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## Frederic Theodore "Ted" Le Clercq

Partner

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### Practices

Commercial Litigation

Labor & Employment  
Litigation

Professional Liability of  
Attorneys, Accountants,  
Agents, and Brokers

### Industries

Education

Healthcare

Insurance

Retail & Restaurant

### Bar Admissions

Louisiana

Mississippi

U.S. District Court for the  
Eastern, Middle and Western  
Districts of Louisiana

U.S. District Court for the  
Northern and Southern  
Districts of Mississippi

U.S. Court of Appeals for the  
4th and 5th Circuits

### Education

Federal Judicial Law Clerk,  
D.S.C., the Honorable Falcon  
B. Hawkins Jr., U.S. District  
Court Judge, 1989-1991

J.D., University of Tennessee  
at Knoxville, 1989

B.A., Washington & Lee  
University, *cum laude*, 1986,  
Special Honors in Philosophy

Frederic Theodore 'Ted' Le Clercq chairs the Commercial Litigation Department. He sees himself as the problem solver. In addition to commercial litigation, Ted represents clients faced with employment litigation, professional liability defense, civil rights litigation, and constitutional law claims.

Knowing that each client and business is unique, Ted listens carefully to what is driving a client on a case or what the client's concerns are. He carefully presents the best options for his clients then offers prompt legal solutions to their concerns while avoiding costly litigation.

His experience includes developing a national coordinating counsel program for a Fortune 200 national retailer. He currently serves as that client's national coordinating counsel for high-value personal injury claims.

Mr. Le Clercq is a frequent speaker for a variety of professional groups in his practice areas and also provides training to companies on personnel issues.

During his career, Ted has:

- Handled numerous discrimination claims
- Counseled businesses faced with Non-Competition/Non-Solicitation Agreement
- Represented clients against claims of RICO violations
- Defended a property owner and residents association in a freedom of speech lawsuit

Mr. Le Clercq remains active in the New Orleans community by serving on local board organizations such as:

- Officer, Board Member and Executive Committee Member, LCMC Health
- Former Executive Committee Member and former Legal Committee Chair of the Audubon Nature Institute
- Preservation Resource Center, Former Board Chair
- St. Charles Avenue Association, Former Board Chair

In the aftermath of Hurricane Katrina, Ted spearheaded an effort to replant 325 new oak trees along St. Charles Avenue and helped establish the St. Charles Streetcar line as the 54th national historic landmark in Louisiana.

### Professional Associations

- PLAN (Professional Liability Attorney Network), Vice-Chair
- American Bar Association, EEO Subcommittee
- Louisiana State Bar Association, Labor and Employment Section Member

- Mississippi State Bar Association, Labor and Employment Law Section
- New Orleans Bar Association

### Accolades

- *Martindale-Hubbell AV® Preeminent™ Peer Review Rated Lawyer*
- *The Best Lawyers in America® 2007-2020*
- *Louisiana Super Lawyers, 2007, 2009-2018*
- *New Orleans CityBusiness "Leadership in Law: Top 50 Lawyers in New Orleans" 2015, 2012, 2010 (Hall of Fame)*
- *New Orleans Magazine "Top Lawyers" List, 2019*

### Representative Successes

- ***H2O Hair, Inc. v. Marquette, et al, 07-18 (La. App. 5 Cir. 5/15/07) 960 So.2d 250***  
In a case handled by Deutsch Kerrigan–*H2O Hair, Inc. v. Marquette, et al.*, 07-18 (La. App. 5 Cir. 5/15/07) 960 So.2d 250—a Non-Competition/Non-Solicitation Agreement was upheld for a parish where the employer solicited clients, even though the employer's headquarters and operations center was in a different parish. These agreements are often used by employers to bind key employees to the business and protect their client base. Specifically, Non-Competition/Non-Solicitation Agreements are designed to prevent former employees from taking the hard-earned business and customers of the employer when someone leaves.

In this case, H2O Hair, Inc. ("H2O"), was granted a preliminary injunction, enjoining a former employee hairdresser from soliciting and servicing H2O clients in violation of her contractual agreement not to do so. The Agreement was to be in effect for two (2) years following her separation from H2O and was specifically limited to the parishes of Jefferson and Orleans. H2O's headquarters is in Jefferson but most of its customers come from other parishes, especially Orleans Parish. H2O advertises in Orleans and solicits customers in Orleans. The non-compete statute, however, only allows employers to restrict competition from former employees operating where the former employer is "carrying on a like business."

The Court of Appeals had to decide if H2O was "carrying on a like business" in Orleans Parish, such that the Non-Competition/Non-Solicitation Agreement could be upheld. The only business it did in Orleans Parish was to advertise there and solicit customers there.

- ***Employment Discrimination, Tammy Stewart Dixon v. Primary Health Services Center, et al***  
Mr. Le Clercq obtained summary judgment dismissing employment discrimination claims filed against his client, a health services center in Northeast Louisiana. The claims, alleging retaliation, hostile work environment, and discrimination based on race and gender, were filed by the defendant's demoted Medical Director. The defendants showed valid business reasons for the plaintiff's numerous "write-ups," demotions and reduction in salary, and the plaintiff was unable to show the defendant's actions were merely a pretext for intentional discrimination based on race and gender, the creation of a hostile work environment, or retaliation.  
*Tammy Stewart Dixon v. Primary Health Services Center, et al.*, No. 10-1490, Monroe Division, U.S.D.C. W.D. La.
- ***Religious Liberties, Winberry et al v. Louisiana College, et al***  
Mr. Le Clercq represented Louisiana College when four former professors sued the school, the president, and members of the Board of Trustees. The professors alleged defamation and infliction of emotional distress, among other claims, in relation to the school's position that the bible be taught solely as the "word of God without mixture for error." After seven years, the Court dismissed the case, ruling that a decision would require the Court to choose sides in a dispute over Baptist Theology in violation of the establishment clause of

the First Amendment, which states that Congress is prohibited from making any law "respecting an establishment of religion." Judge Doggett stated the court does not have the power to choose which Baptist view is correct.

*Winbery, et al. v. Louisiana College, et al.*, No. 184,363, 9th JDC, Rapides Parish, Louisiana

- **Product Liability – *Christopher Pace v. Federal APD, Inc.***

Mr. Kerrigan, Mr. Le Clercq and Mr. Walsh obtained a dismissal with prejudice on a motion for summary judgment in the 19th JDC, Parish of East Baton Rouge, on behalf of a manufacturer of access control devices. The manufacturer had been sued by a university police officer who claimed injuries resulting from a malfunction of a parking lot's exit gate. Deutsch, Kerrigan & Stiles was able to prove that the plaintiff, who was riding his duty motorcycle at the time, knew that motorcycles and parking gates were incompatible and that the plaintiff's employer had removed the manufacturer's warnings. Judge Hernandez gave written reasons for judgment.

*Christopher Pace v. Federal APD, Inc., et al.*, 19th JDC, 2009

- **Insurance Agent Errors & Omissions, *Quebedeaux v. Ellsworth and Babcock, EDLA***

Mr. Le Clercq defended an insurance broker in an errors & omissions case when beneficiaries sued an insurance company and its broker for \$200,000 life insurance benefits, additional contract and tort damages, attorney fees, and penalties. There was a 20 year relationship between the company and the broker for all group coverages. The company cross-claimed against the broker as well. The employee, "not actively-at-work," eventually died between coverage changes from Lafayette Group Life Insurance to Madison Group Life Insurance. All carriers denied coverage and all blamed the broker in emails, stating the decedent was too old for "waiver of premium benefit," the agent failed to secure 18 month "leave of absence" benefits, and the agent failed to advise the company/decedent to exercise "conversion" rights. However, discovery revealed several key errors by Lafayette and supported a novel policy interpretation against Lafayette. The case settled on December 18, 2010, for \$120,000 and only \$20,000 from Lexington's insureds.

*Quebedeaux v. Ellsworth and Babcock, EDLA*

- **Freedom of Speech, *Sidney Smith d/b/a/ Haunted History Tours, Inc. v. Donald Geddes and the VCPORA, Inc.***

This certified class action was originally filed on behalf of the residents of the Town of Ferriday. The action involved Ferriday's water treatment system, and primary claims were for injury, nuisance, and inconvenience. Plaintiffs also alleged that engineers engaged in fraud to cover up their alleged negligence in designing the system. This case was vigorously defended under the immediate direction of our client and was favorably settled to the client's satisfaction.

*Sidney Smith d/b/a Haunted History Tours, Inc. v. Donald Geddes and the VCPORA, Inc.*, La. Court of Appeals No. 09-0833 (2009)

### Community Involvement

- LCMC Health, Elected Officer (Treasurer), June 2020
- Louisiana Childrens' Medical Center, Board & Finance Committee Member
- Audubon Nature Institute, Board Member, Executive Committee, Legal Committee (Chair)<sup>4</sup>
- Preservation Resource Center, former Board Member and former President of the Board
- St. Charles Avenue Association, former Board Member and former President of the Board
- Washington & Lee University (Louisiana Chapter), Past President
- New Orleans Saints Community Quarterback Award, 2011

- Arbor Day Foundation, 2011 National Award
- "Once Every 100 Years Project," Effort to replant 325 new live oaks along St. Charles Avenue
- St. Charles Line – National Historic Landmark: Successful effort making the St. Charles Streetcar Line the 54<sup>th</sup> National Historic Landmark in Louisiana

### Publications

- "Business Interruption Claims and COVID-19 Roadblocks: Is It Reasonable to Expect Any Coverage After This Disaster?" LA Bar Journal, June 2020
- "Protecting Your Business When Employees Leave," *The Legal Blueprint*, Issue 3, 2007

### Presentations

- "Employment and Business Related Issues: COVID-19," Presented by Ted Le Clercq and Ellis Murov to Construction Employers, hosted by the AIA. April 2020
- "Why Not Take the Gloves Off? Problems with Professionalism," Presentation by Mr. Le Clercq and Mr. Glas, Loyola University and Association of Corporate Counsel - Louisiana Chapter's Essential Issues Affecting In-House Counsel and Corporate Attorneys CLE, New Orleans, LA, September 24, 2010
- "Errors & Omissions Issues," Presentation by Mr. Le Clercq, Chartered Property Casualty Underwriters Society National Convention, September 9, 2008, Philadelphia, PA
- "Saving Arbitration and Stopping The Great Escape," Presentation by Mr. Le Clercq, The Network of Trial Law Firm's Litigation Management CLE, May 1-4, 2008, Naples, FL