

THE ADVOCATE

RAISING THE BAR TO NEW HEIGHTS

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Celebrating the Investiture of **HON. DARREL J. PAPILLION**

By Ryan P. Simoneaux, Loyola Law School, J.D. expected 2025

Family, friends, and colleagues crowded the Eastern District's en banc courtroom and overflowed into Section P's courtroom to witness the investiture of the newest member of Louisiana's federal judiciary, the Hon. Darrel J. Papillion. Dozens of circuit, district, magistrate and bankruptcy judges attended from the Louisiana federal districts, accompanied by numerous state judges, elected officials, and other appointed officials. That individuals drove in from around the state was a true testament to the love, respect, and affection Judge Papillion, a former president of the Louisiana State Bar Association and litigator, enjoys. Emotion and laughter filled the air, along with the awesome weight of the oath that Judge Papillion would later take.



Lauren, Judge Papillion, Jude, and Anna

The en banc Eastern District presided over Judge Papillion's investiture ceremony, and David Abboud Thomas, Judge Papillion's former law partner, served as master of ceremonies. Father Joshua Johnson of the Catholic Diocese of Baton Rouge led the invocational prayer. Following the invocation, the LSU Pershing Rifles presented the colors, Jacques Pucheu, Jr. led the Pledge of Allegiance, and Adrianna Guillot sang *America the Beautiful*.

U.S. Senator John Kennedy shared remarks about Judge Papillion's incredible credentials and reputation as a "lawyer's lawyer." Senator Kennedy further commented, "the rule of law is as good as the men and women administering it" and shared that his decision to present Judge Papillion's name to the President was "an easy one." David Cassidy and James Quinn attended on behalf of Senator Bill Cassidy. Then, C.G. Norwood, Jr. (Judge Papillion's former supervisor and mentor at McGlinchey Stafford) and Edward J. Walters, Jr. (Judge Papillion's former law partner), shared stories about their time in practice with Judge Papillion and commended his abilities as an advocate and legal mind. Brian Capitelli, President of the New Orleans Chapter of the Federal Bar Association, presented Judge Papillion with his robe. Mr. Capitelli previously clerked for Judge Papillion when the judge was a young lawyer at McGlinchey Stafford, and Mr. Capitelli was a young law student, quipping "So I can finally say I clerked for a federal judge!" Lauren Papillion presented her husband, Judge Papillion, with the Bible, and Chief Judge Nannette Jolivette Brown administered the oath of office. Judge Papillion's children, Jude and Anna, then robed him and escorted him to his seat on the en banc bench. Also seated at counsel table were important guests Rita Papillion, Judge Papillion's mother and aunt, Alozia St. Julien.

Following Chief Judge Brown's welcome to the bench, Judge Papillion gave a strong, sincere, and heartfelt response, which we reprint below. At the conclusion of the event, hundreds of people convened in the Fifth Circuit's Great Hall for a reception to celebrate this momentous occasion.

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Judge Papillion, top right, joins the EDLA bench

REMARKS: To Chief Judge Brown and all the Judges of the Eastern District of Louisiana, thank you for welcoming me to this magnificent Court. The past three months have been among the most gratifying days of my legal career, and I am so happy to serve on this storied court with you.

Over thirty years ago, when I was a first-year law student, not long after the death of Judge Alvin Rubin, the last person who moved from Baton Rouge to New Orleans to become a judge on the Eastern District of Louisiana, I was leaving class in what we call the “Old Building” at the LSU Law School, and I decided to take a shortcut through the auditorium, which was often unlocked, and I walked into a panel discussion of some kind – a panel discussion of US Fifth Circuit Judges. I stopped because I didn't know that was going on. I took a few steps forward, and I saw then-Chief Circuit Judge Charles Clark talking with Judge Henry Politz about some esoteric issue of federal law, and at that moment, through the big doors on the other side of the auditorium, entered US District Judge John Parker from Baton Rouge. And, Judge Politz stopped and said, “Ah, look, it's our brother, John Parker.” As a freshman law student, I found that curious. “Our brother.” Well, now I know what that means. So, to my brothers and my sister from the US Fifth Circuit, thank you for being here. To my sister Beth Foote from the Western District of Louisiana, who spent at least an hour in a restaurant in New York City 10 or 12 years ago encouraging me to pursue the federal bench, thank you. I didn't listen to you immediately, but, you see, it was not a waste of time. To Chief Judge Doughty and Judge Hicks and all my colleagues from the Western District, where I was born, thank you.

In 1999, after almost 5 years as a lawyer in New Orleans, where I often ran down Camp Street to the old Camp Street door, usually to file a Notice of Removal or a Motion for Summary Judgment, in then-Clerk-of-Court Loretta Whyte's office, I moved to Baton Rouge and began practicing in the Middle District where I would practice for nearly 25 years. Thank you, Middle District, for 100 percent perfect attendance today from the District Judges and Magistrate Judges. But, so special to me is that the widows of Judges Frank Polozola, Ralph Tyson, and Jim Brady, three deceased members of that court, are also here. Karen Brady came from Texas. It is odd and eerie how connected I am to those six judges and their families. Jim and Karen Brady were my neighbors for 10 years, and watched my children grow up when my late wife Shirley

and I lived around the corner from them. I had the privilege of representing Frank J. Polozola. Yes, I was Frank Polozola's lawyer, along with Ed Walters. Ralph Tyson holds an equally special place. Through the kindness of the Tyson family, when I thought my chance at being a federal judge had likely passed me by, I nonetheless got to sit every day behind a federal judge's desk, even though I was a lawyer – Judge Ralph Tyson's desk which I have been using for a couple of years. I call it the “US Ralph Tyson.” A few weeks ago, it moved from my former law office in Baton Rouge to what had been Judge Marty Feldman's chambers, here. I interviewed with the White House on Zoom behind that desk. I filled out the hundreds of pages of forms behind that desk. I talked to US Senators at that desk, and I got “the call” – the call from the White House telling me that President Biden would nominate me to be a federal judge – while I was sitting behind that desk. I wrote this speech sitting behind that desk.

Chief Judge Dick, upon learning that my late first wife Shirley had been diagnosed with cancer, helped me get to MD Anderson so fast that – I believe – MD Anderson called me before I could even hang up the phone with Judge Dick to ask for help. When Shirley was going through her cancer treatments, Brian Jackson had the uncanny ability to call me on my worst days. And, Johnny deGravelles, who I watched and admired, and with whom I got to work on several cases as a lawyer, is here. I even got to watch Carl Barbier swear Johnny in as soon as his Article III ticket was punched, while we were all at the Baton Rouge Bench Bar Conference in Alabama, a few years ago.

There was a part of me that always felt a pull toward this job, but I also ran from it. I knew this was a hard job. It can be an easy job, if you don't want to do a good job. I had a good career. I thought as close as I had been to all of you, judges, maybe this was not what I was supposed to do. I told my partners not to worry – I wouldn't leave the firm – I was happy practicing law. And, I believed that.

But, then one day, out of the blue – like a lightning bolt – when I was minding my own business – I got a call to go see Senator John Kennedy. And I couldn't run anymore. To my family and closest friends, if you said my name in the same sentence as “John Kennedy,” they would know I own more books with the words “John” and “Kennedy” in them than anyone you've ever met because since I learned to read, and for years as a kid, most of what I read about was President John F. Kennedy. I have dozens of John Kennedy books. Not the same John Kennedy, but equally special to me. I went to that meeting. Let me tell you something – when a United States Senator – in a small room – two feet away, at a small table – says, in his classic style – “Now, look, this isn't an interview. I know you. I want to know if I can send your name to the White House because I want you to be a federal judge. Can I do that? Some say you'll tell me no, but I hope you let me do it.” I heard those words, and I asked some questions, but what I really heard the Senator say was, “Darrel, are you – are you – ready to serve your country?” Even though Eunice High School had seen fit

to give me both the American Legion Award and the Patriotism Award at my high school graduation, I had not been in the military, and had not worn my country's uniform, but America had been so good to me. What could I say? There was only one answer: "Yes, Senator. I want to serve my country." Thank you, Senator Kennedy, for challenging me to wear an eagle on my lapel and to get to play for the red, white and blue.

God has a way of working things out. John Kennedy, Bill Cassidy, James Quinn, and, by golly, Nathan Williams, Kennedy's Counsel to the Senate Judiciary Committee, and President Biden - and a lot of people in this room - made me a federal judge.

But, I wouldn't have gotten here without my home state Senators, Kennedy and Cassidy, who fought for me, and I pray I make them - and all of you - proud. Thank you, David Cassidy and James Quinn, for so ably representing my dear friend, Senator Bill Cassidy, today.

I am so grateful to President Biden and his White House Counsel staff - Phil Brest (who you heard from) and Paige Herwig, the lawyers at the Justice Department in Washington. I thank the ABA for giving me its highest rating. To the New Orleans lawyers - those past presidents too many to mention - but you know who you are - who told the White House - we don't care where his address is now - we'll take him. Thank you.

Chief Justice John Weimer and the Louisiana Supreme Court - thank you. I believe the FBI talked to Chief Justice Weimer more than anybody else. And because I know the FBI talked to half the people in this room, that's saying something. The Chief Justice told the FBI things that - he said - made him have to go to confession so much, Father Johnson, that he had to switch priests for telling the same sin over and over again. Thank you all for vouching for me. I will never forget that I got my start on your Court as law clerk in 1994.

To all the "grace sayers," and you know who you are, thank you for saying grace over me. To everyone who spoke today - thank you.

When I was in the 8th grade, Jacque Pucheu, who said the pledge today, took a call at his home from a nervous 8th grader at Eunice Junior High School, who asked him to come and speak to his 8th grade class about being a lawyer for career day. And, Jacque Pucheu, then a young lawyer in Eunice, did that for me. Thank you, Jacque. I am so pleased you could lead the pledge of allegiance today. Morgan Goudeau and Jack Burson, thank you for mentoring me.

To LSU, thank you for sending me the Pershing Rifles, to carry our Nation's Colors. And to my alma mater, LSU, thank you for that full scholarship to both college and law school 30 years ago. I wouldn't be here without you. May my worth be thy worth, Article III style... Forever, L-S-U. Chief Justice Kimball - I know you're with me in spirit today. Yours was the first text I got today. To Woody Norwood and the lawyers at McGlinchey Stafford, my first law firm, thank you. Most of what I know about lawyering I learned from Woody Norwood and Ed Walters. To my partners and everyone at what used to be: Walters Papillion Thomas Cullens - I miss you all. I can't name you all because people want to go to that reception - J and Abboud - but Renee Crasto and Jennifer Moroux made me look really good for many years, and I wouldn't be here without you. We slayed some dragons together. Thank you.

I want to thank my large family for being here - there are too many of you to mention. I love you and thank you.

I wouldn't be a federal judge without two people who aren't here - my late father Francis Papillion, the best and kindest man I ever met. People say nice things about me, but if you knew my dad, you'd find me pretty average. I'll never be the man he was - federal judge or not. And my late wife Shirley who married me and stood by me and loved me - when all I had was potential. Thank you.

To my beautiful wife, Lauren, you and I both know I would not have taken this job without you. For every reason I came up with as to why it was not what I should do, you saw the falsity of it, and showed me I was wrong. I am forever in your debt because I love this job, and I love you. Father Johnson and Judge Douglas, thank you for your prayers today. Brian Capitelli, my old law clerk, and the New Orleans Chapter of the Federal Bar Association, thank you for the robe. I hope to wear it with honor. I want to especially thank my long-time legal assistant, and now Judicial Assistant, Missy Guillot, who did 99.9 percent of the work involved with this investiture. Thank you, Missy, and my law clerks, Lauren Perry and Brittany Flanders, along with my case manager Courtney Ancar who "Oh Yea'd" my brothers and sisters in today, and my case administrator, Kristina Ortiz, for working so hard these past three months. To Carol Michel, our clerk of court, and all the Eastern District employees who helped make today special, thank you. Thank you, Adrianna, for your beautiful voice. Adrianna is my judicial assistant's daughter, and in addition to being a talented soloist is a professional photographer. She's doing both today. Thank you to the court reporter and videographer. To those of you whose names I haven't mentioned, thank you for forgiving me for not mentioning your name, but you know how special you are to me. The people in this room - and across the hall in my courtroom - are my people.



Lauren and Judge Papillion

Now back to the Eastern District. Thank you, brothers and sisters, again, for welcoming me. While I must name one of you, he who I follow, I am loathe to omit any of you. I pray to God for the blessing of a clear mind for a long time to be your brother on this bench until death do us part. This storied bench – with its list of all-stars and luminaries – this bench that presided over *United States v. General Andrew Jackson*, presided over part of the *Slaughterhouse* cases, over *Shaw v. Garrison*, and *Miles v. Apex Marine, Costano v. American Tobacco, In Re Katrina Canal Breaches, the BP Oil Spill* and so many more – this is a big time court – but to also have the privilege to sit in my storied seat. I had the great fortune of being nominated to seat one – Louisiana's oldest seat. Twenty federal judges have held my seat since 1823. Some great judges have held this seat. Judge Barbier, who I succeed, but could never replace, presided over the biggest case in the history of litigation. Big Shoes to fill. I believe Jim Wright is here. Jim's uncle, James Skelly Wright, of this Court and later of the DC Circuit, desegregated LSU Law School. His portrait hangs over all the federal judges sitting in the jury box today. I now sit in Skelly Wright's seat. The Fifth Circuit's Wayne Borah – his portrait is on the opposite wall. Okla Jones and Fred Heebe and many others. They all had my seat. Big shoes to fill indeed.

But, fill those shoes I must because my job now is to do justice. So, I ask Almighty God for the strength and the courage to make the hard decisions – like Skelly Wright – to make the unpopular decisions, to exercise restraint when it is warranted, but, when necessary, to also employ the full-throated independence that Article III provides. To be fearless. To be strong. To always be humble. But, to also know when to be a dove and when to be a tiger. To administer justice without respect to persons, and do equal right to the poor and to the rich, and to faithfully and impartially discharge and perform all the duties incumbent upon me as a United States District Judge – every day, for life.

Thank you, my brothers and sisters, and all my assembled friends, for everything. I would not be here without you. Thank you for letting me work for you because I work for America now. Thank you for referring me to my most important – and final client – Justice.

EVA DOSSIER

By Scott Sternberg, Sternberg, Naccari & White, LLC



The Eastern District of Louisiana has announced that Eva Dossier, a litigator with Stanley Reuter, has been selected as the next magistrate judge. Dossier replaces Magistrate Judge Dana Douglas, who was elevated to the U.S. Fifth Circuit Court of Appeal by President Joe Biden.

Dossier is now subject to a standard FBI background check, after which she will be sworn in as the Eastern District's newest Magistrate Judge.

Dossier, who lives in New Orleans with her spouse and three children, is a 2011 graduate of Vanderbilt Law School, where she was editor of the Law Review. After law school, she clerked for Judge Lance M. Africk of the U.S. District Court for the Eastern District of Louisiana and Judge James B. Loken of the U.S. Court of Appeals for the Eighth Circuit.

As she looks to move to the bench, Dossier said that a judge's role is one that has always been an aspiration because of the "special role judges play as public servants."

"I think being a judge uniquely combines the law with the ability to preserve confidence in the justice system as a whole," she said.

Dossier spent her private practice years with the Stanley Reuter Thornton & Alford law firm, making Partner in 2018.

At Stanley Reuter, she focused on commercial litigation and representing lawyers and law firms in ethics and professional responsibility matters. She served on the Eastern District's lawyer disciplinary committee from 2017-2023.

In her practice, Dossier said that her favorite moments were those that strengthened her relationships with co-counsel or opposing counsel, and that the respect shown there gave her confidence in the profession.

"I'm tremendously grateful for the countless individuals who have mentored me along the way and I hope to return the favor," she said. "I have no doubt I'll continue to enjoy the caliber and collegiality of the Eastern District's bench and bar even as the dynamic changes."

Dossier served on the adjunct faculty of Tulane Law School, where she teaches an upper-level experiential course on written discovery. She is a frequent speaker on issues related to ethics and professional responsibility.

In 2021, the New Orleans Chapter of the Federal Bar Association recognized her with the Jack Martzell Professionalism Award. She is vice president of the New Orleans Bar Association, and a fellow of the American Bar Association Foundation. She serves on the adjunct faculty with Tulane Law School and is a frequent speaker on ethics and professional responsibility. After her background check is completed and she is sworn in, Dossier said she is "very excited" about mentoring young people in and outside the courthouse, and continuing to be active in the FBA.

"I have been humbled not just by the opportunity before me, but the kind words both from people I know and those I haven't had a chance to meet yet," she said. "I'm getting ready to work harder than ever."

President's Message

By

BRIAN CAPITELLI

Capitelli & Wicker



It is an honor to serve as the President of the New Orleans Chapter of the Federal Bar Association for the 2023-2024 calendar year. As I look forward to the year ahead, I know we will continue the long history of this chapter's success of promoting the status and stature of the federal legal practice and fostering collegiality amongst members of our chapter.

On August 23, 2023, we held our Annual Meeting with over 300 attendees at the Hotel Intercontinental. In addition to installing our new Board of Directors, Chief Judge Nanette Jolivette Brown provided her report on the status of the judiciary of the Eastern District of Louisiana.

During the Annual Meeting, we also honored several members of our legal community for their leadership, service and professionalism: Allyson Mills received the President's Award for her contributions to community leadership outside the practice of law; R. Patrick Vance received the John R. "Jack" Martzell Professionalism Award; and Claude Kelly, III, received the Camille F. Gravel, Jr., Public Service Award. Attendees were treated to a presentation from Dr. Ron Faucheux (nationally-renowned pollster and contributor to the Advocate and Times-Picayune) who shared his expert analysis behind the science of political polling in the current state of national and regional politics.

Following in the footsteps of our immediate past president Michael Ecuyer, I have big shoes to fill. Michael has served in a leadership capacity in the chapter for many years, and his dedicated service has been a large part of our chapter's continued success. I will rely on Michael's extensive knowledge of our chapter's history in the upcoming year.

Recently, I had the pleasure of attending the National Federal Bar Association's Annual Meeting in Memphis, Tennessee, on behalf of our chapter. While there was no Jed, only Elvis, it was a pleasure to represent the New Orleans Chapter. It was an honor to accept on behalf of the chapter the 2023 Chapter Activity Presidential Excellence Award and the Award for Outstanding Newsletter. Other chapters are continually looking to us for guidance and insight on how we handle the business of our organization. The Annual Meeting also provided an opportunity to learn some of the quality CLEs and events that other chapters are providing to their members, and we will incorporate some of these innovative ideas in the next year.

As we look forward to this next year, we will continue to provide exciting opportunities for members of our chapter to network with other members of the bench and bar. This year, one of our hallmark events--the Rubin Symposium--will be held on November 16, 2023. Rubin will be a unique CLE, and I urge you to register early. Also, the Federal Judges Reception will be at the Four Seasons on November 9, 2023, and our chapter will be doing a Day of Service at the Rebuild Center on December 22, 2023. Please look out for the announcement on this event.

The Board of Directors and I look forward to serving our members with exceptional programming and networking opportunities while assisting the federal courts. If you would like to get more involved in our chapter, please feel free to reach out to me or Executive Director Elena Perez. I look forward to this upcoming year and hope to see many of you at our events throughout the year.

A handwritten signature in blue ink that reads "Brian Capitelli". The signature is fluid and cursive, with a period at the end.

Brian Capitelli

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YLD CHAIR MESSAGE

*By Chloé M. Chetta,
Barrasso Usdin Kupperman Freeman & Sarver, LLC*



I am honored and excited to serve as the 2023-2024 Chair of the FBA's Younger Lawyers Division Board of Directors! The FBA has played a pivotal role in my professional development, and I'm looking forward to spending this year focused on doing the same for others.

As a judicial extern and then a term law clerk at the Eastern District of Louisiana, I remember watching and learning from great lawyers like Bankruptcy Judge Meredith Grabill, chapter President Brian Capitelli, Camille Gravel Public Service & Pro Bono Award Recipient Claude Kelly, former YLD Chair Palmer Lambert, and countless others practice before the court. It was clear to me then, just as it is now, that the lawyers who are also active FBA members are a step above the rest. The federal and local rules are second nature. They're more comfortable moving around the courtroom (but never straying too far from a microphone!). Plus, they show a different level of camaraderie and respect for their adversaries that I know our judges appreciate.

The FBA also has led me to great friendships and professional connections. Immediate past YLD Chair Arthur Kraatz and I became "clerk friends" and have since worked together on many FBA initiatives. Former YLD Chair Megan Dupuy plucked me from baby-lawyer obscurity to assume an open position on the YLD board years ago; without her mentorship, I wouldn't be Chair today.

Experiences and relationships like these make FBA membership invaluable. Our organization not only provides important networking opportunities and educational programming to hone our skills, but also serves as a bridge between our bench and bar. Our Chapter is yet again the largest in the nation thanks in large part to unparalleled judicial participation. We routinely call on our circuit, district, magistrate, and bankruptcy judges to share their wisdom with us—for free!—and this year is no different.

On Wednesday, December 6, we continue the tradition of hosting our Malcolm Monroe Federal Practice Seminar & Swearing In Ceremony. Participants will receive four CLE hours (including 1 ethics, 1 professionalism, and 1 law practice management) and are eligible for admission to all of Louisiana's federal district courts and the Fifth Circuit. That evening, we conclude the event with another favorite tradition, our annual Holiday Party in the U.S. Fifth Circuit's Great Hall, where we hope you'll join us for good food and drinks and even better conversation. Our YLD board members are already hard at work planning additional programming for the year ahead. If you have an idea for a CLE program or other events, we would love to hear it! Reach out anytime.

So, to our newest YLD Board members—Angela Bautista, Rachal Cassagne, Caroline Donze, Samantha Oppenheim, Daniel Schwank, Andy Waters, and Catherine Schroeder—we're so glad to have you, and we can't wait to put you to work! To the newest members of the Louisiana bar, welcome, and we hope you'll choose to join the Federal Bar Association too. And to the FBA's returning members, welcome back: our organization would be nothing without you.

Here's to another great year!

Chloé M. Chetta



The EDLA Hosts Students From Europa Institute at the University of Zurich Law School

By Hon. Susie Morgan, EDLA

On August 23, 2023, graduate law students from the Europa Institute at the University of Zurich Law School visited the chambers of Judge Susie Morgan. The program brings students to the United States every two years to learn about our legal system. On each visit, the students make a stop in New Orleans to observe proceedings in the Eastern District of Louisiana and attend specially-designed classes at Tulane Law School. The head of the program is Andreas Kellerhals, a former Tulane LLM recipient. After leaving New Orleans, the students traveled to New York City and Washington, D.C. The students enjoyed observing an oral argument from the jury box in Judge Morgan's court.



THE FIFTH CIRCUIT: A PEEK BEHIND THE CURTAIN

By Thomas M. Flanagan, Flanagan Partners LLP

A joint program of the FBA– New Orleans Chapter and the Bar Association of the Fifth Federal Circuit filled the en banc courtroom of the John Minor Wisdom courthouse on July 11.

Lyle Cayce, the longtime clerk of court, opened the event providing an overview of the appeal process. Mr. Cayce has modernized the office and genuinely strives to help lawyers comply with the rules. With the aid of a comprehensive PowerPoint, Mr. Cayce gave an overview of the internal processes by which cases move from filing through disposition, providing interesting statistics about the percentages of cases decided with oral argument and without dissent. Mr. Cayce offered detailed and useful information about practical aids offered by the clerk's office, including one program that allows filers to have their briefs checked in advance for compliance with the governing rules. One attendee remarked that attending Mr. Cayce's program should be a requirement for every member of the Fifth Circuit bar.

Following Mr. Cayce's presentation, Judge Kurt Engelhardt, a former Chapter president, presided over a panel discussion with Judges Jerry Smith and Leslie Southwick. The judges explored best practices in brief-writing and oral arguments. The candid discussion included, among other things, advice about confronting adverse authority, the essential role of organization and clarity in briefing, stylistic preferences, and thoughts on the helpfulness of amicus briefs.

After the program, attendees mingled with the presenters, judicial law clerks, and each other at a reception in the Great Hall. The Chapter and BAFFC extend their deep appreciation to Mr. Cayce and Judges Smith, Southwick, and Engelhardt for devoting their time to this worthwhile program, and to Elena Perez and Mary Douglass for coordinating logistical details.



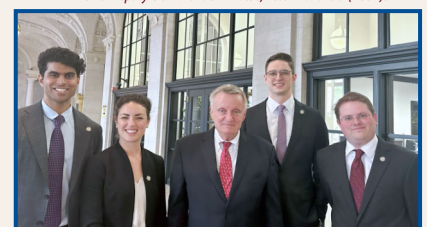
Judge Leslie Southwick (U.S. 5th Cir.), Judge Kurt Engelhardt (U.S. 5th Cir.), Judge Dana Douglas (U.S. 5th Cir.), and Thomas Flanagan.



From Left to Right: U.S. 5th Circuit Clerk of Court Lyle Cayce, Judge Jennifer Walker Elrod (U.S. 5th Cir.), Kristen Amond.



From Left to Right: Cayce Peterson, Thomas Flanagan, EDLA Clerk of Court Carol Michel, EDLA Chief Deputy Clerk Brandon Briscoe, Peter Mansfield (AUSA).



Judge Jerry Smith (U.S. 5th Cir.) and federal judicial law clerks.

CLERK'S CORNER



EASTERN DISTRICT OF LOUISIANA LOCAL CIVIL RULE AMENDMENTS

Effective January 1, 2024

*By Carol Michel, Clerk of Court,
U.S. District Court, Eastern District of Louisiana*

Amended versions of three of the court's Local Civil Rules and a new Local Civil Rule will take effect on January 1, 2024, as determined by the United States District Judges for the Eastern District of Louisiana. On March 27, 2023, in accordance with 28 U.S.C. § 2071(b) and Rule 83 of the Federal Rules of Civil Procedure requiring that public notice and an opportunity for comment must be provided before any rule prescribed by a court other than the Supreme Court can take effect, a Notice of Proposed Amendments to the Local Rules was posted on the Eastern District of Louisiana's public website, www.laed.uscourts.gov, indicating the proposed changes to the local rules and where and how to comment in writing. An electronic notice was also sent through the CM/ECF system to all attorneys who are registered e-filers.

Seven comments on the proposed local rule amendments were submitted to the Clerk, and they were relayed to the Local Rules Committee and to the En Banc Court. After consideration of the comments, in August, 2023, the judges made a few adjustments to the proposed amendments. The final version of the Amendments to the Local Rules and the comments are to be posted on the Eastern District of Louisiana website, and an electronic copy of the Local Rule Amendments shall be distributed to attorneys who are registered e-filers in CM/ECF.

The first amendment is to Local Civil Rule 7.5 governing the filing of memoranda in opposition to motions. The original proposed amendment was to require reply briefs to be filed not later than three days before the submission date, but after review of the comments, the final version of the amended rule allows a moving party to file and serve a reply brief in support of the motion no later than 4:00 p.m. two working days before the noticed submission date. The rule also provides that "motions shall be decided by the court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith." The amended rule changes previous motion practice by allowing a reply brief to be filed not later than two days prior to the submission date without the necessity of seeking leave of court.

Local Civil Rule 78.1 designating Wednesdays as motion days of the court and specifying the procedure for requesting oral argument was also amended. The amended Rule allows each section to designate the dates on which motions will be set for submission. It also clarifies that oral arguments on motions will be conducted "if requested and permitted" and "will be scheduled at the specific date and time set by order of the individual judge to whom the action is allotted." Of particular importance, it changes current practice by providing that even if a party files a separate written request for oral argument, oral argument will be permitted "only if ordered by the court." The rule prior to amendment provided that unless the court indicated otherwise, if requested, oral argument was permitted without requiring a court order.

Local Civil Rule 5.6 prescribing the procedure for filing documents under seal was substantially amended from its previous version adopted on February 1, 2011. The amendment taking effect on January 1, 2024 requires a party seeking to file a document under seal to file a separate motion and order to seal unless a federal statute or prior court order expressly authorizes the party to file all or a portion of the document under seal. The amended version further requires that the party explore all reasonable alternatives to seeking to file the document under seal, an effort that must include "a line-by-line analysis of the documents or other tangible item (including documents marked confidential under a protective order) to redact only the truly sensitive information rather than simply seeking to file the entire document under seal." Local Civil Rule 5.6(A) (as amended January 1, 2024) (hereinafter Amended Rule 5.6).

The rule recites that motions to seal entire documents or briefs are “disfavored” and will be granted “only in extraordinary circumstances” and that no party should “routinely seek to file even portions of a pleading or brief under seal.” Amended Rule 5.6(C).

Amended Rule 5.6 will require the party to file a motion to seal accompanied by a redacted version of the document, pleading, or brief, as well as an unredacted version under seal as an attachment to the motion to seal. When the document the party is seeking to seal is a declaration or exhibit to an electronically filed document, the party is to file a page with the notation “EXHIBIT FILED UNDER SEAL” with the document to be filed electronically in CM/ECF. Amended Rule 5.6(B).

A non-confidential supporting memorandum and proposed order must be filed with all motions for filing materials, including pleadings, motions, briefs, or attachments to any documents under seal, with the proposed order reciting findings required by governing case law to support the sealing of documents in the public record. Amended Rule 5.6(D). That certain information or material is marked confidential pursuant to a protective order will not determine whether the document meets the criteria for sealing, and reference to a stipulation or protective order will be insufficient to establish justification for sealing the document or item. Amended Rule 5.6(D).

Amended Rule 5.6(D)(1) and (2) contains detailed information regarding the procedures for seeking leave to seal documents that a movant has designated as confidential and to seal documents that have been designated as confidential by another party or non-party.

Any attorney electronically filing a document or other tangible item under seal will be required to serve the unredacted version on opposing counsel and unrepresented parties by means other than the CM/ECF system and to file a separate certificate of service indicating the means of service. Amended Rule 5.6(D). The clerk must make note on the public docket that the document is sealed. Amended Rule 5.6(F).

If the court grants the motion to seal, the sealed document will remain under seal until the seal expires or the court orders otherwise. Amended Rule 5.6(G). If the court denies the motion to seal, within seven days the movant may file a motion to remove the document from the record; if the movant does not file a timely motion to remove, the document must be filed as a public record. Amended Rule 5.6(H) details the manner by which a *pro se* party may file a motion under seal.

Local Rule 26.3 requiring Initial Disclosures in Misappropriation of Trade Secret Cases is an entirely new rule. Before any trade-secret-related discovery begins, the rule requires a party asserting that trade secrets have been misappropriated to file a Trade Secrets Identification Statement under seal. Local Civil Rule 26.3 (effective January 1, 2024). The party will be required to identify each asserted trade secret with a reasonable degree of particularity (as defined in the new rule, but generally, the description “must be sufficiently particularized to allow the other party to meaningfully compare the asserted trade secret to information generally known or readily ascertainable and to permit the parties and the court to understand what information is claimed to be the trade secret”) and serve such identification on the parties. Rule 26.3(A).

Part B of Rule 26.3 describes the procedures to amend a Trade Secrets Statement. Rule 26.3(C) requires that each identified asserted trade secret be verified under oath or affirmation by the individual or one or more employees or officers of the party asserting the misappropriation of trade secrets.

Finally, Rule 26.3 provides that a party who has filed a misappropriation of trade secret complaint may seek an application for preliminary relief to preserve evidence or return documents, things, or information taken, before filing the Trade Secret Identification Statement if the party has evidence that the opposing party improperly downloaded or took documents, things, or information from the party asserting the trade secret misappropriation. Rule 26.3(D).

These amended and new Local Rules will become effective on January 1, 2024.





A PROFILE OF MENTORSHIP IN ACTION

By Michelle D. Craig, Founder of DiversiTea Divas and Managing Attorney of Transcendent Law Group

As of 2022, nearly 40 percent of lawyers in the United States were women, and while representation of female lawyers and minority female lawyers reached a record high back in 2020, the overall number of women lawyers who start in and remain in the profession throughout their careers is relatively small.

Over the past decade, the percentage of female attorneys has grown nearly 5% while the percentage of lawyers of color now makes up 19% of the legal profession. Despite some continuous growth, women and people of color remain significantly underrepresented in the partnership ranks of top firms. Women and people of color are still more likely to opt out of the entire profession earlier than their counterparts.

We are all aware that the legal profession has consistently struggled to recruit and retain attorneys from underrepresented communities. Several organizations have created initiatives to encourage and sustain diversity in the legal profession.

DiversiTea Divas is one of those organizations. DiversiTea Divas is a forum for professional women to network with and mentor law school students and college-aged and high school students, to develop a new generation of women to enter the workforce. Founded in 2012, this platform provides students with access to network with a dynamic group of mentors in their chosen careers who are ready and willing to pass on their wealth of experience.

DiversiTea believes that change and growth are only effectuated by a continuous, sustainable relationship. Therefore, DiversiTea provides opportunities to the member-mentees and member-mentors to interact throughout the year. DiversiTea has hosted students and mentors at the ballet, galas, conferences, and other events within the city. The goal is for students to first experience events with their mentors to prepare them for these events in their professional lives. Ultimately, the goal is to continue to reconnect, re-energize, and reshape mentees' lives one student at a time. Since its inception, DiversiTea has touched well over 1,000 young ladies in New Orleans. Mentors in DiversiTea have assisted students in negotiating their salaries, navigating intergenerational conflict in the workplace, providing advice on workplace attire and decorum for clerkships, and assisting students with pivotal career decisions as they navigate the post-graduate environment.

As a subset of DiversiTea Divas, DiversiTea-Legal was created, a tea talk that focuses specifically on the legal profession. In the fall of every year since 2019, the group gathers in-house lawyers, outside counsel, judges, DAs, nonprofit leaders, and lawyers with alternative legal careers to have afternoon tea and mentor law students and undergraduates who are interested in the practice of law.

Past tea talks have focused on several topics including life and career strategies, coaching to effectuate change, tackling the tough issues in the legal profession, and successfully obtaining and completing clerkships. Attendees at these events come from a diverse group of female students from Dillard University, the Tulane School of Professional Advancement, Tulane Law School, Xavier University, Southern University and Law School, and Loyola University Law School. This program includes mentors from all areas of practice including local civil and criminal judges, appellate judges, and a Louisiana Supreme Court Justice. DiversiTea is proud of the support it receives from the legal community.

During the tea talks, the attendees receive advice regarding the challenges involved with being and becoming a lawyer. Some of the topics include the facts and myths about legal careers; tips for applying to law school; internships; crafting an elevator pitch; interview dos and don'ts; bridging the generational gaps and budgeting. As a general rule, DiversiTea also makes a point to source its items from local minority and women-owned businesses. Additionally, with the gracious help of sponsors, DiversiTea has awarded numerous scholarships and internship opportunities several years in a row. Year after year, students express their appreciation of the program. Several students use their scholarship funds to purchase materials for classes, sustain housing, and assist with traveling abroad with their school study program. Students who were awarded internships had an opportunity to attend court arguments, review pleadings, and file pleadings. The goal is to offer even more of these opportunities to students at the next tea.

For more information about DiversiTea-Legal, feel free to reach out to diversiteadiva@gmail.com. DiversiTea will continue to provide mentorship, scholarships, and internships for the attendees. DiversiTea is hopeful that its efforts and the efforts of others will be the bridge needed to close the gap for diverse women in these professional settings. If you wish to get involved, donate, or learn more about DiversiTea Divas, you can visit the website www.diversiteadivas.org, or send an to diversiteadiva@gmail.com.

Michelle D. Craig is the Managing Attorney of Transcendent Law Group and creator of DiversiTea Divas. She began her practice two decades ago and became the first African American female Partner at her major New Orleans law firm. As a lawyer, she facilitates the resolution of legal matters for small to large companies and schools in several practice areas, serving as outside general counsel for many. Her goal is always to make the way easier and smoother for the next generation of young diverse attorneys.



Cocktails and Conversations: BUILDING YOUR BRAND



By Alexis Rose Topel, Loyola New Orleans College of Law, J.D. Expected 2024

On July 19, 2023, members of the New Orleans Chapter of the Federal Bar Association gathered at Happy Raptor Distillery to discuss the complex task of building your brand as an attorney. The discussion was led by Alex Aughtry and Endya Hash of Katie Lasky Law and included panelists, Valerie Fontenot of Frilot, LLC and Casey Denson of Casey Denson Law, LLC. These panelists provided their advice on marketing and personal branding.

To start, discussion leaders advised that one's brand begins with one's reputation as an attorney. Valerie Fontenot advised that a big part of your brand is being kind. In practice, this looks like granting someone an extension, even if you already have. She further points out that at some point, you will be the one asking for a third extension and other people will remember your previous kindness.

In terms of social media, Valerie advised that it should be done "in the moment" or else it may seem stale and staged. Both panelists reiterated that social media should be "true to your brand because people can tell if its not." In terms of developing your exact brand, it is important to find your personal niche and stick with it. Casey Denson advised that this may not happen immediately and sometimes takes time to develop.

However, resounding advice from not only panelists, but also attendees, was to be careful with what you post because it will come back at some point. Valerie suggested that a good way to check to see what is out there is to simply Google yourself.

Next, the discussion shifted to the question of how to get clients. The panelists first suggested that a lot of the legal organizations, like the Federal Bar Association, provide opportunities for new clients at conferences or events. Next, Valerie pointed out that "unfortunately, it is where you place yourself because law is who you know not what you know."

The event wrapped up with a philosophical discussion among everyone related to whether people are even socializing in person anymore or if they are just resorting to the internet and phones. Ultimately, the answer to this question turned on individual choice in building one's brand. Going forward, all participants definitely gained new inspiration on how to achieve their branding goals.



Cocktails and Career Conversations Attendees at Happy Raptor Distilling.

THE TRIAL OF LEE HARVEY OSWALD: DISCUSSION AND LUNCH WITH JUDGE WILLIAM ALSUP

By Tom Shlosman, Shlosman Law Firm

A discussion and lunch with Senior Judge William Alsup of the Northern District of California recently took place at 4907 Magazine Street., a House where Lee Harvey Oswald lived during his time in New Orleans. It is now a law office (and the office of our very own correspondent). Judge Alsup is the author of "The Trial of Lee Harvey Oswald." At the event, Judge Alsup shared several excerpts from his book and entertained questions from attendees.

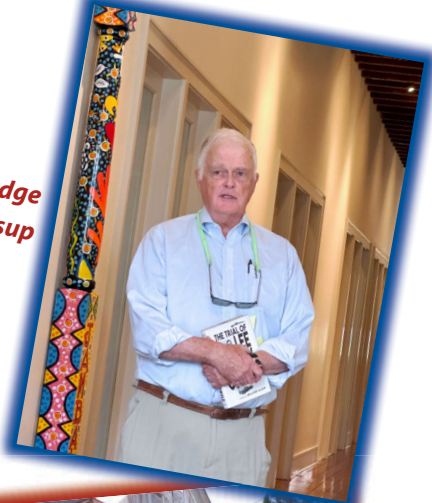
In "The Trial of Lee Harvey Oswald," Judge Alsup delves into the speculative realm of historical fiction, offering a well-researched narrative of what might have happened had Lee Harvey Oswald stood trial for the assassination of President John F. Kennedy. In the book, Judge Alsup crafts a courtroom drama that is both believable and captivating.

The strength of this book lies in its detailed reimagining of a trial that never was. Alsup portrays many memorable historical figures including, but not limited to, Jack Ruby; Percy Foreman, Oswald's attorney; former Governor John Connolly; Detective Will Fritz from the Dallas Police Department, who interrogated Oswald; and Abraham Zapruder, whose infamous 26.5 second film captured the killing.

One of the standout elements of the book, at least to this reviewer, is the way in which Alsup manages to weave historical facts into his fictionalized trial. By doing so, he offers fresh perspectives on the many conspiracy theories that have surrounded the JFK assassination for decades. This blend of fact and fiction challenges readers to question their preconceived notions and to view the events of November 22, 1963 through a new lens. Judge Alsup has a remarkable ability to maintain tension throughout the trial and to render courtroom proceedings in a manner that feels both authentic and accessible.

"The Trial of Lee Harvey Oswald" is a must-read for history buffs, legal enthusiasts, and anyone curious about one of the most debated events in American history. Judge Alsup not only offers a plausible account of what might have transpired in that Dallas courtroom, but also prompts readers to consider the broader implications of justice, truth, and the narratives we choose to believe.

*Senior Judge
William Alsup*



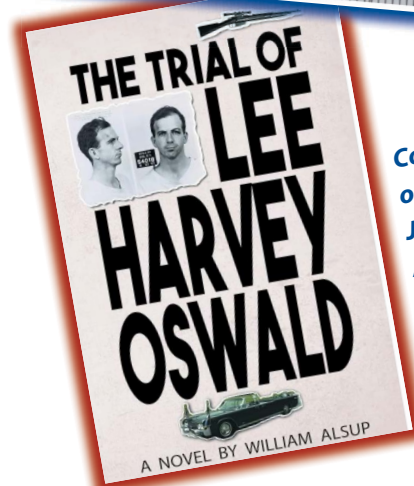
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Live from Hale Boggs "Theatre"!

LATE SHOW

with David Jones

By Carey Menasco, Liskow & Lewis, APLC

On July 24, 2023, the New Orleans Chapter of the Federal Bar Association and the Jerry A. Brown, Louisiana Bankruptcy Inn of Court welcomed **Judge David R. Jones of the United States Bankruptcy Court for the Southern District of Texas** to the Hale Boggs "Theatre" in New Orleans, Louisiana. Judge Jones put on a show for his closely packed and attentive audience of bankruptcy judges, attorneys, law clerks, and law students on a variety of bankruptcy topics. Judge Jones offered practical and humorous advice concerning the use of proffers versus live testimony, and he led a spirited discussion with several seasoned bankruptcy practitioners on the polarizing topic of critical vendors. All present earned an easy 1.5 hours of CLE credit.

Participants then attended a post-CLE reception at Espiritu, located at 520 Capdeville Street in New Orleans, where they enjoyed appetizers and beverages and continued their lively discussion.

Special thanks to Judge Meredith S. Grabill, Bankruptcy Judge for the Eastern District of Louisiana, for hosting this equally informative and fun event.



From Left to Right: André Guidry Tulane Law '25, Tristan Manthey, Fishman Haygood, Hon. Meredith Grabill, Hon. David Jones, Sydney Rusovich, Loyola Law '24.

COURT TIME ISN'T WASTED ON THE YOUNG:

FEDERAL JUDGES ENCOURAGE MEANINGFUL PARTICIPATION FROM YOUNGER ATTORNEYS

(Reprinted with permission from *The Federal Lawyer*)

By Peter M. Mansfield, U.S. Attorney's Office

I. INTRODUCTION

It's become increasingly difficult to find meaningful on-your-feet experience in federal courts. Civil trials have been declining for years,¹ and many courts are deciding pre-trial motions exclusively on the written submissions.² The relative scarcity of live courtroom action means that younger lawyers receive few opportunities to stand and address the court, even when they've significantly contributed to the matter under consideration.³

But lawyers are problem-solvers, and many federal judges have adopted creative policies and standing orders to increase younger attorneys⁴ substantive courtroom involvement.⁵ In fact, one such standing order from U.S. Magistrate Judge Janis van Meerveld, Eastern District of Louisiana,⁶ became the impetus for a new American Bar Association (ABA) resolution urging all courts to adopt a similar policy supporting oral arguments by junior attorneys.⁷ Judge van Meerveld and fellow resolution sponsors see an all-around win: younger lawyers receive valuable professional development in live courtroom proceedings; the court hears from a junior attorney who is oftentimes the most familiar with the matter under submission;⁸ and clients can realize a cost savings by entrusting greater responsibility to a younger lawyer with an attractive billable rate.⁹

II. ABA RESOLUTION 515

The lack of meaningful courtroom opportunities for junior lawyers isn't a novel issue.¹⁰ In fact, the expectation that only senior lawyers would enjoy stand-up roles in court, especially federal court, had arguably become an established and expected norm for clients, law firms, and judges.¹¹ "This is so not only because it is what regularly happens, but also because it is what people believe ought to happen," one federal judge observed.¹² "[I]t is expected that the gray-haired lawyer addresses the judge and argues the case."¹³ Indeed, newer lawyers seeking court time "have long faced a Catch-22": clients want experienced lawyers presenting their arguments, but younger lawyers can only get that experience if trusted to handle contested matters in court.¹⁴

In an effort to break that stalemate and loosen the senior-lawyer monopoly on court time, many federal judges have adopted a variety of policies and standing orders encouraging participation from younger lawyers.¹⁵ In a recent empirical study, U.S. Magistrate Judge Kimberly A. Jolson, Southern District of Ohio, reviewed a number of judicial orders on junior-lawyer participation to determine whether they were effective in "disrupt[ing] the norm" of only senior lawyers speaking in court.¹⁶ Her scholarship categorized four basic types of new-lawyer participation orders:

- One that simply encourages participation from younger lawyers;
- Another that indicates a willingness to set and hear arguments if a new lawyer is handling the matter;
- A third that notes the courts' willingness to hear from more than one lawyer to incentivize new-lawyer participation;
- Finally, an ad hoc approach wherein a judge indicates an expectation that a junior lawyer will handle arguments on a particular case or matter before the court.¹⁷

Judge van Meerveld's standing order on junior-attorney argument tracks option three.¹⁸ The order caught the attention of Louisiana attorneys Danielle Borel and Megan Peterson, officers with the Young Lawyers Divisions of the Louisiana State Bar Association and ABA. These two proponents shepherded a precursor resolution on younger-lawyer participation through the ABA Young Lawyers Division Assembly in 2022, where Judge van Meerveld spoke in support.¹⁹ The Young Lawyers Division of the Louisiana State Bar Association and its general House of Delegates followed suit with overwhelming support shortly thereafter.²⁰



Gene Vance II, Chair of the ABA's House of Delegates, listens to Judge van Meerveld's remarks in favor of Resolution 515.

¹⁴ Unanimously adopted at the ABA's recent midyear meeting held in New Orleans in February 2023, Resolution 515 states:

RESOLVED, That the American Bar Association urges federal, state, local, territorial, and tribal courts to adopt a policy supporting oral arguments made by junior attorneys, specifically those who drafted or significantly contributed to the item presented to the court for adjudication, by allowing two attorneys for a party to participate in oral argument, particularly where one of the lawyers is in their first ten years of practice.²¹

Though newly adopted, Resolution 515 wasn't written on a blank slate. In addition to the ABA Young Lawyers Division resolution in 2022, the accompanying report noted a 2017 ABA resolution that urged courts to “implement plans that welcome opportunities for new lawyers to gain meaningful courtroom experience and urges law firms and clients to take advantage of those plans.”²² The ABA's Young Lawyers Division had previously called on “all courts . . . to implement procedures to encourage younger lawyers to take on speaking roles in the court room,” with a particular focus on under-represented populations in the legal community.²³ While these prior resolutions contained general aspirational goals, Resolution 515 breaks new ground with its specificity and adoption of the two-lawyer solution to address potential reticence from clients and supervisory partners.²⁴

In her speech to the ABA House of Delegates convention urging adoption of Resolution 515, Judge van Meerveld cited several salutary effects she observed in the seven years since she first adopted her junior-attorney policy.²⁵ First, it gave younger lawyers the invaluable courtroom experience necessary to build confidence, attract clients, and deliver a full range of services from motion practice through trials and appellate arguments. Second, because the pool of attorneys in the first decade of practice is more diverse than the older, partnership echelon, the junior attorneys benefitting from her policy increased diversity in federal courtroom advocacy. Finally, the court has direct access to the junior lawyers who are often the most familiar with the specific issue before the court.

Each reason is worth unpacking. First, many judges adopting junior-lawyer orders have noted their responsibility to the profession and the courts “to ensure that the younger generation of lawyers is ready to lead.”²⁶ The late Senior District Judge Jack Weinstein, Eastern District of New York, remarked that: “It's important for everyone and for the litigation process, that the upcoming generation understands the fundamentals and just gets up on their feet.”²⁷ Judge William Alsup, Northern District of California, similarly noted that his longstanding order on younger lawyers “is the way one generation will teach the next to try cases and to maintain our district's reputation for excellence in trial practice.”²⁸ Other federal judges have made consistent observations in their standing orders on participation from younger lawyers.²⁹

Next, the ABA's report on Resolution 515 asserted that “judicial policies promoting new and young lawyer participation . . . promote diversity in the profession.”³⁰ In particular, the “bottleneck” created by limited stand-up courtroom appearances for younger lawyers has been found to “affect[] young women litigators disproportionately[.]”³¹ This finding in a New York study was the impetus for the late Judge Weinstein's adoption of his younger-lawyer order in 2017.³²

Finally, judges and courts adopting junior-lawyer orders needn't be motivated by pure altruism to the younger generations. In fact, whether an intended goal of a junior-lawyer order, or a pleasant by-product of it, judges have observed that the quality of the resulting arguments and advocacy hasn't suffered, but can actually improve. Here's how one article on oral argument explained the phenomenon:

Perhaps the most frequent theme we've heard (especially from judges) is that a party is best served by having its most knowledgeable lawyer argue. An important, but overlooked corollary is that, if that person happens to be junior . . . or even an associate—that alone should not get in the way.³³

Nor should it come as a huge shock that a junior lawyer may be the most knowledgeable lawyer to argue a matter. Partners must balance myriad case-related tasks with client development, billing, and firm management and administration.³⁴ So junior lawyers are typically tasked with conducting the underlying legal research, combing through and compiling the factual record, drafting the legal memoranda, incorporating partner and client edits, and outlining the arguments in advance of a court hearing.³⁵ “By completing this work, associates are often more familiar with the arguments that will be most successful in a matter and the particular facts associated with a case.”³⁶ And judges can tell when “other members of the team probably just poured the argument in [a senior lawyer's] ear the night before.”³⁷

But what about clients that, nonetheless, insist on senior lawyers in stand-up courtroom roles? According to Judge Robert W. Gettlemen, Northern District of Illinois, that intransigence could backfire with the court. “People, sometimes clients, think that having a senior lawyer argue is going to influence us, even if they don't know the material as well. In fact, it doesn't. Nobody is fooling anybody when you do something like that.”³⁸ Former Ninth Circuit Court of Appeals Judge Raymond Fisher also remarked in 2012 that he'd “seen as many partners screw up an argument because they don't really know the case as any stumbling youngster blowing it due to inexperience, butterflies, or the like.”³⁹ But senior counsel still have indispensable roles in advancing younger-lawyer participation. They can and should draw on their skills as advocates and counselors to persuade clients that a junior attorney should argue the case⁴⁰, then ensure that the younger attorney has had an opportunity to moot the argument with co-counsel in advance of the hearing.⁴¹

In Judge van Meerveld's view, the two-attorney option embodied in her standing order and Resolution 515 neutralizes client fears that sidelining a senior lawyer might prejudice the likelihood of a successful result on the issue before the court. Senior lawyers can "step in, if necessary, and correct, or supplement, or even take over."⁴² This "rarely" happens, but "there is nothing" a junior lawyer might do or say "that can't be undone" under the two-attorney option in her standing order.⁴³ Further, judicial standing orders are an indispensable tool in securing client consent to junior-lawyer case handling, as they "provide cover to defect from the prevailing norm of sending senior lawyers to court."⁴⁴ The "escape valve from the norm" is, quite simply, "the judge[s] . . . desire for junior lawyers to appear."⁴⁵ As one senior partner explained, utilizing the court's junior-lawyer preferences "means clients are doing exactly what the judge wants."⁴⁶ And that's axiomatically advisable in any context.

Law firms and their clients can realize some other ancillary benefits to younger-lawyer courtroom participation. Specifically, providing courtroom opportunities to newer attorneys enhances their job satisfaction which, in turn, can boost retention rates.⁴⁷ Clients can also enjoy younger lawyers' "outstanding level of preparation" at billing rates much lower than that of a senior lawyer.⁴⁸

III. THE PATH FORWARD

The passage of Resolution 515 should create further momentum for the continued spread of younger-lawyer orders and policies nationwide.

Some districts have already distinguished themselves in their efforts to get younger lawyers on their feet in court. For instance, the judges of the Northern District of California have adopted a district-wide "Policy Encouraging Opportunities for Attorneys Who Are Less Experienced or From Under-Represented Groups."⁴⁹ According to that policy, "[a]ll Northern District judges will consider permitting multiple lawyers to argue a motion for one party if it would create an opportunity for less experienced attorneys to participate."⁵⁰ Judges in the District of Massachusetts were among the first to adopt younger-lawyer orders over 17 years ago.⁵¹ The trend gradually spread throughout that district; now more than half of the district judges there have similar orders.⁵² The next logical step in the evolution is the adoption of district-wide local rules of court⁵³ tracking the two-attorney approach of Resolution 515.

Federal districts considering adoption of such a local rule should be further encouraged by a recent initiative in the U.S. Patent and Trademark Office. That component of the U.S. Department of Commerce adopted a detailed, formal program on younger-lawyer argument called the Legal Experience and Advancement Program (LEAP), which applies to proceedings before its Patent Trial and Appeal Board.⁵⁴ The program is limited to attorneys with three or fewer oral arguments in federal courts. "A LEAP practitioner may conduct the entire oral argument or may share time with other counsel, provided that the LEAP practitioner is offered a meaningful and substantive opportunity to argue."⁵⁵ As with Resolution 515, the panel "will permit more experienced counsel to assist a LEAP practitioner, if necessary, during oral argument,⁵⁶ and to clarify any statements on the record before the conclusion of the oral argument." As an additional incentive, the board may also extend argument time.⁵⁷

IV. CONCLUSION

Many judges want to see and hear from new lawyers on their feet in court. So if you're at that experience level, research whether your local courts or judges have a policy encouraging younger-lawyer participation. If you are a senior lawyer accustomed to handling all stand-up roles in court, consider giving the next opportunity to a younger lawyer. Finally, if you're a judge considering your own younger-lawyer policy or standing order for your courtroom, the two-attorney option contained in Resolution 515 reflects a tried-and-true consensus that advances the participation goal while placating client and senior-attorney concerns about turning over the reins to a less-experienced attorney.

Peter M. Mansfield is on the Board of Editors for *The Federal Lawyer* and the Board of Directors for the Federal Bar Association, New Orleans Chapter.



Judge van Meerveld (center) with ABA Young Lawyers Division Secretary Danielle Borel (left), and Louisiana YLD Delegate to the ABA House of Delegates Megan Peterson (right), at the ABA Midyear Meeting in New Orleans.

¹ See generally Shari Seidman Diamond & Jessica M. Salerno, *Reasons for the Disappearing Jury Trial: Perspectives from Attorneys and Judges*, 81 LA. L. REV. 119 (2020); Graham K. Bryant & Kristopher R. McClellan, *The Disappearing Civil Trial: Implications for the Future of Law Practice*, 30 REGENT U. L. REV. 287 (2018).

² See Jay Tidmarsh, *The Future of Oral Argument*, 48 LOY. U. CHI. L.J. 475, 479 & n.18 (2016) (addressing decline of oral argument in trial courts); David R. Cleveland & Steven Wisotsky, *The Decline of Oral Argument in the Federal Courts of Appeals: A Modest Proposal for Reform*, 13 J. APP. PRAC. & PROCESS 119, 120 (2012) (referring to a “drastic reduction in the frequency of oral argument” in the federal courts of appeals).

³ AM. BAR ASS’N, RESOLUTION 515 REPORT, 1–2 (Feb. 6, 2023), <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2023/515-midyear-2023.pdf>.

⁴ The defined experience level of a “younger,” “junior,” “less experienced,” “newer,” or “next generation” attorney (used interchangeably throughout this article) varies throughout the judicial policies and standing orders, see note 5 *infra*, though ten years of practice appears to be the maximum duration.

⁵ Kimberly A. Jolson, *The Power of Suggestion: Can a Judicial Standing Order Disrupt a Norm?*, 89 U. CIN. L. REV. 455, 475 n.81 (collecting standing orders on junior-lawyer participation); ChiP NEXT GEN, *Judicial Orders Providing/Encouraging Opportunities for Junior Lawyers* (Feb. 10, 2017), <https://nextgenlawyers.com/judicial-orders-promoting-next-gen/> (same).

⁶ Peter M. Mansfield, *Judicial Profile: Hon. Janis van Meerveld*, FED. LAW., Sept./Oct. 2021, at 42 n.10 (quoting standing order).

⁷ RESOLUTION 515, *supra* note 3.

⁸ Hon. Janis van Meerveld, U.S. Magistrate Judge, Eastern District of Louisiana, Remarks in Favor of Resolution 515 to the American Bar Association House of Delegates (Feb. 6, 2023).

⁹ RESOLUTION 515 REPORT, *supra* note 3, at 4.

¹⁰ Jolson, *supra* note 5, at 463–64 & 468 (tracing one of the first junior-lawyer standing orders to 2005).

¹¹ *Id.* at 457–58.

¹² *Id.* at 458.

¹³ *Id.*

¹⁴ Jenna Greene, *Partners step aside: It’s time to let associates shine in court*, REUTERS, Aug. 3, 2021.

¹⁵ See Jolson & ChiP NEXT GEN, *supra* note 5.

¹⁶ Jolson, *supra* note 5, at 455.

¹⁷ *Id.* at 456–57.

¹⁸ See Mansfield, *supra* note 6.

¹⁹ AM. BAR ASS’N, YOUNG LAWYERS DIV., RESOLUTION 22-4YL (Feb. 2022), https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/policy/2022/midyear/22-4yl.pdf.

²⁰ LA. STATE BAR ASS’N, HOUSE OF DELEGATES, RESOLUTION (Dec. 14, 2022), <https://www.lsba.org/documents/HOD/23res1.pdf>.

²¹ RESOLUTION 515, *supra* note 3.

²² RESOLUTION 515 REPORT, *supra* note 3, at 1 (quoting ABA report 17A116).

²³ *Id.* (quoting ABA report 21-5YL).

²⁴ Karen Sloan, *ABA to judges: Give junior lawyers their day in court*, REUTERS, Feb. 6, 2023 (noting that the two-lawyer recommendation “is the ABA’s most concrete step yet” to advance younger-lawyer participation in court).

²⁵ See van Meerveld, *supra* note 8.

²⁶ Jolson, *supra* note 5, at 456.

²⁷ Alan Feuer, *A Judge Wants a Bigger Role for Female Lawyers. So He Made a Rule.*, N.Y. TIMES, Aug. 23, 2017.

²⁸ Robert A. Mittelstaedt & Brian J. Murray, *Who Should Do the Oral Argument?*, LITIG., Summer/Fall 2012, at 53 (quoting Judge Alsup).

²⁹ See, e.g., Chief U.S. District Judge Kimberly J. Mueller, *Civil Standing Orders*, E. DIST. OF CALIF., <https://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/5020/standing-orders/> (last visited Apr. 5, 2023) (“The court values the importance of training young attorneys.”); U.S. Magistrate Judge Christopher J. Burke, *Standing Order Regarding Courtroom Opportunities for Newer Attorneys*, DIST. OF DEL. (Jan. 23, 2017), <https://www.ded.uscourts.gov/sites/ded/files/StandingOrder2017.pdf> (noting “the importance of the development of future generations of practitioners through courtroom opportunities”).

³⁰ RESOLUTION 515 REPORT, *supra* note 3, at 5.

³¹ Paula M. Bagger, *How the Judiciary is Helping Younger Lawyers Close the Experience Gap*, AM. BAR ASS’N PRACTICE POINTS, Feb. 27, 2018.

³² See Feuer, *supra* note 27.

³³ Mittelstaedt, *supra* note 28, at 52 (citations omitted).

³⁴ Jordan Rothman, *Younger Lawyers Should Argue More Appeals and Motions*, ABOVE THE LAW (Nov. 4, 2020), <https://abovethelaw.com/2020/11/younger-lawyers-should-argue-more-appeals-and-motions/#:~:text=Younger%20lawyers%20should%20also%20argue,the%20appellate%20or%20motion%20process>.

³⁵ *Id.*; Mittelstaedt, *supra* note 28, at 52–54; RESOLUTION 515 REPORT, *supra* note 3, at 4.

³⁶ *Id.*

³⁷ Mittelstaedt, *supra* note 28, at 53.

³⁸ *Id.* at 53.

³⁹ *Id.* at 53 (quoting Judge Fisher).

⁴⁰ *Id.* at 53–54; RESOLUTION 515 REPORT, *supra* note 3, at 2 (“[I]t is the senior counsel’s job to point out the benefits of other approaches to the client’s case. That’s an important part of the role as counselor.”) (internal citation omitted).

⁴¹ Mittelstaedt, *supra* note 28, at 54.

⁴² See van Meerveld, *supra* note 8.

⁴³ *Id.*

⁴⁴ Jolson, *supra* note 5, at 480.

⁴⁵ *Id.*

⁴⁶ Greene, *supra* note 14.

⁴⁷ *Id.*

⁴⁸ RESOLUTION 515 REPORT, *supra* note 3, at 4 (quoting Judge Janet L. Sanders).

⁴⁹ U.S. DISTRICT COURT, N. DIST. OF CALIF., *Policy Encouraging Opportunities For Attorneys Who Are Less Experienced Or From Under-Represented Groups*, <https://www.cand.uscourts.gov/attorneys/policy-encouraging-opportunities-for-attorneys-who-are-less-experienced-or-from-under-represented-groups/> (last visited Apr. 5, 2023).

⁵⁰ *Id.*

⁵¹ Jolson, *supra* note 5, at 468.

⁵² *Id.* at 468–69 & n.77.

⁵³ District courts possess authority under FED. R. CIV. P. 83(a)(1) and 28 U.S.C. § 2071 (a) to adopt local rules of court. While there are certain substantive constraints on courts’ and judges’ adoption of local rules and standing orders, see Jolson, *supra* note 5, at 460–61, typical younger-lawyer orders are “a permissible exercise of a court’s inherent authority over the management of its docket and courtroom.” *Id.* at 461.

⁵⁴ U.S. PATENT AND TRADEMARK OFFICE, LEGAL EXPERIENCE AND ADVANCEMENT PROGRAM (LEAP), <https://www.uspto.gov/patents/ptab/leap> (last visited Apr. 5, 2023).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*



RULE XII SUPREME COURT RULE UPDATE JUNE 2023

By Scott Sternberg, Sternberg, Naccari & White, LLC

The Louisiana Supreme Court has amended its Rule XII to permit the Judges of Louisiana's federal district courts, not just the federal Courts of Appeal or the U.S. Supreme Court, to certify questions to the Louisiana Supreme Court under Rule XII. This amendment to the rule became effective June 2, 2023.

Previously, Louisiana Supreme Court Rule XII only permitted U.S. Courts of Appeal and the United States Supreme Court to certify questions to the Louisiana Supreme Court. To be ripe for certification, a question of unsettled state law must be before the federal court and be determinative of the matter. Now, Louisiana's District Courts can refer questions of state law that are unsettled or vexing.

In a letter sending the amended Rule XII to Chief Judge Nannette Jolivette Brown on June 13, 2023, Louisiana Supreme Court Chief Justice John L. Weimer said that he hoped the amended Rule XII would promote judicial economy and increased comity for the courts, observing that the rule was enacted to "ensure that in case and fact specific matters in which a federal court faces a vexing state law issue, a matter might be referred to the Supreme Courts for resolution."

The amended Section 1 of the rule states:

Section 1. When it appears to the Supreme Court of the United States, to any circuit court of appeal of the United States, or to any district court of the United States, that there are involved in any proceedings before it questions or propositions of law of this state which are determinative of said cause independently of any other questions involved in said case and that there are no clear controlling precedents in the decisions of the supreme court of this state, such federal court before rendering a decision may certify such questions or propositions of law of this state to the Supreme Court of Louisiana for rendition of a judgment or opinion concerning such questions or propositions of Louisiana law. This court may, in its discretion, decline to answer the questions certified to it or reformulate the question certified.

Section 2 of the amended Rule XII allows the District Court, on its own motion or upon suggestion or motion of any interested party, to certify the question to the Louisiana Supreme Court. The Court requires a certificate prepared and signed by the certifying Judge and requires the record of the court from the certifying Judge to be filed with the Supreme Court. The remainder of Rule XII remains unchanged. On certified questions, the Supreme Court has considerable discretion as to whether it answers, how it answers, and if it can reform the question. The Supreme Court can request briefing, or order oral argument upon request, or on its own volition. Of note: if the constitutionality of a state statute is at issue, the Attorney General shall be permitted to intervene and argue the constitutionality.

A full version of the amended Rule XII may be found on the Louisiana Supreme Court's website: https://www.lasc.org/Supreme_Court_Rules?p=RuleXII

MEMBER SPOTLIGHT

Brittany Wolf-Freedman



Brittany Wolf-Freedman is a member of Gainsburgh Benjamin where her litigation practice focuses on personal injury, medical malpractice, appellate litigation, admiralty, and vaccine injury litigation. She also serves as an Advisory Board Member for the Southeast Louisiana Legal Services and provides volunteer legal services through the Homeless Experience Legal Protection Programs. We hope you enjoy getting to know Brittany!

HOW HAS BEING A MEMBER OF THE FBA ENHANCED YOUR CAREER OR BENEFITED YOU PERSONALLY OR PROFESSIONALLY?

Being a member of the FBA has given me the opportunity to learn from judges and attorneys who perform at the highest level in their field. I have no doubt that my legal advocacy, particularly in federal court, is stronger as a result of my participation in the FBA.

WHAT IS YOUR BIGGEST STRENGTH AS AN ATTORNEY AND WHY? (e.g., legal writing, oral advocacy, marketing yourself and your firm).

My biggest strength as an attorney is probably my written advocacy. I spent the first two years of my career clerking at the Louisiana Supreme Court and in the Middle District of Louisiana, which gave me the opportunity to hone my legal writing skills. Moreover, it allowed me to view issues from the Court's perspective, not solely as an advocate for one side, which has benefitted me in litigation.

WHAT IS YOUR FAVORITE PART ABOUT BEING AN ATTORNEY AND WHY?

As cliché as it sounds, my favorite part of being an attorney is helping people. Working on the plaintiff's side, my clients come from all walks of life, but the one thing they all have in common is that they have been injured or wronged in some way. Money usually will not fix their problem or cure their injury, but it is the best method of compensation afforded by the civil justice system, and I love helping my clients achieve some sense of justice.

WHAT IS ONE THING YOU WISH YOU WOULD HAVE KNOWN BEFORE BECOMING AN ATTORNEY AND WHY?

Being an attorney is not just a job you can clock out of at the end of the day, it is part of your identity. It affects the way you think about, and interact with, the world around you.

WHAT IS THE BEST ADVICE YOU HAVE EVER RECEIVED IN THE LEGAL PROFESSION?

You only have one chance to build your reputation. If you're courteous, professional, ethical, and prepared, then opposing counsel, judges, and their staff will remember that about you. And if you're not, they will remember that too.

WHERE ARE YOU FROM AND HOW DID YOU END UP IN NEW ORLEANS?

I'm originally from Chicago, and I grew up in Florida. I moved to New Orleans to attend Tulane Law School, and I met my now-husband on the first day of orientation. He isn't from here either, but we decided this would be a lovely place to build a life together. Eleven years and two kids later, here we are.

NAME ONE THING THAT YOU COULD NOT LIVE WITHOUT AND WHY?

I couldn't live without my family. My husband is my biggest supporter and best friend. My two sons are my greatest accomplishments, they taught me a love deeper, more selfless and unconditional than I ever knew was possible. My family made me a better and more compassionate, patient, loving person than I ever was before them and I truly cannot live without them.

WHAT WOULD YOU DO PROFESSIONALLY IF YOU WERE NOT AN ATTORNEY AND WHY?

I would be an artist. I'd paint, metalsmith, and dabble in photography. I'm in my happy place when I am creating art.

OTHER THAN YOUR CAREER, WHAT ARE YOU PASSIONATE ABOUT AND WHY?

I am passionate about raising strong, principled, compassionate boys who will make the world a better place. Also, when time allows, I am passionate about doing yoga, metalsmithing, traveling, and enjoying the beautiful, musical, delicious culture of New Orleans.

FAVORITE NEW ORLEANS DISH AND RESTAURANT?

I'm a vegetarian, so this is not a particularly exciting answer... but I love a good tofu bahn mi from Ba Chi or MoPho. And though not technically a "dish" from a restaurant, peanut butter fudge pie ice cream from Creole Creamery is the stuff dreams are made of.

YOU GET ONE SUPERPOWER. WHAT IS IT AND WHY?

There is a character in the movie Encanto who can heal physical ailments and injuries with her cooking. That would be quite useful.

WHAT IS A RECENT "SUCCESS" YOU'VE HAD, EITHER PROFESSIONAL OR PERSONAL, AND HOW DID YOU MAKE IT HAPPEN?

I recently settled a case following an absolute breakdown at mediation. We were miles apart at the mediation, and both sides and the mediator quickly realized the case was not going to settle, and we left thinking we were headed to trial. The following day, I called opposing counsel and we had a refreshingly honest conversation without any posturing and both of us expressed a desire to resolve the case and admitted our respective clients' expectations needed to be tempered. During the next call I received from counsel, she offered a favorable settlement that my client happily accepted.

2023 Annual Meeting and Awards Luncheon

By Elena Perez, Executive Director



The New Orleans Chapter of the Federal Bar Association held its Annual Meeting and Awards Luncheon on August 23, 2023, returning to the *InterContinental Hotel* for the first time since 2019. Chapter members enjoyed networking and reconnecting before the luncheon. Thirty-one firms reserved tables and over 300 people attended. Outgoing Chapter President Michael Ecuyer, *Gainsburgh & Benjamin*, welcomed attendees to the meeting and recognized the honored guests in attendance, including Judge Dana Douglas of the U.S. Fifth Circuit Court of Appeals, and the District Court Judges of the Eastern District of Louisiana, the magistrate judges, bankruptcy judge, and other distinguished guests.



Attendees at the 2023 FBA New Orleans Annual Meeting listen to a report from the Hon. Chief Judge Nannette Jolivet Brown on the status and health of the Eastern District of Louisiana.

The Hon. Chief Judge Nannette Jolivet Brown, a former Chapter President (2019-2020) of the New Orleans Chapter of the Federal Bar Association (FBA), delivered the annual State of the Court Report, which highlighted the status and accomplishments of the United States District Court for the Eastern District of Louisiana. She highlighted the long-standing, strong relationship between the New Orleans Chapter of the FBA and the Court, which has helped make this Chapter successful and the largest in the nation for many years. Judge Brown was happy to report that civil filings continue to rebound. In 2019, the Eastern District saw 18,833 civil filings – which included a docket of several Multi-District Litigation (MDL) cases. By 2021, civil filings had dropped to 2,397. In 2022 they increased to 2,694. Judge Brown said that the drastic dip in filings was due mostly to Covid-19 and the lack of MDL cases assigned to the Court. As of August 2023, civil filings were at 5,400—a 101% increase from last year. She noted that the increase from last year is largely due to the increase of Hurricane Ida litigation. Chief Judge Brown also mentioned that the Case Management Order (the Order) that the Court issued, which encouraged early mediation for Ida cases, has been successful primarily due to Magistrate Judge North's leadership and administration of this Order and the cooperation of many lawyers and the mediators assigned to these cases.

Judge Brown also noted that the total Hurricane Ida case filings, as of the date of the meeting, were 4,084. 1,959 of those cases filed had been assigned to mediation pursuant to the Order. Of those 1,959 cases, only 188 had been sent back to the docket. The other cases had either been settled, not yet been mediated, or had been stayed pending appraisal or arbitration.

Chief Judge Brown discussed the accomplishments of the Judges in the EDLA. Here are a few of the highlights: Judge Darrel Papillion was a recipient of the 2023 Louisiana State Bar Association President's Award. Judge Papillion was recognized for his ongoing commitment to the profession and his exemplary support of the LSBA. Judge Barbier is celebrating 25 years on the bench as of October.

Judge Sarah Vance received the Edward J. Devitt Distinguished Service to Justice Award at a ceremony at the United States Supreme Court. The Devitt Award honors an Article III judge who has achieved a distinguished career and made significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole. Chief Justice of the United States John Roberts gave opening remarks recognizing Judge Vance, and the award was presented by Justice Brett Kavanaugh, who chaired the Devitt award committee.

Judge Vance was appointed to the Editorial Board of the Manual for Complex Litigation, which has undertaken a comprehensive revision of the Manual covering all aspects of complex case management in federal courts. Judge Vance continues to serve on the Judicial Conduct and Disability Committee of the Judicial Conference of the U.S., which handles appeals of judicial discipline of federal judges and proposes rules governing disciplinary proceedings. Judge Vance also serves on the Executive Committee and the Council of the American Law Institute.

Judge Eldon Fallon was inducted into the Louisiana State Bar Association Hall of Fame for his myriad contributions to the LSBA and his commitment to both the legal profession and the public in the state.

Judge Ivan Lemelle received the 2022-2023 Calogero Justice Award from the Louisiana Bar Foundation, which honors his significant contribution to the Louisiana Justice System.

Judge Karen Wells Roby was selected to receive the Greater New Orleans Louis A. Martinet Legal Society 2023 Lifetime Achievement Award.

Judge Jay Zainey was also a recipient of the 2023 Louisiana State Bar Association President's Award. Judge Zainey was recognized for his ongoing commitment to and leadership of the SOLACE Program and overall commitment to the profession.

Judge Brown also thanked all of the members of the FBA for their dedication to the Court, its core values, and their willingness to participate in committees, court activities, and functions.

Incoming 2023-2024 President Brian Capitelli introduced and thanked the keynote speaker, Dr. Ron Faucheux, a nationally respected pollster, author, and nonpartisan political analyst.

Michael Ecuyer announced this year's Awards Recipients for the Chapter's President's Award, the Jack Martzell Professionalism Award, and the Camille F. Gravel Jr. Public Service/Pro Bono Award. Young Lawyers Division (YLD) Chair, Arthur Kraatz, spoke for Judge North, who was unable to attend, to encourage members to join the Civil Pro Bono Counsel Panel.

Michael Ecuyer recognized special landmark members celebrating their 20, 25, 30, 35, 40, and 45-year anniversaries as FBA members. Mr. Glenn Goodier was recognized for his 50-year anniversary, and Mr. Hugh P. Lambert was recognized for his 45-year anniversary.

After the award presentations, Chief Judge Brown swore in the Chapter officers, Board of Directors, the YLD officers, and YLD Board of Directors for the 2023-2024 term.

Michael Ecuyer then introduced and passed the gavel to Brian Capitelli, the 2023-2024 Chapter President. Brian Capitelli thanked Michael Ecuyer for his service and commitment to the New Orleans Chapter of the FBA, presented Michael Ecuyer with an engraved chair, thanked several guests and members, including his father, Ralph Capitelli, and discussed his goals as Chapter President. The New Orleans Chapter of the FBA looks forward to a new year of programming and active engagement among its members.



Chief Judge Brown gives the oath of office to incoming president, Brian Capitelli, as outgoing president, Mike Ecuyer, listens.



Hon. Karen Wells Roby, Hon. Darrel J. Papillion, Mike Ecuyer



Judy Barrasso, Gianluca Cocito-Monoc, Whitney Antoine, Chrissy Calogero

PRESIDENT'S AWARD

Presented to Alysson Mills



FBA New Orleans President Michael Ecuyer presents the President's Award to Alysson Mills

This award was conceived in the aftermath of Hurricane Katrina, and its purpose is to recognize a lawyer for contributions to community leadership outside the practice of law. The award may be conferred upon an individual or upon a group led by an attorney.

The New Orleans Chapter proudly presents this year's President's Award to Alysson Mills.

Alysson is a past chair of the Chapter's Younger Lawyers Division and now serves on its Board of Directors. From her days on the Younger Lawyers' Board to the present, Alysson's calm confidence and generous spirit make her a thoughtful and ever-present part of the Chapter's programming and governance.

She is the "complete package," said Judge Janis van Meerveld, who said that Alysson is a model for the President's Award. Last year's recipient of the President's Award, Scott Sternberg, agreed, saying he has worked with Alysson in a professional and volunteer capacity for more than a decade.

"Alysson has a distinctive sense of empathy blended with peerless intellect," he said. "Whether talking to a high schooler at Justice Camp, arguing at the Fifth Circuit, in a board meeting, or at lunch, I so admire her ability to not only listen, but also to really hear what someone is saying. She is so very deserving of this honor."

Alysson practices in New Orleans and Mississippi, where she grew up. She graduated from the University of Mississippi and the University of Mississippi School of Law, where she served as editor-in-chief of the *Mississippi Law Journal*. She also holds a M.Phil., with distinction, from Trinity College Dublin, Ireland.

After law school, Alysson clerked for the Honorable E. Grady Jolly, U.S. Court of Appeals for the Fifth Circuit, and joined the New Orleans law firm Fishman Haygood, where she practiced for several years, eventually making Partner. At Fishman Haygood, Alysson says she was enabled and encouraged by her mentors to accept challenging *pro bono* work, and to expand her practice and her personal horizons. While at Fishman Haygood in 2016, she was awarded the Louisiana State Bar Association's Outstanding Young Lawyer award.

Today, at her own firm, she maintains a general litigation practice, and a growing mediation practice that she has grown to love.

Alysson is a member of the Criminal Justice Act Panel and accepts appointments to represent indigent federal criminal defendants. She is the court-appointed receiver in *Securities & Exchange Commission vs. Adams, et al.*, No. 3:18-cv-252 (S.D. Miss), and charged with recovering money for victims of a \$100 million Ponzi scheme. She is a member of the Eastern District of Louisiana's *In re Ida Claims* panel of neutrals. She has represented numerous clients *pro bono* at a federal district court's or the Fifth Circuit's request.

Alysson is a member of several professional organizations and has served on boards of several community organizations. She was the founding chair of Community Academies New Orleans, the governing board of three public charter schools. She has taught at (and has an abiding love for) the Ole Miss Honors College.

Alysson divides her time between New Orleans and Mississippi with Yoshi, her dog, and Nathan, her partner of more than 20 years. She treasures her friends, her clients, and her extended family. Her next adventure begins on August 28, when she and Nathan will become guardians to a two-year-old relative, Natalie.

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JOHN R. "JACK" MARTZELL PROFESSIONALISM AWARD

Presented to R. Patrick "Pat" Vance

This award is named in honor of the late John R. "Jack" Martzell. Mr. Martzell practiced in New Orleans with the firm of Martzell & Bickford and served as law clerk to the Honorable J. Skelly Wright, U.S. District Judge for the Eastern District of Louisiana. Mr. Martzell served as Director of the Louisiana Commission on Human Relations, Rights and Responsibilities for six years, President of the Louisiana Trial Lawyers Association, and as Chairman of the Department of Public Affairs with the Association of Trial Lawyers of America. The John R. "Jack" Martzell Professionalism Award recognizes the attorney who best exemplifies outstanding professionalism in the practice of law.

This year's recipient is R. Patrick "Pat" Vance of Jones Walker, LLP. Pat is a nationally-recognized expert and leader in commercial litigation, banking, and bankruptcy law and is one of only two lawyers in the United States who is a member of both the American College of Trial Lawyers and the American College of Bankruptcy. He is also a life member of the American Law Institute. Pat has served his law firm for over 20 years as the Practice Group Leader of the Commercial Litigation Section and three times as Executive Committee Chairman. His 48-year legal career has yielded 170 reported decisions in which he was usually lead counsel at trial or in the appellate court.

Pat has dedicated countless hours to improving the practice of law in New Orleans and Louisiana. He served for many years on the board of the New Orleans Bar Association, including as its Treasurer, Vice-President, President-Elect, and President. In recognition of his service, he received NOBA's President's award in 2016. Pat also has chaired several committees for the Louisiana State Bar Association.

Pat is a proud graduate of Louisiana State University, receiving his B.A. (1970) with highest college Honors and his J.D. (1975) from its Paul M. Hebert Law Center, where he was a member of the Louisiana Law Review. He has given his time and energy in support of his alma mater, receiving Distinguished Achievement Awards for his service on the Honors College Advisory Counsel, as well as the Law Center's Alumni Board of Trustees and Chancellor's Council.

Pat has earned the respect of peers and opponents alike, demonstrating throughout his career not only his razor-sharp intellect, but also his courtesy, respectfulness, and willingness to mentor. Jan Hayden, a colleague and one-time opponent who has known Pat for 40 years, describes him as "a brilliant lawyer both in and out of the courtroom" who "always treated his opponents and co-counsel with the utmost courtesy and deference." She has been "enriched by the experience" of practicing with Pat.

Judy Barrasso, another colleague who has known Pat for more than 40 years and had the opportunity to litigate against him, offers that "Patrick's mode of practice is one to which every lawyer should aspire." She has been "consistently impressed" with Pat's "civility and professionalism," noting that "when Patrick gave you his word, you could count on it."

Christopher Ralston, who served with Pat on several nonprofit boards, including Southeast Louisiana Legal Services, observes that Pat "comes at the role totally determined to leave the organization, its staff and its membership / beneficiaries better off than they were when he arrived." He describes Pat as both "a fierce advocate" and "a gentleman." In short, Pat is "a remarkable individual and an extraordinary lawyer."



CAMILLE F. GRAVEL, JR. PUBLIC SERVICE AND PRO BONO AWARD

Presented to Claude J. Kelly, III

This award is named in honor of the late Camille Gravel, a veteran trial attorney and a champion in the battle for civil rights and equal justice irrespective of financial means. With the avowed intention to have the "ordinary practice of a country lawyer," Mr. Gravel hung out his shingle in Alexandria in the 1940s. Mr. Gravel's career paralleled the tumultuous years of the civil rights movement in the South, and his desire to help those in trouble led him to embrace fully the call for equal justice for all races. In 1980, an African American civil rights leader Alexandria, and a contemporary of Mr. Gravel, wrote the following of him: "I know of no other man in this state who has been more dedicated to the problems of the weak, the oppressed, the down-trodden, the have-nots, and those who are least able to defend themselves than Camille Gravel." The Camille Gravel Award recognizes an attorney who has done substantial pro bono or public service legal work in keeping with the spirit and values exemplified by Camille Gravel.

This year's recipient of the Camille Gravel Pro Bono/Public Service Award is Claude J. Kelly, III, honoring his lifetime commitment to public service. Claude received a Bachelor of Arts degree in 1983 from the College of the Holy Cross. He received a Juris Doctor in 1987 from Tulane University Law School. He began his legal career as an Assistant District Attorney with the New Orleans District Attorney's Office, from 1987 to 1990. He interrupted his legal career to serve as General Manager of his family's restaurant, Kolb's German Restaurant, from 1990 to 1992. He served as an Assistant Federal Public Defender in the Eastern District of Louisiana, from 1992 to 2000. He served as the Director of International Sales for Optimal Healthcare in Miami, Florida, from 2000 to 2002 and as a consultant for the International Exchange Group in Washington, D.C., from 2002 to 2006. From 2006 to 2014, he was in private practice as a solo practitioner, concentrating on criminal defense. He has also worked at the Capital Defense Project of Southeast Louisiana and as a panel attorney of both the Criminal Justice Act in the Eastern District of Louisiana and the Fraternal Order of Police. Since 2014, he has served as the Chief Federal Defender in the Federal Public Defender's Office for the Eastern District of Louisiana.

In 2016, Claude was nominated by President Barack Obama to be a United States District Judge for the Eastern District of Louisiana. While the Senate Judiciary Committee unanimously approved him, his nomination expired with the end of the 114 Congress. Claude is a Fellow of the American College of Trial Lawyers and was the inaugural recipient of the Distinguished Service Award of the Holy Cross Lawyers Association.

When informed of Claude's nomination, Judge Kurt Engelhardt had the following to say, "I was appointed by Chief Judge Richman to chair the Fifth Circuit Committee to consider Claude's reappointment as EDLA FPD. I prepared the final Report and submitted it. While that Report to the Circuit is confidential, I will tell you that every single person I spoke to – district judges, magistrate judges, attorneys on both sides, court unit personnel like Clerk's Office, Probation, U.S. Marshal, etc. – all praised Claude, without exception. Not a single person had a critical comment, and all were effusive in their praise for the professional job he is doing."

Fellow FBA board member and criminal defense lawyer Sara A. Johnson said in her nomination, "In addition to being a great lawyer who is committed to his clients, he's an excellent boss and runs the FPD's office incredibly well. I've noticed he hires a variety of personalities which makes the difficult job of matching clients to attorneys much easier. He empowers his staff to manage their cases and grow, but also provides them with adequate support. I've been especially impressed with his support and promotion of younger female attorneys. He always goes above and beyond. I don't think 'that's not my job' is something he has ever uttered."

NATIONAL FBA ANNUAL MEETING & CONVENTION

By Elena Perez, Executive Director

FBA members from chapters around the country attended the National FBA Annual Meeting & Convention, held from September 21 through September 23, 2023, in Memphis, Tennessee. The New Orleans Chapter was well-represented at the numerous CLEs, educational, and networking events at the conference. FBA's National President, Jonathan Haffen, of Parr Brown Gee & Loveless in Utah, presided over the award ceremony in which our New Orleans Chapter's newsletter, *The Advocate*, won Outstanding Newsletter. The Chapter also won a Presidential Excellence Award for its Chapter Activities. The Health Law Section, which was chaired by FBA New Orleans member, Thomas Schneidau, won a Section and Division Recognition Award in appreciation of its outstanding leadership, innovative programming, and exceptional contributions to the FBA.

The New Orleans chapter was well-represented as the officers and Board of Directors of the FBA were sworn in. These individuals included numerous former FBA New Orleans Chapter Presidents and FBA National Presidents from our area, including Matt Moreland (Chapter President 2006-2007), and numerous others who remain involved in the FBA. Of those, past FBA New Orleans Chapter President Ashley Belleau (1999-2000), also a former FBA President, has been named this year's FBA Foundation President. Kelly Scalise, a past Chapter President (2016-2017), was also sworn in to be General Counsel for the national FBA. Former Chapter President, Kathryn Knight (2018-2019), was appointed to the Audit Committee for the 2023-2024 national FBA year, and was recognized for completing two years on the Sections and Divisions Council.



*Elena Perez, Executive Director NOFBA;
Eric Foley, Chapter Member and Vice Chair Civil Rights Section;
Elvis; Karen King, WDLA AUSA;
Kathryn Knight, Past Chapter President (2018-19);
Thomas Schneidau, Chapter Member and Immediate
Past Chair Health Law Section.*



*Brian Capitelli, Chapter President; Matthew Moschella, Immediate
Past FBA President; Elena Perez, Executive Director NOFBA;
Ashley Belleau, FBA Foundation President, Past FBA President,
Past Chapter President (1999-2000).*



*Kelly Scalise, FBA General Counsel and
Past Chapter President (2016-17)
and Elvis.*



*Ashley Belleau, FBA Foundation President,
Past FBA President, Past Chapter President (1999-2000).*



TRIALS & TRIBULATIONS

By Colin Cambre, Phelps Dunbar

CRIMINAL

USA v. Marvin Legendre

Defendant Marvin Legendre was charged with two counts of Hobbs Act robbery, two counts of brandishing a firearm during a crime of violence, and one count of being a felon in possession of a firearm.

The charges arose from two separate robberies. The first robbery occurred on March 7, 2021, when an individual walked into a Cricket Mobile store in Chalmette and pulled a gun on the two employees working that day, demanding the cash register contents. The suspect was wearing a distinctive American Eagle sweatshirt with a large black stain on the left sleeve and a grease spot on the chest. He was also wearing two mis-matched tennis shoes and a pair of pants held up by a long, white shoelace used as a belt. This robbery gave rise to Counts 1 (the first Hobbs Act robbery charge) and 2 (the first brandishing a firearm during a crime of violence charge).

Several days later, on March 10, 2021, a suspect entered a Boost Mobile store on North Broad Street and again pulled a gun on the employee at the register. The suspect was also wearing two mis-matched tennis shoes and a pair of pants held up by a long, white shoelace. He directed the employee to empty the cash register and then left the store. This robbery gave rise to Counts 3 (the second Hobbs Act robbery charge) and 4 (the second brandishing a firearm during a crime of violence charge). However, as the suspect exited, a second employee gave chase and was able to photograph the suspect's car: a black Monte Carlo with a silver hood and red trim.

Law enforcement was able to identify this vehicle through the Real-Time Crime Camera system and track it to an apartment complex in New Orleans East. Authorities observed security camera footage of the Monte Carlo coming and going from that apartment for several days and discovered that the driver was Marvin Legendre. Legendre lived in that apartment complex in a unit rented for him by his ex-girlfriend.

On March 15, 2021, authorities obtained and executed a search warrant for Legendre's apartment. Inside the apartment, they found the American Eagle sweatshirt with the distinctive stains, the mis-matched tennis shoes, and the other clothing worn during the robberies. Law enforcement also found a gun hidden under the base of a fan in the bedroom. Legendre's DNA was later identified on the handle of that gun authorities took Legendre into custody.

Law enforcement was also able to track Legendre's cell phone through cell site location technology. This data showed that Legendre's cell phone was very near the locations of each robbery at the times of occurrence.

Finally, and most significantly, on September 8th, a mere two days before the start of trial, authorities were able to unlock Legendre's cell phone. On his phone, authorities found multiple videos recorded by Legendre. The first was from a dash camera that Legendre kept in his apartment to record his living room at all times. The dash cam had been recovered during the execution of the search warrant, but all footage on this camera automatically deleted after 8 hours. Therefore, the device itself did not contain any helpful footage of the days of the robberies by the time police obtained it. The dash cam footage found on Legendre's cell phone was from March 10th and showed Legendre getting dressed in the exact outfit worn during the March 10th Boost Mobile robbery on North Broad Street. In this video, Legendre could be heard talking on the phone and telling the person on the other line that he was "headed to Broad." Legendre also inexplicably texted this video to his sister without comment on March 10th, shortly after he returned from the Boost Mobile store. The second video was recorded on Legendre's cell phone and showed him getting out of his shower with the same black gun found in his apartment and used during the robberies.

After deliberating for approximately an hour and a half, the jury returned guilty verdicts as to each of the five counts.

Case No. 21-51 J (1) (Jury trial held before Judge Carl J. Barbier on September 11-13, 2023).



42 U.S.C. § 1983 VIOLATIONS; LOUISIANA STATE-LAW NEGLIGENCE

Jorge Gomez v. The City of New Orleans, et al.

This case arose out of a July 2018 incident between plaintiff Jorge Gomez and off-duty officers John Galman and Spencer Sutton, occurring at and near the Mid-City Yacht Club in New Orleans. Evidence at trial showed that the incident began at the bar after the off-duty officers believed that Gomez, wearing an unfamiliar pattern of military fatigues and a green beret, was “stealing valor.” The altercation between the three individuals continued immediately outside of the bar and later resumed two blocks away from the bar.

Gomez claimed the Galman violated: (1) his constitutional right to be free from unreasonable seizure; and (2) his constitutional right to be free from excessive force. Gomez claimed that the City of New Orleans (the “City”) was liable for his injuries due to its negligent training, supervision, or retention of Galman as a NOPD officer. The City claimed that the incident had nothing to do with Galman's employment.

After deliberating for approximately 8 hours, the jury found that Galman did not act under the color of law during the incident. Accordingly, Galman was found not liable on the § 1983 claims.

The jury also found that Galman did not benefit from a unique opportunity provided by his employment as a police officer to cause harm to Gomez, as to give rise to a duty on the part of the City to exercise reasonable care in the training, supervision, or retention of Galman as concerns the July 2018 incident. Accordingly, the City was found not liable for negligent training, supervision, or retention.

Case No. 19-11803 M (1) (Jury trial held before Judge Barry W. Ashe on September 11-15, 2023).



**Federal Bar
Association**
New Orleans Chapter

2ND ANNUAL JERRY BROWN SYMPOSIUM

FAMILY LAW ISSUES IN
BANKRUPTCY



ALICIA M. BENDANA
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FERNAND L. LAUDUMIEY, IV
Chaffe McCall, LLP



THURSDAY DECEMBER 14, 2023
3:00 P.M. - 4:00 P.M. CLE
RECEPTION TO FOLLOW

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OF CLE CREDIT OR 1 HOUR
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SPECIALIZATION CREDIT



HON. KAREN WELLS ROBY, A LIFETIME OF ACHIEVEMENT

By Hon. Janis van Meerveld, EDLA

On September 16, 2023, in a sold out ballroom at the Hyatt Regency, Hon. Karen Wells Roby was recognized with a Lifetime Achievement Award by the Greater New Orleans Louis A. Martinet Society and Legal Foundation. A tribute video included homages from numerous members of our legal community, from leaders, to some of the many lawyers Judge Roby has mentored in her 36 years serving the bench and bar of the Eastern District, to her son and husband, both lawyers. The accolades were legion. Described as “a life saver,” “a trail blazer,” and “tough as nails,” one testimonial after the other spoke of Judge Roby's impact on lives, her class, grace, and dignity, and the example she sets for all young women, but especially young black women. “She doesn't just talk about women's empowerment, but walks the walk.” Others spoke of her caring, giving, loving, and sharing spirit. In her acknowledgement speech, Judge Roby remarked that when she took the bench 24 years ago, she wanted to serve the bar with dignity, honesty and ethics, and to help people resolve their disputes in a way that they believed were fair. Mission accomplished.

The New Orleans Federal Bar Association joins the Greater New Orleans Louis A. Martinet Society and Legal Foundation in congratulating Judge Roby on her decades of success and service.



*Valerie Fontenot,
outgoing President of
Greater New Orleans
Louis A. Martinet Society,
Honorable Karen Wells Roby
and Ebony Morris*



*Honorable Donna Currault,
Honorable Janis van Meerveld,
Lisa Africk,
Honorable Lance Africk,
Honorable Karen Wells Roby,
Clarence Roby,
Helen Wells (Judge Roby's Mom),
Honorable Chief Judge
Nannette Jolivet Brown,
and Marcus Brown*



**Federal Bar
Association**
New Orleans Chapter



Registration now open for
Malcolm Monroe Seminar and Swearing-in
Ceremony

Wednesday, December 6, 2023

1:00 p.m. -5:15 p.m.

Registration includes membership in the largest Chapter of the Federal Bar Association, an organization dedicated to improving the quality of practice in federal courts and facilitating interaction and communications between the bar and the judiciary. As an added bonus, the seminar culminates with a ceremony at which attendees can be sworn into all federal courts in Louisiana, including the U.S. Court of Appeals for the Fifth Circuit.

To read more about this event or to register go to our webpage nofba.org.

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FEDERAL JUDICIAL LAW CLERK (FJLC) COMMITTEE

The New Orleans Chapter of the Federal Bar Association is excited to announce its establishment of the **Federal Judicial Law Clerk (FJLC) Committee**—a group comprised of federal judges, court personnel, current federal judicial law clerks, and former judicial law clerks from both the private and public sectors. The FJLC Committee will develop educational, social, and career-focused programming aimed at integrating current law clerks into our New Orleans FBA community, increase visibility of current issues facing our federal judiciary, and re-connect former law clerks with their FBA membership.

The Committee's first initiative is to create a local directory to help spread the word! **If you or your colleagues are current or former federal judicial law clerks (from any court in the country or any level of the federal judiciary), please complete the form found at <https://bit.ly/FBAJudicialLawClerks> or you can use your telephone to scan the QR code below. The Committee looks forward to meeting you!**

2023 FEDERAL JUDGES' RECEPTION

THURSDAY, NOVEMBER 9, 2023 ~ 5:00 PM - 7:00 PM
*The Four Seasons Hotel New Orleans ~ The River Ballroom
2 Canal Street, New Orleans, Louisiana*

The New Orleans Chapter of the FBA requests your presence at its annual tribute honoring the federal judiciary's contribution to the community.

Sponsorship levels are available at the following levels:

Silver: \$750; Gold: \$900; and Platinum: \$1,500.

Individual tickets can be purchased for \$75 per person.

For information, please contact Executive Director,
Elena Perez, at eperez@nofba.org or call (504) 589-7990.

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**Sponsorship pledges and payments must be received by November 3, 2023, to be listed on the sponsor board. Sponsors will be featured on social media and our quarterly newsletter. To be listed as a sponsor please select a sponsorship level.*

Thank you for your support!

THE NEW ORLEANS CHAPTER OF THE FEDERAL BAR ASSOCIATION

proudly presents the

32ND ANNUAL ALVIN B. RUBIN SYMPOSIUM:

A NIGHT AT THE (COURTHOUSE) THEATER

PLAYBILL

A NIGHT AT THE (COURTHOUSE) THEATER:

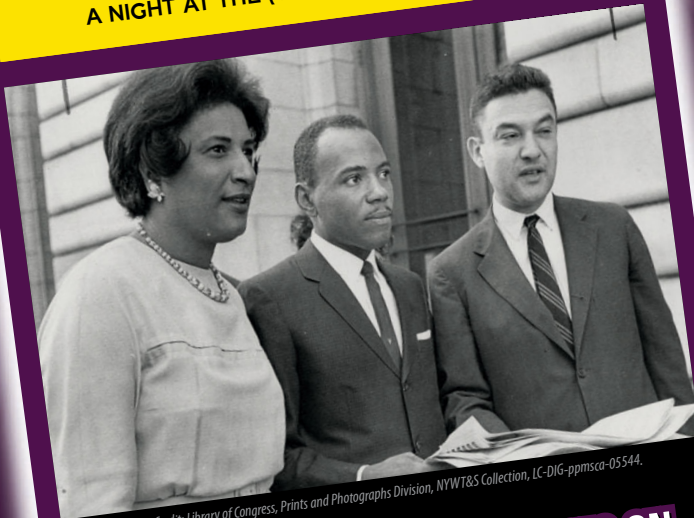


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**REENACTING AND REFLECTING ON
CONSTANCE BAKER MOTLEY,
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AND
THE UNIVERSITY OF MISSISSIPPI**

a play reenacting the historic legal proceedings
accompanying integration of the

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co-written by
Denny Chin, Circuit Judge for the Second Circuit
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starring

**Judges of the Fifth Circuit
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with special guests

**James Meredith and wife,
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NOVEMBER 16, 2023

3:00 P.M. to 5:00 P.M.

U.S. District Court,

500 Poydras Street, Room C501

Panel discussion and reception to follow.

Approved for two hours of CLE (one hour Ethics; one hour Professionalism)

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FEDERAL JUDGES RECEPTION | November 9, 2023

A NIGHT AT THE COURTHOUSE THEATER | November 16, 2023

LUNCH WITH THE COURT WITH JUDGE DARRELL PAPILLION | November 30, 2023

MALCOLM MONROE SEMINAR AND SWEARING-IN CEREMONY | December 6, 2023

WELLNESS CLE (by Zoom) | December 11, 2023 | Noon | 1 professionalism CLE pending

JERRY BROWN BANKRUPTCY SYMPOSIUM | December 14, 2023

DAY OF SERVICE | December 22, 2023 | at the Rebuild Center

LUNCH WITH THE COURT WITH JUDGE DANA DOUGLAS | January 31, 2024

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**MORE EVENTS BEING ADDED
ALMOST EVERY WEEK!**

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