

WAKE BAR FLYER

CELEBRATING SALLY SCHERER

2015 Branch Professionalism Award Honoree.....3

VOL. XLI • ISSUE 6
NOV/DEC 2015



■ BAR EVENTS NOT TO MISS, THANK YOU AND MEDIATION PARTING SHOT

MARK FINKELSTEIN, PRESIDENT, TENTH JUDICIAL DISTRICT BAR

DO NOT MISS THESE ANNUAL TRANSFORMATIONAL BAR ACTIVITIES IN
THE NEXT BAR YEAR:

- THE BRANCH PROFESSIONALISM AWARD PRESENTATION LUNCH
- MEMORIAL SESSIONS OF WAKE COUNTY SUPERIOR COURT
- THE 50-YEAR LAWYER PRESENTATION LUNCH
- THE LEGAL AID FUNDRAISER / BAR AWARDS MUSICAL

As my year as President of the Tenth Judicial District Bar draws to a close, I was asked, “how do we as individual lawyers keep striving to be our best?” As Tevye said in *Fiddler on the Roof*: “Tradition!” In particular, the four traditions above have moved my generation of lawyers to strive for professional excellence.

We know what the best in a lawyer is because we have shining examples of excellence in our bar. It is our bar’s tradition to provide opportunities to interact with these shining role models or “mentors” at many events.

First among these opportunities is the Chief Justice Joseph Branch Professionalism Award Luncheon; the presentation of our Bar’s highest award. We present this award at our November meeting. The moving remarks of the presenter and recipient will inspire you. No one ever leaves a Branch professionalism event without thinking, “Wow, if they can give that much, I can give a little more.”

The eulogies given at the Tenth Judicial District’s memorial sessions of Superior Court, typically and ably presided over by Resident Superior Court Judge Michael Morgan, will also move you.

CONTINUED ON PAGE 4

NOTICE OF ELECTION

THE OFFICERS of the Tenth Judicial District Bar and Wake County Bar Association hereby give notice pursuant to Article XII of the By-Laws of the North Carolina State Bar:

1. That the annual election of Officers and Directors will be held on Tuesday, December 1, 2015, at the Hilton North Raleigh/Midtown, 3415 Wake Forest Road in Raleigh at 12:15 p.m. Lunch will be served and the cost of lunch will be borne by the Tenth Judicial District Bar at no additional cost to members.

CONTINUED ON PAGE 2

UPCOMING EVENTS

BREAKFAST DISCUSSION SERIES: WORKAHOLISM

- November 18 | Join us at Campbell School of Law for November’s Tenth JD Breakfast Discussion. 1 Hour SA/MH CLE Credit. Program begins at 7:30 a.m.

TENTH JD BAR ANNUAL MEETING

AND ELECTION LUNCHEON • December 1

Members of the Tenth Judicial District Bar are invited to this meeting to elect officers and directors. 12:15 p.m. at North Raleigh Hilton

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WAKE COUNTY
BAR ASSOCIATION

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WAKE BAR FLYER

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THEODORE C. EDWARDS II

JOHN N. (NICK) FOUNTAIN

DONNA R. RASCOE

JOHN M. SILVERSTEIN

C. COLON WILLOUGHBY

CYNTHIA (CINDY) L. WITTMER

NOTICE OF ELECTION: CONTINUED FROM PAGE 1

The election is for the purpose of choosing Officers and Directors for both the Tenth Judicial District Bar and the Wake County Bar Association, and Badger-Iredell Foundation Board Members. There will not be an early voting option.

2. The following Officers will be elected: President-elect, Treasurer, Secretary

3. The following Directors will be elected: Seven Directors (Three-year term)

PRESIDENT-ELECT (ELECT ONE)

Ashley H. Campbell

Deborah L. Hildebran-Bachofen

TREASURER (ELECT ONE)

Adam Gottsegen

SECRETARY (ELECT ONE)

Meghan N. Knight

BOARD OF DIRECTORS (ELECT SEVEN)

Ann-Margaret Alexander

Jennifer Blue

Bill Bystrynski

Anna Baird Choi

Angela Farag Craddock

Margaret Person Currin

Stephanie M. D'Atri

Ashley Parker Dunston

James Hash

Matthew Nis Leerberg

Matt Liles

David L. Sherlin

John B. Ward

Jon Williams

4. The following Badger-Iredell Foundation positions will be elected by the Wake County Bar Association (Two Directors, Three-year term):

BADGER-IREDELL FOUNDATION WCBA MEMBERS VOTING (ELECT TWO)

Leonard T. Jernigan, Jr.

Fred P. Parker, III

5. The following State Bar Councilor positions will be elected by the Tenth Judicial Bar: Five Councilors (Three-year term):

STATE BAR COUNCILORS

DOMBALIS SEAT (UNCONTESTED)

Nick J. Dombalis, II

EDWARDS SEAT (UNCONTESTED)

Ted Edwards

FOUNTAIN SEAT (ELECT ONE)

Walter E. Brock, Jr.

Harriet F. Worley

SILVERSTEIN SEAT (ELECT ONE)

Katherine A. Frye

Shannon Joseph

WITTMER SEAT (ELECT ONE)

Keith O'Brien Gregory

Warren T. Savage

Please see biographical information on each of the candidates beginning with page 5 and continuing through page 11. We look forward to seeing you at the Election Meeting on December 1 at the North Raleigh Hilton. [WBF](#)



2015 JOSEPH BRANCH PROFESSIONALISM AWARD RECIPIENT

SALLY HAMILTON SCHERER

BY KATHERINE JEAN | ATTORNEY AT LAW



SALLY CAME TO THE LAW a little later in life than most of us, after she earned a Bachelor of Arts degree in philosophy from Sweet Briar College, worked as a kindergarten teacher, had three children of her own, and became a medical technologist. She realized she could help people best by changing the way the law affects them. So Sally went to Franklin Pierce Law Center and earned her law degree in 1981. What a blessing it was to North Carolina that she came here to practice law.

I met Sally in 1987. She was the only other woman in the big group that showed up at Belk's cafeteria every day at lunchtime. She was definitely a provocateur, raising all manner of controversial topics and challenging her friends to question the established order of things. Sally was especially dissatisfied with the established order in family law cases. She knew divorcing families had too much expense, uncertainty, hostility and psychic injury. She was especially troubled by the damage domestic legal disputes inflict upon children. She was determined to do something about it.

Sally's contributions to our community and to our profession cannot be counted. She has mentored dozens of students and young lawyers. A sampling of her professional and civic commitments include her service as President of the Tenth Judicial District Bar; as a member of the boards of directors of the NC Academy of Trial Lawyers, the Wake County Bar Association (where she chaired many committees), the North Carolina Association of Women Attorneys, and the Wake County Academy of Trial Lawyers; as a State Bar Councilor; as President of the Wake County Academy of Criminal Trial Lawyers; the NC Center for Laws Affecting Women; as a volunteer providing shelter for battered women and their children; and as a judge and a mentor in Teen Court. Sally helped organize and served for many years on the Board of Directors of Summit House, a residential program for nonviolent women offenders and their young children. She was inducted into the NCBA General Practice Hall of Fame and has received the NC Association of Women Attorneys' Gwyneth B. Davis Award for her work promoting women in the legal profession and the legal interests of women. Sally is rightly and especially proud that while she was President of the Tenth Judicial District Bar, a team lead by Judge Manning and Carlyn Poole accomplished the adoption of the Creed of Professionalism of the Wake County Bar Association and the Tenth Judicial District Bar.

Sally should be best known as the person who conceived, built, and nurtured The Child's Advocate, a non-profit organization dedicated to providing legal representation to children in domestic cases. She retired from the practice of law to devote herself fulltime to this organization. Sally describes what motivated her:

I knew personally how difficult custody disputes are for children, and after 20 years of criminal law practice and 30 years of family law practice, I knew professionally how dramatically damaging the legal system could be to children who had done nothing wrong — like those caught in high-conflict custody cases and those who were victims of or witnesses to crimes and had to testify in court. Both national and international research were showing how much these children could be helped by having their own representation in court proceedings even though they were not parties. With the help of other family law attorneys and mental health professionals

who work with families, we formed a non-profit to provide children with free legal representation as real attorneys (not as someone deciding what we think is best) and we set it up as a legal-mental health partnership which the research supported. Our experience bore out what the research was saying — that children with attorneys do better and have more respect for the legal system, even if their specific wishes are not granted, and more cases settled, which stopped the conflict. By having an advocate, the child had a voice and was not being ignored in decisions significantly affecting their lives.

The Child's Advocate represents children today as a program of Legal Aid of North Carolina.

I cannot think of a person who better exemplifies the values of professionalism. Sally has devoted her entire life to helping other people. I had the honor of working in the same office with Sally for several years. While she was never the first person to arrive at the office in the morning, she was always the last one to leave at night. She charged her clients for a fraction of the time she spent on their cases. She was always looking for ways to minimize the conflict in their lives and in the lives of their children. She always tells the truth, whether you want to hear it or not. She does not complain about injustice; she tackles it. She is the most passionate crusader for what she believes in. She uses her energy, resources, and skills to protect those who are most in need of protection. She has never seen the profession as a means to make money. She has seen it as her opportunity to make a difference in the world, and what a difference she has made.

Carlyn Poole, Sally's contemporary and fellow domestic lawyer, summed it up best: "If someone had said to us when we got our law license 'use it for good' we would all have been great lawyers. Sally is the lawyer I know who best followed this. In her family law practice she never made the situation worse and treated everyone with kindness and respect. I never heard her react in anger." **WBF**

'TIS THE SEASON... FOR THE WCBA HOLIDAY PARTY

Featuring Groovetown

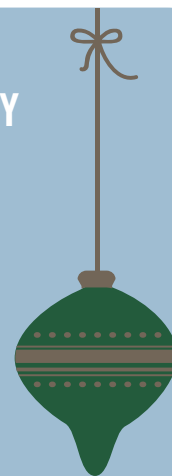
Friday, December 4 • 7 - 11 p.m.

Note: NEW LOCATION!

Crabtree Marriott, 4500 Marriott Drive

Heavy hors d'oeuvres and complimentary
beer, wine and soft drinks.

This event is for WCBA members
and their dates only.



MESSAGE FROM THE PRESIDENT

CONTINUED FROM PAGE 1

No one ever leaves a memorial session of Superior Court without giving thanks for the lives of the departed and striving to be a blessing to our system of justice in the future. You will come closer to reaching your aspirations as a lawyer and a human being if you participate.

Hearing from and about lawyers who have practiced for 50 years at the 50 year lawyer presentation lunch will put your practice in perspective. These lawyers are not only experienced, but they communicate their wisdom with humor, so it will stick with you.

We have a professional and moral duty to make justice accessible to all. The most hilarious way we meet this duty is the annual Legal Aid Fundraiser Musicales. Go socialize with judges as they are roasted; enjoy the company of our bar, as lawyers – talented and not so talented – perform.

These four programs have become annual highlights for our bar because they take so little of our time while providing so much through the shared life lessons of others.

PLEASE MAKE TWO NEW PROGRAMS TRANSFORMATIONAL TRADITIONS OF THE FUTURE: THE CONNECTIONS MENTORSHIP PROGRAM AND THE WCBA COMMUNITY FAIR

The Professionalism Committee's Mentorship Program (a/k/a Campbell Connections) and the new Community Fair public service projects are worthy candidates to join the four traditions above. That will only happen if we dedicate the effort to make it so.

If you are a lawyer (from any law school) with less than three years' experience you can become a mentee in our Connections Mentorship Program. Connections, the Professionalism Committee's partnership in conjunction with Campbell Law School, provides a deeply significant opportunity for experienced lawyers to be role models for those who are the future of the bar. The mentor-mentee relationship is beneficial for both parties. Indeed, little makes a lawyer think more deeply about the practice of law than the eager questions of a first-year lawyer or a third-year law student.

This year we have also partnered with Alliance Medical Ministry to produce our first Community Fair public service event. The goal is to allow lawyers and their families to provide legal guidance, tutoring and other services to those in need in Wake County. A great way to avoid community alienation and misunderstanding is to spend time together making our community better for those most in need of our help.

A PARTING THOUGHT ABOUT PEACE AND MEDIATION

Lawyers, like most others on the planet, negotiate for a living. The central difference is that lawyers negotiate in a more rules-bound and stressful environment than most. We should do a better job of taking care of ourselves and each other so that we can do a better job of finding peace for our clients.

My law partner, Retired Chief Justice James G. Exum, Jr., said this in the context of implementing our system of Superior Court Mediation:

The time has clearly come for lawyers to begin to emphasize their role as mediators, conciliators, and peace makers – as counselors for what is right, not merely advocates for what is legally possible. Lawyers must begin to take advantage of alternatives to litigation for dispute resolution. . . . Lawyers need to remind themselves that the courtroom is often not a place conducive to peace making or conflict healing, yet peace making and conflict healing are first obligations of our profession.

He is more right than many of us know.

THANK YOU

Finally, I want to thank Chief Judge and WCBA President Robert Rader, Tenth Judicial District Bar/WCBA Executive Director Whitney von Haam, Shaula Sharp, Stephanie McGee, Colleen Glatfelter (Your Tenth Judicial District/WCBA staff) and the 5,404 active lawyers of the 10th Judicial District for the joy of working for the benefit of our legal community. **WBF**

BarCARES

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A program ready to help you and your immediate family.

919.929.1227 or 1.800.640.9735

ELECTIONS

PRESIDENT-ELECT ELECT 1 OF 2 CANDIDATES

ASHLEY H. CAMPBELL

**Ragsdale Liggett PLLC
UNC School of Law, 2003**

WCBA/Tenth JD Bar Activities: Secretary, WCBA/Tenth Judicial District Bar, 2013-2015; Subcommittee Chairman, WCBA/Tenth Judicial District Bar Strategic Plan/Long Range Planning Committee, Member, WCBA/Tenth Judicial District Bar Board of Directors 2012-2013.

Other Bar-related Activities: Honored by the North Carolina Bar Association for Pro Bono Service to Legal Aid of North Carolina; Women in Business 2014 Community Supporter Award (Triangle Business Journal); Women of Justice 2013 Rising Star Award (North Carolina Lawyers Weekly); 2012 Leader in the Law (NC Lawyers Weekly); 40 Under 40 (Triangle Business Journal); North Carolina SuperLawyers Rising Star; Named 2011 UNC Law Outstanding Graduate; Member, North Carolina Real Property Lawyers Association, Federation of Defense and Corporate Counsel, Defense Research Institute, Claims & Litigation Management Alliance, North Carolina Association of Defense Attorneys, North Carolina Land Title Association, Wake County Real Property Lawyers Association and UNC Law Alumni Association Alumni Services Committee.



DEBORAH L. HILDEBRAN-BACHOFEN

**Manning, Fulton & Skinner, P.A.
UNC School of Law, 1984**

WCBA/Tenth JD Bar Activities: WCBA/Tenth Judicial District Treasurer (2013-2015); Member of the Board of Directors of WCBA (2010-2011); Swearing in Ceremony Committee - Chair (2009-2010), Co-Chair (2008, 2011), Vice-Chair (2007), Fund Raising Subcommittee Chair (2010-2011), Committee Member (2003 to 2012), participant in the WCBA US Supreme Court Swearing in Ceremony (2007); Strategic Plan/Long Range Planning Committee Member, Chair of the Finance Subcommittee Goal (2009-2010) and Chair of Public Service/Pro Bono Subcommittee Goal (2015), Strategic Plan Implementation Committee Member (2013), Co-Chair of the Finance Implementation Subcommittee (2013), Co-Chair Sponsorship Subcommittee (2014); Member of the WCBA Office Space Special Task Force (2011); Athletic Committee Member (2003 to 2011); Performer in The Very Serious Wake County Bar Awards (2009), Wake County Bar Awards Planning Committee, Co-Chair (2012, 2013), Committee Member (2014); Public Service Committee Member (2012-2015); Social Committee Member (2012-2015); Lunch with a Lawyer program participant (2008, 2013-2014); Recipient of President's Award (2009, 2012); WCBA Dues Task Force Member (2014); WCBA Foundation Reorganization Task Force Member (2014); and WCBA Foundation Finance Committee Member (2015).



Other Bar-related Activities: Past Council Member of the NCBA Tax Section; Past Chair and Council Member of the NCBA Estate Planning & Fiduciary Law Section, Past Chair of the Estate Administration Manual Committee; Past Council Member of the International Law & Practice Section, Chair of the 2010 Turkey Attorney Exchange Committee, Chair of the 2015 Reciprocal Portugal Attorney Exchange Committee; Member of the Steering Committee for 2010 Open Rule of Law Program for Russian Judges, NCBA Local Bar Services Committee Member, NCBA Convention Planning Committee Member, Participant in 4All and Lawyer on the Line Programs, Prior Committee Member of Business Law Section NC LEAP Entrepreneurship Subcommittee.

TREASURER ELECT 1 OF 1 CANDIDATE

ADAM M. GOTTSEGEN

**Nicholls & Crampton, P.A.
Wake Forest University School of Law,
2002**

WCBA/Tenth JD Bar Activities: Wake County Bar and Tenth Judicial District Board of Directors 2013-15; Professionalism Committee; Wake County Bar Awards/Legal Aid Fundraiser Committee (2014-15), Wake County Bar Awards Sponsorship Chair (2015)

Other Bar-related Activities: NCBA Bankruptcy Section Council Member 2013-15; Speaker/Presenter Bankruptcy and Real Property Law (January 2014 and October 2015)



CANDIDATES FOR TENTH JUDICIAL DISTRICT BAR & WCBA ELECTIONS

BOARD OF DIRECTORS ELECT 7 OF 14 CANDIDATES

ANN-MARGARET ALEXANDER

Alexander & Doyle, PA
NCCU School of Law, 1995

WCBA/Tenth JD Bar Activities: Swearing-In Committee (Member, 2013- present); Social Committee (member, 2003-2013); Community In Schools, Lecturer on Family Law to local high schools; Bar Candidate Interview Committee (1997-2000).

Other Bar-related Activities: Speaker, CLE, Ethics (2015); Domestic Violence Child Custody Court (Volunteer, 2014- present); NCBA, Family Law Section (Member, 1996- present); NCBA-YLD (Chair, Law 101, 2000-2002); NCBA-YLD (Chair, Law Day Committee, 1999-2000); NCBA-YLD (Member, Law Day Committee 1996-1999).



BOARD OF DIRECTORS ELECT 7 OF 14 CANDIDATES

JENNIFER BLUE

NC Prisoner Legal Services
NCCU School of Law, 2006

WCBA/Tenth JD Bar Activities: WCBA Ask a Lawyer Coordinator (2006), WCBA Public Service Committee (2013), YLD.

Other Bar-related Activities: Graduate of the NCBA Leadership Academy, Class of 2015, NCBA 4-ALL volunteer (2006-present), Council, NCBA Constitutional Rights and Responsibilities Section (2015), NC Advocates for Justice Membership Committee (2013), NC Advocates for Justice Legislative Committee (2014).



SECRETARY ELECT 1 OF 1 CANDIDATES

MEGHAN N. KNIGHT

SAS
UNC School of Law, 2006

WCBA/Tenth JD Bar Activities: Lawyers Support Committee (Chair 2013-present; Co-Chair 2012, Member 2010-present); Lunch with a Lawyer (2007-2013); YLD Education Subcommittee (2007).

Other Bar-related Activities: North Carolina Bar Association, Minorities in the Profession Committee (2010-present); Leadership Council on Legal Diversity Success in Law School Mentoring Program (2013-14); Defense Research Institute (Member 2007-2014); NC Association of Defense Attorneys (Member 2007-2014); Association of Corporate Counsel (Member 2014-present).



BILL BYSTRYNSKI

Edwards Kirby, LLP
University of North Carolina, 1994

WCBA/Tenth JD Bar Activities: Scholarship Committee (chair 2015, 1998-2008); Scholarship Committee (member, 1995 – Present); Foundation Endowment Committee (2015).

Other Bar-related Activities: North Carolina Bar Association: Endowment Committee (2007-2010); North Carolina State Bar: Lawyers Assistance (1994-Present).



ANNA BAIRD CHOI

Allen, Pinnix & Nichols, P.A.
Campbell School of Law, 1994

WCBA/Tenth JD Bar Activities: Wake County Bar Awards/Legal Aid Fundraiser; History Committee; Membership Services Committee; Lunch with a Lawyer volunteer; Friends of the Wake County Bar.

Other Bar-related Activities: NCBA Administrative Law Section (Chairman: 2013-2014; Council Member: 2006 - present); NCBA Immigration Law Committee (Chairman: 2008-2009; Member: 2005-2009); NCBA Construction Law Section (Member: 2000 - present); NCBA International Law Section (Member: 2003-2007); NC Rules Review Commission (Commissioner: 2012 - present); Campbell Law Alumni Association Board of Directors (founding Board member).



CANDIDATES FOR TENTH JUDICIAL DISTRICT BAR & WCBA ELECTIONS

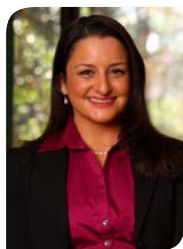
BOARD OF DIRECTORS ELECT 7 OF 14 CANDIDATES

ANGELA FARAG CRADDOCK

**Young Moore and Henderson, P.A.
UNC School of Law, 2004**

WCBA/Tenth JD Bar Activities: YLD; Wake County Bar Awards 2014-2015

Other Bar-related Activities: North Carolina Bar Association: Workers' Comp and Appellate Practice sections; North Carolina Association of Defense Attorneys; Defense Research Institute



ASHLEIGH PARKER DUNSTON

**North Carolina Department of Justice
NCCU School of Law, 2012**

WCBA/Tenth JD Bar Activities: Chair, WCBA Community Fair 2015; WCBA Public Service Committee Member (2013-2015); Young Lawyer's Division Member (2013-2015); Lunch with a Lawyer Program participant; Rule of Law Program participant

Other Bar-related Activities: Chair, Public Service Committee Capital City Lawyers Association; NCCU School of Law Alumni Executive Board Member; Vice-Chair, Raleigh City Council Fair Housing Hearing Board; Young Minority Law Enforcement Interaction Forum Panelist; NCBA Liberty Bell Nominations Committee Member; NCSECU Advisory Board Member; Judge, AAJ Trial Competition; Judge, TYLA Trial Competition; Judge, NCCU School of Law Intra-School Trial Competitions; Judge, "We the People" State Competition; Speaker, Various Community Events/Programs.



MARGARET PERSON CURRIN

**Campbell Law School
Campbell Law School, 1979**

WCBA/Tenth JD Bar Activities: Member of Tenth JD Bar since 1979; member of WCBA since 1981. Speaker on Campbell's Externship Program.

Other Bar-related Activities: Service on the NCBA Administrative Law Section Council and the Government and Public Sector Section Council; NCBA Law Related Education Committee; NCBA Law School Liaison Committee; Vice-President, NC BARCARES. American Bar Association Administrative Law Section. NC Rules Review Commission member. National Association of Former United States Attorneys.



JAMES HASH

**Everett Gaskins Hancock LLP
Campbell School of Law, 2008**

WCBA/Tenth JD Bar Activities: YLD President, 2015; Secretary, 2014; Treasurer, 2013. Strategic Planning Committee, 2015. Public Service Committee, Co-Vice Chair, 2014.

Other Bar-related Activities: Campbell Law Alumni Assoc. Board Member, 2015, NCBA YLD Pro Bono and Poverty Issues Committee, Co-Chair, 2013-15, NCBA YLD Legal LINK Committee, Co-Chair, 2012-13, Craven-Everett American Inn of Court



STEPHANIE M. D'ATRI

**Hatch Little & Bunn, LLP
NCCU School of Law, 2010**

WCBA/Tenth JD Bar Activities: Professionalism Committee, member; Professionalism Committee/Programs Subcommittee, co-chair; Professionalism Committee/Publications Subcommittee, contributing member

Other Bar-related Activities: Susie Sharp Inn of Court



CANDIDATES FOR TENTH JUDICIAL DISTRICT BAR & WCBA ELECTIONS

BOARD OF DIRECTORS ELECT 7 OF 14 CANDIDATES

MATTHEW NIS LEERBERG

**Smith Moore Leatherwood LLP
Duke University School of Law, 2006**

WCBA/Tenth JD Bar Activities: Wake County Bar Awards/Legal Aid Fundraiser (2011-present)

Other Bar-related Activities: NCBA Appellate Rules Committee (2010-present); North Carolina Business Court Rules Committee (2015-present); NCBA Appellate Practice Section, CLE Committee Chair (2013-2015), Treasurer (2015-2016), Secretary (2014-2015), Council Member (2013-2014); Federal Bar Association, Chair of Appellate Practice Committee (2014-present); Fourth Circuit Criminal Justice Act Panel, appointed counsel for indigent appellants (2013-present); Campbell University School of Law, Adjunct Professor teaching Federal Courts (2012-present); Founding blogger and regular contributor for the North Carolina Appellate Practice Blog (2011-present); Frequent speaker at appellate practice CLEs (2010-present); Board Certified Specialist in Appellate Practice (2014-present).



DAVID L. SHERLIN

**Holt Sherlin LLP
NCCU School of Law, 2004**

WCBA/Tenth JD Bar Activities: Tenth Judicial District Grievance Committee (2013-present, vice chair: 2015); Professionalism Committee (2013-Present); Chair, Gambrell Award Subcommittee of Professionalism Committee (2014-present); Roundtable CLE Subcommittee of Professionalism Committee (2014); Board of Directors (2010-2012); Bar Interview Candidate Committee (2008-2010)

Other Bar-related Activities: Member, NCBA (2013-present); Member, Citizen Lawyer Committee through the NCBA (2015-present); Pro Bono Representation through Legal Aid of North Carolina (2012-present); Member, NCAJ (2012-present); Mentor for Campbell Law School/WCBA Connections Mentor Program (2013 and 2015)



MATT LILES

**North Carolina Department of Justice –
Consumer Protection Division
UNC School of Law, 2008**

WCBA/Tenth JD Bar Activities: Matt comes to Raleigh from Washington, DC. He joined the North Carolina Department of Justice in January 2014, and looks forward to being active in the WCBA community.

Other Bar-Related Activities: NC Bar Association - 2014 Professionalism for New Attorneys (speaker)



JOHN B. WARD

**Yates, McLamb & Weyher, LLP
UNC School of Law, 2012**

WCBA/Tenth JD Bar Activities: Volunteer Bar Character and Fitness interviewer for July and February bar exams (2012-present); WCBA Membership Services Committee (2015); Regular attendee of WCBA YLD and WCBA events.

Other Bar-related Activities: UNC Law Leadership Development Program, alumni mentor (2015); NCBA Citizen Lawyer Committee (2013-present); NCBA Young Lawyer Division-Legal Feeding Frenzy, firm ambassador (2014); NCBA Young Lawyer Division-Wellness Committee (2013-14); Defense Research Institute (2013-present); N.C. Chapter of the American Society for Healthcare Risk Management (2013-present); North Carolina Association of Defense Attorneys (2012-present); American Bar Association (2010-present).



CANDIDATES FOR TENTH JUDICIAL DISTRICT BAR & WCBA ELECTIONS

BOARD OF DIRECTORS ELECT 7 OF 14 CANDIDATES

JON WILLIAMS

**NC Administrative Office of the Courts
UNC School of Law, 1990**

WCBA/Tenth JD Bar Activities: Since transferring membership I have not been active in the Tenth, but as a member of the Eighth Judicial District Bar I served as President of the Wayne County Bar, co-founded and served as state President of the Young Lawyers Division of the Academy of Trial Lawyers, and judged annual high school moot court competitions.

Other Bar-related Activities: Have served in multiple professional roles involving both the administration of justice and in commercial regulation. CURRENT: Senior Deputy Director of the NC Administrative Office of the Courts; Chief Reporter for the new NC Commission on the Administration of Law and Justice convened by Chief Justice Martin. PAST: Chairman of the NC Alcoholic Beverage Control Commission; Chairman of the Regulatory Committee of the National Alcoholic Beverage Control Association; Assistant Secretary of Commerce for Energy; Member of the NC Mining and Energy Commission; Member of the Interstate Oil and Gas Compact Commission; Deputy Secretary of Crime Control & Public Safety; General Counsel for the Department of Crime Control & Public Safety; Member of the NC Sentencing Commission; Member of the NC Crime Victims' Compensation Commission.



BADGER-IREDELL FOUNDATION ELECT 2 OF 2 CANDIDATES

FRED P. PARKER, III

**Retired
UNC School of Law, 1964**

WCBA/Tenth JD Bar Activities: Past member: Board of Directors (1997-1998), Fee Dispute Resolution Committee (2007-2011), Athletics Committee (1992-1993, 1997-1998, 2000-2007), Public Service Committee (1997-2003), Social Committee (2003-2006). Current member: History Committee (1992-1993, 1997-present, chair 1997-1998), Membership Services Committee (2002-present) Past member of the WCBA/Tenth JD Bar Board of Directors, past chair and member of the History Committee, current member of the Membership Committee.

Other Bar-related Activities: Badger-Iredell Foundation, member and past president.



BADGER-IREDELL FOUNDATION ELECT 2 OF 2 CANDIDATES

LEONARD T. JERNIGAN, JR.

**Jernigan Law Firm
NCCU School of Law, 1976**

WCBA/Tenth JD Bar Activities: Former Memorials Committee Chair; served on WCBA Board on two prior occasions; Vice Chair of the History committee, currently serving on History Video Project; received John B. McMillan Distinguished Service Award in 2014

Other Bar-related Activities: Author of NC Workers' Compensation Law & Practice; Adjunct Professor of Workers' Compensation Law at NCCU School of Law; Past President of WILG (a national organization of workers' compensation attorneys).



CANDIDATES FOR STATE BAR COUNCILORS

DOMBALIS SEAT UNCONTESTED

NICK J. DOMBALIS, II

Nicholls & Crampton, P.A.
Wake Forest University School of Law,
1975

WCBA/Tenth JD Bar Activities: Board of Directors (three terms); State Bar Councilor (2010-current); Fee Dispute Resolution Committee; WCBA Strategic Planning Committee (2009-2010).



EDWARDS SEAT UNCONTESTED

TED EDWARDS

The Banks Law Firm, P.A.
Duke University School of Law, 1994

WCBA/Tenth JD Bar Activities: Councilor, Tenth Judicial District (2013-2015); President, Wake County Bar Association (2012); Board of Directors, Wake County Bar Association (2007-2009)



Other Bar-related Activities: NC State Bar Disciplinary Hearing Commission (2006-2012); Past Chair of NC Bar Association's Young Lawyers Division (2003-2004); Legal Aid of North Carolina's Access to Justice Triangle committee; recipient of NC Bar Association's 2006 William L. Thorp Pro Bono Service Award, NC State Bar Client Security Fund (2002-2004)

FOUNTAIN SEAT ELECT 1 OF 2 CANDIDATES

WALTER E. BROCK, JR.

Young, Moore and Henderson, PA
UNC School of Law, 1978

WCBA/Tenth JD Bar Activities: WCBA/Tenth JD Bar President, 1998; WCBA/Tenth JD Bar President-Elect, 1997; WCBA President's Award of Excellence, 1997; WCBA Board of Directors, 1991-1992; Chair, WCBA Public Service Committee; Tenth Judicial District, Fee Dispute Resolution Committee – arbitrator and mediator; Wake County Bar Awards Musician, 2009 to 2015; City of Raleigh, Outstanding Service Award for participation in the Lunch with a Lawyer Program, 2001 and 2004.



Other Bar-related Activities: Member, Disciplinary Hearing Commission of the North Carolina State Bar, 2011 to present; North Carolina Supreme Court Historical Society, Board of Directors; American Board of Trial Advocates, Eastern NC Chapter, former president and national board representative; Litigation Counsel of America, Fellow; NCBA Litigation Section; NCBA Insurance Law Section; NCADA; Speaker, "Judicial Independence," NCBA/ABOTA Foundation Teacher Law School, August 2015; Speaker, "Excess/Umbrella Insurance Bad Faith Claims and Avoidance," NCBA April 2013; Speaker, "Physical and Mental Examination of Persons in State and Federal Courts," NCADA October 2012; Speaker, "Insurance Bad Faith Claims," NCBA May 2008; Speaker, North Carolina Court of Appeals 40th Anniversary, January 2008; "Issues related to 'Claims-Made' Coverages," American Law Firm Association, NYC, June 2003; Speaker, "Spoliation of Evidence," American Law Firm Association, Atlanta, Ga., May 2000; Speaker, "Coverage Issues: Sexual Misconduct," NCBA June 1996; Speaker, "Insurance Law: A Practical Guide to

North Carolina Insurance Law," NCBA April 1996; Speaker, "Conflicts of Interest and Bad Faith Avoidance," NCBA July, 1995; Speaker and Organizer, "A Practical Guide to Commercial General Liability Insurance Disputes in North Carolina," NCBA June 1995; Speaker and Course Planner, "Insuring Environmental Risks, After the Fact, Are You Covered Under Your Old Policy?" NCBA November 1992; Course Planner, "A Practical Introduction to Environmental Law," NCBA February, 1989.

HARRIET F. WORLEY

North Carolina Department of Justice
Campbell Law School, 1989

WCBA/Tenth JD Bar Activities: Board of Directors, 2008-09; Nominations Committee 2010-15; Swearing In Committee 2010-11; Strategic Planning Committee, 2009-10; Lunch with a Lawyer program participant, Lawyer Read program participant; Mentor for Campbell Connections, 2015.



Other Bar-related Activities: State Bar Authorized Practice Committee, Advisory Member, 1998-2012; NCBA 2010 Diversity Task Force; NCBA Membership Committee; NCBA Joint Diversity Task Force

CANDIDATES FOR STATE BAR COUNCILORS

SILVERSTEIN SEAT ELECT 1 OF 2 CANDIDATES

KATHERINE A. FRYE

Frye Law Offices
Campbell University Law School, 2001



WCBA/Tenth JD Bar Activities: Grievance Committee, 2010-2015, Chair, 2014-2015, Vice Chair, 2013; Board of Directors, 2015-2017; Strategic Planning Committee, 2012-2013; Young Lawyers Division, Chair of the Silent Partners Program, 2003-2006; Endowment Scholarship Award Committee, 2002-2004; Bar Candidate Interview Committee, 2002

Other Bar-related Activities: North Carolina Bar Association: Family Law Section, 2001 to present, Continuing Legal Education Committee, 2012 to present; Solo, Small Firm and General Practice Section, 2001 to present, Council Member, 2015; Young Lawyers Division, 2001-2006, Chair for the Silent Partners program, 2005-2006.

SHANNON JOSEPH

Morningstar Law Group
Wake Forest Law School, 1995



WCBA/Tenth JD Bar Activities: Wake County Bar and Tenth Judicial District Board of Directors (currently serving; 2008-09); Wake County Bar Awards/Legal Aid Fundraiser (Chair 2015; member 2011-present); Speaker/Presenter, Civil Law Update CLE (October 2015, October 2014, October 2013); CLE Committee (Chair 2006-07, Member 2010-present).

Other Bar-related Activities: Council Member, Antitrust and Complex Business Litigation Section, North Carolina Bar Association (2009-present); Council Member, Litigation Section, North Carolina Bar Association (2010-13); 4All Taskforce Member, North Carolina Bar Association (2007-13); Call 4ALL (2014-15); Appellate Rules Committee, North Carolina Bar Association (2004-08); Speaker, Professionalism for New Admittees (November 2012, May 2013); Pattern Jury Instructions Committee, North Carolina Conference of Superior Court Judges (2011-2013); Education Committee, North Carolina Conference of Superior Court Judges (2010-2013).

WITTMER SEAT ELECT 1 OF 2 CANDIDATES

KEITH O'BRIEN GREGORY

Wake County District Court Judge
North Carolina Central University, 1994



WCBA/Tenth JD Bar Activities: Board of Directors (2009-2011), Fee Dispute Resolution Committee Member (2005-2006), Keynote Speaker, WCBA Rule of Law Program.

Other Bar-related Activities: North Carolina Rules Review Commission - Commissioner (2007-2009); North Carolina State Bar Continuing Legal Education Committee Board Member (2004-2008); Wake County Arbitrator for Civil Claims (2006-2010)

WARREN T. SAVAGE

Lawyers Mutual Liability
Company of North Carolina
Campbell Law School, 1996



WCBA/Tenth JD Bar Activities: Speaker and Presenter at WCBA Ethics and Risk Management CLEs (2013-2015), Speaker for Bridge the Gap program (2010-present).

Other Bar-related Activities: Advisory Member of the Ethics Committee of the NC State Bar (2013-present); Member of the NCBA Women in the Profession Committee (2012-present); Member of the NCBA Membership Committee (2012-present); Member of the NCBA Appellate Rules Committee (2008-2011); Campbell Law School "Connections" Mentorship Program (2014-present); Speaker and Presenter at dozens of CLEs throughout NC every year on Ethics, Professional Responsibility, Risk Management, and Litigation (2007 – present); Speaker at all Professionalism for New Admittees programs for NCBA and NCAJ (2011-present); NC Association of Defense Attorneys Member; NC Advocates for Justice President's Club Member.

INAUGURAL PUBLIC SERVICE COMMUNITY FAIR A SUCCESS DESPITE THE WEATHER!

Held on October 10, more than 40 WCBA and Tenth Judicial District Members braved the impending rain and gloom and came out to serve those in need.

What a great time! The rain held out until almost noon and, with refreshments provided by Panera Bread, there was coffee and muffins and bagels for volunteers and participants alike. During the morning there were multiple legal clinics running simultaneously covering topics from immigration and criminal defense to family law and debtor/creditor issues. We saw a small but steady stream of folks come out in spite of the weather forecast and get legal help they desperately needed.

In addition, thanks to herculean work by some very dedicated WCBA volunteers, there were oodles and oodles of children's books and activities for youngsters. There were lawyers reading to children, children sorting through stacks of books to find one they wanted to take home, games, and even an impromptu temporary tattoo parlor ("Would you like a snake tattoo or a rose tattoo?"). Kids and even folks just young-at-heart had a great time. There was also a dedicated group of folks working in the community garden to weed, clean up, and harvest some of the bounty – more than one person left the legal clinic with legal advice AND a bag of tomatoes!

Even when the rain came and we had to move some activities inside, spirits were high. Community members that came by were very grateful for the help and getting their questions answered. The volunteers that made this all possible likewise had a good time and most have already committed for year two! Special thanks go out to Mark Finkelstein for pushing this event as a way for the WCBA to give back to the community and to Ashleigh Parker Dunston and her committee for bringing this terrific event together. **WBF**



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A WINDOW INTO THEIR TIMES

HISTORICAL NOTES FOR THE WAKE COUNTY BAR

BY MARK THOMAS, PARTNER | WILLIAMS MULLEN

LAW SCHOOLS HAVE BEEN A PROUD FEATURE of Wake County's history, Campbell University's Norman Adrian Wiggins School of Law in downtown Raleigh being the latest in the line. In 1822, John Louis Taylor, North Carolina's first Chief Justice, opened a law school at his home, "Elmwood," just west of Raleigh's city limits. Located on a five-acre tract at what is now 16 North Boylan Avenue, Chief Justice Taylor's school operated for several years before his death in 1829. One of his students was a future judge and North Carolina governor, David Lowry Swain, who in 1835 began serving as the President of the University of North Carolina at Chapel Hill. In 1841, leading local attorneys James Iredell, Jr. and William H. Battle opened a new law school, in Raleigh. These Raleigh institutions provided some impetus for the founding of the Law School at the University of North Carolina, in 1845. William H. Battle was that celebrated school's first professor of law. **WBF**

Sources: *Wake: Capital County of North Carolina*, Elizabeth Reid Murray; *North Carolina's Capital, Raleigh*, Elizabeth Cuthbertson Waugh; *Justice James Iredell*, Willis P. Whichard; *Raleigh, Capital of North Carolina*, Writers' Project of WPA in State of N. C.



Elmwood, September 2014
U.S. National Register of Historic Places

PRO BONO ATTORNEY DEFENDS DISABLED VETERAN FROM \$10,000 LAWSUIT

BY SEAN DRISCOLL | DIRECTOR OF PUBLIC RELATIONS AT LEGAL AID OF NORTH CAROLINA

RALEIGH LAWYER LARRY REEVES, a dedicated Legal Aid of North Carolina (LANC) pro bono attorney, recently won a critical victory for a LANC client. A disabled veteran living in Fayetteville, the client was shocked last year when he learned that an insurance company was suing him for a hefty sum. The company claimed he was the driver of a car that had crashed into two unoccupied cars in a parking lot. It wanted \$10,000 to cover repairs to one of the damaged cars.

The Legal Aid client had a problem: He wasn't the driver, but the only available evidence suggested otherwise. The actual driver had fled the scene on foot, leaving behind the car, but no eyewitnesses. With no one to provide a physical description of the culprit, the police were left with the car as the only source of clues. The car, it turned out, was registered to the client, which put him squarely in the insurance company's crosshairs.

Call it a case of "with friends like these." The client had owned the car, but a year earlier he left it with a friend, who was supposed to sell it for scrap, but never did. The client hadn't seen it since. He was in the right, but how could he prove it? How could he take on an insurance company?

Enter Larry Reeves, who, in addition to handling insurance cases for the Raleigh law firm of Bailey & Dixon, LLP, is a former prosecutor and FBI agent. He knows how to get to the bottom of things. Over the course of a 132-mile round-trip from Raleigh to Fayetteville, Larry interviewed the client's friend, who said he wasn't driving the car at the time of the accident, but knew who was. Larry persuaded the friend to testify in court if necessary.

Celia Mansaray, LANC's pro bono coordinator in Raleigh, and Kathy Hodge, Larry's administrative assistant, made invaluable contributions to the case. Celia tracked down and interviewed the police officer who investigated the accident, and Kathy did some online sleuthing to bolster the case.

Armed with the details of his investigation, Larry laid out his case to the insurance company's lawyers, which convinced them to drop the lawsuit. By coincidence, the client learned of this most successful result on his birthday. **WBF**

REPRESENTING CHILDREN

SPOTLIGHT ON THE CHILD'S ADVOCATE

BY STEPHANIE M. D'ATRI | HATCH, LITTLE & BUNN, LLP

"Children deserve to have custody proceedings conducted in the manner least harmful to them and most likely to provide judges with the facts needed to decide the case" – American Bar Association Section of Family Law, "Standards of Practice for Lawyers Representing Children in Custody Cases," Family Law (August 2003).

THERE ARE SEVERAL OFTEN-CONFUSED ROLES of an attorney representing or advocating for children: (1) Child's Attorney; (2) Best Interests Attorney; and (3) Guardian ad Litem. The latter, a child's Guardian ad Litem ("GAL"), is usually a non-lawyer volunteer who is appointed by the court in child abuse, neglect, and dependency ("AND") cases pursuant to N.C. Gen. Stat. § 7B-601(a). This role is not optional; our statutes actually *require* the judge to appoint a volunteer GAL in AND cases. This type of GAL can be a lawyer, but GALs are not obligated to (and shouldn't) perform any lawyer-related functions. Before I started my legal career, I became a GAL for abused, neglected and dependent children – I investigate the child's circumstances, write court reports about my observations and testify about what I believe is best for the child, even though the child to whom I have been appointed may have an entirely different position about where he or she is to be placed and/or with whom. I am precluded from objecting and must instead sit quietly and respond to another lawyer's questions – a very strange feeling for a zealous attorney– but it's also been one of the most rewarding jobs that I've ever had.

I mention this very well-defined role of a GAL in AND cases because it is quite different than the attorney roles of advocating for or *representing* a child – i.e. the actual subject of the proceeding – in custody cases. You certainly don't see attorneys representing a parcel of land in a land dispute or the house in a foreclosure proceeding, so why is it that we now have attorneys representing non-party children in high-conflict child custody cases?

High-conflict cases are just that – high conflict – and very litigious. The parents are in an emotional war over who gets primary custody of their beloved child, each distorting facts and positioning themselves in ways that make them look like the better parent to the presiding judge. The child often gets caught in the middle and becomes a bargaining chip and prize for the "winner." But who is there to look out for the child's wishes and interests and to make sure that his/her voice is heard too?

It is this question that propelled the "Child's Attorney" into existence. Custody judges can only decide cases based on what is presented to them – and they may never get all of the information relevant to the child's long-term success, particularly in a situation with two pro se litigants. Having an independent lawyer for children in high-conflict custody cases often prompts voluntary settlements between the parties, thereby reducing litigation, costs to the litigants, and court resources, which ultimately saves valuable taxpayer dollars. If the case does ultimately reach the trial stage, then the lawyer for the child can



The Child's Advocate, past and present (left to right): Sally Scherer, founder and former executive director; Erin Haygood, full-time staff attorney; Suzanne Chester, managing attorney; Danielle Kestnbaum, part-time staff attorney."

provide timely and reliable information to the judge about the child's wishes so that the best result for the child's custody placement is achieved.

Many states have been appointing attorneys to represent children in custody proceedings for years and have quite well-developed and effective systems. While our North Carolina statutes do not specifically provide for the appointment of a lawyer in this high conflict custody scenario, a 2003 ABA publication suggests that the role is not only allowed, but is particularly important for the judge when conducting a best interests analysis (http://www.americanbar.org/content/dam/aba/migrated/domviol/pdfs/0908/Standards_of_Practice_for_Lawyers_Representing_Children.authcheckdam.pdf).

Our North Carolina Supreme Court may have actually contemplated the role of a Child's Attorney and its importance in deciding custodial arrangements almost 139 years ago: "We think the boy was a competent witness, and ought to have been examined in that character. Indeed, we think, being the party mainly concerned, he had a right to make a statement to the court as to his feelings and wishes upon the matter, and that this ought to have been allowed serious consideration by the court, in the exercise of its discretion, as to the person to whose control he was to be subjected." *Spears v. Snell*, 74 N.C. 210 (1876). About a century later, the North Carolina Supreme Court reaffirmed its position that children have a right to be heard and have their wishes considered in most circumstances. See *In Re Peal*, 305 N.C. 640 (1982).



THE CHILD'S ADVOCATE

CONTINUED FROM PAGE 14

In addition to this authority, our N.C. State Bar also recently adopted 2012 Formal Ethics Opinion 9 to provide some clarification on this unique role and on how this type of lawyer should manage his or her representation under our Rules of Professional Conduct (<http://www.ncbar.com/ethics/printopinion.asp?id=868>). It specifically requires the lawyer to decline representation unless the court's appointment order very clearly identifies his or her roles and responsibilities throughout the litigation. Notably, the ethics opinion "does not address or seek to question the authority of a court to appoint a lawyer to represent a child in a contested custody proceeding" and simply clarifies that lawyer's duties.

So what exactly is a Child's Attorney, as distinguished from a Best Interests Attorney? In short, a Child's Attorney must operate in a very traditional client-centered role – he or she has a fiduciary duty to take and argue positions as expressed by his or her client unless such a position would "seriously endanger" the child-client. If the child takes a position that would be contrary to his or her interests but may not necessarily put the child in harm's way, then the Child's Attorney must counsel the child, just as he or she would with any other client, so that the child is able to make informed, meaningful decisions about his or her wishes. Even if the child's wishes are ultimately not granted, the opportunity to be heard creates a lasting sense of respect for the legal system. A Best Interests Attorney, as distinguished from the Child's Attorney, would not be bound by the child's wishes and would instead advocate for positions that are squarely in line with what the attorney deems are the best interests of that child, even if the child disagrees or articulates an entirely opposite position.

The increasing appointment of attorneys to children in Wake County in particular is a direct result of Attorney Sally Scherer's foundation of The Child's Advocate (TCA). With the support of local family court judges, Scherer founded TCA in 2008 so that a skilled group of attorneys could represent these voiceless children in high conflict custody cases. After TCA merged with Legal Aid of North Carolina, Inc. in 2014, it's focus has been on recruiting and training additional attorneys from the private bar to help represent the growing number of children in need of an independent advocate. As TCA continues to garner tremendous support from lawyers in the family law bar – who have increasingly recognized the importance of providing a lawyer for children caught in the cross-fire of custody litigation – more children will now have their voices heard through attorneys who can leverage settlements between parents, call and question witnesses at trial, and argue the children's wishes to the court. After all, shouldn't their wishes be given some consideration when the children are themselves the very subjects of the custody litigation?

For more information on TCA, their website is as follows: <http://www.thechilds-advocate.org/>. If you are interested in volunteering for this important role, please email TCA's managing attorney, Suzanne Chester, directly at SuzanneC2@legalaidnc.org. **WBF**

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CAN YOU REALLY BUY OR SELL A LAW PRACTICE?

BY THOMAS LENFESTEY | THE LAW PRACTICE EXCHANGE

Have you ever thought about your exit plan from your practice? Retirement, family demands, a new career, or some other career pursuit may be calling. But the typical question that holds many lawyers back from entering the next phase is, "how can I afford to live without the income and resources from my practice?" For many, there are retirement savings, alternative opportunities from a second career or other



options available to replace practice income. However, few attorneys actually consider the option of selling their practice as the precursor to that next step or even know that doing so is an option. Selling a practice through a law practice transition can be a great way to benefit from the value built up over years of work. In addition, there are probably even fewer growth-focused attorneys who consider the potential of purchasing a practice as a way to grow client base, income and revenue streams, and overall firm health and sustainability.

THE REALITY IS THAT EVERY LAWYER AT SOME POINT IN TIME NEEDS A PLAN.

Thanks to life's multitude of unexpected events, that time may be sooner than you think. And when you throw in the current state of evolution of the legal profession, it becomes more and more apparent just how important it is for each practicing professional to understand the challenges and opportunities that accompany this type of transition. For instance, do you have a succession plan? A practice continuation plan? If so, have you implemented such plan, put the tools in place or sought the counsel needed for implementation? If not, you're not alone. Few lawyers, particularly, solos and small firm members, have a signed succession or practice continuation plan in place and many don't think about it until too late to fully recoup the practice value.

With this state of flux in the legal world and the potential impact of major life events, the rules of law practice succession are still being rewritten. Gone are the days of whipping together a succession strategy, transitioning the clients to the next generation of lawyers, and sailing off into a retirement funded by the new partners at the firm. From big-firm shakeups to increasing client competition among small firms, lawyers today must contend with unprecedented financial, cultural, and marketplace changes and, as a result, each attorney must be open to transition strategies with a longer reach than those employed in the past. These broader and more modern strategies include realizing the value of a law practice through a sale or acquisition.

SO, HOW DOES ONE GO ABOUT BUYING A SELLING A PRACTICE?

The knowledge of the process is somewhat complicated by the fact that law practice sales are nearly invisible to the public market. Look down the street and around town and you see house-for-sale signs everywhere. A quick web search yields any number of results detailing homes values and prices and identities of the parties involved. Established markets, like the residential real estate market, give the general public an excellent idea of how and for how much to buy and sell all sorts of items, including real estate, stock, and cars. Buying or selling a business (especially a law firm) is a different story; potential buyers and sellers need to work a bit harder to find and utilize the resources and opportunities available in the law practice marketplace.

Self-education is a good place to start. A potential buyer or seller typically doesn't know whether any given attorney wants to exit his practice or buy someone else's, what his practice looks like, what the process or the price to purchase or sell may be. Therefore it becomes important for any lawyer to put in some time, do some research, and learn the basics about the law practice marketplace, how it works, the resources available and how it may help a lawyer looking to transition or grow. Putting the right team of advisors in place is also an important step. The buying or selling of law practices isn't new, but the approach and need to maximize the practice's value through an active marketplace search and proper transition structure are setting new benchmarks for lawyer transition success stories. **WBF**

The Law Practice Exchange Serves Attorneys As Their Confidential Law Practice Broker. Find out more at www.TheLawPracticeExchange.com

By making the connection between attorneys looking to exit their practice and attorneys looking to expand their practice, The Law Practice Exchange provides brokerage and transition services that preserve the client and professional goodwill of the practice, allowing a value based exchange between the selling and buying attorneys.

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The Wake County Real Property Lawyers Association meets for lunch and a brief program on the third Wednesday of each month at the Carolina Country Club from noon to 1:00 p.m. The November speaker will be Caroline Farmer, who will be discussing real estate fraud. The December speakers will be District Attorney N. Lorin Freeman and Clerk of Court Jennifer Know, who will be giving an update on their first year in office. Please contact Maureen Miller at mmiller@bridgetrusttitle.com for reservations and Ashleigh Black at ablack@rl-law.com for further information.

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CAMILLE STELL is the Vice President of Client Services for Lawyers Mutual. Camille has more than 20 years of experience in the legal field. To read more by Camille, visit the Byte of Prevention blog at www.lawyersmutualinc.com or contact Camille at camille@lawyersmutualinc.com or 800.662.8843.

MAKE A LIST OF YOUR FIVE FAVORITE CLIENTS. Why do you enjoy working with them? Is it because you like them personally? Or because their work is exactly the kind of work you want to do? Or even better, because these clients pay their bills in full and on time?

How do you find more of these clients?

One option is to ask your favorite clients how to find other people like them. Invite your client to coffee or lunch and tell them how much you appreciate their business. Tell them the work you do for them is among your favorite work to do. Then ask them if they would refer you to their friends. Or better yet, if they would facilitate an introduction to someone they believe could benefit from knowing you.

Another option is to get more work from the clients you love. How do you do that?

Make sure you stay in front of them. Be prepared to tell them about new regulations that might impact their business or solutions you have recently offered other clients that could prove helpful to them.

Be an active listener. Ask your clients deep questions about themselves, their business and the challenges they face. Let them talk and really listen. Don't try to offer quick solutions. Rather, engage in brainstorming and discussion.

Pay for lunch and do not charge your client for lunch or the time you spent talking about new matters or brainstorming solutions. If lunch turns into new legal work, go back to the office and confirm the new engagement in writing or with a phone call and start the billing clock at that point.

Stay in touch afterwards. Follow up on your conversation to see how your client is doing. If your client offered to make an introduction, send them a reminder. Put a note on your calendar to follow-up again in a few months. Establish a regular schedule of touching base that is good for you and your client. How will you know what works for them? Because you asked this question and you know how often they want to hear from you. If your lunches are helpful, they will want you to continue checking in.

You can also use this as a time to get client feedback on work you have done, how the rest of the team is connecting with the client, and how smoothly the billing process is working. Remember, if your client has complaints or suggestions, you need to be ready to deal with those issues.

Once your five favorite clients are in a steady rotation where you are checking in, asking for more business and asking them for referrals and introductions, start the process over by identifying the next five clients.

That's it. A simple plan to replicate your five favorite clients. **WBF**

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BADGER-IREDELL FOUNDATION DONATES HISTORICAL ARTIFACTS TO CITY OF RALEIGH

BY LUCY AUSTIN | BADGER-IREDELL FOUNDATION

ON SEPTEMBER 14, 2015 the Badger-Iredell Foundation, Inc. ("Foundation") signed a gift of deed to the City of Raleigh ("City") for 125 historical artifacts located in the Badger-Iredell Law Office ("Law Office") at Mordecai Historic Park. This major donation will allow the City to add the artifacts to its preservation schedule and will provide flexibility for City staff to use the items not only in the Law Office itself, but potentially as a part of exhibits at the Mordecai Historic Park Visitor Center or other city historical sites.

The Foundation was organized in 1973 under the auspices of the Wake County Bar Association. The Foundation was formed to restore the historic law office of George E. Badger and James Iredell, Jr. George E. Badger served as Secretary of the Navy and a United States Senator in the mid-1800s, and he was nominated by President Millard Fillmore as an Associate Justice of the Supreme Court, although he was not confirmed. James Iredell Jr., son of United States Supreme Court Justice James Iredell, was briefly Governor of North Carolina and served as a United States Senator. The Law Office was constructed around 1810 and the furnishings in the one-room office are representative of items that would have been in the office while Badger and Iredell practiced there.

Following its formation, the Foundation acquired the Law Office and had it moved to Mordecai Historic Park, its current home. The Law Office building was conveyed to the City in 1983, and the furnishings were on loan to the City prior to the recent deed of gift. The Law Office continues to be available for school groups, lawyers and other visitors to enjoy a unique piece of our local legal history. The Foundation continues to be engaged in helping educate visitors to the Law Office and in continuing to work on placement for several items directly connect to Badger and Iredell. For more information on how you can be a part of the Foundation's efforts, contact Stephanie McGee at Stephanie@wakecountybar.org. **WBF**

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THE ROBIN WILLIAMS IN ALL OF US

BY RONNIE ANSLEY | THE LAW OFFICE OF JAMES R. ANSLEY

WHEN YOU LOOK IN THE MIRROR, do you ever see Robin Williams staring back at you? Every attorney who has ever dealt with a client is in many ways like Robin Williams, in more ways than you may have considered. No, we are not funny all the time; but we are relieving the pressures life can heap upon our clients, whether by their own doing or by someone else's. Each of us is called to deal with the part of our population which, in many cases, cannot handle their own problems without the assistance of a professional who can say and do the things that will ease their situation, even if only for a short time.

When the audience/client arrives, the curtain goes up and no matter what is going on in the life of the performer, whether Robin Williams or the attorney, the nerves must steady, the brain must switch on into full power, the words that come out must comfort, console, amuse or otherwise ease the crowd. When there is information conveyed that makes the audience/client uncomfortable, there must be something to follow that will ease the crowd to make them feel as if they have not wasted their money on useless babble.

While the audience/client is with the performer, the stage is lit and the performer is the most insightful person in the world. They believe the person they are with has insight and understanding for which they could only wish. They turn their problems over to the performer and allow their problems to leave them, heaping the problems upon the performer for the performer to deal with in such a way that the client appears to be the good guy, no matter what the problems are. The client feels the attorney should make him laugh, make him cry, make him forget his problems, make him feel better, take the weight of the world off his shoulders and put it on his own.

When the client leaves the venue, the attorneys, like Robin Williams, must study, work, review, prepare, practice and spend countless hours getting ready for the next

client/show/battle. The client is long gone, leaving the attorney to not only do the work and heavy lifting, but also to worry about the client's situation. Over time, bit-by-bit, the pressure begins to wear on you, the attorney and performer, and on your mental attitude.

Comedians are always supposed to be funny and attorneys are always supposed to be mentally strong, fighting for the client's desired outcome, no matter what. We all know this is NOT correct nor is it a healthy way to live. However, too many of our colleagues buy into this way of thinking. This type of thinking is detrimental to the attorney, the attorney's family, business and every part of the attorney's personal and professional life. Left uncorrected, this type of thinking can be deadly. Far too often we lose brothers and sisters in our profession to depression, drug/alcohol abuse and/or suicide. Losing loved colleagues, just as the world lost Robin Williams, far too early.

If you or someone you know is suffering, feel alone or at the end of your rope, please know YOU ARE NOT ALONE. Talk to a friend or colleague, talk to a counselor, or contact the BarCares* program at (919) 929-1227 or 1-800-640-0735 or www.barcare.org. We all need somewhere and someone to turn to, to lean on and to rely upon when we have reached the end of our rope. You have options. You have friends. You are not alone. We all have those times and we all need to lean on each other. Reaching out for assistance is a sign of strength, not weakness. We lost Robin Williams far too soon. You are an important part of our legal family and the legal community, and we need you healthy and happy for many years to come. **WBF**

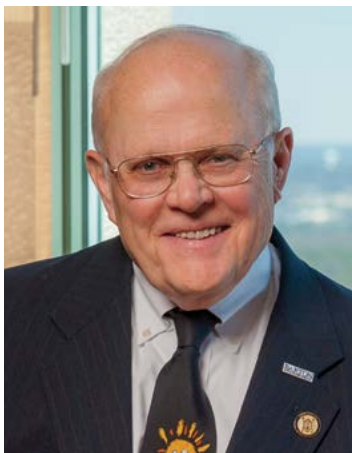
**(BarCARES is a confidential, short-term intervention program provided cost-free to members of participating judicial district bars, voluntary bar associations and law schools.)*

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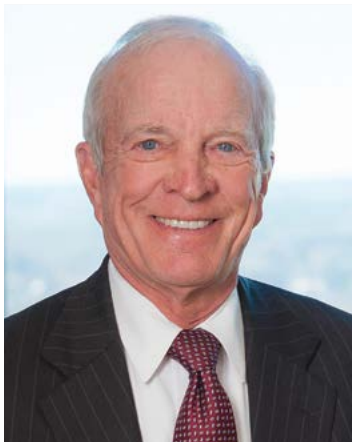


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ADDRESSING THE FUTURE NEEDS OF THE N.C. COURT SYSTEM WITH THE N.C. COMMISSION ON THE ADMINISTRATION OF LAW AND JUSTICE

BY KIM CROUCH | NCBA

THE CHIEF JUSTICE RECENTLY CREATED the N.C. Commission on the Administration of Law and Justice to examine ways to modernize and improve North Carolina's court system. The Commission is comprised of 65 members from diverse backgrounds, including the private sector as well as stakeholders within the judicial system. A number of members of the North Carolina Bar Association are serving on the Commission. The Commission has been divided into five working subcommittees: Civil Justice, Criminal Investigation and Adjudication, Legal Professionalism, Public Trust and Confidence, and Technology. For more information about the Commission, visit www.nccalj.org.

The Commission is currently in the process of seeking input from across the state as to future needs of the N.C. court system and would like to hear from you and your local bar membership.

In order to streamline the communications process, the North Carolina Bar Association has tasked its Administration of Justice (AOJ) Committee to interface with the Commission. I staff the AOJ Committee and will be the point person for making sure that all feedback gets funneled to the Commission.

This is a historic opportunity for us get involved and voice our concerns. I would strongly encourage you to think about these issues and send me any and all comments via email at kcrouch@ncbar.org. Please see additional comments on page 22. **WBF**

THANK YOU!

**TO EVERYONE WHO MADE THE 2015
BAR AWARDS SUCH A FUN EVENT, A
ROUSING SUCCESS, AND A GREAT
FUNDRAISER FOR LEGAL AID.**

The band, singers, directors, scriptwriters, all of our sponsors, all those who solicited, gave and bought Silent Auction Items, the WCBA Bar Awards Committee and the WCBA Staff, as well as everyone who bought tickets and enjoyed the evening.

**MORE THAN \$60,000
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CONTINUED FROM PAGE 21

NORTH CAROLINA
BAR ASSOCIATION
SEEKING LIBERTY & JUSTICE

North Carolina Commission on the Administration of Law and Justice
Talking Points

- Chief Justice Mark Martin has created the North Carolina Commission on the Administration of Law and Justice to examine ways to modernize and improve North Carolina's court system to ensure all citizens have timely access to the courts.
- The Commission is broken down into five committees: Civil Justice, Criminal Investigation and Adjudication, Legal Professionalism, Public Trust and Confidence, and Technology.
- The five co-chairs are Catharine Arrowood, Justice Barbara Jackson, Dean David Levi, retired Magistrate Judge William Webb, and Brad Wilson.
- The Commission has 65 members from diverse backgrounds including the private sector as well as stakeholders from within the judicial system. To see a complete list of the commission members visit: www.nccalj.org.
- The Commission is looking to receive input from across the state and will be holding meetings over the next 18 months.
- The Commission is currently in the process of identifying any and all issues that might fall under the five committees listed above.
- The North Carolina Bar Association has tasked the Administration of Justice Committee (AOJ) of the Bar Association to interface with the Commission. Kim Crouch staffs the AOJ Committee and will be the point person for making sure that all feedback gets funneled to the Commission.
- Please feel free to email Kim Crouch at kcrouch@ncbar.org with any issues or feedback you think the Commission should consider over the next 18 months.
- The North Carolina Bar Association will continue to update our members, as well as the general public, about the important work undertaken by the Commission.
- Again, for additional information on the Commission please visit www.nccalj.org.



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TENTH JUDICIAL DISTRICT BAR WELCOMES 47 NEW ATTORNEYS AT SWEARING-IN CEREMONY

ON SEPTEMBER 30, 2015, the Tenth Judicial District Bar and the Wake County Bar Association sponsored a ceremonial session of Wake County Superior Court at the A.J. Fletcher Opera Theater. Court was called to order and the Honorable Paul C. Ridgeway and the Honorable Paul G. Gessner heard motions for the admission and subsequent swearing-in of individuals who passed the July 2015 Bar examination. These 47 individuals are now fully and duly licensed to practice law in the courts of the State of North Carolina; please congratulate and welcome them!

Mark A. Finkelstein, President of the Tenth Judicial District Bar, welcomed the new Bar members and their families. Judge Robert Rader, president of the Wake County Bar Association, then began his opening remarks by reminding lawyers that the practice of law is based on service, not on profit. The featured guest speaker for the event was Mel Wright, Jr., an attorney who worked in private practice attorney for 26 years until he became the Executive Director of the newly formed North Carolina Chief Justice's Commission on Professionalism in 1999. Some of the highlights of Mel Wright's long list of achievements and honors includes serving as the Chairman of the American Bar Association Standing Committee on Professionalism, the Board of Directors for the North Carolina BarCARES, the Bronze Star and Air Medal for his service in Vietnam, the Order of the Long Leaf Pine, the Wake County Bar Association Spotlight on Professionalism Award, the Chief Justice's Professionalism Award, and the Robinson O. Everett Professionalism Award from Campbell University School of Law.

Mel Wright shared nine thoughtful points to guide new lawyers as they begin their journey in the practice of law. These nine points summarize what new lawyers should endeavor to do, and also reminded older lawyers that the practice of law should be the shared goals of professionalism, service, and mentorship. Mel's nine points were as follows:

- (1) Thank our families for supporting us through law school and the Bar examination, and even consider writing them a thank you note.
- (2) Remember that "judges are like elephants," because they never forget. Judges will remember if you were prepared, honest, and trustworthy.
- (3) Learn about the practice of law from our supervising attorneys and mentors.

(4) Get to know other lawyers, have lunch with them, and offer to take care of them professionally, as they will likewise endeavor to do.

(5) Maintain a professional relationship with clients at all times. Each client expects that their case is the most important case that the lawyer is handling, and the lawyer should act accordingly.

(6) Endeavor to fulfill the goal set out in Rule 6.1 of the Revised Rules of Professional Conduct, which states, in part: "A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year."

(7) Remember that every lawyer makes mistakes, but it is how that lawyer handles that mistake that will distinguish him or her – "don't cover it up; correct it, and never make the same mistake again."

(8) Be passionate about what we do as lawyers; be a zealous but honorable advocate.

(9) Consider the power of a handshake. A powerful message is sent to your clients about the professionalism of lawyers when before and after a hearing or trial a lawyer shakes the other lawyer's hand.



Speaker Mel Wright, Executive Director Whitney von Haam and current WCBA President Judge Robert Rader enjoy the reception following the swearing-in ceremony.

Following Mel Wright's insightful remarks, Judge Gessner and Judge Ridgeway entertained motions for admission and administered the oaths. Afterwards, all new attorneys and their families were invited to enjoy a reception hosted by the Swearing-in Committee of the Wake County Bar Association. The Swearing-in Committee wishes to extend its heartfelt appreciation to Melvin Wright, Judge Paul Ridgeway and Judge Paul Gessner for their participation in their ceremony, to Judge Robert Rader and Mark Finkelstein for their stewardship of our local Bar, and to North State Bank for sponsoring the event. We are also grateful for the generous assistance provided by Kellie Myers, the Trial Court Administrator of the Superior Court of Wake County, and for the cooperation of the Wake County Sheriff's Office. Additionally, we are fortunate to have the dedication of the WCBA staff, including Whitney von Haam, Stephanie McGee, Shaula Brannan, and Colleen Glatfelter, whose tireless efforts are invaluable in making this event a success each year. A special thank you also goes out to all of the members of the Swearing-in Committee for their help in organizing this event and to those members who attended and assisted during the ceremony, including Greg Connor, Bryan Brice, Kimberly Moore, Ryan Shuiman, Ashleigh Seiber, Tamika Henderson, William Smith, and Sheneshia Fitts. Finally, the Committee is grateful for the efforts of the following individuals who helped make the ceremony a memorable success – Committee co-chairs, Lisa LeFante and Jess Mekeel, and from the YLD members Chris Dozier, and J. Allen Thomas, YLD sponsor coordinator. **WBF**

WELCOME NEW MEMBERS

THE NEWEST MEMBERS APPROVED AT THE OCTOBER 2015 MEETING OF THE BOARD OF DIRECTORS

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Sydney Batch | Batch Poore & Williams PC

Amelia Blankenship

Callen Bolick

Elizabeth Boyette | Jackson Law, PC

Sean Cecil | Edelstein & Payne

Penn Clarke | K & L Gates, LLP

Jackie Cobb

Matthew Cordell | Ward and Smith, P.A.

Erin Edgar | Legal Aid of North Carolina

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Caitlin Goforth | Poyner Spruill LLP

Christie Hartinger | Wyrick Robbins Yates & Ponton, LLP

Sam Hartzell | Womble Carlyle Sandridge & Rice, LLP

Lisa Holmsen

Leslie Hood

Jonathan Jerkins | Wake Family Law Group

James Jolley

Smith Anderson Blount Dorsett Mitchell & Jemigan LLP

Jeffrey Kelly | Shanahan Law Group, PLLC

Katelin Kennedy

Teague Campbell Dennis & Gorham LLP

Emily Jane Kirby

Tony Lucas

Johnny Mansfield | The Mansfield Law Group

Jasmine McGhee | K & L Gates, LLP

Mike McIntyre II | Poyner Spruill, LLP

Lori Nelson

Fabio Ortiz | Fabio Ortiz Law Firm, PLLC

Nelson Oxholm

Allison Persinger

Shannon Poore | Batch Poore & Williams PC

Rachel Margaret Spears | NC ABC Commission

Sarah Tackett | Legal Aid of North Carolina

John Whetzel | Myers Bigel Sibley & Sajovec, PA

CIVILITY IN LAWYERS' WRITING

BY DOUGLAS E. ABRAMS | UNIVERSITY OF MISSOURI SCHOOL OF LAW

A few years ago, American Bar Association President Stephen N. Zack decried the legal profession's "continuing slide into the gutter of incivility."¹ An ABA resolution "affirm[ed] the principle of civility as a foundation for democracy and the rule of law, and urge[d] lawyers to set a high standard for civil discourse."²



The ABA initiative echoes federal and state courts that call civility "a linchpin of our legal system,"³ a "bedrock principle,"⁴ and "a hallmark of professionalism."⁵ Justice Anthony M. Kennedy says that civility "defines our common cause in advancing the rule of law."⁶ Chief Justice Warren E. Burger called civility a "lubricant[] that prevent[s] lawsuits from turning into combat."⁷ "Courtesy is an essential element of effective advocacy," agrees Justice John Paul Stevens.⁸

The adversary system's pressures can strain the tone and tenor of a lawyer's oral speech, but the strain on civility can be especially great when lawyers write. Words on paper arrive without the facial expression, tone of voice, body language, and contemporaneous opportunity for explanation that can soothe face-to-face communication. Writing appears cold on the page, dependent not necessarily on what the writer intends or implies, but on what readers infer.

This article is in three parts. Part I describes two manifestations of incivility, a lawyer's written derision of an opponent, and a lawyer's written disrespect of the court. Part II describes how either manifestation can weaken the client's cause. Part III describes how incivility in writing can also compromise both the lawyer's own personal enrichment and the lawyer's professional standing among the bench and bar.

I.

"[C]ivility is not a sign of weakness," President John F. Kennedy assured Americans in his Inaugural Address in 1961 as he anticipated four years of faceoffs with the Soviets.⁹ "Civility assumes that we will disagree," says Yale law professor Stephen L. Carter, "It requires us not to mask our differences but to resolve them respectfully."¹⁰ The advice prevails, regardless of whether incivility pits lawyer on lawyer, or whether it pits lawyer against the court. Each of the two manifestations of incivility warrants a representative example here.

LAWYER-ON-LAWYER INCIVILITY

When Chief U.S. Bankruptcy Judge Terrence L. Michael (N.D. Okla.) recently considered whether to approve a compromise in *In re Gordon*, the contending lawyers in the Chapter 7 proceeding detoured into written lawyer-on-lawyer invective.¹¹

In a filing to support its motion to compel discovery from the bankruptcy trustee in *Gordon*, the lawyer for creditor Commerce Bank charged that the trustee and the

United States had engaged in "a pattern . . . to avoid any meaningful examination of the legal validity of the litigation plan they have concocted to bring . . . a series of baseless claims."¹²

"[T]hey know," the bank's lawyer continued, "that a careful examination of the process will show the several fatal procedural flaws that will prevent these claims from being asserted."¹³ "Only by sweeping these issues under the rug will the trustee be able to play his end game strategy of asserting wild claims . . . in hopes of coercing Commerce Bank into a settlement (which the Trustee hopes will generate significant contingency fees for himself)."¹⁴

The trustee charged that the bank's lawyer had impugned his character with accusations that he had compromised his fiduciary obligations for personal gain. Judge Michael denied the trustee's sanctions motion on procedural grounds, but he chastised the bank's lawyer because "personal and vitriolic accusations have no place as part of a litigation strategy."¹⁵ The court instructed the parties to "leave the venom at home"¹⁶ because "[w]hether you like (or get along well with) your opposition has little to do with the merits of a particular case."¹⁷

Some courts have moved beyond instruction. In the exercise of inherent authority, these courts have sanctioned lawyers, or have denied attorneys' fees, for incivility.¹⁸ Some courts have even sanctioned the client who, having retained the lawyer, bears some responsibility for the lawyer's conduct.¹⁹

LAWYER-ON-COURT INCIVILITY

Gordon's written recriminations pitted counsel against counsel, but lawyers sometimes venture into incivility that disrespects judges and the court. Every appeal involves at least one party who believes that the lower court reached an incorrect outcome, but few judges deserve criticism for incompetence. Lawyers for aggrieved parties are more likely to receive a serious hearing (and more likely to perform their roles as officers of the court) by firmly, forcefully, but respectfully arguing a judge's good faith misapplication of the law to the facts, rather than by resorting to insinuations about the judge.

Insinuations surfaced during the federal district court's review of the magistrate judge's report and recommendation in *In re Photochromic Lens Antitrust Litigation*.²⁰ A party's lawyer contended that the magistrate judge was "misled" concerning relevant legal standards, and that the judge made her recommendation without "any reference to the voluminous underlying record." The lawyer further contended that she "conducted no analysis, much less a 'rigorous analysis,'" and decided "based on no evidence, a superficial misreading of the evidence, or highly misleading evidence."²¹

The district court approved the magistrate judge's recommendation and report in significant part, but did not stop there. The court also publicly reprimanded the lawyer for crossing the line: "It is disrespectful and unbecoming of a lawyer to resort to such language, particularly when directed toward a judicial officer. Its use connotes arrogance, and reflects an unprofessional, if not immature litigation strategy of casting angry aspersions rather than addressing the merits . . . in a dignified and respectful manner."²²

CIVILITY IN LAWYERS' WRITING

CONTINUED FROM PAGE 26

II.

INCIVILITY'S COSTS TO THE CLIENT

Lawyers whose writing descends into incivility risk weakening the client's cause, perhaps irreparably. The Chief Justice of the Maine Supreme Court confides that "[a]s soon as I see an attack of any kind on the other party, opposing counsel, or the trial judge, I begin to discount the merits of the argument."²³ As they determine the parties' rights and obligations by applying fact to law, perhaps judges sometimes react this way because civility projects strength and incivility projects weakness. "Rudeness is the weak man's imitation of strength," said philosopher Eric Hoffer.²⁴

The lawyer's first step toward civility may be an early candid talk with the client, who may feel grievously wronged and may believe that the surest path to vindication is representation by a junkyard dog waiting to be unleashed. The client's instincts may stem from movies and television dramas, whose portrayals of lawyers sometimes sacrifice realism for entertainment.

Without this early talk, the client may mistake the lawyer's civility for meekness, and courtesy for concession. The client needs to understand that a take-no-prisoners strategy can disgust any decision maker who shares the sensibilities expressed by the Justices and judges quoted above. One Illinois trial judge recently had this advice for lawyers: "No judge has ever been heard to endorse or encourage the use [of mean-spirited] writing. Not one. You may feel better writing it and your client may feel better reading it, but your audience is the judge, and judges abhor it."²⁵ Judicial abhorrence scores the client no points.

Justice Sandra Day O'Connor says that, "It is enough for the ideas and positions of the parties to clash; the lawyers don't have to."²⁶ "It isn't necessary to say anything nasty about your adversary or to make deriding comments about the opposing brief," adds Justice Ruth Bader Ginsburg, who says that such comments "are just distractions. You should aim to persuade the judge by the power of *your* reasoning and not by denigrating the opposing side. . . . If the other side is truly bad, the judges are smart enough to understand that; they don't need the lawyer's aid."²⁷

Judges are not alone in advancing civility for projecting strength. John W. Davis, perhaps the 20th century's greatest Supreme Court advocate, understood his judicial audience. "Controversies between counsel," he wrote, "impose on the court the wholly unnecessary burden and annoyance of preserving order and maintaining the decorum of its proceedings. Such things can irritate; they can never persuade."²⁸

III.

INCIVILITY'S COSTS TO THE LAWYER

Aside from compromising the client's interests, incivility can damage the lawyer's own personal enrichment and professional standing. Incivility "takes the fun from the practice of law," says Judge Duane Benton of the U.S. Court of Appeals for the Eighth Circuit.²⁹ "Being a lawyer can be pleasant or unpleasant," explains Judge William J. Bauer of the U.S. Court of Appeals for the Seventh Circuit, who adds that "[w]hen we treat each other and those with whom we have professional contact with civility, patience and even kindness, the job becomes more pleasant and easier."³⁰

Moving from the lawyer's personal enrichment to professional standing, the Preamble to the ABA Model Rules of Professional Conduct recites "the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system."³¹ Model Rule 8.4(d) operates against "conduct that is prejudicial to the administration of justice."³²

The Model Rules' spotlight on professional obligation is fortified by commands for civility in federal and state court rules;³³ state admissions oaths;³⁴ and unofficial codes that some professional organizations maintain for their member lawyers.³⁵ The ABA Model Code of Judicial Conduct imposes reciprocal obligations of civility on judges in the performance of their official duties.³⁶

These professional commands and expectations mean that descent into incivility can damage the lawyer's reputation with judges and other lawyers. The damage seems greatest when the court's opinion calls out the offending lawyer publicly, either by name or by leaving the lawyer readily identifiable from the appearances listed atop the opinion. In the two decisions featured in Part I of this article, the offenders may have had belated second thoughts when the court shined the spotlight.

"Just as lawyers gossip about judges and most litigators have a 'book' on the performances of trial judges, we judges keep our own book on litigators who practice before us," confides one federal district judge.³⁷ During my judicial clerkship, I learned early that when many judges pick up a brief or other submission, they look first for the writer's name. A writer with a track record for civil, candid, forceful advocacy gets a head start; a writer who has fallen short must make up lost ground. Incivility brings tarnish, but civility brings luster. Justice Kennedy calls civility "the mark of an accomplished and superb professional."³⁸ A veteran federal district judge concurs: "The lawyers who are the most skillful tend to be reasonably civil lawyers because they project an image of self-confidence. They don't have to stoop to the level of acrimony."³⁹

Even without public rebuke or other disdain from the bench, word gets around. In cities, suburbs and outstate areas alike, the bench and bar usually remain bound by mutual relationships, word of mouth, recollections, and past experiences. Lawyers with sterling reputations for civility stand a better chance of receiving civility in return. Sooner or later, for example, a lawyer may need a stipulation, consent to a continuance, or similar accommodation from opposing counsel or the court. Like other people, lawyers get what they give.

In a challenging employment market, maintaining a reputation for civility can also enhance a lawyer's professional mobility. Lawyers sometimes receive appealing lateral job offers from a nearby public- or private-sector adversary who respects not only their competence, but also their professionalism. Being smart is not enough. Plenty of lawyers are smart, but fewer lawyers earn respect for genuine professionalism as they seek the best possible outcomes for their clients. Because few Americans (including few lawyers) spend their entire careers with their first employer, enhanced lateral mobility can be a significant reward for unswerving commitment to an honorable law practice.

CONTINUED ON PAGE 28



CIVILITY IN LAWYERS' WRITING

CONTINUED FROM PAGE 27

As members of a largely self-governing profession devoted to the rule of law,⁴⁰ lawyers are judged by expectations sometimes higher than the expectations that judge other professionals. President Theodore Roosevelt said that "[c]ourtesy is as much a mark of a gentleman as courage."⁴¹ "The greater the man, the greater courtesy," wrote British Poet Laureate Alfred, Lord Tennyson in his epic poem, *Idylls of the King*.⁴²

The greater the lawyer too.

CONCLUSION: THE WILL TO WIN

"All advocacy involves conflict and calls for the will to win," said New Jersey Supreme Court Chief Justice Arthur T. Vanderbilt, but the will to win is only one ingredient of professionalism. Advocates, he added, also "must have character," marked by "certain general standards of conduct, of manners, and of expression."⁴³ One prime marker of an advocate's character is civility.

Civility in advocacy resembles sportsmanship in athletics. Sportsmanship presumes that each athlete wants to win within the rules of the game; a sportsmanlike athlete who does not care about winning should not play. Civility similarly presumes that each advocate wants to win within the rules of professionalism; a civil advocate who does not care about winning should not represent a client. Civility and forceful advocacy, like sportsmanship and forceful athleticism, define the total package. **WBF**

* Douglas E. Abrams, a University of Missouri law professor, has written or co-authored five books. Four U.S. Supreme Court decisions have cited his law review articles.

ENDNOTES

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2. *Id.*
3. *Wilson v. Airtherm Prods., Inc.*, 436 F.3d 906, 912 n.5 (8th Cir. 2006).
4. *Wescott Agri-Prods, Inc. v. Sterling State Bank, Inc.*, 682 F.3d 1091, 1096 (8th Cir. 2012).
5. *Cardello v. Cardello*, No. FA020088156S, 2002 WL 31875435 * 1 (Conn. Super. Ct. Dec. 4, 2002).
6. Louis H. Pollak, *Professional Attitude*, 84 A.B.A.J. 66, 66 (Aug. 1998) (quoting Justice Kennedy).
7. Warren E. Burger, *The Necessity for Civility*, 52 F.R.D. 211, 214-15 (1971).
8. Marvin E. Aspen, *Let Us Be "Officers of the Court,"* 83 A.B.A.J. 94, 96 (July 1997) (quoting Justice Stevens).
9. Joint Congressional Comm. on Inaugural Ceremonies, *Address by John F. Kennedy*, 1961 (Jan. 20, 1961).
10. Stephen L. Carter, *Civility* 132 (1998).
11. 484 B.R. 825 (N.D. Okla. 2013).
12. *In re Gordon*, 484 B.R. 825, 827 (N.D. Okla. 2013).
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14. *Id.* at 827-28.
15. *Id.* at 828.
16. *Id.* at 830-31.
17. *Id.* at 830.
18. G.M. Filisko, *You're OUT OF ORDER!*, 99 A.B.A.J. 32 (Jan. 2013); Wescott Agri-Prods, Inc., *supra* note 5, at 1095-96 (citation omitted).
19. See, e.g., Wescott Agri-Prods, Inc., *supra* note 4, at 1096 (citation omitted).
20. No. 8:10-md-02173-T-27EAJ, 2014 WL 1338605 (M.D. Fla. Apr. 3, 2014).
21. *Id.* at *1 n.1.
22. *Id.*
23. Leigh Ingalls Saufley, *Amphibians and Appellate Courts*, 14 MAINE B.J. 46, 49 (Jan. 1999).
24. Eric Hoffer, *The Passionate State of Mind: And Other Aphorisms* (1955).
25. Naomi Kogan Dein, *The Need for Civility in Legal Writing*, 21 CBA RECORD 54 (Feb./Mar. 2007) (quoting Judge Michael B. Hyman).
26. Sandra Day O'Connor, *Professionalism*, 76 Wash. U. L.Q. 5, 9 (1998).
27. *Interviews with United States Supreme Court Justices*: Justice Ruth Bader Ginsburg, 13 SCRIBES J. LEG. WRITING 133, 142 (2010) (quoting Justice Ginsburg) (italics in original).
28. John W. Davis, *The Argument of an Appeal*, 26 A.B.A.J. 895, 898 (1940).
29. Duane Benton, *Chief Justice's Address to Members of the Missouri Bar*, Sept. 24, 1998, 54 J. MO. BAR 302, 302 (1998).
30. J. Timothy Eaton, *Civility, Judge Bauer and the CBA*, 28 CBA RECORD 8 (2014) (quoting Judge Bauer; citation omitted).
31. ABA Model Rules of Prof'l Conduct, Preamble [9] (2015).
32. *Id.*, R. 8.4(d) (2015).
33. E.g., *Standards for Professional Conduct Within the Seventh Federal Judicial Circuit* 120-21, 123 (2013).
34. Filisko, *supra* note 18 (quoting S.C. oath).
35. See, e.g., *Am. Bd. of Trial Advocates' Principles of Civility, Integrity, and Professionalism*, <https://www.abota.org/index.cfm?pg=Civility>.
36. ABA Model Code of Judicial Conduct R. 2.8(B) (2015).
37. Aspen, *supra* note 8, at 96.
38. Louis H. Pollak, *supra* note 6 (quoting Justice Kennedy).
39. Laura Castro Trognitz, *Bench Talk*, 86 A.B.A.J. 56 (Mar. 2000) (quoting Judge John G. Koeltl, S.D.N.Y.).
40. ABA Model Rules of Prof'l Conduct, Preamble [10] (2015).
41. Cliff Sain, *Earth's Atmosphere*, Springfield (Mo.) News-Leader, Feb. 26, 2008, at 3C (quoting Roosevelt).
42. Alfred, Lord Tennyson, *Idylls of the King, The Last Tournament* (1859-85).
43. Arthur T. Vanderbilt, *Forensic Persuasion*, 7 Wash. & Lee L. Rev. 123, 130 (1950).

YLD NEWS

2015 YLD OFFICERS

PRESIDENT: JAMES HASH

SECRETARY/PRESIDENT ELECT: BRODIE ERWIN

TREASURER: SAM FLEDER

UPCOMING SOCIALS

November After-Work Social | Join us at the Raleigh Times (14 E Hargett Street) in the private, upstairs bar for our next social, Thursday, Nov. 12 at 5:30 p.m.

WCBA Holiday Party | This is an event you won't want to miss. Make plans to attend Friday, December 4 at 7 p.m. and join us at the Crabtree Marriott (4500 Marriott Drive).

2015 WCBA YLD CANNED FOOD DRIVE COMPETITION

McGuireWoods LLP/Consulting and Burns, Day & Presnell, P.A. are the gross and per capita donation winners of the drive, respectively. We had record participation by the various legal groups and organizations in Wake County this year, and as a result of the generous donations of items and money, the Wake County Bar Association donated the equivalent of over 2,000 food/hygiene items to the Food Bank of Central & Eastern North Carolina. The winning firms will be recognized at the next WCBA bar luncheon on October 6, 2015 at the North Raleigh Hilton. Thank you to the participating organizations, and we look forward to another successful event next year.

2015 WCBA YLD CLOTHING DRIVE

This year's clothing drive will run from Monday, November 16 through Saturday, December 5. As in past years, we will be collecting used clothing and linens from the Wake County legal community to benefit homeless and low income individuals and families in Wake County. All members of the legal community from the courtroom to the classroom are welcomed and encouraged to give back in whatever way they can—whether through donations of clothing or volunteering time to help sort and deliver the donations on Friday, December 4 and Saturday, December 5. Many firms will have a volunteer coordinator who will e-mail you with more details. If you don't have a coordinator or would like more information, contact one of the organizers: Elizabeth Timmermans (etimmermans@mcguirewoods.com) and Jane Paksoy (janepaksoy@gmail.com).

NOMINATIONS PERIOD FOR 2016 YLD OFFICER POSITIONS NOW OPEN

The Young Lawyers Division is currently accepting nominations through December 1, 2015, for the positions of secretary and treasurer for 2016. The 2016 secretary shall serve as the YLD's president in 2017. Nominations for secretary and treasurer should be submitted to the immediate past-president, Kathleen Putiri, at kputiri@rosen.com or to the current president, James Hash, at james@eghlaw.com. The election of officers will take place in December. An election notice will be published via email to the YLD membership and posted on the WCBA website.

All members of the WCBA in good standing and who will be age 36 or younger as of January 1, 2016, are eligible to serve as officers, members of the YLD Board, and/or YLD committees in 2016. Any YLD member who wishes to be considered for membership on the YLD Board or who wishes to be placed on a YLD committee should contact secretary/president-elect Brodie Erwin at brodie.erwin@ogletreedeakins.com. **WBF**



■ WCBA MEMBER NEWS



Sharita Whitaker Wins TBJ Leaders in Diversity Award

Smith Anderson Associate Sharita Whitaker has been named a winner of a Leaders in Diversity Award by the Triangle Business Journal. The awards was presented at a special luncheon on September 10 at the Raleigh Marriott City Center.



Colin Shive Elected to Section Council for the Constitutional Rights and Responsibilities Section of the North Carolina Bar Association

Tharrington Smith LLP Education Law attorney Colin Shive has been elected to the Section Council of the Constitutional Rights and Responsibilities Section of the North Carolina Bar Association. Mr. Shive will also serve as editor of the Section's newsletter, The Constitutionalist.



Jaye Meyer Elected Chair of NC Board of Law Examiners

Tharrington Smith LLP family law section partner, Jaye Meyer, has been named Chair of the North Carolina Board of Law Examiners. Ms. Meyer will take office on October 31, 2015.

Ashley Brathwaite Elected to Board of Directors of North Carolina Association of Defense Attorneys

Ellis & Winters partner Ashley Brathwaite has been elected to serve on the Board of Directors of the North Carolina Association of Defense Attorneys. Ms. Brathwaite will serve a three-year term.

Matt Sawchak Appointed to North Carolina Commission on the Administration of Law and Justice

Ellis & Winters partner Matt Sawchak has been appointed to the newly created North Carolina Commission on the Administration of Law and Justice. Chief Justice Mark Martin announced the membership of the commission on September 3, 2015.

Jamie Weiss Reappointed to Town of Cary Zoning Board of Adjustment

Ellis & Winters is pleased to announce that partner Jamie Weiss has been reappointed to serve on the Town of Cary Zoning Board of Adjustment. His three-year term will commence on October 1, 2015.

Alex Hagan Appointed Chair of DRI Medical Liability and Health Care Law Committee

Ellis & Winters is pleased to announce that Alex Hagan has been appointed as Chair of the DRI Medical Liability and Health Care Law Committee. Mr. Hagan's one-year term will begin at the conclusion of the 2015 DRI Annual Meeting in October. He previously served as the committee's Vice Chair and as the 2012 Program Chair.

Lenor Marquis Segal Elected Assistant Chapter Director for Women in eDiscovery (WiE)

Lenor Marquis Segal, Of Counsel at Ellis & Winters, was recently elected as assistant chapter director of Raleigh's newly established chapter of Women in eDiscovery. Women in eDiscovery (WiE) is a pioneering organization that primarily provides educational opportunities regarding technology in the legal industry to its members. The organization offers networking and leadership avenues, promotes personal and professional growth of women, and donates mentoring and charitable contributions to its communities.



Cranfill Sumner & Hartzog names Marshall Wall as Managing Partner

F. Marshall Wall has been named Managing Partner. Wall, a partner in the firm and current Chair of the Business Law and Cyber Liability and Privacy Practice Groups, will assume the role in January 2016. Wall replaces Dan M. Hartzog who has served as Managing Partner since the firm's founding in 1992. Hartzog will continue to practice at the firm.



Richard Boyette Selected as Lawyer of the Year for 2015 Leaders in the Law List

Richard Boyette, an attorney in the Raleigh office of Cranfill Sumner & Hartzog LLP has been selected as the 2015 Lawyer of the Year by North Carolina Lawyers Weekly, in connection with its Leaders in the Law program, co-sponsored by Elon University School of Law, which honors legal professionals who excel in their profession and community involvement.

The Lawyer of the Year is chosen from the 25 attorneys featured in the Leaders in the Law list. Boyette and the other honorees received their awards at the Leaders in the Law awards reception on September 25 at the Hilton Center City in Charlotte.



WCBA MEMBER NEWS

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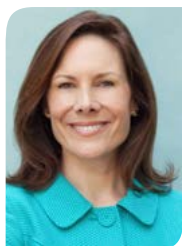
Ragsdale Liggett Attorneys Honored in The Best Lawyers in America®



Partner Dorothy Bass Burch was featured presenter at the National Conference on Equine Law at the University of Kentucky College of Law.

Partner John M. Nunnally has been included in the 2016 edition of The Best Lawyers in America® in the practice areas of Commercial Litigation and Construction Law. Nunnally was a featured speaker at the North Carolina Trucking Association Safety Conference in Myrtle Beach, SC. He was also presenter at the Annual Conference of the ACEC of NC in Wrightsville Beach, NC.

Partner Mary McHugh Webb has been included in the 2016 edition of The Best Lawyers in America® in the practice area of Insurance Litigation.



Partner Ashley Campbell has been included in the 2016 edition of The Best Lawyers in America® in the practice area of Corporate Law. Campbell was presenter at the Federation of Defense and Corporate Counsel (FDCC) Annual Conference in Banff, Canada.

Co-founder Frank R. Liggett III has again been honored by The Best Lawyers in America® in the practice area of Insurance Law in the 2016 edition.

Eric R. Spence has been included in the 2016 edition of The Best Lawyers in America® in the practice areas of Real Estate Law, Real Estate Litigation and Land Use and Zoning.



Benjamin R. Kuhn has been included in the 2016 edition of The Best Lawyers in America® in the practice area of Real Estate Law.

Senior Associate Angela M. Allen was named Chair of Product Liability Practice Area for the North Carolina Association of Defense Attorneys.

Partner William (Bill) W. Pollock has been named 2016 "Lawyer of the Year" in the Raleigh metro for Insurance Litigation by The Best Lawyers in America®. This honor follows his recent recognition of "Top 100 Lawyers in NC" by Super Lawyers magazine.



Managing partner David K. Liggett has been selected to the 2016 edition of The Best Lawyers in America® in the practice area of Insurance Law.

Partner Dorothy Bass Burch has been included in the 2016 edition of The Best Lawyers in America® in the practice area of Corporate Law.

Partner Robert J. Ramseur, Jr. has been included in the 2016 edition of The Best Lawyers in America® in the practice area of Real Estate Law. Ramseur was recently recognized by Super Lawyers magazine as a "Top 100 Lawyer in NC." Robert J. Ramseur, Jr., partner at Ragsdale Liggett PLLC has been appointed a member of the Real Estate Commission by Governor Pat McCrory.



Raleigh Attorney Elected to National Housing Board

Gene Davis has been elected to the board of directors of the National Conference of State Housing Boards, which represents housing finance agency boards across the country. Davis specializes in corporate and real estate law, serves on the board of the North Carolina Housing Finance Agency, a self-supporting public agency that has financed \$14 billion of affordable homes and apartments. He was elected to the national board during the group's annual meeting.



PO Box 3686, Cary, NC 27519-3686

WCBA BASKETBALL SIGN-UP CHARLES BRANDON HUNT LAWYER'S BASKETBALL LEAGUE 2015

The 2015 League will start on January 16, 2016, and will again be located at the J.D. Lewis Multipurpose Center, located at 2245 Garner Road, Raleigh.

How Do You Sign Up?

Go to the Wake County Bar Association website and click on the item on Dec. 31 that lists "WCBA Basketball League." Online sign-ups must be completed by December 31.

Questions can be directed to Commissioner Ryan Oxendine at ryan@oxendinepricelaw.com or 919-848-4333. WBF

