

THE MISSISSIPPI Lawyer

VOL. LXI

FALL 2014

NO. 1

THE MISSISSIPPI BAR'S

LAWYER CITIZENSHIP AWARDS





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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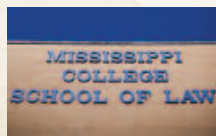
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FACTS AND FIGURES OF SUCCESS

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.)
- Executive J.D. program (part time)
- Academic Success program (summer start)
- Fast Start Program (summer start)
- Civil Law Program (Louisiana)
- Master of Laws (LLM) in American Legal Studies for International Lawyers
- Foreign Study Program (Merida, Mexico; China/Seoul, Korea; Berlin, Germany; Havana, Cuba; Lille, France)
- Two-Year JD Program
- Adoption Project
- Mission First Legal Aid Clinic
- Continuing Legal Education
www.law.mc.edu/cle
- Mississippi Law Institute Press
www.law.mc.edu/publications

PUBLIC INFORMATION PROGRAMS

- Judicial Data Project
www.law.mc.edu/judicial
- Mississippi Legislative History Project
www.law.mc.edu/legislature
- Mississippi Legal Resources
www.law.mc.edu/mlr

FACULTY

- 26 full time faculty
www.law.mc.edu/faculty
- 13 hold Ph.D. or Masters degrees in addition to JD degrees
- 86 adjunct faculty

MEMBERSHIP

- Accredited by the American Bar Association
- Member, Association of American Law Schools
- Charter Member, International Association of Law Schools
- Member, American Society of Comparative Law

Consumer information for MC Law at www.law.mc.edu/consumer
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As of May 12, 2014



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THE MISSISSIPPI Lawyer

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_____ February 20, 2015 / Jackson Convention Center, Jackson, MS

_____ February 27, 2015 / Imperial Palace Hotel & Casino, Biloxi, MS

_____ I cannot attend but would like to purchase the CLE Book for \$100.00 (mail check to above address).

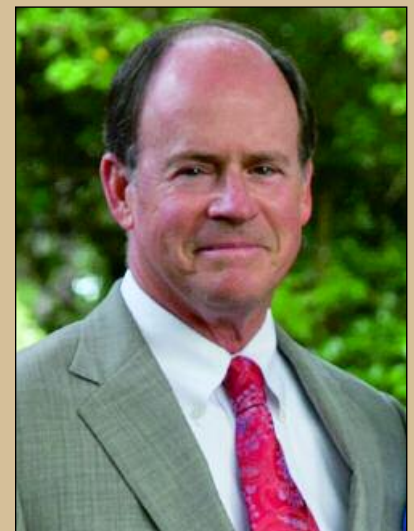
Statehood, Civil Rights, Lawyers in Transition, A Brief Clash with Tort Reform and Apple Pie

In the early 19th century when black bears were abundant and mosquito infested swamps were the rule, Delegates out of the Mississippi Territory wrote a constitution and applied to Congress for statehood of this great State we now call Mississippi. On December 10, 1817, the western portion of the Mississippi Territory became the State of Mississippi, the 20th state of the Union. Natchez at that time, a long established river port, became our state's first capital. In 1822, the capital was moved to a more central location, Jackson.

As I write this, significant efforts are beginning to celebrate the bicentennial of this momentous occasion. In fact, at the request of our Chief Justice William Waller, we have begun to pull a committee together to plan an appropriate celebration of the Judicial Branch's role in the bicentennial of our statehood. We anticipate this event taking place close to the Bicentennial anniversary date. Early planning suggests that this will be a daylong event culminating in a celebration dinner in Jackson. Leading up to the event we anticipate having opportunities for involvement of our states' students in essay and art contests. We are currently looking for an appropriate group of lawyers to begin this planning process. If you know of someone well suited to serve on this very important committee, please send me their name and information that will allow us to make selections.

You may be aware that we have under construction Mississippi's own Civil Rights Museum, and next door, the Museum of Mississippi History. These buildings are being built on North Street just north of the William F. Winter building that houses the MS Department of Archives and History. These two flagship institutions will be promoted during the celebrations of our Bicentennial. We are expecting both of these museums to be completed in time to allow them to be a center of focus for the primary events held in celebration.

As I write this the Bar appears to be off to a great start approaching the end of our first quarter. Committee Day was held in September. The work of the committees has started and we anticipate great work out of them all. I believe we have excellent leadership in place to represent our membership. We have formed a new committee to meet a need that seems to be rapidly developing across our nation and that is our aging lawyer population. That thing called the Baby Boom was not just a bunch of talk. The top end of this generation is getting on up there if you have not noticed. This is certainly a good thing for, if we don't age we ... are missed. We simply need to plan for the day that we transition out of day to day law practice. This new committee is going to be called, "Lawyers in Transition" and the mission statement states:



*Eugene M. Harlow
President of The Mississippi Bar
2014-2015*

Continued on next page

Statehood, Civil Rights, Lawyers in Transition, A Brief Clash with Tort Reform and Apple Pie

The Lawyers in Transition Committee shall 1) study the present rules and practices regarding curatorship's of lawyers' practices; 2) study and design a method for preserving the practice of lawyers and protecting their clients for those lawyers who are unable to practice, either voluntarily or involuntarily as a result of disability due to health, but whose actions do not give rise to an ethical violation; 3) study and design a voluntary method of designation of a successor or other transitioning process for a lawyer's practice in advance of any disability or death; 4) study and design a method of involuntary intervention for those lawyers who suffer a severe age-related impairment to protect the clients and deliver assistance to the age-impaired attorney; and 5) study and design a method to engage older lawyers as a valuable resource.

This new committee is being pulled together at present and should be off to a start as you read this. The goal here is to be proactive and helpful to our bar, while at the same time, protecting our most valuable asset, our clients.

From time to time we have articles offered to *The Mississippi Lawyer* magazine by our sections. Last month you saw the Business Law Section offer multiple articles and one of those addressed the topic of whether tort reform impacted economic growth in Mississippi. The author's view on the impact of tort reform on the state's economy struck some readers as a partisan view and not appropriate for a unified Bar's publication. Out of fairness to the other side of the tort reform issue, an article entitled "Tort Reform: The Cost of Justice" appears elsewhere in this issue.

A few weeks ago, I had the honor to welcome a fresh batch of bright minds to the Mississippi Bar at the Fall Bar Admissions Ceremony held at the Thalia Mara Hall in Jackson. Students from both of our in-state law schools as well as many out-of-state law schools who had passed the bar exam were admitted to the practice of law in Mississippi. Representatives from each of the courts, federal and state, were on hand to admit those wishing to be admitted to their respective courts. It was an auspicious occasion to see proud students, parents, grandparents, friends and even children of law students welcome these new lawyers to the practice. I am reminded of the bible verse from Luke that reminds us all, "To whom much is given much will be required." These new lawyers have a lot to be proud of, but also a great profession to represent well.

The Mississippi Volunteers Lawyers Project held its' inaugural Pro Bono Awards Dinner on September 25th. To those many lawyers and law firms that sponsored this awards dinner, thank you for your support. The keynote speaker was our great friend and past Governor, William F. Winter, who gave a riveting talk about society's obligations to ensure access to justice to all Americans. Under the leadership of Tiffany Graves, this organization has done a great job of organizing our Bar to help provide access to justice to the poor of our state. In conjunction with legal services organizations serving Mississippi we are making a great effort to provide access to justice to those in the greatest of needs. As you all know, our federal funding has not only been cut back severely for legal services organizations throughout this country, but is in jeopardy of being eliminated totally. If ever there was a worthy organization with a worthy cause, legal services is it. The day we eliminate the poor from access to our courts will represent the end of a system of justice that we know today. Please encourage your congressmen to fully fund and support legal services across our nation.

To each of our members of the Mississippi Bar, I want to again say thank you for the opportunity to represent you. I am proud of what we do and know that through each of you, we can do great things! ■



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The Mississippi Bar Memorial Resolution October 21, 2014

WHEREAS, The Mississippi Bar gathers today with the Justices of the Mississippi Supreme Court to pay tribute to those attorneys who departed this life during the past year; and

WHEREAS, in mourning these colleagues, we recognize that each had a role in shaping our honorable profession. Some gave decades of service; the careers of others were cut short; but each had an impact on the endless pursuit of justice and the constant upholding of the dignity of law. They modeled for us a profession of dedication, honor, integrity, and wisdom, and reminded us that we are called upon “to do justice, love mercy, and walk humbly with our God;” and

WHEREAS, these individuals, while devoted to the noble practice of law, also shared their lives, love, and devotion with their families, friends, and communities throughout the years, we today celebrate all their countless contributions to their profession, their communities, and their families and friends; and

WHEREAS, we give thanks for the great and honorable profession to which those memorialized today devoted their lives, and we acknowledge that, without the devotion they exemplified, the freedoms we enjoy would be endangered and our individual lives would be less rich; and

WHEREAS, in the reading of these names, we express joy and thanksgiving for each of the following individuals who impacted our lives through their service to our profession and with their dedicated friendship;

WILLIAM A. ALLAIN, Jackson, MS, Admitted 1950
TRUDY B. ALLEN, Ridgeland, MS, Admitted 1982
DENNIS M. BAKER, Batesville, MS, Admitted 1953
HAROLD R. BARBER, JR., Nashville, TN, Admitted 1952
SIDNEY F. BECK, JR., Olive Branch, MS, Admitted 1954
BARRY C. BLACKBURN, SR., Olive Branch, MS, Admitted 1992
BERNARD H. BOOTH III, Madison, MS, Admitted 1998
WILLIAM R. BRADLEY, Clarksdale, MS, Admitted 1951
CHARLES A. BREWER, Jackson, MS, Admitted 1961
LEONARD B. CAVES, Hattiesburg, MS, Admitted 1970
PETE H. CARRUBBA, Long Beach, MS, Admitted 1952
DAVID B. CLARK, Florence, MS, Admitted 1969
WILLIAM F. COLEMAN, Madison, MS, Admitted 1952
JOE R. COLINGO, Fairhope, AL, Admitted 1964
EDWARD K. CORRELL, Shreveport, LA, Admitted 1953
WILLIAM E. CRESSWELL, Alexandria, VA, Admitted 1948
CLINTON A. DAVIS, JR., Natchez, MS, Admitted 1959
WILLIAM M. DEAVOURS, Laurel, MS, Admitted 1954
ROBERT A. DEMETZ, Peachtree City, GA, Admitted 1965
JAY DISHAROON, Jackson, MS, Admitted 1972
SIM C. DULANEY, JR., Port Gibson, MS, Admitted 1969
DRUE D. BIRMINGHAM, JR., Olive Branch, MS, Admitted 1968
JESSE W. EAVENSON, Middleton, NJ, Admitted 1962
WALTER W. EPPES, JR., Meridian, MS, Admitted 1952
ROBERT E. FARISH, JR., Biloxi, MS, Admitted 1977
GEORGE M. FLEMING, Madison, MS, Admitted 1966
JASON H. FLOYD, JR., Starkville, MS, Admitted 1967
LAWRENCE J. FRANCK, Madison, MS, Admitted 1958
TYRUS C. GIBBS, Tupelo, MS, Admitted 1950
STEWART J. GILCHRIST, Laurel, MS, Admitted 1950
PAUL E. GUY, JR., McComb, MS, Admitted 1997
ERIC T. HAMER, Ridgeland, MS, Admitted 1995
WILLIAM B. HARVEY, Mobile, AL, Admitted 1967
ALLEN M. HATHORNE, Holly Springs, MS, Admitted 1978
A. DANIEL HODGES, Houston, TX, Admitted 1978
ASHLEY A. HOPKINS, Gulfport, MS, Admitted 1992
PHILLIP W. JARRELL, Gulfport, MS, Admitted 1985
J. RABUN JONES, JR., Greenville, MS, Admitted 1975
THOMAS R. JONES, JR., Meridian, MS, Admitted 1958
THOMAS D. KIRSCHTEN, Carrollton, MS, Admitted 1970
J. JERRY LANGFORD, Madison, MS, Admitted 1970
CYNTHIA A. LANGSTON, Jackson, MS, Admitted 1992
FLOYD J. LOGAN, Gulfport, MS, Admitted 1965
CHOKWE LUMUMBA, Jackson, MS, Admitted 1991
THOMAS J. MALLETT, Madison, MS, Admitted 1953

MICHAEL MARKS, Jackson, MS Admitted 1964
WILLIAM M. MARS, Philadelphia, MS, Admitted 1964
PRECIOUS T. MARTIN, Jackson, MS, Admitted 1997
MARK S. MAYFIELD, Jackson, MS, Admitted 1981
H. B. MAYES MCGEHEE, Meadville, MS, Admitted 1948
FRANK D. MONTAGUE, JR., Hattiesburg, MS, Admitted 1950
H. KIRKLAND MOORE, JR., Senatobia, MS, Admitted 1962
PAUL M. NEWTON, Gulfport, MS, Admitted 1951
CHESTER D. NICHOLSON, Gulfport, MS, Admitted 1984
HARRY DALE OWEN, Madison, MS, Admitted 1947
HENRY W. PALMER, Meridian, MS, Admitted 1972
PAUL D. PERRY, Ridgeland, MS, Admitted 1985
RALPH E. POGUE, Aberdeen, MS, Admitted 1954
ALVIN L. PRESSGROVE, JR., Southaven, MS, Admitted 1949
JACK G. PRICE, McComb, MS, Admitted 1989
JAMES E. PRICE, JR., Corinth, MS, Admitted 1950
RAY T. PRICE, Kingsland, TX, Admitted 1991
ROBERT G. RAMSAY, Pascagoula, MS, Admitted 1977
HUGH C. REDHEAD, Jackson, MS, Admitted 1975
TODD C. RICHTER, Ridgeland, MS, Admitted 1992
LOUIS E. RIDGWAY, JR., Kerrville, TX, Admitted 1963
DONALD R. ROGERS, Hattiesburg, MS, Admitted 1979
ANTHONY SCARDINO, Hattiesburg, MS, Admitted 2014
MICHAEL E. SCHMIDT, Dallas, TX, Admitted 2003
WILLIAM F. SELPH III, Jackson, MS, Admitted 1989
S. JOSEPH SIMPSON, Winona, MS, Admitted 1948
CONNER D. SMITH, Raymond, MS, Admitted 1963
D. MICHAEL SMITH, Summit, MS, Admitted 1970
ROY B. STRICKLAND, Gulfport, MS, Admitted 1961
LEE A. STRICKLIN, JR., Jackson, MS, Admitted 1952
JOSEPH W. THOMSON, JR., Starkville, MS, Admitted 1948
EDWIN W. TINDALL, Greenville, MS, Admitted 1974
RICHARD M. TRULY, JR., Oxford, MS, Admitted 1966
ROGER L. TUTTLE, Midlothian, VA, Admitted 1968
GARLAND D. UPTON, Columbia, MS, Admitted 1964
WILLIAM F. VICK, Jackson, MS, Admitted 1978
DANIEL D. WALLACE, Memphis, TN, Admitted 2002
MARY MARGARET WAYCASTER, Ridgeland, MS, Admitted 1997
HERMINE MCBEE WELCH, Madison, MS, Admitted 1989
CHARLES R. WILBANKS, SR., Clinton, MS, Admitted 1963
ROBERT LEE WILLIAMS, Hernando, MS, Admitted 1972
WINTON E. WILLIAMS, Gainesville, FL, Admitted 1962
JAMES WEBSTER WILSON, Biloxi, MS, Admitted 1972
FRANK M. YOUNGBLOOD, Sr., Brandon, MS, Admitted 1951
THOMAS L. ZEBERT, Pearl, MS, Admitted 1963

NOW, THEREFORE, BE IT RESOLVED that the members of The Mississippi Bar assembled in this Memorial Service before the Supreme Court of Mississippi on this the 21st day of October 2014, pay tribute and honor to our deceased colleagues, and recognize their manifold contributions to our State, to our profession, and our society.

BE IT FURTHER RESOLVED that the members of The Mississippi Bar here assembled before the members of the Mississippi Supreme Court hereby extend their deepest sympathy and respect to the families of those colleagues whom we memorialize today.

BE IT FURTHER RESOLVED that this Memorial be made a part of The Mississippi Bar's permanent records and with the permission of the Justices, be entered into the Minutes of the Supreme Court of the State of Mississippi.

Respectfully submitted,
THE MISSISSIPPI BAR
Eugene M. Harlow, President



Congratulations

The Mississippi Bar

LAWYER CITIZENSHIP AWARD RECIPIENTS



Mark Chinn



Reed Darsey



John Moore



Jody Owens



Jennifer Scott



Jim Waide



Rodger Wilder

MARK A. CHINN

Jackson, Mississippi

Whether helping a young lawyer start a new practice or a family get through a difficult legal process, Mark Chinn has worked tirelessly to empower others for the better. A skilled legal professional who openly shares his experience and expertise, Chinn has been actively involved in the Mississippi Volunteer Lawyer Project, The Mississippi Bar, Capital Area Bar Association and the American Bar Association.

“I don’t think there is a better profession on earth than being a lawyer,” he said. “It provides so many ways to help others and society at large. When you ask law students why they want to enter the legal field, 95% will say it’s because they want to help people.”

A family law professional for more than three decades, Chinn is recognized for his specific skill related to divorce and custody cases as well as effective management of a legal practice. He spent many years in leadership positions with ABA Family Law advocating the concept of mediation and also authored three books for the organization—*How to Build and Manage a Family Law Practice*, published by the Family Law and Law Practice Management Sections, *The Constructive Divorce*, published by the GP/Solo Division and *Forms, Checklists and Procedures for the Family Lawyer*, published by the ABA Family Law Section.

His resources, research and professional time has been leveraged by the MLVP to constructively improve the administration of family law. “I want to give lawyers tools for effectively handling divorces in a way that is civil and respectful,” Chinn emphasized. “Hopefully, this will lead to more positive results and create better lives for not only clients but also lawyers.”

Chinn has a long history of participation with the Mississippi Bar and cherishes his time working with the organization. “I’m very proud of the Mississippi Bar,” he noted. “I love the people in the Bar—anything I can do with that group I want to do.”



Mississippi Bar Executive Director Larry Houchins, pictured right, presents the Lawyer Citizenship Award to Mark Chinn, pictured left, at the Mississippi Bar Center.

REED C. DARSEY

Meridian, Mississippi

A “hometown guy” is how Reed Darsey characterizes himself following his return to Meridian—his boyhood home—a few years back. As he endeavors to build his law practice and raise a family, Darsey believes in his inherent responsibility to give back to the community where he spent his youth. That’s why he has taken an active role in the East Mississippi Boys and Girls Club.

“This is where I grew up, and I want my children to grow up here in the most advantageous way possible,” he said. “By making Meridian a better place, we increase economic development and create a desire in people to want to come here.”

Pointing out that there is always a great need for professionals to take part in community service, Darsey stressed that he believes his efforts are best used by narrowing his focus on one organization. Currently the Vice President of Operations for the Boys and Girls Club, Darsey explained that like many rural communities, Meridian is not a wealthy city, and all children aren’t given the same opportunities.

“Young children need a safe place to go where they can engage in positive activity and be mentored. Serving with this board is a great way to keep kids productive and engaged, and keep them on a level playing field,” he noted. “I’m making Lauderdale County and Meridian a better place in my own way by making kids more competitive in the classroom and keeping crime down.”

Going forward, Darsey hopes to use his legal skills to best serve whatever cause he may be assisting. For now, though, he expects his primary focus to remain on improving the opportunities for children in East Mississippi. “I don’t think my work is done there. I think I can do even more,” he said.

An attorney with Glover, Young, Hammack, Walton and Simmons, Darsey is also a member of the Kiwanis Club, Young Professionals of Meridian and Lauderdale County Bar.



At the Boys & Girls Club of East Mississippi, Reed Darsey, pictured right, receives the Lawyer Citizenship Award from 10th Circuit Court Bar Commissioner Nick Kramer, pictured left.

JOHN D. MOORE

Ridgeland, Mississippi

Setting an example for the next generation is an opportunity and privilege that John Moore does not take lightly. In fact, it's a key motivator behind his drive and commitment to make a positive difference in his community. "It's very satisfying to actually see the results of your efforts," he said. "I think what's far more important than my own personal satisfaction, is the opportunity to set a good example for my children, who are ages three and seven.

A member of the Board of Governors for Shriners' Hospital for Children in Shreveport, La., Moore spends at least one day each month at the hospital and countless hours fundraising, sponsoring screening clinics and talking to others about the hospital's specialized programs. "The monthly trips to the hospital and our local screening clinics, where we get to personally interact with the children are really special," Moore noted, adding that the organization does much more than simply treat an illness or condition. "We also take the time to visit the children's schools and communities to help their friends, families, classmates and teachers understand the issues involved."

In addition, Moore serves on the Advisory Board for Stop Hunger Now, an organization dedicated to eradicating hunger by packaging and providing meals to those in need in the U.S. and internationally. "The packaging events are a lot of work, but they are, quite honestly, a tremendous amount of fun," Moore said.

A private practice attorney in Ridgeland, Moore noted that a desire to make a difference in people's lives was a considerable driver for his choice in pursuing a legal career. "I love what I do and intend to practice law for many more years," he said, adding that as his children get older, he hopes to spend more time getting them involved in charity work. "I can already see that my seven-year-old actually wants to help other people, even if it's something as simple as dragging the neighbor's trash cans in from the street."



Mississippi Bar President-Elect Roy Campbell, pictured left, presents the Lawyer Citizenship Award to John Moore, pictured right, at Stop Hunger Now.

JODY E. OWENS, II

Jackson, Mississippi

Lifestyle generosity could be the mantra of Jody Owens as a willingness and desire to help others is a common theme woven through his life. Whether using his legal skills to help the less fortunate, raising funds for the American Heart Association or trying to break the cycle of generational poverty, Owens consistently endeavors to bring about change for the better.

"There is still so much work to be done in Mississippi," he said. "Whatever service opportunity is presented—whether large or small—you just have to focus on making the lives of others better."

Owens' most significant service accomplishments have been realized through the Mississippi Volunteer Lawyers Project (MLVP), where he has given countless hours to answering legal hotlines, handling pro bono cases and providing education. In recent years, he has been honored as the recipient of the Pro Bono Award from both the MLVP and Capital Area Bar Association. In 2009, he was inducted as an honorary member in the Order of the Barristers at Mississippi College School of Law, an honor given to those who excel in advocacy and service. In this case, Owens was recognized for hours spent mentoring and coaching the school's trial teams.

Owens noted that he enjoys any volunteer work that entails advocating for another or solving a problem. Recently, he has been engaged with Springboard to Opportunity, an organization dedicated to helping families living in affordable housing leverage resources and programs to help them reach new goals. "Breaking the cycle of generational poverty is a very inspiring thing to be part of," he emphasized.

The volunteer reach of Owens has extended to many additional organizations including the Mississippi Center for Non-Profits, Mississippi Sports Hall of Fame, Andrew Jackson Council of the Boy Scouts of America and the Jackson Young Lawyers. An attorney with the Southern Poverty Law Center in Jackson, Owens doesn't plan on slowing down and hopes to use his law degree to impact society in a positive way.



Presenting the Lawyer Citizenship Award to Jody Owens, pictured right, for his work with Springboard to Opportunity, is Mississippi Bar Commissioner Laura Glaze from the 7th Circuit Court District.

JENNIFER H. SCOTT

Jackson, Mississippi

Gratitude is key driver behind Jennifer Scott's motivation to serve the community in which she lives. Quick to say that she feels "undeserving" of recognition, her colleagues at Wise, Carter, Child and Caraway law firm in Jackson have taken note of her desire to make a difference.

"As to her values, when she came to the firm, she became interested in a modest Wise Carter Christmas project we engage in each year," noted James Child, an attorney with the firm. "She very quickly took charge of this effort and turned it into a much broader and more successful program.

The Christmas service project, funded entirely through internal donations, engages staff to not only give financially but also of their time in a hands-on capacity. In past years, the project has helped such organizations as the Mississippi Children's Home, Lutheran-Episcopal Services of Mississippi, Stewpot Community Services and Southern Christian Services for Children and Youth.

Scott also engaged her firm to participate in a project for Operation Shoestring after being inspired by one of the organization's presentations. Funded from budgeted money that would have been allocated to a monthly associate social outing, staff members shopped for and packaged food to be delivered to the organization.

"Much of what I do in the way of community service involves not just my efforts, but the efforts of many individuals at my firm," Scott emphasized. "The work, and impact of that work, results from the efforts of lots of people—not just me."

Going forward, Scott hopes to play her part in making the Jackson community better and encourage others to do the same. "So many people have invested in me—mentoring me and giving generously of their time, talents, and energy to teach and encourage me," she said. "I can never truly repay the debt, but maybe I can keep the cycle going by investing in others."



At the Northside Library, Jennifer Scott receives the Lawyer Citizenship Award from Mississippi Bar Executive Director Larry Houchins, pictured left.

JAMES D. WAIDE, III

Tupelo, Mississippi

Alongside a strong desire to protect the civil rights of all people, Jim Waide's legal career has been characterized by a passion to ensure the administration of justice to the less fortunate. With more than four decades under his belt as a private practice attorney, Moore has spent countless hours representing indigent clients.

"Because I am convinced that Mississippi provides inadequate resources to assure proper representation for criminal defendants, I try to take cases on a pro bono basis for criminal defendants who are innocent of the crime with which they are charged," Waide said, adding that he is currently representing three criminal defendants on capital murder charges.

Life experiences have contributed greatly to this common theme to help others. Growing up on a farm, Waide noted that he regularly engaged in manual labor alongside black sharecroppers, learning from their difficulties. He also served in the Marine Corps during the Vietnam War where he recalled that fighting was generally done by lower-educated, enlisted men, while field-grade officers stayed in the rear and gave the orders. "Because of these two experiences, I strongly identify with those who are not blessed with the financial resources to obtain adequate representation in the legal system," Waide said.

Over his career, Waide has had six cases accepted and reversed by the United States Supreme Court, all dealing with some facet of civil rights. Two of the most prominent cases include *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133 (2000), which limits the authority of federal judges to overturn jury verdicts and *Wyatt v. Cole*, 504 U.S. 158 (1992), which acknowledged immunity provided to parties in cases brought under 42 U.S.C. Section 1983.

A native of Clay County, he currently practices law in Tupelo and also volunteers with the Tupelo-Lee Humane Society, Salvation Army Angel Tree project, Tupelo High School Mock Trial team and packages food to be sent to impoverished nations through St. Luke's United Methodist Church.



Past Bar President Guy Mitchell, pictured left, presents the Lawyer Citizenship Award to Jim Waide, pictured right, in Tupelo.

H. RODGER WILDER

Gulfport, Mississippi

A willingness to step up and provide leadership and direction is a trademark of Rodger Wilder's character when it comes to responding to emerging community needs. Equally representative of his personality is a disposition to give unselfishly of his time without recognition, according to his colleagues.

As Co-Chair of the Mississippi Access to Justice Commission and acting Executive Director of the Gulf Coast Community Foundation (GCCF), Wilder has worked tirelessly to aid in the administration of justice and improvement of his local community. "Rodger is not his own cheerleader, and most people, even those on the Mississippi Gulf Coast, do not know the role he plays," said Joy Lambert Phillips, EVP and general counsel for Hancock Bank in Gulfport.

The mission of the Mississippi Access to Justice Commission is to help provide for the unmet civil legal needs of low-income Mississippians. In his current role, Wilder is undertaking a re-evaluation of the commission and its role in the administration of justice. This effort has required the time-consuming tasks of reaching out to other commissions across the nation as well as state organizations to assess needed improvements to current operations.

While Wilder has served on the board of directors for the GCCF for much of its existence, he has stepped up to lead the organization twice in an unpaid executive role, including a year of instability following Hurricane Katrina. "Likewise, when he recently assumed this position, the foundation was in need of stabilizing leadership to once again regain its proper footing and reestablish its goals and its community mission," Lambert noted. "This takes a great deal of Rodger's time, but he feels strongly about needing to fill this interim role."

Since Hurricane Katrina, the GCCF has distributed \$66.6 million across the Gulf Coast region. The foundation is also responsible for administering more than 120 different funds and \$20 million dollars in assets for a variety of community needs.



Rodger Wilder, pictured right, receives the Lawyer Citizenship Award from Mississippi Bar Commissioner Jennie Eichelberger at the Mississippi Access to Justice Commission.



Mississippi Qualified Disposition in Trust Act

U*nder the common law of most states, an individual may create an irrevocable trust for the benefit of other individuals and have the assets of the trust protected from the beneficiaries' creditors.*

Historically, states have not extended protection from creditors to a trust that is self-settled. As liability concerns have increased, states have reacted by passing legislation to allow for self-settled trusts that give asset protection to the Creator of the trust. Delaware and Alaska started this legislative movement in 1997. This past spring Mississippi became the sixteenth state to pass Domestic Asset Protection Trust (DAPT) legislation.¹

The “Mississippi Qualified Disposition in Trust Act,” which was signed into law by the Governor on April 23, 2014, permits the creation of self-settled asset protection trusts in Mississippi. The Mississippi Act, which was effective July 1, 2014, would allow a person to establish a trust for his or her own benefit and have the assets of the trust protected from the person's future creditors. Before the enactment of this new legislation, Mississippi residents looked out of state to take advantage of this estate planning device. The economic reason for this new legislation is to allow Mississippi banks and trust companies to retain trust business that may otherwise leave the state and to attract business from customers in other states. Tennessee was the first Southeastern state to have this type of legislation, and Virginia was second. Mississippi's new legislation is based on the Tennessee statute, although it contains certain differences. The legislation was reviewed by a Mississippi Secretary of State study committee and recommended for adoption in Mississippi.

Under the Mississippi Act, a Qualified

disposition trust (QDIT) or DAPT is an irrevocable trust that contains a spendthrift clause and incorporates Mississippi law to govern the validity, construction, and administration of the trust. At least one of the trustees of the QDIT must be an individual who is a resident of Mississippi or a Mississippi bank or trust company. The Mississippi trustee must maintain or arrange for custody in Mississippi of some or all of the trust assets, maintain records for the trust on an exclusive or non-exclusive basis, prepare or arrange for the preparation of the required income tax returns for the trust, or otherwise materially participate in the administration of the trust. Most importantly, the Creator of the trust cannot be a trustee.

A Creator of a QDIT may retain the following rights and powers with respect to the trust, including:

- (1) the power to veto a distribution from the trust;
- (2) a testamentary limited power of appointment;
- (3) the potential or actual receipt of income;
- (4) the potential or actual receipt of unitrust or annuity amount from a Charitable Remainder Unitrust (CRUT) or Charitable Remainder Annuity Trust (CRAT);
- (5) the receipt of an annuity or unitrust amount not to exceed 5% in a Grantor Retained Annuity Trust (GRAT) or Grantor Retained Unitrust (GRUT);
- (6) the potential or receipt of principal



*By Leonard “Len” C. Martin
Jackson, MS*

Mississippi Qualified Disposition in Trust Act

if distributed in the discretion of the trustee or pursuant to an ascertainable standard;

- (7) the right to remove and appoint a trustee or advisor;
- (8) the right to use a residence in a Qualified Personal Residence Trust (QPRT);
- (9) potential or actual receipt of income to pay income taxes due on trust income if under the trustee's discretion; and
- (10) the ability to pay the transferor's debts, estate taxes or administration expenses of the transferor's estate if subject to the trustee's discretion.

Creators of a QDIT cannot retain any other powers or interests that are not specifically authorized by the Act.

Before the Creator transfers assets to the QDIT, he or she must sign an affidavit stating the following:

- (1) the Creator has full right, title and authority to transfer the assets to

the trust;

- (2) the transfer will not render the Creator insolvent;
- (3) the Creator does not intend to defraud a creditor by the transfer;
- (4) the Creator does not have any pending or threatened court action against the Creator, other than those identified in the affidavit;
- (5) the Creator is not involved in any administrative proceedings, except for proceedings identified;
- (6) the Creator does not contemplate filing for bankruptcy;
- (7) the assets transferred to the trust were not derived from unlawful activities; and
- (8) the Creator is a named insured of a general liability policy, and, if applicable, a professional liability insurance policy with policy limits of at least \$1,000,000 for each respective policy.

The attorney representing the Creator of a QDIT should have a process in place

to confirm the accuracy of the affidavit. Although there are some limitations in the Act for liability of the attorney, advisor and trustee, the attorney needs to be careful that he or she is not a party to a fraudulent transfer.

As is typical with all the domestic DAPT statutes, creditors can reach the trust assets if the transfer of assets to the QDIT was a fraudulent transfer. Under the Mississippi Act, a fraudulent transfer claim must be brought pursuant to the Mississippi Uniform Fraudulent Transfer Act. If the creditor had a claim before the transfer of assets to the QDIT, such creditor's claim is extinguished unless the creditor's action is commenced within the later of two (2) years after the transfer was made or, if later, six (6) months after the transfer was or could have reasonably have been discovered by the creditor. A person who establishes a QDIT should, therefore, inform existing creditors of the QDIT. Without notice, the statute of limitations may remain open beyond two (2) years for a creditor who had a claim before the transfer to the QDIT. A creditor whose claim arises after the transfer to the QDIT must bring his claim within two (2) years after the transfer was made. A creditor must also prove by clear and convincing evidence that the transfer of property was made with the intent to defraud that specific creditor.²

Federal bankruptcy law must be considered when individuals are considering a QDIT. Bankruptcy trustees may void a transfer to a self-settled trust made within ten (10) years before the date of the filing of the bankruptcy petition if the transfer was made with actual intent to hinder, delay or defraud any creditor to which the debtor was or became indebted on or after the date of the transfer to the QDIT. Because of the federal bankruptcy laws, individuals who create a QDIT should not file for bankruptcy for ten (10) years after transferring assets to an QDIT.

Under the new Mississippi law, there are several specific exceptions provided which would allow certain creditors to reach the assets of a QDIT. If an individual who creates a QDIT does not pay child support, alimony, or a court ordered property settlement to a spouse who was married to the individual prior to his or her

Continued on next page

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transfer of property to the QDIT, the ex-spouse can bring an action against the Trustee to satisfy the past due payments. There is also an exception for an unpaid tort judgement for death, personal injury, or property damage where the tortious act occurred before the date of the transfer of property to the QDIT. There are further exceptions for the State of Mississippi or any political subdivision thereof and to any creditor in an amount not to exceed \$1,500,000 if the Settlor fails to maintain the \$1,000,000 liability insurance as provided in the affidavit. These exceptions also require a court order that the debt is past due and that claimant has made reasonable attempts to collect the debt from other sources of the transferor.

Creditors, including creditors whose claim arose before or after the transfer to the QDIT, shall not have a claim or cause of action against the trustee, an advisor of a trust, or against any other person involved in the counseling, drafting, preparation, execution or funding of the trust. The Act also protects those involved in counseling, drafting, preparation, execution and funding of limited partnerships

and limited liability companies, if the interests are subsequently transferred to the QDIT.

DAPTs are typically structured to be taxed as grantor trusts for federal income tax purposes. If the trust is structured as a grantor trust, the Creator will be taxed on all of the trust income. The DAPT may use the Creator's Social Security number as the taxpayer identification number for the trust, and the trust will not need to file a separate federal income tax return. The trust will be a grantor trust if discretionary income and principal distributions may be made to the Settlor without the approval of an adverse party (a trust remainderman).

The Creator of the trust may be given a testamentary limited power of appointment which along with the power to veto distributions should make gifts to the trust incomplete for gift tax purposes. If the gift is not complete, there will be no taxable gift to the trust at the time of the Creator's gift. The testamentary limited power of appointment and power to veto distributions will cause the trust to be taxed for estate tax purposes upon the Creator's death.

In conclusion, passage of this legislation should not only curtail the outflow of assets and trust business from Mississippi to Tennessee and other states that have this legislation, but should also increase the flow of assets and business into Mississippi from nearby states that do not have this legislation. ■

¹Miss. Code Section 91-9-701, et seq.

²Technical corrections may be needed to clarify that this additional requirement of intent to defraud applies to creditors who had a claim before the transfer of assets to the trust.

Leonard "Len" C. Martin is an attorney in the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, who is the current state chair of the American College of Trust and Estate Counsel (ACTEC) and prior state chair of the Taxation Section of the Mississippi Bar Association.

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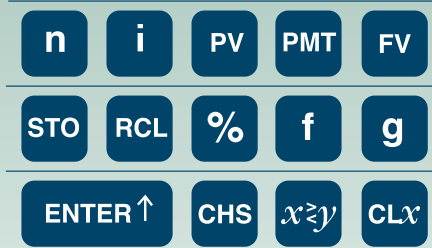
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Tort Reform: The Cost to Justice

In the last issue of this publication, the editors included an article entitled “Looking Back: Did Tort Reform Impact Economic Growth in Mississippi?” I am grateful the editors have given me this space to offer a response.

The conclusion of the earlier article was that tort reform has been good for the state’s economy. The fundamental problem with the article was that the article offered no statistical or quantitative evidence to support her assertions. The article relied solely on anecdotal information, the Mississippi Economic Council website, and random quotes from businessmen and other tort reform proponents – the sort of proof that would never be allowed in a courtroom.

The objective measures used to evaluate a state’s economic standing have not changed in Mississippi since the enactment of tort reform. Just last month, Mississippi recorded the second highest unemployment rate of any state in the country. Our per capita income, our per

capita gross domestic product, and the number of families living below the poverty level are where they were – in relation to the other 49 states – ten years ago. Despite a decade of tort reform and pledges of job creation by state leadership, net job creation in Mississippi between 2004 and 2014 – compared to the rest of the country – has been stagnant.¹

The quality of Mississippi healthcare, a rallying cry for tort reformers applauded loudly by the state’s medical community, has not improved. Statistically, our state remains dead last.² Not only has the quality of healthcare not improved in the last decade, but the number of doctors per 100,000 population remains unacceptably low.³

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*By Edward Gibson
President, Mississippi
Association of Justice*

Using nationally accepted statistical measures of a state's progress, there is no evidence that the tort reform measures enacted in 2002 and 2004 have fueled any significant economic growth nor have they led to higher quality healthcare for the average Mississippian.

What we do know is that tort reform has undermined the ability of average Mississippians to obtain complete justice in our civil courts and has removed a deterrent to negligent behavior and malpractice in our state's medical community. A recent study on the deterrent effects of tort reform laws found "evidence that reduced risk of med mal litigation, due to state adoption of damage caps, leads to higher rates of preventable adverse patient safety events in hospitals."⁴ That "relaxation in care" is "widespread . . . and applies....both in aspects of care that are relatively likely to lead to a malpractice suit."⁵ Accordingly, "[t]he broad relaxation of care suggests that med mal liability provides 'general deterrence' – an incentive to be careful in general – in addition to any 'specific deterrence' it may provide for particular actions."⁶ In short, by enacting so-called tort reform, Mississippians have compromised their fundamental rights and possibly the quality of their healthcare.

Because of tort reform, Mississippians are unable to hold wrongdoers fully accountable. Take, for instance, the family of Kathy Clemons. Because a doctor panicked and refused treatment that is normally prescribed, Ms. Clemons and her unborn child died en route to the receiving hospital. Defending the suit, the federal government did not dispute the facts, and the case tried solely on the issue of damages. The federal judge reduced his non-economic award for the suffering and death of the mother and child from \$5.45 million to the limits permitted by Miss. Code Ann. § 1-1-60, though he noted in his decision:

All grief is not equal. All pain cannot be reduced to a one-size-fits-all sum.....In Mississippi, though, one's suffering at the hands of a health care provider is worth no more than a half a million dollars, no matter how egregious, and no matter if your suffering leads to your death, your unborn child's

death, and leaves your children orphans. This is offensive."⁷

The caps on non-economic damages represent a one-size-fits-all fix inherently at odds with how our civil court system has operated since the beginning. Before lawyers introduce their clients, before any evidence is presented and before any law is cited, the verdict is capped by law. The jury's constitutional duty to determine damages is curtailed. Unfortunately, this problem will only get worse. Caps are not even worth today what they were when initially enacted. According to the U.S. Bureau of Labor Statistics, the \$500,000 cap instituted in 2004 is worth \$392,672 today, and these caps will continue to lose their value as the years pass. The elderly, children, stay-at-home mothers are disproportionately hurt by caps. The elderly and stay-at-home mothers suffer more because their damages are all too often non-economic. Our state's children suffer disproportionately as well, not only because they have no income losses, but also because the lifetime of future pain and suffering facing a permanently injured child so often exceeds the caps.

This system of caps offends because it is facially both arbitrary and inequitable. Moreover, I believe caps are unconstitutional. While the issue has not presented itself to the Mississippi Supreme Court, the question will inevitably be addressed. The Court declined to address the issue last year in Sears v. Learmonth, 95 So.2d 633 (Miss. 2012). As of this writing, the issue may be presented in the case of Interstate Realty Management Co. et al. v. Carter et al., 2013-CA -00420-SCT.

Several other states have struck down legislative efforts to restrict the judiciary. Five state constitutions have prohibitions on the institution of damages caps.⁸ Two more constitutionally prohibit the cap on damages in the case of wrongful death.⁹ The Supreme Courts of eight states, including our neighbors in Alabama and Georgia, have declared damage caps unconstitutional.¹⁰ Georgia, where the constitutional guarantee of a citizen's right to a trial by jury is effectively identical to our own, struck down caps based solely upon the jury issue.¹¹ Furthermore, our state bill of rights provides for due process and for access to the courts.¹² The



By Edward Gibson
President, Mississippi
Association of Justice
Bay St. Louis, MS

Oregon Supreme Court disposed of any argument that a jury's unimpeded finding on non-economic damages, then reduced by statute, did not interfere with the constitutional right: "the constitution deals with substance not shadows," said the Court.¹³

Contrary to what the proponents of Mississippi tort reforms would have the public believe, Mississippi is experiencing little to no economic growth when compared to the other 49 states. In fact, tort reform is a burden on Mississippi taxpayers. When our citizens are harmed by medical negligence or dangerous products, someone has to pay for their care. The civil justice system allows victims to hold wrongdoers accountable and place the financial burden of their injuries back on the responsible party. When caps prevent people from seeking justice, taxpayers are frequently left footing the bill for their care, which does nothing to bolster the state's economy.

As officers of the court, we have a sworn duty to uphold the constitution of our state and nation, and I would further add, a duty to vigorously defend it. The question attorneys should ask themselves is not how does tort reform affect economic growth in Mississippi but, rather, how does tort reform affect our civil justice system. Furthermore, as lawyers, let us ask ourselves, our judges, and each other the more fundamental question: is tort reform equitable, just, and constitutional? The answer is a resounding no.

Kentucky (Kentucky Constitution §54); Pennsylvania (Pennsylvania Constitution Article 3, §18); and Wyoming (Wyoming Constitution Article 10, § 4).

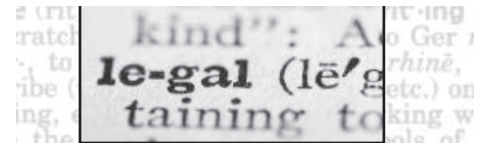
9 Ohio Constitution Article 1, §19a; Oklahoma Constitution Article 23, §7.

10 Alabama (Mobile Infirmary Medical Center v. Hodgen, 884 So.2d 156 (Ala. 2003)); Florida (No limitations on noneconomic damages in medical malpractice wrongful death cases. See Est. of McCall v. U.S., 2014 WL 959180 (Fla. Mar. 13, 2014)); Georgia (Atlanta Oculoplastic Surgery, P.C. v. Nestlehurst, 691 S.E.2d 218 (Ga. 2010)); Illinois (LeBron v. Gottlieb Memorial Hospital, (Ill. February 4, 2010)); Missouri (Watts v. Lester E. Cox Medical Centers, No. SC91867, Supreme Court of Missouri (July 31, 2012)); New Hampshire (Carson v. Maurer, 120 N.H. 925, 424 A.2d 825 (1980)); Oregon (Lakin v. Senco Products, Inc., 329 Or. 62, 987 P.2d 463 (Or. 1999)); and Washington (Sofie v. Fibreboard Corp., 112 Wash. 2d 636, 771 P.2d 711 (1989)).

11 Compare Georgia Article I, § 1 ¶ XI to Mississippi Const. of 1890, § 31; Atlanta Oculoplastic Surgery, P.C. v. Nestlehurst, 691 S.E.2d 218 (Ga. 2010).

12 Miss. Constitution of 1890 §§ 14 and 25.

13 Lakin v. Senco Products, Inc., 01952574



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1 US Dept. of Commerce, Bureau of Economic Analysis; US Dept. of Labor; US Bureau of the Census; University Research Bureau, *Mississippi Business*.

2 United Health Foundation: 2013 Annual Report (www.americashealthrankings.com/report/annual)

3 2013 State Physician Workforce Data Book, AAMC Center for Workforce Studies.

4 Bernard S. Black & Zenon Zabinski, *The Deterrent Effect of Tort Law: Evidence from Medical Malpractice Reform* (Nw. U. L. & Econ. Research Paper, Paper No. 13-09, July 2014) (at 22), available at <http://ssrn.com/abstract=2161362>.

5 See *Id.* at 20.

6 *Id.*

7 Clemons v. United States, Cause No. 4:10-cv-209-CWR-FKB (S.D. Miss. June 13, 2013).

8 Arizona (Arizona Constitution Article 2, § 31); Arkansas (Arkansas Constitution Article 5, § 32);



Affirmative Defenses: An Illusion?

Shirley Stuart was admitted to the emergency room at University Medical Center on December 10, 2002 complaining of shortness of breath. She died the next day at the hospital of pulmonary embolism.

On December 3, 2003 UMMC was served as directed by the Mississippi Tort Claims Act (MTCA) with a pre suit tort notice by her wrongful death beneficiaries. The complaint was filed 41 days after the notice was served without waiting the statutory 90 days set forth in the MTCA to file suit. An answer was filed, discovery ensued, and two and a half years following the filing of the complaint, UMMC filed a motion for summary judgment.

This motion was heard by the trial court in September 2006 and soon after granted for failure of plaintiffs to wait the required 90 days before filing suit. The appeal was filed on October 4, 2006, affirmed by the Court of Appeals, and cert. granted March 12, 2009. The Mississippi Supreme Court issued an en banc unanimous opinion five months later on August 20, 2009 reversing and remanding the grant of summary judgment. On December 3, 2009 the petition for rehearing was denied. The revived cause of action was sent back to the trial court for further proceedings on the merits seven years after the death of Shirley Stuart at UMMC. *Stuart v. University of Mississippi Medical Center*, 21 So. 3d 544 (Miss. 2009). The opinion announced that the notice requirements of the MTCA were not jurisdictional and therefore waivable.

Stuart overruled *Jackson v. Lumpkin*, 697 So. 2d 1179 (Miss. 1997) and *Carr v. Town of Shubuta*, 733 So. 2d 261 (Miss. 1999) which had previously construed the notice to be jurisdictional.

The Court held that UMMC waived its right to raise the defense of failure to com-

ply with the 90-day-notice waiting period of the MTCA. The notice provisions were described in the majority opinion as substantive requirements that are no more important than and no less important than a statute of limitations. The concurring opinion called the notice provisions conditions precedent. UMMC raised the failure to comply with the 90-day waiting period as a defense in the answer and again later in the Rule 56 motion. The Supreme Court held that the failure to press forward on this defense for two and a half years after the answer was filed and until the motion for summary was filed constituted litigation conduct that effectuated a waiver of the statutory defense. "The notice requirements in the MTCA are not jurisdictional, and we now hold them to be non-jurisdictional and, therefore, waivable." *Stuart*, 21 So. 3d at 550 (¶ 11). Pouf! Defense Gone!

The litigation conduct of delay in pressing forward the particular defense abrogated the express 90-day statutory language of *Miss. Code Ann.* § 11-46-11(1). In explaining the clearly announced procedure for waiver or non-waiver of the 90-day waiting period, the MTCA was equated with non-MTCA cases. The sovereign immunity statute was transformed, based on the conduct of the parties.

The MTCA may evaporate by waiver similar to the right to compel arbitration sounding in contract discussed in *Ms. Credit Ctr., Inc. v. Horton*, 926 So. 2d 167 (Miss. 2006). Here today: gone tomorrow. The legal illusion is of a statutory requirement that transcends into something alien



By Katherine Kerby
Columbus, MS

Continued on next page

Affirmative Defenses: An Illusion?

to its own definition based on what you do or fail to do as counsel for the parties. Be careful.

The statutory waiver transformation by litigation conduct was reaffirmed in *Alexander v. Newton County, Mississippi*, 124 So. 3d 688, (Miss. Ct. App. 2013). Benjamin Alexander sued Newton County, Mississippi after a collision resulting from his unexpected meeting with a county road grader that was backing up a hill. Benjamin Alexander collided with this road grader as he topped the same hill in his pick up truck. Benjamin swerved to avoid the road grader and ended up in a ditch. The complaint was filed in 2008 and after three years of depositions, discovery, and continuances, Newton County filed a motion for summary judgment alleging the exemption from liability based on discretionary function immunity. Alexander argued the immunity exemption had been waived by the County's participation in litigation. The County argued in opposition to this claimed waiver that discovery was necessary to develop the fact predicate for the immunity asserted based upon the discre-

tionary function exemption of Miss. Code Ann. § 11-46-9 (1)(d).

The Court held the statutory exemption originally provided immunity for Newton County. The Court then held that this immunity was now categorically construed as an affirmative defense that must not only be pled but also pursued as soon as possible. *Alexander v. Newton County, Mississippi*, 124 So. 3d 688, (Miss. Ct. App. 2013) held that if an immunity is not pursued as soon as possible then the statutory exemption from liability is lost and MTCA immunity evaporates. The Court held the exemptions of the MTCA found at Miss. Code Ann. § 11-46-9 are waivable and were waived by Newton County in the case. This waiver was not based on the inherent transient nature of the exemption or the language used to define the immunity by the Mississippi Legislature but based on the conduct of the litigants. *Pouf! Immunity Gone!*

Intriguing in this application of law is that at common law no right to sue the County existed. The MTCA created the right to sue the County and is the exclusive right to sue according to the language

of the MTCA. If the MTCA is waived by conduct of the litigants, then what, if any law, supplants the waiver? The common law? There was no right to sue public entities at common law. Does waiver of the statutory terms and conditions of the MTCA also evaporate the right to sue the public entity?

The MTCA contains right to sue requirements on top of other standard litigation requirements. Examples include giving a pre-suit tort notice and compliance with time frames of tolling. *Newton v. Lincoln County*, 86 So. 3d 270 (Miss. Ct. App. 2012) noted that *Stuart* overruled prior cases that required strict compliance with some of the pre-suit tort notice requirements for the MTCA because the "notice provisions" in the MTCA were no longer jurisdictional after *Stuart*. Newton asserted that the 90-day statutory time frame from the giving of the pre suit tort notice until the filing of the complaint was waived by Lincoln County. The Court ruled no waiver. The record reflected that the plaintiff did not send the pre-suit tort notice to the Lincoln County Chancery Clerk but filed suit without such notice on August 17, 2009. Lincoln County answered on September 30, 2009, raised the affirmative statutory defense of the absence of notice, and then filed a motion to dismiss or for summary judgment on April 7, 2010. The Court referred to this record and held that Lincoln County and the county employee co-defendant "adequately pled their defense" and so there was no waiver of the pre suit tort notice requirement.

This same type of approach resulting in preservation of the affirmative defense of must wait 90 days before suing a governmental entity after giving pre-suit tort notice was applied in *Jones v. Laurel Family Clinic, P.A.*, 37 So. 3d 665 (Miss. Ct. App. 2010). Barbara Jones sued the medical clinic which was a governmental entity for medical negligence on behalf of her son. She sent a pre suit tort notice and filed suit 85 days later in violation of the wait 90 days term of the MTCA. The Clinic immediately filed a Rule 12(b)(6) motion to dismiss. Barbara responded with a motion to compel, a motion to continue, and a motion to amend her complaint. Barbara's complaint was dismissed by the trial court for the 5-day-sued-too-

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soon violation and this ruling was affirmed on appeal.

In *Stuart*, the notice defense was in the answer but not separately pursued until a motion for summary judgment was filed two and one-half years after the filing of the complaint and active discovery during that time frame. The motion to dismiss filed in *Jones* by the hospital was filed "a mere twenty-nine days after Barbara filed her complaint." The waiver rule of preserve the defense or fry the defense apparently is based on time delay in pursuing the defense by separate motion coupled with participation in discovery. *Jones v. Laurel Family Clinic, P.A.*, 37 So. 3d 665 (Miss. Ct. App. 2010).

A consistent application of preserve the defense or fry the defense by way of waiver is also found in *Arthur v. Tunica County, Mississippi*, 31 So. 3d 653 (Miss. Ct. App. 2010). In June of 2008, Arthur jumped out of the path of a Tunica County Sheriff Deputy's vehicle, claimed injury, and filed suit without giving any pre suit tort notice. The Court of Appeals noted that, "on the facts of this case, it cannot be legitimately argued that Tunica County waived the ninety-day notice requirement." The Court also quoted still valid precedent of *University of Mississippi Medical Center v. Easterling*, 928 So. 2d 815 (Miss. 2006) that held the ninety day notice rule is "a hard-edged, mandatory rule which is" . . . "strictly enforced." The Court of Appeals, in tandem with *Easterling*, assessed *Stuart* which held that notice requirements of the MTCA are "substantive requirements which are no more or less important than a statute of limitations. The notice requirements in the MTCA are not jurisdictional . . . and therefore, waivable." Arthur filed his complaint on December 4, 2008, Tunica County filed its motion to dismiss under both Rule 12(b)(1) and Rule 12(b)(6) on December 22, 2008 and then noticed the motion to dismiss for hearing on April 20, 2009. The Circuit Court granted the Tunica County motion to dismiss due to the absence of the pre suit tort notice and this was affirmed.

The cases relied on in *Stuart* and again in *Alexander* on the waiver issue included MTCA cases and also the non-MTCA case of *Ms. Credit Ctr., Inc. v. Horton*, 926 So. 2d 167 (Miss. 2006) which addressed

the waiver of the right to compel arbitration. *Horton* seems to be the primary predicate case of current waiver applications. Waiver law may evaporate not just contract rights using common law principles, or those defenses listed in the MRCP as specifically subject to waiver, but also a comprehensive statutory scheme like the Mississippi Tort Claims Act that gives rights nonexistent at common law.

In *Horton*, the defendant failed to pursue early the right to compel arbitration and actively participated in the litigation process. This was held a waiver of the defense as a matter of law. The *Horton* court noted their holding would apply to any defense that would result in dismissal or terminate litigation. The defendant in *Horton* waited eight months before pursuing arbitration, plus had substantially engaged in the litigation process by consenting to a scheduling order, engaging in written discovery, and conducting plaintiff's deposition before filing a motion to compel arbitration. The defendant provided no plausible explanation in the record for the delay. Making the record on the waiver versus needs for specific discovery seems key to retaining such a defense. *Horton* noted that a party who invokes a defense and pursues that defense will not ordinarily waive the right simply because of involvement in the litigation process. The current *Horton* rule is, "a defendant's failure to timely and reasonably raise and pursue the enforcement of any affirmative defense . . . which would serve to terminate litigation, coupled with active participation in the litigation process, will ordinarily serve as a waiver." *Ms. Credit Ctr., Inc. v. Horton*, 926 So. 2d 167, 180 (Miss. 2006). The right to compel arbitration can be preserved by a record of "a plausible explanation for the length of time between the filing of the answer . . . and the motion to compel arbitration." *Nutt v. Wyatt*, 107 So. 3d 989 (Miss. 2013).

The year following *Horton*, *East Miss. State Hosp. v. Adams*, 947 So. 2d 887 (Miss. 2007) applied the same pattern of analysis. In *Adams*, the defendants raised the defenses of both insufficiency of process and insufficiency of service of process in the answer yet did not pursue these defenses by separate motion for two years. During these two years, defendants also engaged actively in the litigation

process. The delay in pursuit of the defense plus the active involvement in litigation constituted a waiver of both defenses. Double Pouf!


In *Grimes v. Warrington*, 982 So. 2d 365 (Miss. 2008), the answer specifically contained the defense of MTCA tort immunity. The litigation record reflected that defendant did nothing to argue or assert the immunity defense for five years after filing the answer. There was no motion to dismiss filed. After five years of discovery, defendant filed a motion for summary judgment relying on the MTCA immunity defense. The delay plus absence of asserting the defense by a motion to dismiss plus engaging substantially in discovery constituted a waiver of the MTCA tort immunity. Immunity may be here today but gone tomorrow. Pouf! Pouf! Pouf!

Plaintiffs Louise and Lavelle Meadows sued for medical negligence but failed to comply with the statutory requirement for a certificate of counsel of a reasonable basis for commencement of the action

Continued on next page

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within 90 days of receipt of the medical records. Just over two years later, defendants' doctor and hospital filed a motion to dismiss for failure of plaintiffs to attach the certificate. The trial court agreed and dismissed on this basis. *Meadows v. Blake*, 36 So. 3d 1225 (Miss. 2010).

The Mississippi Supreme Court held the *Blake* defendants waived the described defense by actively participating in litigation on the merits. Defendants had filed a motion for partial summary judgment, participated in discovery, filed a motion to compel, entered into three scheduling orders, and designated experts. "The defendant generally must timely *raise* all affirmative defenses, but if the defense is one which *would* terminate the litigation, the defendant must also *pursue* the enforcement of the defense." *Meadows v. Blake*, 36 So. 3d 1225, 1234 (Miss. 2010)(emphasis in original). The six-member majority opinion in *Meadows* was specially concurred in by Chief Justice Waller stating: "These requirements presuppose that the defendant knows or should know that the defense *would* (not could) terminate the case." *Meadows*, 36 So. 3d at 1234 (emphasis in original).

In *Hutzel v. City of Jackson*, 33 So. 3d 116 (Miss. 2010), the *Horton* waiver rule was applied to enforce the loss of the affirmative defenses of release and accord and satisfaction in an action arising out of a city's street improvement project. Claimant asserted waiver also under MRCP 8(c). The trial court noted the city waited three times the eight month delay time in *Horton* before asserting the affirmative defenses. In addition, Jackson consented to a scheduling order, engaged in written discovery, and took the claimant's deposition. There was no record made as to any plausible reason for a 26-month delay in the assertion of the controverted affirmative defenses so they were waived. This was in accord with "this court's effort to ensure judicial efficiency and the expeditious resolution of disputes." *Hutzel* at *1119 ¶ 12. This is the reason for The Poul!

Empire Abrasive Equipment Corp. v. Morgan, 87 So. 3d 455 (Miss. 2012) distinguished *Horton* in assessing whether or not the Empire defendants waived the statute of limitations defense. The Empire

defendants waited more than two years before pursuing the statute of limitations defense and participated in the litigation through discovery prior to asserting the defense. Plaintiff Morgan, Sr. was a patient that sued for silicosis personal injury against 88 defendants, but Mr. Morgan died while in litigation and his case was dismissed. A wrongful death lawsuit was then filed by the deceased patient's son and the new plaintiff Morgan, Jr.

The trial court specifically held in the order denying the *Empire* defendants' motion for summary judgment that defendants had not waived the statute of limitations defense. The Mississippi Supreme Court in *Empire* referenced the *Horton* defendant that delayed pursuit of the arbitration right for eight months and substantially participated in the litigation before raising the right to arbitrate contract term and reaffirmed that *Horton* said the waiver rule applies to "all affirmative defenses." The Court in *Empire* noted the statute of limitations asserted in the answer was "boilerplate" and then meticulously outlined all the discovery actions the Defendants engaged in prior to filing the motion for summary judgment asserting the statute of limitations. This assessment of each step of discovery was detailed and correlated to information that may have lead the defendants to know the identity of Morgan, Sr. and so have factual data sufficient to be aware of the statute of limitations defense as likely terminating the litigation.

The Court concluded that the different context of the *Horton* and *Empire* cases must be taken into account. The *Empire* defendants were still in "early discovery" and no depositions had been taken. The case was derived from a mass tort action involving hundreds of defendants that itself was still in early stages of litigation. "The requirements for meeting the substantial participation test in a suit like that at issue here will be far greater than those in a suit similar to the one described in *Horton*." *Empire* at *460 ¶ 16.

In *Empire*, the only significant delay was plaintiff Morgan, Jr.'s delay in responding to written discovery. These discovery responses were deemed necessary for the defendants to determine the nature of their affirmative defense. This

included information such as vital data on Morgan, Sr.'s social security number and address, thereby allowing the defendants to determine Morgan, Sr.'s identity. The complaint did not allege the date of Morgan, Sr.'s discovery of his injury or the date of his death, which the court held precluded defendants from calculating whether or not the statute of limitations had run. After Morgan, Jr. responded to discovery on October 2, 2009, the *Empire* defendants filed their motion for summary judgment on November 7, 2009. In addition, the Court indicated that Morgan, Jr. had failed to show he was prejudiced by defendants delay in filing the motion. The statute of limitations defense was held not waived and ultimately was a bar to the wrongful death action. A similar holding on non-waiver of the statute of limitations defense is found in *Jones v. Fluor Daniel Services Corp.*, 32 So. 3d 417 (Miss. 2010) stating the *Horton* waiver not applicable due to plaintiffs' failure to state their claim clearly.

Mladineo v. Schmidt, 52 So. 3d 1154 (Miss. 2010) involved a claim by insureds against an insurance agency and the homeowner's insurer seeking coverage for flood damage from Hurricane Katrina. The insureds claimed that the defenses of their alleged failures under the "duty to read" and "imputed-knowledge" doctrines were affirmative defenses under *Horton*. Plaintiffs claimed the insurance company and agent had waived them in violation of *Horton*. The trial court and the Mississippi Supreme Court said no waiver as these well-settled principles of law were substantive rules of law and not affirmative defenses and so not subject to the *Horton* waiver rule.

A careful record documented on reasons for each step of discovery and for any delay may save the immunity. Litigants have been warned and the trial court has been given some discretion. *Kimball Glassco Residential Ctr., Inc. v. Shanks*, 64 So. 3d 941, 947 (Miss. 2011) found no waiver of an MTCA affirmative defense even though there was an eleven month delay in the case because the defendants pursued their affirmative defense. This was done by informing the plaintiff of their intent to seek a hearing on the motion to dismiss and defendants documenting that the responses to discovery were made

because they were required to do so by the Rules of Civil Procedure.

Federal district courts in Mississippi have not followed the state courts' application of waiver principles. *Alexander v. Newton County, Mississippi*, 124 So. 3d 688 (Miss. Ct. App. 2013) was reviewed in *Acadia Ins. Co. v. Hinds County School Dist.*, 3:12cv00188 dkt.#81 (S.D. Miss. May 20, 2013) by District Judge Reeves who compared in detail the waiver rulings. He described the *Horton*-type waivers as Mississippi procedure and declined to apply. Judge Reeves instead applied the dramatically different federal procedure on the waiver issue on the state claims in the case, thereby saving the School District in *Acadia* from the evaporation of statutorily defined state law immunity. The state torts against the School District were originally filed in state court, the complaint amended to add federal questions, removal ensued, heavy discovery followed, and 32 months after the complaint was filed, the School District assert-

ed the immunity defenses. Footnote two in *Acadia* pointedly notes that "it is fortunate for the School District, because under Mississippi procedure it is difficult to see how the School District would not have waived its MTCA immunity by delaying this motion for such a long time." See also *Clemons v. United States of America and the State of Mississippi*, 2013 WL 3943494 page 4 (Judge Reeves' discussion of waiver relative to FRCP Rule 8(c)). Similarly, no waiver of state law defenses were recognized by Judge Daniel P. Jordan in *Skinner v Hinds County, Miss.*, 2014 WL 317872.

In conclusion, please take note of a case involving the estate of the late great blues legend musician, Robert Johnson, reported as *Anderson v. LaVere*, 136 So. 3d 404 (Miss. 2014). Half-sisters of the legendary blues musician, who died intestate, sued the late musician's son, Claud Johnson, for rights to images of Robert Johnson. Defendants also included recording companies Sony and Delta Haze.

The issue of waiver was analyzed in relation to the statute of limitations. The opinion noted that "absent extreme and unusual circumstances—an eight month unjustified delay in asserting and pursuing a dispositive affirmative defense, coupled with active participation in the litigation process, constitutes waiver as a matter of law." *Anderson v. LaVere* at ¶ 27. "In order to raise such an argument before this court, however, Anderson and Harris (the half-sisters) must have first raised this argument in the trial court—which they did not. We will not consider issues raised for the first time on appeal." "While Sony and Claud Johnson did not pursue the statute of limitations as a defense for some time, Anderson and Harris did not argue waiver." *Anderson v. LaVere* at ¶ 28. Waiver is a potent weapon offensively and dangerous pitfall defensively. Since the law may vanish based on what you do in a case, be forewarned and forearmed. ■



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Bar Hosts the 2014 Section Orientation Session

New Section Officers attended the FY 2014-2015 Orientation Session in August 2014. The half-day program is designed to familiarize new Section leaders with their duties and brief them on resources available to them through the Bar.



2014-2015 Intellectual Property Section Officers are Jason Bush, Chair; Jesse Mitchell III, Vice-Chair; and Rynne Saucier, Secretary.



Representing the 2014-2015 ADR Section Officers is Ronald L. Roberts, Chair.



Workers Compensation Section Officers include Chad Shook, Chair; and Roxanne Case, Vice-Chair.



Representing the Appellate Practice Section are David McCarty, Chair; Margaret Cupples, Vice-Chair; and Todd Butler, Secretary.



SONREEL Section Officers are Chris Wells, Chair, and Keith Turner, Vice-Chair.



2014-2015 Prosecutors Section Officers include Ryan Berry, Vice-Chair, and Trent Kelly, Secretary.



Representing the Taxation Section are Don Goode, Chair, and Josh Mars, Secretary.



Gaming Law Section Officers are Mike Bruffey, Chair; Scott Hollis, Vice-Chair; and Jay McDaniel, Secretary.



Labor and Employment Law Section Officers are Pepper Crutcher, Chair; Nick Norris, Vice-Chair; and Deanne Mosley, Secretary.



Business Law Section Officers for 2014-2015 include Jimmy Milam, Chair; and Jason Bailey, Vice-Chair.



Representing the Real Property Section are Ken Farmer, Chair, and Tom Ross, Vice-Chair.



Representing the Government Law Section is Danny Griffith, Chair.



2014-2015 Litigation Section Officers include Rebecca Wiggs, Chair; and Kelly Sessoms, Secretary.



2014-2015 Health Law Section Officers are Bob Anderson, Chair; Jeff Moore, Vice-Chair; and Jenny Tyler Baker, Secretary.



Representing the Estates & Trusts Section are Keith Kantack, Chair; Gray Edmondson, Vice-Chair; and Bill Brown, Secretary.

2014-2015 President-Elect Nominees

Ballots will be sent in January, 2015



W. Briggs Hopson
Vicksburg

W. Briggs Hopson, III, is a partner in the law firm of Teller, Hassell & Hopson, LLP, in Vicksburg, Mississippi, where he has practiced for 18 years. Prior to that, Briggs practiced in New Orleans and Gulfport for over 6 years before returning to his hometown of Vicksburg. He received his undergraduate and law degrees from the University of Mississippi in 1987 and 1990, respectively. While in law school, Briggs was a member of the Phi Delta Phi legal fraternity and served as Law School Student Body

President. His areas of practice include general litigation, education law, commercial law, admiralty, and property law.

Briggs has served the Mississippi Bar on the Board of Commissioners, as Young Lawyer's President, and on the Client Relations Committee. He is a Fellow of the Mississippi Bar Foundation and of the Young Lawyers Division. Briggs has served often as a facilitator in the James O. Dukes Professionalism Program. He has also served as Warren County Bar Association President. He is a former Adjunct Professor of the Mississippi College School of Law. Briggs is an active member of the Louisiana State Bar Association, the International Association of Defense Counsel, the Council of School Attorneys, and the Southeastern Admiralty Law Institute, where he has served on the Board of Directors.

Briggs presently serves as the State Senator for District 23, which comprises Issaquena, Warren and Yazoo counties. In the Senate, he serves as the Chairman of the Judiciary "A" Committee. Briggs also serves as a Commissioner for the Uniform Law Commission, Vice-Chairman of the Law and Criminal Justice Committee of the National Conference of State Legislatures, and he serves as a member of the Mississippi Tort Claims Board and the Drug Court Advisory Committee.

Briggs has been active in numerous civic endeavors, including serving as Chairman of the Board of Directors of the United Way of West Central Mississippi and the Good Shepherd Community Center. He has also served on the Board of Directors of Mission Mississippi, the University of Mississippi Alumni Association, the University of Mississippi Law Alumni Association, the Mississippi River Trail, and the Red Carpet Bowl Committee. He has served as fundraising Chairman for the American Heart Association and the American Cancer Society. Briggs is a member of the University of Mississippi Law School's Lamar Order and is former commissioner of the Mississippi Veterans Stadium. He presently serves as a District Chancellor for the Mississippi United Methodist Church and is an active member of Crawford Street United Methodist Church in Vicksburg, where he has served as Chairman of the Administrative Board and Stewardship Committee. Briggs and his wife, Alison (Ali), have three children: Liam (17), Walt (15), and Jane (11).



Gary P. Snyder
Olive Branch

Gary P. Snyder is a Partner in the firm of Jones Walker LLP, practicing in the firm's Olive Branch, Mississippi office. Gary received his undergraduate and law degrees from the University of Mississippi. Following graduation from law school in 1976, Gary practiced in Greenville before moving to Olive Branch in 1980.

Gary maintains a general business practice. He served as City Attorney for the City of Olive Branch from 1997 – 2005. His areas of practice include commercial

transactions, real estate, probate, civil litigation, mediation and governmental law. He is an approved Mississippi court annexed mediator.

As an active member of the Mississippi Bar, Gary has served on the Board of Commissioners, the Fee Dispute Resolution Committee, and the Committee on Professional Responsibility, which he chaired in 2012 – 2013. He has served as a district judge for the Mock Trial Competition and regularly participates as a facilitator in the James O. Dukes Law School Professionalism Program. Gary has been inducted as a Fellow of the Mississippi Bar Foundation, has served on its Nominating Committee, and currently serves on the Foundation's IOLTA Grants Committee.

Gary's law related memberships include being a former Barrister and Benchers of the William C. Keady American Inns of Court and a former member of the Mississippi Municipal Attorneys Association, which he served as Secretary and President. Gary is currently a member of the National Academy of Elder Law Attorneys, the University of Mississippi Lamar Order and the DeSoto County Bar Association.

Gary is a member of the Olive Branch Chamber of Commerce, having served as a member of the Chamber's Board of Directors and as President. He is also a member of the DeSoto County Economic Development Council, and is a former member of the Council's Board of Directors.

Gary has been married to Lyndall Jones for 38 years. They have two adult children and two grandchildren, and are expecting another grandchild in January. During his 34 years as a member of his church, Maples United Methodist, Gary has served on and chaired a number of committees and currently serves as Chairman of the Administrative Board. At the District level, Gary has represented his congregation as a former member of the District Superintendent's Committee.

Disbarments, Suspensions and Irrevocable Resignations

J. Allen Derivaux, Jr. of Vicksburg, Mississippi: Mr. Derivaux's Petition for Reinstatement was denied for failure to comply with Rule 12.7 of the Rules of Discipline for the Mississippi State Bar (MRD) and relevant case law related to reinstatement.

Joe Donald Pegram of Oxford, Mississippi: The Supreme Court of Mississippi imposed a Public Reprimand for violations of Rules 1.1 and 1.16(d) of the Mississippi Rules of Professional Conduct (MRPC).

Mr. Pegram originally agreed to assist a felony criminal defendant in obtaining counsel after the client had been arrested for felony possession of a controlled substance. Mr. Pegram advised the client, through a mutual friend, that he did not handle criminal cases. As part of his assistance to the client, he determined that the cost of representation would be \$20,000. Mr. Pegram subsequently associated an experienced criminal defense lawyer. Rather than having the criminal defense lawyer handle the case *in toto* from that point, Mr. Pegram stayed in the case to assist the criminal lawyer in negotiations with police and prosecutors to reduce or eliminate the charges. The criminal defense lawyer signed a contract with the client for representing him through indictment for \$10,000 and additional fees post indictment. Mr. Pegram had no written contract with the client.

When the client was subsequently indicted for the felony possession charges and additional charges for sale of controlled substances, the criminal defense lawyer inquired about additional fees. Mr. Pegram advised the criminal defense lawyer that there no other fees were available. The criminal defense lawyer withdrew from the case.

From that time forward, Mr. Pegram was the client's sole counsel of record in the case. Mr. Pegram attempted to negotiate a plea bargain arrangement with the prosecutor whereby the client would enter a pre-trial diversion program. Mr. Pegram obtained continuances in the case for a period of approximately four years during

which Mr. Pegram's efforts to meet with the prosecutor were unproductive and largely ignored.

On short notice, the assistant district attorney assigned to clean up a backlog of criminal cases in the district advised Mr. Pegram he intended to go to trial on the case. Mr. Pegram orally moved to withdraw from the representation on the eve of trial stating that he was moving to withdraw so that the client "can have a competent criminal attorney which is not me." The Circuit Court allowed to him to withdraw and appointed counsel for the client. The new lawyer was able to obtain a plea agreement favorable to the client.

The Bar alleged violations of Rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, and 8.4. At the trial on the disciplinary matter, Mr. Pegram asserted that he had earned his part of the attorney's fee, but had no trust account records to support that assertion because they had been destroyed.

The Complaint Tribunal found Mr. Pegram had violated only Rule 1.1 (Competency) and imposed a public reprimand. The Bar appealed. The Supreme Court found Mr. Pegram violated both Rule 1.1 and Rule 1.16 and affirmed the imposition of a public reprimand. The Court further ordered that this matter be submitted to the Fee Dispute Resolution Committee of the Bar to determine the amount of the unearned fee which Mr. Pegram should have returned to the client.

Tadd Parsons of Wiggins, Mississippi: A Complaint Tribunal **Disbarred** Mr. Parsons in Cause No. 2013-B-1692 for violating Rules 1.15(a), 1.15(b), 8.1(b), 8.4 (a) and 8.4(d), MRPC.

On January 22, 2013, the Lien Administrator for ALFUND Prime, LLC ("ALF"), filed an informal [Bar] complaint against Mr. Parsons. ALF is a legal funding company based in Arizona. The complaint alleges ALF made two advances totaling \$57,000 in 2009 against anticipated settlement proceeds involving a client of Mr. Parsons. ALF made Mr. Parsons aware of its lien against the settlement proceeds by (a) providing Mr. Parsons with a copy of its security agreement, (b) having Mr. Parsons sign an acknowledgement of its security interest

in the proceeds, and (c) perfecting its lien through UCC filings. ALF was, therefore, a third party beneficiary of any settlement proceeds Mr. Parsons received for the client.

On or about May 24, 2010, Mr. Parsons contacted ALF to get a payoff on funds it had advanced. On or about May 26, 2010, Mr. Parsons negotiated a settlement check from one of the defendants in the client's case. The remaining defendant was granted Summary Judgment in March 2012.

Mr. Parsons failed to advise ALF that he held settlement proceeds for ALF's benefit, that he had settled the case with one defendant, or that the other defendant had been granted summary judgment. Moreover, Mr. Parsons failed to pay ALF's lien until after the Bar filed the Formal Complaint in October 2013.

The Bar sent Mr. Parsons a total of three demands to file a response to the Bar complaint. Mr. Parsons requested additional time to file a response, demonstrating knowledge that he was required to answer the allegations of the Bar complaint. Likewise, Mr. Parsons failed to appear for an investigatory hearing in the matter.

The Committee on Professional Conduct directed the Bar to file a Formal Complaint. The Formal Complaint alleged that Mr. Parsons (1) failed to maintain complete records of funds held in trust for a period of seven years following termination of the representation as required by Rule 1.15(a); (2) failed to keep trust account funds separate from his own as required by Rule 1.15(a); (3) converted funds intended for ALF to his own benefit in violation of Rule 1.15(a); and (4) failed to promptly notify a third party beneficiary that he held funds for their benefit pursuant to Rule 1.15(b). The Formal Complaint also alleged violations of Rule 8.1(b) for Mr. Parsons' failure to respond to the Bar's demand for information, Rule 8.4(a) for violating a Rule of Professional Conduct, Rule 8.4(c) for engaging in dishonest conduct, and Rule 8.4(d) for engaging in conduct detrimental to the administration of justice.

Mr. Parsons answered the Formal Complaint, but failed to specifically deny that his Lawyer Trust Account lacked suf-

ficient funds to cover the amount owed to ALF from the date he settled the case to the date he ultimately paid ALF's claim. Because Mr. Parsons failed to respond to the Bar complaint filed by ALF, the Bar propounded discovery requests to Mr. Parsons to produce his lawyer trust account records and to produce evidence of his advising ALF of the settlement proceeds.

However, Mr. Parsons failed to answer any of the discovery propounded by the Bar. The Bar filed a Motion to Compel and noticed it for hearing. Mr. Parsons attended the hearing with counsel. The Complaint Tribunal granted the Bar's Motion and ordered Mr. Parsons to respond to discovery within fifteen days. Mr. Parsons failed to answer the discovery notwithstanding the Order compelling him to do so.

The Bar subsequently filed a Motion for Default Judgment for his failure to answer the discovery. Mr. Parsons failed to file any pleading in opposition. The Complaint Tribunal entered a Default Judgment granting the Bar's Motion for Default for all of the relief requested in the Formal Complaint, including an order of disbarment.

Stanley L. Taylor of Biloxi, Mississippi: A Complaint Tribunal **Suspended** Mr. Taylor for a period of six (6) months in Cause No. 2013-B-727 for violating Rules 1.2, 1.3, 1.4, 8.1 and 8.4, MRPC.

On or about April 17, 2012, one of Mr. Taylor's clients filed an informal [Bar] complaint alleging that Mr. Taylor failed to handle a personal injury matter and would not communicate with her about the status of the case. Mr. Taylor failed to respond to the Bar complaint in spite of three demands to do so. Mr. Taylor knowingly failed or refused to respond to the Bar complaint given the fact he requested additional time to respond, but never actually filed a response. In addition, Mr. Taylor failed to appear for a duly noticed investigatory hearing.

Prior to the filing of the Formal Complaint, Mr. Taylor had received a public reprimand and a 180 day suspension for similar misconduct. At the time of filing the Formal Complaint in this case, Mr.

Taylor was also suspended for non-payment of dues.

Mr. Taylor failed or refused to file an Answer to the Formal Complaint and the Bar subsequently obtained a default judgment suspending Mr. Taylor for a period of six months for violating Rules 1.2, 1.3, 1.4, 8.1, and 8.4.

Private Reprimands

A Complaint Tribunal imposed a **Private Reprimand** on an attorney for violating Rules 1.2, 1.3, 1.4 and 1.16, MRPC.

The Bar received information from the United States Bankruptcy Trustee's office that an attorney had failed to communicate with his clients or the Bankruptcy Court with respect to two outstanding bankruptcy cases.

The first case involved a joint Chapter 7 case. Shortly after filing the case, the attorney moved to withdraw from the representation in which he stated he was closing his law office for personal reasons. The clients, who had already paid the attorney, were forced to hire another lawyer to finish the Bankruptcy case. The new lawyer converted the case from Chapter 7 to Chapter 13 because the debtors were not eligible for a Chapter 7 in the first instance.

The Bankruptcy Court subsequently required the attorney to refund approximately \$1500 to the clients because the Court found the fees charged were excessive. When the attorney failed to refund the fees, the Court cited him for contempt.

The second case involved a Chapter 13 client who had filed bankruptcy approximately three years earlier. In 2012, the client sustained tornado damage to her home and was eligible for a hardship discharge. She attempted to contact the attorney on numerous occasions without success. A lawyer in Chapter 13 has continuing duties to the client until the client is ultimately discharged in bankruptcy. The debtor was forced to hire another attorney and received a hardship discharge.

The attorney essentially admitted the complaint and violations of Rules 1.2, 1.3, 1.4, and 1.16, MRPC. In mitigation, the attor-

ney stated his law practice had been closed largely due to financial reasons.

A Complaint Tribunal imposed a **Private Reprimand** on an attorney for violating Rule 1.7, MRPC.

Rule 1.7(b) of the Mississippi Rules of Professional Conduct ("MRPC") prohibits a lawyer from representing a client if the representation may be materially limited by the lawyer's own interests unless the lawyer believes the representation will not be adversely affected and the client consents after being given knowing and informed consent. The MRPC also applies to situations where a lawyer is acting in a capacity other than a traditional attorney-client relationship. In this case, the attorney's responsibilities as a fiduciary prevented him from acting in his own self-interest and contrary to the interests of his family members.

Unauthorized Practice of Law

Robert J. Tubwell:

The Chancery Court of Desoto County enjoined Mr. Tubwell, a non-lawyer, from engaging in the unauthorized practice of law and ordered him to amend the corporate charter for his closely held corporation so that it no longer stated it was a professional association.

Over the past several years the Bar has received over a dozen complaints alleging Mr. Tubwell has been engaged in the unauthorized practice of law. Mr. Tubwell is the sole shareholder of PPS Legal Research Clinic, PA. Mr. Tubwell is well known as a writ-writer in the prison community. Mr. Tubwell is a convicted felon who learned his craft while incarcerated.

The Bar alleged Mr. Tubwell regularly prepared post-conviction collateral relief petitions and other pleadings for inmates at various correctional facilities throughout the state that were then purportedly filed as pro se pleadings by the inmates.¹ The Bar also alleged that Mr. Tubwell should have to amend the PPS corporate charter to eliminate any reference to "professional association" when no officer, director, or shareholder of the company was, in fact, a professional of any kind.

Continued on next page

Final Disciplinary Actions

Prior to trial, Mr. Tubwell filed numerous pleadings, including two motions to recuse the Chancellor on the grounds she was a member of the Bar. The Court file contains over 90 docket entries. Mr. Tubwell filed at least two petitions with the Supreme Court to review the Chancery Court's denial of his motions to recuse. When the matter finally went to trial in the Chancery Court of Desoto County, Mr. Tubwell admitted that he routinely prepared pleadings to be filed on behalf of inmates. The Court found this constituted the unauthorized practice of law pursuant to §73-3-55, Miss. Code Annot.

Accordingly, Mr. Tubwell was enjoined from:

- (1) directly or indirectly contacting any person for the purpose of or in the nature of consulting, explaining, recommending, or advising such person in regards to his or her legal matters;
- (2) directly or indirectly meeting with any person to discuss individual facts and

circumstances as may relate to such person's need or desire for legal forms, legal pleadings, legal motions, legal services, or legal assistance;

(3) directly or indirectly obtaining information, whether orally, in writing, or in any other manner, relating to individual facts and circumstances so as to assist any person with his or her legal matters;

(4) directly or indirectly advising any person with regards to such person's eligibility for or advisability of legal remedies to address his or her particular legal matters;

(5) directly or indirectly advising any person regarding the procedural functions of the court system as it relates to his or her particular legal matters including, without limitation, advice regarding jurisdiction or venue, deadlines imposed by law, and the types of pleadings which may be required;

(6) directly or indirectly assisting in the selection of particular forms, documents, motions, or pleadings for any person as

relates to his or her particular legal matter;

(7) directly or indirectly assisting in any manner a person with the preparation, completion, creation, or filling out of legal forms, documents, or pleadings, or any part of such legal forms, documents, or pleadings; and

(8) directly or indirectly assisting, suggesting, or advising any person how forms, documents, or pleadings should or can be used to address or solve particular legal problems.

The Court also ordered Mr. Tubwell to amend the charter of PPS to eliminate any reference to its being a "professional association."

¹ At trial, the Bar called as witnesses two inmates for whom Mr. Tubwell had prepared pleadings. Both inmates testified that someone other than the inmates had signed the pleadings.

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Ridgeland, MS 39157
601-898-2107

Hattiesburg
6555 US Hwy 98 West
Suite 3
Hattiesburg, MS 39402
601-450-0065

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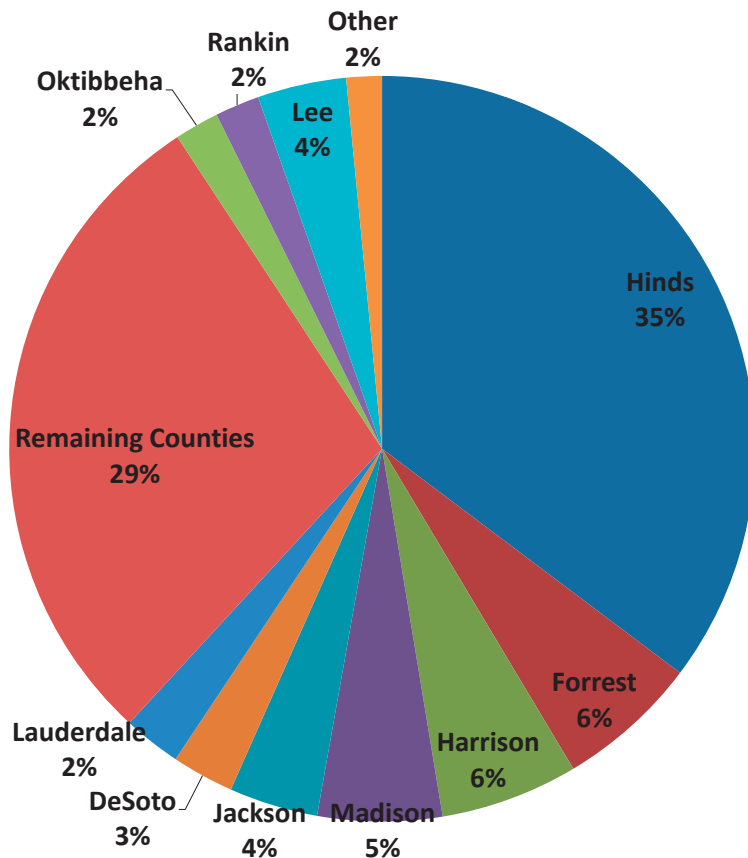
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2013-2014 Complaint Statistical Report

for the Office of General Counsel of The Mississippi Bar

519 Complaints

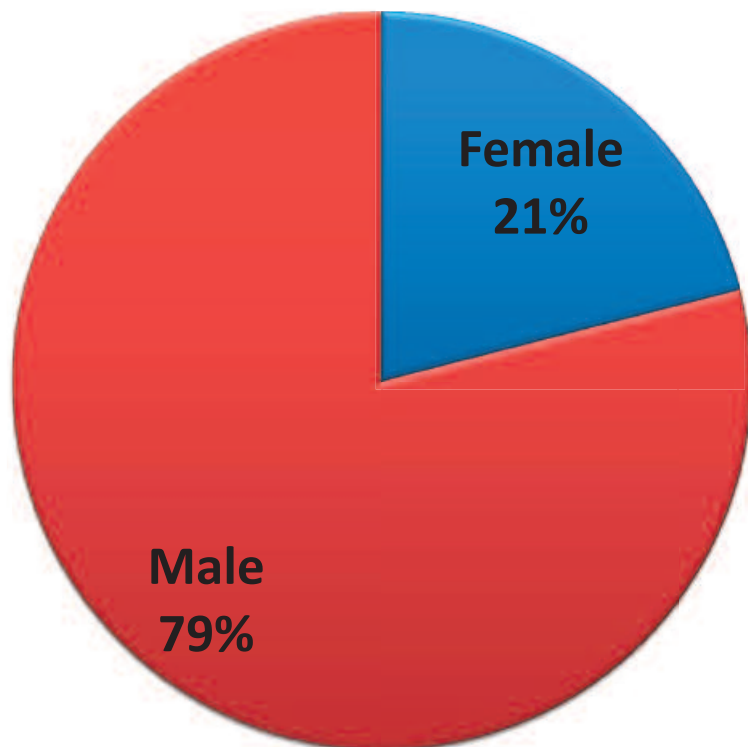


County:

Hinds: 35% (183)
 Forrest: 6% (32)
 Harrison: 6% (31)
 Madison: 5% (28)
 Jackson: 4% (20)
 Lee: 4% (20)
 DeSoto: 3% (14)
 Lauderdale: 2% (13)
 Oktibbeha: 2% (10)
 Rankin: 2% (10)
 Other: 2% (8)
 Remaining Counties: 29% (150)

Membership Information:

Hinds County: 24% (2172)
 Madison County: 9% (789)
 Harrison County: 7% (616)
 Forrest County: 3% (306)
 Jackson County: 2% (242)
 DeSoto County: 2% (166)
 Lauderdale County: 1% (123)



Gender:

Male: 79%
 Female: 21%

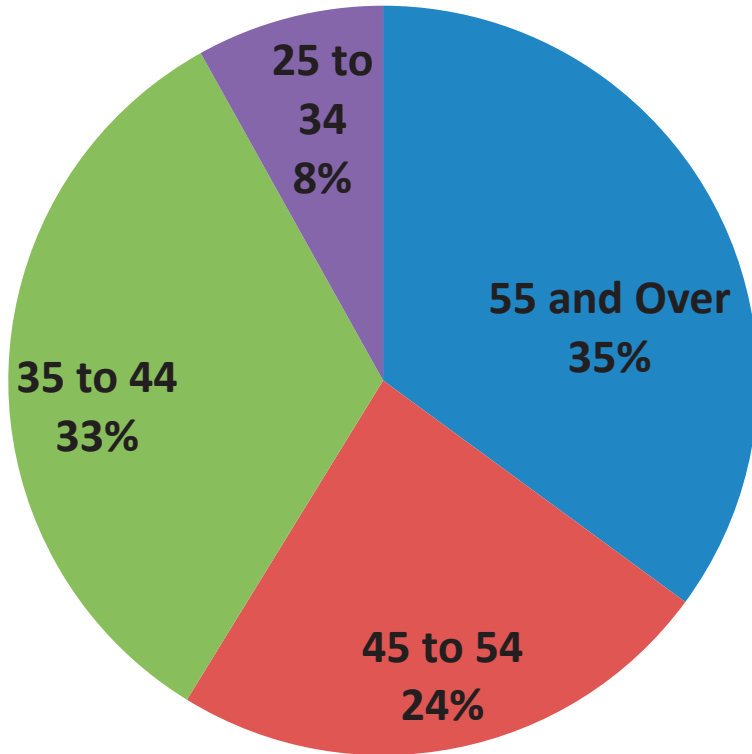
Membership Information:

Male: 71% (6461)
 Female: 29% (2576)

2013-2014 Complaint Statistical Report

for the Office of General Counsel of The Mississippi Bar

519 Complaints

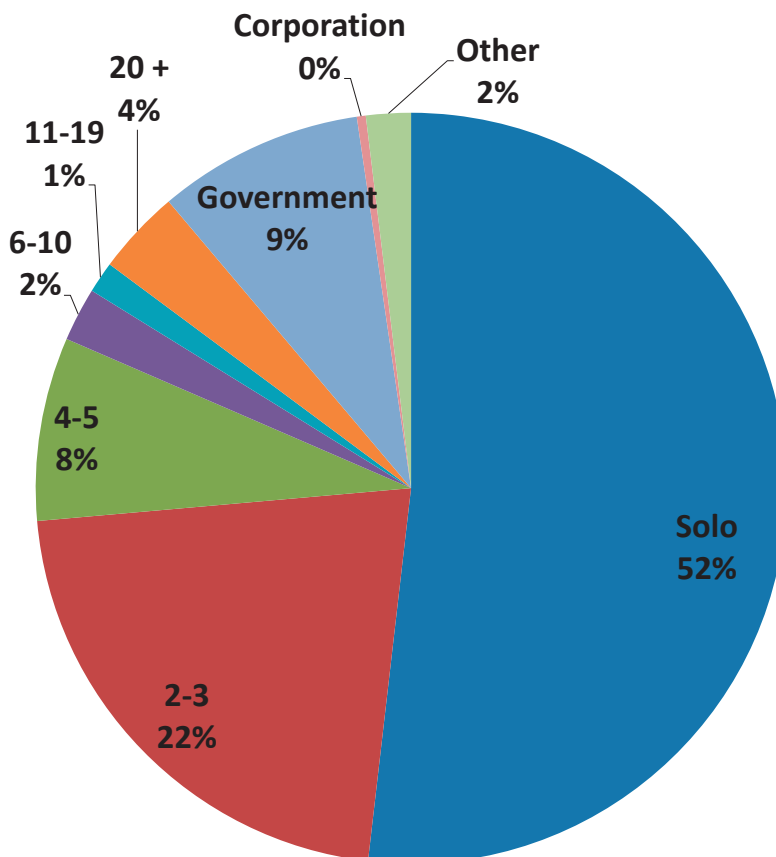


Age of Lawyer:

55 and Over: 35% (182)
 45 to 54: 24% (123)
 35 to 44: 33% (172)
 25 to 34: 8% (42)

Membership Information:

55 and Over: 39% (3242)
 45 to 54: 19% (1550)
 35 to 44: 25% (2065)
 25 to 34: 17% (1414)



Size of Firm:

Solo: 52% (269)
 2-3: 22% (113)
 4-5: 8% (41)
 6-10: 2% (12)
 11-19: 1% (7)
 20 or more: 4% (19)
 Government: 9% (46)
 Corporation: 0% (2)
 Other: 2% (10)

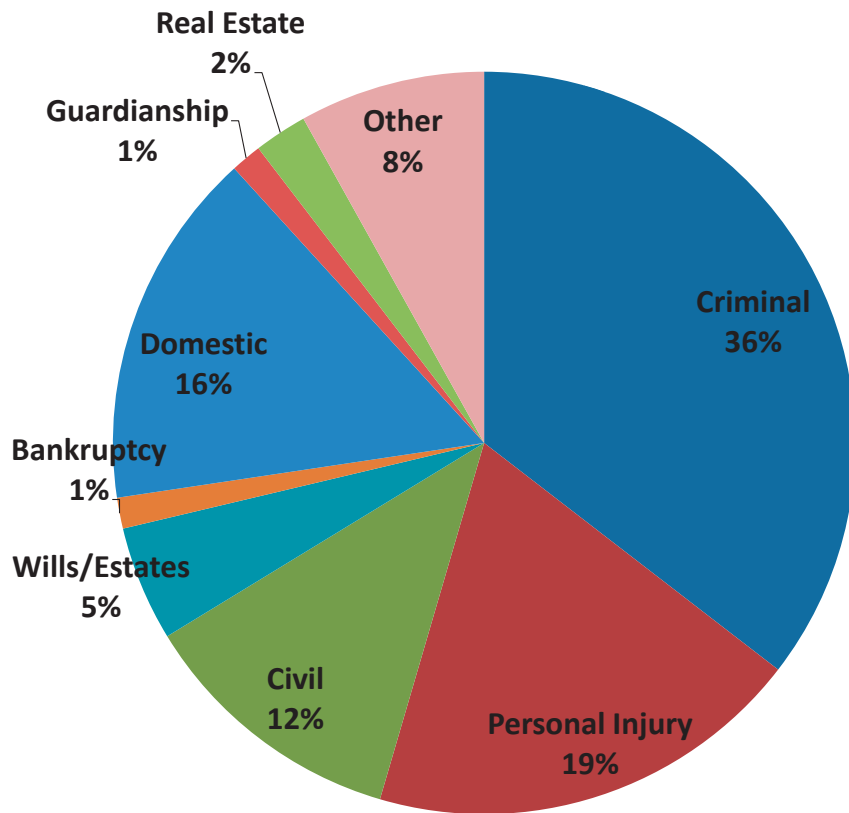
Membership Information:

Solo: 31% (2289)
 2-3: 15% (1108)
 4-5: 8% (557)
 6-10: 6% (480)
 11-19: 4% (333)
 20 or more: 21% (1532)
 Government: 15% (1105)

2013-2014 Complaint Statistical Report

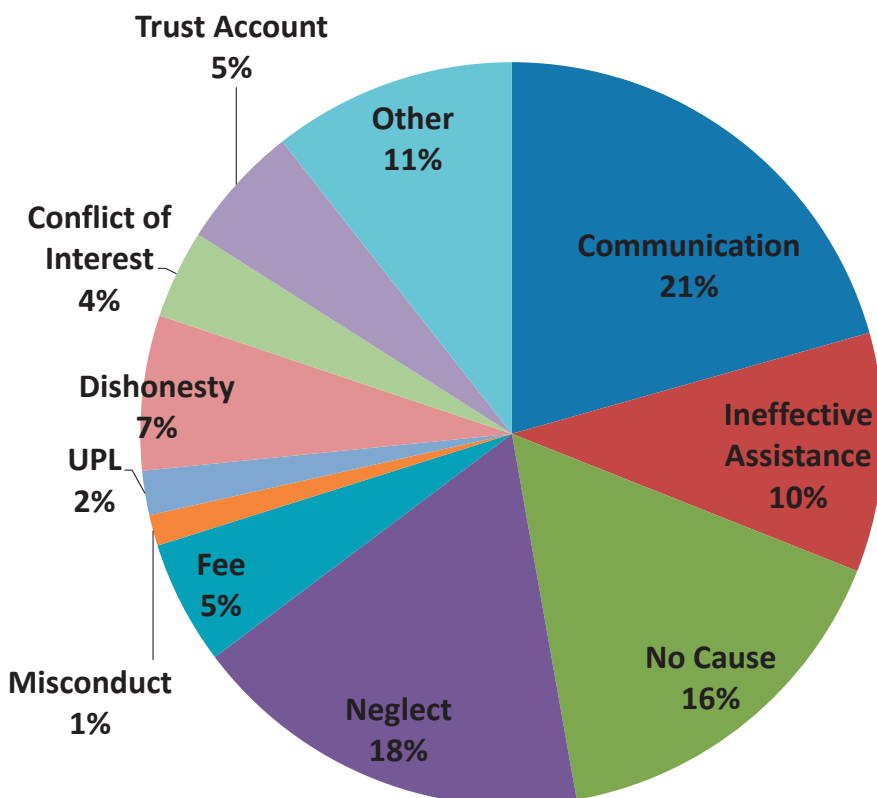
for the Office of General Counsel of The Mississippi Bar

519 Complaints



Area of Practice:

Criminal: 36% (184)
 Personal Injury: 19% (99)
 Domestic: 16% (81)
 Civil: 12% (61)
 Wills/Estates: 5% (26)
 Real Estate: 2% (12)
 Bankruptcy: 1% (7)
 Guardianship: 1% (7)
 Other: 8% (42)



Type of Complaint:

Communication: 21% (107)
 Neglect: 18% (91)
 No Cause: 16% (84)
 Ineffective Assistance: 10% (54)
 Dishonesty: 7% (35)
 Fee: 5% (28)
 Trust Account: 5% (28)
 Conflict of Interest: 4% (20)
 UPL: 2% (10)
 Misconduct: 1% (7)
 Other: 11% (55)



Special Thanks to the 2014-2015 Board of Commissioners

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Rebecca Wiggs, Jackson
Roy Campbell, Jackson
Gene Harlow, Laurel
Guy Mitchell, Tupelo
Laura Glaze, Jackson
Jenny Baker, Gulfport

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Scott Slover, Natchez
Nick Kramer, Quitman
Ashley Wicks, Ridgeland
Michelle Easterling, West Point
Whitney Adams, Pearl
Julie Gresham, Pascagoula

Jessica Dupont, Pascagoula
Shannon Elliott, Brandon
Willie Abston, Flowood
Peter Abide, Biloxi

3rd Row (L to R)

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Rick Burson, Laurel
Bryant Clark, Lexington
Steve Wright, Ackerman
Jason Herring, Tupelo
David Morrow, Brandon
Tim Rutland, Hazelhurst
Kent Smith, Holly Springs
Chad Shook, Hattiesburg
Jennie Eichelberger, Jackson

Not Pictured

Melissa Carleton, Union
Diala Chaney, Oxford
Howard Davis, Indianola
La'Verne Edney, Jackson
Mark Homes, McComb
John Howell, Picayune
William Liston, Jackson
Larry Little, Oxford
Branan Southerland, Vicksburg



Jennie Eichelberger
Young Lawyers Division President
2014-2015

This year's Young Lawyers Division activities began with the swearing in of newly-elected officers during The Mississippi Bar's Annual Convention in June. In August, a Young Lawyers Division contingent attended the American Bar Association's Annual Meeting in Boston, Massachusetts. During the convention, the Jackson Young Lawyers Association was given an award of excellence for its achievement with its newsletter – congratulations to JYL. Additionally, the American Bar Association's Young Lawyers Division introduced its new Public Service Project for 2014-2015, "Project Street Youth." The program is designed to provide access to justice to the underserved population of homeless youth, by educating and raising awareness of the issue, and by providing legal clinics to help homeless youth combat the problems they face on a daily basis. The Division decided to bring the program to Mississippi, and Carlyn Hicks, Chair of the Homeless Youth Committee will work with her committee to implement the program in our state.

On September 25, 2014, the Fall Admissions Ceremony was held at Thalia Mara Hall in Jackson. The Bar Admissions Ceremony Committee, led by Mimi Arthur, organized the admission ceremony for the 166 newly-admitted members. Speakers included Dean Richard Gershon, who offered the invocation and introduced the admittees from

the University of Mississippi School of Law; Gwen Baptist-Hewlett, who spoke on behalf of the Board of Bar Admissions; Mimi Arthur and Dean Wendy B. Scott, who recognized new admittees; Judge Patricia D. Wise, who administered the oath to practice in the trial courts of Mississippi; Chief Justice William L. Waller, Jr., who administered the oath to practice in the Mississippi Supreme Court and the Mississippi Court of Appeals; Judge Michael P. Mills, who administered the oath to practice in the United States District Courts for the Northern District of Mississippi; Judge Carlton W. Reeves, who administered the oath to practice in the United States District Courts for the Southern District of Mississippi; Judge Leslie H. Southwick, who administered the oath to practice in the United States Court of Appeals for the Fifth Circuit; and Eugene M. Harlow, the President of The Mississippi Bar. I was honored to have the opportunity to address the new admittees, along with their family and friends, as well.

The Public Service Committee focuses on two programs – Wills for Heroes, chaired by Clarence Webster, and Lawyers in the Library, chaired by Hunter Aikens. Both programs are underway and are busy planning events. Wills for Heroes has events planned in Hattiesburg and Jackson this fall, while Lawyers in the Library has upcoming events in Jackson, Meridian and on the Coast.

The Mock Trial Committee's chair, Austin Stewart, posted this year's case on Friday, September 26, 2014. Competition dates are Saturday, January 17 for the Jackson Regional; Saturday, January 24 for the Coast Regional; Saturday, January 31 for the Oxford Regional; and Friday and Saturday, February 27-28 for the Statewide Competition. Judges are needed for all rounds of the competition. If you would like to volunteer, please

contact Rene Garner by email at rgarner@msbar.org.

Under the leadership of Matt Eichelberger, the Seminars Committee has organized "Practice in a Flash: Litigation 101 Series." This new six-part CLE series covers the steps of the litigation process from the beginning to end with sessions on case investigation and evaluation; depositions and discovery; mediation and negotiation; trial; appeals, and ethics and civility.

The Young Lawyers Division continues to have an active fall, and looks forward to an active winter and spring. If you would like to become more involved in YLD, please contact Rene Garner at rgarner@msbar.org or me at jennie.eichelberger@splcenter.org. ■

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Fall 2014 Bar Admissions Ceremony Sponsored by the Young Lawyers Division



Program participants administering the oath to practice law in Mississippi included (front row), Dean Richard Gershon, University of Mississippi Law School; Dean Wendy B. Scott, Mississippi College School of Law; Gwen Baptist-Hewlett, Member, Board of Bar Admissions; Eugene M. Harlow, President of The Mississippi Bar; Judge Leslie H. Southwick, representing the US Court of Appeals for the Fifth Circuit; (second row), Judge Carlton W. Reeves, representing the US District Courts for the Southern District of Mississippi; Judge Patricia D. Wise, representing Hinds County Chancery Court; Mimi Reeves Arthur, Chair, YLD Bar Admissions Ceremony Committee; Judge Michael P. Mills, representing the US District Courts for the Northern District of Mississippi; Chief Justice William L. Waller, Jr., representing the Supreme Court; and Jennie A. Eichelberger, President of the Young Lawyers Division of The Mississippi Bar.



The Fall Bar Admissions Ceremony sponsored by the Young Lawyers Division was held Thursday, September 25, 2014 at Thalia Mara Hall in Jackson. Representing the Young Lawyers Division Bar Admission Ceremony Committee were Matt Williams, Elizabeth Crowell, Adria Hertwig, Christy Malatesta and Alicia Hall.

Fall 2014 New Admittees

Douglas Egan Adams II
Eseosa Gwendline Agho
Andrew Walker Alderman
Austin Bruce Alexander
Brian Thomas Alexander
Anastasia Michelle Allmon
Anna Marie Arceneaux
William Thomas Ashley III
John David Ayers
Christopher Anthony Bambach
Brannon Lee Berry
Ann Regan Bilbo
Bradford Jerome Blackmon
Andrea Jacey Boyles
Frank Russell Brabec
Victoria Reppond Bradshaw
Grafton Eric Bragg
David Rivers Braham
Stephanie Alexis Brown
Amy Gibson Bryant
Mary Beth Buffington
Geoffrey Felix Calderaro
John Brock Campbell
Christopher Deon Carter
Rachel Ann Chandler
Mary Leona Chustz
Robert Welch Clark
Dannah Lynne Conway
Sarah Lovell Cook
Jahviah Dyjuan Cooley
Mackenzie Ann Coulter
Michael Leland Cowan
Herman Finhold Cox, Jr.
Kelly Humphreys Creely
Emily Allison Crow
John Shannon Crow
Susan O'Brien Cumpton
Britt Key Davis
William Woods Drinkwater
Cynthia Lynn Dubrow
Daniel Paul Edney II
Richard Allen Eisenberger, Jr.
Henry Cooper Ellenberg II
Rachel Lynn Emfinger
Clay William Escude'
Michael Patrick Everman
Derek Oliver Fairchilds
Dennis Howard Farris, Jr.
Cory Nathan Ferraez
Robert Anthony Fischer
Kendra Rehner Fokakis
Lauren Elizabeth Foreman
Andrew James Fremming
Hadley Elizabeth Gable
Amelia Bartlett Gamble
Joseph Anthony Gerache III

Joshua Patrick Ginn
Derrick Shawn Godfrey
Rafael Ramon Green
Preston Andrew Grissom
Ryan Michael Hagenbrok
Blair Karisa Harden
Sarah Katelyn Harrell
Mitchell Paul Hasenkampf
Joseph Blake Hemphill
Juan Benito Hernandez
Lindsey Unterbrink Herr
Malea Ann Higdon
Amanda Grace Hill
Aaron Paul Hommell
Jeffrey Chad Horn
Maria Sophia House
Michael Wayne Jackson
Russell Dean Johnson
Irving William Jones, Jr.
Joshua Daniel Jones
Nathan Kyle Jones
Andrea Christine Jones Rogers
Dan Comfort Jordan III
Daniel Howard Junkin
Ronald Yi Kilgore
Erin Nicole King
Jason Matthew Kirschberg
Donald Eugene Knapp, Jr.
Sarah Katherine Koon
Joe-Colby Ray Langston
Carina Yvonne Lewis
Jason Darrell Little, Jr.
William Jarrett Little
Cary Lee Littlejohn
Kimberly-Joy Lockley
Jessica Tyeasa London-Roundtree
Michelle Elizabeth Luber
Bradley Don Lum
Edwin Poteat Lutken, Jr.
Charlie Ray Maharrey
Philip Daniel Mahoney
Patrick Lawrence McCune
Kyra DeSha McDonald
Kristi Carolyn Feldman McHale
Jessica Roshaun McLaurin
Owen Rex McNally
Dalaney Lee Mecham
Michael Christopher Melerine
Arman Stefan Miri
Karsunn Ezekiel Moore
Kurt August Mord
Constance Laine Morrow
William Scott Mullennix
Jerad Daniel Myers
Caren Beth Nichol
Amorya Myonna Orr

Aaron Weston Parker
James Taylor Patterson
Tiffany Kail Pharr
Tyler Lindsey Pittman
Dixie Michelle Pond
Bradley Aders Poore
David Glyn Porter
Robert Stephen Pruett
Robin Hewes Rasmussen
Mack Austin Reeves
Kelly Louise Reinker
Thomas Cooper Rimmer
Tyler Arthur Royals
Brooke Loblano Ruffin
William Bruce Russell, Jr.
Joshua Wayne Sage
Anthony Thomas Scardino
Caroline Jane Scott
Katina Maria Seymour
Hannah Shirley
Derek Adam Siebert
Carole-Anne Elizabeth Sistrunk
Lindsay Elizabeth Slawson
La'Toyia Jenessa Slay
Brittany Danielle Smith
Christa Clarkson Smith
Michael Todd Smith
Anna Marie South
Amarette Hope Aube' Speights
Shane Neal Steele
William Edward Stevenson
Sandra Lynn Sutak
Hannah Erin Swoope
Andrew James Taylor
Mitchell Dee Thomas
Carson Holt Thurman
Katie Ryan Van Camp
Ryan Charles VanDeburgh
Joshua Andrew Wallis
Joseph Lott Warren
Victoria Valencia Washington
Matthew Richard Watson
Russell Benjamin Weathers
William Carey West
Dylan Stiles White
Shadrack Tucker White
Emily Holland Wilkins
Kelly Marie Williams
Marcus Amir Williams
Bennett Landon Wilson
Edward Scott Yoste III
Matthew Franklin Young
Tyler David Zarembo
Jacob Christian Zweig

New “Lawyers in the Family”



W. Woods Drinkwater, right, is welcomed by his father W. Wayne Drinkwater Jr, left, of Jackson (admitted 1974).



Frank Russell Brabec, left, is congratulated by his father William C. Brabec of Jackson, (admitted 1983).



Dennis Howard Farris, Jr., left, is greeted by his father Dennis Howard Farris, Sr., (admitted 1995) both of Mantachie.



Judge John H. Emfinger, right, (admitted 1981), greets his daughter Rachel Lynn Emfinger, left, both of Brandon.



Amelia Bartlett Gamble, left is welcomed by her mother; Kathy D. Sones, right, of Hattiesburg (admitted 1981).



Lauren Elizabeth Foreman, right, is congratulated by her father R. Keith Foreman, (admitted 1988) from Brandon.



Emily Holland Wilkins, left, is congratulated by her father Joseph T. Wilkins III, right (admitted 1967), both of Jackson.



John Shannon Crow, left, is welcomed by his father John J. Crow Jr., right, of Water Valley (admitted 1978).



John David Ayers, left, of Jackson is congratulated by his father David L. Ayers, right, of Jackson, (admitted 1983).

New “Lawyers in the Family”



Michael G. Pond, left, (admitted 1990) of Jackson, greets his daughter Dixie Michelle Pond of Jackson.



Amanda Grace Hill, left, is welcomed by her father, Clyde V. Hill Jr., right, of Grenada (admitted 1983).



Christopher D. Carter, right, is congratulated by his father Ottawa E. Carter Jr., of Jackson (admitted 1991).



Bradford Jerome Blackmon, center left, of Canton is welcomed by his father Edward Blackmon, Jr., far right, of Canton (admitted 1973), his mother Barbara Blackmon, center right, of Canton (admitted 1981), and his sister Janessa Blackmon, far left, of Canton (admitted 2004).



David Glyn Porter, center right, of Columbia is welcomed by his uncle Henry Thomas Porter, far left, of Columbia (admitted 1989), his aunt Renee M. Porter, center left, of Columbia (admitted 1989), and his cousin Russell D. Shaw, far right, of Raymond (admitted 1995).



Thomas B. Alexander, center, of Ridgeland (admitted 1983), welcomes his sons Austin B. Alexander, left, of Ridgeland, and Brian T. Alexander, right, of Ridgeland.



Husband and wife, Dalaney Lee Mecham and Hannah Shirley of Oxford join the practice of law.



David Rivers Braham, right, is congratulated by his father Thomas M. Braham, of Aberdeen (admitted 1980).

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Mississippi Volunteer Lawyers Project Celebrating 32 Year Anniversary September 25, 2014



Pro Bono Awards Recipients Rob McDuff, Sibyl Byrd and Jake Howard



Chief Justice William Waller, John McCullouch



Governor William Winter with MVLP Board members, Jessica Dupont, Jessica Bates, John McCullouch, Lewis Burke



Nakimuli Davis-Primer and Marlena Pickering accept Baker Donelson's "Curtis E. Coker Access to Justice Award" from John McCullouch



John McCullouch, Tiffany Graves and MVLP's 2014 Fundraising Co-Chairs, Tammra Cascio, Hugh Keating



MVLP Board and staff members: Tiffany Graves, Mary Clay Morgan, Jessica Bates, Jessica Dupont, Lewis Burke (front); Steven Gray, John McCullouch, Hugh Keating (back)



Rick Wise, Carter Smith



Jessica Dupont, Tammra Cascio



Patti Gandy, Bill Ready, Ginger Brooks



Jason Owens, Marty Moss



*Jeffrey Graves, Nakimuli Davis-Primer,
Wendy Huff Ellard*



*Stephen Teague, Dean Wendy Scott,
Bobby Owens*



Benjamin Gatewood, Greta Kemp

*Gene Harlow,
Donna Keating, Jan Harlow,
Larry Houchins,
Hugh Keating*



*Mary Clay Morgan, Dorsey Carson,
Ginnie Munford*

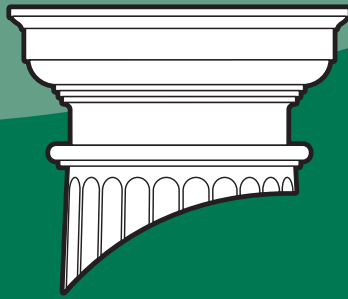


*John McCullough, "Beacon of Justice"
Award Recipient Judge Denise Owens,
Tiffany Graves*



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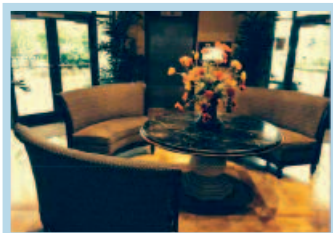
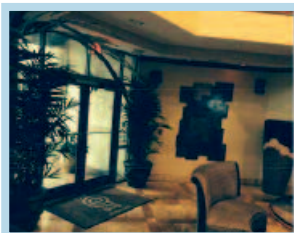


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IN MEMORIAM

Sidney F. Beck, Jr.

Sidney F. Beck, Jr., 85, of Olive Branch, died November 9, 2013. A graduate of the University of Mississippi Law School, he was admitted to practice in 1954. He was recognized for 50 years in practice.

Drue Dunlap Birmingham, Jr.

Drue Dunlap Birmingham, Jr., 82, of Olive Branch, died May 26, 2014. A graduate of the University of Memphis Law School, he was admitted to practice in 1967. Birmingham joined the United States Marine Corps in 1951 and served until 1954. While in the Marines, he completed a tour of duty in Korea as a member of the 1st Marine Division where he participated in actions against enemy forces earning three battle stars. From 1958 until 1961, Birmingham was a Certified Flight Instructor for Memphis Flying Service. Before going into private law practice in Olive Branch in 1979, he was employed as a Special Agent by the Federal Bureau of Investigation. He served from 1969 until 1978 as Director of Real Estate for the Memphis Housing Authority. Birmingham was Scoutmaster of Troop 234 of the Boy Scouts of America and served as Chairman of the Troop Committee. He was a Deacon and Sunday School Teacher of the First Baptist Church of Olive Branch, and served as Chairman of Trustees from 1975 until 2001. Birmingham was an inductee into the Olive Branch Hall of Fame.

Leonard Burl Caves

Leonard Burl Caves, 83, of Hattiesburg, died August 7, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1970. He served in the United States Navy. He was a teacher, coach, and principal in the Jones County and Laurel School Districts. He served as Circuit Clerk and Chancery Clerk for 16 years. He practiced law for 32 years. In 1983, he formed Caves & Caves. He was a member of First Baptist Church in Laurel.

Pete H. Carrubba

Pete H. Carrubba, 95, of Long Beach, died on May 30, 2014. A graduate of University of Mississippi School of Law, he was admitted to practice in 1952. He entered into the United States Armed Air Forces in 1942 where after basic training he immediately was assigned to Officer Candidate School at Camp David, North Carolina and eventually assigned to the 837th Antiaircraft Artillery Separate Battalion as an assistant platoon commander at Fort Sheridan, Illinois. Carrubba was eventually reassigned to the 13th Replacement Depot in Waiias, Hawaii. He was separated from the Armed Forces with the rank of captain on June 26, 1946 but remained in the Armed Forces Reserves until recalled to extended active duty in 1952. Decorations and citations received were the American Campaign Medal, the Asiatic Pacific Campaign Medal and the Victory Medal World War II. He began a law practice in Long Beach and Gulfport that lasted thirty-seven

years. During his career, he was also City Attorney for Long Beach for a total of twenty-five years. Toward the end of his law career, he was a partner in the law firm of Dukes, Carrubba, and Dukes.

David B. Clark

David B. Clark, 69, of Florence, died May 29, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1969. He also attended New Orleans Baptist Theological Seminary to pursue his interest in theological philosophy. In addition to being a member of the Florence Volunteer Fire Department for many years, he served two terms as District Attorney for Rankin and Madison counties.

William Franklin Coleman

William Franklin Coleman, 84, of Madison, died May 31, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1952. He served twenty years as a Hinds County Circuit Judge, retiring in 1996. After retirement, he was appointed by the MS Supreme Court to serve as a Senior Status Judge, presiding over cases statewide until the final weeks of his life. He served active duty during the Korean War in the Judge Advocate General's Corps of the United States Army. He later retired as a Colonel from the United States Army Reserves, JAG Corps, receiving numerous honors and awards throughout his career. Coleman was a lifelong member of the Jackson Yacht Club and served as Commodore in 1977.

Edward K. Correll, Sr.

Edward K. Correll, Sr., 87, of Shreveport, LA, died May 19, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1953. Edward was a longtime District Landman with Pennzoil and Marathon Oil Companies.

William M. Deavours

William M. Deavours, 85, of Laurel, died August 24, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1954. After graduation he moved to Laurel where he practiced law with Deavours and Hilbun, which later became Deavours, Weems and Gilchrist, until his retirement. He was a fellow of the Mississippi Bar Foundation and an active member of the American Bar Association. Bill was a loyal communicant of St. John's Episcopal Church

Robert A. DeMetz

Robert A. DeMetz, 73, of Peachtree City, GA, died February 23, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1965. He was drafted by the U.S. Army. He served in Vietnam and continued to serve in the Army

Continued on next page

Judge Advocate Generals Corps until his retirement in 1986. Robert began a second career as a staff attorney at Georgia State Court of Appeals, retiring a short time ago.

Jay Disharoon

Jay Disharoon, 65, of Jackson, died June 10, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1972. He was a veteran of the U.S. Army, having achieved the rank of Captain. Jay served in the State Senate and House of Representatives. He also served as Assistant District Attorney for Copiah County and owned several businesses in the Jackson area.

Walter W. Eppes, Jr.

Walter W. Eppes, Jr., 84, of Meridian, died June 25, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1952. He had been an active member of Trinity Presbyterian Church and served as a trustee. Walter was a lifelong resident of Meridian. In 1955, he entered into private practice and continued his practice for fifty years. He was elected President of the Lauderdale County Bar Association. He served on numerous committees of the Mississippi Bar and was elected to serve as President in 1985. He was a member of the American Board of Trial Lawyers, Fellow of The Mississippi Bar and American Bar Association.

Lawrence J. Franck

Lawrence J. Franck, 83, of Madison, died August 4, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1958. Upon graduating from Ole Miss, Franck entered the Army, serving as a paratrooper with the 11th Airborne Division, and serving a year in Iceland. Following his discharge as a First Lieutenant, he entered Ole Miss Law School. Franck became a member of the Butler, Snow, O'Mara, Stevens & Cannada law firm, with whom he practiced until his retirement in 2000. He was appointed to the Mississippi Supreme Court Advisory Committee on Rules, on which he served for sixteen years, including seven as Chairman. In 1976, Franck was elected to the American College of Trial Lawyers. He served as President of the Mississippi Defense Lawyers Association and was a charter Director and past President of the Bar Association of the Fifth Federal Circuit. He was awarded the American Inns of Court Professionalism Award, The Mississippi Bar Foundation Professionalism Award, The Mississippi Bar Award of Merit and its Lifetime Achievement Award. In 2012, he was inducted into the University of Mississippi School of Law Alumni Hall of Fame. He was a member of St. Richard's Catholic Church where he served as Vice-President of the National Council of Catholic Laity. Franck was later a communicant of St. Andrew's Episcopal Cathedral where he served for many years as a Lector and as a Convener of the Liturgy Commission.

Stewart Jones Gilchrist

Stewart Jones Gilchrist, 89, of Brentwood, TN, died June 23, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1950. He also attended the New York University Law School. Stewart served in the Navy during World War II and was discharged as an ensign. He later graduated from the University of California in 1947 with a Bachelor of Arts degree. He was a senior partner in the law firm of Gilchrist Sumrall Yoder and Boone. He served as past Chairman of the Community Chest Drive and March of Dimes. He served as President of the Laurel County Club. As a member of the Eastman Memorial Foundation Board of Trustees, he served as President of the Lauren Rodgers Museum of Art from 1972 to 1987. He was the Co-Chairman of the Trustees of Mississippi Art Association and Director of the Mississippi Arts Festival, Inc. He served many years as President of the Laurel-Jones County Library Association. He was also Chairman of the Lake Park Cemetery Board of Trustees. He was Chairman of the Laurel Centennial celebration. Stewart was also involved in forming the Walter Anderson Museum of Art in Ocean Springs, serving as President of the Friends of Walter Anderson in 1975. Gilchrist served on the board of directors of the Commercial National Bank, Howard Industries, Inc., Laurel Brick and Tile, and the University Club of Jackson. He was an active member of St. John's Episcopal Church. He was a past Junior Warden and Vestryman at the church.

William Byron Harvey

William Byron Harvey, 72, of Mobile, AL, died July 31, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1967. Harvey was a native of Jackson, MS and was a longtime resident of Mobile, AL. He received his Masters of Tax from New York University. Harvey served in the United States Army. Harvey was a member of Dauphin Way United Methodist Church. He retired as a partner with Armbricht Jackson LLP after almost 40 years of service.

Thomas Davis Kirschten

Thomas Davis Kirschten, 72, of Carrollton, died July 24, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1970. He was a member of Grace Episcopal Church in Carrollton. In 1961 he joined the Army where he served until 1964. He returned to Greenwood in the 80's, entering into a law practice with Webb Franklin until he opened his own practice in Carrollton, practicing law until he retired in 2007. Kirschten currently served on the Board of Directors of Peoples Bank & Trust Co., North Carrollton. He also served as Attorney for Carroll Academy, the Carroll County Board of Supervisors, The Town of Carrollton, Carroll County Prosecuting Attorney, Potacocowa Drainage District, served on the board of Evergreen Cemetery and was Founder and Chairman of the Carrollton Choral, Marching and Temperance Society.

IN MEMORIAM

Chokwe Lumumba

Chokwe Lumumba, 66, of Jackson, died February 25, 2014. A graduate of Wayne State University Law School, he was admitted to practice in 1991. Lumumba served as mayor of Jackson from June 2014 until his death. Lumumba was born in Detroit as Edwin Taliaferro, and changed his name in 1969. He moved to Jackson in 1971 as a human rights activist. He went to law school in Michigan in the mid-1970s and returned to Jackson in 1988.

William M. Mars

William M. Mars, 76, of Philadelphia, died September 4, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1964. Mars served in the U.S. Army. He began his legal career at Alford and Mars in 1964 and established the Mars, Mars, and Mars Law Firm in 1982 with his sons. He was a long-standing board member of the Citizens Bank, serving as Chairman from 2002 to 2008.

Mark S. Mayfield

Mark S. Mayfield, 57, of Ridgeland, died June 27, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1981. Upon receiving his law degree in 1981, he came back to Jackson and practiced real estate law with his father for 19 years until his father's death in 2002. Mayfield was an active member of First Baptist Church Jackson. He was a member of the St. Andrew's Episcopal School community.

Chester D. Nicholson

Chester D. Nicholson, 67, of Pass Christian, died May 24, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1984. Nicholson enlisted in the Army where he volunteered for Paratrooper training and received orders for the 501st Signal Battalion, 101 Airborne Division. During his training, he acquired a jump wings tattoo, was named soldier of the month three times, and claimed the Division rifle championship at 300 yards. In December of 1965 he was ordered to Officer Candidate School at Ft. Gordon, GA, and he became a commissioned officer. He landed with his Platoon in Phan Rang, South Vietnam. Following separation from active duty, he joined the Colorado National Guard where he held the rank of Captain. Nicholson and Nicholson, Lawyers was established in 1987. In 2009 Nicholson authored the regional best-seller, "Dream Room, Tales of the Dixie Mafia".

Henry W. Palmer

Henry W. Palmer, 66, of Meridian, died July 16, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1972. Palmer was elected District Attorney for the 10th Judicial District in 1974. Palmer served for eight years as Circuit Judge for the 10th Judicial District. He was serving as the attorney for the Kemper County Board of Supervisors, as he had

for 20 years, as well as attorney for the City of Meridian's Civil Service Commission, the Lauderdale County Tourism Commission, and Mississippi Power's involvement with the Kemper County coal plant. He is a past president of the Lauderdale County Bar Association. Palmer served on the Advisory Committee to the Mississippi Supreme Court. He has served as president of the Mississippi Association of County Board Attorneys Association and as president of the North Meridian Optimist Club and Meridian Jaycees. He was a past District Chairman for the Sowashee District, Chairman for the Choctaw Area Council of the Boy Scouts of America, and chairman of Lauderdale County's first March of Dimes Walk-A-Thon. He was a Mason. Palmer was a Gideon and Deacon and a member of Highland Baptist Church.

Paul D. Perry

Paul D. Perry, 55, of Flowood, died July 13, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1985. Perry was the Vice President Corporate Counsel and served 25 years at Southern Farm Bureau Casualty Company in Ridgeland. He was a member of Grace Community Church in Jackson. Perry was also the founder of the charitable organization, Seed Sower Trust, Inc.

Alvin Lewis Pressgrove, Jr.

Alvin Lewis Pressgrove, Jr. 91, of Southaven, died March 29, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1949. He served in the Army during World War II in the Pacific Rim. He practiced law in Tennessee and Mississippi for 45 years, making Southaven his home. He was appointed as Southaven's 1st city judge. He was a member of Southaven First United Methodist Church and Southaven Rotary Club, where he served as the seventh president.

Hugh C. Redhead

Hugh C. Redhead, 71, of Jackson, died June 1, 2014. A graduate of Mississippi College School of Law, he was admitted to practice in 1975. He joined the U.S. Navy in 1962, and served on the aircraft carrier U.S.S. Independence. In 1992, he returned to Woodville where he was associated with the Mississippi Department of Human Services in the Child Support Division. In 1993, he returned to Jackson.

Todd C. Richter

Todd Christian Richter, 49, of Brandon, died July 15, 2014. A graduate of Mississippi College School of Law, he was admitted in 1992. He was a member of The Ole Miss M-Club. He practiced law in the Jackson area until his death.

Continued on next page

Anthony Scardino

Anthony "Tony" Scardino, 27, of Hattiesburg, died August 8, 2014. A graduate of Mississippi College School of Law, he was eligible for admission in the fall of 2014. A week before his death he sat for the Mississippi State Bar exam. He died in Fort Gordon, Georgia while he was enrolled in the Basic Officer Leadership Course and participating in a Land Navigation training exercise.

S. J. Simpson

S. J. Simpson, 95, of Winona, died July 25, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1948. He attended University of Texas Law School in 1946. He practiced law in Winona from 1948-1953, and served as Mayor of Winona from January 1949 until July 1953. Simpson served in the U.S. Army Air Force during World War II. He was discharged with rank of T/Sergeant. Simpson was an active member of Moore Memorial United Methodist Church. He was a life member of Herring-Harris Post 3938, Veterans of Foreign Wars and Life member and past commander of Nick T. Pegues Post 52, the American Legion, along with long time member and past president of the Winona Rotary Club.

Roy Bedford Strickland

Roy Bedford Strickland, 80, of Collins, died September 1, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1961. He joined the US Marine Corp and served during the Korean Conflict. He was elected to the State Legislature from Stone County from 1960-1968. He served as Chancery Judge from 1968-1972 for Harrison, Hancock and Stone Counties. He also served as the first judge for the City of Wiggins and was the attorney for Mississippi Gulf Coast Community College for many years. He was very active in BPOE (Elks) Club where he served as the state president. He was a member of the First United Methodist Church in Wiggins and was a Sunday school teacher for many years in Gulfport. Strickland was awarded the Sam Owen Trophy for Jr. College Leadership in 1966.

Garland D. Upton

Garland D. Upton, 79, of Columbia, died January 12, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1964.

Hermine McBee C. Welch

Hermine McBee C. Welch, 73, of Madison, died June 1, 2014. A graduate of Mississippi College School of Law, she was admitted to practice in 1989. She was an active communicant of Chapel of the Cross Episcopal Church.

Winton E. Williams

Winton E. Williams, 78, of Gainesville, FL, died June 27, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1962. Upon obtaining his Bachelor's degree and completing the Navy ROTC program at Tulane University, he was commissioned and served on a small combatant in the North Atlantic that was part of our Country's Distant Early Warning Line. After practicing law and being active in management of small businesses, he joined the faculty of the University of Florida's College of Law in 1969 where he taught commercial law courses and seminars until his retirement in 2003. He served on the Board of Directors of Campus USA Credit Union for over 40 years, chairing that Board several times during his tenure.

James W. Wilson

James W. Wilson, 72, of Ocean Springs, died January 5, 2013. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1972. He also attended University of San Diego School of Law. Wilson served in the United States Navy from 1963 to 1968. He served as City Attorney from 1977-1980. He then founded law firms in Biloxi and New Orleans, LA. Later, he founded Wilson Elder Law Center. Wilson served on the Board of Directors for the Gulf Hills Civic Association and was a past president. He also served on the Board of Directors for the ARC of Mississippi. He was a supporter of the Special Olympics of Mississippi, the Gulf Coast Down's Syndrome Society, the American Heart Association, and the Alzheimer's Association.

Frank McEachern Youngblood

Frank McEachern Youngblood, 87, of Brandon, died June 25, 2014. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1951. He had a general law practice in Jackson and Brandon for over 60 years. He served in Europe in the Air Force during WWII, attaining the rank of Lt. Col.

LAWYERS HELPING LAWYERS

Yes, In Fact, You Are Your [Colleagues'] Keeper

As lawyers, we have all experienced, observed, or dealt with impairment. That's not hyperbole, it is simply fact. Maybe it was your own experience when life or the practice of law, or both became somehow overwhelming. Or, if you haven't experienced it personally, you have known/known of an attorney who has "lost it." Sometimes an attorney loses his job. Maybe he's suspended or possibly disbarred. Most tragically, in other instances, we hear that an attorney has lost or has taken his life. The circumstances vary widely, but frequently the underpinnings of the tragedy are an untreated addiction or another mental/behavioral health issue.

This is when we as a profession are, and rightly so, confronted with an old question, "Am I my brother's keeper?" It's a timeless question from an ancient story with present day, real world implications in our society and particularly in our profession. To what extent are we accountable for our care for one another? At what level of connection do we have an obligation to "look out" for someone else? What, if any, is our obligation, our duty and to whom?

In each of these instances there are fellow lawyers, sometimes many, who

knew there was a problem. Unfortunately in the days and weeks that follow such a tragedy, LJAP Volunteers and I hear a common refrain. We hear, "I, or everyone, knew she had a problem." Such statements may be factual, though not particularly helpful. Others, like "Nothing anyone could have done," are based in misinformation and are dangerous. Other times the sentiment comes in the form of a question, "What, if anything could I or anyone have done?"

The purpose of this article is to offer a response to those statements and questions. In short, there are most certainly things that we can do; things that you can do to help possibly prevent the next tragedy. You can start by simply being cognizant of the countenance and conduct of your colleagues. Are they showing up, suited up, and ready to proceed? Or are they missing in action, unprepared, or unprofessional when they do show up? Has there been a change in their behavior, their demeanor, or the caliber of their work?

If you have concerns, don't sit back and hope it's not another tragedy in the making. Take action; investigate. If your relationship with the attorney allows, ask directly. If there is a problem, offer your

support, and suggest they contact LJAP. You can never know how much a genuine caring inquiry will mean to someone in serious need. If you don't know the attorney that well, ask someone you trust, who you know will treat your question confidentially if they are aware of any problem. This is not about gossip; it's about gathering important information, and possibly facilitating assistance for someone in need. If, for whatever reason, these options aren't possible, call a local LJAP volunteer or call me (601-201-0577.) Your contact with LJAP is always held in strict confidence unless you specifically authorize otherwise.

Yes, you are your brother's [colleague's] keeper. You owe a duty to your fellows, to our profession, and to yourself to take action; to do your part to avert tragedy. In the words of Sean, Will's therapist in *Good Will Hunting*, played by Robin Williams, "Your move Chief." ■

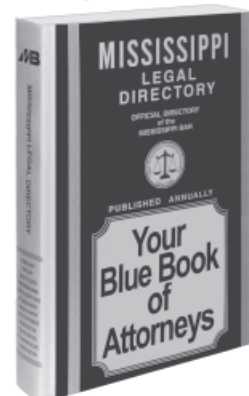
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CLE Calendar of Events

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.

JANUARY

- 15 NBI "Adoption Law: Start to Finish." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
- 21 Children's Advocacy Centers of Mississippi "Law & CAC's." 6.0 credits. Jackson, MS. Contact 715-835-8525.
- 29 UM CLE "Winter MS Municipal Attorneys' Association CLE." 6.0 credit (includes ethics). Jackson, MS, Hilton Hotel. Contact 662-915-7283.
- 30 MS Bar "CLE on the Road." 6.0 credits (includes ethics). Laurel, MS. Contact 601-353-1703, Kellie Freeman.

- 30 UM CLE "Social Security Disability Law CLE Seminar." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.

FEBRUARY

- 6 UM CLE "21st Annual Mid-South Conference on Bankruptcy Law." 6.0 credits (includes ethics). Memphis, TN, Hilton Hotel. Contact 662-915-7283.
- 9 NBI "Revolving Title Issues: From Surveys & Liens to Restrictions & Authority." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
- 10 Sterling Education Services, Inc. "Landlord-Tenant Law: How to Prosper in the New Market." 6.7 credits (includes ethics). Gulfport, MS. Contact 715-855-0495.
- 13 E. Farish Percy "Summary of Recent MS Law." 6.0 credits (includes ethics). Oxford, MS. Contact 662-832-8605.
- 20 E. Farish Percy "Summary of Recent MS Law." 6.0 credits (includes ethics). Jackson, MS. Contact 662-832-8605.
- 27 E. Farish Percy "Summary of Recent MS Law." 6.0 credits (includes ethics). Biloxi, MS. Contact 662-832-8605.
- 27 UM CLE "14th Annual Guardian Ad Litem Certification CLE Seminar." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.

MARCH

- 3 NBI "Employment Law: 2015 Comprehensive Guide." 6.0 credits. Jackson, MS. Contact 715-835-8525.
- 4 NBI "Employment Law: 2015 Comprehensive Guide." 6.0 credits. Gulfport, MS. Contact 715-835-8525.

- 6 UM CLE "Effective Trial Skills & Litigation Strategies." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-7283.

- 10 NBI "MS Special Education Law." 6.0 hours (includes ethics). Tupelo, MS. Contact 715-835-8525.

APRIL

- 10 UM CLE "Effective Mediation Skill (Refresher)." 6.0 hours (includes ethics). Ridgeland, MS, Hyatt Place. Contact 662-915-7283.
- 21 NBI "Planning for Long Term Care." 6.0 credits (includes ethics). Jackson, MS. Contact 715-835-8525.
- 24-25 UM CLE "Mississippi Law Update." 12.0 credits (includes ethics). Natchez, MS, Dunleith Plantation. Contact 662-915-9282.

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M.A., University of Mississippi

(2003) (Classical Languages)

J.D., University of Mississippi School of Law (2011)

EMILY H. WILKINS

Jackson Office

B.A., Accountancy, University of

Mississippi (cum laude 2006)

M.A., Taxation, University of Mississippi (2007)

J.D., University of Mississippi School of Law

(cum laude 2014)

CPA, State of Alabama (2009)

MARCUS A. WILLIAMS

Jackson Office

B.A., University of Mississippi (2010)

J.D., University of Mississippi School of Law

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Michael Williams is a patent attorney and practices with the firm's Intellectual Property Practice Group. Michael obtained his undergraduate degree in Biological Engineering and Bio-Medical Engineering (B.S.) from Mississippi State University and his Juris Doctor from the University of Mississippi School of Law.

Michael is admitted to practice law in the U.S. Patent and Trademark Office, as well as in state and federal courts in Mississippi. As a patent attorney, Michael is able to prepare, file and prosecute patent applications, represent inventors before the Patent Trial and Appeal Board and represent inventors before the Trademark Trial and Appeal Board on patent issues.

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NOTICE TO CLAIMANTS OF HERMINE WELCH, P.A.

BE IT KNOWN that Hermine Welch Phelps (a/k/a Hermine Welch), sole member of Hermine Welch, P.A., departed this life on or about June 1, 2014. At the time of her death, Hermine Welch Phelps was actively engaged in the practice of law. At the time of her death, certain funds were held in the Interest On Lawyers Trust Account ("IOLTA") of Hermine Welch, P.A., and/or in the operating account of Hermine Welch, P.A. Notice is hereby given to all persons and entities having any claim against said accounts and the monies therein. Furthermore, notice is hereby given to any person or entity requesting their file, attorney's notes or other claim or demand regarding any aspect of their representation by Hermine Welch, P.A. Therefore, any person or entity wishes to assert any claim, demand or other request as set forth herein shall present same to the attorney for the Executor under the Last Will and Testament of Hermine Welch Phelps, namely, Samuel H. Williford, Esq., 303 Highland Park Cove, Suite A, Ridgeland, Mississippi 39157, by certified mail return receipt on or before December 15, 2014, or they will be forever barred. Nothing in this Notice shall be deemed to admit that any claims submitted pursuant to this Notice could be considered to be a debt of the Estate of Hermine Welch Phelps, deceased. Any and all claims submitted pursuant to this Notice shall be deemed separate from any claim filed pursuant to the Notice to Creditors.

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