



HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

APRIL 2000



President's Column

by Harris H. Barnes, III (Trip)

It is hard to believe that this is my last column as the President of the Hinds County Bar Association. The year has flown by and has been one of the most enjoyable experiences of my life. It is always

fun working with a group that is willing to work.

Much has been accomplished this year. We have raised a lot of money for the Mississippi Volunteer Lawyers' Project; the Golf Tournament was the most successful in history; we have had many fun socials; the luncheon speakers have been excellent; the committees have all done a great deal; the Peoples Law School is once again a wonderful public service; and the Association continues to be responsive and

productive for the community and its members.

I want to thank all of you for the opportunity that you have given me to serve what I consider to be the most wonderful group of people, attorneys. Ours is a sacred trust and obligation – both to the community and to those whom we serve.

Thanks, too, to Sandra Odom, my secretary, for her tireless hours in assisting me in this project as well as Pat Evans, without whose help we simply wouldn't have made it through the year.

February Membership Meeting



Speaking at the February HCBA Membership Meeting was Stacey L. Wall, President and C.E.O. of Pinnacle Trust (second from right). With Wall is Edward Lawler, HCBA Program Chairman; Beth B. McGaugh, Chief Financial Officer of Pinnacle Trust; and Harris H. Barnes, III, HCBA President.

HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

April 18, 2000

12:00 Noon

Capital Club

Lunch \$10.00

Speaker: The Honorable Percy W. Watson
Chairman, Judiciary A Committee, Mississippi House of Representatives

CLE Calendar

April 20

Preventing Legal Malpractice & Ethics
Complaints in Personal Injury and General Practice.
The Mississippi Bar/American National Lawyers
Insurance Reciprocal. 804-965-1295

April 25

Trust and Asset Protection Alternatives in MS.
NBI. 715-835-7909

April 26

Health Law in MS:
The Legal Implications of Health Care,
Peer Review and Managed Care.
NBI. 715-835-7909

May 2

Limited Liability Companies in MS.
NBI. 715-835-7909

May 5

Annual Taxation Section Tax Clinic.
The Mississippi Bar. 948-4471

May 19

Government Law Section Seminar.
The Mississippi Bar. 948-4471

May 24

Workers' Compensation in MS.
Lorman Education Services. 715-833-3944

June 8

Annual Spring Estate Planning Practice Update.
ALI-ABA Video Law Review.
MC School of Law. 925-7173

June 9

15th Annual Federal Practice and Procedure Seminar
UM-CLE. 662-915-1221

HCBA Election Results

Secretary-Treasurer
William R. Wright

Director - Post 3
Lynn P. Risley

Director - Post 4
Ruma Haque

Congratulations to our new officer and directors!

HCBA Calendar

April 18

HCBA Membership Meeting.
Noon. Capital Club

May 4

HCBA/JYL Judges Dinner and The
Judge William C. Keady Distinguished Lecture Series.
6:30 p.m. Primos Northgate

June 20

HCBA Membership Meeting
with One Hour of CLE credit.
Noon. Capital Club

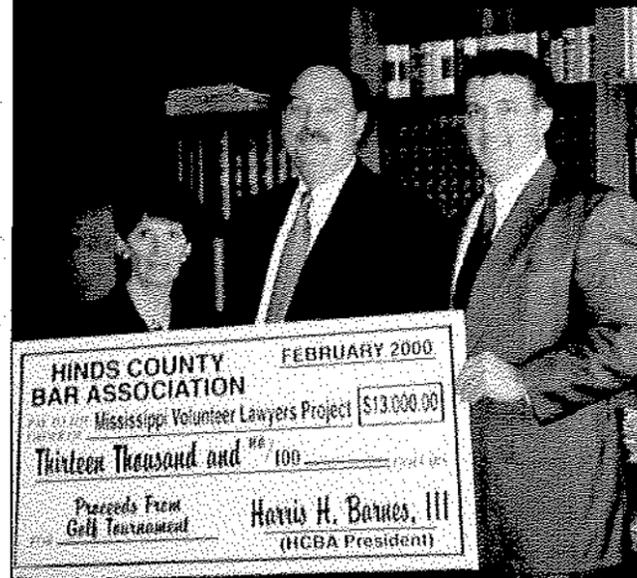
August 15

HCBA Membership Meeting.
Noon. Capital Club

August 17

HCBA Golf Tournament.
Noon. Annandale Golf Club

Golf Tournament Proceeds Presented



At the February Membership Meeting, the Hinds County Bar Association presented Phyllis Thornton, Executive Director of the Mississippi Volunteer Lawyers Project, with a check for \$13,000, the proceeds from the HCBA Golf Tournament. The Mississippi Volunteer Lawyers Project provides free civil legal service to low-income citizens utilizing private attorneys who donate their time. Pictured with Ms. Thornton are John H. Proctor, Golf Tournament Chairman, and Harris H. Barnes, III, HCBA President.

The Hinds County Bar Association and
The Jackson Young Lawyers Association, Inc.

invite you to join us during Law Week for an

Evening Honoring the Judiciary

and

The Judge William C. Keady Distinguished Lecture Series

on May 4, 2000

at Primos Northgate
4330 North State Street

Reception at 6:30 p.m. and Dinner at 7:30 p.m.

Speaker:

The Honorable William F. Winter

Special Guests:

Hinds, Madison and Rankin County
State and Federal Judges

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145-B Main Street ■ Post Office Box 263 ■ Biloxi, MS 39533 ■ (228) 435-7903

UPGRADE OR DIE, OR IS IT UPGRADE AND DIE?

by Captain Equity

In many ways, life in the year 2000 is much the same as it was five, ten, fifteen even twenty years ago. Now as then, the City Council continues to be a reliable source of humor, frustration or despair, depending on the particular issue, your current cynicism quotient and your applicable residential status.

We still get to read those articles and editorials in *The Clarion-Ledger* about yet one more grandiose plan for transforming the King Edward into Jackson's version of the Peabody Hotel which in turn will usher in an urban renaissance on the west end of Capitol Street. Simultaneously, we continue to hold our collective breath waiting for the Mississippi Fair Commission to come to terms with the fact that it is possible for adults to drink beer at sporting events without triggering the imminent collapse of Western Civilization. And as it has always been in Mississippi, teachers continue to be underpaid and under appreciated while politicians endlessly trumpet the importance of education to our future while never quite getting around to doing more than prescribing aspirin and band aids for the economic equivalent of a degenerative terminal disease.

And then there are the other major problems of life here in the capital city: crime, traffic and getting a stool at the Blue Café after 11:15 a.m. To quote a tried and true acronym drawn from an ancient Indian word, which roughly translated, means a daily repetition of the status quo, it is truly "SOS" here in Mississippi in the year 2000.

The one pervasive exception indicative of fundamental change has to do with the computer and how it has come to be an indispensable part of our lives. The ramifications are many, but let me focus on one of the downsides of technology. I'm talking about the unhappy ritual of upgrading computer software and the accompanying stress that it causes. Of course, if you are Joel Howell or some other accomplished techno-lawyer, (note Joel, I didn't use the term geek) upgrading software would be about as painful as changing a light bulb. But for the rest of us who are digitally challenged (note, I didn't use the term moron, as tempting and descriptive as that term is) upgrading

software is akin to taking Real Property, Advanced French and Calculus over and over and over only to become more confused with each new attempt. Could hell be much worse?

To illustrate my point, let's select someone at random, like me, who is in the process of upgrading from WordPerfect .0051 for Yellow Legal Pads to Microsoft Word 2000 for Windows NT - Millennium 2001 A Space Odyssey. You know the routine; go to Barnes and Noble and spend a fortune on books that weigh more than your computer. Next, turn on your computer, open up all of the books and feel your blood pressure begin to elevate.

The very first thing you see on the screen is Mr. Paperclip, Microsoft's annoying cartoon character they have ironically dubbed, The Office Assistant. I begin to type and all of a sudden The Office Assistant says something profound like, "It looks like you are trying to create a memo!" No kidding. The next thing I know, Mr. Paperclip is telling me to hold down Ctrl +Shift+Alt+F7+the Backslash and Backspace Keys all at once while at the same time selecting Tools and Language and Thesaurus and New Words and Suggestions and Grammar from my Menu Bar while using my tongue to hold down Print Preview. Meanwhile, I am feeding my mouse cheese while trying to keep my cat from eating him as I minimize my Window and downsize my special Hyperlink Tool Bar with the Auto text Drawing Device that is hidden somewhere on my Clipboard or is it concealed within my CD Rom or perhaps I left it back at the Wine Bar where I will be going in a few minutes once I figure out how to brush the Escape Key with the edge of my glasses. And that is just to get my cursor on the left margin.

Three hours later I have written a one page memo which promptly disappears forever after I am startled by an animated light bulb that appears from nowhere and hovers over Mr. Paperclip like a UFO on the outskirts of Roswell, New Mexico, causing me to inadvertently click YES when the computer dialog box asks me if I

would like my computer to burst into flames a second before becoming a hit and run victim of a virtual speeding car that I had imported into my document from the World Wide Web only moments earlier. Does any of this sound familiar or is it just me?

The good news is that this learning curve is only temporary. The new software upgrade becomes second nature after a reasonable period of time. The learning curve range varies, with the average discomfort period being five to seven years. The bad news is that in order not to be a complete cyber-idiot, one must upgrade to a new version of any given program about every three months. That overlap is the source of mounting tension that often manifests itself in lower productivity and a marked increase in lunacy hearings and suicide attempts.

Now I know Joel thinks I am exaggerating, but you know I'm not. Luckily, while there is no cure for the upgrade malady, treatment is available. It's called a computer literate legal secretary. And while I'm sure that the insidious campaign underwritten by Microsoft, Corel and the others to drive lawyers crazy will eventually lead to support staff salaries in the mid to upper six figures - it's clearly worth it.

Ooops. Out of time. It seems as if Microsoft just came out with a new version of Word in the time it has taken me to compose this column. I must now either return to Barnes and Noble or make a quick trip to the bank to borrow a wheelbarrow of money to bump my secretary into the next tax bracket. Better yet, I can use my Quick Books 2005 For Bay Windows Software to have the money wired from my account directly into her purse in small bills and casino tokens. Now what is that command? Oh yes, I think it is Ctrl+Shift+@+F12....

Editor's Note: We regret to report that Captain Equity failed to hold down his Ctrl and Shift key at the same time. As a result, he has inadvertently e-mailed himself into cyberspace. Because he failed to add a .com suffix, his whereabouts are unknown. Joel Howell has been summoned. We hope to have the Captain back in time for the June newsletter.

On Computing

by Joel Howell

The courtroom of the 21st Century is here and ready for use. Thanks to the efforts of Hinds Circuit Judge James Graves, Courtroom 2000 is now a reality.

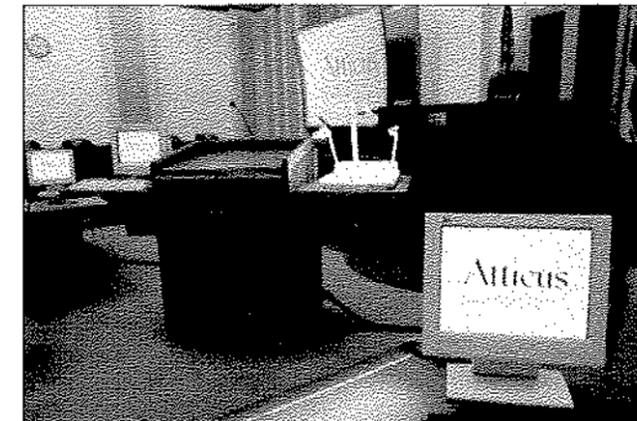
The Atticus Mobile Multimedia Presentation and Communications System is principally housed in a solid wood podium containing a Pentium computer and control center. Part of the beauty of the system is its portability, so that it can be used in any of the courtrooms. Atticus features LCD touch screen panels for



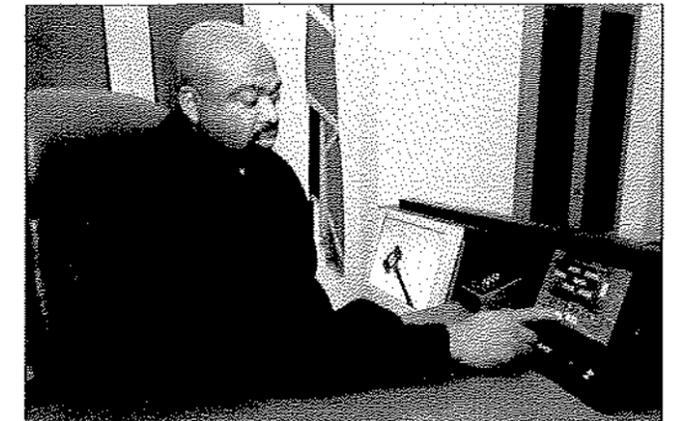
multimedia and display options, with an integrated VCR and cassette deck, as well as three computer inputs, which allow counsel for either side and the

Court to utilize laptops for presentations through the overhead projector. A light pen also provides on screen color annotation capability for documents without writing on the actual exhibit. It has a kill switch which allows preemptive viewing and control of evidence displayed.

This project is a combination both of Judge Graves' efforts and the Hinds County Library Fund. Funds for an additional system exist, and it which will hopefully be implemented within the near future.



The Atticus Mobile Multimedia Presentation and Communications System.



Judge Graves demonstrates the new multimedia system.

Continued on page 6

TAKE A VOTE: WINE AND CHEESE TASTING TO BENEFIT HABITAT FOR HUMANITY by Captain Equity

In the spirit of 21st Century political action characterized by focus groups and initiative and referendum, the Hinds County Bar needs your input. Tentative plans are in place for a Hinds County Bar Association charity benefit with the proceeds to go to Habitat For Humanity.

The event would be a gourmet wine and cheese tasting at Bravo - complete with heavy hors d'oeuvres and wine experts to provide background on the wines and cheeses being sampled. Attendance would be capped at no more than 200 and would be open to HCBA members, their families and friends. The price would be \$50 per person or \$100 per couple.

And the best part of all is that Bravo is not requiring an advance guarantee from us. Notwithstanding all of this, certain of the powers-that-be are concerned that no one but me and six of my wine drinking lawyer buddies would show up. Consequently, if this is something you would support this year, and if all goes well, for years to come as a gala annual event, please do me a favor and send an e-mail, post card, or letter with one of the following messages:

Captain Equity has asked me to vote:

(1) Gourmet Wine and Cheese Tasting to Benefit Habitat For Humanity Says Yes To Me.

Or

(2) Let Captain Equity and his six wine drinking buddies go to Bravo on their own time.

Please send your responses to:

Hinds County Bar Association
151 E. Griffith Street • Jackson, MS 39201 or • E-mail: pevans@mc.edu

On Computing...Continued from page 5

Legal research on the web? Here, courtesy of Law Office Computing, are thirty sites you should be familiar with.

Starting Points

1. www.ceoexpress.com
Links to over one hundred sites.
2. www.law.cornell.edu
Probably the grandfather of the education-based sites.
3. www.findlaw.com
Perhaps the premier legal search engine/directory.
4. gsu.law.gsu.edu/metaindex
Georgia State University College of Law's site.
5. www.hg.org
Hieros Gamos includes a number of international links.
6. www.ilrg.com
Home page of the Internet Legal Research Guide.
7. www.lrx.com
Featured articles and regular columns twice a month.
8. www.fastsearch.com/law/index.html
More than one hundred links on a single page.
9. www.law.indiana.edu/law/v-lib/lawindex.html
Indiana Law School's Virtual Library.

General Legal Sites

Attorney Directories

10. www.martindale.com
Martindale-Hubbell on line.
11. www.wld.com
Profiles submitted directly by lawyers.

Courts

12. www.courts.net
Links to federal and state sites and opinions.
13. www.court.com/directory.html
Contact information for state and federal courts.

Government Sites

14. www.piperinfo.com/state/states.html
Links to judicial sites.
15. www.lawsources.com/also/
More of the same.
16. www.spl.org/govpubs/municode.html
The Seattle Public Library's links to municipal codes.

Speciality Sites

Antitrust

17. www.clubi.ie/competition/compframesite/index.htm
Competition Online, an Irish site.

Ethics

18. www.legalethics.com
Includes articles, a discussion forum, and ethics links.

Intellectual Property

19. www.intelproplaw.com
Includes copyright, patent, and trademark areas.
20. www.uspto.gov
The official site for patent and trademark information.

Medical

21. sss.hcfa.gov
Home of the Health Care Financing Administration.
22. hippo.findlaw.com
Findlaw's healthcare links.

Taxation

23. www.taxlinks.com
Federal and state tax links.
24. www.giz.uiowa.edu/faculty/adunbar/acct.tax.html
Primarily federal tax links.

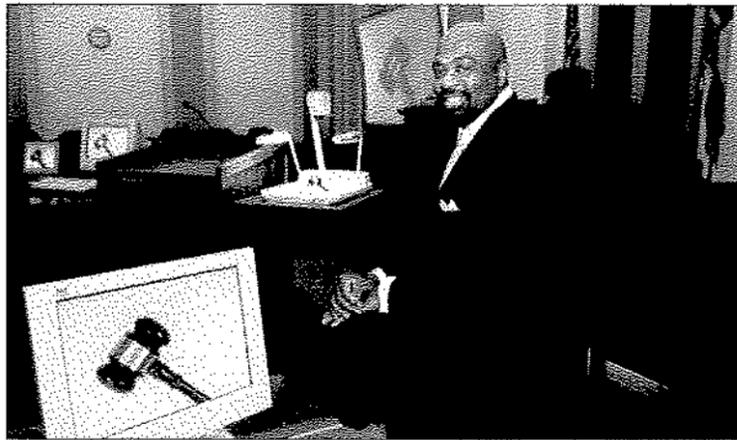
Securities

25. www.law.uc.edu/CCL/sidtoc.html
Hosted by the Center for Corporate Law.

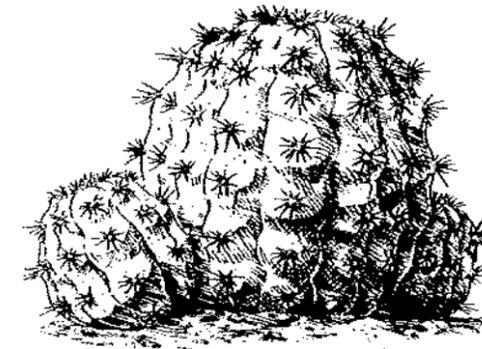
General Business Sites

26. www.wsrn.com/home/companyResearch.html
Hosted by Wall Street Research Net.
27. www.companiesonline.com
Provided by Dun & Bradstreet and Lycos.
28. www.sedar.com/homepage.htm
Canadian corporate information.
29. www.freeedgar.com
Edgar data.
30. www.secd.gov
Home of the Securities and Exchange Commission.

Questions or comments? Drop me an email at 76616,1020@compuserve.com, or better yet, webmaster@hindsbar.com.



Judge James E. Graves, Jr., Hinds Circuit Court Judge, in the "Courtroom of the 21st Century."



Ouch!

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and the University of Mississippi Law Alumni Chapter*



Risk Retention Group

Remembering Justice Michael D. Sullivan

(December 2, 1938 - February 27, 2000)

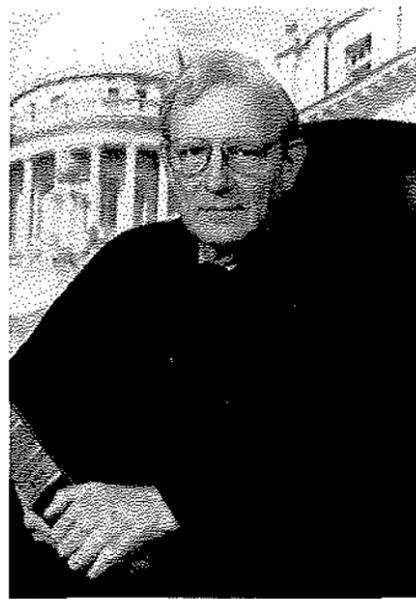
by Mary Miller

I began working for Justice Sullivan as a law clerk in August of 1990 with, I admit, much trepidation. I had heard rumors that Justice Sullivan had high expectations of his law clerks, and I was afraid I would be unable to meet his standards. During the year I learned that in fact his expectations were high, but he required no more than should have been required and he expected the same of himself as he did of others.

Justice Sullivan believed in dispensing justice in a timely manner. Our first day on the job, my co-clerk and I were given deadlines by which we had to produce each of our memos for the first sitting of our clerkship year. These deadlines allowed each justice on the panel considering the cases ample time to read the memos and do independent research if the justice so desired. At that time, the internal deadlines were not as structured as in more recent years, but Justice Sullivan always, without exception, completed his opinions within the shortest possible time following conference. He voted on other justices' opinions as soon as they were circulated and expected the same courtesy from them. If there had been nine Justice Sullivans on the Court, there would have been no need for internal operating procedures or for a legislatively imposed deadline for the disposition of cases.

Justice Sullivan expected his law clerks to work. He did not like to see his law clerks visiting with other clerks or wasting time. He, himself, never missed a day of work unless he was out of town or very sick. He was as close to omniscient as any person I have ever known. He always knew what you were working on and exactly where you were with regard to your deadlines. There were many times when he would walk into the room and comment on exactly the topic about which you had just been talking or thinking.

The year I clerked was an exciting time to be at the Court. That year, the Court considered the question of



whether bingo is a lottery and, too, the issue of initiative and referendum. In many cases, Justice Sullivan was able to achieve a consensus among the justices whenever there was a disagreement. He often offered to write opinions designed to achieve that consensus where someone else had failed.

Two cases which come to mind are *Griffith v. State*, 584 So. 2d 383 (Miss. 1991), where the Supreme Court furnished guidelines for courts to use in determining whether out-of-court statements made by a victim of child sexual abuse should be admitted into evidence before a jury, and *Wilson v. State*, 574 So. 2d 1338 (Miss. 1990) in which the Supreme Court interpreted section 99-15-17 to mean that the statute includes reimbursement for all actual costs to the lawyer for the purpose of keeping his door open to handle the case; i.e., the lawyer will receive a pro rata share of actual overhead.

In an era where judges are chosen because of their stance on issues rather than because they will administer the laws fairly and impartially, Justice Sullivan did not cater to the voters. He wrote and voted the way he truly believed the laws should be interpreted. His was a clear voice for

the individual liberties, for consumers and for the rights of the accused. Further, Justice Sullivan was a strong believer in the ability of the citizen jury to do justice.

Working for Justice Sullivan taught me that I needed to look at both sides of an issue and not accept at face value that a decision was right simply because I might agree with it philosophically. I came to respect the judgment of Justice Sullivan and learned that if he felt there was a problem with an opinion, the chances were great that there was. Many times when Justice Sullivan would write a dissent to a majority opinion which had been circulated for consideration, his dissent would become the majority opinion. I am unaware of any Supreme Court statistics which count the number of dissents which become majority opinions, but I would guess based on my own observations that Justice Sullivan had the greatest number. Justice Sullivan authored many important opinions during his years on the Court, and I have included a brief summary of those which I consider to his most important as an appendix to this article.

I could not end a tribute to Justice Sullivan without saying how much he meant to me personally. Unlike most law clerks, I was fortunate in not only having Justice Sullivan as my boss for one year but also as one of my nine bosses for another eight years when I served as State Law Librarian. What I appreciated about Justice Sullivan during those eight years was that he did not expect me to be loyal to only him but allowed me to be loyal to the Court as a whole. He never demanded special favors from me nor expected me to consult only him.

Justice Sullivan had more influence on my career than any other person. There was never a time that he did not believe in me and encourage me to do what was best for me and for my career. Knowing that I met his expectations and that he trusted my judgment and valued my opinion gave

me a great deal of confidence in my abilities which I was lacking prior to working for him. A compliment from Justice Sullivan was worth more to me than numerous compliments from any other person because I knew he meant what he said. As I told Justice Sullivan when I left the Court last year, if I were given a choice, I would still choose Justice Sullivan as the justice for whom I would want to clerk. Clerking for him was the highlight of my nine years with the Court.

Those who judged Justice Sullivan only by his outward personas did not know his true quality. He cared deeply about his family; he was extremely loyal to his friends; he worked hard to remedy the injustices in our judicial system; he was a man of great integrity. With his demise, we have suffered a great loss.

APPENDIX

Weatherspoon v. State, 732 So. 2d 158 (Miss. 1999) - Weatherspoon was convicted of and sentenced for possession of cocaine. Weatherspoon appealed the trial court's denial to allow him to testify that he had volunteered to take a polygraph test after the State attacked his credibility during cross-examination. In support of his argument, he relied on *Commer v. State*, 632 So. 2d 1239 (Miss. 1993), where the Supreme Court did not find reversible error when the trial court allowed the prosecution to introduce evidence that a State's witness was willing to take a lie detector test. The Supreme Court ruled that testimony pertaining to a witness's offer to take a polygraph, whether the witness is for the State or for the defense, is inadmissible at trial and overruled *Commer v. State* and other cases which held otherwise.

Clark v. Lavel Dairy Products, Inc., 731 So. 2d 1098 (Miss. 1998) - The trial court ordered venue changed from Hinds County to Attala County based on the doctrine of forum non conveniens. The Supreme Court found no support for intrastate forum non conveniens in the common law and furthermore found that venue is a

matter of legislative prerogative which the Court should not invade.

State v. Adams County Circuit Court, 735 So. 2d 201 (Miss. 1999) - As part of a plea bargain, the State agreed to retire charges in two separate causes in exchange for the defendants pleading guilty to a separate set of charges in another cause. At the hearing on the State's motion to dismiss, the trial judge denied the motion and ordered that the case proceed to trial. The State filed a motion for interlocutory appeal because it felt that it could not legally and ethically proceed based on the plea agreement made with the defendants. The Supreme Court held that the trial judge abused her discretion by denying the State's motion to dismiss once the defendant had detrimentally relied on the agreement.

Bailey v. Bailey, 724 So. 2d 335 (Miss. 1998) - When the Baileys were divorced, the father was awarded physical custody of the two children and the mother was ordered to pay a monthly sum of child support. Four years later, she filed a motion for modification on the basis that she would soon go on a 12-week maternity leave. Following the birth of her child, she voluntarily terminated her employment and asked to be relieved of her child support obligation or that it be reduced. The chancellor reduced the monthly sum of child support. The Supreme Court held that the chancellor's decision to allow a reduction from a mother who decided to stay home with a new baby was erroneous since the mother's conduct in voluntarily quitting her job amounts to bad faith. Holding that where the non-custodial parent decides to have additional children, she should not be relieved of her prior obligation to children from a previous marriage, the Court overruled the case of *Grace v. Dept. of Human Services*, 687 So. 2d 1232 (Miss. 1997), to the extent it holds otherwise.

Pro-Choice Mississippi v. Fordice, 716 So. 2d 645 (Miss. 1998) - Several entities and parties contended that Mississippi abortion laws violate the

Mississippi Constitution. The chancellor found that the statutes were constitutional. The Supreme Court found that the state constitutional right to privacy includes an implied right to choose whether or not to have an abortion. The Court further found that Mississippi's two-parent consent law passes the undue burden test for determining state constitutionality. *U.S. Fidelity & Guaranty Co. v. Ferguson*, 698 So. 2d 77 (Miss. 1997) - When the plaintiff was injured while riding in a vehicle hit by an underinsured driver, she demanded that her insurance carrier aggregate her uninsured motorist bodily injury coverage on her three cars. The carrier refused. The trial court found that she was entitled to the aggregate amount. The Supreme Court announced a new public policy against anti-stacking provisions in insurance coverage in Mississippi as applied to UM coverage. The Court stated that it would no longer permit insurance companies to defeat public policy by denying insureds their free aggregate UM coverage for which they pay a premium.

Hoerner Boxes, Inc. v. MESC, 693 So. 2d 1343 (Miss. 1997) - Sparks filed for benefits with the MESC after she voluntarily quit her job due to alleged sexual harassment. The MESC denied the benefits but the appeals referee reversed the decision which was affirmed by the Board of Review and the Circuit Court. As a matter of first impression, the Supreme Court held that if an employee is sexually harassed to such a degree that an ordinary prudent employee would leave the ranks of the employed for the unemployed, then the employee should not be denied benefits.

Puckett v. Abels, 684 So. 2d 671 (Miss. 1996) - Inmates filed a complaint asking for a declaratory judgment as to the appealability of a senate bill amending the earned release statute, as unconstitutional to crimes that occurred prior to the effective date of the bill. The retroactive application of the bill required that 85% of a

Continued on page 10

Remembering Justice Michael D. Sullivan...Continued from page 9

sentence be served and eliminated the opportunity for parole that existed prior to the bill. The trial judge ruled that the senate bill is an ex post facto law as it applies to the inmates. The Supreme Court held that the bill has the effect of increasing the punishment beyond what was prescribed when the crimes were committed and is an ex post facto law in direct contravention of the U.S. and Mississippi Constitutions.

Aetna Casualty & Surety Co. v. Berry, 669 So. 2d 56 (Miss. 1996) - Berry filed suit against insurer, insurance agency, agent and others as a result of her husband's death in an automobile accident. The chancery court awarded damages for wrongful death, negligence, emotional distress, economic loss, punitive damages, medical benefits, and funeral bills. The Supreme Court held that in order for an insured to have an option to increase UM limits not to exceed the limits of the policy, or for the insured to completely reject UM coverage in writing, an insurance agent has a duty to explain UM coverage.

Gollott v. State, 646 So. 2d 1297 (Miss. 1994) - Gollott was convicted of manslaughter for killing his wife. He appealed the conviction and died while the appeal was pending. His counsel filed a motion for a decision on the merits claiming that his death did not render the appeal moot because his estate would be prejudiced in defending a wrongful death suit filed against Gollott by his adopted daughters. The Supreme Court held that the death of a defendant who has perfected his right to appeal does not render his appeal moot and leave his conviction permanently in place. Instead, abatement ab initio will be the default rule in the event no motion is made to substitute the deceased defendant.

McArn v. Allied Bruce-Terminix Co., Inc., 626 So. 2d 603 (Miss. 1993) - McArn sued his former employer for wrongful discharge. The employment contract allowed either the employer or the employee to terminate employment

with or without cause. McArn claimed that he was discharged because he reported conduct of his employer which caused members of the public to be deceived and asked the court to carve out a public policy exception to the employment at will rule in Mississippi. The Supreme Court held that there should be in at least two circumstances a narrow public policy exception to the employment at will doctrine whether there is a written contract or not. They are 1) an employee who refused to participate in an illegal act shall not be barred by the common law rule of employment at will from bringing an action in tort for damages against his employer; and 2) an employee who is discharged for reporting illegal acts of his employer to the employer or anyone else is not barred by the employment at will doctrine from bringing an action in tort for damages against his employer.

Century 21 Deep South Properties v. Corson, 612 So. 2d 359 (Miss. 1992) - The Corsons brought suit against the owners of Century 21 Deep South Properties and an attorney who performed the title work on a house they purchased for negligence, breach of assumption warranty deed, and legal malpractice. The chancellor awarded the Corsons damages. In this opinion, the Supreme Court modified legal malpractice actions based on an attorney's negligence in performing title work by abolishing the requirement of attorney-client relationship and extending liability to foreseeable third parties who detrimentally rely on such title work, suffering a loss, proximately caused by the attorney's negligence. The Court held that the presence or absence of an attorney-client relationship is now merely one factor to consider in determining the duty owed.

Smith v. Jackson Construction Co., 607 So. 2d 1119 (Miss. 1992) - The circuit court reversed the decision of the Mississippi Workers' Compensation Commission which had granted benefits to Smith, and Smith appealed. The Supreme Court held that

if a claimant is permanently and totally occupationally disabled, he should be entitled to compensation for a permanent total occupational disability, not a permanent partial disability. The Court said that where an employee suffers an injury covered by the schedule in section 71-3-17(c) of the Mississippi Code and where the injury results in a permanent loss of wage earning capacity within section 71-3-17(a), the latter section controls exclusively and the employee is not limited to the number of weeks of compensation prescribed in section 71-3-17(c)'s schedule, overruling cases which held otherwise.

Waller v. Moore ex rel. Quitman County School District, 604 So. 2d 265 (Miss. 1992) - Waller was a member of the Quitman County Board of Education and his wife was a teacher employed by the Board. The Attorney General sought restitution for the salary she was paid after the Wallers received notice of violation of the prohibition of Mississippi Constitution, Art. IV, section 109 and Mississippi Code, section 25-4-105(2). The circuit court ordered the Wallers to repay the salary, and the Wallers appealed. The Supreme Court held that good faith, long practice or value received are not defenses to section 109 violations and that those who violate the specific prohibitions of section 109 are liable.

Clemons v. State, 593 So. 2d 1004 (Miss. 1992) - Clemons was convicted of capital murder, and his conviction and sentence were affirmed by the Mississippi Supreme Court. The U.S. Supreme Court granted certiorari review on the issue of whether the Mississippi Supreme Court had properly upheld the sentence of death in light of its finding that one of the two aggravating circumstances, "especially heinous, atrocious, or cruel," was invalid. The Mississippi Supreme Court held that it only has the authority to determine whether the evidence supports the jury's or judge's finding of a statutory aggravating

Continued on page 11

Remembering Justice Michael D. Sullivan...Continued from page 10

circumstance and that there is no authority for the Court to reweigh remaining aggravating circumstances when it finds one or more to be invalid or improperly defined or to find evidence to support a proper definition of an aggravating circumstance in order to uphold a death sentence by reweighing. Finding aggravating and mitigating circumstances, weighing them, and ultimately imposing a death sentence are left to a properly instructed jury.

McDonald's Corp. v. Robinson Industries, Inc., 592 So. 2d 927 (Miss. 1991) - The Mississippi State Highway Commission initiated condemnation proceedings in the Special Court of Eminent Domain for property owned by McDonald's Corporation. Following an appeal, the Special Court of Eminent Domain retried the case. McDonald's asked that the case be transferred to chancery court for a determination on the issue of access rights to the frontage road since an eminent domain court does not have jurisdiction over questions of title. The Eminent Domain court denied the request and proceeded with the retrial. The Supreme Court held that the reasons which have historically been given for limiting the jurisdiction of the eminent domain court to the narrow question of compensation are no longer justified and the eminent domain court may determine any questions of title which may arise from condemnation proceedings where the eminent domain court has subject matter jurisdiction of the proceeding as established in the pleadings.

Griffith v. State, 584 So. 2d 383 (Miss. 1991) - Griffith was convicted of felonious sexual penetration of a child and he appealed. In this opinion, the Supreme Court furnished guidelines for courts to use in determining whether out-of-court statements made by a victim of child sexual abuse should be admitted into evidence before a jury.

Chevron U.S.A., Inc. v. State, 578 So. 2d 644 (Miss. 1991) - Chevron U.S.A.

appealed from a chancery court decree finding Chevron had no right under a 1957 oil and gas lease to explore, over 25 years later, for oil and gas in other areas of the leased property than the producing reservoir on the sixteenth section land under the lease. The Supreme Court held that constitutional realities dictate that when the subject lease was entered, sixteenth section lands could not be leased for a period to exceed 25 years and that if this limitation should be too onerous a burden, it is ultimately up to the people of Mississippi, not the judiciary, to amend the Constitution to redress the harsh consequences. If perceived economic hardships of section 211 of the Mississippi Constitution be real, the onus is on the legislature to redress such economic inadequacies.

Wilson v. State, 574 So. 2d 1338 (Miss. 1990) - Wilson's conviction of capital murder and sentence to a mandatory term of life imprisonment were affirmed in a companion case. Wilson's attorneys moved for compensation at a rate of \$60 an hour which was denied because compensation for attorneys who represent indigents is governed by section 99-15-17 of the Mississippi Code. The attorneys challenged the constitutionality of that section. To save the statute from unconstitutionality, the Supreme Court interpreted section 99-15-17 to mean that the statute includes reimbursement for all actual costs to the lawyer for the purpose of keeping his door open to handle the case, i.e., the lawyer will receive a pro rata share of actual overhead. The Court created a rebuttable presumption of \$25 per hour for the attorney's actual overhead.

Muse v. Hutchins, 559 So. 2d 1031 (Miss. 1990) - Following the death of the mother of two children, the paternal grandmother adopted the children. The children's maternal grandmother filed a complaint for visitation rights which was dismissed by the trial court. The Supreme Court held that because a valid adoption had been granted to the paternal

grandmother who was not a natural parent of the children, the rights of the maternal grandmother to have custody or to visit her grandchildren died with the adoption decree.

Whitehurst v. State, 540 So. 2d 1319 (Miss. 1989) - Whitehurst was convicted of culpably negligent manslaughter. He contended the trial court erred when it allowed the results of a blood test administered to him while he was unconscious to be admitted into evidence. The test was administered pursuant to section 63-11-7 of the Mississippi Code. The Supreme Court held that the test results were admissible under the Mississippi Rules of Evidence and that the privilege created by section 63-11-7 to prevent disclosure of blood alcohol test results without the defendant's consent must yield to the Rules of Evidence.

Tedford v. Aloway, 530 So. 2d 179 (Miss. 1988) - Judgment entered by the circuit court provided that the Telfords would have 30 days within which to file any post-trial motions. Defense counsel informed plaintiff's counsel of the 10-day limit prescribed by the Mississippi Rules of Civil Procedure. Twenty-two days after the judgment was entered, plaintiff filed his post-trial motion for new trial. The trial court denied the motion on the merits. The Supreme Court interpreted the 10-day time limit to be jurisdictional and mandatory which is an inflexible standard.

Peterson v. State, 518 So. 2d 632 (Miss. 1987) - Peterson was convicted of the sale of marijuana. In this opinion, the Supreme Court first interpreted Rule 609(a)(1) of the Mississippi Rules of Evidence and held that the trial judge is required to make an on-the-record determination that the probative value of the prior conviction outweighs its prejudicial effect before admitting evidence of a prior conviction. The Court also established specific factors which must be considered by the trial judge in making the determination.

Highway Eats by The Road Lawyer



Have you been to the Silver Star Casino in Philadelphia? It's like Alice falling into the hole to another world. Or Dorothy flying off in the storm to the land of the Munchkins. After you've been in the Silver Star awhile, you have to ask yourself, "Where am I?"

My last trip to the Casino was several years ago, when the Choctaw tribe leased the place to Boyd's Gaming to run. The more recent improvements, made since the Choctaws took over the management, are elaborate and noticeable. The decor is much more sophisticated and attractive.

Alice could close her eyes and believe she was in Las Vegas. There is even live entertainment at lunchtime. The Starlight Lounge featured a good, four-piece ensemble playing and singing old rhythm and blues favorites. There was another bar nearby with blues singer.

I'm a gourmand and not a gambler, but I must say that at noon on an ordinary Thursday in March, the cards were rustling, and the slot machines were singing their electronic melodies at the hands of many patrons. The parking lot was filled with cars, and folks were hoping they would be the lucky ones that day. And I hear the Choctaws want to build another casino across the road from the Silver Star!

The town of Philadelphia has certainly grown as a result of the gaming activity, sporting a Wal-Mart Super Center, Hardees, and other big-city accouterments – even one-way streets in and out of the square downtown.

Those who frequent the Silver Star on the weekends advise a meal at Phillip M's or the new restaurant some friends like better, Villa 16 West. (The Silver Star is on Highway 16 – "West" if you're starting from Philadelphia or other points east.)

I've only been there on weekdays for lunch, and unfortunately the two culinary luminaries are not open midday. I recently perused the menu for each night spot, however. Phillip M's (named in honor of the chief of the Mississippi Choctaw tribe) features such high-falootin' dishes as Beluga Caviar, Escargot Bourguignonne, saffron chowder, mesclun salad, whole Maine lobster, and macadamia encrusted orange roughy. The prices are equally fancy. Is this really Neshoba County?

Villa 16 West advertises "steaks, chops, and seafood," more my speed, obviously. It is a handsomely decorated space, intended to be Tuscan in feeling, with glittered black ceiling over Roman arches. Menu selections include oysters on the half shell, free range chowder, gourmet pizza, wilted spinach with filo-wrapped mozzarella, Fettuccine Alfredo, veal T-bones, and Kansas City pork chops.

At lunch, though, you are limited to the Terrace Café, with everyday dishes such as fried shrimp or oysters, steak sandwich with onion rings, and a salad bar also offering a hearty and delicious homemade soup. Every casino has a buffet, and the one at the Silver Star is called the Chef's Pavilion, with lunch for \$7.50 and dinner for \$9.95. Regular patrons prefer the Café, suggesting the buffet is not always as good as it should be.

Tupelo is a place I don't go often, so I may not know all the places where the locals eat, but I recently visited a new eatery there that merits a return or two as they get their kitchen act together. It's the Sweet Peppers Deli at 921 West

Main Street, west of the intersection of Main and Gloster Streets, opened for about a month and a half. Not a small hole-in-the-wall like many deli's, it's a rambling industrial-looking building with scored concrete floors and corrugated tin walls pleasantly decorated with neon peppers and vintage Gum Tree Festival posters. It's a bit noisy at the noon hour, from both the customers and the old rock and roll songs played over the intercom. I had the misfortune to sit next to some young mothers who had brought their very active preschoolers for lunch, and I wished I had opted for the quieter outdoor seating.

The menu is primarily soup, sandwiches, salads, and desserts. They also sell beer in addition to the expected tea and coffee and soft drinks. I tried a "Firehouse Wrap," a sandwich of roast beef, bacon, jalapeno slices, bell peppers, onions, cheddar and Monterrey jack cheese, slathered with brown mustard and wrapped in a flour tortilla. The flavor combination sounded fine, but it came cold as if refrigerated since the day before and I was disappointed. I thought "Firehouse" indicated a warm, heated-up offering with melted cheese.

The potato salad was tasty; it had cream cheese or sour cream or both in it, which gave it a fattening but flavorful zing. The cold slaw had chopped green onions and a mighty hint of mustard about it – not so sweet as some. Next time I'll try the homemade chicken salad with grapes and pecans or the hot Reuben sandwich. Everything was served on cheerful, colorful Fiesta ware. The desserts, including a divine-looking Reese's peanut butter pie, were mouth-watering in appearance, but I passed without sampling.

This place is open seven days a week, starting at 11:00 a.m. And I gather there's another one in Columbus at Jackson Square on Highway 45 North.

Speaking of Columbus, not so long ago I had time for lunch and crossed the street from the Lowndes County Courthouse to try Roy's Kitchen and Catering. It's located in a wonderful Art Deco white building with black trim and glass bricks that must have once been an old gas station. I'm told the original renovation – a la fifties diner – was done about six years ago for a restaurant called Boland's that was apparently too uptown for the usual population of Columbus and went out of business.

Roy's is a breakfast and lunch place – no evening service although they advertise catering – that opens at 5:30 a.m. to serve a full breakfast with all those cholesterol-laden eggs and bacon and such. I stopped in for a plate lunch – more or less the only lunch offering, although there is a choice of two meats and several vegetables, homemade cornbread, store-bought rolls, tea, or coffee. There is also a soup and dessert of the day.

I tried the meatloaf and thought it about as good as Mother used to make, and I doused it with ketchup like she would have done. Anyway, Roy's was a most attractive diner – the blue-plate special in a black, white, chrome, and Formica decor, very reasonably priced. Lunch is served until 2:00 p.m.

Do any of you have a special place on the road to recommend? If so, write me in care of Pat Evans, Executive Director, HCBA, 151 E. Griffith Street, Jackson, MS 39201, or e-mail pevans@mc.edu.

WARNING: DO NOT READ THIS ARTICLE WHILE DRIVING OR OPERATING MACHINERY. JLMcD

Rules of Court Requiring an Attorney's Name, Signature or Other Data on Court Documents

by John Land McDavid

This article is about the federal, state and local rules of court having to do with an attorney's name, signature or other data of an attorney appearing on pleadings, motions, orders, judgments in Hinds County Chancery, Circuit and County Courts and in the U.S. District Court for the Southern District of Mississippi. It does not cover Hinds County Justice Courts. Where a rule is quoted verbatim only so much of the rule which specifically relates to the subject of this article is included.

Mississippi Rules of Civil Procedure (MRCP) Rule 11 states:

Signature Required. Every pleading or motion of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated.

Rule 11 does not require an attorney's Mississippi Bar number, telephone number or other data. The rule only covers a "pleading or motion." There is no MRCP Rule with respect to an attorney's name or signature on orders or judgments.

Uniform Circuit and County Court Rules (statewide) in Rule 1.11 provides:

All orders or judgments presented to the court shall be signed by the attorney presenting the same.

Rule 1.11 does not require the attorney's Mississippi Bar number, address or other data.

Uniform Chancery Court Rules (statewide) Rule 5.03 reads:

Every consent judgment must be approved and signed by counsel for all parties to the suit who may be represented by counsel and interested in or affected thereby before being presented to the Chancellor for his signature.

Uniform Chancery Court Rules (statewide) 5.04 states:

In all litigated actions, the attorney who shall be directed to draw the judgment shall submit the same to opposing counsel for criticism as to form only, and shall present the same to the Chancellor within ten calendar days after being directed to draw the judgment unless otherwise permitted.

Rule 5.04 does not require that the attorney's approval as to form to be indicated in writing on the judgment. Affixing the attorney's signature on the judgment indicating "approval as to form" is the longstanding practice and is the most obvious way for the approval to be indicated. Therefore, Rule 5.04 should be considered as requiring, by implication, the signature of the opposing attorney on a judgment.

Rules 5.03 and 5.04 together require that the name and signature of at least one attorney appear on consent judgments and judgments in litigated matters. There is no Uniform Chancery Court Rule which requires the signature or name of an attorney on ex parte orders and judgments. Rules 5.03 and 5.04 do not require that the attorney's Mississippi Bar number, address or other data be set forth on the judgments. While Rules 5.03 and 5.04 mention only "judgments," it is assumed these rules implicitly apply to "orders."

Local Rule 19 of the Hinds County Chancery Court states:

All pleadings, judgments, and orders must show the name and Mississippi State Bar number of the individual attorney actually presenting it, and it may not be presented to another Chancellor except on order of the Chancellor to whom it was first presented.

Rule 19 does not require the attorney's signature, address or telephone number.

Mrs. Kay Ferguson, Court Reporter to Chancellor Stuart Robinson, states it would be helpful to the Court and court personnel for all orders and judgments to contain the name and telephone number of the attorney submitting the order or judgment even when not required.

Rule 11 of the Federal Rules of Civil Procedure provides:

Signature. Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any.

Rule 11.1 of the Uniform Court Rules for Federal District Courts in Mississippi reads:

The signing of a pleading, motion or other paper presented for filing by any counsel in accordance with Fed. R. Civ.P. 11 is deemed to signify approval of the contents of the pleading by all co-counsel. In addition, counsel's name, address, telephone number and attorney identification number shall be typed or printed under his signature. If the attorney is admitted to the bar of the Mississippi Supreme Court, the attorney identification number shall be the same as the number assigned by the Mississippi Bar.

Rule 11 and 11.1 both refer to "every pleading, written motion and other paper." There is no indication that the term "other paper" in either Rule is intended to include orders or judgments. The U.S. District Court for the Southern District of Mississippi

Continued on page 14

Rules of Court Requiring an Attorney's Name, Signature or Other Date on Court Documents...Continued from page 13

does not require the attorney's name, signature or any other data appear on an order or judgment prepared by an attorney for submission to the court for entry.

A summarization and correlation of the above rules is as follows:

1. In both state and federal courts every complaint or motion should be signed by an attorney and should state the attorney's name and address.
2. In federal courts a complaint or motion should also include the attorney's telephone number and Mississippi Bar number.
3. In chancery court, complaints and motions should comply with MRCP Rule 11 and should also include the attorney's Mississippi Bar number.
4. There is no rule which requires that an attorney's Mississippi Bar number

or telephone number be included on any circuit or county court document, whether complaint, motion, order or judgment.

5. All orders and judgments in circuit and county court should be signed by the attorney presenting the order or judgment.

6. Every consent judgment and order in chancery court should be signed by the attorney for all parties represented by counsel and should include the attorney's Mississippi Bar number. There is no requirement that the attorney's address or telephone number be included.

7. By implication, all judgments and orders in litigated matters should be signed by the attorney not required to draw the judgment to indicate approval as to form. The attorney's Mississippi Bar number should be shown;

however, there is no requirement that the attorney's address or phone number be included.

8. Except for judgments and orders covered by No. 6 and No. 7 above, other judgments and orders in Chancery Court require only the name and Mississippi Bar number of the attorney. The attorney's signature, address and telephone number are not required.

9. An attorney's name, signature or other data is not required for judgments and orders in federal court.

Most attorneys apparently cope with this maze of rules by adopting a data form which includes all the data required by all the rules and then adding the form on all court documents in all courts. There is no rule against excessive data.

HCBA Sponsors Eleventh Annual People's Law School



This spring the Hinds County Bar Association once again conducted the People's Law School which was chaired by LaVerne Edney and Sherri Flowers. The classes were held in the Community Room of *The Clarion-Ledger* building and ran March 14, March 21, March 28 and April 4.

Participating in the March 21st class were: Peter Doran, PLS Committee Member and a past PLS Chairman; Leyser Morris-Hayes, HCBA Board Liaison and one of the speakers; and Joe Bennett, who spoke on consumer credit counseling.

DO YOU REMEMBER HCBA FEE SCHEDULE FOR 1967

The following is the Foreword and introductory section of the schedule of suggested fees adopted by the Hinds County Bar Association in 1967. It offers practical and ethical advice still applicable today. It also serves as a reminder of kinder and gentler times in our profession, when corporations weren't charged more for legal services just because they could pay more; when "brother" lawyers' impoverished widows and orphans were given "special and kindly" consideration; and when associates were not expected to bill more than five hours a day.

The Hinds County Bar Association at a regular meeting on April 18, 1967, adopted the following "Suggested Basis of Fee Computation."

This schedule is set up for charges to be made either on a time basis or on a fixed fee basis. The attorney may use either method although the time basis is preferable for the reasons herein set forth.

One approach to charges to clients is the method of doing so by charging on a time basis. Traditionally, members of the bar dislike accounting for their time, even unto themselves. Yet, herein lies our failure; we are our own greatest enemy. You are urged to analyze your costs of doing business as an aid at arriving at fair fees and to keep account of the time spent on items of service. It is generally agreed that a lawyer can ordinarily base his computations on charging for five hours per day per five-day week. If each lawyer will add the average monthly overhead to the reasonable income which he should receive for the services he renders and divide this amount by 100, he can approximate a fair basis for an hourly charge. It is believed that in making this suggestion there has not been any encroachment upon the individuality or professional freedom of any member of the bar.

GENERAL FACTORS OF FEE DETERMINATION

A. Whenever possible fees should be computed on an hourly basis. However, the time element should not be the sole factor. In determining the amount of

the fee, it is proper to consider:

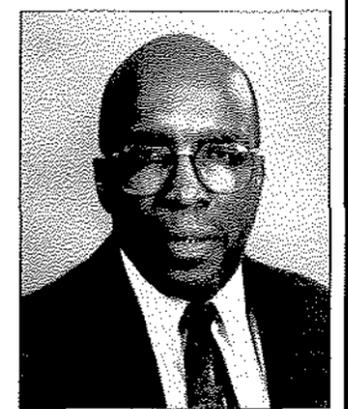
1. The time and labor required; and
2. The novelty and difficulty of the question involved; and
3. The skill requisite to properly conduct the case, and
4. Acceptance of employment as preventing appearance for others in particular matter or case, or loss of other employment while engaged, or the possibility of antagonizing other clients, and
5. The customary charges of the Bar for similar services; and
6. Amount involved in the controversy and benefits resulting to client from services; and
7. The contingency or the certainty of the compensation; and
8. The character of the employment, whether casual or for an established and constant client. No one of the considerations, in itself, is controlling. They are guides in ascertaining the real services. In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers and of their widows and orphans without ample means should receive special and kindly consideration.
9. Casual and slight services should be rendered without charge by one attorney to another in his personal cause; but, when the service goes

beyond this, an attorney may be charged as other clients. Ordinary advice and service to the family of a deceased attorney should be rendered without charge in most instances; and where the circumstances make it proper to charge, the fees should generally be less than in case of other clients.

10. Satisfactory relations between attorney and client are best preserved by a frank and explicit understanding at the outset, as to the amount of the attorney's compensation; and, where it is possible, this should always be agreed on in advance.
11. An attorney may charge a regular client, who entrusts him with all his business, less for a particular service than he would charge a casual client for like services. The element of uncertainty of compensation, where a contingent fee is agreed on, justifies higher charges than where compensation is assured.
12. Contingent fees may be contracted for; but they lead to many abuses and certain compensation is to be preferred.
13. Frequently, attorneys are requested by clients to render legal services for a club or other organization with which the client is connected, but which services do not constitute the rendering of civic services by the attorney. Such work takes valuable time of the attorney for which the attorney should charge at least a minimum fee.

Representative Percy Watson to be Speaker at April Membership Meeting

Representative Percy Watson, Chairman of Judiciary A, will be the speaker at the April 18 Membership Meeting. He is also a member of the House Appropriations, Insurance, Management, and Joint Legislative Budget Committees. Watson received his B.A. Degree and J.D. Degree from the University of Iowa and is engaged in the general practice of law in Hattiesburg.



Patricia Bennett Attends ABA Leadership Institute

Joining some 250 other emerging leaders of lawyer organizations from across the country at the American Bar Association's Leadership Institute, March 17-18, 2000, was Patricia W. Bennett, Secretary-Treasurer of the Hinds County Bar Association. Also attending was Patricia Evans, HCBA Executive Director.

The Leadership Institute is held annually in Chicago for incoming officials of local and state bars and special constituency lawyer organizations. The seminar provides the opportunity to confer with ABA officials, bar leader colleagues, executive staff, and other experts on the operation of such organizations.

Various ABA entities briefed the participants on resources available from the ABA. Sessions were held on bar organization and management, justice system issues, and communications techniques.



Patricia Bennett (left), HCBA Secretary-Treasurer, recently attended the ABA Leadership Institute in Chicago with Patricia Evans, HCBA Executive Director. Bennett will become President-Elect of the Hinds County Bar Association in June. They are pictured with Cham Trotter from Belzoni who is President-Elect designee of The Mississippi Bar.



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Correspondence regarding the newsletter should be directed to: HCBA Newsletter Editor, 151 E. Griffith Street, Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 969-6097. The web site address is hindshar.com.

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HCBA Luncheon Meeting
12:00 Noon, April 18



HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

AUGUST 2000



President's Column by Robert C. Grenfell

Football Season Is Upon Us, And I Predict...

Later in this column, I will reveal my in-state college prognostications, but business before pleasure. The HCBA Board of Directors had a very productive June meeting. I invited the Committee Chairpersons to attend and share their goals with us for this year. I was impressed with the time and energy put into formulating these goals. I see this as a precursor of a very successful year. I want to commend and thank these individuals for taking their time to serve our local bar. These Committees and their Chairpersons are:

- African-American Lawyer Participation - LaVerne Edney
- Alternative Dispute Resolution - Stanley Q. Smith
- Bench & Bar - R. David Kaufman
- Budget - Anthony Simon
- Golf Tournament - John H. Proctor, III
- Membership - Douglas E. Levanway
- Newsletter/Editorial Board - John Land McDavid
- People's Law School - Leyser Morris-Hayes
- Professionalism Award - Harris H. Barnes, III

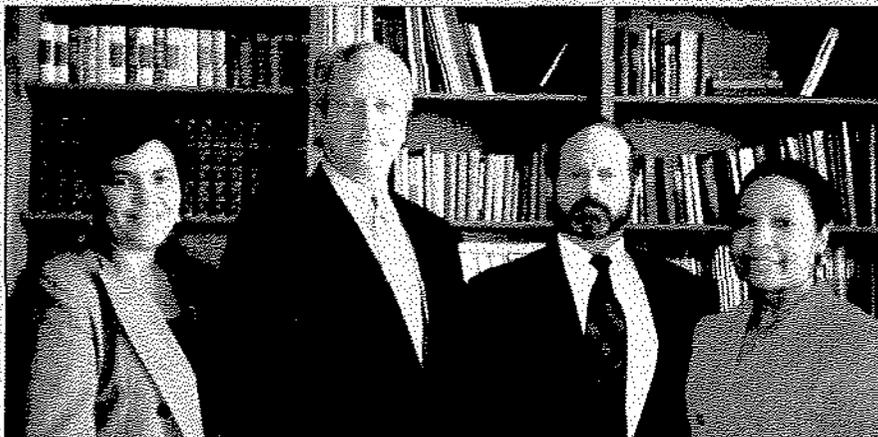
Small Firm Practice - Steve H. Smith
Social - Ann Corso

Women In The Profession - Alleen McLain

Please calendar Thursday, August 17, 2000, for the HCBA/JYL Annual Golf Tournament. A buffet will be served at noon, tee-off at 1:30, with cocktails/awards/door prizes to follow. This year's golf tournament will be held at Annadale County Club. The cost is \$125 per person, with all proceeds going to the Mississippi Volunteer Lawyer's Project. **The registration deadline is August 1**, so please register now. I guarantee one thing... this golf tournament is nothing but fun!

Now for my in-state Y2K/Major college football predictions: Ole Miss 10-1; Miss St 10-1; So Miss 10-1; Jx State 10-1; Alcorn State 10-1; and Miss Valley 10-1. If anyone reading this article wants to retire early from practicing law, then book a flight to Las Vegas and bet these predictions. You should get incredible odds and if you hit, you will be rich! Let me warn you: you have a better chance of winning the Louisiana Lottery. Good luck!

June Membership Meeting



Judges Denise Owens (left) and Breland Hilburn (second from right) spoke at the June HCBA Membership Meeting. They are pictured with Bob Grenfell (second from left), HCBA President, and Patricia Bennett (right) HCBA President-Elect.

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ONE HOUR CLE ETHICS HCBA MEMBERSHIP MEETING

August 15, 2000 12:00 Noon Capital Club
 Lunch \$15.00 (for both CLE and lunch) No Advance Registration
 Speaker: Alex A. Alston, Jr.

HCBA Calendar of Events

August 15
**HCBA Membership Meeting and
 One Hour Ethics CLE.**
 Noon. Capital Club

August 17
HCBA Golf Tournament.
 Noon. Annandale Golf Club

October 17
HCBA Membership Meeting.
 Noon. Capital Club

December 7
HCBA Christmas Social.
 5:30-7:00. MS Bar Center

February 20
HCBA Membership Meeting.
 Noon. Capital Club

April 17
HCBA Membership Meeting.
 Noon. Capital Club

CLE Calendar of Events

August 25 & 26
Lawyers in Transition.
 MS Bar. 956-1644

September 19
**Hot Issues in Employment Law & Litigation
 (ALI-ABA Video Law Review).**
 MC School of Law. 925-7173

September 21
Drafting Corporate Agreements (PLI).
 MC School of Law. 925-7173

September 29 & 30
Trial Practice Academy.
 MS Defense Lawyers Association. 992-8645

October 13
Overview of Elder Law & Issues in Aging.
 Medical Educational Services. 262-798-5242

November 2
Representing the E-Commerce Company (PLI).
 MC School of Law. 925-7173

2000-2001 HCBA Board



Serving as Officers and Directors of the Hinds County Bar Association for 2000-2001 are: (seated) William R. Wright, Secretary-Treasurer; Robert C. Grenfell, President; Patricia W. Bennett, President-Elect; (standing) Leyser Morris-Hayes, Director; Stuart G. Kruger, Director; Harris H. Barnes, III, Past President; David F. Maron, Director; and Lynn P. Risley, Director. Not pictured are Ruma Haque and O. Stephen Montagnet, III, Directors.



Interview with Richard T. (Dick) Bennett

by Kevin L. Humphreys

*Incoming State
 Bar President
 Dick Bennett
 is a member of
 the firm of
 Bennett,
 Lotterhos,
 Sulser and*

Wilson, P.A. He and wife Jerri are residents of Clinton and will celebrate 39 years of marriage in September of this year. Jerri is an Instructor in the Department of Family and Consumer Sciences of Mississippi College and the Bennetts are the parents of four grown children: Jeff lives in New Orleans and is a hospital administrator with the Veterans Administration; Ty and his wife Stacy live in Clinton and both are employed with the Army National Guard. Stacy is also expecting the Bennetts' first grandchild in November. Daughter Ashley lives in Colorado and is a teacher, while son John and his wife Ginger live in Atlanta, where he works in human resources and Ginger is a music therapist.

Q: I would think that being elected Bar President has to rate as one of the highest professional honors you've received. Would you agree with that statement?

A: I certainly do and would like to state publicly that I'm very proud to be a Mississippi lawyer and will always deeply appreciate the great privilege of serving The Mississippi Bar and our profession, and with all humility, I do consider my selection as your Bar President to be my highest professional honor.

Q: And then I guess that leads naturally to the next question, do you feel exhilarated by the challenge, or do you feel a little burdened by the responsibilities as well, or a little of both?

A: At this point, I do not feel unduly burdened by the responsibilities involved since I have had Jimmy Dukes, our current Bar President, as an exceptional mentor, Larry Houchins, our Executive Director with over 20 years of continuous service as a guiding light, and the unconditional support of my family, law partners, and our bar staff. I've also received tremendous support

from our membership.

Q: I understand that you've moved into a second career of sorts almost by accident as an arbitrator. Could you briefly recount how that came about?

A: Since 1976, I've been involved in ADR, alternative dispute resolution, and over the past several years, it has become a major part of my practice. Early on, I joined the American Arbitration Association, attended and taught seminars, acquired my mediator certification and began hearing mediation and/or arbitration cases. I've been able to do a lot of this [hear cases] telephonically while at home.

Q: Would it be accurate to say that you see this as sort of a wave of the future, at least for attorneys who can manage it?

A: Precisely, working at home has been a very positive experience. With a business telephone, fax, copy machine, and laptop computer, it's amazing how productive you can be working at home. I think technology has definitely changed the practice of law and ultimately all of us will be compelled to recognize the sweeping changes that technology brings or promises to bring to our profession.

Q: At the same time, do you see a potential downside to all the technology and the speed? I have heard people make reference to the fact that we sometimes have too much at our disposal, and clients may want things too quickly because they know what technology enables us to do.

A: I think you're absolutely correct. When I first started practicing law over 35 years ago, you'd receive a letter, have an opportunity to digest it, and take your time in rendering an opinion. Today, just like you suggested, clients expect you to act immediately; sometimes, we should stop and forget about our fax machines, e-mails, computers and pagers, and just slow down and enjoy the law practice. But frankly, I don't know the answer to how we can slow things down.

Q: What's your best theory or maybe your best guess, as to why the legal

profession continues to have what I could call these image problems, where we are held in low esteem, comparable to an insurance salesman?

A: From my perspective, lawyers have been the victims of some of the worst propaganda ever put forth in the past few years. It's been difficult to refute because there's been so much of it, and many people are not willing to listen to true facts about lawyers, and simply see sensational stories in the newspapers about the million dollar cases. When you pick up a newspaper and read about a million-dollar verdict, some people may mistakenly think that lawyers do nothing but run around the country collecting huge sums of money. You normally don't think of everyday safeguards and facilitating roles that lawyers and the legal system play in our lives, and people don't take into account so many things that lawyers do, for example, preparing wills, closing loans, handling a domestic relations case, drafting contracts, settling employment disputes, adopting a child, incorporating a business. You don't hear much about the good and necessary things that we do for our clients.

Reader's Digest has been publishing stories for years scaring the public to death about the explosion of litigation in this country. This *Reader's Digest* article I have with me today is entitled "When Will You Be Sued"? The article says this is the heyday of damage suits when even the curiosity of a neighbor's child may bankrupt you for life. When you read this *Reader's Digest* article, you would think that the country is going down the tubes, and won't survive the next 10 years unless some radical changes take place in the legal system. Well, guess what - I just read to you from a June 1947 issue of *Reader's Digest*.

Q: That's interesting. In essence, you're saying some of these perceptions about our profession have been around for years and years, and they're not even really based in truth.

A: That's correct, these days it seems every newspaper has an article

Continued on page 4

Interview with Richard T. (Dick) Bennett...Continued from page 3

critical of lawyers. People love to quote from Shakespeare, "The first thing we do, let's kill all the lawyers." But how many people realize this quotation is taken out of context and the quotation comes from Shakespeare's play, *Henry VI*, where one of the chief rebels, Dick the Butcher, comments that in order for the rebellion to succeed, "the first thing we do, let's kill all the lawyers." In other words, if you can get rid of the primary defenders of society, then you can overthrow the social order.

Q: I take it then that one of your goals for the year, whether you make it an official goal or not, will be to continue efforts to sort of rehabilitate the image of our profession since you feel in a lot of ways we have been unfairly maligned.

A: That is correct. I don't have a specific theme this year, but I hope to focus directly on The Mississippi Bar, yesterday, today and tomorrow, in other words, our past, present and future. And the underlying goal of my message will be to make our membership aware of what we do. Specifically, I hope to educate, inform, and raise the level of consciousness about The Mississippi Bar so we will be better able to address the negatives which may come our way. I think all of us recognize our association is required to serve the public good by promoting excellence in the profession and in our system of justice, and, in so doing, we will continue to sponsor educational programs and seminars, conduct regional bar meetings, address specific issues relating to diversity, gender fairness, access to justice, solo and small firms issues, technology, professionalism and discipline. Those are some of the matters I'm going to mention at the state bar convention this year.

Q: As a philosophical matter, does that mean that you encouraged or discouraged your kids from becoming lawyers?

A: One's calling in life is intensely personal, and my wife and I have let our children pursue their own desires and needs, and for whatever reason, we have not had any of our

children decide to practice law. We have not tried to encourage or discourage them; it's really been a personal decision on their part.

Q: Moving on into some of your formalized goals as president, what are some of the things you want to focus in on for the upcoming year?

A: Again, I'm going to focus directly on The Mississippi Bar. I think it's imperative for us to better educate our membership and the public about what we do as a bar association, so people will readily recognize our contributions to the people of Mississippi and our profession.

Q: Anything else?

A: We're going to have our Mississippi Volunteer Lawyer Project ongoing, and, as you may recall, we have established aspirational goals of 50 hours per lawyer in Mississippi, and recently it's significant to note that a survey was completed by 505 Mississippi lawyers indicating they provided an average of 98 hours of free legal services. This amounts to over \$5,000,000 in free legal services by just these 500 lawyers. Phyllis Thornton, the director of the Mississippi Volunteer Lawyers Project, estimates that 5,700 lawyers provided over \$45,000,000 of legal services each year. We don't hear much about that in the media. Ethics is going to be a significant thrust this year and our nationally recognized Lawyers and Judges Assistance Program, under the leadership of our Director, Betty Daugherty, will continue to sponsor a number of programs, including Lawyers in Transition. This worthwhile program, as you may recall, deals with lawyers and judges who may have problems with alcohol, drug addiction, depression, and other problems. We are also going to have our Law School Professionalism programs at Ole Miss and Mississippi College this year for beginning law students. Chief Justice Lenore Prather has graciously agreed to be our keynote speaker at both law schools which should set a positive tone of both programs.

I am also very proud of our Consumer Assistance Program under leadership of Glen Waddle,

Program Director and Counsel. The Mississippi Bar's Consumer Assistance Program helps people with questions or problems with Mississippi attorneys. When someone calls or writes The Mississippi Bar to complain about a Mississippi lawyer, the Consumer Assistance Program responds to the inquiry and attempts to identify the problem. Many problems can be resolved by providing information, contacting the attorney, or suggesting ways in which to resolve the dispute. The general public is usually provided with a Request for Assistance form to contact the Consumer Assistance Program, but the form is not required as the CAP responds to all phone calls and written correspondence sent to The Mississippi Bar offices regarding complaints or inquiries. This program has greatly assisted the members of our association and the public. In fact, the program was the first of its type in the nation and several other state bar organizations have copied the procedures and guidelines of The Mississippi Bar's Consumer Assistance Program and there are now at least 18 similar programs in the nation. We are also planning a President's Forum on the Practice of Law in the 21st Century in Oxford, as part of *The Mississippi Bar Yesterday, Today and Tomorrow* focus, and we anticipate that this will be a worthwhile endeavor. Regional bar meetings will be conducted again this year in Laurel, Natchez, and Columbus. Over the last 6 or 7 years, the President, President-Elect, and Larry Houchins have traveled statewide to meet with lawyers and judges concerning needs and matters of mutual interest.

Q: That sounds like a pretty full plate.

A: It's going to be busy, but we're excited about it. There are so many other things I could discuss with you, but I hope this will give you some idea as to what we are going to do this next year. To conclude, I deeply appreciate having the opportunity to participate in this interview and certainly look forward to serving all members of The Mississippi Bar.

Spring Social Held

Hinds County Bar Association members and their guests enjoyed the Spring Social that was held on Thursday, May 25, at Hal & Mal's Brewery. The HCBA would like to thank American National Lawyers Insurance Reciprocal and Fox Everett for their sponsorship of the event.



Leyser Morris-Hayes, HCBA Director, and Anthony Simon



Justice James Smith, Ron Welch, Alahna Toigo with American National Lawyers Insurance Reciprocal, and John Land McDavid



Stan Smith, Justice Michael Mills, and Susan Tsimortos



Amy Cleveland, HCBA President Bob Grenfell, and Ann Corso

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MEMBERSHIP
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WOMEN IN THE PROFESSION
Alleen McLain

Mississippi's Open Meeting Law: An Overview

by Leonard Van Slyke

Basic to an understanding of Mississippi's Open Meetings Act are four distinct elements: (1) its philosophy, (2) which public bodies are covered and which are not, (3) matters which may be discussed in executive session by a covered public body, and (4) the procedural aspects of the Act, including what must be done to enter executive session and notice requirements.

The legislative statement introducing the Act declares that it is "the policy of the State of Mississippi that the formation and determination of public policy is public business and shall be conducted at open meetings except as otherwise provided herein." That is the starting point: openness is the rule and any closure is the exception. A public body is never required to go into executive session though it may be allowed to do so for specific statutory reasons.

It is important to note almost all governmental entities, whether at the state, county or municipal level, are covered by the Act. There are certain exceptions, namely, the judiciary, including all jury deliberations, public and private hospital staffs, public and private hospital boards and committees thereof, law enforcement officials, the military, the State Probation and Parole Board, the Workers' Compensation Commission, legislative subcommittees and conference committees, and license revocation, suspension and disciplinary proceedings held by the Mississippi Board of Dental Examiners. If a public body is not in the above list, then any gathering of a quorum of that body's members is a meeting for purposes of the law unless it be a chance meeting or social gathering.

Once a quorum is gathered, all proceedings are open unless, upon following proper procedures, the body goes into executive session for a statutorily sanctioned purpose. The only proper purposes are listed in Section 25-41-7(4)(a) of the Code, and there a total of eleven such purposes listed. The most frequently used are the

personnel and litigation exemptions. Even these are not as broad as commonly thought. For example, personnel is "Transaction of business and discussion of matters relating to the job performance, character, physical competence, or physical or mental health of a person holding a specific position" or "Transaction of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position." As is readily apparent, this exemption is not so broad as to allow discussion of whether to pay parking or provide health insurance for employees generally as has sometimes been assumed. Further, the Mississippi Supreme Court has made it clear that it is not enough to say that the public body is entering executive session to discuss "personnel matters." The reason given must be "with sufficient specificity for the audience to know in fact that there is an actual specific matter which is ... genuine and meaningful" and not "generalized fluff." Further, the Court said that such meaningful reason "be" of sufficient specificity that the audience will at some later date be able to check it out." For example, a more acceptable explanation for entering executive session than merely "personnel" might be whether the job performance of an employee in the water department has been so unsatisfactory as to require termination of the employee.

Among the least understood aspects of the Open Meetings Act are its procedural components. Notice of a meeting is not required by the public body if it meets at a time and place prescribed by statute, or, if not set by statute, the public body spread its regular meeting time and place on its minutes at its first regular or special meeting after July 1, 1990; however, any recess meeting, adjourned meeting, interim meeting or called special meeting must be posted within one (1) hour after such meeting is called in a prominent place available to

examination and inspection by the general public in the building in which the public body normally meets.

If a public body desires to go into executive session, how is this accomplished? The meeting must commence as an open meeting and a three-fifths (3/5) affirmative vote of all members present shall be required to declare an executive session. Procedurally, any member shall have the right to request by motion a closed determination upon the issue of whether or not to declare an executive session. Such motion, by majority vote, shall require the meeting to be closed for a preliminary determination of the necessity for executive session. No other business is to be transacted until the discussion of the nature of the meeting requiring executive session has been completed and a vote taken in the issue. The reason for holding an executive session is to be stated in open session, and must be for one of the reasons prescribed by statute. Such reason is to be recorded in the body's minutes and the vote on the question of entering executive session is to be recorded and spread upon the minutes. Only after all of this occurred shall the public body retire into executive session.

In summary, Mississippi's public policy is openness. As the Mississippi Supreme Court has said: "Openness in government is the public policy of this state. It is conducive to good government, and heroic deeds."... "However inconvenient openness may be to some, it the legislatively decreed public policy of this state." Further, our Court has opined that, "The Open Meetings Act was enacted for the benefit of the public and is to be construed liberally in favor of the public." This philosophic framework serves as a guide to lawyer giving advice regarding the operation of this Act.

Leonard Van Slyke is a shareholder with Heidelberg & Woodliff, P.A. He regularly represents media interests on questions regarding the Open Meetings Act.

Mississippi's Open Meeting Law: An Opinion

by Leonard Van Slyke

The legislature's retirement perk fiasco has once again highlighted the importance of Mississippi's "Sunshine Laws." "Sunshine Laws" are the popular name given the Mississippi Public Records Act and the Open Meetings Law.

It seems that it takes a governmental crisis to get our attention as to the importance of openness in government. The origin of "Sunshine Laws" was Watergate. After that sad chapter in our nation's history, Congress enacted the Freedom of Information Act and every state enacted similar laws to give its citizens greater access to governmental meetings and records.

In enacting the Open Meetings Act in 1976, our state legislature declared at Section 25-41-1:

It being essential to the fundamental philosophy of the American Constitutional form of representative government and to the maintenance of a democratic society that public business be performed in an open and public manner, and that citizens be advised of and be aware of the performance of public officials and the deliberations and decisions that go into the making of public policy, it is hereby declared to be the policy of the State of Mississippi that the formation and determination of public policy is public business and shall be conducted at open meetings except as otherwise provided herein.

Unfortunately, the same legislature which spoke so forcefully that

openness in government was the policy of the state then turned around and exempted its own subcommittees and conference committees from the application of the law. See Section 25-41-3(a). Since those bodies are where much of the legislature's work is done, it was a tragic error. The public, and ultimately the legislature itself, paid a terrible price with the "secret" enactment and finally the repeal of the legislative retirement perk. During the 2000 session and special session, this provision was inserted during one of those closed conference committees.

It is generally believed that the exemption of conference committees and subcommittees will be repealed by legislators of good will at the 2001 session. I hope they will do much more to strengthen the citizens' right to information about their government. The Open Meetings Act has long needed specific penalty provisions. Attorney fees to a prevailing entity or citizen are available in public records cases, but there is currently no such provision in the meetings law. There should be. Further, it would appear actions taken in meetings found to be illegal under the Open Meetings Act should be void. This would put some long-needed teeth in the law.

The Public Records Law is riddled with exemptions. The legislature should examine each exemption and eliminate many of them.

Despite their weaknesses, the "Sunshine Laws" have done much good in Mississippi. In general, these laws have given citizens access to governmental meetings and records so

that they can be informed about the use of their tax dollars and functioning of government. As a practical matter, the news media has served as the surrogate for the public and most of the litigation to enforce these laws has been at the instance of the media. Nevertheless, the media has no greater or less rights than citizens, and any taxpayer can bring an action to enforce these laws.

Recently, an organization composed of citizens and media has sprung up to address openness in government. The non-profit Mississippi Center for Freedom of Information, Inc. also has a number of government officials among its ranks. This coalition will likely have a great impact on the consistent move toward openness through seminars for government officials and the public, a telephone "hotline" open to the public to answer specific legal questions on "Sunshine Laws," a handbook regarding the "Sunshine Laws" and their interpretation, a newsletter, web site, lobbying and other activities. Should you wish to become a member, you may contact Jeanni Atkins at the University of Mississippi School of Journalism.

Leonard Van Slyke, Jr. is a shareholder with Heidelberg & Woodliff, P.A. He represents a number of media interests on First Amendment issues.

[Editor's Note: The viewpoints expressed in this column are solely those of Leonard Van Slyke, Jr. and are not to be attributed to the Hinds County Bar Association, its officers and directors, or its editorial board.]

Pictorial Directory Planned

The Hinds County Bar Association has plans to publish a 2000-2001 Color Pictorial Directory and you must be a member of the HCBA to be pictured.

The photographs will be taken at The Mississippi Bar Center and the dates are February 5 through February 16. The cost for the directory has not yet been set.

Information and reminders will be sent out closer to the time. So mark your calendars as these directories are only published every five years and you won't want to miss out being in this one!

Circuit Judge Hilburn and Chancery Judge Owens

Address HCBA

by Linda A. Thompson

A packed house of members and guests at the June luncheon meeting of the Hinds County Bar Association enjoyed the informative program presented by Senior Circuit Judge L. Breland Hilburn and Chancery Judge Denise Owens.

Judge Hilburn addressed the troublesome issue of how to get a civil case set and tried in a timely fashion in the Hinds County Circuit Court, while minimizing judicial "down time."

There are more than 5,000 active civil cases on the Hinds County Circuit Court docket, with about 1,300 being filed each year. There are also 2,643 criminal cases pending on the Circuit Court docket, and the Court is required to give the criminal docket priority over the civil docket.

A civil case is set according to the lawyers' best estimate of how much time it will take to try the case, and that much time is reserved on the Circuit Judge's trial docket. Backup settings for other cases are seldom utilized properly, because the cases with the second or third setting beg off near the time for the trial when the lawyers on the first setting assure the others that their case is going to be tried. Then the first case settles on the morning of the trial, and there is down time in the Court.

Judge Hilburn suggested that mediation can do a great deal to alleviate this problem. Even if all the cases are not settled, mediation can define the line between those cases that are actually going to require a trial and those that have good settlement potential. Judge Hilburn said attorneys should expect to see court-ordered mediation in the future.

Chancery Judge Denise Owens offered several suggestions regarding the day-to-day practice in Chancery Court. She said she has asked the attorneys appearing in her Court to bring their Rule book with them,

humorously adding that any lawyer with the Rule book in her Courtroom gets one "free" sustained objection.

She emphasized the importance of Uniform Chancery Rule 3.09 that oral agreements of counsel should be recorded. She advised that the best practice is for the attorneys to read the agreement into the record with all parties present. If possible, the lawyer should present the order to the Judge on the same day, particularly if one party is appearing *pro se*. These steps will minimize the development of misunderstandings about the agreement. Judge Owens sees numerous *pro se* litigants in Chancery Court in such matters as divorces, estates, and paternity suits.

Another practical tip from Judge Owens to hold down misunderstandings is that the attorney should have his or her client initial each page of a document memorializing a property settlement. Otherwise, clients sometimes suspect that someone has slipped in an extra page to the document after the fact.

Judge Owens suggested that attorneys ask their clients to complete the financial statements required by Uniform Chancery Rule 8.05 at least several days before the trial date and not at the last minute. She agreed with an audience comment that it is a good idea for a lawyer to fill out his own financial statement and disclosure one time in order to learn how long the process can take. The filing of actual documents is not necessary if the attorney files a certificate of compliance.

Judge Owens asked that attorneys always check the Rules of Civil Procedure carefully about what time frame is required for the triability of certain matters in Chancery Court. She noted that many attorneys forget about MRCP Rule 81 which specifies certain numbers of days after completion of

service of process before various matters can be heard in Chancery Court. If the appropriate amount of time has not been honored, the Chancery Judge cannot proceed to hear the matter. Additionally, Rule 81 specifies that certain kinds of actions require an answer and others do not and that certain cases require proof under any circumstance.

Judge Owens reminded everyone that earwiggling the Chancery Judge is prohibited. Apparently some lawyers do not abide by the earwiggling rules that also forbid *ex parte* letters to the Chancellor.

Regarding proposed orders, Judge Owens asked that the attorneys not mail in orders to her but bring them to the Court for signature on *Ex Parte* day so that the Court will not be responsible for keeping up with all the important documents. She explained that she once lost original divorce documents which were replaced only with great difficulty while one party was in Europe. She said that the attorney with an order to be signed may call the Court Administrator for an available time to come to the Court.

Judge Owens asked that attorneys subpoenaing witnesses familiarize them with the Courthouse when they arrive and instruct them not to discuss the matters at hand until the trial is over. If a witness is a physician or minister or other person who should be detained at the Courthouse only as briefly as possible, inform the Judge about the witness and ask if she will allow that person to testify out of order. Be considerate of others who have been called but are not going to be used and do not make them wait all day for nothing.

Mediation is something that Judge Owens thinks is a very good idea. She encouraged everyone to use mediation but to do so early enough so that the trial is not delayed in the process.

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Send registration and checks payable to: Hinds County Bar Association, c/o Debra Allen, 812 N. President Street, Jackson, MS 39202. For more information call, Debra at 353-0001.



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Risk Retention Group

Highway Eats by The Road Lawyer

Recently had to handle some business in Choctaw County that kept me at the Courthouse in Ackerman until lunch. So I went to the Zagat's of small town Mississippi - the ladies in the Tax Assessor's office - to find out where to get the best food in town. No question but it was to be Pap's Place across the railroad tracks on Main Street.

Pap's Place is located in a former drug store building, with a second dining room in the building next door. Pap's has been there 14 years; the drug store was there about a 100 before that.

Remnants of the handsome, dark-stained wood cabinets and drawers of the old pharmacy still line the east wall. Now the decoration is a curious combination of lace curtains, fishing memorabilia and curios, framed prayers and religious *objets*, "Early American" oak furniture, and a gaggle of family snapshots. Reading material is plentiful - mostly Southern Farm and Land Almanacs.

Lunch is served buffet style from 11:00 to 1:30 on every weekday but Wednesday, and there is a dinner buffet starting at 4:30 on Thursday, Friday and Saturday evenings.

I didn't see a menu, but I heard someone ordering a hamburger and fries. I went through the buffet line with most other customers, choosing fried chicken and three vegetables - a small salad, butter peas, and fried okra. Other choices were "one slice only" of turkey breast, veal cutlet, mashed potatoes, and a creamed vegetable medley. The rolls weren't homemade, but the cornbread was good, sweet and dry - cake like. All this with a great big pitcher of tea for \$4.00. One complaint: only plastic utensils were offered.

Pap's Place has a catfish as its logo, and I expect those evening buffets have fried catfish as an entre. The napkins feature a happy (although cooked) fish on a platter and the slogan "We Don't Rob Ya, We Just Fill Your Gut." Perhaps someone has been offended by that G word, because the tank tops for sale said, "...We Just Fill Your Belly."

My favorite place to eat in Oxford is the Bottletree Bakery at 923 Van Buren Street, just a block off the Square. You know, it wasn't so long ago that Mississippi didn't have even one real bakery. Genuine bakery bread with chewy crust and real texture and taste

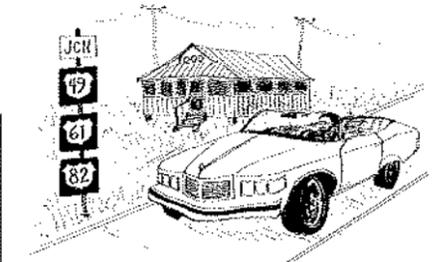
was a treat to be had only on trips to New York or other northeastern city, or New Orleans, of course. I always wondered if Mississippians avoided the bakery business because of the long hot seasons here and the great heat required by big bread ovens. But that logic doesn't work when you think of the longstanding tradition of fine bread, especially French bread, in New Orleans.

Hallelujah when some enlightened cooks started the Bottletree Bakery in Oxford, a café/coffee house as well as a bakery. The place has a real retro appearance. The building is old, and the decorations include an old counter and stools discarded from a former diner. The art is folksy and crazy, charming and disarming at the same time. I like the "See Rock City" birdhouse with Christmas lights on it and wonder if many of the young student patrons of the place know what Rock City is anymore. They're certainly too young to remember pre-Disney.

The Bakery is open every week day from 7:00 a.m. to about 4:00 p.m., and they have Saturday and Sunday hours as well. Pick up a bag of the coffee beans while you're there. I get funny looks buying ten pounds at a time to take back to Jackson, but it's the best coffee in the world.

Bottletree has various bakery offerings and lunches. My favorite sandwich is the Van Buren - quality smoked turkey and provolone cheese on rosemary garlic sourdough bread with raspberry mustard and a slice of red onion. Half a sandwich is filling, and then you can have a cup of vegetarian soup du jour. The Thursday offering of black bean chili is always good. The bread selection varies from day to day, and they usually have croissants, Danish, muffins, and scones, and several types of bagels each morning.

I used to dream of moving to Oxford so I could enjoy the staff of life fresh each day with a flavorful cup of java. Thank heavens for the Broad Street Baking Company and Café that the owners of Bravo opened a year or two ago in Banner Hall in Jackson. Never again will I have to pick up a loaf of that tasteless textureless colorless crustless white trash stuff that passes for bread at the grocery store. Now you can get absolutely wonderful, healthy and savory bread right here - a



selection of at least ten different kinds each day of the week.

The Broad Street also serves breakfast pastries and desserts - cookies, cakes, tarts, cheesecakes, scones, brownies and other bars - and will pack a box of your choice to take home. They have a counter of gourmet hors d'oeuvres, entrees, and cheeses for your entertaining at home. I've been asking for Parmigiana Reggiana. Maybe if enough people request it, they'll start carrying it.

The Broad Street menu includes quiche, pizza, classic sandwiches, soup, fresh green salad, and pasta salad and many other appetizing items to eat at a table there. For breakfast, try the triple cheese omelet with bacon, onions and peppers - a fine Sunday morning feast as you peruse the *New York Times*. Did you ever dream such civilization would come to Jackson?

The Café is open Monday through Thursday 7:00 a.m. to 8:00 p.m., Friday and Saturday from 7:00 a.m. to 9:00 p.m., and Sunday from 7:00 a.m. to 3:00 p.m.

Jim Hudson has opened at a new location in Jackson. He's moved his Bon Ami to Maywood Mart to have more room for seating people at tables. Look for the handsome gas lantern and West Indies shutters outside. He's serving the same delectable food he had at his former Belhaven location behind Keifer's, specialties like vegetable lasagna, southwestern ravioli, and crab cake salad. Jim makes the best cookies in the world, and of course he is still doing the catering for which he is so well known. Jim and his wife Jane also do the lunch for Market Bites at Interiors Market in the Woodland Hills Shopping Center.

Lunch hours at Bon Ami are 11:00 a.m. to 2:30 p.m. Monday through Saturday. Dinner is being served Wednesday through Saturday evenings, featuring Country French cuisine such as coq au vin, duck, and venison dishes in a casual atmosphere. You may bring in your own wine to accompany the delicious food.

Separation of Powers Three Recent Challenges in Mississippi

by Leslie Southwick¹

The United States Supreme Court has rediscovered federalism. In the last five years the Court invalidated the Brady Bill's provision that required state law enforcement officials to conduct background checks on those seeking to purchase a gun, found neither the Gun-Free School Zone Act nor the Violence Against Women Act to have Commerce Clause justifications, and in several cases limited Congress's power to permit suits against States for violation of federal law. The pronouncements are as remarkable for their boldness as for their consistently narrow majorities. The Court is invigorating constitutional structure and function commandments. It is as if the text that is being followed starts along these lines:

In the Beginning, the New World was without Form, and void, and the Founding Fathers said "Let There Be States." And thus there were States, and it was Good.

The States in convention assembled formed a national government and delegated some of their powers to it, but the States remained the foundation.

Equally fundamental are separation of powers issues. The Supreme Court held that Congress arrogated the judicial power to interpret the First Amendment in the Religious Freedom Restoration Act and also improperly delegated legislative powers in granting the President a line item veto. Not addressed at the Court is the President's circumventing the Senate's failure to confirm some executive branch nominees by placing them into the same office in an acting capacity, such as the Acting Assistant Attorney General for Civil Rights who has served for over two years. First Principles can be pursued one metaphor further so that the Biblical quality of separation of powers norms may also be perceived. The three residents of the Garden of Eden – Adam, Eve, and the serpent – represent for my purposes the executive, judicial, and legislative branches of government, but no snake-like qualities for any of the branches is implied. This

separation of powers Garden contains an unsettling secret. Each of the three is to pursue happiness while abiding by the commandment that they respect the rights of the others. However, eating fruit from the Tree of Knowledge will reveal that transgressions give at least temporal pleasures, risk the wrath only of the other two in the Garden, and may succeed. Temptation is born.

The desire to divide power horizontally within one level of government and vertically between the federal and state systems arose from an understanding of human nature – checks and balances within and between sovereign governments lead to negotiation, compromise, and moderation. The absence of those restraints leads to excesses.

Constitutional commandments that each branch of government recognize boundaries to its authority also exist in state constitutions. During the year 2000, Mississippi faced three rather serious challenges to the tranquility of the separate co-equal branches of government.

One possible incursion occurred when the Supreme Court concluded that the one hundred year-old statute that adopted a state flag had inadvertently been repealed soon after its passage. The result of the judicial decree, namely, ending the state flag's official status, superseded the legislature's recent refusals to do so. Another challenge arose from the legislature's failure to confirm the governor's nomination of a new Adjutant General to head the Mississippi National Guard. A week later the governor gave the unconfirmed nominee the responsibilities of the office anyway. Here it was the governor who attempted to supplant the legislative determination.

Finally, a minority in the legislature demanded that a constitutional provision that created a cumbersome legislative procedure be enforced. The presiding officer in each house ruled against the effort. Some legislators then sought judicial intervention. This was a request that the judiciary supervise

internal procedural rulings in the legislature.

What joins the three events together is that one branch assessed whether a legislative decision should be left as the final word. In each case the initial decision was that it should not be.

Waiving the Flag: Judiciary Preempts Legislative resolution. The current Mississippi state flag which was adopted in 1894 has in its upper left-hand section the St. Andrew's Cross. That symbol is most recognized as being the cross used on various flags of the Confederate States of America. Those who argue that this is an emblem of slavery and hate have been partially successful in recent years in creating the perception that it is contemptible to fly such a flag. The controversies had not succeeded, though, in causing the Mississippi legislature to consider seriously any of the recurring bills that demanded the design of a new flag. The 2000 session effectively ended on May 3, 2000. The next day the Mississippi Supreme Court issued an opinion about the state's flag.²

First the Court held that the plaintiffs' claim that the flag's status violated their civil rights had been resolved against them by prior caselaw. Then the Court moved beyond the claim to an issue not raised in the appellate briefs. The Court held that when a new statutory Code was created in 1906, the legislature inadvertently repealed the Flag and Coat-of-Arms Act by failing to include it in the codification. Thus the flag has no official status.

Though a classical allusion would be more scholarly, what captures my image of the effect of the ruling is unsophisticated. That image comes from a old recurring skit on the television series *Saturday Night Live*. On a mock news program, commentary on an issue of the day was given by the perpetually irritated Emily Litella, played by the late Gilda Radner. She would start with her understanding of a

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news item. An example might be her recounting that an alumnus of a local college believed that current students should seek ways to haze each other as frequently as possible. Litella then would rail against the shameful suggestion, the elevating of tradition over the rights and feelings of others, and the fact that too many people accept the unacceptable. At the end of her vigorous commentary, one of the other newscasters would correct her, "the man said that students should praise each other." Pausing, she would then give her timeless response: "oh, never mind."

After decades of controversy, of protests, of lawsuits, of threatened legislative shutdowns by flag opponents unless the issue is considered and suspected legislative retaliation by flag champions against local governments who have removed the flag, the supreme court declares that actually there is no state flag. A pause, and an "oh, never mind" might seem appropriate for all concerned. That is unlikely to occur. Editorials were written that the ruling "offers a new start."³ The governor named a commission to study and make proposals regarding a flag.⁴ The slate wiped clean, the battle over what to write, or more aptly, what to draw and color, begins. That battle, once commenced, may be largely unaffected even if a ruling on the pending rehearing motion alters the decision.

Living with Rejection: The Executive bypasses the Legislature. Brigadier General George S. Walker, who served over 40 years in the military and is a veteran of two tours of duty in Vietnam, was nominated by the governor in February 2000 to be the state Adjutant General. Near the end of the legislative session in May, the Senate Veterans and Military Affairs Committee by a four to three vote tabled the nomination. The session ended with no further action being taken. One week later, the governor named General Walker as the senior Assistant Adjutant General and his Special Advisor on Military Affairs, thereby to perform the functions of the Adjutant General.

At least one of the Senators who had voted to table the nomination requested an Attorney General's opinion regarding the validity of this step. In July, an opinion was issued that as a matter of statutory construction the governor could not make this appointment of a senior assistant adjutant general until there was an adjutant general to make a recommendation.⁵ General Walker resigned his position, thereby making the various legal issues at least temporarily moot.

What's a Constitution Among Friends? A Legislative Minority Seeks Judicial Help. The final year 2000 separation of powers issue arose when some legislators in each chamber attempted to slow down final action on appropriations by having each proposal read aloud in its entirety. A state constitutional provision requires such a reading of every "Bill," a matter usually waived by consent. Published reports focused on some legislators' being outraged that the session was about to end without any action on adopting a new state flag. Other legislators noted the inconsistency between the complexity of the critical appropriation measures and the hurried nature of their presentation.

Whatever the mix of concerns, the demand that each bill be read aloud caused the Lieutenant Governor to rule that the measures were not "bills" but were a different species named "conference reports." Some Senators sought a writ of mandamus. A Hinds County chancellor insisted that these were "bills" and had to be read aloud; that decision was suspended by the supreme court in response to an emergency appeal until the direct appeal could be considered in a more deliberative fashion.⁶ That deliberation would occur later only if the appeal were pursued.

Conclusion

The constitution creates a separation among powers, but enforcement of the rules was left to the branches to resolve among themselves. These three examples suggest the variety, volatility, and significance of the disputes that

arise. Brute physical force is not often in play, but political considerations frequently are decisive. Usually in such inter-branch disputes, the final word as a matter of procedure is from the judiciary. The final word as a matter of appropriations or positive law is from the legislature. The final or at least most noticed words to the public are often from the branch that has the best access to a statewide pulpit, the executive.

The lines separating the functions of the three branches are not always clear. Reasonable people frequently disagree about the proper role of one of the co-equal branches. Even so, each branch tends to define the boundaries to its own advantage. The United States Supreme Court's description of the cause of significant trespassing by one branch onto another's turf is that the honor system is the only initial restraint. Each branch has a "sworn obligation" to operate within proper constitutional bounds; however, the "absence of structural mechanisms to require these officials to undertake this principled task, and the momentary political convenience often attendant upon their failure to do so,"⁷ leads to Temptation. Each branch, state and federal, should resist when lured.

1. Judge, Mississippi Court of Appeals. The opinions expressed here are my own and not the Court's, making them suspect since they have not been subjected to peer review or evaluation. See *Daubert v. Merrill Dow Pharmaceuticals*, 509 U.S. 579 (1993).
2. *Division of the United Sons of Confederate Veterans v. Mississippi State Conference of NAACP Branches*, No. 94-CA-00615-SCT (Miss. S.Ct. May 4, 2000).
3. *State Flag*, CLARION-LEDGER (Jackson, Miss.), May 6, 2000, at 13A.
4. Mario Rossilli, *Future of Flag on Line*, CLARION-LEDGER (Jackson, Miss.), May 6, 2000, at 1A.
5. Employment of Assistant Adjutant General, Op. Miss. Att'y Gen. (July 5, 2000).
6. *In Re Amy Tuck*, No. 2000-M-00712 (Miss. S.Ct., Order of May 4, 2000).
7. *United States v. Lopez*, 514 U.S. 549, 577 & 578 (1995) (Kennedy, J., concurring).

[Editor's Note: The viewpoints expressed in this column are solely those of Leslie Southwick and are not to be attributed to the Hinds County Bar Association, its officers and directors, or its editorial board.]

The Dark Side of the Entertainment Economy

by Captain Equity

In between the latest John Grisham thriller and the most current Advance Sheets, my summer reading preference drifts to non-fiction books which seek to explain the present. This genre of writing differs from works of contemporary history which require the passage of time for historians to gauge the significance of relatively recent events. For instance, how will President Clinton be viewed by historians? To my knowledge, only Rush Limbaugh presumes to know for sure, while most legitimate historians would tell you that it is too early to tell. Historians call this gap in time, perspective. Only now is the Nixon legacy emerging. Even the former president would probably be pleased, if not surprised to know that despite Watergate, he is held in higher esteem than anyone would have thought back in August of 1974. The passage of time and the gift of perspective allows us to measure recent history more clearly and with a dispassionate eye. But such is not the case when it comes to our presently unfolding pop culture. The summer of 2000 will be remembered for Harry Potter; the return of the 1950s game show to prime time; a talking, singing wall mounted large-mouth bass; and most alarming of all, a spate of reality television programming that recalls the fiction classic *Brave New World*. A book that helps explain all of this is *The Entertainment Economy* by Michael J. Wolf, published by Times Books last year.

Wolf is a media and entertainment consultant with Booz-Allen & Hamilton. He is paid handsome sums to advise his clients as to what is going on in the present and recent past. Some of his statistics and conclusions are very interesting. For instance, in 1998, job growth in the largest U.S. cities averaged 4.1% while in Las Vegas, where the economy is tied to entertainment, the figure was 8.5%. Similarly, in 1998, American Households spent more on entertainment than on clothing or health care. Since 1988 in Los Angeles, 242,000 jobs have been lost in Aerospace alone. However, for every aerospace job lost since 1991 in Los Angeles, two have been added in the entertainment industry thus creating an 83% growth rate in that city alone in the decade of the 1990s.

Mr. Wolf concludes from all this that the real peace dividend made possible by the end of the Cold War is the shift from fear to fun. Indeed, his analysis

seems to bolster my own long-held view that the most important factor in the fall of communism and the dissolution of the Soviet Union and the Eastern Bloc was not Ronald Reagan's Deficit Defense Spending and hard line, but rather, West German Television. It was difficult for Eastern Europe's Communist Leaders to extol the virtues of communism while its citizens spent much of the day in food ration lines. To make matters worse, the communist captives ate boiled potatoes most every night while they watched their black and white sets only to see young West Germans only a few miles away driving to discos in Mercedes and Porches. In effect, Communism was not so much vanquished, but rather, was cancelled for lack of interest. As you remember, not a shot was fired. Rather, all the old Party leaders quietly resigned so they could get a political makeover and reemerge as populist democrats. Indeed the world is more the same than it is different.

At any rate, Mr. Wolf concludes that entertainment is the driving engine of the New World Economy. According to his book, producing a needed product or service is no longer enough. There has to be a value added "fun feature" or people won't come. We have moved from being mere purchasers of goods and services to a more evolved status that requires an emotional experience as an essential companion to consumerism. To support his thesis, Mr. Wolf cites not just movies, books, video games and CDs, but the new zipped up style of retailing as embodied in the Mall of America in Minneapolis, Starbucks, Barnes and Noble, the Gap and Virgin Mega Stores. What this is saying to Jackson, Mississippi is that Meadowbrook Mart is out and Banner Hall is in. Primos is yesterday's dining experience while Bravo is worth wait and the dining premium charged.

All of this is fine with me, until we get to the dark side of the phenomenon. I am speaking of reality based television programs like *Survivor* and *Big Brother*. *Who Wants To Be A Millionaire* with Regis is fine, but *Who Wants To Marry A Millionaire* with Rick Rockwell and Darva Conger is clearly not. I mean, what were those two thinking about? The more disturbing question is, what was the audience thinking about? And for that matter, who was the audience anyway. As Darva's after-the-fact annulment of

her publicity stunt wedding showed, this was a bad idea. But that hasn't stopped television programmers intent on giving America that value added emotional booster shot. Consequently, a whole generation of voyeuristic losers without anything better to do stays glued to their 35 inch big screen television sets. Worse still, are those online addicts dialing up 24/7 Internet sites that show these network exhibitionists sleeping, eating, emoting and heaven only knows what else).

But then again, I guess reality shows could have some appeal if only the right people had to share the camera-infested island or house or whatever. How about this for a reality television/website idea? The working title would be *Who Wants To See Thin-Skinned, Prickly Public Figures At Their Worst*. Rig the Governor's Mansion with cameras and then lock some of our favorite people up in the big house. Let's see... I would start with Kirk Fordice and Bert Case. You would have to have Frank Melton, Mayor Johnson and the Jackson City Council. And, of course, there would be that folksy lady named Musgrove from the Mike Parker For Governor Commercials, Steve Caldwell and the gang from Magnolia Venture Capital, and all the fun-loving college presidents in the state who can't seem to keep track of where the money goes. For good measure, let's throw in an out of state guest or two or three or four like maybe Ross Perot, Dennis Rodman and maybe Jim and Tammy Faye Bakker. And for visual appeal, lets park the state jet in the banquet room. That might even lure Governor Musgrove onto the program. Now that would be a show! And instead of the viewers voting these anti-heroes out of the mansion, we could keep them locked up permanently as a source of constant amusement, while at the same time assuring the public that they could do no actual damage in the real world.

Uh, what was that about the dark side of reality programming? Forget everything I said. Hey look, I have to end this column. I've got to get a hold of somebody at CBS before somebody else comes up with this idea.!

[Editor's Note: The viewpoints expressed in this column are solely those of Captain Equity and are not to be attributed to the Hinds County Bar Association, its officers and directors, or its editorial board.]

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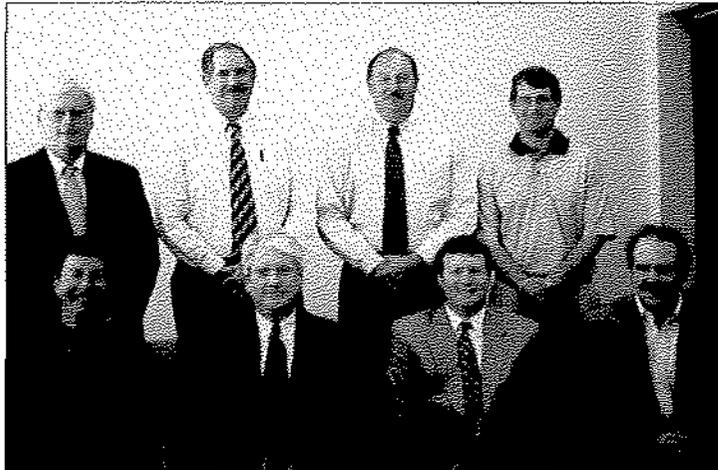
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Golf Tournament Committee



Planning the 8th Annual HCBA/JYL Golf Tournament on August 17 at Annandale Golf Course are committee members: (seated) Stuart Kruger, Bob Grenfell, Kemy Griffis, Keith Obert, (standing) Harris Collier, Ben Piazza, Chairman John Proctor, and Jody Varner. Not pictured are: Debra Allen, Paul Miller and Ken Miller. The proceeds from the tournament will benefit the Mississippi Volunteer Lawyers Project.



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HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

DECEMBER 2000



President's Column by Robert C. Grenfell

“Send Lawyers, Guns and Money...”

Warren Zevon, the musician and lyricist, stated his appreciation for attorneys when he wrote “Send Lawyers, Guns and Money.” In fact, it is the opening song when Mr. Zevon performs concerts. In this song, Mr. Zevon refers to this special help he needs as he visits Havana and Honduras. Mr. Zevon should consider adding another stanza that includes the State of Florida.

Why am I talking about Warren Zevon’s song? Well, at the time this column is being written (Wednesday, November 29, 2000 3:45 CST), “Dubya” has been certified as the next President, but Gore has called upon a cadre of attorneys to sue, plead and negotiate his “case.” His “case,” of course, is the November 2000 Presidential Election. The stakes don’t get any higher. The nation’s best legal talent is being called upon to argue their positions.

While some find the legal quagmire frustrating, it is nonetheless interesting and provides a brief refresher course in Constitutional Law. When the United States Supreme

Court granted certiorari as to whether the Florida Supreme Court exceeded its judicial powers, it became evident that everyone has a watchful eye over the Florida electoral contest.

Part of the fascination is that events are so fast-paced. By the time you read this column, historic events will have happened that are only anticipated at this writing. Will the convoy of ballots reach Tallahassee? Will the U.S. Supreme Court reverse the Florida Supreme Court? Will the U.S. Supreme Court even act? Will the Florida Legislature in fact select a slate of Electors? You, the reader, know. I, as I write this, don’t.

This tremendous controversy certainly has added to the holiday social chatter, which usually is dominated by Bowl talk and “coulda, woulda, shoulda’s.” Will our democracy be permanently disabled as a result of these high stakes legal challenges? I don’t think so -- the lawyers will see to that. So “Dubya” and Gore, send lawyers and lots of money (and, by the way, forget the guns)!

continued on next page

October Membership Meeting



While at the October membership meeting, members of Bennett, Lotterhos, Sulser & Wilson enjoyed a rare visit with firm member and The Mississippi Bar Association President, Dick Bennett. Seated: Marcus Wilson, Dick Bennett, and Joe Lotterhos. Standing: John Pammer, Ed Lawler, Charles Barbour, and Mark Franklin.

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Merry Christmas & Happy New Year!
from The Hinds County Bar Association

HCBA Calendar of Events

February 5-February 16
Pictorial Directory Pictures Taken.
 8:30-5:30. The Mississippi Bar Center

February 20
HCBA Membership Meeting.
 Noon. Capital Club

April 17
HCBA Membership Meeting.
 Noon. Capital Club

April 24
People's Law School. 7:00-9:00.
 Community Room of *The Clarion-Ledger* building

May 1
People's Law School. 7:00-9:00.
 Community Room of *The Clarion-Ledger* building

May 3
Evening Honoring the Judiciary.
 6:30. Old Capitol Inn

May 8
People's Law School. 7:00-9:00.
 Community Room of *The Clarion-Ledger* building

May 15
People's Law School. 7:00-9:00.
 Community Room of *The Clarion-Ledger*

continued from President's column, front cover

On a local and more halcyon note, Leyser Morris-Hayes and her committee have put together another excellent People's Law School program. This program will be held on four consecutive Tuesday evenings (April 24, May 1, May 8 and May 15). This program is a great benefit to our local community and receives well-deserved positive publicity. The members of the People's Law School Committee are: Felicia Adams, LaVerne Edney, Melissa Patterson, Vangela Wade, John Henegan, Peter Doran and Cammie Wyatt. I want to commend Leyser and her committee for their hard work.

On a closing note, I hope everyone had an enjoyable holiday season. Since this is the year-end and the true beginning of the new millennium, I encourage everyone to reassess their professional and personal lives. It's time to evaluate and readjust goals while setting new goals.

While sitting in your easy chair in front of a fire, sipping on your fat-free eggnog, turn your thoughts inward and think what "coulda, woulda, shoulda" been; then readjust your goals and actions and move forward. After all, if the New Orleans Saints are first in their division (and they are at the time this article was being written), anything is possible!

CLE Calendar of Events

January 10
Advanced Consumer Bankruptcy Issues in MS.
 NBI. 715-835-7909

January 16
MS Elder Law.
 NBI. 715-835-7909

January 17
MS Labor & Employment Law.
 NBI. 715-835-7909

January 17
Federal Civil Litigation in MS.
 Lorman Business Center. 715-833-3940

January 25
Winter MMA Seminar.
 UM-CLE. 662-915-1221

January 31
MS Wage & Hour Issues.
 Lorman Business Center. 715-833-3940

February 15
Annual Winter Estate Planning Practice Update. (ALI-ABA Video Law Review)
 MC School of Law. 925-7173

February 22
Workers' Compensation: Combined Medical/Legal Conference.
 MS Bar. 948-4471

February 22
Emerging Issues in Employment Law & Litigation.
 (ALI-ABA Video Law Review)
 MC School of Law. 925-7173

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Dick Bennett Addresses HCBA

Richard T. Bennett, President of The Mississippi Bar and former President of the Hinds County Bar Association, addressed the October membership meeting of the Hinds County Bar Association. President Bennett stated his focus for the coming Bar year would be The Mississippi Bar Association. His message is intended to educate, inform and raise the level of consciousness about the positive aspects and activities of The Mississippi Bar. He intends to stress extensively through The Mississippi Lawyer and in addresses and appearances (i) the early history of the Bar, (ii) significant events from the past, (iii) present activities of the Bar and (iv) what he sees as the future. His focus will also direct attention to the Mississippi Volunteer Lawyers Project, which encourages pro bono services, ethics, technology, lawyers in transition

and the President's Forum on the Practice of Law for the 21st Century. He may also address specific issues such as diversity, gender fairness, access to justice, small firm needs, professionalism, discipline, ethics, advertising, and cooperation between the bench and bar.

President Bennett also discussed other Bar projects, including the Consumer Assistance Program, which handles complaints against lawyers' ethical violations; the Lawyers and Judges Assistance Program, which assists lawyers and judges who may have problems with alcohol, drug addiction and other problems; and the Department of Professional Responsibility which is responsible for complaints alleging unethical conduct of lawyers. This Department is also involved with fee arbitration, the Client's Security Fund and the unauthorized practice of law.

Bennett said the complaint process is the most important activity of the Department of Professional Responsibility which duties are shared with and subordinate to the Supreme Court. The Mississippi Bar hires the General Counsel and Assistant Counsels. President Bennett appoints the Committee on Professional Responsibility, which currently has the authority to impose private and public reprimands. Approximately forty-five percent of complaints are dismissed on the "fast track", which does not require a response by the attorney. The Supreme Court appoints Tribunal members without advice or consent from the Bar. Only the Supreme Court, either through the Tribunals or itself, can suspend or disbar an attorney, and only the Supreme Court can reinstate a suspended or disbarred lawyer.

8th Annual Golf Tournament a Success

On August 17, 2000, the HCBA and Jackson Young Lawyers hosted their 8th annual golf tournament at Annandale Golf Course, and a good time was had by all. Co-sponsors of the event were: American National Lawyers Insurance Reciprocal; BellSouth Telecommunications, Inc.; Blue Cross & Blue Shield of Mississippi; Entergy Mississippi Inc.; First American Title Insurance Company; Gilsbar of Mississippi, Inc.; Lexis-Nexis; SouthTrust Bank; and West Group. Additionally, SouthTrust Bank supplied hats, Pinnacle Trust Company provided the lunch, and Legg-Mason sponsored the cocktail party.

Many thanks are due these co-sponsors and the hole sponsors: Adams & Reese; Akers & Obert; Allen & Conway; Alston & Jones; AmSouth Bank; Armstrong, Allen, Prewitt, Gentry, Johnston & Holmes; Baker, Donelson, Bearman & Caldwell; BancorpSouth Bank; Barnes, Broom, Dallas and McLeod, PLLC; Bennett, Lotterhoss; Sulser & Wilson; Brooks Court Reporting, Inc.; Brunini, Grantham, Grower & Hewes; Butler, Snow, O'Mara, Stevens & Cannada; Chinn & Associates; John M. Colette & Associates; Copeland, Cook, Taylor & Bush; Currie, Johnson, Griffin, Gaines & Myers; Daniel, Coker, Horton & Bell; Dogan & Wilkinson; Edmonson, Biggs & Mazingo; Forman, Perry, Watkins, Krutz & Tardy; Fowler-Bueck GMC Truck; Fox-Everett, Inc.; Frazer & Davidson; Gilsbar of Mississippi, Inc.; Graphic Reproductions; Heidelberg & Woodliff; IKON Office Solutions; Justice James W. Smith; Kelly, Gault L.L.P.; Langston, Sweet & Freese; LawNet.Com, Inc.; Lexis-Nexis; Markow, Walker & Reeves; Maxey, Wann, Begley & Fyke; McGlinchey,

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Door prize donors included Trustmark, Blue Cross and Blue Shield of Mississippi, and the following restaurants: Bravo, Little Tokyo, Hal & Mal's, the Dock, Time Out, Sal & Phil's, Copeland's, Olive Garden, Red Arrow, Amerigo's and Fernando's. The law firm of Tabor & Chhabra donated a sleeve of Dunlop DDH Golf Balls. Great prizes were provided by BellSouth, Nevada Bob's, Legg-Mason, West Group, Blue Cross and Blue Shield of Mississippi, Lexis-Nexis, Harrah's in Vicksburg, Watson Quality Ford, Gilsbar of Mississippi, Inc., Sandestin Bayside Inn, and Sandestin Hilton.

Special thanks go to the tournament committee: John Proctor (Chairman), Stuart Kruger (Co-chairman), Debra Allen, Harris Collier, Robert Grenfell (Board Liaison), Kenneth Griffis, Kenneth Miller, Keith Obert, Ben Piazza, Jody Varner, Paul Miller, and HCBA Executive Director, Pat Evans.

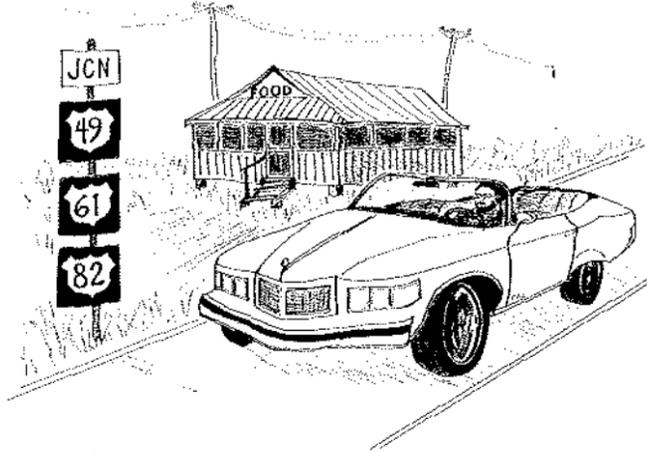
Highway Eats by the Road Lawyer

Northeast Mississippi has been my main destination of late, so much so that I've become a regular at an oasis on Highway 82 at Mathiston: Scooter's Exxon Station. It's about a half a mile east of the Natchez Trace.

I don't know who thought of this "bundling" concept, but I think it's great that we can get pretty good fast food at a gas station. At Scooter's, there's a choice. Of course, fried food is my middle name, and I'd walk over hot coals to get to a Chester-fried chicken on a slick. The Chester-fried recipe includes potato, green pepper, onion, and pickle slices fried between the chicken bites. Scooter's has those, also fried chicken strips and catfish fillets and biscuits and sausage and barbecued ribs and turkey legs. That's just on one side of the station. On the other side are a frozen yogurt and ice cream stand and a subway sandwich and salad shop. Breakfast in the morning and lunch in the afternoon! Plus gas and a decent restroom and many beverages in the coolers and fresh hot coffee.

Right after Thanksgiving I drove up the Trace to Tupelo and pulled off for a respite at Scooter's. It's 60 miles south of Tupelo, and a good place to break up the trip. The fall colors were incredible on the Trace - the prettiest I ever remember. Saw five deer make a graceful dash across the highway and into the woods. A beautiful sight as long as they are nowhere near my convertible.

In Tupelo, I have discovered a really delightful lunch spot. It's out on McCullough Boulevard, on the south side of the road, several miles west of Gloster Street and the Natchez Trace but not as far as the turn off on Coley Road to go to the airport. The place is Flowerdale Marketplace and Café, and it's in its own commercial-looking building, red brick on the front. It's similar in theory to Interior's Market at Fondren Hill in Jackson, but it has a larger space. There are numerous



past the Furniture Mart, across from the Airport, and stopped in to poke about the Red Door Antique Mall and Collectible Emporium (1001 Coley Road). This is a wonderful place to dig for old things - more collectible than antiques in most instances. It's a big mall with numerous dealers displaying all kinds of stuff. It's open Monday through Saturday from 9:30 until 5:30.

The China Capital is my other favorite restaurant in Tupelo, at 530 North Gloster (between Main Street and McCullough Boulevard). It's open seven days a week for lunch and dinner, and they offer a substantial buffet at both meals. They claim to serve Hunan, Szechwan, Cantonese and Mandarin cuisines. Most of the dishes look familiar and are tasty without being drowned in MSG. I like the Tsing Tao beer which they keep very cold, and they serve a good tea.

Closer to home, Vicksburg has a favorite eatery. I've mentioned it before, but a recent trip to Walnut Hills round-table establishment made me want to write about it again. It's in an old house on Adams Street, one block from the back parking lot of the Adams County Courthouse, and almost at the corner of Clay Street. They will serve you just a regular plate lunch with meat and choice of a couple of vegetables, but by all means ask for a seat at the round table.

I was there on a Tuesday, and they had fried pork chops (instead of fried chicken like other days) that are simply divine. I can cook but pork chops in my hands always turn to shoe leather. There was also spaghetti with meat sauce and chicken pot pie to die for and dish after dish of good home-cooked vegetables and topped off by tiny biscuits and corn muffins that absolutely melt in your mouth. (I think that means a high-fat content which I prefer to call "short.") All the food is perfectly seasoned - the salt and pepper shakers were gratuitous.

continued on page 5

Road Lawyer...Continued from page 4

You can pour all the tea you want from a big pitcher and just pig out for hours. Yum. And all for about ten dollars.

Before you leave Vicksburg, stop by Solly's Tamales at 1921 Washington Street for a take-out order to have later at home. It's just a hole in the wall, but the tamales are fine. While waiting for

the food, I read all the news clippings on the wall about Henry Sollys who began selling tamales in or out on the street near that very establishment in 1939. He lived to be over a 100 and was a legend in Vicksburg, apparently.

I hope your holidays be filled with good cheer and food and happy gather-

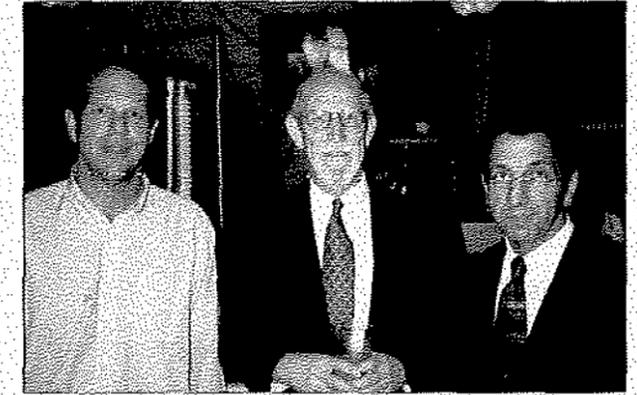
ings with family and friends. I'll be on the road again in the new year and thinking of recommendations for new places to stop for a bite. If you have suggestions, please write me in care of this newsletter, or e-mail me in care of webmaster@hindsbar.com.

HCBA Fall Social - A Successful Event

A Fall Social was hosted by the HCBA on October 19 at Hal & Mal's Brewery, and the Association would like to thank American National Lawyers Insurance Reciprocal and Fox-Everett for their sponsorship of the event.



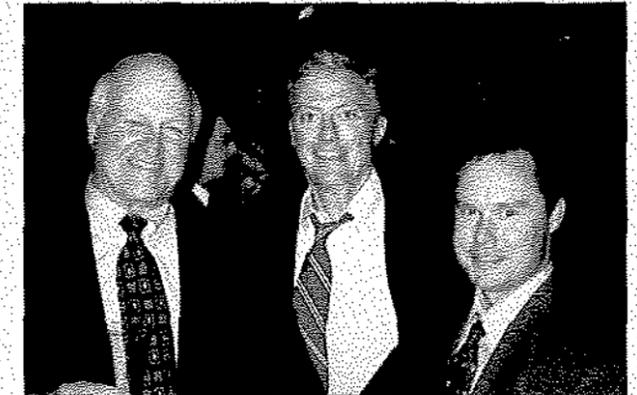
Alaina Toigo, ANLIR Representative; Shelia Ford and Martha Ashley, Fox-Everett Representatives; Dorothy Parr, HCBA Member; and Janie Foley, also with Fox-Everett



William Wright, HCBA Secretary-Treasurer; Bernard Booth and Mike Malouf



Judge Bobby DeLaughter; Sam Wilkins and Judge Joe Lee



Judge Stuart Robinson; Ken Adcock and Bo Gregg

Pictorial Directory Planned

The Hinds County Bar Association has plans to publish a 2000-2001 Color Pictorial Directory. You must be a member of the HCBA to be pictured. The photographs will be taken at the Mississippi Bar Center from 8:30 a.m. to 5:30 p.m. on February 5 through February 16. The cost for the directory will be \$30.

Information and reminders will be sent out closer to the time. So mark your calendars as these directories are only published every five years and you won't want to miss out being in this one!

Judges Respond to Gift of *To Kill a Mockingbird*

In June the HCBA sent all Federal and State Judges in the Jackson metro area the 40th Anniversary Edition of Harper Lee's novel *To Kill a Mockingbird*. Below are the excerpts from the many thank you notes we received from the Judges.

"Thank you for the welcomed gift. It is a book worthy of several readings because it inspires us all to be better than we usually are."

**E. Grady Jolly, United States Court of Appeals
Fifth Circuit Judge**

"I would like to thank the HCBA for the copy of the 40th Anniversary Edition of *To Kill a Mockingbird*. It is an excellent book for lawyers."

William H. Barbour, Jr., United States District Judge

"Atticus Finch is an inspiration to all lawyers, and I look forward to reading about him, Scout and Jem once again."

David C. Bramlette, United States District Judge

"Thank you for the copy of *To Kill a Mockingbird*. Please extend the Bar membership my sincere appreciation for this nice gift."

Lenore L. Prather, Mississippi Supreme Court Justice

"I do appreciate the good work that the HCBA does and particularly do I appreciate the courtesies that are shown to the members of the Mississippi Supreme Court."

Edwin L. Pittman, Mississippi Supreme Court Justice

"Please thank the HCBA for sending me a copy of Harper Lee's *To Kill a Mockingbird*. I have always liked it and am glad to have it now in my collection."

Chuck McRae, Mississippi Supreme Court Justice

"Thank you and the HCBA for your kind words and for the 40th Anniversary Edition of Harper Lee's novel *To Kill a Mockingbird*."

Michael P. Mills, Mississippi Supreme Court Justice

"The 'Spirit of Atticus Finch' will be a constant reminder of the need for respect, fairness, and equality in our justice system. Please extend my sincere appreciation to the HCBA for this splendid gift."

**William L. Waller, Jr., Mississippi
Supreme Court Justice**

"Please convey my 'thank-you' to the members of the HCBA for the 40th Anniversary Edition of *To Kill a Mockingbird*. This is one of my all-time favorite books, and I will enjoy having a copy at hand."

Kay B. Cobb, Mississippi Supreme Court Justice

"I thank you and the HCBA for your recent gift 40th Anniversary Edition of *To Kill a Mockingbird*."

Leslie D. King, Mississippi Court of Appeals Judge

"Thank you and the members of the HCBA for the copy of the novel *To Kill a Mockingbird*."

L. Joseph Lee, Mississippi Court of Appeals Judge

"Thank you and the HCBA for the generous gift of the 40th Anniversary Edition of *To Kill a Mockingbird*. The HCBA's support of the judiciary here in Hinds County is much appreciated."

W. Swan Yerger, Hinds County Circuit Court Judge

"I take this opportunity to express my thanks to you for the 40th Anniversary Edition of Harper Lee's novel *To Kill a Mockingbird*. This gesture on the part of the HCBA is synonymous with your Association in the pursuit of excellence in the legal system."

Thomas L. Zebert, Rankin County Chancellor

"I truly appreciated receiving the 40th Anniversary Edition of Harper Lee's novel *To Kill a Mockingbird* from the HCBA. I extend a special thanks to the members of the HCBA for this thoughtful gesture."

Patricia D. Wise, Hinds County Chancellor

"I just wanted to say thanks for the Anniversary Edition of *To Kill a Mockingbird*. I really appreciate that gesture and your thoughtfulness."

William H. Singletary, Hinds County Chancellor

"Thank you and the membership of the HCBA for the gift of *To Kill a Mockingbird* which was a very thoughtful thing for the membership to do. It was also an especially appropriate way of expressing appreciation to the judiciary. That book is great entertainment but an equally great reminder of the dynamics of the legal profession we would all do well to remember. Please thank your membership for me."

Kent McDaniel, Rankin County Court Judge

"Thanks so much for 40th Anniversary Edition of *To Kill a Mockingbird*; it's one of my favorites, and I'm truly honored."

Bobby B. DeLaughter, Hinds County Court Judge

"Thank you and every member of the HCBA for *To Kill a Mockingbird*." I will now read it for the 4th or 5th time."

Bill Barnett, Hinds County Court Judge

Christmas Gifts

by Nonie Joiner

Our Editor asked me to provide a list of books which would make good Christmas presents. Since the newspapers and magazines this time of year are full of lists of books that cover recent publications, Mississippi authors, and even books purportedly of special interest to lawyers, I thought I might remind you instead of some old books that your recipients may not have read recently, if ever, and that would provide part of the foundation for a well rounded personal library. It's not easy to do this, you know. My initial list, compiled as I walked from room to room with a legal pad, writing down titles of books, which in my house are located on bookshelves, the top of the refrigerator, the laundry room, the floor of the coat closet, etc., was far too long and probably too egocentric for general use. Not everyone thinks that every book ever written by or about any member of the Mitford family is an essential element of a good library. I then decided to turn to the internet for guidance.

A good beginning source is a list of lists found at www.literarycritic.com. There are lists of winners of the Nobel Prize, the Booker Prize, the National Book Award, and the Pulitzer Prize. There are lists of fiction, nonfiction, and poetry. There are lists prepared by libraries, authors, critics, and publishers. There is a list of what President Clinton claims to have read during his 1999 summer vacation. In addition, there are links to reviews of all the books listed, and, of course, there is the ever-present link to Amazon for that impulse purchase of

Reinhold Niebuhr's *The Nature and Destiny of Man*.

My favorite list is the Modern Library Fiction 100, because despite all the criticism it received when it was published in 1998, I think it's a great list, and I like the composition of the jury that selected it: Daniel J. Boorstin, A.S. Byatt, Christopher Cerf, Shelby Foote, Vartan Gregorian, Edmund Morris, John Richardson, Arthur Schlesinger, Jr., William Styron, and Gore Vidal. Okay, I don't know who Vartan Gregorian is either, but I have a general idea about the others, and I know for sure I like any group that includes Shelby Foote. Modern Library also has a list of "100 Best Nonfiction Books of the 20th Century," and I need to do some serious work on that list as I have read only 11 of them. I recognized a lot of the titles, though. *The Art of the Soluble*. I'm sure I've heard of that.

Aside from book sites, my current favorite web site is the NPR site. For the past year, they have been doing spots during drive time on "The 100 most important American musical works of the 20th century." If you have missed any or all of them, most are available, with audio, on the web site at www.npr.org. The list is varied and the programs, I think, fascinating. They haven't offered a CD of the programs; perhaps they will after they complete the series. I do urge you to go and listen if you haven't heard these segments.

But I digress. Back to books. I think I'll give you my list after all, or at least,

some highlights of it. So: Jane Austen, William Faulkner. Shelby Foote wrote fiction too, you know. E.F. Benson's Lucia books, they're nothing like the TV series. The old Ngaio Marsh mysteries. Nabokov. T.H. White, *England Have My Bones*. For anyone who likes to hunt, fish, or fly airplanes. His *The Once and Future King*, for fans of Camelot. Wallace Stegner. For your mothers, assuming they are my age or older, the Angela Thirkell books, set in England in the 1920's through 1940's, and loosely paralleling the Trollope Barchester series. Give them Trollope too. P.G. Wodehouse. *Tristram Shandy*. Stephen Ambrose. More Faulkner. Shakespeare: *Hamlet* is much better read than staged. If you just must give something written after 1950, William Manchester's biographies of Winston Churchill.

I suggest also that you go to the Literary Critic site and click on "Thomas Jefferson's picks (1771)." That will take you to an article by Tim McCormick, which contains a quite remarkable list that Jefferson prepared in response to a request by a friend for advice on beginning a personal library. Of more interest than the list, which is daunting to say the least, is Jefferson's letter to the friend, which is set forth in full, as is a letter to a student advising him on what he should read, and also a letter offering to donate his personal library to replace the library in Washington destroyed by British troops. Reading these letters will place you in the proper frame of mind to do your Christmas book shopping.

Justice Ethridge: Mississippi Legislature

Justice George H. Ethridge served on the Supreme Court of Mississippi from 1917 to 1941. He was a pre-eminent legal scholar. In 1928 he wrote an exhaustive exposition on Mississippi constitutional law and left no doubt of his view that the Legislature was charged with "the most important power of the entire government." As a Justice, he penned many a pithy and pointed dissent, always to the end that those who make and serve the law should aspire to do a better job. For three quarters of a century, lawyers and legislators alike have been unable to resist a chuckle at some of the more barbed lines in the penultimate paragraph of Justice Ethridge's dissenting opinion in *Crippen v. Mint Sales Co.*, 137 Miss. 87, 103 So. 503, 505-06 (1925). Enjoy!

[I]t would be a dangerous undertaking for the court, if it had the power to undertake the job of correcting legislative mistakes and follies, for there is much in the statutes of the past dozen years evidencing midget minded states men and much of folly. Still I am not disposed to be hard on the Legislature. Taken as a whole it does good work and eliminates many unwise measures. There are men in the Legislature who could fill any station in the government with credit, and the majority

would class as "average and better." But there are usually some 35 per cent. to 40 per cent. of the membership whose only excuse for being sent to the Legislature is to keep them out of the race for constables and justices of the peace. These men have votes and have to be reckoned with by the wise ones in shaping the legislation of the session. If you antagonize their bills they strike back. They are strong on midget legislation and when they introduce a bill to place jay birds under peace bonds, or to muzzle seed ticks, or to prohibit vending machines in stores, the wise ones will vote with them for the sake of more important measures coming on. None of these pigmy statesmen go after large questions and undertake their solution, they attack small tasks. They are strong on moral questions or something that sounds well which they can take back home to their people for home consumption in future politics. They go around with a spiritual microscope searching for the germs of evils in trifles, while utterly ignoring the mountains of iniquity which stand out in plain view in the nearby landscape. Instead of making war on the beasts and birds of prey that menace society they hunt for earth worms. Conscious of their inability to deal with large matters they make a record from trifles garbed in high sounding phrases.

American Democracy: The Hottest New Thing in the Big Bucks World of Trash Talking Contact Sports

by Captain Equity

As a life long baseball fan, I grudgingly understand some of the game's younger and more vocal critics. "The game is too slow." "There is not enough action." "Contact is where it's at." Granted, a 1 to 0 pitcher's duel provides a level of nuance not fully appreciated by many younger sports enthusiasts raised on computerized antiheroes living out their homicidal fantasies in a virtual reality environment; NHL hockey fights that league referees are seemingly powerless to stop; and weekly portions of televised, high speed auto fatalities that are ghoulishly offered up under the seemingly respectable banner of NASCAR. Come to think of it, when your entertainment choices focus on a steady diet of contrived mayhem from the WWE; trash talking NFL players who split time between the football field and the criminal justice system; and a multi-millionaire NBA player who gets away with strangling their coach thanks to some bizarre sense of self-serving corporate propriety, it is probably a miracle that major league baseball hasn't gone the way of pro chess or water ballet. Luckily, antics from the likes of Atlanta's John Rucker help keep the national pastime relevant in an increasingly violent and contentious sports-obsessed America. Unfortunately, dedication, self-sacrifice and sportsmanship have clearly proven to be no substitute for satisfying the base desires of loud, rude, blindly partisan fans whose beer-fueled appetites for a win-at-all-cost outcome is gladly satisfied by greedy team owners, rapacious networks and bottom line corporate advertisers. That is why it should come as little surprise that American political discourse has emerged as the hottest new thing in the big bucks world of trash talking, contact sports.

As I write this, we are in Day 14 of the post presidential election debacle. Americans haven't been treated to this much ongoing political suspense since the Iran Hostage Drama played out

over 444 days back in 1979 to 1981. By the time you read this, we might have a President-Elect. Right now, (as Dave Barry would say, I am not making this up) Las Vegas is giving 7 to 5 odds on Bush. It really is just like a Tuesday before a football Saturday when the bookies are establishing the betting line. The only difference is that the game site is the Florida Supreme Court rather than a football stadium on a college campus. Instead of scholarship athletes, rival Republicans and Democrats are cheering on election lawyers while color commentary is provided on a round-the-clock basis on ABC, NBC, CBS, MSNBC, CNN, et al. by the political analyst equivalent of John Madden and Terry Bradshaw. Worst of all, the respective fans of each of the would be Presidents clearly despise their opposite number in ways that make Ole Miss and State jokes seem to be good natured, pre-game humor. It is disturbing, consuming and never ending.

Closer to home, we have the political equivalent of the Egg Bowl, the Soul Bowl and the Toilet Bowl all rolled into one. I am speaking of our beleaguered former Governor Winter and his thankless task chairing the Flag Commission as that volunteer body seeks public comment over the wisdom of adopting a new state flag design. The public debates remind me exactly of cable television's WWE Raw Is War starring the Undertaker vs. Stone Cold Steve Austin and a supporting cast of wrestling tag team hucksters playing to an audience comprised of undereducated and hopelessly biased goof balls who proudly scream out rote phrases memorized only after endless hours of staring at the rear bumpers of their personal vehicles. Poor Governor Winter plays the hapless referee as the polarized forces of good and evil go after each other in a no-holds-barred, political equivalent of a Texas Death Match. One only hopes that Nissan Officials are safely back in Japan and not in

the audience so as to rethink their decision of moving to Mississippi. Unfortunately hate and ignorance are alive and well in a state some would rightfully conclude is last for a reason.

In defense of Mississippi and its people, just look at the Presidential election and the conduct of both the Bush and Gore campaigns. Both camps are doing groundbreaking work in fostering new lows in public cynicism thanks to record-breaking displays of disingenuous partisan conduct. Urged on by talk radio and endless talking heads self righteously posing as journalists, America has added politics as the latest extreme, take-no-prisoners, contact sporting event. We just need a way to work in chariots and lions and we'd have the perfect game day event.

So where is this all going? Or in the words of those articulate young sports enthusiasts of television fame selflessly brought to us as a public service by the people from Budweiser - Whhazzz Up? By the time you read this we will most likely have a President-Elect as well as the Flag Commission's initial report. This will undoubtedly set the stage for the next partisan grudge match and the next and the next and so on. Where will it end? It would not surprise me to see Gore vs. Bush four years from now with their respective tag team partners Ronnie Musgrove and Kirk Fordice decked out in trunks fashioned from the old and new design of the Mississippi State Flag. And how about Bert Case as a celebrity referee who is bound to have a metal folding chair cracked over his head? Absurd you say? Not based on recent history. Or to quote our Budweiser buddies - True!

Rather, make that sad but true!

[Editor's Note: The viewpoints expressed in this column are solely those of Captain Equity and are not to be attributed to the Hinds County Bar Association, its officers and directors or its editorial board.]



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On Computing

by Joel Howell

If you've been surfing the net for any time at all, you are undoubtedly aware of the need for virus protection (more on that in a future article). You also need protection from those hacking into your system directly, which is far more likely if you have high speed access such as a cable modem or DSL telephone line.

Here's the reason why. When you connect to the internet, you have an IP (internet protocol) address which is unique to your computer. With a dial up connection, most internet service providers dynamically assign an IP address; that is, you will have a different IP address each time you dial in. But when you have a broad band connection through a cable or DSL you are continuously online. Thus, your connection is open twenty four hours a day seven days a week, even if you are not actually cruising the net, it provides more than sufficient time for a hacker to identify your IP address and gain unwanted access to your system. Some providers use a permanent address rather than dynamically assigning it on a periodic basis (BellSouth, for instance, claims to dynamically change the IP address every twelve hours). To counter this, you will most likely need a firewall, which may be hardware, software, or a combination of both. A firewall is simply a gatekeeper which screens incoming and outgoing messages to meet security criteria. Note that, if you are in a networked office situation, this is a task best left to a professional because of its complexity. A per-

sonal firewall, however, is far easier to configure.

There are a number of firewall techniques available. Some data transmission protocols divide messages into packets, of which there may be a number, depending on the size of the message. When received, the packets are then reassembled. Packet filters are fairly effective but can be difficult to configure. Application gateways can be used for certain specific applications and are generally effective. A circuit level gateway is used for other types of applications, and a proxy server, which is usually hardware implemented, intercepts all data entering and leaving a system and hides the network's true address.

If all this seems much ado about nothing, let me suggest that you visit grc.com and take the free test offered there. It won't hurt your system and it will likely enlighten you in far more detail with regard to what's been discussed here. Moreover, through that site you'll have a chance to download a free personal firewall, giving you a level of protection you did not previously have.

There are a number of commercially available personal firewalls at fairly reasonable costs. Symantec's Norton Internet Security 2000, in addition to the monitoring capabilities, provides additional features such as the ability to block ads on web pages and parental filtering. It also blocks cookies and prevents remote sites from accessing your browser history file. Other personal

firewall products include McMillan Computer Publishing's BlackIce Defender, McAfee.com Personal Firewall, Norton Personal Firewall, and Zone Labs ZoneAlarm. Depending upon the product, they all use variations on the firewall techniques outlined above.

Comdex has just concluded its fall show with the latest and greatest as proof of Moore's Law, which says that computing power doubles every eighteen months. Several of the more advanced courtrooms around the state have built-in projection technology which allow the use of jury assisting visual aids created by such programs as PowerPoint. For surprisingly reasonable costs, you can now do this even in courtrooms not so equipped. For example, Compaq has introduced a three pound projector that is good enough to use as a primary viewer.

Another trend is wireless, including modems, mice, keyboards, and anything else that needs to be connected. Finally, if anybody ever thought six hundred plus meg on a CD-ROM was more storage than they would ever need, welcome to the coming world of recordable DVD-RAM and up to 2.6 gigabytes per side with larger sizes coming.

Hard on the heels of Comdex, this past Monday Intel released its new Pentium 4 processor with speeds up to 1.5 GHz. By the third quarter of next year, you'll see processors with speeds of 2 GHz!

Questions or comments? Send email to webmaster@hindsbar.com.

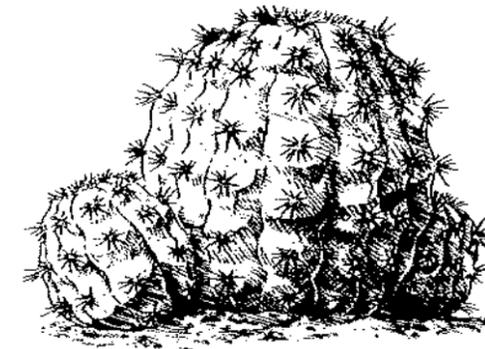
Mississippi College Law Library Hours:

December 1, 2000 - January 13, 2001

Regular Library Hours	Holiday Hours	Exam Schedule: December 12-21, 2000
Monday-Thursday 7:30am-midnight	December 21 & 22 7:30am-6:00 p.m.	Monday-Friday 7:30am-midnight
Friday 7:30am-9:00pm	December 23-January 1 CLOSD	Saturday 9:00 a.m.-midnight
Saturday 9:00am-9:00pm	January 2-5 7:30am-6:00 p.m.	Sunday noon-midnight
Sunday noon-midnight	January 6 & 7 CLOSD	
	January 8-2 7:30 a.m. - 6:00 p.m.	

Regular hours resume on Saturday, January 13, 2001.

For more information please call 925-7120. Subject to change without prior notice.



Ouch!

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Risk Retention Group

HCBA Officer Candidates Announced

The Nominations Committee is pleased to announce the following HCBA members who have graciously agreed to run for office for the year 2001-2002.

The nominees for the three positions to be filled are:

Secretary-Treasurer	Stuart Kruger John Proctor
Director - Post 1	LaVerne Edney Sherri Flowers
Director - Post 2	Doug Levanway Will Manuel

The Association's bylaws provide that any other member of the HCBA may be nominated by petition signed by not fewer than 20 members in good standing and filed with the Secretary-Treasurer on or before January 15.

A ballot and biographical sketch of each nominee will be mailed to each member in good standing during the month of February. For further information, please call HCBA Executive Director Pat Evans at 969-6097.



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Correspondence regarding the newsletter should be directed to: HCBA Newsletter Editor, 151 E. Griffith Street, Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 969-6097. The web site address is hindsbar.com.

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FEBRUARY 2000



President's Column

by **Harris H. Barnes, III (Trip)**

It is hard to believe that this is my next to the last column. My year as President has flown by. However, in these next four months we have plenty to do.

One thing of particular importance has to do with the annual Professionalism Award. As you may remember, we presented the first Professional Award last year to Hal Miller. We are in the process now of selecting the recipient of the second award. The award will be presented to an individual who has demonstrated adherence to the highest professional standards of practice, ethics, integrity, civility and courtesy; has encouraged respect for the law and its procedures,

participants and processes; has shown commitment to the practice as a learned profession to the vigorous representation of clients, and to the attainment of the highest level of knowledge and skill in the law; and has significantly contributed time and resources to public service. Quite a laundry list of credentials. It is important that we nominate persons of the highest caliber for this award.

The last newsletter requested these nominations. At present we need additional nominations. The deadline for the nominations is February 21st of this year. Please send the names and addresses of candidates either to the Hinds County Bar Association, 151 East Griffith Street, Jackson 39201, or to John McCullough at 790 Landmark Center, Post Office Box 811, Jackson 39205.

Some other dates of interest to all of us are the Peoples Law School and the dinner honoring the Judiciary. La'Verne Edney and Sherri Flowers have graciously agreed to co-chair the

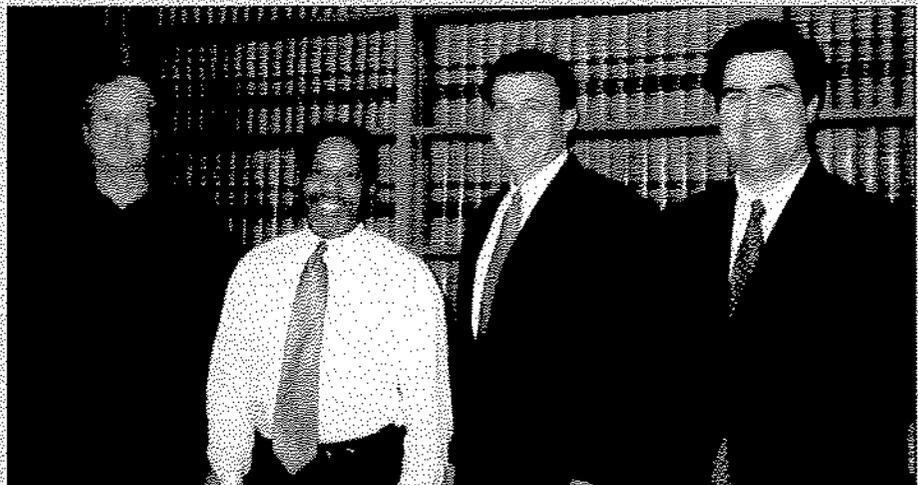
Peoples Law School. Last year it was a tremendous success, and the Hinds County Bar, in conjunction with the *Clarion-Ledger*, is sponsoring the Peoples Law School again. Please participate if asked, and encourage your clients and friends to attend this most worthy event. The dates are March 14, March 21, March 28, and April 4. We are scheduled for the Committee Room at the *Clarion-Ledger* Building on South Congress Street.

Last but not least is the Evening Honoring the Judiciary scheduled for May 4th. This is our opportunity to honor the judges who devote their time and lives to the administration of justice. What could be more important? Please make your plans to attend the reception and dinner on May 4th at Primos Northgate.

It has been a wonderful year, and I am so appreciative of all who have helped to make the Hinds County Bar the wonderful organization that it is. My best to you and your family in this new Millennium.

Planning Committee for the Evening Honoring the Judiciary

Planning the Evening Honoring the Judiciary to be held Thursday, May 4, at Primos Northgate are: Robert Grenfell, HCBA President-Elect; Robert Gibbs, Chairman; Harris Barnes, HCBA President; and Stephen Montagnet, JYL President-Elect. Not pictured are committee members Meade Mitchell, John McCullough and Walter Johnson. Invitations will be mailed in early April for this annual event.



HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

February 15, 2000

12:00 Noon

Capital Club

Lunch \$10.00

Stacey L. Wall with Pinnacle Trust will talk on The Economy and Stock Market for the New Millennium.

CLE Calendar

February 17

ALI-ABA - Annual Winter Estate Planning Practice. MS College Law School. 925-7173

February 18

9th Annual Labor & Employment Law Seminar. MS College Law School. 925-7173
 Probate Practice Fundamentals. UM-CLE. 662-915-1221

February 25

Construction Claims in MS. Lorman Education Services. 715-833-3940

March 2

Collection Law in MS. Lorman Business Center. 715-833-3940

March 8

Summary of Recent MS Law. Abbott & Weems. 662-234-6956

March 9

Limited Liability Entities Update: LLCs, LLPs &
 Other Unincorporated Business Entities. MS College Law School. 925-7173

March 14

ABA Center for CLE -Leveraged Management Buy Outs of Subsidiaries & Divisions. MS College Law School. 925-7173

March 16

ALI-ABA Video Law Review - Retirement Plan Distribution; Fundamentals for Estate Planners;
 Financial Planning & the Practice of Law. MS College Law School. 925-7173

March 24

Social Security Update. UM-CLE. 551-915-1221

March 28

ALI-ABA Video Law Review - Hot Issues in Employment Law & Litigation. MC College Law School. 925-7173

March 30

ALI-ABA Video Law Review - Health Plans, HIPPA & Cobra Update. MS College Law School. 925-7173

April 6

Practicing Law Institute - Copyright & Trademark Law for the Non-Specialist:
 Understanding the Basics. MS College Law School. 925-7173

April 7

6th Annual Real Estate Transactions Seminar. UM-CLE. 662-915-1221

April 13

ALI-ABA Video Law Review - Annual Spring Employee Benefits Law
 & Practice Update. MS College Law School. 925-7173

Innovator Award Nominees

Last year the HCBA instituted an Innovator Award to be presented to a judge who has begun various innovative ways to improve the administration of justice, such as an approach to speed up the docket, to

better communicate with the public, to advance technology in the courtroom, and many others.

The award will be given at the Evening Honoring the Judiciary on May 4th. In 1999, the award was

presented to the Mississippi Supreme Court.

Your nominations are encouraged. Please send nominations to Pat Evans, HCBA Executive Director, 151 E. Griffith Street, Jackson, MS 39201.

HCBA Calendar

February 15

HCBA Membership Meeting. Noon. Capital Club

March 14

People's Law School. 7:00-9:00 p.m. Clarion-Ledger Building, 201 S. Congress Street

March 21

People's Law School. 7:00-9:00 p.m. Clarion-Ledger Building

March 28

People's Law School. 7:00-9:00 p.m. Clarion-Ledger Building

April 4

People's Law School. 7:00-9:00 p.m. Clarion-Ledger Building

April 18

HCBA Membership Meeting. Noon. Capital Club

May 4

HCBA/JYL Evening Honoring the Judiciary. 6:30 p.m. Primos Northgate

June 20

HCBA Membership Meeting with One Hour CLE Ethics. Noon. Capital Club

The Hinds County Bar Association and The Jackson Young Lawyers Association, Inc.

invite you to join us during Law Week for an

Evening Honoring the Judiciary

and

The Judge William C. Keady Distinguished Lecture Series

on May 4, 2000

at Primos Northgate
 4330 North State Street

Reception at 6:30 p.m. and Dinner at 7:30 p.m.

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Sports, Entertainment & Business: A National Obsession - At What Cost?

by Captain Equity

- Carolina Panthers' receiver Rae Carruth is arrested for the drive-by shooting murder of his pregnant girlfriend in Charlotte.
- Miami Dolphins running back Cecil Collins is charged with burglary and parole violation for breaking into the bedroom of a married couple in Baton Rouge.
- Atlanta Braves relief pitcher John Rocker is ordered by Major League Baseball to seek psychological counseling after publication of a *Sports Illustrated* article in which he made derogatory remarks against racial minorities, gays, and immigrants living in New York City.

In the best tradition of the LSAT or perhaps, *Who Wants To Be A Millionaire*, what is the common element in all of these recent news items? (Choose The Most Correct Answer:) (A) Each incident takes place in the American South. (B) Each incident involves extremely poor judgment. (C) Each incident involves a professional athlete. (D) Each incident involves a player whose position starts with the letter "R."

Assuming you were Carruth, Collins or Rocker, the answer would surely be B. If you were the NFL or Major League Baseball, the answer would be D. If you were a resident of New York City still smarting from John Rocker's remarks, you could understand an answer of A. For everyone else, the answer is C. In the sports-obsessed United States, truth, as the foregoing example teaches, is too often dependant upon who is answering the questions. Put another way, at what cost does American Society indulge itself in its national obsession with collegiate and professional spectator sports? And might there be a better way to minimize the human toll on the younger generation without sacrificing our television cable subscriptions and season tickets?

Increasingly, sports fans and sports businesses tend to rationalize away acts that nobody would put up with in their place of work or in their own homes.

Murder and burglary are crimes, not poor judgment. Making incendiary remarks against and about anyone not a mirror image of themselves betrays a narrow, ignorant, uneducated and prejudiced mind. Being idiotic enough to repeat those remarks to a *Sports Illustrated* writer speaks for itself.

As Mr. Rocker will surely learn this coming season, words have consequences. Starting with his teammates in Spring Training and continuing with the fans at the first home stand in Atlanta and extending to all 81 away games, especially those played in New York, John Rocker's life will be a living hell. As for Collins, he is now paying for his crimes in jail, while Carruth faces the prospect of being strapped onto a gurney in the middle of the night while a prison doctor slips a needle into his arm. Justice will prevail for these three. It is the rest of America I'm worried about.

The road to trouble starts innocently enough with starry-eyed kids who live, eat and breathe sports, both on television and in their backyard stadiums and arenas. As these kids progress through junior high and high school, those with enough talent to make their teams discover the joys and rewards of organized sports. Let's face it, what teenage boy in his right mind would prefer doing algebra problems to hitting three-point shots or catching touchdown passes. I don't know about your school days, but in mine cheerleaders seldom sought out guys who could master imaginary numbers, equations and all the other arcane aspects of higher math.

For those few at every high school in America who emerge as stars, the seduction of big time, high profile athletics awaits. In point of fact, there are a finite number of NCAA Division I Athletic Scholarships available in any given year assuming college level ability and academic qualification. For those fortunate few, the bargain is a fulltime, four or five year job in exchange for a chance to get a tuition-free college degree and the unspoken promise of a possible pro career. Of

course, few eighteen year olds have any idea of the downside. In point of fact, scholarships are only one-year commitments. Graduation rates are dubious at most of the big time college sports factories. And even for highly qualified and motivated students, there is precious little time after practice, film sessions, weight training and game related travel to do what is necessary to truly excel in a meaningful major. Sure, some do. Most don't. On the other side of the ledger, the universities make millions while the coaches earn hundreds of thousands of dollars and more from salary, shoe contracts, television tie-ins, booster clubs, etc. To make matters worse, the NCAA, which is run by the fraternity of dollar hungry University Presidents, is always ready to find the most insignificant violation of their impossible rules while at the same time ignoring the financial inequity created by kids who are making fortunes for the institutions, yet who are not even allowed spending money for laundry and pizza.

The more insidious and troubling aspect of college athletics involves kids in their teens and early twenties who begin to develop an entitlement to the intangible benefit of living as young celebrities to whom a different set of rules apply. Just ask Florida State's Peter Warrick or any of a number of athletes who "make mistakes" only to receive a half hearted slap on the wrist, if that.

Unfortunately, the dream of stardom, professional riches and all the rest is not the exclusive province of legitimate college and pro prospects. How many kids squander their educations on the illusory dream of a pro career that will never materialize? In point of fact, there are only some 300 to 350 openings for rookies in all of the major sports combined in any given year. Remember Rufus French, the Ole Miss tight end who gave up his last year of college eligibility to turn pro? Nobody drafted him. Those millions dissolved into a free agent try out with Seattle who eventually cut him. While he might still make it, the odds aren't good.

Or consider Chuck Muncie who left the prestigious University of California - Berkley for a successful pro career with New Orleans. Years after retirement from the NFL, Muncie confessed to not knowing how to read. Cal-Berkley? How many more sad stories are out there that we never hear about?

And even for the elite who do sign the big contracts, there is the constant danger of too much money and attention too soon. Just ask Ryan Leaf, or better yet, the San Diego Chargers who paid the Washington State dropout millions, only to watch him unravel.

In short, big time sports, college or pro, is played out in a tough, dollar-

driven world. These kids need all the help they can get. That means supporting the concept of No Pass No Play as is done in Texas. Paying athletes a tuition-plus stipend for playing college ball. Improving graduation rates. Not allowing players to leave college early to enter the NFL or NBA draft. Instituting an absolute ban on signing pro football and basketball players straight out of high school. Holding the NFL, NBA, NHL, and Major League Baseball accountable for the conduct of their players. Refusal of ticket buying sports fans to accept excuses and rationalizations for conduct that would never be accepted by their boss or mother.

At the end of the day, you want to hope that Peyton Manning is the norm; not Rae Carruth, Cecil Collins or John Rocker. Maybe a little more of a critical view of the sports entertainment business will help channel more young athletes in the right direction while still allowing us all to the inalienable, God-given right to scream our heads off for the team of our choice. I'd like to think that sports and sportsmanship have not become mutually exclusive terms.

[Editor's note: the viewpoints expressed in this column are solely those of Captain Equity and are not to be attributed to the Hinds County Bar Association, its officers and directors, or its editorial board.]

Thank You to the 1999 Golf Tournament Sponsors

The Hinds County Bar Association and the Jackson Young Lawyers want to thank the 1999 Golf Tournament Sponsors. The event, chaired by John Proctor, was held August 26 at Patrick Farms Golf Club and raised a record \$13,000 for the Mississippi Volunteer Lawyers Project.

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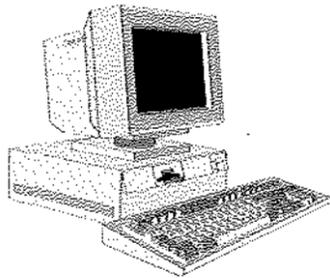
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Young Williams Henderson & Fuselier

On Computing by Joel Howell



What's your word processor of choice? Here, courtesy of Microsoft, Corel, and Law Technology News, are each manufacturer's top ten tips for legal power users.

WORDPERFECT

1. THE LEGAL TOOLBAR

This toolbar takes all the legal-specific features in WordPerfect 9 and puts them right at your fingertips. It includes all the features that legal users would need on a regular basis, so that all they have to do is point and click to use them. The toolbar includes several third party applications, such as DEAL PROOF SE (See tip #8). Lawyers also can insert paragraph numbering and create a pleading document from the Legal Toolbar.

2. REVEAL CODES

WordPerfect 9 offers "Reveal Codes," which control formatting of documents, right down to the character level. Reveal codes work in this way: each time the WordPerfect application is used, codes are inserted into a document. For example, when a user makes text bold, codes surround that text to make it bold. With reveal codes, users can display a window that shows which codes have been inserted into a document and change those codes to edit and reformat the document. This increases the speed and efficiency in editing legal documents, which are typically rich in complex formats and features.

3. PUBLISHING TO PDF

WordPerfect 9 now allows users to publish documents to the PDF format. Law firms can create a document in WordPerfect and convert it to PDF format with everything intact - the line and page endings will be exactly the same as they were in the WordPerfect document.

This enables law firms and their clients to easily and reliably exchange and view electronic documents, independent of the environment in which they were created. In addition, many court systems throughout North America are requiring that documents filed electronically are submitted in PDF format.

4. TABLE FEATURE

Users can create complex tables in WordPerfect 9, which is especially helpful to illustrate financial information. The tables feature allows lawyers to run automatic number formatting, which can be used to include currency symbols and comma separators to format numbers within the table.

You also can underline numbers in the WordPerfect table and can lock the different sections within the table so that the alignment, data, logos and row height will not change.

5. PRINTER METRICS

WordPerfect defines where a line will end in a document through printer metrics. When printing a document from different printers, users can prevent the document from reformatting each time a different printer is used by disabling the printer metrics. That guarantees that one document will be printed that same on different printers, regardless of the make or model.

This option is important to users who need to print documents that will always appear the same, right down to the line and page endings.

6. TABLE OF AUTHORITIES

WestCiteLink 2.2, which can be accessed from the legal toolbar, quickly finds and marks legal citations within a WordPerfect 9 document, and automatically generates "Table of Authorities."

This allows users to search for citations within footnotes and endnotes.

7. FOOTNOTES

When a user is inserting footnotes into a document, WordPerfect 9 will automatically increment characters such as asterisks or numbers.

This tool eliminates the need for a user to manually update the number of characters or verify that all footnote characters are accurate each time they edit a document.

8. AUTOMATED PROOFREADING

Automated proofreading has been added to WordPerfect 9 with the addition of DEAL PROOF SE. This application is designed to help legal users edit and proofread complex legal documents. It reduces time spent proofreading complex transactional legal documents by identifying non-conforming phrases and marking errors and inconsistencies within a WordPerfect 9 document.

9. MULTIPLE-PAGE CLIPBOARDS
NexLaw 9 is a third-party application that supplements the menus and toolbars in the WordPerfect 9 application in WordPerfect Law Office 2000.

One of the key tools in NexLaw 9 is multiple-page clipboards, which allow users to save text, formatted codes and graphics for later use.

The Clipboard is the tool that you use to copy text out so that you can paste it into a document. Multiple-Page Clipboards simply means that users now have an unlimited number of clipboards that can be stored, reused repeatedly and shared with others.

10. COMPATIBILITY

WordPerfect 9 has impressive third-party integration and compatibility with other word processors.

WordPerfect 9 also provides many levels of compatibility - first, with older versions of WordPerfect; second, with other products on the market, including Microsoft Office 97.

This means that the legal user can create a document in WordPerfect, save it in Microsoft Word 97 format and send it to a client who uses Microsoft Word, who can then open it up and read it.

MICROSOFT WORD

1. COPY AND PASTE FROM MULTIPLE DOCUMENTS

No more jumping back and forth to copy and past information between different documents. "Collect and Paste" makes it easy to copy up to 12 pieces of information from any Office documents, and then paste them, either one at a time (in any order) or all at once, into your Word document.

2. FORMAT DOCUMENTS

Select the perfect font the first time with the new drop-down WYSIWYG font menu, which gives you a preview

of font styles before you choose them.

3. ENHANCED WORD COUNTING
With a macro from the Office Update Web Site

(<http://officeupdate.microsoft.com>), Word 2000 will now count the words in footnotes and endnotes with partial text selections that contains footnote or endnote references.

4. DRAW AND FORMAT TABLES
The new Office 2000 suite lets you create tables exactly that way you want them to appear.

The updated "Table Tool" makes it easier than ever to design, draw and edit tables.

5. SEND DOCUMENTS INSTANTLY

You can now send your document without ever leaving Word. Just click to open the new Office E-mail header in Word and then send your documents as an e-mail message that retains all of your original formatting.

You also can take advantage of powerful Mail Merge capabilities in Outlook 2000 that help you send personalized e-mail messages, letters and fax to your contacts with ease.

6. FIND AND LEVERAGE INFORMATION

Today, law firms commonly share files by saving them out to a file server while Web server are generally used as a one-way, read-only means of distributing information.

However, Web servers are capable of two-way interaction and have many advantages over a normal file server.

7. INTERNET-BASED COLLABORATION

In addition, law firms can turn the Web into a collaboration tool with Web Discussions.

Discussion comments can be annotated on any internally accessible document in the firm or also on any public site on the Internet!

8. CHANGE NOTIFICATION
Web Subscriptions allow you to track collaborative efforts easily.

9. SELF-REPAIRING APPLICATIONS

Self-repairing applications in Office 2000 search for missing or corrupted files and repair them automatically, so you don't have to. The goal is to get users working as quickly as possible, often without even knowing there was a problem, eliminating non-productive down time.

10. VERSION COMPATIBILITY
Through customer research, Microsoft found that most firms do not upgrade all their machines to a new program in one day. The process often takes a few months, and during this time, files created in the older and the newer version of the productivity suites must co-exist. To help in this migration effort, Word 2000 allows users to turn off features that are not supported by the company standard format.

For example, if a firm is migrating from Word 97 or WordPerfect to Word

2000, formatting features that are not supported in Word 97 or WordPerfect can be disabled in the user interface during the migration process.

Office 2000 file formats are binary backwards compatible with Office 97 file formats in all of the applications except for Access 2000.

Questions or comments?

Drop me an email at 76616.1020@compuserve.com, or better yet, webmaster@hindsbar.com.

2000 People's Law School

The HCBA People's Law School Committee, co-chaired by Sherri Flowers and La'Verne Edney, is finalizing its plans for the 2000 People's Law School. This is the tenth year for this program, a public service project of the bar. Co-sponsoring is *The Clarion-Ledger*.

The 7:00 to 9:00 p.m. classes will be four Tuesday nights: March 14, March 21, March 28 and April 4. The programs will again be held in The Community Room of *The Clarion-Ledger* building, 201 S. Congress Street, in Jackson. The cost is \$5 for individual sessions and \$15 for all four.

The People's Law School is designed to answer everyday legal

questions. The topics include:

March 14 - Introduction to the Mississippi's Judicial System; Small Claims Court/the Municipal Court System; ProBono and Legal Services.

March 21 - Tax Tips; the Financial Privacy Act; Credit Repair.

March 28 - Elder Law; Consumer Protection and Medicare/Medicaid; Wills and Estates.

April 4 - Domestic Relations; Employment Law.

Serving on the People's Law School Committee are Elizabeth Baine, John C. Henegan, Peter Doran, Mike Rhodes, Meta Swain, Deanne Mosley, Teselyn Melton and Leyser Morris-Hayes.

People's Law School Committee Meets



The People's Law School Committee is finalizing the schedule and speakers for the project sponsored by the HCBA and *The Clarion-Ledger*. Serving on the committee are: Peter Doran, a past chairman; Meta Swain; Leyser Morris-Hayes, HCBA Board Liaison; La'Verne Edney, co-chairman; Elizabeth Baine; Sherri Flowers, co-chairman. Committee members not pictured are: John Henegan, Mike Rhodes, Deanne Mosley and Teselyn Melton.

Mississippi Needs New Administrative Procedures Legislation

by James L. Robertson

Imagine that your client runs a business regulated by a state agency and you ask for advice whether your client can order his business in a certain way. The agency gives you an answer, and your client relies on that answer. Four years later a new governor is elected who appoints a new department head who changes the policy and tells your client that the advice you were given was wrong and is not binding.

Imagine that you represent a school board. You may find that the Department of Education has adopted many regulations that you think ill-advised, but you had no practical opportunity to comment because you were unaware of your right to comment in time to speak your piece.

Many who have to deal with the state need to be able to do so without a lawyer in tow. Imagine that you are an independent trucker who is subject to the regulation of the Department of Transportation, the Public Service Commission and the State Tax Commission. Yet you find that the procedures of each of these regulators are quite different from that of the others. You ask why this is so, and each agency puts on its best blinders and insists that its procedures are tried and true and are working fine.

Imagine that you are a judge of the Court of Appeals required to review the administrative decisions of the seventy or eighty regulatory agencies of this state and you find that – for no rational reason – no two agencies' administrative processes are quite the same.

Imagine . . .

These are not hypothetical instances. Experienced observers could posit hundreds is a few hours. They happen to Mississippians and their lawyers in the real world and with regularity. And they are the reason why the Mississippi Legislature needs to enact a bill to reform, to clarify, to modernize, to unify this state's administrative procedures and make them more open and accessible to the public. A bill to do this will be before the Legislature at its 2000 Session.

The proposed new Mississippi Administrative Procedure Act ("MSAPA") was developed by an eleven-member Task Force authorized

by the legislature at its 1998 session. Chaired by Secretary of State Eric Clark, the Task Force began with the Model State Administrative Procedures Act promulgated by the National Conference of Commissioners on Uniform State Laws.

The Task Force held a number of public hearings and comment sessions across the state. For better or for worse, most of those attending represented agencies and, with notable exceptions, argued the familiar view, "We're all for progress in our agency, so long as it doesn't involve change."

Notwithstanding, the MSAPA has attracted broad support among the affected communities. The Mississippi Bar has endorsed it. The Mississippi Economic Council supports it. Common Cause and the League of Women Voters have signed on. And there are many others.

The MSAPA follows the model developed by NCCUSL. It will govern public access to agency law and policy, administrative rule making, adjudicative proceedings and judicial review.

As its name suggests, it regulates administrative agencies and includes coverage of "all administrative units of this state," exempting only the Governor, Legislature, and the Courts. The Office of the Governor and such executive agencies as the Office of Federal-State Programs and the Medicaid Commission will be covered by the Act.

Passage of the proposed MSAPA will require for the first time the publication of an official administrative code not unlike the Code of Federal Regulations (but much shorter). Most other states have had all-inclusive administrative codes for years. The code will compile and index all agency rules and regulations in a uniform format. These will be made available electronically over the Secretary of State's website. For the first time, citizens and their lawyers will have easy access to the administrative rules and regulations to which they are subject.

The Act provides that a citizen may request and an agency may issue a binding declaratory opinion. Most other states, including all of those surrounding us – Arkansas, Tennessee, Alabama and Louisiana – have had

mandatory declaratory opinion processes for years. Once issued, the opinion will protect the person receiving it from civil and criminal liability. This will be an important complement to the current process of Attorney General's opinions which are available only to public officials.

In the area of rule-making, administrative agencies act very much like a legislature. The proposed MSAPA will require advance publication of proposed rules with a full opportunity for public comment and fair consideration of comments by the agency.

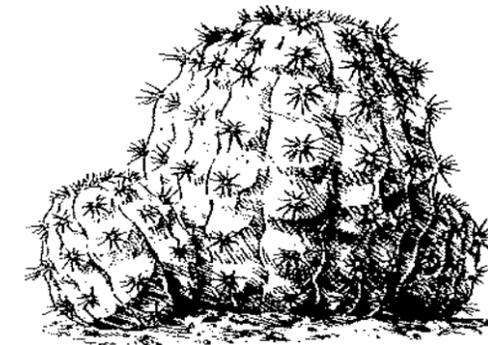
Though opportunities for written comment will be available and should be encouraged, there is no substitute for hearing from the public in person. The new MSAPA provides a practical procedure whereby on the request of twenty-five persons a public hearing respecting a proposed regulation must be held. The new Act will mandate an adequate rule-making record to facilitate judicial review.

The administrative process in Mississippi also has its quasi-judicial component. At present, administrative adjudicative proceedings, judicial review of agency orders and their civil enforcement are governed by a confusing, incomplete and balkanized set of legislative directives that are as diverse as the agencies themselves. These present the citizen of a Kafkaesque nightmare.

The proposed MSAPA will provide a uniform and practicable set of minimum procedures for adjudicative hearings before all administrative agencies of the state. Time lines for various pre-hearing steps and for decisions will be identical, although they can be altered by agreement. In certain cases where the stakes are low, agencies will be allowed to use their rule-making powers to adopt informal procedures.

There are many important issues in administrative law today where present law is silent. The APA proposal includes clear rules addressing such issues as a separation of functions; that is, someone who has participated in investigating and prosecuting an administrative complaint may not take

Continued on page 10



Ouch!

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Risk Retention Group

Mississippi Needs New Administrative Procedures Legislation...Continued from page 8

part in the adjudicative proceeding or decision-making process.

The proposed MSAPA creates the opportunity for adjudicative proceedings to take advantage of modern administrative practice and technologies.

The APA authorizes the creation of a Division of Independent Hearing Officers. This will be a major improvement of both substance and form. The citizen subjected to an adjudicative process needs confidence in the impartiality and fairness of the hearing officer. Moreover, administrative hearings are an increasingly discrete and specialized process. The division will

provide qualified and experienced personnel to this end.

At present, great delays in inefficiencies exist in the judicial review process. Appeals from some agencies go to circuit court; others go to chancery court. In each case, a second further appeal lies to the Supreme Court or by deflection to the Court of Appeals.

The MSAPA proceeds from the policy premise that all administrative orders should be reviewed one time and by a court competent and experienced in that review. The standard of review and procedure on appeal will be the same for all agencies. With two

exceptions under the proposed APA, judicial review of agency action will be in the Court of Appeals of Mississippi. It is expected that in 98 percent of the cases that review will be final. The Supreme Court will also retain the power of discretionary review in important policymaking cases.

Like it or not, the regulatory state is here to stay. Because its officials are not always politically responsible, the state's departments and agencies have seemed increasingly cold and distant. Enactment of the MSAPA will make state government fairer and more accessible than it has ever been.

In Memory of Prof. J. Allen Smith

Professor J. Allen Smith died on December 14, 1999, at the age of seventy-seven. In mid-November, he had moved from his retirement home in Key West, Florida to Asheville, North Carolina, to be near family.

He came to Mississippi College School of Law in 1984, after a distinguished career in legal education. He had served on the faculties of the University of Florida, Rutgers (Newark), Toledo (where he served as dean), and Vanderbilt Law Schools. He was very active at the inception of the "Law and Humanities" movement and continued this interest throughout his career. At Mississippi College, he taught Real Property, Torts, Jurisprudence, Conflict of Laws, Law and Literature, Federal Courts, Constitutional Law, and Criminal Law.

His B.A. was earned at Erskine College, his J.D. at the University of Florida, and his S.J.D. at Yale.

Mark C. Baker, Sr., a member of the MCSOL Class of 1984, remembers him with these words:

Unlike many others in my class at Mississippi College School of Law, there were no lawyers in my family, I knew no lawyers personally, and I really didn't know much about the practice of law. When I came to law school, I didn't know what to expect; then I met Professor J. Allen Smith. Professor Smith altered my perceptions and changed my way of thinking from the very first class of torts.

In his own way he was able to teach that a lawyer's job was not always to do what was "right" or "expected," but rather to represent the client to the fullest extent of the law within the bounds of ethics. Professor Smith's definition and interpretation of the law always served his purposes. From Professor Smith, we learned that if you were confined by the law you just weren't thinking. He liked to say he never saw a statute that he couldn't drive a "mack truck" through. This was his legacy. Sometimes when I am in a particularly tight spot on a case, I think of Professor Smith and I can hear him telling me to think deeper and look harder to find a way to drive that truck through the hole.

I will always remember trying to argue facts and law and his reminding me that these were only important if the person who was hearing them actually cared. He taught us to focus on the

"who" as much as the "what." Boy, was he right!

Professor Smith loved to spend time with his students. He lived for adventure, intrigue and, yes, gossip. After I graduated, I kept in touch with Professor Smith but not as much as I should have; none of us did. When we did speak, it was as if time stood still. He always had a million questions. He wanted to know everything about my family, my practice, my former classmates and the school. It always seemed that everything I told him he already knew. He loved that. Sometimes he'd reveal his source, but most times he wouldn't.

When I was in law school, I had to work as a waiter to make ends meet. This simple fact enlisted me forever in his mind as a connoisseur of great food and wine. His classes were made up of students whose identities he changed from Jones or Smith to the baker and the beauty queen. We were all characters in his play. He was just that way and we loved it.

In his eyes, even the lowly first year student was accepted. Professor Smith believed if you made it into law school his job wasn't to bust you out but to make you a lawyer, no matter how impossible the task. If you didn't get it, he took it personally. We knew he was there for us.

While he could have lived anywhere in Jackson, Professor Smith kept an apartment at the Sterling Towers across the street from the law school. He loved being in the middle of things. We would all spend time in his apartment where he would regale

us with stories of everything from his days at Rutgers to his former students. I can still hear him telling us about his students who went to work for great firms, represented famous and notorious clients, became judges, and generally did well in various ingenious ways. Without ever telling one another, we all always hoped that one day one of his stores would include us. His pride in us was evident and his affection was ever present.

I will always be grateful to Professor Smith. He made becoming a lawyer an adventure and made being a lawyer an honor. I cherished his friendship and will always cherish his memory.

Mark C. Baker, Sr., Mississippi College School of Law, Class of 1984.



KeyCite It!

Key-board (kē/bōrd) *n.* 1. an organ, or the like. 2. a set of keys, usually arranged in a row for operating a typewriter, typesetting machine, computer terminal, or the like. — **Key/board/ist, n.**

Key-Cite (kē/sīt) *v.* 1. To determine the subsequent history of a case by using the online citator of the same name, often known informally as establishing that a case is still "good law"; — *n.* 2. the act of locating those documents which cite a given case, statute or other document. — **KeyCiting.**

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March Prayer Breakfast

The Student Chapter of the Christian Legal Society and the Mississippi College School of Law will co-sponsor the annual prayer breakfast at 7:30 a.m. on Tuesday, March 28th. Secretary of State Eric Clark has accepted the invitation to give the address.

The breakfast will be held in the fellowship hall of First Baptist Church. Tickets are \$10.00 and can be purchased before noon on Friday, March 24th from the Law School receptionist or any officer of the Christian Legal Society. A very limited number of tickets will be available at the door. All Jackson area lawyers and law-related personnel are invited to attend.

New Divorce Education Program in Rankin County

FOCIS (Focus on Children in Separation) is a pilot program authorized by the Mississippi Supreme Court which is being implemented in the Rankin County Chancery Court, Division One, under Chancellor Thomas Zebert. This program is provided to teach ways for parents and children to get through the divorce process with the least amount of emotional upset possible and to lessen problems that parents and children may have under the circumstances.

All parents with children between ages 6 and 17 will be required to complete the four-hour course taught in two two-hour sessions before the judgment of divorce can be signed. Children will also attend classes with separate classes for children ages 6 to 12 and ages 13 to 17. Cost per parent is \$30.00 with no additional fee for children.

For more information, please call 824-2681.



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Hinds County Bar Association, Inc.

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IMPORTANT
HCBA Luncheon Meeting
12:00 Noon, February 15



HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

JUNE 2000



President's Column by Robert Grenfell

What Would Atticus Do?

Now that I have your attention (more to come on Atticus), I want to thank Trip Barnes for the fantastic job he did as last year's President. His leadership was appreciated by all Bar members. I truly enjoyed working with Trip, and I look forward to working with our Vice President, Pat Bennett, and Secretary-Treasurer, William Wright.

Now back to Atticus -- I hope most of you have read *To Kill a Mockingbird*, and have also seen the movie. I recommend doing both. In Harper Lee's novel, set in Southern Alabama around 1930, Atticus Finch is a local attorney and a single parent of Scout, his daughter (a six-year-old tomboy and the story's narrator), and Jem, Scout's older brother. The novel tells of the gradual ethical awakening of these two children.

Scout and Jem finally come to see that the fear and ignorance behind some of their actions were not much better than the suspicion and scape-goating that led to the killing of one of their father's clients.

The book is a moving story about their father, Atticus, a lawyer who had the courage and conviction to defend his client in spite of the prejudice of society. Atticus Finch is a lawyer with integrity and perseverance who believes in respect, fairness, and equality.

How does this tie in with my role as a lawyer? It is very simple, my role is to "do the right thing" each and every day.

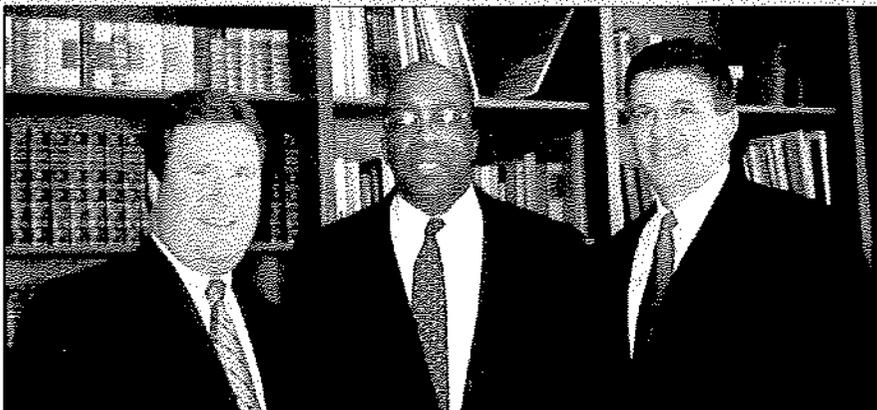
Each of you has earned and received a great gift, which is your license to practice law. It is a gift because it allows you to help people and to defend the Constitution. Remember that lawyers are ministers

under the judicial system. But with that honor comes many responsibilities: You must be true to your profession; you must be true to your clients; and you must be true to yourself.

There are many challenges in practicing law. None is greater than the decisions you make by yourself in the stillness of your office. Sometimes you will be faced with competing interests. What is financially best for you and your firm, may not necessarily be what is best for your client. We must maintain the ethical values that make ours a profession and not a business. In difficult situations, always "remember to do the right thing."

I encourage you to look to Atticus Finch as an example. Take this example to heart when faced with a problem, and ask yourself a simple question, "What would Atticus do?"

April Membership Meeting



Representative Percy Watson, Chairman of House Judiciary A Committee (center), gave a legislative update at the April HCBA Membership Meeting. He is pictured with Ed Lawler, HCBA Program Chairman (left), and Harris Barnes, 1999-2000 HCBA President.

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HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

June 20, 2000

12:00 Noon

Capital Club

Lunch \$10.00

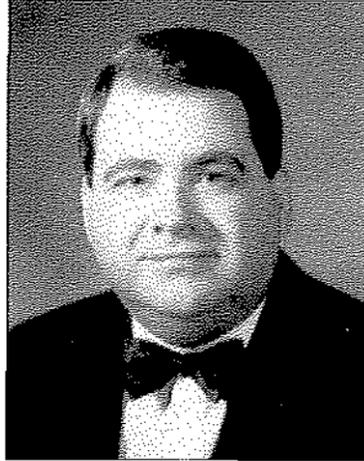
Speakers: Judges Denise Owens and Breland Hilburn

An Hour with the Judges: Tips and Helpful Hints

Hurt Accepts Visiting Professor Position

by Linda A. Thompson

While in Washington, D.C. for a meeting at the Mayflower Hotel a few weeks ago, I had the good fortune to run into Richard Hurt, former Dean of Mississippi College School of Law, who was there on American Bar Association business. In July of this year Richard will complete his term as Deputy Consultant on Legal Education to the ABA, serving from the Office of the Consultant which is located in Indianapolis, Indiana.



Richard told me that this fall he will be taking a new position as visiting professor at the Indiana University School of Law in Indianapolis for the 2000-01 academic year. He will be teaching courses in Administrative Law, Constitutional Law, and Professional Responsibility. He will remain on leave from his faculty position at Mississippi College School of Law.

Barry Currier, Dean of the Cumberland School of Law at Samford University in Birmingham, will succeed Richard as Deputy Consultant. John Sebert, Dean of the University of Baltimore School of Law, will become the new Consultant succeeding James P. White who has held the office for many years.

After July, the ABA is moving the office of the Consultant to Chicago. Richard was asked to take another two-year term as Deputy Consultant, but he declined as it would have meant moving his family from Indianapolis to Chicago too soon after the move from the Jackson area.

According to Richard, all members of the Hurt family have enjoyed Indianapolis. Jan has just graduated from the provisional class to active membership in the Junior League of Indianapolis, and she is also busy with activities at the First Baptist Church of Indianapolis. The three girls attend public schools. Rosanna will be a junior in the fall, Elizabeth will be in the eighth grade, and Margaret, third grade.

Richard said to tell those who are attending the upcoming Annual ABA Meeting in New York that he and Jan will be there for the meeting. His e-mail address is rhurt2@iupui.edu and will remain the same this next school year. His new physical work address will be Indiana University School of Law, 735 W. New York Street, Indianapolis, Indiana 46202-5194, and his faculty telephone number will be 317/274-8523. The Hurts are at home at 8457 Ardennes Drive, Fishers, Indiana 46038; telephone 317/841-9722.

HCBA Calendar

- June 20*
HCBA Membership Meeting.
 Noon. Capital Club
- August 15*
HCBA Membership Meeting and One Hour Ethics CLE.
 Noon. Capital Club
- August 17*
HCBA Golf Tournament.
 Noon. Annandale Golf Club
- October 17*
HCBA Membership Meeting.
 Noon. Capital Club
- December 7*
HCBA Christmas Social.
 5:30-7:00. MS Bar Center
- February 20*
HCBA Membership Meeting.
 Noon. Capital Club
- April 17*
HCBA Membership Meeting.
 Noon. Capital Club

CLE Calendar

- June 22*
MS/Federal Estate and Gift Tax Workshop.
 PEST. 800-826-7155
- July 12*
Advance Real Estate Law in Mississippi.
 NBI. 715-835-7909
- July 21*
Criminal Law Update.
 UM-CLE. 662-915-1221
- July 21*
Annual CLE Seminar.
 MS Volunteer Lawyers Program. 960-9577
- July 25*
Litigating the Class Action Lawsuit in MS.
 NBI. 715-835-7909
- July 26*
Workers' Compensation in MS.
 NBI. 948-4471
- July 27-28*
CLE by the Hour.
 UM-CLE. 662-915-1221

Effective Brief Writing For The Fifth Circuit

by Katherine L. Butler

An appeal to the Fifth Circuit can be a very bumpy ride if you don't know the ropes. In this article, I will discuss a few ways to make the sailing a bit smoother.

Put Yourself in the Judge's Shoes

Your case is not the Court's only case. The docket of the Fifth Circuit is the second heaviest of any federal appellate court. Only the Eleventh Circuit has a heavier docket. On an average day, a Fifth Circuit judge receives numerous briefs, requests for extraordinary relief, and administrative paperwork. They are awash in paper. They need you to provide them with a clear and succinct statement of why you are there and what they should do in your case. They need you to do it quickly so that they can close your case and move on to the next one that is stacking up on the desk.

Part of helping the judge is anticipating his or her concerns and addressing them fully. Judges often complain that the briefs they receive offer very little assistance to them as they struggle to decide a case. A major reason for this is that the lawyers are not objective enough to see the issues that will trouble the judge and deal with them.

Because it is so important to have the objectivity to ferret out the real issues in your case - as opposed to the travesty that you may feel befell you - sometimes it is advisable to hire an appellate specialist to assist you with the appeal. But that is only one way to attack the problem. You can also review the case with a trusted colleague - one who has the guts to level with you - and accomplish the same thing. The point is to get out of your "I was wronged" space and honestly look at the situation through the eyes of a third party who doesn't know how nice your client truly is or how wronged your client was by some jury. **And, in selecting the trusted colleague,** remember that the third party is likely to be a conservative white male who is over the age of 50.

If you honestly engage in this exercise with the help of a trusted colleague, you will find that there are some cases you don't appeal at all.

Persuasive Writing

Most cases are decided on the briefs. Only one in three cases is scheduled for oral argument. You must put your best foot forward in the brief. After all, your brief is often your only chance at persuading the appellate court.

My experience as a clerk for a Fifth Circuit judge taught me that many lawyers do not write well. Nor is it true that older lawyers write better than those just out of law school. Most of us believe that we excel as writers, but often that is a delusion. There are several causes for this - and several solutions.

Problems that You Must Tackle

As I mentioned earlier, one of the biggest problems is the press of the docket. The judge has many other cases to consider and very little time to devote to your case. What does this mean for you and your case?

- **Take your best shot** - don't take every shot. Do not argue every possible point that you can make. As Judge King said at a recent gathering, this gives judges the impression that you do not have confidence that any point is a winning point. This is a bad impression to make. In addition, a huge number of appellate points unnecessarily lengthens many a brief.
- **Make your point as quickly as possible and then stop.** It is not a badge of honor to butt heads with the word limitation imposed by the Fifth Circuit. Sometimes you must write a long brief, but don't let it happen without a fight. Ways of doing this include: (1) avoiding string cites; (2) avoiding long boilerplate sections about items such as the standard of review - they actually know what the standard of review is; (3) avoiding long

statements of irrelevant facts or legal propositions - what a former boss called "thundering in the index."

- **Avoid overuse of adjectives and adverbs.** Far too often, advocates think that the best writing tool is a Thesaurus, which allows them to choose flowery adjectives and adverbs. But most readers are not persuaded simply because the writer tells them that this is the "worst" travesty that has ever occurred. Instead, they are persuaded only when the facts themselves speak out about the injustice. Too much adjective and adverb clutter has an effect opposite than that intended.
- **Edit and re-edit.** Simplify, simplify, simplify. Unless you are a brilliant writer (and believe me, **none of us are**), you will not get it right the first time. You will have to edit your work repeatedly for it to shine. Remember Mark Twain's famous statement that he would have written a shorter letter if he had had more time. Note: I believe that one of the biggest obstacles to clear writing is dictating. It is so easy when you are dictating to spit out long sentences and to repeat your ideas ad nauseum. Just say NO! Write the brief on a computer, write it out by longhand, write it on a stone tablet, but don't dictate it.
- **Read your work out loud to a colleague.** One way to catch unwieldy and unintelligible sentences is to hear them. Yes it takes time, but it is worth the effort. This process also catches many a typo and blank left in the brief.
- **Take a good legal writing course.** Most lawyers do not write well. But this is something you can change. While all of us take CLE courses on substantive law, not many lawyers consider investing in a course to improve their writing skills. I think this is a big mistake. Just as trial lawyers take numerous courses on presentation skills, appellate advocates can and must take courses

Continued on page 4

to improve their writing skills. If you don't, you are missing an opportunity to put your best foot forward with the Court of Appeals. So where do you find a good writing course? I recommend any course offered by Professor George Gopen of Duke University. He has spoken at several University of Texas appellate seminars and at one State Bar of Texas annual meeting. He preaches the need to write for the reader, which is regrettably not how most of us write.

Brief-writing Do's and Don't's

A brief to the Fifth Circuit is composed of a number of distinct parts. I have not addressed all of them below, but I have included my thoughts about a number of the more important parts.

Statement Regarding Oral Argument. If you really think oral argument would be beneficial, take a little time to explain why. Judges often complain that this section of the brief is composed solely of boilerplate language, rather than any thoughtful discussion of the reason it would/would not be helpful.

Statement of the Issues. Don't waste this valuable opportunity to explain why you should win the case. Most people who open a brief will look at the issues as a signpost to the important issues discussed in the brief. Don't disappoint them by using language that tells them nothing - such as "Does the district court's decision on the admission of evidence constitute reversible error?" or "Did Judge Bubba err when he refused to allow John Doe to testify about the spare parts?"

Instead, frame the issue in a way that both educates and favors your client. You can only do this effectively by telling the court something about your case and establishing from the beginning the policies that favor your client - rather than your opponent. Some examples:

Whether notice to a supervisor with the authority to halt the harasser's conduct is properly imputed to the City.

Whether the City waived its argument that there is insufficient

evidence to prove an illegal custom under §1983 by conceding that a Code of Silence existed in the Houston Police Department.

The benefit of framing the issue in this way is that it shows the Court that you have thought through the issues and that there is a good reason you should win.

Statement of Facts. The statement of facts is the most critical part of most briefs. The statement of facts is your opportunity to tell a good story - your client's story. Of course, the story has to be the absolute truth. Of course, you have to tell the good and the bad. Of course, every statement has to be followed by a supporting record reference. But the reason I use the word story is to convey the importance of bringing the facts to life in the way that good storytellers do. Do you expect any reader to pay close attention to a dry and dull statement of the facts that is filled with legalisms? If you do, I have a bridge to sell you.

Remember - judges are people, too. Most of them truly want to do justice. The statement of facts is your one chance to show them that your client really is the good guy and should win the case. Tell his or her or its story.

Write the statement of facts first and be prepared to devote a great deal of time to the task. Don't use the statement of facts from some trial court brief. The section of the brief is too important for a cut and paste job.

One thing that jumps off the page of many bad statement of facts is the use of unnecessary legal terms - such as "plaintiff/appellant." Your client has a name - use it. Also do not use legal terms of art without explaining them. Remember that the purpose is to persuade the reader - not to show off your knowledge of obscure doctrines.

Another thing that jumps off the page of a bad statement of facts is that the whole story is not being told. Certainly you think your client should win, but using a sledgehammer is a counterproductive tactic. Statements like "There is no credible evidence to the contrary" or "The record is devoid of a scintilla of evidence that Smith had an anti-female bias" have no place

in a statement of facts. When viewed by an impartial judge, such statements send a bad message - that you are in no position to help them with the case. If you are not helping the Court, you are hurting your client's position.

Summary of the Argument. The summary of the argument is, as its name implies, most properly prepared after the rest of the brief is written. But this fact often leads to the summary of the argument being prepared in a hurry. Many lawyers may believe, as I did until recently, that this was not a crucial part of the brief.

Last summer, I heard Judge Parker state that the summary of the argument is the portion of the brief that he reads immediately before oral argument. It is the portion of the brief that he puts with the materials he carries on the bench with him during oral argument. After hearing those remarks, the summary of the argument took on a whole new importance in my briefs.

Standard of Review. I mention this section because I find that many advocates get it wrong. Recently, I heard an argument before the Supreme Court in which one of the lawyers stated the wrong standard of review. Chief Justice Rehnquist called him down several times for his error and, in my opinion, the lawyer lost substantial credibility. Don't miss an opportunity to correct the record if your opponent has misstated the standard of review. Your opponent may lose significant credibility if he or she cannot even state this part correctly.

Another tip: Don't limit your discussion of the standard of review to this section. If the standard of review helps you, use it in the argument section of your brief. It can be a powerful weapon.

Argument and Authorities. Apparently, some lawyers think that the case will be won by dropping a few case names or, even worse, a few string cites and leaving it at that. The key is not that you have cases in your favor - of course you do. But so does your opponent. The key is to explain how the case you cite - and the policies it embodies - helps your position. Give

Continued on page 5

the court reasons to see the case your way, rather than simply case names.

As an appellant, the most important thing is to hone down the number of arguments and put the best one first. There is no need to beat around the bush at this point.

As an appellee, the most important thing is not to let the appellant control the structure of your brief. Do not feel bound by the order in which the appellant discussed issues. You must put your best foot forward and that means putting your most important issue first - no matter how your opponent structured his brief.

Another way to improve your brief is to use lots of headings to signpost your arguments. Legal writing experts have preached for years that a judge should be able to understand your arguments after reading the headings in the table of contents. But even if the judge doesn't look at the table of contents, headings serve as signposts along the way that assist the reader. They are akin to saying "Here's the important stuff." The heading should not be simply "Election of Remedies" but should explain the point you are preparing to make - "The district court invaded the province of the jury by deciding that Smith's demotion did not constitute a constructive discharge" or "Because Smith was offered another executive position, Jones did not regard him as disabled, as a matter of law."

Finally, under no circumstances should you engage in personal attacks. They demean the writer that engages in them and cause him to lose credibility. I found the following description of a free-for-all amusing and amazing.

Finally, appellant contends that personal attacks made by plaintiff's counsel upon defendant's counsel prejudiced defendant's chance for a fair trial. The arguments appear in the record. They were, to say the least, quite bizarre and unusual. Nevertheless, neither side raised any objection below. There was no motion to caution the jury; there was no motion for a mistrial. It is apparent that this trial quickly degenerated, on both sides, into personal attacks upon opponents.

One side extensively disparaged the other and was besmirched in return. The trial judge would have been justified had she of her own motion brought out some strong bristles and vigorously used them. Both sides were vigorously playing "Lay on McDuff". The Judge must have thought that they were about evenly matched in ammunition and fire power, so she left them to their pleasure. A defendant cannot operate in that fashion below and thereafter take advantage of it when he becomes an appellant. It is to be doubted that he would now be able to see anything wrong if he had won. Of course, the verdict quickly healed the plaintiff's lumps, so he has no disposition to complain.

Nowell v. Dick, 413 F.2d 1204, 1212-13 (5th Cir. 1969).

Thoughts about Oral Argument

Common wisdom is that cases are lost, but not won, in oral argument. I used to believe this, but I have finally abandoned this belief because I have spoken to too many judges who tell me otherwise. Indeed, last summer I heard Judge Parker opine that his view on several cases had been changed during oral argument several weeks before his speech. Again, use the opportunity to put your best foot forward - it may change a judge's mind.

You can find out the members of the three-judge panel **the Monday of the week** before oral argument. Once you learn the members of the panel, you should research prior opinions by those judges.

Some Oral Argument Do's and Don't's:

• **Let Go of the Script.** Many lawyers go into an oral argument with a script. Many lawyers feel cheated when the judges' questioning takes them away from that script. This reaction shows a fundamental misunderstanding of the reason for oral argument. Questions are the very reason for oral argument. Rather than being upset by them, welcome them - and, most importantly, answer them.

- **Answer the Questions.** Too many advocates try to dodge the questions presented by the Court. While this might be a good idea for a politician (just stay on message, they are counseled), it is a bad idea for an appellate advocate. This is your only opportunity to address the concerns of the three people who will be deciding your case. Seize it and do your best to actually respond.
- **Mistakes not to Make.** Among the things you should never say at oral argument are the following: (1) I'll get to that in a minute; (2) I didn't try this case; (3) My associate wrote that portion of the brief; (4) But those are not the facts of this case; (5) No, your honor, that's not what your X case stands for. Amazingly enough, these rules are violated all the time.

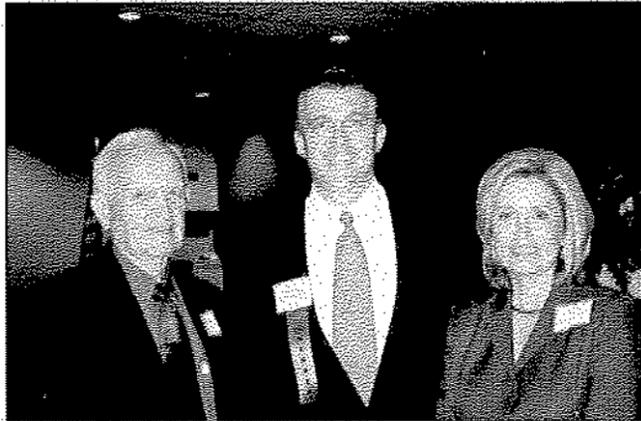
Something that you can say: I don't know, but I will find out and provide the information in a post-submission letter if that is acceptable. An oral argument is not the place to guess. If you don't know the answer, be candid enough to say so and offer to get the information. Sometimes an issue comes out of what seems to be left field and you have not prepared for it.

Kathy Butler is a graduate of Duke University (B.A. 1976) and University of Houston (J.D. 1981) where she served as law review editor. She clerked for two years for Fifth Circuit Judge Reynaldo Garza and practices employment and appellate law with Butler & Harris in Houston. Her recent Fifth Circuit victories include Sharp v. City of Houston, 164 F.3d 923 (5th Cir. 1999), E.E.O.C. v. R.J. Gallagher Company, 181 F.3d 645 (5th Cir. 1999), and Williamson v. City of Houston, 148 F.3d 462 (1998).

The *HCBA Newsletter* acknowledges with appreciation that the above article was reprinted from the *Fifth Circuit Civil News* with the cooperation of Maureen Blackburn Jennings, its Editor-in-Chief and the permission of JMR Publishing Company, Inc. The *News* is a monthly newspaper written and edited by federal litigators for federal litigators. Subscription information is available at: 1030 Milan Street, New Orleans, Louisiana 70115; 504-269-1099 (telephone); 504-269-8428 (fax); or Jennings@ca5new.com (e-mail).

An Evening Honoring the Judiciary

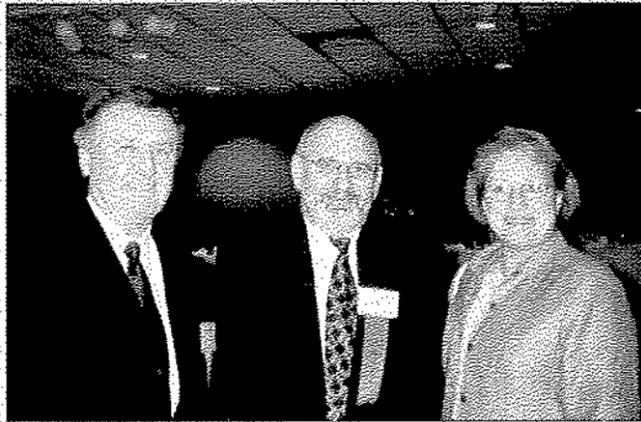
The seventh annual Evening Honoring the Judiciary, co-sponsored by the Hinds County Bar Association and the Jackson Young Lawyers, was Thursday, May 4, at Primos Northgate. Chaired by Robert Gibbs, this year's event was held in conjunction with the Mississippi Humanities Council and William Winter presented the Judge William C. Keady Lecture. The HCBA and the JYL wish to thank Trustmark National Bank for hosting the reception before the dinner.



H. M. Ray, HCBA President Harris Barnes and Sandra Barnes



JYL President Meade Mitchell, William Winter, Keady Lecturer, and Harris Barnes



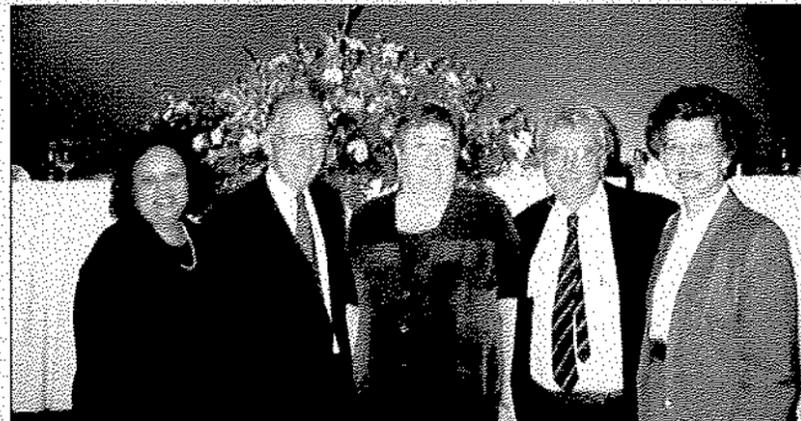
Judge Joe Lee, Judge Alfred Nicols and Mary Nicols



William Winter, Pamela Prather, Cory Wilson, Elise Winter, Justice Lenore Prather, and Mark Chinn, HCBA Past President



Pat Evans, HCBA Executive Director, and Melissa Williams, JYL Executive Director



Representing the Mississippi Humanities Council: Dr. Gemma Beckley, Chair; William Winter; Dr. Barbara Carpenter, Executive Director; Dr. Michael L. Harrington; and Carolyn Vance Smith

Are You Ready For Some Bastille Day!!!

by John Land McDavid

July 14th is approaching. I along with many of you are thinking about how we will celebrate Bastille Day. Women especially are wondering what they will wear. Some will go as Marianne of the People. Some will not because standing on a barricade bare-breasted wearing a red hat and waving the tricolor flag would be considered flashy even in the avant garde quarter of Belhaven. Only the French Revolution is symbolized by a bare-breasted maiden and a group of militant partisans called the *sans-culottes* (without breeches). However attired, I look forward to Bastille Day. Hal and Mal do not have a monopoly on national holidays. As I contemplate the celebration, while alternately humming and whistling the "Marseillaise", I wonder how much I know about Bastille Day, France's equivalent of the Fourth of July, and how it came to symbolize the beginning of the French Revolution when the Citizens overthrew King Louis XVI and his lovely and gracious wife, Marie Antoinette, and then proceeded to control prices, confiscate property and *guillotine* (behead) everyone in sight in the name of Liberty, Equality and Fraternity. A popular conception is that the Third Estate (the common people) tired of oppression by the monarchy rose up and stormed the infamous Bastille where hundreds of political prisoners were incarcerated and after fierce fighting took the Bastille, released the prisoners and then that night in a final act of rage, stone by stone, leveled the hated Bastille. According to Simon Schama in *Citizens, A Chronicle of the French Revolution* (Alfred A. Knopf, Inc., 1989), it did not happen exactly that way. The following is based on Shamas' account of the events which became known as Bastille Day.

In 1789 the Bastille was over 400 years old. It had been built as a fort to defend Paris from the English. At one time it had been a prison where numerous political prisoners were detained under *lettres de cachet* issued by the King. By 1789 the Bastille had become an eyesore. Plans were under way to tear it down and build a public

park. On July 14th it held only seven prisoners. The week before an eighth resident was Comte Donatien Alphonse Francois de Sade, also known as the *Maquis de Sade*, inspiration for the word "sadism". Of the seven prisoners in the Bastille on July 14th, four were convicted forgers, two were insane, one of whom thought he was Julius Caesar, and the seventh was a young nobleman, Comte de Solages, described as a "libertine" and an associate of de Sade whose parents had requested his incarceration.

About a week before July 14th, two hundred and fifty barrels of gunpowder were transferred from an arsenal in Paris to the Bastille. On July 13th, a crowd, estimated at 80,000, overwhelmed by sheer numbers and not by combat a military garrison in Paris and seized 30,000 muskets. The crowd had muskets but no gunpowder. Everyone in Paris knew a large store of gunpowder was in the Bastille at No. 232, *rue Saint-Antoine*.

So on the morning of July 14, 1789, a crowd of about 900 appeared before the outer walls of the Bastille and demanded the gunpowder. The commander of the Bastille, Bernard-Rene Delaunay, who had been born in the Bastille while his father was the commander, was having breakfast. He invited a delegation in to join him for breakfast and to discuss the matter. The crowd also requested the cannons on the ramparts be turned away so they could not be fired on the crowd. Delaunay told the delegation he could not deliver the gunpowder without authorization. Negotiations broke off while each side sought instructions.

By noon the crowd had become tired and frustrated. When they saw the cannons being moved on the ramparts the crowd thought they were going to be fired upon and become even more agitated. The cannons were being moved, but in response to the earlier request by the crowd. About this time one of the citizens cut the chain to the drawbridge leading to the inner court of the Bastille. When the drawbridge slammed down, the crowd thought it had been opened on command of Delaunay so they could come into the

inner court to discuss their demands. As they streamed through the gate, the soldiers believed the crowd was rushing toward them with hostile intentions. The soldiers began to yell for the crowd to go back or they would shoot. The crowd thought they were being called forward. At some point the troops fired. The crowd retreated and began a siege of the Bastille. About the middle of the afternoon a representative of the revolution arrived. He further demanded the Bastille be surrendered. Delaunay replied he did not have authority to do so. Later in the afternoon Delaunay had a white flag raised and attempted to negotiate a peaceful withdrawal. This the crowd would not accept. The Bastille had only a two day supply of food and one day supply of water. Delaunay, realizing he could not withstand a siege, at around 5:00 p.m. without any announcement opened the gates and surrendered the Bastille. The crowd streamed in and disarmed the soldiers. They released the seven prisoners. The four forgers were soon reincarcerated in another prison. The young libertine disappeared into the city to the regret of his relatives. One of the crowd, a pastry cook named Desnot, cut off Delaunay's head with a pocket knife. The crowd put Delaunay's head on a pole and marched through the streets of Paris to celebrate their victory. The Bastille was not torn down that night. It was demolished later in the year as a public works project employing several thousand paid workers.

How July 14th became Bastille Day is a "for the lack of a nail a kingdom is lost" story in reverse. If the gunpowder had not been moved to the Bastille, if the crowd had not obtained 30,000 muskets the day before, if a citizen had not cut the chain to the drawbridge, if the soldiers had not misunderstood the intention of the crowd or if the crowd had not misunderstood the shouts of the soldiers there might never have been a Bastille Day to be celebrated by France and by francophiles and equal opportunity partiers everywhere. *Vive le Bastille Day!*

Reuben V. Anderson Receives 2000 Professionalism Award

The second Hinds County Bar Association Professionalism Award was presented to Reuben V. Anderson during the annual Evening Honoring the Judiciary Dinner on May 4, 2000.

Professionalism was established two years ago as one of the principal themes of the Hinds County Bar Association, and at that time the Bar decided to present a Professionalism Award each year. Anderson received an individual award, and a permanent award listing his name as this year's winner is on display at The Mississippi Bar Center.

The Professionalism Award Selection Committee, chaired by John M. McCullouch, was composed of the four senior judges from the Federal, Circuit, Chancery and County Courts along with three attorneys.

The Professionalism Award is presented each year to the Hinds County Bar Association attorney who has:

Consistently demonstrated adherence to professional standards of practice, ethics, integrity, civility and courtesy; has encouraged respect for, and avoided abuse of, the law and its procedures, participants, and processes; has shown commitment to the practice as a learned profession, to the vigorous representation of clients, and to the attainment of the highest levels of knowledge and skill in the law; and has significantly contributed time and resources to public service.

In response to articles in the HCBA Newsletter and a personal letter from Harris Barnes to every member of the Association, the Selection Committee received numerous written nominations. McCullouch noted, "because of the selection criteria and the number of outstanding nominees, it was an extremely difficult task for the whole Committee. The Committee is grateful to those members of the Bar who submitted written nominations and who thus assisted the Committee in its endeavor."



Reuben V. Anderson (center) received the second Professionalism Award given by the Hinds County Bar Association. The announcement and presentation were made at the May 4 Evening Honoring the Judiciary Dinner. With Anderson is Harris H. Barnes, III, 1999-2000 HCBA President (left) and John M. McCullouch, Chairman of the Professionalism Award Committee and a Past HCBA President.

"The Committee chose Reuben Anderson because he best exemplifies those qualities described in the aforementioned criteria. Reuben has been so involved with the law, and involved with it in so many different ways. In everything he has ever done, he has done it with the highest of level of professionalism, courtesy and class," said McCullouch. "From the beginning of his law practice in 1967, to being a judge at almost every level of court in the state, to being in private practice again as a litigator and as an arbitrator and mediator, he has done it all. And, he has done it with the grace and dignity that we should all strive for."

A partner in the law firm of Phelps Dunbar, L.L.P., Anderson received his B.A. Degree from Tougaloo College and his J.D. Degree from the University of Mississippi School of Law in 1967.

His professional experience includes: Mississippi Associate Counsel, NAACP Legal Defense and Educational Fund, Inc., 1967-75; a partner with Anderson, Banks, Nichols & Stewart, 1968-77; Municipal Judge for the City of Jackson, 1975-77;

Court Court Judge for Hinds County, 1977-82; Circuit Court Judge for the 7th Circuit Court District, 1982-85; Mississippi Supreme Court Justice, 1985-90; and Jamie L. Whitten Chair of Law and Government at the University of Mississippi, Fall of 1995.

Anderson serves as a director of numerous companies, including BellSouth, Atlanta, GA; The Kroger Company, Cincinnati, OH; and Trustmark National Bank, Jackson, MS. He is a Trustee of the Ole Miss Alumni Association, Piney Woods Country Life School, Tougaloo College, the R. H. Green Foundation, Lauren Rogers Museum of Art and the Rhodes Scholarship Selection Committee for Mississippi.

He is a member of the American, The Mississippi (Past President), Magnolia, National, Hinds County, U.S. Fifth Circuit Court of Appeals and the U.S. Supreme Court Bar Associations.

The Hinds County Bar Association congratulates Reuben Anderson upon receiving the second annual Professionalism Award.

GOLF OUTING JUST FOR LAWYERS

(All Lawyers and Judges in Hinds, Rankin & Madison Counties are eligible.)

8th Annual



HINDS COUNTY BAR ASSOCIATION and
JACKSON YOUNG LAWYERS

GOLF
TOURNAMENT

Thursday, August 17, 2000

Shotgun Tee Off: 1:30 p.m.

Hamburger/Chicken Buffet 12:00 noon

Annandale Golf Course (Soft Spikes Required)

All proceeds from the tournament will go to the
MISSISSIPPI VOLUNTEER LAWYERS PROJECT

4 Person Scramble*

Limit 116 Persons

COST ONLY \$125 Per Player includes Lunch and Post-Tournament Cocktail Party

REGISTRATION FORM
DEADLINE, AUGUST 1, 2000

Name _____	Your Handicap _____	
Address _____	Team Members _____	Handicap _____
_____	_____	_____
_____	_____	_____
Phone _____	_____	_____

*Each competing "4" must have a combined handicap of at least 40 or more with only 1 member having a handicap of 10 or less.

Send registration and checks payable to: Hinds County Bar Association, c/o Debra Allen, 812 N. President Street, Jackson, MS 39202. For more information call, Debra at 353-0001.



Ouch!

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and the University of Mississippi Law Alumni Chapter*



Risk Retention Group

Freedom Of Information Act 101

by David L. Trewolla

The Freedom of Information Act (FOIA), which can be found in Title 5 of the United States Code, Section 552, was enacted in 1966 and provides that any person has the right to request access to federal agency records or information. All agencies of the United States government are required to disclose records upon receiving a written request for them, except for those records that are protected from disclosure by the nine exemptions and three exclusions of the FOIA. This right of access is enforceable in court. The federal FOIA does not provide access to records held by state or local government agencies, or by private businesses or individuals. All states have their own statutes governing public access to state and local records. A subsequent *HCBA Newsletter* article will discuss the enabling laws and procedures for obtaining records from Mississippi state and local government sources. Congress has amended the FOIA statute several times, most recently in 1996. The Electronic Freedom of Information Act Amendments of 1996 addressed electronic records, FOIA reading rooms, and agency backlogs of FOIA requests, among other procedural provisions.

There is no central office in the government which processes FOIA requests for all federal agencies. Each agency responds to requests for its own records and should have its own FOIA reference guide. For example, the Department of Justice FOIA Reference Guide found at www.usdoj.gov is designed to familiarize the reader with specific procedures for making a FOIA request to the Department of Justice. The process is neither complicated nor time consuming.

The formal rules for making FOIA requests to the Justice Department are set forth in Chapter 16 of Volume 28 of the Code of Federal Regulations. In most cases, the following information from the Department of Justice (DOJ) Reference Guide is typical of the basic information needed to file a request with any federal agency.

Access to Certain Records Without a FOIA Request

All agencies are currently in the process of making certain types of records, created by the agency on or after November 1, 1996, available electronically. Anyone with access to the World Wide Web will not need a formal FOIA request to obtain: (1) final opinions and orders made in adjudicating cases; (2) final statements of policy and interpretations which have not been published in the Federal Register; (3) administrative staff manuals and instructions to staff that affect a member of the public; (4) copies of records that have been the subject of a FOIA request and are of sufficient public interest that the agency believes other persons are likely to request them; and (5) the agency's annual FOIA report to Congress—which includes such information as the number of requests received by the agency, the amount of time taken to process requests, the total amount of fees collected by the agency, information regarding the backlog of pending requests, and other information about the agency's handling of FOIA requests. Records that were created prior to November 1, 1996 may be inspected in an agency's reading room.

Where to Make a FOIA Request

The subdivisions of the Justice Department are referred to as "components." Each component processes its own records. In most cases, the request should be sent to a component's central FOIA office. For records held by a field office of the Federal Bureau of Investigation (FBI) or a district office of the Immigration and Naturalization Service (INS), however, you must write directly to that FBI or INS office. On the other hand, all requests for records held by a United States Attorney's Office should be sent directly to the Executive Office for United States Attorneys in Washington, D.C.

How to Make a FOIA Request

A FOIA request can be made for any agency record. This does not mean, however, that the Justice Department will disclose any record sought. As noted above, there are statutory exemptions that authorize the withholding of information of a sensitive nature. When the Justice Department does withhold information, it ordinarily must specify which exemption of the FOIA permits the withholding. As a matter of policy, the Justice Department will consider making a discretionary disclosure of exempt information whenever possible. The FOIA does not require agencies to do research for the requester, to analyze data, to answer written questions, or to create records in order to respond to a request.

While no special form is required, requests must be in writing, either handwritten or typed. Requests may be submitted by fax. Most components of the Justice Department do not yet have the capability to accept FOIA requests submitted through the World Wide Web. In making a request, the requester should be as specific as possible with regard to names, dates, places, events and subjects.

Under certain circumstances, the requester may be entitled to receive more information under the Privacy Act of 1974 than under the FOIA. Under the FOIA anyone can request an agency's record. Privacy Act requests are more limited and can be made only (1) by U.S. citizens or aliens lawfully admitted for permanent U.S. residence, (2) who are seeking information about themselves, (3) which is in a system of records maintained under their names or other personal identifiers. Even if a request does not mention the Privacy Act, however, the Justice Department automatically treats requests as being made under both the FOIA and the Privacy Act whenever it is appropriate to do so. In this way, requesters receive the maximum amount of information available by law.

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Response Times

All federal agencies are required to respond to a FOIA request within twenty business days, excluding Saturdays, Sundays and legal holidays. This period does not begin until the request is actually received by the FOIA office of the component that maintains the records sought. An agency is not required to release documents by the last business day; it can send a letter informing the requester about its decision and then forward the documents within a reasonable time thereafter.

Some components of the Justice Department, such as the FBI and the DEA, receive thousands of requests each year. Many of these requests require a line-by-line review of thousands of pages of documents. Although the Justice Department is making every effort to respond to FOIA requests as promptly as possible, in some cases it simply cannot do so within the specified time period. In the past twenty years, the FBI has handled over 300,000 requests and over six million pages of FBI documents have been released to the public in paper format. Currently, an automated document processing system is under development that will allow documents to be released in electronic format. What is now known as the FOIPA Section of the Office of Public and Congressional Affairs has expanded from a small group of employees in 1975 to a staff of over 400.

The FBI's Electronic Reading Room, found at www.foia.fbi.gov/room, allows the researcher to view investigative file documents in the following categories: Espionage, Famous Persons, Gangster Era, Historical Interest, Unusual Phenomena, and Violent Crime. These documents were taken from the FOIA Reading Room at FBI Headquarters in Washington, D.C. In general terms, the FBI excises information to protect national security, personal privacy interests, the identity of confidential sources, and law enforcement techniques.

Expedited Processing

In an effort to treat all requesters

equitably, the Justice Department ordinarily will process a FOIA request ahead of others only in cases in which there will be a threat to someone's life or physical safety, or where an individual will suffer the loss of substantial due process rights if the records are not promptly processed. A request will not be expedited simply because the requester is facing a court deadline.

Fees and Fee Waivers

There is no initial fee to file a FOIA request and, in the majority of requests made to the Justice Department, no fees are ever charged. By law, an agency is entitled to charge certain fees, which depend on the category of requester. For fee purposes, the FOIA divides requesters into three categories. Commercial requesters may be charged fees for searching records, processing records and photocopying them. Educational or noncommercial scientific institutions and representatives of the news media are charged only for photocopying expenses after the first 100 pages of copies. Requesters who do not fall into either of these two categories are not charged for processing. They are charged only for record searches and photocopying, and there is no charge for the first two hours of search time or for the first 100 pages of photocopies. If the total fee does not exceed a minimum amount, currently \$14.00, the Justice Department will not charge a fee. If a requester does not inform the agency of his desire to limit fees, the Justice Department will assume that he is willing to pay fees of up to \$25.

Fee waivers are limited to situations in which a requester can show that the disclosure of the requested information is in the public interest because it (1) is likely to contribute significantly to public understanding of the operations and activities of the government, and (2) is not primarily in the commercial interest of the requester. Requests for fee waivers from individuals who are seeking records pertaining to themselves are usually denied under this standard.

Initial Request Determinations

Once an agency has processed a request and any fee issues have been resolved, the component will send the requester a written initial determination. In the vast majority of cases, Justice Department components will include any documents that can be disclosed along with the determination letter, although in exceptional cases the documents themselves may be sent within a reasonable time afterward. The FOIA provides access to all federal agency records (or portions of those records), except for those records that are withheld under any of nine exemptions or three exclusions. The determination letter will advise whether any information is being withheld pursuant to one or more of the exemptions.

The exemptions authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) certain types of information compiled for law enforcement purposes; (8) information relating to the supervision of financial institutions; and (9) geological information on wells. The three exclusions, which are rarely used, pertain to especially sensitive law enforcement and national security matters. Even if information may be withheld under the FOIA, the agency component may still disclose the information as a matter of administrative discretion if not prohibited by any law.

Appeals and Judicial Review

The requester may file an administrative appeal if he is not satisfied with the component's initial response. He may disagree with the

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component's withholding of information, or he may believe that there are additional records responsive to the request that the component failed to locate. The requester may also appeal if he has requested expedited processing or a fee waiver and the component has not granted the request. Ordinarily, an appeal must be received within sixty days of the date of the component's determination letter. This time may be extended if the component failed to notify the requester of the right to appeal in its determination letter. There is no specific form or

particular language needed to file an administrative appeal.

The Office of Information and Privacy is required to make a determination on an administrative appeal within twenty business days. The Office may affirm the component's action in full, or affirm part of the component's action (identifying the applicable exemptions), but order the release of other information previously withheld, or it may remand the request to the component for complete reprocessing. If a requester still believes that the Justice Department

has not handled a FOIA request in accordance with the law after an appeal has been decided, the requester may file a lawsuit in federal court seeking judicial review.

For further information about the FOIA, the Department of Justice website includes the following informative attachments: (1) list of FOIA contacts at all federal agencies; (2) description of Justice Department components and related information; (3) descriptions of major information systems; (4) copies of forms; and (5) description of recent FOIA litigation.

**Hinds County Bar Association
Budget 2000/2001**

Income		Budget	Expenses Continued		Budget
ANLIR		\$ 3,000	Grants		\$ 5,000
CLE		500	In-Town Travel		450
Grants (\$5,000 99/00)		5,000	Insurance		300
Interest Earned		3,500	Law Firm Survey		500
Law Firm Survey		1,000	Law Week Dinner		7,500
Law Week Dinner		5,500	Management Services		21,500
Membership Dues		69,000	Members Socials		4,500
Membership Luncheon Fees		3,500	Membership Luncheons		5,000
Miscellaneous		150	Miscellaneous		500
Newsletter Ads		2,500	Newsletter		14,000
Peoples Law School		500	PAIRS		720
Pictorial Directory		5,000	Peoples Law School		500
Tournament - Golf		14,000	Pictorial Directory		5,000
Total Income		\$113,150	Postage		9,000
			Printing & Supplies		5,500
			Social - Christmas		5,000
			Storage		300
			Telephone		1,200
			Tournament - Golf		10,500
			Tourn. - Golf Charitable Contrib.		3,500
			To Retained Earnings		1,030
			Total Expenses		\$113,150

Expenses Budget

ABA Conference & Dues	\$ 5,000
Board Luncheons	1,500
CLE	150
Committee Lunches	3,000
Computer/Website	2,000

Highway Eats by The Road Lawyer

Lately I've been on the road in the hill country of the northeast part of the state. I've had a couple of matters in Tippah County, home of Blue Mountain College where many of my female relatives were educated. The county seat is Ripley, of course, the location of the infamous First Monday outdoor flea market.

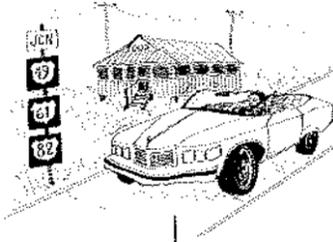
Before my business at the Tippah County Courthouse, I was told to expect to see whittlers sitting around the building, dropping wood shavings on the floor. I think that must be an old story, but I have experienced some local color on the Courthouse Square – farmers hawking their greens and other produce from the backs of pickups parked at the side of the Courthouse.

Renfrow's Café is a pleasant place to eat breakfast or lunch in Ripley on Main Street on the Square. They're open from 6:00 a.m. until 2:00 p.m. and serve a real old-fashioned breakfast with bacon strips, sausages, or ham slices, and homemade biscuits at a moderate price. Old timers enjoy sitting around the "serve yourself coffee pot," enjoying both food and conversation.

For lunch they have hamburgers and sandwiches and salads of various sorts. I like the plate lunch and can brag about the meatloaf I had recently. The lunch comes with a meat – chopped steak with gravy was another choice – and two vegetables (the cole slaw was exceptionally fine), roll (not homemade) or corn stick (homemade and good, not sweet) and tea or coffee for less than five bucks. On the walls of the dining room are interesting old photographs of Ripley's depot and town square and citizens in less complicated times.

Folks in New Albany brag that the best barbecue in the state can be found at Westside Bar-B-Que about two miles west of town on Highway 30 headed to Oxford. Lawyer Will Ford, who originally hails from Memphis, home of great barbecue, told me this. The parking lot at Westside is huge, and I saw a bus load of senior citizens the day I was there for lunch not long ago. Everyone was hypnotized by the selection of homemade cakes and pies. I counted about ten different varieties, including carrot, red velvet, and coconut, and there were three kinds of pie. The old guys and gals were depleting the dessert supply pretty quickly, so I stuck to the meat and potatoes and cole slaw offerings. The barbecue sauce was a tangy, vinegary one, and the tasty potato salad had lots of egg and just a little sweet pickle relish. A good, satisfying lunch, although I'm not sure I could go so far as to say it was the best in the state. I enjoyed the decorations – all manner of swinish curios – little ceramic and other pigs galore. No beer at this barbecue – not in New Albany. Westside is open Wednesday through Saturday. They don't serve ribs until after 3:30 in the afternoon.

Tupelo is really growing in every direction, especially out north. I think the town has a population of about 30,000, but someone told me the community draws from over a million shoppers in surrounding areas. Next to Metro Jackson, it is the best place in the state to shop. Tupelo has a fine Sam's Club and Wal-Mart Super Center, stores like Old Navy and Circuit City and Pier One, Home Depot, PetsMart, Lowe's, McRae's, Penney's, and mall shops that the ladies love, like Gap and Reed's, the revered local store selling quality clothing. I've seen a big fine Albertson's and a Kroger grocery store.



In the past few years, many new hotels have been built, most not far from the Barnes Crossing Mall, and a gaggle of franchise restaurants of all varieties have appeared serving everything from waffles to steaks to chicken to buffet Chinese. If you stay at the Courtyard Marriott on North Gloster Street, you have a choice of Outback Steakhouse on one side and Vanelli's on the other. In this

instances, I like the local place best.

The pizza at Vanelli's is unsurpassed. My favorite is the "house special" with double cheese and ten meat and vegetable toppings. It compares favorably with any I've had at the famous Chicago Pizzeria Uno/Duo and my beloved Pizza Joint Too in New York's Upper West.

Vanelli's menu has something for everyone, such as hamburgers and other sandwiches, steak, beef tenderloin cooked in marsala wine, blackened prime rib, teriyaki chicken, chicken cordon bleu, shrimp scampi, and all manner of pasta dishes – old timey selections like lasagna and chicken tetrazzini and ravioli, with some newer, lighter specialties, some vegetarian, as well.

Vanelli's, at 1302 North Gloster, is run by a Greek family, the Kapenekases. They could call their buffet offerings "Death by Pasta and Salad." I am talking artery-clogging rich and delicious. Spaghetti and lasagna and tetrazzini and manicotti and several kinds of pizza. Thank goodness for the red wine to cancel out some of that cholesterol-laden mozzarella cheese topping. Of course, the little skinny women customers were picking at delicious looking Greek salads made with low-cal feta cheese, but I had to have some pizza and lasagna. A fine salad bar with real lettuce and a variety of vegetables accompanies the pasta. Vanelli's does a big take-out business also.

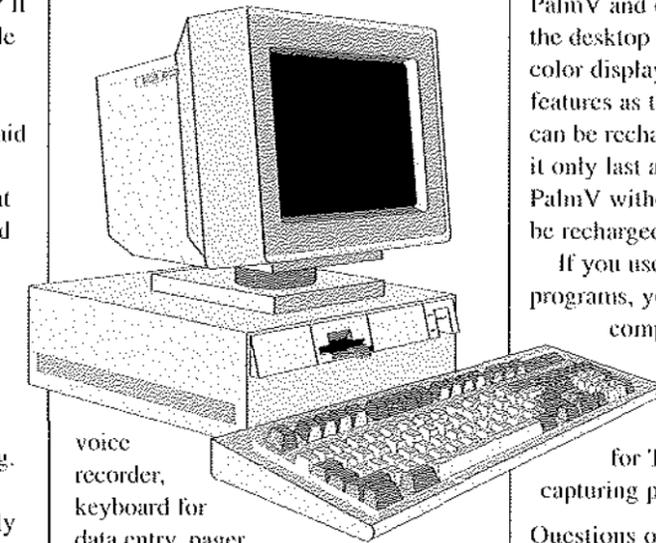
If you have legal matters at the Lee County Justice Center (on West Jefferson Street across from the historic Courthouse) in Tupelo and want a quick plate lunch to go, cross the back parking lot of the Justice Center, which is on North Spring Street, and try the Uptown Deli. The name "Uptown" must be someone's idea of a hilarious joke. But the food is as tasty as it is inexpensive, and there are a few little tables if you want to eat in very unfancy surroundings. You'll rub elbows with a great variety of Tupelo's citizens to get home cooked vegetables and meats off the buffet line. I load up on the pinto beans and turnip greens and field peas and baked chicken and great big cups of tea when I can.

On a trip to Pascagoula last month, I stopped at my regular lunch place, Seamarket Seafood at 5116 Gautier-Vance Road in Gautier. They serve meals Monday through Saturday from 9:30 a.m. to 7:00 p.m., and they start even earlier in the morning selling (uncooked) retail seafood, 8:00 a.m. I fill up my cooler with fresh flounder or speckled trout, shrimp, crab, and oysters, then eat a fried oyster and shrimp po-boy sandwich and drink a Coke. The sides include fried okra, onion rings, and mushrooms, and the usual french fries, cole slaw and baked beans. At this place, you can buy the seafood raw, steamed, or fried! And this is seafood at its freshest and best.

Let me hear from you about your recommended eating places. Write the Road Lawyer in care of the webmaster@hindsbar.com.

On Computing

by Joel Howell



voice recorder, keyboard for data entry, pager system, a universal VCR controller, and a modem.

A particularly helpful feature for compatibility on both the Palm and the Visor is an infrared port that lets users beam documents or programs at distances up to three feet. Both handhelds are sold with a cradle that the unit sits in to connect to your desktop computer by a USB (Universal Serial Bus) port or a serial cable. Data from the handheld is synchronized with data from the desktop computer using the HotSync Manger. It will also synchronize with both Windows and Macintosh computers.

Both the Palm and Visor units ship with "Palm Desktop" units, a suite of programs which include a calendar, address book, to-do list, memo pad, expense manager, and desktop e-mail connectivity, all of which were formerly part of the Claris organizer, which 3Com purchased a couple of years ago.

Data can be entered manually by using a stylus to write with the Graffiti handwriting style or a pop up keyboard, likewise using the stylus.

Additional software can be loaded into the PDA from your desktop computer. The early devices used AAA batteries, which lasted approximately a month, while the

What's the latest and the greatest? It may now be time for a PDA (portable digital assistant).

Not so long ago a toy, these computers can now be a significant aid to your practice. The biggest contributor has been the development of more robust operating systems and significantly greater memory. And, oh yes, the prices have come down. These devices can be particularly helpful in managing calendars, emails, "to do" lists, and to a more limited degree, handwriting recognition and document processing. The Windows CE system as well as that of the Apple Newton never really caught on, but the operating system (OS) devised by Palm is a significant advance. Law Technology News reports it has some eighty percent (80%) of the market, in part because it is first, not an attempt to replace desktop computers, second, it is not an attempt to interpret handwriting literally, but rather uses a script system known as "Graffiti".

Approximately five million PalmPilots had been sold by February of this year, with a million new units being sold every ten weeks. There is also a significant amount of software available and two very helpful websites (www.palmcentral.com and www.palmgear.com), where there is an abundance of freeware and shareware.

The principal players in this field are Palm, which actually bought the PalmPilot several years ago, and HandSpring, which was founded by the two people who designed the original PalmPilot and Palm OS. They recently left Palm, but have licensed the PalmOS, so that platform compatibility is not a problem.

The entry level units from Palm and HandSpring are in the range of \$200 for the Palm3x up to the top of the line PalmVII, which actually includes wireless email. For several hundred dollars more. Some of the nifty hardware add-ons include a GPS (Global Positioning System), a digital

PalmV and other can be recharged in the desktop cradle. The Palm3C has a color display and many of the same features as the PalmV. The Palm3C can be recharged like the PalmVX but it only last a couple of hours while the PalmV without color will not need to be recharged more than once a month.

If you use time and billing programs, you will doubtless find a compatible Palm version of the software, including TimeSlips, fambic software's time reporter for TimeSlips and others. Time capturing programs are also available.

Questions or comments? Drop me an email to webmaster@hindsbar.com. We'd also appreciate your experiences with PDAs for future reporting. We hope to expand and enhance the hindsbar.com website in the future and add significantly greater features.

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The Governor's Flag Commission: A Golden Opportunity

by Captain Equity

I was indeed pleased to see that Governor Musgrove has seemingly chosen to meet the Confederate Battle Flag issue head-on by promising to appoint a commission to review the design of the state flag and recommend a course of action. I use the term "seemingly" only because of the slippery nature of Mississippi politics in general and the recent track record of this Governor in particular. I only hope that the recent little executive-legislative shell game that was played over the appointment of a new Adjutant General for the Mississippi National Guard does not cast a negative, politics-as-usual, pall over the work of the Flag Commission. Governor Musgrove, our new smiling alternative to Dale Carnegie washout Kirk Fordice, appointed General Walker to be the next Adjutant General of the Guard. When his nomination failed to be confirmed by a 4 to 3 vote by a legislative committee, the Governor promptly appointed the good General to a new position within the Guard with a made-up-on-the-spot job title of something like Under-Executive-Assistant-To-Himself-As-Acting-Adjutant-General-But-Not-Really. And even as Batesville's second coming of Cliff Finch signed the order making the appointment, he sincerely, earnestly and solemnly stated: "As a former senator and Lieutenant Governor, I respect the legislative process." NOT! Never mind that the newly created position that never before existed prior to the legislative turn down just happened to come with the same very same duties, pay, office space, parking place - you name it. Don't you just love politics?

Assuming, however, that the Governor's Flag Commission is on the up and up, it is a courageous act by our affable Chief Executive and a golden opportunity for the State of Mississippi. For once and for all we can consign Mississippi's civil war history and its Confederate heritage to where it rightly and respectfully belongs - history books, museums and

national military parks and memorials like the ones that exist at Vicksburg and Shiloh. By doing this, we can free up the state flag to symbolize modern reality rather than a romanticized and checkered past on all sides of the issue. A redesigned flag can be used to unite differing attitudes and beliefs through a common ideal to which we can all aspire, namely, a united Mississippi populace without regard to race, religion, culture, heritage, etc.

What Should A New Flag Look Like?

We all know that the devil is in the details, but how about symbols on which all Mississippians can agree. My nominees would be fried shrimp, air conditioning and daylight savings time year round. Surely, there must be some non-controversial, Mississippi-specific common denominators out there. How about the low humidity levels in October, azaleas in April or even fire ant eradication? Of course, this presupposes we can come up with appropriate two-dimensional representations. Picture this: a snappy red, white and blue logo comprised of a window air conditioner pinning a fire ant between an azalea bush and a plate of popcorn shrimp? I mean, who can argue against that?

The specific symbols matter much less than the new attitudes a redesigned flag would seek to foster. In a nutshell, the new state flag should tell the rest of the country and the world that Neshoba County is about its unique August Outdoor House Party and the Silver Star Resort rather than an earthen dam from another time. It should tell the rest of the world that the Mississippi Gulf Coast is a world-class resort destination, not the former stronghold of the Dixie Mafia and its elected fellow travelers chronicled in the chilling non-fiction book, *Mississippi Mud*. Most of all, a new flag should inspire collective pride in its people rather than remind them of a past too often dominated by the mutually exclusive terms, "black" and "white".

Why Not Ditch The 1890 Constitution While We're At It?

Beyond a badly needed image makeover that could be made possible by a new flag, the potential genius of Governor Musgrove's Flag Commission is to make positive use of the old saying, "give 'em an inch and they'll take a mile." In that spirit, why not tack on a last minute rider that would give the Commission power to call a constitutional convention to replace the clunky, out-moded 1890 document we are repeatedly called upon to live down, ignore or circumvent. If we want a fresh start, let's go all the way.

Captain Equity's Modest Constitutional Suggestions

If any of this were to become reality, this column will have surely disqualified my chances for an appointment from the Governor. However, chances are pretty good that one or more of you lawyers could take my place on the Commission. For that reason, here are some modest proposals for a new constitution I hope you will adopt should you get a call from the Governor's Mansion.

1. Outlaw the phrase, "we ain't never done it like this before." Also ban the words "liberal" and "conservative".
2. In an effort to address problems of insular thinking and limited perspective, make it a constitutional requirement that everyone who has never crossed the Mississippi River, been to Memphis, driven through Hammond, Louisiana or set foot on Alabama soil be given a free plane ticket to any destination in the United States more than 750 miles from Jackson. The return trip would be not less than one year later, more for people who can't identify Tallulah, Louisiana on a map.
3. To encourage tolerance and respect for individuals and to address the

Continued on page 17

The Governor's Flag Commission: A Golden Opportunity...Continued from page 16

downside of religious, racial and cultural difference, all Southern Baptists would be required to have a Catholic or Jewish best friend and vice versa. All African-Americans would be required to have white relatives they really liked and vice versa, and so on.

4. All Mississippians would be required to spend a winter in Minot, North Dakota, drive a car in the Los Angeles morning commute and pay taxes in New York City to better appreciate our climate, traffic and tax burden.
5. Mandatory Italian and Vietnamese cooking lessons for Mississippians who eat purple hull peas, some form of fried meat and cobbler at least three times a week. Add California and Japanese cuisine if your idea of a vegetable plate is a triple helping of mashed potatoes and gravy

washed down by sweet tea. This is not to denigrate Southern cooking, but rather to present alternatives.

6. Annual community service would be required of all Mississippians, not just lawbreakers and college students.

Notwithstanding any and all of the foregoing constitutional requirements a new Mississippi First Amendment would guarantee the inalienable right to eat purple hull peas, fried meat, three helpings of mashed potatoes and gravy, and sweet tea until you get sick and tired of it or keel over with a coronary. Likewise, staying at home, especially to watch college football and hate the team of your choice, even an in-state rival, should remain a sacred privilege. The rule of reason teaches that even the concepts of innovative thinking and tolerance have their limits.

In sum, we would all be better off individually and collectively if we could raise our level of intellectual curiosity and lower our level of dependence on preconceived notions. At the same time, a personal refresher course on those uniquely American ideals of personal freedom, civic responsibility, tolerance and respect for others to the extent they apply to people who don't look, act, vote or think exactly as we do wouldn't be a bad idea. If the Governor's Flag Commission could help foster even the smallest kernel of such a new Mississippi attitude, it would be well worth the effort.

[Editor's Note: The viewpoints expressed in this column are solely those of Captain Equity and are not to be attributed to the Hinds County Bar Association, its officers and directors, or its editorial board.]

Decorating With Books

by Nonie Joiner

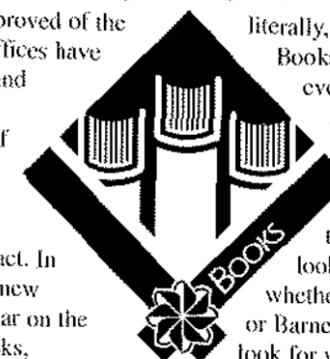
Like many book lovers, I have always disapproved of the use of books as decoration. Many homes and offices have built-in bookshelves housing sets of leather-bound books carefully selected to coordinate with the setting's Colors. One wouldn't want a rare set of Dickens in Tabasco if one of one's Colors is Muscadine. The bookshelves frequently have a different colored paint on the back wall, in a coordinating Color, in order to increase the impact. In some instances there are set after set of pristine new books, obviously never opened lest a crack appear on the spine. Others have an odd assortment of old books, apparently purchased by the yard, with titles like *Pharmacy in the Early Nineteenth Century* appearing next to *A Walking Tour of Crete* and *Letters and Sermons of a Practising Presbyterian*, all authored by unknown Victorians, but in pretty leather covers with gold lettering. Still other homes and offices contain collections of recent best sellers, with the Grishams lined up next to the Stephen Kings. I know of one woman who immediately removed and discarded book covers because she thought the books looked better on the shelves without them; the book covers were so bright and had all that writing on them.

In many cases, the shelves in front of the books are graced with an assortment of *objets d'art*, *bibelots*, in a word, doodads, to such an extent that it is obvious that the books need not be frequently accessed. The books serve in fact as a sort of permanent backdrop for the more important objects at the front, which, unlike the books, are supposed to express the owner's uniqueness and personality. Books are considered to be the ideal background for a collection of figurines of hedgehogs, or tiny baskets woven of dried strings of spaghetti, or whatever. Books have also been found to be ideal for providing a basis,

literally, for that ever important element in decor, height. Books are stacked and used as bases for lamps, statues, even, for goodness sakes, vases with water in them. I shudder whenever I see that.

I have never liked to see books used as objects, without any sense of love or respect for them, placing them on a par with hinges or tiles. I love books. I like to look at them. I like to look for them. I can spend hours in any bookstore, whether it's Lemuria or Square Books or Choctaw Books or Barnes and Noble or Books-a-Million. The first thing I look for when I travel to a new city is a used bookstore. I like first editions but I'm not really a collector. I will buy an interesting old book whatever its condition. I have virtually no standards in regard to books; my only disqualifier is mildew, and I'm not as strict as I should be about that. However, I can honestly say that I have never bought a book as an item of decor, nor considered its color as a factor in deciding whether to buy it.

However, thanks to West Publishing Company, I have become less judgmental in regard to the aesthetic value of books. My moment of truth came last year when West sent everyone a free set of the Code. It was maroon. I, too, have Colors; maroon is not one of them. The set of maroon books were displayed directly across from my desk; they looked bad. They began to grate upon my nerves. When the pocket part to the "green" edition of the Miss. Code finally arrived and I could dispose of the maroon books, I immediately felt better. I have gained a new respect and understanding of those whose books "go with" their bookshelves. I am more tolerant now, and I am grateful to West for that. If they ever come out with the Code in blue, I just might buy it.



Outstanding Service and Pro Bono Awards

At this year's Evening Honoring the Judiciary Dinner, HCBA President Harris Barnes (1999-2000), HCBA President Bob Grenfell (2000-2001), JYL President Meade Mitchell (1999-2000), and JYL President Steve Montagnet (2000-2001) presented their respective associations' awards for Outstanding Service and Pro Bono Contributions. Also, Judge James Graves was recognized with the Judicial Innovator Award.



HCBA Pro Bono Award Winner: Brooks Buchanan (center); Bob Grenfell (left) and Harris Barnes (right).



HCBA Outstanding Service Award Winners: Stuart Kruger (second from left) and John Proctor (second from right); Bob Grenfell and Harris Barnes.



JYL Award Winners: Pro Bono, Paul Hurst (second from left); Outstanding Service, Michael Malouf (second from right); Steve Montagnet (left) and Meade Mitchell (right).



Judicial Innovator Award Winner: Judge James Graves (third from left); pictured from left with Steve Montagnet; Harris Barnes; Meade Mitchell; Robert Gibbs, Chairman of the Evening Honoring the Judiciary; and Bob Grenfell.

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February Bar Exam Results

Bar Admissions Administrator Linda B. Knight has released the statistics for the February, 2000 Bar Examination.

Historically, fewer examinees sit for the February test and this year was no exception. Last July saw two hundred and sixty applicants taking the test; this February had only one hundred and twenty two. Of those, eighty-six (70.5%) were successful. Sixty-six (83.6%) of the seventy-nine were first-time-takers made the grade and only twenty (46.6%) of the forty-three retakers passed.

The overall pass rate for the past four examinations has been:

February 2000	- 70.5%
July 1999	- 78.1%
February 1999	- 64%
July 1998	- 80.3%

Four lawyers took the attorney's exam and each was successful.

The swearing-in ceremony was held on Tuesday, April 25th, in the Old Capitol House Chamber. The Hinds County Bar congratulates each of these new lawyers.



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Correspondence regarding the newsletter should be directed to: HCBA Newsletter Editor, 151 E. Griffith Street, Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 969-6097. The web site address is hindsbar.com.

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HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

OCTOBER 2000



President's Column by Robert C. Grenfell

The Golf Tournament Was A "Sizzling" Success

The annual Hinds County Bar Association ("HCBA") Golf Tournament was a tremendous success. This year's Tournament venue was Annandale, and golf chairman John Proctor (as well as his loyal committee) did another outstanding job. Although the final numbers are not in, it appears that there will be another hefty donation to the Mississippi Volunteer Lawyers Project ("MVL"). The MVL is a joint venture of the Mississippi Bar and Legal Services Coalition. The MVL's primary mission is to provide high quality pro bono legal assistance to individuals who meet federally mandated income and asset eligibility guidelines.

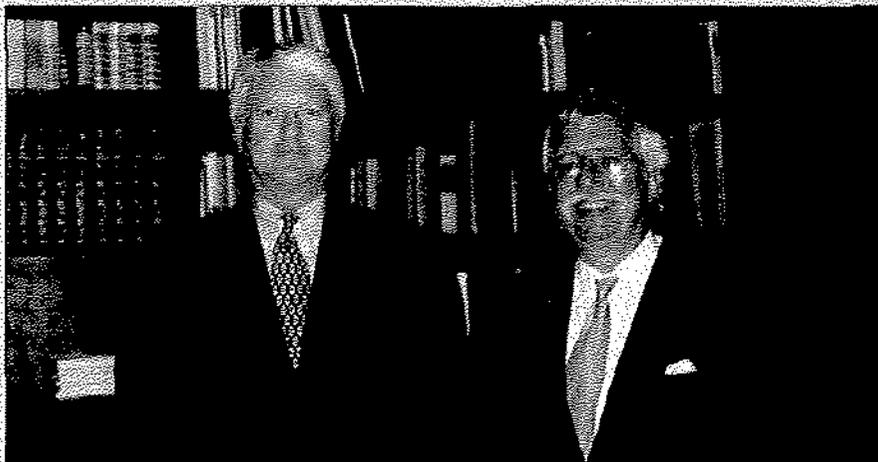
The official high temperature at the Tournament was 103°. Most of you who played will agree that it felt like 120°. The committee will attempt to move the tournament to May. If such a move isn't successful, then we will distribute salt pills and have intravenous solutions available.

Concerning other Bar matters, the Annual Judges' Appreciation Dinner has been moved from Primos Northgate to the Old Capitol Inn. This May event was moved after the Bench & Bar Relations Committee met with Mende Malouf and received a very attractive bid. Primos Northgate has always done an excellent job, but the Committee thought a change would be nice. Mike Malouf's Old Capitol Inn is certainly a first class operation.

It has been five years since the HCBA published a Membership Pictorial Directory, so we are scheduling to do this again in February 2001. Pictures will be taken at The Mississippi Bar Center. I encourage you to participate. The Pictorial Directory is a great resource that will let you put names and faces together.

As many of you know, the HCBA sent all the Jackson Metro area judges a copy of Harper Lee's *To Kill a Mockingbird*. The Bar has received many warm thank you notes in response. I hope to publish excerpts from some of those letters in the next Newsletter, so please stay tuned.

August Membership Meeting



At the August HCBA Membership Meeting, Alex Alston (right) presented a CLE Ethics program. He is pictured with Bob Grenfell, HCBA President.

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HCBA MEMBERSHIP MEETING

October 17, 2000

12:00 Noon

Capital Club

Lunch \$10.00

Speaker: Richard T. Bennett, President of The Mississippi Bar

HCBA Calendar of Events

October 17
HCBA Membership Meeting.
 Noon. Capital Club

October 19
HCBA Fall Social.
 5:30-7:00. Hal & Mal's Brewery

December 7
HCBA Christmas Social.
 5:30-7:00. The Mississippi Bar Center

February 5 - February 16
Pictorial Directory Pictures Taken.
 The Mississippi Bar Center

February 20
HCBA Membership Meeting.
 Noon. Capital Club

April 17
HCBA Membership Meeting.
 Noon. Capital Club

Member Notes


Mark A. Chinn
 of the firm of Chinn & Associates, PLLC has been elected Vice Chairman of the Lamar Order of the University of Mississippi Law School Alumni Association. This places him in line to become Chairman in 2001.


Charles F. E. Barbour
 formerly law clerk to Judge Neil B. Biggers, Jr., Chief Judge, U.S. District Court for the Northern District of Mississippi, is now associated with Bennett Lotterhos Sulser & Wilson, P.A.


Richard T. Bennett
 of the firm of Bennett Lotterhos Sulser & Wilson, P.A. has assumed the presidency of The Mississippi Bar.

CLE Calendar of Events

October 26
New Amendments to Federal Rules of Civil Procedure & Evidence. (ALI-ABA Video Law Review).
 MS College School of Law. 925-7173

November 2
Representing the E-Commerce Company (PLI).
 MC School of Law. 925-7173

November 9
Thirteenth Annual Workers' Compensation Practice & Procedures Seminar.
 MC School of Law. 925-7173

November 10
Fundamentals of Real Estate Closings in MS.
 Lorman Business Center. 715-833-3940

November 14
How to Build & Manage a Personal Injury Practice. (ABA CLE).
 MC School of Law. 925-7173

November 15
Board of Education's Role & Responsibility in MS Law.
 Lorman Business Center. 715-833-3940

November 16
Collection of Accounts Receivable in MS.
 Lorman Business Center. 715-833-3940

November 17
Technology in the Law Office.
 The Mississippi Bar Center. 948-4471

November 28
Individual Income Tax.
 MS Assn of Public Accountants.
 800-321-1276

November 30
Introduction to Workers' Compensation in MS.
 Lorman Business Center. 715-833-3940

December 5
Construction Contracting for Public Entities in MS.
 Lorman Business Center. 715-833-3940

December 7
Representing the Small Business. (PLI).
 MC School of Law. 925-7173

Nick Harkins President-Elect of DRI



P. N. "Nick" Harkins, III of Watkins & Eager PLLC in Jackson has been elected president-elect of the 22,000-member Defense Research

Institute, the nation's largest association of civil litigation defense lawyers.

With headquarters in Chicago, DRI offers its members the opportunity to participate in 26 substantive law and practice committees addressing a variety of defense law specialties. The committees also participate in producing 24 annual defense practice seminars throughout the country which are a principal source of education for the defense bar, attracting defense attorneys, insurance professionals, and corporate counsel. Many corporations sponsor meetings of their outside counsel in conjunction with DRI seminars. DRI also publishes the only national monthly magazine for defense practitioners, *For The Defense*. Each issue is comprised of in-depth feature

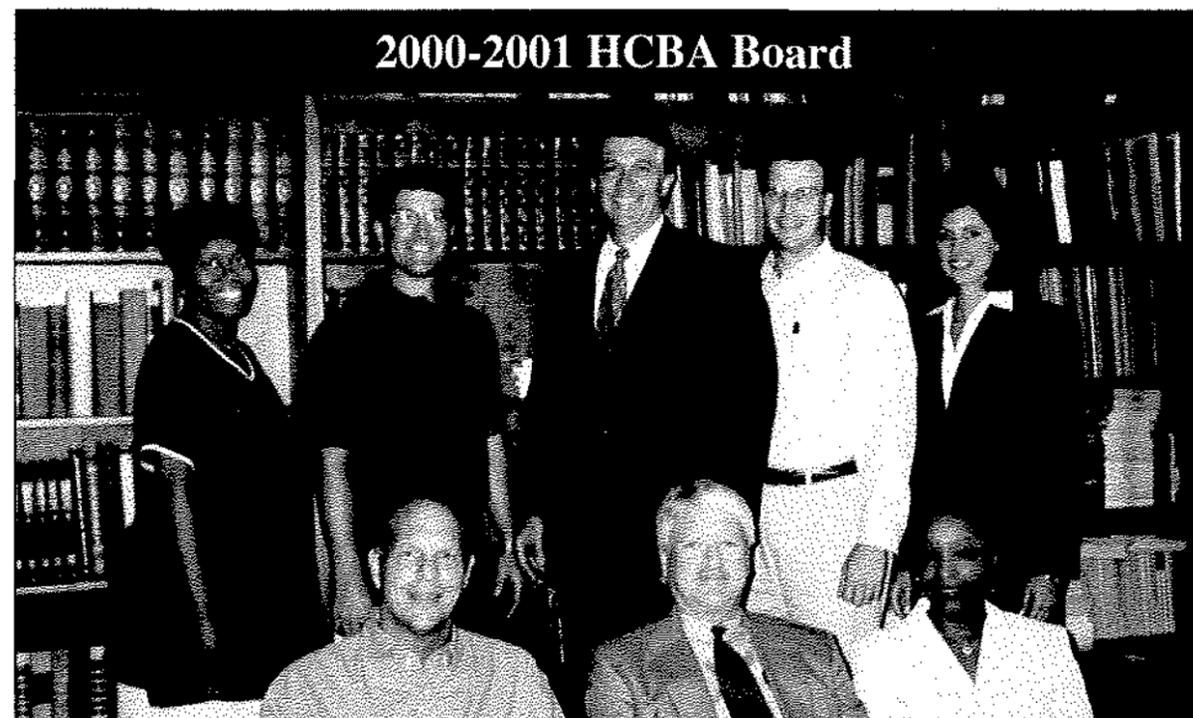
articles addressing current developments in the law and litigation practice, authored by defense lawyers and experts from across the country. DRI also has a liaison affiliation with the 66 state and local defense lawyer organizations throughout the United States.

Harkins specializes in defense of major products liability, toxic tort, and pharmaceutical and medical device litigation. He has written and lectured extensively in national publications and at local and national seminars on subjects related to his areas of practice. In addition to membership in the Hinds County Bar Association, Mississippi Bar Association, and Federal Bar Association, he is a former president of the Jackson Young Lawyers Association and the Mississippi Bar Foundation. He also is a member of the Board of Directors of Lawyers for Civil Justice, a Washington-based legislative coalition of national defense bar organizations, insurance companies and other corporations.

As a member by invitation of the International Association of Defense Counsel, he has been chair of its products liability committee and director of its 26th Annual Defense Counsel Trial Academy at the University of Colorado. He also is a member of the Local Rules Advisory Committee of the U.S. District Courts for the Northern and Southern Districts of Mississippi and he is a Fellow of the American College of Trial Lawyers.

Harkins earned a bachelor's degree from the University of Notre Dame, and his law degree from the University of Mississippi School of Law. He is a former president of the Advisory Board of Catholic Charities, Inc. of the Catholic Diocese of Jackson and a former member of the Advisory Board of St. Dominic-Jackson Memorial Hospital and Medical Services. He is currently a member of the Board of Directors of St. Joseph Catholic School and a member of the Board of Directors of St. Catherine Village, a subsidiary of St. Dominic Medical Services.

2000-2001 HCBA Board



Serving as Officers and Directors of the Hinds County Bar Association for 2000-2001 are: (seated) William R. Wright, Secretary-Treasurer; Robert C. Grenfell, President; Patricia W. Bennett, President-Elect; (standing) Leyser Morris-Hayes, Director; Stuart G. Kruger, Director; Harris H. Barnes, III, Past President; David F. Maron, Director; and Lynn P. Risley, Director. Not pictured are Runa Haque and O. Stephen Montagnet, III, Directors.

Steak and Kidney Pie and Mashed Spuds: The Road Lawyer Goes to London

This ole boy is not one to attend lawyer conventions. I mean, who in his right mind wants to take time off from lawyering at the office to spend hard-earned vacation days with lawyers talking about the law? But when my wife saw that brochure from the American Bar Association advertising that the Millennium meeting would encompass a week of sessions in London, she-who-must-be-obeyed had that credit card information faxed to Chicago to sign us up before I could say hold on there just a minute.

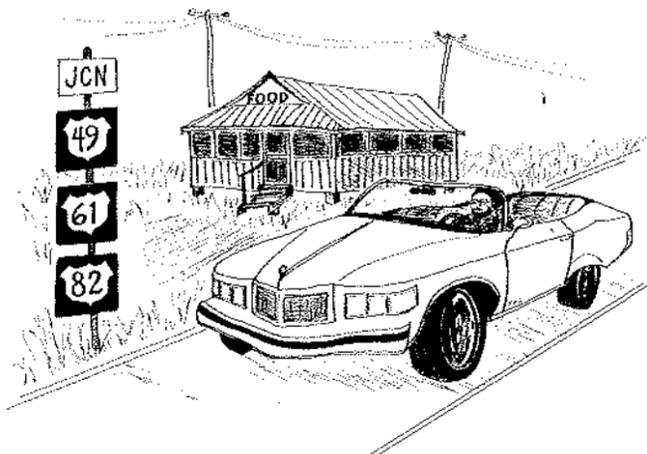
So in mid July we jetted off to London to rub shoulders with 7,000+ American lawyers and a zillion other tourists in the birthplace of our law. And I must admit, the wife was right, it was a grand place to go.

You could spot the lawyers, wherever you went, by the way. I didn't read this in the material anywhere, but apparently all U.S.A. attorneys have as the heart of their travel uniform a pair of khaki pants and a navy blue blazer. I noticed all the British businessmen wearing dark suits in the city, not sport coats or blazers.

Can you imagine July weather requiring a vacationer to wear a jacket? The weather was 50's, 60's and 70's, instead of the record heat at home, and with only a shower or two that lasted no more than a few minutes one afternoon.

We stayed in an apartment just off Trafalgar Square where Lord Nelson's monument marks the center of London, not too far from a jogging path around St. James's Park, a block north of the River Thames, and a short walk from the Charing Cross Tube station. ["Tube" is what they call what we would call the subway. What they call "subway" is the underground walkway to get from the street entrance to the "Tube," that is, the train itself.]

Our neighborhood pub was the Sherlock Holmes, complete with tiny (and silly) "museum." And it seemed that every third or fourth business establishment in London is an inviting pub or other species of watering hole. People understand courtesy and know how to behave, although the "moral laws" seem a bit looser. Queen Victoria



has obviously lost her grip, no doubt for the better.

Every pub that was doing any business at all in the evening had fifty or so happily loud patrons spilling out into the streets to stand with their pint-size glasses (not plastic cups) of beer. The crowds were altogether colorful and as well behaved as a couple of pints of beer will allow. Many customers had a beer in one hand and a cell phone in the other, although more than two or three seemed to have a beer in each hand. We noticed one intense young woman with a cell phone in each.

We rode the Tube everywhere that was too far to walk. The street traffic seemed always frantic and congested. Anyone depending on automobile transportation must be prepared not to be punctual or else to leave awfully early for an appointment.

Which brings to mind the Opening Assembly of the London Sessions. For this the ABA rented the Royal Albert Hall, the circular neoclassical music hall, for which Queen Victoria herself laid the cornerstone in 1867, and after which you could design a wedding cake.

The Right Honourable Tony Blair was the keynote speaker for the event, and he kept the crowd waiting about 45 minutes while delayed in traffic. Fortunately there was music to fill the interlude. The military brass and woodwind bands played all their repertoire of John Phillip Sousa marches and themes from American movies, and then the Royal Albert organist was summoned to show off the Hall's fantastic pipe organ, one of the world's largest.

Prime Minister Blair, an attorney himself, is a charismatic individual and a savvy politician, and he said all of the right things and said them well. You may have caught it on C-Span, if you weren't there with us. The whole ceremony was quite well done.

Afterward we momentarily gawked at the gaudily gilded monument to Prince Albert across the street in Kensington Gardens and walked to the Victoria and Albert Museum around the

corner that has seven miles of galleries housing mostly decorative arts, including, oddly, I thought, an entire room of Frank Lloyd Wright memorabilia.

Then my wife dragged me up Brompton Street to Harrods, Britain's most famous department store. I was surly when refusing to shop but must admit my wife knew what she was doing when she took me into the food halls. We stopped at the oyster bar for oysters on the half shell and champagne, which softened me for the occasion immensely, then had olives and anchovies and other little tasty things and Spanish Rioja wine at the tapas bar. By then I was in a humor to accompany her in oggling all the fresh meats, fish, pastries, confections, bread, fine wine, and other food offerings that were like nothing this country boy had ever seen.

My wife had gotten some highbrow ideas when the ABA brochures came pouring in before the meeting, and she signed us up for a black tie dinner at the Middle Temple Inn of Court with the American Bar Foundation. (She was not amused when I asked if I had to wear a tuxedo with the black tie.) It was an impressive affair, starting with wine and canapes in the garden overlooking the Thames on a sunny but cool late afternoon.

After that, the 250 or so guests filed into the Great Elizabeth Hall, a room that is 101 feet long and 41 feet wide and spanned by a double hammer beam roof said to be carved by the carpenters of Queen Elizabeth I from the oak of Windsor Forest. They say the Queen

Continued on page 5

Road Lawyer...Continued from page 4

herself ate many times in the Hall, and her formal portrait hangs above the head table. The Hall, begun in 1562, has remained unaltered until the present day, except for some damage in World War II which has been imperceptibly repaired.

The head table is made in one piece of three 29-foot oak planks floated down the Thames from Windsor and installed just before the Hall was completed. Benchers still dine at it as they did on the evening that Sir Francis Drake, just back from circumnavigating the world, came and was congratulated on his happy return. A cupboard was made from the wood of his ship and installed in the Hall. Another story is that William Shakespeare put on his newly completed *Twelfth Night* in the Hall at Christmas time in 1601.

Dinner was continental and exceptionally good considering the size of the crowd, served most properly by uniformed attendants. A salad of asparagus and wild mushrooms started the meal; there was no soup. The fish course featured supreme of John Dory. I asked the wait person what kind of fish John Dory was, and she replied she didn't know anything other than it was expensive. The meat course was sliced fillet of beef with potatoes and other vegetables. Dessert was a "gin and citrus syllabub" that was like lemony sorbet in a chocolate cup. All this required numerous pieces of cutlery at each side of the very handsome china, and white and red French wines were served in the appropriately shaped goblets. The meal ended with coffee and mints.

This was our only continental cuisine. Instead of trying some of the recommended "new" sophisticated British cuisine places like the River Café or The Ivy, we directed our finances toward the West End theatres and simply ate afterwards at neighborhood cafes that were open late for the theatre crowds. We saw a new and not very good musical, *The Witches of Eastwick*, a very British and very funny comedy, *Lady in the Van*, and a gripping drama, *Copenhagen*, which is also a hit on Broadway in New York.

We also attended a performance of Massenet's *Manon* by the Royal Ballet in the lavishly renovated Royal Opera House. That ballet was my wife's notion, not my idea of an evening's fun, but I was surprised at my high level of

appreciation. To be before the stage where Nureyev danced with Fonteyn and to see those famous red velvet curtains with the ERH in great gold letters was a thrill. The Opera House was a work of art in itself, including the modern addition where refreshments are served, and this Mississippi guy was awe struck and grateful that my wife has some culture.

I had always thought Covent Garden was a building with an open-air or skylighted conservatory with flowers in it, but that's wrong. It's a whole area of town that began as the fruit and vegetable garden of the abbey of King Henry VIII. The monks sold surplus produce to the local population, beginning its tradition as a market area. The property went into private ownership in 1552, but the market continued until 1974 when because of traffic and other problems the commercial market itself moved to new quarters on the south side of the Thames. The old Central Market Building of Covent Garden has been restored with boutique shops and restaurants. We looked for Eliza Doolittle but didn't see her among the various vendors and street entertainers.

Near Covent Garden, on a little street called Maiden Lane, is a restaurant touted by Americans who visit London. It is named Rules and is everyone's idea of what a British restaurant should be like. Very clubby and Edwardian in atmosphere with dark stained wood all about, exquisite linens on the table, and very polite waiters with long white aprons, it is a bastion of old British cuisine and ambiance. The menu features deer from Rules' Scottish estate, rabbit, and other British things like "mixed grill" and "pudding." With apologies to Runpole, I did not have the steak and kidney pie and mashed spuds, which was indeed on the menu. The food was excellent and we noticed English people dining there (holding their forks upside down) and not just tourists.

Our favorite food in London was the fish and chips we had at the North Sea Restaurant, a tiny, plain little place on Leigh Street over near the University of London, near Russell Square in Bloomsbury. We had fresh sardines and halibut and cod and real lemon sole, and it was all deliciously fresh and well prepared, either perfectly fried or grilled, with the best of chips (french fries) and

tartar sauce as good as the Mayflower's.

It was impossible to walk about London in middle of the day without seeing street vendors on nearly every other corner grilling onions and foot-long sausage dogs. The aroma was divine, and we stopped to have one for lunch on the South Bank of the Thames. We had visited the new Tate Modern Museum in its massive tan brick building which once housed a power station. It is a spectacular architectural achievement, and we read there were 3,000 visitors an hour this past summer. The permanent exhibits were somewhat jarring. The art pieces are arranged by subject matter and not by date or artist.

After the sausage dog and a beer, we went to an afternoon performance of Hamlet at the reconstructed Globe Theatre which is near the Tate Modern on the South Bank. Our tickets were for standing in the "yard" of the open-air theatre, so we didn't stay till the end. The audience was much more interactive than in the U.S., perhaps because of the intimate setting of the Globe. The actors, principally the Hamlet, would at times toss lines to the audience, and that was fun. So were the pigeons landing on the stage. We were allowed wine and snacks and ice cream to snack on during the performance.

One plus for the size of the ABA is that they are able to do things like rent the Tower of London - which they did for the last evening's reception. This is a huge place with a whole series of towers, and we thousands of Americans had it all to ourselves. We saw the spot where Ann Boleyn, Jane Scymour and others lost their heads, and there were the Beekeepers or "warders of the Tower" in their Tudor uniforms walking about and looking a lot like the retired folk who volunteer for such exhibitions as "The Palaces of St. Petersburg" in Jackson. We had wine and packaged sandwiches and were entertained by a marching band in red uniforms with fuzzy black hats and looking like Christmas ornaments. My wife checked out the Crown Jewels, which you must ride by on a "moving sidewalk" so you can't linger too long, and we soaked in some really historic atmosphere on our last night in London, sorry it was about to end.

Of yes, there were hundreds of meetings, excellently conducted on all manner of subjects in the law. But who wants to talk about meetings?

Shirley Jones Honored Upon Retirement

by Kellye Piro



This past May, Professor Shirley Norwood Jones retired from Mississippi College School of Law after teaching for more than twenty years. She had served as an instructor in the areas of real property, oil and gas, wills, estates and trust, and corporate law and legal drafting. She became an Associate Professor with the Law School in 1977 and was made Professor in 1978. She also served as an Associate Dean from 1988 to 1990. In 1991, she was awarded the Owen Cooper Endowed Chair, one of two endowed chairs at the Law School, a position she held until her retirement.

In 1952, Jones graduated from the University of Mississippi School of Law after serving as Casenote Editor for the Mississippi Law Journal. Then for twenty-five years, she engaged in the private practice of law and was a

partner with the following firms in Jackson: Watkins Edwards and Ludlam, Carter and Jones, Carter Greg and Jones, Green Green and Cheney, Green Cheney Jones and Hughes, and Green Cheney Jones McKibben and Stack.

Jones is a member of the Mississippi Bar, Hinds County Bar Association, and Mississippi Women Lawyers Association. She is a member and past president of the Mississippi Estate Planning Counsel of Mississippi. Since 1980 she has been a Fellow of the Mississippi Bar Foundation. Jones frequently serves as a guest lecturer and author in the areas of real property, foreclosure, oil and gas, and estate and trust law.

Recently, the law students, staff and faculty of Mississippi College School of Law honored Professor Jones with a retirement party. At the Law School's Awards Banquet this year she received the cherished awards of First Year Law Instructor of the Year, Outstanding Law Professor of the Law School,

and Distinguished Professor of Mississippi College.

I enjoyed the personal and professional relationship I developed with Professor Jones during my law school years, and this relationship has continued beyond graduation. She has served as a mentor to me, as to many other law students and practitioners. She certainly will be missed at the Law School for that role as well as for her academic excellence. She instills in those around her the desire to achieve and excel in their area of practice and to do so with honor and professionalism. The epitome of professionalism in our legal community, Professor Jones possesses a rare combination of grace, humility, strength and expertise.

I wish Professor Jones a wonderful retirement and pray that she will remain active in the local and state bar associations. And I hope to see her on the real property law seminar circuit soon!

Scott Welch President-Elect of ABOTA



W. Scott Welch III (Scotty) of Butler, Snow, O'Mara, Stevens & Camada, PLLC serves as National President-Elect of the American Board of Trial

Advocates (ABOTA), until January, 2001, when he will be inducted as National President at a Board of Directors Meeting in New Orleans. Scotty was first elected to the ABOTA Board of Directors in 1999. Beginning in 1999, he served as National Vice President, after having been elected by ABOTA's membership in 1998. He became President-elect in 2000 and will serve as President for the year 2001. Scotty also serves as a Trustee of the Foundation of ABOTA by virtue of his office.

ABOTA was formed in 1958 in California, and members work to preserve the right to jury trials in civil cases, foster the concept of "justice by the people" and participate in unique "Masters In Trial" programs to promote the art of advocacy. The more than 5,500 members from all 50 states are selected on an approximately equal basis from among plaintiffs' and defendants' civil trial lawyers and includes lawyers with substantial criminal trial practice in addition to their civil practice. Fewer than 1% of practicing attorneys in Mississippi and in the nation are invited to become members of ABOTA.

With active chapters in all 50 states, ABOTA is an "invitation only" association with strict standards for membership. The organization seeks attorneys who display skill, civility and integrity to serve as role models for younger attorneys and to educate the

public about the vital importance of trial by jury. ABOTA cultivates loyalty, fellowship and professionalism among its members and strives to achieve standing as an association with a balanced voice on matters of national, state and community interest.

Scotty is a former President of The Mississippi Bar and of the HCBA. Currently, he is active as State Delegate in the ABA House of Delegates, Nominating Committee Member and member of the ABA Standing Committee on Public Education. In addition to the Foundation of ABOTA, he is Fellow of the American College of Trial Lawyers, the American Bar Foundation and of the Mississippi Bar Foundation. Scotty is also a member of the International Association of Defense Counsel, Trucking Industry Defense Association, DRI, TIPS and Mississippi Defense Lawyers Association.

2000 HCBA/JYL Golf Tournament

There were a record number, 120, of participants in the 8th Annual Golf Tournament sponsored by the Hinds County Bar Association and the Jackson Young Lawyers. The event, chaired by John Proctor, was held August 17 at Annandale Golf Club. Serving as committee members were: Debra Allen, Harris Collier, Stuart Kruger, Ben Piazza, Jody Varner, Ken Miller, Bob Grenfell, Kenny Griffis, Keith Obert and Paul Miller. The proceeds from the tournament will go to the Mississippi Volunteer Lawyers Project.



The winning team: Denny McClellan, Stacy Wall, Ken Miller and Eric Hamer.



Mike Maloney, Jeff Jackson and Jay Jacobus.



Ben Piazza, Committee Member and Past HCBA President; Amy Woods with West Group; and John Proctor, Tournament Chairman.



Phyllis Thornton, Executive Director of the Mississippi Volunteer Lawyers Project; Debbie Allen, Committee Member; Tina Ginn with Trustmark; and Harris Collier, Committee Member and Past HCBA President.



Stuart Kruger, Committee and HCBA Board Member; Mark Chinn, HCBA Past President; and Ricky Luke.



Bob Grenfell, Committee Member and HCBA President; and Doug Levanway.

Freedom of Information Part II - Mississippi Nutshell

by David L. Trewolla

One of the intangible benefits from being a member of the *Hinds County Bar Newsletter* staff is that by writing articles, you actually learn about law that you never knew existed. Such is the case for me in researching those statutes which control our individual right of access to public records and meetings of public bodies. This article is a follow-up to my June 2000 article entitled "Freedom of Information Act 101," which provided a road map for obtaining record information from federal agencies. This article is a summary of the Mississippi law controlling individual access to public records.

The Mississippi statutes governing access to public records are found in Mississippi Code Annotated §§ 25-61-1 through 17 (1972), a chapter known as the "Mississippi Public Records Act of 1983." In short, it is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act, and automation of public records must not erode the right of access to those records (§§ 25-61-1 & 2).

With some exceptions, all public records are considered public property.

Any person has the right to inspect, copy or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body regarding cost, time, place and method of access. If the public body has not adopted such written procedures, the right of access shall be provided within one (1) working day after a written request for a public record is made. No public body may adopt procedures which would delay record production for more than fourteen (14) days from the date of request. Denial of a request must be made in writing and preserved on file for at least three (3) years from the denial date (§ 25-61-5). Further, each public body may establish and collect fees to reimburse it in advance for the actual cost of searching and producing copies of public records (§ 25-61-7).

Exceptions to the production mandate are (1) records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information (until notice to the third parties has been given); (2) trade secrets and confidential commercial and financial information of

a proprietary nature developed by a college or university under contract with a firm, business, partnership, corporation or other like entity; (3) data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret; and (4) any state or federal statute or court decision which declares a public record to be confidential, privileged or otherwise exempt from access (§§ 25-61-9 & 11).

Through official opinion and court interpretation, the Mississippi Supreme Court and Attorney General have specifically ruled that the following records are accessible by the public: drivers license records, municipal water/sewer accounts, gross salaries of state employees, and county poll records and voter registration lists.

To compel the right of access to public records, the Legislature has provided that an individual denied access may file suit in the chancery court of the county where the public body is located to determine whether a public record is exempt. Moreover, such proceedings shall take precedence on the court's docket and be expedited for hearing (§ 25-61-13).

For a thorough review of Mississippi public records and open meetings law, I highly recommend a new handbook entitled "Opening Closed Doors: A Guide to the Mississippi Public Records Act and Open Meetings Act." This 68-page handbook was compiled by Luther T. Munford, John P. Sneed and R. Hayes Johnson, Jr. of Phelps Dunbar, L.L.P., Jackson, MS, under a grant from the Mississippi Center for Freedom of Information. The publication discusses in detail the Public Records and Open Meetings Acts, cites additional Freedom of Information resources, and provides an appendices of forms and hypotheticals. The index itself is exhaustive. Additional information about this handbook may be obtained from the Department of Journalism, University of Mississippi 38677, telephone (662) 915-7146 or facsimile (662) 915-7765.



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2000-2001 HCBA Committee Chairmen



Serving as HCBA Committee Chairmen this year are: LaVerne Edney, *Black Lawyer Participation*; Steve Smith, *Small Firm Practice*; John Land McDavid, *Editor Newsletter/Editorial Board*; Doug Levanway, *Membership*; David Kaufman, *Bench and Bar*; and Stanley Smith, *Alternative Dispute Resolution*. Not pictured are: Anthony Simon, *Budget*; John Proctor, *Golf Tournament*; Leyser Morris-Hayes, *Peoples Law School*; Harris Barnes, *Professionalism Award*; Ann Corso, *Social*; and Alleen McLain, *Women in the Profession*.

Captain Equity's Psychic Forecast for Fall 2000

by Captain Equity

Crafting compelling columns like this one requires intense study, adherence to tested principles of journalism and years of seasoning as a professional writer. Unfortunately, I possess none of these credentials. However, in lieu of a journalism background and on-the-job-training at a big city newspaper, I can proudly admit to endless hours in the checkout line of the Jitney Jungle perusing the tabloids while waiting for the circa 1932 cash registers to finish printing out receipts for frustrated shoppers so far up the line from me that their faces are not even recognizable. Of the many secrets gleaned during these accumulated months, this is without doubt the most important: *A bold title is always preferable to a well researched and written article.* And when it comes to bold, nothing works better than a reference to the supernatural coupled with some sort of prediction no matter how preposterous. Never mind that some of the forecasts I will be making have already happened. Also ignore the fact that a significant amount of material to be covered has absolutely nothing to do with psychic predictions. With this said, I now feel confident that I can write for the Internet or any of the cable television business programs.

Actually, I have a semi-serious purpose here. Given that a national election looms just beyond the next page of your wall calendar, I thought it would be helpful to handicap some of the more interesting races along with some other ongoing adversarial proceedings that have been unfolding around the nation.

The Federal Government vs. The State of New Mexico

Captain Equity's Projected Winner: Overzealous Prosecutors, Bureaucratic Ineptitude and Gross Negligence By Federal Firebugs

First, the Department of Energy can't keep track of classified computer hard drives containing Nuclear Secrets, which later turn up behind the Coke machine. To cover this security breach, naturalized U. S. citizen and nuclear scientist Wen Ho Lee is accused by the FBI and Justice Department as being the Chinese equivalent of Benedict Arnold, the Rosenbergs and dare I say, the worst turncoat of all, at least in Oxford, Tommy Tuberville. He is charged with 59 felonies and held in solitary confinement for nine months without bail only to later reach a plea

agreement on one relatively minor charge. Attorney General Reno takes a page from Gilda Radner on Saturday Night Live with a belated, "Never mind." And for the finale, the U.S. Park Service ignores warnings and good judgment by setting a controlled fire, which effectively burns down Los Alamos, New Mexico. Just think how bad it could have been had the aggressor been one of our sworn enemies.

The King Edward Hotel vs. Mayor Harvey Johnson

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After besting Dale Danks and Kane Ditto during their multiple terms as Jackson's mayor, the abandoned downtown eyesore and health hazard continues to rein as the pigeon's choice despite organized resistance from the Mayor's surrogate Renovation Proposal of the Mouth Club. The latest knock out punch was delivered to the Telecommunication Conference Center Commission. Notwithstanding endless *Clarion Ledger* stories and editorials, the planned Xanadu Casino, the ill fated Retirement Hotel, etc., etc., et al., the Blighted Superstar of Downtown Jackson remains undefeated.

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Regardless of who wins the contest for the Fourth Congressional District Congress seat, chances are good to excellent that two years from now that person will face Third District Congressman Pickering assuming the latest census confirms a net loss of one member of Mississippi's Congressional delegation. None of this is lost on the immensely popular Third District Republican whom I suspect is laying away a campaign war chest to ensure against early forced retirement.

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Because this is being written prior to the Presidential debates, there could always be a surprise, but based on the campaign thus far, I don't think so. Thanks to The Kiss, Joe Lieberman, or who knows what, the candidate formerly known as Ozone Man is finally connecting with every category of voter with the exception of white males. He has opened up leads in key midwestern battleground states, has put Florida and Missouri in play and has all but wrapped up California. Add to that repeated Bush gaffs (the rat commercial, "being held hostile," mispronunciation of subliminal, etc.) along with flip flops between being a traditional Republican and a me too compassionate conservative New Republican read New Democrat. In a nutshell, it isn't working for the GOP yet again.

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HCBA member Tim Young, a young lawyer who does read, recommends *The Poisonwood Bible*, by Barbara Kingsolver. The fictional story of the family of a Baptist missionary from Georgia who goes to the Belgian Congo in 1959, it also covers the

Want the latest and the greatest? As this is being written, Windows Millennium edition (Windows Me) has just been released by Microsoft. What the product is not is the bridge between Windows 9x (95/98x/98SE) and Windows 2000. That product is still in development (under the code name of Whistler) but is not due until the end of next year and probably will take longer than that.

According to Microsoft, Windows Me was developed around four themes: digital media, home networking, the online experience, and PC health.

As regards the digital media theme, the OS includes Windows Media Player for listening to or viewing multimedia files, a digital home editing tool called Windows Movie Maker, which can even capture old analog tapes. The

Book Notes

by Nonie Joiner

complex political history of that country during the ensuing years, and is told through the voices of his wife and four daughters. An Amazon blurb from one of my favorite authors, Jane Smiley, describes the novel as "ambitious, successful and beautiful..."

As usual, lawyers in the state are busily writing their own books. Maybe that's why they're not reading. Among the more recent publications is a work by a member of the University of Mississippi Law Center faculty, Ron Rychlak. *Hitler, the War and the Pope* deals with the role of the Catholic Church, and specifically the role played by Pope Pius XII, in World War II. John O'Conner is the co-author.

Martin Hegwood of Canton, whose first novel was *Big Easy Backroad*, has published a successor, *The Green-Eyed Hurricane*. Both are set on the Mississippi Gulf Coast.

On Computing

by Joel Howell

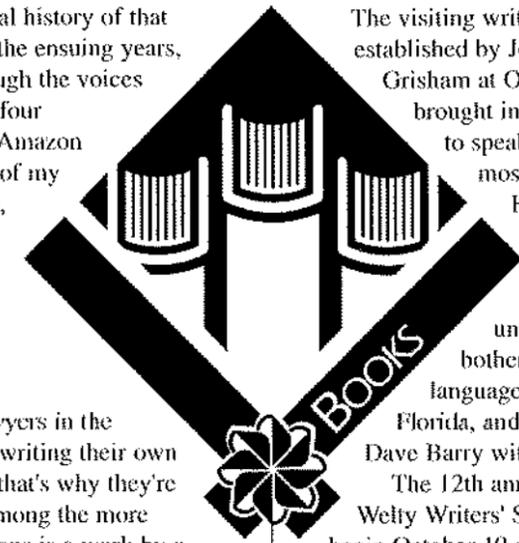
Media Player plays music, video and net radio, organizes clips on your PC, and allows a customization of the interface using preprogrammed "skins," which are available online.

The hardware requirements for optimal use of these features will be formidable. In short, you will need a newer, one of the very latest hardware releases with chip speed approaching 1000 MHZ to take full advantage of it. Microsoft recommends a Pentium 150 MHZ processor or better, 32 meg of RAM (realistically, look to 64 meg for multitasking and 128 meg or better for Office 2000 or graphics), and 300 meg of available hard drive space (the system won't use that much, but you need it for swap space for the installation.)

The PC health concept, on the other hand, will not have such daunting hard-

The visiting writers program established by John and Renee Grisham at Ole Miss has brought in some big names to speak on campus; the most recent was Carl Hiaasen. If you haven't read any of his works, do so, unless you're bothered by bad language. His setting is Florida, and his writing is Dave Barry with an edge.

The 12th annual Eudora Welty Writers' Symposium will begin October 19 and continue through October 21 at Mississippi University for Women. Among the scheduled speakers this year - the W has indeed come a long way - is Jill Conner Browne, whose new book, soon to be published, is titled *God Save The Sweet Potato Queens*. Ms. Browne is not a lawyer. However, we felt we should let you know about her book, since one of our members is a Mississippi Sweet Potato Queen.



Continued on page 12

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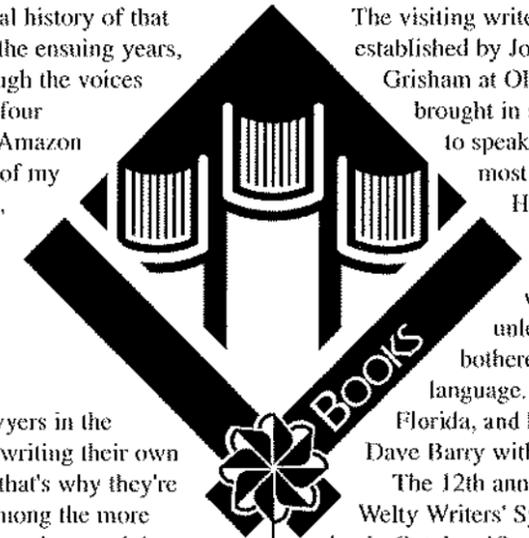
complex political history of that country during the ensuing years, and is told through the voices of his wife and four daughters. An Amazon blurb from one of my favorite authors, Jane Smiley, describes the novel as "ambitious, successful and beautiful..."

As usual, lawyers in the state are busily writing their own books. Maybe that's why they're not reading. Among the more recent publications is a work by a member of the University of Mississippi Law Center faculty, Ron Rychlak. *Hitler, the War and the Pope* deals with the role of the Catholic Church, and specifically the role played by Pope Pius XII, in World War II. John O'Conner is the co-author.

Martin Hegwood of Canton, whose first novel was *Big Easy Backroad*, has published a successor, *The Green-Eyed Hurricane*. Both are set on the Mississippi Gulf Coast.

The visiting writers program established by John and Renee Grisham at Ole Miss has brought in some big names to speak on campus; the most recent was Carl Hiaasen. If you haven't read any of his works, do so, unless you're bothered by bad language. His setting is Florida, and his writing is Dave Barry with an edge.

The 12th annual Eudora Welty Writers' Symposium will begin October 19 and continue through October 21 at Mississippi University for Women. Among the scheduled speakers this year - the W has indeed come a long way - is Jill Conner Browne, whose new book, soon to be published, is titled *God Save The Sweet Potato Queens*. Ms. Browne is not a lawyer. However, we felt we should let you know about her book, since one of our members is a Mississippi Sweet Potato Queen.



On Computing

by Joel Howell

Want the latest and the greatest? As this is being written, Windows Millennium edition (Windows Me) has just been released by Microsoft. What the product is not is the bridge between Windows 9x (95/98x/98SE) and Windows 2000. That product is still in development (under the code name of Whistler) but is not due until the end of next year and probably will take longer than that.

According to Microsoft, Windows Me was developed around four themes: digital media, home networking, the online experience, and PC health.

As regards the digital media theme, the OS includes Windows Media Player for listening to or viewing multimedia files, a digital home editing tool called Windows Movie Maker, which can even capture old analog tapes. The

Media Player plays music, video and net radio, organizes clips on your PC, and allows a customization of the interface using preprogrammed "skins," which are available online.

The hardware requirements for optimal use of these features will be formidable. In short, you will need a newer, one of the very latest hardware releases with chip speed approaching 1000 MHZ to take full advantage of it. Microsoft recommends a Pentium 150 MHZ processor or better, 32 meg of RAM (realistically, look to 64 meg for multitasking and 128 meg or better for Office 2000 or graphics), and 300 meg of available hard drive space (the system won't use that much, but you need it for swap space for the installation.)

The PC health concept, on the other hand, will not have such daunting hard-

ware requirements. It includes features such as Fast Boot, which does require optimized hardware, but will get you from boot to the desktop in 30 seconds or less. Another much desired feature is System File Protection (SFP), which will keep you from accidentally deleting or overwriting critical system files when you install new software. To do so, Microsoft has identified nearly 900 key files, particularly including those with .DLL or .INF extensions. A feature called Smart Menu will automatically display favorites while hiding items not regularly accessed. When new hardware is installed, Windows Me will check the driver to certify that it is appropriate and an updated help and support center will provide users with a centralized place to get answers

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to all of their questions. Another attractive feature will be the ability to deliver the latest fixes, drivers, updates, and enhancements directly to the desktop.

A feature of particular interest to many will be System Restore. This will allow Windows Me users, once they encounter problems, to go back to a point where the system was functioning properly. It does this by taking periodic snapshots of hard drive configurations as either determined by the user or by default, and allow complete restoration of the system to a point before the change occurred. It also makes automatic backups when a new suite such as Office 2000 is installed. This feature was previously available only in third party products, such as GoBack from Adaptec.

Web browsing is far more integrated into the system. The operating system comes bundled with Internet

Explorer version 5.5, which is available as a free download, but apparently does not function as smoothly with Windows 95 or 98x systems as it will Windows ME. Microsoft also touts it as the new model for help and support by integrating those functions within the operating systems. From the Help and Support Center, you can access self-help resources, which are regularly refreshed automatically on visits to the internet. If new customers require integrated support, they can automatically upload information from their systems directly to a Microsoft Support Professional. In addition, providing error message extensions and online assisted support also enhance system efficiency by taking users to specific web pages that have the most updated information.

The help menu on Windows ME also offers links with direct access to the manufacturer of the user's computer.

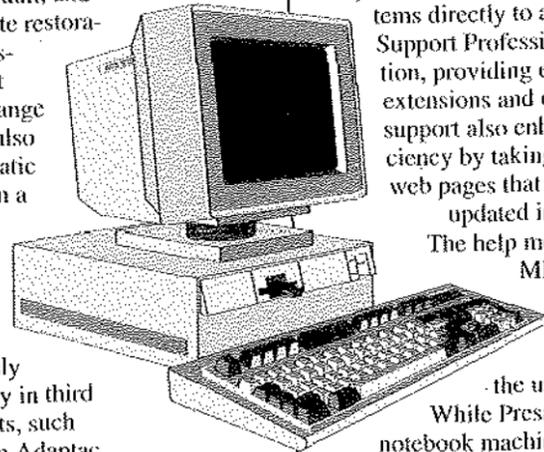
While Presario desktop and notebook machines have been accessing the Compaq Knowledge Center for some time, it will be an entirely new feature for other users,

which should make support far easier to access.

While some networking aspects have been present in Microsoft software since the later versions of Windows for Work Groups 3.11, this version of the operating system contains specific features expressly designed for home networking. Are you a multi-PC household? If so, the Home Networking Wizard will walk you through the process without your having to deal with IP addresses, among other things. Once effected, every user can share Internet access, software, and printers. 3Com is now shipping HomeConnect kits which provide the hardware and software to let you network multiple PCs via, among other things, existing telephone lines in the home.

For older systems, the Windows Media Player and Internet Explorer 5.5 are already available as free downloads from Microsoft. As to the ease of use features, including, for example, System Restore, third party software exist that will likely function more effectively with legacy systems.

Questions or comments? Send email to webmaster@hindsbar.com.



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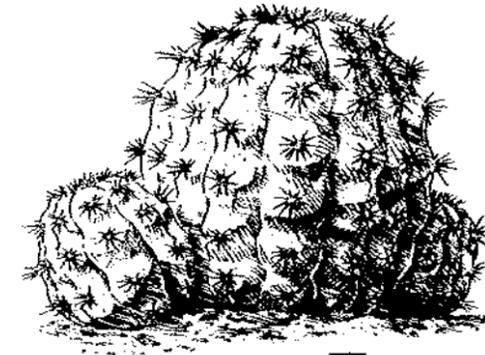
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Thursday, October 19, 2000

5:30 p.m. - 7:00 p.m.

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IMPORTANT
HCBA Membership Meeting
12:00 Noon, October 17