

# John Randall Whaley



## Curriculum Vitae

**John Randall Whaley** is a partner with Neblett, Beard, & Arsenault where his focus is complex litigation and serious injury and death claims. He dedicates his practice to the representation of victims and consumers injured by the negligence and fraud of others. J.R. is an experienced litigator, having tried many cases and class certification issues in both state and federal courts throughout the country, as well as having argued in many appellate courts.

J.R.'s legal abilities have gained notice by many judges before whom he has appeared. When it certified a class action of insureds complaining about an adjusting practice, a district court said these things about J.R.'s work and abilities:

**The pertinent jurisprudential authorities, both state and federal, have been exhaustively briefed and argued in excellent fashion by counsel for both sides in this case.**

...

**Initially, the Court is well satisfied that counsel for the plaintiff seeking certification of this class action is more than able to adequately represent the interest of the class. The defendant expresses no disagreement with this proposition in any filing it has made.**

When it approved a class action settlement in favor of consumers, another state court judge stated that although she was "not really in favor of class action litigation," that the facts of the case and J.R.'s work and involvement in the case brought "some merit to the notion of class actions." After observing J.R. in a jury trial, a federal district judge remarked that J.R. exhibited "qualities that every lawyer should possess and display," complimented his "demeanor and judgment" and stated that J.R. was "mature beyond his age."

J.R. is admitted to practice in all state and federal courts in Louisiana, as well as the United States Fifth Circuit Court of Appeals and the United States Supreme Court. Due to the nature of his practice, J.R. has also been admitted *pro hac vice* in many courts throughout the country. He was graduated from L.S.U. with degrees in history and political science and was graduated from LSU Law School, where he won the Flory Trial Competition during his senior year. In addition to his busy litigation practice, J.R. regularly speaks to other attorneys and students on important legal issues and is a consistent contributor to legal publications throughout the country.

J. R. says this about his practice: "Without a fully functioning adversarial tort system, the Goliaths will beat the Davids every time. I am proud to fight the powerful on behalf of the powerless and to help bring justice to those who otherwise would not have a chance."

## **EDUCATION**

- Louisiana State University Paul M. Hebert Law Center, Juris Doctor, May 1998
- Louisiana State University, Bachelor of Arts - History and Political Science, December 1993

## **BAR ADMISSIONS**

- United States Supreme Court, 2002
- United States Court of Appeals, Fifth Circuit Court of Appeals, 1998
- United States District Court, Louisiana Western District, 1998
- United States District Court, Louisiana Middle District, 1998
- United States District Court, Louisiana Eastern District, 1998
- Louisiana Supreme Court, 1998

## **PRO HAC VICE ADMISSIONS**

- United States District Court, Southern District of Texas, 2008
- United States District Court, District of Kansas, 2007
- United States District Court, Southern District of New York, 2007
- Superior Court of the State of California, County of Los Angeles, 2006
- United States District Court, Northern District of California, 2006
- United States District Court, Central District of California, 2006
- United States District Court, District of New Jersey, 2006
- United States District Court, Western District of Washington, 2005
- United States District Court, Eastern District of Texas, 2005
- United States District Court, Florida Middle District, 2005
- United States District Court, Delaware, 2002

## **PUBLISHED WORKS**

- “Multidistrict Litigation and Bellwether Trials: Leading Litigants to Resolution in Complex Litigation” *The Brief*, Fall 2009, 39:1.
- “Will Daubert Challenge Your Class Certification” *TRLAL*, July 2009.
- “Right To Jury Trial In Louisiana Class Actions” *Louisiana Advocates*, January, 2009.
- Book review, *The Science of Settlement*, *TRLAL*, November 2008.
- “Settlement Strategies for Complex Global Litigation” *TRLAL*, December, 2007.
- “The Duty to Find a Knowledgeable Corporate Designee - Or to Educate One” *Louisiana Bar Journal*, Volume 55, Number 3.
- “*Hanks v. Entergy Corp.*: The Supreme Court Provides Some Clarity But Leaves A Big Question Unanswered” *Louisiana Advocates*, February 2007.
- “Pre-Certification Discovery: A User’s Guide” *Tulane Law Review*, 80 *TLNLR* 1827.
- “The (Un)Availability of Act of God and Force Majeure Affirmative Defenses After Rita, Katrina” *Louisiana Advocates*, June 2006.
- “*Brill v. Countrywide Homes*: Burden of Proof in Remand Proceedings for Class Actions Removed Under CAFA” *The Federal Lawyer*, May 2006.

- “Knowledge is Power: A Practical Proposal to Protect Putative Class Members from Improper Pre-Certification Communication” *Federal Courts Law Review*, 2006 Fed. Cts. L. Rev. 2.
- “Gathering Digital Evidence” *TRIAL*, October 2005.
- “Using Conflicts Principles to Obtain Punitive Damages in Louisiana Courts” *Louisiana Advocates*, May 2005.
- “Daubert Lite: Daubert’s Role, If Any, at Class Certification Hearings” *Louisiana Bar Journal*, Volume 52, Number 5.
- “Class Action Settlement of Future Claims” *Louisiana Advocates*, December 2004.

### **PRESENTATIONS AND SEMINARS**

- Moderator, Louisiana Association for Justice CLE a la Carte, New Orleans, Louisiana, December 30, 2009
- “*Daubert*: Practical Applications” Last Chance Seminar Review of Louisiana Law, December 10-11, 2009
- “*Daubert* Motions in Class Certification Proceedings, Strategies for Plaintiffs and Defendants Post *In re Hydrogen Peroxide*” Strafford CLE, November 17, 2009
- “Mass Food Borne Illness Torts: Procedural – Class Action vs. Individual Causation” LSBA Class Action/Mass Tort Symposium, October 16, 2009
- “Trial Plans and the Increasing Role, Function and Application of Bellwether Trials” LSBA Class Action/Mass Tort Symposium, October 17, 2008
- “Does *Daubert* Apply to Class Certification?” AAJ Annual Convention, July 12, 2008
- “Why Should A PI Lawyer Care About Class Actions?” Louisiana Association of Justice CLE Highlights of 2008, January 24, 2008
- “The Implications of CAFA on Class Actions” Louisiana State Bar Association 19<sup>TH</sup> Annual Summer School Revisited Seminar, December 14, 2007
- “Professionalism in Today’s World” Central Louisiana Pro Bono Project’s Last Roundup CLE, December 7, 2007
- “What Constitutes Appropriate Class Action Notice and Why You Should Care... Due Process, Costs and Practical Efficacy” Louisiana State Bar Association’s 7<sup>th</sup> Annual Class Action/Mass Tort Symposium, New Orleans, LA, October 19, 2007
- “Professionalism - Does It Pay?” Louisiana Association for Justice, Valuable Litigation Insights, May 18, 2007
- “Preservation and Spoliation of Electronic Evidence” Louisiana Association for Justice, One More Chance CLE, January 25, 2007
- “Ethical Issues and The Practice of Law” Louisiana Association for Justice 2006 CLE à la Carte, December 29, 2006
- “Gathering Digital Data” Louisiana Association for Justice Last Chance Review of Louisiana Law CLE, December 15, 2006
- “Pre-Certification Communication With Putative Class Members: Issues Associated With When, How, and If Contact Can Be Made” Louisiana State Bar Association’s 6th Annual Class Action/Mass Tort Symposium, October 20, 2006
- “Electronic Evidence & New Discovery Rules: Are You Ready for 2007?” LTLA and SeminarWeb Live!, September 20, 2006

- “Litigation Demographics - Claims, Remedies, Venues, and MDL Issues” Harris Martin Contact Lens Solution Litigation Conference, July 26, 2006
- “Electronic Evidence- Getting the Evidence You Need” Crossroads American Inn of Court CLE Event, March 21, 2006
- “Dealing with *Daubert*” Crossroads American Inn of Court CLE Event, February 23, 2005
- “Evaluation of a Tort Claim” St. Denis Inn of Court CLE Event February 22, 2005
- “Handling Expert Testimony Issues Under *Daubert*” and associated paper, “*Cheairs v. State, DOTD* and Louisiana Appellate Courts’ Decisions on Expert Testimony in 2004” Louisiana Trial Lawyers Association Aspen Winter Ski Program, February 10, 2005
- “Alexandria Young Lawyers Bench Bar Conference” Program Chair, 2004
- “Recent Developments” LSBA Section on Torts, Insurance, Negligence, and Worker’s Compensation Annual Meeting, Destin, Florida 2004, Moderator, Panel Presentation with Hons. G. Thomas Porteous, Richard T. Haik, and Dean Thomas Galligan.
- “Closing the Deal, Papering It, and Doing it Ethically” Louisiana State Bar Association’s Class Action/Mass Tort Symposium, October 2004
- “Medical Malpractice and You” LSU PreMed Society, 2003
- “Lawyer Advertising and Ethics” LSU Manship School of Communications, 2003
- “Federal Practice” Louisiana Association of Paralegals, 2001
- “The Media and the Administration of Justice” LSU Manship School of Communications, 1999-present

#### **RELEVANT REPORTED CASES**

- Marsh v. USAgencies Casualty Insurance Company, 957 So.2d 901, (Certification of Insurance Class Action)
- Marlon Simmons v. CTL Distribution, Inc., 868 So. 2d 918 (Wrongful Death and Survival Action Following Overturning of Molten Sulfur Truck)
- Johnson v. Ned, 2001 WL 1161270 (Insurance Coverage Issue in Sexual Molestation Case)
- Mac Hatten v. Schwerman Trucking, 889 So.2d. 448 (Venue Issue Surrounding Toxic Release)
- In re: Complaint of River City Towing Services, Inc., 199 F.Supp.2d. 495 (Class Action Plaintiffs’ Motion to Dismiss Defendant’s Declaratory Judgment granted)
- Crutchfield v. Landry, 778 So. 2d 1249 (Insurance Coverage Question Regarding Choice of Law Issues. Position advanced was ultimately accepted by the Louisiana Supreme Court in Champagne v. Ward, 893 So.2d. 773)

**RELEVANT EDUCATIONAL ACCOMPLISHMENTS**

- Flory Trial Competition Winner - 1998
- Young Lawyers Section Louisiana Law Schools' Mock Trial Competition Winner - 1998