

The Alabama Lawyer

Vol. 62, No. 2

March 2001



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On the Cover

Montgomery artist Camilla Armstrong has been painting for over 20 years. Her work is represented in collections throughout the North and Southeast. In this gripping image, Camilla depicts the struggle through addiction, depression and recovery. Symbols such as darkness, despair, steps, truth, love, and light are all part of the journey. The message she conveys is that even darkness is held by light.

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By Samuel A. Rumore, Jr.



Samuel A. Rumore, Jr.

March Mailbag

You, the members of the Alabama State Bar, are the source of many new ideas and innovations for our association. It is the responsibility of your leadership to respond to these ideas. In my "President's Page" for November 2000, I reviewed the Pledge of Professionalism which was proposed by **Pat Graves** of Huntsville. I am happy to report that in December the Board of Bar Commissioners adopted the Pledge of Professionalism for the Alabama State Bar. At the conclusion of my November column, I invited other members to contact me with similar ideas and proposals. I speak with attorneys every day about our association and many send letters, faxes or e-mails. I will share with you some of the correspondence I have received over the past few months.

Judge Pam Baschab, of the Alabama Court of Criminal Appeals, sent me a nice letter and a copy of her recent article in the *Cumberland Law Review* at vol. 30, no. 1, pages 11-30. The title of the article was "Putting the Cash Cow Out to Pasture: A Call to Arms for Campaign Finance Reform in the Alabama Judiciary." The theme of the article is that executive and legislative election campaigns must raise large sums of money from special interest groups. Judicial campaigns, especially statewide appellate races, now require the same to be successful.

Her observation is that the public needs to view its judges as impartial and independent. When judges have to raise the huge sums of money they need to campaign, and this money is "donated" by groups who appear before the judges, there is an appearance that a judge could be influenced by campaign contributions. That is precisely what happens in the executive and legislative arenas when contributions are made in order to assure "access" so that the contributor's position is heard. The appearance of improper influence is exactly what Judge Baschab seeks for judicial candidates to avoid.

I recommend that you read the article. Her suggested solutions include voluntary caps on the amount of contributions a judicial candidate will accept and voluntary

limits on campaign spending. This is probably unrealistic in today's era of media consultants. However, the vast sums of money spent on the "touchy, feely" 30-second advertising spot does very little to educate voters and really only serves to raise a candidate's name recognition in the polls. Of course, that leads to election victory.

Her second solution is that the members of the Alabama State Bar support candidates who are willing to lead in the restrictions on spending. The goal is to enhance public respect for the judiciary and confidence in judicial impartiality. We, as members of the bar, also have a duty to promote justice and we can do that by informing family, friends and clients about the qualifications of judicial candidates. Judge Baschab certainly gives us a viewpoint to consider.

Next, I will share with you two letters I received concerning the election of judges. They touch on the same theme. The first came from **John Whitaker**, a fine Birmingham lawyer who was a classmate of mine at Notre Dame, and who is also a member of The Florida Bar. He sent me an article from *The Florida Bar News* with the headline: "21 Jurists Face Merit Votes." His comment was, "Why can't we do that?! It seems to be a more *civilized way* of electing and retaining good judges."

The second letter on this topic came from attorney **Joe Zarzaur, Jr.** of Mobile. Joe is also a member of The Florida Bar. He has a concern over the lack of information provided to Alabama voters about appellate judicial candidates. He thinks that our association should do a better job of disseminating information to the public on judicial candidates. In Florida, the state bar releases attorney polls regarding appellate judges. He feels that we should have some form of statewide poll that could be used to inform the voting public.

I spoke with both of these lawyers about their concerns. As many of you know, our Board of Bar Commissioners went on record several years ago endorsing a proposal for the merit selection of appellate judges. Several recent bar presidents have publicly spoken out in

favor of the proposal. In my opinion, the issue will need to be included in the overall consideration of a new Constitution for Alabama. I have appointed a Task Force on Constitutional Reform chaired by retired **Federal Judge Sam Pointer** that will give input on this and other issues to the political decision-makers.

The proposal of a statewide lawyer's poll on appellate judges is another matter. Certain local bar associations in Alabama, which are voluntary groups, have a tradition of conducting polls on judicial candidate qualifications. The results of these polls are given to local news media and candidates can use the results if they choose. Florida's system is different from ours because appellate judges stand individually for "retention" within two years of appointment and then every six years thereafter. Theoretically, there is no "campaigning" in the traditional sense. Voters decide "yes" or "no" on retention. The Florida Bar polls its members on that question for each incumbent.

Our system of electing appellate judges in Alabama is a political contest.

Incumbents as well as office-seeking opponents run in partisan races. Furthermore, all lawyers who want to be Alabama attorneys must be members of our Alabama State Bar, therefore our bar has tried to stay away from strictly partisan political questions in the past. I did tell Joe that I would bring this matter before our Executive Council and further discuss it with the bar's general counsel. I hope that if we do a poll, our membership votes on judicial qualifications and not mere popularity.

Finally, I received a thoughtful letter and proposal from **Terry Brown**, immediate past president of the Montgomery County Bar. Terry suggests that our state bar create an Alabama Lawyers Academy of Honor. It would be in essence a hall of fame recognizing Alabama lawyers who have achieved national or international renown. He suggested that any inductee be deceased at least ten years, and that by their accomplishments, they have brought honor to themselves, the state and the legal profession.

Terry is an amateur historian and he gave several suggestions, in no particular ranking, for possible inductees. These include: William Rufus King, vice-president of the United States; William Lowndes Yancey, "orator" of the Confederacy; William Barrett Travis, defender of the Alamo; Hugo Black, United States Supreme Court Justice; and Thomas Goode Jones, author of the first code of ethics for American lawyers.

Needless to say, I am quite excited about this proposal and would like to see our association implement it. As with every significant idea, the "devil is in the details." Many issues would need to be worked out, but this proposal has great merit. It could be a way of improving the image of our profession and also educating young people and the public in general on the accomplishments of Alabama lawyers. Thanks for the idea, Terry.

I hope that you will continue to give me, and my successors, your thoughts and ideas. Our association needs your involvement and input. ■

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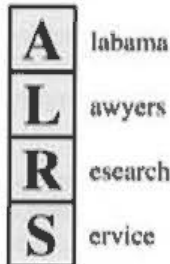
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Keith B. Norman

Alabama Lawyers Assistance Program: Helping Before the Wheels Come Off

In the November 1993 issue of *The Alabama Lawyer*, my predecessor, **Reggie Hamner**, recounted in this column two sad episodes. In his article entitled, "Before the Wheels Come Off," Reggie related the stories of a lawyer and judge who, because of their addiction to alcohol, essentially destroyed their careers. The saddest part was that these events occurred as fellow lawyers and friends stood by helplessly, not knowing what to do and afraid that intervening might ruin long-term friendships. Reggie wrote:

"...[C]ourageous action early on when an obvious problem existed could have minimized the current and escalating problem for the lawyers and the profession."

These were situations that did not have to turn out the way they did because alcohol and drug addiction are treatable illnesses.

Two years ago, the state bar hired **Jeanne Marie Leslie** as the director of the Alabama Lawyers' Assistance Program (ALAP). Jeanne Marie, a trained nurse with a master's degree in counseling, has worked in the area of addictive diseases. Her hiring was the culmination of the labors of many lawyers who over the years, without the benefit of trained staff, had assisted fellow lawyers around the state in battling alcohol and drug addiction.

Jeanne Marie and a group of dedicated lawyers (many who are recovering from these illnesses themselves) serve as members of the Lawyers Helping Lawyers Committee of the state bar, tirelessly assisting lawyers suffering from addictive diseases. The services

ALAP offers to Alabama's lawyers, judges and law students needing help include:

- Assessment and Referral;
- Interventions;
- Peer Support Network;
- Education and Prevention; and
- Confidentiality

Several months ago, the Alabama Lawyers Assistance Foundation (ALAF), a non-profit 501(c)(3) corporation, was chartered. One of the key purposes of ALAF will be to seek contributions for a treatment loan fund for lawyers who have exhausted all personal funds. Serving on the foundation's first board of directors will be: **Mike Conaway, Dothan; Mac Greaves, Birmingham; Jeanne Marie Leslie, Montgomery; Keith Norman, Montgomery; Anne Huckstep, Birmingham; Wade Baxley, Dothan; Squire Gwin, Birmingham; Eason Mitchell, Tuscaloosa; and David Wooldridge, Birmingham.**

Much progress has been made in the last several years to lend assistance to lawyers with substance abuse problems. Likewise, ALAP has allowed us to extend a helping hand to those law students whose applications to sit for the bar exam suggest alcohol or chemical dependency. Thanks to Jeanne Marie, great strides have been made during this time, but there is still much work to be done, both from a treatment and an education perspective. With ALAP, ALAF and a group of dedicated lawyers assisting, we are in a position to help "before the wheels come off" when a lawyer with an alcohol or chemical dependency problem needs our help. ■



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- **State Bar Donates to New Teacher Supply Store**

Legal pads and pencils left behind after bar exams have been donated to the new Teacher Supply Store in Montgomery. With this donation, the Alabama State Bar became one of the first agencies to respond to a request from Montgomery County School Superintendent Clinton Carter.

The Teacher Supply Store provides teachers with supplies from area businesses, at no charge to the teachers. These items normally would have been recycled or thrown away. The Montgomery program is modeled after a similar one launched in 1996 in Jacksonville, Florida, and considered one of the country's most successful partnerships.



Keith Norman, ASB executive director; Associate Justice Hugh Maddox; and Herman Russomanno, president, The Florida Bar and ASB member. Both Norman and Russomanno are former law clerks of Justice Maddox.

- **Justice Maddox Recognized On The Occasion Of His Retirement**

Alabama Supreme Court Justice Hugh Maddox was honored in January at a dinner and a brunch given by his former staff attorneys and law clerks for his 32 years of service on the court. Justice Maddox was presented with a plaque by his former law clerks signifying the creation of the Justice Hugh Maddox Fund at the University of Alabama School of Law. Over \$10,000 has been contributed to the fund.

- **Historical Marker Installed At Law School**

A new historical marker has been installed at The University of Alabama School of Law. Placed near the front gate, the marker is a tribute to the School of Law, founded in 1872, as the state's oldest and only public law school.

The marker is the latest in the Alabama State Bar's Legal Milestones Program, which honors important institutions, cases, events and personalities in Alabama's legal history. The law school's J. Rufus Bealle Fund, the Alabama State Bar and the law school



A historical marker was dedicated at The University of Alabama School of Law on October 28, 2000. On hand for the ceremony were (left to right) Rufus Bealle, special gifts coordinator for the law school; Dean Ken Randall; Sam Rumore, president of the Alabama state bar; and Shapard Ashley, chairperson of the Committee on History and Archives for the State Bar. The J. Rufus Bealle Fund, the law school and the Alabama State Bar helped fund the project.

helped fund the project. Bealle, a 1942 UA School of Law graduate, is a retired attorney who currently works for the School of Law as special gifts coordinator in the Office of Advancement. His efforts and those of the state bar Committee on History and Archives (headed by 1978 UA School of Law graduate Shapard Ashley) made the marker possible.

The Alabama State Bar has installed four other historical markers in recent years, including one in Montgomery that commemorates the history of the state bar.

- **Hairston Receives Prestigious Pipes Award**

Birmingham attorney William B. Hairston, Jr. received the Sam W. Pipes Distinguished Alumnus Award at The University of Alabama School of Law Farrah Law Society Banquet in February.



William B. Hairston, Jr.

A member of the law school class of 1950, Hairston is a founding partner in the firm of Engel, Hairston & Johanson. Having practiced in Alabama for more than 50 years, he has played an influential role in the development of the state's court system. A former president of the Alabama State Bar, he also has served as a member of the Alabama Judicial Conference, the Judicial Inquiry Commission and the Alabama Law Institute. He is a fellow of the American College of Trial Lawyers and a life fellow of the American Bar Foundation.

He also has remained active in his law school alma mater. A charter member of the Farrah Law Society, he has served as president of the University of Alabama

School Foundation. He continues to serve with distinction as an emeritus director.

The Sam W. Pipes Award is given each year to an alumnus of the University of Alabama School of Law in recognition of outstanding service to the bar, the University of Alabama and the School of Law. The award is named for the late Samuel Wesley Pipes, a member of the law school class of 1938 and a partner in the Mobile firm of Lyons, Pipes & Cook. He was a director of the Law School Foundation, serving as president from 1966 to 1968, and he helped lay the groundwork for the formation of the Farrah Law Society.

Past recipients of the Pipes Award include Alexander W. Newton; Thomas W. Christopher; Champ Lyons, Jr.; Edward M. Friend, Jr.; D. Richard Bounds; Robert P. Denniston; William S. Pritchard, Jr.; John A. Caddell; T. Massey Bedsole; Camille Wright Cook; Robert McDavid Smith; Howell T. Heflin; J. Rufus Bealle; M. Leigh Harrison; Yetta G. Samford, Jr.; Nina Miglionico; and Seybourn Lynne.

• **Jerry Wood**, ASB member and general counsel for the Home Builders Association of Alabama, was recently installed as president of the Alabama Council of Association Executives.



Jerry Wood

• **Judge Charles R. Butler, Jr.**, chief district judge of the Southern District of Alabama, was elected by the circuit and district court judges of the Eleventh Circuit to serve as the district judge representative on the Judicial Conference. The Judicial Conference is the policy-making body of the United States courts.

• **Georgia Sullivan Roberson**, with the firm of Haskell, Slaughter & Young, L.L.C., was awarded the first annual Mary Edna Porter Excellence Award by Big Brothers/Big Sisters for her long-time service and dedication. Roberson will also serve as chair of the Women Lawyers Section of the Birmingham Bar Association and as a member of the Executive Committee of the BBA during 2001.



Georgia Sullivan Roberson

• **Jason Robert Watkins** of the Columbus, Georgia firm of Meacham, Earley & Jones, P.C., has been admitted to membership in the Commercial Law League of America. The CLL, founded in 1895, is North America's premier organization of bankruptcy and commercial law professionals.



Judge James Scott Sledge

• **Judge James Scott Sledge**, United States Bankruptcy Judge for the Northern District of Alabama, was elected chair of the National Conference of Federal Trial Judges for 2000-2001. The Conference is the only national organization representing all

the federal trial judges, including district judges, bankruptcy judges and magistrate judges. Judge Sledge is the first chair elected who is not a district judge. He has previously served the Conference as publications chair, newsletter editor and programs and long-range planning chair. ■



Florence Kessler, president of The Alice M. Meadows Council and chief staff attorney in the Mobile County Attorney's Office; Cecilia J. Collins, of the firm of Johnstone, Adams, Bailey, Gordon & Harris; and Justice Janie L. Shores



Honorees Sarah S. Frierson, Shirley M. Justice, Frankie Fields Smith, Ginny S. Granade, and Susan S. Leach (not pictured: Judge Margaret A. Mahoney)

At its November monthly meeting, the **Mobile Bar Association**, in conjunction with the Alice M. Meadows Council, honored female members of the Mobile Bar who have been licensed to practice for 25 years or more. (The Alice M. Meadows Council is a women lawyers leadership organization.)

Those recognized for their accomplishments and contributions to the legal profession during a special "Quarter Century Women Lawyers of Mobile" program were: **Susan S. Leach** (1966); **Frankie Fields Smith** (1967); **Sarah S. Frierson** (1972); **Judge Margaret A. Mahoney** (1974); **Ginny S. Granade** (1975); and **Shirley M. Justice** (1975). Retired Alabama Supreme Court Justice **Janie Shores** was the guest speaker.



Due to the huge increase in notices for "About Members, Among Firms," The Alabama Lawyer will no longer publish addresses and telephone numbers unless the announcement relates to the opening of a new firm or solo practice. Please continue to send in announcements and/or address changes to the Alabama State Bar Membership Department, at (334) 261-6310 (fax) or P.O. Box 671, Montgomery 36101.

About Members

Richard J. Riley announces the opening of his office at 215 Richard Arrington, Jr. Boulevard, North, New South Federal Savings Bank Building, Suite 200, Birmingham, 35203. Phone (205) 251-8000.

Samuel E. Wiggins, III announces the opening of his office at 1728 Fifth Avenue, North, Birmingham, 35203. Phone (205) 252-3999.

J. Bant Atwood, Jr. announces the opening of his office at 209 Lincoln Street, Southeast, Huntsville, 35801.

Raymond Bryan announces the opening of his office at Suite 2C, Lyric Square, 1302 Noble Street, Anniston, 36202. Phone (256) 237-5018.

Philip Dale Segrest announces the opening of his office at 301 S. Main Street, Tuskegee, 36083. Phone (334) 725-1942.

Amy Newsome announces the opening of her new office at 132 N. Gay Street, Suite 201, P.O. Box 1750, Auburn, 36831-1750. Phone (334) 501-4448.

Among Firms

Steven S. Smith announces that he has transferred to the regional office of the **United States Social Security Administration's Office of Hearings and Appeals, Region IV.**

Balch & Bingham L.L.P. announces that **Thomas G. Amason, III, Rebecca P. Amthor, Jennifer M. Buettner, Allen M. Estes, Monica G. Graveline, Kelly C. Gruesbeck, Raja C. Khalaf, K. Tiffany Parker,** and **Sean W. Shirley** have joined the firm.

Chesser, Wingard, Barr & Fleet, P.A. announces that **Daphne Wiggins Martin** has become associated with the firm.

The University of Alabama School of Law announces that **Tazewell T. Shepard, III** has been appointed adjunct professor of law.

Rosen, Cook, Sledge, Davis, Cade & Shattuck, P.A. announces that **Jane L. Calamusa** has become associated with the firm.

Morgan Stanley Dean Witter announces that **Jane LeCroy Brannan** has become associated as a financial advisor.

Ronald H. Strawbridge, Sr. announces that **Ronald H. Strawbridge, Jr.** and **Audrey Oswalt Strawbridge** have become members of the firm. The firm name is now **Strawbridge, Strawbridge & Strawbridge, Attorneys at Law.**

Wisner, Adams, Walker & Line, P.C. announces that **Russell O. Ormstedt** has joined the firm as an associate.

Hill, Hill, Carter, Franco, Cole & Black, P.C. announces that **James R. Seale** and **Martha Ann Miller** have become members of the firm and that **Jeffrey N. Mykkeltvedt** has joined the firm as an associate.

Aronov Realty Management, Inc. announces the affiliation of **Deborah Farrington Coe** as corporate counsel.

Morris, Conchin, Banks & Cooper announces that **Joe Alton King, Jr.** has become associated with the firm.

Luther, Oldenburg & Rainey, P.C. announces that **John R. Nix** and **Bryan M. Hack** have become associated with the firm.

The Bessemer District Attorney's Office announces that **Jonathan Cross** has accepted a position as assistant district attorney.

James H. Richardson and **John J. Callahan, Jr.** announce the formation of **Richardson Callahan, L.L.P.** Offices are located at 301 Washington Street, Suite 450, Huntsville, 35801. Phone (256) 533-2440.

Clark & Scott, P.C. announces that **Brad Smith** has joined the firm as an associate. The firm also announces the opening of its new office at 2450 Valleydale Road, Birmingham, 35244. Phone (205) 967-9675.

Garrison & Sumrall, P.C. announces that the firm name has been changed to **Garrison, Scott, Gamble & Rosenthal, P.C.** The firm also announces that **J. Callen Sparrow** has joined the firm as a partner and that **Jennifer Sloan Precise, William L. Bross** and **Katherine McLean Taylor** have joined the firm as associates.

Ferguson, Frost & Dodson, L.L.P. announces that **D. Somerville Evans** has joined the firm as an associate.

Greene & Phillips, Attorneys at Law, L.L.C. announces that **Tommy W. Patterson** has joined the firm as an associate.

Breiner & Breiner announces that **C. Brandon Browning** has become associated with the firm.

Maynard, Cooper & Gale announces that **Laura Ard Woodruff** and **Kathryn O. Pugh** have been elected as shareholders of the firm.

Isom & Stanko, L.L.C. announces that **David R. Pace** has joined the firm and the opening of the new office at 1021 Noble Street, Suite 100, The Noble Building, Anniston, 36201.

Carr, Alford, Clausen & McDonald, L.L.C. announces that **Thomas M. Rockwell** and **Frank L. Parker, Jr.** have become partners with the firm and that **Jason D. Miller** and **Thomas B. Walsh** have joined the firm as associates.

Gathings Kennedy & Associates announces that **Patrick Patronas** and **Mickey B. Wright** have become associated with the firm.

Rice Fowler announces that **David M. O'Brien** and **Mary Campbell Hubbard** have become partners of the firm and that **Sidney H. Schell** is of counsel. The firm name has been changed to **Fowler Rodriguez** and the new offices are located at 3662 Dauphin Street, Mobile, 36689.

Gentle, Pickens & Ellason announces that **Terry D. Turner, Jr.** has become a partner of the firm and the firm name has been changed to **Gentle, Pickens,**

Ellason & Turner. The firm also announces that **David T. White, III, Catharine M. Smith** and **Temple D. Trueblood** have become associated with the firm.

Holloway, Elliott & Moxley, L.L.P. announces that **Karen Lynn Pettit Materna** has become associated with the firm.

Beck & Byrne, P.C. announces that **Brenton Lawrence Dean** has become associated with the firm.

Higgs & Emerson announce that **Robert D. Lee** has become associated with the firm.

Corley, Moncus & Ward, P.C. announces that **Jeff W. Parmer** has joined the firm as a shareholder.

Hogan, Smith & Alspaugh, P.C. announces that the name of the firm has been changed to **Smith & Alspaugh, P.C.** and that **John P. Willis, IV** has become associated with the firm.

Walston, Wells, Anderson & Bains, L.L.P. announces that **Randall P. Quarles, N. Christian Glenos, Barry A. Brock, James N. Nolan, John W. Gant, Jr., Joan C. Ragsdale,** and **Martha W. Wise** have joined the firm as partners and that **Paul O. Woodall, Jr., Shannon L. Barnhill, William T. Musgrove, III** and **Kary B. Wolfe** have become associated with the firm.

Hand Arendall, L.L.C. announces that **Douglas W. Fink, Brooks P. Milling** and **E. Lockett Robinson, II** have joined the firm as members.

Huie, Fernambucq & Stewart, L.L.C. announces that **Gregory L. Schuck** has become a partner in the firm.

Proctor & Vaughn, L.L.C. announces that **Wanda Jo Batson** and **John Bradley Proctor** have become members of the firm.

Gorham & Waldrep, P.C. announces that **Victoria Franklin-Sisson, Mary H. Thompson, Leslie M. Klasing** and **Timothy M. Fulmer** have become shareholders in the firm. ■

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Joe R. Wallace

The Birmingham Bar Association lost one of its distinguished members through the death of Joe R. Wallace on May 23, 2000. Joe was born on October 26, 1918 in Birmingham, and attended Avondale Elementary and Ramsay High School there. He earned a B. S. degree in business administration from the University of Alabama in 1941 and a J. D. degree from the University of Alabama School of Law in 1947.

Joe practiced law continuously in Birmingham from 1947 when he became licensed by the Alabama Supreme Court to practice in all courts in Alabama, and engaged in the practice of general, civil and probate law with trials and appeals in all Alabama civil appellate courts. He also participated in conducting numerous real estate sale and loan closings, and was rated AV continuously for the past 30 years by *The Martindale Hubbell Law Directory*. Joe was a member of the American, Alabama and Birmingham bar associations, the Association of Defense Trial Attorneys and the Alabama Defense Lawyers Association, and was associated and a partner and owner

with the same law firm or successor law firms since 1947.

Joe was a member, Sunday School teacher and deacon at Southside Baptist Church in Birmingham. He served in the U.S. Army during World War II, from August 1941 to December 1945, with service in the South Pacific and the Southwest Pacific theaters from January 1942 through November 1944, and retired as colonel from the U.S. Army Reserve in October 1978. He was also a graduate of the U. S. Army Command and General Staff College.

Joe was a member of The Country Club of Birmingham, and The Club, and was a founding member of the Mountain Brook Exchange Club, a past president of the St. Andrews Society of the Mid-South and a member of the Society of Colonial War.

Joe is survived by his wife, Cornelia; son, Joe R. Wallace, Jr.; stepdaughter, Dana O. McCarn; stepson, Andrew W. Odum; and sister, Erin Harrell, as well as numerous nieces, nephews and cousins.

—S. Shay Samples, president
Birmingham Bar Association

David Johnson Vann

The Honorable David J. Vann, former mayor of the City of Birmingham, died on June 9, 2000 at the age of 71. David was born in Roanoke, Alabama and attended high school in Auburn, served in the U. S. Army near the end of World War II and later during the Korean occupation, graduated from the University of Alabama School of Law in 1951 and received his Master of Laws degree from George Washington University in 1953.

Following his graduation from George Washington University, David served as law clerk to Justice Hugo L. Black of the United Supreme Court in 1954. After his service as Supreme Court law clerk, he moved to Birmingham where he joined the firm of Bradley, Arant, Rose & White. While David was a brilliant lawyer, he was also deeply involved in the passionate movements in Birmingham in the late 1950s and early 1960s. He probably was the single most influential figure in the change in 1963 in the form of Birmingham's city government from a commission to a mayor-council structure. David was also a mediator and peacemaker behind the scenes in bringing about a peaceful end to the Civil Rights demonstrations in 1963, and, among other things, securing the opening of public accommodations to African-American citizens of Birmingham.

During this same period, David was devoting a great deal of his time and energy to a reapportionment law suit which resulted in the one-man, one-vote constitutional ruling and gave Jefferson County seven senators rather than one. He was also involved in other political issues surrounding Birmingham, including being a leading proponent on merger and consolidation of the many municipi-

palities in Jefferson County. David was a prime mover in the ballot initiative for the Birmingham-Homewood merger, the creation of the Birmingham-Mountain Brook Merger Commission, and in the One Great City effort.

David served on the Birmingham City Council from 1971 to 1975 and was elected mayor of Birmingham in 1975, a position he held until 1979. He was an innovative city official, leading Birmingham's annexation efforts which greatly increased the tax base of the city. After David left the office of mayor he continued to serve the city in its annexation programs, both as a private lawyer representing the city and as a member of the Law Department of the City of Birmingham. During his legal career David also practiced law with the firms of Berkowitz, Lefkovits, Vann, Patrick & Carlton and Carlton, Vann & Stichweh.

He was a member of the choir at Highlands United Methodist Church for over 40 years.

David is survived by his best friend and ex-wife, Lillian Foscue Vann; his children, Michael Lee Vann and Ruth Lillian Vann; a brother, Eugene Vann; and a sister, Rose Vann Hilty.

David was a great lawyer whose most significant contributions to the state and city that he loved were in public service, both as an elected public official and as a private lawyer. In that regard, few men have or will have the passion, wisdom and energy to have the impact that David had, and he will be sorely missed by many.

—S. Shay Samples, president
Birmingham Bar Association

Judge Seybourn Harris Lynne

On September 10, 2000, the Birmingham Bar Association lost one of its most distinguished and beloved members through the death of Judge Seybourn Harris Lynne at the age of 93 years. At the time of his death, Judge Lynne was the longest serving federal judge in America, having dedicated over 60 years of distinguished service to the judicial system, with the last 54 of those years being spent on the United States District Court for the Northern District of Alabama.

Judge Lynne was born in Decatur, Alabama on July 25, 1907. He attended Auburn University, where he graduated with highest distinction and starred in both football and track. He earned his law degree in 1930 from the University of Alabama School of Law and, while in law school, served as track coach and assistant football coach at the University. Upon graduation from law school, Judge Lynne practiced law for four years in a partnership formed with his father, Mr. Seybourn Arthur Lynne.

In 1934, Judge Lynne was elected judge of the Morgan County Court, and he remained in that position until January 1941, when he became judge of the Eighth Judicial Circuit of Alabama. In December 1942, Judge Lynne resigned from the bench to voluntarily enter the military, and after earning the rank of lieutenant colonel, he was relieved of active duty in November 1945, being awarded the Bronze Star for gallant service against the enemy.

President Harry S. Truman appointed Judge Lynne to the U.S. District Court for the Northern District of Alabama in January 1946. In 1953, Judge Lynne became the chief judge of that Court, and in 1973, he became a senior judge—a role in which he actively continued to serve until his death. Throughout his long tenure in the Northern District of Alabama, Judge Lynne was widely known as an outstanding jurist and leader. His prodigious wisdom, unwavering kindness and practical management skills continually ensured a solid working relationship and great mutual respect between the federal bench and the bar of the Northern District of Alabama. He was particularly well known for his keen analytical mind, his superior scholarship, his compassionate spirit, his impeccable integrity, and his unique ability to handle a large case load with uncanny efficiency.

In addition to his exceptional legal ability and personal qualities, Judge Lynne worked tirelessly to ensure the fair and prompt administration of justice for all parties who appeared before him, carrying a full case load even in his senior status and continuing to handle cases up until the time of his death. Throughout his career, Judge Lynne was recognized as a gifted mediator with a singular talent for reconciling competing interests and forging thoughtful compromises in the most contentious circumstances. Indeed, many businesses and individuals in our community are flourishing today as a result of Judge Lynne's ability to facilitate the resolution of complex and difficult disputes.

Judge Lynne authored many landmark decisions that had a profound impact on our jurisprudence and significantly improved the quality of life in our community. For example, in one of his more celebrated decisions, issued in the racially charged climate of 1963, Judge Lynne enjoined the Governor of

Alabama from interfering with the enrollment of African American students at the University of Alabama. With characteristic logic and empathy, Judge Lynne wrote:

"Thoughtful people, if they can free themselves from tensions produced by established principles with which they violently disagree, must concede that the Governor of a sovereign state has no authority to obstruct or prevent the execution of the lawful orders of a court of the United States ...

"May it be forgiven if this Court makes use of the personal pronoun for the first time in a written opinion. I love the people of Alabama. I know that many of both races are troubled and, like Jonah of old, are 'angry even unto death' as a result of distortion of affairs within this State, practiced in the name of sensationalism.

"My prayer is that all of our people, in keeping with our finest traditions, will join in the resolution that law and order will be maintained ..."

Judge Lynne was a notable community and spiritual leader, serving sacrificially over the years in a number of religious, civic and professional organizations. He was, among other things, a lifetime deacon, a Trustee and a Sunday School teacher for over 40 years at Southside Baptist Church; he was a Trustee of the Crippled Children's Clinic of Birmingham, the Robert R. Meyer Foundation and the Eye Foundation Hospital of Birmingham; and he was a former president of the University of Alabama Alumni Association.

Judge Lynne was a devoted husband and father, his beloved wife, Katherine, and his only child, Bobbie, having both preceded him in death.

Judge Lynne was also a special role model and mentor to all of his fellow judges and all of his many law clerks and their families. Similarly, he was a gracious friend of the Birmingham legal community in general, who gave freely of his time and wisdom to many members of the Birmingham Bar Association who sought his counsel. He was, indeed, a giant among jurists, and his life—both on and off the bench—exemplified the very highest ideals of the legal profession.

It is stated in Holy Scripture that, "He who would be great must first be ... a servant of all" (Mk. 9:35). Judge Lynne was just such a servant, to his family, to his fellow judges, to his law clerks, to countless members of the Birmingham Bar Association, to his community, to his nation, and to his Lord. He was the consummate judicial leader, civic leader, spiritual leader, mentor, and family man. He leaves a rich 93-year legacy of fruitful service, and his shining witness and influence—both as a jurist and as a man—will reverberate through the legal profession, and particularly the Northern District of Alabama, for generations to come.

—S. Shay Samples, president
Birmingham Bar Association

James B. Kierce, Jr.

James B. Kierce, Jr., a prominent attorney and member of the Bessemer Bar Association, departed this life on or about July 9, 2000 at his home in Bessemer at the age of 60.

The Bessemer Bar Association honors his name and recognizes the numerous contributions that Jim Kierce has made to legal profession, his community and the State of Alabama.

James B. Kierce, Jr. was born in Montgomery on or about October 24, 1939, and spent the early years of his life in Greenville, beginning his educational background by entering the second grade, having qualified to by-pass the first grade and continued to show his scholastic abilities by completing high school at age 16. A vital part of Jim Kierce's education continued when, at age 16, he enlisted in the United States Army, and showed his love for his country and acquiring a "practical" education on the study of human relationships that would serve him throughout the remainder of his life. Jim's love of education and quest for knowledge expanded upon his return from service when he enrolled at Auburn University, an experience which would mold Jim into a devout fan and supporter of the Auburn football program for the remainder of his life. In continuance of his education, Jim Kierce attended Emory University and enrolled in the Cumberland School of Law, from which he obtained his L.L.B. degree in 1966. As a highlight of his educational experience, Jim was chosen as a clerk for the Honorable Justice Pelham J. Merrill of the Alabama Supreme Court, from 1966 through 1967. Upon completing what Jim proudly referred to as the best scholastic and practical educational curriculum that a lawyer could pursue, he initiated his practice of law in Mobile, beginning with Lyons, Pipes & Cook, before coming to Bessemer to engage in a practice in which he would distinguish himself as both a scholarly attorney and respected trial lawyer.

Jim started his practice in Bessemer with the firm of Gerald Stone and Bill Patton and quickly began to establish himself as

a gifted trial lawyer and devout member of the Bessemer and Alabama bar associations.

Jim always attributed his success in life to the help and support he received from his beloved wife, JoAnn Kierce, of Montgomery.

Jim and JoAnn proudly raised two sons, Bill and Jamie Kierce, and ushered both children into adulthood where each has distinguished themselves in their respective professions.

Jim Kierce readily acknowledged that his successful practice of law was supported by his Creator and, in response, was an active member and elder of the First Presbyterian Church of Bessemer.

Jim Kierce gave to the Bessemer Bar Association his time, efforts and abilities and served that association as its president from 1989 through 1991. He proudly gave of his time and talents to the city where he practiced law by serving as president of the Bessemer Chapter of the Rotary International, as a four-time president of the Woodward Country Club and two terms as president of the Bessemer YMCA.

Jim continued to distinguish himself and his profession by his membership in the American Bar Association, the Alabama State Bar, the Alabama Defense Lawyers Association and the National Association of Railroad Trial Counsel, and having zealously served numerous individual clients and corporate clients throughout his career.

Jim Kierce, as a member of the Bessemer Bar Association, proudly utilized his time and talents to encourage and further the quality of his profession and the membership of the Bessemer Bar Association extends to his family, his friends, his clients, this community and this state our heartfelt grief in the untimely loss of our friend and colleague.

*—Jon B. Terry, president
Bessemer Bar Association*



Adams, Donald Ray
Tuscaloosa
Admitted: 1973
Died: July 15, 2000

Caffey, William G., Jr., Hon.
Mobile
Admitted: 1947
Died: October 11, 2000

Cole, Harry
Montgomery
Admitted: 1959
Died: August 11, 2000

Duke, William Stephen
Montgomery
Admitted: 1929
Died: January 3, 2001

Greaves, Thomas G., Jr.
Mobile
Admitted: 1948
Died: November 27, 2000

Guillot, Robert M.
Birmingham
Admitted: 1948
Died: November 15, 2000

Hamilton, Sara DeLorme
Birmingham
Admitted: 1967
Died: May 16, 2000

King, Robert Haden
Gadsden
Admitted: 1948
Died: December 17, 2000

Lane, Harry Eugene
Enterprise
Admitted: 1956
Died: June 17, 2000

**McCall, Daniel Thompson, Jr.,
Hon.**
Mobile
Admitted: 1933
Died: December 4, 2000

Mitchell, William Henry
Florence
Admitted: 1946
Died: December 16, 2000

Raper, Charles Franklin
Auburn
Admitted: 1994
Died: October 26, 2000

Schmitt, Lelas Eugene
Leeds
Admitted: 1955
Died: May 11, 2000

Wiggins, Charles R., Jr.
Jasper
Admitted: 1949
Died: December 29, 2000

Wyatt, Charles Herbert, Jr.
Birmingham
Admitted: 1964
Died: June 22, 2000

Notice of Election

Notice is given herewith pursuant to the Alabama State Bar Rules Governing Election of Commissioners.

Commissioners

Bar commissioners will be elected by those lawyers with their principal offices in the following circuits: 1st; 3rd; 5th; 6th, place no. 1; 7th; 10th, places no. 3 and 6; 13th, places no. 3 and 4; 14th; 15th, places no. 1, 3 and 4; 25th; 26th; 28th; 32nd; and 37th. Additional commissioners will be elected in these circuits for each 300 members of the state bar with principal offices herein. The new commissioner positions will be determined by a census on March 1, 2001 and vacancies certified by the secretary no later than March 15, 2001.

All subsequent terms will be for three years.

Nominations may be made by petition bearing the signatures of five members in good standing with principal offices in the circuit in which the election will be held or by the candidate's written declaration of candidacy. Either must be received by the secretary no later than 5 p.m. on the last Friday in April (April 27, 2001).

Ballots will be prepared and mailed to members between May 1 and May 15, 2001. Ballots must be voted and returned by 5 p.m. on the last Friday in May (May 25, 2001) to the Alabama State Bar.

Pro Bono Award Nominations

The Alabama State Bar Committee on Volunteer Lawyer Programs (formerly the Committee on Access to Legal Services), is seeking nominations for the Alabama State Bar Pro Bono Award. Nomination forms can be obtained by contacting:

Linda L. Lund, director
Volunteer Lawyers Program
Alabama State Bar
Post Office Box 671
Montgomery, Alabama 36101
(334) 269-1515

The Alabama State Bar Pro Bono Award recognizes the outstanding pro bono efforts of attorneys, law firms and law students in the state. The award criteria includes but is not limited to the following: the total number of pro bono hours or complexity of cases handled, impact of the pro bono work and benefit for the poor, particular expertise provided or the particular need satisfied, successful recruitment of other attorneys for pro bono representation, and proven commitment to delivery of quality legal services to the poor and to providing equal access to legal services.

Nominations must be postmarked by May 14, 2001 and include a completed Alabama State Bar Pro Bono Awards Program Nomination Form in order to be considered by the Committee.

FBI Employment—Special Agent Positions

As the primary investigative arm of the federal government, the Federal Bureau of Investigation is responsible for enforcing more than 260 federal statutes and for conducting sensitive national security investigations.

Based on recent projections, the FBI anticipates hiring over 850 special agents during 2001. To meet this hiring goal, the FBI is accepting applications. Since law is one of the four major entry programs available for an individual to become a special agent, the Mobile and Birmingham offices of the FBI are actively recruiting lawyers and law school graduates to serve in the Bureau.

To qualify, one must be a United States citizen, and at least 23 years old but not have reached age 37 on appointment. Applicants must possess a four-year degree from a college or university accredited by one of the regional or national institutional associations recognized by the U.S. Secretary of Education, and a JD degree from a resident law school. Candidates must be completely available for assignment anywhere in the U.S., or to one of the FBI's liaison offices abroad, and in excellent physical condition. Each new agent serves a two-year probationary period upon entering duty with the FBI. Also, special agent trainees must attend and successfully complete training at the FBI Academy.

While at the academy, trainees will make approximately \$39,433. After graduation, new agents will make approximately \$49,291 and will be entitled to a variety of benefits.

For more information about the FBI, including additional entry requirements, advancement, the application process and a special agent application, visit the FBI's Web site, www.fbi.gov, or contact the applicant recruiter in Mobile at (334) 438-3674, or in Birmingham at (205) 265-8080.



Robert L. McCurley, Jr.

The Regular Session of the Alabama Legislature began February 6, 2001. The Institute prepared five major revisions which are listed below with their bill number and principal sponsor:

Revised Article 9 of the UCC

SB 146 - Senators Roger Bedford, Rodger Smitherman and Wendell Mitchell

HB 134 - Representative Marcel Black

Alabama adopted the entire UCC in 1965. The last major revision to Article 9 was in 1981. Article 9 deals with how security interests (mortgages) are taken and recorded for personal property.

This revision to the Uniform Act has already been adopted in 28 states and is pending in all the states that are now in session.

This Act, which is 318 pages long, has been a project of the Alabama Law Institute for over two years and has been widely circulated.

Major features of the Act provide:

- 1 All filings are in the state where the debtor is domiciled, not where the property is located. This keeps the borrower from losing its security when the goods are taken across state lines.
- 2 In Alabama all filings will be with the Secretary of State's office regardless of whether the borrower is a consumer or business.
- 3 Filings can be paper or electronic.
- 4 Provides consumer protections for pre-payment, disclosures, and calculating deficiencies.
- 5 Clarifies the very complex and technical law of secured transactions.

Most states have made their law effective July 1, 2001. This Act becomes effective January 1, 2002 to enable the Secretary of State's office to become equipped to handle the filings. (An in-depth review is in the January 2001 *Alabama Lawyer*).

Uniform Electronic Transactions Act

SB 132 - Senators Ted Little, Wendell Mitchell and Rodger Smitherman

HB 170 - Representatives Ken Guin, Mark Gaines and Marcel Black

The passage of this Act will allow Alabama to opt out of the federal law and be governed by state law rather

than federal law for electronic transactions. The Electronic Signatures in Global and National Commerce Act "E-Sign" passed the Congress last year. After March 1, 2001 we will either be governed by the federal act or this Act.

The Act functions to establish the legal equivalency of electronic records and signatures with paper writings and manually-signed signatures. Neither establishes the technical requirements that constitute a signature.

This Act applies only to transactions in which each party has agreed by some means to conduct business electronically. Agreement is essential. Nobody is forced to conduct business over the Internet.

This law does not change other laws that govern commerce. Its objective which is very limited, is to make sure that electronic transactions are as enforceable as paper transactions. This agreement must be capable of being printed off in paper form if the parties choose to do so.

State agencies may transact business electronically only if they have an agency rule under the Alabama Administrative Procedure Act that has been reviewed by the Legislative Council. This Act becomes effective January 1, 2002. (An in-depth review is in the January 2001 *Alabama Lawyer*).

Alabama Uniform Athlete Agents Act

SB 153 - Senators Gerald Dial and Rodger Smitherman

HB 105 - Representatives Gerald Allen, Jack Venable and Mike Hubbard

In 1987 the Alabama Legislature established the "Alabama Athlete Agents Regulatory Commission." This act provided that no person could be an athletic agent in Alabama without first registering with the Commission.

Now at least 28 states have enacted statutes regulating athlete agents. They vary in requirements and regulation and do not contain registration reciprocity. An athlete agent intending to do business in each state is currently required to comply with 28 different sets of requirements for registration and regulation. A uniform act has been drafted to protect the interest of student athletes and academic institutions by regulating the activities of athlete agents. This new act, adapted to Alabama by the Alabama Law Institute, provides the following:

1. Reciprocity of registration.
2. Authorizes denial, suspension, or revocation of registrations based upon similar actions in other states.

3. Regulates the conduct of individuals who contact student athletes for the purpose of obtaining agency contracts.
4. Requires notice to educational institutions when an agency contract is signed by a student athlete.
5. Provides a civil remedy for an educational institution damaged by the conduct of an athlete agent or a student athlete for violations of the Act.
6. Provides for administrative penalties.
7. Establishes criminal penalties ranging from Class A misdemeanor to a Class B felony for violation of the act.
8. Keeps our current commission to regulate and enforce the Act.

This Act becomes effective October 1, 2001. (An in-depth review is in the November 2000 *Alabama Lawyer*).

Alabama Uniform Interstate Enforcement of Domestic Violence Orders Act

SB 55 - Senators Rodger Smitherman and Sundra Escott-Russell

HB 112 - Representative Joe Carothers

This act will provide a uniform system for enforcement of domestic violence protection orders across state lines. This full faith and credit provision directs states to honor "valid" protection orders issued by other jurisdictions and to treat those orders as if they were their own, and is required in the Federal Violence Against Women's Act. The federal act left states to their own discretion as to how to set up procedures to effectively implement the enforcement.

This Act:

1. Defines the meaning of full faith and credit in the context of the enforcement of domestic violence protection orders and it establishes uniform procedures for their effective interstate enforcement.
2. Courts must enforce the terms of protection orders of other states as if they were their own, unless the order expires, regardless of which state the victim has entered.
3. Enforcing states must enforce all of the terms of the order, even if the order provides relief that would be unavailable under the laws of the enforcing jurisdiction.
4. Terms of orders that concern custody and visitation matters are enforceable

if issued for the purpose of protection. Terms that concern support are not.

5. This Act applies to orders issued before the effective date of the act.

This act, when passed by each state, will enable states to treat cases consistently and will fill the gap left in the federal act. This Act becomes effective January 1, 2002. (An in-depth review is in the November 2000 *Alabama Lawyer*).

Alabama Uniform Anatomical Gift Act

SB 121 - Senators Ted Little, Rodger Smitherman, Wendell Mitchell, Larry Dixon and George Clay

HB 124 - Representative Demetrius Newton

Alabama currently has the 1968 Uniform Anatomical Gift Act. It is codified at sections 22-19-41 through 22-19-47. In 1987 the Uniform law was updated. It has subsequently been passed in over 20 states.

This new act has been endorsed by the Alabama Medical Association, University of Alabama in Birmingham Hospital and various medical groups. The act also specifies the circumstances in which coroners, medical examiners or other local public

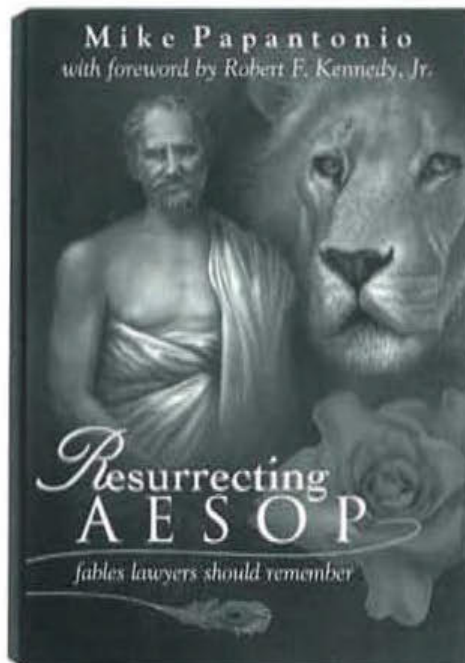
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health officials may be permitted to remove a part of the body for the purpose of transplantation.

The bill clarifies the rights of the parties involved in the donation and the authority of the individuals involved in the procedures for removing and transplanting a part.

This bill also provides that if an organ donation authorization is attached or imprinted to a motor vehicle license, the revocation, suspension, expiration, or can-

cellation of that license does not invalidate the anatomical gift. This Act becomes effective January 1, 2002.

Capitol Interns

The Institute, for 25 years, has conducted an intern program to bring bright, gifted students into state government to work during the session with either the Governor, Lieutenant Governor or

Speaker of the House of Representatives offices. This year the following students have been chosen: James Daniel Martin, Laura Beth Hammack, Lara Allred Mendes, and Yolanda E. Ratchford.

Ways to Stay Informed About the Legislature

State of Alabama's Web site:
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Alabama Legislature Web site: www.legislature.state.al.us/

Alabama Law Institute Web site:
www.law.ua.edu/ali

For more information about the Institute or any of its projects, contact Bob McCurley, director, Alabama Law Institute, P.O. Box 861425, Tuscaloosa 35486-0013; fax (205) 348-8411; or phone (205) 348-7411. ■

Robert L. McCurley, Jr.

Robert L. McCurley, Jr. is the director of the Alabama Law Institute at the University of Alabama. He received his undergraduate and law degrees from the University.



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J. Anthony McLain

Law Firm May Not "Fire" Present Client and Then Sue Him

Question:

"I have found myself in a situation where my opponent in litigation contends that Firm ONE must withdraw from representation of a long-time client, A, for whom we have acted as general counsel, due to an alleged conflict of interest under Rule 1.7 of the new Rules of Professional Conduct which became effective January 1, 1991. I would appreciate receiving a confidential opinion from you as to whether we can take advantage of the comments to Rule 1.7 and withdraw from representing client C and continue to represent client A under Rule 1.9.

"The situation arose when I filed suit on behalf of our long-time client A against B, an Alabama general partnership, and its general partners, C and D, for breach of a construction contract and fraud in the inducement and during performance of the contract. We also alleged a pattern and practice of fraud based on other jobs handled by D who was overseeing the construction work for B. C did not get involved with the construction project and did not commit any of the alleged fraud and is not claimed to be part of a pattern and practice. C is only included in the lawsuit by virtue of being a general partner in B, and thus liable for the acts of B.

"Shortly after filing suit, I learned that another lawyer in our firm, Jane Doe, was representing C on a one-time matter which was totally unrelated to the litigation. This is the only time we have represented C. The unrelated matter involved preparing the necessary legal documents for a condominium development. The condominium project was not connected in any way with the project out of which the construction lawsuit arose. Different entities were the owners of the two projects and different people were involved in each project. The only connection of C with the construction project was that it was a general partner of the owner of the construction project, B, a general partnership.

"Legal work on the condominium project for C commenced in April 1989. For several years prior to this date, Firm ONE had acted as general counsel for A. In September 1989, A entered into a construction contract

with B for a project which was not in any way related to the condominium project. In November 1989, client A asked us questions concerning the construction contract. We periodically thereafter gave A advice concerning its rights under the construction contract. Matters deteriorated between A and B, and in November 1990, A asked us to file suit against B. C was included as a defendant in the lawsuit since it was one of the general partners of B. Suit was filed November 13, 1990.

"In late November 1990, we discovered the potential conflict concerning C. We immediately notified A and C of the situation. We received verbal consent from both A and C to continue our representations in the respective matters.

"In January 1991, we were advised by counsel for C (Firm TWO) that C was withdrawing its consent to our representing A in the construction litigation because we had not fully informed C as to the extent of the potential conflict. This was surprising since C had a copy of the complaint and had in-house lawyers on staff. Nevertheless, C insisted that we withdraw from our representation of A in the construction litigation but continue to represent C in the condominium project. C contends we must withdraw from representing A because of Rule 1.7 of the Rules of Professional Conduct and cites a portion of the comments thereto (under subtitle 'Conflicts in Litigation') which state:

'Ordinarily, a lawyer may not act as advocate against a client the lawyer represents in some other matter, even if the other matter is wholly unrelated.'

"Since the matter involving C is wholly unrelated to the construction litigation, it seems to me that other comments to Rule 1.7 control how this claimed conflict could be resolved. The second sentence in the second paragraph of the Comments under 'Loyalty to a Client' states:

'Where more than one client is involved and the lawyer withdraws because a conflict arises after representation [has been undertaken], whether

the lawyer may continue to represent any of the clients is determined by Rule 1.9.'

"Rule 1.9 would not seem to prevent us from continuing to represent A in the construction litigation, if we withdrew from representing C in the condominium project, since the construction litigation has no relationship or connection to the condominium project.

"This resolution of the asserted conflict was mentioned to C's counsel who responded by citing Wolfram's *Hornbook on Modern Legal Ethics* and the California bankruptcy case *In re California Cannery and Growers*, 74 B.P. 336 (1987). The cited authority stated that in the situations involved in the authority, the lawyer could not choose between clients as to who he would represent. However, the bankruptcy case seems to be distinguishable from our situation since the two matters involved here are totally unrelated and since the case deals with the old code. Additionally, the portions of Wolfram cited talk about simultaneous litigation which we do not have in our situation. Moreover, the references seem to be at odds with the Comment section to Rule 1.7 cited above which seems to require withdrawal from representation of at least one client but allows continued representation of another if such would not violate Rule 1.9.

"Thus, the question presented is whether we may withdraw from representing C in the condominium project and continue to represent our long time client A in the construction litigation where C is a defendant by being a general partner of B, or whether we must do what C wants and withdraw from representing A in the construction litigation and to continue to represent C in the condominium project, or whether we should do something else. We would appreciate your confidential opinion as to what we should do in this situation and whether we can withdraw from representation of C and continue to represent A in the construction litigation."

Answer:

Your representation of client A in the construction litigation is directly adverse to client C and for that reason you must withdraw from representing A in that matter. You may continue to represent A and C in other matters totally unrelated to the construction litigation. Additionally you may not, by discontinuing your representation of C, take advantage of the less stringent conflict rule regarding former clients and thereby continue to represent A.

Discussion:

Rule 1.7 of the Rules of Professional Conduct provides the following:

"Rule 1.7 Conflict of Interest: General Rule

- (a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:
 - (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and
 - (2) each client consents after consultation."

As pointed out in the Comment to Rule 1.7, "loyalty is an essential element in the lawyer's relationship to a client." In

the situation where a lawyer takes part in litigation against an existing client "the propriety of the conduct must be measured not so much against the similarities in litigation, as against the duty of undivided loyalty which an attorney owes to each of his clients." *Cinema 5, Ltd. v. Cinerama, Inc.*, 528 F.2d 1384, 1386 (2d Cir. 1976).

Much more latitude is permitted with respect to litigation against a former client. In this regard, Rule 1.9 of the Rules of Professional Conduct provides the following:

"Rule 1.9 Conflict of Interest: Former Client

A lawyer who has formerly represented a client in a matter shall not thereafter:

- (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interest of the former client, unless the former client consents after consultation; or
- (b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known."

Here the emphasis is on the similarities in the litigation (a substantially related matter), and use of client confidences to the disadvantage of the former client.

In the instant situation, there is no question that you could not continue to represent both client A and C in non-substantially related matters while at the same time representing A in litigation against C. Rule 1.7 does not permit such divided loyalty unless the conflicting interest will not adversely affect the relationship of the other client and each client consents.

The more difficult question is whether you could cease to represent client C, thus relegating C to former client status and thereby take advantage of the former client rule (Rule 1.9). Indeed the Comment to Rule 1.7 seems to indicate that such a procedure would be ethically permissible. The second paragraph of the Comment provides that, "Where more than one client is involved and the lawyer withdraws because a conflict arises after representation, whether the lawyer may continue to represent any of the clients is determined by Rule 1.9." We do not believe that this Comment was intended, in situations such as this, to allow the lawyer to disregard one client in order to represent another client. To hold otherwise would do great harm to the principle of loyalty which is bedrock in the relationship between lawyer and client.

We find support for this view in *United Sewerage Agency v. Jelco Inc.*, 646 F.2d 1339, (9th Cir. 1981) where the Court held that:

"The present-client standard applies if the attorney simultaneously represent clients with different interests. This standard continues even though the representation ceases prior to filing of the motion to disqualify. If this were not the case, the challenged attorney could always convert a present client to a 'former client' by choosing when to cease to represent the disfavored client." (Supra at 1345, N.A., citing *Fund of Funds Ltd. v. Arthur Anderson & Co.*, 567 F.2d 225 (2d Cir. 1977)

For the above reason, it is our view that you must cease your representation of A in the litigation that is directly adverse to your client C. [RO-91-08]



Covington County Established: 1821



Samuel A. Rumore, Jr.

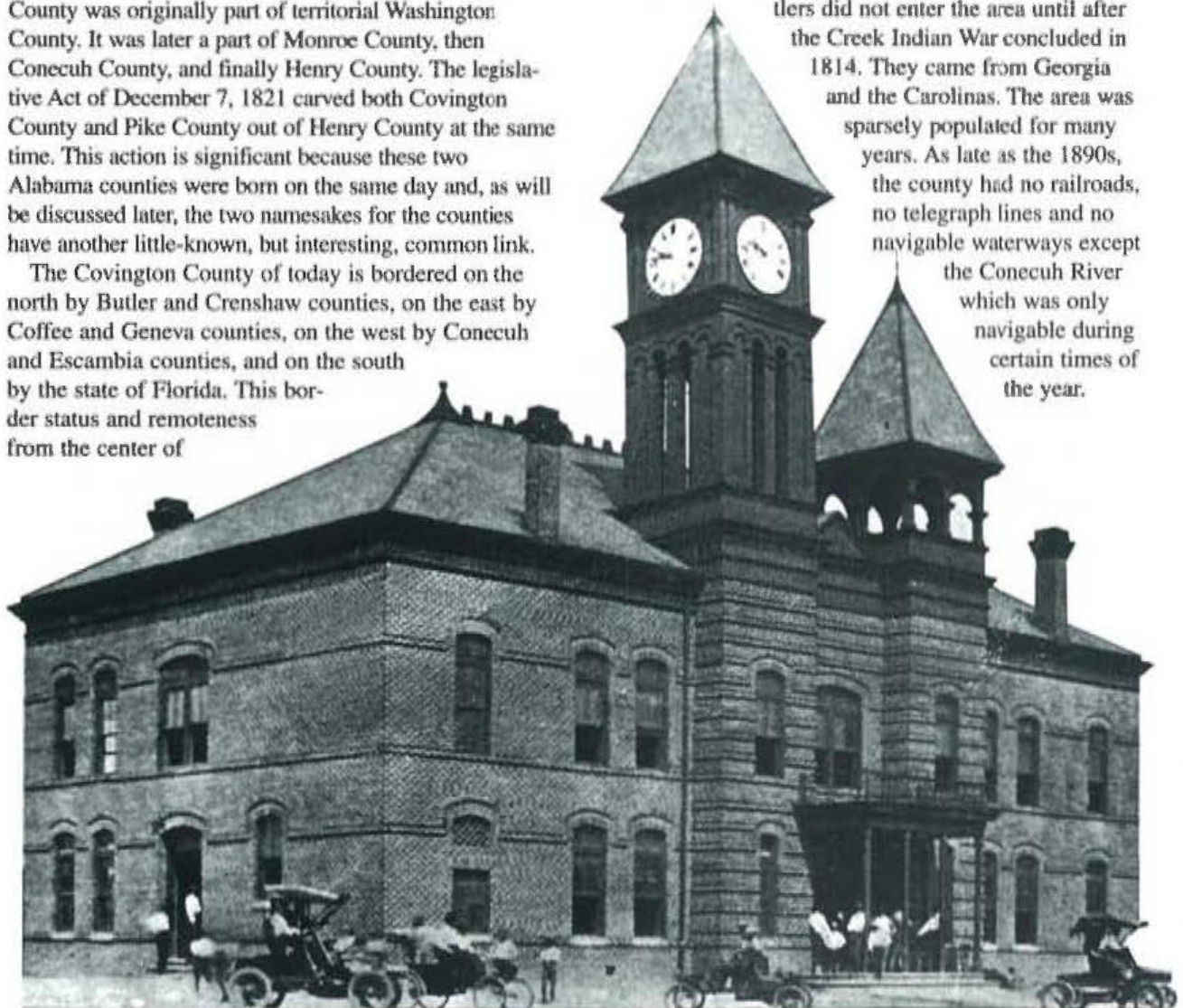
Covington County

Covington County was the second Alabama County established after statehood. It was created by an Act approved by the state legislature on December 7, 1821. The area that became Covington County was originally part of territorial Washington County. It was later a part of Monroe County, then Conecuh County, and finally Henry County. The legislative Act of December 7, 1821 carved both Covington County and Pike County out of Henry County at the same time. This action is significant because these two Alabama counties were born on the same day and, as will be discussed later, the two namesakes for the counties have another little-known, but interesting, common link.

The Covington County of today is bordered on the north by Butler and Crenshaw counties, on the east by Coffee and Geneva counties, on the west by Conecuh and Escambia counties, and on the south by the state of Florida. This border status and remoteness from the center of

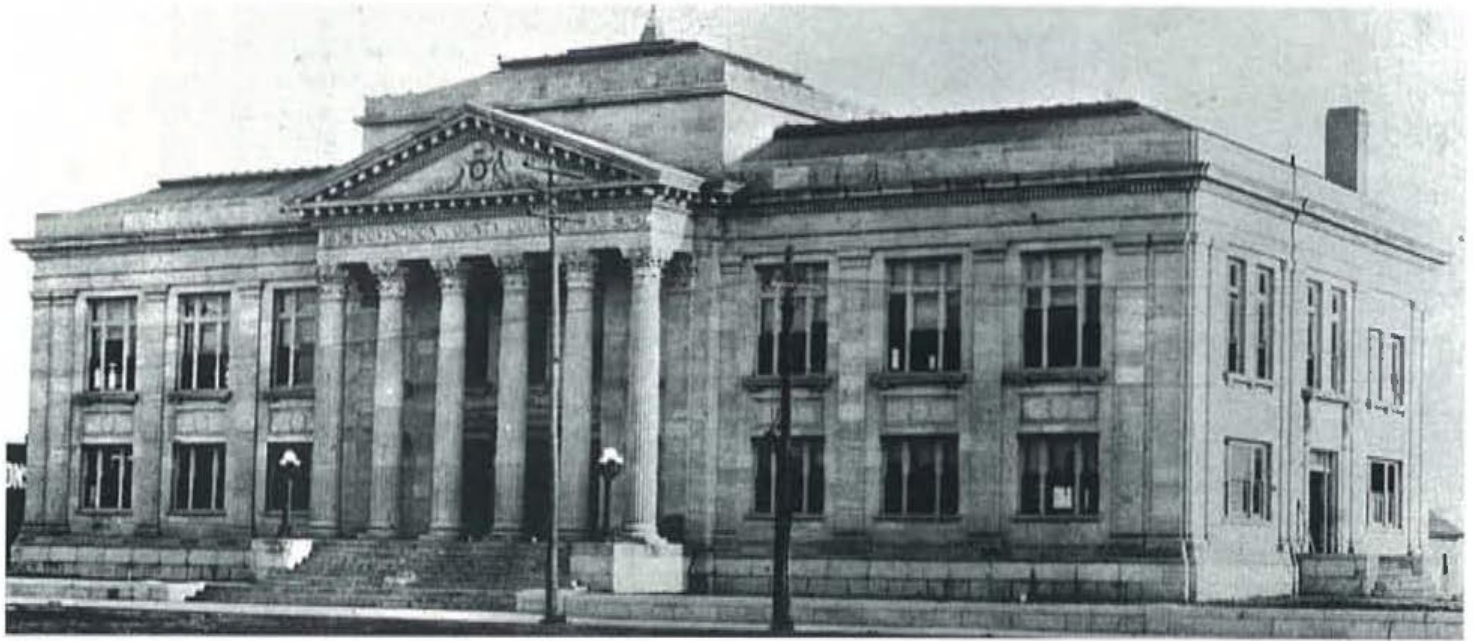
the state has influenced Covington's history. Andrew Jackson's famous "Three Notch Trail," where soldiers blazed three notches on trees to mark the path, passed through the area on the way to Pensacola. The first settlers did not enter the area until after the Creek Indian War concluded in 1814. They came from Georgia and the Carolinas. The area was

sparsely populated for many years. As late as the 1890s, the county had no railroads, no telegraph lines and no navigable waterways except the Conecuh River which was only navigable during certain times of the year.



Covington County Courthouse 1897-1918

The following continues a history of Alabama's county courthouses — their origins and some of the people who contributed to their growth. If you have any photographs of early or present courthouses, please forward them to: Samuel A. Rumore, Jr., Miglionico & Rumore, 1230 Brown Marx Tower, Birmingham, Alabama 35203.



Covington County Courthouse during construction 1917-1918

Covington County was named for Brigadier General Leonard Wailes Covington who was born in Aquasco, Maryland, near Annapolis, on October 30, 1768. He had a distinguished military career in the United States Army which included service as a cornet of cavalry and a lieutenant of dragoons, and service in the Indian Wars in Ohio from 1792 to 1795 under General Anthony Wayne, during which time Covington reached the rank of captain. Covington then returned to Maryland and served in the State House of Delegates for a number of years. From 1805 to 1807 he represented the St. George District of Maryland in Congress. In 1809 President Jefferson appointed Covington a lieutenant colonel of light brigades and in 1810 he was promoted to colonel.

It was at this time that Covington became connected to the future states of Alabama and Mississippi. He was placed in command of Fort Adams on the Mississippi River and then took possession of Baton Rouge and a portion of West Florida. In 1811, Colonel Covington supervised work on the Federal Road in the territory that would become Alabama. Covington moved his wife and six children to Adams County in the Mississippi Territory.

At the outbreak of the War of 1812, Covington was reassigned to the northern frontier. In 1813 President Madison appointed Covington a brigadier general. He served under General Wilkinson in a

campaign where Americans attempted to invade Canada during the war. Covington was mortally wounded and died November 14, 1813 at French's Mill, New York. He is buried at Sacketts Harbor, New York at a point now known as Mount Covington. Two counties have been named for Covington. Mississippi established its Covington County in his honor in 1819. Alabama followed with its Covington County in 1821.

As previously noted, Covington County and Pike County were established on the same day. Zebulon Pike was also a military hero and brigadier general who fought in the War of 1812. Pike died earlier in 1813 at the Battle of York, now Toronto, Canada. Both Pike and Covington are buried in the same cemetery and the same common grave in upstate New York. It is interesting that the namesakes of two Alabama counties created on the same day, died in the same war and are buried in the same place.

On December 18, 1821, the Alabama Legislature approved a bill introduced by State Senator John W. Devereux of Conecuh County that appointed a five-member commission which was to designate the Seat of Justice for Covington County. The commission was also directed to contract for and supervise the erection of necessary public buildings including a courthouse. The five members of this first commission were William Carter, Jr., James R. Mobley, Aaron

Lockhart, Henry Jones, and Abel Polk. These commissioners were also directed to hold an election at the house of Aaron Lockhart on the first Monday of March 1822 for the selection of the sheriff, clerk of the circuit court, and clerk of the county court.

Due to the sparse population in the area and because of the transitory nature of the population, it was difficult in the



Monument to courthouse bell erected 1976



Close-up view of courthouse — 1978

early days to organize Covington County. The federal government had not completed a survey of the lands in the former Henry County until 1821, and land was not placed for sale until December 1823. Therefore, the early residents in Covington County were essentially squatters who could not purchase the land outright and since they had not invested in the property, they continually moved from one tract to another, seeking a better location until the land was offered for sale and they could buy it. As one historian stated, it was difficult to keep enough people in one place long enough to organize a county government.

The original five commissioners did meet in the spring of 1822 and selected a county seat location. Their choice was on the Conecuh River at a place below that river's falls. They initially called it Covington or Covington Courthouse. However, the commissioners failed to hold the required county election for the various offices.

On December 12, 1822 the Alabama Legislature passed another act to organize Covington and Pike counties. This time, John M. Chapman, William Arthur, Jr., Henry Jones, Abel Polk, and John Cruse were appointed the five commissioners. They were to meet on the first Monday in March 1823 at the place selected as the county seat and conduct the election for the county offices. It is believed that William Arthur, Jr. was in fact William Carter, Jr., one of the former commissioners, but that his name was transcribed incorrectly by the legislature's enrolling clerk. The election took place on March 3, 1823. The legislature also authorized a tax for county purposes.

The county began construction of a log courthouse and jail that year.

In the early days of Covington County, there was a significant turnover in the county leadership. The position of county court judge had been created by the Alabama Legislature on June 14, 1821. The person holding this position in a county had broad judicial and administrative powers. The county court judge tried misdemeanor cases, was the equivalent of the chairman of today's county commission, and also held the function of a probate and orphan's court judge. This position was originally filled by appointment from the legislature, and the person appointed served during good behavior until reaching age 70. Because of its authority and because the holder never had to run for re-election, this position was probably the most powerful county office ever established in Alabama.

The first county court judge, or executive, of Covington County was James R. Mobley. He had been an original organizing commissioner and was appointed county court judge with an effective date of January 1, 1822. Unfortunately, he soon moved from the county and tendered his resignation to Governor Pickens on February 27, 1822. The Governor then filled the vacancy by appointing John M. Chapman to serve as county court judge. Chapman was later named to the second five-person organizing commission for the county. The effective date of his appointment was March 18, 1822. However, like Mobley, he also moved from the county and resigned his position as county court judge on December 6, 1822. The

Governor then appointed Henry D. Stone to replace Chapman effective January 4, 1823. Stone likewise moved from the county and resigned his position on February 18, 1824.

Finally, on March 26, 1824, Governor Pickens appointed John W. Devereux to be judge of the County Court of Covington County, the same man who as a state senator had introduced the enabling act for organizing the county. With Devereux in charge, a period of stability began. Devereux was an experienced politician who had served a total of nine sessions as a state senator. He had moved to Covington County in 1823 and is today known as the "father" of Covington County. Under his leadership the log courthouse was completed by the end of the summer of 1824.

On December 22, 1824, the legislature created Dale County. It was established from territory taken from Henry and Covington counties. Covington County was reduced in size by 43 percent, which left an approximate area for the county of 1,160 square miles.

Covington's county seat had been selected in 1822. For a while it was known as Covington, but at some point after the site was selected, commissioner Aaron Lockhart suggested the name of Montezuma for the town. It is not known today why the county seat was re-named for the Aztec emperor of Mexico. Perhaps it was because Mexico's war for independence from Spain concluded in 1822 and Mexico was a topic of news at the time. In any event, the Post Office Department recognized the community name officially as Montezuma in 1826.

The location of the county seat at Montezuma proved to be unsatisfactory. The site's attraction had originally been its position below the falls of the Conecuh River, but the river also brought with it two key problems. First of all, the water was a breeding ground for mosquitoes. Northeast of the village was a swamp which, due to the mosquitoes, led to health problems such as malaria and yellow fever. The second problem was the overflow of the river. Frequent floods created havoc in the town. By 1830 there was a significant sentiment to move the county seat from Montezuma. However, because of the number of large land owners with property in the area and due to the influence of the politically powerful Devereux

family, no act on removal could be passed through the legislature.

In the latter part of 1832, John Devereux resigned as county court Judge. In 1833 he moved to Valverdi in the newly created Macon County. His successor as county court judge was Josiah Jones. Jones suggested moving the county seat from Montezuma, but the issue was still deadlocked due to Devereux's continuing influence in the state legislature.

In 1839, the log courthouse at Montezuma burned. By this time, the population of the town had declined. Also, Josiah Jones was now a state representative. Between 1837 and 1848 he served six terms in the Alabama House. On December 30, 1839, he introduced a bill and a petition from local citizens requesting that the county seat location of Covington County be changed. This was the beginning of a five-year effort that would take five legislative acts, three sets of courthouse commissions, and two elections to move the county seat from Montezuma.

On January 30, 1840, the legislature appointed William B. Mitchell, George A. Snowden, Thomas Lloyd, James Parker, Bird Sasser, Jacob Merrill, and

Daniel Dozier as commissioners to select a suitable site for the permanent location of the county seat. The location was to be chosen by June 1, 1840 and had to be located within five miles of the center of the county. After this, an election would take place so that voters could choose between the "New Site" or Montezuma for the county seat.

For some unknown reason, the commissioners did not act. On January 8, 1841, the former legislation was amended. A new commission was appointed. Its members were William Hart, Stephen Cobb, Noah Carroll, John G. Barrow, William B. Mitchell, George A. Snowden, and Thomas Lloyd. These new commissioners were likewise unsuccessful in selecting the county seat location.

Another significant event in 1841 was the flood that devastated Montezuma. It was called the "Harrison Freshet" probably because William Henry Harrison was President of the United States. The loss of property gave new impetus to the movement to change the county seat.

Next, a third bill relating to courthouse location was passed by the legislature on November 23, 1841. This law called for an election on May 3, 1842 where a commissioner would be elected from

each captain's beat in Covington County. The commissioners then would meet and select not more than five suitable sites for the building of a courthouse. A county-wide vote would be taken at the general election of 1842 to determine the county seat.

The commissioners were elected in 1842, but, again, for some unexplained reason, the site selection for the courthouse was not made. So, on February 14, 1843, the legislature amended the previous Act and declared that the sitting commissioners should make a suitable selection or selections for the courthouse site on or before March 6, 1843. Also, the site had to be within two miles of the center of the county. If one site was selected, it would become the county seat. If more than one site was suggested, a vote would be scheduled on April 3, 1843.

The significance of this amended Act is that the change from five miles to within two miles of the center of the county eliminated Montezuma and most other potential sites. The commissioners unanimously selected a location approximately three miles east of Montezuma on a ridge that separated the watersheds of the Conecuh and Yellow rivers. The location was uninhabited with the nearest neighbor residing more than one mile away. On January 16, 1844, the Alabama Legislature confirmed the selection by the commissioners of the "New Site" and the commissioners were authorized to survey and sell town lots, and to commence the construction of a courthouse.

The "New Site" selected on the ridge was given the name Andalusia. This name was probably designated by Josiah Jones and the courthouse commissioners, but the day that the name was selected is not known. Also, the reason for its selection is not officially known. Andalusia is a province in the south of Spain. Certainly there had been Spanish influence in this area for centuries. It is believed that Ponce De Leon and DeSoto traveled through the area. Spanish artifacts had been found in Indian burial mounds. And the Spanish had remained close by both in Pensacola and, until 1819, as possessors of the rest of Florida. The United States purchased Florida from Spain in that year. Andalusia means "to walk easy" and it was assumed that Andalusia could be easily reached from all parts of the county.



Front view of courthouse 1978 — note bicentennial symbol



Front and side view — 1978

A log courthouse was built in Andalusia probably in 1845. The exact date is not known, but an act of the legislature dated January 21, 1846 authorized the sale of additional lots to defray the expense of completing the courthouse now erected in Andalusia. This law also transferred authority to sell the unsold lots from the courthouse commission to the court of county commissioners. It also authorized a special tax, if needed, to complete the payment of the courthouse.

Montezuma, which had been declining for years, continued its slide. A few businesses and the ferry still operated until around 1860. Following the Civil War it was no longer found on maps and, in effect, ceased to exist. It became another of the dead towns of Alabama.

The log courthouse in Andalusia was located in the center of the town square. A small pine-pole jail was also located in the square at one corner. By 1850 Andalusia had a population of about 75 persons. Josiah Jones opened a law office in town. Farms were established nearby. New people came to the town and by the 1860s the population had probably reached 250.

Following the Civil War, during Reconstruction, a number of significant changes took place in Alabama. A census was conducted and based on the new population figures, 13 new counties were established in Alabama between 1866 and 1868. Sometimes counties were established, disestablished, and then re-established. In 1867, Jones County was created in north Alabama. It was named for Elliot P. Jones of Fayette County. This county was abolished but ultimately re-established as present-day Lamar County.

In 1868, Edward J. Mancill was elected state representative from Covington County. He felt that he owed his election to the support he received from Josiah Jones. Therefore, without telling Jones, he established another Jones County. On July 17, 1868, he introduced a bill to change the name of Covington County to Jones in order to honor the local political leader.

Now Josiah Jones had been an influential person in Covington County since the 1830s. However, he had not held a political office since 1848 when he left the legislature. In 1868 he would have been 75 years old. Mancill's action was a nice gesture but Jones would have none



Rear of courthouse showing additions over the years

of it. To his credit, when he found out what Mancill had done, he immediately told him to have the county name changed back. Mancill complied on October 10, 1868 and the county name became Covington once again. Meanwhile, some confusion resulted because the Post Office Department had picked up the name change and it took almost five years to convince the Post Office to change its records back to Covington County.

Another quirky incident involving Covington County took place in the legislature in 1870. Wiley Dixon lived approximately one-eighth of a mile from the Covington County boundary. His farm had been placed in the newly established Escambia County. He had problems with the Escambia officials so he used his influence to have the legislature declare him a resident of Covington County. This Act passed on February 21, 1870. The Act stated that the boundary line between Covington and Escambia counties was changed so as to make Wiley Dixon a citizen of Covington County. However, the legislature failed to officially designate the change in the boundary line. No permanent boundary change was ever recorded. This situation became more interesting because Wiley Dixon's home site was donated by his grandson, Solan Dixon, to Auburn University for a forestry extension center. All of the center's facilities were erected on the 40-acre home site. It could be argued that the extension center is properly in Covington County, although it is claimed by Escambia.

Up until the 1870s, Covington County only had log courthouse buildings. The

first log structure was in Montezuma and the second log building served the county in Andalusia for over 30 years. In 1878, this building burned and with the disaster the county lost all of its public records.

The county's third courthouse was immediately built in the square at Andalusia. It was a two-story, square-shaped, frame building that was painted white. A hallway ran in each direction and divided the ground floor into four offices, one at each corner. The courtroom was on the upper level. An early photograph of the building shows that the windows had shutters and the roof was a bungalow-type with no gables.

This unpretentious structure served the county for only 17 years. It, too, met the fate of the earlier courthouse and burned in 1895. Many papers were lost, but fortunately the probate judge's iron safe saved some important records. Arson was suspected and a man named Marion Lisco was arrested by the authorities. Lisco escaped from custody and was never heard from again.

At this time, Covington was still a small, backwoods county. However, her greatest period of growth would soon begin. The county commissioners signed a contract for a new courthouse in December 1895. B.C. Williams of Hazlehurst, Georgia was the contractor. W. Chamberlin & Company of Knoxville served as architect. Work began on the structure on August 1, 1896. It was accepted as complete by the county on April 1, 1897.

The county built a two-story, red brick building on the same site as the former courthouse. It had seven rooms on the

first floor and four rooms, plus a courtroom, on the second floor. The building had two steeples. One was a magnificent clock tower that soared five stories. The other was a shorter bell tower that reached four stories. An early photo shows a professionally-designed and pleasing structure that was a far cry from the log courthouse of less than 20 years before. It was described as the best courthouse south of Montgomery.

The 1896-1897 Covington County Courthouse should have served the county for many years. Instead, it was obsolete and the citizenry demanded a new courthouse within only 20 years. How did this happen?

First of all, the period from 1890 to 1910 was one of phenomenal growth for the county. In 1890, the population was only 7,536. In just ten years it more than doubled to 15,346. By 1910, it had doubled again to more than 32,000. This population surge resulted from the growth of the timber industry, increased agricultural activity, and the coming of the railroads. Many believed that the courthouse building was no longer adequate to handle the county's business.

Other reasons were put forward for a new courthouse. The assessed valuation of property in the county had substantially grown and there was no county debt. A courthouse could be built without issuing bonds. There was also a suggestion to move the courthouse from the center of the square because of the noise of the traffic. It was also argued that the county would need a new courthouse sooner or later, and it would be less expensive to build one sooner rather than later. And, finally, fire safety was a paramount concern. The county had already suffered three courthouse fires. The existing courthouse did not have protected vaults for the county records. All of these factors influenced the county officials to approve the erection of a much larger and grander courthouse.

The new and existing Covington County Courthouse was completed in 1918 at a cost of \$150,000. Frank Lockwood was the architect. He designed a Neoclassical Revival building north of and facing the court square. This fifth Covington County Courthouse is fronted by six Corinthian stone columns supporting a classical pediment. The entrance has 11 marble steps leading up to a marble-floored and marble-walled lobby. The



Current view of Covington County Courthouse

lobby was designed to have a domed ceiling and a gold chandelier suspended from the center of the dome. The building is an impressive sight when viewed from the town square. The former courthouse, built in the middle of the town square, was torn down and the square now has a roadway through its center. The rest of the square was turned into parking spaces for the downtown area.

The present courthouse has been remodeled and expanded several times. One remodeling took place in 1938. In 1953, the courthouse received its first air conditioners. The individual window units cost \$12,419.75. And in 1970, the courthouse was completely renovated. The exterior was sandblasted while the interior was remodeled and enlarged. During the 1970 renovation, circuit court sessions were held for a time at the local National Guard Armory, the Andalusia City Hall, and the basement of the First United Methodist Church. Some non-jury sessions were held in the O'Neal Building.

During the Bicentennial year of 1976, a special monument was set up at the courthouse. The bell, which had served the county in the former courthouse from 1897 to 1917, was given to the county by local citizen H. Speller Moates and his family. Moates had purchased the bell in the 1940s from a junk dealer for \$30. He felt that 1976 was a proper year to return the bell to county ownership. County officials erected the monument in honor of the nation's bicentennial and dedicated it to the early settlers of Covington County.

Another interesting monument was dedicated on the courthouse grounds in 1976. This monument is reminiscent of the Legal Milestone Marker Program sponsored by the Alabama State Bar. One of the bar's markers was placed at

the Monroe County Courthouse and honored the fictional character, Atticus Finch, from *To Kill a Mockingbird*. The marker in Andalusia also honors a character of fiction, Philip Nolan. He was the main character in the Edward Everett Hale short story "The Man Without a Country." The Altrusa Club placed this marker as a symbol of patriotism for the Bicentennial year of 1976. It is a fitting monument because the county courthouse should be a symbol of patriotism and the sovereignty of the people. ■

Sources: *Covington County History, 1821-1876*, Gus J. and Ruby R. Bryan, 1983; "Covington County Courthouses 1823-1878," J. Fletcher Jones, *The Alabama Lawyer*, volume 39, no. 2, pages 221-225, April 1978; *From the Halls of Montezuma—Sketches of Early Covington County and Andalusia, Alabama History*, George Sidney Waits, Jr., 1991; *Early History of Covington County, Alabama, 1821-1871*, Wiley Donald Ward, 1976; *Original Land Sales and Grants In Covington County, Alabama*, Wiley Donald Ward, 1991; Articles, *The Birmingham News*, Sunday, June 28, 1953, page A-26; *The Andalusia Star-News*, Wednesday, June 23, 1976, page 6.

Samuel A. Rumore, Jr.

Samuel A. Rumore, Jr. is a graduate of the University of Notre Dame and the University of Alabama School of Law. He served as founding chairperson of the Alabama State Bar's Family Law Section and is in practice in Birmingham with the firm of Miglionico & Rumore. Rumore served as the bar commissioner for the 10th Circuit, place number four, and as a member of *The Alabama Lawyer* Editorial Board. He served as the 1999-2000 state bar president-elect and took over the presidency at the state bar's annual meeting in July. He is a retired colonel in the United States Army Reserve JAG Corps.



Cole Portis

When I was a freshman in college, I firmly decided that I wanted to be a lawyer. Since I did not come from a family of lawyers, I approached the only lawyer I knew to seek advice. His name was **Judge Joseph Phelps**. He was wise and I followed the advice he shared with me. One piece of advice that he stressed was that to be a good lawyer, I must be passionate about the law. Of course, because of his age and experience, he had already discovered his passion for the law and many other important truths, while I was only embarking upon my journey.

My journey has resulted in making mistakes, experiencing tribulation and representing good people. Fortunately, such events and people have graciously resulted in a passion for the work that I do as a lawyer. Unfortunately, there are many in our profession who

lack passion and are stuck in a job they do not enjoy.

Thus, if you want to examine lawyers who are passionate about their work as lawyers, I encourage you to attend the Young Lawyers' Section seminar at Sandestin. Attorneys of great distinction are committed to sharing their passion for the law with those who attend the seminar. All of us will benefit from the wisdom of **Judge U.W. Clemon, Lee Cooper, Warren Lightfoot, Jere Beasley, Carol Ann Smith, Bryan Stevenson**, and others.

Mark your calendars now for the seminar at the Sandestin Resort on May 18th—19th. The seminar offers something for everyone (both young and mature lawyers). My hope is that you will choose to attend and gain greater wisdom and passion for your law practice.

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THE “LAST HOPE”

BY PROFESSOR PAMELA H. BUCY

Barbara Brown¹ began dating her husband at age 13. They married when she was 20. Fourteen years later Ms. Brown had three children and a husband who was a drug addict. He also abused her and the children. In early 1999, DHR took custody of the children to protect them from Mr. Brown's abuse. Soon thereafter, when Ms. Brown attempted to leave the family home, Mr. Brown strangled her, wounding her badly.² At that point, Ms. Brown decided that she had no choice but to get a divorce. But, she had no money to hire a lawyer. Mr. Brown was unemployed. Ms. Brown worked 40 hours per week, but at \$6.50 an hour and with three children, the family lived below poverty level. Desperate for help, Ms. Brown contacted Legal Services. She was referred to George P. Walthall, Jr. of Prattville, who agreed to handle Ms. Brown's case on a volunteer basis through the Alabama State Bar's Volunteer Lawyer Program (VLP).³

Ms. Brown visited with Mr. Walthall and his associate, Jennifer M. Bush, at

his offices in historic downtown Prattville. It took about six visits to their firm and several months before her divorce was complete.

Mr. Walthall joined the VLP as soon as the program began because, "I feel strongly that attorneys have a duty to help the unfortunate. We have chosen to be attorneys. We need to lead the way." Mr. Walthall and Ms. Bush estimate that the firm handles anywhere from five to ten VLP cases each year. Ms. Bush, who has worked on many of the firm's VLP cases, explained why helping VLP clients is so rewarding: "These folks are down on their luck, really at the bottom. Yet, they are going through the system to get help. When they come to you, you are their salvation. Their last hope."

Ms. Brown, now in a safe home with her children, is gracious and considerate. She talks about how the divorce has turned around her life and those of her children. She is able to support her family. She and her children go to counseling regularly. Her parents help however they can. After years of abuse and control by her husband, Ms.

Brown is grateful for her divorce and for Mr. Walthall and Ms. Bush, saying, "They helped me become me." ■

Endnotes

1. A pseudonym
2. Ultimately, Mr. Brown was convicted of assault, second degree, because of this incident.
3. The Volunteer Lawyers Program (VLP) began statewide in Alabama in 1991. Modeled after the highly successful Mobile Bar Association Volunteer Lawyers Program, it provides a way for lawyers in Alabama to help their communities. Attorneys enroll in the program by agreeing to provide up to 20 hours, per year, of free legal service to poor citizens of Alabama. Cases are referred to the VLP from Legal Services offices around the state. Before referral, the cases are screened for merit and complexity (each case should be resolvable in 20 hours or less) and the potential client is screened for income eligibility (they must live at or below 125 percent of the poverty level, currently \$1,776 monthly, for a household of four).

Pamela H. Bucy

Pamela H. Bucy is the Bainbridge Professor of Law at the University of Alabama School of Law and was admitted to the Alabama State Bar in 1991.

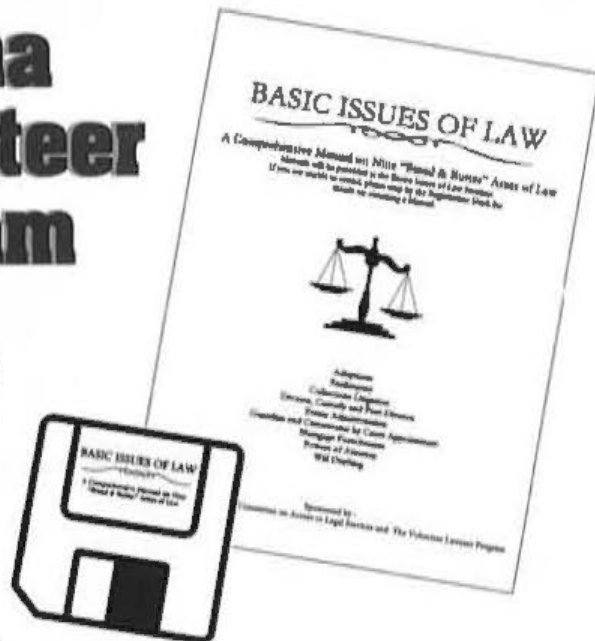
2001 Judicial Conference of the Eleventh Circuit

The Eleventh Circuit Judicial Conference will be May 10-12, 2001 at the Westin Savannah Harbor Resort in Savannah. The Conference, convened by the judges of the Eleventh Circuit, will consider the business of their respective courts (the court of appeals, and the district and bankruptcy courts in Alabama, Florida and Georgia) and advise means of improving the administration of justice within the circuit.

A limited number of spaces is available to any attorney admitted to practice before the court of appeals or any of the district courts of the Eleventh Circuit who wishes to attend. Attorneys interested in attending the conference should contact Norman E. Zoller, circuit executive, 56 Forsyth Street, NW, Atlanta, Georgia 30303. Information will be forwarded describing the conference hotel's accommodations, room and registration rates, and the substantive and social programs. Preview information may be accessed at www.caf1.org.

Join the Alabama State Bar Volunteer Lawyers Program

Join the Volunteer Lawyers Program and receive the "Basic Issues of Law" manual on a 3-1/2" disk, free. This manual covers nine "bread-and-butter" areas of the law, including adoption; bankruptcy; collections litigation; divorce, custody and post-divorce; guardian and conservator by court appointment; mortgage foreclosure; powers of attorney; and will drafting. To join, simply complete the form below and mail to: Volunteer Lawyers Program, Alabama State Bar, P.O. Box 671, Montgomery, Alabama 36101. Upon receipt of your enrollment form, the VLP will mail to you the "Basic Issues of Law" disk.



Enrollment Form

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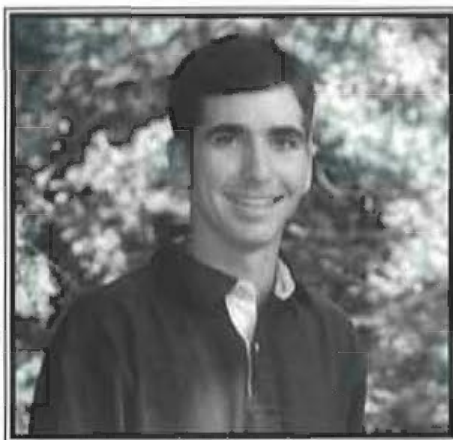
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The Alabama Law Foundation Offers Hope

The high costs of college tuition can be a burden, even in the best of times, but what about the bad times? What happens when tragedy strikes? For more than 100 young people and their parents, the Alabama Law Foundation has provided answers to those troubling questions through one of its programs.

The Alabama Law Foundation is affiliated with the Alabama State Bar and is a charitable, tax-exempt organization dedicated to bettering Alabama through law-related charities. Established by the Workers' Compensation Section of the ASB and administered by the Law Foundation, the Kids' Chance program has provided college scholarships for kids whose parent or parents have been disabled or killed in an on-the-job accident.

The following article highlights the story behind one of those scholarship recipients, Ashley Bice.



Ashley Bice

Imagine finding yourself pinned beneath a heavy bull dozier. Add to the excruciating physical pain the fear that grips you as you think of your family and what they'll do without you.

Rickey Bice doesn't have to imagine it. He lived it. In July 1973, Mr. Bice was involved in a nightmare accident at his job that crushed both of his legs. The dozier he was running tipped over, leaving him trapped underneath it. The memory of this terrible event is burned into his mind and the intense pain that is now his constant companion won't ever let him forget it.

Mr. Bice's son, Ashley, has watched his father cope with this daily pain for his entire life. And, he knows that the physical pain is only part of the hurt his father battles. Ashley's dad, like any father, had plans for his son—dreams of what he could do with his life and the great things he would accomplish.

"The accident happened before Ashley was born and for a time there, Rickey thought he didn't even want kids because he knew he couldn't work to provide for them," Ashley's mom, Sandra Bice, said.

Mr. Bice carried the heavy burden of knowing that Ashley might not get to go to college. He hasn't been able to work since the accident, and, even though his

disability insurance has covered some costs, the money it takes to send a kid to college just wasn't there.

"We knew we could not afford to send Ashley to college," his mom said. "And that was especially hard because Ashley is so smart, and we were so proud of what he had already accomplished."

In 1999, as Ashley Neil Bice was on his way to graduate from Verbena High School as its valedictorian, the Alabama Law Foundation was preparing to choose the year's recipients of its Kids' Chance Scholarships. Ashley's school counselor had made him aware of the program and helped him apply.

"My counselor came to me with the application for Kids' Chance," Ashley said. "I was excited about it, but I didn't think I would get it."

But he did. Now, thanks to an academic scholarship and the scholarship from Kids' Chance, Ashley is taking control of his future as he pursues a degree in business information systems Auburn University Montgomery.

Ashley's dreams of furthering his education have come true, and he has proved his dedication to college by driving 45 minutes to class each way from Verbena to Montgomery.

Ashley will graduate in the spring of 2002 and pursue his career in computers. He will be able to work and probably send his own kids to college in part because of Kids' Chance. He gives credit for his success so far to Kids' Chance and the Alabama Law Foundation.

These scholarships are more than money. They are hope, and they are funded solely by contributions from individuals and organizations. More than 100 scholarships have been awarded since the program was established, and more than 100 young lives have been given the opportunity to realize their potential. ■

Alabama Law Foundation Announces Fellows



Fellows inducted into membership in 2000 were: front, L-R, Samuel L. Stockman, Samuel N. Crosby and Samuel A. Rumore, Jr. Rear, L-R, Hardie B. Kimbrough, Robert D. Segall and Max C. Pope. Not pictured are D. Leon Ashford, Richard A. Ball, Jr., Albert P. Brewer, Frederick G. Helmsing, and James F. Hughey, Jr.



Life Fellows inducted were: front, L-R, Rodney A. Max and William D. Coleman. Rear, L-R, Gerard J. Durward, Robert D. Segall and Larry W. Morris. Not pictured are D. Leon Ashford, Delores R. Boyd, Albert P. Brewer, Walter R. Byars, Samuel H. Franklin, William B. Hairston, Jr., and N. Manley Yelding.

In 1995, the Alabama Law Foundation established the Fellows program to honor members of the Alabama State Bar who had made a significant contribution to their profession and their community. Currently, there are 96 Fellows of the Foundation. Fellows pay an initiation fee and yearly dues, and these funds are used for law-related charitable purposes which are decided upon by the Fellows.

This year's recipients were inducted at the Annual Fellows Dinner February 9 in

Montgomery. Native Alabamian and Pulitzer Prize-winning author of *All Over But the Shoutin'*, Rick Bragg, was the special guest speaker.

This year's recipients are: D. Leon Ashford, a partner with Hare, Wynn, Newell & Newton in Birmingham; Richard A. Ball, partner, Ball, Ball, Matthews & Novack, P.A., Montgomery; former Governor Albert P. Brewer, professor, Cumberland School of Law, Birmingham; Samuel N. Crosby, president, Stone,

Granade & Crosby, P.C., Bay Minette; James F. Hughey, Jr., partner, Balch & Bingham, LLP, Montgomery; retired District Judge Hardie B. Kimbrough, of counsel, Gilmore Law Office, Grove Hill; Max C. Pope, sole practitioner, Birmingham; ASB President Samuel A. Rumore, Jr., partner, Miglionico & Rumore, Birmingham; Robert D. Segall, partner, Copeland, Franco, Screws & Gill, Montgomery; and Samuel L. Stockman, partner, Stockman & Bedsole, Mobile. ■

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Judicial Building Earns Top Rating

Alabama's judicial facility, which has been open for business for seven years, wants to share the building and its rich history and heritage with others. The Judicial Building is home to the Supreme Court of Alabama, the Court of Civil Appeals, the Court of Criminal Appeals, the State Law Library, the Administrative Office of Courts, and the Court of the Judiciary. During normal work hours, portions of the building are open for tours by the public. The staff has devel-

oped an excellent tour program—now rated in the top 20 tourist attractions for Alabama—as well as a docent program with trained guides to give these tours. The program is in the process of expanding and volunteers are needed. Members of the Alabama State Bar and their spouses are invited to take a tour of the building, to experience its culture and to volunteer as a docent. Please call Mary Edge Horton, assistant curator, at (334) 242-4958 for more information. ■

Order—Rules Governing Admission to the Alabama State Bar Supreme Court of Alabama January 5, 2001

It is ordered that Rule IV.B. (2) (b), Rules Governing Admission to the Alabama State Bar, be amended to read as follows:

"(b) That the applicant has pursued and satisfactorily completed, as a resident student at Birmingham School of Law, Jones School of Law of Faulkner University, or Miles College of Law, (i) a course of law studies that extended for at least four (4) academic years of at least thirty (30) weeks each or (ii) a course of full-time law studies that extended for at least three (3) academic years of at least thirty (30) weeks each; that the applicant has graduated from one of these law schools; and that at the time of the applicant's graduation the school has been continuously located and has remained in continuous operation in the county in which it was operating on August 30, 1995.

"For purposes of determining whether a student is engaged in 'full-time law studies' so as to be able to complete those studies in three (3) academic years of at least thirty (30) weeks each the following shall apply:

"(1) An academic year shall consist of not fewer than 130 class days, which days shall extend into no fewer than eight calendar months. A class day is a day on which classes are regularly scheduled throughout the day. Time for reading periods, examinations, or other activities may not be counted for purposes of meeting this 130-class-day requirement. A day on which classes are not scheduled throughout the day is not a 'class day' for purposes of determining whether a student is engaged in 'full-time law studies.'

"(2) The law school shall require, as a condition for graduation, the successful completion of a course of study in residence of not fewer than 56,000 minutes of instruction time, including external study, e.g., externships, extending over not fewer than six (6) academic semesters. To achieve the required 56,000 minutes of instruction time, the law school must require at least 80 semester hours of credit. A semester hour of credit requires not less than 700 minutes of instruction time, exclusive of time scheduled for administering examinations. The 130-class-day requirement set out in subparagraph (b) (1) above and the 56,000-minutes requirement established in this subparagraph shall be interpreted and applied as separate and independent requirements.

"(3) The law school shall require that a student pursuing full-time law studies be enrolled for at least ten (10) semester hours of credit, and in each semester the student must receive credit for nine (9) hours in order to be considered a student pursuing full-time law studies.

"(4) The law school may permit a student pursuing full-time law studies to graduate in fewer than six (6) academic semesters by earning not more than one semester of credit hours by taking courses offered by the law school during a summer session, provided the student meets the class-hour requirements; or"

It is further ordered that this amendment be effective immediately.

It is further ordered that the following note from the reporter of decisions be added to follow Rule IV:

"Note from the reporter of decisions: The order amending Rule IV.B. (2) (b), effective January 5, 2001, is published in that volume of Alabama Reporter that contains Alabama cases from ____ So. 2d."

Hooper, C.J., and Maddox, Houston, Cook, Lyons, Johnstone, and England, JJ., concur.



Alabama Lawyer Assistance Program Update

BY JEANNE MARIE LESLIE, DIRECTOR, ALAP

I am humbled every day by the unique privilege of serving as the director of the Alabama Lawyer Assistance Program. Educating the bar and bench about these devastating illnesses is the first step toward identifying and treating them. Thank you to all of you who have supported the bar's efforts in bringing these issues to the forefront. To those of you who believe this doesn't belong in a bar journal, but have tolerated the articles and listened to the presentations, thank you also. What you might not know is *every time* an article, or an advertisement is published, *every time* ALAP is asked to present a program, members in need have called in and asked for help. For many, this has been the turning point in their lives—the decision to live instead of continuing on this path of self-destruction, the decision to accept help instead of trying to control it on their own, the decision to finally do something about the colleague who is incapable of seeing what the disease is doing to his or her life, whose drinking has been the brunt of many jokes, but is no longer funny to watch. Every time the disease is explained and the symptoms identified, the associated stigma becomes less threatening and less of a barrier to obtaining help.

Just recently I returned from the American Bar Association's National Conference for Lawyer Assistance Programs and Lawyers in AA. This was an incredible opportunity to share on a national level. This year I was accompanied by the state bar's Lawyers Helping Lawyers Committee Chair Squire Gwin

of Birmingham and committee member Eason Mitchell of Tuscaloosa. Lawyer assistance programs all over the country are offering hope, recovery and support to lawyers in need. They have been instrumental in helping to improve the image and quality of lawyers' lives.

In the next few pages you will read about members of your own state bar who have experienced the losses, and consequences, of having lived with, or having a loved one suffer from, one of these illnesses. You will also hear from the experts about diagnosis and treatment. In your lifetime you will experience these illnesses on some level, in a friend, a colleague, a spouse, a child, a boss, a client, or yourself. These are true personal stories shared anonymously, shared with the intention of helping others. Please cherish them for the insightful gifts that they are. ■



Jeanne Marie Leslie

Jeanne Marie Leslie has been the director of Alabama Lawyer Assistance Program for the past two and half years. She received her BSN from the University of South Alabama and a

master's degree in counseling from Auburn University in 1990. She was previously employed with Alabama's Worksite Wellness program where she presented programs on various health and stress related issues.

Ms. Leslie's passion, however, has always been working with professionals suffering from addictions and depression. Prior to her position as the ALAP director, Ms. Leslie assisted physicians by facilitating and monitoring their recovery.



On the Road Again...

Since its inception in 1995, the ROADSHOW has covered the state of Alabama visiting local bar associations. The ASB is proud now to include free CLE components as a benefit to Alabama lawyers. Contact Susan Andres, director of communications, at (334) 269-1515, extension 132, or e-mail to sandres@alabar.org for details. The following free CLE programs* are available:

- The ASB's Law Office Management Assistance Program Director Laura Calloway has the answers to your questions on everything from client relations to computer software.
- The director of the Alabama Lawyer Assistance Program, Joanne Marie Leslie, raises awareness and understanding of substance abuse within the profession and tells you how to be part of the solution to this growing problem.
- Judy Keegan, director of the Alabama Center for Dispute Resolution, brings you a summary of updates and important cases from the fast-growing areas of mediation and arbitration.
- General Counsel Tony McLain keeps bar members informed of the latest in disciplinary issues and major legal developments in Alabama and across the nation.
- Volunteer Lawyers Program Director Linda Lund has developed an ethics and professional component covering significant developments on a local and national level.

Each CLE component is available in one- to three-hour formats.

All signs lead to free CLE.


ALABAMA STATE BAR
To Serve the Profession

FROM A FATHER'S PERSPECTIVE

It all starts with your being the luckiest guy alive. You have a child who is healthy, intelligent and athletic. He or she even likes you. You enjoy these "before teens" years doing all the things your child likes to do—beach trips, sports, family holidays, school, church, and just plain watching "Johnny grow up." There are many thoughts about his or her future, as well as your future with your child. All your plans for your family revolve around this gift.

The teen years are here before you know it and you two enter those years with even more hope, happiness and just plain pride. Achievements are received and even effected by you as a father. Hopes for the future burn high. A few minor things start to happen but your confidence level and naiveté are so abundant that you only see "adolescent growth"—just normal problems.

Next, it's off to college, the best you can give. You feel both of you deserve it. After all, what does a parent owe his child more than a good education? The first year's grades are not up to par but that's just being a freshman and away from home. Even a transfer to another school is okay, "since it is better for all concerned."

Then one day or night you get a call, and hear the words, "I believe I have an alcohol problem or drug problem"—all one in the same in my book. "I need help," your child cries out. That day is burned in your heart and mind. It is the first thought you ever had that "my child" may have this problem that you have heard talked about so much. You have never seen them in a drunken state. Maybe they are overreacting but what is a parent for, except to do everything you can. As you learn about this disease, you cry a lot with the rest of the family and dreams tumble, pride falls and even

embarrassment sets in. Have you failed this child and your whole family? Was it your genes or what didn't you do during those formative years?

Treatment is available. It is said to work most of the time. You learn that it's not your fault. That is of little consolation to your family. Finally, you are told that there is "no cure" and there will be periods of "slips." There is the cry from the child that all he or she wants out of life is to be "normal." Your heart aches and your thoughts are consumed by your child's deteriorating self-esteem and loneliness. Treatment does not work for everybody. Mother, father and siblings witness its failure in your child's instance. It turns out that the entire family suffers greatly from this child's addictive disease. Isn't it enough that one person suffers? Why does it have to hurt others so much? What can a father do?

I still don't have the answer, even after the death of my child, but I do know a few things:

- (1) While treatment may not always work, it is the only hope;
- (2) Confronting the possibility at the first small indication will help a lot;
- (3) This is a terrible, horrible disease, as bad as those other terrible, horrible diseases you know about; and, finally,
- (4) It consumes the whole family, friends and other people to or for whom you are responsible.

The Alabama State Bar has a program just for lawyers where you can participate and seek a remedy. With this program available to all of us, we must step forward when the disease attacks, not just for ourselves but for all of those who suffer with us—family, friends, clients, associates, and employees. ■

I Came to a Watershed and Found a Way Out

There was a watershed in my life, on a hot summer day just a few years ago. I had been practicing law in Alabama for about 20 years. I was with the same firm all that time and in the same marriage, too. I had some degree of professional respect and recognition among my peers, and I had clients who willingly relied on me.

The watershed didn't change any of that. What changed was much more important than these things, although it certainly allowed me still to have these things today. On that watershed day, I became willing to do something about my alcoholism. And I did. Ultimately, I got sober.

Not that it was my idea to get sober. I don't take credit for that. I merely acknowledged circumstances that day that I couldn't control, solve or overcome. I could see no way out of my miserable situation. I could not think of a story that I could tell to explain away the situation, nor a way of escape to avoid it. Somehow I knew that the next progression of my alcoholism would be the loss of those things I thought were important: wife, family, job, career, clients, respect, income. Those were the things that made me "normal." I couldn't see living without them. So, I became willing to take some suggestions about what to do. I had reached a "bottom."

Ironically, I had already lost a lot of important things and didn't even know it. I had lived for years in a fog. My nightly stupor prevented deep relationships with my wife and children. At work, I was focused more on hanging on and keeping up appearances than on developing real relationships or setting and realizing real goals.

But I was anything but your image of an alcoholic. I had good clothes, a good job, a nice house, and an apparently functional family. I seemed to be at work on time every morning, never seemed to miss any deadlines, didn't drink on workdays, didn't look like I did, never smelled of alcohol, didn't have any grievances filed, appeared alert and focused, and even did some good work often enough for people to think I was talented. My partners didn't know. My clients didn't know. I had pulled off an amazing balancing act.

But that act was constant, consuming, dangerous and enormously tiring.

I drank mostly after work and until bed time. Few days. Every night. Most nights, the quantity was modest by some standards. Other times, I was drunk. I was particularly prone to drunken binges when I was out of town or when my family was. I was a closet drinker most of the time.

For several years, I had known, and even acknowledged to my wife, that I had a "drinking problem." I would periodically "lose control," get drunk, cause a scene, end up in trouble, be unable to

function properly, have major rifts with my wife, or have these in combination. My parents and some grandparents drank in alcoholic patterns. Drinking like that never seemed that unusual to me. But early on, I drank differently than other people. I drank more, and I drank more often. I drank to get drunk, and looked forward to drinking. I had blackouts, periods while drinking that I was fully conscious and active but for which I had no memory. Blackouts are supposed to be unique to alcoholics. "Normal" people stop drinking when they "feel funny," or maybe pass out when they have too much. I craved that feeling and the freedom from unpleasant thoughts I thought it gave me. I drank to feel normal, to fit in, to avoid boredom, to enhance happiness, and to quench sadness and loneliness. There were many occasions to drink, but essentially I drank because I am an alcoholic.

I tried for years to "get control" of my drinking. I was sure that I was smart enough to figure it out or strong enough to wrestle it into submission. Everyone else did, or so I thought. I could never admit that I might not be able to control drinking alcohol like everyone else. Intellectually, scientifically and emotionally that made no sense to me. It probably makes no sense to you either.

So I tried all those things alcoholics in denial do: I laid off alcohol for periods to convince myself and my wife that I wasn't an alcoholic. I went to just whiskey, from whiskey to beer, then to just wine. I'd promise not to drink in certain situations, not drink at home, not drink at parties, not drink before 6 p.m. or after 10 p.m. I promised to quit for a period and removed all the alcohol from the house, but after a while I sneaked it in again and began drinking in secret.

All the while, I told myself I merely had a "drinking problem." I didn't admit I was an alcoholic. And I certainly intended to continue to drink — at times. And I did drink. At the times I intended, and at other times, I drank. And the results were the same: drunkenness, scenes, trouble, impairment, arguments, in cycles, again and again.

At this point, you might well ask — because *you* are sane — why does anyone keep doing the same things while expecting different results? And of course, a totally sane person doesn't; it is insane to do that, more or less by definition of the term insane.

But enough of how things were. Let me tell you what happened and what it's like now. In brief, I found a way out. It's there; it always had been; and it still is — there is a solution to the seemingly hopeless state of mind, body and spirit that is alcoholism. It was there for me, and it's there for anyone who sincerely wants to escape the living hell that alcoholism always becomes, sooner or later.

On that watershed day, I realized I couldn't pull it off any longer. I couldn't see living *with* alcohol anymore, because I vaguely saw my real and near future to be the loss of those things I hadn't lost yet. Those things from which I drew my self-worth and which I thought made me "OK" were going to be gone. But I couldn't see living *without* alcohol, either. That was an option that I just couldn't comprehend. I needed alcohol to feel normal, to fit in, and to function in many situations. I was dangling by a rope that I knew was threadbare and slippery, but I couldn't conceive that there was another viable alternative.

It may seem odd, but alcoholics often have little trouble stopping drinking. We've stopped drinking many times. Our problem is staying stopped. We do not have so much a problem with alcohol as we have a problem living without it. A person can get the drug alcohol out of his system in a few days. Physical symptoms recede quickly. Some people do this in a formal detoxification program. Some people do it on their own or with support from friends or support groups like AA.

Then the hard part starts—learning to live sober. I had the great fortune to wind up in a treatment center—what you call "rehab." It wasn't my plan. I didn't really know what treatment was or what it would do.

I balked at treatment at first, as most people do. The typical reservations and fears overcame me: People will know where I am and what I am. There is too much to do; I can't just take off on short notice. I have commitments and can't let people down. It is expensive and unnecessary. The feelings of shame, guilt, fear and economic insecurity all clawed at me. All those excuses are true in some sense, but all are irrelevant in the big picture. If you can't get sober and stay sober, people will eventually know and then will follow the loss of everything you put in front of getting sober. Everything.

I had become willing to take suggestions, and going to treatment was a unanimous suggestion. I'm glad now that I did. There are significant advantages to treatment. It allows for some practice at sober living in a controlled environment. There are many tools to be learned and a pattern of living to be established. It helps greatly to have the time away from the demands and distractions of everyday living to develop and practice those patterns successfully.

The odds were important to me. More people get sober, and stay sober longer, with treatment than without. That made sense then. I now know it is true. Treatment provided me with a good, running head start on sobriety. I came back to the "real world" better prepared to maintain my sobriety and with a better quality of sobriety than most people who try it on their own.

As expensive as it was, it was worth every penny and every minute spent. My office got along without me. People pitched in and covered matters for me. My family found their first rest from worry while I was away and safe. We found the money somehow.

The shame aspect needs attention. Everyone at my office knew where I was and why. Some clients had to know and were told. Neighbors and family knew. Those things worried me to death at first. Then I realized that I could do nothing about it, and I tried not to think about it while I was away. But when I came back, I was terrified and filled with shame again. I had lived my whole life worrying about what others thought about me. I learned that most

people didn't care or think much about it. The ones who did were happy I had recognized a problem and addressed it. The most frequent comment was how proud they were of me. No one has ever said anything derogatory to me, or about me so far as I know. How different that would be if I had kept drinking.

There are lots of treatment alternatives. Some are part-time, outpatient programs that allow a degree of "normal" activity. Others are inpatient with varying terms of stay. And, of course, lots of people try 12-step programs, like AA, without treatment and many have success. There are some church-based programs, too. For me, the answer was to do whatever was recommended to give me the best chance of success.

Alcoholism is a puzzling disease. Many people have trouble accepting it as a disease, although the AMA has recognized it as such for decades. Think what you want. There is much we still do not understand, and maybe we are not meant to understand.

I'll just take this reality: My life had become a living hell. I saw no way out. I became willing to take some suggestions in the hope things would get better. They did. I'm no longer dependent on alcohol to get through the day or through a social event. My days are not centered on alcohol or on hiding the truth. I can face people and situations sober. And today I have joy in my life and some serenity. I never knew true joy and happiness before. I'm proof that there is a way out, and I'm not alone. There are lots of us out here, and it helps us to help others who reach out. Contact Lawyers Helping Lawyers or the Lawyer Assistance Program to reach us. ■

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Ten Feet Tall & Bulletproof

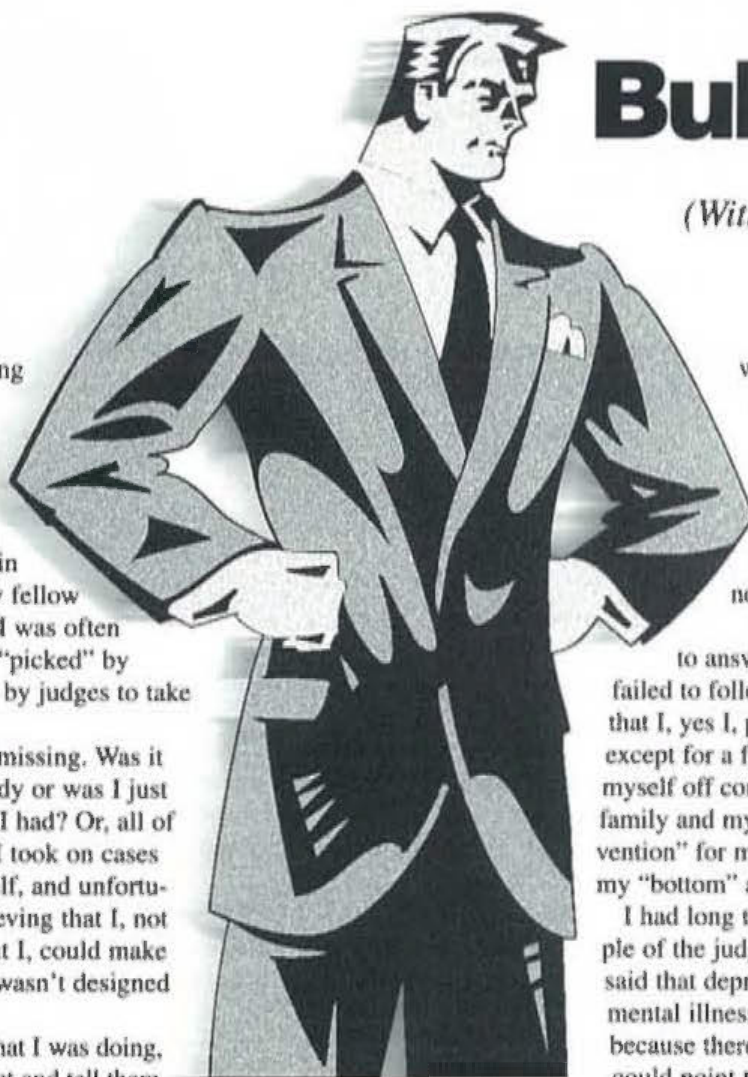
(With Apologies to Travis Tritt)

It all seemed so easy, trying cases, researching the law, being a hail fellow, well met. The cases were, more often than not, interesting, sometimes profitable, and, now I know, I was held in generally good esteem by my fellow lawyers. In my chosen field, I was often referred cases, had my brain "picked" by other lawyers and was called by judges to take on certain kinds of cases.

Still, there was something missing. Was it self-confidence or was I greedy or was I just unwilling to appreciate what I had? Or, all of the above? Whatever it was, I took on cases of all sorts and deluded myself, and unfortunately some clients, into believing that I, not the court or other lawyers, but I, could make the legal system do things it wasn't designed to do.

Yes, I ultimately realized what I was doing, but rather than call up the client and tell them what was happening, I just tinkered and extended matters, never resolving them. The more I did this, the less I wanted to practice. I did not answer calls, did not make appointments, generally avoided almost everything, the almost is important, because the things I liked and the cases where I knew I was not manufacturing issues, I continued to handle without any problems. However, the other matters (the avoided matters) began to creep into my mind more and more, so I avoided more and more, buried myself in what I liked in order to avoid the other. I quit taking care of the business of the law business, I became a stranger in my personal life, I was also damn defensive with anyone who said anything (leave me alone, you are nuts, you don't understand) in other words, just generally an ass (I don't know if I can use that word, but it seems appropriate).

All of these things could easily fit the symptoms of someone who has developed an alcohol or drug problem, the frightening thing is, however, that my problem was neither. I was depressed, not the just Monday morning blues kind of thing, but the don't



want to work, don't want to see people, don't want to be bothered, and maybe don't want to go on kind of depressed and nothing I could, or maybe would, do changed anything. I initially tried seeing a psychologist, but in those days I did not believe anything was wrong.

I got suspended when I failed, not to answer, but fully answer complaints and failed to follow through on a course of action that I, yes I, proposed to the bar. By this time, except for a few types of matters, I had shut myself off completely from work, my staff, my family and my close friends. There was no "intervention" for my problem, so being suspended was my "bottom" and it was from there that I rebuilt.

I had long talks with Tony McLain and a couple of the judges I know and, to a person, they said that depression, or any emotional illness or mental illness, was more disturbing to deal with, because there was no action or event that you could point to and prohibit or stop that would result in a resolution of the personal crisis.

I was not bulletproof, nor was I ten feet tall, but I did come to terms with dealing with my depression directly and without any pretense, much like an alcoholic or drug addict.

The Lawyers Assistance Program of the Alabama State Bar, which did not exist when my problems occurred, offers an opportunity to help fellow members of the bar without their having to be suspended or have their practice damaged, but it requires the bar, us, to be just a little brave and come forward when we see things being done by another lawyer that disturb us enough to talk to our partners, spouses and sometimes other lawyers about whether or not their problem may be greater than just a bad personality.

In a profession built on being adversaries, it is and will be hard to look out for the other fellow, but as human beings with all the frailties of the rest of society, we, as lawyers, must protect our own, not by covering up, but by actually helping, even when it is hard. ■

The Addicted Attorney:

The Counselor Needs a Counselor

BY GREGORY E. SKIPPER, MD, FASAM



Attorneys, as with other licensed professionals, are conferred a privileged status by virtue of their training, skills and expertise. The license to practice law helps establish public trust. When a citizen utilizes the services of an attorney, he or she trusts that the attorney is competent. The license confers legitimacy. This trust can be violated if the attorney has a mental health problem, such as alcohol or drug addiction, that causes impairment. Not only does impairment violate the individual client-attorney relationship but an addicted attorney can also harm the reputation of attorneys in general and damage the public trust of the profession. The chief duty of a regulatory licensing board is to protect the public.

This article is about addiction to alcohol and/or drugs among attorneys. Why and how often attorneys are affected by addiction to alcohol or drugs and what can be done about this problem?

First of all, let's make it clear, alcohol is a drug. For a number of complicated social and historical reasons it happens to be a legal drug. It is said that if alcohol were to be discovered today it probably wouldn't be released. It would have to go through testing supervised by the Food and Drug Administration, like all new drugs, and it would be classified as a schedule I narcotic. Under the United States Controlled Substances Act, this would mean it has little or no medicinal

value and high risk. Of course, alcohol has many cultural, traditional and social uses. Most people (85 percent) have little or no tendency toward addiction and have no problem with alcohol. Alcohol is a toxic and dangerous drug for the other 15 percent. It causes irritation to the liver, sedation and slowed reaction time, and can cause damage to every organ in the body. Therefore, for the purposes of this paper, when addiction is mentioned we include not only prescription and illicit drugs, such as cocaine, amphetamines, opiates, marijuana, and sedatives, but also the drug alcohol. Because of its widespread use and toxicity, alcohol actually causes ten to 20 times more problems, and the resulting severe health, work, family and legal problems, than all other drugs together. Alcohol is the drug of choice for most addicted attorneys because alcohol is "legal" and is readily available.

Numerous studies have been done to assess the prevalence of addiction among professionals and others. Approximately 15 percent of the population has a problem with addiction (prevalence) and about 0.5 percent of the population develops an addiction problem each year (incidence). All of these studies have shown the incidence and prevalence of addiction seems to remain fairly consistent through all socioeconomic and professional populations. This means that addiction does not respect how much

money you make, your reputation, your profession, your knowledge, or your status. Addiction is an equal opportunity disease!

Addiction . . . A Disease?

The debate continues regarding whether or not addiction to alcohol and/or drugs is a disease. At the heart of this debate are questions regarding the individual's responsibility for the disorder and understanding of the pathophysiology of the brain.

Dorland's Medical Dictionary defines disease as "a definite morbid process having a characteristic train of symptoms; it may affect the whole body or any of its parts, and its etiology, pathology, and prognosis may be known or unknown." At first blush, addiction certainly seems to satisfy this definition. The "Jellnick curve" graphically portrays the inexorable morbid progression of symptoms from surreptitious use, to compulsive use, to use despite adverse consequences and eventual isolation and loss of family, health, occupation and eventual incarceration or death.

In 1956 the American Medical Association (AMA) announced their opinion resolving that alcoholism is a disease. Likewise, in 1987 the AMA included drug addiction as a disease. The World Health Organization lists chemical dependence among other disorders in its

International Classification of Diseases, volume ten (ICD-X). Most medical professional organizations consider addiction a disease, including the American Psychiatric Association, who lists substance dependence criteria along with other mental disorders in the DSM-IV.

So, if all these official organizations have agreed that addiction is a disease, where's the debate? Oddly enough, it comes from the general public, social critics and law enforcement agencies. Most people have an erroneous view of disease as something that invades or attacks your good health; an innocent victim is attacked by a "perpetrator" over whom he or she has no control. *This* idea of disease does not work for addiction. And here is where the controversy begins. In addiction, the person participates in or causes many of their own problems by their behavior.

In fact, if we take a careful look, most diseases are self-imposed by behavior, at least in part. If someone smokes cigarettes and eats fatty foods and then gets coronary artery disease, they have largely caused their own problem. Likewise, someone with a family history of diabetes who eats enough to become overweight and then develops diabetes has tempted fate and caused much of their own problem. They are a "victim" of their own unhealthy behavior. It's not that they wanted to have heart disease or diabetes but, rather, in the pursuit of their chosen lifestyle, they inadvertently chose behaviors that have undesirable consequences. Likewise, when someone drinks it is never their goal to become addicted; people usually drink or use drugs because of peer pressure, curiosity, escape, recreation, teenage rebellion, etc. However, they have caused their own problem, in part, and often largely in ignorance, by their behavior. The fact that addiction is a disease should not in any way remove the burden of responsibility for causation (at least in part) or for treatment. In this way, addiction is like many other diseases.

The exact pathophysiology of addiction is not known. Theories regarding possible causes include abnormal or different receptors for neurotransmitters such as dopamine or serotonin, different neu-

Table I—Conceptual Models of Addiction and Coronary Artery Disease

Model	Causal Factors in Addiction	Causal Factors in Coronary Dz
Moral	Personal responsibility, self control	Gluttony, cigarette smoking
Temperance	Alcohol	Cholesterol
Spiritual	Spiritual deficit	Stress, lack of serenity
Dispositional Disease	Genetic abnormality	Genetic predisposition
Educational	Lack of knowledge	Lack of knowledge
Characterological	Personality traits, defenses	Personality traits, Type A/B
Conditioning	Classical or operant conditioning	NA
Social Learning	Modeling, skill deficit	Diet, exercise, behavior
Cognitive Sociocultural	Beliefs, expectancies Environmental, cultural norms	NA Cultural norms
General Systems	Boundaries and rules, family dysfunction	Stress in family systems
Biological	Heredity, brain physiology	Heredity, vascular physiology, biochemistry
Public Health	Agent, host, environment	Agent, host, environment

roanatomical connections, or different chemical responses to addictive drugs. If the exact defect were known, the acceptance of addiction as a disease would be much easier. For example, if addiction was caused by a mutant dopamine gene structure called the A1 allele, we then could call addiction the "dopamine A1 allele disease." The fact that we don't know the pathophysiology with certainty makes it harder to understand and classify.

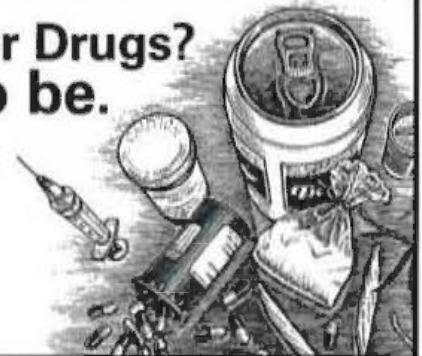
Hester and Miller have described numerous conceptual models for understanding addiction. Including the dispositional disease model, they also list moral, temperance, spiritual, educational, social, characterologic, biologic, conditioning, sociocultural, general systems, and public health models. All of these models have

merit and point out differing aspects of the complex problem of addiction.

Again, addiction in this regard is like other illnesses. For example, there are differing models for understanding coronary artery disease. With coronary disease much has been said regarding personality types A and B as contributing or preventing the disease. There are also educational socioeconomic factors with heart disease. Heredity and diet are important factors as are issues of lifestyle, exercise and self-care. There is a genetic and also a biological perspective. There is even a moral model of heart disease that focuses on gluttony and/or "bad habits" as the primary cause of the problem. The exact cause of coronary disease is also not known. (See Table 1)

Hooked on Alcohol or Drugs? You don't have to be.

The Alabama Lawyer Assistance Program can help. Calls are strictly confidential.
Phone (334) 834-7576 or
(334) 395-0807 (24-hour pager).
Jeanne Marie Leslie, program director



None of these other models detract from the fact that addiction is a disease. It occurs in approximately 15 percent of Americans during their life. There appears to be a hereditary genetic component. What is inherited is the potential for addiction and not the disease. There are various degrees of severity and complexity. Treatment can be very effective, especially if long-term follow-up is performed.

One way addiction is unlike most other diseases is with regards to the fact that addicts in the course of their illness do bad things. They lie, steal and cheat, and are unreliable. The compulsion to use eventually supersedes moral constraints. The compulsion to use supersedes values. The compulsion to use is so strong it exceeds most other drives. Addicts do bad things and they deserve the consequences. However, this still does not mean addiction is not a disease. The fact that AIDS patients have been known to steal to buy medicine does not mean AIDS is not a disease. The fact that promiscuity leads to sexually transmitted diseases does not mean syphilis is not a disease.

Addiction is a disease. Patients and family benefit from understanding this fact. This understanding helps the patient to have less shame and guilt and to begin a process of accepting help. The family benefits by decreasing their anger and frustration, and they begin to support healthy rehabilitative activities and support for the patient and themselves. Among attorneys, it is especially important to emphasize this point, that addiction is a disease, because attorneys, due to

their work and orientation, tend to look at everything from a legal/moral perspective.

How To Diagnose Addiction

Not everyone who abuses drugs or alcohol is addicted. Abuse is defined as substance use that causes problems. Many people, because of immaturity and poor coping skills, may irresponsibly abuse or misuse alcohol or drugs. Many of these substance abusers do get better and don't become alcoholics or addicts. However, according to several studies, about 25 percent of abusers eventually become addicts. It is said that you can "turn a cucumber into a pickle but you can't turn a pickle back into a cucumber." Likewise, once a substance abuser passes over into the loss of control associated with addiction there is no going back. However, this is exactly what most alcoholics and addicts obsessively try to do. For example, it says in the *AA Big Book*, "It is the dream of every alcoholic to drink like a normal person." The alcoholic just can't accept that they are "out of control" so they continually try to use drugs the way they once did and that doesn't work.

Addiction is different from abuse because it includes some or all of these symptoms: (1) needing increased amounts of the substance to achieve intoxication or the desired effect, (2) withdrawal symptoms when discontinuing use, (3) taking the substance in larger amounts or over a longer period than intended, (4) a persistent desire or unsuccessful efforts to cut down or control substance use, (5) a great deal of time is spent in activities necessary to obtain the substance, use the substance, or recover from its effects, (6) giving up or reduced important social, occupational, or recreational activities because of substance use, and (7) continuing to use substances despite having persistent or recurrent physical or psychological problem from use.

So, how can you tell if someone is addicted? First of all, the adage, "Where there's smoke there's fire," is apropos. Trust your instincts. If someone smells of alcohol at work, their performance is decreasing, they're becoming erratic with mood swings, then addiction is likely. Professionals tend to protect their job and

professional status at all costs. Therefore, it is not unusual for a professional to have chaos in his entire life before there is evidence at work that there is a problem. It is necessary to take symptoms of potential addiction seriously.

What can be done?

Luckily there is help. You may not be sure if you or someone else is really addicted. You may simply not know what is the best way to proceed. You may be concerned that you might destroy your or someone else's reputation or you might not want to get involved because of your own liability.

In Alabama, like many states, there is now a peer assistance program. This program is confidential and involves professionals with experience. Often an intervention can be conducted in a discrete and supportive atmosphere, asking the attorney to simply get a good evaluation to hopefully avoid continued rumors or eventual regulatory board investigation. This approach keeps the process within a clinical, medically-oriented style that is less objectionable and more suited to dealing with what is really a health issue.

The success rate with this type of approach is very good. If you or someone you care about may have a problem with addiction, why not get it checked out? No one wants to have a chronic illness, however, in the long run, ignoring symptoms for any chronic illness just causes more potential losses and complications. Without evaluation, diagnosis, treatment and follow-up the prognosis is very poor. Addiction is a treatable disease and, with good treatment and long-term monitoring, the success rate, especially in licensed professionals, is extremely good. ■

CLE Opportunities

The Alabama Mandatory CLE Commission continually evaluates and approves in-state, as well as nationwide, programs which are maintained in a computer database. All are identified by sponsor, location, date and specialty area. For a complete listing of current CLE opportunities or a calendar, contact the MCLE Commission office at (334) 269-1515, extension 117, 156 or 158, or you may view a complete listing of current programs at the state bar's Web site, www.alabar.org.

Gregory E. Skipper

Dr. Greg Skipper, a Fellow of the American Society of Addiction Medicine, currently serves as the medical director of the Alabama Physician Health Program, formerly the Physicians Recovery Network. He also is a consultant and speaker to numerous government agencies and medical professional groups, including Standard Life Insurance and the Betty Ford Center, and a founding member of the Oregon Society of Addiction Medicine. He has made appearances on the "Today Show," "McNeil News Hour," and "AM Northwest." Contact Dr. Skipper at (800) 239-6272, or (334) 201-2044 at the Physicians Recovery Network in Montgomery or e-mail him at gregskipper@usa.net.

Getting Out From Under: Understanding Professional Burnout and Its Consequences

BY DAVID S. KANTRA, PsyD and KEVIN NOWLIN, MA

Richard dreaded waking up every morning. The first onerous thought in his head was that of facing work. He felt drained, depleted, empty and trapped. The temptation to stay in bed, to call in sick, was getting greater every day. But he also knew that if he didn't go, his workload would become more mountainous than ever, making things so much worse. Furthermore, he felt increasingly distant from his wife, Susan, and his two children. There were times he found himself uncharacteristically ill-tempered and emotionally distant from them. He couldn't help thinking they were avoiding him. To add to his misery, bills were getting mislaid, meetings missed, appointments scheduled for different days and times than he had in his PDA. Of course, these troubles were "likely the fault of people telling him the wrong information, messing up his desk, or making schedule changes without notifying him." Or so he thought.



Richard, like many attorneys, is experiencing classic signs of "lawyer burnout." Burnout can be the result of an excessive workload, emotional strain, unrealistic expectations, or a combination of situations that can lead to self-negativism and feelings of isolation (real or imagined). But burnout is more than simply feeling overworked and in need of a vacation. It has a more insidious nature. Burnout can quickly and easily lead to one of a type of serious disorders known to mental health professionals as "mood disorders." Mood disorders include major depression, dysthymia and bipolar disorder (formerly known as manic-depressive disorder). Additionally, in an attempt to cope with the ever-increasing sense of being overwhelmed, many individuals turn to alcohol or drugs (prescription or illicit), further compounding their problems. If burnout has progressed to the point where depression or substance abuse may be occurring, professional mental health services need to be obtained. These services usually include some form of counseling or therapy, medication, or a combination of both.

In professions like law, where people work to help others, there is often an unwritten rule that the professional is the problem-solver and should never need to have their problems solved by another. Facing the truth, that no one person can do all things all the time, and recognizing when it is time to get support and help, is crucial to surviving burnout. So how do you recognize depression in yourself? Often, a person's first indication is a tendency to lose interest in their appearance and their surroundings. Formerly neat, organized individuals become unkempt and disorganized, and often don't care that they are. Anger management problems may develop, tempers flare, and there is a feeling that everything is a crisis. Forgetfulness and distractibility may be present. Sleep may become fitful or disturbed. Using alcohol or drugs to "get through" the day may occur.

Unfortunately, there is, to some people, a stigma associated with mental health disorders. Unlike many physical disorders, psychological disorders often do not have symptoms obvious to others, giving the impression they are "not real disorders." Some people suffering from mental disorders may feel they will be stereotyped as "mentally ill" and worry about being ridiculed by family and friends. They may fear losing their jobs or promotions. Fortunately, recent medical science has progressed in knowledge and understanding of psychological disorders and, consequently, the embarrassment and shame previously associated with them is not as prevalent.

Major Depression

Major depression can include any or all of the following symptoms: a prolonged period of sadness, loss of interest or pleasure in things that previously were pleasurable, appetite and/or weight change, sleep difficulties, fatigue, difficulty concentrating, thoughts of suicide, or death. While major depression usually begins when a person is in his or her middle to late 20s, it can occur at any time of life, from childhood to old age. The onset of major depression may be sudden or gradual, with episodes lasting from a few weeks to many years.

Dysthymia

Individuals with dysthymia are chronically depressed. Although they have many of the same symptoms as those found in major depression, these symptoms are not usually disabling. Thoughts of suicide or death are not present, and there are no manic or hypomanic episodes, which are seen in bipolar disorder.

Bipolar Disorder

Bipolar disorder, previously known as manic-depression, is a mood disorder that includes at least one manic episode. Manic

episodes are periods where a person manifests grandiosity or exaggerated self-esteem, a reduced need for sleep, increased talking, racing thoughts, distractibility, accelerated activity, and poor judgment. These symptoms are obvious and often outrageous (to others). A person with bipolar disorder often experiences a quality of mood that can be described as euphoric or expansive, though some individuals may only be irritable. A hypomanic episode comprises the same symptoms as a manic episode, but to a lesser degree.

To avoid the risk of family members and friends ostracizing them, some sufferers of a mood disorder attempt to medicate themselves via alcohol or drugs. Rather than improving the mood disorder, the individual invariably ends up with a dual diagnosis of substance abuse and a mood disorder. Alcohol itself is a depressant and does nothing but exacerbate the problem. Similarly, drugs further impair the individual, making a bad situation worse. Often the individual who is using alcohol and/or drugs to "self-medicate" develops even lower self-esteem, and exacerbates his/her feelings of shame, guilt and hopelessness.

What Can Be Done to Avoid or Relieve Burnout?

Burnout often starts with the feeling of being overwhelmed, as if there is not enough time in a day to get everything done. Attempts to make more time in a day seem impossible, futile or more trouble than they are worth. Identifying these feelings as burnout and then taking positive steps at this point is key to keeping the situation

from becoming critical. The solution does not lie in trying to make a big block of time, but rather in making small changes throughout the day, removing the unnecessary, and making better use of your time. For example, lay your clothes out the night before so you save ten minutes the next morning. Also, prepare breakfast, lunch or dinner the night before to reduce preparation time the next day. Take less time showering in the morning, or shower the night before. Make sure briefcases are packed and prepared for work and you know where your keys are (preferably by the door), so you don't have to spend half the morning looking for them. Do you spend a lot of time on the phone? There are a number of things you can do while on the phone. Look over the table of contents of magazines you've been meaning to read this month. Tear out only the articles that interest you. File those articles and pitch the rest in the wastebasket. Remember, the wastebasket is an essential office item and can be very useful. It helps get rid of the clutter that can make you feel overwhelmed and disorganized. Chances are, if something has been sitting on your desk over a month, you probably don't need it anyway. Throw it out, especially if it is something that, in the unlikely event you *do* need it, you can get a copy from elsewhere. Little changes throughout the day make BIG results and give you a sense of control back in your life.

What if I'm Beyond Just Burnout?

If the steps listed above seem "off the mark," then what you're feeling goes beyond this initial phase of burnout into a deeper sense of isolation and depression. The first step is to identify and acknowledge you are feeling depressed. Realize that feeling depressed is just that—a feeling—not evidence that you (or anything else) are actually bad. Once you realize that feeling bad about yourself is not the same as actually being bad or "screwed up" you might have more power to deal with the "blues." Although our society seems to tell us we have to always be "up," occasional "down" times are normal. Depression, however, is more than just a normal low period, and shouldn't be minimized.

After identifying that you're depressed, don't dwell on analyzing *why* you may be depressed. Not only does this keep you focused on feeling bad, but also, if you are depressed, you are probably not in the best frame of mind at the time to be doing self-analysis. When you're depressed, what starts out as constructive introspection can easily turn into harsh self-incrimination and degradation.

The helplessness that ensues depression can be a *learned* response. Years ago, a study was done using dogs and placing them in cages where they would receive a mild electrical shock through the cage floor. They were permitted to jump to the other side of the cage where there was no shock, and initially the dogs responded to the shocks by jumping to safety. Next, the entire cage floor was electrified in such a way so as to afford no escape. Try as much as they could, the dogs could not escape the shock. After realizing there was no way to avoid the shocks, the animals appeared to resign themselves to their fate and made no attempt to avoid further electrical shocks. The cage was returned to the original configuration, again allowing a place of safety and escape from the shocks. However, this time, after receiving the electrical shock, the dogs made no attempt to escape—thus the term *learned helplessness*. Even

Free Report Shows Lawyers How to Get More Clients

Calif.—Why do some lawyers get rich while others struggle to pay their bills?

The answer, according to attorney, David M. Ward, has nothing to do with talent, education, hard work, or even luck.

"The lawyers who make the big money are not necessarily better lawyers," he says. "They have simply learned how to market their services."

A successful sole practitioner who once struggled to attract clients, Ward credits his turnaround to a referral marketing system he developed six years ago.

"I went from dead broke and drowning in debt to earning \$300,000 a year, practically overnight," he says.

Most lawyers depend on referrals, he notes, but not one in 100 uses a referral system.

"Without a system, referrals

are unpredictable. You may get new clients this month, you may not," he says.

A referral system, Ward says, can bring in a steady stream of new clients, month after month, year after year.

"It feels great to come to the office every day knowing the phone will ring and new business will be on the line."

Ward has taught his referral system to over 2,500 lawyers worldwide, and has written a new report, "How To Get More Clients In A Month Than You Now Get All Year!" which reveals how any lawyer can use this system to get more clients and increase their income.

Alabama lawyers can get a FREE copy of this report by calling 1-800-562-4627, a 24-hour free recorded message, or visiting Ward's web site, <http://www.davidward.com>

after being shown they could escape, the dogs still seemed resigned to their fate. At one point the experimenter attached a harness and dragged the dogs across to safety, and eventually they relearned to avoid the electrical current. So what does all this have to do with feeling depressed? Hopelessness can be unlearned and hope can be relearned. If you have the inner resources and strength to attack this without professional help, take it easy on yourself and don't expect overnight changes. Congratulate yourself for small steps and remember you are doing this for yourself, not for others.

It is important to note that depression is not a definitive term, but rather a continuum of feelings encompassing normal ups and downs, the "blues," situational depression, and chronic depression. Self-help can work well at the lower end of this continuum, but a person may need the help of a mental health professional should these feelings progress beyond that point.

Treatment

Untreated depression can last from six months to several years. With treatments available today, there is no sound reason for a person to suffer needlessly from depression. Seeking professional help is an indication of strength of character and true desire to feel better. Most mental health professionals will take a multi-disciplinary or holistic approach in treating depression and mood disorders. This approach includes therapy, medication, and if necessary, substance abuse counseling and treatment.

Cognitive-behavioral therapy can be useful in identifying ineffective coping behaviors and negative emotions. This therapy can help with changing how an individual thinks about loss, helplessness, failure, and isolation. Interpersonal therapy focuses on interpersonal problems a person experiences when interacting with others. New social skills, as well as emotional expression, are encouraged and developed. Group therapy provides the opportunity to openly discuss problems with others who are having similar experiences. This form of therapy helps with the expression of one's feelings and assists in better understanding and coping with the day-to-day issues of life. Regardless of the particular orientation of the therapist, talking about your feelings in a supportive environment can greatly reduce the stress and isolation of trying to handle it alone. For most people, scheduling and attending the first appointment is the most difficult (and most important) hurdle to jump.

Depression often has physiological effects causing biochemical changes within the body. Individuals with depression tend to have abnormally low levels of certain neurotransmitters, such as serotonin. Antidepressant medications can be used to treat these low levels. There are a number of medications used to treat depression, including Effexor, Serzone, Prozac, Zoloft, Paxil, Wellbutrin, and Elavil. Bipolar disorder is often treated with mood stabilizers, such as lithium derivatives. Of course, if you have any history of alcohol or drug problems, inform your physician, as the use of drugs and alcohol can have a very serious effect when combined with these medications.

If present, substance abuse needs to be treated along with the depression. While the issue of abuse will likely be addressed in therapy, attendance in Alcoholics Anonymous, or a similar support group, is usually a part of treatment.

Could I Be Depressed?

Take this brief questionnaire to find if you are experiencing signs of burnout and depression.

	No	A Little	Sometimes	A Lot
<i>Have you been feeling sad, blue, and downhearted?</i>	0	1	2	3
<i>Have you been having crying spells or felt like crying?</i>	0	1	2	3
<i>Have you been having trouble sleeping or sleeping too much?</i>	0	1	2	3
<i>Have you noticed a change (up or down) in appetite or weight?</i>	0	1	2	3
<i>Have you been having difficulty making decisions?</i>	0	1	2	3
<i>Are you more irritable or easily annoyed lately?</i>	0	1	2	3
<i>Have you been tired, fatigued, or lacking energy?</i>	0	1	2	3
<i>Have you been feeling worthless, guilty, or hopeless?</i>	0	1	2	3
<i>Have you lost interest in work, hobbies or other things?</i>	0	1	2	3
<i>Have you felt suicidal or that others would be better off if you were dead?</i>	0	1	2	3

Add your score. Twelve points or higher indicates you may be depressed. It would be advisable to contact a mental health provider to further assess your risk for depression. Even if your score is below 12 points, you may still be at risk. If you suspect you may be suffering from depression or burnout, contact a mental health provider for more information. ■

David S. Kantra, PsyD

David S. Kantra, PsyD is a licensed clinical psychologist working in private practice in Fairhope. Trained at the University of Denver and the University of Notre Dame, Dr. Kantra has served as the court psychologist for the James T. Strickland Youth Center in Mobile, and has also served as a consultant to the Department of Human Resources and the Penelope House, a shelter for abused women. In addition to providing outpatient therapy to children and adults, Dr. Kantra frequently conducts psychological evaluations for attorneys involved in criminal cases. He also works closely with the Alabama Lawyer Assistance Program in providing treatment to lawyers who have been identified as suffering from depression.

Kevin Nowlin, MA

Kevin Nowlin, MA, earned a master's degree in counseling psychology from Trinity Evangelical Divinity School in Deerfield, Illinois and has been working in the areas of psychological testing and assessment since 1989.

Family Recovery Means Children, Too!

BY JERRY MOE

On a cold, dreary February evening in 1978, one child showed up for the program's first session. Since then, over 8,000 children and parents have participated in groups, weekend retreats and summer camps, all designed to help children initiate and deepen their recovery. The Children's Place, one of many outstanding programs that bring support and facilitate recovery for children of addicted parents, has never lost sight of its primary objective—to create a safe place for youngsters to learn, grow play and heal.

In the United States alone, there are over 11 million kids living in alcoholic homes. Most silently and eloquently obey the cardinal rule of the addicted family "don't talk." They are trapped in silence by a family that usually denies the existence of the illness which grips it. These children often have no place to turn, as

alcoholism wreaks its own terror, chaos and pain. Further, they are at high risk eventually to abuse alcohol and other drugs themselves, and thereby perpetuate the disease through their own children.

To break the cycle, children of alcoholics need to learn about addiction in an age-appropriate way so they can realize that it's not their fault and they are not to blame. They need safe ways to explore and express their anger, fear, hurt, guilt, and shame. They need to know that there are other adults and kids who care about them, safe people who can help. Kids need to learn how to cope positively with the problems at home, such as parental fighting, verbal violence, broken promises, black-outs, and neglect. These children need to learn how to take good care of themselves and stay safe. To escape the world of isolation that has enveloped them, they must grieve, be angry, cry and be comforted.



The good news is that children of alcoholics can and do recover. Treatment programs and community based organizations can use specially designed games and activities to help children play their way to health and understanding. During this process they build upon their strengths, deepen their resilience, and further realize their intrinsic beauty and worth.

It's been my professional experience over the past 20 years that more than 75 percent of the parents whose children have participated in these programs are also children of alcoholics as well as addicts

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themselves. Often the biggest difference between the children and parents is that the latter never had a similar program to help them in their youth. The greatest gift parents can give their children is the gift of their own recovery. The second greatest gift is providing the chance for their children to begin their own healing. Children often cannot participate in children's groups without parental consent. I applaud these parents for giving their children something most of them never got as kids, a safe place to learn, grow and heal.

What a joy to watch children breaking the family legacy of addiction! They heal as they become reconnected to their hearts. Their drawings and letters depict them in various stages of coming to grips with family addiction. Their courage and strengths shine throughout. There's so much hope! ■

Jerry Moo, MA

Jerry Moo, MA, is the founder of the Children's Program in Redwood City, California and the current children's program director at the Betty Ford Center in Rancho Mirage, California. He is a member of NACoA's Board of Advisors.

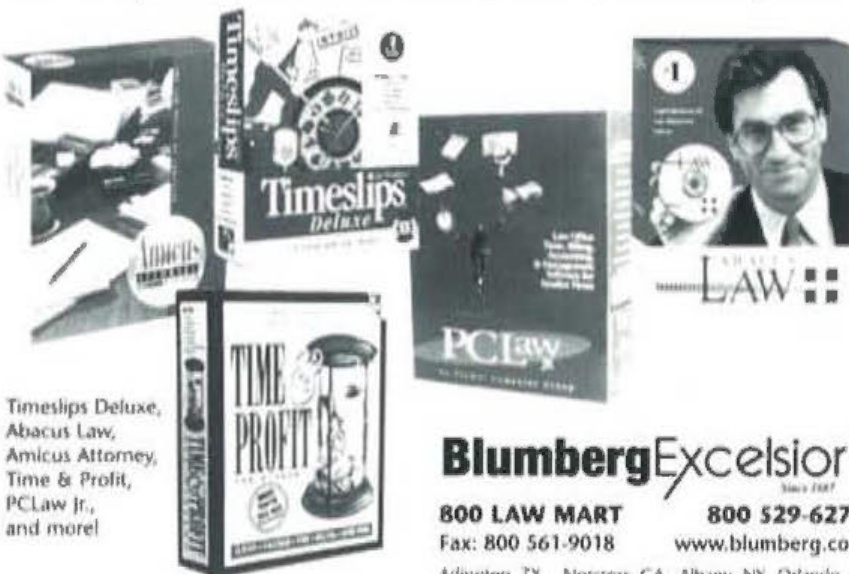
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The Alabama State Bar is pleased to make available to individual attorneys, firms and local bar associations, at cost only, a series of brochures on a variety of legal topics of interest to the general public.

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From the Bench

BY JUDGE L. SCOTT COOGLER



Just in case you have not heard, the term substance abuser does not just apply to "defendants" and "clients." That may seem obvious to most lawyers, but some still do not get it. More and more professionals, including lawyers, are falling into the substance abuse trap. In fact, the American Bar Association Commission on Lawyer Assistance Programs (CoLAP) found that attorneys suffer a higher incidence of substance abuse than the general public. Perhaps the extraordinary stress of our profession accounts for the higher rate of substance abuse. Those individuals who do not escape that trap often find themselves referred to as "defendant" or as someone else's "client." The purpose of this article is to present a judge's perspective of the problem of substance abuse among lawyers and to inform the profession about a program that offers help.

You do not need a survey to tell you that, in some groups, lawyers have maintained less than a stellar reputation. One significant reason for such standing is that lawyers, while caring for everyone else's problems, have failed to care for their own. Lawyers, like most other people who suffer with substance abuse, often refuse to admit to it or refuse to accept help. But what may be even worse, those of us in a position to help often look the other way rather than lending a helping hand.

How does the bench view this matter? Let me start with a clear statement: It is rare for a judge to encounter an attorney who is apparently under the influence of drugs or alcohol. That does not mean, however, that there is not need for serious concern about an attorney who has a substance abuse problem. Substance abuse by attorneys can result in, not only harm to clients and their cases, but also loss of court time and embarrassment to our profession. Judges expect all the lawyers who practice before them to be sober. In fact, the Canons of Judicial Ethics state that "... (a) judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge has personal

knowledge." Judges are attorneys. Not only do we want attorneys who need help to get it, but everyone benefits when all of us pull together to get treatment for those in need.

I doubt that the information in this article will come as a surprise to anyone. Why then is it so difficult for attorneys to acknowledge the problem and seek appropriate help? When an attorney has a client with a substance abuse problem, the attorney will (and should) go to great lengths to assure that the client gets help. The solution to the client's difficulty is clear and the lawyer's advice to such a client is direct — to get help or suffer the consequences.

Why can't the same attorney see the difficulty he is facing or the difficulty a fellow attorney may be facing, and provide counsel just as clearly? The fact is that we, as a profession, are good at helping others but not ourselves. All of us are concerned about confidentiality; after all, no one wants to start rumors that will hurt another person's business or reputation. So, how do you approach someone and say, "You have a problem and I want to help"?

There is an answer which has been provided by fellow attorneys who have been in that situation and know what is at stake. The Alabama State Bar has a program called the Alabama Lawyer Assistance Program (ALAP), designed to provide the confidential help needed. The program does not initiate disciplinary action. Instead, this program responds to requests for help before the lawyer gets to the point where he is facing loss of his license, criminal proceedings or other adverse consequences of substance abuse. Among the resources of ALAP are attorneys who have had addiction problems and have successfully completed treatment. ALAP will help arrange any needed counseling as well as provide advice for the attorney suffering with a substance abuse problem. When an attorney who is concerned about a fellow attorney contacts ALAP, the program's members will provide needed resources. When appropriate, a committee of ALAP members, who have been through and understand substance abuse problems, will confront the abusing attorney in a confidential manner.

Substance abuse among members of the legal profession is not acceptable, but neither is failing to help someone who is caught in the substance abuse trap. ■

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Judge L. Scott Coogler

Judge L. Scott Coogler is a circuit judge for the Sixth Judicial Circuit. He graduated, *cum laude*, from the University of Alabama and was a honor graduate of the University's Law Enforcement Academy. He also received his J.D. from the University's School of Law. He has served as a circuit judge since December 1998; prior to that, he practiced law in Tuscaloosa.

In the Solution

BY ROBERT W. GWIN, JR.

In the past two and a half years the Alabama State Bar has made giant strides not only to acknowledge that lawyers have substance abuse addiction problems and mental health issues, but also to implement a vital program to help the impaired attorney face his/her addiction and mental health issues with the potential result of the attorney becoming clean and sober. That helps everyone—the attorney, his family, the attorney's clients and the state bar. Statistics indicate that about 75 percent of all legitimate grievances have alcoholism, drug addiction and mental health issues, including depression and various other neuroses, at the root of the problem.

The truth is that lawyers are human beings first, subject to the same stresses and frailties of life as everyone else. Another truth—not all lawyers are the picture of good mental health. The legal profession is fraught with stressful problems and at least one of every ten attorneys has the predisposition for alcoholism, drug addiction or mental health problems. It is my belief that our legal system, beginning in law school, encourages and rewards obsessive/compulsive behavior patterns. “Work, work, work—prepare, prepare, prepare” to the exclusion of every other facet of the attorney's life, including recreation, exercise, family life, healthy nutritional lifestyles and spiritual growth, all vital parts that give us good mental health and emotional balance. The law may be a “jealous mistress” to which many attorneys show total devotion, but that kind of thinking is great rationale for attorneys to justify obsessive/compulsive behavior that is unhealthy for anyone.

Until September 1998, there was no Alabama Lawyer Assistance Program to assist and offer help for the impaired attorney. When an attorney got in trouble with the state bar, whether through client complaints, judges' complaints or attorneys' accusations of wrongdoing, the bar had no procedure in place to consider and investigate whether the attorney had addiction or mental health problems. The investigation was simple: if the attorney committed a wrongdoing, then imposition of punishment was the only issue to be addressed if the accusation of wrongdoing or neglect was proven. Investigating to determine if the attorney had addiction or mental health problems and how to be supportive and helpful to the impaired attorney was not part of the picture or purpose of the bar's disciplinary process.

As a member in good standing of the legal profession from 1968 until 1982, it was my professional ambition to become successful and to be respected by my peers. But there was a “hole in my soul” that no amount of alcohol could fill. My thoughts remind me of Peggy Lee's song, “Is That All There Is?” Constant attempts to fill “the hole in my soul” with alcohol never seemed to bring real peace and serenity. And, as my addiction progressed, the results were disastrous—loss of family and friends, severe financial problems, being fired as a partner in a respected law firm, and finally the loss of my law license due to “willful neglect” of my clients' legal problems. The loss of control over my drinking was so complete that alcohol controlled every aspect of my lifestyle. Alcohol became wholly consuming, causing a mental and emotional paralysis. I became unable to make even simple decisions and follow through with appropriate actions. The decision to surrender my law license was not truly voluntary (better to give it up instead of having it suspended), and the final decision by the Disciplinary Committee was a one-year suspension. I was deemed to be “morally weak, ethically deficient, unscrupulous in my actions” and therefore an embarrassment to the legal profession, and deserved prosecution and punishment. Make no mistake—I should have been, and was, held accountable for my irresponsible behavior, both personally and professionally. But, never, no never, was anyone there to confront me about my drinking, intervene or even suggest that alcoholism is a disease and that there was help, support and assistance available though our state bar. I never thought that I was practicing law in an impaired state and no one ever made that suggestion.

After being out of the legal profession for some 11 years, of my own choosing, working for eight years as an alcohol/drug abuse counselor, my law license was reinstated in 1993 and I am today privileged to have a law license. As chairperson of the volunteer Lawyers Helping Lawyers Committee for 2000-2001, I have witnessed a huge change not only in the disciplinary process but also in the attitude of our bar, which now offers education about the disease of addiction to our members, as well as help, support and assistance to the impaired attorney via treatment and professional support groups. The focus is now on getting to the root of the problem—addiction—and recovery,

and at the same time holding the impaired attorney accountable for negligent actions and irresponsible behavior.

Attorneys who are alcoholics and addicts are not bad, immoral people but very sick people who now have the opportunity to experience recovery, restoration of self-respect and continuation as productive members of the legal community.

The executive director of the Alabama Lawyer Assistance Program is Jeanne Marie Leslie, who began employment with our state bar on a part-time basis in September 1998 and became full time in September 1999. This "self-starter, enthusiastic and sincere professional" has become a tremendous asset to your state bar; she has a direct line (334-834-7576), that is private and confidential. She is now monitoring over 80 attorneys in their recovery efforts, she is referred numerous cases by the state bar Disciplinary Committee of those attorneys suspected to have addiction or mental health problems, and she is in a constant state of motion making speeches to local bar associations, law schools and legal seminars educating members of our bar about the disease of addiction and mental health issues. The primary goals of the Lawyers Helping Lawyers Committee are to assist Jeanne Marie in whatever ways that help the addicted legal professional get help, and to serve in the role of being a mentor to attorneys early in their necessary efforts.

Thanks to Keith Norman, Ed Patterson and Tony McLain for their continuing assistance and awareness of the disease of addiction, with the focus of making every effort to help impaired attorneys recognize their addiction and provide support, assistance and direction to recovering addicted attorneys.

If you suspect one of your fellow attorneys is practicing in an impaired state or have any questions about the disease of addiction, please call Jeanne Marie Leslie at (334) 834-7576 for help. The call is confidential and the focus is on helping—not punishing. ■



Robert W. Gwin, Jr.

Squire Gwin is a graduate of Samford University and Cumberland School of Law. He is a solo practitioner in Birmingham and is the chairperson of the state bar's Lawyers Helping Lawyers Committee.

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Notice

- **Mark Dwyer McKnight**, whose whereabouts are unknown, must answer the Alabama State Bar's formal disciplinary charges within 28 days of March 15, 2001, or, thereafter, the charges contained therein shall be deemed admitted and appropriate discipline shall be imposed against him in ASB nos. 00-23(A), 00-24(A) and 00-221(A) before the Disciplinary Board of the Alabama State Bar.

Disability Inactive

- Birmingham attorney **John Thomas Long** was transferred to disability inactive status effective January 3, 2001, by order of the Disciplinary Board of the Alabama State Bar. [Rule 27; ASB Pet. No. 00-05]
- Auburn attorney **Donna Elizabeth Henderson** was transferred to disability inactive status, effective December 27, 2000, by order of the Supreme Court of Alabama, which was based upon an order of the Disciplinary Board of the Alabama State Bar. [Rule 27; ASB Pet. No. 00-04]

Reinstatement

- Former Birmingham attorney **Susan M. Donovan**, who was interimly suspended from the practice of law in the State of Alabama pursuant to Rule 20(a), Alabama Rules of Disciplinary Procedure on August 10, 2000, was reinstated to the practice of law by dissolution of the interim suspension on November 17, 2000 by order of Panel VI of the Disciplinary Board. [ASB Pet. No. 00-06]

Suspensions

- Effective November 7, 2000, attorney **Robert Edwin Harry, Jr.** of Cairo, Georgia has been suspended from the practice of law in the State of Alabama for noncompliance with the 1999 MCLE requirements. [CLE No.00-18]
- Effective November 6, 2000, attorney **Donna Elizabeth Henderson** of Auburn has been suspended from the practice of law in the State of Alabama for noncompliance with the 1999 MCLE requirements. [CLE No. 00-19]
- Ronoake attorney **John Ralph Gunn** was interimly suspended from the practice of law in the State of

Alabama pursuant to Rule 20(a), Alabama Rules of Disciplinary Procedure, by order of the Disciplinary Commission of the Alabama State Bar dated October 27, 2000. The Disciplinary Commission found that Gunn's continued practice of law is causing or is likely to cause immediate and serious injury to his clients or to the public. [Rule 20(a); ASB Pet. No. 00-09]

- Birmingham attorney **John Stewart Davidson** was interimly suspended from the practice of law in the State of Alabama pursuant to Rule 20(a), Alabama Rules of Disciplinary Procedure, by order of the Disciplinary Commission of the Alabama State Bar dated November 16, 2000. The Disciplinary Commission found that Davidson's continued practice of law is causing or is likely to cause immediate and serious injury to his clients or to the public. [Rule 20(a); ASB Pet. No. 00-10]
- The Supreme Court of Alabama affirmed an order of the Disciplinary Board, Panel II, suspending Cullman attorney **Michael Allen Stewart** from the practice of law in the State of Alabama effective July 12, 2000, for a period of 91 days. Stewart was found guilty of violating rules 1.1 [competence]; 1.3 [diligence]; 1.4(a) [communication]; 8.1(b) [bar admission and disciplinary matters]; and 8.4 (g) [misconduct]. In 1993, Stewart was paid \$700 to represent a client in connection with the proposed adoption of the client's child by the child's stepfather. Stewart gave his client erroneous and false legal advice with regard to the client's obligation to make child support payments. Stewart admitted that he failed to take such action as was necessary to effectuate the adoption of the client's child by the child's stepfather in a timely manner, which resulted in the client incurring in excess of \$6,686 in back child support obligations. Stewart admitted that he failed to return the client's telephone calls or respond to written correspondence or otherwise communicate with the client concerning the status of the adoption proceeding. Stewart failed or refused to respond to the request for information by the Alabama State Bar on a timely basis, or to otherwise cooperate with the bar in the course of its investigation of said complaint. [ASB No. 99-159(A)]
- Birmingham attorney **William David Nichols** was interimly suspended from the practice of law in the State of Alabama by order of the Disciplinary Commission of the Alabama State Bar effective September 28, 2000. The order of interim suspension

was dissolved by the Disciplinary Board of the Alabama State Bar effective November 17, 2000 based upon his conditional guilty plea in the referenced cases below. In those cases, Nichols admitted that on one or more occasions he failed to provide competent representation to a client, willfully neglected a legal matter entrusted to him, failed to reasonably communicate with a client, charged a clearly excessive fee, failed to enter into a written contingency fee agreement, mismanaged his trust account by commingling funds, failed to promptly remit trust funds to a client or third person, failed to surrender papers or property to a client or to refund an unearned retainer, failed to include the required disclaimer in his advertising, engaged in improper solicitation of a prospective client, failed to respond to a request for information from a disciplinary authority, committed a criminal act that reflects adversely on his honesty, trustworthiness and fitness as a lawyer, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, and engaged in conduct that adversely reflects on his fitness to practice law, violations of rules 1.1, 1.3, 1.4, 1.5(a) and (c), 1.16(d), 7.2(e), 7.3(a), 8.1(b), and 8.4(b), (c) and (g), A. R. P. C. Most of these cases involve a pattern of misconduct where Nichols agreed to represent a client, was paid a retainer and, thereafter, failed or refused to take any action on behalf of the client, generally neglected the matter, did not communicate with clients, failed to refund unearned retainer fees, and did not respond to requests for information from a disciplinary authority when the clients filed grievances with the Alabama State Bar. In two of the cases, Nichols owes another attorney referral fees, which he has not paid. Prior to his interim suspension, Nichols also pled guilty to failing to file federal income tax returns, a misdemeanor, for the years 1993, 1994 and 1995.

As discipline in these matters, Nichols was suspended from the practice of law in the State of Alabama for a period of three years in each case, to run concurrently. The imposition of the suspension was suspended and held in abeyance pending a two-year probationary period. Conditions of probation require that Nichols make full restitu-

tion in each case within one year, deposit \$10,000 to be held in trust in the event of additional claims, submit his trust account to an independent audit, participate in the Alabama State Bar Lawyer Assistance Program, implement recommendations of the Alabama State Bar Law Office Management Assistance Program, participate in a mentoring program approved by the Office of General Counsel, and file written monthly reports regarding his continued practice of law. Mitigating factors under Rule 9.32, Alabama Standards for Imposing Lawyer Discipline, were considered in imposing discipline in these cases. [Rule 20(a), ASB Pet. No. 99-07; ASB nos. 97-269(A), 97-315(A), 98-33(A), 98-246(A), 98-247(A), 98-260(A), 98-328(A), 99-004(A), 99-026(A), 99-34(A), 99-059(A), 00-62(A), 00-127(A), 00-171(A) and CSP No. 00-1143(A)]

- Effective November 8, 2000, attorney **Terri Murrell Snow** of Birmingham has been suspended from the practice of law in the State of Alabama for noncompliance with the 1999 MCLE requirements. [CLE 00-29]

Public Reprimand

- On December 1, 2000, Irondale attorney **John Raymond Frawley** received a public reprimand with general publication. In 1996, Frawley issued a bond opinion for the city. The mayor insisted that Frawley submit a bill for fees outside of Frawley's contract, stating that prior city attorneys had done so on bond issues. Frawley submitted a bill for \$5,000. Later, Frawley gave \$2,500 to the mayor when he threatened the loss of Frawley's city contract. In November 1996, Frawley reported this matter to the new mayor of Irondale. Frawley cooperated with the FBI in the investigation and prosecution of the former mayor. However, this case is aggravated by the fact that Frawley engaged in a similar transaction in 1993, without reporting it to anyone.

The Disciplinary Commission found Frawley's actions constituted a violation of Rule 5.4(b) of the Rules of Professional Conduct. No prior discipline was involved or considered. [ASB No. 99-248(A)] ■

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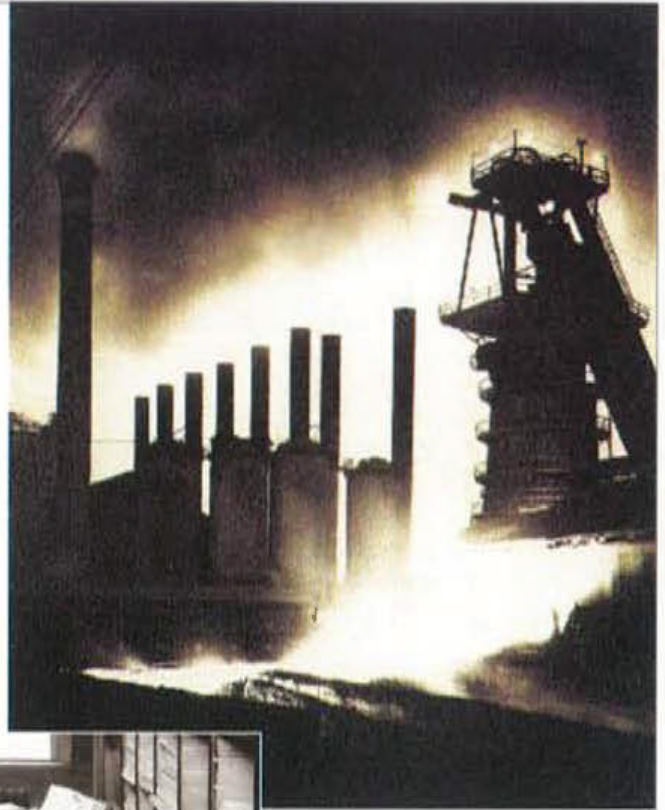
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