LOUISIANA STATE LAW INSTITUTE

MEETING OF THE COUNCIL

October 11, 2024

Friday, October 11, 2024

Persons Present:

Adams, Marguerite (Peggy) L.
Baker, Pamela J.
Belanger, Kathryn (Katie)
Blunt, Shelton D.
Braun, Jessica G.
Breard, L. Kent
Carroll, Andrea B.
Crochet, Anne J.
Cromwell, L. David
Darensburg, June Berry
Davrados, Nick
Doguet, Andre'
Gregorie, Isaac M. "Mack"
Grochowski, Mateusz
Hamilton, Leo C.
Hawthorne, George "Trippe"
Haymon, Cordell H.
Hernandez, Milton
Hogan, Lila Tritico
Holdridge, Guy
Janke, Benjamin West
Johnson, Rachael D.
Knighten, Arlene D.
Koch, Patricia E.
Lee, Amy Allums
Lonegrass, Melissa T.
Lovett, John A.
Manning, C. Wendell
McCallum, Jay B.
Miller, Gregory A.
Morris, John C. "Jay"
Norman, Rick J.
Philips, Harry "Skip", Jr.
Price, Donald W.
Procell, Christopher A.
Richardson, Sally Brown
Riviere, Christopher H.
Saloom, Douglas J.
Scalise, Ronald J., Jr.
Smith, Kenya
Sossamon, Meera U.
Stuckey, James A.
Talley, Susan G.
Tate, George J.
Thibeaux, Robert P.
Title, Peter S.
Tucker, Zelda W.
Waller, Mallory C.
Weems, Charles S., III
Wheeler, Adrienne
Zeno, Micah C.
Ziober, John David

President L. David Cromwell called the October Council meeting to order at 10:00 a.m. on Friday, October 11, 2024 at the Louisiana Supreme Court in New Orleans. After asking Council members to briefly introduce themselves, the President called on Professor Ronald J. Scalise, Jr., Reporter of the Successions and Donations Committee, to begin his presentation of materials.

Successions and Donations Committee

Professor Scalise began his presentation with an overview of House Resolution No. 201 of the 2021 Regular Session and the previous work and discussions had by the Successions Committee and the Council relative to heirs property and partition. He then informed the Council that the Uniform Law Commission sent a lengthy memo explaining that the proposed materials are not uniform mainly because they do not apply to the same breadth of properties and to co-owners who are related by marriage. The Reporter further reminded members that at previous meetings, the Council expressed that it was not concerned about whether the proposal meets the pillars set forth by the Uniform Law Commission (ULC) as long as good law is recommended for Louisiana citizens. The Council generally reasoned that revising the proposal to conform to the demands of the ULC is unworkable and likely will not address most situations occurring in our state in which there are hundreds of heirs, many unidentifiable and unable to be located, each owning a very small interest.

Drawing attention to R.S. 9:1150.3 on page 9 of the materials, the Reporter explained that this proposal adds much needed procedures and particulars to the basic framework in existing R.S. 9:1113 for the partition of immovable property by a co-owner with a minority interest. Subsection A provides for a one-way buyout of the petitioning co-owner's share by all of the other co-owners. The Council discussed the calculation of the fair market value of the property when there is a mortgage or usufruct over the property, and Professor Scalise stated that the appraisal is conducted under the assumption of sole ownership of the immovable and real rights are not affected. It was then suggested that previously adopted R.S. 9:1150.1 should be amended to account for the surviving spouse usufruct under Civil Code Article 890. Thereafter, Subsection A of R.S. 9:1150.3 was approved as follows:

R.S. 9:1150.3. Co-owners right of first purchase

A. If a co-owner files a petition to partition a corporeal immovable subject to this Part, the court shall allow the remaining co-owners to purchase at private sale the petitioner's share. The price of the petitioner's share shall be determined by multiplying the petitioner's fractional interest in the property by the fair market value of the immovable, as determined in accordance with R.S. 9:1150.2.

Moving to Subsection B of R.S. 9:1150.3, the Reporter noted the information that is required to be alleged in the petition for partition. Professor Scalise accepted some grammatical changes and agreed to draft a new provision providing that the regular rules of partition are applicable to the extent that they do not conflict with the more specific provisions of the Louisiana Uniform Partition of Heirs Property Act. The following language was approved:

B. In the petition for partition, the petitioner shall allege the respective ownership interests of each co-owner of the property and the relationship between the co-owners and shall notify each other co-owner of the right to purchase the co-owner's pro rata share of the petitioner's interest.

Next, the Reporter explained that Subsection C of R.S. 9:1150.3 focuses on the manner by which a co-owner exercises the right to purchase the petitioning co-owner's share. The Council pointed out that notice is not always sent by the court unless the judgment is final and then engaged in a discussion about the time period for a suspensive appeal. Members of the Council noted that appeals may be appealed, and a case may also be remanded back to the district court. Therefore, further consideration of Subsection C was deferred pending amendments. Relative to Subsection D of this Section, Professor Scalise explained that each of the three paragraphs provides for the course of action depending upon the number of co-owners who have exercised the right to purchase a pro rata share of the petitioner's interest. The Reporter indicated that Paragraph (2) addresses the easiest circumstance, providing that if none of the co-owners wish to purchase a share, the court shall order partition in kind. Members of the Council suggested that these provisions be rearranged to start with the simplest concept. Council members also commented on the fact that a co-owner may express interest in participating in the buyout just to delay the process. The following language was thereafter approved:

D. (1) If none of the co-owners has exercised the option to purchase his pro rata share of the petitioner's interest, the court shall order partition of the entire property pursuant to R.S. 9:1150.4.

At this time, Professor Scalise ceded the podium to Mr. Charles S. Weems, III, who presented a tribute in memory of Judge F.A. "Pappy" Little, Jr., a copy of which is attached. The Council then adjourned for lunch, during which time there was a meeting of the Executive Committee.

After lunch, Professor Scalise resumed his presentation on behalf of the Successions and Donations Committee, beginning with what appears on page 10 of the materials as R.S. 9:1150.3(D)(3), which will be renumbered as Paragraph (D)(2). The

Reporter explained that this provision provides for situations in which one or more but not all of the co-owners exercise the right to purchase a pro rata share of the petitioner's interest. The Council asked Professor Scalise to add a cross-reference to Subsection F of this Section to ensure that the reader is aware of the round robin reallocation that takes place until all of the outstanding shares have been claimed. The example used involved four co-owners: one co-owner seeks to partition, two co-owners exercise the right to purchase a pro rata share, and one co-owner relinquishes the right to purchase his pro rata share. The one outstanding share, previously belonging to the relinquishing co-owner, may now be bought by the two co-owners who exercised their right to purchase. The Council additionally suggested changing the requirement that the court order the petitioner to send written notice of the recalculation because the court will not know to do this without the petitioner or some other party telling them to do so. Another Council member questioned if the notice should list the co-owners that have relinquished the right to purchase and therefore the reason why the available pro rata share is being recalculated. Other Council members, however, did not want to create an argument for nullity if certain implicit information is not included. The Reporter then agreed to change the language referencing "mailing" because the Code of Civil Procedure contemplates notice by means other than mail. Following the discussion, the below changes were adopted by the Council:

> (2) If one or more but not all of the co-owners has exercised the option to purchase a pro rata share, then upon the expiration of the time to file the notice required in Subsection C of this Section, any co-owner who has failed to timely exercise the option to purchase the property relinquishes the right to purchase his pro rata share. The relinquishment of the right to purchase shall inure to the benefit of the remaining purchasing co-owners, who shall then be entitled, pursuant to Subsection F of this Section, to purchase, by pro rata share, the shares made available by any co-owner who relinquished the right to purchase. The petitioner shall send written notice to each remaining purchasing co-owner stating the recalculated pro rata share of each remaining co-owner and informing each remaining co-owner of the right to purchase the recalculated pro rata share of property, by filing written notice not later than fifteen days from the sending of the notice by the petitioner.

The introductory language of Paragraph (D)(1) on page 10 of the materials, which will be renumbered as Paragraph (D)(3), was then made consistent with the language of new Paragraph (D)(2) to more clearly capture the effects of the round robin allotment of the outstanding shares. The following language was approved:

> (3) If all of the co-owners have exercised the option to purchase their pro rata shares, or if at least one co-owner has exercised the option to purchase his pro rata share and no outstanding shares of the petitioner's interest remain, the court shall set a date, not sooner than sixty days after the sending of the last notice in accordance with Paragraph (2) of this Subsection or sixty days after the sending of the last notice exercising the right to purchase in Subsection C of this Section, whichever is later, by which the co-owners exercising the option to purchase their pro rata shares shall timely pay the apportioned price into the registry of the court.

Shifting to Subsection E of R.S. 9:1150.3 on page 11 of the materials, Professor Scalise first remarked that this provision will be restructured to conform with the restructuring of Subsection D. The Reporter explained that proposed Paragraph (E)(2), redesignated as Paragraph (E)(1), provides that if none of the co-owners exercising the option to purchase a pro rata share of the petitioner's interest pays the apportioned price into the registry of the court, the court shall order partition in kind. The Council inquired as to the timeframe for the payment of the money and pondered whether a co-owner who did not timely pay could come forward with a payment after the stated deadline but prior to partition in accordance with R.S. 9:1150.4 or 1150.5. The Reporter explained that the intent is for the payment to be timely made not later than fifteen days after sending notice. The following language was approved:

E. (1) If none of the co-owners exercising the option to purchase his pro rata share timely pays the apportioned price into the registry of the court, the court shall order partition of the entire property pursuant to R.S. 9:1150.4.

Paragraph (E)(1) in the materials, which will be renumbered as Paragraph (E)(3), provides that if all of the co-owners pay the apportioned price into the registry of the court, the court shall issue an order allocating the petitioner's share to the purchasing co-owners and disburse the money to the petitioner. The Reporter explained that reliance will be on the public records doctrine instead of adding a recordation requirement, and the Council requested changing the word "reallocating" to "transferring." Members of the Council also mentioned the need to make this provision applicable in situations in which at least one co-owner paid the price and no outstanding shares remain. Thereafter, the following language was approved:

(3) If all of the co-owners exercising the option to purchase their pro rata shares, or at least one co-owner exercising the option to purchase his pro rata share timely pay the apportioned price into the registry of the court and no outstanding shares of the petitioner's interest remain, the court shall issue an order transferring the petitioner's share in the property to the purchasing co-owners and disburse the amounts received to the petitioner.

Focusing now on what appears in the materials as Paragraph (E)(3) but will be renumbered as Paragraph (E)(2), Professor Scalise informed the Council that this provision provides for situations in which one or more but not all of the co-owners exercising the right to purchase fails to timely pay the apportioned price into the registry of the court. The proposal requires notice to be sent to each paying co-owner of the right to now purchase an additional portion, the share of the co-owner who did not pay, the price for that share, and the deadline for payment. The Reporter then drew the Council's attention to Paragraph (E)(4) and rationalized that if an outstanding share remains, after notice and the opportunity to make an additional payment into the registry of the court, instead of having to restart this entire procedure, the court shall order an open-market sale of the remaining unpurchased share.

Dialogue began with the appropriate place to insert a cross-reference to Subsection F to ensure that the reader is aware of the round robin process, but a Council member then suggested the relocation of the second to last sentence of Subsection F to a new Subsection immediately following Subsection E because the round robin concept contained therein applies to both Subsections D and E. It was further suggested that proposed Paragraph (E)(4) be relocated to a new Subsection G to clarify that only after all of the round robin cycles are complete is the court allowed to order an open-market sale. Other Council members voiced that because Paragraph (E)(2) only provides for the sending of a notice, it would be helpful to reiterate that upon receiving the notice, further action must then be taken to purchase the outstanding shares and deposit money into the registry of the court until the process is exhausted and either no more shares remain or only one remains and the court is allowed to order the open market sale thereof. The fifteen-day time period in Subparagraph (E)(2)(c) was highlighted as being too short of a time period considering the consequences of defaulting and the loss of property rights.

The conversation next turned to Subparagraph (E)(2)(b) and the calculation of the price for the outstanding share of the co-owner who did not place the apportioned price into the registry to the court. It was suggested that the calculation should involve multiplying the pro rata share of the nonpaying co-owner by the pro rata share of the purchasing co-owners, instead of multiplied by the fair market value. Members of the Council then wondered if the confusion in the language is because a purchasing co-owner may now have agreed to purchase more than one pro rata share, through the round robin method, but has failed to place any money in the registry of the court. The Reporter informed the Council that the proposed language is intended to cover all of the pro rata shares that the defaulting co-owner agreed to buy but did not for failure to pay the apportioned price. Therefore, the co-owners who are still eligible to purchase need to be notified of the price that it will cost for each of them to purchase a pro rata share of the share that was not paid for by the defaulting co-owner. Continuing to struggle with

terminology, members of the Council suggested phrases such as "unpaid share" and "unexercised share" and "a share in the remaining share." Ultimately, the Council recommitted Subsections E and F the Committee and directed the rearrangement of the Subsections so that it is clear that the provisions of Subsection F interact with all of R.S. 9:1150.3.

Professor Scalise next explained that R.S. 9:1150.4 requires a preference for partition in kind if the co-owners' right of first purchase process fails to result in the purchase of the petitioner's share as contemplated by R.S. 9:1150.3. The Uniform Law Commission requires the consideration of these factors in determining whether partition in kind may prejudice the co-owners as a group. Members of the Council clarified that this Section only applies when none of the co-owners exercise their right to buy out the petitioner or when none of the co-owners who exercised their right deposit the apportioned price into the registry of the court. In other words, this does not apply if some, but not all, of the shares are purchased. The Council then debated partial partition in kind, the meaning of "manifest prejudice," and whether the overall goal of recommending this proposal is being sustained. After agreeing to add a Subsection C to direct the court as to when to order partition in accordance with R.S. 9:1150.5, the following proposal was adopted:

R.S. 9:1150.4. Preference for partition in kind

A. When required by R.S. 9:1150.3, the court shall order partition in kind of the property unless the court finds that partition in kind will result in manifest prejudice to the co-owners as a group.

B. In determining whether partition in kind may result in manifest prejudice to the co-owners as a group, the court shall consider the totality of all of the following factors and circumstances:

(1) Whether the property practicably can be divided among the co-owners.

(2) Whether partition in kind may apportion the property in such a way that the aggregate value of all of the lots is significantly lower than the value of the property in a state of indivision, taking into account the condition under which a court-ordered sale likely would occur.

(3) Evidence of the collective duration of ownership or possession of the property by a co-owner and one or more prior co-owners related by consanguinity or adoption to an existing co-owner.

(4) A co-owner's sentimental attachment to the property, including any attachment arising because the property has familial or other unique or special value to the co-owner.

(5) The lawful use being made of the property by a co-owner and the degree to which the co-owner may be harmed if the co-owner could not continue the same use of the property.

(6) The degree to which the co-owners have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property.

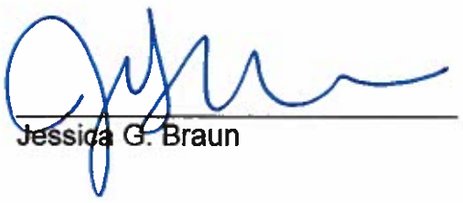
(7) Any other relevant factor.

C. If the court does not order partition in kind [due to a finding of manifest prejudice to the co-owners as a group,] the court shall order the sale of the property [immovable] in accordance with R.S. 9:1150.5.

The final provision reviewed was R.S. 9:1150.5(A), and the Reporter reminded the Council that at a previous meeting, the Council had directed the Committee to draft a proposal to provide that if partition in kind fails, the partitioning co-owner should be given a chance to purchase the property before it goes for sale on the open market. The Council also suggested that a premium price of at least one hundred twenty-five percent of the fair market value of the property be paid for this right. Some members of the Council grappled with how this proposal would protect the interests of the co-owners, and there was a motion and second to lower the premium to one hundred ten percent. After further discussion, this motion failed. The Council next discussed the need to address the fact that the petitioning co-owner is not purchasing his own pro rata share from himself. Therefore, the language needs to take into account the fact that the amount paid into the registry of the court is one hundred twenty-five percent of the fair market value of the other co-owners' interests that are being purchased.

Members of the Council subsequently questioned the effect on mineral rights and real rights, but Professor Scalise assured the Council that all of the other rules relative to partitions remain applicable, including Civil Code Article 812 which addresses these concerns. Deliberation continued as to the disbursement of proceeds to co-owners if there is a mortgage on the property and whether the amount of the mortgage due has to be deducted first. Although everyone agreed that Civil Code Article 815 applies and the mortgage that burdens the share of a co-owner attaches to his share of the proceeds of the sale, additional points were raised regarding due process, default on the mortgage, and whether other laws relative to partition and procedure are displaced by this proposal. To alleviate some of the concerns, it was suggested that the proceeds not be sent to the co-owners but instead paid to creditors first as is done in partition by licitation and in accordance with what is contemplated in Code of Civil Procedure Article 4626.1 prior to a discharge, or to provide that if the property is subject to a mortgage, the mortgagees are paid in accordance with their rank. Another suggestion was to ensure that the rules regarding partitions by licitation and by private sale remain applicable.

At this time, Professor Scalise concluded his presentation, and the October 2024 Council meeting was adjourned.



Jessica G. Braun

Remarks on the Passing of Judge F.A. "Pappy" Little October 11, 2024

Council of the Louisiana Law Institute – Louisiana Supreme Court, New Orleans, La

Mr. President, colleagues, friends. I rise to reflect on the life of Judge Frank Alan "Pappy" Little, Jr., who passed away on the last day of March, 2024. He was 87 years old. Judge Little was survived by his wife, Gail, to whom he was married for 66 years, two children, Sophie McGough, an architect in Austin, and Sabrina DiMichele, a Houston lawyer, five grandchildren, and two great-grandchildren.

I spoke at Pappy's memorial service in May and began with the words: "O Captain, my Captain" – the plaintive opening line from Walt Whitman's iconic Civil War poem about Abraham Lincoln, last brought to life by Robin Williams in the 1989 Oscar winning film *The Dead Poet's Society*. Strangely, or perhaps not, those words were the first to come to mind when I sat down to reflect after hearing that my great mentor, colleague and friend, Pappy Little, had finally yielded his place among us. And, like the subject of Whitman's verse, the path he took, and the legacy he left, while offering little consolation, lift us as we remember and pay tribute to the life of this remarkable man before the members of the Institute he loved so much.

Frank Alan Little, Jr. was born in Minnesota in 1936, at the height of the depression. He grew up in Peoria, Illinois, and somehow escaped in 1954 to attend Tulane University, a decision that sculpted the rest of his life. There Pappy met the lovely and brilliant Gail Cox from Memphis, and hung on for dear life.

Pappy entered Tulane Law School in 1958 and made there many of the close friends that enriched and impacted his life – most notably the gifted and irrepressible Max Nathan. Most, if not all of you, remember Max as a wonderful lawyer, a professor at Tulane Law School, an avid member of this Institute and the reporter of multiple Institute Committees. Both Pappy and Max went to work out of Tulane for what Pappy called "white shoe" New Orleans law firms. Max with Monroe & Lehman, and Pappy with Chaffe McCall (where, incidentally, he became very close with our beloved former director, Bill Crawford). At Chaffe McCall, Pappy was doing mostly real estate and mortgage work then, and his friendship with Max was really cemented by the fact that Max was <u>not</u> a notary public. How so, you ask?

In those days, the number of notarial commissions in Orleans Parish was limited by statute, and the restriction put a lid on those wanting some of the lucrative business passing acts of sale and mortgages for the New Orleans homesteads and banks – that business being firmly held by

politically connected firms and families. Well, it seems that Pappy's firm had such a connection at the time; Max's did not. And Pappy garnered a notarial commission. So ... when Max had business requiring a notary, he called Pappy. Their first shared client in the notarial realm was the then new dean of the Tulane Law School, Cecil Morgan, who was closing on his first home in the City. The most notable feature of the closing was that our heroes charged the expenses of the seller to the buyer, Dean Morgan, who, on discovery, was not pleased with his young alums.

Pappy's early practice required him occasionally to go to the central part of the state, where Max arranged for him to stay with Max's father-in-law, a lawyer by the name of Leo Gold. Max was married to Leo's oldest daughter, Dottie, who Gail and Pappy had met in their undergraduate days at Tulane. You can see where this is going. Leo had told Max that he and his partner, George Hall, really needed a business and tax lawyer at their firm, Gold Hall & Skye, and asked Max to keep his eye out for a candidate. At a dinner with their wives at the 1965 La Bar Convention in Biloxi, Pappy confided to Max that after a few years in New Orleans he was thinking of moving to a smaller community where he could focus on his tax and estate practice. The more they ate and drank, the better the idea sounded, and at about 11 PM that night, both three sheets to the wind, Pappy and Max

called Leo to let him know they had the perfect candidate to become George Hall's right-hand man. The rest, as they say, is history.

Pappy and Gail moved to Alex to join the firm Gold Hall and Skye, where Pappy began a distinguished legal career as a tax and estate planning specialist, and, ultimately, a Federal Judge. More on all that to follow.

And that's where my path intersected with Pappy's. Six years later I was following an almost identical path – leaving a New Orleans law firm (this one a little more work boot than white shoe) to return to my hometown to become the right-hand man for George Hall and Pappy Little. But George died suddenly only a month before I arrived, and Pappy was it – mentor, colleague, confidante and friend. And it remained that way for over half a century.

Enough ancient history – let me share just a few Pappy Little memories and stories from the early decades of knowing this extraordinary man. (These are the ones that I can tell in public.) 😊

- Each vignette has a short title -

Night in the Catacombs. The old Gold Hall Hammill and Little offices at 620 Murray St in Alexandria were a conglomeration of old, single story, smaller offices that had been cobbled together with multiple entries and

hallways. Pappy's office was one of the grand 3 on the first or main hall; my partner and law school classmate Hank Bruser and I were in much smaller offices on a truncated second hallway. In those days we not infrequently worked late into the night, and by practice turned on only the lights in our offices. (probably a John Simon rule) It was like the catacombs – dark, quiet, spooky, creaking. A good work environment, but offering a cloak for mischief. Bruser and I loved to bedevil Pappy by quietly low crawling down his darkened hallway and leaping in to scare him at some inopportune moment. After a while, he knew it was gonna come, but never could avoid jumping out of his skin. You can imagine the oaths and promises that followed each occasion.

Pappy's Revenge. One cold winter night I was working very late. Everyone else had gone home. Finally I gave up the ghost, locked up and, looking around, approached my Chevy Impala that was parked on a dark, deserted Murray Street. I unlocked the car, cranked up and had gone about half a block when this dark apparition rose in the back seat making inhuman noises. Absolutely scared me to death! I almost wrecked the car and I'm pretty sure I wet my pants! Pappy had his revenge. 😊 I couldn't top that so we quit the nocturnal adventures. I still don't know how he got in the damn car.

Vacation. Pappy and Gail loved traveling. Frequently to European countries where Pappy sometimes spoke at international meetings and taught classes at European law schools to visiting and other law students (usually set up by his good friend, Professor Yiannopolis). On his trips, especially those to the Mediterranean, Pappy was always on the lookout for a nude beach – go figure; who knew? – and made these a part of his itinerary – usually sending back nude beach postcards to the office saying "wish you were here" and other comments – some unmentionable. To our dismay, the postcards inevitably featured older, large, northern European beach goers seeking a full tan. When he got back we would ask him, "Did you look at those postcards? We don't want to see that. Don't send those." He just giggled but never stopped.

The Blue Car. I can't talk about Pappy without paying tribute to and remembering his baby blue diesel Mercedes sedan. Some of you may recall it also. It seemed like he drove it for at least 20 years. Maybe more. He had smoked in it so much that the windows were clouded with some sticky brown film – carcinogenic no doubt – and the leather seats gave off a rich tobacco aroma. He loved that car. It could to his favorite lunch spot by itself. I think it had a governor on it so it couldn't go over 15 miles an hour. And he would take the most circuitous route to wherever you were going.

So anytime Paps was driving there was always time for a good visit. Or a nap. Mostly, we tried not to let him drive.

While all this was just background noise, Pappy put together a legal career to be admired and envied. He was a lawyer's lawyer. As a tax and estate planning specialist, he became a frequent speaker at legal and accounting seminars, an adjunct professor at the Tulane Law School, a publisher of articles in in the Tulane Law Review, The Journal of Taxation, and the Hastings Constitutional Law Journal, a founder of the La Bar Association's specialization programs In tax and estate administration, the founder of the Crossroads American Inn of Court (which is now the Judge F.A. Little, Jr. American Inn of Court), a Fellow in the American College of Trust and Estate Counsel, and in the year before his death, a member of the Tulane Law School Hall of Fame.

Pappy was first involved with the La State Law Institute as an elected observer for the Junior Bar in 1967, and stayed involved as the elected representative of the Young Lawyers Section, and then as the Liaison officer representing the La State Bar Association, until he was elected as a practicing attorney member of the Council in 1978. He was elected a Senior Officer of the Institute in 1986, and he was and remained a faithful and contributing member until health intervened a few years ago.

This most notable career in private practice led him and us to what his partners at the Gold Firm referred to as "the mourning" – now I guess it should be **The First Mourning**. You see, his death is the second time our firm has mourned Pappy. The first was when he ascended from being president of our firm to the Federal Bench after being appointed by Ronald Regan in 1984. We hung black crepe at our offices and a black wreath on the door. All his partners appeared at the investiture wearing dark suits and black boutonnieres, lamenting the firm's loss of this extraordinary lawyer. Not to be outdone, Pappy, after giving one of those delightful and witty speeches for which he was so well known, took off his own red rose boutonniere and flipped it to Gail, saying – "Here dear, this bud's for you!"

Here Come da Judge. Pappy was a wonderful judge. He handled over 4000 cases, including those while sitting by designation on the 5th and 6th US Circuit Courts of Appeal. He was courteous to lawyers and parties alike, thoughtful in his approach to each case, and scholarly in his writing. He was a blessing to his law clerks, each of whom he loved and who sustained him over the years.

But Pappy was restive wearing the Federal cloak in a small community like ours. He was such a social animal – a people person – that he struggled with the isolation of his lofty position. He was nominated to, and

would have been on, the U.S. 5th Circuit Court of Appeals, where he would have been much happier serving and interacting with other judges, including his great friend, Jack Weiner; but a presidential election intervened and closed that door. Sorry, Paps.

So, after 22 years on the federal bench, Pappy retired and returned to private practice, served as Tribal Judge for the Coushatta Tribe, and ultimately ended up back at our firm, to close his distinguished career.

Finally, I conclude by remembering not his accomplishments, but some of the things I loved most about F.A. Little, Jr.

- **I loved his piano playing** – he called himself a "quotidian" pianist (?? 😊 everyday)
    - He played at nursing homes for the patients, and kept his sanity by playing in chambers at the federal courthouse
- **I loved that he always had a list of words** to learn the meaning of. Hence, "quotidian" 😊
- **His sense of humor** – corny, witty, irreverent, occasionally sharp
    - He asked his 90 year old friend, Harry Silver, at Harry's Alex City Council swearing in, if he knew why no one ran against him? – "it would be like shooting an endangered species!"

- On his death bed, he pulled me close and whispered, "I need you to do something for me. It's Important." Of course, I responded, anything. "Can you find me a pistol?"

  A quipster to the end.

- **I loved his love of history and books**
- **I loved His kindness and thoughtfulness**, especially as shown by his resolute practice of writing notes and letters to his friends, colleagues, and acquaintances, even those who might not have been close or treated him well, on the things that happened in their lives, or for no reason at all other than to reach out or cheer them up.
- **I loved his unwavering loyalty and commitment to people.**

With which I close - as I was the beneficiary of that trait from the day I met Pappy. We will not see another quite like him – this man with the mustache, the bow ties and the big heart.

Rest in peace, Judge F. A. Little, Jr. **Oh Captain, My Captain.**

Mr. President, I ask that these words be spread upon the minutes of the meeting in memory of our departed colleague.