

# Around

THE MAGAZINE OF THE  
BATON ROUGE BAR ASSOCIATION

No. 266, April 2012

# the Bar

**Inside:**  
Federal Courts  
Jurisdiction and Venue  
Clarification Act of 2011

**Attorney spotlight:**  
Beau James Brock

**Interview with**  
Ann McCrory

**Federal taxation of  
attorney advanced costs**

**BRBF Law Day Committee**  
EVENT DATE: FRIDAY, APRIL 27

BRBA Bench Bar Conference 2012  
**JULY 26 - 28**  
Perdido Beach Resort, Orange Beach, Ala.

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For more information, contact Ann K. Gregorie at 225-214-5563 or [ann@brba.org](mailto:ann@brba.org).

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See the Bar News section (page 19) for more information!

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# letter from the president

BY GAIL S. STEPHENSON

## Brimming with hope

Every day the media bring us stories of violence in the Baton Rouge area. The victims and perpetrators are often young. At the BRBA community justice symposium last fall, Sheriff Sid Gautreaux said that when he asks young people where they expect to be in five years, they tell him either in prison or dead. To many, the situation seems hopeless. But I'm not ready to give up on our youth.

Because of the BRBA's many youth education programs, I see today's youth in a different light.



Gail S. Stephenson

On March 2 and 3, 10 teams from area high schools participated in the Region III Mock Trial Competition in Baton Rouge. As a former mock trial team coach, I know how hard the students work to prepare for this competition. They spend weeks learning about the law and trial procedure, rehearsing their roles and learning to think on their feet. Some go on to law school, like Pierre Toussaint, a third-year student at Southern University Law Center whom I coached at McKinley High School.

You may be thinking, "But those students involved in mock trial are the exception – they're the cream of the crop. What about the average students?" On April 27, the Baton Rouge Bar Foundation will host our Law Day event, which reaches students across the board as schools bring entire classes of middle school and high school students. This year's Law Day celebrates the Louisiana Bicentennial, with Lt. Gen. Russel Honoré (Ret.) as the guest speaker. After hearing Lt. Gen. Honoré and witnessing a naturalization ceremony, the students will participate in scripted mock trials. As a courtroom moderator at one of the mock trials last year, I saw well-behaved students who asked many thought-provoking questions. I also read the essays and saw the posters of the students who entered our Law Day contests. Those kids filled me with hope for our future.

Another BRBA program that makes me hopeful is Teen Court, a voluntary diversion program where teens sentence their peers for first-time misdemeanors, such as shoplifting and school altercations. This program gives teens a chance to learn about the law and gives a second chance to students who get in trouble. Teen volunteers fill the roles of prosecuting and defense attorneys, bailiff and jurors. The defendants admit guilt to enter the program, and the teen jury determines a constructive sentence, which may include community service, participating in future Teen Court sessions, counseling, attending educational programs, writing essays and letters of apology or repaying the victim.

When Preston J. Castille Jr. sat as a *pro tempore* city court judge, he witnessed many youths who were already in serious trouble. He decided that to really make a difference, someone needed to reach the kids early, before they got in trouble. He conceived the Junior Partners Academy (JPA), a mentoring program where attorneys visit third- and fourth-grade classrooms monthly and take students on law-related field trips. Youth Education Committee Chair Wendy Shea has had a great time interacting with students at Dalton Elementary during JPA activities. She told me that she always leaves the JPA presentations filled with hope. She said the students "seem genuinely excited to learn. In some of the classes, the students will literally jump out of their seats because they want to be the ones to answer the questions." She added, "Most of the kids seem very hopeful about their own futures, and I think the JPA can play a small part in helping to sustain that hope."

The next time you hear news about community violence, don't give up on for today's youth. Get involved as a coach or judge for a mock trial team, a moderator for Law Day, a judge for Teen Court or a JPA volunteer. When you interact with today's youth firsthand, you'll find yourself brimming with hope. ■

# tales from the bar side

BY VINCENT P. FORNIAS

Our esteemed Madame President, Gail “Mad Hatter” Stephenson, reports that recently she attended a conference of bar association leaders. Introduced at that confab as wearing two honorable hats – past presidents of both the Baton Rouge and Louisiana State Bars – was “the troika of Mikes,” namely McKay, Patterson and Rubin (in no particular order of age, height, girth or intellectual ability). So what is it with this rabbit hole of Mikedom and local bar leadership? Strange coincidence or eerie connection?

Your dedicated reporter began his exhaustive research by turning to the origins of the name “Michael.” Apparently, the name emanates from the Hebrew name “Mikhael,” meaning “who is like God?” In the case of *our* Michaels, emphasis should be on the question mark – adding a couple of *more* question marks and an exclamation point for good measure.

Christian tradition lists Michael as one of the seven archangels, yet Michael rules, for he is the only one of these heavenly superstuds actually identified in the Bible. He is noted in the book of Revelation as the leader of heaven’s armies, leading to St. Michael’s status as the patron saint of soldiers.

At least nine Byzantine emperors, various Russia rulers, one Louisiana governor and six LSU mascots have borne the name. And who could do greater justice to the quintessential fruition of the name than the immortal Michelangelo (literally, Michael the Angel)?

National derivatives of the name include Mihai (Romania); Michal (Poland); Michel (Finland); and Miguel (Portugal and Spain). It is currently the third most popular name for American males.

In more recent times, the name has won popular acclaim ranging from entertainers (Michael Jackson, Mickey Mouse) to athletes (Mickey Mantle, Michael Jordan) to buffoons (Michael Scott, former boss of TV’s “The Office”) to fearless gluttons (“Give it to Mikey – he’ll eat anything”).

So now that you are nauseatingly pregnant with the minutiae of the legacy of Michaels, are we any closer to divining just why those bearing the name are predestined for local and state bar leadership? You reach your own conclusion.

## I want to be like Mike

Speaking of conclusions, let it be said that if you are a male Baton Rouge lawyer and your name is *not* Michael<sup>1</sup> (Aaron, Cave, Clegg, Colvin, Cutshaw, Davis, Dufillo, Ferachi, Fiser, Fruge, Garrard, Grace, Grisson, Gui, Hart, Hebert, Hesse, Hubbell, Hughes, Hunt, Jefferson, Lutgring, Mauldin, McAuley, Mitchell, Palmintier, Parker, Penn, Perry, Piper, Ponder, Remson, Robinson, Smith, Stiltner, Taffaro, Theriot, Thomas, Villa, Wascom and Wilson) or a female lawyer and your name is *not* Michelle (Whitesell Crosby, Duncan, Finnegan, Fournet, Ghetti, Howard, Lorio and Sorrells), then you may as well lower your leadership sights in *this* neck of the woods.

And all of this is wonderful news for our Baton Rouge president-elect, Mike Walsh, who should commence without delay to scout weekend locations on St. Charles Avenue. As for President Gail? Sorry, no state for you. 📌

<sup>1</sup> No dice, “Mike” Walker – you’re really a Myron.

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# Federal taxation of attorney advanced costs

BY WILLIAM C. POTTER, CPA, JD

Taxpayers who are on a cash basis of accounting routinely deduct their business costs when paid. Internal Revenue Code (IRC) §162 allows a deduction for all ordinary and necessary costs paid or incurred during the taxable year in carrying on any trade or business.

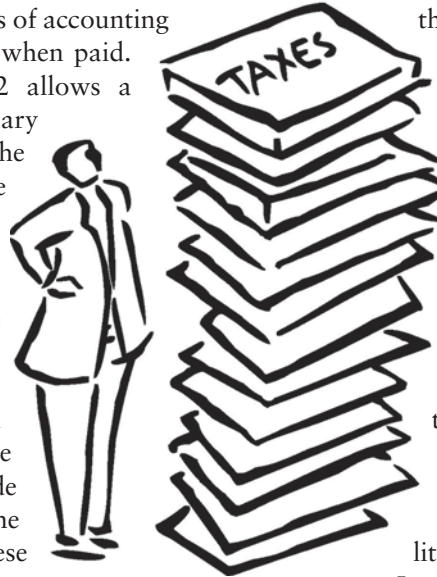
A particular issue under this section arises when an attorney pays for expenses in an on-going case where the contractual agreement with the client calls for those incurred expenses to be repaid from any settlement at the conclusion of the case. This contract may even provide that if no settlement is forthcoming, the client has no obligation to repay these “advanced costs.” Are these expenses deductible when paid?

One of the leading cases on this matter is *Canelo v. Commissioner*, 53 T.C. 217 (1969), aff’d, 447 F.2d 484 (9th Cir. 1971). The attorney/taxpayer had paid advanced costs and deducted them in the year paid even though these tort and personal injury cases were still outstanding and unsettled at year end. The Tax Court agreed with the IRS that these expenses (which included travel, medical records, depositions, filing fees, investigation costs, etc.) were non-deductible until the case settles. Custom in the profession was not relevant in determining what to do.

This same position was upheld in *Burnett v. Commissioner*, 356 F.2d 755 (5th Cir. 1966), cert. denied, 87 S.Ct. 77 (1966). Citing *Burnett v. Commissioner*, the Tax Court in *Herrick*, 63 T.C. 562 (1975), stated:

In our view the clear inference of the Fifth Circuit’s opinion in the Burnett case is that if the amounts deducted were advances by the attorney to his clients whether for living expenses or other expenses normally paid by the clients and there was an agreement or understanding that the attorney would be repaid, the advances were in the nature of loans and were not deductible business expenses.

Numerous other Tax Court and federal appellate court cases have followed this same position. It is well settled law



that these reimbursable costs are deductible only in the tax year the case is settled.

So what is an attorney to do in handling these costs? First, the practitioner must realize that this tax position applies to any type of case and not just tort or personal injury cases. The determining factor is the contractual arrangement with the client.

Typically, cases fall under two types of arrangements—a net-fee case or a gross-fee case. Under a net-fee contract (which is more common in the personal injury litigation), the lawyer’s expenses are recovered before calculating the contingent fee. In the gross-fee situation, the attorney is entitled to a set fee and is not separately reimbursed for the litigation expenses.

In the net-fee contract, the expenses would be deductible for tax purposes only when the case is concluded. In the gross-fee case, the expenses would be deductible when paid.

What should an attorney do if she is handling these costs incorrectly? The taxpayer can correct the treatment of these costs by making a change-of-accounting-method election in the current tax year under IRC §446. This can result in an immediate §481 adjustment—a rather complicated correction process for the past errors that may be adjusted over several tax years.

Suppose an attorney has corrected the erroneous method from past years when the expenses had been deducted. With current cases he is waiting to deduct the advanced costs when the case settles. But now when the attorney is doing things properly and an old case from a previous year settles in the current year and there are reimbursable costs recovered in the settlement, can these expenses be deducted again? No, there is a tax benefit rule under §111 that precludes a “double deduction.” See *Hughes & Luce, LLP v. Comm’r*, 70 F.3d 16 (5th Cir. 1995), cert. denied, 116 S. Ct. 1824 (1996).

Attorneys practicing in this area need to be aware that the advanced cost issue is a major item for investigation in an IRS audit. In the IRS’ Attorneys Audit Technique Guide (March 2011), the Service instructs its agents on how to conduct an examination of a lawyer’s or firm’s return in this area. ■

# West's Jury Verdicts - Baton Rouge

Venue/Case Type	Major Injury	Trial Type	Result
<u>East Baton Rouge Parish</u>			
Animals	Leg	Jury	\$360,000
Contracts	Monetary damages	Bench	Defense
Vehicle Negligence	Back, neck, legs, arms, hands	Bench	\$111,271
Vehicle Negligence	Back	Bench	\$32,314
Vehicle Negligence	Back, surgery	Bench	Defense

## West's Case of the Month

### Jury Returns \$360K Verdict For Woman Attacked by Dog On Walking Path

*Richardson v. Goetting*

**TYPE OF CASE:**

Animals • Bite/Attack  
Animals • Dog  
Insurance • Homeowners Policy

**SPECIFIC LIABILITY:** Woman was bitten by a dog while walking on a bicycle/pedestrian path

**GENERAL INJURY:** Leg injuries; medical expenses, lost earnings; lost wages

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

**DOCKET/FILE NUMBER:** 587,376

**VERDICT:** Plaintiff, \$360,000.00; reduced in judgment to \$354,811.36 per stipulation of the parties

**VERDICT DATE:** Aug. 17, 2011

**JUDGE:** Todd Hernandez

**ATTORNEYS:**

*Plaintiff:* Frank Tomeny III and Catherine L. Plauché, Tomeny & Fisher, Baton Rouge  
*Defendants:* Brad J. Brumfield, Law Offices of Keith Giardina, Baton Rouge

**TRIAL TYPE:** Jury

**BREAKDOWN OF AWARD:**

\$100,000.00 to plaintiff for general damages  
\$15,000.00 to plaintiff for past medical expenses  
\$120,000.00 to plaintiff for future medical expenses  
\$100,000.00 to plaintiff for loss of enjoyment of life  
\$25,000.00 to plaintiff for disfigurement

The court subsequently reduced the plaintiff's total recoverable damages to \$354,811.36.

**SUMMARY OF FACTS:**

Marilyn Richardson was reportedly walking on the bicycle/pedestrian path which ran from Country Club Drive to College Drive in East Baton Rouge Parish, La., Feb. 17, 2009, when she came upon Linda Goetting, who was walking in the opposite direction on the same path with a dog owned by

Robin Goetting and/or Linda.

According to Richardson, the dog was on a leash which extended more than 10 feet from Linda. When the dog came upon Richardson, the dog allegedly attacked her, biting her left calf and injuring her.

Richardson said she was subsequently taken by ambulance to Baton Rouge General Medical Center for treatment.

Richardson, individually and on behalf of her son, Matthew Burland, filed a lawsuit against Robin and Linda Goetting and their insurance provider, Safeco Insurance Company of America, in the Nineteenth Judicial District Court for the Parish of East Baton Rouge. In her petition, the plaintiff alleged the defendants were negligent in that they had failed to keep the dog confined on a leash no longer than six feet, failed to keep the dog from being a nuisance and violated the ordinances of the city of Baton Rouge and parish of East Baton Rouge.

The plaintiff sought damages for her physical pain and suffering, mental pain and anguish, lost earnings and wages, medical expenses, permanent diminished mobility, disability, disfigurement and loss of enjoyment of life. She also requested compensation, on behalf of Burland, for loss of consortium.

The defendants admitted Richardson was bitten by a dog owned by the Goettings; however, the defendants pled the contributory fault of the plaintiff in causing the incident. They also contested the nature, extent, cause and duration of the plaintiff's damages and injuries.

The matter proceeded to a jury trial in August 2011 with Judge Todd Hernandez presiding. According to court documents, the claims Richardson had asserted on behalf of Burland were dismissed pursuant to the parties' agreement.

Jurors returned a verdict in favor of the plaintiff and against the defendants, Aug. 17. The jury awarded Richardson \$100,000 for general damages, \$15,000 for past medical expenses, \$120,000 for future medical expenses, \$100,000 for loss of enjoyment of life and \$25,000 for disfigurement.

Judge Hernandez entered judgment on the jury's verdict, Aug. 19, 2011. The court noted that the parties had stipulated the actual amount Richardson would recover for past medical expenses was \$9,811.36, which was the plaintiff's actual amount of medical expenses stipulated at trial less the amount the defendants tendered to Richardson under the Safeco medical payments portion of the policy.

Accordingly, the court reduced Richardson's total recoverable damages to \$354,811.36.

**CASE CITE:** *West's J.V. La. Rep.*, Vol. 7, Iss. 7, p. 7 (2012); 2011 WL 6940644

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## Ten questions with Beau James Brock BY PAMELA LABBE

Beau James Brock is the chairman of this year's Baton Rouge Bar Foundation Law Day Committee, which is the planning committee for the BRBF Law Day activities scheduled to take place Friday, April 27, 2012, at the Baton Rouge River Center Theatre.

*ATB: What can we expect to see at this year's Law Day activities on April 27 that might be different than in past years?*

BJB: This year students for the first time will compete in a video contest where they create their own YouTube videos about Law Day. Winners may have their videos shown on COX cable. Also, middle school and high school students may enter and win cash prizes for the video, essay and poster contests this year! We are very excited Lt. Gen. Russel Honoré will be our keynote speaker for the Law Day naturalization ceremony. This year we will again utilize the Wizard of Oz mock trials in the courtrooms, which allow the students to fully participate in a courtroom trial and jury deliberation and can use volunteers to help assist and supervise in this classroom exercise.

*ATB: In what areas of the law do you currently practice?*

BJB: My areas of practice include criminal defense, environmental law (including environmental criminal defense, environmental plaintiffs' work, environmental permitting), governmental relations and general personal injury.

*ATB: Tell us about your legal career and where you currently practice.*

BJB: Since January 2011, I have been employed by Manasseh, Gill, Knipe & Bélanger. I enjoy coming to work every day, being a part of an outstanding team and helping families in need.

I began my legal career 20 years ago as an Assistant District Attorney and worked in the DA's office in East Baton Rouge Parish from 1991 until 1999. While there I prosecuted everything from attempted bear wrestling to aggravated rape and capital murder cases. I was very fulfilled in working to preserve victims' rights.

In 1999, I went to work for the United States Environmental Protection Agency and was the Regional Criminal Enforcement Counsel for Louisiana, and, as such, was in-house legal advisor to EPA-CID federal agents in their environmental criminal investigations in Louisiana from 1999 until 2008. I also served as a Special

Assistant United States Attorney for three of those years concerning environmental criminal cases. I then worked at the Louisiana Department of Environmental Quality on the Secretary's Executive Staff as Confidential Assistant from January 2008 until June 2010, and then as Assistant Secretary over the Office of Environmental Compliance until January 2011. At DEQ, I worked at the highest level, and I believe the team I worked with was able to make great improvements in making our air and water cleaner and establishing a level playing field and better regulatory predictability for industry.

*ATB: Tell us three things that you would consider to be passions in the life of Beau James Brock today.*

**BJB:** I enjoy spending time with my children, improving our community through volunteerism and fighting for lost causes.

*ATB: Did you have any role models growing up? If so, who were they and why?*

**BJB:** My chief role models were my parents. My mom taught me how and why it is imperative to be socially conscientious and to help others in need. My dad taught me self-reliance and discipline to see the mission to its end.

He taught me "finishing" was the most important thing in life, even though I, at times, do march to the beat of my own drummer, and this was always a bone of contention for us. Other role models included coaches I had, like my dad and Coach Scanlon, who taught me to not to settle, and teachers like Miss Jones, Professor Roider and Professor Baier, who inspired me to always ask why and that I could do something about it to affect it.

My life's thinking has been influenced as much by storytellers like Frank Capra, Billy Wilder, Mark Twain and Elia Kazan as it has been by real accomplishments by Churchill, Lindbergh and Ted Sorenson.

*ATB: What is your political affiliation?*

**BJB:** I am a Republican and have been a party member since 1991.

*ATB: What is one thing that you know now about life that you wish you would have known as a kid?*

**BJB:** Tough question. Well, I have been fortunate to do all the things in life I always wanted to do, even as a kid – practice law, have a family, be in sports as a young man and even now enjoying tennis as a hobby. I guess as I was very blessed as a child, I'm glad now I didn't know many

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of life's difficulties in achieving and maintaining these goals, and instead was able to focus on obtaining them. Certainly, growing up, I could have applied myself better in school, or been a better person, but through trials and tribulations, mostly self-inflicted, I think I have learned to be a better person.

ATB: *What is your favorite vacation spot?*

BJB: Anywhere I can experience something with my kids and through their joy and wonderment is fine with me.

ATB: *Why do you believe community volunteerism is important?*

BJB: I am also a member of the BRBA Volunteer Committee. Of course, I believe that giving ourselves to others and achieving results for our community have a rippling affect on the waters of our communal soul and serve to be a positive influence on those who may never know us and even those who live without hope. 

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## GAIL'S GRAMMAR

Writers often confuse the words *inapt* and *inept*. Although they are often listed as synonyms, they have different connotations. *Inapt* means inappropriate or unsuitable. *Inept* means clumsy or unskilled. Using them interchangeably will usually change the meaning of the sentence.

### EXAMPLES:

The attorney was *inapt* for the position. (The job didn't suit him.)

The attorney was *inept* at the position. (The lawyer was incompetent.)

The *inept* attorney used *inapt* cases.

*Thanks to Robert Pugh for suggesting this topic. Send suggestions for future Gail's Grammar columns to Gail Stephenson at GStephenson@sulc.edu, or call Gail at 225.771.4900 x 216.*

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# A summary of the Federal Courts Jurisdiction and Venue Clarification Act of 2011

BY BRANDI B. COLE

The Federal Courts Jurisdiction and Venue Clarification Act was signed into law Dec. 7, 2011, before holiday revelry began last year. The Act's provisions took effect Jan. 6, 2012, for: (a) actions commenced in a United States district court on or after this date; and (b) any action removed from a state court to federal court and that had been commenced, within the meaning of state law, after this date.

As indicated by the title, much of this Act simply clarifies some of the outdated and arguably disorganized provisions of the federal rules governing jurisdiction, removal and venue, while adding a few new rules. According to the Judiciary Committee Report, the changes implemented by this Act were based on the recommendation of the United States Judicial Conference to address judges' valid concern that "the current rules force them to waste time determining jurisdictional issues at the expense of adjudicating underlying litigation." Report 112-10, p. 2. And the changes certainly make it easier for a litigant to navigate and understand the statutes.

## I. Basic jurisdictional improvements

The Act makes minimal changes to the statute governing subject matter jurisdiction based on diversity of citizenship, 28 U.S.C. § 1332. In determining diversity jurisdiction, the Act deletes the prior language regarding treatment of resident aliens, and clarifies that district courts shall not have diversity jurisdiction over actions between citizens of a state and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and domiciled in that same state.

The Act also adds language in determining the citizenship of corporations and insurers for purposes of diversity jurisdiction. The Act basically adds consideration of "a foreign state" any time "state" is referenced in determining where corporations and insurers are domiciled.

## II. Changes to the removal statutes

The Act makes a number of changes to the removal provisions contained in 28 U.S.C. § 1441 *et. seq.*, some of which aid the flow and organization of the rules, without making much of a practical difference. For instance, the title of 28 U.S.C. § 1441 has been amended to read "Removal of civil actions," instead of "Actions removable generally."

Additionally, all references to criminal prosecutions in the general removal statutes have been deleted, and a new statute, 28 U.S.C. § 1455, is now solely dedicated to removal of criminal prosecutions.

The Act makes clear that when a federal question claim is removed along with state law claims that are not within the supplemental jurisdiction of the district court or are otherwise not removable, the district court will keep the federal question claim, but must sever the state law claim and remand to state court.

Further, there were some changes made to the statute governing *procedure* for removing civil actions. 28 U.S.C. § 1446 now groups together removal provisions relating solely to actions based on diversity jurisdiction, which creates ease of reference for litigants.

Also, the new and improved version of section 1446 codifies current practice in federal courts by clearly providing that for cases removable based solely on diversity of citizenship, all defendants joined and served *must* join in or consent to removal within 30 days of the service of the pleading or summons. The statute further provides that if defendants are served at different times, and the later-served defendant files a notice of removal, any earlier-served defendant may consent to removal at that point, even though they did not previously initiate or consent to removal.

For removal based on diversity of citizenship, the statute now provides that the action must be removed within one year of commencement of the action, *unless* the district court finds the plaintiff has acted in bad faith to prevent defendant from removing the action. If the notice is filed more than one year after the action is commenced and the court finds the plaintiff deliberately failed to disclose the amount in controversy to prevent removal, this shall be deemed in bad faith. Moreover, information learned through discovery that indicates that a claim is worth more than \$75,000 will trigger a new 30-day period within which to remove the case.

### III. Venue and transfer improvements

As part of the Act, a new introductory section has been added to the venue provisions, which defines venue and codifies the scope of venue provisions. According to 28 U.S.C. § 1390, venue is “the geographic specification of the proper court or courts for the litigation of a civil action that is within the subject-matter jurisdiction of the

district courts in general, and does not refer to any grant or restriction of subject-matter jurisdiction or providing for a civil action to be adjudicated only by the district court for a particular district or districts.”

The Act also makes changes to the general venue provisions in section 1391. It creates a unified approach for determining venue in federal question and diversity cases, but does not substantively change the rules. Indeed, in the prior version of the statute, the rules were basically the same for each, but for no rhyme or reason, located in different sections. The Act eliminates the outdated “local action” rule, which previously restricted where certain actions involving real property could be brought, and now states that venue shall be determined “without regard to whether the action is local or transitory in nature.”

The Act also clarifies that a person, including a lawful alien, is deemed to reside in the judicial district in which that person is domiciled.

The Act provides that unincorporated entities/associations will be treated the same as incorporated associations in determining proper venue, in that they will be regarded as residents of any district in which they are subject to personal jurisdiction.

For transfer of venue under 28 U.S.C. § 1404, the law now clearly states that cases may be transferred for the convenience of the parties and witnesses and in the interests of justice to any district or division to which all parties have consented. The changes to the transfer provisions also provide that transfers from U.S. district courts to territorial district courts (the District Court of Guam, District Court for the Northern Mariana Islands, or the District Court of the Virgin Islands) are not permissible.

In sum, the Federal Courts Jurisdiction and Venue Clarification Act was enacted both to enable litigants to more easily understand and use the statutes governing jurisdiction, removal and venue, and to allow courts to focus on the bigger issues, rather than unnecessarily wasting the time and money of the parties and the judiciary in resolving basic procedural questions. As of Jan. 6, the changes are now “on the books” and in effect for the use of practitioners. Although many of these changes may seem like common sense, just to *clarify* – the statutes have been re-organized, so be sure to review the updated laws before citing any of these provisions in a pleading or filing a notice of removal in federal court. ■



# Interview with Ann McCrory, Judicial Administrator, 19th Judicial District Court

BY ROBERT COLLINS

*ATB: You have done a lot of different things. In just a few sentences, what were the highlights before you arrived at this position?*

AMc: Before law school I was an elementary school teacher for four years. I went to law school, got out, and went to work at the First Circuit. I'd had an offer at a law firm, but decided I would go the First Circuit for one year, take a little break. The one year turned into 10 years because I wanted to have children, and I had three children in those 10 years.

About two years into that I realized that I really didn't want to practice law. I was happy to use my law degree and do the research, and that was more compatible with raising three children. But that got to be a little routine, and I had started teaching legal writing in the LSU Paralegal Program. The program director's position became available, and it seemed like a perfect job to me. It involved teaching and education, and it also involved administration, which drew upon my experience at the First Circuit when I was the head of the Central Civil Staff. So, I took the job at LSU, and it was great. I got the program approved by the ABA. That was my big challenge.

Later in my career, a friend asked me if I was interested in working at St. James Place. That was because while I was at LSU running the paralegal program, I had also started a program for retired people called Lagniappe Studies Unlimited. It was a program where the older people run the program themselves. They form a board, they hire the teachers, they set the curriculum, and LSU was there for support. That is probably my best professional accomplishment, I just have to say. Not that I was responsible for the success of the program, that was because of retired people that came in and did that, but just for having the idea and launching it. That brought me to St. James Place. They offered me a job as a salesperson, and shortly thereafter I became the marketing director, and I was there seven years. During the time I worked at St. James Place, I had the tragedy of my son being killed in an accident, and shortly thereafter I left St. James Place and was just at home for a while healing and just giving myself a break from work.

Then, I started looking for a job and had a one-year stint in the training world with the State Comprehensive Public Training Program.

*ATB: When did you begin your current position?*

AMc: I was honored to be hired here as a judicial administrator. My first day of work was Feb. 14, 2011.

*ATB: What's been the biggest surprise in your first year?*

AMc: My biggest surprise was how very interesting and enjoyable the job is. It has really exceeded my expectations. Many things make it interesting. One, the organizational structure is so different from other ones in which I've worked. There's not the usual hierarchy with the "big dog" at the top, and then the pyramid-shape below. Instead, we have 15 leaders—the judges—at the top, and they are of equal authority. These 15 people, as you can imagine, are not always of one mind about how things should be done. Two, the job offers great variety. So far, no two days have been alike. Three, the physical environment is beautiful. I love the contemporary design and the windows galore. Four, I like a "people job," and this job is that. I actually look forward to going to work every day.

*ATB: Where have you looked for guidance in learning your new job?*

AMc: Initially, I leaned heavily on my staff of five. They were very good about educating me on things I needed to know. I was fortunate to have inherited a very competent and helpful staff. Judge Tony Marabella was the Chief Judge when I first began, and as such was my main contact. He was a huge source of information and support. My predecessor, Jo Bruce, made herself available, and in situations where no one else had the information, she provided it to me. In addition, I have a mentor in the Louisiana Court Administrators Association, Tina LeMaire. She is the court manager for the 15th JDC, in Lafayette. She and some of the other members have been extremely helpful.

*ATB: What's the single thing you're happiest about accomplishing in your first year?*

AMc: I don't know that there is one single thing. But it's been exciting to be a part of "the new day" in the new courthouse. For many years, the previous judicial administrator as well as many of the judges were intensely

focused on the building project. I was fortunate to waltz in here three months after the court had moved into the new building, and most of the kinks had been worked out by then. Some of the judges made it clear that once everyone got settled in the new courthouse, they wanted me to streamline and improve various practices and procedures. So, several things come to mind, in terms of accomplishments this first year.

First, I've initiated the creation of a much-needed website, which may be up and running by the time this interview is published.

Second, I coordinated a workshop/retreat for the judges. They chose to hold it on a court holiday, so it wouldn't disrupt the dockets. It was led by a professional executive coach, Maurice Valasquez, and focused on improving communication and team building. It was a positive experience for the judges and a good thing for the court as a whole.

Third, I'm updating and creating policies, especially in matters that involve employees, such as overtime and professional appearance.

*ATB: What's your elevator speech when people ask you what you do for a living?*

AMc: I'm the judicial administrator, that is, the court

manager, for the 19th JDC, the largest district court in the state. That means I'm like the chief operations officer for this organization, which happens to have 15 CEOs. They've hired me to handle daily operations and handle employee-related matters, especially those involving the dozens of employees who work for the court, but who are not part of the judges' individual staffs.

*ATB: Looking back over your career, who have been some of the biggest influences on you?*

AMc: The one that comes to mind first is Luther Cole for a couple of reasons. He was a good judge and a good lawyer, and during my time with him as a law clerk I felt I just had good guidance in terms of the work that I did, which was legal research. But, even before I got the job with him, he had gone to a writing seminar for judges that used the book *Plain English for Lawyers* by Richard Wydick. Judge Cole was so impressed with that course that he arranged for those teachers to come to Baton Rouge, and he and the other judges of the First Circuit got their law clerks to attend the two-day seminar the teachers put on. That was kind of life changing for me. I had always been interested in writing, but up until that time had really been completely on my own. So that, I felt, greatly enhanced my skill, and it is what led me later to

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The other thing about Judge Cole that was so influential is that he had faith in me. When he moved to New Orleans to be a Supreme Court justice, he created a position and appointed me to it, which was the head of the Central Civil Staff. That was my first management job, and that was influential because he had the faith to put me in that management position. That experience has opened doors in all my subsequent jobs.

*ATB: Looking ahead, what do you see coming across your desk as judicial administrator in the future?*

AMc: Coming across my desk, I can't really predict. Remember, that's what makes the job so challenging.

Things come up that I never thought would have come up. But, what I will generate on my own is the fact that I want to continue to improve and create policies concerning employee matters. And, at the same time, to further develop the department heads as managers.

*ATB: Given the peripatetic nature of your career, how long do you think you'll be in this position?*

AMc: My plan is for this to be my final chapter of my career. I don't see myself wanting to move on. But, as they say, in this business when you are a court administrator, you can be here as long as a majority of the judges for whom you work want to keep you here. 

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# bar news

BY PAMELA LABBE

## Honoré to be keynote speaker at BRBF Law Day opening ceremony Friday, April 27, 2012

The BRBF Law Day opening ceremony, to be held Friday, April 27, 2012, will provide entertainment and educational enrichment to more than 1,000 middle and high school students at the Baton Rouge River Center Theatre.

This year's keynote speaker will be Lt. Gen. Russel L. Honoré (Ret.). The Louisiana Bicentennial Commission is a sponsor of this year's Law Day event.

Beau Brock, chair of the 2012 Law Day Committee, will welcome all attendees during the ceremony. Jeffrey Wittenbrink is the vice chair of the Law Day Committee. Law Day poster, essay and video contest winners will be honored on stage during the Law Day opening ceremony. A naturalization ceremony will be held as well.

Volunteers are needed to assist with Law Day. To volunteer, contact Donna Buuck, staff liaison to the Law Day Committee, at 225-214-5556 or donna@brba.org.

## BRBA Bench Bar Conference to be held July 26-28

Make plans to attend the annual BRBA Bench Bar Conference, scheduled to take place at the Perdido Beach Resort in Orange Beach, Ala., July 26-28, 2012.

Musical entertainment at the conference will be provided by The Bucktown All-Stars, a nine-piece rhythm and blues band based in the New Orleans area. The group, which features a powerful four-piece horn section and was formed in May 1992, promises to be lots of fun! The chairman of the BRBA Bench Bar Conference 2012 is Patrick Broyles. This year's conference is sure to be a kid-friendly, last hurrah before the start of a new school year.

For conference or sponsorship information, contact Ann K. Gregorie at 225-214-5563 or ann@brba.org.

## Law Expo date selected: Wednesday, Sept. 12

The BRBA Law Expo Committee has selected Wednesday, Sept. 12, 2012, to be the date of the September Bar Luncheon and Law Expo. Chairing this year's Law Expo event is Michael Platte. Bryan Jeansonne will serve as the vice chair.

Luncheon speaker H. Alston Johnson III, known for providing an excellent legislative update each year, has been confirmed. The annual tradeshow, which is held in the BR River Center, is in its planning stages. Sponsorships and booth space are available. For more information, contact Pamela Labbe at 225-214-5560 or pamelal@brba.org.



Past Volunteer Committee Chair Donna Lee (center) was honored at a recent Volunteer Committee Social, held Thursday, Feb. 16, 2012. Jeanne Rougeau and McKenzie Ledet will co-chair the 2012 BRBA Volunteer Committee.



Two long-time members of the BRBA Volunteer Committee – Bridget Denicola and David H. Ogwyn – attended the annual Volunteer Social Thursday, Feb. 16, which was held at the Middleton Bar Center.

## February Volunteer Committee Social attracts new faces to existing community outreach projects

The annual BRBA Volunteer Social was held Thursday, Feb. 16, 2012, following the Cultural Competence CLE that was offered free to BRBA members who volunteered to assist with future Volunteer Committee projects or with the Pro Bono Project.

The social was well-attended and provided new admittees and new members to the bar with information about projects in which the Volunteer Committee does during the course of the year.

Jeanne Rougeau and McKenzie Ledet will co-chair the BRBA Volunteer Committee for 2012. Carole McGehee is the staff liaison of the committee.

## Next BR Bar Luncheon: Thursday, June 14

The Young Lawyers Section of the BRBA will organize the next BRBA Bar Luncheon, which is Thursday, June 14, 2012, at De La Ronde Hall. The speaker is to be announced.

To register for this luncheon, please contact the BRBA at 225-344-4803 or register online at [www.BRBA.org](http://www.BRBA.org).

PHOTO BY PAMELA LABBE

PHOTO BY PAMELA LABBE



PHOTO BY PAMELA LABBE

Those attending the Volunteer Committee Social, held Thursday, Feb. 16, 2012, included (L to R) Micah John Fincher, Alicia M. Sosa, Erin Sayes, McKenzie Ledet and Loren Shanklin.



PHOTO BY PAMELA LABBE

Kyle Ferachi received the Judge Joseph Keogh Memorial Award at the Jan. 12, 2012, BRBA January Luncheon at De La Ronde Hall. Past YLS Chairperson Amanda Stout (right) presented Ferachi with the award. Ferachi, a member of the BRBA Board of Directors, recently announced that he will be relocating to Houston, Texas.



First Circuit Court of Appeal Judge Jewel E. "Duke" Welch (center), president of The Dean Henry George McMahon American Inn of court, attended the American Inns of Court Celebration of Excellence Nov. 5, 2011, in Washington, D.C. to accept the 2010-2011 Platinum Level Distinction. Pictured (L to R) are Roxon Welch, Judge Welch and Judge Carl E. Stewart, U.S. Fifth Circuit Court of Appeals.



PHOTO BY SUSAN KELLEY

Judge Michael McDonald, Paul Marks and Jack Whitehead attended the March 1, 2012, BRBA March Bar Luncheon at De La Ronde Hall.

## BRBA members are encouraged to schedule free portrait sittings in May for BRBA website

During the last three weeks in May, Baton Rouge Bar Association members will have the opportunity to sit for a complimentary portrait at the Middleton Bar Center. The BRBA has agreed to partner with RCL Portrait Design, which will be scheduling the photo sessions and are providing photographers to capture the images that will be used on the BRBA's website.

The photo sittings begin Monday, May 14, and continue through the end of the month. A letter will be sent to each BRBA member in April inviting him or her to call (800) 580-5562 after April 14 to set up an appointment with RCL Portrait Design. Please make a note to set your photo appointment after April 14 so that you will have a new full-color photo on the BRBA's website.

## Johnson appointed to full-time teaching position, will continue practicing law part-time

H. Alston Johnson III, a former managing partner of Phelps Dunbar, is now a professor of professional practice and faculty director of the Center of Continuing Professional Development at the LSU Paul M. Hebert Law Center.



A 1970 graduate of the LSU Law Center, Johnson originally joined the LSU Law faculty in 1972 as an assistant professor of law, and was promoted to associate professor with tenure in 1975 and professor of law in 1978. Johnson, who opened the Baton Rouge office of the Phelps Dunbar law firm in 1984, will continue to work with Phelps Dunbar in a part-time capacity.

## Ghetti selected to be a fellow with the United States Supreme Court for 2012-2013

Michelle Ghetti, a law professor with the Southern University Law Center, has been selected to be a fellow with the United States Supreme Court for 2012-2013. She is one of four individuals who will get to work with the Court and its various agencies in Washington, D.C., for a year, researching, writing, working with Congress on judicial matters and working with international judicial groups. The appointment begins this summer.



## Nuts & Bolts Summer CLE Seminar Series

The BRBA Summer Nuts & Bolts CLE Seminars will take place May 4, June 1, June 15, Aug. 10 and Aug. 24. These Friday seminars tackle a variety of topics and are held at the Middleton Bar Center, 544 Main Street. Call Ann K. Gregorie for more information at 225-214-5563.



PHOTO BY SUSAN KELLEY

Martinet President Michael Tyler, BRBA President Gail S. Stephenson, BRAWA President Jan Reeves and guest speaker Jacqueline Nash were photographed following the March 1, 2012, bar luncheon. The theme of the luncheon was "passing the hat" to raise money for the BRBF, so all attendees were invited to wear hats.



PHOTO BY SUSAN KELLEY

Shenequa Grey and Donna Lee attended the March Bar Luncheon.



PHOTO BY SUSAN KELLEY

Judge Janice Clark, Judge Michael McDonald and Isabel Loret attended the March 1, 2012, BRBA March Bar Luncheon at De La Ronde Hall.



PHOTO BY SUSAN KELLEY

Photographed above are Cynthia Eyre, Ann Wise, Magistrate Judge Stephen Riedlinger and BRBA President Gail S. Stephenson.

## BRBA emphasized diversity as it celebrated Black History Month throughout February

In celebration of Black History Month, the Baton Rouge Bar Association Board of Directors signed the LSBA Statement of Diversity Principles to reaffirm its belief in diversity Wednesday, Feb. 15; held a Cultural Competence continuing legal education seminar for its members Thursday, Feb. 16; and taught a lesson plan on *Plessy v. Ferguson* questioning the fairness of "separate but equal" at Dalton Elementary School through the BRBF Junior Partners Academy Friday, Feb. 17. Through increased diversity, the BRBA strives to bring more varied perspectives, experiences, backgrounds, talents and interests to the practice of law and the administration of justice.

By executing the LSBA statement, BRBA leaders are agreeing to use their best efforts to increase the diversity in their hiring, retention and promotion of attorneys and the elevation of attorneys to leadership positions. Also, they agree to promote and participate in appropriate diversity awareness training programs as well as programs to measure their progress in the pursuit of the stated diversity principles.

The Cultural Competence seminar, taught by Angela Allen-Bell, was held at the Middleton Bar Center at no



PHOTO BY PAMELA LABBE

Junior Partners Academy volunteers Jamie Gurt and Jonathan Howard visited Dalton Elementary School Friday, Feb. 17, 2012. The lesson explained *Plessy v. Ferguson*, which questioned the fairness of the concept "separate but equal," to the school's third and fourth graders.



PHOTO BY PAMELA LABBE

Ethel Clay and Steve Carleton participated in the Junior Partners Academy Feb. 17, 2012, classroom sessions.



PHOTO BY PAMELA LABBE

Numerous attendees registered for the Cultural Competence CLE, which was provided by the Baton Rouge Bar Association for free to all who promised to do future volunteer work with the BRBA Volunteer Committee or with the Pro Bono Project. The seminar was held 4:15 to 5:15 p.m. Feb. 16, and was followed by the annual Volunteer Committee Social. The seminar was so well-received that the BRBA plans to make this free CLE opportunity a regular February event.




PHOTO BY PAMELA LABBE

Angela Allen-Bell was the speaker for the Cultural Competence CLE seminar, which was held Thursday, Feb. 16, 2012, at the Middleton Bar Center.

cost to BRBA members and was attended by 20 attorneys. The Association plans to make this an annual event.

Extending the theme of diversity into March, BRBA President Gail S. Stephenson joined Jan Reeves, president of the Baton Rouge Association of Women Attorneys, and Michael Tyler, president of the Louis A. Martinet Legal

Society, in leading a combined meeting of the Baton Rouge Bar Association Thursday, March 1, at De La Ronde Hall. Together the three celebrated the diversity of their individual association's membership while meeting in a combined setting. Members were encouraged to wear hats. 

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PRO BONO PROJECT & TEEN COURT JANUARY REPORTS

## PRO BONO PROJECT REPORT

We would like to thank all of our Pro Bono Project volunteers for their contributions in January.

The Thirst for Justice solo practitioner volunteers were Terry L. Bonnie, Hansel Harlan, Byron Kantrow, Ross Leblanc, Alexis Luker and Judge Melvin Shortess (Ret.). Thirst for Justice volunteers practicing with firms were Jim Austin and Melissa Grand, *Adams and Reese*.

Students volunteering with Thirst for Justice included Amelia Hurt and Catherine Sens, *LSU Law Center*.

The Ask-A-Lawyer solo practitioner volunteering in January was Emily Ziober. The Ask-A-Lawyer volunteer practicing with a firm was Jim Austin, *Adams and Reese*.

The Self Help Resource Center attorney volunteers were Jennifer Gauthreaux, Anthony, Prescott & Gauthreaux; Ken Mayeaux, *LSU Law Center*; and Danny Rester, *Adams and Reese*.

Law students volunteering with the Self Help Resource Center were Amber Amore, Hayne Caliva, Denise Fariior, and Matthew Schafer, *LSU Law Center*; Shandell C. George, Chiquita Hall, Sonji Moore, Natasha Strickland, Eric M. Scott, William Stewart and John Willis, *Southern University Law Center*.

David Mooney accepted a pro bono case in January. Ben McDonald interned with the Baton Rouge Bar Foundation.

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

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## TEEN COURT REPORT

Amanda Darby, Josh Melder, Lindsay Sanchez and Tavares Walker and served as judges and jury monitors for the January hearings. Raven Bailey, Samantha Mallett, Jasmyne Pugh and William Stewart, *Southern University Law Center*; and Alic'a Oliver and Ellen Miletello, *LSU Law Center*, served as jury monitors.

If you are interested in volunteering, please contact Donna Buuck at 225-214-5556 or donna@brba.org.



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

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# April 2012



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22	23	24	25	26	27	28
29	30					

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

## Duty Court Schedule

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

March 26-April 6 Judge Clark  
 April 9-April 20 Judge Bates  
 April 23-May 4 Judge Caldwell

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

March 30-April 6 Judge Daniel  
 April 6-April 13 Judge Moore  
 April 13-April 20 Judge Johnson  
 April 20-April 27 Judge White  
 April 27-May 4 Judge Marabella

### BATON ROUGE CITY COURT\*

March 26-April 1 Judge Wall  
 April 2-April 8 Judge Alexander  
 April 9-April 15 Judge Ponder  
 April 16-April 22 Judge Davis  
 April 23-April 29 Judge Temple  
 April 30-May 6 Judge Wall

### FAMILY COURT\*\*

April 2-April 6 Judge Day  
 April 9-April 13 Judge Lassalle  
 April 16-April 20 Judge Baker  
 April 23-April 27 Judge Woodruff-White  
 April 30-May 4 Judge Day

### JUVENILE COURT

April 1-April 30 Judge Richey

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

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

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

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

### COURT HOLIDAYS

Friday, April 6 Good Friday

### PARTNER LEVEL ATTORNEY POSITIONS

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## Classifieds

### MANAGER / ASST. MGR. IS AVAILABLE:

I am a highly skilled Top-5 MBA non-attorney in Baton Rouge with valuable expertise in management, business operations, marketing and writing. I am currently self-employed, but want to make a permanent career change into the legal industry – specifically, a full-time position in a small-to-medium-sized Baton Rouge firm. I have valuable skills in management and business services, plus, I am almost finished with a paralegal course, so I will come armed with business experience and legal knowledge. Let me free you and your legal staff to do what you do best: legal work; let me help with legal administration and day-to-day operations. My preferred practice areas are in litigation, personal injury or defense, but I am flexible. Please send me your valid contact information and I will respond promptly with my resume. Thanks. BRLawFirmMgr@gmail.com.

### COMMISSIONER – 19TH JDC

The 19th JDC has an opening for a Judicial Commissioner. The duties and powers of a Commissioner are set forth in LA RS 13:713. Applicants must hold a J.D., be admitted to the LSBA, and have been practicing law or otherwise engaged in the legal field, for a minimum of eight years. At least three years experience in criminal law is preferred. Duties include but are not limited to handling civil prisoner suits against the Department, e.g. parole revocation, disciplinary board, time computation and other administrative appeals; as well as post-conviction applications and public records requests, all of which the Commissioner must hear and write reports and recommendations for the Court. Commissioners also handle executory process suits, certain expungement claims, and may sit ad hoc for criminal judges upon special request. Some weekend/evening duty work (setting bonds and signing warrants) may be involved upon special request. Must have excellent analytical and writing skills, as well as a strong work ethic. Request an application form and instructions from 19thjdcresume@brgov.com. Resumes will be accepted until April 13, 2012, and job will begin on July 2, 2012.

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

**Ongoing:** Every Tuesday & Thursday, 9:30 a.m., (Pro Se) Self Help Resource Center, 19th Judicial District Court

- 3 YLS Council meeting, 12 p.m.
- 4 Law Day Committee meeting, 12 p.m.
- 5 Ask-A-Lawyer, 10 a.m., Delmont Service Center, 9-11:30 a.m.
- 6 Office Closed – In observance of Good Friday
- 9 Publications Committee meeting, 12 p.m.
- 10 Operations & Finance Committee meeting, 3:30 p.m.;
- Executive Committee meeting, 12 p.m.;
- Teen Court hearing, Juvenile Court, 6 p.m.
- 11 Pro Bono Committee meeting, 12 p.m.
- 12 Volunteer Committee meeting, 12 p.m.
- 14 Ask-A-Lawyer, Scotlandville Branch, 9:30-11:30 a.m.
- 16 CLE Committee meeting, 12 p.m.
- 17 Appellate Section meeting, 11:45 a.m.;
- Board of Directors meeting, 5:30 p.m.
- 18 Ask-A-Lawyer, Catholic Charities, 9 -11:30 a.m.;
- Bench Bar Conference Committee meeting, 12 p.m.
- 19 Family Law Section CLE seminar, 12 p.m., Sullivan's Restaurant
- 20 Louisiana Bar Foundation Gala, Ritz-Carlton, New Orleans, 7 p.m.
- 23 Teen Court Hearing, EBR Juvenile Court, 5:45 p.m.
- 25 Teen Court Committee meeting, 12 p.m.
- 27 Law Day Event, BR River Center, 8:30 a.m.-1 p.m.;
- Workers' Comp Section Kids Chance Fundraiser, Moore, Thompson & Lee, 5:30 p.m.

## Calendar of Events

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