



July 2014

Vol. 31, No. 7

THE DICTA

The Docket

July 9 (Wednesday)

DAYL Solo / Small Firm Round Table
6:00 p.m., Stoneleigh P

July 10 (Thursday)

DAYL Lawyers Serving Children Committee Meeting
Noon, Belo Mansion

July 10 (Thursday)

Success in Stilettoes
5:30 p.m. Times Ten Too

July 14 (Monday)

DAYL Fashion in the Law Committee Meeting
6:00 p.m., BBC

July 14 (Monday)

DAYL Ask-A-Lawyer Committee Meeting
6:30 p.m., BBC

July 15 (Tuesday)

DAYL Elder Law Committee Meeting
Noon, Belo Mansion

July 15 (Tuesday)

DAYL Generation Generosity Service Event
6:00 p.m., Communities Partners of Dallas

July 17 (Thursday)

DAYL Animal Welfare Committee Meeting
Noon, Belo Mansion

July 17 (Thursday)

DAYL Freedom Run Committee Meeting
Noon, Belo Mansion

July 17 (Thursday)

DAYL Dinner & Dialogue
6:00 p.m., Belo Mansion

July 23 (Wednesday)

DAYL Financial Literacy 101
Noon, Belo Mansion

July 24 (Thursday)

DAYL Bowling with the Bench
5:30 p.m., Bowlounge

July 25 (Friday)

DAYL CLE Committee Meeting
Noon, Belo Mansion

July 28 (Monday)

DAYL Solo / Small Firm Committee Meeting
Noon, Belo Mansion

July 29 (Tuesday)

DAYL Aid to the Homeless Stewpot Service
Noon, The Stewpot

July 31 (Thursday)

DAYL Social
6:00 p.m., Cook Hall

DAYL ONE TO WATCH

Pamela Sieja has been selected as the July 2014 DAYL One to Watch! To find out why, visit www.dayl.com.

July Social: Making eDiscovery Fun

Make plans now to attend the July Social on **Thursday, July 31st**, from 6:00 – 8:00 p.m. This month, we will be at Cook Hall. Cook Hall is located in the W-Victory Hotel, 2440 Victory Park Lane. The cost to attend is \$3 for DAYL members and \$5 for non-members, and includes two drink tickets and appetizers.

DAYL extends a special thank you to eXtractis for sponsoring this month's social. eXtractis is an easy intuitive and customizable eDiscovery software platform for lawyers, law firms and enterprises for identifying the information from the electronically stored data.

In addition to sponsoring this month's

Social, eXtractis is also offering an exclusive free trial offer for DAYL members. Find out how you can develop eDiscovery solutions in-house to conduct faster and more efficient execution of critical litigation tasks to drive down the eDiscovery costs. Get in touch with eXtractis Team: email: info@e-Xtractis.com, phone: 214-254-4633, or visit: <http://www.e-Xtractis.com>. Mention that you're a DAYL member and get your free trial offer.



Navigating the Bounds of Zealous Advocacy and Legal Professionalism

On **Wednesday, July 9**, join the DAYL at noon at the Belo Mansion for a discussion on how to zealously advocate for your client while maintaining civility and professionalism. Magistrate **Judge Renee Toliver** of the Northern District of Texas, **Michael Hurst** of Gruber Hurst Johansen Hail Shank LLP, and **Rob Crain** of Crain Lewis will share their insights and experiences regarding effective advocacy techniques, the problems that

lawyers encounter when dealing with difficult opposing counsel, and ways to effectively address these situations. **Sara Romine** of Carrington, Coleman, Sloman, and Blumenthal LLP will moderate.

There is no charge for DAYL members to attend; the non-member fee is \$10. Lunch is available for purchase. This program is approved for 1.00 hour of ethics credit. RSVP to **Cherie Harris** (cherieh@dayl.com).

VOLUNTEERS NEEDED!

Join DAYL on July 15 from 6:00 p.m. to 8:00 p.m. for this month's Generation Generosity event at Community Partners of Dallas.

We will spend two hours doing a variety of activities to help abused and neglected children. If you can help, contact Cherie Harris at cherieh@dayl.com.

THE DICTA

Jennifer Lee, Editor

Published monthly by the
DALLAS ASSOCIATION OF YOUNG LAWYERS
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Dallas, Texas 75201
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www.dayl.com
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Copy Deadline for August Issue:

July 15, 2014

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From the President

State of the DAYL Address



Meyling Ly

The past six months as president has certainly flown by fast! It's hard to believe that half the year is gone and no less than 55 events (including 19 new ones) have already been completed by our hard-working committee co-chairs, board members, and Executive Director. In addition to our on-going signature programs, these are a few of the *new* events that our members have organized.

Service to the Community

My first shout out goes to the Lawyers Serving Children co-chairs. In April, they raised money for Dallas Children's Hospital by participating in a 5K and volunteered with Texas Scottish Rite Hospital. Most recently, they hosted a CLE on mandatory child abuse reporting requirements. The Animal Welfare co-chairs organized a CLE on current legislation affecting animals and recently distributed responsible pet ownership magnets to children. Finally, the Aid to the Homeless committee volunteered with Dwell with Dignity by repurposing furniture to be used in new homes for those transitioning out of homelessness, and the Fashion in the Law co-chairs sponsored a professional clothing drive benefitting Dress for Success. Again, this is in addition to the good work of the Generation Generosity volunteers, who in the past six months, served the homeless, sorted food at the North Texas Food Bank, cleaned White Rock Lake, sorted shoes for orphans, and packed care packages for the troops.

Service to the Profession

I cannot thank the In-House, Young Partners, CLE, and Solo & Small Firm co-chairs enough this year for helping me provide young lawyers with programming focused on professional and business development. Collectively, they have hosted panel discussions on rainmaking, on how to be effective business

partners for in-house counsel, on the long transition to partnership, and on marketing your practice. Of course, I would be remiss if I didn't recognize the Young Employment Labor Lawyers co-chairs. While they are one of the newest committees, they are one of the most active – running out of the gates with a social, spearheading two DAYL kickball teams, and recently presenting a CLE on the collision of social media in the workplace. Finally, I want to recognize the efforts of the Assisting Lawyers in Transition committee who hosted their first breakfast roundtable discussion featuring speakers who provided information about the current job market in Dallas and offered tips on how to network to get job interviews.

Honoring the Judiciary & Committee

No DAYL "state of union" address would be complete without recognizing the work of our Judiciary Committee and our local judges. While our events with the Judiciary are largely not new, our Judiciary Committee has been exemplary in providing young lawyers with the opportunity to interface with our local judges and ensuring that our events are top notch. We are also very lucky to have judges who take the time to swear us in, to walk us through their courts, and to share their insight on the practice of law. They teach us on and off the bench – about the rules, about civility in the practice, about professionalism, and even how to bowl.

In closing, it's simply amazing to me that so many young lawyers in Dallas are freely willing to volunteer their non-billable time to help one another and to help the community. I am so humbled by the work we have already been able to accomplish together and am so honored to continue to work together this year. And if you haven't been able to participate so far, it's definitely not too late to get involved and make a difference. #YOLO

Bowling with the Bench

Back by popular demand, Bowling with the Bench will be held on **Thursday, July 24th, 2014**, from 5:30 - 7:30 p.m., at Bowlounge, located at 167 Turtle Creek Blvd. in the Design District. The DAYL Judiciary Committee hosts the annual event, and it is one of the best opportunities young lawyers have to socialize with judges in a casual environment. It is always well attended. Food and non-alcoholic drinks will be provided to those in attendance; cash bar will be available as well. The cost is \$15 to attend if paid in advance and \$20 at the door. Contact **Cherie Harris** (cherieh@dayl.com) for registration information visit www.dayl.com/pdf/bowling.pdf.

A big thanks to **Leslie Botto Atkins** (214-918-8724) of **Opes One Advisors** for her generous sponsorship. Make sure

you say 'Hi' to her and her team at the event. Leslie has been a trusted consultant to attorneys (many of whom are DAYL members) for over 10 years, and she focuses her expertise on streamlining the financial planning process so her clients can focus on their practice. She prides herself on understanding the client she is working with at a fundamental level to ensure they reach their personal financial and/or business goals through cash flow analysis, student loan reduction, brokerage account implementation, investment analysis, personal/professional insurance needs, group benefit analysis, college saving plans, and tax minimization. Leslie enjoys helping clients either enhance or create their financial plan and applies stress-free, effective tools that help people grow wealth, preserve wealth, and then turn that wealth into income to distribute



and enjoy over a lifetime.

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Diversity: The Changing Face of the Modern Workplace

The DAYL Lawyers Promoting Diversity Committee will celebrate diversity through its Ninth Annual Dinner and Dialogue.

Please join us for a cocktail reception, dinner, and discussion about diversity in the workplace. In an open and respectful forum, we will talk about the importance of diversity, the

implementation and effect of diversity programs in the workplace, and steps to improving diversity in the Dallas legal

community. We will address "hot topics" such as paternity leave, religious holidays, and hostile work environments that might be created by a manager's comments.

Visit www.dayl.com/pdf/dinneranddialogue.pdf for a registration form. Please register by July 15th! Contact Cherie Harris (cherieh@dayl.com) with questions.

Dinner and Dialogue
Thursday, July 17, 2014
6:00 p.m. – 8:30 p.m.
Belo Mansion, 2101 Ross Avenue
1.5 hours of ethics credit

DAYL's Second Annual Walk for Wellne\$\$

It's that time of year once again to lace up your sneakers and strap on your pedometer for DAYL's Second Annual Walk for Wellne\$\$\$. The 30-day competition will start on August 12 and will culminate on September 11 with The Freedom Run! It doesn't matter whether you're fast or slow, it's all about the steps!

There is no fee to participate and all participants will receive a free DAYL pedometer. Prize money will be given to 1st, 2nd, and 3rd place.

Thank you to **Simon | Paschal PLLC** for its sponsorship of this event. Last year, DAYL members took 2,379,141 steps as part of this wellness challenge. This year, we challenge our members to break the 3,000,000 step mark!

Please contact **Paul Simon** (paul@simonpaschal.com) to register. DAYL pedometers can be picked up from **Cherie Harris** (cherieh@dayl.com) at the Belo Mansion.

Registration closes on August 8th. We look forward to your participation!

The Jimmy and Rosalyn Carter Work Project is coming to DFW October 5-11, 2014.

Please Save the Date!

DAYL needs volunteers especially on November 8.

Email Cherie Harris (cherieh@dayl.com) for details.

DAYL Swearing In Ceremony for Newly-Licensed Lawyers

Twice a year, newly graduated law students patiently await their long anticipated results of the Texas Bar Exam. Once they receive the good news that they passed, the chaos ensues as the transition from law student to lawyer is almost complete. Amid the job searches, joining this bar association or that bar association and navigating the State Bar of Texas fees and regulations, the Dallas Association of Young Lawyers is able to make at least one aspect of that journey easy – becoming sworn-in as a new lawyer.

As such, the DAYL was pleased to host a Swearing-In Ceremony at the Belo Mansion on May 14, 2014 for newly-licensed attorneys who passed the February 2014 Texas bar exam. Over Fifteen attorneys were sworn in, many of whom were able to share the special event with friends and family. This Dallas option provides an easy way for new lawyers to be sworn-in without having to make a trip to Austin.

DAYL would especially like to thank Justice Ada Brown of the Texas Fifth District Court of Appeals who graciously gave of her time to speak on the importance of professionalism in the practice of law and to swear-in the newly licensed attorneys. Special thanks are also given to Aaron Burke of Hartline Dacus Barger Dreyer for providing tips to the new lawyers and to Alex Bolton of Underwood Perkins for organizing the event. The DAYL looks forward to another successful swearing in ceremony in the Fall for July bar exam takers.

For information about the DAYL Law Student Assistance Committee, or to get involved, please contact **Alex Bolton** (abolton@uplawtx.com) or **Cherie Harris** (cherieh@dayl.com).



Success in Stilettos

Thursday, July 10, 2014
5:30 p.m. – 8:00 p.m.
Times Ten Cellar



Hosted by DAYL, DWLA & Socialite Pink
Sponsored by Xact Data Discovery

Join us for success stories and rainmaking tips. Following a panel discussion, expand your network at a Fundraising Trunk Show of jewelry by Socialite Pink, benefitting Genesis Women's Shelter.

The discussion will be from 6:00 – 7:00 p.m. and will feature Yvette Ostolaza, Kathleen Wu, Alex Gecci, and moderated by Martha Newman.

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

DAYL Social with the Judges a Great Success

On April 24th, the DAYL Judiciary Committee hosted a Social with the Judges. The event was held at the City Club in Dallas and included free hors d'oeuvres and refreshments, made possible by our law firm sponsors. Many judges were able to attend the popular event, including those from local, federal, and state courts.

On behalf of DAYL Judiciary Committee, we would like to thank the following judges who were in attendance: **Judge Jane Boyle** (U.S. District Court); **Judge David Evans** (5th District Court

of Appeals); **Judge Robert Fillmore** (5th District Court of Appeals); **Judge Cooter Hale** (U.S. Bankruptcy Court); **Judge Bonnie Goldstein** (Municipal Court); **Judge Jim Jordan** (160th Judicial District Court); **Judge Marty Lowy** (101st Judicial District Court); **Judge James Martin** (254th Judicial District Court); **Judge Lana Myers** (5th District Court of Appeals); **Judge Monica Purdy** (Associate Judge); **Judge Irma Ramirez** (U.S. Magistrate Judge); **Judge Douglas Skemp** (County Criminal Court No. 3); and **Judge Dale Tillery** (134th Judicial District Court).



Thank You to the Sponsors of the Social with the Judges

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In Case You Missed It ... Coffee with the Court (of Appeals)

by Rebecca Nichols

On June 24, the DAYL Judiciary Committee hosted a Coffee with the Court (of Appeals). This time DAYL members had coffee with Justice Douglas S. Lang of the Fifth District Court of Appeals. Before the event began, DAYL members had an opportunity in a relaxed setting to meet the Justice over coffee outside the courtroom.

The event began with Justice Lang's description of his career path to the bench, including a clerkship at the Supreme Court of Missouri. Turning to the topic of oral arguments, Justice Lang spoke on preparing for oral argument, stressing the importance of focusing on what the advocate wants the justices to know and on using plain language, rather than "fifty-dollar words" that can distract from the issues. The DAYL members in attendance took advantage of the opportunity to ask Justice Lang questions about how best to cite to the record in oral argument and when to ask for a post-submission brief.

Next, Justice Lang addressed how to craft a brief, emphasizing the importance of repeated editing by stating that the key to a good brief is to "write, re-write, re-write, and re-write again." Similarly to his advice on oral argument, the justice cautioned against the use of "fifty-dollar words" and instead encouraged advocates to use plain English in their briefs. He also

record and cases directly on-point.

When asked what can affect an advocate's credit with the court, Justice Lang advised that an advocate not ignore "bad facts" but instead be sure to include them in the brief. Additionally, the justice stated that misrepresenting the record or the law or criticizing the trial judge was a sure way to lose credit with the court.



recommended that in reviewing a brief, an advocate should read the brief aloud to oneself. Additionally, Justice Lang advised that advocates include as appendices to their briefs key portions of the

As a result of this event, the young lawyers left with a better understanding of how to write a brief and prepare for oral argument. Be sure to watch *The Dicta* for upcoming Coffee with the Court events.

Financial Literacy 101: Young Lawyers Edition

Once the celebration of law school graduation and trepidation of bar preparation passes, many young lawyers are faced with the daunting realization that other considerations that they have been putting on the back burner must be addressed. Student loan bills start coming—and young lawyers are faced with many financial decisions early on: insurance, savings, retirement, in addition to figuring

out how to afford the house, the car...the life that they've worked so hard to have. If you're one of these young lawyers and have some questions or would like to hear general recommendations on best practices, join DAYL on **Wednesday, July 23rd** at noon at the Belo Mansion, where **Matt Adamczyk** from Mass Mutual Dallas-Fort Worth will be giving us a complimentary primer on financial literacy for lawyers and will be available to answer

your immediate questions.

For more information on Mass Mutual Dallas-Fort Worth, visit their website located at <http://www.dallas-fortworth.massmutual.com>.

**Financial Literacy
101:
Young Lawyers Edition**

Proposed Amendments to the Federal Rules of Civil Procedure

by Jennifer M. Larson

Proposed amendments to the Federal Rules of Civil Procedure were approved by the Standing Committee on Rules of Practice and Procedure in May 2014, and will be submitted to the Judicial Conference, who will then submit the proposed amendments to the Supreme Court for review. If approved by the Supreme Court, Congress will have seven months to approve or reject the proposed amendments, which would then become effective on December 1, 2015.

Perhaps the most significant change concerns new Rule 26(b)(1) regarding the scope of discovery, which would read as follows:

Rule 26. Duty to Disclose; General Provisions Governing Discovery

(b) DISCOVERY SCOPE AND LIMITS.

(1) Scope in General. Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

Under this proposed new Rule 26(b)(1), gone is the old standard, which allowed for the discovery of any information "reasonably calculated to lead to the discovery of admissible evidence." The new Rule 26(b)(1) would narrow the scope of discovery by requiring that discovery be "proportional to the needs of the case," as measured by the cost-benefit analysis to be performed by weighing six factors: (1) the importance of the issues at stake in the action, (2) the

amount in controversy, (3) the parties' relative access to relevant information, (4) the parties' resources, (5) the importance of the discovery in resolving the issues, and (6) whether the burden or expense of the proposed discovery outweighs its likely benefit. The proposed rule appears to place the burden on the requesting party to show that the discovery sought is "proportional."

Another significant proposed change relates to new Rule 37(e) regarding spoliation and sanctions, which would read as follows:

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(e) FAILURE TO PRESERVE ELECTRONICALLY STORED INFORMATION. If a party failed to preserve electronically stored information that should have been preserved in the anticipation or conduct of litigation, the court may:

(1) Order measures no greater than necessary to cure the loss of information, including permitting additional discovery; requiring the party to produce information that would otherwise not be reasonably accessible; and ordering the party to pay the reasonable expenses caused by the loss, including attorney's fees.

(2) Upon a finding of prejudice to another party from loss of the information, order measures no greater than necessary to cure the prejudice.

(3) Only upon a finding that the party acted with the intent to deprive another party of the information's use in the litigation:

(A) presume that the lost information was unfavorable to the party;

(B) instruct the jury that it may or must presume the information was unfavorable to the party; or

(C) dismiss the action or enter a default judgment.

(4) In applying Rule 37(e), the court should consider all relevant factors, including:

(A) the extent to which the party was on notice that litigation was likely and that the information would be relevant;

(B) the reasonableness of the party's efforts to preserve the information;

(C) the proportionality of the preservation efforts to any anticipated or ongoing litigation; and

(D) whether, after commencement of the action, the party timely sought the court's guidance on any unresolved disputes about preserving discoverable information.

The proposed new Rule 37(e) would require a court to consider "all relevant factors," including, but not limited to, those listed in new Rule 37(e)(4)(A)-(D), to determine if a situation warrants curative measures, sanctions, or no remedy at all. The new rule would limit sanctions to situations in which the party who cannot produce the electronically stored information "acted with the intent to deprive another party of the information's use in the litigation."

Some other notable proposed amendments include:

- Reducing the time for service of process from 120 days to 90 days. Proposed Rule 4(m).

- Allowing parties to serve requests for the production before the Rule 26(f) conference. Proposed Rule 26(d)(1).

- Requiring a party to make specific objections and to state whether it has withheld any documents. Proposed Rule 34(b)(2)(B)-(C).

Although not yet approved, these proposed rule changes reflect continuing efforts by courts and legislators to address the rising costs and difficulties presented by modern electronic discovery. By merely proposing rule changes like these, the Standing Committee on Rules of Practice and Procedure gives us insight into the concerns of judges and the future direction of the discovery process.

Jennifer M. Larson is an associate at McGuire, Craddock & Strother, P.C. with broad experience representing plaintiffs and defendants in commercial litigation in state and federal venues. Jennifer can be reached at jl Larson@mcsllaw.com.



DAYL's Young Employment Labor Lawyers formed two kickball teams.



May's Generation Generosity service project consisted of young lawyers working with Shoes for Orphaned Souls.



The DAYL Animal Welfare Committee participated in the SPCA's annual "Strut Your Mutt" 5K run / 3K walk, raising over \$800!



Volunteers packed care packages for troops who are stationed overseas during June's Generation Generosity service project with Airborne Angel Cadets.



In June, panelists Kelly Magnis (Dallas Child Advocacy Center) TYLA Immediate Past President Kristy Blanchard, and Kelly-Slaven-Terstriep (Genesis Women's Shelter) and moderator Amanda Bonman explained an attorney's mandated legal responsibility to report suspected child abuse.



The Fashion in the Law Committee organized an impressive panel which highlighted aspects of professionalism in the office, courtroom, at meetings with clients, and at social events.