

Addendum

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Two Lawyers Donate More than Time, Talent

After five years as a patent attorney, **Lee Huffaker** didn't imagine he would one day help a convicted felon win a new sentence and get drug treatment. Huffaker and **Jim Goyer**, also a corporate lawyer, delved into the world of criminal law representing "Mike," a four-time felon who was sentenced to life without parole in 1996.

A Jefferson County judge recently changed Mike's sentence to life with the possibility of parole, allowing him to get drug treatment for the first time in the 12 years he has served.

"This is definitely the most rewarding thing I've done at the firm," said Huffaker, who has worked for **Maynard, Cooper & Gale** in Birmingham since 2001. "I can't think of a more meaningful use of the firm's money and resources. He would have had no representation otherwise."

No Mechanism

Alabama's poor are eligible to receive free legal assistance for cases through Alabama Legal Services, the three volunteer lawyer programs run by local bar associations and the state bar's similar program. Trial courts appoint lawyers for indigent defendants in criminal cases but there is no such mechanism in most cases for post-conviction representation.

About one-fourth of the state's active lawyers are members of the Alabama State Bar's Volunteer Lawyers Program, according to **Linda Lund**, program director. With more than 700,000 people living below the poverty line in Alabama, the number of volunteers doesn't meet the need.

Goyer has worked with the Volunteer Lawyers Program for almost a decade and has volunteered on criminal cases. "It's a way I can provide a service and go beyond just making an income," he said.

Pro bono work is also part of the corporate culture at Maynard Cooper; the firm won the **ASB's Pro Bono**

Award in 2004. More than half of the firm has taken VLP training to



Huffaker



Goyer

operate a legal clinic for the poor, as well as recently forming a committee of eight partners to promote, monitor and coordinate free legal services.

Couldn't Afford Counsel

Mike originally was represented by volunteer lawyers from New York City and Huffaker and Goyer were added as local counsel. But when those attorneys left the firm, the Birmingham men became lead counsel.

Convictions stemmed from a drug problem in high school but none of his crimes involved violence. When he was convicted of robbing a store in 1994, however, Mike received the mandatory life sentence without parole because of his three prior felonies.

In 2000, a new state law allowed those serving life without parole to seek a lower sentence if they could prove they were nonviolent. Mike and his family couldn't afford a lawyer.

After a judge rejected the first petition, Huffaker and Goyer built a better record to show a record of nonviolence. They elicited letters of support demonstrating how Mike would be rehired by a former employer if he is ever paroled.

"When I met Mike, I really wanted to help him," said Huffaker. "Truthfully, it was his family who made it happen. We facilitated everything, but it was their words and Mike's that convinced the judge."

—This article, reprinted in part, originally appeared in the April 2, 2006 edition of The Birmingham News.



Good writing is simple writing. Get to the point quickly, clearly and convincingly. Use short sentences, simple words and no jargon. Use less Latin, less passive voice, less hedging and less repetitiveness. Treat writing as a one-on-one conversation, relating to the reader simply and directly.

Lead with your conclusion, so readers know where you are taking them. Then set forth the rule or rules which lead to that conclusion, and present your analysis in a coherent fashion. Do not overly rely on precedent, but make logical arguments. Avoid citing cases in the middle of sentences or arguments; they get in the way and detract from your point. Cite cases at the end of paragraphs where possible.

Basic rules of writing include using active verbs. Lawyers tend to use more passive voice ("It was done") than active ("She did it"). *Stop.* Avoid starting sentences with "It is" or "There is". Get to the point. Keep sentences to 20-25 words or less. Avoid putting clauses in the middle of a sentence, where they break up thoughts. Do not introduce yourself into your writing ("I think"). Use specific images that the reader can see, feel or hear. Clear, simple, prose is best.

Facts are Your Friends

Good fact writing is essential to persuasive arguments. You are telling a story, and your's must be more compelling than the other side's. Humanize your client and relate how the case personally affects him or her. Create a mood or theme—indignation, sympathy—and use consistent imagery and detail to create a word picture. Tailor the facts to your argument.

Mention even your best facts only once. Start with them, using them as an organizing principle in telling your story.

Writing Right

Most legal writing is obtuse, tedious and *dull*. Why do good people write bad prose and can we write better?

Try not to tell your story chronologically. Instead, organize it in the way that is clearest, strongest and best supports your legal arguments.

Logic Rules

Lead with your best legal argument. In analyzing cases, avoid long descriptions of the law, do not use long quotes and do not over-quote. In reply briefs, avoid responding too much to your opponent's argument. Make your own argument so that it deals with the opponent's points, while also maintaining the logical path you want the judge to follow. Keep footnotes to a minimum, because they probably will not be read. Start a new section or subsection at least every four to five pages.

Edit 'Til Your Eyes Hurt

Good writing requires editing, editing and more editing. Review your verbs and sentence structure to ensure that they are active. Get rid of clutter. State ideas simply and forcefully. In any long document, at the end of every section, summarize where you have been and explain where you are going.

Read through your brief without reading any of the case citations, quotations or descriptions, or the footnotes. Most people skim over any single-spaced quotations and footnotes; if it's important, be sure it's in the text. The brief should be logically compelling in and of itself, without cases or footnotes. If it's not, keep working. Having a non-lawyer read the brief is amazingly helpful; if it's not comprehensible and persuasive to them, it won't be to a judge. Most importantly, edit for the reader; step back from your writing and read it as if you were looking at the case for the first time.

Keep It Simply Stupendous

Simple writing is hard, but worth it. Be clear, concise and cogent, and your prose will be poetic.

—Bill Messer and Bob Varley, *Montgomery*

Judge Inge Prytz Johnson First Recipient of Nina Miglionico "Paving The Way" Leadership Award



Miglionico

Judge Inge Prytz Johnson was recently awarded the Nina Miglionico "Paving the Way" Leadership Award by the Women Lawyers' Section of the Birmingham Bar Association. The award, established in 2005, is designed to recognize and honor those who have paved the way to success and advancement for women lawyers.

Nina Miglionico, for whom the award is named, is affectionately known as "Miss Nina" in the Birmingham community. Miss Nina was one of five women to graduate from the University of Alabama School of Law in 1936 and the first female to be elected to the Birmingham City Council. She served five terms until her retirement in 1985. She was president of the National Association of Women Lawyers and was appointed by President Kennedy to the Presidential Commission on the Status of Women.

The Journal of Southern History recognizes Miss Nina as an anti-poll-tax activist, a civil rights proponent, an organizer of the Alabama Association of Women Lawyers and a member of the Women's Joint Legislative Council. In 1996, she was named a recipient of the Margaret Brent Women Lawyers of Achievement Award by the American Bar Association.

In addition, Miss Nina is an altruist, serving the Professional Women's Foundation, the Catholic Diocese of Birmingham, the Salvation Army, the Birmingham Museum of Art, the Alabama Theater, and United Cerebral Palsy. Marda Sydnor, president of the BBA, described Miss Nina as a "small package, but when ignited, she makes a very big impact and casts quite a heavenly light."

Born and raised in Denmark, Judge Johnson, a Fulbright Scholar, earned a Danish law degree and practiced in Denmark before coming to the United States. While attending the University of Alabama School of Law, Judge Johnson met and married William Tifton Johnson, Jr. She began practicing law in Tuscumbia in 1973.

Judge Johnson was elected the first female circuit judge in Alabama in 1978. She also has served as an officer of the Alabama Association of Circuit Judges. In 1998, President Clinton appointed her to the U.S. District Court, Northern District of Alabama. Judge Johnson is a devoted wife

and mother, an avid horsewoman and an active participant in the Tuscumbia community.

**Chief Judge
U.W. Clemon,**
U. S. District
Court, Northern

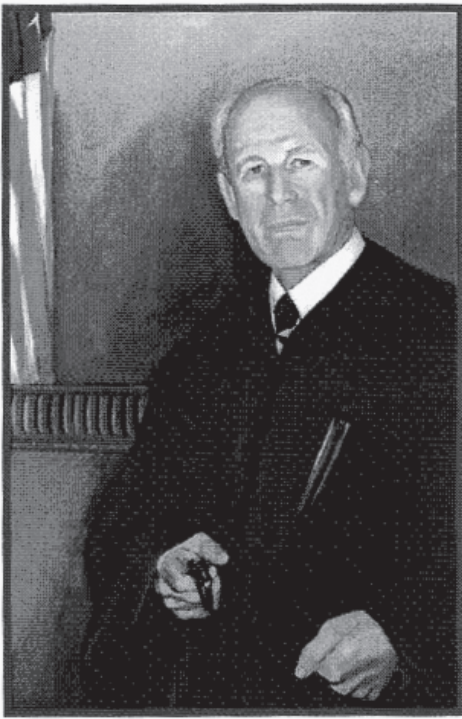
District of Alabama, who presented the award to Judge Johnson, said, "The Nina Miglionico Leadership Award must have been designed with Judge Inge Johnson in mind, for she truly personifies the excellence that award symbolizes, and she certainly is one who has cleared a path for those who follow her. Her legal career epitomizes the old maxim, 'Good, better, best—never let it rest until the good is better and the better is best.' She consistently has the lowest caseload of any of the other judges, not because she is assigned fewer cases but because she closes cases faster than any of us."

In accepting the award, Judge Johnson paid tribute to Miss Nina as a woman who "during all of her public life was focused on what was best for the city, what was best for the state, and what was best for tomorrow..." Judge Johnson noted, "... it behooves us all to go back and thank all the women who went before us, whether they were in public or private life, they all had a role in who we are today and where women are today."

The criteria for the award are:

1. The nominee is an individual lawyer who has achieved professional excellence, and
2. Assisted women lawyers to achieve their potential through mentoring, or
3. Inspired women lawyers to achieve their potential by providing a professional role model, or
4. Provided opportunities that paved the way for advancement of the status of women lawyers.

For more information about the award, contact Ashley H. Hattaway at ahattawa@burr.com.



Judge Smith

The Judge Edward Samuel Smith Scholarship

Scholarship in law fund established
honoring Judge Edward Samuel Smith's
life and legacy at Cumberland

The Judge Edward Samuel Smith Scholarship In Law Fund has been established at Samford University's Cumberland School of Law, where the judge taught appellate advocacy. The scholarship is intended to be a celebration of Judge Smith's life and legacy. Recipients must have distinguished themselves academically and must exemplify the vitality of Judge Smith, and his commitment to faithful service, collegiality and civility. The members of the Scholarship Committee, **Rich Beem, Eugenia Burch, Diane Crawley, Madeline Haikala, Margaret Kubiszyn, and Michelle Obradovic**, have pledged to impart to recipients an appreciation of the meaningful life Judge Smith led and invite those who knew him to contribute their experiences and their financial support to this effort. Once the fund exceeds the \$10,000 mark, Dean Carroll may select recipients.

Born in Birmingham, Judge Smith attended the Alabama Polytechnic Institute and the University of Virginia. He spent WWII in the Atlantic, Pacific and Mediterranean fighting in

five major battles between 1941 and 1946 aboard the *U.S.S. Susan B. Anthony* (sunk near Normandy in 1944), and the *U.S.S. Arcturus*. In 1947, Judge Smith graduated from the UVA School of Law and practiced in Virginia, D.C. and Maryland, specializing in probate, tax and negotiation. He joined the Justice Department in 1961. Beginning in 1978, he served on the U.S. Court of Claims (nominated by President Carter) and the U.S. Court of Appeals for the Federal Circuit. He assumed senior status in 1989, but continued to regularly hear both federal circuit and Eleventh Circuit cases. Judge Smith had a wonderful 49-year marriage to Innes Adams Comer and raised two children, Ned and Innes. He had numerous grandchildren, 26 law clerks and 68 interns.

Please send contributions to the Judge Edward Samuel Smith Scholarship In Law Fund, c/o Vice-Dean James N. Lewis, Cumberland School of Law, Samford University, Birmingham 35229.

—V. Michelle Obradovic, Birmingham

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Editor: Ashley H. Hamlett, Montgomery, jhamlett@knology.net

Happy Hunting with Casemaker

As with any type of full-text searching, less is always more when using Casemaker. For example, if searching for the case *New York Times Co. v. Sullivan*, you'll be much more likely to find it if you just enter the words "New York Times" rather than "New York Times Company" in the cite field. That's because when the search engine compares "Company" to "Co." it knows those two things are not exactly the same, and it will only find exactly what you tell it. Even if you are positive you know the exact name of a case, only enter a portion of the name. It's easier to pick the case you want from two or three similar names in a list of cases than it is to run fruitless searches until you finally get lucky and enter the case name exactly as it was entered into the database.

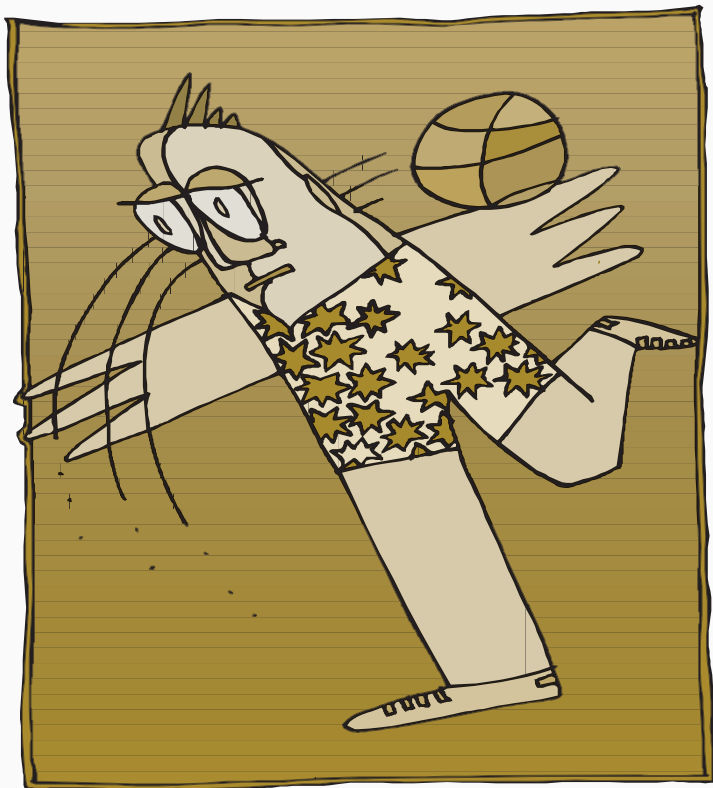


POSITION AVAILABLE

Alabama Lawyer Assistance Program Assistant Director

The Alabama State Bar is now accepting applications by letter with resumes for the position of Assistant Director for the Alabama Lawyer Assistance Program. Applications should be mailed to Jeanne Marie Leslie, ALAP director, P. O. Box 671, Montgomery 36106. The position requires a minimum undergraduate degree in counseling or other related mental health field with several years experience assisting individuals suffering from addiction and other types of mental health disorders. The

position also requires a current addiction counseling certification or the willingness to obtain such certification. The individual hired for this position must also possess good communication and organizational skills, and the ability to work under the supervision of the director to assist members in need. The salary will be commensurate with experience and maturity. The deadline for submission is November 1, 2006. The Alabama State Bar is an equal opportunity employer.



President's Comments

Balance, balance, balance—not practice, practice, practice—is the message from MBA President and Alabama lawyer Ben Rowe

The Alabama State Bar's Quality of Life Survey results revealed a high level of career dissatisfaction among Alabama lawyers, particularly in the area of "work/life" balance. Here are some of my ideas about what can be done about that.

Lawyers must accept the fact that practicing law involves years and years of hard work. You will say that is no surprise, but, in fact, a shocking number of law school graduates and/or their spouses seem to think hard work is behind them and that practicing law is pretty much a 9-5 enterprise. When this misapprehension comes in conflict with rising economic demands and expectations, unhappiness follows.

Having said that, it is also necessary to understand that there is more to life than law practice. So, consider this:

At the end of a reasonable work day go home to your family (note: your family is *not* at your favorite watering hole and that cute thing at the next table is *not* your spouse), and when you walk through the door leave the frustrations and disappointments behind you. Hug your spouse and children. You don't get a do-over, that is, a second chance to be involved in your children's young lives. Also, exercise: run, play tennis or golf. Read.

Cultivate your spiritual life. Yes, weekends are good, quiet times to get a lot of work done at the office. Go to your house of worship anyway. And let me add this: If you don't have a spiritual life, it is not because you are smart or sophisticated. And, it's certainly not because you have thought a lot about it. To begin thinking about it, read *The Question of God* by Dr. Armand Nicholi, Harvard psychiatrist.

Be involved in good works. Obituaries never report hours worked and rarely money made. They do report the good you did because this is what is ultimately important and worth bragging about. There is not much of a relationship between wealth and happiness. There is a very strong relationship between good works and happiness.

In practice, conduct yourself civilly and professionally. You will be happier and, in all likelihood, more successful. Do not be driven by greed or envy or the idea that your value is determined by where or how big your house is or what car you drive. Nothing is more corrosive or less related to happiness and true success. Look at the people whom you admire and ask yourself whether you admire them because of what they have or because of the content of their character.

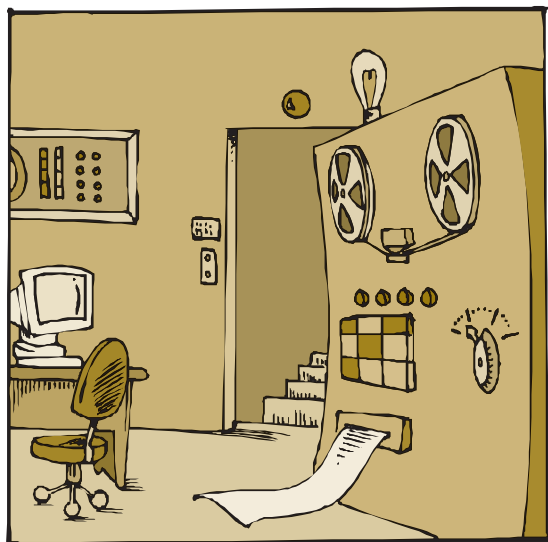
To me, a glass of Lagavulin on a chilly night is one of life's great pleasures. Nevertheless, beware of alcohol (and its functional equivalents). It can sneak up on you and steal your life. It is no respecter of age, education, intelligence, gender, or social status. Eternal vigilance is the price of sobriety.

These are the elements of a balanced life. They are primarily matters of individual responsibility. The Alabama State Bar can help, as well as firms across the state, through the orientation and mentoring of our young lawyers. There is also the ASB's Alabama Lawyer Assistance Program, (334) 834-7576. The heavy lifting is up to you.

—Ben Rowe, president, Mobile Bar Association

(This article, from the June 2006 edition of the Mobile Bar Bulletin Monthly Report, is reprinted in part with permission.)

Fast Facts About the Legal Profession



The overall number of attorneys in the nation's 250 largest law firms (116,671) in 2005 increased 4.4 percent over the previous year. That was the highest annual increase since 2001's 8.2 percent. The increases in 2003 and 2004 were 1.6 percent and 1.5 percent, respectively.

Source: *The National Law Journal's* 28th annual survey of the nation's 250 largest law firms. The survey measured the growth at the nation's largest firms between October 1, 2004 and September 30, 2005.

In 2006, Alabama had 12,625 active resident attorneys, ranking 27th out of 50 states and the District of Columbia (up slightly from 12,382 in 2005).

Highest state: New York with 144,599 active resident attorneys;

Lowest state: North Dakota, with 1,368 active resident attorneys.

Source: American Bar Association, National Lawyer Population by State, 2006.

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Margaret Murphy, managing editor, at margaret.murphy@alabar.org.
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