



November 2009

Calendar:

- **Bar Luncheon Wed., Nov 18, 12:30 at The Venue—Bonnie Weyher**
- **Holiday Party Fri., Dec 4, 6 p.m.—10 p.m. at The Venue**
- **Executive Committee meets Mon., Dec 7, 12:30 at PLS**

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Bar Briefs

Law Library Renovations Improve Access for Members

More than one hundred years ago, local lawyers with names like Merrimon and Sondley donated books for a law library. The foresight and value of those donations are appreciated even today by attorneys who use the 10th floor Law Library in the Buncombe County Courthouse.

And with recent renovations to the library, the value of the space has risen significantly.

"Oh we had a fine library," said Retired Judge Robert Lewis. "We developed it into a law library that was better than any other west of Winston-Salem."

In the 1990's, ownership of the library was transferred to Buncombe County, and since then the small room has been counted as a branch of the Public Library. But budget constraints have taken a toll on the historical collections.

"We have the most complete session law collection in the state," says Librarian Marie Penta, who has overseen the library for the past 20 years. "Only the State Supreme Court has a better collection. We have from 1853 to the present." Penta says the budget for state reporters was

cut in 2000, with library officials reasoning that computer access to Westlaw would take their place. "But many lawyers prefer to look their citations up in a book," she says.

The library has reopened after renovations this past summer, and features two conference rooms available to 28th JDB members. Attorneys may also use the five computer terminals to access the Internet or Westlaw, or find a space to spread out their papers undisturbed.

Pro Bono Week Celebrates the 28th's Excellent Culture of Service

The Mountain Area Volunteer Lawyers (MAVL) Program, Pisgah Legal Services and the Pro Bono Committee of the 28th JDB hosted a series of events to commemorate the First Annual National Pro Bono Week, sponsored by the American Bar Association Standing Committee on Pro Bono and Public Service. During the week of October 26, many attorneys celebrated local lawyers' commitment to providing free, civil legal services to low-income people in western North Carolina.

Highlights included the Courthouse Kick Off Event, featuring comments by Chief District Court Judge Gary Cash and Justice Harry Martin, pictured here, among others, about the need for increased service in this recession. In 2009 alone, requests to Pisgah Legal Services increased by 29%. To meet this need, MAVL has doubled the volume of Hotline advice cases handled since July, and pro bono case referrals are expected to increase by more than 20% this year.



Of particular note during Pro Bono Week was a ground-breaking two-part "Domestic Violence and Vicarious Trauma in Attorneys" CLE that will be available for video replay next month thanks to a statewide sponsorship by the North Carolina Association of Women Attorneys (NCAWA). Contact Jennifer Foster (jennifer@pisgahlegal.org) for more information regarding the replay.

President's Perspective



How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving and tolerant of the weak and strong, because someday in life you will have been all of these.
George Washington Carver

During this time of Thanksgiving and the celebration of the holiday season, let us always remember how blessed we are to have the talents, skills and positions we hold as Attorneys and Counselors at Law and to be grateful for the ability to share those talents with others. As we move into this season, we look forward to seeing you at our monthly meeting and at our holiday party on December 4th at The Venue on Market Street.

The Bar, in conjunction with the North Carolina Bar Association Young Lawyers Division and Pisgah Legal Services, recently held its first "Wills for Heroes" event at Pisgah Legal Services. A total of 48 first responders, most of whom are members of the Asheville Fire Department and the Asheville Police Department, and their spouses were served at this event. Many thanks to our Executive Committee member, Alan Coxie, who is also a volunteer firefighter, for his assistance in making this event a success.

On the home front, we are very excited to be moving the 28th Judicial District Bar office into its new location in the Pisgah Legal Service office building on Charlotte Street. We are also busily working to unveil an updated, more user-friendly, website for our members in the near future that will allow us a greater ability to communicate with you and from member to member. Our continuing goal is to provide quality services to our membership and to our community. We welcome news from our members and any ideas as to how we may better serve you. May your holiday season be safe and full of joy! *Heidi Stewart*



Pro Bono Week
28th Judicial District Bar

(Pro Bono Week, continued from page 1)

The morning session focused on 50B domestic violence protections and featured an expert presentation by local forensic psychologist Mindy Pardoll regarding Battered Women's Syndrome. The District Court Judges panel, featuring the Honorable Chief Judge Cash, and Judges Barrett and Hill, was very informative as to local 50B practice and procedure. This session was designed to prepare MAVL attorneys to effectively represent battered clients to obtain 50B protection.

During the afternoon CLE, the first of its kind in North Carolina, local psychologists Martina Barnes and Craig McCollum explored mental health concerns of attorneys who represent traumatized clients, such as family practitioners, criminal defense attorneys and those representing abused and neglected children. Recent medical research shows that attorneys suffer higher rates of "Vicarious" or "Secondary" Trauma, a subset of PTSD, than do mental health workers, who are trained to avoid and cope with transferred trauma. Vicarious Trauma symptoms include concentration problems, irritability with co-workers or family, sleep difficulties, difficulty relaxing, physical illness, substance abuse, increased startled response, impulsivity, and psychological hyperactivity.

One attorney observed: "I attended the Vicarious Trauma Session in the afternoon and highly recommend it. It is important to recognize the physical and emotional toll of working with traumatized clients. Law school does not teach you the skills necessary to spot and prevent signs of transferred trauma. I wish I had attended a CLE like this in the beginning of my career. If I had known what signs to look for I could have taken preventive measures and sought professional help sooner."

MAVL also hosted a fun-filled "Attorney-Musician Thank You" Party at Tressa's Downtown Jazz and Blues Thursday evening, featuring the outstanding musical talent of attorneys Tom Lawton, O.E. Starnes, Emmet Carney, Ben Scales and Jeff Zentner.

Asheville MAVL attorneys participated in a planning session on Tuesday afternoon to help Pisgah Legal Services grow and better administer MAVL. On Wednesday afternoon, MAVL attorneys in Rutherford County offered a free civil clinic to the community.

Remarks of Chief District Court Judge Gary S. Cash at Pro Bono Week Kickoff Event

In preparing for this event, I was reminded of a quotation that is found in the Holocaust Museum in Washington, D.C.: "**Thou shalt not be a victim. Thou shalt not be a perpetrator. Above all, thou shalt never, no never, be a bystander.**"

For almost fifty years now, in this county, there has been an organized effort by judges, attorneys and those interested in our justice system to actively resist standing by and allowing those who are poor and less fortunate to suffer from the lack of legal representation because of their economic status.

Many of you here, and many in our Bar, have given greatly of their time, their energy and their money in this endeavor. Much good has been done and much is now being done.

Still, in North Carolina today, fifteen percent of our eight million citizens live below the threshold of poverty. One third of female-headed households live below that level. Forty three percent of those same households hover just above that threshold. One in five children lives in poverty.

While we celebrate this Pro Bono Week, and be thankful for our blessings, for those who have given and do give in this crusade for justice for the poor, let us continue to have the will to not be satisfied to be bystanders.

2009-2010 Executive Committee

President: Heidi Stewart

President Elect: William Christy

Immediate Past Pres: Patsy Brison

Vice President: Doug Tate

Treasurer: Suzannah Plemmons

Secretary: Mae Creadick

State Bar Councilor: Howard Gum

Pro Bono Chair: James Ellis

At-Large Members: Michael Drye, Courtney Booth, Peter Kanipe, Jason Peltz, Tikkun Gottschalk, Cynthia Harbin Holman, Ingrid Friesen, Alan Coxie, Jason Gast

North Carolina IOLTA Celebrates Twenty-fifth Anniversary

Since its first grants were awarded in 1984, the North Carolina IOLTA program has provided more than \$50 million for legal assistance for at-risk children, the elderly, the disabled, and the poor in need of basic necessities. In addition, the program has helped lawyers connect with those who need their pro bono assistance.

Though current economic conditions will mean that grants will be seriously curtailed in the immediate future, in 2008, NC IOLTA administered just over \$4 million in grants, compared to \$200,000 25 years ago. (In addition, NC IOLTA now administers more than \$6 million in state funds annually for legal aid that pass through the NC State Bar.)

Providing civil legal services to indigents historically accounts for 87 percent of grants awarded. In addition, the NC IOLTA program makes grants for programs designed to improve the administration of justice. "IOLTA grants certainly help us fulfill our responsibilities outlined in the Rules of Professional Responsibility," said Former NC State Bar president Steve Michael, who successfully worked for mandatory IOLTA in North Carolina. "Providing access to justice is one of the big obligations we assume and this is one method of fulfilling those obligations."

Michael said that the IOLTA board has done a good job over the years in selecting programs that have the biggest impact in providing access to justice. He said it is appropriate that the bulk of the grant money goes to legal services for the poor.

"IOLTA funding is extremely important to Pisgah Legal Services," said Jim Barrett, PLS executive director. "PLS receives IOLTA funding to serve six counties in western North Carolina. Stable IOLTA funding has helped PLS grow to the point that it has 37 staff, including 17 attorneys." In 2008, through Pisgah Legal Services alone, those attorneys helped more than 700 victims of domestic violence obtain or enforce court protective orders and helped prevent homelessness for 593 households under threat of foreclosure or eviction.

"Unlike the support of private foundations, which is often project oriented, IOLTA funds are generally used for operating support," said Evelyn Pursley, executive director of the NC IOLTA program.

"Since PLS does not receive funding from the Legal Services Corporation, the flexible IOLTA funds play a crucial role in PLS' budget," Barrett said.

The first proactive grant-making done by IOLTA itself also came in 1992 when it offered grants to volunteer lawyer programs to ensure that VLPs were established statewide. IOLTA continues to provide about \$500,000 each year for volunteer lawyer programs that put private practice attorneys together with clients who need pro bono services.

IOLTA funding is the only source of money specifically to pay for PLS' administration of the successful Mountain Area Volunteer Lawyer Program, which last year provided pro bono legal services in 827 closed cases, valued conservatively at nearly half a million dollars. "But there are also grants IOLTA has made to start up programs that further the administration of justice," said Steve Michael. "Once the programs are up and running, the funds will come to keep them going."

For instance, Pursley, recognizing a need for more collaboration, was instrumental in creating the Equal Justice Alliance as a forum for civil legal aid providers who receive IOLTA funding to discuss coordination of legal services and efforts to increase resources. That group now meets regularly. IOLTA grants were also instrumental in establishing the North Carolina Equal Access to Justice Commission in 2005. IOLTA funded staffing and activities of the Commission, including the hiring of a full-time director for the Commission and the Alliance. The Commission will receive funding through the State Bar beginning in 2010.

"Our (IOLTA) program has been and is still an active participant in determining how the problem of providing access to justice in our state should be addressed," said Tom Lunsford, executive director of the NC State Bar. "The IOLTA board and staff are appropriately and usefully involved in shaping policy and in rationalizing the delivery of legal services. Our Philanthropy is active and responsible, not passive and disengaged."

As Jim Barrett of Pisgah legal Services said, "People would be amazed if they knew how much good IOLTA funds do." In honor of NC IOLTA's 25th anniversary, the NC State Bar *Journal* published a three-part series of articles on NC IOLTA. The entire series of articles can be accessed on the State Bar's website at: http://www.ncbar.com/IOLTA_articles.pdf.

Local Attorneys Help Pisgah Legal Secure \$500k Grant

Pisgah Legal Services received an incredible outpouring of community support to meet a September 30th deadline and secure a \$500,000 challenge grant from the national Kresge Foundation, as well as challenge grants and gifts totaling an additional \$250,000 from the Janirve Foundation and two local donors. With these challenges met, PLS has exceeded its \$5 million capital campaign goal.

More than 290 local attorneys and their families pledged \$811,360 to support Pisgah Legal Services' Justice for All Capital Campaign. PLS is extremely grateful for the generosity and leadership shown by the legal community on this campaign. A total of 1,027 donors and foundations made gifts and pledges to the campaign. Buncombe County also made a substantial grant.

"We are absolutely thrilled with this amazing show of community support," says PLS Executive Director Jim Barrett. "This campaign funds the purchase of Pisgah Legal Services' larger office space on Charlotte Street. With this new space, we plan to double the number of low-income people we help annually in the next 10-15 years. By supporting this campaign, our donors are helping thousands more people over the next decade to escape domestic violence, secure stable housing, access essential benefits and services like health care, and otherwise meet basic needs. The capital campaign gives PLS the means to finance the purchase and renovation of the larger office across the five-years that pledges will be paid."

Terry Van Duyn, PLS Board President notes, "The success of our campaign demonstrates so clearly that this community wants to provide legal assistance to improve lives – not just for those who can afford to pay for an attorney. We have found that when people hear Pisgah Legal Services' story and learn that our attorneys are helping people in crisis to meet very urgent needs—food, shelter, health care, and safety from abuse—they really want to help. I have been so heartened by the generous response we've had. What a caring community we live in!"

For more than 27 years, Pisgah Legal Services operated out of the Gudger House, a Victorian home in Montford. After years of growth to meet increased community need, this building was desperately overcrowded and unsafe for PLS staff and clients. With adequate space, PLS now has the foundation to expand its programs to serve more people. PLS finally has space to use more volunteer attorneys and other volunteers. In PLS' previous main office, dozens of volunteers were turned away each year because of lack of work space.

Currently, Pisgah Legal Services provides free civil legal aid to help more than 9,200 people across Western North Carolina each year to meet their most basic needs—housing, health care and safety from domestic violence. Recently, PLS has seen a 29% increase in requests for legal help and attributes this increase to struggles families are facing in the midst of the current recession. Pisgah Legal Services opened 62% more cases to prevent foreclosure and preserve home ownership in 2009 than in 2008.

This successful campaign positions Pisgah Legal Services to serve many more people far into the future. For more information, visit www.pisgahlegal.org or call 210-3408.

Van Winkle Attorneys Honored by "Best Lawyers" 2010 Survey

Best Lawyers in America, the nation's preeminent legal referral guide, honors nine attorneys of The Van Winkle Law firm in its 2010 edition. First published in 1983, Best Lawyers is based on an exhaustive annual peer-review survey. For the new U.S. edition, more than 24,126 leading attorneys cast more than 2.8 million votes on the legal abilities of other lawyers in the same and related specialties.

The Van Winkle Law Firm attorneys named to the list and the areas in which they have been recognized are: **Jones P. Byrd** (Construction Law, Eminent Domain/Condemnation Law, Personal Injury Litigation and Medical Malpractice Law), **Cynthia W. Eller** (Real Estate Law), **Robert H. Haggard** (Trusts and Estates), **Craig D. Justus** (Land Use and Zoning Law), **Barry B. Kempson** (Trusts and Estates), **Brian F. D. Lavelle** (Trusts and Estates), **Larry S. McDevitt** (Commercial Litigation, Medical Malpractice Law and Personal Injury Litigation), **Philip J. Smith** (Commercial Litigation), and **Albert L. Sneed, Jr.** (Bankruptcy, Creditor-Debtor Rights and Commercial Litigation).

Because of the rigorous and transparent methodology used by Best Lawyers, and because lawyers are not required or allowed to pay a fee to be listed, inclusion in Best Lawyers is considered a singular honor. *Corporate Counsel Magazine* has called Best Lawyers "the most respected referral list of attorneys in practice."

Membership News

The local NCAWA chapter will be holding a membership drive and reception for NC State Bar President, Bonnie Weyher, at The Venue on Market Street on Wednesday, November 18, 2009 from 5:30pm to 7:30pm. Heavy hors d'oeuvres and wine will be served. RSVP to Annika Brock by November 13, 2009 at 254-8800 or abrock@mwbavl.com.

Lyman "Greg" Gregory and Michele Stratta announce their engagement. Greg is a shareholder at Miller Marshall Roth, P.C., and Michele works at the Buncombe County Department of Social Services. They will be married January 2, 2010.

March 5, 2010 – North Carolina Bar Association's "Ask-A-Lawyer" Event

Office Space Available: Pisgah Legal Services has 1522 square feet available for lease at 62 Charlotte Street in its new office building. Space is available now. This office suite includes a bathroom and break area, one larger office and two smaller ones – all on the ground floor adjacent to Starbucks. Use of PLS' conference rooms and some furniture provided is an option. For more information, contact Pisgah Legal Services Executive Director Jim Barrett at 210-3408.



On October 22nd, 2009, Chief Justice Sarah Parker (North Carolina) presented Mr. Roy W. Davis, Jr., of The Van Winkle Law Firm, with the Chief Justice's Professionalism Award. Only one recipient is selected annually for their contributions to the legal profession and for services to the people of North Carolina.

According to the North Carolina Court System's website, "The North Carolina Chief Justice's Professionalism Award was created to spotlight individuals whose career commitments in areas such as legal ethics, disciplinary enforcements and lawyer professionalism demonstrate the high calling and higher achievement of lawyers in modern society."

This award is presented annually to an individual or organization whose contributions have demonstrated the highest commitment to genuine professionalism and the highest standards of legal ethics. Recipients have demonstrated the good that can be accomplished by employing intellectual honesty, compassion, and practical skills in the practice of law.

McGuire, Wood & Bisette, P.A. announces that the firm has become a member of the international law firm network, LawPact®. LawPact is an international association of independent business law firms created to assist member firms in pursuing excellence in client services, firm management, and the application of evolving technologies to serve the global needs of its member firms and their clients. Membership in LawPact is by invitation only and McGuire, Wood & Bisette is the only member firm in North Carolina.

There are currently 45 LawPact members in North America (30), Europe (12), South America (2) and India (1). LawPact functions as a referral and resource network for McGuire, Wood & Bisette, leveraging member expertise and services to other members and their clients on a national and international basis. Through LawPact, the firm provides its clients with the collective experience and skill of colleagues within the network. For more information on LawPact, visit www.lawpact.org.

McGuire, Wood & Bisette, P.A. is the oldest law firm in Asheville, North Carolina continuously in the practice of law since 1894. Since its inception, the firm has engaged in a general civil practice geared toward commerce and industry.

Classified Ads

FOR SALE: 8-foot sage green waiting room sofa with coffee table. Excellent signature piece for a waiting room. \$200. Picture available by e-mail upon request. Contact Greg Gregory at Miller Marshall Roth, P.C., 281-2100, lgregory@mmrlawfirm.com.

HIRING – Part time to full-time legal assistant/bookkeeper. Quick-books experience is required. Please forward resumes to Paul Bidwell or Jessica Walters at 29 N. Market Street, Suite 700, Asheville, NC 28801.

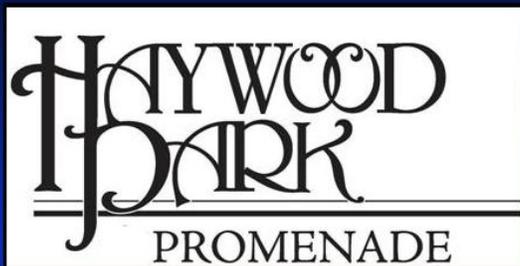
OFFICE SPACE WANTED: Looking to sublet or share office space commencing January 2010. My practice is civil litigation. Please contact me by email: andrewsisket@gmail.com.

OFFICE FOR RENT: 1,500 plus square feet available at \$14.50 per, essentially one-half of penthouse suite with common space: conference rooms, restrooms, lobby and kitchen. Call Paul Bidwell at 252-0490.

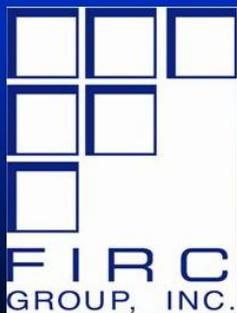
HIRING - *Receptionist/File Coordinator:* Duties include answering multiple phone lines, opening new files, greeting clients, etc. *Real Estate Paralegal:* Duties include preparing commercial and residential loan closings & drafting correspondence. Email resume to Jason Peltz at jason@peltzlawfirm.com. Salary based upon experience.

HIRING: Legal Aid of North Carolina (LANC) is seeking part-time Staff Attorneys to work in its Senior Law Project (SLP) hotline unit based on Asheville, which provides referrals and thorough legal assistance and counseling over the telephone in civil matters to senior citizens in North Carolina. The SLP utilizes staff attorneys in four-hour shifts; the number of shifts are limited to a maximum of three or four per week; and the scheduling is flexible. Visit our website at https://www.legalaidnc.org/Public/Participate/Jobs/Job_Postings.aspx to view the full announcement and instructions on how to apply.

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Briefly... from the Bar Administrator

Greetings from our new office on Charlotte Street! In late October we moved to a fine new space adjacent to Pisgah Legal Services. Just a few days later, the PLS building was “tagged” with graffiti bearing hate slogans and symbols. Smearred in purple spray paint across the building and PLS cars, the words were a reminder that intolerance is alive, even in a city that prides itself in a diverse mix of cultures that live peacefully in a glorious setting.

I’m sure the irony isn’t lost on any of you, but it is worth noting how diligently PLS attorneys work to represent the disenfranchised poor. Volunteer and staff attorneys working for PLS do not deserve the hatred of vandals, nor should they be forced to live in fear of violence from anonymous attackers. Which is why the words quoted by Judge Gary Cash at the Pro Bono Kick-off rang true for me as I watched the police take pictures of the crime scene: “never, no never, be a bystander.”

I am proud to be associated with a group of fine citizens who are not bystanders. Thank you for the many ways you serve our community,

Lisa-Gaye Hall

Howard Gum Elected as Bar Councilor



Attorney Howard Gum of Gum & Hillier was elected to a second term as the Bar Councilor for the 28th Judicial District Bar at the October Bar Luncheon by unanimous vote of the members present.

The 28th’s website is currently being updated, and we’ll make sure to send you an email when the updates are complete in mid-November. A new feature of the updated site will be a collection of historical photos of the Bar and its members, including this great photo.



28th JDB Holiday Party

December 4, 2009 from 6 p.m. - 10 p.m.

At The Venue, 21 N. Market Street

All members invited

Food, drinks, music & fun

NOMINATE NOW FOR GENERAL PRACTICE HALL OF FAME; DEADLINE DECEMBER 14

Nominations are now being accepted for the 2010 induction class of the NCBA’s General Practice Hall of Fame. A total of 119 distinguished N.C. attorneys have been inducted into the Hall of Fame since its inception in 1989. Induction is scheduled Thursday evening, June 24, at the outset of the 2010 NCBA Annual Meeting in Wilmington. The deadline for nominations is Dec. 14, so please access the link below and nominate a deserving colleague.

<http://www.ncbar.org/download/generalPractice/hallOfFameNominationForm.pdf>

The One Million Trees Project launched by the American Bar Association's Section of Environment, Energy, and Resources, calls on America's lawyers to plant one million trees across the United States in the next five years to raise awareness of the benefits of trees, and particularly their role in helping to fight climate change. The 28th JDB wants to participate by planting trees in low-income housing communities. To plant a tree, pledge \$100 today by calling Bar Administrator Lisa-Gaye Hall at 252-5733.