



Ed Haden

Alabama Appellate Practice Guide

(1st edition, 2009)

By Ed Haden

Reviewed by Judge R. Bernard Harwood

The *Alabama Appellate Practice Guide* expertly supplies the long-standing need of practitioners for an in-depth, yet easily accessible handbook on Alabama appellate procedure. Authored by Ed Haden, chair of the appellate focus team of Balch & Bingham LLP, with the assistance of a group of editors fully knowledgeable in the field, this book is a splendid resource for any lawyer undertaking to navigate the often challenging pathways of Alabama appellate procedure. It walks the practitioner through every critical step of an appeal from a final judgment as well as all of the available interlocutory appeals, and likewise guides him or her through the intricacies of petitions for the writ of mandamus, the writ of prohibition and the writ of certiorari. Recognizing the sometimes daunting complexities involved in appellate procedures (often requiring consideration of the interrelationships among a variety of statutes, the *Alabama Rules of Appellate Procedure*, the *Alabama Rules of Civil Procedure* and opinions of the Alabama Supreme Court and the Alabama Court of Civil Appeals), Haden and his group of editors have gone to great lengths to make sure this practice guide is “user-friendly.” The 273 pages of substantive text and the

several appendices are readily accessible through the introductory “Detailed Table of Contents” and the concluding lengthy “plain English” index. The 17 chapters comprehensively cover the various areas of appellate practice in a logically organized order. In addition to fully treating the various steps and stages of appeals and applications for extraordinary writs, separate consideration is given to a variety of ancillary matters; for example, preserving error, cross-appeals and applications for rehearing. There are entire chapters devoted to such nuts-and-bolts subjects as appellate motions practice, staying judgments and composition of the record on appeal. Less routine areas, such as amicus curiae briefs, questions certified to the Alabama Supreme Court by federal courts and advisory opinions of the justices, are not neglected, receiving their own separate and full treatment.

The chapter on “When, Where and How to Appeal” provides a great road map for avoiding pitfalls in the timing and structure of an appeal, including such particularized procedures as appeals from probate courts, the timing of cross-appeals and the computation of various applicable deadlines. The interaction of post-judgment motions and appeal timetables is also helpfully

explored. As an example of how the thoughtful organization of the various chapters provides comprehensive coverage of a subject, yet enables the reader easily to locate a particular point of interest, consider Chapter 3 dealing with “Appellate Review of Interlocutory Orders.” First, the various statutes and rules of appellate procedure which specially authorize appeals from certain interlocutory orders are cataloged and also summarized in a chart which identifies the time for taking each of those types of appeal. There then follows a discussion of the interlocutory appeals permitted from orders certified as final pursuant to Rule 54(b) of the *Alabama Rules of Civil Procedure*, interlocutory petitions for writs of mandamus or prohibition (including a lengthy listing of the various types of orders from which mandamus or prohibition review has been allowed) and the special timing rules that apply to those various procedures. Thereafter, the requirements for taking a “permissive” appeal under Rule 5 of the *Alabama Rules of Appellate Procedure* are covered.

All relevant aspects of pursuing appellate review are addressed in the book, from the substantive (what constitutes a “final” judgment that will support a regular appeal) to the purely procedural (what language must a Rule 54(b) *Ala. R. Civ. P.* “finality certification” order contain to support an interlocutory appeal). Each chapter contains cross-references to other chapters that should be considered to obtain a complete understanding of the area under discussion, and each concludes with a practical set of “Practice Tips.”

Although the forward to this guidebook disclaims any intent that it constitute “a comprehensive treatise that deals with every appellate rule and every question of Alabama appellate procedure that may arise,” my searching survey of its content has failed to

spot any gap or material omission. At the very least, this well-researched, knowledgeably arranged and most helpfully indexed work will lead the practitioner carefully and thoroughly through all necessary steps of any appellate procedure he or she might need to pursue with respect to a civil case in an Alabama state court. In short, it is a “must have” for any lawyer who might ever become involved in any sort of appeal or extraordinary writ proceeding, be that as appellant/petitioner or appellee/respondent.

Copies may be obtained for \$25 each by visiting <http://www.balch.com/files/upload/AppellateBookInfo.pdf> or by contacting Vera Kirk, with Balch & Bingham, at (205) 251-8100. ▲▲▲

Judge R. Bernard Harwood, Jr. obtained a degree in commerce and business administration at the University of Alabama and his law degree from the university’s School of Law in 1963. He practiced for 28 years in Tuscaloosa until 1991, when he was appointed by the governor to the Circuit Court of Tuscaloosa County. He was then elected twice to that judgeship. In November 2000, he was elected an associate justice of the Alabama Supreme Court and served in that position from January 2001 to January 2007, when he voluntarily retired to return to Tuscaloosa. He rejoined his former law firm and the firm resumed its original name of Rosen Harwood. Judge Harwood is a Fellow of the American Bar Foundation, the Alabama Bar Foundation and the American College of Trial Lawyers and is a “Diplomat” of the American Board of Trial Advocates. He is chair of the Advisory Committee on the Alabama Rules of Evidence and teaches an advanced evidence course at the University of Alabama School of Law.

Mr. Haden thanks those pictured below for their contributions to *Alabama Appellate Practice Guide*.



Matt Carroll



Tom Casey



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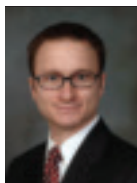
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C. Yielding

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Conflict is inevitable. Your clients, oftentimes with well-meaning intentions, find themselves deep into the fray of a dispute long before they seek counsel for solutions. Litigation results as a common response to “solve” the problem at hand. Resolution of a dispute does not always mean settlement. If a case is tried, the parties should be firm in their resolve that the courthouse forum, with all of the risk and uncertainty, is the best alternative after exhausting every effort to determine a more certain outcome. I’ll try to help you untangle the knot binding your client in conflict.

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