice (having passed the bar in 1985) were also recognized at the luncheon. In addition, Jordan Faircloth representing Breazeale, Sachse & Wilson was presented a custom-made Marucci bat. BS&W was the 2010 champion of the BRBA's annual softball tournament.

Staff Liaison Pamela Labbe coordinated this year's event with the help of chairpersons Cherie A. Lato and Jennifer Fontenot DeCuir, and the rest of the Law Expo Committee. BRBA President Fred T. Crifasi led the September Bar Luncheon and business meeting. BRBA Executive Director Ann G. Scarle was also in attendance.

Gold sponsors of the Law Expo were Applied Business Concepts/I Docs Next Copy; Camelot Club of Baton Rouge; and Postlethwaite & Netterville/P&N Technologies. The silver sponsors were Kay E. Donnelly & Associates, Inc. and Request-A-Record. The bronze sponsors were Electronic Business Systems, Inc.; LaPorte Sehrt Romig Hand; and Mediation Arbitration Professional Systems, Inc. (MAPS, Inc.). The corporate sponsors were Court Reporters of Louisiana, LLC; The Medical Spa of Baton Rouge; and Quality Litigation Support, Inc. The premier sponsor was West, a Thomas Reuters business.

Law Expo 2010 exhibitors included: Advanced Office Systems; Ashby Legal



PHOTO BY PAMELA LABBE

BRBA President Fred T. Crifasi, Cherie A. Lato, Michael Platte, Jennifer Fontenot DeCuir and Alana Robert with Camelot Club of Baton Rouge attended the Sept. 8, 2010, luau following the Law Expo. Lato and DeCuir chaired the 2010 BRBA Law Expo Committee. Platte will chair the 2011 Law Expo Committee. Camelot Club provided catering for the luau.

Nurse Consultants, LLC; Automated Filing Systems, Inc; Avansic E-Discovery & Forensics; Baton Rouge Paralegal Association; Centurion Risk Association, LLC; DataKeepers, LLC; Downtown Duplicating; Electronic Discovery of Baton Rouge; Exec-U-Store; Gilsbar, Inc; Hannis T. Bourgeois, LLP; Hospice of Baton Rouge; Interactive E Solutions, LLC; Law Office Technology; Law Techs, LLC; Legal Espresso; Level 3 Communications; Louisiana Appleseed; Louisiana Bar Foundation; Louisiana Center for Law and Civic Education; Louisiana State Bar



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LSBA presents Crystal Gavel Award during Law Expo & September Bar Luncheon

LSBA President Michael A. Patterson presented the Crystal Gavel Award to winners Katherine Krupa Green with the Louisiana Department of Justice, Melanie Sue Fields of the 19th Judicial District Court and G. Trippe Hawthorne of Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, LLP at the luncheon.

The Crystal Gavel Award has been given to honor legal professionals for outstanding contribution to their communities by the LSBA since 2001.

Luau following Law Expo celebrates *Around the Bar* magazine's 25th Anniversary

The BRBA hosted a luau-themed reception following the 25th Annual Law Expo September Bar Luncheon Wednesday, Sept. 8, 2010, 5 to 7 p.m. at the Middleton

Bar Center. Wine, specialty drinks and food was served at the reception, while the John Gray Jazz Trio played soulful tunes for the crowd.

During the reception, all past contributors of *Around the Bar* were acknowledged. Editors Ed Walters and Gail S. Stephenson were presented framed copies of their first submissions to *Around the Bar*. All Law Expo sponsors and exhibitors were invited to attend the reception to further communicate with members of the bar in a more relaxed social setting.

Door prizes donated by the following companies were given away at the luau and Law Expo: Belle of Baton Rouge Casino & Hotel; CC's Community Coffee House; The Cook Hotel/LSU Alumni Association; DiGiulio Brothers Italian Café; The Grape; Hemline; Jack & Priscilla Andonie Museum; La Lou (formerly Another Broken Egg); Manship Theatre; McLavy Ltd. Men's Clothiers; Peregrine Corporation; Poor Boy Lloyd's; Raising Cane's Chicken Fingers; Ruth Chris Steak House; Shucks on the River; SophistOccasions, LLC; Stonehenge Capital; Sweet Wishes; and Varsity Sports.

Camelot Club of Baton Rouge catered the reception, and while representatives from FireFly Sweet Tea Vodka prepared specialty drinks for all the guests. Other reception sponsors were Baton Rouge Coca-Cola Bottling Co.; LaPorte Sehrt Romig Hand; Legal Espresso; Mockler Beverage Co.; P-Eye Grannies, LLC, and West, a Thomson Reuters business.

Around the Bar receives 2010 public relations award

Pamela Labbe, BRBA communications coordinator, attended the Southern Public Relations Federation Conference, held Sept. 26-28, 2010, at the Capitol Hilton. During the Sept. 28 awards ceremony, she accepted a SPRF 2010 Lantern "Award of Merit" in the category of Publications, Internal Magazine, for the September 2009 issue of *Around the Bar*. This issue followed the theme of animal law, and the cover featured a beagle named Jackson, which belongs to Catherine and Gary McKenzie, a partner with Steffes, Vingiello & McKenzie, LLC.




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November 19, 2010 (2 hrs.): Ethics and Professionalism
Speakers: Paul Marks, Jr. and Michael W. McKay

December 19, 2010 (1 hr.): Handling Your First Nursing Home Malpractice Case
Speaker: R. Justin "Bobby" Garon

See MAPS' website and the MCLE calendar for a complete listing of our seminars.



PHOTO BY PAMELA LABBE

LSBA President Michael A. Patterson presented LSBA Crystal Gavel Awards to (L to R) Melanie Sue Fields, Katherine Krupa Green and G. Trippe Hawthorne during the 25th Annual Law Expo & September Bar Luncheon Wednesday, Sept. 8, 2010.

Pro Bono Project organizes an Ask-A-Lawyer workshop to celebrate Constitution Day

In celebration of Constitution Day, Sept. 17, 2010, the Baton Rouge Bar Foundation Pro Bono Project held an Ask-A-Lawyer workshop Sept. 14 at the Southern University Law Center from 6 to 8:30 p.m.

The public was invited to attend, including students, faculty and staff of the Southern University System. Attorneys provided free one-one-one legal advice and counseling for various legal issues and questions. The volunteer lawyers were David Cliburn, Donald North, Cynthia Reed, Alvin Washington and Judge Melvin Shortess (Ret.).

BRBF Pro Bono Coordinators Robin Kay and Trang Nguyen organized the Ask-A-Lawyer workshop.

The Pro Bono Project is financially assisted by the Interest on Lawyers' Trust Accounts (IOLTA) Program of the Louisiana Bar Foundation; Capital Area Legal Services; Family, District and City Court Filing Fees; and the Baton Rouge Bar Foundation.

BRBA Volunteer Committee hosts 12th annual food drive

The BRBA Volunteer Committee held its 12th annual Fall Food Drive to support the Greater Baton Rouge Food Bank Saturday, Oct. 9, 2010, from 9 a.m. to 2 p.m. Lawyers and community members donated food items at the Neighborhood Wal-Mart on the corner of Highland Road and Lee Drive.

BRBA's Volunteer Committee staff liaison Carole McGehee and committee chairpersons Mackenzie Smith Ledet and Rebecca Clement organized this drive.



PHOTO BY PAMELA LABBE

Gail Stephenson, an assistant editor of *Around the Bar*, was honored with a framed copy of her first submission to the magazine from 1990 during the Wednesday, Sept. 8, 2010, luau following the Law Expo. Magazine editor Ed Walters (not pictured) was also honored at the event.



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BRBA to hold Practicing Law in Baton Rouge CLE Seminar Monday, Dec. 13 at Federal Court

The BRBA will hold the CLE seminar titled Practicing Law in Baton Rouge Monday, Dec. 13, 2010, from 10 a.m. to 4:30 p.m. at the Federal Court Building, Middle District of Louisiana, 777 Florida Blvd.

Early registration pricing ends Nov. 30, 2010. The registration form is now available online at www.brba.org/forms/Practicing.pdf.

For more information, contact Ann G. Scarle at 225-214-5563 or Margaret Johnson at 225-344-4803.

Swearing-in ceremony to be held at Federal Court

Admission to the Federal Courts Ceremony will be held in Courtroom I of the Russell B. Long Federal Building, United States District Court for the Middle District of Louisiana, 777 Florida Street.

Completed applications are due Nov. 15, 2010. The registration form is available at www.brba.org/forms/federal_admission.pdf.

For more information, contact Ann G. Scarle at 225-214-5563 or Margaret Johnson at 225-344-4803.

Holiday bar luncheon to be held Dec. 2

The December bar luncheon will be held Thursday, Dec. 2, 2010, at De La Ronde Hall starting at 11:45 a.m., and will feature musical entertainment by the Rubin Brothers David and Michael. Please be sure to save the date and join us!

YLS to hold Cocktails with the Court Nov. 18

The annual Cocktails with the Court reception, sponsored by Citizens Bank & Trust, will be held by the Young Lawyers Section Thursday, Nov. 18, from 5 to 7 p.m. at the Middleton Bar Center, 544 Main Street.

All BRBA Young Lawyers Section members are invited to attend. Area judges and their law clerks will be honored and introduced during the reception. Contact Susan Kelley with any questions at 225-214-5559.

New Bar Association website is underway

A new website is in the works for the Baton Rouge Bar Association. The Technology Committee has been hard at work planning the site, which will be functional soon. The updated website, which will accept credit card transactions, is expected to be more user friendly than our existing site (www.brba.org).

Need help with your next case?

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Business Dissolutions · Buy-Sell Agreements
Sales, Mergers and Acquisitions · Bankruptcy and Reorganization

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foundation footnotes

PRO BONO REPORT — JULY & AUGUST 2010

PRO BONO PROJECT REPORT —

We would like to thank to all volunteers who donated their time to the Pro Bono Project during the months of July and August.

Thirst for Justice Volunteers were **Judge Melvin Shortess (Ret.); Keith Richards; Mac Womack, Taylor, Porter, Brooks & Phillips, LLP; Byron Kantrow; Daina Bray, Phelps Dunbar; Lillian Paxton, McGlinchey Stafford, PLLC; Terry Bonnie; Samantha R. Ackers; Allen Posey; Emily Ziober; and Jeff Rabb, Dudley DeBosier.**

The law student intake volunteers were **Cleveland Patterson, Jason Benford, Sawyer Halbrook and Christopher White, Southern University Law Center.**

The Baton Rouge Bar Foundation summer interns were **Cleveland Patterson, Sawyer Halbrook and Christopher White, Southern University Law Center.**



Ask-A-Lawyer workshop volunteers were **Durward Casteel, Casteel & Associates; Allen Posey; Barbara Baier; Etta Hearn; Emily Ziober; Andrea Morrison; Paul Wilkins, Dan Schaneville, Bentley Title, LLC; Scott Gaspard, Terry Bonnie; and James A. Wayne, Capital Area Legal Services Corporation.**

Attorney volunteers who accepted cases in the months of July and August were **J. David Andress, Grand Law Firm; Rena Hester; Joanna B. Hynes; Andrea Morrison; Jeffrey Rabb, Dudley DeBosier; Cynthia N. Reed, Southern University Law Center; Melanie M. Walters and Sharon Williams.**

The Pro Bono Project is financially assisted by the Interest on Lawyers' Trust Accounts (IOLTA) Program of the Louisiana Bar Foundation; Capital Area Legal Services; Family, District and City Court Filing Fees and the Baton Rouge Bar Foundation.



Register Today for the BRBF's **Ball Maul 2010**

Make checks payable to **Baton Rouge Bar Foundation** and mail to: P. O. Box 2241, Baton Rouge, LA 70821

Fees payable via cash, check, VISA, MasterCard or American Express.

Monday, Nov. 8, 2010, at **The University Club**

Lunch / Registration: 11 a.m. • Shotgun Start: 12 p.m.

MAJOR SPONSOR: Dr. Michael J. Goff / Louisiana Health & Injury Centers

19TH HOLE SPONSOR: Electronic Discovery of Baton Rouge • Jasper Contractors, Inc.

HOLE SPONSORS: Hannis T. Bourgeois, LLP, CPAs • MAPS, Inc. • Perry Dampf Dispute Resolution
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Player 2: _____ Ph#: _____ Handicap: _____ Bar Roll#: _____ Mulligan*: Y or N

Player 3: _____ Ph#: _____ Handicap: _____ Bar Roll#: _____ Mulligan*: Y or N

Player 4: _____ Ph#: _____ Handicap: _____ Bar Roll#: _____ Mulligan*: Y or N

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*Proceeds benefit Baton Rouge Bar Foundation projects

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PER PERSON FEE:

Registration:

Single	\$150	<input type="checkbox"/>
Twosome	\$300	<input type="checkbox"/>
Threesome	\$450	<input type="checkbox"/>
Foursome	\$600	<input type="checkbox"/>

*The Mulligan Package costs \$25 per person and includes one (1) Mulligan, one (1) Sandy, one (1) Red Blast and one (1) Poker Run.

Under IRS regulation, \$90 of your fee is not deductible as a charitable deduction. Non-members: Please contact the BRBA office for information, (225) 344-4803. Your registration includes your greens fees, a cart, a box lunch, a gift and a post-tournament awards ceremony.



For classified or display ad rates,
contact Pamela at (225) 214-5560
or e-mail: pamela@BRBA.org

Duty Court Schedule

19TH JDC CIVIL COURT

Oct. 25-Nov. 5 Judge Clark
Nov. 8-Nov. 19 Judge Bates
Nov. 22-Dec. 3 Judge Caldwell

19TH JDC CRIMINAL COURT***

Oct. 29-Nov. 5 Judge Johnson
Nov. 11-Nov. 11 Judge Fields
Nov. 12-Nov. 19 Judge Marabella
Nov. 19-Nov. 26 Judge Anderson
Nov. 26-Dec. 3 Judge Erwin

BATON ROUGE CITY COURT*

Oct. 25-Oct. 31 Judge Alexander
Nov. 1-Nov. 7 Judge Ponder
Nov. 8-Nov. 14 Judge Davis
Nov. 15-Nov. 21 Judge Temple
Nov. 22-Nov. 28 Judge Wall
Nov. 29-Dec. 5 Judge Alexander

FAMILY COURT**

Nov. 1-Nov. 5 Judge Woodruff-White
Nov. 8-Nov. 12 Judge Higginbotham
Nov. 15-Nov. 18 Judge Lassalle
Nov. 19 Ad Hoc Judge Klees
Nov. 22-Nov. 26 Judge Baker
Nov. 29-Dec. 3 Judge Woodruff-White

JUVENILE COURT

Nov. 1-Nov. 30 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, Nov. 1 All Saints Day
Thursday, Nov. 11 Veterans Day
Thursday, Nov. 25 Thanksgiving Day
Friday, Nov. 26 Acadian Day

GET PUBLISHED IN OUR NEXT ISSUE!

Write an article for publication for *Around the Bar*. E-mail it to: pamela@brba.org. Call for more details: 225-214-5560.

November 2010

	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				



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

Calendar of Events

Classifieds

ATTORNEYS/JUDGES WHO BELIEVE they have problems with alcohol and/or drugs are welcome to attend meetings with other similarly situated attorneys/judges held on Tuesdays at The City Club, 355 North Blvd. Contact number: 225-753-3407. Thursday meetings are at Bocage Racquet Club, 7600 Jefferson Hwy. Contact number: 225-928-5053. Both meetings are dutch treat and are from noon to 1 p.m. Strict anonymity is observed outside these 12-Step Meetings.

IN-HOUSE ATTORNEY POSITION:

Ochsner Health System seeks an in-house attorney in New Orleans. Specific requirements include a Juris Doctorate from an accredited law school, current admission to practice law in Louisiana, in good standing, excellent academic credentials, and a minimum of 10 years of experience gained in an in-house legal department or a law firm through representation of complex, multi-specialty healthcare clients. The ideal candidate will have medical knowledge or prior healthcare experience; significant experience in risk and litigation management; and knowledge of hospital and physician practice operations, including medical staff credentialing, licensure and regulatory matters. Ochsner Health System is southeast Louisiana's largest non-profit, academic, multi-specialty healthcare delivery system and is an equal opportunity employer. Qualified candidates should apply via e-mail submission of resume, relevant writing samples, and law school transcript to Legal & Professional Search Group, Jenny Chunn and Michelle Bech, contact@lalawrecruit.com, 504 343-6644 or 504 388-3463.

PRACTICE YOUR GOLF SWING

then get a 4-man team together to participate in the BRBF Ball Maul Golf Tournament in November! Contact Ann G. Scarle with any questions: 225-214-5563 or ann@brba.org.

- 2 YLS Council meeting, 12 p.m.
- 3 Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 4 November Bar Luncheon, 11:45 a.m., De La Ronde Hall;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 5 Volunteer Committee meeting, 12 p.m.;
Family Law Section annual CLE seminar, starts at 8 a.m. (5 hours of CLE), Cafe Americain
- 6 Ask-A-Lawyer workshop, Jones Creek Library, 9-11:20 a.m.
- 8 Ball Maul Golf Tournament, University Club
- 9 Workers' Comp Section Meeting & CLE, 12-2 p.m.
- 10 Finance Committee meeting, 7:30 a.m., 8702 Jefferson Hwy., Ste. B;
Executive Committee meeting, 8 a.m., 8702 Jefferson Hwy., Ste. B;
Law Day Committee meeting, 12 p.m.;
Bench Bar Committee meeting, 12 p.m.;
Pro Bono Committee meeting, 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 11 Bar Office Closed — Veterans Day
- 15 Teen Court Hearing, EBR Juvenile Court, 5:45 p.m.
- 17 Ask-A-Lawyer workshop, Catholic Charities, 9-11:20 a.m.
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.;
- 18 Board of Directors meeting, 6 p.m.
Construction Law Section CLE, starts at 12 p.m.;
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.;
- 22 Cocktails with the Court reception, 5-7 p.m. Organized by the YLS.
- 23 Judge Brian Jackson's Investiture Ceremony, 10:30 a.m.
- 24 Youth Education Committee meeting, 12 p.m.
Teen Court Committee meeting, 12 p.m.;
- 25 Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 26 Bar Office Closed — Thanksgiving
- 30 Bar Office Closed — Holiday
Teen Court Hearing, EBR Juvenile Court, 5:45 p.m.

Baton Rouge Bar Association
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