The year was 1970—Jimi Hendrix and Janis Joplin died, the Kent State shootings occurred, American Motors introduced the Gremlin, Casey Kasem began American Top 40, and Elvis Presley began his first concert tour since 1958. It was also the year that Loretta Garvey Whyte began her long and distinguished career in the United States District Court for the Eastern District of Louisiana.

For many people, Loretta’s life before 1970 would have been a plateful. She had married, then divorced when she was 5 months pregnant and with a 10 month old daughter. However, on the urging of her brother, Tom Garvey, Loretta decided to choose a career path which few women chose back then–to enter law school. Loretta said: “I was desperate. I decided to leave the family’s telephone answering service business to make a better life for my family.” Her daughter, Kathy Whyte, remembers her mother in night class while Kathy and her brother played outside in the law school building hallway. “I don’t know how she did it, raising my brother and I, working, and studying so hard in law school. Her strength, religious faith, the support of her family and her best friend, Michelle Pitard Wynne, helped her through.” Loretta doubted herself and her ability to finish law school, but after enrolling, she enjoyed law school thoroughly because it stimulated her analytical mind.

Upon graduating from law school in a class of just eight women out of 140 students, Loretta accepted a judicial clerkship with Federal Judge Fred Cassibry. Her law school classmate and fellow Judge Cassibry law clerk, Judge Carl Barbier, remembers Loretta’s early days at the court. “There were no computers in those days. The court had two typewriters, one manual and one electric. Loretta let me use the electric typewriter because I needed more help.” Judge Barbier left his two-year clerkship early to take a job with a private firm, but he recalled how Loretta had already become such a great asset to the court. “She was very bright and had such good common sense that when Judge Cassibry’s permanent law clerk returned from a two-year leave of absence, the Clerk of Court saw an opportunity to hire Loretta.” Judge Barbier recalled: “Nelson Jones (Clerk of Court) knew immediately how valuable Loretta was as an administrator and how well she managed people.” Loretta became Deputy Clerk of Court in 1971 and later was promoted to Clerk of Court in 1983.

Chief Magistrate Judge Alma Chasez has known Loretta since before each began working for the federal court, and when Judge Chasez was law clerk to Loretta’s brother, Judge Richard Garvey in the Civil District Court in New Orleans. She recalls Loretta fondly as someone who would always put one foot in front of the other. “Loretta was always moving forward and persevering through some of the toughest times.” Judge Chasez describes her as follows: “Loretta is never wrapped up in herself. She’s not stuffy and never takes issues out on someone else. She has a willingness to want to work with others and have a good time along the way. She makes friends, and she keeps them.”

Judge Ginger Berrigan (Chief Judge, 2001-08) remembered when she attended Chief Judge orientation

cont’d on page 2
in Washington, D.C. in 2001. “There were 10 different components of orientation taught to the new Chief Judges. The director told everyone that we needed to pay close to those speaking on each administrative topic, except for me because as he said: ‘You don’t have to worry because you have Loretta.’”

Judge Berrigan describes Loretta as a “most conscientious and thoughtful person, who is self-effacing and does not like attention. She feels more lucky than good.” Judge Berrigan paid tribute to both Loretta and her Chief Deputy Clerk of Court, Gene Smith, for their actions following Hurricane Katrina. “Loretta and Gene both lost homes, but both left New Orleans for Lafayette to set up a temporary office, putting aside their concerns for their homes and lives. Loretta’s and Gene’s example inspired others to pitch in and to re-establish the court in the wake of Katrina,” Judge Berrigan said. “To Loretta, the catastrophe which was Katrina was just another challenge.”

As a result of Loretta’s leadership and through the efforts of her staff, the court did not skip a beat after Katrina. The Court was able to operate for filings by the middle of September, and the courthouse re-opened in New Orleans just six weeks later on November 1st.

Judge Sarah Vance (present Chief Judge, 2008-15) notes that the fact that Loretta is a lawyer and understands litigation and the role of the court is paramount. “Federal regulations are important in what we do, and Loretta understands them from her days as an attorney. And if she does not know the answer to a question, she always gets the answer quickly.”

Judge Vance points out that Loretta began her career in the clerk’s office in the days of manual typewriters and when the technology department did not even exist. Since that time, the court has gone to computers, e-filing, technology in the courtroom, and now to Wi-Fi, all under Loretta’s leadership. This has enabled the court to oversee some of the largest MDL/Class Action cases in the country including the pharmaceutical Vioxx, Chinese drywall, Hurricane Katrina and the BP case, among others.

But perhaps most telling about Loretta, as Judge Vance pointed out, is the fact that over a career that spanned 42 years, she has worked for six Chief Judges and over 40 federal judges, all the while serving at the pleasure of the bench. “Loretta has had such patience to work with all those prima dona judges.” As a result, she is the second longest serving Clerk of Court in the federal judiciary.

Gene Smith, Loretta’s Chief Deputy Clerk since moving from the Western District Courthouse in 2004, could not place enough emphasis on how well he and Loretta worked together the past eight years. “With the budget getting tighter and tighter every year, we’ve had to do the same work with fewer and fewer federal funds, and with no money given to the court from filing fees,” said Gene. Loretta has led her staff to continue to provide the same, and often better, services, with fewer funds by stretching every penny. The court will expand to Wi-Fi capabilities this year.

Judge Peter Beer (Senior Judge, 1979-present), who is the longest serving judge in the Eastern District and has worked with Loretta now for 34 years, said that Loretta was the “Mother Hen over all the judges.” Judge Beer described how Loretta once took care of one of the Senior Judges who was in poor health and who was dependent on a wheelchair to get around. “One of our older judges who was not doing well was at a conference in Texas,” Judge Beer recalled. “Loretta put me and my wife, Margie, in the same hotel (but on a different floor), and made sure that we were on the same flights as the more senior judge so that we could look out for him without his really knowing.”

But Judge Beer most recalls how Loretta embraced new technology for the court. “Of all of her strong points, her strongest was her absolute willingness to get as modern and technologically integrated as the court could get.”

During my interview with Loretta, her self-effacing demeanor immediately came to the forefront. She led the interview by stating that she was blessed with “amazingly good and competent people” around her who made her job easy. “I always tried to educate the staff on new changes before implementing those changes, and they always embraced the changes and new technology.”

LORETTA WHYTE – QUEEN OF THE COURT (CONT’D)

cont’d on page 3
Regarding her Chief Deputy, Gene Smith, Loretta said: “If I had only had ½ or ¼ of the brains and competence of Gene, I might have stayed [Clerk of Court] forever.”

Loretta said that when she was first hired, she did not even take life insurance benefits through the court because she did not plan to be there for more than a year. Fortunately for the court, and all of us, she was wrong on that prediction.

When I asked Loretta about the accolades given by the other judges on her role (and Gene Smith’s role) in re-establishing the court post-Katrina, even after losing her home and most of her personal property, Loretta said: “It didn’t occur to me to worry about a place to live. I just knew that I needed to get the court re-opened because the judges expected that of me. My higher calling was to get the court back up and running.” And of course, she gave all of the credit for getting the court functioning again after Katrina to Denise Fredericks, Gene and all of the staff, as well as Judge Berrigan for her leadership.

Loretta also credited her longevity in the courthouse to having worked under wonderful Chief Judges. She said that the Chief Judges, particularly Judges McNamara, Berrigan and now Judge Vance, have always been available, accessible, and not micro-managing, just very supportive of her.

And on the issue of technology, Loretta said that she knew moving forward, she needed to be on the cutting edge on technology, despite budget woes. However, again she was the pragmatist in how she proceeded. “I never wanted to be in the first wave of a new technology because I wanted them to work the bugs out first.”

And Loretta never took “No” for an answer when it came to technology. She recalled one time when the GSA would not provide the funds to the court for computer research technology. Loretta recalled: “So I had a [communication] line installed from the U.S. Fifth Circuit building, where they had the computer-assisted research, to the U.S.D.C. courthouse to get the same research ability.” As a result of her actions, GSA increased the budget for computer-assisted research the following year.

Loretta also credited her achievements at the court to her family. “My family was wonderful all those years. I had a lot of help from Mom and Dad, who helped to raise the kids while I studied in law school.” And her faith played an important role as well. During her time at the court, Loretta lost a son, her best friend, Magistrate Judge Michelle Pitard Wynne, and her younger brother. “I don’t know how people live without faith”, she said. “It’s the reason for being.”

Loretta intends to stay active in retirement and plans to perform a lot of volunteer work, particularly for Legal Aid and also Second Harvest. To her, retirement will be a second career, but perhaps with more time for her to spend with friends and family. “I need their companionship, and they need mine.”

In reflecting on 43 years working at the court, Loretta summed up her career this way: “I have been treated like a favorite child, good has been returned to me, full blown and pressed over. I have been treated beautifully, accepted, loved, and have never been bored. I have received so much more than I’ve given that you cannot measure it.”

Peter Beer said that he recently met with Loretta to discuss her impending retirement. The two
came upon a poem which they felt best summed up their feelings on the subject:

For age is opportunity,
Than youth itself; tho’ in another dress;
And as the evening twilight fades away-
The sky is filled with stars, Invisible by day!

- Longfellow (1807-1882)

Let’s all hope that Loretta’s second career is as successful as her first!

Peter J. Wanek is a partner with the law firm of McCranie, Sistrunk, Anzelmo, Hardy, McDaniel and Welch, LLC in New Orleans, and a Member of the Board of Directors of the New Orleans Chapter of the Federal Bar Association. He would like to specially thank Gene Smith for assisting with this article, as well as those who contributed, as mentioned within it.

Special Thanks

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Summer is the season when the courts and lawyers are supposed to slow down – especially in New Orleans. I’ve heard many stories about the courts closing for the summer and about unnamed lawyers and judges taking the whole summer off. As wonderful as that sounds, I cannot imagine that happening here. For better or worse, most of the judges and lawyers that I know will keep their dockets and cases moving with only an occasional small summer break. The same is true for the New Orleans FBA. The FBA summer is full of great events and intense planning.

The highlight of our summer will be our annual meeting on Tuesday, August 6th at the Westin Hotel. Our honored guest and keynote speaker will be Chief Judge Carl E. Stewart of the United States Fifth Circuit Court of Appeals. In addition to recognizing Judge Stewart, our chapter will make three very important award presentations: (1) The John R. “Jack” Martzell Professionalism Award, (2) The Camille F. Gravel, Jr. Public Service Award, and (3) The President’s Award. I hope you can make it. To make your reservations just call 589-7990 or email the attorney conference center fbano@bellsouth.net.

We are also looking forward to a unique opportunity in September. Our Young Lawyers Division is working with renowned Supreme Court historian and law professor Erwin Chemerinsky to offer a fantastic CLE about the United States Supreme Court. The one-of-a-kind CLE is scheduled for September 6th, and will be open to all FBA members and our whole legal community.

Great events that happen at the FBA, literally every month – events like the annual meeting, engaging Professor Chemerinsky, inviting law clerks to a Morning at the Federal Court, hosting Lunches with the Court, and developing interesting and innovative CLE’s – don’t just “happen.” All of the activities, past and future, that you read about in this Advocate are the culmination of hours of hard work put in by our chapter’s Board of Directors and YLD. It is hard work. As president, I owe them all a great deal of thanks. Our chapter owes them thanks as well, as we have all reaped the benefits of their work. I encourage you to take a moment to look at the list of our Board and YLD, and the next time you see one of them manning a table, introducing a speaker, or making something happen – thank them in person. We are the largest and most active chapter in the country because of their hard work.

I look forward to seeing you at the annual meeting.

SAVE THE DATE FOR UPCOMING EVENTS

Lunch With the Court
Judge Nannette Brown
Wednesday, July 24

Federal Bar Association’s Annual Meeting and Election of Officers and Directors
Tuesday, August 6

Chemerinsky’s Supreme Court Update: A Review and Preview
Friday, September 6

An Introduction to Federal Practice in the Eastern District of Louisiana
Thursday, September 19

Be sure to check future issues of The Advocate and monitor our website, www.nofba.org, for exact details.
The annual program to honor Judge Rubin’s commitment to professionalism and ethics was hosted by the New Orleans Chapter of the Federal Bar Association on Thursday, May 23, 2013. In its 21st year, the program was once again well attended. This year’s symposium included presentations by Professor Greg Smith of the LSU Law Center and the Honorable Stephen Higginson of the U.S. Fifth Circuit Court of Appeals. Professor Smith provided an hour of ethics during a lively discussion of various rules of professional conduct and an assortment of cases involving practitioners having run afoul of the rules.

Judge Higginson concluded this year’s symposium with a look back at Judge Rubin’s decisions, with a particular eye toward those rare instances in which he was reversed. Judge Higginson discussed not only the style of Judge Rubin’s writings, but also the intellectual depth and reasoning of his opinions, including the respect Judge Rubin garnered for his work, not only from his own Court, but also those reviewing his decisions. Judge Rubin was shown to be a true professional and an intellectual giant of the bench.

Among those judges and attorneys filling the ceremonial courtroom were Judge Rubin’s sons, Michael Rubin and David Rubin, as well as his granddaughter, Sarah Rubin. Each of the attendees received two hours of CLE credit for the program including an hour of ethics. Next year, the program will once again provide both an hour of professionalism and an hour of ethics.
The Federal Bar Association Proudly Presents

Chemerinsky’s Supreme Court Update: A Review and Preview

FRIDAY, SEPTEMBER 6, 2013
2:00 - 4:00 p.m.
United States District Court
500 Poydras Street, New Orleans, Louisiana

Erwin Chemerinsky, Founding Dean, University of California, Irvine School of Law,
will discuss the most significant opinions from the last term of the Supreme Court of the United States and cases on the horizon.

2 hours CLE credit (approval pending)

Registration Form

Name __________________________________________________________________________
Firm/Employer __________________________________________________________________
Address __________________________________________________________________________
Phone ___________________________________________________________________________
Email __________________________________________________ Fax______________________
Enclosed Fee___________ Cost: $30 for FBA members if paid by Sept. 1/ $40 after Sept. 1
$60 for non-FBA members if paid by Sept. 1/ $70 after Sept. 1
$15 for government attorneys and law student FBA members

Please return this form with payment to:
Attorney Conference Center
500 Poydras Street, Room B364
New Orleans, LA 70130
Phone: 504-589-7990 Fax: 504-589-7995
Email: fbano@bellsouth.net

Please make checks payable to the FBA.
NOTICE OF ANNUAL MEETING AND ELECTION OF OFFICERS
AND DIRECTORS – AUGUST 6, 2013

The New Orleans Chapter of the Federal Bar Association will host its Annual Meeting and Awards Luncheon on Tuesday, August 6, 2013, at The Westin New Orleans, Canal Place. A cocktail hour will begin at 11:00 a.m., with the luncheon to follow at noon. Our honored guest and keynote speaker will be Chief Judge Carl E. Stewart of the United States Fifth Circuit Court of Appeals.

The cost to attend the luncheon is $50 per person. Tables seat 10 and may be reserved for $500.00 per table. Firms reserving tables do not need to provide names of those attending, but should inform their guests to supply their names and the firm’s name to the hostess at the registration table. There will be open seating for those who are attending individually.

Please note that there is limited seating and reservations will be made on a first come basis. Reservations should be made no later than July 29, 2013, in order to provide the caterer with a headcount of attendees.

A reservation form is included. Please submit all registrations in writing by fax (504-589-7995), e-mail (fbano@bellsouth.net), or regular mail (Federal Bar Association, 500 Poydras Street, Room B364, New Orleans, LA 70130).

In accordance with the Chapter’s By-Laws, Wendy Hickok Robinson, our current President-Elect, will automatically succeed Eric R. Nowak as President of our Chapter. Election of the remaining officers and directors will take place at the Annual Meeting. The Nominating Committee has nominated the following persons:

CHAPTER OFFICERS

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President-Elect: Christopher J. Alfieri
Treasurer: Kelly T. Scalise
Recording Secretary: Hon. Sarah S. Vance
Membership Chair: Celeste Coco-Ewing
Immediate Past President: Eric R. Nowak
Younger Lawyers Representative: Sara Mouledoux Glover

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The Federal Magistrate Judges Association, which is a national organization of over 600 U.S. Magistrate Judges across the country, held an Education and Training Program in New Orleans from April 24 – 26, 2013, with over 200 magistrate judges from around the country in attendance. Working closely with FMJA President, Magistrate Judge Karen Wells Roby, our New Orleans Chapter of the Federal Bar Association hosted a welcome reception for the magistrates in the Fifth Circuit’s Great Hall on Wednesday, April 24th. The visiting judges were provided with a real taste of New Orleans – delicious food by ACME Oyster House and down-home entertainment by Paul Sanchez. The magistrate judges were thrilled to be in New Orleans and very appreciative of the first-hand experience of our Southern hospitality.

Seizing the opportunity to provide our members with the insight of so many visiting federal judges, the New Orleans Chapter organized a CLE to coincide with the FMJA Conference. On Thursday, April 25th, we presented “Current Trends in E-Discovery and Diversity in the Legal Profession of the FBA,” a two-hour CLE held in the Eastern District’s Ceremonial Courtroom, which was followed by a short reception during which attendees had the opportunity to speak with the visiting federal magistrates. Over 40 people attended this CLE program and were treated to a discussion of e-discovery with one the country’s leading e-discovery experts U.S. Magistrate Judge John M. Facciola, USMJ for the DDC, and local practitioner Andy Lee of Jones Walker. Moderated by Donna Currault of Gordon, Arata, Judge Facciola and Andy Lee addressed current e-discovery issues and proposed amendments to Rule 26 of the Federal Rules of Civil Procedure, along with the anticipated impacts of these amendments to the e-discovery practice. Following that discussion, Sandra Diggs Miller of Entergy moderated a panel discussion on diversity in the federal judiciary. We were honored to have Magistrate Judges Lorenzo Garcia, DNM, Sheila Oberto, EDCA, Wallace Capel, Jr., MDAL, and Charmiane Claxton, WDTN, each discuss his or her path to the federal bench and the great diversity within our federal judiciary.
LUNCH WITH THE COURT PROGRAM

The Younger Lawyers’ Division of the FBA continues to organize monthly lunches with members of the local federal bench through its “Lunch with the Court” program. District Judge Lance M. Africk and District Judge Helen G. Berrigan, and Magistrate Judge Daniel E. Knowles, III hosted the most recent Lunches with the Court. The judges generously shared their time and experiences with the YLD members.

LUNCH WITH JUDGE AFRICK

On April 10, Judge Africk hosted a lunch for the YLD members in his courtroom. The Judge stressed to the attendees the importance of behaving ethically and professionally at all times, and he suggested that the younger lawyers try to gain as much experience as they can as early as possible. Judge Africk also discussed his professional background and his path to the bench, while generously fielding questions from the attendees.

LUNCH WITH JUDGE BERRIGAN

On May 7, Judge Berrigan enjoyed lunch with the YLD members in her chambers. After hearing a little bit about each of the attendees, Judge Berrigan offered several federal court practice pointers to the younger lawyers. The YLD members also very much enjoyed hearing some of Judge Berrigan’s fond memories from her days as a practicing attorney.

cont’d on page 11
On June 27, YLD members had lunch with Judge Knowles and the members of his staff in his courtroom. Judge Knowles shared with the younger lawyers the process used for the selection of a magistrate judge and discussed the general roles and responsibilities of magistrate judges. The Judge also provided some discovery pointers to the attendees and shared some insight as to how to make settlement conferences more productive.

Please contact Reba Mackey at (504) 589-7990 if you are interested in attending one of the YLD’s upcoming lunches.

YLD SPONSORS ANGOLA TOUR FOR STUDENTS

The YLD sponsored a group of high school students from Crescent Leadership Academy, who spent the day touring the Louisiana State Penitentiary at Angola. The program was conceived and led by Judge Berrigan, who had previously organized a number of visits to the state penitentiary.

The students toured the Angola grounds and had the opportunity to hear from an inmate, Sirvoris “Shaq” Sutton, who delivered a highly personal and cautionary account of his experience at Angola. After hearing from Mr. Sutton, the students ate lunch in an inmate-run cafeteria, toured living quarters, and visited the area where lethal injections are administered.

On the bus ride back to New Orleans, representatives from the Younger Lawyers Division of the Federal Bar Association, Sunni LeBeouf and William Sentell, spoke with the students about conflict resolution and the importance of making good decisions.

At the conclusion of the trip, the students were asked to submit essays detailing their experience at Angola. One of the students wrote: “Angola inspired me to stop trying to be something I’m not, and to stay off the streets and to stick to my education and my sports. . . . Angola motivates you to stay in school and graduate and be somebody who made it.” Another wrote that “[s]eeing those men who have been locked up since they were my age motivated me to try and keep myself out of trouble.”

On May 8th, Ms. LeBeouf and Mr. Sentell presented two $50 checks to the two top essay writers. Those students are Jacoby Trepagnier and Markques Simon.
The YLD held its annual “Morning at the Federal Courthouse” program on June 19, 2013, at the Eastern District of Louisiana. The program provides a valuable opportunity for law students and young lawyers to observe civil, criminal, and bankruptcy proceedings in federal court.

Sixty-one law students and young lawyers from the area attended the event. The event started with a welcome from The Honorable Kurt D. Engelhardt, who provided an overview of the operations of federal court. The attendees then divided into small groups to observe various oral arguments held before The Honorable Carl J. Barbier and The Honorable Nannette Jolivette Brown.

After observing the oral arguments, the students participated in a panel discussion regarding federal practice with The Honorable Kurt D. Engelhardt, The Honorable Sally Shushan, and Clerk of Court William W. Blevins.

A lunch in the Hale Boggs Conference Room followed the event. The YLD thanks all of the people who made this event possible, including the Judges of the Eastern District of Louisiana, the staff at the Eastern District Clerk of Court’s Office, the YLD committee members, and the FBA staff.

NEW MEMBERS

The Federal Bar Association welcomes its new members:

Adam Babich
Tulane Environmental Law Clinic

John Bihm
Kingsmill Riess, LLC

Caitlin Byars
Fowler Rodriguez

James P. DeSonier
APLC

Campbell B. Fetzer
Herman Herman & Katz, LLC

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Peter J. Kee
Jones Walker LLP

Mark Ladd

Ms. Amanda Tarsa

Tracie L. Washington
Louisiana Justice Institute

If you would like to become a member of the FBA, or know someone who would like to become a member, please call Celeste Coco-Ewing, Membership Chair, at (504) 589-9725, or the Attorney Conference Center at 589-7990, for more information.
Trials and Tribulations is your quarterly summary of matters recently tried in the United States District Court for the Eastern District of Louisiana. Organized by topic, the summaries below are compiled by the Editorial Board from Verdict Reporting Forms provided by the Court.

**CIVIL RIGHTS**

- **Title VII: National Origin Discrimination and Retaliation**

After plaintiff, a Guyanese-American teacher employed by the Jefferson Parish School Board, was laid off during a reduction in force, he filed suit against the Board alleging that the lay-off was the result of discrimination based on his national origin. Plaintiff also alleged that when the Board refused to rehire him, it retaliated against him for complaining of discrimination. In *William M. Joseph v. Jefferson Parish School Board*, a case tried before the magistrate judge by consent of the parties, the jury rendered a defense verdict on all claims, after deliberating for four hours.

**Docket No.:** 11-1277, Section C(2) (Jury trial held May 13-14, 2013).

- **42 U.S.C. §1983, Fourth and Fourteenth Amendments**

Plaintiff Anthony Chaney was shot by defendant, Detective Stephen Lucia, during the execution of a search warrant at a residence that Chaney was visiting. A state court jury convicted Chaney of attempting to disarm a peace officer.

In the civil rights suit styled *Anthony Chaney v. Stephen Lucia*, plaintiff claimed that defendant’s use of force was excessive, notwithstanding Chaney’s attempt to disarm him. In response, defendant argued that the use of deadly force was reasonable and necessary in light of plaintiff’s attempt to disarm him. The jury concluded that Lucia did not use excessive force.

**Docket No.:** 10-316, Section I (Jury trial held May 28, 2013).

**CONTRACT**

- **Breach of Contract; Diversity**

The breach of contract claim asserted in *Blessey Marine Services, Inc. v. Jeffboat, LLC* arose from a contract for the construction and sale of several barges. The parties agreed that the first barge was sold at a base price calculated with steel at a price of $800 per ton, subject to a discount in the event the builder was able to obtain a better price. The parties disputed whether the steel discount applied to five additional barges, which were added to the original contract via an amendment. Plaintiff alleged that it was owed over $1.1 million based on the price defendant actually paid for the steel. Plaintiff further alleged that two of the barges had debris in their fuel tanks in violation of the contract’s express warranty. Defendant denied liability of any breach of contract, and further argued that plaintiff did not notify it of the warranty claim within a reasonable time.

The jury rendered a verdict for plaintiff, finding that defendant breached the contractual warranty but did not breach the pricing provisions of the contract, and awarded damages in the amount of $44,216.21.

**Docket No.:** 10-1863, Section L (Jury trial held June 3, 2013).

**CRIMINAL**

- **Federal Controlled Substances Act: Conspiracy**

In *United States v. Marc Guyton, et al.*, twelve individuals were charged by indictment with various violations of the Federal Controlled Substances Act. Count 1 alleged conspiracy to...
possess with the intent to distribute one kilogram or more of heroin. Eight defendants subsequently pled guilty, one defendant remains at large, and three defendants proceeded to trial.

During a ten-day jury trial, the Government produced evidence derived from a variety of sources, including Title III wiretaps and GPS tracking data. The Government also elicited testimony from case agents, undercover officers, and co-defendants who had pled guilty. The defendants chose not to present a defense, and the jury returned a verdict of guilty on all counts.

**Docket No.:** 11-271, Section H (Jury trial held May 13-24, 2013).

**TORTS**

- **Diversity – Personal Injury**

A collision between a car and a tractor-trailer at the intersection of Poydoras Street and South Claiborne Avenue led to the filing of *Trudy A. Bovie-Clark v. Sentry Select and Lance Thomas, d/b/a Sadowski Trucking.* At the time of the incident, both vehicles were attempting to execute a right turn from South Claiborne onto Poydoras. Defendants contended that the truck driver had pulled to the left, away from the right-hand lane, in order to execute the turn. The truck driver further contended that he had signaled the turn and had begun to make it when the plaintiff came into the intersection and entered his blind spot. Plaintiff, on the other hand, contended that the truck driver was driving in the left-hand lane, did not signal the turn, and suddenly started turning right and hit plaintiff’s vehicle.

After a three-day trial, a seven person jury rendered a verdict of not guilty in the case.

**Docket No.:** 12-336, Section A (Jury trial held April 22-24, 2013).

- **Jones Act Personal Injury and General Maritime Law**

Plaintiff Derek Hale, employed as a menhaden fisherman, was injured when an unidentified metal object came up in the fishing net and struck him on the forearm. As a result of that injury, plaintiff could not fish for a few months, as he was required to rest to allow the injury to heal. Plaintiff claimed that subsequent problems with his knee, shoulder, back, and neck were related to the forearm injury. In *Derek Hale v. Omega Protein, Inc.*, plaintiff alleged Jones Act negligence and unseaworthiness of the vessel on which he was injured, and he also sought maintenance. Defendant had paid all medical expenses (cure) related to the forearm injury, and it denied liability for plaintiff’s claims.

After a four-day bench trial, the Court awarded maintenance for the forearm injury, in the amount of $1,500.00 for a period of five months. The Court rendered judgment for Omega as to plaintiff’s Jones Act negligence and unseaworthiness claims. The Court further found that plaintiff had not established that his subsequent physical problems were caused by the fishing incident or were related to his employment aboard any Omega vessel.

**Docket No.:** 10-282, Section A (Non-jury trial held March 20-23, 2013).

- **Jones Act Personal Injury and General Maritime Law**

Plaintiff Pascal Romano, a Jones Act sailor on a barge owned by defendant Gulf Coast Material, was injured while assisting in unloading steel H-beams from another barge. The barge on which plaintiff was working was equipped with a crane, and the crane was being used to unload the beams, which had been bundled in groups of three by co-defendant Nucor/Yamato Steel Company, L.P. A bundle of beams was resting against the wall of the barge, so that the appropriate sling could not be used to off-load the bundle. When the crane
attempted to pull the bundle away from the wall using the binding cable, the crane’s hook dislodged from the bundle of beams and struck plaintiff in the head, fracturing his skull.

In Pascal Romano v. Gulf Coast Material, Inc., et al., plaintiff sued his employer under the Jones Act and general maritime law. He also sued Nucor under general maritime law, alleging failure to use reasonable care in binding, inspecting, and shipping the beams. After a two-day bench trial, the court dismissed plaintiff’s claims against Nucor with prejudice, but rendered judgment for plaintiff against Gulf Coast. The court awarded damages as follows: past medical expenses, $77,648.00; past mental anguish, pain and suffering, and loss of enjoyment of life, $550,000.00; future medical expenses, $48,800.00; and future loss of earning capacity, $250,000.00. Because the court found plaintiff to be partially at fault, these sums were reduced by 5%, for a total past and future damages award of $880,125.60. The court also awarded $5,000.00 in punitive damages.

Docket No.: 11-473, Section K (Non-jury trial held April 29-30, 2013).

In Charles Paes v. Rowan Companies, Inc., plaintiff injured his shoulder while assisting in the transfer of drill casings from a supply vessel to the M/V JOE DOUGLAS. He claimed that he was required to stand on the pipe rack to unleash the casings as they were lowered by crane onto the vessel and that he slipped on the casings in the pipe rack when the load swung towards him unexpectedly. Plaintiff asserted a Jones Act negligence claim and an unseaworthiness claim under general maritime law against defendant Rowan. Rowan denied the negligence and unseaworthiness claims and also asserted the McCorpen defense.

Following a three-day trial, the jury concluded that both parties were negligent under the Jones Act, apportioning 75% of the fault to plaintiff and 25% to defendant. The jury also found that the JOE DOUGLAS was not unseaworthy and that the defendant failed to establish the McCorpen defense. The jury then awarded damages to plaintiff as follows: past and future pain and suffering and loss of enjoyment of life, $40,000.00; past loss of income and benefits, $40,000.00; and loss of future income, benefits, and/or earning capacity, $150,000.00.

Docket No.: 12-1069, Section I (Jury trial held March 25-27, 2013).

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SEPTEMBER 19, 2013, 2:00 – 4:00

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