

OCTOBER 2016

# ADDENDUM

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Short articles of general interest are always welcomed from ASB members. All materials submitted for publication in the *Addendum* are subject to editing for style, space and content. Send submissions as Word documents to Allison Skinner, editor, [askinner@acesin.com](mailto:askinner@acesin.com), or Margaret Murphy, managing editor, [margaret.murphy@alabar.org](mailto:margaret.murphy@alabar.org).

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# NATIONAL PRO BONO CELEBRATION

OCTOBER 2016

## > CELEBRATE AND VOLUNTEER During Pro Bono Month

By Timothy J. Gallagher

**A**lmost one million people in Alabama live at or below the poverty line. These low-income Alabamians experience a disproportionately high number of civil legal issues and often cannot afford an attorney to represent them in these difficult matters. Fortunately, many lawyers in Alabama accept the responsibility to render volunteer service to the low-income individuals and families in our communities in need of legal aid.

Each year during October, the Alabama State Bar, in conjunction with other state bars throughout the country, celebrates "Pro Bono Month." We celebrate Pro Bono Month to recognize our many generous volunteer attorneys and to increase

awareness of the need for pro bono services, especially during these harsh economic times.

For the past few years, Alabama's Pro Bono Month celebration has been recognized by the American Bar Association as one of the best in the country. This year, the Alabama State Bar Pro Bono Month Task Force has partnered with the local volunteer lawyers programs and many local bar associations throughout the state to organize a variety of events to celebrate Pro Bono Month, including legal clinics, VLP recruitment drives, CLEs and receptions. A full list of Pro Bono Month events can be found at <https://www.alabar.org/events/category/pro-bono-month/>.

As a member of the ASB Pro Bono Celebration Task Force, I recognize the importance of lawyers giving back to our community and I am proud that our state has such a nationally recognized Pro Bono Month celebration. Pro bono service is vitally important to our communities and to ensuring that our legal system provides everyone "equal justice under law." I strongly encourage each of you to participate in the Pro Bono Month celebration!

*Timothy J. Gallagher is a shareholder with Sasser, Sefton & Brown PC in Montgomery and may be reached at [tgallagher@sasserlawfirm.com](mailto:tgallagher@sasserlawfirm.com).*

## CONGRATULATIONS!

The Alabama State Bar (5,000+members), the Tuscaloosa County Bar Association (<500 members) and the Montgomery County Bar Association (500<5,000 members) tied for or won first place in the ABA's "And Justice for ALL: An ABA Day of Service" Competition.

### Pro Bono Celebration Task Force

**Chair:** Christina Crow  
**Vice-Chair:** Jana Garner

### Law School Involvement Subcommittee

**Chair:** Kelly McTear  
**Members:**  
Cassandra Adams  
Cassandra Agee  
Glory McLaughlin  
Coy Morgan  
Shannon Auvil  
Depri Hale

### Local Bar Involvement Subcommittee

**Chair:** Benjamin Cohn  
**Members:**  
Flynn Mozingo  
Emily Baggett  
T.J. Haywood  
Holly Sawyer  
Megan Elder  
Stephen Rygiel  
Brad Hargett  
Shelby Calambokidis

### Kick-Off Event Subcommittee

**Co-Chairs:** Tamara Neeley  
Dana Grimes

### Members:

Jana Garner  
Jeanne Dowdle Rasco  
Gerri Plain  
Kristina Gubbles

### Publicity Subcommittee

**Chair:** Ashley Penhale  
**Members:**  
Lisa Borden  
Laura Chism  
Tamula Yelling  
Betsi Boutwell

### Section Involvement Subcommittee

**Chair:** Tim Gallagher

### Members:

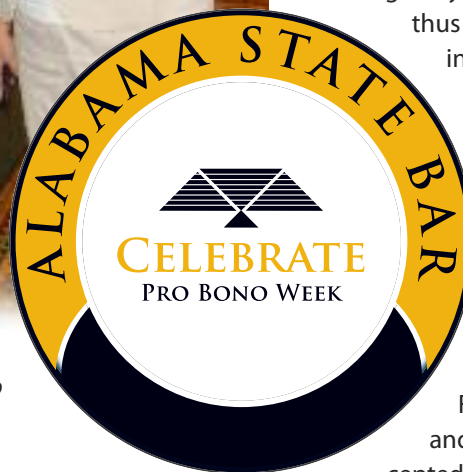
Matthew Minner  
Christine Hart  
Samatha Copelan  
Allen Howell  
Kevin Garrison

### Pro Bono Director Liaisons

Nicole Schroer, Madison County VLP  
Ariana Moore, South Alabama VLP  
Mike Martin, Montgomery County VLP  
Nancy Yarbrough, Birmingham Bar VLP



Volunteer Lawyers Program Director Linda Lund and former Pro Bono Committee Chair Jeanne Dowdle Rasco welcome guests to the 2016 VLP reception during the state bar annual meeting.



a client whose problem falls within that area of law. Our procedures are tailored to suit the needs of the individual attorney. Every effort is made to make referrals in a manner which avoids undue disruption of your schedule.

All potential VLP clients are first screened and interviewed for income eligibility by intake professionals, thus assuring that they are indeed eligible for free legal assistance.

All referrals to volunteer attorneys are made by the VLP based upon the area of law involved in the client's problem. The volunteer attorney is contacted by email, fax or letter.

Following a conflicts check and assuming the case is accepted by the volunteer, copies of intake information are forwarded to the attorney. The client is advised of the referral by letter from the program and is instructed to call the volunteer attorney immediately to schedule an appointment at a mutually convenient time. If the client fails to contact the attorney within 30 days, the case is closed.

All cases are accepted on a pro bono basis and the volunteer attorney is expected to handle only the one specific legal problem of the client which was referred by the VLP. Volunteer attorneys are encouraged to request a waiver of the filing fee through the use of an affidavit of substantial hardship wherever possible. Otherwise, clients are to assume responsibility for court costs and incidental fees, whenever they are financially able to do so.

The VLP reporting requirements are simple. You are expected to complete cases referred to you. Thirty days after the referral we will check in with you to be sure the client has contacted you and set up an appointment. After that, approximately every three months, the VLP will send you a form to advise the program of the status of the case. When the case closes, we ask that you let us

(continued on page 4)

## > ONE ON ONE With Linda Lund

The *Addendum* recently visited with Linda Lund, director of the Alabama State Bar Volunteer Lawyers Program, to find out more about the VLP and upcoming events during Pro Bono Month.

### What is the ASB Volunteer Lawyers Program?

The Alabama State Bar Volunteer Lawyers Program (VLP) was created in 1990 by the Alabama State Bar Board of Bar Commissioners to provide an organized vehicle through which attorneys can volunteer their services on a pro bono basis in civil matters to indigent citizens in their community. The VLP began its operation in 1991 and has delivered free legal services to low-income residents of Alabama for 25 years. The program helps low-income citizens other programs often cannot serve. The VLP receives generous support from the Alabama State Bar, Alabama Law Foundation and Legal Services Alabama, as well as private contributions.

### What is the difference between the ASB Volunteer Lawyers Program and local VLPs?

The Volunteer Lawyers Program is a project of the Alabama State Bar. Its purpose is to provide free legal services to low-income Alabamians in civil matters. Although we serve 60 counties in Alabama, our office is located in the Alabama State Bar Building in Montgomery. There are also four local VLPs in Madison County, Montgomery County, south Alabama and Birmingham.

### If a lawyer wants to volunteer, what is the process?

The VLP is primarily a panel-model program, which means that volunteer attorneys select the areas in which they are willing to volunteer. Because we want the referral process to be beneficial and easy for the volunteer and the client, referrals are made by matching the volunteer attorney's indicated interest with



(continued from page 3)

know how the issue was resolved, the final disposition of the case and the number of hours of services provided.

Malpractice insurance coverage is provided by the program at no cost to volunteer attorneys for pro bono cases handled through the VLP.

### Does the ASB Volunteer Lawyers Program have any special initiatives starting?

One of the largest projects the ASB VLP is involved in is the planning and development of Alabama's nationally recognized Pro Bono Celebration this month. The national celebration occurs each year during the fourth week of October; in 2014, Alabama's celebration was officially expanded to the whole month of October. Each year since the celebration began, Alabama has been recognized nationally for its work during pro bono week. Alabama lead the way in organization and development of a statewide celebration. Alabama's materials, revised and expanded each year, have been recognized and distributed nationally by the ABA. Last year, Alabama swept the ABA Day of Service awards in the bar association categories. These awards recognized work done throughout Pro Bono week. This national attention of our pro bono week activities also highlights the day-to-day work of not only the ASB VLP but all of Alabama's pro bono programs.

Again this year we have several large events spread throughout the state as well as many smaller bar-centered

activities. The Pro Bono Month Kickoff was October 6 and included a free four-hour CLE program and reception. It was sponsored by the DeKalb and Cherokee county bar associations. The Pro Bono/Bankruptcy Summit was October 11 at the Alabama State Bar. Sponsors for this meeting are the various volunteer lawyers programs in Alabama, the state bar's Bankruptcy & Commercial Law Section and the bar's Pro Bono and Public Service Committee. The third week of October brings the Madison County VLP's Annual Fundraiser Pro Bono Brews. Also, that week in Dothan we will be sponsoring the Poverty Simulation Seminar. The final week in October, designated as National Pro Bono Week, will be the culmination of many activities that have been taking place through the month. The winner of the Law School Pro Bono mini-grant will be selected. And, the law school with the most "first-years" signing the Pro Bono Pledge will be announced and each law school will select two students to attend the ASB Board of Bar Commissioners' meeting.

Check out all the events at [www.alabar.org](http://www.alabar.org).

This year, the ASB Volunteer Lawyers Program received a grant to assist Alabama homeowners who are in danger of losing their home to foreclosure. Under this grant, we will be working with our volunteers and other members of the civil legal aid community to expand the resources available to fight foreclosure in Alabama. We hope to work with homeowners to resolve debt and garnishment issues before they snowball into an inability to pay the mortgage and foreclosure.

We also have expanded services to assist with estate administration allowing heirs to obtain information on and possibly refinance a mortgage and remain in the family home. And, we will be working closely with the Alabama Center for Dispute Resolution, who will be providing trained mediators to help resolve issues between homeowners and mortgage servicers.

### Why should a lawyer participate in the VLP?

The VLP offers a simple, well-organized mechanism for fulfilling your professional responsibility to make legal counsel available to indigents consistent with a true sense of professionalism and Rule 6.1 of the *Alabama Rules of Professional Conduct*. Equally important, our volunteer attorneys gain excellent client and courtroom experience since they are fully in charge of their pro bono cases. For more seasoned attorneys, program participation provides an avenue for sharing expertise with newer members of the profession by serving as mentors or co-counsel to VLP attorneys. Most importantly of all, VLP attorneys gain great personal satisfaction from helping the less fortunate among us and making a positive, visible difference in their communities.

Although helping others in trouble is often its own reward, VLP attorneys also receive recognition for their service through annual awards and certificates of appreciation given by the Alabama State Bar, special events spotlighting community pro bono activities, articles in Alabama State Bar publications and free training seminars for MCLE credit. <

The banner is split into two vertical panels. The left panel has a dark blue background and features the Facebook logo in white, with the URL [www.facebook.com/alabamastatebar](http://www.facebook.com/alabamastatebar) below it. The right panel has a light blue background and features the Twitter logo in white, with the handle [@AlabamaStateBar](https://twitter.com/AlabamaStateBar) below it. At the bottom, the text "Join the conversation" is written in large, bold, white letters, and "Like us on Facebook and follow us on Twitter." is written in smaller white letters below it.



*Pictured above with Rose Paige (second from left) are Shanna Flynn (firm assistant, Stone, Granade & Crosby PC), Ariana Moore (SAVLP executive director) and Mike Degen (SAVLP program assistant).*

## > ALABAMA CIVIC LEGAL AID A Spirit of Service— Giving Back to Those Who Helped

By Mike Degen, SAVLP program assistant

**T**here is a spirit of service at the heart of any volunteer act, and pro bono legal aid is no exception. That spirit of service comes full circle in a special way when a former client of a pro bono case returns, wanting to give something back to those who helped her.

In June, the South Alabama Volunteer Lawyers Program (SAVLP) received a generous donation from Rose Paige of Baldwin County, who, in 2007, sought pro bono legal aid to keep possession of her house. Having recently received a modest inheritance from a family member, Paige wanted to donate part of her inheritance to the SAVLP and met with Executive Director Ariana Moore to personally deliver the gift.

In 2006, Paige faced trying times. After losing her husband to illness, she later found that her in-laws had hired a real estate agent to place her house up for sale. They were claiming ownership and looking to sell the property in which she and her husband had lived for two decades, had made improvements and paid taxes

on and in which they'd raised their six children and grandchildren. Out of work and suffering stroke-induced disabilities, Paige was unable to afford an attorney.

After a lawyer in nearby Daphne took on her pro bono case nine years ago, the title to her house was secured and Paige remains in the house to this day. "I wanted to help out the ones that helped me," Paige said. "And I wanted to help someone else."

In 2015, the SAVLP, a Mobile-based nonprofit that provides free legal assistance in certain civil legal matters to qualified applicants in Baldwin, Clarke, Mobile and Washington counties through the service of more than 870 volunteer attorneys, opened 848 pro bono cases and closed 905. "[Paige's gift] is going to help the program a lot," said Moore.

If you would like to learn more about the SAVLP, or are in Baldwin, Clarke, Mobile or Washington County and are interested in joining its panel of volunteer lawyers, please visit [www.savlp.org](http://www.savlp.org) for more information. <

## Alabama Lawyer Assistance Program



You take  
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who takes  
care of **YOU?**

For information  
on the Alabama  
Lawyer Assistance  
Program's **Free**  
and **Confidential**  
services, call  
**(334) 224-6920.**

# > “ACCESS TO JUSTICE” – LaVeeda Battle Advocates Closing the Justice Gap

## **Tell us about your background and why you became involved with “Access to Justice” for the citizens of Alabama.**

I have been involved with Legal Services for low-income families since attending law school at the University of California, Davis in 1975. I was an intern in a local Legal Services office in Woodland, California. Upon graduation, I received a Reginald Heber Smith Fellowship, and worked as a managing attorney in the Bessemer office of the Birmingham Area Legal Services Program. After briefly serving on the board, I was appointed by President Clinton and confirmed by the United States Senate to the Legal Services Corporation Board of Directors. I served on that board for 10 years. One of the key accomplishments of that board was the push to create statewide Access to Justice communities. Many state supreme courts began to create Access to Justice commissions and to lead the effort to ensure that low-income families would have a representative in civil legal cases. I have served on the Legal Services Alabama board for 10 years and now serve as president of the board.

## **What does “Access to Justice” mean to you?**

Access to Justice was an original part of the safety net created by President Johnson in establishing the Office of Equal Opportunity to affirmatively assure that people living in poverty had

access to the tools needed to fully contribute and participate in America’s democracy. The ability to have quality legal representation when accessing the courts is essential to the “justice for all” creed in America.

## **If some generous benefactor gave you \$2,000,000 to help alleviate Access to Justice issues, how would you use that money?**

If we could double the funds available to fulltime lawyers who assist people living in poverty in Alabama, we could cut the justice gap in half. The justice gap represents the difference between the number of lawyers representing low-income families, and the number needed to represent low-income families. Cutting the gap would help families keep their homes, women and children escape domestic violence and families have an opportunity to move out of poverty. Funding spent on Legal Services Alabama and the volunteer lawyers programs throughout the state would help provide an essential part of the safety net needed by families living in poverty.

## **Is there a story of a destitute client you were able to help that crystallizes the importance of every lawyer in Alabama being involved in helping the poor and the oppressed?**

I recently received a call from a woman trying to assist an elderly man in



*Battle*

Mobile fighting foreclosure on his home due to a reverse mortgage taken out to pay medical bills and an income tax lien on his home that arose while he was also fighting cancer. I put her in touch with Legal Services lawyers in Mobile. Within a week, I received a handwritten thank-you card. She was grateful there was a network of lawyers with expertise in foreclosure mitigation and tax issues to help alleviate the prospect of homelessness for a man who worked hard his entire life only to become ill and unable to work. This is the good work that Legal Services Alabama does daily.



## **Who is your role model and how has that person affected your life?**

I attended King Hall, University of California Law School and moved to Alabama to work for Legal Services because I admired the work of Martin Luther King, Jr. and his passion for justice in America.







Justice Janie Shores (center) with some of her Birmingham law clerks during a recent reception in her honor

## > *JUST CALL ME JANIE* Reception and Book-Signing

By Leila H. Watson

In 1974, Janie L. Shores was elected the first female associate justice of the Alabama Supreme Court, and served until her retirement in 1999. She was the only woman in her graduating class from the University of Alabama School of Law in 1959. She was the first female member of the Selma bar and the first female law school professor in Alabama. Her hard work and success as a lawyer, justice, professor and woman in Alabama are chronicled in her autobiography, *Just Call Me Janie*.

Justice Shores's former Birmingham law clerks, friends, the Women Lawyers' Section of the Birmingham Bar Association, Cumberland School of Law and Wiggins, Childs, Pantazis, Fisher & Goldfarb held a book-signing reception for Judge Shores in Birmingham in late July, and invited all her admirers, friends, Birmingham judges and former justices.

The reception gave everyone an opportunity to speak with Judge Shores and get a signed book. Retired Associate Justice Ralph Cook, who served with her, introduced Judge Shores to the crowd and former clerks and friends shared their most hilarious and poignant stories about her. Her many law clerks and staff attorneys in attendance still won't "just call her Janie"—she will always be "Judge" to them. It was an opportunity for many of Birmingham's women lawyers to speak directly with and express their gratitude for someone who had helped pave the way for their careers and successes. <

*Leila H. Watson is a principal with Cory Watson PC in Birmingham and may be reached at [lwatson@corywatson.com](mailto:lwatson@corywatson.com).*

> POSITION  
AVAILABLE

## Executive Director—Alabama Center for Dispute Resolution

The Alabama Center for Dispute Resolution, Inc., a non-profit ADR-focused corporation located in Montgomery, is seeking applications for the position of executive director. The center coordinates the work of the Alabama Supreme Court Commission on Alternative Dispute Resolution. The position requires a current law license from any state, but with a preference for an Alabama law license; recent or current experience in mediation, arbitration or other ADR procedures; and experience in training, public speaking, research and writing, business and supervisory skills, and fundraising. The forecasted start date is spring 2017. Salary is commensurate with experience. The position will remain open until filled with a preference for receipt of resumes/vitae before November 30, 2016. For more information and to submit a resume with letter of interest see [www.alabamaadr.org](http://www.alabamaadr.org). <



## > MEMBER BENEFITS SPOTLIGHTS

### ABA Retirement Funds

It doesn't take a superhero to set up a retirement plan, but the ABA Retirement Funds Program would be happy to play that role for you! Over the past 50 years, the program has helped thousands of attorneys set up a retirement plan for themselves and their small firms.

#### ■ *Getting Started Is Easy*

The program can help you through four simple steps: application, adoption agreement, enrollment and contributions. Each step takes only a few minutes and the entire process can be completed in as little as four weeks.

#### ■ *No Cost to Your Firm*

Your firm will never get an invoice from the program.<sup>1</sup> By leveraging the size of the legal community and with more than \$5 billion in assets,<sup>2</sup> the program is able to minimize all firm-level setup and ongoing administrative expenses.

No firm is too small, and one person is enough to have a 401(k) plan. More than 60 percent of the program's clients are solos or small firms.<sup>2</sup>

When it comes to retirement plans, we understand the legal community and can help you build a plan that meets your specific needs. Contact us for a free consultation: [www.abaretirement.com](http://www.abaretirement.com), 800-826-8901 or [joinus@abaretirement.com](mailto:joinus@abaretirement.com).

#### ENDNOTES

1. Expense ratios depicted on the graph are associated with information disclosed in program

prospectus and/or annual disclosure documents. Expense ratios shown are unweighted and reflect an approximate cost for a participant invested equally in all core funds available through the program as of a specific date. All ABA Retirement Fund Program fees are allocated to each investment option (excluding brokerage accounts) and are reflected in each fund's expense ratio. These fees are the only costs charged to participants (or employers) for participating in the program. There are no additional costs to the employer or out-of-pocket expenses for participants. Clients may incur additional expenses through the use of outside service providers, such as a TPA or CPA to support their plan design or responsibilities as a plan sponsor. Participants may incur costs by opting for certain advisory services or by utilizing the self-directed brokerage account option.

2. As of December 31, 2015.

*Please read the Program Annual Disclosure Document (April 2016) carefully before investing. This disclosure document contains important information about the program and investment options. For email inquiries, contact us at [joinus@abaretirement.com](mailto:joinus@abaretirement.com).*

*Registered representative of and securities offered through Voya Financial Partners, LLC (Member SIPC).*

*Voya Financial Partners is a member of the Voya family of companies ("Voya"). Voya and the ABA Retirement Funds are separate, unaffiliated entities, and not responsible for one another's products and services.*

### MyCase

MyCase is an affordable, intuitive and powerful legal case management

software designed for the modern law firm. Give your law firm the advantage of a complete case management software solution—get organized with contacts, calendars, cases, documents, time-tracking and billing. MyCase customers can now accept online payments from clients using both credit cards and checking accounts (also known as eCheck or ACH payments) seamlessly through their MyCase account.

Alabama State Bar members receive:

- Free 30-day trial
- Training with a dedicated software specialist
- 10 percent lifetime discount

Check out your MyCase member benefit at <http://bit.ly/MyCaseAlabama>.

### Casemaker

Casemaker®, the leader in legal research, has been committed to providing attorneys a quality low-cost solution to legal research since 1999. With the finest editorial team and state-of-the-art technology to increase speed and search functionality, Casemaker has established partnerships with more than 25 state and local bar associations and serves more than 250,000 users. Casemaker offers an extremely intuitive search engine, accurate citation services and brand new organizational features that make research fast and easy.





Access to all of the Casemaker libraries, as well as Casemaker's research tools CaseCheck+™, CasemakerDigest and CiteCheck™ Brief Analyzer, are free to Alabama State Bar members. Log in today through [www.alabar.org](http://www.alabar.org) or read more about Casemaker at [www.casemakerlegal.com](http://www.casemakerlegal.com).

## ABA TECHSHOW 2017

ABA TECHSHOW is the world's greatest legal technology CLE and Expo, and Alabama State Bar members will once again receive discounted registration prices. For now, mark your calendar for March 15-19, 2017, and watch this space and *The Alabama Lawyer* for more information on how to receive the discount when you register.

## Brooks Brothers

25 Percent Off Sale—October 13 and 14  
ASB member benefit provider Brooks Brothers is having a special two-day event October 13 and 14. ASB members who have signed up for the Brooks Brothers Corporate Membership Discount will receive 25 percent off their in-store, phone and online purchases of full-priced merchandise on these two days. For more information on how to sign up for this benefit, go to <https://www.alabar.org/membership/member-benefits/discounted-services/> and scroll down to the Brooks Brothers logo. Use the ASB Organization ID 12384 and the Pin Code 22060 to get registered, and then start shopping. <

## > COURT NOTICES

### Amendment of *Alabama Rules of Judicial Administration*

The Alabama Supreme Court has amended Rule 4.1(C), *Alabama Rules of Judicial Administration*, dealing with duties of clerks and registers. The amendment of this rule was effective October 1, 2016. The order amending Rule 4.1(C) appears in an advance sheet of Southern Reporter dated on or about September 29, 2016. The amendment provides that any attorney or party to a court proceeding who is entitled to receive notice required by law or issued by the court by first-class mail may receive that notice by electronic means approved by the administrative director of courts. The rule provides the procedure by which a party may elect to receive notice electronically as well as a provision for rescinding such election. The text of this rule can be found at <http://www.judicial.alabama.gov>, "Quick links—Rule changes."

*Bilee Cauley*  
*Reporter of Decisions*  
*Alabama Appellate Courts*

### Public Notice for Reappointment of Incumbent Magistrate Judge

#### **United States District Court for the Southern District of Alabama Mobile, Alabama**

The current term of office of United States Magistrate Judge Katherine P. Nelson, United States District Court, Southern District of Alabama, is due to expire June 3, 2017. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term.

The duties of the position are demanding and wide-ranging and include:

- Conduct of most preliminary proceedings in criminal cases;
- Trial and disposition of misdemeanor cases;
- Conduct of various pretrial matters in civil cases and evidentiary proceedings on delegation from the judges of the District Court;
- Trial and disposition of civil cases upon consent of the litigants; and
- Jury selection in most civil and criminal cases.

Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the Court. All comments should be marked "Confidential" and directed to:

Charles R. Diard, Jr., clerk  
U.S. District Court  
Southern District of Alabama  
113 St. Joseph St.  
Mobile, AL 36602

Comments **must be received by close of business January 3, 2017.** <



## > ARSENIC AND OLD LACE: Technology Competency

By Catherine Sanders Reach, Law Practice Management & Technology director,  
Chicago Bar Association  
*(Reprinted with permission)*

**F**ollowing the ABA's Model Rules updates in 2012, the Illinois *Rules of Professional Conduct* Rule 1.1 (Competence) comment [8] has been updated to read: "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, *including the benefits and risks associated with relevant technology*,..." effective January 1, 2016. One very real risk posed to a law office by technology that could call into question a lawyer's competency is the continued use of old software and operating systems.

### Wave Goodbye

Most lawyers know that maintaining firewalls, up-to-date anti-virus and anti-malware definitions, practicing vigilance when opening attachments and surfing the Internet and maintaining adequate backup files are all vital for security. Considering that in the ABA's *Legal Technology Survey Report* from 2015 42 percent of respondents affirmed that their firm had been infected with a virus/spyware/malware and 37 percent reported a hard drive failure, these precautions are

absolutely necessary to maintain competency and confidentiality.

What lawyers should also know is that running old, outdated and unpatched software and operating systems put the firm at a high risk for infection, data breach and violation of confidentiality. Ten percent of respondents to the ABA's 2015 survey reported using Windows XP, despite the fact that Windows XP—and Office 2003—have not been supported or patched by Microsoft since April 2014. So, what's the big deal?

Unsupported operating systems receive no security updates, non-security hotfixes, support or online technical content updates from Microsoft. The computer will still operate, but becomes more vulnerable to security risks and malware infections. In addition to XP and Office 2003, as of July 2015, Microsoft Security Essentials and Microsoft's Malicious Software Removal Tool are no longer being updated. Threats such as zero-day vulnerabilities (high-risk security holes) will not be patched. Often the zero-day exploit is a code injection that sits undetected in the background opening a back door to the firm's data and

files. Hardly any current software runs on Windows XP, which means that much of the other software running on this operating system is likely also out of support.

Even if a firm has upgraded from Windows XP and Office 2003 to more recent versions, there are still heavily-used, yet unsupported and unpatched software applications putting files at risk on many law office machines. Adobe Acrobat X Reader/Standard/Pro is no longer supported as of November 2015. Internet Explorer 10 (and 8 and 9) is no longer supported as of January 2016. Mac users are not immune, as OS X 10.6 (Snow Leopard), 10.7 (Lion) or 10.8 (Mountain Lion) are no longer receiving security updates from Apple.

### No-See-Ums

Software installed on a computer that is "invisible" or inactive until used by an interactive website, like Java or QuickTime, is often exploited because computer users ignore the update messages. While some of these exploits have made news, many others do not. It is essential to keep all applications, add-ons and applets patched on firm machines. Easy targets

for hackers include Adobe Flash, Apple's QuickTime, Adobe Reader and the aforementioned Oracle Java. In fact, as of April 14, 2016, both the U.S. government and Trend Micro are recommending Windows users uninstall QuickTime due to vulnerabilities Apple has no intention of fixing. Do not ignore reminders to update these applications. If you are unsure whether the message to update is in itself a virus, a quick Google search will usually confirm whether a patch has been issued.

## The Boogey Man

A high-profile security threat that is currently evolving and exploiting old, outdated software is ransomware. Ransomware is a prevalent threat that infects a computer or network, hijacks and encrypts the files and holds the firm's data ransom for payment in untraceable Bitcoins. Often police and the FBI recommend paying the ransom to free the files. The ransomware builders are becoming bolder and more sophisticated. They are building in countdown clocks and delete files if the ransom is not quickly paid. The ransomware code is delivered often by exploiting vulnerabilities in software like Adobe Flash, or tricking a recipient to open a PDF document or run a macro in a Word document sent via email. Even with a completely up-to-date system with excellent security protection, companies are getting hit with ransomware. However, hackers like easy targets. They are now intentionally exploiting hospitals, police stations and schools—entities that often run out-of-date and old systems. How long will it be before law firms are targeted?

## What to Do?

In addition to replacing outdated software and keeping current software patched and updated, firms must maintain constant vigilance against social engineering, and train all staff and lawyers to be wary. Social engineering is a method of tricking a person to open the door for malicious attacks, and usually preys on fear, vanity or the desire to help someone in need. Most have seen them: the direct message from Twitter

from someone you know asking, "What are you doing in this video?"; the email from a friend needing you to send money via electronic transfer because she lost her wallet while traveling outside of the country; the email from the Better Business Bureau requesting you to click through to see a negative report that has been filed; and the list goes on. Learn to recognize the signs, practice defensive computing and exercise skepticism to avoid having one of these tricks best someone in the firm.

## Current (Technology) Awareness

Most of the time, if Google or Dropbox or other large provider has a security issue, or is unavailable for any length of time, the news will make the headlines. Take a quick look at the technology section of the daily news (site/show/program) you consume for any breaking headlines. Legal technology and security blogs, like Sharon Nelson's *Ride the Lightning* or the free daily *ABA Journal* email, are also fantastic resources for the current thought on "is it secure enough for a lawyer?" Keep an eye out for press releases, social media notification, email alerts and blogs for information you may need to know from products that are used in the firm. Feel free to contact the Chicago Bar Association's Law Practice Management and Technology Division with questions, and visit [www.chicagobar.org/lpmt](http://www.chicagobar.org/lpmt) for updates.

## Conclusion

Technology can be extremely beneficial for lawyers and clients, but it does not come without risk. Education, wariness and security protocols go a long way toward keeping firms and clients safe from the impacts of malware and viruses, exploits and hacking. Massive and very public breaches from Target to Bank of America suggest that no matter how sophisticated the security, all business is vulnerable. The expectation of the *Rules* is not perfection, but to intentionally or willfully ignore technology's risks and benefits in a law practice is now a matter of competence. <

# 2017 ASB Annual Meeting

The Grand Hotel Marriott  
Resort Golf Club & Spa  
Point Clear, Alabama  
July 12-15, 2017

Thank you very much for planning so many family activities and making the meeting so kid friendly. My whole family had a blast.

This was my first time to attend and I brought my whole family. We have a 3-year old and a 1-year old. We found the whole event very family friendly! Big relief!

Overall, the conference was excellent, well organized, quality speakers and panels and plenty of networking opportunities.

All the meetings I attended were great. I enjoyed the subjects offered this year, and enjoyed networking as well.

It's nice to have so many options!

## • EVENT SPECIAL • ABA Foundation Fellows Dinner

July 13, 2017

Speaker: Dr. Wayne Flynt,  
Alabama Historian