



April 2016

Vol. 33, No. 4

# THE DICTA

## The Docket

April 8 (Friday)

DAYL Freedom Run Committee Meeting  
Noon, Belo Mansion

April 9 (Saturday)

DAYL Solo & Small Firm Summit  
9:00 a.m., UNT Dallas College of Law

April 11 (Monday)

DAYL Social Committee Meeting  
6:00 p.m., Happiest Hour

April 12 (Tuesday)

DAYL Business & Career Development Committee Meeting  
Noon, Belo Mansion

April 12 (Tuesday)

DAYL Law Student Assistance Committee Meeting  
6:30 p.m., The Rustic

April 13 (Wednesday)

DAYL Assisting Lawyers in Transition Committee Meeting  
Noon, Belo Mansion

April 13 (Wednesday)

DAYL Solo & Small Firm Roundtable Happy Hour  
6:00 p.m., State and Allen

April 13 (Wednesday)

DAYL Membership Committee Meeting  
6:30 p.m., Stoneleigh P

April 16 (Saturday)

DAYL Dallas Bridge Bash  
7:00 p.m., Continental Bridge

April 19 (Tuesday)

DAYL Elder Law Committee Meeting  
Noon, Belo Mansion

April 19 (Tuesday)

DAYL Program: Stress-Proofing Your Health  
Noon, Belo Mansion

April 19 (Tuesday)

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

April 20 (Wednesday)

DAYL Equal Access to Justice Committee Meeting  
Noon, Belo Mansion

April 20 (Wednesday)

DAYL Dwell with Dignity Volunteer Opportunity  
5:30 p.m.

April 20 (Wednesday)

DAYL Volunteers with Legalline  
5:30 p.m., Belo Mansion

April 20 (Wednesday)

DAYL Special Interest Group: Beyond the Book  
6:30 p.m.

April 21 (Thursday)

DAYL Young In-House Counsel Happy Hour  
6:00 p.m., Del Frisco's

## April Social at Three Sheets

**D**on't miss out on April's DAYL Social, which will be held at **Three Sheets** on **Thursday, April 28, 2016**

from 6:00 – 8:00 p.m. Sponsored by our friends at **Complete Legal**, this social will be a great opportunity to enjoy some Texas Spring weather on Three Sheets' outdoor patio. Three Sheets is located at 3113 Ross Avenue, just east of Central Expressway.

As established leaders in the field of litigation support, **Complete Legal** offers industry leading technology and all

of the amenities that make a legal professional's life a little easier, along with a high level of personal attention and service. A steadfast commitment to "Complete" client satisfaction has earned them recognition as the best Deposition Service in Dallas/Fort Worth for five consecutive years in the annual Texas' Best survey, conducted by *Texas Lawyer* magazine.

The cost to attend the Social is \$3.00 for DAYL members and \$5.00 for non-members.

## Killer Stress: Your Health at Work

**T**oo much caffeine, too little sleep, and a dose of daily crisis takes its toll on many young lawyers. You know about the mental effects of stress, but unfortunately it can be just as corrosive for your physical health. The DAYL is partnering with **Methodist Health System** and **Cartwright Clinical Services** to offer "*Stress-Proofing Your Health*." This seminar will offer practical ways to help manage stress and prevent resulting health and psychological problems before they happen.

**Rachel Park**, M.D., board certified in internal medicine and practicing at Methodist Family Health Center – Highland

Park, will discuss how stress affects our physical health. **Mark Cartwright**, Ph.D., LP, LSSP, founder and CEO of Cartwright Clinical Services, will address how stress impacts our mental wellbeing. **Carrie Camin**, Assistant Vice President of Wellness for the Methodist Health System, will share easy tips and techniques for managing stress and anxiety throughout the workday.

The one-hour seminar will take place on **Tuesday, April 19, 2016**, at noon at the Belo Mansion. Methodist Health System will provide free lunch and parking for all young lawyers who attend the event. RSVP to **Cherie Harris** ([cherieh@dayl.com](mailto:cherieh@dayl.com)).

## The Docket (continued)

April 21 (Thursday)

DAYL Animal Welfare Committee Meeting Happy Hour  
6:00 p.m.

April 25 (Monday)

DAYL Solo & Small Firm Committee Meeting  
Noon, Belo Mansion

April 26 (Tuesday)

DAYL Special Interest Group: Moms in Law  
Noon

April 26 (Tuesday)

DAYL Lawyers Promoting Diversity Committee Meeting  
Noon, Belo Mansion

April 28 (Thursday)

DAYL CLE Committee Meeting  
Noon, Belo Mansion

April 28 (Thursday)

DAYL Social  
6:00 p.m., Three Sheets

April 29 (Friday)

DBA Law Day Luncheon  
11:30 a.m., Belo Mansion

April 30 (Saturday)

DAYL Generation Generosity Volunteer Opportunity  
8:00 a.m., Texas Ramp Project

# THE DICTA

Justin Gobert, Editor

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Copy Deadline for May Issue:

**April 15, 2016**

**Justin R. Gobert**

Email: [justin.r.gobert@gmail.com](mailto:justin.r.gobert@gmail.com)

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## From the President

### Going Solo

**M**ore than half of Dallas' lawyers practice in solo and small firms of 10 or fewer attorneys. Here and across the nation, the number of young lawyers working in solo and smaller firms continues to grow each year. According to the ABA/NALP's *After the JD* report, the number of top 10 law school graduates working for a large firm (251+ lawyers) was only 16.8 percent in 2012, down from 55 percent less than 10 years earlier.

As with many industries, growing costs are driving changes in the legal industry. Firm clients are demanding lower billing rates and increased billing flexibility, both of which can be more easily offered at smaller firms. Unfettered by the operating costs of a large law firm practice and with broader access to similar resources such as technology, small firms and solo practitioners are well positioned to flourish in today's legal market. In addition, the *After the JD* report revealed that lawyers at smaller firms reported greater satisfaction with their jobs than lawyers at big firms.

With such a large number of young lawyers already practicing at small or solo firms – a number which continues to grow – it's important for DAYL to address some of the unique needs of these lawyers.

This year, the DAYL Solo and Small Firm Committee will host the **DAYL Solo & Small Firm Summit on Saturday, April 9, 2016** at the UNT Dallas College of Law. The Summit will feature a full-day program focused exclusively on the business and practice needs of Dallas' young solo and small-firm attorneys. The Summit offers a



Stephanie K. Gause

chance to network among peers, garner tips from Dallas' solo and small firm leaders and discuss the biggest challenges facing the practice.

Speakers at the Summit include well-known solo and small-firm practitioners: **Robert Tobey, Al Ellis, Chad Ruback, Nicole Knox, Jodi McShan, and Chris Cunningham.** The programs will address topics that solo and small firm attorneys often confront including how to market yourself effectively within the State Bar of Texas guidelines, tax strategies, common ethical dilemmas and how to source inexpensive technology for your practice.

In keeping with the mental health theme for 2016, the Summit will also include a wellness presentation featuring a discussion on the benefits of mindfulness, meditation, and other self-care techniques for young attorneys battling stress and anxiety.

Summit attendees will be treated to a complimentary breakfast, networking lunch and happy hour. Attendees will earn up to 4.75 of CLE credit including 1.25 hours of ethics credit. To learn more about the event, visit [dayl.com/ssf\\_summit](http://dayl.com/ssf_summit).

I'd like to give special thanks to the Summit planning committee: **Andy Jones, Anthony Ricciardelli, Barbara Pelaez, David Urteago, Dwayne Lewis, and Zara Najam** for working tirelessly to ensure this new DAYL program is a resounding success. We look forward to seeing you there!

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

# TICKETS ON SALE NOW!

**DALLAS BRIDGE BASH**  
**Bridging the Education Gap in Dallas**  
**Benefiting Communities in Schools' Ketchup Saturday Program**  
*Presented by the Dallas Association of Young Lawyers 2015 Leadership Class*  
*April 16, 2016 | The Continental Bridge | Dallas, Texas*

Join the DAYL 2015 Leadership Class the evening of April 16, 2016 at the Dallas Bridge Bash, an exciting night of food, drinks, dancing, and entertainment to be held on Dallas' newly-acclaimed Continental Bridge with the iconic Margaret Hunt Hill Bridge and the award-winning Dallas Skyline as its backdrop. For more information or to purchase tickets, visit [www.dallasbridgebash.com](http://www.dallasbridgebash.com).

Questions? Contact us at [info@dallasbridgebash.com](mailto:info@dallasbridgebash.com).



## DAYL Solo & Small Firm Summit

Join DAYL's Solo & Small Firm Committee on **Saturday, April 9, 2016** for a day of education, discussion, and networking, specifically designed for solo and small firm attorneys.

The DAYL Solo & Small Firm Summit will be held at UNT Dallas College of Law, located at 1901 Main Street, Dallas, Texas 75201. Registration and breakfast will begin at 8:00 a.m., with opening remarks starting at 9:00 a.m. The day-long program will conclude with a happy hour beginning at 4:30 p.m.

Topics include tax implications of being self-employed, technology software for small firm lawyers, a malpractice defense discussion, and office space. CLE credit, including ethics credit will be available to attendees. There is no charge for DAYL members to attend.

If you are interested in attending or if you have any questions, please contact **Cherie Harris** at [cherieh@dayl.com](mailto:cherieh@dayl.com). Register at [www.dayl.com/ssf-summit](http://www.dayl.com/ssf-summit)

DAYL's Aid to the Homeless Committee invites you to join them at Dwell with Dignity as they kick off 2016 with their first event of the year on Wednesday, April 20 at 5:30 p.m.

This will be a fun and paint-filled evening of refurbishing furniture that will fill the new homes of Dallas residents who have been struggling with homelessness.

Contact Jenny Forehand ([jenny.m.forehand@gmail.com](mailto:jenny.m.forehand@gmail.com)) for details or to RSVP.

## DAYL ONE TO WATCH

**Christina Mullen** has been selected as the April 2016 DAYL One to Watch! To find out why, visit [www.dayl.com](http://www.dayl.com).

## DAYL Summer Softball Sign-Ups

**I**t's that time of year again, time for another exciting season of DAYL Softball. To the right is an application for the 2016 softball season which will begin in late May. The application deadline is **April 25, 2016** and the cost per team is \$650. Get the gloves oiled up, break out the bats, and let's play ball. But first, get your application and payment in by the deadline.

Once your application and payment have been submitted, and the registration deadline has passed, league schedules will be created and distributed to team managers.

For additional information or to obtain a copy of the softball rules, please contact **Matt Daniel** ([mdaniel@lawyerworks.com](mailto:mdaniel@lawyerworks.com)) or **Cherie Harris** ([cherieh@dayl.com](mailto:cherieh@dayl.com)).

### -2016 DAYL Softball Application-

Firm Name: \_\_\_\_\_  
 Team Name: \_\_\_\_\_  
 Team Manager: \_\_\_\_\_  
 Manager's Work Address: \_\_\_\_\_  
 Manager's Email Address: \_\_\_\_\_  
 Work Phone : \_\_\_\_\_ Fax: \_\_\_\_\_  
 League Preference  
 Men's Competitive  Non-Competitive  Co-Ed

**Return this form along with payment of \$650.00 (payable to DAYL) to Cherie Harris, DAYL, 2101 Ross Avenue, Dallas, Texas 75201 no later than Monday, April 25, 2016. Contact Matt Daniel ([mdaniel@lawyerworks.com](mailto:mdaniel@lawyerworks.com)) for information.**

#### TEAM ROSTER (attach additional page, if necessary)

Player Name	DAYL Member	Clerk	Non-Attorney
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

## DAYL Foundation Accepting Grant Applications

**T**he DAYL Foundation, a 501(c)(3) organization, is accepting grant applications for law-related projects and charitable organizations that meet one or more of the following criteria: 1) Law-related scholarship and education promoting knowledge and awareness of the rule of law; 2) Charitable and legal aid for the public, including improving the delivery of legal services to the indigent and im-

proving the administration of justice; 3) Foster honor, integrity and public confidence in the profession of law; 4) Assist the legal profession by enhancing the quality of client services and improving the self-regulation of the profession; and/or 5) Historical preservation and observances.

Grants typically range from \$500 - \$2,000. Organizations that have received DAYL Foundation grants in the past include: DOORS, Dallas CASA, Dallas Law

Magnet, Workers' Defense Project, Aberg Center for Literacy, Texas Legal Services Center, Human Rights Initiative, and Mosaic Family Services, to list a few.

If you are aware of an organization that could benefit from a DAYL Foundation grant, please have them contact **Cherie Harris** ([cherieh@dayl.com](mailto:cherieh@dayl.com)) for additional information. The grant application deadline for the DAYL Foundation is **May 16, 2016**.

Nominations are currently being accepted for the DAYL 2016 Pro Bono Service Award. The award will recognize the public service or legal aid performed by an individual young lawyer who in the previous year has provided outstanding contributions and access to justice to those in need of legal services.

The award will be presented at the DAYL annual Wine Tasting on June 30, 2016. The nomination deadline is May 6, 2016.

To receive a nomination form, contact Cherie Harris at [cherieh@dayl.com](mailto:cherieh@dayl.com).



**Tea with Tibetan Monks  
Thursday, May 5, 2016  
Crow Collection of Asian Art**

**5:30 p.m.  
Space is Limited**

**Contact Cherie Harris  
(cherieh@dayl.com) for information.**

**There is a \$10.00 for this event**

DAYL's Generation Generosity Committee is proud to partner with Texas Ramp Project on the morning of **Saturday, April 30, 2016** as we help build wheelchair ramps for the elderly and disabled residents of Dallas who cannot afford them on their own. This service project is going to give you a chance you a chance to roll up your sleeves and sharpen your construction skills, while giving our beneficiaries the freedom of mobility to leave their homes and rejoin society.

The start time is 8:00 a.m. and the end time could be as late as 2:00 p.m. After volunteering, we'll go to lunch as a group. RSVP to **Cherie Harris** (cherieh@dayl.com). Unfortunately, due to the nature of the work involved, children are not able to participate. Volunteers are asked to bring work gloves and electric drills, if available. We look forward to seeing you there!

**The 2016 DAYL  
Leadership Class  
Application Deadline  
is June 6, 2016.**

**This year marks the  
20th anniversary of  
the program and great  
things are in store!**

**Contact Cherie Harris  
(cherieh@dayl.com)  
for an application or  
to get additional  
information.**

### **DAYL Announces its Recent Award Recipients**

#### **Outstanding Mentor Award**

Tricia DeLeon  
Gruber Elrod Johansen Hail Shank

#### **Outstanding Young Lawyer Award**

Judge Christine Nowak  
Magistrate Judge, U.S. District Court Eastern District of Texas

#### **Liberty Bell Award**

Cassidy Baker  
University of North Texas - Department of Community and  
Professional Programs

**The recipients will be recognized at the DBA Law Day  
Luncheon on April 29, 2016 at the Belo Mansion.  
For ticket information, visit [www.dallasbar.com](http://www.dallasbar.com).**



## DAYL Trial Skills Boot Camp

Saturday, June 18, 2016

George L. Allen, Sr. Courts Building

**Breakfast & Registration – 8:15 a.m.**

*Sponsored by Ricoh*

**Argument Before a Judge – 9:00 a.m.**

*Dawn Estes v. Leon Carter; Judge Bonnie Goldstein and Judge Martin Hoffman*

**Argument Before a Jury – 10:45 a.m.**

*Mark Lanier v. Charla Aldous*

**Lunch – 12:00 p.m.**

*Sponsored by Veritext*

**Experiential Learning: Arguing a Summary Judgment – 1:00 p.m.**

*Judge Moyé, 14th District Court*

*Judge Goldstein, 44th District Court*

*Judge Hoffman, 68th District Court*

*Judge Molberg, 95th District Court*

*Judge Williams, 101st District Court*

*Judge Parker, 116th District Court*

*Judge Tillery, 134th District Court*

*Judge Brown, 162nd District Court*

*Judge Slaughter, 191st District Court*

*Judge Tobolowsky, 298th District Court*

*Judge Horan, Federal Magistrate Judge*

*Judge Toliver, Federal Magistrate Judge*

*Judge Benson, County Court at Law, No. 1*

*Judge Montgomery, County Court at Law, No. 3*

*Judge Purdy, Dallas County Civil District Associate Judge*

**Argument Before an Appellate Court – 3:30 p.m.**

*Chief Justice Carolyn Wright, Justice Molly Francis, Justice Bill Whitehill,  
Nina Cortell, and David Coale*

**Happy Hour and Awards Presentation – 4:00 p.m.**

*Sponsored by Charles River Associates*

**Thank you to our sponsors and co-hosts!**

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**RSVP at [www.dayl.com/dayltrialskills](http://www.dayl.com/dayltrialskills).**

*This program has been approved for 4.75 hours of CLE credit.  
There will be a cost of \$50 for attendees who are not DAYL Members.*

# To Infinity and Beyond: Same Sex Marriage Issues in Texas After *Obergefell v. Hodges*

by T. Hunter Lewis and Whitney N. Keltch

**A** lot has happened since 2013 in the realm of same sex marriage. To catch you up to speed, the *U.S. v. Windsor* case came down on June 26, 2013, requiring the federal government to recognize same sex marriages that are conducted lawfully in the states where the parties reside. See *U.S. v. Windsor* 133 S. Ct. 2675 (2013). Though a step towards full legal recognition of same sex marriages, this decision specifically allowed states to continue to define who can be married. Texas, in turn, continued to disallow same sex marriages. Then, on June 26, 2015 (precisely two years after *Windsor*), our Supremes finally afforded equal protection and recognition to same sex marriages throughout the entire United States. Specifically, the majority held "that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same sex may not be deprived of that right and that liberty. The Court now holds that same-sex couples may exercise the fundamental right to marry. No longer may this liberty be denied to them." *Obergefell v. Hodges*, 135 S. Ct. 2584, 2605 (2015).

So where does this leave Texas law? The truth is we are still figuring it out. In fact, our current Texas Family Code contains several statutes which contradict *Obergefell*. We still have provisions in both the Texas Family Code and the Texas Constitution defining marriage as only between a man and a woman. Further, the Texas Family Code still recognizes only an informal marriage between a man and woman and does not recognize other statutory relationships found in other states, such as domestic partnerships. Also, the Texas Family Code still contains presumptions of paternity which arguably may or may not be afforded to same sex

couples.

With all that being said, courts in Texas are already dealing with these issues. Let's start with the idea of informal marriage aka "common law" marriage. The only requirements for common law marriage under our Texas Family Code are that the parties must agree to be married, reside together, and hold themselves out as married. The question arises as to whether informal (or even formal) marriages can be recognized in Texas prior to the *Obergefell* ruling, and whether the ruling itself is retroactive. Though cases have been filed concerning the issue of retroactivity, unfortunately, no appellate decision has yet addressed it in Texas. So, for the time being, the answer depends on where the case is filed.

Interestingly, Judge Guy Herman in Travis County, Texas back dated a same sex common law marriage for purposes of a probate case. See Interlocutory Judgment Declaring Heirs in *Estate of Stella Marie Powell*, Cause No. C-1-PB-14-001695, October 5, 2015<sup>1</sup>. The deceased, Stella Marie Powell, and her partner, Sonemaly Phrasavath, had a longtime relationship with each other and Ms. Powell passed away prior to the *Obergefell* ruling. When Ms. Powell passed away, Ms. Phrasavath filed a Motion for Summary Judgment on August 25, 2015 to be able to inherit as a spouse would inherit, based on their common law marriage. Despite the Attorney General's intervention, the Court found on October 5, 2015 that the two did in fact have a common law marriage. See Interlocutory Judgment Declaring Heirs in *Estate of Stella Marie Powell*, Cause No. C-1-PB-14-001695, October 5, 2015.

As for issues concerning children, for children born after June 26, 2015, both same sex parents can put their names on the birth certificate. Further, for those children born prior to June 26, 2015, whom

only one parent's name appears on the birth certificate, those need to be amended to prevent any confusion in the event of litigation (a possible custody battle) or even for inheritance purposes. Fortunately, the Texas Department of State Health Services issued a memorandum opinion after *Obergefell*, on August 12, 2015, which has been adopted and controls how the State will comply with the Supreme Court decision. Many issues concerning amending birth certificates and death certificates can be resolved through a simple form. In terms of same sex couples gaining parenting rights, there is still ample litigation which must occur. General standing will be a hot button issue, as many same sex couples who reared children prior to *Obergefell* will be able to gain standing solely based on possession. However, if couples fight and separate, that standing may be at issue.

The case law is slowly but surely beginning to answer some of the questions that lawyers and same sex couples have as it relates to the application of the *Obergefell* case. Additionally, our next legislative session will occur in 2017. Hopefully with some thoughtful legislative updates, we can continue to go towards infinity and beyond to expand and define the rights of same sex couples and their children.

<sup>1</sup> This case is currently on appeal, with the State of Texas appealing the Probate Court's findings

**T. Hunter Lewis** is an associate with Orsinger, Nelson, Anderson & Downing, LLP in Dallas, where his practice focuses solely on family law and appellate issues. <http://www.ondafamilylaw.com>

**Whitney N. Keltch** is an associate with the Ashmore Law Firm, P.C. in Dallas, where she practices exclusively family law. <http://www.ashmorelaw.com/bio/whitney-n-keltch.cfm>



*DAYL recently presented a check in the amount of \$44,434 to Dallas Habitat for Humanity representing proceeds from the 2015 DAYL Charity Ball.*



*Members of DAYL's new Special Interest Group: Moms in Law*