One of the great features of FBA membership is reduced registration fees for the many outstanding CLE programs offered by the New Orleans chapter of the FBA. While I suppose there will always be a need for the “procrastinator’s special” CLE programs between Christmas and New Years, those who wait until then can certainly have no beef about the quality and quantity of CLE programs offered throughout the year by the FBA. Over the past few months, our chapter has put on several unique, interesting, and varied CLE programs touching upon a variety of topics:

First, the annual Rubin Symposium was held on May 24th, and as usual the ceremonial courtroom at United States District Court was completely full. The program featured reminiscences from Circuit Judges Eugene Davis, Patrick Higginbotham, and Carolyn Dineen King regarding their service with Judge Rubin, and the many examples of his standards of professionalism and ethics in discharging his judicial duties. Thereafter, a panel featuring Bobby Harges, United States Magistrate Judge Karen Wells Roby, and attorney/board member Harold J. Flanagan discussed ethics and professionalism in the mediation process. Needless to say, the Rubin Symposium was another big hit, and raised the bar for that event even further. Special thanks to the committee who organized and put on this program: attorneys Donna Currault, Kelly Legier and Kathryn Knight and Judge Carl Barbier, and special thanks to Judge Ivan Lemelle for use of the ceremonial courtroom as the venue.

Also, on April 19th, the FBA put on a truly unique program entitled “Who Dats, Blue Dogs, & All Dat Jazz: Basics of Intellectual Property in the Big Easy.” This program provided all practitioners with great insight into intellectual property law, both on the registration/protection side as well as the litigation side. Lecturers/panelists for this program were Chief Judge Sarah Vance, John T. “Jack” Culotta, Lesli D. Harris, Thomas McEachin and James H. Napper. The FBA committee members responsible for this successful CLE are John Balhoff, Eric Nowak, Jack Culotta and Kelly Legier; and special thanks, yet again, to Judge Lemelle for providing the ceremonial courtroom as the venue.

Our FBA chapter has also recently provided high quality CLE programs - one in the bankruptcy law field - entitled “Bankruptcy Tips for the Non-Bankruptcy Lawyer” held on May 31st (appreciation to Tara Richard, Erin Arnold, and Bankruptcy Court Clerk Marla Hamilton), and an intriguing criminal law CLE program entitled “Federal Sentencing Variances and Departures”, held on June 12th (thanks to Virginia Schlueter, and board members Walter Becker and Brian Capitelli). These follow the very successful (and truly fun and different!) “Nazi Looted Art in the Federal Courts: Recent Developments
and the Case of Schiele’s Dead City” and “Federal Indian Law 101, Including Indian Gaming” CLE programs. Our New Orleans chapter also co-sponsored a discussion of the proposed local rule changes in Bankruptcy Court, held on June 7th.

Coverage of the most recent of these events is featured in this issue of “The Advocate.”

Perhaps the most remarkable program in which our local FBA chapter was involved was the ceremonial event celebrating the 200 year anniversary and history of litigation in various federal courts in Louisiana, particularly the Eastern District of Louisiana. The CLE program, entitled “Tracking Louisiana’s Legal Heritage: Celebrating 200 Years of the Federal Courts in Louisiana”, highlighted the colorful history of cases arising in federal courts in Louisiana, and focused on not only such high profile cases, but also judges, historical events, and even the location of federal courts over the past 200 years. Members of the CLE panel were Professor Warren M. Billings, Ph.D., Distinguished Professor of History, Emeritus, UNO and Visiting Professor of Law, The College of William and Mary Law School; Professor Richard Campanella, M.S., Geographer/Senior Professor of Practice, Tulane University School of Architecture; Mr. John Magill, M.A. Curator/Historian, The Historic New Orleans Collection; Mr. Jason Wiese, M.L.I.S., Assistant Director, Williams Research Center, The Historic New Orleans Collection; Professor Mark F. Fernandez, Ph.D., Professor of History, Loyola University New Orleans; Professor Raphael Cassimere, Jr., Ph.D., Seraphia D. Leyda University Teaching Professor, Emeritus, University of New Orleans; Professor John Randall Trahan, J.D., Louis B. Porterie Professor of Law, Paul M. Hebert Law Center, Louisiana State University. The seminar also featured a skit performed by International High School of New Orleans students featuring the debate among our forebears about whether Louisiana would be admitted to the union as a civil law or a common law state. The skit was written by local attorney (and immediate past-President of our Chapter) Barry Ashe. This event was co-sponsored by the New Orleans Chapter of the FBA, along with the New Orleans Bar Association, the Louisiana Bar Foundation and the Louisiana Center for Law and Civic Education. Special thanks and congratulations are owed to Judge (and FBA board member) Mary Ann Vial Lemmon, who chaired the program; United States Magistrate Judge Joseph C. Wilkinson, Jr.; EDLA Clerk of Court (and FBA board member) Loretta G. Whyte; Louisiana Supreme Court Justice Harry T. Lemmon (retired); UNO Professor Dr. Warren M. Billings; Dr. Alfred Lemmon of the Historic New Orleans Collection; attorney Ashley Belleau (immediate past-national President of the FBA); FBA board members Larry J. Centola, III, Matthew Moreland, and Tara Richard; attorneys Megan Dupuy, Harvey C. Koch, Brian P. Quirk, and Peter J. Wanek; and Erin Laine, EDLA Systems Analyst Programmer.

So if you ever wonder about the benefits of FBA membership, or the use of your dues, or the activities of the organization, I have described only a few. Indeed, it is programs such as these that afford our members the opportunity to learn so much more about topics of interest, while also receiving CLE credit, and while enjoying the company of their colleagues, court personnel and new friends in such an interesting and stimulating setting.

NOTICE FROM THE COURT:

Given the long lines for entry into the United States District Courthouse (EDLA) on Poydras Street, please be advised that much easier, less crowded entry may be made on the Lafayette Street side entrance instead of the Poydras Street entrance. Counsel are encouraged to use the Lafayette Street entrance to alleviate congestion at the Poydras Street entrance.
The New Orleans Chapter of the Federal Bar Association hosted the 20th Annual Alvin B. Rubin Symposium on Thursday, May 24, 2012. The Chapter began this annual program to honor Judge Rubin’s commitment to professionalism and ethics. In its 20th year, the program continues to thrive as evidenced by the attendance and participation of over 160 attorneys. Among those attorneys in attendance were Judge Rubin’s sons, Michael Rubin and David Rubin, and his granddaughter, Sarah Rubin.

This year, Donna Phillips Currault moderated discussions of two separate panels, one focused on professionalism and the other on ethics in settlement negotiations. We were honored to have three sitting Fifth Circuit judges – the Honorable Carolyn Dineen King, the Honorable Patrick Higginbotham, and the Honorable Eugene Davis – serve as our professionalism panel. These judges shared their personal experiences with Judge Rubin and described how he demonstrated professionalism to his colleagues and to practitioners during his time as a district court judge and later as a Fifth Circuit judge. The audience learned of Judge Rubin’s generosity with his time and his commitment to the legal profession with examples of his service as a mentor and role model to many other lawyers in the profession. In the second hour, our distinguished panel – the Honorable Karen Wells Roby, Professor Bobby Harges, and practitioner Harold J. Flanagan – engaged in a lively discussion of ethical issues in settlement negotiations.

Each of the more than 160 attendees received two hours of CLE credit for the program, one in professionalism and one in ethics.
The YLD held its annual “Morning at the Federal Courthouse” program on June 20, 2012, at the Eastern District of Louisiana. The program provides a valuable opportunity for law students and young lawyers to observe civil, criminal, and bankruptcy proceedings in federal court.

Sixty-seven law students and young lawyers from the area attended the event. The program opened with a welcome from Chief Judge Sarah S. Vance, who provided an overview of the operations of federal court. The attendees then divided into small groups to observe various oral arguments and trials being held before District Judge Helen G. Berrigan, District Judge Eldon E. Fallon, District Judge Carl J. Barbier, District Judge Jane Triche Milazzo, Chief Bankruptcy Judge Elizabeth W. Magner, and Bankruptcy Judge Jerry A. Brown.

After observing the oral arguments and trials, the students participated in a panel discussion regarding federal practice with District Judge Ivan L.R. Lemelle, District Judge Kurt D. Engelhardt, District Judge Nannette Jolivette-Brown, District Judge Jane Triche Milazzo, Magistrate Judge Joseph C. Wilkinson, Jr., Magistrate Judge Sally Shushan, and Clerk of Court Loretta G. Whyte.

Following the panel discussion, the YLD hosted a lunch in the Hale Boggs Conference Room for the seminar attendees and participants. The YLD thanks all of the people who made this event possible, including the Judges of the Eastern District of Louisiana, the staff at the Eastern District Clerk of Court’s Office, the YLD committee members, and the FBA staff.
Save the dates for upcoming events

Lunch with Judge Mary Ann Vial Lemmon
July 19, 2012

Inside Chambers: Tips for Practicing in Federal Court CLE
August 2, 2012

The New Orleans Chapter of the Federal Bar Association’s Annual Meeting and Awards Luncheon
Thursday, August 16, 2012
11:00 a.m. Cocktails / 12:00 p.m. Luncheon

Lunch with Judge Susie Morgan
August 23, 2012

Be sure to check future issues of the Advocate and monitor our website, www.nofba.org for exact dates.

YLD hosts Cocktails with the Court

The Younger Lawyers Division welcomed summer with the latest Cocktails with the Court happy hour on June 13, 2012. The event was well-attended by young lawyers, law clerks, and judges from the Eastern District as well as the Southern District of Texas and the District of Puerto Rico.

Erin Arnold, Hon. Eldon E. Fallon and Casey Dusselles

Kerri Kane and Jack Statton

Camille Bryant, Camala Capodice, Ali Spindler and Casey Dusselles
The ripple effects of a bankruptcy filing can be far reaching and can affect clients as well as the customers of clients. On May 31, 2012, in the courtroom of Chief Bankruptcy Judge Elizabeth W. Magner, four practicing bankruptcy lawyers attempted to impart practical knowledge to more than thirty non-bankruptcy lawyers who had questions about the Bankruptcy Code and Bankruptcy Rules. Wilbur “Bill” Babin (Chapter 7 Trustee; Derbes Law Firm, LLC), Alicia Bendana (Lowe Stein Hoffman Allweiss & Hauver, L.L.P), Clay LeGros (Newman, Mathis, Brady and Spedale) and Andrew Wiebelt (Counsel for the Chapter 13 Trustee) attempted to steer these non-bankruptcy lawyers away from any pitfalls that await the uninitiated when they or their clients are drawn into a bankruptcy proceeding. Judge Jerry Brown also participated in conversations about what constitutes property of the estate, the automatic stay provision of the Bankruptcy Code, proofs of claim, and the role of the Chapter 7 and Chapter 13 trustees. A lively question and answer format made for an interesting CLE.

Committee members for this FBA sponsored CLE were Marla Hamilton, Clerk of the Bankruptcy Court for the Eastern District of Louisiana; Erin Arnold, Law Clerk to Judge Jerry A. Brown; and Tara Richard, Law Clerk to Judge Elizabeth W. Magner.
Federal Bar Association
New Orleans Chapter
presents the

2-Hour CLE
Inside Chambers: Tips on Practicing in Federal Court

AUGUST 2, 2012
2:30 - 4:30 p.m.
Courtroom C-501
U.S. District Court, Eastern District of Louisiana
500 Poydras Street, New Orleans, LA

A panel of law clerks for several of the district, magistrate and bankruptcy court judges will discuss the most effective strategies attorneys can use in their practice before the federal courts.

CLE will include 1 hour of professionalism credit

2-Hour CLE Inside Chambers Registration Form

Name: _________________________________________________________________

Firm/Employer: __________________________________________________________

Address: __________________________________________________________________

Phone: ____________________    Fax: ________________________

Email: __________________________________________________________________

Enclosed Fee: $ _______________  Cost: $30 for FBA members if paid by July 31 / $40 after July 31
Cost: $60 for non-FBA members if paid by July 31 / $70 after July 31
Cost: $20 for government attorneys

Please return this form and remittance to:
Camille Zeller, Attorney Conference Center
500 Poydras St., Room B364
New Orleans, LA 70130
Phone: 504-589-7990  •  Fax: 504-589-7995
Email: fbano@bellsouth.net

Please make checks payable to the FBA
The New Orleans Chapter of the Federal Bar Association’s
Annual Meeting and Awards Luncheon

Thursday, August 16, 2012
The Westin New Orleans, Canal Place

Keynote Speaker: Rita Benson LeBlanc

11:00 Cocktails • 12:00 Luncheon

$50 per person / $500 per table of 10

R.S.V.P. to FBA 589-7990
or: fbano@bellsouth.net

ANNUAL MEETING RESERVATION FORM

Name of Individual(s): _____________________________________________________________

Number of attendees: _________

Firm: __________________________________________________________________________

Address: _________________________________________________________________________

Phone No.: __________________________ Amount enclosed: $ ______________

Email address of contact: __________________________________________________________

PLEASE RETURN FORM AND CHECK TO:

New Orleans Chapter of the Federal Bar Association
c/o Camille Zeller
Attorney Conference Center
500 Poydras St., Room B364
New Orleans, LA 70130
Ph: 504-589-7990 • Fax: 504-589-7995
Email: fbano@bellsouth.net

Please make your reservations on or before August 9, 2012 so that The Westin can have a count of attendees.
NOTICE OF ANNUAL MEETING AND ELECTION OF OFFICERS AND DIRECTORS
AUGUST 16, 2012

In accordance with the Chapter’s By-Laws, Eric R. Nowak, our current President-Elect, will automatically succeed the Honorable Kurt D. Engelhardt as President of our Chapter. Election of the remaining officers and directors will take place at the Annual Meeting on Thursday, August 16, at The Westin New Orleans. The Nominating Committee has nominated the following persons:

**CHAPTER OFFICERS**

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>President</td>
<td>Eric R. Nowak</td>
</tr>
<tr>
<td>President-Elect</td>
<td>Wendy Hickok Robinson</td>
</tr>
<tr>
<td>Treasurer</td>
<td>Christopher J. Alfieri</td>
</tr>
<tr>
<td>Recording Secretary</td>
<td>Kelly T. Scalise</td>
</tr>
<tr>
<td>Membership Chair</td>
<td>Celeste Coco-Ewing</td>
</tr>
<tr>
<td>Immediate Past President</td>
<td>Hon. Kurt D. Engelhardt</td>
</tr>
<tr>
<td>Younger Lawyers Representative</td>
<td>Amy S. Malish</td>
</tr>
</tbody>
</table>

**CHAPTER BOARD OF DIRECTORS**

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>W. Raley Alford, III</td>
</tr>
<tr>
<td>John Balhoff, II</td>
</tr>
<tr>
<td>Hon. Carl J. Barbier</td>
</tr>
<tr>
<td>Walter F. Becker, Jr.</td>
</tr>
<tr>
<td>Hon. Nannette Jolivette Brown</td>
</tr>
<tr>
<td>Brian J. Capitelli</td>
</tr>
<tr>
<td>Hon. Lyle W. Cayce</td>
</tr>
<tr>
<td>Lawrence Joseph Centola, III</td>
</tr>
<tr>
<td>John T. “Jack” Culotta</td>
</tr>
<tr>
<td>Donna Phillips Currault</td>
</tr>
<tr>
<td>Michael J. Ecuyer</td>
</tr>
<tr>
<td>Joelle Flannigan Evans</td>
</tr>
<tr>
<td>Harold J. Flanagan</td>
</tr>
<tr>
<td>Kathleen C. Gasparian</td>
</tr>
<tr>
<td>Soren Gisleson</td>
</tr>
<tr>
<td>Brian L. Guillot</td>
</tr>
<tr>
<td>Steven F. Griffith, Jr.</td>
</tr>
<tr>
<td>Hon. Marla Hamilton</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kathryn M. Knight</td>
</tr>
<tr>
<td>Tracey Knight</td>
</tr>
<tr>
<td>Kelly McNeil Legier</td>
</tr>
<tr>
<td>Hon. Mary Ann Vial Lemmon</td>
</tr>
<tr>
<td>Andrew T. Lilly</td>
</tr>
<tr>
<td>Hon. Jane Triche Milazzo</td>
</tr>
<tr>
<td>Douglas J. Moore</td>
</tr>
<tr>
<td>Hon. Susie Morgan</td>
</tr>
<tr>
<td>Thomas Kent Morrison</td>
</tr>
<tr>
<td>Kyle L. Potts</td>
</tr>
<tr>
<td>Tara G. Richard</td>
</tr>
<tr>
<td>Sally Brown Richardson</td>
</tr>
<tr>
<td>Suzanne Karen Scalise</td>
</tr>
<tr>
<td>Bradley J. Schlotterer</td>
</tr>
<tr>
<td>Hon. Sarah S. Vance</td>
</tr>
<tr>
<td>Peter J. Wanek</td>
</tr>
<tr>
<td>Hon. Loretta G. Whyte</td>
</tr>
</tbody>
</table>
FEDERAL BAR ASSOCIATION – NEW ORLEANS CHAPTER
YOUNGER LAWYERS’ DIVISION BOARD OF DIRECTORS (2012-2013)

OFFICERS:
Chair: Amy S. Malish
Vice-Chair: Sara E. Mouledoux
Secretary: Stephen G.A. Myers
Treasurer: Jennifer L. Englander
Immediate Past Chair: Erin Arnold

BOARD MEMBERS:
Matthew Almon
Elizabeth Baer
Jason Baer
Alison deClouet
Michael DePetrillo
Corey Dunbar
Ellen Dunbar
Megan Dupuy
Sara Johnson
Susan Keller-Garcia
Suni LeBeouf
Ryan Luminais
Lance McCardle
Sarah Myers
Erin Pelletier
Kelly Perrier
Aaron Reuter
Elizabeth Richard
William Sentell
Scott Sternberg
Sarah Stogner
Erica Therio
Dylan Tuggle
Chris Weema
Katie Wollfarth

INVESTITURE HELD FOR JUDGE SUSIE MORGAN

On June 29, 2012, Judge Susie Morgan of the United States District Court for the Eastern District of Louisiana formally took her oath in the ceremonial courtroom. Judge Kurt Engelhardt, President of the FBA’s New Orleans Chapter, presented Judge Morgan with a robe on the Chapter’s behalf. Our Chapter congratulates Judge Morgan and looks forward to her service on the bench.

Judge Susie Morgan is assisted by her husband, Larry Feldman, and their children
Tari Bradford, Senator Landrieu’s Deputy State Director, presents Judge Morgan with her commission
NEW ORLEANS CHAPTER WELCOMES UNITED STATES SENTENCING COMMISSION

The United States Sentencing Commission held its 2012 Annual National Seminar on the Federal Sentencing Guidelines in New Orleans on June 13-15, 2012. In conjunction with that event, the FBA’s New Orleans Chapter hosted on June 12 a one hour CLE on the presentation of information to probation and the court regarding variances and departures from the advisory sentencing guideline range. The featured speakers were Alan Dorhoffer, Deputy Director for the Office of Education and Sentencing Practice at the United States Sentencing Commission, and Kito Bess, Chief United States Probation Officer for the Eastern District of Louisiana. The CLE was a success, and the New Orleans Chapter also co-sponsored a reception for the United States Sentencing Commission.

Chief Judge Brian A. Jackson,
Judge Marc T. Treadwell (M.D. Ga.),
and Virginia Schlueter

Judge Nannette Jolivette-Brown,
Judge Gustavo A. Gelpi, Jr. (D.P.R.), Matthew Moreland,
Judge Patti B. Saris (D. Mass.), Virginia Schlueter,
and Ketanji Jackson

Margy Meyers,
Judge Nelva Gonzales Ramos (S.D. Tex.),
Judge Marina Garcia Marmolejo (S.D. Tex.),
and Judge Micaela Alvarez (S.D. Tex.)
NEW MEMBERS

The Federal Bar Association welcomes its new members:

Brent B. Barriere  
*Phelps Dunbar LLP*

Laurence E. Best  
*Best Law Firm*

Misti L. Bryant  
*Jeansonne & Remondet*

James T. Busenlener  
*Lowe Stein et al*

Kathleen C. Cresson  
*Cresson Law Firm*

James R. Dugan  
*The Dugan Law Firm*

Lori Dunn  
*Law Office of Lori Dunn*

Ronald Favre  
*Michael Hingle & Associates LLC*

George M. Gates IV  
*Gates Law Inc.*

Waldon M. Hingle  
*Michael Hingle & Assoc. LLC*

Brian M. Klebba  
*US Attorney’s Office, E.D La.*

Andre Lagarde  
*US Attorney’s Office, E.D La.*

Chris Letter  
*Odom & Des Roches LLP*

Sarah E. McCall  
*Michael Hingle & Associates LLC*

Susie Morgan, Judge  
*Eastern District of Louisiana*

Phillip D. Nizialek  
*Carver Darden et al*

Frances M. Olivier  
*Law Office of Frances M. Olivier, LLC*

Nathan G. Orf  
*Galloway Johnson et al PLC*

Bryan A. Pfleeger  
*Michael Hingle & Associates LLC*

John L. Robert III  
*Chaffe McCall LLP*

John K. Shelton  
*Galloway Johnson et al*

Michael R. Sistrunk  
*McCraine Sistrunk Anzelmo & Hardy*

Kathryn T. Wiedorn  
*Pelletier & Wiedorn LLC*

If you would like to become a member of the FBA, or know someone who would like to become a member, please call Kelly T. Scalise, Membership Chair at (504) 299-6110, or Camille Zeller at 589-7990 for more information.
LUNCH WITH THE COURT PROGRAM

Judges Martin L.C. Feldman and Ivan L.R. Lemelle hosted the May and June 2012 Lunches with the Court. Both judges were generous with their time and provided thoughtful insights into the practice of law for their lunch guests.

LUNCH WITH JUDGE FELDMAN

Judge Feldman shared stories about his background, including his time as a law clerk at the United States Court of Appeals for the Fifth Circuit and his time as a private practitioner. He also spoke, in broad terms, about his experience serving on the United States Foreign Intelligence Surveillance court. The judge encouraged the young lawyers in attendance to pay careful attention to detail and to enjoy the practice of law.

LUNCH WITH JUDGE LEMELLE

Judge Lemelle also discussed his legal career and experiences prior to becoming a Federal Magistrate Judge and later a United States District Court Judge. He and his law clerks shared behind the scenes information on how cases and filings are handled and gave advice on extending professional courtesies to the Court and opposing counsel. Judge Lemelle additionally shared his insight on Federal District Court in the Eastern District of Louisiana, the Judiciary, and the Court’s inner workings.

The Lunch with the Court Program will continue with Judge Mary Ann Vial Lemmon on July 19 and Judge Susie Morgan on August 23.
Trials and Tribulations is your quarterly summary of matters recently tried in the United States District Court for the Eastern District of Louisiana. Organized by topic, the summaries below are compiled by the Editorial Board from Verdict Reporting Forms provided by the Court.

**CRIMINAL**

**Drug Trafficking and Firearms Violations**

In United States v. Kevin O. Harrison, the Government charged defendant in a superseding indictment with two counts of possession of drugs (heroin and cocaine base) with the intent to distribute and with four counts of firearms violations. These charges arose after an NOPD detective received a tip from a confidential informant, set up surveillance at the abandoned house identified by the confidential informant, and had the confidential informant execute a controlled buy from the defendant. After the detective observed defendant’s exchange with the confidential informant, the detective continued his surveillance and observed the defendant making two additional exchanges. The defendant was arrested following the third exchange, and a search of the house yielded cocaine base, heroin, and four firearms.

At trial, the only evidence connecting defendant to the house was the testimony of the detective who had received the tip and conducted the surveillance. The United States did not offer finger print or DNA evidence.

The jury found the defendant guilty of the drug counts but not guilty of the firearm counts.

**Docket No.:** 10-267, Section S (Jury trial held May 15-16, 2012)

**LABOR AND EMPLOYMENT**

**Family and Medical Leave Act**

In Richard Bohn v. LQ Management, LLC d/b/a La Quinta Inns and Suites, plaintiff, a former general manager of a La Quinta Inn, claimed that defendant terminated his employment on the day he returned from an approved medical leave. Plaintiff further claimed that his termination was in retaliation for having taken the approved leave. Defendant contended that plaintiff was fired because he admitted, on the day that he returned from leave, that he had previously paid an hourly employee out of his own pocket to work “off the clock.” Plaintiff denying having made such an admission.

The jury returned a verdict for the defendant.

**Docket No.:** 11-610, Division 2 (Jury trial held June 4-6, 2012, before Magistrate Judge pursuant to 28 U.S.C. § 636(c))

**OTHER FEDERAL STATUTES**

**Securities Exchange Act**

In Spyridon C. Contogouris, et al. v. Pacific West Resources, LLC, et al., plaintiffs brought Rule 10b-5 Securities Act claims and Louisiana state law fraud claims in connection with the defendants’ purchase of plaintiffs’ membership interests in Ocean Therapy Solutions, L.L.C. Plaintiffs alleged that defendants Pacific West Resources, Kevin Costner, and Patrick Smith failed to disclose a potential $17 million contract with BP for the purchase of oil separating centrifuges to be used in the cleanup of the BP oil spill and that they would not have sold their membership interests if they had known about the BP contract. Defendants asserted that plaintiffs’ membership interests in Ocean Therapy Solutions were not securities for purposes of the Act and that no fraud or misrepresentation occurred that would support plaintiffs’ 10b-5 and state law fraud claims.

**cont’d on page 15**
TRIALS AND TRIBULATIONS (CONT’D)

The jury found that plaintiffs’ membership interests in Ocean Therapy Solutions were investment contracts and therefore were securities for purposes of the Act. But the jury further found that no defendant omitted or misrepresented a material fact with the intent to deceive plaintiffs and thus rendered a verdict for the defendants.

Docket No.: 10-4609, Section F (Jury trial held June 4-14, 2012)

TORTS

Diversity – Personal Injury

In Ronald T. Courville, Sr. v. Richard Boss and National Freight, Inc., plaintiff sustained injuries in a motor vehicle accident involving an 18-wheeler driven by defendant Richard Boss for his employer National Freight, Inc. Defendant Boss, a Type I insulin-dependent diabetic, suffered a hypoglycemic event while driving the 18-wheeler and drove the wrong way down Louisiana Highway 415 for approximately two miles before colliding the plaintiff’s vehicle. Under federal law, an insulin dependent diabetic is precluded from holding a commercial trucking license, but Boss had lied about his health condition in order to obtain his license and employment with National Freight.

Plaintiff underwent back surgery following the accident, but at the time of trial he had returned to work full time with no medical restrictions. Plaintiff nonetheless contended that the accident had disabled him and had caused him to suffer PTSD (but plaintiff had been receiving psychiatric treatment for various depressive disorders for years before the accident). Plaintiff also sought exemplary damages pursuant to Louisiana Civil Code article 2315.4 (intoxication), contending that Boss’ hypoglycemic event was caused by his injection of an overdose of insulin a few hours before the accident. Plaintiff’s wife and son, who had rushed to the scene following the accident, each brought a Lejeune bystander claim for damages.

A seven person jury found for the plaintiff and awarded compensatory damages totaling $275,667.00; it also awarded exemplary damages of $77,000.00 against defendant Richard Boss. The jury rendered a verdict for defendants on the Lejeune claims.

Docket No.: Middle District case 09-136, Section A (Jury trial held April 16-20, 2012)

Jones Act – Personal Injury

In Larry Naquin, Sr. v. Elevating Boats, L.L.C. and Techcrane International, L.L.C., the plaintiff alleged that he was seriously injured when a land-based crane that he was operating collapsed due to a defect in a pedestal weld. Plaintiff alleged that he was operating the crane in the scope of his employment with Elevating Boats and that the crane was designed and built by Techcrane International.

Plaintiff sued defendants under the Jones Act to recover for his injuries, claiming the negligence of both defendants caused his injuries. In part, plaintiff alleged that the crane was defective and that his employer was negligent in its failure to provide a reasonably safe place to work. Plaintiff’s claims against Techcrane International were dismissed on summary judgment prior to trial. At trial, defendant Elevating Boats argued that the plaintiff was not a seaman. Defendant further argued that even if plaintiff was a seaman, it was not negligent because it could not have known that the crane would collapse.

The jury first determined that the plaintiff was a seaman at the time of the accident. The jury then found that Elevating Boats had been negligent and that its negligence caused the plaintiff’s injuries. The jury awarded a total of $2,560,000.00, as follows: past lost wages, $160,000.00; future lost wages, $400,000.00; past mental and emotional suffering, $600,000.00; future mental and emotional suffering, $400,000.00; past physical pain and suffering, $300,000.00; and future physical pain and suffering, $700,000.00.

Docket No.: 10-4320, Section J (Jury trial held May 14-16, 2012)
Federal Bar Association
New Orleans Chapter
c/o Hon. Kurt D. Engelhardt
Chapter President
500 Poydras St., Room 364
New Orleans, LA 70130

Interested in becoming a member of the Federal Bar Association?

Contact:
Federal Bar Association
1220 North Fillmore St., Suite 444
Arlington, VA 22201
(571) 481-9100
Fax (571) 481-9090
www.fedbar.org

or

Membership Chair
Kelly T. Scalise
c/o Attorney Conference Center
500 Poydras Street, Room 364
Hale Boggs Federal Building
New Orleans, LA 70130
(504) 589-7990

Membership fee includes both national and chapter membership in the FBA. You can apply online at www.fedbar.org.

EDITORIAL BOARD:
DOUGLAS MOORE, RALEY ALFORD, CELESTE COCO-EWING
AND KATHRYN KNIGHT

Please contact us at:
dmoore@Irwinllc.com
wra@stanleyreuter.com
ccoco-ewing@barrassoudin.com
kknight@stonepigman.com