

President's Column:

CABA Members Remain Steadfast During COVID-19 Crisis

By Tiffany P. Grove



I had a divorce trial on my docket today; the lawyers and litigants wore face masks inside my courtroom while peaceful protestors marched down the street outside the building. These are strange times with an abundance of turmoil and unrest surrounding us. Amid a global pandemic and protests across our nation calling for justice for George Floyd, I am reminded that the practice of law entrusts us lawyers and judges with the duty to uphold the rule of law and defend the fundamental rights, justice and equality secured under our laws. The steadfast dedication of the bench and bar has been and remains imperative to preserving what most defines us as a nation – our legal system and our written constitution. By the time this newsletter is read, I will be CABA's Past President. The 2019–20 CABA year ended without our usual activities and traditions. We weren't able to hold our April membership meeting but we were able to use those funds to donate \$2500 to MVLP and send tip money to the staff at the Capital Club. We weren't able to host our annual dinner event, the Evening Honoring the Judiciary, where

the president traditionally passes the gavel and publically thanks those who served the organization throughout the year. Luckily, I have this final presidential column to provide such a platform.

Jennie Eichelberger, now CABA's president, had more work to do as vice president than most. As a member of the judiciary, I was unable to personally solicit sponsors or memberships. Jennie picked up my slack by helping write letters and making calls to perform some of these functions, all of which are usually performed by the president. I know CABA is in very good hands under her experienced leadership. Clarence Webster served as secretary-treasurer this past year and made sure we stayed on budget and practiced fiscal responsibility throughout the year. He also worked as the golf tournament liaison and has worked hard with that committee to reschedule the event amid the pandemic. Committee chair Jake Bradley and others did great job rounding up golf sponsors. Our thanks go out to those sponsors.

Margaret Cupples, Nakimuli Davis-Primer, Kaytie Pickett, and Lanny Pace served as our board members this past year. Each one served as a liaison for a CABA committee and helped make sure our CABA events and activities were

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Upcoming Events

July 10

CABA co-sponsored legal clinic
9:30 am to 2:30 pm
Hinds County Chancery Courthouse

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WE NEED YOU JULY 10

CABA is co-sponsoring a legal clinic at the Hinds Chancery Courthouse on July 10th from 9:30 am to 2:30 pm and we need your help!

Receive up to

6 Free CLE Hours & 5 Pro Bono Hours!

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successful. Will Manuel occasionally ventured out from CABA’s Presidential Retirement Home and provided us with his knowledge and experience. It was a privilege to work alongside a team of so many dedicated lawyers.

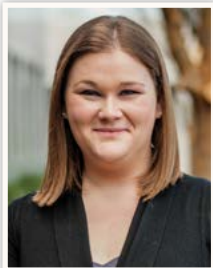
I deeply appreciate having the opportunity to serve as president of CABA this past year. I

know each of you will join me in thanking our Executive Director Jane Harkins and all the 2019–20 committee chairs and volunteers. As we begin this new bar year, let me congratulate CABA’s newly elected officers and directors. Kaytie Pickett will serve as our secretary-treasurer this year and we welcome two new board

members, Keishunna Webster and Stephanie Taylor. We look forward to the upcoming years during Clarence Webster’s 2021–22 presidential term, Kaytie Pickett’s 2022–23 presidential term, and in the many years to come. Meanwhile, I’m off to join Will Manuel at CABA’s Presidential Retirement Home. ➔

Don’t Bend the Rules: Satisfying Ethical Obligations During Crisis

By Candice L. Rucker¹



The global Coronavirus pandemic has required a certain level of flexibility in all professional spheres. Doctors are treating patients remotely. Teachers are providing instruction online. And restauranters have adapted to serving their clientele through delivery and curbside pick-up options. As with all widespread societal change, the legal industry is not immune—having been impacted as much, if not more, than most other professions. For example, old-school judges (including Supreme Court Justices, who are notoriously adverse to technology in the courtroom) have used audio and video technology to keep the wheels of justice turning. Attorneys have taken their operations remote, working from their homes, backyards, and public parks. And clients have increasingly novel demands, borne of the uncertainty that an indefinite quarantine brings. From where I’m sitting, legal professionals have done an

outstanding job meeting those demands, owing in part to the flexibility that modern technology provides.

But there’s at least one aspect to the practice of law that is not subject to flexibility. Attorneys have an ongoing obligation to satisfy their ethical responsibilities—even during times of crisis. This article addresses several potential ethical pitfalls that may arise as a result of our “new normal,” or the artificial environment created by working remotely. This is not a comprehensive discussion of everything that could go wrong; rather, it merely serves to remind practitioners that even a global pandemic does not suspend our ethical obligations to the courts and our clients.

The Mississippi Rules of Professional Conduct identify several threshold obligations that attorneys owe to their clients, including competence (Rule 1.1), diligence (Rule 1.3), communication (Rule 1.4), and confidentiality (Rule 1.6).

Competence.

Under Rule 1.1, lawyers are required to act with “the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” In emergency cases, lawyers may be tempted to provide advice on areas of

law outside their expertise, but this temptation should generally be avoided unless the lawyer has the time and capacity to learn and become reasonably conversant in the requested subject matter. Otherwise, the safest course of action may be referral to a trusted colleague.

Diligence.

Under Rule 1.3, lawyers are also expected to act “with reasonable diligence and promptness in representing [their] client[s].” Acting diligently means (among other things) that all matters should be handled expeditiously; that lawyers should control their workloads so as not to become overwhelmed; and that lawyers should clearly advise their clients when the attorney-client relationship is terminated. In the current climate, attorneys should also have a plan for their practices to be properly supported in the event of death or long-term disability, and this advice applies with particular force to solo practitioners.

Communication.

Along the same lines, Rule 1.4 requires careful and consistent communication with clients to avoid the loss of confidence that generally springs from an attorney’s radio

1. Candice Rucker is a Special Assistant Attorney General.

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silence. This includes, but is not limited to, communicating with the client about the status of the matter, requests for information, and any decision or circumstance requiring the client's informed consent. If a prompt response to client communication is not feasible, the

the cybersecurity concerns that arise in remote working environments. Attorneys should therefore take care that their means of communication (*i.e.*, Zoom, Skype, or Slack) is reasonably immune to data breaches. Attorneys working remotely should also take

1.10, on imputed conflicts, suggests that teams of attorneys working remotely maintain a consistent line of communication, as the conflicts of one lawyer are imputed to the entire firm. And Rule 1.16, on declining or terminating representation, requires that an attorney not represent clients if her "physical or mental condition materially impairs" her ability to do so. As much as attorneys hate to turn away representation, any illness (including COVID-19) that severely impairs physical health and mental acumen may preclude an attorney from accepting new matters in the short term.

“...even a global pandemic does not suspend our ethical obligations to the courts and our clients.”

lawyer should at least acknowledge receipt of the communication and specify when a response can be expected.

care that housemates (*i.e.*, spouses, children, or roommates) cannot access client information or overhear telephone or video conferences that include confidential information.

Again, this is not an exhaustive list of an attorney's ethical obligations. To remain fully abreast, attorneys should periodically review the Mississippi Rules of Professional Conduct. But it is particularly important for now to be aware that changing norms implicate both practical and ethical considerations. ➡

Confidentiality.

Under Rule 1.6, attorneys must maintain the confidentiality of client information except under limited circumstances. This Rule is implicated by any situation that may compromise client data, including

The Mississippi Rules of Professional Conduct also identify several issues related to conflicts of interest that are particularly important in emergency circumstances. Rules 1.7, 1.8, and 1.9 require lawyers to continue checking for conflicts, even when advising family and friends on urgent matters. Rule

WE NEED YOU JULY 10!

CABA is co-sponsoring a legal clinic at the Hinds Chancery Courthouse on July 10th from 9:30 am to 2:30 pm and we need your help! The primary purpose of this clinic is to help families in need, those that cannot afford a lawyer. This clinic is designed to help grandparents and other family members that are taking care of children and need a guardianship to enroll children in school. This clinic will also provide free legal advice and assistance regarding irreconcilable divorces, name changes, visitation, child custody, and birth certificate corrections. Forms will be provided to volunteers. This clinic will be by appointment only and we need volunteers before we can accept cases. Participants will wear masks and temperatures will be checked prior to entering the building. An optional CLE program will be presented to volunteers to review the forms before the clinic starts, from 8:30 to 9:30 am.

To volunteer for all or part of the clinic, please email LaShae Gilmore at dgilmore@co.hinds.ms.us.

Attorney volunteers can receive up to
6 Free CLE Hours & 5 Pro Bono Hours!



BLUE PLATE

Highways



Adventures in Gastronomy in Rural Mississippi

By Chad Hammons¹

“Blue Plate Highways?”

As I sat down to begin work on this column, while waiting for my computer to start, I checked FaceBook on my iPhone. It reminded me that two years ago I ate lunch at a place called Urban County Kitchen in Walnut Grove, Mississippi, with some of my good friends and clients from First Financial Bank. I posted the pic and a short blurb. That FaceBook post prompted my friend and former law partner Chris Shaw to ask me if I wanted to write for this newsletter, along the lines of the former “Road Eats” column. Needing a creative outlet (a low bar, I know), I readily agreed. Thus began *Blue Plate Highways*.

Flash forward two years, and look closely at the title above. You will see a question mark. That is intentional. As with many things, the future of *Blue Plate Highways* is in question, due to the ongoing COVID crisis and the unwritten, unknown ways that we as a society, as a state, and as a profession are going to respond.

When I say “the future of *Blue Plate Highways*,” I don’t just mean the column. I mean “Blue Plate Highways” as a cultural institution of Mississippi legal practice. I am not the only lawyer in Mississippi who travels the back roads, byways, and pig trails of this state going to court, taking depositions, and conducting foreclosures in small towns in the Delta, the Piney Woods, the Gulf Coast, and elsewhere. Lots of Mississippi practitioners do so, creating a common bond among those who ride the roads and visit the small towns that so many other Mississippians never see while they rotate between Jackson, Oxford, and 30A.

Blue Plate Highways is not just about eating at hole-in-the-wall restaurants, although

that is obviously the pivot point. *Blue Plate Highways* is a column. “Blue Plate Highways” is a concept. That’s why the title above is not only italicized, but is in quotation marks as well. The future of *Blue Plate Highways* depends on the future of “Blue Plate Highways.”

To-wit: in late January through mid-February, I had court in Huntsville, Alabama, a client meeting in Hattiesburg, a deposition in Carthage, and multiple hearings in Canton, among other things. On deck for the third week of March were a deposition in Batesville, a meeting in Senatobia, and a foreclosure in Hernando. I had planned to take a client to Kennel Club in Batesville for dinner the first night, with lunch the next day at Court Street Patio with another client, and dinner with yet another client in Southaven that evening. Lunch the following day after foreclosing would likely have been Windy City Grill in Hernando, or Tribeca in Sardis (outstanding pizza). I also had depositions scheduled for the

following week in Carthage, with a return trip to Huntsville planned for late March for another hearing in bankruptcy court.

None of it came to pass. Everything ground to a halt following the President’s declaration of a national emergency on Friday, March 13. Banks closed their lobbies, courthouses closed to public access, and life changed. There is no telling how many orders of continuance were entered by courts across the country. On top of that, courts entered orders mandating telephonic hearings on almost everything that does not require presentation of evidence. “Zoom” became a household word overnight.

Restaurants also shuttered. After trying to stay open to conduct take-out only service, many shut their doors. In Jackson, Hal & Mal’s and Keifer’s downtown both tried it for a week or so, but then closed. Others braved it, and remained open to cater to those of us still going to the office at least some of the time. For now at least, restaurants are beginning to re-open.

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2020 HOLIDAYS

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September 7	Labor Day
November 11	Veteran’s Day
November 26	Thanksgiving Day
December 25	Christmas Day

1. Chad Hammons is a partner at Jones Walker LLP.

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What does all this mean for “Blue Plate Highways” and thus, for *Blue Plate Highways*? The latter derives from the former, and the former is still somewhat in question. Will courts adopt telephonic hearings as “the new normal” for almost all non-evidentiary hearings? Or will state courts adopt the federal court practice of ruling on most motions without conducting hearings? I have already had one Chancery Court do just that, on a motion to close out a receivership. Will video depositions become the norm?

There is no doubt that certain motions can and should be heard by phone, without the necessity of personal appearances. The cost savings to litigants can be substantial. My adversary proceeding in the Huntsville bankruptcy court is a perfect case in point. For a variety of reasons (including COVID-19), it keeps muddling along. Since my initial appearance there, the court has conducted three telephonic status conferences. Appearing telephonically has saved my client a lot of money.

Or has it? If the court had held the March status conference in person, would the personal interaction and dynamic have allowed for a deeper discussion that would have promoted settlement? We are two months down the road, with tele-conferences held in April and May. I have asked opposing counsel to respond to my settlement offer, but have not received a reply. Part of me firmly believes that a live, in-person court appearance in March could have made a difference, due to the likelihood of increased instructions and feedback from the court, and the opportunity to discuss the case before and after the hearing. Of course, we’ll never know.

In addition to believing in the practical benefits of live, in-person court appearances, I am an inveterate disciple of the culture of the courtroom and law practice. We all have to draw lines in the sand, take hard positions, and scrap with other lawyers at times. And I will not pretend that I have always shaken hands with opposing counsel before or after every hearing. But most of the time, at least in my world, the geniality and professionalism of the courtroom bleeds over into the day-to-day grind of dealing with each other, and getting things done for clients.

More than that, there is simply an irreplaceable cultural benefit in the ritual of showing up before court is called to order, chatting with lawyers you know, meeting others you don’t, and then having your case called, with all eyes on you. It is an irreducible element of being a litigator in Mississippi, and we will suffer a profound loss if the temporary practices become the new normal.

As for depositions, I have not conducted one by video yet. According to one lawyer I have spoken to, video depositions can actually be better and can elicit more information in certain circumstances. Maybe so. I can see the benefit in conducting a short deposition, with few if any exhibits, by video. But all in all, count me skeptical. I just do not see how video can replace live, in-person examination in a conference room, when extended questioning and review of documents is necessary. It is not only an issue of procedural substance. It is part of the nuanced fabric of litigation. How many times have cases settled, or at least made material progress toward settlement,

when the lawyers have had a chance to talk in person after such a deposition?

I cannot count the number of times I have heard older lawyers talk about how much more fun law practice was “in the old days.” “Things were more collegial,” they say. Even since I began practicing in 1996, the culture and landscape have shifted, and we have lost certain things, while gaining others, including efficiency and flexibility in many areas. There are certain things I would never want to go back to, including the tyranny of the tie for every workday but Friday.

But actually going to court is another thing. It’s a *sine qua non* of being a litigator, and is part of the glue that binds the fabric. Same goes for taking depositions of a party or a witness at opposing counsel’s office, wherever that might be. Going to small towns across Mississippi has been one of the most enjoyable aspects of my 24 years of law practice. Traveling to Walthall for Chancery Court, Aberdeen for Bankruptcy Court, or Magnolia for County Court, and appearing in state and federal courts all across Mississippi, is part and parcel of what it means to be a litigator here. Knowing places to eat like Allison’s in Belzoni, Walnut Hills in Vicksburg, and The Stables in Tupelo, and knowing to time your trip back from Columbus or Macon to eat the buffet at Lake Tiak O’Kata, is all part of the fun. We need that. Mississippi needs it as well.

Here’s hoping some things don’t change. When the time comes, we need to get back to the courtroom and the conference room. Let’s not let COVID-19 claim our legal culture as well. 🍀

SOCIAL MEDIA

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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.

28th Annual GOLF OUTING

June 29, 2020 · Country Club of Jackson

The 28th Annual Lawyers Golf Outing was held on Monday, June 29th at the Country Club of Jackson. Proceeds from the tournament were donated to the MS Volunteer Lawyers Project. Shown are scenes from the tournament. A big “thank you” to all of our tournament sponsors for making this event possible.

EVENT PHOTOS



27th Annual
GOLF OUTING
EVENT PHOTOS



» On Computing

Focused on the Contemporary Lawyer



Apps to Help You Work Remotely...



By Joel Howell

[Microsoft 365](#) is a great tool for anyone working remotely, because it helps keep all your working files in one location, you can access them anywhere and share with others for collaborative projects. The following applications are offered through Microsoft 365: Word, Excel, PowerPoint, OneNote, OneDrive, and Outlook. The most notable part of this suite is the ability to connect all your devices via the Cloud. This means all your documents stay in the same formatting, use the same key functions, and are conveniently located across all devices. One of Microsoft's newest feature is the "Personal Vault" file option. This allows for you to keep documents which require more security than most in a multi-step password protected Cloud location.

Recently, Microsoft added Office Teams to the mix, allowing for group video chatting in a private setting. Teams allows users to collaborate on the same documents during conferencing. The best part about Microsoft 365 is that it utilizes many of the programs you already use in your daily practice, so there is less of a learning curve. Pricing for businesses start at \$5 per user per month and can go up to \$20 per user per month depending on the features you find you need.

[Spark](#) is an app to control your email. Through the app's programming, you can have email prioritization and noise reduction allowing you to reach inbox zero. Smart inbox allows you to quickly see what is important, and then clean up the rest. You can "snooze" an email to remove it temporarily from your inbox. It will come back to the top

of your inbox at a time you set. A helpful feature is the ability to set reminders to follow up, and the ability to swipe left or right to find the best professional or personal signature for your email. Pricing starts from free to \$6.39 per active user, per month, billed annually.

[Marco Polo](#) is an app with many of the same features of FaceTime, Zoom, Facebook Group Chat, GroupMe, etc., except it places a premium on privacy. Unlike many apps, Marco Polo does not sell user data for advertising. Users cannot search and find anyone without having their cell phone number, adding to the privacy functions within the app. There is no limit on length of calls, and the video is stored in the Cloud, so your phone will not be bogged down with unnecessary storage usage. The app will work over Wi-Fi anywhere in the world, so data and location are not at issue. The app is free, but the premium plan is \$9.99/month billed through your Apple or Android account.

[Zoom](#) is an app which some of you may never have heard of before the pandemic, but now it's a staple in daily life for many. This platform is helpful to keep connected during stay-at-home orders. Features include a scheduling function, chat, and reactions. However, there are some security concerns with this meeting option, so a helpful tip is when scheduling your meeting, remember to add a password for your team or clients to gain access.

Zoom training is available online (free CLE!) from our State Bar: [Zoom Training for Lawyers and Using It Securely](#). (If the preceding link in this article doesn't work, you can access it via any one of the last several Bar Briefs, emailed most every Monday, or directly from the Bar website.)

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Start the discussion...




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Airtable allows you to organize anything, with anyone, from anywhere. It enables users to create spreadsheets and turn them into databases. Calendar integration is very helpful, as is the ability to link related context intelligently, allowing users to get away from duplicate data entry and link records between tables (creating smart relationships). Airtable will work with all the apps and software you already use (i.e., Dropbox, Google Drive, Evernote, etc.). Pricing starts from free, all the way up to \$20 per users per month (billed annually).

Jira is an app designed to move work forward from anywhere, meaning maximum productivity. It is designed for teamwork, mainly remote teamwork. Jira allows users to track and manage all elements of the team member's work in real time. This program is designed and built for multi-screen use, meaning you can connect all your devices. Roadmaps is a feature many enjoy, allowing users to pre-plan a project's timeline communicate and share with team members. Pricing starts at free and goes up to \$14 per user per month (with up to 5,000 users).

Freedom is available for Mac, iPhone, and iPad. It creates block-lists, schedules time away from apps that are distracting (i.e., Facebook, Instagram, Twitter, the whole internet, etc.). You can also create "custom blocks" which allows you to access only the most important websites you might need. You can schedule "blocks" in advance, which allows you to start creating the healthy habit of self-limiting your screen time. "Blocks" can be synced across all your

iOS devices, meaning you cannot block your computer from using Facebook, then grab your phone and start looking at Facebook there. The tracking feature allows you to track and annotate each session you participate in and make notes on progress made. Freedom is designed to also work on a desktop or laptop computer as well as phone and tablet. There also some neat new features in the works, which will be coming out soon with the subsequent updates. These include Windows whitelisting, new browser extensions, interactive productivity courses, and ambient noise for focus. Pricing start with subscriptions from \$7/month or \$29/year.

Toggl offers hassle-free time tracking, by allowing you to break down your hours by projects, clients, and tasks. Features include one-click timers, tracking reminders, and app integration with your phone. Productivity is the main objective of this app, so the features are tailored towards just that: features such as reporting, project dashboard, and billable rates. A notable offering from the app is the ability to integrate it within your desktop computer, tablet, or phone. Pricing starts from free to \$20 per user per month. 



Questions or comments?

Drop me an email: jwh3@mindspring.com



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