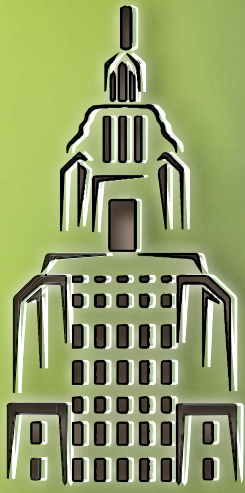


VOL. 8, ISSUE 2 | March/April 2025



THE BATON ROUGE LAWYER

THE MAGAZINE OF THE BATON ROUGE BAR ASSOCIATION



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Patrick Briney



Robert Burns, Sr.



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David Clement



Scott Crichton



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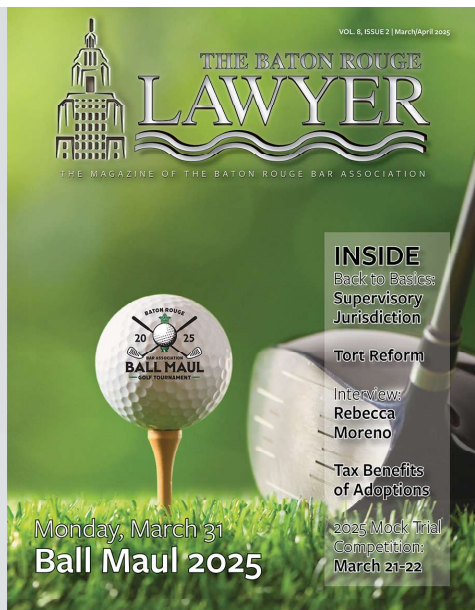
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On the Cover

On the cover of the March/April 2025 issue of The Baton Rouge Lawyer is a golf ball representing the BRBF 2025 Ball Maul Golf Tournament. This year's fundraiser for the BRBF is Monday, March 31, at University Club. Please consider registering your three-player team. A registration form can be found on page 7. For more information about this event, please call the BRBA: 225-344-4803.

Cover designed by Pamela Labbe.

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PERSONAL INJURY FIRM SEEKS ATTORNEY

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Letter from the President

by Monica M. Vela-Vick

Join Us in Making a Difference

Like all nonprofits, we are a mission-driven organization.

Through the BRBA, we provide CLE programming and subject matter training through special practice sections. We offer leadership opportunities through committees and professional networking opportunities through events (including Bench Bar and programs geared toward young lawyers).

The Foundation is our charitable arm through which volunteers give of their time to increase access to justice. Our impact in 2024 alone is something that makes us proud: Over 815 litigants received assistance through the Self-Help Resource Center, 187 individuals received advice and counsel through our Ask-A-Lawyer program in various parishes, 154 individuals received advice and counsel through the legal hotline and over 115 referrals from Southeast Louisiana Legal Services were handled by volunteers in our Pro Bono Project.

I write today about youth education. I am admittedly biased, but I see our youth education ambassadors as the unsung heroes of the Bar Association. These volunteers are frequently the backbone—no, they are the *heart*—of much of the work we do.

The Foundation's award-winning Youth Education programs include the Region III High School Mock Trial Competition, Teen Court of Greater Baton Rouge and Law Day. These programs are funded largely by grants and run by a dedicated core group of volunteers. Over the past dozen years, we've held Lawyer in the Classroom programs, Junior Partners Academy at Southern Lab and the



Monica M. Vela-Vick

Future Legal Eagles Club in the Gardere area. We even hosted a Summer Youth Legal Institute Summer Camp for teens. In 2024 alone, our Youth Education programs reached 1,629 students.

Our Mock Trial and Teen Court programs share many of the same volunteers, and it's been like that since Teen Court started nearly 20 years ago in 2006. The list of early Teen Court volunteers includes Judge Gail Grover, Curtis Nelson and Tavares Walker.

Others have repeatedly and consistently touched these programs. Magistrate Judge Erin Wilder-Doomes attended the first Teen Court training session in 2006, and she has sworn in our teen jurors after their training. She even coached her son's winning Baton Rouge High Mock Trial team. For at least the past decade, Judge Joycelyn Elmore has sworn in our jurors and judged multiple Mock Trial finals.

There are too many volunteers to thank. So many of you volunteer for Mock Trial year after year, and we frequently have new judges share in the joy of swearing-in teen defendants and teen juror volunteers.

Committee members—including Curtis, Tavares, Judge Grover, Raven Hills and Connell Archey—have given a huge chunk of their lives to running these programs, and more recently, so have leaders like Rebecca Moreno, Candace B. Ford, Allena McCain and Jamie Flowers.

The latter group will lead the Region III High School Mock Trial Competition, hosted at the 19th Judicial District Court from March 21 - 22. Students may join us from Assumption, Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge and West Feliciana parishes. These students are outstanding.

Our volunteer attorneys and judges tell us often that the student lawyers competing in the Mock Trial competition are better than lawyers



Photographed are Tristan Vela-Vick, Judge Joycelyn Elmore, Austin Vela-Vick and Monica M. Vela-Vick (on right) on the afternoon that Monica and her sons attended a Teen Court Training session. Judge Elmore served as the judge during the swearing-in ceremony and Monica filled the role of Teen Court trainer.

appearing on a Monday rule day. True or not, these student attorneys share a piece of themselves with us that day. They are your neighbors' children; they are our future leaders and this community's future lawyers. They have practiced untold hours learning the rules of evidence and their case problems. The volunteer attorney coaches and teachers—also unsung heroes—work nonstop to get these students ready. Some teams even bring in student actors for witness roles. These occasionally color-coordinated teams advocate with a zeal you'd want if you were their client. It is an absolute joy to see young people break out of their shells and learn to speak up.

From you, my request is this: On Friday, March 21, at our Mock Trial Competition, please give three hours of your time at 8:45 a.m., noon or 3:15 p.m. to enjoy the amazing talent in our community. We also need volunteers Monday, May 2, for Law Day, chaired by Lori Palmintier and Talya Bergeron. You will not regret it.

And if your heart doesn't fill enough from volunteering there, let me buy you a coffee and sit down to tell you about Teen Court, where real cases affecting real families are heard on alternating Monday nights over Zoom. Middle and high school

teens serve as the defense attorney, prosecutor, juror or bailiff. The only adults present are the volunteer judge and jury moderator. In this restorative justice program for first-time misdemeanor offenders, teens deliberate on a constructive

sentence, which could include the completion of community service, participation in future teen court sessions, attendance of educational programs or participation in counseling and parent/child sessions.

It is a humbling experience and a rewarding one for the teens and judges alike. Consider inviting your teens to participate April 12 at our next planned training at Juvenile Court, or come yourself.

I think we can—and should—all play a role in providing for the next generation. But if you cannot volunteer, then help the Bar by joining us for a fun day of playing golf to raise funds for BRBF. We really do have something for everyone. Kelley Dick Jr. and his committee have planned a great Ball Maul with its 11 a.m. shotgun-start on Monday, March 31, at University Club. Please complete the registration form in this issue to register your three-golfer team. I look forward to seeing you on the greens or in a courtroom soon.



Magistrate Judge Erin Wilder-Doomes is photographed (above) with her son Evan the year his high school mock trial team won the Region III competition.

Volunteer to Help with the Baton Rouge Bar Foundation 2025 Law Day



Law Day activities will take place May 2, 2025, at the River Center and 19th Judicial District Court.

Complete this form and send it to Jordyn Baker at jordyn@brba.org or 225-344-4805 (fax) to volunteer, or contact Jordyn with any questions at (225) 214-5556.

Name _____ Firm _____

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Contributors



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Cornelius Troy Hall, an associate attorney at *Lindsey Scott Law Firm APLC*, is a member of the Publications Committee.



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Monica M. Vela-Vick practices with the *Dugan Law Firm* and is the 2025 president of the BRBA.



Vincent P. Fornias handles arbitrations with *Perry Dampf Dispute Solutions* and is a member of the Publications Committee.



CORRECTION: Photographed (L to R) are former BRBA Presidents Christine Lipsey and Michael A. Patterson, who attended Gavel Gala 2024. Lipsey received the Gregorie Gavel Lifetime Achievement Award during the third annual Gavel Gala. Unfortunately, Patterson (Lipsey's spouse) was misidentified in the January/February 2025 issue of *The Baton Rouge Lawyer*. We regret this error.

March/April 2025

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THE BATON ROUGE BAR FOUNDATION PRESENTS BALL MAUL 2025

MONDAY, MARCH 31 | THE UNIVERSITY CLUB OF BATON ROUGE

THREE GOLFERS PER TEAM | TWO TEAMS PER HOLE
LUNCH/REGISTRATION: 10 AM | SHOTGUN START: 11 AM

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***Proceeds benefit Baton Rouge Bar Foundation projects**

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Regular Registration Deadline is 3/21/2025.

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***PROCEEDS BENEFIT BATON ROUGE BAR FOUNDATION PROJECTS**

Message to Young Lawyers

Creating a Partnership

Greetings to my fellow Bar Association and BRBA Young Lawyers Section members:

As the 2025 YLS chair-elect, I am honored to serve alongside my fellow YLS Council members and officers in supporting, fostering and developing opportunities that focus on the professional, educational and social development of young lawyers in and outside the Baton Rouge area.

As a section, we serve as a voice for the BRBA and young lawyers. Our goal is to support and cultivate programs and experiences that promote young lawyers' mental, professional and networking development. I look forward to continued collaboration with this council and witnessing its dynamic, service-focused ideas come to fruition. This council brings leadership, service, shared commitment and diverse perspectives to the table. As a result, young lawyers, great opportunities await you.

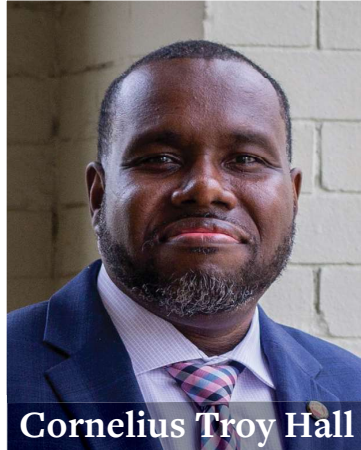
The YLS also recognizes the work and value of those lawyers who came before us. We appreciate their continued service and treasure the moments of mentorship, leadership and insight they share with us. Thank you for your service and your continued commitment to us individually and to the bar as a whole. We look forward to working with you moving forward.

To those young lawyers, the YLS understands that your time is valuable and that you only have so many hours in the day. Yet, we hope you will take the time to become involved with our section and participate in the different opportunities it offers. Whether it be some of our traditional events—Cocktails with the Court, Sidebar Luncheons, CLE seminars, Thirsty Thursdays and professional networking events—or new activities that the YLS is planning for you, our section offers a myriad of ways for you to get involved. So, consider taking advantage of these opportunities. Believe me, the benefits you get and the connections you make from getting involved are invaluable.

One of those new endeavors is the development of subcommittees that focus on Law School Outreach, CLE Programming, Social Media and Social Outreach. A shout-out goes to the 2024 YLS Chair Brad Cranmer who proposed this idea and guided it to its birth. Thank you, Brad, we appreciate it, and well done!

The goal of these subcommittees is to:

Create continuing lines of communication between young lawyers and law students to cultivate conversations on what activities young lawyers and law students feel will help them professionally, educationally and socially.



Cornelius Troy Hall

Develop strategies, frameworks and events that foster professional growth, educational development and networking opportunities for young lawyers and law students.

These subcommittees will announce their activities and proposals throughout the year via the weekly BRBA e-newsletter, TBRL and BRBA social media. These events are designed to help young lawyers experience the professional and networking balance they need to succeed in their chosen fields of practice. So be on the lookout.

The Law School Outreach

subcommittee is chaired by me, Cornelius Troy Hall, along with YLS Council members Rebecca Moreno and Candace B. Ford. The CLE Programming subcommittee is chaired by YLS Council member Sadie Hebert and YLS Chair Kolby Marchand. The Social Media subcommittee is chaired by YLS Council members Beverly Perkins and Rebecca Moreno. The Social Outreach subcommittee is chaired by YLS Council members Linnea Brailsford and Emily Lindig. We look forward to collaborating with young lawyers and law students to create beneficial and enjoyable experiences for them.

The work of these subcommittees and the aforementioned endeavors of the YLS represents a partnership we seek to build with you. The success of this partnership relies on your feedback, which is welcomed and appreciated. While we may not be able to implement every suggestion, we genuinely value and acknowledge your input. So, participate and communicate with us. We look forward to interacting with you as we embark on this journey together!

In closing, I love quotes, especially those that breathe inspiration and hope into others, so here is one on which to reflect:

"Courage doesn't always roar. Sometimes courage is the little voice at the end of the day that says I'll try again tomorrow."

— Mary Anne Radmacher

Best,

A handwritten signature in blue ink that reads "Cornelius Troy Hall". The signature is fluid and cursive.

Cornelius Troy Hall



Back to Basics:

Supervisory Jurisdiction *by Bradley C. Guin*

Supervisory vs. Appellate Jurisdiction: What's the Difference?

Supervisory jurisdiction plays an important role when a party wants to have an interlocutory judgment reversed or modified and when petitioning for review from the Louisiana Supreme Court. To truly grasp what supervisory jurisdiction is, it's helpful to first clarify what it isn't. A good starting point is comparing it to appellate jurisdiction. While these two powers are connected, they play distinct roles in Louisiana's legal system.

Appellate jurisdiction operates as a matter of right.¹ When a litigant properly files an appeal, the appellate court is obligated to hear it. Supervisory jurisdiction is a discretionary tool, however.² Litigants don't have an automatic right to this type of review—appellate courts choose whether to step in.

Timing also sets these two forms of jurisdiction apart. Appellate jurisdiction typically comes into play after the lower court has wrapped up its proceedings, whether through a trial, a ruling on an exception or a summary judgment. There are some exceptions. Interlocutory judgments, like preliminary injunctions and class certification decisions, can be appealed before a case is fully resolved.³

Supervisory jurisdiction, on the other hand, is usually invoked while the lower court's proceedings are still underway. It plays a key role after an appeal, especially when the Supreme Court is deciding whether to grant a writ of certiorari to review a lower court's decision.

Mastering the *Herlitz* Factors

When will a court of appeal exercise its supervisory jurisdiction? The answer lies in a blend of jurisprudence and practical considerations, as legislation provides little guidance.

Article 2201 of the Louisiana Code of Civil Procedure offers a brief statement on supervisory writs: they “may be applied for and granted in accordance with the constitution and rules of the supreme court and other courts exercising appellate jurisdiction.” Translation? The real answer comes from caselaw.⁴

The Pre-*Herlitz* Landscape: Palpable Error and Irreparable Harm

Before 1981, convincing an appellate court to grant a supervisory writ was an uphill climb. You had to prove two things: “palpable error” in the lower court's ruling and irreparable harm.⁵ That all changed with *Herlitz Construction Co. v. Hotel Investors of New Iberia, Inc.*⁶

In *Herlitz*, the defendants challenged the trial court's decision to overrule their exception.⁷ The court of appeal stuck to the status quo, denying the writ application because the defendants didn't meet the stringent standards of palpable error and irreparable harm.⁸ But when the case reached the Louisiana Supreme Court, the game changed.

The Supreme Court's Big Move

The Supreme Court used *Herlitz* to introduce a new framework—three criteria now known as the *Herlitz* factors—to govern the exercise of supervisory jurisdiction by intermediate appellate courts. According to the Court, an appellate court should exercise its supervisory jurisdiction when the following criteria are met:

1. the judgment in question is arguably incorrect;
2. a reversal will terminate the litigation; and
3. there are no factual disputes to be resolved.⁹

The Court emphasized efficiency and fairness, noting that satisfying all three factors “dictates” the exercise of supervisory jurisdiction to avoid the waste of a potentially pointless trial.¹⁰

In *Herlitz*, these factors aligned perfectly. The Court granted the writ application and sent the case back to the court of appeal for a full review.¹¹

***Herlitz* in Practice: A More Flexible Approach**

While the Supreme Court laid out a clear framework, appellate courts haven’t treated the *Herlitz* factors as gospel. Instead, they’re just part of a larger equation.¹² Courts often weigh other considerations, like:

1. whether the writ application was filed on time;
2. whether immediate review is essential to avoid losing the chance to address a significant issue; and
3. whether immediate review is necessary to prevent irreparable harm (a nod to the pre-*Herlitz* days).¹³

For example, rulings on venue exceptions, arbitration stays and jury trial denials may deserve immediate attention under these additional criteria.¹⁴

Are the *Herlitz* Factors Created Equally?

The Court in *Herlitz* did not give extra weight to any one factor. Interestingly, though, the Fourth Circuit seems to give extra weight to one *Herlitz* factor: whether a reversal will terminate the litigation.¹⁵ This trend started in *Ramirez v. Evonir, LLC*,¹⁶ though it doesn’t appear explicitly in earlier cases like *Favrot v. Favrot*,¹⁷ which *Ramirez* cited. Thus, practitioners in the Fourth Circuit should pay careful attention to this specific *Herlitz* factor when preparing or opposing a writ application.

The Supreme Court’s Different Role

Finally, it’s worth noting that the *Herlitz* factors are tailored for intermediate appellate courts, not the Supreme Court.¹⁸ The Louisiana Supreme Court, with its broader “policy court” role, evaluates writ applications through a different lens: the Rule X writ-grant considerations.¹⁹ For the high court, the focus often shifts to whether a case raises significant legal questions or addresses unresolved conflicts between jurisdictions.²⁰

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¹ *Favrot v. Favrot*, 10-0986, p. 2 (La. App. 4 Cir. 2/9/11), 68 So. 3d 1099, 1102.

² *Id.*

³ See La. Code Civ. Proc. arts. 3612(B), 592(A)(3)(c).

⁴ *Alex v. Rayne Concrete Serv.*, 05-1457, p. 6 (La. 1/26/07), 951 So. 2d 138, 144 n.5.

⁵ See generally *Herlitz Constr. Co. v. Hotel Investors of New Iberia, Inc.*, 396 So. 2d 878, 878 (La. 1981); *Mangin v. Auter*, 360 So. 2d 577, 577 (La. App. 4 Cir. 1978).

⁶ 396 So. 2d 878 (La. 1981).

⁷ *Id.* at 878.

⁸ *Id.*

⁹ *Id.* (citing *Mangin*, 360 So. 2d 577).

¹⁰ *Id.*

¹¹ *Id.*

¹² See, e.g., *Ramirez v. Evonir, LLC*, 14-1095, pp. 5–6 (La. App. 4 Cir. 4/9/15), 165 So. 3d 260, 263–64.

¹³ *Id.* (citations omitted).

¹⁴ RAYMOND P. WARD, LOUISIANA APPELLATE PRACTICE 10 (2023).

¹⁵ See, e.g., *Elysian, Inc. v. Neal Auction Co.*, 20-0674, p. 14 (La. App. 4 Cir. 7/21/21), 325 So. 3d 1075, 1086; *Ocwen Loan Servicing, LLC v. Porter*, 18-0187, p. 3 (La. App. 4 Cir. 5/23/18), 248 So. 3d 491, 494.

¹⁶ 14-1095 (La. App. 4 Cir. 4/9/15), 165 So. 3d 260.

¹⁷ 10-0986 (La. App. 4 Cir. 2/9/11), 68 So. 3d 1099, writ denied, 11-0636 (La. 5/6/11), 62 So. 3d 127.

¹⁸ *Whitney Nat’l Bank v. Rockwell*, 94-3049, p. 6 (La. 10/16/95), 661 So. 2d 1325, 1329 n.3.

¹⁹ La. Sup. Ct. r. X; Isaac H. Ryan & J. Todd Benson, *Get That Writ: Civil Writ Practice Before the Louisiana Supreme Court*, 48 LA. B.J. 120, 120–21 (2000); *Howard v. Union Carbide Corp.*, 09-2750 (La. 10/19/10), 50 So. 3d 1251, 1258 (Knoll, J., dissenting); *Rockwell*, 661 So. 2d at 1329 n.3 (noting that the Supreme Court’s “primary function is to develop the law in significant areas in order to guide the lower courts and the bar”).

²⁰ See La. Sup. Ct. r. X.

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ARE NEEDED
TO ASSIST WITH THE
REGION III HIGH SCHOOL
MOCK TRIAL COMPETITION
FRIDAY & SATURDAY
MARCH 21-22.

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OR JORDYN@BRBA.ORG

Bar News

Admission Ceremony, BRBA and FBA Bar Leader Officer Installation held Jan. 30 at the U.S. District Court for the MDLA

The Baton Rouge Bar Association and the Baton Rouge Chapter of the Federal Bar Association held their annual admission ceremony for lawyers who wished to be sworn into federal court Thursday, Jan. 30, 2025, at the U.S. District Court for the Middle District of Louisiana.

Afterward, the BRBA and FBA, Baton Rouge Chapter, each held a bar leader installation ceremony. The 2025 president of the BRBA is Monica M. Vela-Vick, who was installed by U.S. District Court Chief Judge Shelly D. Dick. Also honored during the ceremony were recipients of the BRBA President's Awards.

Ball Maul Golf Tournament Returns March 31

Register your three-player golf team for the next BRBF Ball Maul Golf Tournament taking place Monday, March 31, 2025, at University Club. This year's committee chair is Kelley Dick Jr. To register your team, complete a registration form or contact Ann K. Gregorie at ann@brba.org or Pamela Labbe at pam@brba.org.

Law Day 2025 Scheduled for May 2

Volunteers are needed for the BRBF Law Day event on May 2, 2025. Contact Youth Education Coordinator Jordyn Baker at jordyn@brba.org or 225-214-5556 to volunteer in any capacity for this year's Law Day event.

U.S. District Judge Shelly D. Dick presided over Monica M. Vela-Vick's installation as president of the Baton Rouge Bar Association. On the bench are Magistrate Judge Scott Johnson and Judge John deGravelles. (Photo provided by the LSBA.)



Monica M. Vela-Vick follows tradition by honoring BRBA Past President Luke Williamson with a trophy in appreciation for his year of service as association president for 2024. (Photo provided by the LSBA.)



U.S. District Judge Brian A. Jackson (on far right) installed Cornelius Troy Hall (as YLS chair-elect), Wes Clark (as Construction Law Section past chair), John Fenner (as In-House Counsel chair) and Ryan Richmond (as Bankruptcy Section chair). (Photo provided by the LSBA.)



Chief Judge Shelly D. Dick of the U.S. District Court for the Middle District of Louisiana presided over the installation of the directors at large of the BRBA Board of Directors. Photographed (L to R) are Judge Dick, Anthony Gambino, Kelley Dick Jr., Lori Palmintier, Chris Shows and Marcus Plaisance. (Photo provided by the LSBA.)



In the photo above, 19th JDC Chief Judge Wilson E. Fields (left) presented Judge Donald R. Johnson with a plaque honoring him for his 19th Judicial District Court chief judge tenure. Judge Johnson served as chief judge from July 2022 to June 2024. The presentation took place at the conclusion of the Opening of Court, Memorial and New Member Ceremony. Incidentally, Judge Johnson became chief judge again on March 1, 2025 through Dec. 31, 2026, after Judge Fields assumed his new role on the bench of the Louisiana Court of Appeal, First Circuit.



George M. Pierson shared positive anecdotes of his sister, Mary Olive Pierson, with the audience during the Jan. 29, 2025, Opening of Court, Memorial & New Member Ceremony.



J. Michael Cutshaw and Madeline S. Carbonette were honored during the Opening of Court, Memorial & New Member Ceremony for 50 Years of Practice.

Browsing the Bar Happy Hour Event followed Opening of Court Ceremony Wednesday, Jan. 29

The BRBA held its annual Opening of Court, Memorial & New Member Ceremony at 3 p.m. Wednesday, Jan. 29, 2025, in the 11th floor ceremonial courtroom of the 19th JDC. A long list of lawyers practicing 50, 55, 60, 65 and 70 years were recognized during the event prior to the annual ceremony that honors all members of the bar who were lost in 2024. Jan Reeves, president of the Baton Rouge Association of Women Attorneys, and Harry Landry III, president of the Greater Baton Rouge Chapter of the Louis A. Martinet Legal Society, assisted with the event.

The final part of the annual ceremony was the introduction of new bar members, which was led by Young Lawyers Section Chair-elect Cornelius Troy Hall, LSBA President Pat Talley and LSBA President-elect Ed Walters Jr.

Taking place immediately following the Opening of Court, Memorial & New Member Ceremony was a new event called the Browsing the Bar Happy Hour. This event provided a forum where new members could learn more about the BRBA's activities and committees. The new event was held at the River Center Branch Library, a short walk from the 19th JDC. Special thanks to the organizers of both events.



BRBA Director-at-Large Kelley Dick Jr. (on far right) is this year's Ball Maul chair. In this photo, he greets young lawyers who attended the Browsing the Bar Happy Hour and encourages them to form a three-player golfing team to support the BRBF.

BRBA Finds Success with Galentine's Event

Approximately 30 women lawyers attended the BRBA's first-ever Galentine's event, held Thursday, Feb. 13, 2025, at Boards & More.

Young Lawyer Section Council member and co-chair of the event, Beverly Perkins with Erlingson Banks PLLC, spearheaded the Galentine's event with the assistance of co-chair Hayden A. Moore and committee member Rebecca Moreno. BRBA President Monica M. Vela-Vick attended.

The event featured a planned activity—a floral arranging class—and provided pizza, charcuterie and wine. Lucky attendees received \$1,200 in donated door prizes throughout the event.

Thanks to all companies who donated door prizes, including The Dog Stop Baton Rouge; Inspired Skin Care; Martin Wine & Spirits; Hayden A. Moore; Porteous Hainkel & Johnson; Salon du Sud; Vertage Clothing; and Zanella's Wax Bar.



Among the 30 attendees at the BRBA's Galentine's event were (L to R) Mary Erlingson, YLS Council member Beverly Perkins (event co-chair), Cathy St. Pierre and London Smith.



Posing for a photo at the Feb. 13, 2025, Galentine's Day event are Carlin Chambliss and Irena Zajickova.



LSBA President-elect Ed Walters Jr., LSU Law Dean Alena M. Allen, BRBA President Monica M. Vela-Vick and LSBA President Pat Talley were photographed Jan. 29, 2025, at the Opening of Court, Memorial and New Member Ceremony. (Photo provided by the LSBA.)



Attending Browsing the Bar Happy Hour are (L to R) BRBA Director-at-Large Chris Shows, First Circuit Court Judge Hunter Greene and BRBA Director-at-Large Marcus Plaisance.



Browsing the Bar Happy Hour, held Jan. 29, 2025, at the River Center Branch Library, featured information tables to encourage participation in future BRBA events and committees. Photographed (L to R) are Philip Marr, BRBA President Monica M. Vela-Vick, Vincent V. "Trey" Tumminello III and Kelley Dick Jr.

A wide-angle, low-angle photograph of the Louisiana State Capitol building in Baton Rouge. The building is a tall, light-colored stone structure with a central tower and multiple wings. The sky is a clear, bright blue. The title of the article is overlaid on the right side of the image.

Tort Reform & the 2024 La. Legislative Session

by Dan Claitor

Keeping up with the Louisiana Legislature is a tall order. In the 2024 Regular Session, which convened March 11 and adjourned June 3, a total of 1,491 bills were filed. Of those, 982 were House bills and 509 were Senate bills. In the mix were also 42 constitutional amendments and 771 resolutions and study requests.

This article addresses less than 1.5% of those 1,491 bills.

Governor's Major Wins

According to the governor's website, the "Major Wins"¹ in insurance legislation during the 2024 Regular Session were the following House Bills (HB) and Senate Bills (SB):

HB 315² extended prescription in certain tort actions. This bill will be discussed in more detail below.

HB 120³ repealed the sunset on the Louisiana fortified homes program.

HB 611⁴ phased out the rule that limited insurers' ability to cancel a homeowner's policy that had been in effect for three years or more, allowing more competition in the insurance market.

SB 295⁵ changed the way rate filings are approved, which the governor described as "[p]rovid[ing] an open invitation for insurance companies to do business in Louisiana."⁶

SB 323⁷ streamlined the insurance claim process. This bill will be discussed in more detail below.

A fair reading of the governor's announcement and the above five bills would suggest that "tort reform" has a component of "insurance reform" relative to the insurance marketplace, complemented by encouragement (i.e., subsidies) to rate

payors that are proactively reducing their risks. This article focuses on the "tort reform" side of the equation.

Given the limits on the length of this article, only three bills will be discussed in some detail. For example, the roaming livestock bill is given only a cursory comment. If your client is having a cow (problem), you may need to round up more detail than what is provided here. This article should not be relied on as the alpha and the omega as to tort reform in the legislature. At best, this short article is merely a starting place for one's own research.

Automobile Insurance Bills

The following is a list of what is generally accepted as the package of bills focusing on Auto Insurance Reform in 2024. In addition to two of the bills noted above, the following bills address automobile insurance issues:

HB 337,⁸ discussed below, eliminated direct action against the insurer in most instances.

SB 499⁹ introduced a selection-form requirement for uninsured motorist coverage and created specific conditions for commercial automobile insurance policies.

HB 784¹⁰ makes livestock owners strictly liable for damages caused by escaped livestock, with exceptions.

HB 785¹¹ limits liability for commercial motor vehicle stakeholders for not installing non-mandatory optional equipment.

SB 10¹² provides for the recognition of separate legal personalities among affiliated corporations and other business entities.

SB 355¹³ provides for the regulation of litigation funding by a third party that is a foreign person, state or wealth fund.

SB 337¹⁴ mandates that insurers provide a 25% premium discount on automobile insurance policies to military reservists, in addition to certain active-duty personnel. SB 337 also allows insurers offering this discount to receive certain tax credits. In the Fall 2024 Special Legislative Session, tax credits for the motion picture industry were retained, albeit with reduced caps.

HB 383¹⁵ establishes that a pedestrian illegally blocking a roadway cannot pursue legal action against a motor vehicle operator for injuries, death or damage, except in cases of intentional acts, if the operator uses the vehicle to escape perceived imminent danger.

SB 84¹⁶ addresses offers of judgment.

HB 589¹⁷ requires a check with the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse on all applications for the transfer, issuance, renewal or upgrade of a commercial driver's license or commercial learner's permit.

HB 375¹⁸ mandates that insurers providing homeowner's or private passenger motor vehicle insurance in Louisiana must disclose all available premium discounts in written form and electronically, or within policy documents, at inception and renewal.

A Closer Look at Three Bills

Prescription of Delictual Actions

A cursory reading of HB 315, now Act 423, leaves one with the belief that it extended prescription by a year (to two years) in tort actions. It does for delictual actions, with some exceptions. The Act is reproduced below. Though not evident in the "coding" advisory, repeals of current law can be and are frequently overlooked by readers, both within and without the legislature, because they are neither highlighted nor struck through. A careful reader that compares the Act below to what is found in the current official copy of the Code may note a renumbering. Louisiana Revised Statutes 24.253.1 allows the Louisiana State Law Institute to renumber statutes.

1 AN ACT

2 To enact Civil Code Articles 3493.11 and 3493.12, and to repeal Civil Code Articles 3492

3 and 3493, relative to tort actions; to provide prescriptive periods for tort actions; to

4 provide for applicability; to provide for an effective date; and to provide for related

5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Articles 3493.11 and 3493.12 are hereby enacted to read as

8 follows:

9 Art. 3493.11. Delictual actions

10 Delictual actions are subject to a liberative

prescription of two years. This

11 prescription commences to run from the day injury or damage is sustained. It does

12 not run against minors or interdicts in actions involving permanent disability and

13 brought pursuant to the Louisiana Products Liability Act or state law governing

14 product liability actions in effect at the time of the injury or damage.

15 Art. 3493.12. Damage to immovable property;
commencement and accrual of

16 prescription

17 When damage is caused to immovable property, the two-year prescription

18 commences to run from the day the owner of the immovable acquired, or should

19 have acquired, knowledge of the damage.

Page 1 of 2

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Section 2. Civil Code Articles 3492 and 3493 are hereby repealed their entirety.

2 Section 3. The provisions of this Act shall be given prospective application only and

3 shall apply to delictual actions arising after the effective date of this Act.

4 Section 4. This Act shall become effective on July 1, 2024.

The Act provides that delictual actions will be subject to a liberative prescription of two years effective July 1, 2024, joining what had been the province of delictual actions arising due to damages sustained as a result of an act defined as a crime of violence (La. C.C. art. 3493.3). The prescriptive period for damage to immovable property is addressed within the Act. Be aware that wrongful death and survival actions remain at one year and are not part of the new law. Medical malpractice, attorney malpractice, notary malpractice, damage to crops and a host of claims found in La. R.S. 9:5601 et seq. are also unchanged from one year. Be advised to drill down on the cause of action and confirm its time limitations.

Bad Faith

SB 323 was billed as streamlining the insurance claim process. Another way to say streamlining is "narrowing of bad faith." The bill amended R.S. 22:1892 and enacted R.S. 22:1892.2. It repealed R.S. 22:1972 and laid it into R.S. 22:1892 with a new distinction being made between newly defined categories of non-catastrophic and catastrophic claims. Certain penalties were also capped. Insurers of last resort retained their special status relative to class actions and penalties. A breach of good faith and fair dealing is defined within Act 3 to occur when an insurer: (1) misrepresents pertinent facts or insurance policy

provisions relating to any coverages at issue; (2) fails to pay a settlement within 30 days after an agreement is reduced to writing; (3) denies coverage or attempts to settle a claim on the basis of an application that the insurer knows was altered without notice to, or knowledge or consent of, the insured; (4) misleads a claimant as to the applicable prescriptive period; or (5) fails to pay claims when the failure is arbitrary, capricious or without probable cause.

The Act defines what constitutes bad faith on the part of the insured, the claimant and their representatives. When insureds breach their duty, they are not entitled to recover any penalties or attorney fees.

Direct Action

HB 337 removed “direct action” in most instances from the revised statutes. Direct action remains when an insured has filed for bankruptcy or is insolvent; when service of citation has been attempted without success or the insured defendant refuses to answer or otherwise defend the action within 180 days; for uninsured motorist insurance; when the insured is deceased; when the insurer is defending the lawsuit under a reservation of rights, or when the insurer denies coverage to the insured (but only for the purpose of establishing coverage).

Some interesting steps were added as to form, such as the carrier shall not be included in the suit caption and a carrier may be joined on motion of any party as a party defendant for purposes of entering a final judgment or enforcing a settlement.

Also, the last section of the bill addresses preserving a claim against another insurer of the same defendant in the same cause of action as contemplated by *Gasquet*¹⁹ and its progeny.

Uninsured Motorist (UM) Selection

SB 499, relative to UM, amended and reenacted the introductory paragraph of R.S. 22:1295 and R.S. 22:1295(1)(a) and (e), (4), and (5) and the introductory paragraph of 1296(B) and enacted R.S. 22:1295(7), relative to uninsured motorist coverage and provided for uninsured motorist coverage and an exception to uninsured motorist coverage.

There is a prescribed form relative to UM. A properly completed and signed form creates a rebuttable presumption that the insured knowingly rejected coverage, selected a lower limit or selected economic-only coverage. Most UM litigation has come about when a form was signed, but not properly completed. Act 770 provides that if the form is signed but not properly completed, such that the rebuttable presumption does not apply, there shall be no uninsured motorist coverage or modified uninsured motorist coverage, as applicable, if it is determined that the insured or his representative intended to reject or modify the uninsured motorist coverage. Arbitration remains optional.

A carve out was created for commercial automobile policies such that the insured shall have the option of selecting uninsured motorist coverage on a form promulgated by the commissioner. If there is no selection of uninsured motorist coverage on the form provided to the insured and no payment of premium that includes this coverage, it shall be presumed that no uninsured motorist coverage was selected for that

policy or contract, and the provisions of this Section shall not apply.

Governor’s Veto – Three Bills of Interest *Collateral Source*

HB 423 was a bill relative to recoverable medical expenses from collateral sources. It passed the Senate with 25 votes and the House with 68 votes. This kind of vote count is not exactly a mandate. The governor vetoed the bill and attached to it a rather extensive veto message. Part of the message is reproduced below:

Please be advised that I made the decision to veto House Bill 423 of the 2024 Regular Session. This bill, which is the second attempt in four years to modify the doctrine of collateral source, has severe implications. It penalizes responsible consumers who maintain healthcare coverage and/or Medicare, and it potentially undermines the collateral source rule entirely. I want to emphasize that I was very clear with ... members of the House and Senate I would only allow a bill with reasonable amendments to become law. House Bill 423, in its current form, does not meet this standard.²⁰

Sale of Litigious Rights

Gov. Landry advised in his veto message that he thought the bill should be called the “‘Debt Collectors Employment Protection Act’ as it is solely aimed at protecting and enriching predatory debt collection practices in this state. ... We think the 2016 Legislature got it right when it rejected this legislation as imprudent, unnecessary, and counter-productive to efforts towards meaningful tort reform and consumer protection.”²¹

Legislative Continuances

For those who have ever been on the receiving end of a legislative continuance springing from La. R.S. 13:4163, encountering this peremptory instrument can be jarring. This statute grants “peremptory grounds” to members of the legislature or to legislative employees to obtain continuances or extensions of fixed court dates or deadlines when the presence, participation or involvement of the member or employee is required in any capacity surrounding legislative sessions, constitutional conventions and related activities.

SB 185 sought to expand the current version of the legislative continuance statute and make it even stronger for the attorney legislator. The governor clearly thought SB 185 was a bridge too far and advised in his veto message that:

Louisiana Revised Statute[s] 13:4163 currently allows a member of the legislature and a legislative employee to file an ex parte motion for a legislative continuance or extension of time in a civil, criminal, or administrative proceeding. Senate Bill 185 expands this law. It mandates that a court award attorney fees and court costs in favor of the legislator’s client or employer when an opposition is filed to a motion for legislative continuance. I oppose further expansion of legislative continuances at this time.

Some legal proceedings warrant immediate relief, and judicial delay is not possible. Attorneys advocating for their clients in these unique cases should not have to do so under the threat of being sanctioned with attorney

fees and court costs. ... I am not opposed to legislative continuances in general. Nonetheless, an attorney-legislator can simply enroll as counsel of record or place his or her name on a pleading to qualify for a continuance or extension in any case. ... Unless or until Louisiana provides ... oversight, the courts provide a check in the event a legislative continuance is simply not possible.²²

Five months after the close of the legislative session, in October 2024, the Louisiana Supreme Court weighed in on the issue of legislative continuances. In *Fisher v. Harter*, the Louisiana Supreme Court concluded “that La. R.S. 13:4163 does not *aid* in the exercise of the power of the courts, but rather *subverts* the courts’ constitutional and statutory powers, as the Legislature has usurped the courts’ power to decide when fixed court dates may be continued or extended; thereby violating the separation of powers doctrine set forth in La. Const. Art. 2, § 2. ... [W]e declare La. R.S. 3:4163 unconstitutional on its face...”²³

In the Third Extraordinary Session, SB9 on the subject of legislative continuances became law without the governor’s signature.

Conclusion

Historically, tort reform in Louisiana has been incremental. From bad roads and bad uninsured drivers, to getting collateral source “right” and everything in between, lawmakers have a lot of levers to pull in search of the sweet spot. One can safely bet that those levers will continue to be shifted in that search.

¹ Office of the Governor, *Governor Landry Wraps First Session with Big Wins for Louisiana* (June 3, 2024), <https://gov.louisiana.gov/news/4534>.

² Repealing La. C.C. arts. 3492 and 3493; enacting La. C.C. arts. 3493.11 and 3493.12.

³ Repealing La. R.S. 22:1483.1(F).

⁴ Amending La. R.S. 22:1265(D); enacting R.S. 22:1265(K) and (L); repealing 22:1265(F) and (H) and 1333(C)-(H).

⁵ Amending La. R.S. 22:1451, 1464(A)(2) and (D), and 1465(A)(2) and (B)(1); enacting La. R.S. 22:1465(A)(4) and (D).

⁶ Office of Governor, *supra* note 1.

⁷ Amending La. R.S. 22:1892(A)(3) and (4), (B)(1) and (H); enacting La. R.S. 22:1892(A)(7), (B)(7), (I)-(K) and 1892.2; repealing La. R.S. 22:1973.

⁸ Amending La. R.S. 22:1269(B)(1) and (D); enacting La. R.S. 22:1269(B)(3) and (4), (E) and (F); repealing La. C. E. art. 411(D).

⁹ Amending the intro. para. of La. R.S. 22:1295, La. R.S. 22:1295(1)(a) and (c), (4) and (5), and the intro. para. of La. R.S. 22:1296(B).

¹⁰ Amending La. C.C. article 2321.

¹¹ Enacting La. R.S. 9:2791.1.

¹² Enacting La. R.S. 12:1705.

¹³ Enacting La. R.S. 9:3580.1-9:3580.7 and R.S. 9:3580.10-3580.12.

¹⁴ Amending La. R.S. 22:1482(A), (B) and (C)(1).

¹⁵ Enacting La. R.S. 9:2792.10.

¹⁶ Amending La. C.C.P. art. 970(A) and (C).

¹⁷ Amending La. R.S. 32:409.1(A)(6)(d).

¹⁸ Enacting La. R.S. 22:881.1.

¹⁹ *Gasquet v. Commercial Union Ins. Co.*, 391 So.2d 466 (La. App. 4th Cir. 1980), *writs denied*, 396 So.2d 921, 922 (La. 1981).

²⁰ Letter from Governor Jeff Landry to La. Speaker of the House Phillip Devillier & Michelle Fontenot, Clerk of the House (June 20, 2024), <https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1382555>.

²¹ Letter from Governor Jeff Landry to President of the Louisiana Senate Cameron Henry and Secretary of the Senate Yolanda Henry (May 24, 2024), <https://legis.la.gov/legis/ViewDocument.aspx?d=1378703>.

²² Letter from Governor Jeff Landry to President of the Louisiana Senate Cameron Henry and Secretary of the Senate Yolanda Henry (June 20, 2024), <https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1382565>.

²³ Amending La. R.S. 13:4163.

UPCOMING SECTION MEETINGS & CLE

THURSDAY, MARCH 13:

IN-HOUSE COUNSEL SECTION MEETING & CLE SEMINAR

WEDNESDAY, MARCH 19:

CONSTRUCTION LAW SECTION MEETING & CLE SEMINAR

THURSDAY, MARCH 20:

FAMILY LAW SECTION MEETING & CLE SEMINAR

THURSDAY, APRIL 17:

FAMILY LAW SECTION MEETING & CLE SEMINAR — ANNUAL JUDGES' PANEL

FRIDAY, APRIL 25:

PRO BONO PROJECT VOLUNTEER RECOGNITION LUNCH & CLE

NEED MORE INFORMATION? CONTACT THE BRBA: 225-344-4803

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Louisiana Supreme Court Associate
Justice John Michael Guidry
from 5 - 7 p.m. Thursday, April 24, 2025,
at Taylor Porter on the Terrace.

Contact Ann K. Gregorie for more information:
225-214-5563 or ann@brba.org

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Interview with Rebecca Moreno

by Pamela Labbe

TBRL: You will be chairing the 2025 Region III high school mock trial competition. Tell us about the upcoming competition. What makes this event important?

RIM: The competition is honestly a remarkable thing to experience. We invite all schools in the Baton Rouge region to compete at the 19th Judicial District Court, and the top two teams from our region advance to the statewide competition, which is hosted by the LSBA.

Students receive a case file and simulate a trial from start to finish by acting as both the attorneys and the witnesses. They must be prepared to argue both the prosecution and the defense in the same day, because they do not know which side they are arguing until the beginning of each round and will typically argue each side at least once. We say it every year, but these students are honestly better than some practicing attorneys that you see in the courtroom. They really pour their hearts and souls into the competition.

Most of our volunteers leave the courtroom astounded at the amount of dedication and skill demonstrated by the students. It is truly a great way to get these young people excited about the legal system, and it allows them to become more comfortable in their own skin while developing critical skills like public speaking and analytical thinking. If you're interested in volunteering, don't hesitate to reach out to me! There are several ways you can get involved.

TBRL: What sparked your interest in law?

RIM: I just always knew I was going to law school, so I did. I could tell you

things such as, "Oh, I read a ton of legal thrillers and mysteries growing up and loved to watch 'Law and Order: Special Victims Unit.'" (Both of those things are still true to this day.) However, it's kind of a situation of which came first —the chicken or the egg —because I don't actually know if I did those things because I wanted to become an attorney; I wanted to become an attorney, so I did those things; or if those things just went hand in hand. Like, I've always wanted to be an attorney, so I also enjoyed reading and watching things like that.

TBRL: What is your favorite part about practicing law?

RIM: Well, I don't actually practice law. I am an assistant professor at the Southern University Law Center. Before I came to SULC, I worked at the First Circuit for several years, initially for Chief Judge Whipple, until her retirement. However, if you were to ask me my favorite thing about teaching, it's that every day really is completely new. Every student and every class is unique, so we're basically always evolving. I could teach one student or one class in a particular manner, but in the same class the next semester, I have to teach the same material completely differently. It's a constant challenge, but it's also very rewarding.

A portrait of Rebecca 'Becca' Moreno, a woman with long, wavy brown hair, smiling at the camera. She is wearing a black top and a thin gold necklace. The background is a solid red wall.

Rebecca "Becca" Moreno

TBRL: *Where did you attend law school and when did you graduate?*

RIM: I attended law school at LSU and graduated in 2018.

TBRL: *Tell us more about your education in general.*

RIM: Well, like I said, it was always my plan to become an attorney. So, even in high school, I knew that when I got to college I was going to be a political science major and then go straight into law school. In fact, I was so sure about this that I refused to take certain advanced placement science classes for college credit because it wouldn't actually help me once I got to college. I followed my plan to a T: I went to LSU and majored in political science with minors in both psychology and leadership development. After that, I went straight to the LSU Law Center.

TBRL: *Is the practice of law different from what you expected it to be when you first entered law school?*

RIM: Even though I don't actively "practice law," I can certainly tell you that I am not at all doing what I thought I would be doing when I began law school. I mentioned "following my plan to a T"; however, getting into law school and getting my juris doctorate was actually the end of my plan. I had no idea what I wanted to do once I got my degree. In fact, that was pretty much how I went through all of law school. I tried all kinds of different things. Despite not knowing exactly what I wanted to do, I surely never thought that it would be teaching. But we don't always end up where we think we might! Sometimes the most unexpected things are just what we need.

TBRL: *What was your first job ever?*

RIM: My first "real" job (aside from babysitting) was a summer job at a snowball stand when I was in high school. It was great! I could eat all the snowballs and snacks I wanted to, and I LOVE a good snowball and nachos.

TBRL: *If you had not gone to law school, what would be your alternate profession?*

RIM: I would be some type of event planner or event organizer/manager. That's probably why I'm so involved in the BRBA; I get to utilize the portion of my brain that enjoys event planning and organization.

TBRL: *Tell us something interesting about yourself that few people know.*

RIM: This isn't about me specifically (after trying to answer this question, I'm not sure that I'm very interesting), but my maternal grandmother's parents were Lebanese immigrants, and my maternal grandfather was born in Lebanon, Indiana. So, we'd joke that they were both Lebanese.

TBRL: *You're new to the YLS Council this year. What made you decide to run for this position and what do you hope to accomplish?*

RIM: I have been heavily involved in the BRBA/BRBF's youth education programs since I became an attorney, and for a while now, people would tell me that I needed to run for the council. For some reason, I resisted for a few years. This year, a friend of mine who served on the council for several years managed to convince me to run, and here I am. My primary hope is that we can expand the reach of the BRBA/BRBF and get more young attorneys involved in both our volunteer opportunities and fun events. Becoming involved in your local bar really helps you to appreciate the Baton Rouge legal community, and you can never go wrong with meeting other attorneys and expanding your network.

TBRL: *What is your guilty pleasure?*

RIM: Sour candy. I could eat it constantly if I let myself. My favorite candy is the sour gummy Life Savers.

TBRL: *How do you unwind? What are your leisure activities?*

RIM: The primary way I unwind after a long day is a hot bath. If my husband and I are unwinding together, we'll usually just watch TV on the couch, because that's one of his favorite pastimes. I enjoy going on walks or jogging, usually in the morning; I either listen to a book or music and just wander all over the neighborhood.

TBRL: *Tell us about your family and your hometown.*

RIM: I am a Baton Rouge born and raised girl! My parents moved here from New Iberia, and this is where they settled down to raise my sister and me. So, although I was born and raised in Baton Rouge, we spent a lot of time visiting family in New Iberia. My dad is one of seven kids, so there was never really a dull moment with them. My mom's side of the family is much smaller, but that meant we got all of our grandparents' (and great uncles') attention when we visited, which was really special. Then, my husband Juan and I met in law school. He is also an attorney in Baton Rouge, and we recently welcomed our first child, a daughter, in February.

TBRL: *What advice do you have for young lawyers or lawyers who are just starting out?*

RIM: Everyone says they don't teach you how to be a practicing attorney in law school, and while that may be true to some extent, you know way more than you think. Trust yourself. You're your own best advocate. With that, always remember that you (and those surrounding you — even the wildly experienced partner at your firm) do not, and cannot, know everything. Never be afraid to ask questions. I tell my students constantly that they have to ask questions. If someone puts you down for asking a question, they're probably the one with a problem. Questions are how we learn and make ourselves better.

Trust yourself. ...
always remember
that you (and those
surrounding you
— even the wildly
experienced partner
at your firm) do not,
and cannot know
everything. ...”



HAMMONDS, SILLS, ADKINS,
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ATTORNEYS AT LAW

Pleased to Announce our new Partners



Andrew Barr

Andrew received a B.A. in History in 2007 and went on to earn his M.A. in History as well in 2010, both from Southeastern Louisiana University. He received his Juris Doctorate from Southern University Law Center in 2016. He joined Hammonds, Sills, Adkins, Guice, Noah & Perkins, LLP as a full time Associate in 2018 at our Baton Rouge office.

Andrew's practice areas encompass a diverse range of legal landscapes, from Workers' Compensation and Premise Liability to Contract Disputes and Non-Profit Advocacy. His proficiency extends further to Contracts and Education Law.



K. Kyle Celestin

Kyle's education commenced at Southeastern Louisiana University in 2010. Armed with a thirst for knowledge and an unyielding determination, he honed his skills in an environment that fostered both personal growth and academic excellence. After scaling this academic steppingstone, Kyle went on to earn his degree from Southern University Law Center in 2016 and then joined our Baton Rouge office as a full time Associate in 2018.

His practice areas include many of the complexities of law: Civil and Insurance Defense, Governmental Affairs, and Employment Law.



John Blanchard

Prior to his legal studies, John pursued his undergraduate education at Mississippi State University where he earned a Bachelor of Arts in Political Science in 2013.

John's journey in law began at the Southern University Law Center in Baton Rouge, Louisiana, where he pursued his Juris Doctorate degree. He graduated Magna cum laude in 2016 and joined Hammonds, Sills, Adkins, Guice, Noah & Perkins, LLP full time in our Baton Rouge office.

His academic achievements, commitment to justice, and involvement in federal litigation underscore his commitment to the legal profession.

Adoption Tax Benefits

One of Many Great Things About Adoptions

by Todd E. Gaudin

How many ventures or actions can you think of that when completed will save you taxes? Donating to bona fide charities? Yes. Contributions to a Roth IRA or a Health Savings Account (HSA)? Yes. Adoption? Yes!

Tax-saving incentives have long been a strategy Congress uses to promote actions it considers helpful and desirable to its citizens.

Many may have heard that adopting a minor child, except for a stepparent adoption, establishes eligibility for a substantial federal (and in some states) adoption income-tax credit, in addition to any gross income deductions allowed. A credit reduces the amount of the tax; a deduction reduces the amount of income on which the tax will be based. This tax credit is a government's way of promoting adoption and making it easier for its citizens to adopt. It has limitations, including:

In 2025, adoptive parents may claim a credit against their federal tax for up to \$17,280 of *qualified adoption expenses* for each child.¹ This is up from \$16,810 in 2024.

The credit is reduced for incomes between \$252,151 and \$292,150 and unavailable if your income exceeds \$292,150.

It can be carried forward for up to five years.

Qualified adoption expenses for the credit and exclusion are *reasonable and necessary expenses* you paid to adopt including:

- Adoption fees
- Attorney fees
- Court costs
- Travel expenses, including meals and lodging
- Other expenses directly for the legal adoption
- Expenses you paid before an eligible child has been identified, such as home-study fees

Expenses aren't eligible if they are:

- To adopt your spouse's child
- For a surrogate-parent arrangement
- Allowed for another federal tax credit or deduction
- Paid by a federal, state or local program
- Reimbursed by your employer

A married couple must file jointly to claim the credit.

Exceptions exist for married filing separately, and past returns may be amended to change a filing status, if needed.

If an employer provides adoption benefits for qualified expenses, the employee may not have to include those benefits as income, which means the employee may not have to pay taxes on them. As much as \$16,810 can be excluded from income in 2024, if your employer paid you those benefits under a written qualified adoption-assistance program or directly or through a third party.

But what if *placing* the child is *disrupted* such that the adoption is not completed? What then? As emotionally devastating as a "disruption" is, *are prospective adoptive couples still eligible for such tax savings?* The answer, thankfully, is yes. At least for the federal credit, a *failed* placement (i.e., the child was never in the client's custody) or a *disrupted* placement (i.e., child was removed from the client's custody) is still eligible for adoption tax savings.

But if the prospective adoptive parent does not have the child's SSN, what to do? A client asked: *If I'm trying to claim the credit for a failed U.S. adoption, what does one use for the child's identifying number?* If complete information about an eligible child on which an adoption was attempted the year before cannot be provided because the adoption was either unsuccessful or was not final by the end of the year, complete the all known entries on **line L** of the 1040 form. Then enter "See attached statement" in the columns for which data is unavailable. Attach a statement to the return, providing the name and address of any agency or adoption attorney that assisted in the attempted adoption. Be sure to write **your name and social security number** on the attached statement. Ask the adoption advocate to give a statement that confirms the status of the placement and the total money expended.

For more details about the federal adoption tax credit, consult <https://www.irs.gov/taxtopics/tc607> and your tax professional.

¹ A "qualified child" for the Adoption Credit must be under age 18, or physically or mentally incapable of self-care. For *special needs adoptions*, a child qualifies if he or she is a U.S. citizen, cannot return to the parent's home and is unlikely to be adopted without assistance.

Juvenile Court Celebrates National Adoption Day

by Jennifer Maybery

The Juvenile Court for the Parish of East Baton Rouge celebrated National Adoption Day with a ceremony that took place Nov. 22, 2024, at the Capitol Park Museum. The event was the third annual National Adoption Day celebrated in Baton Rouge. It featured Juvenile Court Judges Gail Grover and Adam J. Haney as speakers. The highlight of the day for participating families came when adoptions were finalized at the celebration in front of an audience of supporting caseworkers, CASA volunteers, court personnel, adoption attorneys and other adoptive families. Video messages from Simone Biles and Hoda Kotb were presented to wrap up the presentation, congratulating families on their big day and on growing their families through adoption.

National Adoption Day takes place in November of each year and was launched in 1999 by a coalition of adoption organizations: The Dave Thomas Foundation, the Congressional Coalition on Adoption Institute, the Alliance for Children's Rights and the Children's Action Network. The purpose of National Adoption Day is to raise awareness of children in foster care waiting to be adopted and to recognize and celebrate adoptions of children from foster care.¹ National Adoption Day celebrations across the country draw support from the national organization's membership and resources.

Anyone interested in participating in future Baton Rouge celebrations of National Adoption Day should contact Jason May at the Juvenile Court at Jmay@brla.gov.



Judge Gail Grover (above) addresses the audience at a National Adoption Day ceremony at the Capitol Park Museum, held Nov. 22, 2024.

¹ 25 Years of Celebrating a Family for Every Child, NATIONAL ADOPTION DAY, Nationaladoptionday.org (last visited Feb. 11, 2025).

BRBA BENCH BAR CONFERENCE 2025

JULY 17-20 @ THE LODGE GULF SHORES, ALABAMA

THE BENCH BAR ROOM BLOCK AT OUR CONFERENCE HOTEL IS NOW AVAILABLE. TO RESERVE YOUR ROOM, CALL THE HILTON CENTRAL RESERVATIONS DEPARTMENT AT (800) 618-4350 AND MENTION OUR GROUP CODE: 90E.

TO REGISTER FOR THE CONFERENCE, GO TO WWW.BRBA.ORG
CONTACT ANN K. GREGORIE FOR SPONSORSHIP INFORMATION: 225-214-5563 OR ANN@BRBA.ORG

In My Own Words

by Vincent P. Fornias

Missed Opportunity

One of my very favorite characters in the world of television is the inimitable Larry David. For those of you living under a rock and/or consumed by the demands of social media, for many seasons (hopefully more to come), Larry starred as himself in an HBO show called “Curb Your Enthusiasm.” In essence, the plot lines of the episodes center on Larry and his irresistible habit of saying out loud what others may think, but are too polite or classy to say. Going back a couple of decades, Larry is a modern-day version of the hilariously detestable George Costanza character in “Seinfeld,” a show that David helped create.

So why this tutorial on the inner workings of the mind of one Larry David?

First, in this writer’s humble opinion, our profession prides itself on spotting and exposing proverbial “elephants in the room,” with consequences be damned. Secondly, a little sense of the absurd is not a bad tonic to relieve the strains of modern law practice. And this brings us to a matter worthy of Larry’s toxic tongue.

While perusing the “Crime Blotter” section of our local newspaper recently, your faithful reporter stumbled across an intriguing header: “Robber Who Took Cash, Condoms Sought.” Who could resist reading on? Apparently, the Ascension Parish Sheriff’s Office reported that an unknown gunman who had broken into a gas station and had absconded with \$600 in cash and a single pack of condoms was still on the loose. The public was warned in the story that he was “armed and dangerous.” And this is where Larry comes in.

Had Larry read the story, he would have mused about the newspaper editor missing the chance to tell the rest of the story—that the marauder was “at least responsible.”

Do you have any Larry David-worthy tacky editorial comments to share with your local compatriots in the bar? If so, take a moment and submit them, care of this writer. I promise you they will be given due credit—and you will feel (quoting Larry) “pretty, pretty good.”

Note: This is a stock photo of a gas station to accompany the article and is for your enjoyment only; it is not the actual gas station where the crime occurred.



BRBA In-House Counsel Section Meeting & CLE | 11:30 AM-1 PM Thursday, March 13, 2025

Hosted by
Lamar Advertising

5321 Corporate Blvd., Baton Rouge, LA 70808

Securing Your Company's Data



CONNER LEBLANC,
General Informatics

Speaker: Conner LeBlanc

Description: Conner's presentation will center around the key risk and critical controls that in-house counsel should be familiar if they are to have a robust understanding of the flow of data within their companies. As firms in various industries race to find new and innovative ways of implementing disruptive technology such as AI, it's important to also understand the IT & cybersecurity tool sets that go into making sure the data being used to train these models is protected. At the conclusion of this 1-hour presentation, in-house attorneys will be equipped with the terminology necessary to have more substantive conversations with those responsible for their companies' IT/cybersecurity (whether they be in-house or an outsourced partner).

CLE: This seminar qualifies for 1.0 hour of CLE credit and is limited to 40 participants.

Cost Options: Lunch is included with the price

- ☐ \$40 for BRBA In-House Section members
- ☐ \$50 for non-section BRBA members
- ☐ \$60 for non-BRBA members

Cancellation Policy: Registration deadline and deadline to cancel without penalty is 4:30 p.m. Tuesday, March 11, 2025. **"No shows" will be billed.**

Questions?

Contact Susan Saye for more information: susan@brba.org or 225-344-4803. Fax completed form to: 225-344-4805.

Make checks payable to:
BRBA, 544 Main St.,
Baton Rouge, LA 70801.

Bar Roll No. _____ Email _____

Name _____ Firm _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

To register for this CLE seminar online and pay by credit card, go to www.BRBA.org, select the EVENTS tab, then click on EVENT LIST and choose the appropriate event.

Foundation Footnotes

Pro Bono Reports — November and December 2024

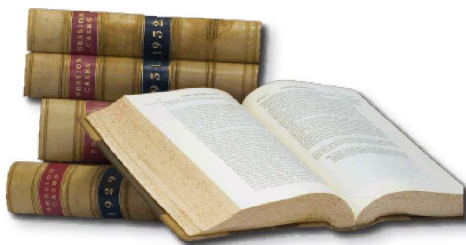
Teen Court Volunteers:

In November, one hearing was held. Volunteers were **Theresa Dorcelus**, *City Prosecutor's Office*, and **Amber Primus** (*law student*), *Southern University Law Center*.

In December, we did not hold any Teen Court hearings.

Accepted Pro Bono Cases in November and December:

Dele Adebamiji, *attorney at law*; Edward Atebara, *The Law Office of Edward R. Atebara*; Carlesia Carmena Bibbins, *attorney at law*; Mitchell Dickson, *Dickson Law Firm LLC*; Dean Esposito, *Esposito Law Firm*; Trenton Grand, *Grand Law Firm*; David Gunn, *Gunn & York*; James Herpin, *Herpin Law Firm*; Rena Hester, *Hester Law Firm LLC*; Ashley Jackson, *Adams and Reese LLP*; Christopher Joseph, *Adams and Reese LLP*; Provanda Kennedy, *attorney at law*; Randy Ligh, *attorney at law*; Derrick McCorey, *attorney at law*; DeVonna Ponthieu, *attorney at law*; Ryan Richmond, *Sternberg, Naccari & White LLC*; LaKendra Sampson, *attorney at law*; Sharita Spears, *attorney at law*; and James A. Word III, *attorney at law*.



Self Help Resource Center:

Carlesia Carmena Bibbins, *attorney at law*; Mitchell Conner, *attorney at law*; and Claire Sauls, *Adams and Reese LLP*.

Law Student Interns: Eric J. Roshak, *LSU Law*.

Legal Hotline Volunteers: Thanks to the following volunteers who assisted with the Legal Hotline in November and December: Scott Gaspard, *attorney at law*; Lashonda Hubbard, *attorney at law*; Ken Mayeaux, *Mayeaux and Associates LC*; Melanie Jones, *attorney at law*; and Candace B. Ford, *U.S. Attorney's Office*.

Ask-A-Lawyer Volunteers: The following assisted with the November and December Ask-A-Lawyer events: Thomas Acosta, *attorney at law*; Carlesia Carmena Bibbins, *attorney at law*; Todd Gaudin, *Gaudin Law Group*; Patrick Kennedy, *McGlynn, Glisson & Mouton*; Sharita Spears, *attorney at law*; Lykisha Vaughan, *Southeast Louisiana Legal Services*; and James A. Word II, *attorney at law*.

Teen Court is made possible in part by grants from the Louisiana Bar Foundation. The Pro Bono Project is financially assisted by the Interest on Lawyers' Trust Account (IOLTA) Program of the Louisiana Bar Foundation; Southeast Louisiana Legal Services; Family, District and City Court Fees; and the Baton Rouge Bar Foundation.

GAIL'S GRAMMAR

Autopsy and **necropsy** both refer to the examination of dead bodies. **Autopsy** comes from the Greek *autopsía*, meaning to see with one's own eyes; it refers to the forensic examination of a dead human by a living human. **Necropsy** refers to the forensic examination of a dead animal. The examination of a dead animal should not be referred to as an **autopsy**.

EXAMPLES:

The veterinarian performed a **necropsy** to determine whether the dog was poisoned.

The coroner performed an **autopsy** to determine the man's cause of death.

Send suggestions for future Gail's Grammar columns to Gail Stephenson at GStephenson@sulc.edu or call Gail at (225) 926-1399.

MARCH 2025						
SUN	MON	TUES	WED	THURS	FRI	SAT
						1
2	3	4 *	5	6	7	8 *
9	10 *	11	12	13 *	14	15
16	17	18 *	19 *	20 *	21 *	22 *
23/30	24/31 *	25 *	26	27	28 *	29 *

APRIL 2025						
SUN	MON	TUES	WED	THURS	FRI	SAT
		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			

IMPORTANT DATES

March

- 4 BRBA Office Closed – Mardi Gras
- 8 Ask-A-Lawyer, Carver Branch Library, 9 a.m.
- 10 Finance Committee meeting, Zoom, 1 p.m.; Mock Trial late registration deadline
- 13 In-House Section meeting & CLE, Lamar Advertising, 11:45 a.m.
- 18 Board Meeting, 6 p.m., Location: TBA
- 19 Construction Law meeting, Middleton Bar Center, 11:30 a.m.

20 Training Wills and Estate Planning, Southeast Louisiana Legal Services, 10 a.m.-noon;

Family Law meeting & CLE, Mike Anderson's, 11:45 a.m.

21 High School Mock Trial Competition (Region III), 19th JDC, 8 a.m.; Team registration deadline for Ball Maul 2025

22 High School Mock Trial Competition (Region III), 19th JDC, 8:30 a.m.

25 Judge Page McClendon's ceremony as Chief Judge of La. First Circuit Court of Appeal, 2 p.m.

28 Publications Comm meeting, Zoom, 8 a.m.

29 Wills & Estate Planning Clinics: Sponsored by Louisiana Appleseed, SLLS & BRBA, Capitol

Elementary School, 4141 Gus Young Ave.;

State High School Mock Trial Competition, U.S. Western District of La. Courthouse, 800 Lafayette St. in Lafayette, La.

31 Ball Maul 2025, University Club, 10 a.m.

April

3 Wills and Estate Planning Clinics, SLLS, OLOL Community Impact Center, 2041 Silverside Drive

9 Finance Committee meeting, Zoom, 1 p.m.

10 Retirement Party for Ann K. Gregorie

12 Teen Court training, Juvenile Court, 8 a.m.

16 Board meeting, 6 p.m., Location: TBA

17 Family Law Section CLE, annual judges' panel, Baton Rouge City Club, 11:45 a.m.

18 BRBA Office Closed – Good Friday

24 Party honoring Justice John Michael Guidry, Taylor Porter on the Terrace, 5 - 7 p.m.

25 Volunteer Recognition Luncheon & CLE, Middleton Bar Center, 11:30 a.m.

26 Ask-A-Lawyer, Bluebonnet Branch Library, 9 a.m.

DUTY SCHEDULE

19th JDC Civil	
2/24 - 3/07	Judge Foxworth-Roberts
3/10 - 3/21	Judge Fields
3/24 - 4/04	Judge R. Johnson
4/07 - 4/18	Judge D. Johnson
4/21 - 5/02	Judge Higginbotham

19th JDC Criminal/Commissioner Rotation***

	JUDGE	COMMISSIONER
2/28 - 3/07	Judge Smith	Kimble
3/07 - 3/14	Judge Jorden	Guillory
3/14 - 3/21	Judge Hines	Tauzin
3/21 - 3/28	Judge Greggs	Robinson
3/28 - 4/04	Judge Crifasi	Kimble
4/04 - 4/11	Judge Ray	Guillory
4/11 - 4/18	Judge Myers	Tauzin
4/18 - 4/25	Judge Johnson Rose	Robinson
4/25 - 5/02	Judge Smith	Kimble

Baton Rouge City Court*

2/24 - 3/02	Judge Temple
3/03 - 03/09	Judge Jorden
3/10 - 3/16	Judge Alexander
3/17 - 3/23	Judge Vendetto
3/24 - 3/30	Judge Marcantel
3/31 - 4/06	Judge Temple
4/07 - 4/13	Judge Jorden
4/14 - 4/20	Judge Alexander
4/21 - 4/27	Judge Vendetto
4/28 - 5/04	Judge Marcantel

Juvenile Court	
March	Judge Grover
April	Judge Haney

Family Court**

3/03, 3/04	HOLIDAY
3/05	Judge Russ (Div. D)
3/06	Judge Day (Div. C)
3/07	Judge Russ (Div. D)
3/10	Judge E. Green (Div. B)
3/11	Judge Baker (Div. A)
3/12	Judge Russ (Div. D)
3/13	Judge Day (Div. C)
3/14	Judge Baker (Div. A)
3/17, 3/18	Judge Baker (Div. A)
3/19	Judge Russ (Div. D)
3/20	Judge Day (Div. C)
3/21, 3/24	Judge E. Green (Div. B)
3/25	Judge Baker (Div. A)
3/26	Judge Russ (Div. D)
3/27, 3/28	Judge Day (Div. C)
3/31	Judge E. Green (Div. B)
4/01	Judge Baker (Div. A)
4/02	Judge Russ (Div. D)
4/03	Judge Day (Div. C)
4/04	Judge Russ (Div. D)
4/07	Judge E. Green (Div. B)
4/08	Judge Baker (Div. A)

Family Court (Continued)

4/09	Judge Russ (Div. D)
4/10	Judge Day (Div. C)
4/11	Judge Baker (Div. A)
4/14	Judge E. Green (Div. B)
4/15	Judge Baker (Div. A)
4/16	Judge Russ (Div. D)
4/17	Judge Day (Div. C)
4/18	HOLIDAY
4/21	Judge E. Green (Div. B)
4/22	Judge Baker (Div. A)
4/23	Judge Russ (Div. D)
4/24, 4/25	Judge Day (Div. C)
4/28	Judge E. Green (Div. B)
4/29	Judge Baker (Div. A)
4/30	Judge Russ (Div. D)

Court Holidays

Monday, March 3	Lundi Gras ²
Tuesday, March 4	Mardi Gras
Friday, April 18	Good Friday

NOTE: Duty Court changes at 5 p.m. each Friday unless otherwise specified. *City Court's Duty Court judge is on duty from 8 a.m. on the Monday beginning his/her week of duty until 8 a.m. the Monday ending his/her week of duty. **Family Court's Duty Court schedule is completely different each day, rotating on Fridays. ***19th JDC Criminal Court changes each Friday at noon. ¹Sunday callout due to Monday holiday. ²Family Court is closed Monday, March 3, 2025, for Lundi Gras.

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Attorney David Abboud Thomas is responsible for this ad.