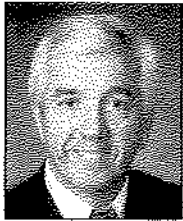


HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

APRIL 1998



President's Column by John M. McCullough

The current fiscal year of the HCBA ends May 31, 1998, and so does my term of office. Several activities are planned between now and that time, and I encourage your participation in each of them.

By the time you read this column, the HCBA will have already hosted a reception for Judge Robert Gibbs who is leaving his position as Circuit Court Judge to enter private practice. Judge Gibbs has been a tremendous asset to the Court and will be sorely missed. We wish him and his wife, Debra, the very best as they enter this new phase in their lives.

HCBA's 8th Annual People's Law School is winding down another successful year of providing the public with an insight into the legal system and with answers to everyday legal questions. The last two sessions are scheduled for April 7 and April 14. Many thanks to John Henegan and his entire committee for working so hard to make this program available to the public. In fact, John has served on this committee for several years and has chaired or co-chaired it twice. John is the type of lawyer and person we should all strive to be - one who is willing to give unselfishly of his time, talent and advice without expecting anything in return.

Our next regular membership meeting will be on Tuesday, April 21. The topic of the program is a trial from the jurors' perspective. DecisionQuest, a jury and trial consulting firm, will

present "Five Mistaken Assumptions Trial Lawyers Make." If attendance at recent membership meetings is any indication of what our attendance will be, you may want to come early to be sure you get a seat.

On Friday, May 1, the HCBA will present our second annual "Day With the Judges" program at the R&D Center on Ridgewood Road. The speakers will be local state judges. Participants will receive 6 hours of CLE credit. This is a wonderful way to get to know the judges better and obtain CLE at the same time.

On May 7, the HCBA and the Jackson Young Lawyers Association will host our annual "Evening Honoring the Judiciary" at Primos Northgate. The honorees are State and Federal Judges from Hinds, Madison and Rankin Counties. The guest speaker is Attorney General Mike Moore. Because all of us are anxious to show our appreciation to the judges and because we have such a dynamic speaker, tickets will be on a first come, first served basis. So, when you get your formal invitation, please order your tickets as soon as possible.

Continued on page 3

Mississippi Volunteer Lawyers Project



Phyllis Thornton, director of the Mississippi Volunteer Lawyers Project, was welcomed at the February Membership Meeting by the HCBA/JYL Golf Tournament Committee. The 1997 Golf Tournament raised \$4,000 for the project. Presenting the check is Kenny Griffis, 1997 Golf Tournament Chairman.

HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

April 21, 1998

12:00 Noon

\$10.00

Capital Club

DecisionQuest will present "Five Mistaken Assumptions Trial Lawyers Make."

CLE Calendar of Events

April 22
Mississippi Labor & Employment Law.
NBI. 715-835-7909

April 23
Annual Spring Employee Benefits Law & Practice Update.
MC School of Law/ALI-ABA
925-7173

April 24
1998 Tax Clinic, The Mississippi Bar Taxation Section.
948-4471

April 24
Mississippi Oil & Gas Law Institute Tenth Triennial Seminar
Crowne Plaza Hotel. 948-3800

April 24
Supreme Court Update featuring Charles Whitehead.
UM-CLE. 601-232-7282

April 28
Workplace Harassment Litigation Update: Claims Based on Sex, Race & Disability.
MC School of Law/ALI-ABA.
925-7173

May 1
3rd Annual Debt Collection Seminar.
UM-CLE. 601-232-7282

May 5
1998 Update: Hazardous Waste Superfund and Brownfields Redevelopment.
MC School of Law/ALI-ABA.
925-7173

May 12
Clean Water Act.
MC School of Law/ABA Satellite Seminar.
925-7173

May 15
2nd Annual Will & Probate Seminar.
UM-CLE. 601-232-7282

May 19
Mississippi Foreclosure and Repossession.
NBI. 715-835-7909

May 20
Annual Spring Estate Planning Practice Update.
MC School of Law/ALI-ABA.
925-7173

May 21
Planning for Distributions from Qualified Plans and IRAs.
MC School of Law/ALI-ABA.
925-7173

May 22
Mississippi Tort Immunity.
The Mississippi Bar
Litigation/General Practice Section.
948-4471

May 28
Succeeding As a Woman Advocate: A National Gathering.
MC School of Law/ABA Satellite Seminar. 925-7173

HCBA Calendar of Events

April 21
HCBA Membership Meeting.
Noon. Capital Club

May 7
Law Week Dinner.
"An Evening Honoring the Judiciary"
6:30. Primos Northgate

June 16
HCBA Membership Meeting.
Noon. Capital Club

August 18
HCBA Membership Meeting.
Noon. Capital Club

HCBA

State Court Practice Seminar: "A Day with the Judges"

Six Hours of CLE
(One Hour of Ethics)

Friday, May 1, 1998

For information, call Pat Evans at 969-6097



Mississippi College School of Law

Upcoming CLE Seminars

Basic Bankruptcy Seminar
MS Sports Hall of Fame
Jackson, Mississippi
Thursday, May 28, 1998

6 hours of CLE Credit

1 hour Ethics

For Information, Please Call:
(601) 925-7173

Who Did Shakespeare? A Whodunit for Lawyers

by John Land McDavid

Lawyers have a special interest in the works of Shakespeare. Some even believe Shakespeare was written by a lawyer.

Because written and spoken words are the tools-in-trade of the legal profession, some lawyers consider a knowledge of Shakespeare-along with the King James Version of the Bible-essential knowledge for the practice of law. Besides acquiring knowledge of the English language, lawyers also have a keen interest in Shakespeare because his plays and sonnets contain so many accurate references to the law, lawyers, and law courts.

While you may know Shakespeare, you may not be aware of the controversy surrounding the authorship of his works. Even if you are, do you care? If you care, do you care very much?

Doubts that plays and sonnets of "Shakespeare" were not written by William Shakespeare of Stratford-on-Avon have existed for more than 150 years. These have been shared by such leading figures as Ralph Waldo Emerson, Walt Whitman, Mark Twain, Sigmund Freud, Orson Wells, and H. L. Menchen.

In fact, Shakespeare's accuracy in legal references has caused some to suggest that his writings must be the product of a trained lawyer. In a 1996 book entitled *Who Wrote Shakespeare?* John Michell quotes the Victorian-era Lord Chancellor, Lord Campbell, as saying the Shakespeare's law is "inherent and infallible." According to Michell, Lord Campbell added: "While novelists and dramatists are constantly making mistakes as to the law of marriage, of wills and inheritance, to Shakespeare's law...there can be neither demurrer, bill of exception, or writ of error."

Other than Shakespeare of Stratford-on-Avon (1564-1616), leading candidates for the title of Greatest Writer in the English Language include Sir Francis Bacon (1561-1626), Christopher Marlowe (1564-1593), and Edward De Vere, the

Seventeenth Earl of Oxford (1550-1604). Of this foursome, both Francis Bacon and Edward De Vere were lawyers.

Bacon, admitted to the bar at age 21, served as English solicitor general, attorney general and other high legal posts. De Vere obtained his legal education after receiving degrees from Cambridge and Oxford Universities while still in his teens. Both studied law at Gray's Inn.

Even television and other 20th century electronic distractions have not stilled the literary debate. Consider the February 1959 issue of the American Bar Association Journal, in which Chicago lawyer Richard Bentley argued in favor of Marlowe, De Vere, and Bacon.

Bentley's opinion provoked passionate and learned responses from others in the legal profession who supported Shakespeare of Stratford-on-Avon. So many articles and letters poured in from all sides that a single hardcover edition eventually was required to contain them all. Titled "Shakespeare Cross-Examination," the compilation required a second printing.

Even the Hinds County Bar has something of a relationship to the

controversy. The late Gertrude C. Ford, wife of long-time member Aaron Ford, wrote a book in 1964, titled *A Rose by Any Name*, that advanced an argument in favor of De Vere. (The Gertrude C. Ford Foundation recently donated twenty million dollars to Ole Miss toward a performing arts center.)

Now comes the Internet to both literally and figuratively propel the controversy into the 21st century. Today, simply by typing in search words, "shakespeare who wrote," the modern inquirer easily can locate numerous websites devoted to all sides of the argument.

For those who still prefer the printed page, three books are recommended. One is John Michell's aforementioned *Who Wrote Shakespeare?*. The others are Charlton Ogburn's *The Mysterious William Shakespeare* (1984) and Joseph Sobran's *Alias Shakespeare* (1997).

So, if you're tired of reading fictional detective mysteries and watching the crime-of-the-week on television talk shows, why not consider what Michell calls a "perfect mystery, dangerously addictive." Who knows, you just might come to care very much about "who wrote

President's Column

continued from page 1

A spring social is being planned for late April or early May. It would be nice to have a joint event with the Central Mississippi division of the Magnolia Bar Association and we hope to do just that. Details will be provided as soon as arrangements are complete.

On a final note, thank you for allowing me to serve the HCBA this past year. I've tried hard to help meet the objectives of our organization - to serve the lawyers, judges and public in our membership area. The real work, however, was performed by the Committees, the Committee Chairmen,

and the Board of Directors. Thanks to each of you for all your hard work!

Thanks also to Past President Harris Collier for his guidance and helping hand. A special thanks goes to HCBA Executive Director, Pat Evans, without whom it would not be possible to perform this job. We are so very fortunate to have Pat and I hope when you get an opportunity that you will express your appreciation to her. Thanks also to those of you who have given an encouraging word from time to time to me and the other HCBA Board members.

HCBA Election Results

Secretary-Treasurer

J. Richard Hurt

Director-Post 3

John Land McDavid

Director-Post 4

John E. Wade, Jr.

Congratulations to our new officer and directors!



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On Computing

by Joel Howell

Electronic filing is coming, sooner rather than later.

In December, Microsoft, CHOICE Information Systems, PC DOCS, and Focus Systems announced a strategic alliance "to promote an electronic legal and justice system that would digitally link law firms to courts, as well as law firms to each other." Microsoft has also pledged to "set up electronic filing systems in courts throughout the United States." The purpose of this, of course, is to link courts and affiliated legal management systems, making the benefits of electronic filing available to all members of the bar. More on this as events progress.

Pursuant to a 1997 action of the Legislature, the Mississippi Supreme Court, through the Administrative Office of Courts (AOC), is studying the types of hardware and software used by courts and county offices throughout the state which are storing records electronically. The AOC is then to promulgate standards, rules, and regulations for electronic filing and storage of court and court-related records. These are to be completed and adopted by the Supreme Court on or before July 1 of this year.

On a local level, Circuit Judge L. Breland Hilburn on January 22, 1998, adopted an order governing electronic filing and service of pleadings in cases so designated for the Circuit Court for the First Judicial District of Hinds County. The full rules are a bit too lengthy for inclusion here, but we will attempt to scan it and put it on the web site, hopefully by the time you read this article.

Circuit Judge James D. Graves, Jr. has already designated one mass tort case pending before him as an electronic filing case. He plans to do so in a number of others.

As part of Judge Hilburn's order, LAWPlus has entered into an agreement with the Hinds County judicial system to administer this EFILE System. Upon designation of a case by a circuit judge as one to be assigned to the electronic filing system, parties and their counsel will be able to file, serve, receive, review, and retrieve

copies of pleadings, orders, and other documents electronically filed, either by subscription agreement with LAWPlus or by using a public access terminal in the Circuit Clerk's office.

Each party and counsel, upon entering into a subscription agreement, will receive a PIN which will be used to access the EFILE System. *Pro se* parties will be able to access the system as well.

The system contemplates that all documents will be filed electronically, except for any documents filed prior to entry of the order assigning the case to the EFILE System, motions relating to filing documents under seal (the motion itself would be electronically filed), and any other materials that will not readily lend themselves to electronic scanning.

The effect of electronic filing will be considered valid service on all recipients pursuant to Rule 5 of the Mississippi Rules of Civil Procedure, as long as completed by 11:59 p.m. on the date of transmission.

According to LAWPlus, their system not only ensures confidentiality but is also cost-effective compared to the current methods of filing and

service by certified mail, messenger, overnight delivery services and facsimile. While the fee structure is complex, it basically relies on an initial fee, a monthly access fee, and potential per page charges.

* * * * *

Intel and Digital have now crossed the 300 MHz threshold with their processors, and you'll be able to buy 450 MHz processors by the end of the year. Hard drive sizes are also pushing the envelope: the new IBM DeskStars range from 3.2 to 16.8 GB, but you'll have to wait for Windows 98 to support a drive of the latter size. RAM prices continue to decline; if adding on, better to move to SIMMS of at least 16 meg. Flat screen monitors are now a reality; before the turn of the century they may even be affordable.

Our web site (hindsbar.com) is still a work in progress; your visits are solicited, and your input is welcome.

* * * * *

Questions or comments?

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

"Civic"-ly Speaking

In this issue, the Newsletter calls attention to the civic contribution of those Hinds County lawyers participating in the delivery of legal services to the poor through Central Mississippi Legal Services, the legal services program that covers Hinds County and surrounding counties.

Hinds County lawyers currently serving on the CMLS Board of Directors are Glenda Haynes of the District Attorney's office; John Henegan of Butler, Snow, O'Mara, Stevens & Cannada; Richard Jones of Alston and Jones; Michael MacInnis of Rimmer, Rawlings, MacInnis and Hedglin;

Carlton Reeves of the U.S. Attorney's office; Onetta Whitley of the Attorney General's office; Michael Williams of Davis, Goss and Williams; and Steve Orlansky of Watkins & Eager.

Hinds County lawyers serving on the staff of CMLS are Lyndia Robinson, Executive Director; Tara Walker, Managing Attorney of the Jackson office; and Terry Williamson and Alice Stamps, staff attorneys in the Jackson office.

The Newsletter salutes these lawyers for the important work they are doing.

People's Law School Committee



Several of the committee members who served on the 1998 People's Law School Committee are: (seated) Elizabeth Baine, Chairman John Henegan, Vice Chairman Mitzi Dease Paige, John Flynt, (standing) John McCullouch, Michael Hartung, Ernest Taylor and Deanne Mosley.

FORENSIC TAPE SERVICES

ENHANCEMENT of Poor Quality Recordings:

Background noises reduced, voices made more intelligible, etc.

AUTHENTICATION of Questioned Recordings:

Tapes tested for editing, tampering, originality, etc.

COURTROOM PRESENTATIONS:

Evidence recorded onto Compact Disc and/or digital computer system for immediate recall and playback of any selection.

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Law Schools Release Class of '97 Employment Data

by David L. Trewolla

The Mississippi College School of Law and University of Mississippi Law Center have released a variety of informative statistics about postgraduate employment of each school's Class of 1997. This data is not fully available until at least six months after graduation because of student involvement with bar examinations and job interviews. The following breakdown, arranged by percentage of students employed in specific practice areas, applies to 121 law graduates of Mississippi College and 139 graduates of Ole Miss comprising the Class of 1997 (graduates from December 1996 through August 1997):

PRACTICE AREAS

	Mississippi College School of Law	University of Mississippi School of Law
Private Practice	56%	65%
Business & Industry	3%	6%
Government	8%	4%
Judicial Clerkship	16%	13%
Public Interest	3%	<1%
Military (JAG)	2%	<2%
LL.M.	5%	6%
Unidentified or Non-Legal Profession	7%	<4%

The majority of those entering private practice are working in firms comprised of two to ten lawyers.

Moreover, 3% from MC and 7% from Ole Miss have become solo practitioners. Those in government employment include positions as assistant district attorney, public defender and with the Department of Human Services. Graduates working in business are employed by banks, accounting firms, title companies and a sports marketing agency. Those seeking advanced degrees are in medical school, graduate school, and tax LL.M. programs. One Ole Miss graduate has earned a full LL.M. fellowship at Kuushu University in Fukuoka, Japan. The JAG Corps members are currently stationed in the United States with the U. S. Army and Air Force.

Although these graduates have primarily located in Mississippi and other Deep South states, the following is a more detailed analysis of their geographic locations based upon guidelines of the National Association of Law Placement:

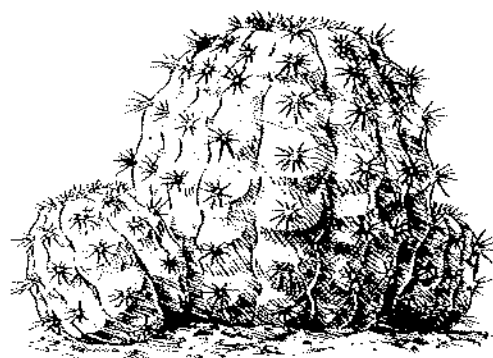
EMPLOYMENT AREAS

	Mississippi College School of Law	University of Mississippi School of Law
New England (CT, ME, MA, NH, RI, VT)	1%	0%
Middle Atlantic (NJ, NY, PA)	1%	0%
East North Central (IL, IN, MI, OR, WI)	7%	1%
West North Central (IA, KS, MN, MO, NE, ND, SD)	2%	1%
South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	18%	5.5%
East South Central (AL, KY, MS, TN)	60%	84.5%
West South Central (AR, LA, OK, TX)	8%	6.5%
Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2%	1%
Pacific (AK, CA, HI, OR, WA)	1%	1%

Perhaps of more interest, the median starting salary for graduates entering private practice and business is \$41,000, and for those entering the government arena is \$31,000. The median judicial clerkship salary is \$34,145. Law firm salaries range from a low of \$24,000 to a high of \$80,000.

Considering the national trend toward private firm and corporate personnel reductions in a tightening marketplace for law graduates, the above statistics reflect highly upon the product generated by Mississippi's law schools. Career Services Directors Joyce Whittington of Ole Miss and Peggy Brown of Mississippi College are again to be applauded for success in finding quality employment for their students.

The Hinds County Bar Association extends its congratulations and best wishes to the 1997 graduates and cordially invites for membership those who have located in the Jackson area.



Ouch!

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*Endorsed by the Hinds County Bar Association
and the University of Mississippi Law Alumni Chapter*



Risk Retention Group

HCBA Committee Preference Survey

Committees are vital to the programs and activities of the HCBA. Committee effectiveness depends on the selection of interested, experienced and capable members. Bar committee work is an excellent way to do your part to promote the profession. Committees meet regularly, and a free lunch is provided. Please assist us by completing the questionnaire and returning it by May 1, 1998.

Mark A. Chim
President-Elect

1. I am interested in serving on the following committees (indicated in order of preference):

- | | |
|---|---|
| <input type="checkbox"/> Alternative Dispute Resolution | <input type="checkbox"/> Library Services |
| <input type="checkbox"/> Bench & Bar Relations | <input type="checkbox"/> Long Range Planning |
| <input type="checkbox"/> Black Lawyer Involvement | <input type="checkbox"/> Membership |
| <input type="checkbox"/> Budget & Finance | <input type="checkbox"/> Newsletter Editorial Board |
| <input type="checkbox"/> By-Laws | <input type="checkbox"/> People's Law School |
| <input type="checkbox"/> Child Advocacy | <input type="checkbox"/> Program |
| <input type="checkbox"/> Continuing Legal Education | <input type="checkbox"/> Small Firm Practice |
| <input type="checkbox"/> Golf Tournament | <input type="checkbox"/> Women in the Profession |
| <input type="checkbox"/> Law Related Education | <input type="checkbox"/> Suggested new committees: |
| <input type="checkbox"/> Legal Economics | _____ |
| <input type="checkbox"/> Legal Problems of Homeless | _____ |

2. I am willing to chair the following committee: _____

3. I offer these suggestions to make the HCBA more effective: _____

Name _____

Firm/Agency _____

Address _____

City _____ State _____ Zip _____

Telephone (Business) _____ (Residence) _____

Mail to: Patricia Evans, Executive Director

February Membership Meeting Winner



Peter Doran won the door prize, Dinner for Two at the Capital Club, at the February Membership Meeting. He is being presented the gift certificate by HCBA Executive Director, Pat Evans.

February Membership Meeting



A record crowd attending the February Membership Meeting heard the Honorable Robert L. Gibbs (second from right), Circuit Judge for the Seventh District, and the Honorable John B. Toney (second from left), former Circuit Judge for the Twentieth District, speak on Jury Trials from a Judge's Perspective. They are pictured with Jay Stewart (left), Program Chairman, and HCBA President, John M. McCullough (right).

Lawyers Must Regain a Place of Honor

by Richard M. Gardella

A pope once sought out an obscure parish priest to hear the pontiff's confession. An aghast church bureaucrat wondered why the pope chose such a lowly confessor. The wise Church leader explained: "Because I wanted to remind that priest of who he is."

I think it is time to remind lawyers of who they are as professionals.

It was a lawyer, with the help of other lawyers, who wrote the Declaration of Independence - the single most important document in human freedom's arsenal. And it was a lawyer who later led this nation in a civil war and gave his life to prove that the words of that Declaration meant what they said.

It is also important to note that nearly two-thirds of this country's presidents have been lawyers.

None of this should be surprising. Lawyers are central to the operation of our democratic republic and the freedom it offers its citizens.

Alexis DeTocqueville, a young French magistrate who became famous as an observer of early American life, was not an unabashed admirer of American lawyers, but he recognized their central importance to the survival of this republic.

He wrote: "I doubt whether democracy could rule society for long without this mixture of the legal and democratic minds, and I hardly believe that nowadays a republic can hope to survive unless the lawyers' influence over its affairs grows in proportion to the power of the people."

Even that Shakespeare quote that is hurled at our profession by critics really amounts to a ringing affirmation of the lawyer's role in freedom's survival. In the second part of *Henry the Sixth*, Shakespeare wrote about a snarling rebel named Jack Cade who sought to be a tyrant king. After Cade proclaimed he would be king, one of his henchmen, a charmer named Dick the Butcher, suggested that they first kill all the lawyers. Lawyers blocked their road to tyranny.

It is fitting that we lawyers chose to remind ourselves of that essential role by assigning the theme "Celebrate your Freedom" to Law Day, May 1, 1997. It is also important to remind all lawyers of their important role in society because of the profession's diminished image.

A recent survey of 71 professions rated lawyers 56th in terms of honesty and integrity, after tax collectors, newspaper reporters and others. Another survey by Johns Hopkins researchers found lawyers to be the most depressed group in the country.

Part of the problem focused upon by those surveys may result from lawyers' failure to recognize the profession's central societal role and from a corresponding neglect of the scholarship necessary to maintain that role. However, the above symptoms also can be traced to general ills of our society.

A win-at-all-costs attitude - an attitude buttressed by a confrontational philosophy that sees no social grace in compromise - does not esteem reasonable judgment. Incivility grows in the nation's meeting halls and courtrooms.

We must respond by remembering who we are and performing as the professionals we are. We should be known

for our honesty and integrity, not our cleverness and influence.

Lincoln saw honesty as much a part of a lawyer's stock-in-trade as time and study. A judge before whom Lincoln frequently practiced said of the former rail-splitter: "The framework of his mental and moral being was honesty, and a wrong cause was poorly defended by him."

When I was a cub reporter, I interviewed a 105-year-old former slave. When I asked him what advice he would offer to people who wanted to live such a long life, I got no advice, only wisdom. He snapped: "I don't give advice. If you give people the advice they want to hear, it won't help them. If you give them the advice they need, they'll hate you for it."

As lawyers, we cannot afford the luxury of that wisdom. We have to give the best advice we can, even if it makes our clients unhappy. We must keep our eye on problem-solving. We should be the peacemakers.

But most important, despite a largely unfair public image, we must not despair. We must be true to our profession. When Mother Teresa was asked why she did not despair despite the never-ending misery she battled in the slums of Calcutta, she responded simply: "God does not require me to be successful. God only requires me to be faithful."

This article is adapted from the author's comments upon his induction as president of the Westchester County (N. Y.) bar association on May 1, 1997, Law Day. The municipal attorney for the City of Rye and the Village of Scarsdale, Mr. Gardella was recently presented the 1997 Award for Outstanding National Public Service by a Local Government Attorney from the International Municipal Lawyers' Association.

Letter To Captain Equity

Dear Captain Equity:

The mind runs away with the possibilities of forward-looking legislation we could adopt. My modest submissions:

The Tobacco Prohibition and Black Market Tax Act of 1988. Back to the good ole days. Let's outlaw those coffin nails all the better to tax them into oblivion.

The County Option, Drainage Ditch and Forks of the Creek Floating Dockside Prostitution Act of 1998. Once you "trip the light fantastic" right by the moral issue and ignore the cost of social ills associated with the "industry," it's a natural progression from gambling. Is not Mississippi justly famous for the beauty of our women?

I could go on, but I got to go sell law.

Very truly yours,
The Allred Law Firm

Michael S. Allred

Jackson: Half Full or Half Empty ... One Year Later

by Captain Equity

It was exactly one year ago that a column entitled, JACKSON: HALF FULL OR HALF EMPTY? appeared in this space. At the time, May 1997 municipal elections were looming. The prospects for bringing an end to the antics of the Jackson City Council while energizing municipal government as never before seemed within reach.

The nearly four years of constant bickering and racial tension down at City Hall coupled with the abrupt exit of WorldCom to Clinton appeared to have provided a wake up call for Jackson's voters to make the necessary changes that would finally ignite an urban renaissance in Mississippi's Capital City. All the economic ingredients were in place. It came down to a question of leadership, vision and competence.

My enthusiasm as a white, middle aged Jackson homeowner grew even more with the election of Harvey Johnson as the city's first black mayor. Despite the good will and many accomplishments of Mayor Ditto, his skin color was still an unfortunate reminder of a long and tortured history of inequality to too many of our citizens. And so it was a welcomed event that Jackson, Mississippi finally entrusted its civic destiny to a person of color who possessed all the attributes needed to take us to the next level.

Finally, I thought, we could get past the divisive issue of race once and for all and get down to realizing our potential and restoring our collective pride as a city. My conclusion a year ago was that despite all of the problems Jackson shared with other southern urban centers, my hometown was blessed by some of the best people to be found anywhere, a great climate, booming economy and a growing list of positive attributes it could offer to the rest of the world without explanation or apology. But my enthusiasm was tempered just a bit by a concluding question, "So, assuming Jackson is indeed a giant iced tea tumbler, will it be half full or half empty by the turn of the century? We're about to find out.

We are finding out.

Item: The cable television debacle goes from bad to worse. Despite a proposed settlement brokered by Mayor

Johnson, the City Council ignores the advice of its own high-priced consultant (\$50,837 to date) and votes the contract down 4-3 despite the fact that Capital Cablevision agrees to exceed the City's targets for minority contracts. No History Channel, no ESPN-2, no fiber optics in sight; only an expensive, protracted and if the consultant is to be believed, an ultimately futile legal battle.

Item: Mayor fires Police Chief Robert Johnson despite a favorable consensus of taxpayers as to his job performance and a documented drop in crime. Police morale appears to be down; 1998 homicide rate doubles, permanent chief not yet named as of press time.

Item: Mayor fires longtime City Attorney Terry Stone. A precipitating factor relates to legal advice Stone gives to the City Council regarding questionable expenditures of city money for private purposes. Council ignores advice, spends money anyway and makes noises about hiring attorneys that will give them the answers they want to hear.

Item: State Auditor seeks to recover misspent funds from certain individual members of the City Council (past and present). In response, those individuals make a plea to the public to send in donations to retire their accumulated debt. Advice of ex-City Attorney Stone conveniently forgotten.

Item: Legislature overwhelmingly turns thumbs down on six million dollar Farish Street Redevelopment Project. Within days, state lawmakers reverse themselves. The bill overwhelmingly passes after it is amended to ensure that the Jackson City Council has no control over the funds.

Item: In early March, *The Clarion-Ledger* reports that council members are complaining city legal work not being turned out in a timely fashion. Complainers seem surprised that ex-City Attorney Stone appears to have taken his accumulated knowledge of municipal legal matters with him. The term "continuity" absent from Official City Government dictionary.

Item: Bickering and racial tension on the increase at City Hall. This is illustrated by Council President Armstrong who abruptly cuts off the

mayor during a City Council meeting.

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by Mark A. Chinn, President-Elect

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Jackson: Half Full or Half Empty ... One Year Later

by Captain Equity

It was exactly one year ago that a column entitled, JACKSON: HALF FULL OR HALF EMPTY? appeared in this space. At the time, May 1997 municipal elections were looming. The prospects for bringing an end to the antics of the Jackson City Council while energizing municipal government as never before seemed within reach.

The nearly four years of constant bickering and racial tension down at City Hall coupled with the abrupt exit of WorldCom to Clinton appeared to have provided a wake up call for Jackson's voters to make the necessary changes that would finally ignite an urban renaissance in Mississippi's Capital City. All the economic ingredients were in place. It came down to a question of leadership, vision and competence.

My enthusiasm as a white, middle aged -Jackson homeowner grew even more with the election of Harvey Johnson as the city's first black mayor. Despite the good will and many accomplishments of Mayor Ditto, his skin color was still an unfortunate reminder of a long and tortured history of inequality to too many of our citizens. And so it was a welcomed event that Jackson, Mississippi finally entrusted its civic destiny to a person of color who possessed all the attributes needed to take us to the next level.

Finally, I thought, we could get past the divisive issue of race once and for all and get down to realizing our potential and restoring our collective pride as a city. My conclusion a year ago was that despite all of the problems Jackson shared with other southern urban centers, my hometown was blessed by some of the best people to be found anywhere, a great climate, booming economy and a growing list of positive attributes it could offer to the rest of the world without explanation or apology. But my enthusiasm was tempered just a bit by a concluding question, "So, assuming Jackson is indeed a giant iced tea tumbler, will it be half full or half empty by the turn of the century? We're about to find out.

We are finding out.

Item: The cable television debacle goes from bad to worse. Despite a proposed settlement brokered by Mayor

Johnson, the City Council ignores the advice of its own high-priced consultant (\$50,837 to date) and votes the contract down 4-3 despite the fact that Capital Cablevision agrees to exceed the City's targets for minority contracts. No History Channel, no ESPN-2, no fiber optics in sight; only an expensive, protracted and if the consultant is to be believed, an ultimately futile legal battle.

Item: Mayor fires Police Chief Robert Johnson despite a favorable consensus of taxpayers as to his job performance and a documented drop in crime. Police morale appears to be down; 1998 homicide rate doubles, permanent chief not yet named as of press time.

Item: Mayor fires longtime City Attorney Terry Stone. A precipitating factor relates to legal advice Stone gives to the City Council regarding questionable expenditures of city money for private purposes. Council ignores advice, spends money anyway and makes noises about hiring attorneys that will give them the answers they want to hear.

Item: State Auditor seeks to recover misspent funds from certain individual members of the City Council (past and present). In response, those individuals make a plea to the public to send in donations to retire their accumulated debt. Advice of ex-City Attorney Stone conveniently forgotten.

Item: Legislature overwhelmingly turns thumbs down on six million dollar Farish Street Redevelopment Project. Within days, state lawmakers reverse themselves. The bill overwhelmingly passes after it is amended to ensure that the Jackson City Council has no control over the funds.

Item: In early March, *The Clarion-Ledger* reports that council members are complaining city legal work not being turned out in a timely fashion. Complainers seem surprised that ex-City Attorney Stone appears to have taken his accumulated knowledge of municipal legal matters with him. The term "continuity" absent from Official City Government dictionary.

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— Will Denton, trial attorney, Biloxi, Mississippi

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... it carries this process as close to a science as possible.
— Bill Liston, trial attorney, Winona, Mississippi

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Trip Barnes Attends ABA InSTITUTE

Joining some 250 other emerging leaders of lawyer organizations from across the country at the American Bar Association's Leadership Institute, March 5-7, was **Harris H. (Trip) Barnes, III**, secretary-treasurer of the Hinds County Bar Association. Also attending was Patricia Evans, HCBA executive director.

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

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

Mike Moore, Attorney General of Mississippi to be Guest Speaker at "An Evening Honoring the Judiciary"



Mike Moore, Attorney General of the State of Mississippi, will be the featured speaker at "An Evening Honoring the Judiciary" on

Thursday, May 7, 1998.

After being elected Attorney General in 1988, General Moore established a white collar crime unit to investigate and prosecute allegations of corruption by public officials. General Moore, however, was not a newcomer to this area. He was the first district attorney to prosecute the so-called "power structure" on the Gulf Coast. Shortly after, federal authorities embarked on the larger, but similar, "Operation Pretense," which led to the convictions of dozens of corrupt county officials across the state.

General Moore has continued his interest in fighting crime by serving as chairman of the National Association of Attorneys General Criminal Law Committee, two terms on the Criminal Justice Council of the American Bar Association, and eight years on the Executive Working Group for Prosecutorial Relations, where he worked with the U.S. Attorney General, the Directors of the DEA, FBI and other federal agencies on the nation's crime problems.

He is currently president-elect of the National Association of Attorneys General. He was appointed by President Bush to "The Presidential Commission on Measured Responses to Achieve a Drug-Free America" and now chairs the National Alliance, which the commission has become.

General Moore has devoted himself to three civic responsibilities: protection of our children, security for our elderly citizens, and prevention of drug and alcohol abuse. General Moore remains actively

involved in child protection and juvenile justice issues. After fighting for two years, he was successful in getting a law passed which will put people who abuse our elderly citizens behind bars. His commitment to drug abuse prevention spans over a decade, with the presentation of more than 2,000 drug talks to schools, clubs, and organizations.

In 1994, General Moore received national attention when he filed suit against thirteen tobacco companies, making Mississippi the first state to insist that cigarette manufacturers bear the health care costs of smoking. He has been recognized by The American College of Chest Physicians and The American Cancer Society with special awards for work against the tobacco industry. In 1997, he was awarded the Dr. Nathan Davis Award by The American Medical Association for his efforts to better the public health, and The Alton

Oschner Award Relating Smoking and Health by The Alton Oschner Medical Foundation for his leadership in holding the tobacco industry accountable for tobacco-related illnesses. The National Law Journal in December 1997 named Attorney General Moore as "Lawyer of the Year" for his achievements in tobacco litigation on behalf of the states.

General Moore is the only resident Mississippian to be selected as one of the ten Outstanding Young Americans by the National Jaycees, an honor he received in 1992 for his work with children and drug prevention. In June of 1994, General Moore was honored by his fellow Attorneys General when he received the prestigious Wyman Award, naming him as the most outstanding Attorney General in America. People Magazine, in 1997, named him as "One of the 25 Most Intriguing People of the Year."

Judge's Profile: Chester A. "Chet" Henley, Jr.

by Peter Teeuwissen

Chester A. "Chet" Henley, Jr., Hinds County Court Judge, is a Hinds County native who attended Bailey Junior High and Central High School, then graduated from Byram High School in 1965. He subsequently attended Hinds Community College, the University of Mississippi, and the Jackson School of Law.

Judge Henley was admitted to the bar in 1972, and he maintained a general solo practice until 1989 when he first ran for the County Court. While in private practice, Judge Henley served for ten years as a Hinds County Youth Court Judge, often four days per week.

Currently, Judge Henley's duties are varied. He continues to serve the Youth Court one day per week (Monday), and he also handles bad check matters by having court in Raymond every Tuesday night. In

addition, Judge Henley does initial appearances in criminal matters every morning at the Raymond jail, from 7:00 to 8:00 a.m., and also preliminary hearings.

Judge Henley handles justice and municipal court appeals and sits on the newly created drug court for one week every other month. Judge Henley proudly notes that during his most recent week on the drug court he disposed of thirty matters, all pleas, working to make the system more effective.

In his two terms on the bench, Judge Henley has garnered a reputation for being relaxed and pragmatic. Because amounts in civil controversies in his court are less than \$50,000, Judge Henley often hears cases in only one or two days, staying as late as 9:00 p.m. if necessary. He also notes that County Court is unique because

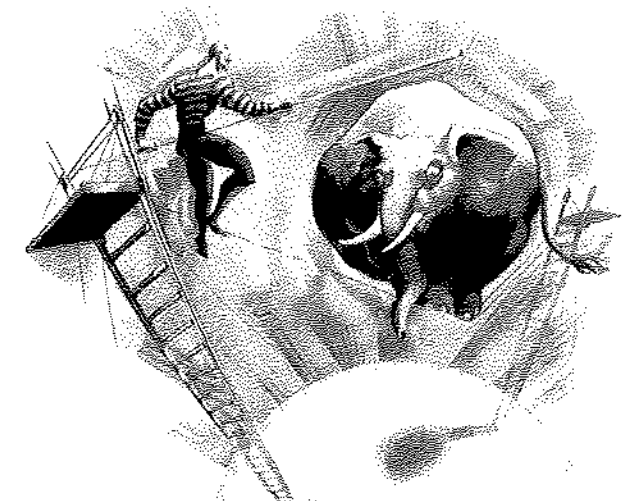
the lag time between filing a complaint and having a possible trial date is usually only a couple of months.

Judge Henley likes to see well-versed cases and good lawyers who read the rule book. He would like to caution counsel, however, that a fender-bender is just that. In his tenure on the bench, his biggest concerns are an increased case load and lawyers who make litigation too expensive and time consuming.

According to Judge Henley, his foremost suggestion for Hinds County Court is the elimination of first and second judicial districts. He recommends having all civil matter heard in Jackson and all criminal matters in Raymond where the jail is located.

Judge Henley has been married to his wife Carol, since 1969. He is the proud father of four children and three grandchildren.

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**Hinds County Bar Association
Jackson Young Lawyers Association, Inc.**

Invite you to join us during Law Week for an
Evening Honoring the Judiciary

**May 7, 1998
Primos Northgate
6:30 Reception 7:30 Dinner**

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

**Guest Speaker:
Attorney General Mike Moore**

□ **HINDS COUNTY BAR ASSOCIATION** □

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Correspondence regarding the newsletter should be directed to: Editor, 151 E. Griffith St., Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 969-6097.

Hinds County Bar Association, Inc.
151 E. Griffith Street
Jackson, MS 39201

FIRST CLASS

IMPORTANT!
HCBA Luncheon Meeting
12:00 Noon, April 21

HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

AUGUST 1998

Hinds County Lawyers Honored

by Carol West

Ya know, I like lawyers. I like lawyers a lot. I got reminded in Sandestin of one of the chief reasons why I like lawyers. Lawyers help people. Lawyers even help people who are not their clients. Hinds County lawyers are especially good at this.

The sun was hot in Destin and there were not any bargains at the factory outlet mall, so I went to the meetings. Before long, I started noticing a pattern as Hinds County lawyers were consistently recognized by their peers for outstanding service to our community and our profession. Keep reading and see if you don't agree with me.

The most obvious Hinds County lawyer giving unstintingly of his time was Reuben Anderson, outgoing Mississippi Bar President. Lots of billable hours were sacrificed by Phelps Dunbar in allowing him to provide energetic and wise leadership for our state lawyers group.

No one could dispute the appropriateness of bestowing the Bar's "Lifetime Achievement Award" on William E. Winter, partner in the firm of Watkins Ludlam Winter & Stennis. I won't waste time listing Governor Winter's qualifications for such an award. If you grew up in Mississippi, you already know. If you did not, ask someone who did.

Sharing the Bar's "Distinguished Service Award" were Harold D. Miller, Jr. and Thomas E. Williams, both of the firm of Butler Snow O'Mara Stevens & Camada. Hal, a former HCBA President, is probably the strongest voice in Mississippi for Alternative Dispute Resolution; Tommy is also heavily involved with this effort. Both of these fine lawyers are well known for their work with their churches and for the improvement of our community.

Keith Parsons of the firm of Watkins Ludlam Winter & Stennis received the "Mississippi Volunteer Lawyers Project President's Award." He was recognized for his efforts in creating MSCORP, a pro-hono project which is co-sponsored by the Business Law Section of The Mississippi Bar; the Mississippi Volunteer Lawyers Project and the Mississippi Center for Nonprofits. MSCORP provides business and corporate legal services to non-profit charitable and community corporations with limited funds by matching such organizations with members of the Business Law Section who provide services in their area of practice on a pro-hono basis. Keith is general counsel and former secretary of the Mississippi Center for Nonprofits, an organization he helped to create to strengthen the non-profit sector in Mississippi.

The Young Lawyers Division of The Mississippi Bar was equally laudatory of the service of Hinds County lawyers. Matt Pesnell of Phelps Dunbar took the "Outstanding Young Lawyer Award." The "President's Special Award" was shared by LeAnn Mercer of Butler Snow O'Mara Stevens & Camada and Frances Corley Lynch, who has not been gone from Hinds County long enough to lose our claim on her. Both of these women lawyers were recognized for their work with children and the law. YLD's "Liberty Bell Award" went to Hinds County non-lawyer Sue Hathorn, also for her work with children.

Tomie Greene was recognized by the "Women in the Profession Committee" for her service as a female lawyer in the Mississippi Legislature.

Continued on page 2

June Membership Meeting



A record crowd at the June Membership Meeting heard University of Mississippi Law Professor and 1998-99 President of The Mississippi Bar, Guthrie T. Abbott (center). HCBA President Mark A. Chimm has planned this bar year to focus on professionalism, and Abbott's talk addressed this issue. Abbott is pictured with Chimm and Harris H. Barnes, III, HCBA President-Elect/Vice President.

HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

August 18, 1998

12:00 Noon

Capital Club

Lunch \$10.00

CLE \$5.00

Former Supreme Court Justice James L. Robertson will present the CLE program, "Professionalism - Problems in the Profession"

Continued from page 1

Fifteen Jackson lawyers achieved their 50-Year Anniversary of membership in The Mississippi Bar. This stellar group includes: Samuel Ernest Birdsong, Jr., Richard C. Bradley II, Retired Fifth Circuit Judge Charles Clark, Grover C. Clark, Jr., James William Coker, Jr., Judge William Dewitt Coleman, Alfred Nicols Crister, Retired Mississippi Supreme Court Chief Justice Dan M. Lee, W. Baldwin Lloyd, Roland D. Marble, E. Don Moore, John H. Price, Jr., Sidney A. Robinson, Jr., Tom B. Scott, Jr., and Earl Raymond Wilson. Reading these names reminds me that the young lawyers earning recognition are only following in the footsteps of earlier Hinds County lawyers whose careers are distinguished by service to our community, our churches, and our government.

All of these lawyers are well deserving of their accolades, but they also stand as symbol for all of the other Hinds County Bar members who give of their time and energies to make this a better place to live. That clapping you hear as you read this is me, giving a hand to all of you who fit in that group.

HCBA Calendar of Events

August 18
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

August 28
HCBA/JYL Golf Tournament.
Noon. Deerfield Country Club

October 20
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

December 3
Christmas Social.
5:30 - 7:00. The Mississippi Bar Center

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

February 16
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

Election Results

Robert C. Grenfell won the special election for the position of Secretary-Treasurer and has joined the HCBA Board.

Law Firm Updates

Baker, Donelson, Bearman & Caldwell has announced that attorney William N. Reed has become the President and Chief Operating Officer for the firm. Reed will oversee daily operations and practice management of the firm's eighteen practice areas.

They also announce that James K. Dossett, Jr. has been named Office Managing Partner for the Jackson office.

Leadership Meadowbrook Mart Announces 1998 - 99 Program

by Captain Equity

Over the past decade or so, we here in the Metro area have witnessed the maturation of an innovative community development concept aimed at grooming a cadre of educated and informed citizen leaders. Leadership Jackson, which was modeled after similar programs in Atlanta, Nashville and other progressive southern cities, sought to transcend the racial divide by bringing black and white professionals together for an intensive, year-long program of education and social interaction. The premise of the organization was both logical and straightforward. By focusing on a wide-ranging agenda of issues and problems facing Jackson, the civic foundation of Mississippi's Capital City would be strengthened. With each new graduating class, Jackson would be a correspondingly better place to live.

And then, something went terribly wrong. As with all good ideas, old fashioned American excess reared its ugly head in the decade of the 90s. This coincided with the exit of many white, and some black professionals, all of whom were seeking safer and less expensive living options in the suburbs. Suddenly we began to see Leadership Madison, Leadership Ridgeland, Leadership Clinton, Leadership Rankin County, Leadership Highway 463, etc. etc. etc. With the proliferation of organizations came a crushing demand for more leaders. In a few short years, just about anybody and everybody with a year or more of college became a prime candidate for the position of "Leader." While this brand of balkanized leader-creep was certainly good for individual resumes, it was of questionable value to the larger metro community. So, in keeping with that excess-laced spirit of the 90's while at the same time honoring the old aphorism, "If you can't beat 'em, join 'em," I am pleased to announce the inaugural program of yet another civic betterment organization - LEADERSHIP MEADOWBROOK MART.

Qualifications for Leadership Meadowbrook Mart

* High School Graduate, if possible. (No GEDs, please)

- * Registered Voter (voting in actual elections not required)
- * Not a member of the Kroth
- * Not a regular follower of WWP Wrestling or listener to Talk Radio between the hours of midnight and 4:00 A.M.
- * Not a graduate of other Metro Leadership Programs (Negotiable)
- * \$35 Initiation Fee

About Leadership Meadowbrook Mart

First and foremost, Leadership Meadowbrook Mart is designed to give even the most apathetic citizen the appearance of dedication and commitment. And as a distant second, it is devoted to eliminating or at least slowing down the lunatic fringe by exposing it. Similarly, it seeks to squash stupid ideas through the time-honored tradition of ridicule. And finally, LMM offers its self-appointed Executive Director (See Below) the opportunity to shamelessly pad his resume with one more high sounding, albeit inconsequential entry. This three-point credo helps explain the Projects and Educational Program for the coming year that are set forth below.

Preliminary 98 - 99 Projects

Persuade Habitat For Humanity to build a Convention Center For the City of Jackson.

Encourage The City of Jackson to go ahead with construction of the much talked about "Town Creek Snake Walk" west of the Post Office on South West Street. (Imagine a rustic version of the San Antonio Riverwalk sans restaurants and shops, yet infested with cottonmouth water moccasins and discarded tires).

Work to create the King Edward Hotel Mountain Adventure & Cave Themepark in downtown Jackson. This would be the urban companion to Rapids On The Reservoir. If you thought mountain climbing and spelunking was out of reach for Jackson Youth, think again! For the price of a few tall ladders and some heavy duty liability insurance coverage, this real life adventure attraction is ready to go as is. It even comes with its own bats and menacing,

intoxicated hillbilly look-a-likes to scare the children.

Tentative 1998 - 99 Topics and Speakers

Topic: "Why Don't You Get Your Lazy Butt Out Of That Recliner And Get A High Paying Executive Position - A Challenge To Underemployed Mississippians"
Speaker: Gov. Kirk Fordice

(Alternate Topic - "Home Sweet Home, Or Why Vicksburg Is A Rather Tawdry Little Gambling Town - Profiles In Civic Loyalty")

Topic: "Why I'm Not Jackson's Police Chief" A RoundTable Discussion Featuring Rumors Up To Chief Bruce Coleman"
Speaker: ???

Topic: "A Critique Of Municipal Government"
Speaker: WLBT CEO Frank Melton (This will be an extended program running 24 hours a day, seven days a week from January 15 - May 15, 1999. Bring a sleeping bag - Food and water provided.)

Topic: "Proof That Jesus Was a Republican And Other Facts - Because I Say So"
Speaker: Matt Friedeman

Topic: "Don't Be A Victim - A Race Neutral Approach To Positive Thinking"
Speaker: Jackson Advocate Publisher Charles Tisdale

Topic: "Plan Until You Can't Plan No More"
Speaker: Mayor Harvey Johnson (Tentative)

Meetings

The first meeting of the 1998-99 class will be held in one of the changing rooms at Catherine's on Meadowbrook Road sometime in September at a time to be announced. If the primary meeting place happens to be occupied by a paying customer, the alternate site is the gift wrapping counter at McRae's Meadowbrook. A box lunch from the Piggly Wiggly across the street will be

Continued on page 5

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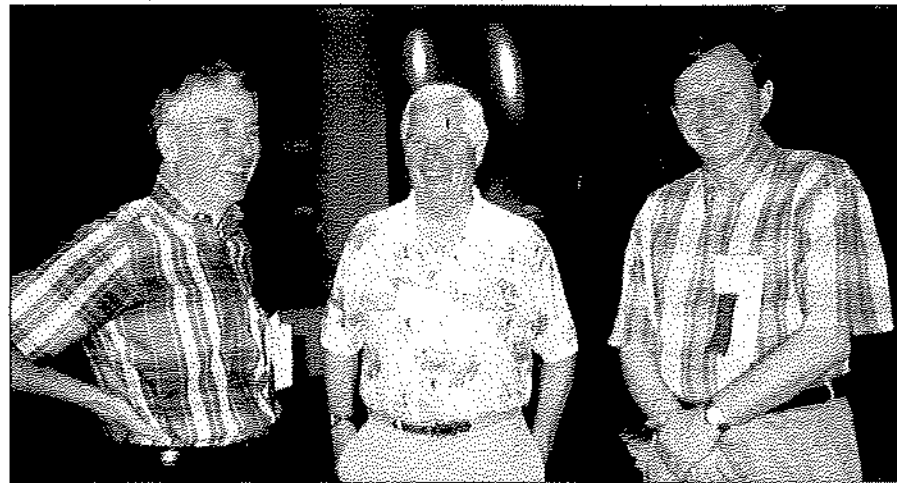
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Robertson to Present the August CLE Program

At the August luncheon meeting, James L. (Jimmy) Robertson will present the CLE program after lunch. He will address the topic, "Professionalism - Problems in the Profession."

Mr. Robertson is a shareholder in the law firm of Wise Carter Child & Caraway in Jackson. A native of Greenville, Mississippi, he graduated from the University of Mississippi with a B.A. degree in 1962, and from Harvard University with a J.D. degree in 1965. He subsequently engaged in the private practice of law for eighteen years, first in Greenville and thereafter in Oxford, Mississippi.

From 1983 until 1992, Mr. Robertson served as Justice on the Supreme Court of Mississippi, and he authored a number of important opinions while on the Court. He served as either an adjunct or a full-time Professor of Law at the University of Mississippi School of Law continuously from 1977 to 1992, and in the fall semester of 1992, he was a



Jimmy Robertson (center) is pictured at the annual meeting of the Mississippi Bar in Sandestin, Florida, chatting with (left) HCBA member John B. Clark of Jackson and (right) Court of Appeals Judge Jim Herring of Canton.

Visiting Professor of Law at Fordham University. He is the author of numerous publications in scholarly and professional journals and is a frequent speaker on continuing education and other law related programs.

Mr. Robertson is a member of the

American Bar Association, The Mississippi Bar, the Hinds County Bar Association, the American Law Institute, the American Judicature Society and the American Inns of Court, William C. Keady Inn (Oxford) and Charles Clark Inn (Jackson).

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The point of contact shall be Mr. Brian Abernathy, Office Administrator, P. O. Box 24597, Jackson, Mississippi 39225.

If you have any questions or comments, please contact Mr. Brian Abernathy at 601-355-7773.

On Computing

by Joel Howell

Doubtless you've heard about year 2000 problems. How does this concern you and your PC? Here are a few thoughts for guidance.

Years ago when RAM was expensive, CPUs slow, and hard drive expensive, program coding had far more limitations than today. A simple but effective programming trick was to delete the first two digits from date items, thus making "1981," "81." That foundation led to what we call today Year 2000 (Y2K) problems.

Computers that are not Y2K-compliant, at 12:00 a.m. on January 1, 2000, therefore believe it's 12:00 a.m. 1900. The most probable result is a system crash.

A popular myth is that only main-frame computers may have Y2K problems. Actually, Intel-based PC's are at risk if they have older BIOS (basic input-output systems). On boot, the BIOS initializes the PC and gets the system date and time from the real time clock, which, in older systems, contained a two digit year. While this will not likely be a problem in Pentium-based computers, it may well exist in older equipment.

Your first step is to determine if your PC is Y2K-compliant. If you have Internet capability (and you all really should by now), check the manufacturers' web sight for information. If that's not available for whatever reason, see if you can determine the manufacturer of your motherboard and contact the manufacturer to see if a BIOS upgrade is available.

There are number of ways to determine if your computer is Y2K-compliant. A simple way to do this is to see if the system will survive a BIOS rollover from 1999 to 2000. Get to a DOS

prompt, set the date and time to December 31, 1999 at 11:59, then turn the PC off. Wait a few minutes, then turn it back on. If it reports that the date is January 1, 2000, you're home free; otherwise, best read further.

Another way of testing is to set your computer's date after January 1, 2000. Turn the computer off, then turn it back on, and see if it maintains the date input. If not, there's likely a problem your system clock.

There are also automated programs to check Y2K compliance. Visit www.RightTime.com and download Test2000.Zip. Unzip the file and read Test2000.txt, which will give you the protocol. If you are using Windows (who isn't by now?), go to a MSDOS prompt, then run test2000.exe. It will conduct a series of comprehensive tests and give you the verdict in short order.

Microsoft has a year 2000 resource page at www.microsoft.com/year2000/; WordPerfect has a like page at www.corel.com/2000.htm. These will help you identify any problems with older versions of software and most likely provide access to a patch.

The last article gave you some overview of Windows 98, its capabilities, and upgrade considerations. Now that the upgrade has been released, we have more information, and there are some cautionary notes.

First and foremost, be certain to back up all your data before upgrading. You should also have plenty of free hard disk space: a minimum of 150 meg to upgrade from Windows 95 and 170 meg if upgrading from Windows 3.1.

If you do have plenty of room you can actually copy the Win98 installa-

tion disk to your hard drive, which can be useful if you need to change your setup.

Once Windows 98 is installed a full installation can be as much as 250 meg. However, you can give it extra room by converting to the FAT32 file system. A couple of articles ago, consideration was given to partition size and clusters. Simply put, FAT32 supports a smaller cluster size than the old FAT16 system, which results in less wasted disk space.

You can quickly determine if it's worth your while to do so by browsing the net to www.microsoft.com/windows98/info/fat32.htm and download the FAT32 utility. Double clicking on the Fat32.exe file will extract it contents, which you then can run on each hard drive on your system. For example, on a one gig hard drive, moving from FAT16 to FAT 32 can regain as much as 226 meg!

One other idea worthy of consideration, if you have a thermal paper facsimile machine, is to set up a fax station on your PC. While Windows 95 incorporated a fax add-on, this is not of the Windows 98 setup. If your already have Windows 95 fax program installed when you upgrade, it will still work. You will have to find the fax software on the Windows 98 CD-ROM and install it separately. Your file tool/win95/fax folder contains the relevant files. If you want something more friendly and powerful, there are a number of third-party products available to use for faxing. One good one is Symantec's WinFax Pro.

If you haven't visited the web site (hindsbar.com), we are in the process of adding considerably more content. The news readers, particularly including the ZDNET news reader (which can be accessed by double clicking at the bottom of the page) contains lots of information on Y2K problems, Win98, and virtually any other computer information of interest.

Questions or comments? Drop me an e-mail (webmaster@hindsbar.com).

Continued from page 3

provided. Be sure to bring your \$35 initiation fee in cash.

Nominations and Suggestions

If you know someone badly in need of a new resume entry (like maybe yourself) and would like to nominate that person for membership in Leadership Meadowbrook Mart; and/or

you would like to suggest a topic and speaker or perhaps propose a project for the Class of '98-99, send your correspondence to:

Captain Equity
Executive Director
Leadership Meadowbrook Mart
c/o Hinds County Bar Association
151 East Griffith Street
Jackson, MS 39201

Ribbon Cutting at the Eudora Welty Library

On May 27th, a ribbon cutting was held at the new legal research computer installation located in the Eudora Welty Branch of the Jackson/Hinds County Library on North State Street. John McCullough, 1997-98 President of the HCBA, presided at the ceremony.

In June of 1997, the Hinds County Board of Supervisors approved the recommendations of the HCBA Library Committee for this computer installation and authorized the expenditure of approximately \$85,000 from the Hinds County Library Fund (derived from court costs in the county) to purchase the requisite equipment and hire a part-time law librarian, with an additional \$20,000 for the first year's expected maintenance costs.

There are four computer work terminals and a CD-ROM network in a central location on the main floor of the Welty Library. Library patrons (including lawyers) are able to research the law through various CD-ROM sources and access the Internet at the new "high-tech" law collection.

Shown below are some scenes from the ribbon cutting ceremony.



The new legal research computer installation at the Eudora Welty Library.



Peggy Hobson Callhoun, Hinds County Supervisor representing District 3, and George S. Smith, District 5 Supervisor, attended the ceremony.



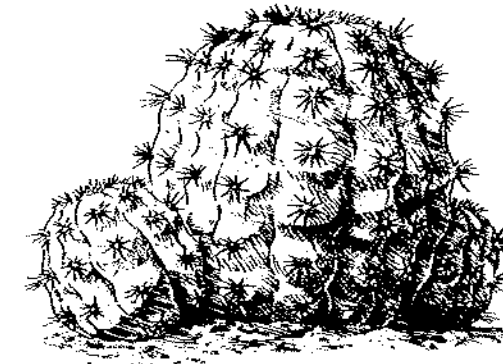
(From left) HCBA Library Committee Chairmen Fulton Thompson and Ruma Haque are shown with Marian Francis, Executive Director of the Jackson/Hinds County Library System, John McCullough, 1997-98 HCBA President, and Peyton Prospere, Chairman of the Library Board.



John McCullough presented a plaque commemorating the occasion to Marian Francis while Peyton Prospere and George Smith looked on.



Trudy Wilson (left), the Library's Automation Coordinator, and Maurine Mattson, HCBA Library Committee Member, provided the expert technical advice for the project.



Ouch!

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HINDS COUNTY BAR ASSOCIATION/ JACKSON YOUNG LAWYERS

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Shotgun Tee Off: 1:30 p.m.

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Deerfield Golf Course

All proceeds from the tournament will go to the
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4 Person Scramble*

Limit 116 Persons

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Name _____ Your Handicap _____

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Phone _____

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

Send registration and checks payable to: Hinds County Bar Association, c/o Debra Allen, 206 W. Pearl St., Suite 1411, Jackson, MS 39201. For more information call, Debra at 353-0001.

February Bar Exam Results

The Mississippi Board of Bar Admissions has announced the results of the Mississippi Bar Examination administered on February 23-25, 1998.

A total of fifty-three applicants achieved passing results on the three-day February Bar Exam. Fifty-one of these were certified for admission; two cannot be admitted until they have passed the Multistate Professional Responsibility Examination.

Seven applicants were certified for reciprocal admission in Mississippi as a result of passing the examination administered to attorneys who have practiced for five or more years in another state. Nine lawyers took the attorney's exam, giving a passage rate of 77.8%

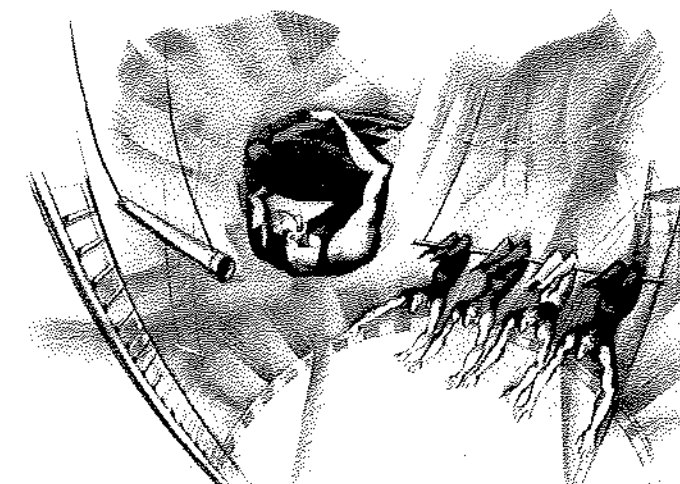
Thirty of thirty-seven graduates of in-state law schools who took the Mississippi Bar Examination for the first time achieved a passing result, a passage rate of 81.1%. Sixteen of twenty graduates of out-of-state law schools taking the exam for the first time were successful, a passage rate of 80.0%. In comparison, the passage rate for applicants who had previously failed the Mississippi Bar Examination on one or more occasions was 36.8%.

The Mississippi Bar Examination is administered by the Mississippi Board of Bar Admissions, a nine-member Board appointed by the members of the Mississippi Supreme Court. All persons seeking admission to practice law in Mississippi must pass a written examination administered by the Board. The examination for initial admission in Mississippi presently

consists of one and one-half days of essay examinations, one half day of performance type tests, and the one-day Multistate Bar Examination, which is administered simultaneously in approximately forty-six states. Attorneys from other states eligible for reciprocal admission must take a one or two-day essay examination on subjects relevant to practice in Mississippi.

Since 1984, all applicants for initial admission to practice in Mississippi must be graduates of law schools approved by the American Bar Association. The Mississippi College School of Law and the University of Mississippi are the only ABA approved law schools located in Mississippi.

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Hinds County Lawyers Running for Court of Appeals, Circuit and Chancery Posts

Several attorneys in the Hinds County area will be running for judicial office in the November 3, 1998, General Election. In the Court of Appeals races, Judge Mary Libby Payne of Pearl and Judge Leslie Southwick of Jackson are unopposed for their positions. Judge Jim Herring of Canton will face Tyrce Irving of

Greenwood, and Judge Greg Hinkebein of Jackson is being challenged by Joe Lee of Jackson.

All the Chancery Judges in Hinds, Madison, and Rankin Counties are unopposed. Circuit Judge Swan Yerger and Circuit Judge James E. Graves, Jr. of Jackson have no opposition in their subdistricts. In Subdis-

trict 2, however, there is a race among Henry C. Clay, III, Tomie T. Green, E. J. Russell, and Pieter Teeuwissen, all of Jackson. Circuit Judge L. Breland Hilburn of Jackson is being challenged by Dale Schwindaman of Raymond in Subdistrict 4.

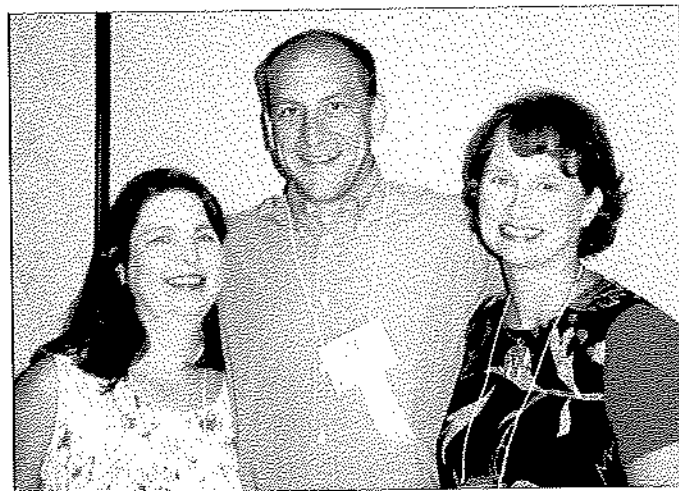
Hinds Countians Enjoy the Annual Meeting of The Mississippi Bar at Sandestin, Florida



First Lady Phyllis Anderson had fun at the annual meeting with her husband, Reuben Anderson, 1997-98 President of The Mississippi Bar.



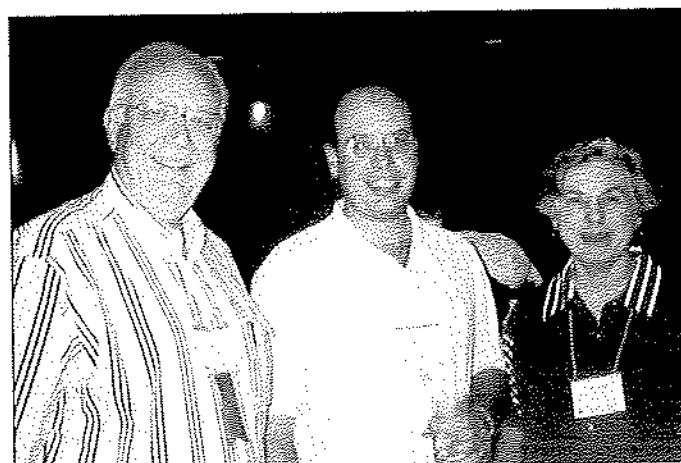
Hal Miller and Tommy Williams proudly display their Distinguished Service Awards presented at the annual luncheon and awards program.



Frances Corley Lynch, left, recipient of the Young Lawyers Division's Special Award, is pictured with Matt Pesnell, center, recipient of the Outstanding Young Lawyer Award, and Yvonne Jicka, right, member of the board of the YLD.



50-year Bar members Dan Lee and John Price celebrate the occasion with their wives, Mary Alice Lee, left, and Norma Price, right.



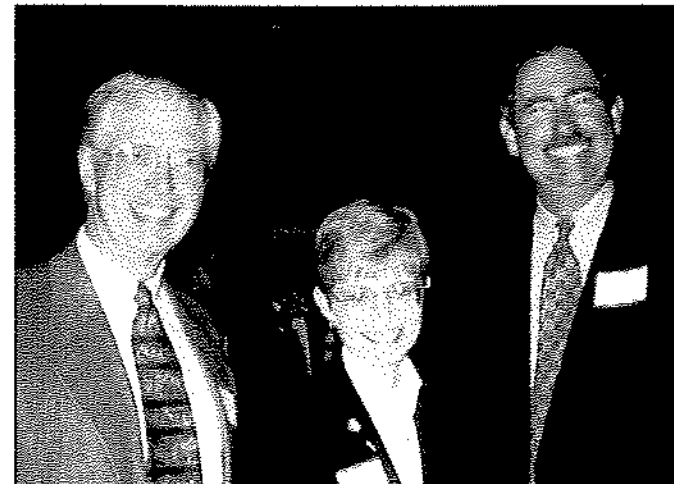
Louis Watson and Louis Watson, Jr., father and son lawyers, are shown with Frances Watson.



Retired Supreme Court Justice Dan Lee, left, is shown visiting with Linda Thompson and Jimmy Robertson.

HCBA and Magnolia Bar Association Social

The HCBA and the Magnolia Bar Association hosted a Spring Social in late May at Hal & Mal's. Music was provided by T&T Connections. The event was sponsored in part by American National Lawyers Insurance Reciprocal.



Richard Edmonson, Joy Phillips, and Ben Piazza.



Guests enjoying the food and music.

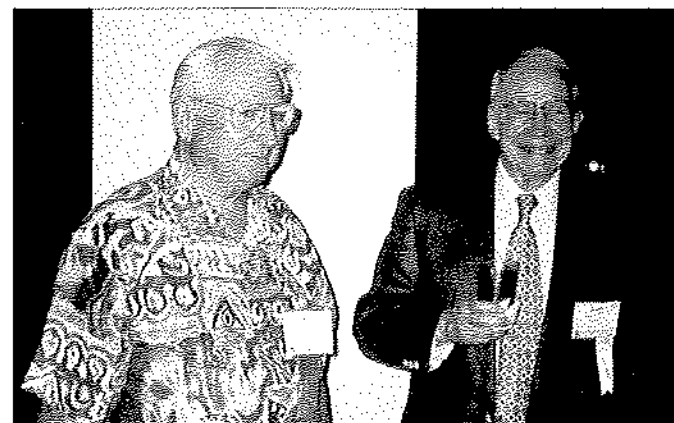


John McCullouch, Rhonda Cooper, Mark Chinn and Susan Tsimortos.



John McCullouch, Diann Loper with ANLIR, Martha Ashley and Bill Mathison with Fox-Everett.

...More from the Annual Meeting of The Bar at Sandestin, Florida



John Price, right, toasts his 50 years of Bar membership with friend Billy Carter.



Earl Wilson, right, another 50-year Bar member, enjoys the annual luncheon with his wife Martha.

HCBA President Mark A. Chinn's Reminder: Emphasis on Professionalism and Civility

Our year of professionalism has now begun. As you may remember, we plan to emphasize professionalism all year. We have scheduled six meetings this year, instead of the conventional five, and we are going to have a CLE program at each meeting. This means that you can obtain one half of your CLE credit by attending our luncheon meetings. Every program will be dedicated to "Professionalism."

Professor Guff Abbot, our new Mississippi Bar President, was our inaugural speaker. He presented an excellent program on the meaning of professionalism. Professionalism is also the theme of the ABA this year, so Guff talked about the ABA's effort in this area. Guff's presentation brought out record attendance for our last meeting. We expect high attendance again at the August 18th luncheon meeting, so plan to arrive early to get a seat.

□ HINDS COUNTY BAR ASSOCIATION □

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

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HCBA Luncheon Meeting
12:00 Noon, August 18

HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

DECEMBER 1998

“What We Do To Each Other”



President's Column by Mark A. Chinn

Law Practice Is Hard Enough.

Litigation is already as tough as it can get. Why do we make it tougher on ourselves? Our clients are involved in the toughest circumstances of their lives. Many of my clients will say to me, “You have my life in your hands.” They are scared. They fear ruin.

Our system is adversarial.

“Adversary” is defined as contention, opposition and resistance. Benjamin Sells writes in his book, *The Soul of the Law*, that our adversarial system is predicated on the belief that “if two sides each do their best to win a case then the best case will win most of the time.” He notes that in the Middle Ages, it was not uncommon to have litigants subjected to trial by ordeal.

But even though our system is adversarial and the issues our clients face are serious, do we really want to create “ordeals” for each other. Is that what our adversary system is all about? I don't believe it is. In my experience, the best trials have had *no conflict between the lawyers*. As a matter of fact, they have had no objections and the maximum number of stipulations possible. Exhibits were premarked and agreed to. The cooperation between lawyers led to a fair “contest” of the ideas and positions. The contest was not between the lawyers or the parties. It was a conflict of ideas.

The judges in these trials have also considered them to be the best of trials and thanked the lawyers and the litigants. I believe such trials are what our forefathers contemplated.

Unfortunately, we face “ordeal” quite often. Examples run the gamut from uncooperative scheduling to bar complaints and law suits. I'd like to discuss some of the things I'd like to see stopped in our bar.

Uncooperative Scheduling. Many lawyers schedule hearings and depositions without checking with opposing counsel. This is a waste. All lawyers know that judges routinely grant continuances where there are legitimate conflicts. Noticing something without prior agreement creates an unnecessary chain of wasteful, stressful and time-consuming events, ending in hearings on motions for continuance.

On the other side of the coin are lawyers who take advantage of an attempt at cooperative scheduling. These lawyers just can't find room in their schedules for the next three months. In one recent case, we called the opposing lawyer well in advance for dates for a deposition. He wasn't available until the “30th,” just two weeks

before a discovery deadline. Then, several weeks later, we received deposition notices for six depositions on the 24th, 25th and 26th, all sent without prior notice. This lawyer hit us from both sides. He wouldn't cooperate when we tried to accommodate him, and then he failed to show us the same consideration.

Nasty Letters. Lawyers who are working on a case together seem to have a habit of sending lengthy, nasty letters to each other. I admit that I sometimes fall into this trap myself. Why do we do this? I understand that sometimes things need to be documented, but when is the last time a lawyer persuaded another lawyer to capitulate with a nasty letter? I suspect almost never.

I would like to see lawyers talking over the phone and addressing their concerns honestly and not hiding behind a stamp or the fax machine. If you have to send a nasty letter, then do it, but why not call the other lawyer first and let him know it is coming and why. That

Continued on page 4

1998-99 HCBA Board



Serving as the 1998-99 Hinds County Bar Association Officers and Directors are (seated) Robert C. Grenfell, Secretary-Treasurer; Mark A. Chinn, President; John M. McCollough, Past President; Harris H. Barnes, III, Vice President and President-Elect; (standing) Directors: Samuel C. Kelly, Meade W. Mitchell, Daniel P. Jordan, III, John E. Wade, Jr., John Lund McDavid. Not pictured is Susan R. Tsimortos, Director

HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

December 15, 1998

12:00 Noon

Capital Club

Lunch \$10.00

CLE \$5.00

CLE Presentation by Judge Henry T. Wingate, United States District Judge

Help Wanted

Political cartoonist. If interested, send sample cartoon to Editor, HCBA News, c/o Pat Evans, Executive Director, 151 E. Griffith Street, Jackson, MS 39201.

HCBA Calendar of Events

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

February 16
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

April 20
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

May 6
Dinner Honoring the Judiciary.
6:30 p.m. Primos Northgate

CLE Calendar of Events

January 21
ABA Center for CLE Satellite Seminar: 1999 Update: The Clean Water Act.
MC School of Law. 925-7173

January 27
MS Sales and Use Tax for Manufacturers.
NBI 715-835-7909

January 28
MMA Winter Seminar.
UM-CLE. 601-232-7282

ABA Center for CLE Satellite Seminar: Two Mergers & Acquisitions Mini Courses: (1) Protecting the M & A Deal; (2) Financial & Accounting Provision in Acquisition Agreements.
MC School of Law. 925-7173

January 29
Strategies in Handling DUI Cases in MS.
Lorman Business Center, Inc. 715-833-3940

February 11
ABA Center for CLE Satellite Seminar: Employee Benefits Change for 1999.
MC School of Law. 925-7173

February 12
Fifth Annual Real Estate Transactions.
UM-CLE. 601-232-7282

Hot Topics in School Law in MS.
Lorman Business Center, Inc. 715-833-3940

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A Letter To Santa from Captain Equity

Mr. Santa Claus
Santa's Workshop Industries LLC
One Northpole
Arctic Circle
Northern Hemisphere
Planet Earth

Re: *Captain Equity's Christmas List*

Dear Santa:

You probably don't remember me. I last wrote to you back in the late 50's. That was when I was still a kid and long before I was called Captain Equity. Although my Mom always assured me that you have ways of keeping up with everybody, not to mention knowing who has been naughty and nice over the past year, I've taken the liberty of e-mailing my Social Security number just in case I'm not in your data base under this name. Hey, if anybody is going to have a version of Windows 98 that works, it has to be you. Right?

Well, Santa, unlike most of our politicians, this is not a self serving letter seeking expensive presents (or in their case, a fat campaign contribution) for myself. Rather, I want to make sure that all the children, or least people who act like children, get what they deserve this Christmas.

Now if you were a conservative Republican, I would expect you to advise me to get a job and buy my own presents. However, based on the fact that, unlike most of our elected officials, you have come through so often in the past, I would like to believe you are a vintage FDR New Deal Democrat. I sort of see you as a cross between a white-whiskered, red-nosed Tip O'Neill and a jolly Al Gore with gifts for everyone, or at the very least, a sleigh full of goodies that are heavily subsidized or subject to a modest co-pay.

Santa, I have thought a lot about my list and have tried to come up with an appropriate gift for each person on it. See what you think.

President Clinton and Hillary Clinton - Each other. And in the event they aren't spending Christmas together, an alternative gift idea would be:

President Clinton and Monica Lewinsky - Each Other. And if for some reason the First Lady popped in

unannounced and we wanted some real fun around the tree...nah!

Chelsea Clinton - Following the example of our Governor, please allow the first daughter to lose her memory of the past year.

Governor Fordice - Santa, give him back his memory (selective as it might be) along with a sense of irony for his stocking.

All Clinton Administration Officials Who Testified Before the Starr Grand Jury - Their attorney's fees.

Linda Tripp - A friendship ring with the inscription - Thanks for your trust - Monica

Ken Starr - A \$45 million pre-paid phone card to finance a four year career counseling phone conversation with Linda Tripp. Oh, and I almost forgot - please bring plenty of blank tape and batteries for Linda's stocking.

Councilman Armstrong And His Son Artie - Two holiday brandy sniffers. This gift idea was inspired by the old aphorism that goes something like this - "The family who drinks marked cognac together, stays together - in the same federal minimum security facility," or something to that effect.

The FBI (Assuming Councilmen Armstrong and Stokes turn out to be correct in their conspiracy theory suspicions) - A three day rental of Men In Black, The X-Files Movie and anything by Oliver Stone.

Magnolia Venture Capital Corporation - Oversight and felony convictions.

The Mississippi Department of Economic Development - A copy of The Ghost of Christmas Past better known around the Sillers Building as The Institute For Technology Development.

The King Edward Hotel - A viable idea for redevelopment that excludes anything having to do with public funds, technology and oversight by the Mississippi Department of Economic Development. Hey, how about the unthinkable, Santa - A hotel!

Farish Street - Gas lights, blues and gospel music, and restaurants.

John Grisham - A toy manufactured home and a copy of his newest best-seller - The Trailer.

Journalists Who Resent The Fact That Governmental Officials Don't Fly Commercial On State Business - A trip on the state plane to the bowl game of their choice.

Former Vice President Quayle - A Mr. Potato Head Set.

Newt Gingrich - He's already gotten what he deserves.

Eddie Briggs - A "no deal will be refused" trade of his Mercury Cougar Program Car with the X-2 dealer license plate for a career in wrestling and a new home in Minnesota so maybe he can be elected Governor somewhere.

Mike Moore - More press coverage and a compressed head in political cartoons.

Ronnie Musgrove - A pack of Camels to plant in Mike Moore's office.

Every Individual On My Christmas List (except John Grisham) A book deal that loses tons of money for greedy publishers seeking to exploit celebrities and/or anybody connected with the Starr Investigation.

The American People - Campaign finance reform and a stocking full of bad reviews for books ghost written for celebrities and/or anybody connected with the Starr Investigation.

Well Santa, there it is. And if it wouldn't be too much trouble, I could really use some industrial strength hip boots in anticipation of next year's statewide elections.

*Hoping On The 24th,
Captain Equity*

Editor's Note: Shortly before press time, we received this rather remarkable letter with a Northpole Return Address.

Dear Captain Equity,

Just got your letter. First of all, yes, I remember you well from the 50's. You might recall those switches and ashes I left in recognition of that rather unfortunate fourth grade prank

Continued on page 6

President's Column

Continued from page 1

way, you will have documented your position without creating more trouble.

Undermining the Opposing Counsel. In a couple of cases recently, I have had lawyers file suits and have my clients served with process without warning or notice to me, even though the opposing counsel had been working with me to settle the case. This type of conduct is completely unnecessary and can cause client confidence problems.

Not only is it unnecessary, it also can lead to acrimony in the litigation. When two lawyers are working with each other, there should be a level of good faith which would call for honest communication about the status of the case, instead of Pearl Harbor tactics. For the person who enjoys the surprise attack, remember how America responded to Pearl Harbor; it became a rallying cry instead of a serious defeat.

Discovery. Our discovery laws allow the parties to get at just about whatever they want. The Federal Rules require complete disclosure. Why, then, do we require each other to jump through all kinds of hurdles to get what we're going to get anyway? All it does is cost people money and annoy the judges.

It is not unusual for me to get discovery with objections to every single question, and then the statement, "Without waiving the objection, our answer is . . ." In a recent case, I received answers which said witnesses and documents for trial would be provided when known. Then, just two weeks before a discovery deadline, the person listed more than forty-five witnesses, most of whom we learned had never been contacted. At trial, the same lawyer called only three witnesses.

The same lawyer threatened to stop every single deposition that we took. In another case, the opposing lawyer objected to almost every single question. At one point, the objections got so long that nobody remembered the question when the objection was finished.

The best lawyers I have ever seen rarely interfere like that with another lawyer. They understand that their case is not won and lost with annoyances to opposing counsel. They probably recognize that they are better off with a foe that is not personally teed off.

Trying Opposing Counsel. Some lawyers make the trial into a trial of the opposing lawyer. They spend all of their time trying to corner the opposing

counsel and embarrass him in front of the judge. One lawyer said to the judge in the middle of a trial, "Well, if Mr. Chinn had prepared his case properly, he would . . ." The same lawyer in another case told the judge that it was lawyers like me who were responsible for the negative public opinion of the justice system. Some of you might be tickled by these comments, but the truth of the matter is that the judge who had to listen to this garbage felt it was an obstruction to what he had to decide. (I wasn't too happy about it either.)

Earwiggling. There is an increase in the amount of earwiggling going on. Orders are being submitted to judges without opposing counsel being present. Unnecessary restraining orders are being obtained. The fastest way to undermine the public's faith in the judicial system is for judgment to be passed without the other side being present.

Attacking Opposing Counsel. Bar complaints, law suits and threats of criminal prosecution against opposing counsel are on the rise. It is not uncommon now for a litigant to try just about anything to get back at an opposing lawyer. These attempts are almost always frivolous and motivated by revenge.

Responsible lawyers must put a stop to this. I'm not talking about protecting each other from legitimate complaint.

I'm talking about making sure that clients and others do not pursue improper and frivolous means to interfere with the other party's right to have a lawyer. Unless something extreme is done, I think you'll see this tactic become the rule in litigation instead of the exception.

As I look around at our Bar and see the lawyers that are universally respected, I don't see a single one of them that isn't a consummate gentleman or lady. I don't see a single well-respected lawyer that engages in unnecessary tactics.

As a matter of fact, the best lawyers I face are so doggone nice that you wonder what they have up their sleeves. Their courteous ways do not interfere with their representation of the client. They are successful. They have everyone's respect and they try cases well. But never do they cause unnecessary stress or grief to opposing counsel.

Look around and see if you don't make the same observation. I don't pretend to fall in that category of litigator. But I have my eye on how they conduct themselves, and I am trying to conduct myself in a way which would make them proud.

That is one of the reasons the HCBA has initiated a Professionalism Award. So all of us will have examples of how it is best done.



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On Computing

by Joel Howell

How good are your Internet search skills? If you go back to the beginning of Westlaw, you will doubtless remember various uses of proximity searches with Boolean operators. We'll begin with a brief look at that, as well as some advanced options.

Depending upon your initial log-in site to the Internet, you may have several search engines available. While there are many out there, here are some of the best:

- **AltaVista** (altavista.digital.com), which has exceptional indexing;
- **Excite** (www.excite.com), which has excellent overall content;
- **Hotbot** (www.hotbot.com);
- **Infoseek** (www.infoseek.com), which is good for business news;
- **Lycos** (www.lycos.com), a good place for chat and games;
- **Northern Light** (www.nlsearch.com), which is tops in technology; and
- **Yahoo** (www.yahoo.com), the original directory.

One good way to limit a search is the use of the Boolean AND operator. Some search engines use the plus sign instead of the word AND. Any decent search engine will let you search by putting a phrase in quotations "as if it were a single word," but you gain greater flexibility with an AND operator. For example, "apple and oranges" will be treated as a search for one word, but apples AND oranges retrieves documents that contain both words.

Other proximity search operators allow you to sharpen the focus even more. AltaVista provides a NEAR operator that allows you to search for terms in close proximity, similar to the old Westlaw operators. Most NEAR

operators use a default word count of ten, but the Lycos proximity NEAR engine searches for terms within twenty-five words of each other.

There are other variations on this theme, but most search engines have not yet reached the natural language capabilities of Westlaw. Wildcards will work well. The asterisk, for example, substitutes for any word endings; thus, "theor*" matches "theory," "theorem," and "theoretical."

In addition, virtually every search engine has either advanced search options or a help button. Many search engines are also case sensitive, so be careful with your capitalization. If you want to intensify your web searches, spend some time browsing in www.zdnet.com/products/searchuser.html.

Another help comes from automated search robots which allow you to make the same search periodically. URL-Minder maintains a web robot that will periodically reacquire a web page to check changes in content. You can secure a copy of this from www.netmind.com/URL-minder/URL-minder.html.

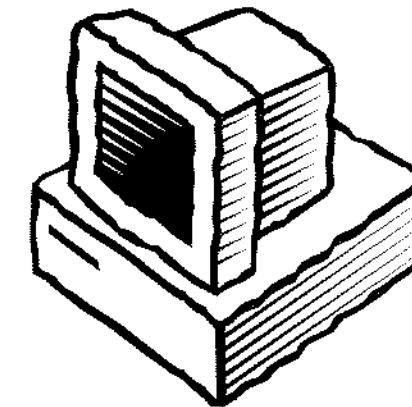
The TracerLock robot sends search queries to the AltaVista engine. You can initiate a search by going to www.peacefire.org/tracerLock and establishing an account. Informant lets you set up periodic searches of Lycos, AltaVista, InfoSeek or Excite at intervals of three, seven, fourteen, thirty or sixty days. This search can be set up by going to the Informant web site located at informant.dartmouth.edu/.

Finally, subject-specific search engines look only to specialized databases. Search.com, for example, has more than five hundred subject-specific search engines. The Beaucoup! web

site (www.beaucoup.com/engines.html) gives access to more than a thousand search engines, and will, among many other things, allow you to perform multiple engine searches.

Another resource that you should check into is PACER (Public Access to Court Electronic Records), an electronic bulletin board system established for the federal system. It also includes the Southern and Northern federal and bankruptcy courts in Mississippi. Quite a number of jurisdictions are available. Potentially available information depends upon the court involved, but may include case-by-case listing of parties and attorneys, case-related information (action, ad damnum, etc.), chronology of events, claims registry, types of documents filed, and case status. Some courts require specialized software, some provide toll-free numbers. There is no registration fee; the cost is sixty cents (\$0.60) per minute, billed quarterly. For more detailed information, call 800-676-6856.

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



New Lawyer Dispute Resolution Committee

Tom Crockett of Watkins, Ludlam, Stennis & Winter has been asked to chair a new HCBA committee formed to assist lawyers with disputes among themselves. The purpose of the committee is to mediate disputes between lawyers or groups of lawyers who are unable to get along. Please contact Tom Crockett if you wish to serve on this committee or to refer squabbling lawyers to it.

Attorney Advertising Rules

An attorney wishing to determine what the Mississippi Rules of Professional Conduct provide with respect to legal services information (attorney advertising) who consults the 1996, 1997 or 1998 editions of *Mississippi Rules of Court, State and Federal*, published by West Group (formerly West Publishing Company), will be misinformed. The West Group publication prints Rule 7, "Information About Legal Services," in its entirety (Rules 7.1 through 7.7, inclusive), as promulgated by the Mississippi Supreme Court on June 22, 1994, along with a "Publisher's Note" reading:

In *Schwartz v. Welch*, 890 F.Supp. 565 (S.D. Miss. June 20, 1995), the United States District Court for the Southern District of Mississippi held:

"IT IS THEREFORE ADJUDGED AND DECLARED that the Amendments of Rule 7, Information About Legal Services, Mississippi Rules of Professional Conduct, as promulgated by the Supreme Court of Mississippi,

(attached hereto as Appendix 1) and made enforceable by the Defendants in this action, are unconstitutional and unenforceable, as applied to Plaintiffs and others similarly situated, and as the Official Comments to those same Rules indicate the Rules are to be construed as applied."

The publisher's note is accurate as the opinion of the court, issued by Judge Barbour after a bench trial, held Rule 7 in its entirety unconstitutional and unenforceable because of substantive reasons as to some parts and procedural reasons as to others. The publisher's note is misleading, however, as it gives the impression that no part of Rule 7 is now in force and effect. This is not the case.

The final judgment dated September 29, 1995, rendered in *Schwartz v. Welch* recited that by agreement of the plaintiffs and defendants the court would strike down only those parts of Rule 7 which were "unenforceable consistent with the Constitution." Following the rendition of the final judgment, the

January/February 1996 edition of *The Mississippi Lawyer* published a restated version of Rule 7 consistent with Judge Barbour's judgment.

If you do not have a copy of this edition of *The Mississippi Lawyer* available, you may conform the West Group publication of Rule 7 to the final judgment by deleting Rules 7.1(b) and (d), Rules 7.2 (a), (b), (d), (e), (f), (g), (h), (j) and (i), and Rule 7.6 (entire) together with all comments related to the deleted rules. In restating Rule 7 *The Mississippi Lawyer* re-lettered the subrules in Rules 7.1 and 7.2 so that the letter designations within these two rules are not consistent with the West Group publication.

The Mississippi Supreme Court has requested The Mississippi Bar to submit a petition requesting Rule 7 be amended to conform to the judgment in *Schwartz*. It is assumed West Group will publish the amended rule when it has been promulgated by the court.

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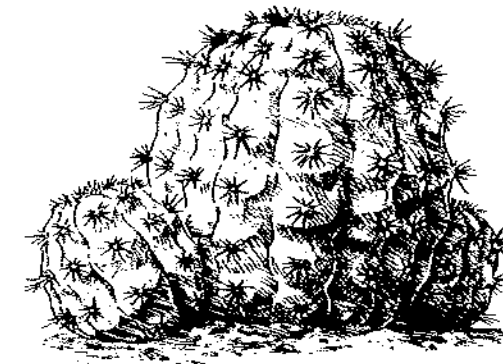
A Letter To Santa

Continued from page 3

on your teacher featuring the left over turnip greens. As I recall, it was not unlike your suggestion of having the Lt. Governor plant cigarettes in the Attorney General's Office (funny as that might be). However, I was pleased to see that things had straightened out for you until you got this column and started writing snippy things about assorted public figures. Though it is laudable that you only asked for one present, that is not nearly enough where you are concerned. I feel strongly that you too should get what you deserve. That is why I am giving you the same thing the elves picked out for the President - a two week vacation at the King Edward Hotel with some of Jerry Springer's guests, Matt Friedeman, the gang from the Jackson Advocate and the Jackson City Council. Oops, pardon the redundancy.

Merry Christmas.

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



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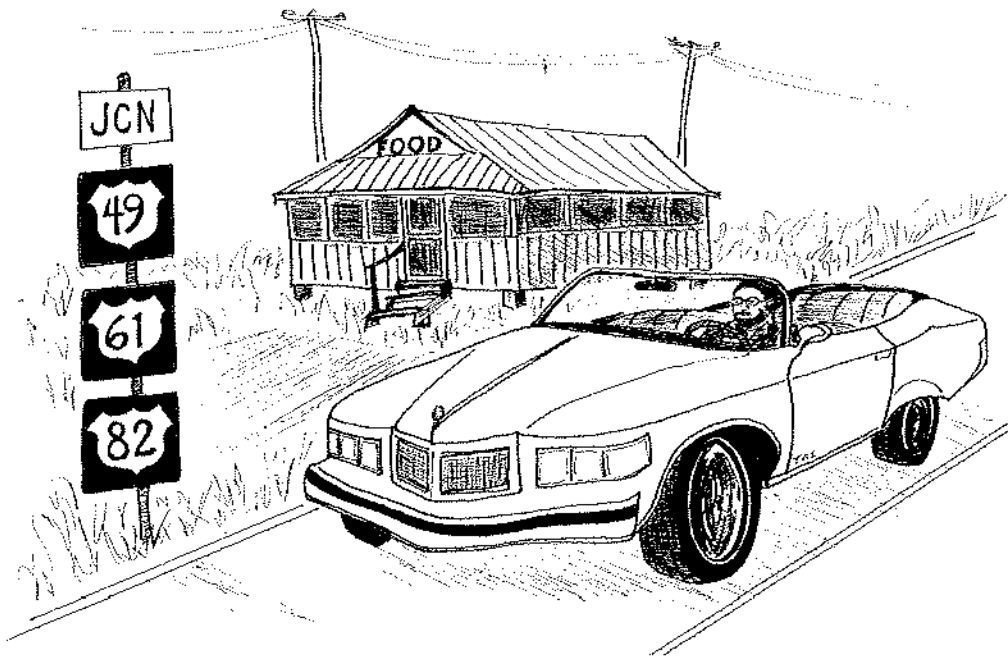
Well, the response was great — thanks, readers! Even Captain Equity unbuttoned his starched collar and came down from his editorial podium to congratulate this old toothpick-totin' boy on the entertainment aspect of the first column.

Several folks wrote in to share gourmet experiences at revolving tables. It seems everyone loves the food on those big, groaning lazy-susans at the Mendenhall Hotel. I recently took two out-of-state lawyers there, and they were enchanted by the 1950s atmosphere — as if you were visiting in the home of the proprietor, looking at all his framed family and school football-star photographs before the meal — and the gregariousness of the otherwise strangers around the table who were eager to offer their opinions about the best barbecue and catfish places nearby. (Is it just me, or has what we eat become second only to football as the most often discussed aspect of life?) The fried chicken and chicken pot pie and biscuits and more than a dozen vegetables served from the center of the table were splendid, and we all got our ten dollars worth without question.

My Mendenhall group first attended a deposition at the beautifully renovated, neoclassical-revival Simpson County Courthouse. We walked upstairs to the big courtroom and heard our voices echo off its polished wooden floors and old-fashioned balcony in spite of our deliberately hushed tones. You have to think about To Kill a Mockingbird and expect to see Gregory Peck walk in while you're there.

Second favorite to the Mendenhall Hotel is Walnut Hills in Vicksburg. It's on Adams Street near the corner of Clay Street and just south about a block from the back of the Warren County Courthouse. It's an old house that still retains the quality of a boarding house in spite of the bar that's been added, and the food is quite good. Schedule your courthouse work in the mornings, because after lunch you need a nap.

There once was a fine round table establishment in Brookhaven, but I haven't been there in years. Does anyone know if it is still in business?



Speaking of catfish, I recently stopped at Catfish Haven on Highway 49 North in Pocahontas on my way back from the Delta. I really prefer my catfish fried whole on the bone, and they know how to do that so the fish is really juicy and flavorful. Fortunately, I restricted myself to the standard order and not the "All U Can Eat" or I might not have made it home.

Driving through Yazoo City I wondered about a good place to stop for food there. Any recommendations? Anyone had the hot tamales from the shack on Highway 49 as it goes through town?

Another place that serves a good catfish lunch if you only want one nicely fried fillet is the Ajax Café on the Square in Oxford. The tartar sauce is tasty with a twang of some different spice. The cornbread is fine, as are all the vegetables and a creditable chicken pot pie.

You have to circle the Square a couple of times on foot window shopping after a lunch there. Which is not hard to do as the shops seem to be changing every week. Elliott's Jewelers are closing their doors for good. The Carters who own the place are grinning from ear to ear while looking forward to a life without the restrictions imposed by a six-day-a-week family retail business.

While in Grenada not long ago, I had lunch at the Deli Express on Highway

51 next to Cliff Colbert Chevrolet at the intersection of Highways 51 and 8. The hot plate lunch was pretty good, and I brought home some fine andouille sausage from the butcher shop part of the Deli. The sausage was frozen at the Deli, so it made the trip home in the car okay.

The ladies at the courthouse recommended the Deli over Miss Clara's Café which I think I'll try next time. Miss Clara's is just off the square on Main Street, up from the Thrift Shop which looked appealing and across Main Street from the architecturally wonderful old Masonic Temple. I hear Jake & Ribs on Highway 8, not far from the interstate, is a good place for barbecue, but I haven't stopped there yet.

I'm headed to southern casino country soon — the Mississippi Gulf Coast. How about some recommendations? I'm looking for quality rather than the quantity advertised on the billboards, as my girlfriend is threatening me with that no sugar, no cornbread, no white bread, no baked potato, no gravy kind of a hell that she lives in unless I trim down the waistline a bit.

Let me hear from you on slot machine eats (and any other suggestions). Write me in care of Pat Evans, HCBA Executive Director, 151 E. Griffith Street, Jackson, MS 39201, or e-mail me at hindsbar.com.

President's Update by Mark A. Chinn

Relationship Training. We are off the ground with our attempt to put relationship training in the local senior high classes. You may remember that we are promoting a program called "Partners."

This is a videotaped program sponsored by the ABA Family Law Section. It provides 10 classroom discussion topics for high school seniors designed to teach them about how to be better spouses. Its mission is to head off the national problem with divorce before the marriage ever starts.

Jackson Academy graciously agreed to serve as the guinea pig for us. We have conducted four sessions with three classes of Jackson Academy seniors. If

you have an interest in serving as an instructor or in putting one of these programs in your local school, please let me know. My phone number is 366-4410. By the way, if you do this, you will have an absolute ball with the kids!! I have.

Lawyer Dispute Resolution Committee. I have created a special, ad hoc committee to handle disputes between lawyers. We do not have such an animal in the state or local bars. Tom Crockett, Jr., has agreed to chair this committee. I have written all of the local trial and appellate judges, state and federal, and advised them of this committee. If you are involved in a dis-

pute with a lawyer in a case, or over a fee, or over a firm breakup, please call upon Tom to assist you with resolution of the problem.

Golf Tournament. The final accounting is in on the golf tournament. The net profit was almost \$7,000. This is a record. Importantly, none of the profit came from tournament fees. We charge you only what it costs. All of the profit came from sponsorships. Our major sponsors were: **First American Title, Pinnacle Trust, ANLIR, and Legg Mason.** These major sponsors have our deep appreciation. I hope you will each say a word of thanks to these sponsors when you have a chance.

Judge Henry T. Wingate To Present December CLE Program

Judge Henry T. Wingate was born January 6, 1947, in Jackson, Mississippi. He attended Brinkley Junior-Senior High School where he lettered in baseball and basketball. He was selected for the State All-Star Basketball Team and was elected co-captain.

Judge Wingate attended Grinnell College in Grinnell, Iowa, where he majored in philosophy. He was co-captain of the varsity basketball team and very active in college organizations, especially theatre. He graduated in 1969 with a B.A. degree. Judge Wingate acquired his J.D. degree from Yale Law School and was admitted to the State Bar of Mississippi in 1973.

From July 1973 until September 1976, Judge Wingate served as Lieutenant with the Judge Advocate General's Corps, United States Navy, at the Naval Legal Services Office in Norfolk, Virginia. He was assigned principally to the Criminal Division where he prosecuted on behalf of the government and also represented military accused before all military courts.

In October 1976, Judge Wingate joined the staff of the Attorney General for the State of Mississippi. He was variously assigned to the Criminal Appellate Division, the State Court Division, and to the Federal Litigation Division. Pursuant to these assignments, he handled an extensive criminal appel-

late practice and appeared often in state and federal courts on civil matters.

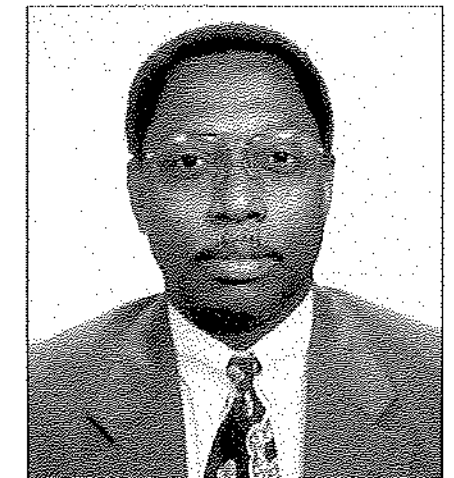
In January 1980, Judge Wingate left the Attorney General's Office and began employment as State District Attorney for Hinds and Yazoo Counties. In charge of the prosecution of violent crimes (capital murder, murder, robbery, rape, kidnapping, etc.), Judge Wingate appeared regularly in trials before juries.

Next, Judge Wingate accepted employment with the United States Attorney's Office for the Southern District of Mississippi. As an Assistant United States Attorney, he prosecuted the major crimes, and his duties involved extensive trial work.

Judge Wingate's teaching experience is considerable. He was an adjunct professor at Mississippi College School of Law; an adjunct professor at Jackson State University; lecturer on the national faculty of National College of District Attorneys (NCDAA); lecturer with the Mississippi Judicial College; lecturer with the Mississippi Prosecutors' College; and lecturer for the Mississippi State Bar Review.

An avid racquetball player, Judge Wingate has won a number of state championships in the sport. He is also a league bowler and a serious runner.

Judge Wingate is married to Turner Armita (Ward), a former state racquetball champion, who teaches at Clinton



High School, Clinton, Mississippi.

Judge Wingate was recommended to the federal bench in December 1984 and appointed by the President in October 1985, after confirmation by the United States Senate. At 38 years of age, Judge Wingate became the youngest and first black federal judge ever appointed in the history of Mississippi.

Since his appointment to the federal bench, Judge Wingate has served on numerous boards and committees, and Judge Wingate has received many honors and recognitions. On May 19, 1986, Grinnell College bestowed upon him a coveted honorary Doctor of Laws degree.

An Editorial To Share

John C. Tredennick, Jr.

HCBA President Mark Chinn has asked that we reprint an editorial to share with our members from John C. Tredennick, Jr., of Denver, Editor of the ABA's Law Practice Management Section, that appeared on the Editor's Page of the October 1998 publication, Law Practice Management. Mr Tredennick has graciously agreed to allow us to share this with you:

"I Am Not Snippy!"

When my partner asked me to join her on the case, she warned: "This is the nastiest pair of lawyers I have ever dealt with. Every letter contains a string of insults. I've been through two sanctions battles already and they are threatening grievance proceedings against me personally."

All this for a commercial case? But when I began asking around, others

told me the same thing. David Aspenleaf (not his real name) was a bar leader, ethics lecturer and one of the nicest people around. Except in litigation. He and his associate had a reputation as Rambo litigators who would do whatever it took to win and made every case "personal."

I didn't get two weeks into the case before the guns started pointing at me. I found myself staring at a three-page letter from opposing counsel accusing me of lying, stealing and violating the Boy Scouts of America oath. He was even tougher on my mother. As my blood reached a boil, I began dictating a reply. You want mean? I can do mean.

Then the thought hit me: I'm just playing into their hands. Whatever I send back will end up on the judge's desk and I'll be the one trying to explain my behavior. So I started again. This time, I responded politely

to the substantive points but ducked the invective. Except at the end. I asked, "Is it always your practice to write such snippy letters?"

No sooner had I faxed my response than I began to hear rumbles coming from farther down 17th Street. My fax was humming and spitting out smoke. Four pages of even worse invective led up to the crescendo: "I AM NOT SNIPPY!"

We couldn't stop laughing. It is hard to declare oneself "not snippy" with a straight face, especially after four pages of snip. My reply began, "David, this letter was even snippier than the last..." and went on politely from there.

That was all it took. He cooled down, and future communications were entirely different. We finished the case without bloodshed and on speaking terms. Like professionals.

HCBA Past Presidents Vie For State Bar Leadership

Richard T. "Dick" Bennett, who served as HCBA President 1983 - 1984, and Ben J. Piazza, Jr., who served as HCBA President 1993 - 1994, have been nominated to run for President-Elect of the Mississippi Bar.

Dick is a member of Bennett, Lotterhos, Sulser & Wilson, P. A. In addition to serving as president of the Hinds County Bar Association, he has served as president of the Mississippi Chapter of the Federal Bar Association and president of the Mississippi Bankruptcy Conference. He is a Fellow

of the Mississippi Bar Foundation. Dick has also chaired and served on several Hinds County Bar Association Committees. Over the past 33 years, Dick has primarily devoted his practice to bankruptcy law, commercial litigation, arbitration and mediation.

Ben is a shareholder in the firm of Watkins, Ludlam, Winter & Stennis, P. A. Ben has also chaired and served on several HCBA committees and is a Fellow of the Mississippi Bar Foundation. In 1996, he received the HCBA Outstanding Service Award and

in 1998, its Pro Bono Lawyer Award. Ben has served twice as president of the Mississippi School Board Association Council of School Board Attorneys and is a past president of the Mississippi Community College Attorneys Association. Ben has served as editor of the HCBA News.

Ballots will be mailed by the Mississippi Bar to all members in good standing in January 1999. For a more detailed biography of each of these fine candidates, see page 30 of the October 1998 edition of *The Mississippi Lawyer*.

Hinds County Bar Association's Professionalism Award

The Hinds County Bar Association has established professionalism as a principal theme of the Association this year. In keeping with this theme, a Professionalism Award has been created, which will be awarded annually to an HCBA attorney. The recipient of this award will be chosen by a Selection Committee composed of the Senior Hinds County Chancery, Circuit and County Court Judges, the Senior United States District Judge from the Jackson Division, and three HCBA attorneys.

The criteria that will be used in selecting the recipient of the award is as follows:

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

The Selection Committee is soliciting nominations for this year's award. A deadline of March 1, 1999, has been

set for receipt of such nominations. HCBA attorneys are invited to submit the name and address of suitable candidates to the HCBA either by regular mail at 151 East Griffith Street, Jackson, MS 39201 or by e-mail at PEvans@MC.edu.

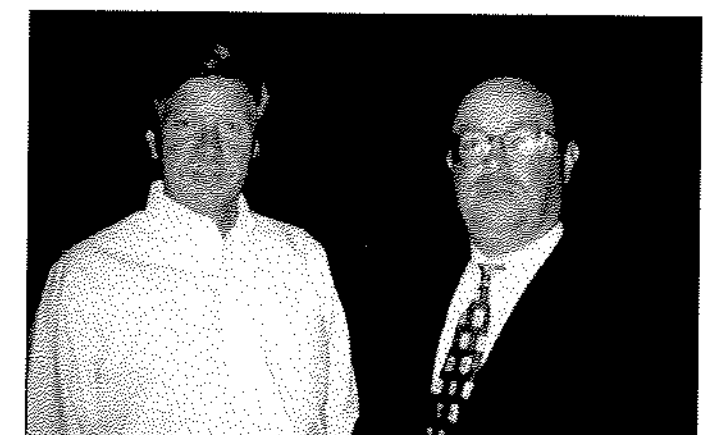
A brief statement as to why the nominee is deserving of the award may be included with the submission of his or her name. The recipient of this year's award will be announced at the May 6, 1999, HCBA Dinner Honoring the Judiciary.

Halloween Social at Hal & Mal's

The HCBA hosted a Halloween Social at Hal & Mal's on Thursday evening, October 29, and a good time was had by all who attended. Shown are some of the HCBA members enjoying refreshments and fellowship.



From left, Walker Watters, Bob Grenfell, and Henkie Hall.



Bobby Sneed (left) and Joe Roberts (right).

October Membership Meeting



Mississippi Court of Appeals Judge Mary Libby Payne was the speaker at the October Hinds County Bar Association Membership Meeting. Her presentation was "Is Sexual Harassment an Ethical Violation?" She is pictured with HCBA President Mark A. Chinn (left) and HCBA Secretary-Treasurer Robert C. Grenfell.

Hinds County Bar Association Mission Statement

The mission of the Hinds County Bar Association is to serve the lawyers, judges and public in our membership area by organizing, promoting and administering programs and member benefits in order to increase professional competence and responsibility, foster collegiality among our members, improve the public's understanding and appreciation of our judicial system, and advance the administration of justice.

Habitat For Humanity Needs Your Help

by Nina Redding

Ownership of a Habitat home means stability, pride, self-esteem and security for the family who has contributed sweat equity to the home and purchased it with a zero interest mortgage. Each home is made possible by the hard work of the Habitat homeowner and his or her family, dozens of volunteers, the generosity of many donors and the legal skills of one attorney.

For every home buyer who moves out of inadequate housing into a new or

newly renovated Habitat House, Habitat needs:

- An attorney's certificate of title for acquisition of the lot
- A title update after the closing with the new homeowner
- A final title update when the mortgage is assigned to a bank

Granville Tate and the Brunini firm handle all homeowner closings for Habitat, and many other HCBA members have already donated time and ser-

vices in connection with title work. Habitat greatly appreciates all of the donations of time and money Habitat has received over the years from the HCBA and the Metro Jackson legal community.

If you want to participate in this meaningful ministry by volunteering your legal services to help a qualified family attain ownership of a decent home, please call Nina Redding at 353-6060.

HCBA Officer Candidates Announced

The Nominations Committee, chaired by Ruma Haque, is pleased to announce the following HCBA members have graciously agreed to run for office for the year 1999-2000.

The nominees for the three positions to be filled are:

Secretary-Treasurer	Patricia Bennett Robert Gibbs
Director - Post 1	Rhonda Cooper Leyser Hayes
Director - Post 2	Mark Franklin Stuart Kruger

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

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

□ HINDS COUNTY BAR ASSOCIATION □

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

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IMPORTANT
HCBA Luncheon Meeting
12:00 Noon, December 15

HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

FEBRUARY 1998



President's Column

John M. McCullouch

In my October column, I asked for examples of lawyers who exhibited true professionalism. Included on page 6 of this Newsletter is a letter from John Clark in which he tells of his respect and admiration for Joe H. Daniel. It is a wonderful personal tribute to Mr. Daniel and can serve as a reminder to each of us of what professionalism in being a lawyer can really mean. When that last case is tried, that last title opinion is rendered, that

last will is written or that last piece of advice is given to our last client at the end of our careers, how will each of us be remembered in terms of being a lawyer? How will we be remembered by our clients, our fellow lawyers, our community, and our family? Do you like your personal answer to that question? If so, that's great. If not, it's not too late to change the answer!

On a related note, I want to revisit a subject that I have mentioned in a past column community service. Giving of our time, talent and advice is what we as lawyers do. Most of the time we get paid for it. However, we all know lawyers who will give their time, talent and advice without expecting anything at all in return.

Such is the case with the host of lawyers mentioned in the article on Habitat For Humanity in the last issue of the Newsletter and the lawyers mentioned in the article on Stewpot in this current issue. I am also sure there are hundreds of other stories that we will never hear about; stories of where HCBA lawyers have helped those in need without ever getting or wanting a dime for doing so. For all the bad press lawyers receive, we are not the "sorry lot" some portray us to be. Sure, there are some bad apples, and sure, we can improve our public image. But all in all, it's a wonderful way to make a living and a tremendous way to make a difference in the lives of others.

HCBA Board



1997-98 HCBA BOARD

Serving as Hinds County Bar Association Officers and Directors for 1997-98 are: (seated) Mark A. Chinn, Vice-President and President-Elect; John M. McCullouch, President; T. Harris Collier, III, Past President; (standing) Directors, Samuel C. Kelly, Susan R. Tsimortos, Daniel P. Jordan, III, Lynn P. Risley and Margaret H. Williams. Not pictured are Harris H. Barnes, III, Secretary-Treasurer, and William R. Wright, Director.

CLE Calendar of Events

February 19
How to Value the Personal Injury Case: Negotiating Strategies & Settlement Techniques.
 MC School of Law/ABA Satellite.
 925-7173

February 20
Handling a Personal Injury Case from Start to Finish.
 UM-CLE. 601-232-7282

March 6
4th Annual Workers' Compensation Law Seminar.
 UM-CLE. 601-232-7282

March 11
Summary of Recent Mississippi Law.
 Abbott & Weems. 601-234-6956

March 12
Copyright and Trademark Law for Nonspecialists.
 MC School of Law/PLJ Satellite Seminar. 925-7173

March 20
3rd Annual Debt Collection Seminar.
 UM-CLE. 601-232-7282

March 20-21
Lawyers Helping Lawyers.
 The Mississippi Bar. 960-9573

March 25
1998 Technology in the Law Office.
 The Mississippi Bar. 948-4471

March 27
Officers Under Fire: USC Section 1983.
 UM-CLE. 601-232-7282

April 23
Annual Spring Employee Benefits Law & Practice Update.
 MC School of Law/
 ALI-ABA Satellite Seminar.
 925-7173

April 24
Federal Practice and Procedure.
 UM-CLE. 601-232-7282

HCBA Calendar of Events

February 17
HCBA Membership Meeting.
 Noon. Capital Club

March 24
People's Law School.
 7:00 p.m. Community Room-The Clarion-Ledger

March 31
People's Law School.
 7:00 p.m. Community Room/The Clarion-Ledger

April 7
People's Law School.
 7:00 p.m. Community Room/The Clarion-Ledger

April 14
People's Law School.
 7:00 p.m. Community Room/The Clarion-Ledger

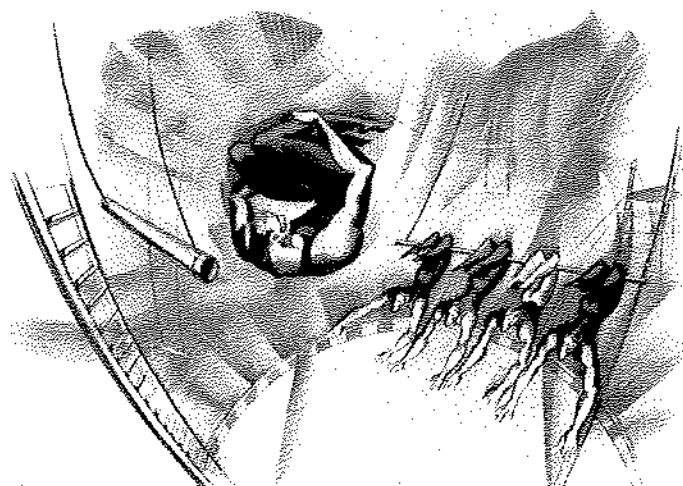
April 21
HCBA Membership Meeting.
 Noon. Capital Club

May 7
Dinner Honoring the Judiciary.
 6:30 p.m. Primos Northgate

Reception Honoring Judge Robert L. Gibbs

Friday, March 27
 5:30 p.m.-7:00 p.m.
 Mississippi Bar Center

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Captain Equity's 1998 Legislative Agenda

By Captain Equity

It's a brand new year which can only mean one thing. Those funloving doers collectively known as the Mississippi Legislature are back. Asphalt lobbyists, shrimp wholesalers, and Capital City watering holes are only a few of the many who anticipate a new legislative session the way a seven year old looks forward to the State Fair. Count Captain Equity in that number as well. Whether it is humor, irony, or even an outside shot at good government you seek, the legislature is name of the game. Here is my personal legislative agenda. Now all I need is a sponsor. If you know a legislator, by all means, pass this on.

THE OMNIBUS MISSISSIPPI GOODWILL AMBASSADOR ACT

The crying need for this legislation was aptly illustrated by the recent incident involving legislators who used the state jet for a trip to the Motor City Bowl to watch Ole Miss defeat Marshall University at the Pontiac Silverdome. According to the Lieutenant Governor, he led a "delegation" of four legislative goodwill ambassadors to Detroit for the avowed purpose of boosting the state's image. Who can argue with that? As luck would have it, the duty-first President of the Senate was able to persuade his two children to join the delegation as unpaid junior goodwill ambassadors. Unfortunately, after a Jackson newspaper reported on the good work our elected officials were doing to win new Michigan friends, Ambassador Terry Jordan of Philadelphia characterized inquiring taxpayers who sought more details on the "mission" as "Idiots." All of this unpleasantness could have been avoided had THE OMNIBUS MISSISSIPPI GOODWILL AMBASSADOR ACT been in effect.

This crucial legislation would effectively expand the role of Goodwill Ambassadors from the present membership of the legislative branch (and we suspect the executive and judicial branches as well) by designating ALL MISSISSIPPIANS as

unpaid roving Goodwill Ambassadors. As such, every citizen could use the state jet without fear of criticism. Of course, government officials would have priority. This priority class of Goodwill Ambassadors would be denominated - government officials. All other ambassadors, who would have second priority, would be known as - Idiots. As a practical matter, the government officials would probably end up leading more "delegations" if only for the fact that they would have access to the phone number for the state pilot.

THE BIG BLACK GAMING CLARIFICATION ACT

Another necessary piece of vital legislation involves the ongoing attempt by Horseshoe Gaming Corporation to build a auto racing-casino complex on the Big Black River. Not surprisingly, existing Vicksburg casinos are to opposed Horseshoe's efforts. The Gaming Commission has ruled the Big Black site "legal but not suitable." Subsequently, a Hinds County Circuit Court reversed the ruling. So, what to do?

The Mississippi Gaming Commission's philosophy has always favored the free market over industry protectionism provided that sites are located on *navigable waters* of the Gulf Coast or the Mississippi River and its tributaries. This is clearly evidenced in the booming Tunica County market where one can ride down State Highway 1 through what used to be cotton and soy bean fields. Look to the left - Casinos! Look to the right - Casinos! Navigable water? Uh. How about just water? Any water? Such a cursory inspection might lead to the erroneous conclusion that the requirement of navigability is a sham. On closer inspection, any legislator who has ever boarded a bass boat could easily see that these gambling watercraft are hobbing in a marginal-at-best mudpuddle of a harbor with an artificial outlet that just might eventually lead to the Mississippi River. Upon

closer scrutiny yet, it becomes obvious and clear that a crew of seafaring fire ants could sail a narrow, albeit seaworthy rubber duck into the artificial canal en route to the Mississippi and eventually on to the South China Sea. Yes taxpayers, navigable after all. Based on the law's original intent, it becomes clear that building on a navigable waterway is indeed the touchstone. That being the case, the proposed new law would merely provide a clarification of navigability (citing the fire ant example) so as to open up casino development. This would result in gaming on the Big Black River as well as most West Mississippi creeks and even some selected swimming pools and bath tubs from Nesbit to Woodville. If you are thinking "boon to economic development," you're right.

THE UNIVERSAL UNINSURED MOTORIST REFORM ACT

Since nobody is required to have liability insurance in Mississippi, lawmakers should go a step further by making it a felony for any resident to have automobile coverage of any kind. By making every driver an uninsured motorist, the playing field would be leveled. This would allow the state to focus on attracting more tourists so as to increase the likelihood of automobile accidents with our people. Mississippians would come out on top in either event. Injured resident plaintiffs could readily access the automobile insurance of nonresidents to pay for their damages while Mississippi defendants would be effectively rendered judgement-proof. Now that's public policy at its best.

THE CAPITOL COMPLEX LITE ACT

Last year's stinging defeat of the Capitol Complex Bill was a major setback for the state. The primary problem was that it was too ambitious. But the need to consolidate state government and provide offices for legislators remains a pressing item. Instead of expensive underground offices, why

continued on page 8

Volunteer Lawyers Serve at Stewpot

The Neighborhood Legal Clinic is providing legal services four days a month to the homeless and others who eat the free noon meal at Stewpot on West Capitol Street. Phyllis Thornton, Director of the Mississippi Pro Bono Project, coordinates the Clinic. Regular lawyer participants are Mike Knapp, Glen Waddle, Jim McCafferty, and Chris Holt.

Clinic volunteer lawyers go to Stewpot during the noon hour one day a week, providing legal information and advice, some legal services, and referral services. Three to ten persons seek assistance from the Clinic each week. Legal areas encountered by the Clinic include wage and hour issues, Social Security issues, landlord-tenant concerns, veterans' claims, and some consumer and domestic, particularly child support, issues. Occasionally powers of attorney and simple wills are prepared.

If a person seeking legal assistance needs help beyond that which Clinic lawyers are able to provide, referrals are made either through the Pro Bono

Project, the Hinds County Bar Referral Service, or to lawyers known to handle that kind of case.

Mike Knapp, who has participated as a volunteer lawyer in the Clinic for almost a year, says that he finds the work satisfying and rewarding. He has encountered a number of problems of persons seeking Social Security or SSI who have no identification, assisting them in obtaining necessary documentation to establish their ages and to enable them to apply for government assistance programs for which they may be eligible. He has also encountered an interesting case involving a blood bank which erroneously diagnosed a client as having Hepatitis A, thus making it impossible for the client to donate blood at any blood bank.

"These lawyers provide an outstanding pro bono service," said Alex Alston, Chairman of Stewpot Community Services, Inc., the umbrella for the Stewpot daily noon meal and the Neighborhood Legal Clinic. "In these days of lawyer-pounding, it is

especially gratifying to see lawyers like these volunteers devoting their time to provide free services for those who cannot afford a lawyer.

"The Hinds County Bar Association's Legal Problems of the Homeless Committee is also actively recruiting area lawyers to participate in this program and has been pleased with the response" said Brooks Buchanan, Chairman.

Additional volunteer lawyers are needed, said Phyllis Thornton. "I cannot imagine anything more worthwhile or personally satisfying for a lawyer than providing these volunteer services at Stewpot," said Luther Ott, a Hinds County lawyer who formerly served as chaplain at Stewpot and is now Executive Director. "I encourage other lawyers to participate".

Other Hinds County lawyers active at Stewpot Community Services include Charlene Priester and Doug Minor, who presently serve on the organization's Board of Directors.

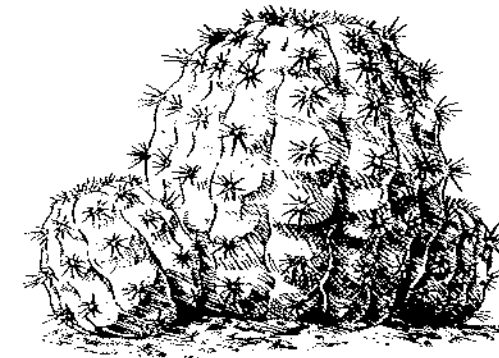


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Risk Retention Group

Lawyer's Lawyer

Dear John:

I have had the October 1997 issue of the HCBA newsletter taped to my credenza since reading your President's Column therein.

My nomination for a lawyer's lawyer is the founding partner of our firm, now retired, Joe H. Daniel. I first heard Mr. Daniel's name in March, 1967, when I asked my then-boss, U.S. Circuit Judge J.P. Coleman, who in his opinion was the best trial lawyer in Mississippi. After a moment's reflection, he replied that he thought Joe Daniel held that position. I applied to Mr. Daniel for a job the next Saturday, and have never regretted that application, nor had any reason to doubt the accuracy of Judge Coleman's opinion.

Joe tried many cases in many courts in Mississippi, both state and federal. He was a true craftsman in the courtroom. I once heard a court reporter describe his work as like watching a master mason build a brick wall-brick by brick, he constructed his case before the fact finder.

Even more outstanding than Joe's trial abilities, however, was his commitment to professionalism. I never saw Joe demonstrate rudeness to anyone—neither court, juror, witness, fellow lawyer, nor employee. Interestingly, his respect for witness and counsel actually added to his ability as an interrogator, rather than detracting from it.


Joe's status as a Bar leader was evidenced by his election as President of the Hinds County Bar and later of the

Mississippi Bar Association, and his early selection as a Fellow of the American College of Trial Lawyers.

We all adopt role models, consciously or unconsciously. I have come to realize that my professional life has consisted of an attempt to emulate several figures, the most prominent one being Joe H. Daniel.

Sincerely yours,

DANIEL COKER HORTON &
BELL



John B. Clark

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American College of Forensic Examiners,
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On Computing

By Joel Howell

It's here! (or at least it should be, by the time you read this). Invoke your browser of choice, forget the www and the http and the // and just type: hindsbar.com. And there you have it, or at least you'll get the under construction barrier.

This is very much a work in progress, and your input will be very helpful. The interactive chat and discussion area probably won't be active yet, but suggestions for areas to be included should be sent along. The Hinds County bar roster should be available, and there will, hopefully, be something for the Lawyer Referral Service.

Other suggestions have included making available unpublished County, Circuit, and Chancery opinions. The possibilities are unlimited, and we look forward to your thoughts.

RAM prices continue to drop. Don't even think about a Windows 95 system without at least 32 meg, and more is better (use 16 meg SIMMS or larger to make adding on later easier).

Portable storage gets bigger and better. Iomega, always a pioneer, now has the ZipPlus (which works on either a parallel or SCSI port) a smaller power supply, faster through-put, and uses good old 100 meg Zip Disks. They have also introduced a 2 GB Jaz drive, backward compatible with the old 1 GB drives, and 8.7 meg/second transfer rate (unless you use a real screamer, that's faster than your existing hard drive).

Speaking of hard drives, prices are dropping there, too. You can get IDE drives for less than a hundred dollars a gigabyte, something no one in his right mind would have even dreamed about a few years ago.

Those bigger hard drives bring a new level of complexity to storage. Anybody out there familiar with cluster sizes? (If so, let me know and you can write the next column!) This is to give you a quick look at the tip of the iceberg. (There's a lot more detail on this in Jerry Pournelle's column in the February Byte.) Most any hard drive

of any size can be partitioned into what's known as logical drive space. For a drive of any given size, there is also a given cluster size, which is the minimum size needed to store any file. More specifically, for a DOS/Windows 95 hard drive of from one to two gigabytes in size, the minimum cluster size is 32kb, which therefore is the smallest file size on the drive. This means that even if you have a very small file, it will still take up 32kb on your drive, an obvious resultant waste of space. However, the software technology expands with the hardware advances, so there is a solution. While Windows 95 allows drive partitioning, it is relatively inelegant. Third-party utilities, such as PowerQuest's Partition Magic do a far better job. Moreover, if you use OS-based partitioning, any change in partition size corrupts the data in the partition, requiring you first to save the data, reformat and partition the drive, and restore the data, which isn't exactly an afternoon stroll in the park. Partition Magic, on the other hand, will not corrupt the data, and with a resultantly smaller partition, results in less wasted space. If you take the same two gig drive just discussed and partition it into two one gig partitions, the required cluster size is only 16kb, obviously a more economic use of available resources.

Whew! I'm going back to something easy, like FrontPage 98, which Microsoft has just sent in for the web site. See you there!

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



Mississippi College School of Law

Upcoming CLE Seminars

**Annual Labor and Employment
Law Seminar**
Thursday, February 12, 1998
Old Capitol Inn, Jackson, MS
6 hours of CLE Credit

Annual Business Law Seminar
**The New UCC - An Update of the
Recent and Pending Changes to the
Uniform Commercial Code**
Thursday, March 19, 1998
MS Sports Hall of Fame, Jackson, MS
6 hours of CLE Credit

Mississippi College Law School is now
a viewing site for nationally broadcast
CLE Seminars.

Upcoming satellite seminars include:

**Annual Winter Estate Planning
Practice Update**
Wednesday, February 4, 1998

Employee Benefits Changes for 1998
Thursday, February 12, 1998

How to Value the Personal Injury Case:

**Negotiating Strategies and
Settlement Techniques**
Thursday, February 19, 1998

For Information, Please Call:
(601) 925-7173

Hinds Chancery Ex Parte Procedures

Ex Parte matters are handled in Chancery Court in Hinds County in Jackson on Mondays through Thursdays from **9:00 AM until 11:30 AM**. Ex Parte sign-up procedures are:

MONDAY: Judge Wise - sign up with Courtroom Clerk Richard Turner when you arrive in Courtroom 4

TUESDAY: Judge Owens - call and set time with Court Administrator Terrence Miles (973-5542)

WEDNESDAY: Judge Robinson - call and set time with Carol English or Paulette Myers, Court Administrators (968-6521)

THURSDAY: Judge Singletary - call and set time with his Court Reporter, Ruth Olenski (968-6547)

FRIDAY: No Ex Parte.

Captain Equity's

continued from page 3

not simulate the effect by having the state purchase the old Patio Club and the Sun & Sand basement restaurant and bar. But don't stop there. Purchase of The George Street Grocery, Creechales Restaurant and the Dock would consolidate constituent services while providing needed de facto office space at a fraction of what last year's bill would have cost.

Certainly, these are not the only deserving pieces of legislation, only the most pressing. In the name of humor, irony or an outside shot at good government, I am realistic enough to know that far more foolish measures will actually be signed into law - but the optimist in me remains hopeful.

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Law Library Hours

JANUARY 8TH-MAY 6TH, 1998

Regular Library Hours

Monday - Thursday	7:30 a.m. - midnight
Friday	7:30 a.m. - 9:00 p.m.
Saturday	9:00 a.m. - 9:00 p.m.
Sunday	2:00 p.m. - midnight

Exceptions: Spring Break-March 6th-March 14th, 1998

Monday - Friday	7:30 a.m. - 5:00 p.m.
Saturday	9:00a.m. - 5:00 p.m.
Sunday	2:00 p.m. - 5:00 p.m.

Exam Schedule: April 22nd-March 6th, 1998

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

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

Houston J. Patton, County Judge

Judge Houston J. Patton is Hinds County's senior County Judge. He has served as County Judge since 1989 and as senior county judge since 1995. Judge Patton grew up in the Tougaloo community. He received his undergraduate degree at Fresno State in California and his law degree at Southern University Law School in Baton Rouge.

Judge Patton's regular weekly schedule is Monday mornings hearing motions, Monday afternoons trials; Tuesday mornings trials and Tuesday afternoons preliminary hearings; Wednesday trials; Thursdays and Fridays at Youth Court. Judge Patton handles all eminent domain cases. In Youth Court, he handles detention, shelter, and dispositional hearings.

Based on his experiences in debriefing jurors after trials, Judge Patton is convinced that jurors do listen to the testimony and pay attention to the evidence. Jurors complain frequently of lawyers beating a point to death. Jurors notice a lawyer's demeanor; they do not like overbearing, condescending and argumentative lawyers.

Judge Patton's suggestions to lawyers at trial are to know your case, be prepared, and don't be argumentative. Respect jurors as intelligent. They will be interested in your case if you will let them be interested. In non-jury trials, Judge Patton allows a judicious use of leading questions on direct examination in order to speed up the trial.

Judge Patton allows lawyers to conduct voir dire as long as the lawyer is not being repetitive or not trying to give an opening statement. However, he is strict on time limits on closing argument, "because by the end of the trial, everybody is ready to go on and get through."

On objections, Judge Patton wants the objecting lawyer to state the basis for the objection and then the proffering lawyer to provide a short response before the Court rules on the objection. If there is going to be extended argument on the objection, or the objection involves something that the jury should not hear, Judge Patton's practice is to excuse the jury rather than to conduct bench conferences.

Judge Patton reminds lawyers to

remember that if a lawyer asks a question on cross-examination and gets a responsive answer, the lawyer is stuck with the answer. Judge Patton is not going to strike the answer.

A major problem with respect to Youth Court work is not having sufficient facilities in the county for either short or long-term housing of juveniles. A Youth Court judge has very limited alternatives in dealing with juvenile problems. There is going to be a new juvenile facility constructed in South Jackson which will house the Youth Court, counseling services, and detention facilities. There will be 95 beds for juveniles in the new facility, a significant increase from the 25 beds in the present facility.

In his civic life, Judge Patton has served as President of the Murrah Mustang Booster Club since 1988. He is a leader in the Tuesday Forum to Save Our Sons in the Georgetown area of inner-city Jackson. This program offers mentoring, tutoring, and field trips to youth residing in that area of town, with an emphasis on encouraging the development of reading and math skills.

Committee Spotlight: People's Law School

The HCBA People's Law School Committee, chaired by John Henegan, is finalizing its plans for the 1998 People's Law School. This is the eighth year for this program, a public education project of the bar. Co-sponsoring is The Clarion-Ledger and the school is financially assisted by the Interest on Lawyers Trust Accounts Program of The Mississippi Bar Foundation, Inc.

The 7:00 to 9:00 p.m. classes will be four Tuesday nights, March 24, March 31, April 7 and April 14, and

held in the Community Room of The Clarion-Ledger. The cost is \$5 for individual sessions and \$15 for all four.

The People's Law School is designed to answer everyday legal questions. The topics include:

March 24 - An Overview of the Mississippi Judicial System and Does the Court System (both Criminal and Civil) Work

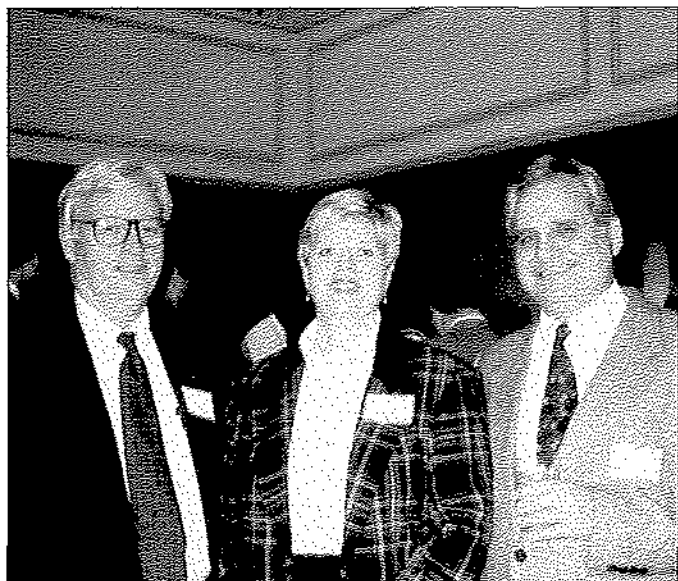
March 31 - Employment Issues and Personal Injury/Insurance April 7 - Real Estate Law and Wills & Estates

April 14 - Divorce/Family Law and Consumer Protection

Serving on the People's Law School Committee are: Mitzi Dease Paige, vice chair; Harris H. Barnes, III, board liaison; Luke M. Dove, Jr.; Elizabeth Baine; R. Keith Foreman; Richard M. Fountain; Ernest Taylor; William R. Townsend, Jr.; Michael Hartung; Deanne Mosley; James D. Bell; John Flynt; Peter L. Doran; Kimberly Howland; and Will Wilkins.

Christmas Social 1997

HCBA members and guests enjoyed the December 4th Christmas Social at the Mississippi Bar Center.



Harris and Margaret Collier, Scott Hemleben



Mark Franklin, John McCullouch, Judge Leslie Southwick



Reuben Anderson, Dan Hise, Rod Clement



Joany and Jimmy Young, Leonard Van Slyke



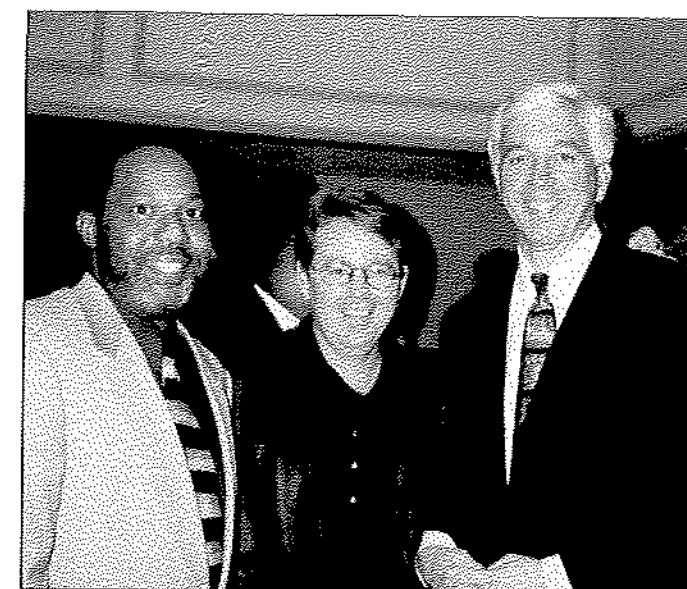
Mike Gieger, John Flynt, Ben Williams



Jay Travis, Judge Linda Thompson, Jimmy Robertson



Lee Hetherington, Michelle Partridge, Mike Maloney



Judge Robert Gibbs, Shane Langston, John McCullouch

**Hinds County Bar Association
Jackson Young Lawyers Association, Inc.**

Invite you to join us during Law Week for an
Evening Honoring the Judiciary

May 7, 1998
Primos Northgate
6:30 Reception 7:30 Dinner

Special Guests:
Hinds, Madison & Rankin County
State & Federal Judges

Guest Speaker:
Attorney General Mike Moore

□ HINDS COUNTY BAR ASSOCIATION □

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Correspondence regarding the newsletter should be directed to: Editor, 151 E. Griffith St., Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 969-6097.

Hinds County Bar Association, Inc.
151 E. Griffith Street
Jackson, MS 39201

FIRST CLASS

IMPORTANT
HCBA Luncheon Meeting
12:00 Noon, February 17, 1998

HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

JUNE 1998



President's Column

by Mark A. Chinn

What a thrill it is to be sitting in the chair of President of the Hinds County Bar Association! I have always regarded this Association as one of the finest I have ever been involved with. And members of this Association, you are not only the finest lawyers and people in the world, you are also my friends. In this article, I want to acknowledge the efforts of John McCullouch, discuss our theme for the next year and lay out some of our plans.

John McCullouch served us well as President. He approached the office with a conviction rarely seen. He was intent on increasing our numbers and he did. Our membership roll is its highest ever. He was intent on increasing attendance at our luncheon meetings, and he did. All of our meetings this past year were packed. He was intent on facilitating fellowship, and he did. He made special arrangements for us to sit at small tables at our meetings so we could talk. He also brought us several excellent social functions, the last of which was a precedent setting cooperative effort of the Hinds County and Magnolia Bars.

I've known John since our days together at Ole Miss Law School. He was a leader and a consummate gentleman then, and he is now. Thank you, John!

Our theme this year will be "Professionalism," which is also the theme for the American Bar Association. Professionalism strikes at the very core of our profession. It has everything to do with how we per-

ceive ourselves and our enjoyment and satisfaction in our work. It has everything to do with how our friends, family and the public perceive us. Finally, and most importantly, it has everything to do with how our system of justice works. And that has everything to do with our freedom.

Professionalism has been talked about for years by many people, but we don't feel we can talk about it enough. We're going to deal with the topic of professionalism in every one of our meetings, and we are going to structure our programs and service around it.

We have established a special ad hoc committee called "The Professionalism Committee." I have asked Trip Barnes to chair this committee with the help of Vice Chair, Leyser Morris. The Professionalism Committee will coordinate the professionalism topics for our meetings.

The Committee might explore a professionalism code of conduct for the HCBA. They will also look at establishing a Hinds County Bar "Inn of Court," the purpose of which will be to bring judges and lawyers together in

informal social settings to interact, socialize and learn. Finally, I have asked the Professionalism Committee to investigate the possibility of creating a "Professionalism Institute" which would serve as a repository for information, a center for training, a sponsor of educational programs and a keeper of the high standards of professionalism of this great Association.

Trip has said that he wants professionalism to be the theme for his year too. Thus we foresee a consistent push from our bar in this direction. We have expanded our number of luncheon meetings during the year from five to six. Each meeting will contain a professionalism presentation which complies with requirements for an "ethics hour" of continuing legal education. This means that by virtue of your Hinds County Bar membership, you can obtain one half of your yearly CLE requirement for a nominal cost (\$5 per session) while losing essentially no time from your office. We know this will be a special benefit to all lawyers, particularly small firm practitioners, who depend on their time in the office for their every dollar.

Continued on page 4

April Membership Meeting



Another record crowd of HCBA members attended the April Membership Meeting with speaker, Dr. Ross L. Laguzza of Decision Quest. He is pictured with HCBA President John McCullouch and Program Committee Member Leslie Bobo.

HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

June 16, 1998

12:00 Noon

Capital Club

Lunch \$10.00

CLE \$5.00

Professor Guthrie T. Abbott will present the CLE program "What is Professionalism?"

CLE Calendar of Events

June 19
Winning Negotiations.
UM-CLE. 601-232-7282

June 24
Insurance Law Update.
Lorman Business Center. 715-833-3940

June 30, July 1, July 7,
July 8, July 9, July 10
Computer Kindergarten.
The Mississippi Bar. 948-4471

July 16
Program for Legal Assistants.
MC School of Law/PLI Satellite
Seminar. 925-7173

July 23
1998 Ethics Seminar.
The Mississippi Bar. 948-4471

July 24
Criminal Law Seminar & Annual
Meeting.
MS Attorneys for Constitutional
Justice. 800-489-7721

July 30-31
CLE by the Hour.
UM-CLE. 601-232-7282

HCBA Calendar of Events

February 16
HCBA Membership Meeting and
One Hour Ethics CLE.
Noon. Capital Club

April 20
HCBA Membership Meeting and
One Hour Ethics CLE.
Noon. Capital Club

June 16
HCBA Membership Meeting and
One Hour Ethics CLE.
Noon. Capital Club

August 18
HCBA Membership Meeting and
One Hour Ethics CLE.
Noon. Capital Club

August 28
HCBA/JYL Golf Tournament.
Noon. Deerfield Country Club

October 20
HCBA Membership Meeting and
One Hour Ethics CLE.
Noon. Capital Club

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

Law Firm Updates

Attorney-Mediators Institute is pleased to advise that the following individuals have completed all aspects of the Basic Mediator Training Course:

Mr. David E. Rozier, Jr.
Ms. Jackie W. Rozier
McAllister & Rozier, L.L.P.
1510 North State Street, Suite 300
Jackson, Mississippi 39202
(601) 948-5740
Fax: (601) 948-7941

FNEJ Shall Rise Again: A Report from the Front by Captain Equity

The recent story in *The Northside Sun* concerning the secession of Northeast Jackson from the City was just too good to pass up. So, with apologies to Shelby Foote and Paul Harvey, here is the rest of the story.

It started innocently enough. Frustration with the City Council in general and the cable tv negotiations in particular prompted someone to do a little legal research on the plausibility of Northeast Jackson pulling out of Mississippi's Capital City. And then came the Convention and Visitors Bureau debacle and things turned deadly serious.

In a nutshell, the hospitality industry led by the Jackson Restaurant Association took the position that making a first rate hollandaise sauce qualified them to run Jackson's tourism office. Mayor Johnson, and more importantly, Judge Owens, disagreed. And that brings us to what I imagine Jackson's second Civil War would look like. Let's hope it turns out differently, but ...

Led by Nick "Jefferson Davis" Apostle, formal notice of secession was served on the City of Jackson in late June. The line was drawn at High Street with everything to the North and East to County Line Road being proclaimed The Confederate Neighborhoods Of Hinds County. A makeshift City Hall was set up at *Nick's Restaurant* on Lakeland Drive. Round the clock meetings in the living room-like bar fueled by gallons of California merlot and untold plates of crayfish cakes and fried cheese appetizers gave shape to the new city. Its name would be FNEJ. The only dispute was over the E. Should it stand for Fashionable or Fabulous? A committee was formed and the matter referred.

In order to compete with Jackson's more established attractions, Acting Mayor Apostle and Chef Dan from Bravo dreamed up the "Splendors of Vermicelli" exhibit which was a recreation of Italian Art Treasures made entirely from number 12 dried and painted pasta. Cherries Jubilee Jam was to kick off in 1999.

In addition to marshall law, Apostle and his chief strategist, Que Sera Sera's Boo "Robert E. Lee" Noble

pushed through an edict banning all fast food within the city limits. It was the drive-through window equivalent of the creation of Pakistan and the State of Israel all at the expense of *Wendy's*, *Taco Bell* and *Popeye's*. Thus it was no surprise that the first armed conflict would be the Battle of High Street.

Mayor Harvey "Honest Abe" Johnson immediately issued a call for help from the likes of Dave Thomas, Al Copeland and the National Fast Food Workers of America. Not only did he vow to preserve the union, but the mayor, who now sported a stove-pipe hat, also vowed to end the tyranny at the hands of what he called, "chef hat-wearing, spatula-wielding food snobs and anarchists."

Though too gruesome to contemplate, the rebel leaders escalated the dispute by adopting an enforced policy of "Palate Cleansing." Chanting the seemingly innocuous phrase, "The Grease Must Go," all FNEJ fast food establishments were summarily padlocked. In a concession, *My Favorite Spaghetti* was allowed to stay open only after it promised to add Veal Parmigiana and spumoni and to buy \$10,000 worth of Gail Pittman dinner plates to replace the disposable dishes.

The War Between the Tastes, as it was dubbed by the media (*Food & Wine* and *The Wine Spectator*) garnered national attention when three bus loads of visiting tourists returning to Nashville from the Splendors of Versailles exhibit were taken into custody at an I-55 North road block by Wackenbut loyalists and Junior League Reserve Officers. At a mass trial, they were forced to plead guilty to liking *Shoney's*. As punishment, they were made to stand in line at *Times Change* for three days waiting for a table.

In an unrelated incident, a band of chardonnay-sipping elitists from the *Barrington* clad in camouflage smoking jackets overran the *Jinney Premier* and destroyed a Bud Light display. It was getting ugly.

These were surely dangerous times for *Krystal* lovers. So much so that well meaning, sympathetic FNEJ fine diners set up an Underground Railroad for otherwise innocent fast food

junkies. Just after dark, foreign-made luxury cars would bring the nutritionally challenged to a staging area at the *Sam's Club* meat and produce department. A group of guides would then lead the escapees to the *Barnes and Noble* Coffee Bar or the lobby of *Romano's Macaroni Grill* where they would wait for a chance at freedom.

As the last light at *North Park Mall* clicked off, hordes of *KFC* addicts would make a dash to freedom across County Line Road to the fast food equivalent of Canada - Ridgeland, Mississippi. Others with escalated cholesterol would hide in the trunks of a Lexus or Mercedes crossing the border on an evening dinner visa to visit *Amerigo's* or *Shapley's*.

Meanwhile, at City Hall in downtown Jackson, the mayor and his staff wolfed down Taco Bellgrandes and Supersized Big Macs trying to resolve the crisis. One of the darkest evenings of the conflict came after the fall of *Dennery's*. That was when the Mayor ordered the *Elite* and *Mayflower* to install blackout curtains and ration iced tea. The war was taking its toll.

In the end, it was the City's ability to stage a blockade of FNEJ. The victory was not unlike the siege of Vicksburg. With every seafood truck from Pensacola turned back; with french bread deliveries from New Orleans halted; with prime Kansas City aged beef embargoed in Memphis, the outcome was never in doubt. It got so bad that *Walker's Drive-In* was reduced to passing off animal crackers and melted Snickers candy bars as Mississippi Mud Pie. Such a sad end for such a proud people.

The Fast Food Reconstruction era was harsh for the FNEJ loyalists. Boo Noble was sentenced to ten years at hard labor in a *Waffle House* as a grill supervisor. Nick Apostle can still be seen every year at the State Fair serving Penn's Chicken On A Stick.

And Harvey Johnson and the City Council? Why they are sitting around City Hall with their *Bumper's* Biggce Bags and *Steak Out* left overs, watching cable tv, of course. To the victors belong the spoils!

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President's Column

continued from page 1

Our first program will feature Guff Abbott, the President of The Mississippi Bar, who will discuss the meaning of professionalism. Trip Leyser, Terry Wallace and Barry Jones will be handling these meetings for us.

We're going to try some special projects for the community. Since I am a family lawyer, I see needs for the family which we can address. Susan Tsimortos has agreed to chair a very special committee which will address some of these needs and programs.

First, we want to do our part to begin the process of teaching our young people about relationships. The American Bar Association Family Law Section sponsors a program called, "Partners." Partners is a program for senior high school students which is designed to teach them about relationships, with an eye towards improving their chances in marriage.

Each Partners program requires a sponsor to pay \$400 for the program to give to the school. We will then need a lawyer or lawyers to assist with the presentations to the students. We have set a goal of installing programs in at least five schools in this area. I'm going to sponsor a program for my children's school. I ask each of you to consider doing the same.

Susan will also be working on installing parenting education classes in our Chancery Court system. Parenting classes will teach divorcing parents how to deal with parenting issues in divorce. The program will be a cooperative effort of this Association, the Chancery Courts and the Mississippi Psychological Association.

We have the rather ambitious idea of holding a consortium on issues facing the family. This would be a two or three day meeting of professionals who deal with family issues, such as lawyers, mental health professionals, educators, clergy, and judges. Its about time all of these professionals came together to share their knowledge and concerns and observations. If any of you have any ideas on this, please let us know.

We are going to place special emphasis on women and minorities this year. Our Women in the Profession Committee, chaired by Elizabeth Featherston will sponsor

one of our meeting presentations. Our Black Lawyer Participation Committee, chaired by Dorian Turner and Rhonda Cooper, will also sponsor a program on recruiting and retaining minority lawyers. I will also ask the Black Lawyer Participation Committee to address at least one social issue, such as the plight of the homeless in our area.

Robert Gibbs has agreed to chair our Bench and Bar Committee dedicated to our judges. He will look at the special needs of our judges and courts and make recommendations about how we can help our judges and courts. He will also chair our annual banquet where we honor our judges.

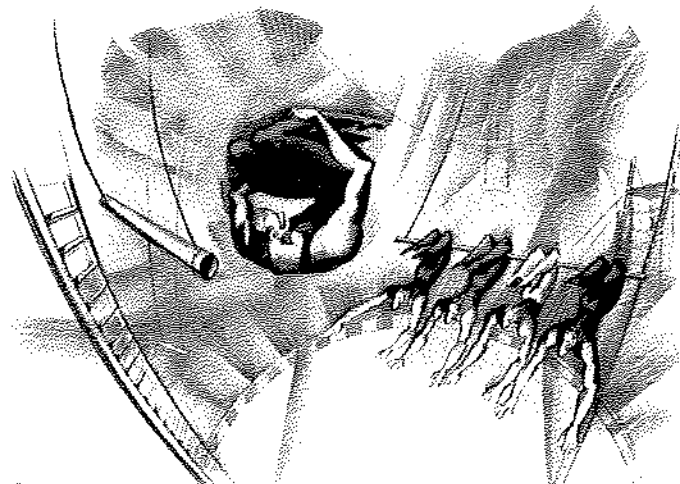
We want to improve the publicity that this Association and its lawyers receive. I have asked Leslie Bobo to handle this. Leslie has graciously agreed to take on this task, even though it has never been done before. You can help by calling Leslie and letting her know about accomplishments of your friends and colleagues so we can publicize them.

Ben Piazza has agreed to chair our Long Range Planning Committee. We started the long-range planning process this past year, and we plan to continue this year with hopes of redefining our mission and creating a clear vision of our Association's future. Should we set our sights on staff, a building and proper equipment? Should we expand our service in the community? Just how big do we want to get?

Other people who have agreed to assist us this year are Linda Thompson, Newsletter; Anthony Siman, Budget; Lawrence Franck, Professionalism; James Henley, Bylaws; Stuart Kruger, Golf Tournament; Brooks Buchanan, Problems of the Homeless; Ruma Haque, Library.

We are looking forward to a great year. Committee assignments have not all been made. If you want to contribute, please call our Executive Director, Pat Evans, at 969-6097 and tell her on which committee you want to serve.

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HCBA Members Serve Science Network

Several members of the Hinds County Bar Association are among the leaders of a new organization designed to create better science education opportunities for Mississippi students the Mississippi Science Network, Inc. Its 20-member board of directors includes Barry K. Jones (Wise, Carter, Child and Caraway) and William Winter (Watkins, Ludlam, Winter and Stennis). The new organization represents a reorganization of the twenty-year old Davis Planetarium Foundation, which is best known for creating the famed *Student Space Station* project located in Jackson.

The Mississippi Science Network intends to offer, "a window of wonderment to the universe and the infinite for all Mississippians," according to Jones, who is the non-profit's immediate past president. "Its activi-

ties will be designed to foster an environment for creativity on the part of both learners and teachers." The network conceived and funded the current planetarium feature, entitled "The King's Astronomers," which discusses science in the time of King Louis XIV of France, and the unique contributions which his astronomers made to our understanding of the cosmos.

Jones led the board for three years (1994-1997), instituting an intensive study which resulted in the organization's decision to reorganize to better serve what it perceives to be the urgent need for quality science and math instruction in the state. The Network plans to expand its operations to other locations in the state and to pursue a broader agenda of informal science education, although it will also continue to provide strong support to

Jackson's municipal planetarium. Immediate objectives include expanding *Student Space Station* to four additional sites within the state and establishing year-round operations for that program. The network also seeks to link the state's existing science centers and formal education providers electronically for better service to students and educators across the state. Toward that end, Jones now heads the Network's Special Projects Committee, which brought the internationally acclaimed JASON Project to central Mississippi this spring. Jones says that this program, developed by Dr. Robert Ballard, the discoverer of the RMS Titanic, and sponsored by EDS and National Geographic (among others), is one of the most ambitious distance learning efforts in existence.

Letter To Captain Equity

Dear Captain:

I read with sadness your "Jackson: Half Full or Half Empty ... One Year Later" appearing in the recent Hinds County Bar Association Newsletter. Among other things, you state: "As to the cable TV impasse, the Hinds County Bar should offer its services on a pro bono basis to mediate the dispute." I offered my service at the outset of the dispute. Steve McMahon, president of Capitol Cablevision, was the only one responding to my letter. Keep up the good work.

Very truly yours,
Harold D. Miller
Butler, Snow, O'Mara, Stevens & Cannada

Mayor Harvey Johnson
CITY HALL
219 South President Street
Jackson, MS 39201

Mr. Steve McMahon, President
CAPITOL CABLEVISION
5375 Executive Place
Jackson, MS 39236

Mr. Ben Allen
Mr. Louis Armstrong
Mr. Kenneth Stokes
Mr. William "Bo" Brown
Mr. Robert Williams
Mr. Chip Reno
Ms. Margaret Barrett
CITY HALL
219 South President Street
Jackson, MS 39201

Lady and Gentlemen:

People who negotiate in good faith, as you have been doing, sometimes find themselves unable to agree. Quite frequently, the assistance of a third person (mediator) is not only helpful, but needed. It appears to me that the use of a mediator would assist you in negotiating a solution to the cable television situation which would be satisfactory to all parties.

I offer my services as a mediator, and enclose materials concerning that service. Regardless of who is selected as a mediator, I strongly urge you to use mediation. A matter of this nature does not need to find resolution in court. Thanks.

Very truly yours,
Harold D. Miller, Jr.
Butler, Snow, O'Mara, Stevens & Cannada

Mississippi Adopts New Uniform Health-Care Decisions Act

by Barry K. Jones and Louis H. Watson

During the 1998 Regular Session of the Mississippi Legislature, House Bill 546 was introduced to establish the Uniform Health-Care Decisions Act. The Bill was forwarded to Governor Fordice and signed into law on Friday, April 10, 1998, with an effective date of July 1, 1998. The Act is codified as Chapter 41 of Title 41 of the *Mississippi Code of 1972*. The Act provides that the prior provisions of the *Mississippi Code of 1972* governing the withdrawal of life sustaining mechanisms, constituting the "Durable Power of Attorney for Health Care Act" and governing consent to surgical or medical treatment or procedures, are repealed. The Act allows an individual to make an "advance health-care directive" which can be in the form of an individual instruction or power of attorney for health care. Additionally, the Act provides for the making of health care decisions by a surrogate that is neither a guardian nor an agent under a power of attorney for health care.

Under the Act, an adult or emancipated minor (defined as an individual under 18 who is or has been married, has been adjudicated generally emancipated by a court or has been adjudicated emancipated for purposes of making health care decisions by a court) may provide oral or written instructions as an advance health-care directive. The individual instruction is defined as that individual's direction concerning a health care decision for that individual. "Health care" is defined as any care, treatment, service or procedure to maintain, diagnose, or otherwise affect an individual's physical or mental health care condition and "health care decision" is defined as selection and discharge of health care providers and institutions, approval or disapproval of diagnostic tests, surgical procedures, programs of medication, and orders not to resuscitate and directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care. The instructions may be limited to take effect only under specified conditions.

As an alternative, an adult or emancipated minor may execute a Power of Attorney for Health Care authorizing

an agent to make health care decisions. The Power of Attorney for Health Care remains in effect notwithstanding the principal's later incapacity. "Capacity" is defined under the Act as the ability to understand the significant benefits, risks and alternatives to proposed health care and to make and communicate a health-care decision. Unless related to the principal by blood, marriage or adoption, the agent designated in the Power of Attorney for Health Care may not be an owner, operator, or employee of a residential long term health care institution at which the principal is receiving care. A "health-care" institution means an institution, licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business.

The Power of Attorney for Health Care must be in writing and be dated and signed by the principal. Two methods are provided for the witnessing of the Power of Attorney for Health Care:

1. Two individuals can sign the Power of Attorney for Health Care as witnesses if they witness either the signing of the document by the principal or the principal's acknowledgment of the signature on the document. Each witness is required to make the following declaration:

"I declare under penalty of perjury pursuant to §97-9-6 1, *Mississippi Code of 1972*, that the principal is personally known to me, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document, and that I am not a health-care provider, nor an employee of a health-care provider or facility."

In addition, at least one of the witnesses must also declare the following:

"I am not related to the principal by blood, marriage or adoption, and to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law."

2. The Power of Attorney for Health Care may be witnessed if it is acknowledged before a Notary Public within the State of Mississippi. The Notary Public must certify the following:

"On this _____ day of _____ in the year _____ before me, _____ the undersigned Notary Public, appeared _____, personally _____ known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under the penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence."

It should be noted that a health-care provider (an individual licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business), an employee of the health-care provider or facility, or the agent appointed in the Power of Attorney for Health Care may not be witnesses to the Power of Attorney for Health Care. There is a further requirement that at least one of the witnesses to the Power of Attorney for Health Care must not be a relative of the principal by blood, marriage or adoption, nor an individual who would be entitled to any portion of the principal's estate at death under any will or codicil existing at the time of the execution of the document or by operation of law at that time.

Unless the Power of Attorney for Health Care provides otherwise, the authority of the agent becomes effective only upon a determination that the principal lacks capacity. The authority of the agent terminates upon a determination that the principal has recovered capacity. Unless specifically provided in the Power of Attorney for Health Care, a determination that an individual lacks capacity or has recovered capacity must be made by the principal's primary physician, which is the physician designated by an individual, agent or guardian or surrogate with primary responsibility for the individual's health care.

The Act provides that health care decisions made by the agent are

effective without judicial approval, and that the Power of Attorney for Health Care or advance health care directive may include provisions nominating a guardian of the person. Under the Act, the agent is required to make health care decisions in accordance with the principal's individual instructions, if any, and the wishes of the principal to the extent known to the agent. Otherwise, the agent must make decisions in accordance with the agent's determination of the principal's best interest. In determining the principal's best interest, the agent is required to consider the principal's personal values to the extent they are known to the agent. Finally, the Act provides that a Power of Attorney for Health Care or advance health care directive is valid if it complies with the provisions of the statute, regardless of when or where executed or communicated.

The designation of an agent in a Power of Attorney for Health Care may be revoked by a signed writing executed by the principal or by the principal personally informing the supervising health-care provider (the primary physician or a health-care provider who has undertaken primary responsibility for the individual's health care). The principal may revoke all or any part of an advance health-care directive, other than the designation of an agent, at any time and in any manner that communicates an intent to revoke. health-care provider, agent, guardian or surrogate who is informed of a revocation must promptly communicate the fact of the revocation to the supervising health-care provider and to any health-care institution at which the individual is receiving care. If a spouse is designated as agent, a decree of annulment, divorce, dissolution of marriage or legal separation revokes the previous designation of the spouse as agent unless otherwise specified in the decree or in the Power of Attorney for Health Care. An advance health-care directive that conflicts with an earlier advance health-care directive revokes the earlier directive to the extent of conflict.

The Act provides a form which may be used to create an advance health-care directive. It should be noted that the form combines the prior documents used as a power of attorney for health care and a "living will" or

declaration of intent, as well as providing specific instructions concerning artificial nutrition and hydration and relief from pain.

The Uniform Health-Care Decisions Act provides that a surrogate (defined as an individual, other than an agent or guardian, authorized to make health care decisions for a patient) may make health care decisions for patients who are adults or emancipated minors if the patient has been determined by the primary physician to lack capacity and no agent or guardian has previously been appointed or an agent or guardian previously appointed is not reasonably available. The Act defines "reasonably available" as readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health-care needs. The "primary physician" means a physician designated by an individual or the individual's agent, guardian or surrogate, to have primary responsibility for the individual's health care. In the absence of the designation of a primary responsible physician or in the event the designated primary physician is not reasonably available, another physician may undertake the responsibility and become the primary physician. A surrogate may be designated by the patient if they personally inform the supervising health-care provider which is defined as the primary physician or, if there is no primary physician or the primary physician is not reasonably available, the health-care provider who has undertaken primary responsibility for the individual's health care. In the absence of a designation, or if the individual designated as surrogate is not reasonably available, the Act defines a class of the patient's family who, if reasonably available, may act as surrogate. The following class is defined by the Act in descending order of priority to act as surrogate:

- (1) The patient's spouse (unless they are legally separated);
- (2) An adult child;
- (3) A parent; or
- (4) An adult brother or sister.

If none of the individuals designated in the class is reasonably available to act as surrogate, the surrogate may be an adult who has exhibited special care and concern for the patient, who is familiar with the patient's personal

values, and who is reasonably available to act as surrogate. The Act requires that the surrogate communicate his or her assumption of authority as promptly as practicable to the members of the patient's family specified in the foregoing class who can be readily contacted.

In the event more than one of the foregoing class assumes the authority to act as surrogate and the various individuals acting in that capacity are unable to agree on a healthcare decision, the supervising health-care provider may be informed and shall comply with the decision made by a majority of the members of the class who have communicated their views to the provider. In the event of a deadlock among members of the class concerning a health-care decision, the supervising health-care provider is informed and, the class is disqualified. The Act goes on to state that, in addition to the class... all individuals having lower priority are disqualified from making the decision." Although not clearly stated, the Act appears to infer that the individual having the highest priority in the class may make the health care decision, but this interpretation is open to question absent subsequent clarification of the provision.

A surrogate is required to make health-care decisions in accordance with the patient's individual instructions and other wishes to the extent known to the surrogate. In other cases, the surrogate must make decisions in accordance with the surrogate's determination of the patient's best interest. In determining the patient's best interest, the surrogate must consider the patient's personal values to the extent known to the surrogate. As with an agent operating under a power of attorney for health-care, health care decisions may be made by the surrogate without judicial approval. The patient may at any time disqualify an individual, even if the individual is a member of the patient's family, from acting as a surrogate by a signed writing or by personally informing the supervising health-care provider of the disqualification. Unless related to the patient by blood, marriage or adoption, a surrogate may not be an owner, operator or employee of a residential long-term health-care institution at which the patient is receiving care. It should be noted that the supervising

health-care provider may require an individual claiming the right to act as surrogate for a patient to provide a written declaration under penalty of perjury stating facts and circumstances reasonably sufficient to establish the claimed authority of the individual.

Under the Uniform Health-Care Decisions Act, a guardian is required to comply with a ward's individual instructions and may not revoke the ward's advance health-care directive unless the appointing court expressly authorizes the guardian. Absent a court order to the contrary, a health-care decision of an agent takes precedence over that of a guardian.

The supervising health-care provider must, before implementing a health-care decision, promptly communicate to the patient the decision made and the identity of the person making the decision. If the supervising health-care provider is aware of an advance health-care directive, revocation of an advance health-care directive, or designation or disqualification of a surrogate, the supervising health-care provider is required to properly record this information in the patient's health-care record and request a written copy of any available documentation which is also placed in the health-care record. The primary physician who makes or is informed of a determination that a patient lacks or has recovered capacity or is aware of a condition that affects an individual instruction or the authority of an agent, guardian or surrogate, is required to record the determination in the patient's healthcare record and to communicate the determination to the patient and to any person authorized to make health-care decisions for the patient. Health-care providers or institutions providing care to patients must comply with an individual instruction of the patient and with a reasonable interpretation of that instruction made by a person authorized to make health-care decisions for the patient and comply with the health-care decision for the patient made by a person then authorized to make health-care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity. Exceptions to this general rule include the ability of a health-care provider to decline to comply with an individual instruction or health-care decision for reasons of conscience. A health-care

institution may decline to comply with an individual instruction or health-care decision if the instruction or decision is contrary to a policy of the institution which is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person authorized to make health-care decisions for the patient. Further, a health-care provider or institution may decline to comply with an individual instruction or health-care decision that requires medically ineffective health care or health care contrary to generally accepted health-care standards applicable to the health-care provider or institution. In the event a health-care provider or institution declines to comply with an individual instruction or health-care decision, the health-care provider or institution must promptly inform the patient and any person authorized to make health-care decisions for the patient, provide continuing care to the patient until a transfer can be effected and, unless the patient or person authorized to make health-care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist and transfer the patient to another health-care provider or institution that is willing to comply with the instruction or decision. A health-care provider or institution is prohibited from requiring or prohibiting the execution or revocation of an advance health-care directive as a condition for providing health care.

Unless otherwise specified in an advance health care directive, a person authorized to make health-care decisions for a patient has the same rights as the patient to request, receive, examine, copy and consent to the disclosure of medical and any other health-care information. The Act goes on to provide that a health-care provider or institution acting in good faith and in accordance with generally accepted health-care standards applicable to the health-care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for complying with a health-care decision of a person apparently having authority to make a health-care decision for a patient, including decisions to withhold or withdraw health-care; declining to comply with the health-care decision of a person based on a belief that the person lacks authority; or complying

with an advance health-care directive and assuming that the directive was valid when made and has not been revoked or terminated. In addition, an individual acting as agent or surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for health-care decisions made in good faith.

A health-care provider or institution that intentionally violates the provisions of the Act is subject to liability to the aggrieved individual for damages of \$500 or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees. A person who intentionally falsifies, forges, conceals, defaces, or obliterates an individual's advance health-care directive or a revocation of an advance health-care directive without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke, or not to give an advance health-care directive, is subject to liability to that individual for damages of \$2,500, or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.

It should be noted that the new Act does not affect the right of an individual to make health-care decisions while having the capacity to do so. In addition, an individual is presumed to have the capacity to make health-care decisions, or to give or revoke an advance health-care directive, and to designate or disqualify a surrogate, and the Act does not create any presumption concerning the intention of an individual who has not made or who has revoked an advance health-care directive. Copies of a written advance health-care directive, revocation of an advance health-care directive or designation or disqualification of a surrogate may be provided with the same effect as an original document. Further, death resulting from the withholding or withdrawal of health care in accordance with the Act does not for any purpose constitute suicide or homicide or legally impair or invalidate an insurance policy or annuity providing a death benefit, notwithstanding any term of the policy or annuity to the contrary. The Act specifically does not authorize mercy killing, assisted suicide, euthanasia or the provision, withholding or withdrawal of health care, to the extent prohibited by other Mississippi

Outstanding Service and Pro Bono Awards

by Barry H. Powell

At this year's Law Week celebration of an Evening Honoring the Judiciary jointly sponsored by the Hinds County Bar Association and the Jackson Young Lawyers Association, John McCullough, Hinds County Bar President, and Lynn Risley, Jackson Young Lawyers President, presented their respective associations' awards for outstanding service and for pro bono contribution.

HCBA Outstanding Service Award

This year's recipient of the Hinds County Bar Association's Outstanding Service Award has a long history of service to the Hinds County Bar. John Henegan of Butler, Snow, O'Mara, Stevens & Cannada has served and worked on numerous committees over the years and has served as Chairman for several of those committees.

Although he has worked on many projects for the Hinds County Bar, his work with the People's Law School has gone way beyond the call of duty. In fact, John has been the heart and soul of the People's Law School for the last several years. Since 1992, he has been a member of that Committee, co-chaired the Committee at least once, and has served as Chairmen twice.

This year's People's Law School was held at the *The Clarion-Ledger's* Community Room and was a tremendous success in terms of service to the public. Each of the four weekly sessions had an outstanding group of

speakers, and attendance averaged over 50 people per session. In addition, over 14 public interest and governmental legal service organizations had exhibits and displays set up at the first session.

JYL Outstanding Service Award

David Maron of the Heidelberg and Woodliff firm received the JYL Outstanding Service Award. David served as Chair of the Jackson Young Lawyers' Law Week Committee, assisting the Bar's Young Lawyer Division with a "Celebrate Your Freedom" poster contest for elementary and secondary school students around the state.

He worked with the Jackson Metropolitan Crime Commission to organize the First Annual Race Against Crime in Downtown Jackson held on November 1, 1997. This event included nearly 100 participants and raised funds designated to benefit crime victims and related issues.

David has also been involved with this program since its inception and currently serves as the Chair of the Teen Court Committee. This is a program, in cooperation with the Metropolitan Crime Commission, in which first-time juvenile offenders are judged by their peers. Through his leadership, "Teen Court" is now operational at Callaway, Provine, and Jim Hill High Schools, with plans to expand to new schools next year.

HCBA Pro Bono Award

Black's Law Dictionary defines Pro Bono Publico as "for the public good" and "for the welfare of the whole." This year's award recipient, Ben J. Piazza, Jr., of Watkins, Ludlam, Winter & Stennis, is truly dedicated to the concept of the public good and the welfare of the whole. This year alone, Ben has given over 150 hours of his time through the Mississippi Volunteer Lawyers Project in both direct client services and in serving as a mentor to less experienced attorneys in family law matters.

On a continuing basis, Ben also represents disabled veterans through the Navy Reserve on a pro bono basis. In addition, he acts as Mississippi's liaison for the ABA's "Access to Justice" Campaign.

JYL Pro Bono Award

The Jackson Young Lawyers' Pro Bono Award was presented to Jane Wallace Meynardie of the Wise, Carter, Child & Carraway firm. During the past year, Jane donated more than 300 hours of her time to assist a low-income family on a real property case, far and away the largest case handled by the Mississippi Pro Bono Project.

To put this effort in perspective, the average volunteer lawyer pro bono case takes only 10 hours. The comments to the Mississippi Rules of Professional Conduct urge lawyers to provide a minimum of 50 hours of pro bono services annually.

MS Adopts Uniform Health-Care

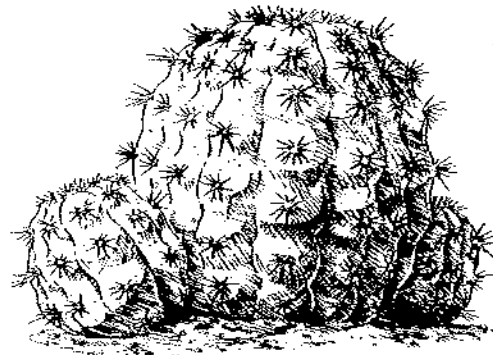
continued from page 8

statutes. Further the Act does not authorize or require any health-care provider or institution to provide health-care contrary to generally accepted health care standards applicable to the health-care provider or institution. Another specific prohibition of the Act is the fact that it does not authorize an agent or surrogate to consent to the admission of an individual to a mental health care institution unless the individual's written advance health-care directive provides express provisions for such admission. A patient, patient's guardian, agent, or surrogate or a health-care provider or

institution involved with a patient's care may petition a court to enjoin or direct a health-care decision or order any other equitable relief governed by the Mississippi Rules of Civil Procedure.

One question not satisfactorily answered in the Act is the status of prior documents executed under the "living will" or declaration of intent provisions and Durable Power of Attorney for Health Care Act which are repealed by the Uniform Health-Care Decisions Act. The only direct reference states that "[A]n advance health-care directive is valid for pur-

poses of this chapter if it complies with this chapter, regardless of when or where executed or communicated." Clearly, it will be necessary for practitioners to review prior documents prepared for their clients in order to ensure compliance with the new Act in accordance with this provision. Further, practitioners will need to be alert for documents that need to be rewritten in accordance with the Act. It is likely that the Legislature will consider a technical corrections type amendment to the Act to clarify this question and others that will arise from a close study of the Uniform



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Risk Retention Group

Legislature Enacts Family Trust Preservation Act

by Richard Montague

The Mississippi Legislature reversed a Mississippi Supreme Court created exception to the spendthrift trust doctrine by passing Senate Bill 2696 on March 23, 1998. In *Sligh v. First National Bank of Holmes County*, ___ S. 2d, ___ (Miss. 1997) 1997 WL 620799 (Miss.), the Mississippi Supreme Court held that spendthrift trust provisions that prevent creditors of the beneficiary of the trust from collecting their debts from the trust are unenforceable against the claims of intentional tort creditors or those found liable for gross negligence. As enacted, Senate Bill 2696, eliminates the intentional tort and gross negligence exceptions to the spendthrift trust doctrine.

In the decision handed down October 9, 1997, Justice Mills, writing for the Court, reasoned that the policy considerations used by the Court in creating the spendthrift trust doctrine did not apply when the spendthrift trust beneficiary was a drunk driver and the creditor was a permanently paralyzed crash victim. In a remarkably swift response to this Court-created public policy exception to the rule that creditors cannot reach the assets of spendthrift trust, the legislature eliminated the *Sligh* exception by enacting the Family Trust Preservation Act of 1998. The Act says that if a trust instrument provides that a benefi-

ciary's interest in income or principal or both of a trust is not subject to voluntary or involuntary transfer, the beneficiary's interest in income or principal or both under the trust may not be transferred and is not subject to the enforcement of a money judgment until paid to the beneficiary.

In the *Sligh* case, William Sligh was permanently paralyzed in an accident caused by Gene A. Lorence, an uninsured motorist operating his vehicle while intoxicated. The State convicted Lorence of driving under the influence and causing bodily injury to another, for which he was sentenced to ten years, with six suspended. Sligh and his wife obtained a default judgment against Lorence for \$5,000,000. Lorence had no assets other than his interest as beneficiary of two spendthrift trusts established by his mother. Sligh had a garnishment issued to the trustee, First National Bank of Holmes County. The Bank answered the garnishment by saying it was indebted to Lorence in the amount of \$313,677.48, but asserted that such sum was held in trust for Lorence and was not subject to seizure. A Chancellor agreed with the Bank and dismissed the Slighs' claim to the funds held in the spendthrift trust.

The Mississippi Supreme Court reversed the lower court by carving out an exception to the spendthrift

trust doctrine. In so doing, the Court identified three public policy considerations for enforcing spendthrift trust provisions: (1) the right of donors to dispose of their property as they wish; (2) the public interest in protecting spendthrift individuals from personal pauperism, so that they do not become public burdens; and (3) the responsibility of creditors to make themselves aware of their debtors' spendthrift trust protections. The court found that these considerations do not weigh in favor of enforcing spendthrift trust provisions as against the claims of intentional tort creditors or those found liable for gross negligence. The Court held, as a matter of public policy, that a beneficiary's interest in spendthrift trust assets is not immune from attachment to satisfy the claims of the beneficiary's intentional or gross negligence tort creditors, and that such claims take priority over any remainder interests in such assets.

The legislature obviously disagreed. The public policy in Mississippi, as expressed by the legislature in the Family Trust Preservation Act of 1998, is that spendthrift trust provisions will be enforced (from and after March 23, 1998) to prevent all creditors of a spendthrift trust beneficiary from reaching the assets of the spendthrift trust, unless the beneficiary is also the settlor or the trust.

New Legal Research Computer Installation

by Linda A. Thompson

The Hinds County Bar Association is pleased to announce that the legal research computer installation at the Eudora Welty Branch of the Jackson/Hinds County Library on North State Street is now complete and ready for public use.

A ribbon cutting was held on May 27th to herald the new law research station. 1997-98 President John McCullough represented the HCBA at the ceremony.

Last June, the Board of Supervisors approved the recommendations of the HCBA Library Committee for this computer installation and authorized the expenditure of approximately \$85,000 from the Hinds County Library Funds to purchase the requisite equipment and hire a part-time law librarian, with an additional \$20,000 for the first year's maintenance. The Library Fund is derived from court costs.

There are four computer work terminals and a CD-ROM network in a central location on the main floor of the Welty Library. Library patrons will be able to research the law through various CD-Rom sources and access the Internet at the new "high-tech" law collection.

On Computing

by Joel Howell

Windows 98 is coming the end of June. Is it time, to upgrade? Again?

For those who went through the considerable ordeal of upgrading to Windows 95, the good news is that this upgrade may not be nearly as Constitution-wrenching. Before looking at some of the nuts and bolts though, let's take a look at what Windows 96 is and is not.

First of all, the kernel has been tweaked, meaning that you will be able to boot and shut down quicker than Windows 95. Second, your applications should launch faster, thanks to a new disk defragmentation utility with enhanced disk optimization.

These technologies are said to work together synergistically, so that, in about one month, a combination of disk cleanup, disk defragmentation, and realignment of applications should optimize Windows 98's performance.

Windows 98 also has some new features. Chief among these is a Windows update feature that will let you surf the Internet to see if the latest patches to the operating systems have been installed. It also includes FAT32, which was already present in the later versions of Windows 95 and uses smaller clusters to make more disk space available. (For more on clusters, see my article a couple of issues ago.)

There is also a new system information tool that provides quite a bit of information about what is running on

your system and works in conjunction with the new system file checker, the system configuration utility, and the registry checker.

Now, consider your upgrade options. If you are still running Windows 3.1, Windows for WorkGroup 3.11, or, perish the thought, some older version of DOS, Microsoft, has no holy writ that mandates your upgrading. Obviously, however, if you buy new equipment, it will have Windows 98 on it.

Moreover, your old AT and XT, machines are not going to run forever. Nevertheless, that does not mean that you may not elect to stand pat.

If you are running Win 3.1 or WFWG, you can upgrade directly to Windows 98 without taking the intermediate step of moving first to Windows 95. Windows 95 was and is decidedly more stable than the Win 3.1/WFWG implementation, and that additional peace of mind may well be worth the upgrade.

If you are already using Windows 95, the step up to 98 will be a kinder and gentler upgrade, but the system enhancements and new features are not the generational step that took place from Win 3.1/WFWG to Win95. In fact, a fair portion of what Win98 does is simply incorporate the features found in OSR2, the later release version of Win95, as well as the service packs and patches already download-

able from the Microsoft Web site.

You should also be aware that Windows 98 is just another stop on the roadway to the unification of Windows NT and DOS/Win3.1/WFWG/Win95, etc. NT 5.0 at this point is to be released in the second quarter of next year, though that is subject to the usual delays in major Microsoft implementations.

Given all this there is no simple answer, but the foregoing should give you a brief glance at the tip of the iceberg. For more information, visit the Microsoft web site. You will also enjoy the June Byte and PC World articles on Windows 98.

By the way, as this is written (c. May 15), the scheduled release date for 98 is still June 25, but Microsoft and the Justice Department continue a high level dialogue over the incorporation of the Internet Explorer browser in the operating system.

Remember those 400 MHz systems that I noted would be out by the end of this year? Surprise! You can buy them now.

We continue to refine the web site, and are looking for more content. Please drop by hindsbar.com and leave questions or comments for webmaster@hindsbar.com.

Agreements to Arbitrate Future Disputes Now Enforceable

by John Land McDavid

Prior to *IP Timberlands Operating Company, Ltd. et al. v. Denmiss Corporation, et al.*, No. 96-CA-00140-SCT, 1998 WL 149395 (Miss. April 2, 1998), Mississippi followed the common law rule that agreements to arbitrate future disputes are voidable at will by either party at any time before a valid award is made. *Jones v. Harris*, 59 Miss. 214 (1881); *Standard & Supply Co. v. Mississippi Steel & Iron Co.*, 38 So. 2d 488 (Miss. 1949); *Machine Prods. Co. v. Prairie Local Lodge, No. 1538 of Int'l Ass'n Machinist, AFL-CIO*, 94 So. 2d 344 (Miss. 1957).

In 1981 the Mississippi Legislature created a statutory exception to the common law rule for contracts having to do with building and construction and for certain professional services relating to building and construction. Miss. Code Ann. §§ 11-15-101 to 143 (Supp. 1997).

In *IP Timberlands*, the Mississippi Supreme Court expressly overruled the above line of cases. The court stated, "[t]his Court will respect the right of an individual or an entity to agree in advance of a dispute to arbitration or other alternative dispute resolution." The court also held that the sub-

ject matter of the suit, a ninety-nine year lease on approximately 140,000 acres of Mississippi timber land, was also subject to the Federal Arbitration Act of 1947. 9 U.S.C. §§ 1-307 (1996).

This decision is a complete reversal of long standing law and will now make enforceable arbitration or other dispute resolution provisions in presently existing contracts. The decision also allows Mississippi attorneys to include, with the confidence of enforceability, such provisions in future agreements.

Reception for Judge Gibbs

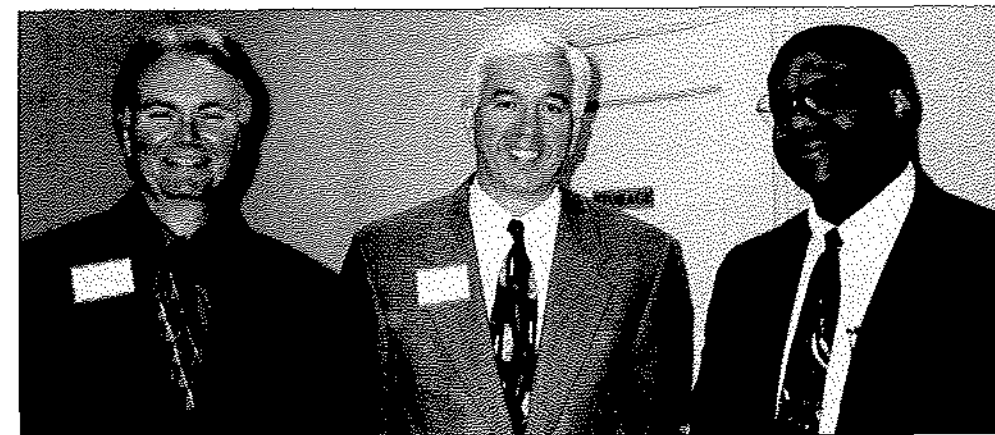
A large number of attorneys, judges and friends honored Judge Robert Gibbs at a reception sponsored by the Hinds County Bar Association on March 27.



LaVerne Edney, Michael Rhodes, Tess Melton



Mark Chinn, Linda Thompson, Jimmy Robertson, Dean Richard Hurt



Richard Roberts, John McCullouch, Henry Clay



Luke Dove, Rebecca Wiggs, Judge Gibbs, Cliff Hodge



Judge Gibbs, Debra Gibbs, John McCullouch

Hinds County Bar Association Budget 1998-99

Income	Budget		
ANLIR	\$4,000	Law Office Survey	500
CLE	2,600	Law Week Dinner	6,500
Grants (\$5,000 97/98)	5,000	Lawyer Referral	1,000
Interest Earned	2,500	Management Services	21,500
Law Firm Survey	1,000	Members Socials	3,000
Law Week Dinner	4,500	Membership Luncheons	5,300
Lawyer Referral	1,000	Miscellaneous	500
Membership Dues	64,500	Newsletter	10,000
Membership Luncheon Fees	4,200	Peoples Law School	1,000
Miscellaneous	150	Postage	6,500
Newsletter Ads	2,000	Printing & Supplies	4,500
Peoples Law School	1,000		
Tournament-Golf	14,000	Projects: PAIRS	500
Total Income	\$106,450	Parenting Classes	500
		Professionalism Institute	500
		Symposium on Family	500
		Social-Christmas	5,500
Expenses		Storage	300
ABA Conference & Dues	\$4,500	Telephone	750
Board Development	1,125	Tournament-Golf	10,500
Board Luncheons	1,500	Tournament-Golf Proceeds Contribution	3,500
CLE	1,400	Video Equipment/Courthouse	1,200
Committee Lunches	3,000		
Computer/Website	1,500	Total Expenses	\$102,925
Grants	5,000		
In-Town Travel	450		
Insurance	400		

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New Public Defender Act

by James L. Robertson

In the 1998 Session, the Mississippi Legislature passed and Gov. Fordice signed into law Senate bill 2239, known as the Mississippi Statewide Public Defender System Act of 1998.

When fully implemented, the new Act will establish a state-funded district defender's office for each circuit court district. The District Defender will to a large extent be the counterpart of the District Attorney. The new Act contemplates that the District Defender will have a staff as needed. In case of conflicts, defenders could be drawn from other districts or from the private bar.

At the state level, the new Act will establish an appellate office of the Public Defender which essentially mirrors the criminal division of the office of the Attorney General.

Overall the program will operate under the authority and direction of a nine-member Commission. The Commission's members will be appointed by the Governor, Lieutenant Governor, Speaker of the House, Chief Justice of the Supreme Court, the Conference of Circuit Judges, the Conference of County Judges, The Mississippi Bar, the Magnolia Bar, and the Mississippi Public Defenders Association.

The Commission is given broad discretion regarding implementation of the Act, consistent with available funding. The Commission is empowered and directed to develop a phase-in plan which will include budget and suggested appropriations and which may cover several years and a number of transitional appropriations. The Legislature has initially provided only a token appropriation which will enable the nine commissioners to come on board and engage the services of an executive director.

As enacted, the statute addresses the provision of counsel for indigent persons accused of felonies only, excluding the provision of indigent defense for misdemeanors, juvenile offenses and civil commitment proceedings.

The genesis of the new Act goes back to 1962, if not before. In that year the Supreme Court of the United States in *Gideon v. Wainwright* held that all persons charged with felonies had the right to counsel and, if such persons were indigent, they had to be provided counsel at state expense. The Legislature imposed this state responsibility on the counties, an unfunded mandate in today's political jargon.

For years, the appointed counsel system in Mississippi has operated on 82 county-funded shoestring budgets. By statute, fees are limited to \$1,000 per case. Historically, fees were approved by the circuit judge, and often were less than \$1,000. These were approved by the board of supervisors and ultimately paid out of the county's budget.

In fact Section 99-15-15 provides for compensation not to exceed \$1,000 plus "actual expenses." In 1990, the Supreme Court decided *Wilson v. State* 574 So. 2d 1338 (Miss, 1990). *Wilson* rejected the *per se* attack on the \$1,000 fee limitation. The Court construed the phrase "actual expenses" to include the lawyer's overhead, noting a then-recent survey that the average overhead for lawyers in Mississippi was slightly in excess of \$25 per hour. *Wilson* held that there was a rebuttable presumption that a court-appointed lawyer was entitled to \$25 per hour in actual expenses in addition to the \$1,000 maximum fee.

Following *Wilson*, many of the larger counties saw their costs for indigent defense rise well above \$100,000 per year. Several years ago the total indigent defense cost for the state for all 82 counties ran slightly less than \$6 million per year. Spot surveys made clear the actual figure was higher.

In 1993, the Mississippi Judicial Advisory Study Committee appointed a Consulting Subcommittee on Indigent Defense. The Subcommittee was broadly based in its membership, including prosecution, defense, judicial and public members.

At about the same time, the

Criminal Justice Task Force of The Mississippi Bar began a similar study. The Task Force and the MJASC Subcommittee worked closely together thereafter. In November of 1993, the Task Force engaged the services of The Spangenberg Group of West Newton, Massachusetts, to come to Mississippi and study the state of indigent defense here. The Spangenberg Group is a nationally recognized research and consulting firm which has assisted over half the states in the Union in developing their statewide public defender programs.

In January of 1995, the Spangenberg Group submitted its final report. Thereafter the MJASC Study Committee developed a recommendation for a state-funded public defender system and drafted bills for introduction at the 1995 legislative session. The proposed bill drew heavily on the recommendations of the Spangenberg Group and has incorporated many important features from the Arkansas and Florida statewide public defender system acts.

The bill was presented each year thereafter until final passage in 1998. The only significant opposition through the years was fiscal in nature.

The bill which has now been enacted is designed to satisfy the requirements of the Act of Congress respecting federal habeas corpus reform, Pub. L. 104-132, Title 1, § 107, eff. 4/24/96. The limitation on federal habeas corpus review provided in the new federal Act does not become available until the state establishes an appropriate mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in state post-conviction proceedings.

As enacted, the Public Defender System Act continues in effect some of the principles found in current Mississippi law particularly including the goal of parity of funding for the district defender's office when compared with the district attorney's office.

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6th Annual

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JACKSON YOUNG LAWYERS**

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Friday, August 28, 1998

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Hamburger Buffet 12:00 noon

Deerfield Golf Course

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

4 Person Scramble*

Limit 116 Persons

COST ONLY \$85 Per Player includes Lunch and Post-Tournament Cocktail Party

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DEADLINE AUGUST 17, 1998**

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Address _____ Team Members _____ Handicap _____

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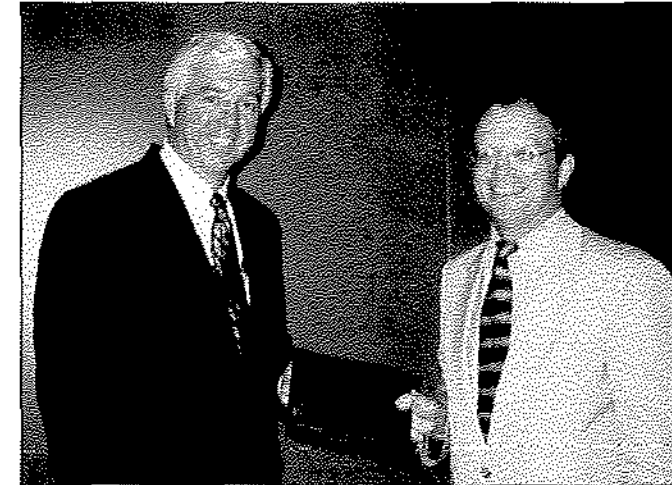
*Each competing "4" some must have a combined handicap of at least 40 or more with only 1 member having a handicap of 10 or less.

Send registration and checks payable to: Hinds County Bar Association, c/o Debra Allen, 206 W. Pearl St., Suite 1411, Jackson, MS 39201. For more information call, Debra at 353-0001.

An Evening Honoring The Judiciary

An Evening Honoring the Judiciary on May 7, sponsored by the Hinds County Bar Association and the Jackson Young Lawyers, was the largest attended in the five year history of the event. Held at Primos Northgate, the Keynote Speaker was Mississippi Attorney General Mike Moore. The HCBA and the JYL wish to thank Trustmark National Bank for sponsoring the reception before the dinner and Mississippi Valley Title Company for providing the flowers.

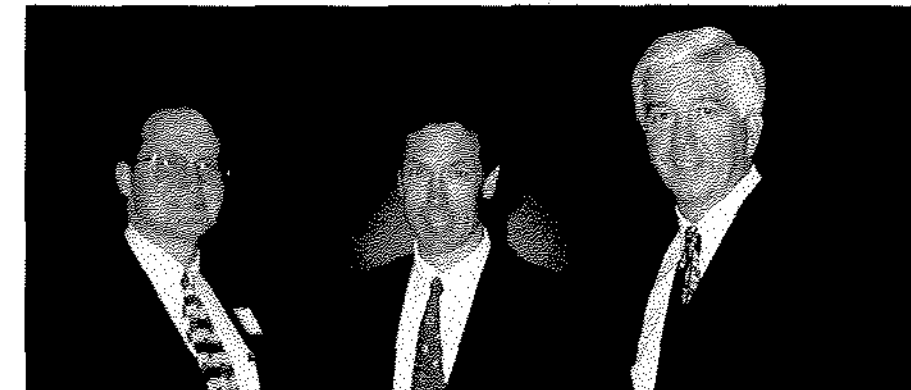
The HCBA presented its Outstanding Service Award to John C. Henegan and its Pro Bono Publico Award to Ben J. Piazza, Jr. Recipients of the JYL Awards were David F. Maron, Outstanding Service, and Jane Wallace Meynardie, Pro Bono Publico.



John McCullough and John Henegan



John McCullough and Mark Chinn



Justice William Waller, Jr., Attorney General Mike Moore, and John McCullough



Jane Meynardie and Lynn Risley



Lynn Risley and David Maron

MC Law Dean Accepts Position With The ABA

At the end of seven years as dean, J. Richard Hurt will step down from his administrative position at Mississippi College School of Law to become the Deputy Consultant on Legal Education to the American Bar Association, effective July 1. In this position, he will assist Dean James P. White, long-time Consultant on Legal Education, with the accreditation reviews of the 180 ABA approved law schools, applications for approval by new law schools, and requests for approval of new programs by established law schools.

Additionally, Hurt will meet regularly with the Standards Review Committee, Accreditation Committee, and the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association. As Deputy Consultant, he will also serve as the ABA's liaison with the United States Department of Education which recognizes the Council as the official accrediting agency for law schools.

During his deanship, the law school has continued to gain regional and national recognition through the scholarship and law reform work of the faculty, the successes of its moot court teams in inter-law school competitions, and the outstanding placement of its graduates. Under Dean Hurt's leadership, the law school established its first Board of Visitors, an advisory board composed of judges, practicing members of the bar, and outstanding business leaders, which has assisted the law school in its deliberations about important developmental issues such as relocation.

In 1997, the Mississippi legislature passed and the Governor signed into law a bill which will allow the State to purchase the existing law school property to add to the Capitol Complex. This action paved the way for the law school to acquire a new home, a decision which should be finalized before the end of the year.

In addition to his responsibilities at the law school, Dean Hurt has chaired

the Mississippi Supreme Court Advisory Committee on Rules and has served as Secretary-Treasurer of the Charles Clark Inn of the American Inns of Court. He is a member of the Board of Advocates for the Baylor University Library System.

In 1997, Dan M. Lee, then Chief Justice of the Mississippi Supreme Court, presented Hurt with the 1997 Chief Justice Award. This honor goes to a member of the Mississippi Bar who has a distinguished record of public service and has advanced the credibility and image of the legal profession in Mississippi.

Dean Hurt and his family will move to Indianapolis, Indiana, where the Consultant's Office is located on the Indiana University-Purdue University, Indianapolis campus. Dean Hurt's wife, Jan, is currently a member of the Clinton Public School Board, and she chairs the Deacons of Northside Baptist Church. The Hurts have three daughters, Rosanna, age 14, Elizabeth, age 11, and Margaret, age 6.

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Saturday	9:00 a.m.-5:00 p.m.
Sunday	2:00 p.m.-6:00 p.m.

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Initiative To Slam Punitive Damages

by Elizabeth Featherston

SLAM (Stop Lawsuit Abuse) on May 8, 1998, filed an initiative proposal with the Secretary of State which would by constitutional amendment drastically limit the availability of punitive damages in the State of Mississippi and dramatically increase the burden of proof. If the group collects the required signatures, the initiative will be on the ballot in November 1999.

The initiative incorporates and raises to constitutional status much of the present law on punitive damages, incorporating the bifurcated procedure of §11-1-65, and the present limitation on claims for punitive damages for sellers of products.

It would dramatically change Mississippi law and provide substantial immunity to punitive damages in the following ways:

1. The burden of proof would be "beyond a reasonable doubt."
2. Damages would be limited to five times economic damages or \$250,000 regardless of any pecuniary benefit to a defendant arising from the wrongful conduct.
3. In products cases, (except if new evidence demonstrated beyond a reasonable doubt that further punitive damages should be awarded, there

could be only one award in one case for the "same act, decision, omission or course of conduct." Apparently any award for punitive damages anywhere would provide immunity in Mississippi against any further award

4. There could be no award for punitive damages in any products case if the aspect of the product that caused the plaintiff's harm was in compliance with:

(a) Any federal statute in effect at time of production;

(b) Any administrative regulation deregulation or any federal agency with responsibility to regulate safety of the product;

(c) Any approval or certification made by an agency of the federal government before the product was marketed;

(d) Any state or local statute, ordinance, regulation or agency certification.

The only exception to this prohibition on punitive damages would be if the plaintiff proved the defendant knowingly and in violation of federal or state regulations misrepresented information required to be submitted to the agency or bribed an official of a federal agency to obtain an approval. Bribing a state or local official is not

mentioned.

The initiative by its terms would apply to all pending civil actions in which trial or retrial had not been commenced, providing retroactive immunity from punitive damages claims in at least some pending actions.

Additionally, the present provisions of §11-1-65 expressly exempt contract and libel and slander actions from its provisions. The proposed initiative makes no such exception. Punitive damages in cases of slander or libel, where economic damages may be particularly difficult to prove, would fall under the punitive damages limit as would bad faith actions.

Since punitive damages by definition should only be awarded in cases of egregious misconduct, by limiting the award of punitive damages to five times one plaintiff's economic damages and removing any consideration of the financial benefit to the defendant of its egregious conduct, the initiative, if passed, would strip Mississippi juries of any meaningful ability to punish outrageous conduct in proportion to the total harm done or in a manner that could deter the defendant or others.

To the Hinds County Bar Association

The People's Law School was so enjoyable and informative. Thank you.

I have written *The Clarion Ledger*. I hope it will hit the "Letter to the Editor" column. More citizens should know about and attend this school each year. I do hope you are not like my doctor about whom I bragged so much, it is difficult to get in to see him.

Appreciation is fleeting; however, the data I picked up in these sessions will stay with me the balance of my lifetime. The speakers were *so good!*

Sincerely,

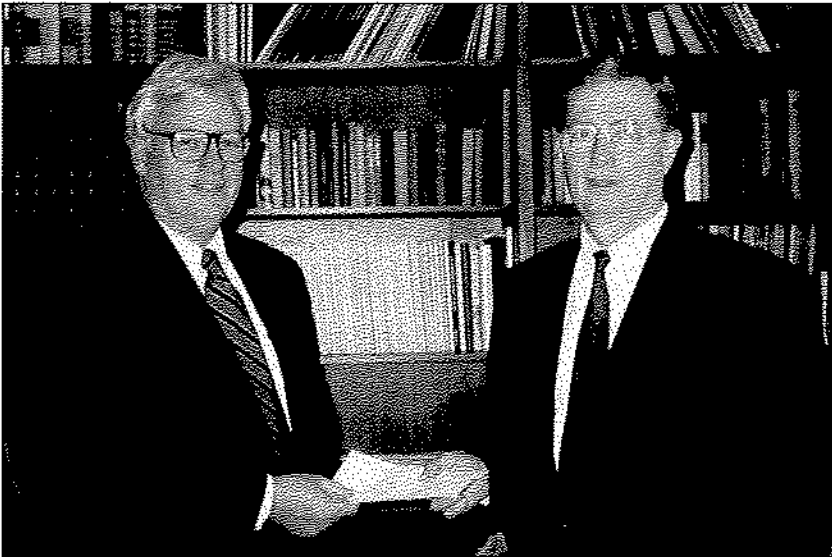
Betty Wentworth
Pickens, Mississippi

Sixth Annual Golf Tournament Scheduled

The HCBA/Jackson Young Lawyers Golf Tournament has been scheduled for Friday, August 28, at Deerfield County Club. This will be the sixth year for the project. Last year's tournament contributed \$4,000 to the Mississippi Lawyers Volunteer Project.

The event is being planned by committee members: Stuart Kruger, Chairman; Debra Allen, Stephen Carmody, Mark Chinn, Harris Collier, Kenny Griffiths, Mike Maloney, Ken Miller, Keith Obert and Ben Piazza.

April Membership Meeting Winner



Fulton Thompson (right) won the April Membership Meeting Door Prize. He is being presented a Dinner for Two at the Capital Club by HCBA Past President Harris Collier.

□ HINDS COUNTY BAR ASSOCIATION □

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

Hinds County Bar Association, Inc.

151 E. Griffith Street
Jackson, MS 39201

FIRST CLASS

IMPORTANT
HCBA Luncheon Meeting
12:00 Noon, June 16

HINDS COUNTY BAR ASSOCIATION

MAKING OUR CASE FOR A BETTER COMMUNITY

OCTOBER 1998



President's Column by Mark A. Chinn

Our year of professionalism has begun. As you know, we plan to emphasize professionalism all year. We have scheduled six meetings this year, instead of the conventional five, and we are going to have a CLE program at each meeting. This means that you can obtain one half of your CLE credit by attending our luncheon meetings. Every program will be dedicated to "Professionalism." We expect high attendance at each meeting, so plan to arrive early to get a seat.

Professor Guff Abbot, our new Mississippi Bar President, was our inaugural speaker at the June meeting, and Jimmy Robertson gave the program at the August meeting. Both presented thought-provoking programs on the meaning of professionalism, and we had record attendance.

Professionalism is also the theme of the ABA this year, and Guff talked about the ABA's effort in this area. As Guff noted in his presentation, Jerome Shestack, President of the ABA, has defined professionalism as consisting of six basic elements:

1. Ethics and integrity
2. Competence combined with independence
3. Meaningful continuing learning
4. Civility
5. Obligations to the justice system
6. Pro bono service

Mr. Shestack states that "a true professional will implement these values in practice consistently and holistically." ABA Journal, "Taking Professionalism Seriously," p. 70, Vol. 84, August 1998.

In this Article, I would like to briefly address the issue of civility. Mr. Shestack says this about civility:

In the context of professionalism, [civility] covers not only surface politeness or courteous treatment of opponents. Civility has a much deeper meaning, one that transcends cosmetic courtesy. Civility should be viewed in terms of what it means to have a "civil society"—indeed, what we mean when we say "civilized." In this vein, civility is grounded in respect for individual dignity and worth.

In short, civility modifies the antagonisms and aggressiveness of an

adversarial society, respects individuals and encourages a balanced, rational solution to disputes.
Id. at 73.

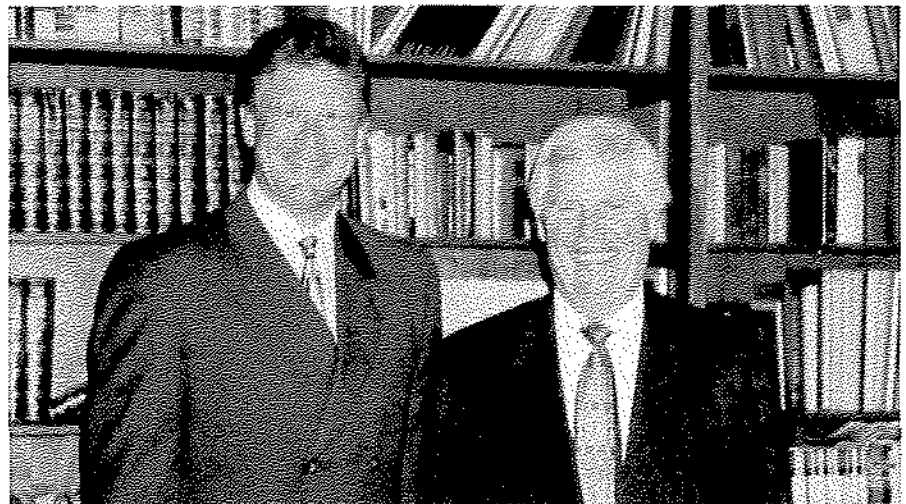
Just how important is civility? Is it really a point of concern that we, as lawyers and judges, should be courteous and respectful of each other? Is this something that our ABA and our Hinds County Bar, as well as hundreds of other associations, should concern ourselves with? You bet your life it is. Civility—the way we treat each other—strikes at the very foundation of our society. Without civility, we risk losing the very fabric of civilization and falling into anarchy.

In his book, *The Soul of the Law*, Benjamin Sells writes on page 81:

"The return of barbarism in the context of winner-take-all litigation

Continued on page 2

August Membership Meeting



Former Supreme Court Justice James L. Robertson (right) was the speaker at the August Membership Meeting. His CLE presentation was *Professionalism-Problems in the Profession*. He is pictured with HCBA President Mark A. Chinn.

HINDS COUNTY BAR ASSOCIATION LUNCHEON MEETING

October 20, 1998

12:00 Noon

Capital Club

Lunch \$10.00

CLE \$5.00

Judge Mary Libby Payne of the Mississippi Court of Appeals will present the CLE program, "Is Sexual Harassment an Ethical Violation?"

Continued from page 1

endangers the very ends the legal mind seeks to ensure. If winning supplants idealism, then anarchy, the Law's Great Enemy, must follow as all sides do whatever is necessary to win. The argument that the quest for winning is proper as long as it is carried out "within the rules" is simply another way of saying the End is justified by the Means. In a system fixated on winning, moral and ethical considerations become ex post facto commentaries by whoever is left standing.

So, without civility, we risk civilization itself. A lack of civility also impacts us personally. Sells writes that, "Litigation's fixation on winning is psychologically corrosive." Id. Evidence of this corrosion in our profession abounds. Lawyers suffer from depression and alcoholism at rates far exceeding the general population. One survey showed that forty percent of lawyers would stop practicing. Fifty per cent of women quit the practice of law within five years. Would you do something else if you could?

We have the secret to our own health and happiness in our control. It lies in how we treat each other. Perhaps it is as simple as encouraging each of us to treat each other as we would want to be treated. Wouldn't each of us prefer to be called before a matter is scheduled? Wouldn't each of us prefer that, when we try to schedule a matter with another lawyer, we did not get the runaround on his availability? Wouldn't each of us prefer that when a lawyer is about to sue someone he knows we represent, that he would call us and give us the opportunity to accept process? Wouldn't each of us prefer that opposing counsel would not request sanctions against us? Wouldn't each of us prefer that opposing counsel would not earwig or obtain orders without our being present?

But do we actually treat other people the way we would prefer? Not often enough. So, we are going to talk about these issues over and over this year.

Perhaps, a code of civility is appropriate. Guff said that over 108

bar associations have promulgated codes of civility. A code would let all of us know what we expect of each other. It would also provide us with a standard to show to those clients who think civility runs contrary to their interests. We are going to work this year on such a code. We are also looking at creating a Professionalism Institute where articles, tapes and other materials dealing with civility would be collected for study and dissemination to our members and others.

We solicit your suggestions and comments. Send a letter to me at P.O. Box 13483, Jackson, MS 39236, with things that have happened to you, or suggestions for the code of civility. If you let us know that you approve, we will publish your thoughts perhaps we can start a dialogue on these issues in this publication, as well as at our meetings.

In Mississippi, we have a great tradition of civility. Many of us who litigate in other states report that conditions in Mississippi are better than other places. But, are we as good as we should be and can we take

whatever traditions we still exercise for granted? To both questions, I answer, "No." We must get better, and we must constantly work to preserve the levels of civility that we attain. We must work on ourselves individually and as a group.

Local County Court Races

Three candidates are on the November 3rd ballot for County Court Judge in Madison County. The incumbent Bill Agin is being challenged by Cynthia (Cyndi) Lee Brewer and Harold (Hal) B. McCarley, Jr.

Kent McDaniel, incumbent, is unopposed in his bid for Rankin County Judge. The three incumbents in Hinds County, William Barnett, Houston Patton, and Chet Henley, are also unopposed.



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Political cartoonist. If interested, send sample cartoon to Editor, HCBA News, c/o Pat Evans, Executive Director, 151 E. Griffith Street, Jackson, MS 39201.

HCBA Calendar of Events

October 20
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

October 29
Halloween Social.
5:30-7:00. Hal & Mal's

December 3
Christmas Social.
5:30-7:00.
The Mississippi Bar Center

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

February 16
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

April 20
HCBA Membership Meeting and One Hour Ethics CLE.
Noon. Capital Club

CLE Calendar of Events

October 20
Curing Title Defects.
K.F. Boakle. 956-6444

November 5
Workers' Compensation Practice & Procedure.
MC School of Law. 925-7173

November 10
Surveys & The Closing Attorney.
K.F. Boakle. 956-6444

November 24
Section 1031 Exchanges.
K.F. Boakle. 956-6444

REMEMBER TO VOTE

Tuesday, November 3

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On Computing by Joel Howell

Gotten your web site yet? If you are a solo or small firm practitioner (meaning five lawyers or less) and have a Martindale-Hubbell listing, you can create a home page quickly and inexpensively.

These sites were just launched in August and are available for an introductory rate which is far lower than if you created your own web site with a local Internet service provider.

The site offered provides a personalized domain extension of www.lawyers.com/your_name and gives you the capability of creating an interactive firm brochure on-line in a minimal period of time. The site also goes so far as to give you an email link to your mailbox of choice, biographical information on members of your firm, contact information, and access to mapblast.com which will give a client instant access to a map to your office! For a sample, check out <http://www.lawyers.com/joelhowell>. Email there is then forwarded to my mailbox.

The Internet contains significant available resources for non-legal as well as legal research. Examples of non-legal research are news sources, experts, people, search companies, and medical information. The Law Practice Management Section of the American Bar Association offers quite a number of publications to assist in both types of research. Several new books are worthy of purchase and perusal. The Internet Fact Finder for Lawyers and Computer-Assisted Legal Research: A Guide to Successful Online Searching, for example, are two good ones and are available from the ABA service center at 800/285-2221.

Obviously, even though great resources are available, one must be selective in determining research methodology. Relying on any popular search engine such as Lycos is a help, but there is a decided learning curve with any of these tools.

For some helpful fundamental information, take a look at the ten C's for evaluating interest resources at <http://www.uwec.edu/>

Admin/Library/10cs/html.

Listservs, essentially mass e-mailings, were one of the first available resources when the net was still a character-driven Unix environment and file names were required to be a fixed length of eight characters (therefore: listserv) in computer network servers with masters of the mailing lists that resided on them. For additional information on listserv resources, see, for example, <http://tile.net/listserv/>; for additional information on legal lists, see <http://www.regent.edu/lawlive/lists/list-law.html>.

Finally, some helpful web sites are listed below:

Area Codes

Search.com <http://www.555-1212.com/aclookup.html>

Atlas

U.S. street maps and interactive atlas <http://www.mapblast.com/>

Interactive Atlas

<http://www.mapquest.com/>

World Maps

http://www.lib.utexas.edu/Libs/PCL/Map_collection/html

Case Citation

<http://www.law.cornell.edu/citation/citation.table.html>

Merriam-Webster Dictionary

<http://www.m-w.com/netdict.htm>

One Look - Links to dozens of specialized dictionaries, including pronunciation, slang, acronym, medical, sports, science, religion, and technology-related dictionaries.

<http://www.onelook.com>

"Plain Language" Legal Dictionary

<http://www.wlia.org/diction.htm>

European Law Dictionary -

Eurodicautom is a translator to and from Danish, Dutch, English, French, German, Italian, Portuguese, Spanish, Swedish, and Finnish. Search for terms or abbreviations and limit by subjects, including customs, economics, employment, environment, finance, insurance, law, taxation, telecom, and trade.

<http://www2.echo.lu/edic/>

Library Catalogs:

Yahoo's Library Collection

<http://www.yahoo.com/Reference/Libraries/>

Law Library Links

<http://law.house.gov/114.htm>

AT&T toll-free directory

<http://www.tollfree.att.net/dir800/>

Merriam-Webster thesaurus

<http://www.m-w.com/mw/theslim.htm>

Zip Codes

http://www.usps.gov/nesc/lookups/lookup_zip+4.html

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



Mississippi College School of Law

Law Library Hours

August 23, 1998 -
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Regular Library Hours

Mon.-Thur.	7:30 a.m.-midnight
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Saturday	9:00 a.m.-9:00 p.m.
Sunday	noon-midnight

Exceptions: Labor Day, Thanksgiving & Christmas Holidays

Sept 7	9:00 a.m.-5:00 p.m.
Nov. 26 & 27	CLOSED
Dec. 24 thru Jan. 3	CLOSED
Jan. 4 & 5	7:30 a.m.-6:00 p.m.

Exam Schedule:

December 4th-17th, 1998

Mon.-Fri	7:30 a.m.-midnight
Saturday	9:00 a.m.-midnight
Sunday	noon-midnight

**Resume regular hours
January 6, 1999.**

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Rehabilitation of Health Maintenance Organizations Emerges in Mississippi

by Michelle Partridge*

The concept of managed health care is one that is sweeping the United States. While it has helped curb escalating health care costs nationally, it has also spawned a new set of problems for patients and providers alike related to rapid growth. Mississippi is no different.

The risks of the managed care movement were recently brought into sharp focus when two state licensed health maintenance organizations were placed into rehabilitation by the Hinds County Chancery Court and the Department of Insurance. Prior to these two rehabilitation proceedings, there were sixteen HMOs licensed in the state of Mississippi providing health care to only 104,464 enrollees. Given the level of claims for fiscal year 1997, along with fixed and variable overhead necessary to remain viable, it appears that there were too few premium paying enrollees to support that number of HMOs. These recent rehabilitations bear stark witness to this fact.

On July 15, Hinds County Chancellor William Singletary approved a Consent Order of Voluntary Rehabilitation for American Medical Plans of Mississippi for, among other reasons, failure to maintain minimum net worth requirements. American, the fifth largest HMO in Mississippi, had approximately 6500 enrollees. It operated throughout Mississippi in twenty-five counties and also had affiliated companies in Georgia, South Carolina, and Missouri. The Order of Rehabilitation allowed the Mississippi Department of Insurance to take over the affairs of American.

Three weeks later, a second Mississippi HMO was placed into rehabilitation. On August 7, 1998, Hinds County Chancellor Stuart Robinson approved an Order of Rehabilitation for Care 3, Inc. Similar to American, Care 3 had approximately 6,500 enrollees and

failed to maintain minimum net worth requirements. Care 3, the tenth largest HMO in Mississippi, served primarily the Gulf Coast area.

Under an Order of Rehabilitation, the Department of Insurance appoints a management team to run the HMO until it can reorganize financially or until it is determined that the HMO should be liquidated. Currently, both American and Care 3 remain in rehabilitation.

As with any other growth area of the economy, health care law is an emerging specialty that will require more legal specialists in the years ahead. This is especially true in Mississippi where managed care is highly regulated by the Department of Insurance. Given the level of federal health care regulations, along with the pending Patient's Bill of Rights now being considered by the Congress, there is every reason to anticipate the need for more lawyers willing to devote their time to this area of the law.

Given Mississippi's relatively young managed care market, many health-care providers may not be aware of the numerous regulations concerning providers' continuing obligations to enrollees. Under Mississippi HMO law, providers are required for specified periods to continue providing medical services to the enrollees served by HMOs that have been placed into rehabilitation. Also, enrollees are only required to pay the coinsurance and deductible expenses they ordinarily would have to pay. Providers, under Mississippi law, cannot look to the enrollee for amounts owed by the health maintenance organization.

Providers should be aware that Mississippi law requires that sixty days notice be given in writing by a provider wishing to terminate its contract with an HMO. In effect, providers must continue to provide medical services to enrollees on the

same basis as if the rehabilitation had not occurred until sixty days after giving notice of termination.

Notwithstanding close scrutiny of HMOs by the Mississippi Department of Insurance, it is reasonable to assume that rehabilitation or liquidation of additional HMO's will result in the future. While the above only minimally addresses the many problems of rehabilitation, it may help attorneys not schooled in this specialty to provide answers to the inevitable managed care questions that are sure to be raised by enrollees and health care providers alike.

*Associate with Copeland, Cook, Taylor & Bush, P.A., Jackson, Mississippi

Summer Bar Exam Statistics

Bar Admissions Administrator Linda B. Knight has released the statistics from the July 1998 bar examination.

The overall passing rate was 80.3% with 175 of 318 examinees successfully taking the examination.

First time takers had a slightly higher pass rate of 83.9% (166 out of 198). Retakes dropped to a 45.0% passage rate (9 out of 20).

The swearing-in was done in two separate ceremonies; one in the morning and one in the afternoon on Tuesday, September 29th, in the House of Representatives Chamber at the Old Capitol. The Hinds County Bar congratulates each of these new lawyers.

Welcome to the 90's - The Crisis in Public Service Before and After the Starr Report

by Captain Equity

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

In the aftermath of the now infamous Starr Report, about the only real winners are Leno, Letterman and the other late night comedians. For everyone else, the unwanted revelations are like waking up in a cheap, dirty motel room to discover the shower isn't working and that someone broke into your car the previous evening and stole your luggage. To make matters worse, you flip on the television set that is chained to the cinderblock wall just in time to see and hear a folksy commercial for the same lodging chain. A homespun announcer paints a warm, fuzzy picture of "leaving the light on for you" and all the other feel good ad agency copy that all of us have grown so accustomed to. You stare at the screen then look around the room and just shake your head. The dissonance between image and reality screams at you in the most insulting, yet perfectly produced manner imaginable. Welcome to the 90s.

The most troubling aspect of all this is not so much the lurid, inappropriate sex on federal property outlined in the Starr Report, though some would surely disagree. It is rather the holier than thou moral superiority conveyed in the false denials coupled with the calculated web of legalistic deception and the total indifference to the feelings of others who, in good faith, have taken the President at his word. The long term damage for the Presidency and the country lies in the loss of his and our moral authority. Like the little boy who cried wolf, how can anyone take seriously challenges to do the right thing and to act responsibly when the rhetoric, which is delivered

so fervently, is in fact so empty? The price we must all pay is computed in increased cynicism, moral indifference and validation of an ever increasing pattern of rationalization and excuse-making where words come to count more than actions; appearances more than substance. To be sure, Bill Clinton didn't invent this dubious art-form, though arguably, he may have perfected it.

There are and always have been others, Congressman Dan Burton, House Speaker Newt Gingrich; Senators Hart and Kennedy; and Evangelists Jimmy Swaggart and Jim Bakker come readily to mind. And closer to home, let's not forget "Amnesia" Kirk Fordice. All of them are slickly produced, Do-As-I-Say-Not-As-I-Do-Public Servants and Spiritual Leaders. Without exception, all of these self-proclaimed role models are high profile public figures who have come to expect the perks of fast track public life - limos, jets, hotel suites and most importantly, a press officer or publicist to disseminate their every thought and publicize their every movement to a world hungry for leadership and example. Each of these "leaders" ply their professions (strike that) practice their callings (that's better) with other people's money. Some of that money comes from taxes, the rest from contributions and charity, but other people's money to be sure. Every single one of them suffers from a near terminal case of hubris, and in the end, they have all shown themselves to be hypocrites and we, dupes.

We can all debate the greater or lesser degree of their transgressions; modify or add to the list; or offer excuses and explanations for their failings. Indeed. Look what is going on now. But that's not my point. Rather, I am interested in the why of it and am concerned about the implications for all of us long after Bill

Clinton takes his place in the back of history's Presidential bus next to Nixon, Harding, Grant and Andrew Johnson.

The why of it is not difficult to understand. Good intentions and a sincere desire to work for the public interest can be and often are subverted by the aphrodisiacs of power, privilege, public adulation and pampered isolation. With the arguable exception of Dwight Eisenhower, whose second term wasn't particularly ambitious, every two term President beginning with Franklin Roosevelt has found a way to convert a reelection mandate into an unmitigated disaster that never had to be. FDR tried to co-opt the judicial branch by packing the Supreme Court; Nixon's paranoia gave us Watergate; Reagan's presidency was tarnished by the Iran-Contra affair, and now we have Bill Clinton and Date-Gate.

But what is the answer? How can we coax the best and brightest to true public service while at the same time ensuring that the government sets the correct moral tone to allow it to lead by example? It is difficult to be sure. A rapacious press with too much instant capacity to do harm as well as good is one good reason to stay away from public life. Ambitious, unaccountable, over-zealous, confidence-leaking special prosecutors appointed to look into everything real and imagined is another. A third is a political system addicted to hard and soft money that has polarized a workable two party system into a partisan horror show that makes an unsupervised day care center look like a model of decorum. And finally, there is the general culture of complaint and fault finding that pervades a celebrity-driven America where more people can identify Leonardo Di Caprio than Al Gore.

Continued on page 7

Judge Mary Libby Payne to Speak at October Luncheon

Mrs. Mary Libby Payne, Judge of the Court of Appeals, was a Professor of Law and founding Dean of Mississippi College School of Law.

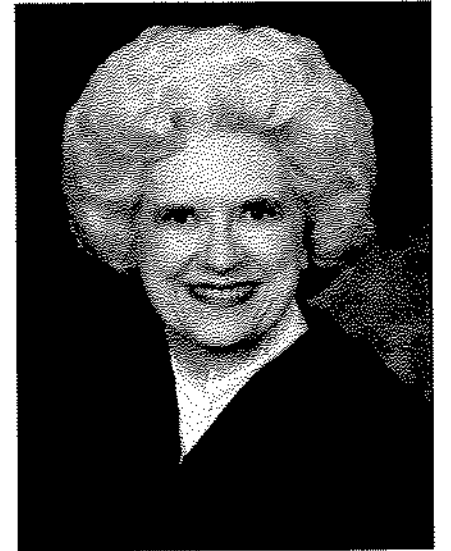
Mrs. Payne attended Mississippi University for Women for two years, then earned the Bachelor of Arts degree, with distinction, with a major in Political Science from the University of Mississippi. She also holds the Juris Doctor degree from the School of Law at Ole Miss, finishing first in her class. She was Casenote Editor of the *Law Journal* staff and Chairman of the Moot Court Board at Ole Miss. She practiced law in Jackson and Brandon and has served in each branch of state government: as legislative draftsman, as executive director of the Mississippi Judiciary Commission and as an Assistant Attorney General for the State of Mississippi.

Active in numerous professional organizations, she is a member of the American, Mississippi and Hinds County Bars, the American Judicature Society and Scribes (legal writer's honorary society). She also holds membership in Phi Delta Phi, and has been selected to be listed in Who's Who in Law. In 1995 she completed New York University's seminar on Appellate Judgeships and the National Judicial College's conference on Gender Fairness in the Courts.

In 1987 MUW bestowed upon her their Alumnae Achievement Award. In 1988, she received life membership in the Fellows of the American Bar Foundation, a group that sponsors legal research for the American Bar Association. Membership is limited to one third of 1% of all lawyers. In 1989 she was named "Woman of the Year" by the Mississippi Association for Women in Higher Education and recipient of the Pearl Exchange Club's Book of Golden Deeds. In 1990 MUW gave her its highest award, The Medallion of Excellence. In the 1996 Governor's conference on women, she was honored as a person exhibiting "The Power of One." MSU's Stennis Center has often designated her as a "Pacesetter" at their Conference on

Southern Women in Public Service.

Judge Payne is married to Bobby R. Payne, recently retired Director of Central Records for the Mississippi Employment Security Commission. They are parents of two grown sons and are active in the McLaurin Heights Baptist Church in Pearl. Judge Payne was the first woman to serve on the Youth for Christ Board for Metropolitan Jackson, and was a member of the first advisory board of St. Jude's Catholic Day Care Center in Pearl. She has served on various committees with the MUW Alumnae Board, The Rankin Baptist Association, and the Mississippi Association for Women in Higher Education. Active in the Christian Legal Society, she serves on the National Board as well as being Regional Membership Chairman for the Mid-South.



Judge Payne and her husband (known as the Keyfinders) lead seminars on Time and Stress Management and the Problems and Delights of the Dual Career Marriage.

Hinds County Area Judicial Candidates

In the November 3rd General Election, Judge Mary Libby Payne and Judge Leslie Southwick are unopposed for their Court of Appeals positions. Judge Jim Herring will face Tyree Irving, and Judge Greg Hinkebein is being challenged by Joe Lee.

Circuit Judges James E. Graves, Jr., and Swan Yerger have no opposition in their subdistricts. In Subdistrict 2, however, there is a race among Henry C. Clay, III, Tomie T. Green, and E.J. Russell. Judge L. Breland Hilburn is being challenged by Dale Schwindaman in Subdistrict 4.

Welcome to the 90's

Continued from page 6

What's the answer? Family values? Most on my list already subscribe to them. Term limits? Well yes, at the ballot box, provided people bother to do their homework and actually show up on election day. Serious campaign finance reform? Absolutely and as soon as possible. Education? Who could possibly be against that knowing of course that the devil is in the details. Beyond these collective measures, which

work at the margins in a country as large, complex and free as this one, it really comes down to a personal commitment to do your best and contribute in a million ways large and small. And above all, each of us should actively seek to encourage and reward character while refusing to support or enable those who confuse their personal ambitions and agendas with the notion of public service.

1998 Golf Tournament

The Sixth Annual HCBA Golf Tournament was held August 28th at Colonial Country Club. Participants have praised the event as the best ever. Stuart Kruger chaired the Tournament Committee, and thanks are due him and the other members, Mike Maloney, vice chair, Mark Chimm, HCBA President and Board liaison, Debra Allen, Kenny Griffis, Harris Collier, Ben Piazza, Steve Carmody, Ken Miller, and Keith Obert. Special thanks go to Pat Evans, HCBA Executive Director. A substantial portion of the proceeds of the tournament go to the Mississippi Volunteer Lawyers Project. Here are some scenes from the event:



Pat Evans, Ed Perry, Jim Mozingo, Phyllis Thornton, Ben Piazza



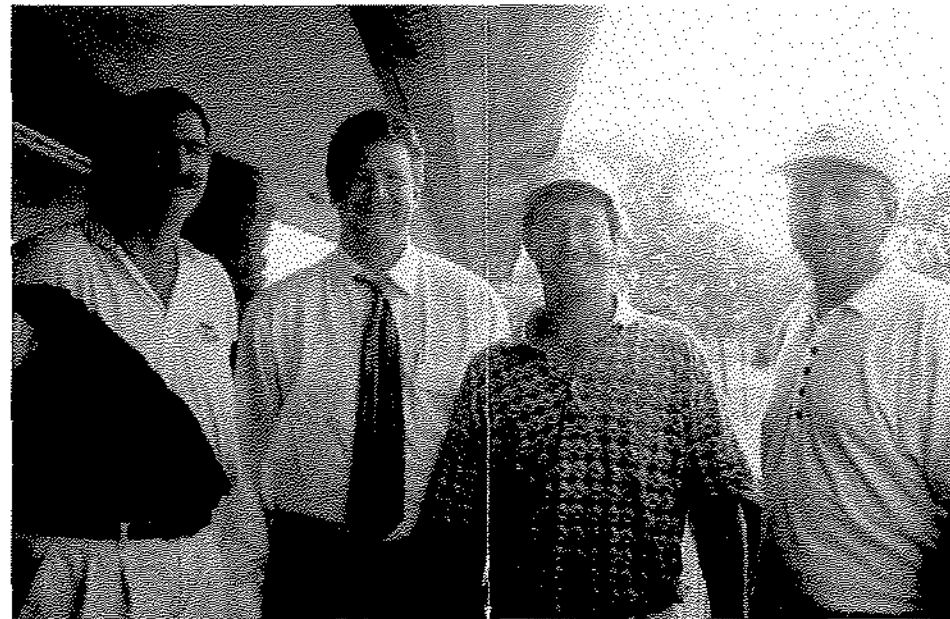
The Winners - Lance Stevens, Stacy Ball, Eric Allen, Ken Miller



Committee Members - Ken Miller, Debbie Allen, Steve Carmody, Kenny Griffis



Margaret Collier, Tina Ginn, Committee Member Harris Collier

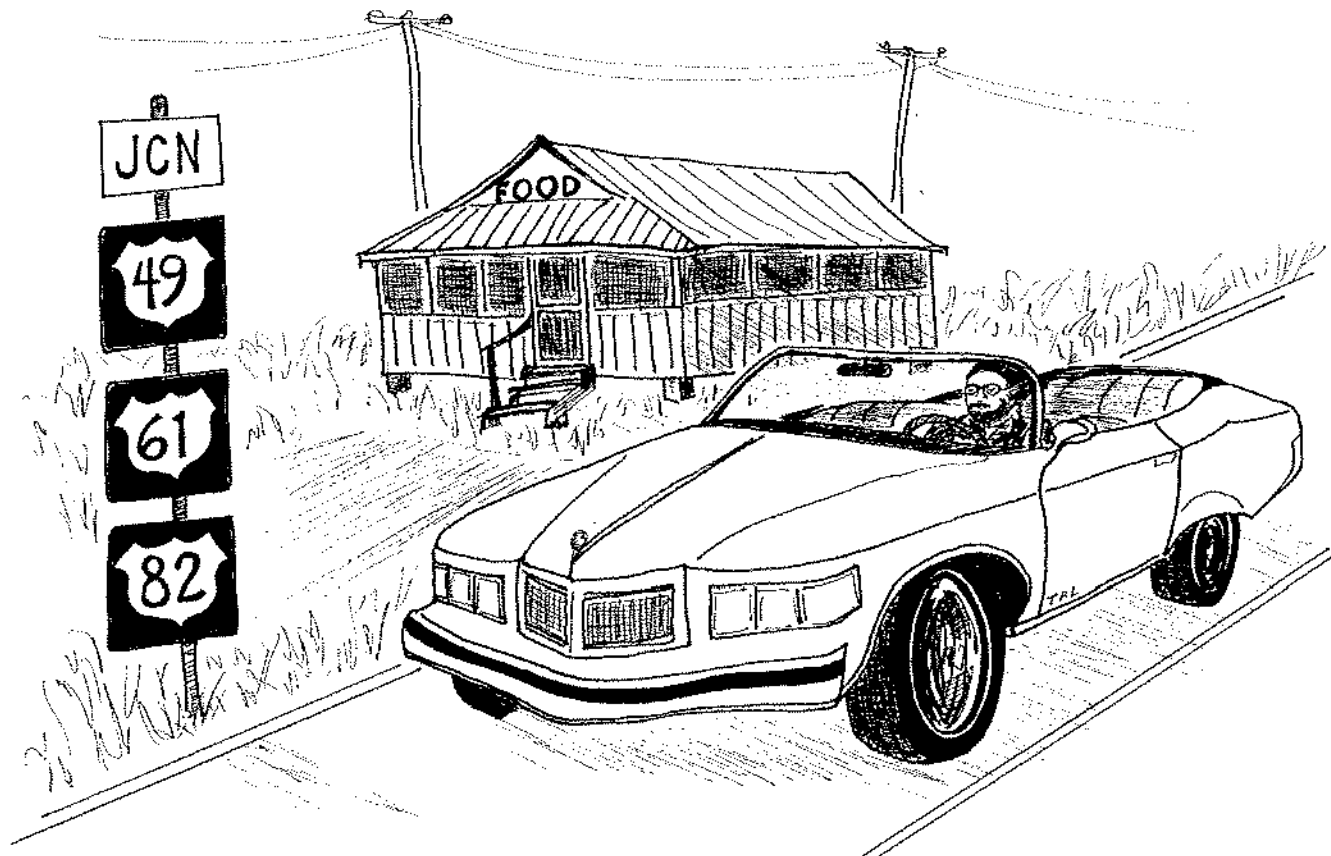


Committee Members - Ben Piazza, Mark Chimm, Stuart Kruger, Chairman; Mike Maloney, Vice Chairman



Debbie Allen, Darlene Ballard, Nancy McMurray, Pam Gunter

Highway Eats by The Road Lawyer



Hey, all you deposition dolls and dudes, how about some help! After nagging at Captain Equity for about ten years to go back to restaurant review, he told me to go do my own column and leave him alone.

So, fine, let him have his precious citified goat cheese and merlot. I spend my days on the road checking records and talking to witnesses, and I don't have time to worry about what the City Council is doing in Jackson, much less sampling foreign dishes like sushi and polenta at the local fine dining establishments. What I care about is enjoying life a little while fighting off starvation and the wiles of other lawyers on the back roads of this state.

I'm talking about real country cooking, not the plastic and styrofoam franchise stuff. I want eateries where they think Sugar Busters are vacuum cleaners and T-Factor is a carpenter's tool, and you need to leave your coat and tie in the car.

Like which truck stop has the best

biscuits and eggs, and should the eggs be scrambled or fried? Which reminds me, I'm partial to Bogard's at the Chevron station on Highway 49 just south of Collins (fried egg slipped inside that buttery angel biscuit) and the Texaco truck stop at the Coffeerville exit off I-55 (scrambled). That Texaco place has commendable fried yard-walker, too. Be there early in the day for the eggs and biscuits.

A couple of weeks ago I had to work in the courthouse in Walthall, Mississippi. Ever been there? Even know where it is? Not Walthall County and Tylertown - Walthall, the county seat of Webster County. Don't blink between Eupora and Calhoun City, or you'll miss it. The courthouse is the only substantial appearing structure in town other than the water tower. The post office is out back perched on the side of a hill - looks like a converted, white-washed outhouse with a flag.

Nearest food is in Eupora. I had a hunch to brag about at Mitchell's, on

Highway 9 south of Highway 82, near the hospital. The buffet with two meats and six vegetables and homemade rolls had been put away when I arrived, but the Philly cheese steak po-boy and spicy fries were mighty fine.

It seems Mr. Mitchell's mother makes fried fruit pies from scratch each day, and that half circle of folded-over thin pastry stuffed with peaches melted in my mouth. Manna from heaven couldn't have been that good. Just like grandma used to make, and Mrs. Mitchell sort of looked like grandma. With tea, it was all just \$6.08.

Afterwards, while your food is settling in on your ribs, stop by the Euporium uptown on North Dunn Street to browse the collectibles. Didn't see any genuine antiques among the dust catchers - you might want to go on to Anticipation Antiques in Winona, at the intersection of Highways 82 and 51.

Continued on page 11

Davis to Head State Public Defender System

Hinds County Bar member M. Beth Davis has been named Executive Director of the Mississippi Public Defender System, effective September 15, 1998.

The System was authorized by the Legislature at the 1998 Session by S.B. 2239 that became effective on July 1, 1998. The program will be guided by a nine-person Commission.

Commission Chairman James L. Robertson announced that Davis was selected from some 40 applications for the top post in the new system. Davis will assist the Commission in developing a phase-in program and presenting it at the 1999 legislative session. Ultimately the Commission projects a District Defender and staff in each of the 22 circuit court districts,

together with an appeals office based in Jackson.

Davis has served as Chief Deputy Public Defender in Hinds County since January of 1992. For two-and-a-half years before that she was Director and Chief Defender for the City of Jackson.

Davis stated that she was "honored and challenged" to be the first Executive Director. "I am absolutely committed to devoting the time, energy and hard work necessary for the implementation of a successful statewide public defender system."

Temporarily, Davis' office is housed in the Administrative Office of the Courts on North State Street in Jackson.



Highway Eats

Continued from page 10

A swell lunch place in Winona is Mrs. Nix's on what may be old Highway 82. Turn south from new Highway 82 at the West Winona sign and drive a block or so until you see the concrete plant on the right. Across the street in a little blonde brick building with an American flag out front is the café. There's no sign at all, except a hand-lettered one announcing "No shirt No shoes No service."

The plate lunch includes one meat from four choices and three vegetables from ten that included hominy and rutabagas, things not often featured in the gourmet food journals. Then there were cornbread wedges, tea, and banana pudding. In the aggregate it was plenty of food for me, but I noticed the portions were considerably smaller than usual. I understood when I learned the price of the meal: \$3.00, tax included. I guess a real hungry jock could order two plates.

Foodwise, Batesville has almost gotten too la-te-dah to be in this

column, but I have had some good food there. Down on the Public Square is Sweet Basil's, the closest lunch spot to the courthouse, in the place where the Bankery once was. The fare is pasta, salads, and sandwiches, with an Italian flare, and a different plate lunch and pasta dish featured each day. The portions are generous and the bread is fresh baked. I heard the owner say she used to be chef at the Macaroni Grill in Memphis. And it's right in the same vicinity as the Collector Antiques and Things, owned by Dot Broome, wife of Batesville attorney Bob Broome.

Out on Highway 51 where it crosses Highway 6 are two credible luncheries. Bogie's Deli is noted for its special coffee, sweet rolls, and bagels, but I'm usually there for a salad or sandwich with top quality cold cuts and cheese and delicious house dressing with Greek herbs on it.

Across Highway 51 is Boonie Mae's, a classier joint than what you would expect in Panola County. It has an awning at the entrance and a bar inside with a big city look. Boonie

Mae serves a superior plate lunch. Recently I had sliced roast pork loin with a mustard and lemon sauce, string beans, broccoli with cheese sauce, sweet potato casserole with marshmallows on top like Mother used to make, divine homemade yeast rolls, and platonic coconut cake with real boiled icing. All this for \$5.00 plus tax, and the table was set with white cloth napkin and tablecloth.

I said I need help if this is to be a regular feature. Let me hear some chat from you. Contact TRL in care of webmaster@hindsbar.com, or write me in care of the HCBA News Editor, 151 E. Griffith Street, with some suggestions of highway eats you've enjoyed recently.

But, I'm warning you, anything starting with "Mc" or "KFC" is not acceptable. Let's talk about barbecue and corn muffins and revolving tables. And what about that newest category for us Mississippians - casino food? Please avoid all medical terms, like "cholesterol." Save those for the doctors' depositions.

Update from the President

By Mark A. Chinn

Golf Tournament: The golf tournament went very well. Many people felt it was the best ever. Accolades must go to the tournament Chairman Stuart Kruger and his committee, with special commendation to Ben Piazza, who garnered a record number of hole sponsors. We estimate we will be able to contribute more than \$6,000 to the Volunteer Lawyers Project.

Judges Meeting: Under the leadership of Robert Gibbs, a first ever meeting of Hinds County trial judges was held on August 24 at the Capital Club. Everyone was pleased with the meeting. We discussed the need to put technology in our courtrooms and the need to publicize the necessity of jury service. Everyone agreed that other meetings should be held.

Professionalism Award: The HCBA Board has adopted the plan of the Professionalism Committee headed by Larry Franek to make a professionalism award. John McCullough has agreed to chair the nominating committee. This will be a very prestigious award, for which the Board has appropriated \$1,000.

Parenting Education: Lisa Milner has agreed to chair our efforts to place parenting education classes in the Chancery Courts. The purpose is to provide education to divorcing parents on the effect of divorce on their children and to give them pointers on how to keep the children out of the middle of things. We have established a relationship with Mississippi Voices for Children, a group that is equally interested in this project. Hinds County Chancery Judge Stuart Robinson is assisting us, and Chancery Judge Bill Lutz in Madison County has indicated a willingness to look at putting the program in place in Madison County.

Partners: Partners is an ABA program designed to train high school seniors in relationships, with the hope of ultimately assisting them with marriage relationships. I have a

goal of placing the Partners program in five schools. Melissa Gardner has agreed to help. Is there anyone else out there who is interested? Please let us know.

Professionalism Institute: Louis Baine has agreed to chair a committee to establish a Professionalism Institute. The Institute would collect information on professionalism and assist groups with professionalism education.

Code of Civility: The ABA has adopted a Code of Civility and distributed it to local bars for consideration. The HCBA Board is considering this code and welcomes comments on whether such a code should be adopted and how we should go about it.

Black Lawyer Participation: The Black Lawyer Participation Committee, headed by Dorian Turner

and Rhonda Cooper, is looking at clothes for the homeless and disadvantaged to go on employment interviews. We are teaming with the Jackson Urban League on this project. We are also looking at ways to help raise money for Luther Ott and his ambitious homeless plans.

Continuing Education: The Continuing Education Committee, chaired by Barry Jones, has some exciting plans. They are looking at a free seminar for HCBA members in the spring. This would mean that, in combination with our luncheon CLE programs, you could get all of your CLE through the HCBA for free. Louis Baine is looking into a CLE trip in the winter to a warm climate. If anyone is interested in these plans, please call Louis or Barry.

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Interview with Dean Sid Moller

By Carol West

As most of you are aware, after more than seven years as dean of the Mississippi College School of Law, J. Richard Hurt resigned his deanship and took a leave of absence from his faculty appointment to become the American Bar Association's Deputy Consultant on Legal Education. MC President Dr. Howell Todd tapped Professor Sid Moller to serve as interim dean to guide the law school until a new dean has been named.

Seeking an "exclusive" article for the Hinds County Bar Newsletter, I took off my mortarboard, put on my "Carol West - Ace Reporter" cap, tucked my press credentials in my pocket and took the elevator down to the first floor Dean's Suite to interview Dean Moller about future of the law school.

West: Sid, I mean, Dean Moller, you've been teaching at MCSOL since 1989. You served the law school as Associate Dean in 1994-96. Immediately before joining our faculty, you taught at the University of Wyoming School of Law. Didn't you practice in Denver and Laramie, too?

Moller: Yes, I clerked for a large Denver firm, Sherman & Howard, when I was in law school, and went to work for that firm when I graduated. At Sherman & Howard, I practiced Labor and Employment law, almost exclusively. Wyoming had gotten into my blood, though, and I soon tired of the big-city, Denver routine, notwithstanding the occasional Broncos tickets. I returned to Laramie and joined the firm of Aron and Hennig, a small, general practice firm, where I became a partner after a couple of years. There, I spent perhaps one-half to three-quarters of my time litigating, and the rest spread around any number of areas.

West: Your Louisiana background is betrayed by the fact that you got your undergraduate degree at LSU. How did you end up at Cornell to get a Master's degree in Industrial and Labor Relations?

Moller: I graduated from LSU with a major in History and a minor in English. That helped me land a job as a mechanic in a paper mill, while I

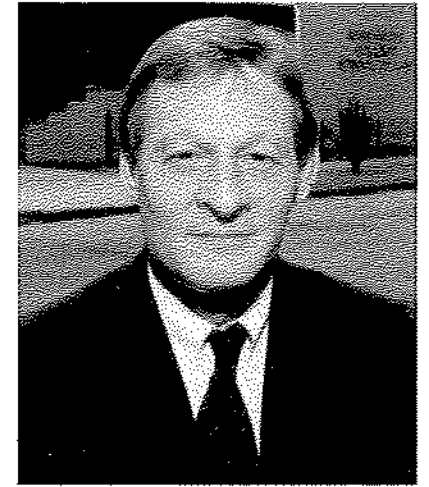
sorted out my options and also pondered how maybe I should have listened to my daddy's advice on picking a college major. I had always been interested in labor matters and was advised by an LSU professor that Cornell was the place to go for that discipline. So, after my stint with Georgia-Pacific, off I went to Ithaca, New York.

West: What prompted you to come back to the South after living North of the Mason-Dixon line for almost two decades?

Moller: One reason was family. I am blessed with a really close family. With the exception of one of my sisters who lives in Arizona, all of the crew lives in Louisiana, Texas, and Mississippi. As my own children began to get a bit older, I wanted them to be closer to their grandparents, cousins, aunts and uncles; plus, I felt some responsibilities myself toward the family. Also, and this may have been the most important factor, it seemed to me that the door opening down here at the time it did was an answer to some of my prayers.

West: At a minimum, a dean search will take the entire academic year. I know that it is not an exaggeration to say that there was strong faculty support for your appointment as interim dean. Do you plan to use that support to accomplish any specific goals during this interim appointment?

Moller: If by that question you are asking whether I will call on faculty support to accomplish my own agenda, the answer is no. I really believe that the way to have positive things happen here is to encourage or allow faculty, staff, students, and "friends" of the school to exert themselves on behalf of the institution. Almost every day since becoming interim dean, I discover some exciting thing that someone would like to accomplish. I guess the closest thing to my own agenda is discovering the positive agendas of the many talented people we have at the law school, and trying to help them accomplish what they can. More often than I'd care to admit, that involves me just getting out of the way.



West: Dr. Todd named the Dean Search Committee at the beginning of Fall Semester. He picked Dr. Debbie Norris, Dean of the Graduate School, as chair. Representing the Law School faculty and staff are: Peggy Brown (law school coordinator of student services), Mary Mahoney (director of the law library), Associate Dean Scott Norberg and Professors Terry Frazier, Phillip McIntosh, and Shirley Jones. The committee has strong alumni representation from La'Vernie Edney (Brunini), Tim Gray (Forman Perry), Dan Hise (Butler Snow), U.S. District Judge Tom Lee and second year law student Steve Kennedy round out the committee. Do you see anything significant about the make up of this committee?

Moller: Well, in the past several years I have seen several search committees that Dr. Todd has appointed. This one is not atypical, in that it is obviously intended to include representatives of several groups which have opinions that the President values. In this case, that would include our students, our graduates, the bar, and the judiciary; the faculty is, of course, well-represented, as well. The fact that Dr. Todd selected Dr. Norris to chair the Committee was no surprise to me. The future success of the law school is largely dependent upon our working closely with the folks on the main campus. I feel that Dr. Norris will help assure that our relationship, which I think is quite

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Interview with Dean Moller

Continued from page 13

good, will continue with our new dean.

West: Members of the HCBA may know of candidates for the Mississippi College Law Dean position. Does the committee welcome suggestions?

Moller: Absolutely; the more the better. Nominations, and applications for that matter, should be directed to Dr. Norris. Her address is: Dr. Debbie C. Norris, Dean of the Graduate School, Mississippi College, P.O. Box 4029, Clinton, MS 39058

West: Let me switch to another topic. As an American Bar Association approved law school with Association of American Law Schools membership, the law school is required to be visited by an inspection team from the ABA/AALS every seven years. Our time rolls around this November. Would you comment on this?

Moller: Our so-called sabbatical inspection will take place from November 15-18, when seven representatives of the two associations will descend upon us and closely scrutinize virtually every facet of the school. Although this inspection lasts for only three or four days, preparing for that visit has been a very arduous and lengthy task. Among other things, we had to prepare a comprehensive and exhaustive self study in accordance with ABA guidelines. Associate Dean Scott Norberg and Professor Craig Callen worked extremely hard on that job, and under their leadership, we have put together a very professional analysis of the school. Although it is a task that no one really enjoys, this inspection is a valuable experience because it requires us to carefully assess—in painstaking detail—what we are doing.

West: Before we end this conversation, let me ask you the question I am most frequently asked by local lawyers: "Is the law school going to move or stay put?"

Moller: I am confident that our students who began this fall will attend classes in a facility that will be quite a bit different from the one we are in at present. I cannot say with certainty at this time whether that will be a totally expanded and remodeled

version of our present building or an entirely different building. I will tell you that everything seems to be in place for a move to an entirely new location and, all things considered, I think that relocating is our best option. At this time, I do not see any scenario which will prevent us from announcing by the end of 1998 the direction in which we are headed.

West: Thank you for your time and patience, Sid, I mean, Dean Moller. Your former students reading this interview will already have some idea of how little enjoyment you find in this exercise. I suspect that they know that you disliked having your picture taken to go along with it even more. Do you have any final comments for the members of the Hinds County Bar?

Moller: I recognize that a law school's role is necessarily limited. We are not trying to reproduce law professors; instead, our goal is to train ethical and competent practitioners, who are professionals in every sense of the word. Consequently, if our students are going to get the education

we want them to have, we need to have judges and practicing lawyers actively involved in the legal education process. I know that many members of the Hinds County Bar are not our graduates. As such, it would be understandable if non-graduates were essentially uninterested in our well-being. But, as a matter of fact, we have been able to build and maintain a law school of high quality largely because of the support we receive from legal professionals in the Jackson area, many of whom are our graduates but many of whom are not. Apart from the financial support Mississippi College receives, we have a rich and willing reservoir of high quality attorneys and judges to call upon for everything from adjunct teaching to judging appellate advocacy arguments to coaching moot court teams. We are extremely fortunate to be located here in Jackson where there is such an abundance of gifted legal talent, and I guess that I would like to conclude by saying that we appreciate all that is done on our behalf.



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Circuit Court Judge Ermea (EJ) Russell

Tuesday, November 3, 1998

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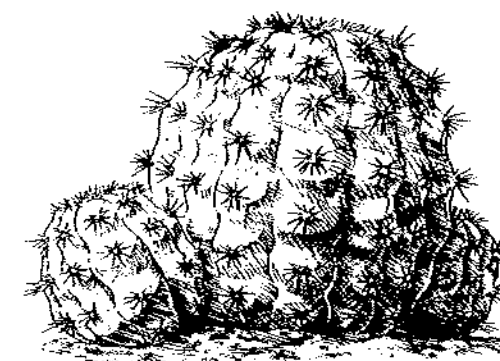
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- Former Board of Bar Commissioner
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- Member-Morning Star Baptist Church

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- Solo Practitioner-Civil, Criminal, Family & Corporate Matters
- State & Federal Court Practice
- Government Service
 - Attorney-Secretary of State
 - Attorney-MS State Senate
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No costumes, please!

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Guests welcome

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