

# Addendum

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## DREW REDDEN: The Man to See

Each day, people with trouble formed a line outside his door, confident that he could solve their problems. Beleaguered executives, troubled parents, angry spouses. Rich and poor. Young and old. He attracted clients from every strata of society. . . .

**W**hen an upperclassman in law school learned I was interested in criminal defense, he suggested I find a way to clerk for Drew Redden. I took that advice, and I was changed forever.

Drew Redden was born in Tallassee and attended the University of Alabama until World War II erupted. After the war, he entered the University of Alabama School of Law. He served as the founding editor of the *Alabama Law Review* and graduated at the top of his class.

After a brief stint in the United States Attorney's office, he entered private practice. Mr. Redden was a natural in the courtroom, where he quickly gained a reputation for defending murder cases. In reality, he had a broad practice and his true specialty was trouble. Each day, people with trouble formed a line outside his door, confident that he could solve their problems. Beleaguered executives, troubled parents, angry spouses. Rich and poor. Young and old. He attracted clients from every strata of society with cases of all shapes and sizes.

The summer I became his law clerk, he was in the midst of a long and complicated case that had already seen an attempt to levy on Air Force One and would later see a federal judge defrocked. As his associate, he once sent me to court to represent the Kingdom of Saudi Arabia (then dispatched me to a women's club to oversee heating



repairs). He handled cases before the U. S. Supreme Court and before dozens of obscure tribunals and commissions. Somehow, he still found time to love his wife, teach Sunday School, command a three-state region of Army reserves, play golf, and make lawyers out of novice law clerks and associates.

His career has spanned 50 years and has taken him into the company of leaders and celebrities, yet he remains a man set apart not by professional accomplishment but by the quality of his character. He is one of those rare individuals who can make the poor feel rich, the unlovable loved, the lonely needed. In a profession increasingly preoccupied with money, Drew Redden taught us that ours is a profession of servants. A calling, not a job. An art, not a business. And he taught us by his own example that we must never forget we are always instruments in God's own hands.

—Joseph H. Hilley, *Fairhope*

It had been eight years . . . but my reputation as a gun-totin' judge had preceded me.

# Courtroom Security: It's a Good Thing

Alabama's Trial Court Security Plan is working

"Hey, aren't you the gun-totin' judge?" The man had just heard my speech at a political rally in Lauderdale County. It had been eight years,

and I was at the other end of the state, but my reputation as Baldwin County's gun-totin' judge had preceded me. How did I get this reputation?

When I was a district court judge, I had found a man in contempt during a routine traffic docket (he had run a stop sign) because he was disorderly, abusive and cursing and had directed an obscene gesture at the state trooper witness. Two years later, this long-forgotten incident was brought to my attention when I was told that this same man had made pointed threats against my life. I pulled his file and recognized him as a person who was frequently in my courtroom or watching from the hallway. He had been around so much and for so long I actually thought he worked in the courthouse.

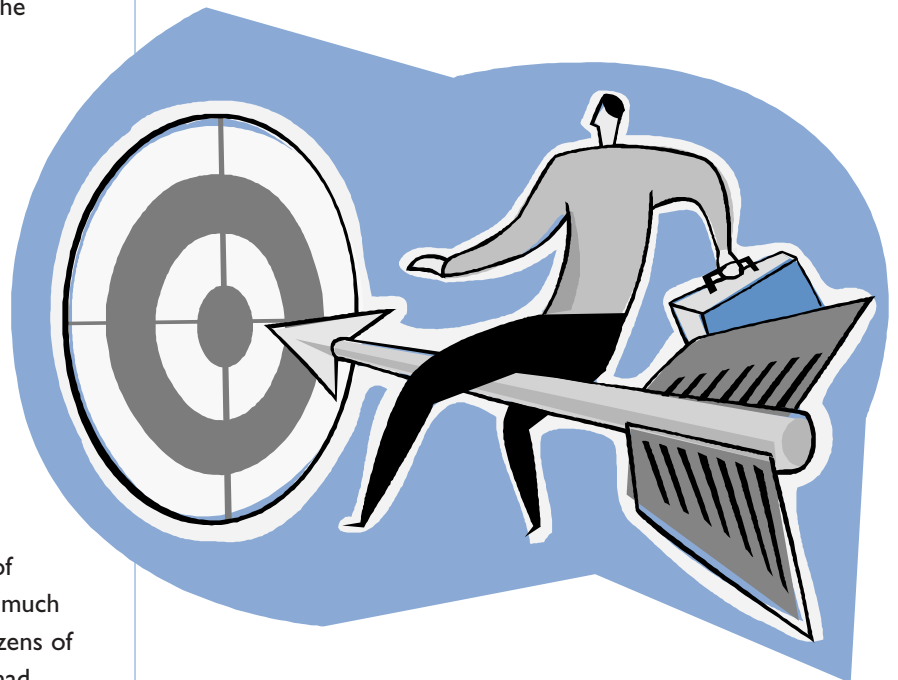
When I asked for protection, I was told by the sheriff's department that no funds or personnel were available. I was also told that I would need to protect myself, including a suggestion that I arm myself with a gun. During this period, I discovered that many other judges carried guns or had them in their offices and even on the bench. Others stacked old phone books behind the bench to bulletproof them. Although such measures may seem primitive, at the time, no security was provided. Anyone could walk into a courthouse and, thus, into a courtroom or office carrying a weapon.

Those days are gone, and my situation and that of many other judges, court personnel and lawyers is much safer. This became evident to me when I visited dozens of Alabama courthouses during my 2002 campaign. I had

visited these same courthouses in 1996 when I first ran for statewide office. At that time, only one or two had security which included metal detectors and trained personnel. Now, only one or two do *not* have these measures. This improvement is due to the **Trial Court Security Plan** put in place through a joint effort of law enforcement and the judiciary in 1998. The stated purpose of that plan is to "prevent or control problems that might arise in courthouses, such as verbal abuse, disorderly conduct, physical violence, demonstrations, theft, fire, bomb threats, sabotage, prisoner escapes, kidnappings, assassinations, stalking, and hostage situations." Based on my personal observations, this plan is working well throughout Alabama.

Do I miss my gun-totin' days? Although such a reputation can be a good thing personally and even politically, I don't miss being scared. It's a good thing that Alabama judges no longer have to provide their own security.

—Judge Pamela W. Baschab, Montgomery



# Fraudulent Conveyances Or Transfers

Attorneys should be well acquainted with this important law to protect and aid creditors

**G**ood news! The law of fraudulent conveyances is alive and well. For many years the law was governed by Section 8-9-6, *Code of Alabama* (1975) which was enacted by the Alabama legislature to protect and aid creditors where debtors transferred or conveyed assets to defeat the claims of creditors upon the personal or real property of the debtors. The statute allowed courts to judicially set aside as void any assignments or conveyances in writing, or otherwise made with intent to hinder, delay or defraud creditors, purchasers or other persons of their lawful actions, damages, forfeitures, debts, and demands.

Then, in 1989, the Alabama legislature adopted Alabama's version of the Uniform Fraudulent Transfers Act as Sections 8-9A-6 through 8-9A-12, Alabama Uniform Fraudulent Transfers Act (AUFTA). The Act set the standards by which a conveyance or transfer is deemed with actual intent to hinder, delay or defraud any creditor of a debtor and is contained at Sections 8-9A-4 (a) and (b). Subsection (a) deals with transfers made with actual intent, and subsection (b) contains 11 specific indices of fraud to be used in determining actual intent. They are: (1) The transfer was to an insider; (2) The debtor retained possession or control of the property transferred after the transfer; (3) The transfer was disclosed or concealed; (4) Before the transfer was made, the debtor had been sued or threatened with suit; (5) The transfer was of substantially all the debtor's assets; (6) The debtor absconded; (7) The debtor removed or concealed assets; (8) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred; (9) The debtor was insolvent or became insolvent shortly after the transfer was made; (10) The transfer occurred shortly before or shortly after a substantial debt was incurred; and (11) The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.



Of special interest to many, subsection (c) addresses constructive fraudulent conveyances or transfers, specifically those made by a debtor to a creditor whether the creditor's claim arose before or after the transfer was made, if the debtor made the transfer without receiving an equivalent value in exchange for the transfer. The terms before and after the transfer are very important. Specifically, if the debtor: (1) was engaged or about to engage in a business or transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or, (2) intended to incur, or believed the activity would incur, debts beyond the ability to pay as they became due.

Attorneys who obtain judgments to be collected should well verse themselves in the Alabama fraudulent conveyance law and be prepared to collect for the wrongs that produce injuries where property is actually or attempted to be concealed to avoid loss for the wrongs committed.  
—William G. Barnes,  
Birmingham

## Important Notice Regarding Your Continuing Legal Education

Attorneys who hold an occupational license during any part of a calendar year are required to earn and report 12 hours of continuing legal education by December 31st of the year the license is held, even if the attorney has changed to special or inactive status or recently changed from special status or inactive status, except as provided by Rule 2.C.1. (MCLE Rule 2.5)



# Overcoming Deposition Jitters

**While some anxiety helps one to be careful, getting too nervous may cost an opportunity to get crucial evidence.**

**T**aking depositions can be a very stressful part of our occupation. A deposition can affect a case's value, a client's impression, a supervising attorney's impression or even opposing counsel's impression. Some of us "wing it" or "fish" at depositions just hoping to stumble across something helpful, but without fully preparing we are less confident and too concerned with embarrassment. Then again some of us over-prepare and have too much information to manage. We get nervous trying to fit it all in. We may have too many pages of written questions, or too many documents to consider, and after the deposition we remember questions never asked.

While some anxiety helps one to be careful, getting too nervous may cost an opportunity to get crucial evidence. Very few of us will come across looking like Perry Mason in a deposition, but all of us can develop a basic approach to build confidence, overcome anxiety and be effective. There are four steps I use in overcoming deposition jitters: goal setting, a thorough file review, organization and mental preparation.

Start by writing down your goals for taking the deposition. Why are you taking it and what do you hope to accomplish? What are the key points the witness should be able to testify about? Next, read all the pleadings, correspondence, statements and discovery, including other depositions. Tab key matters or jot down notes relating to your goals. As a final but critical part of your

file review, put all documents that may be evidence into order by date, so that they tell a story. Copy them and go through them, marking matters of importance. This order gives perspective, and you probably will see details, problems or errors by reviewing the documents in this order. You will also better know what the witness should know.

Now you can organize. Make an outline of key areas to cover. A few questions can be written out, but writing every question may keep you from listening to the witness and following up on answers that beg for another question. You need to be flexible so that you can go down a "rabbit trail," if need be. Get back to the outline when you are finished with the trail.

Finally, a little mental preparation can further knock out nervousness. Resolve to be yourself. Tactics that work for others may not work for you. Be civil, too. You can still ask the hard questions, but remember most of the time you get more flies with honey. Resolve not to let unnecessary objections, taunts, yawns or other "games" from opposing counsel throw you off. Ignore these and stick to the questions you must ask. Note the areas where real objections may come up and be prepared to handle them. Be persistent.

By heading into your deposition with clear goals, knowing your file, being well organized and mentally prepared, your confidence level will be higher and your anxiety reduced. You can enjoy your work.

—David P. Martin, Tuscaloosa

# JUDGE AUBREY FORD

## Macon County judge selected to serve as 2003 chair, Alabama Supreme Court Commission on Dispute Resolution

**T**he Alabama Supreme Court Commission on Dispute Resolution has selected charter member **Judge Aubrey Ford, Jr.**, Macon County, as its new chair for 2003. Judge Ford has served on the commission since its inception in 1994. By court order, the Alabama Supreme Court established this diverse and energetic group that is responsible for the orderly progress of alternative dispute resolution within the court system of Alabama, but also works with the Governor and the Attorney General's offices, and has a member appointed by the Speaker of the House.

Judge Ford has worked to build and maintain the public's confidence in the judicial system during his more than 25 years as a judge, and his many appointments to commissions, councils, task forces and committees, particularly in the area of family law. After graduating from Howard University School of Law, Judge Ford worked for the Alabama Attorney General and then practiced with Gray, Seay & Langford (now Gray, Langford, Sapp, McGowan, Gray & Nathanson). He was appointed to the bench in Macon

County in 1997.

Judge Ford and the commission oversee the work of the Alabama Center for Dispute

Resolution, Inc., housed at the state bar and funded by the supreme court, roster registration fees, training fees and donations. The center serves as the state office of dispute resolution, and provides mediation and arbitration training, maintains the mediator and arbitrator rosters, develops and presents CLE programs, provides community outreach and education, works with all branches of government to promote collaboration, and maintains a Web site at [www.alabamaADR.org](http://www.alabamaADR.org).

—Judith Keegan, Montgomery



Commission Chair Judge Ford (right) presents plaque to Steven Benefield, past chair.

## Public Notice for Reappointment of Incumbent Magistrate Judge

**T**he current term of the office of United States Magistrate Judge Charles S. Coody will expire April 30, 2003. The U.S. District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term.

The duties of a magistrate judge position include the following: (1) conduct of most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) conduct of various pretrial matters and evidentiary proceedings on delegation from the judges of the district court; (4) trial and disposition of civil cases upon consent of the litigants; (5) examination and recommendation

to the judges of the district court in regard to prisoner petitions and claims for Social Security benefits.

Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court and should be directed to:

Chair, Merit Selection Panel  
c/o Debra P. Hackett, Clerk  
U.S. District Court  
P.O. Box 711  
Montgomery, AL 36101-0711  
**Comments must be received by March 31, 2003.**

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# Telling Stories

Samuel Crosby, *The Sleeping Juror & Other Baldwin County Courtroom Tales and History*,

Fairhope, Alabama: Over the Top Transom Publishing Co., 2002, 152 pp., \$15, ISBN 0-9717776-0-8

I recently gave up a position with an insurance defense firm so that I could start my own practice. One pleasure of my former job was traveling to cities and towns all over Alabama. When I attended a docket call, deposition or what have you, inevitably I would hear at least one story. Lawyers love to tell stories, mostly good ones and mostly about the practice of law, and lawyer stories are the source of the enjoyment one gets from reading **Sam Crosby's** *The Sleeping Juror*. Crosby's book is filled with tales that one might hear when two or more lawyers gather.

Alternating between Baldwin County history and humorous "court stories," Crosby weaves a rich tapestry of a place and a profession.

*The Sleeping Juror* begins with the origin of Baldwin County and ends with a 2002 list of Baldwin County attorneys whose principal offices are located in that county. The bulk of the historical portions of the book concerns legal history. For example, Crosby tells different versions of the famous "stealing of the [Baldwin County] courthouse" story. My favorite version involves a group of people who got tired of all the talk about moving the courthouse from



Daphne to Bay Minette, so they took it upon themselves (in the dark of the night with shotguns, pistols and the help of a prisoner) to go get all the court records and take them by wagon to Bay Minette. There are also nuggets of little-known history, like Crosby's discussion of the *American Banner*, a Bay Minette newspaper published by Stephen J. Boykin from 1899 to 1902. In these pages, one can find everything from biographies of Baldwin County judges and attorneys to a recipe for "Stone's Famous Barbecue Sauce," which is guaranteed to "cure hunger, starvation, dyspepsia, corns, ingrown toenails, baldness and inflammatory rheumatism." Although some of the humorous "court stories" are well-worn, the majority are unique and funny.

What makes this book special is what the stories reveal about Crosby and his sources: a love of home and honor of the law. What makes this book worth reading is that Sam Crosby makes it easy to imagine what it's like to sit in a courtroom and converse with Alabama lawyers. With *The Sleeping Juror* on my bookshelf, I have the next best thing to being there.

—Wendy Freeman Pope, Montevallo

# Bad Medicine

## Good Intentions Can Create Problems

**A**s employment defense lawyers know, you should always beware when your corporate client believes they have solved a personnel problem on their own. Consider the following hypothetical phone call from a plant manager: “Ms. Braxton, we have a problem. I’ve got this supervisor running around grabbing on his female employees and saying all kinds of sexually offensive things.”

“Have the employees been complaining?” I asked. “Yes, I have had at least three in here just today,” he said. I told him that he should investigate the complaints and, if founded, take appropriate remedial action. I asked him to let me know before he took any action and to let me know what he found.

Thursday, I got a call from the plant manager. “Ms. Braxton, you’ll never believe how this sexual harassment thing has turned out.” I tensed up, afraid to hear what was coming next. “Remember that supervisor I told you about? Well, he came into my office this morning to complain that some of the male employees in the plant were sexually harassing him, telling sexually explicit jokes and grabbing his buttocks. He found it offensive.”

“Did you ask him if he had been engaging in the harassing conduct that had been reported to you?” He responded, “I sure did, and he admitted it. He said he behaved that way

with everyone, both male and female. In fact, he said that everyone in the plant engaged in that type of horseplay, whether they were men or women.” Now I’m thinking, maybe there is no sexual harassment claim if he treats both men and women the same.

“Is that true?” I asked him. “Well, sure it is,” he responded indignantly. “It’s a plant. But I told that supervisor, because of what he had just told me, I would have to let him go. So, I took care of it.”

In disbelief, I replied, “Not exactly. You fired that supervisor to get rid of a sexual harassment problem you did not actually have, and created a retaliation problem that you didn’t even know existed.” The lesson: Make sure your corporate clients consult with you before they terminate an employee for any reason. Often the most well-intentioned clients are the best at creating problems out of thin air.

—Toni Horace-Braxton, Birmingham



## Notice of Election

Notice is given herewith pursuant to the Alabama State Bar Rules Governing Election of Commissioners.

Bar commissioners will be elected by those lawyers with their principal offices in the following circuits: 2nd; 4th; 6th, place no. 2; 9th; 10th, place no. 1, place no. 2, place no. 5, place no. 8, place no. 9; 12th; 13th, place no. 2; 15th, place no. 2; 16th; 20th; 23rd, place no. 2; 24th; 27th, 29th; 38th; and 39th.

Additional commissioners will be elected in circuits for each 300 members of the state bar whose principal offices are located in these circuits. The new commissioner positions will be determined by a census on March 1, 2003 and vacancies certified by the secretary no later than March 15, 2003. 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. Either must be received by the secretary no later than 5 p.m. on the last Friday in April (April 25, 2003).

Ballots will be prepared and mailed to members between May 1 and May 15, 2003. Ballots must be voted and returned by 5 p.m. on the last Friday in May (May 30, 2003) to the Alabama State Bar.

# LAWYERS RENDER SERVICE

ALABAMA STATE BAR

## 2003 ANNUAL MEETING



July 16–19, 2003

Adam's Mark Hotel, Mobile

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and check [www.alabar.org](http://www.alabar.org) for updates!

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Addendum

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