

# RICHBARNEWS

Newsletter of the Richland County Bar Association



MIKE POLK  
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President

JODY BEDENBAUGH  
President-Elect

## UPCOMING EVENTS

Judicial Reception  
Thursday, August 20, 2015  
5:30 PM  
Columbia Museum of Art  
Register Online at -  
<https://2015judicialreception.eventbrite.com>

## SAVE THE DATE

Family Picnic  
Thursday, October 8th  
5:30 - 7:30 PM  
Robert Mills House

Annual Free Ethics CLE  
Friday, November 6, 2015  
8:30 AM - 12:00 PM  
Brookland Baptist Church

Holiday Party/Annual Meeting  
Thursday, December 10, 2015  
Columbia Museum of Art



## From the President, Ward Bradley

Being a lawyer is tough. We make a living fixing other people's problems. We are never finished, and we have scores of deadlines stretching out in front of us. Most of what we do is adversarial in some way. There is always someone pushing against us. No wonder that many of us are stressed out or frustrated in our jobs.

There is no one solution for the state of lawyers. If being a lawyer was easy, everyone would do it. But, one solution is getting to know the people on the other side of the courtroom or conference table. It's hard to be unpleasant to people we know, and it's easier to fix problems when we know the person on the other side.

One purpose of the Richland County Bar Association is to help you get to know one another better. And, meeting someone's family is a big part of that. So, we are going to have a picnic to meet one another's families. The picnic is scheduled for Thursday, October 8th from 5:30 to 7:30 at the Robert Mills House during the Scarecrows in the Garden exhibit. Balloonopolis will twist balloons and Sarah Dippity will paint faces. There will be food for kids and adults, a bounce house, and beer and wine. Cost is \$20 per family. So, please come. Bring your children, bring your grandchildren, bring your nieces and nephews, or bring your neighbor's children.



By the way, those are Betsy and my boys in the picture. Their names are Davidson, Christopher and James Marshall. They are 9, 10 and 11. They enjoy soccer, tennis, legos and fighting with each other. Come to the picnic, and you can meet them.

Ward Bradley can be reached at [ward@mttlaw.com](mailto:ward@mttlaw.com).

## From the Editor, Dave Maxfield



### Moving On

Don't tell me, because I already know. You've been waiting by the mailbox, haven't you? Wondering where your Richbar newsletter is? Well, as a matter of journalistic principal, the blame always lies with the editor. But unlike all the times I've accepted the blame in the past,

this time it really is my fault.

I've been in the midst of moving my family of five from one house to another for what seems like about two months. It's one of those "life events" that shouldn't be that time consuming or stressful. It only rates a 20 on the Holmes and Rahe Stress Scale which rates life's anxiety-producing events on a scale of 100. Theoretically, it should be way less stressful than "Jail Term" (63) and only slightly more stressful than Christmas (12). Based on Holmes and Rahe, moving maybe does not even qualify as a "life event."

But it sure felt like one. Maybe that's because, as I was shoving stuffed animals into trash bags and carefully boxing up photos of my sons from when they were still small, our state was going through its own "life event," as the Confederate flag rose once again out of the past and into the spotlight.

I can't say I saw much of the coverage as the flag finally came down, consumed as I was with figuring out how to pack VHS video tapes and wondering what we would play them on if we ever found them again after the move. But even as I missed out on coverage of one of the defining events of the decade in South Carolina, I could see its parallel to my own situation. We were both in the middle of a big and rapid change. We were packing away things that no longer served us. We were moving away from our past to start a new chapter.

This is my fourth move with my family since 2003. Having done it so often, one of the hard truths I've learned is how much our memory is tied to a place. While we may gain a nicer or a bigger house each time

we moved, we lose something too. We break our connection, for example, with the place where our first child took his first steps. We still have the memory, sure, but we lose our easy access to it. It's hard to let go of that. And when we finally cut that rope that anchors us down into the past, it is disorienting.

But we can't stay anchored to the past forever. And we can't keep everything.

At least, that's what I told my kids as we decided what to keep and what to let go. And that's where most of the stress and argument comes in. While one brother sees no significance in the Snoopy with the missing ear, to the other it's a cherished object from his childhood he wants to display prominently. How could two people in the same family attach such different values to the same object? In the end, they let it go. They are growing up. They realized that they can't have new things together if all the space is taken by an accumulated history that means different things to them.

So, that's the really stressful half of moving - deciding what things no longer serve our family. The other half - and the reason for moving - is about the hope for something better. That can be stressful too because it involves stepping into the unknown. But that's where all space and opportunity lies. It's the history that's yet to be written.

My family is in our new house, finally. We're past the hard part. And - just maybe - my state is too. The question now is what history can we build together in this place? What monuments to our time here will stand at the statehouse in 100 years?

That's something we can only answer together, as we move on.

*Dave Maxfield can be reached at [dave@consumerlawsc.com](mailto:dave@consumerlawsc.com).*

The editors welcome your inquiries, comments and contributions. Email feedback to [rcba@scbar.org](mailto:rcba@scbar.org).

## 2015 Judicial Reception

The Annual Judicial Reception will take place Thursday, August 20 at The Columbia Museum of Art at 5:30 PM. The RCBA entertains the statewide judiciary every year when they come to Columbia for their Annual Conference sponsored by Court Administration. Catering will be provided by Aberdeen of Camden and valet parking will be available.

Tickets are \$20 per person for RCBA members. All members of the judiciary are guests of the RCBA. You may purchase your tickets on Eventbrite. The link is <https://2015judicialreception.eventbrite.com>. You may also register by mailing your check to RCBA, PO Box 7632, Columbia SC 29202. This is a large party and reservations are necessary to assure everyone can enjoy the delicious fare.

## Online Membership Directory

We are in the process of designing a new website. For now, please go to our current website and check your listing to see if it is accurate. If you need to make updates, please email them to [rcba@scbar.org](mailto:rcba@scbar.org). If you need to update your profile photo, please email us a jpeg that is ideally 120 pixels wide by 180 pixels tall. If the image is larger, we can crop it for you.



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Powell Dojaquez

Retired) is an Iraq War veteran. Gene and Kenny represent disabled veterans at all levels of the VA administrative process. Our nation's veterans fought for our country. Let BNTD fight for them! Call us at 877.524.4675 for a free consultation.

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## ONLINE MEMBERSHIP REGISTRATION

Join the RCBA or renew your membership online by going to <http://richbar.org/MembershipRegistration.aspx>. You can make the \$100 payment online using Pay Pal. If you would prefer to register by mail, this is still an option too. The mail-in membership registration form can be found here: <http://richbar.org/Membership.aspx>.

# Get Control of Your Email Inbox Using These Outlook Tools

by Bill Latham

Here are several frequently overlooked Microsoft Outlook tools that can help increase your efficiency and help keep your email inbox under control.

## Deferring Action

If there is an email in your inbox that is an action item, but that you want to defer to a future date, you can do this by forwarding the email to yourself and using the delayed delivery function to schedule when it reappears in your inbox. To do this, open the email, Left click "Forward," address the email to yourself, Then click the "Options" menu. Select "Delay Delivery," then select the date and time you want the email forwarded to your inbox and click "close." Now send the email. Delete the original from your inbox. Now you will not see that email again until the chosen date and time.

## Displaying Emails as Conversations

I prefer my emails organized as conversations as opposed to strict chronological order – displayed this way the original email is visible, but all related emails in the chain are hidden unless you click the expand button on the visible email, which then expands to show all emails in the chain. When you get new emails in a chain, the main email turns to bold. You can set this by going to the View tab of your main mailbox and checking "Show as Conversations." Click the "Arrange By:" bar at the top of the message list and select "View Settings" from the menu. Click "Conversation Settings" and you will be offered several choices that are a matter of preference.

## Searching all Folders For Missing Emails

If you use Outlook subfolders to save emails by matter, etc., you may have experienced a situation where an email was stored in the wrong folder, making it difficult to find. If you know anything about the email, you can

search all of your folders at once to find the wayward email. Go to the "Search Inbox" box in the top right hand corner of your inbox. Type something that would be found in the email you are looking for, e.g., a name or something in the subject line, then hit "Enter" or click search icon. If the item is not located in your inbox, click the blue link that says "Try searching again in All Mail Items." The search will be run in all of your mail folders (including sent mail) except the "deleted items" folder. Too many results? You can narrow your search by using any Outlook Mail field, e.g., "To: <Name or any part of name or email address>," "From: <Name or any part of name or email address>," "Subj: <text contained in subject line>," etc.



## Bonus Tip – Shortcuts for Inserting Frequently Used Text

If you frequently type out the same information over and over again, e.g. conference call dial-in instructions, you can save the text as a "Quick Part" and give it a name like "dialin." Each time you type "dialin" the conference call information will pop-up and you can insert it by hitting "Enter." To set this up, go to the email composer window and highlight the text you want to insert, then click on Insert tab, click the Quick Parts dropdown and select "Save selection to Quick Parts gallery." In the "description" field use the default or give the insert a name like "dialin." The next time you start typing the phrase or the description, a pop up will appear with the insert – hit return to insert the text.

*If you have suggestions for future Tech articles, please email them to me at bill.latham@nelsonmullins.com.*



# 2015 Free Ethics CLE

PLEASE NOTE NEW INFORMATION: This November 6 we will meet in a different place. We will not meet at the USC Law School auditorium. There is a serious shortage of parking for all the members who take advantage of this popular event. We will be meeting at Brookland Baptist Church and Convention Center on Highway 378. There is ample parking and meeting space.

The program will begin at the usual time of 8:30 and end at noon. A continental breakfast will be served. You will receive more information on this event closer to the date.

## Richland County Common Pleas Jury Verdicts

### 13-CP-40-6277

Katrina Parise vs. Earl B. McFadden, et al

Attorneys:

Plaintiff: Eric Bland and Ronald Richter

Defendant: Mark Barrow and T. Eugene Adams

Cause of Action: Personal Injury/Products Liability

Verdict: All parties found Negligent. No financial award.

### 14-CP-40-3192

Aisha Brown vs. Charles Theodore Riley, Jr.

Attorneys:

Plaintiff: G. Randall McKay

Defendant: Patrick D. Quinn

Cause of Action: Auto/personal Injury

Verdict: For Plaintiff

Actual Damages: \$4034.22

### 10-CP-40-1763

S. Hammett vs. SC DHEC

Attorneys:

Plaintiff: M. P. Miles

Defendant: K.L. Wingo

Cause of Action: Contract/discrimination

Verdict: For Defendant

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## Noteworthy News & Announcements



**Adams and Reese** held its second successful pro bono-thon in the spring. Eight attorneys and 10 law students answered more than 55 legal questions using the South Carolina Bar's Law Answers program. Adams and Reese attorneys in the Columbia office donated 382 pro bono hours in the prior year.

Nexsen Pruet recognized 18 Chapin Middle School girls for their completion of the firm's 10<sup>th</sup> Next Steps Class. Nexsen Pruet attorney **Laurie Becker** helped create the Next Steps program, which teaches leadership skills to middle school girls in the Midlands. The day included a presentation by the girls and a celebratory luncheon at the offices of Nexsen Pruet.

**Jeanette W. McBride**, Richland County Clerk of Court, announces she has chosen **Virginia Fuller Belcher** as her new Chief Deputy Clerk of Court beginning June 15.

**Jacob Born** with Chappell Smith & Arden has been named president of the Charleston School of Law Alumni Association, Columbia Area Chapter.

**James Brogdon** and **Lindsay Joyner** of Gallivan, White & Boyd have been honored by the South Carolina Bar's Young Lawyers Division as "Stars of the Quarter." Brogdon serves as co-chair of the Protecting Our Youth Committee. Joyner is currently serving as Secretary-Treasurer and on the Attorney Wellness Taskforce as the Chair of the Subcommittee for the creation of a

Statewide Wellness Plan.

**Callison Tighe & Robinson** has donated \$5,000 to Harvest Hope Food Bank to help provide meals for children during the critical summer months. A longtime supporter of Harvest Hope, the firm has a commitment to help hungry families in our state and encourages other firms to join them in supporting the food bank.

**Joseph D. Clark** of Haynsworth Sinkler Boyd has received the Leadership in Law award from *SC Lawyers Weekly*.

Clingman Law Firm announces that **B. Sullivan Cooper** has joined the firm located at 1522 Richland St. 29201 Phone: 787-0557

Collins & Lacy Co-Founder **Joel Collins** traveled to Runnymede, England to observe the 800<sup>th</sup> Anniversary of the sealing of the Magna Carta. Collins, President of the American Board of Trial Advocates, has been representing the organization in England and helped orchestrate the major international celebration. Along with fellow South Carolinian and ABA President **William Hubbard**, Collins attended the rededication of the ABA's newly refurbished stone pillar memorial located along Thames.

Fleming & Whitt, P.A. announces the retirement of **Pearce W. Fleming**. D. Randolph Whitt will continue to practice in the firm.

**Larry Flynn**, an attorney with Pope Flynn, has received the USC School of

Law Compleat Lawyer Platinum Award recognizing professional accomplishments, as well as significant contributions to the legal profession and exemplifying the highest standards of professional competence, ethics and integrity.

**Gallivan, White & Boyd** announces that the firm has been selected for inclusion in the 2015 edition of *Chambers USA* as a Leading Law Firm in Commercial Litigation. Additionally, two Columbia firm attorneys **Gray T. Culbreath** and **John T. Lay, Jr.** were chosen as leading business attorneys in the field of Commercial Litigation.

The Fifth Judicial Circuit Court announces that the mailing address for **The Honorable Tanya A. Gee** has changed to PO Box 192, Columbia SC 29202.

Barnes Alford announces that **Matthew G. Gerrald** has graduated from the 2015 SC Bar Leadership Academy, a highly selective program designed to equip young lawyers with networking opportunities, professionalism training, community awareness and other skills necessary to give back to the profession and position themselves as leaders in the community.

**Emily Gifford** of Richardson Plowden has been certified as a circuit court mediator by the S.C. Supreme Court's Board of Arbitrator and Mediator Certification.

**Proffitt & Cox** is pleased to announce their new address at 140 Wildewood Park Drive, Suite A. Columbia, 29223. Phone: 834-7097.

## Noteworthy News & Announcements (...continued from page 6)

Turner Padgett Graham & Laney announces that **Mark B. Goddard** will return to the firm's Columbia office from the Myrtle Beach office where he has been since 2012.

**Elizabeth "Betsy" Gray** of Sowell Gray Stepp & Laffitte received the Palmetto Center for Women's Tribute to Women and Industry Award.

Fisher & Phillips announces that **Michael C. Greene** has joined the firm located at 1320 Main St. #750, 29201. Phone: 255-0000.

Law Offices of Lester & Hendrix announces that **James D. Harkey** has become an associate of the firm located at 1901 Gadsden St. #A, 29201. Phone: 252-4700.

Moore Taylor Law Firm announces that **Robert D. Hazel**, a firm partner, has transitioned into an of counsel role with the law firm.

Nexsen Pruet lawyers **Jennifer Hollingsworth** and **Mark Moore** recently completed participation in the 8<sup>th</sup> Midlands Class of the Riley Institute at Furman Diversity Leaders Initiative (DLI). DLI is a unique diversity leadership program where participants gain knowledge of how to effectively manage and lead increasingly diverse workers, clients and constituents.

Willson Jones Carter & Baxley announces that **Sarah K. Johnson** and **Ramie S. Shalabi** have joined the firm's Columbia office.

McKay Cauthen Settana & Stublely announces

that **Charles Kinney** has been selected for the new member spotlight in *The Voice*, a weekly newsletter published by DRI-the Voice of the Defense Bar.

**John F. Kuppens**, an attorney at Nelson Mullins Riley & Scarborough, has been selected by *Law Business Research* for its Who's Who Legal Product Liability Defence directory.

**Reyburn W. Lominack III** of Fisher & Phillips has been certified as a specialist in employment and labor law by the SC Supreme Court.

Turner Padgett Graham & Laney announces **Ian D. McVey** has joined the firm located at 1901 Main St. 29201. Phone: 227-4267.

**Nelson Mullins Riley & Scarborough** announces formation of their Defense Industry Sector Practice. The firm represents a variety of clients in the defense and government services industry including major defense contractors and related service providers. The firm also announces they have opened a new office in New York City located at 415 Madison Avenue.

**Jax Pavlicek**, an attorney with Callison, Tighe & Robinson, has been appointed to the Board of Directors of the Columbia World Affairs Council. The non-partisan, non-profit council acts as a bridge between the Midlands and international communities.

**Gary A. Pickren** of Rogers Townsend & Thomas has been named Closing Attorney

of the Year by the Sales and Marketing Council of the Building Industry Association of Central South Carolina.

Pope Flynn announces that **Margaret Pope** has been selected as one of the 50 Most Influential People in the Midlands by *Columbia Business Monthly* magazine. The annual list recognizes "the people who made things happen the previous year in the areas of business, government, nonprofits, the arts, and healthcare."

Collins & Lacy announces that **Kerri Rupert** has become an associate of the firm located at 1330 Lady Street, 29201. Phone: 256-2660

Sue Berkowitz announces that **SC Appleseed Legal Justice Center** joined over 200 other non-profits to participate in Midlands Gives, a one day online giving event hosted by the Central Carolina Community Foundation. Thanks to the generosity of over 100 donors including a \$2500 match from a "Cheerful Giver" SC Appleseed raised \$11,185 to advocate for low-income South Carolinians.

Bowman and Brooke has been ranked by *Chambers USA* in the areas of product liability and mass tort litigation. The firm was recognized for the fourth consecutive year in Band 2 of the Nationwide Product Liability category. Managing Partner **Joel Smith** was also recognized in the Nationwide Automotive Spotlight; Band 4 of the Nationwide Product Liability & Mass Torts category; Band 2 of the SC Litigation, General Commercial category.

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## RICHBARNEWS

### Classified Ad Policy

Rates are as follows:

Classified Ads  
\$1.00 per word

Quarter Page Ads  
\$75.00

Half Page Ads  
\$150.00

Business Cards  
\$50.00

*All ads must be prepaid. Ads must be obtained by the 15th of the month previous to publication in January, March, June, September and November.*

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## Noteworthy News & Announcements

(...continued from page 7)

Sowell Gray Stepp & Lafitte celebrated Law Day on May 1st. On the 800<sup>th</sup> anniversary of the sealing of the Magna Carta, the firm recognized and honored the important role of law and courts in our society.

First Palmetto Bank announces Samuel R. Small, Jr. has been named President of the bank located at 407 DeKalb St. Camden SC 29021. Phone: 424-5019.

Three Collins & Lacy attorneys were selected as presenters for the 2015 Primerus Defense Institute (PDI) Convocation held in April. Christian Stegmaier, chair of the firm's Retail & Hospitality Practice Group and Brian Comer, chair of the firm's Products Liability Practice Group gave presentations. Pete Dworjanyn, chair of the firm's Insurance Coverage Practice Group, served as a panelist.

Bluestein Nichols Thompson & Delgado announces that Allison Sullivan has been selected to Chair the Leadership Columbia Alumni Association Advisory Board. She is a graduate of the Leadership Columbia Class of 2013.

Breon C. Walker of Gallivan White & Boyd has been elected to the Board of Directors for the 701 Center for Contemporary Art.

Parker Poe Adams & Bernstein announces that Court Walsh has joined the firm located at 1201 Main St. #1450, Columbia 29201. Phone: 253-6862.

Calhoun J. Watson of Sowell Gray Stepp & Laffitte has been named Lawyer of the Year by SC Lawyers Weekly.

## EMPLOYMENT OPPORTUNITIES

The RCBA posts legal-related employment opportunities on our website. Visit <http://richbar.org/EmploymentListings.aspx>.

Additionally, we post the listings on the RCBA Facebook and LinkedIn pages. To submit a listing, please email it to [rcba@richbar.org](mailto:rcba@richbar.org).

# SOLUTIONS

Mike Riling, Partner in Riling, Burkhead & Nitcher  
Lawrence, Kansas

What does it take to run a practice for over 100 years? For Riling, Burkhead & Nitcher, it comes down to the basic principle of helping people with their problems. Partner Mike Riling appreciates that ALPS was started for attorneys by attorneys and shares a solutions-focused philosophy. Since 1988, ALPS is still proudly with you.

Hear more from ALPS policyholder Mike Riling at [25.alpsnet.com](http://25.alpsnet.com)



## Classifieds

**6 NEWLY RENOVATED OFFICES AVAILABLE FOR RENT** located at 1803 Hampton Street. Rent includes use of a reception area, conference rooms, break area and utilities. Rent is \$500 to \$750 depending on size. Please call at (803) 251-2288 for additional information.

**OFFICE SPACE FOR RENT:** One to two office spaces available for rent, downtown Columbia (925 Calhoun Street) directly across from Federal Courthouse. \$750/month, including utilities and furniture. Call 803-960-4883 for additional information.

**OFFICE SPACE FOR RENT:** Professional Office Space for Lease—1001 Washington Street, Suite 300 consisting of 2400 square feet. Listed on the National Register Of Historic Places, this property is in an ideal Vista location. Former law office with space for 5 professional offices, 6 to 8 support staff, conference room, etc. Beautifully and historically rehabilitated but with modern wiring, HVAC, data cabling, etc. \$10.00 per square foot. Contact Robert Lewis (803) 978-2838 office or (803) 606-1545 mobile.

**OFFICE SPACE FOR RENT:** 1328 Blanding Street, Columbia 29201. Downtown Columbia, 1 block from Richland County Courthouse. From 2,200 to 4,000 sq. ft., available upstairs or downstairs. Basement storage area. Utilities, parking and phone system included. Call Bill Cotty at (803) 252-7130 or (cell) (803) 920-7779.

**OFFICE FOR LEASE:** 2019 Park Street. Designed for attorneys; 6,000 square feet; 15 offices; conference room; conference room/library; break area; support staff space; parking lot. Call (803) 779-6365.

**OFFICE FOR RENT:** 1911 Barnwell Street. Reception area; two offices; conference room; file room; direct parking; \$625 per month, plus utilities. Call (803) 779-6365.

**OFFICE SPACE FOR RENT:** across Main Street from Richland County Courthouse. 1722 Main Street, Suite 200. 3 offices--perfect for solo practitioner with 1 or 2 support staff. Parking. Shared and furnished conference room, reception/waiting area and kitchen. Call (803) 252-2600.

**OFFICE SPACE FOR RENT:** beautiful office directly across from Richland Co. Courthouse. \$500 rent includes utilities. Call (803) 376-0075.

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## The Courage of a Lawyer

by John Cannon Few

Courage is the defining quality of great lawyers. Good lawyers think deeply, speak eloquently, and write persuasively. They are creative, persistent, and dedicated. Good lawyers combine an extraordinary work ethic with compassion for ordinary people. However, no good lawyer, no matter how talented and skilled in these respects or in others, can be great unless the lawyer has courage.

This essay reflects a lifelong admiration for the courage of a lawyer. I grew up under the tutelage of a tenacious lawyer. My first job was law clerk to a principled judge. In all of my early experiences as a lawyer, I worked with people who held firm in the face of adversity. I came to believe every lawyer was courageous, so I worked to define myself by courage. Through twenty-seven years practicing law and holding court as a judge, I have reached two inescapable conclusions: not all lawyers are courageous, and I have far to go before I reach that ideal for myself.

As I strive to move forward in my own journey, these questions resonate within me: What is courage? How can we learn courage, and from whom? Does the courage we learn from others play out in the lives of the men, women, and children we as lawyers represent? The answers to these questions go to the heart of why we chose to become lawyers. Exhibitions of courage by great men and women in our history teach us to be courageous. Their examples enable each of us to be the best lawyers we can be. In turn, our courage plays itself out over and over again in the lives of those we touch.

### I. Three Emblems of Courage

Millions of men and women throughout our history have demonstrated courage. Many of them have shown such extraordinary courage that they have become emblems of courage in our society. Three of those emblems illustrate the manner in which courage is passed down to us and, in turn, passed on to the people lawyers represent. They are Frederick Douglass, Thurgood Marshall, and Waties Waring.

#### A. Frederick Douglass

One of the first acts of courage in Frederick Douglass' life was teaching

other slaves to read the New Testament, with as many as forty people attending his classes. His master retaliated against his courage by sending him to another owner who had a reputation for "breaking" courageous slaves. After several years of severe beatings from this new master, sixteen-year-old Douglass fought back. He later wrote: "At that moment—from whence came the spirit I don't know—I resolved to fight." The "spirit" was his courage. Douglass said, "I seized him hard by the throat, and as I did so, I rose." Seizing adversity by the throat his entire life, Douglass rose to become one of the foremost anti-slavery advocates of his time. At age twenty-seven, still technically a slave although he had long-since escaped, he published "Narrative of the Life of Frederick Douglass, an American Slave," a compelling autobiography of courage in a lifelong struggle for racial equality. Douglass went on to become internationally known, serving as Minister General to Haiti and running for Vice President of the United States. Douglass defined his life by courage, and became an emblem of courage in his time and today.

#### B. Thurgood Marshall

The struggle for racial equality reached a milestone in 1967 when Thurgood Marshall joined the Supreme Court. In the six years before that, he had been Solicitor General of the United States and a judge on the Second Circuit Court of Appeals. Understandably, many people believe Justice Marshall was famous simply because he was the first African-American to serve on our highest court. Those who have carefully studied his life might be aware that lawyer Marshall argued *Brown v. Board of Education* before the Supreme Court. Hardly anyone alive today, however, remembers that young Thurgood Marshall was the principal lawyer in the trials of two of the five cases consolidated for appeal in *Brown*. In actuality, Marshall was already a national celebrity in 1951 when he tried the first of those cases, *Briggs v. Elliott*, which arose near Summerton, South Carolina. The story of how *Briggs* became one of those important cases illustrates how the courage of one lawyer changed the lives of many people; not only the lives of the plaintiffs and their families, and the lives of millions of school children since, but also the lives of many lawyers and the clients they represent even to this day.

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## The Courage of a Lawyer (continued from page 11)

*Briggs* arose in an atmosphere of extreme adversity, even terror, surrounding the question of racial inequality and school segregation. The social and political establishment throughout the south, particularly in South Carolina, created this atmosphere through threats and violence. The NAACP's efforts to recruit parents to sue schools always included a warning that they might lose their jobs and face violence against their homes, themselves, and their families. The NAACP tried to bring a case in Louisiana, but no parents were willing to be plaintiffs. Marshall's courage made it different in South Carolina. Marshall sent his co-counsel, Robert Carter, to Summerton to meet with twenty parents to discuss Marshall's plan for success. After that meeting, inspired by Marshall's involvement, Harry Briggs and eighteen others agreed to join the case. *Briggs and Brown* happened because the courage of a lawyer enabled ordinary people like Harry Briggs to take the risks necessary to stand up and make history. As we look back in time, we see easily they were right. But to roll up their sleeves and confront injustice in the early 1950s took guts. It took courage! Thurgood Marshall is an emblem of that courage.

### C. J. Waties Waring

Before *Briggs*, Marshall and the NAACP avoided challenging the constitutionality of segregated schools because they believed the time was not right. In every case before *Briggs*, the plaintiffs argued that the separate schools were not equal, and thus were illegal, instead of arguing that the separate nature of the schools was unconstitutional in the first place. Marshall carefully drafted the complaint in *Briggs* to exclude the argument that "separate but equal" was unconstitutional. However, when Marshall and his co-counsel arrived in Charleston for pretrial hearings in front of United States District Judge J. Waties Waring, Judge Waring challenged Marshall in open court to attack the constitutionality of segregated schools.

Very few people today have heard of Judge Waring, even in his home state of South Carolina. Yet Waties Waring was fully capable of exerting

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## The Courage of a Lawyer (continued from page 12)

influence over the giant young Thurgood Marshall had become. Judge Waring made bold decisions in several early civil rights cases that shook the foundation of segregated society and shocked the political and social leadership of the south and of the nation. One of those decisions was *Elmore v. Rice*, in which Judge Waring ruled the democratic party in South Carolina must open its primaries to black voters. Another was *Wrighten v. University of South Carolina*, in which Judge Waring ordered the state to provide legal education opportunities to blacks.

In retaliation for these and other decisions, Waring was ostracized by his friends, his city, and his state. He and his wife were verbally abused, and their home was vandalized. The animosity became so public that two Congressmen called for Waring's impeachment, leading to an impeachment petition signed by 20,000 South Carolinians. In one seemingly humorous incident, when lightning struck the house next door to Waring's vacation home on Sullivan's Island, his neighbor put a large sign on the roof that said, "Dear God, Judge Waring Lives Next Door." In another incident not humorous at all, a nighttime mob burned a cross in front of Waring's home.

Despite all this, Judge Waring boldly and publicly pushed Marshall to attack separate schools on a constitutional basis, knowingly putting himself in a position of being further ostracized, perhaps endangering his life.

In recognition of the same decisions, however, Judge Waring was known nationally for his courage. *Time Magazine* published a story on Judge Waring entitled "The Man They Love to Hate." The article describes Judge

Waring as "cold-eyed" in the face of the bitterness his own city "spent" on him. The article quotes him from the *Elmore* trial: "It is a disgrace when you have to come ... and ask a judge to tell you how to be an American." *Time* predicted that history would "remember ... Judge J. Waties Waring as a man of cool courage."

The National Lawyers Guild honored Judge Waring for his courage with the 1948 Roosevelt Award. In a speech commemorating the award, prominent Alabama lawyer Clifford Durr drew a comparison between the courage shown by Judge Waring in the face of retaliation and the courage shown by heroes on the battlefield. Durr, who would later represent Rosa Parks, remarked that soldiers, like lawyers, "draw courage from each other." He went on to say:

*Courage of a greater and rarer kind is required to face the disapproval of society in defense of a basic democratic principle. ... It takes real courage for a judge, in opposition to the deepseated folkways of those with whom he lives ... to say, "This is the law. It is my duty to enforce the law and I will do my duty."*

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## The Courage of a Lawyer (continued from page 13)

Judge Waring was praised and criticized in major newspapers from New York to California. In both the praise and the criticism, Judge Waring was recognized as an emblem of courage.

### II. What is Courage?

What is this quality that is the hallmark of these great leaders and lawyers? In a general sense, courage is “the state or quality of mind or spirit that enables one to face danger or fear with self-possession, confidence, and resolution.” This abstract definition, however, has little practical meaning until heroic and ordinary people give it character through their actions. We have seen heroic people demonstrate acts of courage in battle and in other arenas of physical danger. From the flag raisers atop Mount Iwo Jima to the firefighters racing back in to the World Trade Center, our heroes have painted images of courage as a vivid scene in our national portrait.

Courage can be described as physical or moral. Physical courage drove the flag raisers and firefighters to their heroic acts. Moral courage might be less vivid in its imagery but it is no less heroic. Moral courage is the determination to take action, to hold firm in the face of adversity, terror, or retaliation, despite the risk of adverse consequences. Moral courage is the foundation for physical courage, but it has a separate identity particularly applicable to lawyers and legal ethics. Seemingly ordinary lawyers become heroic as the actions they take on behalf of clients every day give character to moral courage.

### III. Courage and Legal Ethics

It took both physical and moral courage for Douglass, Marshall, and Waring to live the lives they chose. They defined their lives, however, primarily by moral courage. Many of the rules of legal ethics call upon lawyers to embrace the same moral courage these men and others have shown us. Rule 1.6(b) of the Model Rules of Professional Conduct provides an excellent example. This rule allows an exception to the prohibition against disclosing a client’s confidences if “necessary ... to prevent reasonably certain death or substantial bodily harm; [or] to prevent ... a crime or fraud that is reasonably certain to result in substantial injury to

... another.” A lawyer who believes that keeping a client’s confidence will endanger another person faces a difficult test of moral courage.

The Preamble to the Model Rules contains another call upon lawyers to demonstrate moral courage: “A lawyer ... is a public citizen having special responsibility for the quality of justice.” While it may be rare that a lawyer must make a courageous choice between allowing a crime to be committed and disclosing a client’s confidences, it is not rare that a lawyer has an opportunity to exhibit this “special responsibility for the quality of justice.” We are fortunate to have compelling images in literature of lawyers fulfilling this special responsibility. Atticus Finch demonstrates the courage of a lawyer in *To Kill a Mockingbird*, not only in representing his clients, but also in raising his children and leading his community. Harper Lee reminds us that Atticus demonstrates moral courage when Scout says, “It was times like these that I thought my father, who hated guns and had never been to any wars, was the bravest man who ever lived.”

These compelling images of courage are not limited to literature. We also have local images of courageous lawyers. Communities large and small remember men and women whose lives became legend as stories of their courage were retold. In South Carolina, one of those legendary figures is the late Frank Eppes. Over his thirty-eight years of service as a trial judge, Judge Eppes touched thousands of lives all over the state. The stories told about Judge Eppes are inspirational, but South Carolina remembers Judge Eppes not simply because he inspired us. Every legal community remembers its legendary figures because their lives embodied courage, and because they demonstrated dedication to the duty of a lawyer to fulfill our “special responsibility for the quality of justice.”

As images of courage from literature and local lore replay themselves in our courtrooms every day, they show us the courage of a lawyer.

*To read the rest of this article, go to our website at this address: <http://richbar.org/Portals/0/courage.pdf>. John Cannon Few is the Chief Judge of the South Carolina Court of Appeals. This article first appeared in the Winter 2013 edition of the the ABA’s “Litigation” Journal. It was printed with his permission.*

## HEALTH & FITNESS

by John Hearn



### Poor Old Veeder

Summer’s here. I can tell, because I just ate the last of the fruitcakes I baked back in November. (I found a ground score in the console of the Kia last night.) I never understood why the Navy brass rejected my excellent suggestion that my fruitcake replace MREs. Those silly mylar meals leave behind a terrible

waste stream, while my Christmas confection can exist unwrapped in that briefcase I only use on long trips for months. I just hose off a hunk and I’m good to go.

With Old Man Winter (so I’m an ageist; sue me) and Yellow Spring Fever over, it’s time for my report on the cold-weather vacay. Generally that jaunt finds Johnboy in the role of going-west old man, donning ridiculous poofy outerwear that make my fanny approximately (and appropriately) the size of a mini-fridge. Still, there is nothing fake-channeling Joe Cool on the front range of the Colorado Rockies. Downhill is my thing - one of the few sports where my lumpen form gives me a speed advantage until I inevitably crash. Luckily, the Stay Puft marshmallow attire keeps the bruising to a manageable level.



the week. The pitch sounded pretty danged good to me back in October. But as the end of January approached, I began to worry. I was

even more out of shape than usual. (I’m sure those late-night fruitcake binges out of my car trunk were not relevant. I would ask that you exclude that from the record.) And my yoga teacher’s teacher, a notorious torturess named Dawn (of the Dead, perhaps?) would show no mercy when asana time came. I was toast.

I need not have worried. First, Costa Rica itself: great place. The first thing one learns down there is the national code words: “Pura vida.” Our guide told us that those two words were all we needed in the way of Spanish in CR. Roughly translated, Pura Vida means “I’m a gringo tourist and you should smile at my ignorance of your culture,” and it always worked. Well, almost always - the aforementioned yoga dungeonmaster pretended not to hear our Pura Vida entreaties during class. I guess she didn’t speak Spanish.



You may have heard Costa Rica has wonderful, temperate weather. My group sure got that message on the front end. We all brought plenty of swim gear for the pool, together with multiple tubes of sun cream, towels galore, and for me, water wings. The rainy season was over. The early line on the forecast: poolriffic.

Five days in, though, my swimsuit remained dry. It was the only piece of dry clothing I owned by trip’s end. I went back to look at the brochure to confirm our trip was, in fact, during the dry season. I guess I should have read closer the first time. Yes, the rainy season was indeed over, but I failed to note that the rainy season is followed immediately by the perpetually damp season. We saw no sun and daily rain for six days straight, or was it only five? This punk did not feel lucky.

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## HEALTH & FITNESS

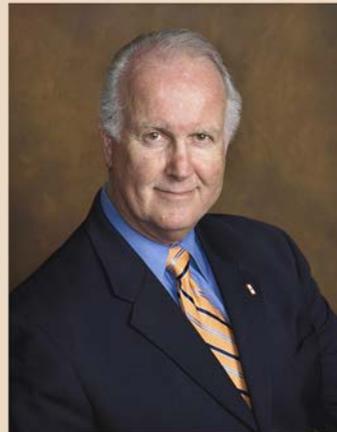
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No matter. We practiced in the large gazebo with the rain and birds as a soundtrack. We ate a lot of yucca and jicama and beans beans beans. The working farm produced turmeric for export; thus, all food was yellow. (For once I was grateful there were no grits.) We ziplined, and volcano climbed (allegedly, as visibility in the rain was about 20 yards), we canyoneered, we napped. We went to town and bought all the junk food within five kilometers. And please don't get me started on what must be a secret cult of the Chardonnay Yogi Wimmens. I had no idea.

Most of all, we just hung out. We ate three meals a day together. We stopped being doctors or lawyers or scientists and just started being people – people with the same problems, the same screwed-up families, the same worries, the same joys. The same beans, even.

Roughly translated, yoga means “union.” Yes. Yes it does.

*John is not aware of any connection between John and The Christmas Squirrel of Costa Rica. You can reach his nest at [john.hearn@rtt-law.com](mailto:john.hearn@rtt-law.com).*



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