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Subject: E-Blast, July 21, 2016

eBlast

Your resource for South Carolina Bar
activities, legal information and links

NEWS & EVENTS

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July 21, 2016

NEWS & EVENTS

Board of Governors meets

The Board of Governors met today by conference call.

The Board approved:

- authorization for the Bar President to appoint representatives to an alimony reform working group;
- a request to transition the www.sclawanswers.org site to a national partnership;
- a request from the Wellness Committee for contest funding to expand awareness of the Bar's wellness initiative; and
- a request from the Children's Law Committee to fund a seminar at the 2017 Bar Convention.

The Board considered a request from the Court to provide comment on requested amendments to Rule 401, SCACR (Student Practice Rule). Under the consent agenda, the Board approved (1) sunset of the Pro Bono Committee, given the Pro Bono Board is in place, (2) creation of task forces to address issues concerning the vulnerable adult system and lay guardians ad litem in family court and (3) an assessment matrix to periodically evaluate preferred malpractice insurance providers. The Board received as information revisions to the Bar member benefit program.

2017 Leadership Academy application period open

The Bar is accepting applications for the 2017 Leadership Academy. This ninth installment of the Academy will address the following topics: lawyers in public service, professionalism, career/leadership development, work-life balance, the path to the judiciary, pro bono and community service and service to the Bar. Sessions will take place on the following dates: February 17-18 (Columbia), March 31 (Greenville), April 19 (Columbia), May 19 (Charleston) and June 9 (Columbia). The purpose of the Leadership Academy is to enhance the professional growth and development of leadership skills of selected members to prepare them to make greater contributions to the legal profession and community. Interested applicants must meet and agree to the stated requirements and submit the required application and supporting documents by 5 p.m. on September 16, 2016. Please see the [application packet](#) for complete details. For more information, contact Caitlin Watson at caitlin.watson@scbar.org, (803) 576-3782 or toll-free at 1-877-797-2227, ext. 182.

Ethics Advisory Opinion 16-04 published

Subject to the client's consent and as required by Rule 8.3(d) and Rule 1.6, Lawyer A is under an obligation to report Lawyer B to the Commission on Lawyer Conduct or other appropriate authority if Lawyer A has knowledge that Lawyer B's conduct raises a "substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." Lawyer A may wait until the conclusion of the case or appeal before making the report against Lawyer B if Lawyer A determines that a later report would be in the best interest of the client. Read the full opinion [online](#).

Applications for the February 2017 Uniform Bar Examination and new website

The filing period for applications to take the February 2017 Uniform Bar Examination (UBE) in South Carolina will open on August 1. Applicants who are interested in taking the February 2017 UBE are encouraged to read the information posted on the newly revised [Office of Bar Admissions website](#). Read more about the new site [here](#).

Solo & Small Firm Award nominations sought

The [Solo & Small Firm Section](#) Council is seeking nominations for the 2016 Solo & Small Firm Section Award. The award honors a sole practitioner, small law firm (10 or fewer attorneys) or single lawyer in a small firm that has demonstrated service to the community or fellow lawyers. The award will be presented at the [2016 LPM-TECH Conference](#), sponsored by the Solo & Small Firm Section, on Sept. 16 at the Columbia Metropolitan Convention Center. Nominees must be members of the SC Bar in good standing. If you would like to self-nominate or nominate another attorney who is deserving of this honor, [complete this form](#) by Aug. 5. The form contains the criteria by which the award is given. If you have questions, please contact Courtney Kennaday at pmap@scbar.org.

Apply now for the LPM-TECH scholarship

In an effort to assist lawyers who would otherwise be unable to attend the [LPM-TECH Conference](#) due to financial constraints, the Solo & Small Firm Section is offering a one-time, need-based scholarship. The scholarship will cover the full section member tuition cost; however, no other costs (travel, etc.) will be covered. To read the award criteria and apply, [click here](#). The deadline for the application is Friday, Aug. 5. The scholarship recipient will be notified via email by Aug. 19, or sooner. The identity and personal information of all scholarship applicants will be kept strictly confidential and known only to the three members of the Section Subcommittee on Scholarships and the section liaison. Questions may be directed to Courtney Kennaday at pmap@scbar.org.

E-Filing announcement

Effective July 20, 2016, an enhancement will be made to the E-Filing System concerning the E-Filing of Form 4 (Judgment in a Civil Case) orders that are required to be e-filed together with proposed orders. At the request of circuit court judges, masters-in-equity and the clerks of court, e-filers should combine a proposed order and Form 4 order into a single Word document for e-filing, rather than e-filing them as two separate Word documents. Read more and see an example [online](#).

Member benefit spotlight: Credible



Credible is a free service that enables SC Bar members to save thousands on their student debt by comparing options to refinance both federal and private student loans. As a multi-lender marketplace that allows borrowers to receive competitive loan offers from its vetted lenders, Credible empowers consumers to take control of their student loans. Borrowers can fill out one form, then receive and compare personalized offers from numerous lenders and choose the best offer. Reduce your rate, lower your payments, repay faster. You choose. The average user that refinances through Credible saves \$13,928. To learn more visit www.credible.com.

Commission on Continuing Legal Education and Specialization appointments

By order of July 14 W. Steven Johnson II and Stuart W. Snow Sr. were appointed to the Commission on Continuing Legal Education and Specialization, for terms to expire July 1, 2019.

Bar Foundation officers for FY 2017

The SC Bar Foundation congratulates the following members who have been named officers for fiscal year 2017: Sidney Evering of Parker Poe, President; Rene Josey of Turner Padgett, President-Elect; and Jim Sheedy of Driscoll Sheedy, Secretary/Treasurer.

ADVANCE SHEET UPDATE

July 20, 2016

The S.C. Supreme Court reversed the PCR judge's finding that trial counsel was not ineffective in failing to object to the trial judge's improper consideration of the petitioner's decision to exercise his right to jury trial in sentencing the petitioner. The Court held that the statements made by the trial judge reveal he improperly considered petitioner's decision to exercise his right to a jury trial in sentencing petitioner. The PCR judge erred in concluding that, because the trial judge "articulated that [petitioner's] sentence was based on a number of factors," petitioner failed to prove he was prejudiced by counsel's deficient performance. The Court opined that, "although evidence from the record of other, valid reasons for a sentence might aid an appellate court in determining whether the trial court improperly considered a defendant's decision to proceed to trial during sentencing, those other sentencing factors do not negate the abuse of discretion that occurs when one of the sentencing factors considered by the trial judge was the defendant's decision to proceed to trial."

Castro v. State, Op. No. 27648 (S.C. Sup Ct. filed July 20, 2016) (Shearouse Adv. Sh. No. 29 at 15) is available [online](#).

In this appeal for convictions for one count of first degree criminal sexual conduct (CSC) with a minor, one count of second-degree CSC with a minor, and two counts of lewd act upon a child, appellant Jones argued the circuit court abused its discretion by allowing the State's witness to testify as an expert in child sex abuse dynamics because the

subject matter of her testimony was not beyond the ordinary knowledge of the jury, the State failed to prove the reliability of the substance of her testimony, she improperly bolstered the victims' credibility, and her testimony was highly prejudicial. The Court affirmed, finding the circuit court properly admitted Galloway-Williams' expert testimony because her testimony did not improperly corroborate Mother or the Victims' testimony, was not cumulative, and its probative value substantially outweighed any prejudice Jones experienced from its submission to the jury.

State v. Jones. No. Op. 5428 (S.C. Ct. App. filed July 20, 2016) (Shearouse Adv. Sh. No. 29 at 35)

In this appeal of the circuit court's order awarding restitution, appellant Morgan asserts that the settlement of the initial civil action between Morgan and Victim as well as Victim's signing of a covenant not to execute bars restitution as a condition of Appellant's probationary sentence. The court affirmed the restitution award, reasoning that the constructs of restitution and civil damages are separate and distinct. The court opined that the holdings in this case are consistent with the language of South Carolina's restitution statutes, which permit, but do not require, a sentencing judge to consider factors such as the defendant's resources, the victim's resources, rehabilitative effect and the hardship on the victim. Additionally, the plain language of the covenant does not preclude further litigation between the parties, let alone restitution in the criminal court.

State v. Morgan, No. Op. 5429 (S.C. Ct. App. filed July 20, 2016) (Shearouse Adv. Sh. No. 29 at 51)

ANNOUNCEMENTS

Administrative suspension

By order of **July 15** William Edwin Griffin was administratively suspended for failure to pay license fees. The Court has ordered Mr. Griffin to surrender his certificate of admission to practice law to the clerk of court by August 8, 2016.

Member discipline

By order of **July 20** the Court publicly reprimanded Ronald Wade Moak (with additional conditions) for, inter alia, failure to act with reasonable diligence and failure to keep clients adequately informed regarding their cases.

By order of **July 20** the Court publicly reprimanded Paul Winford Owen Jr. (with additional conditions) for misconduct including making a false statement of fact in a bankruptcy court proceeding.

By order of **July 20**, the Court disbarred Thaddaeus T. Viers for, inter alia, engaging in conduct involving dishonesty, fraud, deceit or misrepresentation which was the basis of quality pleas.

Member resignation in lieu of discipline

By order of **July 15** the Court granted the motion of Harry Pavilack to resign in lieu of discipline, subsequent to the filing of formal charges against him. Mr. Pavilack's resignation is permanent, pursuant to the order of the Court.

Member suspension

By order of **July 20** the Court placed David A. Collins on Interim Suspension. Peyre Lumpkin, Receiver, has been appointed to protect clients' interests.

Member reinstatement

By order of **July 15** the Court granted Harvey Breece Breland's petition for reinstatement to the practice of law.

Firm announcements

Michael M. Beal announces the opening of BEAL, LLC located at 1301 Gervais St., Ste. 1040, Columbia 29201. (803) 728-0803.

Alexander S. Imgrund announces the opening of ASI Law Firm, LLC located at 807 Gervais St., Ste. 203, Columbia 29201. (803) 234-3331.

Injured Workers' Advocates of South Carolina announces that Bonnie G. Anzelmo has joined the organization as the Executive Director. The mailing address is P.O. Box 12513, Columbia 29211. (803) 799-0080.

The Law Office of Margaret S. Day, LLC announces its relocation to 23 Plantation Park Dr., Ste. 503, Bluffton 29910. (843) 836-3714.

Parker Poe announces that Robert H. Jordan has joined its Charleston office as a partner located at 200 Meeting St., Ste. 301, Charleston 29401. (843) 727-2650.

Scott & Corley, PA announces that Matthew E. Rupert, Allison E. Heffernan and William P. Stork have joined the firm located at 2712 Middleburg Dr., Ste. 200, Columbia 29204. (803) 252-3340.

CALENDAR

July 26

We the People Training, Bar Building

July 27

Workers' Compensation Section Council Meeting, Conference Call

July 27-28

Foundations of Democracy Training, Bar Building

August 2

Construction Law Section Council Meeting, Conference Call

August 4

Employment and Labor Law Section Council Meeting, Conference Call

August 5

Corporate, Banking and Securities Law Section Council Meeting, Conference Call

August 8

Administrative & Regulatory Law Committee Meeting, Bar Building

Senior Lawyers Division Executive Council Meeting, Bar Building

August 9

Government Law Section Council Meeting, Conference Call

Wellness Committee Meeting, Bar Building

August 10

Health Care Law Section Council Meeting, Conference Call

August 12

Article V Task Force Meeting, Bar Conference Center

Lawyers Helping Lawyers Committee Meeting, Bar Building

Solo and Small Firm Section Council Meeting, Bar Building

August 15

Military and Veterans' Law Section Council Meeting, Bar Building

August 16

Tax Law Section Council Meeting, Conference Call

August 17

Annual Meeting of Chairs, Bar Conference Center

950 Taylor Street, Columbia, South Carolina 29201 | **Phone** (803) 799-6653 | **Fax** (803) 799-4118 | scbar-info@scbar.org

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