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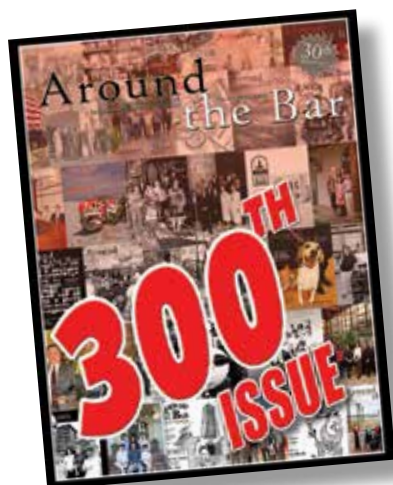
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On the cover:

Featured on the cover of the October 2015 issue of *Around the Bar* magazine a compilation of cover images throughout the last 30 years. The October issue is the 300th issue, *Around the Bar* magazine is in its 30th year of publication.

Cover artwork by Pamela Labbe.



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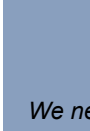
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The Baton Rouge Bar Association will be the beacon for the full spectrum of the legal profession by fostering professional courtesy; increasing the diversity of the bar and the participation of under-represented groups; maintaining a sound financial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

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We need lawyer volunteers to help with a law club for middle and high school students in the Gardere/South Burbank area. You will work with teens as they learn more about the field of law. To volunteer or for more information, please contact Lynn S. Haynes at lynn@brba.org or 225-214-5564.

The "Future Legal Eagles" law club is funded by a grant from the South Burbank Crime Prevention and Development District.

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 1,500 words, typed and single-spaced. A Word file should be emailed as an attachment to: pamela@BRBA.org.

For advertising information call Pamela Labbe at 225-214-5560. Display ads should be high-resolution attachments (.PDF), and classified ads as text only. Please email all ad artwork to pamela@brba.org. Publication of any advertisement shall not be considered an endorsement of the product or service involved. The editor reserves the right to reject any advertisement, article or letter.

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So it was September 1985. Ferris Bueller just took his day off, Y.M.C.A. was topping the radio charts, Bubby Burns was 19, and our first issue of *Around the Bar* came out. Prior to that, we had a one-page two-sided newsletter, which was folded and mailed.

We've come a long way. So what's happened to us in these 30 years? In 1985 we had just reached 1,000 members. Now we have 2,500.

The BRBA went from a staff of one, Bobbi Zaunbrecher, our first executive director, to an excellent staff of nine under our current (and second) executive director, Ann K. Gregorie.



First issue of *Around the Bar*

Three decades of *Around the Bar*—300 issues!

The Bar Office was basically a small corner of the 7th floor of the courthouse on St. Louis Street (from which we were ultimately evicted by the judicial administrator), then to 309 North Blvd., then to 850 North Blvd., then we bought and moved into our current building in late 2000.

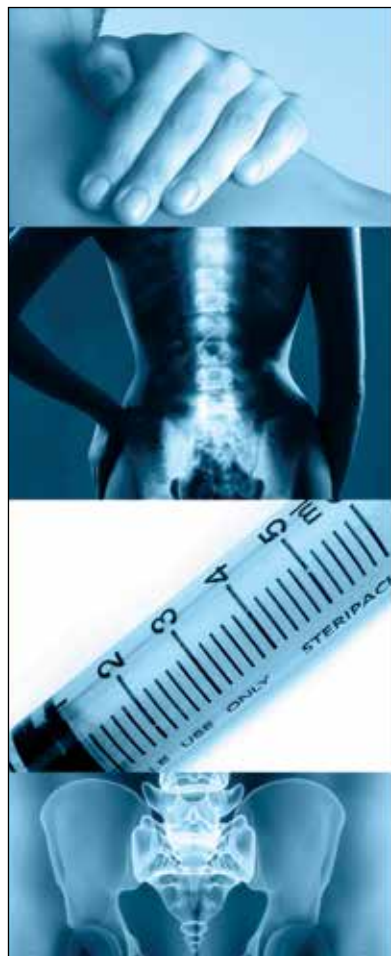


Original newsletter

Back in 1985 we had one program: a monthly luncheon. We had no committees. Now we have well over 30 committees and specialty sections.

Our first Bench Bar Conference was in 1986 in St. Francisville.

Vince's first Tales from the Bar Side appeared in April 1986. We've been running the Gail's Grammar column since 1994. Our first Belly Up was in 1998. We're hosting our 17th annual



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Belly Up with the Bar event on Friday, Oct. 30.

Our first Law Office Expo was in 1986. This year marked our 30th annual event, now called the Fall Expo & Conference. Incidentally, H. Alston Johnson III has been giving us his yearly legislative update for MORE than 30 years.

In 1991, the BRBA had 1,200 members and *Around the Bar* had its first color cover. This year, we started running the magazine entirely in color. Changing printing companies afforded us a better price while keeping the same great quality to which you've grown accustomed. Ah, technology . . .

Our first female president was Christine Lipsey in 1995. Our first African-American President was Leo Hamilton in 2002.

We've come a long way, but it wasn't without a few struggles. Back in 1986 we started a "Personalities" column in which we'd interview distinguished members of our bar who'd been around a long time to give us their perspective on law and lawyering, but they had a strange habit of dying shortly after we'd interviewed them. That sure cut down on the number of people who wanted to be interviewed.

Most members agree that *Around the Bar* is the glue



Edward J. Walters Jr. in 1976

that holds our organization together, but some members of the Board of Directors thought we spent too much money on it (and you know who you are) and wanted to cut our number of pages and our use of color. Cooler heads prevailed. Recently, some members thought we needed *Around the Bar* to "go digital." That may come someday, but not now. Not yet.

We are very proud of our publication. We have very few rules about what is acceptable for publication. Our rules, unwritten, of course, are inflexible: (1) We print. We do not reprint. (2) Articles by members may deal with any topic of general interest to lawyers. (3) The writing must be good, or at least approved by the editorial board.

We like controversy. We like letters to the editor. We encourage point-counterpoint articles.

Many, many thanks to Pamela Labbe, our communications coordinator since March 2000. Without her, none of this would have been possible. She keeps the quality up and the trains running on time. *Around the Bar* is always looking for good writers. If you have that Great American Legal Article in you and are dying to get it published, we are here for you. We are also always looking for new members for the Publications Committee, and we are still looking for a decent editor. ■



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letter from the president

BY ROBERT J. BURNS JR.

With apologies to all



Robert J. Burns Jr.

When he was around age five, one of my sons heard a recording of his own singing voice. He grew visibly disappointed and said that his singing “sounded better in my brain.” I now fully understand his statement. To all who were forced to hear my rendition of “Calling Baton Rouge” at this year’s Bench Bar Conference, I humbly apologize. And to all who made or received any type of recording of that dismal performance, I hereby demand that you delete and destroy any evidence that it ever took place. (Footnote here: I did not sing voluntarily, but was instead compelled to do so by a tradition begun many years earlier by a previous president of this association. At my request, some of our brightest constitutional law scholars have considered whether compelling the president to sing amounts to cruel and unusual punishment in violation of the 8th Amendment to the U.S. Constitution. The unanimous opinion from them was that it did not, but that the audience might well have a civil cause of action for damages. Thus, my apology. I’ve diaried the prescriptive date and alerted my carrier.)

Despite any damage done by my performance, this year’s Bench Bar Conference was an overwhelming success, and its popularity has been consistent for the last several years. In my view, it has become the signature event of our Association, and it appears that its success will persist well into the future. This was indeed a group effort. Preparation for the conference began 10 months before the conference took place. The committee that planned the conference spent countless hours to ensure that the event went off without a hitch. Co-chairs Judge William A. Morvant and Randi Ellis did a great job, and we are indebted to them for their Herculean effort. Moderators Bill Corbett and John Church, both LSU Law professors, made certain that the CLE was up to par, and Ann K. Gregorie and the BRBA staff attended to every detail. The speakers were excellent, the food was great, the weather cooperated (even if it was hotter than Hades), and the Bag of Donuts band knocked it out of the park. Thanks to all for a job well done.

At the same time that the popularity of the conference has soared, we’ve seen dwindling attendance at our luncheon meetings. Many of us recall the days when the Baton Rouge Bar Association convened monthly luncheons, affording our members the opportunity to socialize, collaborate and share a meal, much like we do at the conference. So, what gives? What explains how the one event is thriving and the other is not? Some have speculated that demands on lawyers’ time have increased in the last several years, particularly with the advent of technological changes that make us ever-accountable to clients. Some posit that the luncheons are arcane and don’t keep pace with the changing ways that professionals utilize their lunch hours. Still, others suggest that spending time with fellow lawyers and judges doesn’t impact the bottom line, doesn’t land clients, and doesn’t advance their careers in any identifiable way. I’m sure that the explanations are varied.

I reject, though, the notion that we should do away with our luncheons. Our predecessors in this Association saw that our profession was better served by people who knew one another, who could meet and share ideas, who propped up one another in hard times, and who bound themselves together to defend and support common ideals. The luncheons were—and should remain—a priority to our members. We should rededicate ourselves to the notion that collegiality among our members is a worthy goal, and we should recognize that the luncheons are an important way to accomplish it. From the rising popularity of the Bench Bar Conference, it is obvious that our members are thirsty for those opportunities. Let’s not limit ourselves to a single weekend in July to come together.

We’ll see you all (or as many of you as we can fit) at the next luncheon. It’s worth the effort! ■



West's Jury Verdicts – Baton Rouge

Venue/Case Type	Major Injury	Trial Type	Result
<u>East Baton Rouge Parish</u>			
Contracts	Monetary damages	Bench	Defense
Medical Malpractice	Facial burns; inhalation injury	Settlement	\$150,000
Vehicle Negligence	Unspecified personal injuries	Bench	\$16,312
<u>U.S.D.C. M.D. La.</u>			
Labor & Employment	Neck, head	Jury	Defense
Premises Liability	Neck, arms, shoulders	Jury	Defense

West's Case of the Month

Federal Jury Declines to Award Store Patron Damages in Negligence Suit

Farrow v. Dolgencorp LLC

TYPE OF CASE: Premises Liability • Retail & Other Business Properties

SPECIFIC LIABILITY: Shopping patron at retail store struck a heavy cardboard box with her shopping cart

GENERAL INJURY: Neck, arms, shoulders, legs and lower back

COURT: United States District Court, M.D. Louisiana.

DOCKET/FILE NUMBER: 3:12CV00804

RESULT: Defendant, \$0

RESULT DATE: August 21, 2014

JUDGE: Shelly D. Dick

ATTORNEYS:

Plaintiff: Robert L. Campbell, Williamson, Fontenot & Campbell LLC, Baton Rouge, LA

Defendant: Peter J. Wanek, McCranie, Sistrunk, Anzelmo, Hardy, McDaniel & Welch LLC, Metairie, LA; Trevor C. Davies, McCranie, Sistrunk, Anzelmo, Hardy, McDaniel & Welch LLC, Metairie, LA; Sidney J. Hardy, McCranie, Sistrunk, Anzelmo, Hardy, McDaniel & Welch LLC, New Orleans, LA

RESULT TYPE: Jury

EXPERTS:

Defendant: Henry Eiserloh, M.D., orthopedic surgeon, Baton Rouge Orthopaedic Clinic, Baton Rouge, LA

SUMMARY OF FACTS:

Rosalinda Farrow was reportedly shopping at the Dollar General Store located on Main Street in Baker, La., March 16, 2012. Farrow said as she was pushing her shopping cart in the store's pet supplies aisle, she struck a cardboard box full of heavy, canned dog food that was present on the

floor. Farrow said that she was unable to see the cardboard box because her shopping cart was full and the aisle was cluttered with other boxes. Farrow claimed that when her cart struck the cardboard box, the box did not budge, and she slammed her body into the cart. Farrow said she suffered injuries to her arms, shoulders, lower back, neck and legs due to her cart striking the heavy cardboard box.

Farrow filed a lawsuit against Dolgencorp LLC, d/b/a Dollar General Store, in the Nineteenth Judicial District for the Parish of East Baton Rouge in August 2012. According to court documents, the lawsuit was subsequently removed to the U.S. District Court for the Middle District of Louisiana pursuant to diversity jurisdiction. Farrow argued that Dolgencorp's negligence had caused the incident in question and her resulting injuries and damages. Specifically, the plaintiff argued the defendant's having allowed large cardboard boxes to be present in its store's shopping aisle presented an unreasonable risk of harm to her and other shopping patrons. The plaintiff contended that the defendant had breached its duty to provide her and other patrons with a reasonably safe shopping environment by its allowing its store's aisles to be cluttered with boxes that required her to dodge and weave her shopping cart around the boxes. The plaintiff also claimed that she was unable to see the box present in the aisle until her shopping cart hit it; as a result, Farrow asserted that the presence of boxes in the aisle floor constituted dangerous conditions that were not open or obvious to her or anyone else shopping at the store. The plaintiff sought damages for her personal injuries, medical expenses, pain and suffering, mental anguish and loss of life enjoyment.

The defendant admitted the plaintiff had been at a patron of the Dollar General Store; however, it generally denied the plaintiff's allegations and denied liability in the matter. Dolgencorp asserted that the cardboard box allegedly present on the floor constituted an open and obvious condition; as a result, the defendant argued that the presence of the box on the store floor did not constitute an unreasonable risk of harm. The defendant also asserted that Farrow did not fall as a result of her shopping cart's collision with the cardboard box; moreover, the defendant claimed that the plaintiff had failed to present medical evidence that she had suffered personal injuries caused by her alleged incident at the store. Dolgencorp further claimed that the plaintiff had been receiving medical treatment for neck and back pain for several years before the accident; consequently, the defendant disputed the nature and extent of the plaintiff's injuries and damages caused by the incident in question.

The matter proceeded to a jury trial with U.S. District Court Judge Shelly Dick presiding in August 2014. The jury returned a verdict, Aug. 21, declining to find that the object on the floor at the Dollar General Store had presented an unreasonable risk of harm to the plaintiff. Jurors also declined to find that Farrow had suffered injury due to the incident in question. In a judgment signed Aug. 22, 2014, Judge Dick entered judgment in Dolgencorp's favor against the plaintiff, and ordered the matter was dismissed.

CASE CITE: 2014 WL 4749535

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tales from the bar side

BY VINCENT P. FORNIAS

Those of us old enough to have frequented both The Cotton Club and the “old, OLD courthouse” will recall that one of the most respected members of the 19th JDC bench during those days was Judge Lewis Doherty. This writer recalls with some fondness his avuncular demeanor and deep southern drawl, and the manner in which he ALWAYS referred to me as “Mr. Fornaris,” apparently relating me to an esteemed local businessman who went by that name. Since that gentleman apparently was held in very high regard, and since my surname has encountered far more extreme permutations, I never bothered to correct His Honor.

Whether you call it coincidence or tradition, when Judge Doug Moreau succeeded to Doherty’s division in the 1980s, he inherited (and maintained) a docket that tolerated few delays between pretrial conference and a firm trial date. It was a little known fact that Judge Doherty passed up many a family vacation to keep a

What goes around, flows around

current docket that was the envy of the District.

Our good jurist, now long retired, retells of an occasion long ago where it had come to his attention (in a time long preceding spreadsheets or other artificial tools of cyberspace) that the litigants in one of his assigned cases, their identities long forgotten, had been less than zealous in getting the matter to trial. Quicker than you could say “rocket docket,” Doherty sprang into action, scheduling a status conference to tie down a trial date in the very near future. As the lawyers were leaving his chambers, Doherty tactfully admonished them that the trial would be held on the assigned date, come “hell or high water.” File that quote away.

Soon thereafter came the date of trial. As testimony was proceeding, into the courtroom sauntered Judge Doherty’s secretary, wearing a very concerned look on her face. She then approached him and announced with some alarm that the hallway outside his courtroom was

beginning to flood after an inmate who had appeared for sentencing apparently showed his displeasure by stuffing his dungarees into a nearby toilet. Quickly, Doherty summoned the lawyers to a sidebar while they were still on high ground, and suggested that under the circumstances they might recess to another available day.

Some lawyers have long memories and courageous spirits. And on that day, one of the litigants, just a hint of a gleam in his eye, summarily seized the chance for “payback.” Turning to Judge Doherty, he innocently protested, “But Judge, didn’t you say ‘hell or high water’?”

We know not whether hip boots were thenceforth commandeered that day or whether Doherty, hat in judicial hand, grudgingly allowed his pristine docket to hold steady until the waters receded. ■

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New CLE credit for pro bono

BY EMILY PHILLIPS ZIOBER

For the first time, Louisiana attorneys have an opportunity to earn CLE credit for pro bono work through a new Louisiana Supreme Court rule effective May 1, 2015. Louisiana Supreme Court Rule XXX, Rule 3, Regulation 3.21, amends the Rules for Continuing Legal Education as follows:

Regulation 3.21. Credit may also be earned through providing uncompensated pro bono legal representation to an indigent or near-indigent client or clients. To be eligible for credit, the matter must have been assigned to the Member by a court, a bar association, or a legal services or pro bono organization that has as its primary purpose the furnishing of such pro bono legal services and that has filed a statement with the Louisiana Committee on MCLE. A Member providing such pro bono legal representation shall receive one (1) hour of CLE credit for each five (5) hours of pro bono representation, up to a maximum of three (3) hours of CLE credit for each calendar year. To receive credit, the Member shall submit MCLE Form 6 ("Application for CLE Credit for Pro Bono Services").

The new rule encourages attorneys who have never handled pro bono cases to begin doing so as well as attorneys who already handle such matters "to keep up the good work." Some common reasons for not doing pro bono work are a lack of time and the need for billable hours; however, attending continuing legal education classes can be time consuming and costly. So, these reasons no longer have as much merit because pro bono representation now translates into some continuing education hours that apply to complete the current 12.5 total hours required annually to maintain a legal license.

The benefits of doing pro bono work are many. Doing pro bono work benefits young attorneys by giving them experience in different areas of the law and in the courtroom. It aids in the public's positive perception of lawyers in both big and small firms through their giving back to the community. Retired and semi-retired lawyers can use their knowledge and years of experience to help the indigent and to mentor other attorneys. Overall, pro bono work is good public relations for the legal profession!

It is important to note that questions about implementation of the new rule are still being resolved. For example, the Baton Rouge Bar Foundation has a pro bono panel where members agree to handle cases; legal walk-

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in clinics (such as Ask-A-Lawyer workshops that are held at public libraries and Catholic Charities, and Thirst for Justice at the St. Vincent de Paul Bishop Ott Shelter); Financial Literacy Clinics; and the Wills for Heroes Program. While it seems that the rule as written applies only to representing a pro bono client in a case assigned by one of the designated groups that has filed an MCLE statement, attorneys with questions, including whether the type of pro bono work that they are doing qualifies for CLE, can view the Mandatory Continuing Legal Education Committee (MCLE) website at www.lascmcle.org. 

GAIL'S GRAMMAR

"Aver," when used in a legal context, means to state as a fact, as in a pleading or affidavit. In a non-legal sense, it means to state strongly and positively. Because of the legal connotation as a declaration of truth, *aver* should not be used in briefs or other persuasive writing to mean argue or contend.

Thanks to Janis Kile for suggesting this topic. 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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Southeast Louisiana Legal Services provides critical legal help for those most in need

BY ART VINGIELLO

For more than 40 years, Southeast Louisiana Legal Services (SLLS) has been providing award-winning free civil legal aid to low-income domestic-violence victims, abused children, the elderly, people living with disabilities, the working poor, veterans and other vulnerable people in southeast Louisiana. SLLS originally served only three parishes in the 21st Judicial District. SLLS has now expanded to cover 22 parishes, including the Baton Rouge area. SLLS now has six offices and is the largest legal services program in Louisiana, employing more than 70 staff members. Eleven attorneys currently work in the Baton Rouge office.

SLLS is a nonprofit governed by a board of directors that consists of 18 members, two-thirds of whom are attorneys and one-third of whom are low-income people. The Baton Rouge Bar Association appoints two of the members. In May 2014, Laura Tuggle was hired as the new executive director, replacing Brian Lenard, who retired after 36 years of service. According to Tuggle, as of July 15, 2015, the Legal Services Corporation provides about 47 percent of SLLS funding. The Louisiana Bar Foundation is the second largest funder. The balance of the budget is met through a mix of private and public grants, filing fees, donations and other funding.

Sarah Campbell is the directing attorney for the Baton Rouge office. She started work for Legal Services in 1978 in North Louisiana. She has seen tremendous assistance to the Baton Rouge office through the two local law schools. The law schools typically provide around 10 externs during the summer, with additional volunteers helping to lighten the heavy load of the staff attorneys. She states that the attorneys for SLLS are very passionate and frequently in court.

According to Tuggle, in 2014, SLLS handled about 11,000 cases, achieving more than \$16 million in economic benefits for their clients. The caseload consisted

of approximately 20 percent domestic-violence cases, 22 percent other family law, 15 percent housing, 15 percent benefits/employment, 9 percent consumer, 9 percent children in need, 5 percent wills/successions and 5 percent other matters. Community legal education was provided to more than 2,500 people, with another 123,000 getting help from the public information website, www.LouisianaLawhelp.org, administered by SLLS.

Over the past year, under Tuggle's guidance, SLLS has focused attention on developing new projects to serve vulnerable people in the greater Baton Rouge area. New projects for 2015 include a Medical-Legal Partnership Project developed with the Capital Area Med-Law Partnership and the Baton Rouge Bar Foundation to improve health outcomes by adding civil legal aid to the health-care team. Generous support was provided by the Franciscan Missionaries of Our Lady Health System. In collaboration with the Capital Area Homeless Alliance and the Volunteers of America, SLLS' new Homeless Advocacy Project at the One Stop Center helps alleviate homelessness by obtaining public benefits. SLLS has also partnered with Baton Rouge Community College to help students remove legal barriers posing challenges to their ability to complete their education or to future employability. A Delta Service Corps grant that began in September 2015 will enable SLLS to extend its reach throughout Baton Rouge and surrounding parishes with the addition of a new Community Outreach Coordinator.

Campbell said that Baton Rouge area attorneys can assist her office by volunteering through the BRBF Pro Bono Project. The BRBF Pro Bono Project handles hundreds of cases referred by SLLS each year. Other help is needed with initial client intake. Of course, tax-deductible donations are always welcome. To make a donation or learn more about SLLS, visit www.slls.org. ■



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Reynolds v. Bordelon: Clearing the muddy waters of spoliation

BY DANI BOREL

Previously, “Navigating the muddy waters of spoliation of evidence,” published in the April 2015 edition of *Around the Bar*, explored the uncertainties of Louisiana law regarding spoliation of evidence. After the article was published, on June 30, 2015, the Louisiana Supreme Court in *Reynolds v. Bordelon* discussed several spoliation policy concerns and declared that no cause of action exists in Louisiana for the tort claim of negligent spoliation of evidence. 14-2362 (La. 6/30/15), __ So. 3d __, 2015 WL 3972370. Instead, the Court suggested that issues of spoliation should be dealt with through discovery sanctions, criminal sanctions, adverse presumptions, court orders to preserve evidence, or breach of contract claims.

In *Reynolds*, plaintiff filed suit due to the injuries he sustained in a multi-vehicle accident. In addition to the defendant-driver, plaintiff also named as defendants his automobile insurer, Automobile Club Inter-Insurance Exchange (ACIIE); and the custodian of his vehicle after the accident, Insurance Auto Auctions Corporation (IAA), alleging the two “failed to preserve his vehicle for inspection

purposes to determine whether any defects existed, despite being put on notice of the need for preservation.”

ACIIE and IAA filed exceptions of no cause of action as to Richard’s spoliation claims, which were denied. ACIIE and IAA renewed their exceptions after the Louisiana First Circuit Court of Appeal issued conflicting guidance on the viability of a tort claim for negligent spoliation. The trial court sustained the exceptions, and the First Circuit affirmed. Thereafter, the Louisiana Supreme Court granted *certiorari* to “definitively rule on the viability of negligent spoliation of evidence as a cause of action in Louisiana.”

To decide the existence of the tort of negligent spoliation, the Court discussed whether an underlying duty to preserve evidence existed, either through a general negligence approach or through an express obligation. After finding that Louisiana public policy “precludes the existence of a duty to preserve evidence,” the Court concluded that no tort theory for negligent spoliation could exist. The recognition of negligent spoliation would “penalize a party who was not aware of its potential

wrongdoing in the first place,” which the Court felt was particularly true for third parties “not vested in the ultimate outcome of the underlying case.”

The *Reynolds* decision offers much sought clarity to Louisiana litigants. The decision holds that the tort of negligent spoliation is not a viable cause of action in Louisiana. However, the decision did not discuss or recognize the tort of intentional spoliation, though such a claim has been recognized as viable by Louisiana appellate courts. The decision also did not address the requirements to obtain an adverse presumption for either negligent or intentional spoliation, despite the Court’s advocacy for the use of adverse presumptions. Overall, *Reynolds* is a step towards clarity in the muddy waters of Louisiana spoliation law. ■

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Exploring new horizons:

How Louisiana businesses can prosper in an era of Mexican energy reform

BY EDWARD H. WARNER & DANIELA SUÁREZ DE LOS SANTOS

Energy reform in Mexico has ushered in a new era of partnerships, foreign direct investment, and future success stories for both Mexico and foreign businesses. Arguably, Louisiana businesses are in a great position to participate due to their incredible expertise in oil and gas. This article describes how Louisiana businesses can participate in the historic reform in Mexico while managing risk and a new legal landscape. Mexico's new energy legislation restructures the entire Mexican energy sector; however, the scope of this article is limited to oil and gas exploration and extraction.¹

The argument for mutually beneficial relationships between Mexico and Louisiana businesses

Companies in Louisiana now have the opportunity to build long-lasting relationships with a nearby neighbor that has an abundance of untapped resources. Mexico's new energy market welcomes the private sector (including U.S. companies) to participate and compete in projects for upstream, midstream and downstream activities.² Although at the time of the writing of this article the price of oil is low,³ creating these relationships now could produce long-term benefits for both Mexico and Louisiana's oil-and-gas industries.

Louisiana businesses certainly have the expertise that Mexico needs. Foremost, Louisiana is one of the U.S.'s top natural gas producers. It is also the country's top crude oil producer when production from its section of the federally administered Outer Continental Shelf (OCS) is included.⁴ Louisiana businesses have efficiently utilized new technology, such as hydraulic fracturing, and Mexican energy executives have already begun visiting Louisiana areas to "tap Louisiana oil and gas know-how."⁵

While Louisiana businesses have the expertise, there is a question as to whether many of the small and mid-sized companies will have the financial means to participate in the Mexican energy sector. However, it is likely that mature fields, oil and gas fields that were once in production but stopped because they required more investment, are great opportunities for small and mid-sized energy companies. The mature fields require a much smaller initial investment compared to offshore projects.⁶ There are also opportunities for Louisiana's many oil-and-



Photographed while in Mexico are authors Edward H. Warner and Daniela Suárez de los Santos.

gas service companies.

In sum, Mexican energy reform is an exciting development for Louisiana businesses that have the capacity and expertise to participate in new energy opportunities.

What background information must Louisiana businesses know in order to participate in the Mexican energy market?

Petroleos Mexicanos (Pemex) is fundamental to Mexico's oil-and-gas market. Pemex, Mexico's sole oil producer, had one of its biggest discoveries in years when it recently found four new oil-and-gas fields in shallow water in the Gulf of Mexico.⁷ Even so, this recent discovery comes at a time when Pemex's oil production has been undermined.⁸ Pemex previously produced approximately 5 million barrels of oil a day, whereas now it only produces about half of that amount.⁹

The recent energy reform legislation has opened the door for private investment and collaboration that could put the country back on track. In addition to amending the constitution, Mexico's congress also passed the Hydrocarbons Law and reformed the Foreign Investment Law.¹⁰ While other laws and reforms were also passed, the Hydrocarbons Law and the Foreign Investment Law are two prominent measures pertinent to U.S. oil-and-gas

exploration-and-production (E&P) companies. These laws directly impact foreign investment in oil-and-gas E&P.

The restructuring of Pemex is also significant. For nearly 75 years, Pemex controlled all petroleum production in the country. Under the new legislation, Pemex is a State Productive Enterprise or SPE. This means that Pemex will be able to enter into joint ventures with the private sector to explore and develop oil-and-gas-producing areas under various types of E&P contracts.¹¹

The new contracts have the potential to generate tremendous revenue for foreign companies operating in Mexico. Companies will be able to apply for various E&P contract models including license contracts, production-sharing contracts, profit-sharing contracts and service contracts. Generally, these contracts are awarded through public bidding processes, and foreign companies that partner with Pemex are likely to get more favorable consideration in the awarding of contracts.

In sum, Louisiana companies should consider collaboration with a Mexican company, particularly Pemex, to successfully enter the market.

What are the practical steps a Louisiana business must follow to enter the Mexican energy market?

As a preliminary matter, each Louisiana business entering the Mexico oil and gas market should be prepared for a process that will take at least nine months to a year.¹² The companies should be prepared to navigate various regulatory agencies.

First, companies start the bidding process by paying a fee to gain access to the “Data Rooms” and become pre-qualified. The Data Rooms will contain geological information pertinent to the E&P site. The National Hydrocarbons Commission (Comisión Nacional de Hidrocarburos or CNH) will publish a list of the technical, operational, financial and legal documentation necessary for the prequalification process.¹³

Second, after presentation of prequalification documents and bid submissions by interested companies, CNH will award contracts and announce the winners. CNH is charged with executing E&P contracts, and the model of the contract will depend on the conditions of the E&P site offered.

Finally, it is important to note that CNH may only execute E&P contracts with Mexican-incorporated commercial entities. Thus, prior to, or upon selection as a winning bidder, a Louisiana business must form or acquire a Mexican business entity. Some of the requirements for registering a new company may take up to nine months for completion.¹⁴

In sum, Louisiana businesses should be prepared for a relatively long and arduous process in order to participate in the Mexican energy sector. Foreign companies should be aware of CNH, one of the key regulators in Mexico.

Other major regulators include the Ministry of Energy (Secretaría de Energía or SENER), Ministry of Finance (Secretaría de Hacienda y Crédito Público or Hacienda), and the Energy Regulatory Commission (la Comisión Reguladora de Energía or CRE).

What are the additional ways Mexico has made its oil-and-gas market more attractive?

Many experts with an eye on the Mexican energy market raise the issue of transparency. Mexico, in addition to opening its market to foreign investment, has implemented important measures to ensure that the energy reform progression is a transparent process. Essentially, with the goal of increasing interest in the market and making it more attractive, Mexico has established eight principal transparency and anticorruption mechanisms that comply with well-known international norms.

First, all of the bidding rounds to assign license contracts, profit-sharing/production-sharing contracts, and service contracts will be made public. The bidding process guidelines will also be available to the public.¹⁵

Second, each contract that is awarded will constitute a legal act (instrumento jurídico) under Mexican law. The contracts will contain transparency clauses so that they can be viewed by the public.¹⁶

Third, all natural gas and oil E&P companies have public-disclosure requirements. Each company must make public all costs incurred and any payments received in the process of oil-and-natural-gas E&P.¹⁷

Fourth, the Mexican government will also have public-disclosure requirements. The government must make public any natural gas or oil that it extracts in connection with an oil contract under the new legislation. The government must also disclose how the natural resources will be used.¹⁸

Fifth, the regulatory agencies that implement and monitor the oil reform progression will be subject to strict transparency rules and auditing/accountability measures. Salient measures to hold regulatory bodies accountable include responsibilities such as establishing a code of ethics for each agency and the removal of agency commissioners for cause.¹⁹

Sixth, Pemex must make public disclosures modeling the requirements of companies listed in the Mexican Stock Exchange. The terms of such disclosures must also comply with the strictest international standards.²⁰

Seventh, the Mexican government has established a system of checks and balances between four government agencies: SENER, Hacienda, CNH, and the Mexican Petroleum Fund. The system ensures transparency and accountability in the design, administration, and bidding of the hydrocarbon E&P contracts, and prevents any contract assignment from being a discretionary decision of any one government authority.²¹

Finally, Mexico recently passed the constitutional

reform establishing the new anticorruption law (El Sistema Nacional Anticorrupción or SNA). The new system will create a coordinated effort among various levels of the government to prevent, detect and sanction administrative liability for corruption.²²

In sum, Mexico has introduced numerous transparency mechanisms that aim to minimize legal risk.

Conclusion

There is a strong argument for Louisiana businesses to begin entering the Mexican market. Louisiana businesses that have the required financial capital and expertise are likely to be contenders in the bidding rounds. However, companies should set expectations for a long and arduous process.

Nevertheless, partnering with Mexican companies, particularly Pemex, is likely to ease the process of entering the market and result in more favorable consideration for contract awards.

The question remains which will be the first Louisiana-based company to explore new horizons in this era of international partnerships?²³ ■

¹ Given the recentness of this legislation and on-going efforts by the Mexican government, the information in this article is subject to change and/or modification.

² *Key elements of the Energy Reform*, Mexican Embassy in the United States, <http://embassyofmexico.org/web/KeyElementsOfTheEnergyReform.pdf.pdf>.

³ Campbell Roberston, *Louisiana Squeezed as Oil Prices Drop*, The New York Times (Jan. 31, 2015) http://www.nytimes.com/2015/02/01/us/louisiana-squeezed-as-oil-prices-drop.html?_r=0.

⁴ *Industry Sectors*, Louisiana Mid-Continent Oil and Gas Association, <http://www.lmoga.com/industry-sectors/> (last visited July 9, 2015).

⁵ Billy Gunn, *Mexican energy officials looking to tap Acadiana's expertise*, The Advocate (Sept. 9, 2014) <http://theadvocate.com/home/10180649-123/mexican-energy-officials-looking-to>.

⁶ Sergio Chapa, *Mexico's 'Mature Fields' Bids an Opportunity for Smaller Companies*, San Antonio Business Journal (July 12, 2015), 2015 WLNR 13939829.

⁷ Adam Williams, *Pemex Reports Its Largest Oil Find in 5 Years in Gulf of Mexico*, Bloomberg Business (June 10, 2015) <http://www.bloomberg.com/news/articles/2015-06-11/pemex-reports-its-largest-oil-find-in-5-years-in-gulf-of-mexico>.

⁸ John Burnett, *Excitement Over Mexico's Shale Fizzles As Reality Sets In*, NPR (March 16, 2015) <http://www.npr.org/sections/parallels/2015/03/16/393334733/excitement-over-mexicos-shale-play-fizzles-as-reality-sets-in>.

⁹ Gunn, *supra* note 5.

¹⁰ The Hydrocarbons Law, Cámara De Diputados Del H. Congreso De la Unión (Aug. 11, 2014) http://www.diputados.gob.mx/LeyesBiblio/pdf/LHidro_110814.pdf; The Foreign Investment Law, Cámara de Diputados del H. Congreso de la Unión (Aug. 11, 2014) http://www.diputados.gob.mx/LeyesBiblio/pdf/44_110814.pdf.



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¹¹ Guillermo Zúñiga, *Energy Reform in Mexico: Overview, Challenges & Opportunities* [PowerPoint slides], EUCI (July 21, 2015) <http://www.euci.com/preconference/jul21energy-reform.pdf>.

¹² Interview with Claudio Rodríguez, Partner, Ramírez, Gutiérrez-Azpe, Rodríguez-Rivero y Hurtado, S.C., Mexico City, México (July 2, 2015); Interview with Miguel Cinta, General Manager, ABS Group, Mexico City, México (July 2, 2015).

¹³ Comisión Nacional de Hidrocarburos (CNH), *Prequalification Criteria R01-L01/2014*, (2014) [http://ronda1.gob.mx/English/pdf/PDF-L-01/R01L01 Prequalification Criteria.pdf](http://ronda1.gob.mx/English/pdf/PDF-L-01/R01L01%20Prequalification%20Criteria.pdf).

¹⁴ University of Texas at San Antonio, et al., *Economic Impact and Legal Analysis of the Shale Oil and Gas Activities in Mexico*, ISBN 9709882791 (May 2015) <http://www.iedtexas.org.php53-6.dfw1-2.websitetestlink.com/wp-content/uploads/2015/05/MXShale-web.pdf>.

¹⁵ Gabriel Heller Green, *Reforma Energética: Ronda 1*, Secretaría de Energía, Director General de Relación con Inversionistas y Promoción http://sener.gob.mx/webSener/rondauno/_doc/Reforma%20Energetica%20Ronda%201.pdf

¹⁶ The Hydrocarbons Law, Article 19, Section IX, Cámara De Diputados Del H. Congreso De la Unión (Aug. 11, 2014) http://www.diputados.gob.mx/LeyesBiblio/pdf/LHidro_110814.pdf.

¹⁷ Green, *supra* note 15.

¹⁸ *supra* note xvi at Capítulo II De la Transparencia y el Combate a la Corrupción.

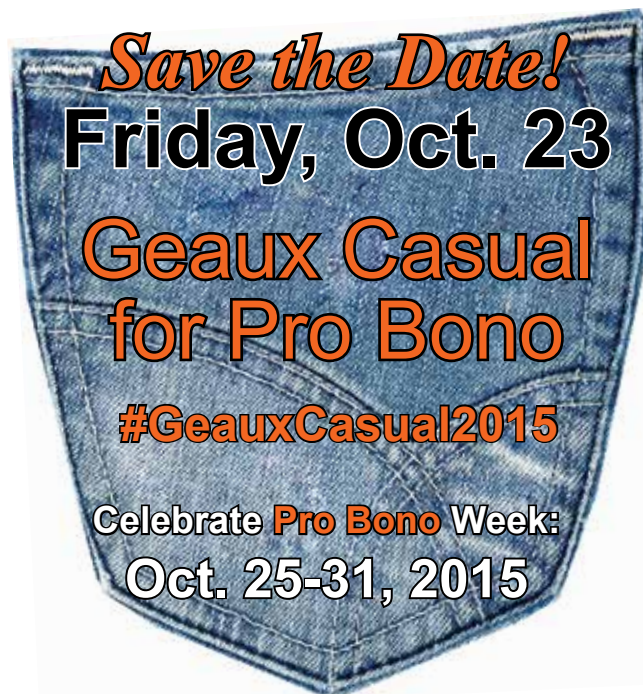
¹⁹ *Id.* at Artículos 26-30.

²⁰ *Id.* at Capítulo V De la Regulación y Obligaciones.

²¹ *Id.*

²² México Diario Oficial De la Federación (DOF). (May 27, 2015) http://www.dof.gob.mx/nota_detalle.php?codigo=5394003&fecha=27/05/2015.

²³ Conducting proper due diligence for all companies is vitally important to any potential partnership.



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Legislative updates in property and commercial law

BY CHRISTOPHER K. ODINET

INTRODUCTION

Without a doubt the spotlight for the 2015 legislative session was focused almost exclusively on tax reform and the state budget.¹ With a nearly \$1.4 billion shortfall and a number of expensive tax programs on the books, the legislature had little appetite for non-fiscal bills.² Nevertheless, a small number of instruments passed dealing with the law of property and commercial transactions. This article gives an overview of some of the more interesting and important legislative acts that should be of interest to members of the bar.

PART I. PROPERTY LAW LEGISLATION

The following acts implicate the law governing property—either movable, immovable, or both. While none alter fundamental concepts, several of the enactments make nuanced changes or create special rules.

A. Reinscription of Mortgages for Savings & Loan Associations (Act 336)

This bill deals with credit advanced by savings and loan associations and the limits of their power to make certain investments. The section of law that the bill amends deals with loans for the purchase of immovable property. The former law required that a certificate of the savings and loan association's attorney accompany any mortgages imposed upon the property to secure that loan. The new law removes this certificate requirement entirely.

Further, language in the statute allowing any such mortgages to be accompanied by a security interest in rents from the immovable has been clarified to reflect that such a security device would come in the form of a "pledge of leases and rents," rather than the prior and more colloquial formulation known as an "assignment of rents."³ Further, the act removes statutory language discussing 41- and 31-year reinscription periods for mortgages and vendor's privileges encumbering immovables, equipment, and certain component parts. In its place is a cross reference to the general rules for mortgage recordation contained in Louisiana Civil Code articles 3354 to 3368.

This Act will become effective on Jan. 1, 2016. There are transitional rules provided in the bill for interim security rights that will be affected.

B. Property Tax Exemptions (Act 470)

This bill creates a constitutional amendment, which will be put to a vote of the Louisiana electorate. The act seeks to change an existing *ad valorem* property tax exemption, albeit in a rather minor way. Under current law

public lands and any other public property used for public purposes are exempt from taxation. This constitutional amendment makes clear that property owned by another state or by a political subdivision of another state is in fact *not* exempt from *ad valorem* property taxation.

The voters of Louisiana will decide on this amendment during the Oct. 24, 2015, election.

C. Oil-and-Gas Legacy Lawsuits (Act 448)

Indeed it would not be a session of the legislature if some instrument did not pass dealing with the infamous oil-and-gas legacy litigation.⁴ The 2015 session was no different. This bill, a work of the Louisiana State Law Institute, provides for mandatory, non-binding mediation in litigation disputes involving the remediation of oilfield sites and exploration-and-production sites. First, parties to the suit are required to meet within 60 days of the court's stay of the litigation in order to reach a consensus on the issues at play. From this point, either party may essentially demand at either the closure of the discovery period or 550 days after commencement of the action (whichever occurs first) that the parties enter nonbinding mediation. Unless the parties can otherwise agree to a different allocation, the party requesting mediation bears the cost and expenses related to the procedure.

Lastly, the parties are obligated under the bill to ensure that a representative with "settlement authority" or someone who is "in direct contact" with someone who has settlement authority be present at the mediation conference. Failure to do so can result in the imposition of costs and attorneys fees.

This bill became effective on Aug. 1, 2015.

PART II. COMMERCIAL LAW LEGISLATION

The following pieces of legislation deal with the laws governing commercial transactions. While a number of other acts were passed dealing with banking, financial institution reporting, bank fees and the like, the ones discussed below have the broadest application.

A. Repeal of the Law of Respite (Act 64)

This bill gets rid of the law of respite in Louisiana. The rules on respite originate from the Roman law institution of *cessio bonorum* and have been in Louisiana since roughly the Code of 1808.⁵ Interesting, there are no comparative provisions in the Civil Codes of any other country.⁶

However, most lawyers in Louisiana will not notice the sudden absence of the ancient law of respite. This is

because there have been only seven reported cases dealing with it in the twentieth century and none in the twenty-first.⁷ This silence is mostly due to the fact that the law of respite is now fairly obsolete because the American law of bankruptcy handles almost all instances where respite was once used.⁸ The process of initiating procedures in order to give a struggling debtor more time to satisfy the demands of his creditors is dealt with in a far more advanced and sophisticated way under bankruptcy law than under the institution of respite.⁹ Recognizing the obsolescence of the institution, the Louisiana State Law Institute recommended a suppression of these articles and, as a result, the legislature repealed Civil Code articles 3084–98 in their entirety.

This Act became effective on Aug. 1, 2015.

B. Equipment Dealers (Act 466)

This bill passed, but not without a decent amount of controversy and a host of amendments. This area of the law deals broadly with the relationship between equipment dealers and their wholesale manufacturers, termed as “agents” (this statutory series is known to many lawyers as the “Wholesalers Act” or the “Repurchase Act”). The bill includes forestry equipment as falling under the auspices of the statute (something that was heretofore unclear). The law also codifies the concept of a dealer agreement (taken from a comparable Texas statute), which is a written or oral contract between an equipment dealer and his agent relative to the purchase of equipment or repair parts. Among other things the bill negates any choice of law or contractual provisions that might limit the dealer’s ability to exercise remedies provided by law. The bill also deals with the agent’s ability to get out of a dealer agreement. He can do so under current law if he believes he is doing so in good faith, but the bill adds the phrase “or if he failed to act in good faith.” The provision is intended to preclude the agent from terminating or changing the dealer agreement unilaterally if he failed to act in good faith, such as if he withheld from his dealer a price concession or other customary benefit.

In any event, the bill also adds a number of *per se* good faith reasons for the agent to withdraw from the agreement. These include a change in the ownership of the dealer company (25 percent), which does not involve the substitution of a new partner or principal of the dealer that meets certain industry criteria, or a default under any security agreements between the dealer and the agent. Interesting, the bill incorporates the term “chattel mortgage” into the statute, which has not been available in Louisiana since the 1990 enactment of UCC Article 9, but persists in many parts of the Louisiana statutes. Lastly, an agent

is precluded from terminating the agreement on account of the dealer’s failure to meet a market-share-penetration benchmark in the dealer agreement if the dealer has a market penetration of 80 percent or more of the North American average.

Lastly, the bill allows for the contractual imposition of an indemnity obligation on the dealer for certain liabilities that may be imposed upon the agent, except for those imposed in connection with the agent’s willful misconduct or gross negligence (borrowing from concepts contained in La. Civ. Code art. 2004). The purpose of this provision is to invalidate provisions that have become somewhat common in certain dealer agreements, whereby strict liability is imposed on the dealer even for losses caused by the agent.

This bill became effective on Aug. 1, 2015.

PART III. LAW INSTITUTE STUDY RESOLUTIONS

As has become routine in all legislative sessions, a number of study resolutions were sent to the Louisiana State Law Institute for purposes of analyzing and making recommendations relative to various areas of Louisiana law. The following provides a brief summary of those resolutions dealing with property and commercial law concepts.

A. Lease of Movable Act (HCR 184)

The Lease of Movable Act is a statutory scheme contained in Title 9 of the Louisiana Revised Statutes and provides rules for the leasing and financing of movable property (chiefly equipment-financing).¹⁰ However, the current statute is more than 30 years old and is in need of study and revision to ensure that its provisions are in line with current commercial and consumer practices.

Robert Thibeaux, an equipment financing attorney at the Sher Garner law firm in New Orleans, will serve as the reporter for the committee that is charged with undertaking this project.

B. Mortgage Assignments (SCR 102)

The issues of recordation and the assignment of mortgages have plagued the housing industry since the 2008 crash, and the foreclosure fraud that stemmed from it continues even today.¹¹ Under current law a mortgage



will transfer with the transfer of the principal obligation to which it is attached.¹² Thus, when a party transfers its interest in a promissory note, the mortgage securing that note automatically passes with it—no further action is needed.¹³ Although it is advisable to record some evidence of the transfer into the public records, it is not required.¹⁴ Nevertheless, residential loans are often sold many times over, and the actual holder of the “mortgage” can be difficult to ascertain for an unsophisticated homeowner.¹⁵ This study resolution asks the Louisiana State Law Institute to study and make recommendations relative to how the system can be improved in Louisiana.

CONCLUSION

Not unlike the 2014 session, overall the changes

to property and commercial law in the 2015 legislative session were limited to special interest provisions and those statutes dealing with particular narrow circumstances. Since this was a fiscal session where legislators had limited authority to introduce bills that diverged from taxing and budgetary topics, it is not surprising that there was such little movement in other areas. However, with the seating of a new governor and a new legislature after the October 2015 elections, it is anyone’s guess whether more changes might be on the horizon in 2016. ■

¹ See Will Sentell, *Budget Problems Easily Dominate 2015 Legislature*, The Advocate, Jun. 18, 2015.

² Julia O’Donoghue, *2015 Louisiana Legislative Session: The Winners and the Losers*, Nola.com, Jun. 12, 2015.

³ See Michael H. Rubin, *Ruminations on the Law of Pledge*, 75 LA. L. REV. 697 (2015) (discussing the Louisiana State Law Institute’s 2014 wholesale revision to the law of pledge that became effective on January 1, 2015).

⁴ See David Hammer & Mike Perlstein, *Legacy Suits: Sorting Out Good Guys from Bad*, The Advertiser, Aug. 4, 2014; James Varney, *Louisiana Legacy Lawsuits Good for Certain Bank Accounts, Not So Much the Environment*, Nola.com, May 20, 2014.

⁵ Letter from the Reporter, Respite Committee, Louisiana State Law Institute 2 (Sept. 6, 2014).

⁶ *Id.*

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

¹⁰ See Dian Tooley-Knoblett & David Gruning, Louisiana Sales Law § 4:20 in 24 LA. CIV. L. TREATISE (2015) (elaborating on the act’s provisions, particularly the distinction between “financed leases” and “true leases”).

¹¹ Tami Luhby, *Robo-Signing: Just the Start of Bigger Problems*, CNNMoney, Oct. 22, 2010; Christopher L. Peterson, *Foreclosure, Subprime Mortgage Lending, and the Mortgage Electronic Registration System*, 78 U. CIN. L. REV. 1359 (2010).

¹² LA. CIV. CODE art. 3312 (2015) (“A transfer of an obligation secured by a mortgage includes the transfer of the mortgage.”).

¹³ See *Nolen v. Davidson’s Succession*, 190 So. 826 (La. App. 2d Cir. 1939).

¹⁴ See LA. CIV. CODE art. 3356 (2015) (discussing the consequences of not filing an assignment of the mortgage and how it affects the rights of third parties).

¹⁵ Zachary A. Kisber, *Reevaluating MERS in the Wake of the Foreclosure Crisis*, 42 REAL EST. L.J. 183 (2013).

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Contact Pamela Labbe at pamela@brba.org or 225-214-5560 for more information.

A brief recap of the 2015 Regular Session of the Louisiana Legislature

BY C. KEVIN HAYES

“I’m trying to keep the defecation from hitting the ventilation.”

— Attorney and Representative Rob Shadoin during debate in the Chamber of the House of Representatives, summing up the mood of the 2015 Regular Session at the Legislature.



City Court, with all of the judges leaving the courthouse for the Capitol to voice their concerns on the bills. The House decided to let the Senate settle the dispute and advanced both bills. In the Senate Committee, HB 76 was advanced but HB 122 was not. When HB 76 was heard on the Senate Floor, Senator and Baton Rouge attorney Dan Claitor successfully

amended HB 76 by the slimmest of margins (20 yeas; 19 nays) to provide that two judges shall be elected by section one, two judges elected by section two and one judge shall be elected citywide, thus setting up a 2-2-1 City Court. The Act is effective July 21, 2015.

HB 197 (Act 59) by Ruston attorney and Representative Rob Shadoin and Senator Rick Gallot, attorney from Grambling, changes the name of the LSBA’s “Lawyers Assistance Program” to the “Judges and Lawyers Assistance Program” and extends the program to include mental-health issues. The bill was supported by both the Louisiana Judges Association and the LSBA.

Metairie attorney and Representative Joe Lopinto and Senator Gallot passed HB 284 (Act 200), which amends provisions related to expungement. Under the Act, no person arrested for DWI and placed by the prosecuting authority into a pretrial diversion program shall be entitled to an expungement of the record until five years after the date of arrest for that offense. Additionally, it provides that motions to expunge a record of arrest that did not result in a conviction shall be served in the same manner as all other expungement motions. Under existing law, the court orders the clerk of court to mail to the DPS&C, office of motor vehicles, a certified copy of the record of the guilty plea, fingerprints and proof of eligibility to make the plea when records involve DWI violations. The Act provides that when a defendant who pled pursuant to existing law in a DWI case seeks an expungement, the clerk of court may send a copy of a letter issued by DPS&C in lieu of

As the 2015 Regular Session of the Louisiana Legislature began on a rainy Monday afternoon, which coincidentally was the day after the Baton Rouge Blues Festival, the mood at the Capitol was both stormy and blue. Louisiana faced a \$1.6 billion deficit, a fall election season, and a Governor who had made a “no tax” pledge to Grover Norquist, President of the Americans for Tax Reform. Overcoming such a large deficit with no new taxes would be the challenge that would confront the legislature until the last hour of the 60-day Regular Session.

Although the budget, taxes and Common Core were the hot topics facing the Legislature, many issues brought by lawyer legislators impacting the legal profession, and specifically attorneys in Baton Rouge, were also considered at the Capitol.

HB 69 (Act 372) by Baton Rouge attorney and Representative Ted James authorizes the Clerk of the Baton Rouge City Court to collect an additional fee not to exceed \$10 in all civil filings. It also authorizes the Baton Rouge City Court judges to assess an additional fee not to exceed \$10 against every defendant in a criminal case, including traffic offenses. The funds collected are to be deposited into a separate account to be expended for the acquisition and maintenance of an electronic case-management system.

HB 76 by Baton Rouge attorney and Representative Alfred Williams and HB 122 by Representative Erich Ponti were dueling bills aimed at changing the election sections for the City Court of Baton Rouge. HB 76 as filed would have changed the election sections to provide that three judges be elected from section one and two judges elected from section two. Currently two judges are from section one and three judges are from section two. HB 122, on the other hand, would have provided that all five judges be elected city wide. The two bills caused a division between the current judges of the Baton Rouge

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sending the documents and fingerprints again, if the clerk previously sent those documents at the time of the plea.

Three bills aimed at the judiciary —HBs 293, 294 and 698—did not survive the House Judiciary Committee. HB 293 by Representative Taylor Barras would have required the Louisiana Supreme Court to establish and maintain a public website to post information concerning certain contracts. The bill was opposed by the Louisiana Supreme Court justices as well as the LSBA.

HB 294 by Representative Stuart Bishop, filed at the urging of LABI, would have required personal finance disclosure by judges and justices of the peace. The judges and the LSBA were vehemently opposed to the bill, and in the House Judiciary Committee, Chief Justice Johnson expressed the court's opposition, arguing it was both a separation of powers issue and a safety issue. Justice Johnson stated that the financial information is available upon request and that the "request" aspect is important so that the Court can notify the judge as to who is requesting the information.

HB 698, filed by New Orleans attorney and Representative Neil Abramson, would have required the Judicial Budgetary Control Board, or a judicial body designated by the supreme court, to develop an annual financial report to communicate expenditures, revenues and employee positions for the judiciary for the prior

fiscal year. The report would have been submitted to the governor, the speaker of the House of Representatives and the president of the Senate, and made available on the supreme court website.

HB 696 by New Orleans attorneys Representative Neil Abramson and Senator Ed Murray became Act 422 relative to civil proceedings regarding summary judgments. This legislation was brought on the recommendation of the Louisiana Law Institute and will review and clarify the procedure for motions of summary judgment. The Act is lengthy and detailed, so please review it for more information.

Although the 2015 Regular Session was designated as a "fiscal" session, the number of additional non-fiscal bills impacting our profession was significant. I encourage you to go to www.legis.state.la.us to review legislation from this session that may interest you or affect your practice. The fall will provide a busy election season as all statewide and legislative offices will be on the ballot, including a governor's race featuring three attorneys seeking the position. There will no doubt be an Extraordinary Session of the Legislature in early 2016 followed by the 2016 Regular Session, which begins March 14, as 2016 shapes up to be a busy year at the legislature, which will subsequently create more new laws impacting our profession. ■



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bar news

Belly Up with the Bar to take place Friday, Oct. 30

This year's Belly Up with the Bar will take place Friday, Oct. 30, 2015, at Live Oak Arabians. The event will offer delicious dishes and beverages to all who attend, and a competitive spirit to the cooking teams that will participate. Belly Up with the Bar is fun party where you can bring your family and meet up with friends where you can find celebrity judges, a raffle, a live auction, the music of the Storywood band.

Chairing this year's Belly Up with the Bar Committee is Ben Anderson. Donna Buuck is the staff liaison of the committee. If you still need to register your cooking or beverage team or if you're interested in securing a sponsorship, please contact Donna at 225-214-5556 or donna@brba.org.

Plan to Geaux Casual for Pro Bono Friday, Oct. 23

Encourage your office to dress casually! On Oct. 23, 2015, the BRBF will hold its annual Geaux Casual for Pro Bono, a fundraiser for the Pro Bono Project where offices compete to raise funds by paying for the right to dress casually. Offices are welcome to select their own special day of dressing casually, but the suggested date is Friday, Oct. 23, to help kick off the ABA's National Pro Bono Week (Oct. 24-30, 2015). For more information, contact Pro Bono Coordinator Caroline Cooper at 225-214-5558 or caroline@brba.org.

Holiday Star Project to provide hundreds of children with gifts for the upcoming holidays

October marks the kick off of the BRBF Holiday Star Project. This year's Holiday Star Committee chair is Kristi Richard of McGlinchey Stafford, and the vice chair is Hunter Bertrand of Dunlap Fiore. Erin Sayes Kenny of Taylor Porter is the YLS Council Liaison.

Susan Kelley is the coordinator of the Holiday Star Project, which is a program that was created by the Young Lawyers Section of the BRBA. The project works with 10 area agencies to determine which children will participate in the program. Gifts are due to the BRBA by Nov. 30, and gift distribution day is Dec. 8.

If you would like to adopt a Holiday Star and purchase a holiday gift for a child, please contact Susan at 225-214-5559 or susan@brba.org.



PHOTO BY PAMELA LABBE

The Young Lawyers Section of the BRBA held its annual Summer Sizzlin' CLE Friday, July 17, 2015. In the photo above are (L to R) Blake Pino, Calli M. Boudreaux, First Circuit Court Judge Guy Holdridge, Blaine Aydele and A.J. Sabine.



The Baton Rouge Paralegal Association announced its Paralegal of the Year April 21, 2015. Photographed are (L to R) Rebecca Arceneaux (2014 recipient), Jennifer Thomas (2015 recipient), and Naya Wiley, president of the Baton Rouge Paralegal Association. Wiley is employed by Baker Donelson.

Join us Nov. 12 at the YLS Cocktails with the Court

Hosted by the Young Lawyers Section of the BRBA from 5 to 7 p.m. Thursday, Nov. 12, 2015, Cocktails with the Court will be held in the Gallery at Manship Theatre, 100 Lafayette St. This reception honors judges and their law clerks from Baton Rouge and the surrounding area courts. Organized by Loren Shanklin Fleshman and Francisca Comeaux, Cocktails with the Court will be sponsored by Citizens Bank & Trust; DeCuir, Clark & Adams, LLC; Saunders & Chabert; Marionneaux Kantrow, LLC; and Smith Shanklin Sosa, LLC. Contact Susan Kelley, staff liaison of the Young Lawyers Section, to RSVP: 225-214-5559 or susan@brba.org.

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BRBA 2015 Bench Bar Conference in Point Clear, Ala., hits the high notes with registrants

The annual BRBA Bench Bar Conference, held July 23-25, 2015, at the Marriott Grand Hotel in Point Clear, Ala., was a hit with members and sponsors alike. The conference was designed around the issue of privacy (or the lack thereof) and offered 8.0 hours of relevant and interesting educational seminars.

Special thanks to this year's Bench Bar Conference co-chairs, Judge William Morvant and Randi Ellis. Judge Tim Kelley and his sub-committee organized the auction. This year's auction, which was held on the first night of the conference, raised \$12,625 for the Baton Rouge Bar Foundation. Congratulations to Frank Holthaus, who won the raffle for a drone.

Taking place Thursday, July 23, 2015, was the opportunity for the BRBA president to showcase his vocal talents with a live band. Bag of Donuts entertained the crowd with vigor and served as the backup singers for 2015 BRBA President Robert J. "Bubby" Burns Jr., who sang his own rendition of Garth Brooks' "Calling Baton Rouge."

The Saturday, July 25, 2015, Conference Golf Tournament was organized by Christopher K. Jones. Receiving second place gross was the team of James H. Peltier Jr. and Mark Modicut. Pete Robbins and Hon. Pegram J. Mire Jr. (Ret.) placed first place net, and Paxton Hester and Douglas Cochran place second place net. Placing first place gross were Austin Southall and Abboud Thomas. Scott Brady, Douglas Cochran and Mark Modicut each won the Closest to the Pin competition, while Austin Southall and Chris Jones won the Long Drive competition. 🏌️

Dr. Shari L. Lewis and Dr. Michael J. Goff presented Megan Brown with the grand prize of speakers during the BRBA Friday night (July 24) dessert party. Dr. Michael J. Goff/Louisiana Health & Injury Centers sponsored the event.



BRBA President Robert J. "Bubby" Burns Jr. sings his rendition of Garth Brooks' "Calling Baton Rouge" with the help of the Bag of Donuts band Thursday, July 23, 2015, at the opening night festivities Baton Rouge Bar Association 2015 Bench Bar Conference.



Edward J. Walters Jr., Hayden Moore and Darrel J. Papillion were present during the Thursday night hospitality suite, which was held in the Sky Lounge of the Marriott Grand Hotel in Point Clear, Ala. The event was co-sponsored by Walters, Papillion, Thomas, Cullens, LLP.



(L to R) Magistrate Judge Rich Bourgeois, Tam Bourgeois, Rick L. McGimsey and Judy C. McGimsey attended the conference.



Total Care Injury and Pain Centers also sponsored the Thursday night (July 23) hospitality suite. Representing Total Care were Dr. Peter Dickinson, Kelly Dickinson, Wendy Perniciaro and Dr. Jay Perniciaro.



Robert J. "Bubby" Burns Jr., Judge Anthony Marabella, Megan Brown and Linda Law Clark attended the Friday night dessert party at Bench Bar.



(In photo left) Photographed during the Bench Bar golf tournament awards ceremony (Saturday, July 25) are Austin Southall, Mark Modicut, James H. Peltier Jr., Chris Jones and Abboud Thomas.

foundation footnotes

PRO BONO & TEEN COURT REPORTS — JUNE 2015

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

PRO BONO PROJECT REPORT—We would like to thank all of our Pro Bono Project volunteers for their June contributions.

The Ask-A-Lawyer volunteers were **Jeffrey Wittenbrink**, *Rowe Law Firm*; **Emily Ziober**; and **James Austin**, *Adams & Reese*.

The Thirst for Justice volunteers were **Allen Posey**; **Sharon Florence**, *Law Office of Sharon Y. Florence, LLC*; **Willie Stephens**, *The Stephens Law Firm*; **Bryron Kantrow**, *Connectivity Source*; **Scott Gaspard**; **Michele Crosby**, *Jones Walker*; and **Kimberly Spruill**.

The Self Help Resource Center attorney volunteers were **Steven Adams**, *Adams Law Office APLC*; **Joseph Ballard**, *Entergy Services, Inc.*; **Ryan Brown**, *Roedel Parsons Koch Blache Balhoff & McCollister*; **Charles Diel**; **Janeane Gorcycya**, *Joubert Law Firm*; **Courtney Joiner**, *Hammonds, Sills, Adkins & Guice*; **Todd Manuel**, *Entergy*; **Kathleen McNelis**, *Louisiana Bar Foundation*; **Pamela Moran**, *Southeast Louisiana Legal Services*; **Paula Ouder**; **Cody Passman**, *Myler Disability*; **Jennifer Prescott**, *deGravelles, Palmintier, Holthaus & Fruge*; **Michael Schachtman**, *Louisiana State Bar Association*; **Rebecca Smith**, *Adams & Reese, LLP*; **Kimberly Spruill**; and **Emily Ziober**.

The Financial Literacy volunteer was **Pamela Moran**, *Southeast Louisiana Legal Services*.

Accepting pro bono cases in June were: **Susan Raborn**, *Raborn Law, LLC*; **Jay Jalenak**, *Kean Miller, LLP*; **Arthur Vingiello**, *Steffes, Vingiello & McKenzie*; **Katina Semien**; **Booker Carmichael**, *The Carmichael Firm*; **Willie Stephens**, *The Stephens Law Firm*; and **Joanna Hynes**, *Kuehne & Foote, APLC*.

Law student Interns: **Carolina De La Pena**, *LSU Law Center*; **Yvonne Henshaw**, *Southern University Law Center*; **Tiffany Lemons**, *Southern University Law Center*; and **Jeffery "Beau" Wheeler**, *LSU Law Center*.

TEEN COURT REPORT—**Jamie Flowers**, **Monica Vela-Vick** and **Jennifer Williams** served as judges for the June Teen Court hearings. **Professor Paul Guidry**, *BRCC*, served as jury monitor. During June, Teen Court defendants participated in weekly group sessions conducted by volunteer attorneys. **Gail Grover** spoke about Juvenile Crime and Consequences; **Jamie Flowers** gave a presentation on Drug and Alcohol Awareness and **Curtis Nelson** gave an interactive presentation on Shoplifting Prevention. ■



Teen Court of Greater Baton Rouge is funded by the South Burbank Crime Prevention and Development District and the Baton Rouge Bar Foundation. The Youth Education Program is financially assisted by the Interest on Lawyers Trust Account (IOLTA) of the Louisiana Bar Foundation. The "Future Legal Eagles Law Club" is funded by a grant from the South Burbank Crime Prevention and Development District.

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Baton Rouge Panel:

- Daniel J. Balhoff
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- Robert S. Dampf
- Jay Dardenne
- Carey J. Guglielmo
- G. Trippe Hawthorne
- William C. Helm
- Steven C. Judice
- Glen Scott Love
- Doug Moreau (Ret.)
- Liz B. Murrill
- Darrel J. Papillion
- John W. Perry, Jr.
- Michael E. Ponder (Ret.)
- Bert K. Robinson
- Keely Y. Scott
- Myron "Mike" Walker, Jr.

October 2015



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

Duty Court Schedule

19TH JDC CIVIL COURT

Sept. 21-Oct. 2 Judge Morvant
Oct. 5-Oct. 16 Judge Caldwell
Oct. 19-Oct. 30 Judge Hernandez

19TH JDC CRIMINAL COURT***

Sept. 25-Oct. 2 Judge Daniel
Oct. 2-Oct. 9 Judge Moore
Oct. 9-Oct. 16 Higginbotham
Oct. 16-Oct. 23 Judge White
Oct. 23-Oct. 30 Judge Marabella
Oct. 30-Nov. 6 Anderson

BATON ROUGE CITY COURT*

Sept. 28-Oct. 4 Judge Prosser
Oct. 5-Oct. 11 Judge Temple
Oct. 12-Oct. 18 Judge Wall
Oct. 19-Oct. 25 Judge Alexander
Oct. 26-Nov. 1 Judge Ponder

FAMILY COURT**

Oct. 1 Judge Day
Oct. 2 Judge Greene
Oct. 5 Judge Greene
Oct. 6 Judge Baker
Oct. 7 Judge Woodruff-White
Oct. 8 Judge Day
Oct. 9 Judge Woodruff-White
Oct. 13 Judge Baker
Oct. 14 Judge Woodruff-White
Oct. 15-16 Judge Day
Oct. 19 Judge Greene
Oct. 20 Judge Baker
Oct. 21 Judge Woodruff-White
Oct. 22 Judge Day
Oct. 23 Judge Greene
Oct. 26 Judge Greene
Oct. 27 Judge Baker
Oct. 28 Judge Woodruff-White
Oct. 29 Judge Day
Oct. 30 Judge Baker

JUVENILE COURT

Oct. 1-Oct. 31 Judge Haney

NOTE: Duty Court changes at 5 p.m. each Friday unless
otherwise specified. *City Court's Duty Court schedule
changes each Monday at 8 a.m. **Family Court's Duty Court
schedule is completely different each day, rotating on Fridays
***19th JDC Criminal Court changes each Friday at noon.

COURT HOLIDAY

Monday, Oct. 12 Columbus Day

Classifieds

BELLY UP WITH THE BAR:
Friday, Oct. 30, 2015—Starts at 5 p.m. Have
you bought your event ticket yet? Don't forget
to get a raffle ticket too! For more information,
see the BRBA website: www.brba.org. Or
contact Donna Buuck at 225-214-5556 or
donna@brba.org.

JOIN THE MOCK TRIAL COMMITTEE:
The BRBF Mock Trial Committee plans the
annual Region III High School Mock Trial
Competition. Contact Lynn S. Haynes to
become involved with the program and to
join the committee: 225-214-5564 or lynn@brba.org.

IT'S HOLIDAY STAR TIME!
Be sure to adopt a holiday star this season.
Hundreds of needy children and teens exist,
and this project provides gifts to those youth
who are being assisted by 10 local agencies.
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your continuing legal education seminar needs.
We have six days of CLE in December! Mark
your calendar now for CLE BY THE HOUR:
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held at the Renaissance Baton Rouge Hotel.
Contact Ann K. Gregorie or Kelsie Bourgeois
for more information: 225-344-4803.

**TEEN COURT OF GREATER BATON
ROUGE NEEDS ATTORNEY VOLUNTEERS:**
Contact Donna Buuck at 225-214-5556
or Lynn S. Haynes at 225-214-5564.



Calendar

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

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

- 2 Construction Law Section CLE,
11:45 a.m.- 1 p.m.;
- 5 Junior Partners Academy, 12:30-2 p.m.
- 6 Teen Court Hearing, EBR Parish Juvenile
Court, 5:30-8:30 p.m.
- 7 Teen Court Group Session, 6-7:30 p.m.
- 7 Volunteer Committee meeting, 12-1 p.m.;
- 8 Law Day Committee meeting, 12-1 p.m.
- 8 Finance Committee meeting, Kean Miller,
Conference Room 7B, 9 a.m.
- 9 Immigration CLE seminar, 8-9 a.m.
- 12 Executive Comm. meeting, Kean Miller,
Conference Room 7B, 8 a.m.
- 13 Teen Court Group Session, 6-7:30 p.m.
- 14 Ask-A-Lawyer, 9:30-11:30 a.m.,
Ascension, Donaldsonville Senior Cntr;
- Publications Committee meeting,
8:30 a.m., Walters, Papillion, Thomas,
Cullens, 12345 Perkins Rd., Bldg. 1
- 15 Family Law Section Meeting & CLE,
Sullivan's, 12-2 p.m.;
- Belly Up with the Bar Committee
meeting, 12-1 p.m.
- 16 Youth Education Committee meeting,
12-1 p.m.
- 21 Ask-A-Lawyer, Catholic Charities,
9-11:30 a.m.;
- CLE Committee meeting, 12-1 p.m.;
- YLS Council meeting, 12-1 p.m.;
- Board meeting, Mansur's, 6-8 p.m.
- 22 Bankruptcy Section CLE, 11 a.m.-3 p.m.
- 23 Geaux Casual for Pro Bono, a jeans
fundraiser for the BRBF;
- Volunteer Committee, serving lunch,
St. Vincent de Paul: 11 a.m.-1 p.m.
- 25 7th Annual National Celebration of
Pro Bono Week (Oct. 25-31)
- 27 Teen Court Group Session, 6-7:30 p.m.
- 29 Lawyers in Libraries event,
Eden Park Library, 9:30-11:30 a.m.
- 30 Belly Up with the Bar (event), Live Oak
Arabians, 5-9 p.m.
- 31 Ask-A-Lawyer, Jones Creek Regional
Library, 9:30-11:30 a.m.;
- Future Legal Eagles Law Club,
Gardere Initiative, 5-6:30 p.m.;
- Halloween



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