

CONTINUING LEGAL EDUCATION

VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Westin Poinsett Hotel, Greenville, SC Thursday, Oct. 10 - Friday, Oct. 11 2013

presented by

The South Carolina Bar
Continuing Legal Education Division
And
South Carolina Women Lawyers Association

www.scbar.org

13-28

Vision for Success -Women Leaders from the Courtroom to the Boardroom

SCWLA 2013 Conference

Thursday and Friday, October 10 and 11, 2013

Westin Poinsett Hotel, Greenville, South Carolina

6.0 MCLE/JCLE including 3.0 hour LEPR and 1.0 SA/MH

Thursday, October 10, 2013

11:30 a.m. – 1:00 p.m. **Registration**

1:00 – 1:15 p.m. Welcome Remarks and Introduction

Jennifer Breaux Howe, Conference Co-Chairman, South Carolina Women Lawyers Association The Honorable Jean Hoefer Toal, Chief Justice

Supreme Court of South Carolina

1:15 – 1:30 p.m. **Opening and Welcome to Greenville**

The Honorable Knox H. White, Mayor of Greenville

Shareholder, Haynsworth Sinkler Boyd, P.A.

1:30-3:30 p.m. It's Not the Fruit, It's the Root:

Getting to the Bottom of Our Ethical Ills

Sean Carter, Humorist at Law

3:30-3:45 p.m. **Break with Exhibitors**

3:45 – 4:45p.m. Diversity in Leadership - Boards, Agencies and the Order of the

Palmetto

Moderator -

Nika White, Vice President of Diversity and Inclusion

Greenville Chamber of Commerce

Panel -

Patti McAbee, President & CEO

Dream Big Greenville

Member, Clemson University Board of Trustees

Merl F. Code, Of Counsel

Ogletree Deakins

Minor Mickel Shaw, Chairman of the Board of Trustees

The Duke Endowment

4:45 – 5:00 p.m. Martha Dicus Scholarship Presentation

5:30 – 7:30 p.m. **Jean Galloway Bissell Award Reception**

(Conference registrants, Speakers, Exhibitors and SCWLA Members)

Womble Carlyle

Friday, October 11, 2013

8:00 - 8:30 a.m. Registration **Seated Southern Breakfast** 8:30 - 10:00 a.m. **Mental Health and the Legal Profession -**"Why do the SC Bar and SLED need to know about my nervous breakdown?" The Honorable Debora Faulkner Greenville County Probate Court 10:00 - 10:30 a.m. **Break with Exhibitors Effecting change – Perspectives from Private Practice and State** 10:30 - 11:00 a.m. Government Catherine B. Templeton, Director South Carolina Department of Health and Environmental Control 11:00 – 11:30 a.m. **Women in Politics – Challenges, Importance and Impact** The Honorable Elizabeth Johnston "Liz" Patterson, Former Member of the U.S. House of Representatives 4th Congressional District, South Carolina 11:30 – 12:30 p.m. Women in the Federal Judiciary – Weighing in on Leaning In Moderator -Alice F. Paylor, President South Carolina Bar Past President, South Carolina Women Lawyers Association Panel -The Honorable Mary Geiger Lewis, U.S. District Judge The Honorable Margaret B. Seymour, Senior U.S. District Judge The Honorable Bruce H. Hendricks, U.S. Magistrate Judge

The Honorable Jacquelyn D. Austin, U.S. Magistrate Judge

12:30 p.m. **Closing Remarks and Adjournment**

Lynsey Traynham Kmetz, Conference Co-Chairman, South Carolina Women Lawyers Association

12:45 p.m. **Lunch – Dutch Dining around Greenville**

High Cotton Passerelle Bistro The Lazy Goat

2013 South Carolina Women Lawyers Conference

SPEAKER BIOGRAPHIES

Chief Justice Jean Hoefer Toal

Chief Justice Jean Hoefer Toal began her service as an Associate Justice on the Supreme Court of South Carolina on March 17, 1988, becoming the first woman to serve as a Justice of the South Carolina Supreme Court. She was re-elected in February of 1996 and was installed as Chief Justice on March 23, 2000 for the balance of the term of her predecessor, which expired June 30, 2004. She was re-elected again in February of 2004 and was installed as Chief Justice on June 9, 2004, for a ten-year term.

She is the first native Columbian and first Roman Catholic to serve on South Carolina's highest court.

Born August 11, 1943 in Columbia, South Carolina, she attended parochial school and public school in Columbia and graduated from Dreher High School in 1961 where she was recognized as the state's top debater. Chief Justice Toal received her B.A. degree in philosophy in 1965 from Agnes Scott College where she served on the Judicial Council, National Supervisory Board of U. S. National Student Association and played Goalie for the Field Hockey team. She received her J.D. degree in 1968 from the University of South Carolina School of Law where she served as Managing Editor, Leading Articles Editor and Book Review Editor of the South Carolina Law Review. She is a member of the Order of the Coif, Mortar Board and Phi Beta Kappa.

Chief Justice Toal practiced law for 20 years prior to her election to the South Carolina Supreme Court, first as an associate with the Haynsworth Law Firm in Greenville, and then as an associate and partner with Belser, Baker, Barwick, Ravenel, Toal & Bender in Columbia. When she was admitted to the South Carolina Bar in 1968, women comprised less than one percent of the licensed lawyers in South Carolina. Now almost twenty percent of South Carolina's lawyers are women.

As a lawyer she appeared on a frequent basis in all levels of trial and appellate courts in South Carolina. She also had considerable experience as a litigator in United States District Court, the Fourth Circuit Court of Appeals and made one appearance as co-counsel before the United States Supreme Court. Her twenty years as a practicing lawyer included a balance of plaintiff and defense work, criminal trial work, and complex constitutional litigation. She wrote many trial and appellate briefs at all court levels. She also had considerable administrative law experience in litigation involving environmental matters, federal and state procurement, hospital certificates of need, employment matters and election matters.

In addition to practicing law, Chief Justice Toal utilized her law degree in public service. Beginning in 1975 she served in the South Carolina House of Representatives representing Richland County for 13 years. She was the first woman in South Carolina to chair a standing committee of the House of Representatives. She served as Chairman of the House Rules Committee and Chairman of the

Constitutional Laws Sub-Committee of the House Judiciary Committee. Her legislative service included floor leadership of complex legislation in the fields of constitutional law, utilities regulation, criminal law, structure of local government, budgetary matters, structure of the judicial system, banking and finance legislation, corporate law, tort claims, workers' compensation, freedom of information act and environmental law.

During her 25 years on the Supreme Court, Justice Toal has written opinions addressing the full range of issues both criminal and civil which come before her Court. Also, she and two of her law clerks have authored a book entitled Appellate Practice in South Carolina.

In addition to her work on the bench, Chief Justice Toal has become chief advocate for South Carolina's Judicial Automation Project. Under her leadership, technology initiatives are being integrated into the eight levels of the South Carolina court system. Some of the technology projects include high-speed network connectivity to all 46 county courthouses and an on-line, statewide case management system. Because of her efforts in promoting technology as a way to create a more efficient court system, Chief Justice Toal was recognized by Government Technology magazine as one of the 2002 "Top 25 Doers, Dreamers & Drivers" of technology in government.

She is a member of the Richland County, South Carolina and American Bar Associations, the South Carolina Women Lawyers Association, the National Association of Women Judges, and the John Belton O'Neall Inn of Court. She serves on the Board of Trustees of the American Inns of Court Foundation, is Past President of the Conference of Chief Justices, and is Past Chair of the Board of Directors of the National Center for State Courts.

Chief Justice Toal received the South Carolina Trial Lawyers Outstanding Contribution to Justice Award in 1995. She has been awarded honorary doctorate degrees by the University of South Carolina, Francis Marion University, The Citadel, Columbia College, College of Charleston, Charleston School of Law and Converse College.

In 2004, Chief Justice Toal received the prestigious Margaret Brent Women Lawyers of Achievement Award from the American Bar Association's Commission on Women in the Profession. The award, named in honor of the first woman lawyer in the United States, is given annually to five women who have achieved professional excellence in their field and have actively advanced the status of women within the legal community.

In 2011, Chief Justice Toal was named the first recipient of the National Center for State Courts' (NCSC) Sandra Day O'Connor Award for the Advancement of Civics Education. NCSC established the award in 2010 to honor an organization, court, or individual who has promoted, inspired, improved, or led an innovation or accomplishment in the field of civics education. Chief Justice Toal was instrumental in making South Carolina one of the first pilot states for Justice O'Connor's iCivics web-based interactive civics education program for students, and she has encouraged and supported the use of "Justice Case Files," a graphic novel series developed by the NCSC that teaches students how the courts work.

Under Chief Justice Toal's leadership, the South Carolina Judiciary has a long history of supporting civics education. In addition to iCivics and the "Justice Case Files" series, South Carolina has implemented three state civics programs:

 The Class Action Program, which brings middle- and high-school students to the state Supreme Court to hear oral arguments.

- The Case of the Month Program, which provides streaming video of a case argued before the state Supreme Court. Students are allowed to review the briefs submitted for the case and watch the proceedings.
- South Carolina Supreme Court Institute, which is held for middle- and high-school social-studies teachers to teach them how to bring law to life for their students.

Chief Justice Toal is a member of St. Joseph's Catholic Church in Columbia where she serves as a lector.

Chief Justice Toal is married to her law school classmate, William T. Toal, of Johnson, Toal & Battiste. Chief Justice Toal and Bill were the only husband-wife team to serve as Editor and Managing Editor of the South Carolina Law Review. They live in Columbia and have two daughters, Jean Toal Eisen, a 1993 Yale graduate who serves on the United States Senate Appropriations Committee Staff at the appointment of the Senator Barbara Mikulski; Lilla Patrick Toal Mandsager, a 2003 BA, 2005 MA graduate of Stanford University who is Assistant Director of Everest Public High School in Redwood City, California; one grandson, Patrick Eisen; and one granddaughter, Ruth Margaret Mandsager. Chief Justice Toal is an avid gardener, golfer and sports fan who maintains a shrine in her den to her beloved Atlanta Braves and Carolina Gamecocks.

Alice F. Paylor

In May 2013, Alice F. Paylor became the fourth female president of the South Carolina Bar and the firm's third member to hold the position. She joined Rosen Hagood as an associate, was made a partner/shareholder five years later, and served as the firm's managing shareholder from 2003 to 2008. She remains a member of its Management Committee.

Alice's practice focuses primarily on complex commercial litigation, employment litigation and school law. She represented the Charleston County School District in a major school desegregation case that deemed the district a unitary school district and has also successfully defended several lenders in complex lender liability actions.

After attending college at the University of North Carolina at Chapel Hill, Alice received her J.D. from the University of South Carolina School of Law. She served for the next several years as Deputy Corporation Counsel for the City of Charleston, helping to navigate complex litigation in which the City was involved. Alice is most proud of her long years of service to the S.C. Bar as an officer, culminating with her recent installation as the organization's president.

Areas of Practice - Employment Law; Education Law; Administrative and Government Law; Business and Commercial Litigation; Probate, Estate and Trust Litigation

Admitted to Practice - South Carolina; U.S. District Court District of South Carolina; U.S. Court of Appeals 4th Circuit; U.S. Supreme Court

Professional Associations and Memberships -

South Carolina Bar

- Board of Governors, 2005 Present. President, 2013 Present
- House of Delegates, 2000 Present, Chair, 2008-2010
- Young Lawyers Division, Former Secretary/Treasurer

American Bar Association

National Conference of Bar President

South Carolina Women Lawyers Association

President, 2006

Charleston County Bar Association

Education - University of North Carolina at Chapel Hill (B.A.); University of South Carolina School of Law (J.D.)

Mayor Knox H. White

Knox H. White has been Mayor of the City of Greenville since 1995, the longest serving Mayor in the city's history. A cornerstone of his leadership has been advancing neighborhood initiatives, neighborhood revitalization, and involving citizens in city government.

As Greenville's Mayor, he has spearheaded downtown retail and residential revitalization. His most ambitious project has been reclaiming the birthplace of Greenville, the historic Reedy River Falls, and the creation of a world-class public garden along the river.

A native of Greenville, Knox White is a partner in the law firm of Haynsworth, Sinkler & Boyd, where he heads the Firm's immigration and customs practices.

Mayor White graduated from Christ Church Episcopal School, Greenville Senior High School, Wake Forest University, and the University of South Carolina School of Law. He is married to Marsha P. White and they have two children.

Merl F. Code

Mr. Code is an attorney with Ogletree, Deakins, Nash, Smoak & Stewart. He is concentrating his practice in the areas of positive employee relations and diversity. In terms of his legal practice, Mr. Code is an experienced trial lawyer who has handled cases at the trial level for more than 25 years. Admitted to practice in South Carolina, his jury trial experience in both criminal and civil defense and plaintiff's matters is extensive. His experience has included several capital murder trials, personal injury matters, and business litigation. He has served as a certified Mediator for over 12 years.

Admitted to Practice:

- South Carolina
- U.S. Court of Appeals, Fourth Circuit
- U.S. District Court, District of South Carolina

Professional Activities/Accomplishments:

- First recipient of the Young Lawyer of the Year Award (1984)
- Honored by Vision Magazine as being one of the Top 25 Business Influencers (1996)
- Recipient of the Order of the Palmetto (1996)
- Compleat Lawyer Award (1997)
- Recipient of Tommy Thomason Award by the Greenville County Bar Association (1998)
- Inducted into the South Carolina Black Hall of Fame (1999)

Published Works:

 April 2, 2007 – Ogletree Deakins Publication – "Enhancing Workplace Diversity – Strategies For Success"

Catherine B. Templeton

Catherine Templeton is the Director of the South Carolina Department of Health and Environmental Control. Templeton comes to state government after 20 years working for private industry and practicing law. She has received the state Supreme Court's highest award, the Compleat Lawyer, and was recognized by her peers as one of the nation's Best Lawyers. She was also appointed by Justice Sandra Day O'Conner as the National Coordinator of iCivics, a program that educates children on the importance of civic involvement and the role of the three branches of government. Currently, Templeton serves on the Governor's Savannah River Committee, is chair of the State Emergency Response Committee and serves on the Board of Directors for the S.C. Health Coordinating Council. She is a member of the Liberty Fellows class of 2014.

Since accepting the job in March of 2012, Director Templeton has reduced the agency's budget request from \$50M to \$5M, created a streamlined, customer service focused environmental team, and directed public health efforts to the one issue that kills the most South Carolinians, makes the most sick, and, if prevented, would save the state the most money in treatment: obesity.

Judge Bruce H. Hendricks

Judge Hendricks was born in Charleston, South Carolina. Her parents are Bruce (Brucie) McCaw Howe and the late Arthur G. Howe. She is married to Theodore (Teddy) Hendricks. They have two children, a daughter, Brucie, a recent graduate of the Charleston School of Law, and, Teddy, a recent graduate of Clemson University. Judge Hendricks graduated from the College of Charleston with a double major in history and political science. After college, she worked as a paralegal at the law firm of Holmes and Thomson, and then went on to law school at the University of South Carolina School of Law. Following graduation from law school in 1990, Judge Hendricks worked as an Assistant United States Attorney for more than 11 years where she represented the United States in proceedings at all stages of trial in Federal Court in South Carolina and on appeal before the United States Court of Appeals for the Fourth Circuit. During her time as the United States Attorney's Office, Judge Hendricks was the lead prosecutor in a number of high-profile and successful prosecutions of the Ku Klux Klan and related white supremacist organizations in South Carolina.

Judge Hendricks was first appointed as magistrate judge to the Greenville Division, on May 6, 2002, where she served for approximately nine years. She transferred to the Charleston Division in 2010, and she has been the supervising judge of the Division's pilot drug court, the BRIDGE, since the program's inception in 2010.

Prior to her selection as United States Magistrate Judge, Judge Hendricks was an advisor to the United States Department of Justice's Weed and Seed Program in Charleston. She is a past member of the South Carolina Bar House of Delegates and past board chairperson of the Bilingual Legal Education Program at the College of Charleston. She is also co-founder, past advisor, and board member of the College of Charleston legal assistance program. Judge Hendricks served as an instructor of law in that program and in the Political Science Department. She has also been a volunteer with the Boys and Girls Clubs of America, served on the board of the Greenville YMCA, and been a member of the College of Charleston Alumni Board. Judge Hendricks is a member of the South Carolina Bar Association, the Federal Bar Association, and the Women's Law Association. She enjoys exercising, playing tennis, swimming, and other activities with her family.

Judge Mary Geiger Lewis

The Honorable Mary G. Lewis was born in Columbia, South Carolina. She was appointed as a United States District Judge for the District of South Carolina on June 21, 2012, and her chambers are located in Spartanburg, South Carolina. Prior to her judgeship, she practiced law for more than 25 years as a partner in what is now Lewis, Babcock & Griffin LLP, focusing on complex civil litigation in both state and federal courts.

Education

- Clemson University, B.A., cum laude, 1980
- University of South Carolina, J.D. 1984
 - Order of the Coif
 - Moot Court
 - Law Clerk to Owens T. Cobb, Jr. Judge, South Carolina Circuit Court

Bar Admissions Memberships

- South Carolina, 1984
- U.S. District Court, District of South Carolina
- U.S. Supreme Court
- U.S. Court of Appeals, Fourth, Eleventh and Second Circuits
- Richland County Bar Association
- American Bar Association
- South Carolina Bar Association
- South Carolina Association for Justice
- Federal Bar Association

Selected Reported Cases

Hammond v. Butler, Means, Evins & Brown, 388 S.E.2D 796 (S.C. 1990), cert. denied by Kramer v. Hammond, 498 U.S. 952 (1990)

Paddock Equipment Co. v. University of South Carolina, 289 S.C. 219, 345 S.E.2d 749 (Ct. App. 1986) Johnson v. Collins Entertainment Co., Inc., 333 S.C. 96, 508 S.E.2d 575 (1998)

Johnson v. Collins Entertainment Co., Inc., 349 S.C. 613, 564 S.E.2d 653 (2002)

Judge Margaret B. Seymour

Margaret B. Seymour currently is a Senior United States District Judge for the District of South Carolina. Judge Seymour served as Chief United States District Judge for the District of South Carolina from January 2012 to January 2013. She was appointed to the position of United States District Judge for the District of South Carolina on October 30, 1998. She served as United States Magistrate Judge for the Florence Division, District of South Carolina, from 1996 to 1998.

Prior to assuming the bench, Judge Seymour served in the Office of the United States Attorney, District of South Carolina, from December 1990 until May 1996. Judge Seymour was Interim United States Attorney from January to May 1996 and from April to May 1993. She was Chief of the Civil Division from June 1992 to May 1996, and an Assistant United States Attorney in the Civil Division from 1990-1992.

Judge Seymour spent a number of years in private practice in Columbia, South Carolina. Prior to relocating to South Carolina, Judge Seymour was a Senior Trial Attorney with the U.S. Department of Education, Office for Civil Rights, 1980-1988; Attorney Advisor with the Equal Employment Opportunity Commission, Office of Systemic Programs, 1979-1980; and held numerous policy positions with the U.S. Department of Health, Education, and Welfare, 1967-1979.

Judge Seymour was born in Washington, D.C. She received a Bachelor of Arts Degree from Howard University in June 1969 and a Juris Doctor Degree from the American University in June 1977.

Minor Mickel Shaw

Education:

- University of North Carolina Chapel Hill, North Carolina BA, 1969
- Furman University
 Greenville, South Carolina
 Honorary Doctor of Humanities, 2006
- Wofford College Spartanburg, South Carolina Honorary Doctor of Humanities, 2005

Minor Mickel Shaw is president of Micco LLC. She currently serves as chairman of The Daniel – Mickel Foundation and chairman of the Duke Endowment, vice-chairman of the Hollingsworth Funds and chairman of the Belle Baruch Foundation.

She is a director of BlueCross BlueShield of South Carolina, Piedmont Natural Gas and Columbia Funds. She formerly served as director of Interstate Securities. She is also chairman of the Greenville-Spartanburg Airport Commission.

She is on the boards of the South Carolina Governor's School for the Arts Foundation , The Palmetto Institute and the President's Advisory Board for Clemson University.

Minor's previous leadership roles include positions as chairman of the United Way of South Carolina, the Wofford College Board of Trustees, the South Carolina Foundation for Independent Colleges, the South Carolina ETV Endowment, the Community Foundation of Greenville, the Junior League of Greenville, Vice-Chairman of the Greenville Chamber of Commerce, chairman of the Urban League of the Upstate and the YMCA of Greenville.

She helped found Roper Mountain Science Center in Greenville and the South Carolina Governor's School for the Arts & Humanities year-round school.

Minor is a graduate of the University of North Carolina at Chapel Hill where she has served on the General Alumni Association Board, the UNC Board of Visitors, the National Campaign Steering Committee, and she is a former chairman of the UNC Arts & Sciences Foundation.

She has been recognized as Volunteer of the Year for the YMCA of Greenville, Citizen of the Year of the Greenville Chapter of the Institute of Management Accountants and a Woman of Distinction of the Greenville area Girl Scouts Council.

The Greenville News named Minor to its "Top 25 Most Influential "list. She has won statewide and local awards including South Carolina's Order of the Palmetto Award, the David Wilkins Citizenship Award, the Greenville Chamber of Commerce Chairman's Award and the Athena Award, and the Urban League's Whitney Young Humanitarian Award.

She is also a laureate in the South Carolina Business Hall of Fame.

Minor and her husband Hal reside in Greenville, and they have three children and eight grandchildren.

Nika White

Nika White's has spent her career working as a marketing professional and a diversity and inclusion practitioner. As Management Supervisor and Diversity Manager at Erwin Penland, South Carolina's largest marketing firm with offices in both New York and Greenville, SC, Nika led teams of peers in brand development, strategic marketing and advertising campaign creations for a variety of regional and national clients. Throughout her career, her client roster consisted of brands such as Verizon Wireless, Advance America, Cross, Culligan Water, CertusBank, United Way, Wachovia/Wells Fargo, and L'eggs.

Nika's work at Erwin Penland extended to the area of diversity and inclusion where she helped to ensure diversity practices were threaded through the fabric of the organization. The culmination of her efforts came when she led the formation of EP's Diversity & Inclusion Council to foster effective diversity management practices and promote an environment of acceptance and inclusion. In this role, Nika chaired a fourteen member council, comprised of task teams addressing opportunities in the areas of Recruitment; Employee Engagement; External Outreach; Vendor & Supplier Relationships; and Measurement.

Nika knew that her work in the diversity and inclusion space both professionally and personally would lead her to a full-time career in this discipline. On August 1, 2012 she joined the Greenville Chamber as Vice President of Diversity and Inclusion. Nika was selected after a national search by a panel dedicated to the launch of this initiative, including the Chamber's leadership, Diversity Committee, and community and corporate investors.

As Vice President of Diversity and Inclusion, Nika is responsible for creating and collaboratively implementing an overarching diversity strategy for the Greenville Chamber. As a key member of the executive team, Nika designs and oversees initiatives that develop and promote inclusion of diverse businesses in the economic activities of Upstate South Carolina.

In her volunteer life, she spearheads a county-wide celebration of the Martin Luther King, Jr. holiday each year (MLK Dream Weekend) as Co-founder, Executive Board Member and Marketing Director. Nika's role in MLK Dream Weekend, conceived to address the ridicule Greenville County faced in 2005 as the last county in the U.S. to recognize MLK Day, has become extremely important to the Greenville community. Today, MLK Dream Weekend is regarded as one of the nation's largest celebrations of Dr. King's legacy and a vehicle for overwhelmingly positive exposure, highlighted each year by a Diversity Banquet.

Other past and current professional leadership roles and/or volunteer memberships Nika holds consist of Alpha Kappa Alpha Sorority, Inc., Epsilon Tau Omega Chapter, Young Women's Christian Association (YWCA) of Greenville - Board of Directors; Rotary Club of Greenville - Diversity Chair; graduate of Diversity Leaders Initiative, Furman University at the Riley Institute; United Way of Greenville County Board of Trustees; South Carolina Commission for Minority Affairs Business Development Program Advisory Committee; United Way of Greenville County African American Leadership Greenville Council – Vice Chair; South Carolina Chamber of Commerce Diversity Council; American Chamber of Commerce Executives Diversity Round Table; and Connections – Women Leaders of the Upstate at Furman University.

Other honors Nika has received include: YWCA Women of Achievement Dream Achiever Award Recipient, Greenville's 50 Most Influential, Business Professional Women Career Woman of the Year, cover feature in SC Diversity Magazine, cover feature in Business Black Box.

Nika earned her Bachelor of Arts degree from the University of South Carolina's School of Journalism and Mass Communications with a concentration in advertising and public relations and a Masters of Education/E-Education from the University of Phoenix. She's currently working on her doctorate in Management and Organizational leadership also from the University of Phoenix. She's married to Elder Carlo White and they have a 12 year old daughter, Hannah, and 11 year old son, Carlo, Jr.

Sean Carter

Humorist at Law Lawpsided Seminars Mesa, Arizona

Sean Carter is the founder of *Lawpsided Seminars*, a company devoted to solid continuing legal education with a healthy dose of laughter.

Mr. Carter graduated from Harvard Law School in 1992. His ten years of legal practice focused on corporate securities and mergers and acquisitions. During this time, he represented such clients as GNC, Experian, The Boston Beer Company, Homeside Lending, Safelite Auto Glass, J. Crew and many others, before eventually serving as in-house counsel to a publicly-traded finance company.

In 2002, Mr. Carter left the practice of law to pursue a career as the country's foremost Humorist at Law. Since then, Mr. Carter has crisscrossed the country delivering his Lawpsided Seminars for state and local bar associations, law firms, in-house corporate legal departments and law schools. Each year, he presents more than 100 humorous programs on such topics as legal ethics, stress management, constitutional law, legal marketing and much more.

Mr. Carter is the author of the first-ever comedic legal treatise -- If It Does Not Fit, Must You Acquit?: Your Humorous Guide to the Law. His syndicated legal humor column has appeared in general circulation newspapers in more than 30 states and his weekly humor column for lawyers appeared in the ABA e-Report from 2003 to 2006.

Finally, Sean lives in Mesa, Arizona with his wife and four sons.

Judge Debora Faulkner

Judge Debora Faulkner is serving her fourth consecutive term as Greenville County Probate Judge. She was first elected in November 1998.

Judge Faulkner graduated Magna Cum Laude/Phi Beta Kappa from the University of South Carolina. She was admitted to the S. C. Bar in November, 1982. Subsequently, she was admitted to the US Federal Court Fourth District and the United States Supreme Court. Prior to her election to the office of Probate Judge, Judge Faulkner practiced law for 13 years, working as a legal aid attorney, an S. C. Assistant Attorney General, a solo practitioner and a part time Associate Probate Judge.

Under her leadership, the S. C. Probate Courts, as of spring, 2012, joined other state courts in using mediation as an alternative to trials. Judge Faulkner currently serves as Chair of the S. C. Probate Judges' Association's committee on Alternative Dispute Resolution.

She serves as South Carolina state representative to the National College of Probate Judges and serves as a member of the NCPJ nominating committee. She was selected by the ABA Commission on Law and Aging as a delegate in 2011 to the Third National Summit on Guardianship at which she played a key role in the development of National Standards in Adult Guardianship Proceedings.

She has been a presenter for the S. C. Bar and the Greenville County Bar. She has been published on the topic of "Redefining Probate Court".

She serves on numerous community boards. She is a graduate of Leadership Greenville, Class XXVI, and a graduate of Furman University's Riley Institute for Diversity, and a Paul Harris Fellow in Rotary International.

Gwen Vinson

Gwen Vinson is a licensed professional counselor (LPC) in Greenville with an office located on Cleveland Street. Ms. Vinson's mental health experience began in her early career as a psychiatric RN which led her to help others in a more in-depth manner in the field of counseling. Ms. Vinson works with adults to explore their own strengths and intrinsic solutions to acute and chronic situations that are adversely affecting daily life. Ms. Vinson studied counseling at Naropa University in the Professional Masters Program, Boulder, Colorado which lends a more holistic approach to counseling. Ms. Vinson's diverse experience has assisted patients with more effective communication with their physician, attorney, or other agencies regarding their mental health conditions.

Chris B. Roberts

Chris Roberts is a 46 year old native of Greenville who has two wonderful children and lives in Mauldin. He graduated from Christ Church Episcopal School in 1985 and from Washington & Lee University in Lexington, Virginia in 1989, with honors. He completed the University of South Carolina School of Law in 1992 and began his legal career with Harris & Graves, P.A. In late 1992, he joined the now Brown, Massey, Evans, McLeod & Haynsworth Law Firm and practiced there for 18 years, leaving as a shareholder to begin his own practice. Unfortunately, alcohol became a factor in Chris' life in 2009 and he has faced its challenges since. Mr. Roberts was licensed in both South Carolina and the United States Virgin Islands and is on track for readmission to the Bar in 2015.

Judge Jacquelyn D. Austin

Jacquelyn D. Austin attended the University of South Carolina, where she graduated with a Bachelor of Science in Electrical Engineering. Judge Austin went on to attend law school at the University of South Carolina School of Law and graduated with a Juris Doctor in 1996. While in law school, Judge Austin was a member of the John Belton O'Neal Inn of Court and the National Moot Court Team. She was also a recipient of the Student Compleat Lawyer Award and served as Student Notes Editor on the Environmental Law Journal.

Following law school, Judge Austin clerked for the Honorable Matthew J.

Perry. Upon completing her clerkship, she entered private practice for fourteen years, most recently with the law firm Womble Carlyle Sandridge & Rice, LLP, before being sworn in as a United States Magistrate Judge for the District of South Carolina. Judge Austin spent three years of private practice drafting and prosecuting United States and European patent applications and eleven years in commercial litigation matters, including patent litigation and cases involving racial discrimination, the Fair Housing Act, engineering design, product liability, real estate matters, and other contract disputes.

Judge Austin has been active in the bar and in the community. She served as President of the Carolina Patent, Trademark, and Copyright Law Association from 2004 through 2005, a member of the Judicial Qualifications Committee from 2004 through 2011, the Greenville Bar Editor, and on a church committee establishing a charter school for troubled teens and dropouts. Additionally, Judge Austin has been a member of the American Intellectual Property Law Association, International Trademark Association, Defense Research Institute, ABA Litigation and Intellectual Property Sections, BESLA, Trial and Appellate Advocacy Board, Jack & Jill Incorporated, and Delta Sigma Theta, Incorporated.

Elizabeth Johnston Patterson

Born: Columbia, South Carolina Married to Dwight Patterson, Jr.

Children: Dwight III (Pat), Olin D., and Catherine Gramling

Grandchildren: Clara and Parker Gramling, D.J. and Ian Patterson

Education:

Graduated from Spartanburg High School and Columbia College Attended graduate school at the University of South Carolina Earned a Master of Liberal Arts from Converse College

Employment:

- Peace Corps Division of Public Affairs
- Office of Economic Opportunity- VISTA (Volunteers in Service to America)
- South Carolina Office of Economic Opportunity- State Head Start Coordinator
- Tri-County Summer Head Start Director serving Spartanburg, Union and Cherokee counties
- Fourth District Congressional Office manager for James R. Mann
- Director of Converse College Continuing Education and Converse II
- Adjunct professor of political science at Spartanburg Methodist College

Elected positions:

Spartanburg County Council (1974-76), South Carolina State Senate 1979-86, U. S. Congress South Carolina's Fourth District 1987-93

Democratic nominee for Lt. Governor 1994

Church connection: Active member of Central United Methodist Church including youth leader and Sunday school teacher. Delegate to the SC Annual Conference and General Conference.

Service in Community: Served on Board of Trustees at Wofford College, Columbia College and Spartanburg Methodist College.

Highest honor was serving with husband, Dwight, as chair of the capital campaign for the Spartanburg County Library.

Patricia H. "Patti" McAbee

Patti McAbee is a lifelong resident of South Carolina and has devoted her life of service to her family, nonprofit leadership and her community. After earning a Bachelor of Fine Arts at the College of Charleston she earned a post graduate certificate in arts administration at the University of North Carolina at Chapel Hill.

She is a graduate of Palmetto Leadership and Leadership South Carolina. Patti founded the McCormick Arts Council at the Keturah which received the South Carolina Elizabeth O'Neill Verner Award and the Southern Arts Federation's Rural Arts Award.

She served for 13 years as its executive director and is now a life member of its board of directors. Patti has served on dozens of civic boards and points to the South Carolina National Heritage Corridor, South Carolina Arts Alliance, and Upstate Forever as highlights of her early service.

In 1985, Governor Richard Riley awarded her the Order of the Palmetto. In 1993 Patti was elected as a member of Clemson University's Board of Trustees with the distinction of being the first woman to serve on this board. There she sits on the Agriculture & Natural Resources, Educational Policy (Vice-Chair), and Research & Economic Development Committees and has chaired the Institutional Advancement, Agriculture & Natural Resources and Student Affairs Committees.

Patti is a member of the Clemson University Real Estate Foundation, CU Land Stewardship Foundation, the State Crop Pest Commission and the State Livestock & Poultry Health Commission. She is an Emeritus member of the board of Clemson University Center for Visual Arts.

In 2000, she was named as "One the 100 Most Influential People in Greenwood County." She was honored in 2003 as an Honorary Alumnus by the Clemson University Alumni Council.

She continues her professional work as President and CEO of Dream Big Greenville, a nonprofit development corporation for great projects in the Upstate. Most of all, Patti enjoys living in Greenville with her husband, Tommy Eison, traveling, cooking, and being outdoors with family and friends at Lake Thurmond, Lake Lure, Cedar Mountain, the beach or wherever they might find themselves!



VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Thursday, October 10, 2013

It's Not the Fruit, It's the Root: Getting to the Bottom of Our Ethical Ills

Sean Carter



IT'S NOT THE FRUIT, IT'S THE ROOT

Curing the Seven Deadly Sins of Unethical Behavior

Sean Carter

Humorist at Law Lawpsided Seminars 3620 N Paseo Del Sol Mesa, AZ 85207

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Deadly Sin #1: Lust

Rule 1.8(m) prohibits a lawyer from entering into a sexual relationship with the client. However, lust encompasses more than just physical lust. In a broader sense, lust is the improper desire for anything to which one is not entitled. Therefore, it's possible to lust not only after a person's body, but also their possessions, status, etc. This type of desire may cause a lawyer to breach his/her ethical obligations with regards to the following rules:

RULE 1.8: CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

- (a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:
 - (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed to the client in writing in a manner that can be reasonably understood by the client;
 - (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction;
 - (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.
- (c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.
- [6] A lawyer may accept a gift from a client, if the transaction meets general standards of fairness. For example, a simple gift such as a present given at a holiday or as a token of appreciation is permitted. If a client offers the lawyer a more substantial gift, paragraph (c) does not prohibit the lawyer from accepting it, although such a gift may be voidable by the client under the doctrine of undue influence, which treats client gifts as presumptively fraudulent. In any event, due to concerns about overreaching and imposition on clients, a lawyer may not suggest that a substantial gift be made to the lawyer or for the lawyer's benefit, except where the lawyer is related to the client as set forth in paragraph (c).

- (d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.
- (m) A lawyer shall not have sexual relations with a client when the client is in a vulnerable condition or is otherwise subject to the control or undue influence of the lawyer, when such relations could have a harmful or prejudicial effect upon the interests of the client, or when sexual relations might adversely effect the lawyer's representation of the client.

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) commit a criminal act involving moral turpitude;
- (d) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (e) engage in conduct that is prejudicial to the administration of justice;

Deadly Sin #2 Gluttony

When we think of gluttony, we usually think solely of consuming too much food, which creates a limited ethical problem with regards to a lawyer's obligation under Rule 1.16 to decline or terminate representation if the lawyer's physical condition materially impairs his/her ability to represent the client. However, gluttony encompasses more than just consuming food to excess. It encompasses *any* excess of consumption. Furthermore, it is not just limited to consumption. It can be gluttonous to consume too soon (prematurely), too extravagantly or too ravenously. In that regard, lawyers must be careful to avoid violating the following ethical rules.

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

RULE 1.15: SAFEKEEPING PROPERTY

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

RULE 1.3: DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

[2] A lawyer must control the lawyer's work load so that each matter can be handled competently.

RULE 3.1: MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

- (a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;
- (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;
- (d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
- (e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused;

Deadly Sin #3 Greed

Greed inhibits a lawyer's ability to abide by the ethics rules in a number of ways. Greed causes lawyers to inflate bills to clients, misappropriate client funds, and even commit criminal acts of bribery, theft, fraud and the like. Furthermore, greed may cause an attorney to violate his/her fiduciary duty to a client in other ways.

RULE 1.5: FEES AND EXPENSES

- (a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:
 - (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (3) the fee customarily charged in the locality for similar legal services;
 - (4) the amount involved and the results obtained;
 - (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
 - (8) whether the fee is fixed or contingent.

RULE 1.15: SAFEKEEPING PROPERTY

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of six years after termination of the representation.

[3] Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

Deadly Sin #4 Sloth

A common cause of ethical violations is a lawyer's failure to fully carry out the duties owed to the client. In some cases, this failure is due to willful neglect. In other cases, it is a matter of over-commitment. And, in yet other cases, it is a matter of incompetence — not having the necessary experience to know that a particular course of action is warranted under the circumstances. In any case, each of these shortcomings can be classified as "sloth," either in execution of the duty or in preparation for performance of the duty.

RULE 1.3: DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

RULE 1.1: COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[6] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

RULE 1.4: COMMUNICATION

- (a) A lawyer shall:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these rules;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) promptly comply with reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. Client telephone calls should be promptly returned or acknowledged.

Deadly Sin #5 Wrath

In some cases, lawyers become so emotionally involved in a dispute that they lose their ability to provide objective representation. In other cases, lawyers cross the line from being zealous advocates to outright zealots, engaging in various forms of unethical behavior.

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by *a personal interest of the lawyer*.

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

- (a) unlawfully obstruct another party's access to evidence; unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value; or counsel or assist another person to do any such act;
- (c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on a good faith assertion that no valid obligation exists;
- (d) in pretrial procedure, intentionally or habitually make a frivolous motion or discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
- (e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence or by a good-faith belief that such evidence may exist, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused;

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

- (d) engage in conduct intended to disrupt a tribunal.
- [4] The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.
- [5] The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition.

RULE 4.4: RESPECT FOR RIGHTS OF THIRD PERSONS

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

- (b) commit an criminal act that reflects adversely on the lawyer's honesty or trustworthiness;
- (e) engage in conduct that is prejudicial to the administration of justice;
- [3] A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice.

Deadly Sin #6 Envy

The competitive nature of the practice of law makes attorneys particularly susceptible to feelings of envy, whether this envy is directed towards judges, colleagues, opposing counsel or even clients. In each case, envy can cause an a lawyer to violate his/her ethical obligations with respect to each of these persons as set forth in the following rules:

RULE 1.6 CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

RULE 1.8: CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

- (a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:
 - (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed to the client in writing in a manner that can be reasonably understood by the client;
 - (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction;
 - (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

Deadly Sin #7 Pride

Excessive pride can cause a lawyer to fall short of his/her ethical obligations in a number of ways. For one, a bragging lawyer may violate client confidences in his/her zeal for recognition. Also, pride may cause a lawyer to attempt to demonstrate his/her "greatness" by engaging in other forms of unethical conduct.

RULE 1.6 CONFIDENTIALITY OF INFORMATION

- (a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).
- [5] Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

RULE 3.6: TRIAL PUBLICITY

- (a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
- (c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

RULE 8.1: BAR ADMISSION AND DISCIPLINARY MATTERS

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact; or
- (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.



VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Thursday, October 10, 2013

Diversity in Leadership - Boards, Agencies and the Order of the Palmetto

Moderator - Nika White Panelists - Patti McAbee Merl F. Code Minor Mickel Shaw

DIVERSITY IN LEADERSHIP – BOARDS, AGENCIES AND THE ORDER OF THE PALMETTO

QUESTIONS FOR PANELISTS

Nika White - Moderator

This informative panel will focus on the need for increased diversity on corporate and non-profit boards in South Carolina. This session will discuss how women and minorities can assert their value as a board member who are seen as a strategic thought leader and not be solely perceived as only the voice of women or minorities. In addition, the important factors to consider when vetting a board or volunteer leadership opportunity and how to find a Board that best meets your strengths will be explored.



VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Friday, October 11, 2013

Mental Health and the Legal Profession - "Why do the S.C. Bar and SLED need to know about my nervous breakdown?"

Judge Debora Faulkner

SINCE WHEN DO SLED & the SC BAR CARE ABOUT MY NERVOUS BREAKDOWN?

And Such.....

By

Debora Faulkner Greenville County Probate Judge

What is a nervous breakdown and does only happen in the South?

Nervous Breakdown: N. a SEVERE OR INCAPACITATING EMOTIONAL DISORDER, ESPECIALLY WHEN OCCURRING SUDDENTLY AND MARKED BY DEPRESSION. Not in scientific use....... Webster's II New College Dictionary

19th Nervous Breakdown: Rolling Stones Song about a girl who has a boyfriend who enjoys counting her nervous breakdowns and he sees the 19th one on the way.

SLED REPORTING

23-31-1010 was passed in 87 days, enacted May 3, 2013, effective August 1, 2013 Requires Courts to report to SLED and SLED to report to NICS.

SC became the 39th state to create a statute to transmit disqualifying mental health adjudications to NICS via SLED for background checks for persons attempting to purchase guns or ammunition from Federal Firearm Licensees.

WHO GETS REPORTED

(23-31-1020)/ 18 U.S.C. 922 (g) (4) (Prohibiters)

Persons adjudicated as a mental defective. MD defined as:

Danger to self or others

Lacks the mental capacity to manage their affairs

(example: Guardianship/Conservatorship cases)

Found to be insane by a court in a criminal case
(example: Family Court or Circuit Court)

Found incompetent to stand trial

Found unfit by Circuit Court to carry a gun

Found not guilty by reason of lack of mental responsibility
under the Uniform Code of Military Justice

OR

Persons (including minors) *committed* to a mental institution due to a mental illness or chemical dependency. It includes inpatient and court ordered outpatient treatment, civil commitments of Sexually Violent Predators, and DDSN commitments under 44-20-250.

Courts must report disqualified persons on an ongoing basis effective August 1, 2013. By August 1, 2014, the Court must have reported on persons retroactively for a minimum of ten years or for as many years as the Court has files.

WHAT GETS REPORTED

(23-31-1020 (a) (b) (c)) (Identifiers)

Name SSA Weight DOB Race Place of Birth

GenderHeight Hair/Eye Color

Neither the Court nor SLED may transmit information relating to a person's diagnosis or treatment.

PENALTIES

(23-31-1040)

A person convicted of shipping, transporting, possessing or receiving a firearm or ammunition in violation of this law must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

RESTORATION OF RIGHTS

(23-31-1030)

The law provides a mechanism for persons to have their names removed from NICS and their rights restored by filing a petition to remove the prohibitions. The person must no longer be under any commitment order and the Court may only consider adjudications/commitments that occurred in SC.

S C BAR REPORTING

Here are the numbers:

- Lawyers are three times as likely to suffer from depression as any other profession
- Suicide is the third leading cause of death among lawyers
- The rate of death by suicide for lawyers is nearly 6 times the suicide rate for the general population
- Lawyers are twice as likely to suffer from substance abuse as the general population

A Resolution to End the Lawyer's Epidemic: Depression Suicide, and Substance Abuse: Adopted by SC House of Delegates May 14, 2009

REPORT TO APPROPRIATE PROFESSIONAL AUTHORITY

8.3 (b) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct, that raises a **substantial** question about i.e. his/her honesty, trustworthiness or fitness to practice shall inform the appropriate professional authority.

The goal is to help lawyer to avoid being named as a Respondent in a disciplinary matter or as a Defendant in a malpractice case.

Lawyers Helping Lawyers

This program offers assistance to lawyers who have alcohol or drug problems or who suffer from depression.

8.3 (e) Inquiries of information received by the SC Bar Lawyers Helping Lawyers Committee or other equivalent county bar committee regarding a lawyer's need for treatment for alcohol, drug abuse, or depression enjoys the same confidence as information protected by the attorney-client privilege. It shall not be disclosed to the disciplinary authority with out written permission of the lawyer receiving assistance

LifeFocus Counseling Service

This program will provide up to 5 free hours of intervention counseling for attorneys experiencing emotional or stress-related issues.

Rule 413: Rules for Lawyer Disciplinary Enforcement/Commission on Lawyer Conduct

Rule 2 (m) Incapacity: a mental or physical condition that adversely affects a lawyer's ability to practice law.....

Rule 28 (a, b): Cases involving Allegations of Mental or Physical Incapacity

- 1. Cases are initiated by Complaint, Claim of inability to defend in a disciplinary proceeding, or by an *Order of involuntary commitment* or *adjudication of incompetency*. The increasing numbers of adults suffering from cognitive impairments should be considered.
- 2. All proceedings are confidential; lawyers may get appointed counsel and may be appointed a *guardian ad litem*. The Commission may appoint a qualified expert to examine the lawyer prior to the hearing

The Supreme Court may

- o Transfer the lawyer to inactive status
- o Place restrictions on the lawyer's practice or require treatment
- o Defer and disciplinary proceedings based on misconduct if the lawyer is unable to assist in his/her own defense.

Rule 28(c) <u>Involuntary commitment or Adjudication of Incompetency</u>

After receipt of a certified copy of an Order as to the above, the Supreme Court shall immediately transfer the lawyer to *inactive* status.

Reinstatement:

- 1. Only by Order of the Supreme Court
- 2. Lawyer may petition once per year
- 3. Supreme Court may require medical or psychological examination
- 4. Lawyer must disclose all names of psychiatrists, physicians, etc treating him/her since placement on *inactive* status
- 5. A transfer to *active* status must be shown by clear and convincing evidence
- 6. If capacity has been judicially restored, the lawyer may be immediately placed on *active* status. Orders involving transfers to active or inactive status are public. All others are private.

RESOURCES

SC Bar: Lawyers Helping Lawyers Commission

Staff Liason: Robert Turnbull (866)545-9590: Confidential Line

Life Focus Counseling Services

(866) 726-5252

http://www.networktherapy.com/

Find a therapist or treatment center in your local area. This directory offers a searchable database of psychologists, psychiatrists, social workers, counselors, marriage and family therapists, and treatment centers nationwide dedicated to providing treatment services and support for those with mental health concerns.

www.lawyerswithdepression.com

Lawyers With **Depression** is a site dedicated to helping **Lawyers** find valuable information about **Depression** in an occupation that has twice the regular rate.

Getting a Winning Verdict In My Personal Life: A Trial Lawyer Finds His Soul by J. Gary Gwilliam (hardcover) The unflinching truth about a lawyer's journey from the bottom of alcoholic despair to sober, soulful leadership in his professional and personal life.

American Bar Association: "Grey Matters: Perspectives on Aging Lawyers and Cognitive Impairment"

CD available for purchase

www.americanbar.org/news/abanews/aba-news-

South Carolina General Assembly

120th Session, 2013-2014

Indicates Matter Stricken Indicates New Matter

R33, H3560

STATUS INFORMATION

General Bill

Sponsors: Reps. Tallon, Harrell, Quinn, Stavrinakis, Patrick, Allison, McCoy, Pitts, Taylor, H.A. Crawford, Simrill, J.R. Smith, Crosby, Brannon, V.S. Moss, G.R. Smith, Henderson, Delleney, Cole, McEachern, Barfield, Ridgeway, Stringer, Nanney, R.L. Brown, Wood, Daning, Erickson, Clemmons, Powers Norrell, Funderburk, Mitchell, Merrill, Kennedy, D.C. Moss, Gagnon, Bannister, Atwater, Rivers, Owens, Bingham, Forrester, Ballentine, Toole, Hixon, Spires, Huggins, Lucas, Horne, Putnam, Weeks, M.S. McLeod and Anderson Document Path: 1:\council\bills\nbd\11127ac13.docx

Companion/Similar bill(s): 413, 3564

Introduced in the House on February 19, 2013 Introduced in the Senate on April 17, 2013 Last Amended on April 30, 2013 Passed by the General Assembly on May 2, 2013 Governor's Action: May 3, 2013, Signed

Summary: Handguns

HISTORY OF LEGISLATIVE ACTIONS

| Date | Body | Action Description with journal page number | | |
|-----------|-------|---|--|--|
| | | | | |
| 2/19/2013 | House | Introduced and read first time (House Journal-page 42) | | |
| 2/19/2013 | House | Referred to Committee on Judiciary | | |
| | | (House Journal-page 42) | | |
| 2/20/2013 | House | Member(s) request name added as sponsor: Taylor, | | |
| | | H.A.Crawford, Simrill, J.R.Smith, Crosby, Brannon, | | |
| | | V.S.Moss, G.R.Smith, Henderson, Delleney, Cole, | | |
| | | McEachern, Barfield, Ridgeway, Stringer, Nanney, | | |
| | | R.L.Brown, Wood, Daning, Erickson, Clemmons, Powers | | |
| | | Norrell, Funderburk, Mitchell, Merrill, Kennedy, | | |
| | | D.C.Moss, Gagnon, Bannister, Atwater, Rivers, | | |
| | | K.R.Crawford, Ballentine, Owens, Bingham | | |
| 2/26/2013 | House | Member(s) request name added as sponsor: Forrester | | |
| 2/28/2013 | House | Member(s) request name removed as sponsor: K.R.Crawford | | |
| 3/5/2013 | House | Member(s) request name added as sponsor: Toole, Hixon, | | |
| | | Spires, Huggins, Lucas | | |
| 3/6/2013 | House | Member(s) request name added as sponsor: Horne | | |
| 3/21/2013 | House | Member(s) request name added as sponsor: Putnam | | |

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4/10/2013 House
                  Member(s) request name added as sponsor: Weeks
4/10/2013 House
                  Committee report: Favorable with amendment Judiciary
                    (House Journal-page 31)
4/11/2013 House Member(s) request name added as sponsor: M.S.McLeod
4/12/2013
                  Scrivener's error corrected
4/16/2013 House Member(s) request name added as sponsor: Anderson
4/16/2013 House Amended (House Journal-page 18)
4/16/2013 House Read second time (House Journal-page 18)
4/16/2013 House Roll call Yeas-112 Nays-0 (House Journal-page 25)
4/17/2013
                  Scrivener's error corrected
4/17/2013 House Read third time and sent to Senate
                    (House Journal-page 23)
4/17/2013 Senate Introduced and read first time (Senate Journal-page 8)
4/17/2013 Senate Referred to Committee on Judiciary
                    (Senate Journal-page 8)
4/18/2013 Senate Recalled from Committee on Judiciary
                    (Senate Journal-page 3)
4/24/2013 Senate Special order, set for April 24, 2013
                    (Senate Journal-page 48)
4/24/2013 Senate Roll call Ayes-40 Nays-4 (Senate Journal-page 48)
4/25/2013 Senate Amended (Senate Journal-page 41)
4/25/2013 Senate Debate interrupted (Senate Journal-page 41)
4/26/2013
                  Scrivener's error corrected
4/30/2013 Senate Amended (Senate Journal-page 73)
4/30/2013 Senate Read second time (Senate Journal-page 73)
4/30/2013 Senate Roll call Ayes-35 Nays-6 (Senate Journal-page 73)
5/1/2013
                  Scrivener's error corrected
5/1/2013 Senate Read third time and returned to House with amendments
                    (Senate Journal-page 65)
                  Concurred in Senate amendment and enrolled
5/2/2013 House
 5/2/2013 House
                  Roll call Yeas-87 Nays-0
 5/2/2013
                  Ratified R 33
 5/3/2013
                  Signed By Governor
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VERSIONS OF THIS BILL

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2/19/2013
4/10/2013
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(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

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(R33, H3560)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 10, CHAPTER 31, TITLE 23 SO AS TO REOUIRE THE JUDICIAL DEPARTMENT AND THE STATE LAW ENFORCEMENT DIVISION TO DEVELOP PROCEDURES FOR THE COLLECTION OF INFORMATION ON INDIVIDUALS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION AND FOR THE SUBMISSION OF THIS INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS); TO PROVIDE THAT A PERSON PROHIBITED FROM SHIPPING, TRANSPORTING, POSSESSING, OR RECEIVING A FIREARM OR AMMUNITION PURSUANT TO FEDERAL OR STATE LAW MAY PETITION THE COURT ISSUING THE ORIGINAL ORDER TO REMOVE THE FIREARM AND AMMUNITION PROHIBITION, TO PROVIDE PROCEDURES TO SEEK THIS REMOVAL AND TO APPEAL THE DENIAL OF SUCH RELIEF; TO PROVIDE THAT IF THIS PROHIBITION IS REMOVED, NICS PROMPTLY MUST BE INFORMED OF THE COURT ACTION REMOVING THE PROHIBITION: TO PROVIDE THAT IT IS A FELONY FOR A PERSON WHO HAS BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION TO SHIP, TRANSPORT, POSSESS, OR RECEIVE A FIREARM OR AMMUNITION, TO PROVIDE CRIMINAL PENALTIES, AND TO REQUIRE CONFISCATION OF SUCH FIREARMS AND AMMUNITION, AND TO ESTABLISH PROCEDURES FOR THE RETURN OF FIREARMS AND AMMUNITION TO AN INNOCENT OWNER; TO AMEND SECTION 44-22-100, RELATING TO THE CONFIDENTIALITY AND RELEASE OF MENTAL HEALTH COMMITMENT AND TREATMENT RECORDS AND EXCEPTIONS, SO AS TO AUTHORIZE REPORTING INFORMATION IN THESE RECORDS TO (NICS); AND TO ESTABLISH PROSPECTIVE AND RETROACTIVE REQUIREMENTS FOR COURTS TO SUBMIT MENTAL HEALTH ADJUDICATION AND COMMITMENT INFORMATION.

Be it enacted by the General Assembly of the State of South Carolina:

Mental health adjudications and commitments to be reported to the National Instant Criminal Background Check System; appeals to remove prohibition of possessing firearms and ammunition; felony for a person adjudicated as a mental defective or committed to a mental institution to possess firearms or ammunition; confiscation of such firearms or ammunition

SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended by adding:

NICS: Mental Health Adjudication and Commitment Reporting

Section 23-31-1010. As used in this article:

- (1) 'Adjudicated as a mental defective' means a determination by a court of competent jurisdiction that a person, as a result of marked subnormal intelligence, mental illness, mental incompetency, mental condition, or mental disease:
- (a) is a danger to himself or to others; or
- (b) lacks the mental capacity to contract or manage the person's own affairs.

The term includes:

- (a) a finding of insanity by a court in a criminal case; and
- (b) those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. Sections 850(a) and 876(b).
- (2) 'Committed to a mental institution' means a formal commitment of a person to a mental institution by a court of competent jurisdiction. The term includes a commitment to a mental institution involuntarily, and a commitment to a mental institution for mental defectiveness, mental illness, and other reasons, such as drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.
- (3) 'Mental institution' includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.
- Section <u>23-31-1020</u>. (A) The Judicial Department and the Chief of SLED, or the chief's designee, shall work in conjunction with a court of competent jurisdiction in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective or who have been committed to a mental institution.
- (B) When a court submits this information to SLED by court order, SLED shall transmit the information to the National Instant Criminal Background Check System (NICS) established pursuant to the Brady Handgun Violence Protection Act of 1993, Pub. Law 103-159.
- (C) The court shall submit the information to SLED by court order within five days from the filing of each order related to adjudications and commitments. Under no circumstances may the court or SLED submit information pursuant to this section relating to a person's diagnosis or treatment.

- (D) SLED shall keep information submitted by the court confidential, and that information may only be disclosed to NICS pursuant to this section, for purposes directly related to the Brady Act, or as provided in subsection (E).
- (E) If the court, by court order, has submitted a person's name and other identifying information to SLED to be transmitted to NICS, SLED shall review the state concealed weapons permit holders list, and if the review reveals that the person possesses a current concealed weapons permit, the permit must be revoked and surrendered to a sheriff, police department, SLED agent, or by certified mail to the Chief of SLED. If the permit holder fails to return the permit within ten days of being notified of the permit's revocation, SLED shall retrieve the permit from the permit holder.
- (F) Information submitted by the court pursuant to this section, which is also contained in court orders or in other state or local agency records, is not affected by this section, and such court orders or other state or local agency records may be disclosed in accordance with existing laws and procedures.
- Section <u>23-31-1030</u>. (A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section <u>23-31-1040</u> as a result of adjudication as a mental defective or commitment to a mental institution, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the court only may consider petitions for relief due to adjudications and commitments that occurred in this State.
- (B) The petition must be accompanied by an authorization and release signed by the petitioner authorizing disclosure of the petitioner's current and past medical records, including mental health records.
- (C) If the petition is filed pro se, the court shall provide notice to all parties of record. If the petitioner is represented by counsel, counsel shall provide notice to all parties of record.
- (D) Notwithstanding the exclusive jurisdiction of the court to preside over hearings initiated pursuant to this section, the case may be removed to the circuit court upon motion of the petitioner or on motion of the court, made not later than ten days following the date the petition is filed. Upon such motion, the case must be removed to the circuit court where the court shall proceed with the case de novo.
- (E)(1) Within ninety days of receiving the petition, unless the court grants an extension upon request of the petitioner, the court shall conduct a hearing which must be presided over by a person other than the person who gathered evidence for use by the court in the hearing.
- (2) At the hearing on the petition, the petitioner shall have the opportunity to submit evidence, and a record of the hearing must be made and maintained for review. The court shall consider information and records, which otherwise are confidential or privileged, relevant to the criteria

for removing firearm and ammunition prohibitions and shall receive and consider evidence concerning the following:

- (a) the circumstances regarding the firearm and ammunitions prohibitions imposed by 18 U.S.C. Section 922(g)(4) and Section 23-31-1040;
- (b) the petitioner's record, which must include, at a minimum, the petitioner's mental health and criminal history records;
- (c) evidence of the petitioner's reputation developed through character witness statements, testimony, or other character evidence; and
- (d) a current evaluation presented by the petitioner conducted by the Department of Mental Health or a physician licensed in this State specializing in mental health specifically addressing whether due to mental defectiveness or mental illness the petitioner poses a threat to the safety of the public or himself or herself.
- (F) The hearing must be closed to the public, and the petitioner's mental health records must be restricted from public disclosure. However, upon motion by the petitioner, the hearing may be open to the public, and the court may allow for the in camera inspection of the petitioner's mental health records and for the use of these records, but these records must be restricted from public disclosure.
- (G)(1) The court shall make findings of fact regarding the following and shall remove the firearm and ammunition prohibitions if the petitioner proves by a preponderance of the evidence that:
- (a) the petitioner is no longer required to participate in court-ordered psychiatric treatment;
- (b) the petitioner is determined by the Department of Mental Health or by a physician licensed in this State specializing in mental health to be not likely to act in a manner dangerous to public safety; and
- (c) granting the petitioner relief will not be contrary to the public interest.
- (2) Notwithstanding item (1), the court must not remove the firearm and ammunition prohibitions if, by a preponderance of the evidence, it is proven that the petitioner has engaged in acts of violence subsequent to the petitioner's last adjudication as a mental defective or last commitment to a mental institution, unless the petitioner, by clear and convincing evidence, proves that he is not likely to act in a manner dangerous to public safety.
- (H) If the petitioner is denied relief and the firearm and ammunition prohibitions are not removed, the petitioner may appeal to the circuit court for de novo review. In conducting its review, the circuit court:
- (1) shall review the record;

- (2) may give deference to the decision of the court denying the petitioner relief; and
- (3) may receive additional evidence as necessary to conduct an adequate review.
- (I) Medical records, psychological reports, and other treatment records which have been submitted to the court or admitted into evidence under this section must be part of the record, but must be sealed and opened only on order of the court.
- (J) If a court issues an order pursuant to this section that removes the firearm and ammunition prohibitions that prohibited the petitioner from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040, arising from adjudication as a mental defective or commitment to a mental institution, the court shall provide SLED with a certified copy of the order that may be transmitted through electronic means. SLED promptly shall inform the NICS of the court action removing these firearm and ammunition prohibitions.

Section <u>23-31-1040</u>. (A) It is unlawful for a person who has been adjudicated as a mental defective or who has been committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition.

- (B) A person who violates this section is guilty of a felony, and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.
- (C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use the firearm or ammunition within the agency, transfer the firearm or ammunition to another law enforcement agency for the lawful use of that agency, trade the firearm or ammunition with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy the firearm or ammunition. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which the firearm or ammunition may be involved are finally determined. If SLED seized the firearm or ammunition, SLED may keep the firearm or ammunition for use by SLED's forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies pursuant to this section. A law enforcement agency that receives a firearm or ammunition pursuant to this subsection may administratively release the firearm or ammunition to an innocent owner. If possession of the firearm or ammunition is necessary for legal proceedings, the firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally concluded. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this subsection which resulted in the firearm's or ammunition's confiscation. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent

owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this subsection.

(D) At the time the person is adjudicated as a mental defective or is committed to a mental institution, the court shall provide to the person or the person's representative, as appropriate, a written form that conspicuously informs the person or the person's representative, as appropriate, of the provisions of this section.

Section 23-31-1050. As used in Section 23-31-1030 and Section 23-31-1040:

- (1) 'Ammunition' means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm other than an antique firearm. The term does not include:
- (a) a shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing; or
- (b) an unloaded, non-metallic shotgun hull or casing not having a primer.
- (2) 'Antique firearm' means:
- (a) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; and
- (b) a replica of a firearm described in subitem (2)(a) if such replica:
- (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
- (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
- (3) 'Firearm' means a weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; a firearm muffler or firearm silencer; or a destructive device; but the term does not include an antique firearm. In the case of a licensed collector, the term means only curios and relics.
- (4) 'Firearm frame or receiver' means that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.
- (5) 'Firearm muffler or firearm silencer' means a device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and

intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

Section 23-31-1060. Nothing in this article affects a court's duty to conduct a hearing on the issue of a person's fitness to stand trial pursuant to Section 44-23-430. A solicitor shall not dismiss charges against a person prior to such hearing based solely on the person's fitness to stand trial."

Confidentiality of mental health records and exceptions

SECTION 2. Section 44-22-100 of the 1976 Code is amended to read:

"Section <u>44-22-100</u>. (A) Certificates, applications, records, and reports made for the purpose of this chapter or Chapter 9, Chapter 11, Chapter 13, Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52, and directly or indirectly identifying a mentally ill or alcohol and drug abuse patient or former patient or individual whose commitment has been sought, must be kept confidential, and must not be disclosed unless:

- (1) the individual identified or the individual's guardian consents;
- (2) a court directs that disclosure is necessary for the conduct of proceedings before the court and that failure to make the disclosure is contrary to public interest;
- (3) disclosure is required for research conducted or authorized by the department or the Department of Alcohol and Other Drug Abuse Services and with the patient's consent;
- (4) disclosure is necessary to cooperate with law enforcement, health, welfare, and other state or federal agencies, or when furthering the welfare of the patient or the patient's family;
- (5) disclosure to a court of competent jurisdiction is necessary for the limited purpose of providing a court order to SLED in order to submit information to the federal National Instant Criminal Background Check System (NICS), established pursuant to the Brady Handgun Violence Prevention Act of 1993, Pub.L. 103-159, and in accordance with Article 10, Chapter 31. Title 23: or
- (6) disclosure is necessary to carry out the provisions of this chapter or Chapter 9, Chapter 11, Chapter 13, Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52.
- (B) Nothing in this section:
- (1) precludes disclosure, upon proper inquiry, of information as to a patient's current medical condition to members of the patient's family, or the Governor's ombudsman office; or
- (2) requires the release of records of which disclosure is prohibited or regulated by federal law.

(C) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both."

Prospective and retroactive requirements for courts to submit mental health adjudication and commitment information

SECTION 3. A court required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective or who have been committed to a mental institution shall, from the effective date of this act forward, submit information by court order within five days from the filing of each order and in accordance with procedures developed as required by this act and have one year from this act's effective date to submit retroactive information by court order on such individuals going back a minimum of ten years or, if records are not available as far back as ten years, as far back as records exist.

Severability

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

| SECTION 5. This | s act takes effect ninety days | after approval by the Governor |
|-----------------------|--------------------------------|--------------------------------|
| Ratified the 2nd day | of May, 2013. | |
| President of the Sena | te | |
| Speaker of the House | of Representatives | |
| Approved the | day of | 2013. |
| Governor | | |

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VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Friday, October 11, 2013

Effecting Change Perspectives from Private Practice and State
Government

Catherine B. Templeton

EFFECTING CHANGE: PERSPECTIVES FROM PRIVATE PRACTICE AND STATE GOVERNMENT

Catherine B. Templeton – Speaker

PRESENTATION OUTLINE

- I. Being a Lawyer is a Skill That Transcends Job Title
- Private practice
- Private sector
- Non profit
- Government
- Interpreting and enforcing the law without politic or emotion
- II. Being a Woman is an Advantage
- -Pantsuits and Perspectives
- -Substantive Panels
- -Leadership void



VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Friday, October 11, 2013

Women in Politics - Challenges, Importance and Impact

Elizabeth Johnston "Liz" Patterson



VISION FOR SUCCESS Women Leaders from the Courtroom to the Boardroom

Friday, October 11, 2013

Women in the Federal Judiciary - Weighing in on *Leaning In*

Moderator - Alice F. Paylor
Panelists Judge Mary Geiger Lewis
Judge Margaret B. Seymour
Judge Bruce H. Hendricks
Judge Jacquelyn D. Austin

WOMEN IN THE FEDERAL JUDICIARY-WEIGHING IN ON LEANING IN

QUESTIONS FOR PANELISTS

Alice F. Paylor – Moderator

- 1. You all have obviously leaned in to be members of the federal judiciary and at the top of the legal profession what advice can you give to SCWLA members on how they can lean in to achieve their career goals?
- 2. Ms. Sandburg is a big proponent of women helping other women. Have you relied on women in getting your judicial appointments? In what way have women helped you to get where you are?
- 3. Do you agree with Ms. Sandburg's analogy that pursuing a career is similar to being on a jungle gym rather than on a ladder? Tell us obstacles that you have faced in getting to the top.
- 4. Ms. Sandburg talks about young women coming along today who tell us older women that there is no longer a gender gap. A 2 year Harvard Business School experiment confirmed Ms. Sandburg's belief that there is still a gender gap in the business world.

After women were given seminars in speaking up, in holding up their hands, in recognizing their self worth, they performed as expected against men rather than not as well as expected.

What are your thoughts about the current state of the "gender gap" and what impact it has had on your career?

Do you agree with Ms. Sandburg's description of the gender gap as a "leadership ambition gap?"

- 5. Do you agree with Ms. Sandburg's statements on stereotypical traits of women who don't "lean in" because of fear of failure, of being too assertive, of not being good enough you name it? Have you ever not done something because of being afraid?
- 6. Ms. Sandburg talks a lot about having a supportive partner at home. She told a story about a female Business School professor who answered the question as to what men can do to help advance women's leadership roles with "the laundry."

Do you agree with her assessment that men need to take more responsibility on the domestic front in order for women to successfully pursue careers? 7. I was on a plane several weeks ago coming back from Richmond, VA, where I had an argument before the 4th Circuit and overheard 2 male lawyers talking. One of them was married to a lawyer but they had no children. The other man said that was probably best, because women found it very hard to practice law and raise children at the same time. I wanted to turn around and give him a piece of my mind, but I held my tongue.

Can a woman have it all? How do each of you define "all" in your lives?

Can you have both a career and a family?

8. Ms. Sandburg discussed her failure to acknowledge that she was a feminist while in college and the fact that so many young women do not want to be associated with that title. As she stated, so many young women no longer believe that the world needs feminists anymore because they mistakenly think that there is nothing left to fight for.

Do you identify yourself as a feminist? Why or why not?

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