



January 2014

Vol. 31, No. 1

# THE DICTA

## The Docket

January 7 (Tuesday)

DAYL Board of Directors Meeting  
6:00 p.m., Belo Mansion

January 8 (Wednesday)

DAYL Membership Committee Meeting  
The Rustic, 6:30 p.m.

January 9 (Thursday)

Education Advocate Training  
Noon, Belo Mansion

January 16 (Thursday)

DAYL Animal Welfare Committee Meeting  
Noon, Belo Mansion

January 18 (Saturday)

DAYL Generation Generosity  
9:00 a.m., Austin Street

January 21 (Tuesday)

DAYL Elder Law Committee Meeting  
Noon, Belo Mansion

January 23 (Thursday)

DAYL Lunch and Learn  
Noon, Belo Mansion

January 27 (Monday)

DAYL Solo & Small Firm Committee Meeting  
Noon, Belo Mansion

January 29 (Wednesday)

DAYL Equal Access to Justice Committee Meeting  
Noon, Belo Mansion

January 30 (Thursday)

DAYL Social  
6:00 p.m., The Social House

January 31 (Friday)

DAYL CLE Committee Meeting  
Noon, Belo Mansion

DAYL's January Generation Generosity service event will be on Saturday, January 18<sup>th</sup> at Austin Street Center homeless shelter beginning at 9:00 a.m. To volunteer or to inquire about specific activities, contact Cherie Harris (cherieh@dayl.com).

### DAYL ONE TO WATCH

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

## Next Stop – The Social House

**D**AYL invites you to start your new year off right – at a DAYL Social! On **January 30<sup>th</sup>, 2014**, we will be at **The Social House** in uptown (2708 Routh St, Dallas, TX 75201). **Veritas Advisory Group**, our wonderful sponsor, will provide two drink tickets and appetizers for attendees. Come meet new people and kick off your New Year's resolution to be more involved and network! Veritas has reserved our room from 6:00 p.m. to 9:00 p.m., so we will have an extra hour of a private room and socializing. The

cost for DAYL members is \$3.00 and for non-members, the cost is \$5.00.

The Veritas team assists clients with all facets of construction matters. In addition, Veritas Advisory Group provides financial consulting on commercial litigation matters including intellectual property, lost profits, business interruption, bankruptcy and antitrust matters. For more information, please visit their website: [www.veritasag.com](http://www.veritasag.com) or contact: **Alan Nagorzanski** (anagorzanski@veritasag.com) or **Bradford Bright** (bbright@veritasag.com).

## Develop More Business in 2014

**B**usiness development is an important and expected skill for attorneys, but many young attorneys are unprepared to start developing and establishing their own clients. Join the DAYL at noon on **Thursday, January 23<sup>rd</sup>** at the Belo Mansion for a presentation on *Business Development: How Do I Get Started?* The panel will feature **Arthur E. Anthony**, of Locke Lord LLP; **Bryan A. Erman**,

of Carrington, Coleman, Sloman, & Blumenthal, L.L.P.; and **Bill S. Richmond**, of Gruber Hurst Johansen Hail Shank LLP, and will be moderated by **Jennifer M. Larson**, of McGuire Craddock & Strother, P.C. Discussion topics include the success they have had in developing business in their careers and tips for young lawyers to do the same. RSVP to **Cherie Harris** (cherieh@dayl.com).

## VOLUNTEER

The DAYL Law Student Assistance Committee is seeking volunteers on the evenings of February 5<sup>th</sup> and 6<sup>th</sup>, from 5:00 - 8:00 p.m. Volunteers will conduct Mock Interviews for law students at SMU Dedman School of Law. Dinner will be provided.

Contact Aaron Burke (aburke@hdbdlaw.com) for additional information or to volunteer for this fun event.

# THE DICTA

Jennifer Lee, Editor

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Copy Deadline for February Issue:

**January 15, 2014**

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## From the President

# Be a Winner In 2014



Winning – it's what we as lawyers inherently want to do. Whether it's for your client or for yourself, whether it's an entire case or a single motion, whether it's work or Candy Crush Saga on your iPhone, I think it's easy for most of you to admit that you want to win. Well, I've got an easy way for you to win in 2014: **Join the winning legacy of DAYL.**

For those of you who don't know what I mean by a "winning legacy" and don't realize what a phenomenal organization DAYL is, please allow me to share a few facts:

- DAYL has over 3,000 members, 30 committees and 150 projects a year.
- DAYL committees have raised thousands of dollars for local philanthropies and non-profits. For example, through the **Freedom Run**, DAYL has raised and donated over \$200,000 to the **Assist the Officer Foundation**, which assists first responders and their families. Through the Animal Welfare Committee's **Yappy Hour**, DAYL has raised and donated over \$20,000 to **Operation Kindness**, the oldest no-kill animal shelter in North Texas. Just last year, the Equal Access to Justice Committee raised over \$7,500 for the Dallas Volunteer Attorney Program from proceeds from DAYL's annual **Wine Tasting**.

- DAYL members have also worked hundreds of hours for the local community – including answering legal questions at **Ask-A-Lawyer** clinics, helping to build a home for **Habitat for Humanity**, packing care



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packages for troops stationed overseas with **Attorneys Serving Troops**, and making sandwiches for the homeless through **Generation Generosity**, just to name a few.

Don't just take my word for it -- We win awards *Every. Single. Year.* DAYL has been recognized nationally by the American Bar Association's Young Lawyer Division and on the state level by the Texas Young Lawyers Association. Some of our award-winning projects include the Aid to the Homeless Committee's **Community Court Program**, the Lawyers Promoting Diversity's **Dinner and Dialogue**, and the Animal Welfare Committee's **Animal Control Officer Training**. Just last year, we won awards for our newsletter (yup – the one you're reading!), for our service project to the bar (Ad Litem Training for guardianship cases), for our service project to the public (Generation Generosity) and best overall young bar association of our size.

Of course, this doesn't magically happen. This success can only be attributed to the collective efforts of all the past committee members and chairs, board members, officers, and our executive director, **Cherie Harris**, who have all contributed to the winning legacy that made DAYL what it is today.

I hope that you too will join the winning legacy of DAYL. It really is easy – just show up at one of our award-winning events or pitch in on one of our award-winning projects and reap the benefits of knowing that you're already winning.

## DAYL Accepting Nominations for Prestigious Awards

**D**AYL is accepting nominations for its Outstanding Young Lawyer Award, the Liberty Bell Award, and the Outstanding Mentor Award. The recipients will be presented with their awards at the DBA Annual Law Day Luncheon. Each winner will then be submitted to the Texas Young Lawyers Association for statewide consideration.

### Outstanding Young Lawyer Award

To be eligible for selection as the DAYL's Outstanding Young Lawyer, nominees must have been 36 years of age or younger as of June 1, 2013. In addition, nominees must be licensed to practice law in Texas and be members in good standing of the State Bar. The Awards Committee will consider all outstanding qualities of a nominee, including (1) exemplified professional proficiency; (2) service to the profession; and

(3) service to the community.

### Liberty Bell Award

The Liberty Bell Award recognizes a non-lawyer of any age who has made a selfless contribution to the community by strengthening the effectiveness of the American system of justice. The categories of community service to be considered include activities that (1) promote a better understanding of our form of government, especially the Bill of Rights; (2) encourage greater respect for the law and the courts; (3) stimulate a deeper sense of individual responsibility; (4) contribute to the effective functioning of our institutes of government; and (5) instill a better understanding and appreciation of the rule of law. Non-lawyers of any age are eligible to receive this award.

### Outstanding Mentor Award

The DAYL Outstanding Mentor Award is awarded to a lawyer in Dallas

who has consistently demonstrated a commitment to mentoring young lawyers in his or her legal community. Nominees must be licensed to practice law in Texas, have paid membership dues prescribed by the Supreme Court of Texas and be members in good standing of the State Bar. The DAYL Awards Committee will consider all outstanding qualities of a nominee, including (1) service as a role model to young lawyers in the legal community; (2) fostering the development of young lawyers; and (3) significant contributions to the profession and/or the community.

Nominations for each award may be made by individuals, groups of individuals, or organizations. If you would like to nominate someone for an award, contact **Jonathan Childers** [jchilders@ghjlaw.com](mailto:jchilders@ghjlaw.com) or 214.855.6872). The deadline for submitting nominations is **March 10<sup>th</sup>, 2014**.

## DAYL Foundation Hosts Fellows Luncheon

**T**he DAYL Foundation held its annual luncheon on December 12, 2013. Over 140 people attended the luncheon, which featured remarks by **Dale Hansen**, WFAA's weeknight Sports Anchor. Dallas Attorney **Rob Crain** was presented with the annual Award of Excellence to recognize his continued commitment to community outreach.

In further recognition of community outreach, the DAYL Foundation recognized two law students, **Allyson Yates** from SMU Dedman School of Law and **Josephina Louis Pena** from Texas Wesleyan University School of Law, with a scholarship award for their dedication to community service and outreach. The award will be applied to their spring law school tuition.

The DAYL Foundation is a 501(c)(3) organization established for charitable and educational purposes. It has given over \$175,000 to organizations that support legal education and causes. For more information about the DAYL Foundation or to inquire about the granting process, please contact **Cherie Harris** ([cherieh@dayl.com](mailto:cherieh@dayl.com)).





# GrowSouth Jams Rocks Dallas and Raises \$8,000 for DISD Schools

by Leah Frazier

**O**n October 17, 2013, the DAYL 2012 Leadership Class presented GrowSouth Jams—a benefit concert held at the historic Kessler Theater in the heart of Oak Cliff to raise funds for three Dallas Independent School District (“DISD”) schools adopted by **Dallas Mayor Mike Rawlings’** GrowSouth initiative. The concert was a product of a year long’s worth of planning and preparation by members of the 2012 Leadership Class and was the class’ official civic project for the year.

Mayor Rawlings’ GrowSouth plan was the sole inspiration behind the concert and features ten objectives geared towards the economic and overall development of the southern sector of Dallas—an area often overlooked by many and sadly underfunded. With the DAYL Leadership Class focusing on the Mayor’s third objective “Strengthen Schools, Strengthen

Communities,” GrowSouth Jams would not only raise funds to further DISD education but more importantly, highlight the initiatives and goals of the Mayor’s overall GrowSouth plan.

GrowSouth Jams welcomed a crowd of enthusiastic attendees at the Kessler Theater with highlights of the evening including a special welcome by Mayor Rawlings. Rawlings posed for pictures with the DAYL Leadership Class prior to taking the stage in addition to extending a warm gratitude of thanks to the evening’s concert performers.

Following Rawlings’ opening remarks, attendees kicked back, relaxed and enjoyed an acoustic performance by American Idol performer and national recording artist, **Tim Halperin**; an upbeat fusion hip-hop jazz set by “2013 Best R&B/Funk Band in Dallas” nominee, **The Boombachs**; and an energetic and soulful headlining act by “2013 Best

R&B/Funk Band in Dallas” winner and Chevy Music Showcase artist, **Larry g(EE)**. The overwhelming support by the legal community was prevalent as attorneys along with family and friends of DAYL let their hair down and rocked out to some of the best in local talent in order to support the GrowSouth cause.

The DAYL 2012 Leadership Class through the GrowSouth Jams concert raised over \$8,000, which will go towards supplies and other designated necessities for the three beneficiary DISD schools: Lincoln High School, Madison High School and Dade Middle School. As a token of appreciation, the Leadership Class would like to extend its thanks and gratitude to not only Mayor Rawlings and DAYL Leadership Class alum, **Adam McGough**, for their continuing support of GrowSouth Jams but also to all of the sponsors, guests and attendees who inevitably made GrowSouth Jams a stellar success.



*Dallas Mayor Mike Rawlings addressed the 2012 Leadership Class about his GrowSouth Initiatives*







# Five Things (and Then Some) Every Lawyer Should Know About Tax Law

by Jason Freeman

“Tax law”—the phrase is as likely to conjure images of pocket protectors and wire-rimmed glasses as it is to prompt a sudden burst of heart palpitations. Well take a deep breath; we’ll keep it simple and relevant. The bottom line is: Tax laws affect every lawyer’s practice. So here are a few tips to help identify and diagnose some tax issues that come up with some frequency.

## 1. Contingent Fees

As a general rule, when a lawyer works on a contingency-fee basis and the client recovers an award, the client must recognize and report the entire amount of the recovery as gross income, regardless of whether the lawyer’s contingency fee is paid directly by the client. So, for instance, if a jury awards a plaintiff \$1,000,000 and the lawyer keeps a 30-percent contingency fee, generally the plaintiff has \$1,000,000 of income, not \$700,000—again, even if the client never touches the lawyer’s share. “So what?” you say, “can’t the client just deduct the fee?” Well, that depends.

## 2. Deducting Legal Fees

When it comes to deducting legal fees, not all fees are created equal. On one end of the spectrum are “ordinary and necessary” legal fees incurred in carrying on a trade or business, which are generally deductible. On the other end of the spectrum; however, are legal fees incurred for purely personal purposes—for example, divorce—which are generally non-deductible. Of course, the line between business and personal expenditures is not always crystal clear.

There are some special categories too. For instance, legal fees for tax advice are deductible. There’s an important take-away here: A lawyer can often minimize her after-tax cost to a client by distinguishing her fees between those that are deductible and those that are not.

## 3. Statute of Limitations

The Internal Revenue Code establishes an intricate statute-of-limitations framework

for the assessment and collection of taxes. Generally, the Service has only three years to assess additional tax liability after a tax return is filed or deemed filed. However, that is only the general rule. Under the so-called “substantial omission” exception—the most common, though not only, exception—the general three-year period is extended to six years if the tax return reflects a substantial omission from gross income (defined as an amount exceeding 25-percent of the gross income stated on the return). Finally, if the tax return is determined to be fraudulent, the Service can assess additional tax at any time in the future—in other words, there is no statute of limitations.

## 4. IOLTAs

Lawyers are often curious about how IOLTA trust accounts are treated for federal tax purposes. Well, here’s an easy one: Interest earned on IOLTA trust accounts and paid to the Texas Access to Justice Foundation is not includible in the income of either the client or the lawyer. Moreover, the lawyer is not required to report the interest paid to the Foundation; therefore, no need to issue a 1099-INT.

## 5. The Collection of Taxes

Finally, let’s address a few important facts about the collection of taxes. First, the IRS is not your average creditor. When the Service demands payment and a tax is not paid, a lien automatically arises by statute. The lien is expansive, attaching to “all property and rights to property” belonging to the taxpayer—and it is effective regardless of whether the Service has actually filed a Notice of Federal Tax Lien or not. Thus, it is often referred to as a “silent lien.”

Attorneys should pay particular care (especially where a tax lien has been filed) when representing an executor, trustee, or other person functioning in a representative capacity. Under the federal priority statute, such a person can be held personally liable for distributions or disbursements from an estate or trust that are made while federal

taxes are owed. How’s that for a trap for the unwary?

And finally, one last pointer to clear up a common source of confusion: state homestead protection laws do not prevent the federal government from foreclosing on a taxpayer’s home when it has a tax lien on the home. While state law creates legal interests in property, federal law governs what is and is not exempt from levy and foreclosure in this context. Even if property is exempt from foreclosure under state law, the supremacy clause allows the federal government to sweep aside state-created exemptions and foreclose.

So there you have it—five things (and then some) that every lawyer should know about tax law.

*Jason B. Freeman, J.D., C.P.A. practices tax litigation and white-collar defense at Meadows Collier.*

The DAYL is embarking on a new program where young lawyers will have the opportunity to be an education advocate for a foster child. Working with Texas Lawyers for Children and the Honorable Cheryl Shannon in the 305th District Court, this program is meant to enhance the educational outcomes for children and youth in foster care. A training session has been scheduled for noon on January 9th, 2014, at the Belo Mansion. Training is required to participate in the program. All TYLA members will be covered by malpractice insurance. If you would like additional information about this great opportunity to make a real difference in a child’s life, contact Cherie Harris (cherieh@dayl.com).



# The 2013 DAYL Holiday Social Sponsored by HG Litigation was a Great Success



*Attendees donated toys and stuffed animals that were donated to Texas Scottish Rite Hospital for Children.*

