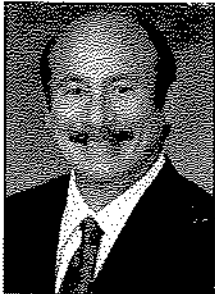




# HINDS COUNTY BAR ASSOCIATION

## MAKING OUR CASE FOR A BETTER COMMUNITY

APRIL 2008



### President's Column

by David Kaufman

Time flies when you are having fun. Although as I write this column I have a little less than two months remaining in my term as President, this will be my last opportunity to address all of the members. Suffice it to say, it

has been a privilege to serve as President of our organization, and I have truly enjoyed having the opportunity to get to know and work with so many of you in connection with all of the activities in which the HCBA is involved. Thanks to all of the many volunteers who have chaired and served on the various committees during the past year. You are difference makers in our organization and community, and you have represented the HCBA well. I also want to thank the Board members for all of their hard work and support this year. Working with you has certainly been a pleasure and you have made my job an easy one. Last, but certainly not least, I want to thank Pat Evans, without whom the organization simply could not function. We all owe Pat a debt of gratitude for her many years of dedicated and fine service to the organization.

For those of you who were unable to attend our February membership luncheon, you missed an interesting and informative presentation by our new Secretary of State, Delbert Hoseman. Delbert presented facts and observations regarding voting problems and issues in the State and explained the rationale behind a number of his well-publicized initiatives, some of which were introduced in the current legislative session and others of which will be presented in the next legislative session. His talk was quite an eye-opener for those in attendance, and we sincerely appreciate his making time in his busy schedule during the legislative session to share his thoughts with us.

As I reported in my last column, approximately 100

members are serving on the various HCBA committees, and they have been hard at work. Just recently, the HCBA Women in the Profession Committee partnered with the Mississippi Women's Lawyers Association to present a lunch program with area attorneys to discuss rainmaking for female attorneys. Barbara Childs Wallace, Sharon Bridges, Christine Goldberg, and Rebecca Wiggs presented at this well-attended and informative event. The Women in the Profession Committee also recently sent a delegation of speakers to address the Pre-Law Society at Tougaloo College to answer the students' questions regarding law school and legal career opportunities following graduation. The program was a great success, and the Committee is planning additional programs at other schools in the near future. Our special thanks to committee members LeAnne Brady, Rhea Sheldon, and Rebecca Keith and non-committee volunteers Grace Tate, Chynsee Bailey, and Denise Wesley for participating in the program.

The Hinds County Pro Bono Committee has undertaken a number of projects, including its "Wills for Heroes" initiative. This project involves providing pro bono legal services related to the preparation of wills for local police officers, fire fighters, and similar first responders. This is a perfect project to utilize the talents of the non-litigator members of the HCBA, and the committee is seeking volunteers. If you are interested in helping with this worthwhile project, please contact Cheri Green or Anna Marie Price, co-chairs of the Committee.

It is painful these days to pick up the morning newspaper and read yet another chapter in the ongoing judicial bribery investigation and prosecution. The shocking events surrounding this matter have dominated the statewide news and discussions in legal circles in recent months and have dealt yet another significant blow to the reputation of our justice system in this state. Public opinion polls run by the news media reveal that the vast majority of Mississippians lack confidence in our justice system. We obviously have

*continued on page 8*

### HCBA LUNCHEON MEETING

**Tuesday, April 15, 2008 Capital Club Noon Cost \$15.00 Lunch**

**Speaker: Justice Jess Dickinson**

## HCBA Calendar of Events

April 15, 2008

**HCBA Membership Meeting.**  
Noon. Capital Club

May 1, 2008

**HCBA/JYL Evening Honoring the Judiciary**  
6:00 Old Capitol Inn

May 22, 2008

**HCBA Annual Golf Tournament.**  
Noon. Annandale Golf Club

June 17, 2008

**HCBA Membership Meeting.**  
Noon. Capital Club

August 19, 2008

**HCBA Membership Meeting/One Hour  
Ethics CLE**  
Noon Capital Club.

*The Hinds County Bar Association and  
the Jackson Young Lawyers Association  
invite you to join us for an*

## **Evening Honoring the Judiciary**

**Chief Judge Henry T. Wingate as Speaker**

**Thursday, May 1, 2008**

**at The Old Capitol Inn**

**226 North State Street**

**Reception at 6:00 p.m.**

**Dinner at 7:00 p.m.**

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

## **Law Clerks For Hinds County Judges**

### **Hinds County Chancery Court Judges**

Judge Denise Sweet Owens  
Tashia Gordon  
Post Office Box 686  
Jackson, Mississippi 39205  
601.973.5569 phone  
601.949.2602 fax  
tgordon@co.hinds.ms.us  
Graduated from University of  
Mississippi School of Law 2003

Judge Patricia Wise  
Tashia Gordon  
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Graduated from University of  
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Judge William Singletary  
Rachael Bailey  
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Jackson, Mississippi 39205

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601.973.5587 fax  
rbailey@co.hinds.ms.us  
Graduated from University of  
Mississippi School of Law 1998

Judge Dewayne Thomas  
Rachael Bailey  
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rbailey@co.hinds.ms.us  
Graduated from University of  
Mississippi School of Law 1998

### **Hinds County Circuit Court Judges**

Judge W. Swan Yerger  
Elizabeth Thomas McDonald  
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601.948.2689 fax  
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Graduated from Mississippi College  
School of Law 2007

Judge Winston Kidd  
currently open position

Judge Tomie Green  
Taurean Buchanan  
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jpitts@co.hinds.ms.us  
Graduated from Mississippi College  
School of Law 2007

## **The Norman Conquest And Other Breaking News**

by Captain Equity

For the meager handful of loyal readers who vicariously vent their frustrations with modernity through this column, you may recall that when we last interacted back in late February, I shared my 2007 Christmas List with you. I'm sure your first reaction was "isn't this a little late." I would heartily agree. In spite of making my December 1 deadline, it seems as if our crack editorial and production staff dropped the ball. When they attempted to pick it up, they inadvertently kicked it into a deep and dangerous ravine which touched off a frantic two month search and rescue mission. In effect, my column and the rest of the articles for the newsletter went Osama Bin Laden hidden away in the journalistic equivalent of the Tora Bora Mountains. The good news is that unlike the Bush Administration, the powers that be on the editorial board of the newsletter were ultimately successful in locating the missing edition. "Better late than never," was the collective chant of the board as the December edition found readers somewhere around President's Day. Now if this sounds like the Captain has a bad case of sour grapes and is biting the hand that feeds him all I can say, in the spirit of the Hillary Clinton Presidential Campaign, is a humble, albeit heartfelt, "not at all" (wink wink, nod nod). In fact, my purpose is to actually thank those responsible for rescuing my no longer timely column from total periodical oblivion. Let me also mention that I have no reason to believe that any member of the editorial board is a militant jihadist Muslim and that I am confident they all know the words to the Star Spangled Banner even if they don't all wear U.S. flag lapel pins. With that said, the lesson is clear. Be careful when it comes to writing time sensitive material that might be rendered moot between column deadline and publication. And so, here goes.

### **Aftermath of Norman Conquest Holds Steady**

As all you Western Civilization buffs out there know, 1066 was a significant turning point in the development of the United Kingdom, Western Europe and ultimately what would become the United States of America. I am pleased to report that there has been little change over the past few weeks in the aftermath of the Battle of Hastings. And for those who think that I am playing it a little too safe, I refer you to the opening paragraph of this column, supra. Well, there just isn't a lot more to say on the subject, but at least whenever you read this it should stand the test of time. But now what am I going to do to meet my word count and avoid half a blank page? Man, I really hate when this happens. Oh well, here goes again.

### **March Was A Bad Month For New York Democrats**

The Ides of March is traditionally a dangerous and uncertain time especially for Julius Caesar, but not for John McCain and Empire State Republicans. First it was Clinton surrogate and finance committee member Geraldine Ferraro who flatly stated that candidate Barack Obama's success stemmed exclusively from the fact that he was a black male. Hey, when you think of America's children of privilege hanging out at the club sipping bloody marys and puffing away on contraband Cuban cigars as they patiently wait for their tee time, you just got to be thinking black guys. When pundits pointed out the absurdity of her statement, the first female Vice Presidential candidate accused the Obama campaign of playing the race card. Go figure. In retrospect, it is probably a good thing that the Mondale-Ferraro ticket only carried Mondale's home state of Minnesota back in 1984.

And then came revelations that the very married, moral crusader Governor Eliot Spitzer was a regular customer of the Emperor's Club Prostitution Ring. Unlike morality challenged Republican Senators David "Prostitution Is a Family Value for Me" Vitter and Larry "Wide Stance" Craig, Spitzer resigned from office within days.

The winner in the latest hypocrisy fueled debacle is a 23 year old aspiring singer/call girl stage named Kristen. Thanks to the unwanted publicity, she scored a big career break with photo shoot offers from Hustler and Penthouse. Can a record deal and a guest shot on SNL be very far behind? And the real loser besides public confidence in these puffed up, terminally hypocritical politicians? Alas, it's yet another New York Democrat, Senator Hillary Rodham Clinton who was forced to distance herself from Ferraro while losing a committed superdelegate in Spitzer.

### **Don't you just love politicians?**

### **Over The Top Whack Job Pastors**

The only thing more entertaining than politicians with prostitutes, if that is possible, are over the top, hate preaching, publicity addicted pastors who are compelled by their own narcissistic sense of importance to inject themselves into national politics. Stealing thunder from the likes of Pat Robertson, James Dobson and the late Jerry Falwell, are two recent McCain endorsers, Pastor John Hagee and TV Evangelist Rod Parsley whose bizarre brands of Christianity are punctuated by explicitly expressed hatred for Catholics and Muslims respectively, creating unwanted headaches for Senator McCain, the presumptive Republican Nominee. But not to be outdone

*continued on page 6*

## Legislative Update

by Cecil Brown

Thus far the legislative session has been much calmer than many predicted. In the House, the Speaker's race is behind us, and, for the most part, the legislative process is bumping along at a fairly steady pace. Among the major issues so far are the budget (Medicaid and education in particular), illegal immigrants and highways.

The first appropriation bill approved by the House this year will fully fund the Mississippi Adequate Education program. In addition, it will increase all public school teachers' salaries by 3%, and salary increments teachers receive for experience will be extended from a maximum of 25 years of service to a maximum of 35 years. This appropriation will also fully fund the State Board of Education's budget request and is a part of their Quality Education Act of 2008. After a brief partisan squabble, enabling legislation followed, and the bill now awaits action in the Senate.

Most of the provisions of the Quality Education Act have also passed in one form or another. Perhaps the most far reaching is a plan to remove school superintendents from consistently underperforming school districts. Coupled with this plan is a bill that sets up a task force to look at the larger issue of school governance across the board. Until we ensure that every school and every school district has high performing boards, superintendents and principals, we will not have a statewide system of successful schools.

The next important issue that the Legislature will confront is funding for Medicaid, a program that provides health services to more than 700,000 Mississippians. Because of changes imposed on the program by the federal government, unless something is done next year the state's share of the cost of this program will be some \$100 million short. The Governor wants to tax our hospitals to cover the cost. Democrats in the House believe the Governor's tax will put many rural and small town hospitals in financial danger and that ultimately the tax will be paid for by the patients who use these hospitals.

As an alternative to the Governor's tax on sick folks, the House has passed an increase in the tax on cigarettes to cover the shortfall. Needless to say, with Mississippi's cigarette tax next to the lowest in the nation and our incidence of smoking related diseases among the highest, the increased cigarette tax is a "no-brainer." Nonetheless, the Governor and his followers in the Senate are opposed to any increase in the tobacco tax. As a result, the Legislature seems headed toward an impasse on this issue.

Accelerating highway and bridge construction and

repair has also been a House priority this year. We passed legislation for \$200 million in general obligation bonds that would be issued to rehabilitate or replace almost 100 deficient bridges located in 23 counties across the state. Another \$75 million will go to the construction and improvement of several major highways and the remaining \$25 million will be used to finance highway improvements in and around the Toyota plant under construction in Northeast Mississippi. Already, five suppliers bringing 1,800 new jobs have been named for the Toyota plant. An increase in fuel taxes tied to the consumer price index would pay the debt for \$100 million of the new bond issue, with the remaining \$100 million to be paid back over a 10-year period.

Illegal immigration has been a hot-button issue in the halls of the Capitol for several years. Under legislation passed and signed by the Governor, employers must utilize an online database to verify that workers are legally in this country, and illegal immigrants who accept a job in "reckless disregard" of the knowledge that they are "unauthorized aliens" could face up to five years in state prison and a substantial fine.

Under the new legislation, employers who make an honest effort to determine a worker's status -- through the Dept. of Homeland Security's "E-Verify" system -- would be exempt from liability, investigation or lawsuit arising from having hired the employee. However, any employer violating the act would see their contracts cancelled and would be ineligible for a public contract for up to three years and would lose a license or permit granted by the state for one year. Individual homeowners who hire people found to be illegal would not be liable under the act, if the work performed was not for commercial purposes.

This is the first rigid illegal immigration bill passed in the state. A policy statement contained in the bill says: "The Legislature declares that it is a compelling public interest of this state to discourage illegal immigration by requiring all agencies within this state to fully cooperate with federal immigration authorities in the enforcement of federal immigration laws. The Legislature also finds that other measures are necessary to ensure the integrity of various governmental programs and services."

The session will not end until April 19. At this point, however, we are on track to pass legislation in a number of areas that will have a significant positive impact on the lives of the people of Mississippi.

March 18, 2008  
Cecil Brown  
Chairman, House Education Committee

## 5th Annual Evelyn Gandy Lecture Series

The Mississippi Bar's Women in the Profession Committee hosted the 15th Annual Evelyn Gandy Lecture Series at the Beau Rivage in Biloxi on February 22-23, 2008. The series was named in honor of the late Lieutenant Governor Evelyn Gandy whose record for public service is unsurpassed in Mississippi. This unique event recognizes that she paved the way for female lawyers and all women in public service and encourages women to serve their state and communities through the legal profession and public office. Attendance for this year was at an all-time high with over 130 female lawyers and judges present from throughout the state and beyond. Judge Mary Libby Payne and Jennifer Ingram Wilkinson shared special memories and thoughts in honor of Governor Gandy who very recently passed away.

The theme for the 2008 Gandy Lecture Series was "The Balancing Act: How to Serve Your Family, Profession, Community and YOU". The Friday afternoon session was kicked off with a presentation on burn-out and stress management by former Mississippi Supreme Court Justice Kay Cobb, followed by a discussion led by a very distinguished and diverse panel which included: Judge Deneise T. Lott, Judge Lillie Blackmon Sanders, Judge Virginia Carlton, Jennifer Ingram Wilkinson, Mayor Heather M. Hudson, Karen Sawyer and Moderator Constance Slaughter-Harvey. The very special Gandy Hour featured words of wisdom, experience and encouragement from U.S. Magistrate Judge Linda Anderson.

On Friday evening, attendees enjoyed a cocktail reception at the Beau Rivage followed by a lovely dinner at Mary Mahoney's Restaurant. A special tribute was paid to newly appointed U.S. District Judge Sharon Aycock during the reception. Numerous door prizes were given away at each break during the conference. This year, many generous donors provided an array of fabulous items.

The attendees enjoyed a wonderful breakfast on Saturday morning before hearing a helpful and inspirational presentation offered by Amy Killen Fisher from the University of Mississippi Counseling Center. Providing numerous tips regarding case and calendar management were Matthew Thompson and Chad King of Chinn & Associates. Winding up the program and providing the ethics hour with the last, but certainly not least, presentation was Jennifer Riley-Collins of the Mississippi Youth Justice Project.

Following the ethics hour, the conference was adjourned

around noon on Saturday. Many attendees stayed at the Beau Rivage until Sunday enjoying the spa and other entertainment. The Women in the Profession Committee is proud to have The University of Mississippi Center for Continuing Legal Education as its administrative partner for this conference; and Co-Chairs for the 2008 Gandy were Tammra Cascio and Amanda Green Alexander. Fifteen deserving recipients including 11 law students from Mississippi College and the University of Mississippi along with 4 attorneys were able to take part in this special weekend due to the generosity and support of sponsoring law firms and individuals.

As the Gandy women will tell you, there is no CLE event quite like it! Not only is it informative and helpful, but it is fun, relaxing and provides numerous networking and fellowship opportunities while continuing to promote the commitment to service and high ideals of its namesake. If you missed it, don't make that mistake again!

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**barnesconsulting@bellsouth.net**

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by right leaning clergy, as soon as Barack Obama had rejected and denounced the militant anti-semitic views of another nut job, Minister Louis Farrakhan, Obama's personal pastor Jeremiah Wright, Jr. angrily joined the fray via a DVD of his greatest pulpit hits causing yet more unwanted headaches for yet another Presidential candidate.

And what would Jesus do? Probably file a giant class action lawsuit on the grounds of fraud and misrepresentation seeking a blanket injunction against all who would seek to distort His overarching message of hope, love, tolerance, and forgiveness. In my view, the day that these real life Elmer Gantrys and self appointed celebrity extensions of the Almighty discovered television cameras, collective spiritual development suffered a pronounced setback.

And the big losers here? Besides the aforementioned Jesus Christ in particular and God in general as well as the Presidential candidates who are victimized by their endorsers are those sincere individuals trying to develop an honest spiritual life. When the seemingly unending line of blowhard ministers with suspect theological training gets even longer, the Latin term *res ipsa loquitur* comes to mind.

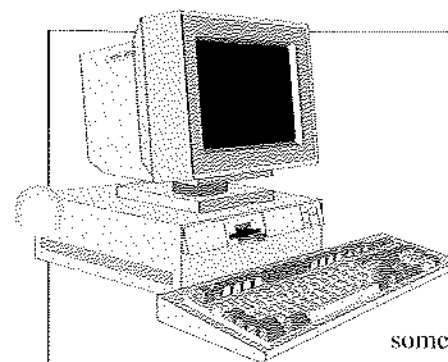
And could there possibly be any winners from all this insanity? Why, lawyers, of course. Given all the hubbub and blather made possible by the undiscerning 24/7 cable news channels and even less reliable Internet media there just isn't time to squeeze in a lawyer joke anymore. Not even a funny one. However, when a lawyer also happens to be a politician with a mega church on the side - look out!

#### Breaking News

This just in...before I close to meet my editorial board imposed deadline, I feel compelled to let you know that the lid is still on the unfolding Norman Conquest drama. If something radical happens on this story between now and press time just know that I did all in my power to report it as accurately as possible with the facts that were available to me at the time. I just can't be held responsible for late breaking developments. But know this: I am holding my breath on this one as I am sure you are as well. As a pro-bono pundit with a miniscule readership I do what I can. I do hope you understand and will cut me some slack if this Norman Conquest story suddenly explodes with shocking new revelations.

## On Computing

by Joel Howell



Thanks to Law Technology News and Robert Ambrogi, here is some interesting information on rising influential websites.

If you haven't heard of Avvo ([www.avvo.com](http://www.avvo.com)) you should take note of it, since it has the avowed objective of rating and profiling every lawyer. (They haven't started in Mississippi and won't for some time, so you may choose to check it out at your leisure.)

Their initial concept was to rate lawyers on a scale of 1 to 10, but after a class action was filed against them, Avvo took heed and now assigns numerical ratings only when certain information is available. Another interesting aspect, which has since been copied by Martindale-Hubbell, is adding client reviews to law firm profiles.

Don't forget Casemaker, now in version 2.0 and available through the bar website as part of your dues! Statutes and case law are now available for all fifty states. Multiple state library searches can be made through the "Nationwide Collections" option. The federal library has added case law for all circuits back to 1950, Fed.Supp. has been added, and Supreme Court decisions have been added to inception. Casemaker now allows shepardizing, and SuperCODE shows a link when a statute has been recently amended or appealed.

Just in case you feel the need for something additional, go to AltLaw, a joint project of Columbia Law School and the University of Colorado Law School. It has nearly 170,000 decisions from the Supreme Court and federal appellate courts dating back to the early 1990s, and makes federal case law easier to search and freely accessible to the public. The site's database is expected to grow over time.

Yet another research site is [www.justia.com](http://www.justia.com), created by Tim Stanley, also the creator of FindLaw (which, incidentally he sold to West). Justia is one of the best free legal research sites on the web. Initially, Justia's focus

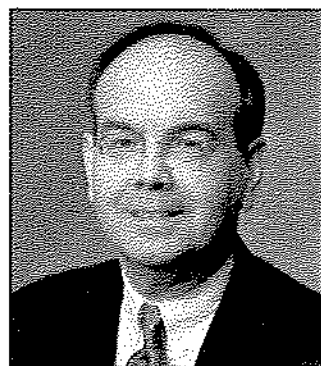
was creating lawyer websites and blogs. Later, Justia added its Supreme Court Center, which pulled together a searchable collection of cases along with Supreme Court resources from all over the web. Innovative features such as BlawgSearch (for searching law-related blogs) and Blawgs.fm (for searching law-related podcasts) were added.

Justia recently launched federal district court filings and tools for searching and browsing federal dockets. It has expanded its offerings of court opinions, as well as its collections of links to legal research and legal practice resources.

There is now also a public domain repository of all federal and state case law: Public.Resource.Org. Creator Carl Malamud and his nonprofit organization desired to decommercialize access to case law. Last November, Malamud and the legal research company Fastcase announced an agreement to publish 1.8 million pages of federal case law in a database to be released this year.

Questions or comments? Email [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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continued from page 1

lots of work to do to repair the damage done by only a handful of members of the bar, and it is imperative that we act quickly and decisively to restore the public's confidence in our great system.

I applaud Mississippi State Bar President Bobby Bailless's quick action in forming a blue ribbon panel to evaluate and make recommendations concerning our justice system. I am confident that this distinguished group will embrace this important task and ultimately make recommendations that will improve our justice system and enhance the public's perception of it. In the meantime, it is incumbent upon all of us to do everything we can to protect and enhance the image of our beloved profession. Acting with the utmost integrity, professionalism, and civility in all matters certainly is a start. In addition, it would be helpful for all of us to commit to becoming more involved in leadership positions in our civic, charitable, school, and religious organizations. Now is not the time to go in a shell and hide until the storm blows over. I truly believe we can greatly affect how the public perceives us by volunteering our time and services to worthwhile activities that place us in a

positive light with those outside our profession.

On a happier note, HCBA social activities shift into high gear in the weeks ahead. First up is the Evening Honoring the Judiciary Dinner at the Old Capitol Inn on May 1 with Chief U.S. District Court Judge Henry Wingate serving as our featured speaker. This great event will be followed by the Spring Social which will be held on the deck of Sal & Mookies on May 6. Last year's event at the same location drew high praise, so please drop by for a beverage and a slice or two of great pizza. Finally, the Golf Committee headed by Lyle Robinson is busy planning this year's golf outing scheduled for May 22 at Annandale Golf Club in Madison. Sponsorship opportunities and spots in the tournament are available, so please contact Lyle or Pat Evans today to firm up your plans.

Our next membership luncheon is on April 15, and program co-chairmen David Clark and Peyton Prospere promise another interesting event. We also will recognize the winners of our essay contest at the luncheon, so please plan on attending.

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## Highway Eats

by The Road Lawyer

Hit the road with the Road Lawyer, and you never know where you may wind up. Earlier this year, it was in Olde New York City. Olde New-York, as in the 19th century, bits and pieces of which remain tucked in unexpectedly between the more familiar new and modern.

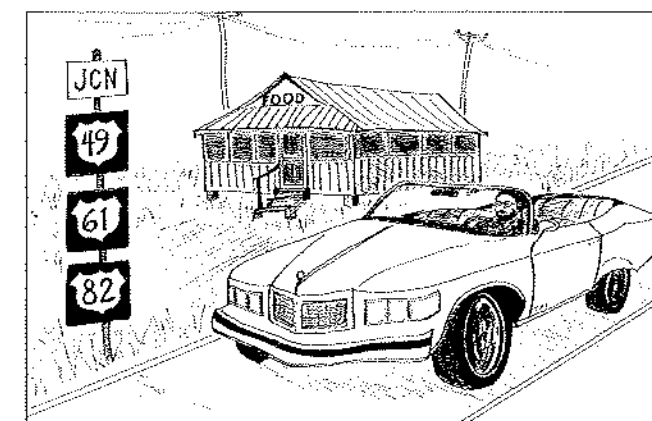
In about 1854, John McSorley opened an Irish-style pub called the Old House at Home on East 7th Street just east of Greenwich Village. In 1908, when the sign blew down from the storefront, he changed the name to McSorley's Old Ale House. Two generations of McSorleys operated the place until 1936, and today it claims to be the city's oldest pub. There is no doubt that it has some of the oldest dust in the city—just look at the encrustation on the mid-19th century gasolier over the bar. The sawdust-strewn floors, worn tables with more than a century of hand-incised names, and faded memorabilia on the walls, attest to the age of the Irish-type saloon.

The list of famous imbibers at McSorley's includes Abe Lincoln, Teddy Roosevelt, Boss Tweed, John Lennon, and Woody Guthrie. Artist John Sloan, the Ashcan School painter who was a regular during the early part of the 20th century, memorialized the place in paintings, one of which was on view this winter at the New York Historical Society. Apparently, an exhibit with a Sloan McSorley's painting invariably causes an increase in visitors to the saloon.

There is a famous McSorley motto—Be Good or Be Gone—over the fireplace in the backroom as well as over the bar where men have stood and propped their feet on a brass rod for more than 150 years. One motto has gone missing: Good Ale, Raw Onions and No Ladies.

For more than a century, women were not allowed in the establishment. Then National Organization for Women attorneys Faith Seidenberg and Karen DeCrow took the ladies' case to the U. S. District Court in Manhattan and won on summary judgment in 1970. [Seidenberg v. McSorleys' Old Ale House, Inc., 317 F.Supp. 593 (S.D.N.Y. 1970)]. This bit of misfortune for the bar resulted in the addition of a ladies' room for the first time.

The Ale House corporation actually argued that the presence of women at its bar might give rise to moral and social problems. The Court found that, without suggesting that chivalry is dead, we no longer hold to Shakespeare's immortal phrase 'Frailty, thy name is woman' [317 F.Supp.



at 606], and the Court bought none of McSorley's other arguments.

The day I visited McSorley's, a redneck tourist embarrassed herself by ordering a Bud Light. For alcoholic beverage, the bar offers only its own ale with a choice of dark or light, and both quite good, by the way. Research indicates Stroh's Brewery (now Pabst Brewing Company) has made the ale for the last 15 or so

years. One can also buy a soda pop, and there are passable food offerings, including a cheese plate with cheddar, saltines, and the famous raw onions. McSorley's is the best bargain in town: fish and chips and four rounds of ale cost \$21.00.

One of the relics on the wall at McSorley's is a large, albeit faded, portrait of Peter Cooper (1791-1883), that amazing self-taught inventor, industrialist, and philanthropist. He must have been a patron of the Ale House, and a stone's throw away is the grand brownstone Foundation Building of his school, the Cooper Union. It sits on Cooper Square at the intersection of Fourth and Third Avenues as they merge into Bowery.

Begun in 1853 and completed in 1859, when Cooper gave it to the City of New York, this large five-story commercial structure is one of the first buildings in New York to be supported by rolled wrought-iron beams. These structural elements were developed by Cooper and produced in his ironworks in Trenton, New Jersey. Other building innovations were a round elevator shaft and a basement auditorium cooled by a unique ventilation system. It was in this basement auditorium that Abraham Lincoln gave his Right Makes Might Cooper Union Address in February 1860.

Peter Cooper was a great inventor who became a wealthy industrialist. You may know the name as that of the designer of America's first steam railroad engine (the Tom Thumb). He also made a fortune with a glue factory and iron foundry, and he was one of five founders of the New York, Newfoundland and London Telegraph Company. Cooper supervised the laying of the first transatlantic telegraph cable in 1858.

Before the Civil War, Cooper was an anti-slavery activist, promoting Christian concepts to solve social injustice. He also funded a reform movement for Native Americans.

The Road Lawyer knows Peter Cooper as the inventor of Jell-O.

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Well, or, to be more exact, the inventor of instant gelatin (patented in 1845). Before then, cooks made their own by boiling calves' or pigs' hooves for hours and then straining the resulting gelatinous goo many times through linen napkins before turning it into wine jelly or such in a day or two. Cooper packaged his Clarified Gelatine with his wife's recipes, including those for charlotte russe and lemon table jelly.

Peter Cooper had less than a year of formal schooling in his native New York City before starting to work in the family hatmaking trade. He became a successful Gilded Age businessman, but he could not spell. He spent the last 30 years of his life creating and nurturing the Cooper Union for the Advancement of Science and Art (established 1859), a free institute for all men and women, including those who were children of immigrants and the working class. Thomas Edison and Felix Frankfurter were students. The Red Cross and NAACP were organized there. Susan B. Anthony had her offices there. Today the Cooper Union is the only private, full-scholarship college in the U.S. dedicated exclusively to preparing students for the professions of art, architecture, and engineering.

Around the corner and about a block away at 29 East 4th Street is another mid-19th-century structure, the Merchant's House Museum, a handsome Late Federal red brick and white marble townhouse. The house was built in 1832 in the then-fashionable Bond Street residential area. Today it is one of the finest surviving examples of the architecture of the period. The house is also celebrated for the grandeur of its Greek Revival style interior.

In 1835, Seabury and Eliza Tredwell bought the house and moved in with their seven children (including five girls) and four servants. Seabury Tredwell was a well-to-do hardware importer with a business downtown on Pearl Street. In 1840, an eighth child (sixth daughter), Gertrude, was born in the house. Never married, Gertrude lived in the house until her death in 1933 at age 93. She had outlived the family fortune and the residential character of the neighborhood, and the house was in danger of demolition.

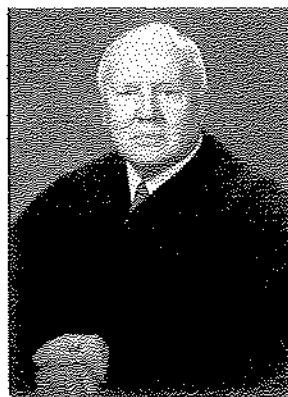
A distant Tredwell cousin, George Chapman, recognized the value of the old home with its original furniture and possessions (which included numerous garments from the mid-19th century but not the family silver or china which had been sold to maintain the spinster Gertrude). Chapman purchased the place, repaired it, no doubt at great personal expense, sold some of the family furniture that he did

not care for (a matched set of Rococo Revival parlor furniture, this an unfortunate decision) and opened the house to the public in 1936, maintaining it until his death in 1959. Since then, the preservation efforts have been, through good times and bad, helped immensely by Mrs. Brooke Astor (1902-2007) and the Vincent Astor Foundation, as well as other charitable groups. The building is now owned by the City of New York and operated by a nonprofit organization.

There are five levels to the house, starting with the basement that contains the kitchen and a family living/dining area. The raised first floor consists of a long entrance hall with double parlors, one fitted as the formal dining room and a small tea room overlooking the back courtyard. The master and mistress each had a bedroom on the second floor, along with the master's small home office, improvised from a portion of the hallway outside his bedroom. The children's rooms were on the third floor, and the servants lived in attic space on the fourth level above ground, in rooms lit with dormers. Much of the opulent original furniture is in the house.

Nothing takes one back in time more effectively than a visit to an historic house museum. Inside this house, one can actually glimpse life in the mid 19th century, at least what one might experience if paying a call on the Tredwell family for a formal visit. The hardships of life back then require a little more thought. No air conditioning, no indoor plumbing, no Scotch tape, no cell phones . . . etc.

Next time you go to New York, leave the usual tourist spots to the usual tourists and take the subway to 8th Street and Broadway, just above Astor Place. Go east to Lafayette Street, then south to 29 East 4th Street (between Lafayette and Bowery) for a visit to the Merchant's House Museum. Open Thursday through Monday, noon to 5:00 p.m. The Cooper Union Foundation Hall is at the intersection of Fourth and Third Avenues as they merge into Bowery. McSorley's Old Ale House is at 15 East 7th Street, just east of Bowery. Open Monday through Saturday, 11:00 a.m. till 1:00 a.m., and Sunday, 1:00 p.m. till 1:00 a.m. All these places have very informative websites.



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## HINDS COUNTY BAR ASSOCIATION GOLF TOURNAMENT

Annandale Golf Club

May 22, 2008

Lunch 12:00 Noon

Tee Time: 1:00 P.M.

Hors d'oeuvres and Cocktail Party Following

*All proceeds from the tournament will go to the*  
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4 Person Scramble\* / Limit 116 Persons

**COST ONLY \$125 Per Player includes Lunch and Post-Tournament Cocktail Party**

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**DEADLINE, MAY 14, 2008**

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Phone \_\_\_\_\_ Your Handicap \_\_\_\_\_

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

Must send check with registration, and checks should be payable to: Hinds County Bar Association, c/o Debra Allen, 812 N. President Street, Jackson, MS 39202. For more information call, Debra at 353-0001.

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January 9, 2008 - May 7, 2008

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

## EXCEPTIONS

### Exam Schedule

April 19th - May 9th

Monday-Friday ..... 7:30 a.m. - 1:00 a.m.  
Saturday ..... 9:00 a.m. - 1:00 a.m.  
Sunday ..... noon - 1:00 a.m.  
Thursday May 8th - Friday, May 9th ..... 7:30 a.m. - 4:30 p.m.

*Summer hours will begin May 10th  
Hours are subject to change without notice.*



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**12:00, April 15**



# HINDS COUNTY BAR ASSOCIATION

## MAKING OUR CASE FOR A BETTER COMMUNITY

AUGUST 2008



### President's Column

by Susan R. Tsimortos

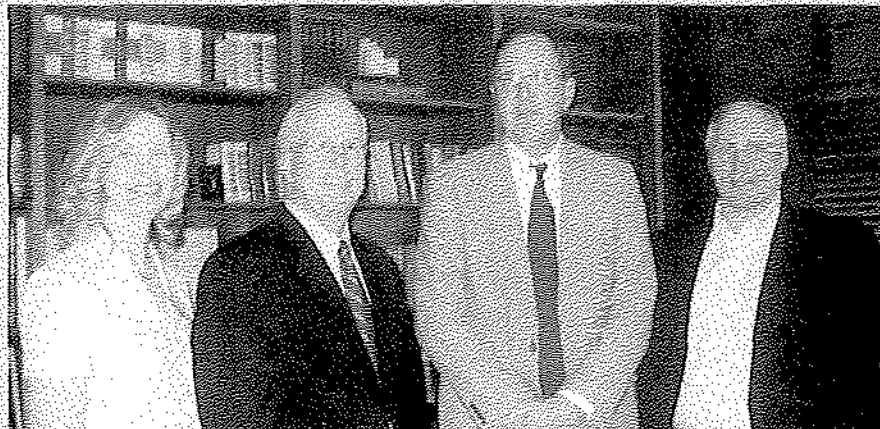
We are off to a good start this year. Most of our committees are in place and have begun their work. Many of you have volunteered to participate - some on more than one committee. A few of you did not *technically* volunteer, but agreed to be drafted! In placing committees, I listened to your thoughts and ideas and was struck by how much you enjoy our committee work. Everyone has a full day without volunteering any time to the HCBA, yet you take time to organize and participate in projects that reach our communities and help make us better lawyers. If you have a project you would like to

pursue or an interest in one we are working on, please let us know. We have a place for you.

You will soon notice exciting changes on our web site. Before we talk about our future plans for the site, we must thank Joel Howell for launching and maintaining this website for us. Most of us were just getting comfortable with our word processors when Joel established the [hindsbar.com](http://hindsbar.com) site and became our webmaster. His efforts provided the platform from which we are now working. Thank you, Joel, for leading us into the internet age.

As we make the site more interactive, it will retain a number of its current features. You will be

*continued on page 19*



### HCBA June Membership Meeting

At the HCBA June Membership Meeting, presenting the program was Rodger Wilder, 2008-2009 President of the The Mississippi Bar. He is pictured with Susan Tsimortos, HCBA President; Larry Houchins, Executive Director of The Mississippi Bar; and Tom Alexander, HCBA President-Elect.

### HCBA LUNCHEON MEETING

Tuesday, August 19, 2008 Capital Club 11:30 a.m. Cost \$25.00 Lunch & CLE

Speaker: James L. Robertson, former Justice of the Mississippi Supreme Court, presenting a one-hour CLE ethics program

## HCBA Calendar of Events

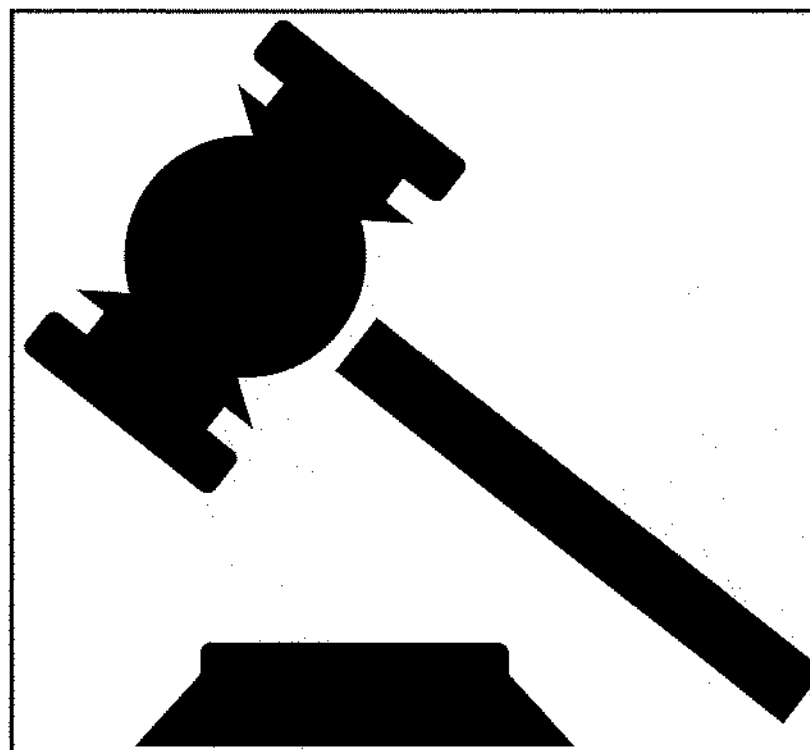
August 19, 2008	October 21, 2008	December 4, 2008	February 17, 2009	April 21, 2009
HCBA Membership Meeting/One Hour Ethics CLE	HCBA Membership Meeting	HCBA/JYL Christmas Social	HCBA Membership Meeting	HCBA Membership Meeting
11:30 a.m. Capital Club	Noon Capital Club	5:30 - 7:30 Old Capitol Inn	Noon Capital Club	Noon Capital Club

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## Book Review

By John C. Henegan

"This morning, for the first time in years, there occurred to me the possibility of a search." So it was with Binx Bolling, the protagonist in *The Moviegoer*, and so it seems with the Freedom Riders as one reads about their own search in *Breach Of Peace - Portraits of the 1961 Mississippi Freedom Riders* by Eric Ethridge (Atlas & Co., 240 pages, \$45.00).

*Breach Of Peace* has the look and feel of a lush coffee table book. Its 9-by-12-1/4 format with its absorbing full page, portrait-style photographs - each coupled with "then" and "now" data and terse excerpts of interviews with each subject - draws the eye and virtually invites you to skip past the introductory sections and begin flipping through the book at random.

Taken on this level alone, the book does not disappoint and the photos by Eric Ethridge have a compelling, even spell-binding, impact. Yet, it is the text of this attractive book that reaches the reader on a most personal level, providing in a unique way a comprehensive story about an episode of the 1960s' civil rights movement that helped shape our history just as significantly as Rosa Parks had done while boarding a Montgomery bus in 1956.

Eric Ethridge, a native of Carthage, Mississippi, and professional photojournalist, got the idea for the book while browsing through the files of the Mississippi Sovereignty Commission on the web site of the State Department of Archives and History. When doing so, Ethridge came across the Jackson Police Department's mug shots of the 310 Mississippi Freedom Riders - black and white, male and female. The "compelling immediacy and intensity" of those photos - standard frontal and profile headshots of each arrestee with booking information and arrest date - moved him to search out the lives of the faces he saw before him. It is fortunate for us that he did. The book, which in Ethridge's words is an "unfinished project," contains slightly more than 100 of his photos and interviews and stands as a remarkable tour de force.

The book dispels much of what I had heard and understood about the 1961 Freedom Riders. Rather than making a few isolated trips to the bus depots of Jackson, they came throughout the spring, summer, and fall of 1961. Upon arriving, they were arrested at the city's two bus depots, the train station, and the airport. Some who weren't arrested there were cuffed at the downtown Walgreen's. Not all were "outside agitators." Several were natives of Jackson - students at Tougaloo, Jackson State, Lanier High, even a ninth-grader from Rowan Junior High - who were stirred to act by the leadership of Medgar Evers. Others - black and white - came from elsewhere in the Deep South.

Their profiles represented a large cross-section of America.

One of the first pages I turned to was a photo of a World War II veteran who had been stationed in occupied Japan. By 1961, he had become an English professor at Oklahoma State. After reading a newspaper account of the Freedom Riders' arrests in Jackson, he drove alone from Stillwater to Jackson. On arriving, he went to the bus depot, asking the police when the next bus of Freedom Riders was scheduled to arrive and telling them that he wanted to be arrested with them when they did. The local police tried to talk him into going back home. He refused and was later arrested for breach of peace when entering the "colored people" section of the bus depot along with the other whites who had come in on the next bus of Freedom Riders. Other pages told not only about how journalists, students, civil rights activists, preachers, priests, community organizers, and conscientious objectors joined the group, but also how they later became soldiers and sailors, businessmen, real estate developers, hotel owners, professors, physicians, psychotherapists, veterinarians, congressmen, state legislators, and career civil servants. Of course, some remained civil rights activists their entire lives helping to organize and take part in some of the most notable civil rights demonstrations in the Nation's history.

After the Freedom Riders were booked, they did not bail out and wait for their arrests to be overturned as violations of the Fourteenth Amendment. They stood trial, were convicted for "breach of peace" in county court, and then served time in the sweltering summer at the State Penitentiary at Parchman.

Jackson public officials used the same strategy of delay and expense against the Freedom Riders that the State would employ the following year with James Meredith. Rather than being deterred, the Congress of Racial Equality, the principal organizing force behind this page of history, responded by sending more and more Freedom Riders to the deep South. CORE's strategy was to fill the Deep South's jails and prisons beyond capacity as the Freedom Riders, using the principles of Thoreau, Tolstoy, and Gandhi, engaged in non-violent resistance against the State criminal laws for their attempt to use the Deep South's interstate public transportation facilities on a non-segregated basis. As one Freedom Rider told Ethridge, "It was a matter of knowing who you were, going forward, and participating with other people and never to hate. That was something I remember - you cannot hate, you cannot hold this person in error. You've got to see them for who they are. They don't know it, maybe, but they're God's children too. It was that kind of thing that really gave you the strength and brought you forward."

Their relentless tenacity was initially unpopular with the national press. The *New York Times* editorialized that the Freedom

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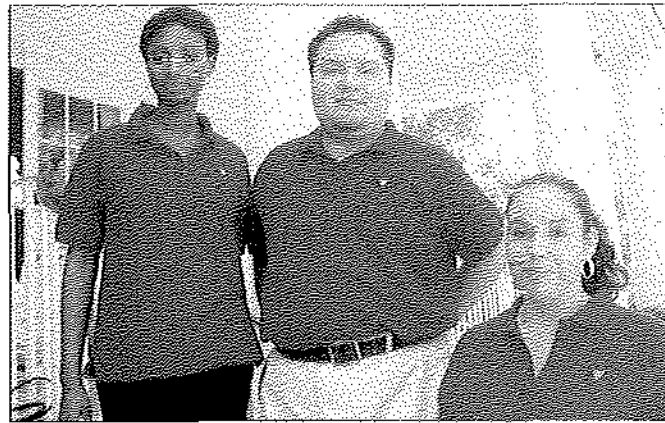
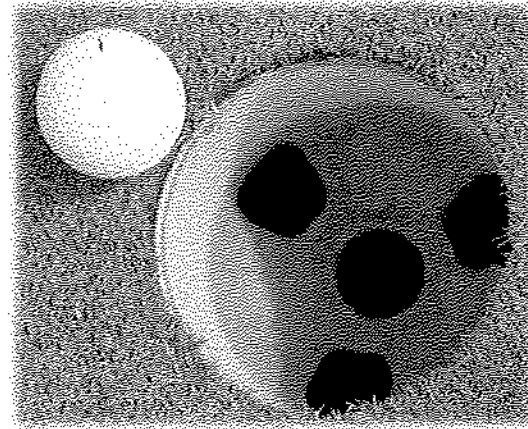
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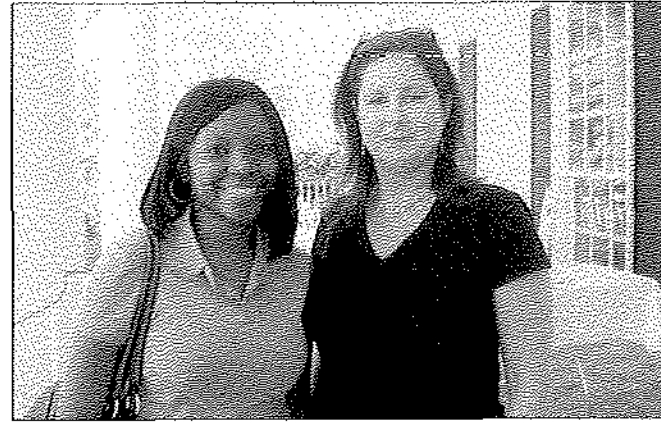


## 2008 HCBA Golf Tournament

The HCBA sponsored its 16th annual golf tournament on May 22 at Annandale Golf Club. The event was chaired by Lyle Robinson and the proceeds will benefit the Mississippi Volunteer Lawyers Project. The HCBA is very appreciative of all the sponsors.



*From the Mississippi Volunteer Lawyers Project: Aboye Jinkiri, Jonathan Hardin and Juli Cervantes*



*From Horne CPA: Lori Liddell and Mary Lambdin*



*Committee Members: Jay Kilpatrick; York Craig, III; Lyle Robinson, Chairman; Ben Piazza*



*Lyle Robinson and Collier Simpson, Committee Member*

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## MERIT SELECTION OF JUDGES: TIME FOR A CHANGE IN MISSISSIPPI

by Wayne Drinkwater

No one suggests that the popular election of judges is the root cause of the crises that have afflicted Mississippi's civil justice system for more than a decade; but the political and financial pressures associated with seeking and remaining in elective office are out of place in a branch of government designed for independence.

Maybe it is time to change the way we select our judges. Adoption of a merit selection system would reduce unwanted political pressures and promote professionalism and objectivity in our judiciary.

The problems with an elected judiciary are easy to identify. Candidates must campaign. When they do, they may take positions on issues. This is inconsistent with the whole concept of judging, in which cases are decided one by one, based on the facts and the law, and not according to positions announced in advance. Campaigns also force candidates to seek contributions, often from the very lawyers and litigants who appear before the judge whose election they have financed.

Electing judges can shake public confidence. The public is rightly skeptical of judges who are elected based on their stated policy views. The public is even more skeptical when a judge decides cases involving contributors to his campaign. One unfortunate consequence of a popularly elected judiciary is to foster a perception that judicial rulings can be bought with campaign contributions.

Political pressures don't stop with the election. Sitting judges who must stand for reelection may feel pressure to decide cases in particular -- and politically acceptable -- ways. The judge may fear

the loss of his job if he rules against powerful interests or frustrates his constituents.

Elections do not ensure that the best candidate will serve. Voters may have little information about the candidates, and they have no basis on which to evaluate the candidates' relevant qualifications. Judicial campaigns may be waged on emotional issues such as crime, abortion, same-sex marriage, or jackpot justice. The elections will certainly not be fought on questions of the legal ability, objectivity, or judicial temperament of the candidates.

Giving the governor the power to appoint judges may not improve things. Judicial appointments may be little more than patronage and may be made for completely political reasons. Even if a governor chooses to utilize a judicial nominating commission, the governor appoints the commissioners and may communicate with them, making it likely that the commission may share -- or be advised of -- the governor's views so completely that it may simply supply the governor with the nominee he wants.

All of this is inconsistent with the idea of an independent judiciary that sits to decide disputes and safeguard the rights of the citizenry. If there is one bedrock principle on which we can all agree, it is that the judiciary is not a political branch. Judges should not sit to advance any political agenda, and they should not be held accountable for the political consequences of their decisions. Judges should decide cases based on the facts and the law, without regard to popular opinion.

*continued on page 7*

## MERIT SELECTION OF JUDGES: TIME FOR A CHANGE IN MISSISSIPPI *continued*

There is a better way to ensure that the practice in our courts more closely approaches this ideal. It is merit selection of judges. Merit selection is not a new or untried system. The ABA endorsed merit selection of judges in 1937, and Missouri adopted the first merit selection plan in 1940. Today, approximately 30 states select some or all of their judges under a merit selection plan. The states that use merit selection like it. No state that has adopted a merit selection plan has returned to popular election of judges.

How does merit selection work? Consider the following proposal, which is a blend of models adopted by several states, the American Judicature Society, and other professional groups:

1. Mississippi would create a Judicial Nominating Commission composed of 7-13 members. Commissioners would serve 8-year staggered terms. The Commission would make recommendations to the Governor to fill vacancies on the supreme court, the court of appeals, and the circuit, chancery and county courts.

2. The Commission would be selected by a diverse group of electors who would sit as a group. Some of the electors might be lawyers, elected regionally by other members of the bar. Others might be public officials such as the Speaker of the House, the Lieutenant Governor, the Chief Justice of the Supreme Court and the Chief Judge of the Court of Appeals. A diversity of electors would ensure that no single group or entity could control the selection of commissioners. Because he would have the ultimate authority to appoint candidates upon the recommendation of the Commission, the Governor would not participate in selecting the commissioners.

3. The Commission would identify and evaluate candidates for judicial vacancies, pursuant to published rules of procedure. The Commission would have a full-time staff to assist in investigating candidates. The Governor would be forbidden to have contact with any commissioner.

4. After consideration, the Commission would recommend to the Governor 2-5 candidates for any vacancy. The Governor would be required to appoint one of the Commission's nominees. If the Governor failed to make an appointment within 30 days, the Chief Justice would do so, also from the commission's list.

5. The appointed judge would serve a 1-2 year probationary period, after which the Commission would evaluate the judge for legal ability, objectivity and judicial temperament. If the Commission found that the judge's initial performance had not measured up, it could end his term at the end of the probationary period. Otherwise, the judge would serve a full 8-year term.

6. At the conclusion of the full term, the judge would be eligible to apply for reappointment. The Commission would then conduct a performance evaluation and issue a summary public report on the judge. The judge would then stand for a retention election, with no opponent. Armed with the Commission's report, the voters would vote "yes" or "no" on the judge. If the judge received less than a majority of the votes cast,

the Commission would begin the process for choosing a replacement. Otherwise, the judge would serve another 8-year term.

Whether expressed through this or some other model, merit selection is designed to choose judges through a screening process conducted by knowledgeable commissioners. The process permits the voters to reject a judge whose performance they find unsatisfactory, but it does not allow them to choose that judge's successor. All judges will be chosen by the Governor, upon nomination by the Commission, and after professional vetting.

There is inevitable tension between judicial independence and accountability for judicial performance. Merit selection seeks to reconcile this tension by holding judges accountable according to proper standards: not for the popularity of their decisions, but for their legal ability, objectivity, and judicial temperament, as determined by the lawyers and litigants who appear before them.

Merit selection will not remove all politics from the judicial selection process, but experience has shown that it will help weed out unqualified candidates, eliminate the need to campaign and solicit contributions, and reduce the pressure that judges feel to avoid unpopular decisions. The Governor may still pick a candidate who is congenial to his views, but the candidate will be selected from a group of screened and qualified candidates chosen by commissioners whom the Governor did not select.

I am not insensitive to the political obstacles that merit selection will face in Mississippi. Any such change would require amendment to Mississippi's Constitution. Further, because merit selection would constitute a change in voting practice, preclearance by the Department of Justice under the Voting Rights Act would also be required.

Merit selection will not cure all that is wrong with our judicial system. However, many of the most persistent problems in our judicial system will never be removed so long as our state court judges are forced to run for office in contested popular elections.

These "positions" may turn out to be not-so-subtle messages that fall just short of promises about future rulings: Candidate A will end jackpot justice and runaway punitive awards. Candidate B will keep criminals off the street. Candidate C will protect the little man from corporate greed and abuse. No great imagination is required to predict what A, B, and C are likely to do in cases when the time comes.

In Louisiana, this may not be just perception. A Tulane study has shown that justices on the Louisiana Supreme Court voted in favor of their contributors 65% of the time. Two justices did so 80% of the time. One justice voted for civil defendants in 47% of the cases when no contributors were involved. But when plaintiffs contributed more to this justice than did defendants, he voted for plaintiffs 90% of the time. See Palmer & Levensis, *The Louisiana Supreme Court in Question: An Empirical Study of the Effect of Campaign Money on the Judicial Function*, 82 Tul. L. Rev. 1291 (2008).

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## HCBA Announces its 2008 Community Grant Recipients

The two recipients of the 2008 HCBA Community Grants: PTEH, Inc., and the Emergency Shelter for Children and Youth, which is operated by Christians in Action, were introduced by the Community Grant Committee Co-Chairmen, Jennifer Evans Salvo and David McCarty, at the June Membership Meeting.



David McCarty and representing PTEH: Melanie Parks, Executive Director; Frank Spencer, board member; and Tina Hayward, board chairman, Susan Tsimortos; and Jennifer Evans Salvo.



Susan Tsimortos and representing the Emergency Shelter for Children: Chuck Bearman and Trese Evans, board members; Janice Wilder, Executive Director; David McCarty; and Jennifer Evans Salvo.

The Hinds County Bar Association's Community Grant Committee is proud to present the 2008 grant recipients. The Committee received ten applications this year and selected five organizations to visit. After visiting these five organizations, and after much deliberation, the Committee decided to recommend that the grant be split between two of the organizations, the Emergency Shelter for Children and Youth, and PTEH, Inc. The Emergency Shelter for Children and Youth is operated by Christians in Action, Inc. The shelter is licensed by the Mississippi State Department of Human Services ("MDHS") to provide emergency care for children and youth in custody of MDHS, birth through seventeen, for up to 45 days. It is a homelike facility meeting the children's basic needs and providing counseling services while MDHS seeks to return the children to their homes or to foster care. Approximately 120 children are served by the program each year, and the shelter works to keep the children enrolled in the school each child attends at the time they enter the shelter. We are recommending that the grant be awarded in the amount of \$5,000 to go toward the purchase of a passenger van that would replace one of the shelter's current vans, which is ten years old and in need of replacement so that these children may be safely transported to school, doctor appointments, recreational outings, and to other needed services.

PTEH, Inc. is a new non-profit organization established to assist area social service agencies compile the information required to complete grant applications to be submitted to the United States Department of Housing and Urban Administration ("HUD"). The award of such grants by HUD could result in approximately \$1.5 million each year being brought into the metropolitan area to assist organizations such as Stewpot, Grace House, Innovative Solutions in Assisting the Homeless, Mountain of Faith Ministries, Catholic Charities, and others in providing services to homeless individuals and families. The new non-profit, and its executive director, are crucial to such grants being awarded to these agencies. We are recommending that the grant be awarded in the amount of \$5,000 to help this non-profit pay the salary of its executive director/grant writer for one year. After the first year, each agency has agreed to pay a portion of the executive director's salary.

This year's decision has been one of the more difficult decisions the committee has had to make, as the committee strongly believed in all five organizations we visited. We sincerely believe that our efforts and our decision will further the goals of the HCBA to make a constructive impact on our community. Thank you for supporting our mission.

Serving on the 2008 HCBA Community Grant Committee, which was co-chaired by Jennifer Evans Salvo and David McCarty, were Gilbert VanLoon, Ginger Weaver, Loren Pratt, Joan Lucas, Cheryn Baker, and David Pharr.

## REMINDER

The Hinds County Bar Association  
August Luncheon Meeting  
and Ethics CLE Program  
will be held

Tuesday, August 19, 2008  
at 11:30

Speaker: James L. Robertson,  
former Justice of the Mississippi Supreme Court  
The cost is \$25 for lunch and CLE

Capital Club  
19<sup>th</sup> Floor  
Capital Towers Building  
No reservation necessary

continued from page 3

Riders were "overreaching." The NAACP publicly questioned their strategy. One of the Freedom Riders decided to become a Freedom Rider only after listening to a radio debate between a young member of CORE and a member of the NAACP who said that CORE's actions were "too dangerous." The program was moderated by Jackie Robinson, the former Brooklyn Dodger. Upon hearing Robinson say that he thought those listening should "support this young man," the radio listener headed to a local CORE office. Only after the Interstate Commerce Commission issued a unanimous ruling in late September 1961 banning segregation in all interstate transportation facilities, a ruling that only took effect in late November, did the Nation begin to understand and appreciate the method in the Freedom Riders' efforts.

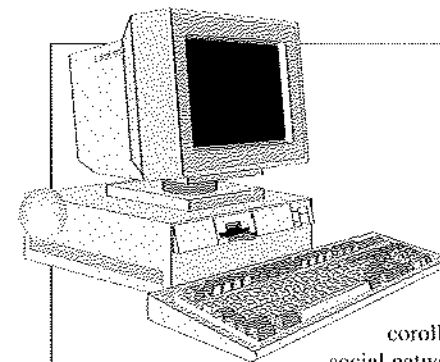
Those who came to Jackson had no idea whether they would be subjected to physical violence or worse as their cohorts had been during their first trips into Alabama when the first bus was firebombed and its inhabitants were later beaten when they disembarked in Birmingham on Mother's Day 1961. An arrangement between the U.S. Department of Justice, headed by Attorney General Bobby Kennedy, and Senator Eastland, helped prevent possible violence from breaking out in Jackson. But the Freedom Riders did not learn about that until many years later. As the National Guard boarded their bus when it entered Mississippi, many of the Freedom Riders, along with the families and friends, were skeptical about the protection that they would receive when they arrived, and they feared for their lives.

The Freedom Riders who came to Jackson knew with absolute certainty that they would be arrested, convicted, and incarcerated. Based on the first letters written by those who came here, their successors knew that they would be sent to Parchman where they would be subjected to body searches, hot drinking water, ice cold

showers, dense clouds of mosquitoes, and even rotten crummy food. Their stories about how they coped while at Parchman, individually — one person made and smuggled in a transistor radio to keep up with the Maris-Mantle homerun race; another played chess, making the pieces from hardback — and as a group — holding debates about integration and segregation, singing hymns, and conducting a faux "Parchman Radio Show" each night — are a remarkable testimony to their courage and their human spirit.

Ethridge is not only a remarkable photographer; he is a perceptive interviewer. In the book, he steps to the side letting each Freedom Rider tell her or his own story. The war veteran turned English professor told the local police that he has come to Jackson to help prevent a race war. One student came because his father had died in a German concentration camp in World War II, and he believed it was important to resist government oppression. Another said that ever since he had first read about the Boston Tea Party in elementary school, he had wanted to do something to stand up for liberty and for him that moment came when he heard about the Freedom Riders. Their introspective observations — at times bitter, proud, understated, ironic, and without rancor — make this an altogether satisfying book.

While *Breach of Peace* may not have the masterly prose of *Let Us Now Praise Famous Men*, it travels as high an emotional arc as Agee's classic work. What at first blush appears to be a random collection of what Binx Bolling called each person's "horizontal search" is ultimately transformed into the collective consciousness of a people, a people who came from all over the Nation, some with friends and in groups, some alone, in the name of freedom and liberty. *Breach of Peace* tells their story so well that Binx might have included it among those books that address our "vertical search" — those works that address the most fundamental issues of life.



## On Computing

by Joel Howell

An earlier article mentioned Avvo, which has the objective of rating and profiling every lawyer. A

corollary to this comes through the social networking sites, as opposed to the legal networking sites, which may be a benefit to your practice as well as personally. Thanks to a variety of sources, particularly Robert Ambrogi and "Law Technology News," here is some fundamental information.

All networking sites are directories, no more, no less. Three general interest sites are open to all comers, some for networking, some for professional networking, and some for social networking.

The best example of peer networking is LinkedIn ([www.linkedin.com](http://www.linkedin.com)), which claims an international membership of more than 20 million professionals from 50,000 companies.

Creation of a profile on LinkedIn becomes the hub of your network, which includes people you connect with directly, their connections, and their connections' connections so you are always within three degrees of connecting with anyone else. It allows searches with potential clients, service providers, and experts, as well as business opportunities in employment or candidates. You can communicate directly with your first degree contacts and, through them, ask for introduction to others. It costs nothing to join, although there is a paid account option which offers extra features, but these are unnecessary to benefit from the fundamental concept.

One of the most popular social networking sites is Facebook ([www.facebook.com](http://www.facebook.com)). This tool allows users to build networks around locations, interest, schools, and companies. You can chat, share photos and videos, post bulletin board style messages, play games, coordinate calendars, and even advertise. You may find it difficult to network professionally since Facebook hides your profile from anyone you have not designated a "friend." To make this site more accommodative for business, Facebook is adding features so businesses can now sponsor custom pages that focus on their products or services; however, its strength is in maintaining existing connections, not building new ones.

A cross between social networking and professional networking is Plaxo ([www.plaxo.com](http://www.plaxo.com)). As a contacts manager, Plaxo allows you to manage, track, and network with contacts across multiple platforms. Rather than building new networks, its focus

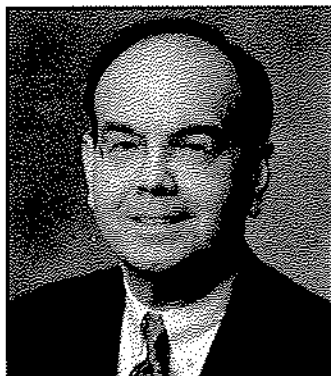
is on strengthening your existing network by synchronization and sharing. You can synchronize all of your addresses with Outlook, Google, Yahoo, AOL, Mac OS X, and Hotmail, as well as mobile devices and most calendars. This sharing allows you to connect with other users. Plaxo has a feature called Plaxo Pulse which keeps you up-to-date with your contacts' other activities. When your contacts update their status on Twitter, post items on their blogs, or add photos, Plaxo notifies you on your Pulse stream. In addition, you can create a public profile so someone viewing it will see the universe of your current activity online.

Google is so omnipresent that it has entered our vocabulary as a verb. Here are some quick search tips that you may not be aware of, thanks to the editors of "PC Magazine."

Go to the search box and check the weather by typing "weather" and a city or zip code, or check what movies are playing by typing "movies" or the name of the film. Track a package using the tracking number of a package or the status of a U.S. flight using the name of the airline followed by the flight number. You can search for area codes and definitions or ask a fact-based question. Google can serve as a conversion tool for height, weight, and cooking measurement conversion. Finally, it can be used as a calculator by simply typing an equation into the search box.

Questions or comments? Email [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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## Highway Eats

by The Road Lawyer

If imitation is the sincerest form of flattery, what is one-upmanship? Or twelve-upmanship?

The Road Lawyer ["TRL"] had realized HCBNewsletter's culinary coverage of major league ballparks was attracting a little attention, from the calls and cards and letters. Hardly a summer [April to September] month goes by without at least a couple of lawyers reporting a trip to the ballpark after depositions or a client conference in some big league city.

Like most well read lawyers, on the morning of June 8 TRL picked up the Sunday New York Times and began dutifully leafing through it. Horsefeathers! Intellectual Property Theft!

The Sunday Times Travel Section — front page above the fold — features fans feeding their faces at Safeco Field in Seattle. Below the fold, the headline screams, "Buy Me Some Sushi Or Baby Back Ribs," wherein Peter Meehan writes at length of his visits to 12 major league ball parks. Full page spreads on pages 8, 9 and 10 follow.

No attribution or thank you for TRL's pioneering columns popularizing ballpark food that have appeared in these pages at irregular intervals over the last four years or so.

The Times Sunday Travel section has stolen TRL's idea and exacerbated its offense with giant color pictures galore, including six of the culinary offerings themselves. HCBN's curmudgeon editor will only allow coverage of one park per issue. No pictures, period.

The Times even has a side bar piece, "Finding The Hits, Avoiding The Errors, a culinary score card of the major league baseball stadiums." Each of the 30 MLB venues is listed, with a single best and worst "concession" for each.

Yes, you can find it all online at nytimes.com.

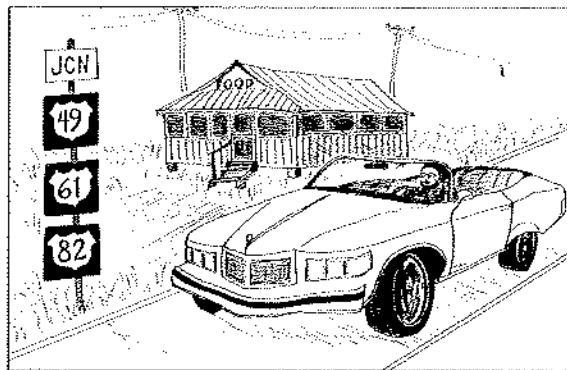
### Matters Of Taste And Perspective

Meehan's tour included four venues TRL had visited and reviewed. Our experiences at Citizens Bank Park in Philadelphia were complementary and equally positive, though Meehan makes no mention of the shut down of beer service before the last out in the 7th inning.

Meehan's findings at Camden Yards in Baltimore, Shea Stadium in New York and South Side Chicago's U. S. Cellular Field were harder to fit with TRL's experiences. These are, after all, matters of taste. With no intention to prejudice the palate, there may or may not be meaning in the Times' excessive use of "stadiums" — as in Yankee and Shea — instead of "ball parks." The dead give away is the Times did not know "stadia" is the plural of stadium, not "stadiums."

Baseball is a cultural experience. Peanuts and crackerjacks and "Beer Here!" are a part of that experience. But so are the larger than life heroes and humans and at times villains, great feats and failures and history, enriching life via the ball park.

Justice Harry Blackmun saw this in Part One of *Flood v. Kuhn*, 407 U.S. 258 (1972), the story of which is recently respun by Prof. Ross Davies of George Mason Law School. A generation ago, some version of "Would you like to go to a ball



game with Chief Justice Burger and Justice White? Explain your answer," was common place on law school exams. Only a sensitive study of *Flood v. Kuhn* could give rise to a good answer.

Times Travel is for the pedestrian traveler. TRL writes for the busy and embattled lawyer, whose life takes him to big league cities and whose soul senses in baseball what the late Commissioner Bart Giamatti called the "green fields of the mind."

### Lawyers And Washington

The Washington Post was more focused back on April 2, 2008. The Post's FOOD section led with "Step Up to the Plate," a comprehensive review of eats offered at the new Nationals Park in D. C., with full disclosure of the vendors' inflated view of the value of their concessions. The Post had carried a special section on Nats Park itself on March 28, 2008.

From this, TRL decided Nationals Park should be next. After all, Washington and lawyers are as American as baseball and beer, as Mom and apple pie. As fate would have it, TRL was in Washington a few months ago, naturally for a lawyer meeting. As the meeting ended, the thought was, baseball!

Since 2005, the lawyer/baseball fan with business in the Nation's Capital have had two options. The Washington Nationals at the old RFK Stadium, or take the train to Baltimore for the Orioles at Camden Yard. The Nats' venue improved considerably as of April 2008.

Nationals Park is Major League Baseball's 2008 addition to the roster of new "traditional" ballparks. "New," of course, means a plethora of sky boxes and other accoutrements that enhance revenues for the owners. "New" ballparks also allow fans to watch the game in settings undreamt of in real traditional ballparks, the sole surviving exemplar of which is Wrigley Field in Chicago.

Nats Park is in southeastern D. C., near the Anacostia River. The architects claim inspiration from the East Wing of the National Gallery of Art and have included an odd right angled jog in the right center field fence, taken from the old Griffith Stadium, where two iterations of Washington Senators played for 60 years.

The old venue was located at the corner of Georgia Avenue and W Street, N.W., near Howard University. That evening back in late May, the Phillies were in town. TRL and party took the Red Line to Gallery Place, thence southerly on the Green Line to the Navy Yard station and to the Nats' brand spanking new ball park. No person who has ever driven in D.C. traffic or is otherwise sane will attempt any other mode of transportation.

### The Culinary Offerings

More so than in any park TRL has reviewed, an evening of baseball, burgers, beer, and buns at Nats Park will lighten your pocket book and expand your waist line.

Nats Park is a food-friendly venue, including a first for

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TRL. An entire page in *Inside Pitch* lists "Nationals Park Concessions" by name, with the section(s) where each may be found. This detailed info is periodically supplemented on the circular facade at the base of the upper deck between innings with flashes concession names and their sectional locations for all to see.

That's the good news.

The bad news is that, like everything else at Nats Park, the food prices are ridiculously high. \$16 for a burger, fries and a soft drink! Three Ben's Chili Bowl half-smokes \$28!

Times Travel touted salted pretzels from Noah's Pretzels, near the left field foul pole as you enter the ball park, as Nats' Park No. 1, but said nothing about price. Fans are warned to stay away from the chili dog at the Hard Times Café.

### The National Pastime

Ballparks honor the icons of the home team. Nationals Park honors the greats of all of Major League Baseball. This is appropriate for the city where daily one sees license plates from across the country. It is necessary for a city that hasn't had many baseball heroes. And one it had is nicknamed "Goose."

The creme de la creme of Baseball's Hall of Fame are recognized in Nats Park. Babe Ruth. Ty Cobb. Walter Johnson. Honus Wagner. Bob Feller. Jackie Robinson. Willie Mays. And many more. There is an artist's rendering of Mickey Mantle's legendary 565 foot home run at Griffith Stadium, the distance of which has recently been questioned.

Josh Gibson of the Homestead Grays has his place of honor. Featuring Gibson, Starkville native James Thomas (Cool Papa) Bell and others, the Grays also played in Griffith Stadium, when the Senators were on the road. These and others are depicted on the bulky stadium supports in familiar baseball card like poses. Of these, only Johnson, Leon ("Goose") Goslin, and Gibson actually played for a Washington based team. Ted Williams managed the Second Senators almost 40 years ago.

### The First Senators And The Humbolt Thunderbolt

Fans for generations proclaimed that Washington was "First in war, first in peace, but last in the American League." But that's not entirely true.

Baseball in Washington begins with Clark Griffith, principal owner of the Senators for 35 years. The Senators inherited what was originally named National [no "s"] Park, but Griffith soon changed it to Griffith Stadium.

In the mid-1920s, the Senators rushed to the fore as Babe Ruth's off field issues put the Yankees on hold, and Lou Gehrig and Tony Lazzeri had not yet arrived. The '24 Senators featured 37 year old Walter ("The Big Train") Johnson and won the World Series. The Senators were back again in 1925, losing to the Pittsburgh Pirates 4 games to 3.

The Big Train mocks today's pitch count devotees. On the mound from 1907-27, Johnson was 417-279 with a 2.17 lifetime earned run average, with a team that seldom had much of a supporting cast. His 36-7 record in 1913 followed a 33 win season the summer before.

As a 19 year old in 1907, Johnson is featured in J. Anthony Lukas' panoramic tale published a decade ago of Senator William E. Borah, Clarence Darrow, and the Western Federation of Miners union leader Big Bill Haywood murder trial. Lukas' lessons of unsavory prosecutorial tactics employed by those with a bent of mind, met by fight fire with fire defense tactics, gives historical perspective, attracting new readers because of its

increasing relevance today.

On Sunday, June 30, 1907, the press corps covering Haywood's trial made their way from Boise to Caldwell, Idaho to watch Johnson and the Weiser Kids in action. Johnson struck out 15 and carried a 77 inning scoreless streak into the bottom of the 11th inning, when his third baseman's errant throw hit the homeward bound base runner, and Caldwell won, 1-0.

On July 29, 1907, the Boise jury found Haywood not guilty of the 1905 fire bombing murder of Idaho's former Governor Frank Steunenberg, said to have arisen out of the Coeur d'Alene silver mine workers strike of 1899.

On August 2, 1907, Walter Johnson was in Washington beginning his career with the Senators.

In his 1924 Championship Season, Johnson turned in a mere 23-7 performance and was 20-7 the next year. For once he had help, in the form of Goslin, Sam Rice, Roger Peckinpaugh, and a young player manager named Bucky Harris. Johnson was 3-3 with a 2.16 ERA in those two World Series appearances.

It is fitting that Washington's greatest baseball player hailed from Humbolt, Kansas.

By 1933, Ruth had faded and DiMaggio had not yet arrived in Yankee Stadium. Griffith hired 27 year old player-manager Joe Cronin who led the Senators to the AL pennant, losing to the New York Giants in The Series, 4 games to 1.

### Insult To Injury And The Second Sorry Senators

The original Senators left D. C. after 1960. Insult was soon added to injury. Playing as the Minnesota Twins, the team won the 1965 AL pennant, losing to the Dodgers in The Series. AL West titles came in 1969-70. The Twins won World Series titles in 1987 and 1991. Though a small market, low budget franchise, the Twins remained competitive, which they seldom were as Senators in D. C.

Meanwhile, a new franchise was organized and began play in 1961 under the name "Washington Senators." Same name, same results. In 1969 the great Ted Williams was brought in as manager and willed the team to its only "winning" season, 86-76. The next year normalcy returned. Williams left at the end of 1971. "I can't relate to players with so little talent and desire to win."

In '72 the team was in Dallas as the Texas Rangers. In April of '89, the Rangers were sold to an investment group headed by George W. Bush — yes, *that* George W. Bush. W was managing partner until 1994, when he took political employment with the State of Texas.

### And Now The Nationals

The new Washington Nationals arrived in 2005. The team had been the Montreal Expos (1969-2004).

The Nats franchise has a reverse history. The 1994 Expos had a Major League leading 74-40 record when The Strike shut down the season. Led by a then young Pedro Martinez, the Expos pitching staff had a Major League low 3.56 ERA, and included former Ole Miss pitcher Jeff Fassero. Other stars included Larry Walker and Moises Alou.

Those who say D. C. has become more expensive than New York will find nothing at Nats Park to the contrary. TRL was sitting along the third base line, Section 116, Row M, Seat 5. The ticket price: a cool \$60. By contrast, TRL had paid \$24 for a slightly lesser seat at U. S. Cellular Park in Chicago earlier this season.

With a 26,000 plus paid attendance, the 2/3 empty screen

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protected seats behind home plate stood out like a giant sore thumb. "Why are so few people sitting there?" I asked the guy sitting to my left. "Those are the \$300 seats. A little over priced, don't you think, even for a town where bribery and robbery are not altogether illegal," came the reply.

The Washington Post reported a nasty undercurrent. "Nats Risk Priceless Goodwill For \$100,000 a Day in Damages," says the headline on Marc Fisher's story the next morning. Nats owner says the ballpark wasn't finished on time as per the contract. Fisher said it could have fooled him; he was there opening night and thrilled as "Ryan Zimmerman's breathtaking walk off home run sailed out of the park."

Management says it isn't talking about the ballpark proper, only their luxury office suite wasn't finished. Nats owners have declined rent free quarters at the old RFK, demanding daily damages under the penalty clause.

#### Red Hot And The Blues

One notable disappointment was the Red Hot & Blue Barbeque venue. You all know the history. Some Southern boys in D. C., including former Congressman [later Governor] Don Sundquist from Memphis, got to longing for home and found a spot in Alexandria for Memphis style BBQ and Blues. [www.redhotandblue.com/redhotnews/ourstory](http://www.redhotandblue.com/redhotnews/ourstory).

RH&B is to your right as you enter the ballpark complex from behind left center field from the Navy Yard Metro stop.

We made our first foray to RH&B near the end of the second inning. Two long lines. Upon reaching the window, TRL ordered a pork shoulder sandwich. "No pork shoulder for another 20 minutes." "It's just the second inning!" "We have brisket or chicken, but no pork shoulder for another 20 minutes."

Of course, we wouldn't settle for "brisket or chicken." A Fordham's Ale would fortify TRL for a while.

It was probably close to 30/40 minutes before we made it back to RH&B. "We're out of pork shoulder" from a different attendant. "What?!!!" "Sorry, sir, but we can serve you brisket or chicken."

TRL overheard a similarly stiffed patron at the next window exclaim "You never have pork shoulder! What's the matter with you people?!!!" TRL settled for brisket, and son settled for chicken. A little dry. For perspective, TRL's son offered "Boog's Barbeque on its worst day at Camden Yards is better than RH&B."

#### First In War And Last In the NL East

The ballgame wasn't much. Ryan Howard and the Phillies took batting practice and had built up a 12-0 lead by the 7th inning. Vicksburg native Dmitri Young managed an rbi single in the Nats 7th as the home team avoided a shutout.

The next day -- and at press time -- we looked at the standings. The oldtimers' saying must be modified. First in War, somewhere close to the bottom in Peace (what other country in this generation has invaded two other sovereign states, and more than 5 years later is still inflicting and taking casualties, with no end in sight? Somehow the headline "Marines Make Progress Against Taliban" affords a bit less comfort today than in 2003), and last in the National League East.

Davies, *A Tall Tale Of The Brethren*, 33 Journal of Supreme Court History 186 (2008).

See page 26 of *Inside Pitch*, May 19-26, 2008

Lukas, *Big Trouble: A Murder In A Small Western Town Sets Off A Struggle For The Soul Of America* 602-15 (1997).

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## William F. Winter Profile In Courage Award

Boston, MA  
May 12, 2008

I cannot possibly express to you what this award means to me. Even as I acknowledge my difficulty in trying to justify it, I must tell you how grateful I am to receive it. Let me thank the members of the Selection Committee - especially Caroline Kennedy, Senator Ted Kennedy, Paul Kirk, Al Hunt, Elaine Jones, and Senator Thad Cochran; John Shattuck and the Kennedy Library Foundation; and so many others - for this incredibly cherished honor. I am grateful to my family and friends so many of whom are here today for their loyal support in so many ways. I am especially honored by being placed in the company of these two distinguished state officials and the illustrious previous recipients of this award.

I take particular satisfaction in receiving an award that bears the name of one of my heroes, President John F. Kennedy.

In the 1950's as a struggling young politician in Mississippi I was looking for someone who could provide me with the inspiration to lift me above the bitter racist rhetoric that drove the politics of the Deep South at that time. I found that leader in John Kennedy, who helped free me and my fellow Southerners - black and white - from a racially segregated system that imprisoned all of us.

Just as John Kennedy inspired many of us young politicians in the 1950's and 60's, I believe that now a half-century later the measure of our future progress will be determined by our ability to inspire a new generation of young leaders.

But before we can appeal to the idealism of a young generation, we must do more to restore some of the idealism that went into the founding of our country in the first place and which we are in danger of losing. We must remind ourselves, even as we appeal to these young leaders, that we still live under a social contract that was written into the Declaration of Independence wherein we pledged to each other "our lives, our fortunes and our sacred honor." We must embrace that contract if we expect to inspire another generation to accept it.

We must see to it that these young leaders have a clear understanding of where we have come from and who we are as a people and how we got to where we are. There is not enough of this kind of teaching and learning going on. Too many of our most able and promising young men and women have only a passing acquaintance with the events and heroes who shaped our history.

This lack of emphasis on civic learning and historical background can be a fatal flaw in the capacity of these future leaders to lead. Without a knowledge of what has transpired before, they may well fall into the trap of repeating the old mistakes and ignoring the lessons that earlier generations paid so dearly to learn.

They must clearly understand that public and civic leadership is never an easy road to travel. There are a lot of stresses and strains these days. It is easy for us to get split up over issues about which many people feel deeply. There are full-time practitioners in politics and in the media and even in some church groups who fan the flames of emotion and discord. We must not let ourselves succumb to the tendency to demonize those who see things through different eyes,

based usually on different life experiences. Sometime we have to walk in someone else's shoes for a while to understand where they are coming from.

My perspective is that the best way to overcome these stresses is through sharing experiences - through working with others - through recognizing that we are all in this together and that the elements that we have in common are so much greater than the things that divide us. By working with other people who may be different from us, the old barriers and the old stereotypes begin to fade away.

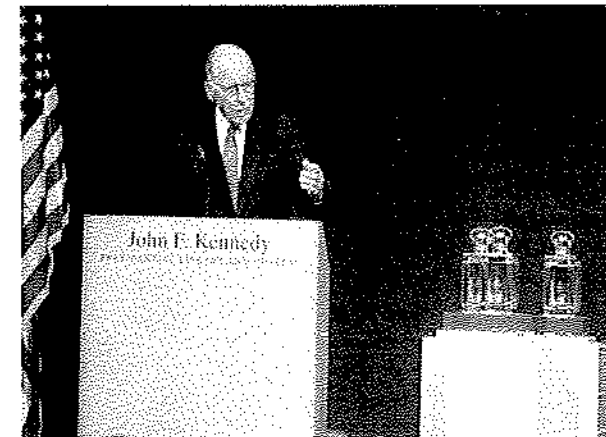
The greatest threat to our future as a nation does not lie so much in the streets of Baghdad as it does in the streets of our own small towns and great cities. If we become a country divided by race and class and where the gap between the rich and the poor continues to widen, we shall in the future pay a huge penalty in the declining quality of our lives and the diminished stability of our economic and political system.

A democratic society cannot leave these problems to be solved by blind chance or individual impulse. We must develop and support leaders who can provide that vision.

All of us must be willing to speak out against bigotry and intolerance and injustice. We must seek to find worth in every person. That is how we pay our dues for the privilege of living in a free society.

That is how we can pass on to the next generation a better country than the one we inherited.

I accept with humility and gratitude this award. I shall strive to be worthy of it.



## SCOTT McCLELLAN'S SMOKING GUN MEMOIR AND THE NOVEMBER PRESIDENTIAL ELECTION: WILL WE HAVE LEARNED NOTHING?

By  
Captain Equity

Many of us have long suspected the Bush Administration of arrogance, incompetence, exaggeration, secrecy, deception, conspiracy, recklessness, and potential criminality up to and including treason. But we never knew for sure. In the wake of the trumped up Gulf of Tonkin Resolution, Watergate, and so many other betrayals, Washington politicians must have finally learned some very basic lessons about candor. Certainly, our government would not again lie to its own people about something so serious as national security or the need to send young American soldiers to yet again kill and be killed in foreign lands. Surely, the President of the United States and his top level advisors would never compromise the identity and safety of our own covert intelligence operatives whose job it is to protect their countrymen. Given the brutal lessons of Vietnam, no President would again open the Pandora's Box of another endless war in an inhospitable part of the world unless absolutely necessary. And assuming diplomacy failed, any president would be wise enough to follow the dictates of the Powell Doctrine by having a clearly defined mission and meticulously planned exit strategy. After all, we are decent, God fearing people, not aggressors or an imperialist empire given to unilaterally attacking and occupying nation states that do not threaten us. In light of the 58,000 names etched on the black granite wall of the Vietnam Memorial in Washington D.C., we would never again repeat such an arrogant and unscripted blunder unless there was simply no other option. Didn't George W. Bush campaign in 2000 on a "humble" foreign policy explicitly stating that America would not be in the business of "Nation Building?" Surely we could trust this plain spoken, down to earth Texan, unspoiled by the toxic culture of Washington. Our GOP Congressional majority in the House and Senate assured us we could. After all, we were told that the son of the 41<sup>st</sup> President was a "Uniter not a Divider." He was a new kind of GOP leader; a "Compassionate Conservative" whose faith in the words and deeds of Jesus Christ was paramount. He told us that he wanted to go to Washington to restore honesty and integrity in the White House after Bill Clinton's personal recklessness and calculated untruths had paralyzed the country in the final years of his term leading to

impeachment. And best of all, we were promised a return to true fiscal conservatism in federal governance. True, Bill Clinton had left us a surplus at the end of his term. So if a "tax and spend" liberal could do that, imagine what a true fiscal conservative could accomplish. We were further reassured by President Elect Bush who compensated for his lack of experience in foreign affairs by bringing in old, experienced Washington hands such as Dick Cheney and Donald Rumsfeld. The nation would be on sound footing overseas. Given the smugness and self righteous carriage of Al Gore, this humble, "son of the soil" Texas Presidential candidate was poised to lead America to a twenty first century renaissance marked by competence, thrift, and personal responsibility. What could be better in the wake of eight years of Clinton fatigue?

It is now exactly eight years later. Everyone knows how things turned out. Just pick the subject, hold your nose, and shake your head. But despite numerous charges, denials, and investigations, the details of what transpired behind closed doors in the White House, especially with regard to the Iraq War, has largely and necessarily been subordinated to conjecture. That was before the publication of *What Happened: Inside the Bush White House and Washington's Culture of Deception* written by former Bush Press Secretary and fellow Texan, Scott McClellan. The significance of this book is the fact that its author comes from the Bush inner circle. His memoir has effectively confirmed every single suspicion harbored by the President's detractors.

"So?" to paraphrase Vice President Cheney, "what is your point?"

The point is precisely this. Beyond confirmation of the Bush Administration's shortcomings, what has the country learned, if anything, about choosing a President? In a little less than three months, we must choose between John McCain and Barack Obama to succeed President Bush. One of these two men will inherit problems and challenges so daunting that they threaten the continued prosperity, solvency, and moral authority of the United States of America. To put it in different terms, we no longer have the luxury of making gigantic blunders while ignoring the real "gathering and grave dangers" facing the country. Think the global equivalent of "New Coke" or "The Arch Deluxe" from McDonalds.

## SCOTT McCLELLAN'S SMOKING GUN MEMOIR AND THE NOVEMBER PRESIDENTIAL ELECTION: WILL WE HAVE LEARNED NOTHING?

*continued*

The first lesson to be gleaned from the Bush Administration in particular and all political campaigns in general is this: talk is cheap - be skeptical, very skeptical. In 2000, Bush campaigned by telling everyone just what they wanted to hear. After eight years, the ironic reality has been exponentially just the opposite. I know that Americans are basically optimistic and trusting. Count me as one of them. I bought the case for war in Iraq, not because of the President, but rather because of the credibility of his Secretary of State, Colin Powell. His presentation at the United Nations combined with the shock of 9-11 and President's down home appeal and campaign promises sucked me right in. No more. Politicians tell Americans what they want to hear, not what they need to hear. We need to embrace that reality.

This leads to point two: Presidents don't own a crystal ball anymore than anyone else. The unexpected will always find a way to surprise us. September 11 is a case in point. However, despite unforeseen, cataclysmic events, plenty of alligators are in the living room in plain sight. Take your pick from the endless Iraq War, to health care or the lack of it, the prospect of a Social Security and Medicare meltdown as the leading edge of the baby boom retires etc. etc. etc. The qualities most needed to deal with problems foreseen or unforeseen are intelligence, realism, pragmatism, good advice, and sound judgment. The President needs sufficient communication skills, candor, and credibility combined with courage, charisma, and self confidence to rally and lead the American people. President Bush was able to do this in the wake of 9-11. FDR did it in World War II. Despite their ideological rhetoric, Ronald Reagan, George Herbert Walker Bush, and Bill Clinton were at times capable of pragmatic compromise to address pressing problems. Beyond the few days after 9-11, these traits are at odds with George W. Bush, who Scott McClellan described as, "governing with his gut," often in the face of facts to the contrary. We can no longer afford wishful thinking ideologues. The times call for good judgment and pragmatism in abundance.

Another lesson to be drawn from the past eight years relates to the overvaluation of "Experience." Dick Cheney and Donald Rumsfeld had plenty of Washington experience. That worked out well, didn't it? Hillary

Clinton incessantly trumpeted her 35 years of experience only to burn through a quarter of a billion dollars and lose the Democratic nomination to an "inexperienced" Barack Obama. Now, John McCain is selling us his experience as a major qualification. Unfortunately, since receiving the Republican nomination, he has forsaken much of his experience by changing his positions on the issues he claimed were so sacred to him, "Agents of Intolerance," "Campaign Finance Reform," "Immigration Reform," "Bush Tax Cuts," etc. etc. etc. So much for experience.

In the final analysis, I would rather have an articulate, intelligent, thoughtful, consistent, self made person sitting in the Oval Office to deal with the overwhelming problems we must confront. Any lawyer can appreciate being editor and chief of any law review at a U.S. law school, much less Harvard Law School. Add to that the fact that Senator Obama was the first African American to be voted to that position by his fellow law review students. In contrast, George W. Bush is a self admitted C student who got into Yale University as a legacy. A cursory review of his biography reveals a person of mediocre accomplishment who became a millionaire because he was the affable son of a President and grandson of a U.S. Senator who investors thought would be the perfect front man for their new purchase, the Texas Rangers. His singular baseball achievement was to trade Sammy Sosa to the Cubs. Likewise, John McCain is the son and grandson of Navy Admirals. He graduated 894 out of 899 from the U.S. Naval Academy. His second wife is a multimillionaire beer heiress complete with a private jet. On several occasions, the Senator has referred to our relations with the Soviet Union and Czechoslovakia, neither of which has existed since 1991 and 1993 respectively. And just this morning, he shared his concern about developments on the Iraqi - Pakistan border. Hey Gramps, get out your world atlas and look it up. Do you see a pattern? I do.

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## **HCBA/JYL Fall Social**

Thursday, October 2, 2008

Sal & Mookies

5:30 to 8:00



## **President's Column continued**

able to access our events calendar, bylaws, membership information and newsletters. One aspect that is unique to our site is its art work. The photographs are a result of the personal efforts of two of our members, John Henegan and Melissa Baltz. Their vision for this site led them to arm themselves with cameras, climb on the roofs and walk the halls of the Hinds County courthouses in Jackson and Raymond in search of the perfect scenes. Some of the photographs on the site they found in the MS Department of Archives and History and some they took themselves. Please thank John and Melissa for personalizing our web site. We hope to have the site updated by September

1. Please check it out and give us your comments.

A part of our Mission Statement focuses on programs and member benefits designed to increase professional competence and responsibility. In keeping with tradition, the August membership meeting will be a CLE program that will provide one hour of ethics or professionalism credit. During the year, we will provide additional opportunities for CLE credit through HCBA sponsored events. While our profession is enduring unprecedented scrutiny and criticism, it is important that we continue to focus on our professional growth. Please join us.



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Sunday	noon - midnight

## EXCEPTIONS

<b>Labor Day</b>	
Friday (Aug. 29 <sup>th</sup> )	7:30 a.m. - 4:30 p.m.
Saturday & Sunday (Aug. 30 <sup>th</sup> & 31 <sup>st</sup> )	CLOSED
Monday (Sept. 1 <sup>st</sup> )	1 p.m. - 9 p.m.
<b>Thanksgiving / Fall Break</b>	
Friday (Nov. 21 <sup>st</sup> )	7:30 a.m. - 5:00 p.m.
Saturday & Sunday (Nov. 22 <sup>nd</sup> & 23 <sup>rd</sup> )	CLOSED
Monday & Tuesday (Nov. 24 <sup>th</sup> & 25 <sup>th</sup> )	7:30 a.m. - 5:00 p.m.
Wednesday (Nov. 26 <sup>th</sup> )	7:30 a.m. - noon Thursday
Saturday (Nov. 27 <sup>th</sup> - 29 <sup>th</sup> )	CLOSED

## Exam Schedule

<b>November 30<sup>th</sup> - December 16<sup>th</sup></b>	
Monday - Friday	7:30 a.m. - 1:00 a.m.
Saturday	9 a.m. - 1:00 a.m.
Sunday	noon - 1:00 a.m.
<b>December 17<sup>th</sup> - December 19<sup>th</sup></b>	
Wednesday - Friday	7:30 a.m. - 5:00 p.m.

*Hours subject to change without notice.*

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Correspondence regarding the newsletter should be directed to: HCBA Newsletter Editor, 151 E. Griffith Street, Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 601-969-6097. The web site address is [hindsbar.com](http://hindsbar.com).

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# HINDS COUNTY BAR ASSOCIATION

## MAKING OUR CASE FOR A BETTER COMMUNITY

JANUARY 2008



### President's Column

by David Kaufman

The Christmas tree is down. The gift wrappings have made their way to the city landfill. The kids, grandkids, relatives, and other guests have all gone home. Yet another year has blown by at an alarming rate, and the New Year celebration is now just a memory. It is time to go back to work where I can get some much needed R&R from all of the holiday festivities and activities. I hope all of you had a great holiday season and wish you all a happy, safe, and prosperous new year.

For those who missed it, the HCBA 75th anniversary celebration/annual Christmas party was a wonderful event held at the Old Capitol Inn on December 6, 2007. As you saw in the brochure for the event, we used the occasion to honor the past presidents of the organization, and I am pleased to report that many of them attended and were recognized for their outstanding service to our organization. We announced at the event that the HCBA made a contribution to the Mississippi Volunteer Lawyers Project on behalf of the past presidents. Many thanks to Social Committee Co-Chairs, Jennifer Hall and Rhea Sheldon, and to Pat Evans for all of their efforts in organizing this truly special event.

*continued on page 19*

### HCBA October Membership Program



*Speakers at the October HCBA Membership Meeting were Andy Taggart and Jere Nash. They are pictured with David Clark, HCBA Program Co-Chairman, and David Kaufman, HCBA President.*

### HCBA LUNCHEON MEETING

**Tuesday, February 19, 2008 Capital Club Noon Cost \$15.00 Lunch**

**Speaker: Honorable Delbert Hoseman**

## HCBA Calendar of Events

February 19, 2008

**HCBA Membership Meeting**  
Noon. Capital Club

April 15, 2008

**HCBA Membership Meeting**  
Noon. Capital Club

May 22, 2008

**HCBA Golf Tournament**  
Noon. Annandale  
Golf Club

June 17th, 2008

**HCBA Membership Meeting**  
Noon. Capital Club

## HCBA Officer Candidates Announced

The nominations committee is pleased to announce the following HCBA members who have graciously agreed to run for office for the year 2008-2009.

The Nominees for the three positions to be filled are:

<u>SECRETARY - TREASURER</u>	<u>DIRECTOR - POST 3</u>	<u>DIRECTOR - POST 4</u>
Roy Campbell	Lyle Robinson	LeAnn Nealey
David Maron	Collins Wohner	Mitzi Dease Paige

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

A ballot and biographical sketch of each nominee will be mailed to each member in good standing during the month of February. For further information please call HCBA Executive Director Pat Evans at 601-969-6097.

## Report of Hinds County Bench and Bar Relations Committee; Submitting Chancery Orders By Mail

Chancellor William Hale Singletary encourages the submission of Agreed Orders by mail. After Judge Singletary signs the Order, his Court Reporter, Ruth Olenski, files the Order with the Chancery Clerk and returns an attested copy to the attorneys. It would be helpful if lawyers would enclose stamped self-addressed envelopes when they send in an Order.

Chancellor Dewayne Thomas also accepts submission of Agreed Orders by mail. Attorneys can also submit Orders for uncontested divorces or the opening of estates and guardianships by mail. Undoubtedly Judge Thomas would also appreciate receiving stamped, self-addressed envelopes when Orders are submitted by mail.

Chancellor Denise Owens does not routinely allow attorneys to present all Agreed Orders by mail because often the Chancellor needs to review additional information in connection with the proposed Order. Attorneys wishing to present an Agreed Order by mail should first contact Judge Owens' office.

## New Federal Court House Rising

by Steve Ray

Jackson, not to be outdone by Boston, now has its own "Big Dig" — but only temporarily. Located at the south foot of Congress Street and just north of the main Jackson post office, this massive excavation is the beginning of the new United States Courthouse, with completion expected in mid-2010. (The big dig is necessitated to accommodate two underground parking levels.) Concrete pouring was to begin December 14, 2007, so by the time of publication HCBA members may see the building rising.

In the works for close to a decade already, this building is the culmination of a long, bureaucratic process whereby the federal government continually assesses the needs of the various judicial districts for court facilities. The need in the Southern District of Mississippi at Jackson finally "graded" out to be one of the top needs in the country, and funding for site assessment and acquisition and design was approved over several years. Still, the Jackson project was on a rolling priority list, and federal fiscal restraints (no kidding) caused a delay for a couple of years. Full funding was just approved in FY 2007 for construction itself, estimated to cost \$122.5 million, so the project is now full steam ahead.

At 420,000 square feet over its 6 floors, the Jackson courthouse will accommodate chambers for 3 Fifth Circuit judges, 6 district courtrooms, 3 magistrate judge courtrooms, and 3 bankruptcy courtrooms. (By comparison, the new Gulfport federal courthouse is half as large.)

The project is so large that the Court obtained approval to add a full-time architect to its staff to coordinate and manage the project. Nelson Creath joined the Court in mid-2003 for that purpose, and occupies a spacious office in the existing courthouse. His floor is covered with carpet squares, his tables with finish samples, and the whole place with sketches, renderings, and blue-line drawings.

Court Clerk J. T. Noblin explains that as a result of the studies to develop a basis for the need for the courthouse, considerations included whether to build or renovate, lease or own, consolidate various agencies in one building or occupy multiple buildings, and many others. The plan that developed calls for the district court, bankruptcy court, bankruptcy trustee, circuit judges, United States attorney, U.S. marshal, U.S. Probation

Service, one U.S. senator, federal public defender pre-trial functions, and U.S. General Services Administration to be located in the building.

Courtrooms and related functions will occupy levels 4, 5, and 6. The U. S. attorney and the circuit judges will occupy the 3rd floor, the district and bankruptcy court clerks will be housed on floor 2, and the U.S. marshal and probation services will be on the first level. All on-site parking is secure non-public parking, with two levels for judges and security personnel under the building.

According to Noblin and Creath, the GSA undertook extensive interviews with design firms before settling on H3 Hardy Collaboration Architecture LLC for this project.

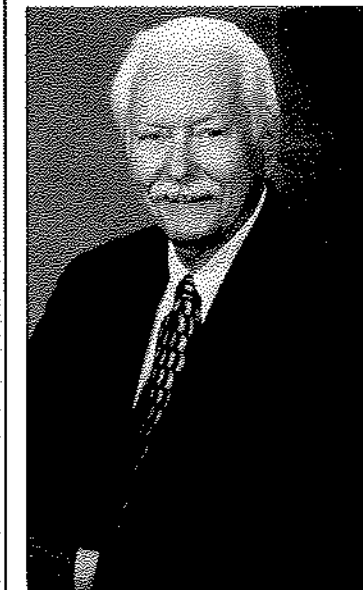
H3 is joint venturing with Dale & Associates and Cook Douglass Farr Lemons of Jackson on certain aspects of the project. After doing homework, studying the site, interviewing the judges, and touring other facilities with some of the judges, one of the first tasks was "massing" the building for the site. Should it be tall and slender or low and long? How should it fit in its neighborhood? Several concepts were developed, and eventually H3 determined that in south downtown Jackson a towering building was not desirable.

Sensitive to the interplay along the axis of Congress

*continued on page 6*

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## Shake Up For The Shake Down

by Luke Dove

Mississippi, the poorest state, is home to some of America's most wealthy lawyers. Perhaps Mississippi lawyers are more able and diligent than lawyers in Ohio or Oregon. Perhaps impoverished counties, whether they are in Mississippi or in Illinois, are often the site of large jury verdicts. But perhaps there are other reasons: especially since some of our super-rich lawyers have virtually no trial experience.

The plaintiff's Bar has transformed the legal landscape in 25 years and very much for the better. But for some lawyers, the pursuit of justice is only about the pursuit of money. Motivated by greed and undeterred by ethics, these lawyers have attempted to manipulate and corrupt our judicial system. Even worse, they may have succeeded. But their great financial gains were earned, if earned is the right word, at even greater expense to the Courts, to the public, and to the legal profession.

A prominent Mississippi lawyer describes high-stakes litigation as a "stool with three legs". The legs, in descending order of importance, are: politics, publicity and the law. In the view of this lawyer, influence applied to judges and potential jurors out of court is far more important than evidence presented in court.

The same lawyer also made candid and shocking remarks to a conference of securities analysts (and I assume the quote is accurate since it was reprinted in a brief filed with the United States Supreme Court):

What I call the "magic jurisdiction"... (is) where the judiciary is elected with verdict money. The trial lawyers have established relationships with judges that are elected... They've got large populations of voters who are in on the deal... And so... it's almost impossible to get a fair trial if you're a defendant in some of these places... The cases are not won in the courtroom... so it doesn't matter what the evidence or the law is.

This is a great formula. Only it is not a formula for justice. It is the formula for a shake-down racket. Years of development of the common law and the right to jury trial are threatened with legislative derailment as a result of the corrupt practice so proudly advocated by this member of our Bar.

Four of our brothers at the Bar were indicted for alleged bribery of a circuit judge. Two have already

entered guilty pleas. Ironically, one of these same lawyers testified as a government witness in the recent federal trial which resulted in the conviction of another lawyer and two judges.

With or without the presumption of innocence, it is difficult to comprehend that any lawyer with a modicum of sense, much less any trace of ethics, would attempt to bribe a judge. But whatever the outcome of this federal prosecution, Mississippi lawyers and judges must finally recognize that we, the members of the Bar, must act now to end the practices which have only a single purpose: to deny one party to a lawsuit the right to a fair trial.

The public now has a perception that our legal system lacks fairness and impartiality. This perception threatens to undermine the entire judicial system. Fortunately, at least until the recent indictment, the tide of abuse had turned. Unfortunately, what was swept in on the tide was "tort reform". Mississippi did not much need "tort reform". Mississippi needed lawyer reform. And judge reform.

The abusive practices which threaten our legal system are the result of a four letter word: FEES. The allure of large legal fees has caused many lawyers to forget that our duty is to our client and to the integrity of the judicial system. We also forget the law is a "profession" rather than a business. The plaintiff's bar is hardly alone. Defense firms have adopted billing quotas which result in many chargeable hours for "legal services" which have little or no relation to the actual needs of the client, but which are highly relevant to the need of the partner to drive a BMW.

Mississippi lawyers and judges must make restoring the "honor and dignity" of the profession their personal priority. This is our profession. Each of us must be responsible to ensure that the law remains fair, impartial and just. We must eliminate the "magic jurisdictions" where cases are "won" outside the courtroom. Most importantly, we must end the practice of electing judges with "verdict money" whether it comes from members of the Bar or from the Chamber of Commerce. Restoring the integrity of the Mississippi judicial system should not be the sole responsibility of federal prosecutors. It should be and it is - the responsibility of every lawyer and every judge in Mississippi.

## Congratulations, Gilbert!

by Jim Craig

If projecting an aura of gravitas and a sense of self-importance has been a cardinal rule for political candidates, Delbert Hosemann has re-written that chapter of the rule book. In a campaign field sodden with mudslinging, Hosemann's "Thank you, Ma'am, but it's Delbert" commercials stood out for their good humor and positive focus. Those of us who have been fellow members of the Hinds County Bar Association with Delbert over the years were unsurprised by this approach. He is fully one of our own, having served as President of the Jackson Young Lawyers in 1977 and Secretary of the HCBA in 1980.

We have seen his many accomplishments during this time. He has been listed as one of the "Best Lawyers in America" since 1999; members of this Association have long considered Delbert a "go-to" lawyer on tax and business development issues. In 1992, he was the recipient of J. Tate Thigpen Award for outstanding leadership, support and commitment to the American Red Cross. He was the driving force in the development of the Jackson Medical Mall and the conversion of the Allstate Insurance Building to the Jackson State University E-Business Center. In 2006, he received the George L. Phillips Community Service Award from the US Department of Justice in appreciation for his service as steering committee chair of Project Safe Neighborhoods, and for his leadership in the district's Anti-Gang Initiative and Hurricane Katrina First Responder Assistance Project.

Delbert has also been extremely active in the business community, holding various offices, serving on boards and committees for the American Red Cross, Mississippi Blood Services, Mississippi Law Enforcement and Firefighters Katrina Relief Fund, Jackson Medical Mall Foundation, Jackson State University Development Foundation, and First Commercial Bank.

He was a Presidential Elector in 2000 and inexplicably has no regrets about his vote.

Yet, Delbert has retained the sense of self-deprecating humor that was aptly presented in the "Englebert" ads. When asked about that part of the campaign, he changed the conversation to Dorothy, the actress who played the lady on the park bench in the ads: "I think most people were voting for her to be Secretary of State. Dorothy is quite a lady. She didn't even start acting until her kids were grown and she was over 50 years old. Now, at 78, in addition to getting me elected, she's been in movies, including "Lolita" with Jeremy Irons, on "Walker, Texas Ranger," and some other TV shows. A few years ago she tried for a part on the "granny girls" for the Dallas Mavericks basketball team in Dallas. She was selected and performed at half-time!"

In the same vein, the Magee newspaper captured Delbert meeting two of his supporters in that area, who had named their latest goats "Delbert" and "Dorothy." The photo-op

featured Delbert the candidate bottle-feeding his namesake, Delbert the goatling. "Everyone in politics knows you have to kiss babies, but feeding a baby goat was a new experience," he said.

Despite the humor, Delbert sometimes seems awe-struck by his election mandate. His gratitude to his wife Lynn for her partnership in the campaign (as in life) is genuine. He reminded this writer that he is only the third Roman Catholic ever to be elected to statewide office in Mississippi (former Attorney General and Governor Bill Allain, and former Attorney General Mike Moore, being the first two). He knows that, as a lawyer formerly in private practice before his election, he is a unique representative of our profession, and of the Hinds County Bar in particular, to our fellow Mississippians, and accepts the responsibility of that role.

Delbert is approaching his installation as Secretary of State with the drive and laser-like focus that typifies his legal work. He is interviewing over forty of the current employees of the Secretary of State's office, both to determine whom to retain and to give himself a better grasp of the day-to-day business of the position. Having made Voter Reform a central part of his platform, he intends to be a major force in implementing the program that District Judge Pepper ordered for upcoming elections. He will be preparing his "Business Courts" proposal for review by the

Legislature. While knowing that such large-scale projects often take years to be enacted into law, Delbert approaches the task with the determination of a marathon runner (which he is) and the sanguine confidence that he can make the sale. In his devotion to community service, his commitment to excellence, and yes, his sense of humor, Delbert Hosemann is a fine representative of our Association to the State at large. We are proud of his election and wish him the best.

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continued from page 3

Street, the designers looked to the north and accounted for the "new" State Capitol with its imposing rotunda. Their design is to complement the Capitol with, in essence, an open, inverted rotunda with an east and a west wing. Although the courthouse building is only 6 stories, the effect is more nearly that of a 9-story building because the top 3 floors (with the courtrooms) are 20 feet in height. Appropriately, the building will be on Court Street. According to a diagram Creath has collected from the GSA, Thomas Jefferson suggested a checkerboard layout for downtown Jackson in 1822 that included this Court Street, which was part of Peter Van Dorn's original plan for the city.

GSA's Design and Construction Excellence Programs call for using the services of the nation's premier architects to render public buildings that are responsive to their functional needs, aesthetically pleasing, advanced, and secure. As Noblin explains it, current federal architecture standards "look forward rather than back." The Jackson courthouse will have a modern feel, not necessarily that of a traditional courthouse. This building is designed to give 100 years of service, and to provide for the court's needs for 30 years. Room for an expansion wing is included.

The building is to qualify for Leadership in Energy and Environmental Design (LEED) certification. This requires efficiencies in heat and cooling, use of renewable materials, use of local materials, sun shades on west and south exposures, certain lighting, and many other requirements. Only certain paints and other finishes that are environmentally compatible are allowed. Motion-sensitive lighting is required, but not where Lady Justice would be left in the dark. Even part of a roof will be planted.

Security was a primary consideration, as it is in all federal buildings after Oklahoma City. This building employs "progressive collapse" design and — in a notable improvement over the present courthouse — traffic circulation that separates prisoners from others. Presently, a prisoner might ride up the same elevator with his sentencing judge and victim. The new courthouse uses three completely separate circulation pathways: one for prisoners, one for the public and building employees, and one for the judges and certain court personnel.

Amenities will include a public café where jurors, lawyers, and others may eat lunch. A large conference room suitable for use by bar association groups is planned, along with an alternate dispute resolution suite where parties can bring their own mediator or arbitrator to have proceedings. Cost constraints cut out a planned attorney lounge, media room, and fitness center. And, lawyers will be disappointed to learn that lawyer parking will be across the street in a to-be-built county garage. (According to Creath, the GSA places courthouses in central business districts to benefit

downtowns, but expects local authorities to supply certain supporting features including parking.)

Courtroom design has received detailed attention. For the first time in the design of a federal courthouse, Disney Imagineering (yes, the Walt Disney people) was brought in to do computer modeling of courtroom lighting, acoustics, sight lines, etc. (Before, according to Noblin, a plywood mock-up was built, but left much to be desired and was virtually impossible to work with.) Arup 3D Media of New York did further acoustic modeling. As a result of this, several design changes were made to eliminate hot lighting spots, dead sound spots, and the like. One unique feature of the courtrooms is a surround clerestory, a high wall topped with windows that allow natural light. The courtrooms will allow full use of technology as it develops.

Under the GSA's Art in Architecture program, the courtroom doors are being fabricated from local wood by Jackson craftsman Fletcher Cox. Also, a ceramic tile collage by a local artist will grace the first floor and present a diagrammatic image of the flow of the Pearl River.

J. T. Noblin sees some of the best features of the new courthouse as being the independent access for judges, separate access for prisoners, and what promise to be fantastic lighting and acoustics for the courtrooms. He also notes that 80% of the court's staff and others spend more than 20 years in their jobs, so the ability of the building to inspire in comfortable and functional surroundings is not to be taken lightly. He thinks this courthouse will be up to that task.

The challenge Nelson Creath has lived with is taking very complicated and design-specific needs of the court and still creating an accessible public building. "I think the public will appreciate the courthouse. It will become a truly civic building," he concludes.

Far away from the present big dig, and under a rotunda outside Mississippi, the name of the courthouse will be determined. Congressman Bennie Thompson has introduced resolutions in the U. S. House for several years to name the building for civil rights lawyer and pioneer R. Jess Brown. Earlier this year the House approved the resolution on voice vote. Brown, who pioneered civil rights suits in the 1940s and 1950s, later represented James Meredith and is credited with filing the first civil rights suit in Mississippi. He died in 1989 at age 77. Meantime, Senator C. Trent Lott has introduced legislation, now in committee, to name the building for Mississippi's senior senator, Thad Cochran. Cochran served Mississippi in the U. S. House from 1972 to 1978, and has served in the U.S. Senate since, chairing the Senate Appropriations Committee for several years and being instrumental in the appointment of all the federal circuit and district judges now in active service.

## The Mississippi Innocence Project

John Grisham was right when he said, "One morning we will wake up and realize we have executed an innocent man."

After all, of the 3,792 death sentences imposed across the country between 1973 and 1989, some 86 of those once condemned — 2.3% — have been exonerated, according to a recent survey by Prof. Samuel R. Gross of the University of Michigan Law School.

On Monday night, this past October 22nd, Grisham was speaking to a packed house at a fund-raising function at the Hilton Hotel in Jackson. To support the fledgling Mississippi Innocence Project, John had brought with him his friend and former Chicago-based federal prosecutor, Scott Turow. The two authors of legal potboilers told sobering stories of innocent men imprisoned for the prime years of their lives.

Two nights later, the best-selling authors appeared at Northwestern Law School just north of Chicago. In January of 2003, the governor of Illinois pardoned four men condemned for early 1980s Chicago area murders they did not commit. The stories of Leroy Orange, Aaron Patterson, Madison Hobley and Stanley Howard, and their torture-induced confessions, are now widely known. Wrongful convictions occur in venues as diverse as Chicago and Mississippi.

### Documented Wrongful Convictions

Of course, the objective, thinking person no longer doubts that the innocent are convicted, albeit hopefully on rare occasions. The documented cases are accessible. Log on to [www.innocenceproject.org](http://www.innocenceproject.org) and then to "Browse Profiles" and "Know the Cases." More than 200 individualized stories are at your fingertips.

Closer to home, check out Innocence Project New Orleans, [www.ip-no.org](http://www.ip-no.org), and then to "Cases," where you will find the compelling stories of Greg Bright and Earl Truvia, freed from Angola after more than 27 years for a crime they did not commit. Another is that of Travis Hayes and Ryan Matthews, who served ten years for a Jefferson Parish murder they did not commit — Matthews was on death row for five years. And Allen Coco, who served 11 years for a Lake Charles rape of which he was innocent.

Kathleen Hawk Norman has a compelling story in her own right. In 1994, Kathleen was foreperson of an Orleans Parish jury that convicted Dan Bright of a 1996 murder and robbery outside a bar in the now infamous Ninth Ward and sentenced him to die. But Dan was innocent. The story of Louisiana's resistance to the efforts of Kathleen and others to free Dan Bright is more outrageous than the wrongful conviction itself.

Following her Damascus Road experience, former capital jury foreperson Kathleen Hawk Norman is now Chairman of the Board of Directors of Innocence Project New Orleans. Ms. Norman told her story here at a Hinds County Bar Luncheon on Tuesday, April 19, 2005.

The last of the "Cases" listed at [www.ip-no.org](http://www.ip-no.org) is that of Cedric Willis. Many in Jackson now know Cedric's story. In

June of 1994, two facially similar robbery assaults of Jackson couples returning home after dark took place when Cedric was 19 years old. Mr. Willis spent the next 12 years behind bars, a helpless victim of active and passive wrongs at the hands of the Hinds County criminal justice system. Following his DNA exoneration in the Circuit Court in 2006, Mr. Willis' story made evening television and front page news. The many who have since met Cedric are struck with his remarkable lack of bitterness.

Cedric Willis appeared with John Grisham and Scott Turow at the Mississippi Innocence Project banquet back in October.

### The Stories Are Told in The Broader Media

The story has been told in many ways in many media. Erik Jensen and Jessica Blank compiled the true stories of six former death row inmates in "The Exonerated," produced on television in 2005. The TV show starred Susan Sarandon, Danny Glover, Brian Dennehy and more. "The Exonerated" ran off-Broadway for several years, with a revolving cast of accomplished actors and actresses from Brooke Shields to Ben Vereen, from Debra Winger to Richard Dreyfuss, from Bebe Neuwirth to Keir Dullea.

One of the more harrowing stories of wrongful conviction is that of Orlando Boquete, a Cuban, convicted of a Key West sexual assault and burglary he had nothing to do with. After two years in the custody of the State of Florida in its Glades Correctional Institution, Boquete escaped. Jim Dwyer told to the world the story of a man sentenced to 50 years for a crime he never committed, who spent 10 years on the lam after his prison break, and eventually proved his innocence and won legal freedom, in "The Fugitive." (*New York Times Magazine*, February 11, 2007, beginning at page 52.)

No one brought more public attention to the fact of wrongful convictions than John Grisham in *The Innocent Man*, published in 2006. Grisham's best selling nonfiction book tells the story of Ron Williamson and Dennis Fritz who were railroaded for the 1982 murder of a 21-year-old cocktail waitress in Ada, Oklahoma. Williamson spent 11 years on Oklahoma's Death Row, once coming within five days of meeting his Maker, before being exonerated in 1999.

Dennis Fritz, who had received only a life sentence, accompanied Grisham to Jackson for the Innocence Project event on October 22, 2007.

In 2003, Scott Turow wrote *Ultimate Punishment*, a brave and honest account of his own experience as an attorney with the death penalty. That work earned him the 2004 Robert F. Kennedy Book Award, presented annually to the book which most faithfully and forcefully reflects Robert Kennedy's purposes: a concern for the poor and powerless, the struggle for justice for all, and the steadfast conviction that a free democracy must act to remedy disparities of power and opportunity. Turow continues actively to practice law, much of it pro bono, including the representation and ultimate exoneration of Alejandro

continued on page 8

Hernandez, who spent a dozen years in prison, five on death row, for a murder he did not commit.

### The Innocence Projects Here and Beyond

The original Innocence Project grew out of the leadership efforts of Barry Scheck and Peter Neufeld, beginning in 1992. The unofficial story, and numerous references and crosslinks may be found at [http://en.wikipedia.org/wiki/Innocence\\_Project](http://en.wikipedia.org/wiki/Innocence_Project). Scheck played a major role in exonerating Ron Williamson and Dennis Fritz.

There are 30 more or less freestanding Innocence Projects today across the United States. Most are affiliated with a law school, as is the newest, The Mississippi Innocence Project based at the University of Mississippi School of Law.

Tucker Carrington is the capable and energetic young director of Mississippi IP, with an office on the Fifth Floor of the Law Center in Oxford. Contact information includes telephone 662-915-5206 and snail mail address, Box 1848, University, Mississippi 38677. Mississippi IP leaders recognize the need for a Jackson area presence.

Chancellor Robert Khayat, who emceed the Grisham-Turow benefit program back in October, recognized Mississippi College School of Law representatives supporting Mississippi IP -- from Dean Jim Rosenblatt to law faculty, alums and students.

Founded in 2001, Innocence Project New Orleans has no formal academic affiliation, though faculty and students at Tulane Law School are involved. Several years ago, IPNO moved to fill the vacuum in Mississippi. IPNO is responsible for 12 exonerations, some of which are listed above, including Cedric Willis. With more than it can say grace over in Louisiana, no one is more supportive of Mississippi IP than IPNO.

### The Three Component Programs of An Innocence Project

There are three separate though interrelated facets of most IP programs: (1) casework, (2) public advocacy, and (3) post-release exoneree support. These are described in "Programs" on IPNO's website, although with slightly differing names. Experience has taught that failure on any of these three fronts can be crippling. Casework is about the tough task of identifying the innocent within our prisons. As John Grisham has remarked, "There are probably around 100 innocent men in Parchman today. The problem is there are about 4,000 who will tell you they are innocent." For reasons as practical as they are obvious, IPs take care to represent only those where there is a very high probability of actual innocence and provability thereof.

Many exonerations are a function of DNA testing. Ron Williamson and Dennis Fritz were DNA exonerees. DNA testing helped free Cedric Willis. There are many crimes, however, for which the availability of DNA evidence is simply not there. An ever-growing body of science indicates that some eye witness identifications may be suspect. Crime labs have been found fallible. Informants are suspect at times. Ineffective assistance of counsel is an occasional culprit, as is judicial prejudice.

Advocacy is not about specific suspected wrongful convictions. IP advocacy focuses upon efforts to make the post-conviction aspect of the criminal justice system accessible and

functional. Foremost, in large part because of IP advocacy, some 42 states now have some form of law making DNA testing practically available. [www.innocenceproject.org/fix/DNA-Testing-Access.php](http://www.innocenceproject.org/fix/DNA-Testing-Access.php).

Nationally, there is broad support for DNA testing laws, and not just among the Innocence Projects and their supporters. Persons aligned with law-and-order groups support DNA testing and other evidentiary and procedural reforms, seeing that those will reduce appellate reversals and post-conviction challenges. Some say there is a sense in which only the uninformed and the "know nothings" oppose sensible DNA testing laws.

Still, Mississippi has no DNA testing law. Republican Senator Sidney Albritton of Picayune has introduced a post-conviction DNA testing bill in the last two sessions of the Mississippi Legislature, but to no avail. S.B. 2831 died in committee at the end of January of 2007. Alabama, Oklahoma and South Carolina are the only other states in our part of the country without a DNA testing law.

A recent summary of procedural reforms may be found in Solomon Moore's article, "Exoneration Using DNA Brings Change in Legal System," published in the *New York Times* on October 1, 2007. Moore's article is about more than DNA. For example, Moore reports that "Maryland, North Carolina, Vermont and West Virginia passed legislation this year to create tougher standards for the identification of suspects by witnesses, one of the most trouble-ridden procedures."

**Post-Release Support** is an imperative, without which much else will have been for naught. The individual stories of what happens after the prison door opens are as varied as they are telling. When Louisiana freed Greg Bright and Earl Truvia after 27 years, each left prison with a \$10 check and garbage bags full of legal paperwork about their cases.

Few in attendance on October 22 will forget Dennis Fritz' poignant stories, after 11 years in prison, of not understanding the change in the form of keys to motel rooms, or not knowing how to pump gas. Overcoming the Rip Van Winkle effect is among the more benign of postrelease adjustment problems that exonerees face.

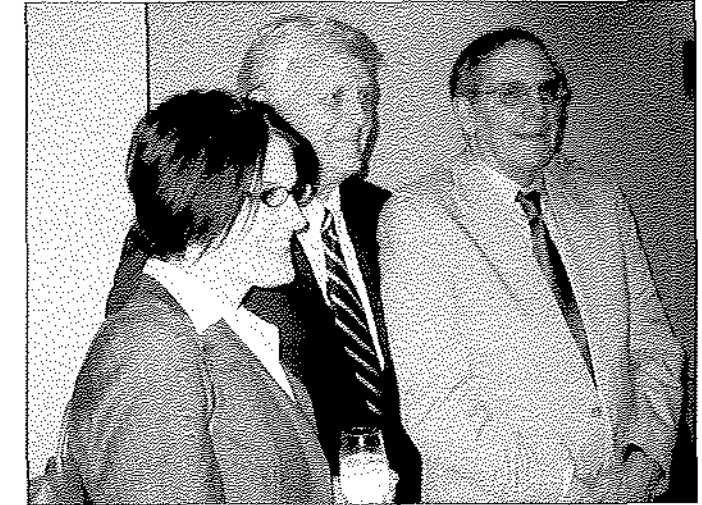
Again, in the *New York Times*, Fernanda Santos' front page story, "Vindicated by DNA, but a Lost Man on the Outside," published Sunday, November 25, 2007, catalogues the exoneration dilemma. A week later Santos was joined by Janet Roberts in "Putting a Price on a Wrongful Conviction," Sunday, December 2, 2007, featuring Texas exoneree Anthony Hicks' wrist band, "EXONEREE FREEDOM ISN'T FREE."

James Calvin Tillman's story is the exception. When Connecticut freed Tillman after he had served 18 years for a rape he did not commit, the Governor offered him \$500,000. The Connecticut Legislature balked. On May 16, 2007, a unanimous vote authorized \$5 million "to assist him in living comfortably following his wrongful imprisonment. The legislators stated they were touched by his attitude following his release." [http://en.wikipedia.org/wiki/James\\_Calvin\\_Tillman](http://en.wikipedia.org/wiki/James_Calvin_Tillman). Pro bono lawyers are far from the only volunteers the Mississippi Innocence Project will need.

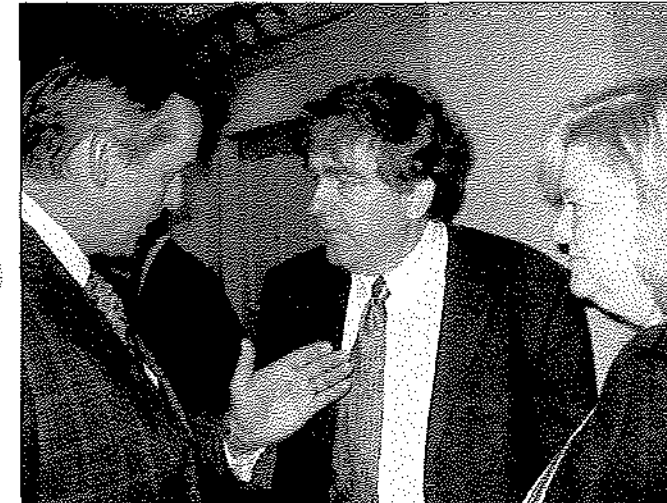
## Photographs from the Innocence Project benefit dinner, October 22, 2007



From left, author John Grisham with two convicted and exonerated men, Cedric Willis and Dennis Fritz, and author Scott Throw.



From left, Reed Cochran, University of Mississippi Chancellor Robert Khayat, and Law Professor George Cochran.



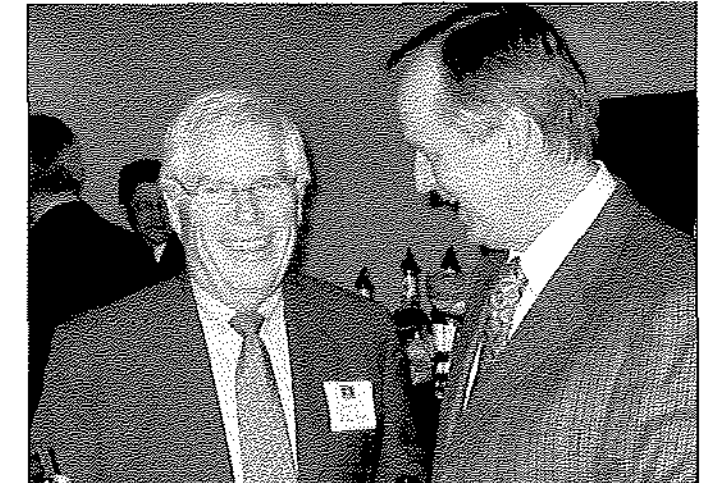
John Grisham talks with Oxford attorneys, Tommy and Joyce Freeland.



Mississippi Supreme Court Justice Oliver Diaz, John Grisham, and Jennifer Diaz.



Jackson attorneys Chris Klotz and Rob McDuff.



Jimmy Robertson enjoys a joke with John Grisham.

## Hinds County Bench & Bar Relations Committee:

*Guidance For Attorneys In Unfamiliar Waters In The Area Of Workers' Compensation*

by Edward O. Watson<sup>1</sup>

As attorneys, occasionally we may have familiar clients with legal issues that are unfamiliar; but, rather than refer these individuals to other attorneys we may attempt to resolve those unfamiliar matters ourselves. The purpose of this article is to provide some limited guidance and awareness of some of the common mistakes and/or misunderstandings of the practice of workers' compensation law in the state of Mississippi.

For the purpose of this article, former Commissioner Lydia Quarles offered her assistance in the effort to provide some guidance to attorneys. Currently, Commissioner Quarles is the Senior Policy Analyst at the John C. Stennis Institute of Government. In 2001, Commissioner Quarles was appointed to the Mississippi Workers' Compensation Commission, by Governor Ronnie Musgrove. She held such position until 2006. Prior to her appointment as a Workers' Compensation Commissioner, she served as a Workers' Compensation Commission Administrative Law Judge from 1993 until 2001. She spent part of her career in private practice in Mississippi. Commissioner Quarles received her Juris Doctorate from Cumberland School of Law, Samford University and received her Master and Bachelor degrees from the Mississippi University for Women.

According to Commissioner Quarles, one of the most common mistakes of attorneys who do not usually practice in the area of workers' compensation is missing important deadlines related to the cases. It is important to be aware that the employee has only two (2) years from the date of injury to file a workers' compensation claim. Additionally, if an appeal is desired from a workers' compensation administrative law judge's decision, there is only twenty (20) days, not thirty (30) days to file such an appeal. Otherwise, the workers' compensation administrative law judge's decision is final.

Commissioner Quarles stressed that it is important to understand and follow the proper steps to close a workers' compensation claim. When a workers' compensation case is closed because of the ruling of an administrative law judge or a settlement, the employer/ insurance carrier must file a form commonly known as a "B3 1" form. The claimant/ employee must sign this form. After one year from the filing of a "B3 1" form, a workers' compensation case is officially closed. Thereby, precluding any continued jurisdiction of the Mississippi Workers' Compensation Commission. However, if a proper "B3 1" form is not filed, then the case is never closed or finalized. Therefore, the Mississippi Workers' Compensation Commission may exercise its jurisdiction of the case long after the case is thought to have been resolved.

Another mistake or misunderstanding of attorneys who do not usually practice in the area of workers' compensation is handling the claims as personal injury cases. Commissioner Quarles explained that a workers' compensation case is not type of personal injury case. Damages computations in a

workers' compensation case are extremely different. Commissioner Quarles explained that the purpose of workers' compensation law is to restore the employee to vocational opportunity and to return the employee to work. Therefore, an employee is provided medical treatment to obtain their "maximum medical improvement." The period in which the employee is unable to work is considered a period of temporary total disability. The employee may receive two-third (2/3) of his/her average weekly wage as compensation pay during the period of temporary total disability.

Commissioner Quarles provided the following advice for attorneys who are new to workers' compensation: (1) the attorney should review the Mississippi Codes relevant to workers' compensation and (2) visit the Mississippi Workers' Compensation Commission's website at [www.mwcc.state.ms.us](http://www.mwcc.state.ms.us) for available resources. Although this website is non exhaustive of everything one needs to know it is a helpful start in obtaining forms utilized in this area of practice. Attorneys should be aware that these forms are different from documents that are typically filed in a federal or state court action.

The Mississippi Workers' Compensation Commission has worked to improve procedures and the practice of workers' compensation. In its efforts to make such improvements, effective after January 18, 2008, all imaged document types will be available for viewing and printing online in all claims. However, online access will be available only to registered users who are also parties of record for the specific claim being accessed. Another way the Mississippi Workers' Compensation Commission has worked to improve the practice of workers' compensation is by adopting a policy statement concerning and encouraging the use of mediation as a tool to help resolve workers' compensation claims.

In addition to benefiting the parties, mediating workers' compensation claims may be beneficial to the family members of an injured employee, because the Mississippi Workers' Compensation Commission participates in Kids' Chance of Mississippi. In some cases of mediation, a portion of the mediator compensation is donated to Kids' Chance of Mississippi. This is a scholarship fund established by the Mississippi Bar Foundation under the Administrative Law and Workers' Compensation Section of the Mississippi Bar to provide scholarships for children who have had a parent killed or permanently and totally disabled on the job. Kids' Chance of Mississippi provides scholarships for students to attend vocational/technical school or college. The fund brings together all those involved in workers' compensation issues: the legal, medical and business communities.

<sup>1</sup> Partner in the law firm of Alexander & Watson, P.A., and member of the Hinds County Bench & Bar Relations Committee.

## Captain Equity's Christmas List

by Captain Equity

Christmas is time to update my list to make sure everyone gets just exactly what they need or at the very least, what they deserve.

George W. Bush - *A Sense of Irony*. Our President won election seven years ago (just barely) on a platform of compassionate conservatism, fiscal responsibility, opposition to nation building and promotion of honesty and openness in government. He was reelected (just barely) on insuring security as well as freedom and liberty for all while extending the fruits of democracy to the Middle East. I wonder if he ever looks back and asks himself how things could have gone so wrong and how he could have accomplished so little. Though I doubt it, maybe his Christmas gift from me will help him get a grip on the profound damage he and his cronies have visited upon America.

Rudy "9-11" Giuliani - *A Country More Deserving of His Governing Style*. Given Rudy's "The Ends Justifies The Means" approach to dealing with everyone from criminal suspects and potential terrorists to ex-wives to average folks who might just object to his heavy handed tactics thus making them "threats." Perhaps he should offer his skills to countries who could benefit from his more authoritarian governing approach. My top three candidates would be Pakistan, Somalia or Zimbabwe. Oh yeah, I almost forgot, "9-11."

Uncle Dick - *An Opportunity To Extend His Career In Public Service*. Now that Rudy's police commissioner Bernie Kerik has been indicted on 16 counts of corruption added to the fact that the Vice President will soon be out of job, why not have Santa make Uncle Dick President Giuliani's Head of the Secret Police. Talk about perfect casting.

Hillary Clinton - *Expunge Her Clintonian Tendencies*. To Wit: Give Her The Ability To Provide a Straight Answer To A Question Rather Than Utter Two Polar Opposite Responses Within Seconds of One Another To Guarantee 100% Acceptance and Popularity. Besides her husband, Slick Hillary reminds us of the last failed Democratic nominee... does "I voted for it before I voted against it" ring any sleigh bells?

Mitt Romney - *A Pair of Flip Flops*. No explanation needed for this Christmas gift. On second thought, since he uses this gift so much, maybe I should get him an extra pair.

Al Sharpton - *A One Way Trip Back To The Sixties*. Poor Al, he was just born at the wrong time and consequently Reverend Martin Luther King, Jr. filled the void and stole his life. The golden era of the Civil Rights Movement played out without Al having the chance to make fiery speeches and actually help achieve true opportunity for African Americans. Back then there was little chance for anyone with black skin to live out the American Dream. But thanks to Dr. King, Medgar Evers and a host of courageous black and white Americans that has largely changed for the better. Unfortunately for Al, working with young blacks, especially fatherless males, to take advantage of those hard fought victories isn't nearly as glamorous as leading marches and giving impassioned speeches that Al favors. So Al, Merry Christmas. I hope you

will make the most of the Sixties where your incessant albeit selective race based outrage and pompous showboating will prove to be more appropriate and consequential.

John Edwards - *A \$12 haircut paid for by four one hundred dollar bills with the change going into a red Salvation Army Kettle*. And if you are good John, you will get the same one way trip that Reverend Al is getting. That way you can reclaim the legacy that Bobby Kennedy stole from you.

Barack Obama - *An Honest Chance To Become the Democratic Nominee*. Are all of you primary voting elves out in Iowa, New Hampshire, South Carolina and Nevada listening?

Mike Huckabee - *An Honest Chance To Become the Republican Nominee*. Mike isn't necessarily my dream candidate but he comes closer to having genuine Christian aka basic human values than anybody in the GOP presidential field. Instead of being a self righteous hater that even the most hypocritical of the Pharisees would envy, he really seems to care about average and less than average people. Wow, what a stretch. Plus, anyone who can lose a hundred pounds is worthy of everyone's admiration, especially mine and Santa's.

Dickie Scruggs - *Someone To Run The Office While He Is Tied Up In Federal Court*. Talk about coincidence, brother -in-law Trent resigns from the Senate a full two days before bribery indictments are announced. The former Senator will certainly need something to do while he waits out the one year ban on lobbying his former colleagues. I just can't see Trent hanging around the house watching Oprah and Ellen. Maybe Santa should let Dickie open his present a little early this year.

Frank Melton - *Malcolm McMillin*. The Mayor definitely got his gift early. In fact had Sylvester Croom not beaten Ole Miss in the Egg Bowl and Ole Miss not snatched Houston Nutt from Fayetteville, the Mayor would have had to share his Christmas gift with the Mississippi State and Ole Miss football teams. Sheriff-Chief-Coach-Coach McMillin does have a ring to it.

The American People *The Ability To Pay Attention To Political Candidates Next Year Long Enough So As Not To Be Fooled Yet Again*. Unfortunately, whoever said you get the government you deserve was right. Whether it is Health Care, Social Security, National Debt, Immigration, Threats to the Environmental, Addiction to finite Fossil Fuels, and Collective Denial of all of the foregoing, this country faces monumental challenges. And yet what do we get? Rampant Public Corruption, Institutional Greed, Shameless Hypocrisy, Gross Incompetence, Patronizing Arrogance, Chronic Lack of Judgment, Cowardly Indifference From Our So Called leaders, Political Polarization At Ever Increasing Volume, Obsession with Moronic Celebrities et al. Maybe my Christmas gift to the American People is one that should have been opened a long time ago.

Oh yeah, I almost forgot, *Merry Christmas and Happy New Year!*

## Reuben Anderson Honored as 2007 Champion of Justice

On Friday, October 12th, the Mississippi Center for Justice held its 5th annual Champions of Justice Dinner at the downtown Marriott Hotel. Numerous HCBA members participated; many serve on the MCJ Board of Directors.

Steve Orlansky was the emcee of the Champions of Justice program. MCJ Board Officers were in attendance: Chairman, Fred Banks; Vice Chairman, Rob McDuff; Treasurer, Isaac Byrd; and Secretary, Suzanne Keys. Martha Bergmark is President and CEO of the MCJ.

Highlighting the gala event was the recognition of MCJ's 2007 Champions of Justice: former Mississippi Supreme Court Justice Reuben V. Anderson and University of Mississippi Law Professor Deborah H. Bell.

MCJ Board Chairman Fred Banks presented the award to Anderson, his colleague and friend from childhood in Jackson. Banks noted that Anderson was the first African-American to graduate from the University of Mississippi School of Law, the first African-American to serve on the Mississippi Supreme Court, and the first African-American President of the Mississippi Bar – along with other history-making positions of honor. Anderson is now a highly effective litigator and mediator with Phelps Dunbar.

A. C. Wharton, Mayor of Shelby County, Tennessee, and former University of Mississippi Law Professor, presented the award to Bell. Professor Bell founded the Law School's Housing Law Clinic in 1990 and the Civil Legal Clinic in 1999. She has successfully imbued academic instruction with an unwavering belief in the importance of public service in lives devoted to the law.

The Mississippi Center for Justice was established in June 2002 as a nonprofit, public interest law firm committed to advancing racial and economic justice. Its founding responded to an urgent need to reestablish in-state advocacy on behalf of low income people and communities of color. Supported and staffed by civil rights advocates, attorneys, social service advocates and others, MCJ is committed to developing and pursuing strategies that combat discrimination and poverty in Mississippi. The Center has recently moved to new offices at 5 Old River Place in Jackson.

MCJ's major emphasis for the past year has been its continued work helping residents of the Gulf Coast and South Mississippi with legal problems they still face in the wake of Hurricane Katrina. Yumeka Rushing, MCJ Advocacy Director, and John Jopling, MCJ Senior Attorney, made a moving slide presentation focusing on MCJ's participation in Katrina Recovery.

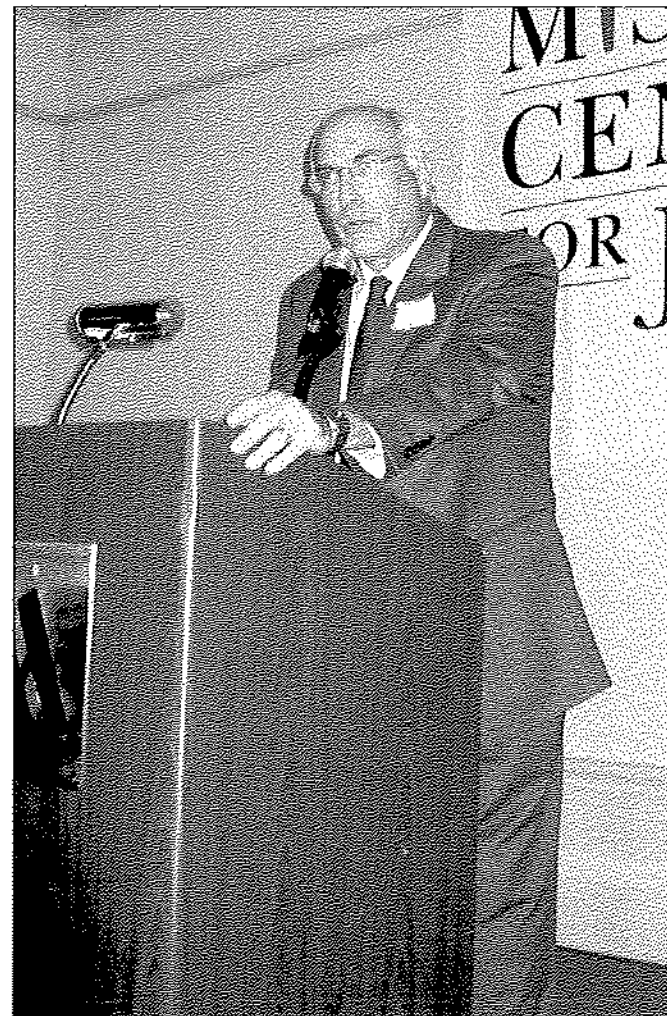
Robin Talbert, AARP Foundation Executive Director, made a special appearance from Washington, D.C., to accept thanks for the generous support of AARP and the AARP

Foundation to the MCJ.

Isaac Byrd introduced John Heyman for special recognition.

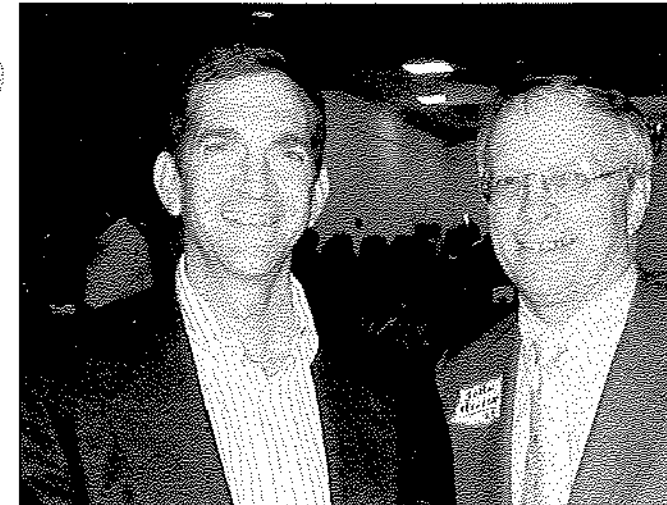
Shirley Williams, Executive Director of the Mississippi Volunteer Lawyers Project, recognized Ginny Munford who recruited colleagues from her firm, Watkins & Eager, and 12 other firms (Adams and Reese; Bradley Arant Rose & White; Baker, Donelson, Bearman, Caldwell & Berkowitz; Brunini, Grantham, Grower & Hewes; Butler, Snow, O'Mara, Stevens & Cannada; Copeland, Cook, Taylor & Bush; Daniel, Coker, Horton & Bell; Fornan Perry Watkins Krutz & Tardy; Phelps Dunbar; Robinson, Biggs, Ingram, Solop & Farris; Watkins Ludlam Winter & Stennis; and Wise Carter Child & Caraway) to produce a Pro Bono Manual. The Manual is available on the Internet to all lawyers who participate in the MVLP pro bono panel.

For more information about the Mississippi Center for Justice, visit the Web site: [www.mscenterforjustice.org](http://www.mscenterforjustice.org).



Emcee Steve Orlansky

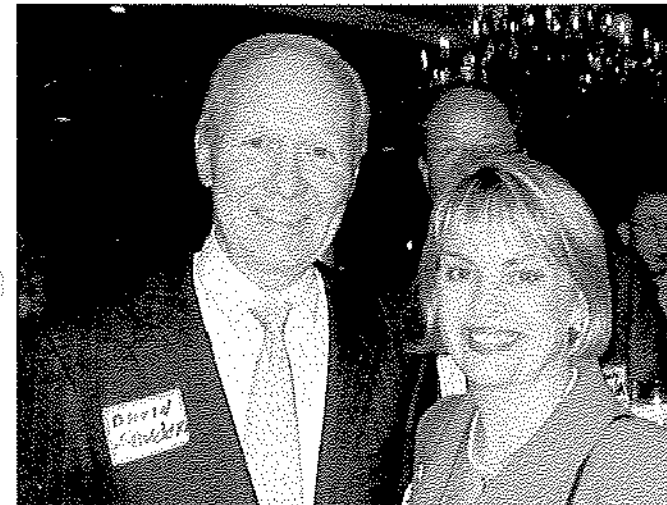
## Shown are scenes from the Champions of Justice Dinner:



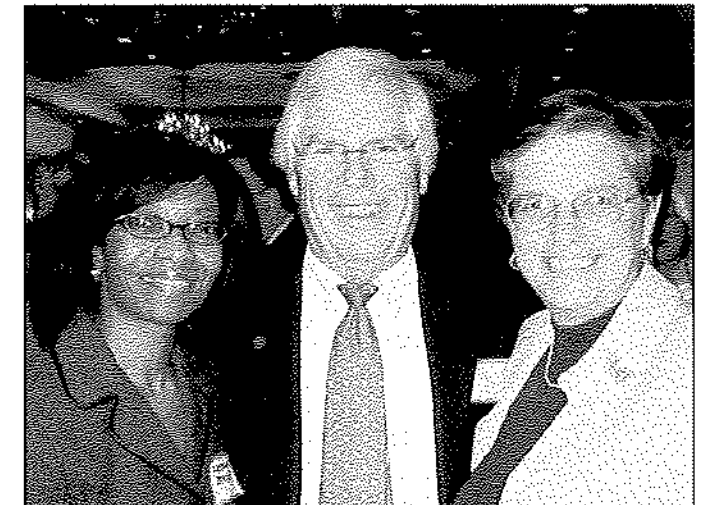
From left, Josh Weiner and former HCBA President John Henegan



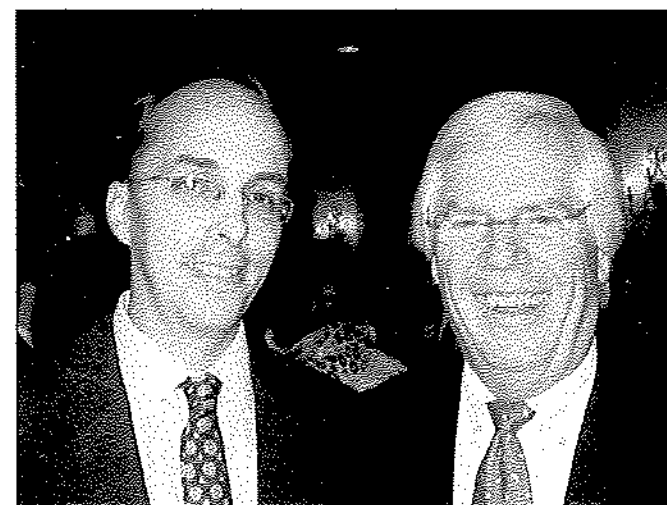
University of Mississippi Law Professors Debbie Bell and John Robin Bradley



David Sanders and Judge Nicki Martinson Boland



From left, Debra Brown, Jimmy Robertson, and Barbara Wallace



From left: Tucker Carrington, director of the Mississippi Innocence Project and Jimmy Robertson

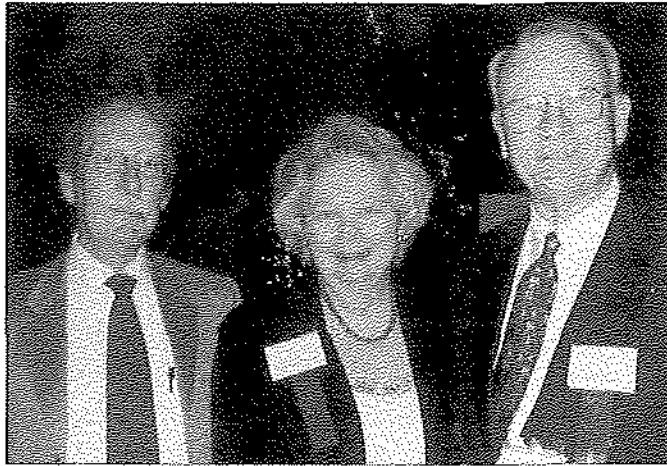


Dan Hise

## HCBA Christmas Event — 75th Anniversary Celebration

On December 6, 2007, the HCBA celebrated its 75th anniversary at the Annual Christmas Party. The Jackson Young Lawyers Association co-hosted the event. Past

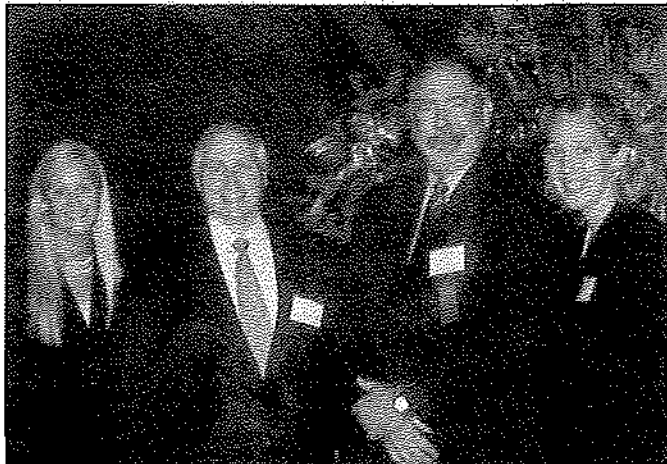
presidents of the organization were recognized, and a donation to The Mississippi Lawyers Project was made in their honor.



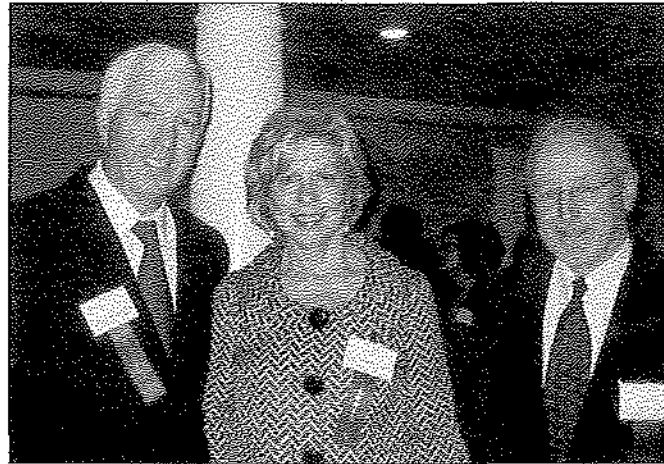
Joel Howell; Carlene Scanlon; Pat Scanlon, Past President



Bo Gregg, HCBA Board Member; Kathy Gregg; Judy Travis; Jay Travis, Past President



Elizabeth Thomas McDonald; Tom Alexander, HCBA Secretary-Treasurer; Ben Piazza, Past President; Jennie Pitts



Past President John McCullough; Shelia McCullough; Dick Bennett, Past President



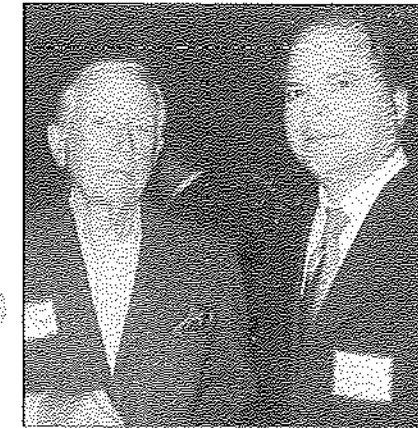
Chip Glaze; Laura McKinley, HCBA Board Member; Linda Thompson, HCBA Past President; Trip Barnes, HCBA Past President



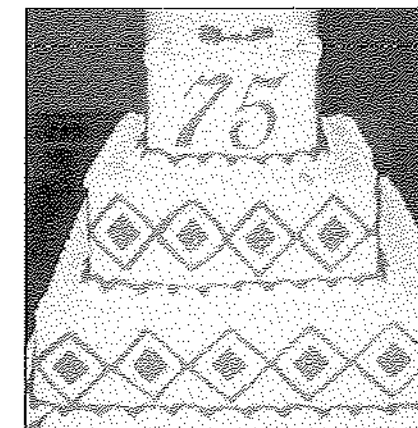
Rhea Sheldon, Co-Chairman; David Kaufman, HCBA President; Jennifer Hall, Co-Chairman



Group of Past Presidents, a representative from Martha Gerald's family



Hugh Montgomery and Doug Levanway

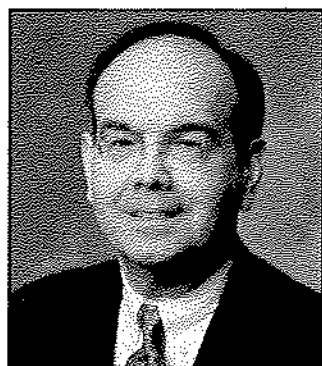


Past President Richard Montague with daughter Lois

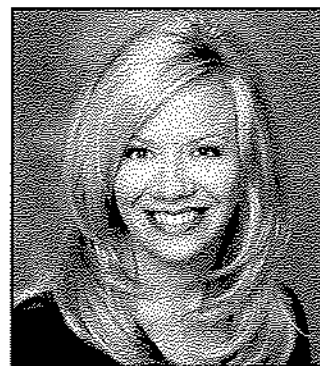


Sharon Bridges, HCBA Board Member; Pat Evans, HCBA Executive Director; John Henegan, Past President; LaVerne Edney

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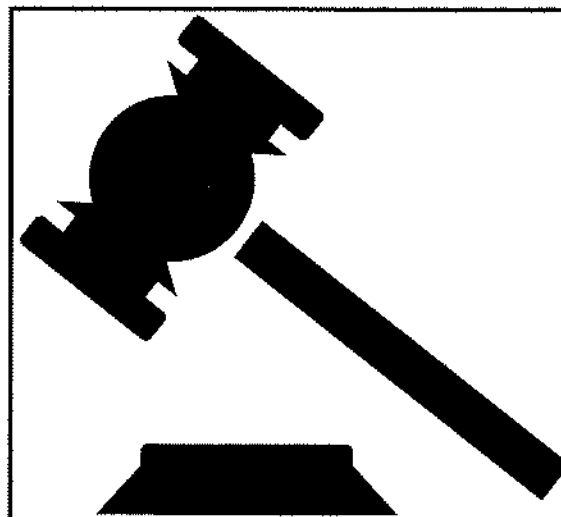
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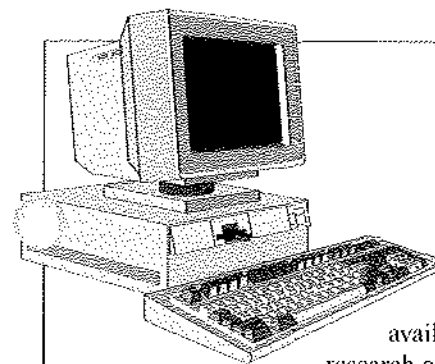


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## On Computing

by Joel Howell

### Legal Research On The Internet

Great tutorials are available online for those new to research on the Internet, or those whose research skills need refreshing. Georgetown Law Library features several online research tutorials covering topics such as Internet research and legislative history ([www.ll.georgetown.edu/tutorials/index.cfm](http://www.ll.georgetown.edu/tutorials/index.cfm)). Many law school libraries, including Harvard's, have put their research guides online ([www.law.harvard.edu/library/services/research/guides](http://www.law.harvard.edu/library/services/research/guides)). LLRX ([www.llrx.com](http://www.llrx.com)) is one site that is particularly helpful. It publishes articles on Internet legal research and legal technology. An extensive directory of court rules, forms, and dockets can be found at [www.llrx.com/courtrules](http://www.llrx.com/courtrules). The Virtual Chase ([www.virtualchase.com](http://www.virtualchase.com)) has online presentations on Internet research and good directories for both legal and factual research.

### General Websites

FindLaw ([www.findlaw.com](http://www.findlaw.com)) and Cornell's Legal Information Institute ([www.law.cornell.edu](http://www.law.cornell.edu)) are the two best general websites for free legal information. Established in 1996, FindLaw is a free web resource for legal materials; in 2001, it was purchased by West Group. FindLaw provides extensive directories of links to primary law and directories for different practice areas, including criminal law ([www.findlaw.com/01topics/09criminal/index.html](http://www.findlaw.com/01topics/09criminal/index.html)). Cornell's LII has online versions of federal and state statutes and procedural rules, the U.S. Code, and the Federal Rules of Criminal Procedure.

### Current Awareness And Blogs

Email bulletins make it easier to stay current with developments in the law. The Daily Legal Newswire and Legal News Headlines, published by FindLaw, are two free daily bulletins. Other free bulletins focused on specific practice areas are available from FindLaw, including Criminal Law & Procedure Case Summaries. Registered FindLaw users can sign up for newsletters at [newsletters.findlaw.com/nl](http://newsletters.findlaw.com/nl).

### Court Websites

Most appellate courts have websites. The U.S. Supreme Court has an austere website ([www.supremecourtus.gov](http://www.supremecourtus.gov)). LII has posted excellent resources for following Supreme Court developments, including its tracking of cases granted certiorari, pending oral argument, and cases argued during a term ([www.law.cornell.edu/supct/index.html](http://www.law.cornell.edu/supct/index.html)). The FindLaw Supreme Court Center is very helpful and has archived briefs dated to 1999 ([supreme.lp.findlaw.com](http://supreme.lp.findlaw.com)). FindLaw has a searchable database for U.S. Supreme Court opinions since 1893 ([www.findlaw.com/casecode/supreme.html](http://www.findlaw.com/casecode/supreme.html)).

The American Bar Association has posted merit briefs online for U.S. Supreme Court cases since the October 2003 term ([www.abanet.org/publiced/preview/home.html#0001](http://www.abanet.org/publiced/preview/home.html#0001)).

The Fifth Circuit also has posted useful material on its website ([www.ca5.uscourts.gov](http://www.ca5.uscourts.gov)). Under the Clerk's Office select "Other Documents." Here you will find templates for briefs, an Anders checklist, a checklist of rule requirements for briefs and record excerpts, a sample certificate of compliance, and guides to practicing before the court.

### Case Law

There are online alternatives to Westlaw and Lexis. Lexis maintains a site called LexisOne ([www.lexisone.com](http://www.lexisone.com)), which provides free access to the last five years of federal and state case law and U.S. Supreme Court cases since 1790. There are several fee-based alternatives to Westlaw and

Lexis, including LoisLaw ([www.loislaw.com](http://www.loislaw.com)), National Law Library ([www.itislaw.com](http://www.itislaw.com)), and VersusLaw ([www.versuslaw.com](http://www.versuslaw.com)). Last, but probably first on your list, should be the Casemaker legal research service, which is included as part of your bar dues and is accessible through the Mississippi Bar Website. You will there have access not only to the Mississippi library, but those of all other states, the federal system, and assorted other goodies.

Aside from the tips available at the Casemaker site, the last several weekly emails of The Mississippi Lawyer have published a Casemaker tip each week. This is a very robust product, expressly touted as being able to provide 90% of your legal research needs. Try it!

Questions or comments? Email [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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## Supreme Court and Court of Appeals will move to new building in February

The Mississippi Supreme Court, Court of Appeals, Supreme Court Clerk, Administrative Office of Courts, Board of Bar Admissions and the Commission on Continuing Legal Education are moving into a new building starting Friday, Feb. 8.

The new justice facility is located just north of the old Carroll Gartin Justice Building at 450 High Street. The new facility will bear the same name.

Chief Justice James W. Smith Jr. said, "After fifteen years of careful planning and ultimate construction, the Supreme Court, Court of Appeals and our entire support staff will be housed together in one of the most stately and beautiful court facilities in the nation. On behalf of the justices and judges of the appellate courts, I thank the Governor, the Legislature, and most of all the citizens of our great state for providing us with this outstanding court complex."

Movers will be at work Feb. 8, during the weekend of Feb. 9-10 and at least through Monday, Feb. 11. It is anticipated that the new facilities, with the exception of the State Library, will be available to the public by Tuesday, Feb. 12.

The State Library will be closed to the public starting Feb. 4 to begin moving its voluminous collection. The law library is expected to reopen on or about Feb. 19. Both appellate courts will continue to operate during the period of the move. However, public access will be limited at the Supreme Court in the old Gartin Building Feb. 8-11. The office of the Supreme Court Clerk will continue to accept filings during the move, although physical access to the counter of the clerk's office in the old Gartin Building may be difficult during part of that time. Documents to be filed with the Supreme Court Clerk will also be accepted at the office of the Capitol Police on the south side of the first floor of the Capitol.

No written decisions will be issued by the Court of Appeals on Feb. 12 or by the Mississippi Supreme Court on Feb. 14.

Members of the news media are advised that they will not be allowed inside the new justice facility while movers are at work Feb. 8-11. This is a safety and liability issue. Only a few court personnel supervising the move will be allowed in the new building during this time.

The Internet web site of the Mississippi Supreme Court and

Court of Appeals will be down from 5 p.m. Thursday, Feb. 7, to 8 a.m. Monday, Feb. 11.

New telephone numbers effective after the move are:

- Court of Appeals, 601-576-4665;
- Administrative Office of Courts, 601-576-4630;
- Board of Bar Admissions, 601-576-4620;
- Commission on Continuing Legal Education, 601-576-4622
- Board of Certified Court Reporters, 601-576-4623.

Telephone numbers will not change for offices at the Supreme Court and State Library. The new justice facility will house the entire appellate court system.

The new building is part of a larger project including renovation of the Sillers Building, construction of the new Sillers parking garage, and the creation of a pedestrian mall between the Sillers Building and the new justice facility. The final phase will include demolition of the top three floors of the old Gartin Building, placement of a columned portico on the south side of the new building, renovation of the below ground spaces of the old building, and creation of the pedestrian mall. That phase is expected to take about two years.

The old Gartin Building was dedicated in 1974. Before that time, the Supreme Court was housed at the Capitol.

Planning for a new justice building began in 1993 when the Legislature created the Court of Appeals and the Administrative Office of Courts. Chief Justice Smith, former Chief Justice Lenore Prather and former Justice Jim Roberts comprised the Supreme Court Building Committee which commenced the planning and site selection for the current Court of Appeals Building as well as the new justice building.

The Court of Appeals began hearing cases in 1995. There was no room for that court in the old Gartin Building. Since December 1994, a rented office building at 656 N. State Street has housed the Court of Appeals, Administrative Office of Courts, Board of Bar Admissions, Commission on Continuing Legal Education and Board of Certified Court Reporters.

Construction of the four-story, 124,965 square foot new justice facility on state-owned property began in 2001.

*continued from page 1*

Approximately 100 members are serving on the various HCBA committees and unselfishly volunteering their time and efforts for the betterment of the HCBA and our community. I will mention several of these committees and their activities in this newsletter and in the ones to follow so that you will be aware of the types of worthwhile activities in which your organization is involved.

Thanks to the great work of the HCBA Courthouse Education Committee, co-chaired by Josh Wiener and Robert Gibbs, on November 26, 2007, fifteen students from the Hinds County School District's Main Street Restart Center in Bolton, Mississippi, traveled by school bus to Jackson to observe various criminal proceedings conducted before Special Circuit Court Judge Breland Hilburn. Accompanied by their principal, Mr. Ben Torrey, the students witnessed a number of criminal arraignments and entries of guilty pleas and were then treated to a question and answer session with District Attorney Faye Peterson, who was most gracious and generous with her time. Reports are that the field trip was well-received by the students and made quite an impression on them. The Committee plans to coordinate similar field trips in the future.

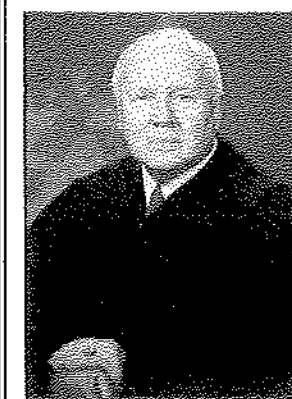
Lindsey Watts and her Law-Related Education Committee are busy at work organizing our annual essay contest for seventh and eighth graders in the Metro-Jackson area. The Committee's goal is to further the students' understanding and awareness of the role of law in our society. The focus of the Spring 2008 essay contest is on the legal and social dilemmas posed by MySpace, Facebook, and other similar social networking interfaces. The Committee adopted the theme "Free Speech or Free for All: How Social Networking Interfaces Are Becoming the New Town Square." The Committee has forwarded to Metro-Jackson area schools various information concerning the contest and has offered the services of its members to meet with faculty members to provide assistance and guidance. The contest winners will be selected in the Spring and recognized at our April meeting.

On December 17, 2007, the Hinds County Board of Supervisors approved the HCBA Library Committee's recommendation for enhancing the Hinds County law library facilities. For those who are not aware, Section 19-7-31 of the

Mississippi Code of 1972, as amended, provides that the Board of Supervisors shall have the power to establish and maintain a public county law library. The statute also authorizes the Board to enter into arrangements with the Hinds County Bar Association for the care and operation of the county law library and to consider recommendations the Bar deems appropriate in that regard. A portion of the court costs from each court case filed in Hinds County is designated by statute for the library fund, which is available only for county law library purposes. The Hinds County law library system includes holdings and equipment located at the Circuit Courthouses in Jackson and Raymond, the Chancery Courthouse in Jackson, and at the State Law Library. As a result of the fine work of the Library Committee headed by Ben Piazza, the County law library holdings at each of these facilities have been significantly enhanced. Many thanks to the Committee and to Carol West for presenting the Committee's recommendations to the Board of Supervisors. These are but a few of the activities of the HCBA's twenty-five committees. If you are not currently serving on a committee but would like to get involved in the future, please do not hesitate to contact me or Pat Evans for contact information. I promise you will enjoy the experience.

By now you should have received the brochures setting forth the various sponsorship level packages that are available for 2008. Now is a great time to take advantage of these offerings. The HCBA Golf Tournament and Night Honoring the Judiciary Dinner are approaching soon, and taking advantage of our sponsorship program will greatly simplify purchasing tickets to these and our other events and ensure that you are properly acknowledged for supporting these events.

I look forward to seeing you at our next membership luncheon on February 19.



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## MISSISSIPPI COLLEGE LAW LIBRARY HOURS

January 9, 2008 - May 7, 2008

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

### EXCEPTIONS

#### **Martin Luther King, Jr. Day**

Sunday, January 20th.....2:00 p.m. - 7:00 p.m.  
Monday, January 21st.....9:00 a.m. - 5:00 p.m.

#### **Spring Break/Easter**

Friday, March 14th.....7:30 a.m. - 5:00 p.m.  
Saturday, March 15th.....9:00 a.m. - 5:00 p.m.  
Sunday, March 16th.....2:00 p.m. - 7:00 p.m.  
Monday, March 17th -  
Thursday, March 20th.....7:30 a.m. - 5:00 p.m.  
Friday, March 21st -  
Saturday, March 22nd.....9:00 a.m. - 5:00 p.m.  
Sunday, March 23rd.....2:00 p.m. - 7:00 p.m.

#### **Exam Schedule**

#### **April 19th - May 9th**

Monday-Friday.....7:30 a.m. - 1:00 a.m.  
Saturday.....9:00 a.m. - 1:00 a.m.  
Sunday.....noon - 1:00 a.m.  
Thursday May 8th - Friday, May 9th.....7:30 a.m. - 4:30 p.m.

*Summer hours will begin May 10th  
Hours are subject to change without notice.*



## HINDS COUNTY BAR ASSOCIATION

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Correspondence regarding the newsletter should be directed to: HCBA Newsletter Editor, 151 E. Griffith Street, Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 601-969-6097. The web site address is [hindsbar.com](http://hindsbar.com).

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**12:00, February 19**



# HINDS COUNTY BAR ASSOCIATION

## MAKING OUR CASE FOR A BETTER COMMUNITY

JUNE 2008



### President's Column

by Susan R. Tsimortos

The HCBA is looking ahead to a year filled with opportunities. Before we begin our new year, please take time to thank David Kaufman, our outgoing President, for his hard work and dedication to our association last year. Our accomplishments under his guidance and leadership were numerous. We celebrated our 75th year as an organization, honored all of our past presidents and implemented a sponsorship program designed to streamline participation in the projects of the HCBA. In the near future we will introduce an updated website, another project that moved forward under David's leadership. Most importantly, the Hinds County Bar Association represented the legal profession well by demonstrating integrity and leadership in our community. Thank you, David, for that legacy.

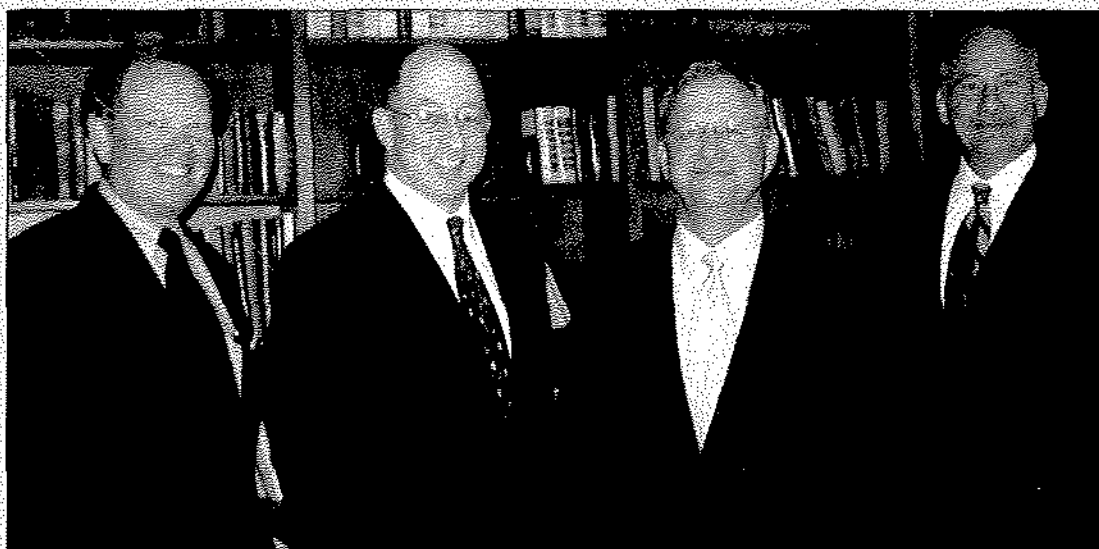
So that you can know me as more than the person who

rams the gavel to convene and adjourn our meetings, let me tell you a little about myself. Most of my legal career has been in the Corporate Trust Department of Jackson-area banks working with corporate and municipal finance. While I graduated law school without hearing much about bond issues, I now spend my working days reading Trust Indentures and Investment Contracts for Hancock Bank and working with cities, counties, and companies as they develop projects around our state. It is gratifying to play a role in the economic growth of our state.

The most important key to keeping the HCBA a strong organization is you. I encourage you to attend meetings and participate in our fundraisers, projects, and social events this year. Your first opportunity is our membership meeting on Tuesday, June 17. Our speaker will be The Mississippi Bar President-elect, Roger Wilder, who will speak to us about his plans and goals for the Bar during his tenure and the role the HCBA can assume. Please attend and invite your colleagues. I remember working in Jackson during summers in law school and attending HCBA meetings. Meeting the judges,

*continued on page 6*

### HCBA April Membership Program



*Justice Jess Dickinson was the speaker at the April HCBA Membership Meeting. He is pictured with David Clark and Peyton Prospere, HCBA Program Co-Chairmen; and David Kaufman, HCBA 2007-08 President.*

### HCBA LUNCHEON MEETING

**Tuesday, June 17, 2008 Capital Club Noon Cost \$15.00 Lunch**

**Speaker: Rodger Wilder, President-Elect of The Mississippi Bar**

## HCBA Calendar of Events

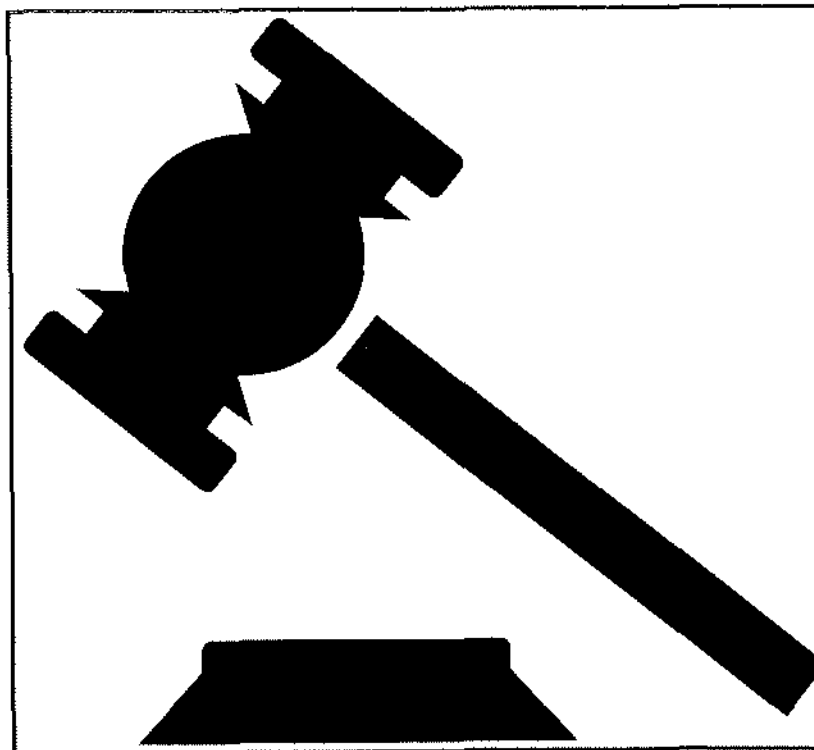
June 17, 2008 <b>HCBA Membership Meeting.</b> Noon. Capital Club	August 19, 2008 <b>HCBA Membership Meeting/One Hour Ethics CLE</b> Noon Capital Club	October 21, 2008 <b>HCBA Membership Meeting</b> Noon Capital Club	December 4, 2008 <b>HCBA/JYL Christmas Social</b> 5:30 - 7:30 Old Capital Inn
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## Mississippi Helps Wake Up America

by Captain Equity

Even a month ago who could have possibly thought that an obscure special Congressional election in Northern Mississippi could have turned into a national story much less a tipping point in national politics? But that is exactly what has happened.

By now everybody knows that Democrat Travis Childers, Chancery Clerk for rural Prentiss County won a safe Republican seat in the First District by a whopping eight points. What makes this all the more stunning is the fact that the National GOP drew a line in the sand to retain the seat after losing two safe seats to Democrats in Illinois and Louisiana in recent special elections. To be more specific, The National Republican Congressional Committee chaired by Oklahoma Congressman Tom Cole poured \$1.25 million into the race to air television attack ads linking Childers to Barack Obama and his estranged former pastor Jeremiah Wright. That sum amounted to 20% of the committee's total war chest which is an inordinate amount to retain what has been an automatic win in every election since 1994. The national GOP also brought the Vice President to the district to seal the victory. And guess what? It all backfired. In fairness, it didn't hurt that Childers, a Blue Dog Democrat, was apparently deemed more likable and more Mississippi than his opponent Greg Davis, mayor of Memphis suburb Southaven. Skyrocketing gasoline and food prices didn't exactly help the Republicans either. But the fact remains, that when the First Congressional District in Mississippi turns Democratic, forty years of Southern Republican dominance is suddenly in jeopardy.

So what does it all mean? From a political standpoint, the national Republican Party is more vulnerable than at any time since Watergate and with good reason. Americans of every stripe, including loyal Republican voters and independents, are finally waking up to the fact that all the lip service about social and fiscal conservatism is nothing more than that. For the first time since the so-called GOP Southern Strategy was hatched back in the late 60s, the old "tax and spend" and "big government" bumper sticker slogans that always delivered the goods for the GOP are starting to be seen in a different light. The Bush Administration has substituted "borrow and spend" for the old Democratic "tax and spend." The big Government liberals of old have been replaced with the likes of Jack Abramoff, Duke Cunningham, Bob Ney, Mark Foley, Larry Craig, David Vitter, et al. These self proclaimed morally superior "small government," "family values" Republicans have pretty much made a mockery of fiscal and social conservatism not to mention virtue and integrity in government.

And then there is the Bush Administration and its political weapon of choice, the ever reliable fear card. During the Cold War the part of the boogeyman was played by the Commies. Despite the fact that China is still

under communist control, that role is now being played by so called Islamofascists and Jihadist Muslims along with faceless enemies, who according to our clueless President "Hate Freedom." Thanks to the 9-11 sucker punch, W, Uncle Dick, Rummy and their neocon stringpullers got all the cover they needed to launch and prosecute the so called "War Against Terror." Just the Iraq misadventure alone is costing us a cool \$12 billion a month, all of it off budget with no end in sight. Who wins? Blackwater, Halliburton, Iran, the Saudi Royal Family to name a few. Who loses? 4000 dead GIs and their families, as well as out of sight, out of mind active duty soldiers who are maimed and/or are repeatedly redeployed in the so called "All Volunteer Army." And, oh yeah, how about average American citizens and our collective constitutional rights which have been illegally trampled for seven years? And that does not even factor in the damage to our image and influence in the world. It makes you wonder who really hates freedom.

The bottom line is this: America and Americans have suffered irreparable harm at the hands of a secretive, arrogant, corrupt, and incompetent administration that masquerades as the federal government. And what is even more ironic is the fact that we get to pay for it with our taxes along with billions in borrowed money from the likes of Communist China and Islamic money launderers in Dubai and Oman. Anybody for imported lead based toys for our kids and \$127 a barrel oil we buy from the very people the Bush Administration professes to be protecting us from? Too strong some of you say? I say not nearly strong enough.

Finally and mercifully, all of this is becoming more and more obvious to Americans as evidenced by the President's 28% approval rating and the fact that 82% of our citizens think the country is going in the wrong direction. Sadly, it has taken seven plus years and \$4 gasoline to finally get people's attention.

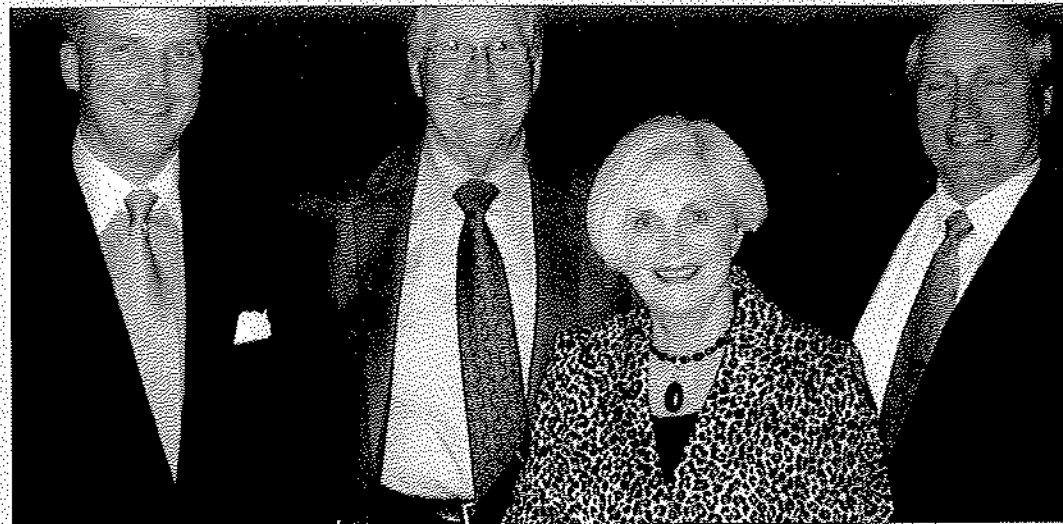
And so, it would seem, that the logical next step is to simply go to the polls in November and vote the Democrats in to ensure that everything will be just dandy. Unfortunately, anything but. Hillary Clinton's campaign has shown us that greed, arrogance and dishonesty in pursuit of personal ambition and power knows no party affiliation. If there is any doubt that public office pays handsomely, witness Bill and Hillary Clinton who left the White House in 2001 with millions of dollars in unpaid legal fees stemming from the Lewinsky scandal and impeachment. A scant seven plus years later, the Clintons are worth approximately \$110 million. Not bad for giving speeches and a book deal here and there.

The sad truth is that our government is bought and paid for by special interests and the 30,000 registered Washington lobbyists who attend to the details of what the quid pro quo for funding their campaigns looks like. Case

*continued on page 10*

## Evening Honoring the Judiciary

David Maron, Dinner  
Co-Chairman; John  
Corlew, HCBA  
Professionalism  
Award Winner;  
Pat Evans, HCBA  
Executive Director;  
Tom Alexander, HCBA  
2008-09 President-  
Elect



David Kaufman,  
2007-08 HCBA  
President; Judge  
Henry Wingate,  
Speaker; David  
Maron



**JYL Pro Bono Award**  
Kenneth J. Grigsby  
**JYL Outstanding Service Award**  
Lindsay G. Watts  
**HCBA Pro Bono Award**  
Ross F. Bass, Jr.  
**HCBA Outstanding Service Award**  
Luke M. Dove  
**HCBA Judicial Innovation Award**  
J. T. Noblin  
**HCBA Professionalism Award**  
John G. Corlew

The Evening Honoring the Judiciary, sponsored by the Hinds County Bar Association and the Jackson Young Lawyers Association, was held May 1 at the Old Capitol Inn. Co-chaired by David Maron and Trey Jones, the event featured Judge Henry T. Wingate as speaker.

## The HCBA and the JYL wishes to thank the dinner sponsors:

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## Strangers and Yankees Must Stop Marrying Sons and Daughters of Mississippi Land Owners - Now

by John Land McDavid

While doing some pleasure reading recently in the Howard Reports of the Mississippi High Court of Errors and Appeals, as I am often wont to do (while my favorite beach reading is in Smedes & Marshall), I came upon *Hickey v. Gilbert*, 1 Howard 32 (Miss.1834).

The plaintiff claimed title to land in Wilkinson county as a relative in the fifth degree under the civil law through the father's line of John Hare, the dearly departed, who inherited the land from his father, Andrew Hare, who acquired the land under a Spanish land grant.

The defendants were three women, who claimed as relatives in the third degree under the civil law through the line of the mother of the loved one.

Howard Reports, as did the various Mississippi reporter systems well into the twentieth century, included a summary of the arguments of counsel before printing the opinion of the court.

Counsel for plaintiff argued that the Mississippi Territorial Legislature Act of 1803 (which is the same as the current Mississippi law of descent and distribution), while abolishing the *doctrine of primogeniture* (title to land passes through the male line with the first son inheriting all the titles of nobility and the lands and estates, while the "second" sons join the army and navy and the females are married off to noblemen in other countries), did not abolish the common law rule that where lands descend from the father's side, the nearest kin in the paternal line, though more remote, shall be preferred, and vice versa when the lands descend from the mother. Counsel then related this common law rule to the serious problem then existing in 1834 Mississippi, to wit:

The rule which prefers the nearest of kin among collaterals of the line from which the land descended, is an important rule, and in no state in the Union more important than in the state of Mississippi, to which strangers are constantly immigrating and marrying the daughters of large landholders; or from which

young men are sent to the North for education and bring home wives.... Self-defense...require[s] the adoption of [this rule] here.

Defendants' counsel replied that the arguments of counsel for the plaintiff were "learned and curious nonsense." The High Court of Errors and Appeals agreed and awarded the property to the three women, who claimed through the maternal line and were related in the third degree, as opposed to the plaintiff who was related paternally only in the fifth degree.

The decision was written and decided solely by Justice William L. Sharkey, who served as Chief Justice of the High Court of Errors and Appeals for eighteen years. President Zachary Taylor in 1848 offered him a cabinet position, which he declined in order to remain on the court. In 1851 Sharkey declined an appointment as Secretary of War by President Millard Fillmore, who earlier appointed Sharkey consul to Havana, then a possession of Spain. He opposed secession and remained a Unionist throughout the Civil War. It was said Sharkey was tolerated by his Confederate neighbors during the War because of his towering reputation as a jurist. Upon the collapse of the Confederacy, Sharkey served for a few months in 1865 as provisional governor of Mississippi by appointment of President Andrew Johnson. Also, in 1865 Sharkey was elected to the U.S. Senate, along with James L. Alcorn (for whom Alcorn University is named), but they were not seated when the Senate rejected Andrew Johnson's Plan for Reconstruction. Sharkey county (county seat, Rolling Fork) is named for him. He is buried in Greenwood cemetery, a few hundred yards northwest of the Capitol.

But I digress. Unfortunately, the problems of 1834 are still with us. As *Hickey v. Gilbert* is still the law in Mississippi, the Mississippi legislature must act now to prohibit strangers and Yankees from marrying sons and daughters of Mississippi landowners. If you are a Mississippi landowner, do you want your son or daughter to marry some fortune-seeker from up North or heaven knows where?

*continued from page 1*

lawyers and bar leaders there was a significant part of my summer experience. Your attendance at the next meeting may be the spark someone needs to get more involved.

It is time for us to appoint a committee to nominate two attorneys from our Circuit Court District to run for The Mississippi Bar's Board of Bar Commissioners. This commissioner's term will begin at the adjournment of the MSB's 2009 Annual Meeting. If you have suggestions for this nominating committee or for nomination, please inform a HCBA Board member. These are important roles in our Bar's governance and we need your thoughtful consideration.

Last year the HCBA implemented a sponsorship

program designed to benefit you and the HCBA. You can pay your dues and sponsor the Bar's events for the year by writing one check. As we begin our fiscal year, simplify your life by utilizing a sponsorship level that is appropriate for you.

There are activities for everyone this year—social, charitable and educational. If you have an idea for a committee or project that we have not implemented, please share it with a Board member. If you would like to write an article for our newsletter, help with a CLE or work on an existing committee, please volunteer. We want this organization to be important to you.

## HCBA Essay Contest

The Hinds County Bar this spring held its annual Essay Contest, chaired by Lindsay Watts. The contest was open to eighth graders in the Jackson-Metro area. All three winners were from Linda King's class at St. Joseph School. The topic was: Free Speech or Free-For-All: How Social Networking Interfaces are Becoming the New Town Square.

First Place winner was Chloe Loving, and her essay is printed below. Second place winner was Timothy Shinn and third place, Riley Collins. The winners were recognized at the April Membership Meeting and received a cash prize as well as a trophy.

### Free Speech or Free-for-All: How Social Networking Interfaces Are becoming the New "Town Square"

The year 2007 aroused the citizens of the United States of America to a graphic awareness of the rights granted to all American citizens by the First Amendment of the Constitution of the United States. During this year, the Congress wrestled with the Executive Branch, that which had reportedly wiretapped citizens via phone companies. At my school, hearing phones were being tapped sent shivers down the spines of eighth graders, many of whom enjoy the luxury cell phone. These new perceived threats of the internet pose challenges as well. In dealing with these new avenues of expression, it is important to remember that according to the Constitution, Congress shall make no law which will limit the freedom of the people to express themselves. Thus, there are three important reasons why regulation, not strangulation or nullification, should be the way to put some stability into the newest websites such as MySpace, blogs, and Facebook, which fall under the protection of the Constitution of the United States of America.

In his book, 1984, George Orwell shows the depressing fate of citizens who are censored in every aspect of their lives. His main idea seems to be that, when the government takes control of a few things, it will not be long before it takes complete control of all things. The United States government does have a role in regulating Facebook, blogs, and MySpace. Adjusting existing laws to regulate the posting of ideas on the internet would be a solution to protecting the citizens and public servants. For example, our laws currently regulate smoking in certain buildings, liquor sales in certain areas, loud music after 9:00 p.m. in Jackson, shooting fireworks inside city limits, and many other "freedoms" of choice. The posting of ideas on blogs is a nonviolent choice of the blogger just like drinking and smoking. The regulation of this media would be handled in much the same way. The "Hate Crimes Act" could be expanded to cover harmful, personal, vicious, and false verbal attacks on individuals in the public service domain.

Finally, the ability to regulate itself is the foundation of any society. When Mrs. Rosa Parks sat on the bus in Alabama and would not get up for the man, there was a regulation which legally assigned her to the back of the bus. After much effort, however, another regulation called the "Civil Rights Act" nullified that regulation that sent her to the back of the bus and another more fair and equal law was born in its place. In like manner, Dr. Martin Luther King Jr. was locked up, beaten, spit upon, and stabbed for walking in certain areas where laws specified he could not go. After much effort, in 1964 those regulations were replaced with more logical and humane laws under which we all function as citizens today. As long as there are people with grudges posting false and vicious blogs against other people, there will have to be adjustments to the laws under which we live. If MySpace and Facebook are to serve as the town square and are to be free forums for individual speech, the role of government is to oversee the content, and only when slander, bodily harm or "infringement" on another person's rights is found should there be regulation. As in the cases of Mrs. Parks and Dr. King, the ultimate example of Henry David Thoreau's "Civil Disobedience" is that if the current regulation is not adequate, the law must and should change because, if it becomes a barrier to others, someone like Mrs. Parks or Dr. King will challenge it.

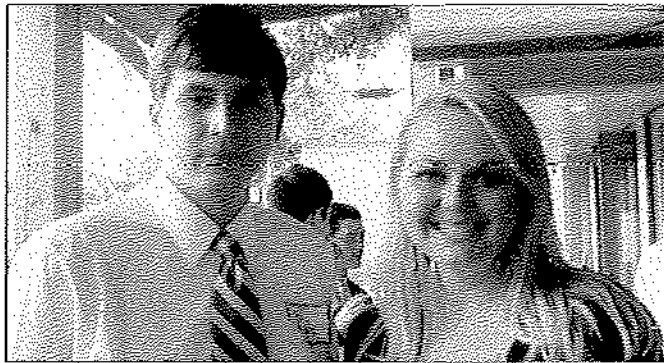
Living in a nation of laws means that we are civilized people. Again Thoreau expresses it best when he said, "That government is best which governs the least." When anyone chooses to make vicious, false, verbal attacks against another citizen, only then should this be grounds for a review by the regulators. If slander and false postings are made on blogs, the rules should change to outlaw these false claims, and the Blogger posts at his risk. If the penalty in cash is high enough, it will not be long before those who post become a bit more concerned about truth in free speech.

## Spring Social

The Hinds County Bar Association and the Jackson Young Lawyers hosted a joint Spring Social at Sal & Mookies on May 6.



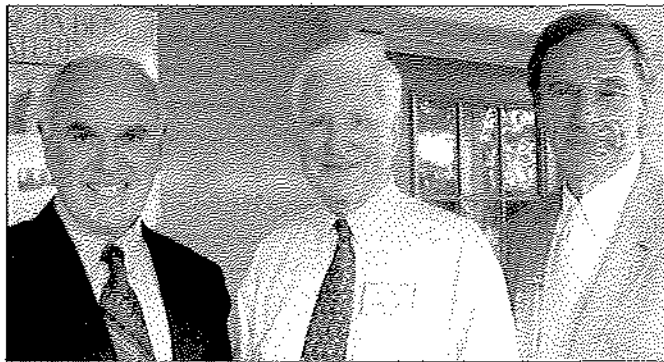
*Rhea Sheldon and Jennifer Hall, HCBA Social Co-Chairmen; Tammra Cascio, HCBA Board Member*



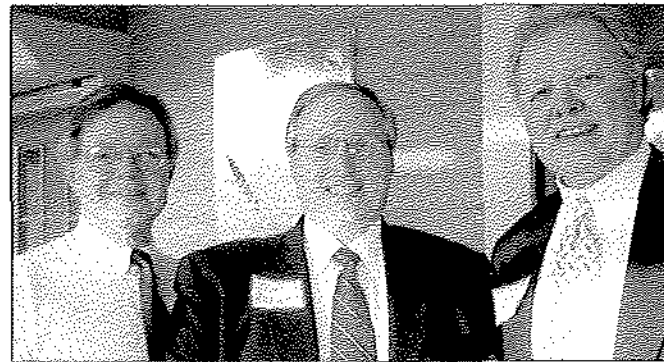
*Wes Ryals and Lindsay Watts, HCBA Essay Contest Chairman*



*Jennifer Hall; Stacey Strain; Sarah Cunningham*



*Chief Justice Jim Smith; Judge Swan Yerger; J. T. Noblin*



*Bob Gordon; Tom Alexander, HCBA President-Elect; Stan Smith*



*Kathy and Ben Piazza, Past HCBA President*



*Hugh Teder; Susan Tsimortos, HCBA President*

## REMINDER

The Hinds County Bar Association

June Luncheon Meeting

will be held

Tuesday, June 17, 2008

at noon

Speaker: Rodger Wilder

President-Elect of the Mississippi Bar

The cost is \$15 for lunch

Capital Club

19<sup>th</sup> Floor

Capital Towers Building

Summer Clerks are welcome

No reservation necessary

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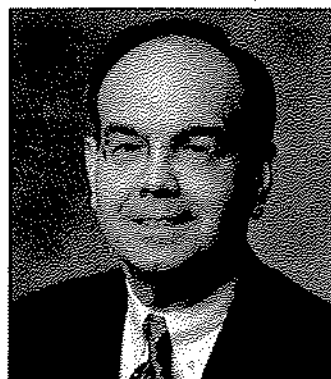
in point: it is illegal for the federal government to negotiate volume discounts with the pharmaceutical industry for the Medicare drug benefit program. Where is the outrage from the majority of Republicans and Democrats in Congress and the Administration? There is none because this is business as usual in Washington.

But the responsibility for ending institutional corruption and malfeasance doesn't just rest with elected officials. Truth be told, every American needs to take a long hard look in the mirror. It is part of American mythology that we are and always have been defined by the values of honesty, hard work, education, thrift and patriotism. There is an undeniable appeal of that America as portrayed in *Andy of Mayberry*, *Leave It To Beaver* and *Father Knows Best*. Thanks to TV Land on cable you can still visit that America. The sad truth is that there are and always have been many Americas that are at odds with the fairy tale version that politicians like to dish out to voters every election cycle. All one has to do is tune into *The Jerry Springer Show*, *Flavor Flav* or *Cops* to visit some of these less savory sides of America. And if that doesn't do it for you, consider the fact that more than two million Americans are in prison, one of every 519 U.S. homes is in foreclosure and that 37% of all American births are out of

wedlock of which seven in ten of all African American births are out of wedlock. Closer to our professional home is the undeniable ethical stain on the legal profession left by unprincipled members of the Mississippi Bar. When its "Us" rather than "Them" things begin to get a bit uncomfortable, don't they? Face it: greed, dishonesty, irresponsibility and criminality are woven into the fabric of every strata of contemporary society. It is nothing new. It is the darker part of human nature that we all must confront rather than ignore or deny.

Barack Obama is certainly right about one thing, change is overdue for America. What he and a precious few of our so-called leaders sometimes hint at, but never stress, is the fact that fundamental change must not only come from the top down in our institutions, but it must also come from the bottom up in the values and behavior of every single American citizen. The alternative is potentially catastrophic no matter who wins the White House in November. I just hope America is indeed starting to wake up and that when it does it has the collective will, courage, and ability to reverse the alarming trends that make up contemporary American reality. That reality does not bode well for the future. Business as usual and collective denial is no longer an option.

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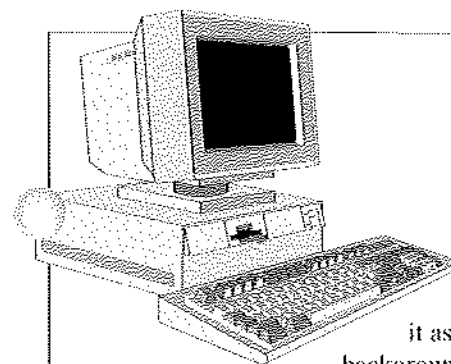
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## On Computing

by Joel Howell

Know what Web 2.0 is? You'll be hearing progressively more about it as time passes. Here's some background that you may find helpful.

Web 2.0 is a term describing the use of the Internet and web design to enhance collaboration among users. In the spirit of Wikipedia, it has led to the development of web-based services. Historically, the term became notable after the first O'Reilly Media Web 2.0 conference in 2004. Like Wikipedia, it seeks to create collective intelligence that is constantly created and edited by different end users. Like Wikipedia (and Topsy), it grows all the time.

O'Reilly states that Eric Schmidt's slogan: "Don't fight the Internet," suggests the essence of Web 2.0, building applications and services around the Internet, as opposed to building applications and expecting the Internet to function as a platform. (Hence: "Fighting the Internet.")

From a legal perspective, this means users can create content or context that becomes relevant in a given litigation. With the increasing advent of EDiscovery, it can mean not only in-house created and controlled work products, but also blogs or Wikipedia postings.

Web 2.0 users are connected to other users who are connected to other users. This connection creates a social network that is valuable for conversation and networking. In addition to networking, Web 2.0 contains a growing number of companies which offer software-as-a-service (SaaS). In providing web access to their programs, these companies host and support. Then the SaaS applications combine, making it less relevant where your data is and who is responsible for preservation or collection.

Web 2.0 allows users to retrieve and read information or leave it on widely dispersed systems in ways that may have value only because the data is part of a much larger pool of data. This information is relevant

to litigation and requires law to catch up with developing technology.

This is obviously a trend that will continue and evolve just as EDiscovery does. More later.

Mississippi College School of Law has created two interesting new research resources.

The first is the Mississippi Appellate Court Video Archive (<http://law.mc.edu/court/>) which provides access to the past three-and-a-half years of archived oral arguments. It has a searchable database that is useful when looking for cases or for specific legal issues. In addition, it offers access to the briefs for the companion cases when they are available.

The second resource is the Mississippi Appellate Court Brief Archive (<http://lawwin2k3.mc.edu/briefs/>) which archives in PDF format all of the briefs released by the Courts. In only six months, this project currently has seven hundred and fifty briefs available. Another helpful feature is the Google search option for these briefs.

Questions or comments? Email [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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## Highway Eats

by The Road Lawyer

Comiskey covered it up as much as Jackson did—maybe more. And there's Charles Albert Comiskey down the aisle from me in Cooperstown—and still Shoeless Joe waits outside.

- Ted Williams (1987)<sup>1</sup>

You take the Red Line for baseball in Chicago. To see the Cubs play, go north to Addison Street Station. Everyone knows Wrigley Field is at 1060 West Addison, at least since 1980 when Elwood Blues' fake driver's licence was first made public in the movies.

In early May 2008, however, The Road Lawyer (TRL) took the Red Line south to the 35th Street Station to see the White Sox play host to the Minnesota Twins at U. S. Cellular Field. The result: an encounter with Freudian psychology, a refresher on the law and practice of contracting, a patron-friendly ballpark eatery and beverage service, and a few bits of Mississippi trivia.

### The Sox and their Fans Wear Lots of Black

The Sox colors are black and white. White jerseys with black lettering the night TRL was there. But the stockings were black, as least those worn by players dressed as baseball players are supposed to dress. Many fans had black jackets, sweaters or caps with white "SOX" lettering.

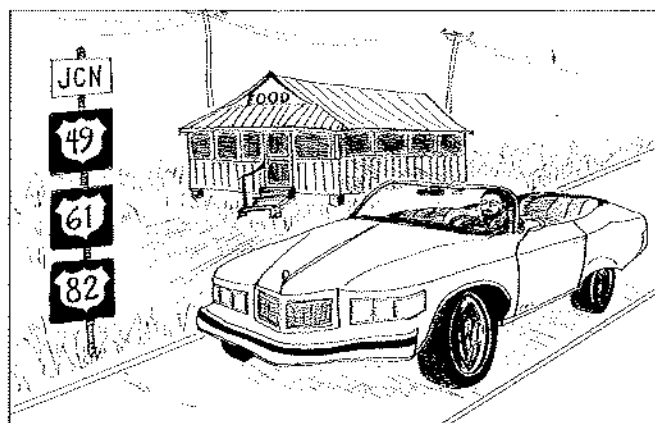
As the Sox started making a little noise in the 1990s with Frank Thomas and Robin Ventura, "Good Guys Wear Black" was a familiar cry. "Black Jack" McDowell was the Sox star pitcher some 15 years ago. There's a strange fascination with the color black in baseball uniforms in South Side Chicago.

But management has done its best to obliterate any memory of the eight players involved to one degree or another in "throwing" the 1919 World Series. TRL turned every page of the impressive Sox 2008 Yearbook. 1919 and the "Black Sox" never happened.

Yet, buried at the bottom of page 131, we find mention of the Sox winning the 1917 World Series, beating the New York Giants four games to two. "Happy Felsch hit the sole White Sox home run of the series." The reference is to Oscar "Happy" Felsch, one of the eight Black Sox. Wonder if the yearbook editor has been fired by now.

### U. S. Cellular Field

There are problems with naming a ballpark U. S. Cellular Field. The uninformed have no clue whether they play baseball or football or soccer at such a place. It might be an air field. And it calls to mind that the world is much with baseball today. Getting and spending, we lay waste our powers.



In 1991 the ChiSox opened play in their "new" Comiskey Park. Old Comiskey Park opened July 1, 1910, named by team owner Charles Comiskey for himself. The present park is adjacent to the site of the old Comiskey Park. In 2003 U. S. Cellular paid \$68 million for naming rights for the "new" Comiskey Park.

Baseball history leaves no doubt that Charles Comiskey was a major force in baseball

and in establishing the American League. Traditionalists would change the name of the Sox home venue back to Comiskey Park if they could. These would prefer the historians had never unearthed Charles Comiskey's less than admirable role in the Black Sox scandal and his duplicity and penuriousness in dealing with his players.

Current Sox owner Jerry Reinsdorf has continued the Comiskey tradition. Reinsdorf tantalized the Tampa Bay area with hints he would move to Sox there, so much so that they built Tropicana Field in St. Pete. The duplicitous Reinsdorf then turned away from the Florida Gulf and told Chicago he would stay if he had a better new Comiskey Park.

The first contracts lesson: get it in writing.

All of the vendors and sports bars that had built up around the old Comiskey Park, and whose livelihoods depended on the ball park, were promised a new Comiskey just across the street, but the fans began filing in for the 1991 season and were greeted with all the sports ambiance of a huge airport landing field. They didn't get it in writing. We assume eminent domain led to these vendors and bar owners being no more out in the cold than others displaced by "urban renewal."

In 1917, Charles Comiskey promised White Sox star pitcher Eddie Cicotte a \$10,000 bonus if he won 30 games, but when Cicotte won his 28th with two weeks left in the season, Comiskey ordered him benched. The Sox were safely in first place, and Comiskey decreed Cicotte be well rested for the World Series. Cicotte was the winning pitcher in game one and the loser in game three, pitching six effective innings in game five.<sup>2</sup>

<sup>1</sup> Gene Carney, *Burying The Black Sox* 286 (2006).

<sup>2</sup> In game five, lefty Reb Russell from Jackson, Mississippi, 15-5 on the regular season, started two for the Sox and quickly gave up two runs, facing five batters, and getting no one out. And with [The] Jim Thorpe coming to the plate. The Sox brought in the right handed Eddie Cicotte and Thorpe was called back in favor of a left-handed batter.

continued on page 13

continued from page 12

But Eddie Cicotte did not get his \$10,000 until two years later and for at least 88 years the world has known how. The night of September 29, 1919, he "found the \$10,000 in his room, carefully hidden under his pillow. He immediately sewed the bills securely into the lining of his jacket." Two days later, the Cincinnati Reds beat Cicotte and the White Sox 9-1 in the first game of the World Series.

That Charles Comiskey's duplicity did not justify Eddie Cicotte's duplicity seems clear enough. But not so clearly that the discerning practical mind does not wonder if the latter would have happened had it not been for the former and much more in that vein.

The contracts lesson: if you promise a bonus in a personal performance contract, you can't step in and block the promisee's reasonable chance of performing. Of course, maybe you can if the contract contains a reserve clause, not to mention a right of discharge without cause on ten days notice.

### U. S. Cellular's Beverage Service

TRL found a first in U. S. Cellular Field's beer and beverage service. Miller Brewing Company dominated, touting its beers from the colorful scoreboard deep behind centerfield. Pepsi Cola had equal billing. Other findings set TRL—bored with the Twins progress towards a 13-1 shellacking of the Sox—pondering the shape and terms of Miller Brewing's contract.

The Miller Lite Bullpen Sports Bar excites the imagination of the contract lawyer's mind. The Bar is behind the right field fence, situated to provide fans an excellent opportunity to heckle the adjacent visiting team's bullpen, or to catch or get clobbered by a home run, depending on one's level of attention or alertness.

But how does the contract treat the liabilities and indemnities?

TRL has never seen such a near exclusion of Busch beers. Only a crafty contracts lawyer could accomplish that. Oh, Bud and Bud Light could be found, but you really had to look. "Beer Here" vendors prowling the aisles were strictly offering Miller Genuine Draft and Lite, all attired in green glow in the dark knit shirts, with "THIRSTY OR HUNGRY?" lettered on their back. Heileman's Old Style was easier to find than a Budweiser.

Arguably competitive alternatives included stands offering "Premium Can"—translate Heineken's, Sharp's, and vodka lemonade. Then there was a beer and wine stand with products not likely to catch the eye of Robert Parker or *The Wine Spectator* and several Sauza Tequila stands selling premium beer, domestic beer, and margaritas.

### Food Service At U. S. Cellular

There are more food stands at U. S. Cellular than TRL has ever encountered in ballpark travels. Shorter lines and quicker service. In other parks, a fan must miss the better part of an inning to get a brat and beer.

Many food stands are named for Sox worthies of the past. It was a challenge to contemplate the rational objective

criteria by which these were named.

One of those criteria, of course, is the value of the former player's right of publicity, which was not taken seriously in American law until the Restatement of Torts 2d, published in the early 1960s. TRL wondered about the contracts with these former players or their widows or after estates and to what extent years ago the pre-1960 old timers granted the Sox the right to use their names and likenesses in promoting the team. Would this grant include the right to use the player's name years later to sell dogs and "Polish"? The prominent omissions can only suggest that Jerry Reinsdorf was not willing to pay the going rate to many of the names omitted. Or that his predecessor didn't have a very good contracts lawyer.

Nellie's Pivot Pizza is obvious enough. Now 80 years old, Jacob Nelson Fox played second base seemingly forever, and teamed up first with Chico Carrasquel and later Luis Aparicio as among the more productive double-play combinations in the American League. Surely, Fox gets a fair royalty for the use of his name.

LaRossa's Pizza raises an eye brow with the younger set who think Tony's most productive years were managing the St. Louis Cardinals (1996-present; won 1 of 2 World Series), or slightly older fans who recall Tony's Bash Brothers teams in Oakland (1986-95; won 1 of 3 World Series). But Tony managed the White Sox from 1979-1986. He was AL Manager of the Year in 1983, when the Sox won the AL West.

For the trivia buffs, Tony received his Juris Doctor in 1972 from Florida State University, his law degree being presented to him by Dean Joshua M. Morse, III, the energetic and productive law school dean at Ole Miss in the middle 1960s. We suspect Tony's legal training aided his negotiated royalty arrangement with Reinsdorf.

### White Sox as the Dodgers of Latin American Players

Chico Carrasquel was from Venezuela, the Jackie Robinson of Latin American players. El Chico was a great fielder, pretty good hit shortstop, who arrived in 1950 speaking not a word of English. The next year Chico became the first Latin American to play in the All-Star game.

But a couple of things seem out of whack about Chico Carrasquel's Dogs & Polish. We found no food stand named for Luke Appling, whom Carrasquel succeeded, nor of Luis Aparicio, also from Venezuela, who took El Chico's job from him in 1956. Appling and Aparicio are Hall of Famers. Second, it's hard to imagine Chico eating a "Polish." Chico died back in Caracas in May 2005, at age 77.

And how about Belton's Bill Melton's Brats & Sausage? A native of Gulfport, Melton led the AL in home runs in 1971 and by White Sox standards—pre-Frank Thomas days—was a productive slugger in his eight years (1968-75) on the South Side. Belton's Bill is now in his 7th season as a pre/post game analyst on Comcast SportsNet.

<sup>3</sup> Eliot Asinof, *Eight Men Out* 38 (1963).

continued on page 14

Dick Allen's Rooftop Dogs & Polish. Allen came to the White Sox in 1972 and promptly led the AL in home runs and was named the League's MVP. To this day, many credit Allen with keeping the Sox in Chicago in that expansion era. He led the AL in homers again in 1974, but left the team in controversy two weeks before the season ended, and soon was done as a Sox. As Richie Allen, he was very productive in seven years with the Phillies.

And Luzinski's Rooftop Dogs & Polish? Greg ("The Bull") Luzinski may be the only former player with a food stand named for him in two major league ballparks. We've already noted Bull's Bar-B-Que at Citizens Bank Park in Philadelphia, which certainly seems to fit. And Greg probably downed many more "Polishes" than he did barbecue. Greg played 11 years with the Phillies, but had only two productive years (1982-83) on the South Side.

Early Wynn's Dogs & Polish also makes one curious. The Big Bear's 22-10 record in 1959 paced the Sox to their first AL pennant since the Black Sox had won it in 1919.

This gets us to Eddie Collins' Brats & Italian Sausage.

#### The George Steinbrenner of the 1910s, Only Worse

One of the vagaries of the art of contracting has always been the relative acumen and bargaining power of the parties. Charlie Comiskey was armed with baseball's infamous reserve clause, viz., "we're hiring you for this year, and we reserve the right to renew you on the same terms next year and each year thereafter, ad infinitum."

Eddie Collins was a 1907 Columbia graduate and Red Sox general manager from 1937 until his death in 1951. Joe Jackson grew up in Brandon Mills, S. C. and could not read or write.

Collins was a star when Comiskey bought his contract from Connie Mack's Philadelphia A's in 1915. As Red Sox GM, Collins would sign such notables as Ted Williams of San Diego and Boo Ferris of Shaw, Mississippi. Joe Jackson had hit .408 for Cleveland in 1911 and .395 the next year. Comiskey bought Shoeless Joe's reserve clause laden contract in mid-season 1915.

Collins negotiated a \$15,000 contract for the 1919 season, though he batted only .289 and .276 in the two years leading up to 1919. Joe Jackson batted .354 in 1918, but Comiskey paid him only \$6,000 in 1919. In the 1919 World Series, Jackson hit .375 in eight games, Collins a mere .226. The extra \$5,000 Shoeless Joe got from the gamblers still left him well shy of Collins. It also got him banned from baseball for life.

Eddie Collins had the smarts to negotiate a fair salary from Comiskey. But Eddie has been dead some 57 years. Here's betting Jerry Reinsdorf pays for the commercial usage of Collins' name in Eddie Collins' Brats & Italian Sausage. Collins' executor and heirs are the sort that would know the value of Eddie's right of publicity.

As for Shoeless Joe Jackson and the other seven men out, "These were eight bitter men with a common enemy: Charles

Albert Comiskey."

In 1939 Eddie Collins and Charles Comiskey were enshrined in Baseball's Hall Of Fame in Cooperstown, New York. A case can be made that Comiskey should be removed.<sup>4</sup>

#### Back to Ballpark Eats

Anchoring the outside of the concourse are wide window food stands, some more appropriately named than others. The Triple Play Café, the Go Go Sox Grille and the South Side Hitmen Grille offer the standard Italian sausage, hot dogs and burgers, but less standard roast beef, corned beef and turkey sandwiches. Chicken tenders, too, and burritos, tacos, quesadillas and nachos.

There were "All-Star" food stands, including the 1933 All-Star Stand, commemorating the fact that the old Comiskey Park hosted the first Major League All-Star Game. Others included Billy Pierce's All-Star Stand, Ozzie [Guillen] & Harold [Baines]'s All-Star Stand, and Minnie Minoso's smaller stand offering hot dogs, kosher hot dogs, bratwurst and chili.

Elotes Corn Off The Cob is a first for FRL. Rather than serving hot dogs or sausage, Elotes has hot steaming cobs of corn. The vendors slice the corn off and put it in a paper bowl. Toppings include butter & salt, lime, red peppers, cheese, and mayonnaise. Images of corn fields in Central and Southern Illinois seemed to support this ballpark novelty.

As in all ballparks, there were the usual plethora of blue and pink cotton candy and other sweets for the kids. One stand sold Red Rope licorice candy. Several Churros stands served deep fried donut sticks.

One stand sported a large green sign "Winning Ugly is Sweet" serving melts, floats, and ice cream. The sign refers to the 1983 Sox who won 99 games in the AL West under manager Tony LaRussa. Carlton Fisk had come over from the Red Sox and, along with Harold Baines, led the offense. LaMarr Hoyt was the AL Cy Young Award winner with his 24-10 record.

#### Two Mississippians that Night in May

FRL noted two Mississippians on the field. Switch hitting Matt Tolbert from McComb had been quite a second baseman for the Ole Miss Rebels in 2002-04. In his rookie year, Matt started at third base for the Twins, got a key single in the 5th and scored the Twins' second run, then walked his next time up and scored in the Twins' big five-run 6th inning.

Lance Barksdale was the homeplate umpire. Lance went to Forest Hill High School. His wife, Jennifer, is the daughter of Wise Carter's Linda Tillman. Back in early June of 2003, Lance was also in Chicago, this time calling the plays at third base at 1060 West Addison as the Cubs hosted the Tampa Bay Devil Rays in interleague game. It was the game when Sammy Sosa's bat splintered and the world found out it was corked.

<sup>4</sup> Eliot Asinof, *Eight Men Out* 20 (1963). 4

<sup>5</sup> See [www.nakedwhiz.com/bancomis.htm](http://www.nakedwhiz.com/bancomis.htm).



## HCBA Committee Preference Survey

Committees are vital to the projects and activities of the Hinds County Bar Association. Please consider service to the HCBA and its members by becoming part of its committee work.

I am interested in serving on the following committee(s):

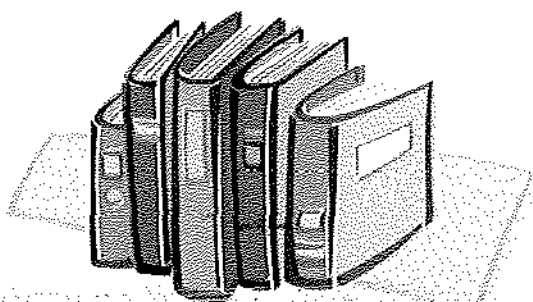
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- ☐ Law-Related Film Festival
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- ☐ Other: (insert a Bar-Related Project/Subject that you think the HCBA should consider addressing and tell us why.)

Name \_\_\_\_\_; Phone \_\_\_\_\_; E-mail \_\_\_\_\_

Please (1) complete and mail to Patricia Evans, HCBA Executive Director, 151 E. Griffith Street, Jackson, MS 39201, or (2) send your reply to [pevans@mc.edu](mailto:pevans@mc.edu).

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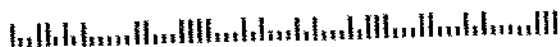
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**IMPORTANT**  
**HCBA Luncheon Meeting**  
**12:00, June 17**



# HINDS COUNTY BAR ASSOCIATION

## MAKING OUR CASE FOR A BETTER COMMUNITY

OCTOBER 2008



### President's Column

by Susan R. Tsimortos

You should take a few minutes to appreciate the expansion our newsletter. With the help of Leslie Dixon, we have added more advertisers enabling us to expand the number of pages in our newsletter. We hope that you will find opportunities to use their services. Luke

Dove and his editorial staff continue to do an excellent job of compiling a missive that is interesting, informative and humorous. They welcome your contributions.

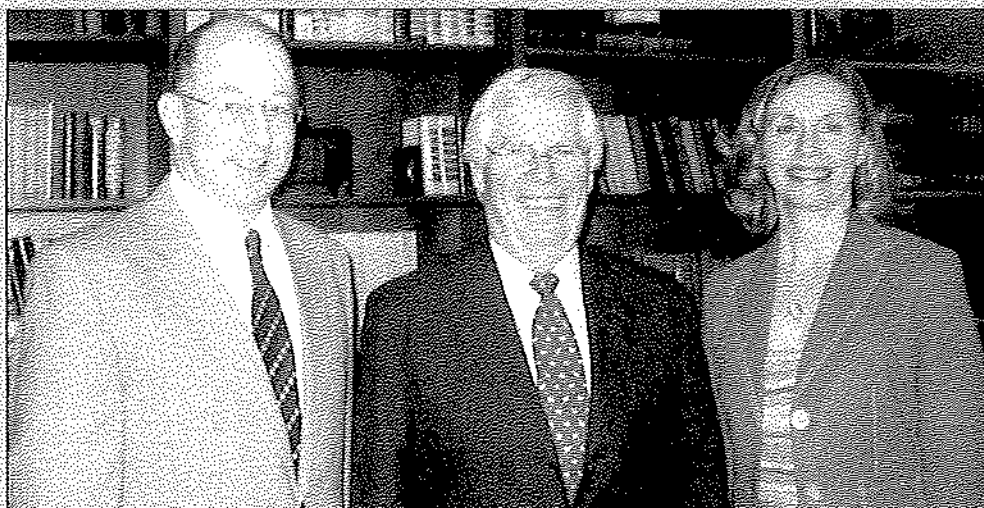
Our first Law in Film Series was held in September. Anita Modak-Truran and her committee organized a showing of 'To Kill a Mockingbird'. Larry Franck, a stalwart member of our profession and past president of the HCBA, led a discussion on the ethical and professional issues raised by the film. The next presentation will be in October and center around the movie Erin Brockovich. These showings provide a venue to discuss important issues with members of our profession and receive two hours of CLE credit including one ethics hour.

As we work on enhancing the features of our website, we are seeking HCBA members with knowledge about site development and maintenance. If you have some experience with website development, please let us know. This will be an opportunity to refine your skills and help the organization. Melissa Baltz has tenaciously led our efforts the last couple of years.

Our August membership meeting included a CLE ethics hour led by HCBA member Jimmy Robertson. His presentation was thorough and thought provoking. More notably, though, was the reflection of his genuine passion and enthusiasm for the law. This month's membership meeting promises to be informative and entertaining. Jere Nash and Andy Taggart will join us to present their unique views of this election season. If you are familiar with their dueling blogs in the Clarion-Ledger, you know that they will provide a lively session.

As we head into the final stretch of this election season, please remember the importance of a fair electoral process and consider the role you can play in making it a smooth one. There are important national and local elections before us. As lawyers, we possess unique qualifications that make us ideal workers at election time. If you have ever thought of volunteering your expertise, time, and talent in an election, now is the time.

### HCBA August Membership Meeting



*At the HCBA August Membership Meeting, James L. Robertson, former Justice of the Mississippi Supreme Court, presented a one-hour CLE ethics program. He is pictured with Peyton Prospere, HCBA Program Chairman, and Susan Tsimortos, HCBA President.*

### HCBA LUNCHEON MEETING

Tuesday, October 21, 2008 Capital Club Noon Cost: \$15.00  
Speaker: Jere Nash and Andy Taggart

## HCBA Calendar of Events

October 21, 2008

### HCBA Membership Meeting

Noon Capital Club



December 4, 2008

### HCBA/JYL Christmas Social

5:30 - 7:30 Old Capitol Inn



February 17, 2009

### HCBA Membership Meeting

Noon Capital Club



April 21, 2009

### HCBA Membership Meeting

Noon Capital Club



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## An Appeal To Reason

by Luther T. Munford

John Grisham has sharpened his new book, *THE APPEAL*, to a distinct point: A popular election is a rotten way to choose a judge. Despite his usual melodrama, the point is made. If the chicanery in which his characters engage has not already happened, there is no reason to believe that it will not happen in the future.

Grisham sets the book in Mississippi. Mississippi has vacillated between the election and appointment of judges throughout its history. In the 1830s, those who favored election of all judges were called the "whole hogs." Those who wanted to appoint appeals judges but elect trial judges were called, in turn, the "half hogs."

Since the progressive era of the early 20th century, the whole hogs have had their way. The state elects its judges at every level. If a judge resigns or dies before his term ends, however, the governor can appoint a replacement. The replacement holds office until the next election.

Subsequent changes in constitutional law and statutes have made the state's judicial elections virtually indistinguishable from the election of other public officials. But it was not always so. Until the 1970s, no one could give to a judge's campaign except a lawyer, and a lawyer could not contribute more than \$50. Lawyers, it was assumed, knew who among them would make the best judge.

That assumption has a more distinguished pedigree than might be immediately apparent. At the Constitutional Convention in 1787, Benjamin Franklin entertained the delegates with a report that in Scotland lawyers were allowed to choose judges, with a good effect. The lawyers would choose the best among them, i.e. the one with the largest practice, so they could divide his clients up among them.

But such quaint elitism could not long continue in a body politic where the right to contribute and spend on elections has come to be viewed as constitutionally-protected free speech. In the 1980s reform-minded Mississippi politicians swept away all the distinctions between elections for judicial office and elections for other offices. Candidates still labor under ethical restrictions the enforcement of which the U.S. Supreme Court has called into question. But their supporters do not.

The case on which Grisham's story turns is against Krane Chemical, a polluter. With a comic book lack of subtlety, Krane is depicted as the company from Hell. It has dumped barrels of toxic chemicals, polluted the water supply, created a cancer cluster in the local population, and then closed down and taken its jobs to Mexico. A Wall Street baron ultimately controls it. With equal ease he manipulates the stock markets and writes checks to support the whims of his fashionable current wife, whom he mistakenly thinks is a bimbo. In fact, she secretly plays the market herself with some skill.

In Grisham's tale a husband and wife legal team, who operate out of a storefront in Hattiesburg, Mississippi, have sued Krane for the wrongful deaths of a man and his son who both contracted fatal cancers by drinking water Krane poisoned. While the lawyers have prospered in the past, the fight against Krane has forced them into poverty. They now live in a small apartment with their children. They owe the

bank \$500,000.

With the help of a biased trial judge, they win a \$41 million judgment against Krane, and then the story Grisham really wants to tell us begins.

Grisham's Mississippi Supreme Court is split five-to-four between judges who vote for those who sue and judges who vote for those who are sued. So far, so good for the widow. But one of the five judge majority, a divorced woman, has to run for office again before the Krane appeal will be decided.

The Wall Street baron contacts one of the Grisham's mysterious fixers. For \$8 million, he hires a Mississippi lobbyist, invents phony front organizations, and creates the candidacy of a religious pro-business small-town lawyer who espouses a tougher stand against crime. Along the way, election tricks are played. A mysterious gay couple stirs up right-wing voters by suing for the right to marry. An oddball lawyer-turned-gambler appears in the race to dog-cuss the sitting justice. Her romantic interests are duly recorded. On the other side, the personal injury lawyers organize to support her. They mutually agree to put in amounts that far exceed the state's modest contribution limits.

In other words, fraud and greed have much more to do with the outcome of the election than the pursuit of justice or fairness.

Mississippi has never had a judicial election as wild and woolly as Grisham's, but the pendulum appears to be swinging in that direction. In 2000, the U.S. Chamber of Commerce appeared on the scene. It took advantage of a constitutional doctrine that allows an independent organization to engage in "issue advocacy." That means it can say anything it wants to say in support of a candidate without having to say who contributed the money so long as it does not explicitly solicit votes for the candidate. As it spent millions of dollars to back candidates it believed would be more favorable to business, lawyers who represent personal injury victims countered with secret contributions to the campaigns of the candidates they favored. One such contribution led to federal bribery charges, but it turned out that the justice who took the contribution never voted in cases in which his contributor was counsel.

In Grisham's book much is made of a charge that the sitting judge has voted too often to reverse criminal convictions. Grisham has written two books critical of the death penalty, one a novel and the other a true story. He obviously believes that such attacks can intimidate elected judges into voting to affirm wrongful convictions.

Just like big money, the "soft-on-crime" accusation has also found its way into the real world of Mississippi judicial politics. One personal injury lawyer upset a conservative incumbent with the promise that he would "lock them in jail and throw away the key." The affirmance rate for criminal convictions in the Mississippi appellate courts has climbed from 83% to 95% within the past 10 years. One justice falls only one case short of a perfect record of never having voted to reverse a criminal conviction.

As might be suspected, the accusation that the court

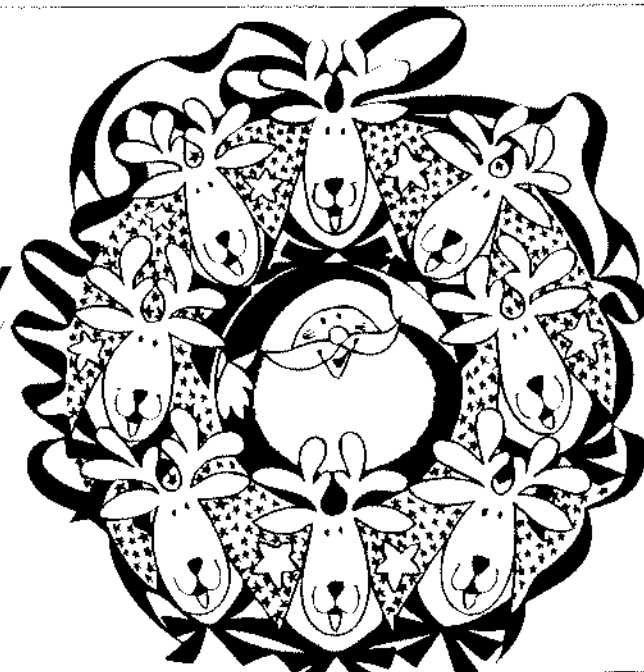
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## Hinds County Bar & Jackson Young Lawyers Christmas Social

December 4, 2008

5:30 - 7:30

Old Capitol Inn



# In Search Of America's First Federal Government Idol

by Captain Equity

It has been 55 years since an American court first formulated the common law doctrine of the Right of Publicity to protect celebrity rights in the case of *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc.* 202 F.2d 866 (2d Cir.), cert denied, 346 U.S. 816 (1953). Back in '53 Ike had traded the battlefield for the White House while *From Here To Eternity* won the Oscar for Best Picture. That was also the same year Hank Williams died in the back seat of a Cadillac in Oak Hill, West Virginia. In 1953 there was as yet no Elvis, no Nashville, and no Hollywood studios in the San Fernando Valley where Disney, Universal, and Warner Brothers now reside. Black and white television was a novelty, while celebrity status was reserved for a handful of movie stars and band singers. But that was about to change forever. What started modestly has grown into what author Michael J. Wolf has dubbed the entertainment economy. His thesis is that everyone now demands to be entertained in all facets of their lives. Business, education, and now government entities that fail to ignore this imperative do so at their peril. Consequently, journalism has been replaced by infotainment. Everyone with a computer and a modem is now an instant celebrity blogger, reality show contestant, or worldwide personality of greater or lesser renown. Put another way, everybody is now in show business. As a result, politicians, whose survival requires them to be in tune with the electorate, have evolved from public servants to cult heroes. And so no one should be surprised that America is in the midst of its first Hollywood Reality Show Presidential campaign. The two major party tickets are vying for the title of *Federal Government Idol*. The prize is a guaranteed four year reality show in the District of Columbia that comes with a cool crib, a big jet, and a posse on the federal payroll. I mean, like, who needs the Playboy Mansion or a record deal when you can win a gig like this?

It started with the improbable and unforeseen rise of an obscure first term Illinois Senator named Barack Obama. His *American Idol* moment came in 2004 as a keynote speaker at the Democratic National Convention. He was equal parts Bono, Prince, Denzel Washington, and John F. Kennedy as he electrified the Democrats with his soaring oratory and message of unity. He was a new kind of black politician who refused to play victim or poverty pimp. The son of a white mother and black father who was raised in Hawaii by his white grandmother, Obama was the antithesis of Jesse Jackson and Al Sharpton. This guy was a real live rock star in the making with mass appeal. Four years later, he upset Senator Hillary Clinton in the overwhelmingly white Iowa Democratic Caucuses and is today the first African-American nominee of a major political party. It looked like the title of *Federal Government Idol* was his for the taking. His opponent was a 72 year old former Navy man turned self styled maverick U.S. Senator. In show biz parlance, he was a soap opera patriarch on the order of

Adam Chandler of *All My Children* or Victor Newman of *The Young and the Restless*. He was familiar and had been around a long time but was hardly the kind of high energy celeb that could take down a rock star-big screen leading man like Barack Obama. To shore up his liabilities of age and experience, Obama chose Senator Joe Biden to play the part of the Inside the Beltway voice of experience. It didn't hurt that Biden came with his own Horatio Alger story of a scrappy young man born in the perfect demographic city of Scranton, PA who was elected to the Senate at the age of 18. Obama's extroverted choice for Veep made it look like *Federal Government Idol* was all over but the shouting, especially given the sold out Rolling Stones-like concert at Invesco Field in Denver attended by 84,000 Obama-Biden groupies in late August at the Democratic National Convention. But then, in classic Friday soap opera cliffhanger style, Senator McCain chose America's newest and freshest *Federal Government Idol* contestant, Governor Sarah Palin of Alaska, a rootin' tootin' former beauty contestant, hockey mom, and mayor of a small frontier town. Though woefully short on experience, she was long on celebrity appeal. It was Carrie Underwood, Kelly Clarkson, and Fantasia all rolled into one glamorous Northern Exposure package. Next thing we know she is aboard a dog sled heading for Washington, D.C. Along for the ride was her husband, the First Dude, their five kids and a future son-in-law who was conscripted into tagging along via a pending, old fashioned, heart warming, family values shotgun wedding.

So, who will it be? A Soap Opera Patriarch and Alaska Hottie or Denzel-Prince-Bono Obama and an excitable Washington hand who at the age of 65 is only hours behind Senator Robert Byrd in terms of service in the Senate? Those are the finalists. After we take a short break for a commercial announcement, I'll be right back to handicap the race.

## CUT TO COMMERCIAL

**SCENE:** It's 520 years since the Spanish Armada sailed against the British Isles and four years since the Swift Boat Veterans for Truth sailed against John Kerry. Now it is autumn and the Swift Boats are back under full sail. This time their target is a ship commanded by Senator Obama, code named the Dark Knight. From the standpoint of the Armada, the Dark Knight's vessel sails with a dedicated crew of tax raising, income redistributing pirates. Imagine Harry Reid, Nancy Pelosi, Howard Dean, and both Clintons all sporting eye patches. Strangely missing from the Dark Knight's crew is the handsome, dashing naval officer, John Edwards. In the great tradition of Hugh Grant, fellow crewman Bill Clinton, and Senator Larry Craig, the swashbuckling champion of the poor and dispossessed is

continued on page 5

continued from page 4

suddenly nowhere to be found. We are told he is either in marital infidelity rehab or is hiding in the bathroom at the Beverly Hilton Hotel in Los Angeles. There is another strange absence from the inner circle that commands the righteous vessels of the Armada. Admiral T. Boone Pickens who commanded Swift Boat forces in 2004 is AWOL. We are told he has since joined the "Air Force" and is stationed on a Wind Farm in Texas seeking federal earmarks to fund his latest investment venture.

As the Swift Boat Armada approaches the Dark Knight's craft, a flurry of network television ads begin to explode all around the enemy vessel. A full-fledged attack has been launched by the Swift Boats raining down fiery charges and accusations on the Dark Knight. INEXPERIENCED CHARDONNAY SIPPING ELITIST NOT READY TO LEAD, MUSLIM ANTICHRIST COMMUNITY ORGANIZER WITH NO RESPONSIBILITIES and the most damning of all, FATHER OF TWO BLACK BABIES. The Dark Knight's ship is taking on water and America loves it. Not because they don't love the Dark Knight, but because they know that the nominee of one of the two parties of change will defend himself by unleashing secret Navy SEAL frogwoman Hillary Rodham Clinton. The Dark Knight will dispatch her on a high risk, solo commando attack that could result in total destruction of the Swift Boat Armada. Who needs Jack Bauer in 24 when you've got Hillary "No Way, No How, No McCain, No Palin" Clinton on the job? She's underwater and she's mad as hell. It is only a matter of time before she clears the way to victory in November. But wait...who is that lone wind surfer on a collision course with the Armada? Why, it's Senator John Kerry, the very same John Kerry who was vanquished four years earlier by the Swift Boat flotilla. Somebody get him out of the way before he unwittingly alerts the Swift Boats to Hillary's underwater position. She can't survive the fatal October surprise of depth charges this close to November. Is it too late? Oh no! Now, back to the column:

## CUT TO COLUMN

Okay America, we're back. So, here it is. We are down to two. Will it be Obama-Scrappy Scranton Joe or Sarah Barracuda-Soap Opera Patriarch. You will decide on November 4. Here are the rules:

1. No discussion of issues is allowed; judging is to be done strictly on personality. So if you are going to factor in the current economic meltdown, Iraq War, health care, immigration policy, or any of

that other substantive stuff, this is not the show for you.

2. No knowledge or judgment is required of the contestants; just the appearance of competence and consistency as disseminated by sound bites, controlled fake press events, and personality projection via paid media consultants.
3. Truth, integrity, honesty, and all that other dated stuff doesn't mean a thing. Extra points for the contestants who can contradict themselves within a twenty four period or who succeed in telling a bald-faced lie on national television while feigning righteous indignation.
4. Only short attention span voters are welcome. Any attempt to connect any Federal Government Idol contestant to anything that has happened in the last eight years up to and including yesterday morning is out of bounds.
5. And finally, a warning to the contestants. You will be instantly disqualified if seen in public or at private fundraisers with any of the following individuals. All that is needed for proof is a cell phone photo or an unsubstantiated report by a cable news correspondent, so be careful.

**Obama** - Tony Rezko or Weather Underground Member William Ayers

**McCain** - George W. Bush or Phil Gramm

**Biden** - Any Credit Card Executive or lobbyist for Delaware corporate interests.

**Palin** - Ted Stevens or Tina Fey.

Okay America. Those are the rules. Everybody gets 10 text messaging votes and maybe more if you never read a newspaper, play paintball, or are more naive than Ben Stiller in *Something About Mary*. Simon, Randy, and Paula along with Sharon Osborne will host the results show on November 4 when we find out the identity of the first ever *FEDERAL GOVERNMENT IDOL*.

SEACREST - OUT!

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## The Rich Man's Court

by: Luke Dove

Many of my law school friends have become very successful lawyers. Delbert Hoseman, for example, is one of the best tax attorneys in Mississippi. Delbert is also our new Secretary of State. He has assembled an outstanding staff and is using his considerable energy and skill to modernize the services of the Secretary of State. Delbert has also appointed business reform committees to review legal issues, including securities regulation and corporate governance, and to make reports to the Legislature.

The appellation "business reform committee" is a misnomer since the last thing any aspiring politician actually wants to reform is "business." What he actually means is reform of the statutory and legal environments in which businesses operate.

As part of this process, the Secretary of State formed a study group to "examine the possibility of establishing a specialized business court (in Mississippi) which would offer streamlined disposition of commercial and business disputes." This committee was established to correspond with the Tax Study Commission appointed by Governor Barbour (another law school classmate). The goal is to recommend legislation to create a "business friendly" tax and legal climate and thus foster the development of business in Mississippi. Sounds great on paper. However, because the recommendations are mainly formulated by businessmen who are also major political contributors, the legislature may view these reports as more the product of a political agenda rather than of sound government policy.

Our new Secretary of State may have appropriated the idea of business courts from the ABA Section of Business Law which for years has promoted the development special commercial litigation courts. These white-shoe knights point to Delaware as their ideal. They want separate business courts which focus not only on corporate governance and shareholder disputes but which will also have jurisdiction over actions for money damages. They say that business courts are not "elitist" and will not unfairly favor businesses over consumers.

What they say is not correct. The whole point of having business courts is to favor businesses over other classes of litigants.

The idea which underlies business court legislation is the notion that "businessmen create jobs and wealth" and thus make more valuable contributions to society than nurses, teachers, firemen, mechanics, family farmers, soda jerks, and (especially) lawyers. Therefore, businessmen should not be troubled nor detained by the inefficient, burdensome, costly, and unpredictable court system which afflicts lesser souls. Businessmen need their very own special courts (and judges) in order to assure adjudication of their litigation in a speedy, inexpensive, and predictable manner which will allow mature assessment of the costs and benefits. Businessmen must avoid the taint of the unwashed hoi poli and distasteful criminals who daily clog and infest our circuit courts.

Of course, the fact that the very same argument can be made for every other segment of society does not deter the proponents of business courts. One easy way for businessmen to avoid the costs and delays of litigation would be to stop cheating their partners, shareholders, and customers. But perhaps that is too much to ask.

Business courts may be a great idea for Pennsylvania, Illinois, or North Carolina. But they are not a great idea for Mississippi. The first and most obvious reason is that we do not have sufficient business litigation to justify diverting our very limited judicial resources from the existing court system. Second, many contracts and commercial agreements in Mississippi now contain a mandatory arbitration clause.

But the real issue in Mississippi is more acute. The desired "predictability of results" refers to the elimination or reduction of jury trials, especially trials before predominately African-American juries. I expect businessmen also think it would be a grand idea to avoid trials before those judges who may not be sufficiently attuned to the subtle nuances of corporate litigation and thus may be prone to unfortunate rulings.

A review of the minutes of the Mississippi Business Courts Study Group is a revealing exercise. One subcommittee considered "whether jury trials should be allowed in the Business Court, and how to avoid the constitutional right to a trial by jury if jury trials were not desired." Another subcommittee fretted over "whether to elect or appoint business court judges." Alas, no consensus was reached on these nettlesome issues.

Memo to Business Courts Study Group: (a) Although the 7th Amendment to the U.S. Constitution is not applicable to the states, the right to trial by jury in civil cases is guaranteed by the Mississippi Constitution; and (b) Mississippi was the first state to elect rather than appoint members of the judiciary, and that requirement is also found in the Constitution. Perhaps the Business Courts Study Group may ultimately circumvent electing judges by proposing legislation that would allow the Supreme Court appoint special "business court judges" from a small pool of retired judges. But the jury trial issue may be a real impediment.

Those who advocate the establishment of special "business courts" have not yet recognized that since 1817 Mississippi has had exactly the same "business court" that Delaware established 1792. It's called Chancery Court. And since most commercial contracts in Mississippi now contain a mandatory arbitration provision, a business court judge may be as lonely as the Maytag repairman.

With deference to our outstanding Secretary of State, I don't think Mississippi needs special "business courts". What we need are better courts for all citizens. We need better judges and better resources for all our courts. We should direct our time and resources toward improving the existing court system for the benefit of all Mississippians, and not just a few.



## How The States Got Their Shapes

by Mark Stein

Smithsonian Books, An Imprint of HarperCollins Publishers 332 pp., \$22.95

Reviewed by John Land McDavid

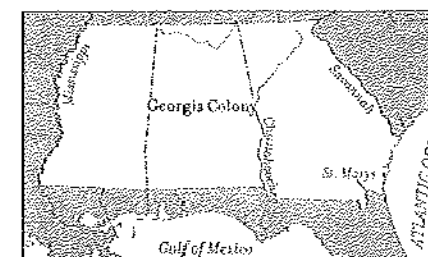
Wait. Wait. Before you turn the page because you think reading about how states got their shapes is the literary equivalent of watching paint dry, let me assure you Mark Stein has written a uniquely readable and interesting book. Stein is an unlikely author about the shape of state boundaries. He is a playwright and screenwriter and has taught writing and drama at the college level. Neither the Introduction nor the biographical data explain how he became interested in the twists, turns, and angles of the boundaries of the states.

The book is divided into fifty-one chapters. The first is entitled "Don't Skip This," which identifies the large land areas from which the United States was carved such as the original colonies, the Northwest Territories, the Louisiana Purchase, Texas, and the Southwest United States. The remainder of the book consists of a chapter for each state.

It is a book you can enjoy reading for a short time or a longer period. Or reading from front to back or vice versa. Or selecting state chapters at random. There is no plot or careful development of characters. Yet it is a pleasure to read as it painlessly and almost subliminally feeds you fascinating, but little known, history about the formation of the United States as it exists today.

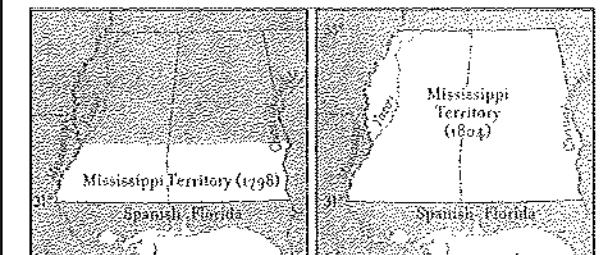
Several times the thirty-first parallel (31°) will be mentioned. This line forms the south boundary of Wilkinson, Amite, Pike, Walthall and Marion counties. It occurs again in Alabama as the boundary between Alabama and Florida. The thirty-fifth parallel (35°) will also be mentioned. This is the north line of Mississippi, Alabama and Georgia.

Beginning with the colonial development of America, the territory which is now Mississippi (north of the 31°) was first a part of the colony of Carolina granted in 1629 by Charles I of England and consisted of the land between the 31° and the 36° from the Atlantic to the Pacific. The charter was not developed and became void. In 1663, the charter was reissued by Charles II to a group of political allies. In 1710, Queen Anne split the Carolina colony into North Carolina and South Carolina with Mississippi (north of the 31°) becoming a part of the South Carolina colony. In 1732, King George II separated the land of the South Carolina colony west of the Savannah River to create Georgia. After the American Revolution, Georgia joined other states which had land claims west of the Appalachians and donated that land to the Federal government for the formation of new states. In the case of Georgia, the donated land would later become Alabama and Mississippi.



The Georgia Colony - 1732

Since there were no Appalachians except at the northern end of Georgia, the Chattahoochee River served as the divide. The drawback to the Chattahoochee as a boundary was that midway up to Georgia's northern border, the river turned northeastward, so where the river turns northeastward the boundary became a straight line to the northwest. Why the northwest turn? Because coal had been discovered east of the northwest line, so Georgia kept the coal. Gold was later discovered in this area. Georgia's donation to the Federal government consisted of the Mississippi Territory, which was what is now Mississippi and Alabama north of the 31°. The idea from the beginning was that the territory would be divided into two states. The original Mississippi Territory created in 1798 was bordered on the west by the Mississippi River, on the east by the Chattahoochee River, on the south by the 31° and on the north by a line from the mouth of the Yazoo River to the Chattahoochee River. The reason the land north of the north line was not included was because there were many French fur traders operating in this area. Because France was an ally in the Revolution, the U.S. did not want to offend France which then owned the Louisiana Purchase territory. After the Louisiana Purchase of 1803, in 1804 Congress increased the Mississippi Territory (north of the 31°) to the present border.



Expansion of Mississippi Territory

Thus far only land north of the 31° has been discussed. Prior to 1813, the land south of the 31° from the Mississippi River east to the Florida peninsula was Spanish Florida claimed by Spain. In 1813 the U.S. seized from Spain the land south of the 31° between the Pearl River and the Perdido River. This land ultimately gave Mississippi and Alabama access to the Gulf of Mexico. When it came time to create the states of Mississippi and Alabama, Alabama residents proposed the Pearl River as the western boundary of Alabama. Mississippi proposed the Tombigbee River as the boundary between the two states.



Conflicting Proposals for Dividing Southern Tier

continued on page 15



## Freedom Of Conscience

by John C. Henegan

*Founding Faith: Providence, Politics, and the Birth of Religious Freedom in America* by Steve Waldman  
(Random House, 276 pages, \$26.00)

The on-going cultural-political-philosophical-religious debate about the proper role of our republican form of government toward - and its responsibility for - religion permeates our society today. This debate arises in a variety of different contexts. These include, just to name a few: the views of our federal court nominees about *Roe v. Wade* and the ability of Congress and State legislatures to impose limits on the rights of women granted by *Roe*; the relevance of the religious views of our elected public officials to their duties of office; and the propriety and consistency of decisions of the United States Supreme Court regarding, for example, prayer in public schools or those decisions that uphold the placement of the Ten Commandments on the State Capitol grounds in Austin, Texas, *Van Orden v. Perry*, and strike down their placement on the walls of state courthouses in Kentucky, *McCreary County v. ACLU*.

Some argue that these decisions must be guided by, if not be based upon, the beliefs of our forefathers who purportedly founded our country as a "Christian nation." Others point to the historical record and argue that our most influential founders were at most Deists if not altogether secular in their views and that they intended that government have no role toward religion whatsoever.

The proponents of these different views are not always aligned together. Some of the strongest advocates for overturning or limiting *Roe v. Wade* are also some of the strongest advocates for a strict separation of church and state, opposing the entanglement of state and religion in any form.

Which group is correct? Why is there no unanimity on this issue? How did this seeming inconsistency of position and the "inconsistent" alignment of different religious groups arise? Is this debate about issues related to political science, political philosophy, or theology or some combination of all three?

Steve Waldman explores these questions in *Founding Faith* by examining four primary subjects. They are: (1) the history of the formation of the original 13 colonies and the roles they originally took toward different religions first as colonies and later after they declared their independence from England; (2) the religious views of five of our most influential founding fathers - John Adams, Benjamin Franklin, George Washington, Thomas Jefferson, and James Madison - and their evolving views about their individual religious beliefs and the proper role of the state and federal governments toward religion; (3) the use of state taxes to support state-sponsored clergy, the state persecution of certain religious groups by the state, and the singular adoption of the Virginia Statute for Religious Freedom; and (4) the inclusion and adoption of the free exercise - establishment clause of the First Amendment.

Waldman's approach to these subjects is original and

engaging. His recreation of the period, his historical summaries of each colony's official position toward religion, and his profiles of these founding fathers and their contemporaries such as Samuel Adams and Patrick Henry bring this era of our history to life as vividly as any of the works of David McCullough or Joseph Ellis.

Waldman's description of James Madison's legislative skills in obtaining the passage of the Virginia Statute of Religious Freedom and his description of Madison's role in authoring the free exercise - establishment clause are altogether fascinating. Although Jefferson famously wrote the Virginia Statute of Religious Freedom in 1779, Jefferson was Washington's ambassador to France when the Virginia Legislature enacted the Statute in 1785. Madison's skilled maneuvers as a member of the Virginia Legislature led to its adoption. Madison is author and floor leader for the free exercise - establishment clause, and the reader comes away with a renewed appreciation for Madison's role as the "Father of the United States Constitution." These two accounts of Madison's activities are worth the price of the book alone.

Waldman contends that neither camp is correct about the collective views of the founding fathers regarding the proper role of government toward religion. Based on the education that Madison received at the College of New Jersey - now Princeton - and the influence of its President, the Reverend John Witherspoon, and Madison subsequently seeing Baptists being persecuted for their religious beliefs in Virginia, Waldman makes a persuasive case that Madison became the advocate of the free exercise - establishment clause because he believed that barring the federal government from adopting or supporting any one religion, that is, leaving religion alone, would have the ultimate effect of promoting all religions and all religious faith as opposed to any particular set of religious beliefs.

In Madison's day, the majority of Americans were not members of any organized religion, and they did not attend church on a regular basis. While the reasons for this may have been multi-faceted, this is no longer the case today.

One of the most precious individual liberties enshrined in our United States Constitution as adopted and amended by its framers - and as it has been interpreted by the United States Supreme Court - is freedom of conscience. As Justice Jackson wrote in 1943 in *Barnette v. West Virginia Board of Education*, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." One leaves Waldman's book convinced that the framers of our Constitution, and in particular the five framers profiled in this book, would firmly agree with this pronouncement because of their common belief, forged by their diverse experiences, that the individual's quest for political and spiritual freedom is insatiable and requires absolute freedom of conscience.

## REMINDER

The Hinds County Bar Association

October Luncheon Meeting

will be held

Tuesday, October 21, 2008

at 12:00

Speakers:

Jere Nash and Andy Taggart

The cost is \$15.00 for lunch

Capital Club

19<sup>th</sup> Floor

Capital Towers Building

No reservation necessary

continued from page 3

coddled criminals was never true. Federal courts of appeal hear post-conviction challenges to death penalty convictions. One study showed that over a 20 year period, federal appellate courts set aside 27% of the Louisiana death penalty convictions they reviewed, 45% of the Alabama convictions they reviewed, and 71% of the Mississippi convictions they reviewed. In other words, the Mississippi Supreme Court was much more likely to affirm a constitutionally defective murder conviction than the appellate courts of the neighboring states of Louisiana or Alabama.

If anything, the U.S. Supreme Court now seems determined to make the judicial election problem worse. It has continued constitutional protection for independent "issue advocacy" that does not expressly seek votes for a candidate. It held unconstitutional federal legislation which classified any advertisement that mentioned a candidate's name as a contribution to a candidate's campaign. So now organizations on all sides can advertise at will so long as they do not say "vote for" their favored candidate. The state cannot stop an independent group from spending a million dollars to broadcast any claim that will pass scrutiny of the libel laws. To take a historical example, the claim could be as scurrilous as the alleged attack line from the "Red Pepper" campaign in Florida: "The opponent's sister is a thespian in wicked New York."

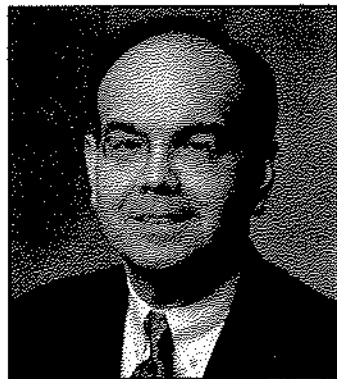
The U.S. Supreme Court has also held unconstitutional ethical restrictions that prohibited judicial candidates from espousing controversial political positions during their

campaigns. It even refused to set aside a ruling that struck down the traditional prohibition against a judicial candidate taking money directly from a contributor. It has done so in the defense of what it calls truthful speech. But judges have to take an oath to be impartial. If a candidate uses evident partiality to gain votes, the candidate is either going to honor his election promises and violate his oath, or break his promises and adhere to his oath. One is perjury, and the other is lying.

The obvious alternative is to appoint judges rather than to elect them. Courts play an important constitutional role as peacekeepers. As University of Chicago law professor Karl Lewellyn once wrote, "[D]oing something about disputes [and] doing it reasonably, is the business of the law." Courts' ability to keep the peace depends, among other things, on whether parties to cases believe they have been treated fairly and on the respect that parties and the public have for the courts. Elections of the type Grisham depicts will make parties cynical and rob the courts of respect they would otherwise merit. Appointment does not take the politics out of judicial selection, but it does make the politics operate on a higher plane.

Grisham has now sold 10 million books. He obviously has an eye for a trend. The Chief Justice of the Mississippi Supreme Court recently endorsed a switch to an appointed appellate judiciary for the state. Perhaps if a constitutional amendment to that effect comes to a vote, Grisham the publishing baron will finance a political campaign and make it happen. Truth, after all, can be stranger than fiction.

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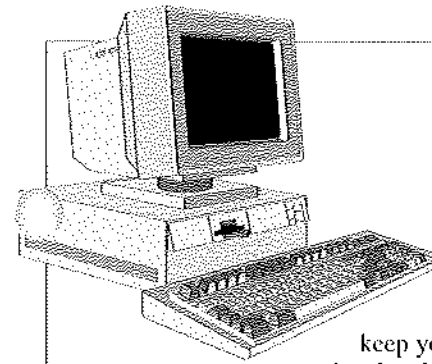
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## On Computing

by Joel Howell

PC Magazine says there are ten sites that you must check every day:

CNN, [www.cnn.com](http://www.cnn.com), will keep you up-to-date on regional, national and world news, politics, finance, technology, entertainment, and many other important things. Guaranteed to make you sound well-informed at any water cooler conversation.

ESPN, [espn.go.com](http://espn.go.com), will supply you with all the latest game scores, player stats, and sports news.

TMZ, [www.t TMZ.com](http://www.t TMZ.com), will help you escape from your dull life by filling your mind with celebrity sightings, gossip, and news.

Cute Overload, [www.cuteoverload.com](http://www.cuteoverload.com), will give you many cute new things to email to your friends and co-workers. After all, no one can have too many pictures of adorable animals doing weird things. Did you see the one of the sniper kittens?

Engadget, [www.engadget.com](http://www.engadget.com), will fulfill even the biggest techie's desires for technological news and snarky commentary.

Slate.com, [www.slate.com](http://www.slate.com), will provide you with a great analysis of the top political and cultural stories of the day.

CollegeHumor, [www.collegehumor.com](http://www.collegehumor.com), rounds up the funniest posts, videos, and photos from the Web. Most of the time it's NSFW (not safe for work).

Twitter, [www.twitter.com](http://www.twitter.com), arguably the first microblogging/moblogging site that lets you tell millions of users what you're up to or what's on your mind.

The Consumerist, [www.consumerist.com](http://www.consumerist.com), offers reviews to let you know when a tech product is flawed or an online service doesn't work as it should. When customer service reps refuse to listen and restaurants are overcharging for their meals, you can read about it here.

Facebook, [www.facebook.com](http://www.facebook.com), is a great way to keep in touch and organize get-togethers.

What are your must-surf dailies?

The same authority regards these web sites, among many others, as classics:

Google Calendar, [www.google.com/calendar](http://www.google.com/calendar),

lets you add text message reminders, Gmail integration, and event importing from Outlook to give yourself a free killer calendar app.

Yahoo! Mail, [mail.yahoo.com](http://mail.yahoo.com), Yahoo!'s Editors' Choice-winning revamp that is feature-packed.

Boing Boing, [boingboing.net](http://boingboing.net), a group blog which is the daily destination for those interested in the "wonderful things" (and sometimes horrible things) posted by its four editors.

Rotten Tomatoes, [www.rottentomatoes.com](http://www.rottentomatoes.com). If you're going to spend your hard-earned money on a movie, get all the critical feedback you can first. This site aggregates all the reviews it can find.

You Tube, [www.youtube.com](http://www.youtube.com), an easy online spot for sharing videos. YouTube has become a household name and the primary destination for video sharing.

Web MD, [www.webmd.com](http://www.webmd.com), WebMD and its Symptom Checker are probably the best tools available to budding hypochondriacs and even real sick people to get a handle on what's wrong without seeing a doctor.

Dictionary.com, [www.dictionary.com](http://www.dictionary.com), the free destination on the Web for dictionary searches. It's packed with other tools, like thesauri, encyclopedias, translators, and much, much more.

Do you consider these classics?

Questions or comments? Email [webmaster@hindsbar.com](mailto:webmaster@hindsbar.com).

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## Hinds County Chancellor Dewayne Thomas

by Kate Margolis

An early love of law and politics has defined the career path of new Hinds County Chancellor Dewayne Thomas. His roots are here in south Jackson, where his dad was a contractor in the construction business, and where Thomas, along with his brother and sisters, attended Whitten Junior High and Central High School.

Thomas decided in "eighth or ninth grade" to become a lawyer, in part due to the encouragement of his history teacher, Gabe Green. Thomas suspects that Mr. Green may have also inspired some of his Whitten Junior High contemporaries, including state circuit court judges Bobby DeLaughter and Lamar Pickard, and chancellors John Grant and Larry Buffington. (Although Judge Thomas points out that he is "a little younger" than some of these fellow judges.)

As an undergraduate at Ole Miss, Thomas began immersing himself in national and state politics. He secured a job as a full time "senior page" for the state senate during the legislative sessions, making up his classes in the summer, during the fall semester, and at night. It was during this time that he came to admire such venerable statesmen as Evelyn Gandy and Charles Pickering. Thomas made up his mind then that he would run for political office one day.

From Ole Miss, Thomas went straight to the Mississippi College School of Law, where he was drawn to trial practice. After graduation in 1980, he rented an office in Jackson from lawyer Roland Lewis, who had a "plaintiff's practice." Lewis served as a mentor. Thomas credits Lewis with teaching him "how to try a case." In 1981, Thomas bought a building on President Street, hanging out his shingle where it would remain throughout his law career.

Thomas's law practice consisted of "a lot of everything," including divorces, car wrecks, bankruptcies, and mass tort claims. While he never took on a partner, he associated with other lawyers, as needed, and employed four to five staff members. To law students and lawyers considering a solo practice, Thomas advises to "keep overhead low, work hard, meet as many people as you can, and get to know a lot of lawyers." He notes that "most of his business came from other lawyers." He also emphasizes the importance of being "available" to clients.

As he was beginning his law career in the early 1980s, Thomas did not forget his other love – politics. He lost his



first run – for a seat in the state house of representatives. When he got elected the next time, Thomas was one of the youngest legislators in the house, at 25 years old. He went on to serve three terms in the house and nine years in the state senate.

Thomas ran his first campaign for \$4,000. Having grown up in the district he sought to represent, Thomas says he always "tried to run a personal campaign." He observes that while political races today are more media-driven, partisan and expensive – and a lot of "hard work" – the interaction with people can be very "rewarding." He encourages would-be office-seekers to "get involved in the community."

What some might call a charmed legal and political career reached a wrenching turning point in 2003, when he and his wife,

Linda, lost one of their two sons to a car accident. In 2004, Thomas lost his state senate seat in a re-vote of the November 2003 race, in which he had been certified the winner. Thomas describes 2003 and 2004 as the "most difficult" years of his life.

Thomas says he sought his current position on the chancery court because he "needed a change." When "he heard Judge Robinson was not running" for re-election, Thomas "went to see him and told him he was interested." At that point, Thomas had a long law career under his belt and "knew his experience as a lawyer would help him as a judge."

Thomas says the transition from practicing lawyer to judge has been a good one, due in part to his familiarity with the types of cases he hears. "I probably tried one like it," he says. The high-profile nature of some of the cases he has presided over – such as the case involving a local crematorium allegedly mishandling remains and another involving a troubled Jackson nightclub – has not fazed him at all. Thomas says he has found his work enjoyable and interesting.

Judge Thomas loves to play tennis and does so "almost every day." His wife sometimes joins him. Rather than follow his father into the law, Thomas's son, David, chose the construction business. Thomas says he will continue to recommend a law career and agrees that it is never too late to make a change. Although he got a remarkably early start in both law and politics, Thomas's career epitomizes the truism that if you do what you love, success will follow.

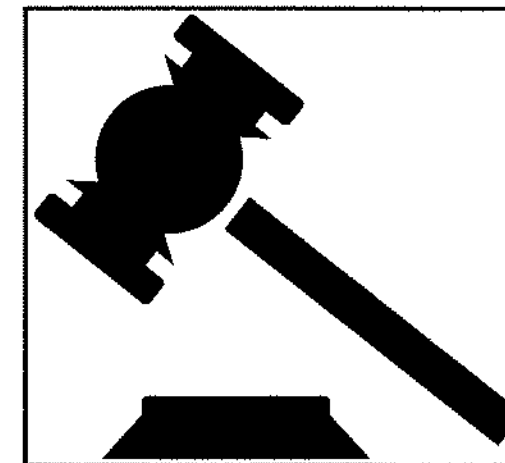


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## David W. Clark, is on the ABA Standing Committee

David W. Clark, a partner with Bradley Arant Rose & White LLP, was recently appointed as the Fifth Circuit representative on the ABA Standing Committee on the Federal Judiciary. David's term on the Committee officially began on August 12, 2008, at the conclusion of the ABA's Annual Meeting.

The ABA Standing Committee on the Federal Judiciary performs in-depth peer reviews and evaluations of Article 3 nominees to the United States Supreme Court, Circuit Courts of Appeal, District Courts, and the Court of International Trade; and of Article 4 nominees to the Territorial District Courts for the Virgin Islands, Guam, and Northern Mariana Island. The Committee is comprised of 15 members, including two members from the Ninth Circuit, one member from each of the other Federal

Circuits, and a Committee chair. Members to the Committee are appointed for staggered three-year terms by the President of the ABA. No member is allowed to serve more than two terms. Committee members are appointed based on legal experience, background, professional stature, and integrity.

David is the first Mississippi attorney to serve on the Committee since the late Sherwood Wise served on the Committee from 1969 through 1975. David said he feels he can be of real service to the profession, state, and country in his work on the Committee.

More detailed information on the functions of the Committee and the responsibilities of the Committee Members is available at the following website: [http://www.abanet.org/sefedjud/federal\\_judiciary07.pdf](http://www.abanet.org/sefedjud/federal_judiciary07.pdf)

## HCBA 2008-2009 Board of Directors



Serving on the HCBA 2008-2009 Board of Directors are: (seated) Roy Campbell, Secretary-Treasurer; Susan Tsimortos, President; David Kaufman, Past President; (standing) Directors: LeAnn Nealey, Alex Purvis, Tammra Cascio, and Sharon Bridges. Not pictured are: Tom Alexander, President-Elect; and Directors: Collins Wohner and Corey Hinshaw.

continued from page 7

Congress, wanting to create two states of more or less equal size, split the land south of the 31° by a due north line to a point at the northwest corner of the then Washington county, Alabama. From this corner the line veered northeasterly to the Tennessee River and then northwesterly following the Tennessee River to the 35° (south line of Tennessee.) This created two states which are near mirror images in size and shape. Mississippi was admitted to the Union in 1817 and Alabama in 1819.

Prior to 1990 the Mississippi Constitution, Article 2, Section 3, contained a course and distance description of the boundaries of Mississippi beginning "on the Mississippi River where the southern boundary line of the state of Tennessee strikes the same." The description ultimately extends easterly and southerly to include "all the islands within six leagues (18 miles) of the shore." The description continues up the Pearl River, west along the 31° and then up the Mississippi River to the point of beginning.

Miss. Code Ann. §3-3-1 provides that the borders of the State of Mississippi are "as fixed in Section 3 of the Constitution of the state."

The current edition of the Mississippi Code of 1972 at Article 2, Section 3 of the Constitution of Mississippi contains a notation that Section 3 was repealed by Laws 1990, Chapter 692, effective December 19, 1990.

Does this mean the State of Mississippi has no borders?

## Nominees for election to The Mississippi Bar Board of Commissioners, representing Posts 4 and 5 of the Seventh Circuit Court District, were recently submitted to The Mississippi Bar.

Those nominees are:

**Post 4 - Luke Dove and Jimmy Wilkins**  
**Post 5 - Katie Hester and Leyser Hayes-Morris**

The election will be conducted in January 2009 and the winner will serve a three (3) year term beginning at the adjournment of the 2009 Annual Meeting in July. Members of the Nominating Committee, appointed by Rodger Wilder, president of The Mississippi Bar, were: R. David Kaufman; Amanda Green Alexander; Linda A. Thompson; and Roy D. Campbell, III.

## MISSISSIPPI Filing Systems

Office space is a valuable commodity. And today, no business has enough of it. According to national statistics, the **average cost of a square foot of office space** in 2006 was **\$1.78 per month**. That means that the space for an average office trash can costs you almost \$2.00 per month; the average desk chair, \$6.00; the average desk, \$36.00...you get the idea.

But it also means that the **average box of business records** that's sitting by your desk or in your closet or stacked down the hall costs you **\$2.00 or more per month to store in your office!** This same box of records would cost you approximately **\$0.25 per month to store MS Filing Systems.**

And in addition to our **professionally-managed, off-site records storage**, we also offer **computer back-up tape storage and rotation, certified destruction of office waste paper, scanning services** where we take your documents and scan them into a digital format and give the data to you on DVDs, **sales and installation of scanning systems** and train your personnel to scan your documents, and sales of a variety of **shelving solutions** that saves space and provides better access to your records--we offer it all!

Please call Vincent Coleman today at 601-948-3753 and let us help you solve your space problem

# MISSISSIPPI COLLEGE LAW LIBRARY HOURS

August 20, 2008 – December 19, 2008

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

## EXCEPTIONS

### Thanksgiving / Fall Break

Friday (Nov. 21st)	7:30 a.m. - 5:00 p.m.
Sat. & Sun. (Nov. 22th & 23rd)	CLOSED
Mon. & Tues. (Nov. 24th & 25th)	7:30 a.m. - 5:00 p.m.
Wed. (Nov. 26th)	7:30 a.m. - noon
Thurs. - Sat. (Nov. 27th - 29th)	CLOSED

## Exam Schedule

### November 30th - December 16th

Monday - Friday	7:30 a.m. - 1:00 a.m.
Saturday	9 a.m. - 1:00 a.m.
Sunday	noon - 1:00 a.m.

### December 17th - December 19th

Wednesday - Friday	7:30 a.m. - 5:00 p.m.
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*Hours subject to change without notice.  
For more information call the Circulation Desk at 601-925-7120.*

Mississippi College School of Law Library  
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## HINDS COUNTY BAR ASSOCIATION

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Correspondence regarding the newsletter should be directed to: HCBA Newsletter Editor, 151 E. Griffith Street, Jackson, MS 39201. Letters to the editor must be signed, but the writer's name will be withheld upon request. Telephone inquiries should be made to the Executive Director at 601-969-6097. The web site address is [hindsbar.com](http://hindsbar.com).

**Hinds County Bar Association, Inc.**  
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**IMPORTANT**  
**HCBA Luncheon meeting**  
**Noon, October 21**