November 2002

November 2002 Docket

Georgia State University College of Law

Follow this and additional works at: http://readingroom.law.gsu.edu/docket

Institutional Repository Citation
http://readingroom.law.gsu.edu/docket/46

This Article is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in The Docket by an authorized administrator of Reading Room. For more information, please contact jgermann@gsu.edu.
By Kelly Kesner

On October 23rd, students heard about Tort Reform in the Medical Malpractice field through a program sponsored by the Student Health Law, Student Trial Lawyers, and the Lesbian/ Gay Law Students Associations. Attorneys Marilyn Allen of MAG Mutual Insurance, Bill Clark of the Georgia Trial Lawyers Association, and David McLean of Sutherland, Asbill & Brennan shared their expertise on problems they encounter and changes being proposed to the current Georgia Legislature to handle medical malpractice issues.

What is Tort Reform? Why is it needed?

Marilyn Allen explained what tort reform means, why it is needed, and what its purpose is. The basic measures are enacted by the State Legislature to correct the non-legal system, Statutes of Limitations, and apportionment of damages in the Medical Malpractice field. Ms. Allen listed factors supporting why tort reform is necessary.

First, to “balance the playing field.” If there are no tort reforms, there is the risk of losses to affordable health care for all citizens. Second, without tort reforms, physicians are discouraged from coming to Georgia. Third, the way things stand now discourages medical students from specializing in fields such as radiology and obstetrics—normally which have higher medical malpractice insurance premiums. Finally, the system currently encourages early retirement and discourages physicians from performing certain specialized procedures.

What is proposed?

The new proposed legislation suggests the following steps:

1) Establishing Expert Witness Qualifications. Currently, any doctor can certify as an expert regardless of specialty.
2) Diminution Rule to be amended. Currently, the plaintiff can dismiss the lawsuit at any time, for any reason, up to 2 times before the trial. Defendant does not have the same right.
3) Elimination of the joint / several liability holding each defendant responsible for 100% of the negligence action.
4) Mandate comparative negligence. Reduce award by patient's contribution to his injury.
5) Cap total damages (economic and non-economic) at $1,000,000.
6) Limit attorney’s fees based on sliding scale.

How Hospitals are Affected

David McLean of Sutherland defends hospitals throughout the state of Georgia against medical malpractice claims. He explained that the current medical malpractice crisis is twofold; it reduces availability as insurers no longer wish to write policies for hospitals and those insurers that remain to write policies for hospitals make their premiums so high that few hospitals can afford the policies.

McLean argues that hospitals are made up of PEOPLE. The physicians and nurses most of the time do a fantastic job and the least they want to be is a target to improve care given to patients. Sometimes Johnson is bad outcomes and patients suffering such should have remedies, yet still allow the hospitals affordable coverage. There is no easy formula when considering both the providers' and patients' hardships.

The Other Side

Bill Clark of the Trial Lawyers presented the other side of the medical malpractice crisis. Mr. Clark left MAG and joined the Trial Lawyers as he disagrees with MAG's position on Tort Reform. He argues that IS a crisis but the cause is not a litigious environment and large jury verdicts.

The problem stems from insurance companies raising premiums to make up losses from the 90s market. Insurance companies make money two ways, through premiums and investment earnings. Although insurance companies are now 90% invested in the Bond Market, they previously were heavily invested in the stock market and lost money when expected returns did not come through.

In order to gain a higher client base and build their businesses in the 90s, insurance companies lowered premiums almost 20-30%. Profits were high and payouts were low. Now, profits are not what hospitals are looking for. Tort Reform is a saving grace and a higher number of claims to pay out. Problems have arisen with insurance companies trying to recoup the losses suffered in the 90s in a 2-3 year window by raising premiums.

Mr. Clark argues that Tort Reform would change the method by which the victims get justice. He claims, “Every time there is a claim of negligence, and there is a question as to the standard of care, the scales tilt in favor of the professional. The jury has to presume there was due care going in, and the patient already has to overcome many obstacles. Currently in 85% of the cases, the doctor wins ... if the law were to change the odds would be even further stacked in favor of the profession.”

The Search for Innocence in Georgia

By Erin Baird

"Sometimes the innocent victim of crime is in an unfortunate position. In an effort to promote the mission to free the wrongly convicted, the Innocence Project has adopted these words as a chilling reminder of our tragically flawed system of justice. For Calvin Johnson, Jr., these words cannot be understated.

On October 27, after serving 16 years of his life in a Georgia State Penitentiary for crimes he did not commit, Johnson spoke to a packed room of GSU law students as a free man. One evening in 1983, upon returning home from work, Johnson was arrested and charged with 2 separate but related acts of rape that occurred in Clayton and Fulton County. As part of the investigation, Johnson was placed in a live line-up that was viewed by the victim. Although the victim identified another man, police relied on her earlier identification of Johnson from a black and white photograph.

Johnson was then taken to the hospital in handuffs, where blood and hair samples were taken and tested. At trial in Clayton County, the prosecution relied on the test results as evidence of Johnson’s involvement because they identified the perpetrator as an African-American male with O-positive blood. An all-white jury then returned a guilty verdict in 45 minutes, and Johnson was sentenced to life in prison. Johnson was branded as a rapist despite the fact that he presented a alibi, the crime scene hair sample did not match hair samples from Johnson, and over forty-percent of the population has a blood type of O-positive.

One year later, in an effort to clear his name, Johnson requested a second trial in Fulton County for the other rape charge. This time, after a day and a half of deliberation, a jury comprised of 7 blacks and 5 whites found Johnson "not guilty." Yet, this decision had no effect on his life sentence.

Johnson was offered an opportunity for early parole if he agreed to attend sexual offender classes. However, this opportunity was revoked when Calvin Johnson refused to sign through the Innocence Project. After reviewing the transcripts from Johnson’s trials, local attorneys filed a motion for a new trial on behalf of Johnson based on newly discovered evidence.

The Innocence Project of New York agreed to accept Johnson’s case and students from the Cardozo School of Law began doing research to uncover possible DNA evidence. DNA testing revealed it was impossible for Johnson to be guilty of these crimes. In 1999, as a result of the efforts of the Innocence Project, Calvin Johnson Jr. was exonerated and released from prison.

Established in 1992 by Barry Scheck and Peter Neufeld of the Cardozo School of Law in New York, the Innocence Project was created to free wrongly convicted inmates like Calvin Johnson, Jr. Most Innocence Project cases focus on providing relevant DNA testing that was not available at trial to overturn convictions that result from junk science, mistaken eyewitness identification, false confession, prison informants and police and attorney misconduct.

Over the past 10 years, Innocence Projects around the country have exonerated over 100 individuals. This fall, due to two Georgia State College of Law alumni, Jill Polster and September Guy, a new Innocence Project will begin here in Atlanta. The Georgia Innocence Project is funded almost entirely through donations, so the volunteer effort of Atlanta law students is crucial. Polster, Guy, and Aimee Maxwell, Project Director, have collaborated with Georgia State to provide student externships and volunteer experiences with the Georgia Innocence Project.

For more information on the Georgia Innocence Project or to find out how you can get involved, visit www.gsisunnecenceproject.org.
General Application Information
On October 25, 2002 the Student Bar Association sponsored a forum on the bar fitness application process. Hulet Askew, Director of the Georgia Office of Bar Admissions, told students about the bar application process and answered questions.

The process involves 2 steps: (1) getting a certification of fitness and (2) applying for a permit in the Bar Exam.

Therefore, law students must complete 2 applications:

| Bar Fitness Application: $300 fee. Call 404.656.3490 to get Bar Application Package. Regular filing deadline is December 4, 2002. Must be typed. It is long, detailed, and intrusive. Students must fill it out completely, carefully, and candidly. Read it carefully, as it is broader than it appears at first glance.
| Application for the Bar Exam: $120 fee. One page application sent to student upon receipt of the Bar Fitness Application. As 1,300 – 1,400 students generally take the Bar each time it is offered, Mr. Askew strongly encouraged students to get their Fitness Applications in by the regular filing deadline.

While there is a trend to wait until the late filing deadline of March 5, 2003, this is discouraged as if an applicant has a problem with her Fitness Application that takes a while to correct, then she cannot take the July exam.

While the application will eventually be available online, possibly by January of 2003, there is presently NO online registration.

Disclosure
Mr. Askew stressed the importance of not trying to parse questions in an effort to avoid disclosing information. If you wonder whether or not to include something, include it. "When in doubt, disclose!" If you have a question, call the Georgia Office of Bar Admissions (404.656.3490) and ask questions anonymously. The information contained in the application is completely confidential. Even though the Office has been subpoenaed for information in an application, they did not have to reveal it. The application is considered a continuing application, so if something changes, an applicant has 30 days to amend it. This applies until an applicant is sworn in as a lawyer.

Information is requested regarding up to 10 years ago or starting when the applicant was 18 years old, whichever is shorter. In reference to employment history, applicants should include all ticket information, etc., applicants should do their best in disclosing identifying information. For example, for speeding ticket information, the application is considered a continuing application, so if something changes, an applicant has 30 days to amend it. This applies until an applicant is sworn in as a lawyer.

When the application is filed, it is reviewed for completeness by an Application Analyst. If the analyst will either return an application, or send a letter saying that your application is fine or that you need to supply more information. A letter requesting more information is called a start-up letter.

The Office of Admissions will send letters of inquiry to your listed references, employers, schools, etc. Therefore, make sure you provide complete and up-to-date addresses. If there is no problem with your application, then the application goes to the Fitness Board for action. If no problem with your application, the applicant goes to the Fitness Board for action. If no problem with your application, the application is considered a complete fitness application and the Board will consider criteria at time of application, the fitness Board has 3 options:

1. Certify your application anyway
2. Send your application back to you and ask for follow-up information
3. Consider the file complete but because of concerns, ask to speak with the applicant. The applicant meets with the 9 members of the Fitness Board. In a typical year, only 35 out of 1,300 applicants are called in. In a bad year, 4 of these applicants are denied certification.

Problem Areas and Solutions
Mr. Askew highlighted that some typical problem areas are unlawful conduct, academic misconduct, false statements, misconduct in employment, neglect of financial responsibilities, evidence of emotional instability, and a drug/alcohol problem. However, he stressed that nothing is automatically a bar to certification and what matters is an applicant's character fitness today. The Board will consider criteria at time of incident such as age, recency, reliability, and seriousness. Most important to the Board is evidence of rehabilitation as well as evidence of honesty and integrity.

The biggest problem areas they see are (1) DUI offenses, (2) bad credit history, and (3) academic misconduct. As the Board views DUIs as a serious threat, in 2001 they started a policy that if an applicant gets a DUI during his third year, he is not allowed to take the July Bar. This is because a GA statute says that if you have a DUI you have one year probation; a Bar Fitness Application cannot be completed when an applicant is on probation.

He stated that in reference to bad credit history, "debt is not a problem, being irresponsible about debt is the problem." Again, however, good credit history must show evidence of paying a creditor for 6 consecutive months to be certificated. This is another reason that applicants should not wait until the last minute to fill out the application.

In reference to academic misconduct such as plagiarism, the Board considers rehabilitation and typically does not deny certification.

Bar Information
The Bar is the last Tuesday and Wednesday of July and February. July exam results are sent out the last week in October. Results are also posted online by exam number on the last Friday of October.

Violence Against Women Speaker at Emory
By Amber Mees
Dr. Sally Merry's talk at Emory on Friday November 1, 2002 gave new meaning to the phrase, "Standing Room Only." Those standing were packed in like sardines and, finding that I was either blocking the door or knocking papers off the bulletin board, I squeezed between rows of the seated audience and found a place to sit on the floor. With my limited view I never saw Dr. Merry, who is a Professor of Anthropology and Co-Director of the Peace and Justice Studies Program at Wellesley College. I quickly forgot my discomfort, however, when she began her talk entitled, "Talking Culture in Human Rights Forums: The International Movement Against Violence Against Women."

The talk was sponsored by the Visual Studies Program, the Institute for Women's Studies, and the Department of Anthropology at Emory University. Dr. Merry's talk examined and challenged the transnational movement for human rights, focusing primarily upon the movement against violence against women. Within this movement, culture is often seen as an obstacle to human rights. Dr. Merry argues that a more accurate anthropological approach to culture will result in more effective change.

Culture may be viewed in one of three ways: as stable, as culture can be seen as a two-dimensional cultural entity, culture as an essentialist vision of a national or global identity. There develops an anthropological view of culture is much more complicated. In this view, culture is seen in context: constantly changing, shaped by historical and contemporary influences, and richened, but not defined, by tradition and national identity. It is this view that will enable transnational movements to be more effective, by working with cultures, rather than against them.

As an example, Dr. Merry fo-
POINT: "UNDER GOD" BELONGS IN THE PLEDGE

COUNTERPOINT: "UNDER GOD" VIOLATES THE CONSTITUTION

By Ashley Davis

In 2002 the Ninth Circuit Court, in Newdow v. United States Congress, ruled 2-1 that the Pledge's "under God" phrase is a government endorsement of religion violating the Establishment Clause. Judge Alfred T. Goodwin wrote for the three-judge panel and stated, "A profession that we are a nation 'under God' is identical, for Establishment Clause purposes, to a profession that we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus,' or a nation 'under no god,' because none of these professions can be neutral with respect to religion." The Newdow ruling is in direct opposition to what the Framers of the Constitution wished to happen. The court moved from conventional understanding of Establishment Clause doctrine to reading it as an anti-religion clause. Goodwin was incorrect when he said that "under God" is identical to "under no god" for Establishment Clause purposes. Because religion is being driven into the ground by radical secularists, our Pledge might as well have the words "under no god" in it. Religious freedom has become freedom from religion in stead of freedom for religion. As discussed by William E. Simon, Jr. in "Why America Needs Religion," public life has become a "religion-free" zone so that religion is considered inviolably private and public life as inviolably secular. This inhibition of religion caused the religious depa turation because for the greater part of our history, America adhered closely to the Framers' understanding of the First Amendment. The Framers sought to diffuse religious strife by prohibiting the establishment of any one religion by the federal government. However, the Framers had no hostility to the collaboration between the church and state. Great leaders such as Teddy Roosevelt, Dwight Eisenhower, and Ronald Reagan reminded us that faith and religion are not just important to the character of our people and nation, but also "indispensable" to the preservation of our democratic institutions according to George Washington. God has had a long, established place in our government and our law as revealed by John Cvejanovich in "The Pledge: Give Me an Amen, Brother." The Declaration of Independence says: "We hold these truths to be self-evident, that all men are..." endowd by their Creator with certain inalienable rights..." appealing to the Supreme Court as the highest judge of the world..." with a firm reliance on the protection of divine Providence, (we) mutually pledge to each other..." Our money says "In God We Trust." The Liberty Bell is inscribed with Leviticus 25:10. Federal courts from the Supreme Court to the District Courts open with "God save the United States and this Honorable Court." The Establishment Clause of the First Amendment provides: "Congress shall make no law respecting an establishment of religion." In Committee for Public Education v. Nyquist (1982) the Supreme Court held that governmental action must have a "primary effect that neither advances nor inhibits religion." Clearly, removing "under God" from the Pledge has a primary effect that inhibits religion. It is argued that it is not fair to ask that children either stay silent or leave the classroom during the Pledge. However, the law does not condition one's behavior on how it will affect others. In Cohen v. California the Supreme Court found the phrase "I pledge allegiance to the flag and to the Republic..." on the back of a war protestor's jacket to be constitutionally protected speech. The rights of offended viewers did not outweigh the rights of speakers. The Court explained that viewers could avert their eyes and turn their heads to avoid further contact with the speech. We have gone from a country which safeguards religion to one which attempts to sabotage and undermine religion. Radical secularism seeks to systematically exclude religion from public life, but leave intact its own secular belief system in view of the intentions of the Framers and the true meaning of the Establishment Clause, the phrase "under God" should be left intact in the Pledge of Allegiance.

Join us on Wednesday, November 20th in Room 170 for the Docket Debate on "Under God" in the Pledge introduced by Prof. Th. Timmerman. Lunch will be provided.

By Erin Baird

In 1954 our government held a silent burial for our First Amendment. Blinded by the terror of the Cold War, Congress side-stepped the Bill of Rights public influence. The public school endorsement of religion is a radical departure from the intentions of the Framers and the true meaning of the Establishment Clause. Most court rulings have endorsed "under God" for Establishment Clause scrutiny. The Constitution to enforce the Establishment Clause reaches not only the actual establishment of religion, but also the "sponsorship, financial support, and active involvement of the sovereign in religious activity." The Court found that if government is "utilizing the prestige, power, and influence of a public institution to bring religion into the lives of citizens," the Establishment Clause is violated. As determined by the Supreme Court in Epperson v. Arkansas, Government must be neutral not only in its relations with different sects, but also in its relations with believers and nonbelievers.

In order for governmental action to pass muster under the Establishment Clause, the government must dis- pose even the appearance of affiliation with the religious message according to the Supreme Court in Epperson v. Maryland Public Works Board (1976). For example, in Sane v. Graham (positing of the Ten Commandments in public classrooms) and Abington School District v. Schempp (daily public school readings from the Bible), the Supreme Court found that governmental action promoted a religious message even though neither case involved an affirmative attempt to use the religious items proselytize.

The public school endorsement of a nation under God violates the Establishment Clause. Despite the Supreme Court's clear directive in Church of the Incarnation v. N.J. Tax Commission (1983) and the Establishment Clause of the Constitution to enforce the Establishment Clause, the government's action violates the Establishment Clause. While Ms. Davis asserts that removal of God from the pledge actually inhibits religion, such is not the case. Children are not prohibited from individual acts of prayer or worship in school, and removal of God from the Pledge does not endorse atheism; it merely restores the Pledge to a neutral position that does not advance a religious doctrine. While this country sustains a vocal majority of Judeo-Christian faith, our Constitution was created specifically to prevent government suppression of the silent minority. After 50 years in silence, we are raising a "red flag" in unison, "I pledge allegiance to my Flag and to the Republic for which it stands: one Nation indivisible, with Liberty and Jus- tice for all."
What GSU Must Do To Be 1st Tier

By Franklin Lemond, Chief Layout Editor

When I decided to go to law school, I am sure that many of my fel-
low students were in the same position I was. Working full-time, either recently
married or in a committed relationship
and somewhat tied to the Atlanta area.
For many of us, we came to GSU be-
cause it was the only accredited Law
School that offered a part-time program.
The College of Law’s reputation played
very little in the decision, because there
was no other option.
The fact that the Law School was ranked as a second tier law school,
while Emory and UGA were both first
tier programs mattered little in our deci-
ding process making decisions. And while I paid
little attention to those things then, after
nearly two and a half years as a part-
time student, things like prestige and
reputation have begun to matter a lot
more as we begin to compete with stu-
dents from Emory, Georgia and Mercer
for summer associate positions and ulti-
mately full-time positions at law firms in the
city and in the nation.

With the arrival of the law school’s twentieth anniversary, there has
been a well-deserved celebration of how far this school has come in such a short
time, namely the fact that GSU College
of Law graduates have out performed stu-
dents from Emory and UGA on the July
Bar exam in 2 of the past 3 years, and
have scored higher than Mercer students
in all 3 years. Despite lengthy write-ups
in the Fulton County Daily Report about
the Bar results, the Daily Report hasn’t
reported anything on the anniversary cel-
bration. Likewise, I was unable to find
any coverage in these papers about GSU
College of Law being one of the most
“wired” in the nation.

A concerted marketing effort to
increase awareness that newspapers
give to the College of Law could improve
recognition locally. Marketing can also be
done via the College of Law web page.

Step 1: Increased Marketing

While the College of Law’s twentieth anniversary has received its
due attention on campus, the local press con-
definitely has room for im-
provement. The coverage in the Atlanta
Journal-Constitution has consisted only
of a short article in the City Life section
back in September, profiling the efforts of
Ben Johnson, the school’s first dean in founding the school.

Although the article mentions some of our school’s achievements, it fails to mention what I believe are the
school’s strongest selling points at this
time, one of them.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
and unique treatment. Family court cases
are, after all, family court cases.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.

Families come to court for
diverse reasons that are distinctive enough
from other legal issues to justify special
treatment and adjudication within special-
cized courts by specialized jurisprud-
entialJohnson.

By default, the attorney be-
comes the conduit of informa-
tion for a judge who fundamentally
requires this information to
understand and perform his
decision-making function.
**Organizations**

**Environmental Law Society**

By Amy Philips

The Environmental Law Society has had a busy year so far. We have had 3 international speakers, a white-water rafting trip, along with November 4th Anne Hicks, the current chair of the environmental law section of the Georgia Bar Association, took time to speak to us.

Our first international speaker was Eliis Baitz from Finland. She is a well-known attorney, educator, and prolific writer (3000+ pages in one year) on environmental law in the European Union. She was also the environmental advisor to the former European Union Minister of the Environment. She told us about law school in Europe, environmental law in the European Union, and government land use control.

The perspective she provided was one that emphasized the difference in attitude towards protecting the environment in Europe in contrast to the attitude here in the U.S. They have little environmental law because of differences in other areas of the law such as takings regulation. There simply is not as much protection for individual landowners if the government decides that your land could be better used for something else.

ELS’s second international speaker was Ray Young from Canada. He is an extraordinary environmental and local government attorney in Vancouver. He previously spoke at GSU Law for the 2001 Law Review Symposium on sprawl. He emphasized that the way Vancouver and the U.S. were made in planning was with three land use policies. They were: 1) no interstates through the city, 2) no monolithic public housing downtown (instead individual buildings have a certain number of subsidized units each), and 3) land with appropriate soil characteristics for farming could never be used for anything but agriculture.

Our third international speaker was Michael Bothe from Germany. He is an extraordinary individual who has utilized his expertise in environmental and environmental law for over 40 years as an attorney, educator, director and member of numerous national and international scientific and policy-making groups.

He previously spoke at GSU Law for the 2001 Law Review Symposium on sprawl. He emphasized that the way Vancouver and the U.S. were made in planning was with three land use policies. They were: 1) no interstates through the city, 2) no monolithic public housing downtown (instead individual buildings have a certain number of subsidized units each), and 3) land with appropriate soil characteristics for farming could never be used for anything but agriculture.

The perspective she provided was one that emphasized the difference in attitude towards protecting the environment in Europe in contrast to the attitude here in the U.S. They have little environmental law because of differences in other areas of the law such as takings regulation. There simply is not as much protection for individual landowners if the government decides that your land could be better used for something else.

ELS’s second international speaker was Ray Young from Canada. He is an extraordinary environmental and local government attorney in Vancouver. He previously spoke at GSU Law for the 2001 Law Review Symposium on sprawl. He emphasized that the way Vancouver and the U.S. were made in planning was with three land use policies. They were: 1) no interstates through the city, 2) no monolithic public housing downtown (instead individual buildings have a certain number of subsidized units each), and 3) land with appropriate soil characteristics for farming could never be used for anything but agriculture.

Our third international speaker was Michael Bothe from Germany. He is an extraordinary individual who has utilized his expertise in environmental and environmental law for over 40 years as an attorney, educator, director and member of numerous national and international scientific and policy-making groups.

**Why the Criminal Defense Attorney is Vital to Justice**

By Trisha Abbott

Let’s start with the O.J. Simpson verdict. Many people saw O.J.’s acquittal as a miscarriage of justice. That’s just not so, says Drew Findling, prominent defense attorney, author, forensic evidence expert, teacher, media legal commentator, and member of the National Association of Criminal Defense Lawyers board of directors.

When the O.J. verdict came down, Findling was part of the Technical Working Group assembled by Attorney General Janet Reno to develop the Department of Justice’s training document, “Crime Scene Investigation: A Guide for Law Enforcement.” He recognizes that the many nationally respected law enforcement agents with whom he was working all had the same reaction to the verdict:

the police investigation was sloppy, the evidence mishandled, the state could not make its case, therefore, the verdict was incorrect. Although the state clearly dropped the ball, it took O.J. & his defense team, of S.F. Bailey, Johnny Cochran, Barry Scheck, Alan Dershowitz, and others to point that point home. If the police do a lousy job, if a defendant’s constitutional rights are violated or a search is conducted illegally, a good defense lawyer will make it known and the defendant will be found not guilty. The next time law enforcement agents will be more careful to observe the “technicalities” (also known as the Bill of Rights). Lesson learned.

Findling’s lunchtime speech at the Georgia State College of Law was timely. He addressed the student gathering on October 24th, the morning after the alleged D.C. sniper(s) John Allen Muhammad and John Lee Malvo were arrested. Remarkably he awakened his audience by the media coverage of the take-down. Findling urged the students to consider in detail and proper procedure that law enforcement followed in conducting the investigation and making the arrest.

He pointed out that this time law enforcement agents carefully gathered and processed evidence, obtained search warrants even where they may not have been needed, and followed every procedural mistake, if a defendant’s constitutional rights are violated or a search is conducted illegally, a good defense lawyer will make it known and the defendant will be found not guilty. The next time law enforcement agents will be more careful to observe the “technicalities” (also known as the Bill of Rights). Lesson learned.

The Student Trial Lawyers Association has officially commenced. STLA Director, the head coach of the O.J. verdict and director, has the daunting task to select the team bases on the high number of capable students. Law enforcement agents will be more careful to observe the “technicalities” (also known as the Bill of Rights). Lesson learned.

Findling’s lunchtime speech at the Georgia State College of Law was timely. He addressed the student gathering on October 24th, the morning after the alleged D.C. sniper(s) John Allen Muhammad and John Lee Malvo were arrested. Remarkably he awakened his audience by the media coverage of the take-down. Findling urged the students to consider in detail and proper procedure that law enforcement followed in conducting the investigation and making the arrest.

He pointed out that this time law enforcement agents carefully gathered and processed evidence, obtained search warrants even where they may not have been needed, and followed every procedural mistake, if a defendant’s constitutional rights are violated or a search is conducted illegally, a good defense lawyer will make it known and the defendant will be found not guilty. The next time law enforcement agents will be more careful to observe the “technicalities” (also known as the Bill of Rights). Lesson learned.

The Student Trial Lawyers Association has officially commenced. STLA Director, the head coach of the O.J. verdict and director, has the daunting task to select the team bases on the high number of capable students. Law enforcement agents will be more careful to observe the “technicalities” (also known as the Bill of Rights). Lesson learned.

The Student Trial Lawyers Association has officially commenced. STLA Director, the head coach of the O.J. verdict and director, has the daunting task to select the team bases on the high number of capable students. Law enforcement agents will be more careful to observe the “technicalities” (also known as the Bill of Rights). Lesson learned.

**STLA RISING to the Challenge**

By Ashley Deal

The Student Trial Lawyers Association has started off the 2002-2003 school year with a bang. Recently, STLA donated $3,000 to the Twentieth Year Anniversary Scholarship in honor of the College of Law turning twenty years old. Not only is STLA the only student organization to donate money to date, they were also recognized for their contribution at the Michigan State Mock Trial Competition, Detroit, MI: November 9-11, 2002. Competitors: Lance Tyler, Jim Wall, Shawn Bugbee, Matt Norton.


By Amy Philips

The Environmental Law Society has had a busy year so far. We have had 3 international speakers, a white-water rafting trip, along with November 4th Anne Hicks, the current chair of the environmental law section of the Georgia Bar Association, took time to speak to us.

Our first international speaker was Eliis Baitz from Finland. She is a well-known attorney, educator, and prolific writer (3000+ pages in one year) on environmental law in the European Union. She was also the environmental advisor to the former European Union Minister of the Environment. She told us about law school in Europe, environmental law in the European Union, and government land use control.

The perspective she provided was one that emphasized the difference in attitude towards protecting the environment in Europe in contrast to the attitude here in the U.S. They have little environmental law because of differences in other areas of the law such as takings regulation. There simply is not as much protection for individual landowners if the government decides that your land could be better used for something else.

ELS’s second international speaker was Ray Young from Canada. He is an extraordinary environmental and local government attorney in Vancouver. He previously spoke at GSU Law for the 2001 Law Review Symposium on sprawl. He emphasized that the way Vancouver and the U.S. were made in planning was with three land use policies. They were: 1) no interstates through the city, 2) no monolithic public housing downtown (instead individual buildings have a certain number of subsidized units each), and 3) land with appropriate soil characteristics for farming could never be used for anything but agriculture.

Our third international speaker was Michael Bothe from Germany. He is an extraordinary individual who has utilized his expertise in environmental and environmental law for over 40 years as an attorney, educator, director and member of numerous national and international scientific and policy-making groups.
Student Bar Association

SUCCESS OF BREAST CANCER WALK

By Erin Baird

Last month, Georgia State College of Law joined forces with the American Cancer Society to battle breast cancer in the annual Making Strides Against Breast Cancer Walk. The GSU COL team had 77 registered members who together raised over $7,000 for breast cancer research. At the walk, over 25 participants came out bright and early to Stone Mountain Park to represent GSU COL and raise awareness about breast cancer. This year’s Walk was particularly successful due to the recent im-pact that cancer has had on our faculty. After Professor Emanuel’s and Professor Scott’s personal struggles with breast cancer and the tragic loss of Professor Morgan to brain cancer, the GSU community came together to honor these amazing women and express their support.

As a result of these tremendous fundraising efforts, GSU COL will be recognized by the American Cancer Society as one of the top 3 teams in Atlanta and will be awarded a personalized embroidered woven wall tapestry that will be displayed in memory of Professor Morgan.

GSU Law Hosts ABA Fall Roundtable

On October 18th and 19th, GSU College of Law hosted the Fall Roundtable for the American Bar Association Law Student Division. Over 75 law student leaders from across the country came to Atlanta to network, exchange ideas and learn how to better serve their schools. The 5th Circuit ABA LSD Governor, Kelly McCabe, organized a weekend packed with speakers, activities, and social events. After an enthusiastic welcome from Dean Griffith and SBA President, Erin Baird, on Friday evening, the group separated into ABA Circuits to make plans for the spring semester. The 5th Circuit participated in leadership challenges and brainstorming exercises to share community service project ideas for ABA Work-a-Days. Circuit meet-ings were followed by a catered reception held in the first floor lobby. Then, GSU students welcomed our ABA guests at the Leopard Lounge for a social mixer.

After breakfast on Saturday, the law students assembled Halloween treat bags to deliver to Hughes-Spaulding Children’s Hospital downtown. Michael Grant and Garrett Pendleton then spoke to the group about the benefits of ABA membership and how to encourage law student participation in ABA activities. Next, an Atlanta-area attorney couple, Andr and Felton Parrish, compared their experiences working in both large and small firms and answered questions about managing a relationship when both spouses are practicing law. During lunch, David Keating, past President of the Young Lawyers Division of the Atlanta Bar and attorney with Alston and Bird, spoke about the opportunities available through membership in local bar chapters. Several members of the Diversity Committee of the ABA LSD then presented an action plan for recognizing and celebrating diversity in our law schools. Sam Houston, a D.C. education attorney, followed with a controversial discussion on litigation resulting from conflicts between learning-disabled children and deficit school districts. The Roundtable concluded with a banquet dinner at the Sheraton.

The SBA would like to extend a special thanks to all the students who helped make this conference a success.

ABA Fall Roundtable
Social at The Leopard Lounge

HALLOWEEN PARTY
Adapted by Ben Walden

CSO Assistant Director:

By Ben Walden

Anyone that uses the Career Services Office knows how busy and hectic it can be while looking for that perfect job. Lately, it has been even more difficult to set up appointments with the Career Services Staff because of the departure of Leah Fisher, but not anymore.

David Smith is now the Assistant Director/Public Service Advisor and can help students create their own personal job search plan and the job search process. So, if anyone wants to talk about a career search plan and process, David can help. Here is some information about David to make it easier when you go in to meet with him so that you know a little about him and his background in career services and job placement.

- Experience:
  - Spent 15 years in the military, which included working as a non-commissioned officer with the nuclear command. This included recruiting students from the military and spouses of people in the military.
  - Worked in three different Career Centers finding jobs for people leaving the military and spouses of people in the military.
  - Associate Director of the MBA Career Management at the Wharton School of Business at the University of Pennsylvania.
  - Director of the BBA Career Management at Emory University.

Education:
- Georgia State University, 6th year of MBA Higher Education
- Emory Riddle University, MBA
- Regents College of New York
- Georgia Military College of Georgia, Associate Degree
- Gaston State of Alabama, Associate Degree

Tips and Philosophies:
- CIV analysis (go by and see David to find out more). *Students need to be prepared to network and win the offer.
- Students have to know the job search process and execute their job search plan.
- Networking is the glue that holds the process together, without it, the process falls apart.
- "If you do something, be the best you can, no matter what."

Interests and Hobbies:
- Miami Dolphins and Alabama football fan.
- Fan of Don Shula because of his expectations of excellence (offly coach to have a perfect season in NFL history)
- Avid reader and writer on numerous topics including business, history (dissertation is the history of Georgia State University), and plans to write a book about the Georgia University System.

> Owns his own business - Always and Forever Hair Salon which his wife runs.

Expectations:
- Expects students to be challenged and to challenge the Career Services Office. David's goals are to inspire and motivate students, which includes many questions and lots of homework, all of which are necessary to be successful in the job search process.
- David expects students to challenge the Career Services Office by making suggestions of programs and such for the students.

Other Information:
- David is extremely happy to be at Georgia State University, and wants to make sure that students are prepared for opportunities to come. He plans to help by teaching students to network and interview successfully. Also, David did much of his education as a part-time student, which means he understands exactly what part-time students go through.

Remember, David has worked in the military, business, government agencies, and education, so he understands what each of these types of employers are looking for. Make sure to go by the Career Services Office to welcome David or set up an appointment, but make sure you are ready to work if you want his help, because he is.

Winter Employment

Full-Time Employment:
- Employers offering full-time positions following graduation to law students not previously employed by them should leave offers open to at least December 1st. For students that have worked previously, the offer should be held open until at least November 1st. Employers making offers on or after September 15th of the student's third year for full-time employment following graduation to a previous summer associate should leave the offers open until at least December 1st.

Summer Employment Provisions for 2Ls and 3Ls:
- If an employer offers a position to a student in the fall that has not been employed by them previously, the offer should stay open until at least December 1st.
- If the Employer is making the offer before September 15 for a second summer clerkship to a student, it should stay open until at least November 1st, or until December 1st if the student requests it.

Summer Employment Provisions for 1Ls:
- First year students should not be offered placement services until November 1st, except a part-time student who may get help in seeking positions during the school term. First year students and employers should not initiate contact with one another or in-interview before December 1st. *All offers to first year students should remain open for at least two weeks
By Mike O'Hagan

In a courtroom, sometime in May 1996... "You need to start preparing courtroom testimony for an incident while you are on the way to the call. When you arrive, get all the information you need and write a detailed report. Document everything. If you don't and you testify to something that's not in the report, some defense attorney will manipulate what you testify to oppose what is in your report. He will lie or do anything to get his client off."

In a courtroom, sometime in May 2002... "When representing your clients, you need to do a thorough investigation. The police will lie to convict an innocent man and the prosecutors will let them testify to false information."

"How could he be exposed to two diametrically opposed viewpoints regarding guilt or innocence and what lengths one will go to ensure that guilt or innocence? By being trained for a career in police work, and then being trained for a career in law. Since I first began law, I have been a law instructor, and often angry at the positions that many law professors and students take regarding the prosecution of criminals in the justice system."

In criminal procedure, I heard all about police lying to put an innocent man away and prosecutorial misconduct to secure convictions... yeah right. Check the sentences most people get out of the Fulton or DeKalb Superior Court System... Probation. Probation for anything from Possession of Cocaine, to Possession of a firearm during the Commission of a Crime, to Aggravated Assault.

I have an ex-con worker who was forced to shoot an 18-year-old; rather than have a productive life, the young man decided to sell crack in a housing project amongst innocent children. Police interrogated, the man ran, pulled out a handgun, and turned and took an aggressive stance, forcing the officer to fire upon him. The defendant faced numerous charges from obstruction to possession of cocaine with intent to distribute to aggravated assault on a police officer and more.

The law at the time set the minimum time at 17 years and the maximum time at 76 years. What horrible sentence did the police and the prosecutors impose on this poor young soul? Does he currently have a new best friend named "Big Earl"? No, he was walking the streets as soon as he posted bond, sentenced in years probation.

Dreadful predators are routinely given probation because there is no jail space. Even if they are given time (state time that is, not federal), they are paroled quickly due to the number of other violent predators coming in the gates. But worse to the defendant than the "get tough" policy is the "decentful processors" are their attorneys.

It is the defendant's own attorney who does more harm to him than anyone else. Anyone who has had Prof. Singleton has been told: "Don't be a Ben or Dorothy or a Joe Cannon. We're Ben, Dick, or John."

The law in the state is "tough on crime," it is fair. Hence, almost all police officers in the elections compete to prove they are "tough on crime," it is appropriate to discuss innocence. The Georgia Innocence Project recently got off the ground. In a time where a nation regards proof of guilt as a "technicality" between arrest and punishment, there's a group working hard even after a guilty verdict. But in Georgia, there are those who are not sympathetic to their cause.

The first issue involves extensive resources available to Georgia law enforcement through the DNA databank. This resource is cited as the most impressive tool of its kind. The idea is DNA is collected from those charged with a crime, it is compared to unsolved crimes from the past, and then stored for future comparisons. In the meantime, we remain one of the several states that has no law to issue a warrant for DNA testing of inmates where such a test could establish innocence.

The second issue details the preservation of evidence for later DNA testing. Calvin Johnson was prosecuted by a district attorney who observed evidence from his trial being thrown away.

By Stewart Bratcher

While John Ashcroft and various state attorneys fight over who gets to kill the suspects in the D.C. sniper case, we watch candidates for office in the elections compete to prove they are "tough on crime," it is appropriate to discuss innocence. The Georgia Innocence Project recently got off the ground. In a time where a nation regards proof of guilt as a "technicality" between arrest and punishment, there's a group working hard even after a guilty verdict. But in Georgia, there are those who are not sympathetic to their cause.

The first issue involves extensive resources available to Georgia law enforcement through the DNA databank. This resource is cited as the most impressive tool of its kind. The idea is DNA is collected from those charged with a crime, it is compared to unsolved crimes from the past, and then stored for future comparisons. In the meantime, we remain one of the several states that has no law to issue a warrant for DNA testing of inmates where such a test could establish innocence.

The second issue details the preservation of evidence for later DNA testing. Calvin Johnson was prosecuted by a district attorney who observed evidence from his trial being thrown away.

Fortunately, this attorney took the materials out of the trash, which later established the innocence of Johnson.

The third issue involves those who are exonerated by DNA evidence, and must serve a life for themselves after years in prison for a crime they did not commit. Calvin Johnson, the first man exonerated through DNA evidence in Georgia, spent over 15 years in prison for a rape he did not commit.

When the system fails and steals years of your life, who can you sue? In Johnson's case - no one. Absent a sufficient cause of action to pursue a $1983 claim in federal court (most wrongly convicted do), Georgia has no provision that would guarantee a bill for the wrongly convicted. Instead, the individual can go before the legislature and plead for compensation. Johnson did exactly that, and the house recommended a figure of $500,000 as compensation for the 15+ years of his life. If this seems unjust, note also that the Senate slashed the amount to $100,000. Ultimately the full $500,000 was awarded after the groups studied similar cases from other states.

Should the innocence project exonerate a substantial number of people, there would need to be a law giving a right to recovery.

Arguably the greatest opponent to the claim of innocence is the denial that there is any problem with the system. Arguably the greatest opponent to the claim of innocence is the denial that there is any problem with the system. Earlier this month in Savannah two men were released from sentences for rape because the presence of fluids related to the victim was used in large part to convict them. After being tested against both defendants, the DNA did not match up. Prosecutors nevertheless asserted that the conviction should not be overturned because the retested physical evidence was not the only evidence used to establish guilt. Other evidence included victim identification, and some circumstantial evidence. Counsel for the gentlemen stated they would be willing to submit to a retrial and the prosecutor declined, stating that the case probably could not be proven beyond a reasonable doubt.

Nevertheless, after the proceedings, the prosecutor stated he believed in the guilt of the men.

Here, the two individuals should be retried, or the prosecutor should apologize, or even refuse to comment.

The prosecuting attorney in the Johnson case was upstanding enough to apologize for the outcome. However, he stated that he did not believe that the system failed because the technology that now exists was sufficient to free Johnson. This does not wash. An innocent man, prosecuted by the state and spending over 15 years in jail before he, on his own, found a group willing to help him get out of prison using new evidence is evidence of a failed system.

Recently the Innocence Protection Act was introduced in the U.S. Congress. This legislation sets standards regarding the preservation of evidence and the availability of testing inmates for the federal system. In addition, the Act would withhold certain federal money from states that did not adopt the standards. In Georgia, Governor Zell Miller has criticized the legislation as an infringement on states' rights. This is difficult to understand considering no state is required to adopt the standards. The potential result of the Innocence Protection Act aside, perhaps state candidates should hold off on new "get tough" measures long enough to make sure that they are getting tough on the right people.