

THE MISSISSIPPI Lawyer

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THE MISSISSIPPI BAR 2014



ANNUAL MEETING & SUMMER SCHOOL

June 23 – 28 • Sandestin, Florida

I N S I D E
Q & A With Mississippi Judges



Front Row: Mark B. Higdon; Mark A. Bilbrey; John T. Cossar; Rande K. Yeager; J.M. "Mike" Sellari
Back Row: J. Walter Michel; James M. Ingram; Robert Lampton; Harry M. Walker; W. Parrish Fortenberry;
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FACTS AND FIGURES OF SUCCESS

GRADUATION (MAY 2014)

- 177 JD degrees
- 4 LLM degrees (Mexico, Philippines, Afghanistan, China)

JULY MISSISSIPPI BAR EXAM

- 2012: 72 of 83 or 86.7% of MC Law grads passed (overall 81.3%)
- 2013: 76 of 89 or 85.4% of MC Law grads passed (overall 86.2%)

ENTERING CLASS (AUGUST 2013)

- 159 JD candidates
- 64% Mississippi / 36% out of state
- 56 undergrad schools
- 164 high LSAT
- 149 median LSAT
- 4.21 high GPA
- 3.30 median GPA
- 57% male
- 43% female
- 25% minority
- \$2,017,000 awarded in merit scholarships to entering students
- 4 LLM candidates (Mexico, Philippines, Afghanistan, China)

CLASS OF 2013 (EMPLOYMENT 9 MONTHS AFTER GRADUATION)

- 79 (42%) private law firms
- 25 (13%) government
- 24 (13%) seeking employment
- 20 (11%) business
- 14 (9%) judicial clerks
- 10 (5%) graduate degree
- 6 (3%) public interest
- 1 (1%) not seeking employment

LAW CENTERS

- Bioethics and Health Law
- Litigation and Dispute Resolution
- Business and Tax Law
- Family and Children
- Public Interest Law
- International and Comparative Law

LAW PROGRAMS

- Juris Doctorate degree (J.D.)
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- Master of Laws (LLM) in American Legal Studies for International Lawyers
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- Two-Year JD Program
- Adoption Project
- Mission First Legal Aid Clinic
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www.law.mc.edu/judicial
- Mississippi Legislative History Project
www.law.mc.edu/legislature
- Mississippi Legal Resources
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www.law.mc.edu/faculty
- 13 hold Ph.D. or Masters degrees in addition to JD degrees
- 86 adjunct faculty

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President's Report

There have been a number of successes on the legislative calendar of the bar, which are in large part attributable to the fine work of Jimmie Reynolds, our legislative liaison, and Chief Justice William L. Waller, Jr., who has been very proactive in pushing the judicial legislative agenda with the legislature.

Prior to the 2014 session, there were a number of meetings held between the Chief Justice, your bar officers, and several key members of the legislature to advise those members of the proposed legislation which would be coming before the 2014 session that affected both the judicial branch of the government and the Bar.

Those meetings were very successful, and they were followed by a luncheon hosted by the Bar but organized by the Chief Justice in which the Supreme Court and Court of Appeals invited all of the lawyer members of the legislature to lunch, and following the lunch they were given the bullet points in favor of the legislative agenda.

The legislative agenda for this session included what is commonly referred to as the Criminal Justice Reform Act (HB 585), which successfully passed both the House and Senate and was signed by the Governor. This bill reflects the work of the Criminal Justice Task Force, which was commissioned in 2013 to review all the criminal justice and corrections systems of our state. This is a very thoughtful and carefully constructed piece of legislation introduced by a number of legislators, including our own Board of Bar Commissioners member, Andy Gibson, and there was a lot of work that went into obtaining the passage of that legislation. It is significant and will have a real impact on the way the criminal justice system works in the state of Mississippi. It is anticipated that it will save the taxpayers of Mississippi over \$266,000,000 over a period of ten years once implemented. The legislation provides a litany of changes in the criminal justice system ranging from giving the judges more sentencing alternatives for non-violent offenders to limiting the ability of the Department of Corrections to release inmates early. The bill would enhance drug courts where people will receive supervision, treatment and testing instead of being sentenced to prison. It will intensify supervision of people on parole or probation and impose harsher penalties for large drug possession cases but provides treatment alternatives for solely users.

The legislature passed the overall appropriation for the Supreme Court, Court of Appeals and trial judges services (HB 1471). It fully funds the judicial branch of our government.



Guy W. Mitchell, III
President of The Mississippi Bar
2013-2014

Continued on next page

President's Report

The drug courts of the state will receive the additional funding necessary for them to continue to operate in an efficient manner, which also saves the taxpayers considerable money since the figures for recidivism and the success of the drug courts is widely known and documented. This is an effort that was led by the Chief Justice but concurred in by the judiciary, the prosecutors and public defenders.

I am very pleased to report that through the hard work of the Bar, new funding for the Mississippi Civil Legal Assistance Fund was secured (HB 579). The civil legal assistance fund was created by the legislature to provide some funding for legal services for the poor through Mississippi's two legal services programs and the Mississippi Volunteer Lawyers Program. This new funding is anticipated to generate approximately \$200,000.

Legislation which directly affected the bar (HB 409) removed the repealer of the sections of the Mississippi Code which establish and organize our unified bar. (Miss. Code 1972 as amended §73-3-101 - §73-3-171). Those statutes have contained a repealer which periodically had to be extended or the unified bar as we know it would have ceased to exist. I am pleased to report that HB 409, which was passed by both the House and Senate and signed by the Governor, removes the repealer and, therefore, the Bar will not have to make recurring trips to the legislature to request that their authorizing and organizing statutes be extended. This is a significant piece of legislative work for the bar and, once again, accolades go to Jimmie Reynolds for his tireless efforts in shepherding this legislation through the legislature.

Many other bills of significant interest have been passed and signed by the Governor. Some of those are:

HB 67 revises the compensation cap for special judges; SB 2676 raises witness fees to conform to juror pay; and HB 1185 revises maximum number of municipal judges for certain municipalities.

So in this year's legislative session there was a great deal of success in a very short period of time; however, one of the bills which died in committee was a bill of some priority, HB 919, to establish a statewide county court system that would provide a uniform system of county and youth courts throughout the state, with better access and a reliable system for the handling of youth court matters. Although considerable effort was made to inform the legislature of the benefits of having a statewide county court system, there were apparently too many unanswered questions on the part of some legislators as to how the new county courts would be funded and the division of the counties which have no county courts and combining them into districts. This bill will need additional work and should be a top priority for the 2015 session.

The Bar year for me has moved exceedingly fast. Beginning with the Board and Section Leaders orientation, the Fall Bar Admissions Ceremony, continuing through Committee Day, the Memorial Service, Board of Bar Commissioners meetings, the selection of participants in the Leadership Forum, the first two meetings of that class of selectees, two professionalism courses, one at Mississippi College School of Law and one at the University of Mississippi Law School, the Awards Day for the Mississippi Volunteer Lawyer Project, three sessions of the Bar's CLE on the Road in Greenwood, Gulfport and Southaven, Mock Trial finals, and the work of several committees and Public Defender Task Force, there has been a lot of volunteer effort put forth by several hundred members to further programs of the bar.

Additionally, the Mid-Year meeting of the National Conference of Bar Presidents in Chicago in February was very informative and worthwhile and was attended by Gene Harlow, your president-elect, myself, and Larry Houchins. The city of Chicago in February was interesting. I had never seen a frozen river before and although the temperature was below zero some of the time, the meetings went off as planned and provided excellent networking opportunities with the bar officers of other states.

Thanks again to all the members who have given of their time and talent to make our association better. I hope to see everyone in Sandestin. ■

Q&A

WITH

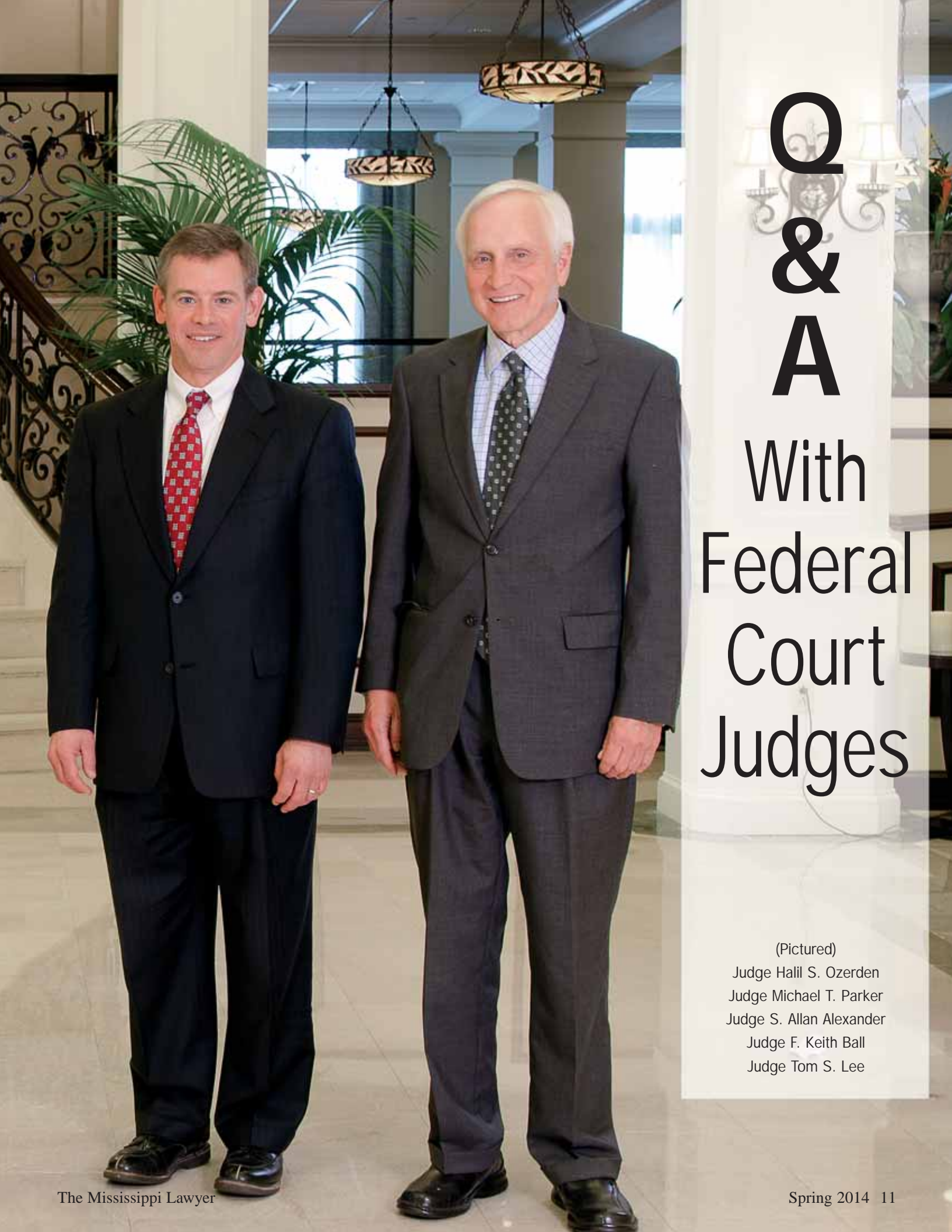
MISSISSIPPI JUDGES

The Mississippi Bar Young Lawyers Division Inaugural Midyear Conference was held on March 27, 2014 in Jackson as a statewide event to foster professional development and establish networking opportunities. The conference provided CLE educational seminars, informational programming, and a social event designed to enhance the skill, knowledge, and understanding of the legal profession for young lawyers. The speakers were many Mississippi Circuit Court, Appellate Court, and Federal Court Judges including Judge S. Allan Alexander, Judge F. Keith Ball, Judge Tom S. Lee, Judge Halil S. "Sul" Ozerden, Judge Michael T. Parker, Judge David M. Ishee, Justice Ann H. Lamar, Judge James D. Maxwell II, Justice Randy G. Pierce, Judge Margaret Carey-McCray, Judge John C. Gargiulo, Judge William A. Gowan, Jr., Judge Tomie T. Green, and Judge Winston L. Kidd. We are pleased to provide the informative interviews with these Judges as part of this issue of The Mississippi Lawyer magazine. ■



*Julie Gresham
Young Lawyers Division President
2013-2014*



A photograph of two men in suits standing in a hallway. The man on the left is younger, with short brown hair, wearing a dark suit, white shirt, and a red patterned tie. The man on the right is older, with white hair, wearing a grey suit, light blue checkered shirt, and a dark patterned tie. They are both smiling. The background shows a hallway with a staircase on the left, a large potted plant, and hanging lamps.

Q & A

With Federal Court Judges

(Pictured)

Judge Halil S. Ozerden
Judge Michael T. Parker
Judge S. Allan Alexander
Judge F. Keith Ball
Judge Tom S. Lee

JUDGE TOM S. LEE

Q: Judge Lee, will you give some guidance for motions?

A: Often lawyers file a motion, which they call a motion to dismiss, and accompany it with evidentiary submissions. When you file such a motion, you need to call it a motion to dismiss or, in the alternative, for summary judgment. Of course, under the rules, the court can convert a motion to dismiss to one for summary judgment, but that involves notice to the other party and further briefing and unnecessarily complicates the process.

Always, if you're going to submit accompanying materials, call it a motion to dismiss, or, alternatively, for summary judgment. Conversely, while it should go without saying that a lawyer's argument is not evidence, some lawyers will file a motion for summary judgment without making sure that they file the evidence that's necessary to support the motion. I've denied motions for summary judgment, and later realized that the lawyer had in hand the evidence that would have proved his or her case, but just didn't file it.

When you submit evidence in support of a motion for summary judgment, remember that it's your job as a lawyer to point the court to the specific evidence on which you rely. The Fifth Circuit has numerous times said that it's not the judge's job to comb through the record to find the evidence. As an example of what not to do, don't file the 200-page deposition of Joe Smith, and then refer the court generally to that deposition to prove a specific fact. Tell me where in Joe Smith's deposition his testimony is on that specific issue.

If you're going to submit deposition testimony of a key witness, you should consider whether or not it might be better to submit the entire deposition, rather than just excerpts. I'm not suggesting this is always the way to go, but for example, if Joe Smith is the principal witness in the case, and you include Pages 10 through 20 or 25 through 35 and 45 through 50, I might be left wondering what was in the missing pages, what was left out. Of course, if it's pertinent testimony, then presumably the other side

would submit the missing pages, but it doesn't always happen that way.

Another thing on summary judgment motions is if you're going to request a stay to conduct discovery in order to respond to the motion, you need to know what the showing is that you're required to make. More often than not, a lawyer will just throw it out there that he or she needs discovery so that the motion can be responded to without saying what discovery is needed and why it's needed. This is what Rule 56 requires, and without this information, a continuance is not going to be granted. Another point, and this happens, believe it or not, but don't ask for an extension of time for discovery, then not conduct that discovery, and then come back asking for an extension again. That's not going to be granted, and it occurs in my court from time to time.

In your motion, it's extremely helpful for the court when you include a list of the exhibits as well as the exhibit numbers for those exhibits. We have electronic case filing, and it's time consuming and frustrating to have to go through and open each exhibit to find what you're looking for.

Obviously, you need to be aware of deadlines for briefing on motions and to make the submissions in a timely manner. It should be self-evident, but lawyers can't just agree among themselves on extensions. If an extension is going to get granted, it has to be approved by the court and must be requested within the time frame before the deadline. I can't speak for other judges, but I'm pretty flexible when it comes to extensions. I will just about always grant an extension, if it's timely requested and is a reasonable extension.

You no doubt know that there are some lawyers, who as a matter of routine practice, don't file responses when they're due, nor do they ask for extensions. They simply file the briefs late, or if my office, as a courtesy, calls to ask about a filing that hasn't been made, they will make excuses and ask for an extension on the telephone. I expect that there are reasonable judges who are not responsive to such requests. I would hope that you would not fall into the category of lawyers who routinely do such

things. Of course, if you're not planning to respond to a motion, you have a duty under the rules to let the court know before the deadline. If you settle a case with a motion pending, immediately notify the court, so that you will stop the court from unnecessarily working on a motion after the case has been resolved.

Although timing is important, some lawyers will move to strike a motion or brief if it's filed a day or two late. I can't speak for other judges who may feel differently, but I'm not going to strike a filing because it's filed just a couple of days late. I would think twice before spending your time and the client's resources in filing of motions to strike late submissions.

As far as the substance of motions and responses goes, generally, I would say don't ever make the court do your work for you. You need to take the time to learn and develop an understanding of the case and the issues and present them as effectively as you can in a brief. Write your best brief, use good grammar, proofread it or have someone that you have confidence in do the proofreading.

Now, substantively on briefs, you have to be an advocate for the client, but don't sacrifice your credibility as a lawyer. Present your best case and your best argument, but don't oversell your position and don't shade the facts or the law. I would suggest, and, again, not every judge will agree, that you don't save your best argument for last. If you do that, I think there's a tendency to diminish your argument's credibility or impact, and it might appear to be just offered as an afterthought in the brief.

Every lawyer knows that it's his or her duty or responsibility to bring adverse cases to the attention of the court. You may be able to distinguish the case or otherwise show that the case is not applicable or persuasive.

Defense lawyers, if you're going to file a motion to dismiss the complaint or motion for summary judgment on all claims, pay attention to the complaint and be sure that your account for and address every claim in the complaint. I have a significant number of cases where a meritorious motion is filed, and it will cover all but one claim. I decide that claim favorably, but there's still dangling out

there that once claim after I've ruled on the motion. If you represent a plaintiff, address all of the arguments and claims, and if you don't cover them all, confess or partially confess what you're not covering.

Let me just say in summary that your reputation usually precedes you, so treat your clients, your adversaries, your peers and the court with respect and courtesy, and provide the court with accurate information on the facts and the law, and be honest and straightforward in your presentations to the court. Judges come to know which lawyers they can, and those that they can't expect that from. You always should strive to be one of those that a judge would consider trustworthy and reliable and it will serve you well through your years.

JUDGE HALIL S. "SUL" OZERDEN

Q: Judge Ozerden, please give us your thoughts on practicing in the Federal Courts in Mississippi.

A: The nature of law practice today, particularly in federal court, is that the vast majority of civil cases are resolved prior to trial, which means that for most of you, your reputation in federal court is going to be built on what you file, your briefs, your filings, your pleadings. For that reason, I think motion practice has become, for better or worse, the way it is. Motion practice is what is going to define your reputation in federal court to a large degree. It is important for you to keep that in mind when you are appearing in federal court. And I use the word appearing sort of loosely, because, again, most of your appearances are going to be through electronic filing or briefs.


Credibility is extremely important. The judges do talk and lawyers develop a reputation for whether they can be relied upon to write good briefs, to cite the record reliably and accurately, and in a close case, it can make a difference sometimes. As far as motion practice goes, it's important to be brief. Don't spend any more time writing than you need to in order to make your point. The local rules in federal court have a page limitation. One thing that I find happens sometimes is there is a provision in our local rules


where you file a motion and then a brief, and the length of the briefs or memorandum and reply or a response memorandum is not to exceed 35 pages. The rule is not really specific in that it doesn't necessarily include the length of the motion. What happens is lawyers who have spent too much time on things they didn't need to spend so much time on, run out of pages in their memorandum brief, so they load up their motion. So instead of getting a one or two page motion that states


what the case is about and lists all of the exhibits, I get a 15 or 20 page motion, and then a 20 or 25 page brief, some of which is redundant, and, technically, that's probably not a violation of the letter of the rule, but my law clerks and I do feel it's a violation of the spirit of the rule. And, certainly, it does not go over well. My law clerks and I read everything, and the more time I feel I have to spend reading

Continued on next page

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Q & A With Federal Court Judges

things that really aren't necessary, the more time I've spent on a case when there's another one and another one right behind it where maybe the lawyers did a better job of briefing the case, and it slows everything down. The judges don't appreciate it, and it's not well received by the law clerks, either, so remember that and resist the temptation to do that.

Along those lines, seeking excess pages, unless it's an extremely unusual case, is usually not needed.

Q: Should lawyers ask for extensions?

A: If you have a trial date set, the more extensions you keep seeking and briefing your motion, sometimes we get calls from lawyers, and I'm really surprised they do it, but they will call, and they will want to know why their motion hasn't been ruled on. Well, part of the problem when I look at the docket is that that motion may have been filed four months ago, but there were so many extensions requested and granted that it wasn't fully briefed until one month ago. I'm not going to start looking at it until it's fully

briefed. So when you ask for all of these extensions, a lot of times what you end up doing is delaying the ruling. And if you've got a trial date coming up, you're going to be bumping up against that pre-trial conference or that trial date still waiting on a ruling. I try very hard, and I know my colleagues do, too, to get rulings on dispositive motions out as far ahead of the pretrial conference as we can, so when you're starting to get the case ready, you know what the issues are going to be. But excessive requests for extensions cause problems, and for that reason, yes, I do scrutinize them and, just because the parties agree, that doesn't mean the deadline has been changed. You still need permission from the court to extend the deadline. Your motion for additional time may be denied if I think it's going to cause a problem as far as getting a ruling out, not just in your case, but in others, because on a civil calendar, I may have any number of cases set for trial. I've got pretrial conferences, and it's like a puzzle. I've got to fit them all together and figure out where they're all going to go to trial, and I have to allocate the workload to get the rulings out. So sometimes extensions are not going to be granted. Don't assume they will be.

Q: Judge, any suggestions on making a record?

A: You've got to cite to the portions of the record that support your argument. Do not just attach a deposition as Exhibit A and tell me see Exhibit A, because that's not the court's job. It is the movant at summary judgment, the burden of the movant to point to those portions of the record which support their position, and it's the burden of the non-movant, if the movants carry their initial burden, to point to those portions of the record that show there is a genuine dispute of material fact for trial. And I have denied motions where the lawyer has not told me specifically enough where in the record this evidence is. So it's very important to point to those specifically in the record. It is kind of a balancing act on one hand when you've got two or three pages out of a 200 page deposition to support your argument. Don't submit the whole deposition. On the other hand, you do need to

be careful when you're submitting excerpts that it doesn't leave the impression that maybe something important is being left out. So that is kind of a balancing act. You have to think about that. Sometimes I will get a case where someone has submitted excerpts of the deposition, and I will see there's a question and answer that supports his position, but at the bottom of the page is another question that would sort of contradict what his position is. The answer is clearly on the next page, and that next page is absent from the record. So then I start to wonder is this person trying to hide something or not, so there is kind of a delicate balancing act, and you need to think about that when you're deciding what to submit.

Q: What advice do you have for lawyers establishing jurisdiction?

A: The federal court is unique in that it is a court of limited jurisdiction. It is the burden of the plaintiff or the defendant, whoever is invoking the federal court's jurisdiction, to show that there is federal jurisdiction. If you're a plaintiff filing a complaint in federal court or if you are a defendant removing the case, it is your burden to show that jurisdiction exists. And it is the court's responsibility to raise jurisdiction *sua sponte* if it has a question about it.

Diversity is one area where this comes up frequently, and when you're pleading diversity, remember there has to be complete diversity of citizenship. It's fairly easy to keep up with when you're talking about individuals and corporations. You're talking about the principal place of business or where the company was incorporated, but LLCs and other business entities are not treated that way. An LLC, for instance, has the citizenship of all its members. If you have a Mississippi LLC, but all of the members are residents of Alabama and Georgia, that LLC is a resident of Alabama and Georgia, not of Mississippi. It's not sufficient to come in and allege in a complaint or a notice removal that XYZ, LLC is a Mississippi limited liability company, and, therefore, a citizen of Mississippi. That's not sufficient. We try to be aggressive about screening those, and I will

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issue orders for subject matter jurisdiction briefing or the magistrate will do it, but the risk you run is the Fifth Circuit may end up with a case after it's been tried to verdict and appealed, and the Court of Appeals looks at it and says there was never any jurisdiction here, case dismissed. You want to make sure that you get that situated on the front end. That's very important, so when you talk about these other business entities like LLCs, partnerships, so on and so forth, you've got to make sure that you are pleading federal jurisdiction correctly.

JUDGE MICHAEL T. PARKER

Q: Please give some guidance on local rules to young lawyers.

A: First, both Judges Lee and Ozerden mentioned the word "reputation" right off the bat, and I want to mention it too because it's that important. One of the advantages of being a young lawyer is that you're "writing" or making your reputation. Right now, you are establishing your professional reputation. And what will it say? What it should say, and what I hope you're doing, is being the lawyer who is prepared and on time with filings and appearances. You're the person who is always cordial, always candid; instead of the lawyer who is evasive, unprepared or late for court. Those things matter. How you treat not just members of the court, but the members of the profession makes all of the difference in the world. Don't forget that the adversary you are fighting with today might be the judge of tomorrow. It's not only just a good way to live life, it's good business to treat people well. It may sound trite, but a good reputation matters on all levels.

Knowing the court rules is important for lawyers practicing in federal court and perhaps even more so for young lawyers. There are some things about being a young lawyer that give you a real advantage. You are ahead of the curve, for example, on technology. Surely, you're ahead of me. Your research skills now are probably better than they will ever be. You have more enthusiasm and energy than you will ever have. You can't change the fact that you are in a profession that puts a premium on experience, but there

are things you can do to make up for a lack of experience, and that's knowing the rules and knowing the law. You may not have handled as many cases as your adversary, but you can know the rules and the procedures as well or better than your adversary, and you can give yourself an advantage and take a lot of stress out of your practice by knowing that you filed the right thing at the right time and have done it the right way. For example, you need to know that if you file a motion to compel discovery, you must include a good faith certificate. If you file a

You may not have handled as many cases as your adversary, but you can know the rules and the procedures as well or better than your adversary, and you can give yourself an advantage and take a lot of stress out of your practice by knowing that you filed the right thing at the right time and have done it the right way.

motion to compel without the good faith certificate required by the local rules, the motion will be denied almost summarily, though usually without prejudice. Of course you may correct the motion by attaching the certificate and refile it, but why have to go through that? You have enough things going on as it is without having to re-do a project you thought was finished. If you learn the local rules, you will navigate through court much more easily, save time, and be more effective. Also doing things the right way under the rules will help you establish the reputation for excellence that you want to have.

Q: As a magistrate judge, can you give us some insight on case management conferences.

A: The case management conference can be an effective tool for addressing problems associated with difficult cases, but so often lawyers just do what I would call a "drive-by." They just go through

the motions and miss an opportunity to address issues before they become a problem or expense for the client. Prior to the case management conference with the court, the attorneys are required to have a Rule 26(f) conference. That's the rule that requires you to meet and confer with the other lawyer about all of the case management issues prior to the conference with the court. If you take the time to have a thorough 26(f) conference, you will have a more meaningful case management conference, and that will give the magistrate judge a better opportunity to create a case schedule and discovery plan that meets your needs. For example, if you have a case with difficult electronic discovery issues, bring it the magistrate judge's attention at the case management conference, and he or she will craft an order that allows you to obtain electronic discovery in an orderly way, to obtain the schedule you need, and to deal with preliminary issues that might delay the case.

In simple cases, the case management conference will often be perfunctory. But many cases aren't simple, and when there are peculiar or difficult issues involved, put them on the table at the case management conference. The magistrate judges would much rather you bring these issues up at the case management conference and try to address them in the order, than to deal with them in motions later. Please send us a candid and thorough case management memo prior to the case management conference. These are confidential. We don't share the information in the memo with the other side. If there is a case management issue or a client issue or problem that may affect how the case is going to proceed or needs to be managed, let us know in the memo. Case management conferences are not just for the court's benefit in scheduling the case, but are for your benefit. We want your case to proceed efficiently, and in a way that allows you to accomplish what you want or need to accomplish for your client. Take advantage of the case management process. It can be an efficient way to address issues without having to file expensive motions later and to accomplish many tasks at one time.

Continued on next page

Q & A With Federal Court Judges

Q: What are your thoughts on settlement conferences?

A: As Judge Ozerden mentioned, in federal court, the vast majority of the cases are decided well before trial. Oftentimes, they're decided by dispositive motion, which Judges Lee or Ozerden might rule on, but many of the cases will be resolved in a settlement conference with the magistrate judge. A few points about effective settlement conferences. Our local rules require that you have some sort of alternative dispute resolution, be it private mediation or a settlement conference, by the discovery deadline. Be ready to talk at the case management conference about settlement issues. Would an early settlement conference early be beneficial? Do you need to have certain key discovery completed before you talk settlement? Do you need certain issues decided by the district judge before you can talk settlement, such as immunity or jurisdictional issues or statute of limitations questions? If you will let the mag-

istrate judge know your preferences at the case management conference, we will schedule your settlement conference for a time when it is likely to be most effective.

At the settlement conference itself, there are things that you can do to increase your chances for success. If you represent the plaintiff, bring a schedule of the damages you are requesting, know the basic facts that support your claims, and have the important back-up documentation. I can't tell you how many times I've turned to lawyers in settlement conferences and asked them about their damage figures only to be told that they are not really sure what the numbers are but they have the documentation "back at the office." The settlement conference is the time when one should be able to clearly articulate his damages. The defense lawyer is not going to be able to convince his client to write a check to you and your client if you don't know what the damages are. The question about damages is one that you should be able to answer quickly, thoroughly and confidently. The

other side may not agree with what you're requesting, but you need to be able to tell them exactly what it is.

I was in a settlement conference in Natchez about six months ago, and having studied the memos ahead of time, I thought the case had a poor chance of settling. I thought the plaintiff wanted far more than what seemed reasonable under the circumstances. But, I was so impressed when the plaintiff's attorney appeared at the conference with a comprehensive schedule of damages, one of the best I'd ever seen. It was a complicated case, and there were a number of damage components, but he had them outlined on a spreadsheet with the amounts they were requesting and why, the backup documentation, some of the key facts they were relying on to support those damages, and even some case law that supported each element. Liability was very much at issue in that case, but we didn't spend much time at the settlement conference talking about liability. The parties spent most of their time talk-

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ing about the damages, which is exactly what the plaintiff wanted. The plaintiff controlled the discussion because they were very prepared. The plaintiff's thorough preparation for the settlement conference sent a clear message to the defense that the plaintiff was ready for trial and knew how to proceed. The case settled at the conference for an amount far above what I had expected.

But I've also seen cases settled for amounts less than, frankly, what they were worth because the parties were not as prepared. A lack of preparation and knowledge of the case at the settlement conference sends a signal to the other side that you may be equally unprepared if the case were tried. And that will negatively affect the value of the case from a settlement standpoint.

One issue that comes up fairly often in settlement conferences is whether the judge will excuse your clients from the conference. I can't speak for the other judges, but my rule is that I rarely excuse parties from attending a settlement conference. I just find that cases are more likely to settle if the parties are present and engaged in the process. Participation by telephone is not as effective. The person on the other end of the phone far away may be very interested, but they haven't been involved in all of the dynamics that occur at a settlement conference. They're not invested in the same way. So, both the plaintiff and the defendant should be present at the settlement conference. Oftentimes, defense attorneys will seek to have the claims representative excused from attending the conference because the representative works in another state. While we will not excuse them from appearing, we will schedule the settlement conference well in advance for a time that's convenient for everybody.

In summary, make sure your clients know they have to personally attend the settlement conference, show up prepared, and be prepared to stay as long as it takes to get the matter resolved.

JUDGE F. KEITH BALL

Q: Judge Ball, what can you tell lawyers about discovery?

A: The first point that I would make about discovery is to stay on top of your cases. Often, we'll have the case management conference; we'll set the deadlines; and typically, we'll set a trial date; and there may be approximately six to seven months of discovery. When we set a deadline that is six or seven months out, some lawyers may think they have plenty of time to do discovery. As a result, they propound their interrogatories sometime later. They don't propound their request for production of documents until later. They don't start noticing depositions or even talking to the other side about what depositions really need to be taken until some later time in the case. And if you're a busy lawyer with several cases, cases may slip through the cracks.

When you're having your Rule 26(f) attorney conversation at the beginning of the case, you need to already be thinking about exactly what discovery needs to be done. You also need to be drafting written discovery that you want to propound. The rule actually allows you to propound some discovery before the case management conference. I don't like that portion of the rule, because in the case management conference, we're going to talk about, for example, what is going to be the limit of the number of interrogatories and request for production. How can you really start propounding interrogatories and request for production of documents before you've even decided in the case management conference what the limit is going to be? But, I have to acknowledge that the rule does allow you to start doing some discovery after the initial attorney conference under Rule 26(f). My point is: you need to go ahead and determine what discovery you're going to need to do in the case by the time of the case management conference. If there are depositions that you know you need to take, you may want to go ahead and have the other side's responses to your written discovery before you take those depositions. So, on the front end, you should get your written discovery requests out quickly. I would say the ideal time to do it is right after the case management conference. And when I say right after it, I mean the next day or as soon thereafter as possible. You ought to be in a position to start propounding

written discovery because often you will get a request from opposing counsel for an extension of time to respond to your interrogatories, requests for production of documents, or whatever discovery may be at issue. You have to anticipate that. In that situation, that six or seven months of discovery starts seeming a little shorter. You're going to propound your discovery and then it's going to be at least a month before you get a response to any of that discovery, and it may be longer, depending on what extensions are granted and you're probably going to want those responses before you do depositions.

I think one of the biggest problems that may exist, and this is not something new, is attorneys just not talking to each other about the case. At settlement conferences, I often get a feel for how much the lawyers have been talking to each other, or better stated, how much the lawyers are not talking to each other—not only about settlement, but even about discovery. You need to be communicating with opposing counsel. You need to get your written discovery out. You need to go ahead and start telling opposing counsel what depositions you want, because you're going to have to deal with coordinating calendars, getting dates set for depositions, and, sometimes, other logistical issues, like planning for an out-of-state deposition. Go ahead and do that on the front end of the case. Too many times, we're faced with situations where one side has done a really good job in discovery; they've done it timely; and the other side doesn't propound their discovery until there's only one or two months left in the discovery period; they start noticing depositions shortly before the discovery deadline; and then, they come to us for help. That is very problematic. You need to go ahead and get on top of the case at the very beginning of the case, and then we can help you. In other words, help us help you in these discovery issues, because it's very difficult for us to help you if you put yourself behind the 8 ball by delaying and not getting things done timely.

I want to say a little bit about discovery motions. First of all, again, be timely

Continued on next page

Q & A With Federal Court Judges

on your discovery motions. Be mindful of Local Rule 7(b)(2)(B). It says a party must file a discovery motion sufficiently in advance of the discovery deadline to allow a response to the motion and a ruling by the court in time to effectuate the court's order before the discovery deadline. The purpose of the rule is very clear. If you have a discovery issue in your case, that is, one that you know you're not going to be able to resolve with the other counsel—first, do everything you can to resolve it between you and opposing counsel. Meet and confer, discuss the issue, exhaust discussions about whether you can get it worked out between the two of you. But, if you can't, send a good faith certificate, and get the motion before the court. Don't wait until the last minute to file your discovery motions. You need to file them sufficiently in advance of the discovery deadline for the other side to respond and for us to deal with the issue before the discovery deadline actually runs.

One of the things you certainly need

to have in mind when you're speaking and when you're writing is to consider your audience. Consider what your audience knows and what they may not know. In discovery motions, obviously, the magistrate judge is going to have to make a determination as to whether the discovery that you're seeking is relevant to any of the parties' claims or defenses. Often, we have very little information about the case. We may have the complaint and the answer, but we haven't lived in the weeds of the case, as I like to say. The lawyers are doing the discovery, and they're the ones that really know what all of the issues have been in discovery in the case. When you file a discovery motion, give the magistrate judge a sufficient amount of the facts to make a determination as to whether the discovery that's being sought is or is not relevant to the claims or defenses.

Be specific in your motions. Attach, first of all, all of the evidence and the exhibits that are necessary to prove your case on the discovery matter. And, two, cite to it. When you cite to it, cite specifically to the portion of it that you're referring to. I have one case in particular where there are over 500 filings in the case, and the attorneys routinely will just say this court has previously ordered this, or this has previously happened in the case—with no cite to anything. That leaves me or one of my law clerks with the job of trying to somehow find exactly what it is that they're talking about. To be frank, attorneys sometimes embellish what I may have said in a previous order, or what they say I ordered may not be exactly what I ordered. Sometimes, I can't even figure out which order they're referring to. So you need to cite to exactly what it is that you're saying supports your position.

In that same vein, Local Rule 37(b) provides that in all of your motions to compel that you must quote verbatim each interrogatory, request for production, and request for admission to which the motion is addressed and must state the specific objection, the grounds assigned for the objection, and the reasons assigned as supporting the motion. And the rule also says that this information must be written in immediate succes-

sion to the quoted discovery requests. You need to follow that rule. You need to make sure that you are quoting the interrogatory. Quote the interrogatory, quote the response, and then make your argument as to why you believe a supplemental response should be compelled, and if you have any authority to support your position, cite us the authority.

Q: Any other comments?

A: I wanted to make another comment about motions for protective order. I get a lot of agreed motions for protective orders that don't have the Local Rule 79 language in them. Make sure that it does. Rule 79 says you cannot jointly agree that documents must be filed under seal. That has to be decided by the court. So make sure that any of your proposed protective orders have that language in there. Any documents subject to an agreed protective order may only be filed under seal if the court enters a separate order authorizing the filing under seal, as provided in Local Rule 79.

I also want to say that settlement conferences are not designed to be the first time that the parties have ever talked about settlement. The parties should have discussed settlement before they come to the settlement conference. I want to be a little bit more specific about that. Not only should the lawyers have spoken to each other and discussed settlement, but the lawyers should have spoken to their clients. They should be preparing their clients for the settlement conference. You need to talk with your own client before you come to a settlement conference about the weaknesses of their case. You need to talk to them about the strengths of the other side's case. You need to talk about the possible negative outcomes that could come from a trial, and you need to engage in a realistic evaluation of the settlement value of the case and discuss that with your client. When I discuss those issues with a plaintiff or a defendant at a settlement conference, it is sometimes obvious that the lawyer has never discussed any of those things with their client. So make sure that you have prepared not only yourself but your own client.

Regarding settlement memos, plain-



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tiffs—please itemize your damages. In an employment case, what did the plaintiff make? What is your back pay claim? What is your front pay claim? Explain some of that. Give us the numbers. Defendants, if you anticipate the plaintiff's numbers are going to be fuzzy and not really supported by the evidence, tell me why and tell me what your numbers are and what evidence supports your position. Settlement conferences, at the end of the day, are all about numbers, and it is very difficult to do a settlement conference when the parties aren't giving us the numbers.

JUDGE S. ALLAN ALEXANDER

Q: Judge Alexander, will you wrap things up for us?

A: I'm probably the only magistrate judge in this state that requires in-person case management conferences, and there are three reasons for that. One, I like to see you. Two, I don't think that lawyers get to go to court enough anymore, and I think they need to, but, more importantly than that, number three, the clients need to see that there is really a human being working on their case, interested in their case, and it's not the Wizard of Oz there behind the curtain. I think that public confidence in the courts has diminished because people don't have that contact anymore. So I want to know who you are. I want to know who your client is. I want them to see that I'm there, and I want all of you to know that I view my job as being there to help you navigate — not practice law for you — but help you navigate through whatever exercises you've got to go through to get yourself ready to try a case.

I agree with everything Judge Parker and Judge Ball said, but just be prepared. Rules, everybody has mentioned rules. I had it at the top of my list. If you read the rules every day, you will be the best lawyer in the state. I read the rules every day, and I try really hard to remember. I still can't remember them all, but reading them when you're preparing a filing or responding to it is critical. Read every order you get from the court. Even if it's a form order, do not assume it's exactly like the one you got last month because

we change them sometimes, and if we have, you're caught up in a mistake, and you don't show up or you get there late. Please don't be late. I'm going to fine you if you're late. I know that all of our district judges will fine you if you walk in late unless you have a good reason.

Talk to your co-counsel or opposing counsel. There's something about law school that somehow inculcates in young lawyers the notion that they have to resist everything, and that's just not true. The older you get, the better you understand that it's not. No, there are only certain things you need to die in a ditch fighting about, and the better you get along with your counsel and your colleagues, the more smoothly everything about your professional life is going to run. So talk to them, work it out before you come to me. My law clerks estimate that 85 percent of discovery disputes could be resolved if the lawyers would just really talk about it and talk about what they really need.

I want to talk to you about etiquette. Stand up in the courtroom when you're talking. Don't talk to the other lawyers; you're talking to the court. Don't chew gum in the courtroom if you ever get there. Get to know personnel at the court. That means the clerk's offices. That means the court security officers. That means the chambers staff, because guess what, they're the ones that are going to give you access and listen to you. Unfortunately, judges are a little bit isolated from you, and so we don't get to be on the front line. Those are the people

who are your best friends. So if you think that the judge doesn't know every single thing that's going on and won't know just because you did it or said it when you were not around them, but around some other court personnel, forget about it, we're going to know. Everybody learns everybody else's reputation. If you're bad, we know you're bad. If we know we can trust you, we know we can trust you, so please don't assume that these other people are extraneous: they're critical.

The last thing that I do want to say is all of the magistrate judges in the Northern District are happy for you to call their offices if you have problems in your case or questions. In particular, if you have discovery issues that can be resolved on the telephone, we're *so* over written discovery motions if the issue can be resolved on the phone. Call us, and we will talk to you then if we're available or set up a time. We'll talk to you. If it's something that's very complex, and we have to do a lot of research or look at a lot of documents, that's a different matter, but even if it's not a discovery dispute or something you need the judge to do — if you just want to know about preferences or protocol — our law clerks and our staff know they are there to be helpful to the public. We are public servants. We don't get mad when you call, and, in fact, I usually rule on things pretty fast, so if you don't know why I haven't done something, all and ask about it. Even with electronic filing it may have fallen through the cracks, so don't be afraid to call us and ask about it. ■



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From the Perspective of Mississippi Appellate Court Judges

JUDGE DAVID M. ISHEE:

Q: Do you have any tips for Appeals to your Court?

A: The first thing is basically some of the mechanics with the court. I've been on the court now about nine-and-a-half years and practiced law a little over 15 years prior to that, so I've been at this for about 25 years. One of the things that I've found that has really bothered me is lawyers failing to make a record. So often we get a case, we have a brief, there's a valid point of law, they've made a good argument, I'm ready to rule, and I realize as I go through the record, they didn't plead it at the trial level. It's not properly before us, and we cannot rule on it. So that is the one thing, make your record, and I find this especially in Chancery cases often where you have these conferences with the judge that you don't realize are off the record, maybe you're back in the clammers having your discussion, or maybe it's even a bench conference sitting in the courtroom. Unless there is someone taking it down, it is not in the record. You've got to be thorough with this, and there are too many times lawyers lose their cases on appeal simply because they didn't make a record. If you find yourself at trial, and you've gone through the trial, and you question your own record, cover it in your post-trial motions, be very thorough in those.

The other is in your briefs. We go through a lot of briefs. Our court hears about 600 cases a year. There's at least two briefs or three briefs, rather, in every case. That's not including amicus briefs, so we have a lot of briefs. If you can say it thoroughly in 10 pages, don't say it in 20. Be precise, don't skimp, be thorough in what you say, but get to the point, and you don't have to say it five or six times. We'll get to the point. Don't say it six different ways just to try and get your point across to us. Be thorough, be well written, but don't just run on just for the sake of adding pages to your brief. I find a lot of lawyers do that. They say the same thing over and over as we read through it, but just get to your point, make it be thorough, be precise, but get to the point.

My policy has always been on oral arguments, if both sides ask, I grant it, but please have something to say. Don't just come in and stand up there and give your name and recite the facts, and then stand there while the crickets chirp hoping we ask a question. Now, we're going to have questions, but that varies. You've got to be able to field those questions, but actually have something to say, because sometimes our panels do have last minute substitutions. I've gone into a panel before where one of the judges was sick, and I just got about an hour notice, so I didn't really have anything valid to ask. I was just sitting there and trying to get a grasp on the case. So have something valid to say if you request an oral argument. I love oral arguments. I always learn something from them. Know your case and be well prepared. It takes a lot more to get an oral argument than just putting oral argument requested on the front of your brief. You know, there are certain steps. Go through those, find the rule and be thorough, because we love oral arguments. It's the only time we get to come down out of our office and interact with the lawyers, and I look forward to it.

Q: Any thoughts on professionalism and civility?

A: We don't see this as much now that we're on electronic filing, but there's nothing that ever bothered me more in the last nine years than to be going out to lunch, walk past the clerk's window where there's lawyers filing briefs and to see someone standing there in blue jeans and a golf shirt filing their brief at the clerk's office. You're lawyers, if you're coming to the courthouse, put on a coat and tie, act like lawyers and have a professional demeanor about you. It's not law school anymore. I know that a lot of lawyers, they're down at the office until 2:00 or 3:00 in the morning turning out briefs, trying to get a deadline met, and they're running there and trying to file it in person, or they used to before we had the electronic filing, but act like a professional. You know, it doesn't take that much to come to the courthouse in a coat and tie. Act like you're professionals. Carry yourselves that way. This isn't a conversation, this is a courtroom, so please carry yourself with that professional demeanor, and that carries over into a lot of other things.

Civility with one another. Civility is something that is a dying art in this profession. You're not in a street fight. I practiced criminal law for 15 years, and I've seen the results of street fights. You don't want to be in one, I can tell you that. You know, act like you're a lawyer. You're supposed to be — we are supposed to be, in the legal profession, the voice of reason. The people who are here, the litigants, they can't get along, and they can't work this out among themselves. They are relying on us to be the cooler heads. Now, I'm not saying don't advocate for your client. I have been called down in courtrooms for being overzealous more than what I would like to admit, but at the same time, you

Continued on next page

Pictured on opposite page:
Justice Randy G. Pierce
Justice Ann H. Lamar
Judge David M. Ishee
Judge James D. Maxwell II

From the Perspective of Mississippi Appellate Court Judges

never took it personal. You never picked a fight with another lawyer just for the sake of picking a fight. They ask you for discovery, and they're entitled to discovery, give it to them. Don't send back a response saying you requested documents that are going to be submitted at trial. Be reasonable, get it out on the table, solve things, get it right and be civil. Whatever you do, be honest and truthful about it. Now, when I first started practicing law 25 years ago, I went to work for my late father-in-law, and one of the first things he did is he sat me down and he said, let me tell you, you can spend 20 years building a good reputation in this business. You lie to a judge one time, and that 20 years is gone, and even if you make it up over the next 10 or 15, you're still going to be known around the courthouse as remember the time he lied to Judge Smith, and that will follow you the rest of your life.

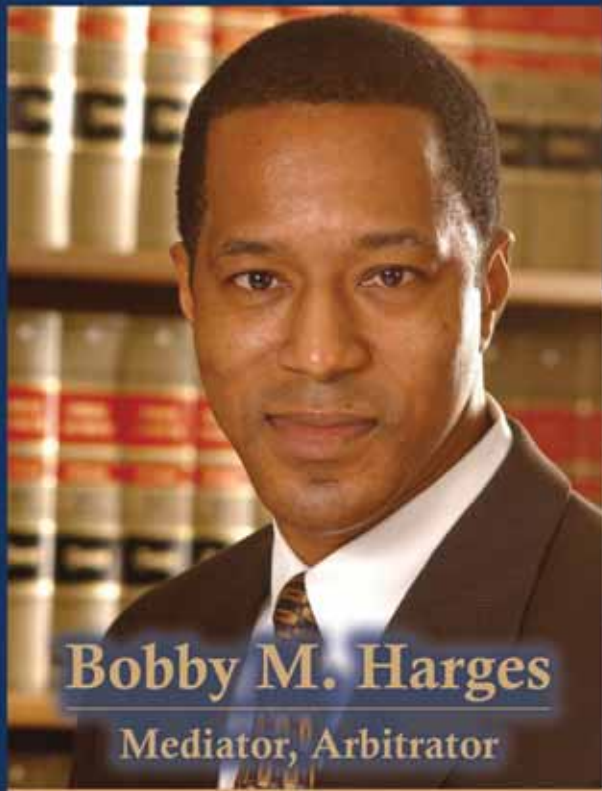
So civility and honesty has its place here, and it's not just because it makes life a little more pleasant. It's going to affect the way judges look at you, and it's going to affect the way your colleagues look at you. There is absolutely nothing worse

than somebody who wants to be known as the jerk lawyer. All of us have dealt with that. All of us have dreaded it from the start. You don't want to be there because everybody ends up in the bad seat at some point. At some point, you're going to forget to answer discovery. At some point, you're going to be a day late, and at some point in time, a hearing or deposition is going to get left off of your schedule. At some point, you're going to make a mistake, and if you've got the reputation as being the one who hung everybody else out to twist, every lawyer in the bar is going to be sitting there waiting for the chance to get you in the crosshairs, so be civil, work things out. Sure, if a lawyer is constantly late with their discovery, they're constantly rescheduling everything that you agree on, you have to draw a line, but be flexible with it. A judge I know, one time when he was practicing law, we had a case against him. He failed to show up at a settlement conference in federal court. He simply forgot about it. It was on his schedule, and he was out of town. Well, when they called us in, they turned to my father-in-law at the time and said

what sanctions do you want, Mr. Lang? And he said I'm sorry, I don't take sanctions from other lawyers, Judge. I don't want them, you know, I will just eat my hours that I spent doing this. Well, about a year later, that lawyer on the other side went on the bench, and I was never treated with as much respect by a judge at that time as a young lawyer as I was by him because he knew the way we practiced law. He knew that we treated people with honor and dignity, and the fact that when we had a chance to hang him out to twist and put money in our own pockets, we waived it. So I benefited — even though I was not the lawyer who actually did it, I was just hearing his brief case, it trickled down to me, and I got the same respect out of it.

Q: Any additional thoughts for young lawyers?

A: Your personal life is always going to be there, you've got to do it. I remember once I went six years without taking a vacation, six years without a week off. I suffered; my clients suffered; my marriage suffered; my family suffered; everybody



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suffered because I thought I was too important to take a vacation. The law office will fold without me, so six years, I went without a vacation. I took a week off and went to the Caribbean and came back and everybody said thank goodness. Make some personal time and find a hobby, take the vacations that you need. You're going to find that you refresh your mind and come in with a clear head, and you actually get a lot more done, and you're a lot more effective, and you're not crying over the details. You can see the forest for the trees when you step back and look at it.

And the last thing I'm going to say is you do have to protect yourself in this profession. When I was a young lawyer, a man gave me this advice, he said when you hang up the telephone, pick up your Dictaphone and send a letter confirming everything that was said. It's going to make your life a lot easier down the road. Now, I know we don't use Dictaphones anymore. Get on your e-mail and send out a two or three sentence e-mail saying dear so and so, this confirms our telephone conversation of March 27th, in which we agreed. If you object or find any of this in error, please respond within 24 hours. You've got something now in writing that if he gets in front of a judge and says, Judge, that phone call and agreement never happened, you can pull it out and say, well, where is your e-mail responding to it?

Protecting yourself is very important because if it wasn't for all of the people who I've seen do all of these things over the years, I wouldn't be warning you about it. Make sure you make a record with your telephone conversations just like you would in a courtroom. Have something to document it. If you cannot print out a hard piece of paper that says it, it didn't happen.

JUSTICE ANN H. LAMAR:

Q: Any follow-up statements to Judge Ishee's remarks?

A: Judge Ishee just gave you some very good pointers for your personal life and personal practice. I hope you take heed of those. They are very important. Just to reiterate one thing that Judge Ishee said, I am concerned sometimes that we do live in such an adversarial world or litigious world that often young lawyers think that

is it their job to be disagreeable. I hope and pray that all of you have some mentors that you have been able to receive wise advice from.

Sometimes if you get discovery responses, all you can do is answer them, and you can't find something to object to, and you just feel like you hadn't done your job. We're here to talk about appellate matters, but take a step back just a moment to my days on the Circuit bench. I hated discovery disputes. I bet most Circuit judges and Chancery judges will tell you the same thing, but the first thing I would always ask them is have the two of you discussed this matter? Do you have any idea how many times I had lawyers tell me, yeah, we've talked about it, and we can't resolve it. I wish I knew, but I can promise you way more than half the time, they would kind of look at each other, and they would look at me, and they will shake their head, no, no, we haven't discussed it, and I would smile and invite them back to my chambers while I took care of other matters. And they would just go back there for 30 minutes or an hour in the same room. Sometimes these lawyers had trouble staying in the same room, but I left them there long enough for them to work out their differences. Oftentimes, they would come back — many times they would come back and tell me they had resolved it. Sometimes, of course, there are issues that can't be resolved, and the judge has got to make a call. That was frustrating to me as a Circuit judge, so just a caveat, if you're going in there on discovery disputes, just at least take the time to pick up the telephone and talk to a lawyer about it.

Q: What about some tips on appeals to the Supreme Court?

A: Well, one thing that I think you should take some comfort if you plan to do appellate work is the fact that our work is very much rule based. Get you a copy of the Mississippi Rules of Appellate Practice, if you don't have it. It is very rule based, and if you will look at something that you are questioning, you can probably find the answer to it right there. I am amazed sometimes at the folks that just don't do it. In fact, last week, we had an argument before the Supreme Court, and the lawyer got up and the first thing he said was he told us about the facts, and he said, well, I

found this case in preparation for arguments. It's not cited in my brief, and he had just about gotten out the name when the Chief Justice stopped him, and said you're citing a case to us that was not in your brief? And he said, yes, sir, you know, I just found it. And he said have you supplemented your brief? No, sir, I haven't. And he instructed him then what rule he should look to if he wanted to offer a cite to us that was not in his brief. It's covered in the rules how you go about it, and many times in letter form, would you take a look at this case, Judge? It's very helpful to us.

The record is so important. One point on that I would make, there are many times when I look at records, particularly in criminal matters, because I have spent my life in criminal court. That's where I cut my teeth, and I can look at a record and a justice will be questioning what has happened, and if I could, I would probably bet a month's salary on it, because I know that they just had a conversation back in chambers that never got placed into the record. Remember that every conversation you had with the judge that is off that record, you need to come into court or either in chambers and ask the court to allow you to place that into the record. Just way too many times, it's not done, and so you've just got this hole, and even though we know what probably happened, it's not in the record, and that's all we're looking at.

On the issue of briefs, I would tell you, if you don't know it, sometimes we get really elaborate motions for extensions of time to file your brief, and they will tell us what their schedule is and how many days they're in court, and, you know, the motions go on and on. You might save yourself some time. Most of the time, our clerk can grant the first three continuances, one of our justices probably won't look at it. Generally, it's a 30 day extension, a 20 day extension, a 10 day extension. After that, it comes to the fourth floor, and we are looking at those to decide whether or not to grant extensions, but most of the time, you are going to get a routine extension if you need it for briefs. Don't abuse that. And I would suggest that you not ask for indefinite extensions. Sometimes that happens. We need to know why you need an extension and how

Continued on next page

From the Perspective of Mississippi Appellate Court Judges

long it's going to take you to do what you've got to do, 60 days, or 30 days, or whatever it is, put something in there, and unless it is being abused, which sometimes it is, we will do it, and those should come in before the deadline. Don't wait three days after your brief was due, and then say can I have some extra time because you're likely to get something back that says no. You know you're out of time, and you didn't ask in time.

Spend some time on your issues when you're preparing your briefs. It's important. There are some times that issues that we latch onto, and we think, oh, I wish this issue had been raised, or, you know, why aren't they arguing this. And, in fact, I remember Justice Dickinson asking a lawyer outright in an argument last year, why wasn't this issue raised? The lawyer just said I don't know. I just had so much room in the brief, I didn't think I had time to raise it. Well, you've always got time to raise it.

Oral arguments are governed by Rule 34B. Oftentimes, many times, you just get oral argument requested on the front of the brief and that's it. The rule says the party requesting oral argument shall in his or her brief or letter include a concise statement of the reasons that oral argument will be helpful to the court. And I will tell you right now that there are many justices on our court that if there is not an explanation of why an oral argument will be helpful, they will not grant it. Is it a complete factual situation or is it a case of first impression? Why is it that the court needs to take time for oral argument. I, like Judge Ishee, enjoy oral arguments. I miss being in the courtroom. I miss interacting with attorneys, and so I enjoy that, but I'm just telling you, follow the rules.

On cert petitions, remember you've got 14 days. There must be a motion for rehearing filed in the Court of Appeals before you can file a cert petition. That 14 day limit is strictly looked at and will not be considered after that time. There's a 10 page limit on your petition for cert. All of that is set out by a rule, and so look at those. Before I came to the court, I had no idea what an extensive motion practice there was at the court. We rotate at the Supreme Court, and we've got a three man panel handling motions for two months at a time, and then in two months that rotates

to another three justices. We meet every single week, and there are somewhere between 15 and 30 motions handled every week in the Supreme Court. I really had no idea, but in motion practice, what we need for that is also set out in the rule, so look at it carefully.

Oral arguments, we could talk a long time about what's good, what isn't good. I can just about promise you that any time you come for oral arguments before the Supreme Court, and I feel like the same is true at the Court of Appeals, those judges and justices are familiar with the case. Generally, work has been done at the court on the case before it comes to oral argument. There has never been a time since I've been there that we walked in cold into a courtroom and said tell me about your case, and I'm telling you that, because, oftentimes, that's valuable time to a lawyer, and still they walk in there, and they want to spend the first 15 minutes talking about the facts of the case. We know the facts of the case. That's why we're there, so tell us your best point. Lead with your best point and maybe your most important point, and maybe the one issue that you feel like could have reversible error. Certainly, you need to know the facts. You need to know the records and maybe questions about that, but we don't need a recitation of the facts. Our court, particularly if it's an en banc court, it's usually kind of a hot court, and you're going to get a lot of questions, particularly if you get oral arguments on a cert case. Generally, if you get oral argument on a cert case, you're going to find the entire court sitting, you've got to know if we set oral arguments, an en banc argument with all justices there, there's something we're concerned about, right? There's a serious issue or you wouldn't be having arguments on it, so expect that. And I always have to tell this story, at least on one case, it was a particularly contested issue in the case, but that lawyer said, after questioning from one of the justices, well, if you would just let me finish what I have to say. Not good. I mean, really not good because what he wanted to talk about was not what we were concerned about. You know, the questions are a gift to you, okay, they tell you what the court is thinking and what they need to know. We don't rehearse questions to embarrass lawyers.

There is an issue that we are concerned about, so if they're asking questions, you better be answering what they are asking.

On arbitration issues, do you realize now that those motions to compel and to deny arbitrations are automatically appealable. Those do not have to come through the interlock procedure, okay, automatically appealable as a direct appeal. We still see a number of those that are filed as interlocks, and if you'll read the cases, you'll know that is not necessary. If you have a matter that comes to our court, particularly as an emergency, I'm surprised at how many emergencies we get, and how many lawyers want to stop a Monday morning trial on Friday afternoon. If you've got a real emergency, say so, and have that in the pleadings, emergency motion. Sometimes you can read halfway through the motion, and somewhere buried in there is the fact that there's a trial date set on Monday, and we consider this to be an emergency. If you've truly got an emergency, you better say so and make sure somebody at the court is going to recognize that as soon as they look at it, because we don't want to disappoint you, but your motions are not always read the day they're filed at the court unless somebody picks up on the fact that it's an emergency. If it is an emergency, make sure that you have notified opposing counsel some way other than by mail. I mean, like don't hand it to us on Friday afternoon, and send it to them by mail, so they get it the day after the trial was supposed to start. That's not fair. We do want to know that on those kinds of situations that all attorneys have been brought into court.

JUDGE JAMES D. MAXWELL II

Q: Let us hear from you on Appellate Practice.

A: It wasn't very long ago that I handled my first appeal. Just so you have a bit of background and perspective on where I'm coming from, I was a federal prosecutor with the U.S. Attorney's Office in Oxford. And our office had an unwritten policy we called "the 24 hour rule." Basically, if you won a trial, you had 24 hours to strut around the office and tell everyone what a good job you did. But after 24 hours, if you kept raving about your performance,

you were fair game to be reminded that you weren't up against Clarence Darrow, or that it didn't take a stem-winding closing argument to convict a bank robber who confessed on video three times.

Well, after the 24 hours were up and the fog of trial wore off, you would kind of forget about the case. Months would go by without much thought about it. But inevitably, one day out of the blue—seems like it was always a Friday—I'd be sitting around my office, and my secretary would stroll in and slam this big pile on the corner of my desk. I'd look at that tall stack of briefs, transcripts, and records, then get that sick feeling and sink back into my chair. Ugh, the appeal.

A few times, I thought about immediately digging into the briefs. But most of the time I settled for the tried-and-true method that every other lawyer I knew used—I procrastinated like hell. And every day when I would come into work, I'd be greeted by this stack on the corner of my desk. And each day, it looked like it had grown a foot. Finally, what would happen—and I believe this is the way most people practice appellate law—I would be up against that deadline and a sort of panic would set in. So I'd tear through the briefs and record and struggle to put something together that would make sense to the court. And the whole time I was bickering with my secretary over citations and a table of authorities and praying I'd eventually get my brief out by 5:00 p.m. on the deadline.

This is exaggerated—kind of. But from my experience, I really believe this is how many lawyers handle appellate work. I know it was what I did the first few times I handled appeals. But it's obviously not a very effective way to be an appellate advocate. So what I started making myself do—and my first piece of advice to young lawyers—is to set a drop-dead deadline for starting on your brief. Set a date, that no matter what happens, you will begin working on your appellate brief that day. I'm not saying you have to finish the brief or do the bulk of research and writing that day. But you need to take the first step and get started that particular day because writing a brief is like anything else. Kind of like those phone calls we all hate to return or make. You're sitting there dreading them, but after you pick up the phone

and make the call, you feel better. You realize it wasn't so bad. Brief writing is the same way to a lot of folks. It's initially dreaded, but once you get started, get into it, and get rolling, it's actually enjoyable. So go ahead and set a drop-dead deadline.

The next thing you need in every brief is a good opener. This is something I firmly believe. Ask yourself this, how many times have you gotten a motion or brief from opposing counsel that starts off, "Comes now the plaintiff into the Honorable Court of Hinds County, Mississippi, and we would show that the case was commenced by the filing of a complaint. Then, after that the defendant filed his answer. We then engaged in discovery, during which the defendant lied in his interrogatory responses, then began hiding evidence, before perjuring himself in a deposition, and eventually running off with his secretary . . ."

You all know what I'm talking about. You've all seen motions or briefs where the opposing lawyer devotes ten or fifteen pages to this sort of rambling. But when you actually boil it down, the sole appel-

late issue is something completely unrelated—like his or her challenge to a judge's evidentiary ruling at trial. We've all been there. So I ask you, what does all of that other writing have to do with the sole issue on appeal? Nothing. But for some reason lawyers tend to start off their briefs with a ton of stuff that really doesn't matter. And guess what? Judges have to read these unfocused briefs. This is something Judge Ishee touched on.

Think about it, do you personally *like* to read 50 page briefs? Most of you are shaking your head "no." Well judges don't either—particularly when an argument can be made in 10 or 15 pages. This is why a focused opener is so important. Instead of that old "Comes now, Wherefore premises considered" approach that some lawyer learned 50 years ago and then passed down to an associate in the firm, who became a partner, then passed it down to his or her associate, try something different.

Aim to hit us over the head from the get-go. Try to nail the issue, describing

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what the case is about, what the law is, and what decision we should make. And do it in 100 words or less. For example, say you have a medical-malpractice case. You might write, “In Mississippi, when a plaintiff files a medical malpractice case, he or she must designate an expert witness to prove the appropriate standard of care. But here, the plaintiff failed to designate an expert, so summary judgment was properly granted and should be affirmed.”

Wow, with an opening like this I didn’t have to read 25 pages about fighting with attorneys over discovery disputes and a bunch of other immaterial information or legalese to find out what the case is about. The opening told me what the case is about and what I should do at the very beginning. And it is written in a way to make the proper decision inevitable. I mean, how could our court not affirm on those facts. That’s what an opener is. But you would be surprised how many lawyers blow through 25 pages without telling us what the case is about, what the law is, and what they want us to do.

And here’s a little inside baseball. Do you know what judges often do when they get these rambling briefs—briefs that are confusing, with no rhyme or reason, and not to the point about the law and issues? They put that brief down and pick up the appellee’s brief, hoping it may shed some light on what the case is about. And what happens if the appellee has written a clear and concise brief, getting directly to the point, telling the judge what the law is and what should be done? That judge might be conditioned to consider the evidence or arguments from the appellee’s point of view, not yours. That’s a real possibility, and it’s what you obviously don’t want. So use an opener in your brief, get our attention, and hit us over the head at the beginning, telling us what the case is about and how we should rule.

Q: Any words of wisdom on oral arguments?

A: I remember early on having an oral argument before the Fifth Circuit and really had no idea what to expect. So I went to our then First Assistant U.S. Attorney, Tom Dawson, for some advice. I said, “Tom, I’ve got to make an oral argument in the Fifth Circuit, what should I do?” He said, “It’s real easy Jimmy. There are only three

kinds of oral arguments you can make.” Though I probably should have known better, I thought Tom was about to give me some genuine pearls of wisdom. So I listened intently, as he kind of smirked and said, “There’s the argument that you plan to make, there’s the argument you actually make. And when you’re walking out of the courthouse after the argument is over, there’s the argument that pops into your head that you wish you’d have made.”

I told Tom pretty pointedly what I thought of his wise counsel. But now looking back years later, most practitioners would agree there is some truth to what he said. Unlike an opening statement or closing argument at trial, during an oral argument you don’t get to stand up and make your pitch to the court uninterrupted. And there’s no guarantee you’ll get to make your planned argument. So to ensure you do at least get to argue your main points, come right out and tee up your issue or argument. Make it at the beginning. We’ve already read the facts and are familiar with the case. But still, there are plenty of lawyers who come in and say, “Good morning your honors, my name is John Smith from the Wayne County Bar, and I’m so privileged to be here today before the court. I want to start by giving a detailed recitation of the lengthy history of this litigation . . .” I can assure you, nobody on the panel wants to hear that. It’s far better practice to jump right in, for example, “Your honors, my name is Jimmy Maxwell. I represent Mr. Jones. I think the best thing to do is to get right to the point. In this case, the whole issue is causation . . .”

With this approach, you obviously get your primary argument in. And I’ll give you a little hint. We’re typically not going to interrupt you and start asking questions in that first minute or two. So make your most important point early.

My second piece of advocacy advice is to ditch the notes. Young lawyers hate to hear this because young lawyers love notes. But notes are a crutch. They limit your ability to communicate with a jury or judge. What inevitably happens if your spiel is written out on notes is that when you’re arguing and a question is asked—one you don’t know the answer to—you immediately look to your notes for an answer. And most of the time the answer

is not on that legal pad. But you look anyway. Then the next time you’re a bit uncertain, it’s back to the notes. And before you know it, you’re reading your argument from notes. That’s not an effective way to persuade a trial or appellate court, so ditch the notes. If you must have them, just a few bullet points about your important, key arguments. Leave out everything else.

And last is something most lawyers don’t think about. But if you practice or at least think about this, you’ll be ahead of the curve. That’s to come up with the way you’re going to stand behind the podium and carry yourself in court. Most lawyers never practice how they stand or carry themselves when they argue. Some lawyers come before the court and hunch over the podium. Some are jingling change or keys in their pocket. You get the death grip on the podium—it’s like if they move to either side, they’ll be struck by lightning. Some lawyers do the summer-camp shuffle when arguing. As a young lawyer, think about what you look like when you speak, and practice arguing in a mirror. Find a comfortable neutral stance that looks confident. Something you can come back to. A position you can use at trial, motion practice, oral argument, or general public speaking. Do this, and you will be ahead of the game, because most young lawyers aren’t thinking about this.

JUSTICE RANDY G. PIERCE

Q: Justice Pierce, can you give us some of your advice for appellate practice?

A: I probably grant oral argument about 20 percent of the cases assigned to my chambers. The very first rule is I never grant an oral argument if the briefs were sloppy, because it’s never failed, if your briefs are sloppy, your oral argument is not helpful, so 90 percent of the cases, as far as I’m concerned, are won when you start writing that brief. And let me give you a little advice in terms of how do you frame your issue. Don’t say, for example, whether the statute of limitations has run. Go ahead and say the statute of limitations has run because, and so, therefore, you’ve stated your conclusion, and, now, you’ve provided support for it in your brief. I had a lawyer recently come up to me and said how did y’all let this particular case get to the Court of Appeals, it’s a case of first

impression. And the idea, of course, in our screening process is to catch those to make sure that any cases of first impression, we retain at the Supreme Court, but we miss occasionally. But you need to be very, very accurate, and at the front end of your brief, explain why this is a case of first impression.

As far as oral argument, when opposing counsel is making her argument, and she says something you don't agree with, don't start shaking your heads and looking at us, making all of these expressions. It's very distracting, and it's very unprofessional, and I want to say sometimes, Chief Justice, can you tell counselor that's sitting at the table to please put a poker face on for a little while. Look, we get it. We've read the arguments; we've read the briefs; the record. We are very knowledgeable, we have a hot bench, and what I mean by this is we're going to ask you a lot of questions. If you are an appellant, you are going to have an opportunity to have a minute probably out of the gate, but if

you're the appellee, there's a good chance on your way to the podium, we're going to ask you a question. We're not going to ask you questions to try to embarrass you. We are trying to help you help us understand the issue. So don't worry about us trying to trick you in the form of a question.

It goes without saying to know the record. That's the biggest thing that I see in terms of a weakness from oral argument is when you have a counselor that does not understand or know his or her own record. When you're addressing the court, you don't have to call us by name. It's okay, just call us Justice, that's fine, and when you're referring to the court, there was one en banc oral argument where the young lawyer kept calling us you guys. Now, at Hal and Mal's, that's fine, call us you guys, but I wouldn't address the Court of Appeals or even the Supreme Court or any court in that manner.

Don't talk over the justices. And my prayer and hope for all of you is that you become great lawyers appellant lawyers,

but you never really know it. We've got some great appellant lawyers that know it, and that is so irritating. You know, just be humble. When you finish with your oral argument, for goodness sake, go sit down, put on your poker face and wait your turn. Don't lean against the railing or don't try to stop the Supreme Court as we're walking out of chambers to say something else, so let's be humble about it, so be great, but not know it. The Supreme Court itself, I will say this about my colleagues, I don't think there's any question that oftentimes here over the past couple of years, we've had some close cases. We've had a lot of 5/4 cases, and I can tell you that when we have en banc, and we may debate fiercely a legal issue. As soon as en banc is over, when we're having lunch on we're in the en banc break room, we are sitting around the table, and we are talking to each other. We're civil. We get along well, and I'm very proud to serve with each of the eight other members. ■



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From the Circuit Court Judges' Perspective

(Pictured)

Judge John C. Garguilo

Judge Tomie T. Green

Judge William A. Gowan, Jr.

Judge Margaret Carey-McCray

Judge Winston L. Kidd

From the Circuit Court Judges' Perspective

JUDGE MARGARET CAREY-McCRAY

Q: What are your thoughts on civility?

A: It's a serious issue, at least in my court, and as I talk with other judges, it has increasingly become a matter of concern. When I became a lawyer, I was told that this is an honorable profession, and I bought it. I believed it. We are entrusted with the administration of justice. That's an important societal role. It's not just the judges and lawyers, everyone involved in the court system has a role to play in ensuring justice. But I find that the need to win has overtaken some of the lawyers who appear in my court. Of course, winning is important. However, in my opinion, the need to win and to develop a successful practice go hand in hand with advancing civility in the Courts. It's a matter of understanding that winning is most likely when you're prepared, professional and civil as you advance your client's interests. Most successful lawyers are courteous to each other and court personnel. They realize that their work is more easily and efficiently done when they maintain cordial professional relationships. If you are prepared, you are confident and more

comfortable presenting the issues that support your case. It's less likely that you'll feel the need to be rude or use disparaging remarks toward counsel opposite; to distort the facts or misrepresent the facts or law.

Civility is good for your practice and is not a sign of weakness. It's a sign of strength that you are prepared, on top of your case and able to represent your client with dignity. You know what you're doing, you're in control and judges notice. A beginning lawyer builds confidence by learning what's expected in court. You are building professional reputations. Civility and professionalism are important as one builds a solid foundation for the practice of law. There's a judge in Florida who has a sign on her bench that reads "Professionalism and civility, the least that is expected."

Q: Discovery and depositions seem to be the source of unprofessional behavior by attorneys, do you agree?

A: I find that most of the time, discovery is a hot bed for tempers to fly. It's when attorneys who otherwise are very professional and civil may get angry. And when you think about it, it's not hard to understand. As lawyers, we want and are charged to represent our side of a case zealously. We want to prepare our side, and we naturally don't want to be too quick to give up information that we believe is harmful to our client or that can give us a tactical advantage later. But lawyers should remember that the Rules of Civil Procedure, beginning with Rule 26 and all of the other discovery rules, are your best friends when it comes to remaining principled and professional during discovery. Prepare, read the rules and know what you have an obligation to disclose. If you don't have a clear obligation and can't resolve the issue, make the objection and the supporting argument. If you have an obligation to disclose, do so and don't make that a big issue of contention between you and opposing counsel or with the court. You will accomplish more in the preparation of your case, while saving your clients time and expense.

Also try to agree on hearing and deposition dates. Being uncooperative or rude to harass or for strategic advantage accomplishes little in the long run.

Depositions are another part of discovery that can get very contentious, maybe

because the judge is not present. It's unbelievable to me the way lawyers sometime treat each other during depositions. Remember the judge often sees deposition transcripts as exhibits and when deposition testimony is used at trial. If there are issues that come up in a deposition, before resorting to behavior that you know is inappropriate, call the judge and ask for a ruling on the issue. You can also move for pre-deposition rulings, if you know ahead of time that a difficult issue will surface. That way, you can go forward without the kind of back and forth that I often see in deposition transcripts. In addition, when it comes to depositions, help your clients and witnesses understand the process. They should know that you expect them to be forthright. I once was in a position where because of the recalcitrance and evasiveness of a witness during a deposition, the witness was required to testify live at trial. The witness was scheduled to appear at trial by deposition. However, the attorney taking the deposition had not had the opportunity to examine the witness on an important point. When the witness was ordered to come to trial, this caused inconvenience, trial time and extra expense that could have been avoided. There are costs; there are delays; there are a number of additional negative consequences that can result from just not treating people well within the legal process.

Q: Can you help provide some insight as to when to draw that line in the sand and bring a discovery dispute to court versus when to just take them up and move on with the case?

A: It helps the court when lawyers stay on top of discovery. If you have propounded discovery, and not gotten an adequate response, either because of objections or total non-responsiveness, follow up under the rules. Go ahead and make your good faith effort, and it may take more than one attempt. When you know you have done all that you can to get responses, don't delay in bringing the matter to the court. A lot of times attorneys begin good faith efforts to get outstanding discovery responses, then let months go by without follow-up. Later when preparing for trial, they realize that responses were never received to earlier discovery. By then, the discovery dispute may have escalated. If the motion to compel had been filed earlier, it could have been resolved when the

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requested information would have been more useful. If responses are required, the attorney requesting discovery has lost the benefit of having information during early preparation of her case. So, just stay on top of discovery. If there's something that you need the court to address, it's easier for us to handle it close to the time the alleged discovery violation occurs.

JUDGE JOHN C. GARGIULO:

Q: What has changed since you got on the bench?

A: My idea of what winning was has changed as I've gotten older. And I'm not sure if it comes with age or if it comes with presiding on the bench. Winning is not about getting the guilty or the not guilty or about the settlement or about the ruling. I think from the bench perspective, winning has a whole different concept to it. You should keep in mind that the judge that you're practicing in front of might not be looking at the whole issue as a matter of who's going to win or who's going to lose.

Q: What is your advice for young lawyers?

A: You are starting your career and what I think you should be most concerned with is building your professional reputation, and it starts where you are right now. It's building a road or a foundation that you need to build brick by brick, and each brick that you build to create your good professional reputation is by doing something civil, by doing the right thing. Be courteous and professional to witnesses, to jurors, and what I consider to be most important, fellow attorneys. Read the Lawyers' Creed. It's really something you need to look at, and I've taken some of this from that. You owe an ethical duty to your client, and the way that I summarize this is represent your client how you would want to be represented. Earn the trust and be worthy of that trust by your client. Aspire to the expeditious and economical resolution of whatever issue you have. If that doesn't work, try to handle it professionally with opposing counsel. To your opposing parties, seek to fairly resolve your differences. Try to resolve it in a dignified manner. If you can't come to a resolution, and it's going to be a fight, try to be dignified about it. You've heard the expression rise above. It goes just leaps and bounds

and will carry you throughout your career. Little things that come to mind when I talk about that is when you're dealing with opposing counsel via e-mail, and you make a change to a document, identify that change to opposing counsel. Treat each of your communications to opposing counsel as if the judge is going to be reading that e-mail. Treat the court with respect, candor and courtesy. Try and put yourself in our position and understand it's what we expect, and we'll give it as we receive it. To your colleagues, try and offer sincere concern for their reputation. Treat them how you want to be treated. Make a professional friendship. The legal community is a small community, and they will remember it. Recognize your interdependence on each other and to the profession. Strive to keep our profession a calling to the true spirit of public service because, ultimately, that's what we do. We are all serving the public. Manifest an attitude of respect toward the judge, opposing counsel, witnesses, the defendant, jurors and others in the courtroom. Address the court when you're in the courtroom, not opposing counsel. Make your objections to the

Continued on next page

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From the Circuit Court Judges' Perspective

judge not opposing counsel. You know that you must stand when you're addressing the court. The rule says that you have to do that. Don't thank the jurors. Don't attack opposing counsel during opening or closing arguments. I tell attorneys in my courtroom all the time don't call opposing counsel by his or her first name during a closing argument. Don't grimace at the rulings. It is the duty of the court to enforce that rule *sua sponte*, so each judge is supposed to enforce that rule.

JUDGE WILLIAM A. GOWAN, JR.:

Q: What items are on your bullet sheet for lawyers?

A: Be civil to everyone. I'm starting into my 49th year of being admitted to the bar. A lot has changed. The collegiality among lawyers is not what it once was. When I first started practicing law, you could always depend upon an older lawyer taking you under his wing to keep you from making a mistake or appearing to be foolish, because back then, we all realized one thing, we are only as good as the weakest member of our profession in the public eye. And for us to challenge and demean a fellow attorney is nothing more than an assault and disrespect for the profession as a whole.

In my court, don't ever make the mistake of believing that I hadn't read what you filed because I have. I've researched it independently along with the research that's been submitted. If you've got 15 civil motions pending in a day, I don't need to hear an entire recitation of the history of the case. We are there for one point and that is that particular point of law that is being raised. You need to read Uniform Rule 403. I will paraphrase it. Dealing with motion practice: Motions to dismiss and motions of summary judgment, file them timely. File them in such a fashion that the counsel opposite has adequate time to respond. I have motions filed well outside the limit of time. And counsel would show up over there and say, oh, I've got this other motion I just filed yesterday, I want to hear it today, too. There's one thing, and I don't mean to sound crass or authoritative on this, lawyers need to understand that the court runs its docket, lawyers don't. When you file a motion, if you've got case law supporting your position, and it's just not your position, and you're going to come up and argue with

me, cite the cases because that's what you're supposed to do. It helps me out as the judge.

Discovery disputes is a bone of contention among a lot of lawyers because that's when the got-ya game is really played, and what it does, it burdens the court when someone finally comes in and gets around to filing the motion to compel and comes to my court expecting me to referee what should have been resolved with an e-mail, a telephone call or a face-to-face sit down. You would be surprised the number of cases that I have or number of motions that I have to compel discovery where they've never even sent the good faith letter. It's an absolute requirement.

After you get through with your motion practice, you're almost home free because then you're going to trial. Then it comes down as to who can develop the facts the best in front of these 12 folks. Develop a theme, a simple theme that's all encompassing of your case. Stick with that theme and tell a good cogent story because you're not dealing with lawyers then, you're not dealing with judges, you're dealing with lay persons that are subject to getting bored. Tell them a good story. Tell them about your client, tell them what happened and don't belabor over and over and over with redundancy of the same testimony again and again.

A courtroom is not an evidence class. Somebody might disagree with me on that. I refer to them as jack in the box objections where you're going to get a good mark from the evidence professor because you've recognized that. Jurors do not like a constant stream of objections coming when my comment is going to be I will sustain, rephrase the question. You can change one word, and the substance is still there. I'm not suggesting that you don't vigorously object to something of substance, but just don't ride that into the ground. Tell your story.

JUDGE TOMIE T. GREEN:

Q: What would you tell young lawyers?

A: I enjoyed practicing law, and I enjoy presiding in the cases. I have one motto, and that is justice is our only option, and I think that as lawyers, that generally has to be the position if you plan to be in the practice of law long term.

I will remind you that during a trial, you will have your case presented to the

jury. You will get your exhibits in to the jury, but the most important thing is the instruction of law that goes with the facts as the jury finds them to be. And I find that lawyers try their cases well, but when it gets to the jury instruction, they spend little time on jury instructions. And jury instructions go into the jury room with the jury, not your arguments, not your witnesses, not the transcript, so it's extremely important that you spend more time on the jury instructions or a good case can get lost in transition.

I want to talk to you about some of the things that could take away that license that you have to practice law, and we don't talk about it very much because it's not pleasant to talk about. It is hard to get a license to practice law, but it is so simple to lose one. I sit as the senior judge in Hinds County, so I get to do a lot of unpleasant things when it comes to lawyers and reprimand, and I get to see some of the misconduct and the illegal things that occur that could generally challenge whether you should have a license or not, and I wanted to go over some of those things with you, so you don't find yourself practicing extremely hard and losing sight of the privilege that you have to practice law. It is a day-to-day practice. There are many stresses in the practice of law, and you have to learn to manage all of that and be prepared and appear in court and please your client, please the judge and advocate zealously for your client without going against the grains of the true reason that we practice law. Know what your ethical considerations are. Be sure that you go through that very well, and then learn the disciplinary rules and the kinds of things that can happen when you don't practice law correctly.

I am required to do public reprimands, and that's when you've done something that really doesn't require a suspension, doesn't require that you are disbarred, but does require that you come into court on a day that I have the largest number of members of the bar to appear, and, basically, the Supreme Court requires me to read off to all of those individuals what you've done wrong, and your reputation begins to suffer from that point. You know you've done something wrong, but, now, a full courtroom of lawyers know that you've done something wrong that you should have known better to do — that you should have known not to do. Generally, reprimands

will come because, one, you're not communicating with your clients. When you run from your clients, you will either get a complaint to the Bar or eventually end up with some kind of malpractice suit. You've got to communicate with your client. That's crucially important, and I get a lot of reprimands that come as a result of attorneys not talking with their clients.

The second thing I'd like to mention that could get you in trouble is co-mingling funds. Lawyers need to know the difference between your operational funds and your trust funds and when you can use them.

There are things that we don't like to talk about, but as a judge and as a lawyer, I think that I need to mention, and that is that lawyers tend to drink excessively and some even use illegal drugs. Stay away from them because you can end up losing your license as a result of criminal activity or just generally coming into the courtroom impaired. That's becoming more a problem in this day and time, and I think I would be amiss if I didn't mention it, and we tend to not mention that to young lawyers, and before you know it,

you're out there dealing with some very difficult issues, and you also are having to deal with the stress. Be careful about those things. They can cause you to lose that license that you worked so hard to acquire.

Be careful of your friends. Most of the time, we watch our enemies, and it's rare that our enemies will get us in trouble. When I first took the bench, I had a very wise senior judge. His name was Breland Hilburn, and I walked in, and I said Judge Hilburn, is there anything that you can tell me that will help me as a young judge, and he said I only have one thing to say to you, and that is watch your friends, watch the people you associate with while you're on the bench. If you leave the bench, I promise you it won't be because of your enemies, it will be because of your friends because you will watch your enemies, and when your friends come to you, it's hard to say no.

In this modern age of computers and social media, be careful. Just because you deleted or erased does not mean it's not on your computer. You cannot go to some of the sites you think you're going to — that you find yourself going to and think that it's not going to remain on your comput-

ers. Be careful about social media. You can't blog a lot and say what you want to say and think that the judges and the other attorneys and your clients won't hear about it. We're in an age now where there are no secrets, and there is no confidentiality when big brother decides that he wants to come in and go through your things. Keep your license. Stay off of the social media, and when you are there, be sure that you don't put anything there that you don't want your mama to see.

My final thing to you, I guess doesn't have to do with misconduct, but it does have something to do with your character and your integrity. I tell people the only thing that I brought to the bench and to the bar was my integrity. And that's the only thing I intend to leave with, not riches, not a lot of glory, but integrity and being sure that justice is the only option that we have. Give back to the community from which you came. It doesn't have to be in dollars and cents, but it can be in service, so I encourage you to do that. It helps you keep a balance in your life. Give back to your family as much as they've given to you and make sure that there is a balance

Continued on next page

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From the Circuit Court Judges' Perspective

between you, your spouse or significant other and your children because nobody is going to ask you on the last day you're on this earth about how good a lawyer you were, and that won't be the thing that you regret, you will always go back to what you failed to do to change the world and what you failed to do for those that you love.

WINSTON L. KIDD:

Q: Do you have some pointers for young lawyers?

A: I echo what all of my esteemed colleagues have talked about earlier in terms of civility. I have a few additional points I would like to make. One point deals with pretrial matters in terms of resolving discovery disputes. You should always try to resolve discovery disputes first. An attempt at resolving those matters is required. The rules require that you get with the other side and try to resolve the dispute. If you are unable to resolve those disputes, you should file a motion to com-

pel that is very clear, very organized. One thing that is quite frustrating to me is to receive a motion to compel that is 30 or 40 pages long with all of the requests and interrogatories set forth, but it's somewhat confusing. Your motion to compel should be very straightforward. Identify the request that you have a conflict with the other side, give the court your reason to compel and keep it brief. Again, the court does not have time to resolve very minor disputes because the rules are very clear as to what documents should be turned over. Usually, the lawyers know what they need to turn over. Usually, after motions are filed, I will ask at the beginning of every hearing, have you resolved the dispute. In many instances, the lawyers will go out in the hall and resolve those issues. And, again, this is the way you practice law in terms of pretrial discovery. You attempt to resolve these matters, and you only burden the court with those matters in which you are unable to resolve.

There is some confusion among some lawyers as to agreed orders. Simply

because you and counsel opposite have signed off on an agreed order does not mean that is law in the case. You have to make sure that the judge signs off on the order. I've received agreed orders and, obviously, we like to receive agreed orders, but in some occasions, we're not going to sign those agreed orders. So be very mindful, check in with the clerk to make sure that the court has signed off on the agreed order.

When you have problems in depositions contact the court to get issues resolved. I caution lawyers at hearings where they have disputes about discovery issues about trying to resolve those issues, which may arise at depositions prior to the deposition because, in many instances, you're not going to be able to get the judge on the telephone. When I practiced law, many lawyers, we used that as a threat, if you don't cooperate, I'm going to call the judge. Well, you can rest assured that many times you're not going to be able to get the judge on the telephone unless you made prior arrangements with the court. Again, if you think it is a situation where you would have certain disputes at a deposition, go ahead and file the motion prior to the deposition and try to get that matter resolved prior to attending the deposition.

Another area that lawyers need to pay close attention to is picking the jury. Oftentimes, I'm asked how many preemptory strikes do we get. That does not change. The rule provides how many preemptory strikes you get. If there are multiple parties on one side, those parties will split those strikes. If the court decides to increase the number of strikes for one side, then the court has to increase the strikes on the other side. Say, for example, if you have one plaintiff and two defendants, then those two defendants would have to split the four preemptory strikes. If the court decides to increase the number of strikes for the defendant, then the court would have to increase for the plaintiff as well. Again, the rule is very clear as to the number of preemptory strikes you get. Know how to handle picking the jury. Know how to handle tendering a panel of 12 and allowing the other side to make their strikes from that panel, and the party who submitted or tendered that panel of 12 would once again have to tender a panel of 12. So be very familiar with the rules in terms of how to pick a jury. ■

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The Mississippi Fellows of the College congratulate these new members and welcome them to the Fellowship.

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The Mississippi Bar 2014



Participants of the Mississippi Bar's Leadership Forum 2014 are from left (seated): Allyson L. Winter, Debra M. Giles, Jennifer H. Scott, Susan S. Copeland, Alyson B. Jones, Brett B. Thompson, (back): T. L. "Smith" Boykin, III, Shakeba Johnson, Kabah S. Ealy, John T. Rouse, Jennifer T. Baker, Gayla L. Carpenter-Sanders, Ryan Revere, Reed C. Darsey, Gerald A. Mumford, Andrew R. Wilson, Adam G. Choate, Diandra Hosey, Mindy McKay Morton, Thomas M. Taff, Kevin E. Gay, Christopher H. Coleman, Katherine "Katie" Mills, Kuykendall Horne-Murry, and D. "Sterling" Kidd. Not pictured: Tangala L. Hollis

Participants

Jennifer T. Baker, Gulfport
T. L. "Smith" Boykin, Jackson
Gayla L. Carpenter-Sanders, Jackson
Adam G. Choate, Madison
Christopher H. Coleman, Jackson
Susan S. Copeland, Jackson
Reed C. Darsey, Meridian
Kabah S. Ealy, Jackson
Kevin E. Gay, Flowood

Debra M. Giles, Ridgeland
Tangala L. Hollis, Grenada
Kuykendall Horne-Murry, Inverness
Diandra Hosey, Jackson
Shakeba Johnson, Greenwood
Alyson B. Jones, Ridgeland
D. "Sterling" Kidd, Jackson
Katherine "Katie" Mills, Greenwood
Mindy McKay Morton, Flora

Gerald A. Mumford, Jackson
Ryan Revere, Batesville
John T. Rouse, Jackson
Jennifer H. Scott, Jackson
Thomas M. Taff, Vicksburg
Brett B. Thompson, Ridgeland
Andrew R. Wilson, Jackson
Allyson L. Winter, Jackson

Leadership Forum Class



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



MS Bar Executive Director Larry Houchins addressed the participants on leadership.



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



General Counsel of the MS Bar, Adam Kilgore, discussed "The Lawyer's Creed."



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



"Professional Responsibility for MS Lawyers" was the topic of Mississippi College School of Law Professor Jeffrey Jackson.



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



Neil White spoke on "The Consequences of Stepping Over the Line."



MS Bar Government Affairs Director, Jimmie Reynolds, addressed the participants at the Capitol.



The Mississippi Bar 2014

Representative Robert Johnson addressed the Leadership Forum.



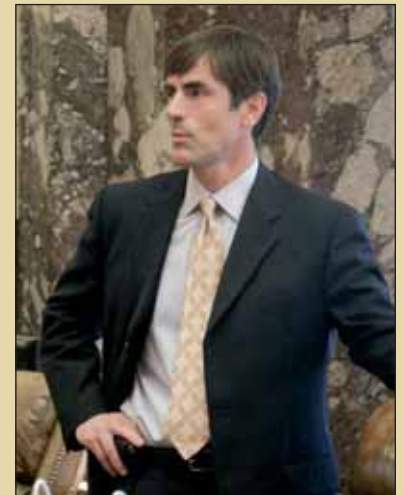
Representative Linda Coleman spoke to the participants at the Capitol.



Senator Sean Tindell addressed the class.



Everyone enjoyed hearing Senator Derrick Simmons speak.



Addressing the class was Senator Briggs Hopson.

Senator Brice Wiggins addressed the Leadership Forum Class.



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



Leadership Forum Class



Tiffany Graves, General Counsel and Executive Director of MVLP, spoke about Mississippi Volunteer Lawyers Project.



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



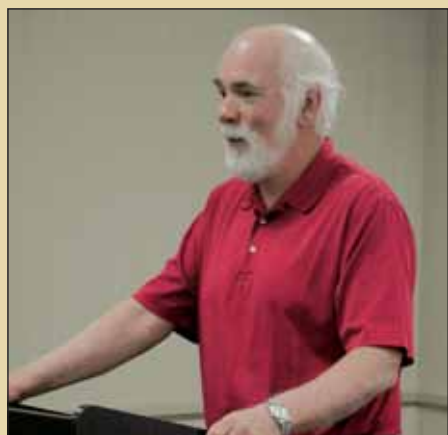
"Mississippi College School of Law and Pro Bono Initiatives" was addressed by Dean Jim Rosenblatt.



Jennie Eichelberger spoke on "Public Service Programs of the MS Bar: Wills for Heroes and High School Mock Trial Competition."



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



Rev. Luther Ott discussed "Why Give Back to the Community."



Addressing the class at the final session were Belhaven President, Dr. Roger Parrott; Governor William Winter; MS Bar Foundation President Steve Rosenblatt; and MS Bar President Guy Mitchell.

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THIRD ANNUAL MARY LIBBY PAYNE LECTURE ON CHRISTIANITY AND THE LAW

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History of the Mary Libby Payne Endowed Lectureship on Christianity and the Law

Mary Libby Payne served not only as the first Dean of Mississippi College School of Law, but she was also elected as one of the first members of the Mississippi Court of Appeals and was a long time member of the faculty of the law school. She established the Christian Legal Society chapter at the law school. In late 2011, a hundred or so of Judge Payne’s friends, colleagues and former students helped to establish the Mary Libby Payne Endowed Lectureship on Christianity and the Law, dedicated to celebrating her lifelong commitment to modeling the integration of faith with legal ethics and professionalism. To date, some \$70,000 has been raised toward the \$100,000 goal to fully endow the Lectureship.

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Kindergarten – First Place
Audra Freeman
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Kindergarten – Second Place
Christina Peterman
Harrison Central



First Grade – First Place
Annie Allen
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-May 3rd and showcased in this issue of *The Mississippi Lawyer* magazine. Congratulations to all the students for their great work!



First Grade – Second Place
Julia Farmer
Christ Covenant School



Second Grade – First Place
Gretchen Lam
Christ Covenant School



Second Grade – Second Place
Olivia Landrie
Waveland Elementary

Law Week 2014 Through an Art Contest



Third Grade – First Place
Patrick Ebel
Christ Covenant School



Third Grade – Second Place
Lawrence Peterson
North Bay Elementary



Fourth Grade – First Place
Xavier Walters
North Bay Elementary



Fourth Grade – Second Place
Olivia Burchfield
East Jones Elementary



Fifth Grade – First Place
Warner Lamb
Christ Covenant School
Overall Division Winner Grades 1st-6th



Fifth Grade – Second Place
Kita Carter
North Bay Elementary

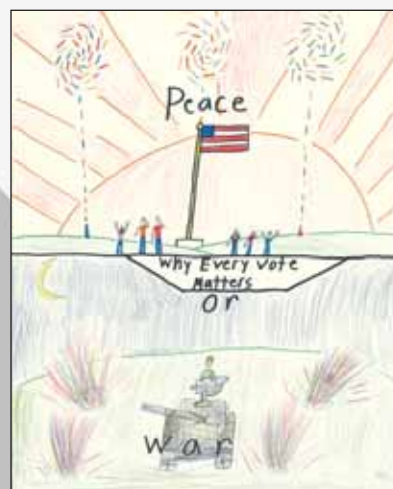


Fifth Grade – Honorable Mention
Paris Taylor
East Central Upper Elementary

The Theme for Law Day 2014 was "American Demo



Sixth Grade – First Place
Nick Dyer
New Hope Middle School



Sixth Grade – Second Place
Cade Hillman
Petal Upper Elementary



Seventh Grade – First Place
Isabella LaCourrage
Old Towne Middle School



Seventh Grade– Second Place
Hanna Brooklyn Floyd
Marietta Elementary



Eighth Grade – First Place
Quinn Gordon
Madison-Ridgeland Academy



Eighth Grade – Second Place
Rebecca Hannis
Clinton Christian Academy

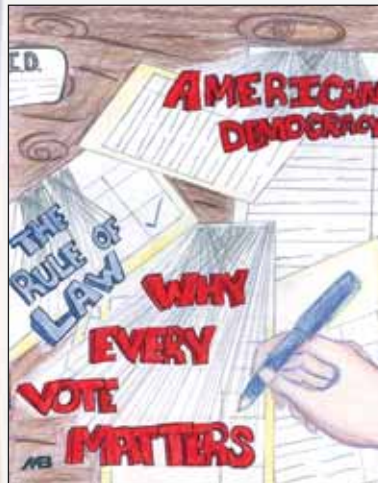


Ninth Grade – First Place
Katherine Ward
Madison-Ridgeland Academy
Overall Division Winner Grades 7th-9th
Best in Show

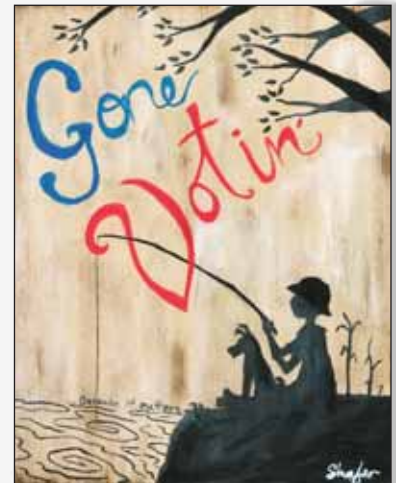
Democracy and the Rule of Law: Why Every Vote Matters"



Ninth Grade – Second Place
Camry Watkins
Clinton Christian Academy



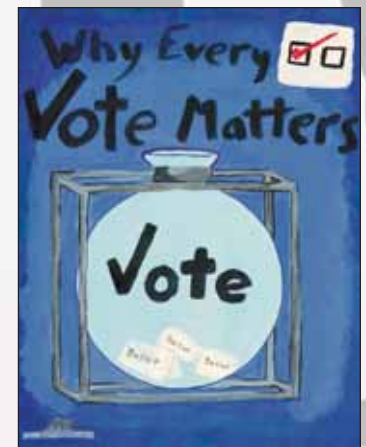
Tenth Grade – First Place
Mykiya Oliver
Lamar M/H School



Tenth Grade – Second Place
Lauren Williams-Shafer
Clinton Christian Academy



Eleventh Grade – First Place
Anastasia Zaluckyj
Madison-Ridgeland Academy



Eleventh Grade – Second Place
Beau Corella
Lamar M/H School



Twelfth Grade – First Place
Anna Webster
Madison-Ridgeland Academy
Overall Division Winner Grades 10th-12th



Twelfth Grade – Second Place
Emily Broussard
Ocean Springs High School

The Mississippi Uniform Trust Code

The Need for Trust Reform in Mississippi

Trusts are an important estate planning tool. Even though trusts are an integral part of most estate plans, Mississippi has few relevant statutes and limited case law. Though some statutory provisions exist, those few statutory provisions fail to address many of the situations encountered in the modern use of trusts, leading to uncertainty in drafting and administering trusts in Mississippi.

Generally, trusts may be established in any jurisdiction, regardless of the settlor's or beneficiary's state of residence. Many states, including the surrounding states of Tennessee and Alabama, have recently adopted comprehensive and trust friendly legislation. As a consequence, many Mississippi residents are creating trusts in states other than Mississippi. Mississippi's antiquated trust laws have placed Mississippi's banks and trust companies at a competitive disadvantage, possibly deprived Mississippi of tax revenue and caused Mississippi residents to have the additional burden of dealing with a trustee in a remote jurisdiction.

Recognizing the need for trust law reform in Mississippi, in March 2013, the Mississippi Secretary of State, Delbert Hosemann, formed a Steering Committee comprised of leading trust and estate attorneys, CPAs, financial advisors, and trust banking professionals to review Mississippi's trust laws and recommend reforms to make Mississippi a more competitive jurisdiction for trust business. The Steering Committee formed a number of Study Committees which were tasked with reviewing the Uniform Trust Code, self-settled spendthrift trusts laws, trust decanting provisions, directed trustee statutes, modification of the Rule Against Perpetuities for dispositions in trusts and general power of appointment legislation. The Uniform Trust Code Study Committee was comprised of more than twenty (20) attorneys, CPAs, financial advisors, insurance professionals and trustees, along with two (2) representatives from the office of the Secretary of State. The Uniform Trust Code Study Committee also consulted with subject matter experts in the areas of real estate law and oil and gas law with respect to specific provisions.

The Uniform Trust Code: General Overview

The Uniform Trust Code ("UTC") is

the product of more than a decade of study and drafting by the National Conference of Commissioners on Uniform State Laws. Uniform Law Commissioners are volunteer lawyers appointed by the Governors or Legislatures of their respective states to draft model state laws. The UTC draws upon common law sources, including the Restatement of the Law of Trusts. The UTC was approved in August 2000, with amendments made in 2001, 2003, 2004 and 2005. The American Bar Association, the ABA Section of Real Property, Probate and Trust Law, the Financial Planning Association, and AARP have all endorsed the UTC.

The UTC has been well-received. Since 2000, twenty-eight (28) states and the District of Columbia have enacted the UTC. In fact, five (5) states, including Mississippi, introduced bills in 2014 to enact the UTC. On March 18, 2014, the Mississippi House and Senate enrolled the bill and on March 24, 2014, Governor Bryant signed the Mississippi Uniform Trust Code into law. As of the time of this article, two (2) of the other four (4) states in which the UTC was introduced in 2014 have also adopted the UTC.

Summary of Mississippi Uniform Trust Code

When drafting the Mississippi Uniform Trust Code, the UTC Study Committee followed the UTC and reviewed how various states, especially Tennessee and Alabama, elected various alternative provisions and modified the UTC statutes for their respective states. It should be noted that the Uniform Laws Commission publishes Comments which discuss the historical context and drafting considerations for each code section. Furthermore, Tennessee and Alabama have published specific comments regarding revisions their respective states made to the UTC. The Uniform Comments, Tennessee comments and Alabama com-

*By William O. Brown, Jr.,
J.D., LL.M. (Taxation), CPA, CFP*

ments will be helpful in understanding the UTC as enacted in Mississippi. The Comments to the UTC can be found at www.uniformlaws.org by searching for Trust Code.

The UTC is divided into eleven (11) Articles. Article 9 of the Code is the Uniform Prudent Investor Act which was enacted by Mississippi in 2006 and was codified in Sections 91-9-601 through 91-9-627 Mississippi Code Annotated ("MCA"). Article 5 of the UTC addresses creditors' rights and was not proposed for adoption since Mississippi adopted the Family Trust Preservation Act of 1998, Sections 91-9-501 through 91-9-511 MCA. The Mississippi Uniform Trust Code includes an additional Article 12 which addresses the respective roles of trustees, trust advisors and trust protectors.

Article 1 — General Provisions and Definitions — Article 1 addresses miscellaneous but important topics. Section 91-8-103 MCA includes the definition of a number of terms in the Mississippi Uniform Trust Code. It should be noted that there is a detailed definition of the different types of distribution interests, including mandatory distribution interests, discretionary distribution interests and support distribution interests. The Mississippi Uniform Trust Code is primarily default law. A settlor, subject to certain limitations found in Section 91-8-105(b) MCA, is free to draft trust terms departing from the provisions of the Mississippi Uniform Trust Code. A settlor, if minimum contacts are present, may designate the trust's principal place of administration. The trustee, if certain standards are met, may transfer the principal place of administration to another state or country. The Mississippi Uniform Trust Code allows for binding nonjudicial resolution of disputes, as well as, through judicial adjudication. While the Mississippi Uniform Trust Code does not prescribe the

exact rules to be applied to the construction of trusts, it does extend to trusts the Mississippi rules for construction of wills.

Article 2 — Judicial Proceedings —

Article 2 addresses selected issues involving judicial proceedings concerning trusts, particularly trusts having contacts with more than one state or country. The courts in the trust's principal place of administration have jurisdiction over both the trustee and the beneficiaries as to any matter relating to the trust. There are statutes dealing with subject-matter jurisdiction and venue. A code section was added to the Mississippi Uniform Trust Code, as in Alabama, regarding the filing and content of accountings with the court.

Article 3 — Representation —

Article 3 provides for the representation of beneficiaries and other interested persons, both by fiduciaries (personal representatives, guardians and conservators), and through what is known as "virtual representation" by persons having substantially identical interests. The representation principles of Article 3 apply to settlement of disputes, whether by a court or nonjudicially. They apply to giving of required notices and for giving consent to certain actions. Article 3 also authorizes a court to appoint a representative if the court concludes that representation of a person under the statutes might otherwise be inadequate. The court may appoint a representative to represent and approve a settlement on behalf of a minor, incapacitated, or unborn person or person whose identity or location is unknown and not reasonably ascertainable.

Article 4 — Creation, Validity, Modification and Termination of Trust

Article 4 specifies the requirements for creating, modifying and terminating trusts. Most of the requirements relating to creation of trusts track traditional doctrine, including requirements of intent, capacity, property, and valid trust purpose. The Mississippi Uniform Trust Code articulates a three-part classification system for trusts: noncharitable, charitable and honorary. Noncharitable trusts, the most common type, require an ascertainable beneficiary and a valid purpose. Charitable trusts, on the other hand, by their very nature are created to benefit the public at large. The so called honorary or purposes trust, although unenforceable at common law, is valid and enforceable

under the Mississippi Uniform Trust Code despite the absence of an ascertainable beneficiary. The most common example of an honorary or purposes trust is a trust for the care of an animal.

It should be noted that subsection (b) was added to Section 9-8-407 MCA to address the filing of a "memorandum of trust," formerly a "certificate of trust," in the event that a trust holds an interest in real property. Section 91-8-407(b) MCA provides that a memorandum of trust may be signed and filed at any time by the settlor or trustee. However, the failure to file the memorandum of trust does not affect the validity of the trust.

Sections 91-8-410 through 91-8-417 MCA provide a series of interrelated rules on when a trust may be terminated or modified other than by its express terms. The overall objective of these sections is to enhance flexibility consistent with the principle that preserving the settlor's intent is paramount. During the settlor's lifetime, a noncharitable trust may be terminated or modified upon the consent of all qualified beneficiaries, as defined in Section 91-8-103 MCA, provided that the settlor does not object. Following the settlor's death, a noncharitable trust may be terminated or modified upon the consent of all beneficiaries upon court approval. Furthermore, the court may terminate or modify a trust in response to unanticipated circumstances, to remedy ineffective administrative terms or when the trust is of insufficient size to justify continued administration under its existing terms. Trusts may be reformed to correct a mistake of law or fact, or modified to achieve the settlor's tax objectives. Trusts may be combined or divided. Charitable trusts may be modified or terminated under *cy pres* to better achieve the settlor's charitable purposes.

Article 5 — Creditor's Claims; Spendthrift and Discretionary Trusts —

Article 5 of the UTC addresses creditors' rights. As mentioned above, Article 5 was not proposed for adoption at this time since Mississippi adopted the Family Trust Preservation Act of 1998, Sections 91-9-501 through 91-9-511 MCA.

Article 6 — Revocable Trusts —

Article 6 deals with issues of significance with respect to revocable trusts some of which are not completely settled under current law. The capacity to create, amend,

revoke or add property to a revocable trust or to direct the actions of a trustee are the same as the capacity to execute a will. However, to be effective as a post death disposition of property, a trust need not be executed with the formalities of a will. A trust is presumed revocable unless its terms provide otherwise. There are provisions which prescribe the procedure for revocation or amendment of a revocable trust (including a revocable trust with multiple settlors), which address the rights of beneficiaries during the settlor's lifetime, and which set forth a statute of limitations on contests of a revocable trust.

Article 7 — Office of Trustee —

Article 7 contains a series of default rules dealing with the office of trustee, trust protector, trust advisor or other fiduciary all of which may be modified in the terms of the trust. Rules are provided for the acceptance of the office of trustee and for providing bond. The role of the co-trustees is addressed, including the extent to which one co-trustee may delegate to another. There are provisions which set forth the extent to which one co-trustee or other fiduciary can be held liable for actions of another trustee or fiduciary. There are provisions dealing with changes in the trustee, trust protector, trust advisor or other fiduciary including the circumstances when a vacancy must be filled, the procedure for resignation, the grounds for removal, and the process for appointing a successor. Finally, standards are provided for the compensation and reimbursement of expenses of the trustee, trust protector, trust advisor or other fiduciary.

Article 8 — Duties and Powers of Trustee —

Article 8 states the fundamental duties of a trustee and enumerates the trustee's powers. This article was drafted, where possible, to conform to the Uniform Prudent Investor Act which prescribes a trustee's responsibilities with respect to the management and investment of trust property. Section 91-8-802 MCA addresses the trustee's duty of loyalty and provides guidance with respect to transactions between the trust and the trustee. Section 91-8-813 MCA sets forth the duties of the trustee to inform the beneficiaries of the trust. It should be noted, however, that the settlor may override the duty to inform beneficiaries if the provisions of Section 91-8-105(d) MCA are

Continued on next page

met, including the identification of a beneficiary surrogate to receive information from the trustee so as to protect the interest of the beneficiary. Section 91-8-814 MCA addresses the exercise of discretionary powers by the trustee, including if and to the extent the trustee has to consider the financial resources of a beneficiary in making a distribution. Section 91-8-816 MCA lists a number of specific powers of a trustee. It should be noted that the Mississippi Uniform Trust Code includes a new list of powers that the trustee has with respect to the acquisition and retention of life insurance policies and the exercise of options and elections with respect to the life insurance policies in Section 91-8-816(b)(28) MCA.

Article 9 — Uniform Prudent Investor Act — Article 9 is the Uniform Prudent Investor Act which was adopted by Mississippi in 2006 and codified in Sections 91-9-601 through 91-9-627 MCA. The Mississippi Uniform Trust Code incorporated those statutes as Sections 91-8-901, et seq MCA.

Article 10 — Liability of Trustees and Rights of Persons Dealing With Trustees — Article 10 includes sections regarding remedies for breach of trust and describes how money damages are to be determined. It should be noted, that Section 91-8-1007 MCA provides if the happening of an event, including marriage, divorce, death, etc. affects the administration of a trust and a trustee has used reasonable care to ascertain the happening of such event, the trustee is not liable for a loss resulting from the trustee's lack of knowledge. There are sections that specify the defenses of a trustee, including the consent, ratification or release by a beneficiary and the effectiveness of an exculpatory clause in the trust instrument. The statute of limitations for bringing claims against a trustee for a breach of trust is one (1) year after the trustee provides a report to a beneficiary that adequately discloses the existence of a potential claim. If such a report is not provided, the statute of limitations is three (3) years from the earlier of (i) the removal, resignation or death of the trustee, (ii) the termination of the beneficiary's interest in the trust or (iii) the termination of the trust. Sections 91-8-1010 through 91-8-1013 MCA address trustee relations with persons other than beneficiaries. The

objective of those sections is to encourage third parties to engage in commercial transactions with trustees to the same extent as if the property were not held in trust. Section 91-8-1013 MCA sets forth the process for the trustee to certify certain aspects of a trust to a third party rather than providing a copy of the entire trust instrument to the third party. A third party that acts in reliance on the trustee's certification without knowledge that the representations therein are incorrect is not liable to any person for so acting. Section 91-8-1014 MCA was added to the Mississippi Uniform Trust Code to address the enforceability of no-contest, in terrorem and forfeiture provisions.

Article 11 — Miscellaneous Provisions — Article 11 includes provisions regarding the uniformity of the application and construction of the Uniform Trust Code among the states that enact it, the enforceability of electronic records and signatures, and severability of provisions of law. Section 91-8-1106 MCA sets forth the effect of the Mississippi Uniform Trust Code of existing relationships. The Mississippi Uniform Trust Code applies to all trusts created before, on, or after July 1, 2014 and all judicial proceedings commenced before July 1, 2014 unless the court finds that the application of a particular provision would substantially interfere with the effective conduct of the judicial proceedings or would prejudice the rights of the parties.

Article 12 — Trust Advisors and Trust Protectors — The Uniform Trust Code includes some provisions relating to trustees that may be subject to direction from other parties. The Mississippi Uniform Trust Code includes an additional Article 12 regarding the role and responsibilities of trust advisors and trust protectors, as well as their relationships among each other and with trustees. Article 12:

- Provides a non-exhaustive list of powers which may be given to trust advisors and protectors;
- Places fiduciary responsibilities on trust advisors and protectors, to the extent the individual is granted power in the trust instrument;
- States a trustee, trust advisor, or trust protector is considered an excluded fiduciary with respect to each power

granted or reserved exclusively to another fiduciary;

- Subjects trust advisors and trust protectors to personal jurisdiction in Mississippi by accepting their roles in the trust;
- Provides that if a party is an excluded fiduciary, that party is under no duty to review actions by the other fiduciaries, to recommend, report, or communicate with beneficiaries, or to take any other action;
- Provides that an excluded fiduciary is not liable for the actions of other fiduciaries. Only the fiduciaries that hold the power may be liable for the failure to exercise such power or the results of exercising such power; and
- Provides that a claim against a trust advisor or trust protector must be brought within one (1) year of the date the individual received a report indicating the existence of a potential claim, or if no such report was provided, within three (3) years of the removal or resignation of the individual, the termination of the beneficiary's interest or the termination of the trust.

Repeal of Existing Trust Statutes — The Act to create the Mississippi Uniform Trust Code is effective as of July 1, 2014 and it repeals Article 1 (General Provisions), Article 3 (Uniform Trustees' Powers), Article 5 (Resignation and Succession of Trustees), and Article 7 (Removal of Trustees) of Title 91, Chapter 9 of the Mississippi Code.

Conclusion

With the adoption of the Mississippi Uniform Trust Code and the Qualified Dispositions in Trust Act allowing for the establishment of self-settled spendthrift trusts, significant progress has been made in modernizing Mississippi's trust laws and will make Mississippi more competitive with surrounding states. Estate planners, trustees, settlors and beneficiaries will benefit from the guidance set forth in the statutes and from the reduced costs of administering trusts under the Mississippi Uniform Trust Code. ■

Spring 2014 Bar Admissions Ceremony Sponsored by the Young Lawyers Division

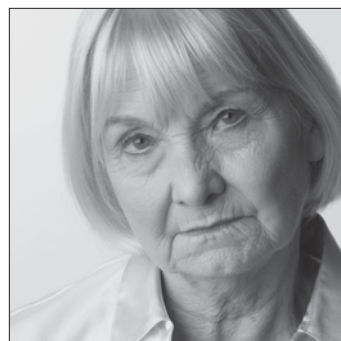


Program participants administering the oath to practice law in Mississippi included (front row), Julie J. Gresham, President of the Young Lawyers Division of The Mississippi Bar; Judge John M. Roper, representing the US District Courts for the Southern District of Mississippi; Judge Sharion Aycock, representing the US District Courts for the Northern District of Mississippi; Judge E. Grady Jolly, Jr., representing the US Court of Appeals for the Fifth Circuit; Chief Justice William L. Waller, Jr., representing the Supreme Court; Judge Denise Owens, representing Hinds County Chancery Court; Reverend Emily Sanford, Galloway United Methodist Church; (second row), J. Matthew Eichelberger, Chair, YLD Bar Admissions Ceremony Committee; Dean Richard Gershon, University of Mississippi Law School; Dean James H. Rosenblatt, Mississippi College School of Law; Ann Bowden-Hollis, Chair, Board of Bar Admissions; and Guy W. Mitchell III, President of The Mississippi Bar.



The Spring Bar Admissions Ceremony sponsored by the Young Lawyers Division was held Thursday, April 24, 2014 at the Supreme Court Courthouse in the Supreme Court en banc courtroom. Representing the Young Lawyers Division Bar Admission Ceremony Committee were Ashley Wright and Christy Malatesta. Not pictured was Sabrina Ruffin.

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Spring 2014 New Admittees

Claiborne Douglas Adcock, Jr.	Katherine Christine Hewes	Kimberly Brooke Reeves
Vandan Satish Amin	Leigh Ann Hoover	Kyle David Robbins
Brittney Ellen Batton	Emily Anne Jennings	Daniel Steven Roberts
John Jennings Bennett	Teresa Prillhart Johnson	Anna Kathleen Rush
Jacob Anthony Black	Sheneka Anitra Jones	Craig Michael Saucier
George Scanlan Blair	Reagan Lynn Joyner	Lila Elizabeth Schaffenburg
Garry Marc Burgoyne	James Matthew Lenderman	Henry C. Shelton III
Jacob Richard Burns	Ashura Shante' Lewis	William Garrigues Shields
James Randall Bush	Meagan Olivia Linton	Jennifer Dyess Sims
Lois Lizanne Carlson	Robert Michael Lunsford	Benjamin Bryant Sloan
Bethany Lynn Cooper	Neal Eugene Marlow	Ronald Warren Smith
Meryl Lindsay Cowan	Ruth Fredricha Maron	Jonathan Michael Stern
Robert Andrew Cox	Christopher Shawn Marshburn	Jonathan Hoyt Still
Sumita Dalmia	Tiffany Hodges McCaleb	Lauran Glassman Stimac
Jonathan William Davis	Laura Woodbridge McCarthy	Katherine Bisnette Sumrall
Warren Hudson Dedeaux	Meredith Faust McDermott	Laura Elizabeth Tate
Robert Leon Deming III	Daniel Wesley McDonald	William Charles Terrell II
Kelly Cunningham Dicken	Kristin Michelle McGee	Michael George Terry
Milfred Olin Eckel III	Jeffrey Bryan McGuire	Norwood Charles Thornton III
Arthur Martin Edwards IV	Keith Michael McKerall	Jason Bryon Tingle
Jamita Quantaye Elmore	Monica Monique McNeely	Neal Cody Townsend
Robert Benton Evans	Adolfo Minka	Angela Lynn Trawick
Emily Sarah Fertig	Adrienne Louise Starling Moore	Angela Kay Trehan
Daniel Jason Finelli	Lauren Rochelle Moreland	Caroline Dye Walker
Joseph Rodney Franks	Grant Coleman Mullins	Kenneth Melton Walker II
Keith Bernard French, Jr.	Matthew Callahan Myrick	Charles Rhea Waterloo III
Benjamin Teryl Frey	James Alan Nadler	Douglas Mattingly Weissinger
Meghan Alice Gilliam	Keith Jay Nadler	LaJuanda Sherise Williams-Griffin
Matthew Wade Gilmer	Jonathan David Nuesch	Thomas Charles Wimsatt
Melissa Lynn Groover	Natalia Okoniewski	Donald Francis Wunningham III
Morgan Gayle Halford	Anthony Christopher Pace	Diana Leigh Worthy-Nash
Ashley Nicole Harris	Adam Bailey Peters	Michelle Dawn Wroten
Erica Jo Harvey	Darnell Pratt II	Lee Blanton Ziffer
Joseph Scott Hemleben	Chelsi Maegan Pulley	
Jennifer Ryan Hesser	Charles Mark Ratay	

New “Lawyers in the Family”



Laura Elizabeth Tate, center left, is welcomed by her father Granville Tate, Jr, left, (admitted 1986), her aunt Amy Smith, center right, (admitted 1982) and her uncle Roy A Smith, Jr., right, (admitted 1982) all of Jackson.



John Bennett, right, of Meridian, is congratulated by his wife Ashley Bennett, (admitted 2012) of Memphis.



Dennis Bisnette, right, (admitted 1989) greets his daughter Katherine Bisnette Sumrall, both of Laurel.



Scott Hemleba, right, (admitted 1967) welcomes his son, Joe Hemleba, both of Jackson.



Alexander Bondurant, right, is welcomed by his father Si M. Bondurant, left, (admitted 1975), and not pictured, his wife Whitney W. Bondurant, (admitted 2011) all of Jackson.



Robert Benton Evans, right, is greeted by his father, left, Robert E. “Bob” Evans (admitted 1988) both of Monticello.



Laura McCarthy, right, is congratulated by her father Keith Raulston (admitted 1980) both of Jackson.



Morgan G. Halford, center, is welcomed by her mother Debbra K. Halford, right, (admitted 1987), and her father William J. Bill Halford, Jr., left, (admitted 1987) all of Meadville.



Ruth F. Maron, center, is greeted by her brother, David F. Maron (admitted 1995), and sister-in-law, Elizabeth Lee Maron (admitted 1995) all of Jackson.

What will happen when money runs out for indigent parent representation pilot programs?

By Beverly Pettigrew Kraft
Administrative Office of Courts

Having attorneys representing indigent parents has shortened the time that children and parents are separated, and has led to more reunifications of families in Department of Human Services investigations of allegations of abuse and neglect, according to Youth Court judges supervising four pilot programs.

But private foundation money and a federal grant that fund the pilot programs are set to end in December 2014. Judges from Adams, Forrest, Harrison and Rankin counties, representatives of the Attorney General and Department of Human Services and other stakeholders met April 17 with representatives of grant provider Casey Family Programs to assess progress, and discuss whether Casey would continue funding.

No other funding source has been identified to continue to provide attorneys for indigent parents in the pilot counties, much less expand the program statewide.

"Our question is, is our investment enough, and is it working in the right way," said Casey Family Programs Senior Director Isabel Blanco. "If we don't figure this out, we are going to come to a screeching halt because there just isn't enough money."

Forrest County Court Judge Michael McPhail said, "If you remove the attorneys, we just go back to our old way."

Mississippi is the only state in the country that does not statutorily provide an attorney for indigent parents facing possible termination of parental rights in allegations of abuse and neglect. Termination of parental rights means that the children are taken away and placed in foster care, and put up for adoption. Before the pilot program began, Madison County Youth Court was the only youth court in the state which appointed attorneys to represent parents.

Seattle-based Casey Family Programs, the nation's largest private foundation focused on foster care and improving the child welfare system, in 2012 gave a



Isabel Blanco of Casey Family Programs, at right, talks about funding for parental representation. Others are, left to right, Hinds County Assistant District Attorney Jamie McBride, Rankin County Court and Youth Court Judge Thomas Broome, and Special Assistant Attorney General Patricia Marshall.



Forrest County Court Judge Michael McPhail talks about the impact of parental representation on children's best interests.

\$100,000 grant for a two-year pilot program that pays for attorneys to represent indigent parents in cases which could lead to termination of parental rights. Harrison County, which has the largest number of cases, received \$50,000 in

Casey Family Programs funding for a full-time attorney. Adams and Forrest counties received \$25,000 each to pay for attorney representation. The Administrative Office of Courts provided \$45,000 through a Court Improvement grant to fund the Rankin County program.

The grant period is set to end in December 2014. Blanco said it is possible that an extension of funding could be requested.

Grant money was intended to be a start-up, not permanent funding, judges acknowledged.

Judges who approached legislators regarding possible funding for parent representation found little interest. Parents accused of abuse and neglect get no sympathy, said Adams County Court Judge John Hudson.

Casey Family Programs requested data that will show the impact on the pilot counties, including comparing the outcomes of cases in which there was attorney representation with cases in which parents were unrepresented. Judges in the



Isabel Blanco of Casey Family Programs, at right, talks about funding for parental representation. At left is Special Assistant Attorney General Patricia Marshall.

pilot counties say that they have seen a great improvement with attorney representation.

Judge McPhail said, "In the end, we are shortening the stay of children in custody," and that saves money.

Having attorney representation early in the process may enable parents to show

that there is no need to remove a child from the home at all, said Rankin County Court Judge Thomas Broome.

Judge McPhail said, "The critical stage is when the children are taken."

Avoiding placement of a child in Department of Human Services custody results in thousands of dollars in savings in DHS staff time, court time, housing, health care and other expenses, said Harrison County Court Judge Margaret Alfonso. And it's far better for the child.

The Department of Human Services regards having parental representation as beneficial. Department of Human Services Deputy Director Mark Smith said, "In most cases, it's really helped us a lot."

Mississippi's status as the only state that does not statutorily provide attorneys for indigent parents has drawn national attention, including from civil rights entities, Judge Broome said.

"The question is whether we manage the changes, or someone else manages it for us. It may become a federal civil rights case," Judge Broome said. "I think if we don't get something in place, they are going to sue us." ■

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Sacred Heart Catholic School Team 1 displays the First Place gavel they were awarded during the 31st Annual High School Mock Trial Competition. Pictured with their teacher sponsor, Paul VanZandt, and their attorney coaches (left to right) Don Hinton, Carey Varnado.

2014 Mississippi High Sch



The final round judges included (left to right) Judge James E. Graves, Jr., US Court of Appeals Judge, 5th circuit and former attorney coach for Murrah High School, serving as the presiding judge; Jennie Eichelberger, President-Elect of the Young Lawyers Division of The Mississippi Bar and past Chair of the Mock Trial Competition; Julie Gresham, President of the Young Lawyers Division of The Mississippi Bar; Robert Gibbs, who has judged the final round for 23 years; and Guy Mitchell, President of the Mississippi Bar.

On Saturday, March 1, in the Hinds County Courthouse, Sacred Heart Catholic School Team 1 finished in first place and went on to represent Mississippi in the 2014 National High School Mock Trial Competition held May 8-10 in Madison, Wisconsin.

Distinguished members of the Bar judged the statewide final round. These judges included Julie Gresham, President of the Young Lawyers Division of The Mississippi Bar; Jennie Eichelberger, President-Elect of the Young Lawyers Division of the Mississippi Bar and past Chair of the Mock Trial Competition; Guy Mitchell, President of the Mississippi Bar; and Robert Gibbs, who has judged the final round for 23 years. Judge James E. Graves, Jr., US Court of Appeals Judge, 5th circuit and former attorney coach for Murrah High School, served as the presiding judge.

Thirty-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 February 28 - March 1 at the Hinds County Courthouse and Chancery Courthouse in Jackson.

Madison Central earned the second place trophy gavel, coached by Rogen Chhabra and Staci O'Neal. The following schools earned the remainder of the top six positions. Sacred Heart Catholic School Team 2, third place, coached by Don Hinton and Carey Varnado; MSMS Team 1, fourth place, coached by Scott Colom; St. Andrew's Episcopal School, fifth place, coached by Jim Shelton and Ashley Wright; and Wyatt, Tarrant & Combs, sixth place, coached by Lawson Hester. The Mississippi Bar High School Mock Trial Competition is sponsored and coordinated by the Young Lawyers Division of The Mississippi Bar. ■

UPDATE

ool Mock Trial Competition



Mississippi Attorneys Who Served As Team Coaches During The Mississippi 2014 High School Mock Trial Competition

Woody Breeland.....*Brookhaven*
Brookhaven High School

Milton Carroll McCardle.....*Hazlehurst*
Copiah Academy

Daniel W. Kitchens.....*Crystal Springs*
Copiah Academy

Milton Carroll McCardle.....*Hazlehurst*
Copiah Academy

Daniel W. Kitchens.....*Crystal Springs*
Copiah Academy

Pamela L Huddleston.....*Laurel*
Heidelberg Academy

Wesla S Leech.....*Mendenhall*
Jackson Prep

Leo Carmody.....*Oxford*
Lafayette High School

Kathryn McNair.....*Meridian*
Lamar School

Stephen Wilson.....*Meridian*
Lamar School

Amanda Glover Evans.....*Meridian*
Lamar School

William B Parker.....*Meridian*
Lamar School

Shannon A Ladner.....*Gulfport*
Long Beach

Brad Rath.....*Long Beach*
Long Beach

Shannon A Ladner.....*Gulfport*
Long Beach

Brad Rath.....*Long Beach*
Long Beach

Rogen Chhabra.....*Jackson*
Madison Central

Staci A O'Neal.....*Madison*
Madison Central

Anthony L. Farese.....*Ashland*
Marshall Academy

Phillip K. Knecht.....*Holly Springs*
Marshall Academy

Mike Baxter.....*Ridgeland*
MRA

Katie Trundt.....*Canton*
MRA

Scott Colom.....*Columbus*
MSMS

Scott Colom.....*Columbus*
MSMS

Keith Pearson.....*Oxford*
Oxford High School

Brad Morris.....*Oxford*
Oxford High School

Keith Pearson.....*Oxford*
Oxford High School

Brad Morris.....*Oxford*
Oxford High School

Justin Cluck.....*Holly Springs*
Potts Camp High School

Stephen W. Burrow.....*Pascagoula*
Resurrection Catholic School

Deborah Kazal.....*Pascagoula*
Resurrection Catholic School

Don Hinton.....*Hattiesburg*
Sacred Heart Catholic School

Carey R Varnado.....*Hattiesburg*
Sacred Heart Catholic School

Don Hinton.....*Hattiesburg*
Sacred Heart Catholic School

Carey R Varnado.....*Hattiesburg*
Sacred Heart Catholic School

Nancy Thomas.....*Vicksburg*
St. Aloysius High School

Le Brown.....*Vicksburg*
St. Aloysius High School

Jim Shelson.....*Jackson*
St. Andrew's Episcopal School

Ashley C Wright.....*Jackson*
St. Andrew's Episcopal School

Tammye Brown.....*Jackson*
St. Andrew's Episcopal School

Judge Jennifer T Schloegel.....*Gulfport*
St. Patrick Catholic High School

Elena Guida.....*Gulfport*
St. Patrick Catholic High School

Peter Abide.....*Biloxi*
St. Patrick Catholic High School

Judge Jennifer T Schloegel.....*Gulfport*
St. Patrick Catholic High School

Elena Guida.....*Gulfport*
St. Patrick Catholic High School

Peter Abide.....*Biloxi*
St. Patrick Catholic High School

Benjamin Lang.....*Starkville*
Starkville High School

Wendell James.....*Bay Springs*
Sylva-Bay Academy

Cory M. Williamson.....*Oxford*
Water Valley High School

Cory M. Williamson.....*Oxford*
Water Valley High School

Lawson Hester.....*Jackson*
Wyatt, Tarrant & Combs

Special Thanks to Mississippi Attorney Judges for 2014 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 2014 High School Mock Trial Competition.

Regional Judges

Jason AlexanderCleveland
Marisa AtkinsonOxford
Richard Barrett.....Oxford
Leslie BarryTupelo
Jessica Bates.....Pascagoula
Dave Bell.....Oxford
Thomas BellinderJackson
Jeremy Birdsall.....Jackson
Len BlackwellBiloxi
Angela BrooksTupelo
Eric BrownJackson
Arch BullardCorinth
Matthew Burris.....Oxford
David Caldwell.....Jackson
Jack Carmer.....Jackson
Tom CarpenterGulfport
Diala ChaneyOxford
Susan CopelandJackson
Nakimuli Davis.....Jackson
Richard DavisRidgeland
John DawsonGulfport
Brad DillardTupelo
Carter DobbsJackson
Michael DodgeOxford
Stephen DummerBiloxi
Bill EckertGulfport
Steven EckertBiloxi
Neshondria Ellerby Moss Point
David Frazier.....Pascagoula
Joanna FrederickSenatobia
Jason Graeber ...Ocean Springs
Ryan Hall.....Oxford
Jenessa Hicks.....Oxford
Ray HillOxford
Elizabeth HydeOxford
Robert JollyOxford
Bill Jones.....Jackson
John KavanaghMobile
Judge Kilgore.....Philadelphia
Reid KrellHorn Lake
Chris Latimer.....Columbus
Leslie LeeJackson
Blythe Lollar.....Aberdeen

Kelly Luther.....Oxford
Will Manuel.....Jackson
Dustin MarkhamMeridian
David Maron.....Jackson
Brooke MartinJackson
Catoria MartinJackson
John MartinCanton
April McDonaldLucedale
Megan McGrew.....Jackson
Will McIntoshUniversity
John McMahan.....Gulfport
Joy Meadows.....Biloxi
Sue MerchantJackson
Gregory MilesCanton
Jeffrey Moffett..Ocean Springs
Tami Munsch.....Ridgeland
Jenny Nicaud....Pass Christian
Abram OrlanskyJackson
Lindsay PeakMeridian
Evelyn PortieBrandon
Amanda ProctorJackson
Keishunna Randall...Ridgeland
Sarah Reese.....Biloxi
Spencer RitchieJackson
Ben Robinson.....Flowood
Jason Savarese.....Gulfport
Bryan SawyersGulfport
Briggs SmithBatesville
Francis SpringerMadison
Stephen Stamboulieh..Ridgeland
Damon Stevenson.....Jackson
Forrest StringfellowClinton
Tom Taff.....Vicksburg
Michael Tarleton.....Ridgeland
Christine TatumOxford
Sumeka ThomasOkolona
Brett ThompsonRidgeland
Amanda Tollison.....Oxford
Nina TollisonOxford
Kathlyn Van Buskirk..Pascagoula
Marni von Wilpert.....Jackson
Glen WaddleJackson
Cherie WadePascagoula
Lee WattJackson
Clarence Webster.....Jackson
Harland Webster.....Clarksdale
Rebecca WiggsJackson
Herb WilsonGulfport
Laina Woodard.....Madison
Charles YowOxford

Statewide Judges

Jason Alexander.....Cleveland
Chris AndersonJackson
Matt Baldridge.....Flowood
Ed BeanMcComb
Thomas Bellinder.....Jackson
Jeremy BirdsallJackson
Kristen BlanchardJackson
Eric BrownJackson
Bryan BuckleyCanton
Tom CarpenterGulfport
Jessica CarrCanton
Judge M James Chaney, Jr..Vicksburg
Brent Cole.....Jackson
Jean Comley.....Jackson
Mel CoxwellBrandon
Nakimuli DavisJackson
Richard Davis.....Ridgeland
William DrinkwaterJackson
Dan Duggan.....Brandon
Jennie Eichelberger.....Jackson
Wendy EllardJackson
Andrew Faggert.....Jackson
Harvey Fiser.....Jackson
David FrazierPascagoula
Stephanie Ganuchau ...Hazelhurst
Robert Gibbs.....Jackson
Chip GlazeJackson
Judge James E. Graves, Jr. ...Jackson
Julie GreshamBiloxi
Jennifer Hall.....Jackson
Macy Hanson.....Madison
Andrew HarrisJackson
Philip HearnJackson
Ashley Hendricks.....Jackson
Clark HicksHattiesburg
Charles Homan.....Water Valley
Elizabeth Hyde.....Oxford
Janice Jackson.....Jackson
Bill JonesJackson
Rita JonesChoctaw
Stephanie Jones.....Jackson
Angela KellyJackson
Greta Kemp.....Jackson
Sterling Kidd.....Jackson
Judge Joseph Kilgore Philadelphia
Davetta LeeJackson
Leslie Lee.....Jackson
Clark LukeJackson
Jacob Malatesta.....Jackson

Amelia McGowanVicksburg
Megan McGrewJackson
Laura McKee.....Ridgeland
Mike McPhailHattiesburg
Sue MerchantJackson
Guy Mitchell.....Tupelo
Lance Mixon.....Flowood
Jessica MurrayJackson
Westley Mutziger.....Clinton
Kim NailorVicksburg
Abram Orlansky.....Jackson
Jason Owens.....Jackson
Crymes PittmanJackson
Evelyn Portie.....Brandon
Erin PridgenJackson
Amanda ProctorJackson
Jacque Purnell.....Brandon
Keishunna RandallRidgeland
Jeff RimesRidgeland
Ben RobinsonFlowood
Laura RoseRidgeland
Vicki Rundlett.....Clinton
Drew SchimmelJackson
Petesy Smith.....Vicksburg
Francis Springer.....Madison
Alice Stamps.....Jackson
Lauren SteeleJackson
Bobby StephensonJackson
Forrest StringfellowClinton
Michael TarletonRidgeland
Toni Terrett.....Vicksburg
Brett Thompson.....Ridgeland
Senica TubwellJackson
Marni von WilpertJackson
Jordan Walker.....Ridgeland
Kesha WatkinsClinton
Willie WatkinsClinton
Lee WatsonBlue Springs
Lee WattJackson
Josh WienerRidgeland
Robbie WillisJackson
Ben Wilson.....Jackson
Laina Woodard.....Madison
Shaun Yurtkuran.....Jackson

LAWYERS HELPING LAWYERS

Protecting Yourself with Planning and Law Office Management

Did you know that effective planning and law office management can hedge against possible impairment? Obviously, there is no sure fire prevention method and these things certainly are not cures for addictive disease or other mental/emotional illness, but they can play a very real role in helping you beat the odds.

Have a Plan

Years ago, I heard an attorney describe his as a “threshold law” practice. He explained that it meant he practiced whatever type of law was apparently needed by clients who crossed his office threshold with money. I remember feeling that it was an accurate description of my practice as well. In my interactions with attorneys across the state, now more than a decade later, I see that “threshold law” is still very much alive and well. In fact, in today’s market, I think it may be more wide spread than ever before.

Maybe you like this practice model; if so, and it’s working for you, great. If however, you’ve found yourself there unwillingly, maybe it’s time to look at how you might change it. We know that if nothing changes, nothing changes, so it will be necessary to do some things differently. First and foremost, it’s likely

time for some planning. Ideally, this is a process that you would have undergone at the outset of your practice, but it’s never too late. The internet and bookstores are full of guides for business and practice planning. You may also wish to consider the services of a professional “coach.” It is not my purpose here to advocate a particular plan, only to encourage making one.

Have a System

Time, resource, and data management are frequently, if not more often, the issues which take up an attorney’s day, even over and above legal decisions. My experience with many in solo and small firms is that they struggle in these areas. If you’re struggling, it’s probably time to assess what systems you have in place, and if they are lacking, look into what is available. There are so many systems, including those tailored specifically to law practice.

We’ve had a data management and calendaring at LJAP since 2007. Since that time, our ability to capture, manage, and retrieve data, as well as our ability to manage the chaos that can be our office schedule has improved immeasurably. Find a system that works for your circumstances, and utilize it.

Have Connections

Decisions regarding planning and effective practice management, like most things in life, are best made with input and feedback from trusted colleagues and confidants. As time passes, I am increasingly convinced that little in life is more important than support, feedback, accountability, and confrontation offered in the context of safe, trusting relationships. You should seek to establish and nurture such relationships.

In particular, the mentor relationship is very important. If you don’t currently have someone who you would describe as your mentor, you should identify and engage such a person. Moreover, when you have the opportunity to share your experience with others, do so. You may even wish to be a mentor.

Have a plan. Have a system. Get connected. If you need help with these things, reach out. If you need further assistance, LJAP is one confidential phone call away. ■

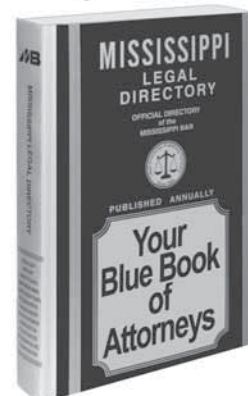
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THE MISSISSIPPI BAR 2014



ANNUAL MEETING & SUMMER SCHOOL

June 23 – 28 • Sandestin, Florida

REGISTRATION FEES FOR ANNUAL MEETING & SUMMER SCHOOL

26TH ANNUAL SUMMER SCHOOL FOR LAWYERS

12 CLE HOURS (ETHICS INCLUDED)

JUNE 23 - 25, 2014

LINKSIDE CONFERENCE CENTER

The Mississippi Bar and the Mississippi Association for Justice will jointly sponsor the Summer School for Lawyers. The program will feature a variety of topics of interest to trial lawyers and general practitioners throughout the state. The Summer School for Lawyers offers an excellent opportunity for lawyers to improve their skills and obtain 12 hours of approved continuing legal education, while enjoying the recreational facilities offered at Sandestin. The program will provide participants with useful information, including reference materials. This seminar will include credits to meet the 12-hour mandatory CLE requirement in Mississippi for FY 2013-2014.

The registration fee is \$375 for attorneys and \$160 for Judges whose registration is received no later than May 30, 2014. After May 30, the registration fee is \$400 for attorneys and \$185 for Judges. The registration fee will cover attendance at all sessions, handout materials, and coffee breaks.

2014 ANNUAL MEETING

JUNE 25 - 28, 2014

SANDESTIN HILTON

The 109th Annual Meeting of The Mississippi Bar will be held on June 25 - 28, 2014, 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, June 25 and President's Reception on Friday, June 27. 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 \$415 per attorney (includes spouse/guest) and \$285 for Judges (includes spouse/guest) whose registration is received no later than May 30, 2014. After May 30, the registration fee is \$455 for attorneys and \$310 for Judges.

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 13:

Full refund, less \$50 administrative charge.

CANCELLATIONS RECEIVED JUNE 16 - 28:

50% refund.

Due to hotel advance guarantee requirements, there will be no refund for optional ticketed events the week of June 23 - 28.

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 **TMB** 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/22R6N8.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, May 30, 2014, at both the Hilton and Resort. After the Bar's room block is released on May 30, 2014, **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.

26TH ANNUAL SUMMER SCHOOL FOR LAWYERS

Agenda at a Glance

LINKSIDE CONFERENCE CENTER

MONDAY, JUNE 23RD

- 8:00-9:00 A.M. Update on the 2014 Legislative Session and Its Impact on the Bench & Bar**
Representative David Baria, BAY ST. LOUIS
Senator Briggs Hopson, III, VICKSBURG
- 9:00-10:00 A.M. Navigating Government Regulations and the Administrative Process: Who's on First?**
Jennifer Graham Hall, JACKSON
Jimmy Palmer, OXFORD
Heather McTeer Toney, ATLANTA,
ADMINISTRATOR, UNITED STATES EPA - REGION IV
- 10:15-11:15 A.M. Building Success by Being Different**
Joel Bomgar, JACKSON,
FOUNDER & CEO OF BOMGAR CORP.
- 11:15 A.M.-12:15 P.M. The Gaul to Divide:
Divisional Realignment in Mississippi's
Federal Courts and Other Topics of Interest**
David Crews, OXFORD, CLERK,
US DISTRICT COURT - NORTHERN DISTRICT
Judge Louis Guirola, Jr., GULFPORT, CHIEF
JUDGE, US DISTRICT COURT - SOUTHERN DISTRICT
Arthur Johnston, JACKSON, CLERK,
US DISTRICT COURT - SOUTHERN DISTRICT
Judge Michael Mills, OXFORD, CHIEF JUDGE, US
DISTRICT COURT - NORTHERN DISTRICT

TUESDAY, JUNE 24TH

- 8:00-9:00 A.M. 1st SESSION OF CONCURRENT WORKSHOPS**
WORKSHOP 1A
Mississippi Chancery & Family Law Update
Judge Cynthia Brewer, JACKSON,
12TH CHANCERY COURT DISTRICT
Judge Larry Primeaux, MERIDIAN,
11TH CHANCERY COURT DISTRICT
WORKSHOP 1B
Criminal Law Update: New Legislative Changes
Vicki Gilliam, CLINTON
Tony Lawrence, PASCAGOULA,
DISTRICT ATTORNEY - 19TH DISTRICT
WORKSHOP 1C
**Real Estate Practice in 2015:
Best Practices for Lawyers Who Don't
Concentrate on Real Estate**
Donald Ogden, FLOWOOD
WORKSHOP 1D
**Houdini Law. Poof! It's Gone!
Civil Litigation Against the United States:
The Rules of the Game Matter**
Katherine Kerby, COLUMBUS
Dave Fulcher, JACKSON, ASSISTANT UNITED
STATES ATTORNEY - SOUTHERN DISTRICT OF MS
- 9:05-10:05 A.M. 2nd SESSION OF CONCURRENT WORKSHOPS**
Repeat of 1st Session Workshops

2014 SUMMER SCHOOL FOR LAWYERS COMMITTEE:

- David Maron, JACKSON, (CHAIR) • Edward Gibson, IV, BAY ST. LOUIS
- Greta Kemp, JACKSON • Chris Latimer, COLUMBUS
- Floyd Melton, III, GREENWOOD

TUESDAY, JUNE 24TH (CONTINUED)

- 10:10-11:10 A.M. 3rd SESSION OF CONCURRENT WORKSHOPS**
WORKSHOP 3A
Bankruptcy Survey & Practice Pointers
Judge Edward Ellington, JACKSON,
US BANKRUPTCY COURT
James Henley, JACKSON,
STANDING CHAPTER 13 BANKRUPTCY TRUSTEE
Gawyn Mitchell, COLUMBUS
WORKSHOP 3B
**Tech/Cyber Security: Protecting Yourself,
Your Firm & Your Clients in an Electronic World**
Dave Fulcher, JACKSON, ASSISTANT UNITED
STATES ATTORNEY - SOUTHERN DISTRICT OF MS
Keith Leavitt, JACKSON,
OFFICE MS ATTORNEY GENERAL, CHIEF OF
INVESTIGATION - CYBER CRIME CENTER
Brandon Ogburn, JACKSON, OFFICE MS ATTORNEY
GENERAL, DIRECTOR - CYBER CRIME LITIGATION
WORKSHOP 3C
**The Hand Down:
An Inside Look at the Appellate Process**
Judge Jimmy Maxwell, JACKSON,
COURT OF APPEALS
Justice Randy Pierce, JACKSON, SUPREME COURT
WORKSHOP 3D
**Arbitration: Procedure and Law Update /
Mediation: Purpose is to Settle**
Wynn Clark, GULFPORT
Bobby Dallas, JACKSON
Jack Dunbar, OXFORD
Raymond Hunter, GULFPORT
Charlie Swayze, GREENWOOD
Steve Thomas, JACKSON
- 11:15 A.M.-12:15 P.M. 4th SESSION OF CONCURRENT WORKSHOPS**
Repeat of 3rd Session Workshops

WEDNESDAY, JUNE 25TH

- 8:00-9:00 A.M. Update on the Office of the Mississippi
Secretary of State**
Hon. Delbert Hosemann, Jr., JACKSON,
SECRETARY OF STATE
- 9:00-10:00 A.M. Federal Rules Revisions,
Local Civil Rules & Federal Pretrial Practice**
Judge Allan Alexander, OXFORD,
US MAGISTRATE JUDGE - NORTHERN DISTRICT
Judge Keith Ball, JACKSON,
US MAGISTRATE JUDGE - SOUTHERN DISTRICT
- 10:15-11:15 A.M. Employment Law Update**
Jim Waide, TUPELO
Rachel Waide, TUPELO
- 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 3**
Adam Kilgore, MADISON
Melissa Selman Martin, JACKSON

ANNUAL MEETING

Agenda at a Glance

WEDNESDAY, JUNE 25, 2014

- 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
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THURSDAY, JUNE 26, 2014

- 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
- 8:30-9:30 A.M. General Assembly**
PRESENTED BY YOUNG LAWYERS DIVISION
- 9:00-10:00 A.M. Appellate, Circuit, Chancery and County Judges Conferences**
- 9:30-10:30 A.M. Sandcastle /Sand Sculpture Contest**
- 10:00 A.M.-12:00 P.M. Section Annual Meetings:**
 - Business Law
 - Health Law
 - Government Law
 - Prosecutors
 - Gaming Law
 - Alternative Dispute Resolution
- 10:15-11:30 A.M. MS Conference of Judges**
- 10:30-11:30 A.M. Cooking Class**
- 12:00-1:30 P.M. 16th Annual Price-Prather Luncheon**
- 1:00-6:00 P.M. Golf Tournament**
Baytowne Golf Course
- 2:30-4:30 P.M. Bingo**
- 5:00-6:00 P.M. Book Signing Reception**

FRIDAY, JUNE 27, 2014

- 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**
- 8:00-9:15 A.M. Young Lawyers Division Board 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
- 8:00-11:00 A.M. Lawyers' Marketplace**
- 8:30-9:15 A.M. Kite Decorating**
- 9:15-10:15 A.M. Annual Business Session**
- 10:15-11:15 A.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
 - Taxation
 - Family Law
 - SONREEL Section
 - Litigation
 - Intellectual Property
 - Appellate Practice
 - Real Property
- 12:15-1:30 P.M. Law Alumni Luncheons:**
 - Mississippi College School of Law
 - University of Mississippi Law School
- 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.
- 8:00-10:00 P.M. Family Beach Bash**
HOSTED AND SPONSORED IN PART BY THE YOUNG LAWYERS DIVISION OF THE MISSISSIPPI BAR
- CASH BAR

SATURDAY, JUNE 28, 2014

- 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**

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

General Assembly

● THURSDAY, JUNE 26

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

PRESENTED BY
THE YOUNG LAWYERS DIVISION

All attendees of convention are invited to join the Young Lawyers Division during their 78th Annual General Assembly and hear Robert Khayat speak on "Visionary Leadership." A book signing will be held after the assembly for his book, "The Education of A Lifetime." The Outstanding Young Lawyer Award will be presented.



GUEST SPEAKER
Robert Khayat

Judges' Conference

● THURSDAY, JUNE 26

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



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

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



Judge Charles E. Webster
CLARKSDALE
CIRCUIT COURT CONFERENCE CHAIR



Judge Kenneth Burns
OKOLONA
CHANCERY COURT CONFERENCE CHAIR



Judge J. Kent McDaniel
BRANDON
COUNTY COURT CONFERENCE CHAIR

CLE Session - "Developing Successful Pro Bono Relationships"

● THURSDAY, JUNE 26

10:00 A.M. - 11:00 A.M.

PRESENTED BY MISSISSIPPI
VOLUNTEER LAWYERS PROJECT

1 HOUR OF CLE



Tiffany Graves
MVLPE EXECUTIVE DIRECTOR

MEETINGS

CLE Sessions

● THURSDAY, JUNE 26

10:00 A.M. - 12:00 NOON 2 HOURS CLE CREDIT EACH

"MISSISSIPPI VOTER ID IMPLEMENTATION"

PRESENTED BY THE GOVERNMENT LAW SECTION



Delbert Hosemann, Jr.
MS SECRETARY OF STATE
SPEAKER



Melissa Carleton
GOVERNMENT
LAW SECTION CHAIR

"SUPREME COURT UPDATE ON ADR"

PRESENTED BY THE ADR SECTION



Justice Randy G. Pierce
MISSISSIPPI SUPREME COURT
SPEAKER



Jim Warren
ALTERNATIVE DISPUTE
RESOLUTION SECTION CHAIR

"LEGISLATIVE CHANGES AFFECTING THE CRIMINAL JUSTICE SYSTEM"

PRESENTED BY THE PROSECUTORS SECTION



Rep. Mark Baker
MS HOUSE OF REPRESENTATIVES
SPEAKER



Michael P. Guest
PROSECUTORS SECTION
CHAIR

"MS CONSTRUCTION LIEN LEGISLATION"



J. Clifford Harrison
BUTLER SNOW
SPEAKER



Stan Smith
BUSINESS LAW SECTION
CHAIR

"LEGAL ISSUES OF THE AFFORDABLE CARE ACT"



Mike Chaney
MS COMMISSIONER OF INSURANCE
SPEAKER



Stephen Clay
HEALTH LAW SECTION
CHAIR

PRESENTED BY THE BUSINESS LAW AND HEALTH LAW SECTIONS

"LEGISLATIVE UPDATE ON GAMING LAW"

PRESENTED BY THE GAMING LAW SECTION

SPEAKERS: Legislative Panel
will present CLE

Anthony Del Vescovo
GAMING LAW SECTION CHAIR



MEETINGS

Young Lawyers Division Board Meeting

● FRIDAY, JUNE 27

8:00 A.M. - 9:15 A.M.

1 HOUR OF CLE

Julie Gresham, BILOXI
YOUNG LAWYERS DIVISION PRESIDENT



Annual Business Session

● FRIDAY, JUNE 27 9:15 A.M. - 10:15 A.M.

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



Guy Mitchell
MS BAR
PRESIDENT



Gene Harlow
MS BAR
PRESIDENT-ELECT



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

CLE Session - "Lifesaving 101"

● FRIDAY, JUNE 27 10:15 A.M. - 11:15 A.M.

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

CLE Sessions

● FRIDAY, JUNE 27 10:15 A.M. - 12:15 P.M.

2 HOURS OF CLE EACH

"WORKERS COMPENSATION 101:
FORM & PROCEDURE EXPLANATION"



Shane Tompkins
THE TOMPKINS LAW FIRM
SPEAKER



Carlos Moore
WORKERS COMPENSATION
SECTION CHAIR

"FEDERAL DISCRIMINATION CASE LAW UPDATE"



Matthew W. Burris
MAYO MALLETTE PLLC
SPEAKER



Pope Mallette
LABOR & EMPLOYMENT
LAW SECTION CHAIR

PRESENTED BY WORKERS COMPENSATION AND
LABOR & EMPLOYMENT LAW SECTIONS

"OBTAINING CLIENTS - HOW DIVORCE
LAWYERS CAN GET BETTER CLIENTS
AND KEEP THE GOOD ONES"

PRESENTED BY THE FAMILY LAW SECTION

SPEAKER: Larry Rice
RICE, AMUNDSEN & CAPERTON, MEMPHIS



Harold Grissom
FAMILY LAW SECTION CHAIR

CLE SESSIONS (CONTINUED)

"THE FIFTH CIRCUIT
AND ITS CONFIRMATION PROCESS"



Judge Charles W. Pickering, Sr.
U.S. DISTRICT COURT FOR
SOUTHERN DISTRICT & U.S. COURT
OF APPEALS FOR FIFTH CIRCUIT
SPEAKER



Ted Connell
LITIGATION
SECTION CHAIR



Judge Leslie H. Southwick
U. S. COURT OF APPEALS
FOR THE FIFTH CIRCUIT
SPEAKER



Michael Bentley
APPELLATE PRACTICE
SECTION CHAIR

PRESENTED BY THE LITIGATION AND APPELLATE PRACTICE SECTIONS

"DEMYSTIFYING THE REAL VERSUS
PERCEIVED ENVIRONMENTAL ISSUES"

SPEAKER: John Ryan
SENIOR SCIENTIST, ALLEN ENGINEERING



Trey Smith
SONREEL SECTION CHAIR

"CONSTRUCTION LIENS - WHERE ARE WE NOW"



Sam Kelly
BRUNINI, GRANTHAM,
GROWER AND HEWES
SPEAKER



William Smith
REAL PROPERTY
SECTION CHAIR

PRESENTED BY THE NATURAL RESOURCES, ENERGY &
ENVIRONMENTAL LAW AND THE REAL PROPERTY SECTIONS

"TRUST LAW CHANGES IN MISSISSIPPI"



Keith Kantack
KANTACK LAW FIRM
SPEAKER



Pete Cajoleas
ESTATES & TRUSTS
SECTION CHAIR



Bill Williams
TAXATION
SECTION CHAIR

PRESENTED BY THE ESTATES & TRUSTS AND TAXATION SECTIONS

"INTELLECTUAL PROPERTY YEAR IN REVIEW"

PRESENTED BY THE INTELLECTUAL PROPERTY SECTION



Meaghin Burke
RESEARCH COUNSEL
MS LAW RESEARCH INSTITUTE
SPEAKER



Molly Fergusson
INTELLECTUAL PROPERTY
SECTION CHAIR



16th Annual Price-Prather Luncheon

● THURSDAY, JUNE 26

12:00 NOON - 1:30 P.M. • \$40/TICKET

HOSTED BY THE BAR'S WOMEN IN THE PROFESSION COMMITTEE

This 16th 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.



LUNCHEONS



Mississippi College Law Alumni Luncheon

● FRIDAY, JUNE 27

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 presentation from Dean Jim Rosenblatt about the law school.

SPEAKER Dean Jim Rosenblatt



University of Mississippi Law Alumni Luncheon

● FRIDAY, JUNE 27

12:15 P.M. - 1:30 P.M. • \$30/TICKET



Please join other University of Mississippi law alumni at the annual luncheon on Friday, June 27. In addition to hearing a report from Dean Richard Gershon, the 2014 Law Alumnus of the Year will be announced.

SPEAKER Dean Richard Gershon

New Orleans Jazz Farewell Brunch and Annual Award Presentations

● SATURDAY, JUNE 28

9:00 A.M. - 11:00 A.M. • \$45/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, Judicial Excellence 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.

BREAKFASTS

Prayer Breakfast

● THURSDAY, JUNE 26

8:00 A.M. - 9:00 A.M. • \$25/TICKET

SPONSORED BY THE CHRISTIAN LEGAL SOCIETY

Everyone is invited to attend the 22nd Annual CLS Prayer Breakfast with guest speaker Dean Jim Rosenblatt. Please make your reservations in advance on the enclosed registration form.

Fellows of the Young Lawyers Breakfast Meeting

● THURSDAY, JUNE 26 8:00 A.M. - 9:00 A.M.

Mississippi Chapter American Board of Trial Advocates Breakfast Meeting

● FRIDAY, JUNE 27 8:00 A.M. - 9:00 A.M.

50-Year Anniversary Members Breakfast

● FRIDAY, JUNE 27 8:30 A.M. - 9:30 A.M.

RECEPTIONS



“Wizard of Oz” Welcome Reception

● WEDNESDAY, JUNE 25

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

KIDS' PARTY SPONSORED IN PART BY BANK PLUS

PHOTO BOOTH SPONSORED BY KOERBER COMPANY

RECEPTION SPONSORED IN PART BY THOMSON REUTERS

It's time to put on your ruby slippers, click your heels together three times, follow us down the “yellow brick road” and come experience that there IS some place better than home. This year's Welcome Reception, the first night of convention, will be a 75th Anniversary celebration of “The Wizard of Oz.” The Tin Man, Scarecrow, and Cowardly Lion have some exciting events planned in the “Emerald City.” You won't want to miss this exciting adventure of food and entertainment found only “Somewhere Over the Rainbow.”

Your registration fee to the Annual Meeting includes admission to this “Wizard of Oz” 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 to join the Lollipop Guild with a special table of children's food.

So don't be afraid of the “Lions, and Tigers and Bears, Oh My!” and come have fun with us as you begin this captivating adventure to find the “Emerald City” and the “Great and Powerful Oz.” See you there!

Sections' Receptions

● THURSDAY, JUNE 26

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

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

● FRIDAY, JUNE 27

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

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

Book Signing Reception

● THURSDAY, JUNE 26

5:00 P.M. - 6:00 P.M.

Join us for the Inaugural Book Signing Reception at the Bar Convention. Attorneys, Judges, and their spouses will be selling and autographing their most recent books. Justice Randy Pierce, Robert Khayat, Judge Leslie Southwick, and many others will be present at this reception. Wine and beer will be served as you mix and mingle with the authors!



President's “Elvis” Reception

● FRIDAY, JUNE 27

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

SPONSORED IN PART BY FOX/EVERETT

“It's one for the money, Two for the show, Three to get ready, Now go, cat, go.” You're invited to Graceland in Destin and “It's Now or Never” so come and enjoy some great food, music and dancing during the President's “Elvis” Reception. Come visit with the Bar President Guy Mitchell and his wife Susan and have “A Little Less Conversation” and a lot more dancing; just don't “Step on his Blue Suede Shoes.”

“Shake Rattle and Roll” while dancing to the “Jailhouse Rock” and enjoy wonderful hors d'oeuvres and an open bar. Admission to the Elvis reception is included in your Annual Meeting Registration plus one guest. “Are you Lonesome Tonight?” If so, invite your friends and family as additional tickets for other adult guests over 18 can be purchased for \$40 each, either on the advance registration form or at the Bar's on-site registration desk. So “Don't be Cruel” and join us for this exciting event. Come get “All Shook Up!”





Golf Tournament

● THURSDAY, JUNE 26

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, June 26. 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, June 17.

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.



SPORTING EVENTS

Legal Run-Around /5K and Fun Run

● FRIDAY, JUNE 27

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 Elephant Walk 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.



Beach Volleyball

● FRIDAY, JUNE 27

9:00 A.M. - 4:00 P.M. • NO CHARGE

Get a pick-up game of family or friends on the beach at the Sandestin Hilton and come play some beach volleyball. Dive and spike your way to enjoying a fun game of volleyball any time from 9:00 a.m. - 4:00 p.m. on the Hilton beach. The area will be reserved for registrants and their families of the Bar convention. Prepare for some fun and soak up some sun.

The "Bob Barnett" Tennis Tournament

● FRIDAY, JUNE 27

2:00 P.M. - 5:00 P.M.

• \$35/PERSON

The 2014 Men's and Women's Tennis Tournament is 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. Register on the enclosed Annual Meeting Registration form.

FAMILY ACTIVITIES

“Wizard of Oz” Welcome Reception

● WEDNESDAY, JUNE 25

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

KIDS' PARTY SPONSORED IN PART BY BANK PLUS
PHOTO BOOTH SPONSORED BY KOERBER COMPANY
RECEPTION SPONSORED IN PART BY THOMSON REUTERS

It's time to follow us down the “yellow brick road” at this year's Welcome Reception. It will be a 75th Anniversary celebration of “The Wizard of Oz” for the entire family. You'll see Dorothy, Tin Man, Scarecrow, and Cowardly Lion in the “Emerald City.” All children are welcome to join the Lollipop Guild with a special table of children's food.



Sandcastle /Sand Sculpture Contest

● THURSDAY, JUNE 26

9:30 A.M. - 10:30 A.M. • NO CHARGE

Join in the 13th 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!

Cooking Class

● THURSDAY, JUNE 26

10:30 A.M. - 11:30 A.M. • \$30/PERSON

You'll enjoy this cooking class during convention as we bring in a guest chef to show you how to make delectable dishes. You'll be able to taste the creations! This class will be held in a meeting room on the lower level of the Hilton.



Bingo ● THURSDAY, JUNE 26

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!

Kite Decorating ● FRIDAY, JUNE 27

8:30 A.M. - 9:15 A.M. • NO CHARGE

Come decorate your kite to fly on the beach. Kites and markers will be provided at no charge.

Children's “Build-A-Bear” Party

● FRIDAY, JUNE 27

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.



Family Beach Bash ● FRIDAY, JUNE 27

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 at a cash bar. Come enjoy the fireworks on the last evening of convention on the beach.



EXHIBIT HALL

Sponsors

The Mississippi Bar thanks the following sponsors for their financial support of the 2014 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

Thomson Reuters

Trustmark National Bank

University of Mississippi School of Law

U.S. Legal Forms

Young Lawyers Division

**Lawyers' Marketplace**

● WEDNESDAY 12:00 NOON - 7:00 P.M.

● THURSDAY 8:00 A.M. - 12:30 P.M.

● FRIDAY 8:00 A.M. - 11:00 A.M.

Visit with over 25 exhibitors to assist you in your practice of law and register to win a Treasure Chest full of prizes.

Coffee Bar

● THURSDAY ● FRIDAY ● SATURDAY

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.

Clarion-Ledger Newspapers

● THURSDAY ● FRIDAY ● SATURDAY

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

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

SPECIAL FEATURE OF THE 2014 CONVENTION

Horrell Photography

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



Monday, June 23 - Saturday, June 28th

Call Emma Lou Horrell today to schedule your appointment.

Until Friday, June 20, call the studio at 601-969-1919 or email: ELhorrell@comcast.net.

After June 20, 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.

Jackson attorney Lorraine Boykin and family's photo taken during the 2013 Bar Convention by Emma Lou Horrell.

ANNUAL MEETING REGISTRATION DESK

The Mississippi Bar Annual Meeting Registration Desk will be open from 12 noon until 8:00 p.m. on Wednesday, June 25, 2014. 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. 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.

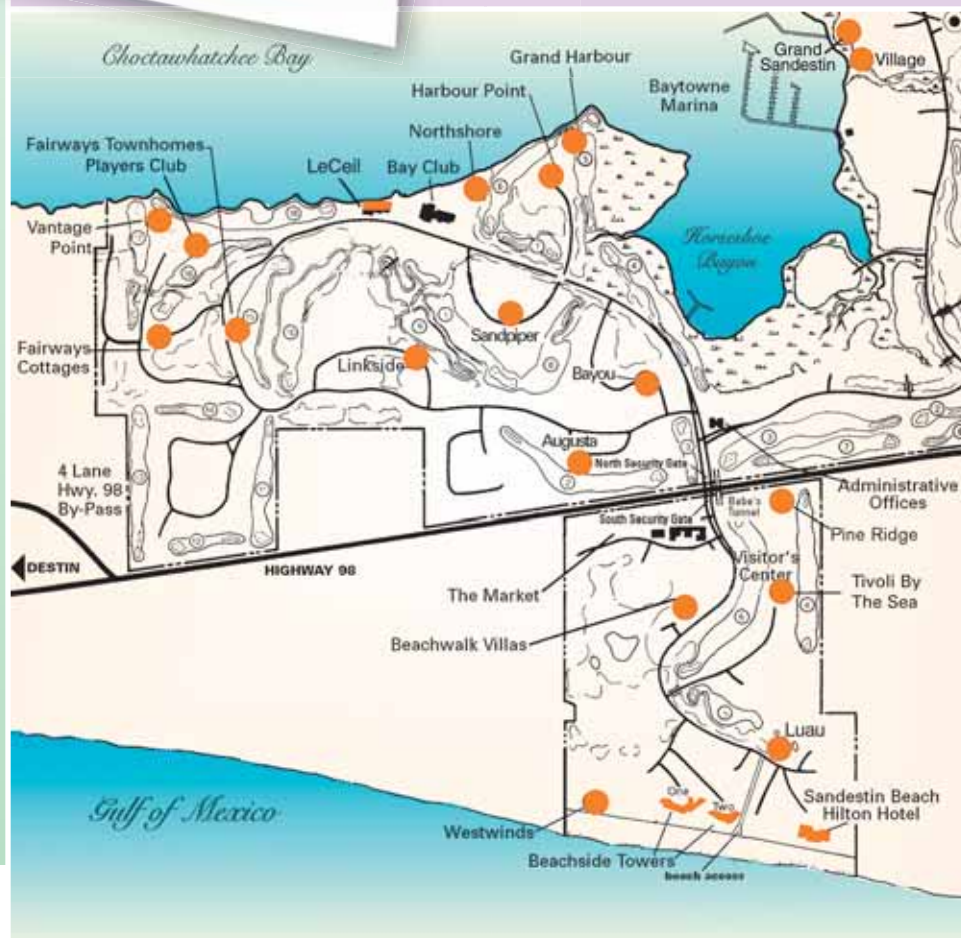
Traveling east on I-10, take Florida Highway 85 south to Florida Highway 20 (Niceville). Drive east, turn right onto Highway 293 (Bay Bridge Road), drive south across the Bay Bridge (Niceville) to Highway 98, then drive east to the Sandestin Resort & Conference Center.

COMMEMORATIVE BEACH TOWEL

JUST \$25 EACH



Come grab your Lee Gibson commemorative beach towel before they are all gone! Go to the beach or pool in style with this brightly colored eye-catching souvenir that you'll enjoy season after season. This year's beach-themed towel was designed exclusively for us by Mississippi artist Lee Gibson. She has enjoyed Southern living for twenty years in the quaint town of West Point, where her art studio is located. Lee is known for her technique with oils using a knife and focusing on landscape, portrait and still life painting. She fully captures her subjects with a passionate embrace of professional longing for perfection. She will be selling some of her various paintings at this year's Bar convention. Only 100 commemorative beach towels are being printed with Lee's design for our Annual Meeting attendees. Each commemorative beach towel will sell for \$25. This large towel will give you plenty of stretch-out room. Be the talk of the beach or pool with your very own Lee Gibson beach towel. Order yours today on the convention registration form, as only a limited number are being printed.



THE MISSISSIPPI BAR 2014 ANNUAL MEETING & SUMMER SCHOOL

STEP 1 - REGISTRANT INFORMATION

REGISTRANT NAME: _____

BAR # (IF KNOWN) _____

FIRM NAME/COMPANY: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____ FAX: _____

E-MAIL: _____

HOME MAILING ADDRESS: _____

(to receive Annual Meeting related mail)

☐ THIS IS MY FIRST MB ANNUAL MEETING

STEP 2 - BADGE INFORMATION

BADGE NAME: _____

CITY: _____ STATE: _____

PLEASE CHECK FOR RIBBONS:

- ☐ JUDGE ☐ BAR FOUNDATION FELLOW ☐ SPONSOR
☐ LEGISLATOR ☐ LOCAL BAR PRESIDENT ☐ SPEAKER
☐ PAST BAR PRESIDENT ☐ SECTION OFFICER ☐ EXHIBITOR
☐ BAR COMMISSIONER

STEP 3 - SPOUSE/GUEST BADGE INFORMATION

SPOUSE/GUEST NAME: _____

CITY: _____ STATE: _____

☐ MY SPOUSE IS ALSO AN ATTORNEY

CHILDREN/GUESTS NAME: _____

CITY: _____ STATE: _____ AGE _____

CHILDREN/GUESTS NAME: _____

CITY: _____ STATE: _____ AGE _____

CHILDREN/GUESTS NAME: _____

CITY: _____ STATE: _____ AGE _____

STEP 4 - HOUSING INFORMATION

To secure accommodations, see pages 14-17 in this brochure.

WHILE IN DESTIN, I PLAN ON STAYING AT: ☐ HILTON ☐ RESORT

☐ OTHER: (provide address) _____

STEP 5 - MEETING REGISTRATION

5A ☐ SUMMER SCHOOL REGISTRATION / JUNE 23-25

- BEFORE MAY 30 ☐ ATTORNEY'S FEE ☐ \$375
 ☐ JUDGE'S FEE ☐ \$160
 AFTER MAY 30 ☐ ATTORNEY'S FEE ☐ \$400
 ☐ JUDGE'S FEE ☐ \$185

SUMMER SCHOOL REGISTRATION SUBTOTAL \$ _____

5B ☐ ANNUAL MEETING REGISTRATION / JUNE 25-28

- BEFORE MAY 30 ☐ ATTORNEY'S FEE ☐ \$415
 ☐ JUDGE'S FEE ☐ \$285
 AFTER MAY 30 ☐ ATTORNEY'S FEE ☐ \$455
 ☐ JUDGE'S FEE ☐ \$300

ANNUAL MEETING REGISTRATION SUBTOTAL \$ _____

STEP 6 - OPTIONAL EVENTS & TICKETS

check (Annual Meeting Registrants Only)

- _____ Commemorative Beach Towel _____ @ \$25 EACH \$ _____
 _____ Welcome Reception Additional Tickets _____ @ \$40 EACH \$ _____
 (WEDNESDAY, JUNE 25, 6:30 - 8:00 P.M.)
Registration fee includes admission for registrant plus one adult guest. Additional tickets for guests over age 18 are \$40 each.
 _____ Prayer Breakfast _____ @ \$25 EACH \$ _____
 (THURSDAY, JUNE 26, 8-9 A.M.)
 _____ Cooking Class _____ @ \$30 EACH \$ _____
 (THURSDAY, JUNE 26, 10:30 - 11:30 A.M.)
 _____ Price-Prather Luncheon _____ @ \$40 EACH \$ _____
 (THURSDAY, JUNE 26, 12 NOON - 1:30 P.M.)
 _____ Golf Tournament _____ @ \$120 EACH \$ _____
 (THURSDAY, JUNE 26, 1 - 6 P.M.)
 MY GOLF HANDICAP IS: _____
 PREFERRED FOURSOME: _____

- _____ MS College Law Alumni Luncheon _____ @ \$30 EACH \$ _____
 (FRIDAY, JUNE 27, 12:15 - 1:30 P.M.)
 _____ Univ. of MS Law Alumni Luncheon _____ @ \$30 EACH \$ _____
 (FRIDAY, JUNE 27, 12:15 - 1:30 P.M.)
 _____ Tennis Tournament _____ @ \$35 EACH \$ _____
 (FRIDAY, JUNE 27, 2 - 5 P.M.)
 _____ President's Reception Additional Tickets _____ @ \$40 EACH \$ _____
 (FRIDAY, JUNE 27, 6:30 - 8:00 P.M.)
Registration fee includes admission for registrant plus one adult guest. Additional tickets for guests over age 18 are \$40 each.
 _____ Farewell Brunch _____ @ \$45 EACH \$ _____
 (SATURDAY, JUNE 28, 9 - 11 A.M.)

ANNUAL MEETING OPTIONAL EVENTS SUBTOTAL \$ _____

STEP 7 TOTAL DUE - (ADD 5 & 6) TOTAL ENCLOSED \$ _____

STEP 8 - PAYMENT METHOD

- ☐ CHECK - PAYABLE TO THE MISSISSIPPI BAR
☐ CREDIT CARD ☐ VISA ☐ MASTERCARD ☐ AMEX ☐ DISCOVER

CARD NUMBER: _____

EXPIRATION DATE: _____ CODE ON BACK: _____

PRINT CARDHOLDER'S NAME: _____
(as it appears on card)

CARDHOLDER'S SIGNATURE: _____

SUBMIT ONLINE: www.msbar.org
 MAIL: The Mississippi Bar
 Meeting Registration
 P.O. Box 2168
 Jackson, MS 39225-2168
 FAX: 601-355-8635
 E-MAIL: nmcintyre@msbar.org

FOR OFFICE USE

DATE: _____ BATCH#: _____

IN MEMORIAM

Dennis M. Baker

Dennis M. Baker, 86, of Batesville, died February 10, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1953. He served overseas in the United States Army during World War II. He was elected and served two terms in the Mississippi House of Representatives and one term in the Mississippi Senate. He served as Batesville city attorney, and attorney for the Batesville Housing Authority and the Panola County Board of Education. He was a member of the Mississippi State Park Commission. In 1978 he became chancellor for the Third Chancery Court District where he served for over 25 years before retiring as Senior Judge. In 2001 he was elected a Fellow of the Bar Foundation. Baker supported the University of Mississippi School of Law as a member of the Lamar Order. He was a member of the Panola County Bar Association and the American Bar Association. Baker was a member of the Batesville Rotary Club where he was a Paul Harris Fellow. He served as King of the Charity Ball of Batesville. As a longtime member of Batesville First United Methodist Church, Baker was Chairman of the Official Board of the Church as well as a Lay speaker, member of the Methodist Men, and for many years taught the Adult Sunday School Class.

Bernard Hess Booth, III

Bernard Hess Booth, III, 76, of Madison, died January 8, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1998. Booth was a communicant of both St. James' Episcopal Church and Grace Episcopal Church.

William E. Cresswell

William E. Cresswell, 87, of Springfield, VA, died January 29, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1948. Cresswell served in the Army Air Corps during World War II. He was elected and served in the Mississippi legislature and as Assistant Attorney General and later Chief of Staff to Governor James P. Coleman. From 1958-1989 Cresswell was the Chief of Staff to Senator John C. Stennis; retiring when the Senator retired. At the time of his retirement, he was the longest serving Chief of Staff in Senate history. Last year a Congressional Staff Award of Excellence was named in his honor.

Jesse Winston Eavenson

Jesse Winston Eavenson, 88, of Tinton Falls, NJ, died January 8, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1962. He enlisted in the United States Navy. In the insurance field, Eavenson was vice president of the Manhattan office of U.S. Aviation Underwriters, Inc. Eavenson had his pilot's license. He achieved his "CPCU" (Chartered Property and Casualty Underwriter) insurance industry designation.

Paul E. Guy, Jr.

Paul E. Guy, Jr., 44, of McComb, died January 31, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1997. He began his career as a partner in Armstrong and Guy Law Offices. Additionally, he was a partner in Saf-T Compliance International. He was a member of Union Primitive Baptist Church.

Allen Daniel Hodges

Allen Daniel Hodges, 64, of Houston, TX, died January 1, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1978. Hodges was a member of the AAPL. He was also a member of Second Baptist Church.

Phillip W. Jarrell

Phillip W. Jarrell, 54, of Gulfport, died March 4, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1985. He was an active member of Trinity United Methodist Church in Gulfport since 1989, where he served on various boards and committees. After law school, he worked for Shell Oil Co. in Texas and California as a land representative. In 1988, he moved to Gulfport, where he began work at Dukes, Dukes, Keating, & Faneca as an associate. He worked at Dukes continuously since then, until becoming a shareholder and, more recently, a director. He served on the Employment Law Committee of the International Association of Defense Counsel. He was also active with the Workers Compensation Sections of the Bar and the Defense Research Institute.

H.B. Mayes McGehee

H.B. Mayes McGehee, 89, of Meadville, died January 21, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1948. McGehee was a veteran of World War II and the Korean War. He enlisted in the U.S. Marine Corps in 1942 and served in USMC until the end of World War II in 1945. In 1949 he was commissioned a lieutenant in the Mississippi National Guard and assigned to Heavy Mortar Co., 155th Infantry Regiment, 31st Division. In 1951, the unit was called to service in the Korean War by President Truman. McGehee remained on active duty until completion of his service in 1952. After returning from active duty he resumed his service in Heavy Mortar Company and served an additional 12 years in the National Guard. During this period, McGehee was promoted to the rank of Captain and Company Commander of Heavy Mortar Company, the rank and position he held until his discharge. He then entered the practice of law in Meadville with his uncle, former Congressman Dan R. McGehee, under the firm name of McGehee and McGehee. He continued his practice with his uncle until his uncle's death in 1962. James A. Torrey, Jr. joined McGehee in his law practice in 1962 and the firm name was changed to McGehee, McGehee and Torrey, Attorneys. McGehee was a trial attorney for more than 58 years. McGehee

also served as chief executive officer of the Bank of Franklin for more than forty five years. He graduated from the School of Banking of the South at LSU (1964-1967). McGehee served for over thirty years as attorney for the Board of Supervisors and the towns of Bude, Meadville, and Roxie. In 1955, the people of Franklin and Pike counties elected McGehee State Senator to represent them in the Mississippi Legislature from 1956-1960. McGehee was a member of the Franklin County Bar and American Bar Associations for more than 58 years. He was also a sustaining member of the Mississippi Trial Lawyers Association for a number of years. McGehee served as Bar Commissioner. He also served many years on the Judicial Nominating Committee, the Board of State Bar Examiners and was inducted as a fellow of The Bar Foundation (1983). He was also honored by his selection to the Lamar Order at the University of Mississippi School of Law. Governor Ray Mabus appointed McGehee in 1989 to a six-year term on the State Oil and Gas Board. McGehee was elected Chairman of the board by the board members and served four years as chairman and two years as Vice-Chairman. McGehee was a lifetime member of the Bude United Methodist Church. He served the Church in many roles, including member and Chairman of the Administrative Board, Church Lay Leader, Sunday School Teacher, Trustee of the Church and Parsonage Properties and Church Treasurer. McGehee was a strong supporter of the Boy Scouts of America. He served for several years as Scoutmaster of the Bude Boy Scout Troop. He later served as a member of the Board of Directors and Vice President of the Andrew Jackson Council of the Boy Scouts of America. He served for many years as Fund Drive Chairman for Franklin County in raising financial support of the Council. McGehee was awarded the Silver Beaver for his dedicated support of Boy Scouts of America. In 2013 McGehee received the Bar's Lifetime Achievement Award.

Paul M. Newton

Paul M. Newton, 88, of Gulfport, died February 10, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1951. Newton was a World War II veteran, serving in the Army Air Corps on Guam. He was honorably discharged at age 20 with the rank of Staff Sergeant. Newton began his law practice as a trial attorney with the Internal Revenue Service offices in Dallas and New Orleans. In 1958, he established his own law firm with his brother Bob in Hattiesburg, which he continued in Gulfport until retirement in 2008. He was the senior partner of Newton and Hoff, LLP. Newton served as President of the Mississippi Bar Foundation, and as the Mississippi State Chairman of the American College of Trust and Estate Counsel. He was a member of the American Bar Association and Harrison County Bar Association. Newton was a Director of the Gulfport Area Chamber of Commerce, a member of the Board of Directors of the Gulf Coast Symphony Orchestra, and a member of the Board of Directors of the MHG Development Foundation. Newton was a long-time member and Paul Harris Fellow of the Gulfport Rotary Club, and a member of

the Gulfport Yacht Club. He served as King of the Merry Maskers Carnival Organization, and was a past president of the Century Club. He was an active member of First Presbyterian Church of Gulfport for over 50 years, where he was an Elder Emeritus and served as Clerk of the Session, Deacon, and teacher of the Men's Bible Class. Newton was a member of the Chancellor's Trust, the Lamar Order, and a life member of the University of Mississippi Alumni Association. He served as President of the Gulf Coast Ole Miss Alumni Club.

James E. Price, Jr.

James E. Price, Jr., 87, of Corinth, died February 1, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1948. Price served his country during WWII in the U.S. Army, was a member of First Baptist Church – Corinth where he served as Chairman of the Deacons, Sunday School Teacher, and Training Union Teacher. Price was a lifetime member of the Corinth YMCA Board of Directors, coached 21 years for the YMCA baseball program, and served as past president at Hillandale Country Club, Corinth Welfare Association, and Corinth-Alcorn County United Way. He was former Director of Corinth – Alcorn County Chamber of Commerce, a member and past president of Corinth School Board, a member of the State Board of Education. He was bestowed with the Corinth Rotary Service Award, Junior Chamber of Commerce Distinguished Service Award, Corinth's Outstanding Citizen of 2001, Alliance Lifetime Achievement Award, and the Bar's 2011 Lawyer Citizenship Award. He served as the Attorney for Alcorn County, Alcorn County Electric Power Association, Alcorn County School District, and The Alcorn County Board of Supervisors, Corinth Municipal Separate School District, and the Tishomingo County Municipal School District. He was also a member of the Alcorn County Bar Association and the American Bar Association.

Donald R. Rogers

Donald R. Rogers, 78, of Hattiesburg, died January 16, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1979. Rogers was a naval veteran. For over thirty-five years, Rogers traveled extensively as a dog show judge for the American Kennel Club. He was a lifetime member of the Greater Hattiesburg Kennel Club and the Meri-Miss Kennel Club.

Michael E. Schmidt

Michael E. Schmidt, 47, of Dallas, TX, died January 2, 2014. A graduate of Oklahoma City School of Law, he was admitted to practice in 2003. He joined his father at The Schmidt Firm, LLP. Certified as a Personal Injury Trial Law Specialist by the Texas Board of Legal Specialization, Mike was licensed with the State Bar of Texas, Oklahoma State Bar, State Bar of District of Columbia, West Virginia State Bar and the State Bar of Georgia. Mike was also admitted to practice in the United States District

Continued on next page

IN MEMORIAM

Courts - Eastern and Northern Districts of Texas, and Eastern District of Arkansas. He was also a member of several organizations, including the Dallas Bar Association, the American Association for Justice, Texas Trial Lawyers of American and the International Society of Barristers. Mike served on the Board of Directors for both the TTLA and DTLA. He attended Highland Park Presbyterian Church.

Conner Doyle Smith

Conner Doyle Smith, 85, of Raymond, died February 5, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1963. He entered the armed forces in 1945 and served in the Navy during WWII and was honorably discharged in 1947. He was a Petroleum Landman and began his career in the oil and gas industry with Gulf Oil Corporation in Shreveport, LA. He later moved to Jackson and was District Land Manager with Florida Gas and Exploration Company. He went on to establish Conwood Exploration Company, in Jackson. He would later work as a District Land Manager for Santa Fe Minerals in their Jackson office. After Santa Fe Minerals closed their Jackson office he remained in the Jackson area and worked as an Independent Petroleum Landman.

D. Michael Smith

D. Michael Smith, 73, of Summit, died January 1, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1970. He served as Pike County Board of Supervisors attorney and judge. He served as circuit judge from 1995 until he retired from the bench in 2006. He served along with Keith Starrett in the 14th District Circuit Court's first dual judgeship. Smith joined the Navy on an ROTC program. When he got out in 1963, he worked as an insurance claims adjuster in Atlanta, Birmingham, Orlando, Fla., and Jackson. He moved to McComb in 1971 to work as an insurance attorney with Wayne Sterling. Smith later practiced with Wayne Dowdy and William Guy before opening his own office. In 1982 he went to work as part-time attorney for the board supervisors, a position that later became full-time. He served with the board for 10 years. He was a member of First Baptist Church in Summit, a mason, shiner and life-time member of the NRA.

Mary Margaret Waycaster

Mary Margaret Waycaster, 43, of Ridgeland, died February 20, 2014. A graduate of Mississippi College School of Law, she was admitted to practice in 1997.

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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.mscc.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.

JUNE

- 18 Washington County Bar "Washington County Chancery Court Pro Se Day." 4.0 credits. Greenville, MS. Contact 662-378-2121.
- 19 NBI "Representing Your Client in Federal Court." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
- 19 Sterling Education Services, Inc. "Landlord-Tenant law: How to Prosper in the New Market." 6.7 credits (includes ethics). Biloxi, MS.
- 20 UM CLE "Workers' Compensation Law." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.
- 25-26 UM CLE "Summer MS Municipal Attorneys' Assn CLE." 6.0 credits (includes ethics). Biloxi, MS, Beau Rivage. Contact 662-915-7283.
- 27 UM CLE "Criminal Law Update." 6.0 credits (includes ethics). Biloxi, MS, Beau Rivage. Contact 662-915-7283.

JULY

- 8 Barristers Educational Services "Famous Lawyers & Famous Clients." 6.0 credits (includes ethics). Gulfport, MS. Contact 1-800-874-8556.
- 10 NBI "Eminent Domain From Start to Finish." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
- 10 Panola County Bar Assn "Circuit Court Update by Jimmy McClure." 1.0 credit. Batesville, MS. Contact 662-563-4508.
- 10 Barristers Educational Services "Patents, Trademarks & Copyrights." 6.0 credits (includes ethics). Jackson, MS. Contact 1-800-874-8556.
- 11 UM CLE "Current Issues in Foreclosure/Real Estate." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.
- 14 NBI "Legal Issues in Real Estate Foreclosure." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
- 14-18 Children's Advocacy Centers of MS "Childfirst Forensic Interview & Court Preparation." 18.0 credits. Jackson, MS. Contact 601-940-6183.

- 15 NBI "Legal Issues in Real Estate Foreclosure." 6.0 credits (includes ethics). Tupelo, MS. Contact 715-835-8525.
- 15 Barristers Educational Services "Lawyers at the Movies: Learning from the Top 30 Legal Movies & TV Shows of All Time." 6.0 credits (includes ethics). Cleveland, MS. Contact 1-800-874-8556.
- 16 Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Natchez, MS. Contact 1-800-874-8556.
- 17 MC School of Law "CLE Marathon." 6.0 credits (includes ethics). Jackson, MS, MC School of Law. Contact 601-925-7107, Tammy Upton.
- 17 UM CLE "Great Adverse Depositions." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.
- 17 Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Hattiesburg, MS. Contact 1-800-874-8556.
- 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 UM CLE "Attacking the Experts Opinion." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.
- 18 Barristers Educational Services "Basic Wills & Trusts Drafting in MS." 6.0 credits (includes ethics). Jackson, MS. Contact 1-800-874-8556.
- 21-22 UM CLE "Basic Mediation Skills Training." 6.0 credits (includes ethics). Oxford, MS, Butler Auditorium. Contact 662-915-7283.
- 22 Lorman Business Center "Construction Lien Law in MS." 6.7 credits. Tupelo, MS. Contact 715-833-3940.
- 22 Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Clarksdale, MS. Contact 1-800-874-8556.
- 23 NBI "The Probate Process from Start to Finish." 6.7 credits (includes ethics). Gulfport, MS. Contact 715-835-8525.

- 23 Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Oxford, MS. Contact 1-800-874-8556.
- 24 NBI "The Probate Process from Start to Finish." 6.7 credits (includes ethics). Olive Branch, MS. Contact 715-835-8525.
- 24 Barristers Educational Services "Recent Developments in MS Law." 6.0 credits (includes ethics). Starkville, MS. Contact 1-800-874-8556.
- 24-25 UM CLE "CLE by the Hour." 12.0 credits (includes 2.0 ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.
- 25 MS Volunteer Lawyers Project "Annual Family Law CLE." 6.0 credits (includes ethics). Contact 601-960-9577, Tiffany Graves.

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