



# HINDS COUNTY BAR ASSOCIATION

## MAKING OUR CASE FOR A BETTER COMMUNITY

FEBRUARY 2004



### President's Column

by Stuart Kruger

In reviewing the statistics produced by the 2000 Census, I was surprised to learn that of the 184,256 Jackson residents, 18% live in poverty, and 24% of all families with children under 18 live in poverty. Sixteen percent of all households have an annual income under \$12,000, with 29% of all children in the Jackson Public School District living in poverty. One obvious conclusion to draw from these statistics is that a significant number of families cannot afford adequate housing.

Children are growing up in houses with no heat and no insulation, sharing two bedrooms with their parents and their four brothers and sisters, and looking through holes in the floor and seeing the ground below. Mothers come home from work to kitchens with no cabinets and appliances that do not work. Fathers come home from their jobs to the hopelessness of their inability to provide a decent home for their families. These conditions produce far-reaching implications. Children are more likely to drop out of high school and to have children while teenagers. They also perform at a lower level on both reading and math tests and have increased behavioral problems. Moreover, low levels of homeownership within neighborhoods have been correlated with high levels of social problems.

Enter Habitat for Humanity. Habitat was formed in 1986 for the purpose of building and selling decent, affordable housing at no profit and no interest for families who need better housing. Churches, businesses, and individuals donate money, material, and time to Habitat. Although Habitat provides skilled construction supervision, most labor is performed by volunteers and the families for whom the homes are built. The beneficiary families are required to invest 250 hours of labor on the worksite for single-parent families and 400 hours for two-parent families. They also must participate in budget counseling, attend homeowner training, and participate in other neighborhood and Habitat events.

The benefits of building a Habitat home reach far beyond the beneficiaries. The participants increase their involvement and visibility in the community and create

good will, fellowship, and unity among the volunteers. They also experience the satisfaction of making a tangible, life-changing difference in the lives of family members and providing stability and hope that extends into the next generation. The community also receives significant benefits from the efforts of Habitat Volunteers. Homeownership fosters dignity and pride, which encourages educational achievement, responsible citizenship, and community involvement. Unsafe and substandard housing is gradually eliminated. Property values improve, which revitalizes neighborhoods and reduces crime. Property returns to the tax rolls. All of these results provide inspiration and hope for others caught in the cycle of poverty.

Habitat has built homes for more than 270 families in the Metro area and is building at the rate of 25 or more homes each year. Midtown has been transformed into a good neighborhood by the presence of more than 170 of these Habitat homeowners. Habitat plans to repeat the Midtown model in several inner city neighborhoods near downtown Jackson. Construction has begun in Battlefield Park, Poindexter Park, Mid City (between Mill Street and Bailey Avenue) and continues in Midtown. Rebuilding and stabilizing these communities will strengthen the downtown area, benefiting all of us.

Since Habitat has had such great success and visibility in revitalizing neighborhoods, many people perceive that Habitat is sufficiently financed and adequately staffed with volunteers. This is not the case. While Habitat has been a phenomenal success story, additional resources and volunteers are always needed. Building a home takes approximately 1600 volunteer man-hours. With 31 homes targeted for 2004, roughly 50,000 man-hours are needed to reach that goal. At a cost of \$54,000 per home, Habitat needs \$1,674,000. For Habitat, every volunteer hour is vital, and every dollar is critical. To reclaim these areas, involvement by the corporate community in providing financial resources and volunteers is a must.

The cost of sponsoring the construction of a Habitat home in Jackson is \$32,000. Sponsorships may be shared by more than one firm or individual. Sponsors may organize volunteers and build the home in eight workdays (usually eight Saturdays), or they may choose to work together on one or two of those workdays. Habitat provides volunteers for the other days. Habitat's skilled construction staff instructs volunteers in their tasks. No

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### HCBA LUNCHEON MEETING

Tuesday, February 17, 2004 Capital Club 12:00 Noon \$12.00

Speaker: Chief Judge Henry T. Wingate,  
United States District Court, Southern District of Mississippi

## HCBA Calendar of Events

February 17, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

April 20, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

May 6, 2004  
**HCBA/JYL Evening Honoring the Judiciary.**  
 5:30 p.m. Old Capitol Inn

May 20, 2004  
**HCBA/JYL Golf Tournament.**  
 Noon. Annandale Golf Club

June 15, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

## CLE Calendar of Events

February 19, 2004  
**MS Nursing Law Update.**  
 NBI. 800-930-6182

February 19, 2004  
**Choice of Entity After the 2003 Tax Act.**  
 ALI-ABA Video Law Review.  
 800-627-6514

February 20, 2004  
**Discovery of Electronically Discovered Documents.**  
 MS Trial Lawyers Assn.  
 948-8631

February 24, 2004  
**Daily Procedures.**  
 Matrix Solutions, Inc.  
 992-6789

February 26, 2004  
**Auditing for Environmental & OSHA Compliance.**  
 Lorman Business Center.  
 715-833-3940

February 27, 2004  
**Guardian Ad Litem Training.**  
 MC School of Law.  
 925-7106

February 27, 2004  
**Advanced Writing & Editing for Lawyers.**  
 ALI-ABA Video Law Review.  
 800-627-6514

February 27, 2004  
**Probate Practice Fundamentals.**  
 UM-CLE. 662-915-7282

March 2, 2004  
**Mid-Month Procedures.**  
 Matrix Solutions, Inc. 992-6789

March 9, 2004  
**Ethics & Negligence Issues.**  
 Cannon Financial Institute.  
 706-353-3346

March 9, 2004  
**End-of-Month Procedures.**  
 Matrix Solutions, Inc. 992-6789

March 9, 2004  
**Powerful Evidence in MS Civil Litigation.**  
 NBI. 800-930-6182

March 16, 2004  
**Foreclosure & Repossession.**  
 Lorman Business Center.  
 715-833-3940

March 16, 2004  
**The Proactive Practice.**  
 Client Concepts, LLC.  
 615-385-9917

March 16, 2004  
**Time Matters Advanced.**  
 Matrix Solutions, Inc. 992-6789

March 18, 2004  
**Collection Law.**  
 Lorman Business Center.  
 715-833-3940

March 19, 2004  
**Summary of Recent MS Law.**  
 Abbott & Weems.  
 662-234-6956

March 20, 2004  
**Quickbooks Advanced.**  
 Matrix Solutions, Inc. 992-6789

March 23, 2004  
**Timeslips Advanced.**  
 Matrix Solutions, Inc. 992-6789

March 24, 2004  
**Discovery in MS Bad Faith Litigation.**  
 NBI. 800-930-6182

March 24, 2004  
**Jury Selection.**  
 Lorman Business Center.  
 715-833-3940

March 29, 2004  
**FDCPA Compliance for the MS Practitioner.**  
 NBI. 800-930-6182

April 6, 2004  
**Documenting Your Procedures.**  
 Matrix Solutions, Inc.  
 992-6789

April 7, 2004  
**Developing, Implementing, Analyzing, & Legal Issue.**  
 Lorman Business Center.  
 715-855-7079

April 13, 2004  
**How to Win Your Next Soft Tissue Injury Trial.**  
 NBI. 800-930-6182

April 14, 2004  
**MS Probate: Beyond the Basics.**  
 NBI. 800-930-6182

## Kafkaesque

by John Land McDavid

Over the years I occasionally came across the word "kafkaesque". From the context, I knew it meant a style of writing but had no idea as to the particular style. On each infrequent occasion I encountered the word, I did nothing. A couple of years ago I realized I had encountered "kafkaesque" several times in rapid succession. Thinking this was an omen, I decided to find out what it meant. My dictionary defined the term as "of, pertaining to, characteristic of, or resembling the literacy work of Franz Kafka." This told me nothing, except next time I need to buy a good dictionary. I went to the Eudora Welty and found it had one book by Kafka entitled *The Trial*. The title caught my attention for obvious reasons. I checked it out and after reading it, I knew the meaning of "kafkaesque". After learning the definition, I have not encountered it since in anything I have read. However, knowing there was a writer named Franz Kafka, who (like Faulkner and "Faulknerian") had his own personal adjective, resulted, through happenstance, in my encountering Kafka again in an unlikely way.

Last year Sylvia and I went on a Danube river cruise. As an extension, we stayed six days in Prague, which is a beautiful, old world city. It suffered little damage during World War II and was in a time freeze during the Cold War. As a result, I imagine Prague today to be similar to Paris in the 1920's.

We stayed at Hotel Mercure, owned by a French company, Accor Group, which also owns Sofitel and Novotel hotels, Red Roof Inns and Motel 6 motels. The hotel is a short distance from Old Town Square and Old Town Hall with its astronomical Apostles Clock in front which on the hour large crowds gather in sidewalk cafes and in the square as two windows open above the clock and statuettes of Christ and the Apostles move across making brief appearances at each window followed by the skeleton of Death tolling bells. The clock and clock tower were built in the 15th century.

While reading travel material after our arrival, I discovered Franz Kafka was born in Prague and a museum was maintained at his birthplace. Having invested several hours of my life learning about Kafka, I could not resist a pilgrimage to his birthplace. It was an impressive little museum which presented the highlights of Kafka's life. The entrance ticket was a copy of Kafka's signature.

So who was Franz Kafka? He was born on July 3, 1883 to an upper middle class Jewish family on the northwest side of Old Town Square near the baroque Church of St. Nicholas on the edge of the Jewish quarter of Prague.

Prague is in the province of Bohemia and, at the time of Kafka's birth, was a part of Austria-Hungary, also known as the Hapsburg Empire. The population of Prague, when Kafka lived there, was about ten percent German, which included the German speaking Jews. The remainder were Czechs of Slavic origin. Thus, Kafka was a minority within a minority, which it has been said contributed to his outlook as a writer.

When Kafka was growing up, Prague was the third largest city in the Hapsburg Empire. It was prosperous, sophisticated and exciting with an opera house, a ornate public bath house, electric street railways, restaurants with white table clothes on the tables and fine art on the walls, German-styled outdoor garden restaurants, coffee houses and art, intellectual and political clubs.

Growing up, Kafka attended the German (speaking) schools. After secondary school, Kafka enrolled at Charles University in the German division. The University since 1882 had been split in to a German University and a Czech University.

Kafka entered the Faculty of Law. On March 7, 1905, Kafka passed the second part of his doctoral of law examination on the subject of civics, commercial and bill-of-exchange law.

Kafka by the summer of 1905 had developed tuberculosis and spent part of the summer in a sanatorium. He had already begun to write before law school. One or more of his books were completed while he was a law student. On June 16, 1906, Kafka received his Doctor of Law degree. Some of the subjects he studied in his final year were general and Austrian public law, international law, political economics, Roman, canonical and German law. After graduation for a short time he practiced law and worked for the insurance company Assicurazioni Generali. On June 30, 1908, Kafka began employment at the Worker's Accident Insurance Company, the largest institution of its kind in the Hapsburg Empire, where he would work for approximately 12 years before taking disability retirement due to his tuberculosis. He rose to become secretary of the company. His duties included representing his company in matters before the court, drawing up statistics, keeping independent correspondence, processing workers' accident claims and much more.

He struggled with his illness on and off until he died on July 3, 1924. Although Kafka died at an early age, had he lived a normal life span he probably would have died in a German death camp during World War II as did three of



*Franz Kafka at 27 years of age*

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## Women's Program Set for March

The Women in the Profession Committee of the Hinds County Bar Association has joined with the Mississippi Women Lawyers Association to plan and host a luncheon program. The program will take place on March 3, 2004, at the Capital Club. Speakers will include Margaret Williams, Ginny Munford, and Joy Phillips, and the focus will be on methods of coping with conflicts between professional and personal life. A large turnout is expected, so interested parties should make reservations early. Information will be distributed shortly; check your mail for details.

Members of the HCBA Women in the Profession Committee are Virginia Gautier, Chairman, Tamara Cascio, Malissa Wilson, Shantel Dixon, Tamara Hart, Juliette Wilson, and Debra Brown. Debra Brown also serves as president of the Mississippi Women Lawyers Association, which has a current membership of about 115.

## Mississippi College Law Review to Publish History of the Jackson School of Law

Graduates of Jackson School of Law, the Mississippi College Law Review is looking for your anecdotes, photos, and memories for a history of the too-long ignored institution that continues to be a key contributor to our Bench and Bar. If you are interested in writing about your times at the Jackson School of Law, whether you were a student or teacher, or have materials related to the school, please contact David McCarty at [dnm1@usa.net](mailto:dnm1@usa.net) or 601.594.2477.

## Mike Moore Reflects

by Luke Dove

Mike Moore served almost 16 years as Attorney General of Mississippi. Mike's tenure as Attorney General was the longest in Mississippi history. Certainly, the office of Attorney General experienced many more changes and challenges in its role and responsibilities during Mike's tenure than at any other time.

When Mike was first elected Attorney General in 1988, there were 50 lawyers on the staff. Today more than 120 full-time lawyers are employed by the Attorney General's office. The increase is due in part to the fact that the legislature reduced the authority of agencies to hire outside counsel, and required the attorney general to retain assistants to represent most state agencies. However, the increase was also due to greatly expanded responsibilities and an ever increasing workload.

In 1988, the legislature also authorized the attorney general to investigate and prosecute criminal cases. After this legislation was enacted, the functions of the office were expanded to include investigation and prosecution of white collar crimes, public corruption cases, drug offenses, elderly abuse and crimes against children. Old civil rights cases were re-opened and investigated. The highest profile case resulted in the successful prosecution of Sam Bowers, former head of the KKK, for the murder of Vernon Dahmer.

A major focus of Mike's role and responsibility as Attorney General was related to "children's issues." Mike was the first Mississippi Attorney General to make the welfare of children a central priority. He also used his influence as Attorney General to promote the expansion of the number of Boys and Girls Clubs in Mississippi from 35 to 75. During his service, over 5,000 mentors were recruited and trained under the children's mentoring program. These mentors encourage and assist youth avoid the cycle of drugs, crime, school drop-out and jail. Mike's greatest sense

of pride and accomplishment is derived from the advances made on behalf of children's advocacy.

The most controversial aspect of Mike's career as Attorney General was certainly the famous tobacco litigation initiated by the State of Mississippi, and later joined or emulated by other states. The ultimate settlement resulted in an agreement by tobacco companies to pay Mississippi 4.1 billion (that's with a "b") dollars over 25 years. However, the very concept of this litigation was subject to intense criticism, not the least of which was a suit by the Governor to enjoin or terminate the litigation. Fortunately for Mississippi, the Governor was not successful.

Over 1.3 billion dollars has already been collected by Mississippi as part of the tobacco settlement. Part of this money has been used to fund a health care trust fund for citizens of Mississippi. The "Chips" program which provides health insurance for Mississippi children is funded by interest on the trust fund money.

The aspect of the tobacco litigation which received the most criticism was the award of attorney fees. These fees were enormous, ranging in the hundreds of millions of dollars. Mike Moore notes, however, that the lawyers agreed to advance all expenses for the state and agreed that any fees they recovered would be awarded by the court in addition to any recovery by the state, assuming the litigation was successful. Ultimately, the settlement agreement called for the appointment of a three person arbitration panels to award attorney fees.

Mike recently joined the Jackson office of Phelps, Dunbar as a partner. Although he ended his long career as Attorney General and began a new career in private practice, we expect we may see Mike in the public arena again.

## HCBA Board Recommends Bylaws Changes

With the assistance of the Bylaws Committee and its chairman, Bobby Higginbotham, the HCBA Board of Directors has proposed bylaws amendments to be presented to the membership at the upcoming April luncheon meeting. The proposed bylaw amendments are published on the HCBA website at [www.hindsbar.com](http://www.hindsbar.com), and a copy may be obtained from Pat Evans, Executive Director.

One proposed change is to open up membership in the HCBA to any lawyer in good standing of any state or federal bar who has an interest in the HCBA. The current bylaws limit membership to a Mississippi Bar member who lives in Hinds County, maintains an office for the practice of law in Hinds County, or has a substantial portion of his/her practice in Hinds County. In the opinion of the Board, the membership requirement should be as broad as possible to include not only those lawyers who live and/or practice in Hinds County but also those in Madison and Rankin or other Counties. One purpose of the new membership requirement would be to allow those members of the law faculty at Mississippi College (or other institutions or firms) who are not members of The Mississippi Bar to join the Association.

The proposed bylaws changes include an automatic granting of honorary membership (requiring no dues) to all state and federal judges with offices in Hinds, Madison, and Rankin Counties and also to the Dean of Mississippi College School of Law and the Dean of the University of Mississippi School of Law. Any state or federal judge outside of the three

named counties could apply for honorary membership.

Another change advised by the Board would allow special Board meetings to be held by telephone or electronic mail. The quorum for conducting business at Board meetings would be lowered from a majority of the ten Board members to four Board members.

A proposed amendment regarding vacancies on the Board of Directors would allow the Board (rather than the membership) to vote on a replacement Director when more than half of the Director's term has expired. Otherwise, a special election by the members would be held.

A proposed addition to the bylaws would limit the manner and scope of public statements which could be made by officers, directors, committee chairmen, or committee members by requiring Board approval of any statements made on behalf of the HCBA.

A number of minor changes have been recommended simply to update old references, such as changing "canons of professional ethics" to "the Mississippi Rules of Professional Conduct." Some committees would be eliminated as standing committees of the HCBA because the committees are no longer functioning.

According to Article VI(K), Section 8, of the bylaws, amendments require a two-thirds vote of the members present and voting at any regular meeting of the membership. The proposed amended bylaws will be presented for vote at the April luncheon meeting.

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experience is needed, and everyone can participate.

The HCBA, along with many of its members, has been involved with Habitat since the early years. In 1991, the HCBA became the first corporate sponsor for a Habitat home. In the early years of the Golf Tournament, the proceeds were donated to Habitat and used for building homes. Many law firms and individual lawyers have made major donations in sponsoring homes and have contributed time and resources to building homes. Several have built more than one home. Others have donated their time and professional expertise in assisting in property acquisition, home closings, and other related legal issues. Still others have provided leadership by serving on the Habitat Board.

As you can see, the opportunities for involvement with Habitat are significant. Join in the giving of hope for a new life for a deserving family and the reviving of a neighborhood. Strap on your nail apron, dust off your hammer, call 353-6060, and prepare yourself for a life-changing experience.

## Is This Any Way To Choose A Presidential Nominee?

by Captain Equity

I don't know about you, but I have been shaking my head in disbelief for the last year or so as I have watched the Democratic Presidential nominating process unfold. Assuming you are a Democrat, a fiscal conservative or just a beleaguered, manipulated taxpayer who has to foot the bill for every new federal pork barrel project that can be hidden in unread 2000 page bills with high sounding names like "The Homeland Security Act" or the "No Child Left Behind Act," you might want to consider an alternate direction for the country this coming November. With full understanding and appreciation that in many quarters of Mississippi and the Deep South (cable news TV's ubiquitous Red States), any notion of criticizing the Bush Administration for any reason is tantamount to blasphemy, I prefer to consider the facts rather than fall for the G.O.P. myth.

As the election approaches, we have a President of the United States who won office four years ago campaigning against out of control federal spending, nation building and the ethical lapses of the Clinton Presidency. By his own words, then Governor Bush sought to unite rather than divide the American people with a mixture of openness, inclusion, fiscal discipline and telling the truth no matter what, even when it was unpopular. Notwithstanding the horrific events of 9-11, we are the clueless military occupiers of a brand new Islamic colony in the Middle East, which is being rebuilt by the corporate cronies of the Administration. We are still looking for Osama Bin Laden while largely ignoring North Korea's very scary nuclear threat. We have a polarized country awash in red ink fresh from being cheated by big business and CPA's who traditionally get preferential treatment from Republicans. Despite this unassailable fact, the corporate criminals remain at large even as we have new administration proposals to occupy the moon for a trillion dollars and give marriage lessons for another billion. As more and more white-collar jobs are off loaded to India and Ireland, the President proposes legitimizing millions of illegal immigrants so they can take full advantage of our taxpayer financed social infrastructure for the price of cheap agricultural labor and low cost poultry processing. And speaking of the social safety net, millions of senior citizens have burned their AARP cards over the confusing Medicare Reform Act. Meanwhile, the Vice President is in court, from an undisclosed location of course, trying to keep energy policy deliberations with Enron's brain trust secret while the Attorney General seeks sweeping new domestic spy privileges in the omnipresent and sacred name of national security. Oh, and by the way, we still haven't gotten the bill for the 160,000-employee Homeland Security Department yet, a department that doesn't include the FBI or CIA but does feature a hopelessly confusing five-color scare scale. Can't wait for that bill! I imagine that we will have to elevate the nation's fiscal terror alert to Fire Engine Red when that baby hits the Treasury mailbox. Oh, did I mention much of

the world thinks we are fat, arrogant, smug and hypocritical and that the search for weapons of mass destruction that prompted the war is still coming up empty in Iraq. Otherwise things are pretty much okay.

Now before some of you pick up the phone to Big Haley to have the National Guard called out to escort me to Camp X-Ray, let me be the first to admit that I have gone out of my way to paint the Bush Administration with the most negative hue that the facts will allow. Why? Because, believe it or not, tens of millions of Americans who are otherwise loyal, patriotic non-communists and non-liberals view it this way. Who are they? Did I mention Democrats, true fiscal conservatives and beleaguered, manipulated taxpayers? A case in point is Senator Trent Lott who voted against the \$400 billion Medicare Reform Act in the name of fiscal responsibility. In any event, this gets me back to the reason I have been shaking my head for the last year or so. For those who would like to see a viable Democratic alternative to the President in November, there is little comfort. Much of this frustration goes to the obsolete, flawed and downright silly process the political parties use to choose their standard bearers, especially the Democrats in 2004. (Note: to all Republican true believers who are still reading this, you are about to get some company in rolling your eyes and muttering under your breath if you will just read on. Perhaps you can call in Kenneth Stokes to slap me while Jim Herring holds me down.)

### What's Wrong With Iowa and New Hampshire

For the past year, nine or ten Democrats have spent most of their waking hours raising money, shaking hands, making phone calls, debating each other and otherwise positioning themselves to get the Democratic nomination. This is fine if you have nothing better to do and crave face time on TV a la Al Sharpton. Otherwise, it is a real strain, especially if you are a U.S. Senator forced to compromise the trust of the people of your home state who elected you. Beyond that, the lion's share of time and resources are directed to two decidedly national non-bellweather states: Iowa and New Hampshire.

The farce starts with the Iowa Caucuses. Iowa has the population of Mississippi plus about 100,000. For the record, Iowa is 94% white and mostly rural. Out of slightly less than three million citizens in the Hawkeye State, there are 532,000 registered Democrats. Party officials consider the caucuses to be a howling success if 20% of that number shows up. While it is not essential to win Iowa, no candidate who has finished worse than third has gone on to the nomination.

Immediately after Iowa, it is on to New Hampshire, another state that has almost zero in common with the coveted Red States. New Hampshire is 96% white and mostly

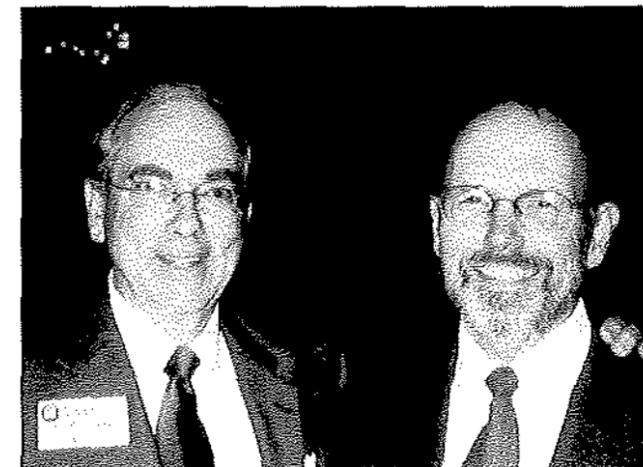
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## Christmas Social

HCBA members and guests enjoyed the Christmas Social at the Old Capitol Inn on December 4, 2003.



Jimmy Robertson, HCBA Editorial Board Member; Linda Thompson, HCBA President-Elect; Laura McKinley; William Wright, HCBA Past President.



MC Law School Dean James Rosenblatt; and Roger Clapp.



Mike Malonf; Richard Roberts, MS Bar President and Past HCBA President; and Fred Banks.



Barry Powell, HCBA Speaker Committee Chairman; Ben Piazza, Past HCBA President, and Robert Williamson.

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# Legal RESOURCES

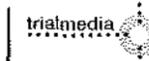
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## HCBA Professionalism Award

At the HCBA Dinner Honoring the Judiciary on May 6, 2004, the HCBA will present its sixth annual Professionalism Award. The recipient of the award will receive a plaque bearing his or her name, the year the award was presented, and the criteria for the award. In addition, the recipient's name will appear on a trophy on permanent display at the Mississippi Bar Center.

Nominations are being sought for this award. The recipient will be chosen by a selection committee comprised of the Senior Hinds County Chancery, Circuit and County Court Judges, the Senior United States District Court Judge from the Jackson Division, and three HCBA members.

The criteria for the award are that the nominated member must have consistently demonstrated adherence to professional standards of practice, ethics, integrity, civility and courtesy; have encouraged respect for, and avoided abuse of, the law and its procedures, participants, and processes; have 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 have significantly contributed time and resources to public service.

HCBA members are encouraged to submit the names and addresses of suitable candidates to William R. Wright, Chairman of the Professionalism Award Selection Committee, P.O. Box 5003, Jackson, MS 39296, or to Pat Evans, HCBA, 151 E. Griffith St., Jackson, MS 39201. A brief statement as to why the nominee is deserving of the award may be included with the submission of his or her name. *A deadline of March 8, 2004, has been set for receipt of nominations.*

## A Pearl from the Southern Reporter

Justice George H. Ethridge served on the Supreme Court of Mississippi from 1917 until 1941. A native of Kemper County, Justice Ethridge was a powerful personality in his times. Justice Ethridge was "unreconstructed" by the norms of today, but he was ahead of his times on others fronts. He had a vision of the constitution that would not have found favor in the era of the "Rehnquistion."

In *Crippen v. Mint Sales Co.*, 139 Miss. 87, 105, 103 So. 2d 503, 505-06 (1925), Justice Ethridge discussed jurisdictional concerns and then penned a passage that is widely quoted and cited at least once every four years, as a new Legislature takes its seat. We present that passage:

"Independent of jurisdiction it 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 statesmen 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."

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rural. Based on the results in these two states, the cable news pundits too often tend to move too quickly to anoint the likely nominee. Afraid of missing out on the action or losing a Cabinet appointment, candidates start dropping like flies as the money starts flowing to those who have captured the hearts and minds of 100,000 Iowans and a plurality of Granite State voters. Momentum takes over and before you know it, the nomination is wrapped up before most of the rest of the country can be heard.

So what is wrong with all this? Consider just three facts:

- (1) Since 1964 all successful Presidential Candidates have come from the Deep South or California. President Ford from Michigan is the only exception but then he never had to stand for election having succeeded Richard Nixon after Watergate.
- (2) Since 1968 the Iowa-New Hampshire success formula has given the Democrats the following failed nominees: Hubert Humphrey (Minnesota); George McGovern (South Dakota); Walter Mondale (Minnesota); Michael Dukakis (Massachusetts) and Al Gore (Tennessee). Gore was the only Southern nominee to lose even though he carried the popular vote. Had he carried his home state or had Ralph Nader not run he would be President today.
- (3) The population of metro Atlanta, Georgia nearly equals the combined population of Iowa and New

Hampshire. Do you see a pattern? By this calculus, only Senator John Edwards has a chance to win in November. The Democrats are fooling themselves yet again if they think otherwise, but this probably won't stop them.

### Captain Equity's Five Point Nomination Reform Plan

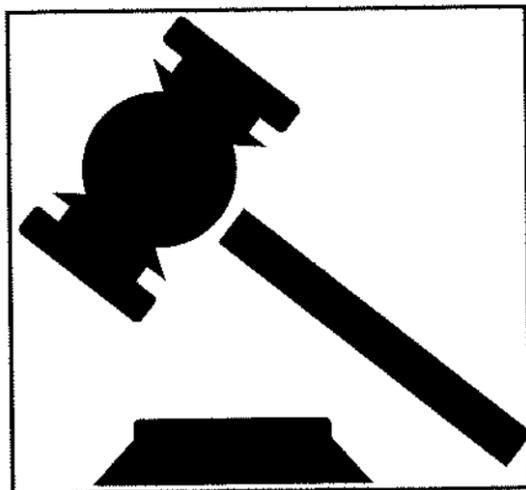
With apologies to Police Chief Moore, here is my Five Point Plan to rectify the flawed Presidential nominating process. This would apply to both parties, except for Point 5, which is Democratic specific in any Presidential election for at least the next sixteen years:

- (1) Substitute Mississippi for Iowa
- (2) Substitute Texas for New Hampshire
- (3) Impose upon everyone a strict 90-day limit to seek the nomination. This would give us all more time to watch Average Joe, Joe Millionaire and My Big Fat, Obnoxious Fiancé Reruns.
- (4) Enforce a strict Southern residency requirement for any potential nominee.
- (5) If the Democrats are really serious about giving the Bush Administration a run for its money, nominate Arkansan/transplanted Southern New York State Senator Hillary Rodham Clinton this summer and then sit back and watch the fun!

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## Highway Eats

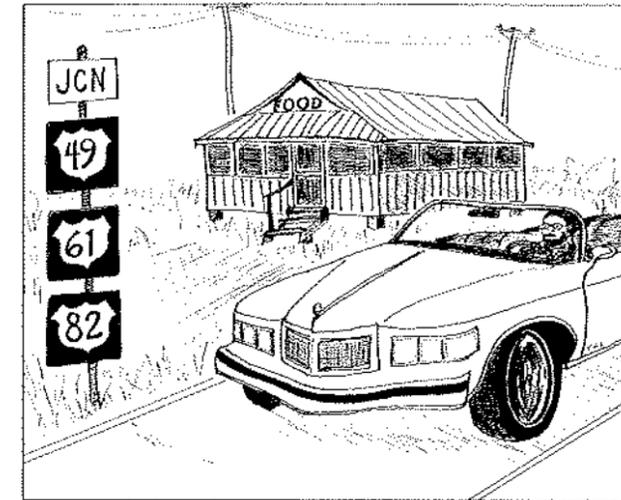
by The Road Lawyer

The Gulf Coast is one of my favorite destinations for business because the eating is so good. All that seafood — places to have it prepared while I'm there and a cooler full of the freshest possible to bring home and cook.

There's nothing like looking that fish in the eyeball (to see if it's clear, i.e., fresh) in order to pick one for grilling on the bone for the most flavor. In Gulfport, I really prefer Boat Fresh Seafood. It's in the Port — on the road that runs south from Highway 90, between the Copa and the Grand Casinos. If it's closed (Tuesday), I'll go to Big Daddy's, another good place, farther south on the same road as Boat Fresh. You can get great fish (redfish, recently), shucked oysters, shrimp, and gumbo crabs. Big Daddy's boils up some fine crawfish, too, steaming and ready to take home.

One of the best restaurants to grace the Coast in recent years is the 27th Ave. Bistro in downtown Gulfport, on 27th Avenue between 13th and 14th Streets. It occupies the ground floor of a handsome, ornately decorated, circa 1903 building, and it is a sophisticated place. The walls are painted warm gold, the floors are polished wood, and the bistro table tops are clad with shining copper. Brass buckets hanging on imposing cypress pillars serve as chillers for white wine. The elegant flowers are real, and the professional wait person will ask you whether you would like sparkling or still water as she or he hands you a printed menu tucked into leather backing. Is this Gulfport?

The menu is smartly limited, varying from day to day. At a recent lunch I considered the seared salmon and amberjack offerings, pondered a good while over the meatloaf and grits, but chose a first course of marvelous fresh tomato soup (no cream) and a second course of mushroom and cheddar cheese omelet. Over the bar counter, I watched the chef at the grill preparing the eggs and spooning up the



All this ambience is not free. The above described meal — with plain tap water and ice — took care of an entire twenty-dollar bill. But it was a delicious repast. And the unrushed atmosphere is great for a business lunch requiring long conversation.

In a far different part of the state, in Laurel, I have finally found a lunch spot to my liking. Turn about 180 degrees from the bistro and seafood scene and think about barbecue pork and chicken in a small lunchroom decorated with hunting scenes imprinted on paneling and rolls of paper towels on the tables. To get there drive west from the Jones County Courthouse in Laurel on Highway 84 (or whatever it's called in town) to a manufactured metal building the color of a fire engine located on the north side of the street just across from McRae's in the shopping mall.

The smoked chicken was excellent, and the cole slaw was to my liking, not too sweet. Good iced tea and a choice of homemade cake or pie for dessert make for a fine (and quick) lunch before heading back to Jackson. Other patrons were eating generous portions of good-looking pulled or chopped pork. All the traditional offerings are on the menu.

While cruising down the highway not long ago I was reminded about how obsessive and compulsive we Americans are about our food habits and how we go crazy for a gimmick.

Do you think perhaps we are overdoing this "low-carb" thing? Just like maybe we overdid the "cholesterol thing."

The Atkins Diet has been around a long time — along with a lot of variations on the theme — but now we just can't get enough of it. I can't complain about more salads on the board at the fast-food joints (can you believe they actually know what romaine lettuce is at the Krystal?) - but "low-carb hamburgers"? P-lease!

I have something better than low-carb hamburgers to recommend. The Louisiana

strawberries are just now coming in to the fruit and vegetable stands in the southern part of the state. If the later berries are as good as the early ones, we are in for a good season. I don't know how many carbs these little jewels contain, but the "net" has to be a negative. These babies will fill you up with delicious antioxidants and fiber and make you so healthy you won't be able to stand yourself.

The Road Lawyer has a foolproof weight-loss plan, by the way. For this I should be making millions of dollars, because it really works and it's really simple. No gimmicks. Here it is: Eat Less . . . Exercise More. You heard it here.

Digression over, let me say that, back in Jackson, I greatly regret the passing of a pleasant and colorful lunch spot. Bruno's in the Quarter. I'll miss that Cuban salad and the great piles of sweet potato fries that were just two of the fine specialties there. Louie Bruno has gone back to the Governor's Mansion as First Cook of Mississippi. Our loss is certainly the gain of the Governor's family and guests.

The dining choices around this state are always changing. Do you have a favorite to recommend to the readers? Let me hear from you in care of the webmaster@hindsbar.com, or write to me in care of the Executive Director, Pat Evans.



continued from page 3

his sisters and a girl friend, Milena Jenenska. Kafka like Faulkner apparently was born to write. He began writing before law school. He was a mediocre law student. Law school was obviously secondary. He once was asked to take over a family business for a time. He did a poor job and hated every minute. He had a number of love affairs and was engaged to the same woman twice but could never bring himself to marry because it might interfere with his writing and need to be alone. His death went almost unnoticed in part because of political events occurring at the time. Those who knew him wrote obituaries in various newspapers. Milena Jenenska wrote:

The day before yesterday, Dr. Franz Kafka, a German writer who lived in Prague, died in the sanatorium of Kierling near Klosterneuburg near Vienna. Only a few people here knew him, for he was a loner, a person aware of and frightened by the world; he had been suffering from tuberculosis for many years, and even if he had cured it, he still consciously nourished it and encouraged it in his thoughts.... It lent him an almost unbelievable sensitivity and an almost terribly uncompromising intellectual refinement .... He wrote the most important books in recent Germany literature; the wrestling of today's generation of the entire world is in them, even if they are without tendentious words. They are true, naked and painful, so that even where they express themselves symbolically, they are virtually naturalistic. They are full of the dry scorn and sensitive observation of a person who has

perceived the world so clearly that he could not endure it and was forced to die.

Harold Bloom included Kafka in his recent book *Genius; A Mosaic of One Hundred Exemplary Creative Minds*, along with Shakespeare, Plato and, Faulkner among others. Comments by Bloom about Kafka are: "In an age of great originals, Proust and Joyce the foremost, Kafka is more original than the originals", "[His] genius for uucanny comedy is almost without precedent" and "Kafka is one of the most indispensable sages of the three thousand years of Jewish tradition".

On my next to last day in Prague while reading some material the hotel placed in the room, I was awed to discover the building in which we where staying, now a modern hotel, was originally the office building for the Worker's Accident Insurance Company, where Kafka worked for twelve years before taking disability retirement. It is a five story building. Kafka started out with an office on the top floor. Later he moved to first floor along with the office of the president. I reflected, as I sat in my room in the same building where Kafka worked during his adult life, that I had by chance visited Kafka's birthplace, lived in his workplace and walked in his neighborhood leaving me with the best memories of a trip with many good memories. This is what can happen when you look up a word in a cheap dictionary.

While Kafka's style has been described as "impenetrably oppressive, nightmarish", I found *The Trial* to be a work of humor heavy with irony and sarcasm in the style of Mark Twain, O'Henry or S. J. Perelman. Any lawyer who has ever had an encounter with government bureaucracy will find *The Trial* humorous and identify quickly with the main character.

Endnotes:

1. In addition to *The Trial*, other titles by Kafka are: *Description of a Struggle*, *The Judgement*, *The Metamorphosis*, *Lost Without a Trace*, *Meditation*, *Wedding Preparations in the Country*, *The Castle*, *A Letter to His Father*, *Diary of Franz Kafka*, *Amerika: The Man Who Disappeared* and *The Blue Octavo Notebooks*. A number of these books are available at [www.amazon.com](http://www.amazon.com) along with a collection of stories and a biography by Max Brod.

2. Most of the facts in this article are from Franz Kafka and Prague, Harald Salfellner, published by Vatalis (2003, ISBN-80-85938-35-9). 1109/*The Life of Franz Kafka*

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## LAW LIBRARY HOURS

January 13, 2004 - May 14, 2004

Monday - Thursday .....7:30 a.m. - midnight  
Friday .....7:30 a.m. - 9 p.m.  
Saturday .....9 a.m. - 9 p.m.  
Sunday .....noon - midnight

### EXCEPTIONS

#### Spring Break

Friday, March 12<sup>th</sup> .....7:30 a.m. - 5 p.m.  
Saturday, March 13<sup>th</sup> .....9 a.m. - 5 p.m.  
Sunday, March 14<sup>th</sup> .....1 p.m. - 5 p.m.  
Monday, March 15<sup>th</sup> - Thursday, March 18<sup>th</sup>  
.....7:30 a.m. - 5 p.m.  
Friday, March 19<sup>th</sup> - Saturday, March 20<sup>th</sup>  
.....9 a.m. - 5 p.m.

#### Easter

Friday, April 16<sup>th</sup> .....9 a.m. - 5 p.m.

#### Exam Schedule

May 4<sup>th</sup> - May 12<sup>th</sup>  
Monday - Friday .....7:30 a.m. - midnight  
Saturday .....9 a.m. - midnight  
Sunday .....noon - midnight

*Summer hours will begin May 13<sup>th</sup>.  
Hours are subject to change without notice.*



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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](http://hindsbar.com).

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# HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

APRIL 2004



## President's Column

by Stuart Kruger

In previous columns, I have discussed various community programs in which members of the HCBA have been involved, including the Mississippi Volunteer Lawyer's

Project, Willowood Developmental Center, Stewpot, and Habitat for Humanity. As the year winds down, I will continue this focus in my last column, this time concentrating on the Adopt-a-School Partnership Program of the Jackson Public Schools. The Program was initiated in 1978 in an effort to motivate students, assist teachers, and promote community service by partnering businesses, professionals, faith-based organizations, and other groups with area schools. Today, some 100 Partners participate in this Program, including several law firms. Participation is largely self-directed. The Partners submit a plan of activities for the school year, which is designed to promote the mission of the Program. Some of the activities performed by the Partners include:

- Providing School Supplies
- Recruiting Mentors and Book Buddies
- Providing Volunteers for School Competitions
- Providing Door Prizes for PTA Meetings
- Supplying Decorations for Decorating Contests
- Coordinating Holiday Parties

- Awarding/Recognizing Classes with Certain Levels of Improvement During Each Term
- Recognizing Honor Roll Students
- Sponsoring Student Purchases of Books
- Participation in Career Day

Supporting, encouraging, and motivating our young people and valuing and appreciating our teachers should be a top priority for all of us. Providing financial contributions is valuable to the schools, but the personal interaction with students, teachers, and administrators is the real source of joy in this Program. Those who participate also have a great sense of pride and ownership in the schools. Students, teachers, and administrators are delighted to have someone participating whose only motivation is the development of the students. We all have an obligation to teach, train, and lead young people. The Adopt-a-School Program provides a perfect opportunity to fulfill this responsibility. To participate, call Becky Starling at the Partners in Education Office of the Jackson Public Schools at 960-8905.

Since this is my last column, I suppose that an overview of the year is in order. To state it simply, we have had an outstanding year. Membership is at an all-time high. Ditto on participation. The Board, the Committee Chairs, and of course Pat Evans (the real leader), have been tremendous. By the end of the year, we will have started and finished the Project for the Elderly, which will publish a booklet designed to assist the elderly with access to the legal system. The defunct Library Committee has been resurrected and is evaluating necessary improvements to

*continued on page 4*



## February Membership Meeting

*Chief Judge Henry T. Wingate, United States District Court, Southern District of Mississippi, was the speaker at the February HCBA Membership Meeting.*

*Pictured with Judge Wingate are Barry Powell, Speaker Chairman; Linda Thompson, HCBA President-Elect; and Stuart Kruger, HCBA President.*

### HCBA LUNCHEON MEETING

Tuesday, April 20, 2004    Capital Club    12:00 Noon    \$12.00  
Speaker: The Honorable W. Swan Yerger, Senior Circuit Judge, Hinds County

## HCBA Calendar of Events

April 20, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

April 27, 2004  
**HCBA Spring Social.**  
 5:30 p.m. 930 Blues Café

May 6, 2004  
**HCBA/JYL Evening Honoring  
 the Judiciary.**  
 6:30 p.m. Old Capitol Inn

May 20, 2004  
**HCBA/JYL Golf Tournament.**  
 Noon. Annandale Golf Club

June 15, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

## CLE Calendar of Events

April 21, 2004  
**HIPAA Audits.**  
 Lorman Business Center.  
 715-833-3940

April 29 & April 30, 2004  
**Basic Mediation Skills Training.**  
 UM-CLE. 662-915-7282

April 30, 2004  
**Guardian Ad Litem Training.**  
 MC School of Law. 925-7106

April 30, 2004  
**Family Law Update.**  
 UM-CLE. 662-915-7282

May 3, 2004  
**Essentials of Section 1031  
 Exchanges in MS.**  
 NBI. 800-930-6182

May 7 & 8, 2004  
**MS Law Update.**  
 UM-CLE. 662-915-7282

May 11, 2004  
**Human Resources Law Update.**  
 Sterling Education Services, Inc.  
 715-855-0495

May 11, 2004  
**The Basics of Like Kind  
 Real Estate Exchanges.**  
 Lorman Business Center.  
 715-833-3940

May 12, 2004  
**Effective Mortgage Foreclosure  
 Techniques in MS.**  
 NBI. 800-930-6182

May 18, 2004  
**A Practical Refresher on  
 Litigating the MS Auto.**  
 NBI. 800-930-6182

May 20, 2004  
**11th Annual Hot Tips.**  
 The MS Bar. 355-9226

May 21, 2004  
**Labor & Employment  
 Law Section.**  
 The MS Bar. 355-9226

May 24, 2004  
**An Insiders Approach to  
 Estate & Gift Tax.**  
 MC School of Law. 925-7107

May 25, 2004  
**Medical Records for  
 MS Attorneys.**  
 NBI. 800-930-6182

May 26, 2004  
**An Insiders Approach to  
 Estate & Gift Tax.**  
 MC School of Law.  
 925-7107

May 27, 2004  
**An Insiders Approach to  
 Estate & Gift Tax.**  
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May 28, 2004  
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## Mississippi College School of Law Holds Investiture

Mississippi College School of Law invested three new deans on February 20, 2004, at the Old Capitol Museum in Jackson, Mississippi. Presiding Justice William Waller, Jr. of the Mississippi Supreme Court gave the address. Jim Rosenblatt became the seventh Dean of the Law School. Also invested were Patricia Evans as Assistant Dean of Admissions and Richard Bennett as Assistant Dean for Adjunct Faculty. The full academic pageantry of the ceremony included members of the Mississippi College Board of Trustees, faculty of the Mississippi College School of Law and Mississippi College, and key administrative officials.

Jim Rosenblatt, a native Mississippian, grew up in Fort Adams. He attended Vanderbilt University for his undergraduate degree, received his law degree from Cornell University Law School, and came to Mississippi College School of Law after a 30-year career with the Judge Advocate General's Corps of the U. S. Army. Steve Rosenblatt, a partner with the Jackson law firm of Butler, Snow, O'Mara, Stevens & Cannada, introduced his brother.

Patricia Evans became Director of Admissions at MCSOL in 1987, and was named Assistant Dean for Admissions earlier this year. She holds a degree in business administration from the University of Memphis. Former Assistant Dean of Students, Mike Maloney, introduced Patricia Evans.

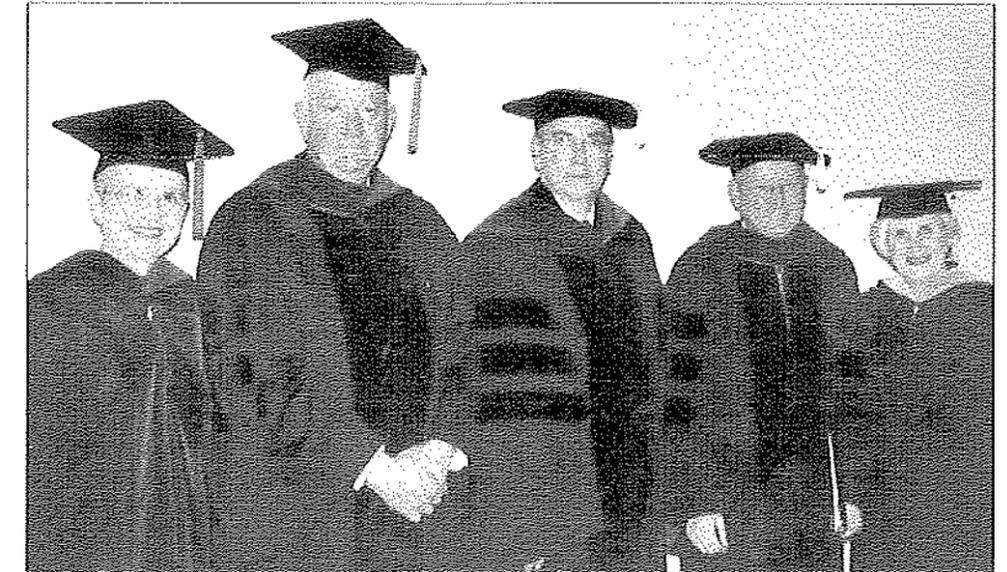
Dick Bennett, a partner with the Jackson law firm of Bennett, Lotterhos, Sulser & Wilson, has taught as an adjunct faculty member at Mississippi

College School of Law since 1975. Mr. Bennett is a Past President of the Mississippi Bar. He was introduced by Richard Roberts III, the current president of the Mississippi Bar.

During the ceremony, Dr. Lee Royce, President of Mississippi College, also recognized Judge Mary Libby Payne, the first Dean of the Law School, as the Scholar in Residence and Harold "Hal" Miller, a retired partner at Butler, Snow, O'Mara, Stevens & Cannada, as the Attorney in Residence.

Both Dick Bennett and Hal Miller had previously served as Presidents of the Hinds County Bar Association.

Mississippi College School of Law, located at 151 East Griffith Street, was founded 1975. It has 420 full-time students, a full-time faculty of 18 and an adjunct faculty of 46.



At the Mississippi College School of Law Investiture on February 20, the following were honored: Judge Mary Libby Payne, Scholar in Residence; Harold Miller, Attorney in Residence; Jim Rosenblatt, Dean; Richard Bennett, Assistant Dean for Adjunct Faculty; and Patricia Evans, Assistant Dean of Admissions.



## HCBA Board Members

Serving on the Hinds County Bar Association Board for 2003-2004 are: (seated) Alveno Castilla, Secretary-Treasurer; Linda A. Thompson, President-Elect; Stuart Kruger, President; William Wright, Past President; (standing) Directors Will Manuel, Nonie Joiner, Amanda Jones and John Henegan. Not pictured are Directors Rhonda Cooper and David Kaufman.

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## Jess Dickinson Becomes Associate Justice

by Luke Dove

Jess H. Dickinson was sworn in as the newest Associate Justice of the Mississippi Supreme Court in January, 2004. He is a graduate of Mississippi State and the Ole Miss Law School. While in law school, Justice Dickinson served on the editorial board of *The Mississippi Law Journal*.

Justice Dickinson practiced law in Gulfport for over 20 years. His practice included representing large corporate clients in litigation and plaintiffs in personal injury and class action cases. Justice Dickinson and his wife, Janet, have four sons, two of whom are still in college or law school. One son is a graduate of medical school.

Justice Dickinson may be the only justice in the history of the Mississippi Supreme Court to play 14 or 15 musical instruments, including the dulcimer, piano, banjo, harpsichord and penny whistle. Quite possibly, no place on earth needs to hear the cheery sounds of a penny whistle more than the halls of the Mississippi Supreme Court.

When asked why he ran for the Supreme Court, Justice Dickinson replied that, like many lawyers, he

was concerned about the direction of the Court and wanted to help restore the dignity of the Court which may have become tarnished. Jess and Janet drove over 60,000 miles campaigning and put up over 15,000 signs. They campaigned 7 days a week for almost 5 months. Together they visited every community in 27 counties, and shook thousands of hands. Justice Dickinson said he loved campaigning and found the voters to be very open, friendly and receptive. But he never thought he would be able to win the election without a runoff.

Justice Dickinson said the work load of the Court was very heavy now, especially with the absence of a justice, and that 60 and 70 hour work weeks are common. When asked if he had a message for the Bar and the public, Justice Dickinson said that he wanted citizens and lawyers to know that Mississippi has a Supreme Court which is working hard to get it right. No one on the Court, he said, has an agenda other than to be careful, fair and diligent. The Justices are serious about following and applying the law and making decisions which are thoughtful, considered and correct.

*continued from page 1*

our libraries. This project will carry over until next year and will provide much-needed assistance to sole practitioners and small firms with limited internal resources. The Community Grant Project has a fantastic pool of viable candidates and expects to increase the level of giving for 2004. The Golf Tournament will be the best ever, with significant contributions again to the MVLP. We had extraordinary participation in the Essay Contest, far and away the most ever. Attendance (and fun) at social functions has been at an all-time high. The ancient Bylaws have been revised. Finally, we expect the Evening Honoring the Judiciary to continue as the outstanding conclusion to our year. Thank you to all who have made this year such a success for the HCBA.

Serving as your President has been an honor and a pleasure for me. As with all Presidents, though, I now eagerly anticipate carrying the title of Past President.

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## Looking Back

From the April, 1979 edition of *The Mississippi Lawyer*:

Plans for the 74th annual meeting of the Mississippi State Bar were announced by President Raymond L. Brown. At the meeting, to be held at the Broadwater Beach Hotel, Cliff Hodge of Oxford would assume the chairmanship of the Young Lawyers Section from James A. Peden, Jr., of Jackson, and Jack A. Travis of Jackson was to be installed as President of the Mississippi State Bar. Among scheduled events, "A Garden Pool Party" would feature light snacks for the ladies hosted by the Harrison County Young Lawyers Wives." The main Saturday morning speaker was to be Norris Weese, quarterback for the Denver Broncos. A new event was to be "a running competition." The registration fee for the convention and all events, including two tickets to the seafood buffet and dance, two tickets to the annual banquet, two tickets for the family buffet breakfast, one ticket for the bench-bar luncheon, and one ticket for the ladies luncheon, was \$85.

The "Names in the News" column noted that Jackson attorney Anthony Tattis had been honored for his work with the American Hellenic Educational Progressive Association in raising money for medical research on cancer and related diseases; that United States District Judge William C. Keady was the recipient of the 1979 Distinguished Jurist Award given annually by the Mississippi State University Pre-Law Society; and that Jackson attorney Charles E. Hughes was chosen "Boss of the Year" by the Jackson Legal Secretaries Association.

Jeep Peden's "Young Lawyers Section Annotations" thanked, among others, Ernest G. Taylor, Jr. of Jackson, Co-Chair of the YLS Committee on Legislation and the Judiciary, and Senator John G. Corlew of Pascagoula for their work in securing passage of the legislation concerning the Mississippi Commission on Judicial Performance. He also thanked Jerome C. Hafter of Greenville for his work in obtaining passage of House Bill No. 666.

House Bill No. 666 figured prominently in the column of the Bar's Executive Director, George Van Zant. It eliminated the diploma privilege and the law office study program, requiring that all applicants for admission to the Bar must have a degree from a law school approved by the American Bar Association. The Executive Director's column also noted that the YLS committee headed by Suzanne Saunders had provided valuable services to victims of the Easter Flood that year, with teams working three hour shifts at the disaster centers.

The entire issue of *The Mississippi Lawyer*, which now runs about 70 pages, was 15 pages long, one of which, the

back cover, focused mainly on a picture of Matt Wiggins in a West Publishing ad. Editors were Richard Scruggs and Zenora Williams.

The Hinds County Bar Association Newsletter began publication in October, 1982. The following is from the April, 1983 issue.

HCBA President Lauch M. Magruder, Jr. stated in his column that the Board of Directors had agreed at a recent meeting that the Association "had become little more than a bi-monthly luncheon club. They determined that efforts should be made to more nearly accomplish the Association's purpose of serving its members, the judicial system and the public." One of the first steps taken in furtherance of the program was to hire Ben Davis as Executive Director. Also, the Association was restructured to add more Directors, with each to serve two year terms in order to assure continuity. Membership was at a new high - 937. President Magruder's column thanked Committee chairmen, including Martha Gerald, Swan Yerger, Scott Welch, who "chaired a sub-committee to assist the Circuit Court Judges in their struggle for Courthouse renovation," Charles R. Davis, Frank Barber, "who worked very effectively with the State Bar in our joint opposition to the proposed Sunset legislation," Brad Sessums, and Leonard Van Slyke. In this, his final column as President, Magruder stated "Perhaps the achievement of which I am most proud is the institution of our Association's Newsletter."

One full page of the six page Newsletter was devoted to an article titled "Well Kept Secrets," which discussed the differences between proposed Rule 1.6 of the American Bar Association's Proposed Final Draft of the Model Rules of Professional Conduct, and Mississippi Disciplinary Rules 4-101 and 7-102 then in effect. "The coming debate in Mississippi in reaction to the Model Rules will determine whether we will keep secrets as thoroughly as our nineteenth century predecessors." Unfortunately, the author of this article is not identified.

Officers of the HCBA in addition to Lauch Magruder included Richard T. Bennett, Vice President and President-Elect; J. Jerry Langford, Secretary-Treasurer; and James P. Cothren, Past President. Directors were Alex A. Alston, John L. Maxey, Scott P. Hemleben, Richard M. Edmonson, and Steve Williams. Newsletter Editorial Board Members were Zenora Williams, Editor; Jackson Henderson Ables III, Paul David Hastings; John Land McDavid; Dale H. McKibben; and Keith Raulston. Contributing Editors were James M. Nix and Richard Starrett.

## HCBA ELECTION RESULTS

Congratulations to our new officer and directors!

Secretary-Treasurer  
**John C. Henegan**

Director-Post 3  
**Gordon U. "Sandy" Sanford**

Director-Post 4  
**Deanne M. Mosley**

## Odd Ends

by Luke Dove

### Free Martha

I recently discovered an amazing fact. Only eight (8) adult women in all of America and its territories and possessions, including Guam, Puerto Rico and Iraq, believe that Martha Stewart is guilty! Only eight women out of over a hundred million! And that is not the even amazing part.

The amazing thing (and this was such incredibly bad luck for Martha) every last one of the eight (8) women who think she is guilty was seated on the petit jury in the U.S. District Court in Manhattan that voted to convict her! Just what are the odds of that, I ask you? Man (pardon the reference to men), talk about a defendant who needed a lot better jury consultant. A few cynics might say it had something to do with hearing the evidence, but let's not jump to hasty conclusions.

As best as I can ascertain, every other woman is absolutely convinced of Martha's innocence and believes she was "targeted" for prosecution because she is a successful woman even if just a tad pushy. "I just cannot believe they convicted her!" is the refrain I hear. "Look at what she did. Nothing, I mean just NOTHING. Do you think for a even a split second that some MAN would have been prosecuted and sent to jail for something like that?" For a fleeting moment, I consider answering, but wisely remain silent.

But it does not stop there. "Men are rewarded and praised for being demanding!" "Besides" they say, "who would KNOW you can't lie to some kind of government agent or something when you're not even under some kind of oath or SOMETHING?" "Well" I begin to respond crisply. But then I fade into mumble and shuffle off to my recliner.

### Zero For Fifty

One year ago the United States started a war by launching four satellite guided bombs from Stealth Fighters into a palace on the banks on the fabled River Tigris. The idea was to "decapitate" the leadership of Iraq, and in particular, Saddam, dictator and potentate, before the war began in earnest. The palace was prosaically called "Dora farm" and supposedly housed a bunker and command complex. America had, we were told, very reliable intelligence that Saddam and assorted henchmen, including perhaps his sadistic sons, were in the complex that very evening, preparing the crack Republican Guard for impending battle.

And so, an air strike on Dora farm was ordered directly from the White House as the opening shot of the war. The bombs hit dead on, so to speak, and the palace was destroyed. Afterwards, we even had intelligence reports that a badly wounded Saddam was seen being carried out on a stretcher. The next day, however, Saddam appeared on Iraqi TV looking not much worse for the wear. After American troops entered Bagdad, the media (but who can trust those guys) reported that Dora farm did not even have a bunker.

If you consider the fact that the Iraqi leadership was known to be completely incompetent, it may have been a better battle plan to leave Saddam, his sons and many sycophants in command. Which is what we inadvertently did anyway.

Fifty times during the first phase of the war, CIA and military intelligence reports resulted in the launch of multi-million dollar smart bombs onto the palaces, hideouts and supposed gathering places of Saddam, Chemical Ali and others whose faces now grace the famous deck of cards. The military hit all fifty targets. And the results? Zero for fifty. Nil. Zip. Let me correct that. It was a zero for "decapitating" the Iraqi leadership. Unfortunately, we did decapitate Iraqi civilians, including children. C'est la guerre.

America must face the reality that there were very serious intelligence, planning and policy failures, miscalculations and mistakes prior to and during the invasion of Iraq. Zero for fifty is symptomatic of a problem which will get much worse before it gets better. In order to correct any mistake, someone must first acknowledge it occurred and then ask why. The actions and words of President Bush, V.P. Cheney and Secretary Rumsfeld call to mind the cartoon of the three monkeys, hands placed over their respective ears, eyes and mouth, and famously labeled: "Hear no evil, See no evil, Speak no evil". Mistakes, miscalculations and deadly foul-ups frequently occur during war. But denying and refusing to acknowledge that mistakes and miscalculations occurred will never lead to correction. Denial may lead instead to even more grave mistakes and even worse miscalculations in the future. "The Buck Stops Here" apparently died with Harry Truman.

### Thanks, Haley

Governor Barbour recently announced the appointment of 31 lawyers to a "Judicial Appointments Advisory Committee". Hinds County Bar member Ed Brunini is chairman. The makeup of the committee reflects a serious effort by the Governor to appoint a capable and credible committee to screen and select future judges.

A judicial appointment committee worked very well under Governor Winter. It was unfortunately abandoned during recent administrations. Former Justice Robertson reminded me that the first governor to utilize a judicial appointments committee was our beloved lunch-pail populist, Cliff Finch. Of course, Cliff only appointed his closest cronies to the committee, thus allowing him to pass the buck in case there was some lesser crony he did not want to appoint to a judgeship. But still, it was better than the record of Kirk Fordice, who professed a disdain of biblical proportions (pardon the irony) for scribes and lawyers. This is an important first step toward selecting the most qualified individuals to receive judicial appointments. The committee will serve Mississippi well. Thanks, Haley.

### Masterworks

Although Meissen porcelain is not exactly my cup of tea, the Treasures of Baroque Dresden exhibit now on display in Jackson contains several paintings and art objects which are truly masterworks. The paintings from the Dresden Old Masters collection include 16th and 17th century works by Murillo, Carracci, Veronese, Velazquez, Tintoretto, Titian,

continued on page 9

## Jackson Rumored To Be Home To New Media Conglomerate

by Captain Equity

Back in the roaring 90s, Jackson was carving itself a considerable niche in the glamorous, high growth telecom industry. World Com, Skytel and a host of other startups led the way as Mississippi's Capital City suddenly found itself playing on the world technology stage. With this unlikely success came newfound economic and financial prosperity, but most of all, a badly needed shot of civic pride. Finally, the rest of the world would come to know the real Jackson, Mississippi that was home to friendly, hardworking and increasingly sophisticated people whose community was on a roll. But, as we now sadly know, we couldn't quite turn the corner. As the World Com scandal grew, the new bosses renamed the company MCI and fled the Magnolia State seeking a new image and a fresh start.

And so, where does all this leave Jackson, the former headquarters to a once exciting new industry that has since pushed the collective hold button on the Telecom phone console? Unfortunately, it's business as usual: tight finances, overdue public works projects, stagnant investment and still no convention center. To make matters worse, our city fathers persist in pushing the new Telecommunications Training Center even though there is no one left to train. Given this kind of civic vision, it is quite possible that if the legislature did help provide funding for a convention center, the city would immediately begin to woo groups like the Mississippi Whig Party, the Southeastern Blacksmith's Association and the National Reel to Reel Tape Recorder Manufacturers to hold their annual meetings right here in Jackson.

Luckily, all is not lost. Rumor has it that there is hope of Jackson of becoming a major player in the media conglomerate arena. We already have production facilities at Mississippi ETV and a number of talented personalities in the area complete with story lines that seem to write themselves. Add an existing statewide network of educational broadcasting transmitters and a vacant King Edward Hotel that could be renovated to house this enterprise and bingo, the city and state are an instant threat to Viacom, Time-Warner and Disney. Thanks to the Mayor's ability to turn a phrase, why not call this new television production powerhouse BNS (Best of the New South) Media?

### The BNS Fall Lineup

As a candidate for the position of founding CEO (after all, I started this rumor, so why shouldn't it be me?) I have developed a line up of shows that could go into production starting this weekend. While the possibilities are endless, here are a few of the strongest contenders.

Monday nights will kick off with *No Math On The Final*. In the pilot episode, a host selected from the accounting firm of Arthur Andersen guides former WorldCom executives through an hour of fast paced reality drama as they try, with a straight face, to explain away billions of dollars of financial discrepancies surrounding the demise of the telecom giant. At the end of the show, a panel

comprised of 12 jurors will decide whether the guests are crooks, in which event they will immediately be taken to prison. The other possibility is a finding that they are just incredibly incompetent. In this event, the entire studio audience will be prompted to yell in unison, "No Math on the Final!" Future episodes will feature former execs from Enron, Tyco, Global Crossing and Halliburton. Unfortunately, Martha Stewart who was booked earlier as a guest, will be unable to appear due to a prior commitment.

As the final few episodes of *Friends* air this spring, a tremendous opportunity has been created. Plans are in place to have BNS lure the show's producers to Jackson, recast it with local figures and incorporate hidden cameras and other techniques used in the hit show *Big Brother*. The revamped *Friends* would star former Supreme Court Justices Ed Pittman and Chuck McRae; Governor Haley Barbour and House Speaker Billy McCoy; and Jackson City Councilmen Ben Allen and Kenneth Stokes. All six men would live in a refurbished wing of the old Sun 'N' Sand Motor Hotel. Their interaction would be caught live on a series of hidden cameras. Each week, one of the *Friends* would be voted off the show and consigned to political obscurity. The irresistible combination of low production values combined with juvenile name-calling and the constant specter of physical violence makes this "Must See TV."

This year's mega hit reality show *My Big Fat Obnoxious Fiancé* inspired BNS to develop *My Autocratic Overbearing College President* using a similar reality theme. The premise of the show is that the State College Board installs an actor as the President of a randomly selected state university. The actor is instructed to do everything in his power to disrupt the educational mission of the school. While the home audience is in on the ruse, the students and faculty are led to believe that the imposter is a real President. Laughs abound as the audience shares the pain and embarrassment that this elaborate taxpayer funded practical joke doles out in double handfuls.

Numerous other shows are destined for development at BNS Studios. The top sports pilot is *Survivor: University of Colorado Athletic Campus Visit*. This will be filmed in Raymond at Hinds Community College, which is being dressed up with portable cedar trees and a paper mache mountain set calculated to make Hinds look like the Boulder campus thus avoiding the expense of shooting on location in Colorado.

The final candidate for studio development is an educational language manipulation program, which will be marketed as a cooking show. The working title is *Ketchup Is A Vegetable*. The premise is that Presidential adviser Karl Rove decked out in a chef's hat and apron will give on air tips to an audience of political office seekers and legislators on how to "properly prepare" and "cook" language to "fool taste buds" and consequently make it "taste better" to an electorate "hungry" for "big portions" of governmental services at "bargain prices." Examples include kitchen shortcuts calculated to hide the bitter taste of taxes or as the

continued on page 10

## Copy or Coincidence: A Literary Mystery

by John Land McDavid

Elizabeth Spencer, the noted Mississippi writer, wrote a novella entitled *The Light In The Piazza*, which first appeared in 1960 in *The New Yorker* magazine and occupied almost the entire issue. The story related to the tale of a wealthy southern woman, Margaret Johnson, who took her twenty-six-year-old daughter, Clara, to Italy for an extended visit. Soon Clara and a handsome, young Italian, Fabrizio Naccarelli, became victims of love-at-first-sight. This presented a problem for Clara's mother because Clara unfortunately had the mind of a ten-year-old. Clara was beautiful with excellent social graces. Anyone meeting her for the first time in a casual situation would not notice she had the mind of a child. Margaret Johnson's dilemma was whether to end the romance or determine if it was possible for Clara to have a normal life in Italy. The story ended with Clara and Fabrizio leaving on their honeymoon and Margaret Johnson believing in her heart she had done the right thing.

I first became aware of *The Light in the Piazza* only a couple of months ago from, coincidentally, *The New Yorker* (February 2, 2004). An article by John Lahr reported on a new musical by Adam Guettel, grandson of American composer Richard Rodgers, based on *The Light in the Piazza*. The article explained the plot was about a wealthy southern woman who had a beautiful adult daughter with the mind of a child, which daughter married into a wealthy Italian family. As soon as I read this, I realized I had recently read about a similar character and circumstance in *Watchers Of Time* (Bantam Books, 2001), a murder mystery by Charles Todd, pseudonym for an American writer who in recent years has written several excellent mysteries set in rural England in the years immediately after World War I. One of the principal characters in *Watchers Of Time* is Virginia Sedgwick, whose characterization is strikingly similar to Spencer's Clara and the similarities are numerous.

Both Clara and Virginia were beautiful American woman with the mind of a child. Clara had been kicked in the head by her Shetland pony. Virginia had suffered from a fever.

Both Clara and Virginia were from the South. Clara from North Carolina. Virginia from Virginia.

Both Clara and Virginia were from wealthy families who used their money to promote the interest of their "special" daughters. Clara's family tendered fifteen thousand dollars (nine million three hundred seventy-thousand Italian lire) as a wedding gift. Virginia's grandmother left her "a fortune".

Both Clara and Virginia were carefully sheltered by their family when they were in public. Clara's mother stayed at her side in Italy. Virginia's family were always around her when Lord Sedgwick came to America and they became engaged. Then her family went with her to England for the wedding, never letting her be alone with outsiders.

Both Clara and Virginia met, were courted by and married their husbands under circumstances least likely to reveal they were of very low intelligence. Clara and Fabrizio met on Clara's vacation in Italy where Clara spoke little Italian and Fabrizio spoke little English. Virginia met and became engaged to Lord Sedgwick during his brief trip to America to visit his mother's relatives, after which he

returned to England for the wedding followed by Virginia.

Neither Clara nor Virginia participated in church activities in a normal, adult way. According to Elizabeth Spencer, when Clara got too big for cut and color games in Sunday school, "no pretense of church going was kept up any longer". According to Charles Todd, Virginia did not attend the English village church very often. Although the Vicar tried to interest her in "good works", she was too shy and sent excuses for not showing up.

Both Clara and Virginia married into wealthy European families. Clara into an Italian family. Virginia into a English family.

Both families of Clara and Virginia were advised their daughters could safely have children without their offspring also being feebleminded.

The similarities between Clara and Virginia are so numerous it is impossible to believe Virginia is merely a coincidence. While there are superficial differences, one characteristic is unchanged. Both women and their families are from the American South. Clara and Virginia and their families are southern characters in southern situations. Todd must have felt Virginia would not be believable as a character if she were from Wyoming. Clara's mother, Margaret Johnson, was a classic southern women of the kind which later became known as a "Steel Magnolia". While Todd obviously copied Elizabeth Spencer's Clara, it is doubtful Spencer took Clara from a book. As a Mississippi writer born in Carrollton, Mississippi, in all probability she knew the people on whom Clara and her family were based. A great advantage of being a Mississippian is we do not have to read about eccentric, tragic or heroic characters. We are surrounded by them. Come to think of it, you or I might be one.

*The Hinds County Bar Association and  
the Jackson Young Lawyers Association  
invite you to join us for an*

**Evening Honoring  
the Judiciary**

*Haley Barbour, Governor of the State of Mississippi,  
will be the Speaker*

**Thursday, May 6, 2004  
at The Old Capitol Inn  
226 North State Street  
Reception at 6:30 p.m.  
Dinner at 7:30 p.m.**

*Special Guests: Hinds, Madison and  
Rankin County State and Federal Judges*

*continued from page 6.*

Rubens and Anton Van Dyke. These paintings must constitute the finest collection of art works ever exhibited in Mississippi.

A centerpiece of the exhibit is "The Procuress", the only work by Vermeer to ever be exhibited in the American South. Vermeer made stunning use of cadmium yellow, a color later employed to such dramatic effect by Gauguin and Van Gogh. Although it is difficult to wander away from "The Procuress", several other works deserve as much attention.

Favorites include "The Square of San Giacomo" by Canaletto, "Sampson at the Wedding Banquet" by Rembrandt and "Diogenes" by Ribera. The idea of searching the swelling crowd by lantern light in vain for an honest, compassionate human being makes me partial to Diogenes anyway. Other works of particular note are "The Holy Family" by Mantegna and "Adam and Eve" by Cranach.

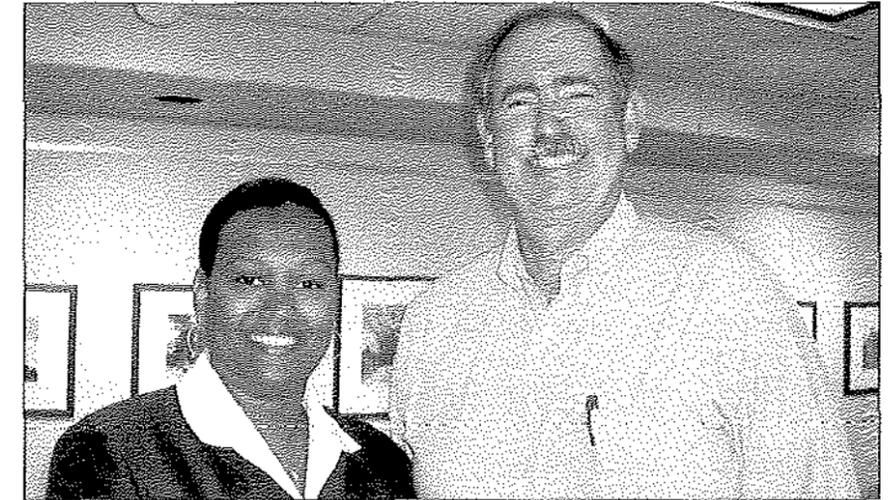
If porcelain is your cup of tea, this is certainly the place to be. In addition to one of the largest collection of major Meissen pieces ever exhibited outside of Europe, the collection also contains priceless Chinese and Japanese porcelains. These remarkable porcelain artworks include Japanese birdage vases, a Snowball flower vase and a life size Meissen peacock and heron.

The Dresden exhibit includes a fine collection of antique armor and firearms and one of the rarest diamonds in the world, a huge green stone mined in India in the 16th Century and absurdly set in a what amounts to a very expensive hat pin. Since my personal taste is less exotic, I much prefer the four excellent Greek or Attic vases on display. Please take time to reflect on the wonderful painted vase depicting bathing women. Intimations of mortality may cause you to reflect on Keats, "Ode on a Grecian Urn". Or, maybe not.

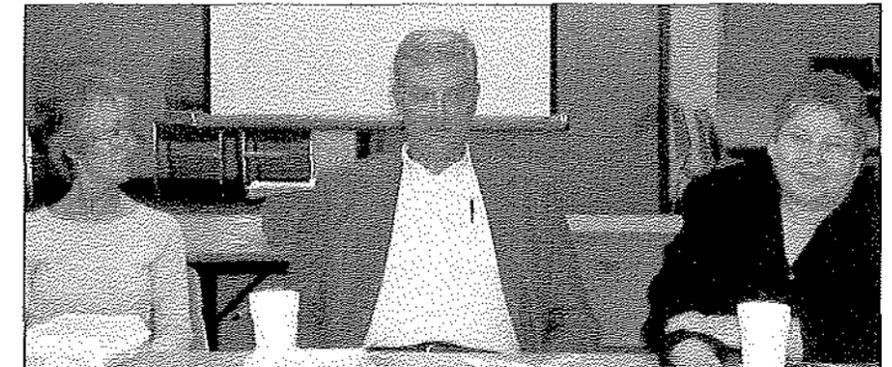
The Treasures of Baroque Dresden is a wonderful exhibit and it is only a few minutes from your office. Do yourself a favor and visit more than once.

## Hinds County Law Library Committee Meetings

The HCBA Law Library Committee has held several meetings this year to discuss recommendations to be made to the Hinds County Board of Supervisors for the care and operation of the Hinds County Law Library in its several locations. Ben Piazza is chairman of the Committee.



*Pictured at a recent meeting are Azande Williams, attorney for the Hinds County Board of Supervisors, and Ben Piazza, Library Committee Chairman.*



*Enjoying lunch and law library conversation are Barbara Neil, Hinds County Law Librarian, Charlie Pearce, State Law Librarian, and Carol West, MC Law School Professor.*



*Participating in discussions about the Hinds County Law Library are Charlie Pearce, State Law Librarian, Carolyn McCallum with the Jackson-Hinds County Public Library System, and Carol West, MC Law School Professor.*

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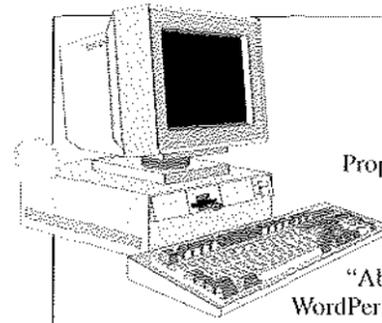
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continued from page 7

show collectively refers to them, the "T" word. Quick recipes for revenue enhancers and user fees will be featured. One segment will be devoted to reclassifying fast food outlets from the service sector to the manufacturing sector to create more "helpings" of domestic manufacturing job creation. Producers tell us their approach is no different from a budget battered housewife stretching a soup recipe with an extra can of tomato sauce and a few added cups of water.

Some of the shows with national appeal will be offered to the major networks like ABC, CBS, NBC and Fox. Others will be broadcast on former Mississippi ETV outlets now known as the BNS network. Still others will air on cable channels. However, one thing that the BNS lineup has in common is that they will all be potential hits for Comedy Central.



## On Computing

by Joel Howell

Proposed amendments to the Hinds County Bar Bylaws are available on our website, [hindsbar.com](http://hindsbar.com), under the "About" tab. You can see in WordPerfect format the old rule and the proposed changes.

Wondering about Microsoft and where your operating system is going? Service Pack 2 is under way, but the next major version, Longhorn, will not ship until 2006 at the earliest. The talk now is that there will be a Windows XP Reloaded release before Longhorn.

Prior to that, however, Service Pack 2, which is to include a significant number of security enhancements, is to ship this summer. Some time thereafter, an XP Refresh edition will be released, which will basically be XP with Service Pack 2 and Windows Media Player 10.

Web sites are being increasingly used to preserve legal history. Thanks to Law Technology News and Robert J. Ambroggi, here's an insight into some of the available materials, which cover a span of time from ancient Greece to the United States.

Many of these sites are specialized. Yale Law School's Avalon Project, located at [www.yale.edu/lawweb/avalon/avalon](http://www.yale.edu/lawweb/avalon/avalon),

focuses on historical documents from the legal field as well as the fields of economics, politics, government and other related areas of interest. The documents on Yale's site are arranged by century, author, subject, and title, and are grouped into major thematic collections, such as the Nuremberg War Crimes Trial. Harvard offers similar collections on its web sites [hls.law.harvard.edu/bracton/index.htm](http://hls.law.harvard.edu/bracton/index.htm) and [nuremberg.law.harvard.edu](http://nuremberg.law.harvard.edu).

Other sites focus on United States legal history. These begin their focus with the Continental Congress of 1774 and continue to the present, offering records of the first 42 federal congresses. They include the Journals of the Continental Congress and ratification debate. Take a look at [lweb2.loc.gov/ammen/amlaw/lawhome.html](http://lweb2.loc.gov/ammen/amlaw/lawhome.html) and [fjc.gov/history/home.nsf](http://fjc.gov/history/home.nsf). The latter site is a reference for information about the history of the federal courts and judges who have served since 1789.

Other areas of law now covered by web sites include [digital.library.okstate.edu/kappler](http://digital.library.okstate.edu/kappler) and [churchstate.com](http://churchstate.com). The first deals with U.S. treaties, laws and executive orders dealing with Indian Tribes from 1778 through 1970. The second offers a library of laws, cases, treatises and historical documents.

Questions or comments? Send email to [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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on Tuesday,

April 27th, 2004

5:30 to 7:30 p.m.

at the 930 Blues Cafe  
930 N. Congress Street

Down-home cooking,  
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## Book Reviews

### Reading Lolita in Tehran by Azar Nafisi

Reading Lolita in Tehran is the memoir of an educated woman who taught Western literature in post-revolutionary Iran. Azar Nafisi holds a degree in English literature from Oxford University. Before the 1979 revolution, she taught at the University of Tehran and the Free Islamic University, leaving these positions only when the censorship of her classes became intolerable.

In 1995, Ms. Nafisi invited several students to visit her home each week to read and discuss the works of Vladimir Nabokov, Henry James, F. Scott Fitzgerald, Jane Austen and other Western authors. In her description of these classes (which continued over a two-year period), we receive a remarkable insight into the lives of women in Iran under the reign of the Ayatollahs. The review of various works of literature inevitably leads her class to discussions of the many problems faced by women in a radical Islamic country.

In radical Islam's war against women, one of the first acts was to lower the age at which women can be married from eighteen to nine. In public, women are required to be covered from head to toe, including a veil. No make-up of any kind is permitted. Women can only venture out in public in the company of other women or with males who are relatives. Employment of women is severely restricted. Censorship makes the purchase of books by Western authors extremely difficult. In fact, the book group in which these women participated is illegal under Islamic law.

While exploring the forbidden fiction of the West, the students discuss the ongoing plight of citizens in an Islamic state including morality squads, the imprisonment or even execution of friends, seizure of the universities by fundamentalists and the bombing during the ten year long war with Iraq. Reading Lolita in Tehran is a remarkable study of people living under oppression and of the power of literature in strengthening their resolve and resilience.

### In an Uncertain World by Robert Rubin

Robert Rubin's In an Uncertain World is a fascinating book about his extraordinary life and career. Rubin graduated from Harvard, Phi Beta Kappa and summa cum laude. He received a law degree from Yale. After practicing in the corporate law for a few years in New York, he decided to join the arbitrage department at Goldman Sachs, and in 1990, becoming a co-chairman of the firm. An interesting feature of this book is Rubin's discussion of arbitrage as practiced at Goldman Sachs and how the training he received in probabilistic thinking (whether a stock would rise or fall and the influencing factors) guided his career both at Goldman Sachs and in government.

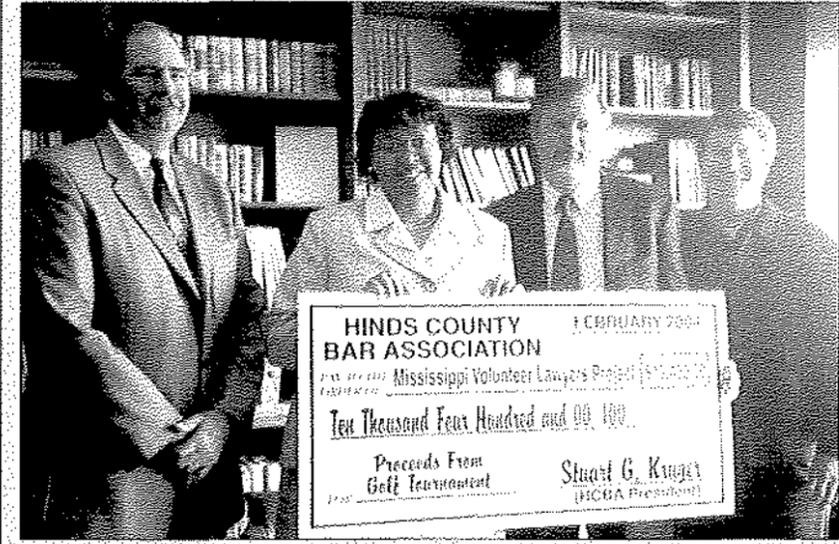
In 1993, Rubin left Goldman Sachs to become director of the White House National Economic Counsel. Upon the retirement of Lloyd Bentsen in 1995, Rubin became Secretary of the Treasury. Together with Alan Greenspan, Lawrence Summers (now President of Harvard) and President Bill Clinton, Rubin presided over the longest economic expansion in United States history.

This book has many fascinating chapters, including descriptions of financial crises in Mexico, Thailand, South Korea and Russia with all of the attendant negotiations, political maneuvering and diplomacy. Rubin's analysis of the new risks of the global economy to the United States and the ongoing struggle with Congress over fiscal policy are also interesting. Additionally, he gives a fascinating portrayal of working in the White House.

In 1999, Rubin resigned as Treasury Secretary to be succeeded by Lawrence Summers. Today, he is a director of Citigroup.



## 2003 Golf Tournament Proceeds Presented



At the February Membership Meeting, the Hinds County Bar Association presented Shirley Williams, Executive Director of the Mississippi Volunteer Lawyers Project, with a check for \$10,400, the proceeds from the May 2003 Golf Tournament chaired by Paul Miller. The Mississippi Volunteer Lawyers Project provides free civil legal service to low-income citizens utilizing private attorneys who donate their time.

*Pictured with Ms. Williams are Ben Piazza, HCBA Past President and Golf Tournament Committee Member; Paul Miller, 2003 Chairman; and Stuart Kruger HCBA President.*

## HCBA Committee Preference Survey

Committees are vital to the projects and activities of the Hinds County Bar Association. Committees meet regularly, and the HCBA provides the meeting notices and the lunch. Please consider service to the HCBA and our members by becoming part of our committee work, and call Linda A. Thompson, President-Elect, at 355-7300 or 987-4267, if you have questions.

1. I am interested in serving on the following committee(s):

- |   |  |
|---|--|
| <input type="checkbox"/> Awards<br><input type="checkbox"/> Bench & Bar Relations<br><input type="checkbox"/> Black Lawyer Participation<br><input type="checkbox"/> Bylaws<br><input type="checkbox"/> Community Grant<br><input type="checkbox"/> Elder Law<br><input type="checkbox"/> Hinds County Law Library<br><input type="checkbox"/> Judicial Diner | <input type="checkbox"/> Law-Related Education<br><input type="checkbox"/> Membership<br><input type="checkbox"/> Newsletter Editorial Board<br><input type="checkbox"/> Programs & Speakers<br><input type="checkbox"/> Social<br><input type="checkbox"/> Technology<br><input type="checkbox"/> Women in the Profession |
|---|--|

2. I am willing to chair the following committee(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. I offer these suggestions regarding existing HCBA committee work or new projects for consideration:

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Please mail the completed form by May 1, 2004, to:  
 Patricia H. Evans, HCBA Executive Director, 151 E. Griffith Street, Jackson, MS 39201,  
 or send an e-mail to pevans@mc.edu.

## GOLF OUTING JUST FOR LAWYERS

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**12th Annual**



### HINDS COUNTY BAR ASSOCIATION and JACKSON YOUNG LAWYERS GOLF TOURNAMENT

Thursday, May 20, 2004  
 Shotgun Tee Off: 1:00 p.m.  
 Hamburger/Chicken Buffet 12:00 noon  
**Annandale Golf Course (Soft Spikes Required)**

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	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.

Must send check with registration, and checks should be 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.

## LAW LIBRARY HOURS

January 13, 2004 - May 14, 2004

Monday - Thursday ..... 7:30 a.m. - midnight  
Friday ..... 7:30 a.m. - 9 p.m.  
Saturday ..... 9 a.m. - 9 p.m.  
Sunday ..... noon - midnight

### EXCEPTIONS

#### Spring Break

Friday, March 12<sup>th</sup> ..... 7:30 a.m. - 5 p.m.  
Saturday, March 13<sup>th</sup> ..... 9 a.m. - 5 p.m.  
Sunday, March 14<sup>th</sup> ..... 1 p.m. - 5 p.m.  
Monday, March 15<sup>th</sup> - Thursday, March 18<sup>th</sup>  
..... 7:30 a.m. - 5 p.m.  
Friday, March 19<sup>th</sup> - Saturday, March 20<sup>th</sup>  
..... 9 a.m. - 5 p.m.

#### Easter

Friday, April 16<sup>th</sup> ..... 9 a.m. - 5 p.m.

#### Exam Schedule

May 4<sup>th</sup> - May 12<sup>th</sup>  
Monday - Friday ..... 7:30 a.m. - midnight  
Saturday ..... 9 a.m. - midnight  
Sunday ..... noon - midnight

*Summer hours will begin May 13<sup>th</sup>.  
Hours are subject to change without notice.*



## HINDS COUNTY BAR ASSOCIATION

### OFFICERS

Stuart G. Kruger President	Linda A. Thompson Vice President & President-Elect
Alveno N. Castilla Secretary - Treasurer	William R. Wright Past President

### DIRECTORS

Zenora Joiner - Post 1    R. David Kaufman - Post 2  
John Henegan - Post 3    Rhonda C. Cooper - Post 4  
James William Manuel - President, Jackson Young Lawyers

### EXECUTIVE DIRECTOR

Patricia H. Evans

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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](http://hindsbar.com).

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**HCBA Luncheon Meeting**  
**12:00 noon, April 20**



# HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

JUNE 2004



## President's Column

by Linda A. Thompson

In June a new HCBA year begins, and it is with great pleasure that I take the reins of this organization. I have been privileged to serve as an officer under the

sound leadership of two past presidents, most recently Stuart Kruger and, before him, William Wright, and I will try to follow the examples they have set. Both served the HCBA ably and honorably, dedicating untold hours to such worthy tasks as increasing our membership to more than 1,400 lawyers, improving the quality and scope of services to the membership, and providing varied and valuable opportunities for involvement in our community work. Thank you, Stuart and William, and to all the members who have participated in our committees and other activities.

A special thank you goes to our multi-talented Executive Director, Pat Evans. For fifteen years Pat has provided exceptional behind-the-scenes leadership to this organization. She is the critical link connecting all the volunteer efforts of lawyer members to the smooth operation of the association. We would not be where we are without her splendid work and management. All of this, of course, is but another way of saying that we are counting on Pat continuing as Executive Director for many years to come.

While thanking Pat, I must also, on behalf of this organization, voice appreciation to the Dean and faculty of Mississippi College School of Law for continuing support of the HCBA and all our legal community in the Greater Jackson area. From meeting rooms to use of the law library to location of our principal office, and many other privileges, we are grateful for the connection to the School of Law. The HCBA changed its bylaws this year to grant honorary membership to the two law school deans in Mississippi.

We also amended the bylaws to open our membership to all attorneys who are members in good standing of any state or federal bar. While retaining our identity as the Hinds County Bar, we want those of our numbers who have moved residence or office to neighboring (or other) counties to continue their active participation in the HCBA. We welcome others to join this organization in our efforts to serve an ever growing metropolitan area. We also want law school faculty members, corporate attorneys from other states, and any other lawyers interested in our organization to be able to participate in our activities.

This association could not maintain a service-oriented existence if it were not for the tireless efforts of the lawyers who volunteer their time to the HCBA. In coming months, I will undertake to thank personally all those who have contributed to our work. I am in the process of asking attorneys to chair committees, and I invite any of you who wish to participate in committee work to contact me about this. If you have a project to propose, the Board

*continued on page 5*

## Hinds County Circuit Court to Implement Electronic Filing

The Circuit Judges of Hinds County are in the process of evaluating a system of electronic filing for all civil cases filed after 2002. The Judges have been in discussions with Lexis Nexis File and Serve and may implement electronic filing within a few months. Lexis Nexis has developed an electronic filing plan which will help alleviate the shortage of storage space in the

Circuit Clerk's office and substantially decrease the need for telephone calls to the Clerk and the Court. The new system will allow judges and attorneys access files, motions, orders and other pleadings at any time from any location with internet access. Before the new system is implemented, the Court and Lexis Nexis will hold training sessions for all attorneys and their staffs.

## HCBA LUNCHEON MEETING

Tuesday, June 15, 2004      Capital Club      12:00 Noon      \$14.00

Speaker: The Honorable James W. Smith, Jr., Chief Justice, Mississippi Supreme Court

## HCBA Calendar of Events

June 15, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

August 17, 2004  
**HCBA Membership Meeting & One Hour CLE Ethics.**  
 11:30 a.m. Capital Club

October 19, 2004  
**HCBA Membership Meeting.**  
 Noon. Capital Club

December 2, 2004  
**HCBA Christmas Party.**  
 5:00-7:00 p.m. Old Capitol Inn

February 15, 2005  
**HCBA Membership Meeting.**  
 Noon. Capital Club

April 19, 2005  
**HCBA Membership Meeting.**  
 Noon. Capital Club

## CLE Calendar of Events

June 17, 2004  
**Litigating Workers' Compensation Cases in MS.**  
 NBI. 800-930-6182

June 18, 2004  
**Mental Health Issues.**  
 MC School of Law. 925-7107

June 22, 2004  
**How to Litigate Your First Civil Trial in MS.**  
 NBI. 800-930-6182

June 22, 2004  
**Planning Your Trial Backwards-Power Session II.**  
 Legal Resources Network.  
 981-1606

June 22, 2004  
**Sarbanes Oxley Act.**  
 Lorman Business Center.  
 715-833-3940

June 23, 2004  
**Environmental Concerns in the Sale of Property.**  
 Lorman Business Center.  
 715-833-3940

June 25, 2004  
**How to Take a Killer Adverse Deposition.**  
 UM-CLE. 662-915-7282

June 29, 2004  
**4th Annual Business Law Section Ethics.**  
 MS Bar. 355-9228

July 12, 2004  
**Employment Discrimination Update in MS.**  
 NBI. 800-930-6182

July 13, 2004  
**How to Draft Wills & Trusts in MS.**  
 NBI. 800-930-6182

July 15, 2004  
**HIPAA Compliance.**  
 Lorman Business Center.  
 715-833-3940

July 16, 2004  
**Construction Payment Rights.**  
 Lorman Business Center.  
 715-833-3940

July 16, 2004  
**8th Annual Family Law CLE.**  
 Deborah Hodges Bell.  
 662-234-4561

July 16, 2004  
**NBI. Debt Collection from Start to Finish in MS.**  
 NBI. 800-930-6182

July 16, 2004  
**The Fine Art of Trial Presentation.**  
 UM-CLE. 662-915-7282

July 19 & July 20, 2004  
**Advanced Mediation Skills Training.**  
 UM-CLE. 662-915-7282

July 21, 2004  
**Medicaid & Medicaid Planning in MS.**  
 MEDS/PDN. 262-798-5242

July 21, 2004  
**Practical Guide to Zoning & Land Use Law in MS.**  
 NBI. 800-930-6182

July 23 & July 24, 2004  
**Basic Mediation Skills Training.**  
 UM-CLE. 662-915-7282

## An Evening Honoring the Judiciary

The Evening Honoring the Judiciary, co-sponsored by the Hinds County Bar and the Jackson Young Lawyers, was held Thursday, May 6, at the Old Capitol Inn. A record crowd heard speaker, Governor Haley Barbour. David Maron served as chairman of the eleventh annual event which honors federal judges, state supreme court and appellate judges, as well judges of the chancery and circuit courts in Hinds, Madison and Rankin Counties.

HCBA President Stuart Kruger (2003-2004) and JYL President Will Manuel (2003-2004) presented their respective

associations' awards for Outstanding Service and Pro Bono contributions.

Two Jackson lawyers, Roy D. Campbell, III, and Venecia G. Green, received the HCBA Outstanding Service Award. Madeline Richmond was named this year's recipient of the HCBA Pro Bono Award.

The Jackson Young Lawyers' Pro Bono Award went to Melody McAnally, and Leigh D. Vernon received the JYL Outstanding Service Award.



Venecia Green received the HCBA Outstanding Service Award from 2003-2004 HCBA President Stuart Kruger.



Will Manuel, 2003-2004 JYL President; Amanda Jones, 2004-2005 JYL President; Melody McAnally, JYL Pro Bono Award Recipient; David Maron, Evening Honoring the Judiciary Chairman; and JYL Executive Director Melissa Williams.



Pat Evans, who was recognized by the HCBA for 15 years as its Executive Director, and JYL Executive Director Melissa Williams.



Passing the HCBA gavel to Linda Thompson for 2004-2005 was Stuart Kruger.

### HINDS COUNTY BAR ASSOCIATION JACKSON YOUNG LAWYERS ASSOCIATION

An Evening Honoring the Judiciary  
 May 6, 2004

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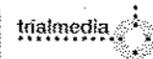
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## Thomas Crockett Receives HCBA Professionalism Award

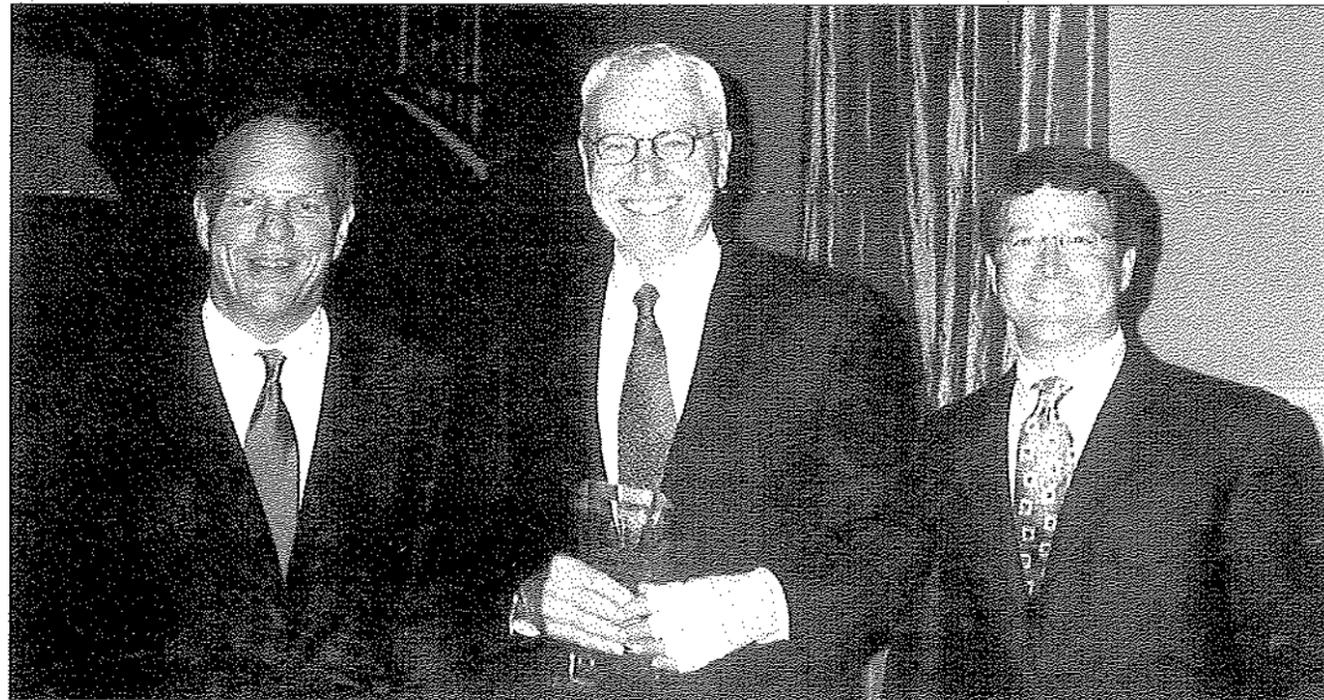
Thomas W. Crockett was presented the sixth annual Professionalism Award by William Wright, 2002-2003 HCBA President and Chairman of the Professionalism Award Selection Committee, at the Evening Honoring the Judiciary. He received a glass plaque bearing his name, the year of the award, and the criteria for the award. In addition, Crockett's name will appear on a trophy on permanent display at the Mississippi Bar Center.

The criteria for the award are that the nominated member must have consistently demonstrated adherence to professional standards of practice, ethics, integrity, civility and courtesy; have encouraged respect for, and avoided abuse of, the law and its procedures, participants and processes;

have 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 have significantly contributed time and resources to public service.

The selection committee was comprised of the Senior Hinds County Chancery, Circuit and County Court Judges, the Senior United States District Court Judge from the Jackson Division, and three HCBA members.

Past Professionalism Award Winners are Harold Miller, Ruben Anderson, William Goodman, George Hewes, and Alex Alston.



Thomas W. Crockett (center) received the 2004 Hinds County Bar Professionalism Award. He is pictured with William Wright, 2002-2003 HCBA President and Chairman of the Selection Committee; and Stuart Kruger 2003-2004 HCBA President.

## Justice Waller Honored with Special Award

At the Evening Honoring the Judiciary, Mississippi Supreme Court Justice William L. Waller, Jr. was named the recipient of the Judicial Innovator Award presented by the Hinds County Bar Association and the Jackson Young Lawyers Association.

Outgoing Hinds County Bar Association President Stuart Kruger noted, "Justice Waller was chosen to receive the Judicial Innovation Award based upon his dedication to improving the legal system and the administration of justice as Chair of the Rules Committee. When notified of

his selection for the award, Justice Waller humbly requested that the entire committee receive the award instead. While we recognize that all of the committee members were deserving, Justice Waller's leadership and service were the overriding factors leading to his selection."

Past recipients of the Innovation Award include Judge James E. Graves; the Mississippi Supreme Court, two-time award winner; Judge Breland Hilburn; and Justice Edwin Pittman.

## Castilla and Evans Participate in ABA Bar Leadership Institute

Joining some 300 other emerging leaders of lawyer organizations from across the country at the American Bar Association's Bar Leadership Institute on March 11-13, 2004, were Alveno N. Castilla, HCBA Secretary-Treasurer, and Patricia H. Evans, HCBA Executive Director.

The Institute is held annually in Chicago and is sponsored by the ABA Standing Committee on Bar Activities and Services and the ABA Division for Bar

Services as part of the association's long-standing goal of fostering partnerships with state and local bars. The seminar provides bar leaders the opportunity to confer with ABA officials, bar leader colleagues, executive staff and other experts on the operation of such organizations.

Joy Phillips, of Gulfport, future president of The Mississippi Bar, also attended the Leadership Institute.



Pictured at the ABA's Bar Leadership Institute in Chicago are (from left) Dennis W. Archer of Detroit, Michigan, ABA President; Alveno Castilla, HCBA Secretary-Treasurer; Patricia Evans, HCBA Executive Director; and ABA President-Elect, Robert J. Grey, Jr., of Richmond, Virginia.

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*continued from page 1*

will gratefully consider it. If we need new committees, we will add them.

A final word of thanks to all who have served as officers and directors of the HCBA. I particularly want to thank Rhonda Cooper, who has been a valuable member of the Board of Directors for the past two years. She is rotating off the Board but will continue active participation as a committee chair.

## HCBA LUNCHEON MEETING

Tuesday, June 15, 2004

Capital Club

12:00 Noon \$14.00

Speaker:

The Honorable James W. Smith, Jr.,

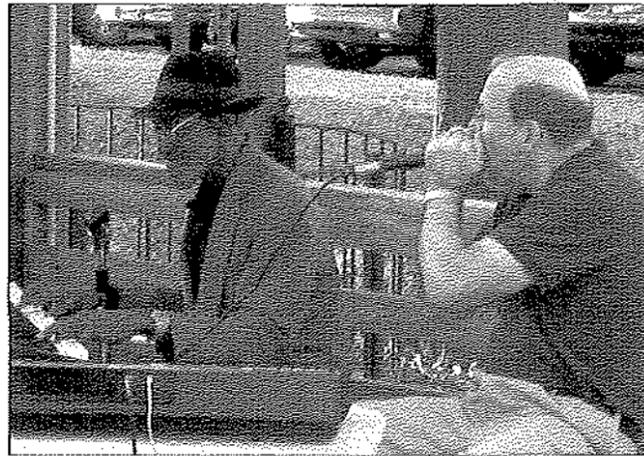
Chief Justice,

Mississippi Supreme Court

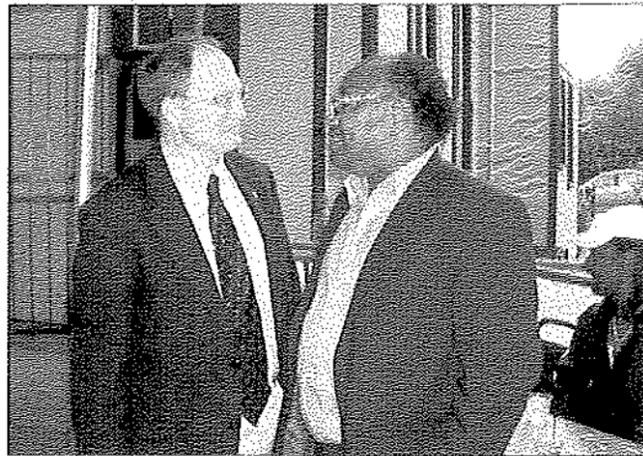
## HCBA Members Enjoy Spring Social at the 930 Blues Club

On Tuesday, April 27th, the HCBA sponsored a Spring Social at the 930 Blues Club. Members enjoyed a bountiful buffet of fried catfish, barbecue ribs, fried okra, cheese and

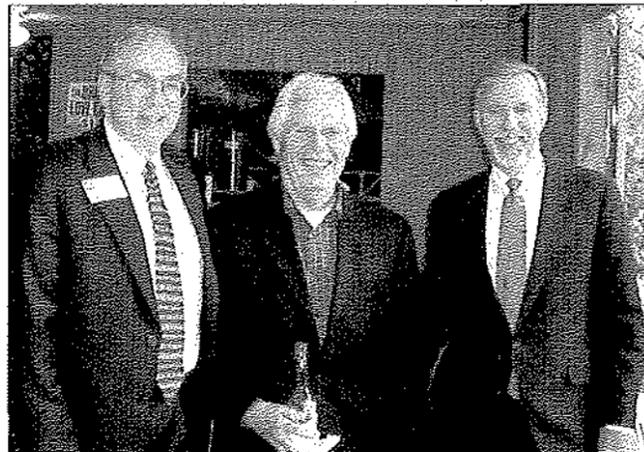
fruit, and other refreshments. Ironing Board Sam entertained the crowd that gathered on a perfect spring evening. Shown are scenes from the event.



*Ironing Board Sam accompanied on the harmonica by HCBA member Roger Clapp.*



*Supreme Court Justice Bill Waller (left) and Isaac Byrd, HCBA member and owner of the 930 Blues Club.*



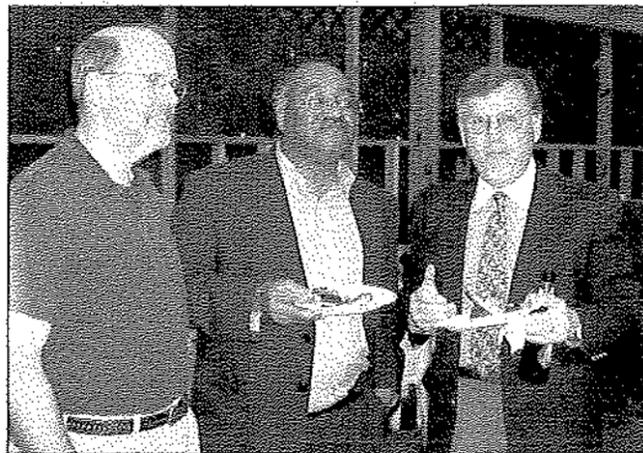
*Jim Rosenblatt, Dean of MC Law School (left), with HCBA members Jimmy Robertson and Paul Varner.*



*HCBA members Jimmy Robertson (left), Karen Spencer, and Isaac Byrd.*



*HCBA Members Hugh Tedder (left) and Steve Orlansky.*



*HCBA members Roger Clapp (left), Isaac Byrd, and Mike Farrell*

## HCBA Grant Given to Mississippi Society for Disabilities

The Hinds County Bar Association presented its second Community Grant to the Mississippi Society for Disabilities at the Evening Honoring the Judiciary. The HCBA Board and the Community Grant Committee chose disabilities as the emphasis for this year. At its April meeting, the Board voted to accept the recommendation of the Committee to select the Mississippi Society for Disabilities as the grant recipient. The \$18,000 award was given to the Society's Executive Director, Carla Thompson, by Roy D. Campbell, III, Committee Chairman.

The grant will be used to fund scholarships for up to fifteen underprivileged children whose families are unable to pay for testing and therapy provided at that agency's K.I.D.S. Clinic. "Use of the grant money for funding these

scholarships will provide life-changing tests and therapy for many children who otherwise might not be helped," said Campbell. "A long waiting list exists for those services, the cost of which is approximately \$1,200 per child. By identifying the disabilities and providing therapy at an early age, each participating child's quality of life and potential for integrating fully into society will be vastly improved."

Campbell commended the hard work of the committee which started with twelve agencies and reviewed their literature and budgets. This process was then narrowed to four and site visits were made to these four, serving on the Community Grant Committee with Campbell were: Jennifer C. Evans, Melody I. McAnally, Emily Newman, Gilbert C. VanLoon and Christopher Walker.



*Roy Campbell, Community Grant Chairman; Linda Thompson, 2004-2005 HCBA President; Carla Thompson, MS Disabilities Executive Director; Stuart Kruger, 2003-2004 HCBA President; and David Maron, Evening Honoring the Judiciary Chairman. Campbell also received one of the Outstanding Service Awards presented by the HCBA.*

## Governor Haley Barbour Featured Speaker at Evening Honoring the Judiciary



Governor Barbour was the speaker at the Evening Honoring the Judiciary on May 5 at the Old Capitol Inn. Governor Barbour was elected on November 4, 2003 in the largest turnout in a gubernatorial election in state history. He was inaugurated on January 13, 2004.

He is a native of Yazoo City where he lives with his wife, Marsha. They have two adult sons. Governor Barbour is a Deacon in the First Presbyterian Church of Yazoo City where he has also taught Sunday school.

Governor Barbour was the speaker at the Evening Honoring the Judiciary on May 5 at the Old Capitol Inn.

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Governor Barbour is a Deacon in the First Presbyterian Church of Yazoo City where he has also taught Sunday school.

University of Mississippi School of Law. In the mid-'80's, Governor Barbour served as an advisor to President Ronald Reagan for two years as Director of the White House Office of Political Affairs.

From 1993 to January 1997, Governor Barbour served two terms as Chairman of the Republican National Committee, including the 1994 elections when Republicans won GOP control of both houses of Congress for the first time in forty years. During his chairmanship, the number of Republican governors rose from seventeen to thirty-two.

Governor Barbour served as one of only ten members of then Governor George W. Bush's National Presidential Exploratory Committee and chaired Bush's Washington Campaign Advisory Committee in 2000.

Governor Barbour served as Chairman and CEO of Barbour, Griffith and Rogers, which Fortune magazine ranked the nation's top lobbying firm.

Governor Barbour received his law degree from the

## Tort Reform Legislation

by Danny Cupit

They're back.

Following the Civil War, radical Republicans revised Mississippi's legal system under the pretext of eliminating all vestiges of slavery. Their actual objective was to insure the election of Republicans from the South in order to maintain Republican domination of Congress, which at that time was appropriating vast sums of taxpayer dollars to subsidize the economic expansion of large industrial corporations.

With similar motivations, Republicans have again descended on the State Capitol and are again seeking radical revision in the state's legal system which has existed virtually intact since reconstruction. This time the pretext is the elimination of "lawsuit abuse." The reality — as it was one hundred forty years ago — is to preserve, protect and defend the established economic order and continue the domination of pharmaceutical, tobacco, insurance and manufacturing companies, free from the threat of liability for tortious conduct.

Major "tort reform" came to Mississippi two years ago following a marathon Special Session of the Mississippi Legislature. This resulted in comprehensive changes in the state's judicial system. In addition, following the infusion of literally millions of dollars from out-of-state business interests into the state's judicial elections, the Mississippi Supreme Court this past year enacted major rules changes to restrict the filing of mass consolidated cases in a single venue, and, in several appellate opinions, reversed decades of judicial precedents in the substantive law affecting the recovery of damages in tort cases. Indeed, there has not been a single large verdict returned in a mass tort case in over two years.

Not content with the elimination of the excesses in the state's tort system or willing to wait a reasonable period of time to determine if the recent changes have corrected the abuses of large jury verdicts, Governor Barbour and Lieutenant Governor Tuck have proposed even more far-reaching revisions in the state's legal system. They say these reforms are needed to improve the business climate in Mississippi. However, others say that the proposals are to pay back the large corporations who contributed — make that invested — hundreds of thousands of dollars in the recent Barbour and Tuck campaigns with the full expectation that these funds would insure the further insulation of big business from tort liability. No matter what one may say about Governor Barbour, he does not let his friends down.

The Barbour/Tuck proposals offer a smorgasbord of devices to protect wrong-doers from tort liability and to make it more difficult for personal injury victims to seek redress. They call for a sliding scale cap on punitive damages equal to three times the amount awarded in compensatory damages, regardless of the extent of the defendant's egregious conduct. Punitive damages based

on vicarious liability will be completely abolished, reversing traditional rules of master-servant liability which originated in the common law. Under this provision, an employer would no longer be vicariously liable for punitive damages as a result of its employee's gross or reckless conduct. Joint and several liability, a fundamental element of Mississippi's jurisprudence since statehood, would be abolished. The proposals also impose an aggregate cap of \$250,000 on non-pecuniary damages that can be awarded in any single case regardless of the number of plaintiffs who may be entitled to share in the award. For example, for the wrongful death of a mother, a recovery for six surviving children would be less per child than if the mother left only one child.

Other provisions in the Barbour/Tuck proposal eliminate liability of premises owners for injuries caused by the intentional or criminal acts of third parties, thereby relieving commercial property owners of any incentive to provide security at their facilities. The proposal also abolishes liability of sellers of defective products unless they participated in the design or manufacture of the product or had actual knowledge of the defect or caused the harm for which the recovery is sought. This provision eliminates a major component which has existed in strict liability since the doctrine was created and injects for the first time an element of fault in the doctrine of strict liability. In an effort to make it more difficult to bring one suit for the same wrongful conduct, the proposals cannibalize Mississippi's long-standing venue statutes and eliminate the well-settled rule that in multiple defendant actions if venue is proper as to one defendant, it is proper to all. Under the proposed provisions, venue in multiple defendant actions would have to be established independently for each defendant. The result will inevitably lead to more suits in separate venues for the same conduct, further increasing the expense and burden of litigation, not reducing it.

The proposal also creates a new medical malpractice panel to review malpractice claims before suit may be brought. To ensure objectivity and fairness, the voting members of the panel would be composed entirely of doctors with a non-voting attorney serving as chair. The decision of the review panel will be admissible into evidence in any subsequently filed civil action, thus creating a super jury and giving new meaning to the entitlement of a defendant to a jury of his or her peers.

As evidence of his commitment to this issue and of his priorities, Governor Barbour has called the Legislature back into Special Session to consider his tort reform proposals at a cost to the citizens of Mississippi of \$30,000 a day while he reduces funding to local school districts.

## What Should Happen But Won't

by Captain Equity

Things aren't going particularly well in America these days. Just pick a topic and then brace yourself for more bad news. Whether it's Torturegate, botched nation building in Iraq, budget deficits as far as the eye can see, the hangover from the corporate accounting scandals, soaring gas prices, or censorship and suppression of free speech by media conglomerates, the country increasingly seems to have lost its way. Even the charmed Manning family is being demonized. Can the end of the world be far behind?

As is usually the case, our problems can be traced to a confluence of greed, arrogance and an alarming acceleration of not wanting to hear or deal with the truth. The illustrations are numerous and the culprits many. In the final analysis, all Americans need to take a very hard look in the mirror but of course we won't.

It would be easy (and accurate) to blame many of our problems on our elected leaders. Take the neoconservative dominated Bush Administration. (The prefix neo when used in conjunction with a word having a generally accepted definition means "not".) The President campaigned as a uniter and not a divider. His foreign policy was to be based on respect for and cooperation with international institutions. He specifically opposed nation building and endorsed a sound, conservative fiscal policy. Candidate Bush preached caution and candor. So much for campaign promises. It reminds me of that great line in *Animal House* when a dismayed Kent Dorfman surveyed his car which had been trashed by his fraternity brothers who had borrowed it. In a mocking response, one of those responsible chided him, "Hey Flounder, you (expletive deleted) ...up. You trusted us." Living in America today is increasingly like living in a real life *Animal House*.

However, to be fair, likely Democratic nominee Senator John Kerry isn't exactly filling the considerable void with clarity. Notwithstanding the fact that I have no choice but to vote for him given the frightening alternative, his campaign has been less than inspiring or cogent. Besides an occasional appearance on *Imus*, we are treated to endless incomprehensible soundbites from the seemingly 8' 9" 155 lb. blueblood delivered in his deep, self important Senate floor speech-mode baritone that has me wondering if he is actually a spin off character from the TV show "Third Rock From The Sun" playing the part of a Presidential candidate. What in the world is John talking about?

All of this poses the question, can't we do better? Unfortunately, given the twisted and polarized political and economic system we live under, the answer is no. It rewards prevaricators, egomaniacs and black and white thinkers while squashing thoughtful, honest brokers like bugs. Specifically, lobbying and legislation have too often become nothing more than thinly veiled exercises in influence peddling, cronyism and bribery sheltered by cynical language manipulation offered up by master spin-doctors, many of whom are on the federal payroll. There is an increasing tendency for hypocritical Americans to demand from government ever more grandiose "entitlements" for which we indignantly refuse to pay while defining ourselves in increasingly narrow economic, cultural, ideological or racial terms. All the while, we tote twin 55 gallon grudge buckets filled to the brim with

complaints, sleights, and imagined outrages only to pitifully announce at the end of the day that we are fatigued and frustrated. Gone is the day that citizens identify themselves as just being Americans willing to subordinate their own selfish agendas for the greater total good. We did for a little while after 9-11, but no more. Consequently, we get the pandering, simplistic, craven public officials we deserve.

America is badly in need of a political makeover. Here is what should happen, but almost certainly won't.

**Independent Bipartisan Presidential Ticket:** For President: Senator John McCain (R-AZ); Vice President, Senator Joseph Biden (D-DE). The pitch to voters should expressly reject politics in favor of working together to turn things around.

**Governmental Resignations by July 4, 2004:** Secretary of Defense Donald Rumsfeld, Joint Chiefs Chairman General Richard Myers (with any luck, these two have already happened) CIA Director George Tenet, and Secretary of State Colin Powell.

**Key Adults In The New Independent Bipartisan Administration:** Warren Rudman, George Mitchell, Brent Scowcroft, Jim Baker, Zell Miller, Sam Nunn, Fareed Zakaria, Richard Holbrooke and reintroducing Colin Powell as Secretary of Defense.

**Constitutional Amendments:** By acknowledging that every elected second term for a U.S. President since FDR with the exception of Eisenhower has been a train wreck linked to either political excess or arrogance or both (FDR - Court Packing; Nixon - Watergate; Reagan - Iran Contra Scandal; Clinton - Monica Lewinsky) we should reduce the Presidential term to one six year period. Congressional terms would be extended to four years to end the constant cycle of campaigning (read pork distribution). In addition to being 35 years old and American born, all candidates for President and Vice President would be required to have served on active duty in the U. S. military. That should draw a better caliber of recruit if nothing else.

There should also be a no exceptions federal debt ceiling to be set by an independent commission and voted up or down by Congress. Once it is reached, people start losing their jobs and the air conditioning gets turned off. That would make lawmakers think twice about running the government Master Card up to the limit.

**Campaign Finance Reform:** Public financing for all federal elections. Every qualifying candidate gets the same finite amount of money and ninety days to make his or her case to the electorate.

**Governmental Restructuring:** The Central Intelligence Agency is due for head to toe plastic surgery based on its abysmal track record of failure stretching from the Bay of Pigs to phantom WMD in Iraq. If there is any doubt, these are the guys that completely missed the fall of the Soviet Union. Official CIA response? "My bad."

The Defense Department's top brass should be drastically downsized and the Pentagon Building converted into a giant factory outlet mall. The leaner DOD with an identifiable and accountable chain of command would be housed in the new budget friendly Triangle Building which would be comprised of three doublewide mobile homes,

*continued on page 10*

## Support Our Troops

by Luke Dove

A popular bumper sticker says, "Support President Bush and Our Troops". I agree all Americans should support our troops. But there is not much I can do personally. No one asked me to plant a Victory Garden or collect scrap metal. The government has not rationed gasoline and sugar. Then I realized the American who can do the most to support our troops is President Bush. So here are a few suggestions for the President:

1. Give the troops a clear mission. If soldiers are being asked to fight and die, they need to understand the mission. You said we are in a "war on terrorism". But terrorism is not the enemy. Terrorism is the tactic. Besides, as Israel has learned, "terrorists" grow a lot faster than we can kill them. You also said this was a "war for democracy". How long will the war last? What constitutes victory? And, if it is that important, why aren't the sons and daughters of the privileged joining the fight? Perhaps if the government had a better idea of the mission, the troops would too.

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thing which separates us the most from the murderers of 9/11 is not our stealth bombers. It is our values.

4. Renew your campaign promise. That's the promise you made to never send American soldiers on "nation building" missions. You said our military was to "fight and win wars" in defense of America. So the next time someone tells you America should invade an impoverished country on a utopian mission to remake the world, remember your campaign promise and be like Nancy Reagan. Just say no.

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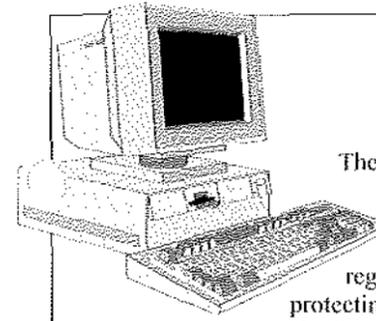
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**Educational Reform:** The "No Child Left Behind" Act should be repealed. In its place, federal legislation should be passed making a college degree a mandatory requirement for playing any professional sport or signing any entertainment industry contract. We have educational standards for lawyers, why not athletes and celebrities? Elementary and Secondary Teachers would receive base starting pay of \$75,000 with selection made competitively based on merit irrespective of the number of education course taken, just like law professors. All students would be offered cash payments for books (without pictures) read. The same offer would be open to adults. Extra money would be available upon proof of a newspaper or news magazine subscription and a minimal score on a current events test. Finally, universal mandatory education culminating in at least a high school diploma would be required of every American

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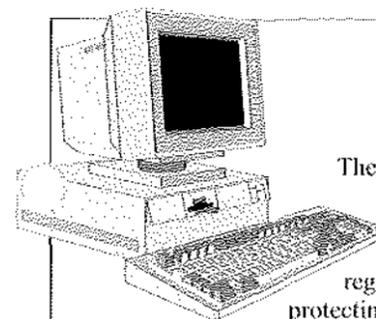
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## HCBA Essay Contest

For the third year, the Hinds County Bar Association sponsored an essay contest for seventh and eighth grade students in the metro-Jackson area. The theme for the essays chosen by the Law Related Education Committee, chaired by Venecia G. Green, was "To Win Equality by Law - Brown vs. Board at 50."

The committee received 113 essays, which is the most in the history of the contest. The winners, who were invited to the April HCBA Meeting with their parents and teacher, received a cash prize, a trophy, a certificate for participating, and a t-shirt. Each finalist received a medal and a certificate. Each participants' school received a plaque congratulating the school for encouraging its students to participate.

The winning essay by Jalisa Keys of Hardy Middle School is published in this newsletter. Receiving second place was Colin N. McDerman of St. Joseph Catholic School, and third place recipient

was Tia Caston of Carver Middle School.

The eleven finalists included: Jasmine Rivera, Peoples Middle School; Marquise Oliver and Samire Andrews, Hardy Middle School; Victoria Wilson, Carver Middle School; Kayla Jordan, Siwell Middle School; Chris Wang, Paul Donnell, Stedman M. Ashley, Caroline Venable, Rachel Mustain and Millie Reeves, all of St. Joseph Catholic School.

Serving with Venecia Green on the Law Related Education Committee were: LaVerne Edney, Marge Busching, Alan Smith, Elizabeth Maron, York Craig, III, Jay Kilpatrick, Gale Walker, Bo Greg and Terri Jacobs. John Henegan was the board liaison.

### To Win Equality by Law: Brown v. Board at 50

by Jalisa Keys

Over a hundred years ago, lawmakers decided, "Separate but equal." This decision was reached as a result of the *Plessy vs. Ferguson* case. The case determined that blacks and whites would remain separate, but their accommodations would be equal. Was this a fair and just decision? No. Although, things were said to be equal, they were not, particularly in education. All over the country children went to school. Some children rode on big yellow buses, while others walked for miles on dirt roads. Some children went to well-furnished classrooms with brand new books, while others went to one-room schools with leaky ceilings, worn desks, and torn textbooks. Were these conditions equal? No they were not. The difference in the type of education being received by blacks and whites was obvious. It was also obvious that something had to be done.

Fifty years past and "equal" education was in the spotlight again. Was education equal for all? Were black children getting the same opportunities as whites? These are the questions that led to decision we now know as, *Brown vs. Board of Education*. Brave men and women began to fight for equality in education. The words of our Constitution began to come true. Through the democratic processes, the walls of segregation in education came down, and "separate no more" was put into action. Chief Justice Earl Warren said, "We conclude that in the field of public education separate but equal has no place." Blacks around the nation began to attend the same schools as whites. They began to receive the same education. They began to have the "equal" chance to succeed.

It was this case that allows me to be where I am today.

When I look around my classroom, my school, and America I see the results of *Brown vs. Board of Education*. I see it in the schoolhouses that contain children of all races. I see it in the books I am privileged to use everyday. I see it in the bus I ride. I see it in the teachers that teach me. I see it in the classroom where I sit. I see that I have the same building, bus, books, and teachers that all other children have. I am not given second best due to my race. Without *Brown vs. Board of Education* I would not have the educational opportunities I have today. People throughout this world are obviously different in a variety of ways, but we should still be treated equally. And because of *Brown vs. Board of Education*, we are.

## Book Notes

by Nonie Joiner

Julia Reed, originally from Greenville but now living in New York and New Orleans, is one of those people who, besides writing well, knows how to tell a story. She is a senior writer for *Vogue* and a contributing editor for *Newsweek*, and has also written for the *New York Times Magazine* and assorted other publications.

The premise of her recently published book, *Queen of the Turtle Derby and Other Southern Phenomena*, is that there are currently two prevailing caricatures of the South, and that neither of these is entirely correct. One view is that "...we are, at heart, gun-toting, beer-swilling, Baptist-church-going, pickup-truck-driving, Republican-voting good ole boys and girls ... You might call this the 'Scratchin' and Spittin' School,' whether they're tattooed rednecks or button-downed professionals." The other view is that the South is now "...the Sunbelt, a land of interchangeable suburbs, full of Home Depots and Blockbusters and people wearing Dockers pants. The old moonlight and magnolias South has been subsumed by the gods of commerce and big parking lots ... This is the 'SUV and Soccer Mom' school." Reed notes that of course the South is much more complicated and interesting than either of these caricatures, and that while this is not the only unique part of the country, "...it's my unique part of the country ... And in any case it's funny as hell." So is this book.

The book is composed mostly of previously published articles which originally appeared in *Vogue*, *The New York Times Magazine*, and the now-defunct *Oxford American*, and each article, or chapter, addresses a particular Southern Phenomenon. Chapter titles give a good idea of the nature of the book: titles include among others "Mysterious Ways" (the theory here being that Southerners attribute pretty much everything to an act of God); "Eat Here" (Southern food); "Trigger Happiness" (guns); "American Beauty" (regional differences in perception thereof); "Southern Fashion Explained" (sort of); "On Soggy Ground" (Prohibition, quoting Soggy); "The Real First Lady" (Tammy Wynette); "Queen for a Day" (debutantes); "Miss Scarlett" (of course); "Member of the Club" (Belle Meade in Nashville); and "Bird Song" (fried chicken).

A chapter titled "Lady Killers" might be of particular interest to our members, since it involves, and quotes, a number of Mississippi lawyers, past and present. It's based on the oft-cited notion that in the South, a woman can kill her husband and get away with it. I do remember hearing that, even when I was a child, the theory being that if a gentle creature like a nice southern woman shot her husband, then he must have deserved it, or, as I always heard, the husband was one of those people who just "needed killing." The chapter deals with several murder trials which took place in the South, with particular attention to a trial in Greenville in the 1960's in which "the flamboyant one-armed lawyer" Howard Dyer, Jr. successfully defended a woman who had shot and killed her husband immediately upon her return home from church. It also discusses a trial involving a Delta matron who was convicted in 1948 of killing her mother and was

subsequently given two 10-day leaves from Parchman in order to attend each of her daughters' presentations at the Delta Debutante Ball. I remember that episode very clearly - it was much discussed for a very long time in the Delta. Forty years later the Delta was talking about a Greenville doctor who found out her husband was fooling around and not only shot him several times, but did so with two different guns. Defended by Sonny Merideth, the good doctor took refuge in a private room in the hospital, with guards at the door, and law enforcement officers were not among permitted guests. The husband survived, announced that it had all been a tragic accident, and she was not prosecuted.

As is usual with books and articles about the South, some people are very sensitive about perceived criticism and negativity. I have heard it said that Julia Reed has been gone from Mississippi since she was a teenager and that her view of the South and particularly of Greenville, Mississippi, also my home town, is dated and condescending and superficial and full of exaggerations and racist and snobby and she's cynical and lacking in compassion and understanding and just generally doesn't know what she's talking about. These are just a few of the things I've heard. The milder things. I could go on. I do agree that she may be remembering some things through the distorted viewpoint of a teenager. But so what? She's a great storyteller and one thing about Southerners is that we love a good story. And if she wants to tell the world that in the Mississippi Delta "Girls are taught to drink scotch and smoke cigarettes and drive a car by the time they are twelve" then I'm willing to back her up, at least on the driving part. This isn't a serious sociological study. It's a book with a cover picture of a woman standing on a turtle. It's meant to be funny. It is funny. Lighten up.

That said, I am somewhat disappointed by the book. Ms. Reed shows a bit of a mean streak - take, for instance, the quotation which appears alone on a page at the front of the book, between the title page and the acknowledgments. "I hate to read. I don't get anything out of it. I never could stand to read. It bores me." ... Susan Akin, Miss Mississippi and Miss America, 1986." Now, really. There's no need to hold the poor girl up to ridicule. That's not funny, that's sad. This sort of started things off on a sour note for me. Also, because the book is largely a compilation of previously published material, it's somewhat disjointed and, in spots, repetitive. And, the flip tone in which serious issues are addressed grows old by the end of the book. That would not be true of each article if read separately with some time in between, but the cumulative effect is hard to handle. Just read it in short spurts and you'll enjoy it more.

By the way, if you want to read something really useful by Julia Reed, find a February, 2004 issue of *Food and Wine*. She tells you where to eat in New Orleans, and even better, tells you what to order when you get there - just like our very own Road Lawyer.



## Highway Eats

by The Road Lawyer

It happens every Spring. Baseball, that is. Again I am hearing more and more lawyers talking about working their out-of-town schedules around a ball game or two. Your correspondent is no exception.

Atlanta and St. Louis have always been favorites among folk around here, although finding convenient flights to St. Louis is about as easy as getting AA baseball back in the Jackson area. The other day I heard a lawyer who has to take a deposition outside St. Paul tell his paralegal to be sure and check the schedule and be sure the Twins were in town. The Twins!

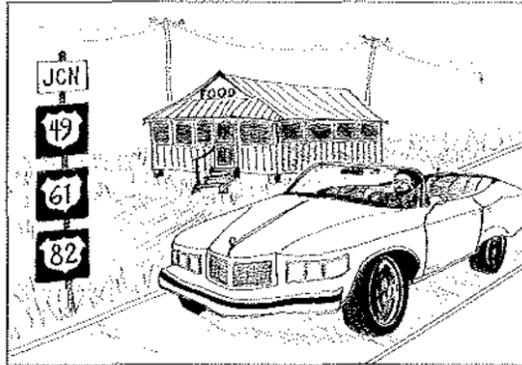
But this column is about the culinary side of the lawyer's life out of town, and the good news is that the "new" ballparks are opening new vistas. Those of you who need to schedule a deposition in the D. C. area, or haggle with a Government bureaucrat, or lobby a Senator or Congressman, need to check out Oriole Park at Camden Yards, a short train ride from Union Station. [Yes, Camden Yards is an old railroad yards with the warehouses converted to beer halls.]

Go for the eats, not the game. The Orioles still suck, though they doled out the big bucks to Javy Lopez and Raffy Palmeiro has come back.

Boog's Barbeque has been a hit from day one at this first of the "new" ballparks and is still going strong. Yes, that Boog, and he makes reasonably regular appearances. There's more of him to appear than there used to be. Boog still has his "Stand" beyond the right field SRO area. As always, the trick is to get there in the early innings. We didn't make it until the sixth inning (after the Red Sox took Schilling out). The sandwich as always was as big as Boog and quite tasty, but a bit lukewarm, to be generous.

Boog's signature Pit Beef and Turkey is now available in the Diamond Bistro located on the club level behind home plate. Which gets me to the point.

The "club level," for you golfers and soccer moms, is where the sky boxes are. You have to have sky boxes, you know. The Pyramid's not good enough for the Grizz in Memphis. No sky boxes. Busch Stadium is a great ballpark and the best of the multisport



parks that dotted the country a generation ago, but it's about to meet its maker. Why? No sky boxes.

The club level is on the same level as the sky boxes and is for those of us who can't afford sky boxes.

Anyway, you take your \$40 seat in the club level at Camden Yards (the sky boxes are more) and you realize this is not the way things used to be. You are not to inconvenience your fellow fans by getting up every other inning, stumbling over the others in your row, and then spilling your beer on them as you make your way back to your seat a half inning later (after missing the home run or the circus catch in center field). You are going to see the **WHOLE GAME** whether you want to or not.

In the club level, you are handed a menu that announces "Our in-seat service menu" and explains "To place an order just raise this menu and we will come to you . . . it's that easy." No more, "Hey! Beer man!"

And the offerings: Maryland Jumbo Lump Crab Cakes, Chef Carved Sandwiches, Soft Shell Crab Sandwich. The ice cream is Häagen-Dazs. You can order Jumbo Wings in three flavors and, of course, Boog's. Even wine. Woodbridge White. (Okay, don't be picky.)

We tried the Maryland Jumbo Lump Crab Cakes. Fantastic. Ninety per cent as good as you'll find anywhere. The Corona was great a perfect complement. (No, I couldn't bring myself to risk it all with the Woodbridge.)

The next night (remembering my advice) we ordered Boog's early. Corky's and Red, Hot 'n' Blue had better be glad Boog is not very mobile.

In the end, two games. Two Red Sox wins. Two great dinners at the

ballpark, with the beer as plentiful as ever, albeit the access is more civilized. (Your correspondent trusts the Pearl Braves will take note.)

My friend scheduling his deposition outside St. Paul may not do as well. They don't have a "new" ballpark. But Houston does, and so does Arlington (the A-Rod-less Rangers, dummy), Atlanta, Cleveland, Denver, Detroit, Philadelphia and next year St. Louis.

\* \* \*

Closer to home, area lawyers still schedule depositions in Memphis. Today some Jackson law firms even have branch offices in Memphis, or is it vice versa. Your point of view and prejudices aside, you should check out the Memphis Redbirds at AutoZone Park, katty-cornered to the northeast across Union Avenue from the Peabody.

Lawyers headed out the front doors of the Peabody expect a waft of Rendezvous style barbeque fragrance. When the Redbirds are in town, they get it from two directions. The feature offerings at AutoZone Park are BBQ plates, BBQ nachos, BBQ sandwiches, and sausage and cheese plates, all courtesy of Rendezvous recipes and even its nearby cooks and kitchens. Of course, AutoZone has its versatile beer men and the other traditional offerings.

Wait 'til Boog hears about this. If Jerry West can peddle NBA basketball in Memphis, a Boog's BBQ franchise should be a piece of cake.

The Left Field Levee is a unique offering for Redbirds fans and road lawyers who have burned out on Beale Street and Graceland. Appropriate to the locale and The River a few blocks to the West, they've built a Levee in Left Field. It is a creative improvement on the best features of the "Left Field Lounge" and the Green Monster. Lawyers and other fans are invited to buy their beer and Rendezvous [and next year, Boog's?] BBQ, and spread their Redbirds blanket, and picnic on the Levee.

\* \* \*

I could go on but the editor says I must sum up.

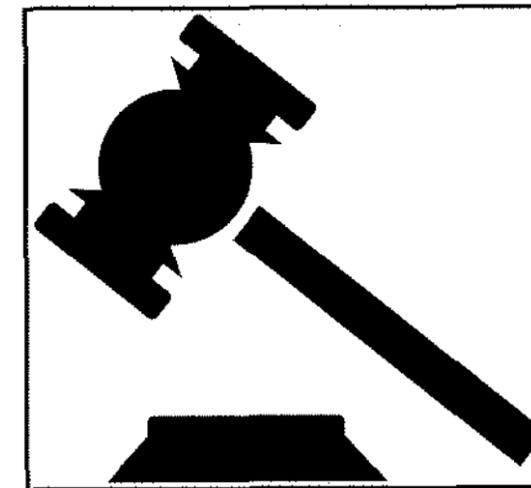
Take me out to the ball game. Buy me some peanuts and Maryland Jumbo Lump Crab Cakes? Or is it Rendezvous Barbeque Nachos?

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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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 12:00 noon, June 15**



# HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

AUGUST 2004



## President's Column

by Linda A. Thompson

At the end of our last fiscal year the Hinds County Bar Association had 1,400 members on its roster. We are well on our way to another banner year, hoping to increase our

numbers as we continue to provide quality services to our members and community.

The August luncheon meeting includes a CLE ethics program for HCBA members. The cost for the luncheon and CLE is \$25.00. A nonmember may attend and receive both lunch and CLE credit for the payment of \$25.00 and dues. Buffet luncheon at the Capital Club will begin at 11:30, with CLE from noon to 1:00 p.m. The program will feature introductory remarks by Charlie Swayze, the new President of the Mississippi Bar, and he will yield the floor to Adam Kilgore, the General Counsel of the Mississippi Bar, for

the ethics presentation. Other special guests from the Mississippi Bar will be Gwen Combs, Assistant General Counsel, and Larry Houchins, Executive Director.

Committee chairmen are hard at work recruiting committee members and planning activities for the 2004-05 HCBA year. Please let your interests be known to any member of the Board or committee chairman - we welcome your participation and ideas.

The excellent Newsletter Editorial Board is headed by Lake Dove as Editor. Periodic committee reports will be published in the HCBA News, as well as other articles of interest to members. I'm told the Editor is advertising for a political cartoonist.

Rob Dodson has agreed to chair the Golf Tournament Committee for the second year. He and his committee put on a hugely successful golf event this past May, and plans are underway for another even bigger and better happening for May 2005.

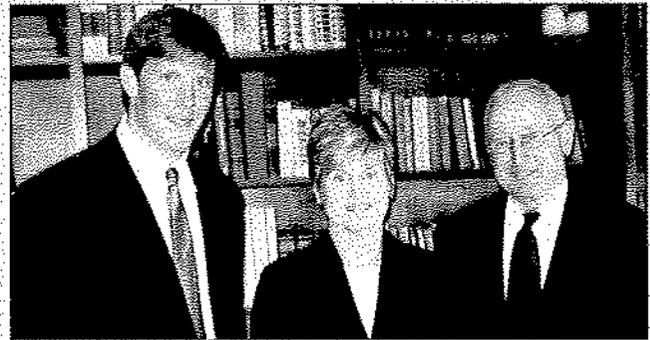
The Evening Honoring the Judiciary has become a

*continued on page 12*

## June Membership Meeting



Mississippi Supreme Court Chief Justice James W. Smith, Jr. (second from left) was the speaker at the June HCBA Membership Meeting which was presided over by Linda Thompson Robertson, HCBA President. Also attending were Justice George W. Carlson, Jr. (left) and Justice Michael K. Randolph (right).



Marcus Wilson, Jr., a summer clerk with Bennett Lotterhos Sulser and Wilson, was a guest at the June HCBA Membership Meeting. Wilson, a rising second-year law student at the University of North Carolina, is the son of Marcus Wilson, former HCBA President. He attended with Dick Bennett, a past Mississippi Bar and HCBA President. They were welcomed by Linda Thompson Robertson, HCBA President.

### HCBA LUNCHEON MEETING & CLE PROGRAM

Tuesday, August 17, 2004 Capital Club 11:30 a.m. \$25.00 (for lunch and CLE)

One Hour CLE Ethics Program presented by Charles J. Swayze, Jr., President of the Mississippi Bar, and Adam Kilgore, General Counsel of the Mississippi Bar

## HCBA Calendar of Events

August 17, 2004  
**HCBA Membership Meeting & One Hour CLE Ethics.**  
11:30 a.m.  
Capital Club

October 19, 2004  
**HCBA Membership Meeting.**  
Noon.  
Capital Club

December 2, 2004  
**HCBA Christmas Party.**  
5:00-7:00 p.m.  
Old Capitol Inn

February 15, 2005  
**HCBA Membership Meeting.**  
Noon. Capital Club

April 19, 2005  
**HCBA Membership Meeting.**  
Noon. Capital Club

## CLE Calendar of Events

August 16 & August 17, 2004  
**What You never Learned in Law School.**  
M. Warren Butler  
251-432-4481

August 17, 2004  
**MS Workers' Comp Update.**  
Council on Education in Management.  
800-942-4494  
MC School of Law.  
925-7107

August 19, 2004  
**Public Contract Code & Competitive Public Bidding.**  
Lorman Business Center.  
715-833-3940

August 25, 2004  
**Interplay of Workers' Compensation Benefits.**  
Lorman Business Center.  
715-833-3940

August 27, 2004  
**Legal Issues in Behavioral Health in MS.**  
MEDS/PDN 715-836-9900

September 10, 2004  
**MS Election Law Update.**  
MC School of Law. 925-7107

September 14, 2004  
**Premises Liability.**  
Lorman Business Center. 715-833-3940

September 14, 2004  
**Commercial & Residential Evictions.**  
Sterling Education Services, Inc.  
715-833-3940

September 16, 2004  
**2004 MS Bar Annual Ethics Seminar.**  
MS Bar. 948-4471

September 17, 2004  
**Guardian Ad Litem Training.**  
MS College School of Law. 925-7107

September 24, 2004  
**Mental Health Issues.**  
MC School of Law. 925-7107

## How Would Dale Carnegie Handle a Mediation?

by Hal Miller

Things that I felt absolutely sure of a few years ago  
I do not believe now;  
And this thought makes me see more clearly  
how foolish it would be  
to expect everyone to agree with me.

F. D. Van Amburgh

I once thought that legal education and participation in the law's adversarial system of decision making was compatible with mediation, thereby making the transition from the adversarial system to mediation logical and simple. I do not believe that now. The transition from the traditional role of advocate in an adversarial system where the decision is made by an impartial third party to the role of negotiator in a mediation setting where the decision is made by the adversaries is not natural, logical or easy. They are fundamentally different. I believe that the abundance of mediation training now offered should focus on preparing attorneys to represent clients in a mediation setting rather than on becoming mediators.

What would Dale Carnegie think? How would he handle a mediation?

Through his seminal work, *HOW TO WIN FRIENDS AND INFLUENCE PEOPLE*, published in 1936, and his seminars and training sessions based on those principles, Dale Carnegie focused our attention on human relations and the need to influence one another in order to make progress. Mediation is the most recent process used by lawyers and their clients in their attempt to influence others to arrive at some resolution of their differences without intervention of a Court or jury. Carnegie and mediation participants are in the same business. Are the techniques the same? What would Carnegie think of ours? The answer is clear when one compares Carnegie's techniques to those often utilized in mediation.

Carnegie spoke for a different generation - a generation used to common courtesy and civility. Disagree, yes, but do so politely. Unfortunately, that is not society's current method of discourse. Everyone generally notes the rapid decline and disappearance of civility in public discourse. Apparently we have forgotten how to disagree with another's ideas without disagreeing with the person. Incivility is rampant. Our profession traditionally operates on the premise that we may disagree with one another's position, but we do so civilly. I have noted instances in a mediation when incivility is practiced, and always with an adverse impact on the person one is trying to convince.

**THE UNDERLYING PRINCIPLE OF INFLUENCING PEOPLE.** Mediation is influencing people. Carnegie said: "When dealing with people, let us remember we are not dealing with creatures of logic. We are dealing with creatures of emotion, creatures bristling with prejudices and motivated by pride and vanity." Lawyers have a problem dealing with people. They prefer to deal with logic and abstract principles. From a mediation perspective, this is our basic problem.

**DON'T CRITICIZE, CONDEMN OR COMPLAIN.** A Carnegie fundamental technique in handling people. We do all of these when we attempt to convince the Court and/or jury that our position is superior to that of our adversary. Our adversary does the same. Although these techniques have their limited place in a court proceeding, they are inappropriate in a mediation context. In Court, we are attempting to convince an impartial third party - the Court or jury. In mediation, we are attempting to convince the other party, the party with whom we are negotiating. Our adversarial training tends to make us forget this significant and fundamental difference. We are negotiating. We are not going to positively influence those we criticize, condemn or complain about and to.

To successfully mediate, you must convince the other party to settle on terms satisfactory to the both of you. One can tell another of his weaknesses without such taking on the character of a personal attack. I have witnessed parties being influenced toward or against settlement by the attitude and demeanor of the opposing counsel and the way they were treated by him.

**BEGIN IN A FRIENDLY WAY.** Carnegie does. Frequently opposing counsel will severely and personally criticize the other party in their opening statement. Why? Who was ever convinced of anything as the result of a severe criticism?

**LET THE OTHER PERSON DO A GREAT DEAL OF THE TALKING.** Another Carnegie principle. Many attorneys do not allow their clients to speak during mediation except possibly in a private caucus. A mediator technique is to talk directly to the parties and tell them that the mediation belongs to them, and that the mediator wants them to ask him any question they may have or make any comment they may desire to make. A person must feel that he or she has been heard and respected before they are ready to reach agreement. Carnegie and others teach that a person is not going to be ready to agree to a settlement until that person feels that he has had an opportunity to tell their story and **BE HEARD.** Everyone wants "his day in court." Let them talk!

**BECOME GENUINELY INTERESTED IN OTHER PEOPLE.** This Carnegie principle is different than that used in Court. One of the more effective mediation techniques I have seen is that of a defense counsel who looks at the personal injury plaintiff and politely and seriously states that the defendants are sorry for their injuries and that they are here today to determine whether there is a basis of settlement, but that the plaintiff must realize that there is disagreement as to the cause of the accident, etc. The plaintiff does not capitulate, but, if the statement is made seriously, the plaintiff knows that his position is being given consideration.

**CALL ATTENTION TO PEOPLE'S MISTAKES INDIRECTLY.** Obviously, there is disagreement or you would not be in mediation. Which is the most likely to generate a positive response from the other party - "You

## Board of Directors of the Hinds County Bar Association 2004-2005



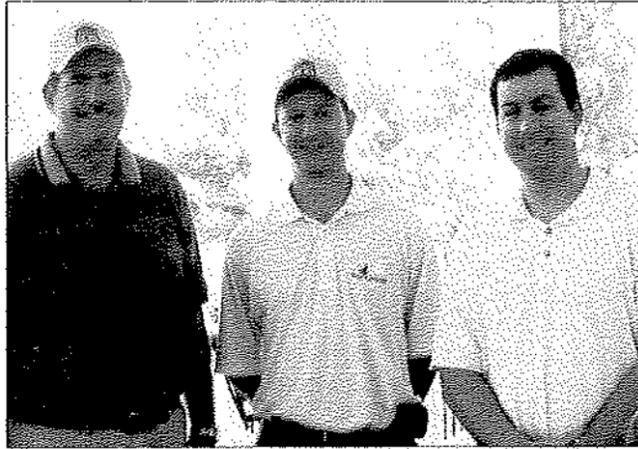
The following were elected to serve on the Board of Directors of the Hinds County Bar Association for the year 2004-05: (front row, from left) Alveno N. Castillo, Vice-President and President-Elect; Linda Thompson Robertson, President; John C. Henegan, Secretary-Treasurer; Amanda K. Jones, President of the Jackson Young Lawyers; (back row, from left) Directors Gordon U. "Sandy" Sanford, III, Deanne M. Mosley, R. David Kaufman, and Zenora Joiner. Other Board members not pictured are Stuart G. Kruger, Past President of the Hinds County Bar, and R. Patrick McCraney, President-Elect of the Jackson Young Lawyers.

continued on page 9

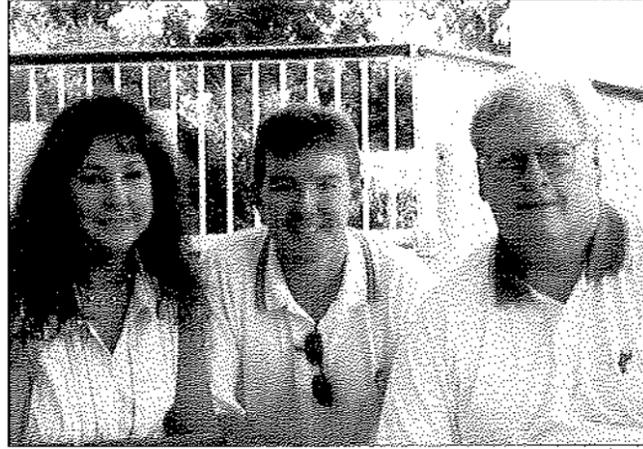
## Scenes from 2004 HCBA/JYL Golf Tournament

The Hinds County Bar Association and the Jackson Young Lawyers sponsored their 12th Annual Golf Tournament on May 20 at Annandale Golf Club. The event, which benefitted the Mississippi Volunteer Lawyers Project, was chaired by

Rob Dodson. Serving as committee members were: Debra Allen, Jay Bolin, Tommie Cardin, Harris Collier, Stuart Kruger, Keith Obert, Ben Piazza, Lyle Robinson, and Collier Simpson.



*Ben Piazza, Committee Member and past HCBA President; Rob Dodson, Chairman; and Lyle Robinson, Committee Member*



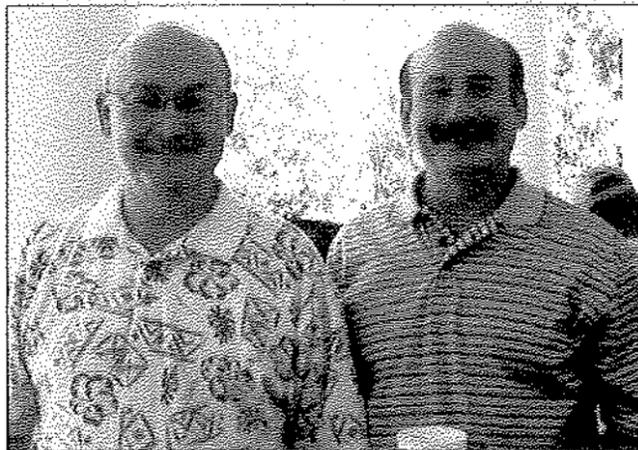
*Tina Ginn of Trustmark; Tommie Cardin, Committee Member; Harris Collier, past HCBA President and Committee Member*



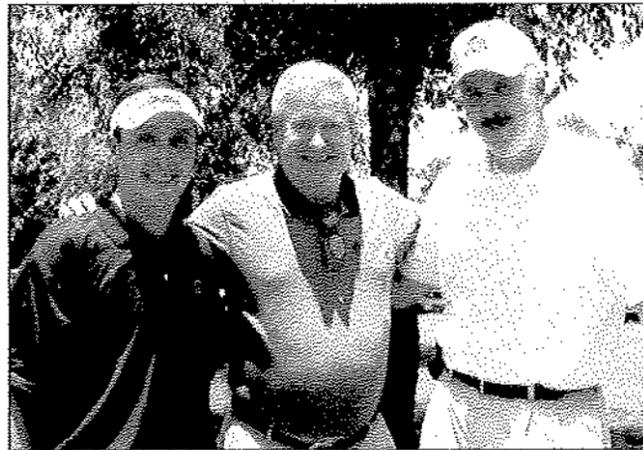
*Debbie Allen, Committee Member; and Stuart Kruger, 2003-2004 HCBA President and Committee Member*



*Trip Barnes, past HCBA President; and Jim Koerber with Koerber, Turner*

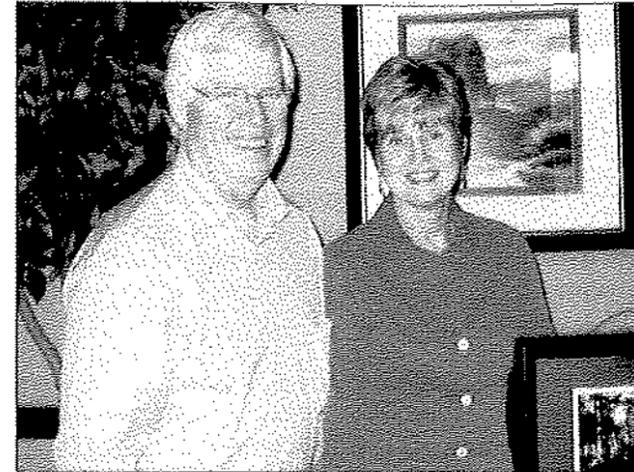


*Ken LeFoldt with LeFoldt & Company; and David Kaufman, HCBA Board Member*

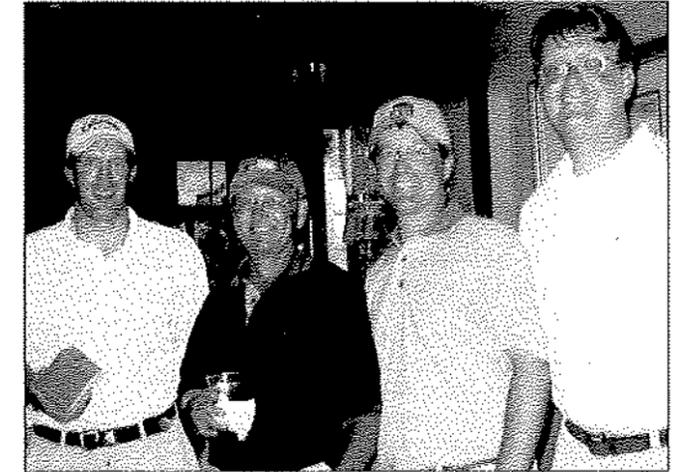


*York Craig, III; York Craig, Jr., HCBA Past President; and Ricky Luke*

## More Scenes from 2004 HCBA/JYL Golf Tournament



*Jimmy Robertson and Linda Thompson Robertson, 2004-2005 HCBA President*



*The winning team-- Kyle Fulcher, Bill Reid, Stuart Kruger and Charles Stack*



*Pat Evans, HCBA Executive Director; and York Craig, III*



*Angela Cossar; Julie Creel; Gina Donald; and Lisa Goucher with Henjum Goucher*

## HCBA Pro Bono Award



*Madeline Richmond received the 2003-2004 HCBA Pro Bono Award from Stuart Kruger, 2003-2004 HCBA President. Pictured with them are Shirley Williams (left), Executive Director of the MS Volunteer Lawyers Project; and Linda Thompson Robertson (right), 2004-2005 HCBA President.*

## Golf Tournament Sponsors - 2004 HCBA/JYL Golf Tournament

The Hinds County Bar Association and the Jackson Young Lawyers wish to thank the following sponsors for making the 2004 Golf Tournament such a success.

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## Legislative Budget Report

by Cecil Brown

For the last four years, there has not been enough recurring general fund revenue to fulfill all of the spending commitments the state has made. We in the Legislature kept hoping that the economy would improve and we could grow our way out of the deficit. But it didn't happen. Throughout this period, rather than raise taxes or make severe budget cuts, we resorted to using non-recurring "one-time" money and other sleight of hand accounting maneuvers to balance the budget. Even as budgets got tighter and services were cut, there was no outpouring of public support for major budget cuts, nor has any consensus developed to raise taxes (even something minor such as the cigarette tax). As a result, we patched together balanced budgets as best we could. Now the one-time money and the accounting tricks are all used up. In the next legislative session, we will face a stark fiscal reality: we must either make substantial cuts in spending, or raise taxes or both.

The "general fund" is the big pot of general tax revenues (sales, income, gaming, etc.) from which the Legislature appropriates discretionary spending. It is the principal source of state funding for such budgetary obligations as public schools and universities, Medicaid, the prison system, debt service, parks, the Department of Environmental Quality and the Department of Human Services. It comes to approximately \$3.6 billion of the state's total \$11.5 billion budget, the balance being "special" and federal funds - funds that are limited by law to specific programs. It is this "general fund" which is the subject of various legislative and gubernatorial budget battles.

What caused the budget problem? Basically there are two answers. During the middle and late 1990s, tax collections increased at a record rate. The national economy was strong and Mississippi experienced enormous economic growth, triggered, in part, by the construction of casinos along the coast and the Mississippi River. But the boom ended in 2000/2001 and has been followed by three years of recession, resulting in stagnant tax collections. Individuals and businesses suffered, and as their incomes declined they bought less and paid less in sales and income taxes. At the same time, the cost of government continued to increase. In 2000, based on projections of continued economic vitality, we instituted a teacher pay increase that ultimately will cost an additional \$400 million per year. Over the last ten years, we tightened down on the criminal justice system. As a result of a combination of the "85% rule" (prisoners must serve at least 85% of their sentence before release) and the criminalization of previous misdemeanors, our prison population swelled from fewer than 10,000 in 1991 to more than 23,000 today. During the 1990s the state began a building program,

revitalizing college and university campuses, renovating and building new state facilities, and increasing annual debt service from less than \$30 million in 1991 to more than \$300 million today. The cost of Medicaid soared as the state adopted new categories of eligibility and the cost of medical services increased at more than double the rate of inflation. And government continued to grow. All of these pressures combined "forced" the Legislature and the Governor to adopt patchwork budgets in the hope that things would get better. And they did get better, but not by enough.

In the general fund, the current gap between available recurring income and budgetary "needs" is somewhere in the \$400 - \$700 million range. That's a pretty big range, but it demonstrates part of the difficulty in the budget process. Much of the spending is discretionary. What is the proper funding level for our four-year universities - \$650 million or \$750 million? What about the prison system? If we institute early release, we can save \$20 million. The Governor wants to fire as many as 1,000 state workers. That could save \$40 million. The Governor also proposed cutting \$100 million from our public schools. We can definitely close the gap. But it won't be easy, and it won't be without pain.

The issues are broad. What are the social impacts of an early release program for prisoners? If we cut funding for our universities, will they simply raise tuition and take the money from parents and students? What are the long-term social and economic impacts of cutting public education? What about a tax increase on tobacco or liquor? How about a general tax increase? There are no easy answers.

The next legislative session will be pivotal in deciding the course of the state's budgets and resulting priorities for the next several years. We have used all the one-time money. At the Governor's instance, we have taken money from the Tobacco Trust Fund and from the Department of Transportation. Likewise, the Legislature has taken money from the Board of Bar Admissions and every other special fund we could find. The well is dry.

As a member of the Joint Legislative Budget Committee, I intend to force the issue. Our hope that we could outgrow our problems has not materialized. In order to catch up, we cannot continue to spend more than we collect. The Governor has pledged no new taxes, and it is unlikely that there are enough votes to override his veto. The budget fat is gone. Therefore, I will push to cut budgets to the bone, protecting education as a first priority. That may mean such things as closing more state parks or turning more services over to the federal government, but it must be done. The Governor set the tone when he cut 65,000 people off of Medicaid to save \$64 million. Without a tax increase, you can look for more of the same in the

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## Annals of the Law

by Luke Dove

"An unjust law is no law at all"—Martin Luther King

A living monument to that most remarkable document—the United States Constitution—is located only three hours north of Jackson. Built around the old Lorraine Motel in Memphis, The National Civil Rights Museum literally sits a few blocks from the Mississippi River and figuratively in the very heart of America. The museum has been in operation since 1991 and features exhibits reflecting and recounting the struggle for civil rights and equality.

The displays include dramatic photographs, newspaper articles, and several interactive exhibits. You can sit on a Montgomery city bus with a manikin of Rosa Parks and hear the driver order her to move to the rear, or stroll past the Walgreen's lunch counter where Memphis Norman sat to order coffee. You can join the marchers as they cross the Edmund Pettus bridge. You can peer through the cell bars of the Birmingham jail, and hear the moving words spoken at the Lincoln Memorial.

Many exhibits reflect the struggle for civil rights in Mississippi. They include numerous photos from the "Freedom Summer" of 1964, James Meredith enrolling at Ole Miss, freedom riders stepping off the Greyhound bus in Jackson, and the story of Fannie Lou Hammer, the sharecropper who was determined to vote.

The story of Dr. King and other civil rights figures as told at The National Civil Rights Museum reminds us that the struggle for the equality of all citizens inspired new life and meaning into our Constitution. It's worth a visit.

### Literature and Law

Who is the King of Chancery today?  
Who can personify Sweet Equity  
Now everything begins with common law?

From "The Delta Chancery Judge after Reading Aubrey's Brief Lives" by James Whitehead

Those were jolly times. Imagine thirty or forty young men collected together in a new country, armed with fresh licenses (to practice law) which they had got gratuitously, and a plentiful stock of brass which they had got in the natural way; and standing ready to supply any distressed citizen who wanted law, with their wares counterfeiting the article. I must confess it looked to me something like a swindle.... There was one consolation: the clients were generally as

sham as the counselors. For the most part, they were either broke or in a rapid decline. They paid us the compliment of retaining us, but they usually retained the fee too, a double retainer we did not much fancy.... The most that we made was experience. We learned before long, how every possible sort of case could be successfully lost; there was no way of getting out of court that we had not tested. The last way we learned was via a verdict: it was a considerable triumph to get to the jury, though it seemed a sufficiently easy matter to get away from one again.... Nothing was settled. Chaos had come again, or rather, had never gone away. Order, Heaven's first law, seemed unwilling to remain where there was no other law to keep it company.

I spoke of the thirty or forty barristers on their first legs—but I omitted to speak of the older members who had the advantage of several years practice and precedence. These were the leaders on the Circuit. They had the law—that is the practice and rulings of the courts—and kept it as a close monopoly. The earliest information we got of it was when some precious dogma was drawn out on us with fatal effect.... Occasionally, too, a repealed statute was revived for our especial benefit.... the Supreme Court was a perfect terra incognita: we had all heard there was such a place, as we had heard of Heaven's Chancery... but we as little knew the way there, and as little expected to go there....

The leaders were sharp fellows—keen as briars—quick to discern small errors—perfect in forms and ceremonies—very pharisees... "but neglecting judgment in the weightier matters of the law"... the idea that justice had any thing to do with trying causes, or sense had any thing to do with legal principles, never seemed to occur to them.

From *The Flush Times of Alabama and Mississippi*, by Joseph Baldwin

### Limbo and Law

From distant, albeit shallow, recesses of my mind I recall the refrain of the limbo song: HOW LOW CAN YOU GO? The accent being on LOW. If the question is about some lawyers, the answer is: way too low. In one of the contested races for the Mississippi Supreme Court, the campaign chairman for a candidate recently sent a letter to lawyers seeking contributions. He wrote, among other things, that the incumbent Justice was "willing to do the bidding" of gays and liberals, and the Supreme Court belongs to the "rich and powerful and not to the people".

The Mississippi Supreme Court and its Justices,

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past and present, are certainly not above commentary or criticism, in a campaign or otherwise. The level, if not the accuracy, of criticism has grown in direct proportion to the amount of money invested in the campaigns for a seat on the Supreme Court. However, it is essential that the public perceive the administration of justice as fair, impartial and honest. Otherwise, we won't have a justice system. Lawyers have a special responsibility to restore public faith and confidence in the courts and the judiciary. It is difficult to believe that any lawyer, much less a candidate for Justice, would impugn the Supreme Court and a sitting Justice in this manner. Lawyers who go that low should perhaps practice their profession on a beach and not in a courtroom. Or perhaps not at all.

### The W. E. Gore, Jr. Coffee Club

Since the dawn of time, men have gathered round campfires to recount heroic and mythic tales of yore: tales of the creation of the earth, tales of monumental battles between good and evil, and tales of mighty warriors, beautiful damsels and fickle gods. In the mead halls and castles of the Middle Ages, minstrels sang sagas of fire and storm, of life and death, of love and chivalry. From "Gilgamesh" to "Beowulf", mankind has recounted glorious days of yore, and so spun the gossamer thread that connects the living with the ancient lives. Even here, amongst these dismal and be-knighted regions, the gossamer thread is daily spun. Well, something like that.

Welcome to the W. E. Gore, Jr. Coffee Club, where the legendary feats and triumphs of the Hinds County Bar live on in story, if not in song. The Club consists, speaking loosely, of an ad hoc and varied assemblage of lawyers and judges who meet weekday mornings for tepid coffee and soggy breakfasts. They currently convene at the Farmer's Market Café, having previously driven five other cafes into fiscal and culinary ruin. With a single exception, and for good

and valid reason, members choose to remain sub rosa. Any attempt to divulge their identities would immediately bring sharp denials. The exception, of course, is the namesake: Weaver E. Gore, Jr., barrister, solicitor, counselor and raconteur. Weaver is fond of and especially adept at extended and byzantine discourse which is often prefaced by the phrase, "Back when I was drinking...." The tale thereafter meanders through well-trod thickets until a semi-official interpreter finally interrupts to bring a merciful denouement. Any member who actually prompts Weaver to launch into such a discourse is subject to a \$1.00 fine.

The Club gathers, appropriately, at a round table in a far corner of the cafe. The adjacent wall contains a shrine of sorts, including a photo of Weaver in his WWII uniform. Rumor holds that when the German high command received intelligence reports that Weaver had enlisted, staff officers resolved to make an attempt on Hitler's life with plans to immediately sue for peace. The plan went awry but Weaver won the war anyway.

The natural inclination of the members is to speak frankly and in a manner which some might consider politically incorrect. This powerful urge is, however, dampened by the periodic presence of various members of the federal and state judiciary at the round table. Therefore, some concessions are grudgingly made to the modern age. Some, but not many.

It has been suggested that law firms require new associates attend the W. E. Gore, Jr. Coffee Club (at an ancillary table, of course) for a week before they are permitted to actually represent a client or practice law in any fashion. However, others view this as an unduly harsh sentence which might result in psychic damage to the associates. The matter has been tabled, so to speak, for more pressing concerns. To be continued.....

Coming in the next *Annals of the Law*: The Biggest Verdict in Jefferson County.

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are wrong, and we all know it" or "I suggest that we consider how the jury is going to react to your actions at the time of the accident. Don't you think there is a likely possibility that they will find that you were speeding?"

BE PREPARED TO REACH AGREEMENT. Carnegie teaches that one must negotiate in good faith and be prepared to reach a decision if the proper elements are present. This does not mean that one must be a good fellow and capitulate. It means that one must have thought through his or her desires, needs and expectations and be prepared to settle. Some mediations fail because one of the parties is not prepared to settle.

LET THE OTHER PERSON SAVE FACE. This is a vital principle of human nature, and is one often

forgotten in our noble effort to apply the law. Admittedly, saving face is difficult in some legal disputes, but I fear that the concept is one which is rarely, if ever, considered. Saving face leads to the big secret to dealing with people.

THE BIG SECRET TO DEALING WITH PEOPLE. Carnegie says: "There is only one way under high heaven to get anybody to do anything. Did you ever stop to think of that? Yes, just one way. And that is by making the other person want to do it. Remember, there is only one way." Amen. Apply that principle to the mediation of legal disputes which is influencing of people to settle a controversy, and you will experience success.

## Tort Reform 2004

by Charlie Ross

This year, the Mississippi Legislature passed major legislation making substantial changes to Mississippi's civil justice laws. The legislation was much needed, is comprehensive, and fair.

The Legislature has struggled with the tort reform issue for years. Over the past four years, however, the focus became much more intense in light of some very large verdicts, the development of a virtual mass tort industry due to a very liberal interpretation of the joinder rules, and the fact that Mississippi's legal system was judged by some to be a significant hindrance to economic development and quality health care.

In an 83 day special session in 2002, the Legislature passed significant, but incomplete reform legislation. The 2002 legislation contained a \$500,000 cap on non-pecuniary damages (e.g., pain and suffering) in medical malpractice claims, with an escalator over time in the amount of the cap and an exception for claims involving disfigurement; caps on punitive damages based on net worth; and some modification of the joint and several rules. Significantly, the 2002 legislation did not address mass torts, non-economic damages in general (i.e., non-medical malpractice) claims, and retail sellers of products sued (primarily for jurisdiction purposes) simply because they sold a product with a latent defect over which they had no control.

### The 2004 Legislation

Space does not permit a detailed explanation of every part of the legislation, so I encourage lawyers to obtain a copy of the bill and study it carefully. The Bill, House Bill (HB) 13 is available on the Legislature's web site ([www.ls.state.ms.us](http://www.ls.state.ms.us)); or by calling the House or Senate Docket Rooms (359-3358 and/or 359-3329).

The following is a summary of the major topics. Unless noted otherwise, the legislation applies to all cases filed after September 1, 2004.

### 1. Venue:

The legislation provides that venue must be established independently for each plaintiff. In mass tort cases, each plaintiff must satisfy the venue statute as well as the joinder provisions of M.R.C.P. 20. The legislation also creates a special venue section for medical malpractice claims, limiting those claims to the county where the malpractice occurred. Finally, the legislation codifies both intrastate and interstate forum non conveniens as the policy of Mississippi.

### 2. Non-Economic Damages:

The legislation caps non-economic damages in medical malpractice claims at \$500,000, and in other claims at \$1,000,000, with no exceptions. The goal was predictability. Economic damages (i.e., wages, medical expenses, property damage, etc.), which can be objectively calculated within reason, are not affected. However,

subjective, non-economic damages that cannot be objectively measured are capped at levels that will still allow a plaintiff a large recovery of such damages, if supported by the evidence, while at the same time providing predictability in an area of damages where the amounts cannot be objectively measured.

### 3. Punitive Damages:

1. The legislation provides caps on the amount of punitives allowed based on net worth of the defendant.

The caps are:

NET WORTH	CAP
\$0-\$50 Million	2% defendant's net worth
\$50-\$100 Million	\$2,500,000
\$100-\$500 Million	\$3,750,000
\$500-\$750 Million	\$5,000,000
\$750 Million-\$1 Billion	\$15,000,000 - current law
more than \$1 Billion	\$20,000,000 - current law

### 4. Allocation of Fault:

The legislation adopts pure several liability. A defendant is only obligated to pay damages for his percentage of fault. If a defendant is 1% at fault, he will only pay 1% of the damages, and if he is 99% at fault, he will pay 99% of the damages. Moreover, the jury can allocate fault to an immune tortfeasor or other judgment proof tortfeasor (whether a named defendant or not).

### 5. Premises Liability:

The legislation repeals the current statutory law on liability of premises owners for criminal acts of third parties, and leaves this issue for the courts to address under the common law. A new provision is added, however, providing that premises owners shall be immune for death or injury to a contractor or its employees if the contractor knew or should of known of the dangerous condition.

### 6. Innocent Seller:

1. The legislation immunizes a seller of products for latent defects of which the seller has no actual or constructive knowledge, provided the seller has not altered the product in a material way. The purpose of this provision is to protect sellers who are mere conduits and exercise no control over the latent defect at issue.

### 7. Jury Reform:

The legislation provides, starting in January 2007, that persons summoned for jury service can be excused, if they choose, for any reason simply by calling the clerk and rescheduling a time they will serve within six (6) months or the next two (2) terms of court, whichever is longer. The legislation also greatly limits the reasons a juror can otherwise be excused. Most significantly, economic hardship due to being away from work will not be recognized as a valid excuse after a person is so scheduled.

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## From James Brown To Bill Cosby: Personal Reflections On Mississippi's Racial Divide

by Captain Equity

Not that anyone particularly cares, expect perhaps me, I nonetheless feel compelled to tell you that I have always thoroughly enjoyed the privilege and psychic benefits of writing these columns. As you might imagine, this column provides a wonderful outlet for stress relief. The second benefit is linked to the first. A pen-name by its very nature keeps the death threats down and the hate mail to a minimum. A less obvious perk is the indulgence of a youthful fantasy of mine to be a masked wrestler whose identity is unknown despite being responsible for filling up an entire hospital wing with comatose opponents who had succumbed to my all powerful "Sleeper Hold". It is sort of distorted play on the Clark Kent - Superman riff.

And so you ask, why are you telling us all this? Simply because what I am about to write is very personal in nature and will likely compromise my carefully crafted masked wrestler persona. I'll just have to put up with the death threats and hate mail that will surely follow. The fact that the subject relates to race will only exaggerate the enmity this is likely to stir up, but so be it.

As longtime readers already know, it is my strong feeling that racial animosity is the splinter in Mississippi's foot that seemingly cannot be removed. Consequently, despite so much talent, heart, people of good will, historical and cultural heritage, and natural resources (not to mention great food and music) the Magnolia State will never cure its permanent limp for the race into the future.

My parents moved to Mississippi from Memphis in 1953 when I was five years old. The next twenty years was spent in a strictly segregated environment. Black people were referred to as Negroes or Colored People. The only ones I ever saw were maids in starched white uniforms that rode the Jackson City Lines to homes in North Jackson. Mind you, these homes were very modest by today's standards, however, Negro housing by and large consisted of dilapidated shotgun shacks. In the late 50s and early 60s the Fair Grounds was surrounded by row after row of what could only be classified as slums right out of the Third World. Even as a little boy I remember being appalled by this.

As I entered my teen years I added music to sports as my two primary interests. This pattern remains unchanged today and transcends race. I listened religiously to Poppa Rock a DJ on all black 1590 WOKJ. The first album I ever bought was James Brown Live at the Apollo. In 1965 when James

Brown played for an all black concert audience in College Park Auditorium at Jackson State College, I went. This was in 1965 smack dab in the middle of the Civil Rights Movement. I wasn't any Civil Rights crusader; I just wanted to see James Brown live. It changed my life. Other big College Park favorites were Otis Redding, Joe Tex and Ike and Tina Turner. I also became a regular at the Elks Club on Lynch Street. My favorite artist was Little Milton Campbell. I saw the Staple Singers at the Masonic Temple and a young Tyrone Davis at the W.G. Ranch outside Flora. Through it all, every single black person I encountered was nothing but welcoming to this naive white teenager. Any racial and cultural difference that existed was transcended by a love of music.

Unfortunately, given the racial climate this kind of experience I would no longer attempt. Perhaps it's my paranoia, but I don't think so. That is a real shame.

By the time I was accepted by Millsaps College in the midst of the Vietnam War and the Civil Rights Movement, I was a white R&B singer in a regional band playing two frat parties a week. Thanks to my heroes of black culture, this was how I paid my way through college while having the time of my life. One of my best memories was being on a concert bill in Meridian headlined by the Original Drifters. It was all black audience and they seemed to really like us. What a thrill!

By 1968 the Civil Rights Movement had forced America to change its laws and policies regarding race while making White America confront their consciences. Nowhere was change more radical than in the South. Negroes had suddenly evolved into black people. Their spiritual leader, Rev. Martin Luther King, Jr. had led them from the shadows of second-class citizenship into the sunshine of equal opportunity, at least on paper. It would take several decades for the doors of opportunity to open in fact. The playing field is still not level, but we are light years ahead of the 50s and early 60s.

On April 4, 1968, Dr. King was assassinated at the Lorraine Motel in downtown Memphis. (Today, the site houses the National Civil Rights Museum, which should be mandatory for every American, especially children and all Mississippians.) The immediate consequence was spontaneous riots, burning and looting in major American cities. That single bullet from James Earl Ray's rifle marked the date that the Civil Rights Movement began to die. On the plus side, the door was finally cracked open to real opportunity for black people. Many have taken full

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advantage in the years since. Many more have not.

This brings us to 2004 and Bill Cosby's comments about self-destructive behavior in certain segments of the black community. One need only read the State/Metro Section of the Clarion Ledger to be aware of the disastrous consequences of teenage pregnancy, crack cocaine, school dropouts, idle young black men who turn to crime (most of which is black on black). Things have turned mean. Racism has become an equal opportunity proposition. This would have been much more understandable in 1965 given the way black people were treated back then. But such was not my experience. Sadly, today is too often a different story.

Despite all this negativity, the most troubling recent story of all from the *Clarion Ledger* has to do with attitudes of young black males toward education. Not one junior boy at Lanier High School had a 3.0 grade point average this year to qualify as Mr. Lanier High and only two out of hundreds of junior boys had a 2.5. This has little to do with ability and everything to do with attitude. In a nutshell, Bill Cosby is right. Even Jesse Jackson agreed, albeit a bit more tactfully. In sum, changing attitudes toward education, language and conduct constitutes the biggest Civil Rights challenge facing America. The challenge is magnified in Mississippi which has the highest

percentage of African American citizens of any state. This is a challenge not because my well-being is personally threatened, but rather because the well-being of the black community as well as that of the entire Metro Jackson and the State of Mississippi is collectively threatened. It is a myth to think that residing in Madison or Rankin County will make our economic and social problems vanish.

Depending on your point of view it is no one's fault and everyone's fault and every possibility in between. But fault finding is really irrelevant and counterproductive. Until we are all willing to take a hard look at reality, much of Jackson, Mississippi can count on losing ground economically in the years to come, not only in the USA, but also in large segments of what used to be the Third World. Specifically, China, India, Brazil and other emerging overseas economies will see dramatic improvement in the century ahead while Mississippi falls deeper into the throes of poverty, crime, functional illiteracy, disease, decreased quality of life - you name it. If you haven't noticed we live in a global economy. The only thing not capable of moving off shore is the fast food drive-in window, convenience stores and beer joints. If all of us, black and white don't find a way to reverse self-defeating attitudes and behavior, racial animosity will fatally poison the well from which we all drink.

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much anticipated dinner and social event, and Roy Campbell will be heading the planning committee for the 2005 celebration. Should you have suggestions regarding this event, please contact Roy.

Barry Powell is heading the Bench and Bar Relations Committee and plans to obtain and publish (in the HCBA News) standard discovery rulings from the local Circuit Judges. Venecia Green is chairing the Law-Related Education Committee for the second year. This Committee sponsored the essay contest in 2004 and garnered more interest among high school students than ever before.

Ben Piazza is heading the Hinds County Law Library Committee which is involved in advising the Hinds County Board of Supervisors about progressive ways to spend the county's law library money. He will have an article explaining the latest developments in an upcoming issue of the HCBA News.

David Maron is chairing the Community Grant Committee to continue the HCBA's annual financial contribution to a worthy community organization. He will have an article in the next issue of the HCBA News asking for suggestions from members in this regard.

Rhonda Cooper has agreed to chair the Diversity

Committee and will be developing ideas about the direction of this Committee. This year Leyser Morris-Hayes is completing her service as chair of the Elder Law Committee, about which you will hear more in the coming months.

Gingie Gautier and Keith Obert have teamed to co-chair the Social Committee to plan Fall and Spring Socials, as well as the annual Christmas Party at the Old Capitol Inn on Thursday, December 2nd. Please let Gingie or Keith know your preferences for places and times to have socials for our members.

Laura McKinley is heading the Women in the Profession Committee. Paul Varner is again Chairman of the Budget Committee. Stuart Kruger is in charge of the Awards Committee and will welcome your suggestions for members deserving of honor by awards from this or other organizations. William Wright has volunteered to head the Membership Committee.

The Technology Committee, headed by Joel Howell, is tackling the redesign and implementation of the HCBA website. Your suggestions will be welcome.

Have we overlooked a project or committee in which you are interested? If so, let us know about it - take us in a new direction!

## Dropping Names

by John Land McDavid

Tommy Lasorda. Early on a Saturday morning a couple of years ago, I went to the lobby of a Chicago hotel on Wacker Drive to checkout before returning to Jackson. It was before 8:00 o'clock. There were only two desk clerks. Both were young men who could have been in the executive training program. I got in a line of two or three persons before one of the clerks. While waiting I realized Tommy Lasorda had walked up to the other desk clerk to whom Lasorda said,

"I'm Mr. Lasorda. I would like to checkout, please."

His desk clerk, no doubt following the hotel's guest relations training, asked,

"How are you doing, Mr. Lasorda?"

Tommy Lasorda's immediate response, rendered with enthusiasm and an increased voice level, went something like this:

"How am I doing! How am I doing! It's not important how I am doing! I am now playing on the back nine. I've rounded third and heading for home. The sun is setting on my life. How I am doing is not important. What's important is how you're doing!! You're starting on the farm team. You're coming up to bat. You're teeing up at the first hole. Your whole life is before you. That's what's important! I'm depending on you. I know you can do it."

The handful of us waiting to checkout were fixated as Lasorda delivered his inspirational monologue. Finally, Lasorda's desk clerk, who like the rest of us had been rendered speechless, responded,

"Mr. Lasorda, you have made me so excited, I forgot your room number."

At this point, I began leaving the hotel realizing I had by chance happened upon an extemporaneous pep talk by Tommy Lasorda, who surely is in the class of Bear Bryant, General Patton and Vince Lombardi as a master motivator.

Norman Mailer. Sylvia and I were returning from our trip to Maine and the Maritime Provinces of Canada, which I reported on in the April 2003 issue of this Newsletter. Our return was on Delta beginning in Bangor, Maine, then to Boston, Cincinnati and Jackson, with plane changes in Boston and Cincinnati.

Our plane from Boston to Cincinnati was a Boeing 757, which has three seats on each side of one aisle. Sylvia and I were seated early in economy class with each of us having an aisle seat across from each other. After I was settled in my seat, a young man, who appeared to be in his late teens or early twenties, came and stood beside my seat. Assuming he wanted to get into his seat, I began to get up, when he said,

"Don't get up, I am waiting for my father."

I sat back down. A short time later I looked up the aisle and saw Norman Mailer. I was surprised he was so short and was walking with a cane. He had a full head of white hair and was wearing a long sleeve blue denim shirt with two chest pockets and khaki pants. As he approached our row of seats, he realized the overhead compartment for our seats was full and stopped at the next

row of seats. He tossed his carryon bag and came up into the compartment. He then sprang with both feet onto the seat holding on to the lip of the compartment. His movement was like a mountain goat jumping to the next ledge up. When he was satisfied with the placement of his bag and cane, he lept down with the same agility. This springing and leaping by Mailer was surprising because he came down the aisle using a cane. At the time he was about seventy-nine (79) years old. When the Mailers were ready to be seated, I stood in the aisle and they went into their seats with the son taking the window seat and Norman Mailer taking the middle seat next to me. As soon as he was seated he and his son exchanged a few words. Mailer then got the Delta magazine out of the seat pouch and with a roller-ball pen began working the crossword puzzle. As I watched, I realized Mailer was filling in the blanks as fast as he could write. He completed the puzzle within a few minutes and before we began to taxi for takeoff. After we took off everyone on my row settled down and then we were in Cincinnati. Although I was seated next to the Norman Mailer, had read and enjoyed a number of his books and had seen him many times on television (which gives a false sense of familiarity), it did not occur to me to speak to him or acknowledge I knew who he was. This may have been because of my past experience with another famous writer while at Ole Miss.

William Faulkner. When Sylvia and I were at the Ole Miss law school, William Faulkner was alive, lived in Oxford and had been awarded the Nobel Prize for Literature. Faulkner sought privacy and his reaction to those who attempted to violate his privacy was well known and respected by Oxford residents and Ole Miss students.

Sylvia and I would study in the law library in the afternoon after morning classes. We would take a break for something to eat around 5:00 o'clock p.m.. On a regular basis, we would go to Grundy's cafe on Lamar Avenue in a building south of what is now Square Books. Grundy's was not large but had on its north side an area for stools and booths and on the south side a small dining room of about eight tables which seated four people each. On a number of occasions during the years we were in law school, when we went to Grundy's around 5:00 p.m. William Faulkner and Mrs. Faulkner were already there or they soon came in for dinner and we four would be the only customers in the cafe. They probably came at this time because they assumed no one would be having dinner in Oxford at 5:00 p.m. The Faulkner's always set at a table in the far back corner. They never acknowledged our presence and we did not acknowledge their presence, as was the decorum at that time and place for a Nobel Prize winner even though the dining room had only eight tables.

When it comes to name dropping, I know I'm not in a class with Jimmie McDowell, but this is the best I can do.

## Report of the Bench and Bar Committee

by Barry Powell

Hinds County Court Judge William R. Barnett furnished the Hinds County Bench & Bar Relations Committee his standard rulings on some of the routine matters that are presented to him in discovery disputes. These are rulings that Judge Barnett applies unless he is shown that there is some circumstance or factual situation in the particular case that would cause him not to follow his usual ruling.

In the absence of extension by order or agreement of the parties, Judge Barnett will enforce the 90 day discovery rule prescribed in Uniform Circuit and County Court Rule 4.04. (However, he will generally allow the deposition of parties to be taken within a reasonable time after the discovery deadline even in the absence of agreement.)

Interrogatories, requests for production or requests for admission propounded within the discovery period are timely even if responses are not due until after the expiration of the discovery period.

Requests for admission are considered to be discovery and governed by discovery deadlines.

Evidentiary depositions may be taken outside of the discovery period without leave of Court.

The Rule can be invoked at depositions.

An out-of-town or out-of-state Plaintiff may be routinely required to appear in Hinds County to be deposed.

In a personal injury case, a Plaintiff cannot be required to execute a medical authorization.

Leave to respond to requests for admission that have not been answered within 30 days is freely granted.

In a personal injury case, any subpoenas for medical records must be served on counsel opposite and copies

of such records must be made available to counsel opposite upon request. If a motion for protective order is filed, then the subpoenaed medical records must come directly to Judge Barnett. He will let the patient's attorney review the records and designate what records are objected to for in camera inspection.

Witness statements taken by an insurance adjuster while making a decision whether to pay a claim and before receipt of a demand letter or notice of representation are routinely discoverable.

Designation of experts must be made 60 days prior to trial, but designation does not require opinions and bases for opinions. If the parties cannot agree on a deadline to provide Rule 26(b)(4) discovery information on experts, Judge Barnett will set a deadline upon motion of either party. Rule 4.04.

Subparts are counted in determining the limit of 30 interrogatories. M.R.C.P. Rule 33(a).

Monetary sanctions are very rarely given. (Generally only for failure to comply with a Court Order.) Sanctions in the form of providing that the Plaintiff's complaint will be dismissed or the Defendant defaulted if a discovery Order is not complied with are more freely given.

Judge Barnett also noted that, by statute, interlocutory appeals are not allowed from County Court.

The Hinds County Court docket is available on the Hinds County website at ([www.co.hinds.ms.us](http://www.co.hinds.ms.us)). Motions are heard on Thursday mornings. Motion and trial settings can be obtained through County Court Administrators Sylvia Bennett and Angela Cook at 968-6648.

## MLPA to Celebrate Court Observance Day

The Metro Legal Professionals Association plans to celebrate Court Observance Day on Friday, October 8, 2004, with a visit to the James O. Eastland Courthouse in Jackson. Dee Taylor will conduct a demonstration of Judge William Barbour's electronic courtroom. The program will begin at 9:00 a.m.

Following the demonstration, the MLPA will meet for a luncheon at Denney's Restaurant. The special speaker will be J. Patrick Frascogna. He will speak to the group on juvenile access to the courts in criminal matters.

The Metro Legal Professionals Association is a local chapter of NALS... the association for legal professionals, and a subchapter of the Mississippi

Division of NALS, Inc. Each year NALS celebrates Court Observance Day, and this year the theme is "... and Justice for Youth."

Anyone interested in attending the courtroom demonstration or luncheon (or both) should contact Anita Campbell, PLS, by e-mailing [acampbell@frascourtlaw.com](mailto:acampbell@frascourtlaw.com) or telephoning her at 601-987-3000. Please mail luncheon checks to her at 6360 I-55 North, Suite 150, Jackson, MS 39211.

The price for the meal (featuring broiled tilapia with creole sauce) will be \$20.00. The deadline for reservations is Friday, October 1, 2004, and no refunds will be made after that date.

## Hinds Circuit Court to Implement Electronic Filing

The Circuit Judges of Hinds County are in the process of evaluating a system of electronic filing for all civil cases filed after 2002. The Judges have been in discussions with Lexis Nexis File and Serve and may implement electronic filing within a few months. Lexis Nexis has developed an electronic filing plan which will help alleviate the shortage of storage space in the Circuit Clerk's office and substantially decrease the need for telephone calls to the Clerk and the Court. The new system will allow judges and attorneys to access files, motions, orders and other pleadings at any time from any location with internet access. Before the new system is implemented, the Court and Lexis Nexis will hold training sessions for all attorneys and their staff members.



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*continued from page 10*

This change will allow people flexibility in scheduling, while at the same time furthering the goal of all who are capable fulfilling their duty as citizens. Finally, the legislation also authorizes wage loss compensation for jurors in trials greater than ten (10) days, subject to funding at a latter date. The 2004 Bill itself does not provide funds for additional jury compensation.

In my judgment, both as a legislator and as a practicing attorney, the 2004 legislation provides needed reforms critical to the credibility of our court system and the state's efforts to insure a predictable legal climate conducive to business development and quality healthcare. It is responsive to the legitimate expectations of the public. It does not deprive claimants of their right to assert claims and recover reasonable amounts on legitimate claims. In short, it creates a more fair and level playing field which will improve our civil justice system.

EDITOR'S NOTE: Charlie Ross is a member of the Hinds County Bar and is a State Senator.

## Letters to the Editor

Dear Editor:

I read first with interest and then with dismay your editorial entitled "Correction" in the last issue. As you will recall, your comments related to Governor Barbour's Judicial Appointments Advisory Committee.

1. The Executive Order creating the Committee carefully insures that the obligation to appoint Judges when required is not unlawfully delegated. The Order makes it clear the function of the Committee is advisory and is basically limited to reviewing applications to the end of reporting whether the applicants are "fully qualified" or "not fully qualified". The Governor has the option of requesting that the Committee propose additional candidates if the results of the initial review don't provide a qualified or eligible candidate.
2. You may be the first person to assert that Governor Barbour needs political cover. Certainly I have never been asked by a living soul to perform such a duty. I, and I suspect your readers, can imagine a thousand lawyers better suited to do that job than me. And what of the other members of the Committee? Perhaps the diversity of practice area, gender, geography, race and age wasn't apparent at first observation. You should check that. If I was seeking political cover, I would think I would want a homogenous group, litmus tested to an appropriate political ideology. Recheck it.
3. Thankfully, your comments won't get much past Hinds County. I would hate for the members of the Southern Subcommittee who took this responsibility so very seriously to be offended. I reported to the Governor what a remarkable experience it was for me to understand how willing those members were to speak candidly to me and to accept my word that their input would be kept confidential. In several hours of conversation, I never once heard a single comment that was designed to do other than help the Governor pick a fair, impartial, experienced, intelligent, earnest and honest Judge. Not a single member exhibited an unworthy agenda.
4. Throughout the process, which took many, many hours of work, I never heard either the Governor or his staff utter a word that did not go to the non-political merits of the candidates.
5. Because we had five sitting Judges apply for the appointment, (three Chancellors, a Circuit Court Judge, and a Municipal Court Judge) as well as other capable and experienced lawyers, we submitted a number of candidates as "fully qualified". In addition, I provided an overview of the candid analysis of the Committee on the relative strengths of those we "certified". To the Governor's chagrin, he had to choose from a number of excellent options, no one of which was overwhelmingly endorsed to the exclusion of others.
6. I would take an oath that the Governor took very seriously our input, and far from providing him "political cover", caused him to reflect for approximately ten days on what we said. The outcome was never certain because of the number of qualified candidates. He made an excellent choice, but not without serious review. I know his first desire was to restore the public's faith in its Judiciary.

In sum we all know the Governor did not need to appoint a Committee. He will receive plenty of applications for any vacancy that occurs. But once we get below the Supreme Court level, and the applicants are less well known, he will be increasingly dependent on input from people whom he can trust to provide a candid assessment of judicial qualifications. Rather than get that input from a group unknown to the Bar and the public, he has set up a very public, diverse committee, and asked us to serve that function. I am honored to be a part of that process.

Sincerely yours,  
Ed Brunini, Jr.

EDITOR'S NOTE: Surprisingly, we did check the facts. As a journalist might say, we stand by the article. But that's not the important issue. The Governor's first appointment was an excellent choice. The Judicial Appointment Advisory Committee has the opportunity to ensure that future appointments are equally well qualified. We appreciate their work.

## Book Notes

by Nonie Joiner

I have failed at my self-selected task for this issue. I told our Editor, who wishes to make the Newsletter more topical and relevant, that in view of the upcoming election, I would write about some of the many recently published books about politics and by or about politicians. However, I found that I was not well suited to this task. In fact, I was really bad at it.

Because this is an election year, there are of course many new books about the candidates. There are books about the candidates for president, and the candidates for vice president, and about many of their wives, children, and parents. There are books by people who know the people they're writing about, and there are books by people who don't know them, didn't do any research, but wrote a book anyway. There are books that appear to be entirely made up, written for a specific audience that will believe anything negative about someone they dislike. Hilary-haters seem to be a huge book-buying constituency. I believe you could write anything at all about her, and as long as it was bad, people would buy your book.

It seems that most of the people who write about politics or politicians, whether as a participant or as an observer, don't bother to pretend to anything resembling the detached, analytical stance that we used to expect from journalists and commentators. Everyone from the major media outlets to the little local newspapers to nationally recognized authors, have scrambled to choose up sides in this exceptionally polarized election. Reporting is thinly veiled opining. A lot of the media reports and books are truly ugly. Just look at the titles of some of the books out there right now: *Worse Than Watergate*, by John Dean (John Dean, mind you). *Cruel and Unusual: Bush/Cheney's New World Order*, by Mark Crispin Miller. There's that pesky New World Order again. Just won't go away, will it? *Imperial Hubris: Why the West is Losing the War on Terror*, by Anonymous. *American Dynasty: Aristocracy, Fortune, and the Politics of Deceit in the House of Bush*, by Kevin Phillips. *House of Bush, House of Saud: The Secret Relationship Between the World's Two Most Powerful Dynasties*, by Craig Unger. Senator Robert Byrd has an upcoming book titled *Losing America: Confronting A Reckless and Arrogant Presidency*. A Washington Post Style writer named Ann Gerhart wrote a book titled *The Perfect Wife: The Life and Choices of*

*Laura Bush*, which was a snide, patronizing attack on Mrs. Bush. I read all of it and am convinced that Ms. Gerhart didn't have a date to her senior prom.

All this mean spiritedness is catching, too. Look what I just said about Ms. Gerhart. And while trying to read these books, I got mad at some writers that I've always liked. I sometimes yelled at the book I was reading. I tried the above books, except the Byrd one, and several others with less objectionable titles but equally objectionable content. I just couldn't finish most of them; thank goodness that for the most part I had checked them out from the library rather than buying them. Of the books I finished, I couldn't recommend any of them. Of the books I didn't finish, the best seemed to be *My Life* by Bill Clinton; I do intend to finish reading it. Sometime. Maybe.

The last book I read before I started on the political books was one of the many recent histories and biographies dealing with the colonial period of American history. When I started *Founding Mothers* by Cokie Roberts, I wasn't expecting much - the title is a little frivolous and I thought it would be a sort of Ladies Home Journal piece - but it is a serious study of the women who were influential in the founding of the nation. Furthermore, it has footnotes and everything. She didn't make this stuff up. I really enjoyed reading this book and strongly recommend it. Before reading it, I'm ashamed to say, I had never heard of most of the women described, although many of them were well known during their lifetimes. The sacrifices they and all the colonists were called upon to make in order to establish this country were great. Perhaps my lack of patience with the political books as a result of having just read this book. Look what we've done with the gift those Revolutionaries gave us.

In order to clear my palate after those nasty political books, I turned to Nicholas Basbanes. He wrote *A Gentle Madness* in 1995, a book about books and people who collect them. His most recent work is *Splendor of Letters: The Permanence of Books in an Impermanent World*. Although I haven't finished reading it, I feel much better now.

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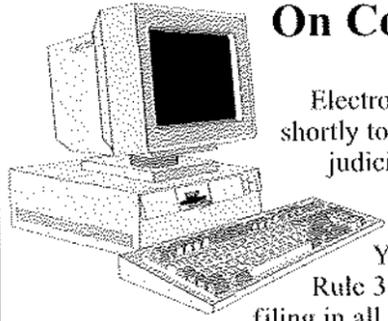
coming years.

For all of the reasons I have described above, the Governor and we in the Legislature find ourselves in a budget quandary. The only solution is to roll up our sleeves, make the difficult choices and try to minimize the impact as best we can. Next year, when you read

about the budget battles, please understand that while inevitably some politics will be involved, the dilemma is real, and the choices are not pleasant.

EDITORS' NOTE: Representative Cecil Brown is a member of the House Appropriations Committee and the Joint Legislative Budget Committee.





## On Computing-Electronic Filing in Hinds County

by Joel Howell

Electronic filing is coming shortly to both Circuit Court judicial districts of Hinds County.

Senior Judge Swan Yerger will issue Local Rule 3 mandating electronic filing in all new civil circuit cases,

as well as active cases dating back to 2002. A case management order will be issued to provide e-filing administrative procedures. All pleadings and exhibits will be filed and served electronically. Only paper format specifically designated by the court will be filed. The local rules will be amended to allow filing twenty-four hours a day, seven days a week, though weekend and holiday filings will be effective as of the next business day. NOTE: Within fifteen (15) days of the adoption of the new rule, attorneys with active cases from 2002 forward must file an electronic appearance.

LexisNexis File & Serve will be the engine. It already provides electronic filing and services existing projects in Arizona, California, Colorado, Delaware, Georgia, Maryland, Michigan, Ohio, Texas, Washington, and the District of Columbia. More detailed information is available at [www.lexisnexis.com/fileandserve](http://www.lexisnexis.com/fileandserve).

This will be an Internet-based service, so no software will be required. The appearing attorney simply signs on to the system and attaches pleadings, motions, and other documents either from a word

processing program or in PDF format for filing. The system will provide a receipt, as well as service on opposing counsel. For greater security, the system will convert all documents to PDF format. In addition, LexisNexis will store all filings in servers in seven different locations.

Submitted documents may be reviewed by the clerk as part of the intake process and then passed on to the assigned judge for review. It is expected that all four circuit judges involved in the designated cases will then provide responses and orders to counsel through the LexisNexis File & Serve system, allowing quicker and more efficient responses.

Internet access to the system will be restricted. Users must have an ID and a password. Further, access to documents can be additionally restricted by system settings and individual profiles to accommodate sensitive information and sealed cases. Public access will be allowed by terminals available in the clerk's office during regular business hours.

This will be a fee-based system. There will be a per document fee for filing and for service to LexisNexis in addition to existing court fees. These will be paid online by LexisNexis and then included in a monthly bill to law firms. LexisNexis will bear the cost for any non-computer literate types who opt out of the system.

Questions or comments? Send email to [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).



## Book Notes

by Marlane Chill

*Waiting for Snow in Havana* by Carlos Eire is a deeply moving story about the Cuban Revolution and its lasting effect on the author and his family. On January 1, 1959, Fidel Castro ousted the Cuban dictator Batista, dramatically changing Cuba forever. Thousands of

Batista's supporters were executed by firing squad (shown on Cuban television), religion was outlawed, the celebration of Christmas was declared illegal and thousands of political dissenters were imprisoned. Many Cubans decided that he only answer was to immigrate to the United States, leaving all their possessions and many family members behind.

Carlos Eire had had an idyllic childhood in Havana. His father was a judge; his mother a housewife with a staff of servants including a nanny for each child. The Eires lived in the best section of Havana and the two brothers went to a Catholic boys school with the sons of Batista. One of the most charming parts of this book is Eire's vivid discussion of his childhood in Cuba - riding waves at the beach,

chasing lizards, playing in the elaborate treehouse of a friend, and wonderful meals with his family and many relatives.

Eire's life changed dramatically in 1962 when at age 11 he and his older brother were airlifted (with 14,000 other children) to Florida and placed in foster homes. Three years later, their mother was finally able to join them in the United States. Their father chose to remain in Cuba where he died in 1976.

Today, Carlos Eire is a professor of history and religious studies at Yale University. He says he will never return to Cuba as long as Castro is in power and human rights are routinely trampled. Also of concern to Eire, is what he described as the "squalor and oppression of present-day Havana" and the effect that seeing this would have on his childhood memories that are to him to this day still so very vivid.

Eire's recollection of his Cuban boyhood is deeply moving and personal. In 2003, he was awarded the National Book Award for his memoir.

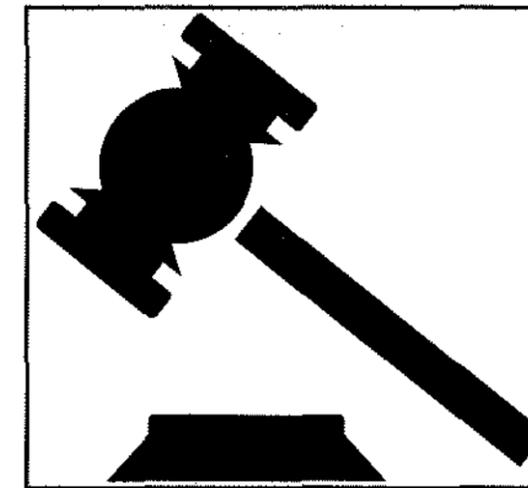


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## EXCEPTIONS

### Labor Day

Monday, September 6th ..... 9 a.m. - 5 p.m.

### Thanksgiving

Wednesday, November 24th ..... 7:30 a.m. - noon  
Thursday & Friday (Nov. 25th & 26th) ..CLOSED

## EXAM SCHEDULE

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Saturday ..... 9 a.m. - midnight  
Sunday ..... noon - midnight

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December 16th & 17th ..... 7:30 a.m. - 6 p.m.  
December 18th & 19th .....CLOSED  
December 20th & 21st ..... 7:30 a.m. - 6 p.m.  
December 22nd ..... 7:30 a.m. - 4:30 p.m.  
December 23rd - January 2nd .....CLOSED  
January 3rd - 7th ..... 7:30 a.m. - 6 p.m.  
January 8th & 9th .....CLOSED  
January 10th ..... 7:30 a.m. - 6 p.m.

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**11:30 a.m., August 17**



# HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

OCTOBER 2004



## President's Column

by Linda A. Thompson

Before I became an officer of this organization, I was the editor of the Newsletter. And sometimes I was co-editor of the Newsletter. Some years I was just a member of the Newsletter Editorial Board, and I helped out when the editor was on a trip or in the hospital or whatever. It has been so many years, I can't remember a number - maybe twenty? I'll have to ask Carol West.

And for all those years, putting this Newsletter together has been a pleasure, an easy kind of task, a happy obligation. Why? A great staff of writers and other editors I might not otherwise have known.

Bimonthly meetings over fine wine at Nick's.

And then all I had to do was say, "Martha, find some graphics for this invitation and put a box around it." Or . . . "Martha, run that article we ran in last year's October issue." "Martha - will you send Felix over to my house to pick up the last-minute floppy disc and photographs?"

And Martha was always available to the HCBA, always steady and calm - even when we ran late getting our articles together. "Martha, just save a page for the Road Lawyer. If it's too long, we'll shorten it up." She loved the Road Lawyer and never missed a word of On Computing.

What will we do without her?

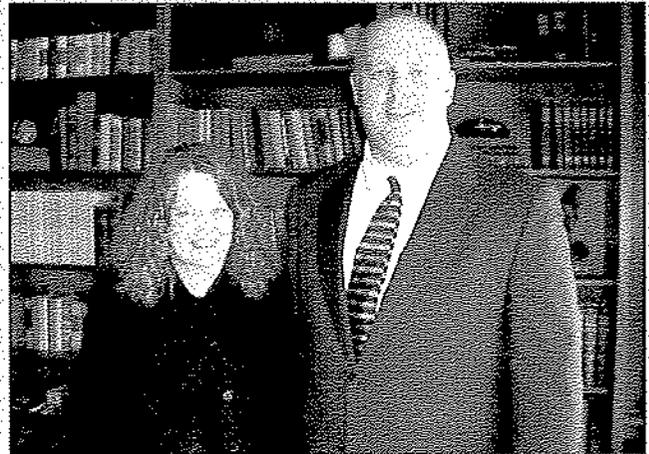
For those of you who haven't worked on the Newsletter, I'm referring to Martha Royalty, a delightful, witty, intelligent, savvy entrepreneur and

*continued on page 2*

## August Membership Meeting



*Mississippi Bar President Charlie Swayze (left) was one of the featured speakers at the August HCBA Membership Meeting and CLE Ethics Program. Also attending were Joy Phillips, President-Elect of the Mississippi Bar, and Larry Houchins, Executive Director of the Mississippi Bar.*



*Gwen Combs, Assistant General Counsel of the Mississippi Bar, also was a special guest at the August HCBA Meeting, and Adam Kilgore, General Counsel of the Mississippi Bar, presented the ethics portion of the program.*

## HCBA LUNCHEON MEETING

Tuesday, October 19, 2004    Capital Club    Noon    \$14.00

Speaker: The Honorable William L. Waller, Jr., Presiding Justice, Mississippi Supreme Court

## HCBA Calendar of Events

October 19, 2004  
**HCBA Membership Meeting.**  
Capital Club.  
Noon

December 2, 2004  
**HCBA Christmas Party.**  
Old Capitol Inn.  
5:00-7:00

February 15, 2004  
**HCBA Membership Meeting.**  
Capital Club. Noon

April 19, 2004  
**HCBA Membership Meeting.**  
Capital Club. Noon

May 12, 2004  
**HCBA/JYL Evening Honoring  
the Judiciary.**  
Old Capitol Inn.  
6:30

## CLE Calendar of Events

October 21, 2004  
**Joint Seminar of the MDLA & MCA.** MS  
Defense Lawyers Association. 992-8645

October 21, 2004  
**Advanced Workers' Compensation in  
MS.** NBI. 800-930-6182

October 22, 2004  
**General Industry Occupational  
Safety Training.**  
Lorman Business Center. 715-833-3940

October 28, 2004  
**Elder Law Essentials in MS.**  
NBI. 800-930-6182

November 4, 2004  
**Workers' Compensation.**  
Lorman Business Center. 715-833-3940

November 8, 2004  
**Sophisticated Section 103 Transactions  
in MS.** NBI. 800-930-6182

November 10, 2004  
**Uninsured & Underinsured Motorist  
Law in MS.**  
NBI. 800-936-6182

November 10, 2004  
**Litigation Tactics & Trial Techniques.**  
Lorman Business Center. 715-833-3940

November 10, 2004  
**Bankruptcy.**  
Lorman Business Center. 715-833-3940

November 11, 2004  
**Mentoring by the Book.**  
MS Bar. 987-4270

November 12, 2004  
**Guardian Ad Litem Training.**  
MS School of Law. 925-7107

November 30, 2004  
**How to Litigate Your First Civil Trial in  
MS.** NBI. 800-936-6182

December 1 and December 2, 2004  
**Individual Income Tax.** MS Assn. of  
Public Accountants. 800-321-1276

## Justice Waller to Speak at October HCBA Luncheon Meeting

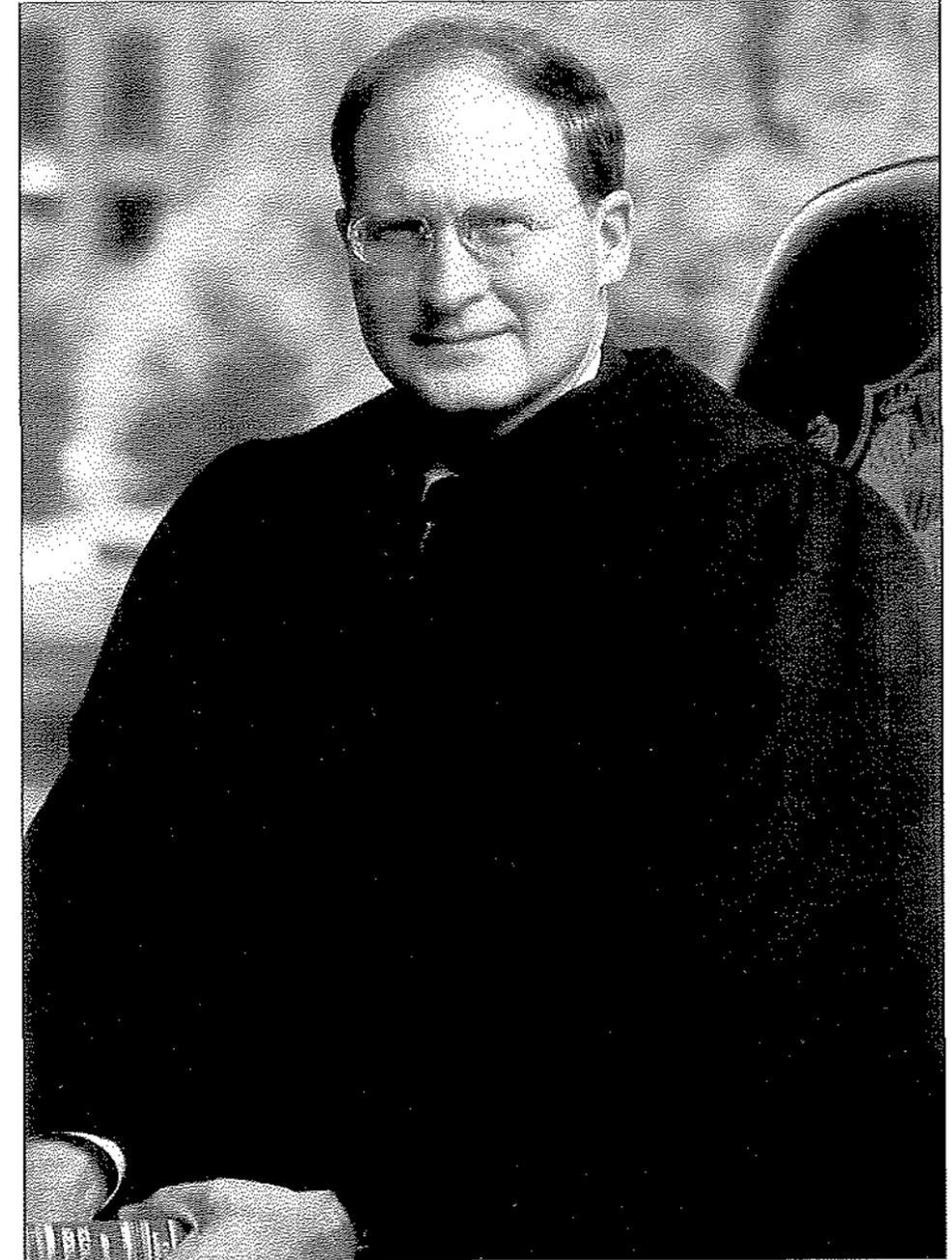
Presiding Justice William L. Waller, Jr., a native and current resident of Jackson, is a graduate of Murrah High School and Mississippi State University. He received his law degree from the University of Mississippi in 1977. He practiced law with the firm of Waller and Waller in Jackson for more than 20 years and served as a Municipal Judge for the City of Jackson before he was elected to the Mississippi Supreme Court in November 1996. Justice Waller assumed the position of Presiding Justice in January 2004.

Justice Waller has sought to bring reforms in the administration of justice. He supported adoption by the Mississippi Supreme Court of new rules for mediation and was appointed to serve on the Judicial Study Commission created by the Mississippi Legislature in 2001 to examine the State's judicial system.

In 2000, Justice Waller served as Chairman of the Mississippi Public Defender Task Force. He was principal architect of what became legislation that reformed the post-conviction relief process for death penalty cases. The legislation created the Office of Capital Post Conviction Counsel.

Justice Waller serves on many committees of the Supreme Court, including the Rules Committee of which he is chairman. In May 2004, the Hinds County Bar Association and the Jackson Young Lawyers Association honored Justice Waller with the Judicial Innovation Award for 2003-04.

For more than 29 years, Justice Waller served in



the Mississippi Army National Guard, culminating his career as Commander of the 66th Troop Command, Jackson, Mississippi. Justice Waller and his wife Charlotte have three children: William III, a second-year medical student at the University of Mississippi Medical Center; Jeannie, a junior at Mississippi State University; and Clayton, a sixth grader at Jackson Academy. Justice Waller and his family are active members of Jackson's First Baptist Church, where he is currently the Second Chairman-Elect of the Deacons.

## HINDS COUNTY BAR ASSOCIATION

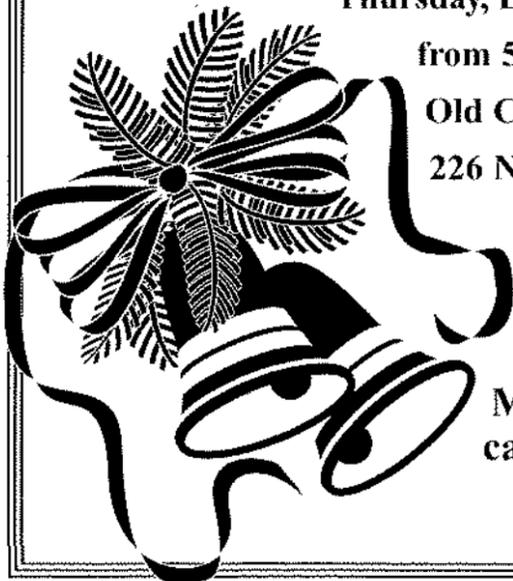
# Christmas Party

Thursday, December 2, 2004

from 5:00 to 7:00 p.m.

Old Capitol Inn

226 North State Street



Mark your  
calendar!

*continued from page 1*

artist at her work - our printer, and our friend, the owner of Graphic Reproductions. At the young age of 50, she passed away last week, the victim of a quirky heart. I remember so well when she took off to have the pacemaker installed and fine tuned.

She was Martha Magee before she married Joseph C. Royalty. Martha was born in Meridian, but she lived most of her life in Jackson. She graduated from Murrah High School and then Mississippi State University. She also had two brothers and a mother who survived her - and two beloved dogs, Jamie and Jasmine. And she had many friends.

Martha, you were too young to go. You were a part of our lives that we too often took for granted. We miss you.

## DON'T CONFUSE ME WITH FACTS...LET'S VOTE

by Captain Equity

October is finally here which means that Election Day is not far behind. Soon a majority of Mississippi voters will "conservatively" make their way to the polls and cast their ballots to rehire the incumbent administration for four more years. A sizeable, albeit insufficient number, will show up to register their utter contempt with the job that the Bush-Cheney gang has done since losing the popular vote but winning the White House last time out. The almost certain outcome in the Magnolia State makes it easier for Captain Equity to detour from partisanship and explore the dynamics of this Presidential race.

For the record, the Captain will be pulling the Democratic lever in recognition of the stunning and consistent record of incompetence, recklessness, arrogance and fiscal irresponsibility that the Bush Administration has compiled since January, 2001. It would take some serious imagination to do a worse job on so many fronts. The ideologue, neo-con dominated Republican administration fronted by an affable yet stubborn and inflexible 58 year old frat guy Chief Executive has done a masterful job of mortgaging our future, alienating our friends, losing track of our real enemies and creating a flourishing environment for the recruitment of thousands of new Islamist terror pawns while making sure at every turn that their fat cat buddies like "Kenny Boy" Lay and the front office at Halliburton are awash in corporate welfare paid for by you and me and our children and their children and their children's children. Never mind that a thousand kids have died and seven thousand more have been maimed in the name of...uh...give me a minute...is it to capture WMD, or to curb nuclear proliferation by North Korea, Iran, or Pakistan or to breathe life into Saddam's imaginary partnership with Osama Bin Laden (remember him?) or perhaps for the chance to give "a few bad apples" the opportunity to avenge Saddam's policy of torturing Iraqis in private by torturing Iraqis in full view of the world or maybe to advance compassionate conservatism? The administration isn't quite sure. I am certainly not. But thanks to Karl Rove and his spin doctors we all know that "America's Strong" and that the President is a "Strong Leader" and that "if voters make a mistake on Election Day we're gonna get hit again." Oops. Sorry, that last bit of knowledge seems to be known only by the Vice President. Is everybody that naïve,

tuned out, scared or in denial of uncontroverted facts comprising the Bush record? Well no, only slightly more than 50% of the registered voters are, which is really all it takes.

Now before all you offended Republicans chip in to send Zell Miller over to my house to challenge me to a dual with spitballs, let me tell you in six words why the President is going to win not only Mississippi but the rest of the country notwithstanding his record, to wit: John Kerry Is A Terrible Candidate, or at least he was up until the Presidential debates. Thanks to preparation and reaction shots of a peeved, impatient President who was finally confronted with the reality of his own record, Senator Kerry came out more likeable than the President, at least in the first debate. In the final analysis, the next President will be the person with whom a majority of the voters are most comfortable on a personal level.

The bottom line in American politics is this: a majority of voters will not elect someone to the Presidency who is incapable of connecting with them on a personal level, preferably in short declarative sentences. I call this the "Likability Factor." Think about it. Every two term President since FDR has rated high on the Likability Scale. Eisenhower, Reagan and Clinton were all "Likeable" to more than 50% of the voters. Nixon wasn't, but he mobilized the "Silent Majority" in 1968 by exploiting fear, culture and an unpopular war with a slickly packaged persona of the "New Nixon" which was really a polished misrepresentation of the "Old Nixon." In 1972 Nixon was the beneficiary of an extraordinary piece of luck when he squared off against the first in a string of unelectable Democratic nominees in the person of Senator George McGovern. McGovern was a very decent man and a war hero that the Republican media machine made look like a Communist. Fresh faced Jimmy Carter won in 1976 largely in revulsion to Nixon's true colors which surfaced in the Watergate scandal. However, the fresh faced '76 Carter gave way to the hapless '80 Carter of "Iran Hostage" 18% Interest Rate," "Malaise" infamy. Thereafter, those savvy Democrats nominated Mondale in 1984, and Dukakis in 1988 - both of whom ranked low on the Likability Scale. The pattern was broken by Clinton (the Democratic Reagan) in 1992 and 1996.

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But the string resumed with a condescending and unlikable Vice President Gore in 2000 and now, arguably the most imperious, confusing, unapproachable, out of touch Democratic candidate of all time, Senator John Kerry.

Q - "Knowing what you know now would you still vote to invade Iraq?"

A - "Yes"

Editor's Note: John, the correct answer was, "No."

The second factor that spells "four more years" is the fact that the President is from Texas and Senator Kerry is from Massachusetts. As I have noted in a past column, every elected President in the last 40 years starting with LBJ has been from the South or has at least been registered to vote in the South (Bush 41 was simultaneously from TX, ME & CT, but only the first listed state counts). Even someone who made a D in geography knows Massachusetts, South Dakota, and Minnesota are not in the South. I guess Democratic primary voters all made an F. The exception was Al Gore who lost his home state of Tennessee. I guess the Volunteer State voters figured the VP had relocated to Washington D.C. given the fact that he grew up in a hotel there and spent most of his professional life there. Had he carried Tennessee, Gore would be President today.

Combine low marks in affability with bad geography and it apparently doesn't matter what the facts are or what kind of record you have compiled. Unfortunately, John Edwards rated high on both counts but came up short with Democratic primary voters. Too bad for those astute, albeit self destructive Democrats; too bad for America.

Assuming John Kerry cannot sustain his charm offensive or voters opt to ignore the facts, can the country survive four more years of Bush-Cheney? Getting rid of Donald Rumsfeld, Paul Wolfowitz, Douglas Feith and a Bradley Fighting Vehicle full of military and civilian Pentagon and intelligence officials would be a good start, but that is unlikely. Like it or not, anything beyond a one vote margin next month will be taken as a full mandate by the administration to dish up a whole lot more of the same. Unfortunately, the bills for the Iraq War, Homeland Security, No Child Left Behind et al. will start coming due adding to an already out of control deficit. Iran and North Korea remain on track to put their nuclear weapons programs online. Iraq will still be made up of three ethnic-religious groups who hate each other and 140,000 occupying American troops that all three despise in varying degrees. Muslim teenagers drawn to the chaos in Iraq will continue to blow themselves up taking as many Westerners as possible with them. And of course there are those ever present, fun loving Israelis and Palestinians to spice up the evening news. And that doesn't even count all those new jobs being created at convenience and liquor stores nationwide to jumpstart the "ownership economy" or the first wave of baby boomer retirees that will strain Social Security and Medicare to the limit. A second Bush term has all the makings of a political Hurricane Ivan. And hovering over it all will be Senator Hillary Rodham Clinton who is kind of likeable to some people and kind of from the South. So for at least today, cheer up. The good times are now and we are having them. In the meantime, don't confuse me with the facts...let's vote!

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# Legal RESOURCES

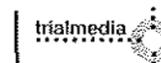
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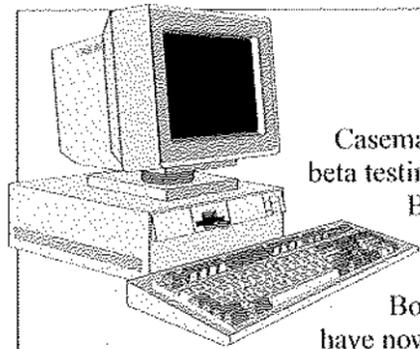
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## On Computing

by Joel Howell

Casemaker is coming! After beta testing by the Mississippi Bar Technology Committee, and approval by the Board of Governors, we have now joined the

Casemaker Consortium. While it will not be effective until late spring to early summer of next year, those of you with contracts with competing online services might find the following information of benefit when you come up for renewal.

All of you are doubtless familiar with Westlaw, LexisNexis, and LoisLaw, but a strong and relatively new competitor in the field is Casemaker, which is marketed only to bar associations.

As far back as 1965, the Ohio State Bar Association began looking into legal research technology products available to its members. That year it entered into an agreement with the Data Corporation of Dayton to have Ohio statutes and caselaw entered into a computerized database. Data Corporation was purchased by the Mead Corporation in 1969 and renamed Lexis in 1972.

The Ohio Bar later entered into an agreement with another technology company, Lawriter, and released Casemaker, a legal research library. While the product was initially available on CD-ROM in 1998, Joe Shea, Lawriter's owner, with the funding of the Ohio State Bar Association, moved to a web platform.

Lawriter itself is a low-profit limited liability company in which initially the Ohio State Bar, and now a number of other bar associations, have an ownership interest. Even should Lawriter go by the way, each state bar association would have its own state library database which it could maintain and use. Casemaker takes its source documentation from the public domain, and, where needed, inputs source materials of new members. The initial Mississippi library will include, among other things too numerous to mention, Mississippi Supreme Court opinions from 1919, Court of Appeals opinions from 1995, the Mississippi Constitution, Mississippi Code of 1972, CLE materials from the Mississippi Bar, State and Federal Local Rules, The Fifth Circuit from approximately 1995 forward, and all ethics opinions. We hope to partner with other memberships in Casemaker Consortium to expand the available federal material as quickly as possible.

For all this, an increase in your bar dues will be

necessary. The cost will be all of twenty dollars (\$20.00) each per year per bar member.

You'll find the Casemaker search engine compares very favorably with the other online services. A basic search can be performed through an interface giving a drop-down list box to choose cases to search by reporter, a text box for entry of a query, and a search command button. The query statement may be either Boolean or natural language.

The advanced mode provides additional interface elements to let the searcher perform a citation search, docket number search, apply date restrictions, expanded word form for matches, search box, and a choice between two sort orders (relevance and ascending date).

A navigation bar will be provided at the log in page. Commands available will vary according to whether you are entering a search query or reviewing the hit list, or looking at a hit document. Online help will also be available.

The print document command removes all online interface elements and generates a clean, paginated copy, removing highlighting of query terms. The browse note for a search mode toggle button allows you to switch between search mode and browse mode. In browse mode, you can sequence through the documents in a book rather than the documents in a hit list.

The update schedule is also quite impressive. Mississippi Supreme Court cases will be updated within 48 hours after posting. The majority of case opinions, rule changes, and bankruptcy decisions will be posted within 14 days. Law journals will be posted within 21 days and Mississippi Bar CLE materials within 30 days.

The navigation interface is graphically well-designed, displaying contact sensitive information as to which commands are active and which are not and provides clarity and sense of place in the search and retrieval documents.

When searching, a hit list is displayed numbering the hits and for each hit displaying the citation, date of decision, and relevancy score, name of the case, and first occurrence of the query term with context surrounding it. In advanced mode, you can specify the order of that list by relevance or sending date order.

The onscreen display highlights query terms in a bold, red font. You can also print to local storage as opposed to your printer. Citations within the

*continued on page 7*

*continued from page 6*

documents from other cases are hyperlinked.

All court opinions have an official citation and official pagination. State cases have parallel West citations, but federal cases do not. There is also an available agreement with West for use of their citation form.

Obviously on a value-to-cost ratio, you will find this provides an excellent product at a phenomenally low cost. Look for more details as our entry into the consortium proceeds.

Under the leadership of HCBA chair Linda Thompson, we now have a Hinds County Bar Technology Committee, which will particularly look to upgrade the website, Hindsbar.com. This writer will be initially chairing that committee. If you are interested in serving, and, in particular, if you have experience in Microsoft FrontPage, and have the time, please send an email.

Questions or comments? Send email to [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

## Judge Brewer Attends Conference

Judge Cynthia Brewer, County Court Judge, Madison County, attended a conference sponsored by the American Academy of Judicial Education August 14-20, 2004, where she completed the courses, In Depth Confession - Interrogation & Suppression and Current Issues in the Philosophy and Practice of Punishment. Judge Brewer is the only Mississippi Judge granted the opportunity to attend this judicial education program.

Judge Brewer's attendance was supported by a scholarship awarded by the State Justice Institute (SJI), a non-profit organization established by Federal law to award grants to improve the quality of justice in State courts nationwide, facilitate better coordination between State and Federal courts, and foster innovative, efficient solutions to common problems faced by all courts. More information about the Institute is available on the SJI web site (<http://www.statejustice.org>).

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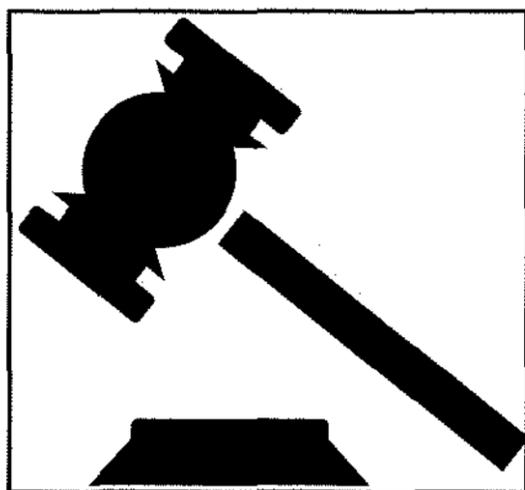
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## HIGHWAY EATS

by The Road Lawyer

It's been five and a half months. September had its moments, like the Friday night when Johnny Damon's bloop single with two outs in the ninth shocked Mariano the Invincible, and the Red Sox won 3-2. It seemed for a time all hung in the balance and maybe, just maybe, this time, this year would be different. But the Cubs faded, and now it's October and...

One wish from the Spring that started falling short those early April days and limped to the end. At press time Miguel Tejada was the AL RBI leader, but neither he nor Javy Lopez or the returning elders Raffy Palmeiro and B. J. Surhoff nor poorly paid Melvin Mora could extract the Orioles from the doldrums.

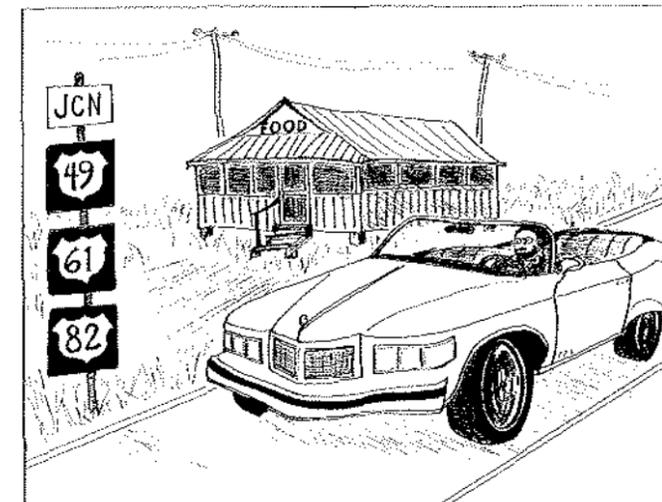
And so when we think of Camden Yards it is the memory of and Maryland Special Crab Cakes and Boog's Bar-B-Que that sustains us and brings us full circle to the matter of culinary offerings across America's ballparks. We tasted two towards the end.

### Minnesota Metrodome

Remember the report we gave on the lawyer with depositions in Minnesota who insisted his paralegal schedule a Twins game? Well, we heard back from him. His deposition got postponed, but when it did take place his super efficient paralegal timed it for late August so that the Yankees were in town. She was taken with the notice given in this column back in June and invited your correspondent to come along. This super-duper paralegal even arranged our trip to see the Twins for the night of game three of the series, and had the Twins win the first two!

So our lawyer deposor and your Road Lawyer arrived at the Metrodome in the midst of a World Series like atmosphere. "Yankees Suck!" T-shirts were everywhere. While standing in line to pick up our Internet-ordered tickets, the cry would go up, "Who hates the Yankees!?!?" He lifted his Red Sox cap, and I my newly acquired Twins cap, and we gave a gusty joinder in the "We do!" chorus.

The culinary side of the experience was less exciting, though worth a report. The Metrodome's marquee offering was Famous Dave's Bar-B-Que.



This Road Lawyer remembered Boog's at Camden Yards, and Rendezvous' at AutoZone Park in Memphis, and our deposor remembered your correspondent's mouth watering report. A comparison taste test was in order.

We approached and caught the sub-title. Famous Dave serves "Delicious St. Louis Style Bar-B-Que". What?!? All the St. Louis Bar-B-Que places

we've seen tout their "Memphis style Bar-B-Que!"

### Arthur's Beef and Maybe Your Life

Kansas City style Bar-B-Que, maybe. After all, who's never at least heard of Arthur Bryant's. A couple of Presidents are said to have dined here, and Calvin Trillin once called it "the single best restaurant in the world." Would be super-duper paralegals take notice. Your ever appreciative lawyer/deposor/employer has a treat in store next time he gets a case or deposition in the Kansas City area.

Arthur serves up all Bar-B-Que beef, none of the pulled pork we Southerners are so soft on. Nothing but a heaping tong full of teaming hot melt in your mouth Bar-B-Que beef dumped on your plate, cafeteria style, with any equally heaping load of white bread. The wimps have to ask for the sauce once seated.

But on one score the Bar-B-Que lovers around here would feel at home. Arthur Bryant's excels at that number one criteria for top notch style Bar-B-Que: as you get out of your car look around, there can be little doubt that likely your life and more likely your property may be at risk. So come next Spring, find that date when the Royals are in town. George Brett and his pine tar bat are a distant memory, but the ball park is beautiful. And if the probabilities that are as obvious as they are ominous at your after-the-game dining excursion are actualized. Well, what a way to go out, with Arthur's Bar-B-Que beef.

### Beyond Famous Dave's Bar-B-Que and Lutefish from Lake Wobegon

But back to Famous Dave. Room temperature is

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being generous. Still not bad. But not in a league with Boog's or the Rendezvous (except on that statistically certain one out of four times when the Rendezvous serves up less than what you expect.)

Beyond Famous Dave, the Metrodome offerings were as bland as the Metrodome itself. The Polish sausage did not have any of the accouterments that one expects and normally finds, particularly in Northeast ball parks. How can you offer a perfectly adequate Polish dog on a bun, Plain!? I looked around for the "stuff," assuming self-service a la carte offerings were nearby. A handful of those silly mustard packets and past that, no luck.

Maybe there is a reason no one ever heard of Swedish cooking, even at Lake Wobegon where all the women are strong and the men are good looking, because of their daily diet of lutefish? We had to make do with the Polish dog on a bun, plain! The obligatory peanuts and crackerjacks, and cotton candy for the kids were around, but not much more.

Even the beer offerings were undistinguished. Anheuser-Busch clearly has a ninety-plus percent market share, with Budweiser and Bud Light everywhere, with the Miller beers barely in evidence. Who paid off who? We were mildly surprised that Famous Dave did not advertise that his Famous St. Louis style Bar-B-Que was best accompanied by St. Louis style beer. Maybe it was because the beer tasted a little funny, and not just because it was a Lite. Must have been the water from that same River that splits the Twin Cities it birthed as much as New Orleans.

### Two Out Of Three Ain't Bad

But it's not fair to take such a narrow view of our Twins game. Within the res gestae there is more to say. The Metrodome just may be the last of those multi-purpose sports arenas left, once St. Louis does its monkey-see, monkey-do-act. It offered up quite a ball game.

Guys sitting near by let us know it hasn't been long since Bud Selig tried to "contract" the Twins out of existence [to help the flagging fortunes of his nearby Milwaukee Brewers]. The low budget Twins feature Johan Santana and Torii Hunter and a bunch of minimum salaried no names.

They and their stalwart fans from the land of Paul Bunyan have been on a mission. A couple of division championships, and their wins over the Yankees that they hate almost as much as Bud [the Commissioner, not the beer] had fanned the flames.

We saw a great game. The Yanks with Gary Sheffield, Derek Jeter and A-Rod leading the way

opened up a 9-2 lead, only to see the Twins start pecking away, and put a four spot on the scoreboard in the bottom of the eighth to take a 10-9 lead, as we joined the crowd in roaring our approval. Joe Nathan hadn't blown a save in 30 games, and the enclosed dome rocked and rolled like Michael's Bulls at the United Center as the top of the ninth began.

Not even Nathan's fast ball that Gary Sheffield crushed over the left center field wall to spark the Yankees' come back win could temper the crowd, which left the 'Dome to the refrain of "Two Out Of Three Ain't Bad." At press time the Twins were in the playoffs again and holding their own with the mighty (lucky) Damn Yankees.

### Shea Stadium and the Number 7 Train

A few weeks later your correspondent allowed Hurricane Ivan to parlay a Northern New Jersey deposition into a trip to Shea Stadium to catch the Braves and the Mets. Not for the ball game - the Braves were coasting again and the Mets had folded long ago - but for the certain to be different (as in "better") dining adventure and for the not-to-be-missed sociological adventure.

We boarded the 7 Train Local at Times Square and headed east, and memories of John Rucker and the Fall of '99 came flooding back. It's a long ride to Flushing. The 7 Local stops a lot as it crosses Queens. Several times I got up and walked from one car to another. About half the folk were headed to the ballpark, many heading home from work, some just there for the ride. Understand that Queens is a blue collar town. The Mets are a blue collar team, and so are their fans. Not as colorful as the Dodgers of days past, or even the Giants on Coogan's Bluff on West 157th Street in upper Manhattan. No longer the Miracle Mets of 1969 who made New Yorkers feel so good about life that they reelected John Lindsay mayor despite the downward spiral that the Big Apple was caught in back in those days.

7 Train Local riders are not your average Lincoln Center crowd, or Central Park joggers and weekend soft ballers. No *New York Times* readers here. Riders thumbed their *Daily News* tabloids or their Spanish language equivalents. The closest they got to politics were a couple of readers of Rupert Murdoch's in-your-face *Post*, although the one I was sitting next to was reading the racing results from Belmont.

Another was reading the political story of the day, the National Hockey League's lockout because the players unions refuses to accept the owners' demand that they take a pay cut from \$1.8 million a year to a lowly \$1.3 million. I took a guess at his take home pay and was pretty sure what he was thinking.

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### Strength In Diversity, Better Beer and Jumbo Kosher Hot Dogs

A year after Rucker's famous ride, I was at Yankee Stadium for an interleague game with the Braves. At regular intervals the chant would break out, "Rucker sucks! Rucker sucks!" and this was *before* Bobby Cox brought Big John into the game. One guy had on a well-worn T-shirt reading "www.rockersucks.com." New Yorkers know how to come together in the face of an unwarranted attack. They have defined our understanding of strength in diversity.

So what was it within John Rucker that caused him to mobilize the Big Apple so? His Georgia Cracker DNA, his Macon upbringing, poor eye sight (he always had a hard time finding the plate), or just plain stupidity. I'm well willing to accept the latter. I never attribute to malice that which can be explained by stupidity.

The beer scene at Shea was interesting. Bud and Bud Light everywhere again, and we wondered whether it was the Anheuser-Busch facility just across the river in New Jersey or big payoffs by A-B, or some combination of the two. Yet we agreed the Buds were better than at the Metrodome a few weeks earlier. Must be the water. After all, several years ago the word was out that the Hudson had been so completely cleaned up that you could not only fish its waters again, but also eat your catch.

But why was it in the land of ten thousand lakes and The River the water would make the beer taste a little funny? We decided that one needed further study, and more comparative taste tests. Next year.

At Shea there were options. The Broadway Brew House offered its premium draft, and the Redhook Ale Brewery offered a smooth Blonde Ale. The Heinek'n's was good as ever, and we couldn't help wondering why those Swedes didn't at least offer that.

Understand that Shea has a bit of an antiseptic appearance as you approach. It's set in the middle of a gigantic parking lot, with the U. S. Open on the south side of the Willets Point station. Nothing like the line of sports bars and souvenir shops that ring much of Yankee Stadium. No across-the-street watering holes like the Cubby Bear Lounge that seem so inviting as you exit Wrigley Field. There's not even a street to cross. Just a gigantic parking lot.

Still, just walking into Shea lets you know you've upgraded since the Metrodome. You pick up a whiff of the peppers and onions on the grill somewhere near. Not quite like Boston, mind you. In Boston when you cross Commonwealth Avenue you hit the street vendors with their grilled sausages with

peppers and onions a good three blocks before you reach Fenway Park. But not bad after the inner city side of Lake Wobegon.

Shea Stadium has a regular food court, with its Grand Central Grille offering chicken tenders and Italian chicken sandwiches, among others. Daruma of Tokyo fills a nich, as Kaz Matsui and Jac Seo hope to on Mets. Caliente's nachos seemed far away from home, but the Hebrew National kosher hot dogs seemed as at home as they were substantial and in demand. Mama's of Corona expanded the Italian options, without the cerveza of comparable label.

I opted for the Gotham Grille's heart attack special Italian sausage smothered with peppers and onions and mustard. Not quite as big as the Polish dog back at the Metrodome, but much more worth the hefty \$4.50 price.

### Riding The 7 Train To Look For America

The Mets won. The Braves had started a late call up pitcher, who left the game with a lifetime ERA of 63.00, and Chipper and J. D. took a rest after the fifth inning. A few fans moaned as the Mets gave up three unearned runs in the seventh. They'd seen it before. But a win is a win, and that made for a contented crowd of folk on the 7 Train back towards Manhattan, though most had deboarded before we reached Grand Central.

These were regular folk. The Hispanics a bit more animated than four hours earlier, and the ride to Shea. The young couples, so full of promise, and friendly to a fault when they found out we hated the Yankees, too. The African-Americans smiling, too, though after a few stops those just getting off work - or was it going to work - blended with the ball game crowd. The Asians we hadn't noticed before, and with young children.

The guy with the FDNY cap was with his buddy with a shirt saying "till we meet again." These and the fellow with an NYPD T shirt and that not-so-off-duty look mean more today than we could have understood three years ago.

And so many more. A few more rings in their ears than down here. We didn't see any kids with purple hair or noticeable gays. But what if we had, as on other days we have - in Manhattan and down here?

A more bilingual crowd than in Mississippi. A lone yarmulka. A woman with a small bindi on her forehead. It wasn't the New Jersey Turnpike. It was the 7 Train Local to Manhattan at 11:00 o'clock at night. We may have been the only WASPs there, but we didn't need Simon and Garfunkel to tell us they'd all come to look for America.

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August 22, 2004 - January 10, 2005

Monday - Thursday .....7:30 a.m. - midnight  
Friday .....7:30 a.m. - 9:00 p.m.  
Saturday .....9:00 a.m. - 9:00 p.m.  
Sunday .....noon - midnight

## EXCEPTIONS

### Thanksgiving

Wednesday, November 24th .....7:30 a.m. - noon  
Thursday & Friday (Nov. 25th & 26th) ..CLOSED

## EXAM SCHEDULE

### December 3rd - 15th

Monday - Friday .....7:30 a.m. - midnight  
Saturday .....9 a.m. - midnight  
Sunday .....noon - midnight

### Christmas

December 16th & 17th .....7:30 a.m. - 6 p.m.  
December 18th & 19th .....CLOSED  
December 20th & 21st .....7:30 a.m. - 6 p.m.  
December 22nd .....7:30 a.m. - 4:30 p.m.  
December 23rd - January 2nd .....CLOSED  
January 3rd - 7th .....7:30 a.m. - 6 p.m.  
January 8th & 9th .....CLOSED  
January 10th .....7:30 a.m. - 6 p.m.

*Regular hours will resume Tuesday, January 11th.  
For more information please call 925-7120  
Hours are subject to change without notice.*



# HINDS COUNTY BAR ASSOCIATION

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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 601-969-6097. The web site address is [hindsbar.com](http://hindsbar.com).

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**IMPORTANT!**  
**HCBA Luncheon Meeting**  
**12:00 noon,**  
**October 19, 2004**



# HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

DECEMBER 2004



## President's Column

by Linda A. Thompson

Time is ever flying by, and the HCBA year is already half over. Committees have been busy at their assigned tasks, and some significant projects have been concluded.

This fall the Elder Law Committee, under the competent leadership of the energetic Leyscr Hayes, completed the publication of its Mississippi Elder Justice Desk Guide in cooperation with the Mississippi Elder Justice Center, the Mississippi Leadership Council on Aging, and Heart and Hand, Inc. The Desk Guide is the product of long hours of work by all the Committee members. Barry Jones, Deanne Mosley, and Molly Miller served with Leyscr Hayes, and Stuart Kruger was the Board liaison for the project.

Former HCBA President Ben Piazza has chaired the Law Library Committee for several years, and this Committee

recently culminated months of meetings and research into recommendations for the Hinds County Board of Supervisors regarding expenditures for the Hinds County Law Library system. On November 1, 2004, the Hinds County Law Library Fund had a balance of approximately \$350,000, accumulated from a portion of the court costs from each court case filed in Hinds County pursuant to Section 19-7-31 of the Mississippi Code. By the provisions of that same statute, the HCBA makes recommendations about the care and operation of the law library facilities in Hinds County.

The HCBA Board considered the recommendations of the Law Library Committee and adopted them as formalized in a letter delivered to the Board of Supervisors on November 30. A copy of that letter is reproduced in this newsletter, by way of report. Please contact Ben Piazza if you have any questions about the work of this Committee.

The Social Committee has been busy, and HCBA members have enjoyed a fall social and the annual Christmas Party, both jointly sponsored by the Jackson Young Lawyers Association. The fall social, also cosponsored by Legal

*continued on page 2*

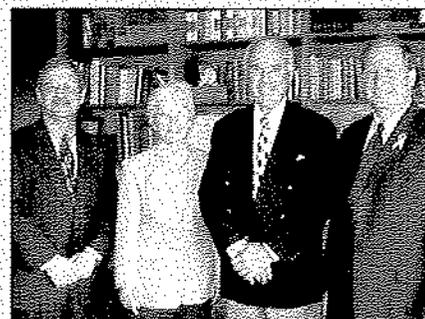
## October Membership Meeting



*William L. Waller, Jr., Presiding Justice of the Mississippi Supreme Court, presented the program at the HCBA October Membership Meeting. He is pictured with Linda Thompson, HCBA President.*



*Also attending the October Meeting were Mississippi Supreme Court Justice Jess Dickinson (second from left), and Emily Smith, April Taylor and Joshua Rogers, law clerks with the Mississippi Supreme Court, pictured with HCBA President Linda Thompson and Justice Waller.*



*Joining Justice Waller (far right) were other Mississippi Supreme Court Justices: Justice Jess Dickinson, Justice Kay Cobb, and Chief Justice Jim Smith.*

*May There be Peace in the New Year*

## HCBA Calendar of Events

February 15, 2005  
**HCBA Membership Meeting.**  
 Noon.  
 Capital Club

April 19, 2005  
**HCBA Membership Meeting.**  
 Noon.  
 Capital Club

May 12, 2005  
**HCBA/JYL Evening Honoring  
 the Judiciary.**  
 6:30 p.m.  
 Old Capitol Inn

May 19, 2005  
**HCBA Golf Tournament.**  
 Noon.  
 Annandale Golf Club

June 21, 2005  
**HCBA Membership Meeting.**  
 Noon. Capital Club

## CLE Calendar of Events

January 7, 2005  
**A Practical Guide to Estate  
 Administration in MS.**  
 NBI. 800-930-6182

January 10, 2005  
**Fundamental Principles of Limited  
 Liability Companies.**  
 NBI. 800-930-6182

January 12, 2005  
**Selecting & Terminating  
 Employees in MS.**  
 NBI. 800-930-6182

January 13, 2005  
**Employee Discharge &  
 Documentation.**  
 Lorman Business Center.  
 715-833-3940

January 19, 2005  
**Insurance Coverage Law in MS.**  
 NBI. 800-930-6182

January 26, 2005  
**MS Foreclosure & Related  
 Bankruptcy & Title Issues.**  
 NBI. 800-930-6182

January 26, 2005  
**Understanding Individuals with  
 Asperger Syndrome.**  
 Lorman Business Center.  
 715-833-3940

January 27, 2005  
**Winter MMA.**  
 M-CLE. 662-915-7282

January 28, 2005  
**Proof of Damages in MS Today.**  
 UM-CLE. 662-915-7282

March 11, 2005  
**Guardian Ad Litem.**  
 UM-CLE. 662-915-7282

March 18, 2005  
**Summary of Recent MS Law.**  
 Abbott & Weems.  
 662-234-6956

## Hinds County Law Library Recommendations

The following is the letter of recommendations from the HCBA to the Hinds County Board of Supervisors regarding expenditures from the County Library Fund for the Hinds County Law Library system. The Board of Supervisors unanimously adopted the HCBA recommendations at their Board Meeting on December 6, 2004.

TO: Hinds County Board of Supervisors

FROM: Hinds County Bar Association

RE: Request for Approval of the Hinds County Bar Association Library Committee's Recommendations for County Law Library Facilities

DATE: November 30, 2004

Section 19-7-31 of the Mississippi Code of 1972, as amended, provides that the Board of Supervisors shall have the power to establish and maintain a public county law library. In pertinent part this statute also authorizes the Board of Supervisors to enter into arrangements with the County Bar Association for the care and operation of the county law library and consider recommendations said Bar may deem appropriate in the premises.

The revenue requirements of any and all actions taken pursuant to this statute, are funded by a Library Fund and not the County's General Fund. This is a growth fund established by statute. A portion of the court costs from each court case filed in Hinds County courts is designated by law for the Library Fund. As of November 1, 2004, the Library Fund had a balance of approximately \$350,000.00, which is available only for county law library purposes. This fund is increasing at a rate of approximately \$6,000.00 per month.

Based on the efforts and work of the Hinds County Bar Association Library Committee, the Hinds County Bar Association makes the following recommendations for the Hinds County Law Library system:

1. Reduce some book holdings at the Circuit Courthouse in Jackson. Cancellation of Southern Reporter 2d, CJS and USCS will result in an annual savings of approximately \$7,200.00.
2. Improve the current Hinds County Law Library branches in the Circuit and Chancery Courthouses in Jackson, and the Circuit Courthouse in Raymond by adding the Encyclopedia of Mississippi Law. The current one-time cost estimate for these materials will be \$6,400.00, with annual updates at these branches estimated to cost \$850.00.
3. Replace and update the computer work station in the Chancery Courthouse in Jackson, and establish a similar work station in the Circuit Courthouse in Jackson, with both work stations providing access to online legal research services. The one time cost

estimate for the equipment is \$5,000.00, and the annual cost of the legal research services at both locations is estimated to be \$9,360.00.

4. Amend the County's contract with the Jackson/Hinds Library System, substantially in the form attached hereto as Exhibit "B," to provide for the continuation of the Hinds County Law Library branch at the Eudora Welty Library. The one time cost for equipment and materials is estimated to be \$4,333.00, and the annual cost estimate is \$38,368.00.
5. Contract with the State Law Library, substantially in the form attached hereto as Exhibit "C," to establish a branch of the Hinds County Law Library in the State Law Library. This will provide for more extensive online legal research services for lawyers and the public and allow the State Law Library to increase its holdings of Mississippi materials. The annual cost estimate for these services is \$55,000.00.
6. Continue the contract with the current part time librarian who maintains the holdings in the Circuit and Chancery Courthouses in Jackson, and the Circuit Courthouse in Raymond, or enter into a contact with a new individual or company for the service required to keep the materials in these library facilities updated and orderly. This expenditure will be ongoing in nature and is not expected to exceed \$4,000.00 annually.

In summary, the Hinds County Bar Association and its Library Committee respectfully request that the Hinds County Board of Supervisors accept and approve these recommendations and authorize expenditures to cover the costs associated with the recommendations and improvements. The total one time cost is estimated to be \$127,000.00, and the annual cost thereafter is currently estimated to be \$108,500.00.

This informational memorandum, with exhibits, is being provided to each member of the Board in advance of the date the HCBA proposes to be placed on the County agenda for presentation of these proposals in their entirety. The general public, as well as local attorneys, will benefit greatly from these actions.

Your comments or questions are invited. A list of Hinds County Bar Association library committee members is attached as Exhibit "D" and contact information for HCBA board members is on our letterhead. Please feel free to call any member of the committee or board with your questions or comments.

Respectfully submitted this 30th day of November, 2004.

Linda A. Thompson President Hinds County Bar Association	Ben J. Piazza, Jr. Chair Hinds County Bar Association Library Committee
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*continued from page 1*

Resources Network, was held rooftop at the historic Fondren Corner Building on a breezy, starry October evening filled with art and music. The Christmas Party was as festive as ever in the lovely surrounds of the Old Capitol Inn. Plans are underway for a spring social.

Two committees cranking up their activities are the Judicial Dinner Committee and the Golf Tournament Committee. The Dinner Honoring the Judiciary is scheduled for Thursday, May 12, at the Old Capitol Inn, and the Golf Tournament will be held on Thursday, May 19, at Annandale Golf Club. Please contact me or Pat Evans if you are interested in helping with either of these events.

The next luncheon meeting of this association will be on Tuesday, February 15, 2005, at noon at the Capital Club. The speaker will be Jim Hood, Attorney General of Mississippi.

I join the other officers and directors of the Hinds County Bar Association to wish you and yours a joyous holiday season and safe and happy New Year. To good health. To world peace.

## Constitutional Amendments for the 21st Century

by Captain Equity

Can you believe it? Since 1791 the United States Constitution has only been amended twenty seven times. Just twenty seven times? Talk about asleep at the switch. Come on America, we can do a lot better than that in the name of ensuring good government. Luckily, Mississippi, to paraphrase the Governor, has provided some Stronggggggg, Honesttttt, Lcececeadership of late in this regard. Take for instance the recent amendment of the 1890 State Constitution effectively outlawing gay marriage. If there was ever a problem that threatened every Mississippian, this was surely it. Rumor has it that same sex couples were hogging all the prime June wedding dates. But thanks to the timely amendment, we got that stuff stopped dead in its tracks. The institution of marriage has been saved once and for all notwithstanding the fact that Mississippi ranks near the top nationally in per capita divorces for people who even bother to get married in the first place before having children. One prevalent explanation for this anomaly is that a lot of Magnolia State married couples were getting divorced to become gay to facilitate getting remarried to new same sex partners. Luckily, the recent Constitutional Amendment will reverse that trend forever. For this we owe a debt of gratitude to such staunch moral paragons as Jimmy Swaggart, ("If a man looked at me romantically I'd kill him and tell God he was dead."). In this era of values based politics it is indeed comforting to know that the Sixth Commandment comes with a handy, albeit, little known loophole. Never mind that Mississippi continues to drag bottom in just about every imaginable category that measures quality of life from infant mortality, illiteracy, high school dropouts, incarceration and poverty right down to a steadfast refusal of nearly two in five Mississippians who refuse to abide by the mandatory seatbelt law even when three of every four highway fatalities are drawn from this same core group who annually inspire the following epitaph: "Ain't Nobody Tellin' Me What To Do" - RIP. I guess governmental mandates come in two forms: okay and not okay. I'm confused.

Oh, and I almost forgot, the state is dead broke but still spends nearly half a million bucks for a Special Legislative Session to enable the Governor and the House leadership to play political chicken. All these problems just underscore the fact that the Constitutional Amendment process is grossly underutilized.

The fact remains that a good old fashioned constitutional amendment is the way to fast track some serious reform measures here in the USA. For instance, on the federal level the amendment process has been used to get rid of slavery, poll taxes and booze, to give the vote to women and eighteen year olds and term limit U.S. Presidents. It has also been used to authorize the income tax, protect us from unreasonable searches and seizures and reopen liquor stores, except of course in Rankin County, where market forces finally closed down Rankin County's wide open bootlegger trade in 1966 when the state went "officially" wet. If Constitutional amendments can do all of that, what are we waiting for? The problem is where to start. Personally I would make the 28th Amendment an absolute ban on drivers talking on cell phones while wheeling their giant SUVs

around the Kroger parking lot with one hand or less on the steering wheel. The 29th Amendment would require deportation for all airline passengers who use their cell phones to advise loved ones in voices loud enough to be mistaken for tornado sirens that "WE'VE LANDED!"

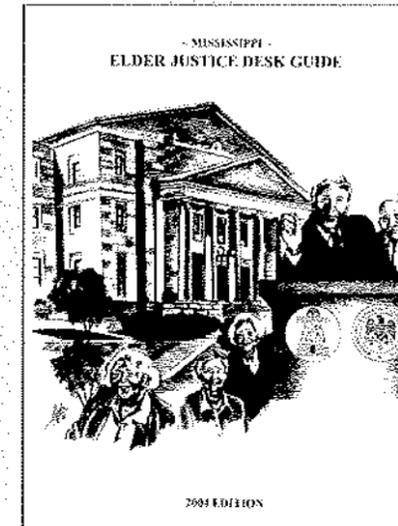
With those two burning issues out of the way, I would urge use of the amendment process to mandate that Acts of Congress be limited to no more than ten pages and actually bear some relevant nexus to the bill's high sounding title. Next I would require that the so called Social Security trust fund actually be a trust fund rather than a transfer payment. I would add some fiduciary teeth to keep disingenuous lawmakers from pilfering FICA funds to subsidize such things as wild hog control in Missouri and development of salmon fortified baby food in Alaska. I would also pass an amendment requiring that the cost of government be funded on a pay as you go basis. This has already been offered under the guise of the "Balanced Budget Amendment" which lost steam about the same time that Republicans in Congress became the majority and stopped talking about the "Congressional Term Limits Amendment"

There are so many more areas ripe for a constitutional amendment, but let me be somewhat serious for a moment. While our system of governmental checks and balances has worked surprisingly well over the past couple of centuries, there is one specific mechanism that is broken beyond repair. It has to do with how we select our leaders. Let me focus on the Presidency for purposes of illustration conceding that the problem runs right down to the county board of supervisors. In order to become President of the United States two fundamental traits are required, to wit: (1) an ego so gigantic as to render it unhealthy, and (2) the absolute requirement that the candidate disingenuously and shamelessly pander to his or her base while delivering nothing that could be construed as bad news. To do otherwise ensures a lost election. Notwithstanding the fact that pundits and even voters claim to want "Leadership" they clearly don't. It is not unlike a Hollywood screenwriter asking a studio executive to give him or her the cold hard truth about their script. As long as the project goes into production things are great. But if the news is bad, the executive is either an idiot or has it in for the screenwriter. Voters are no different. A case in point is our Governor. He has pledged Stronggggggg, Honesttttt, Lcececeadership to get Mississippi out of the financial hole that spendthrift legislators have dug over time. At the same time, he steadfastly promises to veto any new tax bill. Result: the hole gets deeper and the debt service skyrockets with no solution in sight. On the federal level multiply this by a factor of 290,000,000 which is roughly the current U.S. population.

So you ask, what is the solution? Pass an amendment requiring the two political parties to reject anyone who even hints at wanting to be President. Give polygraphs to everyone else. By doing this the nominating process would really involve the draft of a qualified albeit reluctant candidate who would be certain to tell voters the truth so as to avoid trelection. However, given the intoxication of political power and suppressed Oval Office Envy, there would be

*continued on page 9*

## Elder Justice Desk Guide Project Completed



Leyser Hayes made copies of the Desk Guide available to

The Hinds County Bar Association recently produced an Elder Justice Desk Guide in cooperation with the Mississippi Elder Justice Center, Inc.; The Mississippi Leadership Council on Aging; and Heart and Hand, Inc. Committee Chairman,

HCBA members attending the October Membership Meeting. Serving on the Elder Justice Committee with Hayes were Barry Jones; Deanne Mosley, HCBA Board Member; and Molly Miller. Stuart Kruger, 2003-04 HCBA Board President, was the Board Liaison.

The Desk Guide, which will be distributed around the state, has been designed to educate our state's senior citizens about the court system; the Mississippi Vulnerable Adults Act; wills, guardianships and conservatorships; advance healthcare directives; and durable powers of attorney. The Desk Guide includes updated information about the Mississippi Attorney General's Office Consumer Protection Division and will serve as a resource directory for agency assistance and contacts. The Desk Guide is printed in large type to be reader friendly to the elderly.

"This was a very ambitious project, and I am extremely proud of this Committee's work. The Desk Guide will be an invaluable service to the senior citizens of Mississippi," said Kruger.

## Elder Justice Desk Guide Committee



HCBA President Linda Thompson (left) welcomed the members of the Elder Justice Desk Guide Committee to the October Membership Meeting. Leyser Hayes (second from right), Committee Chair, made copies of the booklet available to those attending and spoke about the project. Other Committee members pictured are Stuart Kruger, 2003-2004 HCBA President and Board Liaison; Barry Jones; Deanne Mosley, HCBA Board Member; and Molly Miller.

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# Legal RESOURCES

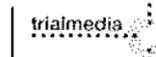
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## HCBA & JYL Christmas Party at the Old Capitol Inn

The HCBA and Jackson Young Lawyers held their annual Christmas Party on Thursday, December 2nd. A record crowd enjoyed the beautiful Christmas decorations and setting of the Old Capitol Inn, as well as wonderful fellowship and refreshments.



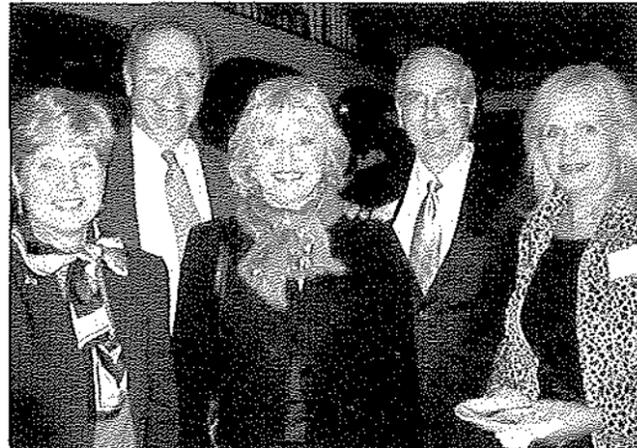
Hinds County Circuit Judge Swan Yerger; Patricia Bennett, past HCBA President; Rob Dodson, HCBA Golf Tournament Chairman



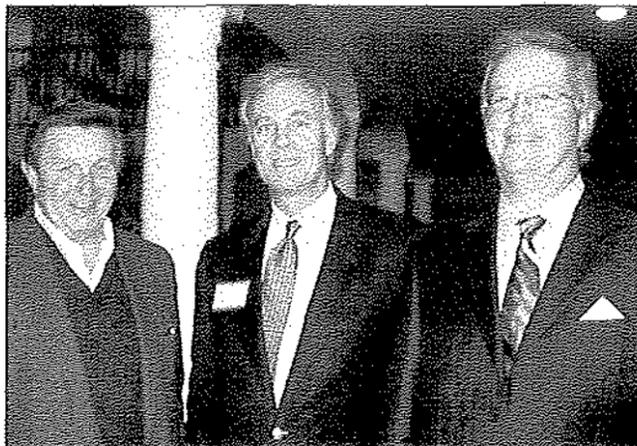
Tommy Shepherd; Linda Thompson, HCBA President; and Jimmy Robertson, HCBA Editorial Board Member



Sandy Sanford, HCBA Board Member; Melissa Malouf; and Mike Malouf, Jr.



Linda Thompson; Dan and Betty Hise; Dean Jim Rosenblatt and Lauren Rosenblatt



Luke Dove, HCBA Newsletter Editor; Marcus Wilson, past HCBA President; and Armin Moeller



Mike Malouf, Sr.; Pat Evans, HCBA Executive Director; and Bob Biggs

## Justice Carlson's Prayer for Public Service

*Editor's Note: We asked Justice George C. Carlson of the Mississippi Supreme Court to share with us the text of the prayer that he offered at the opening of the June 8, 2004, Public Service Commission Docket Call. It is as follows:*

Oh, God of mercy and justice, God of the ages, we come before You humbly confessing our human frailties and shortcomings. We acknowledge our total dependence upon You, Oh Father. Truly with You we are everything. Without You we are nothing. We owe our very existence to You.

\* \* \* \* \*

We ask that these Commissioners --- as well as all of us here who are public servants --- always remember that other than the call to the ministry, there is no greater calling than that of public service. We should always remember that You have put us here on this Earth not to be served --- but to serve. Let us always love our work and the special opportunity You have given us to serve our great State and her citizens.

Let us remember a few tenets of daily living:

- (1) If we find a path with no obstacles, it probably doesn't lead anywhere.
- (2) Happiness is not the absence of conflict, but the ability to deal with it.
- (3) There is no right way to do the wrong thing.
- (4) That we are alive today is proof positive that You have something for us to do today.

Finally, Oh Heavenly Father, may we always remember in our daily living the words of Micah 6:8: "And what does the Lord require of you but to act justly, love kindness, and walk humbly before your God."

May we all be guided by this scripture, Oh Father, and we humbly pray that You will continue to bless us and our great State and Nation. Amen.

## Judge DeLaughter Moves to Raymond

Hinds County Circuit Judge Bobby B. DeLaughter has announced that he and his staff have moved their primary offices to Raymond. The new mailing address is Post Office Box 27, Raymond, MS 39154.

Judge DeLaughter said, "As the circuit judge for the Second Judicial District of Hinds County, my staff and I have moved our primary offices to the Raymond courthouse because I feel that the people of that judicial district deserve to have a greater presence of their circuit judge."

"This will not detract to any degree from the attention that I give to my cases in the First Judicial District, and I will continue to come to Jackson for court appearances as needed."

"You have my personal commitment to accessibility, so please do not hesitate to contact me or my staff if we may be of assistance. We check telephone messages and e-mail daily, and your call or e-mail will be returned as expeditiously as possible."

New contact information is: for Judge DeLaughter, telephone 601-857-8099, e-mail [bdelaughter@co.hinds.ms.us](mailto:bdelaughter@co.hinds.ms.us); Court Administrator Jamie McCoy, telephone 601-857-8098, e-mail [jmccoy@co.hinds.ms.us](mailto:jmccoy@co.hinds.ms.us); and Law Clerk Katherine Hinkle, telephone 601-973-5576.

## HCBA Officer & Director Candidates

The nominations committee is pleased to announce that the following HCBA members have graciously agreed to run for office for the year 2005-06:

### Secretary - Treasurer

David Kaufman  
Doug Levanway

### Director - Post 1

Venecca Green  
Leyser Q. Hayes

### Director - Post 2

Roy Campbell  
Luke Dove

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

At the end of January, a ballot and biographical sketch of each nominee will be mailed to each HCBA member in good standing. For further information, please call HCBA Executive Director Pat Evans at 601-969-6097.



## "A Dilettante With A Day Job"

by Kevin L. Humphreys

In the course of my hour-long telephone conversation with Martin Clark, a circuit judge in Patrick County, Virginia (population 17,000, give or take), he used the title of this piece as a way of describing himself. Of course, he is being far too modest.

In addition to that day job, Martin Clark has also found time to write two highly acclaimed novels, *The Many Aspects of Mobile Home Living*, published in the year 2000, and *Plain Heathen Mischief*, which came out in the spring of this year.

*Many Aspects* revolves around the slightly strange life of Judge Evers Wheeling, his brother Pascal (the mobile home dweller), and a cast of characters too difficult to categorize neatly. Having covered the law in *Many Aspects*, Judge Clark focuses in *Plain Heathen Mischief* on Joel King, a defrocked minister who may have not committed the crime of which he's accused. Here are some of the highlights of our conversation:

- K With the success of your two novels, do you plan to continue serving as a judge, or at some point, do you see giving it up for full-time writing?
- M I don't know how much you've read about *Many Aspects*. I gave that money to my church. I just had no idea it would be that kind of money. I had no idea it would do that well, and in April of this year, after the *New York Times* came down and did a piece on it, the response was absolutely phenomenal.
- K Four years after it was first published.
- M Yeah, it was just right out of the blue, I mean, it was not something my publisher set up. Someone from the *New York Times* called and said "we want to do a piece", and of course we said yeah. The piece came out on a Sunday, and by Monday, *Many Aspects* was #12 or 14 on Amazon.com. I talked to my pastor and said, if I sell the movie rights, do I get to keep that or do I have to give it away as well? He said, no, you can have that. So I kept that money, and bought an annuity with it. And, the nice thing is that if I want to retire now, I can. My term ends when I'm 52 and I'm not sure if I will work past that but it's nice not to have to do it for the paycheck; it's very liberating to know that I'm doing it because I want to do it.
- K When you were in high school and college, did you take creative writing classes at the time, or did writing a novel just sneak up on you somewhere along the line?
- M I spent 20 years writing *Many Aspects*. I got tons of rejection letters. I started writing when I was in college, I was a Latin major, a practical major for college. (laughs) I did take an independent writing course, and I studied under a gentleman by the name of Tony Abbott who was a celebrated poet and a fine writer himself. He was very helpful, but I was at the point of giving the book away. And the problem, I think, is that it doesn't fit into any category. And suddenly, because it doesn't fit in any category, everyone loves it.

- K When it comes to your writing technique, do you think being a lawyer helps or hurts you as a novelist?
- M Well, let me answer that two ways. I don't think it helps your writing. I mean, the writing I do legally is totally different than the writing I do for fiction. I think it helps you in terms of, at least it helps me, in terms of ideas, stories, evaluating people, sort of taking the temperature, you know, figuring out the cause of things. It's really easy for me to write courtroom scenes because I know the rhythm and language. I know there are a lot of lawyers who write fiction, but legal writing has never helped me. But being a lawyer and judge can certainly get you some good ideas and good material.
- K It seems to me that as lawyers we spend our entire day doing a certain style of writing, very structured and very formalized, and we have to do it this way, particularly if we're briefing something for court. It's very repetitive and it makes us write a certain way, and I have trouble breaking free of that.
- M That's exactly right, I mean, I think they're just different creatures, maybe cousins at best.
- K I think I've read in another interview that you're a plot it out ahead of time kind of guy as opposed to seeing where the characters lead you, as some authors claim to do.
- M Yeah, everybody is different, but I do, I mean I've gotten an idea for the new book and 80% of it is [worked out] in my head now. And I mean, PHM is much more organic and plot driven than *Many Aspects*, but when I started to write *Many Aspects*, it may have changed 5% from beginning to end.
- K I was taken with all of the characters in *Many Aspects*, but particularly Pascal [the main character's brother]. He's such a free spirit, and a lot of lawyers, maybe most lawyers, it seems like we lead real buttoned-down kind of lives. Do you think maybe we're sort of envious, wishing we could be a little bit more like Pascal?
- M Yes.
- K Is he your alter ego?
- M People like to ask me which character is me. Really, the character most like me is Pauletta [a black, female attorney]. I'm not very flamboyant and I stay between the margins. One of the funny things when I was on the road with *Many Aspects*, especially when I was in D.C. and Florida, I would have all these kids show up, you know, who have read *Many Aspects*, and they show up and they're drunk and they're high and they're expecting (*Fight Club* author) Chuck Palahniuk, and they get me, and I'm, you know, a 45 year old guy in a suit, and they're so disappointed that I'm not the party king.
- K About *Many Aspects*, are you kind of shocked and pleasantly surprised at the degree and level of acclaim it's gotten from the *New York Times* to the different writers who have praised it so highly?

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## Annals of the Law

by Luke Dove

Jefferson County, Mississippi, now has a national reputation as a venue for multi-million dollar verdicts. But arguably, one of the most celebrated cases ever tried by a Jefferson County Court occurred in 1840—the contest of the will of a wealthy planter, Isaac Ross, who died in 1836.

Jefferson County was chartered in 1799 as the second county in the Mississippi Territory. In 1808, Isaac Ross, a veteran of the Revolutionary War, moved there from South Carolina with his family. He bought land and built a grand home which he called Prospect Hill.

Ross' fortune and the number of slaves he owned grew significantly during the economic boom of the 1820's. By 1832, Ross had accumulated great wealth, but had also misfortune—his wife, Jane, and two of his five children had died of yellow fever, leaving Ross deeply depressed. As an antidote to his depression, Ross traveled to the Northeast, visiting first his grandson at Princeton and then to New York. While in New York, Ross became interested in the work of the American Colonization Society which advocated the repatriation of emancipated slaves to Africa. To this end, the Society founded the colony of Liberia in West Africa in 1820.

The Society had significant national support and included among its members: Presidents Thomas Jefferson, Andrew Jackson and James Monroe as well as Henry Clay, Daniel Webster, Francis Scott Key and Robert E. Lee. Its first President was George Washington's nephew, Supreme Court Justice Bushrod Washington.

The colonization effort was denigrated in the South as a tool of abolitionists—yet there was support for the effort in Mississippi. In addition to Isaac Ross, state supporters included Stephen Duncan, a prominent Natchez planter who owned approximately 1,000 slaves; Jefferson County Judge James Green, who was among the first to repatriate a group of his slaves to Liberia and for whom Greenville, Liberia was named; and state Senator, John Ker, who helped found the Mississippi Colonization Society and who was a close friend of Ross.

At the time of his death in 1836, Isaac Ross owned 5,000

acres of prime cotton land, 225 slaves and the Prospect Hill mansion. Under the terms of his will, Reed's plantation would continue in operation under the supervision of his principal Executor for one year after the death of his favorite daughter, Margaret Ross Reed. Upon her death, the plantation would be sold and the proceeds would be used to provide passage for his slaves to the newly created abolitionist colony of Liberia. Margaret died two years after her father. Her will was similar to her father's in providing that her plantation was to be sold and her 125 slaves were given the same option of emigrating to Liberia.

Ross was also survived by his daughter, Jane Ross Wade and her son, Isaac Ross Wade, one of the five executors of his will. In 1840, Jane Ross Wade filed a contest of her father's will arguing that both her father's and sister's wills violated state law governing the manu mission of slaves which required legislative approval. Soon thereafter, the co-executors of Ross's will filed suit against Isaac Ross Wade, the chief executor, alleging mismanagement and misappropriation of estate assets. The American Colonization Society filed a complaint against Jane Ross Wade for her attempts to enjoin them from removing the slaves from Mississippi and for her claims against the estate. The Superior Chancery Court of Jefferson County ruled in favor of the American Colonization Society and appeal was made to Mississippi's High Court of Errors and Appeals—now the Mississippi Supreme Court.

In a landmark decision holding for the American Colonization Society, the High Court concluded that the state's manu mission laws did not apply to slaves removed from the state. Justice Clayton writing for the Court called the heirs' attempts to thwart the will, "a breach of trust and perversion of power. Rights acquired by fraud cannot be sustained."

After a ten year legal battle, the American Colonization Society was successful in transporting the slaves of Isaac Ross and his daughter, Margaret, to Liberia.

Jackson lawyer, William Wright, is the great, great, great grandson of Isaac Ross.

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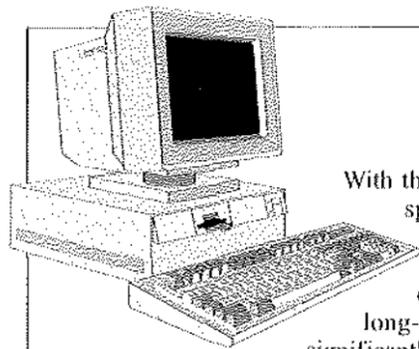
another amendment creating a single six year term for President. If the new chief executive was caught pandering or indulging in disingenuous behavior more than three times, a newly created Independent Hypocrisy Court would be empowered to hide the keys to Air Force One and make the President fly standby on commercial turbo props. If the pandering persisted, long haul transportation would devolve into Greyhound and finally, hitchhiking. Additional pandering would result in being banned from country clubs, jogging paths and nice restaurants. Instead of the presidential limo, the pandering politico would be forced to drive around Washington in an old Dodge Dart badly in need of a muffler. And as far as reserved parking goes, forget about it.

As a check on legislative power, yet another amendment would require Senators and Representatives to forfeit all pork barrel money to their states or districts if caught pandering, obstructing, lying etc. Other sanctions would include revealing their ACT scores, college transcripts, DUI arrests,

office affairs and the like. And if all else failed, fudging Republicans would have nasty movies made and unauthorized biographies written about them by new federal employees Michael Moore and Kitty Kelley. Should Democratic lawmakers be found guilty of the same conduct, they would answer to a tribunal of Swift Boat Veterans For Truth and a panel of displeased pastors that would include Jerry Falwell, Pat Robertson, Bob Jones III and James Dobson. I suspect that truth and integrity would stand a better chance than the prevaricating politicians under my "Tough Love For Lowlife Legislators Amendment."

So, what do you think America? We've got a lot of amending to do. Let's get to it!

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.



## On Computing

by Joel Howell

With the increasing onset of high speed access, another Internet development has the potential to decrease dial-up local and long-distance telephone use significantly.

Voice over Internet Protocol (VoIP) can replace many traditional telephone usages at a significant saving. There are, of course, advantages and disadvantages.

First and foremost, you'll need a broadband connection, which can be satellite, cable, or DSL, since your voice will be translated to data and which takes up more bandwidth than you could readily utilize on a traditional dial-up connection.

There are quite a number of providers, including AT&T ([www.usa.att.com/callvantage](http://www.usa.att.com/callvantage)), Packet8 ([www.packet8.net](http://www.packet8.net)), VoicePulse ([www.voicepulse.com](http://www.voicepulse.com)) and Vonage ([www.vonage.com](http://www.vonage.com)). For a monthly fee of \$25.00 give or take, you can get unlimited local and long distance service, at least in the United States, and perhaps in other parts of the world as well. This includes such formerly exotic features as call forwarding, voice mail, caller ID, and call waiting.

Voice quality can match traditional phone service, and in many cases can exceed digital cellular phone quality but it does have the same potential for dropped calls.

An additional hardware need is a router, since both the

computer and your telephone will connect to it, similar to networking computers. The telephone connects to the Internet via an adapter provided by the VoIP provider.

It is possible to keep the same phone number, but that can be a slow transition which could require you to have two telephones, one connected to the Internet and the other to traditional service. Acquiring a new number, however has an advantage since service providers allow you to choose an area code, thus allowing you to use the area code you live or work in and add a second number for a nominal fee. You may be aware that, by next spring, you will have to use ten digit dialing even to make local phone calls.

Setting up extension phones, can be very difficult and electrical rewiring may be required. In addition, emergency calls to 911 will be difficult if not impossible, and other household items that use traditional telephone connections such as TIVO, DirecTV, or even a home alarm may have difficulties working. If your broadband connection fails or you have a power outage, you'll have no telephone service.

This will likely not replace your existing phone service immediately, but if you make a lot of telephone calls it's well worth taking a look at.

Questions or comments? Send email to [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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M Truly, my goal was to get it published before I was 40, and you know, on a shelf. You and I were talking earlier about music; Delbert McClinton and Robert Earl Keen sing to 1,000 or 2,000 people a night and Britney Spears, who cannot sing, has no talent, makes millions of dollars. It's a little different in the book industry, but there are many authors out there who write much better than I do, and nobody will publish them. I was in the right place at the right time, and it (*Many Aspects*) just hit, and you know, the timing has to be right. *The Book of the Month Club* picked it up, and that gave it another light, then Newsweek mentioned it. And it just kept going. It all has to work perfectly. The great thing about it was I knew nothing about the book business, it was all just a wonderful ride.

K Let's talk about *Plain Heathen Mischief*. I think I read another interview where you said you actually thought it was a better book than *Many Aspects*.

M I mean, maybe because it's my most recent "child", I really do, I think it depends on what you're looking for. PHM is more organic. Some people are put off because it has religious undercurrents in it, some people are put off because they just don't like religion in their reading, and some people are put off because, even though it's not, they consider it an attack on religion. If you can't hold something up to the light and give it a little scrutiny, then it's not much of a religion or philosophy.

K Did you consciously set out in *Plain Heathen Mischief* to move away from the idea of a lawyer as the main character, or was the preacher as main character just the next idea you had on your mind?

M Just the next idea. Of course I'm doing it, it's sort of becoming the, you know, a trilogy, I did the law, I did religion, and next will be politics.

K There are a lot of lawyers out there who write, and some of them very consciously, maybe because it's what they're most comfortable with, they use lawyers as the main

characters, like John Grisham. Do you see yourself going back to lawyers at some point in the future, or just kind of going to see where the ideas take you?

M I don't really know, I don't have a long-term plan. It's funny that so many people refer to *Many Aspects* as a legal thriller. The new cover of *Many Aspects* says it's the funniest legal thriller ever written, and there's a quote saying that "Martin Clark isn't the thinking man's John Grisham, he's the drinking man's John Grisham." I'm not real sure it is a legal thriller, so I don't know, I don't have a plan to write any particular kind of book, legal thrillers or any particular character.

K Let me ask you this. In the realm of lawyers who write fiction, I know you're familiar with the work of Louis Begley [author of *About Schmidt*], as well as John Grisham. Do you see yourself as being closer in spirit and style to Begley, a novelist who happens to write about lawyers, or Grisham, who usually writes what I think of as legal adventure stories, for lack of a better term?

M Closer to Begley. But I will say this, I think John Grisham is underestimated as a writer. Grisham can really write, and if you think about it, *A Time to Kill*, it may not be a "great American classic", but it is a classic. It is a well-written story with beautiful writing and beautiful tones. I've seen the movie twice and read the book twice, and I [still] always tear up at the end.

K You know there are a lot of lawyers who write books and have gotten fairly well-known for doing it, but I think you're the first judge I've read about who writes. Do you know of any other judges writing novels?

M I don't know of any judges doing it, who write books, but that doesn't mean there aren't any out there. I've not met any other judges who write fiction.

K Well Martin, I sure appreciate it, and thank you so much for your time.

M Thank you.

## Fall Social at the historic Fondren Corner Building

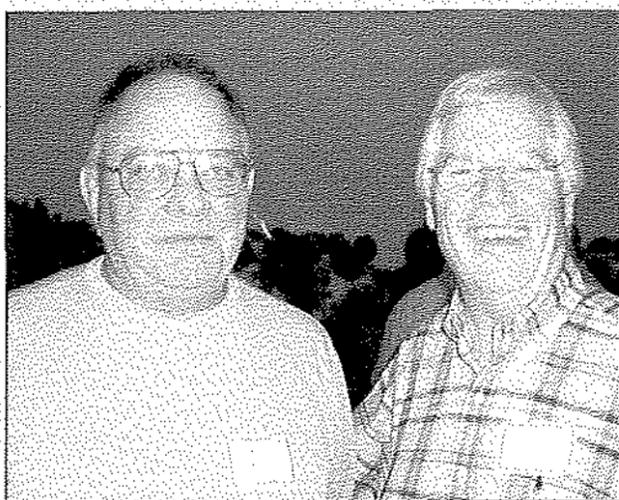
The Hinds County Bar Association, the Jackson Young Lawyers, and Legal Resources Network co-sponsored a Fall Social on Thursday, October 7, under the stars on the roof of the historic Fondren Corner Building. The event welcomed

attorneys recently admitted to The Mississippi Bar.

Live music was provided by Eric Stracener followed by the FULL TILT band featuring John Hawkins. Both Eric and John are former JYL and current HCBA members.



JYL member Jennifer Evans and her father, George Evans



HCBA members George Evans and Jimmy Robertson

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*January 11 - May 11, 2005*

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 Friday .....7:30 a.m. - 9 p.m.  
 Saturday .....9 a.m. - 9 p.m.  
 Sunday .....noon - midnight

## EXCEPTIONS

### **Martin Luther King, Jr. Day**

Monday, January 17th .....9:00 a.m. - 5 p.m.

### **Spring Break**

Friday, March 17th .....7:30 a.m. - 6 p.m.  
 Saturday, March 19th .....9 a.m. - 5 p.m.  
 Sunday, March 20th .....1 p.m. - 5 p.m.  
 Mon., March 21st - Wed., March 23rd ..7:30 a.m. - 5 p.m.  
 Thurs., March 24th - Sat., March 26th ..9 a.m. - 5 p.m.

## EXAM SCHEDULE

### **April 29th - May 11th**

Monday - Friday .....7:30 a.m. - midnight  
 Saturday .....9 a.m. - midnight  
 Sunday .....noon - midnight

*Summer hours will begin May 12th.  
 Hours are subject to change without notice.*



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