

# Around

THE MAGAZINE OF THE  
BATON ROUGE BAR ASSOCIATION

No. 248, June 2019

25<sup>th</sup>  
Anniversary

# the Bar

**June Bar Luncheon**

Wednesday, June 16



## **Inside:**

Model appellate argument  
Advice from a seasoned mediator  
Interview with  
Preston J. Castille Jr.  
Attorney spotlight:  
Catherine Saba Giering

**Young Lawyers  
Section Council**



## *Baton Rouge Bar Association 2010 Summer CLE Seminar Series*

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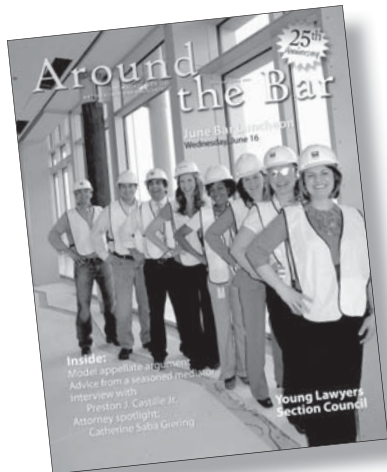
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## On the cover:

This month's cover photo features members of the 2010 Young Lawyers Section Council standing in the new courthouse. The June Bar Luncheon has been organized by the Council, and this month's issue features an interview with YLS Council Chair Catherine Saba Giering (p. 21). Photographed (L to R) in hard hats and safety vests are Scotty Chabert, Kyle Ferachi, Michael J. Busada, Elisabeth Quinn, Laranda Moffett Walker, Catherine Saba Giering, Amanda Stout and Jamie Hurst Watts.

This year marks the 25th anniversary year of *Around the Bar*, which was first published as a magazine for members of the Baton Rouge Bar Association in September 1985.

Cover photography by Pamela Labbe.



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Leonard Cardenas III is pleased to announce the formation of a new law partnership with his former associate, Nathan P. Fry.

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Attorneys at Law

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# contributors



Carla S. Courtney-Harris, a partner with Hammonds & Sills, is the 2010 chair of the BRBA Membership Committee.



Fred T. Crifasi, 2010 president of the BRBA, is a solo practitioner.



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



Lesley Gillett served as the BRBA Spring 2010 public relations intern.

Lexi Holinga, an associate with Taylor Porter, is a member of the Publications Committee.

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

Gail S. Stephenson, an assistant editor of *Around the Bar*, is the director of legal analysis and writing and an assistant professor of law for the Southern University Law Center.

Myron "Mike" A. Walker Jr., a mediator with Perry Dampf Dispute Solutions, is a contributing writer.



Paul R. Baier, a law professor with the LSU Paul M. Hebert Law Center, is a contributing writer.



Published by the Baton Rouge Bar Association  
P. O. Box 2241, Baton Rouge, LA 70821  
Phone (225) 344-4803 • Fax (225) 344-4805  
Web site: [www.brba.org](http://www.brba.org)

The Baton Rouge Bar Association will be the beacon for the full spectrum of the legal profession by fostering professional courtesy; increasing the diversity of the bar and the participation of under-represented groups; maintaining a sound financial base; enhancing and developing member services and community outreach; and promoting and improving the image of the profession.

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Editor: Edward J. Walters Jr.— 236-3636

Assistant Editors:  
Vincent P. Fornias — 769-4553  
Gail S. Stephenson — 771-4900, ext. 216

Graphic Design / Ad Sales:  
Pamela Labbe — 214-5560

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The Civil Divisions of the 19th JDC are implementing a mediation program for civil cases in which the demand is below \$30,000. We are seeking a panel of volunteers willing to accept up to three cases per year on a no-fee basis. Each mediation will be three hours in duration.

Attorneys interested must possess the qualifications found in either La. R.S. 9:4106 A(1)(a) or A(2). Interested attorneys may contact Ann Gregorie Scarle at the BRBA Office at 225-214-5563 to obtain an application.

AROUND THE BAR supports participation of the membership in its production. We encourage the submission of articles and letters to the editor. Articles should be less than 1,800 words, typed and single-spaced. If possible, a Microsoft Word file should be e-mailed as an attachment to: [pamela@BRBA.org](mailto:pamela@BRBA.org).

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# letter from the president

BY FRED T. CRIFASI

## Something old, something new: Don't miss the June 16 luncheon

Earlier this year, your board participated in a full-day planning retreat facilitated by Elizabeth Derrico with the American Bar Association. In one exercise, Elizabeth asked us to choose a picture that best represents the image of our bar three years from now.

There were several interesting picks, but Jeanne Comeaux's was the unanimous favorite. She chose a picture of a mature brown tree trunk with a fresh sprout of greenery. When called on, Jeanne explained that our Association has established itself through the many great traditions developed over the years and we have great new life sprouting from our midst.

This young growth has developed into a section that is composed of more than 500 of our members. It is bubbling with fresh ideas and has energetic leadership on its council.

It has produced new board members in each of the last two years. It is taking on ever increasing roles in not only our events, but in our governance. But this new growth requires the stability of a tree trunk for it to reach new heights, instead of starting from the ground. This is why it is so important for all of our experienced members to stay involved. It is my personal plea that you all, especially our past presidents, attend our events. Your opinions and experience are extremely valuable. The more we see you, the more likely some of your expertise will rub off on us.

Some older lawyers have commented that there are huge differences in the way the new generation functions, communicates and even socializes. It is almost an envy of the new technical savvy youth, while others yearn for the old-fashioned ways. Many younger lawyers have voiced their desire to hear from the veterans and learn from their trial war stories and experiences.

From these two desires, a perfect plan was hatched. As part of our celebration of the 25th Anniversary of *Around the Bar*, our young lawyers host this month's luncheon, which will present a panel of editors of this publication, including Ed Walters, Vincent P. Fornias and Gail S. Stephenson, **Wednesday, June 16, at De La Ronde Hall.**

*Around the Bar* has been the face of our organization for 25 years.

Month after month it offers an excellent variety of articles that both educate and entertain. Don't miss this special luncheon, which will feature a digital slide show of old photos and favorite stories, and will provide an interactive discussion between the veterans in the crowd, the young lawyers and the summer law clerk guests. It will be a chance for some to reminisce and for some to become familiar. It is certain to be hilarious!

After the summer, we will continue our celebrations of great traditions Wednesday, Sept. 8, as we celebrate the 25th Annual Law Expo and the 25th consecutive legislative update provided by H. Alston Johnson III. In addition, the Expo, which will honor all who have practiced for 25 years, will be followed by an after work reception at the Middleton Bar Center (544 Main Street) in honor of all who have contributed to *Around the Bar*. It will be a special day and evening. Please make plans to join us.

Finally, we will celebrate the Opening of Court Monday, Sept. 27, in the brand new quarters of the 19th Judicial District Court. We will honor our members who have passed over the year and, at the same time, welcome our newest members of the bar.

This is a tradition that we have neglected in recent years, but is of great importance. Our neighbors to the East and West do a much better job of this and we plan to change that this year. It is our goal to make sure you know about it, to make sure you are there and to make sure it is deserving of your presence. Please make an effort to be a part of this poignant tradition taking place in a brand new venue. ■



Fred T. Crifasi

# june bar luncheon

WEDNESDAY, JUNE 16, 2010 — DE LA RONDE HALL

## Speaker panel: Ed Walters, Vince Fornias, Gail Stephenson

The BRBA will hold its June Bar Luncheon Wednesday, June 16, 2010, from 11:45 a.m. to 1 p.m. at De La Ronde Hall. The Young Lawyers Section Council of the BRBA organized this month's bar luncheon, selecting a panel of speakers including Ed Walters, Vincent P. Fornias and Gail S. Stephenson to discuss the early days of *Around the Bar* magazine, including the stories behind some of the more controversial cover artwork.

Be sure to attend the luncheon so that you may ask the questions you've always wanted to know about the Baton Rouge Bar Association's membership magazine. *Around the Bar* is in its 25th Anniversary year, and this is one of the ways of marking this memorable occasion. Ed Walters has prepared a digital slide show that will feature many special



September 1985 — First issue of *Around the Bar* magazine

guest appearances by many of the local judges, Judge Guy Holdridge, Chancellor Freddie Pitcher, Jay Dardenne, Brian Jackson, Mike Rubin, Russell Jones, Anderson Dotson III, Mark Upton, Louis Curet, Sam D'Amico, Mary Joseph, Gracella Simmons, Fred Crifasi, Mary Olive Pierson, Jimmy Field and many others.

In addition, BRBA members who have contributed to *Around the Bar* in the last 25 years will be honored during the bar luncheon.

Admittance to the June Bar Luncheon is \$15 for BRBA members and \$25 for non-members,

in advance and at the door. VISA, MasterCard and American Express are accepted. Fax this form to 225-344-4805 before noon Friday, June 11, 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, June 11, 2010.

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☐ **YES**, register me for the **JUNE BAR LUNCHEON** at the DE LA RONDE HALL taking place Wednesday, June 16, 2010, at a cost of \$15 per BRBA member, and \$25 per nonmember. Reservations may be transferred, but not canceled, after noon Friday, June 11, 2010. "No shows" will be billed.

☐ **YES**, I am a past contributor of *Around the Bar*.

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# tales from the bar side

BY VINCENT P. FORNIAS

You just can't make this stuff up. This item comes from Stuttgart, Germany.

It appears that one Demetrius Soupolos had been diagnosed with sterility by his local urologist, and wanted very badly to have a child bearing his likeness by his ex-beauty queen wife, Traute.

I suppose artificial insemination would not do the trick because, after all, who knew what the looks of the donor might be? Then Demetrius had a brainstorm. There was his buddy, Frank Maus, who lived just down the street. A spitting image of him. He already had two children of his own, and from their looks, Frank had dominant genes. Why not pay him a few bucks and see what he could do? Please, dear reader(s), kindly avoid tacky turkey baster comments here. Let's try to keep a clinical attitude about this fascinating medical-legal exercise.

So the neighbors made a deal. For the Euro equivalent of \$2,500, Frank went to work, quite diligently, to attempt to impregnate the cooperative Traute. For six months.

## May I borrow a cup of . . .

Three times a week. That's like 72 times, for those of you keeping count. Mrs. Maus, who deserves some sort of award for being the Understanding Spouse of the Year, finally objected. In classic, "it's always about you, isn't it?" fashion, Frank heroically replied with a straight face, "I don't like this any more than you. I'm just doing it for the money. Try to understand."

Speaking of understanding, after half a year of unsuccessful nocturnal neighborly visits by the ever game Frank, Demetrius got either suspicious or impatient. He insisted that Good Neighbor Frank get his own urological examination, which he gladly did. Ouch. Sterile as a teutonic capon. It appears Mrs. Maus now had her own powerful explaining to do. So all of this, predictably, ended up in a German courtroom. Demetrius has sued Frank for breach of contract, and Frank's able lawyer is defending on the grounds that all his client warranted was – I love this – an honest effort. Just call it the old college try. Stay tuned. ■



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# membership corner

BY CARLA S. COURTNEY-HARRIS

As the 2010-11 chairperson for the membership committee of the BRBA, in determining the goals of the membership committee, I asked myself, "Why did I join the Baton Rouge Bar Association?"

The purpose of this section of *Around the Bar* is to give members of diverse backgrounds in our legal profession the opportunity to convey why the Baton Rouge Bar Association was an organization worth joining. Don't be surprised if you receive a phone call or e-mail from me asking you that very question. In fact, I welcome you to voluntarily provide answers to that question by e-mailing them to me at [ccourtney@hamsil.com](mailto:ccourtney@hamsil.com). In the meantime, I'll answer that very question myself.

I first became familiar with the BRBA while I was in high school. At that time, I participated in the high school Mock Trial Competition, which we won, and went to the national competition. I always kept a positive feeling about the bar association, way back from the 10th grade. After that, when I actually became a practicing lawyer,

## Why did I join the Baton Rouge Bar Association?

I knew that the mock trial competition was a program for which I had to volunteer — it truly helped solidify my career choice! In addition, programs like Holiday Star Project, Teen Court, and the Pro Bono Project were also very appealing to me as a service/civic-minded individual. Further, not only did the Baton Rouge Bar Association fulfill those desires, but it also provided socializing and networking opportunities! For me, it's actually silly to consider not being a member of the Baton Rouge Bar Association.

As chair of this committee, it is my goal to help make the BRBA such an organization for all attorneys, quite frankly, where it is silly not to be a member. I/We welcome your suggestions and look forward to bringing new blood in to mix with the wonderful "seasoned" blood that already exists at the Baton Rouge Bar Association. If you'd like to join the membership committee and aid in this endeavor, please contact Carla S. Courtney-Harris at [ccourtney@hamsil.com](mailto:ccourtney@hamsil.com). ■

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# Model appellate argument: Connecting the books with life — Oyez, Oyez, Oyez

BY PAUL R. BAIER

Thirty years ago I invited Harry McCall Jr. of Chaffe, McCall, New Orleans, to moot a case pending in the Supreme Court of the United States against a student in my appellate practice course at the LSU Law Center. After a generation, I want to alert the Baton Rouge Bar to the availability of an Advanced Appellate Advocacy Seminar at LSU Law Center. We call it the “Triple A” seminar. Lawyers with intellectually challenging appeals pending in court are invited to add “live cases” to our learning. *Kennedy v. Louisiana*<sup>1</sup> made an appearance at our table when the State’s petition for rehearing was pending. Whether the Supreme Court of the United States would revisit its holding that Louisiana’s death penalty for child rape is unconstitutional was a “hot topic,” to be sure.<sup>2</sup> I appeared as Counsel of Record for the Louisiana Association of Criminal Defense Lawyers, with G. Paul Marx and my former student Julie Hayes, in support of petitioner Patrick Kennedy. Justice Anthony Kennedy’s opinion for the Court quotes from our Paul M. Hebert Law Center amicus brief in Patrick Kennedy’s case. Stanford Law School has a Supreme Court Litigation Clinic. Why shouldn’t we?

## A Pedagogy of Practice and Professionalism

I want to invite the Bar to help our Advanced Appellate Advocacy Seminar nurture what a recent report of the Carnegie Foundation for the Advancement of Teaching calls “pedagogies of practice and professionalism that enable students to shift from the role of students to that of apprentice professionals.”<sup>3</sup> Such teamwork is good for the Bar. Such pedagogy is extraordinary for students and professor alike.

## The Triple A

Inviting real lawyers with real cases pending in appellate courts to rehash the record or rehearse the argument is good for the Bar and a “best practice” for appellate advocacy instruction. Such pedagogy adds a vital clinical component to our learning. It answers the call for



skills instruction in the law schools. Retired Louisiana Supreme Court Justice Harry T. Lemmon joins us in class as guest practitioner/professor.<sup>4</sup>

## *Hamilton v. Royal International Petroleum Corp.*

Fall Term 2006 featured Michael Hamilton’s plea to the Supreme Court of the United States, brought to the seminar by Danny McGlynn, pro bono publico. The seminar convened at McGlynn, Glisson, 340 Florida Street, Baton Rouge, to hear Michael Hamilton’s plea in person and to frame a legal strategy for rescuing him. At long last LSU law students had a real case in their law school curriculum. This was not clerking downtown after class. This was real life learning downtown in class. Imagine the excitement, after much agonizing among students, counsel, and professor, in the seminar’s framing, on *certiorari* to the Louisiana Supreme Court, the following:

## QUESTION PRESENTED

Louisiana’s Constitution provides a right to redeem property sold for delinquent taxes. The tax collector is required by statute to notify the property owner of the manner in which the property may be redeemed. The question presented is whether petitioner was denied due process of law when no notice of his right to redeem his property was afforded him by the tax collector and the Louisiana Supreme Court refused to annul the tax sale on the ground that the statute requiring notice set forth no penalty for its violation.<sup>5</sup>

The goal, of course, is to write the question presented so that the answer is obvious. Sadly, *certiorari* was denied.<sup>6</sup> The New York Court of Appeals has adjudged the same due process question, reaching results in conflict with the Louisiana Supreme Court’s decision.<sup>7</sup> Our legislature has since amended the law so as to “Satisfy the requirements of due process”<sup>8</sup> by recognizing an action to annul a tax

sale for failure of notice of the right of redemption.<sup>9</sup> But this change comes too late for Michael Hamilton, who at age 72 lost the home his father built, in which he had lived all his life. *Dura lex, sed lex*.

#### Joseph L. Waitz, Sr.

Fall Term 2007 featured *Linda L. Downer, Hunt B. Downer v. Fred Siegel*,<sup>10</sup> another “live client” component in the Triple A seminar, another “Pete for Cert.,” as Justice Holmes called the *certiorari*. Distinguished LSU Law School alumnus Joseph L. Waitz Sr. of Houma, Counsel of Record, joined us in the seminar on three occasions, adding “real life” to our table. This jolly country lawyer of enormous stature brought watermelons and peaches and a boxload of documents to the seminar. Mr. Waitz laid out a nightmare of securities fraud and road trips between state and federal court. He treated our seminar participants to dinner and a bellyful of conviction at Parrain’s Seafood, Perkins Road. He paid Janell Weil \$1,000 to draft the final version of the petition for *certiorari* under my supervision. Beyond hard-earned cash, Janell Weil earned a hard A in the seminar.

*Certiorari* practice is a specialty of the seminar. Framing the question presented is an art form, cutting a diamond if you will. Our seminar’s research indicated that Joe’s case was hopeless. He was bound by the iron-

clad rule of *Prima Paint Corp.*<sup>11</sup> Claims of securities fraud cannot be brought to court if the brokerage agreement contains an arbitration clause. To Joe Waitz’s amazement, it makes no difference that the securities, which turned out to be worthless, were sold for the broker’s personal benefit, independent of his brokerage company and outside the brokerage agreement.

But Joe Waitz is a mule. Joe taught our apprentice professionals a vital lesson. If the law is against you but it makes no sense, “never . . . never . . . never . . . surrender.”<sup>12</sup> Hugo Black’s mighty dissent in *Prima Paint*<sup>13</sup> lifted our spirits. Thereafter, Counsel of Record Joe Waitz laid the following diamond at the doorstep of the Supreme Court:

Whether *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U.S. 395 (1967), should be overruled.

Joseph Waitz Sr. voiced a loud “YES” in the seminar. We were rooting for him. What a joy, our guest octogenarian. But our seminar knew the chances of the Supreme Court reversing *Prima Paint* were, to put it mildly, not good. Or, as I have put it bluntly to a host of counsel inquiring about real losers, “You have about as much chance of *certiorari* being granted as a snowball’s chance on the far side of the River Styx.” In due course, *certiorari* was denied.<sup>14</sup>

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But the learning was deep. Most lawyers have no idea of *certiorari* practice. They call for help. As a result, I make this art form an important part of skills instruction in the Triple A.

#### “WE DID IT!!”

On the matter of cert. practice, Jarrett Ambeau’s Triple A success on the petition for *certiorari* in *Danny Ray Lee v. Cain*,<sup>15</sup> filed by LSU Law Center alumnus Jim Boren, was truly “impressive” as Chancellor Weiss wrote in a note of congratulations. Impressive indeed. Not only was *certiorari* granted but the U.S. Supreme Court reversed the adverse judgment below and remanded for reconsideration.<sup>16</sup> What was Jarrett Ambeau’s reaction? He briefed the merits and argued the cause in the Triple A: “WE DID IT!!”

#### 400 Royal Street

Two LSU Law Center alumni, my former student Kay Theunissen and Anthony Fazzio, mooted the constitutionality of Lafayette’s junk-motor-vehicle ordinance against students in seminar. Our clinical laboratory was *Phillips v. Lafayette Consol. Government*,<sup>17</sup> on direct appeal from a district court’s ruling declaring Lafayette’s Junk Motor Vehicle Ordinance unconstitutional. Pat Ottinger, my teaching colleague at the Law Center and Lafayette City Solicitor, brought this case to my attention. I knew from personal experience with junk-motor-vehicle ordinances that the case would be a challenging constitutional clinic for my seminarians.<sup>18</sup> Counsel mooted their arguments against my students on separate occasions. Thereafter when the case was argued in the Louisiana Supreme Court, we convened the seminar at 400 Royal Street to hear the real thing. Justice Kitty Kimball greeted us before the argument. Chief Justice Pascal F. Calogero Jr. welcomed our LSU’s Advanced Appellate Advocacy students to the courtroom. This was a nice gesture on his part. Some of my students had never been in the Louisiana Supreme Court. Some had never been in any court. Might as well start at the top.

This was 30 years after Chief Justice Sanders welcomed Harry McCall Jr. to the LSU Law Center. All the while, the art of appellate advocacy, the science of judging, continue to challenge those who come after.

#### On Mt. Olympus

One last “Oyez, Oyez, Oyez” for the Triple A. We finally reached Mt. Olympus. This, by way of papers filed in the Supreme Court of the United States in *Libertarian Party of Louisiana v. Jay Dardenne*.<sup>19</sup> On behalf of Louisiana’s Secretary of State, I prepared the response to an application for a stay submitted to Justice Scalia. We defended Judge Brady’s ruling adverse to applicants in the district court, affirmed by the Fifth Circuit. To the delight of our seminar and Secretary of State Dardenne, we were advised by Order: “The application for stay presented

to Justice Scalia and by him referred to the Court is denied.”<sup>20</sup>

Along the way, with Secretary Dardenne’s permission, I shared the excitement of the fight, the research, the drafting of our papers and the tension of anticipation with our seminar students. Really, it doesn’t get any better. ■

<sup>1</sup> 128 S.Ct. 2641 (2008).

<sup>2</sup> Louisiana’s petition for rehearing was filed on July 24, 2008, by Counsel of Record Neil Katyal, a Georgetown University Law School professor, now Deputy Solicitor General, U.S. Department of Justice. The Supreme Court held the petition into the Fall without taking any action. As a result, we made rehearing practice a topic of skills instruction in the Fall semester 2008. Rehearing was denied Oct. 1, 2008. 129 S.Ct. 1 (2008).

<sup>3</sup> William Sullivan et al., *Educating Lawyers* 129 (2007).

<sup>4</sup> Justice Lemmon and I have taught a similar course in Loyola University New Orleans College of Law’s skills curriculum for the past 16 years. Paul R. Baier & Harry T. Lemmon, *Lawyers in the Great Tradition: The Argument of an Appeal* (Loyola Law School Skills Curriculum, 16th ed. 2010).

<sup>5</sup> *Hamilton v. Royal Int’l Petroleum Corp.*, 05-0846 (La. 2/22/06), 934 So.2d 25.

<sup>6</sup> 549 U.S. 1112 (January 8, 2007).

<sup>7</sup> *McCann v. Scaduto*, 71 N.Y. 2d 164 (N.Y. 1987).

<sup>8</sup> Acts 2008 Reg. Sess., No. 819, La. Rev. Stat. 47: 2121 (A)(3).

<sup>9</sup> *Id.*

<sup>10</sup> No. 07-290, October Term 2007. Opinion below: 489 F.3d 623 (5th Cir. 2007).

<sup>11</sup> *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U.S. 395 (1967).

<sup>12</sup> To his credit, Joe Waitz, Sr., of Houma, has Winston Churchill’s conviction.

<sup>13</sup> “The Court holds, what to me is fantastic, that the legal issue of a contract’s voidness because of fraud is to be decided by persons designated to arbitrate factual controversies arising out of a valid contract between the parties.” 388 U.S. 407 (Black, J., joined by Douglas and Stewart, JJ., dissenting).

<sup>14</sup> *Downer v. Siegel*, 552 U.S. 1063 (2007).

<sup>15</sup> No. 07-1584, *Danny Ray Lee, Petitioner v. Burl Cain*, Warden, Louisiana State Penitentiary, Respondent, filed June 17, 2008.

<sup>16</sup> *Lee v. Cain*, 129 S.Ct. 995 (2009).

<sup>17</sup> 08-0922 (La. 12/2/08), 995 So.2d 1190.

<sup>18</sup> As a younger man I wrote a junk-motor-vehicle ordinance for the City of Cambridge, Mass., Ordinance No. 773 (Sept. 16, 1968). I was a lowly law clerk in the office of the Cambridge, Mass., City Solicitor, Philip Cronin, Esq. Delicate questions of the scope of the police power, private property and due process of law are involved. For old times’ sake, I keep a découpage copy of the ordinance, from its first publication in the Cambridge Chronicle-Sun, Aug. 22, 1968, on my office wall at LSU Law Center. The City Clerk advises me that Old No. 773 is still on the books. It has not, thank goodness, been declared unconstitutional.

<sup>19</sup> No. 08A269, October Term 2008. This case came to our seminar by way of Celia Cangelosi, “a tough lawyer,” as I have described her elsewhere. Celia and I defended the constitutionality of Louisiana’s minimum-age requirement for statewide office, 25 years of age, in a case involving Secretary of State Fox McKeithen. The litigation brought my constitutional law students to court to watch their professor practice what he preaches. I owe this early “live client” clinic to Celia Cangelosi and to Secretary of State McKeithen. When the Libertarian Party of Louisiana dragged Celia to the Supreme Court, kicking, mind you, she called upon me to ride along as her constitutional Sancho Panza. In turn, the Triple A seminarians rode along with us.

<sup>20</sup> For the docket entry, see <http://origin.www.supremecourt.us.gov/docket/08a269.htm>.



# An old mediator's thoughts for the young lawyer

BY MYRON "MIKE" A. WALKER JR.

I came out of law school (many, many years ago) fully subscribed to the image of "lawyer-as-gunslinger." Compromise was not part of the picture.

Mellowed by the passage of time, dents in my ego, weariness, senility, and hopefully some wisdom, I have come to see that for the person who really matters, the client, litigation is simply not a happy first alternative.

When mediation first came on the scene (I know. I was there. I'm old.), it was met with pretty widespread skepticism by the legal profession. It is now universally accepted as being eminently preferable to litigation in the vast majority of cases. Insurers like it because it closes files and avoids claim expense. Plaintiffs like it because they get their money sooner. Lawyers like it because they get to watch widescreen television and let the mediator do their dirty work. (Mike Rowe soon to do a "Dirty Jobs" TV show on this).

So as a new lawyer, all primed for litigation and with a belly full of fire, what can you do to get into the mode of compromise? Herewith are a few pointers that will hopefully help your mediations proceed smoothly:

## Pre-mediation

A. Know your case – if you have problems, discuss them objectively with your client. Expectations in mediation should not include "hitting the lottery."

B. Communication among lawyers – nothing is more difficult than trying to mediate among parties who cannot even agree on what the case is about. You should be on the same page with the attorneys in the case if you are going to mediate. If not, you should make every effort to get there.

C. Housekeeping – the lawyers in the case should all agree ahead of time on the mediator, the duration of the mediation, where it will be, who will be there (particularly adjusters) and how the cost of mediation is to be handled.

D. Evidence – with the exception of impeachment material, it is crucial that all sides share their entire universe of evidence. Additional items (like another MRI or surgery) first made known at the mediation almost inevitably prevent settlement.

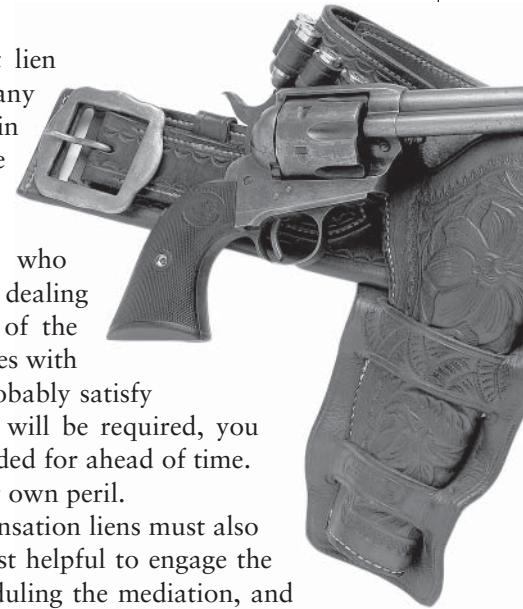
E. Liens – perhaps the most vexing problem faced by parties and mediators today. In the case of Medicare or Medicaid, you should communicate very early in the

case with the relevant lien holder. It often takes many months for Medicare, in particular, to provide a figure for its lien claim. There are a number of companies who now specialize in dealing with Medicare ahead of the mediation to arm parties with a figure that would probably satisfy the lien. If a set-aside will be required, you should have that provided for ahead of time. Ignore this step at your own peril.

F. Workers' compensation liens must also be dealt with. It is most helpful to engage the comp adjuster in scheduling the mediation, and to have a complete printout of all expenditures by the compensation carrier, both as to indemnity and medical, and to see that arrangements are made for Medicare set aside, if one is called for. Be aware, however, that recent experience has shown that some carriers will be very difficult to deal with no matter what you do, and often will be the biggest stumbling block in achieving a mediated settlement. Talking to them ahead of time may prevent unpleasant surprises at the mediation.

G. Position papers — preferably, these should be no more than four to five pages, identifying issues, strengths, weaknesses, "hot buttons" (like an extremely angry insurance adjuster, or a client with a very checkered background) and imminent trial or motion dates. Bear in mind that you do not need to try the case to the mediator. That tactic is of minimal effectiveness. More useful to the mediator is information that may cause for concern or optimism if the case goes to trial, or external factors that may drive the negotiations.

H. Pre-Mediation Negotiation – exchanging demands by all involved can be very helpful in "jump starting" the mediation. Arriving on the day of the mediation to find that the plaintiff is at \$2,000,000, the defendant



I came out of law school (many, many years ago) fully subscribed to the image of "lawyer-as-gunslinger." Compromise was not part of the picture.

is at \$2,000, and the comp lien is not negotiable at \$380,000 is a sure recipe for failure. It is essential that the attorneys shed their adversarial roles and become collaborative in endeavoring to position the case so as to have a reasonable chance of success at mediation. This does not mean surrendering your strongly held positions, but requires mutual agreement that neither side can guarantee the result it hopes to achieve at trial. It has been my experience that the plaintiff's and defendant's versions must somewhat overlap in order for the case to have a reasonable prospect for settlement.

My partner, Scott Love, has a very good article on preparing your client for mediation, which can be found in the June 2008 issue of *Around the Bar*. If you need it, Scott or I can provide a copy or you can obtain one from Lisa Scalise at Perry Dampf Dispute Solutions — 225-389-9899.

#### At the mediation

A. The Cast - The lawyers, adjusters and mediator will all be very comfortable. Your lay client, however, will feel like he or she is being waterboarded. A certain amount of acclimatization, therefore, is in order, which many mediators will handle by directing their opening remarks to the lay persons in the room. After the openings, though, you as the attorney should collaborate with the mediator in caucus, in an attempt to position the mediation to a point at which it will be difficult for the client to walk out on the negotiations at the end of the day. It is of paramount importance, though, that clients always know that the decision to settle, or not to settle, is theirs and theirs alone.

B. Your mindset – many lawyers simply treat mediation as they would a trial. In my experience, those attorneys who are most successful at mediating realize that mediation is an art and discipline unto itself, wholly separate from trial. These lawyers come to the mediation to openly

and objectively explore possibilities for compromise. They recognize, wisely, that they can “put the gloves back on” if their clients cannot reach a settlement. They also recognize that in order to mediate effectively, one must act collaboratively for the day. Adversarial approaches are not conducive to successful mediations. Leave the chest-pounding at home.

C. Mediation Calisthenics – Be prepared, whether plaintiff or defendant, to discuss practical considerations

with your client. Here you must be brutally objective about your case (this will be strictly confidential) and take off your “advocate” hat. In addition to exposures that may be faced at trial (for plaintiff or defendant) some of these are: (1) best and worst possible trial outcomes; (2) median (6 out of 10) verdict range; (3) expense of going to trial; (4) time remaining from mediation to trial; (5) highest/lowest verdicts court of appeal will not disturb (assuming an otherwise clean record); (6) plaintiff: lowest verdict you would sustain without recommending an appeal to your client; defendant: highest verdict you would sustain without recommending an appeal to your client, solely on quantum basis, assuming otherwise clean record; (7) cost on appeal; (8) time to completion of appeal and ability to collect/pay judgment (in some circuits this is two years or more); (9) cost and time if either party applies to the Supreme Court.

There are other factors of course, but the foregoing helps the non-lawyer understand the very real distinction between settlement value and “what the case is worth.” I recently mediated a case in which plaintiff's counsel stated that \$125,000 would be in the low end of the verdict range, but still in the median verdict range. Defendant had offered \$125,000, but the client wanted \$180,000. The defendant was packing up to leave the mediation. I asked plaintiff's counsel to assume that he went to trial, got a verdict of \$125,000 (the amount on the table), and the case was appealed and then collected. I then asked the plaintiff attorney to do his disbursement sheet based upon this hypothetical verdict. That analysis yielded a net of \$75,000 to the plaintiff, but 18 months into the future, after adding interest and deducting expenses of trial, appeal and attorney's fees. I then asked the plaintiff's attorney to do a hypothetical disbursement of the same amount, assuming it had been accepted at settlement and was received within 30 days. This analysis yielded \$72,500 if the case settled with the money being disbursed within 30 days. The client exclaimed, “Eighteen months for \$2,500? Take the money!” While the client characterized the decision as a “no brainer,” the foregoing “mediation calisthenics” had to be discussed thoroughly before he arrived at that epiphany.

#### What are we here for?

As a young lawyer, it helps to keep in mind that mediation is not about “winning.” On the plaintiff's side, it is about arriving at an acceptable (if not perfect) solution, closure and removal of stress from one's life. For an insurer, it is closing the file at an acceptable (if not perfect) figure. For both, it is about avoidance of significant stress, delay, expense and a bad result at trial. Unpredictability of juries is, and ought to be, a significant factor in the decision to settle.

Finally, a word about the power of humanness, humility

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and forgiveness. I recently mediated a tragic case in which an attractive, single, 29-year-old kindergarten teacher had been injured by a piece of falling gym equipment. The gym owner had failed to bolt the equipment to the floor. Her injuries included the following (not a complete list):

- Loss of right eye – there was a hole in her head where the eye had been;
- LeFort III Maxillary Fracture – complete detachment of the bony structure of the face from the skull; The surgeon is able to manually pick up the face and move it around on the skull;
- Loss of sphenoid wings bilaterally (the sphenoid wing is a complex, roughly butterfly-shaped bone that goes from one temporal bone of the cranium to the other, articulating in between with the ethmoidal spine, the olfactory lobe, the frontal bone of the cranium, the occipital bone of the cranium, many of the 12 major cranial nerves, the palate and roof of the mouth, the sense of taste, smell, and the dental structures of the cranium);
- Blowout fractures: orbital rim, right eye; roof of mouth into nasal floor; maxillary sinus into anterior cranial fossa;
  - Over 50 plates and screws in her face and skull;
  - Nose completely crushed;
  - Numerous reconstructive and plastic surgeries ahead of her.

#### GAIL'S GRAMMAR

To *entitle* is to give the right to claim something. To *title*, however is to give something a name. Casually, *entitled* is often used to mean *titled*. But for formal writing, use *entitled* only when referring to a right.

EXAMPLE: He is *entitled* to two hours of CLE credit because he wrote the article for *Around the Bar* *titled* "An old mediator's thoughts for the young lawyer."

Fax ideas for future "Gail's Grammar" columns to 771-5913, call Gail at 771-4900, ext. 216, or e-mail her at [Gstephenson@sulc.edu](mailto:Gstephenson@sulc.edu).

The young woman's anger, and that of her parents, completely precluded any attempt at commercial discussions. They literally wanted a pound (or more) of flesh from the defendant gym owner.

It being obvious that we could not mediate the case without dealing with this issue, we decided to call the gym owner, a young man who until the accident had been a personal friend of the plaintiff. He agreed to come to the mediation, whereupon all gathered in the same room. After much venting by the plaintiff and her parents and much heartfelt apology and regret by the gym owner, the young lady and the owner ended by embracing.

There was not a dry eye in the room.

Amazingly, the hostile energy was thereby taken out of the equation, and the case went on to settle. But I will never forget the lesson it taught me, which I believe is one from which all of us can benefit in mediation (or law practice or life, for that matter):

At bottom, we are not about impressing others with our lawyerly skill and sophistication. Rather, our highest and best calling is to represent our clients competently and well, while yet exercising our humanity and humility to enable us to allow those with whom we deal to preserve their dignity, and as a result, their respect for what we do, no matter the outcome of the mediation. ■

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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	\$7,250
Contracts	Rescission of sale; monetary damages	Bench	\$957
Medical Malpractice	Ulnar neuropathy of right hand	Jury	Defense
Negligence	Monetary damages	Bench	\$30,562
<u>U.S.D.C., M.D. La.</u>			
Fraud & Misrepresentation	Monetary damages	Settlement	\$29,449

## West's Case of the Month

### Couple Collects \$30.5K From Company Due to Mold Contamination in Home

*Russell v. Abatement Servs. Inc.*

#### TYPE OF CASE:

Negligence-Other  
Construction Defects • Mold  
Personal Property • Damage Personal Property  
Contracts • Breach

**SPECIFIC LIABILITY:** Mold removal company failed to properly isolate mold contaminated area prior to demolition, causing contamination to the rest of the residence

**GENERAL INJURY:** Monetary damages

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

**DOCKET/FILE NUMBER:** 505,267

**JUDGMENT:** Plaintiffs, \$30,561.96

**JUDGMENT DATE:** Dec. 8, 2009

**JUDGE:** R. Michael Caldwell

#### ATTORNEYS:

*Plaintiffs:* Sean D. Fagan and Locke Meredith, Locke Meredith, Sean Fagan & Jeff Nicholas, Baton Rouge; Sean D. Fagan, Law Offices of Locke Meredith, Sean Fagan & Associates, Baton Rouge; John L. Dardenne Jr., Kennon, Odom & Dardenne, Baton Rouge

*Defendant:* Douglas K. Williams and Lauren M. Smith, Breazeale, Sachse & Wilson, Baton Rouge

**TRIAL TYPE:** Bench

#### BREAKDOWN OF AWARD:

\$30,561.96 to plaintiffs for damages

#### SUMMARY OF FACTS:

William E. Russell, MD, and Deborah S. Russell, MD, said their home located on Highland Road in Baton Rouge, La., had major problems with water and mold infestation. The problems were allegedly caused by negligent work performed by a heating, air conditioning and ventilation company, which had been servicing the home for a few years.

In January 2002, the Russells hired Wynn L. White Consulting Engineers to inspect and identify areas with mold and estimate the cost of remediation. White reportedly concluded there was a presence of Stachybotrys, a reportedly dangerous

and hazardous mold, in the home. The Russells said White suggested exploratory demolition of a water closet in the home to locate and stop the source of moisture that he believed was causing the mold.

The Russells said they hired Abatement Services Inc., at the suggestion of White, to perform demolition and remediation of the mold in March 2002. The Russells asserted they had agreed to proceed with the remediation work based upon a plan by White and Abatement Services to contain the mold and not expose other areas of the house.

According to the Russells, when a worker from Abatement Services performed work on their property on March 19, 2002, he failed to properly isolate the area and opened the contaminated area under the intake of the HVAC system servicing the house, which resulted in the entire home being exposed to mold spores.

The couple said they were forced to evacuate their home until the entire residence was cleaned. They filed a lawsuit against Abatement Services Inc., individually and on behalf of their minor children, in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, alleging the company was liable to them for the emotional distress and the inconvenience they had endured as a result of its employee's alleged negligent actions.

They also sought compensation for their expenses for dry cleaning, food, lodging, replacement of personal items, and cleaning services, totaling \$62,531.57. The plaintiffs further sought compensation for expenses in retaining a mycological expert to perform fungal evaluation to ensure the home was safe for them to return to and to ensure the home had no long-term problems.

Abatement Services answered by generally denying the plaintiffs' allegations. The Russells' alleged damages resulted from third-party fault and the plaintiffs' failure to mitigate damages, the defendant said.

The defendant subsequently filed a motion for partial summary judgment on the Russells' claims for emotional distress and mental anguish. Abatement Services argued the Russells were unable to prove they were entitled to damages for mental anguish; furthermore, the defendant asserted the plaintiffs' claim was essentially one for breach of contract, which did not allow mental anguish damages.

The court granted Abatement Services' motion for partial summary judgment for the plaintiffs' claims for emotional distress and mental anguish in a judgment signed May 30, 2007.

The matter proceeded to trial in August 2009. Judge R. Michael Caldwell entered judgment in William and Deborah Russell's favor in a judgment signed Dec. 8, 2009, assessing their damages at \$30,561.96. The court ordered the defendant to pay court costs and legal interest from the date of judicial demand.

**CASE CITE:** *West's J.V. La. Rep.*, Vol. 5, Iss. 9, p. 12 (2010); 2009 WL 5910505

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# Off the Bench — Preston J. Castille Jr. talks about his time on the bench

BY LEXI HOLINGA

## VITAL STATISTICS

**Age:** 43

**Position:** Partner, Taylor Porter; Teaches Pretrial Litigation at the LSU Paul M. Hebert Law Center and Louisiana Civil Procedure I and II at the Southern University Law Center;  
Served as a Baton Rouge City Court Judge (Jan. 1-May 4, 2009)

**Born & Raised:** in Opelousas, La.

**Education:** Southern University; Tulane Law School

**Married to:** Marian Caillier Castille

**Children:** Three

*ATB: You served as a Baton Rouge City Court Judge Pro Tempe from Jan. 1 to May 4, 2009. How were you selected to fill this seat?*

Castille: Chief Justice Kimball called and asked if I was interested. I, of course, needed to discuss the opportunity with my family and firm before agreeing. After getting the green light, I then let Justice Kimball know I would accept the appointment if offered. She was then kind enough to present my name to the Supreme Court and my appointment was approved.

*ATB: Were you able to continue practicing while you served on the bench?*

Castille: Full-time City Court judges cannot practice. But, because I was temporary, I was able to practice law. My intent was to take a leave of absence from my firm and practice. But a couple of dormant cases started to heat up once I took the bench, so I ended up juggling both at the same time

*ATB: How did you juggle both your private practice and being on the bench?*

Castille: Although I could still practice, I could not make court appearances in cases pending in courts that had appellate jurisdiction over Baton Rouge City Court. I could, however, practice without limitation in other jurisdictions and I managed to stay quite busy with other cases and the transactional portion of my practice. I ultimately had to step down about a week earlier than planned because I had an oral argument before the Louisiana Supreme Court on May 5th. I have to admit I felt much more confident during my oral argument knowing that I had been a judge just the day before.

Frankly, in the beginning, it was also a little challenging remembering when I was the judge or the lawyer. For

example, during a hearing on a motion in CDC a few weeks into my term, I began my argument to the judge by saying, "Good morning, counselor ...." Fortunately, she knew I had been serving as judge *pro tempore*, laughed and thought it was funny. Eventually, I managed to settle into the two roles.

*ATB: Did you preside over both civil and criminal cases?*

Castille: Yes. The five judges do a rotation among five courtrooms — (1) civil trials, (2) a criminal trials and multiple offenses, (3) criminal trials and DWI cases, (4) arraignments and traffic and (5) duty week.

*ATB: How did the position you filled become open?*

Castille: Judge Trudy White was elected to the state court bench. She ran against Judge Curtis Calloway and she took office in January 2009, which left her seat on Baton Rouge City Court vacant. Judge Kelli Terrell Temple has since been elected to this seat.

*ATB: Did you ever have the occasion to bang your gavel?*

Castille: Actually I never had a gavel. So I guess I never found that I needed one. I know that sounds strange, but I had a great courtroom deputy and set of legal secretaries. They did a fantastic job. Every morning before I took the bench they had already spoken to the audience and laid out all the rules. If I ever had a problem, it was taken care of immediately by the deputy or the staff.

Most people don't realize that City Court is such a well-oiled machine. The judges have two legal secretaries who go to court with the judge and do a great job of handling most issues before they get to the judge. It is truly like being a conductor of a symphony. If organized the way it



should be and everybody does their part well, the judge is able to give his or her undivided attention to major issues and litigants. In fact, I had really forgotten I didn't have a gavel until the last week.

I did find that people conformed to their environment. I would always address my audience every morning and communicate any delays. There is a large volume at city court. For many people it's their first opportunity to be involved with the justice system and most aren't represented. So it was important for me to share what was going on with them periodically, which was a tip the other city court judges gave me before I took the bench. The other judges were extraordinarily helpful and were always willing to offer good advice.

*ATB: What percentage of those before you were unrepresented?*

Castille: It was rare for those in traffic court or small claims to have a lawyer. Maybe half of the parties on the regular civil docket were represented. However, the large number of defendants who are unrepresented on the criminal docket was shocking. Even more shocking was the number of young people entering the criminal justice system through City Court. Unfortunately, I got to see up close just how troubled our society is becoming, particularly for a certain segment of our community. It was not unusual for an 18-year-old man or woman to come into court with a misdemeanor charge. All too often the young man or woman already had more than one child, was unmarried, not employed and not in school. My immediate thought was always what chance will their children have of success with so much stacked against them. City Court seemed like the last opportunity, however, to perhaps reach some of the young adults before they graduated to more serious offenses. On the other hand, I also got to see just how human we all are as I saw many of our own children, clients and colleagues in court for various different reasons. The experience was quite humbling.

DWI court was quite different from any of the other weeks. Although most defendants in DWI court were represented, I saw an overrepresentation of our city's college students and women in DWI court. I remember giving a talk at career day at LSU and commenting during my presentation about seeing too many of their schoolmates in DWI court. Some of the students simply chuckled. But, a young lady approached me after the talk crying. A high school friend had been killed by a drunk driver and she asked me to be as tough as possible with the DWI defendants who came before me. That conversation was a reminder of the incredible responsibility judges have and that, even at the City Court level, their decisions have life and death consequences.

*ATB: What was your day like in the office?*

Castille: Of course, mornings were dedicated to court. Duty week began at 8 a.m. with jail call out for inmates with matters pending before the court. The remainder of the day in court was the regular civil docket of evictions, J.D. exams, motions, exceptions, other rules and small trials. Court in every other courtroom, *i.e.*, civil, arraignments, and criminal, began at 9 a.m. Every day there was a new stack of files that didn't require court appearances to be read and ruled on. I would try to read as many of those as possible before taking the bench. If there were no trials scheduled for the afternoon, I generally spent my afternoons reviewing files and signing orders. After finishing at the courthouse, I would go to my law firm to get as much office work done there as much as possible. My clients were very understanding, but still wanted their files worked on as well.

*ATB: Did a law clerk assist you?*

Castille: Yes. The law clerks at city court are full-time law students and part-time employees. I had two clerks during my short stint who did a great job of reviewing files and making recommendations on rules for rule day. While we did not always agree on what the ruling should be, it was great knowing that, as the judge, I made the final decision. I have to admit I really miss that part of being on the bench.

*ATB: Is there anything that you took from this experience that helped you in your practice of law?*

Castille: I learned to be practical. Lawyers often write far more than they need to and assume that judges have time to read everything. Help the judge. The judge, and her law clerk, is trying to come up with an answer as quickly as possible so that she can move on to the next file. The quicker you can get to your point, whether in brief or oral argument, the judge will greatly appreciate it and likely understand it better. If there is anything you don't need to say, don't say it. I preferred reading memos and briefs with good headings. I know it is not the normal way to write a memo in city or state court, but if lawyers used a table of contents or clearly summarized their arguments in the beginning of the memo, it would be so helpful. I think it would force them to succinctly organize and present their arguments. My writing style has certainly changed because of my experience of reading so many memos of other lawyers and trying to come up with the "right" answer. Most judges make their decision before going onto the bench. On rule day, I would have my rule written out before I got to the bench. Occasionally, I was persuaded to rule differently – maybe in cases where there was testimony or there was some fact or law that was not discussed in the memos, but 90 percent of the time,

I made decisions on the briefs before walking into the courtroom.

*ATB: How has this experience changed you as a person?*

Castille: I certainly have learned to be a better listener and to consider all sides of every conflict very carefully and then be decisive. A judge is required to simply rule on the law and the evidence. Of course, applying the law to the facts does not always seem fair to the person who loses. As a judge, there are lots of cases and conflicts to be resolved so I quickly learned to be decisive, but be as compassionate as possible. I know that sounds a little like a cliché, but as an example, it was tough to evict a family from their home when they had not paid their rent. The landlord wanted her money because she probably had a mortgage to pay and the tenant wanted a place to stay. As the judge, you just learn to make tough decisions, give parties an opportunity to be heard and, when possible, attempt to explain the rationale behind your rulings. There is something cathartic about giving an aggrieved party an opportunity to be heard and sometimes that's half the battle. That's true in life as well.

*ATB: Did your experience persuade you to seek a full-time judicial position?*

Castille: Candidly, it has inspired me to be a better lawyer. I enjoy being in the courtroom and litigation. My career is great right now. I get to teach a little at the law schools, sit on the bench occasionally and have a great time being a trial lawyer. I'm not sure I want to mess up a good thing at this point in my life, but who knows what the future holds.

*ATB: Which one was more stressful – private practice or serving on the Bench?*

Castille: The judges won't like this answer, but being a lawyer is more stressful. One simple reason – you don't get in trouble for missing deadlines as a judge, or should I say as much trouble. The pressures of making deadlines and managing clients are intense. While I know I have a busy practice, I had lawyers in my courtroom who had 10 or more matters all set for the same day in different courtrooms in city court and state court. Managing a practice is an incredibly difficult job. I am fortunate to have a great firm to practice with and my experience on the bench has given me a much deeper appreciation for how challenging it is for our many solo practitioners who also have busy practices. Sorry, judges. ■



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# bar news

BY LESLEY GILLET

## BRBA members receive pro bono awards

Mathile W. Abramson, Cynthia N. Reed and JoEdna P. Roberts were recognized for their past contributions to pro bono by the LSBA at the Louisiana Supreme Court in New Orleans Tuesday, May 25, 2010.

BRBA Past President and partner with Kean Miller, Mathile W. Abramson was awarded the Friend of Pro Bono Award. She devoted more than 50 hours of service in 2009 to the development and implementation of the Child In Need of Care (CINC) Program for Louisiana.

Cynthia N. Reed, the director of Continuing Legal Education and Alumni Affairs at Southern University Law Center, has been awarded the Pro Bono Publico Award for her untiring service to the Pro Bono Project and countless hours of pro bono service in the Greater Baton Rouge community.

JoEdna P. Roberts, a solo practitioner, died Nov. 14, 2009. She was selected posthumously for the Friend of Pro Bono Award. Roberts was a volunteer with Thirst for Justice legal clinics, Ask-A-Lawyer workshops, Wills for Heroes and the Volunteer Committee.



Abramson



Reed



Roberts

## YLS to hold Summer Sizzlin' CLE Friday, July 16

The Young Lawyers Section Council is holding its annual Summer Sizzlin' Continuing Legal Education (CLE) Seminars Friday, July 16, at the Middleton Bar Center, 544 Main St. Four hours of CLE seminars will be available, including ethics and professionalism. This year the seminar has been organized by YLS council member Lyla Neelis DeBlieux. Catherine Giering is the 2010 chair of the YLS Council. For more information contact Susan Kelley at 225-214-5559 or susan@brba.org.

## BRBA softball tournament to be held in August

The BRBA's Athletic Committee will host its annual softball tournament Friday, Aug. 20 and Saturday, Aug. 21, 2010, at the Highland Road BREC Park. This is a great way for the bar members to come together for a day of fun competition. Marucci Sports donates a customized Marucci bat each year to be given to the winning team of



PHOTO BY PAMELA LABBE

BRBA members were given the opportunity to participate in an improv workshop hosted by a cast member of Chicago City Limits, a NYC improv/comedy troupe that performed at the Manship Theatre at the Shaw Center for the Arts Friday, April 23, 2010. A great time was had by all.



PHOTO BY PROVIDED BY THE ABA

ABA President-Elect Steve Zack, Preston J. Castille Jr., Ann Gregorie Scarle and ABA President Carolyn Lamm attended the ABA's Bar Leadership Institute March 10-11, 2010, in Chicago.

the tournament. Start planning your team today so that you can participate in this year's tournament. The 2010 BRBA Athletic Committee Chair is Luke Williamson. To register for a team, contact Ann Gregorie Scarle at 225-214-5563 or ann@brba.org.

## 25th Annual BRBA Law Expo & September Bar Luncheon to be held Wednesday, Sept. 8

The Belle of Baton Rouge Casino & Hotel (formerly known as The Sheraton) will be the location of the BRBA's September Bar Luncheon, which takes place along with the annual Law Expo.

H. Alston Johnson III will be the guest speaker during lunch. Prior to lunch, the BRBA will host an Ethics CLE seminar and a Professionalism CLE seminar, both FREE to attend for BRBA members who pre-register and visit booths during the event. A reception will follow the Law Expo from 5 to 7 p.m. at the Middleton Bar Center. Chairing this year's Law Expo Committee are Jennifer Decuir and Cherie Lato. For more information, contact Pamela Labbe at 225-214-5560 or pamelal@brba.org.

## June 16 Bar Luncheon to be held at De La Ronde

Sign up early to attend the BRBA June Bar Luncheon Wednesday, June 16, 2010, at De La Ronde Hall. Deadline is Friday, June 11, 2010. Questions? Call 225-344-4803.



## Interview with YLS Chair Catherine Saba Giering

Having been involved with other young lawyer sections, Catherine “Cathy” Saba Giering knew the BRBA’s Young Lawyers Section Council was the first place she should turn when she sought to become involved in the Baton Rouge lawyer community.

As 2010 YLS Council chair, Giering said that, as a group, the Council hopes to increase young lawyers’ participation in the bar, including BRBA luncheons, Cocktails with the Court, the Opening of Court Ceremony and the Belly Up with the Bar event. The YLS Council applauds those young lawyers who have taken active roles in the bar and hope to encourage those who have not yet done so to participate in the activities offered by the YLS.

Giering believes the Baton Rouge community of lawyers is fortunate to have a cohesive organization that works hard to service the group’s collective needs. “The BRBA fosters camaraderie and a sense of community among its lawyers,” Giering said.

Giering has been practicing with Crawford Lewis since 2004 and became a partner in 2008. She earned her B.A. in English in 1996 from LSU and minored in the Russian language, Russian area studies and business administration, then attended the LSU Paul M. Hebert Law Center and graduated in 1999.

Giering’s first clerkship was with deGravelles, Palmintier and Holthaus. She considers Mike Palmintier her first mentor and credits him for making a big difference in her legal career. “After my first year of law school, I began to question whether I really wanted to do this. Then, I began working with Mike Palmintier and saw the actual practice of law,” Giering said. “Mike is very generous with his law clerks—teaching along the way and taking the time to explain what is happening with each case.” She learned volumes from Palmintier, and he and his family are dear friends to this day.

After graduating from law school, Giering began practicing with Laborde & Neuner in Lafayette. She worked closest with Frank Neuner, who taught her the business side of practicing law and instilled the importance of doing everything well, from a cover letter to a brief. Giering considers Neuner a mentor and believes Neuner’s work ethic and commitment to the legal profession made a lasting impression on her. The value of volunteering in the community and giving back to the profession was impressed upon Giering then, and she believes this carried



Catherine Saba Giering

over to Baton Rouge when she began practicing here in 2004.

Giering was born in Portland, Ore., and claims Winnsboro, La., as home. She has three older siblings—Cindy, David and Suzy. Giering’s siblings are all married and have children. Cindy and her family live outside of Lafayette, and she is a mom of seven. David’s family lives in Reston, Va., and has two daughters. Suzy’s family lives in Portland, Ore., and her oldest son plays

professional baseball for the Phillies.

Giering met her husband Edmund in the fall of 1995, when they attended a selection session for the Leadership LSU class for the upcoming year. A mutual friend introduced the two and, in the course of their conversation, they discussed how she was in the process of applying to law school and he was a new lawyer. “A few days later, Edmund sent me a note and the book *One L* by Scott Turow,” Giering said. Their first date was in October 1995, and they married April 20, 2001.

Cathy and Edmund have two children, Jake, who will be four in August, and Cate, who will be a year old in August. Cathy says they are both “a delight and full of laughter.”

Like most career moms with young children, Giering admits that balancing family and work requires organization and is an ongoing struggle. It is a team effort for the Gierings, and she is thankful for the great examples at Crawford Lewis – Keely Scott, Mary Erlingson, Cathy St. Pierre, Leigh Groves – and the firm’s flexibility and support.

Giering serves on the Junior League of Baton Rouge and is the upcoming Policy Governance Chair. Giering is also a supporter of the downtown YMCA and is a past chair of the Charles Lamar YMCA Board of Directors. She also serves with BRBA members Leo Hamilton and C.J. Blache on the River City Jazz Coalition. In her free time, Cathy enjoys spending time with friends, reading, traveling and running around the LSU lakes. ■

# foundation footnotes

PRO BONO PROJECT AND TEEN COURT REPORTS— APRIL 2010

**PRO BONO PROJECT REPORT** — We would like to extend a special thanks to all of volunteers who donated time to the Pro Bono Project in April.

Thirst for Justice volunteers were **Samantha R. Ackers; Terry Bonnie; Daina Bray, *Phelps Dunbar*; William Coon; Byron Kantrow; Alexis Luker; Allen Posey; Judge Melvin Shortess (Ret.); Stephen Strohschein, *McGlinchey Stafford, PLLC*; and James A. Wayne, *Capital Area Legal Services Corporation*.**

The law student intake volunteer was **Jennifer Shirley, *LSU Paul M. Hebert Law Center*.**

The Baton Rouge Bar Foundation Spring Interns were **William Matherne and Trang Nguyen.**

Ask-A-Lawyer workshop volunteers were **Barbara Baier; Jason Brown; Crystal French; Todd Gaudin; Etta K. Hearn; Allen Posey; Dan Schaneville and Alvin Washington.**

Attorney volunteers who accepted cases in April included **J. David Andress, *Grand Law Firm*; William Coon; Karen Green; Author Joiner; Kina Kimble; Gary McKenzie, *Steffes, Vingiello & McKenzie*; Lolita Whitmore; Kathleen Wilson; T. MacDougall Womack, *Taylor Porter*.**

*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.*

**TEEN COURT REPORT**— **Barbara Baier, Tomeka Gilbert, Weldon Hill, Tavares Walker and Jeff Wittenbrink** served as judges for the April 2010 hearings. **LaKeisha Gray, *Southern University Law Center* student, served as a jury monitor. Judge Darrell White (Ret.) performed the swearing in ceremony for the Teen Court training session Saturday, March 6, 2010.**



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.

Teen Court participants took part in a Community Service Learning Day April 1, 2010. Participating teens discussed the value of giving back to the community, cleaned the vacant lot adjoining the Bar Association and learned about job-seeking skills.

Volunteers are needed to give presentations throughout the summer to our Teen Court defendants. Topics covered will include bullying, peer pressure, job-seeking skills, triggers and crime and consequences. We have Streetlaw materials that can be used for these presentations. Volunteers are also needed to serve as judges for the Teen Court hearings. If you are interested in volunteering, please contact Donna Buuck at 225-214-5556 or donna@brba.org.

*Teen Court of Greater Baton Rouge is funded by a grant from the Louisiana Office of Juvenile Justice (formerly the Office of Youth Development), a grant from the Louisiana Bar Foundation's IOLTA program and from the Baton Rouge Bar Foundation. This project is also supported in part by Grant No. 2009-JF-FX-0059 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

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Hon. Freddie  
Pitcher, Jr.  
(Ret.)

**Free monthly breakfast CLEs: 7:45am - 8:45am**

#### **BATON ROUGE:**

**8550 United Plaza Blvd. • 1st Floor Conference Room**

**June 18, 2010 (new date): Evidence in the Personal Injury Update**  
**Speaker: Michael J. Moran**

**July 30, 2010: Structured Settlements**  
**Speakers: Kelli C. April & Keith M. Christie**

**August 27, 2010: Civil District Court Pre & Post Katrina: A View From the Bench**  
**Speaker: Hon. Nadine M. Ramsey (Ret.)**

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



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

## Duty Court Schedule

### 19<sup>TH</sup> JDC CIVIL COURT

May 24-June 4	Judge White
June 7-June 18	Judge Morvant
June 21-July 2	Judge Kelley
July 5-July 16	Judge Hernandez
July 19-July 30	Judge Clark

### 19<sup>TH</sup> JDC CRIMINAL COURT\*\*\*

May 28-June 4	Judge Marabella
June 4-June 11	Judge Anderson
June 11-June 18	Judge Erwin
June 18-June 25	Judge Jackson
June 25-July 2	Judge Daniel
July 2-July 9	Judge Moore
July 9-July 16	Judge Johnson
July 16-July 23	Judge Fields
July 23-July 30	Judge Marabella

### BATON ROUGE CITY COURT\*

May 31-June 6	Judge Wall
June 7-June 13	Judge Alexander
June 14-June 20	Judge Ponder
June 21-June 27	Judge Davis
June 28-June 4	Judge Temple
July 5-July 11	Judge Wall
July 12-July 18	Judge Alexander
July 19-July 25	Judge Ponder
July 26-Aug. 1	Judge Davis

### FAMILY COURT\*\*

May 31-June 4	Judge Higginbotham
June 7-June 11	<i>Ad Hoc</i>
June 14-June 18	Judge Woodruff-White
June 21-June 25	Judge Higginbotham
June 25-July 2	Judge Lassalle
July 5-July 9	Judge Baker
July 12-July 16	Judge Woodruff-White
July 19-July 23	Judge Higginbotham
July 26-July 30	Judge Lassalle

### JUVENILE COURT

June 1-June 30	Judge Richey
July 1-July 31	Judge Taylor-Johnson

NOTE: Duty Court changes at 5 p.m. each Friday unless otherwise specified.

\*City Court's Duty Court schedule changes each Monday at 8 a.m.

\*\*Family Court's Duty Court schedule changes at 4 p.m. each Friday

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

### COURT HOLIDAYS

Monday, July 5, 2010	Independence Day
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# June 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

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**IF YOU HAVE BEEN ON THE PUBLICATIONS COMMITTEE IN THE PAST, WE WANT TO TALK TO YOU...**  
Actually, we're taking a photo of all past and current members of the Publications Committee AND all past and ongoing contributors to the magazine to feature on the September cover of the issue.  
E-mail [pamela@brba.org](mailto:pamela@brba.org) if you are a past contributor.

**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 Thursdays at Samuel's Diner, 6721 Exchequer Drive and on Tuesdays on the third floor at 355 North Blvd. Both meetings are dutch treat and are from noon to 1 p.m. Strict anonymity is observed outside these 12-Step Meetings.

## Get Published!

Submissions for the opinion column, "In my own words," should be no more than 500 words.

Submit legal articles to *Around the Bar* (no more than 2,000 words).

E-mail all submissions to:  
[pamela@brba.org](mailto:pamela@brba.org)

- 2 YLS Council meeting, noon;  
Technology Committee meeting  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 3 Ask-A-Lawyer workshop,  
Delmont Service Center, 9-11:30 a.m.;  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.;
- 4 Nuts & Bolts CLE Seminar,  
8 a.m.-12:30 p.m.,  
Topic: Construction Law  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 5 Ask-A-Lawyer workshop,  
Port Hudson Library, 9-11:30 a.m.
- 8 Law Expo Committee meeting, noon
- 9 Pro Bono Committee meeting, noon;  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.;
- 10 LSBA Annual meeting, Sandestin, Fla.  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.;
- 11 LSBA Annual meeting, Sandestin, Fla
- 16 LSBA Annual meeting, Sandestin, Fla  
June Bar Luncheon, De La Ronde Hall, 11:45 a.m.  
BRBA Finance Committee meeting, 7:30 a.m., 8702 S. Acadian Thruway;  
BRBA Executive Committee meeting, 8 a.m., 8702 S. Acadian Thruway;  
Ask-A-Lawyer workshop, Catholic Charities, 9-11:30 a.m.;  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 17 Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 19 Ask-A-Lawyer workshop,  
Greenwell Springs Library, 9-11:30 a.m.
- 21 Publications Committee meeting, noon
- 23 Teen Court hearing, EBR Parish  
Juvenile Court, 5:30 p.m.;  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 24 LRIS Committee meeting, noon;  
Thirst for Justice, St. Vincent de Paul, 3-5 p.m.
- 25 Wills for Heroes, 4-5 p.m.
- 26 Wills for Heroes, 9 a.m.-5 p.m.
- 30 Thirst for Justice, St. Vincent de Paul, 3-5 p.m.

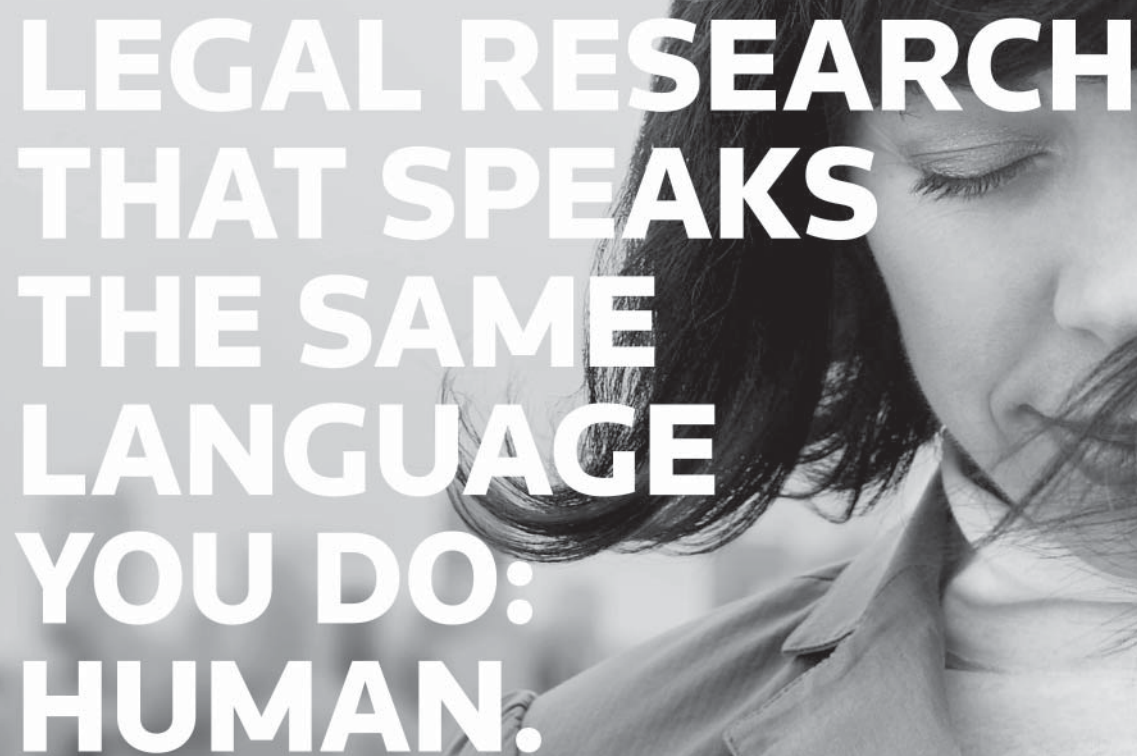
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