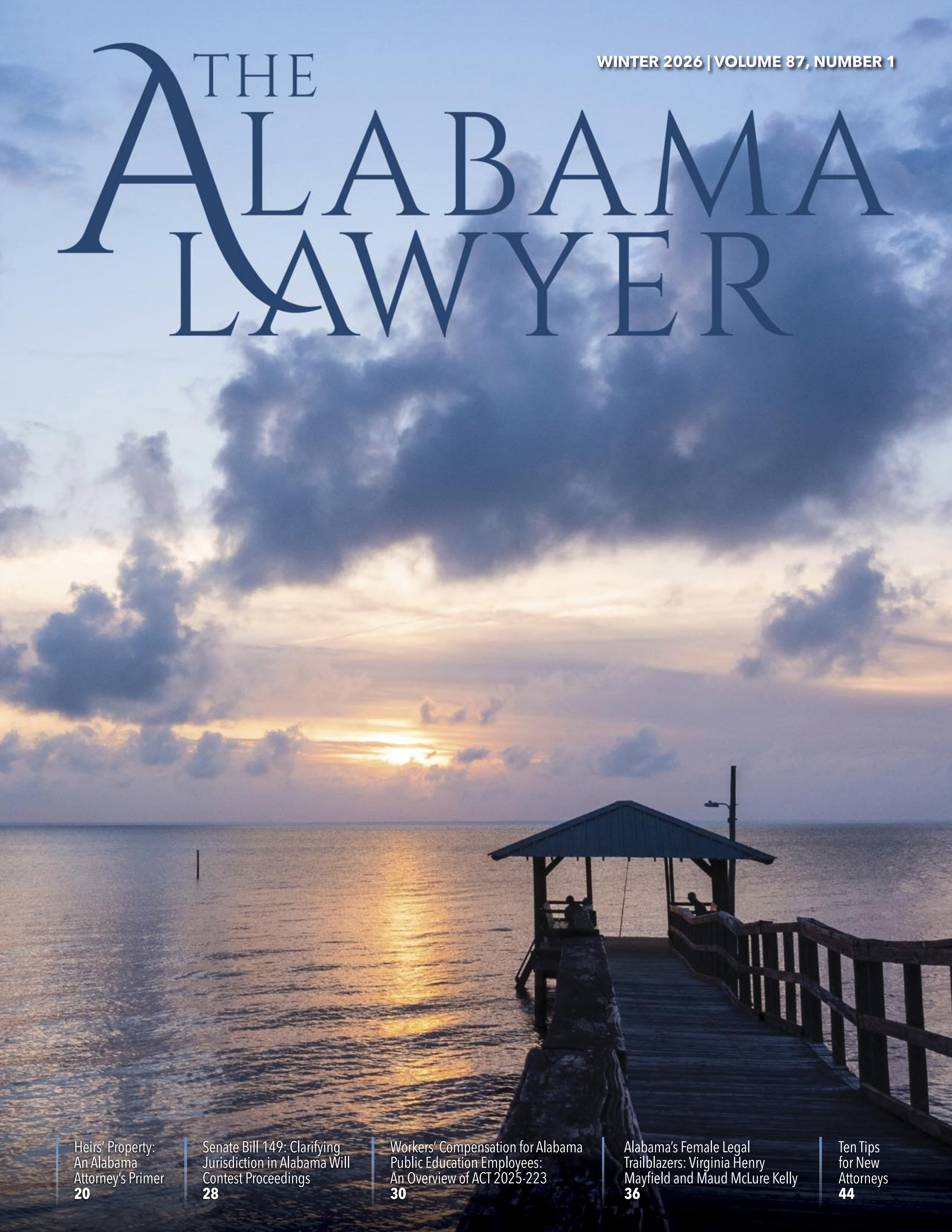
WINTER 2026 | VOLUME 87, NUMBER 1

THE ALABAMA LAWYER

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ON THE COVER

Clouds float at sunset above a pier in Fairhope, Alabama, the host city of the Alabama State Bar's 2026 Annual Meeting in July and the Southern Conference of Bar Presidents Conference in October.

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THE ALABAMA LAWYER

WINTER 2026

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Supporting What Matters

Highlighting Alabama's Contributions as We Prepare to Host the Southern Conference of Bar Presidents

By Fred Helmsing
2025-2026 President, Alabama State Bar

Fred Helmsing
fhelmsing@joneswalker.com

It is now 2026, and I would again like to express my profound gratitude for the opportunity to serve as the 150th President of the Alabama State Bar. It has been the highlight of my professional life to represent the Bar while traveling throughout our state. At each stop, we continue to highlight and reinforce this year's theme of Supporting What Matters by focusing on improving and enhancing civility, addressing mental health and wellness for Bar members, and increasing access to justice through various avenues.

One of this year's additional projects is rapidly approaching. As referenced in my last note, it is Alabama's turn to host the Southern Conference of Bar Presidents in 2026. That organization is composed of the state bars of 20 states (and the District of Columbia) located in the geographically southern part of the country. We will oversee the Southern Conference throughout the year, culminating in hosting the annual meeting at the Grand Hotel in October. We are working diligently to present a conference with first-class programming that highlights the accomplishments and achievements from around Alabama of which we can all be very proud. As our nation moves toward the celebration of its 250th birthday, we also plan to highlight Alabama's contributions to American exceptionalism.

Throughout its history, Alabama has made tremendous and lasting contributions to the culture, economy, and development of our country. A complete catalog of these accomplishments would require far more space than this note allows. Some of the most notable examples, moving from north to south, are highlighted here. While Alabama has experienced periods of dark and painful history, we intend to focus on the many positive accomplishments of our state and its citizens. I can say without exaggeration that colleagues from across the country are excited to attend the meeting and learn more about Alabama's history and its people.

These achievements include, but certainly are not limited to, Alabama's central role in NASA's efforts to land men on the moon. Much of the success of the Apollo space program – along with many other space initiatives – is due to the work accomplished at the Marshall Space Flight Center in Huntsville. On the other side of the state, the musical and artistic creations flowing from the Florence and Muscle Shoals area are unparalleled. The American songbook would not be what it is today without the music created in Alabama studios.

Continuing south, the industrial strength of Birmingham helped build both the state and the nation. Birmingham later emerged as a banking and healthcare center, again demonstrating leadership in economic affairs. Tuscaloosa and Auburn are home to world-class universities that have brought distinction to our state through both academic excellence and athletic achievement. Selma and Montgomery were central to the struggle for civil rights, playing pivotal roles in some of the most significant events advancing the quest for equality. The story of the civil rights movement cannot be told without reference to these communities.

Further south, Monroeville – the literary capital of Alabama – produced one of the greatest works of American literature, still read by students around the world. Finally, at the southernmost reaches of our state, Alabama boasts a proud maritime history. Mobile has been the center of Alabama's seagoing industry since statehood and is also recognized as the birthplace of Mardi Gras in the New World. Just next door in Baldwin County, the beaches rival any in the world. Alabama truly offers a diversity of geography – from mountains to the Gulf – and of people that is as pronounced as anywhere in the United States.

One of the great privileges of serving as President of the Alabama State Bar is the opportunity to travel across the state and engage with its diverse regions and the outstanding lawyers who practice there. Our Bar reflects the spirit and resilience of the citizens of Alabama, who have accomplished so much throughout the history of our Republic. The future remains bright for both the State of Alabama and the Alabama State Bar. ▲

George R. Parker

Pursuant to the Alabama State Bar's Rules Governing the Election of President-Elect, the following biographical sketch is provided of George R. Parker, who qualified for the position of president-elect of the Alabama State Bar for the 2026–2027 term. At the close of qualifying, no other candidates had filed for the position, and Parker will assume the presidency in July 2027.

George R. Parker

President-Elect, Alabama State Bar (2026-2027)

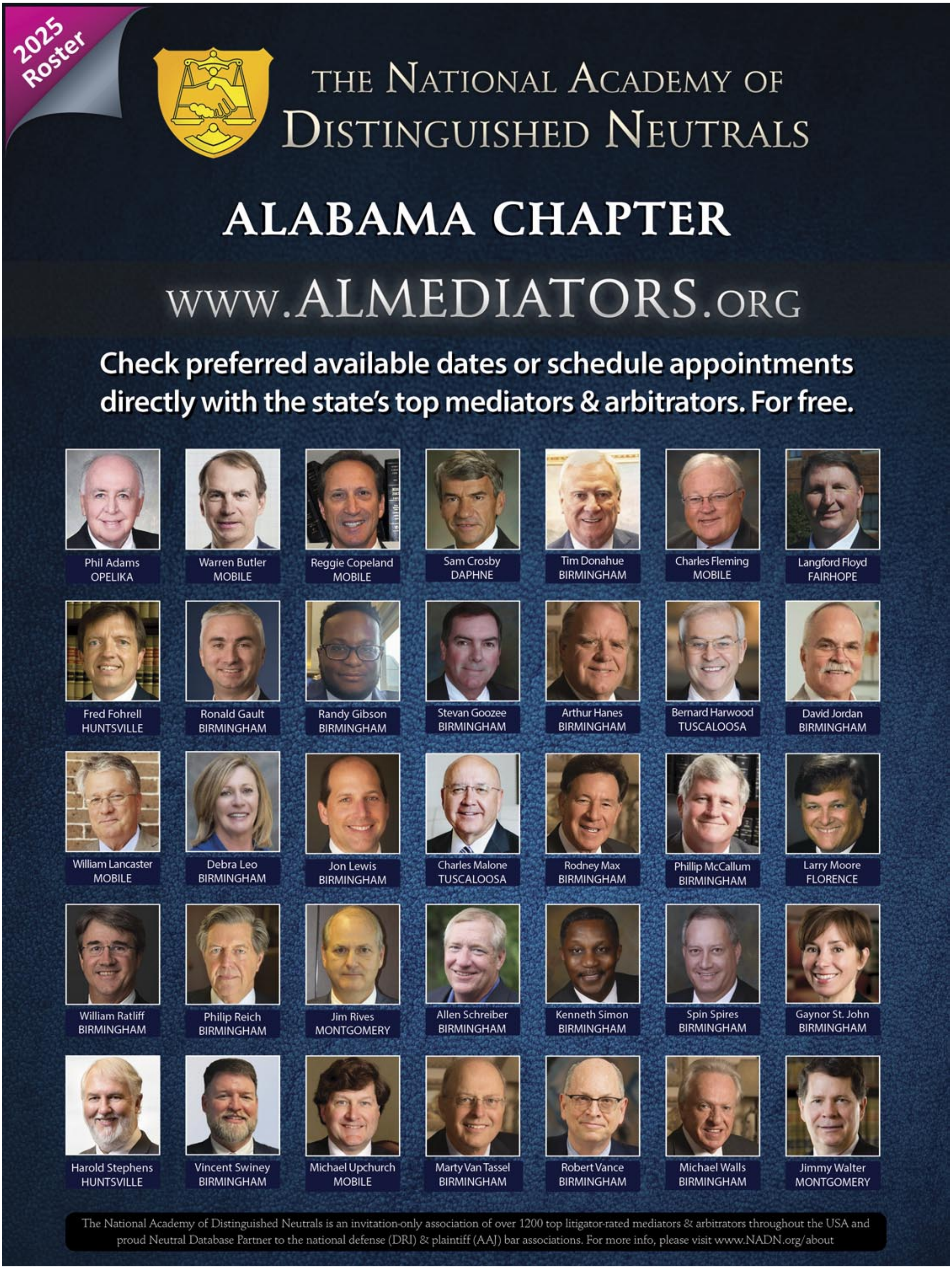
George R. Parker's service to the Alabama State Bar spans nearly three decades. A lifelong Alabamian, he grew up in Montgomery, earned a B.S. in Marketing from Auburn University in 1994, and received his J.D. from The University of Alabama School of Law in 1998. He returned to Montgomery to practice law and has practiced for 28 years, first at Ball, Ball, Matthews & Novak and since 2002 at Bradley Arant Boult Cummings LLP.

George began his Bar involvement as a young lawyer, serving as Treasurer, Vice President, and President of the Young Lawyers Section in 2007–2008. Selected for Leadership Forum Class 3 in 2007, he remains active in Leadership Forum alumni initiatives.

He has represented the 15th Judicial Circuit as a Bar Commissioner and currently serves on the Executive Council. Over the years, he has contributed to numerous committees, including Finance and Audit, Insurance Benefits, Personnel, Member Benefits, MCLE, Character & Fitness, and the Disciplinary Board. He currently chairs the State Bar's Litigation Section.

In his practice, George focuses on pharmaceutical and medical device litigation, products liability, mass tort, and class action matters. Additionally, he serves his firm in the capacity of Firm Counsel. George has devoted significant time to pro bono service and was recognized as a Pro Bono Exemplar by the Alabama Access to Justice Commission. He is a Fellow of the Alabama Law Foundation and the American Bar Foundation and is AV Preeminent rated by Martindale-Hubbell®. He has been listed in Alabama Super Lawyers, Mid-South Super Lawyers, and The Best Lawyers in America. He will be the fourth member of Bradley Arant to serve as Alabama State Bar President.

George and his wife, Jessi, are active members of Wesley Church in Montgomery. The Parkers have three daughters, ages 22, 19, and 17. ▲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Hope is Not a Strategy

Terri Lovell
terri.lovell@alabar.org

Anyone who knows me well knows I am a hopeful person - a glass half-full, Pollyanna-at-heart kind of person. I genuinely believe things can get better, and they usually do. Hope has carried me through long days, hard conversations, and more than a few unexpected turns. But here's the truth I've learned over time: hope alone doesn't always move us forward. Hope is inspiring, but it is not a strategy.

As we begin a new year, that distinction matters more than ever for our legal profession. Lawyers are facing unprecedented challenges like burnout, mental health concerns, evolving technology, and increasing public mistrust. The public we serve is navigating a complex legal landscape that can feel confusing, expensive, and out of reach. Simply hoping these issues resolve themselves is not an option.

For example, no one wants grievances or disciplinary issues, but hoping they decline is not enough. We must look critically at the underlying causes of many complaints. When we realized that a large number of violations resulted from inadequate trust account management, we provided free trust accounting software and training to all Alabama lawyers.

Likewise, in recent years after witnessing a rising number of mental health complaints, we responded by

Trust Accounting | *Wellness* | *Justice4AL* | *Harvesters of Hope*

expanding mental health counseling offerings and resources to help lawyers improve their well-being.

Access to justice is another area where hope is essential, but insufficient. We can hope that people find legal help when they need it, or we can strategically expand pro bono efforts, and support innovation like the Justice4AL website helping to remove barriers that keep the public from navigating the legal system.

Then there is the growing shortage of lawyers in rural Alabama. We can hope young lawyers discover these legal opportunity zones, or we can actively develop incentives, mentorship, and support structures that make rural practice sustainable and attractive by coordinating efforts with the Harvesters of Hope program.

Strategy creates solutions. A clear plan allows us to take our natural sense of hope and give it direction. As a mandatory bar, we have a responsibility to focus our work on issues that affect both lawyers and the public today and in the years ahead. And yes, I remain unapologetically hopeful. I believe deeply in this profession and the people who serve within it. I believe in you!

This year, let's pair hope with purpose to create lasting change for ourselves and our profession.

Wilson F. Green
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What is Truth?

About five years ago, I discovered the BBC Radio programme (now available as a Podcast) called *In Our Time*. It has become a personal favorite. Each show's format is the same. There is a pre-selected topic – perhaps a historical subject or figure, or a period or sphere of political thought or philosophy, or a scientific phenomenon. Three academic experts on the day's chosen thesis are invited to participate; they roundtable its various aspects, their discussion moderated and guided by longtime host Melvyn Bragg.

After they all "rabbit on" for 45-50 minutes, there is an "overtime" segment, where Melvyn's first question to the group is something like this: "What did we not discuss that you would have liked to have brought up?" This follow-on question almost invariably spawns new inquiries among the group in the remaining 10-15 minutes, called the "bonus time with Melvyn and his guests," as the voiceover always quips.

Then comes my favorite moment. The show's producer enters the studio and asks everyone, audibly to the listeners, "Would you care for coffee or tea?" Whatever debates and interchange have preceded the moment (usually they're quite respectful, but sometimes there's a bit of creative tension), the encounter ends with refreshment, even joviality, and true collegiality. Its source is not the topic itself, but the shared joy of having learned, and of learning, from one another.

What a civilized way to live and think. For the participants, yes, but even more for the listeners.

After nearly half a century of hosting the show, Melvyn (a polymath of the quickest wit) retired a few months ago. His successor, Misha Glenny, chose John Stuart Mill's *On Liberty* as his first show topic. When asked about it, he commented that the show's format of having three experts on a topic reflected the multivalence of perspectives from which we should grasp for the truth. As he said, "When those guests who are all steeped in a subject disagree about something, with that, we can have a creative and civilized conversation, [even an] argument, so that we can come out all the wiser." He noted that approach was a reflection of Mill himself – because for Mill, he commented, "There is no monopoly on truth," and "You always get closer to the truth if you listen to different opinions."

Getting at the truth, in other words, requires (a) listening, (b) to a variety of informed sources, and then (c) sifting through those various sources, using our God-given reason and experience, to form conclusions - hopefully ones which reflect an informed judgment.

For those of us who litigate for a living (I'm looking at the "man in the mirror," to quote Michael Jackson),[1] we are most often in the business of reducing issues to the binary. It's how we make choices stark – and in our advocacy obvious. We certainly see this in political discussions as well; one could say that political "messaging" hacks hawk the same ware.

Reductionism might work as a tool of persuasion, particularly in law and in politics, but I wonder whether it always, or ever, serves the cause of truth. Rather, and perhaps alternatively, might it tilt us more toward "truthiness" (to invoke the soon-to-be-canceled Steven Colbert, who coined that term two decades ago)?[2] (You see the irony: I just made the very point of which I speak in binary form.)

Reductionism, it could be said, shrinks our field of vision to the myopic. But truth is often more kaleidoscopic. To quote a good friend and Circuit Judge in this State, as with most things in life, "it's complicated."

The trouble is, what's complicated requires effort. It leads to struggle, and it sometimes triggers an irreconcilable divergence of views and even conclusions. But the complicated nevertheless mandates that we come to those points of disagreement using ***shared*** information. It beckons the response to the age-old invitation: "Come now, and let us reason together." (Isaiah 1:18). We cannot reason together without having the tools – that is, the shared information - with which to reason. And when we have shared information and still come to different conclusions, we're then opened to the realization that more than one reasonable conclusion could be drawn from that body of "shared information." That's the moment we rediscover respectful dialogue – not just "agreeing to disagree," but doing so with abiding respect for our disputant and her viewpoint. (May it be so.)

What makes the world today all the more complicated, though, is that our sphere of "shared information" – that is, the stuff we actually need to "reason together" - is oftentimes neither shared nor information. In a world of AI hallucination and deliberate misinformation, we – I – all of us – face as much false data as accurate data. Making matters worse, mass electronic communication in all forms flattens the universe of information: the real and the unreal have little to delineate themselves on the screen.

So who is to rescue us from this body of death (Rom. 7:24)?

For one thing, we all must pledge ourselves to embracing the whole of available and reliable information – not just those data points supporting a particular conclusion, but all points. We must also be open, at all times, to having the "facts" as we understand them to be disproven. And perhaps most significantly, we must acknowledge that a diverging conclusion from our own could reasonably be drawn from available facts, when it is warranted.

In this Lenten season for Christians, perhaps we can look at it this way. Pilate asks Jesus from the judge's bench, "What is truth?" (Quod est veritas?) That question is pregnant with multiple offspring of interpretations and meaning, but one point is this. Truth isn't something innate in ourselves. It's exogenous. It comes from elsewhere.

Maybe that's the starkest reminder that none of us has a monopoly on truth. Because none of us actually possesses it internally. Indeed we never grasp it - we are always grappling for it. And perhaps, in those rarest of moments, it is given to us – from another. ▲

ENDNOTES

1. "Man in the Mirror" appeared on Michael Jackson's album *Bad* (1987-88). The bridge of the song makes the point made in the text:

   You gotta get it right while you got the time
   'Cause when you close your heart (you can't)
   Then you close your (your) mind *(that man, that man)*

2. Colbert coined the term in October 2005 on *The Colbert Report*. His "dog Latin" version of the term was "Veritasiness."


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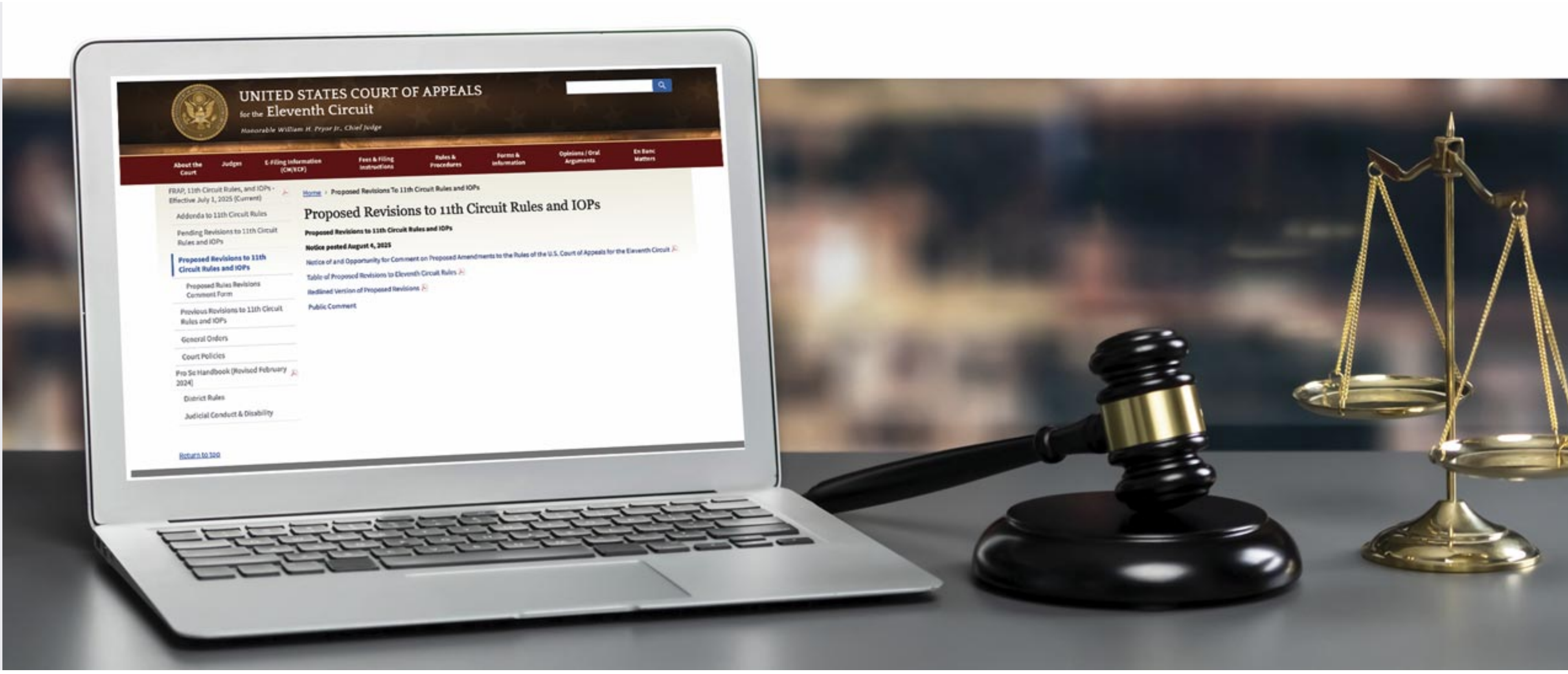

NOTICE OF AND OPPORTUNITY FOR COMMENT ON PROPOSED AMENDMENTS TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Pursuant to 28 U.S.C. § 2071(b), notice is hereby given of proposed amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit. The public comment period will run from Monday, April 6, 2026, through Wednesday, May 6, 2026.

A copy of the proposed amendments will be available beginning Monday, April 6, 2026, on the court's website at www.ca11.uscourts.gov/rules/proposed-revisions. Copies may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St., N.W., Atlanta, Georgia 30303 (404-335-6100).

Written comments must be submitted to the Clerk at the address above or electronically through the court's website no later than Wednesday, May 6, 2026.

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 that the election of these officers will be held beginning Monday, May 18, 2026, and ending Friday, May 22, 2026.

On the third Monday in May (May 18, 2026), members will be notified by email with instructions for accessing an electronic ballot. Members who wish to vote by paper ballot should notify the secretary in writing on or before the first Friday in May (May 1, 2026), requesting a paper ballot. A single written request will be sufficient for all elections, including run-offs and contested president-elect races during this election cycle. All ballots (paper and electronic) must be voted and received by the Alabama State Bar by 5:00 p.m. on the Friday (May 22, 2026) immediately following the opening of the election.

Nomination and Election of the Board of Bar Commissioners

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

8th Judicial Circuit	22nd Judicial Circuit
10th Judicial Circuit, Place 4	23rd Judicial Circuit, Place 1
10th Judicial Circuit, Place 7	28th Judicial Circuit, Place 2
10th Judicial Circuit, Bessemer Cutoff	28th Judicial Circuit, Place 3
11th Judicial Circuit	30th Judicial Circuit
13th Judicial Circuit, Place 1	31st Judicial Circuit
13th Judicial Circuit, Place 5	33rd Judicial Circuit
15th Judicial Circuit, Place 5	34th Judicial Circuit
17th Judicial Circuit	35th Judicial Circuit
18th Judicial Circuit, Place 1	36th Judicial Circuit
18th Judicial Circuit, Place 3	40th Judicial Circuit
19th Judicial Circuit	41st Judicial Circuit
21st Judicial Circuit	

Additional commissioners will be elected for each 300 members of the state bar with principal offices therein. New commissioner positions for these and the remaining circuits will be determined by a census on March 1, 2026, and vacancies certified by the secretary no later than March 14, 2026. All terms will be for three years.

A candidate for commissioner may be nominated 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. Nomination forms and/or declarations of candidacy must be received by the secretary no later than 5:00 p.m. on the last Friday in April (April 24, 2026).

Submission of Nominations

Nominating petitions or declarations of candidacy form, a high-resolution color photograph, and biographical and professional data of no more than one 8 ½ x 11 page and no smaller than 12-point type must be submitted by the appropriate deadline and addressed to Secretary, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101-0671.

Election of At-Large Commissioners

At-large commissioners will be elected for the following place numbers: 3, 6, and 9. Petitions for these positions, which are elected by the Board of Bar Commissioners, are due by April 1, 2026. All terms will be for three years.

Submission of At-Large Nominations

Nominee's application outlining, among other things, the nominee's bar service and other related activities must be submitted by the appropriate deadline and addressed to Executive Council, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101-0671. All submissions may also be sent by email to *elections@alabar.org*.

It is the candidate's responsibility to ensure the executive council or secretary receives the nomination form by the deadline.

Election rules and petitions for all positions are available at *https://www.alabar.org/board-of-bar-commissioners/electioninformation/*.

ALABAMA LAWYERS HALL OF FAME

Each year, distinguished members of the legal profession are inducted into the Alabama Lawyers Hall of Fame, located in the lower rotunda of the Alabama State Judicial Building. A 12-member selection committee, appointed by leaders from across the bench and bar, meets annually to review nominations and select inductees. The committee includes the immediate past president of the Alabama State Bar, appointees of the Chief Justice and Alabama's three presiding federal district court judges, four members appointed by the Board of Bar Commissioners, the Director of the Alabama Department of Archives and History, the Chair of the Alabama Bench and Bar Historical Society, and the Executive Secretary of the Alabama State Bar.

Inductees must have demonstrated a distinguished career in the law through achievement, leadership, service, mentorship, courage, or professional excellence. Each inductee must have been deceased for at least two years at the time of selection, and at least one honoree each year must have been deceased for 100 years to ensure recognition of historic figures alongside more recent leaders of the profession.

Download an application form at https://www.alabar.org/about/alabama-lawyers-hall-of-fame/ and mail the completed form to: Sam Rumore, Alabama Lawyers Hall Of Fame, P.O. Box 671 Montgomery, Al 36101-0671. The Deadline for submission is April 1.

HEIRS' PROPERTY: An Alabama Attorney's Primer

By William Breland, Director of the Faulkner Law Generational and Ancestry Property Clinic with contributions from Jacy Fisher, Gregory Varner & Associates

In the last decade, the problem of "heirs' property" emerged from obscurity and became a popular subject among policymakers and advocates.[1] During this time, public officials from both political parties, bar associations including the American Bar Association, and trade associations like the Business Roundtable and the National Association of Realtors made major efforts to reform the laws governing heirs' property.[2] However, all the attention did relatively little to dispel the mystifying nature of heirs' property law.

Indeed, many attorneys are reticent to take on an heirs' property matter. Much of this stems from the persistent belief among attorneys and legal scholars that, absent major reforms, nothing could be done to repair the heirs' property issues that plagued communities for so long.[3] However, this assertion is no longer correct, and it is incumbent upon the legal profession, both those in private practice and legal aid, to work to remediate the effects of heirs' property ownership. Accordingly, this article seeks to clarify the origins of, and problems associated with, heirs' property along with the various property law reforms that have emerged in the last decade.

Key Terms and Their Consequences

So, what is heirs' property? Put simply, it is real property owned by multiple heirs as tenants in common.[4] Typically, this form of ownership can be created in one of two ways. The first is when an individual with clear title to land has multiple heirs and passes away without a will.[5] The second way occurs when such an owner dies with a will that bequeaths real property to multiple heirs.[6] For some Alabama families, this means that the number of co-tenants with ownership interests in a single parcel of land can seem interminable.

Take, for example, an unexceptional scenario in Alabama: a man purchases an 80-acre plot of land in Marengo County in 1879. He has 12 children. He and his wife both passed away without leaving wills. Their 12 children each have between 2 and 9 children. Each passed away either without having wills or executed wills that left their shares of the property to their multiple heirs. This process then carried on for over a century. By the time we reach the present day, it is not unfathomable to assume that over 1,000 heirs could possess an ownership stake in this 80-acre parcel. Invariably, an overabundance of heirs complicates the resolution process.

Effectively, this can mean that an individual co-tenant with a 1 percent ownership interest could hunt, reside, sow, and harvest on the land without the permission of other co-tenants.

Aside from the prospect of numerous co-tenants, the tenancy-in-common possesses unique features that make it a particularly fragile form of ownership. First, co-tenants have equal rights to use the entire property, regardless of its size or the size of their fractional ownership interests.[7] Effectively, this can mean that an individual co-tenant with a 1 percent ownership interest could hunt, reside, sow, and harvest on the land without the permission of other co-tenants. This is true even if another co-tenant owns a comparatively substantial ownership stake.

Second, each co-tenant may freely transfer their ownership interests to other co-tenants or third parties.[8] Transfers may occur during the co-tenant's lifetime or through a will.[9] This poses multiple risks for family members. Aside from further clouding title to the land, transferring interests to additional persons, particularly third parties, increases the prospect of partition actions.[10] In Alabama, major partition action reforms were enacted in 2014.[11] These will be discussed at length in Part III.

Third, the tenancy-in-common does not include a right of survivorship.[12] As such, when a co-tenant dies, his interest is not inherited automatically by the other co-tenants.[13] Rather, the deceased co-tenant's fractional interest may either be inherited by his heirs at law through intestacy, or by whomever he chooses if he executed a will.[14] This attribute further increases the multiplicity of co-tenants over time.

Additionally, there are property tax issues that accompany heirs' property. A common question regarding property taxes arises from the fact that in Alabama, like most jurisdictions, tenants-in-common are jointly and severally liable for their property's tax liabilities. This can place a special burden on individuals that own heirs' property and tend to the land. Often, a single individual pays the property taxes on land owned by numerous heirs.[15] However, a tenancy-in-common does not confer special ownership privileges on those who pay property taxes or make improvements.[16]

To the layperson, some of the consequences of these legal features seem counterintuitive. When weary heirs' property owners seek assistance, they often ask questions sparked by these legal absurdities. "Since I have been paying all the property taxes for the last decade, am I not considered the property's sole owner?" "Since this land was my parents', shouldn't my only sibling's share go to me?" "I know that my niece sold her share of the land to someone I do not know, but I did not consent. Shouldn't that be illegal?" "I've been paying the property taxes and living on the land for thirty years. Why can't I tell my nephew to stop hunting on this land?" "Can I reimburse myself for the property taxes using timber sales from the land?"

Due to the tenuous nature of the tenancy-in-common form of ownership, there are many additional adverse ramifications that come along with heirs' property, including: increased risks of partition actions and tax sales, limitations on access to private capital and government assistance, restrictions on decision-making regarding profiting from the land, and rendering the land less marketable than it would be if title was clear.[17] Only the resolution of the heirs' property can ameliorate these practical consequences. This process will also be discussed comprehensively in Part III.

Heirs' Property, Its Social Impact in Alabama, and Reform

Two questions that interested laypersons and attorneys often ask are, how much heirs' property exists in Alabama, and what effect does it have on Alabama communities? It has been "conservatively" estimated that as much as 486,674 acres of Alabama land is heirs' property.[18] This totals roughly $2,947,571,329 in total market value.[19] This results in hundreds of thousands of acres in underutilized, undervalued, and undertaxed land.[20] Such underutilization directly impacts the communities surrounding the land. In such communities, economic development is depressed, schools are underfunded, and income disparities are exacerbated.[21]

How have governments, both at the state and federal levels, responded to the heirs' property crisis? Encouragingly, both Alabama and federal law have effectively addressed the issue over the last decade. For instance, in 2014, Alabama was one of the first states to adopt the Uniform Partition of Heirs Property Act (UPHPA).[22] The Uniform Law Commission proposed the act to address a spate of ancestral land loss.[23] Prior to the 2014 law, partition law was exploited to allow third-party co-tenants to force profitable sales of ancestral land.[24] The pre-UPHPA partition action typically adhered to the following paradigm: a third-party speculator purchased a fractional interest from an heir property owner, filed a partition action, a court would order a sale, few safeguards governed the sale of the property, and the speculator purchased the entirety of the property at a price well-below market value.[25]

The UPHPA reformed partition actions by implementing protections for heirs. Now, when heirs' property is subject to a partition action, the filing co-owner must ensure that certain procedures are followed. The UPHPA partition sale paradigm follows thusly: co-owner files a partition action; all known heirs are notified of the sale through service and a conspicuous sign located on the property; co-owners may either agree to a value in which the property may be sold or, in the absence of such agreement, the court will order a disinterested real estate appraiser to determine the value of the land; any co-tenant not seeking a partition possesses a right of first refusal to buy out the other co-tenants by paying fair market value for the remainder of the fractional interests; after 30-days elapses, if no co-tenant purchases the property, the property shall be listed on the open market for fair market value for a reasonable period of time; and, if the property is sold, profits shall be distributed to heirs based on their fractional interests.[26]

Importantly, the UPHPA provides a statutory preference for partitions-in-kind, unless such a partition would prejudice the co-tenants.[27] A partition-in-kind is "[t]he act of dividing; esp[ecially] the division of real property held jointly or in common by two or more persons into individually owned interests."[28] As the forced sale of one's land is an extraordinary remedy, this serves as another legal advancement for heirs.[29] While this form of partition cannot always be utilized, the UPHPA provides judges with a "totality of the circumstances" test to determine the feasibility of a physical division.[30] Judges may weigh: the practicability of physical division; whether the aggregate value of the physical division would be materially less than the value of the whole; the collective duration of ownership by a family; co-tenants' sentimental attachment to the property; how the property is utilized and if a sale of the whole would greatly prejudice any co-tenant; the degree to which any co-tenant provided for taxes, insurance, upkeep, and improvements; and "other relevant factors."[31]

Over the last decade, the federal government instituted legal reforms for heirs' property owners. For example, the United States Department of Agriculture (USDA) now allows heirs' property owners to qualify for a farm number, thus unlocking a host of assistance programs.[32] The Federal Emergency Management Agency loosened its proof-of-ownership requirements for accessing recovery funds.[33] Formerly, these once stringent requirements precluded heirs' [34]property owners from meaningful assistance.[35] While there are still enterprising opportunities for governments to address heirs' property, recent developments provide hope for stakeholders.

Means of Heirs' Property Resolution

So, how does one go about halting the effects of heirs' property? Simply put, to halt its effects, one must defeat the tenancy-in-common. This essentially involves three discrete steps. First, one must prove that she possesses a legal ownership interest in the real property in question. Second, one must consolidate all ownership interests, from each tenant-in-common, into a single entity. Third, once interests are consolidated, an estate plan should be devised to prevent the creation of heirs' property in the future. Each of these steps will be discussed in turn.

Proving Ownership

The first phase in proving ownership of heirs' property is locating the deed to the property. For real property owners who purchased their homes or land themselves, this may seem like an obvious and undemanding initial task. However, for an heirs' property owner, identifying the last person to hold legal title can be onerous. Pinpointing the deed can be nothing short of Herculean. This is especially true of families that have gone multiple generations without properly probating the estates of previous title holders. After all, even the most genealogically aware may struggle to recount the name of her great-great-great-grandfather. Once the deed is secured, a detailed family tree must be constructed to illustrate how ownership has passed hands over the generations.

With the lack of a clear family history, heirs' property owners may be unaware of historical transactions involving the land. For certain populations, particularly Black Americans, land transactions historically occurred in the shadows, largely because of past exclusions from the legal system.[36] This further complicates the process of locating the deed, or deeds, that pertain to a family's ancestral land.

The second step in proving ownership is to create and execute an heirship affidavit. An affidavit of heirship, a sworn document, is used to establish the legal heirs of a deceased property owner.[37] Some states, including Connecticut, Kentucky, Ohio, Tennessee, Texas, Virginia, and Wyoming, recognize such affidavits as a means of transferring title to real property.[38] In the state of Alabama, the heirship affidavit exists in a more nebulous form. It is neither statutorily recognized nor does it transfer title. Its structure is typically borrowed from other states' statutory language. A recorded heirship affidavit in Alabama simply provides courts and the public with evidence of how real property descended through the generations. Furthermore, this "evidence" is rebuttable.

Why, then, would an Alabama attorney urge his client to record an affidavit of heirship? First, the information contained in a recorded heirship affidavit provides courts and the public with *meaningful* evidence of ownership. Second, this document may be used to access assistance programs, particularly from the federal government.[39] Therefore, an affidavit of heirship should be viewed as a critical instrument in the heirs' property resolution toolkit.

Finally, to clarify the title in the name of those in the present generation, the real property should be probated. This process may be straightforward, particularly if a decedent left a properly executed Last Will and Testament and the last titleholder was not generationally distant. However, this process is complicated when relatives die intestate or multiple generations pass without ever probating the decedents' estates.

Consolidating Ownership

Once ownership is proven, the "most efficient" method of dissolving the tenancy-in-common is to consolidate ownership into a single entity.[40] This entity can either be a living being, like an existing co-tenant, or a non-living entity like a business association or trust. Frequently, one co-tenant lives on and upkeeps their ancestral land. Accordingly, if other co-tenants see fit, their interests can be consolidated in the name of the resident co-tenant through quitclaim deeds.

For example, Mabel has resided on her family land for sixty years. She has paid the taxes, paid to fix the roof on the family homeplace, and mowed the grass on the 8-acre lot. Her siblings, nieces, and nephews visit occasionally for holidays, but the land and house are widely considered Mabel's. Mabel enlists the help of a public interest attorney in the hopes that he can probate her ancestors' estates and consolidate co-tenants' interests in Mabel's name. After the estates are closed, the attorney contacts all the living co-tenants and explains the situation. For nominal consideration, all twenty other co-tenants execute separate quitclaim deeds transferring their fractional interests to Mabel. This land is no longer heirs' property. It is Mabel's.

For families that choose to maintain their collective ownership, their interests can still be consolidated. The preferred method for merging such interests is to form and fund a limited liability company (LLC).[41] Co-tenants may form the LLC and quitclaim their fractional interests to the business entity. Attorney David J. Dietrich, former chair of the Real Property, Probate, and Trusts section of the American Bar Association, identified ten advantages to consolidating heirs' property interests into an LLC, as opposed to other legal entities.[42] These benefits include: (1) members' individual liability "can be limited to their capital investment;" (2) flexibility of operations and structure; (3) the widespread adoption of LLCs nationwide; (4) LLCs can be either "manager or member managed;" (5) "superior protection of assets from creditors;" (6) depending on the provisions in the operating agreement, an LLC "may provide for 'distributions in kind;'" (7) Percentage of ownership can be determined by each

member's amount of contributions; (8) LLC members may identify "unpermitted transferees;" (9) the operating agreement may govern member voting; and (10) members can mandate alternative dispute resolutions.[43]

Another viable, but less preferable, method of consolidation is the development and funding of a grantor trust.[44] The benefits are apparent. The trust consolidates interests, avoids probate, has centralized management, and its trustee is bound to "fiduciary standards for the benefit of multiple beneficial owners."[45] However, as Dietrich noted, there are distinct disadvantages to retitling heirs' property into a grantor trust.[46] Namely, Alabama trust law inhibits "long-term, multigenerational trust ownership" due to the rule against perpetuities.[47] Also, the complexities associated with heirs' property, such as "inherent conflicts of interest among the various beneficiaries" and "the high-risk nature of real estate, may result in unwilling potential trustees.[48]

Of course, when a person dies intestate and has multiple heirs, heirs' property is created. The same is true for someone who dies with a Last Will and Testament and bequeaths his real property to multiple heirs.

If a client who owns heirs' property wishes not to consolidate ownership, there are still tools that foster sounder management of ancestral land. For instance, an attorney could encourage the development and execution of a tenancy-in-common agreement. This document, a co-tenant contract, outlines approved rules for managing the heirs' property.[49] The tenancy-in-common agreement might detail how taxes are to be paid, how timber is to be harvested, how the land may be sold, or the like. The contract does not resolve the heirs' property. The tenancy-in-common still exists, but it promotes conversations among co-tenants and limits future controversies involving the administration of the land into the future.

Preventing the Creation of Heirs' Property

Heirs' property can be created through intestacy and testacy. Of course, when a person dies intestate and has multiple heirs, heirs' property is created. The same is true for someone who dies with a Last Will and Testament and bequeaths his real property to multiple heirs. While this is an instinctive and appropriate choice, it is vital that attorneys counsel clients about its implications. If a client worked to resolve heirs' property over time, do they wish to create more after he passes away? Of course, the consequences of leaving a house situated on a single acre to a testator's two children are not as consequential as someone bequeathing their twenty acres of land to their seven children and twelve nieces and nephews in equal shares. Nonetheless, a client should be fully informed about the "heirs' property consequences" of his estate plan.

Practicing Heirs' Property Law in Alabama: The Nonprofit Sector

I direct the Generational and Ancestral Property (GAP) Clinic at the Thomas Goode Jones School of Law in Montgomery. The GAP Clinic is the only law school clinic exclusively devoted to the resolution of heirs' property in Alabama. Every semester, I instruct roughly ten law students on the procedures for much of which was briefly summarized in this article. For the bulk of each semester, these students then take these practical skills and represent clients with heirs' property. From developing family trees and histories to administering estates to litigating issues in quiet title and partition actions to forming LLCs, our students garner a wealth of legal experience that easily translates to success in their future practices. Bit by bit, we make meaningful changes in the communities we serve. Our goal is to preserve generational wealth for individuals and families, strengthen local tax bases, and foster economic well-being among community members.

Like many other organizations working in this area, funding is a perennial issue. That said, it is not for many of the reasons that immediately come to mind. My clinic is well-staffed with law students, and our administrative costs are covered. Rather, the monetary needs that we often encounter are the ancillary costs associated with heirs' property resolution. Although our legal services are free, often our clients, even those of limited means, need to pay costly filing fees. In addition, the speed of our services can be maximized

when we partner with private practitioners who assist us with the preparation of title opinions, litigation, and related matters.

As evidenced by voicemail and email inboxes, demand for heirs' property resolution has never been higher, and the professional rewards of the work are deeply gratifying. It is my hope to see this meaningful work expand throughout the state.

Practicing Heirs' Property Law in Alabama: Perspectives from Private Practice

Jacy Fisher, whose input I relied heavily on for this article, has experience resolving heirs' property in both the nonprofit and private practice areas. She writes the following call to the Alabama State Bar:

In private practice, heirs' property work offers a rare opportunity for attorneys to safeguard generational land and restore justice where it has long been delayed. Every case carries a generational story: families who informally passed down land without a will now face unclear title, unpaid taxes, or the threat of a partition sale. As a private attorney, I've come to see this work not just as title clearing, but as legacy restoration.

Restoring ownership, preventing unjust sales, and empowering families to preserve their land affirm that the law, at its best, is a tool not only for transfer but also for protection, preservation, and justice.

My heirs' property practice includes both transactional and trial work under the UPHPA. I have represented many families forced to defend against partition sales brought by investors or distant relatives, as well as clients who must file partition actions themselves to resolve long-standing disputes and clarify ownership. The UPHPA introduced much-needed procedural safeguards and valuation mechanisms, but its effectiveness depends entirely on how well it is understood and applied.

I often encounter the reality that many judges and opposing counsel still do not fully understand the UPHPA's detailed requirements. Strengthening competency within our own state is essential, and I am committed to supporting Alabama practitioners in developing the knowledge and confidence needed to handle these cases effectively. To advance this work, I helped establish the Heirs' Property Practitioner Network (HPPN), a national peer-to-peer network that provides training, mentorship, and shared resources for attorneys in private practice, legal aid, academia, and clinical programs. The HPPN enhances both legal and cultural competency, ensuring attorneys across Alabama and beyond are better equipped to navigate the complex legal, familial, and historical dynamics that heirs' property cases present.

Private attorneys play a vital role in this ecosystem. Many heirs' property clients are served initially by Legal Services Alabama (LSA) or the GAP Clinic at Faulkner University, but those organizations cannot always provide full representation in court or handle complex title, probate, or litigation matters. Private practitioners can and should collaborate with these programs, taking on portions of cases beyond their scope, partnering on training, or serving as co-counsel to expand access to justice.

This work demands competence across disciplines (from trusts, LLCs, and tenant-in-common agreements to probate, adverse possession, and tax sales), but it offers extraordinary rewards. Restoring ownership, preventing unjust sales, and empowering families to preserve their land affirm that the law, at its best, is a tool not only for transfer but also for protection, preservation, and justice.

Conclusion

In the last decade, the resolution of heirs' property has captured the imagination of policymakers and attorneys alike. Their efforts resulted in more responsive laws and policies that addressed the needs of owners of ancestral lands. The effect of these reforms also means that the resolution process is more viable for attorneys in both private practice and the nonprofit sector. Ultimately, resolving heirs' property will improve citizens' livelihoods, enhance local tax bases, and prevent the underutilization of property throughout Alabama. Therefore, it is imperative that attorneys, however limited the scope, undertake representation of clients with heirs' property. ▲

ENDNOTES

1. *See* Heirs' Property and the Uniform Partition of Heirs Property Act: Challenges, Solutions, and Historic Reform (Thomas W. Mitchell & Erica Levine Powers eds., 2022) at xx.
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3. *See id*.
4. *See* Jennifer Harrington, The Problem with Heirs' Property, THE CENTER FOR AGRICULTURAL LAW AND TAXATION, IOWA STATE UNIVERSITY (Nov. 7, 2025, at 11:22 AM CT), https://www.calt.iastate.edu/article/problem-heirs-property.
5. *See* Camille M. Davidson, *To My Children in Equal Shares: The Flaw of Estate Planning When Property is Devised to Beneficiaries as Tenants in Common*, 47 ACTEC L. J. 187, 189 (2022).
6. *See id*.
7. *See* Donna Arzanipour, *Enhancing the Uniform Partition of Heirs Property Act: The Need for Broader Use and Essential Modifications*, 40 Touro L. Rev. 581, 584-585 (2025).
8. *See* Kendall B. Bargeman, *The Heirs' Property Dilemma: How Stronger Federal Policies Can Help Narrow the Racial Wealth Gap*, 27 N.C. Banking Inst. 320, 326-27 (2023).
9. *See id*.
10. *See id*.
11. *See* Desiree C. Hensley, *Property Law and the Intestacy Entitlement*, 85 ALB. L. REV. 557, 571 (2022).
12. *See id*.
13. *See id*.
14. *See id*.
15. *See* ALABAMA HEIRS PROPERTY ALLIANCE, HEIRS PROPERTY IN ALABAMA 39 (2024).
16. *See id*.
17. *See id*. at 16-17.
18. Ryan Thomson & Conner Bailey, *Identifying Heirs Property: Extent and Value Across the South and Appalachia*, 38 J. OF RURAL SOC. SCI. 29, 34 (2023).
19. *Id*.
20. *See* Tristeen Bownes & Robert Zabawa, *The Impact of Heirs' Property at the Community Level: The Case Study of the Prairie Farms Resettlement Community in Macon County, AL*, in HEIRS PROPERTY & LAND FRACTIONATION: FOSTERING STABLE OWNERSHIP TO PREVENT LAND LOSS & ABANDONMENT 29, 31 (Cassandra Johnson Gaither, Ann Carpenter, Tracy Lloyd McCurty, and Sara Toering eds., 2019).
21. *See id*.
22. Manson v. McNeil, 376 So.3d 454 (Ala. 2022).
23. *See* Thomas W. Mitchell, *Reforming Property Law to Address Devastating Land Loss*, 66 ALA. L. REV. 1, 40 (2014).
24. *See id*. at 5-6.
25. *See id*.
26. *See* Alabama Uniform Partition of Heirs Property Act, ALA. CODE § 35-6A-1-§ 35-6A-11 (1975).
27. *See* Alabama Uniform Partition of Heirs Property Act, ALA. CODE § 35-6A-8(a) (1975).
28. *Partition*, Black's Law Dictionary (12th ed. 2024).
29. *See* Mitchell and Powers, *supra* note 1 at 19.
30. *See id*.
31. *See* Alabama Uniform Partition of Heirs Property Act, ALA. CODE § 35-6A-9 (1975).
32. *See* United States Department of Agriculture, Farm Service Agency, Guidance for Heirs' Property Operators to Participate in Farm Service Agency (FSA) Programs [Fact Sheet] (Dec. 2022).
33. Federal Emergency Management Agency, Update to FEMA's Individual Assistance Program and Policy Guide, Version 1.1 [Fact Sheet] (Aug. 2021).
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35. See generally *Did You Know? Heirs Property and Conservation*, NATIONAL ASS'N OF CONSERVATION DIST. (Sept. 9, 2025), https://www.nacdnet.org/2025/09/09/did-you-know-heirs-property-and-conservation/.
36. *See* William Breland, *Acres of Distrust*, 28 GEO. J. OF POVERTY L. AND POL'Y 377, 402 (2021).
37. *See* Webinar Presentation, Nat'l Agric. L. Ctr., Navigating Heirs Property in the United States: Current State Statutory Approaches (Nov. 20, 2024), https://nationalaglawcenter.org/wp-content/uploads/2024/11/Heirs-Property-Webinar-Presentation_2024-Nov-19_Final.pdf.
38. *See id*.
39. *See* United States Dep't of Agric., *supra* note 37. *See also* Fed. Emergency Mgmt. Agency, *supra* note 38.
40. *See* Webinar Presentation, *supra* note 41.
41. *See* Mitchell and Powers, *supra* note 1 at 119.
42. *See id*. at 122-129.
43. *See id*.
44. *See id*. at 119.
45. *See id*. at 130-131.
46. *See id*. at 132.
47. *See generally id*.
48. *See id*. at 130.
49. *See id*. at 93.

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Jacy Fisher is a senior associate attorney with Gregory Varner & Associates, where she practices in heirs' property and real estate litigation, as well as family law, criminal defense, estate planning, and probate. She is known for her advocacy for heirs' property landowners in Alabama and regularly provides CLEs and community trainings on heirs' property and estate-planning issues.

SENATE BILL 149:
Clarifying Jurisdiction in Alabama Will Contest Proceedings

By Will Pylant, Plyant Estate Law

EDITOR'S NOTE: At the time of publication, related legislation pending in the 2026 Regular Session would further address the removal of will contests.

The Alabama Legislature recently passed Senate Bill 149 ("SB 149") to address a latent procedural ambiguity regarding the correct jurisdiction for subsequent proceedings once a will contest has been removed from probate court to circuit court.

A REMINDER OF THE RECENT UPDATES TO THE WILL CONTEST STATUTES

Sections 43-8-213 and 43-8-215 of the Alabama Code were originally enacted as part of Act 2022-427 during the 2022 Regular Session. This comprehensive will contest reform took effect on January 1, 2023, establishing new procedures for will contests and probate court jurisdiction, including mechanisms for removing cases to Circuit Court.

The 2022 probate code reform represented a significant overhaul of Alabama's will contest procedures. The new statutory scheme, codified at *Ala. Code* § 43-8-210 et seq., replaced the old statutes (pre-probate contests under *Ala. Code* § 43-8-190; post-probate contests under *Ala. Code* § 43-8-199; and the will contest transfer statute, *Ala. Code* § 43-8-198) which had created confusion for practitioners. Among other improvements, the new statutes eliminated the distinction between pre-probate and post-probate will contests, requiring all will contests to be brought in the court where the will was initially filed for probate. Within months of implementation, practitioners identified ambiguity in the statutory language regarding post-removal filings. SB 149 was introduced in April 2023 to amend these newly enacted sections, specifically clarifying that all filings must be made in circuit court once a will contest has been removed.

SUBSEQUENT FILING AFTER A WILL CONTEST – PROBATE OR CIRCUIT COURT?

The updates to statutes governing will contests (discussed above) make clear that in Alabama, probate courts have original and general jurisdiction over will contests. The law also provided mechanisms for removing these contests to circuit court under certain circumstances set forth in *Ala. Code* § 43-8-216. However, the law did not expressly address the important question of correct jurisdiction for filing subsequent documents once a will contest is removed to circuit court. This gap in the law leads to confusion, wasted time, and potentially fatal procedural missteps. Attorneys might file motions or pleadings in probate court out of habit or uncertainty, only to discover the documents should have been filed in circuit court instead. Conversely, some practitioners might be unsure whether certain probate-related matters still belonged in probate court even after removal of the contest itself.

ALL SUBSEQUENT FILINGS SHOULD BE FILED IN CIRCUIT COURT UNTIL REMAND.

Senate Bill 149 amended *Ala. Code* §§ 43-8-213 and 43-8-215 to clarify this jurisdictional issue. The bill establishes a clear rule: while an estate or will contest is removed from probate court to circuit court, all subsequent filings regarding the removed matter must be filed in the circuit court. S.B. 149, 2023 Leg., Reg. Sess. (Ala. 2023).

The amended *Ala. Code* § 43-8-213 now explicitly states that the probate court has original and general jurisdiction over will contests "unless the proceeding has been removed to the circuit court under *Ala. Code* § 43-8-216 and is then pending in the circuit court, in which case jurisdiction will lie with the circuit court until the proceeding is remanded."

Similarly, *Ala. Code* § 43-8-215 was revised to clarify that will contests must be filed "in the court where it is offered for probate, or if the proceedings in that court have been removed to the circuit court in accordance with *Ala. Code* § 43-8-216 and is then pending in the circuit court, then in the circuit court to which the proceeding has been removed."

OTHER CONSIDERATIONS

Beyond clarifying where to file after removal, the bill also preserves important procedural timelines and rules. Will contests must still be initiated within 180 days of a will's admission to probate by an interested person, with limited exceptions for minors and individuals of unsound mind who had no legal conservator or guardian ad litem. The bill does not alter these timeframes.

Additionally, SB 149 keeps the existing removal procedure, which allows any party to a will contest to remove the proceeding from probate court to circuit court. However, this removal must occur no later than 42 days before the first trial setting, unless the probate court grants leave based on good cause. The bill makes an exception for certain counties where the probate court exercises equity jurisdiction concurrent with the circuit court under constitutional provisions, local acts, or county-specific statutes.

CONCLUSION

Senate Bill 149 eliminated any existing ambiguity in will contest procedure. For practitioners, the takeaway is straightforward: track where your case is pending, and file accordingly. If a will contest has been removed to circuit court, then all subsequent filings must be filed in that specific court until the matter is remanded back to probate court. This simple rule prevents costly procedural errors and represents one piece of the legislature's broader effort to modernize and streamline Alabama's probate code.

Will Pylant is the founder of Pylant Estate Law in Huntsville, where he helps North Alabama families with estate planning, probate, and estate litigation, including will contests and heirship property disputes. Before opening his firm, he worked as a trust officer and vice president at a regional bank, advising clients on estate and trust planning and administration.

Workers' Compensation for Alabama Public Education Employees

AN OVERVIEW OF ACT 2025-223

By Theron Stokes, Alabama Education Association; Fred Fohrell, Wilmer & Lee, P.A.; and Vance McCrary, The Gardner Firm, P.C.

On April 24, 2025, Governor Kay Ivey signed Act 2025-223, the Maryann Leonard Educators' On-The-Job Injury Act. Sponsored by Senator Sam Givhan, Huntsville, and carried in the House by former Representative (now Public Service Commission President) Cynthia Almond, Tuscaloosa, the Act extends workers' compensation protections to the vast majority of Alabama public education employees.

The Act is effective immediately but will not apply to on-the-job injuries unless such occur on or after the implementation date set by the newly created Public Education Employee Injury Compensation Board ("Board"). While not yet set by the Board, the implementation date must be no later than October 1, 2026. Injury claims prior to the implementation date will continue to be processed under the Board of Adjustment. The following is a brief overview of the Act.

I. PUBLIC EDUCATION EMPLOYEES COVERED

The Act covers full-time employees, as well as all adult bus drivers, of the following employers:

> All public city and county boards of education; all public charter schools; the Board of Trustees of the Alabama Community College System; the Board of Trustees of the Alabama Institute for the Deaf and Blind; the Board of Directors of the Alabama School of Fine Arts; the Board of Trustees of the Alabama High School of Mathematics and Science; the Board of Trustees of the Alabama School of Cyber Technology and Engineering; and the Board of Trustees of the Alabama School of Healthcare Sciences.[1]

II. INJURIES COVERED

On-the-job injuries are defined as: "Any accident or injury to an employee arising out of and in the course of employment or occurring during the performance of duties."[2] Like the Alabama Workers' Compensation Act, the Act excludes certain mental disorders or injuries: "The term [on-the-job injury] does not include a mental disorder or mental injury that has neither been produced nor proximately caused by some physical injury to the body."[3]

III. BENEFITS PROVIDED

A. Compensation

For employees covered by the Act, its provisions require that compensation be paid in accordance with the Alabama Workers' Compensation Act:

> [I]f an employee is subject to this chapter then compensation, in accordance with the Alabama Workers' Compensation Act, shall be paid by the Public Education Employee Injury Compensation Trust Fund, as established under this chapter, in accordance with the statutes, provisions, defenses, and calculation methods set forth in the Alabama Workers' Compensation Act and any case law interpreting the same.[4]

This will ensure that public education employees receive compensation benefits in an identical manner as employees covered under the Alabama Workers' Compensation Act. It also will, hopefully, avoid concerns surrounding compensation calculation methods used by the Board of Adjustment.

B. Medical Benefits

The Act provides for payment of medical benefits to public education employees regardless of whether they participate in the Public Education Employees' Health Insurance Plan, known as PEEHIP.

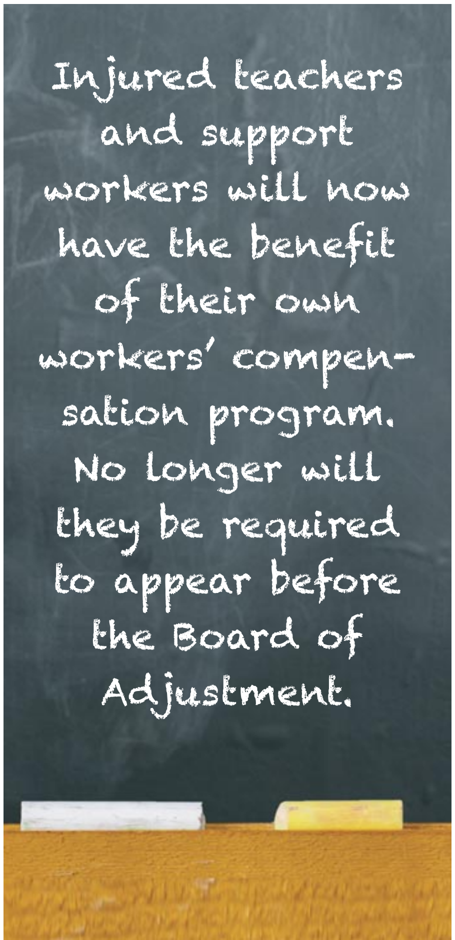
For injured employees with PEEHIP coverage, their medical bills will continue to be paid by PEEHIP so long as they retain coverage. As with current law, PEEHIP-covered employees will be able to select their own physician so long as they utilize "an authorized treating physician covered by PEEHIP."[5] This is a significant change from the Alabama Workers' Compensation Act in that PEEHIP-covered public education employees will have the opportunity to select the authorized treating physician, whereas the authorized treating physician under the Alabama Workers' Compensation Act is almost always solely selected by the employer. As a safeguard for employers, the Act provides that the Board may designate, at the expense of the Board as opposed to PEEHIP, a licensed physician to perform an independent medical examination.[6] In addition, the provisions provide for circumstances under which the Board shall reimburse the injured employee for copayments and deductibles not paid by PEEHIP, with some limitations.[7]

For the first time in our history, at least some Alabama workers' compensation claims will be handled by administrative law judges, hopefully resulting in a faster and more economical system.

For injured employees not participating in PEEHIP, the Board is authorized to select authorized treating physicians and "shall not be responsible to reimburse any physician not so authorized."[8] Similar to the Alabama Workers' Compensation Act, but limited to employees without PEEHIP coverage, the Act provides that an employee dissatisfied with the initial treating physician shall be entitled to a second physician from a panel or list of four physicians.[9]

IV. GOVERNANCE

The new program will be administered by the Board which shall consist of five members. The Director of the Workers' Compensation Division of the Alabama Department of Workforce will be a permanent member. The other four members shall be appointed for specific terms by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and House (selected on an alternating basis).[10] The new Board is given various administrative powers, including the authority to manage the injury program funds, employ administrative staff, compensate hearing officers (as discussed below), secure insurance or reinsurance as deemed advisable, establish or contract with a third party administrator to oversee benefits, and retain legal counsel.[11]



V. DISPUTE RESOLUTION

A. Review Board

In the event of a dispute as to the benefits owed, the employer or the Board may refer the dispute to a review board which the Board is authorized to establish. The review board, which has the power to approve settlements, is composed of three persons designated by the Board.[12] If the matter is not resolved at the review board level, then the employer or the employee may request a hearing officer as set forth below.[13]

B. Hearing Officers / Administrative Law Judges

In a first for Alabama workers' compensation issues, the Act provides that disputed matters, regardless of whether they have been discussed with the review board, may be referred by either the employer or the employee to a hearing officer appointed from a panel of neutrals maintained by the Alabama State Bar.[14] The hearing officer is given the authority to adjudicate the dispute.[15]

This change, and use of hearing officers, sometimes known as Administrative Law Judges, represents a significant change in the way that workers' compensation claims have been historically resolved in Alabama. Under the Alabama Workers' Compensation Act, disputed claims are referred to the Circuit Court for adjudication. This will not be the process for disputes by education employees under the Act; instead, the disputes will be in the hands of a hearing officer.

The Act provides the following direction regarding the selection of hearing officers:

> The Alabama State Bar shall create and maintain a roster of attorneys with significant experience in workers' compensation disputes. Upon a request… the Executive Director of the Alabama State Bar, on a random and rotating basis, shall select a panel of five from the roster and send the names to the parties. The parties may select a hearing officer from the panel. If the parties cannot agree, the parties shall select the hearing officer by a process of alternating strikes in which the employee shall be provided the first strike and the employer the last strike. No deference is to be provided to either party, and the Alabama Rules of Evidence shall apply in hearings before the hearing officer.[16]

Of importance to Alabama attorneys, the Act provides that either the review board or the hearing officer may award a legal fee of up to 15 percent of the compensation awarded in a contested case.[17] The

Act contains numerous provisions governing items such as the procedure to be followed, the burden of proof, allowable discovery, required notice, and the statute of limitations.

C. Circuit Court Appeal

The Act provides a limited appeal from the decision of the hearing officer. The process is set forth in the Act:

> The decision of the hearing officer may be appealed to the Circuit Court of Montgomery County. The court shall review any decision pursuant to Section 41-22-20. Review by the court shall be limited to the record on appeal and shall not include a trial de novo. In reviewing pure findings of fact, the finding of the hearing officer shall not be reversed if that finding is supported by substantial evidence. The cost of transcript preparation shall initially be paid by the appealing party; such cost shall thereafter be taxed against the losing party in the circuit court.[18]

FINAL THOUGHTS

This Act is an incredible milestone for Alabama public education employees. Injured teachers and support workers will now have the benefit of their own workers' compensation program. No longer will they be required to appear before the Board of Adjustment.

In addition, a further milestone has been reached for all of Alabama. For the first time in our history, at least some Alabama workers' compensation claims will be handled by administrative law judges, hopefully resulting in a faster and more economical system. This may serve as a future model for all employees in our state.

We have not attempted to address all of the provisions in the Act; instead, we have attempted merely to generally introduce the new statute. It will no doubt be interpreted over time, as has been the Alabama Workers' Compensation Act. We recommend that practitioners review Act 2025-223 in its entirety, as well as the caselaw which will develop, before making any decisions in a particular case. In the meantime, congratulations to the governor and the Alabama Legislature for bringing new relief to job-injured educators.

ENDNOTES

1. Maryann Leonard Educators On-The-Job Injury Act, Ala. Laws Act 2025-223, lines 234-242 (to be codified at *Ala. Code* Section 16-1A-2(3)).
2. *Id.*, lines 257-262 (to be codified at *Ala. Code* Section 16-1A-2(6)).
3. *Id.*
4. *Id.*, lines 433-440 (to be codified at *Ala. Code* Section 16-1A-5(b)(2).
5. *Id.*, lines 326-327 (to be codified at *Ala. Code* Section 16-1A-3(c)(3).
6. *Id.*, lines 319-325 (to be codified at *Ala. Code* Section 16-1A-3(c)(2).
7. *Id.*, lines 331-339 (to be codified at *Ala. Code* Section 16-1A-3(c)(3).
8. *Id.*, lines 327-330, 339-342 (to be codified at *Ala. Code* Section 16-1A-3(c)(3).
9. *Id.*, lines 342-348 (to be codified at *Ala. Code* Section 16-1A-3(c)(3).
10. *Id.*, lines 360-372 (to be codified at *Ala. Code* Section 16-1A-4(a).
11. *Id.*, lines 396-419 (to be codified at *Ala. Code* Section 16-1A-4(e).
12. *Id.*, lines 267-277 (to be codified at *Ala. Code* Sections 16-1A-2(9), 16-1A-6(b)(1)).
13. *Id.*, lines 519-525 (to be codified at *Ala. Code* Section 16-1A-6(b)(2)).
14. *Id.*
15. *Id.*
16. *Id.*, lines 526-538 (to be codified at *Ala. Code* Section 16-1A-6(b)(3)).
17. *Id.*, lines 592-598 (to be codified at *Ala. Code* Section 16-1A-6(e), referred to in the Act as 16-1A-6(g)).
18. *Id.*, lines 539-548 (to be codified at *Ala. Code* Section 16-1A-6(b)(4)).

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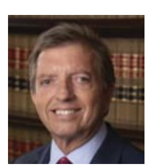

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Alabama's Female Legal Trailblazers:

Virginia Henry Mayfield and Maud McLure Kelly

By Hon. John G. Browning

I. INTRODUCTION

For many of us, it may be difficult to remember a time when women were viewed on less than equal terms with men in the legal profession. After all, more than 41% of all U.S. lawyers are women, and women comprise more than 56% of all law students—a gap that is widening every year.[1] Women began outnumbering men in law school enrollment as far back as 2016, among federal government lawyers in 2020, and among law firm associates in 2023.[2] And while men still account for nearly 59% of American lawyers, women are narrowing that gap with each passing year as the profession undergoes a generational turnover, with male lawyers retiring at a higher rate while more and more women enter the profession.

However, the rise in numbers hasn't fully translated to a growth in leadership roles. According to recent studies, only 28% of law firm partners in 2023 were women,[3] and only 12% of managing partners happened to be female.[4] And in the judiciary, the gender gap persists. As of August 2024, women made up just 33% of all sitting Article III federal judges, while as of May 2024, 43% of all justices on state supreme courts were female.[5]

Still, women have come a long way since the resistance shown to America's first female lawyer, an honor reserved to Arabella Babb Manfield of Iowa, who was licensed in 1869. Myra Bradwell passed the Illinois bar exam, but when the state refused to grant her a law license on the basis of gender, she took her case to the United States Supreme Court in 1873.[6] Bradwell fared no better there than she had at the Illinois Supreme Court, losing an 8–1 decision. Writing for the majority, Justice Joseph Bradley articulated the then-prevailing view of women's role in society, saying that "The paramount destiny and mission of women are to fulfill noble and benign offices of wife and mother."[7] Belva Lockwood, who had earned her law degree in 1872 but had been denied her diploma until she lobbied Congress and former President Ulysses Grant for it the following year, was the next woman to seek a license to practice. Lockwood fought even more tenaciously for admission to practice before the United States Supreme Court, becoming the first to do so in 1879.[8]

Thanks to the changing economic landscape and the growing women's suffrage movement, other women would soon flock to the standard borne initially by the original handful of female legal pioneers like Manfield, Bradwell, Lockwood, and Charlotte Ray (America's first Black female attorney). There were only about four "lady lawyers" in 1870, but by the turn of the century, there were more than a thousand. So who were Alabama's female legal trailblazers—its first female judge and first female lawyer? As we shall see, women in Alabama made a somewhat later—but no less distinctive—entrance into the profession.

II. ALABAMA'S FIRST FEMALE JUDGE – VIRGINIA HENRY MAYFIELD

Between 1870 and 1930, hundreds of women served as judges in the United States.[9] The history of these trailblazing women has been largely overlooked by scholars, despite the significance of these female jurists in women's struggle to secure political rights and advance in the legal profession. Even before women secured the national right to vote with the passage of the 19th Amendment in 1920, more than ninety women had already served as judges.[10] After suffrage was achieved, judicial posts continued to be among the first public offices women secured. Yet in many states, particularly in the South, conservative gender politics and the perception of the legal profession as a man's domain restricted the opportunities for most women.

MAYFIELD

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Virginia Henry Mayfield defied that conventional wisdom to become not only one of Alabama's first female lawyers, but also the state's first female judge in 1923. Mayfield came from a family tradition of public service. Her father, Manoah Henry, was a teacher, state legislator, and longtime Jefferson County treasurer. Virginia, born November 14, 1889, in Birmingham, was one of five children to Manoah and his first wife, the former Mary Helen Baker (he went on to have four more children with his second wife, the former Fannie Ledbetter Cochran). Virginia grew up in Birmingham and attended public schools there. She became a teacher like her father, starting in Decatur before returning to Birmingham. There, she taught for five years at the Baker School and another year at the Martin School. During her summers, Virginia furthered her education with stints at the University of Chicago and the State College of Cedar Falls, Iowa.

In a nod to convention and family expectations, Virginia married Cephus Mayfield (a manager for the Tennessee Coal, Iron & Railroad Company) on August 26, 1914. Their comfortable but childless marriage lasted until 1933, when Cephus died. But long before then, Virginia yearned for something more. She decided to pursue a legal career, and in 1921 she received her law degree from Birmingham-Southern College. Virginia was not alone; joining her was another female pioneer, Floella Bonner. Both passed the Alabama bar exam that same year.

Finding a job after breaking the glass ceiling proved challenging, however. Virginia took a job as part of her father's legal staff at the Jefferson County Treasurer's Office. But bigger prospects were in store, thanks to changes in the legal landscape and the growing political clout of women voters.

In 1923, the first Court of Domestic Relations was created for Jefferson County. At that point, the county boasted eighteen other courts, all of which were presided over by male judges. Building on her father's political capital and status as a Jefferson County power broker, Virginia was uniquely well-positioned to seek the judgeship of the newly created court.

During this time across the South, specialized courts—such as domestic relations courts, juvenile courts, and probate courts—were considered to be "better suited" to female lawyers as opposed to men. In fact, as the *Montgomery Advertiser* would later proclaim, "It is generally conceded, at least by the thinking women of the country, that a woman is more capable of dealing with [domestic relations] cases than a man."[11] On September 29, 1923, Governor William W. Brandon appointed Virginia Mayfield as judge of Jefferson County's newly seated Court of Domestic Relations, stating, "The women of the county have had no representative of their own sex in the courts, and as the men have eighteen, it is nothing but right, but that a woman should be appointed for the position."[12]

However, the appointment by Governor Brandon was less an acknowledgment of gender equality than a nod to political reality. One newspaper called Mayfield's appointment "the first victory by the Women's Democratic Club in Alabama in its fight to fill public offices with women."[13] The group (which included Mayfield among its members) had lobbied the legislature for the creation of a domestic relations court, and Mayfield's historic appointment represented a flex of its political muscle. After all, of Jefferson County's 15,316 qualified voters in 1923, more than half (8,500) were women.[14] Virginia Mayfield, it was felt, was a natural choice as the daughter of the Jefferson County Treasurer and a person "well known to practically every voter in the county."[15] Her appointment, the press noted, "comes as no surprise," since "direct influence has been brought to bear on the chief executive from all parts of the county from prominent men as well as women."[16]

On September 29, 1923, Governor William W. Brandon appointed Virginia Mayfield as judge of Jefferson County's newly seated Court of Domestic Relations, stating "The women of the county have had no representative of their own sex in the courts, and as the men have eighteen, it is nothing but right, but that a woman should be appointed for the position."[12]

During her judicial tenure, Judge Mayfield apparently encountered the sort of sexism characteristic of the time, particularly from the media. A 1924 blurb in *The Troy Times*, entitled "Good Morning Judge!" is dominated by a photo of a younger Judge Mayfield dolled up in "flapper" attire—a marked departure from her later, more professional (and even matronly) photos.[17] It also features the suggestive caption, "And who'd be sorry to be arraigned before Mrs. Virginia H. Mayfield, Judge of Court of Domestic Relations in Birmingham, Alabama?"[18] Other media attention seemed more interested in Judge Mayfield as a source of fashion advice rather than jurisprudence. A 1926 item from *The New York Times* quotes Judge Mayfield as opining that the "adoption of more cotton clothing by Southern women would decrease work for the divorce courts," adding that "a return to the styles of the past would serve a double purpose—contentment in the home and aid the cotton planter."[19]

No doubt the novelty of being the first female judge and the resulting public attention raised Judge Mayfield's profile. However, she may have overestimated her rising political stock. Although appointed to a six-year term, in 1927, she ran for a circuit judge position but lost to the incumbent Judge Roger Snyder. Stung, Mayfield took a position as the state land agent in Jefferson County. Later, she moved to Washington, D.C. and worked in the Department of Justice. Although the Department soon transferred her home to its Birmingham office, that office closed not long thereafter.

Mayfield returned to Washington where she worked as a staff attorney—first for the Federal Communications Commission and later for the Veterans Administration. In 1935, Mayfield was admitted to practice before the United

States Supreme Court. But in 1944, she fell ill and died in a Washington, D.C. hospital.[20] She is buried with her husband under a large Art Deco monument in Elmwood Cemetery in Birmingham.

Virginia Henry Mayfield's judicial tenure may have been brief, but it was historic. As Alabama's first female judge, she paved the way for the many women jurists who have followed her path. Her achievement represented a triumph of not only women's equal abilities, but of their growing political clout as well. Today, women sit at the very top of the state's judicial hierarchy, with Chief Justice Sarah Stewart and Associate Justice Kelli Wise both serving on the Supreme Court of Alabama, Judge Christy Edwards serving on the Alabama Court of Civil Appeals, and Presiding Judge Mary Windom and Judge Elizabeth Kellum serving on the Alabama Court of Criminal Appeals.

III. MAUD MCLURE KELLY – ALABAMA'S FIRST FEMALE LAWYER

Maud McLure Kelly was born in July 1887 in Oxford, Alabama to Richard Kelly, a lawyer and Leona Bledsoe Kelly. Although there were nine children born to the young couple, only five lived to adulthood (Maud was the fourth of the nine). During Maud's childhood, the family moved to Jacksonville and later Anniston as Richard Kelly's career blossomed. He served in the Alabama Legislature in 1894–1895, and later as chancellor of the North Eastern Chancery Division from 1898–1904 (the equivalent of a judge, hearing cases in equity). In 1904,

KELLY

According to the only extant biography of Maud Kelly, her most defining characteristic was tenacity, and family and friends described her as "opinionated, outspoken, aggressive, independent, and positive."[24]

Kelly made an unsuccessful bid for election to the Alabama Supreme Court.

Maud attended private school in Anniston from age five to age seventeen at the Noble Institute, earning top grades. Throughout her childhood, Maud was fascinated by the law, and would periodically announce that she intended to be a lawyer like her father. Such aspirations were not taken very seriously because of the societal expectations for young ladies from "proper" families of the time: marry a young man from a good family and have children of one's own. But after the death of Maud's fourteen year-old brother James and declining health of her mother, Richard Kelly's deteriorating finances became apparent. He decided to move his family and law practice to Birmingham in 1905, hoping that the city's boom would improve his fortunes as well. The eighteen year-old Maud worked as her father's stenographer in the new office, and soon became aware of the precariousness of the family's financial situation.[21]

Hoping to both help her family and further her childhood ambitions of becoming a lawyer, Maud began to study law in her spare time. She "read the law" under Richard Kelly's tutelage until the fall of 1907. At that point, she took the entrance exam for admission to the University of Alabama School of Law and did well enough to merit admission as a senior. Although the law school had opened its doors to female students years earlier, Maud was only the second woman to actually enroll there—the first being Luelle Lamar Allen (class of 1907).[22] One discouraging factor for women was likely the language of the Code of Alabama, restricting admission to practice to an individual who presented "his" diploma from the University of Alabama. In other states, such wording had been interpreted to exclude women from the actual practice of law. Although it is unknown whether this wording discouraged Luelle Allen from seeking a law license after her 1907 graduation, we do know that she married soon after graduation.

For Maud McLure Kelly, this was not an option. She did well in her lone year in law school, graduating third in her class of thirty-three in 1908. She served as class historian, played on the tennis team, and was so well-accepted by her male classmates that they jokingly referred to her as their "sister-in-law." The connections Maud forged proved vital, since it was a classmate of hers, John McDuffie, who would introduce a bill in the Alabama Legislature that changed the wording of the licensing statute to "his or her" diploma.[23] That bill, passed in late 1907, opened the door to Maud Kelly's career as a lawyer. On October 7, 1908, Maud McLure Kelly was admitted to the Alabama State Bar, becoming the state's first female lawyer.

According to the only extant biography of Maud Kelly, her most defining characteristic was tenacity, and family and friends described her as "opinionated, outspoken, aggressive, independent, and positive."[24] Contemporary newspapers covering her achievement of becoming Alabama's first female attorney tended to overlook her intellectual gifts. For example, the *Atlanta Constitution* described her as having "an abundance of chestnut hair which supports her becoming mortarboard without the adventitious aid of either rat or puff."[25] Kelly would need all of her tenacity and determination to overcome the sexism of the times. It was particularly acute in the South; even after Kelly won the right to practice law in Alabama, states like Texas, Georgia, Mississippi, Arkansas, and Virginia still banned women from the legal profession. To overcome the reluctance of jailers to allow her access to her clients for fear of "distraction," Kelly began wearing the "woman lawyer's uniform" first adopted by New York's female lawyers association—a long black "barrister's gown" and black mortarboard.[26]

Kelly handled both civil and criminal cases, often taking cases that male lawyers had declined. For example, in her first jury trial she sought damages from the Atlantic Coast Line Railroad for the death of a Black child near Sprague Junction, Alabama (she lost). She handled divorce cases, title cases, and served as a guardian

On February 22, 1914, upon the motion of the Secretary of State William Jennings Bryan, Kelly became the first Alabama woman admitted to practice before the United States Supreme Court.[27]

ad litem. Kelly gradually gained the respect of her colleagues, becoming a member of the Alabama State Bar in July 1909. On February 22, 1914, upon the motion of the Secretary of State William Jennings Bryan, Kelly became the first Alabama woman admitted to practice before the United States Supreme Court.[27]

Kelly was painfully aware that as the state's first female lawyer, she was always under a microscope—not only were her abilities as an attorney being judged, but her performance would color people's opinions of women lawyers generally. As she would later write:

> A man may be able to get by with a poorly prepared case, without subsequent ill effect but a woman cannot because she is more closely observed… I knew if I went into court with a poorly prepared case, or was not so well prepared for every possible eventuality that I could not be caught "off base," the penalty would also be paid by the women who came after me to the bar.[28]

Ever the dutiful daughter, Kelly paid her father's debts and paid for the large house that he bought in Birmingham. She was active in the women's suffrage movement and helped found the Birmingham Equal Suffrage Organization. She was also a charter member of the Alabama Equal Suffrage Association, chairing its legislative committee. With the United States entering into World War I, three of Kelly's brothers enlisted; all of them saw combat and were wounded, two of them grievously. Maud relocated to Washington, D.C. hoping to aid in the war effort. She began work on the legal staff in the Department of War, and later with the Department of the Interior.[29]

By 1924, Kelly had grown disenchanted with government legal work and was homesick for Alabama. Family was also beckoning; her father, left paralyzed by a stroke (he would die in early 1927) needed care and so did his law practice. Kelly, who never married, threw herself back into the private practice of law. However, by 1931, Kelly decided to retire from law practice and pursue another passion—that of historian, genealogist, and archivist. Kelly joined the Alabama Department of Archives and History in 1943, working as an acquisitions agent and inspector of county records. According to her biography in the Alabama Women's Hall of Fame, Kelly's work in "reclaiming for posterity the long lost, decaying documents in the attics and basements of many courthouses in the state" was an invaluable contribution to the people of Alabama.[30] Kelly would eventually retire in 1956, and in 1970 donated her extensive collection of papers, local histories, and genealogy records to Samford University. Kelly died on April 2, 1973; she was buried in Hillside Cemetery in Anniston.

Maud McLure Kelly accomplished much in her life and always carried with her the weight of the responsibility that her historic status conveyed. Writing in 1950, she said:

> For such a long time I was the only woman practicing law in the state that I had to be a model of femininity as well as the best possible lawyer since whatever way I acted would involve the women after me. That their paths have been smoother because I was so careful, I am confident . . .[3]

Later, towards the end of her life, the *Shelby Daily Star* published a profile of Maud McLure Kelly and wished to sum up her life. She replied, "The only thing of which I am very proud is that I opened the door to the active, actual practice of law here to women. All other things I did were minor."[32]

There is a reason why the Women's Section of the Alabama State Bar named its highest annual award after Maud McLure Kelly. She didn't just open the door—she knocked it down.

ENDNOTES

1. *Women in the Legal Profession*, Profile of the Legal Profession (ABA) (Nov. 2024).
2. *Id.*
3. *2024 Report on Diversity in U.S. Law Firms*, Nat'l Ass'n for L. Placement (Jan. 2025).
4. *Women in the Legal Profession*, *supra* note 1.
5. *Id.*
6. Bradwell v. Illinois, 83 U.S. 130 (1873).
7. *Id.*
8. Jill Norgren, Belva Lockwood: The Woman Who Would Be President (2007).
9. Elizabeth D. Katz, *May It Please Her Honor: The United States' First Women Judges*, 1870–1930, 102 Wash. Univ. L. Rev. 1729 (2025).
10. *Id.* at 1733.
11. *Judge Virginia Henry Mayfield is the First Woman Judge in the South*, Montgomery Advertiser, Sept. 29, 1923, at 8.
12. *Magic City Woman Appointed Judge*, Tuscaloosa News, Sept. 30, 1923, at 1.
13. *Id.*
14. *Id*.
15. *Id.*
16. *Id.*
17. *Good Morning Judge!*, Troy Times, July 22, 1924.
18. *Id.*
19. *Calls Cotton Divorce Foe*, N.Y. Times, Oct. 29, 1926, at 21.
20. *Judge Mayfield Dies After Short Illness in Washington Hospital*, Birmingham News, Feb. 5, 1944, at 6.
21. Cynthia Newman, Maud McLure Kelly: Alabama's First Woman Lawyer, 7 (Samford U. Research Series 1984).
22. *Women's History in Alabama: First Female Attorneys to Appeal Before the Supreme Court of Alabama*, Ala. Judicial System (Apr. 11, 2023), https://judicial-alabama.libguides.com/womenshistoryinalabama/firstfemaleattorneystoappealbeforethesupremecourtofalabama
23. Newman, *supra* note 21, at 8.
24. *Id.*
25. *Woman Lawyer Visitor to Educator's Meeting*, Atlanta Constitution, Apr. 17, 1909.
26. Newman, *supra* note 21, at 11–12.
27. Although the Alabama Women's Hall of Fame erroneously describes Kelly as having "the distinction of being the first among her peers to plead a case before the United States Supreme Court," there is no record of Kelly actually arguing a case before the Court. According to legal historian and author Marlene Trestman, the first female Alabama lawyer to argue a case before the United States Supreme Court was Alabama Assistant Attorney General Mary Lee Stapp, who argued *King v. Smith* on April 23, 1968. The author is indebted to Professor Trestman.
28. Letter of Maud Kelly to Elizabeth Wilbanks, Oct. 30, 1950 (uncatalogued material, Bledsoe-Kelly Collection, Samford U. Library).
29. Newman, *supra* note 21, at 19–21.
30. *Maud McLure Kelly (1887–1973)*, Ala. Women's Hall of Fame, https://www.awhf.org/kelly.html.
31. Letter of Maud Kelly to Elizabeth Wilbanks, Oct. 30, 1950, *supra* note 28.
32. Shelby Daily Star, May 1, 1967.

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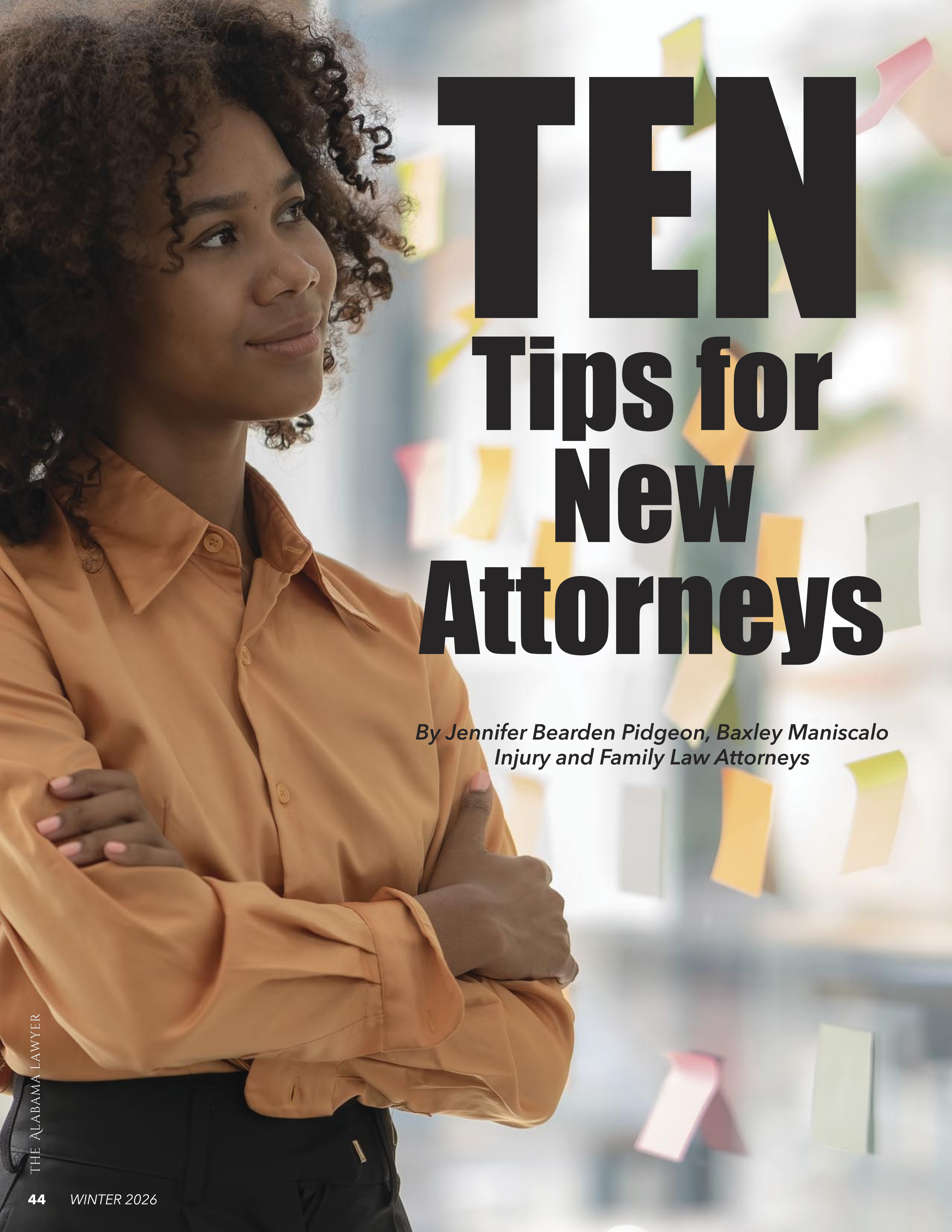

TEN Tips for New Attorneys

By Jennifer Bearden Pidgeon, Baxley Maniscalo Injury and Family Law Attorneys

Beginning the practice of law can feel like stepping into a world with unspoken rules, unfamiliar expectations, and responsibilities that suddenly carry real consequences. The below are my top ten tips for new lawyers as they enter the profession, from finding a job to protecting the license they worked so hard to earn.

1. Find Work You Can Live with Every Day.

New lawyers often feel pressure to accept the first offer they receive, but it is worth considering whether the work aligns with your interests and temperament. You will live with your practice area every day. Passion for the work makes the difficult days manageable and the rewarding days meaningful.

2. Salary Matters, But Growth Matters More.

Expect to work hard as you learn procedures, local rules, and the practical side of the law. Early years are an investment in your future competence. Comparing salaries with classmates is tempting but unproductive. Instead, evaluate opportunities for mentorship and advancement, the firm's culture and expectations, resources and support available, and how the position fits your life and long-term goals.

3. Protect Your Well-Being.

It's often said that the law is "jealous mistress." It will take everything you give it. A burned-out lawyer is not an effective advocate. Attorneys must take time for themselves, maintain personal relationships, and set boundaries when possible.

4. Build and Maintain Professional Relationships.

The legal community is smaller than it appears. Being active in your local bar association can help build relationships. Judges, former classmates, and even opposing counsel may one day become colleagues, referral sources, or mentors. Maintaining professionalism – especially during stressful moments – pays dividends throughout a career.

5. Prioritize Your Clients.

Clients are the reason the work exists, and trust is the currency of the attorney-client relationship. Attorneys should return calls and emails promptly, keep clients informed, and be honest with them.

6. Master Your Case.

Competence is the cornerstone of professionalism. Knowing your case inside and out builds confidence and credibility with judges, clients, and opposing counsel. Don't miss deadlines, complete tasks fully, avoid excuses and take responsibility, and learn unfamiliar concepts thoroughly. Never stop learning.

7. Be a Zealous Advocate.

You can disagree firmly without being disagreeable. Professionalism enhances your credibility and your client's position. Avoid unnecessary aggression while keeping the client's interests the center of every decision.

8. Treat Your Legal Team with Respect.

Paralegals, legal assistants, and administrative staff often know the practical workings of the courthouse and the office better than new attorneys. Treat them with respect and listen to their guidance. They can prevent mistakes, streamline workflow, and help you succeed.

9. Always be Ethical.

Your law license is your most valuable professional asset. No case or client is worth jeopardizing your career. Protect it by maintaining honesty and integrity and avoiding shortcuts that compromise ethics.

10. Use AI Responsibly.

AI tools can assist with research and drafting, but they are not infallible. Your name – not the tool's – appears on the work product. Double-check all AI-generated content, read cited cases, verify statutes and rules, and ensure the accuracy of the content you intend to use.

In conclusion, practicing law can be challenging but also deeply rewarding. Attorneys who approach the profession with humility, preparation, respect, and integrity will not only survive the early years—they will thrive. The legal community depends on the next generation of lawyers to uphold its standards and continue its traditions of service, advocacy, and justice. ▲

Jennifer B. Pidgeon is an attorney with Baxley Maniscalco, LLP, whose practice draws on more than 20 years of prior experience as a legal assistant/paralegal. She earned her J.D. with honors from Birmingham School of Law.

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Marjorie Head Cope, Sister, 2023; George Daniel Head, Uncle, 2003

Alisha Gabrielle Clay;
Carolyn Rankins Shields,
Grandmother, 1993

LAWYERS IN THE FAMILY

John Nathanael Bryan, Jr. & Lucy Chen Bryan;
Ashley Butler Bryan, Mother & Mother-In-Law 1993

Evan Michael Rogers;
Judge Elizabeth Phillips Rogers, Mother, 1991;
Congressman Michael Dennis Rogers, Father, 1991

Anne Fontaine Harvey;
James Stephen Harvey, Father, 1991

Harriet Swann Shelly;
Mitchell Khaled Shelly, Father, 1993

Richmond Benjamin Maddox;
Robert Richmond Maddox, Father, 2000

Elizabeth Callen Woodard;
Allen Gerald Woodard, Father (1986)

Margaret Julianna Utsey; John Jefferson Utsey, Father, 1995;
Elizabeth Utsey Sadler, Aunt, 1997

LAWYERS IN THE FAMILY

Richard Maxwell Panter; Rita Heidorn Daniell, Mother, 2007; David Fleeman Daniell, Stepfather, 1978; Ruby Kelly Panter, Aunt, 2015

Cummings Hornsby Nelson; Warner O'Daniel Hornsby, Cousin, 2016; Ernest ("Sonny") Hornsby, Grandfather, 1960; Emily Hornsby, Mother, 1994

Caroline Chapman Trippeer & Andrew Michale Trippeer; Allen Robert Trippeer, Jr., Father-in-Law and Father, 1986

Haskins Williams Jones, Jr.; Haskins Williams Jones, Father, 1992; Ann Witherspoon Jones, Mother, 1992

James Wallace Blount; David Russell Blount, Father, 1996

Cade Russell Crow; Michael J. Crow, Father, 1987

Sarah Grace Strength; Brian Paul Strength, Father, 1998

LAWYERS IN THE FAMILY

Samantha Ann Mendoza;
Joseph Dwyane Ficquette, Stepfather, 2001

Molly Beth Buchmann;
William Daniel Dill,Father, 1994

Zoie Katherine Comer;
James Michael Comer, Father, 1998

Noelle Wright;
Tracy Gwyn BirdSong, Mother, 1996

William Patterson Kirkpatrick;
Donald B Kirkpatrick, II Father, 1993

Perry Ackerman Holt & Elizabeth Eugenia Holt; Ralph Eugene Holt, Father, 1989

Dorris Edwin Jernigan III;
Dawn Stith Evans, Cousin, 1998

Alex Robert Jones;
David Ashley Jones, Father (1994)

Anna Grace Phillips;
Will Grimes Phillips, Father, 1998

By Roman A. Shaul

ETHICS OPINION

RO 25-01

Enhanced Fees in Divorce Proceedings

Rule 1.5(a) and Rule 1.5(d), *Alabama Rules of Professional Conduct*

QUESTION PRESENTED

May an Alabama lawyer representing a divorce client charge the client an hourly rate subject to enhancement in an unspecified amount, to be quantified and assessed in the lawyer's sole discretion, based on the results obtained for the client?

SUMMARY ANSWER

No. Under Rule 1.5(d) of the *Alabama Rules of Professional Conduct*, a lawyer may not enter into an arrangement for, charge, or collect a fee in a domestic relations matter that is contingent upon the securing of a divorce or upon the amount of alimony, support, or property settlement. Enhanced fees based on results obtained are impermissible because they function as de facto contingency fees.

DISCUSSION

Rule 1.5(a) requires that a lawyer's fee be reasonable, considering factors such as the time and labor required, the novelty and difficulty of the issues, and the results obtained. While "results obtained" may be one factor in assessing the reasonableness of a fee, it cannot be used to justify a fee structure that violates Rule 1.5(d).

Rule 1.5(d)(1) explicitly prohibits a lawyer from entering into an arrangement for, charging, or collecting "[a]ny fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof." As noted in the *Annotated Model Rules of Professional Conduct*, Eighth Edition, this prohibition "protects against overreaching in highly emotional situations and reflects a policy of promoting reconciliation." The policy grounds underlying the Rule 1.5(d)(1) prohibition against contingent fees in divorce actions are discussed in greater detail in RO 96-01 and RO 91-05.

The inclusion of a provision in a fee contract granting the lawyer discretion to charge an enhanced fee in an action for divorce based on the results obtained is tantamount to a contingent fee. In *State ex rel. Okla. Bar Ass'n v. Fagin*, 848 P.2d 11 (Okla. 1992), an attorney billed a client an additional fee after trial, citing the favorable financial outcome compared to prior settlement offers. Although the fee was labeled "enhanced" rather than "contingent," its basis on the outcome rendered it functionally contingent. The Oklahoma Supreme Court found this to be a violation of its equivalent to Rule 1.5(d).

> [A]any fee arrangement in which the attorney will receive an enhanced fee if the attorney's efforts produce a more favorable property division or alimony award to his client involves a personal interest because the greater amount he obtains for his client, the greater he can charge as a fee. Moreover, the attorney has a personal interest in assuring a divorce is granted, [***10] because without a divorce he will not be able to charge a fee based upon the alimony and property settlement.
>
> [*P17] ¶17 Not only does this sort of arrangement prevent a reconciliation but contributes to the trend of recent divorce trials becoming a battleground where each combatant employs an attorney to obtain as much property as possible. Such an arrangement fails to promote the "sanctity of the marriage relation, the welfare of children, the good order of society, [and] the regard for virtue, all of which the law seeks to foster and protect." 46 P.2d at 322. Accord *McCrary v. McCrary*, 764 P.2d 522 (Okla. 1988) (citing Rule 1.5(c) and (d) and holding that a contingency fee arrangement based upon the amount recovered in a divorce case gives the attorney a personal interest in the litigation thus serving as an impediment to reconciliation)

The Disciplinary Commission agrees with this reasoning. A fee that is subject to enhancement based on the results in a divorce action – whether labeled "enhanced," "performance-based," "results-driven," or with other outcome-oriented verbiage – is impermissible under Rule 1.5(d). The fact that the lawyer is entitled to some compensation on an hourly rate basis regardless of the outcome does not avoid the conclusion that the enhancement is impermissibly "contingent" for purposes of Rule 1.5(d). Nor does the fact that the fee agreement fails to connect the valuation of the enhanced fee to the grant of divorce or calculate the amount of the enhancement based on the amount of alimony, support, or the value of a property settlement in a formulaic fashion avoid the same conclusion that the enhancement is impermissibly "contingent" for purposes of Rule 1.5(d).[1][2]

Conversely, Rule 1.5(d) does not prohibit reasonable contingent fees in post-divorce actions seeking the collection of established alimony arrearages that do not involve the modification of those already existing obligations. See RO 1991-05 (discussing permissible post-divorce contingent fee collection agreements), as modified in RO 98-01 (prohibiting contingent fee contracts for collection of child support arrearages absent extraordinary circumstances).

In reaching this conclusion the Disciplinary Commission readily acknowledges that Alabama courts may consider "results obtained" when determining the amount of attorney fees to be awarded to a party in a divorce action. See, e.g., *Rosser v. Rosser*, 355 So. 2d 717, 721 (Ala. Civ. App. 1977)[3] Whether the outcome of a matter may be considered when evaluating whether a fee is "clearly excessive" for purposes of Rule 1.5(a), or the amount of a fee to be awarded and taxed against another party by a court, it is a different question than whether the lawyer may ethically enter into an agreement with the client in which the fee is calculated in whole or in part on that basis. Furthermore, a court's outcome-based fee award in a divorce case at the conclusion of the matter does not act as an impediment to reconciliation or otherwise implicate the policy considerations underpinning the Rule 1.5(d) prohibition against contingent fees.

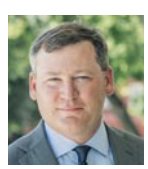
Finally, a fee agreement that allows a lawyer broad discretion to charge a client an enhanced fee based on factors set forth in Rule 1.5(a) of the *Alabama Rules of Professional Conduct*, without a reasonable basis for the client to understand or calculate the fee, may raise questions about ambiguity and enforceability. However, whether a contract is enforceable is a question of law not professional responsibility, and not within the appropriate scope of an Opinion of the Disciplinary Commission. The *Alabama Rules of Professional Conduct* are designed to provide guidance to lawyers and a structure for regulating conduct through disciplinary agencies, not as a basis for civil liability. Preamble, *Alabama Rules of Professional Conduct*. As recently noted by the Supreme Court of Alabama, the mere fact that a fee agreement violates Rule 1.5 of the *Alabama Rules of Professional Conduct* is not, by itself, an appropriate basis for a trial court to find it void or unenforceable. *Daugherty v. Baker*, 2024 Ala. LEXIS 186, *28-30.[4]

CONCLUSION

Attorneys practicing in Alabama may not charge fees in divorce cases that are contingent, in whole or in part, upon the outcome or financial results obtained. Any fee structure that effectively ties compensation to the success of the divorce judgment violates Rule 1.5(d), regardless of how it is labeled. Attorneys are advised to exclude provisions for outcome-based fee enhancements from their fee agreements in divorce actions in which the securing of a divorce, or an award of alimony or support, or property settlement in lieu thereof, are at issue. ▲

ENDNOTES

1. The Illinois Court of Appeals reached a different conclusion. However, after finding the fee was not an impermissible contingent fee in violation of their version of Rule 1.5(d), the same court found the agreement unenforceable due to indefiniteness. Compare *Grund & Leavitt, P.C. v. Stephenson*, 178 N.E.3d 168 (Ill. App. Ct. 2020) (Fee enhancement at lawyer's sole discretion based on 1.5(a) factors - including results obtained - is not an impermissible contingent fee in violation of 1.5(d) (reversing lower court); *Grund & Leavitt, P.C. v. Stephenson*, 2022 Ill. App. Unpub. LEXIS 809 * (Ill. App. Ct. 2022) (On remand, fee enhancement at lawyer's sole discretion based on 1.5(a) factors is not an impermissible contingent fee barred by Rule 1.5(d), but it's not enforceable due to indefiniteness.), Appeal denied by *Grund & Leavitt, P.C. v. Stephenson*, 2022 Ill. LEXIS 749 (Ill., Sept. 28, 2022).
2. A Superior Court of Connecticut found an agreement with provisions for enhanced fees based on matters of extraordinary difficulty, requiring special expertise, or for which priority treatment was given, to not be in violation of Rule 1.5(d). Significantly, the enhanced fee was subject to client approval. *Chief Disciplinary Counsel v. Cohen,* 2010 Conn. Super. LEXIS 3038 (Conn. Sup. Ct. Dec. 2, 2010) (The attorney's fee agreements said he might discuss the propriety of an additional charge, with the client's consent, for matters of extraordinary difficulty, requiring special expertise, or to which priority treatment was given. They did not mention the contingencies in *Conn. R. Prof. C.* 1.5(d)(1) because they did not discuss securing a dissolution of marriage or civil union, nor did they mention alimony, support, property settlement, or any financial matters. They did not contain the factors applicable to contingency fee arrangements because they did not (1) mention a "res" against which to charge a fee, (2) provide a way to calculate the fee, or (3) state no fee was due if a contingency was not met. They did not violate *Conn. R. Prof. C.* 1.5(d)(1) because (1) they mentioned factors in *Conn. R. Prof. C.* 1.5(a) for determining the reasonableness of a fee, and (2) no additional fee would be charged if the client did not approve, consistent with *Conn. R. Prof. C.* 1.5(b). The agreements were not improper because *Conn. R. Prof. C.* 1.5(a)(4) let an attorney charge a reasonable fee based on the amount involved and the results obtained.")
3. *Rosser v. Rosser*, 355 So. 2d 717, 721 (Ala. Civ. App. 1977) ("In arriving at the value of the legal services the trial court may properly consider the following: (1) the nature and value of the subject matter of employment; (2) the learning, skill and labor necessary to the proper discharge of that employment; (3) the time consumed on the matter in dispute; (4) the professional ability, experience and reputation of the party performing the services; (5) the weight of his responsibility; (6) the measure of success achieved; (7) any reasonable expenses incurred in the representation of a client; and (8) the fee customarily charged in the locality for similar legal services.")
4. *Daugherty v. Baker*, 2024 Ala. LEXIS 186, *28-30 ("Although the facts in *Poole* involved the application of Rule 1.5(e), rather than Rule 1.5(d), its rationale dictates that a court should not declare void an agreement between parties based on the violation of a Rule of Professional Conduct because those rules are intended for the discipline of attorneys, not for civil liability or defense. But, as we have noted, Daugherty did not cite *Poole* or the principles it contains in the circuit court or in his appellate briefs. "It is well settled that an appellate court may not hold a trial court in error in regard to theories or issues not presented to that court." *Allsopp v. Bolding*, 86 So. 3d 952, 962 (Ala. 2011). Accordingly, we will not reverse the circuit court's judgment based on the principles enunciated in *Poole*. We simply reiterate them to remind courts to be careful how they employ the *Alabama Rules of Professional Conduct*.")



Roman A. Shaul

Roman A. Shaul is General Counsel for the Alabama State Bar. He previously served as a trial judge in Montgomery County and practiced law for nearly two decades before that.

By Devan L. Byrd

Your Voice at the Table:

Essential Advocacy and Boundaries for New Alabama Attorneys

I remember my first year of practice vividly–the long days, the self-doubt, the fear of making a mistake that could derail my career before it truly began. I thought asking for help would expose me as being incompetent. Looking back now, I realize I was thinking about it completely wrong.

As a new attorney navigating the transitions of your professional life, you quickly realize that while law school prepared you for legal theory and how to think like a lawyer, it didn't prepare you for the reality of practice: managing difficult clients, juggling competing deadlines, appearing before judges with distinct preferences, and making split-second decisions that carry real consequences. As you embark on this journey, I want to share four essential principles that my mentors and sponsors shared with me.

1. Ask for Help and Own Your Mistakes

This may be the most important lesson: Asking for help is not weakness–it's wisdom. Every experienced attorney has been exactly where you are. The difference between those who thrive and those who merely survive often comes down to their willingness to seek guidance.

When you don't understand something, ask. When you've made a mistake, own it immediately and transparently. The cover-up is always worse than the error. I've seen promising careers derailed not by the initial mistake, but by the attempt to hide it. In the legal profession, we don't sell widgets, our commodity is our integrity. Trust is not built overnight, but it can be lost in an instance. Judges, clients, and colleagues will forgive honest errors made in good faith, but they won't forget dishonesty or evasion.

Missed a deadline? Notify everyone affected and develop a solution. Unsure about a rule of procedure? Call a more experienced colleague. Made an error in a filing? Correct it immediately with appropriate notice to the court and opposing counsel. Your integrity is the foundation of your legal career–protect it fiercely

2. Ensure You Have an Advocate at the Table

Career-defining decisions are often made in rooms you're not invited to. Whether it's partnership discussions, case assignments, or professional development opportunities, someone needs to be championing your interests when you're not present.

Identify mentors and sponsors within your firm or practice group who understand your strengths and aspirations. These relationships aren't built overnight—they require genuine connection, consistent performance, and mutual respect. Meet with your mentors and sponsors frequently. Make your goals clear to these advocates, keep them informed of your successes, and don't be afraid to remind them of your value. Be open to constructive feedback and understand that your advocates are invested in success. Your advocates should be people who believe in your potential and have the influence to support your advancement.

3. Know Your Worth

Your worth is not solely determined by billable hours or the prestige of your firm. As a new attorney, you bring fresh perspectives, current legal knowledge, technological fluency, and boundless energy to your practice group. These qualities have real value.

However, knowing your worth doesn't mean being arrogant—it means understanding what you contribute and advocating for fair compensation and opportunities. Research market rates for your experience level and practice area. Don't accept the first offer without negotiation. Understand where you might need to grow in your practice and research educational opportunities. Document your accomplishments throughout the year. When review time comes, present a clear case for your value. At the end of the day, don't compromise your value or principles. In the modern, fast-evolving legal landscape, the notion that you must work at one firm or company for 30+ years is gone.

4. Set Boundaries to Protect Your Well-being

The practice of law is demanding, but it should not consume your entire existence. Without boundaries, you risk burnout, health problems, damaged relationships, and ultimately, diminished effectiveness as an attorney.

Boundaries aren't selfish—they're essential. Protect time for exercise, family, friends, and activities that replenish you. The most effective, grounded, and happy lawyers that I know are those with hobbies and friends outside of the law. So, learn to say no to commitments that don't align with your priorities or capacity. Understand that you cannot be available 24/7 without consequence. Set realistic expectations with clients about response times. The lawyers who last decades in this profession are those who figured out early how to maintain balance.

The Young Lawyers' Section is Here to Help.

Recognizing the challenges new lawyers face while adjusting to professional life, the Alabama State Bar Young Lawyers' Section is launching a New Lawyer Bootcamp in 2026—a practical CLE specifically designed for attorneys in the early years of their practice trying to navigate the transition from law school to practice. This isn't a traditional CLE heavy on theory; this is real-world guidance you'll use immediately.

Bootcamps will be a half-day CLE in several locations across Alabama—Huntsville, Birmingham, Tuscaloosa, Montgomery, and Mobile—making it accessible no matter where you practice. You'll hear from:

- Panels of local judges discussing what NOT to do in their courtroom—practical courtroom etiquette and common mistakes to avoid.
- Panels of experienced local lawyers sharing what they wish they knew when starting out—real lessons learned from the trenches.
- Discussion from the Office of General Counsel about ethical pitfalls and how to stay out of trouble—protecting your license and reputation.
- Practical skills for managing clients, deadlines, and the ethical responsibilities that govern your practice.

Beyond the education, Bootcamp offers something equally valuable: connection. You'll meet fellow new lawyers from across Alabama who are experiencing the same challenges, questions, and occasional panic that you are. You'll build relationships with peers who can become your professional network and support system for years to come. You'll realize you're not alone—everyone is learning and growing together.

Start Strong

Your first several years of practice will shape the trajectory of your entire career. Approach this time with humility and confidence in equal measure. Build strong relationships, protect your integrity, establish healthy boundaries, and never stop learning.

If you're feeling uncertain, overwhelmed, or simply want to start your practice on solid footing, we invite you to join us for New Lawyer Bootcamp. Take this important step toward building a confident, competent, and sustainable legal career in Alabama.

Devan L. Byrd

2025-2026 President, Alabama Young Lawyers' Section

Devan is the founder of Byrd Firm, PLLC and is a passionate advocate on behalf of individuals who have suffered catastrophic injuries and the families who have lost loved ones due to the negligence of others. While Devan handles a wide variety of catastrophic injury and death cases, she is particularly focused on prosecuting cases involving medical malpractice and nursing home negligence. She is recognized by Best Lawyers, a Super Lawyer Rising Star, and Top 40 Under 40 by the National Black Lawyers.

BAR BRIEFS

Please email announcements to melissa.warnke@alabar.org.

Bar Briefs celebrates member achievements, accolades, and honors. We look forward to celebrating the accomplishments and good news of our members in this section!

PHOTO CREDIT: American Association for Justice

Cusimano

- **Cusimano, Roberts, Mills & Knowlton, LLC** is pleased to announce the release of Gregory S. Cusimano's new book, *Seeds for Success: Proven Principles of Persuasion*, published by the American Association for Justice Press.


Kruse


McDaniel


Sims


Weite


Williamson

- **Bradley Arant Boult Cummings LLP** is pleased to announce that five of the firm's Birmingham attorneys have been elected to leadership roles with the Birmingham Bar Association (BBA) for the 2026 term.

  Mason Kruse, Riley McDaniel, Rachel Sims, Carmen Weite, and Hilary Williamson were elected to serve on the At-Large Committee of the Young Lawyers Section (YLS). All five are serving one-year terms beginning January 1, 2026.

  The BBA serves more than 3,300 members in the greater Birmingham area and provides continuing legal education programs, professional development opportunities, and networking events. The YLS is open to members who are age 36 or younger or who have been in practice five years or less.

- **Porterfield, Harper, Mills, Motlow & Ireland, P.A.** is pleased to announce that Joel S. Isenberg has been selected as a Fellow of the American College of Coverage Counsel.


Isenberg

- **Dentons Sirote PC** is pleased to announce that Sarah S. Johnston has been elected a Fellow of The American College of Trust and Estate Counsel (ACTEC).


Johnston

- At the National College of Probate Judges (NCPJ) Fall Conference, Retired Alabama Judge of Probate Don Davis, formerly of Mobile and now residing in the Nashville, Tennessee area, was elected President-Elect of the College. Alabama Judge of Probate Patrick Davenport of Dothan was elected to serve on the Executive Committee.

  Judge Davis served as Judge of Probate of Mobile County for 24 years, retiring in January 2025. He earned his Juris Doctor from Cumberland School of Law at Samford University in 1981 and is also a graduate of the University of South Alabama. He has been a member of the NCPJ for 24 years and has served as an officer and member of the Executive Committee since 2019.


Davis

  Judge Davenport has served as Judge of Probate of Houston County since 2012. He earned his Juris Doctor from Cumberland School of Law at Samford University in 1998. He is also a graduate of the University of Alabama at Birmingham and attended the University of South Alabama. He is a past President of the Alabama Probate Judges Association (2020–2021) and has been a member of the College for 13 years, serving on several committees.


Davenport

David Larkin Martin III

David Larkin Martin III (1951–2026)

Submitted by the Lawrence County Bar

Martin

David Larkin Martin III, a respected attorney and public servant in Lawrence County, Alabama, died Jan. 26, 2026, at age 75. Over the course of a distinguished legal career, Martin exemplified professionalism, civic responsibility and a steadfast commitment to public service. His work as a county attorney and community leader left a lasting imprint on Lawrence County and on the colleagues and citizens he served.

Born Jan. 2, 1951, to David and Dama Wills Martin, he was raised with a strong sense of duty, integrity and service to others. Those values guided his personal life and defined his professional career. After completing his legal education and being admitted to practice in Alabama, Martin returned to his home region, where he devoted his talents to the practice of law and to public service in Lawrence County.

Martin served for many years as attorney for the Lawrence County Commission, providing legal counsel on matters central to local governance, public administration and county operations. In that role, he was known for his careful analysis, measured advice and deep understanding of the legal responsibilities borne by county government. His service helped ensure continuity, stability and lawful decision-making during periods of change and challenge, earning the trust of commissioners, county officials and staff. His tenure as county attorney stands as one of the defining chapters of his professional life.

In addition to his work with the County Commission, Martin was actively engaged in civic leadership. He served as chairman of the Lawrence County Department of Human Resources, reflecting his commitment to the welfare of children, families and vulnerable citizens. He was also a longtime member of the Lawrence County Rotary Club, supporting service initiatives aimed at improving quality of life across the community. Through these roles, Martin demonstrated his belief that the law is most effective when paired with service and compassion.

Martin was a member of the Alabama State Bar and approached the practice of law with seriousness and respect for the profession. Colleagues recognized him as diligent, ethical and dependable — an attorney who valued preparation, discretion and fidelity to both client and court. His practice reflected the best traditions of the Alabama bar: service grounded in integrity and advocacy tempered by judgment.

While Martin's professional accomplishments were significant, those closest to him knew that his most cherished role was that of father. Above all, he was an attentive and devoted parent to his son, Dillon. Family remained central to his life, providing grounding and purpose throughout his career.

He is survived by his son, Dillon Martin; his sisters, Lane Martin and Anne Martin; his nephew, Edward Schum; and extended family. He was preceded in death by his parents, David and Dama Martin.

A graveside service was held Feb. 2, 2026, at Courtland Cemetery, with the Rev. Chase Ackerman officiating.

David Larkin Martin III will be remembered by the Alabama legal community as a lawyer who embodied public service, professional responsibility and quiet leadership. His legacy endures in the institutions he served, the community he strengthened and the family he loved.

Robert Mitchell Alton, III
Auburn
Died: January 6, 2025
Admitted: September 28, 1990

Thomas Arthur Caddell
Decatur
Died: July 10, 2025
Admitted: January 1, 1960

Marvin Harrison Campbell, II
Montgomery
Died: December 25, 2025
Admitted: August 30, 1971

Judith Sullivan Crittenden
Birmingham
Died: January 22, 2025
Admitted: August 14, 1970

Thomas Alvin Fouts
Birmingham
Died: October 31, 2025
Admitted: September 24, 1993

Kenneth LeRoy Funderburk
Phenix City
Died: November 8, 2025
Admitted: March 29, 1965

Mary Anne Gibbons
Birmingham
Died: May 30, 2025
Admitted: May 1, 1985

Edwin Charles Glover
Suwanne, GA
Died: August 1, 2025
Admitted: September 22, 1977

Bryce Uraldine Graham, Jr.
Tuscumbia
Died: November 2, 2025
Admitted: September 14, 1987

Hon. Sarah Maddox Greenhaw
Birmingham
Died: December 21, 2025
Admitted: September 16, 1968

Douglas Van Hale
Huntsville
Died: Oct. 23, 2025
Admitted: Nov. 15, 1974

Tommy Edward Hill
Birmingham
Died: September 25, 2025
Admitted: April 4, 1967

Hon. Joel Gwen Holley
Huntsville
Died: January 4, 2026
Admitted: September 27, 1976

James Elwyn Reese Irby
Florence
Died: January 12, 2025
Admitted: September 28, 2001

Patricia Caroline Kellett
Fort Payne
Died: September 29, 2025
Admitted: September 23, 1983

John W. Lowe
Haleyville
Died: October 9, 2024
Admitted: March 25, 1970

Hon. Hartwell Borden Lutz
Huntsville
Died: January 6, 2026
Admitted: April 9, 1956

Daniel Lee McCleave
Mobile
Died: December 11, 2025
Admitted: April 27, 1979

Edward Collins Miller
Birmingham
Died: October 23, 2025
Admitted: April 24, 1984

James Steven Mobley
Birmingham
Died: July 2, 2025
Admitted: April 27, 1979

Dothan Elroy Morgan, Jr.
Mobile
Died: Sept. 17, 2025
Admitted: April 28, 1995

Gary Arthur Parker
Watersound, FL
Died: November 14, 2025
Admitted: September 25, 1981

William Frank Prosch, Jr.
Birmingham
Died: October 8, 2025
Admitted: March 25, 1970

Thomas Dwight Sloan, III
Huntsville
Died: July 10, 2025
Admitted: September 26, 1976

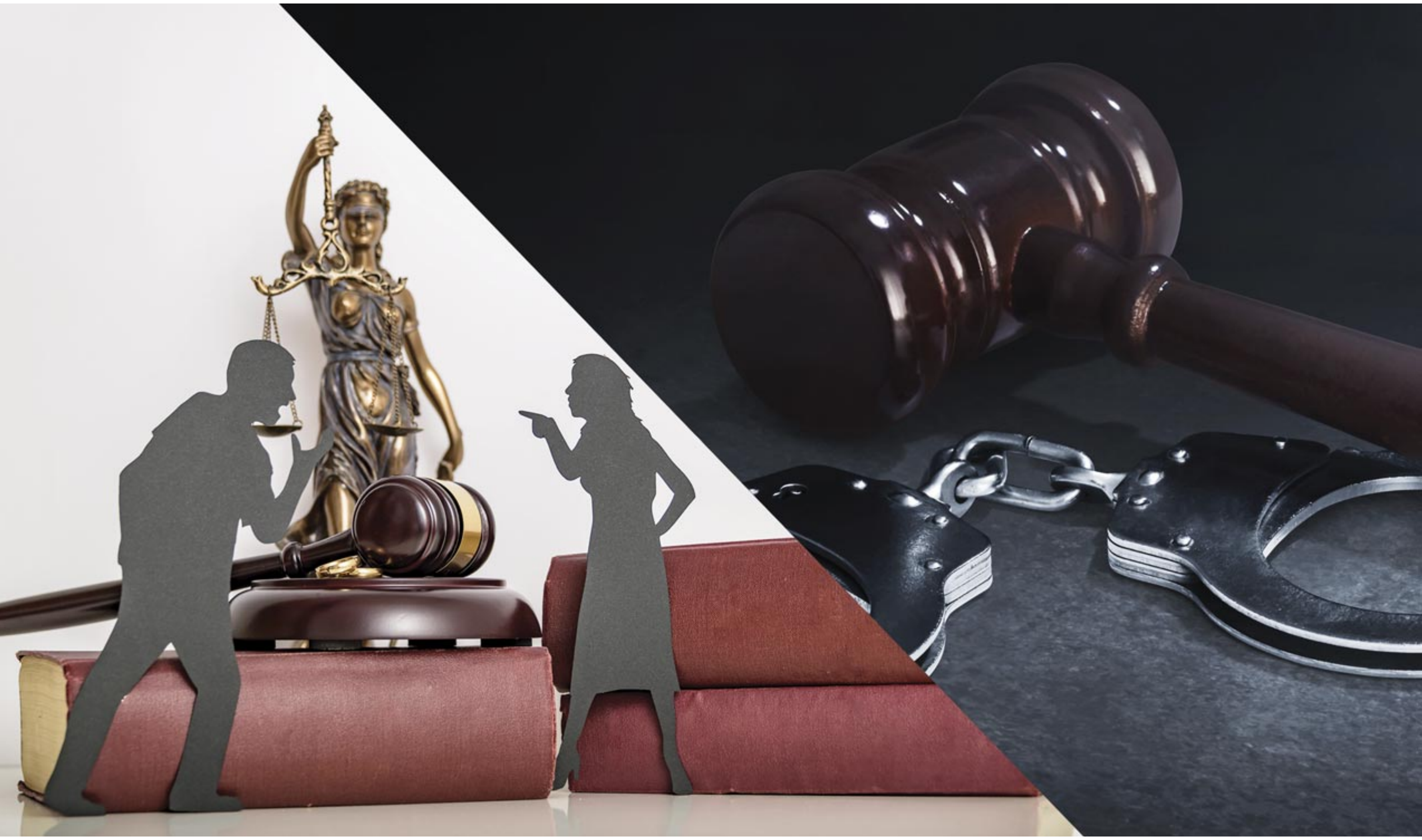
Delores Jacqueline Simmons
Washington, DC
Died: October 28, 2025
Admitted: September 26, 1997

Robert Vernon Townes, III
Gardendale
Died: December 24, 2025
Admitted: September 27, 1976

Michael Burgess Walls
Birmingham
Died: December 8, 2025
Admitted: September 23, 1983

Roy Williamson Williams, Jr.
Cullman
Died: December 13, 2025
Admitted: September 27, 1976

By Marc A. Starrett and J. Thomas Richie



Recent Criminal Decisions – Marc A. Starrett

FROM THE U.S. SUPREME COURT

Confrontation Clause

***Pitts v. Mississippi,* No. 24–1159 (U.S. Nov. 24, 2025):** In this child sex abuse case, the prosecution's invocation of a Mississippi statute providing for the use of "a properly constructed screen" to permit the jury to view the child witness while preventing the defendant from viewing her violated the Sixth Amendment's Confrontation Clause. The Supreme Court held that screening in child abuse cases is permissible only if the trial court "hears evidence" and makes a "case-specific" finding of the "requisite necessity." The child witness may be screened from the defendant when necessary to prevent trauma caused by testifying in the defendant's physical presence that would impair the child's ability to communicate. The prosecution did not present evidence to support the screening in this case, but instead relied on the statute's mandatory language providing that child witnesses "shall have the right" to the screening.

Search and Seizure; Emergency Home Entry

***Case v. Montana,* No. 24–624 (U.S. Jan. 14, 2026):** Noting that, in *Brigham City v. Stuart*, 547 U.S. 398 (2006), the Court had held that a law enforcement officer may enter a residence without a warrant if there is an "objectively reasonable basis for believing" that an occupant needs emergency assistance, here it held that this "reasonableness standard means just what it says, with no further gloss," and that the heightened standard of probable cause is not required to support an officer's warrantless home entry in those circumstances.

Double Jeopardy

***Barrett v. United States,* No. 24–5774 (U.S. Jan. 14, 2026):** Under *Blockburger v. United States*, 284 U.S. 299 (1932), and its progeny, the Double Jeopardy Clause is violated where a defendant is convicted of both 18 U.S.C. § 924(c)(1)(A)(i) (prohibiting the possession of a firearm in connection with a federal crime of violence or drug trafficking) and 18 U.S.C. § 924(j) (providing for maximum penalties for a violation of subsection (c) where the defendant causes death through use of the firearm).

28 U.S.C. § 2255 Motion; Successiveness

***Bowe v. United States*, No. 24–5438 (U.S. Jan. 9, 2026):** Distinguishing a petition seeking relief from a federal court conviction and sentence under 28 U.S.C. § 2255 from a petition seeking relief from a state court conviction and sentence under 28 U.S.C. § 2254, the Court held that federal petitioners are not subject to "old-claim" successiveness prohibitions of 28 U.S.C. § 2244(b)(1). Further, while 28 U.S.C. § 2244(b)(3)(E) prohibits certiorari review of the denial of authorization to file a successive petition, that provision applies only to state petitioners.

FROM THE ELEVENTH CIRCUIT COURT OF APPEALS

Confrontation Clause; Sex Trafficking

***United States v. Carter,* 158 F.4th 1319 (11th Cir. 2025):** The defendant, a "self-avowed pimp" engaged in sex trafficking related to the 2020 Super Bowl, was not entitled to exclude statements made by a minor victim to law enforcement officers during a sting operation as violative of the Confrontation Clause. Acknowledging that only "testimonial" statements are subject to Confrontation Clause analysis, the Court of Appeals found that the victim spontaneously made the statements in the context of an ongoing emergency presented by a continuing sex-trafficking operation. In doing so, it expressly disavowed its previous proclamation that "statements taken by police officers in the course of interrogations are definitely testimonial" (emphasis in original), acknowledging that the language had been subsequently contradicted by the United States Supreme Court's holding in *Michigan v. Bryant*, 562 U.S. 344 (2011), that "not all those questioned by the police are witnesses and not all interrogations by law enforcement officers are subject to the Confrontation Clause."

Confrontation Clause; Prejudicial Evidence

***United States v. Green,* 158 F.4th 1347 (11th Cir. 2025):** The admission of a co-conspirator's statements made in a letter written in jail did not implicate the Confrontation Clause, for they were not made under circumstances that would lead him to reasonably believe that his statements would be available for use at a later trial. In addressing other evidence, the Court of Appeals found no error in the admission of evidence showing the defendant's gang connections as overly prejudicial, observing that "[i]n criminal trials relevant evidence is inherently prejudicial." In reviewing evidence for admission or exclusion under Fed. R. Evid. 403 (nearly identical to Ala. R. Evid. 403), "the balance … should be struck in favor of admission," and exclusion under the rule "is an extraordinary remedy which should be used only sparingly."

Prosecutorial Misconduct

***United States v. Jones,* 162 F.4th 1114 (11th Cir. 2025):** During closing argument, the prosecutor's reference to an unadmitted exhibit containing the defendant's inculpatory Instagram messages as being "[a]ll you need to know about the defendant's possession of firearms in furtherance of drug dealing in one message," required reversal of the defendant's conviction for possession of a firearm in furtherance of drug trafficking under 18 U.S.C. § 924(c). The Court of Appeals affirmed several other convictions, but as to this offense it found that the prosecutor's reference to unadmitted evidence – a statement to which the defendant did not object – constituted plain error; "the evidence of [the defendant's] guilt on the § 924(c) offense was thin" and his substantial rights were prejudiced.

Hobbs Act; Use of Force in Robbery

***United States v. Grable,* No. 23–10544 (11th Cir. Jan. 5, 2026):** The Hobbs Act, 18 U.S.C. § 1951, requires proof of robbery or extortion and an effect on interstate commerce. Section 1951(b)(1) defines "robbery" as the unlawful taking of personal property "by means of actual or threatened force, or violence, or fear of injury" to the victim's person or property. As a matter of first impression, the Court of Appeals held that a Hobbs Act robbery is not committed where the defendant uses force or the threat of force only after the property is taken. For the offense to constitute a Hobbs Act robbery under §§ 1951(a) and 1951(b)(1), "the theft must have been achieved, at least in part, through the use of actual or threatened force."

FROM THE ALABAMA SUPREME COURT

Trial de Novo; Sufficiency of Complaints

***Ex parte Sandifer,* No. SC-2024-0648 (Ala. Sept. 26, 2025):** On appeal from municipal court to circuit court for a trial de novo pursuant to Ala. R. Crim. P. 15.7, the defendants could challenge the sufficiency of the municipal court complaints in circuit court; the case proceeds on appeal "as if no trial had ever been had, and just as if it had originated in the circuit court." However, the complaints complied with Ala. R. Crim. P. 13.2 because they were sufficient to provide notice of the charged offenses. The Committee Comments to Rule 13.2 explain that it was "designed to simplify the pleading in criminal matters … and … eliminates the necessity of formal averments." Any defects in the municipal court complaints did not divest the circuit court of its subject-matter jurisdiction because that jurisdiction is derived not from the charging instruments but from Ala. Code § 12-11-30(3), which provides for appeals from municipal court to circuit court.

Ala. R. Crim. P. 32; Reversal on Grounds Not Asserted

***Ex parte M.D.D.,* No. SC-2025-0211 (Ala. Sept. 26, 2025):** After the circuit court granted postconviction relief on the Ala. R. Crim. P. 32 petitioner's claim under *Brady v. Maryland*, 373 U.S. 83 (1963), regarding a Department of Human Resources report, the Court of Criminal Appeals erred in reversing that judgment on grounds not asserted on appeal.

FROM THE ALABAMA COURT OF CRIMINAL APPEALS

Ala. R. Evid. 404(b); Evidence of Gun Possession; Res Gestae

***Johnson v. State,* No. CR-2023-0911 (Ala. Crim. App. Dec. 19, 2025):** Among other holdings in affirming the defendant's capital murder conviction and death sentence, the Court of Criminal Appeals rejected his contention that the circuit court violated Ala. R. Evid. 404(b) by admitting evidence of gun-related items found in his possession, including several shooting range target photographs, empty gun boxes, and gun purchase receipts. Citing other appellate courts that have held that the mere possession of a gun "is not, in and of itself, a criminal offense or bad act," the Court of Criminal Appeals held that evidence showing a defendant's "mere possession or ownership of firearms, ammunition, or gun-related items, alone, does not constitute 'other crimes, wrongs, or acts'" falling under Rule 404(b) where the possession "is lawful and consistent with a defendant's exercise of a protected constitutional right." Regardless, it held that, even if it fell within the Rule's scope, it was admissible; "evidence that [the defendant] – accused of ambushing a police officer – acquired guns and ammunition and trained to become proficient in marksmanship falls within the res gestae of the charged offense."

Forcible Compulsion

***Cox v. State,* No. CR-2024-0239 (Ala. Crim. App. Dec. 19, 2025):** The defendant, a dentist, was convicted of multiple offenses related to his sexual assault of employees and patients. The Court of Criminal Appeals affirmed nine of the twelve convictions (rape, sodomy, and sexual abuse) but reversed three sexual abuse convictions for lack of proof of forcible compulsion. While rejecting the State's argument that an employee often feels that no practical choices exist other than to submit to an employer's sexual assault in light of economic constraints, the Court of Criminal Appeals noted that its holding is not that the victim chose to submit to the defendant's actions – "she certainly did not" – but that the actions did not rise to the level of forcible compulsion. The fact that the abuser is the victim's employer "is certainly a relevant factor in determining whether there is an implied threat," but, without more, it is insufficient to establish an implied threat for proof of forcible compulsion.

Moss v. State, **No. CR-2024-0272 (Ala. Crim. App. Dec. 19, 2025):** The circuit court erred in denying the defendant's motion to withdraw his guilty plea to first-degree robbery after it did not correctly inform him of the minimum sentence for the offense. He was instructed that the potential minimum sentence was fifteen years' imprisonment, but the correct minimum sentence for a Class A felony such as first-degree robbery involving the use of a gun or deadly weapon is twenty years' imprisonment.

Youthful Offender Adjudication

J.D.N.B. v. State, **No. CR-2024-0211 (Ala. Crim. App. Nov. 7, 2025):** The circuit court erred in admitting police reports into evidence over the juvenile's hearsay objections, resulting in reversal of his youthful offender adjudication. However, the Court of Criminal Appeals remanded for a new proceeding, rejecting the juvenile's request for it to render the verdict in his favor. It held that it must consider all evidence admitted before the circuit court at the time of the motion for judgment of acquittal, and, while the State cannot submit the police reports into evidence on retrial, "it should have the opportunity to submit other evidence of [the juvenile's] guilt."

Probation Revocation; Technical Violation

Surles v. State, **No. CR-2025-0196 (Ala. Crim. App. Sept. 26, 2025):** The probationer violated his probation by failing to report as directed, by failing to adhere to electronic-monitoring conditions and curfew hours, and by changing residences without permission. But, because these are considered "technical violations" under Ala. Code § 15-22-54(e)(1), and he did not commit a new offense, abscond, or fail to complete a court-ordered rehabilitative program, the circuit court erred in fully revoking his probation. Rather, the probationer was only eligible for a 45-day "dunk," because his underlying offense was not a Class A felony, a sex offense, or an aggravated theft offense.

Dismissal of Indictment "With Prejudice"

State v. McMillian, **No. CR-2025-0042 (Ala. Crim. App. Nov. 7, 2025):** The Court of Criminal Appeals reversed the circuit court's dismissal of an indictment with prejudice. The indictment charged the defendant with assault but was defective because it failed to allege that he caused the victim physical injury. The circuit court is authorized to dismiss an indictment for failure to charge an offense. However, when a defective indictment is dismissed, another indictment may be issued. "[A] circuit court shall not 'impermissibly interfere with the State's right to prosecute[,]'" and the dismissal with prejudice – thereby concluding the prosecution – was an abuse of discretion.

Recent Civil Decisions – J. Thomas Richie

FROM THE ALABAMA SUPREME COURT

AEMLD

Nissan N. Am., Inc. v. Henderson-Brundidge, **No. SC-2024-0121 (Ala. Oct. 31, 2025).** A vehicle manufacturer appealed from a jury verdict entered against it on an AEMLD claim arising from a front-passenger airbag. After trial, the manufacturer learned that two jurors had failed to disclose prior small-claims and unlawful-detainer actions in which they had been defendants and moved for a new trial, a judgment as a matter of law, or a remittitur. The Supreme Court of Alabama held that the trial court erred by concluding that it lacked discretion to find probable prejudice based on the jurors' nondisclosures but also held that the plaintiff presented substantial evidence of an alternative design sufficient to support the AEMLD claim. The Supreme Court of Alabama affirmed the denial of the renewed motion for a judgment as a matter of law, reversed the denial of the motion for a new trial, and remanded for the trial court to exercise its discretion.

AMLA

***Ex parte Taylor,* No. SC-2025-0164 (Ala. Nov. 7, 2025).** A physician petitioned for a writ of mandamus directing the circuit court to strike a patient-plaintiff's amended complaint in a medical-liability action under the AMLA. The original complaint alleged that the physician left a sponge in the patient during a September 2016 surgery, but the undisputed evidence showed he performed no such surgery on that date. More than six years after filing suit and after the limitations period had run, the patient amended the complaint to change the date of the alleged procedure. Emphasizing the heightened pleading requirements of § 6-5-551 and the plaintiff's duty to amend timely upon ascertainment of new or different acts or omissions, the Supreme Court of Alabama held that the extreme and unjustified delay in amending constituted undue delay and that the circuit court exceeded its discretion in denying the motion to strike. The Supreme Court of Alabama granted the petition.

***Ex parte Coosa Valley Med. Center,* No. SC-2024-0767 (Ala. Dec. 12, 2025).** A plaintiff's amended complaint (filed more than 90 days before trial) asserted additional breaches of the standard of care that the Supreme Court of Alabama determined were known to the plaintiff 13 to 17 months before the plaintiff filed the amendment. Under Section 6-5-551's requirement that a plaintiff "timely" amend the complaint upon "ascertainment of new or different acts or omissions," the Court determined that the plaintiff waited too long to amend her complaint and that the trial court exceeded its discretion in allowing the amendments. It issued writs of mandamus barring the amendments but allowed the claim to proceed on the timely-asserted claims.

***Hixon v. Premier Med. Group, Inc.,* No. SC-2025-0368 (Ala. Dec. 12, 2025).** A plaintiff sued (among others) a doctor and the doctor's medical group for medical negligence. The plaintiff agreed to dismiss the claim against the doctor because it appeared to be barred by the statute of limitations, and the doctor was dismissed with prejudice. The doctor's medical group then moved for summary judgment on the vicarious liability claim against it, arguing that dismissing the doctor with prejudice required judgment for the medical group. The trial court granted summary judgment and the Supreme Court of Alabama affirmed, emphasizing the lack of evidence of a pro tanto settlement or express reservation of the vicarious liability claim in the record.

Taxation

***Campus Crest at Tuscaloosa LLC v. City of Tuscaloosa,* No. SC-2025-0020 (Ala. Oct. 3, 2025).** The defendant city passed an ordinance that required certain multifamily housing developments to pay a business-license fee of a percentage of rents received, with developments over a certain number of bedrooms paying a higher percentage. The plaintiff developments sued, alleging that the ordinance violated the equal protection clause, violated due process because it was unconstitutionally vague, violated the dormant commerce clause, and was, in effect, a zoning ordinance that was passed without following the proper procedures for such ordinances. The circuit court dismissed the case under Rule 12(b), but the Supreme Court of Alabama reversed as to all but the zoning ordinance claim. Even though the plaintiffs would eventually have to carry a heavy burden to succeed on the constitutional claims, the Court found that the complaint adequately pleaded the three constitutional claims.

Breach of Contract

***Laborde v. Citizens Bank,* N.A., No. SC-2025-0014 (Ala. Dec. 19, 2025).** Borrowers who defaulted on a VA-guaranteed mortgage sued the servicing bank after it refused to accept their alleged timely tender to reinstate the loan and proceeded with foreclosure, later selling the property to third parties. The circuit court dismissed all claims. On appeal, the Supreme Court of Alabama held that Alabama does not recognize an independent cause of action for breach of the duty of good faith and fair dealing and affirmed dismissal of that claim. However, the Court concluded that the borrowers sufficiently alleged breach of contract based on the bank's refusal to honor the contractual right to cure, wrongful foreclosure based on allegations that the power of sale was exercised for an improper purpose, and unjust enrichment based on retention of surplus proceeds. The Court remanded for further proceedings.

Restrictive Covenants

***Dendy v. Ryan,* No. SC-2025-0024 (Ala. Dec. 19, 2025).** Property owners and an architectural committee sued a lot owner and his company for declaratory and injunctive relief after obtaining approval for specific house plans under recorded subdivision covenants but constructed materially different homes without submitting revised plans for approval. After a bench trial and site visit, the circuit court ordered the defendants to comply with the covenants by either building in strict accordance with the originally approved plans, obtaining proper approval of new plans, or removing unapproved structures. On appeal, the Supreme Court of Alabama held that although the defendants had not waived the relative-hardship defense by failing to plead it initially, the trial court acted within its discretion in declining to apply that test because the defendants' knowing and deliberate decision to build unapproved structures constituted willful misconduct sufficient to bar equitable relief under the clean-hands doctrine. The Supreme Court of Alabama affirmed the injunction.

Church Property

***Ex parte Alabama-West Florida Conference of the U. Methodist Church,* No. SC-2025-0259 (Ala. Oct. 31, 2025).** A nonprofit corporation composed of certain church members sued a regional United Methodist body seeking an order requiring a congregational vote on disaffiliation and a declaration that the denomination lacked any interest in the local church's property. The regional body moved to dismiss based on the ecclesiastical abstention doctrine, arguing that the trial court lacked subject-matter jurisdiction to compel a disaffiliation vote, and it petitioned for a writ of mandamus when the circuit court denied the motion. The Supreme Court of Alabama held that Alabama Code § 10A-20-2.03 concerns real property control and does not create a statutory right to a congregational vote on denominational disaffiliation, and that ordering such a vote would intrude on ecclesiastical matters. It granted the petition and issued the writ directing the trial court to dismiss the complaint.

Public Employee Benefits

***Hoffman v. Birmingham Retirement & Relief Sys.,* No. SC-2025-0147 (Ala. Oct. 10, 2025).** A municipal firefighter sought mandamus review under § 45-37A-51.139 after a retirement board denied his applications for extraordinary and ordinary disability benefits. The Supreme Court held that his claim for extraordinary disability benefits failed as a matter of law because §45-37A-51.226 requires that the disability be received because of an accident arising out of and in the course of employment and occurring at a definite time and place, which was not alleged. As to ordinary disability benefits under § 45-37A-51.225, however, the Court concluded that the circuit court erred by denying the petition without reviewing the evidence or allowing additional evidence as contemplated by § 45-37A-51.139. It affirmed in part, reversed in part, and remanded for further proceedings on the ordinary disability claim.

Property

***McCain v. Sneed,* No. SC-2025-0130 (Ala. Oct. 10, 2025).** A lessor filed an ejectment action and sought a declaration of the parties' rights under a lease with an option to purchase after asserting that the lessees had defaulted, and the lessees counterclaimed for breach of contract and related claims. The circuit court found for the lessees. Under the ore tenus rule, the Supreme Court of Alabama held that the trial court did not err in rejecting the lessor's claim of default but concluded that it erred by crediting monthly rent payments toward the purchase price. It found that the lease unambiguously applied only the down payment and annual payments to principal and further relied on the rule that option contracts must be strictly construed. It affirmed in part, reversed in part, and remanded for entry of a judgment consistent with the opinion.

Arbitration

***Restore with Apex, Inc. v. Rocca,* No. SC-2025-0173 (Ala. Oct. 17, 2025).** A contractor's Rule 59 motion to vacate a judgment entered on an arbitration award in favor of a homeowner arising out of a property-repair dispute was denied by operation of law, and the contractor appealed, arguing that the award should be vacated under 9 U.S.C. § 10(a)(2)-(4) based on evident partiality, misconduct in denying a continuance, and the arbitrator's alleged misapplication of Alabama law on conversion and punitive damages. The Supreme Court of Alabama held that any objection based on the arbitrator's alleged conflict was waived because the contractor failed to raise it during the arbitration proceedings, that denial of a continuance did not amount to misconduct absent a showing of fundamental unfairness or prejudice, and that an arbitrator's alleged legal error does not constitute misconduct or an act in excess of powers under the FAA. The Court affirmed.

***Mobile Nursing & Rehab. Center, LLC v. Sliman,* No. SC-2025-0303 (Ala. Oct. 17, 2025).** A nursing home and its administrator appealed from the denial of a motion to compel arbitration of a wrongful-death claim arising from a resident's alleged fatal wound. The resident's wife had signed a jury trial waiver and arbitration agreement as authorized representative, but the circuit court denied the motion to compel arbitration. The Supreme Court of Alabama held that the wife failed to prove either that the resident was permanently incapacitated or that he lacked capacity at the time she executed the agreement, explaining that a dementia diagnosis alone does not establish incapacity and that the evidence showed fluctuating cognition rather than total incompetence. The Supreme Court of Alabama reversed the order denying arbitration and remanded the case for further proceedings.

***The Terminix Int'l Co., L.P. v. St. Paul's Episcopal Church,* No. SC-2024-0626 (Ala. Oct. 24, 2025).** A church sued a termite company for fraud, negligence, bad faith, and breach of contract arising from alleged termite damage to two buildings covered by service agreements that did not contain arbitration provisions. The defendants moved to compel arbitration based on a broad arbitration clause in a separate, later contract covering a different building, and the circuit court denied it. The Supreme Court of Alabama held that the arbitration provision unambiguously required arbitration of any claim between the parties or their agents and was not limited to disputes arising from the later agreement. The second contract's arbitration clause provided for arbitrating any claims between or against them without other limitation. The Supreme Court of Alabama reversed and remanded.

Jury Trial Waiver

***Ex parte Renasant Bank,* No. SC-2025-0239 (Ala. Oct. 17, 2025).** A bank petitioned for a writ of mandamus directing the circuit court to vacate an order canceling a bench trial to enforce a jury-trial waiver contained in a mortgage. The Supreme Court of Alabama held that the bank failed to demonstrate a clear legal right to the relief sought. It held that the bank had not moved to strike the borrower's jury demand and that the circuit court had therefore not refused to enforce the jury-trial waiver. The Court further explained that even an enforceable jury-trial waiver confers a right not to have a jury trial, not a clear legal right to have a bench trial scheduled, and that the circuit court's decision to cancel the bench trial and set a status conference did not constitute a refusal to perform an imperative duty. It denied the petition.

Forum Selection

Ex parte Best Choice Roofing Alabama, LLC, **No. SC-2025-0541 (Ala. Nov. 26, 2025).** Homeowners sued a roofing company in Alabama, and the company moved to dismiss based on an outbound forum-selection clause requiring any suit to be brought in Tennessee. The circuit court denied the motion, finding the clause unreasonable and the chosen forum seriously inconvenient. Applying the *Ex parte Northern Capital Resource Corp*. factors, the Supreme Court of Alabama held that the homeowners failed to make a clear showing that enforcement would be unfair or that litigating in Tennessee would effectively deprive them of their day in court. The Supreme Court of Alabama granted the petition and issued the writ directing the trial court to dismiss the claims for improper venue.

Public Works Contracts

Pinpoint Locating, Inc. v. The Water Works & Gas Bd. of Red Bay, **No. SC-2025-0376 (Ala. Dec. 5, 2025).** The plaintiff appealed from a summary judgment entered in favor of a municipal water and gas board that had ceased payment under four public-works contracts after concluding that it had not strictly complied with the advertisement requirements of former Alabama Code § 39-2-2. The board argued that the contracts were void because sealed bids had not been properly advertised in three newspapers of general circulation throughout the state. The Supreme Court of Alabama held that substantial compliance may satisfy the mandatory advertising requirements of §39-2-2 and that the plaintiff presented substantial evidence creating a genuine issue of material fact as to whether the board's advertising efforts, including publication in a local newspaper with statewide subscribers and online dissemination through public-notice and bid-aggregator platforms, substantially complied with the statute. The Supreme Court of Alabama reversed the summary judgment and remanded for further proceedings.

***Nearen Construction Co. v. The Armory Comm'n of Ala.*, No. SC-2025-0511 (Ala. Dec. 12, 2025).** The Supreme Court of Alabama reversed the circuit court's decision to dismiss a bidder's case alleging a violation of the competitive bid laws. The Court held that the bidder alleged compliance with the statutory requirements except for what it characterized as "a minor non-substantive requirement" that a court could find to constitute an excusable minor irregularity under §39-2-6(a). It therefore determined that there was a state of facts the bidder could prove to be entitled to relief, so it reversed the dismissal of the bidder's case.

Declaratory Judgment

***Orange Beach v. Boles*, No. SC-2024-0850 (Ala. Oct. 24, 2025).** After the Supreme Court of Alabama previously reversed a $3.5 million jury verdict in favor of a property owner on substantive-immunity grounds in a dispute over a municipality's refusal to perform inspections, the property owner sought declaratory judgment that the municipality could not require certain conditions before performing inspections. The Supreme Court of Alabama held that no justiciable controversy remained because all requested relief had been determined: the municipality performed the inspections. It therefore found the declaratory claim moot and that the trial court lacked subject-matter jurisdiction. The Supreme Court of Alabama reversed the judgment and remanded for the case to be dismissed.

Discovery Sanctions

***Southampton 100, LLC v. Alabama Dept. of Revenue*, No. SC-2025-0227 (Ala. Nov. 26, 2025).** The taxpayer appealed from an order dismissing with prejudice its tax appeals as a sanction under Rule 37(b)(2) after it failed to produce a second Rule 30(b)(6) corporate representative for an in-person deposition in Birmingham. Although the department of revenue argued that Rule 37(d) authorized dismissal for failure to appear, the Supreme Court of Alabama emphasized that dismissal is the most severe sanction and requires willful and deliberate disregard of reasonable discovery obligations. Because the taxpayer had produced one corporate representative, offered to make the second available by Zoom and later at trial, and faced an ambiguous procedural posture without a clear order compelling an in-person appearance, the record did not demonstrate willfulness in the appellate court's view. The Supreme Court of Alabama reversed the dismissal and remanded for further proceedings.

Receivership

***Kolessar v. SJP Investment Partners, LLC,* No. SC-2024-0492 (Ala. Oct. 24, 2025).** A court-appointed receiver appealed from an order requiring him to pay all pre-receivership claims incurred by a hotel owner before the receivership was established in a foreclosure-related dispute between the owner and a secured lender. The Supreme Court of Alabama first held that the order was injunctive in nature and therefore immediately appealable under Rule 4(a)(1)(A) because it commanded the receiver to take specific action by paying those claims. On the merits, the Court concluded that requiring unconditional payment of pre-receivership debts from the receivership estate exceeded the trial court's discretion because a receivership is preventive in nature and cannot disturb vested lien priorities or require payment of unsecured claims to the detriment of secured creditors. The Supreme Court of Alabama reversed the order and remanded for further proceedings.

Rule 54(b)

***Roberson v. Daniel,* No. SC-2025-0040 (Ala. Nov. 26, 2025).** The circuit court certified a plaintiff's fraud judgment as final despite counterclaims remaining unadjudicated and overlapping factual issues between the adjudicated fraud claim and pending contract and third-party claims. The Supreme Court of Alabama dismissed the appeal, finding both factual overlap and the possibility of off-setting judgments to cut against Rule 54(b) certification. It also discussed at length the interplay of Rule 54(b) and a bankrupt defendant, though its holding does not rely on the bankruptcy analysis.

Foreign Judgments

***Shumate v. Berry Contracting, L.P.,* No. SC-2024-0424 (Ala. Dec. 15, 2025).** Without producing a majority opinion, the Supreme Court of Alabama affirmed the denial of a Rule 60(b)(5) motion where a party had obtained a judgment in another state that it domesticated in Alabama and the underlying judgment was later reversed on appeal.

FROM THE ALABAMA COURT OF CIVIL APPEALS

Divorce

***J.D.S. v. S.G.S.,* No. CL-2024-0992 (Ala. Civ. App. Oct. 3, 2025).** A father appealed from a judgment modifying visitation, increasing his child support obligation, awarding retroactive child support, and requiring him to purchase, insure, and maintain vehicles for the parties' four minor children. Applying *Ex parte McLendon*, the Alabama Court of Civil Appeals held that the trial court did not exceed its discretion in denying the father's request for joint physical custody and instead modifying visitation because custody modification is not the proper remedy for visitation disputes and the evidence did not compel a finding that a change would materially promote the children's best interests. However, because the parties' combined income exceeded the upper limits of Rule 32, Ala. R. Jud. Admin., and the record did not sufficiently establish the children's reasonable and necessary needs or support the automobile requirement, and because retroactive child support was neither requested nor tried by implied consent, the court concluded that the child-support award and retroactivity ruling were unsupported. The Alabama Court of Civil Appeals affirmed the custody determination, reversed the child-support, automobile, and retroactivity provisions, and remanded for further proceedings.

***Young v. Young,* No. CL-2026-0216 (Ala. Civ. App. Nov. 21, 2025).** The Alabama Court of Civil Appeals reversed the award of alimony because it found that the trial court failed to make the findings required by §30-2-57. It disagreed that the appellant had waived the requirement of such findings and it remanded for the required findings to be made.

***Kemp v. Abrams,* No. CL-2025-0223 (Ala. Civ. App. Dec. 12, 2025).** Following the husband's death during a pending divorce action, the trial court dismissed the divorce but later awarded grandparent visitation and enforced that award in a subsequent show-cause proceeding. In consolidated appeals, the Alabama Court of Civil Appeals held that the divorce action abated upon the husband's death under *Ex parte Thomas* and that the trial court lacked subject-matter jurisdiction to enter any orders in that action other than dismissal. The court further held that the purported grandparent-visitation action was never properly commenced because no docket fee was paid as required by § 12-19-70 and *Ex parte Courtyard Citiflats, LLC*, rendering all visitation and enforcement orders void. The Alabama Court of Civil Appeals dismissed the appeals with instructions for the trial court to vacate the void judgments and dismiss the underlying actions.

Termination of Parental Rights

***K.C.M. v. Madison County D.H.R.,* No. CL-2025-0101 (Ala. Civ. App. Oct. 17, 2025).** The juvenile court terminated a mother's parental rights based on substance abuse, instability, and failure to adjust her circumstances despite services provided by DHR. After DHR filed the termination petitions, it obtained a psychological assessment revealing that the mother likely suffers from schizoaffective disorder and requires aggressive psychiatric treatment, but the results were not available until the eve of trial and no targeted mental-health services had been implemented. The Alabama Court of Civil Appeals held that, under Alabama Code § 12-15-312 and governing precedent, DHR must make reasonable efforts tailored to the conditions necessitating removal and must afford a parent a fair opportunity to remedy barriers to reunification. Because DHR delayed more than two years before identifying and addressing the mother's untreated mental illness, the Alabama Court of Civil Appeals reversed the termination judgments and remanded for further proceedings.

***M.E.M. v. K.J.,* No. CL-2025-0468 (Ala. Civ. App. Dec. 5, 2025).** An alleged father appealed from a judgment terminating his parental rights and awarding permanent custody of the child to the maternal aunt. Reasoning that only the parental rights of a legal father may be terminated, and that the record contained no evidence that the alleged father had been adjudicated the child's father under § 26-17-201(b) or qualified as a presumed father under § 26-17-204(a), the Alabama Court of Civil Appeals reversed. Because it found that the alleged father's unverified admission of paternity did not satisfy § 26-17-623(a) and the evidence did not establish his status as a legal father, the appellate court determined that the juvenile court lacked subject-matter jurisdiction to terminate his parental rights. The Alabama Court of Civil Appeals dismissed the appeal and instructed the juvenile court to vacate the portion of the judgment purporting to terminate the alleged father's parental rights.

***T.M. v. Calhoun County D.H.R.,* No. CL-2025-0273 (Ala. Civ. App. Dec. 19, 2025).** The juvenile court terminated the parental rights of both parents under § 12-15-319 based on chronic substance abuse, repeated relapses, failure to complete rehabilitation, lack of consistent visitation, nonpayment of child support, and inability to maintain stable housing or employment. The Alabama Court of Civil Appeals held that clear and convincing evidence supported the findings that the parents were unable or unwilling to discharge their parental responsibilities and that their conduct was unlikely to change in the foreseeable future, and it concluded that DHR had made reasonable efforts at reunification. It further determined that maintaining the child in foster care indefinitely was not a viable alternative—especially in light of the finding that the children lacked an emotional connection with the parent making the argument to justify further time in foster care––and that no suitable relative placements existed. The Alabama Court of Civil Appeals affirmed the termination judgments.

Workers' Compensation

***MMR Constructors, Inc. v. Taylor,* No. CL-2024-0979 (Ala. Civ. App. Oct. 24, 2025).** An employee sought benefits under the Alabama Workers' Compensation Act after he lost consciousness while operating a work buggy, left the roadway, and struck a structure, sustaining head injuries; the trial court found that his syncope resulted from preexisting medical conditions but concluded that the accident arose out of his employment. On appeal, the employer argued that the employee's loss of consciousness was idiopathic and that the employment did not increase the risk of injury. The Alabama Court of Civil Appeals held that, under the increased-risk test applicable to accidents precipitated by idiopathic factors, operating an unenclosed buggy in a construction zone materially increased the risk and severity of injury once the employee lost consciousness. The Alabama Court of Civil Appeals affirmed.

Civil Procedure

***James & Sons Metal Prods., Inc. v. Renasant Bank,* No. CL-2025-0656 (Ala. Civ. App. Oct. 24, 2025).** Where a case was begun by the filing of an emergency motion to halt a foreclosure, the Alabama Court of Civil Appeals held that no action was ever properly commenced. The appellate court did not construe the motion as a complaint not only because of its form but also because it was served as a motion, not by service of process. It dismissed the appeal for lack of jurisdiction.

Crime Victims Compensation

***Ala. Crime Victims Compensation Comm'n v. Thomas,* No. CL-2025-0178 (Ala. Civ. App. Dec. 19, 2025).** The Alabama Crime Victims Compensation Commission denied a brother's claim for funeral expenses under the Alabama Crime Victims Compensation Act, § 15-23-1 *et seq.*, after his sister was killed by a vehicle whose driver was charged only with leaving the scene of an accident involving injury or death. The circuit court reversed, concluding that the driver's conviction established "criminally injurious conduct" under § 15-23-3(2)a, but the Alabama Court of Civil Appeals held that the Commission reasonably interpreted that term to require a single criminal act that results in injury or death and that leaving the scene necessarily occurs after the injury has already happened. Deferring to the Commission's reasonable statutory interpretation and its factual determination that the death resulted from an accident rather than a qualifying criminal act, the court concluded that the agency's decision was not arbitrary or capricious under § 41-22-20(k). The Alabama Court of Civil Appeals reversed the circuit court's judgment and remanded with instructions to affirm the Commission's final decision.

Protection from Abuse

***Ex parte Hudson*, No. CL-2025-0669 (Ala. Civ. App. Oct. 31, 2025).** A mother petitioned for a writ of mandamus directing the circuit court to vacate an order entered in a Protection from Abuse Act proceeding that purported to award a father unsupervised visitation with the parties' disabled 29-year-old adult son. The Alabama Court of Civil Appeals held that a circuit court's jurisdiction to award visitation under § 30-3-1 and the PFA Act extends to minor children and that no statutory authority permits a circuit court to award visitation between a parent and an adult child, even if the child is disabled. The court further explained that Alabama's Uniform Guardianship and Protective Proceedings Act vests jurisdiction in the probate court overseeing a guardianship to consider petitions to compel visitation with an incapacitated adult ward. The Alabama Court of Civil Appeals granted the petition and issued the writ directing the circuit court to vacate the visitation order as void for lack of subject-matter jurisdiction.

UCCJEA

***T.S. v. Houston County D.H.R.,* No. CL-2025-0114 (Ala. Civ. App. Nov. 7, 2025).** A mother appealed from a dependency judgment after DHR removed the child from a motel and the court initially exercised temporary emergency jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act, § 30-3B-101 et seq. The Alabama Court of Civil Appeals held that Florida was the child's home state under § 30-3B-201(a)(1) and that the juvenile court did not acquire jurisdiction to make an initial custody determination because no Florida court had declined jurisdiction on the ground that Alabama was the more appropriate forum under § 30-3B-201(a)(3), and the shelter-care order did not expressly provide that it would become a final determination as required by § 30-3B-204(b). Concluding that the juvenile court's authority extended only to temporary emergency jurisdiction and that the dependency judgment was entered without subject-matter jurisdiction, the Alabama Court of Civil Appeals dismissed the appeal as taken from a void judgment. ▲

Marc A. Starrett

Marc A. Starrett is an assistant attorney general for the State of Alabama and represents the state in criminal appeals and habeas corpus in all state and federal courts. He is a graduate of the University of Alabama School of Law. Starrett served as staff attorney to Justice Kenneth Ingram and Justice Mark Kennedy on the Alabama Supreme Court, and was engaged in civil and criminal practice in Montgomery before appointment to the Office of the Attorney General. Among other cases for the office, Starrett successfully prosecuted Bobby Frank Cherry on appeal from his murder convictions for the 1963 bombing of Birmingham's Sixteenth Street Baptist Church.

J. Thomas Richie

J. Thomas Richie is a partner at Bradley Arant Boult Cummings LLP, where he co-chairs the class action team. He litigates procedurally-complex and high-stakes matters in Alabama and across the country. Richie is a 2007 summa cum laude graduate of the Cumberland School of Law and former law clerk to the Hon. R. David Proctor of the United States District Court for the Northern District of Alabama.

TRANSFERS TO INACTIVE STATUS:

- Guntersville attorney **Laura DeAnna Chaney Givens** was transferred to Inactive Status, effective October 7, 2025, by Order of the Supreme Court of Alabama. The Supreme Court entered its Order based upon the October 7, 2025, Order of Panel III of the Disciplinary Board of the Alabama State Bar in response to a request she submitted to the Office of General Counsel to be transferred to inactive status. [Rule 27(c), Pet. No. 2025-1083]

- Greenville attorney **Patrick Lamont Hays, Jr.** was transferred to Inactive Status, effective October 7, 2025, by Order of the Supreme Court of Alabama. The Supreme Court entered its Order based upon the October 7, 2025, Order of Panel III of the Disciplinary Board of the Alabama State Bar in response to a request he submitted to the Office of General Counsel to be transferred to inactive status. [Rule 27(c), Pet. No. 2025-1082]

SUSPENSION:

- Montgomery attorney **Jerry Michael Blevins** was suspended from the practice of law in the State of Alabama for one-hundred-eighty (180) days, effective February 27, 2026, as notated by the Alabama Supreme Court. The Supreme Court's notation was based upon the Alabama State Bar's Disciplinary Board's Order issued September 6, 2024. The Disciplinary Board ordered Blevins to be suspended for his violation of Rule 1.5 [Fees], *Alabama Rules of Professional Conduct*. Further, the Disciplinary Board ordered Blevins to receive a Public Reprimand with General Publication for violating Rule 1.4 [Communication], *Alabama Rules of Professional Conduct*. In addition, the Disciplinary Board taxed all costs against Blevins, including an administrative fee of $1,000.00. Specifically, the Disciplinary Board found that Blevins drafted a written contingency fee agreement that provided he would be paid 40% of all sums recovered ***in excess*** of $222,750.00, the amount originally offered to his client prior to her retaining Blevins. After mediation, the client settled her claims for $300,712.50. Under the terms of Blevins's fee agreement that he draft for the engagement, he was entitled to 40% of $77,962.50, which was the amount in excess of what his client was offered prior to her hiring Blevins. Therefore, based on the written fee agreement, Blevins was entitled to $31,185.00, as his attorney's fee. However, contrary to the written fee agreement, upon receiving the settlement proceeds, Blevins claimed that he was entitled to 40% of the ***entire*** $300,712.50 settlement. Subsequently, the client retained other counsel to sue Blevins and to enforce the written contingency fee agreement. After the Disciplinary Board's ruling, Blevins filed an appeal to the Supreme Court of Alabama. On December 19, 2025, the Supreme Court of Alabama affirmed the Disciplinary Board's order. On January 2, 2026, Blevins filed an application for rehearing. On February 27, 2026, Blevins's application for rehearing was denied and the Certificate of Judgment was issued. [ASB No. 2017-927]

PUBLIC REPRIMANDS:

- Tuscaloosa, Alabama attorney **Benjamin Thomas Larkin** was issued a Public Reprimand without General Publication by the Disciplinary Commission of the Alabama State Bar on October 24, 2025 for violating Rules 1.1 [Competence], 1.3 [Diligence], 1.4 [Communication], and 8.4(c), (d) and (g) [Misconduct], Alabama Rules of Professional Conduct. In September 2014, a client paid a $1,500 fee to Larkin to expunge an arrest from 2013. In November 2014, Larkin informed the client that because the criminal charge arising from her arrest was dismissed "without prejudice," the charge could not be expunged for two years. However, Larkin indicated that he would speak with the DA about agreeing to have the judge amend the order to a "dismissal with prejudice" so they could seek an immediate expungement. In March 2016, the client reached back out to Larkin, via email, about filing the expungement. Larkin responded that he would prepare the necessary paperwork and that the client needed to provide him with an original set of her fingerprints. The client promptly provided Larkin a copy of her fingerprints and signed the necessary paperwork for the expungement. In February 2017, the client emailed Larkin requesting an update on the expungement. Larkin responded that he would check on the matter. In April 2017, Larkin informed the client that the expungement had been filed but that the state had failed to remove the listing. Larkin stated that he would follow-up and also asked for the original file to be sealed. At this time, the client believed the matter had been finalized. In June 2021, the client applied for a job and learned from her potential employer that the arrest was still appearing in her criminal background check. The client contacted the County Clerk's Office and learned that an expungement had never been filed. The client then emailed Larkin and asked him to provide her with copies of the original filing or anything that would indicate the expungement had been filed. Larkin promised to do so. In July 2021, Larkin informed the client that he could not locate her file and would refile the expungement at his own cost. In December 2021, the client contacted Larkin and asked if the expungement had been filed. Larkin replied that he would file the expungement later that month. The client followed up with Larkin in February 2022 asking him to please get the expungement filed. Larkin informed the client that she would need to obtain a new set of fingerprint cards. The client provided the fingerprints to Larkin in March 2022 and signed all of the necessary paperwork. In early July 2022, the client emailed Larkin asking for a status update. Larkin did not respond. In August 2024, the client contacted the County Clerk's Office and learned that the expungement was never filed. In September 2024, Larkin responded to the client and promised to get it "straightened out ASAP." After not hearing from Larkin, the client emailed him requesting a copy of the expungement he filed because she had already lost two opportunities for employment as a result of the arrest appearing on her criminal background check. After Larkin failed to respond, the client filed a complaint against him. In response to the complaint, Larkin admitted to failing to file the expungement on the client's behalf. Larkin further issued a $1,500 refund to the client. [ASB No. 2024-1342]

- Prattville, Alabama attorney **Jim Tom Norman, III,** was issued a Public Reprimand without General Publication by the Disciplinary Commission of the Alabama State Bar on October 24, 2025 for violating Rule 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. Norman represented a client in a divorce/custody matter from 2019 to 2023. Norman withdrew from the matter because he disagreed with the client's request that he file a motion to recuse the judge. The client was subsequently represented by other counsel. On November 13, 2024, Norman was informed by office staff that the client had called his office and called Norman "a piece of shit." That same day, Norman contacted the client to set up a meeting. The entire meeting was captured by a security camera. The video showed that Norman was the aggressor and instigated a physical altercation with the client while he was still sitting down. When the client stood up, Norman shoved him to the ground and a fight ensued. [ASB No. 2025-062]

- Huntsville, Alabama attorney **Matthew Brett Reeves**, was issued a Public Reprimand with General Publication by the Disciplinary Commission of the Alabama State Bar for violating Rules 1.1 [Competence], 3.3 [Candor Toward the Tribunal], and 8.4(d) and (g) [Misconduct], *Alabama Rules of Professional Conduct*. On July 23, 2025, United States District Judge Anna Manasco entered a sanctions order against Reeves and other lawyers in his firm. At the time, Reeves was employed by a law firm who was retained to represent the State of Alabama in litigation involving the Department of Corrections ("DOC"). In representing DOC, Reeves used the Artificial Intelligence tool ChatGPT to assist him in drafting two (2) separate motions. Some of the legal citations Reeves listed in the motions were false. The false citations were generated by ChatGPT and are commonly referred to as "hallucinations." Reeves failed to verify whether all the citations generated by ChatGPT were accurate.

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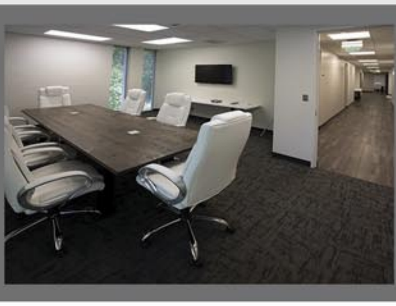

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ABOUT MEMBERS, AMONG FIRMS

Please email announcements to melissa.warnke@alabar.org.

About Members, Among Firms *highlights ASB members on the move–whether you're taking on a new role within your current company, organization, or firm; being hired at a new firm or organization; or starting up your own practice.*

- **Badham & Buck, LLC** is pleased to welcome **Callen Thistle** to the firm as Counsel.

- **Beasley Allen** is pleased to announce the addition of **Stephen Dees** as Of Counsel, focusing on personal injury and products liability cases.

- **Bradley** is pleased to share that **James Blake Bailey** (Bankruptcy), **Danny Feltham** (Corporate), **Ryan J. Letson** (Intellectual Property), and **Will T. Thistle II** (Tax) have been named Practice Group Leaders.

- **Burr & Forman** is excited to announce the addition of First-Year Associates **Maddison Booth**, **Alisha Clay**, **Kyra Lockhart**, **Guadalupe Orozco Rosiles**, **Anna Robinson**, **Mckenzy Smith**, and **Alli Swann** to its Birmingham Office.

- **Burr & Forman** is proud to announce the election of new Partners **Maddie Hughes** and **Emily Schreiber Pendley** in Birmingham, and **Schuyler Espy** in Montgomery.

- **Crawford Gentle Law, P.C.** is pleased to announce that **Brynn T. Martin** has joined the firm as an Associate.

- **Cunningham Bounds** is proud to announce that **Joseph McGowin** has been promoted to Partner.

- **F&B Law Firm, PC** is pleased to welcome **Katelyn W. Welch** and **Camille E. Atkins** as Associates.

- **Gregory Fann Turner Law, LLC** is pleased to welcome **Alex Richart** as an Associate Attorney to its Domestic Relations and Matrimonial Law Practice.

- **Hankey Law Firm, LLC** is pleased to announce that **Gwendolyn Shannon Waters** and **Nicolas T. "Cole" Camp** have joined the firm as Associates.

- **Hand Arendall Harrison Sale** and **Barron & Redding** are pleased to announce the completion of their merger, effective January 1, 2026.

- **Hand Arendall Harrison Sale** is proud to announce several Leadership Appointments and Firm Promotions. **Ben Goldman**, based in Birmingham, has been elected to the firm's Executive Committee and appointed Birmingham Managing Lawyer. **Dorissa Smith** and **Ben Reardon**, also based in Birmingham, have been elected as Members of the Firm.

- **Huie, Fernambucq & Stewart, LLP** is pleased to announce that **Andrew Schomburg** has joined the firm as an Associate Attorney.

- **Jeff Patterson** has retired as Chief Judge of the Alabama Tax Tribunal and has returned to the private practice of state and local tax law to represent taxpayers through his firm **Jeff Patterson Tax Law and Consulting**.

- **Jones Walker LLP** is pleased to welcome **Robert "Rob" McGinley** as Special Counsel in the firm's Corporate Practice Group and as a member of its Real Estate Team in the Mobile Office.

- **Lanier Ford** is pleased to announce that **Andrew T. Toler** has joined the firm as an Associate and that **Stephanie M. Hall** has been elevated to Shareholder.

- **Lightfoot, Franklin & White LLC** is pleased to welcome **Jordan E. Dailey** as a Lateral Associate in its Birmingham Office.

- **Morris Andrews Talmadge & Driggers, LLC** is pleased to welcome **William P. Gilmore** as an Associate.

- **Phelps, Jenkins, Gibson & Fowler, LLP** is proud to announce that **M. Bradley Almond**, who recently retired after 17 years as a Circuit Court Judge in Tuscaloosa County, has joined the firm as a Partner. The firm is also pleased to welcome **Tindol L. Pate** as an Associate.

- **Sanders and Williams LLC** is pleased to announce that **Lauren Farrington** has been promoted to named partner. Effective January 1, 2026, the Birmingham-based firm will now operate as **Sanders, Williams, and Farrington LLC**. Farrington's practice focuses on workers' compensation litigation, premises liability matters, and insurance defense.

- **Smith, Spires, Peddy, Hamilton & Coleman, P.C.** is pleased to announce that **Joseph D. Jackson, Jr.** has joined the firm as an Associate.

- **Starnes Davis Florie LLP** is proud to announce that **Madeleine Harpool** has been promoted to Partner.

- **Stone Crosby, P.C.** is pleased to announce that **Finley B. Reeves** has become a Shareholder.

- **The Law Offices of Pilgrim & Pilgrim** is pleased to welcome Attorney **John M. Teague** to the Practice.

- **Thompson Burton** is pleased to announce that **Jack R. "Rob" Dodson, III** has joined the firm as a Partner in its Commercial Litigation Practice Group.

- **Webster, Henry, Cohan, Speagle, DeShazo & Bankston, P.C.** is excited to announce that **Caroline Trippeer** has joined the firm's Montgomery Office as an Associate, and that **Ann Simpson Trousdale** has joined the Birmingham Office as an Associate.

- **Wood & Swiney, P.C.** is pleased to announce that **McKenzie L. Wilson** has joined the firm as an Associate. ▲

FAMOUS POEMS REWRITTEN FOR AND ABOUT THE LEGAL PROFESSION

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ROBERT FROST

The Road Not Taken

Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveler, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;

Then took the other, just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that, the passing there
Had worn them really about the same,

And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

THE LAWYER REWRITE

The Appeal Not Taken

The client's head was hard as wood;
The junior partner and I both
Pleaded with him as we stood,
Reciting why the trial judge could
Not see the trees for the undergrowth.

The outcome clearly was not fair;
And having indeed the better claim,
Our points would surely have to wear
Much better on appeal than there—
Where each was overlooked about the same.

Appellate grounds that starkly lay
Before us, in white and black,
Would have to wait another day;
There seemed to be no other way
As our stubborn client turned his back.

We shall be relating this with a sigh
At the firm some hours hence:
Two lawyers stood, and neither he nor I
Could keep these fees a-coming by,
How will we make up the difference?

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