



October 2016

Vol. 33, No. 10

THE DICTA

The Docket

October 18 (Tuesday)

DAYL Elder Law Committee Meeting
Noon, Belo Mansion

October 18 (Tuesday)

DAYL Law Student Assistance Committee Meeting
6:30 p.m., Manny's Uptown

October 20 (Thursday)

DAYL Moms in Law Meeting
Noon, Gordon Biersch Park Lane

October 20 (Thursday)

DAYL Animal Welfare Committee Meeting
Noon, Belo Mansion

October 21 (Friday)

DAYL Women's Mentoring Circles Committee Meeting
Noon, Belo Mansion

October 24 (Monday)

DAYL Charity Ball Committee Meeting
6:30 p.m., McGuire Craddock & Strother

October 25 (Tuesday)

DAYL Politically Aware Committee Meeting
6:30 p.m., KoonsFuller

October 26 (Wednesday)

DAYL Lawyers Against Domestic Violence CLE
Noon, Belo Mansion

October 27 (Thursday)

DAYL CLE Committee Meeting
Noon, Belo Mansion

October 27 (Thursday)

NYU School of Law Civil Jury Project
Noon, Belo Mansion

October 28 (Friday)

DAYL Solo & Small Firm Committee Meeting
Noon, Belo Mansion

Breakfast with Business Peers to Focus on Financial Services Industry

Join DAYL for the complimentary, Breakfast with Business Peers event to discuss the financial services industry and meet industry movers and shakers at the Belo Mansion on **Thursday, November 3rd** from 7:30 - 8:45 a.m. Thanks to the generosity of the must-call expert witness and consulting services firm **Berkley Research Group** (www.thinkbrg.com), DAYL is hosting three breakfasts in this series this year featuring industry-specific panelists and moderators to educate and enlighten interested DAYL members.

Attendees on November 3rd will learn about the financial services industry in Dallas from a panel featuring **Penny Blackwell** (Deputy Regional Chief Counsel at FINRA), **Brooke Gee** (Manager, Counsel at Capital One), and **Ryan Ammon** (Financial Advisor at Edward Jones) and moderated by **Dr. Allen Jacobs** (Managing Director with Berkeley Research Group, frequent testifying expert, and consultant).

Please join us for the free breakfast and stay to connect with young attorneys and professionals interested in the financial services industry. RSVP to **Cherie Harris** (cherieh@dayl.com).

Practice Area Pages Now Available

DAYL is excited to offer a new resource for its members looking to transition to, or gain additional information about, other areas of law outside of your primary practice area. The Assisting Lawyers in Transition Committee has created a number of practice area pages that contain key information about resources and

organizations to get involved with if a member is interested in learning more information about a particular area of law. The practice area pages can be found at <http://dayl.com/resources/for-lawyers/substantive-law-resources/>.

For additional information or to suggest a new practice area category, please contact **Cherie Harris** (cherieh@dayl.com).

PRESENTED BY THE DALLAS ASSOCIATION OF YOUNG LAWYERS AND HONORARY CHAIRS DENA DENDROYER STROH AND JEFF STROH

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SAT., NOV. 12, 2016 @ 7:00 PM

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FOR QUESTIONS GO TO daylcharityball.com OR CONTACT daylcharityball@gmail.com

THE DICTA

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Copy Deadline for November Issue:

October 25, 2016

Justin R. Gobert

Email: justin.r.gobert@gmail.com

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From the President

Suicide Awareness: An Ongoing Discussion



Stephanie K. Gause

Six years ago, I lost a dear friend to suicide. He was a practicing young lawyer in Dallas and had a very bright future ahead of him. Larger than life and a friend to all who knew him, his death took everyone by surprise. Losing a friend in such a tragic way left me and all who knew him devastated and feeling helpless, wishing he had reached out to any one of us for support. Sadly, I know other members of the Dallas young lawyer community have also experienced the loss of a loved one to suicide. Alarming as it sounds, suicide is the third-leading cause of death among lawyers and the second-leading cause of death among young adults under age 34.

We're all aware of the pressures we face each day as members of the legal profession. Consistently high levels of stress over long and often isolated hours at the office, coupled with over-achieving personalities that amplify a fear of failure, it's no wonder so many young lawyers are struggling. And unfortunately, we're often reluctant to ask others for help when in fact there are numerous resources available for young attorneys to help themselves, or a friend or colleague who is grappling to manage chronic stress.

In an effort to raise awareness among young lawyers and in recognition of National Suicide Prevention Awareness Month, DAYL hosted a panel discussion on September 20th at the Belo Mansion. A DAYL member and friend shared her personal experience involving suicide when she lost her husband to suicide a few years ago. She was very brave to share her story and candidly discuss an issue we don't talk about enough. The panel also

included a representative from the Texas Lawyers' Assistance Program who discussed resources available to young lawyers through the State Bar, and a mental health professional who educated attendees on the identification of warning signs and effective methods to help friends or colleagues who may be at risk.

The loss of my friend to suicide is one of the main reasons I initiated a mental health awareness program as President of DAYL this year. The next program will be targeted to law students and UNT Dallas College of Law, with subsequent programming at the other two local law schools.

September may have been National Suicide Awareness month, but the discussion about suicide and depression is something that should be discussed year-round. While the profession faces a real challenge in addressing suicide, it doesn't have to be this way, and I hope DAYL's on-going initiatives will help increase understanding of these issues. If we can help even just one young lawyer, I'll consider this new initiative a success. I hope you'll help us in DAYL's efforts to erase the stigma associated with mental health issues, seek help if you are struggling, and encourage your friends and colleagues to seek help when they need it.

Stephanie Gause is a Partner at Frost Brown Todd practicing in Real Estate.

DAYL ONE TO WATCH

Shaun Hassett has been selected as the October 2016 DAYL One to Watch! To find out why, visit www.dayl.com.

DAYL Announces its 20th Leadership Class

DAYL is excited to announce the 37 members of the 2016 DAYL Leadership Class. In late August, the class met for an overnight retreat in August at Possum Kingdom Lake for two days of team building exercises, leadership training, and some fun in the sun.

Serving as facilitators this year are **Dena DeNooyer Stroh** (NITTA), **The Hon-**

orable Rob Cañas (Criminal District Court Number 10), **Mark Melton** (Hunton & Williams), **Terry James** (West & Associates LLP), **Rebekah Brooker** (Scheef & Stone), and **Aaron Tobin** (Anderson Tobin). **Rob Crain** (Crain Lewis Brogdon), **Robert Witte** (Strasburger & Price), and **Karen McCloud** (Law Office of Karen McCloud) attended the retreat as class fa-

cilitator emeriti. DAYL President **Stephanie Gause** (Frost Brown Todd) and DAYL President-elect **Paul Simon** (Simon Paschal) also attended the retreat, as did **PJ Dunn**, a professional life coach.

Congratulations to those who were selected to be a part of this Legacy of Leadership! We are proud to have you in the 20th Leadership Class and look forward to a great year!



2016 DAYL Leadership Class

Sameen Abdullah - Texas Workforce Commission
Malerie Anderson - Thompson & Horton, LLP
Alexis Angell - Polsinelli PC
Anthony Begón - Brewer, Attorneys & Counselors
Katie Bishkin - Law Office of Nicole Knox, PLLC
Ricardo Bonilla - Fish & Richardson PC
Aaron Borden - Meadows, Collier, Reed, et al.
Amelia Cardenas - Haynes and Boone, LLP
Mark Clasby - O'Neil Wysocki
Amelia Coates - Kane Russell Coleman & Logan PC
Kevin Davidson - Gray Reed & McGraw
Corwyn Davis - The Davis Law Group, P.C.
Craig Dupen - Bowman and Brooke LLP
Jared Eisenberg - Lynn, Pinker, Cox & Hurst LLP
Jose Espinosa - Darrell W. Cook & Associates
Daniel Felz - Alston & Bird LLP
Greggory Gallian - Crain Lewis Brogdon, LLP
Sanford Holmes - Dallas County District Attorney's Office
Tiffany Johnson - Klemchuk LLP

Michael Kelly - Burford & Ryburn, LLP
Joshua Klinck - Law Offices of Eric Cedillo
Hannah Lavy - Cherry Petersen Landry Albert
Andrew LeGrand - Gibson, Dunn & Crutcher LLP
Kris Long - David Bush Realtors
Andy Mielnik - Winstead PC
Ruth Mitchell - Scheef & Stone LLP
Nicholas Palmer - Dallas City Attorney's Office
Amber Reece - Figari + Davenport, LLP
Steve Santayana - Driskell & Lawrence
Caitlin Sawyer - Hunton & Williams
Sara Schretenthaler - Holland & Knight LLP
Ryan Scofield - Sidley Austin LLP
Emily Somerville - MV Transportation, Inc.
KoiEles Spurlock - Parkland Health and Hospital Systems
Katherine Tullos - Gardere Wynne Sewell LLP
Soluto Uba - White & Wiggins
Whitney Warren - Deans & Lyons LLP

DAYL's Wine Tasting Raises Money for the Dallas Volunteer Attorney Program

by Megan LaDriere

DAYL was thrilled to host its annual Wine Tasting, presented by the Equal Access to Justice Committee, on June 30, 2016, which benefitted the Dallas Volunteer Attorney Program ("DVAP"). DVAP provides free legal services to indigent citizens in Dallas. This year the event returned to the Sammons Center for the Arts and featured wines from France paired with classical music. The Committee was honored to present **Seth Reich** of Sidley Austin LLP with this year's DAYL Pro Bono Service Award. Seth completed over 300 hours of service in 2015, with pro bono work spanning from immigration proceedings, death penalty litigation, and intellectual

property matters for non-profit organizations. DAYL and the EAJ Committee applaud Seth's commitment to giving back to our community.

DVAP representatives were on hand to provide more information to attendees and brought a sign-up sheet for lawyers in attendance who wanted to take a pro bono case. Also, **Tiffanie Limbrick** from the newly-created **Pro Bono Partners**, a partnership between DAYL and the Dallas Area Paralegal Association (DAPA), spoke about its efforts to make it easier for legal professions to engage in pro bono work and encouraged attendees to commit to the Pro Bono Project of at least 12 hours of pro bono work this year.

The event was a huge success and the

committee is thrilled to have raised over \$12,500 this year to benefit DVAP and the great services they provide. This donation to DVAP and the entire event would not have been possible without the support of all of the generous sponsors, particularly our Vineyard Sponsors: **Baker Botts L.L.P.**, **Jackson Walker L.L.P.**, and **Sidley Austin LLP**.

DAYL will embark on another campaign to raise money for the Dallas Volunteer Attorney Program in October and November. Dallas Bar Association President **Jerry Alexander** will match dollar for dollar, up to \$15,000, of his own money for any young lawyer who donates to this campaign. Contact **Cherie Harris** (cherieh@dayl.com) for information.



2016 Dinner and Dialogue Focuses Discussion on Implicit Bias

On July 21, 2016, DAYL's Lawyers Promoting Diversity Committee hosted the 11th annual Dinner and Dialogue. Dinner and Dialogue not only celebrates diversity but also provides a safe space for members of the legal community in Dallas to discuss

issues surrounding race in the Dallas area and the bar. This year the theme of Dinner and Dialogue was Implicit Bias. **Chief Judge Barbara M.G. Lynn**, of the Northern District of Texas, delivered the opening address to over 150 attendees. The attendees then participated in dialogue surrounding the

issues of implicit bias and participated in an implicit bias test conducted by **Courtney Barksdale Perez**, a Partner at Carter Scholer Arnett Hamada Mockler. The event concluded with a powerful closing address by **A. Shonn Brown**, a Partner at Lynn Pinker Cox & Hurst.

DAYL Coffee with the Court – Judge Martin Hoffman

On September 15, 2016, thirty young lawyers had the opportunity to spend the early part of the morning with **Judge Martin Hoffman** of the 68th District Court. Attendees enjoyed coffee and bagels while Judge Hoffman an-

swered questions and offered a “Judge’s Perspective” on critical pre-trial and trial issues. Judge Hoffman gave helpful advice on practicing in his courtroom, ranging from the best way to request a hearing when the docket is full to effective motion practice. Judge Hoffman also

provided practical tips for trial, including use of courtroom technology, voir dire strategies, and jury presentation. DAYL members in attendance walked away with a pre-trial checklist and several best practice tips. Be on the lookout for more Coffee with the Court events in 2017!



DAYL Election Ballots Will Be E-mailed October 24. Please Vote!

The Unprecedented Presidential Election: A Look Inside The 2016 Race To The White House

by Jordan M. Wynn

On September 13, 2016, the DAYL Politically Aware Committee partnered with the *Dallas Regional Chamber Young Professionals* and the *Meridian Global Young Professionals of the World Affairs Council* to present a stellar panel to discuss the 2016 presidential race. The panel was composed of: **Carolyn Barta**, a journalism professor at Southern Methodist University who spent more than 35 years with the *Dallas Morning News* covering every presidential campaign from

Richard Nixon to George W. Bush; **Matthew Wilson**, an associate professor of political science at Southern Methodist University who routinely serves as a commentator on political affairs for local, national, and international media outlets; and **Jason Whitely**, the host of *Inside Texas Politics* and recipient of 18 Emmy Awards. In a political environment currently plagued by hostility, the star-studded panel delivered an informative, entertaining, and non-partisan analysis of how this

bizarre election came to be.

The event was nothing less than tremendous. It was well attended by both attorneys and non-attorneys, alike. It even gave its attendees the opportunity to register to vote. And best of all, the event was a rare pleasant experience in which a room full of diverse individuals with very different beliefs came together to discuss one of the most polarizing topics in today's society and even managed to share a few laughs along the way.

Recap - Ethical Considerations of Sitting on a Non-Profit Board of Directors

In case you missed it, on August 10, the DAYL hosted a CLE on Ethical Considerations of Sitting on a Non-Profit Board of Directors, during which the panel provided an overview of ethical considerations for lawyers who may sit on a non-profit board, including what a lawyer should do prior to accepting a position on a board, what a lawyer's responsibilities are once on a board, and the ethical considerations a young lawyer will likely encounter during their service on a board. Panelists included **Brittany Byrd**, with Girls Embracing Mothers, Inc.; **Aaron Tobin**, of Anderson Tobin PLLC; and **Robert Witte**, of Strasburger & Price, LLP. The discussion was moderated by **Bri Simpson**, of Carrington,

Coleman, Sloman & Blumenthal, LLP.

The panelists provided DAYL members in attendance with many tips, including these top 5:

(1) Understand the organization and its mission before you say yes. Make sure the organization lines up with what you stand for. If you are able to, consider volunteering on a committee within the organization before accepting a role on its board of directors to learn more about the organization.

(2) Determine whether the position is a ceremonial board position or a working position and ask about the expectations of board members (i.e. is there a financial commitment?).

(3) Define your role and ascertain whether you are expected to provide le-

gal advice. If you are, do not try to give legal advice outside of your expertise and be careful not to waive the attorney/client privilege if you give legal advice during meetings in which there are attendees who could waive the privilege.

(4) Avoid self-dealing by fully disclosing any potential issues or conflicts. Run a conflict check to ensure that you and your firm do not have any legal conflicts before committing to serve. If you are a shareholder or investor in a vendor that is planning to do business with the nonprofit (including a law firm), disclose it.

(5) Watch out for the financial interests of the board. Pay attention during the financial report and ask questions if you do not understand a line item.

Multiple Groups to Sponsor Jury Improvement Luncheon

The Dallas Bar Association, DBA Labor and Employment Law Section, DBA Business Litigation Section, DBA Trial Skills Section, Dallas Association of Young Lawyers, Dallas Chapter of the American Board of Trial Advocates, Texas Association of Defense Counsel, Dallas Trial Lawyers Association, and Civil Jury Project are sponsoring a Jury Improvement Lunch on

Thursday, October 27th, at noon at the Belo Mansion. This lunch will be hosted by over a dozen prominent litigation firms on both sides of the docket.

Anyone interested in improving their trial skills will not want to miss this lunch. Due to limited space, please make a reservation in advance if you want to attend. RSVPs may be sent to **Alicia Hernandez** at ahernandez@dallasbar.org. Included in your RSVP, please provide your full name,

company name, and email address and reference the Dallas Jury Improvement Lunch in your email.

Also, if you RSVP but it becomes necessary for you to miss the lunch, please email **Kaitlin Villanueva** at Villanueva@mercury.law.nyu.edu, even if at the last moment, so that we can fill your seat at an assigned table.

This will be a great program that you will not want to miss.

Hitting a Homerun on Non-Party Discovery

by Andy Jones

It is 4:30 on a sunny summer Friday afternoon, and you have a date at 7:05 p.m. with the Texas Rangers. Cold drinks, delicious ball park food, bright lights. But... the phone rings. Your boss just finished deposing a key party in your case and discovered a non-party holds documents that will force your opponent to the settlement table. She wants to know how to get those documents before you leave for the day, but you have never before handled non-party discovery. Are you going to strike out and miss the game pouring over case law, or will you slide into home in time for the national anthem? Crack open the Texas Rules of Civil Procedure, ask yourself some questions, and you just might make it to the game.

Which rules apply?

There are only certain kinds of discovery requests which can be sent to a non-party. Texas Rule of Civil Procedure 205 (TRCP) identifies the specific forms of discovery which can be used to obtain information from non-parties. Notably, all require a subpoena or court order. In the case of your boss and the non-party documents, the options available in TRCP 205.1(a)-(d) will be sufficient.

TRCP 205.1(a)-(d) allows for oral depositions, depositions on written questions, requests for production in conjunction with a deposition (written or oral), and requests for production to be issued to a non-party. All of these require you to issue a subpoena compelling the non-party to do what you want them to do. As such, TRCP 176, the rule pertaining to subpoenas generally, applies. Additionally, each of the forms of discovery identified in TRCP 205.1 requires you, in addition to following the subpoena rule, to follow the rules applicable to the form of discovery. In this scenario, your boss wants to get the documents as fast as possible, and she will worry about the hearsay objection later. Thus, a request for production under TRCP 205.1(d) seems appropriate. Importantly, do not forget, no

matter what discovery device you chose, to file your TRCP 176 subpoena and discovery request with the Court per TRCP 191.4(b)(1).

Where is the non-party?

To satisfy the subpoena requirement, where your non-party is matters. If your target non-party is more than 150 miles from the county in which appearance at the deposition or production of the documents is required, then you will need to pursue Letters Rogatory. Luckily, the non-party in your case is within 150 miles from the county of production. Launching your request for production can go forth without resorting to something that sounds like it came from the *Pirates of Penzance*.

What to prepare and what to do with it?

To successfully obtain your documents by request for production from the non-party, you must serve notice to the non-party and all parties as required by TRCP 205.2 and 205.3. To make for easy drafting, TRCP 205.3(b) tells you what needs to be in the notice to be served. TRCP 205.2 requires the notice for the request for production you are planning on sending to be served at least 10 days before the subpoena compelling production.

In your notice, specify, per TRCP 205.3(b)(2) a “reasonable time and place for the production” to occur. Knowing how clear a “reasonable” standard can be, do some research if you are concerned that the amount of time you are giving the non-party will stand up to scrutiny. That said, a call ahead to the non-party may help identify their service contact and what amount of time will be “reasonable” for them to produce the documents. Your notice must also, per TRCP 205.3(b)(3), “describe...with reasonable particularity” the documents you seek. To avoid striking out on discovery objections, use the same request for production in TRCP 205.3(b)(3) as you will in your TRCP 176.2(b) subpoena and narrowly tailor it to comply with the scope of discovery in your case.

Once your notice is drafted, serve it using the TRCP-approved methods of service. In the case of your request for production, wait the ten days required under TRCP 205.2, and then serve your TRCP 176 subpoena, including the TRCP 205.3(b)(2) reasonable time for the production to occur.

Remember, like in every baseball game, the home team is not the only one that gets to be at bat. The non-party or other parties in your case can file a motion to quash your subpoena. Yet, if you followed TRCP 205, 176, 191, and properly crafted your request for production, there should be joy in Mudville. Now, send your plan to your boss, and enjoy the game.

Andy Jones is a Senior Associate at Sawicki Law, and he can be reached at ajones@sawickilawfirm.com.

October is Domestic Violence Awareness Month

The DAYL Lawyers Against Domestic Violence Committee will recognize Domestic Violence Awareness month by hosting two initiatives: the first is a CLE program that will be held at noon at the Belo Mansion on Wednesday, **October 26, 2016**. The CLE will feature speakers Judge Stephanie Mitchell, Sara Barnett (Staff Attorney at Genesis Women’s Shelter & Support), and Allison Schmitz (Staff Attorney at Texas RioGrande Legal Aid, Inc., Legal Aid for Survivors of Sexual Assault). To RSVP for this program, please email **Cherie Harris** (cherieh@dayl.com). The second initiative will be a clothing drive for survivors of domestic violence during the week of **October 24 – 28**. For more information about drop off times and locations, please email Whitney Blazek (whitney.blazek@bakerbotts.com).



On August 17, members of the DAYL 2015 Leadership Class presented a check for over \$53,000 to the Communities in Schools Dallas Region for use in the 2016-2017 school year. The funds were raised by the Leadership Class project, the Dallas Bridge Bash, which they hosted at the Continental Avenue Bridge on April 16, 2016. Pictured (l to r): Yolanda Lockhart and Dr. Judith Allen Bazemore of Communities in Schools, Cherie Harris, Justin Gobert, Reasha Hedke, Neel Gonuguntla, Michael Thicksten, Jenny Forehand, and Stephanie Gause.



Nothing goes better with August heat than ice cream, so on August 9, members of the DAYL Elder Law Committee hosted an ice cream social for the seniors at The Rehabilitation and Wellness Centre of Dallas. The Committee has visited this senior center every few months for the past year so everyone enjoyed seeing familiar faces and catching up over ice cream sundaes and a few spirited games of bingo. Thanks to all who came out! Pictured (l to r): David Mead, Jennifer Lewis, Ellen Williamson, Matthew Rittmayer, and junior volunteers Daniel and Rebecca.



The DAYL Dinner with the Judiciary, held on September 13, was a great CLE program focusing on Ethical Issues that Arise at Trial, presented by former Federal Judge Joe Kendall, The Honorable Ken Tapscott, Britta Stanton, and Rod Phelan as Moderator. Special thanks goes to our Platinum level sponsors: Park Hartman LLC, Gray Reed & McGraw, P.C., Texas A&M University School of Law, and Ben Abbott & Associates, PLLC.



Thank you to our August Generation Generosity volunteers for volunteering with a service project with Buckner Shoes for Orphaned Souls.



Judge Amber Givens-Davis spoke to young lawyers at DAYL's Coffee with the Criminal Court in August.



Thank you to all of the volunteers who participated, bright and early, at DAYL's Community Court Program, organized by the Aid to the Homeless Committee on September 10, 2016. The Community Court program works in connection with the Stewpot, the City of Dallas, the Dallas Police Department, and Judge Seider and his court staff to eradicate non-violent Class C misdemeanors from the records of Dallas' homeless population in exchange for community service performed by those individuals.