

JANUARY 2010 • VOL. 71, NO. 1

THE ALABAMA
LAWYER

FROM
POWER TO
SERVICE

THE STORY OF LAWYERS
IN ALABAMA

Finding Malpractice Insurance Does Not Have To Be A Trip Through Troubled Waters!



Call AIM.
*We Take the Bite
Out of the Process.*



**Attorneys Insurance Mutual
of Alabama, Inc.**

200 Inverness Parkway
Birmingham, Alabama 35242-4813

Telephone (205) 980-0009
Toll Free (800) 526-1246
FAX (205) 980-9009

"A Mutual Insurance Company Organized by and for Alabama Attorneys"
www.AttysInsMut.com

Relax.

We can help you choose the health insurance coverage that's right for you

Learn more about the Aetna Advantage plans for Alabama State Bar Members, Employees, and Eligible Family Members

Choice: Aetna[†] has a wide range of affordable health insurance plans, including coverage for children only. Immunizations are covered 100 percent.

Access: Benefit from our national network of physicians, hospitals and dentists.

Locked-in rates: Your rates can be modified from the time in which you got your quote, however rates from the effective date are guaranteed not to increase for 12 months in most states.

Rx Home Delivery: This exclusive benefit, Available to Members, allows you to order prescriptions by phone or online in seconds.

Just a call away: Our Member Assistance Program (MAP) provides telephone access to licensed clinicians for consultation and referrals to community services 24 hours a day, 7 days a week.

Health Savings Account (HSA) Compatible plans available: You can pay for qualified medical expenses with tax-advantaged funds. Please consult your independent financial advisor before opening an HSA or making an investment selection.

No waiting period: No waiting period to access preventive health (routine physicals) or annual routine GYN exam coverage.


ALABAMA STATE BAR

Want to know more about health coverage for individuals?

For a free quote visit isi.norvax.com or to apply call ISI Sales Direct at 1-888-ISI-1959



 **ISI ALABAMA**
— a division of —
INSURANCE SPECIALISTS, INC.
EST. 1959

[†]Aetna Advantage Plans for individuals, families and the self-employed are underwritten by Aetna Life Insurance Company directly and/or through an out-of-state blanket trust and Aetna Health Inc. (Aetna). In some states, individuals may qualify as a business group of one and may be eligible for guaranteed issue, small group health plans. Information subject to change. Plans may be subject to medical underwriting. Health insurance plans contain exclusions and limitations. Investment services are independently offered through JPMorgan Institutional Investors, Inc., a subsidiary of JPMorgan Chase Bank.

©2008 Aetna Inc.

We want you to know[®]

 **Aetna[®]**

www.aetna.com

Register now for spring seminars at

www.CLEalabama.com

Spring 2010
Calendar



Live Seminars

JANUARY

- 15 Video Replay of Alabama Update *Tuscaloosa*
- 29 Professionalism *Birmingham*

FEBRUARY

- 5 Banking *Birmingham*
- 12 President's Day *Birmingham*
- 19 Elder Law *Birmingham*
- 26 Workers' Compensation *Birmingham*

MARCH

- 26 Domestic Practice *Birmingham*

APRIL

- 23 E-Discovery *Birmingham*

MAY

- 7/8 City & County Government *Orange Beach*
- 21 Professionalism *Birmingham*



Teleseminars

JANUARY

- 13 Trust Administration
- 19 Defending Against IRS Collections, Part 1
- 20 Defending Against IRS Collections, Part 2
- 21 Ethics in Trust and Estate Planning
- 28 Ethics of Working with and Preparing Witnesses



Online Seminars

2009 Alabama Update: Ethics Update from the Alabama State Bar

2009 Alabama Update: Tort Law Update

60 Practice Tips in 60 Minutes!

Assault and Domestic Violence

Cross-Examination of Witnesses

Estate Tax Returns

Ethics of E-Discovery

Family Law Issues in Immigration Law

How to Swallow an Elephant: Managing Email Overload

Reading an Insurance Policy: The Basics

Real Estate: Basic Loan Closings

Show Me the Money: Bills Out, Money In & Accounting for the Bottom Line

Special Issues in Administering Estates

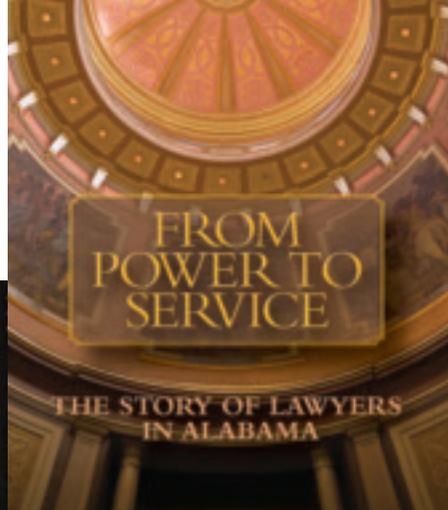
Technology in the Courtroom: Benefits, Bling & Bloopers

The Representation of US Military Members by the Civilian Bar

What Appellate Court Judges Want to See in a Brief & Hear In Oral Arguments

Workers' Compensation: The Case From Start to Finish

Go to CLEalabama.com for **24/7** access to over **150** online seminars and a full listing of available live seminars and teleseminars.



IN THIS ISSUE

- 24** ASB Fall 2009 Admittees
- 36** ASB Volunteer Lawyers Program 2009 Honor Roll
- 45** The VLP and the Thief
By Pamela H. Bucy
- 46** Book Review: *Alabama Appellate Practice Guide*
(1st edition, 2009) By Ed Haden
Reviewed by Judge R. Bernard Harwood
- 48** What Kind of Bang Am I Getting for
My Buck with the LRS?
By Renee Avery
- 50** Task Force to Examine Interest in Creating New Federal
Court Practice Section
- 52** ASB Leadership Forum
By Edward M. Patterson
- 56** Creation of Commercial Litigation Docket in the
Birmingham Division, Tenth Judicial Circuit
By Presiding Judge J. Scott Vowell
- 58** Piercing the Corporate Veil:
When is Too Much Fiction a Bad Thing?
By Will Hill Tankersley and Kelly Brennan
- 64** Oops, It Happened Again: Inadvertent Disclosure under
New Federal Rule of Evidence 502
By Wayne Morse, Jr.
- 68** Reliance, the Bachelor: Will Experience Answer the Open
Questions of Reasonable Reliance?
By Wilson F. Green
- 75** *Twombly* and *Iqbal*: The Effect of the “Plausibility”
Pleading Standard on Alabama Litigators
By J. Thomas Richie and Anne Manasco Dionne

From Power to Service:

The Story of Lawyers in Alabama

This commemorative book is a detailed chronicle of the profession's first 200 years in Alabama. Author Pat Boyd Rumore draws on a rich array of sources that bring to life both the internal history of the profession and its role in the legal and political life of the state. Here are stories of the legions of lawyers and judges who successfully faced the challenges of their profession and created a powerful community of shared interests and commitments. The book will be available for purchase in February for \$40. Proceeds go to the Alabama Law Foundation and the Bench and Bar Historical Society.

DEPARTMENTS

- 9** **President's Page**
“Thank You, Legal Services!”
- 13** **Executive Director's Report**
The Image of the Legal Profession and the Weather
- 15** **Important Notices**
Notice of Election and Electronic Balloting
Alabama Lawyers' Hall of Fame Nomination Form
Judicial Award of Merit
Amendment of Rules 16, 26, 33(c), 34, 45, and Form 51A, Alabama Rules of Civil Procedure, and Adoption of Rule 37(g), Alabama Rules of Civil Procedure
- 17** **Memorials**
- 21** **Bar Briefs**
- 23** **Young Lawyers' Section**
New Admittees, CLE and Pro Bono – Have We Left Out Anything?
- 79** **Opinions of the General Counsel**
Third-Party Auditing of Lawyers' Billings – Confidentiality Problems and Interference with Representation
- 85** **Legislative Wrap-Up**
The 2010 Legislature Begins
- 89** **Disciplinary Notices**
- 93** **About Members, Among Firms**



Mixed Sources
Product group from well-managed forests, controlled sources and recycled wood or fibre
www.fsc.org Cert no. SW-COC-003392
© 1996 Forest Stewardship Council



CLE COURSE SEARCH

The Alabama Mandatory CLE Commission continually evaluates and approves in-state, as well as nationwide, programs which are maintained in a computer database. All are identified by sponsor, location, date and specialty area. For a listing of current CLE opportunities, visit the ASB Web site, www.alabar.org/cle.



www.alabar.org/cle

ALABAMA STATE BAR
415 Dexter Avenue
Montgomery, AL 36104
(334) 269-1515 • (800) 354-6154
FAX (334) 261-6310
Web site: www.alabar.org

ALABAMA STATE BAR STAFF

Executive DirectorKeith B. Norman
Executive AssistantDiane Locke
Network Administrator.....Wayne Hughes
Computer Programmers.....Dolan L. Trout
Larry Pratt
Scanning OperatorKristi Neal
Web Administrator.....Willie Murphy
Assistant Executive Director.....Edward M. Patterson
Administrative AssistantsRita Gray
Marie Updike
Director of Regulatory Programs.....Angela Parks
CLE Administrative Assistant.....Carol Thornton
Regulatory Programs/PHV Assistant..Cathy Sue McCurry
Director of CommunicationsBrad Carr
Publications Director.....Margaret L. Murphy
Communications and Publications
Assistant.....Marcia N. Daniel
Membership Services Director.....Mary Corbitt
Membership Administrative AssistantEmily Farrow
Director of AdmissionsDorothy D. Johnson
Admissions Administrative Assistants.....Sonia Douglas
Crystal Jones
BookkeeperGale Skinner
ASB Foundation Assistant.....Ann Rittenour
Graphic Arts DirectorMaggie Stuller
Graphic Arts Assistant.....Roderick Palmer
ReceptionistStephanie Oglesby
Director of Service Programs.....Laura A. Calloway
SP Administrative Assistant.....Kristi Skipper
Volunteer Lawyers Program Director.....Linda Lund
VLP AssistantKatherine L. Church
Intake SpecialistDeborah Dickey
Lawyer Referral Secretary.....Renee Avery
Alabama Lawyer Assistance Program
DirectorJeanne Marie Leslie (834-7576)
ALAP Administrative AssistantSandra Clements
ALAP Case Manager.....Shannon Knight
Alabama Law Foundation, Inc. Director.....Tracy Daniel
ALF Administrative AssistantSharon McGuire
Alabama Center for Dispute Resolution
DirectorJudith M. Keegan (269-0409)
ADR AssistantPatsy Shropshire

ALABAMA STATE BAR CENTER FOR PROFESSIONAL RESPONSIBILITY STAFF

General CounselJ. Anthony McLain
Secretary to General CounselJulie Lee
Assistant General CounselRobert E. Lusk, Jr.
Assistant General CounselSamuel S. Partridge
Assistant General CounselJeremy W. McIntire
Complaints Intake Coordinator.....Kim Ellis
Disciplinary Clerk.....Bonnie Mainor
Paralegals/Investigators.....Cheryl L. Rankin
Carol M. Wright
Client Security Fund Coordinator.....Laurie Blazer
ReceptionistSherry Langley



Robert A. Huffaker, Montgomery.....Chair and Editor
rah@rsjg.com
Linda G. Flippo, Birmingham.....Vice Chair and Associate Editor
lflippo@whitearnolddowd.com
Brad Carr, Montgomery.....Staff Liaison and Director of Communications
brad.carr@alabar.org
Margaret L. Murphy, Montgomery.....Staff Liaison and Publications Director
margaret.murphy@alabar.org
Marcia N. Daniel.....Communications & Publications Assistant
marcia.daniel@alabar.org

Board of Editors

Gregory C. Buffalow, Mobile • Russell C. Buffkin, Mobile • Henry L. Cassidy, Jr., Fairhope • Greg C. Cook, Birmingham • Katharine A.W. Coxwell, Monroeville • J. Mark Debro, Huntsville • Patrick C. Finnegan, Mobile • N. Chris Glenos, Birmingham • C. Paige Goldman, Birmingham • Wilson F. Green, Tuscaloosa • Trip Haston, III, Birmingham • Fred G. Helmsing, Jr., Mobile • Anne S. Hornsby, Tuscaloosa • Emily C. Marks, Montgomery • Reta A. McKannan, Huntsville • Timothy B. McCool, Carrollton • Derek F. Meek, Birmingham • William J. Moore, Jr., Enterprise • Richard D. Morrison, Montgomery • George R. Parker, Montgomery • Gabrielle E. Reeves, Mobile • Christopher N. Smith, Montgomery • John S. Steiner, Birmingham • Chad E. Stewart, Enterprise • James R. Turnipseed, Mobile • Aldos L. Vance, Birmingham • Mark T. Waggoner, Birmingham • John R. Wallis Birmingham • Tari D. Williams, Tuscaloosa

Officers

Thomas J. Methwin, Montgomery.....President
Alyce M. Spruelli, Tuscaloosa.....President-elect
J. Mark White, Birmingham.....Immediate Past President
Phillip W. McCallum, Birmingham.....Vice President
Keith B. Norman, Montgomery.....Secretary
Robert N. Bailey, II, Huntsville.....Young Lawyers' Section President

Board of Commissioners

1st Circuit, Ronnie E. Keahey, Grove Hill • 2nd Circuit, Cleveland Poole, Greenville • 3rd Circuit, Christina D. Crow, Union Springs • 4th Circuit, J. Garrison Thompson, Selma • 5th Circuit, Randall S. Haynes, Alexander City • 6th Circuit, Place No. 1, R. Cooper Shattuck, Tuscaloosa • Place No. 2, Robert Hays Webb, Tuscaloosa • 7th Circuit, John M. Gruenewald, Anniston • 8th Circuit, Phil D. Mitchell, Decatur • 9th Circuit, W. N. Watson, Fort Payne • 10th Circuit, Place No. 1, Leslie R. Barineau, Birmingham • Place No. 2, S. Greg Burge, Birmingham • Place No. 3, George M. Neal, Jr., Birmingham • Place No. 4, Phillip W. McCallum, Birmingham • Place No. 5, Augusta S. Dowd, Birmingham • Place No. 6, Maibeth J. Porter, Birmingham • Place No. 7, Joseph A. Fawal, Birmingham • Place No. 8, Robert E. Moore, Birmingham • Place No. 9, James R. Pratt, III, Birmingham • Bessemer Cutoff, William A. Short, Jr., Bessemer • 11th Circuit, Albert J. Trousdale II, Florence • 12th Circuit, Richard W. Whittaker, Enterprise • 13th Circuit, Place No. 1, Henry A. Callaway, III, Mobile • Place No. 2, Walter H. Honeycutt, Mobile • Place No. 3, Billy C. Bedsole, Mobile • Place No. 4, Juan Ortega, Mobile • Place No. 5, Mary Margaret Bailey, Mobile • 14th Circuit, James R. Beard, Jasper • 15th Circuit, Place No. 1, Les Hayes III, Montgomery • Place No. 2, Les Pittman, Montgomery • Place No. 3, Donald R. Jones, Jr., Montgomery • Place No. 4, J. Cole Portis, Montgomery • Place No. 5, Sim Penton, Montgomery • Place No. 6, Lee H. Copeland, Montgomery • 16th Circuit, F. Michael Haney, Gadsden • 17th Circuit, K. Scott Stapp, Demopolis • 18th Circuit, Place No. 1, Ramona Morrison, Columbiana • Place No. 2, Julia C. Kimbrough, Birmingham • 19th Circuit, Brian D. Mann, Wetumpka • 20th Circuit, Hamp Baxley, Dothan • 21st Circuit, John L. Jernigan, III, Brewton • 22nd Circuit, John M. Peek, Andalusia • 23rd Circuit, Place No. 1, Harold Stephens, Huntsville • Place No. 2, L. Thomas Ryan, Jr., Huntsville • Place No. 3, Richard J.R. Raleigh, Jr., Huntsville • 24th Circuit, J. Dale Lawrence, Jr., Fayette • 25th Circuit, R. Wyatt Howell, Hamilton • 26th Circuit, Kenneth E. White, III, Phenix City • 27th Circuit, Jerry Wayne Baker, Jr., Albertville • 28th Circuit, Place No. 1, Allan R. Chason, Bay Minette • Place No. 2, Marion E. Wynne, Jr., Fairhope • 29th Circuit, Robert L. Rumsey, III, Sylacauga • 30th Circuit, Elizabeth S. Parsons, Pell City • 31st Circuit, John M. Kenemer, Tusculmbia • 32nd Circuit, Jason P. Knight, Cullman • 33rd Circuit, Henry F. Lee, III, Geneva • 34th Circuit, Eddie Beason, Russellville • 35th Circuit, J. Milton Coxwell, Jr., Monroeville • 36th Circuit, Christopher E. Malcom, Moulton • 37th Circuit, Robert T. Meadows, III, Opelika • 38th Circuit, Don Word, Scottsboro • 39th Circuit, Jere C. Trent, Athens • 40th Circuit, David F. Law, Rockford • 41st Circuit, Alexander M. Smith, Oneonta

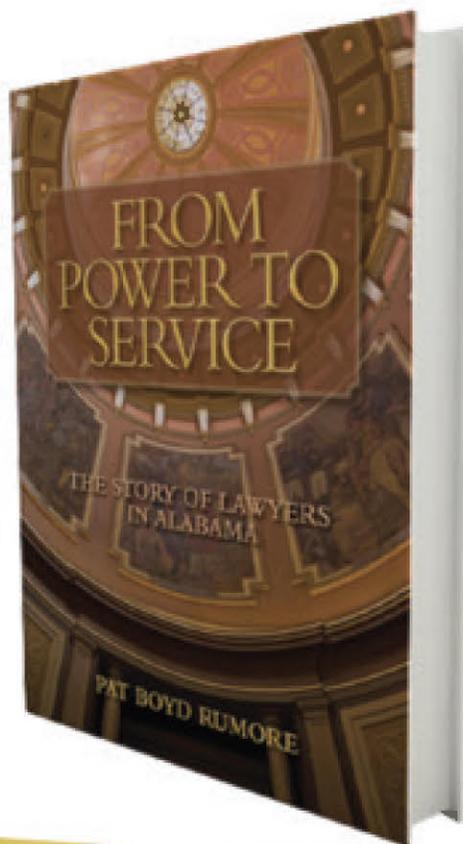
At-Large Board Members

1. Walter E. McGowan, Tuskegee • 2. Claude E. Hundley III, Huntsville • 3. Deborah Byrd Walker, Birmingham • 4. Merceria Ludgood, Mobile • 5. Alicia F. Bennett, Chelsea • 6. LaBarron N. Boone, Montgomery • 7. David K. Howard, Florence • 8. Kesa Johnston, Roanoke • 9. Kelly T. Lee, Elmore

The Alabama Lawyer (USPS 743-090) is published six times a year by the Alabama State Bar, 415 Dexter Avenue, Montgomery, Alabama 36104. Periodicals postage paid at Montgomery, Alabama, and additional mailing offices. POSTMASTER: Send address changes to *The Alabama Lawyer*, P.O. Box 4156, Montgomery, AL 36103-4156.

The Alabama Lawyer is the official publication of the Alabama State Bar. Views and conclusions expressed in articles herein are those of the authors, not necessarily those of the board of editors, officers or board of commissioners of the Alabama State Bar. Subscriptions: Alabama State Bar members receive *The Alabama Lawyer* as part of their annual dues payment; \$15 of this goes toward subscriptions for *The Alabama Lawyer*. Advertising rates will be furnished upon request. Advertising copy is carefully reviewed and must receive approval from the Office of General Counsel, but publication herein does not necessarily imply endorsement of any product or service offered. *The Alabama Lawyer* reserves the right to reject any advertisement. Copyright 2010. The Alabama State Bar. All rights reserved.

The Perfect Gift For A Lawyer



From Power to Service: The Story of Lawyers in Alabama

Written by attorney-author Pat Boyd Rumore. This hardcover book, filled with pictures, many of which were not previously published, is the ideal gift.

The story of lawyers in the developing history of Alabama opens in Mississippi Territory days with the appointment by President Thomas Jefferson of the first territorial judge in St. Stephens, the earliest settlement in what would become Alabama, and continues to present day Alabama, where the profession has grown to more than 16,000 members.

In these pages you will read about the people who pioneered Alabama's legal profession. The history of the profession in this state comes alive as Pat Rumore tells the Bar's story in the words of those who shaped it. It's a story of lawyers who ended radical reconstruction and founded the state bar. It's a story of federal jurists who helped to end the segregated "southern way of life" by their decisions brought by some of this state's great civil liberties lawyers. It's also a story about women in the profession and how their achievements have paved the way for a new generation of lawyers.

Publication of this book is co-sponsored by the History and Archives Committee of the Alabama State Bar and the Alabama Bench and Bar Historical Society. Proceeds from the sale of this book go to the Alabama Law Foundation and the Bench and Bar Historical Society.

The cost is \$40 per copy.

Order your copy today using a credit card, go online to: www.alabar.org/historybook

Shipping and handling charges will be waived for the first 250 orders and those orders will also be eligible to receive a signed first edition of the book.



Zero Travel Time. Zero Hassles. Unlimited Possibilities.

Why travel when you can save time and money, for yourself and your clients, while staying close to home? The Alabama State Bar offers a state-of-the-art videoconferencing facility for client meetings, depositions and settlement conferences. For more information or to schedule the facility, contact Kristi Skipper at (334) 517-2242 or kristi.skipper@alabar.org. First hour free for first time users.



415 Dexter Avenue • Montgomery, Alabama 36104
(334) 269-1515 • Fax (334) 261-6310 • (800) 354-6154



THOMAS J. METHVIN



Montgomery area attorneys, paralegals and law students recently donated their time and talents during the Montgomery County Bar Association's Legal Advice Clinic, as part of this year's Pro Bono Week.

"Thank You, Legal Services!"

Estimates show that about 25 percent of Alabama's population, or about 1 million people, live in poverty. In the current economic climate, it is likely that these numbers will grow. Research indicates low-income Alabama households experience more than 700,000 legal problems per year. Common civil problems include consumer and family law issues, as well as issues involving housing, health, public benefits and elder law.

Legal Services Alabama (LSA) is the most important resource available to address these needs. LSA is a statewide nonprofit organization dedicated to providing access to justice and quality civil legal aid. It operates 10 offices throughout the state, in Anniston, Birmingham, Dothan, Florence, Huntsville, Mobile, Montgomery, Opelika, Selma, and Tuscaloosa. It serves legal needs in all 67 counties in Alabama. LSA helps people by providing representation on critical legal matters in judicial and administrative forums, and by providing free legal counsel, community education and mediation services.

The Alabama State Bar has partnered with LSA in our "**Mortgage Foreclosure Program**." This program was started in 2008 with grants from the **Access to Justice Commission** and the **Alabama Civil Justice Foundation**. The program provides a toll-free hotline for people facing home foreclosure and provides them a free lawyer who works at LSA. The **Mortgage Foreclosure Hotline** (877-393-2333) is promoted throughout the state with public service announcements on television that are sponsored by the Alabama State Bar.

PRESIDENT'S PAGE Continued from page 9

So far, the hotline has helped more than 3,600 callers. We opened over 3,000 mortgage cases and have completed over 2,300 of those cases. In addition to helping clients, the success of this program creates positive publicity for our bar, which provides these much-needed services.

The partnership with LSA worked so well that we decided to adopt this same model to help with domestic violence cases. We received another grant from the Access to Justice Commission to hire a lawyer to be housed at Legal Services. When we receive domestic violence calls to the Alabama State Bar Volunteer Lawyers Program (VLP), we attempt to place these clients with one of our volunteer lawyers. If we cannot find a volunteer lawyer to help, we send them to the Legal Services lawyer who was hired with this grant. This has worked well and allows us to help a lot of hurting people.

Despite the essential role it plays in our communities, LSA receives no state funding. Instead, it relies heavily



Royal Dumas, Kimberly Ray-Cobb, Pat Sefton, Theresa Harris, and Tom Gardner, Jr. are all smiles at the conclusion of a successful joint endeavor, the monthly legal advice clinic. Dumas and Sefton are members of the Montgomery County Bar Association (MCBA) and Ray-Cobb, Harris and Gardner are on staff at the Montgomery Community Action Agency (MCAA).

on the generous contributions of its investors. We must help to increase existing funding sources for Legal Services Alabama so it can hire more lawyers. We have already received substantial pledges from Birmingham-area law firms for this. We plan to do a lot more. We

Quality Paralegal Education



■ Our Mission

The Faulkner University Legal Studies Department seeks to provide a program that supports its students during their academic and professional careers. Upon graduation, students will be well equipped to begin or continue an exciting career as a paralegal.

■ What are typical paralegal responsibilities?

Paralegals work in many areas of law including litigation, real estate, corporate, probate and estate planning, intellectual property, family law, labor law, and bankruptcy. Paralegals perform tasks such as investigating facts, drafting legal documents, legal research, interviewing clients and witnesses, maintaining contact with clients, and the maintenance of legal files.

■ What can I not do as a paralegal?

A paralegal/legal assistant cannot give legal advice, represent a client in court, establish a fee, or accept a case on behalf of an attorney.

■ How do I choose a Legal Studies Program?

One way to ensure you receive a quality education is to choose a program with instruction specific to the skills required for the state. Secondly, it is important to choose a program with academic standards, such as those required by the American Bar Association.

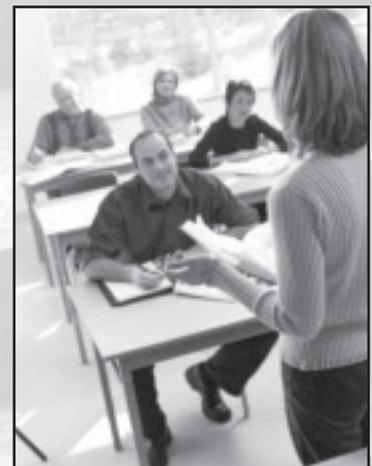
Faulkner University's Legal Studies Program is approved by the American Bar Association. The Faulkner University Legal Studies program offers an ABA Approved curriculum exclusively at its Montgomery campus, with a strong reputation of academic excellence.

■ How can I get started?

Legal Study courses are offered at convenient times that cater to the needs of students of all ages. Our faculty is comprised of experienced practitioners with outstanding academic credentials. Contact Marci Johns, J.D., Director of Legal Studies today!

Phone: 800.879.9816
Ext. 7140
mjohns@faulkner.edu

5345 Atlanta Highway
Montgomery, AL 36109
www.faulkner.edu





MCAA CEO Tom Gardner, ASB President Tom Methvin and MCBA President Pat Sefton taking a break during the November legal advice clinic

are also increasing awareness of the need for access to justice funding among the public, the members of the bar and the court system. We plan to do a lot more here also.

Many people say that a society should be judged by how it treats the least among it. Lawyers are leaders of society and have a duty to try to help the less fortunate. Legal Services does this by providing a gateway to justice for people in our community. We have the opportunity to raise money for Legal Services Alabama and to be a part of making Alabama a leader in ensuring true access to justice for all. Will you help? You can make a donation at www.legalservicesalabama.org. It's going to take all of us, working together, to accomplish this. ▲▼▲



Montgomery Mayor Todd Strange hands ASB President Tom Methvin the proclamation from the City, recognizing Pro Bono Week. Others who helped organize this volunteer effort are MCBA President Patrick Sefton and Pro Bono Committee Chair Royal Dumas.



Representing the Montgomery County Commission, Ham Wilson, Jr. (district one) presents ASB President Tom Methvin, MCBA President Pat Sefton and Royal Dumas, chair, MCBA Pro Bono Committee, with the proclamation announcing Pro Bono Week in Montgomery County.



Judge John Carroll, dean of the Cumberland School of Law, presents ASB President Tom Methvin with a memento recognizing his dedication to improving access to justice in the state.

Alabama State Bar **President Tom Methvin** recently addressed 178 first-year law students at Cumberland School of Law and was honored by the law school for his contributions to improving access to justice in Alabama and, specifically, the need for increased pro bono work. Methvin has been a strong advocate for increasing state funding for legal services and has pledged to work with the state legislature. He discussed the professional responsibility that all lawyers have to provide pro bono service that is concomitant with the privilege of practicing law. Cumberland Dean John Carroll presented Methvin with a framed certificate as part of its 2009 Pro Bono Salute.

PLAZA THEATRE

1 IN 5 PEOPLE OVER THE AGE OF 50
WILL NEED SOME TYPE OF
LONG-TERM CARE IN THE NEXT 12 MONTHS

When will it hit you?

Face it: There's a very good chance that you or someone you love will need long-term care. Fortunately, Blue Cross and Blue Shield of Alabama offers long-term care insurance plans to provide for things like home health care, adult day care, assisted living, nursing home care or a long-term stay in a hospital or hospice facility. All from the Company you know and trust.

To learn more about the Alabama State Bar-endorsed long-term care benefit call 1-866-435-6669, or visit us at www.preferredltc.com, select group coverage, then enter group code A1349001.

**Preferred
LTC** Long-Term
Care
From The Century Companies



**BlueCross BlueShield
of Alabama**
An Independent Licensee of the
Blue Cross and Blue Shield Association.



KEITH B. NORMAN

The Image of the Legal Profession and the Weather

What in the world does the image of the legal profession have to do with the weather? Very little except when it comes to complaints. Like those who complain about the weather and the fact that no one can do a thing about it, I often hear lawyers complain about the image of the profession and that no one is doing anything about it. For many years, the Alabama State Bar has done much to publicize the many positive things that the legal profession does—including pro bono work, “Wills for Heroes,” the Advance Directive for Health Care and many other worthy examples. Through our 12-year partnership with the Alabama Broadcasters’ Association, we have received nearly \$10,000,000 in TV and radio time statewide to let Alabamians know of the tremendous public service which the legal profession renders. Yet, with all lawyers do in the public interest, we never seem to get much traction in raising the profession’s image.

One can certainly attribute the legal profession’s low esteem to several factors, including the fact that lawyers work in an adversarial system, the complexity of the judicial system’s rules and the exceedingly slow movement of cases or matters through the system which can be very frustrating to clients and parties alike. But, I believe the fault for our profession’s image problem lies principally with us, especially when lawyers lambaste courts for rendering a decision that is not in their favor or denigrate opposing counsel. These actions are unnecessary and do nothing more than stain the image of the entire profession. Sadly, this conduct appears to be on the rise as the monetary and emotional stakes in cases increase.

EXECUTIVE DIRECTOR'S REPORT

Continued from page 13

In April 1992, the Alabama Board of Bar Commissioners adopted the *Alabama State Bar Code of Professional Courtesy*,¹ and the *Alabama State Bar Lawyer's Creed*² to guide all lawyers in their comportment and treatment of fellow lawyers and the judiciary. The *Code* has since been incorporated into the *Alabama Pledge of Professionalism*.³ Although aspirational, the *Code* and *Creed* are both bedrock tenets of professionalism. Among the *Code's* 19 precepts are the following four which are especially noteworthy with regard to a lawyer's relationship with opposing counsel and the court:

- A lawyer should maintain a cordial and respectful relationship with opposing counsel.
- A lawyer should never intentionally embarrass another lawyer and should avoid personal criticism of another lawyer.
- When each adversarial proceeding ends, a lawyer should shake hands with the fellow lawyer who is the adversary; and the losing lawyer should refrain from engaging in any conduct with engenders disrespect for the court, the adversary or the parties.
- A lawyer should recognize that adversaries should communicate to avoid litigation and remember their obligation to be courteous to each other:

Similarly, the *Creed* stresses:

- To the opposing parties and their counsel, I offer fairness, integrity and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.
- To the courts, and other tribunals, and to those who assist them, I offer respect, candor and courtesy. I will strive to do honor to the search for justice.

To date, over 2,000 Alabama lawyers, or a little more than 12 percent of the membership, has signed the pledge of professionalism to abide by the principles enumerated in the *Code of Professional Courtesy*.

Memphis attorney and former president of the Tennessee Bar Association Bill Haltom writes a regular column for the *Tennessee Bar Journal*. In the November 2009 issue, Bill talks about Tennessee lawyer, statesman and former U.S. Senator Howard Baker being the personification of civility in both his private life and distinguished public career. In particular, Bill relates a story that Howard Baker tells about the advice he received from a man who was a great lawyer and former U.S. Congressman—Howard Baker, Sr., his father. Baker said of this father, **“He taught me that you should always go through life working on the assumption that the other guy may be right”** (emphasis added). Bill observes that this statement “captures the essence of civility.” He writes: “It doesn't mean that you don't stand up for what you believe. It doesn't mean you can't be a fierce advocate for your clients and causes. It just means you go into a conflict with a notion that your opponent may, in fact, be right, and you treat your opponent accordingly.”

This simple notion embodies the civility that both the *Code* and the *Creed* hope to instill in our dealings with other lawyers and the judiciary. If we can practice this simple advice in our treatment of our colleagues and the court, we still may not be able to do anything about the weather, but we can certainly change the climate of professionalism and improve the forecast for the legal profession's image in Alabama.



Endnotes

1. www.alabar.org/member/professional_courtesy.cfm.
2. www.alabar.org/member/creed.cfm.
3. www.alabar.org/service/Pledge.cfm.

Notice of Election and Electronic Balloting

Notice is given here pursuant to the *Alabama State Bar Rules Governing Election and Selection of President-elect and Board of Bar Commissioners*.

Bar commissioners will be elected by those lawyers with their principal offices in the following circuits:

- | | |
|--------------------------------|--------------------------------|
| 1st Judicial Circuit | 15th Judicial Circuit, Place 1 |
| 3rd Judicial Circuit | 15th Judicial Circuit, Place 3 |
| 5th Judicial Circuit | 15th Judicial Circuit, Place 4 |
| 6th Judicial Circuit, Place 1 | 23rd Judicial Circuit, Place 3 |
| 7th Judicial Circuit | 25th Judicial Circuit |
| 10th Judicial Circuit, Place 3 | 26th Judicial Circuit |
| 10th Judicial Circuit, Place 6 | 28th Judicial Circuit, Place 1 |
| 13th Judicial Circuit, Place 3 | 32nd Judicial Circuit |
| 13th Judicial Circuit, Place 4 | 37th Judicial Circuit |
| 14th Judicial Circuit | |

Additional commissioners will be elected in these circuits for each 300 members of the state bar with principal offices herein. The new commissioner petitions will be determined by a census on March 1, 2010 and vacancies certified by the secretary no later than March 15, 2010.

All subsequent terms will be for three years.

Nominations may be made by petition bearing the signatures of five members in good standing with principal offices in the circuit in which the election will be held or by the candidate's written declaration of candidacy. PDF or fax versions may be sent electronically to the secretary, keith.norman@alabar.org. Either paper or electronic nomination forms must be received by the secretary no later than 5:00 p.m. on the last Friday in April (April 23, 2010).

As soon as practical after May 1, 2010, members will be notified by e-mail with a link to the Alabama State Bar Web site that includes an electronic ballot. **Members who do not have Internet access should notify the secretary in writing before May 1 requesting a paper ballot.** A single written request will be sufficient for all elections, including run-offs and contested president-elect races. Ballots must be voted and received by the Alabama State Bar by 5:00 p.m. on the last Friday in May (May 28, 2010). Election rules and petitions are available at www.alabar.org.

At-Large Commissioners

At-large commissioners will be elected for the following place numbers: 2, 5 and 8.

Alabama Lawyers' Hall of Fame Nomination Form

The Alabama State Bar will receive nominations for the 2009 honorees of the Alabama Lawyers' Hall of Fame through March 1, 2010. The two-page form should be completed and mailed to:

Samuel A. Rumore
Alabama Lawyers' Hall of Fame
P.O. Box 671
Montgomery, AL 36101

In 2000, Terry Brown of Montgomery wrote Sam Rumore, the Alabama State Bar president at that time, with a suggestion to convert the old supreme court building into a museum honoring the great lawyers of

NOTICE OF ELECTION AND ELECTRONIC BALLOTING

ALABAMA LAWYERS' HALL OF FAME NOMINATION FORM

JUDICIAL AWARD OF MERIT

AMENDMENT OF RULES 16, 26, 33(C), 34, 45, AND FORM 51A, ALABAMA RULES OF CIVIL PROCEDURE, AND ADOPTION OF RULE 37(G), ALABAMA RULES OF CIVIL PROCEDURE

IMPORTANT NOTICES

Continued from page 15

Alabama. Although the concept of a lawyers' hall of fame was studied, a later bar president, Fred Gray, appointed a task force to implement a hall of fame. The Alabama Lawyers' Hall of Fame is the culmination of that idea and many meetings. Previous honorees include:

2008

John B. Scott (1906–1978)
Vernon Z. Crawford (1919–1985)
Edward M. Friend, Jr. (1912–1995)
Elisha Wolsey Peck (1799–1888)

2007:

John Archibald Campbell (1811–1889)
Howell T. Heflin (1921–2005)
Thomas Goode Jones (1844–1914)
Patrick W. Richardson (1925–2004)

2006:

William Rufus King (1776–1853)
Thomas Minott Peters (1810–1888)
John J. Sparkman (1899–1985)
Robert S. Vance (1931–1989)

2005:

Oscar W. Adams (1925–1997)
William Douglas Arant (1897–1987)
Hugo L. Black (1886–1971)
Harry Toulmin (1766–1823)

2004:

Albert John Farrah (1863–1944)
Frank M. Johnson, Jr. (1918–1999)
Annie Lola Price (1903–1972)
Arthur Davis Shores (1904–1996)

To download a printable nomination form for 2010, go to http://www.alabar.org/members/hallfame/hallof_fame_ALH_2010.pdf

Judicial Award of Merit

The Board of Bar Commissioners of the Alabama State Bar will receive nominations for the state bar's Judicial Award of Merit through March 15, 2010. Nominations should be mailed to:

Keith B. Norman
Secretary
Board of Bar Commissioners
P. O. Box 671
Montgomery, AL 36101-0671

The Judicial Award of Merit was established in 1987. The award is not necessarily an annual award. It must be presented to a judge who is not retired, whether state or federal court, trial or appellate, who is determined to have contributed significantly to the administration of justice in Alabama. The recipient is presented with a crystal gavel bearing the state bar seal and the year of presentation.

Nominations are considered by a three-member committee appointed by the president of the state bar, which then makes a recommendation to the board of bar commissioners with respect to a nominee or whether the award should be presented in any given year.

Nominations should include a detailed biographical profile of the nominee and a narrative outlining the significant contribution(s) the nominee has made to the administration of justice. Nominations may be supported with letters of endorsement.

Amendment of Rules 16, 26, 33(c), 34, 45, and Form 51A, *Alabama Rules of Civil Procedure*, and Adoption of Rule 37(g), *Alabama Rules of Civil Procedure*

The Alabama Supreme Court has amended rules 16, 26, 33(c), 34, 45, and Form 51A, *Alabama Rules of Civil Procedure*, and adopted Rule 37(g), *Alabama Rules of Civil Procedure*. The amendment and adoption of these rules are effective February 1, 2010. The order amending rules 16, 26, 33(c), 34, 45, and Form 51A and adopting Rule 37(g) appears in an advance sheet of *Southern Reporter* dated on or about December 31, 2009. These comprehensive revisions are to accommodate the discovery of electronically stored information. The text of these rules can be found at <http://www.judicial.state.al.us/rules.cfm>.

—Bilee Cauley, reporter of decisions, Alabama appellate courts



J. Gilmer Blackburn

J. Gilmer Blackburn, a Decatur lawyer who dedicated his life to his family, his church, his profession, his community, and to Auburn University, died May 31st in Auburn at the age of 81.



Born in Opelika on October 21, 1927, he was the fourth child of Anderson and Vera Blackburn. Mr. Blackburn attended the Lee County School in Auburn, Alabama from the first through the 12th grades. He was drafted out of high school in 1946 and served in Alaska in the Army with the Alaska Communication System in 1947 on the Alcan Highway.

He entered Alabama Polytechnic Institute (API), now known as Auburn University, in 1947. While at API he participated in student activities and was responsible for the campaign to build the first Auburn Student Union Building. He was a member of the Spades Honorary Society, Alpha Tau Omega fraternity and other organizations. He graduated from Auburn in 1950 with a bachelor of science. In 1951, during the Korean Emergency, he was called back into service as a 2nd Lieutenant serving with the 40th Tank Battalion, 4th Infantry Division, in Germany. Prior to leaving for Germany, he and Phyllis Birdsong were married in Albertville in 1951.

Upon returning from the service in Germany, he and Phyllis entered the University of Alabama in Tuscaloosa. Mr. Blackburn returned to his studies at the law school and graduated in 1954. He attended New York University Law School in 1954 under a Kennison National Fellowship and obtained a master of laws (in taxation).

In 1955, he established his law practice in Decatur. He was the first tax attorney in north Alabama. He also lectured extensively on tax matters for the University of Alabama Continuing Education Program and other seminars. He was president of the Morgan County Bar Association, chair of the ASB Tax Section, member of the Committee on Life Insurance Companies (Section of Taxation, American Bar Association) and a member of the Board of Directors of the Alabama Federal Tax Clinic. He was the founding attorney and senior counsel of Blackburn, Maloney & Schuppert LLC.

In 1962, he was elected commissioner of the City of Decatur and served as its mayor for two terms, being unopposed in his second term. As mayor, he was responsible for a major development program called "Operation New Decatur." The program was developed to bring Decatur into the New South. It included urban renewal programs to rebuild the

J. GILMER BLACKBURN

JACKSON WILSON
GUYTON

ROBERT W. LEE

JOHN A. LOCKETT, JR.

DONALD N. SPURRIER

MEMORIALS Continued from page 17

downtown area for small family businesses, a new civic center (including a city hall, courthouse and federal building), major new plans for city schools, and improvement of recreation activities with three new parks with recreation centers, including the nationally recognized Aquadome swimming pool. The major concept of the plan, however, was the regional Point Mallard Park, including the J. Gilmer Blackburn Aquatic Center incorporating the first wave-activated swimming pool in the United States, a golf course and other activities. The park has been recognized by the State of Alabama Tourism Bureau as the number one seasonal park in the state.

Mr. Blackburn was also active with the Auburn Alumni Association and served as the president of the Morgan County Auburn Alumni Club and as member of the Executive Committee and president of the National Auburn Alumni Association. He was a charter member of the Auburn University Foundation, serving on its board of directors and as vice president, president and chairman of the board, and member emeritus of its board.

He was preceded in death by his parents, his wife of 48 years, Phyllis Birdsong Blackburn, and his brother, Joe Blackburn. He is survived by his wife, Dorry Ann Blackburn; three children, Gay Maloney and husband Mark, Allison Akins and husband Bobby and Lisa Ayerst and husband Rob; his grandchildren; and the children of his wife, Trey Johnston and wife Rebecca, Skip Johnston and wife Glenda and Dixie Keller and husband Gray; and Dorry Ann's grandchildren.

Gilmer Blackburn was the embodiment of the ideal of the lawyer as public servant. He was a visionary for the City of Decatur. Two days after his death, *The Decatur Daily* editorialized: "That the former mayor was 'the Father of Point Mallard' is more than a statement on a plaque at the water park's entrance. Point Mallard Park would not exist but for his efforts. The legacy, though, goes beyond a park. He had a vision of Decatur that included industry, but refused to stop there." Gilmer Blackburn will be missed, not only by his family and his colleagues, but also by the citizens of his city.

—Mark Daniel Maloney, Decatur

Jackson Wilson Guyton

"The Person I Admire Most"

The one I admire most is my dad. I admire him because he is just what I want to be. He is intelligent, does not mind to do hard work, and he is hard working. My dad cares more about his family than himself and he wants to have a good time. He is also kind and does not [mind] helping people. He wants to help people. He is fair and just and pays attention to what unimportant and important people say. And when I grow up I want to be just like my dad.

—Jeffrey P. Guyton

Age 11

I have only worked and known Mr. Guyton since January of 2007, but from everything his clients, friends and family have said about him, he is the same kind and caring man today as he was 37 years ago when his son Jeff wrote the above essay for school. Mr. Guyton has had a long and wonderful life, personally and professionally, and it has been truly an honor to have worked for him and known him.

Mr. Guyton was born in 1926 to John L. and Lallie Dunbar Guyton who lived in the western section of Jefferson County. He grew up in Dolomite and later moved to West End where he graduated from high school. Mr. Guyton served two years during World War II. After the war, he graduated from the University of Alabama in Tuscaloosa with an engineering degree. In 1950 he went to work at US Steel as an industrial engineer, and then later worked in labor relations.

He attended Birmingham School of Law and passed the bar exam in 1957. In 1966, he began practicing with Frank B. Parsons and Victor C. Harwood in Fairfield. In 1971, Victor Harwood died and J. Clewis Trucks joined Frank Parsons and Jack Guyton to form Trucks, Parsons & Guyton. In 1984, Frank Parsons and Jack Guyton began practicing under the name of Parsons & Guyton, and the office has been located at 4507 Gary Avenue in Fairfield since 1984.

In 1960, Mr. Guyton married Martha Lou Harless and later they had two children, Jeffrey P. Guyton and

Tracey G. Cole. Mr. Guyton also has an adorable eight-year-old granddaughter, Katie. Mr. Guyton and his family have been long-time members of Mountain Brook Baptist Church. Some people thought that when Mr. Guyton's beloved Martha Lou passed away in 2002 he would retire. Not so—it wasn't until he was physically unable to drive himself to work that he was forced to retire this July, at the age of 83.

In 2008, the Alabama State Bar recognized Mr. Guyton's 50 years of service as an attorney. He was a long-standing member of the Fairfield Chamber of Commerce, the Exchange Club, the Birmingham Bar Association and the Alabama State Bar. He had a general practice, but his primary concentration over the last several years had been in planning and probating estates, representing landlords and real estate transactions.

Unfortunately, Mr. Guyton passed away September 24, 2009. He touched so many lives with his wit, warmth and knowledge. He will be truly missed.

—Jeanne Wood, PLS

Robert W. Lee

Robert W. Lee, age 55, passed away on August 16, 2009. The legal world lost a vital, talented member of its bar at too early of an age.

Those of us fortunate to have had Bob in our legal lives will miss him for several reasons. He had the uncharacteristic ability to make every lawyer, young or old, feel important and worthy of the practice of law. This is a rare talent that speaks volumes about his character. But, mostly, he made the practice of law fun. Not many can carry this badge of honor.

His depth of knowledge of any topic from law to medicine to Auburn football, his uncanny ability to narrow the issues down in a case, his unique ability to find good in every person and situation, his open personality that made lawyers relish having a case with him, and his natural presence in front of a jury or judge encompass the perfect lawyer that Bob Lee was. Judges respected him, opposing counsel appreciated his candor and the plaintiff's bar honored him, and all



deservedly so. While there were accolades, publications, authorships and honors, Bob's legal presence was more of an intangible greatness.

While law was important to Bob, his greatest passion was for his family. If he were here today for me to ask him what his greatest accomplishment in life was, I know he would answer his two sons, Harrison and Draper. My days of practice with Bob were always filled with stories of carpool adventures, Auburn football games and going to the lake house, and all included his boys. After my girls were born, Bob became not only my legal mentor but also my parenting mentor—a role I think he preferred! I hope that I can live up to his hopes for me as a lawyer and a mother. I will miss my law partner, my mentor and my friend. I know I am not alone in missing him.

—Wendy N. Thornton, Birmingham

John A. Lockett, Jr.

John A. Lockett, Jr., 66, of Selma, died October 31 after a brief illness. Mr. Lockett is survived by his wife of 36 years, Martha Beasley Lockett of Selma; his mother, Louise D. Lockett of Selma; his sons, John A. Lockett III (Erin) of Atlanta and Peyton B. Lockett of Birmingham; a sister, Sue Lockett Lovoy (Steve) of Birmingham; and nieces and a nephew.

Mr. Lockett was born in Selma November 21, 1942. He graduated from A.G. Parrish High School in Selma in 1960 and from Birmingham-Southern College in 1964, where he was a member of Sigma Alpha Epsilon fraternity. He graduated from the University of Alabama School of Law in 1967. After serving a short time as an assistant attorney general for the State of Alabama, Mr. Lockett returned to Selma where he was engaged in the private practice of law for over 40 years, devoting much of his career to assisting the working people of Selma and the surrounding area with their legal affairs. Mr. Lockett served one term, 1974-1978, as a representative in the Alabama state legislature representing Dallas and Bibb counties as a Democrat.

He will be missed by his family and all of those who knew him.

MEMORIALS

Continued from page 19

Donald N. Spurrier

We remember our friend, mediator and peacemaker, Donald N. Spurrier. Don, of Spurrier, Rice & Forbes LLP in Huntsville, passed away October 27th.

Don was a very successful and well-loved mediator, and a member of the Alabama State Court Mediator Roster and the Appellate Court Roster. Last year, he mediated 138 cases for circuit court, settling 91. He also mediated six



cases for our appellate courts, settling three. Nine disputes were mediated by him before they were even filed in court, and he settled eight of them.

In a recent interview with Jeremiah Hodge for the fall 2009 *Alabama Association for Justice Journal*, Judge Karen Hall said, "That's why Don Spurrier's such a great mediator, because he's been around the block." Hodge replied that Don had a lot of credibility. Those who knew him certainly agree. Don will be missed.



—Judith M. Keegan, director, Alabama Center for Dispute Resolution

Cole, John Lewis

Birmingham
Admitted: 1959
Died: October 18, 2009

Corretti, Douglas Philip

Birmingham
Admitted: 1948
Died: October 11, 2009

DeMouy, Marshall Jefferson

Mobile
Admitted: 1950
Died: September 17, 2009

Garvin, John Calder Jr.

Huntsville
Admitted: 1962
Died: November 22, 2008

Hicks, Preston Lee

Foley
Admitted: 1994
Died: September 5, 2009

Hodgkins, Robert Walker

Birmingham
Admitted: 1953
Died: October 8, 2009

Kenner, Hamilton Gray

Santa Rosa Beach, FL
Admitted: 1996
Died: April 5, 2009

Lamar, Robert Standring, Jr.

Montgomery
Admitted: 1966
Died: October 18, 2009

Lanford, Edward Douglas, Jr.

Tuscaloosa
Admitted: 1954
Died: September 16, 2009

Markstein, Daniel Harry, Jr.

Birmingham
Admitted: 1934
Died: August 9, 2009

Pogue, Thomas Leo

Tuscaloosa
Admitted: 1964
Died: May 21, 2009

Seale, Turner Chapman, Jr.

Montgomery
Admitted: 2002
Died: October 11, 2009

Sikes, Stanley Britt

Fort Lauderdale, FL
Admitted: 1965
Died: June 17, 2009

Simpson, James Evans

Birmingham
Admitted: 1957
Died: March 10, 2009

Smith, Jason Randolph

Dothan
Admitted: 2001
Died: October 31, 2009

Snoddy, Thomas Edd

Double Springs
Admitted: 1954
Died: September 13, 2009

Solomon, William Howard

Mandarin, FL
Admitted: 1976
Died: September 20, 2009

Spurrier, Donald Nelson

Huntsville
Admitted: 1956
Died: October 27, 2009

Torbert, Jack Whitfield

Gadsden
Admitted: 1950
Died: May 5, 2009



- The **Alabama Workers' Comp Blawg** was recently selected as a LexisNexis *Top 25 Blogs for Workers' Compensation and Workplace Issues*. Selections were made by the LexisNexis Workers' Compensation Law Center staff using feedback from community members and Larson's National Workers' Compensation Advisory Board members. The blog is owned and maintained by the Birmingham firm of FISH NELSON, LLC which handles insurance defense litigation with a focus on workers' compensation matters.

- **Robin L. Beardsley** and **Marcus M. Maples** of Sirote & Permutt will chair subcommittees for the 2009-10 Defense Research Institute Young Lawyers' Committee. As members of the YL Steering Committee, Beardsley will chair the Civility & Professionalism Subcommittee and Maples will serve as vice chair of the Diversity Subcommittee.



Beardsley



Maples



Gaines



Hust



Joseph



Saxon



Whatley

- The State Fellows of the American College of Trial Lawyers announce that **Charles Gaines, Wilbor Hust, Anthony Joseph, John Saxon** and **Joe Whatley** have been inducted into the fellowship. The college strives to improve the standards of trial practice, the administration of justice and the ethics, civility and collegiality of the trial profession.
- The Alabama Law Foundation announces that **April Houston** is the winner of the Justice Janie L. Shores Scholarship. The foundation and the Women's Section of the Alabama State Bar established the scholarship in 2006 for female residents attending an Alabama law school. The Justice Janie L. Shores scholarship is named in honor of the first female Alabama Supreme Court Justice, who was elected in 1974. Houston graduated from the University of Alabama at Birmingham in 2005. She currently attends the Thomas Goode Jones School of Law School in Montgomery and will graduate in May 2010. Houston has served on the editorial board of the *Faulkner Law Review*, was a Camille Armstrong Scholarship recipient for spring 2005 and was recognized as a University Scholar.



Houston

- Tanner & Guin announces that **William B. McGuire, Jr.** was recently named a fellow in the American Academy of Matrimonial Lawyers (AAML). He joins a select group of 1,600 attorneys across the U.S. which recognizes the nation's top family law attorneys representing individuals in the areas of divorce, annulment, prenuptial and post-nuptial agreements; marital settlement agreements, child custody and visitation; business valuations, property valuations and division; alimony; and child support.



McGuire

- **Fredrick H. Olsen**, a partner in the Public Finance Department of Ballard Spahr LLP, has been named a fellow to the American College of Bond Counsel. The college recognizes lawyers with reputations among their peers for "skill, experience and high standards of professional and ethical conduct in the practice of bond law."

ALABAMA WORKERS' COMP BLAWG

ROBIN L. BEARDSLEY

MARCUS M. MAPLES

CHARLES GAINES

WILBOR HUST

ANTHONY JOSEPH

JOHN SAXON

JOE WHATLEY

APRIL HOUSTON

WILLIAM B. MCGUIRE, JR.

FREDRICK H. OLSEN



ARE YOU SEEING YOUR JUDGE CLEARLY?



Introducing Judicial Reports – with Westlaw Litigator® How well do you really know the judge? How does the judge typically respond to different types of motions? How had the judge fared on appeal? Now you can quickly access precise statistical analysis of a judge's track record in Judicial Motion Reports and Judicial Reversal Reports on Westlaw® – which also offer links to underlying documents. Customize your report by motion type, case type and more. Next time, go to court with a full picture of the judge you're about to face.

Visit westlawlitigator.com or call 1-800-REF-ATTY (733-2889).



THOMSON REUTERS™

Westlaw.



ASB President Tom Methvin with two fall 2009 admittees at the October Admissions Ceremony (Photo by Village Photography)



ROBERT N. BAILEY, II
rnb@lanierford.com

New Admittees, CLE and Pro Bono – Have We Left Out Anything?

I am pleased to recognize the members of the executive committee who will be serving our section this year: **Gray Borden** (Birmingham), **David Cain** (Mobile), **Brandon Hughey** (Mobile), **Shay Lawson** (Tuscaloosa), **Hughston Nichols** (Birmingham), **Clifton Mosteller** (Birmingham), **Mark Bledsoe** (Huntsville), **Nathan Dickson** (Union Springs), **Hall Eady** (Birmingham), **Leslie Ellis** (Montgomery), **J.R. Gaines** (Montgomery), **Katie Hammett** (Mobile), **Brett Ialacci** (Birmingham), **Louis Calligas** (Montgomery), **Andrew Nix** (Birmingham), **Rodney Miller** (Birmingham), **Jon Patterson** (Birmingham), **Mitesh Shah** (Birmingham), **Chris Waller** (Montgomery), **Larkin H. Peters** (Mobile), **Brad Hicks** (Bay Minette), **Walton Hickman** (Greenville), **Sancha Epiphane** (Mt. Meigs), **Brian Murphy** (Mobile), **Chip Tait** (Mobile), **Nathan Ryan** (Sheffield), **William J. Long** (Birmingham), and **Elizabeth Kanter** (Birmingham).

In October, we hosted the Alabama State Bar Admissions Ceremony for fall admittees at the Montgomery Performing Arts Center. The MPAC at the Renaissance Montgomery Hotel and Spa serves as an excellent venue for this event. **Chris Waller**, chair of our Admissions Ceremony subcommittee, did an excellent job in making this event successful. Also, **Nathan Dickson**, **Louis Calligas**, **Walton Hickman**, **Kitty Brown**, and **Leslie Ellis** are recognized for their hard work on this ceremony.

In November, we hosted our Eighth Annual Iron Bowl CLE, which was fantastic! We thank **Balch & Bingham LLP** for allowing the use of their offices in Birmingham for this seminar. This year's great lineup of speakers included **Shannon D. Hutchings** (general counsel, Barber Companies), **Stephen Wallace** (Dawson & Wallace LLC), **Brian Walding** (Walding LLC) and the **Honorable Caryl P. Privet** (circuit judge, Jefferson County). I also recognize **Jon Patterson** for chairing this event and **Brett Ialacci** and **Clifton Mosteller** for their hard work in making this seminar a success. For those who missed it this year, please join us next year for this always fun and rewarding CLE.

Speaking of great CLE opportunities, it is not too early to book your calendar for our annual Sandestin seminar **May 12th through May 16th, 2010** at the Hilton Sandestin Beach Golf Resort & Spa in Destin.

Finally, consistent with **ASB President Tom Methvin's** goal of increasing access to justice in Alabama, our YLS Executive Committee has formed a Pro Bono Subcommittee chaired by **William J. Long** and **Nathan Ryan**. This subcommittee will be an extension of our former FEMA subcommittee that provided volunteer assistance to natural disaster victims. The Pro Bono Subcommittee, in addition to assisting natural disaster victims, will also attempt to boost membership in the Volunteer Lawyers Program in Alabama.

If you have any questions about your Young Lawyers' Section, or to get more involved with the YLS, please contact me at rnb@LanierFord.com.▲▼▲

ALABAMA STATE BAR Fall 2009 Admittees

(Photograph by FOUTS COMMERCIAL
PHOTOGRAPHY, Montgomery,
photofouts@aol.com)

STATISTICS OF INTEREST

Number sitting for exam	485
Number certified to Supreme Court of Alabama	362
Certification rate*	74.6 percent
Certification Percentages	
University of Alabama School of Law	94.5 percent
Birmingham School of Law	44.7 percent
Cumberland School of Law	91.4 percent
Jones School of Law	84.5 percent
Miles College of Law	7.1 percent

**Includes only those successfully passing bar exam and MPRE*

For full exam statistics for the July 2009 exam, go to www.alabar.org, click on "Members" and then check out the "Admissions" section.

Alabama State Bar Fall 2009 Admittees

Frelon Abbott III	Alyson Leigh Cantrell	Sarah Kathleen Dunagan	Elizabeth Ann Hamrick
Ruth Frances Alexander	Ruth Suzanne Carlisle	Robert Martin Durham	George Mathews Handey Jr.
Mary Michelle Alexander-Oliver	Jonathan Gabriel Carpenter	Nicole Byrd Dyess	Wendy Nicole Hardegree
Timothy Mark Allen	Larry Michael Carr	Sasha Lynn Eastburn	Matthew Rutland Harrison
Sheena Allen	Jessica Neil Carson	Maria Virginia Echenique	Peter James Harrison
Zachary DeWitt Alsobrook	Anna Ludlum Chambers	Bradley Walter Edmonds	John Matthew Hart
Michael Kingston Amster	Pooja Chawla	Freddrick Anthony Effinger	Carolyn Jaye Hayes
Laura Catherine Ashburner	Michael Allen Chester	William Andrew Ellis	Patrick Scott Haynes
Jinyoung Bae	Anne Christine Christensen	Cameron Wayne Ellis	Margaret Jessica Head
Kimberly Irnita Baker	Stephen Chu	Margaret Leigh Enfinger	Timothy Alan Heisterhagen
John Stewart Baker IV	William Scott Clay	Tobby Ray Evans	April McEachern Helms
Janice Rae Ballard	Laura Lee Clemons	Joel Marshall Everest	Ryan Roebuck Hendley
Christopher William Basler	Karen Elizabeth Cleveland	William George Fendley	William Justin Hendrix
Michael Douglas Beach	Jonathan Christopher Cobb	Austin Lee Fenwick	Jennifer Marie Herring
Joshua Brent Beard	Tammi Sheree Cockrell	Dara D. Fernandez Perez	Olan Scott Hewitt
Frank Austin Branscomb Beavers	Marianne Helen Combs	Daniel Joseph Ferretti	Sara Robinson Higgins
James Edwin Beck III	Matthew David Conn	Daniel Stephen Flickinger	Megan Elizabeth Hoggard
Sarah Elizabeth Bell	Rebecca Ann Cook	Ashley Sheron Fowler	Lee Faith Holland
George Bolin Belohlavek	Timothy Paul Cook	Anna Leigh Fowler	Leslie Anne Hopkins
Matthew Edward Benak	David John Coombes	Alisha Dawn Franklin	Robert Austin Hornbuckle
Jennifer Kathleen Benedict	Jamie Elizabeth Coston	Jonathan Blake Friedlander	David Lee Horsley
Katherine Ann Berkmeier	Christopher Heath Cox	Stephen Matthew Frisby	Brad Alan Howell
Jessica Lynn Betts	Jessica Robinson Craft	Daniel Scott Fuqua	George Allen Howell
Angelia Cherice Biggs	Laurel Marie Crawford	Jeremy Scott Gaddy	David Lee Hubbard
Casey Nicole Biggs	Katie Marie Crow	Gregory Allen Garnette	Meggan Marie Huggins
Joel Ray Blankenship	Carla Camille Crowder	James Ralph Garrison III	Craig Fowler Hughes
James Rodney Bledsoe	Judson Eric Crump	George Carroll Gaston	Wesley Jerome Hunter
Daniel Heath Boman	Christopher Jason Cunningham	Charles Ryan Germany	Stacie Elizabeth Irwin
Lindsey C. Boney IV	Adam Christopher Dauro	James Walter Gibson	Brandon Terrell Isleib
Megan Bookout	Robert Jeffrey Davis	Grant William Gibson	Jon Andrew Isom
Heather Leigh Friday Boone	Joseph Ladd Davis	Justin Lee Gifford	Adam Kent Israel
Brad Jacob Booth	Summer Austin Davis	Myung-Sun Caitlyn Goldstein	David Carlton Jamieson
Joseph Bryan Boudreaux	Margaret Frances Demeranville	Jeffrey Leonard Goodgame	Patrick Lee Jarrett
Stephen Douglas Boyd	Ashley Lauren Dismukes	Daniel Joseph Goodman	Marvis Leroy Jenkins
Teri Christine Breloski	MarkHenry Licuanan Dithmer	Thomas Russell Goree Jr.	Malcolm Lee Johnsey Jr.
Kathryn Lindsay Wade Bridges	Marc Lee Domres	John David Gray	Margaret Rose Johnson
Sarah Elizabeth Brown	Jeff David Donaldson	Marchello Dewaun Gray	Jadine Caroline Johnson
David Tyler Brown	Erin Lynne Donohoe	Cole Robinson Gresham	Stephanie Nicole Johnson
Delmar Eugene Buck III	Matthew Ted Dorius	Lucas Wayne Griffin	Justin Lee Jones
George Blanchet Bulls II	Brent Whitmore Dorner	John Eugene Griffin	Emily Ann Jones
Russell Kane Burnette	Sarah Elizabeth Dorner	Ashley Powell Griffin	Abbott Marie Jones
Michelle Nicole Butler	Jeffrey Paul Doss	Preston Wells Griffith III	Amanda Cauthen Jones
Robert Nash Campbell	Summer Brook Dowdy	Seth Bryant Grissom	Jessica Lora Jones
Jeffrey Bartow Cannon Jr.	Christopher Allen Driskill	Eugenia Walker Hamilton	Mark Preston Jones
Jennifer Gregory Cannon	Charley Michael Drummond	Amy Marie Hampton	Stephanie Maria Joppeck

(Continued on page 26)

Alabama State Bar Fall 2009 Admittees *(Continued from page 25)*

Jennifer Michelle Justice	Taylor Sumner Meadows	Kristi Anne Powers	Ryan Matthew Smith
Christopher Mark Kaminski	Jason Scott Medlin	Richard Allen Powers	Stanley Richard Snyder
Kristofor Wyatt Kavanaugh	Jason Michael Meyerpeter	Austin Smitherman Prestwood	Kasee Garnet Sparks
Robert David Keahey Jr.	Jennifer Suzanne Michaelis	Jeffrey Donald Price	Sidney Bradford Spear
Christine Elizabeth Keifer	Chadrick Wayne Milam	Mary Leslie Price	Brian Learmond Spellen
Robert Joseph Kelly	Allison Joanne Miller	Ashaunti Veneek Pritchett-Parker	William Tyler Stafford
Patrick Brittain Kenerly	Bradley William Miller	Ashley Fallon Ragsdale	Jennifer Rene'e Stanley
Dustin Wesley Kennemer	Ronald Boa Miller Jr.	Stephanie Michelle Ramsay	Jason Patrick Statum
Byron Woodrow Ketcham III	Megan Eva Miller	Robert William Reed	David Fitzgerald Steele Jr.
Michael Paul Killian	Jacob Allen Millican	Katherine Ellis Reeves	Megan Perkins Stephens
Alan Scott Kirk	David Welles Mitchell	Mitchell Lawrence Reid	Richard Scott Stewart
Kristy Maria Kirkland	Jeremy Wayne Mitchell	Charles Michael Renta III	Clark Vann Stewart
Megan Arys Kirkpatrick	Joshua Dayton Moore	John Daniel Rhames	Stacey Leigh Strain
Andrew Clair Knowlton	Michael Roberto Morenilla	Latisha Denise Rhodes	William Reid Strickland
Heather Jess Koch	Nicholas Francis Morisani	Kelli Leigh Roberson	Rachel Holland Sullivan
Justin Alexander Lackey	Adam Gregory Mudge	Charles Alton Roberts Jr.	Margaret Emerson Summerford
Rachel Dana LaFleur	Jenna Beth Mullendore	Tina Engram Roberts	Charles Edwin Tait
Michael Graham Lane	Aaron Michael Murphy	Ryan Patrick Robichaux	Clifton Douglas Taylor
Katie Marie Langer	Christopher Roesch Neff	Edward Andra Robinson	Alexandra Stevens Terry
Blair Randolph Lanier	Leroy Dektaveon Nix	Anderson Dewey Robinson	Ashton Lauren Thompson
Hannah Baril Lansdon	Dominique Doan-My Thuy Nong	Jeremiah James Rogers	Ryan David Thompson
John Ernest Lawes	John Paul Norman	Anthony Nino Romano	Scott Ledell Tindle
Mark Alan LeQuire	Alfred Dudlow Norris III	Paul Zev Rothstein	Brooke Lanier Tinsley
Katherine Elizabeth Lewey	Anna Belle Wilder Norton	Courtney Lee Saad	Jacquelyn Diane Tomlinson
Lisha Xiao Li	Justin Craddock Owen	Thomas Edward Sanders	Rachelle Elizabeth Toomey
Yue Li	Emily Marie Page	Sia Manta Sanneh	Rachel Leah Turner
Christopher Shawn Linton	Ian Spencer Palmer	Hunter Campbell Sartin	Melanie Starr Turner
Christopher Lea Lockwood	Jong Won Park	Stanley Scott Sasser	Elizabeth Eugene Utley
Don Boyden Long III	Angela Denise Parker	Christina Eloise Morrison	Chad Michael Vacarella
Huel McKinley Love III	Jennifer Leah Parker	Saunders	Jared Dale Vaughn
Joseph Trent Lowry	Alexandria Parrish	Vincent Francis Saylor	Hallie Bourland Wagner
David Ryan Lynch	Dustin Christopher Paseur	William Jason Scheil	Shelley Elizabeth Wallace
Lana Danette Makemson	Daniel James Pasky	Amy Christine Scott	Jordan David Watson
William Preston Martin	Janet Leigh Pate	William Edward Scully III	Teresa Belrose Watson
Jacob Pippin Mauldin	Robin Elizabeth Pate	Laura Kristen Segers	William Lee Webb
William Thomas Mayfield IV	Chandra Dawn Paul	Justin Clayton Sellers	Ashley Morgan Welch
Mary Kathryn Maynard	Sarah Suzanne Payne	Kristy Diana Shelton	Stephanie Joy Whatley
Diane Stamler McAteer	Matthew Irvin Penfield	Matthew Thomas Simechak	TaJay Everette White
Daniel Evan McBrayer	Gregory Reid Peoples	Walter Lee Sims	Allison Eileen White
John William McClurkin	Cynthia LaShele Perdue	Cory Patrick Sims	Barry Alan White
Dustin Lee McCown	Margaret Culp Philips	Adam Bradley Smelser	Wesley Kyle Winborn
Maloree Gayle McDonough	Meredith Lackey Phillips	Rachel Alison Smith	Sarah Beth Windham
Thomas Slate McDorman	Matthew Tae Phillips	Tiffany Bock Smith	Adam Sidney Winger
Timothy Michael McFalls	Joseph Thomas Pilcher IV	Anna Lynes Smith	Robert Jordan Wood
Mary Catherine McGowan	Joshua Randall Pipkin	Mark Edward Smith	Tonya Nichelle Woods
Julie Elizabeth McMakin	Robert Coles Pitman	Jennifer Alene Smith	Brandon Jamaal Wooten
Summer Len McWhorter	Jessica Suzanne Pitts	Shawanna Haas Smith	Christopher William Worshek
Jeremy Brian Meador	Lakelia Patrice Powell	Ashley Nicole Smith	Larry Young Jr.
Monique Kathleen Meadows		Teri MaLea Smith	Christy Lanter Young

LAWYERS IN THE FAMILY



*James E. Beck, III (2009), T. Bowen Hill, III (1953), William I. Hill, II (1962), George L. Beck, Jr. (1966), W. Inge Hill, Jr. (1974), and Robert W. Bradford, Jr. (1975)
Admittee, cousin, cousin, cousin, uncle, and uncle*



*Frelon Abbott, III (2009) and Garry W. Abbott (1983)
Admittee and uncle*



*Huel McKinley Love, III (2009), Huel M. Love, Jr. (1982), Julie L. Love (1999) and Betty C. Love (1965)
Admittee, father, aunt and grandmother*



*Sara Robinson Higgins (2009) and George D. Robinson (1990)
Admittee and father*



*Anderson D. Robinson (2009), Judge Charles E. Robinson (1965), Pete Cobb (1980) and Charles E. Robinson, Jr. (1996)
Admittee, uncle, cousin and cousin*



*John McClurkin (2009), Mac McClurkin (2008) and Robert Macrory (1970)
Admittee, brother and uncle*

LAWYERS IN THE FAMILY



*Andrew Knowlton (2009) and
Gov. Albert P. Brewer (1952)
Admittee and grandfather-in-law*



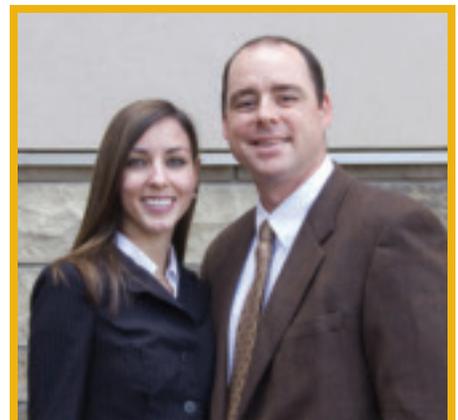
*Thomas Pilcher (2009), Mary E. Pilcher
(1985) and John E. Pilcher (1981)
Admittee, aunt and uncle*



*Wendy Nicole Hardegree (2009) and
A. Lee Hardegree, III (1980)
Admittee and father*



*Robert D. Keahey, Jr. (2009), Robert D. Keahey, Sr. (1984), Ronnie E. Keahey (1970),
Lara B. Keahey (2004), Marc Keahey (2005), and Lee B. Williams (1956)
Admittee, father, uncle, cousin-in-law, cousin, and grandfather*



*Amy Christine Scott Wasyluka (2009)
and Timothy Paul Wasyluka, Jr. (2004)
Admittee and husband*



*Clark Vann Stewart (2009), Judge Donald Stewart (1971)
and Scott F. Stewart (1998)
Admittee, father and brother*



*J. Bryan Boudreaux (2009), J. Scott Boudreaux (1980)
and Mike Cleckler (1972)
Admittee, father and stepfather*

LAWYERS IN THE FAMILY



*Ruth Frances Alexander (2009) and
Richard Goodman Alexander (1975)
Admittee and father*



*Janice R. Ballard (2009) and
Patrick J. Ballard (1996)
Admittee and husband*



*Walter Lee Sims (2009) and
Judge George N. Sims (1976)
Admittee and father*



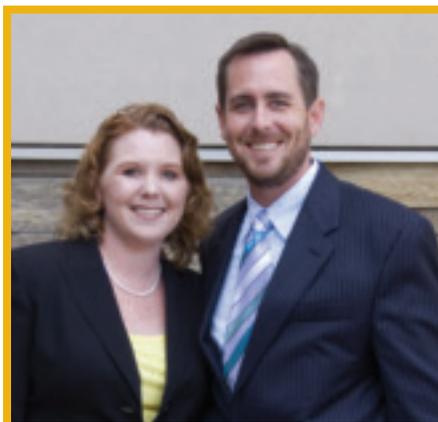
*George B. Bulls, II (2009), Albert C. Bulls, III (1976),
Fannie Sampson Bulls (1997) and Linda B. Bulls (2002)
Admittee, uncle, aunt and stepmother*



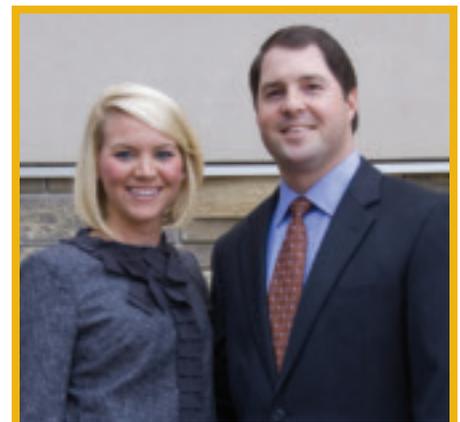
*David Fitzgerald Steele, Jr. (2009), Emily Page Steele (2009)
and David Fitzgerald Steele, Sr. (1982)
Husband and wife co-admittees, father/father-in-law*



*Justin Craddock Owen (2009) and
Clyde Craddock Owen, Jr. (1976)
Admittee and father*



*Heather Leigh Friday Boone (2009) and
Eric J. Friday (2005)
Admittee and brother*



*Mandy Jones Johnson (2009) and
Adrian D. Johnson (2001)
Admittee and husband*

LAWYERS IN THE FAMILY



*Margaret Summerford Gaddy (2009), Jeremy Scott Gaddy (2009),
Alice Tatum Summerford (1980) and E. Clark Summerford (1978)
Wife and husband co-admittees, mother/mother-in-law, father/father-in-law*



*Jonathan Friedlander (2009) and
Donald A. Friedlander (1967)
Admittee and father*



*Jacob Allen Millican (2009), Judge William Allen
Millican (1983) and Shannon L. Millican (1998)
Admittee, father and cousin*



*Tyler Brown (2009), Buddy Brown (1977), Allan Brown (2001)
and Brett Brown (2007)
Admittee, father, brother and brother*



*Margaret Jessica Head (2009) and
James B. Head (1982)
Admittee and father*



*Christopher Lockwood (2009) and
Robert Lockwood (1996)
Admittee and brother*



*Frank Austin Branscomb Beavers (2009)
and Charles A. J. Beavers, Jr. (1977)
Admittee and father*

LAWYERS IN THE FAMILY



*Joshua Moore (2009) and
William Moore (2001)
Admittee and father*



*Don Long, III (2009) and
Don Long, Jr. (1966)
Admittee and father*



*Patrick Brittain Kenerly (2009) and
James H. Miller, III (1977)
Admittee and father-in-law*



*Jon Andrew Isom (2009), C. E. Isom (1967) and
Chervis Isom (1967)
Admittee, father and uncle*



*Casey Biggs (2009), Terrie Scott Biggs (2002) and
Greg Biggs (1985)
Admittee, mother and father*



*Lee F. Holland (2009) and
Lyman F. Holland (1957)
Admittee and grandfather*



*William Lee Webb (2009) and
James Van Wilkins (1981)
Admittee and uncle*



*Alexandria Parrish (2009) and
Danny Evans (1975)
Admittee and husband*

LAWYERS IN THE FAMILY



*Joel M. Everest (2009) and
Mark J. Everest (1978)
Admittee and father*



*Sarah Payne (2009) and
Jack Payne (1971)
Admittee and father*



*Peter Harrison (2009) and
Jack Neal (1977)
Admittee and father-in-law*



*David Donaldson (2009), Emily Donaldson (2004) and
Jeff Donaldson (1968)
Admittee, sister and father*



*Justin Lackey (2009), Gary W. Lackey (1981) and
Patricia Lackey (1998)
Admittee, father and aunt*



*Paul Rothstein (2009) and
Joe Erdberg (1974)
Admittee and father-in-law*



*Slate McDorman (2009) and
Clarence McDorman, Jr. (1961)
Admittee and father*



*William George Fendley (2009) and
George Washington Fendley, III (1980)
Admittee and father*

LAWYERS IN THE FAMILY



*James Rodney Bledsoe (2009), Barry Bledsoe (1978),
J. Matt Bledsoe (2005) and J. Mark Bledsoe (2004)
Admittee, father, cousin and cousin*



*Megan Eva Miller (2009), Dwight Kirk Rice (1983) and
Bruce Miller Rice (1979)
Admittee, cousin and cousin*



*Sarah Elizabeth Bell (2009) and
John Clarke Bell (1974)
Admittee and father*



*Richard Powers (2009) and
Jessica Powers Davis (2006)
Admittee and sister*



*Anne Christensen (2009) and
Mark Christensen (1995)
Admittee and spouse*



*Michael Graham Lane (2009), William K. Lane, III (1992) and
Richard Dance (1948)
Admittee, father and grandfather*



*Anna L. Scully (2009), William E. Scully, III (2009) and
William E. Scully, Jr. (1986)
Wife and husband co-admittees, father-in-law/father*

LAWYERS IN THE FAMILY



Robert Nash Campbell (2009), Robert C. Campbell, III (1967), Vivian Vines Campbell (1992), David Campbell (1997), and Craig Campbell (2006) Admittee, father, sister-in-law, brother, and brother



William P. Gray, Jr. (1968) and John David Gray (2009) Father and new admittee

Birmingham School of Law

The Birmingham School of Law offers an affordable legal education to students on weeknights and Saturday classes. Many students commute nightly from Atlanta to Mobile. Students may graduate in 4 years, depending on the course program and graduates are eligible to sit for the Alabama bar exam. Application and information on our web site.

Affordable



Night & Weekend Classes

Since 1915

823 Frank Nelson Bldg. Birmingham, Al 35203

(205) 322-6122 www.bsol.com



J. FORRESTER DeBUYS, III
(de-bweez)

Agent, New York Life Insurance Company
CLU, ChFC, AEP

INDIVIDUAL AND BUSINESS INSURANCE PRODUCTS AND CONCEPTS

FOR INDIVIDUALS

- Life Insurance
- Fixed Annuities *
- Disability Insurance **
- Long Term Care Insurance

FOR BUSINESSES

- Key Person Coverage
- Buy-Sell Agreement Funding
- Deferred Compensation
- Group Life and Disability Insurance **

* Issued by New York Life Insurance and Annuity Corporation (A Delaware Corporation)

** Products available through one or more carriers not affiliated with New York Life, dependent on carrier authorization and product availability in your state or locality.

2311 Highland Avenue South, Suite 100
Birmingham, Alabama 35205
(205) 918-1515



It is more important than ever to understand your 401(k) fees.

401(k) fees can be assessed as explicit out-of-pocket expenses or charged as a percentage of assets. These expenses can be charged to either the sponsoring law firm or the plan's participants. Often they are assessed both ways, in some combination to the firm and its participants.

HOW IS THE ABA RETIREMENT FUNDS PROGRAM DIFFERENT FROM OTHER PROVIDERS? *TWO REASONS:*

1. The ABA Retirement Funds program was created by a not-for-profit organization within the ABA to provide a member benefit, not generate revenue for the ABA.
2. The ABA Retirement Funds program achieves the necessary economies of scale with over \$3 billion invested to eliminate all explicit fees for firms, and provide investments for participants with low asset based fees.

Let the **ABA Retirement Funds** program provide you with a cost comparison so you can better understand your direct 401(k) fees, and see how we can help you to provide an affordable 401(k), without sacrificing service, to your firm.



For more details contact us by phone **[877] 947-2272**, by email abaretirement@us.ing.com or on the web at www.abaretirement.com

You should consider the investment objectives, risks, charges and expenses of the investment options carefully before investing. Please refer to the most recent Program prospectus for such information. For a copy of the Prospectus with more complete information, including charges and expenses associated with the Program, or to speak to a Program consultant, call 1-877-947-2272, or visit www.abaretirement.com or write ABA Retirement Funds P.O. Box 5142, Boston, MA 02206-5142 - abaretirement@us.ing.com. Please read the information carefully before investing. The Program is available through the Alabama State Bar as a member benefit. However, this does not constitute, and is in no way a recommendation with respect to any security that is available through the Program. 04/09

Volunteer Lawyers Program 2009 Honor Roll

AUTAUGA

Joe T. Booth, IV
Chip W. Cleveland, II
Laurel W. Farrar
Karen H. Jackson
Kimberly G. Kervin
Nancy M. Kirby
Karen L. Materna
Jim T. Norman, III
Andy W. Tampling, Jr.
George P. Walthall, Jr.

BALDWIN

Shawn T. Alves
E. E. Ball
Thomas O. Bear
Vincent A. Bellucci
Bayless Biles
Julian B. Brackin, Jr.
J. E. Bridges, III
H. Max Cassidy, Jr.
R. Paul Cater
Allan R. Chason
John Earle Chason
L. Brian Chunn
Elizabeth A. Citrin
James P. Coleman
Samuel N. Crosby
Manley L. Cummins
Jim G. Curenton, Jr.
Harry M. D'Olive
Michael A. Dasinger, III
Lois Carney Divietro
Carolyn M. Dohn
Naomi G. Drake
Fred K. Granade
Robert L. Hagler, Jr.
Charles W. Ham
Mary Ann Hampton
Jule R. Herbert, Jr.
J Bradford Boyd Hicks
David A. Horton
George R. Irvine
Richard D. Jensen
Harold A. Koons, III
Oliver J. Latour, Jr.
Jonathon R. Law
Gregory L. Leatherbury, Jr.
Robert Scott Lewis
Corey B. Lipscomb
J. Alan Lipscomb
P. David Matheny
Jessica M. McDill

Samuel McKerral
Leonard F. Mikul
Barney A. Monaghan
T. Deven Moore
Mary E. Murchison
Meegan B. Nelson
Narissa Nelson
Charles R. Niven
Thomas B. Norton, Jr.
Craig D. Olmstead
James D. Patterson
Chandra D. Paul
Allyson C. Pearce
Wendy A. Pierce
Diane M. Porter
Mark D. Ryan
William E. Scully, Jr.
David Perry Shepherd
Shelia V. Stone
Ashley E. Swink
Jeremy P. Taylor
Whit A. Thomas
Earl P. Underwood, Jr.
David Vaughn
Angela L. Walker
Sara C. Wallace
Marion E. Wynne, Jr.
Paul W. Brunson, Jr.
Jimmy S. Calton, Jr.
Jimmy S. Calton, Sr.
Walter B. Calton
Richard A. Harrison, III
Deborah Hicks
James L. Martin
Donald J. McKinnon
Courtney Potthoff
L. Shane Seaborn
Joel P. Smith, Jr.

BIBB

John Hamilton, Jr.
Anthony Johnson

BLOUNT

William A. Ellis, III
Steven J. Goldstein
Roy M. Johnson, III
Brett A. King
Alexander M. Smith
Ted L. Williams, Jr.

BULLOCK

Bradley S. Braswell
Christina D. Crow
Lynn W. Jinks, III

Louis Rutland
Elizabeth C. Smithart

BUTLER

Timothy O. Craig
Lewis Hamilton
P. Richard Hartley
Walton W. Hickman
Forrest C. Rule, Jr.
C. Brandon Sellers, III
Samantha R. Sellers
Charlotte M. Tesmer

CALHOUN

Bruce N. Adams
Christopher D. Albert
Hobart H. Arnold, III
William H. Broome
Raymond C. Bryan
LeRoy Alan Cobb
Brian K. Combs
Richard W. Couch
Charles S. Doster
Wendy Ghee Draper
Robert B. Folsom, Jr.
Shawn M. Hill
Christopher M. Hopkins
Janet May Hudson
Kenneth Alan Hunt, Jr.
Rochelle D. Hunt
Charles E. Isom
Carey N. Kirby
Jayme L. Kirkland
Fred Lawton, III
Stephen H. Miller
Shirley A. Millwood
D. Brent Morrison
Nathaniel D. Owens
William L. Pfeifer, Jr.
Tina E. Roberts
Polly E. Russell
William D. Senter
Aundrea M. Snyder
Gary Stanko
Brenda S. Stedham
Vaughn M. Stewart, II
Cleophus Thomas, Jr.
Nancy P. Vernon
Joseph E. Whittington

CHAMBERS

Lisa M. Burdette
Mark H. Carlton
William P. Fuller, Jr.
Susan K. Harmon

James C. Ingram, Jr.
Charles G. Reynolds, Jr.

CHEROKEE

Albert L. Shumaker

CHILTON

Robert L. Bowers, Sr.
David B. Karn
Andrew T. Mayfield
Dale Rouse Waid

CHOCTAW

E. Mark Ezell
Timothy C. Hutchinson
J. Perry Newton

CLARKE

James E. Deshler, II
Wyman O. Gilmore, Jr.
G. Marc Keahey
Robert D. Keahey, Jr.
Robert D. Keahey
Ronnie E. Keahey
Hardie B. Kimbrough
Phillip E. Mason
J. Charles McCorquodale, IV
Joseph C. McCorquodale, III
Lee B. Williams

CLAY

Joseph D. Ficquette
COFFEE
Shannon R. Clark
Harry L. Gilder, Jr.
Dwain D. Hartwick
William J. Moore
Letitia L. Myers
James M. Parker
J. E. Sawyer, Jr.
Leon Merrill Shirley
Chad E. Stewart
Richard Waldrop
Richard W. Whittaker

COLBERT

Ouida Y. Brown
Nicole M. Dill
Hartwell Alan Gargis
H. Thomas Heflin, Jr.
Harold V. Hughston, III
James Hughston
William T. Johnson, Jr.
Charles Kelley
John C. McKelvey
Tim W. Milam
Terry Mock
Sheila F. Morgan

Stanley Munsey
Rebecca Narmore
C. Daniel Rosser, Jr.

COOSA

Vanessa Leonard

COVINGTON

K. Mac Bracewell, Jr.
Corey D. Bryan
Michael L. Jones, Jr.
Eugenia L. Loggins
John M. Peek
Ronald W. Penn
Benton H. Persons, Jr.
Allen G. Woodard

CRENSHAW

Wayne Carter
Brandon S. Coots
Jon M. Folmar
William R. King
Arlene Richardson

CULLMAN

Shirley A. Brice
R. Champ Crocker
Stephen Griffith
Shelbie G. Hankey
Kathryn A. King
James R. Knight
John Knight
Greg Nicholas
Emily K. Niezer
Angela H. Sahurie
Robert A. Sapp, Jr.
Seth B. Thompson

DALE

Joe W. Adams
Robert H. Brogden
Jack Corbitt
Donna C. Crooks
Joseph J. Gallo
J. David Robinson
Robert G. Robison
Tammy Lynn Stinson
Everett M. Urech
Joe Walker

DALLAS

Prince D. Chestnut
April England
B. Kinsey Green, Jr.
James E. Loris, Jr.
Blanchard L. McLeod, Jr.
Collins Pettaway Jr.
John E. Pilcher

Jeffrey C. Robinson
P. Vaughan Russell, Sr.
Charles H. Sims, III
Jan Garrison Thompson
Rick E. Williams, III

DEKALB

L. Suzanne Bailey
James E. Brisendine
E. Allen Dodd, Jr.
J. David Dodd
Dana J. Grimes
Gary Hartline
Robert K. Jordan
Patricia C. Kellett
Roger G. Killian
Glenn A. Shedd
Patrick H. Tate
John H. Ufford, II
W. N. Watson
Robert G. Wilson

ELMORE

D. Jason Britt
Bonita J. Caldwell
Carla M. Coffey
Regina B. Edwards
John E. Enslin
Jon R. Moody
Connie J. Morrow
John D. Norris
Roderick B. Perdue

ESCAMBIA

James E. Coale
Shirley M. Darby
Tobby R. Evans
John L. Jernigan, III
Melinda L. Maddox
Everette A. Price, Jr.
William R. Stokes, Jr.
Jeffrey A. White

ETOWAH

Myron K. Allenstein
Rose Marie Allenstein
Michele G. Bradford
Will H. Clay
H. Wayne Copeland
Brad W. Cornett
Gregory S. Cusimano
Tameria S. Driskill
Christopher R. Garner
Patricia H. T. Granger
F. Michael Haney
Charles C. Hart

Emily P. Hawk
William D. Hudson
Daniel B. King
Thomas A. King
Christina D. Knowles
Donna F. McCurley
Philip E. Miles
Jeffrey P. Montgomery
Krystal G. Padula
James D. Pruett
Richard A. Rhea
Michael L. Roberts
John T. Robertson, IV
James T. Sasser
David W. Trottier
A. Wilson Webb
Jonathan M. Welch
William R. Willard, Jr.
J. Curtis Wright

FAYETTE

Charles A. Langley
J. Dale Lawrence, Jr.
Louis P. Moore

FRANKLIN

Roger H. Bedford, Jr.

GENEVA

Alfred J. Danner
Laura A. Dell
Nicole B. Dyess
Letta Dillard Gorman
David J. Harrison
Jeffery D. Hatcher
David F. Holmes
Michael P. Hughes
John L. Knowles
Michael P. Lasseter
David W. Rousseau
Rachel H. Sullivan

HALE

Patrick S. Arrington

HENRY

Samuel C. Money
James D. Peterson

HOUSTON

Mark Hampton Baxley
Wade Baxley
Bryan S. Blackwell
Steven K. Brackin
Rebecca B. Brown
Debra H. Buchanan
William Terry Bullard, Jr.
W. Terry Bullard
Dustin R. Byrd
Jon Christopher Capps
Terry M. Carey
William C. Carn, III
Tracy W. Cary
Joe M. Chambers
Daniel K. Clark
Lori S. Collier
J. Michael Conaway
Bobbie Crook
Patrick H. Davenport
Jonathan K. Espy
William Feagin
D. Taylor Flowers

Arne M. Foss
Shana N. Gartlan
Rafael Gil, III
Elizabeth B. Glasgow
Michael R. Goodman
Harry P. Hall, II
Steven R. Hamner
Tilden J. Haywood
J. R. Herring
Rob I. Hinson
David K. Hogg
Gary A. Hudgins
Dow Huskey
Daniel F. Johnson
Lora Lea J. Johnson
Patrick B. Jones, III
Matthew Lamere
Joseph D. Lane
L. Jan Laney

Allison Y. Lumbatis
John M. Maddox
Steve G. McGowan
Peter A. McInish
Linda H. Meadows
Ronald C. Mendheim
Benjamin E. Meredith
Paul F. Meyers, II
Joseph Morris
Joel M. Nomberg
Jake A. Norton
William H. Odum, Jr.
James W. Parkman, III
Russell N. Parrish
Nancy S. Pitman
H. Samuel Prim, III
Joel W. Ramsey
Shannon A. Rash
Tommy R. Scarborough
Jere C. Segrest
Rufus Smith, Jr.
J. Farrest Taylor
Eric M. Wade
William B. Wadsworth
J. Kevin Walding
Gregory L. Watt
Freddie White

JACKSON

Gregory Scott Berry
Daryl R. Eustace
Stephen M. Kenamer
S. Jack Livingston
Kenneth H. Looney
Pamela M. Parker
Gerald R. Paulk
Finis A. Royal
Patricia C. Stewart
William W. Tally
Don Word

JEFFERSON

Garry W. Abbott
Cassandra W. Adams
Monica Y. Agee
Leslie M. Allen
Richard D. Allen, Jr.
Keith S. Anderson

*By this honor roll, the
Alabama State Bar
recognizes the following
lawyers for their participa-
tion in volunteer lawyers
programs across the state.
Their generous assistance,
cooperation and dedica-
tion have enabled these
programs to provide legal
representation to hundreds
of disadvantaged
Alabamians.*

Eric C. Andreae
Ricardo Aparicio
J.H. Aughtman
John S. Baker, IV
Kimberly I. Baker
Mary Lynn Bates
Kimberly M. Bawgus
Charles A. J. Beavers, Jr.
Mary C. Beers
Erin C. Bell
Natalie R. Bolling
Charles H. Booth, Jr.
Alexia B. Borden
Bradford W. Botes
Gordon J. Brady, III
Keith E. Brashier
E. L. Brobston
Brian P. Brock
Keith A. Brown
Kris D. Burbank
Cynthia Vines Butler
Michelle N. Butler
Michael E. Bybee
Donna K. Byrd
Leslie A. Caldwell
Robert Joseph Camp
David A. Carn
Jack Carney
Dawn S. Carre
Kevin E. Clark
William N. Clark
Katherine A. Collier
Gregory C. Cook
Robert E. Cooper
Robert D. Cornelius
Melissa B. Croxton
John G. Dana
Dow A. Davidson
Kelvin L. Davis
Stephen D. Davis, II
Summer A. Davis
Tracy R. Davis

Jonna Miller Denson
Kimberly S. DeShazo
David D. Dowd, III
Carl K. Dowdey, III
Angela Turner Drees
Matthew A. Dunaway
W. Lee Elebash
A. Brook Emfinger
Barton B. Evans
Jesse Evens, III
Joel M. Everest
Steven D. Eversole
Michael B. Fargarson
Joseph A. Fawal
Carmen S. Ferguson
Sean L. Finan
Shayla R. Fletcher
Elizabeth R. Floyd
E. Prim Formby
Alan L. Foster
Robert P. Fowler
Patrick W. Franklin
V. Edward Freeman, II
Peter S. Fruin
A. Brantley Fry
Clair M. Gammill
Robert S. Gargis, II
Shannon George
Tena M. George
Kristol N. Gibbons
James W. Gibson
Leatha Kay Gilbert
William P. Glass, Jr.
Robert L. Gorham
Irene M. Graves
Bryan A. Grayson
Daryl P. Harris
Elizabeth Davis Harris
Wallis S. Haynes
Margaret J. Head
George M. Higginbotham
David Jason Hodge

Jamin W. Hogan
Rhonda S. Hood
Kaye K. Houser
Calvin Howard
John C. Hubbard
Sidney J. Hughes
Elizabeth H. Huntley
Kearney D. Hutsler, III
Paul A. Irwin, Jr.
Wyndall A. Ivey
Perry G. Jackson
Derry D. Johnson
Jennifer H. Johnson
Margaret R. Johnson
Kristofor W. Kavanaugh
Christine E. Keifer
Robert J. Kelly
Robert E. Kirby
Jessica D. Kirk
Kelly R. Knight
Robert R. Kracke
Joseph C. Kreps
Linda Sanford Lehe
Jon E. Lewis
Yue Li
Christopher S. Linton
Thomas M. Little
Bobby Lott, Jr.
Champ Lyons, III
Donna Britt Madison
Thomas J. Mahoney, Jr.
J. Brannon Maner
T. Sheree Martin
W. Preston Martin
Fred B. Matthews
Deborah A. Mattison
Gerald Maxwell
W. Thomas Mayfield, IV
Bradley Curtis Mayhew
M. Kathryn Maynard
David L. McAlister
Walter F. McArdle
Phillip W. McCallum
Terrence W. McCarthy
Reginald D. McDaniel
Mary C. McGowan
M. Elizabeth McIntyre
Douglas McWhorter
D. Tara Middleton
Rodney E. Miller
Zachary D. Miller
Joy J. Minner
Anne W. Mitchell
Christopher A. Mixon
Carolynn H. Moore
Patricia N. Moore
Robert E. Mooror
Joe W. Morgan, III
Mari Morrison
J. Leland Murphree
George M. Neal, Jr.
Chris J. Nicholson
J. Edmund Odum, Jr.
Shane M. Oncale
Robert L. Palmer

Angela D. Parker
Alexandria Parrish
E. Bryan Paul
Suzanne D. Paulson
Matthew I. Penfield
Eric G. Peterson
Anthony J. Piazza
Sean C. Pierce
Michelle K. Pieroni
Denise Blue Poe
Andrew James Potts
Lorraine W. Pringle
Eric L. Pruitt
LaShaun R. Pryor
Randall D. Quarles
Gregory J. Reid
Jennifer H. Reid
Myra C. Roberts
Brandon N. Robinson
Lisa C. Robinson
Edward Kenneth Rosser
Alyson L. Saad
Ayn Traylor- Sadberry
Vincent J. Schillieci, III
David L. Scott
Romaine S. Scott, III
James V. Seal
Melinda E. Sellers
Heather R. Sharp
Amy J. Shields
Joan B. Singleton
Melissa E. Smiley
Austin E. Smith
David Smith
Marshall E. Smith, III
William F. Smith, II
A. Jackson Sperling
Gregory C. Starkey
Amelia K. Steindorff
J. Ted Stuckenschneider
Ashley F. Thomas
Thomas E. Thrash
Michael D. Tucker
Douglas B. Turnbull
Tyler C. Vail
Michael A. Vercher
Karen A. Vest
William B. Ware
Katrina Washington
Latanisha Watters
John G. Watts
Kenneth E. Watts
Gary L. Weaver
Andrea L. Weed
Pamela B. Weed
Martin E. Weinberg
J. Bennett White
Derry Olive Wilcox
Christopher J. Williams
Ronald D. Williams
Jenny R. Wilson
Chereka L. Witherspoon
Robert W. Wolfe
Fredrick M. Wright
Richard A. Wright

Christy L. Young
Shemireyah Young
Tiara S. Young
Edward I. Zwilling

LAMAR

Glenn Carlyle Noe
Audrey O. Strawbridge

LAUDERDALE

Ian M. Berry
Ernest N. Blasingame, Jr.
Daniel E. Boone
Ryan G. Brake
Greg K. Burdine
Edward W. Doggett
James R. Engelthaler
Michael Fraser Ford
Robert L. Gonce
Benjamin R. Graves
James E. Hall, II
R. Willson Jenkins, Jr.
Gary Jester
Elizabeth G. Messer
Daryl Wayne Moon
Kim A. Norris
A. Stewart O'Bannon, III
C. David Odem
Dennis N. Odem
John Stanford Odem
Joe M. Patterson, Jr.
Harold G. Peck
Conrad Pitts
Jamy B. Poss
Frank Potts
Cindy S. Schuessler
Henry F. Sherrod, III
Hilda Trapp Smith
Robert F. Smith
Ricky V. South
Donald G. Tipper
Albert J. Trousdale, II
Randy D. Whitten
Douglas Wright
Joe H. Yates
Brant Young

LAWRENCE

Rod M. Alexander
Mark A. Dutton
John D. Kimbrough
Sean Masterson
Harold Speake
Mike F. Terry
H. Jerome Thompson

LEE

Lance E. Abbott
John T. Alley, Jr.
Billy B. Amason
Brian Ashley
Russell C. Balch
James Tutt Barrett
J. Gary Black
Elizabeth M. Borg
Beverlye N. Brady
Margaret Y. Brown
Rebecca P. W. Buxton
M. Joanne Camp

John E. Cochran, Jr.
Robert H. Cochran
William D. Coleman
Andrew D. Cooper
Larry G. Cooper, Jr.
Paul R. Cooper
William T. Crutchfield
Patrick C. Davidson
Nancy Jones Davis
William David Dawson
Joseph C. Denison
W. Don Eddins
Thomas M. Eden, III
Ewell H. Elliott, Jr.
Van C. Gholston
William E. Hardy, Jr.
James K. Haygood, Jr.
Patrick Hays, Jr.
Sarah F. Henson
Tom E. Jones
C. Robin Kelley
Glen D. King
Katherine M. Klos
Margaret Ann Mayfield
John W. McCollum, Jr.
James D. McLaughlin
Marrell McNeal
Robert T. Meadows, III
Gail Smith Meek
Brian T. Mosholder
Roben Nutter
Phyllis F. Parker
Robert H. Pettey, Jr.
Roger W. Pierce
Stephanie Marti Pollard
W. Larry Ray
Mitzi L. Sears
James Sprayberry
Elaine Thomaston
Philip A. Thompson
Cecil Tipton, Jr.
Edward F. Tracy
Phillip O. Tyler
Arnold Umbach, Jr.
Clinton L. Wilson

Linda H. W. Henderson
Tiffany N. Johnson
Ernestine S. Sapp
Brian P. Strength

*The Alabama State Bar
and the four organized
pro bono programs salute
all private attorneys
across the state who
donated some portion of
their time to providing
free legal assistance to
low-income persons.*

Linda H. W. Henderson
Tiffany N. Johnson
Ernestine S. Sapp
Brian P. Strength

MADISON

James R. Accardi
Joseph D. Aiello
Allison B. Akins
Eric J. Artrip
Angela S. Ary
John Baggette, Jr.
Walter A. Baker
Page A. Banks
Rebekah P. Beal
Anna Blair
Justin M. Bledsoe
James K. Brabston
Larry W. Brantley
William G. Burgess
Clint W. Butler
Frank M. Caprio
Richard C. Carter, Jr.
Shannon M. Cazzavillan
Annary A. Cheatham
Richard E. Chesnut
Donald L. Christian, Jr.
P. Michael Cole
Meteasa L. Collins
Rochelle A. Conley
Maureen K. Cooper
Edmund A. Crackel, III
Suzette E. Daniels
John M. Debro
Patricia D. Demos
Suzanne C. Dorsett
Bennett R. Driggers, Sr.
Matt T. Dukes
Robert C. Gammons
Samuel H. Givhan
Rebekah L. Graham
Patrick H. Graves, Jr.
Kevin C. Gray
Regina Greene
Lisa F. Grumbles
Richard L. Guido
Andrea M. Hamlett
David A. Hatfield
Kevin D. Heard

Gabrielle Helix
Tara L. Helms
Danny D. Henderson
Mary R. Hill
Steven M. Howie
Michael P. Huff
Claude E. Hundley, III
Benjamin W. Hutton
Jeffrey B. Irby
Laura D. Jacobs
Amber Y. James
Corey W. Jenkins
Jerrery A. Johnson
Michael P. Johnson
Sharon A. Johnston
George P. Kobler
Marlene Koch
Winston V. Legge, Jr.
Lee S. Leggett
Robert C. Lockwood
Johann R. Manning, Jr.
Kimberly B. Martin
M. Clay Martin
Ben L. McArthur
John B. McDaniel
Tina R. McDonald
Reta A. McKannan
Christopher M. Messervy
Barbara C. Miller
David E. Mixon
George Allen Moore
Yancey A. Moore, III
Chad A. Morgan
Grady L. Morgan
Rachel Murphy Morgan
Patrick G. Nelson
Christopher A. Pankey
Sandra D. Parker
J. Clark Pendergrass
JoAnn M. Perez
Timothy P. Pittman
Valerie H. Plante
Emily B. Prater
Ashley F. Ragsdale
Richard R. J. Raleigh, Jr.
Gregory H. Revera
Michael F. Robertson
L. Thomas Ryan, Jr.

Brad P. Ryder
Sandra R. D. Segal
Leslie C. Sharpe
Kristy D. Shelton
Kay G. Siniard
Ronald W. Smith
Mark D. Swanson
Shelly Thornton
Frank S. Ward
C. Rena Webb
Bobbi J. Weeks-Wilson
Ashley G. White
Gayle N. Williams

MARENGO

Thomas H. Boggs, Jr.
Russell Burdett
William Coplin, Jr.
Woodford Dinning, Jr.
John M. Gibbs
Gregory Griggers
Richard S. Manley
William S. Poole, Jr.
Sebie G. Sellers
K. Scott Stapp
William A. Ward

MARION

William H. Atkinson
William B. Fite
J. Tony Glenn
C. Harry Green
Diane Haden Henderson
R. Wyatt Howell, Jr.
J. O. Isom
A. Wade Leathers
John V. Martine
Lonnie D. Spann
Jeremy L. Streetman
Oliver F. Wood

MARSHALL

Christopher F. Abel
Jerry W. Baker, Jr.
George M. Barnett
E. Will Beard
Randy Beard
James R. Berry
R. Claud Burke
Jimmy F. Carnes
Norma M. Chaviers
Richard Fricks
John C. Gullahorn
Lisa Milner Hancock
Charles Hare, Jr.
Jamie P. Logan
Jonathan M. Lusk
Louis B. Lusk
John M. Mastin
Jeff R. McLaughlin
Joel Shannon Mitchell
E. Charles Ogdren, III
Elisa Smith Rives
P. David Roadruck
Danny Smith
Stephen B. Smith
Steven Vincent Smith
Byron Waldrop

James D. Walker
Dan T. Warnes
Wade K. Wright

MOBILE

Christina M. Adcock
Gary P. Aldor, Sr.
Matthew J. Bauer
Kimberly L. Bell
Britten L. Britt
Harwell E. Coale, III
Lisa Cooper
Eric B. Cromwell, II
Aurelius E. Crowe
Craig D. Dahle
Kristin L. Daniels
Carl E. Freman
Barry A. Friedman
Timothy M. Grogan
Brandy B. Hambright
Roy Wallace Harrell, III
Jeffery J. Hartley
Christine C. Hernandez
R. Scott Hetrick
Charles A. Hicks
Jennifer Holifield
D. Chuck Holtz
William B. Jackson, II
Ishmael Jaffree
Clifford W. Jarrett
Candace L. Johnson
Gregory R. Jones
Kyla G. Kelim
Christopher Kern
Clay A. Lanham
Byron Lassiter
Tracie B. Lee-Roberson
James E. Loris, Jr.
Yancey Davis Lott, Jr.
Edward R. March, III
James H. McDonald, Jr.
Jeffrey Garrett Miller
Jennifer S. Morgan
Kenneth A. Nixon
Louis C. Norvell
Terrie S. Owens
Melinda J. Parks
J. Day Peake
Mary E. Pitcher
Austin S. Prestwood
Wanda B. Rahman
Jennifer L. Roselius
Troy T. Schwant
Mary Kathleen W. Steele
K. Brandon Strickland
Bryan A. Thames
Deena R. Tyler
P. Dean Waite, Jr.
Leslie Gail Weeks
Shuntavia W. Woods
Jim W. Zeigler
David B. Zimmerman

MONROE

Lynn B. Byrd
Tonja B. Carter
John M. Coxwell, Jr.

Katharine A. W. Coxwell
Lori L. Crawford
Jeff D. Dyess
Laura R. Grantham
Nicholas Hare, Jr.
W. Bob McMillan
Donna Lynn Silcox
Mickey Womble

MONTGOMERY

Russell T. Abney
Samuel Adams
Alyce R. Addison
Mary Alexander-Oliver
Deanie C. Allen
J. Greg Allen
Charles L. Anderson
D. Mike Andrews
J. Knox Argo
Shapard D. Ashley
Zack M. Azar
J. Evans Bailey
Ben E. Baker, Jr.
Charles W. Barfoot
Judy H. Barganier
Constance S. Barker
Noel S. Barnes
H. Clay Barnett, III
Jere L. Beasley
Julia A. Beasley
James E. Beck, III
Terrie S. Biggs
Andy D. Birchfield
William R. Blanchard, Jr.
Donna A. Bland
J. Rodney Bledsoe
Bethany L. Bolger
LaBarron N. Boone
Britt S. Booth
Chris D. Boutwell
Eric A. Bowen
David R. Boyd
Richard E. Broughton
E. T. Brown
Ben E. Bruner
Judkins M. Bryan
Jason E. Burgett
Paul E. Burkett
Joseph E. Burkhardt
Anthony B. Bush
James A. Byram, Jr.
David B. Byrne, III
Richard F. Calhoun, Jr.
Laura A. Calloway
Marvin H. Campbell
Malcolm N. Carmichael
Gregory A. Carr
Clint C. Carter
Elizabeth B. Carter
Gordon T. Carter
Mark N. Chambless
William R. Chandler
John W. Charles, III
Marion D. Chartoff
Paul A. Clark
Kimberly M. Clenney

William P. Cobb, II
Michael J. Cohan
Shawn J. Cole
Zachary T. Collins
Sabrina L. Comer
Joel D. Connally
Roianne H. Conner
Pamela G. Cook
W. Chad Cook
Lee H. Copeland
John C. Craft
Michael J. Crow
Laura L. Crum
Geraldine R. Daniels
Greg L. Davis
William Richard Davis
Richard C. Dean, Jr.
Gail H. Donaldson
Cathy B. Donohoe
Jeffery C. Duffey
Roy C. Dumas
Kendall C. Dunson
Russell T. Duraski
Charles W. Edmondson
Joana S. Ellis
Frederick T. Enslin, Jr.
Paul D. Esco
R. Graham Esdale, Jr.
Quindal C. Evans
Greg B. Everett
Hamilton N. Farmer
Ben H. Farrow
David G. Flack
Michael A. Fritz, Sr.
Bill H. Fuller, Jr.
Tim J. F. Gallagher
Richard B. Garrett
C. Nelson Gill
Richard H. Gill
H. Lewis Gillis
Carla Cole Gilmore
Chris D. Glover
Larry A. Golston, Jr.
C. Lance Gould
Yong U. Gregg
Michael A. Griggs
John Hagood
Timothy C. Halstrom
James D. Hamlett
D. Brent Hargett
Alan T. Hargrove, Jr.
Gerald W. Hartley
Frank H. Hawthorne, Jr.
William S. Haynes
Thomas R. Head, III
J. Cliff Heard
David W. Henderson
D. Mitch Henry
Jamie K. Hill
Thomas B. Hill, III
W. Mike Hill, Jr.
M. Guy Holton
Ronald A. Holtsford
Edward A. Hosp
Beverly J. Howard

Organized pro bono programs make us keenly aware of the contribution and concern of many of our colleagues and remind us of our own need to serve our community through our profession. We hope that all lawyers will someday participate in organized pro bono programs so that we can recognize their contributions too.

John Allen Howard, Jr.
S. Scott Hoyem
J. Lister Hubbard
Joseph L. Hubbard, Jr.
R. Austin Huffaker, Jr.
Robert A. Huffaker
Henry H. Hutchinson, III
Allison L. Ingram
Michael S. Jackson
Jimmy D. Jacobs
Marci S. Johns
Adrian D. Johnson
L. Scott Johnson, Jr.
James E. Johnston
Jamie A. L. Johnston
Sarah S. Johnston
Donald R. Jones, Jr.
Nick A. Jones
Rhon E. Jones
Richard K. Keith
Susan E. Kennedy
T. Cowin Knowles
Thomas E. Kondrak
Thomas O. Kotouc
Nathan F. Kuykendall
Robin G. Laurie
Barry C. Leavell
W. Don Letford
Sandra H. Lewis
Donald B. Little
John A. Little
Edwin K. Livingston
Ben L. Locklar
Terry W. Luck, III
B. Saxon Main
Thomas G. Mancuso
Joshua F. Mandell
Emily C. Marks
Danielle W. Mason
W. Troy Massey

W. Joseph McCorkle, Jr.
Mickey G. J. McDermott
J. Douglas McElvy
Richardson B. McKenzie, III
C. Knox McLaney, III
Gloria J. McPherson
Julian L. McPhillips, Jr.
LaTasha A. Meadows
Ted G. Meadows
Tyron C. Means
William Z. Messer
Thomas J. Methvin
W. Dee Miles, III
J. Parker Miller
Brian W. Moore
Stanley A. Moorhouse
Fernando A. Morgan
Rick D. Morrison
F. Chadwick Morriss
J. Flynn Mozingo
Mark D. Mullins
Robert F. Nelson
Stephen M. NeSmith
Deborah M. Nickson
Robert F. Northcutt
Dorothy F. Norwood
Tabor R. Novak, Jr.
P. Leigh O'Dell
Christy L. Olinger
Kim B. Oliver
Jobe T. Ott
Clyde C. Owen, Jr.
Debra E. Palmer
B. Diane Paris
J. Ed Parish, Jr.
George R. Parker
Kelly F. Pate
Simeon F. Penton
Michael J. Petersen
A. Wesley Pitters

Robert Pittman
Jessica S. Pitts
Gregory M. Pool
Debra Haynes Poole
J. Cole Portis
Charles Price, II
Jeffrey D. Price
Melissa A. Prickett
Richard L. Pyper
Catherine H. Richardson
Frank W. Riggs, III
Jim A. Rives
Robert D. Rives
Bill H. Robertson, V
Mindi C. Robinson
Riley W. Roby
Karen S. Rodgers
A. Rothschild
Robert J. Russell, Jr.
J. Lenn Ryals
Mark W. Sabel, Jr.
Joseph M. Saloom
Robert E. Sasser
J. P. Sawyer
William P. Sawyer
Patrick W. L. Sefton
Bobby Segall
Will B. Sellers
L. Landis Sexton
T. Grant Sexton, Jr.
Janet L. Shannon
Roman A. Shaul
C. Winston Sheehan, Jr.
Launice P. Sills
Spence A. Singleton
Clifton E. Slaten
Jeffrey W. Smith
Jennifer A. Smith
Maury D. Smith
Sylvester S. Smith
W. Roger Smith, III
C. Franklin Snowden, III
Scott M. Speagle
Charles A. Stakely, Jr.
Angela C. Starr
Chuck A. Stewart, III
Micki Beth Stillier
Michael G. Strickland
Pamela Swan
Thomas C. Tankersley
Dana G. Taunton
Anwar Taylor
J. Carlton Taylor
John E. Tomlinson
Jennifer J. Tompkins
C. Clay Torbert, III
Scarlette M. Tuley
Gina M. Tur-South
Wayne P. Turner
C. Gibson Vance
Stewart E. Vance
Robert J. Varley
J. E. Vickers, III
George H. Wakefield, Jr.
J. Dorman Walker, Jr.

W. Christopher Waller, Jr.
James N. Walter, Jr.
Navan Ward, Jr.
Robert C. Ward, Jr.
Kyle D. Weidman
Helen C. Wells
Milton J. Westry
Michael L. White
David J. Wilder
Jesse M. Williams
Jim E. Williams
Trina Sanders Williams
E. Ham Wilson, Jr.
A. Kelli Wise
April D. Wise
E. Frank Woodson, Jr.
James L. Wright
Glenn D. Zimmerman

MORGAN

James G. Adams, Jr.
Roy S. Anderson
Douglas R. Bachuss, Jr.
Howard M. Belser, III
Jeffrey S. Brown
Stephen F. Brown
Robert L. Burrell
Kelly D. Butler
Thomas A. Caddell
David B. Cauthen, Jr.
Carl A. Cothe, III
Carl M. Cowart, Jr.
Julie A. Craft
Tina R. Dawes
Thomas M. Di Giulian
Bingham D. Edwards
Alisha D. Franklin
Arthur Groover
Garland Hall, III
Stephen V. Hammond
Denise M. Hill
Thomas J. House
Jerry Knight
Kevin R. Kusta
Mary Ellen Lamar
David W. Langston
Robert E. Long, Jr.
Barnes F. Lovelace, Jr.
Jenny McLeroy
R. T. McWhorter, Jr.
William L. Middleton, III
Phil D. Mitchell, II
H. M. Nowlin, III
Gary A. Phillips
Joseph W. Propst, II
Christy W. Richardson
Julia S. Roth
Nicholas Roth
Steven Sasser
Kenneth Schuppert, Jr.
Timothy L. Shelton
William E. Shinn, Jr.
Michael E. Sparkman
R. Eric Summerford
Kevin D. Teague
J. Glynn Tubb

Brian M. White
James D. Whitmire
Kenneth R. Widner
Ellen C. Wingenter
PERRY
James M. Barnes, Jr.
Kirtley W. Brown
Robert D. Bryant
Robert H. Turner

PICKENS
William D. King, IV
John A. Russell, III

PIKE
Robert C. Faircloth
Joseph E. Faulk
William Burl Key, III
Ruth L. Pawlik

RANDOLPH
Michael S. Jazwinski
Kesa M. Johnston
T. Oliver Kitchens
S. Chad Lee
Steven R. Morris
J. Clay Tinney

RUSSELL
L. Joel Collins
Jennifer B. Cooley
Peter A. Dumbuya
John David Jones
Sam E. Loftin, Jr.
Dana M. May
Yvonne R. Rush
Thomas F. Worthy

SAINT CLAIR
A. Dwight Blair
Erskine Funderburg, Jr.
Alan C. Furr
Maxine Crawford Moses
Guy C. McCombs, III
Elizabeth Parsons
Randall K. Richardson
Charles E. Robinson, Jr.
Fred W. Teague
William J. Trussell
Edwin Van Dall, Jr.
Tommie Jean Wilson

SHELBY
Brent L. Callihan
Jeffrey M. Chapman
Frank Ellis, Jr.
Russell L. England
E. Dianne Gamble
Sanford D. Hatton, Jr.
C. Todd Henderson
Sandy F. Johnson
Jennifer L. Jones
Rachel A. King
Erin L. Kline
W. Randy May
John A. McBrayer
John E. Medaris
E. Farley Moody, II
Jo Ellen Mudd
P. Shawn Rumsey
Steven Sears

Candice J. Shockley
J. Timothy Smith
Jonathan A. Spann
Gerald A. Templeton
Harold E. Woodman
Alex A. Yarbrough

SUMTER
William C. Brewer, III
I. Drayton Pruitt

TALLADEGA
Cheryl D. Barnett
Shelly L. Barnhart
Sarah Clark Bowers
L. Shaw Gaines
Gregory S. Graham

Trina W. Hammonds
James N. Montgomery, Jr.
Michael Anthony O'Brien
Jeanne Dowdle Rasco
William K. Rogers, Jr.
Erica L. Sheffield
Barry D. Vaughn

TALLAPOOSA
Faye H. Edmondson
Randall S. Haynes
Angela J. Hill
Jason M. Jackson
John Oliver, II
Robin F. Reynolds
Mark Allen Treadwell, III
Kenneth E. Wright, Jr.

TUSCALOOSA
James Abernathy, II
Charlye S. Adams
Stuart D. Albea
Cynthia Lee Almond
M. Bradley Almond
Michael K. Amster
David M. Andres
L. Foster C. Arnold
A. Colin Barrett
C. Park Barton, Jr.
Nettie C. Blume
Gaines B. Brake
Bryan S. Brinyark
H.E. Browder
Pam H. Bucy
Jane L. Calamusa
Craig A. Cargile
Michael J. Cartee
Susie T. Carver
Frank M. Cauthen, Jr.
Mary Beth W. Cavert
Randall M. Cheshire
D. Wayne Childress
Ginger D. Cockrell
J. Sydney Cook, III
Rebecca A. Cook
Michael C. Cornwell
Annette B. Crain
Laura J. Crissey
Silas G. Cross, Jr.
Kenneth D. Davis
Randal K. Davis
Ron L. Davis

*We also thank the
dedicated lawyers of Legal
Services Alabama. Their
assistance and cooperation
have enabled these
programs to operate
efficiently without a
duplication of services.*

Karen N. Dice
Cindy L. Dunn
Linda C. Dunn
Nora E. Elder
Robin M. Elliott
Marshall A. Enteliano
Isaac Espy
Katie Seals Ferguson
John T. Fisher, Jr.
Gregory S. Frazier
Chris L. Frederick
Mark S. Gober
Elizabeth S. Gordon
Robbyn A. Gourdouze
Wilson F. Green
Laura K. Gregory
Anne W. Guthrie
Bert Guy
Frances M. Hamner
R. Bernard Harwood, Jr.
J. Marland Hayes
Josh P. Hayes
Walter S. Hayes
S. Scott Hickman
Chad L. Hobbs
Joseph N. Hocutt, II
Elizabeth A. Hornsby
Byron E. House
David A. Hughes
John D. Humber
James J. Jenkins
Albert Jones
Christopher H. Jones
Thomas M. Jones
William A. Jones
Hattie Kaufman
Robert R. Kuehn
Othni J. Lathram
Shay V. Lawson
Hugh M. Lee
John Lloyd
Julie L. Love
David P. Martin
Allen W. May, Jr.
Emily K. McCarson
John P. McCulsky
Robert L. McCurley, Jr.
Edwina E. Miller
Steven W. Money
Charles E. Morgan

C. Delaine Mountain
Clinton D. Mountain, Jr.
Barry L. Mullins
Christopher R. Neff
Jason C. Neff
Thomas A. Nettles, IV
Seth A. Newton
Robert E. Norton
J. C. Oldshue, Jr.
Paige M. Oldshue
Diane S. Oraif
John Owens
Edwin L. Parker
W. Cameron Parsons
Robin E. Pate
Kathryn O. Pope
Joe E. Powell
Laurie Pratt-Johns
Jennifer S. Precise
David E. Rains
Harry M. Renfroe, Jr.
Robert R. Reynolds
W. Bradford Roane, Jr.
Jim H. Roberts, Jr.
P. Monica Rodgers
Barbara Rogers
Gordon Rosen
Jenny R. Ryan
W. David Ryan, II
Mark A. Scogin
Laura K. Segers
R. Cooper Shattuck
Patrick O. Sims
James J. Sledge
James C. Smith
James D. Smith
Jeffery C. Smith
Kris D. Sodergren
Robert M. Spence
Alyce Manley Spruell
Shelly H. Standridge
Dennis Stevenson
Edgar Clark Summerford
Christopher Thigpen
Katie B. Thompson
Matthew Q. Tompkins
Terri O. Tompkins
Rachelle E. Toomey
Jessica V. Tubbs
Brian D. Turner

James D. Turner
Mary A. Turner
Robert G. Upchurch
Tyler D. Vann
William W. Walker, Jr.
Raymond E. Ward
Paula W. Watkins
R. Hays Webb
Rachel L. Webber
G. Stephen Wiggins
Wayne L. Williams
Tom B. Woodard, IV

WALKER
James R. Beaird
James C. Brakefield
Herbie W. Brewer, Jr.
Robert Bryan
Tina Louise A. Burgett
Richard E. Fikes
Patricia A. Frederick
Patrick I. Gustin
Garve W. Ivey, Jr.
Philip Nelson
Robert F. Richardson
Brian S. Royster
Jonathan C. Sapp
Donna W. Smalley
Charles Tatum, Jr.
Steven A. Thomas
Mark B. Turner
Brett L. Wadsworth
Greg M. Williams
Robert Wilson, Jr.

WASHINGTON
Harold L. Odom
A. Michael Onderdonk
Stacey L. Thomas
E. Tatum Turner
Halron W. Turner

WILCOX
Donald M. McLeod
Brenda M. Pompey

WINSTON
D. Russell Eason
Darlene U. Eason
Betsy M. Harrison
Jerry W. Jackson
Hobson Manasco, Jr.
B. Grant McNutt
Jeff A. Mobley
Scott Alan Slatton

**BIRMINGHAM
VOLUNTEER LAWYERS
PROGRAM, INC.**
John Aaron
Scot A. Abney
Oscar W. Adams, III
Robert H. Adams
Robin A. Adams
Monica Agee
Janell M. Ahnert
Craig A. Alexander
Charles W. Allen
Elbert S. Allen
Mitchell G. Allen
Roger C. Allen

Russell Q. Allison
M. Clay Alspaugh
LaBella S. Alvis
Wade S. Anderson
D. Keith Anderson
Hayes E. Arendall
Allan L. Armstrong
W. Michael Atchison
Monica Austin-Hatcher
Kellie Avery-Tubb
Nolan E. Awbrey
Helen D. Ball
Michael S. Ballard
Rodrick J. Barge
Leslie R. Barineau
R. Bruce Barze, Jr.
LaVeeda M. Battle
Robert E. Battle
Robert Baugh
Kimberly M. Bawgus
Michael K. Beard
Robin L. Beardsley
Kevin W. Beatty
Elizabeth G. Beaube
Jenna M. Bedsole
Mary C. Beers
Jennifer Benedict
Steven A. Benefield
Robyn B. Bennitt
Edward J. Berry
Bill Bensingier
Yvonne N. Beshany
Jack D. Bethay
Ellis D. Bingham, III
Joseph S. Bird, III
Ulyesa Blackmon
Duncan B. Blair
John N. Bolus
C. Peter Bolvig
Elizabeth C. Bone
William Booker
Charles H. Booth
Gray M. Bowden
Karen O. Bowdre
Deloris M. Boykin
Haley Bozeman
Michael C. Bradley
Gordon J. Brady
Marcia P. Braswell
Albert P. Brewer
Phillip M. Bridwell
Thomas H. Brinkley
Brian P. Brock
Steven M. Brom
William H. Brooks
Courtney B. Brown
Houston L. Brown
Scott S. Brown
Stephen E. Brown
C. Brandon Browning
Brannon J. Buck
Thomas W. H. Buck
Pam Bucy
Stephen Bumgarner
F. Tucker Burge

S. Greg Burge
Warren Burke, Jr.
Carl S. Burkhalter
Charles A. Burkhart
Diandra D. Burnley
Robin Burrell
John H. Burton, Jr.
Bruce A. Burttram
Jennifer M. Busby
Jason R. Bushby
Kathryn J. Bushby
Jim Bussian
Michelle N. Butler
Thomas J. Butler
William C. Byrd
Matthew M. Cahill
Kenneth R. Cain, Jr.
Angela Cameron
Robert J. Camp
J. Russell Campbell
Mary L. Campisi
Lois B. Carlisle
Nicholas A. Carlisle
Terry Carlisle
Richard P. Carmody
Jack Carney
James Carpenter
Clay R. Carr
D. Chris Carson
Kay L. Cason
C. Paul Cavender
Douglas J. Centeno
Cheryl D. Chapman
C. Cathy Catawanich
Pooja Chawla
James S. Christie, Jr.
Kevin E. Clark
Thomas C. Clark, III
William N. Clark
Neil R. Clement
Holly J. Clemente
Addine M. Clemon
William Clemon
Brian Cloud
Donald L. Colee
C. Clark Collier
John D. Collins
Adam R. Colvin
Gerald D. Colvin, Jr.
Patricia Y. Comer
Shannon N. Connor
Christina Cooley
Ivan B. Cooper
N. Lee Cooper
Patrick N. Cooper
Robert E. Cooper
Christopher Couch
J. Timothy Coyle
Jacob W. Crawford
Diane H. Crawley
Stephanie M. Crenshaw
Wendy B. Crew
Charles R. Crowder
Judson E. Crump
Greg Curran

Richard A. Cusick
Henry C. Dailey
John G. Dana
Roy L. Dancybey
Walter E. Daniels
J. Patrick Darby
Kelvin L. Davis
Paige M. Davis
Shayana B. Davis
Summer Davis
William A. Davis, III
William A. Davis, IV
William M. Dawson
William L. Deas
Tiffany deGruy
Paul J. DeMarco
Damon Denney
Ann S. Derzis
Nancy M. DeVaney
Patricia Diak
Timothy L. Dillard
Tammy Dobbs
David Donahue
Luther M. Dorr, Jr.
Gayle L. Douglas
Minerva C. Dowben
Carl K. Dowdey
Christie Dowling
B. Boozer Downs
Helen K. Downs
Mark Drew
C. Ramsey Duck
John P. Dulin, Jr.
Carolyn L. Duncan
C. Burton Dunn
Charles H. Dunn
Jamie K. Durrett
Thomas E. Dutton
John A. Earnhardt
Robert D. Eckinger
Kathryn Eldridge
William L. Elebash
Alan F. Enslin
Michael D. Ermert
Rebecca C. Eubanks
Jesse P. Evans
Edward J. Everitt
Mary F. Fallaw
David L. Faulkner
Joseph A. Fawal
Daniel A. Feig
Daniel B. Feldman
James E. Ferguson, III
G. R. Fernambucq
William S. Fishburne
Deborah P. Fisher
Linda A. Fiveash
Suzanne A. Fleming
W. Bains Fleming, III
Willie Florence, Sr.
Charles A. Flowers
Shannon D. Floyd
Kira Fonteneau
William T. Fortune
Alan L. Foster

Justice for all is more than just a cliché. It is a time-honored ideal to which all lawyers and all Americans aspire. By volunteering your time and skill to provide legal services to those who cannot normally obtain them, you are making a significant contribution toward making that ideal a reality.

Karen W. Fox
Samuel H. Franklin
John R. Frawley, Jr.
Michael D. Freeman
William J. Freeman
Douglas I. Friedman
Peter S. Fruin
Anna B. Fry
Leah Fuller
Floyd D. Gaines
Lucas B. Gambino
Robert T. Gardner
Tensley Garvich
Anthony G. George
Beth Gerwin
Anna L. Giattina
James Gibson
Wesley B. Gilchrist
Enrique J. Gimenez
Dennis E. Goldasich, Jr.
Benjamin S. Goldman
Carole A. Golinski
Ryan C. Gomanly
J. Jeff Goodman
Stevan K. Goozee
James L. Goyer, III
Michael G. Graffeo
Roderick Graham
Jeffrey M. Grantham
Bryan A. Grayson
Brendette Brown Green
Charles Greene
Timothy W. Gregg
Mitchell Greggs
Celeste Grenier
John E. Grenier
Matt Grill
Charles T. Grimes
Jessica S. Grover
Eric Lance Guster
Larry Lee Guthrie
W. Patton Hahn
John W. Haley

Scott R. Haller
Todd N. Hamilton
William E. Hamilton
Robert Hancock
Chad Hanson
Laura S. Hardin
Edward L. Hardin, Jr.
Lorrie L. Hargrove
Christopher Harmon
Hoyt G. Harp
Daniel E. Harrell
C. Meade Hartfield
Cydney Harwood
Danita T. Haskins
Gregory H. Hawley
Robert J. Hayes
Susan S. Hayes
Kenneth Haynes
Wallace Haynes
Frances Heidt
Jack E. Held
Hugh C. Henderson
Stephen D. Heninger
Kenric W. Herren
Todd M. Higey
L.F. Hilbers
Tom Hiley
Chevene Hill
Kelli Hogue-Mauro
Joshua G. Holden
Lee M. Hollis
Jeffrey E. Holmes
Edward M. Holt
Marlin B. Hood
Rhonda Hood
Kimberly A. Homer
Sanford G. Hooper
James A. Hoover
Richard Horsley
Edward A. Hosp
Kaye K. Houser
Sybil C. Howell
James F. Hughey

Robert B. Huie
Scott Humphrey
Shannon D. Hutchings
J. Frederick Ingram
Russell L. Irby
Chervis Isom
K. Stephen Jackson
Sarah B. Jackson
Stephen C. Jackson
Frank S. James, III
Karen B. Johns
Carl Johnson
David W. Johnson
Joe Johnson, Jr.
Alexander W. Jones
Haskins Jones
Loring S. Jones, III
Marcus A. Jones, III
Pamela Jones
Robert A. Jones, Jr.
William D. Jones, III
Lucy W. Jordan
Joe Joseph
Paul M. Juliano
Kristofor Kavenaugh
Richard Keller
Douglas L. Key
William H. King, III
Robert E. Kirby
Karen G. Kolaczek
Jack Kowalski
Robert R. Kracke
Rachel D. LaFleur
Cynthia Lamar-Hart
Jayna P. Lamar
Angelina M. Lamlin
Robert Lamkin
John M. Laney, Jr.
J. Earl Langner
John T. Lanier
Bradley W. Lard
Sarah Y. Larson
Rachel M. Lary
Nicholas C. Laster
Kay Laumer
Rejeana Lavender
John R. Lavette
Stephen P. Leara
Gary W. Lee
Linda S. Lehe
Rocco J. Leo
James B. Leonardi
William R. Lewis
J. Flint Liddon, III
Warren B. Lightfoot, Jr.
Curtis O. Liles, III
Paul A. Liles
James S. Lloyd
William B. Lloyd
Don B. Long, Jr.
James E. Long, Jr.
William L. Longshore
Charles J. Lorant
J. Kris Lowry
John G. Lowther

Timothy M. Lupinacci
George G. Lynn
Mark W. Macey
G. R. Mahmood
Brook G. Malcom
Greer B. Mallette
J. Brannon Maner
Duncan Y. Manley
Reid S. Manley
Ted L. Mann
Kemberli L. Marks
Alexander J. Marshall, III
Emory Mauldin
Alaric O. May
Cynthianther May
Edward E. May, II
W. Randall May
Bradley C. Mayhew
Susan G. McAlister
Walter F. McArdle
Daniel McBrayer
Phillip McCallum
Terrence W. McCarthy
Terri D. McClung
Gregg M. McCormick
Colleen E. McCullough
Laurence J. McDuff
Jeremy McIntire
Michael L. McKerley
Glory McLaughlin
Jim G. McLaughlin
Crystal McMeekin
Frank McPhillips
Douglas L. McWhorter
John E. Medaris
Kristin B. Metheny
Eric Miles
Cellie W. Miller
Gerald L. Miller
Tracy T. Miller
William H. Mills
Matthew C. Mincer
Anne W. Mitchell
Christopher Mitchell
James L. Mitchell
Tamara O. Mitchell
James R. Moncus
Bonnie B. Monroe
Bethany W. Moore
Carolynn H. Moore
Casey G. Moore
Jamie Moore
John G. Morrison
Mariellen Morrison
Randall H. Morrow
William H. Morrow
Anne R. Moses
Charles H. Moses, III
Mitchell S. Mudano
Robert A. Mullins
Michael D. Mulvaney
John L. Murphree
Grace R. Murphy
Amy K. Myers
William R. Myers

Drayton Nabors
James P. Naftel
Patrick K. Nakamura
George M. Neal
Laura C. Nettles
Susan S. Nettles
E. Bryan Nichols
Christopher Nicholson
Andrew Nix
James L. Noles
Tonita R. Northington
Christy O'Callaghan
D. Brian O'Dell
Madison W. O'Kelley, Jr.
M. Beth O'Neill
Michael B. Odom
J. Edmund Odum
Thomas L. Oliver, II
Justin Ottwell
David F. Ovson
Lewis W. Page, Jr.
Dennis G. Pantazis
Angela Parker
Jennifer Parker
Jeffrey W. Parmer
Bruce A. Parsons
Nyaa C. Parson-Hudson
J. Gary Pate
Kevin W. Patton
Ted Pearson
Melinda L. Peevy
Henry L. Penick
Adam K. Perk
C. Jackson Perkins
Drew W. Peterson
Byron W. Phillips
Alane A. Phillips
Wesley L. Phillips
William M. Phillips
Anthony J. Piazza
Sean C. Pierce
Charles Pickney
Rachel Pinson
J. Clinton Pittman
James M. Pool
Maibeth J. Porter
Anthony C. Portera
Andrew J. Potts
J. Bradley Powell
Kimberly Till Powell
Rolessa L. Powell
Harlan I. Prater
Marcia W. Pratt
Honza J.F. Prchal
D. Mark Price
Emily Price
James L. Priestester
William S. Pritchard, III
David W. Proctor
Bennett L. Pugh
Kathryn O. Pugh
Graham R. Pulvere
Randall D. Quarles
Frances King Quick
Michael C. Quillen

Charles M. Quinn
W. Larkin Radney
India Ramey
Rolando Rankin
William A. Ratliff
Jonathan E. Raulston
Bruce A. Rawls
James P. Rea
C. Lee Reeves
Sandra B. Reiss
Edward E. Reynolds
Lynn Reynolds
Wade Richardson
Dagmar W. Rick
F. Brady Rigdon
Nefertari S. Riggsby
Ken Riley
Ferris S. Ritchey, III
George Ritchey
Jerry Roberson
Stuart D. Roberts
Ann C. Robertson
Ryan P. Robichaux
Brandon Robinson
Gerri W. Robinson
Lisa C. Robinson
Reginold Robinson
Ruth Robinson
Robert Roden
Alan T. Rogers
Elizabeth A. Roland
Nicole F. Romano
J. William Rose, Jr.
LaWanda D. Ross
Bradley B. Rounsaville
Steve Rowe
Richard W. Rowell
Frank J. Russo
Clayton M. Ryan
James G. Saad
S. Shay Samples
J. Michael Savage
David C. Schwartz
David Scott
Vanessa Searight
W. James Sears
Thomas L. Selden
Kirby Sevier
J. Banks Sewell
Stephen L. Sexton
Michael Shabani
Jacqueline S. Shaia
Jackson R. Sharman
J. Martin Sheffield
Carolyn R. Shields
Wynn Shuford
Tanya Shunnara
Henry E. Simpson
James E. Simpson
Fern Singer
Clarence M. Small, Jr.
Phil K. Smartt
Melissa E. Smiley
Alfred F. Smith, Jr.
Carol A. Smith

Cynthia P. Smith
Daniel B. Smith
David M. Smith
Gary C. Smith
J. Houston Smith, III
Jane C. Smith
John W. Smith T
Kathleen S. Smith
W. Wheeler Smith
William W. Smith
John S. Somerset
John Q. Somerville
Paul Spain
Herbert B. Sparks, Jr.
J. Callen Sparrow
Brian Spellens
Clifford M. Spencer, Jr.
Robert H. Sprain, Jr.
David Spurlock
Stephen W. Stallcup
William S. Starnes
P. Russell Steen
Amelia Steindorff
Mark A. Stephens
J. Matt Stephenson
James L. Stewart
Sandra Storm
Garrick L. Stotser
Charlene I. Stovall
C. Mark Strength
Joseph W. Strickland
Christine R. Strong
H. Whitfield Strong, Jr.
Ted Stuckenschneider
Eugene B. Stutts
John W. Sudderth
Sidney C. Summey
William R. Sylvester
John B. Tally
Robert W. Tapscott, Jr.
Jarred O. Taylor, II
Katherine Taylor
Mary A. Taylor
James Terrell
Thomas L. Thagard
Ashley Thomas
Jack R. Thompson, Jr.
James J. Thompson
Ronald F. Thompson
Thomas E. Thrash
Dana Thrasher
W. Lee Thuston
Ayn Traylor-Sadberry
J. Alan Truitt
Jacob Tubbs
Jerome Tucker
Minnie L. Tunstall
Anita Terry Tye
L. Griffin Tyndall
Arnold W. Umbach, III
William K. Upshaw
Abigail van Alstyne
Rachel VanNortwick
William C. Veal
J. Scott Vowell

Susan G. Wagner
William B. Wahlheim
Deborah B. Walker
Henry Walker
Marion F. Walker
Valerie Frye Walker
Alison Wallace
Michael B. Walls
James F. Walsh
Stephen A. Walsh
Hardwick C. Walthall
Dafina C. Ward
James S. Ward
Laura P. Washburn
Jacqueline B. Washington
Katrina Washington
Ashley E. Watkins
Cynthia D. Watson
Leila H. Watson
William Waudby
Katherine A. Weber
Andrea Weed
H. Thomas Wells
John Welsh
Leonard Wertheimer
Jonathan S. Wesson
Linda West
Anita B. Westberry
James H. Wettermark
John F. Whitaker
G. Gregory White
J. Mark White
James H. White
Jere F. White
Bryant A. Whitmire, Jr.
John P. Whittington
Gregory O. Wiggins
Denise F. Wiginton
Donald F. Wiginton
Derry O. Wilcox
David T. Wiley
Christopher J. Williams
Leotis Williams
S. Douglas Williams
T. Craig Williams
Doris H. Williford
Edward B. Willis
David M. Wilson
Kenneth Joe Wilson
Natasha I. Wilson
Harlan F. Winn
Donald W. Wingham
Chereka L. Witherspoon
Stephanie K. Womack
J. Fred Wood, Jr.
Lisa L. Woods
Frederick M. Wright
Peter M. Wright
J. Terrell Wynn
Suzanne O. Yayman
Christopher L. Yeilding
Larry Young, Jr.
Tiara S. Young
Lee H. Zell

**MADISON COUNTY
VOLUNTEER LAWYERS
PROGRAM**
Elizabeth Abel
Daniel F. Aldridge
Jennifer Allen
Hallie Angelichio
Angela S. Ary
Chad Ayres
Douglas R. Bachuss
John Baggette
Walter A. Baker
Page Banks
Travis Bartee
J. Brent Beal
Rebekah P. Beal
Alphonso Beckles
Vicki Bell
J. Mark Bledsoe
David Block
James K. Brabston
Norman Bradley
Larry W. Brantley
Charles H. Brasher, Jr.
Pamela Briggs
John Brinkley
Nancy Brower
Rob Brown
Graham Burgess
L. Justin Burney
Clint W. Butler
Shelly Byers
David J. Canupp
Clement J. Cartron
Patrick Caver
Richard Chesnut
Amanda L. Chrisley
Joseph M. Cloud
Linda Coats
Rochelle Conley
Susan Conlon
Maureen Cooper
Ed Crackel
George T. Craig
Amy Creech
Amanda L. Chrisley
Andrew Dalins
Anita Damian
Tammy A. Denson
Patty Demos
Matthew T. Dukes
Suzanne Dorsett
Bennett Driggers
Isabelle Eaton
Jay E. Emerson
Earl Forbes
Michael Forton
Brannon Ford
Robert C. Gammons
Dale Gipson
Connie Glass
Daniel J. Goodman
Rebekah L. Graham
Kevin C. Gray
Jim Gunther

Kenneth D. Hampton
Tom Hayes
Kevin D. Heard
Mary Ena Heath
Nicholas R. Heatherly
Gabrielle Helix
Tara L. Helms
Danny Henderson
James P. Hess
Rebecca Hill
Brooke Hodges
Jeremiah M. Hodges
Larry B. House
Marcus A. Huff
Michael P. Huff
Claude E. Hundley, III
Jeff Irby
Laura D. Jacobs
Amber James
Joseph A. Jimmerson
Carolyn Johnson
Deidre Johnson
Michael Johnson
Sharon Johnston
Kimberly Kelley
Walter Kelley
Joan-Marie Kettell Dean
Paul Killian
Chris Kuffner
Melani C. LaMar
Patrick Lamar
Marsha Latham
Lee S. Leggett
Teresa Lewis
Morris Lilienthal
Robert Lockwood
Wendy Lopez
Larry R. Marsili
Kimberly Bessiere Martin
A. Mac Martinson
Doug Martinson, Jr.
Ben McArthur
Robert H. McCaleb
Latasha L. McCrary
Tim McFalls
Reta McKannan
Jeff McKinney
Rebekah McKinney
L. Thompson McMurtrie
Erika McPherson
Chris Messervy
Barbara C. Miller
George Miller
Brian Monroe
Chad Morgan
Shannon Moore
Lauren Nowak
Christopher A. Pankey
Robert Patterson
Craig Paulus
R. Lynn Pearson, Jr.
Timothy Pittman
Troy Pierce
Valerie Plante
JoAnn Perez

Timothy Pittman
Rhonda Plumlee
Cecilia Pope
Don Pritchett
Richard J. R. Raleigh, Jr.
Sreekanth B. Ravi
Angela Slate Rawls
Charles Ray
Holly Ray-Kirby
Matthew B. Reeves
Brian J. Richardson
Jayson Breck Robinson
S. Dagnal Rowe
Aaron Ryan
L. Thomas Ryan
Bradley P. Ryder
Teresa Ryder
Leslie Sharpe
Andrew Sieja
Nelson Simmons
Amy Slayden
George Smith
Ron Smith
Richard Sparkman
Jason Statum
H. Harold Stephens
Mark Swanson
Shelly Thornton
Kenan Timberlake
H. Carey Walker, III
June Wang
Frank Ward
J. Andrew Watson
Jake Watson
Cynthia Webb
James Whitmore
Joshua White
Gayle N. Williams
Thomas Williams
Robert Willisson
John Wilmer
Daniel Wilson
Stephen M. Wilson
Michael K. Wisner
Tonya N. Woods
David E. Worley
Anthony Zana

**MOBILE BAR
ASSOCIATION
VOLUNTEER LAWYERS
PROGRAM**

Carvine Adams
Christina N. Adcock
Geoffrey D. Alexander
R. Alan Alexander
Helen J. Alford
Tonny H. Algood
Gary P. Alidor
J. Hodge Alves, III
Donna S. Ames
Orrin K. Ames, III
Ferrell S. Anders
Douglas L. Anderson
Tristan R. Armer
Gordon G. Armstrong, III

Katherine B. Arnold
G. Wayne Ashbee
Kristin T. Ashworth
Grover Ernst Asmus, II
Daryl A. Atchison
James E. Atchison
Bruce L. Aune
Brigg H. Austin
Joseph H. P. Babington
Mary M. Bailey
Melvin Lamar Bailey
Michael E. Ballard
J. Daniel Barlar, Jr.
Eaton G. Barnard
David L. Barnett
Joe E. Basenberg
D. A. Bass-Frazier
Matthew J. Bauer
P. Kent Baxley
Ryan E. Baya
John G. Baylor, Jr.
Stefany L. Bea Gant
Robert A. Beckerle
Paul T. Beckmann
Billy C. Bedsole
Kim L. Bell
John T. Bender
Thomas H. Benton, Jr.
Russell E. Bergstrom
Jaime W. Betbeze
Britt V. Bethea
Windy Cockrell Bitzer
Wesley H. Blacksher
William Blanton
Edward C. Blount, Jr.
Christina M. Bolin
Thomas R. Boller
R. Preston Bolt, Jr.
C. Britton Bonner
Kate Bonnici
John Wayne Boone
Knox Boteler
Edward G. Bowron
Ashley Brackin-Bonner
Marc E. Bradley
Kasie M. Braswell
Henry H. Brewster
Donald M. Briskman
S. J. Briskman
Britten Britt
W. Benjamin Broadwater
Carin D. Brock
G. Porter Brock, Jr.
James D. Brooks
David P. Broome
Chad R. Brown
Douglas L. Brown
Joseph Allan Brown
Paul D. Brown
Toby D. Brown
Gregory P. Bru
Melvin W. Brunson
Donald E. Brutkiewicz, Jr.
John C. Brutkiewicz
Neal A. Buchman

This honor roll reflects our efforts to gather the names of those who participate in organized pro bono programs. If we have omitted the name of any attorney who participates in an organized pro bono program, please send that name and address to the Alabama State Bar Volunteer Lawyers Program. P. O. Box 671, Montgomery 36101.

Gregory C. Buffalow
Russell C. Buffkin
Lisa Bumpers
Peter F. Burns
Nancy J. Busey
Carl N. Butler, Jr.
M. Warren Butler
Henry H. Caddell
Jennifer Caldwell
Henry A. Callaway, III
Ashley E. Cameron
Craig Campbell
Robert C. Campbell, III
Kenneth Paul Carbo, Jr.
Lois Carney
Jerome C. Carter
J. Gregory Carwie
William J. Casey
K. W. Michael Chambers
Walter G. Chavers
C.S. Chiepalich
Jennifer P. Clark
Andrew C. Clausen
J. Calvin Clay
Lisa Clayton
William Clifford, III
James Paul Clinton
Robert E. Clute, Jr.
Harwell E. Coale, Jr.
Trey Coale
Wanda J. Cochran
F. Luke Coley, Jr.
Danny J. Collier, Jr.
Celia J. Collins
Gregory S. Combs
Bryan Comer
L. Hunter Compton, Jr.
David S. Conrad

Walter M. Cook, Jr.
Angela M. Cooper
Lisa Darnley Cooper
Richard E. Corrigan
Keri R. Coumanis
Braxton C. Counts, III
J. P. Courtney, III
Andrew J. Crane
J. Randall Crane
Robert J. Crane
Stephen G. Crawford
Carrie V. Cromey
Jason Cromey
Eric Cromwell
John T. Crowder
Aurelius Evans Crowe
Rudene B. Crowe
John J. Crowley, Jr.
Blane H. Crutchfield
Manley L. Cummins, III
William M. Cunningham, Jr.
James G. Curenton, Jr.
Edwin J. Curran, Jr.
Dan S. Cushing
M. Stephen Dampier
Glenn L. Davidson
Michael M. Davis
Norman H. Davis, Jr.
Ronald P. Davis
Brent T. Day
John M. Deakle
Edward A. Dean
T. Jefferson Deen, III
Mignon M. DeLashmet
Margaret F. Demeranville
Robert P. Denniston
Scott E. Denson
Ross M. Diamond, III

April Dodd
Charles H. Dodson, Jr.
Carolyn M. Dohn
John W. Donald, Jr.
William A. Donaldson
Richard T. Dorman
Thomas P. Doyle
William M. Doyle
Albert O. Drey
B. Vaughan Drinkard, Jr.
J. Michael Druhan, Jr.
Bryan G. Duhe'
Cullan B. Duke
John T. Dukes
Barre C. Dumas
Douglas K. Dunning
Robert S. Edington
Grady R. Edmondson
Mark P. Eiland
William Thomas Eiland
Page S. Ellis
C. Mark Erwin
Tamela E. Esham
Michael T. Estep
Christopher B. Estes
Cheryl D. Eubanks
J. Gregory Evans
Jim H. Fernandez
Gary W. Fillingim
Douglas W. Fink
George W. Finkbohner, Jr.
George W. Finkbohner, III
Patrick Finnegan
P. Gray Finney, III
Charles J. Fleming
Erin Fleming
Timothy W. Fleming
Ben Ford
Marcus T. Foff
Keith B. Franklin
Ross Frazer
Andrew Freeman
Carl E. Freman
Donald A. Friedlander
Gregory M. Friedlander
Jonathan B. Friedlander
Nathan Friedlander
Barry A. Friedman
Josh D. Friedman
Sarah S. Frierson
Richard W. Fuquay
Richard M. Gaal
Ginger P. Gaddy
P. Vincent Gaddy
Thomas O. Gaillard, III
Jeffry N. Gale
Norman J. Gale, Jr.
Robert M. Galloway
William J. Gamble, Jr.
Jonathan P. Gardberg
J. Cecil Gardner
J. Marshall Gardner
Thomas F. Garth
Ian F. Gaston
Christopher L. George

John D. Gibbons
Christopher M. Gill
W. Michael Gillion
Walter T. Gilmer, Jr.
William B. Givhan
J. W. Goodloe, Jr.
Allen E. Graham
Duane A. Graham
Missty C. Gray
Lori Grayson
William C. Grayson
Jon A. Green
J. David Greene
Theodore L. Greenspan
Irvin Grodsky
Timothy M. Grogan
John Grow
Roger C. Guilian
Virginia W. Haas
Robert L. Hagler, Jr.
Jason K. Hagmaier
Carter R. Hale
Lee L. Hale, Sr.
Patricia W. Hall
Theodore L. Hall
W. Perry Hall
Lawrence J. Hallett, Jr.
Brandy B. Osborne
Hambricht
David A. Hamby, Jr.
Jubal Hamil
William Craig Hamilton
Katie L. Hammett
Mary A. Hampton
Neil L. Hanley
Daniel A. Hannan
Michael J. Harbin
Sidney M. Harrell, Jr.
Ashley S. Harris
Thomas E. Harrison
Jeffrey J. Hartley
J. Stephen Harvey
Peter Havas
Edward G. Hawkins
Wilson M. Hawkins, Jr.
Jeffry Alan Head
Robert J. Hedge
Benjamin Connel Heinz
Timothy A. Heisterhagen
Frederick G. Helmsing, Jr.
Frederick G. Helmsing
Deborah B. Hembree
Alison B. Herlithy
Warren C. Herlong, Jr.
Brenda D. Hetrick
R. Scott Hetrick
Charles A. Hicks
Lucian B. Hodges
Michael R. Holberg
Jennifer Holifield
Lyman F. Holland, Jr.
Frances H. Hollinger
Ryan P. Holloway
W. Steele Holman, II
Broox G. Holmes

Richard H. Holston	R. Edwin Lamberth	Deborah D. McGowin	Melinda J. Parks	Benjamin T. Rowe	R. Stevens Terry
D. Charles Holtz	James W. Lampkin, II	William T. McGowin, IV	James Donnie Patterson	Andrew J. Rutens	Steven L. Terry
Richard D. Horne	William R. Lancaster	Robert B. McLaughlin	James T. Patterson	Elias J. Saad	Bryan A. Thames
David A. Horton	Johnny Lane	Michael S. McNair	Tommy W. Patterson	William H. Saliba	Joseph D. Thetford
J. Gordon House, Jr.	Clay Lanham	J. Bart McNiel	J. Day Peake, III	Harry V. Satterwhite	Richard L. Thiry
D. Kirby Howard, Jr.	Alex F. Lankford, III	Kent Dyer McPhail	Patrick K. Pendleton	Richard S. Sawyer	Stacey L. Thomas
Stewart L. Howard	Alex F. Lankford, IV	Coleman F. Meador	R. Jeffrey Perloff	Troy T. Schwant	Barry L. Thompson
Victor T. Hudson, II	Oliver J. Latour, Jr.	Augustine Meaher, III	R. John Perry	Steven Sciple	Ray M. Thompson
Michael G. Huey	Forrest S. Latta	Bill C. Messick	Christopher E. Peters	James D. Sears	Cooper C. Thurber
David Michael Huggins	John L. Lawler	S. C. Middlebrooks	Larkin H. Peters	Henry R. Seawell, IV	Edward R. Tibbetts
W. Gregory Hughes	John N. Leach, Jr.	Adam M. Milam	Abram L. Phillips, Jr.	John W. Sharbrough, III	William C. Tidwell, III
Christopher G. Hume, III	Goodman G. Ledyard	Christopher R. Miller	Will G. Phillips	Thomas E. Sharp, III	Desmond V. Tobias
John Michael Hunter	Beth Lee	Jason D. Miller	Brenda J. Pierce	Clifford C. Sharpe	Desmond B. Toler
Scott W. Hunter	John V. Lee	Jeffrey G. Miller	Jeffery G. Pierce	Kirk C. Shaw	Michael J. Tonder
Wes Hunter	Tracie Lee-Roberson	M. Kathleen Miller	Wendy A. Pierce	Michael D. Sherman	Lucy E. Tufts
Willie J. Huntley, Jr.	J. Stephen Legg	Margaret Miller	Virginia Pike	Richard E. Shields	J. Robert Turnipseed
Harvey A. Hutchinson, III	Francis E. Leon, Jr.	Brooks P. Milling	Mary E. Pilcher	Jonathan E. Sholtis	Deena R. Tyler
Herndon Inge, III	Melissa D. Lerch	Pamela K. Millsaps	J. Jerry Pilgrim	Vanessa Arnold Shoots	John M. Tyson, Sr.
Herndon Inge, Jr.	Melissa Lindquist-King	L. Daniel Mims	J. Casey Pipes	William E. Shreve, Jr.	Michael Upchurch
Brandon D. Jackson	James Loris, Jr.	Jonathan Minchin	S. Wesley Pipes, V	Franklin L. Shuford, Jr.	G. Hamp Uzelle, III
J. Walton Jackson	Victor H. Lott, Jr.	Joseph J. Minus, Jr.	Wes Pipes	Patrick H. Sims	Pete J. Vallas
Robert G. Jackson, Jr.	Y. D. Lott, Jr.	Robert L. Mitchell	William E. Pipkin, Jr.	William H. Sisson	Gregory Vaughan
Sidney W. Jackson, III	Darlett Lucy-Dawson	Michael A. Montgomery	Patricia J. Ponder	Jack Smalley, III	David P. Vaughn
William B. Jackson, II	T. Ryan Luna	William D. Montgomery	William C. Poole	Amy B. Smith	Lawrence B. Voit
Alicia M. Jacob	Jeffrey L. Luther	J. Richard Moore	Charles J. Potts	E. Glenn Smith, Jr.	James B. Vollmer
Ishmael Jaffree	Maria Lynda Lyles	Pamela A. Moore	Susan L. Potts	Edward L. D. Smith	Richard W. Vollmer, III
Jack F. Janecky	William M. Lyon, Jr.	Stephen C. Moore	Arthur T. Powell, III	Fran Jones Smith	George M. Walker
Joy A. Jaye	Peter S. Mackey	Larry C. Moorer	Glen Powers, II	Frankie Fields Smith	Thomas B. Walsh
James D. Jeffries, Jr.	Arthur J. Madden, III	Jack W. Morgan	Jean M. Powers	Jason D. Smith	Patrick J. Ward
Linda Collins Jensen	Melinda Lee Maddox	Jennifer S. Morgan	Barry C. Prine	Lacey Smith	Ernest Eugene Warhurst, Jr.
Candace D. Johnson	Todd C. Mallette	Jake L. Morrison	Caroline T. Pryor	Selma D. L. Smith	Harold William Wasden
James A. Johnson	David Maloney	Henry T. Morrisette	Marion A. Quina, Jr.	Susan Gunnells Smith	LeBron S. Washington
Richard B. Johnson	Jonathan R. Maples	W. Alexander Moseley	David R. Quittmeyer	William B. Smith	William W. Watts, III
James C. Johnston	E. Russell March, III	T. Julian Motes	L. Bratton Rainey, III	Hendrik Snow	Leslie G. Weeks
Neil C. Johnston	Chad C. Marchand	Robert H. Mudd, Jr.	Julie H. Ralph	Mary Elizabeth Snow	Lawrence M. Wettermar
Vivian G. Johnston, III	Beth Marietta-Lyons	D. Brian Murphy	Robert S. Ramsey	Domingo Soto	Holmes Whiddon, Jr.
Vivian G. Johnston, Jr.	Michael E. Mark	Michael T. Murphy	Clay Rankin, III	Scott W. Soutullo	Jarrold J. White
Andrew M. Jones	L. A. Marsal	Jennifer Murray	James Rebarchak	Mark E. Spear	John L. White
Gregory R. Jones	Linda J. Marston-Crawford	Paul Bradley Murray	F. Grey Redditt, Jr.	Jon M. Spechalske	J. George Whitfield, Jr.
Joe Carl Jordan	Craig D. Martin	P. Russell Myles	Mark L. Redditt	Jerome E. Speegle	David J. Wible
Shirley M. Justice	Steven A. Martino	Paul D. Myrick	William H. Reece	John Ronald Spencer	C. Richard Wilkins
Cecily L. Kaffer	R. Edward Massey, Jr.	Meegan Nelson	Gabrielle Reeves	Daniel T. Stabler	Anna M. Williams
Kathleen Cobb Kaufman	R. Edward Massey, III	Mark A. Newell	W. Boyd Reeves	Leon F. Stamp, Jr.	Arthur G. Williams, IV
Kyla Kelim	Kevin F. Masterson	James B. Newman	Elizabeth D. Rehm	Joseph D. Steadman	Margaret Y. Williams
Colin E. Kemmerly	Joseph M. Matranga	Frances R. Niccolai	Kirkland E. Reid	Mary Steele	Richard R. Williams
Christopher Kern	Robert C. Matthews	Steven L. Nicholas	T. Dwight Reid	Gregory B. Stein	Ronnie L. Williams
Benjamin H. Kilborn, Jr.	Thomas R. McAlpine	Michael C. Niemeyer	Eric B. Reuss	T. Jeff Stein	Adam T. Williamson
Fred W. Killion, III	Gregory B. McAtee	David A. Nihart	Latisha Rhodes	Donald J. Stewart	Theresa N. Williamson
Fred W. Killion, Jr.	Brian P. McCarthy	Peggy R. Nikolakis	Robert Riccio	Louisa L. Stockman	Charles S. Willoughby
James W. Killion	Daniel L. McCleave	Jason B. Nimmer	Kenneth J. Riemer	Norman M. Stockman	J. Charles Wilson
Sujin Kim	Jacqueline M. McConaha	John R. Nix	J. Burruss Riis	Samuel L. Stockman	J. Elizabeth Wilson
James E. Kimbrough, Jr.	Lynn McConnell	Ken A. Nixon	James V. Roberts, Jr.	Bruce B. Stone, Sr.	Michael P. Windom
William A. Kimbrough, Jr.	Jason S. McCormick	Ryan T. Northrup	Edward Luckett Robinson, II	Margaret A. Stone	Michael A. Wing
Rick O. Kingrea	Douglas L. McCoy	Louis C. Norvell	Jay N. Robinson	Sheila V. Stone	Mark C. Wolfe
Richard M. Kirkpatrick	Marcus E. McCrory	Thomas Michael O'Hara	Thomas M. Rockwell	David A. Strassburg, Jr.	Thomas M. Wood
Stephen L. Klimjack	Kristine Mcculloch	Caine O'Rear, III	William C. Roedder, Jr.	Brandon Strickland	Ricardo Woods
Michael D. Knight	James H. McDonald, Jr.	Sonya Ogletree	Jannea S. Rogers	Todd S. Strohmeier	Shuntavia Woods
Dennis J. Knizley	Matthew C. McDonald	Thomas P. Ollinger, Jr.	Derek S. C. Rose	Carroll H. Sullivan	James A. Yance
H. James Koch	Edward B. McDonough, Jr.	Mary Elizabeth Olsen	Jennifer Roselius	Joseph R. Sullivan	Richard D. Yelverton
Frank H. Kruse	Marcus E. McDowell	Juan Ortega	Ian Rosenthal	Molly M. Sullivan	Jay A. York
Joseph O. Kulakowski	Stova F. McFadden	Brian R. Overstreet	Jay M. Ross	James W. Tarlton, III	James William Zeigler
Banks C. Ladd	William S. McFadden	Terrie Owens	James B. Rossler	Jeremy P. Taylor	Thomas T. Zieman, Jr.
Mary Carol Ladd	Katherine M. McGinley	Peter J. Palughi, Jr.	Beth M. Rouse	Richard H. Taylor	Alex W. Zoghby
Gilbert B. Laden	Robert B. McGinley, Jr.	Frank L. Parker, Jr.	Robert H. Rouse	Shane A. Taylor	George M. Zoghby
Paul V. Lagarde	W. Chris McGough	Harold D. Parkman	Edward P. Rowan	Stacie F. Taylor	▲▼▲

The VLP and The Thief

By Pamela H. Bucy

“Two big extravaganza pizzas!

She ordered two of the biggest pizzas from Domino’s and paid for them with *my* checks! On two different nights! She had them delivered to her right around the corner!”

Mr. Monroe¹ railed as he told me about the woman who stole his wallet.

According to Mr. Monroe, the woman, a neighbor, stole his wallet the morning after a “roundabout.” This, Mr. Monroe later learned, was this woman’s scam. Ultimately, the woman was arrested and convicted for the theft of Mr. Monroe’s wallet, but not until she ran up \$5,000 in bills using his credit card checks.

Mr. Monroe told me about his case as we sat in his small apartment on a tree-shaded street in the blocks of subsidized housing in Huntsville. Confined to a wheelchair with diabetes, rheumatoid arthritis and a weak heart, Mr. Monroe moves easily in his motorized wheelchair through his handicap-modified apartment.

After the woman ran up the \$5,000 in bills, creditors began calling Mr. Monroe, then hounding him and finally threatening to sue. Soon, Mr. Monroe was served with a copy of a lawsuit filed by a credit collection agency. He submitted a handwritten response explaining that his wallet had been stolen and the bills were not his. In his wheelchair, Mr. Monroe took a bus downtown to the Madison County Courthouse. He appeared in court, as he had been instructed to do. **District Court Judge Lynn Sherrod** listened to him and then recommended that he contact **Legal Services Alabama’s** Huntsville office for help. He did, which is how he met **Richard J. R. Raleigh, Jr.**, his Volunteer Lawyers Program attorney.

Started in 1991, the Alabama State Bar’s VLP recruits lawyers throughout the

state to provide, pro bono, up to 20 hours of legal services per year for those who cannot afford them.² Offices of Legal Services Alabama, Inc., located throughout the state, screen cases that come in to determine if those cases are appropriate for referral to VLP attorneys. Cases which meet the following criteria are eligible for referral to the VLP: (1) the case involves certain issues of law³ and (2) the case is simple, straightforward and appears to be resolvable within 20 hours or less.⁴ In Alabama, 23 percent of licensed attorneys are volunteers in the VLP.⁵

Mr. Monroe and Raleigh met at Raleigh’s office. Thereafter, Raleigh filed an amended answer to the complaint and had subpoenas served on the Huntsville Police Department to obtain records confirming the thief’s arrest and conviction for stealing Mr. Monroe’s wallet. Raleigh collected all this information and presented it to counsel for the collection company. The company was not impressed. It offered, once again, to settle for a significant payment by Mr. Monroe. Monroe refused and the case was set for trial.

It was a hot summer day in 2008 when Mr. Monroe, in his mechanized wheelchair, got off the bus at the Madison County Courthouse and met Raleigh for trial. They went to the courtroom to find a crowded docket. When Judge Sherrod called their case, counsel for the collection company announced that the company was not prepared to proceed. Counsel for the company had brought no witnesses or documents to prove that Mr. Monroe owed anything. Mr. Monroe testified. He explained once again that his wallet had been stolen and that the bills were not his. Judge Sherrod ordered judgment for Mr. Monroe. He owed nothing. He had won his case.

What does Mr. Monroe think about Rich Raleigh? “He got a lot of satisfaction for me. He helped me quite a bit. He

was real nice. He sat down and listened to my problem.”

What does Mr. Monroe think about the legal system? “It worked. It worked real well.”

What does Mr. Monroe think about the collection agency? “They’re still after me! I got a letter a couple of weeks ago, offering to settle the \$5,000 for \$800. I just threw the letter away.” ▲▲▲

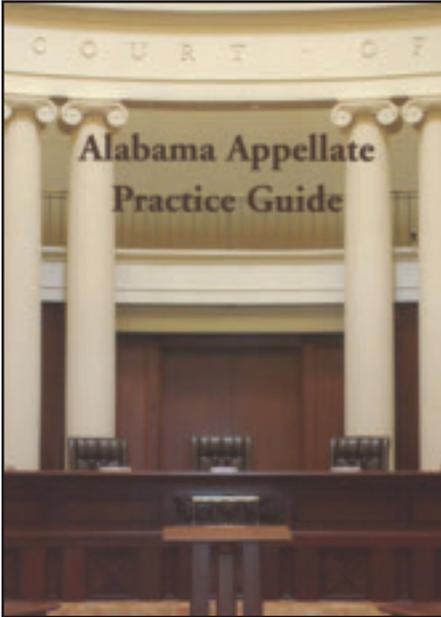
Endnotes

1. A pseudonym
2. Individuals qualify as VLP clients if they live below the poverty level, which is currently \$13,538 gross income per year for an individual, or \$27,563 gross income per year for a family of four.
3. Adoption—by relatives with consent of natural parents; Bankruptcy—Chapter 7; Child Support Modification—caller has major change in circumstances; Collections—small claims with attorney on other side; Contracts and Warranties; Custody—by agreement; Divorce—uncontested parties are separated or defendant’s whereabouts are unknown; Education; Guardianship of Child—if needed to enter child in school; Guardianship of Adult—person not of sound mind or medical condition prevents person from caring for self; Home Ownership—deed preparation, pre-foreclosure negotiation or land dispute; Landlord/Tenant—private housing; Legitimations—by consent; Name Change—adult and minor; Power of Attorney; Probate—wills, living wills, small estate administration; Tax; Tort Defense; Visitation Change—by agreement
4. The average VLP case actually takes five and a half hours to resolve.
5. If you would like to volunteer for the VLP, go to the Alabama State Bar’s Web site (www.alabar.org) and click on the VLP link.



Pamela H. Bucy is the Bainbridge-Mims Professor of Law at the University of Alabama. She has served as a member of the Alabama State Bar Access to Legal Services Committee, as an at-large bar

commissioner and as vice president of the Alabama State Bar.



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



Greg Cook



Daniel Harrell



Joe McCorkle



Kelly Pate



Jason Tompkins



Dorman Walker



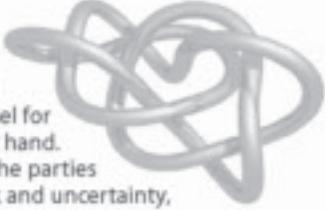
C. Yielding

Helping you untangle conflict ...



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.

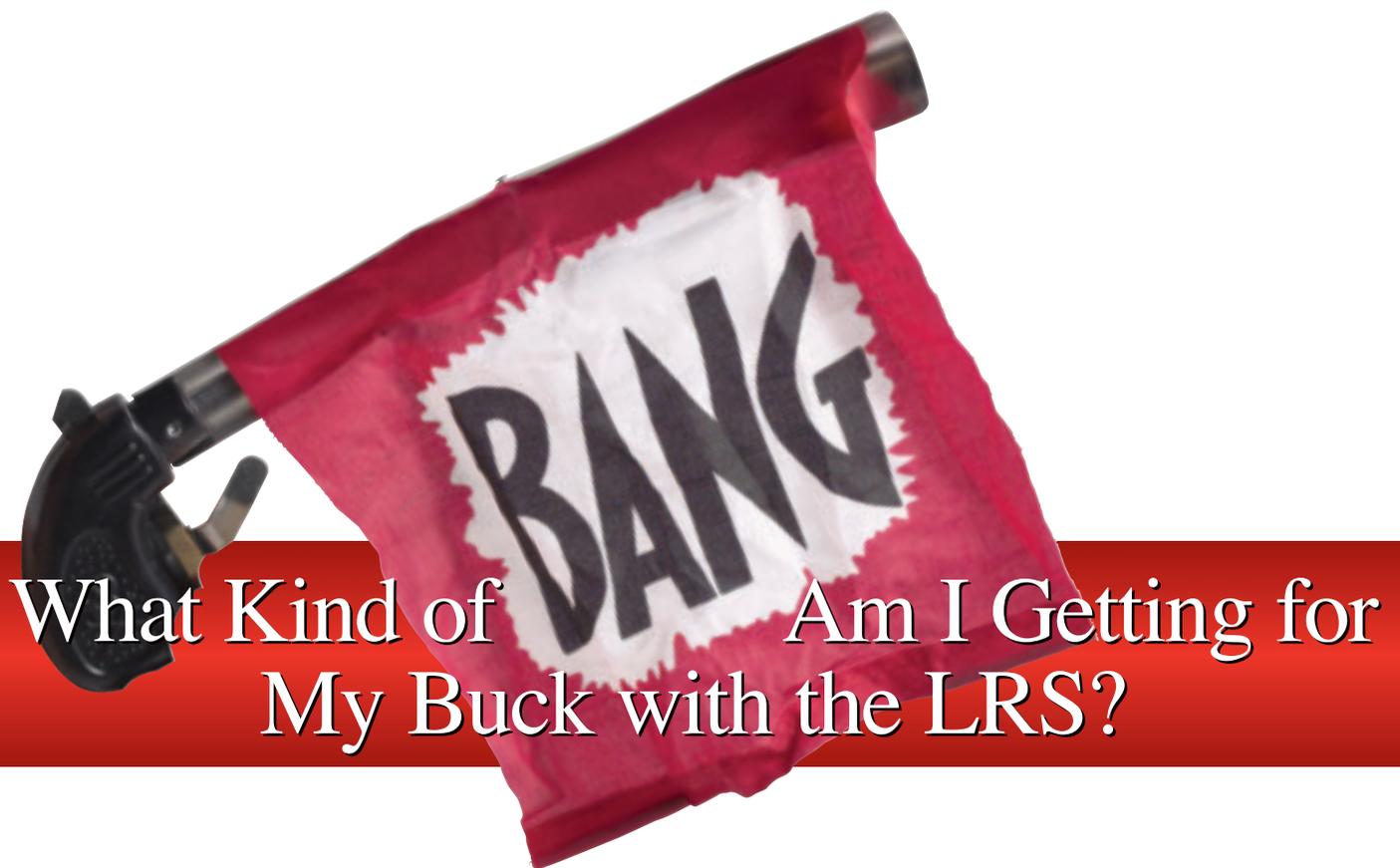
Call me to mediate your case.



CHARLIE ANDERSON, Mediator

- 22 years’ litigation experience in 38 Alabama counties
- Registered with the State Court Mediation Roster since 1994
- Mediation training completed at the Harvard Law School
- Ready to help you find resolution and to bring peace to adverse parties

Charles L. Anderson
7515 Halcyon Point Dr.
Montgomery, AL 36117
(334) 272-9880
www.andersonmediationservice.com



What Kind of Am I Getting for My Buck with the LRS?

**By Renee Avery,
LRS secretary**

Why join the Alabama State Bar Lawyer Referral Service? What can I expect for my investment? What can the LRS do for me that I can't do myself? How many calls will I have to take before I get an actual client? What kind of client needs to call for a referral? Are the clients that call wanting a free attorney? These are some of the questions asked by attorneys. We have the answers.

Every attorney from the solo practitioner to the partner in the big firm could benefit from the LRS program. Last year, the Alabama State Bar Lawyer Referral Service received over 9,000 callers requesting a referral. Of these 9,000 calls, approximately 7,000 received a referral.

All callers are first screened by LRS staff before a referral is made to an attorney.

- The LRS provides fast, efficient referrals via a specially modified database system.
- Referrals are made using criteria based on area of law and geographic preferences to provide a mutually beneficial match to both the attorney and client.

- The proceeds from the percentage-fee program will be used to fund the service, increase LRS promotions and networking and advertise the service.
- The LRS provides the groundwork to build clientele.
- The LRS has a targeted marketing plan to reach the public.
- We are better than a billboard! When people call our line, they talk to someone in person who gives your information to potential clients!
- You receive your referrals via e-mail (unless you choose otherwise) within an hour of the potential client calling the service.
- We advertise in the Yellow Pages of almost every county to help you get potential clients.
- Our rate is only \$100 per year! Nowhere else can you spend such a small amount of money and get such a great return.
- You become a part of a great public service program.

How many referrals will I get through the LRS?

Do you speak Spanish? Do you practice family law? How far are you willing to travel? The number of referrals a member receives varies widely depending on a number of factors. The more flexibility you have usually means more referrals.

Many attorneys are skeptical at the type of client they would get from the Lawyer Referral Service. Some think that an individual who really needs an attorney would be able to find one on his own. The reality is that individuals look for a good source to find someone who can help. The resource they usually go to is the bar association in their state. The ASB Lawyer Referral Service is an ideal way to introduce clients to lawyers who can provide the legal services they need.

The LRS is changing with these changing times. We are reaching out for clients who can afford legal help, but do not know where to find it in their area.

The LRS is constantly trying new marketing ideas to reach the public who needs to find a lawyer. In the coming year, we will be distributing bookmarks to all public libraries in the state and handing out marketing information to chambers of commerce statewide, in addition to speaking to numerous senior groups. We will continue our Yellow Book ads for almost every county across the state.

Networking is a huge part of today's society. The LRS is a great way to do that at an affordable rate. Maybe the referral wasn't an instant client, but the value of your name being out there is priceless. Getting the pre-qualified referral is great for client development and retention as well as a public service.

With the tough economic times we are facing one must maintain and grow your practice by all available means. The most affordable means is the Lawyer Referral Service. You may join the service by calling (800) 354-6154 or going to the ASB Web site at www.alabar.org, click on "Members" and then visit "Lawyer Referral." Get more bang for your buck—join the LRS today! ▲▼▲



Renee Avery joined the Alabama State Bar staff as the Lawyer Referral Service secretary in February 2009.



ASB Lawyer Referral Service

The Alabama State Bar Lawyer Referral Service can provide you with an excellent means of earning a living, so it is hard to believe that only three percent of Alabama attorneys participate in this service! LRS wants you to consider joining.

The Lawyer Referral Service is not a pro bono legal service. Attorneys agree to charge no more than \$50 for an initial consultation, not to exceed 30 minutes. If, after the consultation, the attorney decides to accept the case, he or she may then charge his or her normal fees.

In addition to earning a fee for your service, the greater reward is that you will be helping your fellow citizens. Most referral clients have never contacted a lawyer before. Your counseling may be all that is needed, or you may offer further services. No matter what the outcome of the initial consultation, the next time they or their friends or family need an attorney, they will come to you.

For more information about the LRS, contact the state bar at (800) 354-6154, letting the receptionist know that you are an attorney interested in becoming a member of the Lawyer Referral Service. Annual fees are \$100, and each member must provide proof of professional liability insurance.



Is your firm fully protecting all of its sensitive information?
Does your firm have an information destruction and management policy?
Does your firm need a more efficient and cost-effective records management program?

We provide on-site document and media destruction, records management and storage, and media rotation.

Please call 1-877-60-Shred (74733) to speak with a representative.

*Mention this ad to receive \$20 off your 1st automatic destruction service, a 20% discount for one time destruction service or your 1st month records storage free (up to \$95)

Court Bonds Online THE BAR PLAN

A Broad Range of Bonds:

- Probate
- Court Bonds
- Notary Bonds

We Offer:

- 24-Hour Turnaround Time
- Competitive Rates
- Knowledgeable Underwriting

Anytime. Anywhere.

Apply at www.onlinecourtbonds.com
or call our underwriters at 877.553.6376
from 8:00 a.m. to 5:00 p.m. CST.



Task Force to Examine Interest in Creating New Federal Court Practice Section

Alabama State Bar **President Tom Methvin** recently appointed a blue-ribbon task force comprised of federal judges and practitioners to determine the feasibility of forming a new **Federal Court Practice Section**.

“A Federal Court Practice Section would serve as the bar’s liaison to the federal courts, the standing committees of the Federal Judicial Conference, Federal Bar Association chapters throughout Alabama and those members of the state bar interested in federal court practice,” Methvin said.

Task Force Chair **David B. Byrne, III** of Montgomery said the section would strive to foster communications between lawyers and federal judges on matters pertaining to federal court practice; review and offer comment on proposed changes to federal court rules, including local federal court rules, and offer educational programs and publications designed to improve the federal court practice experience of state bar members.

“Our main goal is to assist Alabama lawyers in federal court practice and to aid the federal judiciary in its mission to administer justice. The organized bar has a pivotal role to play,” Methvin said.

Members of the task force are:

David B. Byrne, III, Montgomery, chair

Chief Judge Sharon L. Blackburn, U.S. District Court, Northern District of Alabama, Birmingham

Mag. Judge (retired) Delores Boyd, Montgomery

Henry H. Brewster, Jr., Mobile

Judge John L. Carroll, dean, Cumberland School of Law, Birmingham

Judge L. Scott Coogler, U.S. District Court, Northern District of Alabama, Tuscaloosa

Judge Kristi K. DuBose, U.S. District Court, Southern District of Alabama, Mobile

Jeffrey E. Friedman, Birmingham

Chief Judge Mark E. Fuller, U.S. District Court, Middle District of Alabama, Montgomery

R. Austin Huffaker, Jr., Montgomery

Bob Methvin, Jr., Birmingham

Harold Stephens, Huntsville

If the criteria for creating a new section is met (at least 50 ASB members indicating they would join such an entity and pay annual dues), then the ASB would have 23 substantive law sections, not including the Young Lawyers’ Section. ▲▲



A Death Penalty Seminar
“Loosening the Death Belt XIV”

January 29—January 30, 2010
Double Tree Hotel
Birmingham, AL

Hear nationally acclaimed death penalty lawyers talk about successful defense techniques.

- *Learn Basics of Capital Case Defense*
- *Brush Up on Your Capital Case Defense Skills*
- *Keynote: William Neal “Billy” Moore
17-year Death Row Exonerée & Minister*

Registration: \$325 by 1/15/09 (ACDLA members)
\$375 non-members — \$375 at door for all.
12 CLEs * Make all checks payable to:
ACDLA, P.O. Box 1147, Montgomery, AL 36101
(334) 272-0064 fax: (866) 665-7522
VISA/MC accepted

Hotel: **Double Tree Hotel**
808 So. 20th Street, Birmingham, AL
(205) 933-9000 Rate: \$119.00 plus tax s/d



Contact us:
800-950-0551
www.danielshead.com

Lawyers' Malpractice Insurance

Daniels-Head and Zurich in North America are working together to help you protect your firm's finances and reputation.

Daniels-Head is a leading professional liability insurance provider serving several states with many insurance products that should be of interest to your organization. Daniels-Head understands the needs of small law firms. This understanding comes from serving professionals for more than 50 years, and is reflected in the quality products and services provided.

Zurich's Lawyers' Malpractice Insurance provides qualified small law firms malpractice insurance and a portfolio of risk management services designed to help mitigate professional liability risk. The program's value-added services help enhance your firm's legal research capabilities, and put skilled professionals at your disposal when potential malpractice issues arise.

Together, Daniels-Head and Zurich are committed to crafting customized insurance and risk management solutions for businesses of all types and sizes.

DANIELS-HEAD
INSURANCE



ZURICH[®]
Because change happens.[™]

This is intended as a general description of certain types of insurance and services available to qualified customers through the companies of Zurich in North America. Your policy is the contract that specifically and fully describes your coverage. The description of the policy provisions gives a broad overview of coverages and does not revise or amend the policy.
Insurance coverages underwritten by individual member companies of Zurich in North America, including Zurich American Insurance Company. Certain coverages not available in all states. Some coverages may be written on a nonadmitted basis through licensed surplus lines brokers.

LEADERSHIP FORUM

By Edward M. Patterson

On October 30th, the Board of Bar Commissioners approved 30 attorneys for participation in Class 6 of the 2010 Leadership Forum. The Board of Bar Commissioners also selected **Matthew Lee Huffaker** as an honorary posthumous member of Class 6. At the time of his death August 16th, Lee was a partner at Maynard, Cooper & Gale PC in Birmingham.

The application process opened in July and closed on October 2nd. The Selection Committee received 75 applications from lawyers who have been admitted to practice at least five but not more than 15 years as of January 1, 2010 based on an applicant's year of first admission to any state bar. Demonstrated leadership ability based on past accomplishments and current engagements, and an understanding of the importance of servant leadership as demonstrated in the applicant's narrative, are the most weighted factors in the selection process. The selection process is highly competitive so consideration was also given to applicants who have applied in previous years. **Christopher A. Mixon** (Class 5) chaired the 10-member Selection Committee. Other members included **Shawn T. Alves** (Class 3), **J. Chandler Bailey** (Class 5), **Sandra E. Gregory** (Class 4), **Teresa G. Minor** (Class 1), **Emily K. Niezer** (Class 5), **Valerie H. Plante** (Class 5), **Robert E. Poundstone, IV** (Class 5), **Erica L. Sheffield** (Class 5), and **Aldos L. Vance** (Class 2).

The racial and gender diversity of the class exceeds the percentages of the state bar membership as a whole. The 2010 class includes 13 females (43 percent), 17 males (57 percent), five African Americans (17 percent), one other (3 percent), and 24 Caucasians (80 percent). The average age of the class is 35.9 years. A chart accompanying this article illustrates the applicant demographics for the past six years. Forty-four of the 75 applications were from attorneys living in the Birmingham area. Class 6 includes seven lawyers working in the public sector, two public interest lawyers, one in-house counsel, three transactional lawyers, six plaintiff's trial lawyers in a large firm or solo practice, two criminal defense lawyers, and nine civil defense litigators.



Class 3 alumni Clay Martin, Huntsville, and George Parker, Montgomery, get ready to facilitate a Class 4 session on Alabama educational issues.



Tom Warburton (Class 4), Kimberly Powell (Class 2) and Cynthia Ransburg-Brown (Class 4) all of Birmingham, converse prior to Class 5 opening session.

Session Dates and Topics

Session 6.1—Orientation—“Fundamentals of Leadership,” January 28-30, 2010, Marriott Grand Hotel, Point Clear (Thurs., Fri. and Sat.)

Session 6.2—“Legislative Process & Economic Development,” February 23, 2010, Alabama State Bar, Montgomery and Hyundai (Tues.)

Session 6.3—“Black Belt: Struggles & Triumphs,” March 18, 2010, Kellogg Conference Center, Tuskegee (Thurs.)

Session 6.4—“Leadership through Education,” April 22, 2010, Alabama State Bar, Montgomery (Thurs.)

Session 6.5—“Access to Justice,” May 20, 2010, Balch & Bingham LLP, Birmingham (Thurs.)

Graduation Banquet, Birmingham

The agendas of the first two sessions of the 2010 forum clearly demonstrate the quality of the programming continues to increase as alumni of the forum take ownership, responsibility and pride in furthering the purposes of the Alabama State Bar Leadership Forum. ▲▲▲



Edward M. Patterson is assistant executive director of the Alabama State Bar. He is the staff director of the Leadership Forum and is a recipient of the State Bar Award of Merit.



Field trip to State Judicial Building in Montgomery

2010 CLASS PARTICIPANTS

John A. Baty	Jefferson County District Attorney's Office	Birmingham
Robin L. Beardsley	Sirote & Permutt PC	Birmingham
Kevin L. Boucher	Mobile County Commission	Mobile
Steven M. Brom	The Brom Law Firm LLC	Birmingham
Brian V. Cash	The Perkins Group LLC	Birmingham
Joel D. Connally	attorney at law	Montgomery
Christopher W. Deering	Ogletree Deakins	Birmingham
Rebecca G. DePalma	White, Arnold & Dowd	Birmingham
Nicole S. Diaz	University of Alabama	Tuscaloosa
Brandon K. Essig	Department of Justice	Montgomery
Glenda D. Gamble	City of Tuscaloosa	Tuscaloosa
Monica G. Graveline	Balch & Bingham LLP	Birmingham
Brandy O. Hambright	Hicks, Matranga, Hambright	Mobile
Tyrell F. Jordan	Balch & Bingham, LLP	Birmingham
Derrick A. Mills	Marsh, Rickard & Bryan	Birmingham
Larry B. Morris	Starnes & Atchison LLP	Birmingham
Anil A. Mujumdar	Haskell Slaughter Young & Rediker	Birmingham
Andrew S. Nix	Maynard, Cooper & Gale PC	Birmingham
Jennifer C. Pendergraft	Ogletree Deakins	Birmingham
William I. Powell	Lauderdale County District Attorney's Office	Florence
Angela S. Rawls	Madison County Volunteer Lawyers Program	Huntsville
Hon. Katrina Ross	State of Alabama—10th Judicial Circuit	Bessemer
Joi C. Scott	Christian & Small LLP	Birmingham
Jay E. Stover	Stover, Stewart & Phillips LLC	Gadsden
Brian A. Wahl	Bradley Arant Boulton Cummings LLP	Birmingham
Todd B. Watson	District Attorney's Office—35th Circuit	Evergreen
Leslie G. Weeks	Helmsing, Leach, Herlong, Newman & Rouse	Mobile
William C. White, II	Parkman, Adams & White	Birmingham
Tamula R. Yelling	Constangy, Brooks & Smith LLC	Birmingham
Cinda R. York	Regions Financial Corp	Birmingham

LEADERSHIP FORUM APPLICANT DEMOGRAPHICS, 2005-2010

	Class 6 (2010)		Class 5 (2009)		Class 4 (2008)		Class 3 (2007)		Class 2 (2006)		Class 1 (2005)	
	Applications	Alter.	Applications	Class	Alter.	Applications	Class	Alter.	Applications	Class	Alter.	
Number of Applicants	75	30	4	75	30	4	78	30	4	71	30	4
Male	49	17	3	52	19	2	51	20	4	52	20	16
Female	26	13	1	23	11	2	27	10	0	19	10	14
Black	16	5	0	4	3	0	7	5	0	6	6	2
City: Birmingham	44	19	3	31	8	3	34	13	4	34	12	14
Huntsville	2	1	0	2	1	0	2	2		4	1	3
Mobile	6	3	0	7	4	0	7	2		6	2	2
Montgomery	7	2	0	9	6	0	13	5		8	3	5
Tuscaloosa	6	2	1	2	2	0	5	1		2	1	4
Other	10	3	0	24	9	1	17	8		17	11	2

Session 6.1—Orientation

“Alabama Needs You to Lead”

January 28-30, 2010

Grand Hotel Marriott Resort, Golf Club & Spa, Point Clear

THURSDAY, JANUARY 28, 2009

- 11:00 am–noon: Check-in and registration
- 12:00–1:00 pm: Lunch: Welcome and introductions
- 1:00–2:00 pm: **“Imagining Alabama in 2020”**
David G. Bronner, CEO of Retirement Systems of America, lays out his vision of what Alabama can achieve with strong leadership over the next decade.
- 2:00–3:00 pm: **“What Is A Leader?”**
Allison Cornelius Black, Principal Consultant, BlackBOARD Governance & Leadership Consulting
- 3:00–3:15 pm: Break
- 3:15–5:00 pm: Allison Cornelius Black (continued)
- 5:00–5:15 pm: Wrap-up and Adjourn
- 6:00–7:30 pm: Cocktails (a short walk from the hotel)
Dinner at the nearby Wash House Restaurant in Fairhope

FRIDAY, JANUARY 29, 2009

- 7:30–8:15 am: Breakfast
- 8:15–9:00 am: **“Making Your Vision a Reality”**
University of South Alabama’s head football coach, Joey Jones, discusses the creation of USA’s ambitious football program. (This season is the team’s first.)
- 9:00 – 10:00 am: **“Why You Must Lead”**
Panel discussion concerning the moral and practical reasons why those who have the ability and resources to lead must do so. Possible panelists include:
Moderator/speaker Michael D. Knight, past president, Mobile Bar Association, and senior partner, McDowell Knight Roedder & Sledge LLC
Stephen F. Black, director, Center for Ethics & Social Responsibility, the University of Alabama
Kathy Jorgensen, Methodist minister
Major General J. Gary Cooper, U. S. Marine Corp. (retired)
Former Alabama Governor Albert Brewer
- 10:00–10:15 am: Break
- 10:15 – 11:00 am: **“What’s Holding Alabama Back?”**
Why does Alabama continue to lag behind other states in some key areas? Wayne Flynt discusses problems with the Alabama constitution, as well as other historic and ongoing impediments to progress in the state, and suggests ways to overcome those obstacles.
- 11:00–12:30 pm: Lunch
- 12:30–1:15 pm: **“Effective Alabama Leadership in Action: The Renaissance of Mobile”**
Mike Dow, Mobile’s mayor from 1989 until 2005, discusses the city’s dramatic revival during his time in office.
- 1:15–2:30 pm: **“The Port of Mobile: A Gateway to the World”**
- 2:30–4:15 pm: Tour of Austal shipbuilding facility, manufacturer of military and other large watercrafts
Tour includes assembly bay for the Navy’s Littoral Combat ship and the \$170 million Module Manufacturing Facility which pre-fabricates ship components for assembly in various vessels. Facility tour followed by presentation by Austal’s President/CEO Joseph Nall, who will discuss Mobile’s opportunity to become a major shipbuilding center. (As a federal contractor, Austal is a secured site and only U.S. citizens may visit. There is a clearance process which takes approximately a month, and requires visitors to provide a passport or birth certificate.)
- 4:15–5:00 pm: Bus trip back to Grand Hotel
- 6:00–7:00 pm: Cocktails

- 7:00–9:00 pm: Dinner
Guest Speaker: United States Surgeon General Regina Benjamin
“Pick Yourself Up, Dust Yourself Off, Start All Over Again: Perseverance Is at the Heart of Leadership”

SATURDAY, JANUARY 30, 2009

- 8:30–9:30 am: Breakfast
- 9:30–10:15 am: **“Finding Common Ground in a Fractious Time”**
Current Mobile Mayor Sam Jones, the first African-American elected to that position, discusses the challenge of leading at a time when political, social and economic divisions often appear to be widening and public discourse is frequently acrimonious.
- 10:15–11:30 am: **“Practical Leadership Goals for Alabama Lawyers”**
Panel discussion: Four senior lawyers with strong leadership records discuss lessons learned from taking on leadership roles inside and outside the law, and give concrete advice about how and where younger lawyers should get involved.
Panelists:
Moderator/speaker John N. Leach, president, Mobile Bar Association
Samuel N. Crosby, ASB past president
William Lee Thuston, managing partner, Burr & Forman
- 11:30–11:45 am: Final Remarks: **“It’s Your Time to Lead”**
Edward M. Patterson, assistant executive director, Alabama State Bar
- Noon: Check-out

SESSION 6.2—Proposed Agenda

“The Legislative Process and Economic Development”

Tuesday, February 23, 2010

Alabama State Bar, Montgomery

- 8:00–8:45 am: Registration and breakfast in Boardroom
- 8:45–9:00 am: Walk from ASB to State House, 8th Fl. Conference Room, Old House Chambers Room, State Capitol
- 9:00–9:10 am: Othni J. Lathram, Lara M. Alvis, D. Scott Mitchell, Emily H. Raley
Introductions and Legislative Process Overview
- 9:10–9:40 am: Representative Marcel Black, **“The Committee Process”**
- 9:40–10:10 am: Representative Paul DeMarco, **“Becoming a Lawyer-Legislator”**
- 10:10–10:40 am: Senator Rodger Smitherman, **“How the Senate Works”**
- 10:40–10:50 am: Break
- 10:50–11:20 am: Kim Adams and Suzie Edwards, tour of State House
- 11:20–11:35 am: Walk from State House back to Alabama State Bar
- 11:35–12:05 pm: Mark White, **“How to be an Advocate with the Legislature”**
- 12:05–1:00 pm: Buffet Lunch
- 12:15–1:00 pm: Congressman Artur Davis, **“The Federal Legislative Process”**
- 1:05 pm: Board touring bus and travel to Hyundai Motor Manufacturing Alabama, LLC, Hope Hull
- 1:25–1:30 pm: Group photo in HMMA reception area
- 1:30–1:45 pm: Rick Neal, HMMA general counsel, and Christopher N. Smith, **“Welcome & Introductions”**
- 1:45–3:15 pm: Tour of Hyundai plant
- 3:15–3:30 pm: Break
- 3:30–4:15 pm: Bradley Byrne, **“Economic Development in Alabama”**
- 4:15–4:30 pm: Edward M. Patterson, **“Closing Remarks”**
- 4:30 pm: Return to Alabama State Bar
- 5:00 pm: Official group photograph



Others get too wrapped up in the numbers. We discover and define financial value.

RGL Forensics is an international firm of accounting, valuation and technology professionals who are specially trained to sort through the details and make sense of the data.

We specialize in litigation support services: pre-trial preparation, economic damage analysis, investigative accounting and embezzlement, business valuation, fraud, business interruption, loss-of-earnings calculations, e-discovery, and expert witness testimony.

United States Europe Asia Pacific

Ryan A. Carruth, CPA/CFF, CFE
Peachtree Center — International Tower
229 Peachtree Street NE, Suite 900
Atlanta, GA 30303
866.953.0400

local

rgl.com

RGL Forensics
Discovering & Defining Financial Value

Creation of Commercial Litigation Docket in the Birmingham Division, Tenth Judicial Circuit

By Presiding Judge J. Scott Vowell

For many years, our Birmingham circuit judges have been assigned to specific divisions of the court due to the volume of litigation filed in Birmingham. We now have 11 circuit judges in the Civil Division, nine in the Criminal Division, three in Domestic Relations and one in Family Court. With this degree of specialization, a judicial candidate may select a judgeship that is assigned to the area of the law in which the candidate has expertise. When the judge achieves the judgeship, he/she will have the opportunity to develop the special skills needed to handle the type of case to which he/she is assigned. We have found that this system serves us well.

In Birmingham, we have further specialized our court system in establishing “Problem Solving Courts” or “Remediation Courts.” The concept of these courts is that the traditional adversarial system is not the best method of dealing with some of modern American society’s major problems: drug use, domestic violence and mental health. In these courts, we use specialists to address the root cause of the defendant’s legal problem. These courts provide alternatives to incarceration and reduce recidivism. Special skills are required of the judges in these courts.

Another trend in the American legal system is the establishment of specialized, commercial civil dockets to help expedite cases arising out of business disputes and other complex litigation. These dockets have been especially useful in metropolitan areas, such as ours, where business litigation is most prevalent.

Chief Justice Sue Bell Cobb asked me to consider the feasibility of creating a Business Court in Alabama. I appointed an *ad hoc* committee, which included **Jefferson County Circuit Judge Robert Vance**, retired **Supreme Court Justice Ralph Cook**, retired **Circuit Judge Tennant Smallwood**, corporate litigation attorney **Drew Sinor**, and **Alabama Gas Corporation President Dudley Reynolds**.

The committee obtained and considered a great deal of information dealing with the formation of a Business Court. The committee submitted a report to the chief justice, and she has accepted our recommendations.

The committee concluded that the creation of a specialized Commercial Litigation Docket (CLD) would be beneficial to the

people of Alabama. It was determined that this name for the docket would be more descriptive than “Business Court.”

The creation of a specialized CLD serves several goals. The laws contemplated to be at issue in such cases generally affect all businesses in the state, and the efficient planning of those businesses requires greater predictability in assessing the effects of potential litigation. The prompt resolution of such claims requires developing expertise in those laws and the utilization of specialized case management procedures. Concentrating such litigation in a specialized docket, with one judge presiding, furthers the goals of predictability and efficiency. Such benefits have been recognized by a number of states that have already created specialized business or commercial litigation courts.

The committee reached the following conclusions:

1. The CLD should have a specifically-defined jurisdiction so that parties, attorneys and judges could readily determine whether their cases fit within the defined jurisdiction. Cases falling within the CLD are described below.
2. Only those cases properly within the Birmingham Division of the Jefferson County Circuit Court would be eligible for assignment. Since the presiding judge has the authority to assign cases under the *Rules of Judicial Administration*, no legislation or other formal action would be needed to establish this docket in Birmingham. This would permit an easier implementation of this docket and would allow for the assessment of the docket as a pilot program that, if proven to be beneficial, might become a model for the establishment of additional such courts in other circuits.

The committee further agreed to the following points pertaining to managing the CLD:

- A party desiring to have a newly-filed case included on the docket must file, in addition to the summons and complaint, and the Civil Cover Sheet (form *A.R.Civ.P.-93*), a verified

document that would make explicit the request for inclusion in the docket and an explanation why inclusion is warranted. Any such request would be forwarded to the presiding judge, who would determine whether the case should go on the docket. An order to that effect would be directed to the clerk of the court, who would then make the necessary arrangements for assignment.

- No additional filing fees would be required of a party requesting that a case be included in the docket.
- Alternatively, if a case is assigned to another judge as part of the circuit's regular docket, and that judge subsequently and reasonably concludes that the case should be on the CLD, that judge may refer the matter to the presiding judge for possible re-assignment.
- All cases on the CLD would be assigned by the presiding judge to Circuit Judge Robert S. Vance, who would handle the CLD in addition to his regular caseload. There would be a standing designation of another judge to serve as a backup in the event that Judge Vance could not hear a particular case on the docket, or is absent when exigent circumstances arise. Note that it is with gratitude that Judge Vance has volunteered to take the responsibility for this docket.
- Like with all other circuit civil cases, the Birmingham Differential Case Management Plan would apply.
- Assignment to the CLD would not affect any party's right to a jury trial that might otherwise exist.
- Judge Vance would retain the authority to refer a case back to the court's regular docket, with re-assignment to a judge at random, if events occurring after a case's initial filing (e.g., a ruling that a proposed class is not properly certifiable) remove the case from the categories of cases properly included in the CLD.

The following cases would be properly included within the CLD:

1. Claims arising from allegations of breach of commercial contract or of fiduciary duty, fraud, statutory violation arising out of business dealings (e.g., sales of assets or securities, corporate structuring, partnership, shareholder, joint venture and other business agreements, trade secrets, and restrictive covenants), and all other litigation arising under *Ala. Code* (1975) § 10-1-1, *et seq.*
2. Actions relating to securities, such as claims arising under *Ala. Code* (1975) § 8-6-1, *et seq.*
3. Actions arising from trade secrets or intellectual property disputes.
4. Business torts such as antitrust claims under *Ala. Code* (1975) § 8-10-1, *et seq.*, claims of unfair competition, interference with contractual or business relations.
5. Claims pertaining to trademarks, names, marks, devises, and labels, under *Ala. Code* (1975) § 8-12-1, *et seq.*
6. Transactions involving the development of commercial real property or complex commercial construction disputes.

7. Commercial class actions and consumer class actions not based on personal injury or product liability claims.
8. Malpractice claims involving a business entity and attorneys, accountants, architects or other professionals in connection with services rendered to that business.
9. Environmental claims and environmental insurance coverage litigation arising out of the acquisition or sale of business.
10. Transactions governed by the *Uniform Commercial Code, Ala. Code* (1975) § 7-1-1, *et seq.*, provided the amount in controversy, exclusive of interest, attorneys' fees and litigation expenses, exceeds \$50,000.
11. Any other case in which the presiding judge determines that any of the following apply:
 - (A) that the case may have implications for business and industry beyond the decision in the particular case;
 - (B) that the case may result in a significant interpretation of a statute within the scope of the docket, or
 - (C) that there exist other reasons for the proper inclusion in the CLD.

The following types of litigation would not be properly included within the CLD:

1. Disputes regarding sales of residential real property or construction of residential dwellings.
2. Professional malpractice cases arising outside the context of a commercial dispute.
3. Cases seeking declaratory judgment as to insurance coverage for personal injury or property damages.
4. Individual consumer claims including product liability, other personal injury or wrongful death cases.
5. Individual employment-related claims.
6. Individual consumer claims, including product liability.

At this time, we do not know the amount of litigation which will be included in the CLD. As we gain experience, we anticipate refining the descriptions of cases which are properly assigned to the CLD.

We look forward to this attempt to improve the quality of justice offered by our courts to the Alabama business community. We appreciate the cooperation of the Alabama State Bar and welcome your suggestions as the program develops. The program was expected to begin January 2, 2010. The cases assigned to the court will be designated "CLD." 

Judge J. Scott Vowell, presiding judge of the Tenth Judicial Circuit, is a graduate of the University of Virginia Law School. Vowell was elected to the Jefferson County Circuit Court (Civil Division) in 1994 after practicing law for 30 years. He has been re-elected twice. Vowell has served as presiding judge of the circuit since 2003. Judge Vowell also serves on the Alabama Court of the Judiciary and the Alabama Pattern Jury Instruction Committee.



Piercing the Corporate Veil:

When is Too Much Fiction a Bad Thing?

By Will Hill Tankersley and Kelly Brennan

General Rule: Uphold the Corporate Identity

The corporate identity is a useful fiction. Indeed, some would argue that it is a vital fiction in the sense that individuals might balk at launching new ventures if it meant their personal assets were readily at risk. In general, the common law has enforced the corporate identity unless it is a sham or *alter ego* of another. This presumption against piercing the corporate veil can be overcome by showing fraud or other exceptional circumstances. Given the nature of piercing the corporate veil, such “piercing” is generally a fact intensive exercise of a court’s equitable powers. The court’s power to reach a determination on “piercing” or *alter ego* issues has particular application not only in reaching assets behind a sham corporation but also can be important in patent infringement venue questions. This article sets forth the general principles for piercing the corporate veil and its application under both Alabama law as well as its application to venue questions under patent law.

Presumption of validity

Alabama law upholds the “the corporate identity . . . unless the individual sought to be charged with the corporation’s liability has used the corporate identity as his *alter ego*.” *Chenault v. Jamison*, 578 So. 2d 1059, 1061 (Ala. 1991) (citing *Forester & Jerue, Inc. v. Daniels*, 409 So. 2d 830 (Ala. 1982)). Indeed, in Alabama, “the corporate form is **not lightly disregarded**, since limited liability is one of the principal purposes for which the

law has created the corporation.” *Id.* (quotation marks omitted); see also *M & M Wholesale Florist, Inc. v. Emmons*, 600 So. 2d 998, 999 (Ala. 1992). In virtually every situation where a court is asked to pierce the corporate veil, the court typically observes that such an exercise of judicial power is extraordinary, or is not to be done lightly. See *Gilbert v. James Russell Motors, Inc.*, 812 So. 2d 1269, 1273 (Ala. Civ. App. 2001) (“extraordinary”); *Transamerican Properties v. Watkins*, 673 So. 2d 422, 425 (Ala. Civ. App. 1993) (“not . . . lightly exercised”); *M & M Wholesale Florist, Inc. v. Emmons*, 600 So. 2d 998, 999 (Ala. 1992) (“corporate form [] not lightly disregarded”); *First Health, Inc. v. Blanton*, 585 So. 2d 1331, 1334 (Ala. 1991) (“not . . . lightly exercised”); cf. *Ex parte Thorn*, 788 So. 2d 140, 143 (Ala. 2000) (“The doctrine of ‘piercing the corporate veil’ is equitable in nature.”). Thus, a presumption is in favor of upholding the corporate veil.

General standards for piercing the veil

The presumption against piercing notwithstanding, courts may disregard the corporate form when (1) the corporation is inadequately capitalized; (2) the corporation is conceived or operated for a fraudulent purpose; (3) the corporation is operated as an instrumentality or *alter ego* of an individual or entity with corporate control; or (4) the interests of justice and equity so require. See *Southern Sash Sales & Supply Co. v. Wiley*, 631 So. 2d 968, 970 (Ala. 1994) (“[S]eparate corporate existence will not be recognized where a corporation is so organized and controlled and its business conducted in such a manner as to make it merely an instrumentality

of another”); *Culp v. Economy Mobile Homes, Inc.*, 895 So. 2d 857, 859-60 (Ala. 2004)(same); *Gilbert*, 812 So. 2d at 1273 (“The Alabama Supreme Court has set out the following extraordinary circumstances in which it would be appropriate to pierce the corporate veil: where the corporation is inadequately capitalized; where the corporation is conceived or operated for a fraudulent purpose; or where the corporation is operated as an instrumentality or alter ego of an individual or entity with corporate control.”); *M & M Wholesale Florist*, 600 So. 2d at 999 (same); *First Health*, 585 So. 2d at 1334 (same); *Deupree v. Ruffino*, 505 So. 2d 1218 (Ala. 1987) (“A separate corporate existence will not be recognized when a corporation is so organized and controlled and its business so conducted as to make it a mere instrumentality of another or the alter ego of the person owning and controlling it. A corporation and the individual or individuals owning all its stock and assets can be treated as identical, even in the absence of fraud, to prevent injustice or inequitable consequences.”).

For example, Alabama law has recognized that a corporate form should be disregarded in certain cases:

A separate corporate existence will not be recognized when a corporation is so organized and controlled and its business so conducted as to make it a mere instrumentality of another or the alter ego of the person owning and controlling it. A corporation and the individual or individuals owning all its stock and assets can be treated as identical, even in the absence of fraud, to prevent injustice or inequitable consequences.

Deupree v. Anderson, 505 So. 2d 1218, 1222 (Ala. 1987).¹ Depletion of corporate funds also can be used as a basis to disregard the corporate form and pierce the corporate veil:

The corporate veil may be pierced where a corporation is set up as a subterfuge, where shareholders do not observe the corporate form, where the legal requirements of corporate law are not complied with, where the corporation maintains no corporate records, where the corporation maintains no bank account, where the corporation has no employees, where corporate and personal funds are intermingled and corporate funds are used for personal purposes, **or where an individual drains funds from the corporation.**

Econ Marketing, Inc. v. Leisure American Resorts, Inc., 664 So. 2d 869, 870 (Ala. 1995) (emphasis added).

1. “*Fraud*” or “*Injustice*” To pierce the corporate veil under Alabama law, a plaintiff must show either fraud in asserting the corporate existence or must show that recognition of the corporate existence will result in injustice or inequitable consequences. (Additionally, mere domination cannot be enough to pierce the corporate veil; there must be the added elements of misuse of control and harm or loss resulting from it.) *Id. Econ Marketing, Inc. v. Leisure American Resorts, Inc.*, 664 So. 2d 869, 870 (Ala. 1994). To establish a fraudulent purpose or to prove that a business is being operated as an alter ego, plaintiff must show more than just a shareholder’s desire to avoid personal liability for the business’ debts. “To pierce the corporate veil, a plaintiff must show fraud in asserting the corporate existence or must show that recognition of the corporate existence will result in injustice or inequitable consequences.” *Simmons v. Clark Equip. Credit Corp.*, 554 So. 2d 398, 400 (Ala. 1989).

The Alabama Supreme Court has explained:

[A] parent corporation which owns all the stock of a subsidiary corporation is not liable for acts of its subsidiary corporation, unless the parent corporation so controls the operation of the subsidiary corporation as to make it a mere adjunct, instrumentality, or alter ego of the parent corporation. *Baker v. Hospital Corporation of America*, 432 So.2d 1281 (Ala. 1983). Furthermore, where one corporation controls and dominates another corporation to the extent that the second corporation becomes the mere instrumentality of the first, the dominant corporation becomes liable for those debts or torts of the subservient corporation attributable to an abuse of that control.

Duff v. Southern Ry. Co., 496 So. 2d 760, 762 (Ala. 1986). The court has applied a number of factors to determine whether this control exists:

- (a) The parent corporation owns all or most of the capital stock of the subsidiary.
- (b) The parent and subsidiary corporations have common directors or officers.
- (c) The parent corporation finances the subsidiary.
- (d) The parent corporation subscribes to all the capital stock of the subsidiary or otherwise causes its incorporation.

- (e) The subsidiary has grossly inadequate capital.
- (f) The parent corporation pays the salaries and other expenses or losses of the subsidiary.
- (g) The subsidiary has substantially no business except with the parent corporation or no assets except those conveyed to it by the parent corporation.
- (h) In the papers of the parent corporation or in the statements of its officers, the subsidiary is described as a department or division of the parent corporation, or its business or financial responsibility is referred to as the parent corporation's own.
- (i) The parent corporation uses the property of the subsidiary as its own.
- (j) The directors or executives of the subsidiary do not act independently in the interest of the subsidiary but take their orders from the parent corporation in the latter's interest.
- (k) The formal legal requirements of the subsidiary are not observed.

Id. (The test above was used to determine whether the corporate form should be disregarded as between a parent and its subsidiary. Although not precise to the facts of this case, the factors used are relevant and should be persuasive.)

In *Duff*, for example, the court held that the following four factors (plus some other "relevant factors" concerning control) were enough for the plaintiff's claims to survive summary judgment and to be sent to the jury on a veil piercing theory: (1) company A owned all the stock in Company B; (2) an individual named Garner was an officer of one company and a director of the other; (3) Company A paid the salaries of Company B's workers; (4) that over 99 percent of Company B's business was with Company A; and (5) Garner, a director of Company B, may not have acted independently from Company A. *Id.* at 763.

These factors are important for a court to consider, but no single factor will determine the outcome, and a court may consider other factors as well. Furthermore, in part because piercing the corporate veil is "an equitable doctrine," *Ex parte Thorn*, 788 So. 2d 140, 145 (Ala. 2000), there is significant flexibility in the way it is applied. Therefore, outcomes are difficult to predict, and a court has significant discretion in applying the factors.

Additionally, as the cases below demonstrate, a critical finding in most decisions to pierce the corporate veil is some finding of misuse, in the form of fraud, corporate form abuse or other malfeasance. A combination of elements—such as control, under-capitalization and equities favoring piercing—may well justify piercing, but in the absence of wrongdoing, a court will be less inclined to pierce the corporate veil, even if a party proves control or the equities favor piercing.

2. Sample Alabama Cases

Shelton v. Clements, 2002 WL 161328 (Ala. Civ. App. Feb. 1, 2002)—In *Shelton*, the court of civil appeals upheld the trial court's decision to pierce the corporate veil because the evidence supported an alter-ego/instrumentality theory. In reaching its conclusion, the court focused on evidence that the individual to whom the court attached

liability was the president of the corporation, the corporation was undercapitalized, the individual commingled his funds with those of the corporation and the individual intended to file a petition in bankruptcy for the corporation if it did not earn a profit on the project that was the subject of the lawsuit. The court concluded this despite the fact that the record contained no information regarding the identities of the other officers of the corporation, the number of corporate stockholders or their ownership interests, or the corporation's financial information.

Ex parte AmSouth Bank, 669 So. 2d 154 (Ala. 1995)—In *Ex parte AmSouth Bank*, the Alabama Supreme Court reversed the court of civil appeals' decision to affirm entry of summary judgment. The court found that the existence of a material fact precluded entry of judgment on whether the corporate veil should be pierced and held that AmSouth's interaction with a certain individual as the corporation's representative did not foreclose piercing, but only militated against it. Moreover, pertinent facts justifying the denial of summary judgment included the fact that the individual was the sole shareholder, sole director and sole officer of the corporation; that the corporation had no financial records, business licenses or bank accounts; that the corporation assumed responsibility for the individual's debts for no consideration; and that the individual may have misused the corporate form.

Serving Our State & Nation



**Alabama Army
National Guard
JAG Corps**

Seeking qualified attorneys to join the Alabama Army National Guard JAG Corps in units throughout Alabama.

Applicants must:

- Be a Graduate of Accredited Law School
- Pass a physical
- After required school-training, attend monthly drills, 2-week annual training and possible deployment world-wide

Bonuses available

Send current resume to:
1LT Scott Massey
1000 Yeager Pkwy
Pelham, AL 35124

Or e-mail to: scott.massey1@us.army.mil

Southern Sash Sales & Supply Co. v. Wiley, 631 So. 2d 968, 970 (Ala. 1994)—In *Southern Sash*, the Alabama Supreme Court upheld a jury’s determination that sufficient evidence existed to pierce the corporate veil. The lawsuit related to certain indebtedness incurred by the “second corporation” that remained unpaid and essentially uncollectible because the second corporation did not have any assets. The court found the corporation that purchased the second corporation was liable for the second corporation’s debt in light of evidence that the first corporation took over responsibility of the second corporation’s bank account, purchased its assets prior to plaintiffs’ effort to collect judgment and then operated the second corporation in a manner virtually identical to how it had been operated before the sale.

Econ Marketing, Inc. v. Leisure Am. Resorts, Inc., 664 So. 2d 869 (Ala. 1994)—In *Econ*, the Alabama Supreme Court reversed the trial court’s decision not to pierce the corporate veil because there was evidence in the record to support the conclusion that the subsidiary sought to be pierced failed to keep complete and correct records of all transactions of the corporation and minutes of meetings (including a record of a transaction between it and the parent by which the subsidiary was to provide goods and services to other subsidiaries of the parent), and failed to produce financial records regarding several relationships and financial transactions between the subsidiary, the parent and the sole shareholder.

Deupree v. Ruffino, 505 So. 2d 1218 (Ala. 1987)—The Alabama Supreme Court affirmed the trial court decision to pierce the corporate veil because evidence showed that the corporation in whose name the business had been transacted never issued stock, never adopted by-laws, failed to keep financial records, had no employees, and the dominant shareholder commingled personal and corporate funds.

Kwick Set Components, Inc. v. Davidson Indus., 411 So. 2d 134 (Ala. 1982)—The Alabama Supreme Court affirmed the trial court’s decision to pierce the corporate veil where

not only did the dominant and subservient corporations share the same president and same board of directors, the dominant corporation purchased goods through the name of the defunct corporation to perform contracts, and the dominant corporation also apparently sought to avoid payment of the subservient corporation’s debts while benefiting from the use of the goods causing the debts.

Transamerican Properties v. Watkins, 673 So. 2d 422, 425 (Ala. Civ. App. 1993)—The Alabama Court of Civil Appeals upheld the trial court’s finding that sufficient evidence existed to justify piercing the corporate veil. The court found it was proper to attach individual liability because one individual dominated the two corporate defendants named in the action; the corporations were grossly undercapitalized, the plaintiff did not have workers’ compensation insurance to cover employees and neither corporation owned any assets to compensate the plaintiff for his injury. In upholding the verdict, the appeals court stated: “While it is true that mere undercapitalization or dominance by one person alone would not be enough to pierce the corporate veil, those two factors, when combined with the fact that the corporate form in this case was misused and created an injustice or inequitable consequences, are enough to support the trial court’s finding that Pate is personally liable to Watkins for workmen’s compensation benefits.”

Reverse Piercing

In some instances, parties may seek to “reverse pierce.” “Reverse pierce” treats the assets of the LLC as owned by the member in order to avoid fraud on creditors. The authors are not aware of any Alabama cases that have accepted or rejected an attempt to “reverse pierce.” In cases outside of Alabama, courts have permitted judgment creditors to pierce the corporate veil or “reverse pierce” the corporate veil of limited liability companies or partnerships where it was clear the judgment debtor was using the corporate form to evade judgment creditors. Sample cases include:



aea GROUP, LLC
Accounting, Economics & Appraisal Group, LLC



Accounting, Economics & Appraisal Group, LLC

Certified Public Accountants
Certified Computer Examiner
Accredited in Business Valuation
Certified Fraud Examiners

Les Alexander, Managing Principal	205-488-1150
Denise Dauphin, Principal	205-488-1130
Bill Long, Principal	205-488-1138

Accounting & Computer Forensics, Business & Asset Valuation, Economic & Demographic Studies, Enterprise Risk Management & Fraud Investigations

Accounting, Economics & Appraisal Group, LLC, a Certified Public Accountancy Firm
Two North 20th Street, Suite 1400 Birmingham, Alabama 35203
Telephone (205) 488-1100 • Facsimile (205) 488-1101 • www.aesgroup.com

C.F. Trust, Inc. v. First Flight LTD Partnership, 140 F. Supp. 2d 628 (E.D. Va. 2001)—The Virginia court permitted reverse piercing of the corporate veil where a judgment debtor used his limited partnership interest to evade creditors. The court was persuaded by the fact that the debtor maintained control over the partnership and its distributions despite official transfer of control and ownership to another person, and the debtor siphoned business assets for his own personal use and without a business purpose.

In re Phillips, 139 P.3d 639 (Colo. 2006)—The court stated that Colorado law allows reverse piercing of the corporate veil when justice requires.

Mallard Automotive Group, Ltd. v. LeClair Management Corp., 153 F. Supp. 2d 1211 (D. Nev. 2001)—The Nevada court held that a party seeking to hold a corporation responsible for an individual's debt under reverse piercing does not have to prove that the corporation was a sham, but instead only that the corporate form would perpetuate fraud or injustice.

BLD Products, LTC v. Technical Plastics of Oregon, LLC, 2006 WL 3628062 (D. Or. 2006)—The Oregon court allowed the corporate veil to be pierced where assets were commingled and the corporate form was disregarded.

Litchfield Asset Management Corp. v. Howell, 799 A. 2d 298 (Conn. App. 2002)—The Connecticut court found the evidence was sufficient to disregard the corporate form and hold limited liability company responsible for the debtor's personal debt where the debtor used company funds to pay for the debtor's personal expenses and used corporate funds as her own; the corporation did not pay her a salary but paid her expenses directly; the debtor owned 97 percent of the stock and all of the stock of the second corporation; and both companies operated outside of the same office space over the debtor's garage.

State Bank of Eden Valley v. Euerle Farms, Inc., 441 N.W.2d 121 (Minn. Ct. App. 1989)—The Minnesota court held the family farm was the alter ego of its occupants and the corporate veil was properly reverse pierced to reach property.

LFC Marketing Group, Inc. v. Loomis, 8 P.3d 841 (Nev. 2000)—The Nevada court listed reverse piercing cases and found use of the doctrine was appropriate where a corporation is being used to hide assets or secretly conduct business to avoid pre-existing liability of controlling debtor.

Piercing and Venue in Intellectual Property Cases

Piercing the corporate veil is often relevant in intellectual property ("IP") cases, especially patent cases, for the determination of venue. Specifically, 28 U.S.C. § 1400(b) provides: "Any civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business." Accordingly, it is sometimes important to consider the "alter ego" of the company relative to its shareholders.

For example, in *Minnesota Mining & Mfg. Co. v. Eco Chem., Inc.*, 757 F.2d 1256 (CAFC 1985), venue was established under an alter ego theory based on the following facts:

- a. One shareholder owned 80 percent of the company stock;
- b. Majority shareholder's spouse possessed all of the company's know-how;
- c. There was no meaningful board of directors' oversight;
- d. Minority shareholders were not apprised of company operations;
- e. Corporate formalities were ignored; and
- f. The majority shareholder and her spouse manipulated the company assets in an effort to thwart recovery.

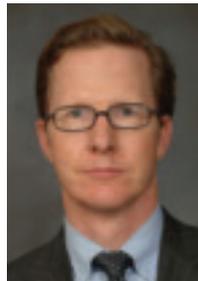
In any event, with the high cost of patent litigation, being able to achieve a venue advantage can be useful to a patent plaintiff.

Conclusion

Those who seek to pierce the corporate veil have an uphill, but not impossible, struggle ahead of them. Indeed, not piercing the veil could result in a worthless judgment (or a difficult patent venue). In any event, Alabama practitioners who follow the above guidelines may be able to show a court when too much corporate fiction is a bad thing. ▲▲▲

Endnote

1. That is not to suggest that ownership of a controlling amount, or even all, of the shares of a corporation is dispositive on a veil-piercing or alter ego analysis. On the contrary, courts have explained that the "fact that a party owns all or a majority of the stock in a corporation does not alone destroy the corporate entity, nor does the fact that the corporation is not sufficiently capitalized alone work to defeat the corporate existence." *Shelton v. Clements*, No. 2000851, 2002 WL 161328 at *5 (Ala. Civ. App. Feb. 1, 2002); see also *Transamerican Properties*, 673 So. 2d at 424 (citations omitted (same)); *First Health*, 585 So. 2d at 1334 ("The mere fact that an individual or another corporation owns all or a majority of the stock of a corporation does not, of itself, destroy the separate corporate entity.")



Will Hill Tankersley is a partner at Balch & Bingham LLP and is the senior intellectual property litigator. He founded and was the first chair of the Alabama State Bar Section for Intellectual Property. He has over 23 years of experience and holds a Master's of Law in IP and Antitrust from New York University School of Law. After college and before law school, Tankersley served as a regular Army officer in the Infantry and Special Forces.

Kelly Brennan is a graduate of Tulane University Law School and a partner in the Birmingham office of Balch & Bingham LLP. She is a 2008 graduate of the Leadership Forum and serves on the Judicial Liaison and the Unauthorized Practice of Law committees. Brennan is a member of the ASB Litigation Section. She concentrates her practice in the areas of securities and banking law, anti-money laundering rules and regulations, UCC Articles 3 and 4, and other state and federal statutes including RICO, FCRA, FDCPA and TILA. Brennan is a Certified Anti-Money Laundering Specialist (CAMS).



Oops, It Happened Again: Inadvertent Disclosure under New Federal Rule of Evidence 502

By Wayne Morse, Jr.

New Federal Rule of Evidence 502 is worthwhile reading for courtroom lawyers because it changes the law regarding waiver of attorney-client privilege. Rule 502 has several subsections.

(a) defines the limited circumstances under which a party's intentional waiver of the attorney-client or work-product protections as to one document waives the protections afforded other documents and information concerning the same subject-matter;

(b) creates a "reasonableness" standard for identifying those instances when a party's inadvertent disclosure of a document waives the protections attached to that document;

(d) and (e) strongly counsel that litigators use court-approved confidentiality agreements to further avoid uncertainty regarding a waiver and its consequences and to ensure that whatever disclosures they make cannot be used by non-parties as evidence of waiver; and in an important federalism development

(f) provides that a federal court's determination of a party's non-waiver is binding upon a state proceeding.

Intentional Disclosure

In short, Rule 502 provides that a waiver of privilege exists with respect to a document if the party acted intentionally. *Fed. R. Evid.* 502(a). Most important, the inquiry into intent under Rule 502(a) concerns a party's intent to waive the privilege, not its intention to produce a particular document. If a party intentionally waives the privilege attaching to a document, the Rule does not create a broader waiver of all other documents and information on the same subject, unless the non-disclosed, privileged documents "ought in fairness to be considered" with the material that was turned over. This codification is a change in the presumption of waiver. Previously, lawyers and judges considered an intentional waiver as to a document a waiver as to all documents of that subject-matter. The result was often harsh, so judges tended to narrowly construe the subject-matter of the disclosed document.

The language of Rule 502(a) and the advisory committee notes unambiguously provide that Rule 502's presumption is against subject-matter waivers for even an intentional waiver. The notes offer that subject-matter waivers should occur only in "unusual situations," when fairness requires that the non-disclosed material be considered with the material already

turned over. Rule 502 falls short of providing sufficient certainty and guidance on when "fairness" will require a subject-matter waiver. The advisory committee notes do not add much guidance, as they state only that "... a party that makes a selective, misleading presentation that is unfair to the adversary opens itself to a more complete and accurate presentation." Until more case law interpretation develops, it will be difficult for a party or its counsel to assess what documents a court might conclude "ought in fairness" to be considered waived with other documents.

Suppose a party intends to waive the attorney-client privilege that would otherwise protect a corporate internal investigation report. It is clear that, pursuant to Rule 502(a), production of the report would waive the protections afforded that report. What about the many other privileged documents that were created as part of preparing the final report? If management reviewed and commented on a draft, would management's comments remain privileged? Would management's comments be waived because "fairness" would dictate that the party receiving the report see whether any changes were proposed and who proposed them? Is a party making a "selective" and "misleading" disclosure if it provides only a final report when man-

agement was heavily involved in editing the drafts, such that it would be “unfair” to allow production of only the final version?

Whether the general rule of subject-matter waiver applies in cases of inadvertent disclosure is less settled. Some courts have applied a broad scope of waiver, even if the disclosure was not intentional. The District of Columbia Circuit found potential subject-matter waiver where disclosure of a single document was “human error.”¹ The court noted that a waiver “extends to all communications related to the same subject-matter.”

Other courts have held that “[i]n a proper case of inadvertent disclosure, the waiver should cover only the specific document in issue.”² In a separate decision, a court determined that “the general rule that a disclosure waives not only the specific communication but also the subject-matter of it in other communications is not appropriate in the case of inadvertent disclosure unless it is obvious a party is attempting to gain an advantage or make offensive or unfair use of the disclosure.”³

Inadvertent Disclosure

If the disclosure is inadvertent, a waiver of privilege exists as to a document only if a party failed to take “reasonable steps to

prevent disclosure” or took “such steps to prevent disclosure” or took such steps, but failed “promptly” to take “reasonable steps to rectify the error” once the party learned an inadvertent error was made. *Fed. R. Evid.* 502(b). Subsection (b) allows a party who inadvertently disclosed a document to continue to apply the privilege to that document and “claw back” the document provided it acted reasonably in preventing disclosure and in rectifying the problem after it discovered that an inadvertent disclosure took place. Under subsection (b), a broad subject-matter waiver never occurs from an inadvertent disclosure.

The inadvertent disclosure provisions are at the heart of the cost-saving goals of Rule 502. The Rule codifies the majority judicial rule that an inadvertent disclosure only is a potential waiver as to the disclosed document, not as to the entire subject-matter referred to in that document. Accordingly, the potential damage to a disclosing party is minimized.

The claw-back provision adds helpful guidelines for determining waiver. According to the Rule’s notes, courts are to consider many factors: (a) the reasonableness of precautions taken; (b) the time taken to rectify the error; (c) the scope of discovery; (d) the number of documents reviewed and the time constraints for production; (e) the extent of disclosure; and (f) “the overriding issue of fairness.” The notes also suggest that a party can help in demonstrating that its steps were reasonable by employing “advanced analytical software applications and linguistic tools” in screening for privilege.

Rule 502 was drafted to reduce the costs of privilege reviews in discovery in complex cases. Its development is also an acknowledgement. Reviewing documents for privileged communications is expensive, as is motion practice over inadvertently disclosed documents. The Rule seeks to address the challenges for withholding attorney-client communications where voluminous electronic documents are involved. For Rule 502 to reduce costs, courts will have to be consistent and predictable and liberally find that disclosures were inadvertent.

District courts have shown some commonality in their approaches to inadvertently disclosed documents. Analyses have been fact-intensive, and most have weighed heavily the “fairness” factor enumerated in Rule 502’s notes.⁴ Courts also tend to focus on how soon the party

sought return of the document and the volume of discovery produced.

The first decision to address new Rule 502 and inadvertent disclosures was *Rhoads Industries, Inc. v. Building Materials Corp. of America*, 254 F.R.D. 216 (E.D. Pa. 2008). *Rhoads* involved a dispute over whether Rhoads’s inadvertent disclosure of more than 800 privileged documents constituted waiver. Rhoads faced motions to deem certain of privilege claims waived, contending that the Rhoads was careless, delayed in seeking return of the documents and failed to produce complete and accurate privilege logs. Notably, the court pointed to the Advisory Committee Note to Rule 502, which summarizes the multi-factor test utilized by a majority of courts.

Facts the court found favoring Rhoads included: the purchase of a special software program for purposes of the litigation; the trial searches conducted prior to purchase of the software; the hired technical consultant was experienced with the Rhoads computer system; search terms utilized; time spent reviewing documents; the number of inadvertent disclosures in comparison to the number of documents produced; Rhoads’s immediate response to defendants’ e-mail that some potentially privileged documents had been produced; a tight discovery schedule; the invocation of *Federal Rule of Civil Procedure* 26(b)(5)(B) to have the inadvertently produced documents sequestered; the willingness to produce a cleansed hard drive; and Rhoads’s general compliance with the three conditions of Rule 502(b).

The court in *Rhoads* pointed to the following facts in favor of the defendants on the issue of inadvertent disclosure: the limited search terms utilized; Rhoads’s associate attorney having no prior experience doing a privilege review; the document search limited to e-mail address lines as opposed to the e-mail body; the documents produced which should have been captured even under Rhoads’s search terms; the reliance solely on a key word search for purposes of conducting privilege review; the Rhoads’s testing of its search; the number of inadvertently produced documents; the time taken by Rhoads to review; Rhoads’s failure to provide adequate resources for the review; the defendants brought the privilege error to Rhoads’s attention; the time taken to produce a privilege log; Rhoads’s failure to offer suggestions to rectify the inadvertent

Construction Expert

- Over 15 years of Construction Experience
- Licensed General Contractor – LA, AL & FL
- Louisiana Licensed Real Estate Appraiser
- Construction Defect Evaluations
- Replacement & Reproduction Cost Estimates - Insurance
- Narrative Reports & Expert Deposition Testimony

titan CONSTRUCTION

STEPHEN FLEISHMANN
Stephen@titanconstruction.com
504-455-5411
www.titanconstruction.com

production until after many depositions were taken; and the lack of rigor in Rhoads's privilege review.

In its legal analysis of inadvertent disclosure, the court took the position that the first hurdle is to determine whether the producing party has "at least minimally complied with the three factors stated in Rule 502(b), *i.e.* that the waiver was inadvertent, the party took reasonable steps to prevent disclosure, and attempted to rectify the error." If the initial three factors are "minimally complied with" and a dispute remains regarding "reasonableness," the court proceeds with the traditional five-factor test used in earlier decisions.

The court found Rhoads had taken steps to prevent disclosure and to rectify its error; however, Rhoads's efforts, to some extent, were unreasonable. The court applied the five-factor test, found in favor of defendants as to the first four factors, but in favor of Rhoads as to the fifth factor, interest of justice. Denial of the privileged documents to defendants was not prejudicial because defendants had no reasonable expectation to privileged communications. Rhoads was required to produce certain privileged documents due to its failure to timely log all of its inadvertently produced privileged documents. The court did not analyze this issue under Rule 502, relying instead on *Federal Rule of Civil Procedure* 26(b)(5).

Not surprising is that courts have consistently made a threshold determination of whether the documents are indeed attorney-client communications. The party claiming the privilege has the burden of proving the document contains a communication between an attorney and a client, constituting legal advice, which was intended to be and was kept as confidential. The courts' consideration of this threshold issue appears to be informed by a concern that a party is not seeking to be opportunistic and to use Rule 502(b)'s generous "fairness" factor improperly to obtain return of a document that is not privileged. In the most recent reported decision, *Clarke v. J. P. Morgan Chase & Co.*, 2009 WL 970940 (S.D. N.Y. Apr. 10, 2009), the court held that an inadvertently disclosed e-mail was not privileged. The e-mail, authored by an attorney, was sent by the company's management team, not the attorney, and it did not state that it was prepared by the attorney. The court determined that the remaining documents sought back by J. P. Morgan Chase were

not protected by Rule 502(b), among other reasons, because of the delay in reclaiming the documents, and "the volume of Plaintiff's discovery was not so large that the email would have been difficult for Defendant to identify."

Uncertainties remain even under Rule 502. Therefore, lawyers should craft agreements regulating the effect of an intentional waiver or inadvertent disclosure and seek an order incorporating those agreements. Such provisions should be included in consent protective orders which are routine in civil litigation. By agreement, parties may avoid any ambiguity in Rule 502 regarding inadvertent disclosure and substitute a well-defined standard. Parties may agree that no production could create a subject-matter waiver, or that an inadvertently produced privileged document may be clawed back under any circumstances. Under Rule 502, litigants must still proceed with caution in discovery, be diligent in reclaiming privileged documents and seek judicially approved agreements at the incipient stages of the proceeding. However, thoughtful, well-informed practice under Rule 502 should help control costly electronic discovery and privilege reviews meant to protect against inadvertent disclosure.

This article originally appeared in the American Bar Association's *Pretrial Practice & Discovery*, volume 17, number 4, summer 2009. This information or any portion thereof may not be copied or disseminated in any form or by any means or downloaded or stored in an electronic database or retrieval system without the express written consent of the American Bar Association. ▲▼▲

Endnotes

1. *In re Sealed Case*, 877 F.2d 976 (D.C.Cir. 1989).
2. *Parkway Gallery v. Kittinger/Pennsylvania H. Group*, 116 F.R.D. 46, 52 (M.D.N.C. 1987).
3. *Federal Deposit Ins. Corp. v. Marine Midland Realty Credit Corp.*, 138 F.R.D. 479 (E.D.Va. 1991).
4. *See, e.g., B-Y Water District v. City of Yankton*, 2008 WL 5188837 (D.S.D. 2008); *Reckley v. City of Springfield, Ohio*, 2008 WL 5234356 (S.D.Ohio 2008).



Wayne Morse is a partner at Waldrep Stewart & Kendrick, LLC. He specializes in handling employment and commercial cases.

A Female Perspective

Jeanne Marie Leslie, director of the ASB Lawyer Assistance Program, was the guest editor for the fall 2009 edition of *Highlights* newsletter, published by the American Bar Association Commission on Lawyer Assistance Programs. Leslie assembled a number of articles focusing on the barriers women confront in addressing and accessing addiction treatment. She even wrote a very frank first-person account, "A Feminine Perspective," about her own struggle with alcohol and drugs. As she wrote, "I know beyond a shadow of a doubt that recovery is possible. As a professional I carry this message of recovery to lawyers, judges and law students suffering from alcohol addictions and other mental health disorders. I am truly privileged and humbled to do this work and I am grateful every day to be alive."

If you need help or know someone who does, please contact the Alabama Lawyer Assistance Program at (334) 224-6920. ▲▼▲



Reliance, the Bachelor: Will Experience Answer the Open Questions of Reasonable Reliance?

By Wilson F. Green

“That is no excuse,” replied Mr. Brownlow. “You were present on the occasion of the destruction of these trinkets, and indeed are the more guilty of the two, in the eye of the law; for the law supposes that your wife acts under your direction.”

“If the law supposes that,” said Mr. Bumble, squeezing his hat emphatically in both hands, “the law is a ass—a idiot. If that’s the eye of the law, the law is a bachelor; and the worst I wish the law is, that his eye may be opened by experience—by experience.”

Charles Dickens, Oliver Twist, Ch. 51

Brownlow, ever the punctilious prosecutor, gave sound interpretation to the facts under the controlling law. Although Mr. Bumble had pleaded the “Adam Defense” (it was all Mrs. Bumble’s idea to pawn that jewelry, so he claimed), Brownlow rejoined that the law supposes—one might say conclusively presumes—that a wife acts under her husband’s direction. Mr. Bumble, at once outraged and confounded, then uttered his unforgettable line—“the law is a[n] ass.”

Non-lawyers (some lawyers, too) often quote this mantra about the—er—darker side of the law when speaking of a legal result which defies the perceived equities of a case. What we all usually forget is the rest of Mr. Bumble’s statement, and no doubt his most significant words. For Mr. Bumble, the law is an ignorant bachelor who, having never been married, does not understand the otherworldly

idiocy of the controlling legal principle. Regardless of what the “rule” is, a wife does not, in any semblance of reality, act under a husband’s direction. The rule of law belies the teaching of experience.

I thought about poor Mr. Bumble a few months ago. I was buying a new cell phone for my wife, and renewing my contract, at a wireless provider’s retail store. After an hour’s wait, my number was called, and the representative led me to a kiosk containing a computer terminal (for him) and a credit card scanner and signature pad (for me). I hurriedly explained what I wanted (I was already late for a meeting). The representative handed me the new phone and then made the changes to my account on his computer. He explained the terms of the new service agreement generally—how many lines I would have, how many package minutes and the like—and then instructed me to sign the signature pad with the

magnetic pen. I looked down, and the blank computer signature pad had a box for my signature, indicating my agreement to the “Terms of Service.” The only problem, of course, was that I had no “Terms of Service.” I was signing my new contract, though I had been provided no contract at all. Eager to leave, I signed, grabbed the goods and rushed to my car.

As I fractured a few traffic laws dashing down Highway 82, I began to think about what I had done. I entered into a contract without knowing all—for that matter, any—of its terms. I began asking myself questions:

- Did I sign an arbitration agreement? (Wait, that’s not a question.)
- Did the representative get the service package that I requested?
- Am I obligated to pay an activation fee on the new phone?
- What about termination fees?
- What terms don’t I know about?

I asked more questions of myself than in the Talking Heads’ song “Once in a Lifetime”—but it included the last question from that song: “WHAT HAVE I DONE?”

This, of course, brings us to reasonable reliance. The fraud law in Alabama would say that I acted irresponsibly, even heedlessly, in signing a contract without reading its terms. Perhaps that’s so (though I would protest that I should not be held to a document that I never even received). Mr. Bumble would defend me, however, arguing that the law has never experienced waiting in a cell phone store for an hour, or being late for a meeting. Indeed, one could argue that no one with experience would adopt such a rule of law. Have you actually read your cell phone contract? How about your home or car insurance policy? How about your credit card terms and conditions? (If you answered all of these “yes,” you’re lying.) And it doesn’t stop with everyday contracts, either. How many of you have counseled corporate clients—sophisticated businesspeople—concerning their rights under a contract which they tell you they have never read? I have, and many times.

Although experience would suggest a different rule, my point is neither to revisit nor to question the “duty to read” principle under-girding reasonable

reliance law. Since *Foremost Ins. Co. v. Parham*, 693 So. 2d 409 (Ala. 1997), Alabama law has revived the duty imposed upon fraud plaintiffs to read their contracts. *Foremost* was designed to “provide a mechanism whereby the trial court [ould] enter a judgment as a matter of law in a fraud case where the undisputed evidence indicates that the party or parties claiming fraud in a particular transaction were fully capable of reading and understanding their documents but nonetheless made a deliberate decision to ignore written contract terms.” *Foremost*, 693 So. 2d at 421.

To my point, then, which is to examine some (though not all)¹ of the unanswered questions of “reasonable reliance” law remaining after almost 13 years of *Foremost*—and in the process, to attempt to synthesize most of the cases dealing with reasonable reliance issues. With Mr. Bumble, we hope that experience—experience which largely comes from developed fact patterns in future cases—can teach some valuable lessons in reaching sound resolutions to those still-unanswered questions, which are more plentiful than one might suppose.

Four Unanswered Questions

Foremost and its progeny establish that a fraud plaintiff cannot reasonably rely on an oral statement which is contradicted by a conspicuous, understandable, unambiguous, contractual writing. Thus, in virtually all of the post-*Foremost* cases, including the most recent decisions in *AmerUS Life Ins. Co. v. Smith*, 5 So. 3d 1200 (Ala. 2008) and *Cook’s Pest Control, Inc. v. Rebar*, 2009 WL 418074 (Ala. Feb. 20, 2009), all four features of the contradictory writing—conspicuous, understandable, unambiguous and contractual—were either present or, at least, not seriously contested. Our supreme court has not definitively answered whether judgment as a matter of law is appropriate as to reasonable reliance when one (or more) of those four conditions is not present:

- What if the portion of the writing which contradicts the alleged oral

misrepresentation is not conspicuous or readily apparent?

- What if the plaintiff testifies that she actually read, but could not understand, the controlling contractual provision?
- What if there is ambiguity in the controlling contractual provision?
- What if the writing which allegedly contradicts the oral misrepresentation is outside the controlling contract—even if the writing is conspicuous, understandable and unambiguous?

If any of these conditions are not met, the question of reasonableness may be one for the fact-finder, even under the existing post-*Foremost* law.

1. What to do with the inconspicuous contradiction?

Looking over the post-*Foremost* cases, it is striking that virtually every post-*Foremost* case has involved a conspicuous written disclosure which flatly, and admittedly, contradicted the oral misrepresentation. This is particularly true for the “four horsemen” of universal life insurance cases: *Alfa Life Ins. Co. v. Green*, 881 So. 2d 987 (Ala. 2003); *Liberty National Life Ins. Co. v. Ingram*, 887 So. 2d 224 (Ala. 2004); *Baker v. Metropolitan Life Ins. Co.*, 907 So. 2d 419 (Ala. 2005); and *AmerUS Life Ins. Co. v. Smith*, 5 So. 2d 1200 (Ala. 2008). In *AmerUS* and the other universal life insurance cases, the writings plainly and clearly disclosed that the scheduled premiums might not be sufficient in future years, and that future premiums might need to be increased to maintain insurance coverages. The court has never, so far as my review has revealed, faced an argument that a written disclosure was not conspicuous, though arguably (or even admittedly) contradictory, and that its lack of obviousness in the contradiction between the writing and the oral misrepresentation should render the question of reasonableness one for the fact-finder.

Consider an example. Suppose that the document in issue is lengthy or complex. The oral misrepresentation pertains to a contract term appearing well into the document, but that the controlling contract term’s operation depends upon other interplay with other sections of the contract

CHILD SUPPORT CALCULATION SOFTWARE

For Alabama

Alabama Support Master™

Uses 2009 Guidelines
Prepares and prints forms
CS-41, CS-42, and CS-43

Includes Interest and Arrearage
Calculator

Since 1989

Professional Software
Corporation

POB 716 Mount Vernon, IN 47620
812-833-3781

mhawley@bamberger.com

www.SupportMasterSoftware.com

FREE DEMO

CONSTRUCTION & ENGINEERING EXPERTS

Forensic engineering and investigative
inspection work for Commercial buildings,
Residential, & Industrial facilities.

- Construction delay damages
- Construction defects
- Structural issues
- Foundations, settlement
- Stucco & EIFS
- Toxic Sheetrock & Drywall
- Electrical issues
- Plumbing & Piping Problems
- Air Conditioning Systems
- Fire & Explosion Assessments
- Roofing problems
- Flooding & Retention Ponds
- Engineering Standard of Care issues
- Radio & Television Towers

CONTACT: HAL K. CAIN, PRINCIPAL ENGINEER
CAIN AND ASSOCIATES ENGINEERS & CONSTRUCTORS, INC.
HALKCAIN@AOL.COM • WWW.HKCAIN.NET
251.473.7781 • 251.689.8975

(such as definitions), thus requiring the reader to cross-reference multiple times to ascertain the meaning of the controlling contract terms. Or, perhaps, the controlling contractual provision requires the reader to perform one or more mathematical calculations to determine the financial impact (in, for example, an annuity contract containing a formula for calculating an early termination charge). Even with a relatively sophisticated reader, deciphering the meaning of such a contract term might prove challenging, and actually calculating the financial impact from a formula might be impossible or, at the very least, might require considerable expertise beyond the average ken. In the end, the contract does not contain a clear and concise refutation of the oral misrepresentation, as has been the case in prior reasonable-reliance decisions.

There is some post-*Foremost* precedent suggesting that the question of reasonableness in such circumstances might be one of disputed fact. First, in *Ex parte Seabol*, (Ala. 2000), the supreme court established an exception to the application of *Foremost* for what might be called “complex transactions.” The plaintiff in *Seabol* was a real estate professional, claiming fraud in connection with the scope of a mortgage on property. Given the plaintiff’s expertise in real estate, one would have assumed a more stringent test for reasonableness, since the plaintiff unmistakably had possession of the mortgage documents, and since those documents spelled out clearly what property was encumbered, and what debts the mortgage secured. But the court, finding the transaction one in which the documents were “not so easily understood,” held that an exception to *Foremost* applied.

The court has never developed the contours of *Seabol*, except to discuss its facts and holding, without altering its scope, in two subsequent cases, *Potter v. First Real Estate Co.*, 844 So. 2d 540 (Ala. 2002), and *Gilmore v. M & B Realty Co., LLC*, 895 So. 2d 200 (Ala. 2004). But if (as in *Seabol*) a real estate professional can claim that a real estate transaction, with which he should be uniquely familiar, is sufficiently complex as to warrant a *Foremost* exception, such would suggest a broader scope of application.

One other case merits mention as possibly creating a “complex transaction” or other exception to the operation of

Foremost. In *Ex parte Alabama Farmers Cooperative, Inc.*, 911 So. 2d 696 (Ala. 2004), AFC hired PriceWaterhouse Coopers LLP (“PWC”) to perform an internal audit to assess AFC’s liability under certain long-term leases (which were presumably in AFC’s possession), which were entered into by a high-ranking AFC officer who had committed malfeasance. PWC issued an audit report opining that AFC had no obligations, even though PWC never reviewed the underlying leases. AFC relied on the report, though a review of the underlying leases (again, presumably in AFC’s possession) would have indicated otherwise. The court held that AFC could reasonably rely on the audit report itself, particularly since PWC was being hired to assess the underlying leases themselves.

Admittedly, both *Seabol* and *AFC* addressed statute of limitation questions, rather than substantive reasonable reliance questions. As discussed under question 3, the conflation of reasonable reliance principles and the discovery rule in fraud’s limitations period has created some confusion in reasonable reliance law. It is also noteworthy that in *AmerUS Life Ins. Co. v. Smith*, 5 So. 3d 1200, 1215 (Ala. 2008), the court implicitly rejected the plaintiff’s effort at making a “complex transaction” counterargument to the defendant’s unreasonable reliance position. However, the court in *AmerUS* specifically noted that the plaintiff’s evidence of complexity was insufficiently specific to create an issue of fact regarding reasonableness. Thus, for now, *Seabol* and *AFC* could support a “complex transaction” exception to *Foremost* in a manner not inconsistent with *AmerUS*, so long as the complexity infected the specific matter made the basis of the oral representation.

2. What if plaintiff actually tried to read the document, but did not understand the contradiction?

Post-*Foremost* decisions, almost without exception, have involved plaintiffs who admittedly did not read their documents. Indeed, the animating principle behind the re-adoption of “reasonable reliance” in *Foremost* was the court’s stated desire to jettison the automatic denial of summary judgment commanded under justifiable-reliance law, in situations where the plaintiffs never read clear

documents, and instead blindly trusted the oral representations to the contrary. Where plaintiffs “were fully capable of reading and understanding their documents but nonetheless made a deliberate decision to ignore written contract terms[,]” reliance on oral representations is inherently unreasonable. *Foremost*, 693 So. 2d at 421.

Thus, facing a plaintiff who admittedly did not read her documents, the supreme court in post-*Foremost* cases has looked for one of two additional facts, or factors, to determine the reliance issue. First, in many post-*Foremost* cases, the plaintiff has admitted both that she did not read and that, if she had read the documents, she would have understood the truth. In those cases, judgment as a matter of law has been uniformly granted (*ala* the universal life cases). Alternatively, if there is no record evidence from plaintiff that she would have understood if she had read the document (or sometimes, in addition to such evidence), the court has then examined the relative sophistication of the plaintiff, in order to determine whether the circumstantial evidence indicates that she would have understood the documents if she had read them.

However, the cases have not considered, or answered definitively, what happens if the plaintiff testifies that she actually tried to read the documents, but for some reason failed in subjectively understanding the contradiction between the written document and the oral misrepresentation. One case tangentially related to the point is *Gilmore v. M&B Realty Co., LLC*, 895 So. 2d 200 (Ala. 2004), in which plaintiffs claimed that they intended to buy the house they had been shown, but the closing documents showed they were buying a different house. The court held that the issue of reasonable reliance was one of fact, because the plaintiffs were first-time home buyers and therefore were not as familiar with transactional documents, even though the closing documents showed clearly that they were buying a different house than they were shown. Thus, plaintiffs’ status as first-time home buyers proved critical to their creating a fact issue as to their “subjective understanding” of the transaction. The circumstantial “markers” of sophistication, in other words, created a fact issue.

A fact dispute would probably exist if the plaintiff can demonstrate that she tried



However, the cases have not considered, or answered definitively, what happens if the plaintiff testifies that she actually tried to read the documents, but for some reason failed in subjectively understanding the contradiction between the written document and the oral misrepresentation.



to read or understand the documents, but for some reason failed in subjectively apprehending the contradiction between the writing and the oral representation. On the one hand, the plaintiff will have stated that she tried to read but failed to understand, and under such circumstances, the plaintiff has discharged her *Foremost* duty to read. On the other hand, there may be circumstantial indicia, or markers, that plaintiff could have understood the contradiction. Perhaps the plaintiff is college-educated, or has experience in business affairs—or perhaps the plaintiff understands the contradiction while sitting in a deposition, but for whatever reason did not understand the contradiction at the time she initially read the document. Regardless, the question of reasonableness in such circumstances would quite possibly be for the jury, in that the plaintiff’s subjective failure to understand the contradiction would be purely an issue of the plaintiff’s credibility, a uniquely factual determination.

Obviously, the development of an evidentiary record will prove critical to further development of reasonable reliance law in this area. As a general proposition, however, we can say that to allow for a jury question under these circumstances would not necessarily be inconsistent

with *Foremost*. Indeed, the court in *Foremost* specifically contemplated that the fact-finder would consider “the issue of reliance based on all of the circumstances surrounding a transaction, including the mental capacity, educational background, relative sophistication, and bargaining power of the parties.” *Foremost*, 693 So. 2d at 421. Mental capacity would, one assumes, encompass subjective understanding. Finally, recognizing a fact issue under these conditions would not undermine the policy, espoused in *Foremost*, that parties read their contracts, because in this hypothetical situation, the plaintiff would have read her contract. Thus, the plaintiff would have discharged her duty to read.

3. What if the writing is ambiguous?

Foremost and its progeny have dealt with unambiguous writings which unmistakably, or admittedly, contradict the alleged oral misrepresentation. No case of which I am aware has ever found a summary judgment issue based on the “contradictory document” rule of reasonable reliance, where the controlling document was ambiguous, or in any way unclear, on the particular point made the basis of the fraud claim.

Logic would say, of course, that a jury question is present if there is some question as to what the pertinent provisions of the controlling writing mean. However, there is some language in *AmerUS Life Ins. Co. v. Smith*, 5 So. 3d 1200 (Ala. 2008), which could be used by a fraud defendant to argue that even an ambiguous document triggers “inquiry notice,” and that if the plaintiff makes no further inquiry in the face of an ambiguous writing, the defendant could argue that it is still entitled to judgment as a matter of law. Such was not the issue in *AmerUS*, because the documents in *AmerUS* were admittedly unambiguous on the seminal question. Moreover, such a broad reading of “inquiry notice” would likely be a substantial departure from the first principles of *Foremost*.

The problem of how far “inquiry notice” goes is rooted in the intermingling of discovery-rule statute of limitations and substantive reasonable reliance principles, the genesis of which is in *Foremost* itself. Though we often forget it, it is significant that *Foremost* was

actually more a statute of limitations case than a reliance case. The *Foremost* plaintiffs, who sued more than two years after receiving their contract documents, testified that they did not read their documents, but admitted that if they had done so, they would have known the truth. Though the court returned to the “reasonable reliance” standard for proof of substantive fraud, the primary issue was whether the plaintiffs’ receipt of the documents, coupled with their admission that had they read the documents they would have understood the truth, triggered the running of the statute of limitations under the discovery rule. In other words, the issue was whether a reasonable person in the plaintiffs’ position should have discovered the fraud.

Four years after *Foremost*, in *Auto-Owners Ins. Co. v. Abston*, 822 So. 2d 1187, 1195 (Ala. 2001), the court accentuated this aspect of the *Foremost* holding, stating that “[u]nder *Foremost*, the limitations period begins to run when the plaintiff was privy to facts which would ‘provoke inquiry in the mind of a [person] of reasonable prudence and which, if followed up, would have led to the discovery of the fraud.’” The court quoted *Wilcutt v. Union Oil Co.*, 432 So. 2d 1217, 1219 (Ala. 1983), a pre-*Foremost* case, in support of this iteration of the statute-of-limitations standard. Thus, *Abston* explicitly and pointedly reintroduced to the post-*Foremost* world the concept of “inquiry notice” as being

sufficient to trigger the running of the statute of limitations.

AmerUS Life Ins. Co. v. Smith, 5 So. 2d 1200 (Ala. 2008), contains language, though arguably *dicta*, which could be read to extend the concept of “inquiry notice” beyond the statute-of-limitations world, and into the substantive proof of reasonable reliance. Like the other universal life cases, the plaintiff in *AmerUS* admitted that he did not read his documents. The documents, moreover, clearly contradicted the alleged oral statements. Though the court likely could have stopped its analysis right there, the court proceeded, stating that the receipt of documents contradicting the oral representation actually triggered a duty to inquire:

In light of the language of the documents surrounding the insureds’ purchase of the life-insurance policies at issue in this case and the conflict between [the agent’s] alleged misrepresentations and the documents presented to [plaintiff], it cannot be said that [plaintiff] reasonably relied on [the agent’s] representations. As this court stated in *Torres [v. State Farm Fire & Cas. Co.]*, 438 So. 2d 757 (Ala. 1983): “[T]he right of reliance comes with a concomitant duty on the part of the plaintiffs to exercise some measure of precaution to safeguard their interests.” 438 So. 2d at 759. The insureds here took no precautions to safeguard their interests. If nothing else, the language in the policies and

the cost-benefit statement should have provoked inquiry or a simple investigation of the facts by [plaintiff.]

Moreover, the testimony . . . does not resolve the issue whether, as a matter of law, a reasonable person, upon reading the entire policy and the cost-benefit statement, would be put on inquiry as to the consistency of those documents with the previous representations by [the agent]. Of course, if so, that person is then charged with knowledge of all of the information that the inquiry would have produced. We conclude that no reasonable person could read the policies and the cost-benefit statement and not be put on inquiry as to the existence of inconsistencies, thereby making reliance on [the agent’s] representations unreasonable as a matter of law.

AmerUS, 5 So. 3d at 1215-16 (citations omitted). Thus, under *AmerUS*, a plaintiff who receives an unambiguous document which flatly contradicts an oral representation (a) has a duty to read the document, and (b) upon apprehension of the inconsistency between the writing and the oral statement, has a duty to inquire further.

The court’s treatment of the “inquiry notice” concept has not, however, been entirely consistent. Within the past year, the court may have (unintentionally) revived a pre-*Foremost* iteration of statute of limitations principles in fraud, which, in turn, would eradicate “inquiry notice.” In *Jones v. Alfa Mut. Ins. Co.*, 1 So. 3d 23 (Ala. 2008), Alfa argued that the statute of limitations had expired on a bad-faith claim, and in support of that argument analogized to the fraud statute of limitations. The court’s treatment of that issue could be read to endorse an “actual knowledge,” pre-*Foremost* standard for triggering the limitations period:

Alfa notes that this court has previously held that “‘fraud is discoverable as a matter of law for purposes of the statute of limitations when one receives documents which would put one on notice that the fraud reasonably should be discovered.’” *Kelly v. Connecticut Mut. Life Ins. Co.*, 628 So. 2d 454, 458 (Ala. 1993) (quoting *Hickox v. Stover*, 551 So. 2d 259, 262 (Ala. 1989), overruled



For upcoming Cumberland CLE programs and online courses

Go to <http://cumberland.samford.edu/cle>

Samford University is an Equal Opportunity Educational Institution/Employer.

on other grounds, *Foremost Ins. Co. v. Parham*, 693 So. 2d 409 (Ala. 1997)). **The sentence immediately preceding the above-quoted sentence from *Kelly*, however, states: “The question of when a plaintiff should have discovered fraud should be taken away from the jury and decided as a matter of law only in cases where the plaintiff actually knew of facts that would have put a reasonable person on notice of fraud.”** 628 So. 2d at 458 (quoting *Hicks v. Globe Life & Acc. Ins. Co.*, 584 So. 2d 458, 463 (Ala. 1991), overruled on other grounds, *Foremost Ins. Co.*, *supra*); see also *Gilmore v. M & B Realty Co.*, 895 So. 2d 200, 210 (Ala. 2004) (“[t]he question of when a party discovered or should have discovered fraud is generally one for the jury”) (quoting *Ex parte Seabolt*, 782 So. 2d 212, 216 (Ala. 2000)).

Jones, 1 So. 3d at 31 (emphasis added). The bold-faced language was the language rejected in *Foremost*, language which obviated any inquiry requirement. While the court in *Jones* might have intended only to point out a case of perceived selective quotation on the part of the arguing litigant (Alfa), the court did not explicitly disclaim the accuracy of the substantive legal principle.

So where does all of this leave us? If a plaintiff relies on an oral representation and then is presented with an ambiguous, unclear or complex document, does “inquiry notice” compel the plaintiff to ask more questions? Or, on the other hand, is the duty to inquire triggered only where the plaintiff receives an oral representation, then is delivered a document which flatly, plainly and palpably contradicts the oral representation? Certainly, no Alabama case has held that a duty to inquire was triggered upon receipt of a document which was unclear or ambiguous on the subject matter of the oral representation. As a matter of policy, a rule which would require a plaintiff faced with an ambiguous document to inquire further, after receiving a clear oral representation, would actually encourage the drafting of deliberately ambiguous writings—hardly a desirable outcome. Moreover, on its facts, *AmerUS* supports only the proposition that the duty to inquire is triggered upon the receipt of an unambiguous document contradicting the

alleged oral misrepresentation. What to do with *Jones*, finally, is a “puzzlement” (as the King of Siam would say).

4. What if the contradictory writing is outside the contract?

Several post-*Foremost* cases have inconsistently applied *Foremost* principles to documents outside the contract. On the one hand, several of the universal life insurance cases, notably both *AmerUS* and *Baker v. Metropolitan Life Ins. Co.*, 907 So. 2d 419 (Ala. 2005), appear to involve a mixture of contractual documents and non-contractual disclosures or schedules, which separately and severally clearly contradicted the oral representations. However, in neither of these cases did the plaintiff argue that the non-contractual documents should not be considered on the reliance issue, because those documents were not contractual in nature, and therefore not binding on the parties.

Interestingly, however, a plaintiff has been barred from placing any reasonable reliance on non-contractual written representations, on the basis that only the underlying contracts could be reasonably relied upon. In *Alabama Elec. Coop., Inc. v. Bailey’s Construction Co., Inc.*, 950 So. 2d 280 (Ala. 2006), Bailey’s delivered an insurance certificate to AEC indicating that AEC was listed as an additional insured on Bailey’s insurance policies. The certificate, however, stated that it was issued for information purposes only and conferred no rights upon the certificate holder, and that the certificate did not amend, extend or alter the coverage under the policy. AEC did not obtain copies of the underlying policies. The court held that AEC could not reasonably rely upon the certificate, which was outside the policy contracts, when the underlying policies did not confer additional insured coverage.

This presents somewhat of a conundrum. One possible reading (a broad one) of the universal life cases is that, under the *Foremost* rule, the plaintiff has a duty to read documents outside the contract, and if those extra-contractual writings contradict the oral representations, there is no reasonable reliance. On the other hand, *AEC* holds that the plaintiff cannot reasonably rely upon documents outside

the contract, even those provided by the defendant, if those documents are in fact outside the contract. Thus, the inconsistency: a party cannot have a duty to read a document that, as a matter of law, the party cannot reasonably rely upon.

The analysis is even more burdened, moreover, if the controlling contract contains a merger or integration clause. If the contract is intended to be full and complete expressions of the parties’ agreement, then any writing outside the contract is parol evidence—in the same way that any oral representations (whether or not they are contradicted by the extra-contractual writing) are parol evidence. In that event, it would seem that the oral representation and the extra-contractual writing would be on even footing—both are parol evidence, and neither is dispositive as to the reasonable reliance question. The parol-evidence status of extra-contractual writings, in the end, may definitively relegate reliance questions to the fact-finder.

Conclusion

As its 13-year age and teenage status would suggest, reasonable reliance law is a bachelor of limited experience. To Mr. Bumble’s delight, the experience of additional cases and fact patterns will undoubtedly lead to a more robust, and more nuanced, maturity. ▲▼▲

Endnote

1. This article does not address, for example, the scope and (perhaps shifting) contours of the “special relationship” exception established in *Potter v. First Real Estate Co., Inc.*, 844 So. 2d 540 (Ala. 2002), as discussed at length in *AmerUS Life Ins. Co. v. Smith*, 5 So. 3d 1200 (Ala. 2008).

Wilson F. Green is a partner at Battle Fleenor Green Winn & Clemmer LLP in Tuscaloosa. He is a graduate of the University of Alabama School of Law and served as law clerk to the Hon. Robert B. Propst, United States District Court for the Northern District of Alabama. His practice has been primarily in the areas of complex business litigation and class actions, including antitrust. Green is a member of The Alabama Lawyer Board of Editors and a 2007 graduate of the Leadership Forum. He is an adjunct professor at the University of Alabama School of Law, where he teaches class actions, complex litigation, damages and arbitration.



ALAJ MID-WINTER CONFERENCE



January 28-30, 2010 • Ross Bridge, Birmingham • Program Chair: Courtney French

MEET YOUR FACULTY:

Controlling Client Expectations
MARK WOLFE

Really Getting EVERYTHING from a Deposition...Really!
TOM VESPER

The Difference in a Successful and Unsuccessful Mediation/Arbitration
RALPH COOK

Voir Dire: Get it Right from the Start
DAVID MARSH

You Can't Judge a Book by its cover: How to tell your client's story
LARRY MORRIS

Safeguarding your Practice from the Pitfalls of Tort Reform
Former Georgia Governor ROY BARNES

Maximizing the Value of Your Auto Cases
JAMIE HOLLAND

Ethics
ROBERT MCKENZIE

"Got Beer?" How Alcohol Providers Better Ask "Have you had too much?"
JOSH WRIGHT

Appellate Update - Year in Review: The Good, The Bad & The Ugly
RHONDA CHAMBERS

Workers Comp Case Law Updates
GINA COGGIN

Ways to Increase the Value of Your Cases by Using OSIs
LaBARRON BOONE

Threading Through the Red Tape of Medicare
CHARLY SCHELL & PETER WAYNE (FORGE)

*Submitted to State Bar for 10.25 CLE credits including 1 hour of ethics

Name _____ Bar # _____

Name For Badge _____

Firm _____

Address _____

City, State, Zip _____ Email _____

Tel # _____

Fax # _____

PAYMENT: must accompany registration

CHECK VISA MASTERCARD
 AMERICAN EXPRESS

Name on Card _____

Card # _____

Expiration Date _____

Signature _____

MAIL CHECK TO: ALAJ, P.O. Box 1187, Montgomery, AL 36101

FAX TO ALAJ with credit card number: (334) 262-1452

FOR QUESTIONS call (334) 262-4974

HOTEL RESERVATIONS:

Please call the Ross Bridge at (800) 593-6419

Group rates are \$161.00 single/double. Cut off date 01/11/10

If you require special accommodations relating to a disability contact the ALAJ office at (334) 262-4974

Seminar Tuition: Tuition includes seminar, a weblink to the seminar book one week before the seminar, coffee service, 2 drink tickets for Friday night cocktail reception, and "Wrap It Up" Saturday reception.

NOTE!! We are now providing the seminar book via weblink one week prior to the seminar. Print off the pages you want and bring them with you. CD of book provided at the seminar. **If you prefer a hardcopy of the book upon arrival at the seminar, please pay the addition amount in the middle column below.**

	Tuition & Weblinks to Materials	Tuition & Hard Copy of Book	After 01/11/10
ALAJ member	<input type="checkbox"/> \$420	<input type="checkbox"/> \$495	<input type="checkbox"/> Add \$25
Sustaining member	<input type="checkbox"/> \$210	<input type="checkbox"/> \$285	<input type="checkbox"/> Add \$25
Retired attorneys	<input type="checkbox"/> \$250	<input type="checkbox"/> \$325	<input type="checkbox"/> Add \$25
Non-member attorneys	<input type="checkbox"/> \$620	<input type="checkbox"/> \$695	<input type="checkbox"/> Add \$25
Legal Assistant/Paralegal	<input type="checkbox"/> \$75	<input type="checkbox"/> \$150	<input type="checkbox"/> Add \$25
Full time judge	<input type="checkbox"/> FREE	<input type="checkbox"/> \$75	<input type="checkbox"/> Add \$25
Law student	<input type="checkbox"/> \$25	<input type="checkbox"/> \$100	<input type="checkbox"/> Add \$25

Grand Total \$ _____

THE LEADER IN PROFESSIONAL DEVELOPMENT FOR THE LEGAL COMMUNITY

-Cancellation Policy: Written cancellation received by January 15 will be refunded less a \$50 administrative fee- SB



Twombly and Iqbal:

The Effect of the “Plausibility” Pleading Standard on Alabama Litigators

By J. Thomas Richie and Anna Manasco Dionne

Introduction

Two Rule 8s currently apply in courts in Alabama. On the face of things, they are indistinguishable. *Federal Rule of Civil Procedure 8* and *Alabama Rule of Civil Procedure 8* contain identical language defining pleading standards in a complaint: both require “a short and plain statement of the claim showing that the pleader is entitled to relief.” Compare ALA. R. CIV. P. 8(a) with FED. R. CIV. P. 8(a)(2). Don’t let the identical language fool you.

The United States Supreme Court recently decided two cases that fundamentally changed the vocabulary, and the reality, of notice pleading. These cases—*Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009)—impose a higher burden on plaintiffs’ pleadings, a burden of “plausibility” instead of mere “possibility.” As a result, defendants in federal court have enjoyed increased success in having claims dismissed before discovery begins.

This change has not yet spread to Alabama’s state courts. Despite the identical language and Alabama’s established preference for construing its rules of procedure in line with the federal rules, the court of civil appeals has twice declined to adopt the *Twombly* standard, waiting for the authoritative word from the Alabama Supreme Court. For now, the Alabama and federal rules are diverging.

This article first examines *Twombly* and *Iqbal* to determine exactly what notice-pleading standard a plaintiff in federal court must satisfy. Second, it highlights how this new federal standard differs from the Alabama pleading standard. Third, it explores two important areas of law where the divergent notice pleading standards are particularly important for practitioners. Finally, it evaluates the prospects of *Twombly* and *Iqbal* reaching Alabama state courts.

Twombly and Iqbal

Federal Rule of Civil Procedure 8 requires that a complaint contain “a short and plain statement of the claim showing that the

pleader is entitled to relief.” For more than 50 years, *Conley v. Gibson* established the authoritative construction of Rule 8. 355 U.S. 41, 45–46 (1957). In an opinion by Justice Black, the Court described as “accepted” the “rule that a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.” *Id.* Although *Conley*’s complaint that his union breached its statutory duty to represent all its members “failed to set forth specific facts to support its general allegations,” the Court reversed the dismissal of the complaint because the *Federal Rules* “do not require a claimant to set out in detail the facts upon which he bases his claim[.]” and require only that the plaintiff “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Id.* at 47. Courts interpreted *Conley* to suggest that a plaintiff’s claim must be dismissed only when his inability to prove any set of facts to support it is apparent from the face of the pleading; in effect, *Conley* established a “possibility” standard.

The Court revisited this rule in *Twombly*, holding that a complaint cannot survive a motion to dismiss unless it contains “enough facts to state a claim to relief that is *plausible* on its face.” 550 U.S. 544, 570 (emphasis added). The Court made clear that a claim that is merely “conceivable” is insufficient. In an opinion joined by seven justices, the Court reiterated that Rule 8 does not require that “a claimant set out *in detail* the facts upon which he bases his claim,” but nevertheless requires some specificity: “[it] still requires a showing, rather than a blanket assertion, of entitlement to relief.” *Id.* at 556 n.3. The Court stated that “a formulaic recitation of the elements of a cause of action will not do” and that “a legal conclusion couched as a factual obligation” is not entitled to a presumption of truth against a motion to dismiss. *Id.* at 555. Because the complaint of the consumer class that the telephone service providers illegally conspired to restrain trade did not state enough factual matter to establish an unlawful agreement, the Court ruled that the complaint must be dismissed.

Although *Twombly* made waves when it was decided, its significance was not immediately certain. For one, *Twombly* involved allegations of a conspiracy under the Sherman Act: the Court's decision could have been cabined to similarly-complex statutory schemes far removed from the daily practice of many lawyers. Moreover, the syntactic complexity of the *Twombly* opinion—it is almost impossible to find a quotation that articulates a precise pleading standard—made the interpretive task more difficult. How can *Twombly* change notice pleading if we cannot be sure exactly what *Twombly* means?

Ashcroft v. Iqbal, 129 S.Ct. 1373 (2009), put these questions to rest. In *Iqbal*, the Court stated that Rule 8 does not require “detailed factual allegations, but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* at 1373. “The plausibility standard is not akin to a probability requirement, but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* The Court clarified that its construction did not preclude “extravagantly fanciful” allegations by foreclosing “conclusory” ones. *Id.* at 1375. The Court articulated the plausibility standard this way: “A claim has facial plausibility when the plaintiff pleads *factual content* that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 1373 (emphasis added). *Iqbal* then goes one step further, allowing federal courts to consider alternative inferences that can be drawn from the factual allegations and determining the plausibility of the plaintiff's claims against the backdrop of these other inferences. *See id.* at 1375–76. Because *Iqbal*'s complaint stated a conclusory allegation that the former Attorney General was a “principal architect” of a policy decision to subject him to harsh conditions on the basis of discriminatory factors, and because *Iqbal* had not alleged facts that made his theory that the government harmed him plausible in light of the innocuous inferences that could be drawn from the same facts, the Court ruled that the complaint had to be dismissed. *See id.*

In short, *Iqbal* articulates a plausibility rule that applies in every case. It also made clear that federal courts can engage their “judicial experience and common sense” to weigh whether the non-conclusory facts alleged in the complaint establish a plausible claim for relief, given that more probable explanations may exist. *Id.* at 1375, 1376. (For good measure, the Eleventh Circuit's opinion in *Sinaltrainal v. Coca-Cola Co.*, 578 F.3d 1252 (11th Cir. 2009), lays out how the plausibility standard applies in the Eleventh Circuit, quoting heavily from *Twombly* and *Iqbal*). Although, as always, there remains room for the Court to clarify its decisions, this much is clear: the possibility rule is out. Only claims that contain factual allegations sufficient to make the claim for relief plausible will survive.

Alabama Supreme Court has not adopted Plausibility Standard

As of this writing, the Alabama Court of Civil Appeals has twice been asked to apply the plausibility standard. The court has twice declined. *See Crum v. Johns Manville, Inc.*—So. 2d—2009 WL 637260 at *2 n.2 (Ala. Civ. App. March 13, 2009); *Thomas v. Williams*—So. 2d—2008 WL 4952466 at *1 n.1 (Ala. Civ. App. Nov. 21, 2008). The court has stated that it lacks the authority to adopt the plausibility rule because “we are unable to overrule prior caselaw in order to alter [the] well-settled standard of review” that the Alabama Supreme Court has established. *Crum*, 2009 WL 637260 at *2 n.2.

The “well-settled” standard adopted by the Alabama Supreme Court comes from *Bowling v. Pow*, 301 So. 2d 55 (Ala. 1973), in which the court adopted the *Conley* “no set of facts” rule. So, as matters now stand, Alabama continues to apply the standard that the United States Supreme Court has rejected.

Alabama's standard is materially broader than the federal standard. Indeed, the Alabama Supreme Court has described the pleading standard it applies as “the overly broad non-requirement[] of Rule 8.” *Davis v. Marshall*, 404 So. 2d 642, 645 (Ala. 1981) (dismissing a claim that alleged that the plaintiff was harmed when the defendants committed an “indictable offense”). Not only does Alabama apply the “no-set-of-facts” test, but it also allows plaintiffs to plead legal conclusions. *See, e.g., Mitchell v. Mitchell*, 506 So. 2d 1009, 1010 (Ala. Civ. App. 1987) (allowing the pleading of legal conclusions so long as they put the defendant on notice of the claim). Pleading legal conclusions at a high level of abstraction is also acceptable. In *Knight v. Burns, Kirkley & Williams Constr. Co., Inc.*, 331 So. 2d 651 (Ala. 1976), the court held a complaint that alleged that the defendant negligently caused the plaintiff's death was sufficient to pass Rule 8 muster, even though the complaint did not allege what duty the defendant breached. *Id.* at 655.

The Alabama Supreme Court has observed that including too much detail in a complaint may make it easier for a court to dismiss the complaint. *See Fugazzoto v. Brookwood One*, 325 So. 2d 161, 162–63 (Ala. 1976). In *Fugazzoto*, the court affirmed the dismissal of a complaint where the plaintiff had not only alleged that the defendant's activity would cause a “substantial invasion” of the plaintiff's property rights, but also alleged exactly what form that substantial invasion would take. *See id.* Because the specific form of harm alleged—increased traffic—could not support a claim for relief, the court affirmed the dismissal. *Id.* The court's opinion leaves the distinct impression that the plaintiff might have prevailed had he limited his complaint to a general “the defendant will cause a substantial invasion of my property rights” allegation.

Therein lies the dilemma. Federal courts will dismiss a complaint that merely alleges “you harmed me,” but Alabama courts implicitly encourage such pleading. Not only do federal and state courts apply different standards, they encourage opposite strategies. State complaints should be short and should lean on legal conclusions to do the work of putting the defendant on notice without saying too much. Because federal complaints must pass plausibility muster, federal plaintiffs must make specific and numerous factual allegations to get to discovery.

Why the divergent pleading standards matter: two examples

Two recent developments in federal jurisdiction may make pleading standards an area of interest. These two areas are the federal preemption of state law relating to drugs and medical devices and the narrowing of removal jurisdiction brought about by *Lowery v. Alabama Power Co.*, 483 F.3d 1184 (11th Cir. 2007).

Preemption: Three recent decisions of the United States Supreme Court define when state law may apply to claims brought against drug or device manufacturers that are regulated by federal law. *See Wyeth v. Levine*, 129 S. Ct. 1187 (2009); *Altria Group, Inc. v. Good*, 129 S. Ct. 538 (2008); *Riegel v. Medtronic, Inc.*, 128 S. Ct. 999 (2008). These cases allow state-law claims to escape federal preemption in certain circumstances. As a result, defendants in drug

and device cases are less able to remove their cases to federal court based on the existence of a federal question.

The reduced ability to remove drug and device cases is doubly important in light of different pleading standards. Not only can plaintiffs take advantage of broader state liability rules and other advantages of litigating in state court, but state-court plaintiffs, at least for now, appear to enjoy a more lenient pleading standard. Plaintiffs enjoy both procedural and substantive advantages if they can tailor their claims to escape federal preemption.

Lowery: Although the preemption cases are important primarily to practitioners in the drug and device bar, the law of removal affects nearly all litigators. The Eleventh Circuit's opinion in *Lowery* has already received considerable attention for its impact on the removal of diversity cases. In *Lowery*, the court ruled that defendants must establish the jurisdictional amount in controversy at the time of removal based only on the pleadings and evidence obtained in the case at issue. 483 F.3d at 1208–11. Naturally, this makes it more difficult for defendants to carry their burden of proving that the amount in controversy exceeds the jurisdictional amount and avail themselves of the plausibility standard that exists in federal court. Together with *Twombly*, *Lowery* also portends a heightened scrutiny on the allegations in a plaintiff's complaint in federal court. In that sense, *Lowery* and *Twombly* indicate an emerging trend that federal courts will pay closer attention to the contents of a complaint, and that this scrutiny cuts both ways. Plaintiffs may have a more difficult task in drafting a complaint that passes plausibility muster, but defendants will have a more difficult time removing cases based on the face of the pleadings. Having abandoned code pleading in favor of notice pleading in the *Federal Rules of Civil Procedure*, it may be that the pendulum is beginning to swing back in the other direction.

What next?

Clearly, different pleading standards apply in Alabama, and the federal rule is meaningfully more stringent than the state rule. But will the divergence last? Our best guess is that, ultimately, Alabama will follow or adopt *Twombly* and *Iqbal*. The Alabama rules are modeled on the federal rules, and there is a longstanding tradition that “[f]ederal cases construing the *Federal Rules of Civil Procedure* are persuasive authority in construing the *Alabama Rules of Civil Procedure* because the *Alabama Rules of Civil Procedure* were patterned after the *Federal Rules of Civil Procedure*.” *White Sands Group, L.L.C. v. PRS II, LLC*, 998 So. 2d 1042, 1056 (Ala. 2008) (citation and quotation omitted); see also *Ex parte Scott*, 414 So. 2d 939, 941 (Ala. 1982) (“Due to the similarity of the *Alabama* and *Federal Rules of Civil Procedure*, a presumption arises that cases construing the *Federal Rules* are authority for construction of the *Alabama Rules*.”). The persuasive force of the federal interpretation is even stronger when the language of the Alabama rule mirrors the federal rule. See *White Sands*, 998 So. 2d at 1056. Here, as we noted at the outset, Federal Rule 8 and Alabama Rule 8 are identical.

Moreover, the *Conley v. Gibson* rule is, obviously, a rule Alabama adopted from the federal courts. When adopting that rule, the Alabama Supreme Court noted that the federal and state rules imposed identical requirements. See *Bowling*, 301 So. 2d at 186 (relying on “cases that have passed upon the point where governed by *Federal Rules of Civil Procedure*, the same in all material respects as to the mentioned requirement as the

Alabama Rules.”) (emphasis added). As matters now stand, the Alabama Supreme Court has already held that federal interpretations of Rule 8 are persuasive in interpreting Alabama's Rule 8. To reject *Twombly*, the court will have to devise an independent explanation that justifies keeping *Conley*.

Finally, the *Twombly* majority took pains to avoid overruling *Conley v. Gibson* outright. Rather, it stressed that the “no-set-of-facts” test should be “understood in light of the [*Conley*] opinion's preceding summary of the complaint's concrete allegations” and that “the phrase [“no set of facts”] is best forgotten as an incomplete, negative gloss on an accepted pleading standard: once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint.” *Twombly*, 550 U.S. at 562–63. Likewise, the Court cited numerous post-*Conley* decisions that suggested that the “no-set-of-facts” test should not be applied literally. See *id.* at 562. The Court's efforts to reconcile the plausibility standard with existing doctrine make it possible for state courts to adopt *Twombly* without rejecting *Conley* outright. In sum, the Alabama Supreme Court's prior statements about federal rules in general and Rule 8 in particular make it likely that the court will adopt the plausibility standard at some point, especially if it can do so without having to reject all of the existing jurisprudence.

It would be a significant development for the Alabama Supreme Court to decouple its interpretation of Rule 8 from the federal interpretation of the identical standard. There is, however, a possible explanation for the Court of Civil Appeals' reluctance to get ahead of the Supreme Court in adopting the plausibility standard. Justice Stevens, dissenting in *Twombly*, opined that the rule announced in that case would have the effect of “rewrit[ing] the Nation's civil procedure textbooks and call[ing] into doubt the pleading rules of most of its States.” *Twombly*, 550 U.S. at 579 (Stevens, J., dissenting). And it is hard to deny that *Twombly* and *Iqbal* have changed federal civil procedure in a significant way. Although there is no guarantee that Alabama Supreme Court will follow suit, our suspicion is that it will ultimately do so. ▲▼▲



J. Thomas Richie is an associate in the Birmingham office of Bradley Arant Boult Cummings LLP. Richie, who is a summa cum laude graduate of the Cumberland School of Law, clerked for the Honorable R. David Proctor of the United States District Court for the Northern District of Alabama. He devotes most of his practice to trial court litigation.



Anna Manasco Dionne is also an associate in the Birmingham office of Bradley Arant Boult Cummings LLP. Dionne, whose practice is primarily appellate, is a graduate of the Yale Law School and clerked for the Honorable William H. Pryor, Jr. of the Eleventh Circuit Court of Appeals. She holds a Ph.D. in politics from Oxford University.



Alabama State Bar • 415 Dexter Avenue • P.O. Box 671 • Montgomery, Alabama 36101
(334) 269-1515 • (334) 261-6310 FAX • Toll-free (800) 354-6154 (for ASB members only)

Alabama State Bar members have access to valuable educational programs and select discounts on products and services to benefit both your practice and achieve a work-life balance. You also can take advantage of invaluable contacts, resources, ideas and information that will enhance your professional success. As your partner in the practice of law, we encourage you to use these benefits.

Managing your law practice

- Casemaker Legal Research334-269-1515 Ext. 2242
- Business Planning & Technology Assistance.....334-269-1515
Ext. 2242
- Lawyer Referral Service334-269-1515 Ext. 2140
- Join a Substantive Law Section.....334-269-1515 Ext. 2162
- CoreVault (data backup).....1-866-609-4ASB
- Pennywise Office Products1-800-942-3311
- CLE Information334-269-1515 Ext. 2176
- Fee Dispute Resolution Program.....334-269-1515 Ext. 2176
- Schedule Meeting Room Space
(at the Bar Center)334-269-1515 Ext. 2162
- Legal Specialization334-269-1515 Ext. 2176
- Schedule Video Conferencing Room
(at the Bar Center).....334-269-1515 Ext. 2242
- FedEX1-800-636-2377
- Legal Directories Publishing Co. (Blue Book).....214-321-3238

Ethics & professional responsibility

- Ethics Opinions334-269-1515 Ext. 2184
 - Volunteer Lawyers Program.....334-269-1515 Ext. 2246
 - Lawyer Assistance Program334-269-1515 Ext. 2238
 - Point, click & find what you need334-269-1515 Ext. 2218
- www.alabar.org*

Insurance & retirement

- ISI (Insurance Specialists, Inc.) – major medical.....1-888-ISI-1959
- Blue Cross Blue Shield Long-Term Care1-866-435-6669
- GEICO – automotive, home, etc.1-800-368-2734
- ABA Retirement Funds.....1-877-947-2272

Online

- Membership Directory334-269-1515 Ext. 2124
- The Alabama Lawyer*.....334-269-1515 Ext. 2124
- Addendum*.....334-269-1515 Ext. 2124
- Public Information Pamphlets.....334-269-1515 Ext. 2126





J. ANTHONY MCLAIN

Third-Party Auditing of Lawyers' Billings—Confidentiality Problems and Interference with Representation

QUESTION:

The Office of General Counsel has received numerous opinion requests from attorneys who represent insureds pursuant to an employment agreement whereby the attorney is paid by the insured's insurance carrier. Some insurance companies have begun to submit to the attorney billing guidelines and litigation management guidebooks which place certain restrictions on discovery, the use of experts and other third-party vendors. The billing guidelines also restrict the lawyers who will be allowed to work on the files and require pre-approval of time spent on research, travel and the taking and summarization of depositions. Some insurance companies also require the attorneys they employ to submit their bills to a third-party billing review company for their review and approval. The bills obviously contain descriptions of work done on behalf of the insureds. In most instances, the insureds have not been consulted and have not approved the use of the billing guidelines and litigation management guidebook or the billing review process. The inquiry presented is whether there is any ethical impropriety in following these procedures which some insurance companies are attempting to impose.

ANSWER:

It is the opinion of the Disciplinary Commission of the Alabama State Bar that a lawyer should not permit an insurance company, which pays the lawyer to render legal services to its insured, to interfere with the

OPINIONS OF THE GENERAL COUNSEL Continued from page 79

lawyer's independence of professional judgment in rendering such legal services, through the acceptance of litigation management guidelines which have that effect. It is further the opinion of the commission that a lawyer should not permit the disclosure of information relating to the representation to a third party, such as a billing auditor, if there is a possibility that waiver of confidentiality, the attorney-client privilege or the work-product privilege would occur. The Disciplinary Commission expresses no opinion as to whether an attorney may ethically seek the consent of the insured to disclosure since this turns on the legal question of whether such disclosure results in waiver of client confidentiality. However, the commission cautions attorneys to err on the side of non-disclosure if, in the exercise of the attorney's best professional judgment, there is a reasonable possibility that waiver would result. In other words, if an attorney has any reasonable basis to believe that disclosure could result in waiver of client confidentiality, then the attorney should decline to make such disclosure.

DISCUSSION:

The Disciplinary Commission of the Alabama State Bar has addressed the conflict of interest issues raised by dual representation of the insurer and the insured in several earlier opinions. In one of those, RO-87-146, the commission concluded as follows:

"Although you were retained to represent the insured by the insurance company and are paid by the company, your fiduciary duty of loyalty to the insured is the same as if he had directly engaged your services himself. See, RO-84-122; *Nationwide Mutual Insurance Company v. Smith*, 280 Ala. 343, 194 So.2d 505 (1966) and *Outboard Marine Corporation v. Liberty Mutual Insurance Company*, 536 F. 2d 730, 7th Cir. (1976). Since the interests of the two clients, the insurance company and the insured, do not fully coincide, the attorney's duty is first and primarily to the insured."

Similar conclusions were reached in RO-90-99 and RO-81-533. Additionally, the Alabama Supreme Court discussed the insurer-insured relationship in *Mitchum v. Hudgens*, 533 So.2d 194 (Ala. 1988) and confirmed the Disciplinary Commission's analysis of that relationship, viz:

"It must be emphasized that the relationship between the insured and attorney is that of attorney and client. That relationship is the same as if the

attorney were hired and paid directly by the insured and therefore it imposes upon the attorney the same professional responsibilities that would exist had the attorney been personally retained by the insured. These responsibilities include ethical and fiduciary obligations as well as maintaining the appropriate standard of care in defending the action against the insured." 533 So.2d at 199.

See also, Hazard and Hodes, *The Law of Lawyering*, 2nd Ed. §§ 1.7: 303-304. These authorities conclusively establish the proposition that the insured is the attorney's primary client and it is to the insured that the attorney owes his first duty of loyalty and confidentiality.

Effective January 1, 1991, the Alabama Supreme Court promulgated the *Rules of Professional Conduct* of the Alabama State Bar. Rule 1.8(f) of the *Rules of Professional Conduct* provides as follows:

"Rule 1.8 Conflict of Interest: Prohibited Transactions

- (f) A lawyer shall not accept compensation for representing a client from one other than the client unless:
- (1) the client consents after consultation or the lawyer is appointed pursuant to an insurance contract;
 - (2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and
 - (3) information relating to representation of a client is protected as required by Rule 1.6."

A similar and related prohibition is found in Rule 5.4(c) of the *Rules of Professional Conduct* which provides as follows:

"Rule 5.4 Professional Independence of a Lawyer

- (c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services."

The Disciplinary Commission has examined a *Litigation Management Guidebook* which the commission understands to be one example among many of the procedures which some insurance companies have requested attorneys to follow in representing insureds. This guidebook contains various provisions and requirements which are of concern to the commission.

The guidebook requires a "claims professional," who, in most instances, is a non-lawyer insurance adjuster, to "manage" all litigation. An excerpt from the guidebook provides as follows:

"Accountability for the lawsuit rests with the defense team. This team is composed of the claims professional and the defense attorney. The claims professional is charged with fulfilling all the responsibilities enumerated below and is the manager of the litigation."

Other responsibilities of the claims professional include "evaluation of liability, evaluation of damages, recommendation of discovery and settlement/disposition." The guidebook requires the claims professional and the defense attorney to jointly develop an "Initial Case Analysis" and "Integrated Defense Plan" which are "designed for the claims professional and defense attorney to reach agreement on the case strategy, investigation and disposition plan." Furthermore, the attorney "must secure the consent of the claims professional before more than one attorney may be used at depositions, trials, conferences, or motions." The claims professional must approve "[e]ngaging experts (medical and otherwise), preparation of charts and diagrams, use of detectives, motion pictures and other extraordinary preparation" The *Litigation Management Guidebook* also requires that all research, including computer time, over three hours be pre-approved by the insurance company and restricts deposition preparation by providing that the "person attending the deposition should not spend more time preparing for the deposition than the deposition lasts."

It is the opinion of the Disciplinary Commission of the Alabama State Bar that many of the requirements of the *Litigation Management Guidebook* such as described above could cause an "interference with the lawyer's independence of professional judgment or with the client-lawyer relationship" in violation of Rule 1.8(1)(2) and also possibly constitute an attempt "to direct or regulate the lawyer's professional judgment" in violation of Rule 5.4(c). The commission is of the opinion that foremost among an attorney's ethical obligations is the duty to exercise his or her independent professional judgment on behalf of a client and nothing should be permitted to interfere with or restrict the attorney in fulfilling this obligation.

An attorney should not allow litigation guidelines, or any other requirement or restriction imposed by the insurer, to impair or influence the independent and unfettered exercise of the attorney's best professional judgment in his or her representation of the insured.

The commission has also examined the insurance company's "Billing Program" pursuant to which attorneys are required by the insurance company to submit

their bills for representation of the insureds to a third-party auditor for review and approval. Not only are the bills themselves to be submitted to the auditor, but all invoices must be accompanied by the most recent Initial Case Analysis and Integrated Defense Plan which contains the defense attorney's strategy, investigation and disposition plans. Each activity for which the attorney bills "must be described adequately so that a person unfamiliar with the case may determine what activity is being performed."

It is the opinion of the Disciplinary Commission that disclosure of billing information to a third-party billing review company as required by the billing program of the insurance company may constitute a breach of client confidentiality in violation of rules 1.6 and 1.8(1)(3) and, if such circumstances exist, such information should not be disclosed without the express consent of the insured.

However, the commission also has concerns that submission of an attorney's bill for representation of the insured to a third party for review and approval not only may constitute a breach of client confidentiality, but may also result in a waiver of the insured's right to confidentiality, as well as a waiver of the attorney-client or work-product privileges. While it is not within the purview of an ethics opinion to address the legal issues of whether and under what circumstances waiver may result, the fact that waiver is a possibility is a matter of significant ethical concern. A recent opinion of the United States First Circuit Court of Appeals, *U.S. v. Massachusetts Institute of Technology*, 129 F.3d 681 (1st Cir. 1997), held that the IRS could obtain billing information from MIT's attorneys, which otherwise would be protected under the attorney-client privilege and as work product, because MIT had previously provided this same information to Defense Department auditors monitoring MIT's defense contracts. The Court held that the disclosure of these documents to the audit agency forfeited any work-product protection and waived the attorney-client privilege. MIT argued that disclosure to the



Physician Experts!

We have thousands of practicing, board certified physician expert witnesses in all medical specialties.

- Testimony
- Opinion Letters
- Review for merit

Flat rate referrals; flat rate reviews
Your satisfaction GUARANTEED
Med-mal EXPERTS, Inc. www.medmalEXPERTS.com

888-521-3601

OPINIONS OF THE GENERAL COUNSEL Continued from page 81

audit agency should be regarded as akin to disclosure to those with a common interest or those who, though separate parties, are similarly aligned in a case or consultation, e.g., investigators, experts, codefendants, insurer and insured, patentee and licensee. The Court rejected this argument holding that an outside auditor was not within the "magic circle" of "others" with whom information may be shared without loss of the privilege.

"Decisions do tend to mark out, although not with perfect consistency, a small circle of 'others' with whom information may be shared without loss of the privilege (e.g., secretaries, interpreters, counsel for a cooperating codefendant, a parent present when a child consults a lawyer).

"Although the decisions often describe such situations as one in which the client 'intended' the disclosure to remain confidential, the underlying concern is functional: that the lawyer be able to consult with others needed in the representation and that the client be allowed to bring closely related persons who are appropriate, even if not vital, to a consultation. An intent to maintain confidentiality is ordinarily necessary to continue protection, but it is not sufficient.

"On the contrary, where the client chooses to share communications outside this magic circle, the courts have usually refused to extend the privilege." 119 F.3d at 684.

As indicated above, the question of whether disclosure of billing information to a third-party auditor constitutes a waiver of confidentiality or work product is essentially a legal, as opposed to ethical, issue which the commission has no jurisdiction to decide. The com-

mission is also aware that this may be a developing area of the law which could be affected, or even materially altered, by future decisions. However, while the commission recognizes that the MIT opinion may not be the definitive judicial determination on this issue, the possibility that other courts could follow the 1st Circuit makes it incumbent on every conscientious attorney to err on the side of caution with regard to such disclosures. If disclosure to a third-party auditor waives confidentiality, the attorney-client privilege or work-product protection, then such disclosure is clearly to the detriment of the insured to whom the defense attorney owes his first and foremost duty of loyalty. Attorneys who represent the insured pursuant to an employment contract with the insurer should err on the side of non-disclosure when there is any question as to whether disclosure of confidential information to a third party could result in waiver of the client's right to confidentiality or privilege.

Furthermore, while a client may ordinarily consent to the disclosure of confidential information, the commission questions whether an attorney may ethically seek the client's consent if disclosure may result in a waiver of the client's right to confidentiality, the attorney-client privilege or the work-product privilege. This concern was specifically addressed by the State Bar of North Carolina in Proposed Ethics Opinion 10. The opinion points out that "the insured will not generally benefit from the release of any confidential information." To the contrary, release of such information could work to the detriment of the insured.

"The release of such information to a third party may constitute a waiver of the insured's attorney-client or work product privileges. Therefore, in general, by consenting, the insured agrees to release confidential information that could possibly (even if remotely) be prejudicial to her or invade her privacy without any returned benefit."

The North Carolina opinion discusses the comment to Rule 1.7(b) which states that the test of whether an attorney should ask the client to consent is "whether a disinterested lawyer would conclude that the client should not agree." The opinion concludes as follows:

"When the insured could be prejudiced by agreeing and gains nothing, a disinterested lawyer would not conclude that the insured should agree in the absence of some special circumstance. Therefore, the lawyer must reasonably conclude that there is some benefit to the insured to outweigh any reasonable expectation of prejudice, or that the insured cannot be preju-



CHAMPION CONSULTING
1383 Twins Place, Prattville, AL 36067
334-430-4009

Traffic Crash Analysis
www.TrafficCrashAnalysis.com

Commercial Vehicle Collision Reconstruction and Analysis Speed Calculations Crash Analysis Lamp Examinations Vehicle Forensics Photography Collision Reenactment Forensic Mapping and Site Analysis Computer Aided Drafting and Scale Diagramming	Time-Distance Analysis Pedestrian Accident Reconstruction and Analysis Motorcycle Collision Reconstruction and Analysis Human Factor Analysis Roadway Friction Testing High and Low Speed Collisions Vehicle Examination and Inspection Nighttime Photography
--	--

enced by a release of the confidential information, before the lawyer may seek the informed consent of the insured after adequate consultation.”

In reaching the above-stated conclusions, the Disciplinary Commission has examined and considered, in addition to opinion of the North Carolina Bar referenced above, opinions issued by, or on behalf of, the bar associations of Florida, Indiana, Kentucky, Louisiana, Missouri, Montana, North Carolina, Pennsylvania, South Carolina, Utah, Washington, and the District of Columbia. All of these opinions appear to be consistent with the conclusions and concerns expressed herein. Only Massachusetts and Nebraska have released opinions which, in part, may be inconsistent with this opinion, and it appears that the opinions from these two states are not official or formal opinions of those states’ bar associations.

In summary, and based upon the foregoing, it is the opinion of the Disciplinary Commission of the Alabama State Bar that a lawyer should not permit an insurance company, which pays the lawyer to render legal services

to its insured, to interfere with the lawyer’s independence of professional judgment in rendering such legal services, through the acceptance of litigation management guidelines which have that effect. It is further the opinion of the commission that a lawyer should not permit the disclosure of information relating to the representation to a third party, such as a billing auditor, if there is a possibility that waiver of confidentiality, the attorney-client privilege or the work-product privilege would occur.

The Disciplinary Commission expresses no opinion as to whether an attorney may ethically seek the consent of the insured to disclosure since this turns on the legal question of whether such disclosure results in waiver of client confidentiality. However, the commission cautions attorneys to err on the side of non-disclosure if, in the exercise of the attorney’s best professional judgment, there is a reasonable possibility that waiver would result. In other words, if an attorney has any reasonable basis to believe that disclosure could result in waiver of client confidentiality, then the attorney should decline to make such disclosure.

[RO-98-02]



ANNUAL MEETING CLE NOW AVAILABLE ON FLASHDRIVE!

\$15

CLE Program Materials from the 2009 Alabama State Bar Annual Meeting are available on a Flashdrive. It’s convenient, portable and worth every cent!

PLUS! You’ll get the Alabama Rules of Professional Responsibility and other information from many of the bar’s programs, sections and services.

How do I order a Flashdrive?

Simply remit a check or money order made payable to the Alabama State Bar for \$15 and forward it with your name and mailing address either clearly marked on the check or money order, or by filling in the following information:

**Order as many Flashdrives as you would
like for only \$15 each!**

Name: _____

Address: _____

For informational purposes only.
No CLE credit will be granted.

MAIL TO:
Alabama State Bar, Programs Department, Post Office Box 671, Montgomery, AL 36101

REGISTER EARLY AND SAVE

ABA TECHSHOW[®] 2 0 1 0

CONFERENCE AND EXPO • MARCH 25-27, 2010

Practical Technologies for Transforming Your Practice



Got
questions?
Get
answers!

Early Bird Ends February 19!

Conference: March 25-27, 2010

Expo: March 25-26, 2010

Hilton Chicago, Chicago, IL

www.techshow.com

PRESENTED BY THE



LAW PRACTICE MANAGEMENT SECTION

MARKETING • MANAGEMENT • TECHNOLOGY • FINANCE

Use the Event Promoter Discount Code, **EP1002**, to save \$150 on registration!



ROBERT L. MCCURLEY, JR.

For more information about the Institute, contact Bob McCurley at (205) 348-7411 or visit www.ali.state.al.us.

The 2010 Legislature Begins

On Tuesday, January 12, 2010, the Alabama legislative term began and continues for 105 calendar days with its last day no later than Monday, April 26, 2010.

This is a big election year for Alabama. The governor, Lt. governor, supreme court justices, all members of the house and senate, sheriffs, district attorneys, and all other constitutional offices will be elected. The last day for qualifying will be April 2, 2009, with the primary election day being Tuesday, June 1, 2009. The primary run-off will be July 13.

The public often thinks that legislators are predominately lawyers, while, in fact, fulltime legislators have now become the largest occupational group (at 16.4 percent of the group) in the state legislature. Previously, attorneys were the largest occupational group but the number of lawyers in state legislatures has decreased substantially nationwide over the last three decades, from about 25 percent in the 1970s to only 15 percent today. This is up from 2.7 percent in the '70s; however, fulltime legislators are still relatively low in Alabama at 5 percent. The third largest group of legislators is retired persons, making up about 12 percent, both nationally and in Alabama.

In Alabama, the biggest block of people is those who are business owners or business employees, making up 26.5 percent of the legislature. Educators, either in college or K-12, comprise 14.3 percent. Other facts about legislators are as follows, showing the first number being Alabama and the parentheses being the national statistic. Ethnically, 77 percent (88 percent) of legislators are Caucasian, with 23 percent (10 percent) African-American. Gender ratio is men 88 percent (78 percent) and female 12 percent (88 percent). With respect to age, the distribution of those 65-plus years old is 36 percent (23 percent), 50 to 64 years 40 percent (49 percent), 35 to 49 years 22 percent (25 percent), and under 34 years 2 percent (3 percent), with the overall average age of a state legislator in the United States being 56 years old.

LEGISLATIVE WRAP-UP

Continued from page 85

For the past two decades, the number of Alabama African-American legislators has remained constant with 23 percent of the senate seats and 26 percent of the house seats being filled with African-Americans. No other state has a greater percentage of minority representation in the senate as Alabama (only Mississippi exceeds Alabama with minority legislators in their house of representatives). This is especially significant nationwide where only 8 percent of state senators and 9 percent of state house members are African-Americans.

There is a higher percentage of lawyers in the southeast who are members of the legislature than nationally: Alabama, 17.1 percent; Florida, 24.1 percent; Georgia, 17.8 percent; Louisiana, 26.4 percent; Kentucky, 21.3 percent; North Carolina, 19.4 percent; South Carolina 23.8 percent; and Virginia, 30 percent.

In the Alabama senate, there are 21 Democrats and 14 Republicans, while in the house of representatives there are 60 Democrats, 44 Republicans and one vacancy. In the surrounding states, both Tennessee and Mississippi legislatures are Democratic while Georgia and Florida are controlled by the Republicans. The Republicans control both houses of the South Carolina legislature, while both houses of the North Carolina legislature are controlled by Democrats. All of these are up for election in 2010.

The previous information was compiled by the National Conference of State Legislatures and may be found on their Web site, www.NCSL.org.

With the elections now eminent, candidates cannot solicit or receive contributions beginning the first day of the legislature—January 12, 2010 (Section 17-5-7(b)(2)). Republican and Democratic parties will end state qualifying on April 2, 2010.

Alabama has no limitation on the number of terms a person may serve in the legislature. Sixteen states do have such a limit and six more, at one time, had term limits that have since been repealed. The dean of the senate, Senator Bobby Denton, first elected in 1978, will be retiring, while the dean of the house, Alvin Holmes, was first elected in 1974 and is again seeking reelection. Approximately half of the members of the house have been legislators for less than ten years, while approximately one-third of the senate has served for less than ten years.

Nationally, the pay of state legislators varies greatly from a low of \$100 a year in New Hampshire to a high of \$116,000 in California. Alabama is in the middle with compensation of approximately \$47,000. This includes expenses since their legislative salary of \$10 a day was set in the 1901 Constitution.



Two EXPERTLY FITTED Suits \$865

Two tropical-weight wool suits from Graham & Gunn. Made in the USA with outstanding quality and ideal for year round wear. Choose from seven patterns of solids and stripes. Save \$125 and ask about our 90-day no interest account.

Nothing compares to the look and feel of quality clothing and nothing compares to the style and affordability of the Locker Room's Suit Package.

THE LOCKER ROOM
TLRCLOTHIERS.COM

1717 CARTER HILL ROAD MON-SAT 9AM-6PM 334.262.1788

THE SUIT FITS
Wear it. Wear both.

Law Institute legislative presence

The Law Institute has proposed for the 2010 legislature the following acts:

Alabama Trademark Act Amendments
Adult Guardianship Jurisdiction Act
Child Abduction Protective Proceedings Act
Residential Mortgage Satisfaction Act

Summaries of these acts can be found in the September and November 2009 editions of *The Alabama Lawyer*. Copies of these acts and the commentary can be found on the Alabama Law Institute's Web site at www.ali.state.al.us

Assisting in the legislature this year are the following lawyers who serve as counsel to the house of representative's committees:

Bill Messer, Montgomery
Samuel A. Rumore, Jr., Birmingham
Al Vance, Birmingham
Karen Mastin-Laneaux, Montgomery
Charlanna W. Spencer, Montgomery

Trina S. Williams, Montgomery
Sandra Lewis, Montgomery
Scott T. McArdle, Montgomery
Charles Prince, II, Birmingham
Bill Espy, Montgomery
Fred Gray, Sr., Tuskegee
William B. Sellers, Montgomery
Bob McCurley, Tuscaloosa
LaVeeda M. Battle, Birmingham
Brandi C. Williams, Birmingham

Also serving as counsel to the senate are the following lawyers:

Bill Messer, Montgomery
Teresa Norman, Montgomery
Misha Mullins Whitman, Montgomery
LaVeeda Battle, Birmingham
Pat Rumore, Birmingham
Scott T. McArdle, Montgomery

The institute is also providing 16 interns to the house and senate during the session. These students must be at least juniors in college and will provide constituent services and legislative assistance to members of the legislature. ▲▼▲



Who you
Trust
matters

COREVAULT™
Secure Online Backup & Recovery

You won't regret backing up your data off-site with CoreVault.™

CoreVault will make sure your critical data is secure, encrypted and automatically backed up off-site every day to its two private data centers.

Member Benefit - Alabama State Bar

Special pricing as low as \$19.95/mo.

866-981-5945 | corevault.com/asb

EXPERIENCE SOMETHING NEW.



The 2010 Alabama State Bar Annual Meeting

JULY 14-17, 2010

Baytowne Wharf,
Sandestin Beach and Golf Resort

Early highlights include:

- Family night pizza party and movie on the Grand Lawn
- Island theme party (Thursday)
- Children's activities:
 - Build-a-Bear Workshop
 - Learn to sail class
 - Pottery painting
 - Arcade games
 - Kidzone day camp
 - Children's evening out
 - Caricatures by Deano
- Spouse's program /optional activities:
 - Fashion Show
 - Wine Tasting (hosted by the Carneros Della Notte , Napa Valley)
 - Lunch and sightseeing cruise aboard the Solaris
- Grand Prize Giveaway – 4 days/3 nights in Las Vegas, baby!
- Registrants will have a variety of affordable luxury accommodations from which to choose (studio, 1-2-3 bedroom suites, villas, high rise condos)




ALABAMA
STATE BAR

 **Sandestin**
Golf and Beach Resort
www.sandestin.com

Reinstatement

- On September 2, 2009, the Supreme Court of Alabama accepted the order entered on August 19, 2009, by Panel I of the Disciplinary Board of the Alabama State Bar reinstating **Virginia Dewella Emfinger (Hicks)** to the practice of law, with conditions. Emfinger was suspended for a period of one year, effective April 7, 2008. [Rule 28, Pet. No. 09-1605]

Disbarments

- Huntsville attorney **James Bant Atwood, Jr.** was disbarred from the practice of law in Alabama, effective October 9, 2009, by order of the Supreme Court of Alabama. The supreme court entered its order based upon the decision of the Disciplinary Board of the Alabama State Bar accepting Atwood's consent to disbarment. Atwood admitted that he assisted a disbarred attorney in the unauthorized practice of law. Atwood also admitted that he knowingly made false statements of material fact to the bar during its investigation. [Rule 23(a), Pet. No. 09-2216; ASB No. 09-1157]
- Albertville attorney **Lawton Dale Fuller** was disbarred from the practice of law in Alabama, effective July 9, 2009, by order of the Supreme Court of Alabama. The supreme court entered its order based upon the decision of the Disciplinary Board of the Alabama State Bar accepting Fuller's consent to disbarment. Fuller admitted to improperly converting client funds held in his trust account. [Rule 23(a), Pet. No. 09-1814; Rule 20(a), Pet. No. 09-1777(A); ASB No. 09-1778(A)]
- Mobile attorney **Joseph Gullatte Hunter, III** was disbarred from the practice of law in Alabama, effective September 3, 2009, by order of the Alabama Supreme Court. The supreme court entered its order based upon the decision of the Disciplinary Board of the Alabama State Bar accepting Hunter's surrender of his license and consent to disbarment, which was based upon his acknowledgement that there were currently pending investigations into his ethical conduct as a lawyer that con-

DISCIPLINARY NOTICES

Continued from page 89

cerned alleged violations of rules 1.3, 1.4(a), 1.4(b), 1.15, and 8.4(a), (b), (c), (d), and (g), *Ala. R. Prof. C.*, and, if proven, would likely result in serious discipline by the bar, to include disbarment. [Rule 23, Pet. No. 09-2098 *et al*]

- Montgomery attorney **Gary L. Stephens** was disbarred from the practice of law in Alabama by order of the Supreme Court of Alabama, effective September 1, 2008, the date of Stephens's previously-ordered suspension. The supreme court's order was based upon the decision of the Disciplinary Board of the Alabama State Bar accepting Stephens's consent to disbarment. Stephens was suspended September 1, 2008 in another matter and admitted that he engaged in the practice of law after he was suspended. [Rule 23(a), Pet. No. 09-2180; ASB nos. 08-1254(A) and 09-2175(A)]

Suspensions

- Evergreen attorney **John Gordon Brock** was suspended from the practice of law in Alabama by order of the Alabama Supreme Court for a period of six months, effective October 15, 2009. The supreme court entered its order based upon the decision of the Disciplinary Commission of the Alabama State Bar accepting Brock's conditional guilty plea wherein he pled guilty to a violation of Rule 8.4(b), *Ala. R. Prof. C.* Brock was found guilty of perjury in the third degree in the Circuit Court of Conecuh County on August 13, 2009. [Rule 22(a), Pet. No. 09-2137; ASB No. 08-192(A)]
- On July 23, 2009, Panel I of the Disciplinary Board of the Alabama State Bar entered an order accepting the conditional guilty plea of Florence attorney **Basil Timothy Case** to violations of Rule 1.4(a), *Alabama Rules of Professional Conduct*, in the below-referenced complaints. All of these matters involved a general lack of communication by Case with his clients. Case was suspended for a period of 180 days, which suspension will be held in abeyance. He was

placed on probation for a period of two years, effective July 23, 2009. [ASB nos. 04-134(A), 04-189(A), 04-227(A), 04-228(A), 04-229(A), 04-258(A), 04-266(A), 04-267(A), 04-268(A), 04-270(A), 04-284(A), 04-286(A), 04-316(A), 05-05(A), and 06-134(A)]

- Phenix City attorney **Cecil Kerry Curtis** was suspended from the practice of law in Alabama by order of the Disciplinary Commission of the Alabama State Bar for 91 days. The Disciplinary Commission ordered that said suspension be held in abeyance and Curtis be placed on probation for a period of two years pursuant to Rule 8(h), *Ala. R. Disc. P.* The Disciplinary Commission accepted Curtis's conditional guilty plea wherein he pled guilty to violations of rules 1.3, 1.4(a), 1.4(b), 3.2, 8.4(a), 8.4(d), and 8.4(g), *Ala. R. Prof. C.* Curtis failed to properly represent his clients before the United States Bankruptcy Court. [ASB No. 09-1051(A)]
- Mobile attorney **Joseph Gullatte Hunter, III** was interimly suspended from the practice of law Alabama pursuant to rules 8(c) and 20(a), *Ala. R. Disc. P.* by order of the Disciplinary Commission of the Alabama State Bar, effective June 25, 2009. The Disciplinary Commission's order was based on a petition filed by the Office of General Counsel evidencing that probable cause exists that Hunter has misappropriated and mismanaged client trust funds. [Rule 20(a), Pet. No. 09-1845]
- Birmingham attorney **Temo Lopez** was suspended from the practice of law in Alabama for 91 days, effective September 11, 2009. The 91-day suspension was deferred pending a two-year period of probation. Lopez admitted that he failed to respond to requests for information from a disciplinary authority during the course of an investigation. Upon successful completion of probation, Lopez is to receive a private reprimand for a violation of Rule 8.1(b), *Ala. R. Prof. C.*
As part of the plea agreement, ASB No. 07-82(A) and the Rule 20(a) [summary suspension] files are to be dismissed. [Rule 20(a), Pet. No. 09-1150; ASB nos. 07-82(A) and 09-1053(A)]

- Prattville attorney **Keith Anderson Nelms** was suspended from the practice of law in Alabama for three years by order of the Supreme Court of Alabama, effective July 9, 2009. The Supreme Court of Alabama based its order on Nelms's guilty plea for violations of rules 1.5(a), 1.15(a) and (g), 5.4(a), 7.1(a), 7.2(c), and 8.4(c), *Alabama Rules of Professional Conduct*. Nelms owns and operates Allegro Law, LLC and held out himself and Allegro Law, LLC as providing legal services in the field of debt management and debt settlement. Nelms undertook to represent more than 15,000 clients from across the United States despite the fact that he was only licensed to practice law in Alabama.

Nelms collected fees for debt settlement services from clients prior to the performance of any services on their behalf and prior to those fees actually being earned. Nelms also routinely paid third-party companies and non-lawyers for referrals. In addition, Nelms referred his own clients to a non-lawyer-owned company and would share legal fees paid by his clients with the company. Nelms also failed to disclose to clients that Americorp, a non-lawyer-owned corporation, was handling the majority of all negotiations and settlements with the creditors of Allegro Law's clients. Additionally, Nelms failed to hold client funds in an IOLTA trust account in compliance with Rule 1.15, *Ala. R. Prof. C.* [ASB nos. 08-247(A) and 09-1481(A); CSP No. 09-1684(A)]

- Auburn attorney **Walter Mark Northcutt** was suspended from the practice of law in Alabama for 91 days by order of the Supreme Court of Alabama, effective September 11, 2009. The supreme court entered its order in accord with the provisions of the July 7, 2009 order of the Disciplinary Commission of the Alabama State Bar accepting Northcutt's conditional guilty plea to violations of the *Alabama Rules of Professional Conduct*. Specifically, in ASB No. 08-194(A), Northcutt admitted that during a deposition he cursed and threatened opposing counsel and the opposing party with physical harm, a violation of Rule 8.4(g), *Ala. R. Prof. C.*; in ASB No. 09-195(A),

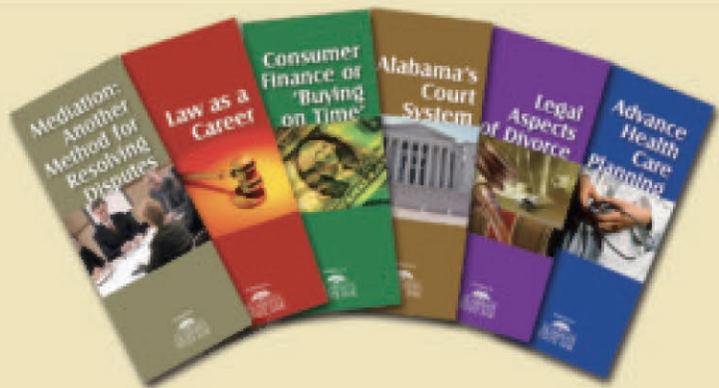
Northcutt admitted to signing the affidavit of a client and fraudulently notarizing the affidavit, violations of rules 8.4(a), 8.4(c), 8.4(d) and 8.4(g), *Ala. R. Prof. C.*; and in ASB No. 1682(A), Northcutt admitted that he grabbed another attorney by the tie, pushed the attorney up against a wall and cursed and threatened the attorney, a violation of Rule 8.4(g), *Ala. R. Prof. C.* Northcutt agreed to a 91-day suspension. The suspension was held in abeyance and Northcutt was placed on three years' probation by the Disciplinary Commission. The conditional guilty plea and order also stated that any subsequent violation of the *Alabama Rules of Professional Conduct* would be considered a violation of the probation and the 91-day suspension would immediately take effect. On or about August 13, 2009, the Office of General Counsel filed a petition to revoke probation based on information provided by multiple individuals that Northcutt had gotten into a verbal altercation with a part-time assistant district attorney. Northcutt admitted to the verbal altercation. On or about September 9, 2009, Northcutt consented to the revocation of his probation and the imposition of the 91-day suspension. [Rule 20(a), Pet. No. 09-1692; ASB nos. 08-194(A), 08-195(A) and 09-1682(A)]

- Montgomery attorney **Joe Morgan Reed** was suspended from the practice of law in Alabama by order of the Supreme Court of Alabama for 90 days, effective October 1, 2009. The supreme court entered its order based upon the April 30, 2009 order of the Disciplinary Board of the Alabama State Bar wherein Reed was found guilty of violations of rules 1.4(a), 1.15(b), 1.15(c), 8.4(a), 8.4(c), and 8.4(g), *Ala. R. Prof. C.* The factual basis of these violations involved Reed's representation of three clients. In each of these cases, Reed received settlement funds which he initially deposited into his trust account. Reed later withdrew these funds belonging to the clients and deposited them into his operating account and used these funds to pay a firm advertising bill. Reed knowingly converted client funds for his own use. [ASB No. 08-85(A)]



Alabama State Bar Publications Order Form

The Alabama State Bar is pleased to make available to individual attorneys, firms and bar associations, at cost only, a series of pamphlets on a variety of legal topics of interest to the general public. Below is a current listing of public information pamphlets available for distribution by bar members and local bar associations, under established guidelines.



BROCHURES

Law As A Career Information on the opportunities and challenges of a law career today.	\$10.00 per 100	Qty _____	\$ _____
Lawyers and Legal Fees A summary of basic legal procedures and common legal questions of the general public.	\$10.00 per 100	Qty _____	\$ _____
Abogados Y Honorarios Legales Un resumen de procedimientos legales básicos y preguntas legales comunes del gran público.	\$10.00 per 100	Qty _____	\$ _____
Last Will & Testament Aspects of estate planning and the importance of having a will.	\$10.00 per 100	Qty _____	\$ _____
Legal Aspects of Divorce Offers options and choices involved in divorce.	\$10.00 per 100	Qty _____	\$ _____
Consumer Finance/"Buying On Time" Outlines important considerations and provides advice on financial matters.	\$10.00 per 100	Qty _____	\$ _____
Worried About Foreclosure? – What You Should Know Provides answers to some of the more commonly-asked questions.	\$10.00 per 100	Qty _____	\$ _____
Mediation/Resolving Disputes An overview of the mediation process in question-and-answer form.	\$10.00 per 100	Qty _____	\$ _____
Arbitration Agreements Answers questions about arbitration from the consumer's perspective.	\$10.00 per 100	Qty _____	\$ _____
Advance Health Care Directives Complete, easy to understand information about health directives in Alabama.	\$10.00 per 100	Qty _____	\$ _____
Alabama's Court System An overview of Alabama's Unified Judicial System.	\$10.00 per 100	Qty _____	\$ _____
Notary Public & Lawyers/Notarios Y Abogados Clarifies the difference between notary publics and lawyers in the USA. Clarifica la diferencia entre Notario público y abogados en los Estados Unidos.	\$10.00 per 100	Qty _____	\$ _____
Acrylic Stand Individual stand imprinted with attorney, firm or bar association name for use at distribution points.	\$ 7.00 each	Qty _____	\$ _____
		Shipping & Handling	\$ <u>5.00</u>
		TOTAL	\$ _____

Name to imprint on stand: _____

Physical Mailing Address (not P.O. Box): _____

Please remit CHECK OR MONEY ORDER MADE PAYABLE TO THE ALABAMA STATE BAR
for the amount listed on the TOTAL line and forward it with this order form to:
Marcia Daniel, Communications, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101



About Members

Michael A. Griggs announces the opening of his firm at 1608-A Gilmer Ave., Tallassee 36078. Phone (334) 252-1013.

Shirley A. Millwood announces the opening of **Millwood Law Firm LLC** at 80 Spring Branch Dr., Ste. E, Alexandria 36250. Phone (256) 847-3777.

Richard H. Ramsey, III announces he has returned to Dothan to enter private practice.

Marvin E. Simpson announces the opening of **The Simpson Law Office LLC** at 2632 19th St. N., Hueytown 35023. Phone (205) 744-1255.

Mark E. Smith announces the opening of **The Law Office of Mark Edward Smith** at 631 S. Perry St., Montgomery 36104. Phone (334) 538-0536.

PLEASE E-MAIL
ANNOUNCEMENTS TO
MARCIA DANIEL
marcia.daniel@alabar.org

REMINDER: Due to space constraints, *The Alabama Lawyer* no longer publishes changes of address unless it relates to the opening of a new firm (not a branch office) or a solo practice.

WILL THEY BE TAKEN CARE OF IF SOMETHING HAPPENS...

Drane Insurance has been assisting lawyers and their families with the purchase of affordable life insurance from highly rated insurance companies since 1993. To avoid overpaying, call or visit our web site for a free quote to compare with your current life or business insurance policy. Look at the sample rates below.

\$250,000 Level Term Coverage
Male, Super Preferred, Non-Tobacco
Annual Premium

AGE:	30	35	40	45	50	55	60
10	\$110	\$110	\$132	\$220	\$282	\$475	\$748
15	\$125	\$125	\$152	\$270	\$398	\$600	\$960
20	\$152	\$152	\$202	\$340	\$515	\$775	\$1,325
30	\$230	\$241	\$339	\$525	\$797	\$1,545	

\$500,000 Level Term Coverage
Male, Super Preferred, Non-Tobacco
Annual Premium

AGE:	30	35	40	45	50	55	60
10	\$165	\$165	\$215	\$310	\$495	\$820	\$1,335
15	\$195	\$200	\$255	\$485	\$725	\$1,150	\$1,830
20	\$255	\$255	\$355	\$620	\$950	\$1,480	\$2,520
30	\$385	\$414	\$609	\$985	\$1,524	\$2,960	

Drane Insurance
(877) 610-3770

Life Insurance • Employee Benefits • Estate Planning • Annuities

LET US FAX OR EMAIL YOU A QUOTE

www.draneinsurance.com

ABOUT MEMBERS, AMONG FIRMS

Continued from page 93

Among Firms

Adams & Reese LLP announces that **Neeli Gandhi** has joined as an associate.

Alford, Clausen & McDonald LLC announces that **Mark A. Dowdy** and **Latisha D. Rhodes** have joined as associates.

The **United States Army** announces that **John W. Miller II** has been promoted to the rank of Brigadier General and has assumed command of the Judge Advocate General's Legal Center and School.

Baker, Donelson, Bearman, Caldwell & Berkowitz PC announces that **William R. Sylvester** and **C. Bradley Cherry** have joined the firm's Birmingham office.

Bradley Arant Boult Cummings announces that **Laura Catherine Ashburner, Kane Burnette, Jonathan C. Cobb, Anna Manasco Dionne, Jessica Jones, Charles A. Roberts, Jr., William Carlos Spaht, and W. Justin Hendrix** have joined as associates.

The Brom Law Firm LLC announces that **James E. Roberts** has joined as *of counsel*.

Burr & Furman LLP announces that **Brent W. Dorner, Lisha X. Li, Anthony N. Romano** and **Megan P. Stephens** have joined as associates.

The Edmundson Law Firm LLC announces that **Robert E. Hawthorne, III** has joined as an associate.

Friedman, Leak, Dazzio, Zulanis & Bowling PC announces that **Matthew David Conn** has joined as an associate.

Harbinger Capital Partners LLC of New York announces that **John H. Roth** has joined as assistant fund and compliance counsel.

Huie, Fernambucq & Stewart announces that **Bart Cannon** and **Jeremy Gaddy** have joined as associates.

Jones & Davis PC announces that **Steven M. Wyatt** has joined as a member and **T. Matthew Jones** has joined as an associate. The new firm name is **Jones, Wyatt, & Davis PC**.

Lightfoot, Franklin & White LLC announces that **John S. Baker, C. Ryan Germany, James W. Gibson, Marchello D. Gray,** and **Ryan P. Robichaux** have joined as associates.

Marsh, Rickard & Bryan PC announces that **David T. Brown** has joined as an associate.

Maynard, Cooper & Gale PC announces that **Stephen D. Davis II** has joined as an associate and **Jay Watkins** has joined as a shareholder in the Mobile office.

The **National Highway Traffic Safety Administration** announces the appointment of **Oakley Kevin Vincent** as chief counsel.

Ritchey & Simpson PLLC announces that **Howard K. Glick** and **Steve R. Burford** have joined as partners and the firm's new name is **Ritchey, Simpson, Glick & Burford PLLC**.

Smith, Spires & Peddy PC announces that **C. Michael Renta, III** has joined as an associate.

Jill Lolley Vincent has accepted an appointment with the **Social Security Administration's Office of Disability Adjudication and Review**.

Starnes & Atchison LLP announces that **Cole Gresham, April M. Helms** and **Jeremiah J. Rogers** have joined the firm's Birmingham office as associates.

Stephens, Millirons, Harrison & Gammons PC announces that **Joshua B. White** has become a partner and **Matthew R. Harrison** has become an associate.

Tanner & Guin LLC announces that **Hannah B. Lansdon** has joined as an associate.

Turner, Webb & Roberts PC announces that **Laura K. Segers** has joined as an associate.

Britt B. Griggs has become an attorney with the **United States Bankruptcy Administrator** for the Middle District of Alabama.

Vickers, Riis, Murray & Curran LLC announces that **Mark L. Redditt** has joined as a member and **Charles E. Tait** has joined as an associate.

Wallace, Jordan, Ratliff & Brandt LLC announces that **Wesley K. Winborn** has joined as an associate.

Waller Lansden Dortch & Davis LLP announces that **William Athanas** has joined as *of counsel*.

Wettermark Holland & Keith announces that **Ashley Thomas** has joined as an associate.

Wilmer & Lee PA announces that **Suzanne C. Dorsett** has become a partner and **Christopher L. Lockwood** has joined as an associate. ▲▼▲

Get with the PROgram.

150,000 other attorneys already have.



When you become a member of the GilsbarPRO program, you will not only receive excellent service and coverage backed by CNA, but you'll also have access to an abundance of resources to support your legal practice.

Statutes of Limitation Quick Reference Cards
Risk Management & Continuing Education Seminars • GilsbarPRO eNEWS
Document Retention Guides • Risk Management Hotline

CNA is the largest underwriter of legal malpractice coverage in the US.

GilsbarPRO is the exclusive administrator for the CNA Lawyers
Professional Liability Program in the State of Alabama.

Call the Pros. (800) 906-9654
www.gilsbarpro.com/prontoquote

GILSBARPRO

CNA

One or more of the CNA insurance companies provide the products and/or services described. The information is intended to present a general overview for illustrative purposes and is not intended to substitute for the guidance of retained legal or other professional advisors, nor to constitute a contract. Please remember that only the relevant insurance policy can provide the actual terms, coverage, amounts, conditions, and exclusions. All products and services may not be available in all states. CNA is a service mark registered with the United States Patent and Trademark Office. Copyright (c) 2009 CNA. All rights reserved.

Training Alabama Mediators for 15 Years!

MEDIATION

www.AlabamaMediation.com

For 15 years, our basic and advanced mediation seminars have provided an informative, entertaining and interactive CLE experience for Alabama attorneys. If you want to be a mediator (or just think like one!) our seminars will provide you with a marketable skill and a CLE experience unlike any other. Come find out why attorneys, judges, and mediators tell us that our programs are the best CLE seminars they've ever attended. Visit www.alabamamediation.com or call **800-237-3476** for more information.



mediation media

BIRMINGHAM ■ HUNTSVILLE ■ MOBILE ■ MONTGOMERY