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THE MISSISSIPPI BAR **2013**



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SENATORIAL VACANCIES - ELECTIONS - Miss. Code Ann. § 23-15-855 states that if a vacancy occurs in the office of a United States Senator from Mississippi by death, resignation or otherwise, the Governor shall, within ten (10) days from the time the proclamation is issued, issue his proclamation for an election to be held in the state to elect a Senator to fill such unexpired term as may remain, provided the unexpired term is more than twelve (12) months.

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This issue of the magazine features articles provided by the new Appellate Practice Section of The Mississippi Bar.



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LOCATION

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SALARY/TARGET

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ANNOUNCEMENT

MSSD 2013-1

POSITION OVERVIEW

The U. S. District Court for the Southern District of Mississippi is seeking a senior level executive with expertise as an administrator to serve as the Clerk of Court. The Clerk of Court is appointed by the Court's Board of Judges and has overall management authority and responsibility for the non-judicial components of the court. As the Court's chief administrative officer, the Clerk works closely with the Chief Judge in assuring that the administrative and operational needs of the Court are effectively and efficiently met. The Clerk is responsible for providing administrative support services in the areas of human resources, systems technology, space and facilities, records management, civil and criminal case load management, budget and court staff management. The Clerk serves as the Court's liaison and works cooperatively with federal and local government agencies, bar groups, media representatives and the public. The Clerk serves at the pleasure of the Court and is responsible for performing the statutory duties of the office of the Clerk pursuant to 28 U.S.C. §751. The position becomes available on January 13, 2014.

Qualifications:

This position requires a bachelor's degree in business, court administration or other related field from an accredited college or university, and a related graduate degree is preferred. A minimum of ten (10) years of progressively responsible administrative experience in public service, law or business, which provides a thorough understanding of organizational, procedural, and human resource aspects in managing an organization, is also required. At least three (3) years of experience must have been in a position of substantial management responsibility. Preference will be given to candidates who have an operational knowledge of the courts and experience in financial management, space and facilities management, human resources management, oversight of information technology and responsibility for long and short range planning. Active practice of law in the public or private sector may substitute for the management or administrative experience requirement. Education experience may substitute for general experience.

Salary and Benefits:

The Clerk of Court compensation classification is a level JSP 16-17 (\$133,735 to \$165,300), depending on experience and qualifications. Federal benefits such as paid leave, retirement, health insurance and life insurance are provided.

Security Requirements:

The office of Clerk of Court is defined as a "High-Sensitive" position and the selected candidate must successfully complete an FBI background investigation.

How to apply:

Qualified persons are invited to submit a cover letter discussing the applicant's interest in the position and a comprehensive resume of qualifications, education and employment experience. Also required is a completed Application for Judicial Branch Federal Employment (Form AO 78) – available at www.uscourts.gov. A detailed position announcement may be obtained on the court's website, www.mssd.uscourts.gov.

Farewell

When I took the oath as your president in July of last year there were a number of issues facing our association. Our law schools were graduating more new lawyers than there were jobs available. Nationwide last year almost half of the graduates did not find law related employment within six months of graduation. In this day of lap tops, scanners and on-line research a lawyer can enter the market for relatively low cost. Accordingly, an increasing number of new graduates are going solo or in partnership with a classmate while being burdened by a large student loan debt. While I firmly believe there is always a need for good hardworking competent lawyers, a young solo without a mentor or other support faces a difficult headwind which can cause many problems for himself and his clients. After a year as your president I can tell you this problem has not gone away.

This year our law schools are accepting fewer students in part due to a reduction in applicants and also due to self imposed restraint. In the near term the number of graduates should reduce but it is uncertain whether the job market will improve. As established attorneys we should seek out our younger brethren to lend them a hand as they struggle to achieve what we have obtained in our professional careers and the Bar should continue to seek to provide the infrastructure necessary to be a valuable resource for the young lawyers.

Another issue that faced us last year is the matter of judicial funding. Many states are facing loss of revenues as a result of the economic downturn over the last five years and as a result legislatures have taken drastic measures to cut funding. In Mississippi our legislature has faced similar revenue issues. However, because of the tireless efforts of our Chief Justice and the Bar's Government Relations Director, Jimmie Reynolds in cooperation with our legislative leaders, the Courts have received funding to keep the courthouse doors open. This year the legislature approved a budget that will allow the Courts to maintain the current level of employees and provide needed

upgrades in computer hardware and software. Nevertheless, judicial funding continues to be inadequate and this problem has not gone away.

In visiting with my fellow bar presidents around the country I've heard of reports where some state courts are having to cut back to four days a week and layoff court clerks, law clerks and bailiffs. While our state courts in Mississippi have not suffered this fate we as members of the bar need to be vigilant in our support of the funding efforts of our Chief Justice. Frankly, to me it is unbecoming for our Chief Justice to have to go before legislative committees and join in a scrum with other state agencies over funding. As a separate branch of government which consumes less than 1% of our state budget yet presides over the rule of law which in essence empowers the other two branches, the judiciary should not have to depend upon the legislative and executive branch to pay its bills. As participants in our system of laws we need to work toward reforming the mechanism for judicial funding so that our courts can continue to do the work for which they are designed without having to participate in political maneuvering.

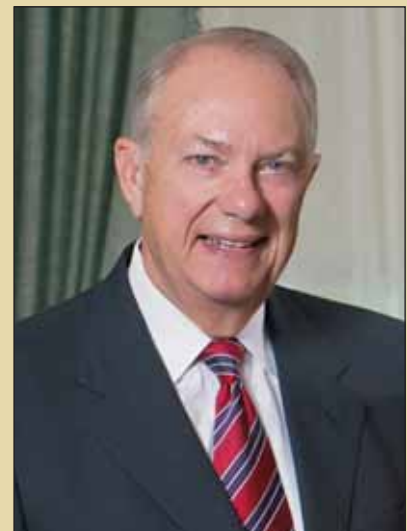
On this same subject, I recently attended the Fifth Circuit Judicial Conference in Fort Worth and learned that our Federal Courts are being victimized by the Sequester to the point that in just a few short months they will not be able to maintain the staff to provide the current level of service. Since the law requires criminal trials be conducted within prescribed time lines, the criminal docket will have to take precedence over civil trials. Federal probation personnel will necessarily be adversely impacted to the point were the federal probation program may not be able to adequately handle the number of cases. To say it succinctly, our federal court system is going to be detrimentally impacted by Sequester. On a recent trip to Washington Guy Mitchell and I met with members of our congressional delegation and this topic was the front and center issue we discussed. Again, we as lawyers have a vested interest in our federal courts being funded adequately. Please join me

in encouraging our representatives in Washington to fix this problem.

There are other issues that face our profession and our association but you can take comfort in the fact that your incoming leadership is equipped to handle the job. One of the benefits that have come our way this year is getting to know and work with Guy and Susan Mitchell. Marcia and I have come to love these two friends and as you get to know them you will share our appreciation for them. I often say that if in describing Guy Mitchell is used the lexicon of baseball I'd say Guy can hit for power and average, has a good glove and a strong arm, can steal a base and is a good clubhouse guy. Guy Mitchell will do a fabulous job as our President.

As I close out my year as President I want my fellow lawyers to know that I appreciate the opportunity that you have given me to serve our profession and I hope that in some way I've left our association in as good a condition as I found it. I will forever remember the new friends I've made and the old acquaintances I've renewed and the joy I've experienced in this honorable office. I wish nothing but the best for all of you in the future. ■

Regards,
Lem



*Lem Adams
President of The Mississippi Bar
2012-2013*



The Mississippi Bar 2013



Participants of the Mississippi Bar 2013 Leadership Forum are from left: (front row) Kendra Lowrey, Taylor A. Heck, Clay Gunn, Denita N. Smith, Dellwyn K. Smith; (back row) William "Brad" Palmertree, Wendy H. Ellard, Graham P. Carner, Krissy M. Casey, Brant Ryan, J. Seth McCoy, Clifton "Cliff" Michael Decker, Shundral Hobson, J. Matthew "Matt" Eichelberger, Jacinta A. Hall, Jeremy P. McNinch. Not pictured: Haley M. Brown, Jennifer Watts Redditt, Andrew J. Stubbs, and Stephen P. Wilson.

Participants

Haley M. Brown, Starkville
Krissy M. Casey, Tupelo
Graham P. Carner, Jackson
Clifton "Cliff" Michael Decker, Jackson
J. Matthew "Matt" Eichelberger, Jackson
Wendy Huff Ellard, Jackson
Clay Gunn, Jackson

Jacinta A. Hall, Jackson
Taylor Allison Heck, Jackson
Shundral Hobson, Gulfport
Kendra Lowrey, Lumberton
J. Seth McCoy, Jackson
Jeremy P. McNinch, Pass Christian
William "Brad" B. Palmertree, Hernando

Jennifer Watts Redditt, Oxford
Brant Ryan, Ridgeland
Dellwyn K. Smith, Jackson
Denita N. Smith, Jackson
Andrew J. Stubbs, Ridgeland
Stephen P. Wilson, Meridian

Leadership Forum Class



Past Bar President Cham Trotter spoke on “Professionalism and Public Perceptions.”



Past Bar President Nina Stubblefield Tollison discussed, “Values Matter.”



“Business Ethics” was addressed by Brenda Redfern.



York Craig, Jr. Past Bar President, talked about “Civility and Values.”



General Counsel of the MS Bar, Adam Kilgore, discussed “The Lawyer’s Creed.”



“The Professional & Ethical Implications of Impairment” was the topic of Chip Glaze, Executive Director of the Lawyers & Judges Assistance Program



Senator Briggs Hopson addressed the class.



Senator Sally Doty spoke to the group.



Representative Robert Johnson addressed the Leadership Forum.



The Mississippi Bar 2013

Patti Gandy addressed the class as the Director of the Legal Aid Office of Mission First.



Martin Willoughby, COO of Butler Snow Advisory, was the moderator for "A New Breed of Leader."



Bonnie Allen, the Development Director for the Mississippi Center for Justice, addressed the class on the MS Center for Justice.



The public service program of the MS Bar, High School Mock Trial Competition, was addressed by Jeremy McNinch, 2011-2012 Jackson Regional Chair.



Tiffany Graves, General Counsel and Executive Director of MVL, spoke about "Mississippi Volunteer Lawyers Project" and the MS Bar's "Wills for Heroes" project.

Access to Justice Executive Director Davetta Lee gave an update on "Access to Justice."



"Mississippi College School of Law and Pro Bono Initiatives" was addressed by Dean Jim Rosenblatt.



Leadership Forum Class



Mississippi Bar Foundation President-Elect Steve Rosenblatt spoke about “Another Perspective” and Rebecca Wiggs, 2012 Lawyer Citizenship Award recipient, spoke about “Community Involvement.”



Past MS Bar President Reuben Anderson addressed the class on “Leadership in Organizations” and Governor William Winter spoke on “The Measure of Our Days.”



Pictured with Governor William Winter, right, is MS Bar Executive Director Larry Houchins, who gave the “Charge” to the Leadership Forum class.



MS Bar President Lem Adams, who spoke on “Over a Century of Service to the Members & the Public”, and Martin Willoughby, who spoke on “Leadership.”



Mississippi Court of Appeals Judge Jimmy Maxwell gave a talk on “Professional Development and Being Involved.”



Chief Justice William Waller addressed the class at the Carroll Gartin Justice building.



Chad Russell, Past President of the Young Lawyers Division, spoke on “Young Lawyers Division – Celebrating 75 Years.”

Protecting Client Information through the Remedy

On November 29, 2012, the Board of Bar Commissioners for The Mississippi Bar approved Mississippi Formal Ethics Opinion No. 259, advising Mississippi lawyers of their conduct and obligations regarding metadata.

Metadata is hidden data contained in most computer files and ranges from such benign information as the date the file was created, to possibly critically secret information as client comments or attorney notes contained within a file. It is this latter group of potentially harmful information that resulted in Opinion No.259. Mississippi is the 17th state to publish a formal ethics opinion on metadata. While most states' positions fall squarely on one of two sides on the issue, either prohibiting all uses of metadata or permitting the unlimited search for hidden data within documents, Mississippi's more balanced approach permits the use of metadata for its intended purposes, without opening documents to unintended mining for inadvertently disclosed information. Formal Opinion No.259 serves to both alert Mississippi practitioners of their duties to protect client confidences, even when such protection may be less than obvious, yet also precludes deceptive practices of those who may seek to gain an unfair advantage due to an opponent's lack of technical sophistication.

What is "Metadata?"

Lawyers engaged in the modern law practice routinely make use of electronic documents and image transmission, often as email with attachments in either their native application file format or Adobe Portable Document Format (PDF). Almost all electronic documents include data that is not readily visible when viewed on a computer screen or as a printed document. This hidden data is called "metadata." One purpose of this hidden data controls such mundane functions as typeface, font size, italics, bold,

document creation date, names of authors, and other similar information about the file. However, metadata may also include less benign information, such as user comments, prior versions or changes to the document, and remnants of previously deleted text. One simple definition of metadata is "information about information." A more precise definition is provided by the Sedona conference, a legal think tank consisting of judges, attorneys, and others experienced in electronic discovery matters:

Metadata: Data typically stored electronically that describes characteristics of ESI [electronically stored information], found in different places in different forms. Can be supplied by applications, users or the file system. Metadata can describe how, when and by whom ESI was collected, created, accessed, modified and how it is formatted. Can be altered intentionally or inadvertently. Certain metadata can be extracted when native files are processed for litigation. Some of the metadata, such as file dates and sizes, can easily be seen by users; other metadata can be hidden or embedded and unavailable to computer users who are not technically adept. Metadata is generally not reproduced in full form when a document is printed to paper or electronic image.³

Another definition, provided by the Federal Judicial Center, defines "metadata" as "information about a particular data set or document which describes how, when, and

Continued on page 14

Internet Confidences Removal of Metadata



*By Ronald C. Morton, LL.M., CELA¹
and Adam Kilgore²*

Protecting Client Confidences through the Removal of Metadata

by whom the data set or document was collected, created, accessed, or modified; its size; and how it is formatted. Some metadata, such as file dates and sizes can be easily seen by users; other metadata can be hidden from users but are still available to the operating system of the program used to process the data set or document.”⁴

Why Should Lawyers Care About Metadata?

A fundamental principle of legal professional responsibility is the lawyer’s

protection of confidential information. Rule 1.6 of the Mississippi Rules of Professional Conduct (“MRPC”) expressly prohibits lawyers from revealing client confidences. In order to ensure this fundamental tenet of client confidentiality is not breached, a lawyer must know something about the information that may be tagging along with electronic documents he may be transmitting to others.

Lawyers have a duty to avoid disclosure of information which may be harmful to the client. MRPC 1.6 provides:

A lawyer shall not reveal information relating to the representation of a client, unless the client gives informed consent.

Obviously, supplying a document to the opposing side or possibly worse, to the public at large, which contains earlier revisions or hidden internal notes or comments to the document, carries a high risk of a non-permitted disclosure. For example, an MS Word file of a 2004 lawsuit against DaimlerChrysler and AutoZone by the SCO Group, a holder of some Linux OS patents revealed that the initial target of that lawsuit was actually Bank of America, but that the bank was removed shortly before suit was filed and replaced with the named defendants. The metadata contained in this same document likewise revealed venue shopping between earlier drafts, and numerous internal notes and comments among counsel regarding strategy.⁵

Other horror stories exist regarding metadata. In 2005, a seemingly anonymous electronic document was circulated regarding then Supreme Court nominee Samuel A. Alito, Jr. that referred to his “anti-civil rights and anti-immigrant rulings.” The document’s metadata, showing the names of the authors and date of creation, revealed that the memo was drafted by two members of the Democratic National Committee. In another instance, a law firm partner had assigned work to an associate and later claimed that he had authored it. Because the document had not been scrubbed for metadata, the client was able to determine that the associate had done the large majority of the work and that they should not have been billed at the “partner rate.”⁶

The disclosure of metadata can, at a minimum, be extremely embarrassing for counsel, but has the very real risk of significantly greater harm to clients. Consider, for example, a final settlement agreement draft circulated to opposing counsel which contains internal comments between attorney and his client revealing their impressions of an appropriate settlement range, or comments about whether certain provisions were important or not. Every lawyer must be cognizant about the danger of transferring such electronic documents in their native format. Such information is not limited to documents either, as one recent high pro-



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file example reveals. While the White House's late-night announcement refused to disclose specific information on the precise time of the raid on Osama Bin Laden's compound, the digital image of the President and senior administration observing the raid in the situation room reveals the precise time that the image was taken, more than 6 hours earlier.⁷

The Questions Presented to the Ethics Committee

Given the dramatic consequences of an inadvertent disclosure of hidden information, in 2007 the Mississippi Bar's Ethics Committee was presented with two questions facing Mississippi lawyers:

- 1) Does an attorney have an affirmative duty to take reasonable precautions to insure that confidential metadata is not inadvertently or inappropriately disclosed?
- 2) Is it unethical for an attorney to mine metadata from an electronic document that he or she receives from another party?

These two questions led the Ethics Committee, and eventually the Board of Bar Commissioners, to a place where both legal ethics and technology converge. The first obstacle was for the Ethics Committee to comprehend the question, "what is metadata?" Armed with the assistance of two committee members with technology backgrounds, the Committee became informed with the technological components of the issue and was able to consider the question within the context of the Mississippi Rules of Professional Conduct. As is typically the case when an ethics opinion request is submitted, there was not a rule or prior ethics opinion from Mississippi on point. From there, the Committee looked at ethics opinions from other states. At least 16 other states, together with the American Bar Association, have rendered metadata ethics opinions.

On the first question regarding a lawyer's duty to protect against revealing client confidences in metadata, every state to date addressing the issue has opined that lawyers have a duty to exercise reasonable care when transmitting electronic documents to ensure that they do not disclose client confidences.⁸

To Mine or Not to Mine – That is the Question

Those states answering the second question of whether an attorney may ethically actively search for or "mine" metadata from electronic documents they receive from another party fall into two camps.

Mining Prohibited

Alabama, Arizona, Florida, New Hampshire, and New York all have concluded that applicable rules of professional conduct prohibit a recipient lawyer from searching for metadata in electronic documents.⁹ The conclusions of these Bar associations are based upon the respective rules of professional conduct protecting confidential client information, and which prohibit lawyers from engaging in conduct which is "deceitful, dishonest, or prejudicial to the administration of justice." Likewise implicated are the rules requiring respect for the rights of others. These opinions also share a conclusion that lawyers who purposefully search for metadata are unjustifiably attempting to intrude on a confidential relationship between lawyer and client, or otherwise gain from the work product or mental impressions of a sending lawyer, and further conclude that this type of conduct is dishonest, deceitful, and prejudicial to the administration of justice.

The first significant bar opinion on the subject, New York Bar Ethics Opinion 749 (2001), relied primarily upon a lawyer's ethical duty to refrain from dishonest, fraudulent, or deceitful conduct. In that opinion, the New York Bar Ethics Committee concluded that "lawyers may not ethically use available technology to surreptitiously examine and trace e-mail and other electronic documents." That committee concluded that "the strong policies in favor of confidentiality outweighs what might be seen as the competing principles of zealous representation....no such balance need be struck here because it is a deliberate act by the receiving lawyer, not carelessness on the part of the sending lawyer, that would lead to the disclosure of the client confidences and secrets." See also, New York Bar Ethics Opinion 782 (2004) ("lawyer recipients also have an obligation not to exploit an inadvertent or unauthorized transmission of client confidences or secrets.").

Florida likewise concluded that "a

lawyer receiving an electronic document should not try to obtain information from metadata that the lawyer knows or should know is not intended for the receiving lawyer."¹⁰ The Florida Bar went further in stating that a recipient lawyer was under an obligation "not to try to obtain from metadata information relating to the representation of the sender's client that the recipient knows or should know is not intended for the recipient."¹¹

The Alabama Bar, in a 2007 opinion, followed New York and Florida in its conclusion that "the receiving lawyer also has an ethical obligation to refrain from mining an electronic document."¹² Alabama based its result on "the strong public policy in favor of preserving confidentiality as the foundation of the lawyer client relationship." The New Hampshire Bar Association ethics committee likewise concluded that intentional mining of data by a recipient lawyer is unethical. New Hampshire based this conclusion on an implied obligation on the receiving lawyer to refrain from revealing information that the lawyer knows has been inadvertently sent, citing Rule 4.4(b). Specifically, it was the committee's conclusion is that every circumstance of metadata containing client confidences is by its very nature inherently known by the recipients to have been "inadvertently sent", because no lawyer would ever knowingly send confidential information in violation of rule 1.6. This reasoning "dictates a conclusion that receipt of confidential information in the form of metadata is the result of inadvertence, just as receipt of attorney notes stapled to draft documents would necessarily be the result of inadvertence. As a result, rule 4.4(b) imposes an obligation on the receiving lawyer to refrain from reviewing the metadata."¹³ "The committee believed that purposefully seeking to unearth confidential information embedded in metadata attached to a document provided by opposing counsel implicates the broad principles underlying the rules, including the strong public policy in favor of maintaining confidentiality."¹⁴

Mining is Permitted

In contrast to the above cited jurisdictions' prohibition against lawyer mining of metadata, the other jurisdictions addressing the subject, and the ABA's own opinion, adopted a view permitting such

Continued on next page



searches without limit, placing the entire burden of preventing disclosure solely on the shoulders of the sending lawyer. Colorado, Maryland, Oregon, Vermont, Washington, and Wisconsin each take the view that the absence of a specific rule on the subject prohibiting the conduct of metadata mining makes the conduct permissible. For example, recognizing that “metadata is ubiquitous in electronic documents” and that the model rules “do not contain any specific prohibition against a lawyer for viewing and using embedded information and electronic documents,” the American Bar Association opined that the only ethical obligation was that of the sending lawyer to exercise reasonable care not to send such confidential information. “A lawyer who is concerned about the possibility of sending, producing, or providing to opposing counsel a document that contains or might contain metadata, or who wishes to take some action to reduce or remove the potentially harmful consequences of its dissemination, may be able to limit the likelihood of its transmission by “scrubbing” metadata from documents or by sending a different version of the document without the embedded information.”¹⁵

Maryland likewise concluded that “there is no ethical violation if the recipient attorney... reviews or makes use of

metadata without first ascertaining whether the sender intended to disclose to [the defendant].”¹⁶ Colorado also adopted this more liberal view, concluding that since legitimate uses for metadata exist, all uses of metadata are justified. “There is nothing inherently deceitful or surreptitious about searching for metadata.” That belief, combined with the absence of any specific rules prohibit in such searching, lead to Colorado’s conclusion that there is no prohibition against any uses of metadata, including mining.

Don’t Look if You Know Disclosure was an Accident

A third “hybrid” approach seems to have been adopted by the District of Columbia, which concluded “a receiving lawyer is prohibited from reviewing Metadata sent by an adversary **only where he has actual knowledge that the metadata was inadvertently sent.**”¹⁷ “[W]e believe that mere uncertainty by the receiving lawyer as to the inadvertence of the sender does not trigger an ethical obligation of a receiving lawyer to refrain from reviewing the metadata... Where there is such actual prior knowledge... the receiving lawyer’s ethical duty of honesty requires that he refrain from reviewing the metadata until he has consulted with the sending lawyer to determine whether the

metadata includes privileged or confidential information.”¹⁸

Mississippi’s Approach

It was against this backdrop that the Ethics Committee of the Mississippi Bar engaged in careful study and healthy debate regarding its members’ obligations and conduct regarding this issue. What are our obligations as attorneys as it relates to technology? Are we required to be technologically competent under Rule 1.1, MRPC, which states that “competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation”? Does our duty of confidentiality as set forth in Rule 1.6, MRPC, require us to take steps to protect confidential information from being inadvertently disclosed?

Eventually, the Ethics Committee concluded that both the sending and receiving attorney have obligations as to confidential metadata. An opinion was carefully drafted and submitted to the Board of Bar Commissioners for consideration and approval. Just as had taken place at the Ethics Committee level, there was significant discussion among the Bar Commissioners as to the merit of such an opinion and the same obstacle was presented as before; what is metadata and what are attorney’s ethical obligations? This discussion led to it being returned to the Ethics Committee for further consideration.

While the Committee considered the Ethics Opinion request and other related issues, there was further development in other states as to a lawyer’s duties as it relates to metadata as well as a formal opinion issued by the American Bar Association. Taking into account the new developments, the proposed ethics opinion was revised and again presented to the Board of Bar Commissioners, where it unanimously passed, resulting in Mississippi Formal Ethics Opinion No. 259.

Much care has been given to the creation of this opinion, as has its implications on Mississippi attorneys. The Opinion passed in December of 2012, but it’s “launch” was intentionally delayed to allow time for the Bar’s website to be redesigned and to include a video section for Bar members to view to aid them in fulfilling their ethical obligations as set forth in the opinion.¹⁹ Lawyers in Mississippi now have clear guidance

regarding the professional expectations of their own conduct, and the expectations of their peers, with respect to hidden metadata:

1. A lawyer must take reasonable steps to ensure that confidential information is not disclosed through the transmittal of digital documents or other file types.

2. While a lawyer can use metadata intended to be seen and used without special measures, he may not purposefully search a document for such hidden information in an effort to obtain information not intended to be disclosed.

The basis for the first conclusion is self evident. Rule 1.6 prohibits the disclosure of client confidences. The fact that changing technology now makes protection of those confidences less obvious does nothing to reduce or eliminate our duty as lawyers to protect our client's secrets. Our ethical obligation as protector of client secrets is clear, and this duty extends to our understanding of the operation of the technology that we utilize.

The basis for the prohibition of against mining, however, may be less obvious.

Professionalism is a Shared Duty. Support for Opinion No. 259 can be drawn from Mississippi Ethics Opinion No. 253, which, while not addressing metadata, did address the attorney's ethical obligations when the attorney receives unintended attorney-client communication between opposing counsel and their client. The reasoning and basis for that opinion apply to the metadata question as well. In that opinion, the Committee recognized a lawyer's obligation to "act in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession." As is also the case in the metadata question, the committee noted in Opinion No. 253 the absence of any specific rule of professional conduct directly addressing the issue presented, but nonetheless concluded that rule 8.4 (d) "places an obligation upon every lawyer to take steps to preserve the attorney-client privilege in order to effect the orderly administration of justice." That obligation extends to an inadvertent lawyer recipient of such communication. Similarly, the "scope" of the rules of professional conduct note that the rules are not intended as

an exhaustive moral or ethical code, but rather provide a framework for the ethical practice of law.

The basic concepts of fairness and decency also dictate that lawyers conduct themselves as professionals. The Lawyers' Creed²⁰ directly addresses our professional obligations to clients, to opposing parties and their counsel, to the courts, to our colleagues in the practice of law, to the profession and to the public. A common theme throughout the Lawyer's Creed is our obligation to "fairness" and "integrity" as well as our obligation "to seek the common good through effective and ethical representation" of our clients. Intentionally searching a document for otherwise hidden information not reasonably expected to have been sent knowingly by opponent is not "decent" or "ethical" behavior. Rather, it is behavior more closely resembling sneaking a peak at an opponent's notes during a deposition break, placing a glass against a wall when an opponent confers with his client in an attempt to learn the contents of their privileged discussion, or rummaging through

their trash at night. The law is a profession, not a mere trade, and as such has associated with it a general expectation of honesty, integrity, mutual courtesy, and professionalism not shared by the public at large. Mining documents in an attempt to discover client confidences or attorney strategies is inconsistent with such professionalism. Lawyers should be able to reasonably assume that their opponent will not intentionally seek to discover confidential information to use against their clients by such surreptitious methods as document mining.

Likewise, all lawyers have an obligation to protect against the disclosure of confidential information. While Rule 1.6 recognizes the obligation to keep client confidences as a fundamental hallmark of the legal profession, and places that duty of non-disclosure upon the representing lawyer, Rule 4.4 (b) serves as a recognition that this obligation is not limited solely to the client's own attorney. Rule 4.4 (b)'s obligations is placed *directly upon a recipient lawyer* who becomes the inad-

Continued on next page

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Protecting Client Confidences through the Removal of Metadata

vertent or unintended recipient of confidential information, and charges him with other responsibilities to protect the attorney-client privilege, by informing the opponent of the disclosure. The implementation of this rule in 2005 recognized that the protection of the attorney-client privilege is a shared responsibility, and obligates both sides to a duty to protect the privilege. Although rule 4.4 (b) stops short of limiting a lawyers further review or use of the inadvertently received document, by requiring only that the receiving lawyer notify the sender, the rule nonetheless creates duties upon the recipient in furtherance of protecting the privilege. Implicit in this obligation is a further obligation of a recipient lawyer not to intentionally look for any information that may have been inadvertently sent, such as metadata.

Finally, Rule 8.4 (c) and (d), MRPC, provides “it is professional misconduct for a lawyer to... engage in conduct involving dishonesty, fraud, deceit or misrepresentation; engage in conduct that is prejudicial to the administration of justice;..” When a lawyer “mines” an opponent’s metadata, he has engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. While Rule 8.4 (c) is implicated only when the receiving lawyer intentionally seeks to uncover or mine the metadata, as opposed to accidental discovery through legitimate uses of the data previously discussed in this opinion, mining is clearly prohibited by this Rule.

Just as before with the Ethics Committee and then the Board of Bar Commissioners, each Mississippi lawyer is now charged with understanding, “What is metadata?” and “How to I prevent passing it along?”

Practical Steps for Removing Metadata

Metadata is not new. It has been in existence since computers first began in order to organize data and keep a time stamp on when it was created. There are precursors to metadata in history, including watermarks embedded in paper or currency and even library cards with records of the patrons using a book. In both historical examples, one can see where something came from and to some extent, where it went from there. Metadata in electronic documents today does much of the same. Some current technological examples of metadata include changes made in edited documents, comments

made by reviewers of a document, dates and other properties of a document and features in Word, Excel, Word Perfect and other programs.²¹

Admittedly, much of the information passed on from metadata is harmless or irrelevant. The date and time when certain changes were made to a document tend to not be an issue, until that is, it is... Metadata can reveal information in the form of prior language in earlier drafts of a document (which may be usable as admissions), changes to language made by lawyers or clients that can reveal strategy or settlement ranges or authority, comments to the document that reveal client views or concerns, date of creation (which can be relevant as evidence), who reviewed the document (also potentially evidence), the identity or matters handled for prior clients (ever cut and paste a document from another matter? It may contain the other client’s confidential information), attorney-client privileged matters and work product material (which can risk waiver), and, information related to Rule 1.6, MRPC, which the lawyer is ethically bound to protect against disclosure.²²

As a practical matter, the Mississippi Practitioner may employ the numerous steps to protect from the inadvertent disclosure of confidential information through metadata. Sophisticated proprietary software, such as Payne Group’s Metadata Assistant exists for the sole purpose of removing metadata from Microsoft Office documents.²³ However, a far simpler approach may simply be to print out a hard copy of the document to be sent and then simply scan and email the document as a PDF, or simply send it via fax. Alternatively, a lawyer can print a document to his PDF driver and send the resulting document via email. To be further cautious, the lawyer may include an additional step before sending the document of searching for and removing metadata using features built into the Adobe Acrobat software. A third approach is simply to utilize the metadata removal features built into modern wordprocessing software. Ever since Office 2004, Microsoft has built into its office suite the ability to natively detect and remove metadata from word documents with a couple of simple mouse clicks. For a live demonstration of these and other metadata removal techniques, visit <http://msbar.org/scrubmetadata.aspx>. Multiple approaches

exist for addressing the issue, most of which involve only a modest investment of money and time. Given the ease of addressing the issue, and the impact of failing to address the issue, simply doing nothing and ignoring the issue is an unnecessary risk, and if it results in the disclosure of client confidences, is a violation of the lawyer’s professional obligations.

Discovery Documents Distinguished

In answering the above two inquiries, the Committee distinguishes between (a) metadata contained in electronic documents provided in response to discovery requests or pursuant to a subpoena, as opposed to (b) electronic documents voluntarily provided by opposing counsel in the course of litigation. This opinion is limited to the latter circumstance only, and specifically does not address electronic materials subject to discovery or subpoena under applicable court rules. In the discovery context, where a party inadvertently discloses material believed to be privileged or work product and provides notice to opposing counsel of the inadvertent disclosure, the recipient has a duty to promptly return, destroy, or sequester the information and not to use or disclose information until the privilege or work product claim has been resolved.

Conclusion

As has already been alluded to, metadata takes many different forms, depending on the application being used. For example, the metadata in spreadsheets includes the formulas used to compute a displayed set of numbers. Metadata in word processing programs like Word and WordPerfect can include prior versions of documents, prior proposed or rejected document changes, and even user comments. This is, of course, far from an exhaustive list of metadata risks. Insofar as technology is bound to progress, the various types of metadata will certainly change over time. As lawyers, our time-honored obligation to protect our clients’ secrets must progress with the technology.

This opinion is not a substitute for a lawyer’s technical due diligence on the metadata issue, or intended to be a course on the methods of controlling metadata. The task of educating The Mississippi Bar on such technical matters is beyond the scope of this opinion and this Committee.

Each lawyer bears the responsibility to sufficiently educate himself as to the presence, risks, and means of controlling inadvertent disclosure of confidential information through metadata within his practice.

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Material Matters: Curating a Record on Appeal

The record is an undervalued cog in the intricate machinery of appeals. Without a basis in the record for reversing a ruling by the trial court, the appellant may not prevail on appeal.

The appellee also has an interest in seeing that the designated record puts the trial court's rulings in proper context. Mississippi Rule of Appellate Procedure 10 determines the content of the record for purposes of appeal, but it is far from an "automatic" rule. As litigation becomes more complex, curating a record for a clean and thorough review by the appeals court is increasingly important.

As a matter of law, if the information was not in the record below, it will not be considered on appeal. "Mississippi appellate courts may not consider information that is outside the record." *Hardy v. Brock*, 826 So.2d 71, 76 (Miss. 2002). "The trial court's rulings are presumed correct, and this presumption will prevail unless the record shows otherwise." *Id.*

Likewise, trying to jam in new information on appeal will fail. In one case, the Supreme Court agreed with a party that it was improper to consider portions of a transcript on appeal when they "were not part of the record in the chancery court, and therefore not considered by the chancellor when ruling on the summary judgment motions . . ." *KBL Properties, LLC v. Bellin*, 900 So.2d 1160, 1163 (Miss. 2005). The Court was clear that the appeal would be limited to the record presented to the trial court. *Id.* at 1164.

The standard response from many litigators when reviewing these cases is to overcompensate by designating the entire record on appeal, the transcripts of every hearing and all of the clerk's papers and exhibits. In some cases, and for some clients, this may be the preferred

approach. Yet there is an inherent tension to that cautious approach. As the Comment to Rule 10 notes, "[t]he purpose of the Rule is to permit and encourage parties to include in the record on appeal *only those matters material to the issues on appeal.*" (emphasis added). As a result, the Supreme Court has expressly "condemned" the practice of overbroad designation as unnecessary, expensive, and wasteful process of designating the whole record if it is not germane to the issues on appeal. *Comment*, MRAP 10.

In providing a "warning" to the Bar, the Supreme Court noted that it was "aware that many appealing attorneys routinely designate the entire course of trial proceedings for transcription, *wholly without regard to the nature of the issues to be raised on appeal.*" *Byrd v. F-S Prestress, Inc.*, 464 So. 2d 63, 69 (Miss. 1985) (emphasis added). "The time has come for this practice to stop," the Court admonished, noting that they "have repeatedly urged the parties to an appeal and their counsel to reduce the bulk of transcripts." *Id.* As officers of the court, appellate attorneys have a duty to heed this warning, for the benefit of both the appellate court, not to mention the trial court clerk that must devote its resources to compiling the record, and their clients.

Voluminous records do not only tax the Court's patience, they can tax a client's pocketbook. The price per page of transcription of a trial or hearing is \$2.40, which can add up quickly over the course of a case or multi-day trial. *See* Appendix III(I) to MRAP; MRAP 11(b)(1) (esti-

By Michael Bentley and
David Neil McCarty

mate per day is \$300.00). The record also takes time to compile by the trial court clerk. An overbroad designation can cost your client thousands of dollars and delay an appeal for weeks or months while the clerk and court reporter are gathering unnecessary exhibits and transcriptions.

In the nearly 30 years since *Byrd*, which was rendered only four years after the adoption of the Rules of Civil Procedure, records have continued to swell. Yet a massive record may inadvertently “hide” the information necessary to resolve a key issue on appeal. Mississippi’s appellate courts decide more cases today than they ever have. According to the most recent statistics, the Mississippi Supreme Court tendered rulings in 186 cases and other matters in 2012, and the Court of Appeals handed down nearly 500 rulings. As a result, the appellate courts simply do not have the resources or personnel necessary to sift through extensive records in every one of those appeals. Even precise record citations may not be effective if the documents to which you hope to draw the court’s attention are scattered throughout thousands of excess pages.

While Rule 10 governs the designation of the record on appeal, it leaves the content of the record largely to the discretion of the attorney. The record must include a certified copy of the clerk’s docket sheet. It should also include the final judgment or other order of the court that has been appealed. Beyond that, the record need only include items in the trial court’s case file that are necessary to an understanding of the errors that the party intends to raise on appeal. If an appellant decides to designate something less than the entire record, he must provide a “statement of issues” so that the appellee may determine whether there are additional parts of the record that should be designated. If the appellee requests additions to the record, the appellant must bear the expense of compiling those additions unless he obtains an order from the trial court shifting the costs to the appellee.

Rule 10(d) permits the parties to file an “Agreed Statement as the Record on Appeal” in lieu of a traditional record. This seldom-used approach can be effective in single-error or other straightforward or non-contentious cases. While this

approach is not suited for most appeals, it can save all parties significant time and costs if employed in the right case.

It is important to note, as the comment to Rule 10 explains, that briefs submitted to the trial court, whether or not those briefs are filed with the clerk, “do not normally belong in the record on appeal.” Briefs should be specifically designated as items to be included in the record if they

Rule 10(d) permits the parties to file an “Agreed Statement as the Record on Appeal” in lieu of a traditional record.

were not filed. The inclusion of briefs may be necessary to show that certain legal arguments were presented to the trial court in cases where the motion itself, and the trial court’s order on the motion, do not reflect the full vetting of the particular issue, as it occurred in the trial court. The inclusion of trial court briefs may be particularly important when appealing a summary judgment order.

Finally, attorneys should note that record-designation is not an opportunity to insert new evidence, arguments, exhibits, authorities, or the like into the materials to be considered by the reviewing court. Only papers or exhibits “filed in the trial court” may be included in the record on appeal. (Rule 10 may permit a party to include “unfiled” items in the narrow instance where the item to be included was

actually considered by the court, but was not included in the clerk’s papers (e.g., a summary judgment or other motion brief).

A winning record starts with an effective trial court presentation that musters a persuasive case, while preserving potential errors for an appeal if necessary. If that record does not make it to the Supreme Court, all the efforts in the trial court may be lost. With diligence and a careful eye towards the Rules, an attorney can help further their client’s interests by selecting and editing a record. ■

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Making a List, Checking it Twice: The Mississippi Rules of Appellate Procedure Year-in-Review 2012

The Rules of Appellate Procedure don't just matter for those attorneys who practice before the Supreme Court and the Court of Appeals; they apply to proceedings in circuit court, when that court acts on appeal from the Worker's Compensation Commission.²

They also apply when a chancery court acts on appeal from administrative actions.³ Thus, understanding how the courts interpret the Rules of Appellate Procedure isn't important only to those of us who find ourselves writing to the courts in the Gartin Justice Building, but also to those who practice in worker's compensation, in land use, and in any court of limited jurisdiction, such as county or justice courts. Even zoning decisions are subject not to review under trial rules, but rather are subject to appellate review.

The Mississippi Supreme Court approved certain amendments to the Mississippi Rules of Appellate Procedure as of July 1 and August 2, 2012.⁴ The July order amended Rule 17(f), governing the certiorari process of obtaining Supreme Court review of decisions of the Court of Appeals.⁵ The change merely established the standard whereby the Supreme Court can, *sua sponte*, dismiss a grant of certiorari as improvidently granted.⁶ Whereas the former rule read, "Prior to final disposition, the Supreme Court may, on its own motion, find that the petition for certiorari was improvidently granted and may dismiss the certiorari proceeding,"⁷ the new rule states "Prior to final disposition, the Supreme Court may, on its own motion, find that the petition for certiorari was improvidently granted [sic] *there is no need for further review* and may dismiss the certiorari proceeding."⁸ However, because Rule 17(f) also provides that

there is no review of such a dismissal,⁹ the effect of the new standard may be minimal, if the Court elects to ignore it.

The August order amended Rules 6, 28, and 42.¹⁰ The changes to Rule 6(b)(1) were technical.¹¹ The Court then renumbered Rule 6(b)(2) as Rule 6(c)(1) and added a paragraph providing for a thirty-day stay of an appeal where a non-indigent defendant has not waived their right to counsel.¹² The Court then added Rule 6(c)(2), which provides procedural safeguards to ensure that defendants who wish to proceed *pro se* are not deprived of their right to counsel without an intelligent and competent waiver.¹³

With regard to Rule 28, the Court adopted a new Rule 28(b), affording criminal appellants the right to file a *pro se* brief to raise issues in the record that their counsel elected not to raise.¹⁴ The remainder of Rule 28 was renumbered appropriately. In amending Rule 46, the Court merely adopted the provisions of the new Rule 6(c)(2) into the process of permitting withdrawal of appellate counsel.¹⁵

The Supreme Court and Court of Appeals decided twenty-nine cases in 2012 wherein they cited the Rules of Appellate Procedure. Of those, twelve involved actual interpretations of the Rules.¹⁶ The Supreme Court decided two cases, while the Court of Appeals decided ten.

By Matthew Reid Krell¹

Mississippi Supreme Court Cases

Driver Pipeline Co. v. Williams Transport Co., No. 2011-IA-00771-SCT (Oct. 25, 2012): In this interlocutory appeal, the Court first noted that contrary to the plain text of the Rules of Appellate Procedure, that the interlocutory appeal of a motion to compel arbitration was governed by Rule 4, rather than Rule 5, thus extending the time period to appeal those orders by nine days.¹⁷ It further ruled that a timely motion for reconsideration under Mississippi Rule of Civil Procedure 60 qualified as a “post-trial motion” under Rule 4(d), which restarts the time for filing a notice of appeal under Rule 4(a) at the date the trial court rules on the post-trial motion.¹⁸

5K Farms, Inc. v. Mississippi Department of Revenue, No. 2009-CT-01787-SCT (May 10, 2012): The Supreme Court granted certiorari in this case to resolve whether the pre-trial bond requirement of Miss. Code §§ 27-77-5 and 27-77-7 were procedural or jurisdictional.¹⁹ It concluded that appeals from administrative-agency decisions are not subject to the Mississippi Rules of Civil Procedure, and that those appeals are substantively different from appeals from lower courts.²⁰ The Court held that imposing a bond requirement instituted a jurisdictional bar rather than a procedural one, and the Legislature had acted constitutionally in doing so.²¹

Mississippi Court of Appeals Decisions

Ladd v. State, 87 So.3d 1108 (Miss. App. 2012): The Court of Appeals applied the “plain-error doctrine” in Rule 28(a)(3), which allows that although “no issue not distinctly identified shall be argued by counsel, except upon request of the court, . . . the court may, at its option, notice a plain error not identified or distinctly specified.”²² The Court used that doctrine to reverse a conviction for burglary that was procedurally barred from review.²³ Writing in dissent, Judge Roberts concluded that the Court’s application of the plain-error doctrine was contrary to United States Supreme Court precedent.²⁴ Concluding that the confusion in the Court of Appeals’ precedent meant that the Court’s finding of error could not be “plain,”²⁵ Judge Roberts also would have held that the Court of Appeals

reversing itself did not constitute clear contradiction, because the Court of Appeals is not the ultimate authority on law in Mississippi.²⁶

Cuevas v. Ladner, 86 So.3d 936 (Miss. App. 2012): The court ruled that where an affidavit asserted lack of actual notice of the entry of judgment, and the only prejudice that would result to appellee was the cost of defending an appeal, that the appellant had made a showing sufficient to justify reopening the time for appeal under Rule 4(h).²⁷ In addition, the Court ruled that no showing of excusable neglect was required, as under Rule 4(g).²⁸ Judge Carlton dissented, arguing that the record supported the chancellor’s refusal to reopen the time for appeal because there was a conflict in the evidence regarding whether counsel received notice.²⁹

Deutsche Bank National Trust Co. v. Brechtel, 81 So.3d 277 (Miss. App. 2012): The denial of a motion for default judgment is not a final, appealable order under Rule 4(a).³⁰ Instead, those appeals are interlocutory and must be pursued under Rule 5.³¹ Judge Carlton dissented, arguing that in this particular case, where only a single issue of law lay between the parties, that the denial of default judgment acted as a declaratory judgment resolving the only issue between the parties which would be a final, appealable judgment.³²

Williams v. Claiborne County School District, 80 So.3d 883 (Miss. App. 2012): This case dealt with when a matter is ripe for appeal. In this dispute over a right-of-way, the plaintiff school district sought damages, on which the chancellor did not rule. Because the chancellor did not resolve all of the issues between the parties, the Court of Appeals ruled that the judgment was not final. The Court did note two mechanisms for bringing an appeal prior to a final judgment – a Rule 54(b) motion for partial final judgment, or a Rule 5 petition for interlocutory appeal. Because the parties used neither method for perfecting the appellate court’s jurisdiction, the Court of Appeals dismissed the appeal.

Adams v. Mississippi State Oil & Gas Board, 80 So.3d 869 (Miss. App. 2012)

Wade v. Mississippi Real Estate

Commission, No. 2011-CC-01484-COA (Miss. App. Sept. 18, 2012).

Blackwell v. Howard Industries, Inc., No. 2010-WC-01516-COA (Miss. App. Jan. 24, 2012): This trio of cases reiterate and expand on the requirement in Rule 2(a)(2) that a party that has failed to comply with the Rules of Appellate Procedure be sent a notice of deficiency and granted fourteen days to cure their deficiency. In all three cases, the Court of Appeals reversed decisions of lower courts that cut off opportunities for relief. *Adams* dealt with a chancellor’s dismissal of an appeal from an administrative agency’s decision.³³ In that case, the Court first noted that it was well-settled that chancery courts sitting as appellate courts used the Rules of Appellate Procedure. It then noted that failure to comply with Rule 2(a)(2) is a due-process violation that renders the judgment void,³⁴ and reversed a chancellor’s dismissal of an appeal from the Oil & Gas Board.³⁵

Wade presented a similar issue, involving the appeal of a disciplinary decision of the Mississippi Real Estate Commission.³⁶ After missing a court-ordered deadline to submit an appellant’s brief by nearly seven months, the Hinds County Circuit Court dismissed the appellant’s appeal.³⁷ The Court of Appeals reversed, finding that the circuit clerk had not provided a notice of deficiency and fourteen days to cure.³⁸

Blackwell shows that the mandate of Rule 2(a)(2) is continuing, and that every attempt of an appellant to conform with the Rules triggers a new duty under Rule 2(a)(2). In that case, the appellant received a Rule 2(a)(2) notice of deficiency for failure to file a brief.³⁹ They then timely filed a brief, but their brief did not comply with the requirements of Rule 28(a).⁴⁰ The appellee then filed a motion to dismiss for failure to comply with Rule 28(a), which the Jones County Circuit Court granted.⁴¹ The Court of Appeals reversed, noting that “[a]n appellee’s motion to dismiss cannot be substituted for an official notice of deficiencies from the court clerk.”⁴² Thus, the Court concluded that the dismissal was premature absent a second Rule 2(a)(2) notice of deficiency, and reversed.

Continued on next page

Making a List, Checking it Twice: The Mississippi Rules of Appellate Procedure

Butler v. Dolgencorp, Inc., 2011-WC-00808-COA (Miss. App. Dec. 4, 2012): This case represents the outside limits of an appellant's ability to recover from a timing error through Rule 2(a)(2). In this case, the circuit court granted an appellant an additional sixty days to file a brief, then ruled on the merits, affirming the Worker's Compensation Commission's decision.⁴³ The appellant argued that before any decision was rendered, she should have been sent a notice of deficiency and afforded fourteen additional days.⁴⁴ The Court of Appeals affirmed. The record indicated that the appellant had received a Rule 2(a)(2) notice of deficiency regarding her failure to file a brief.⁴⁵ The Court of Appeals ruled that the appellant was not entitled to a second notice of deficiency on the same deficiency.⁴⁶ More importantly, the Court of Appeals ruled that "Rule 2(a)(2) does not state that the circuit court must wait fourteen days before deciding the case on the merits; it simply states that the defaulting

party must correct any deficiencies within fourteen days to avoid dismissal by the clerk."⁴⁷ Because the circuit court had ruled on the merits, affirming the Commission's decision, the protection from dismissal provided by Rule 2(a)(2) was irrelevant.

Thadison v. Universal Lighting Technologies, 77 So.3d 551 (Miss. App. 2012): This case outlines the proper procedure for dismissing an appeal for failure to prosecute. The Lincoln County Circuit Court dismissed this appeal from the Worker's Compensation Commission, and the Court of Appeals affirmed.⁴⁸ The circuit clerk had issued a Rule 2(a)(2) notice of deficiency for failure to file an appellant's brief ninety-two days after the record was filed.⁴⁹ Twenty days later, the appellee filed a motion to dismiss.⁵⁰ Forty-two days after that, the appellant finally filed their brief.⁵¹ The circuit court dismissed, and the Court of Appeals affirmed, holding that Rule 31(d) provided that the failure to file a brief within the

time provided meant that "the appeal may be dismissed on motion of appellee."⁵² Thus, the prescribed procedure, as illustrated by this case, for dismissing an appeal for failure to prosecute, is as follows:

- 1) The trial court clerk files the record on appeal with the appropriate appellate court.⁵³
- 2) Forty days pass.⁵⁴
- 3) The appellate court clerk issues a notice of deficiency describing the appellant's failure to comply with the Rules of Appellate Procedure.⁵⁵
- 4) Fourteen days pass.⁵⁶
- 5) Either the clerk dismisses the appeal, or the court dismisses the appeal on appellee's motion.⁵⁷

There is a potential problem in these cases, in that they do not appear to fully harmonize the penalty for failure to prosecute under Rule 31(d) with the process for a clerk's dismissal under Rule 2(a)(2).



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In fact, *Blackwell* explicitly stated that a motion to dismiss for failure to file a brief cannot replace the process under Rule 2(a)(2), which appears to read out the Rule 31(d) penalty.⁵⁸ The case quoted in *Blackwell* did not address the issue of Rule 31(d)'s penalties for failure to file a brief, but instead dealt with a failure to designate a record on appeal under Rule 11(b)(1).⁵⁹ At some point, the Supreme Court will have to resolve this.⁶⁰

Balius v. Gaines, 2010-CP-01243-COA (August 7, 2012):⁶¹ The Court of Appeals awarded attorney's fees under Rule 38, providing for fee awards in frivolous appeals, where an appellant alleged that a chancellor had abused their discretion when he refused to recuse himself.⁶² The only problem was that the chancellor had recused months before the appeal was filed, and the appellant did not challenge the adverse ruling they received from the replacement chancellor.⁶³ In addition, the chancellor⁶⁴ had warned the appellant that their conduct was potentially sanctionable.⁶⁵ Thus, even though the appellant was *pro se*, the Court found that they had sufficient notice to know that their conduct was sanctionable, and were not protected by the Litigation Accountability Act's saving clause for *pro se* litigants.⁶⁶ Therefore, the appellant "clearly knew that [their] appeal was without substantial justification,"⁶⁷ and the Court of Appeals awarded attorney's fees.

Conclusion

2012 was a year where the courts appear to have greatly clarified timing issues under the Rules of Appellate Procedure. In addition, they reaffirmed the principle that circuit judges, chancellors, and clerks must know the Rules of Appellate Procedure for those cases where they sit as intermediate appellate courts. Attorneys should be prepared to bring that issue to the attention of judges and clerks when it is necessary. In addition, while Rule 2(a)(2) provides significant protection from dismissal for failure to prosecute, that protection is not absolute, and certain processes will cut off further review notwithstanding the failure to comply with Rule 2(a)(2). Ultimately, the major lesson to take from 2012, with regard to the Rules of Appellate Procedure, has to be "keep your

checklists handy." Failing to touch a particular base can lead to dismissal of your appeal, or can lead to a reversal for failure to provide appropriate procedural safeguards. Make sure that every requirement of the Rules is complied with, and your clients are much more likely to receive favorable results on appeal. Hiring a dedicated appellate counsel will certainly help with this, but simple attention to detail will usually suffice. ■

1 Matthew Reid Krell practices law in Southaven, specializing in appeals, labor and employment law, and alternative dispute resolution. He is a member of Temple Israel synagogue in Memphis, where he serves as a volunteer CLE coordinator. Reid lives in Horn Lake with the two cats, Titus and Lavinia, who run the house and deign to let him pay the bills.

2 *Thadison v. Univ. Lighting Tech.*, 77 So.3d 551, 553 (Miss. App. 2012).

3 *Adams v. Miss. State Oil & Gas Bd.*, 80 So.3d 869, 870 (Miss. App. 2012).

4 The Court entered two amending orders, hence the two effective dates.

5 *In re: Mississippi Rules of Appellate Procedure*, No. 89-R-99027-SCT (Miss. June 13, 2012).

6 *Id.*

7 Miss. R. App. P. 17(f) (amended 2012).

8 *In re: Mississippi Rules of Appellate Procedure*, note 5 *supra* (emphasis added).

9 Miss. R. App. P. 17(f).

10 It also made technical changes to Rules 22, 29, 31, and 32.

11 *In re: Mississippi Rules of Appellate Procedure*, No. 89-R-99027-SCT (July 24, 2012).

12 *Id.*

13 *Id.*

14 *Id.*

15 *Id.*

16 Search replication method: Search Google Scholar for "Mississippi Rules of Appellate Procedure," limited by date to 2012 only, limited by court to Mississippi courts only. Thirty-one results returned, two being the orders amending the Rules. Remaining cases reviewed by author for saliency. Any errors that remain are my own.

17 *Driver Pipeline*, at ¶¶ 6-7; compare Miss. R. App. P. 4(a) and Miss. R. App. P. 5(a).

18 *Id.* at ¶¶ 7-8.

19 *5K Farms*, at ¶ 1.

20 *Id.* at ¶¶ 24-27.

21 *Id.* at ¶ 30.

22 Miss. R. App. P. 28(a)(3).

23 *Ladd*, 87 So.3d at 1113-14.

24 *Id.* at 1119.

25 *Id.* at 1119-20.

26 *Id.* at 1120.

27 *Cuevas*, 86 So.3d at 939-40.

28 *Id.* at 940.

29 *Id.* at 941-42 (Roberts, J., dissenting).

30 *Deutsche Bank*, 81 So.3d at 279.

31 *Id.* at 280.

32 *Id.* at 281 (Carlton, J., dissenting).

33 *Adams*, 80 So.3d at 870.

34 *Id.* at 872-73.

35 *Id.* at 873.

36 *Wade*, No. 2011-CC-01484-COA, at ¶ 2.

37 *Id.* at ¶¶ 3-4.

38 *Id.* at ¶

39 *Blackwell*, 2010-WC-01516-COA, at ¶ 4.

40 *Id.* at ¶¶ 4-5.

41 *Id.* at ¶ 5.

42 *Id.* at ¶ 11 (internal citations and quotations omitted).

43 *Butler*, 2011-WC-00808-COA, at ¶ 8.

44 *Id.* at ¶ 20.

45 *Id.* at ¶ 8.

46 See *id.* at ¶ 20 ("Additionally, even if [Appellant] was entitled to fourteen days under Rule 2(a)(2), she failed to file a brief within fourteen days after she received notice.")

47 *Id.*

48 *Thadison*, 77 So.3d at 552.

49 *Id.* at 553; see also Miss. R. App. P. 31(b) (service and filing of appellant's brief is required "within forty days after the date the record is filed.")

50 *Thadison*, 77 So.3d at 553.

51 *Id.*

52 *Id.* (quoting Miss. R. App. P. 31(d)).

53 Miss. R. App. P. 11(c).

54 Miss. R. App. P. 31(b).

55 Miss. R. App. P. 2(a)(2).

56 *Id.*

57 Miss. R. App. P. 31(d).

58 *Blackwell*, note 39 *supra*, at ¶ 11 (quoting *Van Meter v. Alford*, 774 So.2d 430, 432 (Miss. 2000)).

59 *Van Meter v. Alford*, 774 So.2d 430, 432 (Miss. 2000).

60 The Supreme Court denied certiorari in *Blackwell* on September 19, 2012. *Blackwell*, 2010-CT-01516-SCT (Sept. 19, 2012).

61 The author notes that this case came down on his twenty-ninth birthday. This doesn't really mean anything, but he likes his birthday.

62 *Balius*, 2010-CP-01243-COA, at ¶ 9.

63 *Id.* at ¶¶ 9-11.

64 And the replacement chancellor.

65 *Balius*, note , at ¶ 11.

How to be Your Own Appellate Counsel at Trial

Appellate lawyers will tell you that many cases justify the extra cost of having an appellate lawyer involved long before a notice of appeal is filed.

And they are right. But trial lawyers have been trying cases without appellate lawyers for a long time, and it remains true that many cases *don't* justify the extra cost. Having said that, it is equally true that any case worth taking to trial that justifies a little forethought about a possible appeal. What follows is a list of commonly overlooked trial matters that can make or break an appeal.

- The pretrial order: Most federal pretrial orders contain a recitation that the pleadings are amended “to conform with” the pretrial order. This is not mere boilerplate. Any claim or defense omitted from the pretrial order is no longer a part of the case, regardless of how often, or well, it was pled. Conversely, any claim or defense in the pretrial order is now in the case, regardless of whether it was ever previously pled. If the pretrial order’s statement of issues is unsatisfactory to you, you need to make a record of that fact, preferably in the order itself.
- Jury selection: Trial counsel needs to have at least a passing familiarity with *Batson*, which addresses the frequently-encountered issue of peremptory strikes that are, or are alleged to be, racially motivated. An excellent article is S. Overland’s “The Shrinking Strike Zone: Avoiding Problems During Jury Selection in the Age of *Batson*,” on the web at [\[zone-avoiding-problems-during-jury-selection-in-the-age-of-batson/\]\(http://www.thejuryexpert.com/2010/05/the-shrinking-strike-zone-avoiding-problems-during-jury-selection-in-the-age-of-batson/\). At an absolute minimum, trial counsel should keep notes on, and be prepared to explain, the thinking and motivation behind each of her peremptory challenges.](http://www.thejuryexpert.com/2010/05/the-shrinking-strike-</div><div data-bbox=)

- Jury selection (continued): In order to challenge on appeal a trial court’s refusal to strike a juror for cause, you should, in addition to objecting: (1) use a peremptory challenge on that juror; (2) use up all of your other peremptory challenges; and (3) identify for the record the other juror on whom you would have used that peremptory, and why. This excellent point is just one of many in an excellent article, T. Crooks, “Preserving Error in Federal Court: Making Sure You Get Your Second Chance on Appeal,” on the web at <http://www.1215.org/lawnotes/lawnotes/preserve2.htm>
- *In limine* motions: An *in limine* motion may not be sufficient by itself to preserve error. If your motion is denied, you should renew your objection to the evidence or argument that was the subject of that motion at the time that the evidence is offered, or the argument made.

“Let the record reflect”: There are all sorts of things that go on at trial, which might be grounds for appeal, that your Court Reporter is not obliged to take down. Discussions in chambers; and, in some courtrooms, bench conferences,

By Bob Frey¹

voir dire, opening statement, the charge to the jury, and/or closing argument. If anything is said during the course of a trial that you may want to mention on appeal, you must, when back on the record, describe for the record what was said. You don't have to use the pompous-sounding phrase "Let the record reflect," but you do have to get it in the record. Likewise, when a deposition is read to the Jury, many Court Reporters will simply record "Deposition of Smith read to the Jury." The best course here is to offer the transcript of the Smith deposition; unless you do so, the appellate court will have no idea what the Jury heard from witness Smith.

"Let the record reflect" (continued): The same is true of things other than words: the fact that one juror is sleeping, and another is texting; the fact that construction next door is making it difficult for some of the jurors to hear the witness; the fact that a member of the audience appears to be signaling one of the jurors; the possibilities are endless. You must ask the Judge for appropriate relief, and, when doing so, describe the problem for the record in reasonable detail.

- Opening statement: Everyone knows that, ordinarily, you must make a contemporaneous objection to anything – argument, evidence, procedure, or anything else – if you want to be able to complain about it on appeal. Yet there are countless appellate decisions refusing to reverse for improper argument on the simple ground that no contemporaneous objection was made. Either appellate lawyers are complaining, on appeal, about arguments that really weren't objectionable, or trial lawyers are overly reluctant to interrupt opening statements and closing arguments. If the fear is that the Judge will be displeased, find a couple of cases in advance, one on what kind of argument is improper, and one in which lack of objection doomed the appellate point, have them handy, and use them to show the Judge, politely, that your objection was well-founded and necessary.

Trial by consent: There are often good strategic reasons to refrain from

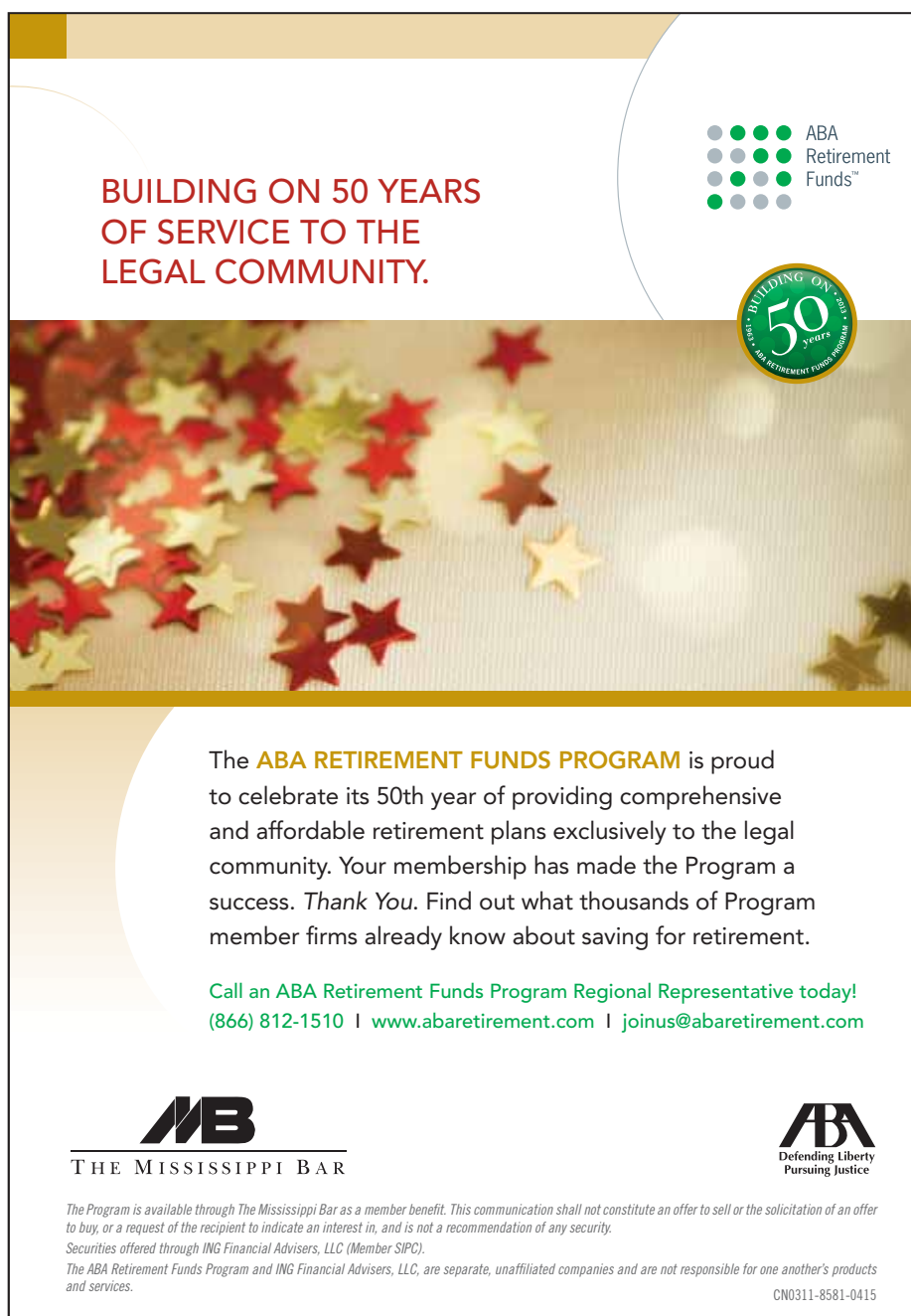
The appellate court will ordinarily not consider grounds for objection, however meritorious, that were not mentioned at trial.

objecting to irrelevant evidence. Be aware, however, that if the other side offers irrelevant evidence, and you don't

object, the Judge may later find that the irrelevant evidence had the effect of placing a new issue before the jury, and that your failure to object amounted to trial of the new issue by consent."

Offering and proffering: Keep a list of your exhibits, and periodically check to be sure that you have seen to it that each one was marked and received by the Clerk; that each one was offered; and that each one was either admitted or refused by the Judge. Also, know, in advance, the law in your jurisdiction about proffers of

Continued on next page



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testimony: must it be word for word, from the witness? Or will a summary of the anticipated testimony, given by the lawyer, suffice? If you rely on the latter, be certain that you describe the anticipated testimony fully and completely for the record.

Objections: Everyone knows that these must be contemporaneous, and specific. The appellate court will ordinarily not consider grounds for objection, however meritorious, that were not mentioned at trial. To this we add only: (a) make sure that the Judge *rules* (remarkably, some Judges avoid doing so when possible); and (b) better late than never. If you failed to make a contemporaneous objection, make one as soon as it occurs to you. The contemporaneous-objection rule is designed to give the trial judge a fair opportunity to do right, and there will be circumstances when she can do this after the fact.

Requests for curative instructions: Appellate courts, taken as a whole, seem to have great faith in the power of curative instructions – greater, at any rate, than most trial lawyers probably have. If you simply ask for “a curative instruction,” or make some other similarly non-specific request, you may get an instruction, but it may be a mush-milk instruction. It won’t do you any good at trial, but the appellate court may hold that it did. If you really need an instruction, you need a strong one. You need an instruction that *you* drafted. Ask the Judge for a short recess, if necessary, to hammer out the wording. And if the Judge doesn’t give your suggested instruction, politely make a record of it.

“Opening the door”: The cases on this subject are remarkably robust. That is to say, appellate courts routinely affirm trial judges who admitted evidence that would have been irrelevant but for the fact that the other side had previously “opened the door.” So, for example, in *Crenshaw v. State*, 520 So. 2d 131 (Miss. 1988), a child molestation case, the defense “attempted to show that his actions toward [the victim] and her sisters were taken out of concern that they were becoming sexually advanced due to their parents lack of responsibility, and as a result the children needed psychiatric care.” In support of this theory, his attor-

ney questioned a witness “about [Defendant’s] statements concerning the children’s need for ‘psychiatric care.’” Rather than object to relevance, the State waited for re-direct, and was able to elicit testimony suggesting that Defendant

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was guilty of molesting yet another child. Defendant complained on appeal, but the Court dismissed the point. The Defendant had, said the *Crenshaw* court, “opened the door,” and the other side was entitled to explore the point. *Id.* at 133. Keep a copy of *Crenshaw* in your trial notebook, and use it to explain why the Judge should admit your otherwise-irrelevant rebuttal evidence.

The charge to the Jury: You spent hours in the charge conference, specifically objecting to the other side’s erroneous instructions, tendering your correct instructions, and getting rulings on all of your points. Well and good. But you can’t relax during the actual reading of the charge. You should instead have, in hand, a copy of the instructions in precisely the form that the Judge has stated he plans to use. Silently read along with the Judge, word for word. If the Judge has added anything, or left anything out, and if you conclude that the variation is material, you must speak up before the Jury retires. In so doing, state for the record precisely how the as-given charge varied from the written version.

The form of the verdict: Be aware of the “two issue” problem. Briefly stated, how should an appellate court rule where the case went to the jury on two or more theories of liability; the jury returned a general verdict; and at least one, but not all, of the theories that went to the jury could not properly support a judgment? Reverse, because the verdict might have been on the defective theory? Or affirm, because the verdict just as easily might have been on the non-defective theory? If the law in your jurisdiction is the latter, and you are representing the defendant, you will almost certainly want to ask for special interrogatories. See generally T.R. Gunn & C. T. Cone, “The Two-Issue Rule and Itemized Verdicts,” on the web at <https://www.floridabar.org/divcom/jn/jnjournal01.nsf/Author/71CFE3FD0F06364385256ADB005D6316>. Special interrogatories are also required, in at least some jurisdictions, for the application of caps on non-economic damages, and perhaps in other instances as well. You may not get them, but you must at least ask for them, on the record, specifying exactly how you would have them worded.

When the big case comes along, by all means get an appellate lawyer on the team, the sooner the better. But for the other cases, a little advance thought about an appeal will be well worth your time. ■

¹ Bob is an appellate lawyer and commercial litigator in the Ridgeland office of Butler Snow O’Mara Stevens & Cannada, PLLC. A 1984 graduate of Vanderbilt Law school, his appellate cases include *Double Quick, Inc. v. Lyman*, 50 So. 3d 292 (Miss. 2010) (premises liability) (reversing judgment entered on \$4m jury verdict); *U-Save Auto Rental of Am. Inc. v. Furlo*, 2010 U.S. App. LEXIS 4955 (5th Cir.) (franchise agreement) (affirming defense judgment for attorney’s fees entered on arbitration award); *Jordan v. Burlington N. Santa Fe R.R. Co.*, 2009 Tenn. App. LEXIS 8, cert. den., 2010 U.S. LEXIS 3472 (FELA) (affirming judgment entered on \$4m jury verdict).

The Appellate Practice Section – the “newbie of the State Bar”

The Appellate Practice Section was formed to “promote the skillful, efficient, and effective practice of appellate law and oral advocacy before our state and federal courts.”

As frequently described by René Garner, the “newbie of the State Bar” will host its first annual meeting Friday, July 12, at 10:15 a.m., at the 2013 State Bar Convention.

Honorable Carl Stewart of Shreveport, Louisiana, recently invested Chief Judge of the United States Court of Appeals for the Fifth Circuit, will be the Section’s keynote speaker for the July 12 meeting. Chief Judge Stewart’s address about Fifth Circuit appellate practice will be a fitting complement to the Section’s first program on April 5, where Justices Ann Lamar and Leslie King of the State Supreme Court and Chief Judge Joe Lee and Judge James Maxwell of the State Court of Appeals offered their insights about state appellate practice.

Since its formation, the Section, supported by the good cheer, dry wit, and unflagging efforts of René Garner of the State Bar, has been extremely active. In addition to its April 5 program, which was ably organized by David Bridges, Chair of the CLE planning committee, the Section has several other committees that are addressing a full menu of subjects and services.

These other committees and their chairs are: Administrative Agency Appellate Practice - George Luter; Civil Appellate Practice - Brad Clanton; Criminal Appellate Practice - Justin Cook; Appellate Rules Study - Luther Munford; Membership - Collins Wohner; Pro Bono Appellate Practice - Will Bardwell; State Law School Appellate Practice - Scotty Welch; and Publications - Becky Hawkins.

The other officers and executive committee members of the Section, who also act as liaisons to the Committees are Michael Bentley, Vice-Chair; David McCarty, Secretary; and Todd Butler, Amy Champagne, and Margaret Cupples, Executive Committee members.

Over 40 practitioners attended the April 5 event, with Michael Bentley adeptly moderating the day-long program. Besides those members of the state judiciary who participated, the other speakers and their topics were: Margaret Cupples – effective appellate briefs; Jeffrey A. Klingfuss – legal ethics; George Luter - administrative appeals; Luther Munford - state and federal appellate jurisdiction; Bill Purdy – how not to argue an appeal; and Honorable Vikram Chandhok – the Settlement Conference Program for the U.S. Fifth Circuit Court of Appeals. The program was held at the State Supreme Court Building, with Chief Judge Lee leading an instructive tour of the appellate court’s new facilities. The State Supreme Court’s building is named in honor of Carroll Gartin, a former Lieutenant Governor who passed away in 1966 in the midst of a distinguished career of public service to the State.

The role of the appellate lawyer is to take a trial court’s interlocutory order or final judgment or an administrative agency’s order, explain what led to the ruling, and argue why it should be upheld or reversed, and to do so in a clear, concise and cogent way. Anyone interested in any aspect of appellate work - from civil appeals, including appeals from adminis-



Appellate Practice

trative agencies, to criminal and post-conviction appeals, is encouraged to join this Section, which is open to all members of the State Bar. Annual dues are only \$15 and your State Bar annual statement will have a check-the-box option for joining. We hope that you will take be able to come to Sandestin and listen on July 12 to Chief Judge Stewart of the Fifth Circuit, who spoke to the Capital Area Bar Association several years ago and is an engaging public speaker and learn more about the work of the Section during the past year. ■

¹ John C. Henegan is Chair of the Appellate Practice Section of the State Bar. In 1976-1977, he was a law clerk to Honorable Charles Clark, Circuit Judge of the United States Court of Appeals for the Fifth Circuit, before its division into the Fifth and Eleventh Circuits, and in 1981-1984, he was Chief of Staff to Honorable William F. Winter, Governor of Mississippi. John is a member of Butler, Snow, O’Mara, Stevens, & Cannada PLLC, which he joined in 1984, and he is in its Appellate and Commercial Litigation Practice Groups.

By John C. Henegan¹

Fulfilling the Need for Legislative History: The Legislative History Project

Introduction

The recent 2012 session of the Mississippi Legislature saw many hot topics debated on the floor of the House and Senate. Many of those hot topics such as the requirement that abortion doctors seek admitting privileges at a local hospital ended up being litigated.

As the 2013 legislative session moves forward, it is likely even more pieces of legislation will end up in court. When legislation ends up in court, it is beneficial to the legal community to have resources available that shed light on the intent behind the legislation. However, Mississippians face a lack of available resources. In an effort to remedy this situation, the Mississippi College Law Library has created the Legislative History Project which is the subject of this article.

I. Lack of Legislative History Materials in Mississippi

“Does not exist.”²² “Much less adequate ... frustrating.”²³ “Difficult or impossible to find.”²⁴ “Not easy.”²⁵ This is just a sampling of descriptions legal research scholars have used in referring to any attempt at locating legislative history materials of state statutes. Each state varies widely in the materials it provides in the paper trail of legislative documents that constitute legislative history so what may work in one state normally will not work in another.

Those unfamiliar with state specific legal research may find this surprising given the wealth of information provided on the federal level. First year law students are generally taught the four major sources of federal legislative history as being individual bills, committee hearings, floor debates, and committee reports and how to locate them. Each source of federal leg-

islative history may go through numerous changes throughout the entire process, but, generally, one interested in the history of a federal statute may access these materials either online themselves or with the assistance of a law librarian. Locating these items for an individual state, however, is an entirely different matter.

The four major sources of federal legislative history cannot be adequately and efficiently applied to the several states, especially the state of Mississippi. Well-respected legal research scholar William Manz goes so far as to definitively say it “is not ... possible to determine legislative intent from the available documents” provided by the Mississippi Legislature.⁶ This is the case for many reasons. Legislative debates are not preserved. The House and Senate Journals only contain information related to attendance, votes, and language of offered bills and amendments. With these limitations, Mississippians may research legislative history in a piecemeal fashion, with the potential value of legislative intent lost.

Anyone with an internet connection may access the individual bills introduced in the Mississippi Legislature. All introduced measures, as well as any amendments, are posted on the Legislature’s Web site, going as far back as the 1997 Regular Session. While the print editions of the House and Senate Journals are considered to “contain the complete history of bills of their respective houses,” they provide fairly little.⁷ Listing by date of consideration

By Stephen Parks
and Jay Liles¹

the measure number, its short title, all action taken, and any vote total, the Journals provide nothing further into any insight as to what might be the intent behind any piece of legislation.

Committee hearings of the Mississippi Legislature are not recorded or broadcast live via webcast. If one wishes to be informed of what occurs in a committee hearing it would be necessary to attend the hearing in person. On the federal level, committee hearings generally consist of the testimony and statements of experts and other interested parties that are typically reduced to writing and made available to the public. However, Mississippians are unable to access any similar materials from their state legislatures.

Floor debate is one aspect of legislative history Mississippians may access. However, they must access it by watching the floor debate live either in the galleries of the House and Senate or via live webcast. The Legislature at this time does not archive any recordings of floor debates. By providing no archive or written record the Mississippi Legislature does a disservice to its citizens who are unable to witness the live debate. As a tool of legislative history, floor debate is not the most definitive source as members may amend or supplement their words and actions at a later time. However, floor debate does offer citizens a window into the actions of their government, and the state of Mississippi is to be commended for at least providing its citizens a live webcast.

The fourth major source of federal legislative history, the Committee Report, is “generally considered to be the most authoritative” of all legislative history documents.⁸ On the federal level, a committee report usually contains the committee’s reasons for recommending the bill to the full Legislature for passage. The report may also provide a section-by-section analysis of the bill and the views of any dissenting committee members. Applied to the Mississippi Legislature, however, the committee report is nothing more than a description of textual changes made to bills. Neither the views of committee members nor an analysis of the bill and its intent is provided. Furthermore, the Mississippi Legislature only issues committee reports from conference committees.

While the major sources of federal legislative history are easily obtained online or through a law library, a citizen of Mississippi is unable to apply the same process of compiling legislative history documents on a state level. The state Legislature of Mississippi would do well to examine the lack of materials available to librarians, legal practitioners, and the general citizenry wishing to examine the legislative history of the numerous items signed into law each year.

II. Introducing the Legislative History Project

The live video feed provided by the Mississippi Legislature is indeed beneficial. It is a vast improvement over having no live video feed at all. However, live feed without the availability of an archive cannot meet the needs of today’s busy citizens. Not everyone has the time to access the Legislature’s Web site each day at the appointed hour and watch the day’s proceedings of the House or Senate. It is also difficult for those in the legal and library fields to look back at actions already taken in an effort to derive some sense of intent behind legislative action with the lack of materials available as already discussed.

The Legislature appears in no hurry to correct this by way of an archive whereby Mississippians could access video of the Legislature’s daily proceedings. The Mississippi College Law Library has decided

to provide such a resource. The Library worked to create a prototype Web site throughout the spring and summer of 2012 as the Legislature met for its Regular Session. Recording the live feed each day, the Library staff then segmented each video into individual clips that have been associated with an individual bill or resolution. The end result is a free Web site where an individual may access videos of debate on individual bills utilizing various search functions.

To use the Project, an individual may simply access the Web site at law.mc.edu/legislature. The Library is proud of the hard work put into connecting video clips to individual bills as this option is not offered by any other state legislative video archive. The Project currently has two methods of searching for individual bill clips.

The first method of searching for an individual bill or resolution is by selecting the “Full Bill Listing” under either the 2012 or 2013 Session. The Full Bill Listing provides users a listing of all bills debated on the House and Senate floor with which the Project has available video. The list provides the bill number, the bill’s short title, and the bill’s principal author. To view the videos for any particular bill, the user can simply click on the bill number. Once on the page of the bill, the user is provided with all videos associated with that bill. Videos may include initial debate

Continued on next page



Image: Once inside the full bill listing, a user may access the videos of a certain bill by clicking on the bill number and may access the author’s legislative page by clicking on the author’s name.

Fulfilling the Need for Legislative History: The Legislative History Project



Image: On the bill search page here, the word “tax” has been typed into the description box to retrieve only bills and videos pertaining to “tax.”



Image: A search for “tax” in the bill description box yields these results. Here, the user of the Project can then click on the bill number to access further information on the bill as well as all videos.



Image: Once on an individual bill’s page, the user may then access the Legislature’s history page by clicking on “Full Bill History Link” and may watch all videos that have been associated with that individual bill.

and votes, motions to reconsider, adoption of committee reports, etc. If any action was taken on the floor of the House and Senate on an individual bill, video will be found in the Library’s archive so long as its recording software captured that day’s proceedings. Also provided on this page is a link to the Legislature’s bill history page where the user may access the historical summary of the bill as well as the text of the bill and any amendments and committee substitutes.

The second method of searching for videos allows users to key in certain search categories for a narrower listing of bills. Rather than having to scroll through a list of all bills for the entire 2012 or 2013 Regular Session, the user may simply search using keywords. The first category to search by is the bill number itself. From a dropdown menu, the user may select the abbreviation of the measure and then type in a number. The second category to search by is principal author. A search using this category will retrieve all bills with videos authored by the individual’s name. The third and final search category is the bill description. The description field searches the short titles of all bills for any keyword the user inputs. After performing a search, the user can then move forward to an individual bill’s page where he or she may access the videos as well as the Legislature’s page of historical summary and bill text.

The Library’s Project is set up this way for many reasons. Most people will not wish to sit and view a full day video of House or Senate debate. Recognizing this fact, the Library has made it easier for the individual wishing to view video of debate only on certain bills. Tying each individual video clip to a bill along with links to the bill’s history, the Library has simplified the process for the user and has placed this important aspect of government information at the user’s fingertips.

Conclusion

The Law Library has begun to announce the availability of the Legislative History Project to the public. This Project will be one-of-a-kind as no other state legislative archive segments daily recordings into small clips attached to the numerous bills debated throughout

the legislative session. Admittedly the state of Mississippi could provide its own archive of full day videos with greater technology and usability like other states have done. However, the state has yet to do so. The Mississippi College Law Library is willing to step in and provide this service. ■

- 1 Stephen Parks is the Research, Instructional Services and Circulation Librarian at the Mississippi College Law Library and is a member of The Mississippi Bar. Jay Liles is a second year law student at MS College Law School.
- 2 Harry Bitner & Miles Price, *Effective Legal Research* 73 (3d ed. 1969).
- 3 Morris Cohen, Robert Berring & Kent Olson, *How to Find the Law* 257 (9th ed. 1989).
- 4 Morris Cohen & Kent Olson, *Legal Research* 217 (8th ed. 2000).
- 5 Christina Kunz Et Al., *The Process of Legal Research* 259 (6th ed. 2004).
- 6 William H. Manz, *Guide to State Legislation, Legislative History, and Administrative Materials* 220 (7th ed. 2008).
- 7 Lynn Hellebust & Kristen Hellebust, *State Legislative Sourcebook* 286 (2012).
- 8 Amy Sloan, *Basic Legal Research* 223 (5th ed. 2012).

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Mississippi Students Grades K-12 Celebrated



Kindergarten – First Place
Meredith Mauffray
Waveland Elementary



Kindergarten – Second Place
Blake Ramos
Waveland Elementary



First Grade – First Place
Emma Constant
Waveland Elementary

Law Day was May 1, and this year The Mississippi Bar conducted its' annual statewide Law Day Art Contest. Flyers were sent to every public and private school (K-12) in Mississippi. The Bar received over 700 entries from 28 different schools in 18 counties. First, second and third place were awarded at each school and then the judges chose a first and second place from each grade for statewide winners. There were also Division Winners and an Overall Best in Show. Winning students from each school received certificates, and overall winners' work was on display at the Mississippi State Capitol Building during Law Week April 29th-May3rd and showcased in this issue of *The Mississippi Lawyer* magazine. Congratulations to all the students for their great work!



First Grade – Second Place
Amber Asher
Highland Bluff Elementary



Second Grade – First Place
Kaleaha Dailey
Waveland Elementary



Second Grade – Second Place
Nathan Werne
Christ Covenant School

Law Week 2013 Through an Art Contest



Third Grade – First Place
Sadie Pohl
North Bay Elementary



Third Grade – Second Place
Pablo Lopez
Waynesboro Elementary School



Fourth Grade – First Place
Keegan Pickering
Seminary Elementary



Fourth Grade – Second Place
Sarah Margaret Wilder
Clinton Christian Academy



Fifth Grade – First Place
Amanda F. Barnett
Marshall Academy
Overall Division Winner Grades 1st-6th



Fifth Grade – Second Place
Kaylee Collins
East Rankin Academy

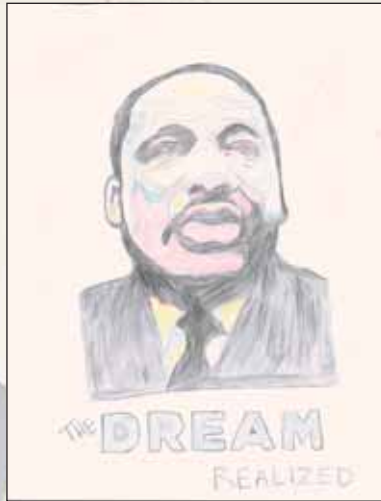


Sixth Grade – First Place
Peyton Stephenson
Marshall Academy

The Theme for Law Day 2013 was



Sixth Grade – Second Place
Alyx Caylee Oliver
Petal Upper Elementary



Sixth Grade – Honorable Mention
Hannah Whitney
East Rankin Academy



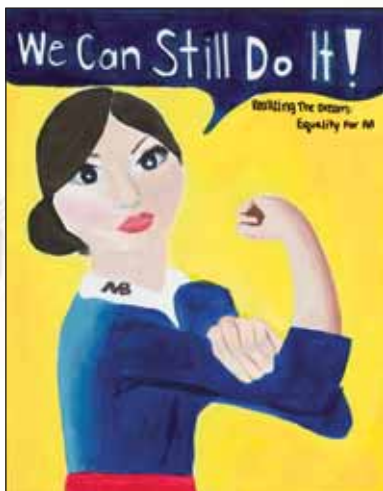
Sixth Grade – Honorable Mention
Marcus Herron
Powell Middle School



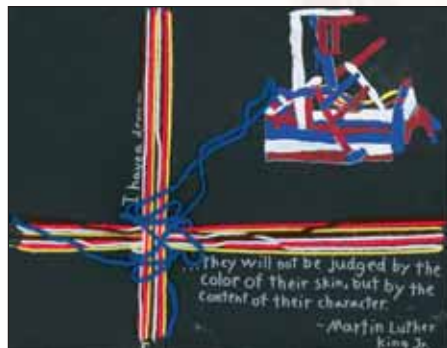
Seventh Grade – First Place
Avery Merritt
Clinton Christian Academy



Seventh Grade – Second Place
Daley Bell
Bay Waveland Middle School



Eighth Grade – First Place
Kaylila Pasha
Lamar M/H School



Eighth Grade – Second Place
Stephen Fowler
Madison-Ridgeland Academy



Ninth Grade – First Place
Katie Maddox
Clinton Christian Academy
Overall Division Winner Grades 7th-9th

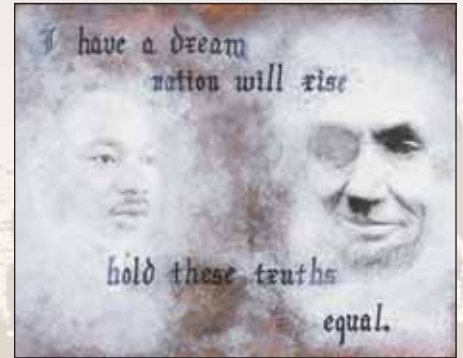
"Realizing the Dream: Equality for All"



Ninth Grade – Second Place
Melina Wilson
Saltillo High School



Tenth Grade – First Place
Blake Barham
Lamar M/H School
Overall Division Winner Grades 10th-12th
Best in Show



Tenth Grade – Second Place
Evan Woods
Madison-Ridgeland Academy



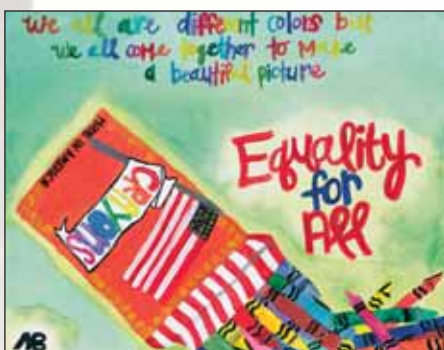
Tenth Grade – Honorable Mention
Bria Williams
Clinton Christian Academy



Eleventh Grade – First Place
Tracey Nguyen
Perry Central High School
Best Overall Drawing



Eleventh Grade – Second Place
Hannah Weeks
Germantown High School



Eleventh Grade – Honorable Mention
Paige Gibson
Lamar M/H School



Twelfth Grade – First Place
Lisa Malloy
Lamar M/H School



Twelfth Grade – Second Place
Mitch Phillips
Madison-Ridgeland Academy

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Final Disciplinary Actions

Disbarments, Suspensions, Inactive Disability Status and Irrevocable Resignations

Michael J. Brown of Brandon, Mississippi. A Complaint Tribunal **Disbarred** Mr. Brown in Cause No. 2011-B-885 by agreed order for violations of Rules 1.8(e), 1.15, 4.3, 8.1(a) and 8.4 (a), (c) and (d), MRPC. Mr. Brown was also previously disbarred in Cause No. 2012-BD-540.

Matthew D. Lansford of Ocean Springs, Mississippi. A Complaint Tribunal **Disbarred** Mr. Lansford in Cause No. 2012-B-530 for violations of Rules 1.2(a), 1.3, 1.4(a), 1.5(a), 1.15(a), 1.16(d), 8.1(b) and 8.4 (a), (c) and d), MRPC.

Three (3) separate Informal (Bar) Complaints were filed against Mr. Lansford. Two of the Informal (Bar) Complaints were filed by clients. In one, the client alleged that Mr. Lansford failed to attend a hearing. In the second, the client alleged that he failed to pursue his domestic relations matter in a timely manner, which led the client to hire another attorney to handle the matter. In the third Informal (Bar) Complaint, an attorney for an estate alleged that Mr. Lansford had been sent a settlement check that required his signature and that instead of endorsing it and returning it as required, Mr. Lansford cashed the check, converting the client or third party funds to his own use.

Mr. Lansford must apply for reinstatement with the Supreme Court under Rule 12, MRD, before being eligible to return to the practice of law.

Adam Pittman of Oxford, Mississippi. A Complaint Tribunal **Suspended** Mr. Pittman for one (1) year in Cause Nos. 2011-B-931 and 2012-B-193 for violations of Rules 1.2(a), 1.3, 1.4, 1.5, 1.16(a) and (d), 8.1(b), and 8.4 (a) and (d) of the Mississippi Rules of Professional Conduct (MRPC).

Four (4) separate Informal (Bar) Complaints were filed against Mr. Pittman by clients, each alleging that Mr. Pittman had started, but not completed work on their underlying legal matter, neglected their legal matter and failed to keep them adequately informed as to the status of their case. In addition, the Complaint Tribunal found that Mr. Pittman's legal fees were unreasonable because of his failure to bring three of the matters to conclusion. Likewise, the Tribunal found that Mr. Pittman failed to withdraw from the representation of three of the clients after

being terminated and also failed to surrender client property upon his termination. The Tribunal found that Mr. Pittman had failed to respond to each of the four (4) Informal (Bar) Complaints, despite numerous demands and that he had engaged in conduct prejudicial to the administration of justice.

In imposing the suspension, the Complaint Tribunal also took into account that Mr. Pittman had been the subject of prior discipline. Mr. Pittman must apply for reinstatement with the Supreme Court under Rule 12 of the Rules of Discipline for the Mississippi State Bar (MRD) before being eligible to return to the practice of law.

S. David Pickett of Columbus, Mississippi. A Complaint Tribunal **Suspended** Mr. Pickett for six (6) months in Cause No. 2012-B-1013 for violations of Rules 1.2(a), 1.3, 1.4(a), 1.5(a), 1.16(a) and (d), 8.1(b), and 8.4 (a) and (d), MRPC.

Seven (7) separate Informal (Bar) Complaints were filed against Mr. Pickett by clients. Mr. Pickett had been hired to handle eight separate legal matters, four involving bankruptcy and four divorces. Each of the Informal (Bar) Complaints alleged that Mr. Pickett had undertaken the representation, but failed to complete the work; had neglected their case; had failed to adequately communicate; that the legal fees paid were unreasonable; and that he had failed to withdraw from the representation and also failed to return client property. Of the seven Informal (Bar) Complaints filed, Mr. Pickett failed to file responses to all but one of them. Each of these allegations was admitted by Mr. Pickett.

In imposing the suspension, the Complaint Tribunal also took into account that Mr. Pickett had been the subject of prior discipline. Mr. Pickett must apply for reinstatement with the Supreme Court under Rule 12, MRD, before being eligible to return to the practice of law.

Stanley L. Taylor of Natchez, Mississippi. A Complaint Tribunal **Suspended** Mr. Taylor for 180 days in Cause No. 2012-B-1106 for violations of Rules 1.2(a), 1.3, 1.4(a), 1.5, 1.16(a) and (d), 8.1(b) and 8.4 (a) and (d), MRPC.

Two (2) separate Informal (Bar) Complaints were filed against Mr. Taylor by clients. One alleged that Mr. Taylor failed to handle a bankruptcy after receiving full payment and would not communicate about the status of the case. Another

also alleged a lack of communication.

In imposing discipline, the Complaint Tribunal also took into account that Mr. Taylor had been the subject of prior discipline, including a Public Reprimand for similar rules violations.

James B. Galloway of Madison, Mississippi. The Supreme Court of Mississippi accepted Mr. Galloway's **Irrevocable Resignation** from the practice of law under Rule 10.5 of the Rules of Discipline for the Mississippi State Bar (MRD). Mr. Galloway is not eligible to apply for reinstatement.

Public Reprimands

Jeffrey Lynn Ellis of Pascagoula, Mississippi. The Committee on Professional Responsibility imposed a **Public Reprimand** in Docket No. 11-274-1 for violations of Rules 1.2, 1.3, 1.4, 1.16, 8.1(b) and 8.4(a) and (d), MRPC.

Mr. Ellis was hired by a client to handle a personal injury action arising out of a motor vehicle accident. The last correspondence the client received from Mr. Ellis was from 2009. Mr. Ellis later moved to Pascagoula, Mississippi without informing his client. The client later contacted Mr. Ellis to retrieve his client file, but Mr. Ellis did not return the client's telephone calls. After an Informal (Bar) Complaint was filed, Mr. Ellis did not file a response and failed to appear at a properly noticed Investigatory Hearing as directed by the Committee on Professional Responsibility.

Paul Forrest Craig of Memphis, Tennessee. The Committee on Professional Responsibility imposed a **Public Reprimand** upon a non-Mississippi attorney in Docket No. 11-090-1 for violation of Rule 5.5(a), MRPC.

A client initially hired a Mississippi attorney, who is now deceased, to pursue a claim against a city under 42 U.S.C. §1983. This attorney associated the Labovitz Law Firm to assist with the case in October of 2006. Mr. Craig was the responsible "attorney" at the Labovitz Law Firm on the case. Mr. Craig is a Tennessee attorney, but is not licensed to practice law in Mississippi. No one informed the client that Mr. Craig was not a Mississippi licensed attorney and his sole contact at the Labovitz Law Firm was Mr. Craig. The client met with Mr. Craig multiple times at the Labovitz Law Firm while Mr. Craig drafted the complaint.

Continued on next page

The client also spoke with Mr. Craig at the Labovitz Law Firm monthly regarding his case leading up to the filing of the complaint.

A complaint was filed on the client's behalf in the United States District Court for the Northern District of Mississippi on November 21, 2007, but no summons was issued until September 8, 2008. The defendants in the case moved to dismiss the case for untimely service. Mr. Craig prepared a response to motion at the request of Mr. Labovitz. The case was dismissed and the client filed an informal [Bar] complaint against Mr. Craig.

On November 17, 2007, the Unauthorized Practice of Law Committee of The Mississippi Bar issued a cease and desist letter to Mr. Craig after its investigation revealed Mr. Craig had engaged in the unauthorized practice of law in another Labovitz Law Firm matter. Mr. Craig claimed that the client's case is the only Mississippi case he continued to perform legal work on after receiving the cease and desist letter.

Rule 5.5(a), MPRC, prohibits a lawyer from engaging in the unauthorized practice of law. Mississippi law defines the unauthorized practice of law as any exercise of intelligent choice in advising someone of his legal rights and duties. *Darby v. Miss. Bd. Bar Admissions*, 185 So. 2d 648 (Miss. 1966). The practice of law can be "as little as advising a person of his legal rights or exercising discretion in drafting documents." *In re Williamson and Miller*, 838 So. 2d 226 (Miss. 2003). Mr. Craig is not and never has been admitted to practice law in Mississippi. Mr. Craig drafted pleadings and advised a client with regards to his Mississippi litigation. Mr. Craig was previously advised by the Bar's UPL Committee on November 19, 2007, to cease and desist from those activities that constituted the unauthorized practice of law in Mississippi. Mr. Craig's activities persisted in his handling of the client's case for at least another year after the cease and desist demand. Mr. Craig has engaged in the unauthorized practice of law in violation of Rule 5.5(a).

Mr. Labovitz was also the subject of discipline for this same matter, receiving a thirty (30) day suspension from a Complaint Tribunal in Cause No. 2012-B-1233 for violations of Rules 1.2(a), 1.3, 1.4(a), 1.16(d), 5.3(b) and (c), 5.5(b) and 8.4(a) and (d), MRPC.

William R. Wheeler of Tupelo, Mississippi. The Committee on Professional Responsibility imposed a **Public Reprimand** in Docket No. 11-434-2 for violation of Rules 1.15 and 5.3(b), MRPC.

James R. Franks of Tupelo, Mississippi. The Committee on Professional Responsibility imposed a **Public Reprimand** in Docket No. 11-433-2 for violation of Rules 1.15 and 5.3(b), MRPC.

On November 21, 2011, law partners Mr. Wheeler and Mr. Franks, through counsel, voluntarily self-reported their possible misconduct regarding their law firm's former office manager, Wendy Hellums ("Ms. Hellums"). Mr. Wheeler and Mr. Franks discovered Ms. Hellums had embezzled funds from the firm's Lawyer Trust Account ("LTA") over an almost four year period from 2007 through 2011.

When the lawyers discovered Ms. Hellums' defalcation, they terminated Ms. Hellums' employment, began an investigation of the extent of the defalcation, and referred Ms. Hellums to the appropriate law enforcement personnel. With the help of the firm's accountant, the lawyers were able to determine how much money of each clients' funds had been stolen. Additionally, the lawyers promptly replaced the stolen funds with their own personal funds. Each client has now been made whole. Further, the firm has implemented new procedures to better protect client funds from possible defalcation in the future.

Rule 1.15 of the Mississippi Rules of Professional Conduct ("MRPC") requires a lawyer to properly maintain a LTA. Each individual lawyer bears the responsibility for maintaining the funds entrusted to the lawyer. The duties to properly maintain a LTA cannot be delegated to another lawyer or non-lawyer. Traditionally, the Courts have applied a very high level of scrutiny to violations involving Rule 1.15. For example, the Mississippi Supreme Court has stated that mishandling client funds is "the cardinal sin" of lawyering. *Haimes v. Miss. Bar*, 601 So. 2d 851, 854 (Miss. 1992). Rule 1.15 does not impose any requirement that the lawyer possess any intent to violate the rule.

In this case, the Committee noted that Ms. Hellums took funds from the lawyer trust account over a period of almost four years. Mr. Wheeler and Mr. Franks should have known that their office manager was tak-

ing that amount of money over that period of time if they had taken any of the steps that are now in place to properly monitor clients' money entrusted to the firm through their LTA.

Rule 5.3(b), MRPC, requires lawyers with direct supervisory authority over non-lawyers to take reasonable steps to ensure the conduct of non-lawyer personnel is compatible with the professional obligations of the lawyer.

In this case, Mr. Wheeler and Mr. Franks took immediate remedial steps to protect missing client money. Moreover, they implemented reforms in their lawyer trust account procedures to prevent future defalcations. Fortunately, Mr. Wheeler and Mr. Franks had the means to cover the missing funds. However, the fact remains that their clients' trust monies were at risk and subject to potential loss had those means not existed.

The Committee has carefully considered the aggravating and mitigating factors presented in this case. In addition to the increased scrutiny associated with violations of Rule 1.15, the primary aggravating factor to be considered is that Ms. Hellums' embezzlement took place over an almost four year period. The mitigating factors involved include that the attorneys self-reported the misconduct, fully and completely disclosed the misconduct, and undertook immediate steps to make clients whole and to prevent future, similar incidents. Considering the aggravating and mitigating factors, the Committee found the appropriate discipline to be imposed was a Public Reprimand.

Private Reprimands

The Committee on Professional Responsibility imposed a **Private Reprimand** against an attorney in Docket No. 11-184-1 for violation of Rules 1.1, 1.5(a) and (b), 1.9(a), and 1.16(d), MRPC.

A client filed an informal [Bar] complaint against an attorney alleging that she did not properly assimilate documents in response to a grand jury subpoena, did not return his file when her representation in the criminal investigation was terminated and later entered an appearance on behalf of his co-defendant in the trial that resulted from that investigation. The attorney was hired to represent the client in a federal criminal investigation. At the beginning of the representation, the attorney directed the client to deliver a number of documents to his co-defendants' attorney with no knowledge of what information

Final Disciplinary Actions

those documents contained. It became clear later in the investigation that these documents contained incriminating evidence against the co-defendant. A federal grand jury subpoena was then issued to the client. The client compiled a number of electronic documents onto a DVD and sent them to the attorney to prepare the subpoena response. The attorney did not review the electronic documents prior to sending the DVD to the government as his response to the subpoena. The attorney also failed to obtain the paper documents she directed the client to deliver to the co-defendant's attorney in order to prepare a complete subpoena response.

The client and the attorney also disputed the hourly rate to which they agreed. The client claimed he agreed to pay an hourly rate of \$175. The attorney claimed the co-defendant's attorney arranged for the client to pay an hourly rate of \$350. There was no written engagement contract. The attorney's customary hourly rate was \$150. The client paid the attorney a total of \$10,000 during the representation. The attorney's itemization of services indicates she spent a total of 16.75 hours in her representation of the client, equating to an effective hourly rate of \$597.

The client later terminated the attorney's representation and retained a new attorney. The attorney was unresponsive to requests from the client and his new attorney to return his file. The attorney also failed to refund any portion of the fee paid by the client that she did not earn.

After terminating the attorney, the client entered into an agreement with the government to provide testimony adverse to his co-defendant at trial. The attorney later entered an appearance as local counsel for the co-defendant. The attorney did not obtain and made no attempt to obtain the client's consent prior to entering her appearance for the co-defendant.

On the basis of the informal [Bar] complaint, the Committee found that the attorney's conduct constitutes a violation of Rules 1.1, 1.5(a) and (b), 1.9(a), and 1.16(d), MRPC.

Rule 1.1, MRPC, requires a lawyer to provide competent representation which encompasses possessing the requisite legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.5(a), MRPC, requires a fee to be reasonable. Factors include the time and labor required and the fee customarily

charged in the locality. Additionally, Rule 1.5(b) requires a lawyer to communicate the basis or rate of the fee to the client, preferably in writing, before or within a reasonable time after commencing the representation.

Rule 1.9(a) prohibits a lawyer who has formerly represented a client from representing another in the same or a substantially related matter in which that person's interests are materially adverse to the interest of the former client unless the former client consents after consultation.

Rule 1.16(d) requires a lawyer to take steps to protect a client's interest upon termination of the representation such as giving the client reasonable notice, returning papers and property and refunding any advance payment not earned.

The Committee on Professional Responsibility imposed a **Private Reprimand** against a Mississippi attorney in Docket No. 11-508-2 for violation of Rule 1.8(e), MRPC.

The Committee on Professional Responsibility imposed a **Private Reprimand** against an Alabama attorney in Docket No. 11-509-2 for violation of Rule 1.8(e), MRPC.

A Mississippi attorney and an Alabama attorney admitted *pro hac vice* represented a client in a Mississippi personal injury lawsuit. Almost three months into the representation, the attorneys' firm provided their client financial assistance to help meet their basic needs until the client qualified for social security disability. The firm provided the client a monthly loan of \$500 over this time period totaling \$6,750. The firm also paid utility and pharmacy bills on behalf of the client in the amount of \$4,632.53. The attorneys did not report any of the advances to the Ethics Committee of the Mississippi Bar, nor did they seek approval from the Committee to advance any funds in excess of \$1,500.

Rule 1.8(e), MRPC, provides a lawyer shall not provide financial assistance to a client for repayment upon the successful completion of the matter other than litigation expenses, or reasonable and necessary medical and/or living expenses, if the client is under dire and necessitous circumstances. An advance of reasonable and necessary medical and/or living expenses may not be made until sixty (60) days after the client has signed an engagement contract, cannot include the promise of future payments and must not exceed \$1,500 without prior approval of the Bar's

Ethics Committee. Rule 1.8(e)(2)(b), MRPC. Advances under this subsection that total less than \$1,500 still must be reported to the Bar's Ethics Committee within seven (7) days of the advance. *Id.* While the attorneys did not advance funds to their client until more than sixty (60) days had elapsed, the attorneys did not report any of the advances to the Ethics Committee. Further, the attorneys did not obtain approval from the Ethics Committee to advance in excess of \$1,500 to his client.

The Committee on Professional Responsibility imposed a **Private Reprimand** against an attorney in Docket No. 11-441-2 for violation of Rule 1.4, MRPC.

A client filed an informal [Bar] complaint against an attorney alleging that the attorney would not respond to requests for information about the status of his legal matter. The attorney acknowledged he needed to be more responsive to his clients. The attorney previously received an informal admonition for his violation of Rule 1.4, of the Mississippi Rules of Professional Conduct in 2011.

Rule 1.4(a), MRPC, requires a lawyer to keep a client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

The Committee on Professional Responsibility imposed a **Private Reprimand** against an attorney in Docket No. 12-081-1 for violation of Rule 5.5(a), MRPC.

A party opposite filed an Informal [Bar] Complaint against a Mississippi attorney alleging that he engaged in the unauthorized practice of law in Florida. The Mississippi attorney is not licensed to practice in Florida. The Mississippi attorney sent correspondence on behalf of his client to a Florida attorney regarding a contract dispute. His letter indicated he maintained a law office in Florida. The Florida Bar found that the Mississippi attorney engaged in the unauthorized practice of law.

Rule 5.5(a), MRPC, prohibits a lawyer from practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction. ■

20th Year Anniversary of Court Reform Legislation



Signing Ceremony for Historic 1993 Court Reform Act

Pictured left to right seated: Chief Justice Armis Hawkins, Governor Kirk Fordice and Presiding Justice Dan Lee. Pictured left to right standing: Representative John Reeves, Mississippi Bar President Grady Tollison, Jr., Senator Rob Smith, Justice C.R. McRae, Justice Edwin Lloyd Pittman, Presiding Justice Lenore Prather, Justice Jim Smith, Justice Fred Banks, Jr., Justice Michael Sullivan and Representative Mike Mills.

Twenty years ago, the Commission on the Courts in the 21st Century initiated their recommendations for the future of the Mississippi courts. The Commission developed a three phase plan. First, the problems and future needs of the Mississippi courts needed to be identified. Second, a designated subcommittee would propose and discuss solutions to those identified needs and problems. And third, the Commission would reach agreement on the subcommittee's proposed solutions. The Legislation that followed in April of 1993 continued to mark the Commission's achievements even now, twenty years later.

That Legislation, Senate Bill 2620 and House Bill 548, attempted to change the courts in four key ways. First, they created an Administration Office of the Courts whose purpose was to assist in the non-judicial business of the court. These persons would work with all clerks to ensure that all statistical caseload and other information would be compiled and published. Along

with this office, a Mississippi Judicial Advisory Study Committee was created to provide needed counsel on both matters of judicial and administrative policy. The second key way was the creation of the Court of Appeals, which would relieve the Supreme Court of its duty to review cases with routine error. In addition to this creation, the Commission desired accountability for the time standards for appellate decisions. In the desire for better efficiency, the legislation provided funding for additional clerks, legal research assistants and secretaries for the Courts. Finally, the fourth change was a salary initiative to attract and retain highly qualified judges. The House Bill 548 provided a two step increase in salary for Mississippi judges.

This legislation from the Commission transformed the Mississippi Court system to better function with efficiency, accountability, and quality as it faced the 21st century. It excelled then, and these changes continue to assist the Courts today.



Rachel Pierce Waide
Young Lawyers Division President
2012-2013

As I prepare to end my year of service as president of the Young Lawyers Division, I am excited about the YLD's contributions to our Bar and to Missis-

Young Lawyers Division News

sippi in general over the last year. From the Mock Trial Competition to the Prison Dogs program, YLD members have given their time and talents to good causes across the State of Mississippi. I am honored and privileged to have played a small role in those worthwhile projects. Our membership did exhaustive work in many areas, and I look forward to watching those efforts continue under the capable leadership of Julie Jarrell Gresham next year. Thank you for allowing me to serve

in what has proven to be both an enjoyable and fulfilling position.

I am excited, too, about the upcoming Mississippi Bar Convention. You are invited to join us for the YLD General Assembly on Friday, July 12, 2013, at 8 a.m. Guest speaker Marshall Ramsey will not only address the crowd, but he will also be on hand after delivering his remarks to autograph copies of his new book, *Fried Chicken & Wine*. During that meeting, we will conduct a brief business session and will recognize Alison Baker as this year's Outstanding Young Lawyer. I look forward to seeing you there! ■

Marshall Ramsey Guest Speaker



at the 77th Annual General Assembly
of the Young Lawyers Division
8:00 - 9:00 a.m. • Friday, July 12, 2013
Sandestin Hilton, Sandestin, Florida

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Spring 2013 Bar Admissions Ceremony Sponsored by the Young Lawyers Division



Program participants administering the oath to practice law in Mississippi included (front row), Judge J. Dewayne Thomas, representing Hinds County Chancery Court; Lemuel G. Adams III, President of The Mississippi Bar; Mary Largent Purvis, Chair, YLD Bar Admissions Ceremony Committee; Rachel Pierce Waide, President of the Young Lawyers Division of The Mississippi Bar; The Reverend Shannon Manning, St. James' Episcopal Church; (second row), Judge Michael T. Parker, representing the US District Courts for the Northern and Southern Districts of Mississippi; Dean James H. Rosenblatt, Mississippi College School of Law; Judge James E. Graves, Jr., representing the US Court of Appeals for the Fifth Circuit; Judge Smith Murphey, Member, Board of Bar Admissions; Dean Richard Gershon, University of Mississippi Law School; and Chief Justice William L. Waller, Jr., representing the Supreme Court.

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The Spring Bar Admissions Ceremony sponsored by the Young Lawyers Division was held Thursday, April 25, 2013 at the Gartin Justice Building in the Supreme Court en banc courtroom. Representing the Young Lawyers Division Bar Admission Ceremony Committee were Matt Eichelberger; Christy Malatesta; Kimberly Banks; Tiffany Graves; Mary Largent Purvis, Chair; April Ladner; and Barbara Meeks.

Spring 2013 New Admittees

Christa LaDonna Alexander
Katherine Marquis Anderson
Jeffrey Braden Arnold
Michael Allen Attaway, Jr.
Navketan Kaur Aujla
Brigg Hails Austin
Mary Elizabeth Turner Baxter
Ashlee Drake Berry
Laci McCullough Bonner
Travis Robe Burke
Scott Charles Campbell
Taylor Charles Cheeseman
Donna Marie Chesteen
Andrew Austin Clark
Daniel Glen Cossey
Jennifer Ann Curry
Shuntal Sancia Dean
Sarah Lynn Dickey
Melody Hurdle Eagan
John Aaron Earnhardt
Bradley Wayne Eskins
Katy Elizabeth Fulgham
John Stone Golwen
Heather Nicole Goodlett
Michael Lee Grace
Jeffrey Matthew Graves
Barron Cruz Gray
Sean Frederick Hampton
Hartwell Virginia Harris
Patrick Brantley Henderson

Price Darby Henley
William James Hill III
Drury Sumner Holland
Whitney Elaine Holliday
Louis Anthony Huber III
Stella Michelle Hurtt
Kevin M. Jordan
April Hendricks Killcreas
Spencer Harrison Larche
David Turner Long
Zachary Andrew Madison
Vincent Michael Mazzone
Kimberly Denice McCray
Michael Bolton McDermott, Jr.
Kathryn Clarice McDonald
Kevin O'Neil McKinley
Van Douglas McMahan
Natalie Ki-Andra McSwain
Julian Dennard Miller
Paul Green Millsaps, Jr.
Gabriel Montalvo
William Westley Mutziger
Natosha Elaine Myers
Denita Willette Neal
Charles Alfred Neff
Steven Nicholas Newton
David Anthony Pickler
Meredith Anne Price
Andrew John Reish
Russell Edward Reviere

Elizabeth Irene Sawyer
Joseph Anthony Scalia II
Eric Winder Sella
Brad Alan Smith
Christopher Edward Smith
Tiffany Elizabeth Speegle
Yvette Louise Stelly
Lequisha Angenette Stevenson
Tracey Lynn Stokes
Michele Elizabeth Taylor
Benjamin Dodd Thornton
Adam Frazier Thrash
Bridget Renea Todd
Michael David Troendle
Slates Collins Veazey
Charles Emil Vercelli, Jr.
Mickey Jansen Voss
Paul Mason Wages
Louis Collins Walker
Gregory Joseph Walsh
Iesha LaToya Warmack
Evan Joseph Weems
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New “Lawyers in the Family”



Price Henley, left, of Hazellhurst, is welcomed by his father Brand Henley (admitted 1978) of Jackson.



William Westley Mutziger, right, of Meridian, is congratulated by his father-in-law Larry Thomas Richardson (admitted 1979) of Clinton.



Judge Edward C. Prisock, right, (admitted 1965) greets his son-in-law Zachary Madison of Louisville.



Sarah Ann Williamson, center, is welcomed by her father Robert Williamson, right, (admitted 1982), her mother Jonell Beeler, left, (admitted 1982) all from Jackson and not pictured, her grandfather Retired Chancellor Dennis M. Baker, of Batesville, (admitted 1953).



Julian D. Miller, center, of Jackson is greeted by his brother, right, Melvin D. Miller, II of Winstonville (admitted 2011) and his cousin Kimalon S. Campbell of Flowood (admitted 1999).



Dale Danks, Jr., right, (admitted 1964) welcomes his niece Ashley C. Wright, both from Jackson.



Rebecca Wright, left, is congratulated by her father Charles Wright (admitted 1976) both from Meridian.

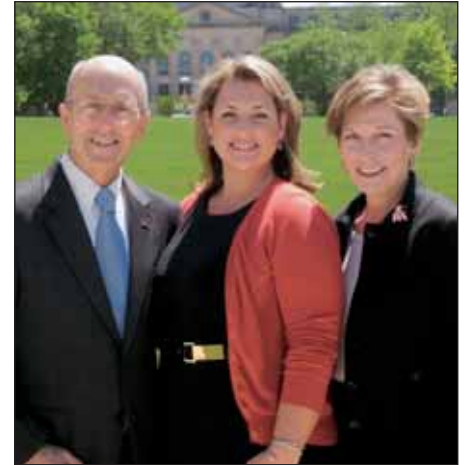
New “Lawyers in the Family”



Yvette Stelly, right, of Pass Christian, is welcomed by her father Herbert J. Stelly, Sr., of Long Beach (admitted 1963).



Adam F. Thrash, right, is congratulated by his father Gary D. Thrash (admitted 1974) both from Jackson.



Christa L. Alexander, center, of Bay Springs, is welcomed by her aunt Mary A. Nichols, right, (admitted 1990), of Biloxi and her uncle Mark Mayfield, left, (admitted 1981) of Jackson.



Judge Margaret Carey-McCray, left, of Greenville, (admitted 1986) greets her niece Kimberly McCray of Metcalfe.



Laci McCullough Bonner, center left, is welcomed by her husband Zach Bonner, center right, (admitted 2009), her father John McCullough, left, of Ridgeland, (admitted 1979) and her brother Brad McCullough, right, of Jackson, (admitted 2001).



Ashlee Drake Berry, left, of Ankeny, IA is greeted by her aunt, Elise B. Munn, right, of Hazelhurst (admitted 1993) and not pictured, her husband Lee W. Berry IV of Clarksville, TN (admitted 2008) who is currently deployed with the Army in Afghanistan.



Jeffrey M. Graves, center right, of Jackson is welcomed by his father Judge James E. Graves, Jr., left, (admitted 1980), his sister-in-law, Tiffany Graves, center left, (admitted 2007), his brother James E. Graves III, right, (admitted 2006), and his brother Christopher Graves, not pictured, (admitted 2003) all from Jackson.

2013 Mississippi High Sch



Sacred Heart Catholic School Team 1 displays the First Place gavel they were awarded during the 30th Annual High School Mock Trial Competition. Pictured with their teacher sponsor, Paul VanZandt, and their attorney coaches (left to right) Don Hinton, Carey Varnado, Katherine Howie, and Sarah Snow.



On Saturday, March 2, in the Supreme Court en banc courtroom, Sacred Heart Catholic School Team 1 finished in first place and went on to represent Mississippi in the 2013 National High School Mock Trial Competition held May 9-11 in Indianapolis, Indiana.

Distinguished members of the Bar judged the statewide final round. These judges included Rachel Pierce Waide, President of the Young Lawyers Division of The Mississippi Bar; David Maron, President of the Capital Area Bar Association; Stephanie Jones, prior Chair of the Statewide Mock Trial Committee; Judge Lamar Pickard, Circuit Judge of the 22nd Circuit Court District; and Robert Gibbs served as the presiding judge again this year. He has presided at the Statewide Mock Trials for nearly 20 years.

Forty-three teams from around the state participated in three regional competitions, which were held in January and February in Gulfport, Jackson and Oxford. From those teams, 20 teams advanced to the statewide competition held on March 1-2 at the Hinds County Courthouse and Chancery Courthouse in Jackson.

Long Beach High School Team 2 earned the second place trophy gavel, coached by Brad Rath. The following schools earned the remainder of the top six positions. MSMS Team 1, third place, coached by Scott Colom; Jackson Prep Team 1, fourth place, coached by Crane Kipp, Lewis Bell, Drew Malone and Joe Roberts; Sacred Heart Catholic School Team 2, fifth place, coached by Don Hinton, Carey Varnado, Sarah Snow and Katherine Howie; and MSMS Team 2, sixth place, coached by Scott Colom. The Mississippi Bar High School Mock Trial Competition is sponsored and coordinated by the Young Lawyers Division of The Mississippi Bar. ■



The final round judges included (left to right) Rachel Pierce Waide, President of the Young Lawyers Division of The Mississippi Bar; David Maron, President of the Capital Area Bar Association; Robert Gibbs, serving as the presiding judge for the 20th year; Judge Lamar Pickard, Circuit Judge of the 22nd Circuit Court District; and Stephanie Jones, prior Chair of the Statewide Mock Trial Committee.

UPDATE

ool Mock Trial Competition



Mississippi Attorneys Who Served As Team Coaches During The Mississippi 2013 High School Mock Trial Competition

David HarrisBiloxi <i>Biloxi High School</i>	Mike BaxterRidgeland <i>MRA</i>
John A MeynardieGulfport <i>Biloxi High School</i>	Katie TrundtCanton <i>MRA</i>
Woody Breeland.....Brookhaven <i>Brookhaven High School</i>	Scott ColomColumbus <i>MSMS</i>
Evan LundyFlowood <i>Christian Home Educator's Connection</i>	Dave RozierOxford <i>Oxford High School</i>
Milton Carroll McCardleHazlehurst <i>Copiah Academy</i>	Keith PearsonOxford <i>Oxford High School</i>
Daniel W. Kitchens.....Crystal Springs <i>Copiah Academy</i>	Justin Cluck.....Holly Springs <i>Potts Camp High School</i>
Jacqueline MeekEupora <i>Eupora High School</i>	Don HintonHattiesburg <i>Sacred Heart Catholic School</i>
Judge Debbra Halford.....Meadville <i>Franklin County High School</i>	Carey R Varnado.....Hattiesburg <i>Sacred Heart Catholic School</i>
Cherie R. Wade.....Pascagoula <i>Gautier High School</i>	Sarah SnowHattiesburg <i>Sacred Heart Catholic School</i>
Mary Clay MorganJackson <i>Jackson Academy</i>	Katherine L HowieHattiesburg <i>Sacred Heart Catholic School</i>
Brad ReevesJackson <i>Jackson Academy</i>	Francis LarkinTupelo <i>Saltillo High School</i>
Crane Kipp.....Jackson <i>Jackson Prep</i>	Blake TellerVicksburg <i>St. Aloysius High School</i>
Lewis Bell.....Jackson <i>Jackson Prep</i>	Le BrownVicksburg <i>St. Aloysius High School</i>
Drew MaloneRidgeland <i>Jackson Prep</i>	Sheryl BeyJackson <i>St. Andrew's Episcopal School</i>
Joe RobertsJackson <i>Jackson Prep</i>	Tammye Brown.....Jackson <i>St. Andrew's Episcopal School</i>
Leo CarmodyOxford <i>Lafayette High School</i>	James Shelson.....Jackson <i>St. Andrew's Episcopal School</i>
Allyson L Nelson.....Oxford <i>Lafayette High School</i>	Shaunte' WashingtonJackson <i>St. Joseph Catholic School</i>
Stephen Wilson.....Meridian <i>Lamar School</i>	Judge Jennifer T Schloegel.....Gulfport <i>St. Patrick Catholic High School</i>
Kacey Bailey.....Meridian <i>Lamar School</i>	Pepper A Pearson.....Gulfport <i>St. Patrick Catholic High School</i>
Brad Rath.....Long Beach <i>Long Beach</i>	Lauren R McCroryBiloxi <i>St. Patrick Catholic High School</i>
Rogen ChhabraJackson <i>Madison Central</i>	Elena L Guida.....Gulfport <i>St. Patrick Catholic High School</i>
Staci A O'NealMadison <i>Madison Central</i>	Wendell JamesBay Springs <i>Sylva-Bay Academy</i>
Anthony L. Farese.....Ashland <i>Marshall Academy</i>	Cory M. WilliamsonOxford <i>Water Valley High School</i>
Phillip K. KnechtHolly Springs <i>Marshall Academy</i>	Robert D Schultze.....Oxford <i>Water Valley High School</i>

Special Thanks to Mississippi Attorney Judges for 2013 Statewide & Regional Mock Trial Competition

The Mississippi Bar Young Lawyers Division would like to thank the following members of The Mississippi Bar for their efforts as attorney judges during the 2013 High School Mock Trial Competition.

Regional Judges

Jason Alexander.....Cleveland
Dewey Arthur.....Brandon
Mimi Arthur.....Jackson
Jessica Ayers.....Jackson
Cheryn Baker.....Jackson
Matt Baldrige.....Flowood
Jessica Bates.....Pascagoula
Dave Bell.....Oxford
Thomas Bellinder.....Jackson
Michael Bentley.....Jackson
Jeff Bertucci.....Biloxi
David Brisolara.....Long Beach
Phil Broadhead.....University
Eric Brown.....Jackson
Zach Busey.....Jackson
David Caldwell.....Jackson
Graham Carner.....Jackson
Tom Carpenter.....Gulfport
Mike Carr.....Cleveland
Kristopher Carter...Ocean Springs
Krissy Casey.....Tupelo
Judge Jim Chaney.....Vicksburg
John Christopher.....Ridgeland
Ashlee Cole.....Pascagoula
Betsy Cotton.....Yazoo City
Marcy Croft.....Jackson
Richard Davis.....Eupora
John Dawson.....Gulfport
Israel Denham.....Ocean Springs
Carter Dobbs.....Jackson
Dan Duggan.....Brandon
Bill Eckert.....Metairie
Wendy Ellard.....Jackson
Tanya Ellis.....Jackson
Jeremy England.....Ocean Springs
Amanda Evans.....Meridian
Stephanie Evans.....Ridgeland
Bailey Fair.....Jackson
Luke Fisher.....Oxford
Elliott Flaggs.....Vicksburg
David Frazier.....Pascagoula
Hale Freeland.....Oxford
Alicia Hall.....Jackson
Ryan Hall.....Jackson
Macy Hanson.....Jackson
Reginald Harrion.....Jackson
Ashley Hendreth.....Ridgeland
Adria Hertwig.....Jackson

Jenessa Hicks.....Oxford
Heather Hudson.....Greenville
Elizabeth Hyde.....Oxford
Jamie Jacks.....Cleveland
Andy Johnson.....Jackson
J D Johnson.....Oxford
Jim Johnstone.....Pontotoc
John Kavanagh.....Mobile
Hugh Keating.....Gulfport
Gina Kelley.....Aberdeen
Sterling Kidd.....Jackson
Matt Kittrell.....Biloxi
Parker Kline.....Aberdeen
Reid Krell.....Horn Lake
Joanna Kuhn.....Jackson
Bill LaBarre.....Jackson
Christy Malatesta.....Jackson
Jacob Malatesta.....Flowood
Will Manuel.....Jackson
David Maron.....Jackson
Brooke Martin.....Jackson
John Martin.....Canton
Jonathan Masters.....Oxford
Drew Mauldin.....Aberdeen
Courtney McAlexander.....Oxford
Michael McCabe.....Gulfport
Will McIntosh.....University
Chan McLeod.....Jackson
Sue Merchant.....Jackson
Jeffrey Mitchell.....Tupelo
Laura Moore.....Jackson
Jody Owens.....Jackson
James Parrett.....Oxford
Lindsay Peak.....Gulfport
Bryan Petty.....Ramer, TN
Richard Pietrowski.....Biloxi
Crymes Pittman.....Jackson
Evelyn Portie.....Brandon
Melvin Priester.....Jackson
Amanda Proctor.....Jackson
George Read.....Oxford
Sarah Reese.....Biloxi
Spencer Ritchie.....Jackson
Jason Savarese.....Gulfport
Aafram Sellers.....Jackson
Chris Shaw.....Jackson
Julie Skipper.....Jackson
Tiffany Speegle.....Oxford
Francis Springer.....Madison
Alice Stamps.....Jackson
Amy Strickland.....Jackson
Forrest Stringfellow.....Clinton
Tom Taff.....Vicksburg
Michael Tarleton.....Ridgeland
Bethany Tarpley.....Jackson
Christine Tatum.....Oxford
Lindsay Thomas.....Jackson

Sumeka Thomas.....Okolona
Betsy Turley.....Jackson
Kathlyn Van Buskirk...Pascagoula
Glen Waddle.....Jackson
Lee Watt.....Jackson
Josh Wiener.....Ridgeland
Kelly Williams.....Madison
Mike Williams.....Greenville
Herb Wilson.....Gulfport
Mark Woods.....Oxford
Charles Yow.....Oxford

Statewide Judges

Alicia Ainsworth.....Pearl
Jason Alexander.....Cleveland
Cody Bailey.....Jackson
Cheryn Baker.....Jackson
Matt Baldrige.....Flowood
Ed Bean.....McComb
Thomas Bellinder.....Jackson
Parker Berry.....Ridgeland
Lindsey Boyd.....Jackson
Bryan Buckley.....Canton
Barry Campbell.....Jackson
Graham Carner.....Jackson
Beau Cole.....Jackson
Brent Cole.....Jackson
Betsy Cotton.....Yazoo City
Marcy Croft.....Jackson
Nakimuli Davis.....Jackson
Paul Davis.....Ridgeland
Laura Dixon.....Ridgeland
Carter Dobbs.....Jackson
Dan Duggan.....Brandon
La'Verne Edney.....Jackson
Wendy Ellard.....Jackson
Amanda Evans.....Meridian
Stephanie Evans.....Jackson
Bailey Fair.....Jackson
Louis Frascogna.....Jackson
David Frazier.....Pascagoula
Robert Gibbs.....Jackson
Chip Glaze.....Jackson
Laura Goodson.....Jackson
Tiffany Grove.....Ridgeland
Alicia Hall.....Jackson
Jacinta Hall.....Jackson
Jennifer Hall.....Jackson
Ryan Hall.....Jackson
Seth Hall.....Ridgeland
Reginald Harrion.....Jackson
Emily Haxton.....Jackson
Brent Hazzard.....Jackson
Ashley Hendricks.....Jackson
Tricia Herlihy.....Jackson
Janice Jackson.....Jackson
Andy Johnson.....Jackson

Rita Jones.....Choctaw
Stephanie Jones.....Jackson
Virginia Jones.....Jackson
Joseph Kelly.....Liberty
Sterling Kidd.....Jackson
Brace Knox.....Starkville
Reid Krell.....Horn Lake
Will Manuel.....Jackson
David Maron.....Jackson
Alex Martin.....Jackson
Brooke Martin.....Jackson
Catoria Martin.....Jackson
John Martin.....Canton
Carrie McCormick.....Jackson
Judge Mike McPhail...Hattiesburg
Sue Merchant.....Jackson
Doug Miracle.....Jackson
Anita Modak-Truran....Ridgeland
John Mooney.....Madison
Laura Moore.....Jackson
Jessica Murray.....Jackson
Kim Nailor.....Vicksburg
Mary Nichols.....Gulfport
Lanny Pace.....Jackson
Martin Perkins.....Jackson
Judge Lamar Pickard...Hazlehurst
Evelyn Portie.....Brandon
Judge Melvin Priester.....Jackson
Melvin Priester.....Jackson
Jeff Rimes.....Ridgeland
Spencer Ritchie.....Jackson
Ellen Robb.....Ridgeland
Dean James H Rosenblatt.Jackson
Vicki Rundlett.....Clinton
Brant Ryan.....Ridgeland
Chad Shook.....Hattiesburg
Vicki Slater.....Madison
Francis Springer.....Madison
Stephen Stamboulieh....Ridgeland
Austin Stewart.....Jackson
Frannie Strayham.....Mandeville
Toni Terrett.....Vicksburg
Betsy Turley.....Jackson
Rachel Pierce Waide.....Tupelo
Robert Walker.....Jackson
Sara Ward.....Jackson
Lee Watt.....Jackson
Scotty Welch.....Jackson
Josh Wiener.....Ridgeland
Rebecca Wiggs.....Jackson
Kelly Williams.....Madison
Laina Woodard.....Madison
J.D. Woodcock.....Jackson
Gretchen Zmitrovich.....Jackson

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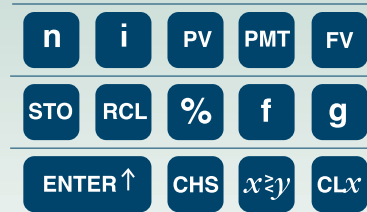
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The registration fee is \$370 for attorneys and \$160 for Judges whose registration is received no later than June 14, 2013. After June 14, the registration fee is \$395 for attorneys and \$185 for Judges. The registration fee will cover attendance at all sessions, handout materials, and coffee breaks.

2013 ANNUAL MEETING

JULY 10 - 13, 2013

SANDESTIN HILTON

The 108th Annual Meeting of The Mississippi Bar will be held on July 10 - 13, 2013, at the Sandestin Beach Hilton and Sandestin Golf and Beach Resort in Destin, Florida. Registration will cover attendance at all general, educational and business sessions, as well as admission to the Welcome Reception on Wednesday, July 10 and President's Reception on Friday, July 12. Entry in all sporting events and attendance at all social events will require participants to be registered for The Mississippi Bar Annual Meeting.

The registration fee is \$410 per attorney (includes spouse/guest) and \$285 for Judges (includes spouse/guest) whose registration is received no later than June 14, 2013. After June 14, the registration fee is \$450 for attorneys and \$310 for Judges. (All government lawyers will receive a 10% discount on registration fees).

The enclosed registration form for Summer School and/or Annual Meeting must be returned to The Mississippi Bar.

Registration fees must accompany the registration form.

Make checks payable to The Mississippi Bar.

For further information about Summer School or Annual Meeting registration, please call Nikki McIntyre at The Mississippi Bar at 601-355-4619 or email nmcintyre@msbar.org.

CANCELLATIONS & REFUNDS

The Mississippi Bar will accept only written requests for refund of registration fees by either mail or fax to Nikki McIntyre, The Mississippi Bar, P.O. Box 2168, Jackson, MS 39225-2168, Fax # 601-355-8635 or by e-mail to nmcintyre@msbar.org. The date of cancellation is the date received by the Bar office in Jackson.

The following refund schedule has been established:

CANCELLATIONS RECEIVED ON OR BEFORE JUNE 28:

Full refund, less \$50 administrative charge.

CANCELLATIONS RECEIVED JULY 1 - JULY 13:

50% refund.

Due to hotel advance guarantee requirements, there will be no refund for optional ticketed events the week of July 8-13.

CANCELLATIONS RECEIVED AFTER MEETING DATES:

No refund.

ACCOMMODATIONS

Bar members staying at the **SANDESTIN BEACH HILTON** must make reservations **DIRECTLY WITH THE HOTEL BY PHONE OR ONLINE.**

Registrants staying at the **SANDESTIN RESORT** must make reservations **BY USING THE ENCLOSED FORM OR BOOKING ONLINE.**

Please read carefully to avoid any confusion and/or disappointment.

1. If staying at the Sandestin Beach Hilton, call 1-800-367-1271 Monday - Friday, 8:00 am - 7:00 pm to make your hotel arrangements. The Mississippi Bar Annual Meeting code is **BAR** or go online at sandestinbeachhilton.com.
2. If staying at the Sandestin Golf & Beach Resort, forward the enclosed Housing Request Form to: Sandestin Golf and Beach Resort, 9300 Emerald Coast Parkway, Destin, FL 32550 or fax (850) 267-8221 or book online: <http://www.sandestin.com/22032Q.aspx>.
3. If staying at another property, please list on the Bar's registration form on page 19.
4. At the end of each week, the Hilton & Resort will forward to The Mississippi Bar a list of all reservations. The Bar will check room reservations against meeting registrations to confirm that members are registered to attend the Summer School and/or Annual Meeting.

IF A MEETING REGISTRATION IS NOT RECEIVED BY THE BAR WITHIN 10 DAYS OF NOTIFICATION OF ROOM RESERVATION, THE ROOM RESERVATION WILL BE REMOVED FROM THE BAR'S BLOCK, AS THIS SPACE IS RESERVED ONLY FOR THOSE MEMBERS ATTENDING BAR MEETINGS.

5. The Bar's room block deadline is Friday, June 14, 2013, at both the Hilton and Resort. After the Bar's room block is released on June 14, 2013, **THE BAR CANNOT GUARANTEE ROOM AVAILABILITY. CONVENTION RATES WILL NOT BE AVAILABLE.**
6. The hotel or resort will send an individual confirmation to each guest. This confirmation will contain information regarding check-in time, cancellation policy, etc. Bar staff cannot make room reservations, but can answer general questions. Specific questions should be directed to the hotel or resort.

25th Annual SUMMER SCHOOL FOR LAWYERS Agenda at a Glance

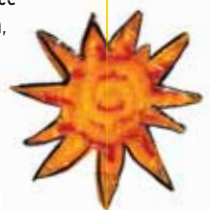
LINKSIDE CONFERENCE CENTER

MONDAY, JULY 8, 2013

- 8:00-9:00 A.M. **Mississippi Appeals: Peeling the Onion From the Inside**
Judge T. Kenneth Griffis, Jr., JACKSON
- 9:00-10:00 A.M. **Life After Learmonth: The Current Case for and Against Non-Economic Damages Cap**
David W. Baria, BAY ST. LOUIS
Roy A. Smith, Jr., JACKSON
- 10:15-11:15 A.M. **What's Your Co-Pay? The Cost of the Affordable Care Act to Employers, States, Hospitals, Patients and Taxpayers**
Honorable Haley R. Barbour, RIDGELAND
- 10:45 A.M.-12:00 P.M. **Premises Liability: Advocacy in an Atmosphere of Violence**
Christopher J. Latimer, COLUMBUS
Rocky F. Wilkins, JACKSON

TUESDAY, JULY 9, 2013

- 8:00-9:00 A.M. **1st SESSION OF CONCURRENT WORKSHOPS**
- WORKSHOP 1A**
Do's and Don'ts of Federal Court Practice
U. S. Magistrate Judge Linda R. Anderson, JACKSON
- WORKSHOP 1B**
What's New in Mississippi Worker's Compensation Law
Rogen K. Chhabra, JACKSON
Jennie S. H. Pitts, JACKSON
- WORKSHOP 1C**
Everything You Wanted to Know About Mineral Leasing but Were Afraid to Ask
Stan T. Ingram, JACKSON
- WORKSHOP 1D**
Get Smart: What Litigators Need to Know About the Strengthening Medicare & Repaying Taxpayers Act
George F. Hollowell, Jr., GREENVILLE
- 9:05-10:05 A.M. **2nd SESSION OF CONCURRENT WORKSHOPS**
- WORKSHOP 2A**
Do's and Don'ts of Federal Court Practice
U.S. Magistrate Judge Linda R. Anderson, JACKSON
- WORKSHOP 2B**
What's New in Mississippi Worker's Compensation Law
Rogen K. Chhabra, JACKSON
Jennie S. H. Pitts, JACKSON
- WORKSHOP 2C**
Everything You Wanted to Know About Mineral Leasing but Were Afraid to Ask
Stan T. Ingram, JACKSON
- WORKSHOP 2D**
Get Smart: What Litigators Need to Know About the Strengthening Medicare & Repaying Taxpayers Act
George F. Hollowell, Jr., GREENVILLE



TUESDAY, JULY 9, 2013

- 10:10-11:10 A.M. **3rd SESSION OF CONCURRENT WORKSHOPS**
- WORKSHOP 3A**
BP Oil Spill and Claims Process Update
Steve W. Mullins, OCEAN SPRINGS
- WORKSHOP 3B**
Arrested Development(s): Hot Topics in Criminal Law & Procedure
Aafraam Y. Sellers, JACKSON
- WORKSHOP 3C**
Doing Well by Doing Good: Professional Development through Pro Bono Service
Patti C. Gandy, JACKSON
Tiffany M. Graves, JACKSON
University of MS Pro Bono Initiative Representative
- WORKSHOP 3D**
Alienation of Affection: The Area 51 of Family Law
Melissa A. Malouf, JACKSON
- 11:15 A.M.-12:15 P.M. **4th SESSION OF CONCURRENT WORKSHOPS**
- WORKSHOP 4A**
BP Oil Spill and Claims Process Update
Steve W. Mullins, OCEAN SPRINGS
- WORKSHOP 4B**
Arrested Development(s): Hot Topics in Criminal Law & Procedure
Aafraam Y. Sellers, JACKSON
- WORKSHOP 4C**
Doing Well by Doing Good: Professional Development through Pro Bono Service
Patti C. Gandy, JACKSON
Tiffany M. Graves, JACKSON
University of MS Pro Bono Initiative Representative
- WORKSHOP 4D**
Alienation of Affection: The Area 51 of Family Law
Melissa A. Malouf, JACKSON

WEDNESDAY, JULY 10, 2013

- 8:00-9:00 A.M. **The Diminishing Jury Trial Phenomena and What it Means to the Mississippi Practitioner**
Richard T. (Flip) Phillips, BATESVILLE
John G. Wheeler, TUPELO
- 9:00-10:00 A.M. **Check Your Guns at the Door, Or Not: Current Issues in 2nd Amendment Law**
J. Will Manuel, JACKSON
M. Reed Martz, OXFORD
- 10:15-11:15 A.M. **Smokin' Hot Models: Mississippi's New Plain Language Model Jury Instructions, Hot Off the Press**
Guthrie T. Abbott, OXFORD
Ramel L. Cotton, JACKSON
James D. Holland, JACKSON
Carole E. Murphey, BATESVILLE
- 11:15 A.M.-12:15 P.M. **Ethics: Name That Sanction! - Understanding the Factors Used in Imposing Discipline in a Game Show Setting - Round 2**
Adam B. Kilgore, MADISON
Melissa Selman Martin, JACKSON

2013 SUMMER SCHOOL FOR LAWYERS COMMITTEE:

- Mitchell Driskell (CHAIR), OXFORD •
- Graham Carner, JACKSON • Rogen Chhabra, JACKSON •
- Meade Mitchell, RIDGELAND • Troy Odom, BRANDON •

Annual Meeting

AGENDA AT A GLANCE

WEDNESDAY, JULY 10, 2013

- 12:00 - 7:00 P.M. **Lawyers' Marketplace**
- 12:00 - 8:00 P.M. **Registration Desk Open**
- 6:30 - 8:00 P.M. **Welcome Reception**
Visit with friends and enjoy delicious food and an open bar.
KIDS' PARTY SPONSORED IN PART BY: BANK PLUS
PHOTOBOOTH SPONSORED BY KOERBER COMPANY

THURSDAY, JULY 11, 2013

- 7:30 A.M. - 1:00 P.M. **Registration Desk Open**
- 7:45 A.M. **Friends of Bill W. Open Meeting**
- 8:00 A.M. - 12:30 P.M. **Lawyers' Marketplace**
- 8:00 - 9:00 A.M. **Breakfasts:**
 - Christian Legal Society Breakfast
 - Fellows of the Young Lawyers
- 9:00 - 10:00 A.M. **Appellate, Circuit, Chancery and County Judges Conference**
- 9:30 - 10:30 A.M. **Sandcastle/Sand Sculpture Contest**
- 10:00 - 11:00 A.M. **"Behind the Stained Glass" Class**
- 10:00 A.M. - 12:00 P.M. **CLE Session - "Making Your Case with a Better Memory"**
- 10:00 A.M. - 12:00 P.M. **Section Annual Meetings:**
 - Business Law
 - Health Law
 - Real Property
 - Government Law
 - Prosecutors
 - Gaming Law
 - Alternative Dispute Resolution
 - Senior Lawyers
- 10:15 - 11:30 A.M. **MS Conference of Judges**
- 12:00 - 1:30 P.M. **15th Annual Price-Prather Luncheon**
- 1:00 - 6:00 P.M. **Golf Tournament**
Baytowne Golf Course
- 2:00 - 5:00 P.M. **Women's "Seaside Shopping Adventure"**
- 2:30 - 4:30 P.M. **Bingo**
- 5:00 - 6:30 P.M. **Young Lawyers Division Board Meeting**

Times of events printed in this brochure are tentative and may change before the Annual Meeting.



FRIDAY, JULY 12, 2013

- 7:15 - 8:15 A.M. **Legal Runaround**
1 Mile Fun Run and 5K Run
SPONSORED IN PART BY THE MISSISSIPPI BAR FOUNDATION
- 7:30 A.M. - 1:00 P.M. **Registration Desk Open**
- 7:45 A.M. **Friends of Bill W. Open Meeting**
- 8:00 - 9:00 A.M. **Breakfast:**
 - MS Chapter American Board of Trial Advocates Meeting
- 8:30 - 9:30 A.M. **Breakfast:**
 - Fifty-Year Anniversary Lawyers
- 8:00 A.M. - 12:30 P.M. **Lawyers' Marketplace**
- 8:00 - 9:00 A.M. **Young Lawyers Division General Assembly**
- 8:30 - 9:15 A.M. **Kite Decorating**
- 9:15-10:15 A.M. **Annual Business Session**
- 9:30 - 10:30 A.M. **Kite Flying Contest**
- 10:15 A.M. - 11:15 P.M. **CLE Session**
PRESENTED BY LJAP
- 10:15 A.M. - 12:15 P.M. **Ethics CLE Session**
- 10:15 A.M. - 12:15 P.M. **Section Annual Meetings:**
 - Workers' Compensation
 - Labor & Employment Law
 - Estates & Trusts and Taxation
 - Family Law
 - SONREEL Section
 - Litigation
 - Intellectual Property
 - Appellate Practice
- 12:15 - 1:30 P.M. **Law Alumni Luncheons:**
 - Mississippi College School of Law
 - University of Mississippi Law School
- 2:00 - 3:00 P.M. **Dance Class**
- 2:00 - 5:00 P.M. **Tennis Tournament**
- 3:00 - 5:00 P.M. **Children's "Build-A-Bear" Party**
- 6:00 - 7:30 P.M. **President's Reception**
Enjoy hors d'oeuvres and an open bar.
SPONSORED IN PART BY: FOX-EVERETT, INC.
- 7:30 - 10:00 P.M. **The University of Mississippi Lamar Order Party**
- 8:00 - 10:00 P.M. **Family Beach Bash**
HOSTED AND SPONSORED IN PART BY: THE YOUNG LAWYERS DIVISION OF THE MISSISSIPPI BAR

SATURDAY, JULY 13, 2013

- 7:30 - 10:00 A.M. **Registration Desk Open**
- 7:45 A.M. **Friends of Bill W. Open Meeting**
- 9:00 - 11:00 A.M. **Farewell Brunch & Annual Award Presentations**
- 11:00 A.M. **Check-Out Time**

WEDNESDAY, JULY 10, 2013

Lawyers' Marketplace

12:00 NOON - 7:00 P.M.

Visit with over 20 exhibitors to assist you in your practice of law and register to win a Treasure Chest full of prizes.



Registration & Information Desk Open

12:00 NOON - 8:00 P.M.

Come by to get your packet of information, tickets, and convention favor.



"Under the Big Top" Welcome Reception

6:30 P.M. - 8:00 P.M.

**KIDS' PARTY SPONSORED IN PART BY BANK PLUS
PHOTO BOOTH SPONSORED BY KOERBER COMPANY**

It's time for you and your family to join us for a circus extravaganza as we go "Under the Big Top." This year's Welcome Reception, the first night of convention, will be a fun experience with clowns ... clowns ... and more clowns. The ringmaster will greet you as you enter the party - you won't want to miss the excitement of this unsurpassed entertainment excellence.

Your registration fee to the Annual Meeting includes admission to this "Under the Big Top" Welcome Reception for the registrant plus one adult guest (age 18 and over). Additional tickets for guests over age 18 are \$40 each, and can be purchased when you register or at the Bar's registration desk. All children are welcome and a special children's food table will be available. Special surprises await each child upon entering the reception.

So come soar with us to new heights and have fun with us as you enter this electrifying adventure "Under the Big Top." We will see you there!!

THURSDAY, JULY 11, 2013

Registration & Information Desk Open

7:30 A.M. - 1:00 P.M.

Be sure to come by to register for the convention if you didn't get a chance to on Wednesday.

Clarion-Ledger Newspapers

7:30 A.M. - 9:30 A.M.

Copies of the *Clarion-Ledger* are provided courtesy of the University of Mississippi Law School.

Coffee Bar

7:30 A.M. - 9:30 A.M.

A Coffee Bar will be provided on the mornings of the meetings. The Coffee Bar is sponsored by Trustmark Bank.

Friends of Bill W. Open Meeting

7:45 A.M.

AA, ALANON, ACOA, OA & NA

Lawyers' Marketplace

8:00 A.M. - 12:30 P.M.

Visit with over 20 exhibitors to assist you in your practice of law and register to win a Treasure Chest full of prizes.



Prayer Breakfast

8:00 A.M. - 9:00 A.M. • \$25/TICKET

SPONSORED BY THE CHRISTIAN LEGAL SOCIETY

Everyone is invited to attend the 21st Annual CLS Prayer Breakfast. Please make your reservations in advance on the enclosed registration form.

**Fellows of the Young Lawyers
Breakfast Meeting**

8:00 A.M. - 9:00 A.M.

Judges' Conference

9:00 A.M. - 11:30 A.M.

Appellate, Circuit, Chancery and County Judge Conference will meet, followed by the Mississippi Conference of Judges.



Sandcastle / Sand Sculpture Contest

9:30 A.M. - 10:30 A.M.

Join in the 12th annual family or individual Sandcastle/Sand Sculpture Building Contest. Head on down to the beach, register yourself or your family, get assigned a spot and start building! Buckets and shovels will be provided. 1st, 2nd and 3rd place prizes will be awarded in several categories again this year. Let's see how creative you can be on the beach!



"Behind The Stained Glass" Class

10:00 A.M. - 11:00 A.M. • NO CHARGE

PRESENTED BY ANDREW YOUNG



Come and learn about what goes into producing beautiful stained class. You will hear from Andy Young with Pearl River Glass about the background of constructing the art for stained glass windows in churches as well as other buildings. Andy was awarded

a Governor's Award for Excellence in the Arts in 2002. A demanding craft, it required much from him as he attempted to master its difficult manufacture. It was out of this struggle that Pearl River Glass Studio was born with a mission to establish a professional studio providing state of the art stained glass in Mississippi. Seeing first-hand the origins of the craft of stained glass in Europe as well as examples of modern practice gave him the confidence to pursue stained glass as a life-long career. Pearl River Glass Studio, Inc. became an accredited member of the Stained Glass Association of America (SGAA) in 1998 and Andrew Young recently finished his two year term as the association's president.

A beautiful glass bud vase from Pearl River Glass Studio will be given away as a door prize at this event!



"Making Your Case with a Better Memory" CLE Session

10:00 A.M. - 12:00 NOON • 2 HOURS CLE

As attorneys there is so much to remember, but how do you retain it all? Paul Mellor, who has presented CLE training to over 35 state Bars on memory improvement, shows the power behind a trained memory. In this fun program, you'll learn the ease for recalling information from a deposition, speaking without notes, and learning the 6 simple steps for remembering names and faces. Finally, a program that rids your poor memory of misplaced glasses, forgotten names, and statements such as, "I know it's here somewhere" to a mind that's efficient and reliable. This program dispels the myth that memory can't be improved. It can; easily and effectively. When you're skilled in memory, all your other skills get better.

THE PRESENTER

Paul Mellor was a finalist in the USA Memory Championship. During the competition, Mr. Mellor recalled the names of over 90 people in less than 15 minutes, recalled the exact order of over 100-single digit numbers after a five-minute study, and recalled the exact order of a shuffled deck of playing cards after less than a three-and-a-half minute review. The author of *MEMORY! How to Remember Anything*, Mr. Mellor presents highly interactive, informative, and entertaining programs on memory skills to attorneys nationwide. He is also the author of *You're Almost There* about his accomplishment as having run a marathon (26.2 miles) in all 50 states.



Section Annual Meetings

10:00 A.M. - 12:00 NOON

- **BUSINESS LAW AND REAL PROPERTY JOINT SECTION ANNUAL MEETING**
2 HOURS CLE
"The Impact of the CFPB's 2013 Regulations on You"
Loretta Salzano, FRANZEN AND SALZANO, P.C.
- **HEALTH LAW SECTION ANNUAL MEETING**
2 HOURS CLE
"Health Law Update"
- **GOVERNMENT LAW SECTION ANNUAL MEETING**
2 HOURS CLE
"Current Issues, Updates and Litigating under the MS Tort Claims Act"
Katherine S. Kerby, KERBY LAW FIRM, L.L.C.
- **PROSECUTORS SECTION ANNUAL MEETING**
2 HOURS CLE
"Recent Trends in Drug Enforcement"
John Harless, MISSISSIPPI BUREAU OF NARCOTICS
- **GAMING LAW SECTION ANNUAL MEETING**
2 HOURS CLE
"Legislative Update: Gaming Law"
Richard Bennett, Chair, MISSISSIPPI HOUSE OF REPRESENTATIVES GAMING COMMITTEE

• **ALTERNATIVE DISPUTE RESOLUTION SECTION ANNUAL MEETING**

2 HOURS CLE

"ADR: A View from the Appellate Bench"

Judge Thomas K. Griffis, Jr., MISSISSIPPI COURT OF APPEALS

• **SENIOR LAWYERS SECTION ANNUAL MEETING**

2 HOURS CLE

"Navigating Unchartered Waters"

Joseph R. Meadows, ATTORNEY AT LAW

• **SECTIONS' RECEPTION**

11:45 A.M. - 12:15 P.M.

All attendees of the Government Law, Prosecutors, Business Law, Real Property, ADR, Gaming Law, Health Law, and Senior Lawyers Section Meetings are invited to attend a reception following the section meetings.

15th Annual Price-Prather Luncheon

12:00 NOON - 1:30 P.M. • \$35/TICKET

HOSTED BY THE BAR'S
WOMEN IN THE PROFESSION COMMITTEE

This 15th annual event named to honor Zelma Price, the first female judge in MS, and former Chief Justice Lenore Prather, the first female MS Supreme Court Chief Justice, promises to be a special event. The Susie Blue Buchanan Award, named for the first female lawyer licensed to practice before the MS Supreme Court, will be presented. All members of the Bar are invited to attend this event hosted by the Bar's Women in the Profession Committee.

Golf Tournament

1:00 P.M. - 6:00 P.M. • \$120/REGISTRATION FEE

This year's tournament will be played on the Sandestin Baytowne Golf Course on Thursday, July 11, 2013. Check-in is from 12:00 to 1:00 p.m. with a "shotgun" start at 1:00 p.m. This year's format is a four-man scramble. Green fees, carts, complimentary range balls, refreshments and awards are included in the \$120 registration fee.

Entries will be accepted and confirmed on a "first-come, first-served" basis. The deadline for receipt of entries is Tuesday, July 2.

Please indicate your handicap on the registration form. You may request a preferred foursome or be placed with other participants by the tournament coordinator. The Sandestin golf staff will handicap teams. Each person listed in your preferred foursome must send in his or her registration form to be included in the tournament. Prizes for this year's tournament are being provided by LexisNexis. Refreshment sponsor is US Legal Forms.

Women's "Seaside Shopping Adventure"

2:00 P.M. - 5:00 P.M. • \$25/TICKET



You haven't been shopping and sightseeing 'til you've been to Seaside. Come join us on a quick shuttle bus trip to whisk you away to all Seaside has to offer. The colorful architecture of Seaside extends beyond its roof lines and materials. Beyond its styles.

Beyond Charleston, Victorian, Antebellum, or various Revivals. Yes. All of these details and influences comprise the architecture of Seaside. It is the vision of a small town. Much like the old world European villages, where a person could stroll anywhere she wanted to go for anything she needed. Where everything is within easy reach. Where walking is the most popular pastime. Where people linger longer in the market to chat. Or stop by front porches for afternoon visits. Quaint little shops including gifts, specialties, clothing, accessories, arts and furnishings can be found in Seaside - all within walking distance. Your ticket includes transportation and refreshments on the bus. After you've shopped til you've dropped, it's back to Sandestin!

Bingo 2:30 P.M. - 4:30 P.M. • NO CHARGE

Enjoy the fun of Bingo at The Mississippi Bar Convention. Come enjoy a couple of games or stay the entire time as we play for wonderful prizes. There will be regular bingo, X's, picture frame and blackout. Children can attend and will win special prizes. You'll have a great time as you shout B-I-N-G-O!



Young Lawyers Division Board Meeting

5:00 P.M. - 6:30 P.M. • 1 hour CLE





Legal Run-Around / 5K and Fun Run

7:15 A.M. - 8:15 A.M. • NO CHARGE

SPONSORED IN PART BY THE MISSISSIPPI BAR FOUNDATION

This year's Legal Run-Around will be a standard 5K competitive format. In addition to the 5K Run, there will be a 1 Mile Fun Run/Walk. The 1 Mile Fun Run/Walk and 5K Run will depart from the Finz parking lot. Runners and walkers of all ages are invited to participate. There is no charge to participate. All participants will receive a complimentary tank top. You do not have to register ahead of time - just come the morning of the event and have a great time.

Registration and Information Desk Open

7:30 A.M. - 1:00 P.M.

Be sure to come by to register for the convention or to get additional tickets for the events.

Clarion-Ledger Newspapers

7:30 A.M. - 9:30 A.M.

Copies of the *Clarion-Ledger* are provided courtesy of the University of Mississippi Law School.



Coffee Bar

7:30 A.M. - 9:30 A.M.

A Coffee Bar will be provided on the mornings of the meetings. The Coffee Bar is sponsored by Trustmark Bank.

Friends of Bill W. Open Meeting

7:45 A.M.

AA, ALANON, ACOA, OA & NA

Lawyers' Marketplace

8:00 A.M. - 12:30 P.M.

Visit with over 20 exhibitors to assist you in your practice of law and register to win a Treasure Chest full of prizes.



Mississippi Chapter American Board of Trial Advocates Breakfast Meeting

8:00 A.M. - 9:00 A.M.

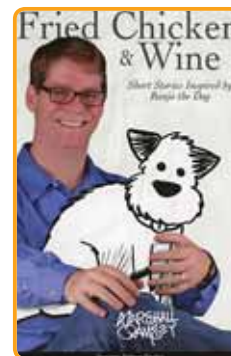
50-Year Anniversary Members Breakfast

8:30 A.M. - 9:30 A.M.

Young Lawyers Division General Assembly

8:00 A.M. - 9:00 A.M.

All attendees of convention are invited to join the Young Lawyers during their 77th Annual General Assembly and hear Marshall Ramsey, author of *Fried Chicken & Wine: Short Stories Inspired by Banjo the Dog*. Award winning editorial cartoon artist Marshall Ramsey has always been known for having a creative streak but more importantly, he is known for bringing inspiration through laughter. Ramsey connects with his audience using humorous stories and leaves them with thought-provoking challenges filled with hope and encouragement for all aspects of life. A book signing will be held after the assembly. The Outstanding Young Lawyer Award will be presented. Rachel Pierce Waide of Tupelo will pass the gavel to incoming Young Lawyers Division President Julie Gresham of Biloxi.



Kite Decorating 8:30 A.M. - 9:15 A.M.

Come decorate your kite to participate in the kite flying contest Friday morning. Kites and markers will be provided at no charge.

Kite Flying Contest 9:30 A.M. - 10:30 A.M.

Join the Mississippi Bar's Kite Flying Contest on the beach. Bring your kite which you made in the Kite Decorating class or bring your own. Prizes will be given. Come and enjoy the breeze!

Annual Business Session 9:15 A.M. - 10:15 A.M.

The Annual Business Session will include reports from Bar President Lem Adams and President-Elect Guy Mitchell. Chief Justice William L. Waller, Jr. will give the annual State of the Judiciary Report.



Lem Adams
MS BAR PRESIDENT



Guy Mitchell
MS BAR
PRESIDENT-ELECT



Chief Justice
William L. Waller, Jr.
MS SUPREME COURT

CLE Session – “Dealing with the Perils of Law Practice”

10:15 A.M. - 11:15 A.M.

PRESENTED BY THE LAWYERS AND JUDGES ASSISTANCE PROGRAM
1 HOUR OF CLE CREDIT

Too often, the practice of law lends itself to a life out of balance. This session is how to recognize, avoid, and/or address these perils. This CLE session will be presented at no charge by the MS Bar's LJAP program for you to receive 1 hour of CLE credit for FY 2012-2013.

Ethics CLE Session – "Reel Ethics: An Analysis of the Rules of Professional Conduct in the Movies"

10:15 A.M. - 12:15 P.M.

2 HOURS ETHICS CLE CREDIT

Various legal-themed movie scenes will be analyzed vis-a-vis the Model Rules of Professional Conduct and/or professional responsibility. All members of the Bar are invited to this CLE session.

Jeff Styres, SOUTHERN FARM BUREAU
LIFE INSURANCE COMPANY, JACKSON, MS



Sections Meetings

10:15 A.M. - 12:15 P.M.

- WORKERS' COMPENSATION AND LABOR & EMPLOYMENT LAW JOINT SECTION ANNUAL MEETING**

2 HOURS CLE

"Mediation as a Tool for Faster and More Efficient Disposition of Workers' Compensation Cases"

Chadwick L. Shook, SHOOK LAW FIRM

"Employment Law Update"

Robert Nicholas Norris, WATSON & NORRIS PLLC

- ESTATES & TRUSTS AND TAXATION JOINT SECTION ANNUAL MEETING**

2 HOURS CLE

"Recent Changes and Legislative Proposals for Reform in Mississippi Trust Law"

William O. Brown, Jr., COPELAND COOK TAYLOR & BUSH
Pete J. Cajoleas, REGIONS PRIVATE WEALTH MANAGEMENT

- FAMILY LAW SECTION ANNUAL MEETING**

2 HOURS CLE

"Family Law Update"

- SONREEL SECTION ANNUAL MEETING**

2 HOURS CLE

"Natural Resources, Energy, and Environmental Law Update"

- LITIGATION SECTION ANNUAL MEETING**

2 HOURS CLE

"The Fourth Amendment in an Age of DNA, Drones and Dogs"

Donald F. Samuel, GARLAND, SAMUEL & LOEB

- INTELLECTUAL PROPERTY SECTION ANNUAL MEETING**

2 HOURS CLE

"Immerging Issues in Intellectual Property Law"

A. Meaghin Burke, UNIVERSITY OF MISSISSIPPI

- APPELLATE PRACTICE SECTION ANNUAL MEETING**

2 HOURS CLE

"Appellate Practice in the Fifth Circuit"

Chief Judge Carl E. Stewart,
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Sections' Bloody Mary Reception

12:00 P.M. - 12:30 P.M.

All attendees of Labor & Employment Law, Estates and Trusts, Taxation, Family Law, Litigation, SONREEL, Intellectual Property, Appellate Practice, and Workers' Compensation Section Meetings are invited to attend a reception following the section meetings.



Mississippi College Law Alumni Luncheon

12:15 P.M. - 1:30 P.M. • \$30/TICKET

An informal luncheon for friends and alumni of MCSOL or JSOL will be held during convention. Visit with friends and faculty and hear a short presentation from Dean Jim Rosenblatt about the law school.



University of Mississippi Law Alumni Luncheon

12:15 P.M. - 1:30 P.M. • \$30/TICKET

Please join other University of Mississippi law alumni at the annual luncheon on Friday, July 12. In addition to hearing a report from Dean Richard Gershon, the 2013 Law Alumnus of the Year will be announced.

Dance Class

2:00 P.M. - 3:00 P.M. • \$5 PER PERSON

You can get your feet movin' to exciting music! A professional dance trainer, who will be joining us new this year, will teach you some basic steps and start you off on the right foot so that you can dance to the music at the President's Reception on Friday night. You'll be dancing like you were a pro! A partner is not required for the class. Experience is not required, and we welcome dancers of all ages to this class. Once you get started, you'll be hooked on the best music and dancin' around. Sign up today!

The "Bob Barnett" Tennis Tournament

2:00 P.M. - 5:00 P.M. • \$30/PERSON



The 2013 Men's and Women's Tennis Tournament is being named in memory of the late Bob Barnett, who started this tournament at convention many years ago. It will be held Friday afternoon from 2:00 to 5:00 p.m. at the Bayside Tennis Courts, Sandestin Resort Tennis Center. Partners will

be drawn and players will rotate partners after each match of four games. All participants in the tournament must be Bar members or their spouse/guest registered for the 2013 Annual Meeting. Register on the enclosed Annual Meeting Registration form.

FRIDAY, JULY 12, 2013

Children's "Build-A-Bear" Party



3:00 P.M. - 5:00 P.M. • NO CHARGE

Kids will have a blast at this year's Children's Party as each child will make a Build-A-Bear animal at the Hilton at no charge. Bears, bunnies, and dogs will be among the furry friends to bring to life. Clothes and shoes for your new animal will be on sale from the Build-A-Bear Workshop staff during the party, so bring a little extra money if you would like to purchase any accessories for your new friend. This will be a kids' party "where best friends are made." We'll also have face painting, foam art, plus many other surprises. Recommended for all children under the age of 12.



President's "Mississippi Blues" Reception

6:00 P.M. - 7:30 P.M.

SPONSORED IN PART BY FOX/EVERETT, INC.

You're invited to the "House of Blues," so come down and enjoy some great music during the President's "Mississippi Blues" Reception. "Come by Here" and visit with the Bar President Lem Adams and his wife, Marcia during the "Power of the Blues." "As Long as I Have You" why not put on your tap shoes and dance the night away with your "Pride and Joy" to "B B's Blues." While you are waiting at the "Cross Road Blues" take a minute to "Slip Away" and enjoy the wonderful hors d'oeuvres and an open bar.

If you "Still Got the Blues," get back to your roots "Down by the Riverside" "For ol' Times Sake" and revisit the Delta as you listen to these Mississippi Blues artists.

Admission into this juke joint is "Easy Come Easy Go" and your Annual Meeting registration includes admission to the Blues Reception for the registrant plus one guest. Invite your friends to "Take a Swing with Me" as additional tickets for other adult guests over 18 can be purchased for \$40 each, either on the registration form or at the Bar's registration desk.

Let the past day's events be "Out of Sight Out of Mind" as you relax "Into the Night" with your friends and family and join us in "Singing the Blues" all evening long.



University of Mississippi Lamar Order Party

7:30 P.M. - 10:00 P.M.

Sandestin Hilton Pool Deck

Family Beach Bash

8:00 P.M. - 10:00 P.M.

HOSTED AND SPONSORED IN PART BY THE YOUNG LAWYERS DIVISION

Come have a great time on the beach. Bring your entire family for a crab-hunting contest for the kids! There will even be a Limbo Contest for adults. Prizes will be given! Drinks will be free for children and beer and wine will be available for adults. Come enjoy the fireworks on the last evening of convention on the beach.



SATURDAY, JULY 13, 2013

Registration & Information
Desk Open 7:30 A.M. - 10:00 A.M.

Coffee 7:30 A.M. - 9:00 A.M.

Coffee will be provided on the mornings of the meetings.

Clarion-Ledger Newspapers

7:30 A.M. - 9:30 A.M.

Copies of the Clarion-Ledger are provided courtesy of the University of Mississippi Law School.

Friends of Bill W. Open Meeting

7:45 A.M.

AA, ALANON, ACOA, OA & NA

Farewell Brunch and
Annual Award Presentations

9:00 A.M. - 11:00 A.M. • \$40/TICKET

A delicious brunch will be held on Saturday morning. In addition to recognizing lawyers who have been practicing for 50 years as members of the Bar, we plan to present Annual Awards, including Distinguished Service Award, Lifetime Achievement Award, and Judicial Excellence Award. Other awards being presented are the Chief Justice Award and the Curtis E. Coker Access to Justice Award. Everyone is encouraged to attend this event. Enjoy one last visit with your friends at convention.



Sponsors

The Mississippi Bar thanks the following sponsors for their financial support of the 2013 Annual Meeting.

SPONSORS AS OF PUBLICATION DATE ARE:

- Bank Plus
- Fox/Everett, Inc.
- The Koerber Company
- LexisNexis
- Mississippi Bar Foundation
- Mississippi Volunteer Lawyers Project
- Regions Private Wealth Management
- Trustmark National Bank
- University of Mississippi Law Center
- U.S. Legal Forms
- Young Lawyers Division

SPECIAL FEATURE OF THE 2013 CONVENTION

Horrell Photography

Have your family portrait taken on the beach in Sandestin during The Mississippi Bar's Summer School & Annual Meeting.



Monday, July 8th - Saturday, July 13th

Call Emma Lou Horrell today to schedule your appointment.

Until Friday, July 5th, call the studio at 601-969-1919 or email: ELhorrell@comcast.net.

After July 5th, call Emma Lou's cell at 601-946-8940.

SITTING FEES:

1-5 in family or group \$150.00

6 or more in family or group \$200.00

smaller family groups from same family at same time . . . \$40.00 each group

Early morning or late afternoon are the only appointment times available:

7:00 AM, 7:30 AM & 6:45 PM

Images will be emailed to each family.

Julie and Mark McLemore's children, James and Harris, taken during the 2012 Bar Convention by Emma Lou Horrell.

ACCOMMODATIONS

All accommodations are to be booked directly with the Sandestin Beach Hilton or the Sandestin Beach Resort.



Hilton Sandestin Beach
Golf Resort & Spa



DAILY FROM \$275.00



The Sandestin Beach Hilton will serve as headquarters property for the 2013 Annual Meeting. The Bar has reserved a block of rooms at the hotel. Located directly on the beach inside Sandestin Beach Resort, all Hilton rooms are tastefully appointed mini-suites, which include wet bars, small refrigerators and dining areas. Some suites in our block have separate bunk bed areas for children. The Sandestin Hilton offers your choice of luxurious accommodations on Florida's famed Emerald Coast ... each offering you a spectacular view from a private balcony. Bathrooms include hairdryers and telephones, and each room has high-speed internet access, a dressing area with two vanities and many other in-room amenities.



www.sandestinbeachhilton.com



The Hilton is a full-service resort hotel with 24-hour room service, shops, and five restaurants, all on the premises and fit to satisfy even the pickiest palates...

- Casual continental cuisine at Sandcastles, featuring the best Sunday Brunch in the area - available for breakfast, lunch and dinner
- Gourmet deli fare at Picnix
- Burgers and tropical favorites by the pool at Barefoots
- Cocktails at sunset at Sand Bar
- The ultimate fine dining experience at Seagar's Prime Steaks & Seafood

On-site amenities include three swimming pools (one indoor pool), children's pools, whirlpools and our premier Spa, Salon & Fitness Center, Serenity by the Sea.

Additional resort amenities available to guests include:

- Attentive bell staff
- Beach equipment rental
- Daily maid service (nightly turn-down service on request)
- Daily newspaper delivery to guest rooms
- Express checkout
- On-property shuttle to shopping, golf course, etc. (at charge)
- Same-day laundry and valet service
- Security 24 hours a day
- Valet parking (at charge)
- Four golf/tennis pro shops
- Serenity by the Sea retail Shop
- W.H. Smith gift shop



Guest check-in is 4:00 p.m. and guest check-out is 11:00 a.m. The Florida state sales tax (7%) and occupancy tax (4%) will also be added to each guest's bill. \$50 early departure fee for check-out prior to confirmed departure date. \$10 per day for self parking. \$20 per day for valet parking.

If reserving a room at the Sandestin Hilton: BY PHONE:

Call the Sandestin Beach Hilton at **1-800-367-1271** Monday - Friday, 8:00 a.m. - 7:00 p.m.

BE PREPARED WITH THE FOLLOWING INFORMATION:

- Mississippi Bar Meeting Code: BAR
 - Your name, address and telephone number
 - Arrival date and departure date
 - Number of adults and children
 - (No charge for children 17 and under sharing a room with parents).
 - If you need bunk-beds (Bunk-beds are only available in the Emerald Tower, not the Spa Tower at the Hilton).
 - Credit card and expiration date
- (Deposits will be recorded at the time reservation is made. A deposit will be refunded if cancellation of reservation is received seven days prior to arrival date).*

ONLINE:

Reserve your room online at www.sandestinbeachhilton.com.

- Click on Reservations
- Select arrival and departure dates
- Indicate number of adults and children
- Indicate smoking or non-smoking preference
- Group code: BAR

To ensure your accommodations at the Sandestin Hilton at the Bar's group rate, **reservations should be made no later than Friday, June 14, 2013.**



ACCOMMODATIONS AT THE SANDESTIN GOLF & BEACH RESORT

BEACHFRONT



WESTWINDS

Far left - This exquisite beachfront tower features one, two and three bedroom condominiums that afford Gulf views. Westwinds offers a large outdoor pool and a deck area.

	DAILY	WEEKLY
1 bedroom	\$343	\$2231
2 bedroom	\$479	\$3077
3 bedroom	\$603	\$3923

BEACHSIDE I/II

Two towers - far right - With beautiful Gulf views, this beachfront high-rise offers spacious studio, one, two and three bedroom accommodations.

	DAILY	WEEKLY
Studio Suite	\$287	\$1868
1 bedroom	\$318	\$1989
2 bedroom	\$443	\$2775
3 bedroom	\$559	\$3500

SOUTHSIDE



TIVOLI/PINE RIDGE

Overlooking the Baytowne Golf Club, Tivoli's two and three bedroom townhomes and condominiums offer beachside convenience with golf views.

	DAILY	WEEKLY
2 bedroom	\$296	\$2072
3 bedroom	\$389	\$2723
3 bedroom loft	\$414	\$2793

BEACHWALK



BEACHWALK

Just a stroll to the beach, dining and shopping, these two and three bedroom townhomes are near a picturesque lake.

	DAILY	WEEKLY
2 bedroom	\$269	\$1729
3 bedroom	\$366	\$2291

LE CEIL



Recently renovated, this 175 room bayfront hotel offers kitchenettes in every room. The LeCeil is convenient to golf, the health club, salon and day spa.

	DAILY	WEEKLY
Guest Room	\$154	\$ 939
1 Bedroom Suite	\$202	\$1263

BAYSIDE



GRAND HARBOUR

Enjoy the luxury of this three bedroom townhome community located directly on The Links Course and overlooking the Baytowne Marina and Choctawhatchee Bay.

	DAILY	WEEKLY
3 bedroom	\$308	\$1928



VANTAGE POINTE

This community of large three bedroom townhomes is located directly on Choctawhatchee Bay.

	DAILY	WEEKLY
3 bedroom	\$308	\$1928



NORTH SHORE

Directly on Choctawhatchee Bay and The Links Course, these townhomes offer spacious elegance.

	DAILY	WEEKLY
3 bedroom	\$308	\$1928



• BAYOU • MAGNOLIA • SANDPIPER

These two, three and four bedroom villas and townhomes are nestled along lakes, fairways and greens.

	DAILY	WEEKLY
2 bedroom	\$211	\$1477
3 bedroom	\$308	\$1928

Economical Alternatives within 2 mile radius of Hilton Sandestin and Resort

Marriott Courtyard Sandestin at Grand Blvd

(1.32 miles)

Tel: (850)-650-7411 • www.marriott.com/hotels

Hampton Inn & Suites

(2.22 miles)

Tel: (850)-837-7889 • www.hamptoninn.hilton.com

Embassy Suites Hotel Destin - Miramar Beach

(2.36 miles)

Tel: (850)-337-7000 • www.embassydestin.com



HARBOUR POINTE

Spacious two bedroom townhomes overlook The Links Course.

	DAILY	WEEKLY
1 bedroom	\$173	\$1099
2 bedroom	\$211	\$1477



FAIRWAYS COTTAGES

These two bedroom cottages and townhomes offer golf course or lakefront locations.

	DAILY	WEEKLY
1 bedroom	\$173	\$1099
2 bedroom	\$211	\$1477



PLAYERS' CLUB

Overlooking Choctawhatchee Bay and The Links Course, this five-story, mid-rise offers two bedroom condominiums convenient to golf and dining.

	DAILY	WEEKLY
1 bedroom	\$173	\$1099
2 bedroom	\$211	\$1477

ACCOMMODATIONS AT THE SANDESTIN GOLF & BEACH RESORT

THE GRAND SANDESTIN



The Grand Sandestin is a 168-unit Southern plantation-style estate featuring a sweeping two-story veranda offering picturesque views of the Bay and lush formal gardens.

	DAILY	WEEKLY
Studio	\$192	\$1203
1 bedroom	\$210	\$1384
2 bedroom	\$319	\$2049
3 bedroom	\$414	\$2593



The Bar has reserved over 200 rental units at the Sandestin Golf & Beach Resort. The resort boasts a wide variety of accommodations, ranging from the highrise developments on the beach to individual cottages situated along the fairways and lagoons. All Sandestin units, except the Bayside Inn, feature fully equipped kitchens and washers and dryers. The types of accommodations and rates are highlighted. Daily rates include daily maid service while weekly rates include maid service three times a week. Please refer to the resort map to determine the location of each development in relation to the rest of the property. Guest check-in is 4:00 p.m. and guest check-out is 11:00 a.m. The room rates quoted are subject to Florida state sales tax (7%) and occupancy tax (4%). At the resort, your room includes free health club usage, bike rentals, one hour tennis court time, canoe/ kayak rentals and free access to the beach, marina and golf theme areas.

HOUSING REQUEST FORMS FOR THE RESORT MUST BE RECEIVED BY FRIDAY, JUNE 14, 2013.

VILLAGE



The Village of Baytowne Wharf features luxury accommodations and a unique collection of specialty merchants ranging from quaint boutique shops and charming eateries to lively nightclubs.

	DAILY	WEEKLY
Studio	\$192	\$1203
1 bedroom	\$210	\$1384
2 bedroom	\$319	\$2049

LUAU



Luau is the newest of Sandestin's luxury beachside properties. The location atop the highest elevation at Sandestin provides excellent views.

	DAILY	WEEKLY
Studio	\$183	\$1143
1 bedroom	\$211	\$1324
2 bedroom	\$308	\$1928
3 bedroom	\$395	\$2472

IF RESERVING A ROOM AT THE SANDESTIN GOLF & BEACH RESORT, MAIL OR FAX THIS FORM TO:

• Sandestin Golf & Beach Resort **Group Code: 22032Q**
9300 Emerald Coast Parkway | Destin, FL 32550 | PHONE: 800.320.8115 | FAX: 850.267.8221

OR BOOK ONLINE: <http://www.sandestin.com/22032Q.aspx>

NAME _____

MAILING ADDRESS _____

CITY _____ ST _____ ZIP _____

PHONE _____ FAX _____

Please indicate the number of guests who will be staying in your unit: _____ ADULTS _____ CHILDREN

WE WILL NEED A PORT-A-CRIB (CRIBS MUST BE ORDERED IN ADVANCE)

List first, second and third choices for accommodations within the property which you have selected:

TYPE OF ACCOMMODATIONS _____ NO. OF BEDROOMS _____

1. _____

2. _____

3. _____

Date and Time of Arrival: _____ Date of Departure: _____

(\$50 EARLY DEPARTURE FEE FOR CHECK-OUT PRIOR TO CONFIRMED DEPARTURE DATE.)

CONFIRM MY RESERVATION WITH MY CREDIT CARD: (CHECK ONE)

VISA MASTERCARD AMEX DISCOVER CARTE BLANCHE DINERS

CREDIT CARD # _____ EXPIRATION DATE _____

SIGNATURE _____

No reservations will be accepted if not accompanied by an appropriate credit card guarantee. Two nights advance deposit is required at the resort to confirm reservations. A deposit will be refunded if cancellation of reservation is received two weeks prior to arrival date for the Resort.

BAR'S ROOM BLOCK WILL BE DROPPED AS OF FRIDAY, JUNE 14, 2013

FOR HOST PROPERTY USE ONLY - RESERVATION NUMBER: _____

ANNUAL MEETING REGISTRATION DESK

The Mississippi Bar Annual Meeting Registration Desk will be open from 12 noon until 8:00 p.m. on Wednesday, July 10, 2013. The Registration Desk will be located in the Emerald Foyer on the Lobby Level of the Hilton Hotel. Registration hours are from 7:30 a.m. - 1:00 p.m. Thursday and Friday, and from 7:30 a.m. - 10:00 a.m. on Saturday.

CREDIT CARDS

The Mississippi Bar will accept credit card payments (Mastercard, Visa, American Express and Discover) for registrations and ticketed events. The Mississippi Bar will accept cash and checks.

HOTEL/RESORT CHECK-IN

Check-in time is 4:00 p.m. at the Hilton Hotel and 4:00 p.m. at the Sandestin Resort and the Inn at Sandestin. If you are staying at the Hilton Hotel, enter the Sandestin property at the beachside entrance of Highway 98 and proceed to the main entrance of the hotel. If you are staying in a Sandestin Resort Condominium, the Resort registration desk is located in the Market shopping area immediately to the west of the beachside entrance to Sandestin.

DRESS

Dress for the entire convention is casual.

DIRECTIONS TO SANDESTIN

There are several options to choose from when traveling to Destin.

Traveling east on I-10, take the I-110 exit through Pensacola. Follow signs to Highway 98 east then drive east through Fort Walton Beach and Destin to the Sandestin Resort & Conference Center.

Traveling east on I-10, take Florida Highway 85 south to Florida Highway 20 (Niceville). Drive east, turn right onto Highway 293 (Bay Bridge Road), drive south across the Bay Bridge (Niceville) to Highway 98, then drive east to the Sandestin Resort & Conference Center.

Commemorative Sun Dish

BY PEARL RIVER GLASS STUDIO

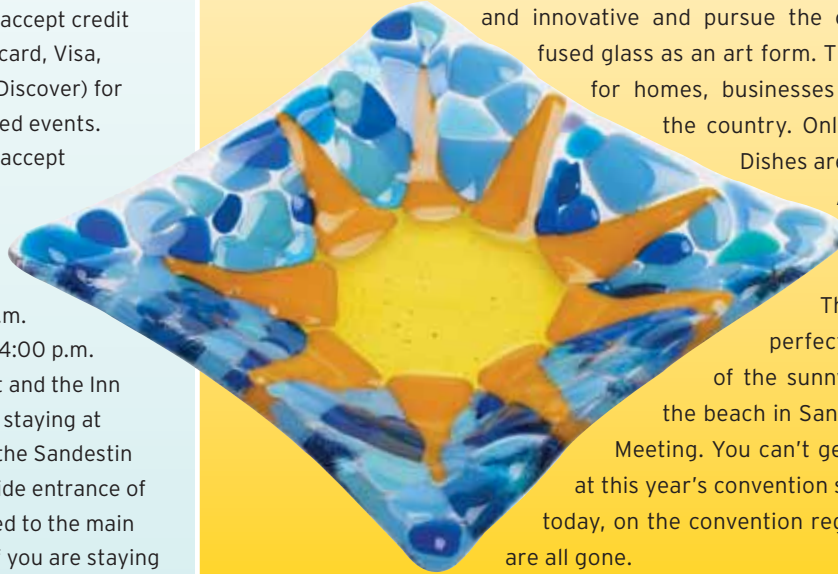
Brighten your day with this year's Commemorative Sun Dish. This vibrant colored dish is a 4.5" x 4.5" square created from fused glass and handcrafted by Pearl River Glass Studio artisans. This beautiful sun and sky scene was designed exclusively for us. Let the cheerful rays of sunlight into your heart and bring beams of colors to your world and home. Andrew Young opened Pearl River Glass Studio, one of the nation's leading stained glass studios, in 1975 in Jackson. Since opening they have

advanced and excelled in techniques that are both time honored and innovative and pursue the craft of stained glass and fused glass as an art form. The studio produces artwork for homes, businesses and churches throughout the country. Only a limited number of Sun Dishes are being hand crafted for our

Annual Meeting attendees.

Each Commemorative Sun Dish will sell for \$25.

This colorful piece will be the perfect souvenir to remind you of the sunny days with your family on the beach in Sandestin at this year's Annual Meeting. You can't get this design anywhere but at this year's convention so make sure to order yours today, on the convention registration form, before they are all gone.



JUST \$25 EACH



IN MEMORIAM

Lawrence D. Arrington

Lawrence D. Arrington, 96, of Hattiesburg, died November 10, 2012. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1948. Arrington was a retired lawyer and a U.S. Army veteran of World War II. He was a member of Dixie United Methodist Church and the Masonic Lodge #397.

Tim David Blalock

Tim David Blalock, 64, of Natchez, died January 17, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1974. He served a two year mission for the Church of Jesus Christ of Latter Day Saints in the New York and Massachusetts area. He moved to Natchez to clerk with the District Attorney's office. He practiced law for 38 years in Natchez with Calvin Wells and John Tipton. Blalock was a member of the Kiwanis Club, an adjunct professor of government at Co-Lin Natchez, a Bishop in the Church of Jesus Christ of Latter Day Saints, a member of the Board of Governors for MS Trial Lawyers of MS, President of Hospitality International in Atlanta, GA and worked with the Boy Scouts of America.

Thomas Raymond Crews

Thomas Raymond Crews, 87, of Jackson, died March 30, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1951. He served in the United States Army Air Corps during World War II. He was then called to duty to serve as an Air Force Captain in Korea, after which he returned to farming in Banks, Miss. In 1960, he began his law career at Alexander & Crews, subsequently with Thompson, Alexander & Crews, and was practicing at Watkins & Eager. He was the former president of the Hinds County Bar Association, the Mississippi Oil and Gas Lawyers Association, and the Jackson Central Lions Club. He was a charter member and former president of the River Hills Tennis Club. A member of Galloway Memorial United Methodist Church since 1960, he served as financial commissioner, trustees chairman, and delegate to the annual conference.

Archie Lewis Dickson, Jr.

Archie Lewis Dickson, Jr., 96, of Baton Rouge, LA, died April 3, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1942. On active duty in World War II, he trained as a tank officer, glider pilot and air intelligence officer. He earned a Purple Heart as a glider pilot. During the second wave of the D-Day invasion, his glider was shot down at Sainte Mere Eglise. He successfully landed his men and equipment in spite of his leg wound. He retired as a 1st Lieutenant from the Army Air Corps. He lived in Gulfport where he practiced law and was a New York Life insurance agent. He was a member and Elder of the First Presbyterian Church, the Gulfport Yacht Club, American Legion, National WW II Glider Pilots Association, Veterans of Foreign Wars, Great Southern Golf Club, Gulf Coast Life Underwriters Association and Young Men's Business Club.

Sidney Lanier Hurdle

Sidney Lanier Hurdle, 89, of Holly Springs, died March 9, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1949. Hurdle was a native and life-long resident of Marshall County. He once served as attorney for the Marshall County Board of Supervisors. He was a veteran and a member of the First Baptist Church of Holly Springs.

Wilbert F. Jordan, Jr.

Wilbert F. Jordan, Jr., 62, of Baton Rouge, LA, died March 14, 2013. A graduate Louisiana State University School of Law, he was admitted to practice in 1989. Jordan pursued a career in law and opened his private practice with law partner, Anthony Bertucci. Subsequently, he pursued his interest in public service and worked in the State, city, and parish as an Assistant Attorney General, Assistant District Attorney, Assistant City Prosecutor and Assistant Parish Attorney. He also served as Judge pro tempore in Baton Rouge City Court. From 2004 to 2008, he was Assistant Secretary, Office of Environmental Assessment, Louisiana Department of Environmental Quality (DEQ). He returned to work as Assistant City Prosecutor, where he remained until retirement in 2010. His professional credentials also included a Registered Environmental Manager and a Certified Environmental Auditor. Jordan was on the Board of Directors of the Association of State and Territorial Solid Waste Management Officials for EPA's Region 6.

Judge James Edmund Kemp

Judge James Edmund Kemp, 88, of Jackson, died April 11, 2013. A graduate of Mississippi College School of Law, he was admitted to practice in 1953. He served in the Pacific Theater with the United States Navy during WWII. He worked in the legal profession for 60 years, serving as Commissioner for Mississippi's Worker's Compensation Commission, Attorney for the State of Mississippi's Insurance Department and as an Administrative Law Judge for the Social Security Administration. In addition to his work in the legal field, Judge Kemp was a member of Hillcrest Baptist Church for almost 60 years, the Level Woods Exchange Club, and was one of the founders and served as the first Superintendent for Hillcrest Christian School.

Lawrence B. Knight, Jr.

Lawrence B. Knight, Jr., Jr., 73, of Raymond, died March 18, 2013. A graduate of Mississippi College School of Law, he was admitted to practice in 1977. He served 8 years in the United States Air Force. The last 15 years of his career he worked as a court monitor for Mothers Against Drunk Drivers.

Ruffin Thomson Lowry

Ruffin Thomson Lowry, 92, of Lafayette, LA, died March 19, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1947. A native of Jackson, MS and a resident of Lafayette for most of his life, Ruffin Lowry attended

the Marion Military Institute and served his country as a member of the United States Air Force during WWII, having received a Purple Heart. He was enlisted in 1942 as a Sgt. with the China Burma India Air Force. He moved to Lafayette to work in the oil-field as a landman. He was the owner of Mar-Low Corp. and PE Rentals, Inc. and a member of the Lafayette Association of Professional Landmen. Lowry was a member of Ducks Unlimited. He was a member of the Petroleum Club of Lafayette.

James Martin McCarthy, Sr.

James Martin McCarthy, Sr., 75, of Gulfport, died March 9, 2013. A graduate of Mississippi College School of Law, he was admitted to practice in 1967. He served his country as a Lieutenant in the United States Navy and was stationed in Okanawa, Japan. He was a partner in the former law firm of Bryant and Stennis and retired as manager of contracts and insurance for the Mississippi Power Company. He was a member of St. James Catholic Church, the Gulfport Yacht Club and the Men's Daily Tennis Group of the Gulf Coast Tennis Club. During his lifetime, he served as President of the St. James Parish Council and was a member of the Knights of Columbus, Gulfport Rotary Club, Broadwater Country Club, Bayou Bluff Tennis Club and the Edison Electric Institute.

Hushel Lamar Moss

Hushel Lamar Moss, 87, of Raleigh, died March 30, 2013. A graduate of Mississippi College School of Law, he was admitted to practice in 1975. He served in the United States Navy, Atlantic Fleet during World War II. A lifelong cattle and timber farmer, Moss began his public service career in 1956 as a member of the Mississippi State Senate representing Smith and Rankin Counties. He served on the State Building Commission from 1958 to 1960. He served seven terms as Chancery Clerk of Smith County from 1964 to 1992 and was a two-time president of the Mississippi Chancery Clerks Association. He was a member of many positions of state and local government, including the East Central Planning & Development District, American Legion, and Raleigh Area Chamber of Commerce. Moss was a member of the Mississippi State University Alumni Association, Patron of Excellence. He was a lifelong member of Raleigh United Methodist Church, he was a delegate to the Mississippi Annual Conference and an adult Sunday school teacher for many years.

Joan Sylvester Ratliff

Joan Sylvester Ratliff, 81, of Jackson, died March 23, 2013. A graduate of Mississippi College School of Law, she was admitted to practice in 1980. She taught junior and senior high school for several years in Jackson. She worked as a Staff Attorney for the United States Department of Veterans Affairs for 25 years. She was a charter member of Northminster Baptist Church, where she sang in the choir, served on many committees, and taught Sunday School.

George Ellis Shaw, Jr.

George Ellis Shaw, Jr., 81, of Raymond, died February 12, 2013. A graduate of Mississippi College School of Law, he was admitted to

practice in 1956. Shaw was a 50 Year Member. He was a member of Raymond Presbyterian Church. Shaw was a member of the Experimental Aircraft Association.

Jessica S. Upshaw

Jessica S. Upshaw, 53, of Diamondhead, died March 24, 2013. A graduate of the University of Mississippi School of Law, she was admitted to practice in 1984. She practiced law with firms in Winona and on the MS Gulf Coast prior to starting her own law practice specializing in worker's compensation. Elected to serve in the Mississippi House of Representatives in 2004, she represented House District 95, including Hancock and Harrison counties. She held various committee assignments and leadership positions during her tenure with the House including Chair of the House conservation and Water Resources Committee. She was a leader in the Mississippi Gulf Coast's recovery from both Hurricane Katrina and the BP Oil Spill. She was active in the Daughters of the American Revolution, the Colonial Dames, the P. E. O. Sisterhood, and Cursillo. Upshaw was a member of First United Methodist Church in Gulfport.

James William Warren, Jr.

James William Warren, Jr., 65, of Holly Springs, died March 18, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1972. He served as a First and Second Lieutenant of the United States Army, Military Police Corps and as an Armored Cavalry Officer and Executive Officer in the Mississippi National Guard. He began practicing law in 1975 at his firm of Warren and Jones. He served as Holly Springs Municipal Judge, attorney for the Marshall County Board of Supervisors and legal advisor for the Marshall County Sheriff's Department. He served as an Assistant U.S. Attorney for the Northern District of Mississippi and acted as chief of the Asset Forfeiture Unit, Criminal Division and District Office Security Manager. Since retiring from the U.S. Attorney's Office, he has been an Investigator with the Marshall County Sheriff's Department. He was a member of Christ Episcopal Church, president of the Advisory Board for the School of Applied Sciences at the University of Mississippi, former President of the Holly Springs Rotary Club and a member of the Oxford Rotary Club and a Paul Harris Fellow. For over 45 years, he served as a volunteer with the Holly Springs Volunteer Fire Department. He was honored by the Ole Miss legal Studies Department with the 2006 Alumni Meritorious Service Award and the 2007 Outstanding Criminal Justice Alumni.

Miliford Ambrose Weaver

Miliford Ambrose Weaver, 84, of Lucedale, died January 31, 2013. A graduate of Mississippi College School of Law, he was admitted to practice in 1975. He was a four year veteran of the United States Navy during the Korean Conflict. Weaver served as a hospital volunteer for many years at George Regional Hospital, where he was named Volunteer of the year in 1988. He was a long time member of Lucedale Golf and Recreation.

LAWYERS HELPING LAWYERS

Forget Cowbell, We Need More "We"

We admitted... We came to believe... ...as we understood...

– Alcoholics Anonymous "The Big Book"

One of the things people often notice when they first look at the 12 Steps is that all of them are stated from the perspective of "we". Those two little letters speak to inclusivity, camaraderie, support, encouragement, and power; things that those struggling to find recovery desperately need. Before I lose any of those reading this, let me say "We" isn't important to only those in, or trying to find "recovery". Every time people gather in places of worship, attend the Rotary Luncheon, or the Junior League working lunch, they honor and celebrate community. Stated another way, they practice "We".

An old truism holds that there is strength in numbers. This becomes immediately apparent as we observe volunteers rushing in to help victims after the tornado, the bomb blast, or the loss of a dear one. Though the involvement of others doesn't necessarily relieve the pain, you can almost see what those victims feel. At once they seem to shrink from release and grow with the bolstering force of support. Moreover, those who

come to the aid of others are also growing from the sharing of another's burdens.

It is my deep belief that for all the self-help, pharmaceutical, and therapeutic interventions available, there is none that surpasses the developmental and restorative power of community. Many times in treatment settings, I've heard, "If there is a problem in me, the solution is in 'we'". How true, but again it also holds in the broader community. Rarely do we see one person effect significant change. Certainly we can all point to courageous individuals throughout history who have been the spark for great things. In most cases, however, their individual causes survived and flourished, because they were able to bring others on board. Then like Arlo Guthrie said, "It's a movement."

When World War II paratroopers leapt from planes over Europe they yelled, "Currahee!" Their motto was taken from the Cherokee language meaning, "We stand alone together." How great is that? It almost sounds like a healthy legal community, each standing for their individual

interests, but collectively representing the whole. We respond to communities devastated by natural disasters. We celebrate the victories, and comfort the defeated. We build bridges, communities, and the law. We are the bench and bar in Mississippi; we build a healthy bench and bar.

If you're standing along, and looking for an opportunity to support others, or you need support yourself, take that seemingly treacherous first step. Reach out; an introductory handshake, a phone call or email to "catch up", or (dare I say it) a Facebook account could be just the thing to bring you to what you need. If you need further assistance, please contact me or an LJAP volunteer in your area.

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CLE Calendar of Events

The following live programs have been approved by the Mississippi Commission on Continuing Legal Education. This list is not all-inclusive. For information regarding other programs, including teleconferences and online programs, contact Tracy Graves, CLE Administrator at (601)576-4622 or 1-800-441-8724, or check out our website, www.mssc.state.ms.us. Mississippi now approves **online programs** for CLE credit. For a list of approved courses, check the Calendar of Events on our website. For information on the approval process for these programs, please see Regulations 3.3 and 4.10 posted under the CLE Rules on our website or contact Tracy Graves at the numbers listed above.

JULY	
1-5	UM CLE "Study Abroad Vienna, Austria." 12.0 credits (includes ethics). Vienna, Austria, University of Vienna. Contact 662-915-7283.
8-10	MS Bar "25 th Annual Summer School for Lawyers." 12.0 credits (includes ethics). Destin, FL, Linkside Conference Center, Sandestin Resort. Contact 601-353-1703, Kellie Freeman.
9	Your DUI Pro "Winning DUI Cases." 6.0 (includes ethics). Tupelo, MS. Contact 208-340-2933.
10	Your DUI Pro "Winning DUI Cases." 6.0 (includes ethics). Meridian, MS. Contact 208-340-2933.
10	Sterling Education Services, Inc. "Trust Planning & Drafting Techniques." 6.7 credits (includes ethics). Jackson, MS. Contact 715-855-0495.
11	Your DUI Pro "Winning DUI Cases." 6.0 (includes ethics). Gulfport, MS. Contact 208-340-2933.
11	Barristers Educational Services "Patents, Trademarks & Copyrights." 6.0 credits (includes ethics). Cleveland, MS. Contact 1-800-874-8556.
12	UM CLE "Supreme Court Fantasy League with Sean Carter." 3.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283
12	UM CLE "Lies, Damn Lies & Legal Marketing with Sean Carter." 3.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283
12	Your DUI Pro "Winning DUI Cases." 6.0 (includes ethics). Jackson, MS. Contact 208-340-2933.
12	Barristers Educational Services "Famous Lawyers & Famous Clients." 6.0 credits (includes ethics). Jackson, MS. Contact 1-800-874-8556.
16	Federal Bar Assn / MS Chapter "Southern District Practice & Procedure: Tips from the Bench on Civil and Criminal Practice." 1.0 ethics credit. Jackson, MS. Contact 601-925-7192.
16	Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Natchez, MS. Contact 1-800-874-8556.
17	Barristers Educational Services "The Litigator's Guide to Technology & Social Media." 6.0 credits (includes ethics). Gulfport, MS. Contact 1-800-874-8556.
17	NBI "Boot Camp: Foreclosures & Loan Workout Procedures." 6.0 credits (includes ethics). Tupelo, MS. Contact 715-835-8525.
17-18	UM CLE "Summer MS Municipal Attorney's Assn CLE." 6.0 credits (includes ethics). Biloxi, MS, Beau Rivage. Contact 662-915-7283.
18	Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Hattiesburg, MS. Contact 1-800-874-8556.
18	NBI "Litigating Government Liability Claims." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
18	MC School of Law "CLE Marathon." 6.0 credits (includes ethics). Jackson, MS, MC School of Law. Contact 601-925-7107, Tammy Upton.
18	NBI "Boot Camp: Foreclosures & Loan Workout Procedures." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
19	MC School of Law "CLE Marathon." 6.0 credits (includes ethics). Jackson, MS, MC School of Law. Contact 601-925-7107, Tammy Upton.
19	UM CLE "Criminal Law Update." 6.0 credits (includes ethics). Biloxi, MS, Beau Rivage. Contact 662-915-7283.
19	Barristers Educational Services "Family Law in MS." 6.0 credits (includes ethics). Jackson, MS. Contact 1-800-874-8556.
19	Lorman Business Center "Sales & Use Tax." 6.7 credits. Jackson, MS. Contact 715-833-3970.
22	NBI "Construction Defect Litigation from A-Z." 6.0 credits (includes ethics). Gulfport, MS. Contact 715-835-8525.
23	NBI "Construction Defect Litigation from A-Z." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
23	NBI "Ethics & Social Media: What Attorneys Need to Know." 3.0 ethics credits. Jackson, MS. Contact 715-835-8525.
23	Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Clarksdale, MS. Contact 1-800-874-8556.
23	MS Volunteer Lawyers Project "MVLN & Harrison County Bar Assn & Harrison County Young Lawyers Assn CLE & Legal Clinic. 4.0 credits. Gulfport, MS. Contact 601-960-9577.
24	Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Oxford, MS. Contact 1-800-874-8556.
25	Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Starkville, MS. Contact 1-800-874-8556.
25	NBI "Advanced Family Law." 6.7 credits. Jackson, MS. Contact 715-835-8525.
25	NBI "The Medicare Super Lien & Other Liens Simplified." 6.0 credits (includes ethics). Gulfport, MS. Contact 715-835-8525.
25	MS Bar "2013 Bridge the Gap CLE Seminar." 6.0 credits (includes 3.0 hours of ethics/professionalism). Jackson, MS, MS Sports Hall of Fame. Contact 601-355-9226, Rene Garner.
25-26	UM CLE "CLE by the Hour." 12.0 credits (includes 2.0 ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.
26	MS Volunteer Lawyers Project "MVLN's Annual Family Law CLE." 6.0 credits (includes ethics). Jackson, MS, MS Bar Center. Contact 601-960-9577.
26	Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Jackson, MS. Contact 1-800-874-8556.
26	Prentiss County Bar "Annual Bench & Bar Seminar." 6.0 credits (includes ethics). Pickwick, MS, Pickwick Yacht Club. Contact 662-728-2131, Tommy Cadle.
26	MS Center for Legal Services Corp "MCLN's 30 th Annual CLE Seminar." 6.0 credits (includes ethics). Hattiesburg, MS, Jackie Dole Sherrill Community Center. Contact 601-545-2950, Virginia Hales Brown.
26	NBI "The Medicare Super Lien & Other Liens Simplified." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
29	Barristers Educational Services "Basic Wills & Trusts Drafting in MS." 6.0 credits (includes ethics). Jackson, MS. Contact 1-800-874-8556.
29	NBI "The Probate Practice from Start to Finish." 6.7 credits (includes ethics). Tupelo, MS. Contact 715-835-8525.
26	NBI "Advanced Workers Compensation." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
29-30	UM CLE "Basic Mediation Skills Training." 14.0 credits (includes ethics). Oxford, MS, Yerby Conference Center. Contact 662-915-7283.
29-02	Children's Advocacy Centers of MS "Child First Forensic Interview & Court Preparation Training." 18.0 credits. Oxford, MS. Contact 601-940-6183.
30	Barristers Educational Services "Basic Wills & Trusts Drafting in MS." 6.0 credits (includes ethics). Oxford, MS. Contact 1-800-874-8556.
30	NBI "The Probate Practice from Start to Finish." 6.7 credits (includes ethics). Jackson, MS. Contact 715-835-8525.

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*also admitted in Alabama

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Levin Papantonio has been working to protect the rights of businesses and professionals who suffered losses due to the BP Oil Spill since the tragedy occurred. Now, after two years of extensive litigation, BP has acknowledged the broad economic harm the Oil Spill has caused. Your client's business may stand to receive Substantial Compensation.



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As a Gulf Coast Law Firm, Levin Papantonio is committed to helping our community. We understand the precious resources and particular way of life that makes our community exceptional. We have already helped hundreds of Gulf Coast businesses and professionals recover their BP-related losses and we stand ready to assist you.

VISIT [BPSpillTV.COM](http://BPSpillTV.com)

Are Your Clients In the Zone? Any business located in a Florida Gulf Coast county and the Florida Keys, or in the states of Alabama, Louisiana, Mississippi, are included in the BP Settlement Area and may potentially be compensated. The settlement even includes non-tourism businesses and businesses far inland. Levin Papantonio will confirm whether your client's business is included in the settlement at no cost.

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