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G-Bar News



PRESIDENT'S ARTICLE

By: E. Grantland Burns

Summer is here and my kids don't understand why I still have to go to work. Is there anything as good as that feeling of walking out of the classroom on the last day of school with three months of freedom and opportunities ahead of you? While it's no trip to Disney World, I have included an inset below to which I refer from time to time when I need a break. It was initially published in the *S.C. Bar Tab* a few years ago and is reprinted here with permission.

I'm glad to report that your Bar's Executive Committee is planning a busy second-half of the year. We will sponsor a CLE regarding the South Carolina Lawyer's Oath on September 10. The CLE will conclude with the administering of the oath by Judge Patterson. More details will be forthcoming. We are also planning a lobster night at Thornblade on September 9, and are preparing for a visit from the South Carolina Court of Appeals on November 17.

Be careful in your summer travels and let us know if you have suggestions for our Bar.

HOW TO BE A HAPPY AND PEACEFUL LAWYER

Joke with your staff. Be kinder than necessary. Don't take good health for granted. Listen to your children. Respect the intelligence of your client. Respect the intelligence of your secretary. Respect the intelligence of your opponent. Don't hesitate to say you're sorry. Don't hesitate to admit you're wrong. Laugh at your mistakes. Be a person who happens to be a lawyer, not a lawyer who used to be a person. Improve your performance by improving your attitude. Coach little league. Keep your promises. Keep good company. Keep it simple. Don't interrupt. Be forgiving of yourself and others. Tell your employees how much you appreciate them. Stop blaming others; take responsibility for every aspect of your case. Take good care of those you love. Ask every caller, what can I do for you? Listen. Never deprive someone of hope; it may be all they have. Be there when people need you. Find something good to say about your opponent. Find something good to say about your opponent's case. Wear wild underwear to depositions. Be a good loser. Be a good winner. Say what you mean. Imagine how your opponent thinks. Consider how your opponent feels. Don't expect money to bring you happiness. Choose a charity in your community and support it generously with your time and money. Don't rain on someone else's parade. Adjust your environment by adjusting your attitude. Take care of your reputation, it's the most valuable asset you have. Above all, be a problem solver. Do more than is expected. Strive for excellence, not perfection. Take pride in effort, not victory. Boast – about someone else. Live so that when your associates think of fairness, caring and integrity, they think of you. Don't postpone doing the things you like. Go home at 5 p.m.

171th edition

June 2004

- Lobster Night at Thornblade—Sept. 9
- Oath Seminar –Sept. 10, County Council Chambers
- Reception with S. C. Court of Appeals—November 16, Greenville Country Club
- Christmas Party—December 9, Greenville Country Club (This is a date change!)
- Annual GCBA CLE—December 3, County Square
- Memorial Service—December 16, Greenville County Courthouse

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Verdicts

Caption: Patricia G. Posey v. Jamie S. Rickoff
Case No.: 200-CP-23-2068
Attorney for Plaintiff(s): Jon Newlon
Attorney for Defendant(s): Brent Boyd
Cause of Action: Automobile accident
Verdict: Plaintiff, \$3,741

Caption: Roy Palmer and L. Mack v. Fidelity Trust Corp., et al
Case No.: 02-CP-23-4975
Attorney for Plaintiff(s): Grady Jordan, Nick Lavery
Attorney for Defendant(s): Wallace Lightsey, Frank Holleman
Cause of Action: Conversion
Verdict: Defendant

Caption: Sharon & Ricky Land v. Fleewood Retail Corp of SC
Case No.: 03-CP-23-653
Attorney for Plaintiff(s): Chad Bacon
Attorney for Defendant(s): Peter Siachos, Marvin Quattlebaum
Cause of Action: Breach of contract
Verdict: \$8,000

Caption: Jane Doe, as parent and natural guardian of her minor daughter, Sara Doe v. James E. Kirby, Jr.
Case No.: 03-CP-23-3047
Attorney for Plaintiff(s): Greg Myers
Attorney for Defendant(s): Tom Creech
Cause of Action: Damages
Verdict: Plaintiff; \$5000 actual damages

Caption: HRFH, LLC v. Pourlos Ent.
Case No.: 03-CP-23-0150
Attorney for Plaintiff(s): Melvin Hutson
Attorney for Defendant(s): Adam Fisher
Cause of Action: Contract Dispute
Verdict: Plaintiff; \$190,000 actual damages

Caption: Patrick S. Victory v. SCDOT
Case No.: 03-CP-23-3937
Attorney for Plaintiff(s): Pat Paschal
Attorney for Defendant(s): Beasley Brook, Jr.
Cause of Action: Inverse Condemnation
Verdict: Plaintiff; \$550,000 actual damages

Family Court Liaison Report

Present: Judge Stephen S. Bartlett, Judge R. Kinard Johnson, Jr., Shirley Bruce, Linda Roberts, Terry Reid, Bobbie Hill, Jennifer Roberts, Saralyn Evans, Dottie Ingram, Dianne Riley, David Rutledge, Christine Howard and Faye Hart.

The new Chief Administrative Judge will be Aphrodite Konduros beginning July of 2004. Per her instructions, there will be no July and August Liaison meetings and the next meeting will be September 17, 2004 at 1:00 PM. All future liaison meetings will be the third Friday at 1:00 PM until further notice.

Attention all Attorneys: Please remind your clients to dress appropriately for court. Shorts, flip-flops revealing clothing, torn clothing, tank tops etc... should not be worn.

The filing fee will be increasing from \$100.00 Dollars to \$150.00 on July 1, 2004.

The Family Court needs volunteers to be GALs and attorneys in abortion hearings. The hearings usually last about 15 minutes and your attendance at the hearing will count toward your 608 requirements.

The next Family Court Liaison meeting will be **September 17, 2004 at 1:00 p.m. in the Conference Room in the Judge's Hallway.** Anyone who is unable to attend these meetings but has issues they would like addressed may contact the following lawyers: **Christine M. Howard** (282-8575); **Wallace A. Mullinax** (233-4351); **Robert M. Rosenfeld** (235-9613); or **Thomas W. Traxler** (242-3566).

Announcements

THE TOMMY THOMASON AWARD

The Tommy Thomason Award was established by the Greenville County Bar Association in 1993 to honor a Greenville lawyer whom best exemplifies the wonderful qualities of Tommy Thomason:

*compassionate and sensitive to all people regardless of their station in life; *friendly, unassuming, humble with a warm, genuine and abiding faith in all people; *strong personal values, optimism and faith; *positive diplomacy that works to minimize conflict and resolve disputes in the least hostile manner; *unshakable integrity, coupled with an instinct for fairness; *dedicated to community interest, public service and improvement of the community; *loves the practice of law and pursues the practice as a service to people; *dedicated to the improvement of the legal system and justice for all people; and *widely respected and admired by peers for personal and professional achievement.

There is no requirement that a recipient be selected each year; however if you have someone to nominate please send a written nomination to Jennifer Johnsen, P. O. Box 10589, Greenville, SC 29603. Send all nominations in by September 1, 2004. The Tommy Thomason Award, if awarded this year, will be presented at a fall luncheon.

The Thirteenth Circuit Solicitor's Office is pleased to announce the addition of new attorneys to its staff. Linda V. Whisenhunt began work on April 12, 2004. David B. Wagner, Jr. was hired May 5, 2004. Both attorneys will be working in the Greenville office. Frances E. Duarte began working part time with the Magistrate Court Prosecution Unit on June 1, 2004. Jason T. Elliott also began part time with the Magistrate's Court on June 1.

The Harper Law Firm, P.A. is pleased to announce that R. Patrick Smith has become an associate with the firm. He will concentrate his practice in the area of construction litigation.

William Herlong is pleased to announce that he has joined with Scott Anderson and formed Anderson & Herlong, LLC (111 East North Street, 255-9255). Herlong was with Nelson Mullins from 2001-04, with the Wyche Law Firm from 1989-99, and in business for the two years in-between; he has been a member of the Greenville County School Board since 1998. Herlong will focus on business and personal injury litigation and will assist selected clients on corporate and technology issues.

Nexsen Pruet attorney, Bradish J. Waring, has been installed as the 2004-2005 Treasurer of the S.C. Bar.

Greenville Association of Legal Assistants (GALA) meets the second Thursday of each month at the Poinsett Club

from 12:30 p.m. until 1:30 p.m. You do not have to be a member to attend. For reservations, please e-mail Phyllis Mitchell at pmitchell@dobsonlaw.com or call her at 271-8171.

Legal Staff Professionals of Greenville proudly sponsors Probate Court Overview, Friday, October 1, 2004, 9 a.m. to 12:15 p.m. 3.0 hours CLE credit. Cost is \$85 (LSPG members— \$65). Box lunch provided. Mark the date on your calendar now!

LSPG meets on the third Wednesday of each month from 12:30 p.m. to 1:30 p.m. Our monthly meeting will be held at the Poinsett Club. Membership is open to all legal support staff—you do not need to be a member to attend a meeting. Our Speaker for the July meeting will be David B. Greene and he will be talking about IRS Tax Law. Our menu choices will be Chicken Crepes or Roast Beef Croissant. For reservations, contact Tara Prevatte at 271-7940 or by email at tara@davidgreenattorney.com

MARK YOUR CALENDAR:

- July 23-25, 2004—Region 4 Meeting/CLE, Atlanta, GA
- October 1, 2004—Probate Court Overview Seminar, Greenville, SC
- November 4-7, 2004—SALS 53rd Annual Educational Conference & National Forum, Biloxi, MS

For more information on any of the above and/or membership, please contact Barbara Owens at 242-8224 or by email at Bowens@wyche.com. Also visit our LSPG website at www.lspg.org or the NALS website at www.nals.org.

OATH SEMINAR

The Greenville County Bar Association will hold an oath seminar on Friday, September 10, 2004, at County Council Chambers. There is no charge, and Judge Patterson will administer the oath. More details will follow as to times. There may be several sessions held that day to accommodate all attorneys wishing to participate. Please mark this date on your calendar and watch for more details.

LOBSTER NIGHT AT THORNBLADE

Mark your calendars for Thursday night, September 9, 2004. Details will follow. You will want to join us for a great evening of great food!

Advertisements

Offices for rent—3 downstairs and 2 upstairs. Conference room, copier, fax and postage machines available. Ready by April 2, 2004. Rent negotiable. Contact 467-0100/230-8540.

Office Suite available—downtown Greenville. Contact Jeff Merriam or Tom Traxler at 242-3566.

Near Courthouse—408 N. Church Street. Call Stephen Yacobi @ 242-3271.

For Lease: 119 Manly Street, one-half block from Bilo Center. Call John M. Dillard at (864) 834-0301.

For Lease: Several professional offices available along with shared facilities. 100 Williams St. at Pettigru. Call 242-5133.

Office building available for rent at 10 Brookside Circle. Call Jim Sarratt or Bill Clarke at 271-4100.

Office space for rent—Contact Kimberly Dunham or Stacy Greene at (864) 282-8686.

Office space available at 101 E. Camperdown Way. Call Rebecca or Tammy at 864-370-9771.

Office space available: 33 Wade Hampton Blvd., Greenville. \$650 per month. Call Cindy at 271-6371.

Guest article—Life Estate Deeds by Don McAlister

It is not oxymoronic for a probate attorney to counsel clients concerning avoiding probate and converting probate assets to non-probate assets. One device that attorneys should consider in regard to real estate matters is a Life Estate Deed. An example would be where an elderly couple who has no immediate plans to sell their home might consider deeding the homeplace to their adult children reserving a life estate interest in the parents. This accomplishes a number of things:

1. A probate asset is converted to a non-probate asset, thereby avoiding the necessity of probate in the Probate Court. When such a deed is executed and delivered, title vests in the children subject to the life estate interest to be enjoyed by the parents, giving their parents the rights, duties and responsibilities of a life estate interest, such as the right to remain at the property and to collect rests, and the duty to pay property taxes, insurance and maintenance costs. Of course, if the property is ever mortgaged, sold or leased, both the children grantees and the parent grantors would be required to sign the deed. One caveat is that before executing such a deed to adult children, parents need to discuss the deed with their children, and the parents must know that their children are financially responsible with no judgments, bankruptcies, or complicated divorces pending.

2. The parents still have all of the property tax benefits such as retention of the homestead exemption, provided they continue to live in the home, and the four percent (4%) classification.

3. An aspect that is often overlooked by attorneys is the fact that by doing the Life Estate Deed the deceased parent's estate gets the advantage of a stepped-up basis as of the date of the parent's death, meaning that the tax basis of the homeplace can be established as of the date of death at a possibly higher value, thereby avoiding or minimizing a capital gains tax if the property is sold after the parent's death. Reference is made to Internal Revenue Code Sec. 2036(a) and 1014(a).

4. If a parent qualifies for Medicaid and actually receives substantial Medicaid benefits, a Life Estate Deed makes a claim by the Department of Health and Human Services difficult, especially if all other assets have been converted to non-probate assets during the three (3) year look-back period so that there is no estate against which to file a claim. This of course would apply to other creditors also. If Medicaid is to be involved, a Life Estate Deed works more effectively than a Living Trust since the former has a three

(3) year look-back period, and conveyances to a Living Trust have a five (5) year look-back period.

Another caveat is that the preservation of the Life Estate interest should appear in the granting clause, as well as the habendum clause of the Deed so there is no question about the type of estate that is conveyed and reserved. Reference is made to the case of *Hunt v. South Carolina Forestry Commission* (2004) 595 S.E.2d 856. The court held that a reverter clause failed since the language creating the reverter clause was omitted from both the granting clause and the habendum clause, thereby resulting in a fee simple absolute conveyance to the Grantee free and clear of the reverter clause.

A copy of the executed deed should be sent to the homeowner's insurance company so that an endorsement can be issued to the properly named insureds. As in all matters relating to any business transactions, a final caveat is that the Grantor's accountant or tax advisor should be fully notified of the transaction so that all tax consequences of the conveyance will be understood by both the grantors and the grantees.

Donald R. McAlister is a partner with the law firm of Love, Thornton, Arnold & Thomason. He can be reached at 242-6360 for more information.

[Attorneys desiring to submit articles should send them to gbarnews@aol.com. The editorial staff will review them for value to the Greenville County Bar Association. Publication of any articles shall not be deemed an endorsement by the Greenville County Bar Association of any of the opinions expressed in such articles.](mailto:gbarnews@aol.com)



The Greenville County Bar Association wishes to extend its sympathies to the family and friends of Rodney Culbertson. He was recently honored for being in practice 50 years..

Law Week Wrap-Up by Jimmy Brehem

The 2004 Judge Frank Eppes Memorial Golf Tournament was a tremendous success. We raised \$5,000.00 for Shepherd's Gate Women and Family Shelter. An additional \$1,200.00 was raised to fund a scholarship in the late Judge's name.

65 players enjoyed a sun-drenched, tornado free day. The following took home the hardware:

First place (with a score of 53): Symmes Culbertson
Marsh Robertson
Steve Coleman
Tom Keeler

Second Place (58): Darryl Holland
Sam Postich
Lee Zettlemoyer
T. Solomon

Third Place (59): Chase Harbin
David Seay
Britt Seay
Brian Kelley

Law Week Trophy (all attorney team):
Bozzie Boggs, Wally Fayssoux, Mills Ariail;
Bruce Bannister

Closest to the Pin: Tom Keeler

Longest Drive Lee Zettlemoyer

I would like to thank my committee for all of their hard work. Without Denise Thompson, Carol Alderman, Bozzie Boggs, Bradley Bennett, Joey Stronkowsky and April Herron the outing would not have been nearly as successful.

I would like to recognize the following for sponsoring a hole. Their \$100.00 donation helped us achieve our goal:

North Main Building and Design
Marc Smith
Patrick Mangrum
Bozzie Boggs
Chase Harbin
Darryl Holland
Davida Mathis
Jack Lynn
Eppes and Plumlee
Dick James
David Flowers
Bill Clarke
Chris Posey

Henry Sullivan
Tom and Lisa Mobley
Joe Armstrong
Jeff and Tamela Purcell
Jim Calmes
Symmes Culbertson
Alex Newton
Kim Berry
Ernie Hamilton
David Seay
Ron Clement
Frank Dana
Dianne Riley
Larry Cooke
Scott Dover
Chris Roberts
A Carolina Bonding Company
Ali & Galloway Bonding Company
Salvini & Bennett
Murphy & Grow
Leatherwood, Walker, Todd & Mann
Ogletree, Deakins, Nash, Smoak & Stewart
Christian & Davis
Nelson, Mullins, Riley & Scarborough
Covington, Patrick, Hagins, Stern & Lewis
Wyche, Burgess, Freeman & Parham
Anderson, Fayssoux & Chasteen
Greenville Young Lawyers
Price, Paschal & Ashmore
Clarkson, Walsh, Rheney & Turner
Tolbert's Bail Bonding
Howard, Howard, Francis & Reid
Womble, Carlyle, Sandridge & Rice
A-1 Painting & Maintenance
Employee Benefit Specialists (Amy Garner)
Travinia's Restaurant
US NET Financing - Brent Frost

I hope to have everyone's support at next year's tournament!

For Terms of Court information and CLE opportunities, visit our website at www.greenvillecountybar.org and go to the links on the opening page.