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On The Cover

There is something special about a beautiful daffodil standing first alone, then with a few, then with an entire garden, while in the background blurs a receding backdrop of the leafless winter. A smart person might find a metaphor for this issue in that photo.

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P R E S I D E N T ' S P A G E

Tazewell T. Shepard, III
taze@ssmattorneys.com



President Shepard has designated a theme for each month of his term. State bar sections and local bars are encouraged to plan events and activities for each topic. Be sure to let us know about your activities relating to these themes so that we can report them to our members!

March: Women in the Law

April: Mediation and Dispute Resolution

May: Lawyer Health and Wellness

June: Annual Meeting

My good friend Sam Irby and I have discussed on several occasions that the image of the state bar for many lawyers is simply that, "They take our money and discipline us." This is unacceptable, and our entire team of volunteers and bar staff are working very hard to erase that image and make the state bar much more member-friendly and responsive.

I hope that you have read the President's Six-Month Review that the Alabama State Bar published in January. In the spirit of transparency, the review provides useful information on the MCLE process for approval of CLE courses, the Disciplinary Commission attorney discipline process, and the role of the Office of General Counsel. It also contains a list of the goals that we have accomplished so far and the goals we hope to accomplish before my term as president ends at the next annual meeting in June.

One of the accomplishments of which I am most proud is the establishment of the law practice management department and the hiring of Chris Colee as the

coordinator. I expect the services that Chris will offer potentially will help all of our 19,000 attorney members and particularly those members who maintain a solo or small firm practice. Chris is also working with the Court Technology task force that I appointed, and they will be offering educational opportunities for both judges and lawyers for online dispute resolution, digital hearing and trial exhibits, and other court innovations.

Another goal that has worked out well is my naming a theme for each month of my year as president. Recently we had a lot of positive activity, including CLE sessions, on human trafficking in January and on diversity and inclusion in February. The theme for March is women in the law, and I expect that by the time you read this article, there will be numerous activities and opportunities to learn about the many accomplishments of female lawyers in Alabama.

The advantage of having a theme for each month is that it allows the state

bar to partner with local bars and other legal organizations on the theme, giving our mutual efforts greater statewide exposure. We have collaborated successfully this year with both the Montgomery and Madison County bars, and we are working with the Birmingham Bar, expecting great results. We have also partnered successfully with Legal Services Alabama on several theme-related CLE sessions.

I am also happy to report to you that we have had had a second meeting of the Past Presidents Advisory Council. As a reminder, the members of the council this year are Sam Irby, Lee Copeland, Anthony Joseph, and Dag Rowe. Because of the continuing Covid problem, both of our meetings were accomplished with Zoom calls.

The comments and institutional knowledge of these past presidents have been extremely useful for me and for our executive director, Terri Lovell. Our next ASB president, Gibson Vance, has indicated that he will probably continue the council with his appointments next year. I know that Gibson will do a great job as president, and I think that he will find the council's discussions very useful.

This year we are emphasizing leadership skills for all of our state bar volunteers. We have already had productive meetings with our section leaders and with our committee and task force leaders. By the time you read this article, I hope that we will have had a similar meeting with local bar presidents around the state. We are also working on informational tools that bar commissioners can use as representatives of the state bar to their judicial circuits.

We are supporting the state bar's member benefits committee in its efforts to identify and connect with those vendors who will provide more and better discounts and products for our members. It is my personal philosophy that the state bar should deliver as much value as possible to our lawyer members, including member benefits and free or low-cost CLE opportunities.

Finally, I would like to share with you the message that I delivered to our

state court judges at their winter conference in Huntsville. The message could be summed up with the words "Guard the truth."

Some of you have heard me say before that when Shakespeare penned the words, "First thing we do, let's kill all the lawyers" in his play *Henry VI*, he was not pointing to lawyers as bad people. The character who voiced this comment was a thug and an anarchist named Dick the Butcher, and he was talking with his friends about how they could tear down society.

The truth is that lawyers and judges maintain our vibrant legal system, and the legal system maintains the fabric of society as we know it. There can be no business and commerce without laws and no guarantee of free speech without a strong legal framework. I hate to think what it is like to be a lawyer or a judge in a country with a dictatorial government, where there is a legal system but truth is whatever suits the government's current position.


The topic of lawyers and truth has been the subject of many scholarly articles over the years. Some have concluded that it is impossible to reconcile a policy for lawyers of always telling the truth with the requirement of diligently representing a client's best interests.

In effect, there is a difference between an attorney being honest and being truthful. The Rules of Professional Conduct somewhat reflect this dichotomy by prohibiting lawyers in Alabama from making a false or misleading statement to a client, a third party, or a tribunal. However, the rules do not require lawyers to seek the truth in all matters.

Some would argue that this role is better suited for judges because of their role as impartial finders of the facts in every case. Indeed, Canon 3 of the Alabama Canons of Judicial Ethics states in part, "A judge should be faithful to the law and maintain professional competence in it. He should be **unswayed by partisan interests, public clamor, or fear of criticism.**" (my bold emphasis)

I believe that while we're not all in the same position, everyone who is a licensed lawyer or judge in Alabama has a moral duty to seek the truth whenever they can. This applies not only in your practice, but also in your daily living. After all, you are a leader in your family, your law firm, and your community. There is no doubt in my mind that we're all better off when we share a common understanding of what is true and what is false, free from the influence of political and self-serving interests.

In the words of author Michael Connelly's iconic character, detective Harry Bosch, "There are two kinds of truth: one is the unalterable bedrock of one's life and the other is bent to serve whatever purpose is at hand." Let's all as lawyers and judges promote Harry Bosch's first definition of truth as "the unalterable bedrock of one's life" whenever and wherever we can. ▲



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Pursuant to the Alabama State Bar's Rules Governing the Election of President-Elect, the following biographical sketch is provided of Brannon J. Buck, who was the sole qualifying candidate for the position of president-elect of the Alabama State Bar for the 2022-2023 term and will assume the presidency in 2023.

Brannon J. Buck

Brannon Buck appreciates the distinct challenges facing lawyers of different disciplines. He has practiced in a large firm and a two-lawyer partnership. He has represented Fortune 500 companies and individuals, and he has spent his career handling both plaintiff's and defense cases.

Brannon co-founded Badham & Buck LLC in 2008 with Percy Badham, and he quickly encountered the knee-knocking anxiety of "hanging a shingle." Before Badham & Buck, Brannon was a partner at Maynard Cooper & Gale, where he learned to appreciate the demands of a big firm. In his current practice, Brannon represents businesses and individuals on both sides of the "v," so he understands the risks of contingency fee work and the pressures of defending sophisticated clients.

Brannon grew up in Huntsville. His father, Carl, worked for NASA and then for Intergraph, and his mother, Susan, was school teacher. Brannon attended Davidson College where he graduated with honors and was captain of the varsity tennis team. He then went to law school at the University of Alabama. During law school, Brannon competed on the National Moot Court Team, edited the *Alabama Law Review*, and was a Hugo Black Scholar and a member of the Order of the Coif.

Brannon has been committed to serving the legal profession. He was active in the Alabama State Bar's Young Lawyers' Section, eventually serving as president. In 2012, the Tenth Judicial Circuit elected Brannon to the first of three terms on the Board of Bar Commissioners. During those nine years, Brannon served on the Executive Council and the



Buck

MCLE and Disciplinary commissions, and he co-chaired the Quality of Life & Wellness Task Force and the MCLE Review & Revision Task Force. Brannon is a Fellow of both the Alabama State Bar and American Bar foundations.

In addition to bar leadership, Brannon chaired the Alabama Appleseed Center for Law and Justice and served on the Alabama Civil Justice Foundation board. He graduated from Leadership Birmingham, and he currently serves on the UA law school Alumni Leadership Council. Brannon has coached youth sports and been active in his church as a member of its Advisory Council and Staff-Parrish Committee.

Brannon's wife, Mollie, is a selfless mother and a compassionate cancer doctor. They are the proud parents of 14-year-old daughter Emerson and 13-year-old son Harris. ▲

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EXECUTIVE DIRECTOR'S REPORT

Terri Lovell
terri.lovell@alabar.org



Core Values

Of the many questions I am asked during my visits and calls with lawyers around the state, the most common is, "How are things at the bar?" The answer is a resounding, "Getting better every day!"

We have started this new year with many opportunities to engage with lawyers, law students, judges, and the public – through public service, sections, pro bono work, the Leadership Forum, the bar exam, legal conferences, free legal clinics, CLEs, or community groups. I am so grateful to represent an organization and profession that identifies its core values as trust, integrity, and service. Lawyers are rendering service all over this state and I could not be

prouder to represent them. These tenets of trust, integrity, and service are the basis of every decision we make here at the Alabama State Bar.

Being a bar commissioner is not only a position of leadership, but honor. These lawyers are chosen by their local peers to represent their profession in a leadership role. The loss of Bar Commissioner Mike Ermert in January has made all of us reflect on the many



Ermert

ways he touched the world he lived in, not only as the person he was, but also in how he conducted himself as a lawyer. At his last meeting, he delivered an inspiring message of hope, unity, and service to his fellow commissioners. Mike lived a life of integrity, and his legacy will live on through the many lives he touched.

We, as lawyers, have that same opportunity every day. We are all mentors and lead by example by the way we treat people, the decisions we make, and in the life we choose to live. Integrity means we are all willing to do what is right, however difficult, even if it costs us personally or professionally. As the service organization of and for lawyers, the core value of integrity becomes even more meaningful as we make decisions that will impact our ever-changing profession for years to come.

As we continue to focus on the issues for lawyers, continuing the work of the Governance and Internal Operations Task Force, there are a number of areas that deserve our attention. The work is challenging and important, and it continues to require commitment by many members of our bar. Step by step, we are getting better every day.

You will learn more about this work, engage with your colleagues, and enjoy outstanding presentations at the annual meeting June 22-25 at the Hilton Sandestin Beach Golf Resort & Spa. I look forward to these opportunities ahead to hear from you, engage with you, and find ways to serve you better. ▲

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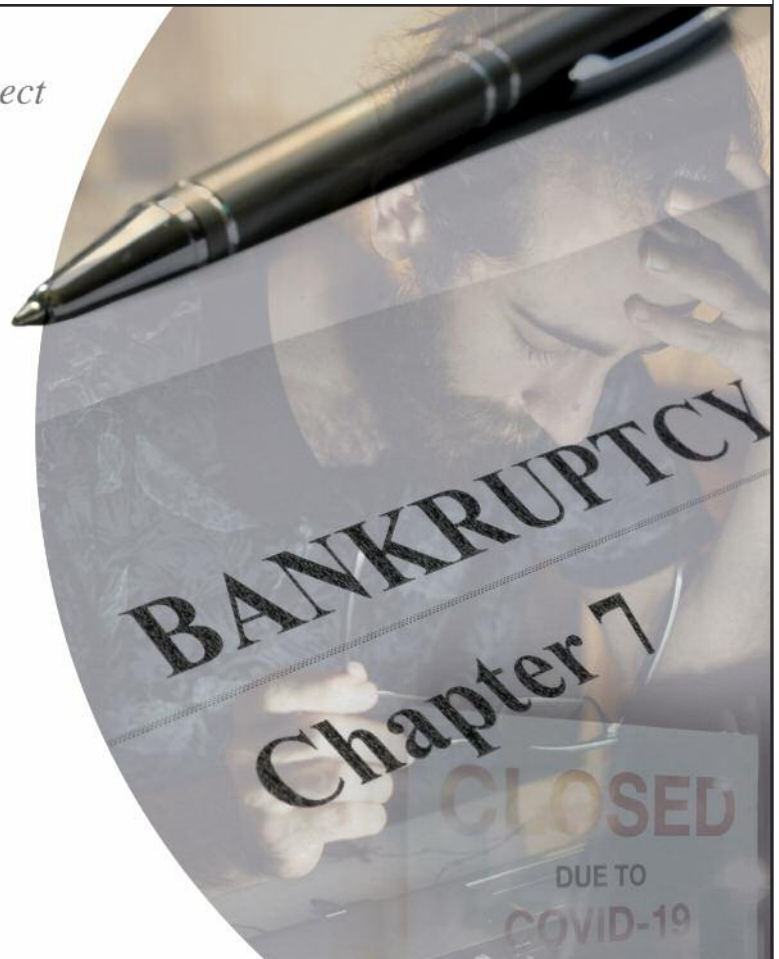
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EDITOR'S CORNER

W. Gregory Ward
wgward@mindspring.com

Welcome to the March 2022 Edition of *The Alabama Lawyer*

I usually spend my "Editor's Corner" time previewing this issue's articles. I'm not going to do that with this one. This column is going to be all about my friend, Wilson Green.

Wilson has written the civil division section of "The Appellate Corner" for the past 10 years. Think about that for a moment. Six times a year he reviews all of the important civil decisions from the United States Supreme Court, the federal appellate courts, the Alabama Supreme Court, and the Alabama Court of Civil Appeals; decides which ones you most need to know about; and then writes clear, concise summaries. He gives you the pincite to the case, and he provides a heading to aid you in deciding which cases you want to take a gander at.

Do people read this section? Bet on it. I read it, and I don't think I would feel at all like I'm in the know if I didn't.



Green

For just a moment, let's slip back to the amount of work Wilson has done. Some issues have longer versions of "The Appellate Corner," and some have shorter versions. But if you use the average number of words he sends in for each issue, **Wilson has published about 300,000 words in *The Alabama Lawyer***. He's written all of these on his own – just him. That's not nothin'.

And if that was all he's done, it would be more than enough. But he is also one of only two associate editors of the magazine.

Much more important to me is that he has become my friend. More than once I've needed someone to run something by, and Wilson has been there. More than once I've been stuck and needed advice, and Wilson has been there. And more than once I just needed someone to vent to, and Wilson has been there.

After a decade of this frenetic pace, he's succumbed to the condition of all men – he needs a break. And he has it coming. He isn't retiring from the practice of law, he's just putting down the laptop to let someone else take over his column.

His demeanor is calm and quiet, but when he speaks up, I know I'd best listen. He's always ready with an insightful observation, a clarifying comment, or, when one is needed, a word of encouragement.

Turn to "The Appellate Corner" and read his last offering. For now.

Next month, several people will take over the civil side. Marc Starrett, our excellent assistant attorney general who is in charge of our criminal law case summaries, isn't going anywhere.

Wilson – thank you from me and from the entire editorial board. The entire Alabama bar owes you a debt of gratitude.

We are much smarter because we've known you. ▲

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MEMORIALS

Adair, Douglas Conrad

Pelham

Admitted: April 26, 1996

Died: December 6, 2021

Bainbridge, Frank Mims

Birmingham

Admitted: January 1, 1956

Died: December 27, 2021

Bains, Caryn Leigh

Atlanta

Admitted: September 18, 1979

Died: September 10, 2021

Cook, Sarah Anna Rutland

Jasper

Admitted: April 25, 1997

Died: October 18, 2021

Foster, John Donaldson

Mobile

Admitted: August 10, 1971

Died: October 23, 2021

Foster, Thomas Leverne

Trussville

Admitted: April 6, 1972

Died: December 23, 2021

Givhan, John Brandon

Andalusia

Admitted: September 1, 1972

Died: August 2, 2021

Green, Bruce Michael

Birmingham

Admitted: September 27, 1976

Died: September 23, 2021

Hall, Linda

Birmingham

Admitted: April 25, 1997

Died: July 17, 2021

Huseman, Thomas Jeffery

Hoover

Admitted: September 29, 1995

Died: November 2, 2021

Jones, Elizabeth Anne Thigpen

Montgomery

Admitted: April 26, 2002

Died: October 7, 2021

Martin, Arthur Lee, Jr.

Birmingham

Admitted: September 28, 1979

Died: November 7, 2021

Martin, Luke Daniel

Birmingham

Admitted: September 29, 2006

Died: October 4, 2021

Martin, Nathaniel

Cordova

Admitted: April 25, 1997

Died: December 23, 2021

McCoy, Carol Ann

Plano, TX

Admitted: September 28, 1979

Died: September 2, 2021

McKinney, Esther Lydia

Birmingham

Admitted: September 26, 1997

Died: August 12, 2021

Moody, Earle Farley, II

Orange Beach

Admitted: April 23, 1973

Died: August 27, 2021

Moore, Michael Cleveland

Huntsville

Admitted: March 24, 1971

Died: November 2, 2021

Ostrye, Faith Homrig

Millbrook

Admitted: September 30, 2005

Died: September 15, 2021

Smith, Thomas Albert, Jr.

Cullman

Admitted: September 6, 1957

Died: May 30, 2021

Stapleton, Ranah Leigh

Montgomery

Admitted: April 29, 1994

Died: August 18, 2021

Sullivan, Ruth Simpson

Dadeville

Admitted: January 1, 1955

Died: May 10, 2021

Teague, Fred Walden

Ashville

Admitted: September 26, 1980

Died: November 30, 2021

Watts, Richard Gregory

Mobile

Admitted: September 28, 1979

Died: December 23, 2021

Yates, Lawden Henry, Jr.

Blountsville

Admitted: September 24, 1982

Died: December 13, 2021



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IMPORTANT NOTICES

- ▲ **Pro Bono Awards**
- ▲ **Notice of and Opportunity for Comment on Amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit**
- ▲ **Notice of Election and Electronic Balloting**

Pro Bono Awards

The Alabama State Bar Pro Bono Awards recognize the outstanding pro bono efforts of attorneys, mediators, law firms, and law students around the state. Award criteria includes but is not limited to the total number of pro bono hours or complexity of cases handled, impact of the pro bono work and benefit for the poor, particular expertise provided or the particular need satisfied, successful recruitment of other attorneys for pro bono representation, and proven commitment to delivery of quality legal services to the poor and to providing equal access to legal services.

Download a nomination form at <https://www.alabar.org/assets/2020/03/ProBonoAwardNomination-Fillable3.pdf>, complete, and submit to Linda Lund (linda.lund@alabar.org) by **April 1**. Awards are presented each year at the Alabama State Bar Annual Meeting.

Notice of and Opportunity for Comment on Amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit

Pursuant to 28 U.S.C. § 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit. The public comment period is from Wednesday, April 6, 2022 to Friday, May 6, 2022.

A copy of the proposed amendments may be obtained on and after Wednesday April 6, 2022 from the court's website, <http://www.ca11.uscourts.gov/rules/proposed-revisions>. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St., NW, Atlanta 30303. Phone (404) 335-6100.

Comments on the proposed amendments may be submitted in writing to the Clerk at the above address or at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, by 5:00 PM ET on Friday, May 6, 2022.

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 16, 2022, and ending Friday, May 20, 2022.

On the third Monday in May (May 16, 2022), 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 6, 2022) 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 20, 2022) immediately following the opening of the election.

Nomination and Election of Board of Bar Commissioners

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

1 st Judicial Circuit	14 th Judicial Circuit
3 rd Judicial Circuit	15 th Judicial Circuit, Place 1
5 th Judicial Circuit	15 th Judicial Circuit, Place 3
6 th Judicial Circuit, Place 1	23 rd Judicial Circuit, Place 3
7 th Judicial Circuit	25 th Judicial Circuit
10 th Judicial Circuit, Place 3	26 th Judicial Circuit
10 th Judicial Circuit, Place 6	28 th Judicial Circuit, Place 1
13 th Judicial Circuit, Place 3	32 nd Judicial Circuit
13 th Judicial Circuit, Place 4	37 th 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, 2022 and vacancies certified by the secretary no later than March 15, 2022. 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 29, 2022).

Election of At-Large Commissioners

At-large commissioners will be elected for the following place numbers: 2, 5, and 8. Petitions for these positions, which are elected by the Board of Bar Commissioners, are due by April 1, 2022.

Submission of Nominations

Nomination forms, declaration of candidacy forms, and applications for at-large commissioner positions must be submitted by the appropriate deadline and addressed to:

Terri B. Lovell
Secretary
P.O. Box 671
Montgomery, AL 36101-0671

These forms may also be sent by email to elections@alabar.org or by fax to (334) 261-6310.

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

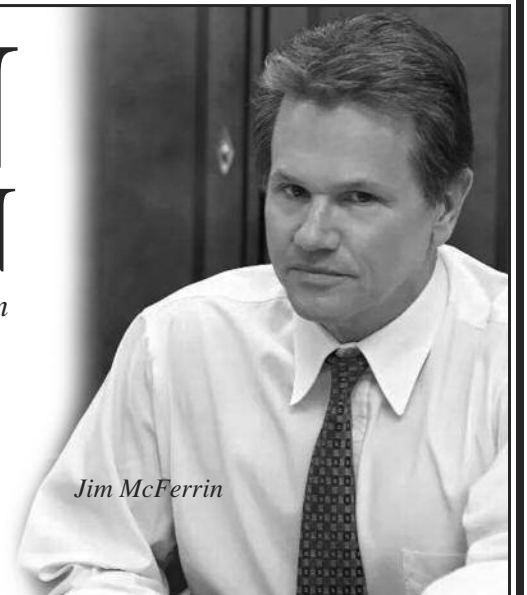
Election rules and petitions for all positions are available at <https://www.alabar.org/about/board-of-bar-commissioners/election-information/>. ▲

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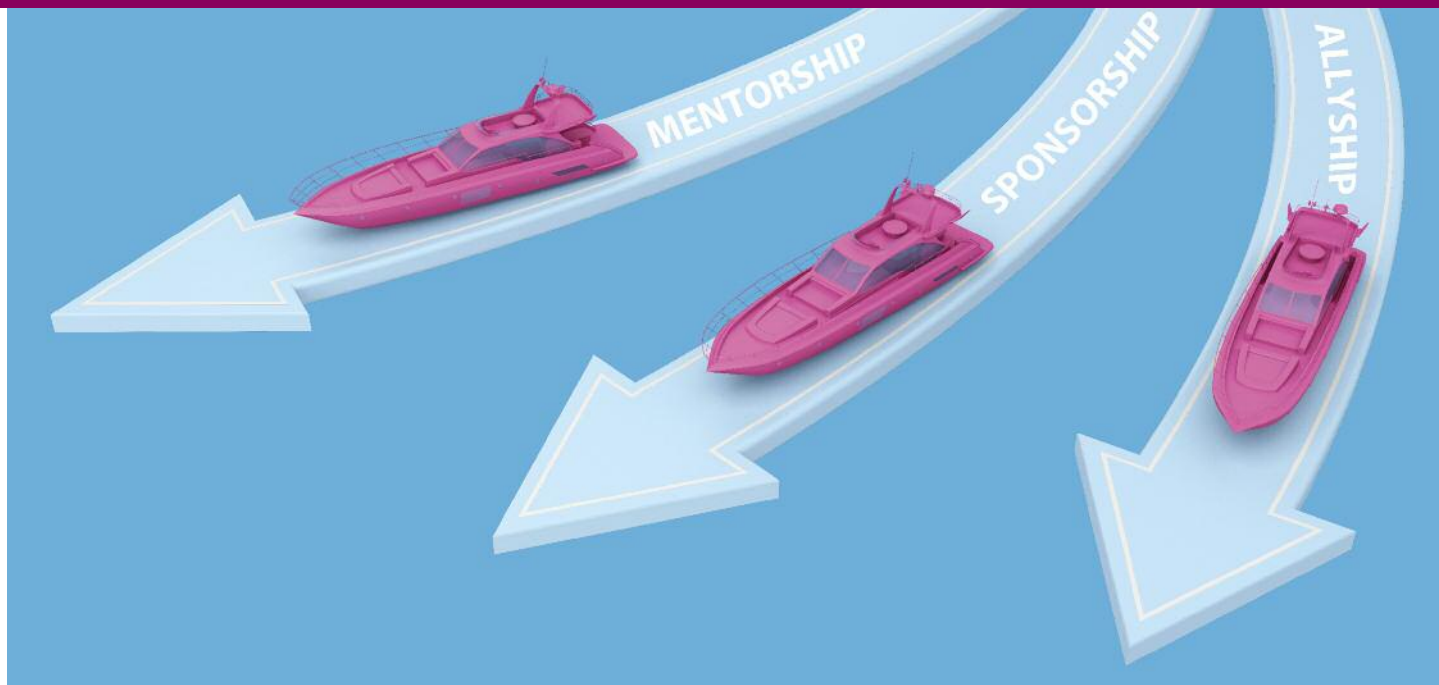
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Jim McFerrin



The Importance of Ships

By *Sherrie L. Phillips and Isabella T. Hosein*

Retaining female attorneys is an important issue. Polls, surveys, reports, and articles have been conducted and written on this subject offering solutions. Businesses with more diverse employees have been shown to be more financially successful and the employees more satisfied and content with their firms.¹

One way to think about this is to think in terms of “ships” – three different types of relationships.

As with all problems, it is essential to understand and address the underlying causes of the issue. There are numerous reasons why female attorneys leave their firms, or the practice of law in general. Two of the most common and pervasive reasons given is the perceived pay gap between male and female attorneys, and the perceived gender bias within the legal practice.² Of course, outside

commitments also play an important role in why female attorneys may choose to leave the profession, but as those underlying causes are largely individual to each attorney, this article focuses on the underlying causes which may be seen as applying to the practice of law as a whole.

The American Bar Association released data in July 2021 which speaks to the gender pay gap and perceptions of gender bias.³ Women now account for approximately half of all law school students and law firm associates.⁴ However, by the time these female attorneys gain the necessary experience to attain partnership status, a large percentage are no longer practicing law. As time and experience are gained, fewer women are practicing, which means that fewer women are eligible to become a partner. Only approximately 20 percent of the managing

and equity partners are female attorneys.⁵ At this rate, it is estimated that women will reach the same level as men in leadership positions by approximately 2085.⁶

Obviously, the number of female partners is a significant factor in the current wage gap. According to data collected in 2020, female associates were paid 91 percent of what their male associates made; however, by the time female attorneys reached equity partner status, that number dropped significantly.⁷ Equity female partners were paid 85 percent of the salaries made by their comparable male counterparts, which averaged out to female equity partners making \$132,426 less per year than male equity partners.⁸ Taken one step further, this calculates to an average disparity of approximately \$1.3 million over a 10-year period and approximately \$2 million over a 15-year period.

Perceptions of gender bias continue to have a detrimental impact on the retention of female attorneys. This issue will be discussed later in more detail, but initially it is important to note that while almost 90 percent of men thought their firm made gender diversity a priority, only about half of the female attorneys believed it.⁹ This is obviously a large difference in how men and women view gender within their firms and organizations.

Retention of female attorneys should be a priority for the legal profession. When senior female attorneys leave a firm or the profession, their firms and organizations lose the time and money invested in them.

As stated earlier, one of the most effective means for addressing the pay gap and perceptions of gender bias within firms and organizations is the development of three types of “ships” – mentorship, sponsorship, and allyship. And each has added benefits.

Mentorship

The “ship” most familiar and most often utilized is mentorship. A mentor is “anyone with experience who can support a mentee on how to build skills, professional demeanor, and self-confidence in the workplace.”¹⁰ Mentorship comes in many forms: an experienced attorney assisting a single law student or advising a group, a partner and associate relationship within a firm, or through bar association involvement, again, whether that mentor relationship be informal or formal.

The Center for Talent Innovation suggests that an overwhelming

majority of women need guidance addressing practical issues within their offices.¹¹ The center’s research highlights the positive impact mentoring has on leadership and communication skills, expanding business relationships, and gaining a more extensive network of contacts.¹² The benefits of mentorship are difficult to deny.

Women face a unique issue regarding mentorship in that, within the legal profession, the majority of attorneys with the requisite experience to productively mentor are male. Typically, mentees seek mentors who are like themselves. Women mentor other women at a rate of 83 percent.¹³ While women supporting other women is essential for the retention of female lawyers, it is also imperative that male attorneys make a concerted effort to mentor female attorneys.

The statistics on this aspect of mentorship are troubling. According to one source, senior men are 3.5 times more likely to hesitate when asked to have a work dinner with a junior woman than when asked to have a work dinner with a junior man, and they are five times more likely to hesitate when asked to travel with a junior female.¹⁴ A survey by *LeanIn.org* shows that 60 percent of male managers in the U.S. are “uncomfortable participating in a common work activity with a woman, such as mentoring....”¹⁵ It is therefore no surprise that women interact much less with their senior level leaders than their male counterparts; in fact, almost 60 percent of women of color have never informally interacted with their senior leaders.¹⁶ Obviously, the negative impact of these statistics on potential female mentees is tremendous. Women

are much less likely to receive the benefits of mentorship, unlike their male counterparts. This means female attorneys have less opportunities to develop leadership skills, fewer interactions with senior level attorneys, and fewer opportunities to expand their legal and business network. These decreased opportunities lead to an increased perception of gender bias among female attorneys, as well as greater job dissatisfaction. Consider the following data collected by the American Bar Association:

- 88 percent of men believed their firms prioritized gender diversity, but only 54 percent of women believed the same.
- 84 percent of men said their firm had “succeeded in promoting women into positions of leadership,” yet only 55 percent of women stated the same.
- 74 percent of men thought their firm had “successfully retained experienced women attorneys,” only 47 percent thought the same.
- 7 percent of men thought gender was the reason they were overlooked for advancement, while an amazing 53 percent of women thought their gender stopped them from advancing within their firm.
- 73 percent of men are satisfied with their firm’s leadership, but only 53 percent of women felt the same.
- 62 percent of men felt “extremely or somewhat satisfied” with the advancement opportunities provided to them by their firm, while only 45 percent of women felt the same.¹⁷

Effective mentorship by male and female attorneys can have a

significant positive impact on this data. Research shows that mentorship is dually impactful on both mentor and mentee.¹⁸ Mentors report a gain in appreciation for their work and better insight into other's perspectives and ideas.¹⁹ The majority of financial executives, 63 percent, have been mentors at some point in their careers.²⁰ The two chief benefits of being a mentor, according to these executives, is the improvement of leadership skills (38 percent), and the satisfaction of helping others (29 percent).²¹

While mentorship is certainly valuable to both mentor and mentee, perhaps the two remaining “ships” provide even more effective means for retention of female attorneys.

Sponsorship

Sponsorship is more specific than mentoring in that it is tailored to a “senior member of management invested in the protegee’s success.”²² Typically, mentors provide advice, while sponsors open links to give their protegees the tools to carry out any guidance or advice previously received. Mentorship offers advice and knowledge, while sponsorship provides connections and relations that are valuable for a sustainable career.²³ Effective sponsorship is centered upon the premise that the sponsor has enough influence and power to change or reinforce opinions made by the decision makers within the firm or organization and that the sponsor will use that influence and power to actively advocate for his or her protegee.²⁴

Sponsors should possess sufficient connections and networks to

help their protegees gain better and more productive relationships in the workplace. Consequently, sponsors are generally senior level attorneys, as they must possess a significant level of influence and power to advocate for their protegees in a positive and effective way.²⁵ Sponsors actively lobby for advancement in their protegees’ careers, as well as actively promoting and supporting the ideas of their protegees.

Sponsorship is one of the most valuable relationships that a female attorney can cultivate. It directly affects the rate of promotion and advancement. Women with senior-level sponsors rise in their organizations at the same rate and level as men.²⁶ However, according to one source, if females do not have sponsors, they fall behind their male counterparts in promotion, leadership roles, and salary.²⁷ Interestingly enough, female lawyers tend to be over-mentored and under-sponsored.²⁸ It is vital that women receive advocacy from other women, but also, and perhaps more importantly, that they receive advocacy from men. As is obvious from the previously cited statistics, the pool for available sponsors within the legal profession is primarily male. Therefore, male attorneys should search for opportunities to sponsor deserving female attorneys.

Sponsorship, like mentorship, does have its issues. One study suggests that when women are willing to advocate for diversity and equity by sponsoring other women, the sponsors are negatively affected in that they are not offered higher positions and receive lower performance ratings.²⁹ Understandably, some female attorneys are hesitant to

sponsor other women. Even so, women still commit to sponsoring other women at a higher rate than men.³⁰ Whether male or female, the risks and rewards of sponsorship of female attorneys is well worth the effort. Research shows that women who have been, or are being, sponsored are 27 percent more likely to ask for a raise and 22 percent more likely to ask for assignments that build their reputations, as sponsors provide confidence.³¹ Sponsorship directly impacts retention of female employees as 85 percent of females who are mothers and are sponsored stay at their jobs, while that number drops to 58 percent for those mothers without a sponsor.³² Additionally, attorneys who serve as sponsors are 11 percent more likely to report job satisfaction than those without protegees, and this number increases to a whopping 30 percent for sponsors of color.³³ The need for effective sponsors cannot be undervalued. It is one of the most effective tools we have as a legal profession to combat the lack of retention of female attorneys.

Likewise, the third “ship” is similarly vital to this goal.

Allyship

Allyship is a relationship among equals. While the mentorship and sponsorship relationships occur between a more experienced attorney and a less-experienced attorney or law student, the relationship between allies is generally a relationship between professional equals. In other words, allies are typically at the same structural level or tier within their firm or organization.

Allies work together to improve the workplace environment. Through encouragement and collaboration, allies create strategies which address inequities in the workplace. Allyship is centered on providing a space for active listening and open conversation. Allies may also serve as mentors and sponsors, but an ally's main objective is to pool resources and join forces with others to advocate for change. Allyship is a group effort to improve overall equity and success within the firm or organization.

Advantages of allyship are self-evident as it pertains to retention of female attorneys within the legal profession. If allyship is effective, female attorneys will stay with their firm or organization longer. Evidence shows that organizations which have higher percentages of female leaders outperform other similar organizations by “quantifiably superior financial results.”³⁴ Effective allyship would also improve satisfaction for attorneys who participate in the process. Building ally relationships to effectuate change within firms and organizations leads to overall success, not only for the allies, but also their respective employers or groups.

Mentorship, sponsorship, and allyship are three of the most effective tools attorneys and firms can use to combat the issue of female attorney retention. The bonus to all three “ships” is that the mentor, sponsor, and ally receive as many benefits from these relationships as their respective mentees, proteges, and other allies. ▲

Endnotes

1. Ida Abbot, *The Critical Role of Men in Advancing Women Lawyers*, *Wealthcounsel Quarterly*, fall 2019, www.wealthcounsel.com (Last visited December 20, 2021).

2. Patrick Smith, “There Are More Women Lawyers Than Ever, and They’re Not Pleased With Legal Industry Norms,” *The American Lawyer*, July 29, 2021, www.law.com (Last visited December 20, 2021).

3. *Id.*

4. *Id.*

5. *Id.*

6. Ida Abbot, “The Critical Role of Men in Advancing Women Lawyers,” *Wealthcounsel Quarterly*, fall 2019, www.wealthcounsel.com (Last visited December 20, 2021).

7. *Id.*

8. *Ibid.*

9. *Ibid.*

10. Rafael X. Zahralddin-Aravena, “The Evolution of Mentorship in Legal Professions Development,” *Business Law Today*, March 19, 2020, www.businesslawtoday.org (Last visited December 20, 2021).

11. *Id.*

12. *Id.*

13. Deborah Rosati FCPA, FCA, ICD, D, “The Power of Sponsorship,” (April 21, 2021), <https://www.womengetonboard.ca/category/deborah-rosati-blog/>, www.womengetonboard.ca (Last visited December 20, 2021).

14. “Men, Commit to Mentor Women,” <https://leanin.org/mentor-her#!>, www.leanin.org (Last visited December 20, 2021).

15. *Id.*

16. *Id.*

17. Patrick Smith, “There Are More Women Lawyers Than Ever, and They’re Not Pleased With Legal Industry Norms,” *The American Lawyer*, July 29, 2021, www.law.com (Last visited December 20, 2021).

18. Marvin Krislov, “Mentorship: Good for the Mentored and Good for Those Mentoring, Too,” *Forbes*, January 9, 2020, www.forbes.com (Last visited December 20, 2021).

19. “11 Reasons Why You Should Be a Mentor,” *Art of Mentoring*, <https://artofmentoring.net/11-reasons-why-you-should-be-a-mentor-2/>, www.artofmentoring.net (Last visited December 20, 2021).

20. Marvin Krislov, “Mentorship: Good for the Mentored and Good for Those Mentoring, Too,” *Forbes*, January 9, 2020, www.forbes.com (Last visited December 20, 2021).

21. *Id.*

22. Rafael X. Zahralddin-Aravena, “The Evolution of Mentorship in Legal Professions Development,” *Business Law Today*, March 19, 2020, www.businesslawtoday.org (Last visited December 20, 2021).

23. *Id.*

24. Rania H. Anderson and David G. Smith, “What Men Can Do to Be Better Mentors and Sponsors to Women,” *Harvard Business Review*, August 7, 2019, www.hbr.org (Last visited December 20, 2021).

25. Elizabeth McDaid, “Mentor vs. Sponsor, Who Is Truly the Advocate Needed by Mid-Level Professionals Seeking to Move Up the Pyramid?,” *Leader’s Edge* (2019), www.leadersedge.com (Last visited December 20, 2021).

26. Ida Abbot, “The Critical Role of Men in Advancing Women Lawyers,” *Wealthcounsel Quarterly*, fall 2019, www.wealthcounsel.com (Last visited December 20, 2021).

27. *Id.*

28. Herminia Ibarra, “A Lack of Sponsorship Is Keeping Women from Advancing into Leadership,” *Harvard Business Review*, August 19, 2019, www.hbr.org, (Last visited December 20, 2021).

29. “Women Need a Network of Champions,” Center for Creative Leadership (2020), www.ccl.org (Last visited December 20, 2021).

30. Deborah Rosati FCPA, FCA, ICD, D, “The Power of Sponsorship,” (April 21, 2021), <https://www.womengetonboard.ca/category/deborah-rosati-blog/>, www.womengetonboard.ca (Last visited December 20, 2021).

31. Cassandra Melvin and Jolie Leblanc, “Sponsorship of Women Drives Innovation and Improves Organizational Performance,” *Accenture* (2020), www.accenture.com (Last visited December 20, 2021).

32. *Id.*

33. Rafael X. Zahralddin-Aravena, “The Evolution of Mentorship in Legal Professions Development,” *Business Law Today*, March 19, 2020, www.businesslawtoday.org (Last visited December 20, 2021).

34. Ida Abbot, “Sponsors Are the New Mentors, Especially for Women,” www.attorneyatwork.com, July 7, 2020 (Last visited December 21, 2021).

Sherrie L. Phillips



Sherrie Phillips graduated from the University of Alabama and from the University of Alabama School of Law. She is admitted to the Alabama State Bar and the

U.S. District Courts for the Northern, Middle, and Southern Districts of Alabama and serves of counsel in the area of creditors’ rights at the Montgomery firm of Sasser, Sefton & Brown PC. She is serving her second term as chair of the Women’s Section of the Alabama State Bar.

Isabella T. Hosein



Isabella Hosein is a 2021 graduate of the Montgomery Academy where she served as co-captain of the 2021 Alabama State Champion Speech and Debate team

and as attorney general for the Alabama YMCA Youth In Government Program. She is a freshman at Elon University where she is a member of the Elon Mock Trial Team and the North Carolina Student Legislature.



Women Lawyers in The Alabama Women's Hall of Fame

By Rhonda P. Chambers

The Alabama Women's Hall of Fame (AWHF)

was established in 1970. It recognizes women native to or identified closely with Alabama who have made significant contributions on a state, national, or international level. Notable inductees include Helen Keller, Julia Tutwiler, Rosa Parks, Harper Lee, and Coretta Scott King. Of the 98 women in the AWHF, five were lawyers. Remarkably, when most became lawyers, women still could not vote or serve on a jury.¹

Maud McLure Kelly²

Maud McLure Kelly's father was a lawyer and served as a state legislator. Kelly "read law" under her father's tutelage while working as a stenographer. In 1907, she took the entrance exam for the University of Alabama's Law Department and scored high enough to gain placement in the senior



Kelly

class. Although the school had opened its doors to women more than a decade earlier, Kelly was only its second female student. She graduated third in her class in 1908.

After graduation, it was uncertain whether Kelly could practice law, as the Code of Alabama stated that anyone who presented “his” diploma could try cases. Fortunately, a law school classmate of Kelly’s, who also was a state legislator, rewrote the bar admissions statute so women could present credentials. Over strong opposition, but in time for Kelly’s graduation, the bill passed, and Alabama’s law was recast to read “his or her diploma.”

In 1967, Kelly summarized her life and work for a newspaper article, in which she stated “[t]he only thing of which I am very proud is that I opened the door to the active, actual practice of law ... [in Alabama] to women. All other things I did were minor.” Of her law practice, Kelly said, “I thought of the women who would come after me I tried to conduct myself so things would be easier for them.”

Maud McLure Kelly died in 1973 and was inducted into the AWHF in 1990.

Annie Lola Price³

Annie Lola Price was born in Cullman and attended Athens College. She worked in a law office in Cullman as a secretary, and after “reading the law,” passed the Alabama bar exam in 1928. Price practiced law in Cullman and worked as a court reporter from



Price

1935-1947. When Big Jim Folsom was elected governor of Alabama, Price became his assistant legal advisor. Three years later, she became the first woman to serve as legal advisor to an Alabama governor.

In 1951, Governor Folsom appointed Price to the Alabama Court of Appeals at a time when women still could not serve on juries. Opposition over Price’s appointment was so great she declined a public investiture ceremony. For the first 15 years of her service, Judge Price reviewed lower court decisions despite being ineligible to serve on the juries making those decisions. She was elected to four consecutive six-year terms and became presiding judge. When the Alabama Court of Criminal Appeals was established in 1969, she became its first presiding judge.

Judge Price died June 18, 1972 at age 69. She was inducted in the AWHF in 1976.

Rosa Gerhardt⁴

Rosa Gerhardt began her career in the legal profession working as an assistant for a prominent Mobile lawyer who encouraged her to go to law school. Gerhardt followed his advice and enrolled at Cumberland School of Law (back when it was still in Tennessee), where she graduated with highest honors in 1930. After passing the Alabama bar exam, she practiced law in Mobile.



Gerhardt

In 1945, Gerhardt used her legal skills and became a federal court reporter. That job gradually grew into a full-time position at the expense of her law practice. As the official reporter for the federal court, she sat through countless hours of trial, taking down courtroom testimony word-for-word in shorthand. Soon, young lawyers and even judges sought her for advice. Gerhardt earned the respect and admiration of her peers. In 1947, she was elected president of the Mobile Bar Association, becoming the first woman president of a bar association in Alabama.⁵

Gerhardt died in 1973. She was inducted into the AWHF in 2004.

Nina Miglionico⁶

Nina Miglionico, known by everyone as “Miss Nina,” was born in Birmingham to Italian immigrants, worked in the family delicatessen, and studied piano. After graduating from Woodlawn High School (where she was twice double promoted), she obtained her undergraduate degree from Howard College in 1933. She then enrolled at the University of Alabama School of Law, where she was the youngest member of her class and only one of four female students.



Miglionico

Miss Nina graduated from law school in 1936. The early days after graduation were a struggle because law firms were not hiring women. “The only offer for the young, short, female, Italian, Catholic attorney with a difficult-to-pronounce last name was that of a [legal] secretary at \$15 per week, *if* she could type and

learn shorthand.”⁷ Undeterred (and refusing to learn shorthand), she opened her own law practice in Birmingham. Working diligently to build her practice meant handling criminal cases, which required that she visit clients in jail. Her mother would say, “Nina, a lady doesn’t go to the jailhouse,” to which Miss Nina would reply, “Mother, I’m not a lady; I’m a lawyer.”

Miss Nina was particularly interested in women’s issues. Her political activism over the years included advocating that women be allowed to serve on Alabama juries, improving the parole system and prison conditions, improving child labor conditions, revising the probate laws of descent and distribution to provide women with the same rights as men, and eliminating the poll tax. She was appointed by President Kennedy to the President’s Commission on the Status of Women that recommended passage of the Equal Pay Act of 1964 and other means to reduce gender bias in the workplace.

In 1963, Birmingham was in the midst of great change, including a new form of government that opened the opportunity for Miss Nina to run for a seat on the newly-established Birmingham City Council.⁸ She campaigned against organized opposition from the Ku Klux Klan and the White Citizens’ Council, who faulted her support for integration and reconciliation and vilified her Catholicism and Italian ethnicity. But she won the seat and became the first woman elected to Birmingham’s city government. Miss Nina supported racial reconciliation in the city, enjoyed biracial political support, and worked with other like-minded members of the council to rescind Birmingham’s segregation ordinances. However, her support of women’s rights and progressive views on race also made her a target for extremists. Besides numerous phone threats, an undetonated bomb was found at her home in 1965, and a cross was burned in her yard in 1974.

Practicing law full time while serving as a part-time city official was a difficult challenge, but Miss Nina did it well. She served five terms on the city council until her retirement from politics in 1981, having served as president of the council from 1978 to 1981. In the auditorium where the city council met, a slogan on the wall read “CITIES ARE WHAT MEN MAKE OF THEM.” Miss Nina suggested that the sign be changed to be more inclusive, but was told a change would be too expensive. Miss Nina then suggested the city could remove the N from “MEN” and turn the M

upside down to serve as a W, so it would read “CITIES ARE WHAT WE MAKE OF THEM.” Upon her retirement, the correction was made, and the city presented Miss Nina with the extra N.

Miss Nina received the American Bar Association Margaret Brent Women Lawyers of Achievement Award in 1996 and the Alabama State Bar Women’s Section Maud McLure Kelly Award in 2004. In 2006, the Women’s Lawyers Section of the Birmingham Bar Association established the Nina Miglionico Paving the Way Leadership Award to recognize leaders who have actively paved the way to success and advancement for women lawyers. Miss Nina continued to work as an attorney with her law partner and friend, Sam Rumore, until her death at 95 in 2009.

She was an attorney for 73 years, making her the longest-practicing female attorney in Alabama history. She was inducted into the AWHF in 2012.

In October 2015, the City of Birmingham honored Miss Nina with a bronze statue in Linn Park.⁹ The statue is of a small, diminutive woman, sitting in a chair with a law book, keeping a watchful eye over the city hall building. “Though short of stature, Miss Nina was a giant in the history of Birmingham.... Admired by her peers and beloved by her fellow citizens, Miss Nina was indomitable.” In 2016, Miss Nina was also recognized in a biographical documentary film. The film, *Stand Up, Speak Out – The Nina Miglionico Story*, was produced and directed by fellow Birmingham attorney Jenna Bedsole.¹⁰

Justice Janie Ledlow Shores¹¹

Justice Shores was born in Butler County in 1932.

The day after graduating from high school in April 1950, Shores caught a bus to Mobile looking for a job. Proficient in shorthand and typing, she immediately found work as a legal secretary to Vincent F. Kilborn, Jr., who later encouraged her to pursue higher education, including law school.

Shores attended Judson College and other institutions before entering the University of Alabama School of Law as one of five female students. As a law student, she put her shorthand skills to good use



Shores

by taking down every word spoken by her law professors.¹² In addition to being editor of the *Alabama Law Review*, Shores graduated first in her class, with honors, in 1959.

After law school, she clerked for Justice Robert Simpson of the Alabama Supreme Court before entering private practice and serving as legal counsel for Liberty National Life Insurance Company. In 1964, she joined the faculty of Cumberland School of Law as its first female professor. She was the first full-time female law professor in Alabama and among the first five full-time female law professors in the entire southeast.

In 1974, Shores was elected to the Alabama Supreme Court, making her the first woman elected to any state’s highest court. She served there until she retired in 1999.

In 1993, her friend, U.S. Senator Howell Heflin, recommended Justice Shores to President Bill Clinton for nomination to the U.S. Supreme Court, a seat ultimately filled by Justice Ruth Bader Ginsburg. In her autobiography, *Just Call Me Janie*,¹³ Justice Shores says she was only “considered for a moment,” but President Clinton was so impressed with her that he appointed her to the State Justice Institute, a private nonprofit entity focused on improving the administration and quality of state courts. When Justice Ginsburg spoke at the 2004 Albritton Lecture at the University of Alabama, she remarked that “[b]rave women like Justice Shores ... helped to advance the end of days when women appeared on the bench as one-at-a-time curiosities.”¹⁴ When Justice Shores received the Maud McLure Kelly Award in 2002, Senator Heflin remarked that she “never lost sight of the fact that she should eliminate barriers to equal opportunity for women.”

Justice Shores died at her home in Baldwin County on August 9, 2017. She was inducted into the AWHF in 2020. Her induction speaker was one of her former law clerks, Leila Watson.

Conclusion

Maud McLure Kelly, Annie Lola Price, Rosa Gerhardt, Nina Miglionico, and Janie Ledlow Shores – while they had to open their own doors – paved the way to success and advancement for women lawyers who followed them. These five women lawyers inspired future generations of women to choose law as a

profession. They all had roles in who we are today as women lawyers in Alabama. ▲

Endnotes

1. On August 18, 1920, 36 states ratified the Nineteenth Amendment giving women the right to vote. However, Alabama did not ratify the Nineteenth Amendment until September 8, 1953. And women could not serve on juries in the state court until 1967. In 1966, a three-judge U.S. District Court serving the Middle District of Alabama made a historic decision: It unequivocally declared unconstitutional the Alabama law that barred women from serving on juries concluding that women in Alabama have a constitutional right not to be excluded from jury service. *White v. Crook*, 251 F. Supp. 401, 410 (M.D. Ala. 1996). In 1967, the Alabama Legislature wisely switched rather than oppose the federal decree: It amended the law to make jury duty the civic obligation of all its citizens.
2. “Maud McLure Kelly” (<http://www.awhf.org/kelly.html>).
3. “Annie Lola Price” (<http://www.awhf.org/price.html>).
4. “Rosa Gerhardt” (<http://www.awhf.org/gerhardt.html>).
5. To put Gerhardt’s achievement in perspective, the first woman president of the Birmingham Bar Association was elected 50 years later in 1997. The first woman president of the Alabama State Bar was elected in 2010.
6. “Nina Miglionico” (<http://www.awhf.org/miglionico.html>).
7. Samuel A. Rumore, Jr., *Profile of Nina Miglionico*, Ala. Law. 234 (May 1992).
8. The Birmingham City Council was formed in April 1963 by the passage of the Mayor-Council Act of 1955, which replaced the former Birmingham City Commission.
9. <https://bhamnow.com/2016/11/30/birmingham-miss-nina/>.
10. “The Accidental Filmmaker – Attorney Jenna Bedsole Found Inspiration in a Pioneering Lawyer’s Story,” *B-Metro Magazine*, Aug. 4, 2019.
11. “Janie Ledlow Shores” (<http://www.awhf.org/shores.html>).
12. Her typed notes were so good that she was once accused of cheating when she wrote exam answers in a professor’s exact words. Her notes were later sold by the law school bookstore and titled “*Janie’s Summaries*.” For years after she graduated, countless students insisted they succeeded because they relied on her notes.
13. The Senior Lawyers Division of the American Bar Association established the Women Trailblazers Project to capture the oral histories of women pioneers in the legal profession memorializing their stories in their own voices and preserving their experiences and observations for future generations. Justice Shores gave nine interviews in 2010 and 2011. These interviews led to her autobiography *Just Call Me Janie: The Unlikely Story of the First Woman Elected to Alabama’s Supreme Court* (2016).
14. Ruth Bader Ginsburg, *2004 Albritton Lecture: Women’s Progress at the Bar and on the Bench: Pathmarks in Alabama and Elsewhere in the Nation*, 56 Ala. L. Rev. 1, 5 (2004).

Rhonda P. Chambers



Rhonda Chambers ended her retirement and returned to the practice of law with Marsh, Rickard & Bryan in 2020. She has been a long-time member of the board of directors of the Alabama Women’s Hall of Fame. Chambers dedicates this article to the memory of her friend, Leah Taylor, who wrote an article, *Women in Law*, 54 Ala. Law. 373 (1993).



Prominent Female Graduates



ALABAMALAW
THE UNIVERSITY OF ALABAMA*

University of Alabama SCHOOL OF LAW

**By Caroline J. Strawbridge
and Heather S. Gann**

In 1907, Luella Lamar Allen became the first female graduate of the University of Alabama School of Law. In the years since, the percentage of female students at Alabama Law has steadily increased. In fact, the past three incoming 1L classes have each consisted of more women than men – a milestone that would not have been possible without the leadership of female trailblazers who came before. To celebrate this growth, Alabama Law has chosen to highlight three distinguished alumnae from recent

decades who've left their mark on the legal world in Alabama and beyond.

Judge Sonja F. Bivins, United States Magistrate Judge, Southern District of Alabama

Advice for future female law students: “As women, we are often our toughest critics. We must constantly remind ourselves that ‘I am enough and that my service enriches the circles in which I operate.’”

Judge Bivins is a native of Mobile. She earned her degree in political science from Spring Hill College and then attended the University of Alabama School of Law, where she was awarded her juris doctor degree in 1988. Judge Bivins served as a judicial law clerk for the late United States Senior District Judge Virgil Pittman in the Southern District of Alabama. Upon the



Bivins

completion of her clerkship, Judge Bivins relocated to Atlanta and began the practice of law. She worked as an associate and later as a partner in a national law firm representing employers in a broad spectrum of employment-related matters. While in private practice, Judge Bivins participated in Leadership DeKalb. She also served as president of the DeKalb Lawyers Association and as a board member for the DeKalb Rape Crisis Center.

In 2004, Judge Bivins returned to Mobile upon her appointment as a United States Magistrate Judge. She serves on the diversity committee for the Federal Magistrate Judges Association and served as a member of the Magistrate Judges' Education Advisory Committee for the Federal Judicial Center. Judge Bivins is also active in several local bar associations, including the Vernon Crawford Bar Association, the Mobile Bar Association (Big Brother/Big Sister program), and the Inns of Court. Judge Bivins is a fellow of the Alabama Law Foundation and a member of

the Board of Governors for the University of Alabama Law School Foundation.

J. Leigh Davis, Vice President For Economic and Community Development, Alabama Power Company

Advice for future female law students: “Great things rarely come from comfort zones.”

Davis is the vice president for economic and community development at Alabama Power Company. In this position, she leads the company’s economic development, community development, and business development functions. She and her team actively collaborate with the Alabama Department of Commerce and other stakeholders, generating thousands of new jobs and more than a billion dollars in capital investment. Prior to assuming her current role, Davis was vice president for customer services, where she was responsible for integrating critical aspects of the customer experience, including the use of innovative technologies, strategic analytics, and marketing research, to support more than 1.4 million residential and business customers.

Davis’s prior executive leadership experience includes her role as senior vice president and deputy general counsel for Southern Company Services operations organization, general counsel for Southern Nuclear Operating Company, and chief executive of the Alabama Power Foundation. Earlier in her career, she served as vice president of corporate real estate at



Davis

Alabama Power with responsibility for all land acquisitions, development, and management functions.

Davis holds a bachelor’s degree in business and a juris doctor degree from the University of Alabama. She also completed her MBA at Samford University.

She is president of the Kiwanis Club of Birmingham and chairs Samford University’s Board of Overseers. She also serves on the boards of the Alabama Department of Archives and History, the University of Alabama’s Culverhouse College of Business Board of Visitors, Ascension Alabama Health System, UAB’s O’Neal Comprehensive Cancer Center, and the Public Affairs Research Council of Alabama.

Sarah M. Stokes, Senior Attorney, Southern Environmental Law Center

Advice for future female law students: “Successful collaborations are more productive than successful individuals. Use your woman power to build successful collaborations. Choose a supportive partner, practice resilience, and exercise.”

Stokes is a senior attorney at the Southern Environmental Law Center (SELC). For 11 years, she has advocated for clean air and water for Alabama in both the courts and the legislature. She leads the SELC’s region-wide storm water group and the internship program in the Birmingham office. She has practiced in front of the Alabama Supreme Court, the Northern and Middle Districts of Alabama, the D.C. Circuit Court, and the U.S. Supreme Court.



Stokes

She has been honored by the Cahaba River Society as the Cahaba Conservationist of the Year and the Alabama Rivers Alliance as a River Hero. The University of Alabama School of Law recognized her as a 2018 Profile in Service recipient, and she was also selected for the 2021-2022 Alabama Leadership Initiative Class.

Stokes received her undergraduate degree from Dartmouth College, a master’s degree from the London School of Economics, and a juris doctorate from the University of Alabama School of Law. In law school, she clerked for Rosen Harwood PA and was a research assistant to Dr. Norman Singer. Before law school, she worked for former Alabama Chief Justice Lyn Stuart and served in the Peace Corps in Paraguay as an environmental educator.

Caroline J. Strawbridge



Caroline Strawbridge is the director of development at the University of Alabama School of Law. She was admitted to the Alabama State Bar in 1997

after earning her J.D. at the University of Alabama School of Law. Before fundraising for her alma mater, Strawbridge worked in account management for Thomson Reuters for 17 years.

Heather S. Gann



Heather Gann is a senior at the University of Alabama, studying news media and Spanish. She began working as an intern with the University of Alabama

School of Law communications office in March 2021 and will graduate this spring.



Cumberland
School of Law

Cumberland SCHOOL OF LAW

**By Anne L. Marovich and
Morgan B. Black**

Cumberland School of Law is celebrating its 175th anniversary this year, and the women of Cumberland are a substantial part of that history. In fact, the school's current first-year class, the class of 2024, boasts a record 59 percent female law students. These future Cumberland lawyers have an extensive base of significantly accomplished alumnae who have been integral to Alabama's legal community and who have paved the way for them and their success. These are just a few.

Judge Sharon L. Blackburn

Judge Blackburn graduated from Cumberland in 1977. After finishing law school, she served as a law clerk for U.S. District Judge Robert Varner in the Middle District of Alabama and then worked as an assistant U.S. attorney for 12 years.

In 1991, President George H.W. Bush appointed her to the U.S. District Court for the Northern District of Alabama, making her the first



Blackburn

female federal district judge in the state. She served as chief judge of the Northern District from 2006 to 2013 and sat as a visiting judge on the Eleventh Circuit Court of Appeals on several occasions. Now a senior judge, she continues to try civil and criminal cases and conduct mediations.

Judge Blackburn served on the Judicial Conference Committee on Defender Services from 2011 to 2017. This committee oversees the provision of legal representation to federal criminal defendants who cannot afford adequate representation. She was also a founding member and the first president of the Judge James Edwin Horton American Inn of Court, which is named after the 1899 alumnus who set aside a guilty verdict against one of the Scottsboro Boys.

In 2017, the Young Lawyers Section of the Birmingham Bar Association awarded her the Judge Drayton James Award. She was a class member of Leadership Birmingham and Leadership Alabama and is a fellow of the Birmingham Bar Foundation and the Alabama Bar Foundation.

Judge Karon O. Bowdre

Judge Bowdre, a 1980 graduate of Cumberland, has served on the Federal District Court for the Northern District of Alabama since November 2001

where she was chief judge from November 18, 2013, until December 31, 2019. Since her appointment, Judge Bowdre has presided



Bowdre

over several high-profile trials. She now presides over the Northern District of Alabama's Court Assisted Reentry Program, which is designed to help criminal defendants succeed as they return to the community.

The southeastern chapter of the American Board of Trial Advocates awarded Judge Bowdre the Trial Judge of the Year award, and Samford University recognized her as one of its Women of Achievement in 2014. She is an Alabama Law Foundation fellow and a member of the 2017 class of Leadership Birmingham.

Prior to her appointment, she was instructor of law and director of legal research and writing at Cumberland. She also practiced with Rives & Peterson after a federal judicial clerkship with Judge Foy Guin of the Northern District of Alabama.

Vicki M. Davis

Davis, a 1987 Cumberland alumna, was the first, and remains the only, female black district judge in Alabama's 13th Judicial Circuit.

She served as a special circuit court judge presiding over civil and criminal jury trials. She established a mediation program for small claims civil cases.

During her tenure as an assistant district attorney for Mobile County, she was the team leader for murder prosecutions.

As an assistant United States attorney, she was tapped to serve as chief of the criminal division, senior litigation counsel, chairperson



Davis

of the diversity committee, and the district election officer.

Prior to joining the staff of the United States Attorney’s Office, she was the legal adviser to the Mobile Police Department, an associate with Alford Clausen & McDonald, and municipal judge for the City of Prichard. She served as a trainer for various law enforcement agencies.

She has been active in the Paul Brock Inns of Court and the Mobile Bar Association; she has participated in Leadership Mobile and Leadership Alabama; and she has volunteered for Penelope House, the Mobile Area Education Foundation, the United Way and the Family Counseling Center.

Angela R. Debro

Upon graduation from Cumberland in 1994, Debro began her legal career as a state prosecutor. After eight years, she became a federal prosecutor working white collar crimes.



Debro

In 2010, she became general counsel for Alabama A & M University (AAMU). For Debro, the change from criminal law to higher education was a challenge, but she enjoys seeing the difference she is making based on the values that her parents taught her and her sister – education empowers. For the last 10 years, she has devoted herself to this emerging area of the law while making a commitment to do her part so that the students who attend AAMU will receive a quality education

that can empower them to do more.

“Education has provided a pathway to take me to the place where I am today. Every pathway has led me to experiences that will forever change my life. Some I remember vividly, like spending most of my waking moments of law school at Cumberland, others not so much, but each one has shaped me into the person I am today.”

Anne L. Marovich



Anne Marovich is the director of alumni relations at Samford University Cumberland School of Law.

Morgan B. Black



Morgan Black is the marketing and communications manager at Samford University Cumberland School of Law.



Jones SCHOOL OF LAW

By Rachel P. Miller and Susan T. Crowther

Jones School of Law has a rich history of female graduates who have made significant contributions in the legal field. Many of these graduates, like Danielle Mason and Felicia Long, are now prominent

attorneys in private practice. Others, who chose less traditional legal careers paths, have served as state district and appellate court judges (Alabama Supreme Court Justice Patricia M. Smith; Alabama Court of Criminal Appeals Judge Mary Windom; and Alabama Court of Civil Appeals Judge Kristi Edwards). Still others have served in leadership positions, such as current Montgomery County Bar Association President Ashley Penhale. Some, like civil rights attorney Ernestine Sapp, have used their legal education to fight for justice and to ensure that all are treated equally under the law. But regardless of the path they chose, these JSL female graduates have made a lasting impression in the legal environment. Following is a brief summary of the accomplishments of three outstanding colleagues.

Emily T. Marsal

Marsal received her undergraduate degree at Samford University and her master’s degree from Auburn University in Montgomery.



Marsal

While attending Jones at night, Marsal served as the chief of staff for Alabama’s State Auditor’s Office from 2003 through 2007, having previously served as an intern under Governor Bob Riley.

While at Jones, Marsal expressed her interest in a career in policy-making where she could make positive changes for the citizens of Alabama. Marsal has fond memories of Jones and the friends she made there. She considered it a

badge of honor to attend and graduate at night while working fulltime and while the law school was achieving its accreditation. Marsal's class started with close to 50 members and was reduced to 12 by the time her class graduated in 2008.

After serving in the State Auditor's Office, Marsal served as deputy secretary of state from 2007 until 2015. Thereafter, she served as general counsel for the Alabama Department of Senior Services from 2015 through March 2019.

Marsal serves as the executive director of the State Health Planning and Development Agency.

Rachel L. Riddle

Riddle knew from an early age that she wanted to be a lawyer. During her childhood, she worked in her father's law office in Chatom. She



Riddle

answered phones for \$1 an hour and organized papers in his file room. As she grew older, her responsibilities grew bigger. While in law school, Riddle assisted her father in preparing legal documents, drafting motions, and submitting court filings. Through decades of watching her father practice law, Riddle learned the practical skills needed to be successful in the legal field. More importantly, Riddle's father taught her the importance of serving others and assisting them in times of great need. Because of his example, Riddle was inspired to do the same.

In 2009, she served as the deputy director for the Governor's Office on Disability. In 2010, she became

the deputy director and fiscal officer for the Legislative Fiscal Office, where she served for six years. Riddle became chief legal counsel of the Alabama Department of Examiners of Public Accounts in 2018. She now serves as that department's chief examiner.

Justice A. Kelli Wise

Growing up near their small family farm in rural south Alabama, Justice Wise never imagined that she would one day sit on Alabama's top



Wise

court. But in 2010, she was elected to the Alabama Supreme Court after receiving the highest vote of any contested statewide candidate.

Prior to taking the bench, Justice Wise worked in Governor Fob James's legislative office. She spent time in private practice and later served as a staff attorney for both the Alabama Court of Criminal Appeals and the Alabama Supreme Court. In 2000, she began her career on the bench on the Alabama Court of Criminal Appeals. She was re-elected to the Alabama Court of Criminal Appeals in 2006 and, two years later, was selected to serve as its presiding judge.

Rachel P. Miller



Rachel Miller is the career law clerk for Chief United States Magistrate Judge Stephen M. Doyle in the Middle District of Alabama. Miller is a former president

of the Alabama State Bar's Young Lawyers' Section and served as chair for the state bar's Pro Bono Committee.

Susan T. Crowther



Susan Crowther is associate general counsel with the Alabama Department of Education where she prosecutes educator licensure cases. She also conducts

training on preventing educator misconduct and is the author of three articles. She is a Montgomery native.



Miles LAW SCHOOL

By **Felecia Z. Pettway**

Judge Katrina Ross

Judge Ross is the presiding judge in the Criminal District Court for Jefferson County. She is the first female to hold this position. Ross



Ross

graduated with honors from Miles Law School while serving as the executive director for the Sickle Cell Foundation in Huntsville.

While attending graduate school, a cousin who was an attorney acknowledged she had a knack for winning arguments and encouraged her to consider the legal profession. After graduation, she

went into private practice, clerked for a circuit judge, and served in family and district court as a special judge.

Judge Ross has been on the bench for 16 years and has served her community through board positions on Oasis and Greater Birmingham Ministries, along with volunteer roles at the United Way and the Women's Fund of Greater Birmingham. She has received honors from the American Legion, the Magic City Bar Association, and the NAACP, and she holds memberships with Leadership Birmingham, Momentum, the Alabama State Bar Leadership Forum, and the National Judicial Institute on Domestic Violence. As evidenced by her feature in the book *Women of Uncommon Valor*, a collection of stories detailing the accomplishments of women from Birmingham, her plan and her alternate route landed her success.

Rep. Juandalynn D. Givan

Rep. Givan is an 11-year member of the Alabama House of Representatives. Before becoming an attorney, she was appointed to the City of Birmingham's Public Works department by then-Mayor Arrington and later worked as a Housing Hope coordinator.



Givan

She has been named Social Justice Advocate of the year by the Southern Leadership Christian Conference, elected the national president of Black Legislative Women, and awarded the

E Pluribus Unum Fellowship for state legislators.

Judge Brendette B. Green

Judge Green, a native of Mobile County, is a circuit judge in the civil division of Jefferson County. As a little girl, she watched Vivian Malone and



Green

James Hood triumphantly walk through the doors of the University of Alabama to enroll in classes, despite the presence of protestors shouting in favor of racial segregation. Years later, Judge Green also graduated from the University of Alabama and went on to work in both the corporate and public sectors. It was not until 13 years after she received her undergraduate degree, when she was a divorced, single parent of two daughters, that she enrolled in Miles Law School.

After several years in general practice, Judge Green went on the bench. She served as a senior trial referee and special circuit court judge in Jefferson County Family Court, then later as Birmingham Municipal Court judge before being elected to her current position in circuit court.

Judge Green has actively served as a board member for the Women's Section of the Birmingham Bar Association and co-chair of the Alabama Lawyers Association Judicial Council and the Quality of Life, Health & Wellness Task Force of the Alabama State Bar.

Judge Green was recently elected to the board of directors of

the Alabama Circuit Judges Association. And, she received the 2021 Judicial Award of Merit from the Alabama State Bar. ▲

Felecia Z. Pettway



Felecia Pettway is the director of development for Legal Services Alabama.

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Pate



The Susan B. Livingston Award

By Sherrie L. Phillips

The Susan B. Livingston Leadership Award was established in 2016 by the Women's Section of the Alabama State Bar to honor women lawyers in Alabama who reflect the values of Susan Bevill Livingston. Livingston practiced for 29 years at Balch & Bingham in Birmingham. She was a tireless advocate of mentoring. She also had a strong commitment to her community and volunteered for many civic opportunities, as well as being an outstanding leader in both her personal and professional life.

Recipients of this award must demonstrate a continual dedication to mentoring, sustain a high level of leadership throughout her career, and exhibit a commitment to her community through her civic and bar activities. Prior recipients of the Susan B. Livingston Leadership Award include Judge Tammy Montgomery (2016), Maibeth Porter (2017), Kathy Miller (2018), Allison Skinner (2019), and Christy Crow (2020). The Women's Section is honored to announce that the 2021 recipient of the Susan B. Livingston Leadership Award is Lenora Pate of Dentons Sirote in Birmingham.

Pate loved people and sought to enrich as many lives as she could in the time she had been given. Blessed with a brilliant mind, she remained humble, patient, and kind. She exuded optimism, hope, and courage.

Pate received her undergraduate degree from the University of Alabama-Birmingham with honors,

completing her coursework in only three years. As a single mother raising two young sons, Pate graduated summa cum laude as salutatorian of her class from Cumberland School of Law. Shortly thereafter, she joined Sirote & Permutt, where she worked with great distinction for over 35 years. Pate's professional career and life's work became one of the most distinguished in Alabama.

Her accolades are too numerous to list in full but include her appointment to Governor Folsom's cabinet in 1994 and becoming Alabama's first woman director of the Department of Industrial Relations. In 1998, she became the first woman to run for governor of Alabama since the 1960s. She served as chair of the Alabama Citizens for Constitutional Reform and played an integral role in developing UAB's Kirklin Clinic.

Even more important to her than her professional work was her tireless charitable work. Pate served as chair of the American Cancer Society's Board of Directors, a member of the Samford University Board of Overseers, and chair of the Alabama Women's Commission. She received the American Cancer Society's St. George National Award for her work in passing anti-smoking ordinances, and she raised funds and awareness to support research for cancer, the disease she battled with grace and optimism for more than 21 years. ▲



The Pomeroy Markers

In 2021, six sites in Alabama were chosen by the William G. Pomeroy Foundation

to receive commemorative historic Votes for Women markers for the National Votes for Women Trail.

The historic YMCA building in Huntsville, built in 1910, was honored for its role in hosting the re-organizational meetings of the Huntsville Equal Suffrage Association in 1912 and the annual convention of the Alabama Equal Suffrage Association in 1914.

Decatur, also the site of a Pomeroy marker, had the first Woman’s Suffrage club in Alabama, founded in 1892 by Ellen S. Hildreth, and hosted Susan B. Anthony and Carrie Chapman Catt as speakers at the Echols Opera House in 1855. The first woman from Alabama to run for Congress, Lelia Seaton Edmondson, was also from Decatur.

Birmingham received a Pomeroy marker at Rickwood Field, where the Birmingham Barons, along with

the Alabama Equal Suffrage Association, hosted a Suffrage Day on August 18, 1915 at the field during a women’s baseball game before the game between the Barons and the Chattanooga Lookouts.

Selma will be the site of a Pomeroy marker to honor the Selma Suffrage Association, which, in 1910, created, along with the Birmingham Equal Suffrage League, a statewide organization, the Alabama Equal Suffrage Association, which hosted its first annual convention in Selma in 1913.

Mobile received a Pomeroy marker, having been the home of the Mobile Equal Suffrage Association, whose first president, Eugenie Marx, who published the poem entitled “Battle Song of the Marching Women” which was published in *The Birmingham News*.

Tuskegee will also be the site of a Pomeroy marker to honor Adella Hunt Logan, who served as a suffrage leader for the Tuskegee Women’s Club and worked at Tuskegee University. ▲



Practicing Law According to Forrest Gump

By Samuel N. Crosby

I have found wisdom and wit in the fictional character Forrest Gump,

a creation of my friend, author Winston Groom. The movie based on Groom's novel, *Forrest Gump*, contains a scene in which Forrest is running mile after mile with a crowd following him, and for no particular reason, he just stops running. It is difficult to stop running in an active law practice, but when I finally did, I began to reflect on my situation.

I began my professional career 44 years ago with a two-lawyer firm in a converted gas station in a small town. Our firm has grown to 12

lawyers in multiple offices, and I am enjoying practicing law now more than at any point in my career. My practice has included many leadership positions. However, two recent experiences revealed to me my increasing professional irrelevance.

The first experience was a Zoom meeting of the board of governors of the law school which I attended. It was an important meeting, and I had to attend by phone. The coordinator of the meeting inadvertently muted my line so nothing I said could be heard by any of the attendees. As I listened to comments during the meeting, I was struck by the fact that the meeting went very well without me, and my comments would have added nothing.





Sam Crosby (right) with Winston Groom

The second experience was a recent live meeting of all lawyers in our firm. I also had to attend by phone. No one ever asked my opinion about anything, and the attendees had a productive discussion and made wise decisions with no input from me. Once they finished the agenda items, they forgot I was there and hung up the phone without saying goodbye. As a 95-year-old client recently told me, “I have a lot to say but no one wants to hear it.”

During both of these meetings, I felt as though I was attending the meeting after my death. Rather than being offended by either of these experiences, I felt contentment knowing that the law school and our law firm can function just fine without me. Observing and embracing this fact has been liberating for me. As Forrest Gump said, “Maybe I am an idiot, but at least I ain’t stupid.”

Technological developments in the law have helped me keep a sense of humor in embracing my progressing irrelevance. Last year our firm purchased what I thought was some new type of computer equipment and put it in a corner of our main conference room. This item looks like something out of a *Star Wars* movie. When I asked a young staff member what it was, she said, “Mr. Crosby, that is a new garbage can.”

I’m in good company as I acknowledge my own irrelevance. One of my friends teaches a weekly online course for Rush Medical School. His students call in for each class session from throughout the country. Unfortunately, during one class session last term, my friend’s computer “shut down” for 30 minutes. At the end of that term, one of the students wrote on his teacher evaluation that he couldn’t believe he was paying full tuition to listen to some old guy who couldn’t operate a computer.

Playing harmonica is a constant source of joy for Forrest Gump. In his words, “...sort of like my whole body is the harmonica and the music give me goosebumps when I play it.” Having played the harmonica myself for 52 years, I know that feeling. I have other hobbies as well, fishing, golf, birding, and writing. But helping clients is more fun than any of them. Last year, I was interrupted by an emergency call from a client on a beautiful day during a golf round. As I looked out on the course and listened to the client’s distressed voice, I thought to myself, “I enjoy golf, but I love helping people more.” Lawyers have what my psychiatrist friend, whose father was a lawyer, calls “a sacred privilege” of having clients bring their most confidential and difficult problems to us for a solution. Sometimes I find that all they really need is a kind word or a prayer, but helping to solve people’s problems is certainly a lot of fun. According to the author of Ecclesiastes, there is nothing better for a person than to enjoy his or her work. (*Ecc. 3:22*)

I have learned that the only constant in law practice is change. In the words of Forrest Gump, “My mama always said life was like a box of chocolates. You never know what you’re gonna get.” My plans are to practice law as long as my health permits. I hope to live and practice in the moment, knowing that every day is a gift from God, and He is the One who never changes. (*Hebrews 13:8*) ▲

This article is in honor and memory of Winston Groom, a great Alabamian.

Samuel N. Crosby

Sam Crosby served as the 2007-2008 Alabama State Bar President and practices in the Daphne office of Stone Crosby PC.



OPINIONS OF THE GENERAL COUNSEL

Roman A. Shaul
roman.shaul@alabar.org



A Lawyer May Represent the Corporation and Individual Directors With Proper Approval

QUESTION:

I am general counsel for a closely held corporation. Fifty percent of the stock in this corporation is owned by Husband and Wife, A and B. The other 50 percent is owned by Husband and Wife, C and D.

The corporation was initially established with three directors, A, C, and D. A was also the corporation president, D was the vice president, and C was the secretary-treasurer. Additionally, A and C are salaried employees of the corporation.

The relationship between A and C is now completely deteriorated, and they are incompatible. The corporate directors have regular monthly meetings at which I am called upon by C and D to provide certain services for said corporation. Additionally, I represent C and D in certain business transactions which are not in any way related to the corporation or its business.

Further, C has asked me to prepare a buy-sell agreement with a covenant not

to compete for the consideration of the stockholders. I have now completed this work.

A has obtained counsel of his own choosing. A refuses to sign the buy-sell agreement because it contains a covenant not to compete insofar as the insurance business is concerned for a limited period of time and a limited geographical area.

In a recent meeting of the directors, A implied that I had a conflict in representing the corporation and both C and D. I question A's contention, as I am representing the corporation at the request of the majority of the board of directors of the corporation, and I am representing C and D on other business dealings, e.g., the sale of a shopping center to the children of C and D. I believe A is concerned because he has employed an attorney of his own, whom I assume he is paying or intends to pay out of his own private funds.

Please provide an opinion as to whether it would be ethical for me to represent a corporation, at the request and direction of the majority of the board of directors of said corporation, and also to represent the directors of the corporation in their private dealings not related to the corporation.

ANSWER:

There would be no ethical impropriety in your representing the corporation at the request and direction of a majority of the board of directors (C and D) and at the same time representing certain of the directors (C and D) in their private matters unrelated to the corporation, namely, the sale of a shopping center to the children of C and D.

DISCUSSION:

Rule 1.13(a), Alabama Rules of Professional Conduct, states as follows:

Rule 1.13 Organization As Client

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

The Comment to Rule 1.13 states that while communication of a constituent of an organizational client with the organization's lawyer is protected by Rule 1.6, this does not mean that constituents of an organization client are clients of the lawyer. Pursuant to these rule provisions and interpretations, your identified clients in your representation are the corporation, as a legal entity, and two individual directors of that corporation, in separate, unrelated matters.

Rule 1.7(b), Ala. R. Prof. C, states as follows:

Rule 1.7 Conflict of Interest: General Rule

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

- (1) the lawyer reasonably believes the representation will not be adversely affected; and
- (2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

The Comment to Rule 1.7 recognizes that the propriety of concurrent representation can depend on the nature of the litigation and the representation. In your fact situation, you point out that your representation of the corporation requires your participation in regularly monthly meetings of the board of directors.

The Disciplinary Commission had previously considered this scenario, under the prior Code of Professional Responsibility. Therein, the commission quoted Ethical Consideration 5-18 as follows:

Occasionally a lawyer for an entity is requested by a stockholder, director, officer, employee, representative, or other person connected with the entity to represent him in an individual capacity; in such case the lawyer may serve the individual only if the lawyer is convinced that different interests are not present.

As such, the Disciplinary Commission is of the opinion that, based upon the representations in your ethical inquiry that the matters are not in any way related, then you may ethically represent the directors and stockholders, C and D, in their individual capacity in a matter which is apparently completely unconnected with any of the affairs of the corporation and which would not interfere with the exercise of your independent professional judgment on behalf of the corporation.

Further, consistent with the mandates of Rule 1.13, you can represent the corporate entity only at the request and instructions of a majority of the board of directors, which request and instructions have been obtained in the instant case.

If you have any questions about this opinion, or a related matter, please contact us at (334) 269-1515 or ethics@alabar.org. ▲



ABOUT MEMBERS, AMONG FIRMS

Please email announcements to
margaret.murphy@alabar.org.

About Members

Taylor F. Davenport announces the opening of the **Law Office of Taylor F. Davenport LLC** at 445 Dexter Ave., Ste. 4050, Montgomery 36104. Phone (334) 490-6200.

William A. Menas, II announces the opening of **Will Menas Law LLC** at 7817 Spanish Fort Blvd., Spanish Fort 36527. Phone (251) 410-0093.

Among Firms

Baker Donelson PC announces that **Jennifer P. Decker** joined as of counsel in the Birmingham office.

Balch & Bingham LLP announces that **Elizabeth Flachsbart** is a partner in the Birmingham office.

Blasingame, Burch, Garrard & Ashley PC of Georgia announces that **Leanna B. Pittard** is a shareholder in the Birmingham office.

Bradley Arant Boult Cummings LLP announces that **Abigail B. Harris,**

Matthew A. Hinshaw, Gregory B. Pipes, Grant A. Premo, and Benn C. Wilson are partners in the Birmingham office.

Bressler, Amery & Ross PC announces that **Louis F. Mendez** and **Patrick J. Mulligan** are principals in the Birmingham office.

The Cleveland Firm LLC announces that **Andrew Lee Odom** is a partner in the Prattville office and **Jonathan Dale Wynn, II** is at the Montgomery office, partnered with Alexander Shunnarah Injury Attorneys PC.

Clifford C. Brady and **Craig D. Martin** announce the opening of **Brady Martin LLP** with offices remaining at 63 S. Royal St., Ste. 1201, Mobile 36602. Phone (251) 405-0077.

Christian & Small LLP announces that **Neal D. Moore, L. Jackson Young,** and **Jeremy S. Hazelton** joined as partners, and **Kendall L. Fann** and **Wilson M. Landers** joined as associates, all in the Birmingham office.

Cromwell & Associates LLC announces that **Zacheriah T. Permenter** joined as an associate.

Heninger Garrison Davis announces that **James A. Stewart** joined as a partner in the Birmingham office.

Holtsford Gilliland Higgins Hitson & Howard PC announces that **Alex L. Holtsford, III** and **Jason R. Herbert** are partners in the central Alabama office, **Robert C. Alexander, II** and **Aaron M. Wiley** are partners in the Gulf Coast office, **Mark D. Toppen** is an associate in the central Alabama office, and **Leigh Margaret Bostic, S. Grey Alidor, Frederick Killion, IV,** and **Russell D. Johnson** are associates in the Gulf Coast office.

Jaffe, Hanle, Whisonant & Knight PC of Birmingham announces that **Michael Whisonant, Sr.** joined as of counsel.

Floyd, Hunter & White PC announces that it opened a Montgomery office at 2030 Berryhill Rd., 36117.

Fob James Law Firm LLC announces that **Donald R. Riggins, Jr.** joined the Montgomery office.

Lightfoot, Franklin & White LLC of Birmingham announces that **Clinton T. Speegle** is a partner.

Matt Minner, Brian Vines, and **Jamie Moncus** announce the opening of **Minner Vines Moncus PLLC** with offices in Birmingham and Lexington.

McGlinchey Stafford PLLC announces that **Natalie V. Walker** joined as an associate in the Birmingham office.

Phelps Dunbar LLP announces that **Chris Couch** joined the Birmingham office.

Samford & Denson LLP of Opelika announces that **D. Carter Weeks** is a partner.

Swift Currie LLP announces that **Amanda Goozée** joined as a partner in its Birmingham office.

Starnes Davis Florie LLP announces that **Allen King, Michael Lasserre,** and **Tyler McIntyre** are partners in the Birmingham office.

Stockham, Cooper & Potts PC of Birmingham announces that **Justin I. Hale** is a partner, and the firm name is now **Stockham, Cooper, Potts & Hale PC.**

The **United States Attorney's Office, Eastern District of Oklahoma,** announces that **T. Cameron McEwen** is an Assistant United States Attorney, Criminal Division.

Wainwright, Pope & McMeekin PC of Birmingham announces that **Lonnie D. Wainwright, Jr.** retired from the practice of law, **Jared N. Wood** joined the firm, and the firm name is now **Pope & McMeekin PC.** ▲

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BAR BY THE NUMBERS

JANUARY 1 - DECEMBER 31, 2021

MEMBER DEMOGRAPHICS



19,035 ACTIVE MEMBERS

1,566 MEMBERS ADMITTED IN PAST 3 YEARS

571 MEMBERS ADMITTED FOR 50+ YEARS

MEMBERS INVOLVED IN ONE OR MORE OF THE ASB'S 31 SECTIONS **8,498**

MEMBERS SERVING ON ONE OR MORE OF THE ASB'S 38 COMMITTEES & TASK FORCES **1,293**

LAWYERS SERVING AT ANY ONE TIME IN A VOLUNTEER LEADERSHIP CAPACITY **1,000+**

2021 BAR EXAM STATS

773 TOTAL EXAMINEES

46% PASSAGE RATE

369 ADMITTED BY EXAM

63 ADMITTED BY UBE

2,200+

FREE ETHICS OPINIONS* ISSUED BY ASB'S ETHICS COUNSEL TO MEMBERS

*INFORMAL

OFFICE OF GENERAL COUNSEL



882 COMPLAINTS RECEIVED

819 COMPLAINTS SCREENED OUT

174 FORMAL INVESTIGATIONS

PRIVATE REPRIMANDS	11
PUBLIC REPRIMANDS	11
SUSPENSIONS	13
DISBARMENTS	6
CONSENT TO DISBARMENT	6
SURRENDER OF LICENSE	4
TRANSER TO INACTIVE STATUS	5



1,100+ HOURS
OF CLE INSTRUCTION TIME
PRESENTED BY ASB ATTORNEYS



32

LIVE ZOOM CLE COURSES
HOSTED BY ASB, RESULTING IN



16,000+ CLE COURSES
COMPLETED ON-DEMAND ON
OUR FREE PROLEARN PORTAL



6,587

HOURS OF LIVE CLE CREDIT
AWARDED **FOR FREE** TO ASB
MEMBERS

50

SCOOP E-NEWSLETTERS
SENT AND READ BY AN
AVERAGE OF

8,000+

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EACH WEEK



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5,500 TWITTER FOLLOWERS



1,950 INSTAGRAM FOLLOWERS



710 LINKEDIN FOLLOWERS



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ON AVERAGE PER ISSUE



19,000+ ISSUES
MAILED BI-MONTHLY
TO MEMBERS

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11,701 REFERRALS IN 2021

50 REFERRALS / DAY

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139 ATTORNEYS & STUDENTS
CURRENTLY SERVED BY ALAP



1,000

NUMBER OF COUNSELING
HOURS PROVIDED LAST YEAR

VOLUNTEER LAWYERS PROGRAM



SCREENED **3,326**
PEOPLE FOR ELIGIBILITY

1,992 TOTAL ATTORNEY
VOLUNTEERS ENROLLED

10 WALK-IN OR VIRTUAL
LEGAL AID CLINICS HELD

47.5

AVERAGE NUMBER OF PRO BONO
HOURS WORKED PER LAWYER
LAST YEAR



NOTICE

DISCIPLINARY NOTICES

- ▲ Reinstatements
- ▲ Transfers to Inactive Status
- ▲ Disbarment
- ▲ Suspensions
- ▲ Public Reprimands

Reinstatements

- Birmingham attorney **William Gilmore Gantt** was reinstated to the practice of law in Alabama by order of the Supreme Court of Alabama, effective January 3, 2022. Gantt was disbarred from the practice of law on January 6, 1997. [Rule 28, Pet. No. 2021-833]
- Birmingham attorney **Timothy Allen Hughes** was reinstated to the practice of law in Alabama by order of the Supreme Court of Alabama, effective October 19, 2021. Hughes was disbarred from the practice of law by order of the Supreme Court of Alabama on March 2, 2016. [Rule 28, Pet. No. 2021-666]
- McCalla attorney **James Dee Terry** was reinstated to the practice of law in Alabama by order of the Supreme Court of Alabama, effective November 19, 2020. Terry surrendered his license from the practice of law on January 6, 1997. [Rule 28, Pet. No. 2020-520]

Transfers to Inactive Status

- Vestavia attorney **Thomas Shealer Moore** was transferred to inactive status, effective October 9, 2020, by order of the Supreme Court of Alabama. The Supreme Court of Alabama entered its order based upon the October 9, 2020 order of Panel II of the Disciplinary Board of the Alabama State Bar in response to the Alabama State Bar's petition submitted to the Disciplinary Board requesting Moore be transferred to inactive status. [Rule 27 (C), Pet. No. 2020-1005]
- Dothan attorney **Christopher Calvin Reid** was transferred to inactive status, effective December 6, 2021, by order of the Supreme Court of Alabama. The Supreme Court of Alabama entered its order based upon the December 6, 2021 order of Panel II of the Disciplinary Board of the Alabama State Bar in response to Reid's petition filed with the Office of General Counsel requesting he be transferred to inactive status. [Rule 27(c), Pet. No. 2021-1214]

Disbarment

- Muscle Shoals attorney **Chase Russell Hutcheson** was disbarred from the practice of law in Alabama, effective October 7, 2021. The Supreme Court of Alabama entered its order based on the report and order of the Disciplinary Board of the Alabama State Bar, disbarring Hutcheson after he was found guilty of violating Rules 5.5(a)(1), [Unauthorized Practice of Law], 8.1(b) [Bar Admission and Disciplinary Matters], and 8.4(d) and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. On January 15, 2019, Hutcheson was transferred to inactive status by the membership department for failure to purchase an occupational license. The Office of General Counsel was subsequently notified by a circuit court judge for the 34th Judicial Circuit that Hutcheson was engaging in the unauthorized practice of law without a license. Thereafter, a complaint was filed with the Alabama State Bar. Hutcheson repeatedly failed to respond to requests from the Office of General Counsel. Hutcheson was summarily suspended from the practice of law on June 19, 2019 based on his failure to respond. On September 15, 2020, a hearing to determine discipline was held in ASB No. 2019-375. Hutcheson did not appear for the hearing. [ASB No. 2019-375]

Suspensions

- Mobile attorney **Darryl Tyrone Blackmon** was suspended from the practice of law in Alabama for 91 days with the suspension to be held in abeyance. Blackmon will be placed on probation for one year, effective November 1, 2021. The suspension was based upon the Disciplinary Commission's acceptance of Blackmon's conditional guilty plea, wherein Blackmon pled guilty in ASB No. 2019-1086, to violating Rules 1.3 [Diligence], 3.3 [Candor Toward the Tribunal], and 8.4 (c), (d), and (g) [Misconduct], Alabama Rules of Professional Conduct. In or around May 2019,

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but

who takes care
of **YOU?**



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(Continued from page 121)

Blackmon failed to appear in court on behalf of his client and was subsequently held in contempt of court. In ASB No. 2019-1474, Blackmon pled guilty to violating Rules 1.1 [Competence], 1.3 [Diligence], 1.4 [Communication], and 8.4 (d) and (g) [Misconduct], Alabama Rules of Professional Conduct. In or around April 2018, Blackmon was retained by a client to probate her husband's estate. Blackmon failed to timely file the petition and pay the filing fee after receiving deficiency notices from the probate court. [ASB Nos. 2019-1086 and 2019-1424]

- The Alabama Supreme Court issued an order suspending Auburn attorney **Samuel Andrea Masdon** from the practice of law in Alabama for 45 days, effective January 1, 2022. The Supreme Court of Alabama entered its order based upon the Disciplinary Commission's order, accepting the conditional guilty plea submitted by Masdon wherein he plead guilty to violating Rules 1.4 [Communication], 1.16 [Declining and Terminating Representation], 5.3 [Responsibilities Regarding Nonlawyer Assistants], 5.5 [Unauthorized Practice of Law], and 8.4(d) [Misconduct], Alabama Rules of Professional Conduct. Masdon attempted to assist his father and his father's paralegal, after his father became ill, with the father's immigration clients. When necessary, Masdon would attend immigration hearings on his father's behalf. Masdon believed at the time that he was making a one-time appearance on behalf of his father. Masdon did not intend to undertake representation of the client beyond the hearing. Masdon failed to recognize that due to his father's health, the father's non-lawyer paralegal had essentially taken over his father's practice and was engaging in the unauthorized practice of law without any oversight by Masdon's father. By agreeing to appear on Masdon's father's behalf, Masdon also enabled the nonlawyer paralegal to engage in the unauthorized practice of law. Masdon also failed to properly notify his father's clients, the immigration courts, and the Department of Justice of his limited scope of representation. [ASB No. 2021-516]
- Cullman attorney **Stuart Lynn Moore** was suspended from the practice of law in Alabama for 91 days, effective December 13, 2021. The Alabama Supreme Court issued the order based on the conditional guilty plea submitted by Moore, in which Moore voluntarily waived the filing of formal charges and entered a plea of guilty to violating Rules 1.15 [Safekeeping Property], 5.3 [Responsibilities

Regarding Nonlawyer Assistants], and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. For the past six years, Moore's wife acted as his office manager. As Moore's office manager, his wife oversaw his trust account and other personal and law office bank accounts. Moore failed to exercise any supervision over his wife's control over the accounts. As a result, both personal and business funds were repeatedly commingled with client funds in Moore's trust account over a period of several years. In addition, personal and non-law-firm-related business expenses were paid directly from Moore's trust account. Moore also failed to maintain a general ledger and records of deposit for his trust account. However, client funds were not misappropriated. [ASB No. 2021-200]

Public Reprimands

- Birmingham attorney **Bradley Alan Green** was issued a public reprimand with general publication on October 29, 2021, as ordered by the Disciplinary Commission of the Alabama State Bar, for violating Rules 1.2 [Scope of Representation], 1.4(b) [Communication], and 8.4(a) [Misconduct], Alabama Rules of Professional Conduct. In or around September 2019, Green's law partner was retained for a divorce proceeding. The wife who filed the divorce provided Green's law partner with a recorded telephone conversation between her ex-husband and a Blount County commissioner. In the recording the commissioner referred to a local Blount County citizen using a racial slur. The divorce became final in October 2019 without the recording being made public. In late June 2020, the ex-husband filed a petition for modification. The ex-wife subsequently hired Green to represent her on the modification. In July 2020, Green spoke with the ex-wife to discuss the recording and use it as a counter-claim. During the conversation the ex-wife agreed to allow the firm to reference the recording in the counter-claim if the matter went to a hearing. Green did not adequately communicate to the ex-wife that once the recording was referenced in the counter-claim it could be made available to the media, elected officials, or other members of the public. In August 2020, an anonymous package was mailed to members of the media, elected officials, judges in Blount County, the Blount County DA's office, and the Blount

County Sheriff's Office. The anonymous package included a copy of recordings, copies of lawsuits involving the ex-husband and the Blount County commissioner, and an anonymous letter that accused the Blount County commissioner and others of misconduct. Green, in fact, mailed the packages at the bequest of a Blount County judge. While Green did not know the exact contents of the packages, he suspected the packages contained the recordings. [ASB No. 2020-965]

- Locust Fork attorney **Brett Ashley King** was issued a public reprimand with general publication on October 29, 2021, as ordered by the Disciplinary Commission of the Alabama State Bar, for violating Rules 1.2 [Scope of Representation], 1.4 [Communication], 1.6 [Confidentiality of Information], 3.1(a) [Meritorious Claims and Contentions], and 4.4(a) [Respect for the Rights of Third Persons], Alabama Rules of Professional Conduct. In or around September 2019, King's law partner was retained for a divorce proceeding. The wife who filed the divorce provided King's law partner with a recorded telephone conversation between her ex-husband and a Blount County commissioner. In the recording, the commissioner referred to a local Blount County citizen using a racial slur. The divorce became final in October 2019. While the divorce was ongoing, the ex-wife and King's law partner played the recording for King. King subsequently asked the ex-wife for permission to release the recording to the public on numerous occasions both during and after the divorce proceedings. The ex-wife refused to do so. In October or November 2019, without permission from the ex-wife, King informed a Blount County Circuit Court judge of the existence of the recording and the use of a racial slur. At the time, the judge had a pending defamation suit against the Blount County commissioner relating to disparaging remarks the Blount County commissioner made about the judge. In January 2020, King provided the judge with a copy of the recording, but informed the judge he could not make the recording public since King did not have the ex-wife's permission to do so.

In late June 2020, the ex-husband filed a petition for modification. The ex-wife subsequently hired King's law partner to represent her on the modification. In July 2020, King's law partner spoke with the ex-wife to discuss the recording and its use in the counter-claim. To confirm the law partner had the client's permission, King listened in on

the conversation, but did not disclose his presence to the ex-wife. During the conversation, the ex-wife agreed to allow the firm to reference the recording in the counter-claim if the matter went to a hearing. However, neither King nor the law partner informed the ex-wife that the firm was going to provide copies of the recording to the media, elected officials, or other members of the public. In addition, King made copies of the recording and gave them to various individuals. King subsequently contacted the judge and informed him that the recording could be made public. [ASB No. 2020-990] ▲



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Judicial Elections

Each election cycle, the Alabama Law Institute, in partnership with the Secretary of State, publishes the Alabama Election Handbook.¹ The handbook is edited under the supervision of Greg Butrus and is available online at the institute website² complete with extensive related materials that cannot fit into the printed version. The 20th Edition covering the 2021-2022 election cycle was expanded by two chapters covering non-candidate elections and judicial elections which are the subject of this article.³

While we are accustomed to the regular cycle of elections of our state executive and legislative officials and all that accompanies them, some seem to pay less attention to the judicial elections. In Alabama, we elect our Alabama Supreme Court justices, judges on the courts of criminal and civil appeals, and all circuit, district, and probate judges. These are all six-year terms of office, but the election cycles can shift due to how vacancies are filled by appointment and for how long. Additionally, while all the normal election and campaign finance rules apply to judicial elections, there are also some additional requirements addressed below.

Legal Authorities Pertaining to Judicial Campaigns

Seeking a judicial office presents unique issues for judges in light of specific provisions in the Alabama Canons of Judicial Ethics. These include Canon 7 (which specifically applies to campaign conduct and other political activities), Canon 6C (which stipulates the requirements for filing certain disclosure statements within 10 days after qualifying), and Canon 2 (which sets forth the general conduct of all sitting judges).

Additionally, the Alabama Constitution imposes further restrictions on judicial campaigns. No judge other than a municipal or probate judge may seek or accept any non-judicial elected office or hold any non-military office of public trust. Ala. Const. §§ 145 and 147(b). Furthermore, like most other state officials, judges are forbidden from simultaneously holding two state offices of profit. Ala. Const. § 280.

Judicial Candidate Qualifications

Judicial candidates must meet various legal qualifications depending upon the office sought. First, no judge may be elected or appointed to office after reaching the age of 70. Ala. Const. Art. VI § 155. However, local amendment may alter this rule in specific counties. At the time of publication, both Geneva and Henry counties have a higher age restriction for the office of judge of probate. Ala. Const. Geneva County § 1.20 and Henry County § 4.50.

Justices of the Alabama Supreme Court and judges of the courts of appeals, circuit courts, and district courts must be licensed to practice law in Alabama. Ala. Const. § 146. Supreme court justices and appellate judges must have been licensed to practice law in Alabama or another state for a combined 10 years or more prior to election. §§ 12-2-1 and 12-3-1. For circuit judges, this requirement is seven years, while for district judges it is only four. §§ 12-11-1 and 12-12-1.

Circuit and district judges must have resided within their respective circuit or district for at least 12 months prior to election. They must also reside within their respective circuits for the duration of their terms. §§ 12-17-22 and 12-17-64.

Further qualifications for judges of probate and municipal judges may vary by jurisdiction. Most notably, several counties require that their probate judges be licensed to practice law. *See e.g.*, Ala. Const. Shelby County § 4.01. Other counties require that the judge be learned in the law. Prospective candidates for these races should carefully investigate local requirements.

Judicial Canons Applicable to Judicial Candidates

Under Rule 8.2(b) of the Alabama Rules of Professional Conduct of the Alabama State Bar, the Alabama Canons of Judicial Ethics are applied to candidates for judicial office who are licensed to practice law. Failure to abide by the provisions of the canons will subject such candidates to discipline from the bar.

Appellate Court Ballot Placement

Act 2019-469 establishes permanent place numbers for the seats on Alabama's Supreme Court and courts of appeals. This provision took effect in February 2021 for the 2022 election cycle and, among other things, makes it possible to distinguish which seat an appellate court candidate is seeking on the secretary of state's online reporting system. However, it should be noted that the place numbers themselves do not indicate sequential order on the ballot. Rather, ballot placement is governed by memorandum provided to the secretary of state by each of the courts.

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OVERVIEW OF THE PROGRAM

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- Maximum percentage fee of \$250 on fees between \$1,000 and \$5,000
- Professional liability insurance required for participation

(Continued from page 125)

Judicial Inquiry Commission Advisory Opinions

Guidance on the application of the canons to campaign conduct and related disqualification questions is provided by the Alabama Judicial Inquiry Commission's advisory opinions. A chart summarizing select opinions relevant to political and campaign activities is included in the handbook and is available electronically at the provided link. Consideration of these opinions should be guided by the following:

- Neither the advisory opinions summarized, nor the synopses provided should be viewed as authority for specific conduct, or as evidence of a good-faith effort to comply with the canons unless the underlying facts are identical.
- An incumbent judge who contemplates activity that is not clearly permitted would be well advised to seek an opinion from the commission before proceeding. The commission cannot render an advisory opinion to a judicial candidate who is not currently a judge, but a lawyer who is a judicial candidate may seek an opinion regarding Canon 7 from the Alabama State Bar. In addition, the commission will attempt to informally assist any candidate with concerns about proposed conduct.
- Commission opinions are based on the canons and other pertinent laws in effect at the time the opinions were issued. All synopses should be read in conjunction with the current canons and other laws involved, with the understanding that the commission has not addressed whether the conclusions stated have been affected by past changes in either the canons or other law. This is particularly important in view of the changes to Canon 7 made in 1998 and 2004.

A variety of issues may arise during judicial campaigns that have not been addressed by the Judicial Inquiry Commission. In these situations, candidates for judicial office are encouraged to visit the Center for Judicial Ethics, National Center for State Courts (NCSC) at www.ncsc.org/cje. For example, the NCSC has addressed questions regarding the relationship between judicial campaigns and social media, and the relationship between the First Amendment and the solicitation of campaign contributions.

More information about the Judicial Inquiry Commission is available at <https://judicial.alabama.gov/appellate/jic>.

Judicial Recusal Issues

Judicial campaigns also raise issues concerning recusal. If in the preceding election, a judge has received a substantial campaign contribution from or benefits from an electioneering

communication by a party who has a case pending before the judge, recusal may be required. If such a campaign contribution exceeds a certain percentage of the judge's total contributions, depending on the type of judicial office, then a rebuttable presumption arises in favor of recusal. § 12-24-3. Depending on the circumstances, a judge may also be disqualified pursuant to Canon 2 and/or 3C(1).

This statute became effective in 2014 and was first interpreted by the Alabama Court of Civil Appeals in *Dupre v. Dupre*, 233 So. 3d 357, (Ala. Civ. App. 2016). The circuit judge presiding in *Dupre* was first elected to the bench in 2010, four years before this statute existed. The judge ran for reelection in 2016, and a former husband asserted that while presiding over the underlying action, the judge had collected a substantial contribution from one of the former wife's attorneys on September 24, 2015. The former husband moved the judge to recuse herself, which motion was denied, and the former husband appealed.

Section 12-24-3(a), Ala. Code 1975, provides, in pertinent part:

(a) "In any civil action, on motion of a party or on its own motion, a justice or judge shall recuse himself or herself from hearing a case if, as a result of a substantial campaign contribution or electioneering communication made to or on behalf of the justice or judge *in the immediately preceding election* by a party who has a case pending before that justice or judge, either of the following circumstances exist:

"(1) A reasonable person would perceive that the justice or judge's ability to carry out his or her judicial responsibilities with impartiality is impaired.

"(2) There is a serious, objective probability of actual bias by the justice or judge due to his or her acceptance of the campaign contribution." (Emphasis added).

The court of civil appeals determined that the "immediately preceding" judicial election would be the last judicial election before the filing of the motion to recuse, which it "judicially noticed" occurred in 2010. Consequently, the court of civil appeals determined that the lawyer's contribution to the judge's 2016 campaign was not to be considered because the "immediately preceding" election occurred in 2010. The court affirmed the trial judge's denial of her recusal even though the lawyer before her made a substantial contribution during the *present* election cycle.

Judicial recusal on account of substantial campaign contributions under § 12-24-3 was next interpreted by the Alabama Supreme Court in *Startley General Contractors, Inc. v. Waterworks*

Board of the City of Birmingham, 294 So. 3d 742 (2019). There, plaintiffs moved for a circuit judge’s recusal based upon contributions that attorneys and a law firm representing the defendant had made to the judge’s then-ongoing campaign to be elected Chief Justice of the Supreme Court of Alabama. The circuit judge denied the recusal motion and the plaintiffs appealed. Several issues arising out of § 12-24-3 were examined. The term “party” as used in the statute refers to a party to the case that is before the judge or justice who received the contribution. Therefore, when § 12-24-3(c)(4) mentions an “attorney for the party” it refers to an attorney representing the party in the case before the judge or justice. The term “party” does not refer to all attorneys who may be retained by a party to a case for purposes other than representing that party in the case before the judge or justice.

Next, the Alabama Supreme Court rejected the plaintiffs’ efforts to aggregate the campaign contributions of separate defendants or separate parties in order to meet the rebuttable presumption percentage threshold under the statute. The court also rejected the plaintiffs’ attempt to aggregate all defendants’ contributions to the judge’s campaign. The court stated that separate defendants in an action do not necessarily have united interests, but the plaintiffs’ interpretation of the statute assumes that separate defendants have

the united motive in making campaign contributions. “We reject that interpretation as contrary to the plain language of the statute.” *Id.*, at 755.

Finally, the Alabama Supreme Court in *Startley* further interpreted the term “election cycle” as used in § 12-24-3. The court rejected the plaintiff’s argument that a single month during a judge or justice’s campaign for office constitutes the term “election cycle.” Instead, the court concluded that as the term is used in § 12-24-3(b) “election cycle” includes the entire period in which a candidate for judicial office may accept campaign contributions until the election for the office is held. The court also took “the opportunity to note that” donations to a PAC or from a PAC to a judicial candidate “are not contemplated by 12-24-3(b), which addresses ‘a campaign contribution made *directly* by a party to the judge or justice.” (Emphasis in original). ▲

Endnotes

1. In-depth information on this critical resource was provided in the November 2017 edition of this column.
2. <https://alison.legislature.state.al.us/law-institute-election-handbook-extended>.
3. Special credit is due to Ryan Robichaux for his work on the non-candidate election chapter and to Jenny Garrett and Max Pulliam for their work on the judicial election chapter.

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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.

A note from Wilson Green: Since 2011, I have co-written this space with Marc Starrett. Marc has ably covered the criminal cases, while I have reviewed the civil cases. This is my last issue as co-author. Many thanks to Marc, to the current and former editors, Greg Ward and Greg Hawley, and to Margaret Murphy.

RECENT CIVIL DECISIONS

From the Alabama Supreme Court

Restrictive Covenants

Capitol Farmers Market, Inc. v. Ingram, No. 1200688 (Ala. Dec. 3, 2021)

The court affirmed the circuit court's order enforcing restrictive covenants against CFM in action brought by the Ingrams (adjoining landowners). The phrase "platted tracts within [a] subdivision" was not ambiguous even though there were no platted tracts when the document was drafted, because the subject property had in fact been subdivided into various parcels and conveyed to other owners. Under the change-in-the-neighborhood test, "a restrictive covenant will not be enforced if the character of the neighborhood has changed so radically that the original purpose of the covenant can no longer be accomplished." That test was not met in this case, because under the evidence, the properties to the west, south, and east of the subject properties, and the subject properties themselves, have remained unchanged since 1982. Justice Bolin wrote for eight justices; Justice Shaw concurred in the result.

Abatement

Tipp v. JPMC Specialty Mortgage, Inc., No. 1200600 (Ala. Dec. 3, 2021)

Present action was properly abated (under Ala. Code § 6-5-440) by multiple prior actions, and the court upheld the trial court's injunction against any further actions brought on the same subject matter. Justice Mitchell wrote for unanimous panel.

Rule 54(b)

Gleason v. Halsey, No. 1200678 (Ala. Dec. 3, 2021)

Rule 54(b) certification was improper based on intertwining doctrine, thus necessitating dismissal of appeal. Justice Mendheim wrote for eight justices; Chief Justice Parker concurred in the result.

Marriage Recordation

Porter v. Porter, No. 1200682 (Ala. Dec. 10, 2021)

Plurality panel decision by Justice Stewart; death of a party to a marriage, after a marriage document is executed but before the marriage document is recorded, does not invalidate the marriage for failure to comply with the registration requirements of Ala. Code § 22-9A-17. Chief Justice Parker concurred specially. Justice Wise concurred in the result.

Mortgages

Deslonde v. Nationstar Mortgage, LLC, No. 1200483 (Ala. Dec. 10, 2021)

Plurality panel decision by Sellers for four justices; Chief Justice Parker concurred in the result. Trial court properly granted summary judgment to mortgagee lender in action by mortgage borrower to avoid terms of modification agreement, where borrower claimed entitlement to reformation of the modification agreement based on mutual mistake. Terms of agreement were unambiguous, and there was no evidence that lender intended to bind itself to terms different from that expressed in the written instrument.

Public Corporations

WM Mobile Bay Environmental Center, Inc. v. City of Mobile Solid Waste Authority, No. 1190978 (Ala. Dec. 17, 2021)

The court answered certified questions from the Eleventh Circuit in a plurality opinion joined by four justices, with four concurrences in the result and one recusal, as follows:

- (1) Can property owned by a solid waste disposal authority 'belong to' a county or municipality for purposes of section 6-10-10, Ala. Code 1975? No, under the separate entity doctrine as applied to the plain language of the statute.
- (2) If so, what factors should courts consider when making such a determination? Not applicable (the court declined to answer in light of the answer to (1)).
- (3) If section 6-10-10 can apply to property owned by a solid waste disposal authority, is such property 'used for county or municipal purposes' when the authority has not used the property but is holding it for a future use? Not applicable (the court declined to answer in light of the answer to (1)).

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- (4) Does Alabama continue to recognize a common law exemption from execution for property used for public purposes as described in *Gardner v. Mobile & N.W.R. Co.*, 102 Ala. 635, 15 So. 271 (1894)? Yes.
- (5) If so, does that exemption apply to public corporations like [the City of Mobile Solid Waste] Authority, and what standards should courts employ in applying this common law exemption? The court should examine whether the property is owned or used for public purposes, or whether the property is necessary to enable the public corporation to discharge its duties to the public – bearing in mind that public purpose is intended to be broadly construed for the promotion of the public health, safety, and general welfare of the community.

Arbitration; Res Judicata; Immunity

Ex parte Space Race, LLC, No. 1200685 (Ala. Dec. 30, 2021)

ASSEC commenced an action in the Madison Circuit Court against Space Race, seeking to avoid an arbitration award entered in favor of Space Race and against ASSEC by an arbitration panel in New York. In the arbitration, ASSEC specifically represented that it was not entitled to any sovereign immunity. Space Race filed a motion to dismiss ASSEC's action, asserting that a New York court (before which ASSEC had made a contrary representation regarding sovereign immunity) had already entered a final judgment confirming the arbitration award. The trial court denied Space Race's motion to dismiss, and Space Race petitioned this court for a writ of mandamus directing the trial court to dismiss ASSEC's action. The supreme court granted the writ, reasoning that the New York court's order was entitled to full faith and credit, even if the Alabama Supreme Court disagreed with the New York court's resolution of the immunity question, so long as the immunity question was fully and fairly litigated in the New York proceeding, which it was. Justice Sellers wrote for seven justices; Justices Shaw and Bryan concurred in the result.

Domestic Relations

Ex parte Grimmert, No. 1200220 (Ala. Jan. 14, 2022)

Alabama law allows for divorce based on post-filing adultery. This decision is a non-plurality opinion by Chief Justice Parker, joined in part by Justice Mitchell, with seven justices concurring in the result.

Guardianship; Probate Court Jurisdiction

Miles v. Helms, No. 1200681 (Ala. Jan. 21, 2022)

Removal of administration of guardianship under Ala. Code § 26-2-2 was not proper, and therefore circuit court

never acquired jurisdiction over the proceeding, because it was filed by a person lacking the requisite authority under that section. The removing party was purportedly acting as an attorney in fact or a health care proxy, but that party (who had in the probate court unsuccessfully sought status as guardian) did not appeal the guardianship order. The party did not fall within the scope of parties entitled to remove an ongoing guardianship administration.

Personal Jurisdiction

Pruitt v. AAA Interstate Transportation, LLC, No. 1200666 (Ala. Jan. 21, 2022)

Trial court lacked personal jurisdiction over AAA, which was an out-of-state entity not at home in Alabama and which had not purposefully availed itself of the privilege of conducting business in Alabama by transporting a crane truck from Oklahoma to Las Vegas, which truck was eventually sold by its owner to an Alabama entity. Therefore, there were no contacts with Alabama tied to the accident at issue to support specific jurisdiction.

Forfeiture: State and Federal Jurisdiction

Hare v. Mack, No. 1200562 (Ala. Jan. 21, 2022)

Hare filed a state-court action to recover personal property that a Gulf Shores police officer seized without a warrant under state law and then transferred to the Baldwin County Sheriff's Office, acting in the capacity as federally deputized DEA agents. The circuit court ruled that it lacked in rem jurisdiction based on the court of civil appeals' case law. Held: under 21 U.S.C. § 881(c), exclusive federal jurisdiction attached when the deputized DEA agents took possession of the property, and no state court had prior in rem jurisdiction.

From the Court of Civil Appeals

Unjust Enrichment

Hattaway v. Coulter, No. 2200502 (Ala. Civ. App. Dec. 17, 2021)

In a question of first impression in Alabama, an engagement ring is a conditional gift, so that when an engagement is terminated, the donor has the right to request the return of the engagement ring and that, when such a request is refused, an



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unjust-enrichment cause of action exists. The trial court thus erred in denying recovery to plaintiff on the claim given the undisputed evidence of the terminated engagement.

Tax Sales

Smith v. Smith, No. 2200492 (Ala. Civ. App. Jan. 14, 2022)

Circuit court had jurisdiction over redemption matters relating to ejectment complaint brought by tax sale purchaser against proposed redeemer who had remained in possession of property.

From the United States Supreme Court

Abortion; Standing

Whole Women’s Health v. Jackson, No. 21-463 (U.S. Dec. 10, 2021)

Petitioner abortion providers were entitled to pursue pre-enforcement challenges to Texas Heartbeat Act against certain officials – specifically, executive licensing officials who may or must take enforcement actions against the petitioners if the petitioners violate the terms of the law. The Court allowed a pre-enforcement action in federal court to test the federal constitutional validity of the Texas law.

From the Eleventh Circuit Court of Appeals

Adverse Employment Action; Defamation

Davis v. Legal Services Alabama, No. 20-12886 (11th Cir. Dec. 2, 2021)

District court properly granted summary judgment to defendants in Title VII and § 1981 action and on state-law



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defamation claims. Paid suspension did not constitute an adverse employment action, and no constructive discharge occurred on the facts. Sharing of information with a paid consultant did not constitute publication for purpose of defamation.

Products Liability (Drugs)

Blackburn v. Shire US, Inc., No. 20-12258 (11th Cir. Nov. 29, 2021)

The Court certified the following questions to the Alabama Supreme Court:

1. Consistent with the learned intermediary doctrine, may a pharmaceutical company's duty to warn include a duty to provide instructions about how to mitigate warned-of risks?

2. May a plaintiff establish that a failure to warn caused his injuries by showing that his doctor would have adopted a different course of testing or mitigation, even though he would have prescribed the same drug?

Removal and Remand

Vachon v. Travelers Home & Marine Ins. Co., No. 20-12765 (11th Cir. Dec. 14, 2021)

28 U.S.C. § 1447(d) bars appellate review of an order of remand based on an untimely notice of removal (based on the one-year bar in § 1446(c)(1)), which was a defect in the removal procedure raised by a timely motion to remand.

False Claims Act

USA ex rel. Farmer v. Government of Honduras, No. 20-10604 (11th Cir. Dec. 30, 2021)

In a qui tam action, the Government, even after initially declining to intervene, may dismiss the suit over the relator's objection with notice and an opportunity for a hearing. This appeal raises two issues: (1) whether the Government must first formally intervene upon a showing of good cause prior to filing a motion to dismiss, and (2) what standard of review is the Court to use at the hearing. Held: (1) under *United States v. Everglades College, Inc.*, 855 F.3d 1279 (11th Cir. 2019) the Government does not have to formally intervene before filing a motion to settle a qui tam action; because the reasoning is the same for dismissals, the Government does not have to formally intervene before moving to dismiss a qui tam case even though it had earlier declined to intervene. (2) While the statute requires that a proposed settlement be "fair, adequate, and reasonable," the statute is silent as to any

such requirement for dismissals; thus, decisions to dismiss are within the province of the executive branch subject only to limits imposed by the Federal Rules of Civil Procedure, a statute, or the Constitution. Judge Tjoflat, joined by Judge Rosenbaum, specially concurred to urge that the *Everglades* holding be taken en banc.

Conservation Easements

Hewitt v. Commissioner, No. 20-13700 (11th Cir. Dec. 29, 2021)

The Tax Court denied taxpayers' entitlement to carryover of deduction for conservation easement because the easement did not satisfy the "protected-in-perpetuity" requirement, see I.R.C. § 170(h)(5), because the easement deed violated the judicial extinguishment proceeds formula set forth in Treas. Reg. § 1.170A-14(g)(6)(ii). Specifically, in the event of judicial extinguishment, the easement deed subtracts the value of post-donation improvements to the property from the extinguishment proceeds before determining the donee's share of the proceeds, which the Commissioner asserts violated § 1.170A-14(g)(6)(ii) and, thus § 170(h)(5)'s protected-in-perpetuity requirement. On appeal, the Court reversed, holding that the Commissioner's interpretation of § 1.170A-14(g)(6)(ii) is arbitrary and capricious and violates the APA's procedural requirements. And because the Commissioner's interpretation of § 1.170A-14(g)(6)(ii) to be invalid under the APA, the easement deed's subtraction of the value of post-donation improvements from the extinguishment proceeds allocated to the donee does not violate § 170(h)(5)'s protected-in-perpetuity requirement.

False Claims Act

Yates v. Pinellas Hematology & Oncology, P.A., No. 20-10276 (11th Cir. Dec. 29, 2021)

In a 54-page opinion, the Court affirmed in relevant part a judgment on verdict for plaintiff in a qui tam action consisting of \$744 in overpayments, trebled to a little over \$2,000, and \$1+ million in fines for the violations. The essential holdings: (1) Pinellas failed to preserve an objection to a trial exhibit, because denial of motion in limine was without prejudice and thus not definitive, requiring renewal of objection at trial; (2) evidence was sufficient on falsity and materiality elements of false certification claim, and government's inaction, though evidence negating materiality, was contradicted by other evidence supporting materiality; (3) verdict

for \$744 in damages was supported by the evidence; (4) imposition of \$1+ million in fines under the FCA for the violations was proper – (a) because an FCA monetary award is a “fine” for purposes of the Eighth Amendment, so that it is the United States that imposes such a fine in a non-intervened qui tam action, but (b) on this record, the imposition of the fines was not excessive. Judge Newsom, joined by Judge Jordan, penned an additional 42-page concurrence.

ERISA

***Klass v. Allstate Ins. Co.*, No. 20-14104 (11th Cir. Dec. 28, 2021)**

The district court properly granted summary judgment to employer and against retirees in suit alleging entitlement to lifetime life insurance benefits. Plan documents at issue reserved the right for the employer to alter the benefits provided under the retiree packages, and thus negated any claim for benefits based on representations outside the plan documents, admittedly made, that retirees being offered special retirement packages would receive paid up benefits for life. Claims for breach of fiduciary duty were time-barred.

Trafficking Victims

***Jane Doe v. Red Roof Inns, Inc.*, No. 20-11764 (11th Cir. Dec. 22, 2021)**

Under the Trafficking Victims Protection Reauthorization Act, specifically 18 U.S.C. § 1595(a), a trafficking victim may sue a sex-trafficking perpetrator and “whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of [the Trafficking Victims Protection Act].” Held: to state a claim for beneficiary liability under the TVPRA, a plaintiff must plausibly allege that the defendant (1) knowingly benefited (2) from taking part in a common undertaking or enterprise involving risk and potential profit, (3) that the undertaking or enterprise violated the TVPRA as to the plaintiff, and (4) that the defendant had constructive or actual knowledge that the undertaking or enterprise violated the TVPRA as to the plaintiff. As to three cases involved in this appeal, the allegations were insufficient.

Bankruptcy

***In Re: Mosaic Management Group, Inc.*, No. 20-12547 (11th Cir. Jan. 14, 2022)**

2017 legislation amending 28 U.S.C. § 1930 to increase the quarterly fee chargeable for the largest chapter 11 bankruptcies (those distributing \$1 million or more in a given quarter) applied to case filed before the legislation and was constitutional as a matter of due process and was consistent with the Bankruptcy Uniformity Clause.

Insurance, Duty to Defend (Alabama Law)

***James River Ins. Co. v. MST Properties, LLC*, No. 20-11568 (11th Cir. Jan. 13, 2022)**

District court properly concluded that insurer had duty to defend insured (parent entity of employer-subsidary) and employee of parent entity in underlying lawsuit concerning claims arising from workplace explosion in which employees of subsidiary were injured. Although the policy (issued to subsidiary and listing parent and other entities as additional insureds) contained an exclusion for employer liability claims, the policy also contained a “separation of insureds” provision, also known as severability of interests provisions or severability clauses, under which each insured is treated as if it is the only insured.

RECENT CRIMINAL DECISIONS

From the Eleventh Circuit

Confrontation Clause; Rule 403

***U.S. v. Williamson*, No. 19-14523 (11th Cir. Jan. 7, 2022)**

The district court did not violate the defendant’s Confrontation Clause rights or Fed. R. Evid. 403 by placing reasonable limits on his cross-examination of the prosecution’s expert witness regarding his expertise in interpreting street slang. While prohibiting the prosecution from introducing evidence of the witness’s experience investigating gangs, it likewise warned defense counsel that such evidence could be introduced if the defense “opened the door” to it by challenging the witness’s expertise or experience. The court noted that the Confrontation Clause “guarantees an opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish.”

(Continued from page 133)

From the Court of Criminal Appeals

Murder; Year and a Day Rule

***Ex parte Grant*, CR-20-0804, 2021 (Ala. Crim. App. Dec. 17, 2021)**

The defendant was indicted for capital murder after allegedly shooting the victim from within his vehicle. The victim died 15 months after the shooting. Granting the defendant's request for mandamus relief, the court of criminal appeals ordered the circuit court to dismiss the indictment due to the common law "year-and-a-day rule" that states that, for the cause of death to be attributable to the charged offense, the victim must have died within one year and a day of the injury. The court overruled the state's application for rehearing, with a special concurrence by Judge Richard Minor noting that, following the supreme court's holding in *Ex parte Key*, 890 So. 2d 1056 (Ala. 2003), the decision to modify the "year-and-a-day rule" is one for the Alabama Legislature.

Recusal; Corroboration

***Cowan v. State*, CR-20-0145 (Ala. Crim. App. Dec. 17, 2021)**

In affirming the juvenile defendant's capital murder, robbery, and shooting-into-an-occupied-dwelling convictions and their resulting sentences, the court rejected his claim that the circuit judge's comments regarding his codefendants required her to recuse herself. The comments, made during the codefendants' proceedings, concerned their credibility and conduct and were based on her exposure to the case; they did not show a personal bias or prejudice that warranted recusal. Among other holdings, the court also rejected the defendant's contention that the state did not sufficiently corroborate the testimony of his accomplices as required by Ala. Code § 12-21-222. The prosecution was not required to corroborate an accomplice's testimony with respect to every fact, nor was it necessary that corroboration should establish each element of the offenses.

Rule 404(b)

***Yeiter v. State*, CR-18-0599 (Ala. Crim. App. Dec. 17, 2021)**

The circuit court erroneously admitted the capital murder defendant's statement to law enforcement into evidence. The statement, which included references to the defendant's prior convictions and charges, was not admissible under Ala. R. Evid. 404(b), was "inherently prejudicial," and had "almost an irreversible impact upon the minds of the jurors[.]"

Rule 404(b)

***Keaton v. State*, CR-14-1570 (Ala. Crim. App. Dec. 17, 2021)**

Evidence of the capital murder/ manslaughter defendant's acts of physical abuse and cruel treatment of the children she killed, as well as her references to them as "demon spawn" and other derogatory names, was admissible under Ala. R. Evid. 404 (b) to prove both her intent to kill them and her motive to do so. Further, the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice so as to render it inadmissible under Ala. R. Evid. 403. Evidence tending to establish intent and motive was crucial for the state to rebut her defense that she was an unwilling pawn in her boyfriend's scheme to kill the children and was powerless to prevent their deaths. Further, the state could introduce evidence regarding the defendant's bad character to rebut defense evidence regarding her regular church attendance and devotion to the Bible.

Stand Your Ground

***Doster v. State*, CR-20-0300 (Ala. Crim. App. Dec. 17, 2021)**

Rejecting the notion that a defendant's testimony in a pre-trial "Stand Your Ground" immunity hearing under Ala. Code § 13A-2-23, like testimony in a pretrial suppression hearing, is inadmissible, the court held that a defendant's immunity hearing testimony may be offered at trial as substantive evidence of his guilt. ▲

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