THE MISSISSIPPI
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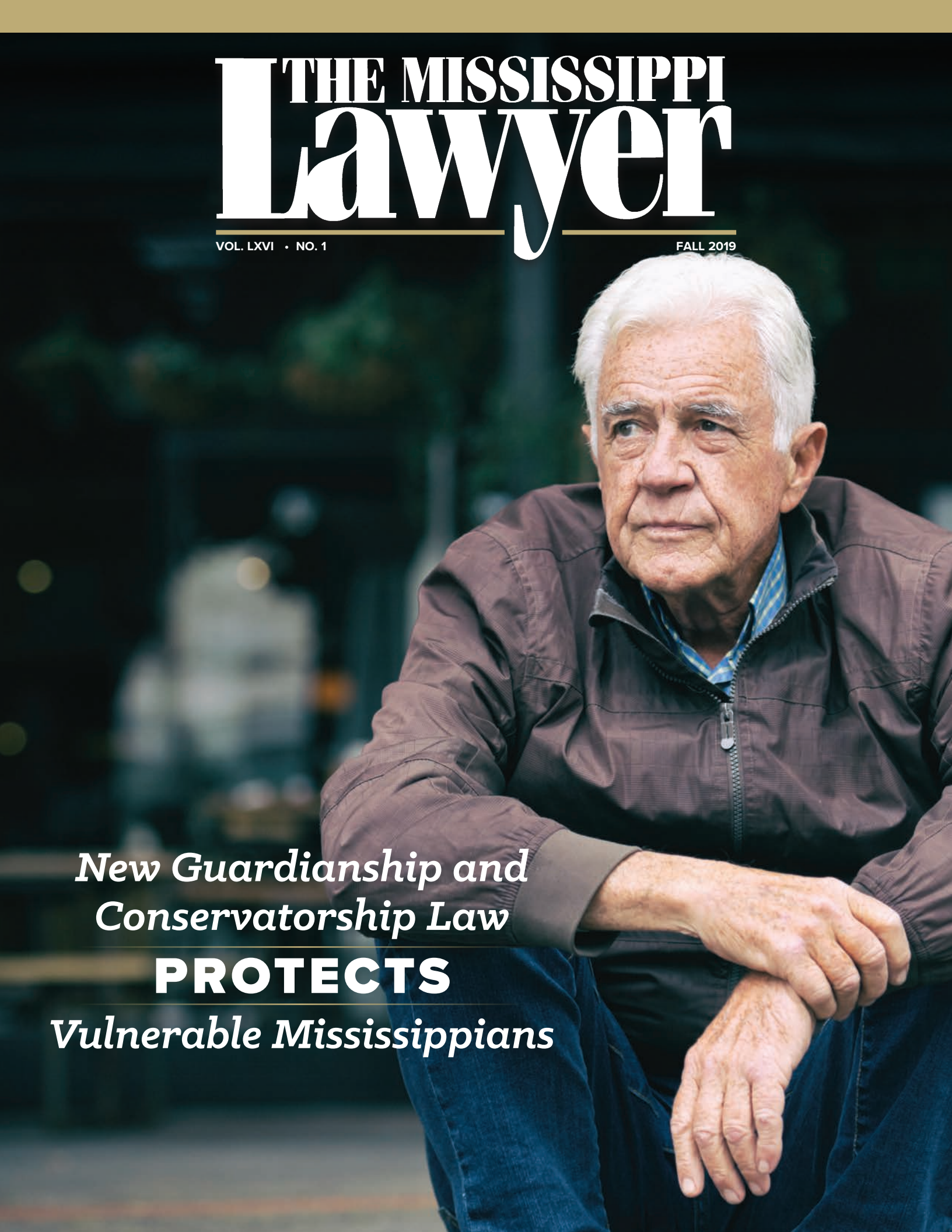

New Guardianship and Conservatorship Law
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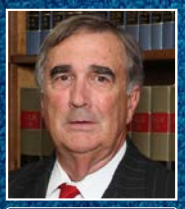

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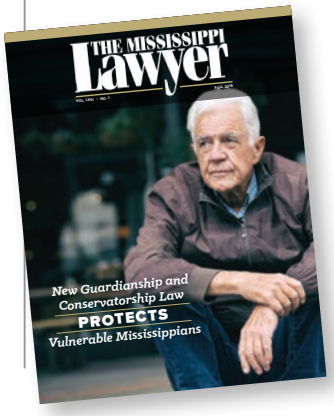
DEPARTMENTS



ON THE COVER:
New Guardianship and Conservatorship Law Protects Vulnerable Mississippians

THE MISSISSIPPI BAR

MEMORIAL RESOLUTION

OCTOBER 15, 2019

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

WHEREAS, we are deeply saddened by the passing of these members of the profession; and

WHEREAS, we recognize and give thanks for the legacy of each in shaping this honored profession both in Mississippi and beyond. While some gave decades of service, the careers of others were cut short, but we acknowledge each had an impact on the pursuit of justice and upholding the rule of law; and accordingly we celebrate the legacy and memory of their dedication and contributions to our profession; and

WHEREAS, we give thanks for the devoted public service of those we honor today, and we acknowledge that, without their devotion, and often sacrifice, which they exemplified, the liberty and freedoms we enjoy today would be endangered and our individual lives diminished; and

WHEREAS, we acknowledge that the enduring memory and example of those we honor today remind us that we, too, are called upon "to do justice, love mercy, and walk humbly with our God;" and

WHEREAS, in mourning the loss of these members of the bar, we also recognize that their passing will never diminish the profound impact each has made in the lives of their families, their colleagues, their communities, and on this profession; and

WHEREAS, in the reading of these names of our departed colleagues, we express our admiration, respect, and deepest gratitude for their service to our profession and for enriching our lives and communities with their friendship:

Alexander A. Alston, Jr.
Louis G. Baine, Jr.
Frank D. Barber III
James A. Becker, Jr.
Woodrow W. Brand, Jr.
James P. Brantley
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Wallace W. Wood
David A. Yost

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 15th day of October 2019, pay tribute and honor to our deceased colleagues, recognizing their manifold contributions to our State, our profession, and our society.

BE IT FURTHER RESOLVED that the members of The Mississippi Bar here assembled before the Justices 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
Amanda Tollison, President

REMARKS OF
AMANDA TOLLISON
President of The Mississippi Bar

MEMORIAL SERVICE
OCTOBER 15, 2019

Chief Justice Randolph and distinguished members of the judiciary,
May it please the Court,
Greetings to my fellow members of The Mississippi Bar and to the families and friends of the lawyers that we honor and memorialize today.

I am honored to speak on behalf of the more than 11,000 members of The Mississippi Bar and to extend our heartfelt sympathy to the families and friends of each member of the legal community that we have lost. It is a privilege to pay tribute to and mourn the passing of our colleagues in the profession as well as to celebrate the life and memory of your loved ones who passed away during this past year.

The Preamble to the Mississippi Rules of Professional Conduct tells us that "A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice." Each of the lawyers we honor today served their clients, the legal system, and the pursuit of justice well. Some practiced law for many years; others' time was cut short. Some I knew well and admired their contributions and service to their clients and to the profession. Others I knew by reputation, but I have certainly felt the lasting effects of the legacy they leave behind.

As we mourn the loss of our fellow members of the bar, we recognize that their passing will never diminish the profound impact each has made in the lives of their families, their communities, their colleagues, and on this profession.

IMPACT ON THE FAMILY

You as family members know the impact that your husband, father, brother, son, or wife, mother, sister, or daughter had on your lives. Although their absence is felt today, we do hope you find solace from the God of all comfort and by our reflections on their lives.

As family members, you also know that the legal profession in which your loved one was engaged is a calling. I am sure that instances come to your mind now as we sit here today of them preparing for a trial late into the evening hours, or writing an appellate brief or practicing their oral argument, or representing a criminal defendant whose life was hanging in the balance, or fighting for custody of their client's children, advocating for redress of civil rights violations, providing trusted counsel and advice to a business client through tough economic times, mediating a dispute … or even spending weeks and months at a time in another city serving their constituents in the State House of Representatives or in the Halls of Congress.

In answering that call, they pursued justice, rectified oppression, fought on someone's behalf. This calling brings to mind the words of the prophet Isaiah, first chapter, 17th verse where he called the people of God to "learn to do good; seek justice, correct oppression; bring justice to the fatherless, plead the widow's cause." The lawyers we honor today did just that. And you as family members recall specific instances of their doing so. You supported and encouraged them in these noble pursuits and in responding to that calling.

continued on next page

AMANDA TOLLISON
President of the Mississippi Bar
2019-2020

REMARKS OF AMANDA TOLLISON

IMPACT ON THEIR COMMUNITIES

These men and women also had a tremendous impact on their communities as often lawyers do. They were the ones welcoming newcomers to the neighborhood; serving their church as a deacon, elder or teacher or as a leader in their synagogue; volunteering at their children's school; coaching youth, whether their own or others in their community, on various sports teams; or serving as scout leaders. They were civic leaders in big and small ways in their communities. For some, their larger community was their hometown, where theirs was a familiar face, a relative, a longtime family friend; they came back home to serve and to contribute and to lead. For others they moved to and adopted a new hometown and became deeply involved in the life of the community investing their time, energy, and talents to making the world around them a better place. And for a few, their communities extended throughout the entire state and even beyond its borders. No one person will ever know the full impact of your loved ones on their communities as the ripple effects of their lives as lawyers will continue for years. Their passing leaves a void in their communities that each of us here today must strive to fill – by honoring them and their many contributions to the preservation of society and to the system of justice.

IMPACT ON THEIR COLLEAGUES

Your loved ones also had a tremendous impact on their colleagues in the profession. They were law partners who mentored us, who taught us, who passed on clients and business to us… who showed us how to treat other lawyers, staff and our clients.

They were worthy opponents, who zealously advocated for their clients. From them, we learned what it means to represent our clients fervently but with integrity, to serve as an officer of the legal system, upholding its rules and ideals. And they, as iron sharpens iron, made us better lawyers.

They were honorable public citizens, seeking as the Preamble provides "the improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession." They used their civil influence to ensure equal access to our system of justice for all and to build public trust in the judicial system. Some were public citizens, who quietly persuaded their colleagues in the U.S. Senate to provide funding for legal services. Some took on pro bono cases to ensure access to justice was for all. Each of these lawyers in their own ways contributed to the administration of justice as public citizens and members of the legal profession.

> **"The practice of law is more than a mere trade or business, and … those who engage in it are the guardians of ideals and traditions to which it is right that they should from time to time dedicate themselves anew."**

As Elzy Smith, then president of the Bar, so eloquently put it in his memorial address forty-two years ago, "Our gathering here today signals profoundly that we know how important we are to each other. This memorial service testifies to our sense of community with those who have worked with us, been a part of us in personal and professional life."

It is this sense of community, the legal community, on which I want to linger on for a moment.

The Lawyer's Creed provides:

> To my colleagues in the practice of law, I offer concern for your reputation and well-being. I will extend to you the same courtesy, respect, candor and dignity that I expect to be extended to me. I will strive to make our association a professional friendship.

We pledge to be a community – to treat each other with dignity. We acknowledge we need each other and are concerned about each other's well-being.

Our community has experienced great loss this year – a loss of learning, a loss of ability, a loss of service. Every member of the Bar in this room feels that loss deeply and in individual ways. But that is because we were connected to these great men and women. We practiced law with them down the hall, in the same town, or across the aisle. Let us be inspired by their lives of service to the legal community and step and up and fill the gaps that are left. Let's be the support, the encouraging voice, and the listening ear to our colleagues in the profession. Let us renew our commitment to offer concern for each other's reputation and well-being to honor those whose time on earth has ended and who have been called to their eternal home.

IMPACT ON THE PROFESSION

As lawyers, we promise to "strive to keep our business a profession and our profession a calling in the spirit of public service." The Lawyer's Creed.

The legal profession is unlike any other in that it is a calling to serve – to help those that cannot help themselves – to provide help that only we, as lawyers, are equipped to give. Among those in the profession we memorialize today are two legislator-lawyers and two former Bar Presidents – whose lives of service to the public and service to the Bar have brought honor and respect to the legal profession. One dedicated his entire professional life to public service shortly after serving the Bar as Young Lawyers President. All served their clients diligently, competently - exemplifying the legal profession's ideals of public service, doing their part to support and preserve the integrity of the justice system and our democracy.

As has been said,

> The practice of law is more than a mere trade or business, and … those who engage in it are the guardians of ideals and traditions to which it is right that they should from time to time dedicate themselves anew.
>
> Hugh Patterson MacMillan, *Scottish lawyer – the Ethics of Advocacy 1916.*

Let us pay tribute to those we honor today by renewing our dedication to the ideals of our profession – integrity, civility, professionalism, civic responsibility, compassion, excellence.

As we hear their names read aloud from the Memorial List, we remember their lives as well as the valuable contributions to their communities, their colleagues, and to the profession. And my prayer for all of you is that God will comfort you in your grief with sweet memories of your friends and loved ones and grant you his peace which surpasses all understanding. ■

SPECIAL THANKS TO THE

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New Guardianship and Conservatorship Law

PROTECTS

Vulnerable Mississippians

By Richard A. Courtney and Gray Edmonson

The Mississippi Supreme Court established the Commission on Guardianships and Conservatorships in Spring 2017 to protect both the persons and property of vulnerable Mississippians. The Commission conducted a thorough review of existing guardianship and conservatorship statutes, and recommended a comprehensive update of those laws as well as of the Mississippi Uniform Chancery Court Rules and forms. The new statutory scheme was approved by the legislature and signed into law by the governor, taking effect January 1, 2020. This article describes how the new law provides more protection of persons subject to guardianship and greater accountability to the courts for oversight of those cases.

The Mississippi Guardianship and Conservatorship Act, based largely on the Uniform Guardianship, Conservatorship and Protective Arrangements Act (2017), and codified at Title 93, Chapter 13 of the Mississippi Code, is organized in four articles. Article 1 contains general provisions and definitions; Article 2 pertains to guardians of minors; Article 3 deals with guardians of adults; and Article 4 describes conservatorship of assets for minors and adults.

continued on next page

ARTICLE 1
GENERAL PROVISIONS

The definitions in Section 102 of Article 1 establish the terminology applicable under the new law. A "respondent" under subsection (r) is a person for whom appointment of a guardian or conservator is sought; and a "the ward" under subsection (u) is a person for whom a guardian or conservator has been appointed. Subsection (c) defines "conservator" as the fiduciary over "property or financial affairs" of a ward, whether the ward is a minor or adult; and subsection (g) defines "guardian" as the person(s) to make decisions "with respect to the personal affairs of a ward." There will no longer be a guardian or conservator "of the person and estate". Subsections (e) and (f) provide for, respectively, "full conservatorship" or "full guardianship" with all powers under the statute. Subsections (k) and (l) describe "limited conservatorship" and "limited guardianship" as granting to the fiduciary less than all powers provided in the Act or otherwise restricting the fiduciary's actions. (The powers permitted by and without court approval are addressed in later sections of this article.) A "less restrictive alternative" as defined in subsection (i) means an approach to meeting a person's needs that restricts fewer of that person's rights than appointment of a guardian or conservator. A goal of the Act is to protect the right of vulnerable persons to manage those property and personal affairs that they are capable of managing, and to provide court supervision and accountability only over those assets and matters that need it.

Section 104 recognizes the jurisdiction of the chancery courts over a guardianship or conservatorship for a person domiciled or having property in this state, and the court's exclusive jurisdiction to determine how property of the ward is to be used for the support of the ward or a dependent of the ward. Section 105 addresses the coordination required by Mississippi courts and courts of other states where a guardianship or conservatorship is pending or where a guardian or conservator has been appointed. That section defers to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act in matters concerning transfer of adult guardianships between states.

Section 108 requires filing of a Certificate of Attorney and a Certificate of Fiduciary, unless waived by the court, for issuance of letters of guardianship or conservatorship, and the letters must state any limitations on the powers granted. Sections 111 and 112 set forth that courts may appoint a successor guardian or conservator to serve immediately or upon the death, removal or resignation of a fiduciary.

Section 113 provides that, except as otherwise provided in Section 203, 303(3) or 403(3), if notice of a hearing under the Act is required, the movant must give notice of the date, time, and place of the hearing in compliance with Rule 81 of the Mississippi Rules of Civil Procedure to the person to be notified unless otherwise ordered by the court for good cause shown. Section 114 provides that proof of notice of a hearing under the Act must be made before or at the hearing and filed in the proceeding, unless waived in writing. A respondent or the ward may not waive notice. Notice of a hearing must be in at least sixteen point font, in plain language, and, to the extent feasible, in a language in which the person to be notified is proficient. Any person interested in the ward's welfare may file a motion to intervene as provided by Mississippi Rule of Civil Procedure 24.

Section 117 requires a person petitioning for appointment to disclose past bankruptcy filing or criminal conviction. An attorney for a respondent or who obtains an order beneficial to the ward may petition for and be paid attorney's fees under Section 118. Fees must be approved before payment, but need not be approved before a service is rendered or expense incurred. Section 119 provides for payment of fees and expenses to a guardian or conservator, and lists the factors to be considered in approval of such fees.

Sections 120 through 122 address liability issues. Section 120 provides that guardians and conservators are not liable for acts or omissions of their wards. Section 121 allows guardians or conservators to petition the court for instructions regarding their responsibilities. Section 122 describes the situations in which a third party may refuse to comply with a decision or action of a guardian or conservator.

The court may appoint a temporary substitute guardian or conservator pursuant to section 123. Section 124 permits a guardian or conservator appointed in another state to file certified copies of the order and letters as a foreign judgment in the appropriate Mississippi court where the ward resides or owns property, and the court "may grant any relief available under this act and

law of this state other than this act to enforce an order registered under this section."

The transition provisions of Section 125 hold that all guardianships and conservatorships commenced on or after the effective date, as well as existing proceedings unless otherwise ordered by the judge, will be subject to this law; and actions taken in existing proceedings prior to the effective date will not be affected by the new statutes.

ARTICLE 2
GUARDIANSHIP OF MINOR

Basis for Appointment. A guardian may be appointed for a minor under Section 201 if the court finds appointment in the minor's best interest, and: (a) each parent of the minor consents after notice; (b) all parental rights have been terminated; or (c) clear and convincing evidence exists that no parent is willing or able to exercise powers the court is granting the guardian. Section 207 allows for the appointment of an emergency guardian for a minor if such an appointment is likely to prevent substantial harm to the minor's health, safety, or welfare; and no other person appears to have authority and willingness to act.

Petition and Notice. Section 202 allows any person with an interest in the welfare of the child, including the child, to petition for appointment of a guardian. The petition must include:

1. The name and address of any attorney for the parents of the minor;
2. The reason guardianship is sought and would be in the best interest of the minor;
3. The name and address of any proposed guardian and the reason the proposed guardian should be selected; and
4. If the minor has property other than personal effects, a general statement of the minor's property with an estimate of its value.

Under Section 203, 7 days' notice of the hearing is required to each of the following:

1. Minors 14 years old or older at the time of the hearing;
2. Each parent of the minor who can be found with reasonable diligence or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;
3. Any adult with whom the minor resides;
4. Each individual who had primary care or custody of the minor for at least 60 days during the 6 months immediately before the filing of the petition; and
5. Any other person the court determines should receive service of notice.

Additionally, the petition must state the name and address of the attorney representing the petitioner and under the style, before the body, of the petition state in bold or highlighted that "the relief ought herein may affect your legal rights. You have a right to notice of any hearing on this petition, to attend such hearing, and to be represented by an attorney." Section 204 gives the court authority to appoint an attorney to represent a minor if requested by a minor over 14 years of age, a guardian ad litem, or if the court determines the need.

Rights at the Hearing; Order of Appointment. A minor subject to a proposed guardian is required to attend the hearing and may participate unless the court determines, by clear and convincing evidence, grounds provided by Section 205 are present. Likewise, absent court approval on good cause, the proposed guardian must attend the hearing. Parents of the minor have the right to attend.

Section 206 outlines the requirements for an order appointing the guardian of a minor. Such order may appoint a guardian, dismiss the proceeding, or take other appropriate action. In terms of priority, the court shall appoint a person appointed guardian by a parent's Will or other record. If the parents appoint different people, then the court shall determine which of those persons is in the minor's best interest. In the absence of any such appointment, the court should appoint anyone desired by a minor 14 years old or older unless contrary to the minor's best interest.

Similar to the rest of the Act, the court may appoint limited guardians in the interests of maintain or encouraging the minor's parent to be involved with the minor, to develop self-reliance of the minor, or for other good cause. In any event, the order of appointment shall state rights retained by the minor's parents including visitation, decision making, education or otherwise.

Duties of Guardians. Section 208 sets forth the duties of a minor's guardian as well as recognizing that the minor's guardian serves as a fiduciary. Those duties require the guardian to:

1. Become personally acquainted with the minor and maintain sufficient contact with the minor to know and report to the court the minor's abilities, limitations, needs, opportunities, and physical and mental health;
2. Take reasonable care of the minor's personal effects and bring a proceeding for a conservatorship if necessary to protect other property of the minor;
3. Expend funds of the minor that have been received by the guardian for the minor's current needs for support, care, education, health, safety, and welfare;
4. Conserve any funds of the minor not expended under paragraph (c) for the minor's future needs, but if a conservator is appointed for the minor, pay the funds as directed by the court to the conservator to be conserved for the minor's future needs;
5. Report the condition of the minor and account for funds and other property of the minor in the guardian's possession or subject to the guardian's control, as required by court rule or ordered by the court on application of a person interested in the minor's welfare;
6. Inform the court of any change in the minor's dwelling or address; and

continued on next page

7. In determining what is in the minor's best interest, take into account the minor's preferences to the extent actually known or reasonably ascertainable by the guardian.

Powers of Guardians. Under Section 209, a minor's guardian generally has the same powers as the minor's parent unless limited by the order of appointment including the powers to:

1. Apply for and receive funds up to the amount set forth in Section 431 and benefits otherwise payable for the support of the minor to the minor's parent, guardian, or custodian under a statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;
2. Unless inconsistent with a court order entitled to recognition in this state, take custody of the minor and establish the minor's place of dwelling and, on authorization of the court, establish or move the minor's dwelling outside this state;
3. If the minor is not subject to conservatorship, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the minor or make a payment for the benefit of the minor;
4. Consent to health or other care, treatment, or service for the minor; or
5. To the extent reasonable, delegate to the minor responsibility for a decision affecting the minor's well-being.

Removal and Termination. Under Section 210, guardianship of a minor terminates upon death, adoption, emancipation, attainment of majority, or any other date set by the court. In addition, unless the court finds it would be harmful for the minor and continuance of the guardianship is in the minor's best interest, a guardian terminates when the basis for appointment no longer exists. The minor or any other party may petition for removal, termination, or modification. The court may order transitional arrangements if the guardianship is terminated to assist in transitioning custody. In the event any successor guardian is appointed, notice must be given to the minor (if 14 or older), to each parent of the minor, and to any other person required by the court.

ARTICLE 3
GUARDIANSHIP OF ADULT

Basis for Appointment. A guardian may be appointed for an adult when the adult "lacks the ability to meet essential requirements for physical health, safety or self-care, because: (a) the adult is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services or technological assistance; or (b) the adult is found to be a person with mental illness or a person with an intellectual disability as defined in Section 41–21–61 who is also incapable of taking care of his or her person." In appointing a guardian, the court is only to grant powers necessitated by the demonstrated needs of the ward. The court is to consider any less restrictive alternatives and encourage "the development of the ward's maximum self-determination and independence."

The court may appoint an emergency guardian for an adult under Section 311 on a finding that appointment is likely to prevent substantial harm to the adult's physical health, safety, or welfare; no other person appears to have authority or a willingness to act; and there is reason to believe basis exists for a non-emergency guardianship. Emergency guardianships last for a period of no longer than 60 days which may be extended only one time. If the court appoints without notice, the court must give notice within 48 hours after appointment to respondent, respondent's attorney, and any other person the court determines, and hold a hearing on appointment within 5 days after.

Notice. Section 303 requires that notice of a hearing for appointment of a guardian for an adult be given not less than 7 days prior to the hearing to the proposed ward. Unless the court issues a finding that the proposed ward, who joins in the petition, is competent, notice also must be given to each of the spouse, children, parents and siblings of the proposed ward and, if none, to one adult relative of the ward who is not the petitioner. Should there be no such people, the court is required to designate someone to receive notice or, alternatively, appoint a guardian ad litem. In order to ensure that the proposed ward knows the seriousness of the petition, it sets forth under the style of the case the following language in bold or highlighted "The relief sought herein may affect your legal rights. You have a right to notice of any hearing on this petition, to attend such hearing, and to be represented by an attorney."

After a guardianship is established, a number of parties may be entitled to notice of certain events. Under Section 309, an order appointing a guardian for an adult, must state the names of individuals entitled to notice upon a number of events including an order appointing the guardian, a change in the primary dwelling of the ward, delegation of powers, filing of a guardian's plan, death of the ward, removal of the guardian, etc.

Professional Evaluation. Proof of the need for a guardian shall be supported by certificates from either (a) two licensed physicians; or (b) both (i) one licensed physician and (ii) one licensed psychologist, nurse practitioner, or physician's assistant, none of whom can be in a collaborative or supervisory relationship with the physician. Examinations may be held face-to-face or via telemedicine.

Who May Serve. Under Section 308, the court ultimately has discretion to determine who may serve as guardian for an adult considering "the person's relationship with the respondent, the person's skills, the expressed wishes of the respondent, including any designation made in a will, durable power of attorney, or health-care directive, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a guardian successfully." Anyone who provides paid services to the ward or certain relatives of persons

providing paid services to the ward are prohibited from serving unless the individual is related to the ward by blood, marriage, or adoption; or the court finds by clear and convincing evidence that the person is best qualified and the appointment is in the ward's best interest. Any owner, operator, or employee of a long-term care institution where the ward is receiving care may not be appointed as guardian unless related to the ward by blood, marriage, or adoption.

Rights at the Hearing; Order of Appointment. At any hearing for the appointment of a guardian of an adult, Section 306 states that the proposed ward may present evidence, subpoena witnesses and documents, examine witnesses, and otherwise participate in the hearing. The proposed guardian must attend the hearing unless excused by the court for good cause. Any other person interested may participate upon court determination that such participation is in the best interest of the proposed ward. Upon request of the proposed ward and a showing of good cause, the hearing may be closed.

Section 309 requires that any order appointing a guardian for an adult specifically find, by clear and convincing evidence, that the proposed ward's need cannot be met by a less restrictive alternative "including use of appropriate supportive services and technological assistance" and that the proposed ward was given proper notice of the hearing. Generally, limited guardianships should be ordered with specific powers granted to the guardian listed. Otherwise, for a general guardianship, the court must state, by clear and convincing evidence, the basis for a full guardianship with specific findings supporting that conclusion.

Within 14 days after an order appointing a guardian for an adult, Section 310 requires the ward and certain other persons (generally the same persons entitled to notice of the hearing) be provided notice with a copy of the order of appointment, along with notice of the right to request termination or modification of the guardianship. Likewise, the guardian must request the court to provide the same persons notice of the ward's rights to:

1. Seek termination or modification of the guardianship or removal of the guardian, and choose an attorney to represent the adult in these matters;
2. Be involved in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions, to the extent reasonably feasible;
3. Be involved in health-care decision-making to the extent reasonably feasible and supported in understanding the risks and benefits of health-care options to the extent reasonably feasible;
4. Be notified at least 14 days before a change in the adult's primary dwelling or permanent move to a nursing home, mental-health facility, or other facility that places restrictions on the individual's ability to leave or have visitors, unless the change or move is proposed in the guardian's plan under Section 315 or authorized by the court;
5. Object to a change or move described in paragraph (d) and the process for objecting;
6. Communicate, visit, or interact with others, including receiving visitors, and making or receiving telephone calls, personal mail, or electronic communications, including through social media, unless:
   a. The guardian has been authorized by the court by to restrict communications, visits, or interactions;
   b. A protective order is in effect that limits contact between the adult and a person; or

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NEW GUARDIANSHIP AND CONSERVATORSHIP LAW PROTECTS VULNERABLE MISSISSIPPIANS

PREEMINENT EXPERTISE

Life Insurance
Annuities
Structured Settlements
Viatical Settlements
Divorce Settlement Funding

EXPERIENCE

Litigation Consulting
Expert Witness
Defendants - Plaintiffs
Claimants - Trustees
Existing Life Policy Management Consulting

LICENSES/ REGISTRATIONS

Life Insurance, Annuities
Disability Insurance
Structured Settlements
Viatical Settlements
Securities (FINRA)
Registered Investment Advisor
Attorney - Mississippi Bar Member 4314 (not practicing)

BACKGROUND

Millsaps College B.A.
University of Mississippi J.D.
Mississippi Law Journal Editorial Board

George B. Pickett, J.D, CLU, AEP
414 E. Capitol St.,
Jackson, MS 39201
Phone 601.969.3456
gp@thecenterpointgroup.com

References upon request.

c. The guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological, or financial harm to the adult, and the restriction is:
   i. For a period of not more than 7 business days if the person has a family or pre-existing social relationship with the adult; or
   ii. For a period of not more than 60 days if the person does not have a family or pre-existing social relationship with the adult;
7. Receive a copy of the guardian's plan under Section 315 and the guardian's well-being report under Section 316; and
8. Object to the guardian's plan or report.

Confidentiality. Section 307 provides that the ward, the ward's attorney, and other persons generally entitled to notice of the events described above may access court records of a guardianship. Otherwise, the court is to keep records of guardianship proceedings confidential absent good cause shown that access is "in the best interest of the respondent or ward or furthers the public interest and does not endanger the welfare or financial interests of the respondent or ward." Likewise, court files of a guardianship may be sealed when determined necessary by the court and only available to certain persons.

Duties of Guardians. Section 312 sets forth certain duties of an adult's guardian, specifically stating that the guardian for an adult is a fiduciary. As with other provisions of the Act, the guardian is to promote the self-determination of the ward, and encourage the ward to participate in decision making. Aside from certain specific duties and rights, the guardian must make decisions the guardian reasonably believes the adult would make if able unless doing so would harm or endanger the ward. In making those determinations, the guardian may rely on the ward's directions, preferences, opinions, values, and actions, as well as information from third parties. Significantly, the guardian must notify the court if the condition of the adult has changed which would allow the adult to exercise rights previously removed.

Powers of Guardians. Under Section 313, a guardian may undertake the following without order of the court:

1. Apply for and receive funds and benefits for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;
2. Unless inconsistent with a court order, establish the adult's place of dwelling;
3. Consent to health or other care, treatment, or service for the adult;
4. If a conservator for the adult has not been appointed, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the adult or pay funds for the adult's benefit;
5. To the extent reasonable, delegate to the adult responsibility for a decision affecting the adult's well-being; and
6. Receive personally identifiable health-care information regarding the adult.

In exercising these powers, Section 313 sets for certain items the guardian must consider, generally in line with the guardian's duty to consider decisions the ward would have made for himself or herself. Also, before moving the ward's dwelling, the court must give consent.

Section 314 places certain limitations on the guardian's powers. An adult's guardian may not revoke or amend financial or health-care powers of attorney and must cooperate with decisions made by agents appointed by the ward. Also, the guardian may not restrict the ward's right to communicate, visit, or interact with others unless authorized by court order, a protective order is in place, or the guardian has good cause to believe the restriction is necessary subject to certain time limitations.

Guardian's Plan. The court has authority to require an adult's guardian to prepare a plan for the care of the adult. If such a plan is required, it must be filed with the court at least 90 days after any order requiring the plan. Likewise, anytime there is a significant change in circumstances, or the guardian seeks to deviate substantially from the plan, the guardian must file a revised plan within 90 days. When a plan is required, in addition to any other information the court may require, the plan must include:

1. The living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;
2. Social and educational activities the guardian expects to facilitate on behalf of the adult;

3. Any person with whom the adult has a close personal relationship or relationship involving regular visitation, and any plan the guardian has for facilitating visits with the person;
4. The anticipated nature and frequency of the guardian's visits and communication with the adult;
5. Goals for the adult, including any goal related to the restoration of the adult's rights, and how the guardian anticipates achieving the goals;
6. Whether the adult has an existing plan and, if so, whether the guardian's plan is consistent with the adult's plan; and
7. A statement or list of the amount the guardian proposes to charge for each service the guardian anticipates providing to the adult.

Notice of the plan must be given to the ward as well as the ward's spouse, parents, children, and any other person required by the court.

Guardian's Report. Similar to an accounting provided by a conservator, Section 316 requires an adult's guardian to file a guardian's report upon a significant change in circumstances, if the guardian seeks to deviate from the guardian's plan, and, at least, annually. The guardian's report must contain the following information:

1. The mental, physical, and social condition of the adult;
2. The living arrangements of the adult during the reporting period;
3. A summary of any technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult and the guardian's opinion as to the adequacy of the adult's care;
4. A summary of the guardian's visits with the adult, including the dates of the visits;
5. Action taken on behalf of the adult;
6. The extent to which the adult has participated in decision-making;
7. If the adult is living in a mental health facility or living in a facility that provides the adult with health-care or other personal services, whether the guardian considers the facility's current plan for support, care, treatment, or habilitation consistent with the adult's preferences, values, prior directions, and best interest;
8. Any business relation the guardian has with a person the guardian has paid or that has benefited from the property of the adult;
9. A copy of the guardian's most recently approved plan under Section 315 and a statement whether the guardian has deviated from the plan and, if so, how the guardian has deviated and why;
10. Plans for future care and support of the adult;
11. A recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship, when determined applicable by the court;
12. Whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve;
13. Photographs of the adult ward and the adult ward's living conditions as required by the court at its discretion; and
14. Any amounts requested for reimbursement by the guardian of fees related to the administration of the guardianship or legal fees incurred for matters related to the guardianship.

Notice of the guardian's report must be provided no later than 14 days of filing to the ward as well as the ward's spouse, parents, children, and any other person required by the court. The court must make an annual determination whether the report provides sufficient information to establish whether the guardian has complied with the guardian's duties, the guardianship should continue, and any requested guardian fees should be approved.

Removal and Termination. Section 317 provides for the removal of a guardian upon petition and for good cause shown. The court should consider whether to remove the guardian for failure to perform the guardian's duties. Notice of a petition to remove the guardian should be served on the ward, the guardian, and any other person required by the court. If a successor guardian is appointed, notice must be given within 10 days to the ward as well as the ward's spouse, parents, children, and any other person required by the court.

Likewise, upon petition and good cause shown, termination or modification of a guardianship may be ordered under Section 318. Generally, this would be when the basis for appointment no longer exist or for other good cause.

ARTICLE 4
CONSERVATORSHIP OF THE ESTATE

Article 4 of the law clarifies the role of a conservator, enhances the medical evaluation of a prospective the ward, and creates greater accountability of the ward's assets and financial affairs to the court.

Basis for Appointment. Section 401 provides the basis for appointment of a conservator for a minor or adult: clear and convincing evidence that a minor owns funds or property requiring management that cannot otherwise be provided, or that the minor's current or future financial affairs may be at risk or hindered due to age, or that appointment is necessary to provide support, care, education, health or welfare to minor, will warrant such appointment. The court must consider a parent's recommendation.

A conservator may be appointed for an adult if the adult is unable to manage property or financial affairs due to (a) limited ability to receive and evaluate information or make or communicate decisions, even with supportive services or technology, or (b) the adult is missing, detained, incarcerated or unable to return to U.S., and where appointment is necessary to avoid harm to the adult or waste of property,

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or to provide funds for support of the adult or his/her dependent. The court must consider whether the ward's affairs can be managed by less restrictive means and "shall limit a conservator's powers" to the extent other less restrictive alternatives will meet the ward's needs. A court need not approve control over finances where the ward has given a durable power of attorney or joint ownership to another as a means of property management.

The court may appoint an emergency conservator under Section 413 upon a finding that (1) appointment is likely to prevent substantial and irreparable harm to the person's property, (2) no one else has authority or willingness to act in the circumstances, and (3) there is reason to believe a conservator is necessary. An emergency conservator may serve no longer than 60 days, and powers must be specified in the order. Authority may extend an additional 60 days if the court finds conditions for an emergency conservator remain.

The court may appoint an emergency conservator without notice only if the court finds, from affidavit or testimony, the respondent's property or financial interests will likely be "substantially and irreparably harmed before hearing can be held." If the court appoints without notice, the court must give notice within 48 hours after appointment to respondent, respondent's attorney and any other person the court determines, and hold a hearing on appointment within 5 days after. Appointment of an emergency conservator is not a determination that a conservator should be appointed under 401.

Notice. Section 402 states that one who would be adversely affected by lack of management may petition for appointment with at least 5 day's service of notice on the respondent prior to a hearing. That mirrors the requirement for notice in guardianships. Subsection 2 prescribes the "due process" legend that must be printed in bold type on the petition, similar to that required under Sections 202 and 302. Section 403 requires notice of hearing to the parents of a minor. If an adult is not competent and joining in the petition, notice must be given to: the ward; persons claiming to be legal custodians of an adult; co-owners and signatories on the ward's property; and at least one relative of the ward in the order listed: the living spouse, children, parents and siblings of the adult the ward; an adult relative within the third degree of kinship who resides in Mississippi; or another person or guardian ad litem designated by the court. The Veteran's Administration must be notified where the ward is entitled to VA benefits, and future notices of hearings must be given to the ward, the conservator and any other person the court directs. Section 405 allows the court, while a petition for appointment is pending, to hold a preliminary hearing without notice and order that property be preserved or applied for support of the respondent or a dependent.

Professional Evaluation. A professional medical evaluation has long been essential in determining whether a conservator should be appointed. Section 407 requires written certification, after personal examination or by telemedicine, by at least two licensed physicians, or one licensed physician and one licensed psychologist, nurse practitioner or physician's assistant who is not in a collaborative relationship with the physician. Section 409 addresses the protection of a ward's confidential information from view by unauthorized persons.

Who May Serve. Under Section 410, the court shall consider in determining who should be appointed as conservator: the person's relationship to the respondent and skills;

respondent's wishes expressed personally or in a will, power of attorney or health-care directive; similar values and preferences with the respondent, and likelihood the person can successfully perform. A provider of paid services to the respondent, or the employee or family member of such person, may not be appointed unless they are related to the respondent or the court finds appointment would be in the respondent's best interest. Where no one qualifies, the court may appoint the chancery clerk.

The Order. The order appointing a conservator must find clear and convincing evidence of the need and, if a full conservatorship, reasons why a limited conservatorship would not meet the ward's needs. An order for a limited conservatorship must specify the powers given to the fiduciary. In addition, Section 411 requires the order to contain the name and contact information of anyone entitled to notice in a variety of situations. Pursuant to Section 412, within 14 days of entry of the order the court shall give a statement of rights and procedures to the ward, conservator and persons entitled to notice under Section 411. The statements must be 16-point font, in the ward's language, and must notify the ward of his/her right to (1) seek termination, modification of conservatorship, remove the conservator, and hire an attorney, (2) participate in decision-making to the extent feasible, (3) receive copies of the conservator's inventory, plan and reports, and (4) object to an inventory, plan or report.

Powers Requiring Court Approval. Section 414 provides that a conservator may, only with prior court approval:

1. Make gifts;
2. Sell, encumber, or surrender a lease to the ward's residence;
3. Convey, release or disclaim any interest in property, including marital or co-owned; exercise or release a power of appointment;
4. Create a revocable or irrevocable trust of conservatorship assets, or revoke or amend the ward's revocable trust;
5. Elect an option or change beneficiary under the ward's life insurance policy or annuity, or surrender such for cash;
6. Claim an elective share in deceased spouse's estate or renounce or disclaim a property interest;
7. Grant a creditor priority for payment for services provided for basic living and care needs if otherwise impermissible per 428(e);
8. Make, modify, amend or revoke the ward's will;
9. Pay premiums on a life insurance policy on life of a minor the ward purchased by a deceased parent;
10. Acquire or dispose of, sell, manage, develop, improve, exchange, partition, change character of, or abandon property;
11. Repair, alter, demolish, raise or erect a building if cost exceeds $2,500.00;
12. Subdivide or develop land, adjust boundaries or valuation of land, exchange or partition, or grant easements to public use;
13. Become lessor or lessee of property, with or without option to purchase or renew;
14. Enter into any oil gas or minerals lease or agreement;
15. Borrow funds, with or without security;
16. Pay, contest, settle by compromise or arbitration, or release a claim of conservatorship estate; or
17. Bring an action, claim or proceedings for protection of the conservator or estate.

In approving a power, the court must consider: the ward's prior or current directions, preferences, opinions, values and actions, to extent known or ascertainable; financial needs of the ward and dependents, and creditors of the ward; possible tax reduction; eligibility for government assistance; the ward's previous pattern of giving or support; the ward's existing estate plan or lack thereof; life expectancy of the ward; and any other relevant factor. A conservator may not revoke or amend a durable financial power of attorney, and a decision of the conservator takes precedence over that of an attorney-in-fact only to extent provided by court order.

Powers Not Requiring Court Approval. Under Section 421, unless limited by court order or Section 414, a conservator may execute, without prior court approval, the following powers:

1. Collect, hold and retain property, including in another state;
2. Receive additions to the estate;
3. Continue or participate in operation of a business or other enterprise;
4. Acquire an undivided interest in property in which the conservator owns an interest;
5. Acquire or dispose of personal property;
6. Continue to invest assets;
7. Deposit funds in a financial institution, including one operated by conservator;
8. Grant, accept or exercise options for disposition or acquisition of property;
9. Vote securities, in person or by proxy;
10. Pay a call, assessment or other charge against a security;
11. Sell or exercise a stock subscription or conversion right;
12. Consent to reorganization, consolidation, merger, dissolution or liquidation of a corporation or other enterprise;
13. Hold a security in name of a nominee without disclosing the conservatorship;
14. Insure the estate against loss and the conservator against liability;
15. Advance funds for protection of the estate or the ward, and expenses, losses and liability incurred in administration of the estate;
16. Pay tax, assessment and compensation of the conservator or guardian or expenses incurred in administration or protection of the estate;

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17. Make a payment to the ward or a dependent, directly or to such distributee's:
    a. Guardian
    b. Custodian under Mississippi Uniform Transfers to Minors Act (MCA 91-20-1 et seq.); or
    c. Relative or person with physical custody
18. Defend any action or claim for protection of the estate;
19. Structure the ward's finances, including gifts in keeping with the ward's values and preferences, to establish eligibility for public benefits; or
20. Execute and deliver instruments to facilitate exercise of any power

In addition to these enumerated powers, a conservator shall have all powers granted to trustees under the laws of Mississippi, including the Mississippi Uniform Trust Code (Miss. Code § 91-8-801 et seq.), the Uniform Act for Simplification of Fiduciary Security Transfers (Miss. Code § 91-11-1 et seq.), and the Mississippi Fiduciary Investments Act (Miss. Code § 91-13-1 et seq.).

Bond and Oath. Section 416 provides that except for exempt financial institutions, the court shall require a conservator's bond, or an alternative asset protection arrangement. The court may fully or partially waive bond if: the ward is a minor whose parent has waived bond in a valid will or testamentary instrument witnessed by two witnesses other than the conservator; assets are deposited in FDIC-insured financial accounts subject to prior court approval for release and where depository institution receives a copy of the order and files an acknowledgement of receipt in the form prescribed in subsection 7; or the court finds bond or other arrangement is not necessary to protect the ward's property. However, the court cannot waive bond for a paid professional non-bank conservator. Unless otherwise ordered, bond must be in the amount of the aggregate estate plus one year's estimated income, less assets and real property subject to prior court order. FDIC-insured institutions authorized to do trust business in Mississippi are not required to give bonds. Bond with the prescribed condition in subsection 4 must be filed with court. The conservator must also subscribe an oath "at or before his appointment." A financial institution with funds on deposit that complies with the Act is not liable if no knowledge the representations made are incorrect.

Duties of Conservator. The new Act affirms that a conservator is a fiduciary with duties of prudence and loyalty to the ward. Unlike prior practice, the Act requires a conservator to promote self-determination of the ward, and encourages the ward to participate on own behalf and develop or regain the capacity to manage. In making a decision, a conservator must make the decision he believes the ward would make, unless it would fail to preserve resources needed for the ward's well-being. The conservator must consider the ward's directions, preferences, opinions, values and actions to the extent known. If a conservator does not know the ward's preferences or directions or believes the ward's decision would fail to preserve resources for the ward's well-being, the conservator must act in the wards best interest, and must consider (1) information from professionals and persons interested in the ward's welfare, (2) information the conservator believes the ward would have considered, and (3) other reasonable circumstances, including consequences for others.

The Act recognizes that investment of assets may be in a ward's best interest. Where non-FDIC insured investments are permitted in the court's order, a conservator must act as prudent investor by considering:

1. Circumstances of the ward and estate;
2. General economic conditions;
3. Possible effects of inflation or deflation;
4. Expected tax consequences;
5. Role of each investment or action in relation to overall estate;
6. Expected total return from income and gains;
7. Need for liquidity, regular income, and preservation of capital; and
8. Special relationships of specific property to the ward.

Conservators must make reasonable efforts to verify facts relevant to investment and management. A conservator who has, or is named on basis of, special skills must use those special skills. In investing, selecting property for distribution, and acting on a power of revocation or withdrawal for the ward's benefit, a conservator must consider the ward's estate plan and examine the ward's will or other donative documents. A conservator must maintain insurance on the ward's property unless there are insufficient funds or

the court finds that the property lacks sufficient equity or that insuring would unreasonably dissipate the estate. A conservator has authority over the ward's digital assets as allowed in the Revised Uniform Fiduciary Access to Digital Assets Act (Miss. Code § 21-23-101 et seq.). A conservator for an adult must notify the court if the ward's capacity to manage changes.

Conservator's Plan. Within 90 days after initial appointment or a change in circumstances, a conservator must file a "plan for investing, protecting, managing, expending and distributing" conservatorship assets. The plan must take into account the ward's best interest and preferences, values and prior directions to extent known. The Plan must include:

1. A budget with projected expenses and resources, and an estimate of total anticipated conservator's fees per year and statement or list of services the conservator expects to provide and fees for each.
2. How the conservator will involve the ward in management decisions
3. Steps the conservator plans to take to develop and restore the ward's ability to manage, and
4. An estimate of duration of the conservatorship

The conservator must give a copy and reasonable notice of filing of the plan to the ward and any person entitled to 411(e) notice. Notice must advise of the right of the ward and others to object to the plan and must be given within 14 days after filing. The court must review the plan and consider any objections and the conservator's duties in determining whether to approve. The court may not approve the plan until 30 days after filed. After the court approves the plan, the conservator must give a copy to the ward and others noticed. (Section 419)

Inventory. Under Section 420, a conservator must file a detailed inventory he believes, by oath or affirmation, is complete and accurate within 90 days after appointment, and must give notice of filing to the ward and any other person entitled to notice within 14 days after filing. A conservator must keep records of actions taken and make available for examination on request of the ward, guardian or other persons permitted by court order.

Distributions. Unless limited by Section 414, court order or the Plan, a conservator may expend income or principal for "support, care, education, health, or welfare" of the ward or a dependent, including child support, without specific court authorization, per the following rules:

1. The conservator shall consider a recommendation of the ward's guardian and, if a minor, the ward's parent(s). The court shall determine whether an expense for a minor ward should be borne by the ward's estate or parents.
2. The conservator acting in compliance with duties under Section 418 is not liable for complying with a request for expenditure unless the conservator knows it is not in the ward's best interest.
3. In making a distribution or expenditure, the conservator must consider: the size of the estate, estimated duration of the conservatorship, and likelihood the ward will become able to manage in the future; the accustomed standard of living of the ward and a dependent; other funds or sources used for support of the ward; and the ward's preferences, values and prior directions.
4. Expenditures of funds may be made to reimburse the conservator or in advance to a vendor or dependent.

Conservator's Report and Accounting. Section 423 requires a conservator to file a report, and a petition for the court to approve the report, annually unless the court directs otherwise, and upon resignation, removal or termination. The report must state or contain:

1. An accounting that lists property included in estate, receipts, disbursements and liabilities during the accounting period;
2. List of services provided to the ward;
3. A statement whether, how and why the conservator has deviated from the plan;
4. A recommendation as to the need for continued conservatorship and any recommended change in scope;
5. Anything of "more than de minimis value" which the conservator, anyone residing with the conservator, the spouse, child, sibling or parent of conservator has received from a vendor of goods or services to the ward; and
6. Any business relationship the conservator has with a person who was paid or benefited from the ward's property.

The court may, at its discretion, request copies of the most recent financial statements for status of investment, bank and mortgage accounts or debts of the ward, and all but the last 4 digits of the ward's Social Security Number must be redacted. The court may appoint a guardian ad litem to review the report, interview the ward or conservator, or investigate any matter. Reasonable notice of filing of the report and a copy of the report must be given to the ward and persons entitled to notice under 414 within 14 days after filing. The court may establish procedures for monitoring a report and annual review of each report, and must consider whether: the report provides sufficient information to determine the conservator has complied with his duties; the conservator should continue; and the conservator's requested fee should be paid.

When funds and personal property of the Ward do not exceed $10,000 with no prospect of additional funds or where the only funds to be received are from the Department of Human Services for the benefit of the ward, the court may find it in best interest to dispense with annual accountings, except for final accounting.

Claims of Others. Section 424 provides that conservatorship property is not transferable or assignable by the ward, and is not subject to

continued on next page

levy, garnishment or claims against the ward unless allowed under Section 427. A contract made by the ward after such right has been delegated to another by the court is void against the ward and ward's property, but is enforceable against other party. Section 425 deals with conflicts of interest and states that a transaction (such as a sale or encumbrance) involving estate property, by the conservator, his spouse, descendant, sibling, attorney, one who resides with the conservator, or a corporation or enterprise in which the conservator has a substantial beneficial interest, which transaction is affected by a substantial conflict of interest, is voidable unless authorized by court order after notice to persons entitled to notice. According to Section 426, persons who deal with the conservator in good faith and for value, other than in transactions requiring court order under Section 414, are protected as though the conservator acted properly. Restrictions on authority in letters of conservatorship or otherwise provided by law are effective as to third persons. Persons paying or delivering property to a conservator are not required to inquire as to proper application of such property.

Section 427 deals with the presentation and allowance of claims against the estate. The conservator may pay or secure a claim against the ward or estate assets arising before or during the conservatorship, upon presentation and allowance of a claim under subsection 6. Claimants may present a claim by filing with the court in a form acceptable to the court, and sending or delivering a copy to the Conservator. Within 90 days after presentation of a claim, and any time prior to payment (but not after court order allowing payment), the conservator may disallow a claim in whole or in part by delivering to the claimant a record of disallowance. Presentation of a claim tolls a statute of limitations running on the claim until 30 days after disallowance. A claimant may petition for payment any time prior to running of a statute of limitations, and the court may order allowance and payment or security by the estate.

A claimant in any proceeding brought before or after appointment of the conservator must give notice thereof to the conservator if it could result in a claim against estate assets. If the estate is likely to be exhausted before all claims are paid, the conservator shall comply with provisions of law pertaining to distribution of assets of insolvent estates. When claims are established and the estate assets ascertained, the court shall determine pro rata shares in the following order of preference: administration costs and expenses; claims of federal or state government with priority under other law; claims incurred by the conservator for "support, care, education, health or welfare" of the ward or ward's dependent; claims arising before the conservatorship; and all other claims.

Preference may not be given over another claim of the same class. A claim due may not be preferred over a claim not yet due unless doing so would leave the estate without sufficient funds for the ward's support and health care, and the court authorizes the preference under Section 414(a)(8). If estate assets are sufficient to meet all claims, the court may authorize granting of a security interest in estate assets to pay a claim at a future date.

Liability of a Conservator. Section 428 provides that a conservator is not personally liable on a contract made as conservator unless the conservator fails to disclose his/her representative capacity prior to or in the contract. A conservator may be personally liable for control of property or an act or omission during administration only if s/he is personally grossly negligent or in breach of fiduciary duty. A claim based on contract made by a conservator, or an obligation or tort arising during administration may be asserted against the estate in an action against the conservator in a fiduciary capacity, whether or not the conservator is personally liable. Question of personal or fiduciary liability may be determined in an action for accounting, surcharge, indemnification or other appropriate proceeding.

Under Section 429, the court may remove and replace a conservator for good cause, after a hearing on petition by the ward, conservator or interested person reasonably supporting such removal and replacement, but not if similar petition was filed within last 6 months. A ward seeking to remove a conservator has the right to choose an attorney. If none, the court may appoint an attorney and approve reasonable attorney's fees. The court must follow the priorities of Section 410 in selecting a successor conservator. Section 430 describes the basis and procedure for termination or modification of a conservatorship.

Transfers for Minor Without Conservatorship. A person without knowledge of a conservatorship of a minor or petition for same may transfer up to $25,000 per year to:

1. A person with custody and with whom the minor resides;
2. The minor's guardian;
3. A custodian under the Uniform Transfers to Minors Act, Section 91-20-1 et seq.
4. A financial institution account or certificate in minor's name and shall give notice to the minor; or
5. An ABLE account.

One who transfers funds under such circumstances is not required to see to proper application of the funds. One who receives funds or property for a minor may only use them for the minor's support, education, care, health or welfare, including for reimbursement of necessary expenses by such person. Funds not used must be transferred to the minor upon age of majority or emancipation. Contributions to and disbursements from an ABLE account are governed by the applicable ABLE act.

CONCLUSION

As discussed above, the new statutory scheme on guardianships and conservatorships was enacted to provide more protection of persons subject to guardianship and greater accountability to the courts for oversight. The new changes appear to accomplish that goal. ■

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BEFORE, DURING AND AFTER TRIAL

Gregory M. Hunsucker[1]

I. BEFORE TRIAL: THE CONTRACT.

Although unnecessary to establish an attorney-client relationship[2] (an implied contract arises by operation of law), a written contract provides an opportunity to explain the representation to the client, inform them of your expectations, and gain an understanding of their expectations.[3]

For example, are you being retained to generally represent the client or just in a specific matter? What exactly is the scope of your work? Does it include all trial-level work, including multiple complex qualified domestic relations orders and other post trial work? Appeals? When does your representation terminate? Defining the scope of representation is important in any arrangement, but particularly important in flat fee arrangements.

Some attorneys discuss the terms of representation during the initial meeting and send a confirmatory "letter agreement" thereafter. Some do not require the client to sign the "letter agreement". But most attorneys I know require, in various degrees of specificity, a more formal contract. I generally will not represent a client without a formal contract, which I go over with them, provision by provision. Additionally, unless the matter requires an immediate entry of appearance or an emergency hearing, I provide clients a 48-hour window to review the contract, ask any questions, and change their mind and receive a full refund of their full initial retainer. The in-person discussion and subsequent review period makes it hard for them to later argue that they did not understand the contract or entered into it in haste.

The contract provides a good opportunity to clarify or expand upon what the law otherwise implies. Depending upon the nature of the case and representation, I use the contract, among other things, to:

- Define the scope of work;
- Set the flat fee or hourly fee including any discounted hourly rates (if applicable);
- Set the higher standard rate if in default;
- Address attorney's liens;
- Explain the retainer, including how much is a nonrefundable general retainer (a requirement under the rules of ethics of many state bars);
- Set up a payment plan (if applicable);
- Set the interest rate on past due balances (a requirement under the rules of ethics of many state bars);
- Set the hourly rate for collection activities (whether performed inhouse or by others);

continued on next page

- Obtain informed consent to electronic communications;
- Obtain a waiver of objections to any line item on a bill if not disputed within ten days of an invoice;
- Address a wide range of issues relating to default, including waiver of jury trial and mandatory venue in collections proceedings;
- Preclude any settlement from affecting the terms of the contract;
- Address guarantors;
- Explain the attorney-client privilege;
- Preclude waivers by future accommodations; and,
- Explain the integrated nature of the contract.

Simply stated, it is important—pragmatically and ethically—to make the terms of your representation and the client's obligations clear from the beginning. Taking the extra time to explain the contract and obligations may seem bothersome, but most clients appreciate it. Most clients also appreciate detailed invoices that tell them precisely what you are doing for them.

Detailed invoices also make it easier to substantiate and separate (as required in in many cases) your charges for fees and expenses when seeking recovery in court. For example, what does an invoice with a line item for 8 hours for "work on the case" mean? How is a court supposed to view that entry if a fee award is limited to contempt or some other specific issue in the case? What if you anticipate that an appellate court may limit fees to your client's defense of the appeal?

Instead of billing 8 hours for "work on the case", lawyers should consider billing those 8 hours with greater specificity, for example: "meeting with opposing counsel regarding [subject matter] (1.5), preparing lengthy letter to opposing counsel regarding [subject matter] (.5), review and analysis of corporate minutes, articles of incorporation, and shareholder agreement (1.5), legal research and analysis regarding jurisdictional and joinder issues related to foreign corporation (2.0), preparing lengthy memorandum regarding analysis of corporate documents referenced above and jurisdictional/joinder issues (3.5)." While brevity is fine if you are billing 8 hours for "attending trial", particularly since the client is with you, substantive entries help the client understand and help the client when you seek attorney's fees from the court.

Educating the client about the case and about his or her role is an important and continuing task. As a matter of habit, I tell clients two things in the first meeting: (1) if you ever lie to me or misrepresent or withhold something from me, I will fire you, even if I discover it in the middle of your testimony at trial, and (2) their main job is to make me the "master of the facts", whether good, bad, or seemingly neutral. I also explain to them that other than the significant expense of hiring an expert, a decision which I ultimately leave to them (with the caveat that if in my judgment an expert is necessary and they refuse to pay for one, I will withdraw from representation), the only things they have ultimate decision making power over are the goals and objectives of the representation, the right to fire me at any time for any reason, and settlement-related matters.

A. THE RETAINER: GENERAL, SPECIAL OR HYBRID.

If you charge an initial retainer, how much of the initial retainer is a "general, nonrefundable retainer"? A "special retainer"? A "hybrid retainer"? In Ethics Opinion No. 250, the Mississippi Bar explained its view of general, special, and what can fairly be called a hybrid retainer:

> Historically, the term "retainer", when used to describe payments to a lawyer, had nothing to do with compensation for services. Rather, a retainer was a sum of money paid to a lawyer to secure his availability to a client over a given period of time regardless of whether the lawyer actually performs any service for the client. *See* Black's Law Dictionary Revised 5th Edition (1979). Referred to as a "general retainer", the fee is earned when paid since the lawyer is entitled to the money regardless of whether he actually performs any services for the client. *E.g., In Re: Viscount Furniture Corp.*, 133 B.R. 360, 364 (N.D. Miss 1991). The general retainer is paid for availability only and is not applied against the attorney's hourly rate; instead, there is an additional bill for services actually rendered. By its nature, a general retainer is "non-refundable".
>
> Over time, a second class of "special retainer" arrangements has come into existence. In the typical "special retainer" arrangement, the client pays, in advance, for some or all of the services the attorney is expected to perform on the client's behalf. Such an arrangement is permitted in Mississippi. Comment, M.R.P.C. Rule 1.5. In the usual situation, the advance fee payment is applied against the attorney's hourly fee and the attorney spends down the advance payment as services are performed. Under Rule 1.16(d) of the Mississippi Rules of Professional Conduct and Opinion No. 219, an attorney must refund any advance fee payment that has not been earned.
>
> The potential ethical dilemma arises when an attorney enters into a "special retainer" arrangement whereby an advance fee payment is required, some and/or all of which

is categorized as a "non-refundable retainer". An analysis of M.R.P.C. Rule 1.5(a) does not per se prohibit "non-refundable retainers" provided the retainer is reasonable. However, should a client discharge the lawyer or the lawyer withdraws from representation, M.R.P.C. Rule 1.16(d) requires an attorney to refund "any advance payment that has not been earned" which would include any "unreasonable portion" of a "non-refundable retainer". As advised in Opinion No. 219, the fee arrangement should be in writing and the written agreement should contain a provision which specifically states what part of the initial fee is non-refundable.

Miss. Bar Ethics Op. 250 (2002).

A simple contractual provision explained to the client can remove confusion about the retainer. For example, if you charge an initial general retainer of $XXX, explain in the contract that "$XXX of the initial retainer is a general nonrefundable retainer, which means you agree to pay us that minimum amount regardless of the amount of time we spend on your case or whether either party terminates the relationship."[4]

Miss. Bar Ethics Op. 219 (1994).

B. ATTORNEY'S LIEN.

As explained in Section V below, a statement of dicta originating in *Halsell v. Turner*, 84 Miss. 432 (Miss. 1904) creates some confusion in Mississippi law about the distinction between a retaining lien and a charging lien. To clarify the lien, use the contract and explain to the client the nature and scope of the lien, its purpose, and obtain the client's written, informed consent. A sample provision reads as follows:

> **D. Liens.** To secure payment of all sums due for our representation of the matter described in Section 1, you grant us a first priority lien on all of your documents, property, money in our possession, property and money in your possession or control, money and property awarded to and/or received by you by settlement or judgment, or otherwise. The first priority lien described in the preceding sentence shall not vest in property that is the subject matter of this litigation until final judgment is entered or the matter is finally settled, but the first priority lien shall immediately vest upon final judgment or settlement with respect to property that is the subject matter of this litigation.

The contract should clearly define the role of the guarantor either in a single contract with the client and guarantor or in a separate contract with the guarantor.

> The first priority lien described in the first sentence of this provision shall immediately vest in all other property (that is not the subject matter of this litigation) upon all sums due under this agreement and shall increase or decrease, from time to time, as the sums due increase or decrease. The first priority lien shall not be affected by any legal or equitable exemption, which you specifically waive, including without limitation any homestead or other exemption. The first priority lien shall not be affected by termination of this contract, whether you terminate us or we withdraw from representation for breach of this agreement or because the rules governing the practice of law require us to withdraw. The first priority lien may be asserted in the proceeding described in Section 1 or in a collection proceeding and by filing a lis pendens against your real property,[5] but the first priority lien shall remain valid regardless of whether it is formally asserted in any action. The first priority lien shall increase to include any and all amounts incurred or generated in perfecting the lien and in any collection proceeding. You may discharge the lien only by paying the amount due. We agree not to formally assert the lien in any proceeding as long as you are in full compliance with your payment obligations under this agreement.

C. GUARANTOR ARRANGEMENTS.

The contract should clearly define the role of the guarantor either in a single contract with the client and guarantor or in a separate contract with the guarantor. It should plainly explain that although the guarantor is paying your bill, he or she is not the client and will not be included in attorney-client communications. A sample provision reads as follows:

> **Payor and Unconditional Guarantee.** Although you are responsible for paying the fees and expenses to us under this contract, your _____, Mr. X, has unconditionally agreed to pay the invoices for services and costs directly to us pursuant to this agreement and the separate Guarantor Agreement, though you will be responsible for repaying Mr. X under whatever arrangement you may separately establish. Although Mr. X is paying the fees and expenses directly to us, the attorney-client relationship exists solely between us and you. For that reason, unless you consent below, communications and discussions about this matter will be between us and you only. Even with your consent, there may be certain conservations that we may decide, as a matter of prudence, to keep between us and you to preserve the attorney-client privilege.

That provision creates "space" from the beginning between your client and the guarantor who may otherwise mistakenly think he or she is in a position to "call the shots" because he or she is paying the bill.

II. DURING TRIAL: ADVANCE LITIGATION FEES AND EXPENSES.

A chancery court has authority to award advance litigation fees and expenses or attorney's fees pendente lite and suit money, including money to hire and pay other experts, and otherwise pay the costs of

continued on next page

litigation in divorce (and separate maintenance) cases under proper circumstances.[6] In larger cases, a spreadsheet breaking down the anticipated fees and expenses is helpful.[7] Advance litigation fees and expenses are an issue committed to the "sound discretion of the chancery court,"[8] but should be awarded periodically during the pendency of the case, rather than in one full advance sum.[9]

Advance litigation fees and expenses are also appropriate in separate maintenance cases. In *Johnston v. Johnston*, 182 Miss. 1, 179 So. 853 (Miss. 1938), the Mississippi Supreme Court held that the power to award solicitor's fees pendent lite is incident to the jurisdiction of the court of chancery court. The Court explained that in advancing fees and expenses, the chancellor was not required to investigate the merits of the underlying action, but rather only to verify the case stated a basis for relief, that the allowance was necessary to prosecute the suit, and to determine the proper allowance based upon the parties' finances, including the ability to pay.[10]

III. FAILURE TO PAY SUPPORT, FRIVOLOUS PLEADINGS AND APPEALS, DISCOVERY VIOLATIONS, AND UNSUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR NEGLECT.

Although proof under the *McKee* factors is not always required to recover attorney's fees (for example, in contempt, support enforcement, and sanctions actions[11]), it is sound practice to put on proof of *McKee* factors in every case in which there is a possibility of recovering attorney's fees. Mississippi Code § 9-1-41 provides that:

> In any action in which a court is authorized to award reasonable attorneys' fees, the court shall not require the party seeking such fees to put on proof as to the reasonableness of the amount sought, but shall make the award based on the information already before it and the court's own opinion based on experience and observation; provided however, a party may, in its discretion, place before the court other evidence as to the reasonableness of the amount of the award, and the court may consider such evidence in making the award.

The record still must support the award with credible evidence. *See Regency Nissan, Inc. v. Jenkins*, 678 So. 2d 95, 103 (Miss. 1995).[12]

A. FAILURE TO PAY SUPPORT—NO CONTEMPT.

Attorney's fees are recoverable in cases of failure to pay support, regardless of willful contempt or inability to pay.

In *Carter v. Davis,* 241 So. 3d 614 (Miss. 2018), the Mississippi Supreme Court reaffirmed the principle that an obligee who must initiate a court proceeding to enforce support obligations may recover attorney's fees from the obligor even though there was no finding of contempt. Otherwise the support obligation would be unfairly reduced. *Carter* also affirmed the award of fees even though proof under the *McKee* factors was not introduced.[13]

B. FRIVOLOUS PLEADINGS AND APPEALS.

The Mississippi Litigation Accountability Act, Mississippi Code § 11-55-5(1), provides in pertinent part:

> Except as otherwise provided in this chapter, in any civil action commenced or appealed in any court of record in this state, the court shall award, as part of its judgment and in addition to any other costs otherwise assessed, reasonable attorney's fees and costs against any party or attorney if the court, upon the motion of any party or on its own motion, finds that **an attorney or party** brought an action, or asserted any claim or defense, that is **without substantial justification** . . ..

(emphasis supplied).

Section 11-55-3(a) defines "without substantial justification" as "any action, claim, defense or appeal, including without limitation any motion . . . that it is **frivolous, groundless in fact or in law, or vexatious**, as determined by the court." (emphasis supplied).

Rule 11 of the Mississippi Rules of Civil Procedure provides in pertinent part as follows:

> If any party files a motion or pleading which, in the opinion of the court, is frivolous or is filed for the purpose of harassment or delay, the court may order such a party, or his attorney, or both, to pay to the opposing party or parties the reasonable expenses incurred by such other parties and by their attorneys, including reasonable attorneys' fees.
>
> M.R.C.P. 11(b).

The standard for frivolousness under the Mississippi Accountability Act and Rule 11 is the same: a claim or defense made without hope of success. *In re Spencer,* 985 So.2d 330 (Miss. 2008).

The Mississippi Litigation Accountability Act provides a "safe harbor" as follows:

> No attorney's fees or costs shall be assessed if a voluntary dismissal is filed as to any action, claim or defense within a reasonable time after the attorney or party filing the action, claim or defense knows or reasonably should have known that it would not prevail on the action, claim or defense.
>
> Miss. Code Ann. § 11-55-5(2).[14]

Mississippi Rule of Appellate Procedure 38 provides for just damages and single or double costs in a civil appeal that it determines to be frivolous. *See Alexander v. Pitts*, 229 So. 3d 1073 (Miss. 2017) (awarding fees, but remanding for determination of fees and costs—appellant appealed on a collateral issue intentionally not raised below); *but see Ferrell v. Cole (In re Estate of Cole)*, 256 So. 3d 1156 (Miss. 2018) (denying attorney's fees where issue was novel, and, even though it had little hope of success, it could not conclude that the appellant had no hope of success).

C. MISSISSIPPI RULE OF CIVIL PROCEDURE 37 ATTORNEY'S FEES AND SANCTIONS.

Rule 37 contains several provisions mandating attorney's fees and expenses. Unless the court finds substantial justification or circumstances making the award unjust, under Rule 37(a) a court must award fees on a motion to compel (or motion for protective order relating to) discovery, and

may apportion fees when a motion is granted in part and denied in part.

After an order is entered, a court may (unless substantial justification or circumstances exist make the award unjust) award attorney's fees, or, impose a number of punitive sanctions including contempt and striking defenses and pleadings under Rule 37(b). No prior order to compel is necessary when there is a total failure to respond to discovery,[15] or when responses are of no substance.[16]

Additionally, an existing court order is not required to impose sanctions under Rule 37(c), (d), or (e). And, a court always has the inherent power to impose sanctions to protect the integrity of the judicial process.[17]

D. UNSUBSTANTIATED ALLEGATIONS OF CHILD ABUSE OR NEGLECT.

Mississippi Code § 93-5-23 provides, in pertinent part, that:

> If after investigation by the Department of Human Services or final disposition by the youth court or family court allegations of child abuse are found to be without foundation, the chancery court shall order the alleging party to pay all court costs and reasonable attorney's fees incurred by the defending party in responding to such allegation.

In *Tidmore v. Tidmore*, 114 So. 3d 753 (Miss. Ct. App. 2013), the Court of Appeals affirmed, in principle, an award of attorney's fees to a spouse for defending against baseless allegations of abuse and contempt. The award of fees under the statute, however, is limited to fees relating to defending against the allegations of abuse and must exclude fees incurred for other aspects of the proceeding.[18]

IV. ATTORNEY'S FEES ON APPEAL.

In *Latham v. Latham*, the Mississippi Supreme Court held that requesting fees in a brief is insufficient—a motion must be filed under Mississippi Rule of Appellate Procedure 27(a).[19] Prior to *Latham*, the customary amount of attorney's fees awarded to prevailing parties on appeal was 50% of the attorney's fees awarded at trial. That was the custom notwithstanding the Court's prior statement in dicta that the better practice would be to file a motion supported by affidavits and time records because a 50% award may not be fair and equitable in all cases.[20]

Subsequently the Court of Appeals rejected, in *Brown v. Hewlett*, a request for fees for failing to comply with Latham's mandate.[21] The Court did, however, provide the appellee with an opportunity to renew the request by a proper M.R.A.P. 27(a) motion filed before the mandate issued.[22]

In *Thomas v. Thomas*, the Court of Appeals denied attorney's fees in a domestic matter based upon the failure to demonstrate inability to pay, notwithstanding a lower court award of fees for contempt (and multiple false 8.05s submitted by the opposing party to the lower court).[23] The Court also denied attorney's fees on appeal, noting that the attorneys' invoices (though supported by *McKee* affidavits) did not distinguish between the 6 issues they successfully defended on appeal and the issues pursued on cross appeal.[24]

V. ATTORNEY'S LIENS.

The underlying policy of attorney's liens is to protect attorneys from clients who seek to retain the fruits of the attorney's labor without paying for their work. In 1891, the United States Supreme Court aptly stated the purpose of attorney's liens by quoting Lord Kenyon: "the principle has long been settled that a party should not run away with the fruits of a cause without satisfying the legal demands of his attorney, by whose industry and expense these fruits were obtained." *Louisville, E. & S. L. R. Co. v. Wilson*, 138 U.S. 501, 507 (1891).

Two distinct liens arise by operation of the common law for attorney's services. The retaining lien applies to papers and property in the attorney's possession and extends to the general balance for all professional services rendered by the attorney to the client.[25] The charging lien, in contrast, is a special lien that attaches for fees and expenses in a particular case to be paid out of any judgment in that case that the attorney recovers.[26] In the latter case, the attorney is considered the assignee of the judgment to the extent of his fee. Although the dicta in *Halsell* muddies the distinction by suggesting a possessory requirement as it relates to a charging lien, sound reasoning dictates that possession is not a requirement for a charging lien

In *Stewart v. Flowers*, 44 Miss. 513, 522 (Miss. 1871), the attorney (who withdrew prior to judgment because of the client's nonpayment) and client entered a contract without a stipulated price or time of payment. The withdrawn attorney sought payment of a reasonable sum, or quantum meruit recovery from the proceeds obtained from the sale of the real property at issue (which had been sold to the third-party defendant) in the case. After examining numerous authorities, the *Stewart* Court refused to extend the doctrine to the realty purchased by the third-party defendant.

In *Halsell v. Turner*, 84 Miss. 432 (Miss. 1904), the Mississippi Supreme Court rejected a client's contention that the recovery was exempt from the charging lien because it represented his wages,[27] but at the same time

continued on next page

rejected the attorney's contention that he could apply the full recovery in the case to other balances owed by the client on unrelated matters. The statement in *Halsell* that "[t]his lien applies so long as the attorney has the funds in his possession. . .."[28] is, in my view, dicta (as it was wholly unnecessary to the decision), but as explained below has created confusion as to operation of the charging lien.

In *Webster v. Sweat*, 65 F.2d 109 (5th Cir. 1933), the Fifth Circuit (applying Mississippi law) explained that the nature of the retaining and charging lien. With respect to a retaining lien, the Court explained that:

> At common law an attorney has a lien on all papers of his client which come into his possession in the course of his professional employment. This lien is not limited to the papers in any particular suit, but extends to the general balance due to the attorney for any and all professional services performed by him for his client. It is passive, and ordinarily cannot be enforced by any proceeding in court, but it entitles the attorney to retain possession until all his fees are paid.

Webster, 65 F.2d at 109 (citations omitted). With respect to the charging lien, the Court explained that:

> An attorney also has a special or charging lien which entitles him to have his fee in any particular case paid out of the judgment which he recovers. *He is considered as assignee of the judgment to the extent of his fee.* Liens of both kinds have been adopted in most of the states; and they are recognized in Mississippi. . .. ***

Webster, 65 F.2d at 110 (citations omitted; emphasis supplied). To this writer, *Webster* appears to be the most accurate statement of the law as it applies to retaining and charging liens in Mississippi.

In *Collins v. Schneider*, 187 Miss. 1 (Miss. 1939), the attorney sued in chancery to enforce his lien on judgment proceeds obtained because of his efforts. There was no written contract between the attorney and client, but the court found an implied contract. After the chancery court suit was filed, the judgment debtor interpled the proceeds into the court registry. The Mississippi Supreme Court reasoned that:

> [A]n attorney's lien on judgments and decrees obtained by them for fees on account of services rendered, belongs to the family of implied common law liens, and is firmly engrafted on the common law. *The lien of attorneys on judgments and decrees obtained by them for fees, is based mainly on possession of such judgments or decrees, but partially also on the merit and value of their services.* It exists upon the money, papers and writings of the client in the attorney's hands, which is denominated a retaining lien. Such lien exists upon judgments and decrees, and the proceeds thereof, and is called a charging lien.
>
> *Collins v. Schneider*, 187 Miss. at 9.[29]

In *Brothers in Christ, Inc. v. American Fidelity Fire Ins. Co.*, 680 F. Supp. 815 (S.D. Miss. 1987), the federal district court construed the language in *Halsell* as "engrafting a possession requirement on charging liens as well." *Id.* at 818; *accord Wilson v. Scruggs*, 2006 U.S. Dist. LEXIS 99162 (S.D. Miss. 2006) at *9.

In *Tyson v. Moore*, 613 So. 2d 817 (Miss. 1992), the attorney filed suit over a contingency fee against his client (who asserted malpractice and fraud as defenses). The lower court awarded the attorney $188,841.50 and found his conduct proper. The Mississippi Supreme Court reversed and rendered. The Court affirmed the chancellor's finding that the attorney had not breached the duty of loyalty with respect to asserting liens in light of the "uncertainty of our substantive law on what property the attorney may hold, and retain. . .." *Id.* at 827.[30] The Court also explained that if the lien applies to either real or personal property, the choice between realty, personalty, or cash, belongs to the client.

In *Estate of Stevens v. Wetzel*, 762 So. 2d 293 (Miss. 2000), Stevens (the initial and subsequently deceased) attorney, was retained on a contingency basis in a personal injury case and subsequently discharged by the client and replaced with another attorney who settled the case. Stevens initially sought to intervene to assert his claim of lien in the federal personal injury action, but was denied permission to do so. After settlement, the subsequent attorney tendered a small portion of the expenses claimed by Stevens (but no fees), which Stevens rejected.

Stevens then asserted a claim against the subsequent attorney and an insurance company in chancery based upon breach of ethical duty and violation of the law of assignments. The chancery court found that neither the subsequent attorney nor the insurance company were liable to Stevens, but rather Stevens' only action was against the client. The Mississippi Court of Appeals affirmed as to the insurance company (who purportedly did not have notice) but reversed as to the subsequent attorney, who knew about the claim of lien and was liable under a claim of conversion. The Mississippi Supreme Court reversed the Court of Appeals decision, finding that the pleading in the case was based upon the subsequent attorney's alleged breach of ethical duty, and, that the theory of conversion (relied upon by the Court of Appeals) was never asserted. It affirmed the dismissal in favor of the insurance company based upon abandonment.

More recently, in *Bar-Til, Inc. v. Superior Asphalt, Inc.*, 219 So. 3d 553 (Miss. Ct. App. 2017), the Court of Appeals held that the charging lien attached to a final interpled judgment even though the proceeds were not in the attorney's actual possession. The *Bar-Til* Court also held that the charging lien of the attorney was a first priority lien.[31]

Dicta in a fairly recent Fifth Circuit Court of Appeals case subtly recognizes the tension between the general *holdings* of Mississippi law related to charging liens, i.e., the charging lien attaches by operation of law to any judgment obtained, with the dicta in cases suggesting that possession is necessary to assert a charging lien.[32] If possession is necessary to assert a charging lien, what is the difference between a charging lien and a retaining lien (except the broader nature of a retaining lien)? How would such a possessory requirement further the expressed rationale that "a party should not run away with the fruits of a cause without satisfying the legal demands of his attorney, by whose industry and expense these fruits were obtained"? ■

1 Abridged, adaptive work from the author's seminar presentation at the 2019 Hot Tips from the Experts Seminar, Friday, May 3, 2019, Mississippi Sports Hall of Fame Jackson, Mississippi, a seminar intended for a domestic relations practitioner audience. ©2019 Gregory M. Hunsucker.

2 *Singleton v. Stegall*, 580 So. 2d 1242, 1244 n.2 (Miss. 1991) (citing American Law Institute, *Restatement of the Law: The Law Governing Lawyers* § 26 (Prelim. Draft No. 6, July 25, 1990)).

3 A written contract is required in all contingency fee arrangements in Mississippi. Mississippi Rule of Prof. Conduct. 1.5(c). Contingency fees are permissible in limited circumstances in domestic relations matters, specifically post-divorce support collections actions. Miss. Bar Ethics Op. 88 (1983, amended 2013).

4 For the potential perils of not using a written contract to explain the nature of the retainer, among other things, *see Trigg v. Farese*, 266 So.3d 611 (Miss. 2018).

5 *See* Miss. Bar Ethics Op. 244 (1998) (an attorney may not file a lis pendens on real property that is the subject matter of a divorce to collect fees); Miss. Bar Ethics Op. 152 (1988) (an attorney may not accept deed from client for one-half of marital home for fees); M.R.C.P. 1.7(b) (an attorney may not represent client if representation may be materially limited by attorney's own interests unless (a) the representation will not be adversely affected and (b) the client gives knowing and informed consent after consultation).

6 *See Verner v. Verner*, 62 Miss. 260 (Miss. 1884) (wife without means seeking permanent alimony should be awarded the means to maintain her suit).

7 I modeled my spreadsheet on the codes and breakdown of the Uniform Task-Based Management system. *See* https://www. americanbar.org/content/dam/aba/migrated/litigation/utbms/utbms.pdf.

8 *Neely v. Neely*, 52 So. 2d 501, 504 (Miss. 1951).

9 *See Parker v. Parker*, 71 Miss. 164, 14 So. 459 (Miss. 1893.

10 *McNeil v. McNeil*, 127 Miss. 616, 90 So. 327 (Miss. 1922); *Boyd v. Boyd*, 159 Miss. 614, 132 So. 752 (Miss. 1931); *see also Bilbo v. Bilbo*, 180 Miss. 536, 177 So. 772, 776-77 (Miss. 1938) (dicta).

11 *See Lewis v. Pagel, 172 So. 3d 162* (Miss. 2015) (proof under *McKee* factors not necessary in contempt action); *Carter v. Davis,* 241 So. 3d 614 (Miss. 2018) (proof under *McKee* factors not necessary in support enforcement action); *Smith v. Hickman, Goza & Spragins, PLLC*, 2019 Miss. LEXIS 22 (Miss. 2019) (proof under *McKee* factors not necessary to support attorney's fees awarded as sanctions under M.R.C.P. 37 or under inherit authority of court).

12 *Compare McKee v. McKee*, 418 So. 2d 764, 766 (Miss. 1982) (reversing and remanding on issue of amount of attorney's fees where award was based in part upon estimates of time spent by two attorneys in the case rather than detailed billing).

13 *See also Mizell v. Mizell*, 708 So. 2d 55 (Miss. 1998) (affirming $1,000.00 award where chancellor found that action was necessitated because obligor had not fully complied with decree, even though obligor was not found in contempt); *Moore v. Moore*, 372 So. 2d 270 (Miss. 1979) (reversing chancellor and awarding attorney's fees—finding of contempt or inability to pay unnecessary); *see also Pearson v. Hatcher*, 279 So. 2d 654 (Miss. 1973).

14 *See Choctaw, Inc. v. Campbell-Cherry-Harrison-Davis and Dove*, 965 So.2d 1041, 1045 at n.7 (Miss. 2007) (affirming denial of motion for sanctions); *Cont'l Cas. Co. v. Allstate Prop. & Cas. Ins. Co.*, 235 So. 3d 40 (Miss. 2017).

15 *Manning v. King's Daughters Medical Center*, 138 So.3d 109, 118-119 (Miss. 2014); *see also Palmer v. Biloxi Reg'l Med. Ctr., Inc.*, 564 So.2d 1346, 1368 (Miss.1990) (affirming sanction of dismissal where party failed to respond to discovery).

16 *Owens v. Whitwell*, 481 So.2d 1071, 1077 (Miss. 1986) (interpreting statutory predecessor of the Rule, Mississippi Code § 13–1–237(d)).

17 *Smith v. Hickman, Goza & Spragins, PLLC*, 265 So.3d 139 (Miss. 2019) (also holding that *McKee* factors need not be proven when the nature of the award is punitive).

18 *Id.*; *see also Campbell v. Campbell*, 269 So. 3d 426 (Miss. Ct. App. 2018).

19 261 So. 3d 1110 (Miss. 2019).

20 *Hatfield v. Deer Haven Homeowners Ass'n, Inc.*, 234 So. 3d 1269 (Miss. 2017) (awarding attorney's fees in the amount of ½ on appeal of fees awarded below based upon contractual attorney's fees provision).

21 2019 Miss. App. LEXIS 94 (Docket No. 2017-CA-01319-COA).

22 *Id.* at ¶45; *see also Wilkinson v. Wilkinson*, 2019 Miss. App. LEXIS 77 (Docket No. 2017-CA-00973-COA).

23 The party seeking fees on appeal testified in the lower court that she was not seeking attorney's fees. 2019 Miss. App. LEXIS 270 (Docket No. 2017-CA-00175-COA).

24 Unpublished July 23, 2019 *En Banc Order*, https://courts.ms.gov/appellatecourts/docket/sendPDF.php?f=700_455227.pdf&c=85861&a=N&s=2.

25 The Mississippi Bar has addressed the ethical issue related to retention of a client's file in numerous opinions. For example, in Miss. Bar Ethics Op. 144 (1998, amended 2013) the Bar opined that "ethically, a lawyer may not retain a client's file in a pending matter if it would harm the client or the client's cause." In Miss. Bar Ethics Op. 234 (1996) the Bar opined that an "attorney who has been terminated during a pending case may ask the client to sign a receipt for the client's file that releases the attorney from any further responsibility on the client's case or that acknowledges responsibility for payment of an owed legal fee plus interest, but the attorney may not require the client to sign the receipt as a condition for releasing the file." It further opined, in that same opinion, that an "attorney who has concluded a case, however, may require his client to acknowledge receipt of the file and to relieve the attorney of responsibility for maintaining the file."

26 In *Pope v. Armstrong*, 11 Miss. 214, 221 (Miss. 1844), the Mississippi Supreme Court held that money obtained in a particular suit cannot be applied to a general outstanding balance owed to the attorney, but rather only to fees related to that particular suit. In *Dunn v. Vannerson*, 8 Miss. 579, 581 (Miss. 1843) the Mississippi Supreme Court held that an attorney had the right to retain fees for monies collected by execution, but could not withhold funds from the judgment for their unsettled accounts (presumably general balances on other matters) or withhold funds for a creditor asserting rights in a garnishment action.

27 *See also Chattanooga Sewer Pipe Works v. Dumler*, 153 Miss. 276, 290 (Miss. 1929) (reversing lower court judgment finding proceeds from personal injury settlement exempt from attorney's charging lien and rendering judgment for 50% (the contractual contingency percentage) of proceeds in favor of attorney).

28 *Halsell*, 84 Miss. at 434.

29 Although *Collins* uncritically quoted the statement in *Halsell* that the charging lien "applies so long as the attorney has the funds in his possession", it explained that the attorney had a paramount lien (a charging lien) on the proceeds of the judgment even though the proceeds were in the hands of the judgment debtor the attorney sued to enforce his lien. *Collins* appears to have concluded that the proceeds were in the constructive possession of the attorney who procured the judgment because the proceeds had not passed from the judgment debtor to the attorney's client. *Collins,* 187 Miss. at 10. *Collins* also explained that "[i]t is not required that an attorney shall insist upon the enforcement of the lien before the rendition of the judgment procured by his services, but afterwards." *Id.* at 11.

30 Unfortunately, *Tyson* did not resolve the uncertainty relating to the purported possessory requirement repeatedly expressed in dicta when referencing charging liens. The Court characterized the two liens as follows: (1) a retaining lien may be exercised by an attorney on all money his client which comes into the attorney's possession during his course of professional employment, and (2) a special or charging lien attorney's fees may be imposed by an attorney to recover fees from the proceeds of a judgment in a case, but said lien does not attached until judgment is handed down, however, both liens apply to "funds already in the attorney's possession." *Tyson*, 613 So. 2d at 826.

31 "[A]ttorneys deserve payment for their successful services." *Id. at 557; Collins*, 187 Miss. at 23 ("it would be most inequitable and unjust for [other claimants to the judgment] to be allowed to 'ride free'"); *Indianola Tractor Co. v. Tankesly*, 337 So. 2d 705 (Miss. 1976) (affirming attorney's lien on garnishment as priority lien).

32 *United States ex rel. Rigsby v. State Farm & Cas. Co.*, 740 Fed. Appx. 392, 393, nn.24-25 (5th Cir. 2018) (affirming denial of lien on basis of laches).

2019-2020

PRESIDENT-ELECT NOMINEES

BALLOTS WILL BE SENT IN JANUARY, 2020

ROBERT L. GIBBS
Jackson

Robert L. Gibbs is a Partner at Gibbs Travis PLLC in Jackson, MS. Robert received his Bachelor of Science degree in 1976 from Tougaloo College and earned his Juris Doctor degree from the University of Mississippi School of Law in 1979. Robert practiced in Hattiesburg and Cleveland early in his career and then spent ten (10) years with the MS Attorney General's Office, rising to become Deputy Attorney General in charge of Local and State Government/Opinions. In 1990, Robert was elected to the position of Circuit Judge for the Seventh Circuit District, serving for seven (7) years. He then spent fourteen (14) years as a Partner at the Brunini Law Firm before he started Gibbs Travis in 2011. Robert served as an Adjunct Professor at MS College School of Law teaching Trial Practice for over 25 years.

In the MS Bar, he has served as a member of the Board of Commissioners for the MS Bar in 2001-2004, Board of Trustees for the Mississippi Bar Foundation in 1999-2002, President of the MS Bar Foundation in 2002-2004, Chair of the ADR Section in 2018-2019 and Chair of Summer School 2018. Robert is a Past President and Fellow of the MS Young Lawyers and a Past President and Fellow of the Mississippi Bar Foundation. Robert has served in leadership roles as Past President of the Charles Clark Chapter of the America Inns of Court and Past President of the Fifth Circuit Bar Association. He is a Fellow of the American College of Trial Lawyer and Fellow of the American Bar Association. He is a member of the American Board of Trial Advocates, member of the Mississippi Bar, Capital Area Bar, Magnolia Bar Association, and DRI. He served as President of the University of MS Lamar Order in 2014-2015 and has served as a member of the ABA's Law School Site Accreditation Team where he participated in six law school's accreditation studies.

Robert has served on numerous nonprofit Boards, including serving as Chair of the following: Jackson Convention and Visitors Bureau, Hope Community Credit Union, Greater Jackson Chamber Partnership, Mission MS, the Jackson Arts Council and the United Way of the Capitol Area. He presently serves on the Advisory Boards of First Commercial Bank and The Salvation Army and the Boards of the MS Museum of Arts, Century Charities and Hope Enterprise Corporation. Robert was Co-Chair of the effort that led to the historic passage of a $150,000,000 bond referendum for the Jackson Public Schools and was appointed by Governor Phil Bryant to Co-Chair the Task Force on Corrections. For over 25 years, Gibbs has served as a final round judge for the Mississippi Bar's High School Mock Trial competition.

In 2004, he received the Mississippi Bar's Distinguished Service Award and the Mississippi Bar Foundation honored him in 2007 with the Law Related–Public Education Award. In 2012-2013 he received the Capital Area Bar Professionalism Award. In 2015, Robert was inducted into the Tougaloo College Hall of Fame.

Robert is married to Debra Hendricks Gibbs and they have two children, Ariana, an attorney in Washington, D.C. and Justis, a second-year law student at the University of Mississippi School of Law.

SAMUEL C. (SAM) KELLY
Jackson

Samuel C. (Sam) Kelly is a member of the Brunini law firm in Jackson, MS, where he has practiced since 2003 and currently serves as managing partner. Prior to joining Brunini, Sam practiced with Ott & Purdy, P.A. from 1989-2003.

Sam received his undergraduate (1983) and law (1988, magna cum laude) degrees from the University of MS. Since the beginning of his career, Sam has been very active in The MS Bar. As a young lawyer, Sam served the MS Bar's Young Lawyers Division as Chair of the Law School Relations Committee, Chair of the Local Affiliates Committee, Chair of the Seminar Committee, President of the Jackson Young Lawyers, Director of the Mississippi Bar YLD, Judge of the High School Mock Trial Competition and was a regular participant in the Lawyer in Every Classroom program. Sam also served as President of the MS Bar Young Lawyers Division from 1999-2000. Sam is a Fellow of the Young Lawyers and previously served the Fellows as President. He has served in the following roles in serving the Bar: Second Vice-President (2000-02), Bylaws Committee Chair (2001-02), Public Information Committee (2001-03, Chair from 2003-05), Memorial Service Committee (2002-03, Chair 2007-08), Editor of the Mississippi Lawyer (2013-15), Chair of the Strategic Planning Committee (2017-18) and current Co-Chair of the Future of the Profession Committee. Sam is also a member of the MS Bar Foundation and has served on the Foundation's board of trustees since 2018.

In addition to the MS Bar, Sam is an active member in other Bar-related organizations. Sam is a member of the Capital Area Bar Association, having previously served as a Director. He is a Bencher in the Charles Clark Inn of Court where he serves on the Executive Committee and is also a member of the American Board of Trial Advocates.

Sam is an active member of and serves as general counsel to the MS Associated Builders and Contractors and the MS Road Builders Association. His practice focuses on the construction industry. Sam has been recognized by Best Lawyers in America (2006-2020), Chambers USA: America's Leading Lawyers (2009-19), and Mid-South Super Lawyers (2007-19). Sam was named Lawyer of the Year by Super Lawyers in 2012, 2015 and 2018 for construction law and litigation. In 2013, Sam was recognized by MABC as the Construction Industry Person of the Year.

Sam has been active in his community for over twenty years having served as past president of the PTOs for Madison Avenue Elementary, Madison Middle, and Rosa Scott schools. He is also past president of the Madison Central Booster Club. In 2013, he was elected to the Madison County School Board and continues to serve in that role today. Sam is an active member of the Madison County Business League and Foundation and served as its Chairman in 2016-17.

Sam is a member of Broadmoor Baptist Church where he teaches a Life Group. Sam and his wife Kim are the proud parents of two daughters, Maggie Kate Bobo (Lane) and Anna Claire Wallace (Tanner), and their late son, Sam Clayton.

SUSPENSIONS

Donna D. Truong of Pensacola, Florida: A Complaint Tribunal imposed a **Three (3) year Suspension** in Cause No. 2019-B-399 for violation of Rule 8.1 of the Mississippi Rules of Professional Conduct (MRPC). Ms. Truong must apply for Reinstatement in accordance with Rule 12 of the Rules of Discipline of the Mississippi State Bar (MRD), in order to return to the practice of law.

General Counsel for The Mississippi Bar filed an informal [Bar] complaint at the direction of the Committee on Professional Responsibility based upon the Bar having received information from the Mississippi Board of Bar Admissions that Ms. Truong had not previously disclosed on her Bar application that she had been arrested. Specifically, the Bar application asked:

> Have you, as a juvenile or an adult, been cited, arrested, charged, or convicted for any violation of any law (except traffic violations)? NOTE: This should include matters that have been expunged or subject to a diversionary program.

Ms. Truong failed to report to the Board that she was arrested on March 8, 2010, in Lamar County, Mississippi for a felony charge of Controlled Substance: Fraudulent Transfer/ Possession of Prescription. Ms. Truong also failed to disclose the arrest on her application to the Florida Board of Law Examiners.

Rule 8.1, MRPC, provides that an applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not (a) knowingly make a false statement of material fact; or (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6, MRPC.

David Carta Loker Gibbons, Jr. of Matarie, Louisiana: The Supreme Court of Mississippi imposed a **Suspension of one (1) year and one (1) day**, with all but six (6) months deferred, based upon Mr. Gibbon's suspension in Louisiana in accordance with Rule 13 of the Rules of Discipline for the Mississippi State Bar (MRD). Mr. Gibbons must apply for Reinstatement under Rule 12, MRD, in order to be reinstated in Mississippi.

J. Adam Miller of Ocean Springs, Mississippi: A Complaint Tribunal entered a Default Judgment and imposed a **Six (6) month Suspension** in Cause No. 2018-B-1163 for multiple violations of Rules 1.2, 1.3, 1.4(a), 1.5(a) and (b), 1.16(d), 8.1 and 8.4 (a) and (d), MRPC. Mr. Miller must apply for Reinstatement in accordance with Rule 12 of the Rules of Discipline of the Mississippi State Bar (MRD), in order to return to the practice of law.

Mr. Miller was the subject of five (5) informal [Bar] complaints.

In Docket No. 17-128-1, a client filed a complaint alleging that she hired Mr. Miller in a criminal matter. She paid a retainer and reached a verbal agreement for representation. She further alleged Mr. Miller failed to inform her of a court date and failed to appear for court resulting in her being found guilty in absentia. She also alleged Mr. Miller failed to communicate with her after she was found guilty in absentia. Mr. Miller filed a one paragraph response to the complaint stating that the client did not pay the fee in full. Therefore, he did not undertake the representation. Mr. Miller failed to place the fee in his lawyer trust account; failed to perform any meaningful work on the case; failed to adequately advise the client of the terms of representation; and failed to protect her interests upon his terminating the representation for non-payment of fees owed. With regard to this complaint, Mr. Miller violated Rules 1.2, 1.3, 1.4(a), 1.5(a), 1.5(b), 1.15(a), 1.16(d), and 8.4(a) and (d), MRPC.

In Docket No. 17-183-1, a client filed a complaint against Mr. Miller alleging that she hired Mr. Miller to file for post-conviction relief in her husband's criminal conviction and paid $3,500 as a fee. There was no evidence of a written contract, except for a text message presumably from Mr. Miller that states "Paid $3500 in full. Adam Miller". Mr. Miller failed to file any pleadings and did not refund the fees paid. Mr. Miller filed a four-paragraph response which states the fee was $5,000 and that he advised the client and his family he would not begin work until he was paid in full. Any fees paid for work not performed are, by definition, unearned. Mr. Miller did not place unearned fees in his lawyer trust account. Likewise, he failed to return the unearned fees when it became apparent that he was not going to perform the work for which he was hired. With regard to this complaint, Mr. Miller violated Rules 1.2, 1.3, 1.4(a), 1.15(a), 1.16(d), and 8.4(a) and (d), MRPC.

In Docket No. 17-213-1, a client filed a complaint alleging that he hired Mr. Miller with respect to handling some expungements of criminal cases that were ultimately dismissed. The client paid Mr. Miller $500 plus $150 in filing fees. Mr. Miller failed to file any of the necessary documents to have the matters expunged from the client's record. Mr. Miller also failed to respond to a letter from another attorney on behalf of the client seeking an update on the status of the matters. Mr. Miller maintained in his two-paragraph response to the complaint that the client paid the fee for services, but not the filing fees at the time he was hired. Mr. Miller stated the client paid the filing fee almost one year later.

Mr. Miller also maintained that the client failed to provide him with necessary documents to have the matter expunged and that the client is solely responsible for the delay in getting the expungements done. In a series of text messages Mr. Miller represented to the client that the judge was going to sign the expungement order stating:

> Nothing was done because u didn't pay filing fee till a month ago. I'm upholding my duty btw.
>
> And by the way ur petition has been done with the others but wasn't filed because of ur delay.

Mr. Miller's response to the complaint that he was awaiting additional documents necessary to file the petition is inconsistent with information he advised the client in the text messages. Simply put, he could not have prepared the petition because he maintained that the client had not provided him with the information necessary to complete the petition. Likewise, he could not have expected the judge to enter an order on a petition he had not yet filed.

Subsequently, the Bar sent Mr. Miller a request to supplement his response. Mr. Miller filed an untimely and incomplete response by electronic mail admitting that the prepaid filing fee paid on behalf of the client was not deposited to Mr. Miller's lawyer trust account, consistent with his normal practice of 22 years. Mr. Miller maintained that he was not looking at his file when he incorrectly advised the client that he was going to present the order to the court or that the petition was done. There is no explanation how he could have advised the client the order was being presented prior to advising the client that he had prepared the unfiled petition. With regard to this complaint, Mr. Miller violated Rules 1.2, 1.3, 1.4(a), 1.15(a), 1.16(d), 8.1(b), and 8.4(a) and (d), MRPC.

In Docket No. 17-252-2, a client filed a complaint alleging that he hired Mr. Miller to file a civil rights complaint against the Mississippi Department of Corrections. Since being hired, Mr. Miller had no contact with the client. Mr. Miller was paid a fee of $3500. Mr. Miller failed to respond to written correspondence from the client. Mr. Miller's failure to communicate with his client after repeated requests to advise him of the status of his matter constitutes constructive termination of the representation. Mr. Miller's constructive termination was without good cause. Mr. Miller failed to protect the interests of his client following termination of the representation. The Bar sent Mr. Miller a copy of the complaint and a demand for a response. When Mr. Miller failed to respond, the Bar sent him a second demand letter. Mr. Miller either failed or refused to respond to any demand for a response. With regard to this complaint, Mr. Miller violated Rules 1.2, 1.3, 1.4(a), 1.5, 1.16(d), 8.1(b), and 8.4(a) and (d), MRPC.

In Docket No. 17-007-1, a client filed a complaint alleging he hired Mr. Miller in a criminal matter as well as a forfeiture proceeding. The client paid Mr. Miller in two instalments of $2500 each. After having been paid in full, Mr. Miller began to communicate less frequently with the client. The client later appeared at a hearing, but Mr. Miller failed to appear. Mr. Miller also failed to appear at a subsequent hearing. The Court reset the hearing with the client represented by another lawyer. Mr. Miller failed to place any part of the prepaid fees into his lawyer trust account. Pursuant to a directive from the Committee on Professional Responsibility, the Bar noticed an investigatory hearing for this matter. Mr. Miller either failed or refused to attend the duly noticed hearing. With regard to this Count, Mr. Miller violated Rules 1.2, 1.3, 1.4(a), 1.5, 1.15(a), 1.16(d), 8.1(b), and 8.4(a,d), MRPC.

PUBLIC REPRIMANDS

Boyd P. Atkinson of Cleveland, Mississippi: A Complaint Tribunal imposed a **Public Reprimand** in Cause No. 2018-B-1157 for violations of Rules 1.7(b) and 8.4(d), MRPC.

Mr. Atkinson was appointed as a public defender in Bolivar County for a female defendant charged with uttering a forgery. Mr. Atkinson and the female defendant engaged in a telephone conversation, initiated by the female defendant, that was inappropriate. That telephone conversation was recorded and reported to the Circuit Court Judge.

Rule 1.7(b), MRPC, provides that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client… or by the lawyer's own interests, unless the lawyer believes: (1) the representation will not be adversely affected; and (2) the client has given knowing and informed consent after consultation. The lawyer's fiduciary duty to the client implies that the lawyer should not abuse the client's trust by taking sexual or emotional advantage of the client. To allow otherwise risks exploitation of the client and impairs the independent judgment of the lawyer. The client's own emotional involvement renders it unlikely a client could give adequate informed consent. Mr. Atkinson did not ultimately take sexual or emotional advantage of the client and the final outcome of the case was not negatively impacted by Mr. Atkinson's representation of her; however, Mr. Atkinson's conduct is a violation of Rule 1.7(b), MRPC.

Rule 8.4(d), MRPC, states it is professional misconduct to engage in conduct prejudicial to the administration of justice. Mr. Atkinson's violations of Rule 1.7(b), MRPC, as described above constitute misconduct that is prejudicial to the administration of justice under Rule 8.4, MRPC.

Carlos E. Moore of Grenada, Mississippi: A Complaint Tribunal imposed a **Public Reprimand** in Cause No. 2018-B-1485 for violations of Rules 1.15(a) and (b), MRPC.

Mr. Moore represented a building contractor with a BP oil spill claim. The contractor/client took out a loan in 2013 from another attorney in town to buy a bulldozer and signed a promissory note that was to be repaid in one (1) year. The other attorney took a security interest in the bulldozer to secure the loan and an assignment in the client's BP oil spill claim. Mr. Moore did not represent the client in the bulldozer transaction but did receive a copy of the assignment which he signed, acknowledging receipt. However, a copy of the assignment was not placed in the lien folder for the BP oil spill claim and Mr. Moore's staff did not identify it as a lien when the BP oil spill claim was settled and proceeds disbursed in 2016.

Mr. Moore's client did not identify the assignment as remaining outstanding at the time of disbursement. The client signed the disbursement form stating "no person or entity has any interest in said proceeds except as listed under "Disbursement of Funds" below; and, agree and understand that if there are any outstanding bills for medical treatment, etc. that remain outstanding that it is my responsibility to pay them out of my net proceeds. Accordingly, the full settlement proceeds were disbursed to Mr. Moore's client, less the attorney fee earned by Mr. Moore and expenses; and no amount was disbursed to the assignment holder. Mr. Moore's client also told the assignment holder that he had not received any proceeds from his BP Oil Spill claim. When the assignment holder learned proceeds had been disbursed, he made demand on Mr. Moore for the outstanding balance of the promissory note. The assignment holder has since foreclosed on the bulldozer and Mr. Moore has paid the balance of the indebtedness owed by his client.

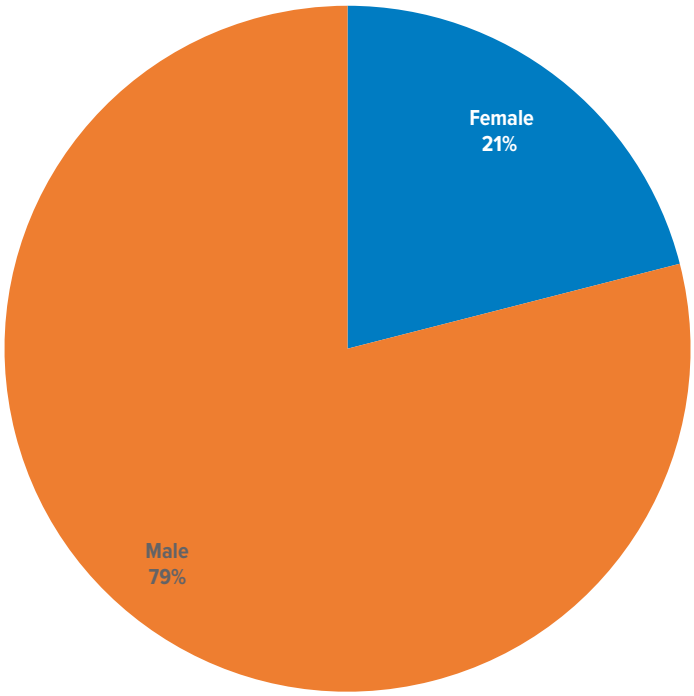
Rule 1.15(a), MRPC, provides that a lawyer shall hold the property of clients and third parties separate from the lawyer's own property. The lawyer must identify this other property and safeguard it. Rule 1.15(b), MRPC, requires a lawyer to promptly deliver the funds held for clients or third parties upon request.

Mr. Moore violated Rule 1.15(b) when he failed to notify the assignment holder that the client's settlement proceeds had been received or pay out the assignment promptly. Mr. Moore violated Rule 1.15(a) when he paid out the entirety of the client's settlement proceeds, less attorney's fees and expenses, to the client without paying the assignment. ■

BAR COMPLAINT STATISTICAL REPORT

2018-2019 FISCAL YEAR

433 COMPLAINTS



GENDER

Male: 79% (342)

Female: 21% (91)

MEMBERSHIP INFORMATION

Male: 77% (6,940)

Female: 23% (2,093)

AGE OF LAWYER

55 and Over: 44% (191)

45 to 54: 20% (85)

35 to 44: 29% (126)

25 to 34: 7% (31)

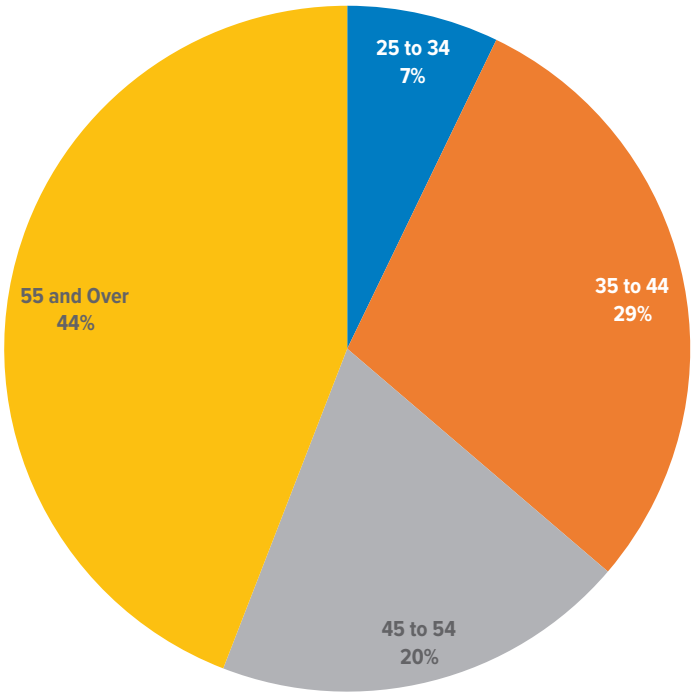
MEMBERSHIP INFORMATION

55 and Over: 38% (3,433)

45 to 54: 22% (1,991)

35 to 44: 25% (2,294)

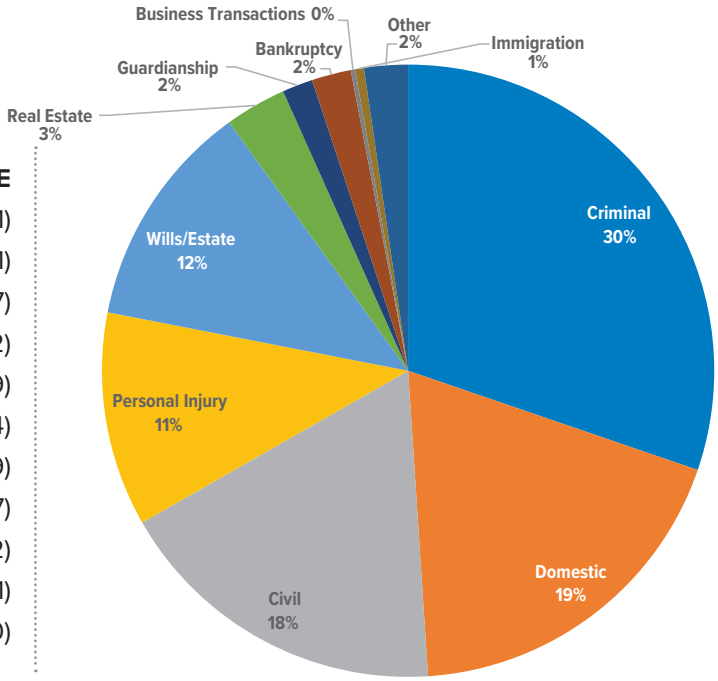
25 to 34: 15% (1,332)



BAR COMPLAINT STATISTICAL REPORT

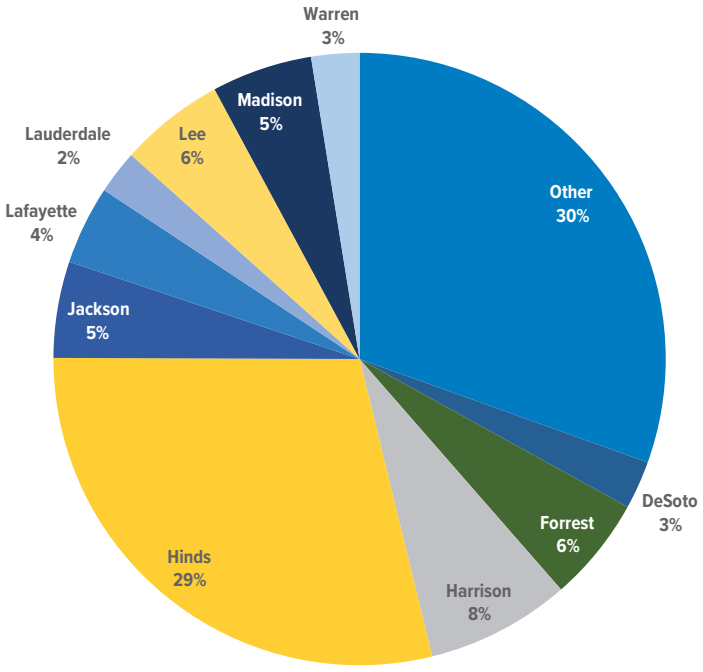
2018-2019 FISCAL YEAR

433 COMPLAINTS



AREAS OF PRACTICE

Criminal: 30% (131)
Domestic: 19% (81)
Civil: 18% (77)
Wills/Estates: 12% (52)
Personal Injury: 11% (49)
Real Estate: 3% (14)
Bankruptcy: 2% (9)
Guardianship: 2% (7)
Immigration: 1% (2)
Business Transactions 0% (1)
Other: 2% (10)



COUNTY

Hinds: 29% (125)
Harrison: 8% (33)
Forrest: 6% (24)
Lee: 6% (24)
Jackson: 5% (22)
Madison: 5% (23)
Lafayette: 4% (18)
DeSoto: 3% (11)
Warren: 3% (11)
Lauderdale: 2% (10)
Other: 30% (132)

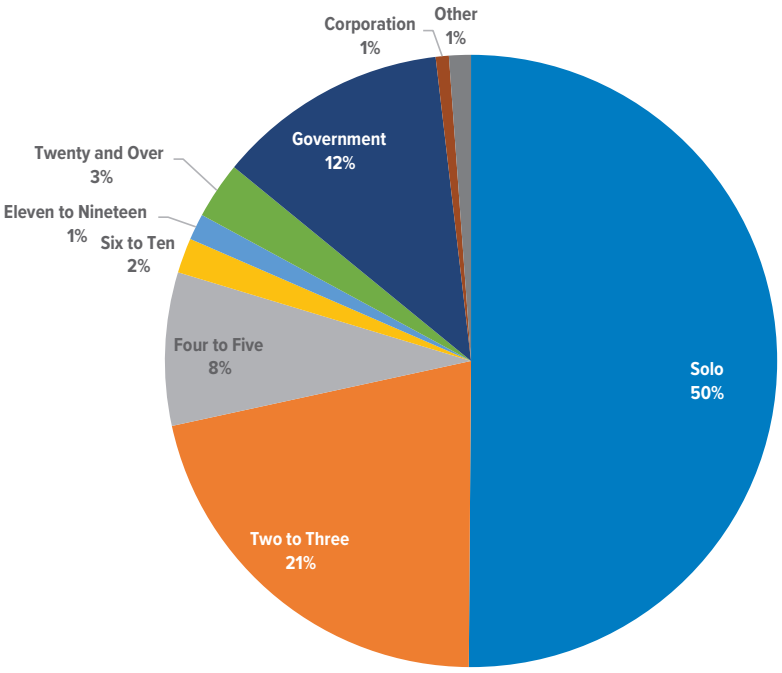
MEMBERSHIP INFORMATION

Hinds: 39% (2,038)
Madison: 16% (847)
Harrison: 12% (616)
Lafayette: 7% (354)
Forrest: 6% (331)
Rankin: 6% (306)
Lee: 5% (240)
Jackson: 4% (229)
DeSoto: 3% (167)
Lauderdale: 2% (110)

BAR COMPLAINT STATISTICAL REPORT

2018-2019 FISCAL YEAR

433 COMPLAINTS



SIZE OF FIRM

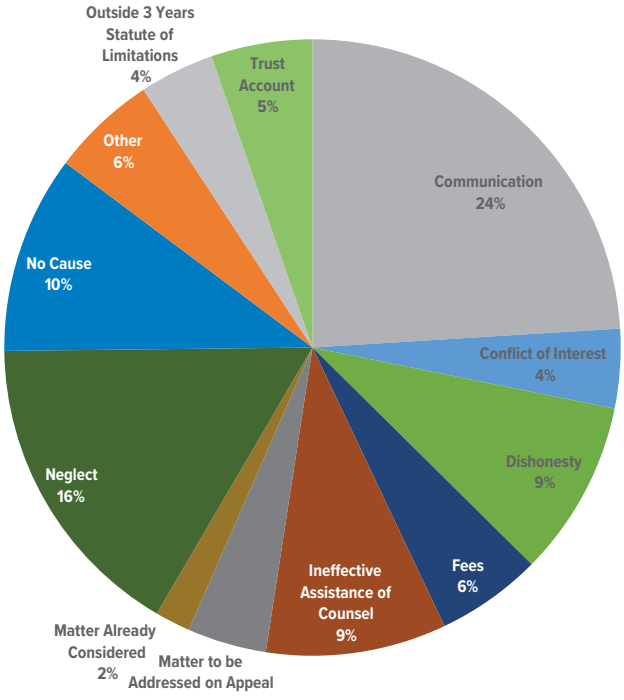
Solo: 50% (217)
Two to Three: 21% (93)
Four to Five: 8% (35)
Six to Ten: 2% (8)
Eleven to Nineteen: 1% (6)
Twenty and Over: 3% (13)
Government: 12% (53)
Corporation: 1% (3)
Other: 1% (5)

MEMBERSHIP INFORMATION

Solo: 27% (2,383)
Two to Three: 14% (1,229)
Four to Five: 5% (467)
Six to Ten: 6% (521)
Eleven to Nineteen: 4% (313)
Twenty and Over: 18% (1,578)
Government: 16% (1,449)
Corporation: 5% (479)
Other: 5% (461)

COMPLAINT TYPES

Communication: 24% (104)
Neglect: 16% (71)
No Cause: 10% (45)
Ineffective Assistance of Counsel: 9% (41)
Dishonesty: 9% (40)
Fees: 6% (24)
Trust Account: 5% (23)
Conflict of Interest: 4% (18)
Matter to be Addressed on Appeal: 4% (18)
Outside 3 Years Statute of Limitations: 4% (17)
Matter Already Considered: 2% (8)
Other: 6% (24)



YOUNG LAWYERS DIVISION NEWS

JAKLYN WRIGLEY
Young Lawyers Division President
2019-2020

It is an unbelievable privilege to serve as President of the Young Lawyers Division ("YLD") this year. I am both honored and humbled at the opportunity, and inspired by the outstanding work of the young lawyers in this State. The YLD has earned the reputation of "getting things done," and I plan to do my part to carry – no, brighten – that torch in the months to come.

When I assumed this role at the Annual Meeting in beautiful Sandestin Florida earlier this year, I knew I wanted to get back to basics. What is the YLD's purpose and how can we better fulfill it? At the most fundamental level, the YLD was created to serve Mississippi's young lawyers. Of course, what that requires is subject to interpretation. But, at a time when young lawyers are reinventing how they practice, and also leaving the State at an alarming rate, I decided the best thing the YLD could do was provide tangible resources that not only assisted young lawyers as they build their practices, but also encouraged them to remain in Mississippi. I think we are off to a great start.

First, we expanded the responsibilities of various Committees on the YLD Board. A few examples:

- The Communications Committee, led by Jess Waltman, will increase the YLD's social media presence and resume the YLD's practice of publishing a regular newsletter. By staying better connected, we hope you can be more engaged.
- The Diversity Committee, led by Kenosha Whitehead, will develop additional projects that showcase talented lawyers of all backgrounds, in addition to maintaining (and building upon) the outreach efforts it traditionally conducts. Mississippi is rich in diversity. Let's make sure we all recognize that fact.
- The Public Service Committee, led by Ashley Gunn, is already well underway in planning additional CLEs (expungement clinics, anyone?) but also preparing materials to allow the Local Affiliates to more easily conduct their own CLEs across Mississippi. We all benefit by serving our communities.
- Finally, the Solo and Small Firm Committee, led by Hank Spragins, is in the process of creating a digital repository for templates and checklists related to the areas of law most commonly practiced by young lawyers. The more resources available, the more successful we can be.

This is just the tip of the iceberg (all of our Committees are hard at work), but I hope it gives you a taste of the YLD Board's diligent efforts to improve the way we all practice law.

Second, we have already hit the ground running on our tried-and-true projects and programs. On September 26, 2019, 126 newly admitted lawyers joined our ranks at the Fall Bar Admissions Ceremony at Thalia Mara Hall in Jackson. Stacey Buchanan led this charge, and I must say that the Ceremony was executed impeccably. Andrew Harris, the Mock Trial Committee chair, has assembled a high-drama criminal case, which this State's sharpest high school students will try before attorney judges in early 2020. The Seminars Committee, led by Christina Seanor, has hosted its first Bridge the Gap seminar, a CLE specially designed for our newest lawyers. Year after year, it's a tremendous success, not to mention an incredible revenue generator for the YLD.

Finally, our Local Affiliates continue to offer networking and educational opportunities to young lawyers in all parts of the State. From CLEs, to yoga, to happy hours, there is always something to do!

But, enough about what we are doing. My question is what are you doing? If you are so inclined, there are numerous ways to get involved. You can join one of the YLD's Committees. You can volunteer with one of our programs (e.g., mock trial judge or speaker for Lawyer in Every Classroom). You can get involved with your Local Affiliate. But, at a minimum, you can "like" our Facebook page: YLD of the Mississippi Bar. For more information, check out the YLD's page on msbar.org, contact the invaluable Rene' Garner (the Bar's Section & Division Coordinator) at rgarner@msbar.org, or reach out to me directly. I am (almost) always available by email, text message, or social media.

I look forward to keeping my sleeves rolled up and investing in our collective success. And what better group to invest in than the future of the Mississippi Bar?

FALL 2019
BAR ADMISSIONS CEREMONY
SPONSORED BY THE
YOUNG LAWYERS DIVISION

Program participants administering the oath to practice law in Mississippi included (front row), Stacey Moore Buchanan, Chair, YLD Bar Admissions Ceremony Committee; Dean Patricia W. Bennett, Mississippi College School of Law; Dean Susan H. Duncan, University of Mississippi Law School; Amanda J. Tollison, President of The Mississippi Bar; Jaklyn Wrigley, President of the Young Lawyers Division of The Mississippi Bar; **(second row),** Judge Tiffany P. Grove, representing Hinds County Chancery Court; Walter A. Davis, Board Member, Board of Bar Admissions; Justice T. Kenneth Griffis, representing the Supreme Court; Judge David A. Sanders, representing the US District Courts for the Northern District of Mississippi; Judge William H. Barbour, Jr., representing the US District Courts for the Southern District of Mississippi; and Pastor Elbert McGowan, Jr., Redeemer Church Jackson.

The Fall Bar Admissions Ceremony sponsored by the Young Lawyers Division was held on Thursday, September 26 at Thalia Mara Hall in Jackson. Representing the Young Lawyers Division Bar Admission Ceremony Committee were Kyle Williams, Briana Keeler, RaToya Gilmer, Marcus Williams, Matt Watson, Bradford Blackmon, and Gregory Alston.

FALL 2019 NEW ADMITTEES

Steven Chastain Adams
Steven William Adamson
Tyler Jordan Alcorn
Sara Elyse Alexander
Robert William Arledge
Alexis Danielle Banks
Zachary Glenn Barlow
Peyton Carole Bell
Eric Tyrell Bennett
Katie Camille Berry
Beau Michael Bettiga
Mary Katherine Black
Robert Eager Bobo II
Jasmine Teylor Bogard
Joseph Sebastian Bonica
William Earl Bonner
Tamarra Akiea Bowie
Frances Elizabeth Bowman
Mary Hope Bryant
Jennifer Carin Burford
Julie Nicole Burke
James Harrol Burris
Maxwell Busching
Matthew Robert Camp
Lauren Gabrielle Cantrell
Ikeecia Loreal Colenberg
Alex Christopher Collum
Benjamin Jackson Conley
Mary Chandler Cossar
Michelle P. Cumberland
Kathrine Collins Curren
Matthew Grant Dalton
Jasmine Janai Davis
Kelsey Leigh Dismukes
Joseph Carter Dooley
Brittney Sharae Eakins
Chance Christian Fair
Katherine Kent Farese
Michael Anthony Farese
Hugh Francis
Margo Renee Friloux
James Stephen Fritz, Jr.
Scott William Giblin
Stephanie Colleen Gobert
Seth Andrew Guess
Alison Lois Guider
Heather Lynn Hall
John Cody Hallmark
Shelby Sims Harper
Zachary Mason Harper
Charles Matthew Harrell
Russell Allen Hayes
Hannah Renee Heffernan
Victoria Baiamonte Herring
Patrick Johnathon Hillard
Jesse Dale Huske
Morgan Kay Jackson
Jacqueline Michelle Johnson
Kanesha Ann Johnson
Ronald Verdell Johnson IV
Drew Dalton Jones
Tyler Douglas Jordan
Mary Clark Joyner
Whitaker Roberts Kendall
Roy Grantham Krag
Sidney Elaine Lampton
Peyton Walker Lasiter
Matthew William Lawrence
Robert Edward LeMoine
Anthony Robert Liberato
Maria Liu
Caroline Campbell Loveless
Brandon Kyle Malone
Chaz Domonique Mangum
Martin Aubrey Mays
Victoria Nicole McCaa
Kelly Ann McCall
Paul Sean McCarthy
Matthew Campbell McDonald
John Patrick McMackin
Dillard Dee Melton III
Hannalore Burns Merritt
Morgan Ashley Middleton
Branden Howell Moore
Christian MaCall Morgan
Samuel James Noblin
Jansen Tosh Owen
Sarah Beth Phillips
Rahmana Pittman
Reid Kendall Posey
Alec Kennedy Rawlings
Liza Lee Rawls
Kelsey Rheanna Reckart
Nathan Alexander Rester
Rhea Alexandra Richardson
Eric Dennis Ricker
Bennett Thomas Rimmer
David Hunter Villarreal Robertson
Kevin Dwayne Rogers
William Harold Rosenblatt II
Lindsey Erin Rubinstein
Joseph Antone Rychlak
Kimberly R. Silas
Allison Joy Slusher
Cody Astin Smith
Sharon Algena Spencer
John Paul Stevens, Jr.
Amber Lauren Stewart
Mariah Kristina Hazel Stringer
Leoghain Alexandra Strnad
Michelle Marie Sultan
Cullen Gardner Tatum
Lucy Elizabeth Tufts
Douglas Brett Turnbull
Marissa Serena Turner
Rebecca Michelle Valentine
Edward Sparrow Voelker IV
Loden Philips Walker
Carol Ann Stevens Warren
Matthew Bryan Warren
LaTrish Cherise Mahalia Wheeler
Garrison Michael White
Claire Dulaney Williams
Princess Williams
Kristina Alicia Woo
Stephanie Smith Woodard

NEW LAWYERS IN THE FAMILY

Michael A. Farese, left and Katherine K. Farese, right, are welcomed by their father, Anthony L. Farese, (admitted 1986), all from Ashland.

Tyler Douglas Jordan, of Natchez, is greeted by his mother, Municipal Judge Lisa Jordan Dale, left, of Natchez, (admitted 1990), and his cousin, Ann Marie Pate, right, of Cleveland, (admitted 2007).

Rome Johnson, center, of Hattiesburg, is greeted by his step-brother, Mark Deakle, far left, of Fairhope, AL, (admitted 1998), his brother, Russell Johnson, center left, of Hattiesburg, (admitted 2017), his step-father, John Deakle, center right, of Hattiesburg, (admitted 1976), his uncle, Bob Couch, far right, of Hattiesburg, (admitted 1991), and not pictured his step-sister-in-law, Maggie Deakle, of Fairhope, AL, (admitted 1998).

NEW LAWYERS IN THE FAMILY

Robert Camp, right, (admitted 1983), congratulates his son, Matthew Camp, of Ridgeland.

Christopher A. Collins, left, (admitted 1992), welcomes his daughter, Kathrine Curren, both from Union.

Mariah Stringer, right, is congratulated by her mother, Edna Jones-Stringer, (admitted in 2001), both from Brandon.

Fincher G. Jack Bobo, right, (admitted 1978), greets his son, Robert E. Bobo II, both from Clarksdale.

Claire Williams, right, is welcomed by her husband, Kyle Williams, (admitted 2016), both of Madison.

Parker Berry, left, (admitted 2012), of Ridgeland, congratulates his sister, Katie Berry of Centreville.

MEDIATION AND ARBITRATION

S. MARK WANN has 34 years of general litigation experience, representing plaintiffs and defendants in a wide variety of disputes in state and federal court, including the United States Supreme Court. He has also litigated extensively using alternative dispute resolution forums. Mark uses that experience to help parties resolve their disputes through mediation and by offering services as an arbitrator. Mark may be contacted at 601.355.8855 or mark@maxeywann.com.

MAXEY WANN
ATTORNEYS AT LAW

The Heritage Building | 401 E. Capitol Street | Suite 200 | Jackson, MS 39201 | Phone: 601.355.8855
www.maxeywann.com

2019-2020 SECTION OFFICERS

ADR Section Executive Committee members include (left to right); Kaytie Pickett, Member at Large; Amorya Orr, Member at Large; Bill Brown, Chair; and Willie Abston, Vice Chair.

2019-2020 Appellate Practice Section Executive Committee members include (front row); Barbara Byrd, Member at Large; Meta Copeland, Chair; (back row); Taylor McNeel, Secretary; Samuel Gregory, Member at Large; and Simon Bailey, Member at Large.

2019-2020 Estates & Trusts Section Executive Committee members include (front row); Samantha Moore, Member at Large; Sara Anne White, Member at Large; Brandon Dixon, Vice Chair; (back row); Clark Luke, Secretary; Tyler Ball, Chair; and Samuel Williford, Past Chair.

Business Law Section Executive Committee members for 2019-2020 include (left to right); Ryan Revere, Chair; Slates Veazey, Member at Large; Elisabeth Byrd, Member at Large; and Neal Wise, Past Chair.

Workers Compensation Section Executive Committee members include (front row); Courtney Davis, Member at Large; Amy Topik, Past Chair; Marjorie Matlock, Member at Large; (back row); Tristan Armer, Member at Large; Brett Ferguson, Chair; and Donald Moore, Secretary.

2019-2020 Taxation Section Executive Committee members include (left to right); John Fletcher, Chair; Lacey Bailey, Vice Chair; Neil Rogers, Secretary; Don Frugé, Jr., Past Chair; and Ashley May, Member at Large.

2019-2020 SECTION OFFICERS

2019-2020 Government Law Section Executive Committee members include (front row); Brad Davis, Member at Large; Mary McKay Griffith, Member at Large; (back row); Trae Sims, Member at Large; Perry Sansing, Chair; and Will Allen, Vice Chair.

Health Law Section Executive Committee members include (front row); Jonathan Will, Member at Large; Julie Mitchell, Past Chair; Sharon Bridges, Member at Large; (back row); Stan Ingram, Member at Large; Conner Reeves, Secretary; and Blake Adams, Chair.

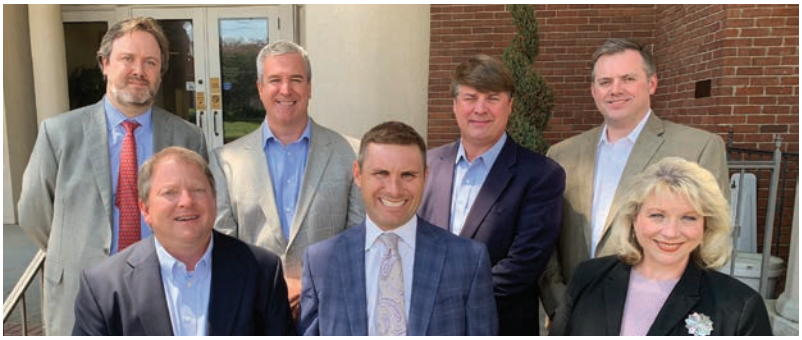
Intellectual Property, Entertainment & Sports Law Section Executive Committee members for 2019-2020 include (left to right); Jeremy Clay, Member at Large; Whit Rayner, Chair; Ben Mitchell, Member at Large; and Karen Howell, Member at Large.

Representing the **2019-2020 Labor & Employment Law Section Executive Committee** include (left to right); Daniel Waide, Member at Large; Leslie Barry, Vice Chair; Jennifer Hall, Past Chair; Susan Desmond, Chair; and Jaklyn Wrigley, Member at Large.

2019-2020 Litigation Section Executive Committee members include (left to right); Rachel Waide, Chair; Kyle Miller, Member at Large; and Julie Gresham, Member at Large.

Prosecutors Section Executive Committee members include (left to right); Marty Miller, Past Chair; Kim Harlin, Member at Large; Brian Neely, Chair; John Herzog, Vice Chair; and Matt Sullivan, Secretary.

2019-2020 SECTION OFFICERS



Representing the **2019-2020 Real Property Section Executive Committee** are (front row); Andrew Marion, Vice Chair; Robert Bass, Member at Large; Lisa Reppeto, Member at Large; (back row); Alan Windham, Member at Large; Charles Greer, Past Chair; Barry Bridgforth, Secretary; and Kenneth Farmer, Chair.

2019-2020 SONREEL Section Executive Committee members include (front row); Gene Wasson, Member at Large; Donna Hodges, Chair; Terra Bowling, Member at Large; (back row); John Brunini, Member at Large; and Bradley Ennis, Secretary.

Representing the **2019-2020 Family Law Section Executive Committee** are (left to right); Tiffany Graves, Past Chair; Cassidy Anderson, Member at Large; Amanda Proctor, Secretary; Jennifer Boydston, Chair; David Bridges, Vice Chair; and Lee Ann Turner, Member at Large.

Gaming Law Section Executive Committee members for 2019-2020 include (left to right); Ryan O'Beirne, Chair; Anthony Del Vescovo, Vice Chair; Jay McDaniel, Member at Large; and Louis Frascogna, Member at Large.

GUIDELINES FOR
THE MISSISSIPPI BAR AWARDS

DISTINGUISHED SERVICE AWARD

This award shall be granted to a lawyer or lay person for outstanding achievement in or a significant contribution to the legal community beyond his or her normal job duties. The recipient must be cited for specific actions which occurred no longer than three (3) years immediately prior to the date of the award. The Distinguished Service Award is presented annually and multiple awards may be presented.

LIFETIME ACHIEVEMENT AWARD

This award will be granted for devoted service to the public, profession and administration of justice over the span of a professional career. Only lawyers or individuals who have worked within or contributed significantly to the system of justice or legal profession will be qualified to receive this award. The Lifetime Achievement Award is presented only on those occasions when a deserving recipient is nominated and selected.

JUDICIAL EXCELLENCE AWARD

The Judicial Excellence Award recognizes an exceptional judge who is an example of judicial excellence, a leader in advancing the quality and efficiency of justice and a person of high ideals, character and integrity. To be eligible, a judge must be a full time, sitting judge. Judges on senior status are eligible if they continue to be active on the bench.

Nominations shall be reviewed by the Executive Committee of The Mississippi Bar. The Executive Committee shall make its recommendations to the Board of Commissioners at a Board Meeting. Upon approval of the Board, award recipients shall be notified by the Executive Director of the Bar. All awards shall be presented at the next Annual Meeting of the Bar following their selection by the Board of Commissioners.

DUE BY JANUARY 9, 2020!

NOMINATIONS FOR THE MISSISSIPPI BAR AWARDS

Please check: ☐ Distinguished Service Award ☐ Lifetime Achievement Award ☐ Judicial Excellence Award

Nominee: _____ Nominee's Address: _____

Phone: _____ Email: _____

Nominator's Name and Phone: _____

Reason nominee should be selected for the award: _____

MAIL TO: The Mississippi Bar • Post Office Box 2168 • Jackson, Mississippi 39225-2168 • **OR EMAIL:** dmosley@msbar.org

MVLP
MISSISSIPPI VOLUNTEER LAWYERS PROJECT

The Mississippi Volunteer Lawyers Project would like to recognize the following attorneys and legal organizations for their service across the state of Mississippi. Thank you for helping to bring closure to a legal matter for many underserved Mississippians.

CHAIRMAN OF THE BOARD'S TORCHBEARER AWARD

Bradley Arant Boult & Cummings, LLP

BEACON OF JUSTICE AWARD

Honorable Deborah J. Gambrell, Chancellor of Tenth Chancery District

CURTIS E. COKER ACCESS TO JUSTICE AWARD

Seth Shannon

PRO BONO AWARDS

Lee County Bar Association

Ellen Patton Robb

Shakita Lanette Taylor

Chairman of the Board Torchbearer Award Honoree-Bradley Arant Boult Cummings (l to r) Wayne Drinkwater, Esq., Christina Seanor, Esq., Jennie Eichelberger, Esq. -Immediate Past Chair, Tiffany Graves, Esq., Mary Clay Morgan, Esq., Lindy Brown, Esq., Stevie Rushing, Esq.

Beacon of Justice Award Honoree-Judge Deborah Gambrell, Chancellor of Tenth Chancery District, and Sam Buchanan, Esq.-MVLP Board of Director

MISSISSIPPI VOLUNTEER LAWYERS PROJECT

CELEBRATING 37 YEAR ANNIVERSARY

2019 MVLP Award Honorees
Row 1: (L to R) Stephen Spencer, Esq., Nicole McLauglin, Esq., Judge Jacqueline Mask, Judge Deborah Gambrell, Tiffany Graves, Esq., Ellen Robb, Esq., Shaquita Taylor, Esq., Seth Shannon, Esq., Gayla Carpenter- Sanders, Esq.-MVLP Executive Director/General Counsel, Lindy Brown, Esq.
Row 2: (L to R) Kimberly Merchant-MVLP Board Chair, Robert Bass, Esq., Deedy Boland, Esq., Angela Jones, Esq., Brad Morris, Esq., Tyler Pirkle, Esq., Cynthia Lee, Esq., Stevie Rushing, Esq., Christina Seanor, Esq., Jennie Eichelberger, Esq. -Immediate Past Chair

Kimberly Merchant, Esq.-MVLP Board Chair and **Pro Bono Award Honoree-Ellen Robb, Esq.**

Craig Shannon, Marina Shannon, Adele Shannon, **Curtis E. Coker Access to Justice Honoree-Seth Shannon, Esq.**, Avery Shannon, Esq.

Kimberly Merchant, Esq.-MVLP Board Chair, Suzette Matthews, Carol Mockabee, Dean Susan Duncan

Kimberly Merchant, Esq.-MVLP Board Chair and **Pro Bono Award Honoree-Shakita Taylor, Esq.**

Pro Bono Award Honoree-Lee County Bar Association
Deedy Boland, Esq., Stephen Spencer, Esq., Judge Jacqueline Mask, Chancellor of First Chancery District, Angela Jones, Esq., Brad Morris, Esq., Cynthia Lee, Esq., Robert Bass, Esq., Tyler Pirkle, Esq., Nicole McLaughlin, Esq.

Kyle Miller, Esq. and John Dollarhide, Esq.

Samantha Moore, Esq., Patti Gandy, Esq., Nicole McLaughlin, Esq., Gayla Carpenter-Sanders, Esq.- MVLP Executive Director/General Counsel

James Honeysucker, Rona Honeysucker, Carolynne Hinton, **Beacon of Justice Award Honoree- Judge Deborah Gambrell Chambers**, Marilynne Hardges, Sam Buchanan, Esq.-MVLP Board of Director

Jim Rosenblatt, Esq., Wayne Drinkwater, Esq., Terryl Rushing, Esq.

The Mississippi Volunteer Lawyers Project (MVLP) would like to thank the following individuals, businesses, organizations and agencies that helped to make MVLP's 2019 fundraising efforts a huge success, including those who donated to the *Pro Bono* Awards Reception. Because of your support, MVLP can continue to advance justice and restore hope in the lives of many Mississippi residents in need of legal services. We appreciate your investment in MVLP's programs.

Lead

Capital Area Bar Association

Benefactor

Butler Snow LLP

Jackson Young Lawyers Association

Partner

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

Balch & Bingham LLP

BankPlus

Bradley Arant Boult Cummings LLP
(In Honor of Dinetia Newman)

Entergy Corporation Legal Department

The Mississippi Bar-Litigation Section

Trustmark

Advocate

Brunini, Grantham, Grower & Hewes, PLLC

Campaign to Elect Stephen Spencer

Mississippi Women Lawyers Association

The Mississippi Bar-Business Law Section

Friend

Alexander Law, PA

BeCloud, LLC

Don Cannada, Esq.

Cascio Consulting/Tammra Cascio

Vincent & Honorable Deborah Gambrell Chambers

Sid Davis, Esq.

Steven T. Gray, Esq.

Derek & Jennifer Hall

The Hall Law Group, PLLC

Hugh D. Keating, Esq.

Law Office of Shakita L. Taylor

Kimberly Merchant, Esq.

Mississippi College School of Law

Mary Clay Morgan, Esq.

Timothy A. Ngau, Esq.

Ben J. Piazza, Jr., Esq.

William "Bill" Reed, Esq.

Rush Law Firm

Mr. and Mrs. L.F. Sams, Jr,

Seth and Avery Shannon

Simmons & Simmons PLLC

Springer Law Office, PLLC

Teller, Hassell & Hopson, LLP

The Mississippi Bar-Alternate Dispute Resolution Section

The Mississippi Bar-Appellate Practice Section

The Mississippi Bar-Estates & Trust Section

The Mississippi Bar-Family Law Section

The Mississippi Bar-Health Law Section

The Mississippi Bar-Intellectual Property, Entertainment & Sports Law Section

The Mississippi Bar-Labor & Employment Law Section

The Mississippi Bar-Real Property Section

The Mississippi Bar-SONREEL Section

The Mississippi Bar-Taxation Section

The Mississippi Bar-Workers Compensation Section

Matthew Thompson, Esq.

University of Mississippi School of Law

Professor Deborah Bell & Neil White

Williford, McAllister, Jacobus & White

Wise Carter Child & Caraway, P.A.

Susan G. Zachos, Esq.

Louis G. Baine, Jr

Louis G. Baine, Jr, 90, of Jackson, died September 11, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1952. He practiced law in Louisiana and Mississippi for over fifty years. He served as a Corporal in the Army National Guard of Mississippi and as a Reserve of the Army. He was a 32° Scottish Rite Mason and a Past Master of Trinity Union Lodge No. 372 in Baton Rouge, Louisiana.

Michael B. Chittom

Michael B. Chittom, 69, of Clinton, died December 18, 2018. A graduate of Mississippi College School of Law, he was admitted to practice in 1978. He practiced law in Jackson for many years until his retirement in 2005. While a student at Mississippi College, Mike enlisted in the National Guard. Although initially trained as a tank driver, he served most of his military career as a Judge Advocate General (JAG) warrant officer in Headquarters and Headquarters Company of the 155th Armored Brigade of the Mississippi National Guard. When called to active duty in support of Operation Desert Shield, he spent several months stationed at Ft. Hood, Texas. He retired from the Guard after 33 years at the rank of Chief Warrant Officer IV. Chittom was a member of First Baptist Church in Clinton and served in many capacities, including deacon. He also served for many years as the director of the Royal Ambassadors program for school age boys. Chittom acted in, and directed, many plays in community theaters in Clinton, Brandon, Pearl, and Vicksburg.

William J. Clayton

William J. Clayton, 73, of Sardis, died September 9, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1970. He was a member of the Sardis United Methodist Church. He was elected to serve as Panola County's prosecuting attorney. He was a member of the DeSoto Gun Club, the NRA, the Confederate Air Force, and the Panola County Airport Board.

Diann W. Coleman

Diann W. Coleman, 86, of Oxford, died September 23, 2019. A graduate of the University of Mississippi School of Law, she was admitted to practice in 1978. She was the City Prosecutor for the City of Oxford from 1984-1987. She was a member of Oxford University United Methodist Church. She was on the Long-Range Planning Committee and chairman of the Finance Committee for many years. Coleman was a member of the President's Club of Louisiana College, in Pineville, LA. She was a member of the University of Mississippi Loyalty Foundation and Co-director of Women's Studies Seminar at the University of Mississippi in 1972. She was a member of the Board of Directors of the Oxford-Lafayette County Chamber of Commerce from 1993-1996. Coleman was a Member of American Association for Justice, American Bar Association, National Organization of Women, Lamar Society, International Law, Mississippi Trial Lawyers Association, Lafayette County Bar Association, Ole Miss Rebel Tip-off Club, University Mississippi Alumni Association, Phi Alpha Delta, Alpha Chi.

Sid Davis

Sid Davis, 74, of Mendenhall, died August 31, 2019. A graduate of Mississippi College School of Law, he was admitted to practice in 1983. In his professional life, he was a bank examiner for the FDIC for seven years before returning to Mendenhall to begin a life-long banking career. He served as President of Peoples Bank from 1980 to 2000 when he retired from full-time banking. He was currently serving Chairman of the Board of Peoples Bank. His final career was as a Collaborative Lawyer and Mediator. He was licensed as a Certified Public Accountant. Davis served as an adjunct professor for Mississippi College School of Law, and earned a Masters of Liberal Arts from Millsaps College. He served on the following boards: Mississippi Opera, New Stage Theatre, the Crossroads Film Festival, and Mississippi Symphony. He was a founder of Simpson County Country Club.

Richard W. Dortch

Richard W. Dortch, 83, of Jackson, died September 18, 2019. A graduate of the University of Virginia School of Law, he was admitted to practice in 1961. After graduation, he returned to Mississippi to join Brunini, Everett, Grantham, and Quinn (now the Brunini law firm). He spent his career there, developing expertise in real estate law. He served as president of the Real Property Section of the Bar and has been a member of the American College of Real Estate Lawyers since 1983. He served as general counsel for the Jackson Public Schools in the 1960s. He was president of the Metropolitan YMCA in 1978, and counseled the organization over many years. He also served on the board of directors of the Mississippi Craftsman's Guild. Dortch was a member of Fondren Presbyterian Church, serving in many leadership roles over the decades, and played in the hand-bell choir.

Robert T. Edwards

Robert T. Edwards, 72, of Evergreen, CO, died January 27, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1972.

IN MEMORIAM

Sarah Hodnett

Sarah Hodnett, 55, of Greenville, died September 15, 2019. A graduate of Mississippi College School of Law, she was admitted to practice in 1989. She was an attorney at Hodnett Law Office P.A.

Melbourne "Mel" E. Joseph

Melbourne "Mel" E. Joseph, 72, of Watertown, NY, died September 10, 2019. A graduate of Blackstone College of Law, he was admitted to practice in 1979. Mel worked for several years as an Executive Director for NECA, Ogdensburg, NY. He served his country in the U.S.M.C from 1964-1970.

Herbert Lee, Jr

Herbert Lee, Jr, 59, of New Orleans, LA, died August 22, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1990. He worked as a Staff Attorney for North Mississippi Rural Legal Services in Cleveland, Mississippi. After a brief stay with North Mississippi Rural Legal Services, Lee returned to Jackson, where he became a Staff Attorney for the Mississippi House of Representatives from 1990 to 1992. In May of 1992, Lee started Lee & Associates, LLC. Lee provided financial support to Tougaloo College, where he earned numerous accolades and recognition. In his early life, he was a member of Olive Branch Baptist Church in New Orleans, LA where he was a youth Sunday school teacher. He then was a member of the New Vineyard Church in Jackson, Mississippi. Lee was a member of the following professional organizations: Magnolia Bar Association, Hinds County Bar Association, American Trial Lawyers Association, National Association for the Advancement of Colored People (NAACP), Mississippi Children's Home Services Men's Mentoring Group, Omega Psi Phi Fraternity, Inc., Epsilon Kappa Kappa, Tougaloo Alunini Community Chapter of Tougaloo College National Alumni Association, and the Tougaloo College National Alumni Association.

Lancelot L. Minor, III

Lancelot L. Minor, III, 70, of Memphis, TN, died July 16, 2019. A graduate of the University of Memphis Cecil C. Humphreys School of Law, he was admitted to practice in 2010. After graduation, he was a partner with Bourland, Heflin, Alvarez, Minor, and Matthews firm where he continued to practice law until earlier this year. Minor was a Fellow of the Tennessee Bar Foundation, a Super Lawyer, and Best Lawyers in America award winner. As a member & elder at First Evangelical Church. He was a member of the Downtown Memphis Rotary Club, the University Club of Memphis, and the Christian Legal Society.

John R. Rittelmeyer

John R. Rittelmeyer, 63, of Cary, NC, died October 28, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 2019. He clerked for Justice James Robertson, of the Mississippi Supreme Court, and was admitted to the US Supreme Court. He was in private practice with Hartzell and Whiteman, where he successfully argued an appeal before the U.S. Court of Appeals for the Fourth Circuit. Rittelmeyer served on the board of directors for Carolina Legal Assistance for more than ten years. He served as Director of Litigation of the new P&A, which was later renamed Disability Rights North Carolina, until his death.

Jay A. Travis, III

Jay A. Travis, III, 79, of Jackson, died October 10, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1965. He was active in Boy Scouts and earned the rank of Eagle Scout. After law school, Travis served his country in the U.S. Army stationed at the Presidio in San Francisco. He returned to Mississippi in 1968 and, after briefly working for his father-in-law, Fulton Thompson, he joined Butler, Snow, O'Mara, Stevens & Cannada where he was an attorney for over 40 years. Travis was active in several Mississippi Bar organizations throughout his career. Travis was among the Mississippi attorneys listed in The Best Lawyers in America when it was first published in 1983 and remained on the list until his retirement in 2011. He was also a member of The American College of Trust and Estate Counsel where he served in several leadership positions. He served as President of the Ole Miss Law Alumni and as a member of the Board of Directors of the Ole Miss Loyalty Foundation. He was a member of St. Andrew's Episcopal Cathedral for more than fifty years where he served on the vestry, as Senior Warden, and as a lay reader.

Charles H. Walker

Charles H. Walker, 75, of Oxford, died August 14, 2019. A graduate of the University of Mississippi School of Law, he was admitted to practice in 1970. He practiced law briefly in Houston, then opened his own law practice on the square in Oxford in 1972 where it remains today. During his years practicing law in Oxford, he served as the attorney for The Board of Mental Health in Oxford. He was offered the opportunity to teach as an adjunct faculty member in the school of Business Administration. As a teacher of a variety of classes, in 1977 he was offered a full-time faculty position and in 1984 he was awarded tenure. Walker served from 1987 to 1997 as the University's public address announcer for gridiron matchups in Vaught Hemingway Stadium. He later retired from the University in 2011. He taught in Sunday school classes over 45 years and served as lay speaker throughout churches in the Oxford and Lafayette County communities. Charles was a member of Oxford-University United Methodist Church.

LAWYERS
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Chronically Connected

By Dr. Jessica Cole

Recently, my fourteen-year-old daughter's phone went kaput. The screen would not work, she could still receive calls on it – but who uses phones for answering calls these days?!? Anyway, for the first time, we bought insurance on all our phones, specifically for these types of situations. However, it took a few days for me to figure out how to get the device ready to make the insurance claim (long, boring story). What is interesting about my daughter being without her phone (and it not being a disciplinary reason) is that she was much more engaging with us. She was even talking to her younger brother. She stayed in the common area of our house instead of running straight to her room when she got home. We watched movies together, and she baked one of her favorite fall treats.

I did finally figure out how to process the phone insurance claim and her refurbished phone arrived within 24 hours, sadly. This got me thinking about how our technological devices have become more of a nuisance than a convenience. For the generations who use the devices most, depression and suicide have increased significantly.

There have been recent reports regarding social media's connection to depression. We scroll through Instagram or Facebook and see how wonderfully our "friends" are doing, all the vacations they are going on, how their child got into IVY league school, and how fun the dinner party was that you were not invited to. It is ironic how "social" media is not social at all. It is very isolating.

Have you ever been to a restaurant and seen a table with all of the guests staring at their phones? They may as well be alone, except for the occasional, "look at this meme, ha-ha." Social media isolates us in two ways – makes us feel self-conscious about our place in the world by comparison, and it pulls our attention from those we are around in the present. And yet, it has an addictive component…purposefully.

> *We need to make every attempt to reconnect with those around us. Possibly starting at the most nuclear level of reconnecting with our own families and connecting on a more personal level with those we work with.*

That is just one component of the addictiveness of the technology at our fingertips. We have trained ourselves and others that we are available 24-7 because we always have our phone with us. Then, when we see an email or text come through, we are compelled to respond, teaching the sender we will respond asap. This becomes a Pavlov's dog scenario. We see email/comment, must respond no matter the time of day. A client sees we respond at 11 pm, so he sees no problem texting at midnight. And the cycle begins again.

The devices that keep us "connected" all the time also disconnect us. It is easier for someone hiding behind a tweet or Facebook profile to accost someone they disagree with or just plainly dislike. It is tearing down our sense of compassion and decency. This is the age of a one-second photo taken from a phone going viral demonizing the people in the photograph with no context what-so-ever.

This reminded me of a conversation I had recently with MS Bar President Amanda Tollison regarding an article by David Brooks in the New York Times. The title of the article is A Nation of Weavers. He discusses his travels across the US for speaking engagements. Around these events, he gets the opportunity to talk to all types of individuals. He addresses society as being extremely divided in many ways; however, seemingly most are just misunderstandings. In summary, he has seen how small pockets of our country are slowly reconnecting with each other (no matter race/religion/political view) and questions how we could scale this to a national level.

I agree with Mr. Brooks that we all do need to make every attempt to reconnect with those around us. Possibly starting at the most nuclear level of reconnecting with our own families and connecting on a more personal level with those we work with daily. A few ways to start may be to implement device-free zones in your home, walk to people's offices to discuss matters, or have a cup of coffee with opposing counsel. Your thoughts? ■

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CENTERING ON EXCELLENCE:
Law Centers at Mississippi College School of Law

The seven law centers at Mississippi College School of Law engage law students through in-depth study and in some cases, practice, of a particular area of law. Below are highlights from several of our law centers.

MC Law's **Bioethics and Health Law Center** was founded in 2009 by Associate Dean Jonathan Will. The law center has brought dozens of speakers from across the country to the MC Law campus, including physicians, expert practitioners, and legal scholars from Harvard, UNLV, DePaul, LSU and other law schools. Speaker topics have ranged from fraud and abuse to surrogacy rights and mental health services. In 2018, the law center hosted a popular two day compliance bootcamp, and plans are underway for another compliance training in 2020. The center also sponsors a thriving student group, the Health Law Society, with over 100 registered members.

The **Business and Tax Law Center** connects law students with practicing attorneys and business leaders and encourages students to explore transactional work from a practical and policy perspective. Professor Larry Lee, who oversees the law center, frequently advises students on curricular planning and post-graduate work in taxation.

Professor Phillip McIntosh, MC Law's long-standing expert on civil law, leads the **Center for Civil Law Studies**. The majority of MC Law's out-of-state students are from Louisiana, and the law center provides students with the programming necessary to complete a Civil Law Certificate and prepare for the Louisiana bar exam. The center sponsors an annual speaker series featuring Louisiana judges and attorneys, representatives from the Louisiana Committee on Bar Admissions, and scholars addressing legal issues relating to Louisiana and surrounding states. Most recently, the Civil Law Center partnered with the Public Interest and Litigation & ADR Law Centers to host a legal scholar from St. Thomas Law on the topic of interstate human trafficking.

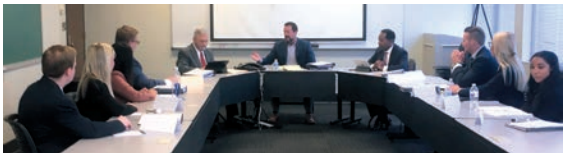
Directed by Professor Shirley Kennedy, the **Family and Children's Law Center** includes substantive courses, clinical experiences, and a student run society. At the heart of the Family and Children's Law Center is the Child Advocacy Program and the three clinics started by Professor Kennedy; the Adoption Clinic, Guardian ad Litem Clinic, and Youth Court Clinic. Together, these clinics have helped hundreds of children find permanent, safe and stable homes. Annual CLEs and Guardian ad Litem trainings are another important part of the center's programming. The law center's 6th Annual Family Law Panel and CLE will be held on February 25, 2020, from 11:45 to 1:45, and will feature Judge Robert Clark, Judge Tiffany Grove, Judge John McLaurin, J.D. Sanford, court administrators Tonya Anderson and LeShae Gilmore, and Kelly Williams as moderator. Attorney registration is available at tburroug@mc.edu.

The **International and Comparative Law Center**, established in 2011 and directed by Professor Christoph Henkel, broadly examines transnational legal regulation in relation to economics, politics, religion, and society. The law center hosts a speaker series featuring emerging and established scholars on topics of contemporary global practice. Upcoming speakers include a legal scholar from LSU Law and a general counsel for an international automotive corporation. The law center also oversees MC Law's dual degree program, in which law students can earn an LL.M. in international law and become eligible to practice in 27 jurisdictions within the European Union.

The **Litigation and Alternative Dispute Resolution Law Center** prepares students for work in trial or appellate litigation and in resolving disputes through mediation and arbitration. Dean Patricia Bennett and Professor Victoria Lowery lead the center and advise law students seeking a specialization in criminal or civil law. The law center routinely hosts judges and skilled practitioners who instruct students in the art and science of litigation. MC Law's nationally recognized moot court program falls under the Litigation and ADR Center. Most recently, the center and ADR Section of the Mississippi Bar Association co-hosted the ABA's Regional Arbitration Competition on November 2-3, 2019, where twelve teams representing seven schools competed.

The **Public Service Center Law Center** introduces law students to pro bono and public interest lawyering with the goal of increasing the commitment to pro bono work among new attorneys. The law center promotes the ABA's National Pro Bono Week by hosting an annual Public Interest Information Fair where pro bono and government organizations share information about volunteer opportunities and career paths in public interest law. Other recent activities include a Civil Rights Bus Tour to celebrate Martin Luther King Jr. Day and a speaker series hosting elected officials, community leaders, and legal scholars. Professor Randall Johnson and Professor Meta Copeland direct the Public Interest Law Center.

Professor Stacey Tovino, JD, PhD from UNLV Law School, speaks on "Mental Health Care For All?" to MC Law students on Nov. 4, 2019.



29 Mississippi attorneys volunteered to judge the ABA's Regional Arbitration Competition on November 2-3, 2019 at MC Law.

The Bioethics and Health Law Center's philanthropic efforts include raising over $10,000 for local hospitals, including UMMC's Children's Cancer Center.

UNIVERSITY OF MISSISSIPPI LAW SCHOOL

Entergy Mississippi is providing the UM School of with gifts totaling $125,000 to establish and contribute to scholarship endowments honoring Sen. Thad Cochran and Robert Grenfell.

The Interprofessional Education (IPE) Board, comprised of UM Law and Pharmacy students, hosted a mock trial for a pharmacy malpractice case.

For the first time at UM Law, **women made up the majority** of the incoming class at 54%.

The National Sea Grant Law Center at the University of Mississippi School of Law was recently awarded $310,000 by NOAA in order to advance two separate aquaculture projects.

CLE CALENDAR OF EVENTS

The following live programs have been approved by the Mississippi Commission on Continuing Legal Education. This list is not all-inclusive. For information regarding other programs, including teleconferences and online programs, contact Tracy Graves, CLE Administrator at **(601)576-4622** or **1-800-441-8724, or check out our website, www.mssc.state.ms.us.**

Mississippi now approves **online programs** for CLE credit. For a list of approved courses, check the Calendar of Events on our website. For information on the approval process for these programs, please see Regulations 3.3 and 4.10 posted under the CLE Rules on our website or contact Tracy Graves at the numbers listed above.

JANUARY

16 UM CLE "MS Municipal Attorneys Assn (MMA) Winter Conference." 6.0 credits (includes ethics). Jackson, MS, Hilton Jackson. Contact 662-915-1354.

17 UM CLE "Workers' Compensation Law CLE Seminar." 6.0 credits (includes ethics). Jackson, MS, Hilton Jackson. Contact 662-915-1354.

FEBRUARY

3 NBI "Surveys, Plats, Historical Records, Legal Descriptions and Title Insurance." 12.0 credits (includes ethics). Pearl, MS, Courtyard by Marriott Airport. Contact 715-835-8525.

FEBRUARY (CONT.)

7 UM CLE "Mid-South Conference on Bankruptcy Law." 6.0 credits (includes ethics). Memphis, TN, Hilton Hotel. Contact 662-915-1354.

7 MS Bar "Issues in Drug Use for Workers Comp & Safety Sensitive Positions." 1.0 credit. Oxford, MS, Holcomb Dunbar. Contact 601-355-9226, Rene Garner.

7 E. Farish Percy "37th Summary of Recent MS Law." 6.0 credits (includes ethics). Biloxi, MS. Contact 662-832-8605.

14 E. Farish Percy "37th Summary of Recent MS Law." 6.0 credits (includes ethics). Oxford, MS. Contact 662-832-8605.

20 E. Farish Percy "37th Summary of Recent MS Law." 6.0 credits (includes ethics). Jackson, MS. Contact 662-832-8605.

MARCH

6 UM CLE "21st Annual Guardian Ad Litem Certification CLE." 6.0 credits (includes ethics). Ridgeland, MS, Embassy Suites. Contact 662-915-1354.

24 NBI "Human Resource Law from A-Z." 12.0 credits. Jackson, MS. Contact 715-835-8525.

MAY

1 MS Bar "Bridge the Gap: Rule 3 – New Lawyer Program." 6.0 credits (includes 3.0 ethics). Jackson, MS, MS Sports Hall of Fame. Contact 601-355-9226, Rene Garner.

15 NBI "Advanced Trial Tactics." 6.0 credits. Olive Branch, MS. Contact 715-835-8525.

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MATTHEW W. RIGEL, J.D.

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William E. McLeod, LL.M (Tax), JD, CPA
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Will Russell, LL.M (Tax), JD, Of Counsel
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and that

ROBERT W. ARLEDGE

has joined the firm
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in the Meridian office:

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