



President's Column:

The End of My Freshman Year on the Bench

By Tiffany P. Grove



My one-year anniversary of being sworn in as a Chancellor for Mississippi's Fifth Chancery Court District is quickly approaching — my freshman year on the bench is almost over.

Overall, it has been a year of hard work fueled by gratitude. Many attorneys have asked me about my transition from being a member of the bar to becoming a member of the bench. It is no small change to go from trying to make the most persuasive arguments to deciding which arguments should prevail as a matter of law. I want to share some observations from the past 48 weeks on the bench.

The transition from being a lawyer to becoming a judge is demanding and intrinsically humbling. You transition from having personal and professional allegiances to individual clients, to committing yourself to the rule of law. You have to pick up a new case and learn a new business and process. You are constantly bombarded with new information. A good lawyer is expected to know a lot about their practice area; a good judge is expected to know a lot about everything. One of the things I've

enjoyed the most about being a judge so far is the variety — it is fun to be exposed to so many areas of the law and so many different aspects of society.

Without a doubt, my new job as Chancellor has been more emotionally draining than lawyering ever was. I appreciate the incredible responsibility which comes with applying facts to the law and deciding a case that may intimately impact people's lives. The reality is that families in Chancery Court are often going through some of their darkest times, like the death of a loved one, a divorce, a family member suffering from addiction or mental illness. There have been several days this year where I literally shut my office door and cried, feeling enormous empathy for the families before me while bearing the hefty weight of being the decider of fact. The positive side is that I feel I am now in a position to help more people and in more meaningful ways. So far, I find the bench to be more personally fulfilling and rewarding than practice.

I have a greater understanding of the importance of keeping up with technology—keep up or get left behind. I was immediately thrust into navigating my way through the Mississippi Electronic Courts (MEC) system. As a lawyer,

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Upcoming Events

January 14

CABA Board Meeting
Noon • The Capital Club

February 18

CABA Membership Meeting
Noon • The Capital Club



Have a
Merry Christmas

and a Happy New Year
from our CABA family to yours!

I barely knew how to log into MEC. Hinds County Chancery fully transitioned to paperless filing the beginning of this year. This means the clerk's office no longer keeps paper files with a few exceptions, like original wills. The great news for local lawyers is that you will never again have to drive to Raymond to pick up a paper file for a second judicial district case being heard in Jackson. Almost a year in and I am still learning different ways MEC can improve case management and review. I'm excited to see how MEC can be used as a tool to help us guard and protect our most vulnerable citizens as the GAP Act goes into effect January 1st.

In June of this year, I took the reigns as President of CABA. I was a little apprehensive about the time I would have to dedicate to

CABA, in addition to learning the ins and outs of my new job. I've had to adjust to a job that necessarily requires a certain level of solitude and serving as CABA President has helped me avoid the acute sense of isolation that many new members of the bench fear. I find myself surprisingly thankful that CABA provides me with so many opportunities to still hang around with you lawyers.

If you're still reading this article, I'd be remiss if I didn't take a moment to update you on upcoming CABA activities. The CABA committees have been hard at work and here are some of the 2020 dates to put on your calendar: the Diversity Committee will present a one (1) hour CLE program at the February 18, 2020 membership meeting; the Bench and Bar Committee will present a one (1) hour CLE

lunch program at the April 21, 2020 membership meeting. These membership luncheons are free with your CABA membership. Please make the most of your membership and make plans to join us. The Solo and Small Firm Committee will be co-hosting another hour of practical Word tips in January, for just \$12 you can follow along on your computer and receive one (1) hour of CLE. CABA's Annual Golf and Croquet Tournament benefitting MVLP will be held at the Jackson Country Club on March 23, 2020. The Spring Social will be April 30, 2020 and the Evening Honoring the Judiciary will be May 14, 2020. I promise you we will try to make every one of these meetings and CABA events worthwhile to our members.

Happy Holidays and I hope to see you at a CABA event next year! 🍀

Changes to Rule 26: What You Need to Know

By James E. Graves, III



Each year, the Mississippi Supreme Court makes changes to the court rules, some more significant than others. This year, the Court made significant changes to Rule 26 of the Mississippi Rules of

Civil Procedure, which take effect January 1, 2020. These changes bring the rule more closely in line with the federal practice requirements on expert discovery, the disclosure of electronically stored information, and claims of privilege.

The new rule does not adopt the federal requirement that retained experts prepare written reports, but it does allow parties to obtain via interrogatories background information about the expert substantially similar to that currently required to be disclosed under the federal rules.

It also makes explicit that the opinions of non-retained experts should be disclosed if requested and provides protections against the disclosure of draft expert interrogatory responses and communications between a lawyer and a retained expert. Parties must supplement or correct any expert disclosure or deposition response "in a timely manner" if the party learns that a prior disclosure or response is incomplete or incorrect.

“These changes bring the rule more closely in line with the federal practice requirements on expert discovery, the disclosure of electronically stored information, and claims of privilege.”

One long overdue change was the elimination of the requirement that a party obtain a court order in order to depose an opposing party's expert. Although lawyers commonly agreed to make experts available for deposition without the need for court intervention, parties would sometimes refuse to make an expert available for deposition without a court fight. This change should

be a welcome sight to trial judges who would rather not spend hearing days listening to lawyers argue over motions to depose experts.

The new rule also allows a party to withhold electronically stored information from sources the party identifies as "not reasonably accessible because of undue burden or cost," but if a motion to compel is filed, the burden will be on the party withholding the information to show that such an undue burden exists. And, even if the party meets that burden, the court may still order that the information be produced under certain conditions to reduce the burden or cost.

Parties must specifically identify any discoverable information withheld from

production under a claim of privilege. A claw-back provision has been added which allows a party who mistakenly disclosed privileged information to have it returned or destroyed.

The rules committee should be commended for these changes. There are additional discovery rules that can and should be updated, but these changes should be useful to lawyers on both sides of the bar. 🍀

1. James E. Graves, III is a shareholder with Wise Carter.

Minding the GAP:

Navigating the Statutory Changes Driven by the Mississippi GAP Act

By Whitney J. Griffin¹



For months now, the Mississippi Supreme Court, the Mississippi Bar, the Judicial College and at least twenty-four practitioners and Chancellors across the State have been promoting the Mississippi GAP Act and its upcoming transition into Mississippi legal practice. If you've paid attention, you've heard about the town halls, and maybe attended a CLE focused on the Act. If you're especially studious, you might have even checked out the Act itself, and read through all eighty-four provisions.

Or, if you're anything like most attorneys (MYSELF INCLUDED) you waited until the last minute to get prepared. You're only now starting to digest the new information, and you've crossed your fingers that it's user friendly, easy to comprehend, and won't completely upend your practice when it takes effect.

Well there's good news and bad news folks: the bad news is that the "last minute" is here—the Act's January 1, 2020 effective date is upon us! The good news is that the provisions of the GAP Act are incredibly similar to the laws you're used to, with some clarifying language, and a few new, bonus features.

Before I tackle the substance of this article, I have a quick, friendly disclaimer: this article is not intended to be a comprehensive overview of the laws taking effect, and should by no means replace a firsthand review of the new

statutes. (Lawyerly, am I right?) Instead, my purpose in this article is to give you a broad overview on what's changed and what's new. I don't intend to make you an expert on the Act through this piece, but I do hope that it will make the transition a bit easier and perhaps spark a discussion on the effects that these changes will have on your practice and clients.

Structure of the Act

When the Mississippi Supreme Court established the Mississippi Guardianship and Conservatorship Commission (MGCC) in 2017, it charged Commissioners with identifying gaps and inconsistencies in Mississippi's Guardianship and Conservatorship laws and creating a referendum for statutory and procedural solutions. Beyond that, it was up to the Commission to determine how it would answer the call.

Through its research, case studies, monthly meetings, and frequent discussions with community leaders, the MGCC determined that a simple fix which addressed all the broken parts of the current statutory scheme could not be achieved. Instead, a full repeal of the existing statutes was needed, allowing for a complete replacement of the Guardianship and Conservatorship laws.

This approach seemed daunting at first. But after several months of deliberation, the MGCC arrived at a solution which narrowed its focus to the effects of the repeal on three distinct subject areas: Minors, Adults, and Estates. The MGCC recognized that, for the most part, the core processes for establishing a Guardianship or a Conservatorship should remain unchanged. In doing so, the MGCC was able to maintain much of the spirit and content of the existing laws and direct its efforts

to clarifying the law's concepts and mechanics.

The MGCC began by categorizing the statutes to provide practitioners and fiduciaries specific sections of the Act to reference when dealing with individual protective arrangements. By separating the laws into (1) Guardianship of the Minor, (2) Guardianship of the Adult, and (3) Conservatorship of the Estate, the Act provides readers an easy application of the laws, narrowly tailored to a fiduciary's unique situation. These laws can be found in the 200s section, the 300s section, and the 400s section of the Act, respectively.

A notable change in the structure of the statutes is that the MGCC has fully and clearly defined the difference between a Guardian and a Conservator. Under the current scheme, the terms Guardianship and Conservatorship are used interchangeably between protective arrangements for minors, adults, and financial accounts. Under the GAP Act, the difference is clear: a Guardianship pertains to an arrangement over the person, and a Conservatorship pertains to an arrangement over the estate/money. An individual ward may be under a Guardianship, a Conservatorship, or both at any given time. If under both, a Guardian and a Conservator may be the same person or two separate fiduciaries, depending on the court's decision.

Furthermore, the MGCC worked to maintain consistency between similar provisions for ease in application. Looking to the Act: Sections 201, 301, and 401 all deal with Basis for Appointment for Minors, Adults, and Conservatorships, respectively. Similarly, 202, 302, and 402 of the Act provides information on the Petition for Appointment for each. Many of the other statutes under the Act also follow this scheme.

When reading through the statutes (Petition, Notice, Order, and others) you'll

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also see that there are several paragraphs which mimic each other almost identically. This duplication was by design, as an effort to help you through the transition and for ease of practice for future generations.

Notable Statutes in the Act

While much of the Act maintains the spirit and the purpose of our previous statutes, several concepts have been added to our Guardianship and Conservatorship laws under the new scheme. The changes were recommended to provide a practical application of the protective arrangements in all situations, guaranteeing the protection and wellbeing of the wards, while also ensuring oversight, monitoring, and accountability of the arrangements by the courts.

Limited vs. Full Arrangements

The first of these changes is the creation of Limited Guardianships and Conservatorships for both minors and adults in sections 206, 309, and 411. Although many have seen these arrangements in practice, these sections codify a chancellor's option to create a narrow protective arrangement for the ward, without entirely stripping away his or her rights. The court's orders under these statutes must be very specific, outlining the property controlled under a Limited Conservatorship, and the specific powers granted under both a Limited Conservatorship and a Guardianship. Notably, if a court determines that a general (or full) Guardianship is warranted, the order on appointment must include specific findings to support its conclusion that a limited arrangement would not meet the needs of the ward.

Emergency Guardianships and Conservatorships

Another important concept new to Mississippi statutes, but frequently seen in practice, is the establishment of Emergency Guardianships and Conservatorships under sections 207, 311, and 413. These statutes each contain identical language, requiring a petition of the court requesting the emergency arrangement, an order at the discretion of the court, and a finding that the ward's health, safety, or welfare would be substantially harmed without intervention by the court.

Emergency arrangements for minors and adults, through either a Guardianship or Conservatorship, may not exceed sixty (60) days. If after 60-days, the court determines that the conditions of appointment have not changed, and the reasons for the emergency appointment continue, the court may extend its order for an additional 60-days.

The intent, here, is that within the provided 120-day window, the petitioner and/or other parties interested in the wellbeing of the ward would have enough time to secure the information required for a traditional protective arrangement (as needed), while ensuring the safety and welfare of the ward. However, the court may remove an Emergency Guardian or Conservator at any time. Likewise, the appointment of a Guardian/Conservator under these Emergency provisions does not create a basis for their appointment in the long-term.

Professional Evaluation

Previously, the professional evaluations required to determine whether a "conservator" was needed for the person or the estate were covered under Mississippi Code § 93-13-255. There, we found specifics on witness testimony and the information required for a judge to make a formal determination on the necessity of a "conservator".

The GAP Act has made this evaluation a bit easier for legal and medical practitioners alike, while also providing more options for fiduciaries who will be tasked with the scheduling and pursuit of the evaluations of the prospective ward.

The requirements for these professional evaluations have been divided into two statutes: section 407 for those evaluations concerning a Conservatorship and section 305 for an Adult Guardianship. Although these sections focus on very different arrangements, their requirements are identical, allowing for those providing the evaluations to speak to the need for either a Guardianship or Conservatorship, or both.

The revised professional evaluation process maintains the original requirement of two (2) practitioners assessing an individual, with at least one licensed physician performing the evaluation. The second practitioner may still be a licensed physician or psychologist; however, the statute opens the field of practitioners

qualified to evaluate an individual by allowing for the use of a nurse practitioner or a physician's assistant as the second evaluator.

The new statutes also introduce the use of telemedicine as an option in these evaluations. The statutes define what qualifies as a permitted telemedicine evaluation, and references Mississippi's existing law on the practice of telemedicine as an additional requirement to this option.

Guardian's Plan and Conservator's Plan

As mentioned previously, a primary concern when the Court organized the MGCC was the lack of apparent oversight of existing orders and the lack of accountability through monitoring and enforcement. The MGCC paid special attention to this need and developed a few statutes which would ensure the court's involvement in a Guardianship or Conservatorship after it has issued an order.

The first of these mechanisms is the Guardian's Plan and Conservator's Plan. Found in sections 315 and 419, respectively, these plans are tools which help the court to understand the fiduciary's strategy for ensuring the safety and welfare of the ward. The plans also give the court a metric by which it may measure any improvements or declines in the ward's arrangement.



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The Guardian's Plan and the Conservator's Plan are exceedingly similar in their requirements and are entirely discretionary at the will of the court. The statutes outline the content of the plans and specify when and how the plans should be amended. The statutes also include a notice provision, identifying who is entitled to a copy of the plan and who is merely entitled to mailed-notice of the plan's filing.

Well-Being Report

Another statute ensuring that the court remains involved in Guardianships after an order is issued is found in the Guardian's Well-Being report. Unlike the statutes we've reviewed up to this point, the Well-Being Report is entirely unique to an Adult Guardianship. Like the Guardian's Plan, the Well-Being Report is fully discretionary, and at the will of the court. Designed to complement the Accounting and Inventory required under a Conservatorship, the Well-Being Report requires that a Guardian provide the court with specific information on a ward's mental, physical, and social condition.

In developing this section, the MGCC considered that too often our concern is focused on the ward's assets. While important, the focus is thereby shifted away from the ward as an individual and on to his or her tangible and real property. The Well-Being Report helps to strike a balance between accounting for a ward's assets and protecting him or her as a person.

A note about the Well-Being Report: if the arrangement initially required a Guardian's Plan, and a significant deviation from that plan occurred, the court will order a Guardian to file a Well-Being Report under this section within ninety (90) days. The court may also require the Report annually, if there is a concern for the ward's welfare.

Accounting and Inventory

Section 420 (Inventory) and 423 (Accounting) are unique to a Conservatorship

and increase the oversight of that protective arrangement by the courts. Both sections are lengthy, and somewhat involved; though, every detail about what must be included in both reports is meticulously outlined for ease of practice. While that may not bring you comfort, it's helpful to note that Section 420 (Inventory) is nearly identical to the law it's replacing (Mississippi Code § 93-13-33), with some modifications for clarity and consistency.

Furthermore, while section 423 (Accounting) includes a lot of detailed information, the bulk of the statute lists the information the court will require in an annual Accounting. Most of these requirements were in the existing law and this updated statute simply clarifies the responsibilities of the Conservator.

Implementation of the Act

As you read this article, January 1st may be two weeks away. It may be tomorrow. Or it's possible that months have passed since the transition and you're desperately trying to catch up with these changes. Wherever you find yourself in this scenario, the MGCC, its partners, and the Court are here to help.

Like any change meant to affect drastic improvement in the state, implementation of these new rules will not be easy. With that in mind, the MGCC has done a few things to ease that transition. First, with the help and advice of physicians, chancery clerks, chancellors, and practitioners, the MGCC has created several comprehensive legal forms to ensure all your documentation follows the requirements outlined in the Act. Among others, the forms include: Petition, Notice, Order, Physician's Evaluation (Medical) Affidavit, Inventory, and Accounting. Although strongly encouraged, none of these forms are mandatory. (On an un-objective, completely biased note: I think you'll find them incredibly helpful in the transition!) The are all fully editable to fit your needs

and will be offered on the Judicial College's website at the first of the year, at <https://mjc.olemiss.edu/forms/>.

Additionally, with the help of Chancellors and practitioners statewide, the MGCC has proposed amendments to several Uniform Chancery Court Rules and rules of Mississippi Civil Procedure. Subsequently, MRCP Rule 5.1 and Uniform Chancery Court Rules 6.01, 6.02, and 6.03 have been amended to correspond with the GAP Act.

After the GAP Act was signed into law, the Court also initiated Pilot Programs in the 6th and 10th Chancery Districts to implement the new laws and see the statutes in action. Through these pilots, the MGCC has been able to take note of the issues which need fine-tuning and any clarifications that need to be made. The districts in the pilots have also created forms, stamps, and practice tips which will aid you in January when the laws take effect.

The Court and the MGCC recognize that there is going to be a learning curve when the Act is implemented. Through various CLEs this fall and the pilot programs, we have experienced this curve firsthand and are working to fix the hiccups. Among those efforts, the MGCC has begun drafting a list of items which need to be addressed either through Rule amendments or through a clean-up bill this legislative session.

To that end, we encourage your questions, and want to hear your concerns. Please take some time to read through the Act and go to any of the CLEs offered. Likewise, if you have questions on the Act, its application, or edits for our proposed clean up bill, please submit them to Whitney Thrasher at wthrasher@courts.ms.gov.

With your help in implementing and fine tuning these new laws, we can achieve the goal of the **GAP Act**, to **Guard And Protect** Mississippi's most vulnerable populations. 🏠

CABA Members: *Click Here to*
PAY DUES ONLINE!



2019 Christmas Party



CABA held its annual holiday party on December 5, 2019 at Char Restaurant.



Christmas Party

Event photos continued...



LAUREL, MISSISSIPPI

Your “Home Town” Away from Home

By Stevie Farrar Rushing¹



About two years ago, I heard some chatter about a television show focused on Laurel, Mississippi. I was shocked. Don't get me wrong, Laurel has played a starring role in my life. Just 45 minutes from my hometown of Waynesboro, Laurel was the closest place to see a movie and to shop somewhere that wasn't WalMart. It was the setting of many a trip with my Gammie that started with a new hairstyle at Hatfield's and ended with a hot dog and lemonade at the Corn Dog 7 in the Sawmill Square Mall. And Laurel housed most of my dad's family, meaning a road trip (and too many Laurel High football stories) every holiday. So I appreciated Laurel—but would a national television audience?

Turns out, it did. Now entering its fourth season, HGTV's “Home Town” follows Ben and Erin Napier's renovation of Laurel homes that have seen better days. Distinguishing their show from the typical home-improvement spectacle, Ben and Erin take time to explain the home's history and to curate the home with locally sold items and handmade pieces from Ben's woodshop. And while the work is underway, viewers catch a glimpse of the charm Laurel has to offer.

The Laurel in “Home Town” is not the Laurel I grew up with; it's better. Laurel is revitalized, and people travel across the country to witness it. Thankfully, we Jacksonians don't have to; Laurel is a mere two-hour car ride away. In fact, Laurel is one of the easiest

1. Stevie Rushing is an associate at Bradley LLP.

weekend getaways—so easy, I went ahead and planned the weekend excursion for you.

Bed and Breakfast

While Laurel houses the typical hotel, staying at a bed and breakfast is really the way to go if you want the full historic feel.



Wisteria Bed & Breakfast is Laurel's oldest BnB and located on the beautiful Fifth Avenue. But if you want to be on the main drag, look at Sweet Somethings Bed & Breakfast; it's downtown *and over a bakery*.

Wine Down Downtown

After checking into your BnB, kick off your weekend with this new local event. From 5:00 to 8:00 pm on Fridays, local merchants offer wine tastings in downtown Laurel. For \$15.00, you get a reusable wine cup and can peruse the local shops while sampling wine and hors d'oeuvres.

Friday Dinner

When hunger hits, you have a few dinner options just steps away. Mimmo's offers simple and consistently delicious Italian food. But you can never go wrong with Café la Fleur,

a local staple and purveyor of a fantastic shrimp bisque. Regardless of your dinner choice, dessert must be had at Shug's Cookie Dough & Candy Bar.



Saturday Breakfast

Saturday is going to be busy, so fuel up early. Whether you prefer sweet or savory for breakfast, Laurel has you covered. Start off your Saturday with coffee and pastries from



Sweet Somethings Bakery. Or swing by The 5000 food truck for something more substantial.

Downtown Shopping

After breakfast, it's time to shop downtown Laurel. If you're in the market for a unique gift, check out Southern Antiques and the Laurel

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Leaf. Adam Trest Home probably has the new interior piece you didn't know you needed. And if there's room in the car for a new piece of furniture, stop by JParker Reclaimed and Lott Furniture Company (which is celebrating 100 years in downtown Laurel). There's plenty of stores to keep you busy, but make sure you carve out time for two: the Laurel Mercantile Co. and the Scotsman General Store. Owned by Ben and Erin, these stores offer everything from



soaps and sweatshirts to handcrafted butcher blocks and original watercolors. Personally, I recommend the Laurel candle as a souvenir; it

smells just like the sweet olive trees that line Fifth Avenue.

The Knight Butcher

When the shopping works up your appetite, head to the Knight Butcher for lunch. Weather permitting, there's probably live music. And almost always, there's a sandwich special. Make



sure to grab some jerky for the ride home and one of their incredible meat specials for later in the week.

The Rusty Chandelier

If you time your trip right, you can hit the Rusty Chandelier on Saturday. Open the third weekend of each month, the Rusty offers items old and new. Each show sees fresh inventory, so no trip to the Rusty is ever the same. My advice: Arrive caffeinated and fed. And don't be alarmed if the woman working the counter looks

just like me—that's my mom. Tell her I sent you.

Lauren Rogers Museum of Art

Many people don't realize that Laurel houses this cultural gem. Built in 1923, the Lauren Rogers Museum of Art is Mississippi's oldest art museum and is known for its extensive collection of North American Indian Baskets. Check the Museum's



calendar before you arrive for special events like children's pottery classes or seasonal festivals.

The Loft

After a full day of exploring, it's time for dinner. The Loft is the place to be on a Saturday night. Sit outside. Order the steak. Thank me later.

Slowboat Brewing Company

If you like live music, then you'll want to end your night at Slowboat Brewing Company. This brewer-owned and family-operated microbrewery offers a low key atmosphere and a variety of Mississippi brews. It's the perfect setting to plan your next weekend getaway to your "Home Town" away from home. ➡

SOCIAL MEDIA

Follow Us on Facebook & Twitter!



Statistics show that 90% of organizations now maintain social media profiles, and CABA is among that majority. You can find the Capital Area Bar Association's page on Facebook and find us on Twitter (@CABALaw). Social media is a simple way to improve communications within our organization, but we need our members to help to build an effective social media presence. If you are currently on Facebook or Twitter, please engage. Whether you like us, follow us, or comment on posts, you are helping build CABA's social media profile.

BLUE PLATE

Highways



Adventures in Gastronomy in Rural Mississippi

By Chad Hammons¹

Hub Grub

Like other states and countries, Mississippi has its share of towns and cities with identifying nicknames. Even though Paris may be “the City of Lights” and Los Angeles “the City of Angels,” Meridian is “the Queen City,” and Vicksburg is “the Red Carpet City.” Our very own Jackson has had multiple focus-group driven handles, including the “Bold New City,” and the “City of Grace and Benevolence.”² The current Chamber of Commerce sloganeering has apparently settled on “the City with Soul.”

Of all the cities in Mississippi with nicknames though, perhaps the best known is Hattiesburg, and its sobriquet, “the Hub City.” The nickname originally alluded to its status as a railroad intersection, but now also encompasses its identity as a major highway crossroads, with Highways 49, 98, and 11 intersecting, along with Interstate 59.

Hattiesburg is a county seat and the site of a United States District Courthouse. United States Bankruptcy Judge Katharine Samson also holds court there once a month, and various bankruptcy trustees hold Section 341 meetings there as well. Hattiesburg also sits midway between Jackson and the Mississippi Gulf Coast.

With all of this going on, there are ample opportunities for CABA attorneys and others to dine in Hattiesburg after a morning court appearance or while driving to/from the coast. Downtown Hattiesburg offers multiple options for grabbing a quick bite when time-crunched to get back to

Jackson or back to court for the afternoon.

A particularly easy place to get in and out of in less than an hour is **Grateful Soul**, located at 205 Main Street, a few blocks down from both the state and federal courthouses. Grateful Soul is basically a walk-through meat ‘n three, with cold ice tea, and a vibe that is part Jerry Garcia, part Jerry Clower (HAWWWWW!). Lunch is very reasonable, and comes with dessert. The pork chop is excellent, and tomato pie is a must, if it’s on the menu that day. Grateful Soul is really good when you are in court, and have a short break for lunch. You can get there in a couple of minutes, go through the line, and get back to court on time. Or if you are done for the day, you can ease down there, have lunch, and keep on truckin’ back to Jackson.

If you are going to or from the coast, and take the bypass around Hattiesburg, options abound for pulling off I-59 and grabbing lunch. If you are looking for fine dining for either lunch or dinner, Robert St. John’s **The Purple Parrot** is the go-to place. It is located between Highway 49 and I-59, just off the Hardy Street exit, at 3810 Hardy Street, where it shares a building with **Crescent City Grill**, which is good, but more of a bar and grill. If you are in the mood for Italian, St. John also owns and operates **Tabella’s**, in the shopping center immediately behind Purple Parrot and Crescent City Grill. All are great choices.

Even though I like all of these places and will definitely dine at all of them again in the future, I recently discovered a true jewel in the road that will now be a regular installment in

my Highway 49 travels. Since I began writing this column, several people had mentioned this place to me, but to a person, none could remember its name. They all referred to it as “the hole in the wall Thai place” or some variant thereof.

Sure enough, it has an actual name. It is called **Jutamas**, and is located at 910 Timothy Lane in Hattiesburg. “Where?” you might ask. Good question. If you are going south, stay on Highway 49 through Hattiesburg until you get to the southern part of town. If you get to the railroad overpass crossing 49, you’ve gone a bit too far. You will turn left on West Pine Street, otherwise known to Hub City locals as “dealership row,” because of the large number of car dealers located on that stretch.³

Once you turn on West Pine, you will go down a little less than a mile, and then turn left. Jutamas will be on the right.⁴ Unlike our own Thai Time here in Jackson, it is not a buffet. Like all Thai restaurants, the Pad Thai is a staple. I had the Drunken Noodles when I visited there with my friend Bryan Buckley, who is now taking on the criminal element in Forrest County, after doing so for many years in the Jackson metro area. The noodles were excellent, as were the spring rolls and soup.⁵

This is just a sampling of the choices available in Hattiesburg. There is also a relatively new development on Hardy Street within walking distance of USM that has several options, including an Asian restaurant, a diner, and other choices. A sequel could be in the offing. Until then, drive safely and sample the local cuisine when you can. 🍴

1. Chad Hammons is a partner at Jones Walker LLP.
2. Which prompted a former law partner and me to refer to it instead as “the City of Mace and Malevolence.”
3. This is a great example of what urban sociologists

call “commensalistic clustering,” where groups of similar businesses cluster together and in effect “brand” their area. I mention this primarily because I taught a class in urban sociology years ago, and the field needs all the PR it can get.

4. There is another location on Highway 98. I have not tried it, but will do so, and will report back in a future column.
5. I still maintain though that the best Asian soup around is the won-ton soup at **Mr. Chen’s** in Jackson.

FONT CHOICE:

Increasing the Readability of Your Briefs

By Vicki Lowery¹



Today’s lawyers are learning to create legal writing that doesn’t sound—or necessarily look—like it was written by a lawyer. Legal writers are making a conscious effort to write prose that a judge (and most importantly, a judge’s clerks) will want to read. And they are becoming more proficient at designing documents that look less like legal documents and more like the books and web pages that we routinely read.

Document Design

Legal writers are concerned not only with the words they use in appellate briefs but also the design of the documents themselves. While appellate briefs must often conform to strict jurisdictional requirements, it is possible to increase a document’s readability in subtle ways. In fact, doing so indicates to the court the lawyer’s respect for the judge’s time limitations.

Many legal writing scholars—including Bryan A. Garner, Ross Guberman, and Matthew Butterick—regularly emphasize in their books and articles the importance of modern lawyers becoming proficient in document design. This short article focuses on one tool that lawyers may use to increase the readability of their briefs: fonts.

Fonts

“Bah,” a attorney-friend balked when I suggested that many courts are recommending and requiring fonts other than Times New

The A fonts (“Generally tolerable”) are:

Book Antiqua **Garamond**

Some of the B fonts (“OK in limited doses”) include:

Calibri **Corbel**
Century **Segoe UI**
Constantia

Among the C fonts (“Questionable”):

Cambria **Lucidia Console**
Century Gothic *Lucidia Handwriting*
Consolas **Lucida Sans Unicode**
Courier New **Plantagenet Cherokee**
Georgia **Times New Roman**

Among the F fonts (“Fatal to your credibility”):

Arial (all styles) *Gabriola*
Bradley Hand ITC *Mistral*
Bookman Old Style **Papyrus**
Comic Sans **Tempus Sans ITC**
Freestyle Script **Trebuchet ITC**
French Script **Verdana**¹²

Roman. “But Times New Roman is standard,” he replied. At best, it is a standard bad habit.

According to Matthew Butterick, “[o]bjectively, there’s nothing wrong with Times New Roman. It was designed for a newspaper,

so it’s a bit narrower than most text fonts.”² The use of Times New Roman, however, suggests indifference. It was designed in 1929 for the *Times* of London and became the standard font of both Mac and Windows in the ‘80’s and

1. Vicki Lowery is director of Advocacy at Mississippi College School of Law. MATTHEW BUTTERICK, *TYPOGRAPHY FOR LAWYERS: ESSENTIAL TOOLS FOR*

2. POLISHED & PERSUASIVE DOCUMENTS 110 (Jones McClure Publishing 2010).

2. *Id.*

3. *Id.*

4. *Id.* at 111.

Continued on page 12...

'90's.³ But, it “is not a font choice so much as the absence of a font choice, like the blackness of deep space is not a color. To look at Times New Roman is to gaze into the void.”⁴ Butterick implores: “If you have a choice about using Times New Roman, please stop.”⁵

Butterick is not alone in his distaste for Times New Roman. The Seventh Circuit also suggests avoiding Times New Roman: “Briefs are like books rather than newspapers.”⁶

Times New Roman was designed for readers of newspapers, not for readers of complicated legal documents.⁷ Parsing legal documents requires careful attention, while newspapers are designed to be scanned.⁸ As such, the typeface in briefs should be set with the goal of enhanced—not lessened—readability.⁹ The Seventh Circuit suggests that lawyers “read some good books and try to make your briefs [look] more like them... [M]aking your briefs typographically superior won't make your arguments better, but it will ensure that the judges grasp and retain your points with less struggle.”¹⁰

So what fonts should be used to make briefs more readable? Butterick provides a chart of fonts graded from A to F. (See list on right.) Many of the suggested fonts do not exist in the list of standard system fonts on Microsoft Office 2007.¹¹

The judges of the Seventh Circuit have given considerable thought about how to make a brief look good—and “thus more likely to be grasped and retained.”¹³ Here

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November 11	Veteran's Day
November 26	Thanksgiving Day
December 25	Christmas Day

are some of the court's recommendations:

- Use proportionately spaced fonts designed for books such as Book Antiqua, Calisto, Century, Century Schoolbook, and Bookman Old Style (noting that the Supreme Court and Solicitor General use Century).
- Consider avoiding Garamond and Times New Roman.
- Use italics, not underlining, for case names and emphasis.
- Use “smart quotes” and “smart apostrophes” (the curly kind, not the straight kind).
- Use one space after periods, not two.
- Avoid all-caps for headings. Use title case instead, as I do for the subheadings in this article.¹⁴ ➔

5. United States Court of Appeals for the Seventh Circuit, *Requirements and Suggestions for Typography in Briefs and Other Papers* 3, <http://www.ca7.uscourts.gov/Rules/type.pdf> (last visited July 27, 2012).

6. *Id.*
7. *Id.*

8. *Id.*
9. United States Court of Appeals for the Seventh Circuit, *Practitioner's Handbook for Appeals* 78–79 (2003).

10. Fonts listed in this section appear in the standard system fonts on Microsoft Office 2007.

11. BUTTERICK, *supra* note 2, at 83.

12. Seventh Circuit Court of Appeals, *supra* note 5.

13. *Id.*

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» On Computing

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Useful Apps for Litigators...



By Joel Howell

On November 13, 2019, the CABA Small Firm and Solo Committee and the State Bar Technology Committee jointly sponsored a webinar on Word which was well received. It was presented by Adriana Linares, a frequent speaker at bar technology events. The tips and tricks she offered on Word are worth

reiterating, including these:

- Customize the Quick Access Toolbar
- Turn on Rulers for Showing Page and Paragraph Margins
- Turn on Gridlines in Tables
- Turn on Clipboard and Set all Options on (Click them all)
- Display More Status Items on the Status Bar
- Change the Default Font and Line Spacing for All New Documents
- Customize the Styles Pane to be More Useful
- Configure Advanced Settings
- Get Warnings About Documents with Track Changes.

Here is a link to an article with pictures that should show you far better than words how to effect these changes: <https://lawtechpartners.com/wordinthecity>. There are several files, but Word Setting for Legal Professionals will provide the details for the areas outlined above.

Meanwhile, here are some useful apps for litigators...

Timeline 3D (<https://www.beedocs.com/timeline3D/mac/>) is an excellent tool for presenting a linear timeline in a format that allows for a wide variety of narratives. The recently redesigned display has an interface with larger and more complex timeline capabilities. Audience engagement is one of the most notable features of this application, allowing you to zoom through the timeline to a particular point, zoom into media (such as photos and videos) and filter your events during a presentation.

Jury in a Hurry (<http://www.juryinahurry.com/node/1>) is designed as a jury selection aid. Available on the iPad (not cheap – \$49.99) it allows data entry quickly and simply. Features include customized *voir dire* questions (including 160 common questions initially loaded), professional graphics to demographic data on a potential juror at first glance, cloud backup for your data using Dropbox and the ability to

recover in the event of loss or damage to your device, ability to add notes and attachments for each jury candidate, instant reports for demographics for gender, marital status, employment status, race, and age, and the ability to save preferences for auto population for new cases.

Prompt Smart (<https://promptsmart.com>) is a teleprompter. Using VoiceTrack speech recognition technology, it follows as you speak and will automatically scroll the text at your natural pace without an internet connection. If you pause or ad lib, the app will stop and wait for you to get back on script. This application is available for Mac and PC through the Apple Store and Google Play.

OS Screen Recorder (<https://www.wondershare.com/ios-screen-recorder.html>) Available for iPad, iPhone, and PC. iOS Screen Recorder is good choice to save a screen shot. You can share the screen between a handheld device and your computer. It also allows you to export videos from one device to another. It's compatible with all iOS devices. You can record audio, HD mirror to your device in real time, and has easy to customize settings.

Liquid Text (<https://apps.apple.com/us/app/liquidtext/id922765270>) is a document organizer. It allows you to integrate multiple exhibits on one screen. You can locate, store, and display documents. Supported formats include PDFs, Word, and PowerPoint. Supported interfaces include Dropbox, iCloud Drive, Box, and email. It includes an annotation feature, so you can draw or highlight a document, as well as making notes. You can also search for keywords, organize excerpts and notes into groups, and make connections (called “ink links” that span pages, documents and notes. This one is only available for the iPad. 📌



Questions or comments?

Drop me an email: jwh3@mindspring.com

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