

WINTER 2025 | VOLUME 86, NUMBER 1

THE ALABAMA LAWYER

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THE ALABAMA LAWYER

WINTER 2025 | VOLUME 86, NUMBER 1

On The Cover

The Heflin-Torbert Judicial Building in Montgomery, home to Alabama's appellate courts, the Administrative Office of Courts, and the State Law Library

Credit: Olivia Walker

EDITOR'S NOTE: The Board of Bar Commissioners recently approved a change to the publication schedule of *The Alabama Lawyer*. Beginning this year, the magazine will be published quarterly instead of bi-monthly. This adjustment allows us to continue delivering high-quality content while adapting to the evolving needs of our members. We appreciate your readership and look forward to bringing you insightful legal articles and updates in each issue.

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P R E S I D E N T ' S P A G E



I have to admit, I wasn't expecting to be quoted in the *Virginia Lawyer* recently, but it was a pleasant surprise.

The article was about legal deserts—places with too few lawyers to meet the needs of their communities. The Virginia State Bar's executive director had been in attendance with Terri and me at the American Bar Association's National Conference of Bar Presidents when I spoke up about our plans to address this issue during my time as president. The Virginia Bar's article read:

From Alabama to Wyoming, nearly every state has a jurisdiction that qualifies [as a legal desert]. Interestingly, though, a leader from that first state mentioned, Alabama State Bar President Tom Perry, has put a spin on this hardship. Instead of focusing on the negative, President Perry has begun calling these locations "legal opportunity zones." This phraseology is a creative paradigm shift to emphasize the positive aspects for aspiring lawyers in less lawyer-dense locations. These areas—often with a lower cost of living and high quality of life—could be teeming with unmet legal needs ripe for new lawyers looking to establish themselves.

It's not always good news when you're highlighted in another state's publication, but I was proud of this one, and the efforts we are making to offer a real solution instead of just pointing out one of our state's biggest legal challenges: making sure every Alabamian has access to a lawyer when they need one.

Right now, about 75 percent of our lawyers are packed into just seven counties, leaving the other 60 counties—and nearly half of our state's residents—without enough legal support. In some areas, there's only one lawyer for every 3,000 people. Think about what that means for a family trying to navigate a custody battle, a small business handling a contract dispute, or a farmer sorting out land issues. These aren't

just statistics; they're real people who need our help.

But I don't see these areas as "legal deserts." I see them as "legal opportunity zones." These communities are full of potential for young lawyers looking to make a real impact. And I'm not alone in this mission. My good friend and fellow small-town attorney, Tom Heflin, Jr., is helping me lead this initiative as we work to recruit lawyers to these underserved areas.

Laying the Groundwork

Over the past few months, our *Harvesting Hope* Task Force has been rolling up our sleeves to get things moving. One of our biggest goals has been to create a 501(c)(3) nonprofit organization to support this effort. We have plenty of people who want to help, but we need the right structure in place to make this a long-term plan.

Another key piece is mentorship. We're in the process of launching a mentorship program that connects new lawyers with seasoned attorneys who understand the unique challenges of practicing law. We're talking real, hands-on guidance—everything from handling complex cases to managing a solo practice in a small town. **You can scan the QR code below with your phone to access our *Harvesting Hope Mentor Sign-Up Form*.**



In addition, Tom Heflin has been traveling the state, speaking with law students, lawyers, and community leaders about the urgency of this issue. He's also sharing some eye-opening numbers:

- Lawrence County (36th Circuit) has 11 active attorneys for 33,116 people.
- Butler, Crenshaw, and Lowndes Counties (2nd Circuit) together have just 17 attorneys serving 42,339 residents.
- Dale and Geneva Counties (33rd Circuit) have 25 attorneys for 76,104 people.
- Choctaw, Clarke, and Washington Counties (1st Circuit) have 25 attorneys for 51,161 residents.

These numbers paint a clear picture. And the more we share them, the more people are stepping up to help.

A Call to All Lawyers—New and Seasoned

To the newest members of our profession: welcome. You are stepping into a career that is both challenging and deeply rewarding. Whether you

plan to practice in a bustling city or a small town, your role is vital. Every client you serve, every case you take on, and every community you engage with will be shaped by your dedication to justice.

And to my colleagues who have been in this profession for years, I ask you to think back to when you started. Someone likely guided you, offered advice, and helped you find your footing. Now is the time to do the same for the next generation. Whether it's through *Harvesting Hope* or other mentorship opportunities, your wisdom and experience are invaluable in shaping the future of our profession.

No matter where you choose to practice, know this: our profession thrives when we support one another. Let's continue working together to ensure that the promise of justice is accessible to every Alabamian, in every community.

Let's get to work. ▲



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*Pursuant to the Alabama State Bar's Rules Governing the Election of President-Elect, the following biographical sketches are provided of **John Brinkley** and **Jana R. Garner**. Brinkley and Garner were the qualifying candidates for the position of president-elect of the Alabama State Bar for the 2025-2026 term, and the winner will assume the presidency in 2026.*

John Brinkley

John Brinkley of Huntsville is running for State Bar President. He is ready to work and excited to serve. He would be honored to have your support during the voting period, May 19-23. John realizes lawyers are having to do more with less and he's committed to increasing and improving benefits and services to members.

As bar president, he plans to provide an in-person CLE for each circuit. He also intends to leverage the power of our 20,000+ members to negotiate new and better benefits and services. Finally, he will create a mentoring program to provide online tutorials from legends of our bar on the fundamentals of their practice area.

John represents a diverse clientele in his general practice including personal injury, criminal defense, and probate while being deeply involved in the legal community at both the local and state levels.

He served on his local bar's executive committee for over a decade, becoming president in 2022. His commitment to pro bono work is evident through his long-term contributions on the Madison County Volunteer Lawyers Program (MCVLP) Board of Directors, including two terms as chairman. He was recognized as the MCVLP's "VIP of the Year" in 2012.

At the state level, John served on the Alabama State Bar's Board of Bar Commissioners (2012-2021) and participated in its Leadership Forum. His contributions have been recognized with several ASB awards, including the Jeanne Marie Leslie Award (2016) for his dedication to the Alabama Lawyer's Assistance Program, the President's Award (2019), and the Commissioners Award (2021). In 2024, he was elected Chairman of the Solo and Small Firm Section. In that role, he has actively delivered Alabama State Bar benefits to underserved legal communities providing programming, including ethics training sessions, and otherwise raising awareness of State Bar benefits to practitioners in nearly half the circuits.

His professional achievements include an A/V peer-rating and being selected as a Fellow of the Alabama Law Foundation (2022). He also is a member of the Foundation's Atticus Finch Society. In 2022, Legal Services of Alabama awarded him its Pro Bono Fairness Award.

John and his wife, Kristen, are the proud parents of ten children. He asks members to remember to vote John Brinkley for President. ▲



Brinkley

Jana Russell Garner

I am a solo practitioner with offices in Selma and Tuscaloosa. I have 27 years of experience as a lawyer. I spend most of my time handling civil cases, representing both plaintiffs and defendants. I also serve as a mediator in both trial level and appellate cases. My husband Paul and I have been married for 21 years and have two children. Sam is a freshman at the University of Alabama. Fair is finishing her junior year in high school. We are members of Christ Episcopal Church.

I am running for President-Elect of the Alabama State Bar because, with the years of legal practice and service to profession as outlined below, I understand the unique challenges and opportunities facing lawyers today. As President, I will prioritize the Alabama State Bar's core mission – supporting its members so they can effectively serve their clients and communities. I also want to engage lawyers who may feel disconnected from the Alabama State Bar or wonder if the Bar truly adds value to their professional lives. I am dedicated to taking meaningful unifying actions that benefit all lawyers regardless of their firm size, practice area, or location. I will work hard to focus on practical positive solutions to make your life as an Alabama lawyer better. I would be honored to have your support.

PROFESSIONAL SERVICE

- Alabama State Bar Commissioner (2012 to 2021 and 2022 to present)
- Alabama State Bar Executive Council
- 2016-2017: President J. Cole Portis
- 2018-2019: President Sam W. Irby
- 2024-2025: President Tom Perry
- Alabama Court of the Judiciary (2019 to present)
- Alabama State Bar Disciplinary Panel (2014 to 2016)
- Alabama State Bar Disciplinary Commission (2016 to 2021)
- Supreme Court Advisory Committee on the Alabama Rules of Evidence (2019 to present)
- Alabama Law Foundation Fellow (2017 to present) (Life Fellow as of 2018)
- American Bar Foundation, Life Fellow (2019 to present)
- Alabama State Bar Dispute Resolution Section, Secretary (2016 to 2017), Chair (2018 to 2019)
- Alabama State Bar Solo and Small Firm Task Force (2014)
- Alabama State Bar Solo and Small Firm Section, (2015 to present) Vice Chair (2015 to 2017), Chair (2017 to 2018)
- Alabama State Bar Litigation Section, Officer (2024 to present)
- Attorneys Insurance Mutual of the South, Inc. Advisory Board (2024 to present)

ADDITIONAL PROFESSIONAL SERVICE

- Alabama State Bar Pro Bono Committee, Chair
- Alabama State Bar Pro Bono Celebration Task Force
- Alabama State Bar Harvesting Hope Task Force
- Alabama State Bar Finance & Audit Committee



Garner

- Alabama State Bar Fred Gray Memorial Courtyard Task Force
- Alabama State Bar Mandatory Continuing Legal Education Commission
- Alabama State Bar Women's Section
- Alabama State Bar Family Law Section
- Alabama State Bar Volunteer Lawyers Program
- American Bar Association Solo and Small Firm Section
- Alabama State Bar Diversity and Inclusion Task Force
- Alabama State Bar Membership Relations Liaison Task Force
- Alabama State Bar Alafire Task Force
- Alabama State Bar Local Bar Outreach
- Alabama State Bar Government Relations Liaison Committee
- Alabama State Bar Bench and Bar Relations Task Force
- Alabama State Bar Courthouse Security & Access Task Force
- Alabama State Bar Lawyers Helping Lawyers Committee
- Alabama State Bar Digital Communications Committee, Chair
- Alabama State Bar Election Certification Committee
- Alabama State Bar General Counsel Selection Committee
- Alabama Board of Court Reporting

PROFESSIONAL RECOGNITION

- Alabama State Bar President's Award (2013)
- Pro Bono Mediator Award (2015)
- Recognition of Support by the Selma Chapter of the Links, Inc (2016)
- Al Vreeland Pro Bono Award (2018)
- Alabama State Bar President's Award (2019)
- Appreciation Award from Dallas County Court Services (2019)
- Alabama State Bar President's Award (2021)

PAST AND PRESENT ADMISSIONS AND MEMBERSHIPS

- Alabama State Bar, Occupational License and Member in Good Standing continuously (September 1997 to present)
- United States District Court for the Middle District of Alabama
- United States District Court for the Southern District of Alabama
- United States Judicial Panel of Multi District Litigation
- United States District Court for the Northern District of California, San Francisco Division
- Dallas County Bar Association
- Tuscaloosa County Bar Association

EDUCATION & CERTIFICATIONS

- Mediation: Alabama State Court Mediation Roster for the following: Civil, 2010 to present; Domestic, 2010 to present; Appellate, 2010 to present; and, Foreclosure, 2014 to 2019
- Alabama Supreme Court Alternative Dispute Resolution Family Mediation Pilot Program Mediator (2012 to 2014)
- Dallas County Drug Treatment Court (2010 to present)
- Guardian ad Litem: Alabama Office of Courts Certified Guardian ad Litem (2010 to 2021)
- Cumberland School of Law, Samford University (Juris Doctorate 1997)
- Judson College (Bachelor of Art 1994)
- St. Andrews – Sewanee Episcopal School (Degree 1990)





EXECUTIVE DIRECTOR'S REPORT

Terri Lovell
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As we begin this new year, I want to extend a warm welcome to our newest lawyers. Joining the Alabama State Bar is more than just a milestone—it marks the beginning of a journey filled with growth, challenges, and opportunities to make a lasting impact.

A legal career will take you to unexpected places, introduce you to people from all walks of life, and offer you the chance to serve in ways you never imagined. If I could give my younger self one piece of advice—and now offer the same to you—it would be this: embrace every learning opportunity, stay true to your values, and persevere through challenges. The relationships you build will define your career. Today's opposing counsel might become tomorrow's trusted mentor, colleague, or friend.

Success in law requires more than just legal knowledge, it demands balance. Managing your practice, prioritizing your well-being, and committing yourself to service will shape a fulfilling career. To support you on this journey, our bar offers invaluable resources. Shannon Knight, our Lawyers Assistance Program Director, provides confidential support for mental health, substance abuse, and stress management. Jill Evans, our new Law Practice Management Advisor, offers guidance on firm operations, technology solutions, and efficiency strategies through consultations and monthly webinars.

Once you have found your footing, I encourage you to reflect on why you chose this path—to help others. One of the most rewarding ways to do that is through pro bono service. Hilaire Armstrong, now Director of the Volunteer Lawyers Program, is eager to connect you with opportunities to serve, learn, and build meaningful relationships.

These leaders bring fresh perspectives and enhanced support to our profession. I encourage you to engage with these programs, connect with local bar organizations and sections, and commit to lifelong learning.

Welcome to the legal profession and the Alabama State Bar! May 2025 be a year of growth, service, and fulfillment for you. ▲



ELEVATE YOUR MENTAL WELL-BEING

The Alabama State Bar has partnered with BetterHelp to support lawyer well-being by providing members resources to help maintain their fitness to practice law.

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*** The Alabama State Bar will not know who is receiving counseling and will not have access to counseling or other personal data provided to BetterHelp.*





EDITOR'S CORNER

Wilson F. Green
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Sunday Drive

Have you ever taken a “Sunday Drive?”

Those of us of a certain age (I’ve reached *that* point) were often offered (and sometimes forced into) a “Sunday Drive” as post-church entertainment. For me, the “Sunday Drive” was usually up Alabama 269, the route you can take from Ensley to Walker County. We’d bump along from Birmingham to Parrish, where my maternal grandmother and aunt and uncle lived. We’d usually join them for a late lunch. Often we’d slip down to Oakman, where my mother and aunt had grown up in the 1930s and 40s. There in Oakman sits a small church graveyard off Alabama 69, where my grandparents, and now my uncle, and now even my parents, sleep. My aunt, now almost 93, is the only one still living, still in Parrish.

We’d eat upon arrival those Sundays. Then it was sitting time – time to “sit awhile,” a phrase my mother would use daily until her death a few years ago, often to my annoyance. My uncle, whose gentleness always stood awkwardly astride his Army paratrooper days in France during the War, loved to listen to the weekly NASCAR race on his radio (these were before the days of “Cable TV,” now itself a vestige of history) while we “men folk” sat on folding chairs in the open-air carport. The scratching and screeching of the mono transistor echoed off pavement and metal roof alike. I can still hear the hum. I can still smell the motor oil. Though they are all gone, I still see their faces.

As an only child, I spent most of my time around adults. For me, Sundays in Walker County were a mixed bag – they meant more adult time (which grew tiresome), and usually they meant talking of the unrelatable, of people related to me, yet whom I did not know.

But I always enjoyed Sunday Drive. Sunday Drive was the time to be quiet as I sat on the “back hump” of Dad’s VW Bug (alas, no seat belts). It was the time to listen to the wind, to breathe through trees.

James Agee’s *A Death in the Family*, posthumously published in 1957, has a preface of poetry-as-prose Agee had composed 20 years prior, sometimes known as “Knoxville, Summer of 1915.” In 1947 Samuel Barber, the iconic American composer, set portions of Agee’s text to music for Soprano and Orchestra (YouTube the Dawn Upshaw recording; it’s 15 minutes of pure magic). Agee forges into alloy all of life’s depth: the desire for relationship; memory; the love-tension of family life. Even a hint of NASCAR: just listen to Agee:

A street car raising its iron moan; stopping, belling and starting; stertorous; rousing and raising again its iron increasing moan and swimming its gold windows and straw seats on past and past and past, the bleak spark crackling and cursing above it like a small malignant spirit set to dog its tracks; the iron whine rises on rising speed; still risen, faints.

I read Agee and think: my Sunday Drive experience was straight outta Agee. Agee himself speaks of how his mother, his father, and yes even his uncle and aunt too, were in a sense those of unknowable relation: they were “those [who] receive

me, who quietly treat me, as one familiar and well-beloved in that home: but will not, oh, will not, not now, not ever; but will not ever tell me who I am.”

Why do I write all of this? What has any of this to do with the practice of law?

Answer: Not a d**n thing.

Though perhaps, everything.

We spend “tomorrow, and tomorrow, and tomorrow” (*Macbeth*) fighting, grinding, slogging, slugging and sludging. Don’t get me wrong: ours is intellectually challenging work, often satisfying, but it can erode one’s wellbeing, too. I can speak only for myself here, but I have to remind myself constantly (with mixed success at that) that I am a human being first, and a lawyer a distant second. Loyalty to a client and the demands of “the job” do not stand counterpoise to one’s own need to flourish as a human being. That is a false dichotomy. Nor can the demands of our work diminish our abiding loyalty to the betterment of society – the latter of which we lawyers need to take ever more seriously in a corroded culture of accusation-as-persuasion. How do we do that? Simply by being human. Otherwise, “all our yesterdays have lighted fools / The way to dusty death.” (*Macbeth*).

For me: I’m stepping away from the desk. I’m taking a Sunday Drive.

The back hump in Dad’s VW Bug is open for you. ▲

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IMPORTANT NOTICES

- ▲ **Supreme Court of Alabama Designates Alabama Law Foundation as Sole IOLTA Recipient Starting Feb. 2025**
- ▲ **Notice of and Opportunity for Comment on Amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit**
- ▲ **Notice of Election and Electronic Balloting**
- ▲ **Alabama Lawyers Hall of Fame**
- ▲ **Judicial Award of Merit**
- ▲ **J. Anthony “Tony” McLain Professionalism Award**
- ▲ **William D. “Bill” Scruggs, Jr. Service to the Bar Award**
- ▲ **Women’s Section Awards**

Supreme Court of Alabama Designates Alabama Law Foundation as Sole IOLTA Recipient Starting Feb. 2025

The Supreme Court of Alabama has issued a new ruling that will significantly alter the administration of Interest on Lawyers’ Trust Accounts (IOLTA) in the state. Effective Feb. 15, 2025, the Alabama Law Foundation (ALF) will become the sole recipient of IOLTA funds in Alabama.

This marks a departure from the previous statute, which allowed for IOLTA funds to be allocated to either the Alabama Law Foundation or the Alabama Civil Justice Foundation. The ruling aims to streamline oversight and ensure that these funds are used effectively to support access-to-justice initiatives.

Key Changes in the New Rule

The amended Rule 1.15 introduces several changes designed to centralize and enhance the accountability of IOLTA fund administration:

Sole Designation: The Alabama Law Foundation is now the exclusive recipient of IOLTA funds in Alabama, eliminating the previous option of distributing funds to the Alabama Civil Justice Foundation.

Oversight by the Supreme Court: Before distributing funds, the Alabama Law Foundation must submit the proposed beneficiaries and amounts to the Alabama Supreme Court for approval.

Administrative Limitations: The Foundation can use no more than 10 percent of IOLTA funds for administrative costs, ensuring that the majority of the funds are directed toward access-to-justice initiatives.

Endowment Provisions: The Foundation may retain unspent funds as part of an endowment, but at least 50 percent of the previous year's funds must be distributed annually.

What This Means for Alabama

The new ruling consolidates IOLTA fund administration under a single entity, which the Alabama Supreme Court believes will enhance oversight and ensure that funds are used effectively to benefit underserved communities. By centralizing these funds with the Alabama Law Foundation, the court aims to maximize the impact of IOLTA programs and reinforce the state's commitment to improving access to justice.

Whether through direct legal assistance or educational initiatives, IOLTA programs address critical legal, educational, and societal needs.

Moving Forward

The Supreme Court's decision to designate the Alabama Law Foundation as the sole IOLTA recipient reflects a move to centralize and optimize the use of these critical funds.

For more information, contact Dawn Hathcock, Executive Director of the Alabama Law Foundation, at 334-781-6344 or email dhathcock@alabamalawfoundation.org.

Notice of and Opportunity for Comment on Amendments to the Rules of the United States Court of Appeals for the Eleventh Circuit

Pursuant to 28 U.S.C. § 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the United States Court of Appeals for the Eleventh

Circuit. The public comment period is from Wednesday, April 2, to Friday, May 2, 2025.

A copy of the proposed amendments may be obtained on and after Wednesday, April 2, 2025, from the court's website at <http://www.ca11.uscourts.gov/rules/proposed-revisions>. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St., N.W., Atlanta, Georgia 30303 [phone: 404-335-6100].

Comments on the proposed amendments may be submitted in writing to the Clerk at the above address, or electronically at <http://www.ca11.uscourts.gov/rules/proposed-revisions>, no later than Friday, May 2, 2025.

Notice of Election and Electronic Balloting

Notice is given here pursuant to the Alabama State Bar Rules Governing Election and Selection of President-elect and Board of Bar Commissioners that the election of these officers will be held beginning Monday, May 19, 2025, and ending Friday, May 23, 2025.

On the third Monday in May (May 19, 2025), members will be notified by email with instructions for accessing an electronic ballot. Members who wish to vote by paper ballot should notify the secretary in writing on or before the first Friday in May (May 2, 2025) requesting a paper ballot. A single written request will be sufficient for all elections, including run-offs and contested president-elect races during this election cycle. All ballots (paper and electronic) must be voted and received by the Alabama State Bar by 5:00 p.m. on the Friday (May 23, 2025) immediately following the opening of the election.

Nomination and Election of President-Elect

Candidates for the office of president-elect shall be members in good standing of the Alabama State Bar as of February 1, 2025, and shall possess a current privilege license or special membership. Candidates must be nominated by petition of at least 25 Alabama State Bar members in good standing. Such petitions must be filed with the secretary of the Alabama State Bar no later than 5:00 p.m. on February 1, 2025.

(Continued from page 389)

Nomination and Election of Board of Bar Commissioners

Bar commissioners will be elected by those lawyers with their principal offices in the following circuits:

1st Judicial Circuit	15th Judicial Circuit, Place 1
3rd Judicial Circuit	15th Judicial Circuit, Place 3
5th Judicial Circuit	15th Judicial Circuit, Place 4
6th Judicial Circuit, Place 1	23rd Judicial Circuit, Place 3
7th Judicial Circuit	25th Judicial Circuit
10th Judicial Circuit, Place 3	26th Judicial Circuit
10th Judicial Circuit, Place 6	28th Judicial Circuit, Place 1
13th Judicial Circuit, Place 3	32nd Judicial Circuit
13th Judicial Circuit, Place 4	37th Judicial Circuit
14th Judicial Circuit	

Additional commissioners will be elected for every 300 members of the state bar with principal offices therein. New commissioner positions for these and the remaining circuits will be determined by a census on March 1, 2025, and vacancies certified by the secretary no later than March 14, 2025. All terms will be for three years.

A candidate for commissioner may be nominated 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. Nomination forms and/or declarations of candidacy must be received by the secretary no later than 5:00 p.m. on the last Friday in April (April 25, 2025).

Submission of Nominations

Nominating petitions or declarations of candidacy form, a high-resolution color photograph, and biographical and professional data of no more than one 8 ½ x 11 page and no smaller than 12-point type must be submitted by the appropriate deadline and addressed to Secretary, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101-0671.

Election of At-Large Commissioners

At-large commissioners will be elected for the following place numbers: 2, 5, and 8. Petitions for these positions, which are elected by the Board of Bar Commissioners, are due by April 1, 2025. All terms will be for three years.

Submission of At-Large Nominations

The nominee's application outlining, among other things, the nominee's bar service and other related activities must be submitted by the appropriate deadline and addressed to Executive Council, Alabama State Bar, P.O. Box 671, Montgomery, AL 36101-0671. All submissions may also be sent by email to elections@alabar.org.

It is the candidate's responsibility to ensure the executive council or secretary receives the nomination form by the deadline.

Election rules and petitions for all positions are available at <https://www.alabar.org/board-of-bar-commissioners/election-information/>

Alabama Lawyers Hall of Fame

May is traditionally the month when new members are inducted into the Alabama Lawyers Hall of Fame, which is located at the state Judicial Building. The idea for a hall of fame first appeared in 2000 when Montgomery attorney Terry Brown wrote state bar President Sam Rumore with a proposal that the former supreme court building, adjacent to the state bar building and vacant at that time, should be turned into a museum memorializing the many great lawyers in the history of Alabama.

The implementation of the idea of an Alabama Lawyers Hall of Fame originated during the term of state bar President

Fred Gray. He appointed a task force to study the concept, set up guidelines, and then provide a recommendation to the Board of Bar Commissioners. The committee report was approved in 2003 and the first induction took place for the year 2004.

A 12-member selection committee consisting of the immediate past-president of the Alabama State Bar, a member appointed by the chief justice, one member appointed by each of the three presiding federal district court judges of Alabama, four members appointed by the Board of Bar Commissioners, the director of the Alabama Department of Archives and History, the chair of the Alabama Bench and Bar Historical Society, and the executive secretary of the Alabama State Bar meets annually to consider the nominees and to make selections for induction.

Inductees to the Alabama Lawyers Hall of Fame must have had a distinguished career in the law. This could be demonstrated through many different forms of achievement – leadership, service, mentorship, political courage, or professional success. Each inductee must have been deceased at least two years at the time of their selection. Also, for each year, at least one of the inductees must have been deceased a minimum of 100 years to give due recognition to historic figures as well as the more recent lawyers of the state.

The selection committee actively solicits suggestions from members of the bar and the general public for the nomination of inductees. We need nominations of historic figures as well as present-day lawyers for consideration. Great lawyers cannot be chosen if they have not been nominated. Nominations can be made throughout the year by downloading the nomination form from the bar's website and submitting the requested information. Plaques commemorating the inductees are located in the lower rotunda of the Judicial Building and profiles of all inductees are found at www.alabar.org.

Download an application form at <https://www.alabar.org/about/alabama-lawyers-hall-of-fame/> and mail the completed form to:

Sam Rumore
Alabama Lawyers Hall of Fame
P.O. Box 671
Montgomery, AL 36101-0671

The deadline for submission is March 1.

Judicial Award of Merit

The Alabama State Bar Board of Bar Commissioners will receive nominations for the state bar's Judicial Award of Merit through **March 15**. Nominations should be mailed to:

Terri B. Lovell
Secretary
P.O. Box 671
Montgomery, AL 36101-0671

The Judicial Award of Merit was established in 1987. The award is not necessarily an annual award. It must be presented to a judge who is not retired, whether state or federal court, trial or appellate, who is determined to have contributed significantly to the administration of justice in Alabama. The recipient is presented with a crystal gavel bearing the state bar seal and the year of presentation. The award will be presented during the Alabama State Bar's Annual Meeting.

Nominations are considered by a three-member committee appointed by the president of the state bar, which then makes a recommendation to the board of bar commissioners with respect to a nominee or whether the award should be presented in any given year.

Nominations should include a detailed biographical profile of the nominee and a narrative outlining the significant contribution(s) the nominee has made to the administration of justice. Nominations may be supported with letters of endorsement.

J. Anthony "Tony" McLain Professionalism Award

The Board of Bar Commissioners of the Alabama State Bar will receive nominations for the J. Anthony "Tony" McLain Professionalism Award through **March 15**. Nominations should be prepared on the appropriate nomination form available at www.alabar.org and mailed to:

Terri B. Lovell
Secretary
P.O. Box 671
Montgomery, AL 36101-0671

(Continued from page 391)

The purpose of the J. Anthony “Tony” McLain Professionalism Award is to honor the leadership of Tony McLain and to encourage the emulation of his deep devotion to professionalism and service to the Alabama State Bar by recognizing outstanding, long-term, and distinguished service in the advancement of professionalism by living members of the Alabama State Bar.

Nominations are considered by a five-member committee which makes a recommendation to the board of bar commissioners with respect to a nominee or whether the award should be presented in any given year.

William D. “Bill” Scruggs, Jr. Service to the Bar Award

The Board of Bar Commissioners of the Alabama State Bar will receive nominations for the William D. “Bill” Scruggs, Jr. Service to the Bar Award through **March 15**. Nominations should be prepared on the appropriate nomination form available at www.alabar.org and mailed to:

Terri B. Lovell
Secretary
P.O. Box 671
Montgomery, AL 36101-0671

The Bill Scruggs Service to the Bar Award was established in 2002 to honor the memory of and accomplishments on behalf of the bar of former state bar President Bill Scruggs. The award is not necessarily an annual award. It must be presented in recognition of outstanding and long-term service by living members of the bar of this state to the Alabama State Bar as an organization.

Nominations are considered by a five-member committee which makes a recommendation to the board of bar commissioners with respect to a nominee or whether the award should be presented in any given year.

Women’s Section Awards

The Women’s Section of the Alabama State Bar is accepting nominations for the following awards:

Maud McLure Kelly Award

This award is named for the first woman admitted to practice law in Alabama and is presented each year to a female attorney who has made a lasting impact on the legal profession and who has been a great pioneer and leader in Alabama. The Women’s Section is honored to present an award named after a woman whose commitment to women’s rights was and continues to be an inspiration for all women in the state. The award will be presented at the Maud McLure Kelly Luncheon at the Alabama State Bar Annual Meeting.

Susan Bevill Livingston Leadership Award

This Women’s Section award is in memory of Susan Bevill Livingston, who practiced at Balch & Bingham. The recipient of this award must demonstrate a continual commitment to those around her as a mentor, a sustained level of leadership throughout her career, and a commitment to her community in which she practices, such as, but not limited to, bar-related activities, community service and/or activities which benefit women in the legal field and/or in her community. The candidate must be or have been in good standing with the Alabama State Bar and have at least 10 years of cumulative practice in the field of law. This award may be given posthumously. This award will be presented at a special reception.

Submission deadline for both awards is **March 15**.

Please submit your nominations to flong@hillhillcarter.com. Your submission should include the candidate’s name and contact information, the candidate’s current CV, and any letters of recommendations. If a nomination intends to use letters of recommendation previously submitted, please note your intentions. ▲



Preserving Issues for Appeal in Motions for Judgment as a Matter of Law and for New Trial

By William E. Shreve, Jr.

(Note: An earlier version of this article was published in the October 1997 edition of the *Alabama Defense Lawyers Association Journal*. The author has revised, updated, and expanded the article for publication in *The Alabama Lawyer*.)

Issues must be raised in the trial court to be considered on appeal.

In cases tried to a jury, parties must present certain issues in motions for judgment as a matter of law or for new trial, and under some circumstances in non-jury cases, parties must raise issues in a motion for new trial or other post-judgment motion, to preserve them for appeal.

MOTIONS IN CASES TRIED TO A JURY

Judgment as a matter of law under Rule 50

Ala. R. Civ. P. 50 provides for trial and post-trial motions for judgment as a matter of law (“JML”). Rule 50(a)(1) states that “[i]f during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that

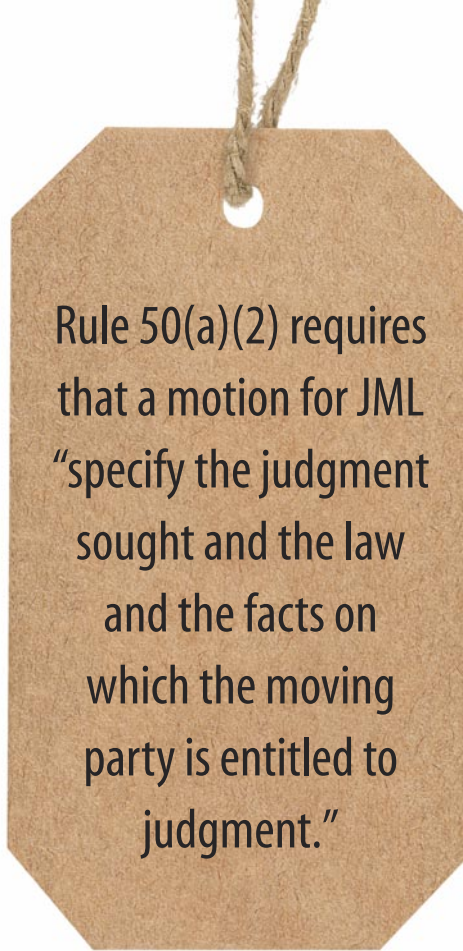
issue,” the court “may determine the issue against that party and may grant a motion for [JML] against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.” Rule 50(b) provides that “[w]hen a motion for [JML] made at the close of all the evidence is denied or for any reason is not granted,” the motion “may be renewed by service and filing not later than thirty (30) days after entry of judgment.”

Before an amendment to Rule 50 in 1995, the motion under Rule 50(a) was known as one for “directed verdict,” and the post-trial motion under Rule 50(b) was known as one for “judgment notwithstanding the verdict” or “judgment non obstante veredicto” (“JNOV”). The pre-amendment case law “remain[s] valid except for the references to obsolete terminology,” and thus applies to motions for JML.¹

Function of, and standard for granting, motion for JML

A defendant’s motion for JML challenges the sufficiency of the evidence to create a question of fact for the jury on the plaintiff’s claims. A plaintiff’s motion for JML does the same with respect to the defendant’s affirmative defenses.² As Rule 50(a)(1) states, the movant is entitled to JML if there is “no legally sufficient evidentiary basis for a reasonable jury to find for” the nonmovant on a claim or affirmative defense.

Ala. Code § 12-21-12 provides that “substantial evidence shall be required to submit an issue of fact to the trier of the facts,” and defines “substantial evidence” as “evidence of such quality and weight that reasonable and fair-minded



persons in the exercise of impartial judgment might reach different conclusions as to the existence of the fact sought to be proven.”³ Thus, to avoid JML, the “non-movant must present ‘substantial evidence’ supporting each element of his cause of action or [affirmative] defense.”⁴ The court views the evidence in the light most favorable to the nonmovant and makes an objective determination whether the nonmovant has presented substantial evidence, regardless of countervailing evidence.⁵

A movant can also obtain JML on the basis that substantial *undisputed* evidence establishes the movant’s own affirmative defense or claim for relief.⁶

Two-step procedure for preserving entitlement to JML

To preserve a right to JML, parties must comply with a “two-step procedure.”⁷ First, a party must move for JML under Rule 50(a) at

the close of all the evidence (or at least “before submission of the case to the jury”⁸) on the ground that there is insufficient evidence to support the nonmovant’s claim or affirmative defense.⁹ Second, if the jury renders a verdict against the party who moved for JML, that party must file a renewed motion under Rule 50(b) within 30 days of judgment, asserting the same grounds of evidentiary insufficiency.¹⁰ The renewed motion gives the trial court a “second look at the ‘insufficiency’ ground as a prerequisite for appellate review[.]”¹¹

Both motions are required.¹² When no motion is filed at the close of all the evidence, there is no motion that can be renewed, and evidentiary insufficiency cannot be raised in a post-judgment motion for JML.¹³ When a motion is filed at the close of all the evidence but is not renewed, the trial court has no post-judgment opportunity to “revisit” its earlier denial of JML, as is necessary to preserve the sufficiency-of-evidence issue.¹⁴

Parties must also comply with the two-step procedure to preserve a right to JML on the ground that substantial, undisputed evidence establishes a party’s own affirmative defense or claim for relief.¹⁵

Contents of motion for JML

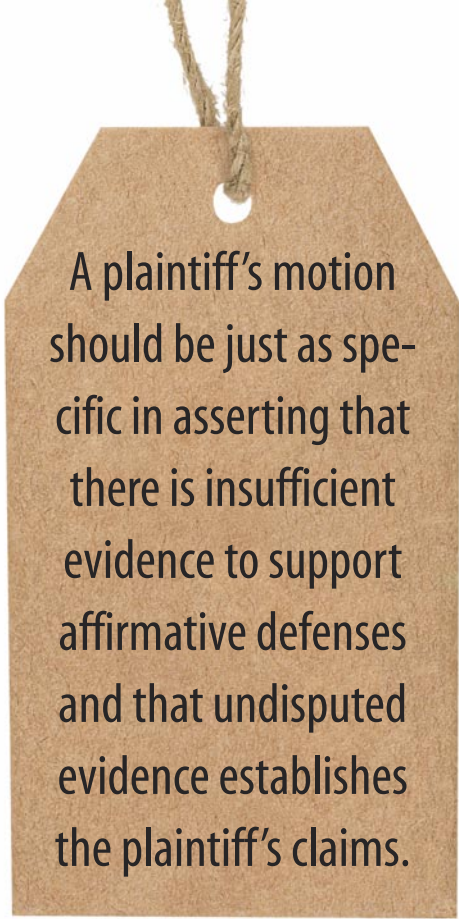
Rule 50(a)(2) requires that a motion for JML “specify the judgment sought and the law and the facts on which the moving party is entitled to judgment.” The Alabama Supreme Court has stated that “appellate review is preserved by a Rule 50(a) motion ‘alleg[ing] a lack of evidence’ as to each of the plaintiff’s claims.”¹⁶ The court has also stated that the motion should identify “the count which is not supported by evidence and detail[] with specificity the grounds upon

which the particular count is not supported by the evidence.”¹⁷

Motions that lack specificity – such as one merely stating that “the evidence did not establish liability” – are known as “general” motions and “in some instances, [are] not . . . sufficient to invoke appellate review.”¹⁸ A “general” motion “can only go to the case in its entirety, and not to individual subdivisions; and, to preserve individual issues, a motion must be made for [JML] on each of the individual issues.”¹⁹ For example, a defendant’s motion asserting that the plaintiff “failed to carry [his] burden of proof with the evidence submitted,” was held inadequate “to preserve for appeal the argument that [the plaintiff] was contributorily negligent as a matter of law.”²⁰ Specificity as to parties is also important – a defendant’s motion averring that two plaintiffs “failed to introduce substantial evidence to prove . . . *their* claim,” was found inadequate to preserve an argument that *each* plaintiff had a separate claim and that *one* of them “failed to prove *its* [claim].”²¹

Because a post-judgment motion under Rule 50(b) “is really just a renewal of” the earlier motion under Rule 50(a),²² a party cannot file a general motion at the close of all the evidence and expect to file a more specific motion after judgment. A post-judgment motion, “based on the ‘insufficiency of the evidence,’ is improper” to the extent the party did not move for JML “*on the same ground* at the close of all the evidence.”²³ Subject to an exception relating to punitive damages (discussed hereinafter), a court cannot consider new grounds of evidentiary insufficiency in a post-judgment motion for JML.²⁴

It is therefore paramount that a party’s motion for JML at the close



A plaintiff’s motion should be just as specific in asserting that there is insufficient evidence to support affirmative defenses and that undisputed evidence establishes the plaintiff’s claims.

of all the evidence be specific and include all possible grounds of evidentiary insufficiency. To be thorough, defendants’ motions should assert that there is insufficient evidence to support each count, each claim, each element of each claim, each material factual allegation, and each item of damages as to which the defendant contends the plaintiff lacks substantial evidence.²⁵ Defendants’ motions should also aver that the evidence establishes each affirmative defense that the defendant contends is supported by substantial, undisputed evidence.²⁶ If there is more than one plaintiff, each with his or her own claims, the defendant’s motion should assert all grounds as to each plaintiff separately and severally.²⁷ The motion should also cite supporting legal authority.²⁸ A plaintiff’s motion should be just as specific in asserting that there is insufficient evidence to support affirmative defenses and that undisputed evidence establishes the plaintiff’s claims.

Rule 50(b) states that “[a] motion for a new trial under Rule 59 may be joined with a renewal of the motion for [JML], or a new trial may be requested in the alternative.” Hence, a party filing a renewed motion should consider whether such joinder or alternative request is appropriate.

Good-count/bad-count rule

When a trial court submits several claims to the jury and the jury returns a general verdict for the plaintiff, it is usually “impossible to know on which of the multiple theories the jury based its verdict.”²⁹ If the court submits “good” claims (i.e., claims supported by substantial evidence) and “bad” claims (claims that are not supported by substantial evidence) to the jury, the “good-count/bad-count rule” applies. Under this rule, whether a judgment based on a general verdict for the plaintiff will withstand a defendant’s renewed motion for JML depends on the specificity of the defendant’s motion at the close of all the evidence and of the renewed motion.

If the defendant, at the close of all the evidence, files a “general” motion for JML going to the case as a whole, rather than a motion specifically challenging *each* claim, separately and individually, that the defendant contends is not supported by substantial evidence, the trial court commits no error by denying the motion if *any* claim is “good.”³⁰ The defendant’s renewed motion must also be denied if *any* claim was “good.”³¹ The court “will presume that the [general] verdict was returned on [a] ‘good count.’”³²

If, however, the defendant, at the close of all the evidence, files a motion for JML that specifically challenges *each* claim, separately and individually, that the defendant

contends is not supported by substantial evidence, the trial court errs in denying the motion as to any “bad” claims.³³ If the defendant files a renewed motion for JML, again specifically contesting evidentiary sufficiency as to *each* claim, the court will *not* presume that the general verdict was based on a “good” claim,³⁴ but instead that the “bad counts” may have infected the verdict.³⁵ In this situation, the defendant is entitled to JML on the “bad” claims and to a new trial on any “good” claims.³⁶

The good-count/bad-count rule applies only when the jury renders a general verdict. If the jury instead renders its decision upon a special verdict form or provides answers to jury interrogatories such that it can be determined what claim or claims formed the basis for the verdict, the judgment on the verdict will stand if at least one of those claims was “good.”³⁷

When to file the motion for JML

As stated above, a party must move for JML at the close of all the evidence (or at least “before submission of the case to the jury”³⁸) and renew the motion within 30 days of judgment.

Rule 50(a)(1) *allows* the filing of a motion for JML after the nonmovant “has been fully heard on an issue[.]” A plaintiff “has been fully heard” on his claims at the close of the plaintiff’s case. Accordingly, *in addition to* moving for JML at the close of all the evidence, it is customary and advisable for a defendant to *also* move for JML at the close of the plaintiff’s case. To be clear, though, a motion at that time *is no substitute for one at the close of all the evidence*; to preserve the issue of evidentiary insufficiency, the defendant must *again* move for JML *at the close of all the evidence*.³⁹

When a party who moved for JML at the close of all the evidence obtains a jury verdict in his favor, but the trial court grants the opposing party’s motion for new trial, the order granting the new trial is a new “judgment.”⁴⁰

When a party who moved for JML at the close of all the evidence obtains a jury verdict in his favor, but the trial court grants the opposing party’s motion for new trial, the order granting the new trial is a new “judgment.”⁴⁰ As a result, the party who obtained the favorable verdict has 30 days from entry of the new-trial order to file a renewed motion for JML.⁴¹

Rule 50(b) states that “[i]f no verdict was returned the court may, in disposing of the renewed motion, direct the entry of [JML]” (emphasis added). The rule thus permits filing a renewed motion after a mistrial.⁴² Because the 30-day period under Rule 50(b) does not begin until the “entry of judgment,” and because a mistrial does not result in a “judgment,”⁴³ the rule sets no time limit for filing a renewed motion after a mistrial.⁴⁴ Regardless, it is best to file a renewed motion within 30 days of a mistrial.

Exceptions to two-step procedure

Ala. Code § 6-11-20(a) allows recovery of punitive damages upon proof “by clear and convincing evidence that the defendant consciously or deliberately engaged in oppression, fraud, wantonness, or malice[.]” In *Sears, Roebuck & Co. v. Harris*, 630 So. 2d 1018 (Ala. 1993), *cert. denied*, 511 U.S. 1128 (1994), the court held that “[i]t is not necessary, before entry of judgment, to object to the absence of clear and convincing evidence of wantonness to preserve the issue,” and that the defendants “properly raise[d] the issue of whether the award of punitive damages was supported by clear and convincing evidence, in their post-judgment motion” for JML, despite not raising this issue at the close of all the evidence.⁴⁵

Barnes v. Dale, 530 So. 2d 770 (Ala. 1988) created an exception for “pure questions of law.” The defendants moved for JML, based on qualified immunity, at the close of the plaintiff’s case but not at the close of all the evidence.⁴⁶ The supreme court, noting that “all of the evidence bearing on the legal defense of ‘qualified immunity’ was before the trial court at the close of the plaintiff’s [case]” and that this defense presented a “pure question of law,” held that the issue was preserved.⁴⁷ The court stated that if a motion at the close of the plaintiff’s case “provides the opposing party and the court with notice of the question of law, renewal of the motion at the close of all evidence is redundant and nonessential,” and that there is also “no requirement for a party to renew his objection by way of a post-judgment [JML] motion on a pure question of law[.]”⁴⁸

Notwithstanding *Sears* and *Barnes*, it is best for defendants to move for JML on punitive damages and on questions of law at the

close of the plaintiff's case, at the close of all the evidence, and after judgment, to avoid any argument as to preservation and so that the defendant might obtain JML at any of those times.

Finally, in *K.S. v. Carr*, 618 So. 2d 707 (Ala. 1993) and *Williams v. BIC Corp.*, 771 So. 2d 441 (Ala. 2000), defendants moved for JML at the close of all the evidence, then obtained jury verdicts in their favor. Because they had already prevailed, the *K.S.* defendants filed no renewed motion, nor, apparently, did the *Williams* defendant (there is no mention of its doing so). The plaintiffs appealed. *K.S.* held that the defendants could cross-appeal the denial of their motion for JML without having filed a renewed motion.⁴⁹ *Williams* held that even with no cross-appeal (and, presumably, no renewed motion), the defendant could argue for affirmance on the ground that its motion for JML should have been granted.⁵⁰

New trial under Rule 59

Ala. R. Civ. P. 59(a)(1) states that in cases tried to a jury, a new trial may be granted “for any of the reasons for which new trials have heretofore been granted in actions at law in the courts of Alabama.” Such reasons include those listed in Ala. Code § 12-13-11,⁵¹ as well as “common-law grounds not listed in that statute.”⁵²

Necessity of motion for new trial to preserve issues

When a party raises an issue in the trial court – such as by objecting to evidence or to jury instructions – and the court makes a ruling, the issue is preserved, and no motion for new trial is necessary to preserve it.⁵³ Ala. R. App. P. 4(a)(3) states that “[a]ny error or ground of reversal or modification

of a judgment or order which was asserted in the trial court may be asserted on appeal without regard to whether such error or ground has been raised by motion in the trial court under Rule 52(b) or Rule 59 of the ARCP” (emphasis added).

The Committee Comments to Appellate Rule 4 caution, though, that Rule 4(a)(3) does not “extend the right to raise for the first time on appeal new matter not presented to the trial court or upon which the trial court had no opportunity to pass,” and that “matters which can only be asserted by posttrial motion must be so asserted.” For example, the issue that a jury's verdict is against the weight of the evidence or that a verdict awards excessive or inadequate damages obviously cannot be raised until after the trial is over and the verdict is rendered; therefore, to preserve the issue, a party must assert it in a motion for new trial so that the trial court has an opportunity to rule on it.⁵⁴

Insufficiency of the evidence to support the verdict can also be raised in a motion for new trial.⁵⁵ The disadvantages to preserving this issue solely by motion for new trial rather by motions for JML are that (1) if the appellate court finds that the evidence was insufficient, the court can only order a new trial and not JML, and (2) the standard of review of an order denying a motion for new trial on the ground that the evidence was insufficient (i.e., whether the evidence, “viewed in a light most favorable to the non-movant, shows that the verdict was ‘plainly and palpably wrong and unjust’”⁵⁶) is less favorable to an appellant than the standard of review of an order denying JML (*de novo*).

Contents of motion for new trial

Rule 59(a) contains no requirements as to the contents of a motion

for new trial, but Rule 7(b)(1) requires that all motions “state with particularity the grounds therefor,” and cases say that a motion for new trial “must sufficiently specify the precise error that is alleged to have occurred.”⁵⁷ A mere averment “that the verdict is contrary to the evidence” is “insufficient to [preserve] the issue of [excessive] damages,”⁵⁸ and assertions that a verdict was “contrary to the law in the case” and “contrary to the facts of this case” have been held too general to preserve any error.⁵⁹

When to file the motion for new trial

Rule 59(b) requires that a motion for new trial be filed “not later than thirty (30) days after the entry of the judgment.” Also, when a party obtains a verdict in his favor, but the trial court grants the opposing party's renewed motion for JML, Rule 50(c)(2) gives the verdict-winner 30 days from entry of the JML to move for a new trial.

MOTIONS IN NON-JURY CASES

Preserving issues of evidentiary sufficiency or weight

Ala. R. Civ. P. 50 is not applicable in non-jury cases, and the scheme for preserving sufficiency-of-evidence issues is different in non-jury cases than in cases tried to a jury.

Preservation when the trial court makes findings of fact


By virtue of Ala. R. Civ. P. 52(b), a trial court's making express findings of fact automatically preserves for appeal whether the evidence was sufficient to support those findings.⁶⁰ Rule 52(b) provides that

“[w]hen findings of fact are made in actions tried by the court without a jury,” the “question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the court an objection to such findings” or “has made a motion to amend them or a motion for judgment or a motion for a new trial.” A court may make findings of fact in a written order or through oral, on-the-record statements.⁶¹

An important caveat, however, is that in order for findings of fact to preserve the sufficiency-of-evidence question with respect to a particular claim, affirmative defense, or other issue, the trial court must make findings of fact *pertaining to that claim, defense, or issue*.⁶² In other words, findings as to one claim, defense, or issue do not preserve the question of evidentiary sufficiency as to a different claim, defense, or issue.⁶³

Preservation when the trial court does not make findings of fact

If the trial court makes no findings of fact, or none on a particular claim, affirmative defense, or issue, then a motion *is* necessary to preserve the question of evidentiary sufficiency or weight. In *New Properties, L.L.C. v. Stewart*, 905 So. 2d 797 (Ala. 2004), the court held that “in a nonjury case in which the trial court makes no specific findings of fact,” a party “*must move for a new trial or otherwise properly raise before the trial court the question relating to the sufficiency or weight of the evidence* in order to preserve that question for appellate review.”⁶⁴ The motion must specifically address particular issues of sufficiency or weight.⁶⁵ Failure to file a motion, or filing one that fails to raise a particular issue, results in waiver.⁶⁶



A court
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findings of fact
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or through oral,
on-the-record
statements.⁶¹

The rule stated in *New Properties* also applies when a party wishes to challenge the trial court’s denial of that party’s own claim, affirmative defense, or requested relief.⁶⁷ If the court “denies a claim without entering any findings of facts regarding that claim,” the party asserting the claim “must move for a new trial or otherwise properly raise before the trial court the issue *that the evidence was sufficient to support the denied claim*.”⁶⁸

Justice Harwood’s special concurrence in *New Properties* suggested that a party can “otherwise properly raise” and preserve questions of evidentiary sufficiency or weight by moving for judgment on partial findings under Rule 52(c) during trial,⁶⁹ but a later case indicates otherwise.⁷⁰ There is also authority that a party can “otherwise properly raise” and preserve such questions in a motion to alter, amend, or vacate under Rule 59(e),⁷¹ in a post-trial brief,⁷² or at a hearing on a post-judgment motion.⁷³ Nonetheless, because *New Properties* expressly approves presenting the sufficiency-or-weight issue in a motion for new trial, it is best to file one. Likewise, when in doubt whether a trial court made

findings of fact on a particular issue, or whether an issue is or is not one of evidentiary sufficiency or weight, the safest course is to raise it in a motion for new trial.

Preserving other issues in post-judgment motions

Rule 59(a) states that on a motion for new trial in a non-jury case, the court “may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.” Rule 59(e) provides for the filing of motions to alter, amend, or vacate within 30 days of judgment. Rule 52(b) states that upon motion “filed not later than thirty (30) days after judgment or entry of findings and conclusions,” the court “may amend its findings or make additional findings or may amend the judgment accordingly,” and that a motion under this rule may be joined with one for new trial.

As previously mentioned, Ala. R. App. P. 4(a)(3) generally dispenses with the need for a motion under Rule 59 or 52(b) to preserve “[a]ny error or ground of reversal or modification of a judgment or order *which [has already been] asserted* in the trial court” (emphasis added). However, “matters which can only be raised by post-trial motion must be so asserted.”⁷⁴ Such matters often concern the relief the trial court granted or denied in its judgment. Alabama cases have found that parties who did not file post-judgment motions waived error in a combined award of compensatory and punitive damages,⁷⁵ in a finding that pre-judgment interest ceased to accrue after a certain date,⁷⁶ in an award of attorney’s fees,⁷⁷ and in the

method by which a trial court decided an amount of child support.⁷⁸ Also, if “the trial court overlooked, and therefore failed to consider, some aspect of the evidence in a nonjury case,” a party “must bring that error to the attention of the trial court by way of a postjudgment motion.”⁷⁹

When unsure whether a post-judgment motion is needed to preserve an issue in a non-jury case, a party should, to be on the safe side, raise the issue in a motion under Rule 59(a), 59(e), and/or 52(b). ▲

Endnotes

1. 2 Gregory C. Cook, *Alabama Rules of Civil Procedure Annotated* § 50.1 (5th ed. 2018).
2. *Eastman v. R. Warehousing & Port Servs., Inc.*, 141 So. 3d 77, 82-85 (Ala. 2013).
3. § 12-21-12(a) & (d). Section 12-21-12(c) makes an exception “[w]ith respect to any issue of fact for which a higher standard of proof is required, whether by statute, or by rule or decision of the courts of the state,” in which case “substantial evidence shall not be sufficient to carry the burden of proof” and “such higher standard of proof shall be required with respect to such issue of fact.”
4. *Carter v. Henderson*, 598 So. 2d 1350, 1353 (Ala. 1992).
5. *Teague v. Adams*, 638 So. 2d 836, 837 (Ala. 1994); *Ex parte Helms*, 873 So. 2d 1139, 1144 (Ala. 2003).
6. *Helms*, 873 So. 2d at 1143.
7. *Barnes v. Dale*, 530 So. 2d 770, 776-77 (Ala. 1988).
8. Rule 50(a)(2); see *Paint Rock Turf, LLC v. First Jackson Bank*, 169 So. 3d 990, 995-96 (Ala. 2014) (plurality op.).
9. *Cook’s Pest Control, Inc. v. Rebar*, 28 So. 3d 716, 722-23 (Ala. 2009); *Barnes*, 530 So. 2d at 776; *Great Atl. & Pac. Tea Co. v. Sealy*, 374 So. 2d 877, 881-82 (Ala. 1979).
10. *Paint Rock*, 169 So. 3d at 996; *Cook’s Pest Control*, 28 So. 3d at 722; *Bains v. Jameson*, 507 So. 2d 504, 505 (Ala. 1987); *Great Atl.*, 374 So. 2d at 880-82.
11. *Barnes*, 530 So. 2d at 776-77.
12. *Id.*; *Great Atl.*, 374 So. 2d at 880-82.
13. *Great Atl.*, 374 So. 2d at 880-82; *A.T. Stephens Enters., Inc. v. Johns*, 757 So. 2d 416, 419 (Ala. 2000); *Powell v. Vanzant*, 557 So. 2d 1225, 1227 (Ala. 1990); *Kabel v. Brady*, 519 So. 2d 912, 919-20 (Ala. 1987).
14. *Clark v. Black*, 630 So. 2d 1012, 1015-16 (Ala. 1993); *Great Atl.*, 374 So. 2d at 880-82; *Hicks v. Allstate Ins. Co.*, 313 So. 3d 548, 552 (Ala. 2020); *Fox Alarm Co. v. Wadsworth*, 913 So. 2d 1070, 1074 (Ala. 2005).
15. *H.R.H. Metals, Inc. v. Miller ex rel. Miller*, 833 So. 2d 18, 25 (Ala. 2002); *MAT Sys., Inc. v. Atchison Props., Inc.*, 54 So. 3d 371, 375-76 (Ala. Civ. App. 2010); *Burge v. Parker ex rel. Parker*, 510 So. 2d 538, 542 (Ala. 1987).
16. *BellSouth Mobility, Inc. v. Cellulink, Inc.*, 814 So. 2d 203, 213 (Ala. 2001).
17. *Aspinwall v. Gowens*, 405 So. 2d 134, 138 (Ala. 1981).
18. *Saxon v. Johnson*, 393 So. 2d 1007, 1010 (Ala. Civ. App. 1980), cert. denied, 393 So. 2d 1012 (Ala. 1981). See also *Housing Auth. of Prichard v. Malloy*, 341 So. 2d 708, 709-10 (Ala. 1977).
19. *Malloy*, 341 So. 2d at 709-10.
20. *H.R.H.*, 833 So. 2d at 25-26. See also *Sears, Roebuck & Co. v. Harris*, 630 So. 2d 1018, 1027 (Ala. 1993), cert. denied, 511 U.S. 1128 (1994); *Treadwell Ford, Inc. v. Campbell*, 485 So. 2d 312, 315-16 (Ala. 1986).
21. *CNH Am., LLC v. Ligon Cap., LLC*, 160 So. 3d 1195, 1203-04 (Ala. 2013) (some emphasis in original, other added).
22. *Great Atl.*, 374 So. 2d at 881.
23. *Barnes*, 530 So. 2d at 776 (emphasis added).
24. *Alfa Life Ins. Corp. v. Colza*, 159 So. 3d 1240, 1248 (Ala. 2014); *Williford v. Emerton*, 935 So. 2d 1150, 1154-55 (Ala. 2004); *Johnny Spradlin Auto Parts, Inc. v. Cochran*, 568 So. 2d 738, 741 (Ala. 1990).
25. See also William E. Shreve, Jr., *Motions for Judgment as a Matter of Law and for New Trial: Preserving the Record for Appeal*, Vol. 13 No. 2 Ala. Def. L. Ass’n J. 9, 11 (Oct. 1997).
26. *Id.*
27. *CNH*, 160 So. 3d at 1203-04.
28. See also Shreve, *supra*, Vol. 13 No. 2 Ala. Def. L. Ass’n J. at 11.
29. *King Mines Resort, Inc. v. Malachi Mining & Minerals, Inc.*, 518 So. 2d 714, 716 (Ala. 1987).
30. *Id.*
31. *Id.*
32. *Ex parte Grand Manor, Inc.*, 778 So. 2d 173, 177 (Ala. 2000).
33. *Alfa Life Ins. Corp. v. Jackson*, 906 So. 2d 143, 146, 156 (Ala. 2005); *Larrimore v. Dugose*, 827 So. 2d 60, 62 (Ala. 2001); *King Mines Resort*, 518 So. 2d at 716-17.
34. *Dolgenercorp, LLC v. Spence*, 224 So. 3d 173, 187-88 (Ala. 2016); *Larrimore*, 827 So. 2d at 63; *Grand Manor*, 778 So. 2d at 177.
35. *Jackson*, 906 So. 2d at 157.
36. *Jackson*, 906 So. 2d at 146; *King Mines Resort*, 518 So. 2d at 716-17.
37. See *King Mines Resort*, 518 So. 2d at 716-17 & n.3; cf. *Mazda Motor Corp. v. Hurst*, 261 So. 3d 167, 193-94 (Ala. 2017). See also *Hay v. Irving*, 893 F.2d 796, 799 (5th Cir. 1990); *Johnson Int’l Co. v. Johnson Nat’l Life Ins. Co.*, 19 F.3d 431, 432-33, 437 (8th Cir. 1994). The “good” claim must also be sufficient to support the damages awarded. For example, if the jury found for the plaintiff on negligence and wantonness, but only the negligence claim was “good,” a compensatory award could stand but a punitive award could not, since punitive damages are not available for negligence.
38. Rule 50(a)(2); see *Paint Rock*, 169 So. 3d at 995-96 (plurality op.).
49. *Skerlick v. Gainey*, 42 So. 3d 1288, 1289 (Ala. Civ. App. 2010); *Barnes*, 530 So. 2d at 776; *Independent Life & Acc. Ins. Co. v. Parker*, 449 So. 2d 233, 236 (Ala. 1984).
40. *Ex parte Mutual Sav. Life Ins. Co.*, 765 So. 2d 649, 650 (Ala. 1998). Rule 54(a) states that “[j]udgment” as used in these rules includes a decree and any order from which an appeal lies.” An order granting a new trial is appealable under Ala. Code § 12-22-10 and is therefore a “judgment.”
41. See *Mutual Sav. Life Ins.*, 765 So. 2d at 650-51.
42. *Felder v. Chandler*, 131 So. 3d 630, 633-34 (Ala. Civ. App. 2013); *Biggers v. Johnson*, 659 So. 2d 108, 109 & n.1 (Ala. 1995).
43. An order granting or declaring a mistrial is not final or appealable, see *Felder*, 131 So. 3d at 634, and therefore is not a “judgment” as defined in Rule 54(a). See *supra* n.40.
44. In contrast, Fed. R. Civ. P. 50(b) states that “if the [renewed] motion addresses a jury issue not decided by a verdict,” i.e., one that was mistried, the motion must be filed “no later than 28 days after the jury was discharged.”
45. *Sears*, 630 So. 2d at 1031-32. Note that because *Sears* relates to a matter of procedure, a federal court would not necessarily follow it since federal courts apply federal procedural law.
46. *Barnes*, 530 So. 2d at 775.
47. *Id.* at 775-78.
48. *Id.* at 778, 777.
49. *K.S.*, 618 So. 2d at 712.
50. *Williams*, 771 So. 2d at 445-46.

51. *Scott v. Farnell*, 775 So. 2d 789, 791 (Ala. 2000).
52. Comm. Cmts., Ala. R. Civ. P. 59.
53. *Patterson v. Liberty Nat'l Life Ins. Co.*, 903 So. 2d 769, 774, 774-77 (Ala. 2004); *McGough v. Slaughter*, 395 So. 2d 972, 975 (Ala. 1981); Ala. R. Civ. P. 46; Ala. R. Civ. P. 51 & 1973 Comm. Cmts.
54. *Wood v. Hayes*, 104 So. 3d 863, 870 n.8 (Ala. 2012); *ITEC, Inc. v. Automated Precision, Inc.*, 623 So. 2d 1139, 1140 (Ala. 1993); *Flowers v. Dean*, 43 So. 3d 1244, 1246 (Ala. Civ. App. 2009); *Auburn Ford, Lincoln Mercury, Inc. v. Norred*, 541 So. 2d 1077, 1081 (Ala. 1989); *Porter v. Alabama Farm Bureau Mut. Cas. Ins. Co.*, 279 Ala. 499, 504, 187 So. 2d 254, 258-59 (1966).
55. *King Mines Resort*, 518 So. 2d at 716; *Carter*, 598 So. 2d at 1353-54; *Spiers v. Flowers*, 572 So. 2d 1269, 1270 (Ala. 1990); *Harlan v. Smith*, 507 So. 2d 943, 944 (Ala. Civ. App. 1986).
56. *Carter*, 598 So. 2d at 1354.
57. *Benson v. Vick*, 460 So. 2d 1309, 1313 (Ala. Civ. App. 1984). See also *Jones v. Wise*, 282 Ala. 707, 713, 213 So. 2d 914, 919 (1968).
58. *Nobility Homes, Inc. v. Ballentine*, 386 So. 2d 727, 729 (Ala. 1980). See also *Flowers*, 43 So. 3d at 1246-47 (grounds stated were insufficient to preserve inadequate damages).
59. *Trotter v. Sumner*, 56 Ala. App. 87, 89-90, 319 So. 2d 284, 286 (1975). See also *Surber v. Mann*, 46 Ala. App. 700, 702, 248 So. 2d 740, 742 (1971).
60. *Heisz v. Galt Indus., Inc.*, 93 So. 3d 918, 929 (Ala. 2012); *J.P. v. Madison Cnty. Dep't of Human Resources*, 386 So. 3d 56, 59 (Ala. Civ. App. 2023).
61. *Weeks v. Herlong*, 951 So. 2d 670, 676-78 (Ala. 2006); *Marshall Cnty. Dep't of Human Resources v. J.V.*, 203 So. 3d 1243, 1248 n.5 (Ala. Civ. App. 2016).
62. *Griggs v. Griggs*, 304 So. 3d 741, 744 (Ala. Civ. App. 2020) (question not preserved where judgment "did not make specific findings of fact on th[e] issue [of alimony]"); *McMillian v. McMillian*, 263 So. 3d 707, 712 (Ala. Civ. App. 2018) (no specific findings "on the issues of reconciliation and cohabitation"); *Hood v. Hood*, 76 So. 3d 824, 834 (Ala. Civ. App. 2011) (no specific findings "relative to the issue of child support") (emphases added).
63. *McMillian*, 263 So. 3d at 712 (findings of fact on certain issues preserved sufficiency-of-evidence question as to those issues, but not as to issues on which court made no findings).
64. *New Props.*, 905 So. 2d at 801-02 (emphasis added). If the trial court grants a new-trial motion based on evidentiary insufficiency, the court need not conduct a new trial but may simply render judgment for the movant. See Ala. R. Civ. P. 59(a); *Martin v. Patterson*, 975 So. 2d 984, 989, 992, 995-96 (Ala. Civ. App. 2007) (main op. & Pittman, J., concurring); cf. *Lawrence v. Lawrence*, 117 So. 3d 723, 727 (Ala. Civ. App. 2013).
65. *Childs v. Pommer*, 348 So. 3d 379, 389, 391 (Ala. 2021); *Griggs*, 304 So. 3d at 744; *Hood*, 76 So. 3d at 834.
66. *Murphy Oil USA, Inc. v. English*, 333 So. 3d 641, 643-44 (Ala. 2021); *J.S. v. S.S.*, 281 So. 3d 409, 413-14 (Ala. Civ. App. 2018); *Griggs*, 304 So. 3d at 744; *Hood*, 76 So. 3d at 834.
67. *Childs*, 348 So. 3d at 391; *Corriveau v. Whitcomb*, 366 So. 3d 975, 980 (Ala. Civ. App. 2022); *Shackelford v. Shackelford*, 377 So. 3d 516, 524 (Ala. Civ. App. 2022); *Point Clear Landing Ass'n v. Kaylor*, 959 So. 2d 672, 677-78 (Ala. Civ. App. 2006).
68. *Corriveau*, 366 So. 3d at 980 (emphasis added).
69. *New Props.*, 905 So. 2d at 805 (Harwood, J., concurring specially). Ala. R. Civ. P. 52(c) ("Judgment on Partial Findings") provides that "[i]f during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue," the court "may enter judgment against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue," or the court "may decline to render any judgment until the close of all the evidence."
70. *Daily v. Esser*, 391 So. 3d 268, 282, 292, 303-04 (Ala. 2023) (waiver where trial court made no findings of fact and defendants did not move for new trial, though defendants filed motion for judgment on partial findings [mistitled one for "directed verdict"] during trial). See also *Reeves v. Fancher*, 210 So. 3d 595, 598 (Ala. Civ. App. 2016) (motion for "directed verdict" or "judgment as a matter of law" in non-jury case is treated as motion under Rule 52(c)).
71. *Lawson v. Harris Culinary Enters., LLC*, 83 So. 3d 483, 490-92 & n.12 (Ala. 2011).
72. *T.G.F. v. D.L.F.*, 237 So. 3d 216, 224 (Ala. Civ. App. 2017); *Vines v. Vines*, 195 So. 3d 985, 988-89 (Ala. Civ. App. 2015).
73. *Cowperthwait v. Cowperthwait*, 231 So. 3d 1101, 1106-07 (Ala. Civ. App. 2017).
74. Comm. Cmts., Ala. R. App. P. 4. See also *Edwards v. Crowder*, 2024 WL 2500836, *5 (Ala. May 24, 2024) ("When a postjudgment motion is the only mechanism for bringing an alleged error to the [trial] court's attention, . . . the alleged error must be raised in a postjudgment motion").
75. *Lay v. Destafino*, 385 So. 3d 15, 20-21 (Ala. 2023).
76. *Sumblin v. Ward*, 2024 WL 3464314, *5 (Ala. Civ. App. July 19, 2024).
77. *Childs*, 348 So. 3d at 391.
78. *Docen v. Docen*, 294 So. 3d 767, 770-71 (Ala. Civ. App. 2019). *Docen* held that, even though "successive" or "repetitive" post-judgment motions are generally not permitted, it was necessary for the father to file a second post-judgment motion to preserve an issue as to child support that was only revealed by the trial court's order on the father's first post-judgment motion, and which therefore could not have been raised in the father's first motion. *Id.* Extreme caution must be exercised in filing any second post-judgment motion, because if the motion is determined to have been impermissible, it does not stay the time for appeal (as post-judgment motions ordinarily do under Ala. R. App. P. 4(a)(3)). See *Schwadron v. Schwadron*, 906 So. 2d 948, 950-51 (Ala. Civ. App. 2005).
79. *Wright v. Hatley Health Care, Inc.*, 980 So. 2d 1024, 1029 (Ala. Civ. App. 2007).

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Am I the Last of My Kind?

By Christy Crow

A few years ago, I was talking to a partner at a large Plaintiffs' firm

about a case we were working on together and he said, “Christy, I am proud of you. A lot of small-town attorneys have just given up and complain about the large firms, but not you. You’ve adapted.” My immediate reaction was to think that I didn’t know I had a choice – I have a family to support. Despite my cynical first reaction, his words stayed with me. The following weekend, my husband and I were riding dirt roads with some friends

(yes, country lawyers still do that), and “Last of My Kind” by Jason Isbell came on and I thought, “Am I the last of my kind? Is the rural lawyer going the way of the dinosaur?”

In the Third Judicial Circuit where I live and have my primary office, there are four lawyers younger than me. They are all in their 40s.¹ Nationwide, there are 1.3 million lawyers, but they are mostly concentrated in cities, while many small towns and rural counties have few if any lawyers.² Though about 20 percent of our nation’s population lives in rural America, only 2 percent of our nation’s small law practices are located there.³ A 2020 survey from

the ABA found there were 1300 counties in the United States with less than one attorney per 1,000 residents, many with no attorneys at all.⁴

In Alabama, a third of our counties have 20 or fewer lawyers. Meanwhile, more than 68 percent of private practice lawyers are concentrated in just seven counties, even though these counties make up only 47.3 percent of the state's population. Jefferson and Shelby Counties alone account for 40 percent of Alabama's lawyers but just 17.8 percent of its residents.

The **American Bar Association's 2020 Profile of the Legal Profession** highlights this imbalance, illustrating how Alabama's lawyers are disproportionately concentrated in urban areas. This trend is not unique to Alabama—Georgia faces a similar divide, with 65 percent of its population living outside metro Atlanta, yet only 30 percent of the state's lawyers practicing there.

A 2022 study by the Legal Services Corporation (LSC) revealed that approximately 92 percent of low-income Americans receive inadequate or no legal assistance for their civil legal problems.⁵ This problem is especially acute in rural areas, where geographic isolation compounds existing barriers to accessing legal services. The LSC survey found there are 8,000,000 people in rural areas below 125 percent of the poverty level, and 77 percent of rural households had more than one legal problem in the past year.⁶ Residents in these regions often face long travel distances to the nearest attorney, if an attorney is even available.

The problem with the dearth of lawyers, especially younger lawyers, in rural areas is not limited to what happens to the parties in the Court systems. If there are no younger lawyers living and practicing in rural areas, there are no good lawyers to become good judges or lawyer legislators. This deficiency affects everyone, no matter where we practice or reside.

The *Harvesting Hope* Initiative

Alabama State Bar President Tom Perry, from Demopolis, recognized this problem prior to being elected Bar President. He created the Harvesting Hope Initiative in an effort to address the issue.⁷ Once studied, the problem showed itself to be more acute than thought: actually, a dearth of lawyers exists in both rural areas and urban areas, or at least in portions of many urban counties. While the pending crisis is more pronounced in the State's rural areas, with changing demographics, the paucity of lawyers will become an issue in most, if not all, urban counties as well.

Identifying Opportunity Zones for lawyers across the State, President Perry, with the help of Tom Heflin from Sheffield, began examining other States' practices to determine how Alabama can help lawyers address the crisis and tap potential opportunities. President Perry and Heflin have identified a handful of target counties and developed an economic model to exhibit the financial viability of practicing law in rural counties. The finan-

cial model also reveals the potential for a reasonable and sustainable income for the participating lawyer. President Perry and Heflin have spoken with judges and lawyers to identify potential mentors, future employers, and shared office space or incubator programs where interested young lawyers may be placed. One of the goals of the Initiative is to empower rural leaders and professionals with the knowledge of the positive economic impact recruiting young lawyers and other professionals can have on a community and to encourage participation from these economic development leaders, as well as other lawyers. The goal is to expand Harvesting Hope from the initially identified counties to all circuits and counties facing this crisis.

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Similar Efforts Across the Nation

The National Center for State Courts has also created the Rural Justice Collaborative, a partnership between the National Center for State Courts and Rulo Strategies.⁸ The Rural Justice Collaborative selected 25 of the country's most innovative rural justice programs to serve as models for other communities.

These programs include a rural incubator project for lawyers in North Dakota, a youth court in Mississippi, and a reaching rural initiative in South Carolina.

The Ohio Rural Practice Incentive Program is a state-funded initiative administered by the Ohio Department of Higher Education. "Lawyers who commit to a minimum of three years and up to five years in an underserved community can receive up to \$10,000 per year toward student loan repayment."⁹

South Dakota recognized the problem over a decade ago, identifying a town of about 1,000 people that had a single 85-year-old practicing lawyer.¹⁰ In response, the South Dakota Bar Association formed a task force that ultimately led to the development of a 2013 law in South Dakota creating a pilot program with an annual subsidy of \$12,000 for 5 years for lawyers practicing in rural areas.¹¹ The program has placed attorneys in 26 counties and offers financial incentives to attorneys who practice in designated areas for at least five years.

North Dakota, suffering from similar shortages, created a \$45,000 state subsidy to attorneys working in rural areas which will be paid in five equal, annual payments. The Supreme Court of North Dakota will pay 50 percent of the incentive, the city or county will pay 35 percent, and the North Dakota Bar Association will pay 15 percent.¹²

California has similar issues with getting lawyers out of the population centers. In response, UC Davis School of Law developed a Law and Rural Livelihoods seminar.¹³ UC Davis Law Professor Lisa Pruitt has been bringing attention to these issues for years. "I teach a course called Law and Rural Livelihood,

which exposes students to what makes rural communities different, what some of the legal issues are, and how they play out in rural communities."¹⁴ In doing so, Professor Pruitt believes that this is another step toward alleviating the rural lawyer shortage.

Likewise, Maine is trying to reach potential student participants while they are still in law school. Its legislature proposed funding a three-year pilot program where students at the University of Maine School of Law spend the first half of their education on the school's campus in Portland and then transfer to Fort Kent, where these students can work under the supervision of a professor in a satellite office of the college's student legal aid clinic. Students receive academic credit for their work and reside in dorms of another state college campus in town. Clients would primarily be people with low incomes who cannot afford to hire an attorney of their own.¹⁵

In Nebraska, where 12 of 93 counties have no attorneys and most counties have fewer than 20, state schools began attracting candidates for rural practice before law school. In 2016, three state schools — Chadron State College, the University of Nebraska at Kearney, and Wayne State College — began recruiting rural incoming college freshmen to pursue legal careers outside Nebraska's urban areas, realizing that rural students were more likely to return to these rural areas to practice law. The students receive free undergraduate tuition and guaranteed admission to the University of Nebraska College of Law in Lincoln if a minimum 3.5 GPA is maintained and admissions standards are met.¹⁶

The fellowship is designed to provide an opportunity to experience the life of a small-town lawyer.

Alabama's Finch Initiative

In Alabama, the University of Alabama Law School and Covington County Circuit Judge Ben Bowden developed the Finch Initiative in 2017. The fellowship is designed to provide an opportunity to experience the life of a small-town lawyer. It has grown from one

Circuit in 2017 to four fellowships in 2024, including one in my circuit. The University of Alabama School of Law hopes to continue growing the program to reach other rural areas of Alabama.¹⁷ Equal Justice Works, a nonprofit organization that promotes law and public service, has a similar program that allows law students to participate in the Rural Summer Legal Corps and addresses the access to justice crisis for people living in rural areas.¹⁸

Getting younger lawyers into rural areas is not the only solution, although arguably it could be the best. The Justice4AL Program started by Immediate Alabama State Bar Past President Brannon Buck provides access to legal resources across the State.¹⁹ Providing self-represented litigants access to standard forms and how-to videos for self-representation brings access and convenience to the public.²⁰ Remote video access to courts allows lawyers and judges access to the Courts with little to no travel time. It can be argued that it is not the number or location of lawyers creating this issue of unmet needs, as much as it is the costs associated with hiring an attorney, at least in the civil arena.²¹ To address this concern in criminal representation, Alabama has allowed limited scope representation or unbundling of services.²²

Why Practice in Rural Alabama?

First... there's the dirt roads. Living and working in rural Alabama (or rural America) is simpler in many ways. While I may drive farther for fine dining, I can sit on my porch and have a clear view of the stars and was even able to see the Northern Lights this summer from my front porch. The night sounds of the symphony played by crickets, tree frogs, and cicadas are tranquil and fulfilling following a day of satisfying legal work.

Others have recognized that the practical benefits of small-town lawyering include a lower cost of living, minimal commutes, and a slower pace of living.²³ While some wonder whether it is financially viable to practice law in rural areas, the numbers presented by

Others have recognized that the practical benefits of small-town lawyering include a lower cost of living, minimal commutes, and a slower pace of living.²³

President Perry and Heflin show that it is possible. The law of averages works on the side of rural practice as well. An average of 843,686 cases are filed in Alabama annually, with 39 percent of those being filed in the seven counties where 68 percent of the lawyers practice. That means, on average, there are 134 cases per available attorney in the rural counties versus 39 cases per available attorney in the seven identified urban counties.

Also, most rural lawyers know a little bit about a lot of different areas of law. A rural practice may touch personal injury, product liability, estate planning, tax law, criminal law, family law, and bankruptcy. As a result, rural attorneys can often identify potential new theories or see opportunities that others might miss. The opportunity

to be involved in cases outside of one's normal fields, and to refer cases to others, fosters establishing relationships with lawyers around the State or country. In turn, those attorneys may call you when they have a need you may be uniquely qualified to meet.

Finally, the benefit of living and practicing in a rural area is this: I live in a community with those around me. One of my favorite clients brought me butternut squash from his garden and is planting parsnips for me this winter. He also called me when his Medtronic diabetes pump was recalled, starting me on a journey to one of the biggest cases of my career. I got to know another long-time client when I coached her daughter in basketball 20 years ago. A few years ago, I was able to host that same daughter's baby shower at my house, after having represented her cousins and friends in various personal injury cases throughout my career.

Leo Rosten is quoted as saying, “The purpose of life is not to be happy, but to matter – to be productive, to be useful, to have it make some difference that you have lived at all.” The rewards associated with living and working in the rural community where I practice will far exceed any missed urban legal opportunities or perceived prestige. Most importantly, if you decide to join me in rural Alabama, you will remember that you matter every day. ▲

Endnotes

1. We do have several lawyers that practice here but commute from more urban areas.
2. https://www.americanbar.org/news/profile-legal-profession/demographics/?utm_source=chat-gpt.com
Legal deserts threaten justice for all in rural America, <https://www.americanbar.org/news/abanews/aba-news-archives/2020/08/legal-deserts-threaten-justice>
3. Lisa R. Pruitt, et al. *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 Harv. Law & Policy Review 16 (2018).
4. <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf>
5. Legal Servs. Corp., *The Justice Gap: Measuring The Unmet Civil Legal Needs Of Low-Income Americans* 13 (2022) <https://justicegap.lsc.gov/>
6. *Id.*
7. <https://www.youtube.com/watch?v=pLiDCMgEZSw>
8. <https://www.ruraljusticecollaborative.org/>
9. <https://perma.cc/LSP6-CRBR>
10. Kristi Eaton, *Rural areas struggle with lack of lawyers*, <https://www.mprnews.org/story/2011/12/12/rural-lawyers>, 12/12/2011.
11. Ethan Bronner, *No Lawyer for Miles, So One Rural States Offers Pay*, <https://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html#:~:text=The%20new%20law%2C%20which%20will,of%20South%20Dakota%20Law%20School,4/8/2013>.
12. <https://www.ndcourts.gov/rural-attorney-recruitment-program>
13. <https://law.ucdavis.edu/course/law-and-rural-livelihoods>
14. <https://www.ucdavis.edu/blog/curiosity/how-do-we-resolve-rural-lawyer-shortage>

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quoted as saying,
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but to matter – to be
productive, to be
useful, to have it
make some differ-
ence that you have
lived at all.”

15. <https://www.marketplace.org/2022/03/28/in-maine-hopes-turn-to-law-students-amid-dearth-of-rural-attorneys/>
16. April Simpson, *Wanted: Lawyers for Rural America*, <https://www.pewtrusts.org/en/research-and-analysis/blogs/state-line/2019/06/26/wanted-lawyers-for-rural-america> 6/26/2019.
17. Those interested in developing a Finch Fellow for their circuit can contact Caroline Strawbridge at the University of Alabama School of Law. cstrawbridge@law.ua.edu.
18. <https://www.equaljusticeworks.org/law-students/part-time-summer/rural-summer-legal-corps/>
19. <https://www.justice4al.com/>
20. While self-represented litigants might solve some of the problems with lawyer shortages, a 2018 survey of judges found that 62.5% of judges found self-represented litigants to be a significant stressor for judges. David Swenson, Ph.D., L.P., et al., *Stress and Resiliency in the U.S. Judiciary*, 2020 *Journal of the Professional Lawyer*, 1.
21. Mark C. Palmer, *The Disappearing Rural Lawyer, Part II*, *Future Law*, 1/16/20 <https://www.2civility.org/the-disappearing-rural-lawyer-part-ii/>
22. For more information about limited scope representation, visit <https://www.alabamataj.org/i-can-help/limited-scope-representation/>
23. Roy S. Ginsburg, *Be a Small-Town Lawyer*, <https://www.attorneyat-work.com/be-a-small-town-lawyer/6/12/22>.

Christy Crow



Christy Crow, a partner at Jinks Crow, is a skilled attorney specializing in arbitration and personal injury law, representing clients across Alabama and Georgia. As President of the Alabama State Bar in 2019, she led 18,000+ members through major challenges while securing two significant verdicts. She is also an active community leader, serving on multiple boards, including the Girl Scouts of Southern Alabama. She lives in Union Springs with her husband, Van Wadsworth, and their three children.



Valuing Professional Relationships

by Sam Crosby

TO THE NEW ADMITTEES TO THE ALABAMA STATE BAR:

In 1978, when I graduated from the University of Alabama School of Law,

like you, I endured the process of studying for and taking the bar exam. Back then, the examination took three days. Before beginning the exam, we were each assigned to a table that seated two people. The other person at my table was a Vanderbilt Law School graduate named Tom Parker. The three days of taking the bar exam together began a friendship between us that is now in its 47th year.

In 2007-2008, I had the privilege of serving as president of the Alabama State Bar. Tom Parker recently retired as Chief Justice of the Supreme Court of Alabama. Our relationship helped us work together in these leadership positions as issues involving the profession and the court system arose.

Congratulations to each of you, value your professional relationships, and let's encourage each other to "do justice, love kindness and walk humbly with God." ▲

ALABAMA STATE BAR 2024 ADMITTEES



B A R E X A M STATISTICS OF INTEREST

For detailed bar exam statistics, visit
<https://admissions.alabar.org/exam-statistics>.

ALABAMA STATE BAR 2024 ADMITTEES

Faith S. Adam, Birmingham
Bidushi Adhikari, Birmingham
William Shepard Alderman IV, Montgomery
Colin Sanders Al-Greene, Mobile
Malkeisha Denise Allen, Birmingham
Matthew Kyle Allen, Saraland
Brianna Deshontae Anderson, Birmingham
Marion Prince Ankar, Albertville
Justus Samuel Armstrong, Phenix City
Sarah Elizabeth Atchley, Hazel Green
James Lee Auman, Union Grove
Lilah Chunguang Avery, Punta Gorda
Ohtra Riad Awad, Birmingham
Cynthia Mmadi Azor, La Vergne
Jonathan James Bailie, Clearwater
Benjamin Tanner Baker, Sylacauga
Elizabeth Frances Baker, Daphne
James Bradford Baker II, Opelika
Elizabeth Mayfield Baldwin, Hartselle
Cecilia Rose Ballinger, Tuscaloosa
Joseph Ryan Barlow, Birmingham
Micah Owen Bartlett, Morris
Frank Johnson Baxley, Birmingham
Adrianna Shareve Bayles, Pinson
Sean Gavin Beadore, Tuscaloosa
George Adam Beaudry Jr., Montgomery
Natalie Rose Beckerink, Huntsville
Madison Taylor Bentley, Huntsville
Christopher James Bertrand, Birmingham
Scott George Billiot, Elberta
Nicholas James Bishop, Greensboro
Charles Henry Blackledge IV, Mobile
Kynsley Rae Blasingame, Alex City
Stephen Daniel Bockman, Montgomery
Tamara Boles, Charlotte
Benjamin Bless Bolton, Mobile
Lauren Chambliss Boyd, Birmingham
Kaelan Shehane Bradford, Northport
Mollie Lauren Bradford, Birmingham
Elli Anne Bradley, Hoover
Mary Anna Brand, Mobile
Amanda Faye Breen, Birmingham
William Hall Bridges, Arlington
Alfred Jacob Brien, Huntsville
Alexis Laurence Brinkmeyer, Birmingham
Sarah Ally Brinson, Birmingham

Lauren Alycee Briscoe, Birmingham
Paul Morgan Brock, Birmingham
Chandra Danielle Brooks, Birmingham
Iesha Evon Brooks, Montgomery
Robert Jackson Broom, Deatsville
Mary Anderson Brown, Memphis
Treona Jameelah Brown, Vestavia
William Jacob Bruner, Birmingham
Richard Vandiver Buchanan Jr., Huntsville
Colin Thomas Burns, Theodore
Crystal Nichole Bush, Semmes
Benjamin Aaron Byard, Huntsville
Trevor Isaac Byrd, Sardis
Gregory Lynn Cain, Hartselle
Amira Shalik Calhoun, Montgomery
Edmund Tobias Calvert-Lee, Birmingham
Caleb Riden Carswell, Lake City
Cristen Ellen Chandler, Tuscaloosa
Haden Riley Chandler, Guntersville
Victoria Emily-Jane Chaplin, Fayetteville
Kecia Topping Chapman, Birmingham
Connor Allan Chase, Montgomery
Hudson Alexander Chastain, Knoxville
Zachariah Lee Chiepalich, Mobile
Kelly Anne Cimino, Decatur
David Michael Clark Jr., Birmingham
Alexander Phillip Cochran, Montgomery
Harold Coker III, Alex City
Katherine Lee Coleman, Hoover
Sean Collins, Tuscaloosa
Christopher James Colvin, Parrish
Anne Stanton Compton, Birmingham
Charles Michael Conley, Poquoson
Phyllis Boyd Conwell, Mobile
Ladedrice Cook, Alpine
Dylan Jacob Cox, Saraland
Joseph David Crews, Dyersburg
Regan Emily Crosby, Montgomery
Austin Crowley, Greenville
Joe Mack Curry II, Birmingham
John Michael Curtis, Tuscumbia
Danita Shae Davis, Anniston
Kayla Charlene Jane Davis, Chelsea
Isabella De Barros E Vasconcellos Calves, Pensacola
Caroline Amanda Smith Dean, Birmingham

Louis Randall DeArman, Kimberly
Lindsay Nicole Demers, Gulf Shores
Matthew Douglas Dermody, Madison
Harold Alfred Dickson IV, Sylacauga
Hannah Claire Dillashaw, Cullman
Ross Alexander Dockins, Mobile
Margaret Anne Donlon, Birmingham
Charles Nicholas Dorman, Birmingham
Hunter Michael Drake, Huntsville
McKenzie Nicole Driskell, Birmingham
Matthew Ryan Duggan, Montgomery
Lamar Anthony Dukes III, Birmingham
David Paul Dunford, Athens
Junette Mae Dunn, Jacksonville
Kalen Shemar Early, Birmingham
Danielle Denise Eaton, Tuscaloosa
Hannah Marie Elliott, Birmingham
Ella Claire Epps, Vestavia
Rachel Lauren Evans, Tuscaloosa
Melia Grace Farlow, Birmingham
Ashley Elizabeth Feighery, Birmingham
Richard Earl Ford Jr., Clay
Jaedyn Michelle Forehand, Mobile
Darby Jalyn Fowler, Panama City
Addison Fuller Franklin, Montgomery
Zachary Ethan Freeman, Fayette
Edward Warren Gaal, Birmingham
Amy Welton Gaither, Crestview
Katherine Renee Gaither, Birmingham
Lydia Galloway, Rome
Robert Anthony Garcia, Vestavia Hills
Summer Alexis George, Russellville
Emily P. Gerth, Pensacola
Trevor Elliott Gibbons, Loxley
Elizabeth Walker Gill, Daphne
Blair Eugenia Givens, Mobile
Molly Mitchell Glisson, Birmingham
Carllee J. Godwin, Milton
Kyle Catherine Goldhagen, Pike Road
Katherine Grace Goodin, Birmingham
Mitchell Gunner Gorman, Gardendale
Brooke Ashley Graham, Gardendale
Mary Lauren Granade Shafer, Kimberly
Michael Francis Granger, Montgomery
Jonah Martin Gray, Huntsville
Jordan Marshall Greene, Huntsville

Garrett Marshall Griffin, Chapel Hill
Kylie Grissom, Montgomery
Rebecca Grace Guilinger, Birmingham
Holdon Deane Guy, Huntsville
Christina Guzman Capasso, Mobile
Kortni Miran Hadley, Birmingham
Ashley Morgan Hajjar, Winfield
Caroline Ruth Hall, Huntsville
Hayden Hall, Seneca
Kaylee Hall, McCalla
Julius Allen Hammond, Daleville
Thomas Daniel Hannahan, Mobile
Natalie Ann Harp, Montgomery
Haley Rea Harries, Trussville
Teia Leshea Harris, Jasper
William Chase Harvey, Birmingham
Delaine Eldridge Harwood, Huntsville
GiGi Hayes, Birmingham
Spencer Claybrook Haynes, Birmingham
Asherica Monique Heard, Selma
Karleigh Cross Heitschmidt, Birmingham
Elise N. Helton, Birmingham
William Jonah Henderson, Lynchburg
Kendall Lauren Herron, Birmingham
Sydney Catherine Hicks, Birmingham
Rylee Caye Hiett, Fruithurst
Joseph Luther Hill, Montgomery
Michael Bruce Hill, Mobile
Jeffrey Keith Hilliard Jr., Hoover
Angelica Quntreal Hobbs, Huntsville
Jacob Charles Hodge, Birmingham
Chotsani Jalene Holifield, Vestavia
Rachel Hollingsworth, Tuscaloosa
Bernard Andrew Holman III, Hoover
Delaney Caroline Holmes, Birmingham
Jessica L. Holten, Montgomery
James Montieth Horn, Birmingham
John Ethan Howard, Jacksonville
Atchison Parker Hubbard, Montgomery
Hope Elizabeth Hudgins, Mobile
Anne Caroline Hughes, Birmingham
Ashleigh Lyn Hughes, Tallassee
Victoria Wallace Ingle, Fort Payne
Joseph Harmon Ingram, Vestavia
Kera Michella James, Tuscaloosa
Gareth Iain Jamieson, Birmingham

Catherine Lain Jebes, Birmingham
Mary Catherine Jenkins, Birmingham
Jalen Morrell Johnson, Selma
LANA MARIE JOHNSON, Tusculumbia
Leighton Martin Johnson, Birmingham
Paige Johnson, Odenville
Pleasure Johnson, Duluth
Taylor Jackson Johnston, Greenville
Demarcus Joiner, Birmingham
Alexandra Morris Jones, Anniston
Christopher Jones, Birmingham
Emily Jolene Kabalin, Loveland
Jason Alexander Katz, Birmingham
Clinton William Kelly, Carrollton
Kimberly Amber Killingsworth,
Hannah Cecile King, Alexandria
Jason Clyde Kingry, Phenix City
Macy Caroline Kirby, Birmingham
Richard Kyle Kornegay, Irondale
Isabelle Victoria Kruse, Gulf Shores
Austin Keith Lail, Columbiana
Mitchell William Laing, Birmingham
Charity Elizabeth Laister, Pelham
Caroline Lamberth, Atlanta
Avery Wayne Lancaster, Birmingham
Brock Montgomery Lavelly, Birmingham
Saharah Marie Lawrence, Centreville
Tara Elisabeth Leahy, Birmingham
Caroline Frances Leak, Birmingham
Youngjo Lee, Seoul
Latrice R. Lee-Constant, Montgomery
Aleah Savannah Brown Leggett, Huntsville
Tiandrea Leonard, Cullman
Donald Joseph Letterle, Owens Cross Roads
Nicholas John Lewelling, Ocean Springs
Joshua Stephen Lewis, Birmingham
David Lanier Lindsey, Birmingham
Ryan S. Little, Honolulu
Zebulon Peyton Little Jr., Carrollton
David Littlepage, Mobile
Matthew Joseph Lloyd, Birmingham
Savannah Lane Orange Long, Gadsden
Emily Madison Lovely, Tuscaloosa
Frank Grieve Lumpkin IV, Columbus
Matteo Philip Macaluso, Jacksonville
Tanesha Rashaun Maiten, Birmingham
Madeline Ann Marable, Birmingham
Sophia Michelle Marberry, Calera
Dionna Rakeisha Marcus, San Antonio
Maggie Lynn Martin, Hoover
Marlee Tomlinson Martin, Birmingham
Melissa Leigh Martin, Birmingham
William Sexton Parker Mathews, Dothan
Jennifer Lauren Matloff, Loxahatchee
Colin Joseph Matthaei, Birmingham

Lydia Hall Maxwell, Dothan
Hannah Nicole Maynor, Chicago
Nicholas Alan McClinton, Gadsden
Abigail Maxine McCool, Gordo
Cameron Carl McCormack, Birmingham
Mae Grayson McCraney, Birmingham
Susanne Hames McCrary, Huntsville
Daniel Scott McCray, Birmingham
Elisabeth Grace McDonald, Birmingham
Heather Lynn McEathron, Madison
Leith Matthew McGee, Tuscaloosa
Patrick Morgan McGowin, Mobile
Sadler Scott McKeen, Birmingham
Madison O'Neal McLean, Columbus
Jacob Duncan McWhorter, Trinity
Andrew Blake Meadows, Luverne
Arthur Chase Medley, Auburn
Joseph Wesley Meidl, Jasper
Noelle Marie Melanson, Fort Myers
Amanda Marie Messer, Athens
Naomi Migoya Acosta, Birmingham
Kenadi Elyse Mitchell, Phoenix
Kijana Djmon Mitchell, Montgomery
Grace Elizabeth Monroe, Huntsville
Marissa Rae Barnes Moore, Birmingham
Angel Israel Moreno, Phenix City
Parker Hodge Morrow, Birmingham
James Rutherford Mazingo, Montgomery
George LouBryce Muirhead, Montgomery
Allison Milford Murrah, Birmingham
Robert W. Murray, Huntsville
Ashley Monique Muse, Snellville
Blaize M. Naman, Mobile
Thomas Eugene Necklaus Jr., Scottsboro
Taylor Neill, Calera
Mary Caroline Newman, Birmingham
Sydney Erin Noordsy, Tuscaloosa
lasia Shamika Oden, Birmingham
Kyle Patrick O'Shea, Mobile
Paul Edward Overton, Montgomery
Carmen Vincenia Paige, Birmingham
Dawson Franklin Painter, Chelsea
Aaron Rowe Palmer, Birmingham
Kiernan Panish, Los Angeles
John M. Paradise, Birmingham
Hope Hill Parker, Birmingham
Justin Robert Parker, Vestavia
Kushal Urmish Patel, Pelham
Jordan Patterson, Mobile
Ashlyn Elisabeth Payne, Birmingham
Zakary Dixon Pearsall, Starkville
Daniel Scott Perkins, Eclectic
Ava Kaye Peterson, Tallahassee
Courtney Noel Pomeroy, Birmingham
Christopher Lee Pope, Fort Myers

Trevor George Porter, Huntsville
Kristi Ann Posson, Mukwonago
Aaron James Powers, Tuscaloosa
Tyler Montana Prescott, Thomasville
William H. Price, Andalusia
Abby Rene Raber, Birmingham
Trevor Anthony Ramey, Auburn
Lindsay McCall Rawson, Birmingham
William David Raybon, Birmingham
Jeslyn Redcross, Tuscaloosa
Brianna Rhymes, Birmingham
William Marshall Rhyne, Bellmont
Alexandra Maria Richart, Birmingham
Ava Liszt Ringhoffer, Mobile
Elizabeth Drake Rippy, Birmingham
Samuel Preston Roberts, Auburn
John Gunar Robinson, Oxford
Anna Lee Rogers, Birmingham
Kuryakin Comenci Rucker, Huntsville
Ramona Clarece Russell, Birmingham
Holly Michelle Russo, Garland
Lisa Renae Salsman, Auburn
Alex Lauren Sandlin, Birmingham
Jada Satchell, Birmingham
Valerie Ann Sawyer, Mountain Brk
Andrew Schomburg, Gadsden
Rachel Dees Scott, Hoover
Jared Randol Sellers, Enterprise
Samuel Stone Sheffield, Dothan
Harrison Brooks Shelton, Birmingham
Paige Sheridan, Tuscaloosa
Alexander Troy Shimek, Pensacola
Hyang Gi Shin, Birmingham
Rachel Marie Silver, Mobile
Erin Carol Simmons, Phenix City
James Porterfield Simpler, Vestavia
Bachittar Anoop Singh, Montgomery
Avery Todd Smith, Birmingham
Benjamin Arthur Smith, Birmingham
Lauryn Rebekah Smith, Birmingham
Madelyn Rebecca Smith, Florence
Veronica Alise Smith, Hoover
Kaeleigh Jae Starling, Birmingham
Marcy Logan Stein, Daphne
Anna Noel Stephens, Rainbow City
Maya S. Stevenson, Tuscaloosa
Margaret Anne Moyes Stewart, Birmingham
Zachary Brian Stewart, Birmingham
Benjamin Spaulding Strong, Huntsville
Aloysius Edwin Stuardi IV, Mobile
Arin Mary Elizabeth Suggs, Fayette
Erin Brooke Sullivan, Birmingham
Tristan Sulser, Chelsea
Jack McKendree Surber, Birmingham
Rebecca Sarah Taylor, Miami

Teodora Alexandra Teeter, Mobile
Ashley Terry, Moulton
William Bennett Davis Terry, Montgomery
William Thomas, Ridgeland
Justin Blair Thomason, Mt Olive
Olivia Thompson, Auburn
Lora Bishop Thomson, Birmingham
Alexandria Lynn Thornton, Pearl
Alexandria Danielle Timm, Birmingham
BriAnna Caroline Tomlin, Birmingham
Scarlett Travis, Millbrook
Alishia Nicole Traywick, Birmingham
Madilyn Belle Turner, Jacksonville
Charlotte Gaylor Udipi, Birmingham
Charlotte Ashley Underwood, Pacific Palisades
John Austin Underwood, Pelham
Sarah Frances Usher, Mobile
Vincent Julian Van Deventer, Birmingham
Ciara Jade Veasy, Boaz
Donna Ellen Venable, Montgomery
Laura Peyton Vickery, Birmingham
James Zachary Warren, Birmingham
Mary Elizabeth Warren, Montgomery
Alecia Boswell Washington, Helena
Lauren Elizabeth Wasley, Madison
Christopher Ford Waters, Hoover
Katelyn Elizabeth Watlington, Huntsville
Mikal Christon Webb, Montgomery
Alec Weeks, Huntsville
Carolyn Grace Weeks, Huntsville
Macey Weeks, Mobile
Sera Mikal Anne Marie Westcott, Florence
Chastity Stevenson Westry, Decatur
Elizabeth Wheeler, Birmingham
Conner Lawson White, Montgomery
Jamie Russell White, Florence
Cole Patrick Whitehurst, Huntsville
Grant Lambert Wideman, Vinemont
Timothy Edward Wieneke, Melbourne
Graham Wilson Wilkes, Montgomery
Margaret Ellen Williams, Daphne
Messiah Antjuan Trelle Williams-Cole, Opelika
Elizabeth Grace Wilson, Mobile
Ryder Alexander Winborn, Huntsville
Alexa J. Windsor, Decatur
Luther Horn Wolff IV, Birmingham
Bailey Coleman Wood, Birmingham
Justin Alexander Wright, Kimberly
Olivia Anne Wyatt, Montgomery
Niall Gordon Yamane, Fairhope
Kelsey Claire Yates, Taylor
Alec Sawyer Young, Brookhaven
Joshua Robert Zwolski, Gadsden

LAWYERS IN THE FAMILY



Madeline Ann Marable (2024) and
Michael Jason Marable (2015)
Admittee and husband



Mary Catherine Jenkins (2024) and
Justice Gregory Carl Cook (1991)
Admittee and father



Lauren Chambliss Boyd (2024) and
Tara Herring Chambliss (2023)
Admittee and mother



Ellie Anne Bradley (2024), Michael Cory Bradley (1997),
Jeffrey Robert Bradley (2002) and Theresa Jones Bradley (1993)
Admittee, father, cousin and cousin



Aaron Rowe Palmer (2024) and
Robert Leslie Palmer (1987)
Admittee and father



Kuryakin Comenci Rucker (2024) and
Kimberly Kelley Rucker (2008)
Admittee and wife



Edward Warren Gaal (2024) and
Richard Mark Gaal (1997)
Admittee and father



Spencer Claybrook Haynes (2024) and
Wallis Spencer Haynes (2000)
Admittee and father

LAWYERS IN THE FAMILY



Joan Ashton Lattof (2024) and
Mitchell George Lattof, Jr. (1979)
Admittee and father



Blaize Michael Naman (2024) and
Judge Edmond George Naman (1996)
Admittee and father



Samuel Stone Sheffield (2024) and
Billy Joe Sheffield, II (1999)
Admittee and father



James Porterfield Simpler (2024), Miland Fredrick Simpler, Jr.
(1982) and Miland Fredrick Simpler, III (2013)
Admittee, father and brother



Caroline Ruth Hall (2024), Billy Glen Hall (1985) and
Judge Karen Kimbrell Hall (1986)
Admittee, father and mother



Anne Caroline Hughes (2024) and
Charles Dennis Hughes (1992)
Admittee and father



Christopher Jones (2024) and
Gordon Douglas Jones (1979)
Admittee and father



Ashley Elizabeth Terry (2024) and
Judge Angela Dawson Terry (1998)
Admittee and mother

LAWYERS IN THE FAMILY



Parker Hodge Morrow (2024) and
Randall Hodge Morrow (1988)
Admittee and father



Patrick Morgan McGowin (2024) and
Theodore Bruce McGowin (1981)
Admittee and father



Gareth Iain Jamieson (2024) and
Lisa Frances Jamieson (2006)
Admittee and mother



Abigail Maxine McCool (2024), Timothy B. McCool (1996),
Justice James Christopher McCool (1993) and John Morgan Owens (2019)
Admittee, father, uncle and cousin



James Rutherford Mozingo (2024) and
James Flynn Mozingo (1994)
Admittee and father



Stephen Daniel Bockman (2024) and
Cynthia Helene Moore Bockman (1994)
Admittee and mother



Caroline Key Lamberth (2024), Richard Edwin Lamberth (1998),
Kelley Pirnie Lamberth (1998) and William Lewis Thompson (1976)
Admittee, father, mother and grandfather

LAWYERS IN THE FAMILY



Elizabeth Drake Rippey (2024), Anne Elizabeth McGowin (1991)
and William Claude McGowin (1991)
Admittee, mother and father



Harold Alfred Dickson IV (2024), Judge William Ernest
Hollingsworth III (1997) and Judge William Ernest
Hollingsworth IV (2010)
Admittee, great uncle and cousin



Laura Peyton Vickery (2024) and
Barry Edward Vickery (1997)
Admittee and father



Frank Johnson Baxley (2024), William Joseph Baxley (1963),
Wade Hampton Baxley (2001) and Robert Vance Baxley (2016)
Admittee, father, cousin and brother



YOUNG LAWYERS' SECTION

Ryan J. Duplechin
Ryan.Duplechin@BeasleyAllen.com

A Message from the Young Lawyer's Section President

Starting your legal career can feel overwhelming, but with the right mindset and approach, you can set yourself up for success. In this article, Ryan J. Duplechin, President of the Alabama State Bar's Young Lawyers' Section, shares ten practical tips to help new attorneys navigate the profession, build strong connections, and thrive in their early years of practice.

Ten Tips for Excelling as a New Attorney

1. Get Involved

The Alabama State Bar's Young Lawyers Section ("YLS") is an excellent starting point. Membership is open to Alabama lawyers under thirty-seven years old, or those practicing for three years or less. We host several events throughout the year, including the Minority Pre-Law Conference and our Orange Beach CLE. YLS has more than 800 members and thirty Executive Committee members that meet throughout the year.

You can also get involved in local bar associations. Many have their own Young Lawyers Sections, including Birmingham, Huntsville, Montgomery, Mobile, and others.

It's natural to feel hesitant about attending events where you don't know anyone, but those strangers will soon become friends. We hope to see you at one of our YLS events this year!

2. Keep Learning

We are all still learning. Don't get down on yourself if you don't know everything right away. None of us did. There's a reason top lawyers have been refining their craft for decades. Even when you start to think you have figured it out, challenge yourself to level up and stay curious.

3. See Everything as an Opportunity.

Think back to a time at work or school when your energy was low. You didn't quite feel like it. What were you thinking about? Was it the opportunity or the obligation?

As a young lawyer, you will get assignments that you may think are insignificant. You will get some projects that no one else wants to do. It's your choice how you see those. In this profession, strong performance leads to more opportunities and greater responsibility. Once the experienced lawyers want *you* – and not just any young attorney, specifically you – to work on their cases or deals, that is a great sign. Not only will this improve your work product, but you'll also find the profession far more fulfilling when you embrace each challenge as an opportunity.

4. Overcome Fear with Gratitude, Preparation, and Staying Present

Fear is an often-overlooked topic, yet it's a normal experience—especially for new attorneys. It's normal, especially for new attorneys. There will be a time when you are asked to do something big. It may be the first time you are asked to lead a team discussion, take a deposition, or argue in court. Gratitude, preparation, and being in the moment can all help ease anxiety.

Fear thrives in anticipation, but peak performance happens in the present. You can't think clearly if you're thinking about all the things that can go wrong. Be present, stand tall, speak slowly, and listen. You got this.

5. Shift Your Perspective

We were always being judged in law school, from class rankings to competitions. A well-known trial lawyer once told us in law school that real trials are easier than mock trials. I was shocked when I first heard this, until he started explaining. He didn't mean the work was easier—trust me, it's not. He meant it was easier on him as a person because the focus was no longer on his hand placements or where he stood in the courtroom; it was now about something more. It can be freeing when you realize that our job is not to be in the spotlight, it's to direct the spotlight (towards the evidence and the truth).

6. If You Work Hard, You'll Get Lucky

When I joined Beasley Allen, I heard rumors that Greg Allen was the best at finding the smallest details in cases. I got the chance to sit in on one of Greg's depositions as a law

student. During a break, I asked Greg how he earned his reputation for finding the needle in the haystack. He said, "if you work hard, you'll get lucky." I'll remember these words for the rest of my career. Good things happen to people who put in the hours. It might look like luck to some, but it was never an accident.

7. Spend Time Talking with Experienced Lawyers

Don't be shy about reaching out to more experienced lawyers. You may assume they're too busy, and they are busy, but they also see the value in investing in you. They're often willing to mentor younger attorneys because they once benefited from the same guidance.

8. Do the Unexpected

You can make a lasting impression on others by going beyond what they expect in two ways. One way is to over deliver on your tasks and assignments. You can also make a lasting impression by doing things that most may see as being beneath them. Think of a head basketball coach staying late to sweep the floors—leading by example. Never have a "that's not my job" attitude and do things the right way even when you think no one is watching.

9. Step Out of Your Comfort Zone

This profession provides countless opportunities to step out of your comfort zone. Growth lives on the other side of those nerves. When your number gets called, step up. Run towards it. The more you step out of your comfort zone, the bigger it will become.

10. You Can Have an Advantage

A prominent lawyer once was asked how younger attorneys can handle the anxiety of going against older and more experienced lawyers. He described how older lawyers can also be fearful of a certain type of young lawyer. You read that correctly, fearful. He called that type of young lawyer a "multi-tasking prodigy with a laptop." The kind of lawyer that is fact-checking everything. His advice was simple: be that prodigy.

Use technology to your advantage. Be the lawyer that navigates research better than anyone. Be the lawyer that has everything organized and available at the tip of your fingers. Be the go-to on all the details. Lawyers who embrace this mindset consistently earn new opportunities and a seat at the table. ▲



Please email announcements to melissa.warnke@alabar.org.



Roberts



Seay



Debro



Huntley



McCarthy

Alabama Chapter of ABOTA Names Trial Judges of the Year and Inducts New Members

At its annual Awards Dinner on Nov. 21, 2024, the Alabama Chapter of the American Board of Trial Advocates (ABOTA) named Judge **James H. Roberts** and Judge **Philip K. Seay** as the 2024 Trial Judges of the Year. ABOTA also inducted three new members: **J. Mark Debro**, **R. Todd Huntley**, and **Megan McCarthy**, all recognized for their expertise in civil litigation. Founded in 1958, ABOTA is dedicated to preserving the civil jury trial and upholding professionalism in the legal field.

Baker Donelson Shareholder Sara M. Turner Elected Second Vice President of DRI

On October 22, 2024, **Baker Donelson** shareholder **Sara M. Turner** was elected Second Vice President of DRI. With more than 16,000 members, DRI is the largest international membership organization of attorneys defending businesses and individuals in civil litigation.



Turner

What are Bar Briefs?

Bar Briefs celebrates member achievements, accolades, and honors. We look forward to celebrating the accomplishments and good news of our members in this section!

Bradley

Bradley Arant Boult Cummings LLP Attorneys Recognized by Madison County Volunteer Lawyers Program

Bradley Arant Boult Cummings LLP attorneys **Emma Duke McBurney** and **George A. Smith II** were honored for their pro bono work by the Madison County Volunteer Lawyers Program (MCVLP). **McBurney** was named the 2024 New Volunteer of the Year, while **Smith** was recognized as a “Top Volunteer” for his contributions. **Bradley’s** Pro Bono Program continues to provide legal aid to underserved communities through various initiatives.

Bradley Arant Boult Cummings LLP Attorneys Elected to Birmingham Bar Association Young Lawyers Section Leadership Roles

Bradley Arant Boult Cummings LLP announced that three attorneys and one practice manager have been elected to leadership roles within the Birmingham Bar Association Young Lawyers Section (YLS) for the 2025 term. **Carmen E. Weite** was elected secretary-treasurer, while **Mason Kruse**, **Riley McDaniel**, and **Randi McCoy** were reappointed to the YLS Executive Committee. Their one-year terms began on Jan. 1, 2025.



Green (left)

Judge Brendette Brown Green Elected Chair of the National Judicial Council

Judge **Brendette Brown Green**, a Circuit Judge in Jefferson County, Alabama, was elected Chair of the National Judicial Council of the National Bar Association on July 17, 2024. She brings extensive judicial experience and a commitment to legal excellence, having served in various leadership roles within the legal community. Judge **Green’s** tenure will focus on upholding judicial integrity, professional development, and community engagement.



Green

(Continued from page 417)



Hill Hill Carter

Hill Hill Carter Celebrates 100th Anniversary

Hill Hill Carter recently celebrated its 100th anniversary, marking an important milestone that began in 1924 at the corner of Washington and Perry Streets in Montgomery. At that time, a young lawyer named **Thomas B. Hill, Jr.** started his law practice in a building without air conditioning. Shortly after, his brother, **William Inge Hill**, joined him, setting the foundation for what would become one of Montgomery's most respected law firms.

"As we reflect on our journey since 1924, we honor the past members who are no longer with us but played a crucial role in building the firm's success. We remember **Thomas B. Hill, Jr., William Inge Hill, Sr., James Stovall, James J. Carter, William Oldacre, Harry Cole, Ralph Franco, Bobby Black, Inge Hill, Jr., Bob Bradford, and John Milling**," said Managing Shareholder **David W. Henderson**. "We also want to recognize our senior members, whose leadership, wisdom, and dedication have paved the way for this significant milestone we celebrate today: **T. Bowen Hill III, William I. Hill II, James R. 'Spud' Seale, and Randall Morgan**."

Hill Hill Carter currently includes over 50 lawyers and staff members in four office locations. It works at a national level in healthcare law and is now majority female-owned.



Hutchison

Montgomery Lawyer Hank Hutchison Awarded YMCA's Person of the Year

Montgomery attorney **Hank Hutchison** was honored as the YMCA's Person of the Year for his contributions to the community. His recognition highlights the impactful role lawyers play in serving and giving back to their local communities. ▲

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▲ Nancy Smith Gaines

Nancy Smith Gaines

Nancy Smith Gaines, a woman of remarkable intellect, fierce determination, and boundless curiosity, passed away on Oct. 20, 2024, at the age of 78. A long-time resident of Huntsville, Alabama, Nancy was a trailblazer in the legal profession, a devoted wife, a cherished sister and aunt, and a passionate collector of history and beauty.

Born on Dec. 31, 1945, Nancy was raised with a deep appreciation for learning and excellence. She graduated as Salutatorian from Fairfax Hall in Waynesboro, Virginia, in 1964, before earning her B.A. from the University of Alabama in 1967. While at the University, she distinguished herself as a scholar, becoming a member of Phi Beta Kappa and several national honor societies. Her passion for law led her to the University of Virginia School of Law, where she earned her Juris Doctor degree in 1970. That same year, she was admitted to practice law in both Virginia and Alabama.

Nancy's legal career was one of determination and groundbreaking achievement. Upon returning to Huntsville in 1972, she became only the second woman to practice law in the city since the 1920s. Specializing in domestic relations cases, she was a staunch advocate for her clients, earning a reputation for her unwavering dedication and keen legal acumen. Beyond her practice, she contributed significantly to the legal field, serving on a statewide committee appointed by the Alabama Supreme Court to reform criminal procedure rules.

Beyond her professional life, Nancy was deeply involved in her community. She was a dedicated member of the Business and Professional Women International, Altrusa Club International, and the Junior League. Her love for history and preservation was evident in her service on the Board of Directors of the Twickenham Historic District Association. She also played a role in the Family Counseling Association and the Community Council of Huntsville and Madison County, always seeking ways to give back and uplift those around her.

Nancy's love for music and the arts was equally profound. She played the cello in the Huntsville Youth Orchestra and briefly with the Huntsville Symphony. This appreciation for beauty extended to her love of historic preservation. She and her husband, Jim, meticulously restored the original George Steele homeplace on Randolph Avenue, filling it with carefully curated antiques and period furnishings. Their shared passion for collecting led them to regional flea markets and antique auctions in search of Alabama pottery, vintage fountain pens, and historical memorabilia.

In retirement, Nancy and Jim embarked on yet another restoration project, bringing new life to a 1905 historic residence and post office in Magnolia Springs, Alabama. There, they became avid bird watchers and dedicated volunteers for the Weeks Bay National Estuarine Research Reserve. Their shared love of nature and history shaped their years together, creating a life rich in discovery and purpose. In 2017, they returned to North Alabama, settling into a mid-century modern home in Limestone County.

Nancy's legacy is one of strength, intelligence, and a relentless pursuit of excellence. She was a pioneer in her field, a guardian of history, and a woman whose presence left an indelible mark on all who knew her. Her devotion to her family, particularly her husband of 54 years, Jim Gaines, and her extended family, was unwavering. She is survived by her sisters, Harriett Smith Somerville and Catherine Smith Sabatini (Jack); her nephews, Michael Sabatini (Julianne) and Brad

Sabatini (Meggy); her niece, Alyson Sabatini Sandifer (Jesus); and six beloved grand-nephews and grand-nieces.

Nancy's life was one of boldness and brilliance, leaving behind a legacy of advocacy, knowledge, and deep appreciation for the world's many wonders. She will be profoundly missed and forever remembered. ▲

—Submitted by Nancy's husband, Jim Gaines

Mary Lynn Bates

Birmingham

Died: Sept. 9, 2024

Admitted: Sept. 26, 1978

Hon. Quentin Quarles Brown, Jr.

Birmingham

Died: July 2, 2024

Admitted: May 3, 1974

Henry Harris Caddell

Mobile

Died: Nov. 11, 2024

Admitted: Aug. 30, 1971

Brittin Turner Coleman

Birmingham

Died: Nov. 3, 2024

Admitted: Sept. 8, 1967

Stephen Gregory Crawford

Mobile

Died: Nov. 5, 2024

Admitted: Aug. 26, 1964

Hon. John Paul DeCarlo

Birmingham

Died: Dec. 26, 2024

Admitted: March 29, 1965

James Doyle Fuller

Magnolia Springs

Died: Dec. 25, 2024

Admitted: Sept. 1, 1972

Nancy Smith Gaines

Athens

Died: Oct. 20, 2024

Admitted: Aug. 14, 1970

Thomas Marlowe Galloway, Jr.

Mobile

Died: Dec. 4, 2024

Admitted: Sept. 24, 1973

Curtis Wilson Gordon, Jr.

Birmingham

Died: Aug. 25, 2024

Admitted: Sept. 27, 1976

Kenneth Dewayne Hampton

Huntsville

Died: Dec. 19, 2024

Admitted: Sept. 24, 1982

Hon. Oliver Pickens Head

Columbiana

Died: Nov. 26, 2024

Admitted: Jan. 1, 1956

Edward Anthony Hyndman, Jr.

Mobile

Died: Dec. 13, 2024

Admitted: Sept. 8, 1967

Alex Walter Jackson

Montgomery

Died: Dec. 2, 2024

Admitted: May 2, 1974

Thomas Seay Lawson, Jr.

Montgomery

Died: Nov. 17, 2024

Admitted: Jan. 1, 1963

Amy Sue Meredith

Guntersville

Died: Sept. 28, 2024

Admitted: April 25, 1980

Edwina Elaine Miller

Tuscaloosa

Died: Nov. 10, 2024

Admitted: Sept. 24, 1982

Robert Edward Morrow

Foley

Died: March 7, 2024

Admitted: April 10, 1969

Guy Dennis Nabors

New Orleans, LA

Died: Nov. 16, 2024

Admitted: Sept. 26, 1980

John Calvin Peacock

Dothan

Died: May 22, 2024

Admitted: April 30, 1999

Charles Ralph Paul, Jr.

Geneva

Died: Nov. 8, 2024

Admitted: Sept. 27, 1976

Hon. Claude Kendall Snow

Clanton

Died: Sept. 9, 2024

Admitted: May 3, 1974

Winfield James Sinclair

Montgomery

Died: Dec. 20, 2023

Admitted: Sept. 26, 1978

Donna Wesson Smalley

Mobile

Died: Nov. 8, 2024

Admitted: Sept. 28, 1979

Mindi Cheresse Robinson

Birmingham

Died: Oct. 5, 2024

Admitted: Sept. 27, 1996

Leigh Ellen Sanders

Montgomery

Died: Dec. 6, 2024

Admitted: April 30, 2010

Mark Allen Treadwell, III

Dadeville

Died: Dec. 5, 2024

Admitted: Sept. 28, 1990

James Edward Vann

Birmingham

Died: Oct. 25, 2024

Admitted: Sept. 25, 1981

Lynn Weaver Williams

Birmingham

Died: June 22, 2024

Admitted: Sept. 26, 1975

Hon. Debra Bennett Winston

Birmingham

Died: May 24, 2024

Admitted: Sept. 13, 1991

Milton Edward Yarbrough, Jr.

Decatur

Died: Aug. 29, 2024

Admitted: Sept. 24, 1982

Hon. Wadell Charles Zanaty, Jr.

Birmingham

Died: Feb. 25, 2024

Admitted: Oct. 20, 1965



OPINIONS OF THE GENERAL COUNSEL

Roman A. Shaul
roman.shaul@alabar.org



Lawyers May Pass Along Credit Card Processing Fees to Clients

Question:

I give clients the option of paying my legal fees via credit card. In doing so, I incur a merchant processing fee per transaction. Can I ethically pass along the merchant processing fee to clients who choose to pay by credit card?

Answer:

Yes. A lawyer may pass along a merchant processing fee to clients who pay for legal services by credit card, provided that both the amount of the legal fee and the processing fee are reasonable. The lawyer must also explain the additional charge to the client and obtain the client's consent in advance. The processing fee charged to the client should be the same amount charged to the lawyer, and the lawyer should not include any additional costs or fees in the processing fee.



Discussion:

Historically, the acceptance of credit card payments for legal fees was viewed unfavorably by the legal profession. In 1969, the American Bar Association's (ABA) Committee on Ethics and Professional Responsibility stated that it was "wrong" to place professional services in the same category as the "sales of merchandise and nonprofessional services." ABA Informal Opinion 1120 (1969). This opinion was reversed in 1974, but due to various ethical concerns, many lawyers have been reluctant to allow clients the option of paying by credit card. ABA Formal Opinion 338 (1974).

Passing along merchant processing fees requires consideration of Rule 1.5(a) and Rule 1.4(b) of the Alabama Rules of Professional Conduct. Rule 1.5(a) prohibits charging a client an "excessive fee" and sets forth a nonexclusive list of factors to determine whether a fee is excessive. Although a merchant processing fee is an "expense," it is still subject to the reasonableness requirement in Rule 1.5(a). Alabama Formal Opinion 2005-02. The Disciplinary Commission has previously cautioned lawyers that "expenses charged back to a client during the course of the representation should be reasonable and not considered a secondary opportunity for a lawyer to generate additional income from the lawyer-client relationship." *Id.* For this reason, the actual merchant processing fee incurred by the lawyer should be the same amount charged to the client.

Rule 1.4(b) of the Alabama Rules of Professional Conduct requires that a lawyer explain matters to the extent reasonably necessary to permit a client to make informed decisions about the representation. Inherent in this consultation obligation is a discussion about the fees to be charged and the reimbursement for expenses incurred during the representation. When discussing payment arrangements, the lawyer must provide advance notice and obtain the client's approval regarding which expenses the client will be responsible for. These obligations align with those required by other bar associations. See, e.g., NY Op. 1258a (2024); Illinois Op. 14-01 (2014); D.C. Op. 348 (2009).

Conclusion:

Provided the lawyer complies with Rules 1.4 and 1.5, nothing prohibits a lawyer from passing along the cost of the merchant processing fee incurred. A lawyer may pass on a merchant processing fee to clients who pay for legal services by credit card, provided that both the amount of the legal fee and the processing fee are reasonable and that the lawyer has explained the charge to the client and obtained the client's consent in advance. ▲

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Marc A. Starrett

Marc A. Starrett is an assistant attorney general for the State of Alabama and represents the state in criminal appeals and habeas corpus in all state and federal courts. He is a graduate of the University of Alabama School of Law. Starrett served as staff attorney to Justice Kenneth Ingram and Justice Mark Kennedy on the Alabama Supreme Court, and was engaged in civil and criminal practice in Montgomery before appointment to the Office of the Attorney General. Among other cases for the office, Starrett successfully prosecuted Bobby Frank Cherry on appeal from his murder convictions for the 1963 bombing of Birmingham's Sixteenth Street Baptist Church.



J. Thomas Richie

J. Thomas Richie is a partner at Bradley Arant Boulton Cummings LLP, where he co-chairs the class action team. He litigates procedurally-complex and high-stakes matters in Alabama and across the country. Richie is a 2007 summa cum laude graduate of the Cumberland School of Law and former law clerk to the Hon. R. David Proctor of the United States District Court for the Northern District of Alabama.

Recent Criminal Decisions – Marc A. Starrett From the 11th U.S. Circuit Court of Appeals

Oral Pronouncement of Sentence

***U.S. v. Brown*, No. 23-12339 (11th Cir. Dec. 4, 2024):** The district court was not required to orally pronounce each individual discretionary condition of supervised release. By expressly referencing “the mandatory and standard conditions adopted by the court in the Middle District of Florida,” the court provided the defendant with notice that it was imposing those standard conditions and gave him an opportunity to object or seek clarification.

Capital Punishment; Nitrogen Hypoxia

***Grayson v. Comm’r, Alabama Dep’t of Corr.*, 121 F.4th 894 (11th Cir. 2024), cert. denied, *Grayson v. Hamm*, No. 24-5993, 2024 WL 4846625 (U.S. Nov. 21, 2024):** The district court correctly concluded that the death row inmate failed to show he was likely to succeed on his claim that Alabama’s nitrogen hypoxia execution protocol violated the Eighth Amendment.

From the Supreme Court of Alabama

Probation Revocation; Hearsay

***Ex parte Nesbitt*, No. SC-2023-0884 (Ala. Oct. 4, 2024):** The state failed to produce sufficient nonhearsay evidence to support a probation revocation based on a charge of shooting into an occupied building. A detective’s hearsay testimony regarding what witnesses told him during the investigation was the primary basis for showing that the probationer committed the alleged offense. Evidence that the probationer fled from the scene, though admissible as consciousness-of-guilt evidence, was insufficient to connect him to the alleged offense.

From the Alabama Court of Criminal Appeals

Ala. R. Crim. P. 32; Sentence Enhancement

Parker v. State, No. CR-2024-0300 (Ala. Crim. App. Nov. 8, 2024): The circuit court did not err in summarily dismissing the postconviction petitioner's tenth petition as untimely and successive under Ala. R. Crim. P. 32.2. The petitioner's claim that the state failed to properly prove his prior convictions for sentence enhancement under the Alabama Habitual Felony Offender Act, Ala. Code § 13A-5-9, was a nonjurisdictional claim subject to preclusion under Rule 32.2. The Court of Criminal Appeals noted that the circuit court had previously adopted measures to prevent the petitioner from refiling the same claims, and urged the circuit court to enforce those measures and, if necessary, adopt new ones to prevent further litigation.

Domestic Violence

Scheuing v. State, No. CR-2022-0684 (Ala. Crim. App. Sept. 27, 2024): The evidence supported the defendant's convictions of first-degree domestic violence (stalking) and second-degree domestic violence (burglary), violations of Ala. Code §§ 13A-6-130 and 13A-6-131. The defendant and the victim were married at the time of the offenses, which triggered the domestic violence statutes. The evidence showed the defendant repeatedly called the victim from unfamiliar phone numbers and physically injured her while forcing his way into her home.

Amendment to Indictment; Double Jeopardy

Hammock v. State, No. CR-2024-0333 (Ala. Crim. App. Nov. 8, 2024): Although the defendant's indictment charged the manner of committing the offense of obstructing governmental relations in the conjunctive, there was no error in amending the indictment pursuant to Ala. R. Crim. P. 13.5 to remove one alleged manner of committing the offense. The Court of Criminal Appeals also took judicial notice that the defendant's convictions of both resisting arrest and second-degree assault, violations of Ala. Code §§ 13A-10-41 and 13A-6-21, constituted double jeopardy, as resisting arrest was a lesser-included offense of second-degree assault.



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(Continued from page 425)

Amendment to Complaint; Trial De Novo

State v. Shiver, No. CR-2023-0604 (Ala. Crim. App. Nov. 8, 2024): The state's amendment of a complaint to allege driving under the influence of alcohol under Ala. Code § 32-5A-191(a)(2), instead of the original offense of driving under the influence of a substance other than alcohol or a controlled substance under Ala. Code § 32-5A-191(a)(5), did not charge an additional or different offense and did not prejudice the defendant. The circuit court, hearing the case on appeal from the district court for a trial de novo, erred in dismissing the complaint. The Court of Criminal Appeals noted that under Ala. R. Crim. P. 30.2 and Ala. Code § 12-12-72, the defendant could have appealed directly to it from the district court's refusal to dismiss the complaint. Instead, the defendant chose to appeal to the circuit court for a trial de novo, thus beginning the proceedings anew, and could no longer rightly complain that she had not received reasonable notice of the amended charge in district court.

Impermissible Vehicle Lights

Helms v. State, No. CR-2023-0812 (Ala. Crim. App. Nov. 8, 2024): The defendant's truck, equipped with digital screens that projected scrolling electronic images, violated the statutory prohibition against equipping a motor vehicle with impermissible lights under Ala. Code § 32-5-241. Ala. Code § 32-5-240 requires motor vehicles traveling on a state highway to be equipped with certain lights, and § 32-5-241 permits certain additional lights. The digital screens were not required by § 32-5-240 and did not qualify as one of the permissible additional lights under § 32-5-241.

Recent Civil Decisions – Thomas Richie From the Supreme Court of Alabama

Stay of Proceedings

Ex parte Moore, No. SC-2024-0377 (Ala. Oct. 25, 2024): The plaintiffs petitioned the Supreme Court of Alabama for (1) a writ of mandamus directing the trial court to dissolve a

stay of final judgment entered in 2018 and (2) a writ of prohibition restraining the court from holding a second trial on the merits of the matter or entering any future orders. Because the stay had been in place for six years despite numerous attempts by the plaintiffs to lift it, the court concluded that the stay was immoderate and beyond the trial court's discretion. Therefore, the court issued a writ of mandamus directing the trial court to dissolve the stay. Further, because a second trial would allow for relitigation of issues that were finally determined six years ago, the court issued a writ of prohibition directing the trial court to vacate the order for a second trial and restricting the court from issuing any future orders that would wind up the litigation.

Redemption

Hayden v. Newsome Law, LLC et al., No. SC-2024-0412 (Ala. Oct. 25, 2024): In a suit to redeem property that was previously owned by his father, the plaintiff argued that he should not have to pay a judgment lien on the property. The trial court dismissed the action on the basis that all judgment liens that had attached to the property at the time of the sheriff's sale were revived against the plaintiff. The Supreme Court of Alabama reversed the trial court's dismissal, stating that, under Alabama Code § 6-5-253(b), all prior judgments and liens are explicitly exempted in redemption actions by children of the debtor. However, because the plaintiff had named the current property owner's law firm as a party to the suit, and because the law firm was not the purchaser of the property against whom the right of redemption lies, the court affirmed the trial court's judgment to the extent it dismissed the law firm as a party.

Attorneys' Fees

Daugherty v. Baker, No. SC-2024-0412 (Ala. Nov. 8, 2024): After an attorney was asked to step down as counsel in a matter where he represented an ex-wife in her efforts to recover alimony in exchange for a contingency fee, the attorney moved to recover more than \$100,000 in attorneys' fees. The trial court dismissed the attorney's claim for fees on the basis that the contingency fee contract was void against public policy under Rule 1.5(d)(1) of the Alabama Rules of Professional Conduct, which forbids contingency-fee arrangements in domestic relations matters. On appeal, the Supreme Court of Alabama affirmed the trial court's dismissal, noting that the attorney did not present sufficient

Alabama authority to refute the application of the prohibition in Rule 1.5(d)(1) to the matter. Further, although the attorney attempted to argue that he should be entitled to legal fees even if the contract was not enforceable based on the theory of quantum meruit, the court noted that he never pleaded that claim, and thus held that it was not a proper basis for reversing the trial court's judgment. Therefore, the court affirmed the trial court's judgment.

Arbitration

CNU of Alabama, et al. v. Cox, Nos. SC-2024-0060 and SC-2024-0061 (Ala. Nov. 8, 2024): Plaintiffs, two creditor companies, brought an action to recover financial advances that the defendant had defaulted on, and the district court entered judgment in favor of the defendant. UHG appealed the judgment to the circuit court, moving to compel arbitration under an arbitration agreement between the parties, and the defendant filed a counterclaim on behalf of herself

and a class of individuals against both UHG and CNU. The circuit court denied the motion to compel arbitration on the basis that: (1) the agreement and the arbitration provision were void under the Small Loan Act; (2) the arbitration provision was unconscionable; and (3) UHG had waived its right to arbitrate by appealing the district court's judgment. UHG and CNU separately appealed. On appeal, the court reversed the circuit court's findings that the arbitration agreement was illegal and unconscionable, noting that both questions were for an arbitrator to decide. In addition, the court applied the United States Supreme Court's decision in *Morgan v. Sundance, Inc.*, 596 U.S. 411 (2022) to make clear that the standard for considering waiver in the arbitration context requires a court to consider whether the party's actions as a whole have substantially invoked the litigation process. Under this new standard, the court affirmed the circuit court's finding that UHG waived its right to arbitrate the initial collection claim because it pursued collective action



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(Continued from page 427)

in the lower court but made clear that neither UHG nor CNU had waived the right to arbitrate the counterclaim that the defendant asserted on appeal. Therefore, the court affirmed the judgment in part, reversed the judgment in part, and remanded the matter to the circuit court.

D.R. Horton, Inc. v. Carlton, No. SC-2024-0009 (Ala. Nov. 15, 2024): Upon discovering a large structural crack in the foundation of their house, the plaintiffs filed claims of negligence, wantonness, breach of contract, and misrepresentation/suppression against the construction company that built the home. The construction company filed a motion to stay the action and to compel arbitration, based on the purchase agreement's mandatory arbitration provision. The trial court found the arbitration provision did not apply and, thus, denied the motion to stay and to compel arbitration. The construction company appealed. On review, the Supreme Court of Alabama found that the purchase agreement's arbitration provision required all proceedings to be conducted pursuant to the rules of the American Arbitration Association, which clearly and unmistakably require questions of arbitrability to be decided by the arbitrator. Therefore, because the determination of the scope of the arbitration provision was a question for the arbitrator, not the trial court, the court found that the trial court erred in denying the construction company's motion to stay and to compel arbitration.

Intervention

Energy and Policy Institute v. Drummond Co., Inc., et al., No. SC-2023-0651 (Ala. Nov. 8, 2024): The appellant filed a motion for leave to intervene in a sealed matter for the limited purpose of unsealing the record to expose companies with connections to bribery schemes affecting the environment. After the trial court denied the motion to intervene, the disappointed intervenor appealed. On appeal, the Supreme Court of Alabama considered the following four factors from *Holland v. Eads*, 614 So. 2d 1012, 1017 (Ala. 1993) to determine whether the records should be unsealed: (1) the length of time that the intervenor knew or reasonably should have known of its interest in the case before petitioning to intervene; (2) the prejudice to existing parties due to the intervenor's delay in petitioning to intervene; (3) the prejudice that the intervenor would suffer if he were not allowed to have the record unsealed; and (4) the existence of any extraordinary circumstances suggesting, or cautioning against, intervention. The court concluded that

the trial court erred in finding that the petition had not met its burden to intervene. Therefore, the court reversed the trial court's order and remanded it for further proceedings.

Judgment as a Matter of Law; Contributory Negligence

Marina v. Bama Reinforcing, LLC, No. SC-2024-0106 (Ala. Nov. 8, 2024): After the plaintiff injured his foot at a jobsite by stepping on a portion of a metal chair buried in the dirt, he filed suit against the defendant – another subcontractor on the jobsite – alleging that it had negligently failed to clean up the chair as required under its contractual duties. At trial, the trial court entered judgment as a matter of law in favor of the defendant. The plaintiff appealed. The Supreme Court of Alabama reversed the trial court's decision, finding that the question of whether the plaintiff was contributorily negligent was a question of fact for the jury. Further, because the plaintiff presented evidence that (1) the defendant was the only contractor on the jobsite that used metal chairs; and (2) the defendant had a contractual duty to clean up the jobsite after completing its work each day, the court found that the plaintiff had presented more than just conjecture or speculation that the defendant's negligence was responsible for his injury. Therefore, the court reversed the trial court's entry of judgment as a matter of law and remanded the matter for a new trial.

Data Breach

Griggs v. NHS Mgmt., LLC, No. SC-2023-0784 (Ala. Nov. 15, 2024): In an important case of first impression, the Supreme Court of Alabama set a high pleading bar for negligence claims arising in the data breach context. The plaintiff asserted several claims against her previous employer after it experienced a data breach of her sensitive personal information. After the trial court dismissed the plaintiff's complaint with prejudice, she appealed. Because the plaintiff's complaint merely stated the elements of negligence and breach of fiduciary duty but did not allege anything more or explain by citation to legal authority why these elements were satisfied or a duty existed to keep data safe, the Supreme Court of Alabama held that the plaintiff failed to sufficiently plead both claims. Similarly, the court found that the plaintiff failed to plead her negligence per se claim because she did not allege that the defendant's alleged statutory violations were the proximate cause of her damages,

and that she failed to plead her unjust enrichment claim because she could not show she conferred any benefit on her former employer in exchange for her personal information. Furthermore, because the plaintiff did not allege that her former employer's data breach was intentional, she failed to state a claim for invasion of privacy. Finally, the court held that the plaintiff's claim for breach of confidence was not a recognized cause of action in Alabama. Therefore, because the plaintiff had abandoned all other claims, the court affirmed the trial court's dismissal of the plaintiff's claims.

Expert Testimony

***LeBlanc v. Residence Doctor Home Inspection, LLC, et al.*, No. SC-2023-0843 (Ala. Nov. 15, 2024):** After homeowners were informed by a mold-remediation specialist that their home had rotten floor joists in the crawl space, they asserted a host of claims against the inspection company and inspector who had previously inspected their home, alleging that they had breached the Alabama Standards and Procedures for Home Inspectors by not disclosing the information. The trial court entered summary judgment in favor of the inspection company and inspectors, which the plaintiffs appealed. On review, the Supreme Court of Alabama revisited its previous plurality decision in *Riverstone Development Company v. Garrett and Associates Appraisals, Inc.*, 195 So. 3d 251 (Ala. 2015) and made clear that expert testimony is required to establish a home inspector's breach of the applicable standard of care, unless the breach is so apparent that it would be obvious to an average person. Therefore, because the plaintiffs had not offered any expert testimony or established that the inspector's breach was so apparent that it obviated the need for expert testimony, the court affirmed the trial court's entry of summary judgment.

Workers' Compensation

***Crenshaw v. Sonic Drive In of Greenville, Inc.*, No. SC-2024-0081 (Ala. Dec. 6, 2024):** After an on-the-job injury, the plaintiff challenged the constitutionality of the Alabama Workers' Compensation Act, Ala. Code § 25-5-1 *et seq.* as violating Section 13 of the Alabama Constitution—a section that provides that every person “shall have a remedy by process of law.” The Supreme Court of Alabama affirmed the circuit court's dismissal, agreeing that the workers' compensation act is constitutional. Without deciding whether the vested rights or common-law rights approach applied, the court considered both approaches. It found that the law was constitutional under the vested rights approach because the law was enacted well before the injuries that gave

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(Continued from page 429)

rise to the suit. It then found that the law was constitutional under the common-law rights approach because it determined that the law represents a valid exercise of the legislature's police powers.

Appellate Jurisdiction

Martin v. Scarborough, et al., No. SC-2023-0904 (Ala. Nov. 22, 2024): After purchasing the defendant's property at a foreclosure auction, the plaintiffs commenced an ejectment action against the defendant. In response, the defendant asserted seventeen counterclaims against the plaintiffs. The trial court granted summary judgment in favor of the plaintiffs on all claims and counterclaims, and the defendant appealed. Although the plaintiffs argued that the case was due to be remanded to the trial court because the order did not contain specific language awarding the property to them and thus did not constitute a final judgment, the Supreme Court of Alabama disagreed. Instead, the court found that because it was implicit in the trial court's judgment that the plaintiffs were entitled to seek enforcement of the order, and because a trial court's judgment can be final even if other proceedings are required to effectuate the judgment, the trial court's order was a final judgment proper for appellate review. Although the court held that the trial court's entry of summary judgment on all of the defendant's counterclaims was due to be affirmed, the court found that the trial court erred in entering summary judgment in favor of the plaintiffs on the ejectment claim because a genuine issue of material fact existed about whether the foreclosure sale should be set aside as void since the purchase price was less than one-third of the value of the land. Therefore, the court affirmed the judgment in part, reversed the judgment in part, and remanded the matter to the trial court.

Jerry & John Woods Constr. Inc. v. Jordan, No. SC-2024-0253 (Ala. Nov. 22, 2024): After homeowners failed to pay for the construction of their house, the construction company sued the homeowners for breach of contract and unjust enrichment and, in response, the homeowners asserted counterclaims of breach of contract and negligence. The trial court entered summary judgment in favor of the homeowners on the basis that the construction company did not have the proper licensure to be a residential home builder under Alabama Code § 34-14A-14(d) and therefore was

barred from bringing an action against the homeowners to enforce the construction contract. Although the trial court did not address the counterclaims, it certified its order as final under Rule 54(b) and found that there was no reason to delay appellate review. Because a trial court's judgment is generally not final unless it resolves all claims against all parties, and because the counterclaims were inexplicably intertwined with the other claims resolved by the trial court, the Supreme Court of Alabama found that the trial court exceeded its discretion in certifying the judgment as final under Rule 54(b). Therefore, the court dismissed the appeal.

From the Alabama Court of Civil Appeals

Termination of Parental Rights

A.D.J. v. Mobile Cty. D.H.R., No. CL-2024-0430 (Ala. Civ. App. Nov. 1, 2024): A father's parental rights were terminated upon a finding that he had abandoned the child. He argued that he had doubts as to whether he was the child's biological father, and that his attempts to determine whether he was the biological father provided good cause to excuse his absence from the child's life. The Alabama Court of Civil Appeals affirmed the judgment terminating his parental rights, noting that the father was the legal father of the child from at least 2013 and that he had paid child support for the child since that time. The court found that legal paternity is enough to adjudicate the father's status as to the child and biological testing is not required when legal paternity is established.

P.R.P. v. Marshall Cty. D.H.R., No. CL-2023-0899 (Ala. Civ. App. Dec. 13, 2024): A mother challenged the termination of her parental rights. The child had immigrated to the United States with her father and the father was later charged with abusing the child. The mother stayed in Guatemala and intended ultimately to join the child in the United States. The appellate court found that even long-term separation resulting from a child's immigration did not amount to abandonment. It also determined that DHR failed to use reasonable efforts to reunite the family. The mother's location was remote and she spoke only a Mayan dialect, but video conferencing was possible and was used to communicate with the

mother. Moreover, the child had a cell phone that he used to communicate with the mother, but DHR did not obtain the passcode to that phone to use it to contact the mother. DHR also failed to contact the consulate in a timely fashion after the child's removal to protective custody. Even after receiving an order from the juvenile court to make all efforts to locate the mother, DHR failed to report on those efforts. It attempted notice by publication for the mother in Guatemala but published that notice in English.

Dependency

***B.O. v. C.T.*, No. CL-2024-0320 (Ala. Civ. App. Nov. 8, 2024):** The Alabama Court of Civil Appeals reversed a dependency finding made by a juvenile court as to a child. The child was under the care of grandparents. The petitioner sought to have the child declared a dependent because of evidence that the child occasionally missed medical and dental visits, missed doses of medication, and that the grandparents had limited financial resources. The appellate court found this evidence too little to support dependency, as there was no proof of neglect or abuse. It distinguished between "optimal medical care"—a standard the grandparents might not meet—and "adequate medical care"—the standard required by Alabama Code Section 12-15-301(a).

Divorce

***W.D.G. v. K.S.G.*, No. CL-2024-0223 (Ala. Civ. App. Nov. 15, 2024):** The Alabama Court of Civil Appeals found that an HIV diagnosis and explicit pictures and text messages could have supported a finding that a husband committed adultery and that the trial court's finding to that effect was not an abuse of discretion. But the court reversed the trial court's decision to award the wife 100% of certain of the husband's retirement accounts. The husband had transferred money between retirement accounts, but the court found that these transfers were not voidable, so the award to the wife violated Alabama Code Section 30-2051(b)(2)'s requirement that the amounts payable to the noncovered spouse shall not exceed 50% of the eligible retirement benefits.

Declaratory Judgment

***Ala. Dept. of Env't. Mgmt. v. Env't. Def. Alliance.*, No. CL-2023-0819 (Ala. Civ. App. Nov. 1, 2024):** After the plaintiff requested that ADEM allow them to inspect certain documents under the Open Records Act, the director of ADEM issued a declaratory judgment stating that it was proper for ADEM to deny such a request. EDA filed a petition for review, and, after a hearing on the merits, the circuit court entered a

judgment granting plaintiff's request to inspect ADEM's documents. On appeal, the court held that ADEM lacked authority under § 41-22-11(a) to issue its original declaratory judgment, and, as a result, the circuit court's order purporting to address the merits of the appeal from the declaratory judgment was void. Therefore, the court dismissed the appeal with instructions to the circuit court to vacate its judgment and to enter a judgment dismissing the appeal for lack of jurisdiction.

UCCJEA

***T.R. v. Tuscaloosa Cty. D.H.R.*, No. CL-2024-0381 (Ala. Civ. App. Nov. 22, 2024):** Because the child declared dependent by the juvenile court did not reside in Alabama for at least six months with a parent, and because the persons acting as custodians did not have any legal custody of the child, the child's "home state" under the UCCJEA was not Alabama and the juvenile court erred to the extent it asserted home state jurisdiction. The court also determined that the juvenile court could have intended to exercise emergency jurisdiction, but that the juvenile court failed to follow the proper procedures to do so. Though the juvenile court found that an emergency existed, it never invoked emergency jurisdiction and did not enter a temporary order as required by such jurisdiction.

Homeowner's Association Fees

***Ross v. West Wind Condo. Ass'n.*, No. CL-2023-0829 (Ala. Civ. App. Nov. 8, 2024):** After the trial court entered a final judgment awarding a condominium association money for the plaintiff's unpaid homeowners' dues and assessment fees, the plaintiff appealed. Because the condominium association levied assessment fees against only the individuals with condominiums in the damaged building, and not against owners of all units as required by its bylaws, the Alabama Court of Civil Appeals held that the assessment fee was invalid. Therefore, the court reversed the trial court's judgment to the extent it awarded the condominium association damages for the plaintiff's nonpayment of the assessment. However, the court affirmed the trial court's findings that (1) the plaintiff was liable for unpaid homeowners' dues; (2) the plaintiff was not entitled to lost rent for the period the condominium was conducting repairs; (3) the trial court did not err in failing to join the underlying action with other pending actions; and (4) the plaintiff had not satisfied his burden of proof on his ejectment claim. Therefore, the court affirmed the judgment in part, reversed the judgment in part, and remanded the judgment with instructions.

(Continued from page 431)

Subject-Matter Jurisdiction; Necessary Parties

Virgo v. Burnett, No. CL-2024-0396 (Ala. Civ. App. Nov. 15, 2024): The plaintiff filed a statement of claim for eviction/unlawful detainer against the defendant, and the defendant filed a counterclaim for reimbursement for improvements he allegedly made to the property at issue in the amount of \$100,000. Although the district court entered an order in favor of the plaintiff directing the defendant to vacate the property, it did not address the counterclaim. The defendant appealed to the circuit court, and the circuit court entered summary judgment in favor of the plaintiff, which the defendant appealed. On appeal, the Alabama Court of Civil Appeals noted that, although neither of the lower courts had addressed the defendant's counterclaim, the judgment was nonetheless final because the counterclaim had requested an amount in excess of the district court's jurisdiction. Therefore, the court concluded that the district court had lacked subject-matter jurisdiction to adjudicate the counterclaim and impliedly dismissed it on that basis. However, the court found that there were multiple other owners of the property at issue who, despite being necessary parties to the case under Alabama Rule of Civil Procedure 19, had not been joined. As a result, the court reversed the trial court's judgment and remanded the case to the circuit court for further proceedings.

Naming of Parties; Improper Service of Process

Ex parte Vaughn, No. CL-2024-0737 (Ala. Civ. App. Nov. 15, 2024): The individual members of the Alabama Medical Cannabis Commission (the "AMCC") petitioned the Supreme Court of Alabama to issue a writ of mandamus ordering the trial court to dismiss a civil action against them for lack of subject-matter jurisdiction. Specifically, the individuals argued that the matter should be dismissed because (1) the caption of the complaint only named the AMCC as a defendant – not the individual members; and (2) the individual members had not been properly served. The Supreme Court of Alabama denied the petition, making clear that a plaintiff states a claim against a party even if the party is not mentioned in the caption of the complaint, so long as the plaintiff identifies the party in the body of the complaint. Further,

the court held that the individual members had waived the defense of improper service by failing to assert it in their original motion to dismiss. Therefore, the court denied the petition for a writ of mandamus.

Workers' Compensation

Crenshaw v. Sonic Drive In of Greenville, Inc., No. SC-2024-0081 (Ala. Dec. 6, 2024): After an on-the-job injury, the plaintiff challenged the constitutionality of the Alabama Workers' Compensation Act, Ala. Code § 25-5-1 *et seq.* as violating Section 13 of the Alabama Constitution—a section that provides that every person "shall have a remedy by process of law." The Supreme Court of Alabama affirmed the circuit court's dismissal, agreeing that the workers' compensation act is constitutional. Without deciding whether the vested rights or common-law rights approach applied, the court considered both approaches. It found that the law was constitutional under the vested rights approach because the law was enacted well before the injuries that gave rise to the suit. It then found that the law was constitutional under the common-law rights approach because it determined that the law represents a valid exercise of the legislature's police powers.

From the Eleventh Circuit Court of Appeals

Qualified Immunity

Swinford v. Santos, No. 22-13675 (11th Cir. Nov. 4, 2024): The district court held that the police officer defendants enjoyed immunity as to claims brought by the widow of a man shot by the officers in the course of an interaction. The Eleventh Circuit affirmed. It found that the district court properly considered bodycam footage of the incident, finding that the complaint referenced the bodycam footage and the footage was central to the claims at issue. Based on the bodycam footage, the Eleventh Circuit found that the officers had probable cause to believe that the man posed a threat to the officers, as the footage showed the man disregarding officers' instructions and pointing a gun at the officers.

Fight Online Sex Trafficking Act

M.H. v. Omegle.com, LLC, No. 22-10338 (11th Cir. Dec. 9, 2024): After their daughter was coerced to provide explicit images to a user of a website, parents sued the website for knowingly possessing child pornography and knowingly benefiting from participation in what it knew or should have known to be a sex trafficking venture. The district court found that Section 230 immunity applies to the website because the parents were seeking to hold the website accountable for the actions of a website user, and that the FOSTA exception to 230 immunity did not apply because the operating complaint failed to allege that the website had actual knowledge of the incident at issue. The Eleventh Circuit agreed as to the issue of whether the parents had alleged that the website knew that it possessed child pornography, finding the operative complaint to lack sufficient allegations that the website knew that the particular recording was child pornography. It also agreed that the exception to section 230 from FOSTA did not apply. It first decided that the FOSTA exception requires an allegation that the website had actual knowledge of the alleged sex trafficking. It then determined that the plaintiffs failed to meet this standard. It affirmed the district court.

Arbitration

Lubin v. Starbucks Corp., No. 21-11215 (11th Cir. Dec. 16, 2024): The district court declined to compel arbitration when a husband sued his wife's former employer claiming that the employer failed to provide sufficient notice of the husband's COBRA rights. The wife agreed to arbitrate in her employment agreement, but the husband did not sign such an agreement. The Eleventh Circuit agreed with the district court, finding that the husband's suit was to vindicate his own rights, not his wife's. It also found that the issue of arbitrability, delegated to the arbitrator under the agreement, could be decided by the court because the clause included exclusions that provided that actions to enforce the arbitration agreement or compel arbitration were excluded from arbitration—and because the husband was not a party to the agreement to delegate the issue of arbitrability to the arbitrator. The Eleventh Circuit then agreed with the district court that the husband was not bound to arbitrate under equitable estoppel, a third-party beneficiary theory, or under the view that his claim was derivative of his wife's claim.

Title IX

Crowther v. Bd. of Regents of the Univ. Sys. Of Ga., No. 23-11037 (11th Cir. Nov. 7, 2024): The court held that Title

IX does not create an implied right of action for sex discrimination in employment, reasoning that such a right is not textually required and would overlap with the express rights of action created in Title VII. The court went on to find that a male plaintiff did not have a retaliation claim under Title IX because it determined that his claim related to his participation in Title IX investigations *of him*, not his reporting of other violations. It found that the female plaintiff had no associational Title VII claim, as that claim was based on the sex of the team she coached (the women's basketball team) and not on *her* sex. It rejected the remaining claim of the female plaintiff, finding that the plaintiff was fired because of allegations of inappropriate coaching practices, not as retaliation for her sending letters regarding the resources dedicated to women's basketball and the treatment of her as a coach. ▲

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ABOUT MEMBERS, AMONG FIRMS

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Among Firms

Alabama League of Municipalities is pleased to announce that **Mary Elizabeth Dial** has joined as associate counsel.

Bainbridge, Mims, Rogers & Smith, LLP is delighted to announce that **Elizabeth Nicholson Terenzi** has been named a partner in the firm, and **Mollie Smith Bradford** has joined as an associate.

Baker Donelson is thrilled to welcome **Caroline Dean, Elise Helton, Brock M. Lavelly, and Naomi Migoya** to their Birmingham office.

Burr & Forman LLP has announced the election of four partners in Alabama—**Christian Borek, Jake Burchfield, J.P. Sauer** in Birmingham, and **Bryant Hitson** in Mobile.

Burr & Forman LLP welcomes the addition of **Lamar Dukes, Molly Glisson, Annie Hughes, Mary Caroline Newman, Zach Warren, and Bailey Wood** to their Birmingham office.

Butler Snow's Constitutional and Civil Rights Litigation group in Montgomery welcomes **Maggie E. Arellano**.

Ely, McCurry, & Hunter, LLC is excited to announce that **Treona J. Brown** has joined as an associate.

F&B Law Firm, PC of Huntsville is pleased to announce that **Cade P. Barlow** has joined as an associate.

Gilpin Givhan, PC announced the elevation of **John George Archer** to shareholder effective Jan. 13, 2025.

Hall Booth Smith's Birmingham office has welcomed **Dylan Angeline, Cameron McCormack, and Drake Rippy** as associates.

Hand Arendall Harrison Sale is proud to announce that **Chris Williams** has been elected to serve on the Executive Committee.

Huie, Fernambucq & Stewart, LLP is pleased to announce that **Will Thompson** was recently named a partner.

Jones Walker announces the expansion of its Litigation Practice Group in Mobile with the addition of four former **McDowell Knight** litigators—**Richard Gaal, Fred Helmsing, Hart Benton, and Alex Steadman**—strengthening the firm's bankruptcy and restructuring, corporate compliance, and white-collar defense capabilities along the Gulf Coast.

Lightfoot, Franklin & White LLC has elevated **W. McKinley Dunn** and **Joshua G. Latzman** to the firm's partnership.

Lloyd, Gray, Whitehead & Monroe, P.C. is delighted to welcome **Dawson Ogletree** and **Zachary Trader** to their Birmingham office.

Marsh, Rickard & Bryan, LLC of Birmingham announces the retirement of attorney **Susan Silvernail**, who served as the firm's managing partner for decades. **J. Ben Ford** was the firm's

About Members, Among Firms highlights ASB members on the move—whether you're taking on a new role within your current company, organization, or firm; being hired at a new firm or organization; or starting up your own practice.

managing partner in 2024 and will continue in that role this coming year.

McGlinchey Stafford is pleased to announce the addition of **Bailee Curtis** to the firm's Financial Services Litigation practice group in Birmingham.

Methvin, Terrell, Yancey, Stephens & Miller, P.C. is pleased to announce that **Courtney C. Gipson** has become a shareholder in the firm. The law firm is located in The Highland Building at 2201 Arlington Avenue South, Birmingham, Alabama 35205.

Ogletree Deakins has elected **Amy Quick Glenos** to shareholder in the firm's Birmingham office.

Phelps Dunbar LLP has elected Mobile lawyer **E. Barret Hails** to its 2025 Partner Class.

Pino Law Firm, P.C. is pleased to announce that **Jim Pino** is now Of Counsel

and **Jeffrey Bryan Pino** is managing partner.

Porterfield, Harper, Mills, Motlow & Ireland, P.A. is pleased to announce that **Kendall L. Herron** has joined the firm.

Rushton Stakely is pleased to announce that **Katie D. Archer** has been named Shareholder, effective Jan. 1, 2025.

Simpson McMahan Glick & Burford is pleased to announce the promotion of **Nicholas B. Hoisington** to partner.

Siniard Law, LLC is pleased to announce that **Barnes Heyward** has joined the firm as a partner.

Stone Crosby, P.C. is pleased to announce that **M. Ellen Williams** recently joined the firm as an associate.

The Dansby Law Firm is pleased to announce **Regan E. Crosby** has joined the firm as an associate attorney.

The Harris Firm LLC is pleased to announce that **John Tyler Winans** has been named a partner.

The Hazzard Law Firm, LLC is pleased to announce that **Jackie Blake Tate** and **Phebe McLin** have joined the firm as associates.

The attorneys formerly of **Stockham, Cooper & Potts, P.C.** have joined the firm of **Wicker, Smith, O'Hara McCoy & Ford, P.A.** **Jay Potts** has joined as a Shareholder. **John Pocus, Hugh Harris,** and **Justin Hale** have joined as Partners. **JT Salmon** and **Sam Garner** have joined as Associates, and **Connie Stockham** has joined Of Counsel.

Williams Elliott & Cohn LLC of Birmingham announces that **Katherine R. Gaither** joined as an associate. ▲

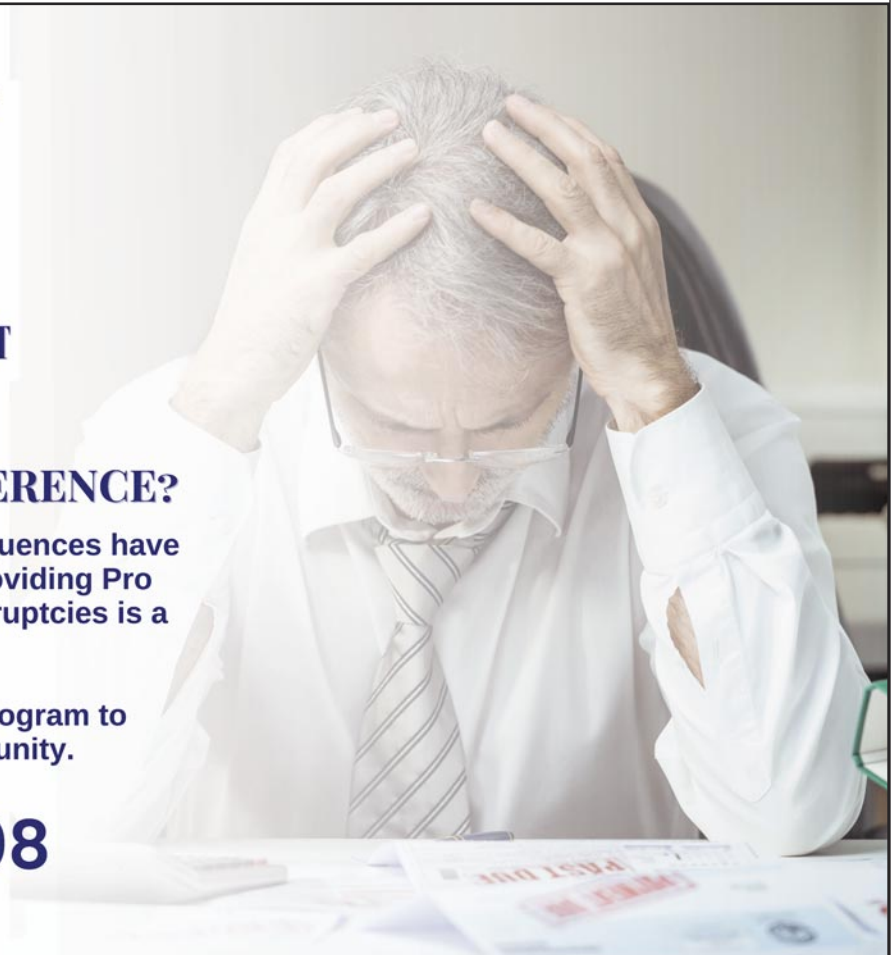


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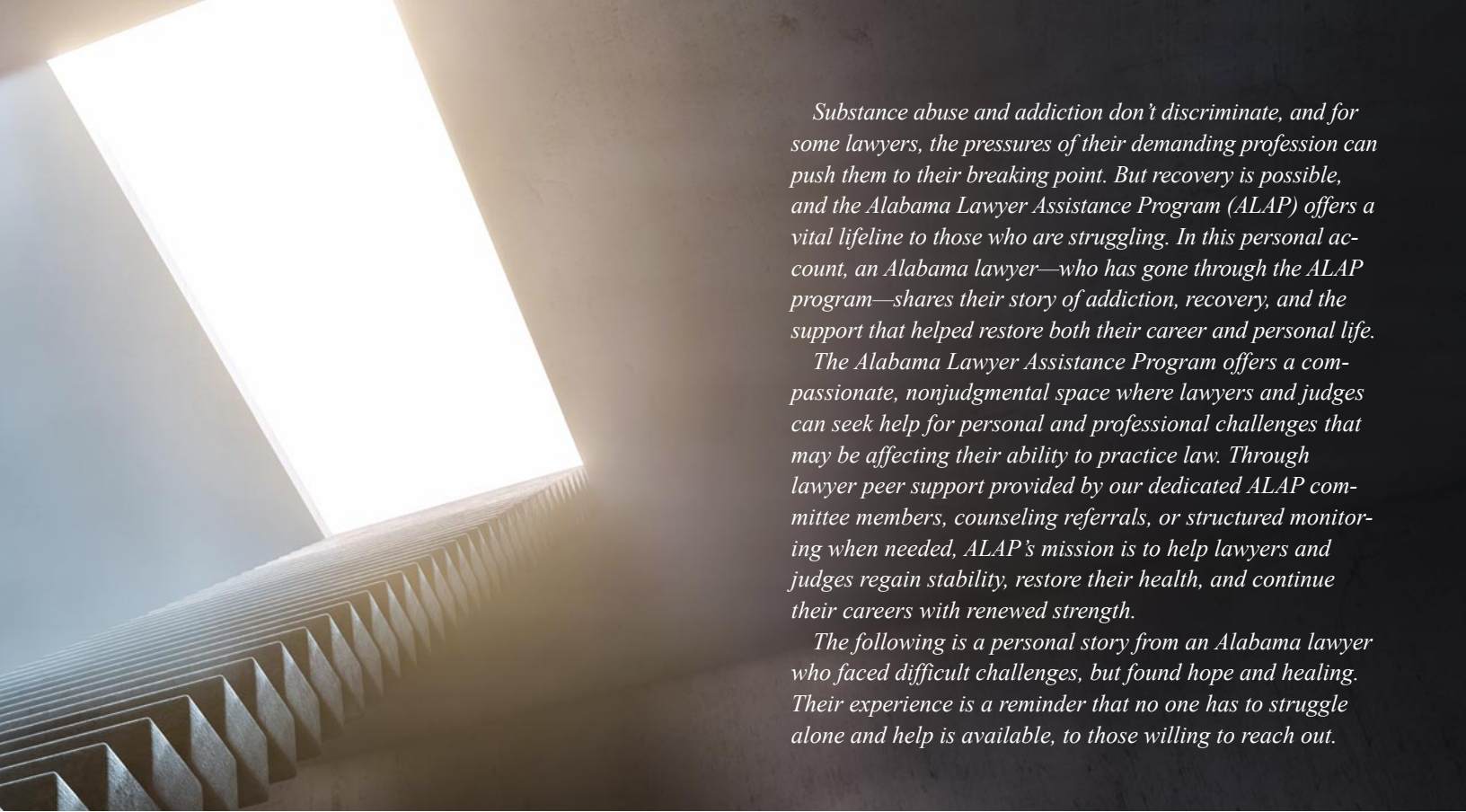
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Substance abuse and addiction don't discriminate, and for some lawyers, the pressures of their demanding profession can push them to their breaking point. But recovery is possible, and the Alabama Lawyer Assistance Program (ALAP) offers a vital lifeline to those who are struggling. In this personal account, an Alabama lawyer—who has gone through the ALAP program—shares their story of addiction, recovery, and the support that helped restore both their career and personal life.

The Alabama Lawyer Assistance Program offers a compassionate, nonjudgmental space where lawyers and judges can seek help for personal and professional challenges that may be affecting their ability to practice law. Through lawyer peer support provided by our dedicated ALAP committee members, counseling referrals, or structured monitoring when needed, ALAP's mission is to help lawyers and judges regain stability, restore their health, and continue their careers with renewed strength.

The following is a personal story from an Alabama lawyer who faced difficult challenges, but found hope and healing. Their experience is a reminder that no one has to struggle alone and help is available, to those willing to reach out.

A PATH TO REDEMPTION:

A Lawyer's Journey Through ALAP

By an Alabama lawyer to remain anonymous

Despite proper church raising, I drifted from the faith in college and began dabbling with drugs and alcohol. I discovered I really liked opiates. By my junior year of UAB, I was snorting oxycontin daily and had a real problem. After finishing undergrad and eventually starting law school, I was using suboxone to function and oxycontin to party (an off-label use of both). In active

addiction, I can vividly recall returning to my church and feeling out of place. In hindsight, I was ashamed. By my third year of law school, oxycontin was off the market and I was on to heroin. After somehow getting a good job with an apex plaintiff's firm in Huntsville, I had more money than ever before and it culminated with my arrest at a cinco de mayo party shooting heroin with nurses.



At this low point, God began sending people into my life. First, my lawyer articulated a plan to save my license and suggested I immediately contact the Alabama Lawyer Assistance Program (ALAP). One week later, I was having coffee with Jean Marie Leslie at a coffee shop next to my old law school and she convinced me to sign an ALAP contract. Within a few weeks, I was justifiably fired by the law firm I worked for, lost my health insurance, spent all my money and had less than a month left in my apartment. At this point, Jean Marie told me I had to go to an inpatient rehab to keep my law license. She told me that since my health insurance was no more, a high-end rehab was out of the question. She told me ALAP had the funding to send me to a state funded rehab that lawyers went to, but it would be alongside indigent patients the State of Alabama paid for. I immediately buckled and vigorously resisted. She persisted and told me I was to meet with a Judge in the small county my family is from by the end of the week. I strolled into the Judge's chambers on a Friday afternoon and he looked relieved. He told me about our mutual friend and that he was happy to be able to call her back with an update. The Judge then took out an old edition of *The Alabama Lawyer* and showed me an anonymous story written for ALAP. He asked me to read it and paused for what seemed like an eternity. After reading the pages

with my heart pounding, I found much to relate to involving addiction and the practice of law. I thought I would like to meet this interesting character. I was taken aback when the Judge told me that

A light bulb moment transpired and I accepted the possibility that my problems were beyond my fixing.

was him not so long ago. He told me about how he went to a state funded rehab. He told how he began practicing law again after working for an economic development trade journal selling advertising in the depths of his addiction. He told me I didn't have to go through all that if I began to take some simple suggestions. He showed me a copy of his big book of alcoholics anonymous, told me

more of his story and asked me to share mine. After patiently listening, he said "Eric, I can't tell you if you have a drug problem, but based on what you've told me, you might have a drug problem." A light bulb moment transpired and I accepted the possibility that my problems were beyond my fixing. I checked into rehab the following Thursday with my remaining belongings in a storage unit and the back of my car.

God continued moving in my life. Within a few days of checking into rehab at the Pathfinder, the Jefferson County District Judge allowed me to plea into Drug Court. Afraid of my shadow at first, I turned inward and made friends with my new roommates. I began giving people rides and working the steps with a sponsor. Me and some other lawyers in the rehab got on the court appointed list to represent indigent defendants for a low hourly rate. We rented an office to meet with clients and starting working regular hours. I began attending services at a local church. The local judge who ran Madison County's drug court started appointing me cases. Around Christmas time, the best of news and worst of news arrived: the Alabama State Bar agreed to let me keep my license upon graduating drug court and agreeing to three years of probation, but Jean Marie Leslie had terminal cancer and only months to live. I would later learn I was one of her last cases and the Office

of General Counsel just couldn't tell her no at the end.

My personal life continued stabilizing. My straight edge girlfriend of only four months was shocked to learn about my drug arrest, but she stuck by me through seven months of state funded treatment. I attended AA meetings morning, noon and night, with a service thrown in on Sundays. My then-girlfriend, now wife, went out with me every Saturday and acted like she didn't realize I averaged \$15-\$25 in my pocket each weekend. I asked a man without a car to be my sponsor, Charles B. Charles was a fascinating character: Philadelphia-area Obama campaign worker from 2008 turned homeless drug addict. We hit it off as he walked me through the steps between meetings, meal prep and workouts. Charles had graduated from the rehab I was at, lived in an apartment behind the rehab, didn't have a car and walked all over Huntsville. He used to say walking gave him more time to talk to God and to listen. Over the course of 2012, Charles taught me how to live life again on life's terms. He rooted me in the literature of Alcoholics Anonymous. I found a homegroup and worked the steps with him. I did a moral inventory and shared my entire story with Charles. I reached out and attempted to make right the wrong I had caused others. After finishing at Pathfinder, I began sponsoring other men in the program and attending a primary purpose Big Book study.

While at Pathfinder, I was inundated with legal questions much like a lawyer in prison would be. In between the free advice and/or bad advice, I found out a roommate was in a bad car wreck the year before in his own car. Because he was passed out from heroin at the time of the wreck, he didn't think he had a case. I was delighted to tell him Alabama's guest statute didn't apply since he was the owner and he had a case. He didn't believe me, but he signed a contract. The next Monday, I took the file and the case upstairs to the grizzled, veteran personal injury lawyer we were renting space from. After some convincing, the landlord agreed to do the case with me and we were off to the races. The case settled relatively quickly and more cases came from the recovery community flowed in. The landlord asked me to try a difficult case with him in late 2013 and we popped a \$100,000 verdict. The following month, he pulled me in on another case and we popped a \$250,000 verdict. He asked me to move upstairs to a much nicer office with a view the following Monday. I was still living in the three-quarter house behind the rehab, but I had some money in my pocket and saved up for an engagement ring. I popped the question in New Orleans in December of 2013 and she said yes. In 2018, I handled my first death penalty case and I haven't been able to get the taste out of my mouth since. I've handled over a

dozen homicides in the past five years with more in the pipeline.

Participating in the Alabama Lawyer Assistance Program is one of the biggest blessings of my life and type of lay ministry. From doing interventions when lawyers reach a crisis point, to helping at reinstatement hearings, to hosting monthly lawyers AA meetings, my closest friendships have been formed out of the fire of ALAP. Unfortunately, funerals and loss are a statistical reality of the work. Being a comfort and legacy point for grieving mothers is not foreign. Within ALAP, the work is mostly 12-step oriented with lawyers reaching out for help or facing bar discipline. ALAP monitors are to meet with incoming lawyers at least once a month and write a short report on their progress. In the event a discipline or reinstatement hearing is necessary, we can testify or send affidavits.

Outside of work, my family loves travel and my six-year-old is getting deep into cheerleading and still enjoys dance. None of this amazing adventure would have happened without the Alabama Lawyer Assistance Program. ▲

If you or someone you know is struggling with substance abuse or mental health issues, ALAP can help. For more information or to reach out for confidential assistance, contact ALAP at (800) 354-6154 or visit alap.alabar.org.



NOTICE

DISCIPLINARY NOTICES

▲ Surrenders of License

▲ Disbarments

▲ Suspensions

▲ Public Reprimands

SURRENDERS OF LICENSE:

- On Sept. 25, 2024, the Supreme Court of Alabama issued an order accepting the voluntary surrender of **Marshall Douglas Ghee's** license to practice law in the State of Alabama, with an effective date of Sept. 4, 2024. [ASB No. 2024-1083]
- On Sept. 25, 2024, the Supreme Court of Alabama issued an order accepting the voluntary surrender of **Brenda Smith Stedham's** license to practice law in the State of Alabama, with an effective date of Sept. 4, 2024. [ASB No. 2024-1082]
- On Dec. 4, 2024, the Supreme Court of Alabama issued an order accepting the voluntary surrender of **Jonathan David Hood's** license to practice law in the State of Alabama, with an effective date of Nov. 8, 2024. [ASB No. 2024-1339]

DISBARMENTS:

- Mobile attorney **Jason Michael Osborn** was disbarred from the practice of law in the State of Alabama by order of the Supreme Court of Alabama, effective Sept. 9, 2024. The Supreme Court entered its order based upon the July 29, 2024, Order of Panel II of the Disciplinary Board of the Alabama State Bar. Osborn was found guilty of violating Rules 1.16 [Declining or Terminating Representation], 5.5(a)(1) [Unauthorized Practice of Law], 8.1(b) [Bar Admission and Disciplinary Matters], and 8.4(d) and (g) [Misconduct], Alabama Rules of Professional Conduct. Osborn was suspended from the practice on March 14, 2022, for failing to comply with the 2020 MCLE requirements. After his suspension, Osborn failed to withdraw from a matter pending in Circuit Court of Clarke County, Alabama. Osborn failed to notify opposing counsel or the court of his suspension on March 14, 2022. On April 29, 2022, Osborn filed a joint motion in the case despite being suspended from the practice of law. Opposing counsel later discovered Osborn's suspension and moved the court to disqualify Osborn from the matter in July 2022. Osborn did not respond to the motion to disqualify. The court subsequently granted the motion and disqualified Osborn. Osborn also failed to respond to numerous requests concerning a disciplinary matter. [ASB No. 2022-1089]

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(Continued from page 440)

- Fairhope attorney **James McCauley Smith** was disbarred from the practice of law in the State of Alabama by order of the Supreme Court of Alabama, effective Sept. 9, 2024. The Supreme Court entered its order based upon the July 29, 2024, Order of Panel II of the Disciplinary Board of the Alabama State Bar. Smith was found guilty of violating Rules 5.5(a)(1) [Unauthorized Practice of Law], and 8.4(d) and (g) [Misconduct], *Alabama Rules of Professional Conduct*. Smith was suspended from the practice of law for one-year, effective December 15, 2022. Prior to his suspension, Smith was representing the plaintiff in a matter in the Circuit Court in Morgan County. After being suspended from the practice of law on Dec. 15, 2022, Smith failed to withdraw from the matter or inform opposing counsel of his suspension as required by Rule 26, *Alabama Rules of Disciplinary Procedure*. Instead, Smith continued to represent the plaintiff in the matter. In April and May 2023, Smith negotiated a settlement in the matter with opposing counsel. In June 2023, Smith drafted a joint motion to disburse funds and to dismiss the case. On July 28, 2023, Smith emailed Judge Brown, Circuit Court of Morgan County, informing him that the circuit court case had been settled by the parties. On Sept. 27, 2023, Smith and opposing counsel filed a Joint Motion to Disburse Funds and Motion to Dismiss in the Circuit Court of Morgan County. On Sept. 29, 2023, the opposing attorney filed a motion to strike the joint motion after learning that Smith had been suspended from the practice of law in Dec. 2022. In her motion to strike, the opposing attorney advised the court that she was unaware of Smith's suspension from the practice of law and that Smith had never advised her that he was suspended. [ASB No. 2023-1455]
- Phenix City attorney **Allen Charles Jones** was disbarred from the practice of law in the State of Alabama by order of the Supreme Court of Alabama, effective Sept. 9, 2024. The Supreme Court entered its order based upon the July 29, 2024, Order of Panel II of the Disciplinary Board of the Alabama State Bar. Jones was found guilty of violating Rules 1.3 [Diligence], 1.4 [Communication], 1.15 [Safekeeping Property], 1.16 [Declining or Terminating Representation], 8.1(b) [Bar Admission and Disciplinary Matters], and 8.4(b),

(d) and (g) [Misconduct], *Alabama Rules of Professional Conduct*. Jones was suspended from the practice of law on April 27, 2023, for failing to respond to requests concerning his arrest on March 30, 2023, by the Muscogee County Sheriff's Office for smuggling prison contraband to an inmate, possession of cocaine with intent to distribute, possession of MDMA with the intent to distribute, possession of hydrocodone with the intent to distribute, and crossing the guard line. In a separate matter, Jones was hired by the mother of a client in Aug. 2021, who paid Jones a \$3,500.00 flat fee to pursue a reduction in her son's 30-year prison sentence. Jones never visited her son or took any action on his behalf. Jones never filed any motion on his client's behalf, never contacted the mother of his client or the client and has not refunded any unearned fees. In a separate matter, Jones was hired in April 2022 to file a Rule 32 petition for a flat fee of \$5,000.00. Jones was paid a retainer of \$500.00 in April, followed by another payment of \$2,250.00 that same month. In July 2022, Jones was paid an additional \$2,250.00. In November 2022, Jones provided the client a receipt indicating that the fee had been paid in full. Thereafter, Jones did not communicate with the client, did not file the Rule 32 petition on his behalf, and did not refund any unearned portion of the fee. Additionally, Jones failed to respond to numerous requests concerning disciplinary matters. [ASB Nos. 2023-434, 2023-687 and 2023-843]

SUSPENSIONS:

- Warrior attorney **Matthew Owen Kinder** was summarily suspended pursuant to Rule 20a, Ala. R. Disc. P., from the practice of law in the State of Alabama by the Supreme Court of Alabama, effective Sept. 16, 2024. The Supreme Court entered its order based upon the Disciplinary Commission's order that Kinder be summarily suspended for failing to respond to formal requests concerning a disciplinary matter. [Rule 20A, Pet. 2024-1115]
- Dothan attorney **Mark David Johnson** was interimly suspended from the practice of law pursuant to Rule 20,

Alabama Rules of Disciplinary Procedure, effective Sept. 26, 2024. The Supreme Court entered its order based upon the Disciplinary Commission's order that Johnson be inter-
imly suspended for recently being convicted of multiple
felony offenses relating to his conduct as a lawyer. [Rule
20A, Pet. 2024-1176]

PUBLIC REPRIMANDS:

- Montgomery attorney **Sebrina Lynn Martin** was issued a Public Reprimand without General Publication on Sept. 13, 2024, for violating Rules 8.4(b) [Misconduct], 8.4(c) [Misconduct], 8.4(d) [Misconduct] and 8.4(g) [Misconduct], *Alabama Rules of Professional Conduct*.

In ASB 2022-645, during calendar years 2019 and 2020, Martin was employed with the City of Montgomery's Magistrate's Office. As such, in both those years, Martin was required to file a Statement of Economic Interest ("SEI") form. On both forms, Martin neglected to include all her living children as dependents or adult children in the corresponding boxes. On the 2019 form, Martin indicated names of adult children as "N/A." On the 2020 form, Martin indicated the names of adult children as "none." In 2021, Martin was running for a judicial seat in the Montgomery Family Court which again required Martin to complete a SEI form. On said SEI form, Martin indicated that she did not have any living adult children. Martin did include the two (2) minors that resided with her but failed to include the other minor children that she and her second husband adopted. Shortly after Martin won the democratic nomination, an article was published claiming, among other things, that Martin falsified your SEI forms. After the article was published, Martin consulted counsel and was advised to amend the SEI form. On June 14, 2022, Martin amended the SEI form to include all her children, minors and or adults. In the amended SEI form, Martin indicated, in error, that she had a total of ten (10) living children. When Martin signed all four SEI forms, she acknowledged that "I have read and completed this Statement of Economic Interests Form and do swear (or affirm) that the information contained in said Statement of Economic Interests is true and accurate. I fully understand that anyone who violates the disclosure provision of this Act shall be subject to a fine of \$10.00 a day not to exceed \$1,000 annually. I also



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(Continued from page 443)

understand that any attachments that I place with this form become a part of this public record.” Martin signed each form and indicated that she completed the form herself and did not have another person complete the forms on her behalf. However, in Martin’s response to the article, she alleges she did not file the SEI form and her only fault was her failure to verify the information prior to its filing. This is simply untrue. Martin filed two prior SEI forms which failed to include the information relative to all her living children. In Martin’s response to the Bar, she stated that she failed to include all of her children on the original SEI forms because she does not have a relationship with the other seven (7) children and thus including their information was unnecessary. Martin has nine (9) children and she intentionally failed to include all her living children on her SEI forms. With these actions, Martin violated Rules 8.4(b) [Misconduct], 8.4(c) [Misconduct], 8.4(d) [Misconduct] and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. In addition to the Public Reprimand without General Publication, Martin is also taxed with any and all costs the action, including the \$1,000.00, administrative fee. [ASB No. 2022-645]

- Cullman attorney, **Joshua Milton O’Neal**, was issued a Public Reprimand with General Publication on Sept. 13, 2024, for violating Rules 1.3 [Diligence], 1.4 [Communication], and 8.4(a), (c), (d) and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. After a September 2019 automobile accident, O’Neal was hired on a contingency fee basis by a couple struck by the driver of a stolen vehicle. Despite the client reaching out to the stolen vehicle’s owner and reaching an agreement to settle with his insurance carrier in November 2020, O’Neal insisted that an uninsured motorist claim was the only viable option. O’Neal failed to properly communicate with his client, failed to provide him a copy of the complaint, and advised his client the stolen vehicle owner’s insurance carrier denied the claim when they were still investigating the matter. Additionally, O’Neal failed to provide the carrier with requested information, failed or refused to discuss settlement despite his client’s request to do so, and failed to file a claim on his client’s behalf. [ASB No. 2023-662]
- Murfreesboro, Tennessee attorney **Jerry Baxter Jackson, III**, who is also licensed to practice law in the State of Alabama, was issued a Public Reprimand with General Publication by the Disciplinary Commission of the Alabama State Bar on Oct. 24, 2024 for violating Rules 1.3 [Diligence], 1.4 [Communication], 1.6 [Confidentiality of Information], 3.4 [Fairness to Opposing Party and Counsel], and 8.4(d) [Misconduct], *Alabama Rules of Professional Conduct*. On or about January 26, 2024, the Supreme Court of Tennessee issued Public Censure to Jackson for violating Rules 1.3 [Diligence], 1.4 [Communication], 1.6 [Confidentiality of Information], 3.4 [Fairness to Opposing Party and Counsel], and 8.4(d) [Misconduct], *Tennessee Rules of Professional Conduct*. According to the Public Censure, Jackson was disciplined in two separate matters. In the first, Jackson delayed in providing a draft of an amended petition for his client to approve until the day before the deadline. The client failed to sign the plan in front of a notary, and Jackson failed to take any action to extend the deadline with the court. Jackson then failed to attend the court’s next scheduled hearing. Jackson subsequently filed a motion to withdraw and stated in the motion that the client “refused” to cooperate with him. In a second matter, Jackson failed to respond to a motion for summary judgment on behalf of his client and failed to explain the effect of the motion to the client. Accordingly, pursuant to Rule 25, *Alabama Rules of Disciplinary Procedure*, Jackson was issued a Public Reprimand with General Publication in conformity with the Public Censure issued by the Board of Professional Responsibility of the Supreme Court of Tennessee. [Rule 25(a), Pet. No. 2024-284]
- Anniston attorney **Coker Bart Cleveland** was issued a public reprimand with general publication by the Disciplinary Commission of the Alabama State Bar on Nov. 1, 2024, for violating Rules 1.1 [Competence], 1.3 [Diligence],

3.4(c) [Fairness to Opposing Party or Counsel], 5.3 [Responsibilities Regarding Nonlawyer Assistants], and 8.4(d) and (g) [Misconduct], Alabama Rules of Professional Conduct. Cleveland repeatedly failed to appear in court, failed to respond to orders, and failed to communicate with other counsel. Opposing counsel was unable to remit settlement funds to Cleveland's client because he repeatedly would not accept the funds or sign a release. Cleveland was held in contempt of court for repeated failure and/or refusal to comply with the Court's orders. [ASB No. 2023-1305]

- Huntsville attorney **Perrar Aquity Joseph** was issued a public reprimand without general publication by the Disciplinary Commission of the Alabama State Bar on Nov. 1, 2024, for violating Rules 1.3 [Diligence], 1.4 [Communications], 1.5 [Fees], 1.15 [Safekeeping Property], 3.2 [Expediting Litigation], 8.4(d) and 8.4(g) [Misconduct], Alabama Rules of Professional Conduct. In ASB 2022-208, Joseph was retained to represent a client regarding an alleged parole violation. The client's probation had been revoked prior to Joseph being retained. Joseph advised the client he would research the sentencing point system to determine if the client had a reasonable basis to seek reconsideration of his sentence. Joseph's research indicated that the Court did not have jurisdiction to resentence the client. Joseph failed and/or refused to disclose the research and legal conclusion to the client. Further, the client requested Joseph's assistance in being "furloughed" to a specific treatment facility, in lieu of serving the remainder of his sentence. Joseph contacted the treatment program and confirmed that the client was accepted into the program. Joseph failed to notify the Court and/or the Parole Board of the client's acceptance in the program. Joseph also failed to motion the Court to place the client in Community Corrections with orders for the client to seek treatment at the specific program. Lastly, Joseph was not present at the client's parole board hearing so he could not advocate on behalf of the client before the parole board. During the investigation of this matter, Joseph admitted he failed to maintain a trust account ledger in

the matter and that he missed numerous meetings and/or scheduled phone calls with the client. Upon requesting Joseph's file in the matter, he produced his entire case file which consisted of only two letters received from the client. Both letters from the client concerned Joseph's failure to communicate with the client. Joseph admitted he did not respond to either letter. [ASB No. 2022-208]

- Birmingham attorney **Ronnie O'Brian Rice** was issued a Public Reprimand with General Publication by the Disciplinary Commission of the Alabama State Bar on Nov. 1, 2024, for violating Rules 1.3 [Diligence], 1.4 [Communication], 1.5 [Fees], 1.8(h) [Conflict of Interest – Prohibited Transactions], 3.2 [Expediting Litigation], 8.4(d) [Misconduct] and 8.4(g) [Misconduct], *Alabama Rules of Professional Conduct*. Rice was retained in April of 2023, to represent a client in a counter petition for custody in a pending custody matter. During the representation, the Court scheduled three separate hearing. Rice failed to attend a single hearing, advised the client not to attend the hearings and filed continuances on the date of two of the hearings. Rice acted shocked when he learned from the client that the client's Counter Petition had been dismissed because of Rice's failure to attend the second hearing. It is clear from text exchanges that Rice knowingly failed to advise the client of the Court order dismissing the client's Counter Petition, granting custody to the opposing party and ordered Rice's client to pay child support. After the matter was concluded, the client contacted Rice and requested a full refund. Initially Rice was not amenable to any refund. After some communications, you offered to refund the client the entire retainer paid if the client signed a release. The release presented to the client prevented the client from filing any complaint or grievance against Rice for his conduct in this matter. At no point did Rice advise the client that he must retain independent counsel in order to negotiate said release. Additionally in this matter, Rice is required to pay any and all costs taxed of the proceedings, pursuant to Rule 33, *Alabama Rules of Disciplinary Procedure*, including but not limited to a \$1,000 administrative fee and publication costs. [ASB No. 2024-251] ▲

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[REWRITE]

James Bradford

To the Associates, to Make Much of Travel

Gather ye briefcases while ye may,
'Cause soon you'll be a-flying;
And three time zones you'll see today;
More hours for which you're dying.

Outside the fuselage, the sun,
The higher he's a-getting,
While you are billing at a run
Amidst your first class setting.

That class is best which is the first;
Attentive service; warmer;
"Business" worse, but "coach" is worst,
Though at times you'll book the former.

On business trips, productive time
With wanderlust doth marry;
Plus, charging clients at your prime,
Allows you oft to tarry.

[ORIGINAL]

Robert Herrick

To the Virgins, to Make Much of Time

Gather ye rosebuds while ye may,
Old time is still a-flying;
And this same flower that smiles today
Tomorrow will be dying,

The glorious lamp of heaven, the sun,
The higher he's a-getting,
The sooner will his race be run,
And nearer he's to setting.

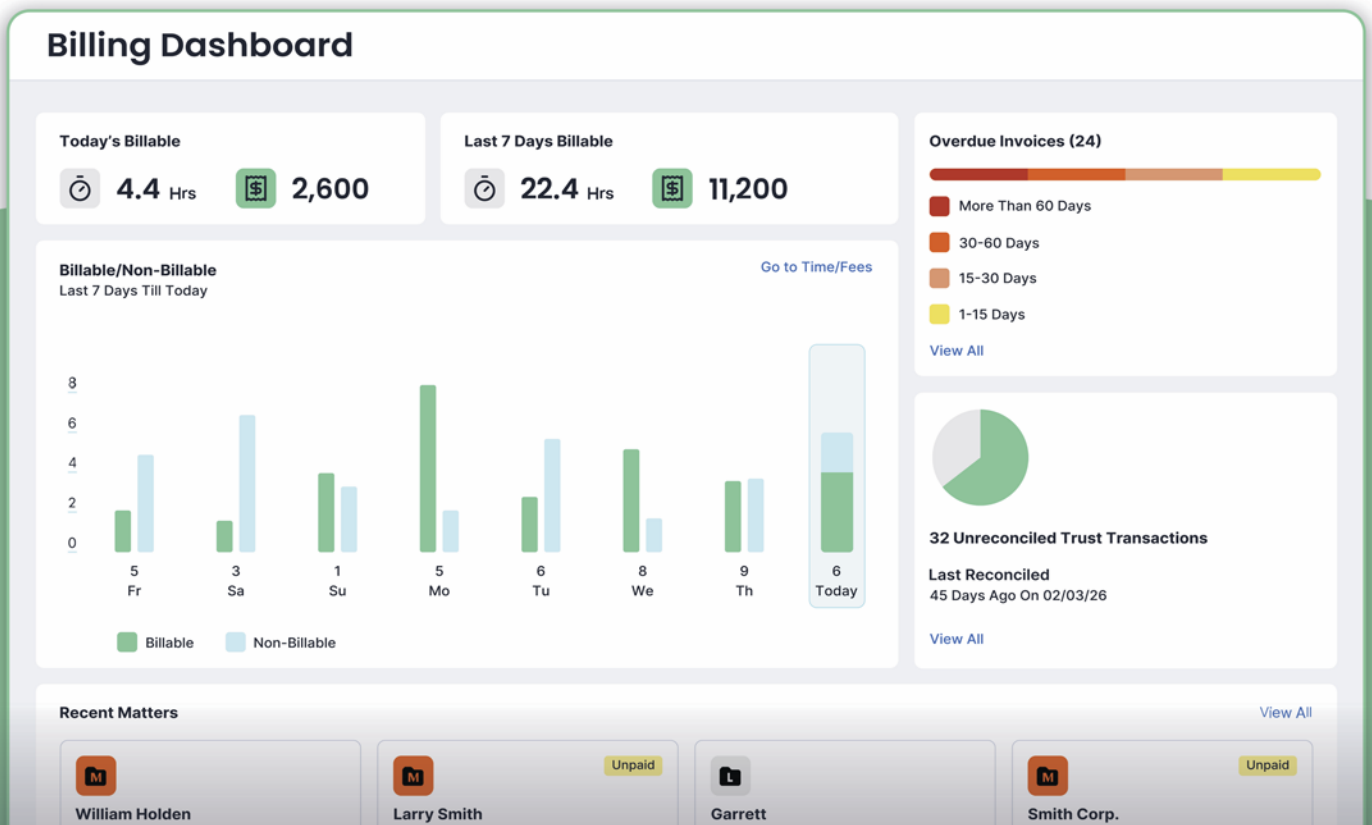
That age is best which is the first,
When youth and blood are warmer;
But being spent, the worse, and worst
Times still succeed the former.

Then be not coy, but use your time,
And, while ye may, go marry;
For, having lost but once your prime,
You may forever tarry.



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