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# G-Bar News



## PRESIDENT'S ARTICLE

By: E. Grantland Burns

September offers three chances to participate in quality events sponsored by the Greenville County Bar Association. Please check the sign up dates and make your reservations early. A brief explanation follows. Also, please send in your nominations for the Tommy Thoma-son Award. This is the highest honor bestowed on one of our own attorneys and we need your input. See page 3 for more details.

**Lobster Night at Thornblade**  
**September 9, 2004, Time: 6 – 9 p.m.**

Join the Bar Association at The Thornblade Club for a Lobster cookout. Menu will include Split Lobster, Ribeye, Southern green beans, Tossed salad, Potato salad, Vegetable salad, Desserts - Key lime bars, Strawberry layer cake, and ice cream. Open bar. The cost is \$40 per person. As always, spouses and guests are welcome and encouraged to attend. **Reservation deadline: September 1, 2004.**

\_\_\_ Please sign \_\_\_\_\_(your name) up for \_\_\_ people @ \$40 per person. My check will follow by mail.

**Oath Seminar**  
**September 10, 2004**  
**Times: 2:00 p.m. or 3:30 p.m.**  
**County Council Chambers**

The Greenville County Bar is pleased to offer an opportunity for our members to take the oath seminar, receive the credit, and be sworn in by our own Judge Patterson. There is no cost for this Seminar. **We do need a headcount, and only the first 225 for each time slot will be accommodated.**

\_\_\_ Please sign \_\_\_\_\_(your name) up for the 2:00 p.m. or 3:30 p.m. (circle one) CLE Seminar. My SC Bar number is \_\_\_\_\_. **The 2:00 slot is almost full. Please sign up by email at gbarnews@aol.com and Nancy can confirm your time back to you!**

**Luncheon with Chief Judge Kaye Hearn**  
**S. C. Court of Appeals**  
**September 29, 2004, Westin Poinsett**  
**Time: NOON (note the time change)**

The Greenville County Bar is pleased to have an opportunity to hear from Chief Judge Kaye Hearn. The menu will be New York Strip and field green salad. (Please indicate if you prefer a vegetarian meal). To keep the cost down, we are skipping dessert! The cost is \$26. Reservations are due by September 20. **The Westin requires a 5 day notification – after September 20, your place will not be guaranteed, but we will accommodate as meals are available.**

\_\_\_ Please sign \_\_\_\_\_(your name) up for the Luncheon with Chief Judge Kaye Hearn. My check will follow by mail.

Mailing address: GCBA, P. O. Box 10145, Greenville, SC 29603; Fax No.: 242-2001 (\*51)

172th edition

July/August 2004

- Lobster Night at Thornblade—Sept. 9
- Oath Seminar –Sept. 10, County Council Chambers
- Luncheon with Chief Judge Kaye Hearn—Sept. 29
- Reception with S. C. Court of Appeals—November 16, Greenville Country Club
- Annual GCBA CLE—December 3, County Square
- Christmas Party—December 9, Greenville Country Club (This is a date change!)
- Memorial Service—December 16, Greenville County Courthouse

### Inside this issue:

Verdicts

Family Court Report

Bench Bar

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## Verdicts

**Caption:** Robert S. Brannon and Kimberly C. Brannon  
**v. The Palmetto Bank**  
**Case No.:** 2003-CP-23-477  
**Attorney for Plaintiff(s):** Michael Spivey  
**Attorney for Defendant(s):** Langdon Cheves  
**Cause of Action:** Conversion Action  
**Verdict:** Plaintiff, \$133,000 actual damages

**Caption:** Ruth Gunter v. Pet Smart, Inc.  
**Case No.:**  
**Attorney for Plaintiff(s):** Tom Ervin  
**Attorney for Defendant(s):** Jim Walsh  
**Cause of Action:** Slip and fall  
**Verdict:** Defendant

**Caption:** William Helton v. City of Simpsonville  
**Case No.:** 2003-CP-23-2867R  
**Attorney for Plaintiff(s):** Joel Bieber & Geoff Glick  
**Attorney for Defendant(s):** Charles Groves  
**Cause of Action:** Automobile accident  
**Verdict:** Defendant

**Caption:** BSA Sales, Inc. v. F1, Inc., d/b/a Benchmark  
**Technical Services**  
**Case No.:** 03-1799-20AK (USDC)  
**Attorney for Plaintiff(s):** James G. Carpenter  
**Attorney for Defendant(s):** David W. Overstreet, Daniel  
 J. Huff (Pro Hoc Vice)  
**Cause of Action:** Breach of Contract and Anticipatory  
 Breach of Contract of a Sales and Business Develop-  
 ment Contract  
**Verdict:** Plaintiff, \$228,000

### **CORRECTION:**

**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  
 (Verdict was incorrectly reported in the last G-Bar  
 News. We apologize for the error.)

## Family Court Liaison Report

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).

## Bench Bar Committee

The Bench/Bar Committee met with Judge Patterson on Friday, May 28, 2004. Judge Patterson reported that concerns regarding the ability for parties to choose their own mediators under proposed statewide mediation rules was being addressed and that the parties' right to choose would be protected. The Committee discussed status conferences, which Judge Patterson will continue holding approximately 300-330 days after initial filing. Lyndall Coker in the Clerk's office discussed the possibility of changing the notification method for status conferences due to the burden imposed by faxing status conference notices. The Committee discussed changing to an e-mail notification system or simply requiring attorneys to check on-line for status conference notices. The Committee also discussed the Civil Action Cover sheet that will be required for all initial filings as of June 1, 2004. Adobe Acrobat and Word forms for the Civil Action Cover sheet can be found at [www.judicial.state.sc.us](http://www.judicial.state.sc.us) in the Forms section. Paul Wickensimer explained that a vendor had been chosen to institute e-filing in on a statewide basis and that a committee had been formed to draft rules related to e-filing. Greenville County is slated to be a pilot county; however, it is as yet unclear when this project will begin. Finally, the Committee discussed the fact that filing fees will be increasing to \$150.00. A portion of this increase will be used to offset travel-related court expenses.

Bench/Bar Committee meetings will occur on the last Friday of each month at 2:00 p.m. in Courtroom 7 at the Greenville County Courthouse. The next meeting will take place August 27, 2004. If you are interested in attending these meetings, or if you have questions or concerns, please contact the Greenville County Bar Association Judicial Liaison, Matt Johnson, at (864) 271-5348.

## 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.

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The firm of Clarkson, Walsh, Rheney & Turner, P.A. is pleased to announce that Eric K. Englehardt has become managing Partner of the law firm. He will continue his litigation and mediation practices in addition to assuming the duties of Managing Partner.

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The firm of Nexsen Pruet is pleased to announce that John Hardaway has been elected to the FICPI Executive Board of the U. S. Section (an International Intellectual Property Organization) where he will act as Secretary for the upcoming year.

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### Ask-A-Lawyer needs help

The Bar's Ask-A-Lawyer program is a free telephone hotline service that has taken almost 54,000 calls from the public since its creation in 1998. Attorneys need no special expertise and can take short two- to four-hour shifts one day every one to three months at locations convenient to them. While a shortage of attorneys has arisen recently in Rock Hill, volunteers are also needed in Charleston, Columbia, Greenville and Spartanburg. If interested or just curious, please contact Debbie Morris at [debbie.morris@sbar.org](mailto:debbie.morris@sbar.org) or 803-799-6653, ext 158.

Attorney Joe Lyles has published a book, "How You Can Avoid Legal Land Mines." The book is available at Amazon.com and Walmart.com.

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Health Law Center announces that Aaron J. Kozloski has joined the firm as Senior Counsel. He will serve in Greenville and Columbia.

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The South Carolina Chapter of the Association of Legal Administrators, SCALA, announces new officers for 21004-2005: President, Elizabeth P. Finch of the Wyche Firm; President Elect, Timothy Fallon of Robinson, McFadden & Moore; Secretary, Brenda Stewart of the Leatherwood Firm; Treasurer, Margaret Glassman of Ellis, Lawhorne & Sims.

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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](mailto:pmitchell@dobsonlaw.com) or call her at 271-8171.

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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. at the Poinsett Club. Any legal support staff is welcome to attend. Our Speaker for the August meeting will be Maureen White, Senior Attorney with SCCEG. Wallace Lightsey will speak on tort litigation in September, and we will welcome The Honorable John Few for our Day in Court meeting in October. Don't forget our Probate Court Seminar coming this fall. For reservations, email [Fran.powell@nelsonmullins.com](mailto:Fran.powell@nelsonmullins.com) or call 250-2288.

## Positions Available

Help Wanted: Paralegal/Legal Secretary to work with established Greenville attorney in Primarily family law practice; duties will include secretarial and office management, as well as paralegal work. Please fax resume (including recent, relevant courses completed, list of software you can use, and phone numbers for at least two references) with cover letter to (864) 271-9755.

The Thirteenth Circuit Solicitor's Office has a position available in the Pickens Office. Preference will be given to applicants with trial experience. Compensation based on experience. Interested persons should contact Marcia Barker at 467-8622.

## 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.



**The Greenville County Bar Association wishes to extend its sympathies to the family and friends of James Pressley.**

## Guest article—Helping Family and Friends With Employment Issues

Employment matters are often highly-personal and emotional. Advising friends and family members in the midst of an employment dispute is challenging because objectivity and candor are difficult when the client seeks both advice and emotional support or validation. Here are some tips based on common mistakes we encounter with individual clients:

**Think strategically** Often the individual is so caught up in the heat of the moment, that they never define their objectives. Moreover, clients often waste what little time they have by focusing on the conflict and not on likely outcomes and options that need to be pursued immediately. Suggestions of seeking alternate employment are often resisted, but the issue needs to be pressed in order for the client to understand all ramifications of the current situation. To the extent possible, get the client's focus off of the "right vs. wrong" issues and on to the bigger picture.

**Give peace a chance** If the company has a dispute resolution or "open door" policy, try it. Failing to use the system might have serious legal implications, especially in harassment cases governed by federal law. At a minimum, the failure to exhaust internal remedies runs the risk of creating a negative image of the client should the matter have to proceed to court.

**Manage expectations** Like many other areas of law, setting expectations is critical. Reasonable opportunities for severance or settlement often are lost because client expectations are out of whack.

**Make sure your clear on interrelatedness of issues** Many employment issues are multi-faceted and the attorney needs to be sure which laws are in the picture before mapping out a strategy. Statements made in support of an FMLA claim at the EEOC may seriously impact an ADA claim under recent Supreme Court decisions. Efforts to establish a claim under workers compensation, social security, or a short-term or long-term disability plan may preclude any backpay claim whatsoever if not handled properly. Make sure all potential claims are considered.

**Resisting the urge to join every battle** A client's cathartic e-mail missives to an employer are often a huge problem in litigation. Give clients a "Miranda warning" as to all oral and written statements to the employer. Commit them to showing any communications to you first.

**Preserving documentation** Have clients keep documents to which they are entitled at home where they are secure. Do not let a client take documents to which (s)he is not entitled as that can lead to an affirmative defense under the after-acquired evidence doctrine. Tell clients not to write on or highlight their documents.

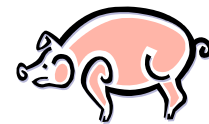
**Educate on Privileges and Work Product Doctrine** Many employees create detailed, privileged notes only to disclose them to the EEOC, and even to their employer. Unadvised clients also share attorney advice with friends to "see what they think." Edu-

cate the client and stress the issue of privilege and work product immunity at the outset.

**Beware the administrative law process** Sending a client to an Employment Security Commission appeal hearing without representation (when the company is likely to have an attorney present and a record is created) is inexcusable. Likewise, the manner in which claims are phrased in EEOC charges has important preclusive effects on later litigation, especially in ADA claims in which specific theories of liability often should be pled. An attorney needs to be directly involved in these processes.

Brian Murphy ([brian@murphygrow.com](mailto:brian@murphygrow.com)) Murphy & Grow, PC 370-9400.

[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 Legal Auxiliary

invites you to a  
**Membership Barbecue**  
at the home of  
Betsy and Mike Farry

Thursday, September 30, 2004  
6:30 p.m.

Catering by Smokin' Stokes  
Pork & Chicken  
(with all the fixin's)

\$40/couple      \$20/individual

For reservations/info, contact Mary Derrick  
at [mderrick@bellsouth.net](mailto:mderrick@bellsouth.net) or 801-1040