

JOURNAL

ALABAMA DEFENSE LAWYERS ASSOCIATION | VOL. 35 | NO. 2



Encouraging a Commitment to Diversity — *among* — Civil Defense Lawyers

Judge Annemarie Axon and Magistrate Judge Katherine Nelson share advice for women lawyers seeking both professional success and a healthy personal life



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CHRISTINA MAY BOLIN
President

One of the benefits to being ADLA President is I can admit publicly to having made a mistake. What is the worst that can happen? I am already President. There is really nothing you can do about it now. I kid. *Mostly*. I also now have a platform to help other people who may be making the same mistake.

I have always been very deliberate in the professional organizations that I joined. If I am going to get involved, there must be an appreciable benefit

to my career; whether it be networking, professional development or marketing opportunities. There is one kind of professional organization that I have always avoided – anything gender specific. I had never thought of myself as a “woman lawyer.” I am a lawyer. Same degree. Same practice. I never saw any need to differentiate. Why does it matter what my gender is? It does not impact my ability to practice law. I was one of those people who said things like “why do we need a women’s organization? If there was a men’s organization everyone would go nuts.”

When I got on the board of ADLA I started to work on identifying areas on which we could improve. Specifically, how we can best serve our members and increase our membership. I started looking around and realized something startling. I was one of only a handful of women around my age that are active in ADLA and a part of an only slightly larger group that stayed in the practice of civil defense litigation. Fifty percent of my law school class was female and that ratio has not really changed. So why am I so frequently the only woman in the room?

Even though I thought it did not matter, I always noticed. It is a lot easier to stay in that room when there are other people like me in it. I had an epiphany recently. While my gender or skin color never mattered to me in practice, it matters to other people. To some, it matters a lot. Let me illustrate. Just yesterday, I was going through security at the Mobile County Courthouse. There were two officers at the metal detector. The first one (who was running the scanner) immediately began giving me

If I am going to get involved, there must be an appreciable benefit to my career; whether it be networking, professional development or marketing opportunities.

instructions in Spanish. In Mobile, Alabama. When I told him I did not speak Spanish, he blinked and pushed my things through. I was going to a hearing in front of a judge who did not have an assigned courtroom. I asked the second officer if he knew which courtroom that Judge would be in that day. Rather than answer, he asked what I had there. I responded with “a hearing.” At which point he said very loudly and slowly “TELL. ME. EXACTLY. WHAT. YOU. NEED. TO. DO.” I informed him that I needed to argue and win my summary judgment motion but could not do that until I knew where to find the Judge. Apparently, he didn’t even know and I was left to explore the sixth floor of the courthouse. (If you’re curious, I lost.)

I would imagine that a start like that might have knocked some lawyers off their game. Frankly, it took me a minute to get over being irritated. Then I reminded myself that these officers probably do not see a lot of lawyers that look like me. Even though I was wearing a suit and carrying a binder and a red-rope, lawyers typically do not look like me. They do not see these kinds of lawyers because we are not doing a good enough job of keeping diverse lawyers in the practice. We can do better. I believe we all do better when we diversify and not just on gender lines. The more inclusive, the greater the pool of talent. The better the talent, the better the industry. That is the point of ADLA; to better the industry by bringing in the best and the brightest lawyers and we can help accomplish that by bringing in lawyers with differing backgrounds, experiences and educations. We do that by offering networking, educational opportunities and opportunities to market to potential clients. We just need to make sure that we are offering it to everyone. At the risk of sounding trite, we are better together. We can bring in new people and with that comes new experiences, new ideas and a better practice.

That is the point of ADLA; to better the industry by bringing in the best and the brightest lawyers and we can help accomplish that by bringing in lawyers with differing backgrounds, experiences and educations.

If diversity and inclusivity do not appeal solely on the basis that it’s the right thing to do, it also happens to be very good business. Insurance companies and corporations are forming diversity initiatives and some are starting to limit their panel counsel to firms that demonstrate a commitment to diversity. If you do not qualify, you probably will not get the business. For some firms, you may be told that you are going to lose a client solely on the basis of lack of diversity.

So, I was wrong. I can admit it. It does matter. We have started the Women in the Law Committee and in doing so have succeeded in bringing some extraordinarily talented women into active participation in ADLA. I am hopeful that this group can identify why the number of women attorneys decreases as years of practice increase and figure out a way to keep that group of talent in the industry.

I also want to bring back the ADLA Diversity Committee to help us diversify our organization and again, keep that group of talent in the industry. If you are willing to get involved, please let me know. If you are not willing and think it’s a terrible idea, I would kindly refer you back to the first paragraph of this article.

It is going to be another great year with the ADLA, I am honored and humbled to serve as your President and hope that I can assist in growing and improving ADLA for many years to come. 

Christina May Bolin



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In the world of the legal profession, it is no surprise that employers must compete against each other to attract the brightest employees and they have to work even harder to keep them. Employees want to know they can trust their leaders, have opportunities for professional growth and be a part of an organization that invests in their communities.

Members can now view and post job opportunities on ADLA’s new job board. All job announcements will be promoted to over 900 members for six weeks in the Wednesday Briefcase e-newsletter and on ADLA’s website in the Member Resources section. There is a nominal fee for members to post an opening, please visit www.adla.org for more information or simply reach out to us at adla@adla.org.

SHARE YOUR GOOD NEWS WITH US
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GABY REEVES
Editor

If you were unable to join us at the Annual Meeting, you missed an excellent program. Christina Bolin's program featuring a stellar cast of speakers and panelists, together with Jennifer Hayes's amazing organizational skills resulted in an informative, enjoyable, and successful event. Thank you both.

Please join me in congratulating our newly elected Officers for 2019- 2020: **President Christina Bolin**; **President-Elect Andy Rutens**; and, **Secretary-Treasurer Gerald Swann**. A special note of thanks to **Dennis Bailey** for serving as 2018-2019 President. Dennis will continue to serve on the Executive Board for 2019 - 2020 in his capacity as **Immediate Past-President**. Congratulations to the following new District Directors: **Daniel Beasley**, District I; **Stephen Still**, District II; **Amanda Hines**, District III; and, **Jeff Luther**, District IV. We also welcome **Steven Savarese** as the new President of the Young Lawyers Section.

This edition of the *Journal* offers a special feature: "Do unto Others: The First Rule of Attorney Marketing" by Francisco ("Frank") Ramos, Jr. Those of us who attended the annual meeting had the opportunity to hear Frank speak on practical lawyer marketing guidelines and how to implement them. Frank is the managing partner of Clarke Silvergate, PA, where he practices in the areas of commercial litigation, class action, employment, products liability and personal injury. He is a frequent speaker, accomplished author and the host of the podcast, "A Conversation With." I am pleased that Frank shares more of his sage counsel with us in this edition of the *Journal*.

In his article, **Rob Thornhill**, Director of the Alabama Lawyer Assistance Program ("ALAP"),

explains how the demands unique to the practice of law can lead to alcohol abuse and the physical, emotional, and professional havoc that can wreak on an attorney, as well as on the suffering attorney's family, friends, and law partners. I encourage you to visit the ALAP website to learn about the services the ALAP provides even if you do not have an immediate need for those services. That knowledge may assist you or help you to assist a colleague in the future.

Chris McIlwain's article provides a straight-forward explanation the "plausibility standard" established by *Twombly* and *Iqbal* and its proper application. Proving that this topic never grows stale, Chris warns that a recent Eleventh Circuit ruling allows a district court judge to avoid applying the plausibility standard and offers advice as to how to combat such rulings on appeal.

In his article, "The Firefighter's Rule," **Alan Anderson** writes about this "often overlooked" affirmative defense to damages claims asserted by firemen, law enforcement officers, and other first responders injured in the line of duty. Alan explains the various applications of the Rule among the states that have adopted it and the benefits of raising it as an affirmative defense.

This *Journal* edition also features **Diane Babb Maughn's** conversation with Judge Annemarie Axon of the United States District Court for the Northern District of Alabama, and **Kristy Waldron Dugan's** conversation with Magistrate Judge Katherine "Kit" Nelson of the Southern District of Alabama. Both Judge Axon and Judge Nelson offer sensible advice for lawyers trying to forge a successful career while simultaneously striving to be a good spouse, parent and son or daughter. Thank you to Judge Axon and Judge Nelson taking the time to share their perspectives.

David Sikes, President of the APCA, reports on the APCA. The APCA is making great strides toward reaching its goals and in record time. Thank you, David, for sharing the APCA's progress and congratulations to you and the rest of the APCA members.

I also want to direct your attention to

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ADDICTION

How To Recognize It And What To Do About It

By: **Robert Thornhill**, MS, LPC, Director | Alabama Lawyer Assistance Program | Montgomery, AL



I believe that addiction is the greatest problem we are facing today in our nation. I do not make that statement lightly. Our many forms of media are awash with messages that convey to our young people that it is “cool” and “hip” to engage in drug and alcohol use and abuse, and to similarly engage in lifestyles that are irresponsible and self-centered. In a 2006 report from the National Institute of Drug Abuse (NIDA), a study was cited that contained the following statistic: The United States comprises roughly 7% of the world’s population, yet we consume 60% of the illegal drugs worldwide.

In this paper, I will describe the basic criteria that must be met to satisfy a clinical diagnosis of Chemical Dependence, (or Substance Use Disorder), the behaviors and attitudes that are consistent with addiction, and the horrendous effects of this disease on the addict, family members, loved ones, friends, and colleagues. I will also offer hope to those who are suffering with this disease and to the many heart-broken family members and loved ones.

Addiction is a powerful and seductive disease. In the beginning, and for much of the middle stages of addiction, it appears to be a solution rather than a problem. As you will learn later in this paper, the addict’s brain will keep him/her convinced that he/she does not have a problem. Have you ever tried to reason with an addict or alcoholic who has not yet experienced many of the real-world consequences of addiction? The addict will likely tell you, with complete conviction, that he/she does not have a problem. The addict’s brain constantly and automatically rationalizes and justifies the continued use of the substance that is killing the addict. And, the addicted brain continually minimizes the risks and negative consequences. Addicts usually manage to accomplish quite a lot while in the throes of active addiction. Tragically, even these accomplishments will become part of the way the addict justifies continued use of the drug of choice.

Addiction is a progressive illness. Over any considerable period of time we get worse, never better. Eventually, if we survive to the final stages of addiction, we will literally be forced to use our drug of choice around the clock to avoid the horrible symptoms of withdrawal. We become unemployable. The tragic truth is that most do not survive to the final stages of addiction. The vast majority of addicts, without recovery, will die directly or indirectly as a result of addiction well before they reach the final stages. We die in automobile accidents, a host of addiction-related physical illnesses such as cancer or heart disease, organ failure, suicide, or victims of homicide. The remainder will usually end up institutionalized or incarcerated.

Addiction is a Primary Disease; it is not caused by something else. It can and does, however, cause or exacerbate many other secondary illnesses. The disease is Chronic; there is no cure and

it lasts a lifetime. There is, thank God, recovery. Without recovery, the disease is fatal.

What is Addiction? According to the Diagnostic and Statistical Manual for Mental Disorders (DSM), a Substance Use Disorder (addiction) is a “maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by two (or more) of the following, occurring in the twelve-month period”: 1) Tolerance, 2) Withdrawal, 3) Substance often taken in larger amounts over longer period, 4) Persistent desire or effort to cut down or control use, 5) Great deal of time spent acquiring, using, or getting over use, 6) Important social, occupational, or other activities reduced or eliminated, and, 7) Continued use despite persistent physical or psychological problems.

Tolerance simply means that it takes more of the drug or alcohol to achieve the same effect. All alcohol and drug abusers and addicts/alcoholics experience the phenomenon of Tolerance. This phenomenon occurs primarily as a result of the brain attempting to achieve a state of “homeostasis”, or balance. As the drug abuser begins to regularly ingest their drug(s) of choice, the brain attempts to adjust to this by reducing the amount of neurotransmitter that is stimulated by the drug. This causes the abuser or addict to take more of the drug or alcohol so that sufficient neurotransmitters are produced to illicit the same effect as before. Unfortunately this renders the brain incapable of producing the “normal” amount of neurotransmitter that occurs naturally in healthy pleasure-producing situations. The drug has now hijacked the addicted brain. In a given situation in which a non-addicted person might experience joy or pleasure, the addict is left with a flat affect and an obsession to re-experience the chemically induced but counterfeit pleasure that his drug of choice has provided in the past. Eventually addicts become physiologically incapable of experiencing feelings of well-being, joy, or pleasure in appropriate situations, because their brains have been rendered incapable of this. The good news is that, with few exceptions, the brain will begin to produce these neurotransmitters once the recovering addict remains committed to a solid recovery program.

For many drugs such as Alcohol, Opiates (Morphine, Heroin, prescription drugs for pain such as Hydrocodone, Hydromorphone, Oxycotin, etc), and Benzodiazepines (Xanax, Valium, etc), a physiological dependence develops as well resulting in a fairly rapid increase in tolerance and physiological withdrawal symptoms. This means that when the addict is separated from their drug of choice they will experience quite serious physiological withdrawal symptoms such as tremors, seizures, nausea, vomiting, severe flu-like symptoms, and so on. Once this phenomenon of physiological dependence is in place the addict must continue to use around the clock just

Addiction negatively impacts every area of human life; spiritual, emotional, mental, and physical. It is almost always as devastating to family members and loved ones as it is to the addict. And, while there remains no cure, the opportunity for a lifetime of happiness, joy, and freedom is available to anyone who is willing to truly commit to the fabulous journey of recovery.

to avoid these very serious physical symptoms. Other symptoms of withdrawal include restlessness, irritability, and discontentment. The non-addicted user can simply “take it or leave it”, but the true addict is no longer capable of being at peace when separated from their drug of choice.

Addicted people begin to lose control in many areas of their lives as the disease progresses. There is often a continuous longing for the right set of circumstances to use without consequences. There is increased time spent with alcohol and/or drugs and decreased time spent in other areas of life. As a result of tolerance, it now takes more of the drug and longer use to get the same effect. It is common at this point to see an increased frequency in behaviors that serve as reasons to use, or events or excuses to use. The addict’s mind seems to automatically rationalize and justify the continued use of the substance that is destroying them, and to minimize the negative risks and prior negative consequences of their use. As the use inevitably increases, something must be given up to make room for it. The addict reduces or drops out of family, social, or church-related activities. As the mental obsession to use again and again takes hold, loved ones are baffled as the addict continues to use despite ever worsening negative consequences. Ultimately, without recovery, the addict’s only real destinations are jails, institutions, and death.

Families and loved ones must learn how to “detach with love” and allow the addict the opportunity to fully experience the consequences of active addiction. The worsening pain of these consequences is where the internal willingness and desire to change comes from. This is almost impossible to do without the family’s involvement in their own recovery. The pathology that becomes evident within families of an addicted person is beyond the scope of this paper, but is often as devastating as that of the addict. Recovery from the disease of Codependency (a loved one that is “co-addicted” to the addict) can begin by engaging in Individual Therapy and/or by attending meetings of Al-Anon. Working the 12 steps with the guidance of a seasoned Al-Anon sponsor can effectively address many of the symptoms of Codependence. Loved ones can begin to learn experientially that they can truly find peace and happiness regardless of the behaviors of their addicted loved ones. But, it takes a personal commitment on the part of the codependent to truly engage in recovery. Family members will learn that they must take care of themselves, set limits and follow through, level with the addict regarding their thoughts and feelings (instead of exploding in

anger), and, most importantly, allow the addict to make choices and to fully experience the consequences of these choices. Remember, it is the pain of these choices (jails, institutions, loss of job, loss of family, loss of home, health problems, mental and emotional anguish, and on and on) that bring about the inner willingness to seek recovery. Once this willingness is evident, it is very OK to assist the addict in any way possible to get into treatment.

In today’s world addiction is usually accompanied by one or more additional mental health issues or diagnoses such as anxiety or depression. For many, the devastating effects of active addiction create these additional problems. Most alcoholics and addicts that I have worked with would easily meet the clinical criteria for anxiety or depression due to the inevitably worsening progression of addiction. Once these people have committed to a genuine program of recovery, these symptoms often dissipate over time. Others require ongoing treatment for these disorders while in recovery from addiction and discover that the genesis of their addiction may have been related to an attempt to self-treat depression, anxiety, or some other mental health issue with alcohol or drugs.

Addiction negatively impacts every area of human life; spiritual, emotional, mental, and physical. It is almost always as devastating to family members and loved ones as it is to the addict. And, while there remains no cure, the opportunity for a lifetime of happiness, joy, and freedom is available to anyone who is willing to truly commit to the fabulous journey of recovery. The first great miracle of recovery for the addict is the removal of the “obsession” to pick up that first drink or drug. The first great miracle for family members is often the removal of the “obsession” to fix, manage, and control their addicted loved one. Lives and careers can be saved, families reunited, health and self-respect restored. Men and women who were once enslaved to the immense power of addiction can be free of its grip and know true peace and contentment.

The dedicated staff and volunteers of the Alabama Lawyer Assistance Program (ALAP) stand ready to assist. We can provide confidential assistance, referrals for evaluation and treatment, monitoring for accountability and compliance, and continued assistance and support. Perhaps the greatest asset of our program is the availability of our volunteers. Our committee is made up largely of attorneys and judges who are personally in recovery from addiction and/or some other mental illness. They have found an effective recovery and are living useful and productive lives; managing the inevitable challenges of the legal profession while maintaining an active and joyous lifestyle. Should you or someone you know need our assistance please do not hesitate to contact us. 



Robert B. Thornhill, MS, LPC is the director of the Alabama Lawyer Assistance Program of the Alabama State Bar. He is also a Certified Alcohol and Drug Counselor. Mr. Thornhill has worked in the field of mental health and substance abuse for the past 20 years, and currently oversees program operations including coordinating evaluations, assessments and monitoring services.

It's hard to imagine that 2019 is coming to a close in just a few months. The fall season is at our doorstep, welcoming cooler weather and SEC football. We will soon find ourselves scrambling to prepare for the holiday season, all while balancing our households and closing out work projects by year end. For me, there are several incomplete items that I am determined to complete before the end of the year. This year has been busy for ADLA and the last few months will not be any different. Exciting things are happening this fall while plans for 2020 are already well underway.

Since the spring, membership efforts and activities have been in full swing. ADLA's member retention remains high and membership investment efforts are paying off. Engagement among members has significantly increased this year alone and our committees have seen a positive boost in involvement.

ADLA's various committee members have tremendously helped improve membership outreach efforts, volunteered to speak at multiple events on behalf of ADLA, served as association liaisons to other organizations, and so much more. To everyone who has volunteered, served and waived the ADLA flag whenever possible, thank you!

We have several member events scheduled throughout the state this fall, so please be sure to check out our events calendar on the website and also read up on the details in this issue of the *Journal*. Feedback from the membership is important; please feel free to reach out to me directly if you have ideas or suggestions that you think would be appealing to other members. We are always looking for new and innovative ways to serve civil defense attorneys in the state and we welcome anyone who wants to serve. Volunteers who serve are the reason this organization continues to thrive. We encourage all members, young and seasoned, to get involved.

As you begin thinking about your goals for the new year, and you haven't been very active within ADLA's various committees, please consider volunteering. Each member makes a difference. Finally, if you are an ADLA member and need assistance accessing the members' section of the website or if you are not receiving the e-newsletter, please send an email to adla@adla.org or call 334-395-4455 for assistance. Again, thank you for allowing me to serve you; it has indeed been a privilege. 🙏



JENNIFER HAYES
Executive Director

A handwritten signature in black ink that reads "Jennifer". The signature is written in a cursive, flowing style.

A background image for the "Wednesday Briefcase" section. It shows two people from the waist down, wearing dark business suits. They are each carrying a light-colored briefcase. The image is slightly blurred and has a warm, golden-brown color palette.

STAY UP TO DATE WITH ADLA'S *Wednesday Briefcase*

It's important to us to keep our members informed. Each week members receive timely information on association events, legislative updates, important news bites and more. If you're a member and not receiving the e-newsletter, please subscribe by visiting the Get Informed tab at www.adla.org.

ARROWS IN THE QUIVER OF DEFENSE COUNSEL: IQBAL AND TWOMBLY

By: Christopher Lyle McIlwain, Sr., Hubbard Wiggins McIlwain & Brakefield PC | Tuscaloosa, AL



I. Introduction

Those of us who graduated from law school before 2007, (1980 here), and who have defended civil cases in federal District Court, were pleasantly surprised when the United States Supreme Court issued its opinion in *Bell Atlantic Corp. v. Twombly*, abrogating the old standard for determining whether a complaint sufficiently stated a cause of action as required by rules 8, 9, 10, and 12 of the Federal Rules of Civil Procedure.¹ That pre-*Twombly* standard, the one we old geezers learned in law school and then lamented over in our defense practices, prohibited the dismissal of a plaintiff's complaint for failure to state a claim "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief."² Under this standard, a plaintiff could state a claim by using conclusory allegations, thereby leaving open the possibility that some supportive facts could be unearthed during the discovery phase.³ Thus, as the *Twombly* court noted, a plaintiff could reach the discovery stage in litigation without first alleging any facts to support the conclusions. Because discovery accounts for as much as 90 percent of litigation costs, cost-conscious defendants could be forced to engage in the very expensive discovery process or to settle ultimately groundless claims merely to avoid those expenses.⁴

In *Twombly*, the Supreme Court recognized this and decided to raise the bar for plaintiffs from a one of mere possibility to one of substantive "plausibility."⁵ Under the plausibility standard, a district court's determination of the sufficiency of a pleading focuses on the facts alleged, coupled with the legal elements of the claims. The practical effect of *Twombly* and its progeny is that a plaintiff cannot begin the discovery phase until his complaint fully complies with the plausibility standard. Specifically, discovery is not allowed until the court rules on a pending motion to dismiss based on Rule 12(b)(6). The ability of a defendant to avoid fishing-expedition discovery is obviously very important.⁶

II. Applying the Plausibility Standard

A complaint must contain "sufficient factual matters...to 'state a claim for relief that is plausible on its face.'"⁷ The Supreme Court and the Eleventh Circuit have held that what some judges correctly refer to as "weasel wording" does not suffice to state a "plausible" or believable claim. Such statements include conclusory allegations and statements,⁸ labels,⁹ recitations of elements,¹⁰ unwarranted factual deductions,¹¹ speculation,¹² and naked assertions devoid of factual enhancements.¹³ Courts afford "no presumption of truth" to these.¹⁴

Even when a complaint states specific facts, those facts are insufficient to present a plausible claim if they allow for the

inference of alternative lawful explanations,¹⁵ amount to mere suspicion,¹⁶ are merely consistent with or show a mere possibility of misconduct,¹⁷ or do not raise a right to relief above the speculative level.¹⁸ Where there are two possible explanations, only one of which results in liability, the plausibility standard is not satisfied unless the plaintiff alleges facts excluding the lawful explanation.¹⁹ Conceivable does not equate with plausible.²⁰ A lack of knowledge of the requisite facts does not relax the pleading

A complaint must contain "sufficient factual matters...to 'state a claim for relief that is plausible on its face.'" The Supreme Court and the Eleventh Circuit have held that what some judges correctly refer to as "weasel wording" does not suffice to state a "plausible" or believable claim.



standard to which a plaintiff is held.²¹

Rather than complying with the plausibility standard, many plaintiffs attempt to use conclusions as gap-fillers for critically important missing facts. This strategy was expressly rejected by the Supreme Court in *Iqbal* and *Twombly*. In *Twombly*, the plaintiffs alleged that the defendant-businesses had unlawfully engaged in wrongdoing: that they had entered into an agreement not to compete with each other and also to prevent other competitors from entering their market. But as the Court later noted in *Iqbal*, federal law only prohibited *anticompetitive* conduct effected by a contract, combination, or conspiracy.²² Thus, it was incumbent upon the plaintiffs in *Twombly* to allege facts supporting the existence of a contract, combination, or conspiracy. The only fact alleged by the *Twombly* plaintiffs was that the defendants had engaged in

“parallel behavior.” The Court assumed the truth of this assertion, but held that this was insufficient to support a plausible claim of an *illicit* contract, combination, or conspiracy existing between the defendants. Why? Because parallel behavior does not unambiguously suggest the existence of the requisite *illicit* agreement. It was just as likely that this parallel behavior amounted to lawful independent conduct normal between competing businesses.²³

Similarly, in *Iqbal*, the plaintiff sought to assert a claim for discriminatory arrest by two high government officials. As the Court noted, under the circumstances of the case and the applicable law, an official could not be liable unless he violated the Constitution “through [his] own individual actions committed with a discriminatory purpose.” Therefore, the officials’ adoption and implementation of a policy for a neutral, lawful reason was not actionable.

In sum, descriptions of conduct do not always unambiguously point to the existence of *illegal* conduct. Allegations such as this may sometimes give rise to an inference of the possibility of misconduct, but that is insufficient, particularly when there are “more likely explanations.” In that case, such allegations do not satisfy the plausibility standard.²⁴

III. The Right To Appeal Denials of Motions To Dismiss

For some judges and lawyers taught and then steeped in the old standard, this change has seemingly been difficult to accept and apply. For example, until the Supreme Court issued its opinion in *Ashcroft v. Iqbal* in 2009, some maintained that the principles enunciated in *Twombly*, a case involving anti-trust conspiracy claims, only applied in that specific context.²⁵ But the theories asserted in *Iqbal* were *Bivens* claims of supervisory liability against U.S. Attorney General John Ashcroft and FBI director Robert Mueller (yes, *that* Robert Mueller) for a wrongful arrest. The Supreme Court held that the plausibility standard applied in that context as well.

Since *Iqbal*, those still reluctant to apply the plausibility standard have resorted to various means of finessing it. Some judges have deferred ruling on motions to dismiss and—usually off-the-record—instructed the parties to proceed to discovery, thereby allowing plaintiffs to fish for facts that might plug holes in their pleadings. The Court of Appeals for the Eleventh Circuit has condemned this practice and held that a ruling on the motion must precede any discovery.²⁶

A few other judges have denied motions to dismiss while purporting to apply the plausibility standard but actually utilizing the old “mere possibility” standard. And because a panel of the Eleventh Circuit recently held that such erroneous rulings cannot be appealed as a matter of right on an interlocutory basis under the collateral order doctrine, and permission to appeal is unlikely, the *Iqbal* and *Twombly* standards can, unfortunately, be nullified by district judges if they so choose. As a consequence, the costs of discovery will improperly fall on defendants in these situations.

The cases cited by the Eleventh Circuit in support of its decisions dismissing the appeals were easily distinguishable. None involved appeals of motions to dismiss based on FRCP 8, 9, 10, and 12. For

example, in *Nice v. L-3 Communications Vertex Aerospace, LLC*,²⁷ the motion in question was based on subject matter jurisdiction. In *Firestone Tire & Rubber Co. v. Risjord*, the motion at issue was to disqualify legal counsel.²⁸

Under the collateral order doctrine, a decision that does not end the litigation is nonetheless immediately appealable as a matter of right under 28 U.S.C. § 1291 if it conclusively resolves important questions separate from the merits, and is effectively unreviewable on appeal from the final judgment in the underlying action. An order is effectively unreviewable on appeal if the rights and protections available to a defendant cannot be adequately vindicated absent an immediate appeal.

One example of an immediately appealable collateral order is the denial of a dispositive motion based on immunity.²⁹ An important purpose of that defense is to protect a defendant from at least some of the costs and burdens of discovery and litigation presented by insubstantial claims.³⁰

But the collateral order doctrine has never been limited to decisions denying motions based on immunity. In *Cohen v. Beneficial Indus. Loan Corp.*,³¹ the decision in the district court was one denying the statutory right to interim security for payment by a plaintiff of costs in a shareholder’s derivative action. The purpose of the statute was to protect corporations and their officers and directors from “strike suits” and their associated litigation costs. As the Supreme Court noted, if that decision was not immediately appealable, the defendant’s right to protection and security for costs would be effectively lost.³²

Similarly, in *Liberty Synergistic, Inc. v. Microflo Ltd.*, the District Court’s decision involved the applicability of California’s “Anti-SLAPP” statute, which protects those who exercise their rights of free speech or to petition from lawsuits filed to chill the exercise of those rights. The statute allows defendants in those lawsuits to seek dismissal at an early point in the litigation where the plaintiff fails to establish that there is a probability he will prevail on the claim. Noting that the statute afforded defendants a right not to face burdens of litigation such as discovery, the Second Circuit held that the denial of such a motion was immediately appealable under the collateral order doctrine.

Denials of motions to dismiss based on *Iqbal-Twombly* grounds appear to meet each of the requirements for an appeal pursuant to the collateral order doctrine. As the 11th Circuit has held repeatedly, the requirement that a plaintiff’s complaint comply with Fed. R. Civ. P. 8, 9, 10, and 12, is intended to protect defendants from costs associated with the litigation process where that complaint is deficient.³³ In *Iqbal*, the district court denied a motion that sought dismissal based on the sufficiency of a civil rights plaintiff’s complaint. The defendants appealed that decision but the Second Circuit held that it lacked jurisdiction to pass on the sufficiency of the pleadings.³⁴ The Supreme Court rejected that argument, noting that noncompliant claims do not “unlock the doors of discovery” for a plaintiff and, instead, must be dismissed.³⁵ The intent and effect

of this is to protect defendants from the burdens of litigation.³⁶ That factor was of such great importance that it compelled the Supreme Court to reject a weak pleading standard in force for fifty-two years in favor of a much more demanding plausibility standard.

An order of denial conclusively resolves the issue of the sufficiency of the pleadings, and resolves that issue completely separate from the merits of the action.³⁷ And an erroneous ruling on the issue of the sufficiency of the pleadings is effectively unreviewable on an end-of-case appeal because, by that point, a defendant will have been subjected to the very litigation costs the Supreme Court in *Iqbal* and *Twombly* meant to avoid. Moreover, a decision on the merits at the conclusion of the case arguably moots the issue of the sufficiency of the pleadings.³⁸

The Supreme Court has already given a very strong indication of how it would rule if this issue came before it. In *Iqbal*, the defendants filed an interlocutory appeal of that denial of their *Twombly* motion to the Second Circuit. That court assumed it had jurisdiction of the appeal, but affirmed the district court's ruling. The defendants then sought review by the Supreme Court.³⁹ If that Court had concluded that denials of motions to dismiss based on the sufficiency of the pleadings could not be appealed on an interlocutory basis, it could have so ruled, or at the very least denied certiorari. But the Court granted certiorari and held that the plaintiff's pleadings were deficient.⁴⁰

A failure to allow an interlocutory appeal of the denial of a meritorious motion to dismiss under these circumstances effectively denies a defendant the right to avoid expensive and time-consuming discovery and the other burdens of litigation. The only means of protecting litigants from erroneous rulings is by allowing interlocutory appeals under the collateral order doctrine. Absent that, the Supreme Court's mandates in *Iqbal* and *Twombly* will be rendered toothless. It is, therefore, hoped that the 11th Circuit will change its position on interlocutory appeals in this context. 



Christopher Lyle McIlwain, Sr., graduated from the University of Alabama School of Law in 1980, and has been practicing law ever since in Tuscaloosa, Alabama, where he is the president of Hubbard, McIlwain, and Brakefield, P.C. His statewide law practice is diverse and includes insurance defense, coverage matters, and defense of bad faith, commercial, employment, and defamation litigation. He and his wife, the former Anna Petrusnek of Vestavia, have two grown children and a growing brood of grandchildren.

Endnotes

¹ 550 U.S. 544 (2007).

² *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

³ *Twombly*, 550 U.S. at 561-62.

⁴ *Id.* at 559.

⁵ *Id.* at 556-57; *Johnson v. City of Shelby, Miss.*, 574 U.S. 10 (2014).

⁶ *Roman v. Tyco Simplex Grinnel*, 732 Fed. Appx. 813, 815 (11th Cir. 2018); *Chadasuma v. Mazda Motor Corp.*, 123 F.3d 1353, 1366-69 (11th Cir. 1997).

⁷ *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Twombly*, 550 U.S. at 570.

⁸ *Iqbal*, 556 U.S. at 678; *Moreno v. Turner*, 572 Fed. Appx. 852, 857 (11th Cir. 2014) ("too vague and conclusory to support a plausible claim").

⁹ *Twombly*, 550 U.S. at 555.

¹⁰ *Twombly*, *supra*; *Kabbaj v. Obama*, 568 Fed. Appx. 875 (11th Cir. 2014).

¹¹ *Orton v. Mathews*, 572 Fed. Appx. 830, 832 (11th Cir. 2014); *Lamm v. State Street Bank and Trust*, 749 F.3d 938 (11th Cir. 2014); *Simpson v. Sanderson Farms, Inc.*, 744 F.3d 702, 712 (11th Cir. 2014).

¹² *Twombly*, 550 U.S. at 555.

¹³ *Iqbal*, 556 U.S. at 678; *Ruiz v. Rummel*, ___ Fed. Appx. ___, 2019 WL 2513823, *3 (11th Cir. 2019); *United States v. Keeler*, 568 Fed. Appx. 783, 792-93 (11th Cir. 2014).

¹⁴ *Franklin v. Curry*, 738 F.3d 1246, n. 1 (11th Cir. 2013) (citing *Iqbal*, 556 U.S. at 678; *Mamani v. Berzain*, 654 F.3d 1148, 1158 (11th Cir. 2011)).

¹⁵ *Mejia v. Ocwen Loan Servicing, LLC*, 703 Fed. Appx. 860, 863 (11th Cir. 2017); *Conyers v. United States Fish and Wildlife Service*, 572 Fed. Appx. 842, 843, (11th Cir. 2014) ("It is equally plausible that" another cause existed); *Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1331 (11th Cir. 2012).

¹⁶ *Twombly*, 550 U.S. at 555; *Sheppard v. Bank of America*, 542 Fed. Appx. 789, 793 (11th Cir. 2013); *Bowers v. Board of Regents of the University System of Ga.*, 509 Fed. Appx. 906, 911 (11th Cir. 2013) ("while this assumption may be possible, it is equally possible that...").

¹⁷ *Iqbal*, 556 U.S. at 679; *Moreno v. Turner*, *supra*; *Pretka v. Kolter City Plaza II, Inc.*, 550 Fed. Appx. 834; *Sheppard v. Bank of America, N.A.*, 542 Fed. Appx. 789, 792 (11th Cir. 2013); *Lynn v. US Bank Nat. Ass'n*, 542 Fed. Appx. 736, 742 (11th Cir. 2013); *Carter v. DeKalb Co. Ga.*, 521 Fed. Appx. 725, 727 (11th Cir. 2013).

¹⁸ *Twombly*, 550 U.S. at 550; *Lamm v. State Street Bank and Trust*, 749 F.3d 938 (11th Cir. 2014); *Simpson v. Sanderson Farms, Inc.*, 744 F.3d 702, 712 (11th Cir. 2014) ("But after *Twombly* and *Iqbal*, this speculation does not state a claim."); *Sheppard v. Bank of America, N.A.*, 792; *Mamani v. Berzain*, 654 F.3d 1148, 1152-56 (11th Cir. 2011).

¹⁹ *United States v. Armstrong*, 517 U.S. 456, 456, 464 (1996); *Jabary v. City of Allen*, 547 Fed. Appx. 600, 605 (5th Cir. 2013); *Swanson v. Citibank, N.A.*, 614 F.3d 400, 408 (7th Cir. 2010); *MacKenzie v. Hutchens*, 623 Fed. Appx. 483 (9th Cir. 2015).

²⁰ *Lynn v. US Bank National*, 739.

²¹ *Franklin v. Curry*, n. 6; *Carter v. DeKalb Co., Ga.*, 728.

²² *Iqbal*, 556 U.S. at 679.

²³ *Twombly*, 550 U.S. at 564.

²⁴ *Iqbal*, 556 U.S. at 676-77, 681. *See also Iqbal*, 556 U.S. at 682 ("As between that 'obvious alternative explanation' for the arrest, *Twombly*, *supra*, at 567... and the purposeful, invidious discrimination respondent asks us to infer, discrimination is not a plausible conclusion.").

²⁵ *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

²⁶ *Chadasuma v. Mazda Motor Corp.*, 123 F.3d 1353, 1367-68 (11th Cir. 1997).

²⁷ 885 F.3d 1308, 1310 (11th Cir. 2018).

²⁸ 30 449 U.S. 368, 370 (1981).

²⁹ *Will v. Hallock*, 546 U.S. 345, 352 (2006).

³⁰ *Green v. Brantley*, 941 F.2d 1146, 1148-49 (11th Cir. 1991) (collateral order doctrine is applicable even where the appeal will not resolve all of a plaintiff's claims); *Plumhoff v. Rickard*, 572 U.S. 765, 771-73 (2014).

³¹ 337 U.S. 541, 545 (1949).

³² *Id.* at 545-5.

³³ *Chudasama v. Mazda Motors Corp.*, 123 F.3d 1353 (11th Cir. 1997) (a plaintiff is not entitled to engage in discovery when his complaint contains any claim that does not comply with Rules 8, 9, 10, or 12); *Carter v. DeKalb County, Ga.*, 521 Fed. Appx. 725 (11th Cir. 2013); *Agema v. City of Allegan*, 826 F.3d 326 (6th Cir. 2016).

³⁴ *Iqbal*, 556 U.S. at 672-73.

³⁵ *Id.* at 678-79.

³⁶ *See also, Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) (noting that the goal under FRCP 8, *et al.*, is to avoid the expenditure of time and money by the parties and the court, and that this must be accomplished at the outset of litigation).

³⁷ *Cf., Jim Walter Resources, Inc. v. Federal Mine Safety and Health Review Commission*, 920 F.2d 738, 744 (11th Cir. 1990).

³⁸ *Cf., Pagan v. U.S.*, 353 F.3d 1343, 1346 (11th Cir. 2003).

³⁹ *Iqbal*, 556 U.S. at 666, 669.

⁴⁰ *Id.* at 670.



Do Unto Others: The First Rule of Attorney Marketing

By: Frank Ramos, Clarke Silverplate | Miami, FL

The Golden Rule - Do unto others as you would have them do unto you - is the first rule of attorney marketing. Common marketing techniques business gurus push onto attorneys would never work if tried on us. The first question you should ask yourself before pursuing a marketing technique or effort is - "how would I respond if I was approached this way?"

So what are my pet peeves? I hate cold calls, cold e-mails, communications congratulating me about something but quickly turning into a sales pitch, pretending you know me, pretending a close friend suggested you call me - in short any sales techniques used by sales people who are trying to shove their business cards into my hand and could care less about me as a person or what I really want or care about.

Before engaging in any marketing efforts be honest with yourself - how would you respond if you were the recipient of such behavior? If your reaction is to frown, knit your brows, or avoid the person like the plague, then expect the same reaction if you engage in such behaviors. Look at every marketing effort through the prism - "how would I respond to this?" If negatively, skip it. If positively, consider it.

Before we get into what works, let's discuss the little things that interfere with others taking a closer look at you and your firm. Let's call these the dirty fingernails that give you pause. Think about the little things that make you think twice about others:

- A dated or unintuitive website.
- Over reliance on printed materials.
- A dated logo, tag line or mission statement.
- Dated firm and attorney photos.
- Anything that looks cheap, old, dated, worn or unpolished.

Is your website going to get you corporate clients? Probably not. Is your profile photo going to get in house counsel to hire you? No. Is that new newsletter layout going to land you that big new case? Not likely. But is your dated website, with your decade old attorney photos and paper newsletters with clip art going to stop prospective clients in their tracks? Oh yeah. Most definitely.

You wear nice clothes when meeting prospective clients and take

them to fancy places to eat. Then why isn't what you're putting out on the internet, in e-mails, social media and print not as exceptional? Address these issues because they become, without you even knowing, a stumbling block to others hiring you.

Now that we've gotten that out of the way, let's talk about what you would want to be the recipient of, in terms of others' actions. You want others to:

- Have a deep meaningful, relationship with you.
- Take a sincere interest in you, your family, your passions and hobbies.
- Listen to you.
- Invest in you.
- Give you value.
- Give you free stuff.

In short, you want others to invest in you, listen to you, support you, care for you and help you. If others do for you, you will want to do for them. If others help you, you will want to help them. If others give you value, you will want to offer them value. Think about to whom you refer cases? Likely, it's those with whom you have a relationship. Someone you know, know well, someone you like, and someone you trust. That comes from relationships. If you want to grow

“If you want to grow your practice, invest in relationships - in sincere, meaningful relationships - and these relationships will result in business referrals.”

your practice, invest in relationships - in sincere, meaningful relationships - and these relationships will result in business referrals.

Saying you should invest in personal relationships is a bit amorphous when it comes to business development advice. How do you practically build relationships? Here are some tips:

- Ask contacts out for coffee. Cheaper and faster than lunch and more conducive to talking.
- Write handwritten notes to contacts.

Whenever attending a conference or cocktail reception, reach out to contacts beforehand and make a point to meet and speak with them there.

Listen. Spend 80 percent of every conversation listening.

Volunteer with voluntary bar associations and non profits and work alongside others and get to know them. Relationships are forged working together in committees and organizations.

Give it away. Give away webinars, research, newsletters, manuals, books, articles - give valuable stuff away. There is a subset of us if we are given something valuable for free, we will want to repay the favor.

Relationships are based on regular contact. How do you regularly stay in contact with multiple others? How do you stay at the forefront of their minds? Social media posts. Posting regularly on Facebook and LinkedIn helps keep you at the forefront of others' minds when they have a case to refer.

When it comes to business development, remember the Golden Rule and engage in business development behavior that you would enjoy if it was directed to you. 



Francisco ("Frank") Ramos Jr. is the Managing Partner of Clarke Silvergate, where he practices in the areas of commercial litigation, drug & medical device, products and catastrophic personal injury. He is AV Rated and is listed in Best Lawyers in America for his defense work in product liability matters. He starts his 20th year at Clarke Silvergate and his 21st year of practice. He has tried personal injury, medical malpractice, product liability, 1983 and inverse condemnation cases to verdict and has spoken and written extensively on trial skills, and as a certified mediator, has resolved various matters through alternative dispute resolution. In advance of the firm's mission for its lawyers to be leaders and mentors, Frank

has been President of the Florida Defense Lawyers Association and the 11th Judicial Historical Society, and has served on the board of the Defense Research Institute, Florida International University's Alumni Association, Florida International University's Honors College, Parent to Parent of Miami, Miami-Dade Defense Bar Association, Legal Services of Greater Miami and Florida Christian School. He serves as a mentor to countless young lawyers and law students through his publications, social media posts, presentations, webinars and his "coffee chats." He has written seven books for lawyers (*The Future of Law, Go Motivate Yourself, From Law School to Litigator, The Associates' Handbook, Attorney Marketing 101, Training Your Law Firm Associates and SLDO Strategic Planning Manual*), has edited four books for lawyers (*The Defense Speaks, The Trial Tactics Defense Manual, The Deposition Manual and Leadership for Lawyers*) and has written over 200 articles for lawyers and business professionals. His dedication to young lawyers can further be seen through his development of a Deposition Boot Camp and Art of Marketing Program through the Federation of Defense & Corporate Counsel, a selective defense organization which hand-picked Frank when he was only 8 years into the practice. You can follow him on LinkedIn for daily practice pointers and business tips, where he has over 30,000 followers. In his spare time, he enjoys writing, reading science fiction and hearing his two boys, David, 19, and Michael, 17, perform classical and jazz music. Bar Admissions, Florida Bar, 1997



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A CONVERSATION WITH JUDGE ANNEMARIE AXON

By: Diane Babb Maughan, Cabaniss Johnston Gardner Dumas & O'Neal LLP | Birmingham, AL

I recently had the pleasure of sitting down for a conversation with Judge Annemarie Axon, one of the newest members of the United States District Court for the Northern District of Alabama. Judge Axon was confirmed in June 2018 after being nominated to the Court by President Trump. She grew up in Winter Park, Florida and spent her undergraduate and law school years in Tuscaloosa at the University of Alabama. Coincidentally, Judge Axon's first job after law school was working as a law clerk in the very same Court in which she now serves as a District Judge. After practicing law for a few years in Rhode Island, Judge Axon spent the majority of her career practicing in Birmingham.

When asked about the pros and cons of being a judge versus practicing law, Judge Axon stated that she has loved doing both, and that "being a judge as compared to practicing law is much like being a parent instead of a child: it seemed a lot easier to parent when I was the child criticizing the job my parents were doing!" Her advice for lawyers appearing in her courtroom is "be prepared and be honest."

Judge Axon and I spent some time discussing one of the most difficult issues faced by female trial lawyers—the seemingly unachievable goal of attempting to "balance" one's professional life with one's personal life. Judge Axon is married to a defense attorney and has two children, ages 11 and 9; therefore, it goes without saying that her plate is pretty full. Yet, Judge Axon maintains a refreshingly honest perspective about how lawyers—both men and women—can work toward effectively managing their personal lives and professional responsibilities. For one thing, she believes the word "balance" in this context is "ill-defined" and wonders "if the idea of 'balance' sets us all up for failure." Indeed, it is difficult to quantify what it means to "balance" your work life with your home life. As Judge Axon observed: "Are we talking about equal distribution of attention? Of time? At what point is this measured? Daily? Weekly? Over the course of months or annually?"

When asked for tips on effectively maintaining this so-called "balance," Judge Axon offered: "Finding 'balance' is really just finding out what works for you. And that formula should be as individual as you are. My tip for finding that formula is to turn off the noise. Don't compare yourself to others. Don't get sucked into



believing that someone has it all together. In my 46 years, I have yet to find anyone who has everything together. Not once."

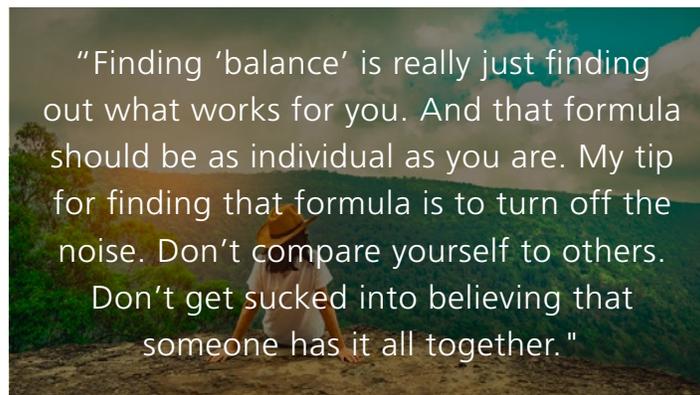
This is sage advice. Most female defense lawyers seem to be high-achieving "Type A" personalities who want to appear to have everything under control at all times. The reality is that most of us are struggling to try to do all the things and be everything to everyone, both in our law practice and in our lives outside of the law.

Judge Axon views time management as one of the biggest challenges facing women in civil litigation, stating: "The women litigators I know see the day as a zero sum game; if I go out for

lunch with colleagues from work, I am not billing that hour. If I don't bill that hour during the workday, I have to bill it at night. If I bill it at night, I'm not with my children. Or doing laundry. Or talking to my spouse about his day. But, if I don't get to know the people I work with, I may lose out on the opportunity to get work on a new team. Or engage with, and learn from, other people at my firm. Or

develop clients. And these are just the concerns on a good day, when your children are not sick, there are no school projects or events, and every piece of equipment in your house is working."

However, she does believe that things have changed for the better during the course of her career. "When I started practicing, women tried to hide the fact that they had lives outside of the office. When I had my children, I worked at a firm that could not have been more supportive of me and my family—but I still felt anxious when I had to stay home with a sick child. I think the culture of the legal profession is changing as the daily responsibilities of fatherhood



broaden. I expect that as the number of men who share home responsibilities continues to grow, both women and men will feel more comfortable about articulating—and successfully resolving—their time conflicts.”

Although many of the questions posed to her focused on the challenges facing women in the legal profession, Judge Axon’s advice transcends gender and applies to all lawyers who routinely juggle a busy trial practice and taking care of children or aging parents, spending time with a spouse, or dealing with other personal matters. I truly appreciate Judge Axon taking the time to talk with me and to provide her perspective on these issues. 



Diane Babb Maughan is a partner in the Birmingham office of Cabaniss, Johnston, Gardner, Dumas & O’Neal LLP. Her practice primarily encompasses matters involving business litigation, commercial real estate and real property disputes, trademark registration and infringement proceedings, health care litigation, and appellate work. She has handled cases for clients in a variety of industries, including transportation, health care, home security, retail, commercial real estate, and manufacturing. Diane is currently serving as the Publications Chair for ADLA’s inaugural Women in the Law Committee. She is a 1996 graduate of Baylor University and a 1999 graduate of the University of Alabama School of Law.



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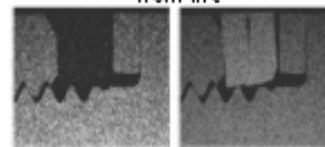
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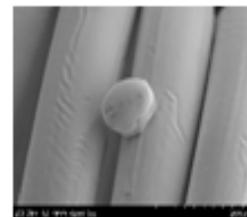
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ADLA Welcomes 2019-2022 District Directors



Daniel Beasley | District 1

Lanier Ford Shaver & Payne PC, Huntsville

The entirety of Mr. Beasley's 35-year career as a civil trial lawyer has been focused on defense of clients in a variety of claims, including medical malpractice, wrongful death, products liability, violation of civil rights, professional administrative proceedings, and premises liability. In addition

to his membership in the ADLA, Mr. Beasley is also active in the International Association of Defense Counsel and has served that organization in a variety of roles, including as a faculty member for the IADC Trial Academy. He has an active practice in state and federal courts of Alabama and Tennessee. He is a member of the Alabama, Tennessee, and Florida Bars and has been recognized as a board-certified specialist civil trial lawyer by the National Board of Trial Advocacy, the Tennessee Commission on Continuing Legal Education and Specialization, and the Florida Bar Board of Legal Specialization and Education.

Two quick things about Dan-

1. My father once told me that college is 50% about what you learn and 50% about who you meet. For me, the same principle applies to ADLA, as well as other defense organizations I have been a part of. Membership in ADLA and volunteering to serve on the board is a great source of tools for my legal practice, and, perhaps more importantly, collegial relationships that enrich my personal and professional life.
2. I am also a member of the Tennessee Defense Lawyers Association and I have a substantial legal practice in Tennessee, where I grew up and where I also have a farm.



Stephen Still, Jr. | District 2

Starnes Davis Florie LLP, Birmingham

Stephen serves as Chief Strategy Partner and General Counsel of the firm. Prior to that, Stephen has served as the firm's Hiring Partner. A majority of Stephen's practice is devoted to defending malpractice claims against long term care providers and claims against insurers, third party administrators, and employers for

breach of contract, bad faith, fraud, and the tort of outrage. Stephen also devotes a significant portion of his practice to representing healthcare providers in a variety of regulatory matters. Since 2012, Stephen has represented several attorneys and law firms in legal malpractice lawsuits and investigations before the Alabama State Bar Association.

This is Stephen's second term to serve as a district director.

Two quick things about Stephen-

1. I chose to become involved in ADLA because: Service on the ADLA Board is a great opportunity to give back to a profession that has been very good to me. It has also enabled me to get to know many lawyers and judges throughout Alabama whom I would not have otherwise known.
2. Something you may or may not know about me: I am slowly, but surely, learning to play the harmonica.



Amanda Hines | District 3

Rushton Stakely Johnston & Garrett PA, Montgomery

Mrs. Hines joined the firm of Rushton, Stakely, Johnston and Garrett in 2012 and attained shareholder status in 2019. She received her undergraduate and law degrees from the University of Alabama (B.S., 2000, cum laude; J.D. 2003). Prior to

joining Rushton Stakely, Mrs. Hines practiced with the firms of Thompson, Garrett & Hines, LLP (2004-2012) and Sirote & Permutt (2003-2004). She also worked as the Assistant District Attorney of Escambia County, Alabama from 2011-2012. She has significant experience in virtually all areas of civil defense law, with her primary focus on healthcare and medical liability, professional liability, labor and employment law, and general civil defense litigation.

Two quick things about Amanda-

1. I was honored to be nominated and voted to serve on the ADLA Board. It is imperative for civil defense lawyers throughout the state to collaboratively exchange ideas and resources so that we can all better serve our clients in the administration of justice. I believe serving on the Board is the most effective way I can participate in and improve this collaboration.
2. It would probably come as a surprise to all who know me that I really enjoy relaxing by myself because it rarely happens.



Jeffrey Luther | District 4

Luther Collier Hodges & Cash LLP, Mobile

Jeffrey L. Luther was born and raised in Birmingham, Alabama. After graduating from high school, he attended the University of Alabama where he obtained a Bachelor of Arts degree with a major in History and a minor in English in 1982. He received a Master's Degree in Public Administration in 1984, and a

Juris Doctor from the University of Alabama School of Law in 1988. Upon being admitted to the Bar in 1988, Mr. Luther joined a state-wide law firm with offices in Mobile, Alabama. Mr. Luther formed his own firm in the beginning of 1995 and has maintained a private practice in Mobile since that time.

Mr. Luther has been lead defense counsel in numerous, complex cases which have resulted in defense verdicts, as well as multimillion dollar verdicts and settlements over the course of his career. Mr. Luther's areas of practice include construction law, environmental-pollution, personal injury, product liability and professional liability. Mr. Luther is also an Alabama State Court Registered Mediator and Appellate Mediator.

Two quick things about Jeff-

1. I joined ADLA during my first year of practice, at the request of my senior partner, and have enjoyed attending almost every annual meeting for over 30 years. I have gained a great deal of knowledge from having attended the seminars and developed relationships with a lot of great lawyers all over the state. I felt it was time to give back to the Association that has given so much to me.
2. I like to listen to country music while smoking Boston Butts on the grill and making homemade peach ice cream for dessert.



STEPHEN W. STILL JR.
Chair

I hope everyone had a fabulous summer! I am excited to again chair ADLA's Legislative Committee. Thank you in advance to Committee members **Alan Estes** of Balch & Bingham LLP, **Ed Howard** of Ford Howard & Cornett, P.C., **Keith Miller** of Alfa Insurance Companies, **Mary Margaret Carroll** of Fine Geddie & Associates, **Andy Reutens** of Galloway Wettermark

Everest & Reutens LLP, and **Jonathan Hooks** of Christian and Small LLP. Thank you also to our outstanding Executive Director **Jennifer Hayes** for helping us navigate and monitor legislative happenings in Montgomery.

As a reminder, the Committee receives and reviews any proposed legislation that has the potential to impact (posi-

tively or negatively) the practice of law and ADLA's membership. ADLA and the Committee also periodically circulate new or proposed legislation to the ADLA membership to keep all members abreast of current and proposed legislative issues and developments. Please do not hesitate to contact us with questions about potential legislation or if you believe there is legislation that may be of interest to ADLA's membership. Depending upon the impact proposed legislation may have on the practice of law and/or ADLA's membership, the Committee will also work with ADLA's leadership, membership, other lawyers, and/or other interested individuals and entities to promote or oppose certain legislation.

As those of you who attended the June meeting will recall, Chief Justice Parker stressed the importance of lawyers to the legislative process. I also encourage you to get involved. Please do not hesitate to contact me or any member of the Committee about proposed legislation or if we can be of service to you. Thank you for the opportunity to again chair the Legislative Committee and for your participation in ADLA. 

ADLA Leadership Joins DRI Southern & Southeastern SLDO Leaders for Regional Meeting in Key Largo

ADLA leaders recently attended the Southeastern/Southern Regional meeting in Key Largo, Florida in April. Regional leaders gathered to discuss membership issues, new and improved ways to better serve our SLDO members, legislative strategies, and how the DRI is working to protect the work of civil defense attorneys nationwide. Alabama collaborated with other SLDO leaders from Mississippi, Georgia, Florida, Kentucky and Tennessee.

SLDO executive directors also gathered to collaborate on membership outreach efforts, member benefits, effective communication strategies and more.

ADLA representatives were: Dennis Bailey, 2018-2019 President; Christina May Bolin, 2018-2019 President-Elect; Allen Estes, DRI State Representative; and Jennifer Hayes, ADLA Executive Director.



Pictured are ADLA 2018-2019 President, Dennis Bailey, President-Elect, Christina May Bolin and DRI State Rep, Allen Estes



Executive Directors pictured are Jennifer Hayes, AL, Mary Gadd, TN, and Jennifer Davis, GA



DRI Southern and Southeast regional SLDO leadership

ustification

Andy Rutens, Galloway Wettermark & Rutens LLP | Mobile

As everyone knows, the Alabama Defense Lawyers Association has partnered with the Alabama Property and Casualty Adjusters Association. This is an exciting evolution in membership opportunity for ADLA members. As part of this partnership, members of the Alabama Defense Lawyers Association have provided educational seminars to members of the Alabama Property and Casualty Adjusters Association throughout the State this past July & August. The seminars were held in Madison, Alabama, Birmingham, Alabama, Mobile, Alabama, and Montgomery, Alabama. The speakers have also been recognized as faculty for the APCAAs on their website.

The seminar topics range from emerging trends in property and casualty claims, Medicare recovery, bad faith litigation, as well as other topics spanning everything from insurable interests to ethics in investigations.

ADLA will be providing educational content for APCAAs members going forward. ADLA will have additional seminar opportunities as well as the ability to provide written content to members of APCAAs through their weekly bulletin and periodic articles published to their members. This opportunity to meet and help educate property and casualty adjusters throughout the state allows ADLA members to showcase their knowledge and abilities to front line adjusters, litigation managers and members of the insurance industry in Alabama.

If you would like further information on ADLA's partnership with the Alabama Property and Casualty Adjusters Association, please contact Andy Rutens at arutens@gallowayllp.com. If you wish to find out more information on the Alabama Property and Casualty Adjusters Association, please feel free to visit their website at apcaa.org.



EMC Insurance Company, Birmingham July 17



Sharon Stuart, Alfa Insurance Company, Montgomery July 31



Andy Rutens - Madison City Hall July 10



Christina Bolin, CNC Catastrophe & National Claims, Mobile July 25

10

Only ten (10) months after incorporating, we held our first seminar on June 19th.

160

Since formation, we have had over 160 claims adjusters join our membership.

36

36 Attorney members of ADLA taught 44 teaching slots in Madison, Birmingham, Mobile, and Montgomery.

100

Over 100 adjusters received 7 hours CE credit, including 1 hour for Ethics.

APCAA Summer Roadshow Series BY THE NUMBERS

The APCA had a visible presence at the 2019 ADLA Summer Conference and we are looking forward to being able to participate again in 2020 and have some educational material for P&C adjusters.

Only ten (10) months after incorporating, we held our first seminar on June 19th - Business Interruption and Time Element Coverage & Loss. This seminar was a special request by EMC Insurance Company in Birmingham prior to our APCA / ADLA "Roadshow" series in July. This created an opportunity for a "trial run" of our July seminars. Thirteen (13) adjusters received 5 hours CE credit through the Alabama Department of Insurance.

Since formation, we have had over 160 claims adjusters join our membership.

On July 10th, we kicked off our July 2019 Roadshow Series format of four (4) seminars along the I-65 corridor to reach as many members as we could. In those seminars, 36 Attorney members of ADLA taught 44 teaching slots in Madison, Birmingham, Mobile, and Montgomery. Over 100 adjusters received 7 hours CE credit, including 1 hour for Ethics.

With ADLA's assistance and with the great support and backing of our sponsors, we accomplished all of this within 11 months since our founding.

The reception of our vision and goals has exceeded our expectations! A common response is that we "are doing what has been needed by the insurance industry for a long time."

We appreciate the support and enthusiasm we have received from the ADLA membership. You are directly involved in directing

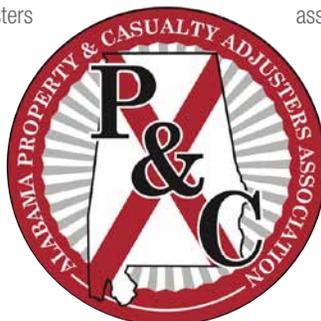
the course of the Alabama insurance industry through continuing education and professional development of claims adjusters. With your leadership and your active participation, we are doing something that has never been done before, and it is truly exciting!

So, what's next? What does the future hold? More opportunities, of course, for education. We are planning a follow up class for business interruption with practical exercise loss calculations in September and a live-burn class for arson and fire investigation in October. We are also looking forward to a fall roadshow series of seminars in which we can drill deeper into some more subject matter.

Literally, we are making this up as we go along because we are doing something that has never been done before. To our knowledge, the relationship between ADLA and the APCA is the first of its kind in the country. Never in our industry has a claims adjuster organization partnered with their state's defense attorney association to provide continuing education and professional development leadership.

We are listening to our members to develop and provide the training they want and need. The members of ADLA are a big part of our mission and we are grateful to have you working with us.

For more information on these seminars and other events coming up, visit <https://apcaa.org/news>. We would be glad to hear from you with your ideas and suggestions.





STEVEN P. SAVARISE, JR.
Young Lawyers Section
President

It is my honor and privilege to serve as your President of the Young Lawyers Section of the Alabama Defense Lawyers Association. I want to thank Bains Fleming and all the Past-Presidents of the Young Lawyers Section. They have all done an incredible job continuing to develop and grow this section. We all owe a great deal of gratitude and appreciation to each of them for their vision and leadership. Without them, we would not have the vibrant Young Lawyers Section we have today.

Our Past-Presidents all have one thing in common. They sacrificed to make this section and the Alabama Defense Lawyers Association better. I have learned very quickly the sacrifice they made is simple...their time. Frequently, I think we, as young lawyers, forget that time is enormously valuable. When someone gives you time, they are giving you a portion of their life they can never get back. Our mentors, partners, senior partners, judges, colleagues, and friends take time away from their busy schedules and lives to help each of us develop not only as lawyers, but as spouses, parents, children, aunts, uncles, and friends. I firmly believe and have come to appreciate the greatest gift we can receive is someone saying yes to giving their time.

We all know the practice of law requires stressful long hours but more business gets done after hours. I cannot count how many disputes I have resolved at social functions. This year, the main goal of the Young Lawyers Section is simple – to take time out of our busy schedules to do something (hopefully fun) outside the office as an organization. Social events are planned

in Mobile, Montgomery, Birmingham, and Huntsville. We are working on additional events in other areas of the state. Webinars are being scheduled. Continuing Legal Education and mentoring opportunities are in the works. I encourage all of our young lawyers to become active and attend events in your area. Invite lawyers, judges, and your spouse/significant other to attend. Some of the members of our bench and bar with whom I met at a simple social function have become some of my best friends and mentors.

Through our lives, each of us will have the opportunity to create lifelong moments. Moments matter. They leave their impression upon us. They shape how we live our lives, and they impact who we become. They also offer us something of possibly more value: The opportunity to leave a lasting mark on the world around us. I encourage each of you to take time out of your busy schedules to participate in all Alabama Defense Lawyer Association activities. 

2019-2020 YLS OFFICERS

President

Steven Paul Savarese, Jr.
Holtsford Gilliland Higgins
Hitson & Howard
Daphne

President-Elect

Jay N. Robinson
Frazer Greene Upchurch
& Baker
Mobile

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Hannah Torbert Kennedy
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Associates-State Farm Mutual
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Woodruff R. Jones, *Selma*
Robert Alexander, *Daphne*

Check ADLA's website often
for updates on YLS events
coming to your area.

SEPTEMBER

Huntsville

OCTOBER

Birmingham

NOVEMBER

Montgomery and Mobile

FEBRUARY

Mobile Mardi Gras Event

Visit: <https://adla.org/events/>

LUNCH & LEARN

ADLA Welcomed Judge William Pryor, United States Court of Appeals for the Eleventh Circuit to May Lunch and Learn in Birmingham

On May 15, 2019, **Judge William Pryor** from The United States Court of Appeals for The Eleventh Circuit spoke in Birmingham at a well-attended ADLA Lunch and Learn Program. Judge Pryor spoke about the jurisprudence of former United States Supreme Court Justice Antonin Scalia. Judge Pryor noted that critics are wrong to interpret Justice Scalia's decisions as founded upon his Catholic faith or upon some Hayekian view of ordered liberty. Judge Pryor noted that Justice Scalia's jurisprudence can be fully explained by his respect for the first three words of the Constitution: "We the People". Judge Pryor recounted Justice Scalia's own words about democracy and reviewed a few areas of his jurisprudence that highlighted his respect for democracy including opinions about the Fourteenth Amendment and certain culture-war issues as well as use of international law. Judge Pryor emphasized Justice Scalia's love for democracy and concluded that the secret to Justice Scalia's success was that he always remembered for whom he worked: the American people. ADLA is very grateful to Judge Pryor for taking time to be with us and for sharing these insights about Justice Scalia.



Judge Pryor, Sharon Stuart of Christian & Small, and Lisa McCrary of Barze Taylor Noles Lowther, LLC



Judge Pryor pictured with his law clerks Caroline Stephens, Matt Capoccia and Eric Palmer



Judge Pryor addresses ADLA members

ADLA GRATEFULLY THANKS OUR LUNCHEON SPONSORS:





ADLA is returning to the slopes with the **Texas Association of Defense Counsel (TADC)** and **Louisiana Association of Defense Counsel (LADC)** in 2020. Make plans to join us at **The Elevation Hotel & Spa**, a luxury ski-in/ski-out hotel destination located at the base of **Mt. Crested Butte, Colorado**. Connect with more than 70 lawyers and enjoy group activities and receptions. Families are welcome! CLE starts early each day so everyone can hit the slopes before lunch.

HOTEL INFORMATION

Elevation Hotel and Spa
500 Gothic Road
Crested Butte, Colorado 81225
<https://www.elevationresort.com/>

LIFT TICKET PACKAGES

Discounted Rates Coming Soon, Visit www.adla.org for Updates

ROOM RATES

\$149 Deluxe King & \$289 One Bedroom Suite (Discounted Rates 3 Days Pre & Post Event Based Upon Availability); Reservations Can be Made by Calling 970-251-3000. Room Block Cut-Off Date is January 3, 2020.

AIRPORT CHOICES

Gunnison/Crested Butte (GUC)- 25 Min. From the Resort OR Montrose (MTJ)- 90 Min. From the Resort

TRANSPORTATION OPTIONS

Alpine Express Shuttle To/From GUC- Approx. \$45 or Travel By Car Rental. Use Code 20866 or LADC to receive 10% Discount. Call 970-728-6000 for shuttle reservations.

ABOUT THE RESORT

Offering a welcoming modern ski lodge ambiance, the public spaces invite gatherings and conversation, while each unique guest room promises relaxation and true comfort. The property is home to 9380 Tavern Restaurant and Bar, the base area hot spot for upscale mountain dining and entertainment, as well as the full-service Elevation Spa and High Altitude Fitness Center.

ABOUT THE TOWN

The Town Mt. Crested Butte is nestled among the Elk Mountains and the East River to the northeast, and Gothic Mountain and Paradise Divide to the north. The namesake Mountain rises just above town to a height of 12,162 feet. This unique setting affords some of the most breathtaking vistas in Colorado. Sitting at 9,375 feet above sea level, the town of Mt. Crested Butte is home to just over 700 year-round and part-time residents.



REGISTRATION FORM

Register and Pay Online at <https://tinyurl.com/ADLASKI2020>



Please print legibly

Name: _____
 Name for Badge: _____
 Firm: _____
 City: _____
 Email: _____
 Phone: _____

Registered Guest Name(s) for Badge(s):

Spouse/Guest: _____
 Guests Age 18 & Older: _____
 Children/Teens Age 12-17: _____
 Children Age 5-11: _____

Check all applicable boxes:	On or before Jan 1	After Jan 1	Number	Total
ADLA Member Only	\$625	\$675	_____	_____
ADLA Member & Spouse/Guest	\$825	\$875	_____	_____
Spouse/Guest CLE credit for Winter Seminar	\$75	\$75	_____	_____
Age 18 & Older	\$150	\$150	_____	_____
Children/Teens Age 12-17	\$100	\$100	_____	_____
Children Age 5-11	\$75	\$75	_____	_____
Grand Total			_____	_____

ADLA MEMBER REGISTRATION

Registration fees include Wednesday evening through Saturday group activities, including the Wednesday evening welcome reception, all breakfasts, CLE program each day and access to the hospitality room. Registered family members are encouraged to attend all conference group and meal activities.

CHILDREN'S REGISTRATION

Registration fee for children includes Wednesday evening welcome reception, Thursday, Friday & Saturday breakfasts and the hospitality room.

SPOUSE/GUEST CLE CREDIT REGISTRATION

If your registered spouse/guest is also an attorney and would like to attend the conference for CLE credit, there is an additional charge to cover meeting materials and coffee breaks.

SKI CLE SEMINAR REFUND POLICY

Registration fees will be refunded ONLY if a written cancellation notice is received by January 24, 2020. A \$75.00 administrative fee will be deducted from any refund. Any cancellation made after January 24, 2020 is non-refundable.

Please Mail Registration Form and Check To: ADLA, P.O. Box 3240, Auburn, AL 36381-3240



AGENDA

February 5-9, 2020

This course or a portion thereof has been approved by the Mandatory Continuing Legal Education Commission of Alabama for a maximum of 8 hours' credit, including 1.5 hours of ethics.

WEDNESDAY, FEBRUARY 5, 2020

6:00 pm - 8:00 pm ADLA/TADC/LADC Welcome Reception

THURSDAY, FEBRUARY 6, 2020

6:45 am - 9:00 am Joint Breakfast Buffet with TADC/LADC

7:15 am - 7:30 am Welcome & Announcements |

Alabama CLE General Session

7:30 am - 8:30 am Judicial Recusal in State & Federal Court

8:30 am - 9:00 am An Unfamiliar Ground for Removal:

The "Federal Officer" Statute

9:00 am - 10:00 am Challenging Subject- Matter Jurisdiction:

Grounds & Consequences

FRIDAY, FEBRUARY 7, 2020 TRI STATE JOINT CLE DAY

6:45 am - 9:00 am Joint Breakfast Buffet with TADC/LADC

7:00 am - 7:15 am Welcome Announcements,

State Leadership Introductions

7:15 am - 8:45 am Ethical Questions Posed by Lawyers'

Use of Artificial Intelligence

8:45 am - 9:00 am Break

9:00 am - 9:30 am

Cyber Security/Data Breach

9:30 am - 10:00 am

Emojis | Social Media and The Law

10:00 am - 10:30 am

Judge's Response/Discussion of Emojis |

Social Media and the Law;

Informal discussion with appellate and trial Judges

SATURDAY, FEBRUARY 8, 2020

6:45 am - 9:00 am

Joint Breakfast Buffet with TADC/LADC

7:15 am - 7:30 am

Welcome Announcements | Alabama CLE

General Session

7:30 am - 8:15 am

Pressing Election of Remedies as a Defense-

Why, When & How

8:15 am - 9:00 am

Dealing with a Bankrupt Plaintiff

9:00 am - 10:00 am

Establishing and Preserving a Claim Under

The Alabama Litigation Accountability Act

SUNDAY, FEBRUARY 9, 2020

Depart for Alabama

**Agenda Subject to Change*



ALLEN M. ESTES
Alabama DRI Representative

If you have ever asked what benefits DRI provides to its members, here is one that might be able to save you money. As a national defense lawyer organization, DRI looks beyond just the world class educational and networking opportunities provided at DRI seminars and tries to find ways to provide other valuable benefits for its diverse membership. One such benefit relates to an issue we are all familiar with –

student loans. DRI has partnered with a company called Laurel Road that may be able to help you refinance your student loans (or your children’s student loans) at, hopefully, lower rates than the market. This DRI partnership with Laurel Road is only available to DRI members in good standing. You can find more details on dri.org or at <https://www.laurelroad.com/partnerships/dri>.

DRI will hold its Annual Meeting in New Orleans beginning October 16, 2019. DRI has planned several days of interesting keynote speakers, cutting edge CLE presentations, and plenty of networking events to fit anyone’s personality. You can earn up to 10 hours of continuing legal education, including up to 3 hours of ethics credit, for attending the meeting and have fun in New Orleans at the same time. Since New Orleans is within driving distance for all of us, mark your calendars now to join me and others in ADLA’s leadership at the DRI Annual Meeting. And with this year’s meeting ending on Friday instead of Saturday, you and your spouse/friends will have the weekend to enjoy the city. We all work hard and it is important that we take a little bit of time to recharge our batteries and enjoy life. If you did not obtain your necessary CLE credits at ADLA’s Annual Meeting in June (you should have), then come on down to New Orleans in October.

If you have any questions about DRI, the various DRI meetings held throughout the year, or DRI’s benefits for your law practice, please contact me.

ADLA Sponsors 2019 Alabama State Bar Annual Meeting



The Alabama Defense Lawyers Association was a sponsor of the Alabama State Bar’s Annual Meeting in July at the Grand Hotel in Point Clear, AL. ADLA’s own Paul Zimmerman of Christian & Small represented the association by serving as a presenter during a CLE breakout session at the Annual Meeting. Paul discussed the importance of cyber liability insurance.

message from the editor

continued from page 7

Rachelle Sanchez’s article announcing the Women in the Law’s adoption of the Prevention of Human Trafficking as its chosen philanthropy. After reading Rachelle’s article, I believe you will agree with me that the WITL have chosen a worthy cause that all ADLA members can support.

The ADLA will hit the slopes with the Texas and Louisiana Civil Defense Lawyers from February 5-9, 2020 at the Elevation Hotel & Spa in Crested Butte, Colorado. Craig Alexander, Chair of the *Amicus Curiae* Committee, and Jennifer Hayes have been working hard to provide the membership with this opportunity to obtain CLE and practical information while meeting civil defense lawyers practicing in Texas and Louisiana in a family friendly

setting. Watch the Wednesday Brief Case for additional information regarding registration closer to the date.

As Editor, my goal is to provide the membership with a *Journal* presenting articles and features that educate and interest its members. I invite your comments and suggestions. The law is constantly evolving; if there is a topic in which you are interested, please contact me. Even better, submit an article on the subject. If you would like to write an article, but are at a loss for a topic, any member of the Editorial Board or I can help you find one. “And by the way, everything in life is writable about if you have the outgoing guts to do it, and the imagination to improvise.” Sylvia Plath, *The Unabridged Journals of Sylvia Plath*.



2019 Deposition Bootcamp Wrap Up



2019 Deposition Boot Camp Class



Faculty Dinner Sponsor, Cliff Walker with SEA, Ltd



Faculty members Jeremy Gaddy, Megan McCarthy and Stephen Still



Judge James Anderson with program coordinator, Ben Heinz and faculty member, Christie Estes



Young lawyer boot camp attendees



Judge Anderson shares his perspective from the bench

ADLA's 2019 Deposition Boot Camp welcomed 33 attendees, the largest class in recent years. Faculty members, speakers, and young lawyers enjoyed challenging demonstrations and small breakout sessions. Attendees earned 14.8 CLE credit hours, including 1 hour of ethics- more than enough for the whole year! ADLA also welcomed 21 new members who attended the boot camp.

Thank you to our faculty members who volunteered their time and talents to lead this young group of lawyers. A special thank you goes to the **Honorable James Anderson, 15th Judicial Circuit**, for serving as the honored guest speaker. Judge Anderson led an informative discussion and candidly answered questions from the bench's perspective.

Cliff Walker of **SEA, Ltd** graciously sponsored this year's faculty dinner at La Jolla.

2019 Deposition Boot Camp faculty members included:

Dennis Bailey

Rushton Stakely Johnston & Garrett, PA

Evans Bailey

Rushton Stakely Johnston & Garrett, PA

Jeremy Dotson

Porterfield Harper Mills Motlow & Ireland, PA

Christie Estes

Quality Correctional Healthcare, Inc.

Jeremy S. Gaddy

Clark May Price Lawley Duncan & Paul, LLC

Ben Heinz, Program Director

Ball, Ball, Matthews & Novak, PA

Jonathan Hooks

Christian & Small, LLP

Megan McCarthy

Holtsford Gilliland Higgins Hitson & Howard, PC

Andy Rutens

Galloway Wettermark & Rutens, LLP

Harold Stephens

Bradley Arant Boulton Cummings, LLP

Stephen Still, Jr.

Starnes Davis Florie, LLP

Gerald Swann, Jr.

Ball Ball Matthews & Novak, PA

Young Lawyers Gathered for 29th Annual Bibb Allen Memorial Trial Academy in Birmingham

ADLA's 2019 Bibb Allen Memorial Trial Academy, held annually in August at Cumberland School of Law, once again attracted sharp young lawyers who were eager to develop and fine-tune their trial skills in the courtroom. Our experienced faculty members and speakers delivered a stellar program that followed the fact pattern of the Deposition Boot Camp held this past March in Montgomery at Jones School of Law. Trial Academy lawyers received exceptional hands-on-experience by participating in small workgroups led by seasoned ADLA members with significant trial experience and judges to develop and/or polish necessary trial skills.

ADLA's well known Deposition Boot Camp and Trial Academy programs go hand in hand, each following the same case fact pattern. The newly refreshed series features a specific court case so lawyers can focus on their deposition skills in part one, and then follow up with trial preparation in part two. Offered as a members' only benefit, both of these programs are tailored to lawyers who practice in civil defense litigation. Young lawyer attendees earned 15 hours of CLE, including 1 hour's ethics. At the close of the Thursday session, young lawyers and faculty members gathered at Cocina Superior for a fun time of networking, margaritas and great food.

This year's program would not have been a success without the dedicated support of event sponsors: Thursday breakfast sponsor- **Veritext**, Thursday luncheon sponsor- **Attorneys Insurance Mutual of the South**, and Friday breakfast sponsor- **Rimkus**. The faculty members were treated to a dinner on Thursday evening at Brio Tuscan Grille, sponsored by **Alabama Court Reporting, Inc.**

Attendees were challenged to a friendly Twitter competition; **Trey Perdue** won a \$100 Amazon gift card for winning the challenge. **Charles Calloway** and **Nathan Hill** each won a \$50 Amazon gift card.

Don't miss out on ADLA's 2020 programs. Save the dates for Deposition Boot Camp on March 18-19 in Montgomery at Jones School of Law and August 13-14 in Birmingham at Cumberland School of Law.

Trial Academy would not occur without the dedication of the faculty and speakers who are committed to the development of young civil defense lawyers in Alabama. This year's faculty included ADLA members **Robby Anderson, Bernie Brannan, Mike Edwards, Jennifer Egbe, Bains Fleming, Megan Jones, Chris King, Bob MacKenzie, Stacy L. Moon, Harlan Prater, Jay Watkins**, and from the **University of Alabama School of Law, Dean Steve Emens. Thomas DeBray** served as the Trial Academy's Director.



ALABAMA
COURT REPORTING, INC



Our aim is your peace of mind.





Veritext breakfast sponsor Mickey Turner with attendees



Jennifer Egbe presented on Cross Examination and Impeachment, and Redirect



AIM luncheon sponsors Wilma Fields and Rhonda Long



Young lawyers gather at reception



Young lawyers enjoyed networking and margaritas



M. Christian King spoke about ethics



Reception at Cocina Superior



Rimkus breakfast sponsor Justin Grammer with attendees



Faculty members with dinner sponsors Lori Warren and Britney McComb, Alabama Court Reporting, Inc.

Women in the Law Wine Mixer Events in Montgomery & Birmingham

Earlier this spring, the Women in the Law section hosted two networking mixers in Montgomery and Birmingham. Our Montgomery ladies were treated to an afternoon of margaritas, while our Birmingham ladies enjoyed cocktails and wine. Both events offered opportunities to network and catch up with one another after work.

Congratulations to our \$200 spa gift card winners: **Jordan Jenkins** of Hill Hill Carter Franco in Montgomery and **Rachel Moore** of Christian & Small in Birmingham. Thank you to our Birmingham mixer sponsor, **Alabama Court Reporting, Inc.**



ADLA Executive Director, Jennifer Hayes & WTL Committee Chair, Meade Hartfield



Rachel Moore of Christian & Small, Winner of \$200 Ross Bridge Resort Spa Certificate



Montgomery ladies enjoying margaritas



Birmingham wine mixer sponsors Britney McComb & Lori Warren of Alabama Court Reporting, Inc. with Meade Hartfield



Women in the Law Supports East Lake Initiative at May Lunch & Learn in Birmingham



Talitha Ledbetter of Hope Inspired Ministries, Lisa McCrary of Barze Taylor Noles Lowther, LLC, and Pam Bates of East Lake Initiative

The Women in the Law chose to support the East Lake Initiative, an organization that serves families in Birmingham as part of a collaboration of local non-profits that are supported by the Women’s Fund of Greater Birmingham. One of ELI’s partner organizations is Serving You, which operates a client-choice food market. ADLA Lunch and Learn attendees brought hygiene items to donate. Donated items included toothpaste, toothbrushes, soap, deodorant, feminine products, paper towels, paper plates, plastic ware, baby wipes, hand sanitizer, and any kind of cleaning supplies, such as Clorox wipes or Lysol.

Representatives from East Lake initiative were on hand to say a few words about the program and to accept the donations from luncheon attendees. Thank you to our ADLA members for making this service project a success.

ADLA’s Women in the Law Comes Together For Joint Legislative Day- From the Court House to the Capitol



Meet and Greet with Governor Kay Ivey



Christy Crow, Alabama State Bar 2018-2019 President-Elect and Christina May Bolin, ADLA 2018-2019 President-Elect



Amanda Hines of Rushton Stakely, Rep. Mac McCutcheon, House Speaker, and Christina May Bolin, 2018-2019 ADLA President-Elect



State Senators Cam Ward and Will Barfoot answer questions from the group

This past April, ADLA’s Women in the Law section partnered with the Women’s Caucus of the Alabama Association for Justice and the Women’s Section of the Alabama State Bar to host a CLE legislative event in Montgomery. ADLA members were offered an opportunity to network with other attorneys from around the state, learn more about the legislative process and how legislation could impact your practice. The agenda included in-depth legislative discussions, meet and greet with Gov. Ivey, visiting with legislators at the State House, and a closing reception.



C. MEADE HARTFIELD
Bradley Arant Boult
Cummings, LLP

The Women in the Law (WITL) Section of ADLA has made much progress in its inaugural year. Our goals include not only building our women lawyer membership and involvement within ADLA, but also providing the entire membership with opportunities to support women lawyers, diverse lawyers, and worthy philanthropic causes within our communities. Check out some of our progress below

and get involved. We want your input and participation to help us grow into one of the most influential legal groups in our state.

To that end, please mark your calendars for these upcoming WITL events, online registration is now open for all events:

Programming

• **Birmingham:**

CLE Lunch & Learn with Judge Javan J. Patton and Judge Brendette Brown-Green, 10th Judicial Circuit, Jefferson County
Thursday, September 12th
11:30 a.m. – 1:00 p.m.
Balch & Bingham, LLP

• **Montgomery:**

CLE Lunch & Learn with Judge Emily C. Marks, Chief U.S. District Judge for the Middle District of Alabama
Tuesday, October 29th
11:30 a.m. – 1:00 p.m.
Alabama State Bar Building

• **Mobile:**

CLE Lunch & Learn with Associate Justice Sarah H. Stewart, Supreme Court of Alabama
Tuesday, September 17th
The Admiral Hotel

Check the ADLA Wednesday Briefcase and the events page on the ADLA website often for further updates.

2020 Southeastern Women Litigators Seminar

Women litigators in Alabama, Georgia, Florida, North Carolina, South Carolina and Tennessee, are teaming up to support, educate and advance women civil defense litigators in the first Southeastern Women Litigators Conference, to be held on March 26, 2020, in Atlanta, Georgia. Save the date!

This event is being coordinated by the respective chairs of the Women in the Law section of these six state defense legal organizations (SLDOs). The event provides a unique opportunity to connect and to build an interstate referral network among similarly situated women lawyers within the Southeast.

The one-day seminar will combine speakers and panelists who will discuss developing leadership and career building

continued on page 58



HUMAN TRAFFICKING

A Philanthropic Focus on the Prevention of Human Trafficking

The Philanthropy Committee of the Women in the Law (“WITL”) proudly announces that it has chosen the prevention of human trafficking as its primary philanthropic project.

Human trafficking, often referred to as “Modern Day Slavery,” enslaves more victims today than any other time in history.¹ The International Labour Organization estimated that there were 40.3 million victims of human trafficking globally in 2016.² Human trafficking encompasses the exploitation of individuals for both labor and sex. It is not a new business and it is not a dwindling business – it is an estimated \$150 billion industry, second only to drug trafficking as a criminal enterprise and growing at an alarming rate.³

Human trafficking affects a large swath of the population, including US citizens, foreign nationals, women, men, and children. However, women and girls are disproportionately affected – accounting for 99% of victims in the commercial sex industry and 58% of victims in other trafficking sectors.⁴ Sex trafficking is the most prevalent form in the US and the average age a child is forced into sex trafficking is 11-14 years old.⁵

I-20 and I-65 are known to be the busiest interstates for trafficking and their intersection makes Birmingham, AL a particular hotbed. In fact, the stretch of I-20 between Atlanta and Birmingham has been titled the “Sex Trafficking Superhighway.”⁶ The Alabama Human Trafficking Task Force reports that human trafficking cases have been reported all across Alabama.⁷

There are many opportunities for ADLA members to help educate our community about human trafficking. Criminal activity flourishes in the dark. By bringing to the light the methods that traffickers use, as well as the tell-tale signs of victims, we can make it a much more difficult operational environment for traffickers. There are also opportunities for ADLA members to assist the survivors

of human trafficking with their reintegration into society. Not only have these individuals been prevented from obtaining legitimate job skills to assist them in their reintegration, they are also suffering the psychological effects of their trauma that make reintegration all the more difficult. They also often suffer the physical and mental

effects of years of drug use, forced and/or coerced by their traffickers to ensure compliance. In addition to helping victims navigate the difficult process of reintegration, as well as working to raise the necessary funds to obtain the education and treatment they sorely need, ADLA members can assist victims with the filing of civil lawsuits against the traffickers and/or businesses that covertly benefitted from, and in some cases, overtly facilitated, the trafficking.

Leaders in the state, nation, and worldwide have begun to recognize the need for immediate intervention in this rapidly growing criminal enterprise. By working with organizations that focus their efforts on halting trafficking as well as assisting survivors, WITL hopes to provide opportunities for ADLA members to be a part of the spear that is leading this charge.

Sex trafficking is the most prevalent form in the US and the average age a child is forced into sex trafficking is 11-14 years old. I-20 and I-65 are known to be the busiest interstates for trafficking and their intersection makes Birmingham, AL a particular hotbed.



Endnotes

¹ <https://www.usatoday.com/videos/news/world/2017/02/23/there-more-slaves-today-than-any-other-point-history/98292582/>

² Global estimates of modern slavery: Forced labor and forced marriage. International Labour Organization and Walk Free Foundation, Geneva, 2017, p. 9.

³ The Facts. Polaris. <https://polarisproject.org/human-trafficking/facts>.

⁴ Supra, note 2, p. 10.

⁵ <https://www.enditalabama.org/facts>

⁶ <https://www.montgomeryadvertiser.com/story/news/2019/02/26/the-ones-nobody-misses-scope-human-trafficking-alabama-wider-than-reported-experts-say/2777701002/>

⁷ Supra, note 5.

WITL Gives Back by Hosting Backpack Buddies Networking & Philanthropy Event



Come out and join ADLA's Women in the Law for a night of wine, conversation, and packing bags for the Backpack Buddies program on October 9th at Bradley Arant Boult & Cummings LLP in downtown Birmingham. All ladies of ADLA are invited. This is a free event, but please register in advance. Watch for updates in the *Wednesday Briefcase* or visit ADLA's website for registration information and updates.

WITL Forms Light the Night Walk Team, Railroad Park in Birmingham November 7th



Join our team! ADLA's WITL is teaming up for the Leukemia & Lymphoma Society's (LLS) Light the Night walk, which raises funds in support of LLS. The mission of LLS is to cure leukemia, lymphoma, Hodgkin's disease and myeloma and improve the quality of life of patients and families. **All ADLA members are welcome to sign up!** Visit ADLA's website for registration information and details.



Women in the Law Testimonials



Lisa McCrary

Barze Taylor Noles Lowther, LLC
Birmingham

ADLA's Women in the Law section is a wonderful way to support female attorneys in Alabama through networking, education, and service. I volunteered for the leadership

team because I am excited to be part of an energetic group of women who are motivated to help each other and our communities. Specifically, through the philanthropy committee, I hope to help our section and ADLA as a whole work together to find ways to serve by dedicating our time, skills, and resources to area non-profits and causes.



Regina F. Cash

Luther Collier Hodges & Cash, LLP
Mobile

As a member of the legal community, we have a responsibility to give back to the community that we draw from. As individuals, we also have the responsibility

to provide for those less fortunate. WITL meets both of these responsibilities. It allows me to give back to my community and provide for women less fortunate than myself. I am honored to be a part of this committee.



Ashley Scarpetta

Christian & Small
Birmingham

I am thrilled to serve as young lawyer's liaison to ADLA's women in the law section. Unlike some of our other state and local organizations, ADLA has gone decades without a dedicated women's section.

I am very proud of Sharon Stuart's vision of creating this section during her presidency of ADLA, and I am also proud of my firm's efforts and involvement, along with many other wonderful leaders, to ensure that this section came to fruition. As young lawyer's liaison to the women's section, I am most excited about facilitating various opportunities that empower ADLA women which they may have lacked prior to the formation of our section.



Diane B. Maughan

Cabaniss Johnston Gardner Dumas & O'Neal, LLP
Birmingham

When I learned late last year that ADLA planned to establish a Women in the Law Committee, I was immediately interested in participating. I had avoided female-only professional groups for a large part of

my career, having misconceptions about the import of joining such groups. However, during the last 20 years of practicing law, I have come to realize that there are many benefits to being part of a group that is focused on creating opportunities for professional development, mentoring, and career advancement for women. In the short time that our group has been organized, I have seen many positive impacts that will benefit ADLA as a whole, including an increase in camaraderie, a greater focus on philanthropy, and growth in leadership and educational opportunities. I look forward to continued work toward developing this committee into a thriving part of ADLA.

A CONVERSATION WITH MAGISTRATE JUDGE KATHERINE “KIT” NELSON

By: **Kristy Waldron Dugan**, Frazer Greene Upchurch & Baker LLC | Mobile, AL



U.S. Magistrate Judge Katherine “Kit” Nelson of the Southern District of Alabama graciously agreed to be interviewed for this article. Judge Nelson grew up in Mobile and earned her first of many degrees, a B.A. in political science, from Auburn University. Finding her career prospects lackluster, she enrolled at the University of South Alabama and earned a Masters in Public Administration. Judge Nelson subsequently worked as a Bailiff for now-retired Mobile County Circuit Judge Braxton Kittrell while attending night school at South Alabama to earn her B.S. in Secondary Education. With a marketable degree in hand, she taught sixth grade history at her alma mater, St. Paul’s Episcopal School, for seven years before resuming her own education. Judge Nelson graduated with her J.D. from the University of Alabama in 1996.

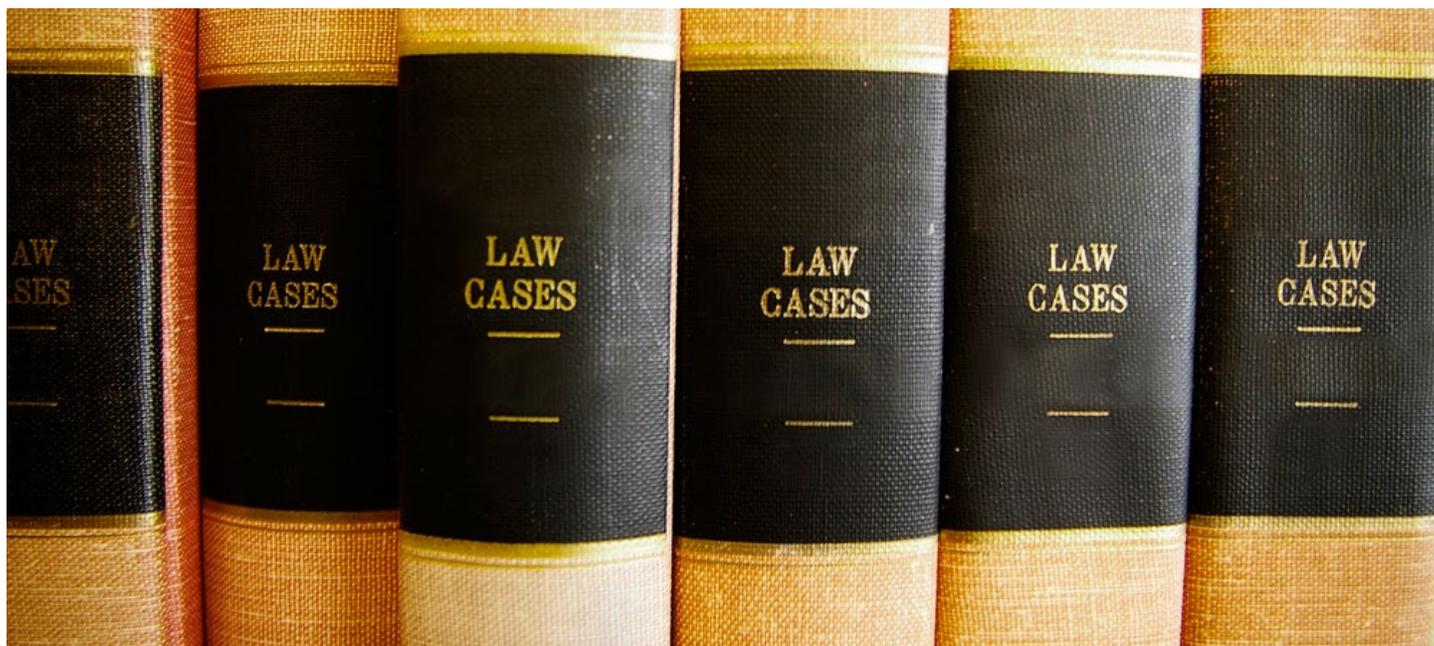
After graduation, she returned to Mobile and joined Johnstone Adams, one of the state’s oldest law firms. After practicing primarily employment law for seven years, Judge Nelson became the clerk to then-Magistrate Judge Kristi Dubose. Judge Dubose became a District Court Judge in 2005, and Judge Nelson was appointed to her current position as Magistrate Judge in 2009.

Regarding the merits of her current work versus private practice, Judge Nelson cited the lack of billing as a stress-reducer. As a judge, she bears the weighty responsibility for making the correct decision. Being a judge also allows her to explore diverse areas of the law and industry, which she finds “fascinating.” Lawyers appearing before Judge Nelson would do well to know their case,

know their arguments and be succinct. Judge Nelson commended the professionalism of Mobile lawyers.

Judge Nelson credits the women lawyers who began practicing in Mobile in the early 1980’s such as Celia Collins, Kathy Miller, and Merceria Ludgood with paving the way for the rest of us and making arrangements such as flex time possible. We have come a long way since the early 1980’s when—by some accounts—women were steered away from jury work. Even as recently as 1996, when Judge Nelson graduated law school, an aspiring plaintiff’s lawyer friend was unable to find work due to the prevailing belief that jurors would not accept a woman in the role of plaintiff’s counsel. Judge Nelson added that law firms, citing client objections, declined to hire Justice Janie Shores after she graduated from the University of Alabama at the top of her class in 1959. Fortunately, at her firm, Judge Nelson was not cloistered and tried multiple car wreck cases to juries.

On a more personal note, Judge Nelson’s work-life balance benefits from the fact that she now has a teenager of driving age. She recommended that we women (and men) lawyers just do the best we can every day and not be too hard on ourselves if we miss some things. For women seeking advancement in their firms, Judge Nelson suggested becoming involved in community organizations, even as a younger lawyer. In her experience, taking on more responsibility sharpens one’s organizational skills leading to greater productivity and efficiency. Often the more you have to

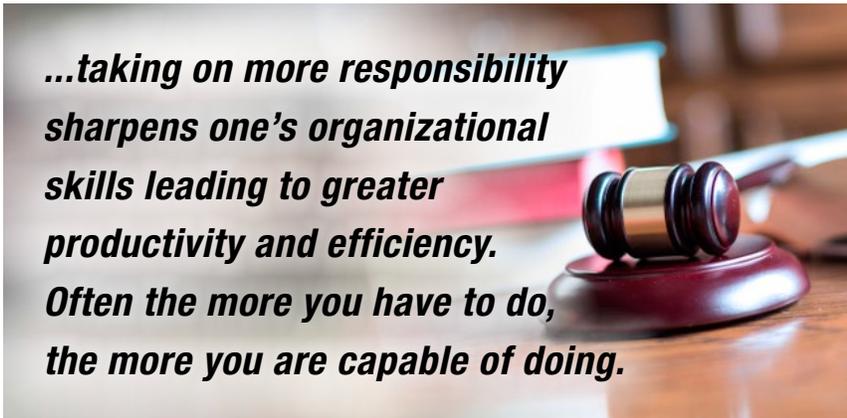


do, the more you are capable of doing.

Women on the bench such as Judge Nelson serve as role models, especially for women lawyers. Judge Nelson herself drew inspiration from Celia Collins at Johnstone Adams and Judge Dubose.

Judge Nelson describes Celia as, "a good lawyer, strong advocate, and master of civility." Judge Nelson learned how to do her job, in part, from observing Judge Dubose's judicial demeanor.

Most people don't know about Judge Nelson's stint in show biz. "The Insider," a 1999 thriller based on the travails of tobacco whistle-blower Jeffrey Wigand, starring Al Pacino and Russell Crowe, was filmed in Pascagoula, Mississippi. When producers recruited Mobile lawyers as extras for a deposition scene, Judge Nelson landed a role. The role required sitting in a courtroom for hours on end, often late into the night. Once, after filming wrapped



around 1:00 AM, Russell Crowe invited some of the cast to join him for drinks, and many young ladies enthusiastically accepted. Tuckered out, Judge Nelson declined. As ever, her performance was marked by the exercise of sound discretion.

Thank you, Judge Nelson, for sharing your wisdom with us. 



Kristy Waldron Dugan is an associate at Frazer Greene in Mobile. A former prosecutor, she currently practices in the areas of professional liability, civil rights, and business disputes. Kristy currently serves as the Publications Vice Chair for ADLA's Women in the Law Committee and on the Board of the Alabama State Bar Women's Section. She is a 2002 graduate of Haverford College and a 2007 graduate of Tulane Law School.

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Alabama Case Law Update: Recent Civil Decisions of the Alabama Supreme Court
Presenter: **Alex Holtsford** of Holtsford Gilliland Higgins Hitson & Howard PC

ESI Discovery and Evidence: Find it, preserve it, and present it
Presenter: **Bains Fleming III** of Norman Wood Kendrick & Turner

Managing Clients and Creating Collaborative Relationships
Presenter: **Jeremy Richter** of Webster Henry Bradwell Cohan Speagle & DeShazo PC

Medicare Secondary Payer Issues: Section 111 Reporting, Conditional Payments, & Medicare Set-Asides
Presenter: **Jennifer Baker** of Carr Allison

Premise Liability- How to Defend Against Slip, Trips and Falls
Presenter: **Hannah Torbert Kennedy** of Wade S. Anderson & Associates- State Farm Mutual

Technology for Law Offices: Ways to Practice Law More Efficiently in the Digital Age
Presenter: **Hal Mooty III** of Bradley

Ten Civil Procedure Answers You Need To Know But Probably Don't
Presenter: **Sharon D. Stuart** of Christian & Small PC

War Stories and the Lawyer's Duty of Confidentiality: The Potential Impact of ABA Formal Opinion 480
Presenter: **Craig Alexander** of Rumberger Kirk & Caldwell **Approved Ethics Credit*

Webinar Participant Testimonies:



Ian Kennedy

Hinton & Associates, Montgomery

Please keep providing these webinars!! They are helpful and informative, and they are a convenient way to avoid the December CLE rush that some of us have found ourselves in from time to time.



Caroline Pryor

Carr Allison, Daphne

I love ADLA's lunchtime webinars. They are a fantastic way to earn CLE. Thank you!



Robert Mooty

Mooty & Associates, Montgomery

Valued information on the future of technology in the legal practice.

In a recent cyber-liability matter, Christian & Small Partner **Richard E. Smith** secured an order in our client's favor that denied class certification of a nationwide class of some 2,500 banks. In his extensively written opinion, the judge in the case supported the denial based on the variations in state law involving individualized questions of law on the class negligence claims. The Plaintiffs sought certification of a class under 23(b)(3)m which requires the court to find that "the questions of law or fact common to class members predominate over any questions affecting only individual members." We argued on our retailer client's behalf that common questions of law or tort did not predominate over questions affecting only individual members. Instead, variations in the state laws of the 50 states and the District of Columbia led the court to conclude: 1) The variations on the "economic loss rule" are too great for the court to proceed to trial with a damages case consisting of plaintiffs from all 50 states; and 2) the states apply materially different standards for determining whether the Defendant owes each putative class member a duty of care. The judge agreed, and on March 13, 2019, issued an order denying the Plaintiff's motion for class certification.



Richard E. Smith

The law firm of Donahue and Associates, LLC, and **Tim Donahue, Sr.**, were able to obtain Summary Judgment on behalf of B.H. Craig Construction Co., in a case filed by the Retirement Systems of Alabama regarding the construction of a Marriott hotel in Florence, Alabama.

On March 23, 2004, B.H. Craig entered into a contract with Alabama Real Estate Holdings, Inc., to serve as a sub-contractor to install doors and windows on the River Heritage Hotel in Florence. Retirement Systems of Alabama (hereinafter RSA) is successor in interest to AREH with regard to the contract. B.H. Craig ordered Pella Corporation windows from J.F. Day and Company in a purchase order dated April 16, 2004. Window installation began June 3, 2004 and was substantially completed on August 26, 2005.

Sometime in 2005, after first opening, the hotel began experiencing window leaks. Numerous meetings were held between 2005 and 2014 regarding the leaking windows including some remedial repairs that were performed by B.H. Craig.

On January 13, 2014, the plaintiff's filed their complaint against B.H. Craig. The plaintiff's alleged breach of contract, negligence, misrepresentation, and fraud by suppression against B.H. Craig.

RSA alleged that the water leakage were patent defects to toll the statute of limitations. B.H. Craig argued, if there were any defects,

they were latent defects and obvious to RSA.

A Motion for Summary Judgment was filed by B.H. Craig which was granted by the trial court and affirmed by the Alabama Supreme Court. The trial court found that RSA had not proven a latent defect in the window installation and RSA filed their complaint nine (9) years after construction was completed and the complaint was filed outside the applicable statute of limitations.



Tim Donahue, Sr.

On July 8, 2019, Huie attorneys **Gordon Sproule, Jennifer Segers, and Alex Parish** secured a defense verdict on behalf of a long-term care facility in a medical malpractice case that was tried before an arbitrator in Jefferson County, Alabama. The personal injury action was brought by the estate of a nursing home resident who sustained bilateral ankle fractures while a resident at the nursing home. Prior to the fracture diagnosis, the resident had been in and out of the hospital for treatment for a chronic condition. The resident also suffered from severe osteoporosis. Plaintiff claimed the fractures were a result of the Defendant's alleged negligence. However, during the three-day trial, Plaintiff did not establish any negligent act on the part of the Defendant or any breach of the applicable standard of care. Defense counsel proved that no expert could opine that the injury occurred in the facility. The expert nursing testimony established that the resident could sustain the injuries even under the best of care. Thus, the Arbitrator returned a verdict for the Defendant long-term care facility.

Woods Parker, an associate at Huie, secured a defense verdict in Houston County, Alabama, for a major motorcycle manufacturer in a matter alleging breach of warranty and fraud. In his practice, Parker represents automobile and product manufacturers and distributors in product liability, warranty and fraud cases throughout the Southeast.

In this case, the Plaintiff claimed that his motorcycle was defective at the time of his purchase and that he was defrauded by the manufacturer. Parker was able to prove that the defect claimed was the result of actions of non-parties to the lawsuit.

After hearing evidence, the trial court returned a defense verdict on all counts in favor of the Defendant.

On January 9, 2019, Huie attorney **Will Thompson** was successful in securing a judgment for the Defendant, a national insurance provider, in an underinsured motorist case in the Circuit Court of Elmore County.

The Plaintiff was involved in an automobile accident in June 2010 when another vehicle operated by an insured driver ran a red light at a busy intersection and collided with the Plaintiff. The Plaintiff sustained a significant injury to his left shoulder that required surgery and months of physical therapy. The Plaintiff had a second surgery on the same shoulder in October 2011, which required more physical therapy. Plaintiff claimed that he was entitled to recover his medical bills following the accident and for his continued pain and suffering.

Subsequently, the Plaintiff sued the Defendant, who provided underinsured motorist coverage following the Plaintiff's settlement for the policy limits (\$25,000) with the tortfeasor's insurance carrier.

Following trial, the jury returned a verdict of \$5,000 in favor of the Plaintiff. The Court then applied the previously-recovered \$25,000 and entered judgment in favor of the Defendant since the verdict did not exceed the amount recovered from the tortfeasor's insurance carrier.



Alex Parish



Woods Parker



Jennifer Segers



Gordon Sproule



Will Thompson

Lanier Ford attorneys and ADLA members **C. Gregory Burgess** and **Lauren A. Smith** won summary judgment in a False Claims Act (FCA) retaliation lawsuit in the United States District Court for the Northern District of Alabama on February 22, 2019. Plaintiffs alleged they were terminated for “whistleblowing” about their employer’s misuse of funds, which they alleged were in part federal funds from the Tennessee Valley Authority (TVA). Lanier Ford attorneys initially moved to dismiss, arguing that the FCA’s anti-retaliation provision did not apply because the employer received no federal funding. Instead, what plaintiffs had labeled as “TVA funds” were actually monies paid by TVA to the State of Alabama in lieu of *ad valorem* taxes pursuant to a federal statute, and from there the funds flowed, by state law, to Limestone County and then to multiple local organizations including the employer without any requirements imposed on the use of the funds. Agreeing with the employer’s position that the absence of federal funding precluded application of the FCA but concluding plaintiffs were entitled to some discovery, the district court denied the motion to dismiss and ordered that limited discovery be permitted on the nature and source of the funds.

After limited discovery, Lanier Ford attorneys moved for summary judgment raising the same threshold defense as before. In response, plaintiffs advanced a two-fold theory of liability. First, plaintiffs contended the TVA funds retained their federal character even though they passed through state and county coffers first before reaching the employer. Second, plaintiffs argued that, to the extent the TVA funds were not truly federal dollars, it was nonetheless reasonable for plaintiffs to mistakenly believe they were.

In urging the district court to reject plaintiffs’ arguments, the employer pointed out that the primary objective of the FCA is to combat fraud against the federal government, and thus it makes no logical sense to extend the FCA’s protection in the complete absence of federal dollars. Additionally, the employer reasoned that embracing plaintiffs’ retaliation claim would grossly expand the FCA’s scope beyond what Congress ever intended, and in the process subject employers—who never received a penny of federal funding—to costly litigation merely because an employee mistakenly believed otherwise. Ultimately, the district court granted summary judgment to the employer concluding that plaintiffs had no legally maintainable FCA retaliation claim because the so-called TVA funds were not federal dollars, and to the extent plaintiff believed they were, their belief was not objectively reasonable under the facts presented. This summary judgment is currently on appeal to the Eleventh Circuit.



C. Gregory Burgess



Lauren A. Smith

Starnes Davis Florie attorneys **Mike Wright**, **Michael Scivley**, and **Allen King** recently obtained judgment as a matter of law in favor of a family medicine physician and his medical assistant following the trial of a combined personal injury and wrongful death case. The plaintiff claimed the defendants committed medical malpractice for allegedly failing to contact the patient or report an abnormal PSA laboratory result and for failing to refer the patient to a urology specialist for additional workup on a timely basis. The patient was diagnosed 18 months later with advanced metastatic prostate cancer. Suit was commenced during the lifetime of the patient who, unfortunately, succumbed to his disease. Plaintiff presented expert testimony from a family medicine specialist and a urological oncologist seeking to demonstrate that an earlier diagnosis could have resulted in a different/favorable outcome for the patient. The case was tried before a jury for four days. At the conclusion of the plaintiff’s evidence, the defendant moved for judgment as a matter of law. The issues were extensively briefed

and argued by the parties. In granting the defendants' motion, the court determined that the plaintiff failed to meet her burden of proof to establish a breach of the standard of care directly producing the unfortunate outcome and, therefore, held that there was no legally sufficient evidentiary basis for the case to be submitted to the jury.

Attorneys **Bob MacKenzie**, **Reed Bates**, and **Will Davis**

obtained a defense verdict in favor of an oral and maxillofacial surgeon in a case involving a bilateral total joint replacement of the temporomandibular joint (TMJ). The defense presented expert testimony that the decision to proceed with the surgery and the surgery were performed within the standard of care. After a six-day jury trial, a verdict was returned in favor of the defense.



Reed Bates



Will Davis



Allen King



Bob Mackenzie



Michael Scivley



Mike Wright

Submit your Wins for the Defense to adla@adla.org by January 15th to be included in the Spring *Journal*



Who was the first female lawyer in Alabama? In order for her to start practicing law, what research tool needed to be updated and why?

The first ADLA member to respond with the correct answers to adla@adla.org will win a \$100 Amazon gift card. Good luck!

legal DOWNLOAD



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Ever travel and need your assistant to prepare and sign multiple letters in your absence? Rather than type each letter on your phone, or dictate them in a phone call, one easy option is to create an audio file on your mobile device.

Quickly Scanning Documents

Ever have an urgent need to transmit a document that was just handed to you? Powerful mobile apps such as TurboScan make the process straightforward.



2019 Annual Meeting

ADLA Celebrates 55th Annual Meeting at Sandestin Golf and Beach Resort

ADLA's 55th Annual Meeting returned to the Sandestin Golf and Beach Resort in Destin, Florida. This year's conference included a judicial reception held jointly with ALAJ, informative CLE speakers, fun-filled nightly family events, and a record number of sponsors and exhibitors. It's also the time of year when we climb out of the trenches of civil litigation and take a few days to network with each other, learn how to be better litigators, elect new officers and, frankly, get to know each other better. The membership also installed new officers and directors during its annual business meeting.

The CLE offerings this year included a message from **Alabama Supreme Court Chief Justice Tom Parker**, a new case law update from ADLA's own **Alex Holtsford**, a panel discussion regarding trends in mediation and case resolution strategies, and an additional panel discussion consisting of experienced in-house counsel and adjusters. Other topics included lawyer marketing and defending against the reptile theory at trial. ADLA would like to thank the guest judges who attended the conference, visited with members and answered questions during the CLE session. Alabama Supreme Court:

Chief Justice Tom Parker, Justice Mike Bolin, Justice Greg Shaw, Justice Kelli Wise, Justice Tommy Bryan, Justice Brad Mendheim, Justice Sarah Stewart, and Justice James Mitchell. Alabama Court of Civil Appeals: **Judge Bill Thompson, Judge Christy Edwards, Judge Chad Hanson and Judge Scott Donaldson.** Alabama Circuit Court: **Presiding Judges Bill Filmore, 33rd Judicial Circuit, Judge Johnny Hardwick, 15th Judicial Circuit, and Judge Burt Smithart, 3rd Judicial Circuit.**

Attendees and their families enjoyed a ton of kids games, inflatables, arts and crafts, a mocktail bar, jumbo lawn games, and much more. ADLA's annual golf tournament on Friday offered a fun competitive environment amongst all of the golf teams. This year's winning team members were: **John Browning of Burr Forman, Bains Fleming of Norman Wood Kendrick & Turner, Jason Jones of the PMLC Group, and Hank Spragins of Hickman Goza & Spragins.** Saturday night entertainment included the famous Deano and live acoustic music. If you missed out on all the fun, be sure to make plans to attend the 2020 Annual Meeting in Sandestin, June 18-20th.

1 Dudley Motlow, Louise Livingston, Ed Livingston, ADLA past Executive Director, and Bruce Barze catching up with one another; **2** 2019-2020 ADLA President, Christina M. Bolin pictured with Jonathan Hooks and Gaby Reeves; **3** Ann Clark and Walton, daughters of Bains Fleming, enjoying lawn games; **4** ADLA kids having fun; **5** ADLA President, Dennis Bailey, orders a Bailey's Riptide, a signature cocktail named in his honor on the final night of the Annual Meeting; **6** Did someone say ice cream?; **7** ADLA's Saturday night's President's Brew- Bailey's Riptide; **8** Congrats to Kevin Bufford, winner of a 3 day beach stay gift certificate; **9** Dennis Bailey recognizes outgoing District Directors Gerald Swann, Kirby Howard, Stephen Still, Bains Fleming and Ed Howard; **10** Attendees enjoyed Bloody Mary's on Saturday, compliments of Emily Faith with DONAN; **11** Daniel Bolin holds down the registration desk; **12** Bree Wilborn, Deborah Ann Wakefield and Martha Thompson; **13** Chief Justice Tom Parker gives Alabama Supreme Court update; **14** Gracie Stewart and Immediate Past President Sharon Stewart pictured with outgoing ADLA President Dennis Bailey and his family, Tay and Stacia; **15** Beth Donaldson, Judge Scott Donaldson, and Chief Justice Tom Parker; **16** Future ADLA young lawyers in the making; **17** Attendees enjoying a beautiful evening on the Grand Lawn; **18** Jennifer Hayes, ADLA Executive Director, Ana Ramos, FDLA Executive Director, and Mary Gadd, TDLA Executive Director at the opening Judicial Reception; **19** ADLA's Women in the Law gathered for cocktails on the final night of the Annual Meeting; **20** ADLA attendees enjoying Mimosas during a break; **21** Ed Howard and Sarah Rody enjoying the Saturday night reception; **22** Elizabeth Smithart, Christy Crow, Justice Sarah Stewart and her children; **23** Gerald Swann was unanimously nominated, without his consent, to be the official Annual Meeting mic man and we're pretty sure he was good with that.



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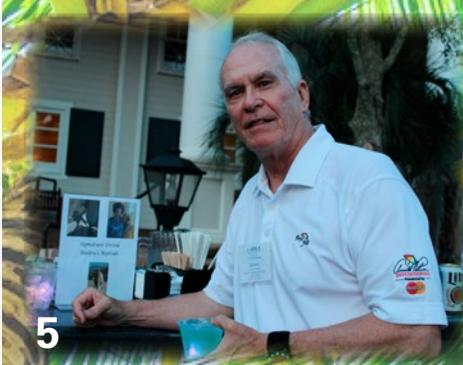
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Signature Drink
Bailey's Riptide



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24 ADLA golfers on the Raven; **25** Jude Jones, son of Woody Jones, got served at the Mocktail Bar; **26** Christina M. Bolin, Justice Sarah Stewart, Andy Rutens and 2018-2019 ADLA President, Dennis Bailey; **27** Straight off the beaches of Destin, Frank Canales and Kevin Bufford grab a drink on the Grand Lawn before the reception kicked off; **28** Judge Johnny Hardwick and Amanda Hines; **29** Jordan Jenkins with her husband, Devin; **30** Saturday's family night on the Grand Lawn during setup; **31** Judge Bill Thompson pictured with keynote speaker, Sean Carter; **32** Michelle Mendheim, Justice Brad Mendheim, Chief Justice Tom Parker, Judge Pat Ballard, Judge Scott Donaldson & Beth Donaldson during the Friday night reception; **33** These sweet girls were photo bombed by Mary Ann, SGBR's resort parrot; **34** Kids lined up early to see Deano, he's legendary in their eyes; **35** Representatives from the newly formed Alabama Property and Casualty Adjusters Association; **36** Thank you to Wilma Fields of AIM for sponsoring mimosas on Friday morning; **37** Thank you to Perry Hopkins & John Gonzalez of ESI for sponsoring the Saturday Family Night on the Grand Lawn; **38** Thank you to Cornelia Baker & her ladies of Baker Realtime Worldwide Court Reporting & Video for sponsoring the Friday Night Reception; **39** We had a packed exhibit hall this year and they brought fun stuff to the conference; **40** We love our baby members; **41** Jonathan Hooks, Justice Kelli Wise and Art Ray; **42** Our vendors bring the best giveaways, lots of winners walked away with some great stuff; **43** Keynote Program Speaker, Sean Carter, Humorist at Law; **44** Thank you Debbie McCune & Mickey Turner of Veritext for sponsoring the Thursday evening judicial reception; **45** Prize drawings in the Exhibit Hall; **46** Recognition of Dennis Bailey's service as 2018-2019 ADLA President; **47** We all look forward to seeing what color pants Andy Rutens wears to the Annual Meeting, only he can make wearing tropical pants look so effortless; **48** Mary Lauren Kulovitz and Dan Beasley catching up during the conference; **49** Wright and Ann Agnes, children of Stephen Still, holding down the ice cream cart.

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Pictured are attorneys from Montgomery & coastal locations

Law Firm Celebrates 30th Anniversary Milestone With Honored Guests and Attorneys

By **Trey Holtsford**, Holtsford Gilliland Higgins Hitson & Howard, PC

Holtsford Gilliland Higgins Hitson & Howard celebrated its 30th on June 6, 2019. Founded in 1989, Holtsford Gilliland has since grown to incorporate a Gulf Coast office located in Daphne, and currently employs 23 attorneys engaged in the practice of civil defense litigation throughout the State of Alabama. During its 30 year history, the firm has consistently encouraged and actively participated in the advancement of the ADLA with several attorneys holding leadership positions while strengthening the organization.

In celebration of its 30th Anniversary, the firm hosted Mayor Todd Strange along with various judges, clients, colleagues and other peers from Montgomery and the surrounding areas. Dr. Carl Stegall attended the event and gave his blessing to the firm, reminiscent of his blessing provided thirty years earlier at the firm's initiation. Mayor Strange acknowledged the tremendous success and vast accomplishments of Holtsford Gilliland over the past three decades to become one of the preeminent civil defense firms in the state.

Managing Partner **Alex Holtsford** was especially recognized for his exceptional guidance of the firm and commitment to civil defense litigation, demonstrating impeccable character and integrity while vigorously defending numerous clients throughout the course of his career. Over the past six years, I have had special honor of working as an associate for my father, Alex Holtsford, and can personally attest to his tremendous work ethic and unwavering commitment to the practice of civil defense litigation, clearly providing a strong foundation for the enduring success and sustained growth of this



Alex Holtsford, Managing Partner

firm over its thirty year history. I believe I can speak for all past and present employees of Holtsford Gilliland, as well as the vast majority of judges and attorneys on both sides of the courtroom throughout the State of Alabama, that the legal profession has categorically benefitted from his exemplary conduct and that we are all grateful to work alongside Alex Holtsford in the practice of law.

THE FIREFIGHTER'S RULE

By: **Andrew P. Anderson**, Carr Allison | Birmingham, AL

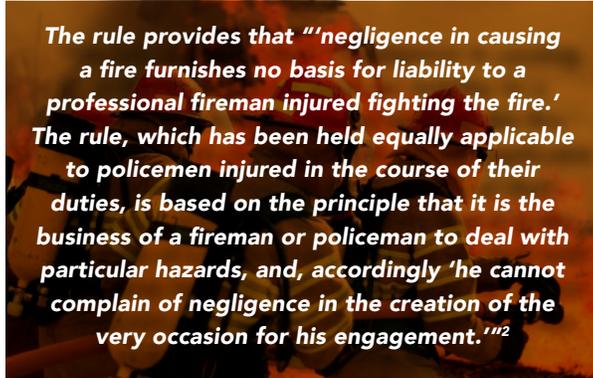


Assume the following factual scenario: your client, a large trucking company, has a tractor-trailer that is stopped on the interstate for speeding. The police officer gets out of his patrol car, speaks with your driver, and is standing on the side of the road going through his paperwork. All of a sudden, a passing motorist strikes the officer, severely injuring him. The offending motorist is never to be found. Notwithstanding workers' compensation or UM/UIM remedies, the injured officer files suit against your client and its driver arguing that, "but for" the driver's speeding violation, he would not have been injured and, therefore, he is looking to collect from your client.

An often overlooked affirmative defense available under the above factual scenario (or one like it) is the Firefighter's Rule (also referred to as the Fireman's Rule). The Firefighter's Rule "precludes fire fighters from recovering damages for injuries arising out of risks peculiar to their employment."¹ The rule provides that "'negligence in causing a fire furnishes no basis for liability to a professional fireman injured fighting the fire.' The rule, which has been held equally applicable to policemen injured in the course of their duties, is based on the principle that it is the business of a fireman or policeman to deal with particular hazards, and, accordingly 'he cannot complain of negligence in the creation of the very occasion for his engagement.'"² The reasoning behind this preclusion for liability differs from state to state with the majority of jurisdictions implementing some form of the basic premise.

HISTORY

The Illinois Supreme Court first formulated this doctrine over 100 years ago, in *Gipson v. Leonard*.³ The *Gipson* court held that a fireman who was injured on the job could not recover against the landowner of the property where the injury occurred. The court's analysis was based upon the traditional premises liability theory that a fireman was a licensee to whom the landowner owed only a duty to refrain from willful or affirmative acts.⁴ Since that time, the rule has been extended to limit actions by law enforcement officers, as well as volunteer firefighters.⁵ Whether the courts apply a public policy approach, an assumption of the risk analysis or a traditional premises liability approach categorizing the injured party as a licensee or invitee and the reasoning for these decisions is beyond the scope of this article. However, the main underlying thought process from the justices is the same: fighting fires is regarded as inherently dangerous and firefighters assume the risk of being injured in the course



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of this profession.

PRESENT TREATMENT

As noted above, the majority of jurisdictions recognize some form of the Firefighter's Rule with a vocal minority of states either not applying it or explicitly rejecting it. The states that have abolished, do not follow or have not adopted the rule are Alabama, Colorado, Florida, Maine, Massachusetts, Michigan, Minnesota, Montana, New Jersey, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Vermont, West Virginia, and Wyoming. The remaining states still follow the rule to some degree. The states that apply the Firefighter's Rule to bar recovery do so under the following doctrines: public policy grounds; assumption of the risk; and, common-law premises liability or a hybrid approach.

ALABAMA'S VIEW

While Alabama has yet to formally adopt the Fireman's Rule, at least one Alabama trial court has granted summary judgment based upon this principle.⁶ In *Thompson*, James Thompson and Toney Bentley, Anniston Fire Department firefighters, responded to a fire call from FMC Corporation. The fire started when welding sparks ignited flammable fluid at FMC's facility. The building in which the fire started housed fluid storage tanks filled with electrical discharge machining (EDM) fluid. In addition, other chemicals and solvents were stored in different areas of the building. As the fire continued to burn, the firefighters depleted their supply of air cylinders. The Department apparently had a limited supply of the cylinders avail-

able for use. Although the cylinders could be recharged with air, the process was time-consuming and could not be done at the site of the fire. As a result, the firefighters soon had to fight the fire without their self-contained breathing apparatus (SCBA) and both Thompson and Bentley were exposed to smoke.⁷

Bentley collapsed at the scene, apparently from exposure to excessive heat, and was transported to a hospital. Thompson was among the last of the firefighters to leave the scene; he and others fought to prevent the fire from spreading. In the days following the fire, both Thompson and Bentley began complaining of severe headaches. Thompson and Bentley sued FMC, Phillip D. Snider, and fictitiously named parties, alleging that their negligent or wanton actions caused the fire in which the firefighters were injured, that they failed to warn the firefighters of the toxic nature of the chemicals stored in the burning building, and that the failure to warn of the toxic chem-

icals proximately caused the firefighters to be exposed to toxic fumes, and, as a result, to suffer headaches, dizziness, nausea, and memory loss.

FMC and Snider filed a joint motion for summary judgment, in which they urged the trial court to adopt the Firefighter's Rule. The trial court concluded that the Firefighter's Rule should apply to the case and entered summary judgment in favor of FMC and Snider.⁸

Thompson and Bentley appealed to the Alabama Supreme Court, which transferred the case to Alabama Court of Civil Appeals. The Court of Civil Appeals affirmed summary judgment entered by the trial court without adopting the Firefighter's Rule.⁹ The Court stated, "Although a decision concerning whether the firefighter's rule applies to this case would be useful in determining whether FMC and Snider had a duty to warn the firefighters of the toxic chemicals housed in the burning building, we can decide this case without adopting the firefighter's rule."¹⁰

In his dissent, Judge Monroe stated, "Although I believe that there is a genuine issue of material fact, I do not necessarily believe that the summary judgment should be reversed. Instead, I believe that the issue before this court, which is raised on this appeal and argued by the parties, is whether Alabama should adopt the firefighter's rule."¹¹

CONCLUSION

When defending a case brought by injured firefighters or law enforcement personnel, counsel should raise the Firefighter's Rule as an affirmative defense. It appears that Alabama's adoption of the Fireman's Rule may be ripe for the Appellate Courts, especially since Alabama has not directly disavowed it. 



Andrew P. Anderson is a shareholder in the Birmingham, Alabama office of Carr Allison and is a member of the firm's litigation practice group. His primary areas of practice include general insurance defense litigation, premises liability litigation, transportation litigation, including cargo and freight claims.

Endnotes

¹ *Thompson v. FMC Corp.*, 710 So. 2d 1270, 1271 (Ala. Civ. App. 1997) (citing *Carson v. Headrick*, 900 S.W. 2d 685, 691 (Tenn. 1995)).

² *Spargur v. Park*, 128 Cal. App. 3d 469, 471, 180 Cal. Rptr. 257, 258 (Ct. App. 1982) (citing *Walters v. Sloan*, 20 Cal. 3d 199, 202, 571 P.2d 609, 610-11 (1977), disapproved of by *Neighbarger v. Irwin Indus., Inc.*, 8 Cal. 4th 532, 882 P.2d 347 (1994)).

³ 32 N.E. 182 (Ill. 1892).

⁴ *Id.* at 183-184.

⁵ See, e.g., *Walters v. Sloan*, 571 P. 2d 609 (Cal. 1977); *Baker v. Superior Court*, 181 Cal. Rptr. 311 (Ct. App. 1982).

⁶ See *Thompson v. FMC Corp.*, 710 So. 2d 1270 (Ala. Civ. App. 1997).

⁷ *Id.* at 1271.

⁸ *Id.*

⁹ *Id.* at 1273.

¹⁰ *Id.* at 1272.

¹¹ *Id.* at 1273, Monroe, J. dissenting; Yates, J. concurring in dissent.



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By providing a resource of other attorneys in which to ask questions about the daily practice of law, we received great feedback from members in exploring new billing and time management systems.

Bradley Arant Boult Cummings LLP is pleased to make the following announcements:

- **Matthew H. Lembke**, a partner in the firm's Birmingham office, has begun his 2019 term as president of the American Academy of Appellate Lawyers (AAAL). He is the first lawyer from Alabama to serve in this leadership role.
- **George R. Parker**, a partner in the firm's Montgomery office, was appointed at the 2019 Alabama State Bar (ASB) Annual Meeting to serve on President Christy Crow's Executive Committee for 2019-2020.
- Bradley is pleased to announce that 252 of the firm's attorneys are included in the 2020 edition of The Best Lawyers in America®, one of the most highly regarded attorney referral publications, which is now in its 26th year. In addition, 25 Bradley attorneys were named by Best Lawyers as "Lawyers of the Year." In each metropolitan area, only a single attorney in each legal practice area is designated as the "Lawyer of the Year."

The 2020 Best Lawyers includes 81 percent of Bradley's partners and 48 percent of all the firm's attorneys.

Birmingham

Hal Albritton (Commercial Litigation)

F. Wendell Allen (Financial Services Regulation Law)

Marc James Ayers (Appellate Practice)

Stewart M. Cox (Commercial Litigation)

William S. "Buddy" Cox III (Litigation – Environmental, Water Law)

Jeffrey D. Dyess (Antitrust Law, Commercial Litigation)

James W. Gewin (Bet-the-Company Litigation, Commercial Litigation, Litigation – Antitrust, Mass Tort Litigation / Class Actions – Defendants, Personal Injury Litigation – Defendants)

John Mark Goodman (Commercial Litigation, Product Liability Litigation – Defendants)

John W. Hargrove (Employment Law – Management, Labor Law – Management, Litigation – Labor and Employment)

Gary L. Howard (Insurance Law)

David G. Hymer (Bet-the-Company Litigation, Commercial Litigation)

Matthew H. Lembke (Appellate Practice, Bet-the-Company Litigation, Commercial Litigation, Litigation – Environmental, Water Law)

T. Matthew Miller (Employment Law – Management, Labor Law – Management, Litigation – Labor and Employment)

Richard H. Monk III (Commercial Litigation, Insurance Law, Litigation – Environmental, Personal Injury Litigation – Defendants)

Michael R. Pennington (Bet-the-Company Litigation, Commercial Litigation, Insurance Law, Litigation – Banking

and Finance, Litigation – Insurance, Litigation – Securities, Mass Tort Litigation / Class Actions – Defendants)

Brian Alexander Wahl (Commercial Litigation, Product Liability Litigation – Defendants)

Michael F. Walker (Commercial Litigation)

Huntsville

H. Harold Stephens was named Personal Injury Litigation – Defendants "Lawyer of the Year." He also is listed for Arbitration, Commercial Litigation, Mediation, and Medical Malpractice Law – Defendants.

Timothy Peter Cummins (Commercial Litigation)

Daniel Kaufmann (Litigation – First Amendment, Litigation – Health Care, Medical Malpractice Law – Defendants, Personal Injury Litigation – Defendants)

Scott Burnett Smith (Appellate Practice, Bet-the-Company Litigation, Commercial Litigation)

Montgomery

Charles Stewart was named Bet-the-Company Litigation "Lawyer of the Year." He also is listed for Commercial Litigation, Employment Law – Management, Labor Law – Management, Litigation – Labor and Employment, and Product Liability Litigation – Defendants.

George R. Parker (Commercial Litigation, Litigation – Insurance, Product Liability Litigation – Defendants)

Christian & Small LLP is pleased to make the following announcements:

- Chambers USA 2019 has again recognized Managing Partner **Deborah Alley Smith** for Appellate Litigation (Band 1) in Alabama, and Partner **Richard E. Smith** was once again identified as a "Recognized Practitioner" for Healthcare, a practice area for which Chambers USA rankings are available for only the third year in Alabama. The firm as a whole was recognized for its General Commercial Litigation (Band 4) and Bankruptcy/Restructuring (Band 3) practice areas.
- **Christina May Bolin**, lead partner in the firm's Mobile/Baldwin County office, has been elected President of the Alabama Defense Lawyers Association (ADLA) at the organization's Annual Meeting in Sandestin Beach, Florida. Bolin's firm merged with Christian & Small a little over a year ago, and she became the lead partner for the firm's Baldwin County office. In that time she has represented the firm in many civil defense cases as well as continued to serve on ADLA's board as President-Elect.
- ADLA Member and Past President **Sharon D. Stuart** was recently elected President of Attorneys Insurance Mutual of the South (AIM).

- Partner **Sharon D. Stuart** was recognized in the 2020 edition of The Best Lawyers in America as “Lawyer of the Year” in the Litigation – Insurance practice area.
- The firm is also pleased to announce that 17 partners have been included in the 2020 edition of The Best Lawyers in America. ADLA Members include: **LaBella Alvis** (Civil Rights Law; Personal Injury Litigation – Defendants; Product Liability Litigation – Defendants; Professional Malpractice Law – Defendants), **James B. Carlson** (Commercial Litigation; Personal Injury Litigation – Defendants; Product Liability Litigation – Defendants), **Edgar M. Elliott IV** (Insurance Law; Mass Tort Litigation/Class Actions – Defendants; Personal Injury Litigation – Defendants; Transportation Law), **John W. Johnson II** (Insurance Law; Litigation – Insurance), Jonathan W. Macklem (Litigation – Labor and Employment); **Greer B. Mallette** (Construction Law; Litigation – Construction; Litigation – Real Estate), **Deborah Alley Smith** (Appellate Practice; Commercial Litigation; Insurance Law; Litigation – Insurance), **Richard E. Smith** (Arbitration; Commercial Litigation; Litigation – Banking and Finance; Litigation – Construction), **Sharon D. Stuart** (Appellate Practice; Commercial Litigation, Insurance Law, Litigation – Insurance; Litigation – Labor and Employment; Litigation – Securities; Mass Tort Litigation/Class Actions – Defendants; Product Liability Litigation – Defendants), **Michael A. Vercher** (Litigation – Insurance; Litigation – Land Use and Zoning; Mass Tort Litigation/Class Actions – Defendants; Personal Injury Litigation – Defendants), **David B. Walston** (Employment Law – Management; Litigation – Labor and Employment), and **J. Paul Zimmerman** (Electronic Discovery and Information Management Law).
- ADLA Member, Journal Editor and Of Counsel Attorney **Gaby E. Reeves**, of the firm’s Baldwin County office, was appointed to the Fee Dispute/Law Firm Dissolution Committee of the Mobile Bar Association.
- Partner **Sharon D. Stuart** was named by the Birmingham Business Journal as one of its 2019 “Best of the Bar” honorees, which “recognizes attorneys who have distinguished themselves in their fields or specific practice areas and are shaping the local economy.”
- The firm is pleased to announce that seven partners were recognized by Birmingham Magazine in its 2019 “Top Attorneys” issue,” among them ADLA Members **Jonathan M. Hooks, Rachel J. Moore, James L. Pattillo, Deborah Alley Smith,** and **Sharon D. Stuart.**
- The firm is also pleased to announce that five of its partners and ADLA Members were recognized by B-Metro in its

2019 “Top Flight Attorneys” issue: **LaBella S. Alvis, Jonathan W. Macklem, Deborah Alley Smith, Sharon D. Stuart** and **Michael A. Vercher.** Additionally, Christian & Small Partner and Founder **Thomas W. Christian** (who sadly passed away just a few days prior to the magazine’s publication) was posthumously recognized in a special “Hall of Fame” section as one of “the region’s more noteworthy attorneys.”

- Partners **LaBella S. Alvis** and **Sharon D. Stuart** and Managing Partner **Deborah Alley Smith** were once again recognized by *B-Metro* in its 2019 “Top Women Attorneys” issue. This is the fifth consecutive year that these three lawyers have received this recognition.
- **Jordan C. Loper** has been selected to be a member of the Birmingham Bar Association’s 2019 class of the Future Leaders Forum. The BBA Future Leaders Forum aims to cultivate leaders from among a group of motivated attorneys who have been in practice for three to eight years.

Clark May Price is pleased to announce relocation of its offices to 3070 Green Valley Road, P.O. Box 43408, Birmingham, Alabama 35243. The firm’s new telephone number is 205-267-6601.

Fish Nelson & Holden LLC announces that **Louis Steven Bode, V** joined the firm as an associate.

Stacy Moon has joined Gordon Rees Scully Mansukhani as senior counsel in the firm’s commercial litigation, employment law, and construction law practice group in the Birmingham, Alabama office.

Huie Fernambucq & Stewart LLP is pleased to make the following announcements:

- We are pleased to welcome **Kimberly Jones** to Huie as an associate attorney. Jones, a lateral hire with previous defense litigation experience, joins the firm’s insurance defense, fraud/bad faith, employment litigation and product liability practice groups.
- Partners **De Martenson** and **Allen Sydnor** were unveiled as winners of the Birmingham Business Journal’s Best of the Bar Awards. De was recognized for his expertise and contributions in the Product Liability/Automotive Litigation practice area. Allen was recognized for his expertise and contributions in the Medical Device Litigation practice area.
- Chambers USA 2019 guide recognized **Alan Thomas** in the top-ranked attorney listing for Litigation: General Commercial.

- **Jennifer Egbe, Jennifer “JD” Segers and Jim Shaw** recently received Top Flight recognition from B-Metro in the 2019 top attorney listing. Jennifer specializes in the areas of automotive product liability, medical malpractice and employment litigation defense. JD focuses her practice on medical malpractice, dental malpractice, insurance litigation, long term care and nursing home liability, pharmaceutical liability, professional liability and professional license defense. Jim defends clients in the areas of heavy equipment litigation, trucking litigation, insurance coverage litigation and bad faith agency professional liability litigation.
- **Daniel Fortune** was named Chair of the Birmingham Bar Association Federal Practice Section for 2019.
- Huie Partner **Tom Bazemore** was listed in the Birmingham-based About Town Magazine “Best of 2019” Best Lawyers category.
- **Daniel Fortune** was appointed by judges to participate in the CJA panel established in the Northern District of Alabama as part of the plan for representation of indigent defendants under the Criminal Justice Act of 1964.
- Multiple Huie attorneys received honors in The Best Lawyers in America© 2020 listing. In total, 10 Huie attorneys achieved 23 placements across 9 practice areas. Best Lawyers™ is the oldest peer-review publication in the legal profession and each year they recognize individual attorneys in designated metropolitan areas for excellence in specific practice areas.

This year, two Huie attorneys received honors in new Best Lawyers practice areas. **Gordon Sproule** was recognized for excellence in the Litigation – Health Care listing. Additionally, **Jennifer Segers** was listed in the Medical Malpractice Law – Defendants category.

Huie attorneys selected by their peers for inclusion include the following:

Tom Bazemore

- Insurance Law
- Litigation – Insurance
- Personal Injury Litigation - Defendants
- Product Liability Litigation – Defendants

G. Jimmy Brady

- Insurance Law
- Litigation – Insurance

Bob Girardeau

- Litigation – Real Estate
- Professional Malpractice Law – Defendants

De Martenson

- Personal Injury Litigation – Defendants
- Product Liability Litigation – Defendants
- Professional Malpractice Law – Defendants

Gregory L. Schuck

- Product Liability Litigation – Defendants

Jennifer Devereaux Segers

- Insurance Law
- Litigation – Insurance
- Medical Malpractice Law - Defendants

Jim Shaw

- Personal Injury Litigation – Defendants
- Professional Malpractice Law – Defendants
- Transportation Law

Robert Gordon Sproule, Jr.

- Litigation – Health Care
- Product Liability Litigation – Defendants

J. Allen Sydnor

- Medical Malpractice Law – Defendants

D. Alan Thomas

- Personal Injury Litigation – Defendants
- Product Liability Litigation – Defendants

Lightfoot Franklin & White LLC is pleased to make the following announcements:

- Three Lightfoot, Franklin & White LLC attorneys have been named “Lawyers of the Year” for Birmingham in the 2020 edition of *The Best Lawyers in America*® published by Woodward/White, Inc. The guide also included 24 of the firm’s lawyers in this year’s list.

Those named “Lawyers of the Year” received the highest overall peer feedback in the listed practice area and geographic region. Only one attorney is recognized as the “Lawyer of the Year” for each specialty and location. The Lightfoot attorneys named are:

Jack Sharman: Corporate Governance Law “Lawyer of the Year”

John M. (Johnny) Johnson: Litigation - Environmental “Lawyer of the Year”

Sara Anne Ford: Litigation - Mergers and Acquisitions “Lawyer of the Year”

The 24 Lightfoot lawyers listed in *The Best Lawyers in America* 2020 are:

J. Chandler Bailey

- Personal Injury Litigation - Defendants
- Product Liability Litigation - Defendants

Michael L. Bell

- Medical Malpractice Law - Defendants
- Personal Injury Litigation - Defendants
- Product Liability Litigation - Defendants

William H. Brooks

- Appellate Practice
- Product Liability Litigation - Defendants

Kevin E. Clark

- Mass Tort Litigation / Class Actions - Defendants

Melody Eagan

- Product Liability Litigation - Defendants

Brandon K. Essig

- Criminal Defense: White-Collar

Sara Anne Ford

- Commercial Litigation
- Litigation - Banking and Finance
- Litigation - Environmental
- Litigation - Mergers and Acquisitions
- Litigation - Real Estate
- Litigation - Securities

Samuel H. Franklin

- Bet-the-Company Litigation
- Commercial Litigation
- Litigation - Antitrust
- Litigation - Banking and Finance
- Litigation - Mergers and Acquisitions
- Litigation - Securities
- Personal Injury Litigation - Defendants
- Product Liability Litigation - Defendants

Lee M. Hollis

- Commercial Litigation
- Personal Injury Litigation - Defendants
- Product Liability Litigation - Defendants

Sanford G. (Sandy) Hooper

- Product Liability Litigation - Defendants

John M. (Johnny) Johnson

- Bet-the-Company Litigation
- Commercial Litigation
- Litigation - Environmental
- Mass Tort Litigation / Class Actions - Defendants
- Personal Injury Litigation - Defendants

M. Christian King

- Appellate Practice
- Bet-the-Company Litigation
- Commercial Litigation
- Litigation - Environmental
- Litigation - Securities

Rachel M. Lary

- Commercial Litigation

Terrence W. (Terry) McCarthy

- Appellate Practice
- Litigation - Insurance

William H. Morrow

- Personal Injury Litigation - Defendants
- Product Liability Litigation - Defendants

Lana A. Olson

- Litigation - Environmental

Adam K. Peck

- Litigation - Environmental
- Personal Injury Litigation - Defendants
- Product Liability Litigation - Defendants

J. Bradley Powell

- Product Liability Litigation - Defendants

Harlan I. Prater, IV

- Litigation - Environmental
- Personal Injury Litigation - Defendants

J. Banks Sewell, III

- Aviation Law
- Product Liability Litigation - Defendants

Robert J. (Jay) Sewell

- Corporate Compliance Law

Jack Sharman

- Corporate Compliance Law
- Corporate Governance Law
- Criminal Defense: White-Collar
- Electronic Discovery and Information Management Law

John G. (JT) Thompson, Jr.

- First Amendment Law

- Lightfoot, Franklin & White LLC received notable recognition in the Chambers USA 2019 guide. It was once again named a "Band 1" commercial litigation firm in the state of Alabama. This is the highest ranking given by the prestigious, independent referral directory for the legal industry. The firm's environmental litigation practice also ranked as "Band 2" for Alabama.

The newest edition of Chambers USA also recognizes five individual Lightfoot lawyers:

Sam Franklin (Litigation: General Commercial)

Johnny Johnson (Environment)

Chris King (Litigation: Appellate; Litigation: General Commercial)

Adam Peck (Litigation: General Commercial)

Harlan Prater (Litigation: General Commercial)

Franklin and **Prater** are two of only five attorneys in all of Alabama named by Chambers this year to Band 1 for general commercial litigation. **King** is among only six attorneys in the state ranked Band 1 for appellate litigation.

Miller, Christie & Kinney, PC is pleased to announce that **Garrett C. Miller** has been made a partner with the firm.

Porterfield, Harper, Mills, Motlow & Ireland, P.A. is pleased to announce that **M. Jeremy Dotson** has become a shareholder in the firm.

In June, **Craig A. Alexander** of Rumberger Kirk & Caldwell gave a presentation on “Civil Procedures - The Basics” during the Pre-Law Undergraduate Scholars (“PLUS”) Program at the University of Alabama School of Law. Thirty undergraduate students at various colleges and universities participated in the four-week long PLUS program.

Rushton, Stakely, Johnston & Garrett, P.A. is pleased to announce that **Amanda C. Hines** and **Philip A. Sellers, II** have been made shareholders in the firm effective January 1, 2019.

Amanda Hines joined the firm in 2012. She has significant experience in virtually all areas of civil law, with her primary focus on healthcare and medical liability, professional liability, labor and employment law, and general civil defense litigation.

message from the women in the law

continued from page 32

skills. The presentations will also explore challenges, risks and rewards on the path to having a fulfilling and productive career for women lawyers.

Philanthropy & Networking

The Women in the Law section is proud to announce that it has chosen human trafficking as its primary philanthropy. Please see the official announcement prepared by Rachelle Sanchez, Vice-Chair of the WITL Philanthropy Committee in the *Journal* for details.

Here are a few other upcoming opportunities for you to support WITL's philanthropic efforts:

- **BackPack Buddies:**
Wednesday, October 9th
5:00 p.m. – 6:30 p.m.
Bradley's Birmingham Office

Join ADLA's Women in the Law for a night of wine, conversation, and packing bags for the BackPack Buddies program on October 9th at Bradley Arant Boult & Cummings LLP in downtown Birmingham. This is a free event, but please register in advance. Watch for updates in the *Wednesday Briefcase*.

- **Light the Night:**
Thursday, November 7th
7:00 p.m.
Railroad Park, Birmingham

Phillip Sellers joined the firm in 2012 as well. His practice is devoted to civil litigation with a primary focus on medical malpractice, insurance defense, professional liability, and employment law.

Sirote & Permutt, P.C., is pleased to welcome **J.S. “Chris” Christie, Jr.** to the Birmingham office. Chris joins the firm's Litigation Practice Group.

Starnes Davis Florie is pleased to announce that **Jay Ezelle** has been chosen as the firm's new Managing Partner. Mr. Ezelle will be responsible for managing the operations of the firm's expanding regional footprint. 

Join our team! ADLA's Women in the Law are teaming up for the Leukemia & Lymphoma Society's (LLS) Light the Night walk, which raises funds in support of LLS. All ADLA members are welcome to sign up.

I hope you are as excited as I am to help ADLA's Women in the Law section succeed. We are off to a great start! We still need each and every one of you – men, too – to consider how you can support the section going forward. If you have an idea or want to volunteer in some way, please reach out to me. If you do not have someone from your firm already participating on our leadership team, reach out and we will find an opportunity for them to contribute in a way that is not overly burdensome or time-consuming.

This process works because each person on our leadership team is working in an area in which they are passionate and gifted. The collective result is efficient and impressive. I am grateful for such a strong team of leaders and their efforts, though not at all surprised by their WITL accomplishments this year. Feel free to reach out to any of us with your ideas and interests.

Together, ADLA's WITL section will be a powerful force for positive development within the legal profession in our state. Make the connection. Join us, won't you? 



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CRAIG A. ALEXANDER
Chair

Greetings from the ADLA *Amicus Curiae* Committee. The committee has approved two requests for amicus briefs in the last several months.

In *Taylor v. Hughes*, 920 F.3d 729 11th Cir. 2019), a three judge panel of the Eleventh Circuit reversed a grant of summary judgment by Judge Keith Starrett of the Middle District of Alabama.

The case involved a claim of deliberate indifference by Covington County jail guards to the serious medical needs of a detainee - plaintiff's decedent - and that this indifference lead to the decedent's death. One aspect of the 11th Circuit panel's opinion addressed the defense of state-agent immunity under Alabama law, and stated that this immunity provides no protection against a claim of a violation of a constitutional right.

The defendant jail guards filed a petition for rehearing *en banc*, and sought the ADLA's support for their argument that the panel's interpretation of Alabama law on state-agent immunity was incorrect.

ADLA member James H. Pike prepared and filed the ADLA's motion for leave to file an amicus brief in support of the petition for rehearing *en banc*, along with the proposed amicus brief. By an order entered on June 20, 2019, however, ADLA's motion for leave was denied, along with a similar motion jointly filed by the Alabama Association of Chiefs of Police, the Alabama Peace Officers' Association, and the Southern States Police Benevolent Association. Subsequently, by an order entered on August 5, 2019, the 11th Circuit panel denied the petition for rehearing *en banc*.

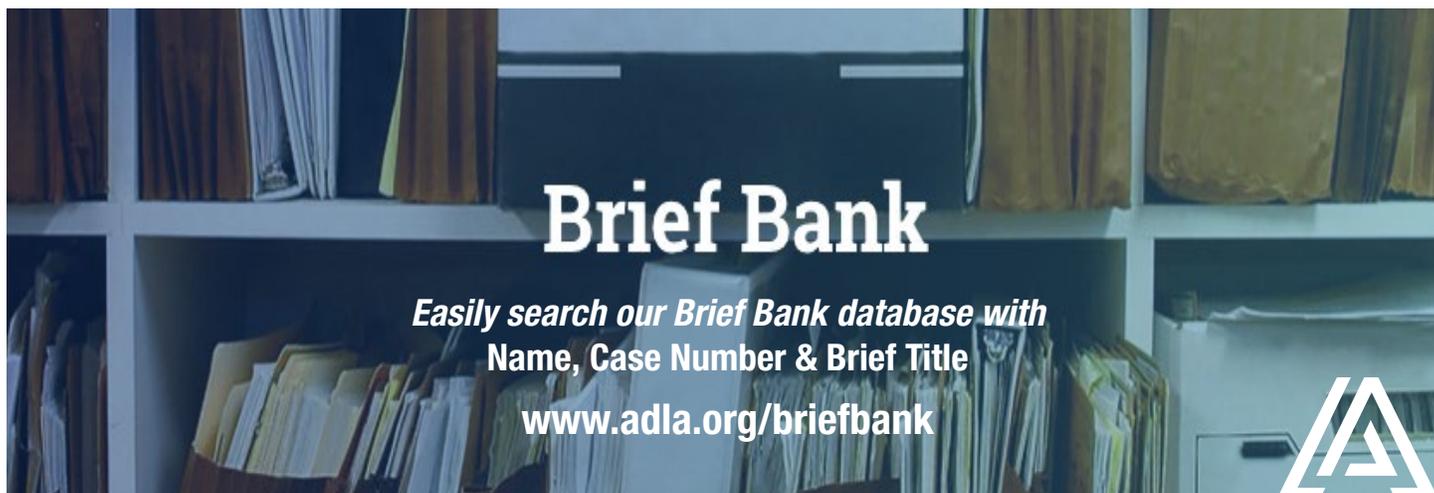
In *Tenax SPA v. Dees*, a Conecuh County jury awarded Mr.

Dees, the plaintiff, compensatory damages of \$649,363.82 and punitive damages of \$125,00 on a claim of wantonness against Tenax SPA, the manufacturer of an industrial machine referred to as a Ram 4. The evidence at trial indicated that contrary to safety training that Mr. Dees had received at work, he inserted his hand behind a safety guard and his hand was caught by the mechanical rollers of the Ram 4. Mr. Dees dismissed his claims of negligence and wantonness prior to the trial, and traveled solely on a claim of wantonness. Tenax SPA's post-judgment motion for judgment as a matter of law was denied.

Tenax SPA is represented in part by ADLA member Bruce Barze. Tenax SPA sought the ADLA's support for its argument that the evidence adduced at trial was legally insufficient to establish wantonness and to advocate for the importance of maintaining the clear line, under established Alabama law, between a claim of negligence and a claim of wantonness.

As of the date of the submission of this report for inclusion in the ADLA Journal, the record on appeal has not yet been prepared and the time for filing appellant's principal brief, as well as any amicus brief in support of the appeal, has not yet arrived.

The current policies and procedures for submitting a request for an ADLA amicus brief in an appeal are set forth below, but please feel free to contact committee chair Craig Alexander if you have any questions about the process of submitting a request for an amicus brief. We continue to look forward to the opportunity for the Association to "weigh in" when an appeal involves significantly important issues to the defense bar or to the fair administration of justice. Also, please remember that as part of a renewed and invigorated effort of the leadership of the ADLA to serve its members, recent *amicus curiae* briefs have been made available for download on the ADLA's website. 



Brief Bank

*Easily search our Brief Bank database with
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I. STATEMENT OF ADLA'S GENERAL POLICY

It is the policy of the Alabama Defense Lawyers Association that it should authorize the filing of *amicus curiae* briefs sparingly and only in appropriate cases. In deciding whether a specific case is appropriate, these primary factors will be considered:

1. Whether an *amicus curiae* brief is reasonably likely to make a significant contribution to the determination of the issue(s) to be addressed;
2. Whether the issue(s) will be of particular significance to the interests of the defense trial bar or of particular significance to the fair administration of justice;
3. Whether the case is on appeal before the highest appellate court where the issue is likely to be determined; and
4. Whether the determinative issue(s) in the case will be legal, instead of factual.

The ADLA ordinarily will not join in *amicus curiae* briefs with other organizations except local defense associations. Authorized *amicus curiae* briefs generally should be filed only in ADLA's name.

II. SUBMISSION OF REQUESTS FOR AMICUS CURIAE BRIEFS

A request by an ADLA member for an *amicus curiae* brief should be submitted to the Chair of the *Amicus Curiae* Committee as soon as reasonably possible. The request must be submitted by letter or electronic mail. The following information and documents should be furnished with the request:

1. The name of the case and the identification of the appellate court where the case is pending;
2. The order from which the appeal has been taken;
3. A summary of the relevant facts and the procedural history of the case;
4. A statement of all the issues of law that are expected to be raised in the appeal, specifically identifying each issue for which ADLA involvement is requested;
5. The date by which an *amicus curiae* brief would be due to be filed;
6. The consent of the attorney of record for the party in support of whom ADLA involvement is being sought, and
7. A full disclosure of any personal or professional interest in the matter on the part of the ADLA's member and the member's law firm.

III. PROCESSING OF REQUESTS FOR AMICUS CURIAE BRIEFS

The Chair of the *Amicus Curiae* Committee should promptly notify the ADLA President and the Chair of the ADLA Legislative Committee of the receipt of any request for an *amicus curiae* brief, which notification should include a summary of the issue(s) presented in the appeal. Any comments about the request by the President and the Chair of the Legislative Committee will be given to the Chair of the *Amicus Curiae* Committee, to be shared by the Chair with the members of the committee.

Once the *Amicus Curiae* Committee has considered and has voted on the request, the committee chair will notify the ADLA President of the result of the vote and will provide a summary of the committee's analysis of the request.

The ADLA President has the authority to overrule a vote by the *Amicus Curiae* Committee in favor of filing an *amicus curiae* brief. The ADLA President does not have the authority to overrule a decision by the committee to decline a request for an *amicus curiae* brief.

IV. REQUESTS FOR AMICUS CURIAE BRIEFS IN CASES IN WHICH AN ADLA MEMBER IS COUNSEL FOR AN ADVERSE PARTY

Whenever a request is made for an *amicus curiae* brief by the ADLA in a case in which an ADLA member is counsel for an adverse party:

1. The request will be considered solely on the basis of the issue presented, and membership in ADLA by a lawyer whose client's interests are adverse will not be considered by the *Amicus Curiae* Committee in determining whether an *amicus curiae* brief should be submitted;
2. The request submitted to the *Amicus Curiae* Committee (including all attachments) the specifics of the Committee's deliberation process, the votes of the individual Committee members, and the name of the ADLA member who will prepare the brief shall be confidential (with the understanding that the name of the attorney writing the brief will be disclosed when the brief is filed); and
3. The *Amicus Curiae* Committee will not solicit and will not accept any comment or other input from any such ADLA member as part of its deliberation on the request for an *amicus curiae* brief.

V. APPEARANCES

Every ADLA *amicus curiae* brief, and every other court filing in an appeal in which ADLA is participating as an *amicus curiae*, shall identify as counsel for ADLA the author of the brief, the President of ADLA, and the Chair of the *Amicus Curiae* Committee.

VI. FEES AND COSTS

On approval of the Chair of the *Amicus Curiae* Committee, ADLA will pay a fee of up to \$3,000 for the preparation of an *amicus curiae* brief. ADLA also will reimburse reasonable copying and binding costs associated with the brief.

No ADLA member who prepares an *amicus curiae* brief may accept any fee or other payment from any party for the preparation of the brief. ADLA will not accept payment from any source to reimburse the expenses associated with participating in the appeal as an *amicus curiae*.

Adopted unanimously by email poll of the Board of Directors dated: January 9, 2019

LAW STUDENT AT THOMAS GOODE JONES SCHOOL OF LAW RECIPIENT OF ADLA DIVERSITY AWARD

In May, Dennis Bailey, ADLA Past President, presented Hayes Ellett with the 2019 Diversity Award and \$3,000 for his outstanding service and commitment to the law school student section. Hayes served as the 2018-2019 ADLA Student Section President at Jones School of Law.



ADLA Past President, Dennis Bailey, and Hayes Ellett

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Professional Qualifications: Diplomate of the American Board of Toxicology and EU Registered Toxicologist



Contact Information

Toll Free: 866-526-6774

Mobile: 815-955-5838

Email:

norristoxicl@earthlink.net

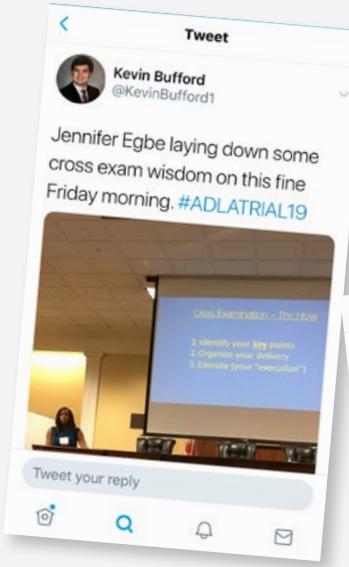


Let's Connect!

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 Alabama Defense Lawyers Association

 ADLA Women in the Law
adla_women



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On ADLA Members the Record

Nobody tells your story better than you do. Our new **ADLA Members On the Record** feature in the *Journal* will spotlight several members in each issue. ADLA members will give us the inside scoop on what makes them tick, their success (and challenges), and what being a member means to them. Chances are you just might learn something about a member that you would have never known.

Kevin W.R. Bufford
Samford & Denson, LLP | Opelika, AL

Where did you grow up and what college did you attend?

I grew up in Auburn, Alabama and stayed close for college, attending Auburn University after I graduated High School.

Most memorable moment on the job?

In my very first bench trial, the adverse party's first name was Bridget, and part of the fact scenario involved her stating that she was on certain property to tell her ex she was pregnant. I had just seen a commercial for the movie "Bridget Jones's Baby" the week before, and I was so nervous that I called the adverse party Bridget Jones most of the trial. In closing, I even declared that this case was about "x" not Bridget Jones's Baby. It was at that point that the Judge could no longer contain himself and most everyone else who had been attempting to suppress their mirth joined in the laughter. It was only at that point that I realized what I had done. Fortunately, this did not preclude me from getting a favorable verdict in the end as I had properly identified her earlier in the trial, but needless to say, it was definitely a memorable moment!

MY BLOOD RUNS AUBURN
ORANGE AND BLUE
EVERY DAY OF THE WEEK.
ESPECIALLY FOOTBALL
SATURDAYS. WAR EAGLE!

Unusual job perk?

My boss and I will sometimes hunt in the mornings before work during deer season, and a lot of times, he'll let me take some files to the lake in the afternoon during the summer to work from the dock. Also, the windows in my office are massive. I wouldn't trade that



Caving in Mallorca, the Balearic Islands, Spain

vitamin D intake for all the fringe benefits in the world.

What is the furthest you have traveled for work?

Charlotte, North Carolina.

What is the most rewarding aspect of your career?

Learning the ropes of medical malpractice defense from great mentors has been both rewarding and humbling. Med mal defense practice has been an ambition of mine since the first day I decided to pursue a career in law. Sometimes, it is hard to believe I have been fortunate enough to see that ambition come to fruition.

Most frustrating?

The most frustrating thing I have encountered so far is the nuisance value settlement. I have encountered a few car wreck cases that were very defensible, but it was more economical for the insurance company to offer an exceptionally modest settlement than it was for them to pay a lawyer to defend the suit through trial. This is especially frustrating where the venue is favorable.

What is your best advice to young lawyers? Two things:

1. Do not allow more experienced opposing counsel to strong-arm you, especially in depositions. Conduct yourself assertively, remain composed, and trust your own knowledge and judgment no matter how aggressive they might become as you refuse to be bullied.
2. Seize every opportunity to be around more experienced lawyers in a practice setting and be attentive during every such instance, as there is always something to be learned from the participants. Adopt a humble approach and your takeaway will increase.

What was your biggest lesson learned when you started to practice that you didn't already know?

My first big lesson was that the value of a motion for summary judgment is not always in the "win or lose" at the hearing but in the pressure it places on the plaintiff to settle prior to the hearing. I did not fully understand the full scope of purpose of that chess move when I entered practice.

Why are you a member of ADLA?

I was attracted to the events and CLE opportunities offered. I hoped they would afford me the opportunity to spend time with other defense lawyers from whom I might learn more about the

practice and with whom I might develop relationships. So far, it has been a great experience.

If you had to choose a different profession, what do you think you would want to do?

If I had not gone to law school I would have gone into healthcare. The reason for that is ever since I was young, I wanted to pursue a career that allowed me to take on others' problems and help them navigate their way through those problems. In this way, I see career as a defense lawyer and a healthcare professional as quite similar in nature.

Who was/is your role model/mentor in the profession?

There are too many mentors to count! I am supremely fortunate to find myself at a firm where most every older lawyer here is willing and able to help. To pick one, though, Joshua Jackson, at Samford & Denson, LLP is the lawyer who has shaped me the most. I attempt to emulate Josh in every aspect of my daily practice of law.

Who do you pull for on football Saturday's?

My blood runs Auburn Orange and Blue every day of the week. Especially football Saturdays. War Eagle!

What do you like to do in your spare time when you are not focused on work?

I am a big fan of adventure sports: rock climbing, scuba diving, mountain biking, white water paddling, kneeboarding, wakeboarding, slalom ski, snow ski, you name it. When I am not chasing gopro footage in one of those endeavors I love to hunt, travel, and read national geographic.

What is the last book you read?

Sapiens: A brief History of Humankind by Yuval Noah Harari. Anthropology has long been an object of my leisure time.

Favorite movie?

Tropic Thunder.

Biggest Pet Peeves?

Placement of shoe soles on any type of furniture, especially beds.

I am *supremely fortunate* to find myself at a firm where most every older lawyer here is willing and able to help. To pick one, though, **JOSHUA JACKSON**, at Samford & Denson, LLP is the lawyer who has *shaped me the most*. I attempt to emulate Josh in every aspect of my daily practice of law.



2016 National Negotiation competition in San Diego, CA during law school. This photo depicts me, my negotiation partner, Rachel Cobble, and our coach, Brian Turner. Rachel and Brian were great mentors for me for toward the end of law school and during my transition into practice.

with my transition from law student to young lawyer has been abundant. Moreover, no matter how long the day or how stressed he might be, I have yet to encounter an instance in which he was not willing to lend me his ear if I needed it. Whether a quick chat at the coffee counter or a couple of cold ones at the end of the day, he is unfailingly a mentor.

Is there anything you want us to know about your family?

My father, though a farmer by blood, is a family physician who practices with his best friend from medical school along a few mid-level providers at Auburn Family Medicine in Auburn, Alabama. My mother is from Paris, France, and she is the reason my dad is a doc now and not a farmer. Greatest parents a guy could ask for. My lovely sister is a nurse at UAB. Ask me again in a few years and hopefully, I'll be able to tell you about my wife and kids!



Kevin pictured with his parents, Keith & Valerie, and sister, Kelly Bufford.

Favorite concert you've attended?

21 Pilots or Fleetwood Mac. Hard call.

What is one of your most embarrassing moments?

Hmm, have I told you about my most memorable moment? If you caught that episode, you caught my most embarrassing one as well!

If you could choose one ADLA member who has had a special impact on you, please tell us who and what you want us to know.

Sorry to wear out his name, but Joshua Jackson, without a doubt. I can't even begin to describe how much of an inspiration he has been to me. An exacting boss, his demands and expectations are ever measured, and his patience



Meade on the steps of the Supreme Court the day she was sworn in.

C. Meade Hartfield
Bradley | Birmingham, AL

Where did you grow up and what college did you attend?

I am originally from Jackson, Mississippi. I attended Mississippi State University, where I obtained degrees in business, Spanish, and economics. My law degree is from the University of Mississippi.

Most memorable moment on the job?

Winning at my first summary judgment hearing; cross-examining my first live witness at trial; landing my first client; transitioning law firms; and making partner – each of these holds a special place in my memory and inspiration bank.

Unusual job perk?

I love the business management aspect of the legal practice. As a lawyer, you are basically running a small (or large) business within a larger business. The firm provides you with certain resources to succeed, but ultimately, it is your personal business plan and management thereof that has the greatest impact your success.

What is the furthest you have traveled for work?

This past summer, I flew to Paris to speak on a diversity panel at the Defense Research Institute's International Law Seminar. I also have several clients based in Orange County, California. I consider both places among my favorite places to travel.

What is the most rewarding aspect of your career?

Delivering exceptional service and results to clients. I also enjoy managing teams of people to achieve those results, specifical-

I love the business management aspect of the legal practice. As a lawyer, you are basically running a small (or large) business within a larger business. The firm provides you with certain resources to succeed, but ultimately, it is your personal business plan and management thereof that has the greatest impact your success.

ly in a way that brings out the best in each individual team member.

Most frustrating?

Finding a true work-life balance is hard.

What is your best advice to young lawyers? Two things:

1. Find a legal organization or an affinity group that you can join early. Get involved. Meet people. Network. Keep up with them. You will benefit both with referrals and friendships.
2. Find what brings you joy in the profession. Do not fear change, whether that be a change of law firms, practice areas, or geography. Be flexible. Think big. Then watch your practice grow in ways you only imagined.

What was your biggest lesson learned when you started to practice that you didn't already know?

The legal profession has an element of conformism to it. You may choose to embrace that, or reject it entirely. Under either scenario, you can succeed. But only one way will make you happy. Choose the path that is right for you.



Place de Vosges, from my recent trip to Paris

Why are you a member of ADLA?

Even though my practice is more national, I have always felt it is important to engage locally where possible. When I graduated law school, ADLA was the go-to organization for state wide involvement on the defense side of the "v." I have kept my membership and ever increased my involvement as leadership opportunities presented themselves.

If you had to choose a different profession, what do you think you would want to do?

Besides selling jewelry at the beach? I'd probably be an entrepreneur. I have always enjoyed taking an idea and making it a reality.

Who was/is your role model/mentor in the profession?

Several individuals have been in-

strumental and influential in my career, and I would love to name them all. At the top of my list is Carter Thompson (Baker Donelson, Jackson, Mississippi), with whom I worked for several years. I greatly respect and appreciate the man.

Who do you pull for on football Saturday's?

My Mississippi State Bulldogs! Hail State!

What do you like to do in your spare time when you are not focused on work?

I travel quite a bit. I sing in my church's band.

What is the last book you read?

The Matriarch: Barbara Bush and the Making of an American Dynasty, by Susan Page, followed shortly thereafter by Michelle Obama's Becoming.

Favorite movie?



Meade pictured with her mother, Sherry Pierce Hartfield and sister, Cora Beth Hartfield.



Soon after Meade's mother's cancer diagnosis; Cora Beth Hartfield, Sherrrie Pierce Hartfield and Meade.

"Legally Blonde," of course.

Biggest Pet Peeves?

Elitism; reluctance to change; the billable hour. I think the legal profession as a whole is starting to agree.

Favorite concert you've attended?

Too many to list! A few of my favorites: Sloss Fest 2017;

Rod Stuart 2017; Yanni 2015; Widespread Panic 2014 at Red Rocks; Elton John 2014; Hangout Fest 2010, 2011; My Morning Jacket at the Alabama Theatre 2010; B.B. King and Buddy Guy at the Ryman 2009; Tina Turner and Joe Cocker 2000

What is one of your most embarrassing moments?

When I was a young associate at my first jury trial, I showed up carrying a tailored black crocodile purse. The partner on the file immediately grabbed the paralegal and told her to find a box, a room, any place to put that purse. While I thought the purse would reflect a well put together

look, which it did, the partner was focused on the old rule of never looking too put together, or else you risk looking like the "big shot" defense lawyers to the jury. He was a good sport about it, and we laughed about it for years. Lesson learned!

If you could choose one ADLA member who has had a special impact on you, please tell us who and what you want us to know.

Sharon Stuart (Christian & Small, LLC) is one of the kindest, quickest, most genuine individuals I know. The Birmingham legal community is lucky to have her. I am proud of her accomplishments within ADLA's leadership and DRI's Women in the Law Committee. She is a wonderful human being who brings talent and enthusiasm to everything she does.

Is there anything you want us to know about your family?

I lost my mother, Sherry Pierce Hartfield, to inflammatory breast cancer in August 2017, five and a half years after her diagnosis. I am very thankful to those in the legal community that supported me emotionally and professionally during that very hard season of life. She was a jewel of a person, and I carry her lessons and legacy in the way I strive to live each day to the fullest of its potential.

Jordan Jenkins
Hill Hill Carter Franco Cole & Black, PC
Montgomery, AL

Where did you grow up and what college did you attend?

I grew up in Montgomery. I attended the University of Alabama at Birmingham and Faulkner Law.

Most memorable moment on the job?

My most memorable moment on the job was my first summary judgment win. I will never grow tired of calling a client to share good news!



Devin & Jordan visiting the Cliffs of Moher in Ireland



Devin, Jordan, Georgia & Maple

Unusual job perk?

I love traveling around our beautiful state! I especially enjoy seeing how courthouse designs differ from county to county.

What is the furthest you have traveled for work?

Atlanta, Georgia

What is the most rewarding aspect of your career?

I truly enjoy talking to clients. I have had the privilege of hearing inspiring, horrifying, interesting, unbelievable and hilarious stories from people I might have never encountered had I not chosen to practice law.

Most frustrating?

When a client or opposing counsel will not return my phone call.

What is your best advice to young lawyers? Two things:

I have been practicing law for only six years, so I still consider myself a young lawyer. However, I believe heeding the following advice has given me a sense of fulfillment in my career:

1. Be a "yes" woman (or man)! When someone asks for your help, help. If an opportunity to contribute in a trial, hearing, mediation, or meeting presents itself, contribute. Should you be asked to draft a motion, letter or brief, start writing. The only way to learn is to participate.
2. Get involved! The legal profession is unique to other professions because there are countless organizations you can join. Not only is it a great way to establish meaningful relationships with your peers, it is also an easy opportunity to create positive change in your community by partaking in local service projects.

What was your biggest lesson learned when you started to practice that you didn't already know?

I would rather practice a select few areas of law that I enjoy practicing than attempt to practice several areas of law that I do not enjoy practicing.

Why are you a member of ADLA?

ADLA offers quality education that has helped make me a better



Hill, Hill, Carter's 2019 Annual Firm Retreat in Sipsey, Alabama

defense attorney. From learning expert witness examination tips at the Bibb Allen Memorial Trial Academy to how to combat the reptile therapy trial tactic at the Annual Meeting, ADLA has become an invaluable part of my continuing legal education.

If you had to choose a different profession, what do you think you would want to do?

A master sommelier.

Who was/is your role model/mentor in the profession?

The ladies of Hill, Hill Carter. I am proud to be an associate at a firm that is the only women-owned law firm in Alabama certified by the Women's Business Enterprise National Council. It is inspiring to see how the women in our firm intentionally and gracefully balance friends, family, work and community outreach. They are exemplary attorneys—kind to others without compromising their roles as zealous advocates for their clients.

*Be a "yes" woman (or man)! When someone asks for your help, **HELP**. If an opportunity to contribute in a trial, hearing, mediation, or meeting presents itself, **CONTRIBUTE**. Should you be asked to draft a motion, letter or brief, **START WRITING**. The only way to learn is to *participate*.*

Who do you pull for on football Saturday's?

UAB Blazers! On Sundays, I pull for the Los Angeles Rams!

What do you like to do in your spare time when you are not focused on work?

I enjoy spending time at the lake with my family, traveling and sweating out stress in a Pure Barre class.

What is the last book you read?

Ellie Kemper's *My Squirrel Days*



Jordan with Hill, Hill, Carter pictured with colleagues

I am proud to be an associate at a firm that is the only women-owned law firm in Alabama certified by the Women's Business Enterprise National Counsel. It is inspiring to see how the women in our firm intentionally and gracefully balance friends, family, work and community outreach.

Favorite movie?

Bridget Jones' Diary

Biggest Pet Peeves?

When a client or opposing counsel does not return my phone calls.

Favorite concert you've attended?

Britney Spears' Las Vegas Pieces of Me Residency

What is one of your most embarrassing moments?

My stomach once growled so loud during a deposition; I was shocked when it did not appear on the transcript.

If you could choose one ADLA member who has had a special impact on you, please tell us who and what you want us to know.

As a young attorney, it can be difficult to confidently decide how

to examine a witness, write a motion, negotiate a settlement or communicate with a contentious attorney. When I encounter these struggles, David Henderson always makes himself available to answer my questions and offer tactful advice. I am grateful to have a colleague who encourages me to tackle obstacles I would otherwise not have the confidence to conquer.



Jordan and her husband Devin on their wedding day

Is there anything you want us to know about your family?

My husband, Devin Jenkins, and I have been married for three years and have two dogs, Georgia and Maple. Devin is an Auburn graduate and an engineer for Alabama Department of Environmental Management.

Woody Jones

Gamble Gamble Calame & Jones LLC | Selma, AL

Where did you grow up and what college did you attend?

I grew up in Selma, Alabama. I attended undergrad at The University of Montevallo and law school at University of Alabama School of Law.

Most memorable moment on the job?

Probably my first trial. I had been practicing law about six months. Our firm was defending a grocery store in a slip and fall case in Sumter County. Bill Gamble at our firm was trying the case. Bill let me take the direct examination of our client.

I learned very quickly that Sumter County was no joke. After hours of deliberating, the jury came back with a question. The judge read the question out loud: "If we don't think the defendant did anything wrong, can we still give the plaintiff some money?"

Unusual job perk?

My office is about 2 blocks from the preschool my children attended. I made a point once a week to walk over to the preschool and take one child out to lunch. I would alternate who got to go every week. Considering practicing law is so time consuming, it is important to sit down and have a meal with your children when you can make time.

What is the furthest you have traveled for work?

I have not had to travel too far. I have had depositions in California. Most clients are comfortable with me attending depositions and

meetings via video conference rather than in person. Clients appreciate saving costs when it comes to travel time.

What is the most rewarding aspect of your career?

I enjoy getting to know people. The most rewarding aspect is the relationships I have been able to build.



Kristen deserves a trophy to wrangle these four guys!

Most frustrating?

Can we name certain plaintiff lawyers here or do they read this journal?

What is your best advice to young lawyers? Two things:

1. Kendrick Lamar said it best... Be humble. You stop learning when you think you know everything. You cannot be a good lawyer when you stop learning. Do not be too prideful to ask

other lawyers questions. Everyone has different experiences with cases. It is always good to bounce ideas off other lawyers even if they are outside your firm.

2. Build relationships. Relationships go a long way in our field.
3. Talk to other professionals like doctors and dentists and see how they make their practices successful. You want to have a successful business as well as being a good lawyer.

What was your biggest lesson learned when you started to practice that you didn't already know?

I guess I was naive. I just assumed clients always took his or her attorney's advice. I am learning that is not always the case.

Why are you a member of ADLA?

1. Networking.
2. ADLA is very helpful when it comes to receiving information on experts.
3. The online CLEs have been great.
4. I don't hate the beach trip once a year either.

If you had to choose a different profession, what do you think you would want to do?

Definitely a professional golfer or stock broker. I would love to own a vineyard/winery one day as well. Stay tuned....

Who was/is your role model/mentor in the profession?

I have three great partners who have all positively influenced me- Harry Gamble, Bill Gamble, and John Calame.

Who do you pull for on football Saturday's?

Roll Tide!

I have an *amazing wife, Kristen*, and four wonderful boys. My poor wife is *surrounded by boys*. We decidedly recently we needed a dog. We took a vote on whether we were going to get a male or female. **MY WIFE LOST THE VOTE.**

What do you like to do in your spare time when you are not focused on work?

I decided when I started practicing law that if I was going to be a good lawyer, a good husband, and a good father, I would need to hang up my hobbies for a while. In this stage of my life, I spend my



Woody & Kristen getting a break at Opus One Winery in CA

time outside of work with my family. A lot of that time is spent with my boys on baseball fields, basketball courts, and tennis courts. Of course, my wife and I like to travel when we can get away.

What is the last book you read?

Does Alabama Rules of Evidence or the latest issue of Wine Spectator count? I did just finish Ray Dalio's book, Principles. This book has good advice for business owners.

Favorite movie?

Lately, I am kind of a sucker for watching any Christmas movie with my kids.

Biggest Pet Peeves?

Misplacing something.

Favorite concert you've attended?

Foo Fighters.

What is one of your most embarrassing moments?

There are just too many. I had a deposition recently where I took about ten minutes to show the plaintiff some exhibits. I handed the plaintiff each exhibit and asked her to look at it. I paused for a few minutes to let her read each exhibit. I had a detailed map that I created to show the plaintiff. After all this, I asked my question that I just knew was going to get me summary judgment. She responded to my question after ten minutes of showing her exhibits: "I don't understand anything you showed me. I can't read."

The plaintiff lawyer, who I consider a friend, laughed throughout the rest of the deposition.

If you could choose one ADLA member who has had a special impact on you, please tell us who and what you want us to know.

Bill Gamble. Bill introduced me to ADLA. Our offices are next to each other and we work together on many cases. I could not begin to name everything he has taught me in the world of litigation. Most importantly, Bill loves the practice of law. He has so much fun practicing law. If you are not having some fun in this profession, it's not worth the stress.



Kristen, Woody, Foster, Jude & Oliver

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Is there anything you want us to know about your family?

I have an amazing wife, Kristen, and four wonderful boys. Several years ago, we received our foster care license. Soon after, we received our first placement. He was three days old and he came to our home straight from the hospital. We are now in the process of adopting him. My poor wife is surrounded by boys. We decidedly recently we needed a dog. We took a vote on whether we were going to get a male or female. My wife lost the vote.

▲ Dudley Motlow, Jr.
Porterfield Harper Mills Motlow & Ireland, PA
Birmingham, AL

Where did you grow up and what college did you attend?

I grew up on the wrong side of the tracks: 4805 13th Avenue North in East Birmingham. Actually, it was an idyllic neighborhood where most neighbors were first generation city folks. Everyone knew and cared about each other. Everyone had a front porch. No one had air conditioning or more than two channels on a small black and white T.V. The kids played outside and played together. In the summertime at dusk they caught lightening bugs and June bugs and played "hide and go seek," and "chase," and "cowboys and Indians," and "one two three red-light," among other games. You went to sleep with the windows open to the sound of crickets, tree frogs and an electric fan aimed right at your bed. Summer lasted from "May Day" until the day after Labor Day. It was wonderful! It was America in the fifties and sixties.

I hardly ever mention it (at least not more than twice a day), but the

I made a point once a week to walk over to the preschool and take one child out to lunch. I would alternate who got to go every week. Considering practicing law is so time consuming, it is important to sit down and have a meal with your children when you can make time.



Dud, Lisa and grands on Rock Mountain, Cashiers, NC 2019



These are Dud's grandchildren Finn (top left), Wilder, Liv (Bottom left), Elsa River, and Elijah

federal interstate system condemned our house and most of the neighborhood -- so we had to move in the fall of 1967. That took a lot away from me; but the damn federal government cannot ever take away my memories of the place. Those will be ever prominent in my mind when I leave this place.

Oh yeah, college: I went to Jacksonville State and UAB.

Most memorable moment on the job?

Going to New York City with Jack Berry Porterfield, Jr. in November 1983.

Unusual job perk?

Summer BBQ's and Christmas parties at Porterfield's house.

What is the furthest you have traveled for work?

Woodland, Washington – I think. A gang saw threw a "sliver" at a young man and impaled him, very close to the anatomical parts that "identify" a male as a male. Although the Plaintiff's lawyer tried to sell the likelihood of Plaintiff's inability to procreate, the Plaintiff said his wife was pregnant when I deposed him. I did not ask if he had been blessed with good neighbors.

What is the most rewarding aspect of your career?

Being a lawyer and working with lawyers.

Most frustrating?

The culture of insurance companies.

What is your best advice to young lawyers? Two things:

1. Keep in mind that what you do as a lawyer will be perceived by your peers as who you are as a person.
2. Work hard but life is short. Do not take yourself so seriously.

What was your biggest lesson learned when you started to practice that you didn't already know?

You cannot lose your temper and you should try not to project that you are a dumbass.

Why are you a member of ADLA?

It is family friendly and the members are outstanding. I have made many good friends through the years. I would like to name them but took too long on the "grow up" question.

If you had to choose a different profession, what do you think you would want to do?

Be a Park Ranger.

Who was/is your role model/mentor in the profession?

Jack Porterfield, Larry Harper, Billy Mills.

Who do you pull for on football Saturdays?

No one. They did not let me play. (Actually, any SEC team, but I adopted Auburn for various reasons).

What do you like to do in your spare time when you are not focused on work?

Spend time at the lake, in the woods, or in my yard.

What is the last book you read?

I do not read much anymore. Recently though I re-read Charles Kurlalt's *America* and Stephen Crane's *Red Badge of Courage* (which I last read in grammar school).

Favorite movie?

Jeremiah Johnson.

Biggest Pet Peeves?

Popular, overused, catch phrases and terms, i.e., "reach out," "circle back around," "re-double" (What the hell does that mean?



Top left - son Will and daughter in law, Amanda, Daughter Katie with son in law Nathan and children, Daughter Lindsey and son Austin

Quadruple?). I could go on.

Favorite concert you've attended?

Boz Skaggs at the Alys Stephens Center.

Everyone named "Motlow" is **RELATED**.
 The rich ones made a lot of money making whiskey.
My family is my life and my life is my family.
 They mean everything to me.



Dud and Lisa on ADLA Alaska Cruise--seminar

What is one of your most embarrassing moments?

My pants fell off in kindergarten.

If you could chose one ADLA member

who has had a special impact on you, please tell us who and what you want us to know.

I cannot choose just "one". Ed and Louise Livingston would probably be the "one" though. They are so good, so gracious, so inclusive and welcoming. They "built" the ADLA "house" -- as "one".

Is there anything you want us to know about your family?

Everyone named "Motlow" is related. The rich ones made a lot of money making whiskey. My family is my life and my life is my family. They mean everything to me.

Martha Thompson
Balch and Bingham, LLP | Birmingham, AL

Where did you grow up and what college did you attend?

I grew up in Mobile and graduated from Vanderbilt University

Most memorable moment on the job?

Becoming the first female partner at my former firm. My daughter, only a year old, was with me at the office. I was holding her on my hip when I found out that I made partner.

Unusual job perk?

As a litigator, I've been able to travel to all the courthouses in each of our 67 counties. Whenever I would travel to a new county I would try and make time to visit any historical landmark. Alabama is a beautiful state and I feel very fortunate to live here. Growing up in south Alabama I wasn't sure if I would have that opportunity.

What is the furthest you have traveled for work?

San Diego, CA

What is the most rewarding aspect of your career?

Being a mentor. I'm very fortunate that my firm, Balch and Bingham, has a great mentoring program and supports its partners in bringing along the next generation.

Most frustrating?

The mobile device. I'll never forget being younger and my dad coming home and telling my mom that his office had just got a fax machine and it just was going to change everything. Little did we know... It can be frustrating to be so accessible to everyone. We have to set boundaries for ourselves.

What is your best advice to young lawyers? Two things:

1. Find a great mentor
2. Pick up the phone. Your intent towards the other side can become distorted with email. I've found that many times if I pick up the phone I can resolve many issues.



The Thompson's at a ball game

What was your biggest lesson learned when you started to practice that you didn't already know?

Sugar will get you farther than spice. While we have to be advocates for our clients, I have found that that a softer tone can take me farther in most situations.

Why are you a member of ADLA?

This is a hard one, but I would have to say that it is very exciting to be a part of the charter committee for ADLA's Women in the Law that just started this year. Meade Hatfield is our fearless leader and is doing a great job in growing this section.

If you had to choose a different profession, what do you think you would want to do?

College Football Sideline Reporter.

PICK UP THE PHONE. Your intent towards the other side can become distorted with email. I've found that many times if I pick up the phone I can *resolve many issues.*



ADLA members Alan Rogers & Martha Thompson, alongside Stan Blanton

Who was/is your role model/mentor in the profession?

My dad, John Leach, and Stan Cash. Both have been my champions of mine from the beginning. Both have contributed to my career in more ways than can be expressed here. I am eternally grateful to both of them.

Who do you pull for on football Saturday's?

Vanderbilt, although due to marriage you will find me at Bryant Denny most Saturdays. Fortunately it is not much of an issue although whenever the two play

against each other it is Black and Gold all the way. Anchor Down!

What do you like to do in your spare time when you are not focused on work?

Most people will tell you that you will find me at the gym or reading a book. I wouldn't disagree.

What is the last book you read?

Daisy Jones and the Six. It is a fictional account of a band in the 80's trying to make it big in Los Angeles. Each chapter is written from a different character's point of view and picks up where the last one left off. I thought it was beautifully written and it is on the top my recommendation list.

WHO DO YOU PULL FOR ON FOOTBALL SATURDAY'S?

Vanderbilt, although due to marriage you will find me at Bryant Denny most Saturdays. Fortunately it is not much of an issue although whenever the two play against each other it is Black and Gold all the way. Anchor Down!

Favorite movie?

I think I would have to go with one that I saw fairly recently. Vice; it is about Vice President Dick Cheney. The actors in the movie really came into character. Also there is a twist in the middle that will catch you by surprise.

Biggest Pet Peeves?

People refusing to put their phone down when in the presence of friends and family. There will be time to check email and social media. I promise it will be there later.

Favorite concert you've attended?

I can narrow it down to two; 2009 Bon Jovi and Kid Rock at Soldier Field in Chicago and 2018 The Avett Brothers at Red Rocks in Denver.

What is one of your most embarrassing moments?

I was a bridesmaid at one of my best friend's wedding and it happened to be an unusually cold day in Mobile. We were all wearing coats and I happened to stand too close to the outdoor heater. Do



Martha pictured with her parents, Susan & John Leach, & daughter, Lowery

the words "drop and roll" convey the picture? Gosh I still miss that coat.

If you could choose one ADLA member who has had a special impact on you, please tell us who and what you want us to know.

I've been so impressed with Allen Estes and his leadership in ADLA. When I joined Balch I really got to appreciate all of the work that he puts into the ADLA.

Is there anything you want us to know about your family?

My husband, Brent, is a huge music fan and has broadened my taste in music. We are parents to a beautiful daughter, Lowery. She is a rising senior at Mountain Brook High School and has decided to attend the University of Alabama. While I plan on cherishing her senior year, I'm also feverishly working on Operation Empty Nest. Insert sad face.



Brent, Martha & Lowery Thompson



UPCOMING *Member* EVENTS

District 1 Mixer

September 26, 2019
Hosted by YLS
The Stovehouse
Huntsville

WITL Backpack Buddies Event

October 9, 2019
Packing Backpacks & Networking
Bradley Arant
Birmingham

Montgomery Lunch & Learn

October 29, 2019
Guest Speaker: Hon. Emily C. Marks
US District Judge for the Middle District
of Alabama
Alabama State Bar
Montgomery

District 3 Mixer

November 7, 2019
Hosted by YLS
The Exchange Bar
Montgomery

WITL Light the Night Walk

November 7, 2019
Team: ADLA's Women in the Law
Section
Railroad Park
Birmingham

Ski CLE Winter Conference

February 5-8, 2020
Elevation Resort and Spa
Crested Butte, CO

Southeastern Women Litigators Conference

March 26, 2020
Atlanta

Deposition Boot Camp

March 18-19, 2020
Jones School of Law
Montgomery

Annual Meeting

June 18-20, 2020
Sandestin Golf and Beach Resort
Destin

Bibb Allen Memorial Trial Academy

August 13-14, 2020
Cumberland School of Law
Birmingham

Stay up to date!

**ADLA event details and registration
information can be found by visiting
<https://adla.org/events/>**



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