June 2014

THE DICTA

Vol. 31, No. 6

The Docket

June 11 (Wednesday) DAYL CLE on Mandatory Reporting Noon, Belo Mansion

June 11 (Wednesday) DAYL Solo / Small Firm Round Table 6:00 p.m., Stoneleigh P

June 11 (Wednesday) DAYL Law Student Assistance Committee Meeting 6:30 p.m., Capitol Pub

June 13 (Friday) DAYL Freedom Run Committee Meeting Noon, Belo Mansion

June 17 (Tuesday) DAYL Elder Law Committee Meeting Noon, Belo Mansion

June 18 (Wednesday) DAYL Young Employment Labor Lawyers CLE Noon, Belo Mansion

June 19 (Thursday) DAYL Animal Welfare Committee Meeting Noon, Belo Mansion

June 24 (Tuesday) DAYL Coffee with the Court - Justice Douglas Lang 8:00 a.m., George Allen Courthouse

June 24 (Tuesday) DAYL Lunch and Learn CLE Noon, Belo Mansion

June 24 (Tuesday) DAYL Aid to the Homeless Committee Meeting Noon, Meso Mayo

June 26 (Thursday) DAYL Social 6:00 p.m. Souk

June 27 (Friday) DAYL CLE Committee Meeting Noon, Belo Mansion

June 28 (Saturday) DAYL Ask-A-Lawyer Program 11:00 a.m., Lakewood Library

June 30 (Monday) DAYL Solo / Small Firm Committee Meeting Noon, Belo Mansion

July 1 (Tuesday) DAYL Walk Through the Federal Courts Noon, Earle Cabell Federal Building

DAYL ONE TO WATCH

Leah Frazier has been selected as the June 2014 DAYL One to Watch! To find out why, visit www.dayl.com.

Put Your Money Where Your Mouth Is...

oin the DAYL on Thursday, June 26th from 6:00 – 8:00 p.m. for a night of networking at Souk. Souk is located at 3011 Gulden Lane in Trinity Groves. Our gracious sponsor, Mass Mutual Dallas-Fort Worth, will provide two drink tickets and appetizers for attendees. The cost for DAYL members is \$3 and for non-members, the cost is \$5.

Mass Mutual provides DAYL members an association discount on disability and long term care insurance, but not limited to those areas of expertise. Mass has recently acquired Hartford Funds,

Oppenheimer, and Babson Capital and their team of CFPs, CPAs, JDs, and CFAs focus on insurance and investment planning for individual and institutional clients. This relationship has been spearheaded by **Lily Anderson** - Partner (lindalanderson@financialguide.com) and **Matt Adamczyk** - Special Care Specialist (madamczyk@financialguide.com). For more information about Mass Mutual, visit their website located at http://www.dallas-fortworth.massmutual.com.

Come join us and learn more about Mass Mutual! We look forward to seeing you there.

Walk Through the Federal Courts

he DAYL Judiciary Committee will hold a Walk Through the Federal Courts on Tuesday, July 1, 2014 from 12:00 – 1:30 p.m. at the Earle Cabell Federal Building and Courthouse located at 1100 Commerce Street.

The Honorable Catharina Haynes (5th Circuit Court of Appeals), the Honorable Sam A. Lindsay (District Court), the Honorable Harlin D. "Cooter"

Hale (Bankruptcy Court), and the Honorable Irma Ramirez (Magistrate Judge) will walk the participants through various courtrooms, give tips on practice in federal courts, and will answer the participants' questions.

Space is limited. The Walk Through the Federal Courts is free to attend and is limited to DAYL members. If you are interested in participating, RSVP to Cherie Harris at cherieh@dayl.com.

Lawyers Serving Children Hosts CLE on Mandatory Reporting

nder Texas law, lawyers are mandatory reporters. This means lawyers are required to report abuse within 48 hours when they have cause to believe a child has been abused or neglected or may be abused in neglected in the future. There are many different types of abuse including neglect, physical, emotional, and sexual abuse. Understanding the signs of abuse can help you dramatically change the life of a child.

Knowing what to do when you spot

signs of abuse can present challenging ethical issues, particularly to lawyers. To address these issues, the DAYL Lawyers Serving Children is hosting a CLE on June 11 at 12:00 p.m. at the Belo Mansion. TYLA Immediate Past President Kristy Blanchard, Kelly-Slaven-Terstriep from Genesis Women's Shelter, and Kelly Magnis from the Dallas Child Advocacy Center will offer insight on what constitutes abuse, how to report it, and what ethical issues can arise for lawyers. Ethics CLE credit is available!

THE DICTA

Jennifer Lee, Editor

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Copy Deadline for July Issue:

June 15, 2014 Jennifer Lee

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From the President

Welcome to Dallas Y'all!



Meyling Ly

ummer is definitely here – and we all know what that means...longer (hotter) days, vacations, and newbies! Yep

-- tis' the season of recent law school graduates, judicial interns, summer associates and in August, new federal clerks, who are either new to life after law school (besides BarBri), new to the practice of law, or new to our lovely city, Dallas. And if we're lucky...I'm hoping that we get to meet them all!

Now here is where I'll need all of your help - I know that the longer days are awfully tempting to keep billing or knock out some errands right after work, but I hope I can count on all of you to take at least one time this summer to show our newbies a little Texas (Dallas) hospitality. This is our one shot to make a good first impression and to dispel the stereotypes: whether it's that we all have big hair, wear boots and say y'all, or that we are "30K millionaires" who only associate with others who look exactly like us. Yes, I exaggerate...but I truly believe that we live in a fantastic city, with so much to offer, and more importantly, I believe that the young lawyers in DAYL are welcoming and inclusive, and that the DAYL is a great organization to get involved in from day one.

So what can you do to help?

Come to a DAYL event this summer and bring a newbie! We have some great signature events lined up this summer, in addition to our usual socials, like the DAYL Wine Tasting, Bowling with the Bench, Dinner & Dialogue, and Yappy Hour. I'm also working on a women's business development event for July.

Don't know a newbie to bring? Introduce yourself to someone new at one of

our events and make him or her feel welcome. We all know that awkward feeling of being new, not knowing anyone and being resigned to stuffing your face at the appetizer table. This is your opportunity to pay it forward and alleviate that social anxiety, while you also proceed to stuff your face at the appetizer table.

Not sure what to say? For the recent law graduates, be kind and positive. Maybe save the "so many people in my class failed the bar" stories for later. For the judicial interns, you may also want to save the "there are no jobs" stories or "being a lawyer is not fun" for another time too.

Of course, if you are so inclined, feel free to talk about how last year, DAYL won first place among other young lawyer bar associations for its wellness initiatives for young lawyers, for its resources for minority law students, and for its newsletter (Shout out to Sarah Rogers, Immediate Past President, Cherie Harris, Executive Director, and last year's Wellness and Lawyers Promoting Diversity committees!).

Facetiousness aside, I truly hope you'll join me in being the welcoming party for DAYL this summer. See y'all soon!

June Lunch and Learn CLE

Tuesday, June 24th Noon, Belo Mansion

Problems Young Lawyers
Face at the Courthouse

Speakers: Judge Dale Tillery, Judge Phyllis Lister Brown, Leslie Chaggaris and Chad West.

DAYL Presents Awards at Annual Law Day Luncheon

n Friday, May 2, the DAYL presented three awards at the Dallas Bar Association annual Law Day Luncheon.

The awards, given annually, were presented to Michael K. Hurst as the DAYL Outstanding Mentor of 2013/2014, Mandy Price as the DAYL Outstanding Young Lawyer of 2013/2014, and Adrian Cook as the DAYL 2013/2014 Liberty

Bell recipient. Both Michael Hurst and Mandy Price were recently named as the TYLA award recipient of their respective award in the statewide competition and will be recognized during the State Bar of Texas Annual Meeting at the end of June. Congratulations to both of them!

Michael K. Hurst is a founding partner of Gruber Hurst Johansen Hail Shank LLP, a business trial and litigation boutique based in Dallas, and is Board Certified in Civil Trial Law by the Texas Board of Legal Specialization. Michael has been named one of the Top 100 Lawyers in Texas by Texas Monthly and Law & Politics magazines in 2005, 2006, and 2008 through

2014. He has also been named a top Business Defender by the Dallas Business Journal and, in 2012, was selected as a BTI Service All-Star. He currently serves as Chair of the Dallas Bar Association Board of Directors, and is a former Outstanding Young Lawyer of both the DAYL and Texas Young Lawyers Association. Michael's legacy of mentoring and lawyer development extends nearly twenty-five years. In 1999, as President of the DAYL, he created programs consistent with his passion for peer assistance, mentoring, and civility, including "De-

stressing the Legal Profession," which now exist as integral parts of local and state-wide programming. Numerous attorneys cite Michael's "organic" mentorship style – which focuses on teaching lawyers through hands-on application during critical moments – as a critical factor in their development. Michael is also a leading mentor of female attorneys, and he has actively and consistently



(l to r) DAYL President-elect Jonathan Childers, DAYL Liberty Bell Award recipient Adrian Cook, DAYL Outstanding Young Lawyer Award recipient Mandy Price, DAYL Outstanding Mentor Award recipient Michael K. Hurst, and DAYL President Meyling Ly.

sought opportunities for female attorneys to lead at trials and in bar activities.

Mandy Price is a Corporate associate at Weil, Gotshal & Manges. She graduated from The University of Texas Business Honors Program and then Harvard Law School. Mandy's practice focuses on complex corporate and transactional matters, including the representation of private equity and public companies. Mandy serves on Weil's Hiring Committee for the Dallas Office and on its Pro Bono and Diversity Committees. In 2013, Mandy served as President of the J.L.

Turner Legal Association ("JLTLA"). She currently serves on the Board of Directors for JLTLA, and as Public Policy Co-Chair. Mandy also serves on the Board of Directors and Board of Councilors of the Texas Civil Rights Protect, and previously operated as Secretary/Treasurer of the Young Leaders Board for the YWCA of Metropolitan Dallas. Mandy also works actively on the

Board of Trustees of ChildCareGroup, where she was recently appointed Governance Chair. Mandy has also performed a substantial amount of pro bono legal service. In one case, she participated on a team of Weil attorneys who represented inmate Larry Charles Fuller, who was wrongfully convicted of, and imprisoned for, a crime he did not commit, and helped him secure compensation.

Adrian Cook serves as Director of Research and Evaluations for The Rees-Jones Foundation. Adrian has a dual focus of preventing child abuse in Texas and working to free persons in bonded labor and sex slavery internationally. As a direct result of Adrian's research and funding recommendations, court, child welfare, and victim services in

Texas have improved, and numerous children have been protected from child abuse. Further, Adrian's efforts in identifying gaps in the justice system in India have allowed for support in police training, capacity building, and rule of law education in bonded slave labor and sex trafficking, all of which have enabled Indian justice systems to operate more effectively. His recommendations have allowed for significant resources to be sent to regions in Chennai, Bangalore, Kolkata, and Mumbai, resulting in systemic changes and improvements.

Lessons Learned from Evidence Jeopardy

by Sara Romine

n case you missed it, DAYL's CLE Committee recently sponsored an interactive CLE called "Evidence Jeopardy." Former judge Marilea Lewis with Godwin Lewis and Hunter Lewis with Kinser & Bates, LLP quizzed attendees on the application of the Texas Rules of Evidence to common legal situations. Here are a few practical lessons from the presentation:

- 1. Rule 902(10)(a) of the Texas Rules of Civil Procedure requires business records and the accompanying affidavit to be filed with the Court 14 days prior to trial. There is currently a proposal to change the Rule to require the affidavit and the business records be served on opposing counsel at least 30 days prior to trial. If this potential change causes you concern, the Texas Supreme Court is accepting comments on the proposed change for the next two months. Comments may be submitted to Rules Attorney Martha Newton rulescomments@txcourts.gov.
- 2. A party may authenticate an email communication by presenting evidence of its distinctive characteristics, taken in conjunction with the circumstances. For more about this process, read the *Massimo v. State* opinion, 144 S.W.3d 210 (Tex. App.—Fort

Worth 2004, no pet.).

- 3. A computer printout of an electronically-stored document is an "original" under Rule 1001(c) (the "Best Evidence Rule"), which defines "original" to include any printout of data stored in a computer.
- 4. If a judge declines to admit your proffered evidence, you should be prepared to make an offer of proof, which tells the appellate court the contents of the excluded evidence and the purpose for which you are offering it. The judge must be present in the courtroom when
- you are making your offer of proof. But this alone does not preserve error regarding the exclusion of the evidence. Don't forget to re-offer the evidence at the conclusion of your proffer and obtain a ruling from the judge!
- 5. Conjectural or conclusory expert testimony, even when admitted without objection, cannot support a judgment on appeal. The evidence is simply treated as irrelevant or incompetent under *Coastal Transport Company v. Crown Central Petroleum Corp.*, 136 S.W.3d 227 (Tex. 2004).



(l to r) Jennifer Larson, Jodi McShan, Hunter Lewis, Marilea Lewis, and Sara Romine

Recap: The Long Transition to Partnership

n May, the DAYL Young Partners Committee assembled partners from some local law firms to discuss the Long Transition to Partnership. Sarah Rogers of Thompson, Coe, Cousins & Irons, moderated a panel that included Dave Schulte of Thompson & Knight, Neal Suit of Carrington Coleman, and Katie Stepp of Deans & Lyons. Although the partnership process is different at every firm, the panelists provided very clear advice to all young lawyers:

 As a new associate, nothing is more important than your work product. Be dependable, available, and responsive to the needs of your partners and their clients.

- As a mid-level associate, continue to provide excellent work, but focus on the big picture. Partners want to see associates show initiative and take ownership of projects. Also get involved in firm administration and activities to let partners know you see the practice of law at your firm as a career, not just a job.
- As you approach partnership, make sure you know the firm's expectations and understand the selection process. If you want to make partner, make sure your firm knows that is your goal. Adopt a mentor or cham-

pion who is familiar with your work and who can guide you through the process and perhaps advocate on your behalf.

The panelists also advised young lawyers at all levels of experience to be organized and systematic about business development and marketing efforts, work collaboratively with your fellow attorneys, focus on ensuring your firm's success as a whole, and understand that an enormous book of business is not a necessity to becoming a partner. Nor is it always sufficient. Firms will consider your unique assets and what you bring to the table. And when you make partner, the work has only just begun.

Recap: Coffee With the Court - Judge Ernest White

by Chalon Clark

n May 21, 2014, the DAYL's Judiciary Committee hosted its first Coffee with the Court with a criminal court judge. Sixteen young attorneys had the privilege of gaining first-hand knowledge from **Judge Ernest White** in the 194th District Court. While attendees enjoyed coffee and bagels, Judge White discussed the various drug treatment programs he utilizes and shared several success stories of program participants.

In addition, Judge White provided the audience with many practical tips, including when to "cut to the chase" during sentencing hearings. In short, save the theatrics for the jury. Judge White also discussed the types of witness testimony that have the most impact on sentencing decisions --for example, the defendant's employer rather than the defendant's mother. Judge White's tips for young and inexperienced lawyers included:

• Arrive to court on time, and call the court coordinator in the case of conflicts.

- Volunteer to second chair trials in order to get more trial experience and increase chances for court appointments.
- Be prepared know the facts and the law.
- Do not be afraid to ask questions regarding the judge's procedures.

These were just a few of the tips that Judge White gave attendees. He also

spoke about his personal experiences in the courtroom as a practicing attorney. As a result, many of the attendees who are starting their own criminal law practices walked away well-informed.

The DAYL sincerely thanks Judge White for opening up his courtroom and giving these young lawyers such great insight and advice.



SAVE THE DATE

DAYL Lawyers Promoting Diversity Committee presents

9th Annual Dinner & Dialogue

Diversity: The Changing Face of the Modern Workplace

Thursday, July 17, 2014 6:00pm - 8:30pm Belo Mansion

1.5 hours of ethics credit pending

Additional details and registration form to follow in the coming weeks.

The How and Why of Lawyers Stress

by Charlie Gearing

n March, DAYL hosted an important discussion inspired by a January 2014 CNN.com article entitled "Why Are So Many Lawyers Killing Themselves?" Young lawyers in DFW and around the country are especially prone to depression, addiction, and suicidal thoughts. **Dr. Carlos Davis, Ph.D.**, a former president of the Dallas Psychological Association and a therapist in private practice in Dallas, offered some insight into why young lawyers are especially susceptible to these problems:

- 1. Pessimistic explanatory style: lawyers are trained to prepare for the worst on behalf of their clients. We tend to think and speak in permanent and pervasive terms about risk and trouble ahead. Our vigilance for our clients can spill over into our personal lives and mindsets.
- 2. <u>High stress</u>: Young lawyers deal with demands from many sources in their careers: the list starts with partners, clients, and student loan lenders. We can also meet these demands with unhealthy perceptions about our available resources (financial and otherwise). Think of the times

when you or a colleague has said, "I HAVE to win this hearing/argument/case, or else... (insert gloom-and-doom phrase here about student loans, career prospects, or life itself)." The point at which we perceive our demands to exceed our available resources is the point at which hopelessness, fatalistic thinking, or the search for coping mechanisms (e.g. alcohol and drugs) begins.

- 3. <u>Adversarial profession</u>: we are in the stressful business of winning and losing, whether it's a motion, negotiation, or case. Results matter, and they are often judged on an all-or-nothing basis.
- 4. Hedonic adaptation (ever-rising expectations): Lawyers and non-lawyers share a tendency to get used to good things. Hefty paychecks, fancy new offices, cars, suits, and living arrangements can accompany a law degree and career. These things, however, can lose their luster as our expectations continue to rise. We can become insatiable in our pursuit of success, creating an unhealthy feeling that we never reach a point of success.

Perhaps most importantly, Dr. Davis also offered invaluable advice to young

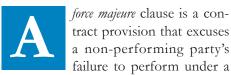
lawyers about how to deal with or avoid these problems altogether:

- 1. Exploratory conversations: We all have instrumental conversations, which involve solving problems, as a part of our jobs. Supplement these conversations with exploratory conversations—conversations where you risk vulnerability, explore your experiences, and have someone (family or a close friend) listen to you empathically.
- 2. Define success and go easy on your-self: instead of pursuing ever-rising status and greatness, think in more realistic terms. For instance, pursue a feeling that you have given "a good effort at a worthwhile cause." Find satisfaction in your effort, not the results you achieve for clients. Don't necessarily lower your expectations, but perhaps frame them more realistically.
- 3. Pursue the two pillars of healthy self-esteem: Seek two feelings—1) feeling competent to meet life's challenges; and 2) feeling loved and accepted for who you are. One shortcut to these feelings is to stop basing your self-esteem only on the latest winning case or raise. These values lead to chronic dissatisfaction.



From the Expected to the Unexpected: How to Make Force Majeure Clauses Work for Your Client

by Mary U. Irozuru



contract upon the occurrence of certain events. As a general rule, courts are limited to the express, unambiguous intent of the parties, but may turn to common law where necessary to fill in gaps. To minimize the uncertainty of judicial interpretation, the terms of a *force majeure* clause should be as specific as possible, particularly the terms describing the events of *force majeure* and the rights and obligations of the parties upon the occurrence of an event of *force majeure*.

A typical force majeure clause contains a list of specific events of force majeure along with the generic "catch-all" phrase, "together with all events beyond the reasonable control of the parties." A non-performing party may rely on a specifically listed event or the generic phrase. When a non-performing party relies on the generic phrase, rather than a listed event, Texas courts have traditionally imposed additional requirement unforeseeability.² As a result, successfully invoking force majeure tends to be easier if the event causing the non-performance is among the listed events.

The list of events should represent the desired allocation of risk between the parties. The drafter should identify events that may disrupt performance under the contract, determine whether an excuse for non-performance is appropriate and consider the circumstances of each event. Consider, for example, strikes and industrial disputes, which are frequently listed as events of force majeure. If the non-performing party has the ability to settle and end the strike or dispute, but elects not to do so, the drafter should consider whether the non-performing party should still be excused for its failure to perform. Consider also listing specific events that should not constitute events of *force majeure*. The breakdown or failure of equipment, lack of funds, and the revocation of a governmental authorization are common exclusions to *force majeure*.

Finalizing the list of events of force majeure is only half the battle. The drafter must be equally as specific on the rights and obligations of the parties upon the occurrence of an event of force majeure. At a minimum, the non-performing party should be obligated to immediately notify the other party in writing upon the occurrence of an event of force majeure. The notice should describe the particulars of the event and the affected obligations. Consider also requiring the nonperforming party to provide an estimate of the duration of the event of force majeure and requiring the non-performing party to use effort, whether commercially reasonable or otherwise, to overcome or mitigate the effects of the force majeure event.

Providing relief to the non-performing party may leave the non-excused party in a bind, particularly if the products or services to be provided under the contract may be easily sold to, or obtained from, a third party. One way to create more balance between the parties is to allow the non-excused party to enter into agreements with third parties during the duration of an event of force majeure so the non-excused party may sell or obtain the products or services that would otherwise have been provided but for the event of force majeure. The drafter should specifically describe the circumstances requiring termination of the third party agreements and the resumption of performance under the original contract. Another way to create more balance between the parties is to allow the non-excused party to terminate the contract after performance is delayed for a certain period of time.

These are just few tips to consider when drafting *force majeure* clauses, which can come in any number of forms. But, regardless of form, in order to make a *force majeure* clause work for your client, the clause must be specific and must address the unique circumstances of the parties and their respective industries.

¹See Sun Operating Ltd. P'Ship v. Holt, 984 S.W.2d. 277, 283 (Tex. App.—Amarillo 199, pet. denied).

²See Kodiak 1981 Drilling P'ship v. Delhi Gas Pipeline Corp., 736 S.W.2d 715, 721 (Tex. App. —San Antonio 1987, writ ref'd n.r.e.).

Mary U. Irozuru is an associate at Bell Nunnally and can be reached at maryi@bellnunnally.com.

Get Your Kick On

Do you want to relive the glory days of elementary school recess while meeting and socializing with other young attorneys?

DAYL will be fielding teams for its second season of kickball in the summer league of Dallas Sport and Social Club. The summer league will start in late June and games will be held at Glencoe Park. The cost for the 8-week season is a \$40-\$50/person registration fee (price varies depending on the number of players on the team roster) and the cost of the team t-shirt.

To sign up or to get more information, contact **Justin Gobert** (justin.gobert@hollyfrontier.com).

DAYL Runs for a Good Cause

n April 26, 2014, DAYL's Lawyers Serving Children Committee joined together to participate in the Red Balloon Run & Ride, which benefited Children's Hospital. Many committee members, co-chairs, and friends ran the 5K to help raise money and support the hospital, which often provides care to those who cannot afford it.

As the race began, thousands of red balloons were released into the sky to signal the start of the race. The race course itself was lined with amazing pictures and inspirational stories of children who received services from Children's Hospital and beat their illness and/or condition.

DAYL was able to raise \$525.00 for this organization through their participation in the race and other fundraising efforts. Thank you to everyone who participated!



(l to r) Stephanie Almeter, Sara Schretenthaler, Whitney Keltch, Traci Boyle, Bri Turner, London England, Andy Jones, Karl Arp, and Matthew Kindig.

DBA Provides Trial Opportunities for Young Lawyers

t 12:00 p.m. on June 13, 2014, at the Belo Mansion, the Trial Skills Section of the Dallas Bar Association will present: Trial Opportunities Through Federal Pro Bono Civil Cases. The distinguished panel consisting of Hon. Barbara M.G. Lynn, Hon. Jane J. Boyle, Dena

DeNooyer Stroh, and **Michael Heinlen**, and moderated by **Hon. Irma Carrillo Ramirez**, will discuss the Northern District of Texas' Pro Bono Civil Panel, including how and when pro bono attorneys are appointed in federal civil cases, and the actual experiences of young lawyers who tried some of these cases to a jury.

Join the DAYL Animal Welfare Committee and Operation Kindness for Golf Tournament

n Saturday, September 27th, at 8:00 a.m., Operation Kindness will hold its 3rd Annual "Paws on the Green" charity golf tournament at In-

dian Creek Golf Course. The Animal Welfare Committee invites golfers of all skill levels to participate. Mark your calendar now for this fall event. Come enjoy breakfast and lunch, raffle prizes, longest drive and closest to the pin contests,

and more! Your participation will help to support Operation Kindness, North Texas' oldest and largest no-kill animal shelter.

Sign up at http://www.kintera.org/ httml://www.kintera.org/ httml://www.kintera.org/

The DAYL Animal Welfare Committee meets on the third Thursday of each month at noon at the Belo Mansion. Please join us to learn more about this event and other upcoming committee events.

DAYL Coffee with the Court Justice Douglas S. Lang

Tuesday, June 24, 2014 8:00 a.m.

Topics include:

- How should a lawyer prepare for oral argument?
- What are some of the do's and don'ts of brief writing?
- What are some of the do's and don'ts of oral argument?

Approved for .75 hours CLE credit

Seating is limited.

RSVP to Cherie Harris (cherieh@dayl.com).