



June 2017

Vol. 34, No. 6

# THE DICTA

## The Docket

June 14 (Wednesday)  
Ethically Interacting with Opposing Counsel CLE  
Noon, Belo Mansion

June 14 (Wednesday)  
Equal Access to Justice Committee Meeting  
Noon, Belo Mansion

June 14 (Wednesday)  
Solo & Small Firm Networking Happy Hour  
6:00 p.m., People's Last Stand

June 16 (Friday)  
Freedom Run Committee Meeting  
Noon, Belo Mansion

June 16 (Friday)  
Moms in Law Committee Meeting  
Noon, Ziziki's

June 17 (Saturday)  
Generation Generosity Volunteer Opportunity  
11:00 a.m., Ability Connection

June 20 (Tuesday)  
Elder Law Committee Meeting  
Noon, Belo Mansion

June 20 (Tuesday)  
Aid to the Homeless Committee Meeting  
6:00 p.m., Belo Mansion

June 20 (Tuesday)  
Politically Aware Committee Meeting  
6:30 p.m., KoonsFuller

June 21 (Wednesday)  
Beyond the Book Club Meeting  
6:30 p.m.

June 21 (Wednesday)  
Wellness Committee Meeting  
6:00 p.m., Union Coffee

June 22 (Thursday)  
Wine Tasting  
6:00 p.m., Sammons Center for the Arts

June 26 (Monday)  
Membership Committee Meeting  
Noon, Belo Mansion

June 26 (Monday)  
Discussing Dallas: Shaping Our City's Development  
Noon, Belo Mansion

June 26 (Monday)  
Charity Ball Committee Meeting  
6:30 p.m., Duffee + Eitzen

June 27 (Tuesday)  
Lawyers Promoting Diversity Committee Meeting  
Noon, Belo Mansion

June 28 (Wednesday)  
How to Ethically Maximize and Monetize Your Online  
Presence  
Noon, Belo Mansion

June 28 (Wednesday)  
Dallas Ripple Committee Meeting  
6:00 p.m., Manny's Uptown

## It's a Stellar Time for a Social

**H**elp us kick off the 4th of July weekend by attending DAYL's June Social on **Thursday, June 29**, from 6:00 – 8:00 p.m. The June Social will be held at Stellar, one of the newest hotspots in Dallas, which is located at 2810 N. Henderson Avenue.

This month's sponsor is Chris Cafiero with **Catalyst**. Catalyst has provided law firms with a way to manage electronic discovery and other complex legal mat-

ters for 15 years. They value speed and security as top priorities and have the servers, processors, and data centers necessary to manage millions of documents without missing a beat.

The cost to attend the Social is \$3.00 for DAYL members and \$5.00 for non-members, which will get you two drinks and appetizers. There is self-parking available around Henderson and complimentary valet parking available. We hope to see you there!

Join DAYL's Generation Generosity Committee on **Saturday, June 17**, from 10:00 a.m. – 2:00 p.m. (shifts are available) as we volunteer with Ability Connection and help them with their community cookout. Ability Connection is a 501(c)3 organization that serves individuals with disabilities and special needs. RSVP [here](#).

## He Said / She Said: Ethically Interacting with Opposing Counsel

**F**ulfill some of that ethics credit requirement at noon on **Wednesday, June 14**, with the DAYL as we present

*He Said / She Said: Ethically Interacting with Opposing Counsel.*

Come and let the **Honorable Maricela Moore**, 162nd Judicial District Court, **Michael K. Hurst** of Lynn Pinker Cox & Hurst, and **Tricia DeLeon** of Gruber Elrod Johansen Hail Shank, LLP educate you on appropriate interactions

with opposing counsel, how and when to escalate issues with opposing counsel to partners above you, and how to handle ethical disputes with your managing partner.

There is no charge for DAYL members to attend. Non-members may attend for \$10. Parking is available at the Belo Mansion and lunch is available for purchase. This program has been approved for one hour of ethics CLE credit by the State Bar of Texas.

RSVP [here](#).

## The Docket (continued)

June 29 (Thursday)  
CLE Committee Meeting  
Noon, Belo Mansion

June 29 (Thursday)  
Social  
6:00 p.m., Stellar

June 30 (Friday)  
Solo & Small Firm Committee Meeting  
Noon, Belo Mansion

Join us for a Kendra Scott Fundraiser organized by the DAYL Lawyers Against Domestic Violence Committee. 20% of ALL proceeds on **June 21, 2017**, between 5:00 - 8:00 p.m., will be donated towards helping build a playground for Mosaic Family Services.  
3699 McKinney Avenue, Ste. B105

# THE DICTA

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Copy Deadline for July Issue:

**June 15, 2017**

**Alex Bolton**

Email: [abolton@duffee-eitzen.com](mailto:abolton@duffee-eitzen.com)

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## From the President

# A Ripple of Hope: DAYL Tackles Diversity



Paul W. Simon

There is no question that our society is more diverse than the world in which our parents were raised. This is a good thing. We live in a society where we daily interact with people of different races, cultures, national origins, and socioeconomic backgrounds. Again, this is a good thing; this mixing and interaction of diversity, however, is not without its troubles.

While every generation can point to diversity struggles, the generation in which we live seems to have reached a boiling point as the result of social media and instant Internet news. The Clinton v. Trump election brought numerous issues regarding race, immigration, and gender to the forefront and highlighted the divide on how our society views and discusses these issues. Closer to home, the July 2016 shooting and killing of five police officers in downtown Dallas felt like the culmination of this build up between police and minorities, particularly African Americans.

Well before these latest examples, DAYL has tackled the issue of diversity. The **Lawyers Promoting Diversity ("LPD") Committee** annually organizes Dinner and Dialogue. Dinner and Dialogue is an evening where lawyers sit in small groups and over dinner, freely and openly discuss questions posed about diversity. We learn most effectively about diversity through engaging in open dialogue and hearing individual perspectives. It is imperative we continue to get to know each other in order to understand each other. This has been Dinner & Dialogue's mission over the last 12 years. Join DAYL on July 20 to continue the dialogue on diversity and help become part of the solution. Thank you to

LPD Co-chairs **Katrina Eash**, Sanford Holmes, **Wesley Nute**, **Travis Gasper**, **Riqui Bonilla**, and Board liaison **Nnamdi Anozie** for all their hard work tackling this important issue.

This year, DAYL is also taking the conversation of diversity and race relations to Dallas area high school students. The DAYL presidential project, Dallas Ripple, will bring together high school students from various backgrounds throughout our community with the idea of generating dialogue about the issues each individual student and his or her community faces. The goal of the project is to create a replicable program that gives Dallas's youth the tools to become leaders with regard to racial, socioeconomic, and cultural issues by facilitating open dialogue, increasing awareness of diversity related issues, and increasing understanding of each other.

The inaugural Dallas Ripple program will take place over the course of two consecutive Saturdays (October 21 and 28). The first Saturday will consist of a ropes course icebreaker, allowing students to meet and learn about their fellow participants, laying the groundwork for an open dialogue. The second Saturday will consist of an in-depth dialogue facilitated by DAYL members using a program developed by Nadine Bell, founding member of Dallas Dinner Table. The program will end with participants creating a tangible distillation of their discussions. A special thank you to the Dallas Ripple co-chairs **Ryan Brown**, **Dustin Paschal**, **Nicole Muñoz**, **Jenna Carl Jabara**, **Koi Spurlock**, **Sanford Holmes**, **Jason Mathis**, and **Maggie Ong'ele**.

(continued on page 3)

## DAYL Foundation Gives Back to the Community

by Leslie Chaggaris

**H**ave you ever wondered what the DAYL Foundation is and what it does? As a separate organization from DAYL, the DAYL Foundation is a 501(c)(3) organization that provides funding for law-related matters to local non-profit organizations as well as scholarships for law students who have demonstrated a passion for community service. Since 1999, the DAYL Foundation has awarded over \$200,000 in grants and \$35,000 in scholarships.

Last year, the DAYL Foundation provided grants for local non-profits that, among other things, promoted knowledge of the rule of law, improved the delivery of legal services to the indigent, and fostered public confidence in the profession of law. For example, the DAYL Foundation enabled students to attend programs such as a mock trial institute, the YMCA

Youth & Government Program, and a field trip to the Capitol. It also provided funds for several non-profits to provide computer equipment and software for their clients as well as develop online CLEs and tools related to domestic violence, juvenile justice, and financial management. The DAYL Foundation also offset costs related to providing legal services for those who cannot afford it. The 2016 Grant Recipients included **Judge Barefoot Sanders Law Magnet, CASA of Collin County, Unlocking DOORS Texas Reentry Network, Girls Embracing Mothers, Inc., Genesis Women's Shelter & Support, Jane's Due Process, MATA Montessori PTA, Mosaic Family Services, Texas Appleseed, UNT Dallas College of Law, and YMCA of Metropolitan Dallas.**

The DAYL Foundation also provided tuition scholarships to students at **UNT**

**College of Law, SMU Dedman School of Law, and Texas A&M School of Law.**

Each year, the DAYL Foundation enables DAYL to carry out charitable events such as Freedom Run and the Wine Tasting benefiting DVAP. As of 2016, DAYL's Charity Ball benefits the DAYL Foundation in an effort to expand the DAYL Foundation's reach and impact in this community.

The DAYL Foundation is able to give back to our community, in large part, due to the generosity of the DAYL Foundation Fellows. Currently, the Fellows include over 650 lawyers and judges. On June 13, 2017, the DAYL Foundation will host its annual Fellows Reception. If you are a DAYL Foundation Fellow or if you have been nominated to become a Fellow, we encourage you to attend to see how you can help make a lasting and positive impact in Dallas.

## How to Ethically Maximize and Monetize Your Online Presence

**T**he DAYL Assisting Lawyers in Transition Committee will host a CLE that will help you learn how to ethically boost your online presence and reputation to impress potential employers and clients. The program will be held at the Belo Mansion at noon on **Wednesday,**

**June 28, 2017.**

Panelists include **Ashley P. Withers,** Jackson Walker, LLP, **Adrian Bower,** Cox Bower, LLP, and **Melanie Goolsby,** Pronske Goolsby & Kathman, PC. The program will be moderated by **Kevin Segler,** KoonsFuller, PC.

This program is scheduled to be an

hour in length and attendees will receive CLE credit, including .5 hours of ethics credit. There is no charge for DAYL members to attend. Non-members may attend for \$10. Parking is available at the Belo Mansion and lunch is available for purchase.

RSVP at [here](#).

## A Ripple of Hope

(continued from page 2)

If you are interested in getting more involved in the Lawyers Promoting Diversity Committee or Dallas Ripple or would like to learn about sponsorship opportunities please contact me at [paul@simonpaschal.com](mailto:paul@simonpaschal.com). While I stated that our generation is at a boiling point regarding diversity, Robert F. Kennedy's speech from 1966 still holds true today:

*"It is from numberless diverse acts of courage and belief that human history is shaped each time a man stands up for an ideal or acts to*

*improve the lot of others or strikes out against injustice. He sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest wall of oppression and resistance.*

*Like it or not we live in interesting times. They are times of danger and uncertainty; but they are also more open to the creative energy of men than any other time in history. And everyone here will ultimately be judged - will ultimately judge himself on the effort he has contributed to building a new world society and the extent to which his ideals and goals have*

*shaped that effort."*

-Robert F. Kennedy

(June 6, 1966 - Day of Affirmation Speech to the National Union of South African Students)

Paul W. Simon is a Founding Partner at Simon Paschal PLLC practicing in Labor & Employment Law.

### DAYL ONE TO WATCH

**Sameen Abdullah** has been selected as the June 2017 DAYL One to Watch! To find out why, visit [www.dayl.com](http://www.dayl.com).

# DAYL / DAPA Pro Bono Partners Pledge Drive

**W**hether you are new to pro bono or consider it a favorite pastime, please consider participating in DAYL's Pro Bono Partners initiative. We are asking Dallas lawyers to pledge to complete 12, 25, or 50+ hours of pro bono work this year. Committing twelve hours is very manageable and it can make a huge difference in someone's life. As an attorney, you can help people in ways that the majority of the population cannot. Imagine helping a grandparent gain legal custody of their grandchild, or helping someone draft a will or end-of-life documents when they otherwise cannot afford it. Perhaps your pro bono work will be to assist a low-income tenant in a dispute with their landlord or to help a single parent with child support modifications.

The beauty about Pro Bono Partners is that we work with several organizations who have the resources and mentors available to help you help your client especially if it is in an area that is not your specialization. Whether you're a transactional attorney or a trial attorney, or if

you are in-house or are waiting for bar results, Pro Bono Partners is a great and easy way to help others who are in need.

- **Develop Legal Skills.** Pro bono cases are an easy way to develop your legal skills, from drafting to courtroom



experience (in some cases) to client interaction.

- **Network.** By taking on a pro bono case, you will have the opportunity to network with and learn from other lawyers, whether opposing counsel or the attorney sitting across the row in the courtroom.

- **Give Back to the Community.** No one can deny that feeling you get when you give your time to someone in need. The hug from the client who is

grateful you helped her secure custody of her grandchildren or that moment when the fear leaves your client's eyes after he obtains asylum in the United States—these are the moments that really make a difference.

- **Recognition.** Pro Bono Partners will recognize each young lawyer who donates 12, 25, or 50+ hours of pro bono service in 2017.

Pledge to perform at least 12 hours of pro bono service this year by signing up [here](#). Pro Bono Partners will connect you with one of Dallas' top non-profit organizations based on your interests. Pro Bono Partners can also

connect you with resources, including pairing you with a paralegal or providing a substantive law mentor if you are handling a case in a new area of law. Even if you are already doing pro bono work, sign up today so that Pro Bono Partners can recognize you for your pro bono work.

Learn more at [www.dayl.com/ProBonoPartners](http://www.dayl.com/ProBonoPartners) or like us on social media at [www.facebook.com/DAYLProBonoPartners](http://www.facebook.com/DAYLProBonoPartners).

## Judge Thompson-Hull Provides Advice for Young Lawyers

**O**n May 9, the DAYL Elder Law and Judiciary Committees and DVAP hosted a Coffee with the Court with **Judge Brenda Hull Thompson**, Presiding Judge of the Probate Court of Dallas County. Judge Thompson shared tips on what to expect in probate court, how to get attorney ad litem appointments, alternatives to guardianship, and more.

Thank you to Judge Thompson and her staff and all who attended this informative event! Please stay tuned for more information about upcoming Coffee with the Court events.



## 2016 Leadership Class Recaps April Adventures

**L**ast month's **April Adventures**, organized by the 2016 DAYL Leadership Class, competition was a huge success! We were able to help six organizations in Dallas serve those who need it most because of the generosity (and competitiveness!) of DAYL members and their teammates. On April 1, DAYL teams served as judges for the Dallas Urban Debate Alliance's middle school tournament. On April 5, competitors assembled Wonder Kits with Dallas After School to be used in after-school programs across the country. On April 8, teams traveled

with the students of Trinity River Mission on a field trip to River Legacy Living Science Center in Arlington and helped tutor and run a soccer tournament for the students in the McShan Refugee Day School program. On April 20, contenders joined in game night at Diversicare of Lake Highlands. On April 22, teams made sandwiches and snack bags for Soupmobile in Coppell for their initiative to feed the homeless. And last but not least, on April 29, contenders for the prize assembled birthdays-in-a-bag for patients at Children's Hospital of Dallas. Congratulations to **Rosh Khosravi** of

Team Figari + Davenport for winning the individual prize and Team Kane Russell Coleman & Logan, PC for winning the team prize for most service during the competition! The members of the DAYL Leadership Class thank their class facilitators and **Cherie Harris** for all of their help throughout the year in making our class project a success. The DAYL Leadership Class would also like to thank our sponsors: **Kane Russell Coleman Logan PC, Mac's Southside,** and **Figari + Davenport, LLP** for making our April Adventures possible! Thank you to all our volunteers.



## Discussing Dallas: Shaping Our City's Development

**T**he DAYL Politically Aware Committee invites you to a lunchtime program on **Wednesday, June 26**, at noon at the Belo Mansion. The event will be the second installment of our Discussing Dallas series and will explore com-

mercial development and projects affecting walkability, parks, greenspace, public transportation, and safety in the city.

The program will feature **Kourtny Garrett**, President & CEO of Downtown Dallas, Inc. and **Nolan Marshall**, President of Uptown Dallas Inc., and will be mod-

erated by **Candace Carlisle**, Senior Reporter for the Dallas Business Journal.

There is no charge for DAYL members to attend. Non-members may attend for \$10. Parking is available at the Belo Mansion and lunch is available for purchase.

RSVP [here](#).

Bar None XXXII is right around the corner! This year, Bar None presents "Law Law Land," with performances June 14-17 at the Greer Garson Theatre on the SMU Campus. Bar None features dozens of area lawyers and judges singing, dancing, and generally making fools of themselves - all for your amusement and a great cause.

Proceeds benefit the Sarah T. Hughes Diversity Scholarships at SMU's Dedman School of Law, UNT College of Law, and Texas A&M University School of Law. Tickets are \$30 in advance, and \$40 at the door. Group ticket sales are available, at \$25/each for groups of 10 or more. Visit [www.barnoneshow.com](http://www.barnoneshow.com) for details tickets.

The State Bar of Texas International Tax Committee invites DAYL members to its Dalla-area networking event. If you have an interest in International Tax or if you would like to connect with some local tax professionals in this area, feel free to attend.

The event will be held on **Thursday, June 15**, from 5:30 – 7:00 p.m. at Social House (2708 Routh Street). We hope to see you there!

### Dinner and Dialogue Pipeline Diversity – Tackling Diversity From The Ground Up

**Thursday, July 20, 2017 | 6:00 - 8:30 p.m.**

With opening remarks from **Royal Furgeson**, Founding Dean, UNT Dallas College of Law and closing remarks by United States District **Judge Sam Lindsay**, and featuring a presentation by **Dr. Jack Manhire**, Director of Program Development for Texas A&M School of Law.



FEATURING WINES FROM ARGENTINA PLUS TANGO DANCING BY TANGO AMOR AND  
PIANO ENTERTAINMENT BY ROJAS SCHOOL OF MUSIC

**JUNE 22, 2017 • 6:00 - 8:00 PM**

**SAMMONS CENTER FOR THE ARTS**

YU-CHENG "JACK" FAN WILL BE PRESENTED WITH THE DAYL PRO BONO SERVICE AWARD.

\$30 IN ADVANCE; \$25 FOR GOVERNMENT LAWYERS, INTERNS & LAW STUDENTS; ADD \$10 AT THE DOOR

MAIL YOUR CHECK (PAYABLE TO DAYL FOUNDATION) AND ATTENDEE LIST TO  
CHERIE HARRIS | 2101 ROSS AVENUE, DALLAS TEXAS 75201. PAYMENT CAN BE MADE ONLINE AT

[HTTP://WWW.DAYL.COM/DAYL-WINE-TASTING](http://www.dayl.com/dayl-wine-tasting)

QUESTIONS? CONTACT CHERIE HARRIS AT 214.220.7420 OR [CHERIEH@DAYL.COM](mailto:CHERIEH@DAYL.COM).

# A Little Less Talk: Attorneys' Daily Risk of Insider Trading Liability

by Carrington Giammittorio

**E**very day, attorneys access confidential client information, a large portion of which qualifies as “material, nonpublic information” (“MNPI”) under the securities laws. Access to this information exposes attorneys to insider trading liability if they’re not careful about how they handle it. Trading on or even discussing client MNPI with a friend who then trades on it can ignite a chain reaction of debilitating personal and professional consequences.

Insider trading is the buying or selling of securities based on material, nonpublic information (“MNPI”) in violation of a fiduciary duty of trust and confidence. *Dirks v. SEC*, 463 U.S. 646, 655 (1983). MNPI is information that a reasonable investor would consider important to his investment decision, which either (i) is not generally disseminated to the public or (ii) has not yet been made publicly available. Insider trading liability extends beyond the original source of MNPI to include so-called tippees and tippers in certain circumstances. In *Salman v. United States*, the Supreme Court held that, for a tippee to be liable, the tipper must receive a “personal benefit” from the disclosure. 463 U.S. at 662.

A subsequent case out of the Second Circuit—*United States v. Newman*—held that this “personal benefit” must be “objective, consequential, and represent[] at least a potential gain of a pecuniary or similarly valuable nature.” 773 F.3d 438, 452 (2nd Cir. 2014), *cert. denied*, 577 U.S. \_\_\_ (2015). This created a circuit split as the Ninth Circuit held in *United States v. Salman* that the *Dirk*’s “personal benefit” requirement is met when a tipper makes a gift of confidential information to a trading friend or relative regardless of whether there is evidence of pecuniary gain. 792 F.3d 1087 (9th Cir. 2015). To resolve this split, the Supreme Court took *Salman*’s appeal—its first insider trading case in more than twenty years—and held

that evidence of pecuniary gain was not required because “giving a gift of trading information is the same thing as trading by the tipper followed by a gift of the proceeds.” *Salman v. United States*, 580 U.S. \_\_\_ (2016). The Supreme Court, however, left untouched *Newman*’s other holding that derivative tippee liability requires the government to prove that the tippee knew or should have known of the tipper’s breach of a fiduciary duty, and did not clarify how to determine whether a tippee is a sufficiently “close” friend for purposes of derivative liability.

Given these still-outstanding and somewhat murky issues, it is important for attorneys—especially young attorneys—to understand the risks associated with misappropriating material, nonpublic client information. This spring, a partner at a former AmLaw 100 firm was criminally charged with insider trading after allegedly using his position at the firm to access documents containing nonpublic business information about other attorneys’ clients and trading on it. He also tipped a business associate, and they collectively obtained over \$1 million in illegal profits. Both also face civil suits by the Securities and Exchange Commission (SEC).

While it seems a matter of common sense that personally trading client MNPI is wrong, tipping someone—even a friend or relative—about an upcoming merger, lawsuit, acquisition, or stock offering carries the same risks. For example, after a night involving “several glasses of wine,” an attorney became intoxicated and allegedly referenced a client’s upcoming merger to his friend. The friend, an investment advisor, traded in the client’s stock, netting \$400,000 in illegal profits for himself and his own clients. In another example of tipping liability, a former clerk at a top New York law firm exploited the firm’s document management system to obtain material nonpublic client information by targeting specific

merger-related terms. The clerk then passed the client’s name and/or ticker symbol to a law school friend through a middleman. The tipper-clerk pled guilty to federal criminal charges and received a 46 month sentence, three years of supervised release, and a \$10,000 fine. The SEC, whose parallel civil proceeding had been stayed pending resolution of the criminal prosecution, is now seeking a \$2 million civil penalty against him.

As these recent cases illustrate, insider trading allegations expose wrongdoers to parallel civil and criminal proceedings. The SEC and DOJ exercise concurrent jurisdiction over the federal securities laws, but divide the responsibilities for civil and criminal enforcement. Practically speaking, this means that an SEC suit for civil penalties can follow hot-on-the-heels of a DOJ-initiated federal prosecution. All this is in addition to more routine repercussions for attorney misconduct such as disciplinary actions, termination, or even disbarment.

Attorneys are required to access and analyze material nonpublic information for clients on a daily basis. At a law firm where client files are stored on centralized document management systems, thousands of pieces of MNPI are just a few clicks away. Trading on client MNPI is a violation of federal law that exposes the actor to both civil and criminal penalties. All attorneys—but especially young attorneys—should take the time to educate themselves on insider trading law and any related firm policies to ensure they are doing everything they can to avoid potential liability—including monitoring their tendencies to “gossip” about work, whether wine is involved or not.

*Carrington Giammittorio is an associate with Haynes and Boone, LLP in the Government Investigations section. She can be reached at carrington.giammittorio@haynesboone.com or (214) 651-5256. Special thanks to Erica Santamaria of Georgetown University Law Center for research assistance.*

# DAYL Social with the Judges - March 30 at NYLO



*DAYL Solo & Small Firm Summit - April 29, 2017 at UNT Dallas College of Law.*