

# Our Work and Our Clients

## Special points of interest:

- The Savvy Prehearing Statement
- Kenneth G. Perry Professionalism Award
- Ode to a Comp Claim
- Defense Lament
- Power Behind the Thorne IX
- Calendar of Events

## Letter From the Section Chair

This will be the last newsletter during my tenure as Chair of the Section. Therefore, I want to thank you all for working with me this year toward my goals of strengthening the relationship between the Commission and the Section and providing more service to our members. Moving the Section's meetings to the Commission has resulted in more member participation. In addition, we have had judges, commissioners and other members of the MWCC staff attend the meetings. The newsletters that Amanda Green Alexander has put together for us have been a wonderful service to our section. Please let Amanda know how much you appreciate her work in putting together the newsletters for our members.

You should have all received an email about the Kenneth G. Perry Professionalism Award that will be presented at the annual educational conference. The deadline for submitting your nominations to me is March 19. You may send an explanation for your nomination, or you may just send a name. The award committee will consider all nominations and determine the recipient. The recipient's name will be

kept confidential until the educational conference. Please read more about this award in a separate part of this newsletter.

The annual Power Behind the Throne seminar for paralegals will be held at the MS Bar Center on April 16. The agenda for the seminar and the registration form for the seminar were sent out via email last week. They are also included with this newsletter. Please encourage your paralegals to attend the seminar. Many thanks go to Judge Lott and Lydia Quarles for putting together an informative seminar.

As you review the program brochure for the educational conference, you will see that the section will have a lunch meeting following the conclusion of the formal conference. The executive committee thought that the educational conference was a good opportunity for all the workers' compensation attorneys to get together and discuss issues of our practice and plans for the section. It will also provide an opportunity to visit without the pressures of practice.

New officers and executive committee



Betty Arinder

members will take office beginning with the Annual Bar Convention in July. The officer nominations are as follows: Lindsay Varnadoe, Chair; Richie Edmonson, Vice Chair; Tommy Dulin, Secretary; Carlos Moore, treasurer. The other executive committee members are Amanda Green Alexander (term expires 7/2010); George Read (term expires 7/2011); Chad Shook (term expires 7/2012); Betty Arinder (Past Chair).

In closing, I would like to thank you all for the opportunity to serve as your Chair and to encourage you to increase your participation in the Section.

Sincerely yours,  
Betty Burton Arinder

# Views from the Bench

## Part II: The Savvy Prehearing Statement

### *By Judge Deneise Lott*



Judge Deneise Turner Lott

Claimant's counsel should file the PHS at the end of the 120-day discovery period, although the PHS may be filed as early as 60 days after the employer/carrier files an Answer with the Commission. Either party may request in writing that the 120-day discovery period be extended for good cause shown. Whether claimant files the PHS on the 60th or the 120th day, employer's PHS is due within 15 days after claimant files a PHS.

Caveat: if claimant's counsel plans to file a PHS before the expiration of the 120-day discovery period, claimant's counsel should notify employer/carrier's counsel of this intent as soon as possible during the discovery period. This important step should obviate the need for defense counsel to request an extension of the discovery deadline because he/she reasonably assumes the discovery period will extend 120 days.

Note too that the Commission rejects and returns to the sender all incomplete PHSs. This is because the Commission's need to scan and index complete documents has significantly diminished its enthusiasm for scanning and indexing incomplete documents. If you have a question about how to complete the PHS form or append the proper attachments, please call the Judge's legal assistant or call me directly at 601 987-4262. We want to help you file a complete PHS so that a hearing can be set as quickly as possible and the case resolved on the merits, not on the basis of a procedural dismissal for failure to file a complete PHS.

As the orders of dismissal for failure to file a complete PHS warn, a final order of dismissal for failure to timely file a complete PHS is "the rejection of a claim" sufficient to begin the running of the one-year statute of limitations under Miss. Code Ann. Section 71-3-53 (Rev. 2000). If a motion to reopen is not filed within a year of the date that the order of dismissal becomes final, the Commission loses jurisdiction of the claim. Beware too that a party who files a motion to reopen under Miss. Code Ann. Section 71-3-53 (Rev. 2000) must allege in the motion to reopen

and ultimately establish either a change in condition or a mistake of fact on behalf of the Commission.

Dismissals for failure to file a PHS can easily be avoided if claimant's counsel timely files a written request for a reasonable extension of time. Requests for additional time because claimant has not reached maximum medical improvement and employer/carrier are paying temporary disability benefits are routinely granted.

The PHS is also a helpful guide to assess the value of a case and to prepare for a hearing on the merits. The Commission uses the PHS for this purpose. Except for witness credibility, most of the information needed to estimate the value of a claim can be found in a PHS. For this reason, the filing of a PHS is a good time to begin serious settlement negotiations with opposing counsel and schedule a mediation. The mediator, no less than the AJ, needs the information contained in a PHS to value a claim and to help the parties reach common ground. But do not delay setting a hearing on the merits because you have wisely elected to mediate. Doing so just adds another layer of delay. Also, both parties are much more motivated to settle when faced with the prospect of a firm hearing date.

A final caveat regarding PHSs: when filing an amended PHS, title the amended or supplemental PHS as "Amended PHS" or "Supplemental PHS." Please boldface any new information on the amended form so that the Judge can quickly spot the update(s), but do not attach any documents previously attached to the original PHS. Just add the new/updated/more recently acquired documents.

And do not forget that an unsigned affidavit of a medical provider may be filed with the PHS as long as 1. the affidavit attaches the records and the affidavit has been sent to the provider, 2. copies of the affidavit and records are sent to opposing counsel, and 3.

the signed affidavit is offered by the hearing date. Also, a signed affidavit is not necessary if the parties stipulate to the admission of the provider's records.

#### About the Author:

About the author: Judge Deneise Turner Lott has served as an Administrative Judge with the Mississippi Workers' Compensation Commission since November 1988. She is currently senior judge and is the first woman to hold that position. She is currently a member of the Mississippi Bar, the Administrative Law and Workers' Compensation Section, the Women in the Profession Committee, the Mississippi Women Lawyers' Association, and the National Association of Women Judges.

## The Kenneth G. Perry Professionalism Award

### Scholar! Lawyer! Professor! Mediator! Family man! Outdoorsman! Friend!

Ken Perry's career in the law spanned 50 years, and throughout his career, he presented himself as a connoisseur of professionalism. A transplant from the State of Texas, Mr. Perry's legal career was spent entirely with a single firm which operates as Shell Buford, PLLC in the Jackson, Mississippi area.

The Workers' Compensation Section of The Mississippi Bar celebrates the memory of Mr. Perry's consummate professionalism in the field of workers' compensation by honoring one of its own with the Kenneth G. Perry Professionalism Award. The recipient is an attorney whose career is significantly focused on workers' compensation issues, and is a person who personifies civility, honesty, competence, and irreproachable ethics in his or her practice.

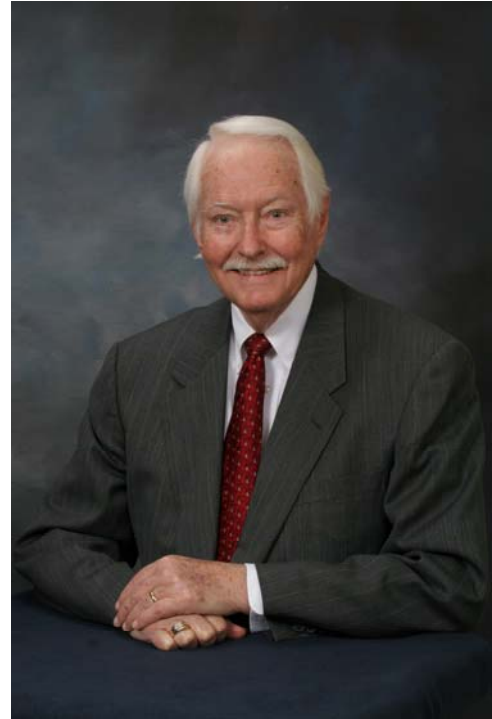
Mr. Perry set the standard by which all lawyers aspire to be judged. A hearty congratulations is extended to this year's recipient.

The Kenneth G. Perry Professionalism Award is awarded to a member of the worker's compensation section with the following criteria:

- More than 50% of his/her practice dedicated to workers' compensation cases;
- Practiced Mississippi workers' compensation law for 10 years or more;
- Shows civility in his/her practice toward other attorneys, judges and staff at the Commission;
- Honest;
- Competent;
- Follows the MWCC rules and procedures;
- Not unduly dilatory;
- Not unduly contentious;
- No record of ethics violations;

To nominate a member, please email your nominations to Betty Burton Arinder at [barinder@wilkins-law.com](mailto:barinder@wilkins-law.com) by March 19, 2009.

The recipient will be announced at the 22nd Annual Mississippi Workers' Compensation Educational Conference in April 2009.



**Kenneth G. Perry**  
1933 - 2008

# Ode to a Comp Claim (Ballad of Billy Bob)

By Terry Germany

I was on the job  
Lifting that sack  
And my lawyer now says  
Boy, you can't go back.

Been to the doctors  
Dr. Smith and Dr. Jones  
Don't know what's wrong  
They say it got something to do  
with my bones.

I used to fish – used to hunt  
Used to work in my garden  
But nowadays – officially  
I just feel real rotten.

That insurance money it ain't quite enough  
Barely covers my groceries, beer and snuff.

But my lawyer tells me  
There will be a brighter day  
Because that employer and carrier  
Sooner or later are gonna have to pay

I'll get that new bass boat  
I'll pay off that bank note  
And, you know, I been thinkin  
I'll buy the wife that brand new Lincoln

Even tho that insurance company  
Filmed me bailing hay  
Well, you know and I know  
That since I got hurt that was my only  
good day.

What does it matter  
What the employers and carriers say  
I'm the claimant by God  
I'll carry the day.

There's a beneficent purpose to the Act  
So you know those Judges  
Won't be confused by the facts.

I'll swear I'm in pain  
I'll swear I been hurt  
I'll swear on the Bible  
I'll never be able to work.

This pain I got – it really is severe  
Started in my back and now its gone into  
my ear  
And my lawyer tells me  
We'll make a bundle  
Once I get some symptoms of carpal tunnel.

I really can chop cotton  
I really can cut wood  
I'd get me a job on the assembly line  
If only I could.

But if I go punch a clock  
If I earn me a wage  
Neither me nor my lawyer  
Would ever get paid.

So I gotta be hurt  
Gotta have some depression  
Gotta teach that insurance company  
With who they're messin.

I've had the CT scans  
Had the MRI  
Had the myelograms  
Complete with that dye.

And half the doctors say  
They're all negative and  
The other half say  
I just get a few days to live.

But enough of my story  
Got this pain in my back  
Gotta see my new doctor  
His name? DR. QUACK.

## Defense Lament (in Soprano)

By Michael Steele

Guido showed up that day with his doctors in tow  
Orthos and neuros all decked for to show  
That Billy Bob was a faker and malingerer too.  
Had been gardening since he had nothing to do.  
Had been running a tractor, pulling some stumps.  
His injury hadn't hindered him being a hunk.  
Guido, the company lawyer, in his dark shirt and tie  
With horned rimmed glasses and a button-down fly,  
Attacked Billy Bob right out of the box  
Welted him, whaled him, then grinned like a fox

The Administrative Judge sitting that day  
With no contempt powers watched Guido play  
Horned rims on, horned rims off.  
Questioning Billy, pausing to scoff.  
Since he hadn't bothered to get a lawyer  
Guido lapped him like cream. stopping only to purr:  
"Beg my lady's pardon," or "Prithee, attend."  
(To this damning question, as I ask again)  
"Isn't it true you were kicked as a boy,  
By a mule that bounced your L4 like a toy?"

Billy Bob, sitting quiet but gathering steam  
Pain in his back near making him scream  
Till Guido went too far, one final question,  
"Aren't you in fact just hurting for fun?"  
Up out of the chair, buckknife in hand,  
"You four-eyed S-B, that's all I can stand,  
You've trampled my case and had your fun,  
But I'll make you a eunuch before I'm done."  
High-pitched screams, chaos, castrato voice pure.  
Guido: "I'll send an Order in due course be sure."

**Michael Steele, a true professional served the Workers' Compensation Section and our profession until his death in July 2004, after a short but intense battle with cancer.**

# KEEP THE CUSTOMER SATISFIED

## POWER BEHIND THE THRONE IX CURRICULUM AND AGENDA

### April 16, 2009 – The Mississippi Bar Center

- 9:00 to 9:30: Identifying Your Customer**  
A slightly different tactic this year – we're going to do some hands-on application to discern who the customer really is.  
*Application directed by Lydia Quarles*
- 9:30 to 10:00: Identifying Your Customer's Needs**  
In the application style, we're going to do some hands-on considering of how to identify the customer's real needs.  
*Application directed by Lydia Quarles*
- 10:00 to 10:15: Break**
- 10:15 to 11:45: Boss as Customer – Get Acquainted with the Law**  
Back by popular demand, a review of the legal opinions issued by the Mississippi Appellate Courts since last year  
*Jones Funderburg Sessums Peterson & Lee*
- 12:45 to 12:00: Break**
- 12:00 to 1:15: Box Lunch on Premises**
- 1:15 to 1:30: Power Award**  
The Power Award Winner for 2008, Shauneste Hardacre will receive her plaque and the 2009 Winner will be announced.  
*Ms. Glenda McHenry, first Power Award Winner, will officiate.*
- 1:30 to 2:30: Boss' Clients as Customers – Get Acquainted with Business Protocol**  
*Nina Stubblefield Tollison and Amanda Alexander*
- 2:30 to 2:45: Break**
- 2:45 to 4:00: Docket Room Legal Assistant Panel – The Real Power!**  
Discuss real issues with the Power Behind the Throne at the Commission, the Docket Room Legal Assistants.  
*Panel with Docket Room Legal Assistants will be moderated by Judge Deneise Turner Lott*
- 4:00 to 4:30: Goodies!**  
*The Honorable Virginia Mounger, Amy Lee Topik and Betty Arinder*
- 4:30: Adjourn**



POWER BEHIND THE THRONE IX:  
KEEP THE CUSTOMER SATISFIED  
Thursday, April 16, 2009  
The Mississippi Bar Center, Jackson, MS  
Registration Form

Name: \_\_\_\_\_

Employer: \_\_\_\_\_

Phone number (office): \_\_\_\_\_

Email: \_\_\_\_\_

The check should be made out to Kids' Chance Scholarship. It is 100% tax deductible as a charitable contribution. The Tax ID number is 646029087

Please mail this form, along with your \$125.00 registration fee to:

Lydia Quarles  
Chief Administrative Officer, Workers' Compensation Section  
1016 Louisville Street, Suite F  
Starkville, MS 39759

## The Mississippi Bar Workers

P.O. Box 2168  
Jackson, Mississippi 39225-2168

Rene' Garner  
Section and Division Coordinator  
Phone: 601-355-9226  
Fax: 601-355-8635  
Email: rgamer@msbar.org



### Workers Compensation Section Officers

#### Chair

Betty Arinder  
barinder@wilkins-law.com

#### Vice-Chair

Lindsay Varnadoe  
lvarnadoe@allen-kopet.com

#### Secretary

Gary K. Jones  
gjones@danielcoker.com

#### Treasurer

Pepper Cossar  
pcossar@markowwalker.com

#### Past Chair

Marjorie O'Donnell  
modonnell@claytonodonnell.com

#### Executive Committee

Willie Terrell Abston  
willie.abston@butlersnow.com

Amanda Green Alexander  
aga@alexanderandwatson.com

Orlando "Rod" Richmond, Sr.  
orlando.richmond@butlersnow.com

George E. Read  
gread@danielcoker.com

# Calendar of Events

## The Power Behind the Throne Seminar

April 16, 2009

To donate door prizes for this event, please contact Amy Topik at atopik@markowwalker.com

## MS Workers' Compensation Commission Annual Educational Conference

April 22-24, 2009

## Worker's Compensation Section Luncheon Meeting

April 24, 2009

Beau Rivage, Biloxi, MS

## Kid's Chance Benefit Tennis Tournament

Parham Bridges Park, Jackson - May 30, 2009

\$25 per person. For registration information, please contact Lindsay Varnadoe at lvarnadoe@allen-kopet.com

## Worker's Compensation Section Meeting

June 1, 2009 at 4:00 p.m.

MWCC Full Commission hearing room in Jackson, MS  
Networking Social at Nick's Restaurant immediately following

## The Mississippi Bar Annual Meeting

July 15-18, 2009

## Worker's Compensation Section Meeting

July 17, 2009 - Destin, Florida

## About the Editor - Amanda Green Alexander

About the Editor: Amanda Green Alexander, a native of Kokomo, Mississippi, is a shareholder of Alexander & Watson, P.A. in Jackson, Mississippi. She represents both self-insured employers and insurance companies in the areas of worker's compensation, labor and employment law. She is a member of the Mississippi Bar Association, the District of Columbia Bar Association, the Hinds County Bar Association, Young Lawyers Division of the Mississippi Bar, the Magnolia Bar Association, Executive Board Member of the Worker's Compensation Section and Women in the Profession of the Mississippi Bar. She is a certified "Kids Chance" mediator of the Mississippi Worker's Compensation Commission and serves as President of the Mississippi Women Lawyers' Association.

If you are interested in submitting an article or would like to announce upcoming worker's compensation events, please forward this informa-



Amanda Green Alexander

tion to Amanda Green Alexander, Alexander & Watson, P.A. at aga@alexanderandwatson.com

#### Special Thanks:

Special Thanks to our contributing writers and to Rene' Garner at The Mississippi Bar for assisting with editing and distribution of our issues of "Our Work and Our Clients."