

JEFFERSON BAR ASSOCIATION
33rd Annual CLE by the Sea
Evidentiary Objections

- **La.C.Cr.P. art. 841A** provides, in part, that “an irregularity or error cannot be availed of after verdict unless it was objected to at the time of occurrence.” The purpose of the requirement of a **contemporaneous objection** is to put the trial judge on notice of an alleged irregularity so that he or she may cure a legitimate problem and prevent the defendant from gambling for a favorable verdict and then resorting to appeal on errors that might easily have been corrected by an objection. *State v. Styles*, 96–897 (La.App. 5 Cir. 3/25/97), 692 So.2d 1222, 1228, writ denied, 97–1069 (La.10/13/97), 703 So.2d 609. A **contemporaneous objection** allows opposing counsel to reply or to correct the problem, and may also prevent the error entirely.

- In order to preserve an evidentiary issue for appellate review, it is essential that the complaining party enter a **contemporaneous objection** to the evidence and state the reasons for the objection. *Matthews v. Breaux*, 04–958 (La.App. 5 Cir. 2/15/05), 896 So.2d 1146, 1150. The failure to make a **contemporaneous objection** in the trial court waives the right of a party to complain about the ruling on appeal. *Hyland v. American Guarantee and Liability Insurance Company*, 04–305 (La.App. 5 Cir. 9/28/04), 885 So.2d 30, 34.

HYPOTHETICAL

Carter, a librarian by day and karaoke king by night, suddenly felt ill, with a strong cough, body pain & headache; accordingly, he went to an urgent care. The doctor diagnosed him with influenza, and prescribed a new medication, Flu-be-gone. Both the prescribing doctor and pharmacist went over the side effects of the medication, which should be noted, did not include any dizziness, fatigue, or nausea.

Carter, began taking the medicine and decided to go take his karaoke crown back. He went to the local bar, Mentz’ Musical Masquerade, for karaoke Thursday. While there, he opened a tab, and was seen by several people at the bar ordering drinks for everyone, but only one person states that they saw him drinking, Jennifer, a server and full time employee at the bar. While on stage singing and performing, his speech was slurred, he wasn’t like his normal self, he was dizzy and suddenly he fell off stage severely injuring himself and the Elvis impersonator who was scheduled to perform next. Elvis, believing that Carter had intentionally jumped on him to keep him from performing and taking the Karaoke Crown, proceeded to punch Carter several times and then pulled a handgun and shot Carter injuring him. Elvis then left the building.