METRO ATLANTA EDITION | VOLUME 3 ISSUE 6

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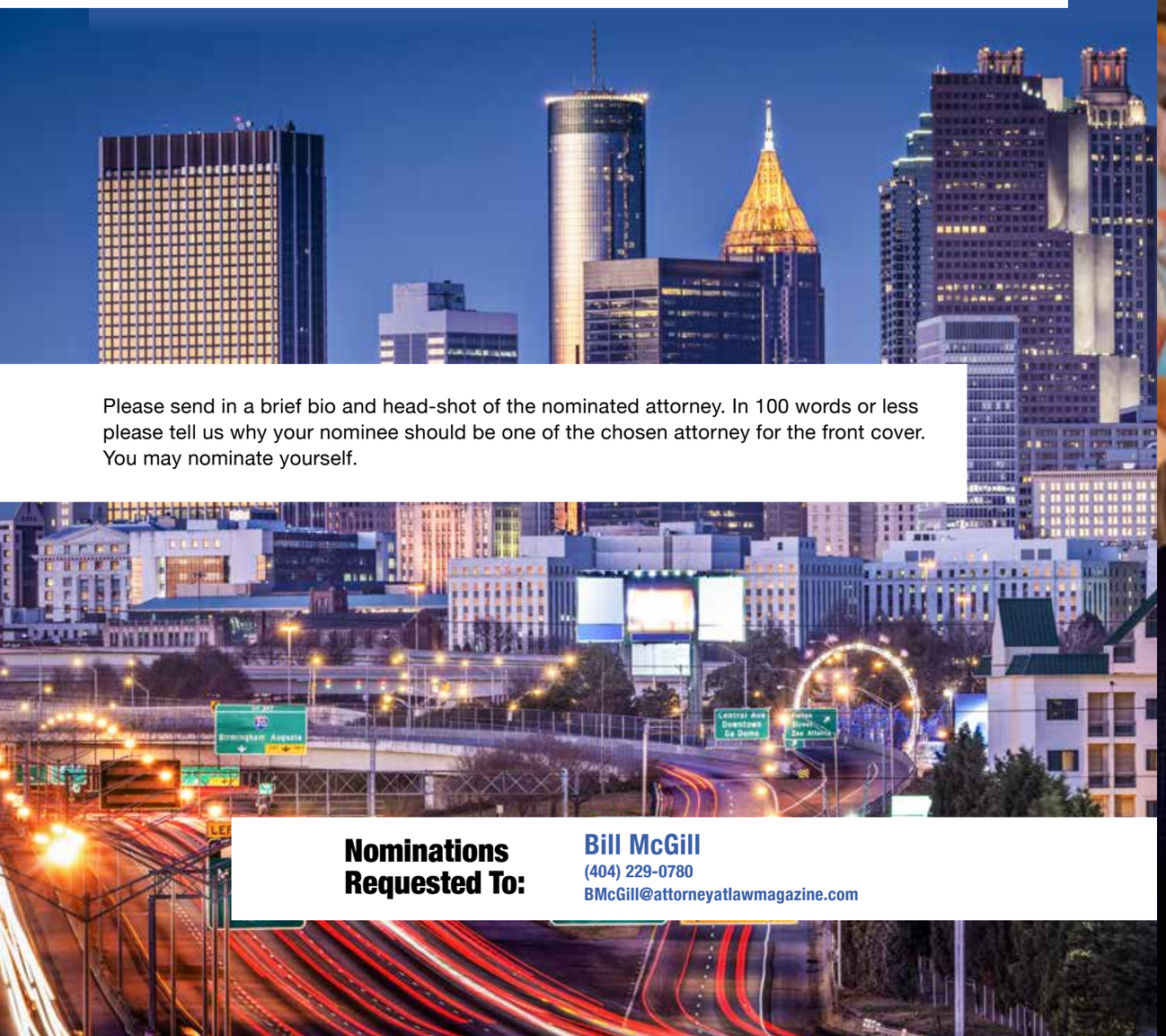

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ATTORNEY AT LAW MAGAZINE®

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CHRISTOPHER CHESTNUT

Attorney of the Month

Attorney at Law Magazine is published by:
Target Market Media Publications, Inc.

Ken Minniti
President & CEO of
Target Market Media Publications, Inc.
Executive Publisher/ Editor in Chief,
Attorney at Law Magazine
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Vice President
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Postmaster – please send notices to:
Corporate Office : 777 East Thomas Road Suite 130
Phoenix, AZ 85014
Phone (480) 219-9716 Fax (480) 419-9727
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From the Publisher

Donald Trump & Martha Stewart built businesses to new heights by marketing their brand names. Now I am going to name two attorneys who have built their brand names, Gloria Alred and, the late Johnny Cochran. They were not bashful in marketing their professional services. I understand not every attorney can be in the rainmaking category of these two. However, every attorney can make a concerted effort to build his or her "brand" whether at a small, medium or large firm.

There are countless ways to accomplish this on a daily, quarterly and yearly basis. And just as many vehicles such as media, advertising, chamber of commerce meetings, speaking at business associations, participating in your bar association, to religious rituals. Each vehicle can develop business but the best rainmakers use them all.

Yet, I have not mentioned how good of an attorney each one of these two attorneys is. Is it better to be good or lucky? Or in this case is it better to be good and not known? I think you would answer, "it is better to be both."

This magazine can assist in being known. Let our team of consultants work on building your brand.

Highest regards,

Bill McGill
Publisher

COMMERCIAL REAL ESTATE

Flurry of Planned Office Towers Signals New Real Estate Cycle Has Arrived

By T. Bradley Fulkerson, III, CCIM

The imminent start of Tishman Speyer's 30-story speculative Three Alliance Center speculative office tower in Buckhead and Regent Partners' proposed 550,000-square-foot mixed-use project near the Buckhead MARTA station – plus a handful of others that are ready to begin at a moment's notice – are a clear sign that the next real estate cycle is upon us.

After more than a half decade of little or no speculative commercial office development in metro Atlanta, developers are gaining confidence that rental rates for new buildings will be high enough to underwrite the cost of new development.

With enough tenants paying in the mid-$30s gross per square foot, it's reasonable to assume the shiny new trophy towers will demand rents in low $40s when they begin delivering two or three years from now.

"The Buckhead submarket has experienced a tremendous amount of absorption recently, including the corporate headquarters relocations of Pulte Homes, Carter's and Novelis," says Chris Ahrenkiel, Senior Director at Tishman Speyer. "Buckhead currently does not having any large office availabilities."

And it's not just in Buckhead. Cousins and Ackerman are partners on Abernathy 400, a mixed use project in the southwest quadrant of Abernathy and GA 400 planned for 570,000 SF of office, 35,000 SF retail and a 250 key hotel. Hines Interests is promoting Northpark 700, a 26 story office tower site adjacent to the existing 1.5 million square-foot Northpark office buildings in the northeast quadrant of Georgia 400 and Abernathy Road. Hines also controls the Northpark Town Center site, a mixed use projected in the southeast quadrant of Abernathy and GA 400.

For large users of space – those who occupy more than 200,000 square feet, or a combination of tenants who collectively total 150,000 to 200,000 square feet – it's a great time to consider every planned building that's not necessarily starting yet because your tenancy could be enough leverage to kick off underwriting and development on a new building that isn't feasible as a speculative project.

So what does this mean for tenants?

Until the new buildings are delivered, space will be tight and that will likely have upward pressure on rents for existing space, especially if the economy continues to strengthen and businesses add more jobs as they expand.

Class A buildings in metro Atlanta have absorbed 1.33 million square feet so far this year, and vacancy is just 15%, well below the historic level of 19%. In Buckhead, Class A full-service rends are running about $28.50 per square foot. New construction costs are projected to be $370 per square foot or more, implying gross rents upwards of $40 per square foot gross.

Three Alliance Center is a 30-story, 501,000 SF Class A speculative office building under construction and scheduled for delivery September 2016. Architect: Mack Scogin Elam Architects; Contractor: Turner Construction; **Developer: Tishman Speyer.**

If tenants want to stay in the building they're currently in and the space and location is working well for their business, it's as good a time as any to do an early lease renewal and lock in a rental rate that will extend into this next cycle.

After the new trophy towers are finished in a couple years and large blocks of space are vacated as tenants relocate into the new spaces, rental rates could taper as landlords look to backfill those big vacant spaces in the trophy towers that were built just five or ten years ago. That will also present a great opportunity for growing, vibrant businesses to "trade up" to better space in buildings that they maybe couldn't afford during the recession.

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Client Retention the E.B.O.S.S. Way

By Chris Vaughan

Does your firm track the number of new legal matters and new clients on an annual basis? If not, a simple metric should be added to your annual review. According to Bain and Co., improving client retention by just 5 percent can increase profitability by 75 percent. Consider also that, according to Lee Resource Inc., attracting new clients can cost your firm five times more than keeping an existing client. Depending on the type of client management or project management system your firm is using, this can be an easy metric to monitor. Utilize the E.B.O.S.S. acronym to determine how your firm can improve its client retention.

Efficiency: According to Acritas' Sharplegal research, 22 percent of clients who switched law firms did so because the firm was too expensive. Another 14 percent made the switch because of poor service or slow response. In other words, 36 percent of clients who switched law firms did so due to issues directly related to law firm inefficiency. Client retention thus begins with a firm's focus on the internal processes necessary to provide services in as efficient a manner as possible. A firm that fails to provide high quality, efficient services must spend valuable time in communications with clients explaining its deficiencies instead of focusing on the strengths it brings to the relationship.

Bonding: A prominent attorney recently told me that "clients don't care what you know until they know that you care." The attorney/client relationship is not just a business relationship; it is a personal relationship as well. When some non-billable time can be taken with a client to build the relationship, the attorney benefits from learning more about the client and ways in which the business relationship can be expanded. An important byproduct of building the personal relationship is that it carries over to the clients' personal relationships with others, thus leading to referrals.

Objectivity: Although clients demand efficiency and value personal relationships with their attorneys, they expect objectivity. They assume that their attorney will tell them the truth when no one else will. They may, and frequently do, push back on advice they do not want to hear, but they know they need the frank exchange. Attorneys who trade too much on the personal relationship to the point that they try to tell the client only what he wants to hear may achieve some short-term success, but will ultimately lose the long-term trust. A corollary to the problem of failing to be absolutely candid is postponing any bad news discussions. Such delays in fact compound the problem because they resemble inefficiency and inevitably lead to less client contact.

Solutions: Delivering an objective assessment of a client's situation addresses only one of the client's expectations. The other expectation is a creative solution to any problems inherent in the situation. An attorney who efficiently provides a candid assessment to a client's situation and demonstrates empathy with the client's needs and objectives is ultimately successful in establishing a relationship that will last when he carefully crafts the best possible result under the circumstances. The next best result, in some situations, is engaging a specialist, whether in the attorney's own firm or in another firm. The result is enhanced trust from the client, who now knows that the attorney will always put the client's needs first.

Service Reviews: There is no reason to guess about the client's perception of the attorney's performance or about the overall quality of the relationship. When asked in the proper context, most clients are quick to respond candidly. On no less than an annual basis, the attorney or someone involved in management of the firm should meet personally with the firm's principal clients and address two key topics: (1) express thanks for the client entrusting his work to the attorney and firm and (2) inquire as to what the client would like the attorney or firm to do differently or better going forward. Note that it is extremely important to follow up on the client's suggestions if at all possible. If the client takes the time to help, he is likely to expect the changes he suggests.

Worry less about *selling* your firm and focus more on efficiently handling clients' matters while also taking time to build a relationship with the clients. Those who succeed are efficient; establish strong personal relationships with their clients; are objective in the advice they provide; seek appropriate and creative solutions; and, inquire periodically as to the client's perception of the relationship and how it may be strengthened.

Chris Vaughan is the managing member of Firm Transitions, a full-service solution center for law firms. For more information, visit www.firmtransitions.com, call (336) 415-3476 or email chris@firmtransitions.com.

TECHNOLOGY

Case Study: Bodker Ramsey Providing "Consistent Health Care" Instead of a Costly Band Aid

By David N. Boughter Jr.

A small Atlanta law firm was struggling with an outdated system and an expensive and elusive IT consultant. How Firm Tech modernized its hardware and upgraded its technology solutions.

The Problem

Bodker, Ramsey, Andrews, Winograd & Wildstein, a 25-user litigation firm in Atlanta, Ga., needed to make a change both to its server infrastructure and to its IT solutions.

Outmoded System: The firm was operating on Novell and GroupWise and wanted to convert to a Microsoft Exchange and Outlook environment. Its outdated servers were constantly hanging up or needing to be rebooted.

Unpredictable IT Resource: To make matters worse, the firm had a single consultant handling all of its IT needs. "My headache was trying to get in touch with him," said Kevin Robb, Bodker Ramsey's Marketing and IT manager. "He had several phone numbers, and would only reply by text sometimes."

Reactive, Not Proactive: In addition to being difficult to contact, the contractor didn't take a proactive approach to IT issues. Instead of scheduling regular system updates, he would show up only when there was a problem, fix it, and leave. "We were just restarting servers trying to get things back up," Robb said. "Basically, just putting a Band Aid on a giant wound instead of getting consistent health care."

Costly Agreement: This arrangement was not only frustrating; it was a financial black hole. Bodker Ramsey employed the consultant on a contract basis, and would prepay each quarter for a certain amount of on-call work hours. But "because of all the problems we would have, he would end up billing us for more than that," Robb said. "I don't think there was a quarter where he was under the hours we had agreed upon."

An Untenable Situation: Bodker Ramsey continued to suffer repeated crashes and downtime. By the summer of 2012, "It got really bad," Robb said. "We just outgrew his level of support."

The Solution

Robb engaged Firm Tech to migrate Bodker Ramsey's existing IT to an industry-standard Microsoft Server and Exchange Server platform.

A Complete Upgrade: Firm Tech implemented the new system "It only took about two weeks for the nuts and bolts to get ironed out, once they got all the hardware in," said Robb. "We standardized all our users with the same model PC. … During our conversion, we got all new servers, and [Firm Tech] actually implemented a better backup system than we had before. There's a sense of security and confidence that if something happens, we'll be able to recover our data. Our server gets backed up to a device on-site, and that gets backed up to the cloud. We've got good antivirus and spyware software in place, a real firewall on the server, great wireless networks that clients and guests are able to use when they're in the office."

Responsive and Timely: Robb was impressed with Firm Tech's speed and availability throughout the process. "Their techs were very responsive," he said. "If anything needed to be escalated, [Firm Tech partner] Eric [Jordan] wasn't afraid to come in and do the work himself." After the project was completed, Bodker Ramsey signed Firm Tech to a master services agreement. Currently, Firm Tech staffers are on-site twice a week, and also respond to service calls as needed. "Somebody will call me pretty much within an hour," Robb said. "I've never had to wait more than an hour to hear that they're working on it or that somebody's coming out."

Long-Range Strategy and Planning: Firm Tech performs regular scheduled maintenance. "We can warn our people, 'Look, servers will be down Sunday night to install some updates,'" Robb said. "I like that that's planned, it's proactive." In addition, Firm Tech partners David Boughter and Eric Jordan will meet with Robb" just to talk about where we're headed," he said. "I use them as a consultant to bounce IT ideas off of and manage for the future instead of acting reactively."

Cost-Effective: Bodker Ramsey's monthly contract with Firm Tech costs the firm less per year than it was paying its former consultant, who billed for work performed outside of the agreed-upon number of hours per week. "We're actually saving a little bit of money, and getting far better service," Robb said.

"A Trusted Advisor": Partnering with Firm Tech has been "a very good decision" for Bodker Ramsey, Robb said, adding that he has recommended the company to other firms and would not hesitate to do so again. "I really look to them as a trusted advisor. I always know that somebody will be able to help me. … It's just been a really good experience moving from a one-man shop to Firm Tech."

David N. Boughter Jr. One of Firm Tech's founding partners, David brings more than 25 years of experience working with clients in legal services, accounting, insurance, and hospitality. His areas of specialty include client relations and account management, systems integration, Internet communication systems, and end-user environments. David attended The Pennsylvania State University. David can be contacted at (678) 426-5753 or Dboughter@firmtechnology.net
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LEGAL RECRUITING

The Growth of Boutique Law Firms

By Raj M. Nichani

Boutique law firms may be the future of law. Economists say that during the economic recession, there was a rise in the number of boutique firms that broke off from downsized big law firms. Attorneys looking for employment were also more likely to take up jobs in smaller firms that survived the recession, and help them grow into better firms for clients.

Midsized and large law firms are known for having a broad range of services and practice areas they offer clients, but times are changing.

As the legal industry becomes more specialized, boutique firms will flourish as clients seek specified, legal aid from attorneys. In fact, new firms are choosing to be boutiques and focus their work and services primarily on one practice area rather than having the more general practice culture seen in Big Law.

> "The United States isn't the only country seeing a rise in boutique law firms."

The upside of boutique law firms is that they are able to charge lower fees for their services. This can be done by outsourcing many business functions of the law firm to external operators, rather than managing it themselves. The partners in the boutique firm will now have more time to focus on their clients and their practice rather than administrative business dealings.

In 2013, there was a rise in the number of smaller law firms seeing more merger and acquisition work compared to their larger counterparts. The spike in M&A work for boutique firms was due to an increase in more cost-conscious clients. Clients are more cautious with their spending post-recession than they were before. For the same quality of work, a client can pay partner charges of $597 per hour or less instead of the average of $700 per hour or more at a Big Law firm.

The United States isn't the only country seeing a rise in boutique law firms. According to a Chinese law blog, China has also seen an increase in the number of smaller law firms on the market. In addition, the small law firms are drawing away business from large firms. Just like in the United States, the Chinese legal industry has seen a number of clients looking for specialized work at lower prices as well.

Furthermore, the rise in boutique law firms is helpful for small business owners. Entrepreneurship and startups are on the rise in many U.S. cities. Because of the growing number, these small businesses will need legal help, but may not be able to afford the prices at other large, well-established law firms. Being able to provide excellent services to clients for a flexible price is what is keeping boutique law firms growing. Attorneys in these firms are specialized in practice areas that they are passionate about. As a result, the quality of their work is not compromised due to the firm's size.

Finally, boutique law firms are preferred over Big Law for those who have or want to start a family, and who desire more flexibility. Both working parents and the younger generations are looking for more work freedom that is not easily found in larger law firms. Many of the new boutique law firms offer more support and understanding of the needs and demands of raising a family, which is why they have become a hot item on the job market. For young lawyers seeking less restricting hours, smaller law firms may be a great fit.

Trends in the legal industry are calling for boutique firms to establish themselves as legal options for clients seeking aid. With huge amounts of Big Law firms with excellent PR and marketing departments, boutique law firms will have to work harder to get their name out there as a credible source at lower prices. As clients continue to seek legal aid outside of the Big Law realm, we are bound to see boutique and small law firms rise in popularity in the near future.

Raj M. Nichani, Esq. is the president of The RMN Agency, a full-service legal search and staffing company specializing in the permanent and temporary placements of legal attorneys and professional staff with law firms and corporate legal departments. Raj and his team are dedicated to placing the highest quality candidates based on their own unique needs. The legal recruiting company was recently ranked the best legal staffing firm of 2014 by The Daily Report. You can reach Raj at (678)-8425855 or by email at raj@thermnagency.com or by visiting thermnagency.com for updated job postings and further information on the recruiting process.

Professionals And Business Owners

Asset Protection Planning for Professionals & Business Owners

There are currently 15 states that have enacted laws that allow a person to create and transfer assets to a trust, where the settlor is a permissible beneficiary and the assets in the trust are protected from the settlor's creditors. These trusts are often called "self-settled, spendthrift trusts" or "asset protection trusts."

Asset Protection Trusts

Why might someone consider setting up an Asset Protection Trust ("APT")? These trusts are generally contemplated when there is a significant portion of someone's net worth that is not easily or adequately protected by other asset protection strategies. In 2012, with the threat of a significant reduction of the estate and gift tax exemption amount, individuals created APTs to make large gifts they may not have otherwise considered, since they were able to keep a string attached to those assets for their own benefit. APTs have also become popular as an alternative to a prenuptial agreement. Depending on the tax laws of an individual's state, some people are able to avoid the bite of state income tax on the sale of a business in an APT. Additionally, individuals who have received a large inheritance and want to save it and protect it are also good candidates for APT planning.

When considering an APT, it is important to address additional purposes for the planning, such as tax planning, planning as part of the overall estate plan, and specific planning to prepare for a defined goal such as business succession. Some courts do not like the idea of asset protection planning. One court found that a transfer to an APT was a fraudulent transfer because the client was not educated about how the planning worked and believed that the trust was simply a tool to avoid paying creditors. A professional or business owner should consider transferring an amount to the APT that would not substantially decrease his or her non-protected assets. Leaving some assets available to pay even unknown and unanticipated creditors bolsters an individual's claim that the transfer to the APT was not a fraudulent transfer.

It is important to consider the type of assets that will be transferred to an APT. An APT is meant to serve as "a rainy day fund" and not hold assets that the professional or business owner currently uses. For example, typical APTs do not have mandatory income distributions and do not hold real estate. Many APTs hold Limited Liability Company ("LLC") interests that in turn can hold a variety of assets, including real estate, that are managed by the manager of the LLC and not the trustee. "Due diligence paperwork" (net worth statements, tax returns, corporate documents, etc.) should be completed and dated prior to executing the APT document. This paperwork is then kept with the trust document by the trustee. A corporate trustee will generally run a credit check and other "know your client" checks on the individual setting up the trust, the beneficiaries and the fiduciaries of the APT to make sure that statements reflected in the due diligence documents are true and that Anti- Money Laundering procedures are being followed. A corporate trustee is required under federal law to take certain measures to combat money laundering and terrorist financing. Use of a corporate trustee is highly recommended, since these trusts are complex estate planning tools and have a heightened opportunity for scrutiny. Therefore, use of a corporate trustee helps confirm that the trust is properly administered and may also be necessary in order to establish the proper location for the trust to employ the state's APT laws.

An APT can be an effective tool to protect a professional or business owner from frivolous lawsuits, since many claims against APTs will settle before trial. However, only 15 states have enacted legislation that recognizes self-settled, spendthrift trusts. There are many other states that either do not recognize self-settled, spendthrift trusts or even find such trusts void for public policy reasons. If a creditor can bring a claim against the individual who set up the trust or the trustee in one of these states, the APT is at risk and the assets in the trust may become available to satisfy a judgment claim. Asset protection planning is a growing field in professional practices. As more states enact APT legislation, it will likely become more difficult for creditors to breach these trusts.

Planning Gone Wrong

When considering an APT, keep in mind how it will be administered. In Battley v. Mortensen, the grantor alleged that his Alaska APT was formed to preserve a piece of land for his children3. However, he used trust assets to make stock market investments and a car loan to a friend. The court concluded that these actions had no relationship to the trust's purpose and defeated the APT. This case highlights the reason why a corporate trustee is generally the appropriate choice to administer an APT. Unsophisticated trustees and advisors can cause a lot of problems for the APT planning. Although an APT may not be an appropriate solution for every professional or business owner, it can be a great addition to a professional's or business owner's overall estate plan. APTs can provide flexibility in planning and protections that are not otherwise available using more traditional techniques.

2 Alaska, Delaware, Hawaii, Mississippi, Missouri, New Hampshire, Nevada, Ohio, Rhode Island, Oklahoma, South Dakota, Tennessee,Utah, Virginia and Wyoming.

3 Battley v. Mortensen, Adv. D. Alaska. No. A09-90036-DMD (May 26, 2011)

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CHRISTOPHER CHESTNUT

On Tort Reform & Justice

By Jan Jaben Eilon

The day Christopher Chestnut was sworn in as an attorney he opened his own law firm and signed up his first case. "With my experiences in law school and clerking with amazing law firms, I thought opening a law firm would be an opportunity to implement new approaches to the practice of law," he recalls. "Also, I wanted the autonomy to dedicate a major piece of our firm to giving back. I wouldn't have had that ability under someone else."

Giving back to the community is the core of the Chestnut Firm, specializing in personal injury, with offices in Atlanta, Jacksonville and Miami. "We like to think of ourselves as community-service based," he says. "We're compassionate and innovative, accepting cases on principle over profit."

Chestnut credits his community focus to growing up in a small town, in a family devoted to public service. Both parents held elected offices. "That's probably what inspired me," he says. "Everyone deserves equal access and equal rights. I have the opportunity to fight for clients who have been victims of negligence or inequality."

Chestnut notes the growing demand for aggressive trial lawyers in the tort arena. "We are the David taking on Goliath, but we must strategically ensure the rock hits," he says. "People's lives depend on us. When you care about your clients, you fight harder; you realize what's at stake. It is a heavy responsibility, but we welcome it."

Chestnut's firm is expanding into commercial contingency fee law. "We are now prosecuting certain business disputes on a contingency fee basis," Chestnut says. "Business and small corporations appreciate attorneys who have skin in the game. If they lose, we lose. When they win, we win together."

"With new technology large corporations are stealing the ideas, inventions and innovations of everyday Americans," he says. "Individual inventors often cannot afford hourly rates to protect their ideas. They can't afford to fight Fortune 500 companies. We can and do."

"Tort reform is an orchestrated assault by billion-dollar business to prevent individual Americans from holding them accountable for abuses in court," he continues. "Tort reform has been too effective. Juries are smart; we must trust them. When we see a run-away verdict that means there was run-away corporate negligence."

The Chestnut Firm has been involved in a lot of tobacco litigation lately, including achieving a $23 billion verdict, the largest verdict in the United States in 2014. Chestnut feels they are making a difference. "Tobacco litigation is a game changer," Chestnut says. "It's holding multinational companies accountable for corporate greed that is quietly killing people. They can be profitable without killing people."

"My reward is the look on my clients' faces when they've been pushed to the brink and we come in and and help them back from the edge."he says. "There is genuine relief when we resolve their case - a look in their eyes that says, 'we now have a second chance.'"

According to Chestnut, he also feels a sense of joy in his ability to participate in the community, especially when it's something hands-on, like handing out turkeys to people on Thanksgiving. Lastly, he enjoys the fact that in litigation, one never stops learning about all kinds of businesses. "No day is the same," he says.

Other attorneys and the national media have taken note of Chestnut's achievements. He's been called one of America's great voices for legal justice. He is rated by Super Lawyers Magazine for Personal Injury and in 2010, was recognized as the Nation's Best Advocate by the National Bar Association in its National Top 40 Lawyers Under 40 awards ceremony. He's also been recognized as a Top 100 Attorney by On Being A Black Lawyer (OBABL) and is frequently interviewed by various national print and TV media.

His firm's strength, he says, comes from the diversity and talent of its 42-person staff. "We think outside the box and frankly it's our ability to relate to jurors, whether they are baby boomers or millennials," Chestnut says. "There's a digital divide. And we found the way to bridge that gap."

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PRIVACY POLICIES:

THE FTC IS QUESTIONING WHETHER YOUR CLIENT'S POLICY IS GOOD ENOUGH

October 2014

By Joshua P. Gunnemann

Does your client's company collect personal information from customers online or through a mobile app? It may want to take a closer look at its privacy policy. In August, the Federal Trade Commission published results from a staff study that reviewed privacy policies for some of the most popular mobile apps that allow consumers to compare prices across retailers, collect and redeem deals, or pay for purchases while shopping in brick-and-mortar stores. The study found that nearly all of the apps made strong security promises and linked to established privacy policies. But the FTC criticized these companies for using vague language in their policies, and for making it difficult for app users to understand how these apps actually used personal data or to compare data practices between apps.

Although calling the policies "a step in the right direction," the FTC took issue with the policies for "fail[ing] to achieve what should be the central purpose of any privacy policy—making clear how data is collected, used, and shared." Further, the FTC reiterated that its published guidance applies with equal force to any company that collects personal data, whether through a website, by mobile application or by any other means. Simply having a privacy policy is clearly not enough.

What is a privacy policy?

A privacy policy is a disclosure statement that should comprehensively describe online information practices—what a company does with the information it collects from users of its website, mobile application, or similar electronic service. A typical policy contains a description of how a company collects information; how it stores, protects, uses or distributes that data; and how users can control their personal data. Every company that gathers information from customers online should adopt a carefully crafted policy that shapes its privacy relationship with the users of its services.

How can you ensure that a privacy policy complies with recent FTC guidance?

The FTC describes a good privacy policy as grounded in the "baseline principle" of transparency. A good policy should be clear and accurate about a company's information practices. It should explain what information is collected from users and what is done with the data. If possible, it should describe to consumers their choices in how their information is used and gathered, such as by providing notice of privacy settings, opt-outs, or other user controls. These choices should be easy to find and use. And, most importantly, companies need to honor the choices users have made.

For companies providing mobile apps, privacy options should be incorporated into all the services provided. The FTC calls this "privacy by design," which it describes as incorporating privacy protections from the start, limiting the information collected, securely storing what information is retained, and safely disposing of information no longer need. The FTC encourages companies to apply these privacy principles in the default settings for apps and to make the default settings consistent with consumer expectations, based on the services provided by the app. For any collection or sharing of information that is not apparent or that may not be expected, users should give express agreement with a clear and prominent notice-and-acceptance interface.

Privacy policies and settings should be displayed prominently on a homepage or within an app, with a clear and prominent hyperlink or button labeled "Privacy Notice" or "Privacy Policy." And, for websites, a hyperlink should be placed at each location on the site at which personal identifying information is collected. If the privacy notice will be read on a mobile device—or if the policy is for a mobile app—the policies should be readable on a small screen. Design elements—like color, fonts, and icons—should be used to highlight important information. If privacy practices materially change, it may be necessary to get users' affirmative permission for the changes. At the very least, consider prominently displaying or sending users notice of changes.

The FTC's own privacy policy, available at http://www.ftc.gov/site-information/privacy-policy or from a direct link on its homepage, is presumably a model of a short and clear policy that meets the FTC's recent recommendations.

What can your client do to avoid regulatory attention and lawsuits?

Having a carefully crafted, transparent, and accurate privacy policy is an important first step. But perhaps most importantly, companies must comply with their own privacy policies. This is critical, as the FTC, under its authority to stop companies from engaging in unfair or deceptive trade practices, is bringing an increasing number of actions against companies that claim to keep user information safe, but fail to comply with their own stated practices. The FTC may also take action against companies that fail to disclose the extent to which consumer information is collected or shared with third parties. These actions may involve substantial fines, are costly and disruptive to business, and are conducted publicly, which can tarnish a company's reputation. In addition to these risks, companies may also face substantial shareholder or customer class-action litigation if a violation of their own stated policies causes harm.

To avoid these risks, companies should be vigilant in creating and reviewing policies and safeguards to ensure compliance. They should consider conducting periodic internal risk assessments, paying particular attention to discrepancies between a policy and actual data collection and use practices. External counsel may be useful in both drafting and reviewing policies and practices, as laws concerning the content of privacy policies and practices evolve constantly and vary from jurisdiction to jurisdiction and from industry to industry.

This issue will likely grow in importance in the coming months. Increasing attention from regulators and the plaintiffs' bar only heighten the potential risk for a company with an inadequate or inaccurate privacy policy. Time spent now helping your clients carefully craft and fully implement a strong privacy policy can help them avoid legal headaches, fines, judgments, and embarrassment down the road.

Author Joshua P. Gunnemann is an attorney at Rogers & Hardin LLP in Atlanta, where he represents businesses and individuals involved in complex business disputes, difficult litigation, and governmental investigations, and also advises clients on matters of data security and privacy. He can be reached at jgunnemann@rh-law.com and (404) 420-4653. www.RH-Law.com.

This Season's Greatest IP Hits by **"The Supremes"**

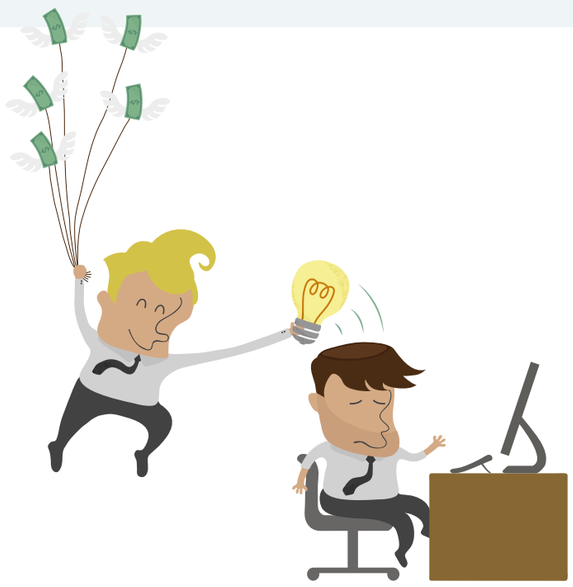
By Z. Peter Sawicki & James Young

It's October! This is the month we celebrate the height of football season, the World Series, Halloween, and – of interest to every U.S. attorney – the start of the next term of the U.S. Supreme Court.

Each year, our Supreme Court receives requests to hear about 8,000 cases. In the 1980s, the court usually heard about 150 cases each term. Lately, it has heard arguments in about 75 cases each year. Now more than ever, it seems that "deciding what to decide" may be even more important than the court's actual decisions.

With that in mind, contemplate for a moment what happened last year at the U.S. Supreme Court. Sixty-nine cases were decided, and 10 of those decisions related to intellectual property law! Wait. What? Over 14 percent of the U.S. Supreme Court's 2013-2014 decisions dealt with IP? Yes, to "The Supremes," intellectual property is "Hot, Hot, Hot!" Any way you spin it, IP is more important now for you (and your clients) than ever before.

Here's a quick breakdown of those 10 cases – six patent cases, two copyright cases and two Lanham Act cases.



The Patent Cases

Alice Corp. Pty. Ltd. v. CLS Bank Int'l – the court limited the patent eligibility of computer-implemented patent method claims.

Medtronic, Inc. v. Mirowski Family Ventures, LLC – the court held that a patent owner always bears the burden of proving infringement, even when the owner is a defendant in a declaratory judgment action for infringement.

Nautilus, Inc. v. Boisig Instruments, Inc. – the court decided that a patent claim is indefinite (and thus invalid) if it does not inform those skilled in the art "with reasonable certainty" about the scope of the patented invention.

Highmark Inc. v. Allcare Health Management Systems, Inc. and ***Octane Fitness, LLC v. ICON Health & Fitness, Inc.*** - in these cases, the court clarified the standards for awarding attorneys' fees in patent cases and the amount of deference that should be given to a trial court's "exceptional case" determination on appeal.

Limelight Networks, Inc. v. Akami Technologies, Inc. - the court determined that in order for there to be liability for induced infringement of a patent, there must be direct infringement by a single person or entity.

The Copyright Cases

Petrella v. Metro Goldwin-Mayer, Inc. – the court clarified the relationship between laches and the statute of limitations for bringing an action for copyright infringement.

American Broadcasting Companies, Inc. v. Aereo, Inc. - the court found that an antenna/Internet based system that allowed subscribers to watch broadcast TV on their computers was copyright infringement (as an unauthorized public performance of the copyrighted work).

The Lanham Act Cases

Lexmark Int'l, Inc. v. Static Control Components, Inc. – the court clarified the test for standing to assert a false advertising claim under the Lanham Act.

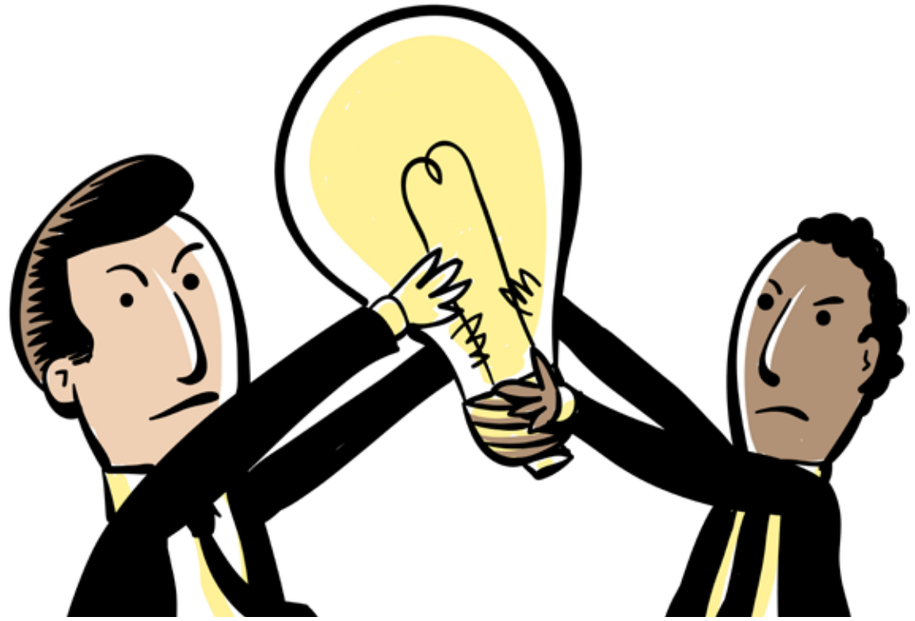
POM Wonderful LLC v. Coco-Cola Co. – the court held that liability could arise under the Lanham Act for unfair competition by allegedly false and misleading descriptions on product labelling, even if such labelling is in compliance with FDCA regulations.

Fundamentally, all this IP activity at the Supreme Court level means that IP protection presents significant commercial and legal concerns for our business clients. On the patent side, it continues and increases the Supreme Court's interest in reviewing – *and correcting* – the Federal Circuit Court of Appeal's attempts to develop tests related to patent validity and infringement (remember, the Federal Circuit was created in 1982 and granted exclusive jurisdiction over patent cases in order to create judicial review uniformity). Clearly, the Supreme Court is sending a message of discontent to the Federal Circuit and, the Supreme Court has already accepted three IP cases for review for the new term starting this month.

Congress and the President

Congress recently enacted major revisions to our patent law (the America Invents Act) and is now flirting with the enactment of a federal trade secrets protection act. President Obama has also initiated efforts to directly address IP issues, using his executive office powers. In June 2013, the president announced five executive actions "to help bring about greater transparency to the patent system and level the playing field for innovators." In February 2014, the president announced three initiatives "aimed at encouraging innovation and strengthening the quality and accessibility of the patent system."

We are currently in the midst of an unprecedented level of federal activist interest in IP issues. IP law and protection is indeed, a big deal as these recent events show. We are paying close attention, as should you and your business clients.



Mr. Sawicki & Mr. Young are shareholders at Westman, Champlin & Koehler. They have over 30 years of experience obtaining, licensing, evaluating and enforcing patents. For more information, please email them directly at psawicki@wck.com or jyoung@wck.com.

YEARGAN BARBER & KERT, LLC

ATTORNEYS OF INFLUENCE

By Laura Maurice

JIM YEARGAN

The traffic-related charge of driving under the influence (DUI) is a serious one that anyone can face. A moment of poor judgment – overindulging and getting behind the wheel after one too many drinks – can have long-lasting implications. In the near term, it's critical to turn to specialists who understand the nuances of the criminal justice system as it relates to a DUI charge. It's even more important to have a legal team in place to help navigate the process, separate fact from fiction, evaluate options and avoid pitfalls.

That's where Yeargan Barber & Kert, LLC, come in. Jim Yeargan and partners Michael Barber and Julie Kert have built a strong reputation doing just that for clients throughout the state of Georgia and have an unparalleled level of trial experience in DUI and similar cases such as marijuana and drug possession, administrative license suspension, traffic tickets and felonies. The trio cut their teeth prosecuting DUI and other traffic-related charges in the city of Atlanta. They've been on the opposing side, understand prosecutorial thinking and strategies, have trained prosecutors and police officers and worked alongside them. This inside view benefits clients.

"Every member of our firm, from attorneys to staff, has served as prosecutors, law enforcement officers or in the military. While many firms hire attorneys right out of law school, we only hire experienced professionals," says Yeargan.

Yeargan and Kert first met at the City Court of Atlanta where they worked together for three years during Kert's eight-year tenure as senior assistant solicitor at the Office of Solicitor General. In fact, Kert trained Yeargan and he readily gives her credit as his mentor. "There was not a better litigator to learn from," he says. "Julie has extensive trial experience and that matters. She has first chaired more than 80 jury trials and over 1,000 bench trials."

Yeargan was fortunate to be given a lot of opportunities early on and quickly advanced to a lead prosecutor role. He underwent training at the police academy, receiving certifications in field sobriety testing, field sobriety testing instructor's course, Intoxilyzer 5000 operation, laser and radar speed detection operation, and various other DUI and drug courses. After completing this training, he was asked to be a guest instructor at the police academy and continues to instruct DUI officers in the areas of DUI law and courtroom case preparation and presentation.

Kert left the prosecutor's office in 2005 to join a colleague in private practice and Yeargan left about a year later to open his own firm, not long after DUI was designated as a specialty area of legal practice by the American Bar Association in 2003. His goal? To use what he had learned as a DUI prosecutor to defend individuals charged with DUI and traffic offenses and to build a team that would establish the firm as a leader in the field. He kept in touch with Kert, hoping (and occasionally suggesting) that they would have the opportunity to work together again.

PARTNERS JULIE KERT & MICHAEL BARBER

He also enjoyed a solid working relationship with Michael Barber, who had joined the prosecutor's office in 2010 after being in private practice for three years post-law school. Barber spent three years with the office, training at the Georgia Public Safety and Training Center (GPSTC) and receiving certifications in DUI field sobriety testing and various other programs for speeding, accident and basic moving violations. During his tenure, Barber assisted in redesigning the current DUI court system with the city of Atlanta Municipal Court and after three years, was ready to take what he had learned as a prosecutor and return to private practice. Yeargan recruited him and Barber joined the firm in July 2013. A year later, Kert followed and Yeargan Barber & Kert, LLC was officially launched. While the firm's name is new, the synergy and expertise of the partnership is a formalization of their long-standing working relationship.

> The criminal offense of DUI generally includes for any person over the age of 21 either driving under the influence of alcohol to the extent it impairs physical and mental faculties, or driving with a blood alcohol content of .08 or greater regardless of whether the alcohol has had any effect.

A Proven Process That Works

The attorneys at Yeargan, Barber and Kert, LLP follow a thorough and systematic process in working with clients, and this discipline pays off in the courtroom.

Steps include a consultation, an action plan that takes proactive steps to achieve the client's goals and investigation into documents. Throughout this process the attorneys strive to make sure the client knows what to expect from basic directions like where to park down to guiding them through additional paperwork following sentencing.

Understanding the Details

Yeargan views their roles as equal parts lawyer and educator. "People often think of a DUI charge as a drunk driving charge but that is a misnomer," he says. Driving under the influence can apply to alcohol or drugs. The drugs in question may or may not be illegal and in fact may have been prescribed by a physician, as in the case of medications such as Am-

bien or Xanax.

The most common way someone is checked for DUI drugs is with a state administered blood or urine test. According to Yeargan, neither of these tests is always accurate. "Both of these methods of testing for drugs have the potential to create problems, from human error to machine malfunction or calibration. What's more, the urine test is problematic because it may show past versus current drug use."

According to the attorneys, there are other aspects of a DUI drug case with inherent flaws. Many jurisdictions train their DUI officers as drug recognition evaluators (DREs) to have specialized skills to detect drivers impaired by drugs. Individuals suspected of driving under the influence of drugs can be required to submit to a battery of advanced tests and evaluations such as pulse and blood pressure. If both are elevated, an officer may believe that the individual is under the influence of a central nervous system stimulant. When, in fact, according to Yeargan, getting pulled over or arrested can cause a suspect to get anxious, which in turn may cause their pulse and blood pressure to rise. "Understanding the potential fallibility of some of these tests and communicating this to clients is key to getting them to understand that theirs may not be an open-and-shut case," says Yeargan.

Another critical piece of information for clients at the outset is to make them aware of the 10-day rule, which allows 10 business days from the date of arrest for driving under the influence to request an administrative license suspension hearing from the Georgia Department of Driver Services. This must be done in writing and is a separate court date from any one referenced on a citation. Failure to do so can result in an automatic suspension of one's driver's license for up to a year, which can be an extreme hardship.

Standing by the Client

Kert says that one of the key differences in their approach is that they stress good communication and are with their clients until the end. "Clients who come to us are in crisis, and we stand by them," she says. "I'm always amazed at attorneys who have very little contact with their clients and just show up to court. Or worse yet, they leave the client to attend court on their own."

Barber agrees, "We do a lot of hand-holding and stick with clients through the process. Our philosophy is to give specialized attention and get better outcomes as a result. In particular, we know where the pitfalls are for probation revocations and work with our clients to avoid them."

Thanks to their long-standing work in the community, the firm receives referrals from former clients and colleagues throughout the state.

According to the most current Georgia Crash Analysis Statistics available, each year in Georgia there are between 300 - 400 alcohol-related fatalities, making up about 25% of the overall road fatalities each year. Fulton County consistently has the highest rate of alcohol-related crashes.

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Speeding & Traffic Tickets
Drug Defense
Criminal Defense

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Juris Doctor, Mercer University, 2003
Bachelor of Arts, Emory University, 2000

Bar Admissions
Georgia, 2003

Partner Julie Kert

Education
Juris Doctor, University of Florida, 1994
Bachelor of Arts,University of Virginia, 1991

Bar Admissions
Georgia, 1995

Partner Michael Barber

Education
Juris Doctor, John Marshall Law School, 2007
Bachelor of Arts, University of Georgia, 1998

Bar Admissions
Georgia, 2008

Be Where Your Clients Are:

Ten Tips to Maximize Trade Association Involvement

By Terrie S. Wheeler, MBC

Many times our clients tell us they are involved in several different trade associations – most of which they rarely attend or if they do, their attendance is very sporadic. We understand that it can be overwhelming to attend a meeting with people you don't know, and that the meeting times are not always convenient (early mornings or after work). However, being a member of at least one trade association can provide a steady stream of new business if you incorporate the 10 tips below to help you choose the right association, become an active, high profile member, and personally engage with your A-level clients and referral sources.

#1 – Research Associations Before You Join

There are literally thousands of trade associations across the country serving every industry niche you can imagine. As you consider an association membership make sure the association attracts the targeted businesses, industries or referral sources you want to meet. If you need help identifying the right association to join, take a look at the Gateway to Associations. There you can search for associations that cater directly to those you are trying to reach in marketing by using specific search parameters.

#2 – Talk to Your Clients

Ask your best clients what trade organizations they belong to and find value in. Ask your client to invite you to an upcoming meeting so they can introduce you to other members. Your client's endorsement will make a great impression. Your time is valuable, and you want to make sure the association you join will be well worth your time out of the office.

#3 – Bond With the Association Executives

Association executives are highly motivated to deliver value to members. Make it a point to build relationships with the president and executive director. They will serve as the conduit through which you will be given other opportunities in the organization. Association executives have a vested interest in your membership and will be willing to do their best to ensure that you connect with the right people in the association – and get plugged into the right events, committees and sponsorship opportunities.

#4 – Attend a Meeting or Two as a Guest

The executive director will generally invite you to attend an upcoming meeting as a guest. This will provide an opportunity for you to watch for important cues including how engaged association members are, the overall culture of the organization, how warm and welcoming the group is, and what level of substantive information they cover at monthly meetings.

#5 – Join a Committee

Based on suggestions from the executive director and association president, connect with one or two committee chairs such as membership (meet and recruit new members), publications (you can submit articles), programming (speak at a conference) or education (provide substantive content to members). Committee activities allow you to quickly build strong relationships with association members.

#6 – Commit to Becoming a High Profile Member

Being a high-profile member means that you attend every meeting possible, actively engage on a committee, offer to speak at events and write for the publication, and offer to serve as a resource to members. We encourage you to join one association focused on professional development (your state or local bar association or other legal industry associations where you can receive free or low-cost CLE credit), and one association that provides on-going opportunities to get you in front of your prospective clients and referral sources – a trade association. Many attorneys express frustration after being in an association and feeling as though nothing has come from it. The rule of thumb is that you must give to get! It's not enough to simply be a member of an association and list it on your biography.

To really leverage and maximize your membership you need to commit to becoming an active, high-profile member of the organization.

"If you continue these actions consistently, over time you will become known as a leader in the organization."

#7 – Connect With Members

As you continue attending meetings, reach out to people you are interested in learning more about; those that meet your criteria for A-level clients and referral sources. Invite them to coffee, connect with them on LinkedIn, add them to your firm's database and consistently look for ways in which you can help and support them. Remember the very best networking is based on asking great questions and focusing on how you can help the other person. When you develop personal relationships with members, you also remain in compliance with the rules of professional conduct related to direct solicitation.

#8 – Become a Trusted Adviser

Trust is built over time when you do what you say you will do, and when you offer ideas and legal problem-solving tips without the meter ticking. People assume if you are a responsible and dedicated volunteer, you are also an excellent, service-oriented lawyer.

#9 – Offer Your Expertise

Over time, as you build your credibility within the association by attending meetings and participating on a committee, you will begin to see ways in which you can contribute your expertise to the group by writing articles in the newsletter, joining a panel discussion, leading a monthly program, or even serving on the board. These opportunities only come to association members who have shown their value continuously throughout the year.

#10 – Sponsor Events

When the time is right, seek out opportunities to get the name of your firm in front of members by sponsoring events like golf tournaments, seminars, trade shows or other activities the association sponsors. Many firms make the mistake of joining an association and throwing money at every event they can. Rather, first become an active member of the association, then support the organization with your firm's sponsorship dollars.

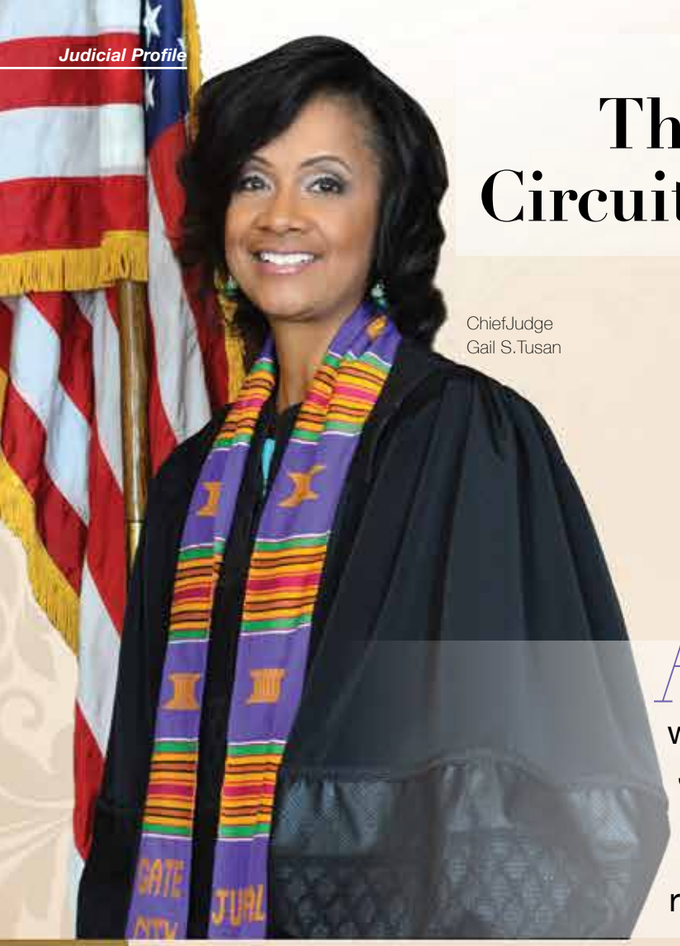
Generating business from an association takes time, however if you follow these steps, over time association involvement can become one of your best business development sources.

You can watch our webinar on How to Maximize your Trade Association Involvement by going to www.PSM-Marketing.com and clicking on Free Webinars.

Terrie Wheeler, MBC is the founder and president of Professional Services Marketing, LLC. For more information or to sign up for a free webinar visit www.PSM-Marketing.com or call (320) 358-1000.

An Interview with

The Altanta Judicial Circuit'sExecutive Team



ChiefJudge
Gail S.Tusan

ATLANTA JUDICIAL CIRCUIT

Yolanda
Lewis

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Attorney at Law Magazine was able to sit down with Chief Judge Gail S. Tusan and Court Administrator Yolanda L. Lewis to discuss the court and its role in Fulton County.

Q: Effective governance and well-defined policies are key to an efficient court system. What roles do the chief judge and court administrator play in governance and policy making?

Tusan: The Atlanta Judicial Circuit is very fortunate to have had Yolanda Lewis' expertise and service as our district court administrator for the past three and a half years. In preparation for my succeeding our former chief judge this past February, Ms. Lewis and I met at length so I could convey my priorities for the incoming administration. In turn, she briefed me on the status of pertinent work in progress to ensure a smooth transition for our employees, customers and justice partners. Together as an executive team, we have developed a strategic plan and work closely daily on tangible deliverables driven by our court's core values, the judges' collective mission and specific strategic goals. Through an active committee structure chaired by the chief judge and consisting of the executive committee, our judges serve on and chair a variety of operational committees which create policy and vet best practices in a wide range of areas including governance, workload assessment and case management, technology, external community relations, accountability courts, magistrate and juvenile court judges, juries, court security and legislative matters.

Q: There is the belief that courts should be transparent to its constituents. What types of strategies have been implemented to ensure that the court's performance is transparent and accountable?

Lewis: The Superior Court embraces the principles of accountability and transparency in the context of a balanced assessment of the court's performance. The court openly provides information about its caseload and specific performance measures by publishing clearance rates online and in our organizational reports and publications. Judges also receive case and programmatic updates about the performance of the court including the age of pending caseloads, juror usage reports and disposition rates. This report assists judges in effectively managing their individual caseloads and provides a sense of global accountability for the court in general. This approach to performance, accountability and transparency emphasizes the court's proactive use and management of evidenced-based information, not just anecdotes, in communicating the work of the court to the legal community, justice partners, policy makers and the general public. In the future, we anticipate implementing additional performance measures which will allow the court to take a proactive stance on assessing and responding to procedural or administrative challenges.

Q: Most of our readers probably view the court from their perspective as lawyers and paralegals engaged in some type of litigation. How has the Superior Court of Fulton County worked to make the court infrastructure more user friendly for its customers and Fulton County citizens?

Tusan: We've initiated a series of team building roundtable discussions between the Clerk's Office, our case managers and staff attorneys to create better communication and to gain consensus on best practices for facilitating excellent customer service and increased access to justice. These dialogues impact case filing and disposition in all matters: civil, criminal and family. By working together to engineer improved case management, attorneys and their clients receive optimal customer service.

Q: How has the Superior Court improved the user experience in and out of the courtroom?

Lewis: Improving efficiency through the use of technology has been a major priority for the last four years. Fulton County now utilizes a unified case management system which consolidated a number of related databases into a single tool. Each courtroom is now equipped with modern evidence presentation systems which save time for attorneys as they present documents, photos, videos, objects and other evidence during trials. The court has also created a more user-friendly website, installed a number of new sound systems and high quality equipment for the hearing impaired; and implemented a new jury management system which includes the ability to text reminders to prospective jurors regarding their service. We also created an award-winning interpreter reservation system which provides a seamless online process to secure interpreters for hearings. Judges are now equipped with access to mobile resources such as iPads and Slates which keeps them virtually connected to dockets and other case matters. Finally, we are exploring the concept of an e-law library and the use of judicial dashboards to improve case processing and to provide dynamic performance management reports. As the chair of the National Judicial Tools Workgroup, a committee developed to recommend and improve courtroom technology, I can honestly say that we are on par with some of the best courts across the nation.

Q: Progressive corporate leadership ensures the entity it serves is comprised of a highly qualified, well-trained workforce. How does this principle apply to your court?

Tusan: This question is very timely because the Atlanta Judicial Circuit and its stakeholders found ourselves having to defend our personnel and budgetary decisions against the county's desire to consolidate departments and pull our specialized, experienced court professionals back under the governance of the county manager. This would not be in the best interest of the taxpayers or the end users of the justice system. A key element of our strategic plan is to recruit and retain highly knowledgeable professionals who drive the good work provided by our court. This includes those programs managed by the Court Administrator's Office such as our accountability (drug, behavioral health and veteran's) courts, family division, business court, noncomplex criminal division, pre-trial services, jury clerk's office, law library and other administrative and operational programs.▪

PAYING FOR LEADS: Should You Buy or Build?

By Stephen Fairley

An attorney in one of my LinkedIn groups recently asked a question I've heard many times before: "I am curious whether anyone here has had luck with pay-per-lead generation agencies. I am looking to expand my bankruptcy department and am wondering what has worked well for others in the past."

There are several lead generation companies out there for attorneys with similar pay-per-lead (PPL) business models in which you pay a fee for each lead. From Total Attorneys (quite possibly the original) to Nolo (may be the best one), to Lead Rival and LegalZoom. New ones pop up every month, but they all follow the same playbook. The PPL model started out in bankruptcy, but it has moved to other consumer practice areas. Some offer exclusive territories, while others send the same lead to two or three of your competitors at the same time, leaving it up to the individual firms to fight over the lead.

These companies get their leads the same way thousands of tech savvy attorneys get theirs – through the Internet. They use a combination of Google pay-per-click and SEO to drive leads to a landing page where the lead signs up to "get more information from an attorney about their situation." The company sells that lead to the participating members for anywhere from $10 to over $100 per lead, depending on the practice area and the specifics of the case. Bankruptcy leads are usually $10-$60; personal injury leads start at $20 and go over $100 for more serious injuries; divorce or family law are $20- $40; DUI/DWI leads are usually $50-$100; medical malpractice leads can be $20-$60; and mesothelioma leads are over $100.

Some of these companies screen calls to ensure a higher quality contact, but the results are debatable; while others simply forward the contact information to the law firm. While this business practice (selling leads) may sound dubious, over a dozen state bar ethics committees have deemed it acceptable. I'm sure some of you are asking right now, why would I buy leads? Common reasons I've heard include: I'm just getting my law firm started. I have a lot of overhead to pay for and I need more leads now. They can produce leads cheaper than I can. I can't compete on Google so I'm just paying for someone to do it for me. I don't have time to waste waiting for my networking efforts to pay off.

7 Keys To Improve Your Lead Conversion

There are some common characteristics among law firms who are successful in converting these purchased leads. If you are buying leads or are considering supplementing your marketing efforts, then you need to know these key points.

1. The leads must be geographically exclusive. It is difficult to convert PPL leads because many of them are price shopping or just looking for free information and almost all of them fill out multiple sites. It's twice as difficult if you are competing with another law firm who was sold the same lead! I would only recommend you get leads if you are the only one they are sent to. Here's where it gets a little sticky – there are some unethical companies who buy their leads from a lead broker (usually at around $10-$15 per lead) who sells them to multiple PPL companies, then the PPL company sells them to your law firm on an "exclusive" basis. While they are technically exclusive in that the PPL company only sold the lead to you, the lead broker also sold it to another PPL company. Be sure you ask very pointed questions about where they get their leads.

2. You must have a dedicated intake specialist. No attorney or paralegal will go after a lead with the kind of persistence and dedication it takes to convert them. Referrals are easy to convert, paid leads are not. If you are not willing to hire a dedicated intake specialist and train them to go after these leads like a pit bull then I would reconsider paid leads.
3. There must be a sense of urgency when following up with the lead. Research by velocify.com indicates conversion rates drop precipitously if you fail to follow up within five minutes after the lead comes in. If you are going to use PPL, you must be faster than any of your competitors. These leads must be a priority. The same study found your lead conversion rate drops by half if your first follow-up attempt goes from five to 10 minutes!
4. Your intake specialist must call them a minimum of seven-10 times before giving up. No, that is not a typo. If you want to convert these leads, you will have to work harder than anyone else. There should be three calls made the first day: one within five minutes, a second call within about an hour and the third by the end of the day. Two more calls should be made the next day, then two more the day after that, then ideally one per day for the next two-three days.
5. You need to send them three-five emails in addition to the phone calls. These emails should be educational in nature and subtly informing them of why they should call you and set up an appointment.
6. You must track every single lead. How many of these leads turn into appointments? How many of your appointments show up? How many sign up at the initial consultation? How many sign up afterward?
7. Use lead conversion software. There are three components to a successful law firm: people, software and systems. You need the right people running a lead conversion software (this is completely different from practice management software) and following a precise system of intake and lead conversion.

If you're unwilling to make these commitments, I recommend you stay away from buying leads as your conversion rate will be so low it won't give you a good ROI.

The average consumer attorney only converts 5-15 percent of their leads into paying clients (out of 100 leads they sign up five-15 new clients). I have met many attorneys buying leads who are converting in the low single digits. If you use a systematic approach to lead conversion, including the principles I mentioned above, you can increase that to 25-35 percent.

A Slow Response Will Kill Your Lead Conversion

A study on the life span of sales leads conducted by the Harvard Business Review found that leads contacted within one hour are seven times more likely to be converted than if the contact was two hours later – and 60 times more likely to be converted than if the contact was 24 hours later.

Fast follow-up is a real stumbling block, especially for solos and small firms that usually rely on attorneys to return a call or email inquiry. This is the first mistake. Never have an attorney responsible for following up! You may want to, you may intend to, but it rarely happens because of your workload.

So what to do? Automate the process! You simply cannot be consistently good at lead conversion unless you have a system and software in place that sends your prospect an immediate message responding to their inquiry and notifies your intake team to call the lead.

Every contingency can be planned for in advance with an automated marketing follow-up system. A prospect calls in, a staff member gets an email address, enters it into the system, and that person is immediately sent a series of emails. The emails can encourage them to set an appointment, educate them about your firm, include testimonials from other clients, offer a free consultation, or whatever you want to happen next.

The same process can be put in place for leads that you capture through your website, blog or social media pages.

You also implement a drip email campaign that guides your prospects along the path to becoming a client. If they miss their initial appointment, this triggers a series of emails encouraging them to reschedule. If they don't sign with you after the initial meeting, another series of emails prods them to take that step. All of this can be done without any intervention by busy attorneys.

5 Ways To Nurture Your Leads

Getting leads is only the beginning; it's what you do to nurture them along the path to signing up with you that requires your careful attention. My experience in teaching lead conversion techniques over the last decade shows that you need to focus your messaging to prospects on these five areas:

1. Tell them what you can do for them. At the end of the day, clients are only interested in what you can do for them. Your job is to tell them what your service can do for them personally. The answer to this question must be one of the first things your clients see on your website and in your firmwide communications.
2. Tell them what makes you different. For every service you provide there are many other attorneys who provide the same services. So what can a client get from you that they cannot get from anyone else? Perhaps it is your credibility or the creative way you bring solutions to your clients. Emphasize that point.
3. Tell them you understand their pain. The most effective way to ensure a lasting impact on your clients is to communicate with them on an emotional level. You must find their pain. What is it about their business, life, family, time or environment that is causing pain? Are they not working or getting far behind on their bills? Is their business growing too fast or too slow? Find their pain and communicate with them on an emotional level about how you can help heal their pain.
4. Tell them the benefits of working with you. Features are what your service does. Benefits are why your client needs your service. For every feature you have, you must tell your client the benefit. Is your firm better, faster, guaranteed or more personal? Will your service create more clients, decrease turnover or increase profit margins? These are all great features, but you must tell your clients how this benefits them specifically.
5. Tell them why it's safe to hire you. Many of our clients work at small law firms that have services similar to those at larger, more established firms. Other than for a lower price, why should a potential client buy your service over the big firm's service? While no one can predict the future of your firm, the savvy small firm recognizes the need to develop creative ways to reduce the risk of their clients in working with them. How could you lower the risk of your clients if they are concerned about working with a solo practitioner or a small law firm?

If you want to learn more about how we do this, we offer a free marketing strategy session for qualified attorneys – simply email me and put "Free Strategy Session" in the subject line.

For more information on buying leads, visit www.TheRainmakerInstitute.com.

Stephen Fairley is CEO of the Rainmaker Institute, LLC, the nation's largest law firm marketing company. He has helped over 10,000 attorneys. For more information, call (888) 588-5891 or visit www.TheRainmakerInstitute.com.

► **Kilpatrick Townsend & Stockton** announced the firm was recognized by CHRIS Kids at the 14th Annual CHRIStal Ball as the 2014 Corporate CHRIStal Vision Honoree. The annual gala honors Atlanta community leaders and organizations that have made significant contributions to improving the lives of children. Kilpatrick Townsend was recognized for assistance with legal restructuring, adopting The Giving Tree, complaints, lawsuits, wage and hour issues, and personnel and construction issues.


Jordan T. Stringer

► **Holland & Knight** is pleased to announce that **Jordan T. Stringer** has joined the firm's Atlanta office as an associate in the litigation practice. He was formerly with King & Spalding. Stringer focuses on business litigation involving complex commercial disputes, including securities and shareholder litigation, corporate investigations, contract disputes, antitrust cases, and related healthcare and business tort matters.


Gautam Reddy

► **Kilpatrick Townsend & Stockton** announced the addition of **Gautam Reddy** to the firm's Atlanta office. Reddy joins the firm as an associate on the construction & infrastructure development team in the firm's litigation department. Gautam Reddy focuses his practice in construction law and construction litigation.


Todd S. McClelland

► The global law firm **Jones Day** has announced that **Todd S. McClelland** has joined its Atlanta Office as a partner in the firm's intellectual property practice. McClelland, who was previously a partner in Alston & Bird's Atlanta office, focuses his practice on privacy and data security issues.


Jessica L. Asbridge


Patrick L. Ryan

► **FordHarrison LLP**, one of the country's largest management-side labor and employment law firms, is proud to announce the addition of **Patrick L. "Pat" Ryan** and **Jessica L. Asbridge** to the firm's Atlanta office. Ryan, who joins as a senior associate, comes to the firm from the Atlanta office of Seyfarth Shaw LLP. Asbridge, who joins as an associate, most recently served as law clerk for both The Honorable Frank M. Hull and The Honorable Peter T. Fay of the U.S. Court of Appeals for the Eleventh Circuit.


Sabina Vayner

► **Kilpatrick Townsend & Stockton** announced that attorney **Sabina Vayner** has been named one of Georgia Trend's 40 Under 40 for 2014. Sabina Vayner focuses her practice on trademark, copyright and advertising issues. She has substantial experience in federal trademark, trade dress, and copyright infringement litigation, international and domestic clearance work, client counseling, and false advertising matters. She also regularly practices before the Trademark Trial and Appeal Board.

► **Anita Bala** has joined the Atlanta office of **Nelson Mullins Riley & Scarborough LLP** as an associate where she is a member of the education team and represents clients in matters involving civil litigation, special education and employment law.


Anita Bala

► After a summer-long application, review and selection process, 17 attorneys were chosen to participate in the 2014-2015 GTLA LEAD Program. They are as follows: **Andrew S. "Drew" Ashby** of The Cooper Firm; **Michael J. "M.J." Blakely,** Jr. of Pope, McGlamry, Kilpatrick, Morrison & Norwood; **Joshua A. "Josh" Carroll** of Buzzell, Graham & Welsh; **Christopher S. "Sutton" Connelly** of Cook & Connelly; **Dustin E. Davies** of Hasty Pope; **Catherine Gibson McCauley** of The Gibson Law Firm; **Yvonne S. Godfrey** of Harris Penn Lowry; **Robert M. "Rob" Hammers, Jr**. of Law Offices of Jason T. Schneider; **Michelle Izquierdo King** of Woodward + Stern; **James R. "Jimmy" Miller** of Langdale Vallotton; **John C. "Buddy" Morrison, III** of Butler Wooten Cheeley & Peak; P**amela M. "Ela" Orenstein** of Morgan & Morgan; **Dallas J. Roper** of Sell & Melton; **Zachary H. "Zach" Thomas** of Bergen & Bergen; **Michael B. "Blake" Tillery** of Smith & Tillery; **Darren M. Tobin** of Butler Tobin; **William F. "Trey" Underwood, III** of Law Offices of William F. Underwood, III.


Lindsay Hopkins

► **Kilpatrick Townsend & Stockton** announced that attorney **Lindsay Hopkins** has been named to the Logan E. Bleckley Inn of Court. A chapter of the American Inns of Court, the Logan E. Bleckley Inn of Court is an organization of Atlanta area trial lawyers and judges dedicated to the promotion of ethics and professionalism in trial practice. Established in 1990, the Bleckley Inn is one of five Inns of Court in Georgia. Hopkins focuses her practice on patent prosecution in the areas of electrical and computer technology, lasers, medical devices and telecommunications. She also practices in the areas of trademarks and licensing.


Andrew Mullen

► **Andrew Mullen** has joined **Nelson Mullins Riley & Scarborough LLP** as an attorney in the Atlanta office, where he focuses his practice on commercial real estate.

► **Baker Donelson** announces the addition of **Daniel A. Cohen** to the firm's business litigation department. Cohen joins Baker Donelson as a shareholder in Baker Donelson's Atlanta office and chair of the firm's higher education group, where he will focus his practice on representing colleges and universities in their legal affairs. His Title IX compliance work includes defending colleges and universities against Title IX investigations by the federal Office for Civil Rights, providing proactive Title IX audits and compliance reviews, and developing litigation avoidance strategies. He serves as a special assistant attorney general in two states to represent certain public institutions in Title IX matters. Cohen also advises colleges and universities on legal aspects of their strategic planning initiatives, NCAA governance issues and changing athletic conference affiliations. In addition to higher education and sports law, Cohen has also litigated cases in the areas of labor and employment, intellectual property and products liability.


Daniel A. Cohen


Charles Hooker

► **Kilpatrick Townsend & Stockton** announced that attorney **Charles Hooker** has been named to the board of directors of WonderRoot. Founded in 2004, WonderRoot is an Atlanta-based nonprofit arts and service organization with a mission to unite artists and community to inspire positive social change. Hooker focuses his practice on intellectual property litigation, including cases involving trademarks, unfair competition, copyrights, and Internet disputes.

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PNC is proud to congratulate Bill Moss on being a 2014 Man of the Year Candidate for the Leukemia & Lymphoma Society. We appreciate what you mean to our local community. Thank you for all that you do.

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