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Featuring:

H. Lamar “Mickey” Mixson
Attorney Of The Month

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H. LAMAR “MICKEY” MIXSON

A Culture of Winning

By Laura Maurice

The list of cases won by H. Lamar “Mickey” Mixson and the law firm of Bondurant, Mixson & Elmore, reads like a “who’s who” of complex business disputes. While some attorneys might consider turning down cases that many lawyers would consider “unwinnable,” Mixson relishes the role. Indeed, together with an all-star team of fellow litigators, he has built a reputation for himself and the firm as *the* boutique litigation law firm to turn to when it comes to high stakes, bet-the-company litigation.

Case in point is *David McDavid v. Turner Broadcasting System (TBS)*, still the largest compensatory damage to be awarded by a jury in Georgia history. Mixson was the lead counsel for McDavid, who filed a suit claiming that TBS had breached an agreement to sell him the Atlanta Hawks, the

Atlanta Thrashers and the operating rights to Philips Arena. Armed with a barely legible handwritten note, a belief in his client and the confidence and charisma to present the facts and evidence in a compelling way, Mixson was able to convince an initially skeptical jury to find in favor for his client and award the plaintiff \$281 million. “We surprised even ourselves,” he says.

Mixson and his firm excel in cases such as this where the subject matter, facts and legal theories are so complex that the outcome of the case is often decided by the quality of the lawyering. His cases usually involve hundreds of millions, or even billions, of dollars at risk and an adverse outcome could cause the client company to go out of business. Often the firm handles its most difficult and largest cases on full or

partial contingency fee arrangements so that the firm only does well if it wins. “We like to bet on ourselves,” says Mixson. “Regardless of whether the case is hourly or contingency or we are representing plaintiffs or defendants, we have a culture of winning that drives us.”

In recent years, Mixson has recovered awards and settlements for clients totaling well over \$2 billion. He has an equally successful record on the defense side, having obtained summary judgments, dismissals and defense verdicts for numerous major claims. His cases have focused on business torts, corporate governance, partnership and fiduciary disputes, insurance coverage and bad faith litigation, attorney and accountant liability, RICO, tender offers, and proxy and securities litigation. In addition to being the attorney behind the largest compensatory damage award in Georgia history in the *McDavid* case, Mixson won the largest jury verdict ever awarded in Georgia (\$454 million) as co-counsel for the plaintiffs, Six Flags Over Georgia, in a breach of fiduciary duty case against Time Warner Entertainment (a verdict which was affirmed on appeal and paid in full).

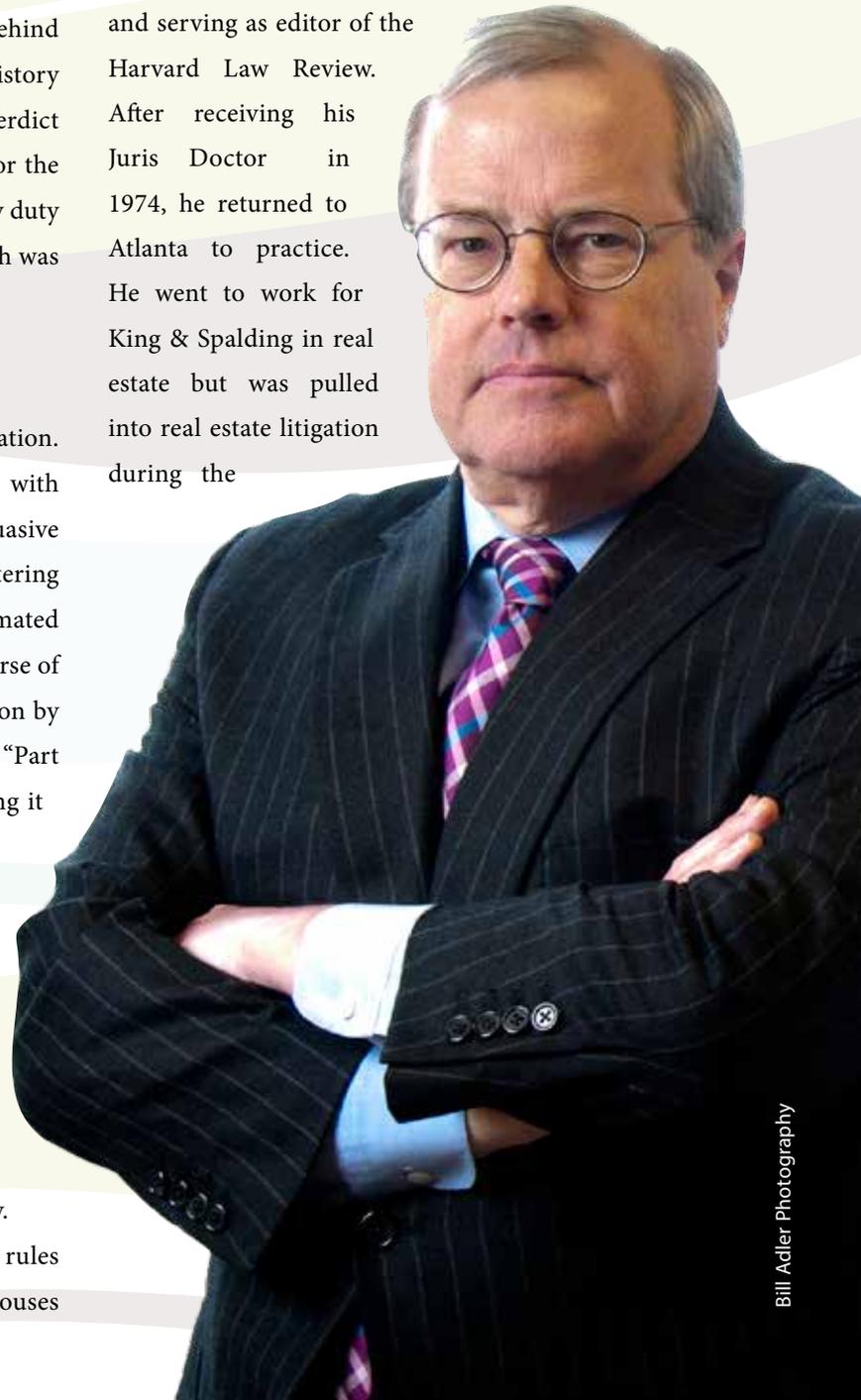
A PASSION FOR WINNING

One can sense Mixson’s passion for his work in conversation. When asked how others might describe him, he says with a chuckle, “I hope that words like ‘effective, persuasive and compelling’ come to mind rather than less flattering descriptions such as ‘flamboyant and loud.’” He is animated when discussing the cases he has worked on over the course of his career. Regardless of the size of the case or his position by the plaintiff or defendant’s side, he loves the courtroom. “Part of persuading a jury is keeping their attention by making it interesting,” he says.

His first encounter with the legal field was a personal one, and it ignited in him a desire for justice and a fearlessness in taking on large and powerful foes. Mixson grew up in Atlanta. He was only 17 and headed for college when he lost his father, an employee of Southern Bell. Mixson’s mother was not able to collect a widow’s pension because her husband had passed away a few months’ shy of his 60th birthday. At that time, the telephone company followed the same rules that the federal government used for Social Security: spouses

were eligible for Social Security for men who paid into the system to the age of 60 and for women who contributed until 55. However, private employers were subject to the Civil Rights Act of 1964 which outlawed discrimination based on race, color, religion, sex, or national origin. Mixson’s mother filed one of the first sex discrimination suits based on the law. She eventually won her case, although it took years to settle, mostly due to the tenacity of Southern Bell’s defense attorney, Emmet Bondurant.

Mixson received his Bachelor of Arts in English from Washington & Lee University, graduating with honors. He then attended Harvard Law School and distinguished himself there, graduating cum laude and serving as editor of the Harvard Law Review. After receiving his Juris Doctor in 1974, he returned to Atlanta to practice. He went to work for King & Spalding in real estate but was pulled into real estate litigation during the



recession and discovered that he much preferred litigation. In 1977, Emmet Bondurant left Kilpatrick Stockton to start his own firm, Trotter, Bondurant, Griffin, Miller & Hishon. Several years later, when Mixson was looking for more opportunity in an entrepreneurial environment, he joined Bondurant's firm, knowing it was a chance to learn from one of the best litigators around.

A BOUTIQUE IS BORN

Early on, the firm was full-service, a slightly smaller version of the larger players in town. In 1985, the corporate attorneys left, leaving behind three litigation partners, about 25 associates and luckily, according to Mixson, "a bunch of business."

He added, "You could say we evolved into and, at the same time, developed the business model of the high-end litigation boutique."

Some of the firm's success has been due to referrals from larger firms with conflicts issues. "They know we are good at what we do and will get superior results for their clients. Plus, they don't have to worry about us competing with them."

Bondurant, Mixson & Elmore has intentionally remained steady at about a 30 attorney count over the years – an elite group of highly-qualified litigators who apply the lessons learned in more than three decades of experience. The firm recruits lawyers who graduate at the top of their classes from the best law schools, virtually all who have served as judicial clerks, with the intent that they will become partners in the firm. This policy of not hiring laterally combined with exceptionally low lawyer turnover means that cases are staffed with knowledgeable, experienced lawyers who can see them to conclusion. These days, Mixson spends most of his time at work strategizing with others about cases, as well as going to court and arguing cases. He recently settled a case against KPMG for an undisclosed sum for selling his client pre-packaged tax shelters that were fraudulent.

His advice for lawyers just starting out? "We're seeing a lot of natural selection in the industry right now because the legal business is not a growing one. It's important for young lawyers to look for a firm with a sustainable business model, and we think having a singular focus is a good thing."

At a Glance

Bondurant Mixson & Elmore LLP

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Practice Area

Business Litigation

Mickey Mixson

Education

Juris Doctor, Harvard Law School, 1974

Honors And Awards

- Recognized by Chambers USA and Chambers Global as one of the highest-ranking trial lawyers in the United States
- Finalist, Trial Lawyer of the Year Award, Trial Lawyers for Public Justice, 2001
- Profiled by National Law Journal, 2008
- Member of Georgia's Legal E lite
- Named in Top 100 Georgia Super Lawyers
- Named in 500 Leading Litigators in America
- Named in Best Lawyers in America
- Named as 2012 Atlanta Litigation – Securities Lawyer of the Year, Best Lawyers in America
- Georgia Local Litigation Star, Benchmark Plaintiff 2012

Professional Activities

- Past President & Member, Board of Directors, Georgia Lawyers for the Arts
- Fellow, American College of Trial Lawyers
- American Bar Foundation
- Atlanta Bar Association Litigation Section
- State Bar of Georgia Antitrust; Corporate & Banking; General Practice and Trial Law Sections
- American Bar Association Business & Litigation Sections; Commercial & Banking Litigation and Business Tort Litigation Committees
- President, International Network of Boutique Law Firms, Atlanta Chapter
- Director, International Network of Boutique Law Firms, Executive Committee
- Lawyers Club of Atlanta