

TENTH Annual “ELOISE” BAILEY CLARKE BAR SCHOLARSHIP

Hello all TMSL 3Ls. Judge Vonda Bailey and I, Attorney Peter J. Clarke, are proud to announce our 10th annual “Eloise” Bailey Clarke Bar Scholarship. We will award up to four winners, two full scholarships of \$3,000.00 each and two partial scholarships of \$2,000.00 each. We will also award each winner \$250 gift cards to use to purchase food or groceries, while studying for either the February or July 2026 Bar Examination. The format remains the same, Bar Exam MPT format. There is no word limit, BUT there is a five (5) page limit using 12-point New Times Roman font. The deadline for submissions is 11:59 p.m. on Friday, November 14, 2025. NO EXCEPTIONS for late submissions. All submissions must be emailed by the deadline to: syvondiabailey@gmail.com and pclarke@clarkepllc.com. Winners will be announced in December 2025, and the scholarships will be awarded at a 10th anniversary celebration in January, 2026. Details of the celebration will be forwarded to the scholarship winners in December. Protect it, Improve it, Pass it on!!

Scholarship Prompt:

Idlewild, TX has been a hot spot for political debate surrounding affirmative action, higher education, and racial equality programs.

Clark Kent, a nationally known conservative commentator, and founder of the Keep it Simple Silly (KISS) organization, has gained a large following for his outspoken criticism of affirmative action policies. Kent frequently delivers speeches at college campuses, claiming to promote intellectual diversity and free thought.

During a KISS campus event at Idlewild Southern University (“ISU”), Kent gave a speech where he spoke of how affirmative action hurts America. The event was open to the public and streamed live on social media.

In his speech, Kent made several controversial remarks, including statements questioning the academic qualifications of African American students and implying that merit was being replaced by racial favoritism. He also made inflammatory comments concerning literacy and intelligence saying, “blacks aren’t smart enough, this is why they need affirmative action” and made comments regarding guns laws stating “it’s worth it to have a cost of, unfortunately some gun deaths every single year so that we can have the second amendment to protect our other God-given rights”. Throughout the speech, Kent mocked university diversity programs and claimed that “America’s future is being destroyed by policies that reward laziness and punish excellence.”

Three days after the speech, Billy Joe Cyrus, a follower of Kent, confronted Jahiem Brown, a 29-year-old African American graduate student at ISU, outside a local shop. Witnesses reported that Cyrus accused Brown of “stealing opportunities” from “more qualified people” and referenced talking points like those Kent made in his speech.

The confrontation escalated, and Cyrus fatally shot Brown. He was later arrested and charged with second-degree murder. During police questioning, Cyrus told investigators that Kent “opened his eyes” and that he “had to do something before it was too late.”

Brown’s family filed a civil wrongful death action in Idlewild Superior Court against Clark Kent alleging that his speech directly incited violence and contributed to Jahiem Brown’s death.

The complaint asserts causes of action for:

1. Wrongful Death – Incitement to Violence, under Idlewild Civil Code § 123.1, which imposes liability when speech is “intended and likely to produce imminent lawless action.”
2. Negligence, alleging that Kent knew or should have known that his statements would foreseeably inspire violence from his followers.
3. Intentional Infliction of Emotional Distress, asserting that Kent’s speech was so extreme and outrageous as to exceed all bounds of decency.

Kent has filed a motion to dismiss, arguing that all his statements are protected under the First Amendment, as they constitute political speech and do not meet the standard for incitement.

At trial, trial court denied Kent’s motion to dismiss, finding that the plaintiffs had alleged sufficient facts to proceed. Kent appealed to the Idlewild Court of Appeals, arguing that his speech was protected under the First Amendment.

The Court of Appeals has accepted the case and invited briefs on whether Kent’s speech is constitutionally protected.

You are counsel for Brown’s family. Prepare a legal brief addressing whether Kent’s speech falls within the protection of the First Amendment, or does it constitute unprotected speech under the incitement or fighting words exceptions?