



December 2015

Vol. 32, No. 12

THE DICTA

The Docket

December 2 (Wednesday)
DAYL Foundation Fellows Luncheon
11:30 a.m., Belo Mansion

December 7 (Monday)
DAYL Law Student Assistance Committee Meeting
6:30 p.m., Capitol Pub

December 8 (Tuesday)
DAYL Lawyers Promoting Diversity Committee Meeting
Noon, Belo Mansion

December 8 (Tuesday)
DAYL and Operation Blue Shield
Noon, Belo Mansion

December 9 (Wednesday)
DAYL and DBA CLE
Noon, George Allen, Sr. Courthouse

December 12 (Saturday)
DAYL Generation Generosity Service Project
12:30 p.m., Salvation Army

December 15 (Tuesday)
DAYL Elder Law Committee Meeting
Noon, Belo Mansion

DAYL December Generation Generosity Service Project

Join us on Saturday, December 12, 2015, from 12:45 p.m. – 4:00 p.m. as we sort gifts at the Salvation Army Warehouse. Volunteers will help sort Angel Tree gifts prior to the distribution of those gifts to families who are in need.

The holidays are the perfect opportunity to give back and remind ourselves how much we have to be thankful for.

If you are interested in joining us on December 12, please contact **Cherie Harris** at cherieh@dayl.com.

DAYL ONE TO WATCH

Jennifer Lewis has been selected as the December 2015 DAYL One to Watch! To find out why, visit www.dayl.com.

DAYL Foundation Fellows Luncheon



*Chief Justice Carolyn Wright
Fifth District Court of Appeals*



*David R. McAtee II
Senior Executive Vice President and
General Counsel AT&T Inc.*

The Dallas Association of Young Lawyers (“DAYL”) Foundation’s annual Fellows Luncheon will be held on December 2, 2015 at the Belo Mansion beginning at 11:30 a.m. The DAYL Foundation was chartered as a 501(c)(3) organization by the State of Texas in June, 1988. Through its grants program, the DAYL Foundation provides funding for law-related matters to local non-profit organizations, and it also provides scholarships for law students who have demonstrated a commitment to community service.

The Fellows program of the DAYL Foundation provides an opportunity for Dallas lawyers to give back financially to the community through their support of the DAYL Foundation. The Fellows program was created in 2002 with seventy-

nine (“79”) Founding Fellows. Currently, the Fellows is comprised of over 600 lawyers and judges.

The luncheon will include remarks by keynote speaker **David R. McAtee II**, Senior Executive Vice President and General Counsel of AT&T Inc. In addition, the DAYL Foundation will present **Chief Justice Carolyn Wright**, of the Fifth District Court of Appeals, with the Award of Excellence, which recognizes exemplary service to the community outside of the legal profession.

Tickets to the luncheon are \$35 per person and \$350 for a table of ten. Tickets must be purchased in advance at <http://fellowsluncheon.eventbrite.com>. No tickets will be sold at the door. For additional information, please contact Cherie Harris (cherieh@dayl.com).

Don't forget to renew your membership in 2016. Visit www.dayl.com and renew today! If you have moved or need to update your membership information, contact Cherie Harris (cherieh@dayl.com).

THE DICTA

Charles Gearing, Editor

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Copy Deadline for January Issue:

December 15, 2015

Justin Gobert

Email: justin.r.gobert@gmail.com

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From the President

Thank you; Continuum

"Success is something you attract, by the person you become." Jim Rohn



Jonathan Childers

Through participation in DAYL during 2015, I hope you learned that by refining your decisions and lifestyle, you can experience exponential growth in all facets of your life – both professionally and personally – all while more effectively impacting your law firm, colleagues, friends, family, and community.

Thank you for joining DAYL's efforts in 2015 for its members to become "**Healthy, Wealthy, and Wise.**" Together, we accomplished much. We participated in **healthy** activities like rooftop yoga, tea with Tibetan Monks, viewing art, and sailing. We discovered **wealth** through our "Breakfast with Business Peers" and "My Other Home Town" projects, and also by updating our Judicial Intern Program to achieve increased participation *from all law students*. We became more **wise** through experiential learning opportunities, including DAYL's first-ever Trial Skills Boot Camp and Deal Skills Boot Camp.

Just as practicing "healthy, wealthy, and wise" habits and actions each day comprises the continuum of a successful legal career, the DAYL's legacy of success results from the efforts and contributions of past, present, and future leaders, including **YOU**.

To our **Members**, thank you for participating in DAYL so actively! You created the high attendance at DAYL's programming and events, and you confirmed that active involvement in DAYL is "cool." In 2015, the DAYL was *encompassing*, presenting a broad-range of novel programming, events, and service and leadership opportunities. It was also *inclusive*, which resulted in noticeable increased involvement from many DAYL members and many new pockets of DAYL members.

To the **Dallas Bar Association**, thank

you for your guidance, financial support, and leadership. Congrats to **Brad Weber** on a successful year, and for spotlighting young lawyers and their needs.

To our **Sister Bars**, thank you for entrusting the DAYL with outstanding representatives to help its Board of Directors. Also, thank you for your insightful dialogue on opportunities to work together and to help young lawyers.

To our **Co-Chairs**, wow, you made it happen! Thanks for your proactive leadership and for keeping the DAYL Calendar busy with top-notch events, programming, and service opportunities. I am grateful for your ideas, enthusiasm, and consistent effort.

To our **Board of Directors** and **Executive Committee**, it was a true honor to lead such a dynamic group of talented lawyers whom I am proud to call my friends. Your time-intensive effort, discerning discussion, and well-reasoned decisions helped to define this year as an exceptional one, and to set up the DAYL for an even brighter future.

To **Cherie Harris**, you are a great friend and you have my utmost respect and gratitude. It's no secret that the DAYL's success is because of *you and your efforts!* Thank you for your inspiration, judgment, encouragement, and friendship.

On a personal note, thank you to my law partners, to the outstanding Legal Assistant with whom I work, **Cindy Blea**, and to my friends and family during 2015. Your support means a great deal to me.

The DAYL is in extremely capable hands in **2016** under the leadership of **Stephanie Gause**. I know that more outstanding things are in store, that the continuum that is DAYL will keep propelling forward, and DAYL's legacy will continue to shine.

New Lawyers Sworn into State of Texas

The Dallas Association of Young Lawyers was pleased to host its biannual Swearing-In Ceremony at the Belo Mansion on November 17, 2015 for newly-licensed attorneys who passed the July 2015 Texas bar exam. Over one hundred attorneys were sworn in, many of whom were able to share the special event with friends and family.

DAYL would especially like to thank **Judge Mary Murphy**, the Presiding Judge of the First Administrative Judicial Region of Texas, who spoke on “*Choose Excellence,*

Engender Respect”; **Justice David Schenck** of the Court of Appeals for the Fifth District of Texas who gave a speech on “*Opportunity and Obligation*”; and **Judge David Godbey** of the United States District Court, Northern District of Texas, who concluded the program with “*Dallas, Texas, pop. 16,037*”. In addition to their words of wisdom, Judge Murphy, Justice Schenck, and Judge Godbey swore in the newly licensed attorneys and personally signed oaths.

Special thanks are also given to the Dallas Chapter of the **Federal Bar Association** for hosting a reception after the

Swearing-In Ceremony; **Jonathan Childers** of Gruber Hurst Elrod Johansen Hail Shank for his welcome and introduction of the ceremony; and to **Ashley Withers** of Jackson Walker L.L.P. for her speech on “*A Career Path Less Traveled*” and the introduction of Judge Murphy, Justice Schenck, and Judge Godbey.

Many thanks to the DAYL Law Student Assistance Committee for planning this event. The members of DAYL look forward to another successful swearing-in ceremony for February bar exam takers in the spring.



DAYL Coffee With the Criminal Court Recap

by Timothy Newman

The Honorable **Roberto Cañas**, Dallas County Criminal Court No. 10, hosted the DAYL Judiciary Committee’s Coffee with the Court in November. More than 20 young lawyers were privy to Judge Cañas’s fresh and helpful insights regarding success and credibility in the courtroom. In addition to sharing some war stories from his days at the Dallas County District Attorney’s office, Judge Cañas shared the following nuggets of wisdom:

- Trial is not only about the law. It’s a science and an art. Meeting your elements is the science, and earning credibility and trust is the art.
- Always think about what jurors are going through and help guide them through the process. Your guidance will

go a long way toward earning their trust.

- When you walk into a courtroom, know the law, know why you’re there, and know what you want.
- Always take the high road. Judges have a good memory.
- Learn the art of persuasion by watching professionals in other industries – politicians, actors, salesmen, and writers, to name a few.
- Credibility is personal. Be yourself, and don’t be afraid of your youth. It can be an asset in the jury’s mind.

The Judiciary Committee regularly hosts these small-group Coffees with various members of the local judiciary. For more information, monitor the Judiciary Committee calendar at DAYL.com or watch for invitations regarding future events.





Dallas Association of Young Lawyers and Dallas Women Lawyers Association
2016 Women's Mentoring Circles Mentee Application
Application Deadline: Friday, December 18, 2015



The DAYL and DWLA have partnered to create “Mentoring Circles,” a new program that seeks to facilitate the connection between established female members of the Dallas Bar and their younger counterparts through mentorship. The Mentoring Circles program aims to integrate the women of the Dallas legal community through mentoring, teaching, and fellowship, centering on the development, advancement and retention of female lawyers.

All participants will be divided into Mentoring Circles made up of eight to ten female lawyers in different stages of their careers. Mentoring Circles will meet on a monthly basis to discuss suggested topics or participants may lead their own discussion. The DAYL and DWLA will host quarterly events in 2016 that all Mentors and Mentees are invited to attend. The events will provide insight and advice targeted towards female lawyers on a variety of topics including business development and career advancement. The first event will be held on **January 27, 2016** at noon at the Belo.

Mentees must be licensed in Texas and aged 36 or younger as of January 1, 2016 (or licensed five years or less), and must be a member of either DAYL or DWLA.

Name: _____ Member (circle all that apply): DAYL DWLA

Firm and Mailing Address: _____

E-mail Address: _____ Telephone: _____

Practice Area(s): _____ Years of Practice: _____

Law School Attended: _____

Size of Firm (circle one): Solo/Small (1-49) Medium (50-100) Large (100+) Government
 Judiciary In-House Public Interest Other: _____

Preferred Day of the Week for Meetings: Monday Tuesday Wednesday Thursday Friday

Preferred Meeting Time: Morning Lunch Evening Other: _____

Preferred Meeting Location: Uptown Dallas Downtown Dallas North Dallas Plano/Richardson

On a separate sheet of paper, briefly describe: (a) career goals that you believe may be helpful in matching you with a Mentoring Circle; and (b) what you hope to gain by participating in this program (e.g., networking skills, career development/management, law office economics, leadership, business development, etc.).

If you know of someone who would be an excellent mentor, please provide her name and contact information:

By signing below, I indicate that I understand that the DAYL/DWLA Mentoring Circles will require a monthly time commitment and participation on my part. I will be an active participant of the 2016 DAYL/DWLA Mentoring Circles, which includes attending quarterly events and participating in monthly mentoring circle meetings. I commit to missing no more than three (3) meetings per year.

Signature of Applicant: _____ Date: _____

Applicants are requested, but not required, to provide the following information. Please indicate which of the following categories utilized by the EEOC best describes you (circle one):

Asian	Black or African American	Hispanic or Latino	White
American Indian or Alaskan Native	Native Hawaiian or Other Pacific Islander	Two or More Races	

Return this application (**as one document**) by Friday, December 18, 2015, to:
 Tiffanie Limbrick at tlimbrick@sidley.com or 2001 Ross Avenue, Suite 3600, Dallas, TX 75201.
 If you have questions regarding the application process, contact Marisa Jeffrey at marisa@amystewartlaw.com.

DAYL Mock Holiday Party - A Resounding Success!

The DAYL Mock Holiday Party, hosted by the Solo & Small Firm Committee, was a rousing success. Many young lawyers attended and a great time was had by all. **Paul Maynard**, the Relentless Networker, gave an interactive

presentation that got everyone thinking more critically about how they network. Attendees enjoyed complimentary wine and hors d'oeuvres at Times Ten Cellars, thanks to the generous sponsorship of **Rebekah Reedy Miller Settlement Partners**, which made all of

the fun possible!

Whether you made it to the Mock Holiday Party or not, the Solo & Small Firm Committee hopes to see you at one of their upcoming Roundtables – the next of which is on **Wednesday, January 13, 2016** at 6:00 p.m. at State and Allen!

The DAYL hosted over 400 attendees at 3015 at Trinity Groves for the second annual DAYL Charity Ball on November 14, 2015. When we went to press with this month's DICTA, the committee was still in the process of calculating their earnings. Follow us at www.facebook.com/DAYLCharityBall to learn how much we raised to support EPIC and Dallas Area Habitat for Humanity. Thank you for helping to make it **Another EPIC Night!**





Operation Blue Shield is proud to partner with the Dallas Association of Young Lawyers for, *The Power of One: A Legal Perspective*. From the pro bono work to high profile cases, we will discuss the complexities, challenges and responsibilities faced by ordinary citizens and the legal community when it comes to building safe and strong neighborhoods. Be #AllIn and join us at the Belo Mansion over lunch, DECEMBER 8TH. One hour of CLE credit will be provided.

GUEST PANEL



JUDGE TONYA PARKER
116th Judicial District Court,
Dallas County



MAUREEN MILLIGAN
Chief of Community Prosecution
& Community Courts
Dallas City Attorney's Office



BRITTANY K. BYRD
Associate Counsel
ORIX USA Corporation

DALLAS ASSOCIATION OF YOUNG LAWYERS LUNCHEON

TUESDAY, DECEMBER 8, 2015 • 12 NOON
BELO MANSION • THE BAKER BOTTS BALLROOM
2101 ROSS AVENUE • DALLAS, TEXAS 75201
RSVP to Cherie Harris at cherieh@dayl.com

For more information, log on to www.operationblueshield.com.
#ImAllIn #ConversationsCount #OBS #conversationscount



Asserting and Defending Privilege

by Jennifer Larson Ryback

In my experience, I have found that most lawyers (myself sometimes included) do not follow the correct procedure for asserting and defending privilege. Recently, I was asked for a privilege log and found myself reminded of some of the nuances involved in asserting and defending privilege. Here are some reminders that I hope are helpful as you encounter privilege issues in your practice.

Withhold the Privileged Information or Material: The first obvious step in order to protect the privilege is to ensure that you withhold any privileged information or material from your production.

Assert the Privilege: If you withhold privileged information or material, comply with TEXAS RULE OF CIVIL PROCEDURE 193.3(a). This means serve a withholding statement (either in your discovery response or in a separate document), which (1) states that information or material responsive to the discovery request is being withheld, (2) identifies the request to which the information or material relates, and (3) identifies the privilege(s) asserted. Remember that you do not have to follow this procedure for materials created by or for attorneys for the litigation or for communications to or from an attorney or attorney's representative regarding the litigation. TEX. R. CIV. P. 193.3(c).

Request a Privilege Log: If you represent the requesting party and you are served with a withholding statement, request a privilege log. To do so, you need only request in writing that the withholding party identify the information or material withheld. TEX. R. CIV. P. 193.3(b).

Prepare and Serve a Privilege Log: If you receive a request for a privilege log, you have 15 days within which to serve a response, and the response must (1) describe the information or material withheld and (2) assert a specific privilege for each item or group of items withheld. TEX. R. CIV. P. 193.3(b). The tricky part here is to identify the information or

material withheld "without revealing the privileged information itself or otherwise waiving the privilege." TEX. R. CIV. P. 193.3(b)(1). The detail provided will depend on the content of the information or material withheld, but generally, you should provide enough information to enable the other party to assess the applicability of the privilege. *Id.*

Have a Hearing: Either party may request a hearing to have the court decide a privilege issue. TEX. R. CIV. P. 193.4(a). At the hearing, the "party making the objection or asserting the privilege must present any evidence necessary to support the objection or privilege." *Id.* Such evidence may either be live testimony or affidavits served at least 7 days before the hearing. *Id.* The court is permitted to perform an *in camera* review of some or all of the information or material in order to rule on the objection or claim of privilege. *Id.*

Comply with the Ruling: If the court overrules the objection or claim of privilege, the responding party must produce the requested information or material either within 30 days after the court's ruling or at such time as the court orders. TEX. R. CIV. P. 193.4(b).

Do Not Use Information or Material Withheld: If you withhold information or material, do not attempt to use that information or material at any hearing or at trial. If you plan to do so, remember to amend or supplement your discovery responses and produce any information or material to be introduced. TEX. R. CIV. P. 193.4(c).

Use the Snap-Back Provision: Because some cases involve thousands of documents, sometimes privileged information or material is inadvertently produced. Although there is no way for an opposing lawyer to un-see a document, the TEXAS RULES OF CIVIL PROCEDURE have a snap-back provision for damage control. After you realize that privileged information or material has been produced, you generally have 10 days within

which to amend the discovery response and/or withholding statement, which should identify the information or material produced and state the privilege(s) asserted. TEX. R. CIV. P. 193.3(d). The requesting party must then promptly return the specified information or material and any copies. *Id.* Return of the information or material is mandatory even if the requesting party intends to contest the objection or claim of privilege. *Id.* Once the information or material is returned, then the requesting party can set a hearing to have the court consider the objection or claim or privilege. *Id.*; TEX. R. CIV. P. 193.4. Considering reviewing the following cases for additional insight into this process: *In re E.I. DuPont de Nemours & Co.*, 136 S.W.3d 218 (Tex. 2004); *In re Texas Health Res.*, 05-15-00813-CV, 2015 WL 5029272 (Tex. App.—Dallas Aug. 26, 2015, no. pet. h.) (discussing the application of the attorney-client privilege); *In re Monsanto Co.*, 998 S.W.2d 917 (Tex. App.—Waco 1999, no pet.).

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

Dallas Women Lawyers CLE Luncheon

December 17, 2015
Noon to 1:00 p.m.
Belo Mansion

Tips for Successful Advocacy

Q&A with Judge (Ret'd) Royal
Ferguson, Dean, UNT Dallas
College of Law and Judge
Catharina Haynes, Fifth Circuit
Court of Appeals

...Great Program...Please spread the word within your firm...

“How to Become the Best Trial Judge and Trial Lawyer – Lessons Learned from Mark Lanier”

Listen to his experiences - both positive and negative - of trying cases all over America, and why he still remains appreciative of Texas judges.

Speaker:



**Mark Lanier,
The Lanier Law Firm.**

Introductions by Lisa Blue & Hon. Martin Hoffman.

**Wednesday, December 9 at noon
in the Merrill Hartman Courtroom,
8th Floor of George Allen Courthouse
(600 Commerce Street)**

Seating is limited, first come first served. Brown bag luncheon.

RSVP to kzack@dallasbar.org.

MCLE 1.00

***Co-Sponsored by the
DBA and DAYL Judiciary Committees.***