



November 2014

Vol. 31, No. 11

# THE DICTA

## The Docket

November 12 (Wednesday)  
DAYL Lunch and Learn CLE  
Noon, Belo Mansion

November 12 (Wednesday)  
DAYL Mock Holiday Party  
6:00 p.m., Times Ten Cellars

November 13 (Thursday)  
DAYL Coffee with the Court – Family Court  
8:00 a.m., George Allen Courthouse

November 13 (Thursday)  
DAYL Election Ballots Due  
5:00 p.m.

November 15 (Saturday)  
DAYL Lawyers Serving Children Service Project  
9:00 a.m., Dallas Urban Debate Alliance

November 15 (Saturday)  
DAYL Charity Ball: One EPIC Night  
7:00 p.m., 3015 @ Trinity Groves

November 18 (Tuesday)  
DAYL Elder Law Committee Meeting  
Noon, Belo Mansion

November 18 (Tuesday)  
DAYL Swearing In Ceremony  
4:00 p.m., Belo Mansion

November 18 (Tuesday)  
DAYL Elder Law Committee Senior Community  
Center Visit  
6:30 p.m.

November 19 (Wednesday)  
Fall Fest Young Professionals Happy Hour  
6:00 p.m., One Dallas Center

November 20 (Thursday)  
DAYL Animal Welfare Committee Pet Thanksgiving  
6:00 p.m., Lakewood Growler

November 25 (Tuesday)  
DAYL Aid to the Homeless Committee Meeting  
Noon, Meso Maya

December 3 (Wednesday)  
DAYL Solo / Small Firm CLE  
Noon, Belo Mansion

December 5 (Monday)  
DAYL Courtroom Technology CLE  
Noon, George Allen Courthouse

### DAYL ONE TO WATCH

Alex Bolton has been selected as the November 2014 DAYL One to Watch! To find out why, visit [www.dayl.com](http://www.dayl.com).

## Network with Other Young Professionals at Fall Fest

The Dallas Association of Young Lawyers is teaming up with several other local young professionals groups for a night of networking and festivities on **Wednesday, November 19th**, from 6:00 – 9:00 p.m. at One Dallas Center (350 N. St. Paul St., Dallas, TX). The minimum donation is \$10 and includes drinks, appetizers, and complimentary valet parking. Proceeds benefit Big Brothers / Big Sisters.

Please register in advance by visiting

[www.YPFallFest.com](http://www.YPFallFest.com). The event is expected to have hundreds of people in attendance, so paying in advance will expedite your entry and help you avoid long lines.

The participating organizations are: **Dallas Association of Young Lawyers, DRC Young Professionals, Dallas CPA Society Young Professionals Group, Association for Corporate Growth, MetroTex Young Professionals Network, and The Melrose Society.**

## Let's Talk Ethics

The DAYL Solo and Small Firm Committee will have a one-hour ethics CLE on December 3 at noon at the Belo Mansion. **Robert Tobey** of Johnston Tobey, P.C., the **Honorable Roberto Cañas, Jr.** of County Criminal Court No. 10, and **Krisi Kastl** of KASTL Law will present *Common Ethical Pitfalls*, with a focus on solo and small firm attorneys.

This panel brings a great deal of experience to the table and offers insight from all points of view - including the judge's, the solo practitioner's, and the malpractice attorney's. Their practical advice aids attorneys in all practice areas and with all levels of experience. Join us as we learn more about the ethics of practicing law. RSVP to **Cherie Harris** ([cherieh@dayl.com](mailto:cherieh@dayl.com)).

## Effective Case Presentation Using Courtroom Technology

All of the Dallas County Civil and Family courts are going through a major technological upgrade to the AV equipment installed in those courts. Today, your courtroom technology skills may be the difference between winning and losing your case. As such, DAYL, along with J.L. Turner Legal Association, Dallas Hispanic Bar Association, and Dallas Asian American Bar Association, is inviting attorneys to participate in a hands-on discussion on not only what new resources are available in the courtroom, but how to effectively use those resources in a live trial setting.

The program will be held at noon on **December 5, 2014** at the George Allen Courthouse. Attendees can expect to receive practical advice for using this new technology to maximize the jury's retention and understanding of your case, hands-on instruction for operating the equipment in the courtroom, insight into how to effectively use technology, and an overview of trial presentation software available.

This one-hour CLE program is open to all and space is limited. Lunch will not be available, so attendees are encouraged to plan accordingly.

RSVP to **Cherie Harris** ([cherieh@dayl.com](mailto:cherieh@dayl.com)).

# THE DICTA

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Copy Deadline for December Issue:

**November 15, 2014**

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## From the President

# The Power of Gratitude



Meyling Ly

A few months ago, I ran into a young lawyer I hadn't seen in a while. The last time we talked, he was transitioning from a smaller firm to a larger firm. When I asked him about his transition, his response was not necessarily surprising – some pros and cons – but what was surprising was his wife's lower opinion of the larger firm and why.

At the previous firm, the managing partner went out of his way to meet the young lawyer's wife at a firm event. He also thanked her for the young lawyer's time and acknowledged her contribution of running a household while the young lawyer could work more hours at the office. In contrast, few of the partners at the new firm even took the time to meet the young lawyer's spouse at a firm event, and none of them expressed gratitude or acknowledged the long hours the young lawyer was working. Some may disagree and share the sentiment that one shouldn't need to thank people for doing what they are supposed to do, but for those that bill those long hours, support and understanding from your significant other is priceless.

While anecdotal, this story resonates with me because it shows how powerful genuine gratitude can be...not that I need to be persuaded. I'm a huge believer in the power of gratitude (and kindness). I don't mean the obligatory automatic muttering of one or two words that may occur in passing because we have been properly conditioned by our parents since the moment we could speak – but rather, the genuine feeling of warmth and interconnectedness brought on by one human being's acknowledgment of another's time, kindness, action, or words. Sincere gratitude has the ability to engage

and encourage unpaid volunteers, the capability of turning an annoyed assistant or associate into a loyal team member, and the power to lessen the resentment of a neglected spouse. It's less about the actual words – and more about taking the time to acknowledge someone's contribution in making your life, in many respects, exponentially better and most importantly, letting them know.

One of my favorite quotes about gratitude is from President John F. Kennedy, who said, "As we express our gratitude, we must never forget that the highest appreciation is not to utter words, but to live by them." I love this quote because it emphasizes that true gratitude is not just saying "thank you," but it is living in such a way that you honor that gift of time, kindness, actions, or words.

Thankful for our freedom? Then vote, volunteer by helping a veteran, or let a soldier know. Thankful for the Waygu steak, truffled fries and Malbec you just had? Donate to the food bank, send your regards to the chef or leave a great review on social media. Thankful for a great secretary or legal assistant? Write him or her a thank you note, take them to lunch or get a gift card. Thankful you're a lawyer? Mentor a law student, do some pro bono work or volunteer with DAYL [#shamelessplug] And this goes without saying, call Mom. (Or Dad/sibling/insertfamilymemberhere).

As Thanksgiving approaches and 2015 is coming to a close, I encourage you to not only share your gratitude with others during this holiday season, but also to continue to live your life in a way that honors all the good people and things in your life. #payitforward #makeitcount

## Practice Your Networking Skills at Mock Holiday Party

**W**ith the holiday season quickly approaching, most of us will be invited to holiday parties, either in our own firm or in other professional settings. Will you make the most out of these potentially valuable networking opportunities?

To help you with this often daunting social setting, the DAYL presents the fourth

annual Mock Holiday Party, organized by the its Solo & Small Firm Committee.

The Mock Holiday Party will be held from 6:00 - 8:00 p.m. on **Wednesday, November 12th**, at Times Ten Cellars, 6324 Prospect Avenue. Join DAYL and our sponsors: **Farmer's Insurance** and **The Plus Group**, as **Paul Maynard**, an independent marketing professional

known as The Relentless Networker aids young lawyers in developing networking skills and making the most of social events such as holiday parties.

Hors d'oeuvres and two drink tickets will be provided. Admission is free for DAYL members, but space is limited. Accordingly, you must RSVP to **Cherie Harris** (cherieh@dayl.com).

## Expunctions and Non-Disclosures – What Do They Really Do?

**J**oin the DAYL at 12:00 noon on **Wednesday, November 12th** at the Belo Mansion as **Ezekiel “Zeke” Tyson** of The Tyson Law Firm, PLLC presents a one-hour CLE program on expunctions and non-disclosures. These processes are

often overlooked by many, but they can prove to be priceless when a mistake comes back years later.

Mr. Tyson will describe what offenses are eligible for each process, what the process entails, and what protection it provides the client. No matter what your

practice area is, you probably will have a client or someone else who has one hanging criminal issue they would like to forget, and you can learn how to potentially help them do so!

Lunch is available for purchase. RSVP to **Cherie Harris** (cherieh@dayl.com).

## Come Experience Dallas Family Courts

**J**oin DAYL on **Thursday, November 13th** at 8:00 a.m., as the **Honorable James Martin** hosts DAYL members in his courtroom, the 254th Judicial District Court. As one of Dallas' seven

family law district judges, Judge Martin has a great deal to share with young lawyers about the practice of family law. He will be presenting *Tips for Lawyers Practicing in the Family Courts*.

Don't miss out on this great opportu-

nity to learn more about family courts, speaking with the judge, and coffee and bagels! RSVP to **Cherie Harris** (cherieh@dayl.com) so we can have a headcount and so you can get more detailed information about the event.

## Dallas Urban Debate Alliance

Did you do debate in high school? Ever get accused of being a tad “argumentative” when playing games with friends? Want to make a difference in the lives of DISD students? Come join DAYL's Lawyers Serving Children Committee as we pair up with the Dallas Urban Debate Alliance to help judge their middle school tournament on **Saturday, November 15th, 2014 at 9:15 AM until 12 PM.**

**No debate experience necessary!**

The Dallas Urban Debate Alliance is committed to providing every DISD student the opportunity to participate in rigorous academic policy debate. As such, they host various debates which are designed to help DISD students become articulate and informed leaders in his or her school or community. That's where we come in – they need volunteers to help judge their debates! The good news is that you don't need any experience with debate (at all) to assist in being a judge. You just have to show up and make a difference!

Please let Bri Turner (BTurner@CCSB.com) know if you have interest in helping judge the debates.

# In Case You Missed it ... EEOC Wars

by Andrew K. Jenkins

**I**n case you missed it, on October 7th, the DAYL CLE Committee sponsored a presentation by **Margaret Allen** and **Robert Velevis** of Sidley Austin, LLP on current trends issues involving EEOC Enforcement. They covered (1) general EEOC enforcement initiatives, (2) drafting employment documents that will survive EEOC scrutiny, (3) use of class-action waivers and arbitration clauses, and (4) a look at EEOC issues before the Supreme Court in this term and beyond. Some take-aways are below:

1. **General EEOC Initiatives:** Of the 131 lawsuits filed by the EEOC in 2013, 78 came under Title VII and 51 came under the ADA. Much of litigation centers around terms employers place in separation agreements prohibiting employees bringing claims to the EEOC, or assisting the EEOC (or any other party) in suits against the employer; requiring them to cooperate with the employer in suits and investigations; and waiver of claims the employee may have. Additionally, the EEOC is looking to big targets (with correspondingly big potential fines)

more as the total number of suits falls.

2. **Drafting Tips:** Specifically state that the release does not affect the employee's rights to file charges with or cooperate with a government entity (not just the EEOC and NLRB, and not just employment laws). Also, include a statement of the protected rights in a separate paragraph of the separation agreement, and begin each paragraph containing restrictions on an employee's rights (such as confidentiality and non-disparagement provisions) with language stating "Except as otherwise provided in paragraph [refer to paragraph protecting employee's right to engage in protected activity]," to reinforce that nothing in any section of the agreement limits those rights. And last, don't sue a former employee mere days after she files an EEOC charge.

3. **Class Action Waivers and Arbitration Agreements:** The Supreme Court in *AT&T v. Concepcion*, 133 S. Ct. 1740 (2011) allowed waivers of class-action rights in arbitration. The Court held that: "Requiring the availability of classwide arbitration interferes with fundamental attributes of arbitration and thus creates

a scheme inconsistent with the FAA." 133 S. Ct. at 1748. The court reiterated this stance in *American Express v. Italian Colors Rest.*, 133 S. Ct. 2304 (2013) where it held "the FAA's command to enforce arbitration agreements trumps any interest in ensuring the protection of low value claims." Id. at 2312 n.5. Lower courts have followed and are not invalidating arbitration clauses for law-value claims. However, the NLRB continues to Battle Class Action Waivers. In *D.R. Horton, Inc.*, 357 NLRB No. 184 (Jan. 3, 2012), the National Labor Relations Board determined that participating in class or collective actions qualifies as protected concerted activity under the National Labor Relations Act (NLRA).

4. **Looking Ahead:** *American Express* did not foreclose the possibility that an arbitration agreement imposing high administrative and filing fees could make access to an arbitral forum "impracticable," thereby constituting "a prospective waiver of the party's right to pursue a statutory remedy." *Amex*, 133 S. Ct. at 2310. Also, there is a line of cases that circle around the issue of did the parties agree and with whom.

**The DAYL Swearing-In Ceremony will be held on  
Tuesday, November 18th beginning at  
4:00 p.m. at the Belo Mansion.**

**The Honorable Douglas S. Lang, The Honorable Ada Brown  
(both with the 5th District Court of Appeals), and  
Judge Mary Murphy, of the First Administrative Judicial Region,  
will swear in the newly-licensed attorneys.**

**Participants MUST bring their letter indicating that they have met all  
criteria and are ready to take the oath. The Swearing-In Ceremony is free, and  
family and friends are welcome to attend.**

**RSVP is required to Cherie Harris (cherieh@dayl.com).**

# Dinner with the Judiciary: A Rousing Success

by Nicholas A. Sarokhbanian

**T**he propriety of “tweeting” or Facebook “friending” judges depends on the circumstances and what is being communicated, concluded a dynamic panel of Dallas judges comprised of **Hon. Catharina Haynes** of the U.S. Court of Appeals for the Fifth Circuit; **Hon. Tena Callahan** of the 302nd District Court of Dallas County, Texas; and **Hon. Martin Hoffman** of the 68th District Court of Dallas County, Texas and the Presiding Judge of the Dallas County civil district courts. In a wide-ranging discussion at the September 30, 2014 Dallas Association of Young Lawyers’ Dinner with the Judiciary, the panel, moderated by **Victor D. Vital** of Greenberg Traurig, LLP, gave young lawyers advice on using social media with judges, abiding by ethical rules governing both lawyers and judges at social events, contributing financially or otherwise to judges’ political campaigns, and encouraging candor with the court.

The event at the Tower Club was well attended by Dallas jurists, with **Judges Barbara Lynn, D’Metria Benson, Brenda Hull-Thompson, Jim Jordan, Phyllis Lister Brown, Ken Molberg, Sally Montgomery, Monica Purdy, Douglas Skemp, Craig Smith, Ken Tapscott,** and **Justices Robert Fillmore and Lana Myers** in attendance.

Judge Hoffman remarked that he uses Facebook as an extension of his judicial capacity, posting information about the George L. Allen, Sr. Courts Building and inviting input about the facility from attorneys. Judge Callahan, on the other hand, has a Facebook account but primarily uses it with friends and family. Both, however, agreed that neither would favor lawyers they are “friends” with on Facebook and that lawyers should never try to use Facebook to tell them things they should not tell them in person, such as *ex parte* communications about pending cases.

Judge Haynes added that lawyers’ clients may not want their lawyers broadcasting things about their cases on social media.

Because Texas elects its judiciary, politics and campaigning are inevitable. Young lawyers can contribute to campaigns in non-financial ways, such as manning phone banks or planting yard signs, recommended the panel.

Just because a young lawyer may be the most junior lawyer sitting at counsel table does not excuse the lawyer from speaking up or correcting more senior lawyers that misstate the law or facts, said the panel. The panel, drawing from an extensive paper prepared by Judge Haynes, explained an opinion emanating from Connecticut reinforcing that all lawyers, regardless of seniority, are bound by the duty of candor to the court. At the close of the program, Judge Haynes left the audience with an important reminder: a good reputation takes a lifetime to build, but a second to lose.



DAYL Pet Thanksgiving  
November 20, 2014  
6:00 - 8:00 p.m.  
Lakewood Growler

Free entry to those who bring dog and/or cat food, leashes, or toys. Items will be donated to animals who need it.

Join the DAYL at the Salvation Army Warehouse

December’s Generation Generosity volunteer project will be sorting gifts at the Salvation Army Warehouse on Saturday, December 6, 2014, from 12:00 p.m. – 4:00 p.m.

Volunteers like us make it possible for the Salvation Army to help more than 50,000 North Texas children and seniors each year in connection with the Angel Tree program. If you are interested in joining us, please contact Cherie Harris at [cherieh@dayl.com](mailto:cherieh@dayl.com).

## DART Community Court

by Pamela Sieja

One of the greatest barriers to transitioning out of homelessness is lack of identification. Without identification, a person cannot get a job, housing, or qualify for many social services. Often, members of the homeless community are unable to procure identification because they have a variety of unpaid tickets.

Community Court allows DART fee evasion tickets to be resolved in exchange for a community service sentence which is served that day. The JP Courts, the Stewpot, and DAYL's Aid to the Homeless Committee work in collaboration to put on this great program. Community Court helps remove the barrier to procuring identification, clears the JP Courts' dockets, promotes accountability among the homeless population, and provides community service.

This year, Community Court was held on Saturday, October 4th at 8:00 a.m.

Roughly forty members of Dallas County's homeless community participated in the program. Two judges, numerous clerks, multiple Stewpot staff members, and seven DAYL volunteers

facilitated the program. DAYL volunteers **Charles Gearing, Chris Hodge, Michael Holmes, Joseph Mongaras, Pamela Sieja, Caleb Trotter, and Reagan Vernon** are pictured below.



More than 20 DAYL volunteers joined the Elder Law Committee the morning of Saturday, October 4 for DAYL's October Generation Generosity event, the 2014 Greater Dallas Walk to End Alzheimer's. The Walk is the Alzheimer's Association's annual major fund-raising event, and this year set new records in both participation and in money raised. Over 6,000 people joined the Walk and helped raise more than \$955,000 to fund the Alzheimer's Association's care, support, and research programs.

Arriving at either 5:30 a.m. or 8:00 a.m., DAYL volunteers assisted with set-up, sponsor assistance, logistics, tear-down, and support and cheering for the walkers. This year's Walk, the 31st held by the Association's Greater Dallas Chapter, was the eighth Walk in a row in which the Elder Law Committee volunteered at the event and organized a participating team.

# DAYL Holds Contested Election for Directors in 2015

**H**eld on October 9, 2014 at the Belo Mansion, the purpose of the DAYL Annual Meeting was to call for and receive nominations for the 2015 DAYL Board of Directors. During the meeting, DAYL President **Meyling Ly** declared **Jonathan Childers** (Gruber Hurst Johansen Hail Shank) President of the DAYL in 2015.

other offices, the following individuals were unopposed and were declared elected: **Stephanie Gause** (Bell Nunnally & Martin) – President-Elect; **Paul Simon** (Simon | Paschal PLLC) – Vice President; and **Jennifer Larson** (McGuire, Craddock & Strother, P.C.) – Treasurer. For Secretary, **Jodi McShan** and **Charlie Gearing** were nominated.

nominated for ten Director positions. According to its Bylaws, DAYL may hold its contested election by electronic ballot. Ballots were emailed to all regular DAYL members on October 28th. The deadline to vote is 5:00 p.m. on November 13th.

The candidates are listed below in the order that they appear on the ballot. If you did not receive a ballot, contact **Cherie Harris** (cherieh@dayl.com).

Opening the floor for nominations for

## ~Nominated for Secretary~



**Charlie Gearing**

- Licensed 2009
- Vanderbilt University Law School
- Hanshaw Kennedy Marquis



**Jodi McShan**

- Licensed 2009
- University of San Diego School of Law
- Law Office of Jodi McShan

## ~Nominated for Director~



**Alex Bolton**

- Licensed 2012
- SMU Dedman School of Law
- Underwood Perkins



**Whitney Keltch**

- Licensed 2012
- Baylor University School of Law
- Quilling, Selander, Lownds, Winslett



**Ann Chao**

- Licensed 2011
- SMU Dedman School of Law
- Farrow-Gillespie & Heath



**Jennifer Lee**

- Licensed 2006
- Texas Tech School of Law
- Fee, Smith, Sharp & Vitullo



**Chandrika Shori**

- Licensed 2014
- SMU Dedman School of Law
- John DeGroot Services



**Stefanie Bradshaw**

- Licensed 2011
- University of Tulsa College of Law
- PayneMitchell Law Group



**Dustin Paschal**

- Licensed 2005
- Baylor Law School
- Simon | Paschal



**Tim Newman**

- Licensed 2009
- William & Mary School of Law
- Haynes and Boone



**Andy Jenkins**

- Licensed 2004
- University of Pittsburgh School of Law
- The Law Offices of Andrew K. Jenkins



**Justin Gobert**

- Licensed 2009
- SMU Dedman School of Law
- HollyFrontier Corporation



**Barbara Pelaez**

- Licensed 2011
- Baylor University School of Law
- Adkerson, Hauder & Bezney



# DAYL CHARITY BALL

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# 2013 Leadership Class Service Project - Carter Work Project



# 2014 Leadership Class Scavenger Hunt

