



September 2014

Vol. 31, No. 9

THE DICTA

The Docket

- September 11 (Thursday)
DAYL Freedom Run
6:30 p.m., Dallas City Hall
- September 16 (Tuesday)
DAYL Elder Law Committee Meeting
Noon, Belo Mansion
- September 16 (Tuesday)
DAYL Pub Trivia
7:00 p.m., State & Allen
- September 17 (Wednesday)
DAYL Back to School Happy Hour
5:30 p.m., Quarter Bar
- September 18 (Thursday)
DAYL Lawyers Serving Children Committee Meeting
Noon, Belo Mansion
- September 18 (Thursday)
DAYL Animal Welfare Committee Meeting
Noon, Belo Mansion
- September 18 (Thursday)
DAYL Elder Law Heirship Prove-Ups CLE
4:00 p.m., Probate Court No. 2
- September 18 (Thursday)
Sister Bar Social Benefitting EAJ
6:00 p.m., Craft and Growler
- September 12 (Tuesday)
DAYL Lawyers Promoting Diversity
Committee Meeting
Noon, Belo Mansion
- September 25 (Thursday)
DAYL Young Employment & Labor Lawyers
Happy Hour
6:00 p.m., Tap House
- September 26 (Friday)
DAYL CLE Committee Meeting
Noon, Belo Mansion
- September 27 (Saturday)
DAYL Ask-A-Lawyer Clinic
10:00 a.m., Mesquite Public Library
- September 29 (Monday)
DAYL Solo / Small Firm Committee Meeting
Noon, Belo Mansion
- September 30 (Tuesday)
DAYL Aid to the Homeless Committee Meeting
Noon, Belo Mansion
- September 30 (Tuesday)
DAYL Dinner with the Judiciary
5:45 p.m., Tower Club
- October 4 (Saturday)
DAYL Generation Generosity Service Project
7:00 a.m., American Airlines Center
- October 4 (Saturday)
DAYL Community Court Program
7:30 a.m., The Stewpot

Give Back at Craft and Growler

September 18 is North Texas Giving Day and the DAYL, Dallas Bar Association, Dallas Asian American Bar Association, Dallas Hispanic Bar Association, J.L. Turner Legal Association, and Dallas Gay and Lesbian Bar Association are co-hosting a social at **Craft and Growler** to raise money for the Equal Access to Jus-

tice Campaign. Craft and Growler is located at 3601 Parry Avenue in Dallas and they will be donating a percentage of sales during the event to the EAJ campaign. For information about the North Texas Giving Day program, visit <http://www.northtexasgivingday.org>.

We hope to see you at 6:00 p.m. at Craft and Growler on September 18!

Elder Law Committee Hosts Introduction to Heirship Prove-Ups CLE

The DAYL Elder Law Committee, the Probate Courts of Dallas County, and DVAP are hosting a free Introduction to Heirship Prove-Ups CLE course on **Thursday, September 18** at 4:00 p.m. in Probate Court No. 2. Come watch experienced probate attorneys conduct a mock prove-up and learn valuable practice tips from our panel of probate judges and attorneys on how to handle

issues which may arise in Heirship proceedings. You'll learn how to determine the heirs' shares, handle service and proof issues, and hear from our panel on issues they've encountered and how to address them. Participants will receive an hour of CLE credit, including .25 ethics. The course is open to everyone, including those awaiting bar results.

RSVP to **Ellen Williamson** (ellen@ellenwilliamsonlaw.com).

The DAYL Assisting Lawyers in Transition (ALIT) Committee is sponsoring a mock interview month during the month of September. The ALIT Committee will be pairing young attorneys (including those that have taken the bar exam and are waiting for results) with more experienced attorneys for onsite mock interviews. Participants are encouraged to schedule and complete the mock interviews during the month of September. Contact Cherie Harris (cherieh@dayl.com) for details.

The DAYL Annual Meeting will be held on **Thursday, October 9, 2014** beginning at 6:00 p.m. at the Belo Mansion. The purpose of the meeting is to receive nominations for Officers and Directors for the 2015 bar year.

If you are interested in running for a position on the DAYL Board of Directors, contact Cherie Harris (cherieh@dayl.com) or Jonathan Childers (jchilders@ghjhlaw.com).

Committee co-chair positions are also available for 2015. If you are interested in getting more involved in DAYL in 2015, please contact Cherie Harris or Jonathan Childers.

THE DICTA

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Copy Deadline for October Issue:

September 15, 2014

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From the President

Let Freedom Run.



Meyling Ly

I don't know if I would consider myself as always having been a patriot.

Certainly, since meeting my fiancé, who served in Afghanistan, I have more appreciation for our military. Admittedly, he influenced me to start the DAYL's Attorneys Serving Troops committee. But looking back at my childhood, my parents' message was not overtly – 'be proud you're an American,' but rather, it was subtle, anecdotal but consistent: "Back home, we would have been executed for saying that," my father would tell me from time to time, as we watched the news at night. Or sometimes, he would shake his head at the screen, "Americans just don't know how lucky they are to have all this freedom – without suffering. They seem to forget how much freedom costs."

I hope you'll cut my dad some slack for his criticism. He narrowly escaped the Pol Pot regime of Cambodia where millions of people were killed – some for speaking out, some for being able to read, and some for just wearing glasses. (You get the picture).

I remember helping my parents study for their citizenship test. The frustration sometimes caused me to whine, "Why are we doing this again?" Their death stares shut me up, as we continued to study historical facts that I did not even learn in school. I never got an explanation, but when my parents took their oaths to become American

citizens, their beaming faces said it all. Needless to say, my parents couldn't wait to vote. And when I became 18, they couldn't wait for me to vote. And every four years, they ask me who I voted for.

So I guess that was my foundation for patriotism...it was simply expected of me because of my parents' arduous journey to freedom, but it wasn't until the tragic events of September 11, 2001 that I genuinely felt it – that I personally felt sadness, pain and anger because my country (and my countrywomen and men) had been attacked. And felt like it was my duty as a citizen to do something about it.

While I obviously was not here at the time, DAYL was no different – and through that year's leadership class, the Freedom Run was born. Yes, the Freedom Run is a fundraiser for a noble organization – the Assist the Officer Foundation, which provides assistance for first responders who put their lives at risk every day. But it's so much more than that.

It's an opportunity for us to unite and honor the heroes and victims of those tragic events of September 11, 2001. It's an opportunity to do celebrate those who sacrifice their lives for us every day. It's our opportunity to show the world that Dallas young lawyers are patriots, especially on Patriot's Day. On September 11, 2014, I hope you'll join me in letting freedom run.

www.freedomrun.com.



DAYL Dinner with the Judiciary
Tuesday, September 30, 2014

5:45 - Cash Bar and Cocktail Reception • 6:45 p.m. – Dinner and CLE Program
The Tower Club, 1601 Elm Street, 48th Floor
\$30 per person • One hour ethics CLE credit

Panelists Include:

- The Honorable Catharina Haynes, United States Court of Appeals for the Fifth Circuit
 - The Honorable Tena Callahan, 302nd Civil District Court
 - The Honorable Martin Hoffman, 68th Civil District Court
- Moderated by Victor Vital, Shareholder at Greenberg Traurig

The 2014 Dinner with the Judiciary will feature a CLE presentation on the ethics of lawyer-judge communications outside of the courtroom and off-the-record. The panelists will address ethical issues related to appropriate and potentially inappropriate communications between lawyers and judges in a variety of settings, including at social events, in connection with judicial campaigns, through social media, and in other common interactions.

RSVP required by September 25 to Cherie Harris (cherieh@dayl.com).

On Saturday, October 4, DAYL has two volunteer opportunities available to DAYL members. The DAYL's October Generation Generosity service project will be in connection with the Walk to End Alzheimer's. Beginning around 7:00 a.m., DAYL volunteers will assist with event logistics, such as helping with registration and distributing t-shirts to participants. The DAYL Elder Law Committee will also field a team at the event. Please email Steven Hallbauer (steven@lemonshallbauer.com) for additional information.

The DAYL Aid to the Homeless Committee will host its Community Court program beginning at 7:30 a.m. on October 4 at the Stewpot. The Community Court program is a way for homeless people to eradicate class C misdemeanors from their record in exchange for community service. This is a great opportunity to help Dallas's homeless population and help them get a fresh start so they may look for employment or housing. Please email Pamela Sieja (psieja@brlaw.com) for additional information.

We hope to see you at one of these great events on October 4!



DAYL CHARITY BALL

ONE EPIC NIGHT
at
TRINITY GROVES

ON SALE NOW

TICKETS AVAILABLE UNTIL SOLD OUT AT
www.daylcharityball.com

BENEFITING EPIC AND DALLAS HABITAT FOR HUMANITY
SATURDAY, NOVEMBER 15, 2014 AT 7:00 PM
3015 AT TRINITY GROVES

FEATURING LIVE MUSIC BY SIGNED SEALED DELIVERED
FOOD | DRINKS | DANCING | SILENT AUCTION
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DAYL Announces its 18th Leadership Class

DAYL is thrilled to announce the 43 members of the 2014 DAYL Leadership Class. The class met for an overnight retreat at the end of August at Possum Kingdom Lake for two days of team building exercises, leadership training, and some fun in the sun. There was even an Ice Bucket Challenge that was fulfilled, and paid forward, although our friends at the **Houston Young Lawyers Association** and the **Austin Young Lawyers Association** have yet to make good on the class's

challenge to them. Not that we're calling anyone out; we're just saying...

Serving as facilitators this year are **Aaron Tobin** (Anderson Tobin), **Dena DeNooyer Stroh** (Murchison Oil and Gas), **The Honorable Rob Cañas** (Criminal District Court Number 10), **Laura Benitez Geisler** (Geisler Law Firm), **Mark "Injury-Free" Melton** (Hunton & Williams), and **Terry James** (West & Associates LLP). **Rob Crain** (Crain Lewis), **Robert Witte** (Strasburger & Price), and **Karen**

McCloud (Law Office of Karen McCloud) serve as class facilitator emeriti. DAYL President **Mey Ly** (Littler Mendelson) and DAYL President-elect **Jonathan Childers** (Gruber Hurst Johansen Hail Shank) also attended the retreat, as did **PJ Dunn**, a professional life coach and DAYL's resident DJ.

The class and facilitators had a great time and learned a lot about themselves and each other. Congratulations to those who were selected to be a part of this Legacy of Leadership!

Alison R. Williams
Chamblee, Ryan, Kershaw, Anderson

Alvin F. Benton
Holland & Knight

Amber M. Rogers
Hunton & Williams LLP

Amber K. Shemesh
Modjarrad Abusaad Said, P.C.

Andy Jones
Kastl Law, P.C.

Ann Chao
BT Furnishings

Ashley Aten
Vela Keller

Bri Turner
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& Blumenthal, L.L.P.

Collin Lensing
Attorney at Law

Crystal Y. Moore-Mitchell
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& Blumenthal, L.L.P.

Dennis Siaw-Lathey
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Derik Scott
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Jared M. Slade
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Patel Law, PLLC

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Rami Jabara
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& Blumenthal, L.L.P.

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Trent Rexing
Kane Russell Coleman & Logan

Scenes from the 2014 DAYL Leadership Class Retreat



DAYL's Bowling with the Bench a Great Success!

Bowling dates back approximately 4,000 years. The Greeks and the Romans bowled, so it makes sense that judges and attorneys should do the same. During the evening of July 24, over 70 people comprised of Dallas judges and attorneys did just that—bowling and socializing for two-and-a-half hours at Bowlounge. The attorneys in attendance had

the chance to socialize with **Judges Roberto Cañas, Judge Martin Hoffman, Judge Phyllis Lister Brown, Judge Ken Tapscott, and Judge Carlos Cortez.** These judges welcomed attendees to bowl and chat with them as colleagues, and for that, the DAYL thanks them.

The DAYL also thanks **Opes One Advisors** for sponsoring the event. While no one bowled a 300, everyone had a blast

and a few attendees even walked away with door prizes because of the generous contributions of Opes One Advisors. If you would like to know more about Opes One Advisors and the services it provides, contact **Leslie Botto Atkins** (214-918-8724) to ask for details. Otherwise, start improving your game for next year because it is bound to be bigger and better than ever.



Join the DAYL Animal Welfare Committee and Operation Kindness for the "Paws on the Green" Golf Tournament

On Saturday, September 27th, at 8:00 am, Operation Kindness will hold its 3rd Annual "Paws on the Green" charity golf tournament at Indian Creek Golf Course. The Animal Welfare Committee invites golfers of all skill levels to participate. Mark your calendar now for this fall event. Come enjoy breakfast and lunch, raffle prizes, longest drive and closest to the pin contests, and more! Your participation will help to support Operation Kindness, North Texas' oldest and largest no-kill animal shelter. Sign up here: <http://www.kintera.org/htmlcontent.asp?cid=642848>

The Jimmy and Rosalyn Carter Work Project is coming to DFW October 5-11, 2014.

Please Save the Date and volunteer to help!

DAYL needs volunteers especially on November 8 to finish up minor projects in connection with the Carter Work Project.

Email Cherie Harris (cherieh@dayl.com) for details.

DAYL Pub Trivia is BACK

Join us on Tuesday, September 16th, 2014 beginning at 7:00 p.m. at State and Allen located 2400 Allen Street Dallas, Texas 75204 for Pub Trivia.

Pub Trivia is a trivia game consisting of teams where every team can answer every question. There are no buzzers. A moderator asks a question and every team can collaborate with their teammates and write down an answer and present it on a board when time is called. Topics include United States Presidents, the Texas State Fair, Beer, and the Emmys.

Free for DAYL members, \$5 for non-members. If interested, RSVP to Barbara Pelaez (bmpelaez@gmail.com).

Approaching and Litigating a Traumatic Brain Injury Case

by Jennifer Lee

Everyone knows that a traumatic brain injury is a serious case to defend. The case becomes even more difficult when it is questionable if a traumatic brain injury truly occurred or if someone experienced loss of consciousness and is diagnosed with post-concussive syndrome with continuing symptoms. This is largely difficult because most medical professionals will testify that someone who had loss of consciousness has post-concussive syndrome which by many is termed a brain injury.

In the State of Texas, verdict awards in brain injury cases have ranged between \$2,000,000.00 and \$20,000,000 and then some in the past few years. In Dallas County, a recent verdict in the amount of over \$4,000,000.00 was awarded for what the defense argued was a questionable mild traumatic brain injury, if any at all. Thus, developing the facts surrounding the claimed brain injury is an essential part of valuing and defending your case. This is especially true when many doctors will determine a person has post-concussive syndrome if they suffered any level of loss of consciousness or possibly without loss of consciousness at all. Post-concussive syndrome is considered by many as a brain injury; especially in light of much discussion about concussions in relation to the National Football League. So, what does one look at to develop evidence about an alleged brain injury?

Medical professionals attribute a blow or a jolt to the head as the cause of a brain injury. Loss of consciousness is also important, but not essential. The Glasgow Coma scale is generally used by medical professionals to determine if a person had a concussion and if so, to what degree. The Glasgow Coma scale attributes numbers to different categories which are totaled to determine the level of loss of consciousness and/or brain injury. But, even if a person did not lose consciousness, other issues such as confusion will

be viewed to support a classification of post-concussive syndrome or another brain injury description.

CT scans of the head that return normal findings do not mean that a brain injury did not occur. A CT of the head is simply a view of the structure of the head meaning that fractures or structural damage to the brain will be identified but post-concussive syndrome or other complications will not be shown in any fashion on a CT scan. Thus, much of what the medical professional has to go on when determining if a brain injury is occurring, is the subjective complaints of the patient which can be problematic. There are developments in the medical field that are attempting to make diagnosing a brain injury more concrete.

A rare but new technique that has been developed is called Diffusion Tensor Imaging (DTI). Experts related to this type of "scan" relate that a standardized CAT or MRI brain scan may reflect normal findings in concussion patients but DTI picks up tears in the white matter of the brain. This is important because white matter links areas of gray matter of the brain to produce thinking functions such as attention or memory. Thus, if the white matter is damaged by a concussion, the connections get disrupted and attention and memory are affected. This, of course, has not been as widely used as other scans we are used to so the impact of DTI on brain injury cases is not yet widely known.

So, without use of scientific evidence such as a DTI, what supports a diagnosis of post-concussion syndrome? Doctors claim "ice-pick headaches" are one of the most common indicators of post-concussive syndrome. These are described as headaches that come on suddenly with severe pain as if someone is poking an ice-pick through the head. These headaches cannot be treated as they come on suddenly and then likely go away just as fast. There are no studies to support how

long these headaches will plague a person. Additionally, persons with post-concussive syndrome generally experience sleeplessness or any other symptom not experienced before the claimed incident. In terms of resolving these symptoms one can take sleep aides and ibuprofen but there is no definitive cure other than time.

From a defense standpoint, the key is to identify from the initial medical records if there is the possibility of a brain injury claim. Detailed review of the accident and medical records to determine if the mechanism of injury supports such a claim is necessary as well. Then, depending on treatment sought, it is important to determine any experts that can be retained to assist with defense of the case. Also, deposition of the Plaintiff and Plaintiff's main medical care provider is essential. The Plaintiff's claims as to how the injury occurred and the continued symptoms are necessary to discuss with plaintiff's medical care provider. Jury verdict research for your venue in regard to similar claims is always helpful in assessing the value of your case as well. This information is a brief overview of experience with brain injury cases but the most important thing to note is that special care must be afforded as every case claiming injury to the brain must be taken seriously.

Jennifer Lee is a partner at Fee, Smith, Sharp & Vitullo and can be reached at jlee@feesmith.com.

Join the DAYL Young
Employment & Labor
Lawyers (YELL) Committee
on Thursday, September
25 at 6:00 p.m. for a
happy hour at Tap House.
RSVP to Cherie Harris
(cherieh@dayl.com).

Scenes From Recent DAYL Events



DAYL, Dallas Women Lawyers Association, and Socialite Pink collaborated in July to organize a women's business development networking program.



DAYL members volunteered with the Community Partners of Dallas to assemble backpacks for foster children in connection with July's Generation Generosity Service Project.



August's Generation Generosity service project provided DAYL members with an opportunity to have a movie and games night with the children at the Promise House.



DAYL's Ask-A-Lawyer Committee helped a lot of people with general legal questions during free-advice clinic at Lakewood Library on June 28.