CABA
Capital Area Bar Association

AUGUST 2013

President's Column

New CABA Team in Place & Committees Forming as New Year Begins

By Collins Wohner

Welcome to a new fiscal year for CABA — our 81st. The board has a new team in place. Congratulations and thanks go to David Maron on the completion of his term as president. David went consistently beyond the call of duty in his service to the association during his term. Fortunately, he has already demonstrated the same dedication and generosity in his continuing service as past president. With David's hard work and good help, his successor may do little harm.

Congratulations and thanks go also to retiring board members Scott Jones and Rob Mink on the completion of their terms. Scott has been invaluable to the association for many years as our guide to website development and all things technical. Scott's efforts earned him CABA's Outstanding Service Award, bestowed at the Evening Honoring the Judiciary in May, and a lifetime appointment (if he should decide to accept it) as CABA's technology czar (or whatever title he prefers). It is not clear how we would function without him. Rob did good service to the board as well, particularly in representing the interests of the criminal defense bar. We hope he won't be a stranger.

The very talented and delightful Amanda Green Alexander has completed her term as secretary-treasurer and assumed the office of vice president and president-elect. Amanda rendered exceptional service as treasurer, spearheading efforts to modernize our bookkeeping and reporting systems. Her considerable experience and insight, her energy, and her generosity with her time and talents are a great asset for the association. CABA will be in good hands next year.

Mike Malouf, Jr., has joined the board as secretary-treasurer, placing him in line to be president in two years. Mike also brings a wealth of experience with bar and other non-profit associations. He and Amanda will make a great team.

Tiffany Graves and Troy Odom were elected to take the open board posts to succeed Scott and Rob. Tiffany is hardly a new face. She has served on the board for the last two years in ex-officio seats as president-elect and then president of Jackson Young Lawyers. With her election to director post 2, she traded one

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Inside

Upcoming Events

October 15

Membership Meeting • Capital Club
Speaker: Adam Kilgore
General Counsel of MS Bar

The views expressed in the articles published are solely those of the authors and do not represent the views of CABA, its officers, directors, or staff.

CABA Membership Luncheon *Meeting*

August 20, 2013 @ 12:00 Noon

Capital Club • 19th Floor of Capital Towers Building
Speaker Dean Richard Gershon: University of Mississippi School of Law

$15 Lunch

$15 for members & law clerks
$18 for guests

board hat for another. Troy joins the board after a number of years of dedicated work as co-chair of the pro bono committee. And finally, Lindsay Thomas has joined us this year in the ex officio post of president-elect of Jackson Young Lawyers. She's a great addition.

Continuing their terms in posts 3 and 4 are Meade Mitchel and Kate Margolis. Meade has been exceptionally dedicated to the association for years, most recently in his excellent work as program chairman. He is now turning his attention to building membership. Kate remains an invaluable asset with her diligent work on the newsletter committee. And fortunately, Michael Bentley's good sense and wry wit will be available to us again from his ex-officio seat as president of Jackson Young Lawyers. Finally, all of us are grateful for the continuing guidance of our esteemed executive director, Pat Evans.

So there's the board team for this year. Let us know your ideas for ways CABA can better fulfill its mission of service to the profession and the community. Better yet, join a committee and help out. A list of committees is available on our website www.caba.ms. Call or email a committee chair, an officer, a board member, or Pat Evans to volunteer.

Those who were unable to attend the Evening Honoring the Judiciary in May missed a fine and well-attended event. We are grateful to the 113th Military Police Company of Mississippi Army National Guard, Brandon, for presenting the colors, and to Reverend George Woodliff, Rector of Trinity Episcopal Church in Yazoo City, and Reverend David Hederman, Pastor of Grace City Church in Jackson, for offering the opening and closing prayers. Boy Scout Barry Wayne Howard, II, demonstrated poise beyond his years leading us in the Pledge of Allegiance and in his presence throughout the evening. It was a pleasure meeting him. Judge Kent McDaniel delighted and instructed us with his magnificent voice presenting the *fourth* verse of the National Anthem. Why the fourth verse? Because, Judge McDaniel taught us, the fourth verse answers the questions posed in the first. It's worth a read.

Judge Leslie Southwick presented the JYL/CABA Judicial Excellence Award to Judge Grady Jolly with a combination of wit and wisdom worthy of Judge Jolly — no small feat. And Judge James Graves topped the evening off as the keynote speaker with comparable style and grace, sharing his drolly self-effacing and insightful reflections on his experience at the Fifth Circuit. We greatly appreciate Judge Graves's willingness to serve as keynote speaker for this year's dinner.

Congratulations go to all the award winners not yet mentioned: Warren Martin (JYL Pro Bono Award); Nakimuli Davis and Roslyn Griffin (JYL Outstanding Service Award); Patti Gandy and Tiffany Graves (CABA Pro Bono Award); Robert Gibbs and David Kaufman (CABA Professionalism Award). And finally kudos go to David Maron, Gretchen Kimble, and Pat Evans for planning and organizing the evening. Many thanks are due to Gretchen for agreeing to chair the planning committee again next year. Please let your interest be known if you would like to join the committee, or if you have ideas for a keynote speaker for next year's event.

We have a date and place for the 22nd Annual CABA Golf Tournament: Monday, April 28, 2014, at the Jackson Country Club. That's after tax day and Easter and with some weather luck, should be an opportune time to escape the office. Brad Moody has volunteered to chair the committee this year, following up on the good work by former committee co-chairs Mary Margaret and Kevin Gay over the last two years. The tournament is a chance for fun and fellowship for those of you blessed with a competent golf swing. For the rest of us, it is a chance to support a good cause — the Mississippi Volunteer Lawyers Project. All tournament proceeds go to support the MVLP. Please consider supporting the cause by signing up to help the committee sell sponsorships to likely suspects. You might even consider springing for one yourself (hole sponsorships are a bargain at $150).

Join a Committee!

Let us know your ideas for ways CABA can better fulfill its mission of service to the profession and the community. Better yet, join a committee and help out. A list of committees is available on our website www.caba.ms

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2013 HOLIDAYS

September (1st Monday)	Labor Day
November 11th	Armistice / Veteran's Day
November 25th	Thanksgiving Day
December 25th	Christmas Day

BOOK REVIEW

of "Point Made: How to Write Like the Nation's Top Advocates"

Vicki Lowery

Sam Gregory

Written by Vicki Lowery with research assistance by Sam Gregory

Unlike sports or popular music, advocacy writing doesn't evoke a hit list of heroes; but it if did, Ross Guberman would certainly be one of them. His must-read book *Point Made: How to Write Like the Nation's Top Advocates* is not an ordinary legal writing book. It doesn't tell you how to write better briefs: it shows you how to do it. *Point Made* offers step-by-step instructions that "reveal the craft" behind great legal writing.

Taking an empirical approach, Guberman identifies fifty of the most renowned and influential advocates and analyzes their writings. His list of super-star advocates includes John Roberts, Elena Kagan, Ruth Ginsberg, Frank Easterbrook, Barack Obama, Laurence Tribe, Ted Olsen, David Boies, Eric Holder, Maureen Mahoney, and Alan Dershowitz.

What makes their writing so persuasive? Guberman assures us that it's more "science than art." By dissecting hundreds of their motions and briefs, Guberman has spotted patterns in their work. In *Point Made*, he describes those patterns in specific, learnable techniques that demystify what makes good legal prose so compelling.

Guberman settles on fifty concrete techniques for more effective brief writing that span from the opening paragraph to the final footnote. The writing techniques are grouped according to the section of the brief where the techniques are most likely to be used. For ease of reference, each writing technique is listed separately in the Table of Contents.

Point Made is divided into five sections: (1) creating a theme and a compelling introduction (The Theme); (2) laying out the facts and crafting a narrative (The Tale); (3) structuring your argument (The Meat); (4) livening up your style (The Words); and (5) crafting a strong conclusion (The Close). In each section, Guberman offers multiple techniques for enhancing that portion of the brief as well as numerous real world examples of how those techniques have been used by some of the best legal writers in the nation.

To help you develop the theme of your case and craft a compelling introduction, for example, Guberman shares techniques in Part One (The Theme) like *Brass Tacks*, *The Short List*, *Why Should I Care?*, and *Don't Be Fooled*. And, as another example, in Part Two (The Tale), Guberman offers several techniques to make the fact section more persuasive including *Panoramic Shot*; *Show, Not Tell*; *Once Upon a Time*; and *Headliners*.

Point Made starts out, logically enough, with four chapters on how to write a compelling introduction. It conveniently gives you a checklist:

1. *Brass Tacks*. Start out by telling the court who, what, where, when, and why.
2. *The Short List*. List the three or four points that you'd make to a judge who gave you sixty seconds to explain why you should win. And use the word "because" in each point (at least in your first draft) to make sure that you're operating at the requisite level of specificity.
3. *Why Should I Care?* Explain why the court should feel good about ruling your way.
4. *Don't Be Fooled.* Draw a line in the sand between two competing views of the dispute (e.g., "This is not a case about x.").

But it's in the details that Guberman truly excels. Concerning point three, *Why Should I Care?*, he identifies three fundamental judicial fears that an advocate can manipulate to grab the court's attention:

- The fear of misconstruing a statute or doctrine;
- The fear of creating new duties, rules, or defenses; and
- The fear of reaching an unfair result or causing harm.

He then gives multiple examples of superstar advocates skillfully using each technique in various briefs.

As one real-life example of a great opening *Brass Tacks* passage, Guberman spotlights Eric Holder's brief in *In re Chiquita Banana*. Holder, then in private practice at Covington & Burling, litigated a high-profile civil case involving bananas, American missionaries, and extortion in Colombia. He started his introduction to a motion to dismiss with a *Brass Tacks* paragraph telling the court *who* the parties are, *what* happened to the plaintiffs and *when* and *where* it happened, *when* they brought their claim, *what* they want, and *why* they should get it. Holder also squeezes in what the claims are *not*, highlighting the weakness of the plaintiffs' case.

Plaintiffs in this action are relatives of five American **missionaries** who were abducted for ransom and tragically **murdered** in the **mid-1990's** by a communist **guerilla group** in Colombia, known as the Fuerzas Armadas Revolucionarias de Colombia. Now, **more than a decade later**, they seek to hold **Chiquita Brands** International, Inc. liable for those deaths under the Antiterrorism Act, and Florida and Nebraska tort law. There is **no allegation**, however, that **Chiquita was**

involved in the kidnapping and murder of the decedents, that **Chiquita intended** that these despicable acts occur, or that **Chiquita even knew** about them until plaintiffs brought this lawsuit. Instead, plaintiffs allege that Chiquita is liable for decedents' deaths solely because Chiquita's former Colombian subsidiary made **payments extorted** by the FARC **when** this radical **Marxist group controlled** the remote banana-growing regions of Colombia in which Chiquita's subsidiary operated.

Guberman also advises that the facts in a brief should read like narrative non-fiction, a bit like something you'd read in the *The Atlantic* or *The New Yorker*. As an example of effective fact writing that lets your facts "show, not tell," Guberman offers the following example from Chief Justice John Roberts written when he was a practicing lawyer. Watch how Roberts explains the way the Red Dog Mine, the accused polluter in *Alaska v. EPA*, got its name:

> *For generations, Inupiat Eskimos hunting and fishing in the DeLong Mountains in Northwest Alaska had been aware of orange-and-red-stained creekbeds in which fish could not survive. In the 1960s, a bush pilot and part-time prospector by the name of Bob Baker noticed* ***striking discolorations*** *in the hills and creekbeds of a wide valley in the western DeLongs. Unable to land his plane on the rocky tundra to investigate, Baker alerted the U.S. Geological Survey. Exploration of the area eventually led to the* ***discovery of*** *a wealth of zinc and lead deposits. Although Baker died before the significance of his observations became known, his* ***faithful traveling companion — an Irish Setter who often flew shotgun*** *— was immortalized by a geologist who dubbed the creek Baker had spotted "Red Dog" Creek.*

Guberman prompts the reader: Why would Roberts mention an Irish Setter? What does a shotgun-flying dog have to do with the Clean Air Act or administrative law? Roberts is litigating a classic federalism fight between the states and the federal government. Who knows what a mine means to nearby residents better than the local and state officials close to the ground?

In Part Three (The Meat), Guberman, also an award-winning journalist, notes that strong headings are like good newspaper headlines: they give you the gist of what you need to know and draw you into text you might otherwise skip. Guberman analogizes the headings and subheadings of great advocates to one of those Russian nesting dolls. As you open each wooden figure, you find a smaller version of the same doll inside. Similarly, as various headings and subheadings get "smaller" and more detailed, they build back toward their larger and broader siblings.

> ***"The general consensus about legal writing — even substantively sound work — is that it is boring and hard to read. Guberman proposes four reasons for this perception.***

To see such nesting in action, Guberman offers an example from former ABA President Carolyn Lamm nesting three levels to explain why a parent company should be subject to personal jurisdiction in Virginia based on both its business activities and its relationship to one of its subsidiaries:

I. Barceló GH is subject to **personal jurisdiction** in Virginia.
   A. Barceló GH conducts **business in Virginia**.
   B. Barceló GH is subject to jurisdiction in Virgina **through its wholly-owned subsidiary and alter ego** Barceló USA.
      1. The tribunal's finding that Barceló GH is indistinguishable from Barceló USA should be given preclusive effect.
      2. Barceló GH's corporate merger activities in Virginia are further evidence that is indistinguishable from Barceló USA.
      3. Overlapping corporate officers and directors underscore that Barceló USA is an alter ego of Barceló GH.

In this example of effective nesting: A and B prove I, while 1, 2, and 3 prove B. And these headings and subheadings pass the old test: Could a judge skim your headings and subheadings and know why you should win? Yes, definitely. Moreover, these headings explain where the brief is going and provide signposts along the way.

Another technique which focuses on structuring the paragraphs in each section of the brief is called *Wish I Were There*. Guberman instructs you to start each paragraph by answering a question you expect the court to have. According to Guberman, the best advocates "sense that judges have predictable questions" such as: What is the standard? How does it apply? Has any other court done what you're asking us to do? What about the other side's points? And what's the bottom line? Guberman demonstrates that effective legal writing answers these questions using clear, comprehensible prose.

After writing the argument portion of a brief, consult Part Four (The Words). This section focuses primarily on language usage, sentence structure, and punctuation. The general consensus about legal writing — even substantively sound work — is that it is boring and hard to read. Guberman proposes four reasons for this perception: (1) law is dense and dry; (2) lawyers tend to adopt a haughty style; (3) tips on improving writing style are too general (*e.g.* "be clear"); and (4) writing tips are usually framed in the negative — avoid this, don't do that, etc. — as opposed to empowering tips on how to write effectively.

To combat these flaws, Guberman offers seventeen techniques for improving your writing style. He offers tips to liven up the language in a brief to add colorful verbs, confident tone, figures of speech, and the like. "Hoodwink," "pigeonholed," and "thwart" are just some of the "zingers" pulled from excerpts of top advocates' writings. Such language makes a powerful point and grabs the reader's attention.

Another effective technique for catching a reader's attention is use of analogies. Take the following excerpt from Nancy Abell's brief in the case of *Dukes v. Wal-Mart*:

> *[T]he district court concluded that their pay and promotion claims were representative of those that might be asserted under Title VII by each and every female Wal-Mart*

store employee in the United States over a six-year period—more than 1.5 million women, ***a group that outnumbers the active duty military personnel in the Army, Navy, Marine Corps, and Air Force combined. The size of the putative class exceeds the entire population of at least 12 of the 50 States****.*

Paints a powerful picture, doesn't it? Such analogies and illustrations can be added after the majority of a brief is complete.

Varied sentence structure is another technique Guberman has drawn from the top fifty advocates. Sometimes sentences have no choice but to be long, and Guberman cites examples of how to elegantly do so. But less is more in many instances. A short introductory clause or sentence may be all that is needed.

Every year in my appellate advocacy course, I stress this idea to students. I challenge students to tell a story in six words or less. One example I always give comes from Ernest Hemingway:

"For sale: baby shoes, never worn."

The depth of this message compared to its brevity is astounding. Guberman has compiled nearly twenty excerpts using this technique in various legal settings. Many of the examples end with a short "pithy" sentence such as "That is false." Or "That is not the law." But short sentences can be used just as effectively in an opening remark such as "The jury got this case right."

Point Made also highlights the topic of punctuation. First and foremost, punctuation must be used correctly. Even the most basic punctuation such as a comma can tremendously alter the meaning of a sentence if used incorrectly. A common example is "let's eat grandpa," versus "let's eat, grandpa." Obviously the latter was intended, but missing a simple comma can have grave consequences.

Beyond the basics, there are many other punctuation marks that are frequently used incorrectly. How to correctly use colons, semicolons, em dashes ("—"), en dashes ("–"), and hyphens ("-") are all illustrated in *Point Made*. Guberman also shows how the nation's top writers not only use punctuation correctly, but also to add a "dash of style" to their writing.

Guberman challenges you to gauge your brief's readability. He instructs you to go to your Microsoft Word Options command and check "Show readability statistics" under the Proofing tab. To clarify Guberman's instructions, I (eventually) discovered that the readability statistics will show up on the last pop-up screen after you run a Spelling and Grammar Check. Within these statistics, you'll find all sorts of metrics you can use to make your writing more readable.

Aim for these numbers, and Guberman predicts your writing will approach that of some of the nation's best technical writers:

- Fewer than 27 average words per sentence
- "Flesch reading ease" score above 30
- Less than 20 percent of your sentences are passive

For comparison purposes, Guberman's introduction to *Point Made* has eighteen words per sentence on average and a reading ease score of 60. And this book review has 18 words per sentence on average and a reading ease of 56.

So what's the best way to use the book? The book is organized so that you can read it through as you might a novel from cover to cover, read relevant sections as you work on particular portions of a brief that are giving you trouble, or read the writing of particular lawyers that you admire. Having trouble approaching your statement of facts? Go to the index and look for the most fitting topic under The Tale. Struggling with how to distinguish the authorities cited by your opponent? Review the techniques under the heading *Distinguishing* such as *Not So Fast: Show that the case doesn't apply as broadly as your opponent suggests*. Enamored with John Roberts's writing style? Look for his name in the index. Whatever your goal, *Point Made* is sure to provide practical advice as well as inspiration.

Point Made is a must-have book for every litigator's library. It should not be read once and placed on a shelf to collect dust; instead, it should be a constant companion when you are writing briefs. It's the kind of book you will want to go back to again and again for guidance and inspiration.

Ross Guberman is convinced that if we learn why the best advocates write the way they do, we can import those same techniques into our own work. He offers fifty techniques which he promises will teach you "how to write like the nation's top advocates." He keeps his promise.

CABA June Membership Meeting

Guy Mitchell, President of The Mississippi Bar Association, was the speaker at the June Membership Meeting.

Pictured are: David Maron, 2012-2013 CABA President; Guy Mitchell; Collins Wohner, 2013-2014 CABA President.

On Computing

Focused on the Contemporary Lawyer

By Joel Howell

For several years, the American Bar Association Journal has published its annual Blawg 100. Here are some worthwhile sites that are included in its Hall of Fame.

Abovethelaw.com takes a behind-the-scenes view of the legal world. It gives current news and insight on the profession's most colorful and prominent personas and authoritative institutions. The site also provides unique and innovative commentary on recent developments in the legal profession.

Myshingle.com addresses the wants and needs of solos and small firms, as well as providing insight and advice for those contemplating downsizing. The site offers support and information for a variety of specializations, ranging from corporate practices competing with large firms to part-time attorneys with a family or simply looking to supplement their day jobs. It is currently adding resources for solos looking to expand their businesses. For anyone looking to move to this size practice or fine tune an existing practice, Myshingle is well worth a look.

NewYorkPersonalInjuryAttorneyblog.com, written by Eric Turkewitz, reviews and examines New York cases. While centering on personal injury matters, it also includes reflections on medical malpractice and the civil justice system. Though limited to New York, it still can be worth an occasional view.

Howappealing.law.com is devoted exclusively to appellate litigation. If your practice involves any appellate advocacy, this site can be used to garner needed information and tips on a wide variety of topics from other lawyers. The site blogs cases nationwide, but is limited to the federal system.

Lawprofessors.typepad.com/legal_profession is a blog by academicians from Tulane, Georgetown, and Suffolk law schools on a wide variety of topics such as ethics, law and business, and pro bono work. The posted articles typically supply important "dos" and "don'ts" in the legal profession. This site is perfect if you are weary of possible discipline and are uncertain of how to proceed on any particular issue.

Patentlyo.com is the nation's leading patent law blog, created by associate professors from the University of Iowa College of Law and the University of Missouri School of Law. The site gives up to date information on recent issues such as gene patents and claim-drafting tips. It also provides plentiful info on a wide variety of other topics such as attorneys' fees and disclaimers.

Scotusblog.com is the blog for the Supreme Court of the United States. This site informs on current Supreme Court cases and topics, as well as historical data. It provides statistics on voting patterns for sitting Justices and is useful for historical perspective.

Volokh.com is a group blog posted by mostly law professors. It has posts on any number of topics ranging from Third Amendment cases to the Obama Administration. It even tackles the highly-debated topic of the right to bear arms. If you're just looking for a good read, this is the place to go for topics debated in the news today.

Blog.simplejustice.us is a New York criminal defense blog that does not give "legal advice" because "Legal advice you have to pay for." This site is great for reading legal humor with a broad spectrum of topics. Perhaps its greatest feature is direct links to many other legal blogs, including the others listed in this article.

Robert Ambrogi's lawsitesblog.com posts news and reviews of websites of interest to the legal field. Also included are blogs on technology and social media, as well as advice on marketing.

Questions or comments: jwh3@mindspring.com

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An August Memory

By James L. Robertson

Long hot summers in Mississippi are nothing new. Faulkner did his part with Light In August, though I did not read it until the '60s were long past. We knew of it, and we had read "Dry September," not all voluntarily.

There was the Paul Newman/Joanne Woodward movie we all saw so many times, inspired by Faulkner's work, and that of Tennessee Williams. Before that was *Baby Doll*, which my sister was not allowed to see.

Every (white) Southern boy fourteen years old knew what happened at two o'clock on that July afternoon in 1863.

Then Came the '60s

There was a brooding omnipresence in the Summers of the '60s in the South.

The Freedom Riders had come to Jackson in the Summer of 1961, and then to Parchman. James Meredith entered Ole Miss the next year. And Medgar Evers was murdered on June 12, 1963. Each summer seemed hotter, and a bit longer.

No one had yet dreamt up the idea of starting school before mid-September.

Those of us who grew up in the South in mid-century have our special memories of those days. Of late, we have been forced to relive them, whether we wanted to or not. The Obama presidency has left us less of a choice than we might otherwise have had. Fortuity has played its part, as well.

The Force of Fortuity

This past Spring, through my work with the American Law Institute, I was drawn into a review of the sexual assault crimes chapter of the Model Penal Code. ALI is "restating" rape shield laws in a statutory form (though some like me are insisting that it be done through amendments to the rules of evidence).

Almost without realizing it, I found myself back half a century. Thinking of what might have happened.

The Summer of 1964 was most assuredly a hot one. Meanness and tragedy—and, yes, hope—were afoot, and not just in Neshoba County. I had just completed my second year in law school.

I was back in my home town of Greenville, to work with the firm then known as Keady, Campbell & DeLong, with the understanding that my primary assignment would be to help research and prepare a major price discrimination antitrust case for trial in U. S. District Court.

The second week I was on the job held quite a surprise, a typical small town Mississippi surprise in so many ways.

Not Exactly What a Summer Law Clerk Expects

A man named Dean Loyd held an Allied Van Lines franchise and operated several other businesses based in Greenville. Dean and my father were friends. His oldest son was the same age as my brother, and they were high school classmates and close friends. The Keady law firm did legal work for Dean's assorted business interests.

Like many white families at the time, the Loyds had "help," far beyond that described in Kathryn Stockett's book. Dean had a "yard man" of many years standing, who was practically part of the Loyd family. I don't recall his name, but I will never forget his son, Oliver Lee Williams, then just turned 18 years of age.

The weekend after my first week as a summer law clerk, Oliver Lee was arrested and charged with raping a young white girl. At the time, no one knew of such a case that had not resulted in a death sentence.

Justice was swift in those days. A number of black men had been executed in Mississippi for raping white women in the 1950s, one the night I graduated from high school in 1958. The most recent at the time had died in the gas chamber in May of 1962.

Dean Loyd called Billy Keady [later U. S. District Judge William C. Keady] with a simple plea. "You've got to help save Oliver Lee." Keady hadn't tried a criminal case in years. But, he was close friends with Howard Dyer, the leading criminal defense lawyer in the Delta in those days [and, as you might have guessed, the brother in law of Roy Campbell, another name partner in the firm].

Dyer agreed to defend Oliver Lee, on the condition that I become his loaned servant through the trial. [I had grown up with Dyer's oldest son, who remains a friend.]

Oliver Lee Was No Tom Robinson

Understand that Harper Lee's To Kill A Mockingbird colored my thinking in those days, along with the then recently released Gregory Peck movie. While I found Oliver Lee likeable, it quickly became apparent our client was not the noble innocent Tom Robinson. Our only defense was consent.

Lawyer Dyer worried how a young black man would be perceived by the all white male jury. Dean Loyd told Dyer he understood (via several layers of hearsay) the victim was quite promiscuous. So my first assignment as a summer law clerk was to find witnesses who could testify to that effect.

Yes, in the [white] melting pot typical of so many public schools in the South in those days, I had come to know plenty of rascals, boys who had grown up "on the other side of the tracks," who were regular customers in the Youth Court [as I was], etc. I produced two witnesses, one of whom had had sexual relations with the victim, and the other who simply knew of her reputation for chastity *vel non*. But all were white.

Oliver Lee Williams stood trial for rape in the Washington County Courthouse in August of 1964. I feared the worst. Lawyer Dyer made good with the two witnesses I had found, and, yes, reduced the victim/prosecutrix to tears. His closing to the jury was every bit as good as Atticus Finch's, and more effective. The jury was out forever, and finally hung up 7 to 5 for conviction.

No second trial ever took place. The district attorney had become convinced there was some truth in the consent defense. Oliver Lee remained in the county jail for another year or so, and was released. He headed to California as soon as he could get a bus ticket. I never heard from Oliver Lee again, but I've never forgotten him, nor the small, sordid

role I played in saving his life in that hot Summer of 1964.

A Footnote and a Postcript

There is a footnote, again small town variety. One of the jurors, Sam Neyman, was the father of a boy (now deceased) I had gone to school with from the first grade on. The Neymans lived about four blocks from my home. Through my friend, I visited in the Neymans' home after the trial. Mr. Neyman told me he had voted "guilty", though he believed the prosecutrix probably was promiscuous as we had tried to portray her. "A prostitute has just as much right not to be raped as any other woman."

Shortly after Billy Keady became U. S. District Judge Keady, Dean Loyd's businesses went south. In time, Dean became a U. S. Deputy Marshall, and, in practical effect, Judge Keady's driver and companion in swapping tall tales until the mid-1980s.

A Sobering Reflection

I have no doubt of the sound policy imperatives behind today's rape shield laws. I am confident that ALI's restating effort in the Model Penal Code revisions will reflect well the wisdom and sensitivities of our times.

But there is a thought I cannot escape. If in August of 1964, Mississippi had had a rape shield law like those of today, it is highly unlikely that Oliver Lee Williams would have lived to see his 20th birthday. That we no longer execute the perpetrators of non-fatal sexual assaults does not change the calculus that much, in the era of the Central Park Five, the case of Ronald Cotton and Jennifer Thompson,[1] and many similar but less celebrated miscarriages of justice.

1. See Jennifer Thompson-Cannino and Ronald Cotton, Picking Cotton: Our Memoir of Injustice and Redemption (2009).

Miss. Bar President Guy Mitchell

Well-Rounded in the Law & Life

By John Corlew

New State Bar President Guy Mitchell continues a family tradition of legal service in Mississippi. His grandfather founded the firm now known as Mitchell McNutt & Sams in 1904. His father joined the firm in 1935, and Guy III followed his footsteps in 1972, including succeeding his father as Tupelo's City Attorney.

Mitchell McNutt had 6 lawyers in Tupelo when Guy joined the firm. It now has 34 lawyers with offices in Tupelo, Oxford, Columbus, and Corinth and a work office in Memphis. Guy's leadership has been a significant factor in the stability and growth of one of Mississippi's oldest and most respected law firms.

A more than avid sports fan, Guy has attended more major sports events than most, including sailing's Ryder Cup, college basketball's Final Four, pro football's Super Bowl and golf's Masters Tournament, just to name a few. He follows the Ole Miss Rebels and Vanderbilt Commodores (his law school and undergraduate schools, respectively) and for years was (and may still be) a season ticket holder of the Tennessee Titans. Whether he has attended the Talladega 500 is unknown, but he did exhibit an early interest in drag racing at Tupelo High School. They still talk about when he raced his station wagon against Lloyd Ator. The race road was perpendicular to an elevated railroad track, and the start line was a few yards from the track. The start signal was "stomp." When Guy yelled the signal, Ator — unfortunately — had his car in reverse, and it flew backwards over the track wheels up. Kenny Milam reports that Ator was unhurt, but his vehicle suffered badly.

Milam, a partner at Watkins & Eager, has been one of Guy's best friends since age 3. He and Guy's son-in-law, Don Frugé, Jr., are sources for some of the background for this article (there are others, and other "events").

The younger Don (son of Ole Miss's inimitable Don and Mary Ann Frugé) is married to Guy's daughter, Liza, a lawyer and clerk to United States Magistrate Judge Allan Alexander. Another party responsible for Liza is Guy's wife of 45 years, the former Susan Sudduth of Vicksburg. I first met Guy in 1966 — through Susan who shared an apartment with my wife in Nashville. When we grilled steaks on the covered walkway outside the apartment somebody used too much lighter fluid, and, when Guy lit the charcoal, the flames hit the bottom of the covered walkway. There were no personal injuries and only mild property damage.

That was the year Guy left Vanderbilt to attend the Ole Miss law school. I was starting at the Vanderbilt law school, and I never met a person on that campus who didn't know Guy Mitchell. His good nature and popularity earned him recognition by the student body as "Mr. Commodore."

Guy distinguished himself at the Ole Miss law school where he served as Research Editor of the Mississippi Law Journal. After law school, he spent four years in the United States Navy, serving as legislative liaison in Washington to Admiral Means Johnston of Greenwood, Mississippi.

Guy's distinguished legal career followed. His diverse legal practice has included commercial and public entity litigation, municipal and county government and estate and probate practice. He has served as President of the Mississippi Defense Lawyers Association, the Ole Miss Law Alumni Chapter, Lee County Bar Association and United Way of Greater Lee County. He is a member of the American College of Mortgage Attorneys and serves on the Board of Directors of BancorpSouth.

Guy and Susan are also parents to Katie Mitchell Tucker, who resides in Atlanta, Georgia. She and her husband have three children, Francie, Eva and George (ages 3-10). Liza and Don have four children, Don III, Rosemary, Charlie and Guy (ages 4-12). That means Guy and Susan have seven grandchildren. He takes them boating at Pickwick Lake where they can enjoy his wide variety of nautical sports paraphernalia. Guy likes those kinds of toys and other gadgets. He has more iPhone apps than any person his age in the State of Mississippi.

He has never been seen in public without a smile on his face.

Mississippi Bar to Launch Suicide Prevention Program

Question, Persuade, Refer

By Kate Margolis

As human beings, we are all required to deal with personal, professional and family issues, often all at the same time. We may sometimes reach a place in our lives when those issues seem insurmountable. Our view may be further darkened by depression, addiction, or traumatic circumstances. At some point, we may consider suicide as a permanent solution and even a logical choice. Yet in reality, suicide leaves a lasting legacy of pain for family members and leaves those us of left behind forever haunted by the question: What could I have done?

> *"Among professions, lawyers lead the nation with the highest incidence of depression, which, if left untreated, increases suicide risk.*

Chip Glaze, director of the Mississippi Bar's Lawyers and Judges Assistance Program (LJAP), is determined to spread the message that suicide is preventable and we can learn to help prevent it.

Chip is in the process of being certified as a "gatekeeper instructor" through the QPR Institute for Suicide Prevention, based in Spokane, Washington. The QPR program — "Question, Persuade, Refer" — was recently recognized by the National Register of Evidence-based Practices and Policies. The Institute reports that more than one million lay and professional suicide prevention "gatekeepers" have been trained in QPR since the Institute's founding in 1996.

Through the program, Chip is learning how to recognize the warning signs of suicide, how to offer hope, how to get help and how to save a life.

QPR is analogous to CPR. Just as a CPR trainer teaches about the classic signs of a heart attack and how to respond, once certified, Chip will begin teaching about the classic signs of suicide and how to respond. (For more information about the QPR Institute and the QPR program, see www.qprinstitute.com.)

Chip emphasizes that learning QPR is "not about being a therapist or an expert on suicide. It's about giving lay people the tools when presented with facts or circumstances to help get a person in crisis to a medical professional." Chip also hopes to dispel the myths that might cause a person to be reluctant to take action — for example, the unwarranted fear that mentioning the word "suicide" might cause a person to commit suicide, or that "only crazy people think about suicide."

The Lawyers and Judges Assistance Committee had been discussing development of a suicide prevention program for some time, and decided that Chip should be certified as a suicide prevention trainer through the QPR Institute. Among professions, lawyers lead the nation with the highest incidence of depression, which, if left untreated, increases suicide risk. According to Chip, six Mississippi attorneys have committed suicide over the past seven years. The Kentucky Bar is reeling from 12 suicides since 2010, and the Louisiana Bar lost an attorney to suicide as recently as a few weeks ago, he said. Nationally, the rate of suicides among all Americans in the 35–64 age group has accelerated since 2008. (The economy is suspected to have played a role.)

Once Chip is certified, he plans to "test run" the QPR training program on the LJA committee, to be followed by a launch of the "full fledged program" in early 2014. Chip will train others to identify the signs of suicide, give them the "skill set and confidence to ask the question, persuade the person to get help, and make a referral" to a professional who can help. Trainees will learn how to "raise an appropriate objection without scaring the person off," Chip said. As with other LJA programs, "education is the primary focus," Chip said.

While the focus of the program will be lawyers, the training will be made available to everyone. This is "not just about work — it's about family and community," he said. Chip also noted that because lawyers often have "special access into people's lives," we are in a unique position to be able to help others. With the launch of QPR in Mississippi, we will have the opportunity to take proactive steps, so we will know we did what we could.

Editor's Note: While our bar dues help support LJAP, according to Chip, receipts for IOLTA — a major source of funding — have decreased some 60% over the past five years. To make a donation to LJAP, write a check to the Mississippi Bar Foundation and note on the check that the donation is earmarked for LJAP.

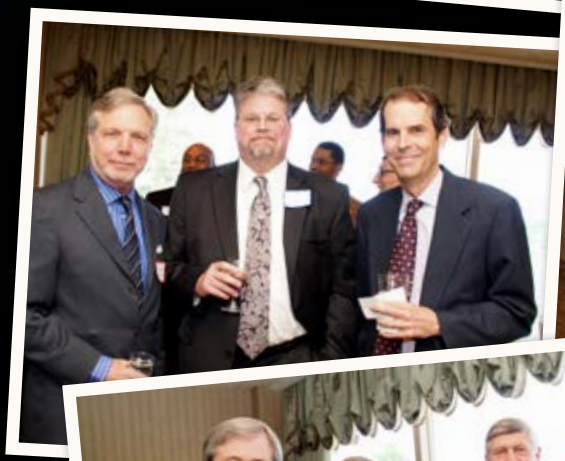
In addition to education and training, LJAP also offers confidential consultation, referrals to qualified professionals, and in some instances, case management and monitoring. (LJAP services are confidential, voluntary, and completely separate from the Office of General Counsel.)

For more info, contact Chip at: cglaze@msbar.org, 601-948-0989 or 1-800-593-9777.

An Evening HONORING *the* JUDICIARY *Banquet*

May 16

An Evening HONORING THE JUDICIARY Banquet



An Evening HONORING THE JUDICIARY Banquet

CABA AWARD Recipients

(A) Nakimuli Davis, JYL Outstanding Service Award: Warren Martin, JYL Pro Bono Award; Roslyn Griffin, JYL Outstanding Service Award.

(B) Judge Grady Jolly, JYL/CABA Judicial Excellence Award, with David Maron

(C) David Kaufman and Robert Gibbs, CABA Professionalism Award, with David Maron.

(D) Scott Jones, CABA Outstanding Service Award, with David Maron.

(E) Tiffany Graves and Patti Gandy, CABA Pro Bono Award

CAPTAIN EQUITY

The Consequences of Broken Government

Where to start? First there are Edward Snowden's troubling revelations of the massive albeit secret NSA domestic spying on American citizens. And then there is Mississippi House Bill 2 (Open Carry Law), the outrageously ill-advised piece of legislation from Braxton Representative Andy Gipson and his Republican Wild West legislative caucus. And then there is the always dependable, Phil "I Just Can't Take Yes for an Answer" Bryant's steadfast refusal to expand Medicaid to help the working poor. Oh yeah, expansion would also simultaneously create thousands of quality jobs within Mississippi's medical community funded almost exclusively with federal dollars. So why not? Because it is part of "Obamacare."

In sum, I fear that the America that was once the hope and envy of the world is no more. Congress has a 10% approval rating, the lowest in history, with the Republican/Tea Party and the Democrats frozen in a polarized standoff that accomplishes nothing while everything from out of control deficit federal spending on nation-building to unsustainable entitlement programs to unrestrained gun violence to our ever eroding immigration system are simply ignored. But thanks to legalized gerrymandering, the bought and paid for *Citizen's United* politicians don't give a happy damn about what is good for the country. Rather, they just want to make sure they continue their perk-heavy lives as career politicians. Their biggest concern is that if they actually compromise for the greater good, they will get primary'd (sic) (new verb form like "went missing") by some whack job from their own party that is even more to the right or left of themselves.

The one area of efficiency in government is the standing guarantee that Wall Street and the giant multi-national conglomerates will be heavily subsidized while escaping scrutiny of their practices and punishment for their crimes save for an occasional face saving slap on the wrist orchestrated for public consumption. Under both the Bush and Obama administrations a well oiled revolving door between Wall Street (the regulated, in theory only) and the federal government (the regulators, in theory only) has spun right along to make sure that the rich and powerful of the financial world have carte blanche. One need only read *The Big Short* by Michael Lewis and *Bailout* by Neil Barofsky to understand the egregious and reprehensible scope of Wall Street's public-be-damned behavior, all with the blessing of the executive and legislative branches of our government. Yes, some of the worst offenders may pay fines. After all, that's what money is for, but no executive has been prosecuted by the Bush or Obama administrations despite the subprime mortgage scam, the massive robo-signing foreclosure scandal, the AIG Credit Default Swap disaster, TARP mismanagement and on and on. Can anybody say, Too Big To Fail? Certainly not the Bush or Obama administrations. And who bails out Wall Street when it all goes bad? Just take a guess. Why? Wall Street and other huge corporations can make big campaign contributions to Super Pacs and can afford an army of lobbyists to kill, thwart or minimize Congressional oversight and reform by compromised government officials. Plus, there is always someone from Goldman Sachs minding the store in D.C. to protect Wall Street's interests. Meanwhile, the American public is fed their daily dose of propaganda by right wing talk radio and cable news about the wonders of unrestrained capitalism, the virtues of the private sector, needless government regulation … blah blah blah. If you think I am exaggerating, just read the two earlier referenced books.

On the other end of the spectrum, state legislatures have nothing better to do than pass dumb gun laws while scrupulously avoiding common sense measures like universal background checks to reduce gun violence. Polls show that the overwhelming majority of U.S. Citizens favor these measures, including NRA members. In the wake of Newtown, Aurora and the daily killing sprees that go unabated in cities like Chicago and Chicago Lite aka Jackson, nothing happens. Why? For one thing, the National Rifle Association, which represents the gun and ammo industries, uses its typical scare tactics to stop any reasonable measures in their tracks. "Obama Is Gonna Take Your Guns Away!" The President has remained silent on gun control since taking office. "Then Only Criminals Will Have Guns!" How many people, including those suffering from mental illness, had no criminal record until just after they pulled the trigger? "My Second Amendment Rights Are Absolute." Really? Oh, and by the way, why don't these people ever talk about the "well regulated militia" part of the Second Amendment? That part, now ignored, made a little more sense back in the 18th century? Once again the highly coordinated dissemination of fear aimed at an often times unsophisticated constituency works like a charm every time. The NRA figured that one out a long time ago. And legislators in conservative states willing

to support reasonable measures to minimize gun violence are instantly labeled "Left Wing Liberal Second Amendment Enemies." End of story, and so the carnage goes on unabated.

That is bad enough, but what possible benefit accrues from House Bill 2? For Mr. Gipson's information, Jackson has been named the eighth most dangerous city in America by no less than the FBI based on its most recent crime statistics. As a resident of Mississippi's Capital City, the last thing I want to encounter on the streets is a liquored up version of Wild Bill Hickok on a downtown sidewalk or at an event wearing a holstered gun with mortality hovering just a quick draw away. And then there are mentally ill versions of Newtown's Adam Lanza or Aurora's James Holmes who are on the waiting list for Whitfield whenever one of their few rationed beds opens up. In the meantime, let's say that this potential mass shooting nutty buddy is packing heat when he decides he doesn't like the color of my car. (I confess, it is blue which is often associated with Democrats) or that maybe my license plate number is a secret alien code and he has been commanded by God to do something about it. I don't know about you, but I have encountered one or two of these folks in my life time and as Mr. La Pierre knows, it only takes one shot to rub you out. But I guess down in Braxton where Mr. Gipson lives they don't have as many of those kinds of folks. And of course there are armed guards at the Capitol Building, so what's the big deal? Plus the working poor without health insurance can always just catch the bus to the ER if they get sick, so why waste taxpayer money addressing that non-issue. That is the mindset of way too many of our so called leaders and many more of our citizens who consistently vote against their own interests in America's poorest state. Cause and effect?

Now, only because I can sense that my editor is twitching with anticipation over the ricin laced hate mail sure to be prompted by this little pro bono piece of journalism (surely others will replace journalism with the "S" word), let's address one more issue about Broken Government upon which most of us can agree. Number one, the U.S. government is too big; way too big. Beyond the astronomical cost and breathtaking inefficiency (Think T.S.A. which is an air travel acronym for "They're Standing Around" albeit in snappy, matching dark blue shirts made in Bangladesh) and all the mind numbing duplication, is the government's obsession with secrecy. If you think I am referring to the NSA, CIA, FISA Courts and God knows how many other tax payer funded federal agencies and private contractors whose common denominator is "Intelligence Gathering," you would be right.

The problem revolves around the government's round the clock mining of personal information on all American citizens. While Mr. Snowden becomes less of a hero with each passing day, he did show us all the tip of the iceberg that is the intelligence industry. The President tells us it's okay because a secret FISA court in a secret opinion says it's okay. No government official would dare abuse this "security" information, right? Recall that our old buddy Uncle Dick said it was okay to out covert CIA agent Valerie Plame in an act of political retribution, especially since he got his own chief of staff, Scooter Libby to take the fall for it. But not to worry, Scooter's pardon would be commuted in short order by W. And also recall that Uncle Dick said torture was okay too. I mean if you can't trust the Vice President of the United States, who can you trust?

> *"… there is a bigger potential problem when broken government intersects with enhanced security …"*

But there is a bigger potential problem when broken government intersects with massive secret data collection in the name of enhanced security. As quick review of world history shows when people are frustrated with their government and fear for their security the seeds for abuse are sown. When you throw in sophisticated propaganda, people don't fully get the big picture until it is too late. Similar circumstances gave the world Hitler, Stalin, Mao and to a lesser extent, Baby Doc in Haiti, and Idi Amin in Uganda. Then there is Assad in Syria and the Kim family of North Korea. Who knows what will happen in Egypt and Turkey. It all starts with a broken status quo followed by an autocratic regime promising bold solutions propped up by domestic surveillance and secrecy which makes unilateral retribution for those who don't tow the line much easier.

There are three more visionary books to put on your reading list that in effect predicted much of what America has and could become. All of these classics were written more than sixty to seventy years ago. I know I have recommended them before in this column, but they become more relevant with each passing day. They are *Brave New World* (1931) by Aldous Huxley; *It Can't Happen Here* (1935) by Sinclair Lewis, and; *1984* (1949) by George Orwell. Each involves the emergence and maintenance of totalitarian states by the abuse of power, secret data collection and constant governmental propaganda. To greater or lesser degrees, all these books reference the rise of fascism, which is the confluence of a totalitarian form of government intertwined with business and industry, in what were formerly Western Democracies

Huxley wrote of citizens willingly succumbing to a sophisticated governmental program of data collection and mind control. Today it would be called Facebook and Twitter meets the NSA. While Sinclair Lewis was obviously writing about the prospect of power hungry populist Huey Long running against FDR in 1936 in the midst of the Great Depression, is it too much to imagine Joe McCarthy, Nixon and Watergate or even a more heavy handed version of Uncle Dick in today's technological world? And then there is Orwell's Big Brother and Newspeak which today would be known as the NSA and the Far Right Propaganda Machine of talk radio and cable news. Add to all of this the ever stronger influence that wealthy special interests exert over politicians thanks to *Citizen's United* et al, and the prospect of Fascism Lite in America becomes increasingly worrisome. I know, this is America, It Can't Happen Here. Read Sinclair Lewis.

CABA Essay Contest Winners

Each spring, the CABA Law Related Education Committee conducts an essay contest for 8th grade area students. This year's Committee was chaired by Jessica Morris. The three winners, their parents, family members, and teachers attended the June CABA Membership Meeting. The winners were recognized and received a certificate as well as a cash prize from CABA. The first place winner read his essay.

1st Place Winner from Madison Central, Nelson Washington, received a $250 prize. He is pictured with the Committee Members: Adria Hertwig; Jessica Morris, Chairman; Mimi Speyerer, and LaVerne Edney.

2nd Place Winner from St. Joseph, Blaine Turner, Jr, received a $200 prize. He is pictured with Committee Members: Adria Hertwig; Jessica Morris, Chairman; Mimi Speyerer, and LaVerne Edney.

3rd Place Winner from St. Joseph, Ellie Smith, received a $150 prize. She is pictured with Committee Members: Adria Hertwig; Jessica Morris, Chairman; Mimi Speyerer, and LaVerne Edney.

1st Place Essay

Code Word Safety: What Do You Think Can Be Done to Keep Schools Safe from Violence?

By D. Nelson Washington

School safety has always been a forefront concern with school officials and government agencies. Years ago, running in the hallways was one of the biggest safety concerns facing administrators. Today, with the increase of school shootings and killings, the fears and worries surrounding school safety have escalated. School safety is a major concern from the local levels of government to the federal. There is much that can be done to ensure that schools are protected from future violence.

When violence strikes a school, it affects the entire community. Schools and their host communities must team up to maintain their schools' safety. Schools should form watch teams with area leaders and churches, in conjunction with professional safety advisers. Setup visits where these individuals discuss the ramifications of gun violence and present creative approaches to mentor both the students and faculty on remaining safe. Have them to speak on the morality and humanism surrounding violence and the spiritual aspect of loving and respecting each another.

Schools should consider the concerns, thoughts, and suggestions of solutions of its teachers, parents, and students. They are vital in the prevention of violent situations at schools. Find ways to encourage your students to be proactive in the fight against violent. Train students to counselor their peers, and incorporate hall monitors. In addition, schools should provide parents and teachers with guidelines for discussing violence with the students.

Every school has procedures in place for emergency situations, such as, fires and tornadoes. Proactive measures should be in place prior to an unfortunate, violent incident. This entails having both an emergency plan and an emergency back-up plan or plans. Documentation stating specific instructions on what to do in a violent emergency (a) must exist; (b) must give scenarios and steps faculty should take in response; (c) must be reviewed and given to EVERY faculty and staff personnel of that school; (d) must be reviewed and presented to the students. Drills or lockdowns should take place; in addition to the fire and tornado drills schools complete throughout the year.

Many schools now have a constant flow of law enforcement agents, who walk the hallways and patrol the premises. Police presence is a definite deterrence to Violent incidents. Other options available in the prevention of violence in schools are the installation of metal detectors — to prevent unauthorized weapons from entering the schools; video monitors — to monitor the grounds; automatic locks and gates — to deter violators from accessing hallways and classrooms; and exit door alarm systems — to prevent intruders from gaining unlawful entry. Anonymous reporting systems aid in promoting compliance with school rules.

In order to ensure the educational success of one's students, each school must provide a safe and secure learning environment. Much can be done and is needed to prevent any further violent acts from occurring on school grounds. Communication is the key. Schools must communicate internally, with parents and students, with its community, with law enforcement, with government, and with other schools to ascertain the safety of our schools.

What Mock Trial and Moot Court Programs Can Do for You

By Amy Strickland

When school begins this August, so does competition season for mock trial and moot court programs across the country. As a former competitor and current coach, to say that I love competition season is an understatement. But every year I get asked the same question: why? Why take time away from work, family, and life to spend hours a week coaching?

1) Each competition teaches something new.

The first day of competition practice is a lot like the first day of school: new pens and notebooks, a new competition fact pattern, and, most importantly, a new hope that this year is "the" year. The students are bursting with enthusiasm, and it's contagious. With each new competition, comes a new set of facts and legal issues. While many competitions choose to focus on a particular area of law year after year, such as civil rights, each year a different corner of that practice area is explored—from the right to protest peacefully to the right of an on-duty police officer to wear a religious head covering. In today's legal arena, we tend to specialize in one area of law. Coaching allows me to "practice" in various areas, broadening my knowledge and skills with every competition.

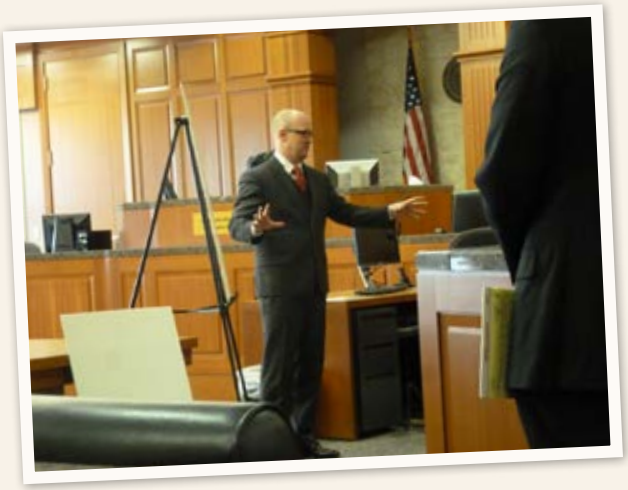
2) Competitions advance the coach's advocacy skills.

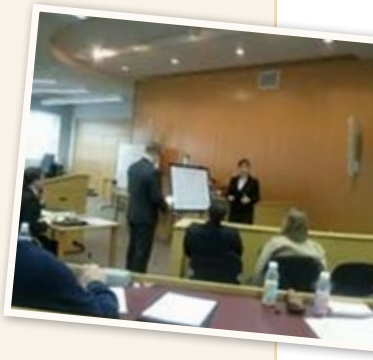
I learned many things in law school, but the nuances of the Federal Rules of Evidence were not among them. Sure, I learned the basics: relevancy, hearsay, and the most common hearsay exceptions. But I never learned Rule 803(18) ("Statements in Learned Treatises, Periodicals, or Pamphlets") until I had to teach it to my students for a trial competition. Oftentimes, new information isn't truly learned until it is used. Trial competitions make the Federal Rule of Evidence tangible. With every competition, I learn a little something new, while keeping sharp those skills I worked so hard to obtain in law school.

Most young attorneys do not get the opportunity to try cases. Instead, many new attorneys spend years shadowing more experienced attorneys waiting for their chance to take the lead. For young attorneys, mock trial and moot court competitions are great practice for coaches while they are waiting "on deck." For litigators, trial competitions give the coaches opportunities to practice their own trial skills. And for appellate attorneys, moot court competitions give the coaches opportunities to present arguments and counterarguments, and practice effectively responding to questions from the bench.

Zachary Busey, a recent graduate and former competitor, who now practices with Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, knows first-hand what it is like to be waiting "on deck" and how coaching advances the skills of both the students and the coaches:

> *I started coaching because I wanted to give back to a program that had taught me so much… [O]n day one of coaching, I quickly realized I had a whole lot more to learn. Coaching forces you to stay current on the finer points of litigation and advocacy that younger attorneys don't typically see in their day-to-day practices… The students are quick to let you know when a suggested evidentiary argument or proposed trial objection doesn't make sense. And those situations are where coaches learn the most. When you can explain character evidence or the intricacies of impeachment to second- and third-year law students, you're better equipped to present those same arguments to judges and shareholders.*





Lance Martin, a second year law student at MC Law School, competes at the South Texas Challenge, a national trial competition hosted by South Texas School of Law in Houston Texas in March of 2013. The team reached the Octofinals at the competition.

3) Coaching advances the bar.

Eric Brown of Coxwell & Associates, PLLC coaches both on the college and law school levels. He also judges high school mock trial competitions. When I asked him why he coached, he spoke about the importance of advancing the bar:

> *The Mississippi Bar Association is better when practicing attorneys teach trial advocacy skills to future lawyers… There is nothing more rewarding than starting with a student who is afraid to stand and talk in front of people, only to watch that same student later differentiate between an exception to hearsay and actual non-hearsay in a trial competition setting. That's why we do this… to make a better bar association.*

While each advocacy competition focuses on different substantive laws, all advocacy competitions teach students about ethics and professionalism. Competitions occur in what is commonly referred to as a "limited universe." The students only have the witnesses, facts, and evidence that they are given. Competitions often have lengthy rules on which witnesses have knowledge of a particular piece of information and how a certain piece of evidence may or may not be used. Adhering to these rules and learning to operate within them teach students the importance of ethics and professionalism in real-world practice.

4) Coaching pays it forward.

Many competition coaches were once competitors. Jessica Murray of Langston & Langston, PLLC was a mock trial competitor in college, as well as a moot court trial and appellate competitor in law school. Now, she coaches both on the college and law school levels. When I asked Jessica why she thought coaching was important, she said:

> *[W]hen I was a student, I was very fortunate to have practicing attorneys who chose to share their time, energy, and talents with me… What I learned from those attorneys is simply too good not to share with the students currently competing… College mock trial provides a unique opportunity for a student to glimpse into the future and experience life as a trial attorney in a controlled setting. For some, this experience sparks a flame that continues to blaze throughout law school and into their legal careers. Others simply gain an appreciation for the trial process and go on to find the career that best suits them.*

Through coaching, judging, and organizing competitions, I have had the opportunity to network with many practicing attorneys and members of the judiciary. More importantly, competitions give the students an opportunity to network as well. Students routinely make connections with potential employers, receive interviews, and are extended job offers because practicing attorneys and judges were able to evaluate the student's advocacy skills and professionalism during competitions.

If you are interested in coaching a team or even guest judging a practice for one hour, I encourage you to contact the high schools, colleges, and law schools near you. Even if you only have an hour to spare, guest judges are always needed to listen to a road map of an appellate argument or an opening statement for a trial. I promise it will be a time well spent.

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