



January 2015

Vol. 32, No. 1

THE DICTA

The Docket

January 20 (Tuesday)
Mock Interview Program
11:30 a.m., UNT College of Law

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

January 20 (Tuesday)
DAYL Lawyers Promoting Diversity Committee Meeting
Noon, Belo Mansion

January 22 (Thursday)
DAYL Lunch and Learn CLE
Noon, Belo Mansion

January 23 (Friday)
DAYL Freedom Run Committee Meeting
Noon, Belo Mansion

January 24 (Saturday)
DAYL Generation Generosity Service Project
9:15 a.m., Dallas Urban Debate Alliance

January 26 (Monday)
DAYL Mock Interview Program
11:30 a.m., UNT College of Law

January 26 (Monday)
DAYL Solo / Small Firm Committee Meeting
Noon, Belo Mansion

January 26 (Monday)
DAYL Law Student Assistance Committee Meeting
Noon, Capitol Pub

January 27 (Tuesday)
DAYL Attorneys for Career Enhancement Committee Meeting
Noon, Belo Mansion

January 27 (Tuesday)
DAYL Mock Interview Program
UNT College of Law, 4:45 p.m.

January 27 (Tuesday)
DAYL Pub Trivia
7:00 p.m., State and Allen

January 28 (Wednesday)
DAYL Equal Access to Justice Committee
Noon, Belo Mansion

January 29 (Thursday)
DAYL Social
6:00 p.m., Kenichi

January 30 (Friday)
DAYL CLE Committee Meeting
Noon, Belo Mansion

DAYL ONE TO WATCH

Crystal Moore has been selected as the January 2015 DAYL One to Watch! To find out why, visit www.dayl.com.

Kick Off 2015 at Kenichi

Brian Bleeker, Realtor and Top Producer with Dave Perry Miller & Associates will be sponsoring the DAYL January Social at **Kenichi Sushi Restaurant** in Victory Park. Brian has been recognized by D Magazine as a multi-year “Best” agent and “Top Producer.” Brian has worked with many DAYL members and prides himself on

his “top notch” service and is very knowledgeable about loan programs designed for attorneys. Brian will also be doing a drawing at 7:00 p.m. for a \$250.00 gift card.

The Social will be held on **Thursday, January 29, 2015** from 6:00 - 8:00 p.m. The cost to attend is \$3.00 for DAYL members and \$5.00 for non-members. Attendees will receive two drink tickets and appetizers. We hope to see you there!

Dallas County Judge Clay Jenkins to Speak on DAYL Panel

Join DAYL at the Belo Mansion at noon on **Thursday, January 22, 2015**, for a one hour CLE on the legal issues in public health emergencies. The program will focus on the legal issues surrounding actual and potential epidemics, including the circumstances under which public health officials may impose quarantine and isolation orders, when medical health information may be disclosed to the public and

media, and the legal issues employers face in responding to public health fears.

Speakers include **Dallas County Judge Clay Jenkins, Cheryl Camin Murray**, a partner at Winstead, P.C., and **Steve Fox**, a shareholder with Polsinelli.

There is no charge for DAYL members to attend; the non-member fee is \$10. Lunch is available for purchase at the Belo Mansion. RSVP to **Cherie Harris** at cherieh@dayl.com.

Generation Generosity Teams with Dallas Urban Debate Alliance

Did you make a New Year’s Resolution to get involved in DAYL? If so, we have a great opportunity that will help you make a difference in the lives of DISD students. Come join DAYL’s Generation Generosity Committee as we pair up with the Dallas Urban Debate Alliance to help judge their middle school tournament on **Saturday, January 24th, 2015** from 9:15 a.m. until 12:00 p.m.

The Dallas Urban Debate Alliance is committed to providing every DISD student the opportunity to participate in rigorous academic policy debate. As such,

they host various debates which are designed to help DISD students become articulate and informed leaders in their school or community. That’s where we come in – they need volunteers to help judge their debates! The good news is that you don’t need any experience with debate (at all) to assist in being a judge. You just have to show up and make a difference! Contact **Bri Turner** at bturner@ccsb.com to sign up.

Be sure to save the date for the next Generation Generosity event to take place from 9:00 a.m. until noon on February 21st as we work with Operation Kindness!

THE DICTA

Charles Gearing, Editor

Published monthly by the
DALLAS ASSOCIATION OF YOUNG LAWYERS
2101 Ross Avenue
Dallas, Texas 75201
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www.dayl.com
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Copy Deadline for February Issue:

January 20th, 2015

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From the President

Be Healthy, Wealthy, and Wise in 2015 – It’s a Lifestyle



Jonathan Childers

Benjamin Franklin said, “[e]arly to bed and early to rise, makes a man healthy, wealthy, and wise.” Though we might not always follow the “early to bed and early to rise” part, in 2015, DAYL is implementing programs designed for its members to be **Healthy, Wealthy, and Wise**.

Young lawyers face increased demands and pressures spurring DAYL to place additional emphasis on improving their *quality of life*. In 2015, DAYL will focus on improving the lives of young lawyers, while maintaining its proud tradition of service to the Dallas community.

Being **healthy** requires a holistic approach focusing on body, mind, and spirit. That’s why DAYL has a new “Whole-Istic Wellness” initiative, which seeks to empower young lawyers to practice good physical and mental health as part of their lawyer lifestyle.

Being **wealthy** entails working towards economic self-sufficiency, handling finances, and benefitting from diversity and service opportunities. In 2015, DAYL will address tough issues facing young lawyers, such as student loans, credit card debt, a fickle job market, diversity challenges, fewer courtroom opportunities, and business development. One new project for 2015, **Breakfast with Business Peers**, features a breakfast networking series connecting young lawyers with their contemporaries in business.

Being **wise** means applying lessons learned from experience and being resourceful. In 2015, DAYL will offer experiential learning opportunities through a series of **Practice Skills Boot Camps**. Save the date of **Saturday, June 6, 2015** – DAYL’s inaugural Trial Boot Camp. This one-day, hands-on trial skills academy will feature many of Dallas’s premier judges and

trial attorneys, who will teach and critique young lawyers. Also, be on the lookout for the first-ever **Deal Boot Camp**, which is a one-day academy for DAYL’s transactional attorneys, focusing on navigating and mastering the deal process.

Before we delve too far into 2015, special thanks to the DAYL’s President in 2014, **Mey Ly**. Mey, you did a fantastic job and we have all benefitted from your leadership and collaborative style. Also, special shout-out to **Cherie Harris** – DAYL’s Executive Director – who makes what we do possible.

2015 will be an exciting and fruitful year for DAYL, propelled by an outstanding, energized Board of Directors and Co-Chairs who will lead our committees. We practice inclusivity and have promoted even more DAYL members to leadership roles.

Whatever your goals for 2015, I can tell you that involvement in DAYL WILL help you achieve them. Practicing a lifestyle conducive to health, wealth, and wisdom will not be easy, nor will it bring overnight success to your career. However, I guarantee you that joining DAYL’s efforts to practice a “healthy, wealthy, and wise” lifestyle will, in time, lead to exponential growth in all facets of your life – both professionally and personally. This type of organic growth and maturity does not happen fortuitously, but results from deliberate effort.

Please join us in continuing the tradition of excellence that is DAYL. Want to get involved? We want YOU! Check out our sharp new website: www.dayl.com. Call or e-mail Cherie, me, anyone on our Board, or any of our Co-Chairs. We’ll get you plugged in. Join us in being a part of something special in 2015.

DAYL Calls for Nominations for Prestigious Awards

DAYL 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, 2014. 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

this 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, please contact **Stephanie Gause** (stephaniekg@bellnunnally.com or 214.740.1487). A nomination form for each award is located on the DAYL website at <http://dayl.com/awards/>. The deadline for submitting nominations is **March 10th, 2015**.

The DAYL Law Student Assistance Committee is seeking volunteers to conduct mock interviews with law students at UNT Dallas College of Law and at SMU Dedman School of Law. By serving as a mock interviewer, you will be helping law students prepare for their upcoming interviews for summer internships and clerkships. Sign up for an interview slot to make sure this program is a continued success!

UNT College of Law Mock Interviews will be held on:

- Tuesday, January 20, 2015 - 11:30 a.m. – 12:45 p.m.
- Monday, January 26, 2015 - 11:30 a.m. – 12:45 p.m.
- Tuesday, January 27, 2015 - 4:45 – 6:00 p.m.

SMU Dedman School of Law Mock Interviews will be held on:

- Wednesday, February 4, 2015 - 5:00 p.m. – 8:00 p.m.
- Thursday, February 5, 2015 - 5:00 p.m. – 8:00 p.m.

To sign up to be an interviewer, please visit <http://dayl.com/mock-interviews/>.

Should you have any questions or need additional information regarding the mock interview program, please contact Alex Bolton (abolton@uplawtx.com) or Ashley Withers (awithers@jw.com).

DAYL Foundation Hosts Fellows Luncheon

The DAYL Foundation held its annual luncheon on December 11, 2014. Over 130 people attended the luncheon, which featured remarks by Texas Supreme Court Justice **Debra Lehrmann**. Dallas Attorney **Martha Hardwick Hofmeister** was presented with the Foundation's Award of Excellence to recognize her extraordinary com-

mitment to community outreach.

In further recognition of community outreach, the DAYL Foundation recognized two law students, **Seth Phillips** from SMU Dedman School of Law and **Michelle Gunter** from Texas A&M 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 \$190,000 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).



(l to r) DAYL Foundation Chair Stephanie Gause, DAYL Foundation Trustee Rebekah Brooker, Texas Supreme Court Justice Debra Lehrmann, Scholarship Recipient Seth Phillips, DAYL Foundation Trustee Becky Niederstadt Palm, and Award of Excellence Recipient Martha Hardwick Hofmeister.



2004 Award of Excellence Recipient Al Ellis presents Martha Hardwick Hofmeister with the 2014 DAYL Foundation Award of Excellence.



Dallas attorneys gather to hear remarks from Texas Supreme Court Justice Debra Lehrmann and to recognize Martha Hardwick Hofmeister.

SAVE THE DATE

DAYL TRIAL SKILLS BOOT CAMP

SATURDAY, JUNE 6TH 2015

GEORGE ALLEN COURTHOUSE

9:00 A.M. - 4:00 P.M.

Calling the Bullpen When Your Case Is in Crisis

by Heath Cheek

It's the scenario that every client dreads. After hiring counsel to handle a litigation matter, the case goes off the rails. Maybe the current counsel is not devoting enough attention to the case, or maybe the court issued a series of adverse rulings causing the client to lose faith in its counsel, or — in an extreme, real world example — maybe the client learns that the state bar recently suspended its counsel. Whatever the cause, the client is suddenly thrust into the shoes of a baseball manager deciding whether he needs to call the bullpen to take over for the starting pitcher.

Whether you are in-house counsel or the new lawyer called in for relief, stepping into a heavily litigated case in the middle of litigation requires quick decision-making and an all-encompassing devotion of your time while you get up to speed and clean up the mess. Over the past few years, I've been called in to take over several cases from other firms in the middle of the case. In fact, many of my most satisfying victories have come in cases that appeared unsalvageable at first glance. No doubt you have faced or will face a similar situation. Hopefully the following tips will help you get through it:

Switching Pitchers — If you are in-house counsel, you need to determine whether current counsel can salvage the case or you need to call in relief counsel. The decision to switch counsel can be costly because new counsel will require significant time and resources to get up to speed. But the consequences of not switching can be costlier if current counsel cannot pull the case out of the ditch.

Look at the Scoreboard — Are the bases loaded? You have to know the situation you are in, and the immediate tasks at hand. Use the scheduling order to determine immediate deadlines, but remember that some scheduling orders are more comprehensive than others. Do not forget about deadlines provided in the

Rules of Civil Procedure, but not in the scheduling order. Look for any motions on the docket that still require a response or have not been ruled upon, to determine what you need to address first.

Appeal to the Umpire — If you are switching counsel, it may be appropriate to ask the court for a continuance of any pending deadlines. Fully explain the situation to the court. If previous counsel engaged in bad behavior, do not be afraid to inform the court of any extenuating circumstances that will make your client's request look reasonable. But don't overreach by using a counsel change to ask for an excessive continuance. Judges will look more favorably on your request if it is reasonable.

Don't Let Inherited Runners Score — Review previous counsel's petition and discovery responses. You are responsible for them now, even though you did not draft them. If there are claims you do not agree with, non-suit them. If there are discovery objections you do not feel comfortable defending, amend them. Do not let previous counsel's strategy, tactics, or mistakes become yours by default.

Fire a Fastball Up and In — Sometimes opposing counsel will see a switch in counsel as an opportunity to go on the offensive, in the hope that they can gain an advantage. For example, in one case, the day after I substituted into it, opposing counsel filed a motion for summary judgment and then refused to agree to even a two week continuance on the hearing. Do not let your client's change in counsel become an opportunity for opposing counsel to seize control of the direction of the case. While you are getting up to speed, one way to prevent the other side from taking control is to give them some work to do (like responding to new discovery requests).

Ignore the Crowd Noise — Stepping into the middle of a heavily litigated case, your mind will be pulled in a dozen directions. When I am in one of these situ-

ations, I typically go to a distraction-free space (typically the library or a booth at a quiet restaurant) with no phone, laptop, or internet access (the most important part). I use this time to prepare a task list on a legal pad and then prioritize it. Take control of the case through careful, proactive organization, instead of allowing yourself to be consumed by reaction.

Heath Cheek is a partner at Bell Nunnally & Martin LLP, focusing on high-stakes commercial litigation. Heath can be reached at heathc@bellnunnally.com, or via the firm's website — <http://www.bellnunnally.com>.

Pub Trivia is Back!

Join DAYL for Pub Trivia on Tuesday, January 27th, beginning at 7:00 p.m. at State and Allen in Uptown.

Pub Trivia is a trivia game consisting of teams where each team can answer every question. There are no buzzers. A moderator asks a question and then teammates collaborate and write down an answer to present when time is called. Subjects to be covered on January 27th include football, Golden Globes, and series finales.

Pub Trivia is free for members and \$5 for non-members. Teams can be formed on the spot or you can form your own in advance!

If you are interested or if you have questions, please contact Barbara Pelaez (bmpelaez@gmail.com).



Members of the DAYL Young In-House Lawyers Committee gathered for a holiday happy hour at Quarter Bar in December (l to r) Matthew Jackson, Justin Gobert, Crystal Mitchell-Moore, Jaime Ramos, Stephanie Gerber, Susan Do, and Ron Rohde.

Volunteers had a great time at the December Generation Generosity Service Event with the Salvation Army in December.

Thank You to Everyone Who Donated Toys at the Holiday Party in December and to HG Litigation for Sponsoring!

