Rushton Stakely Welcomes 2025 Summer Clerks



Michael Butler
Michael Butler, from Montgomery, Alabama, has completed his first year of law school at The University of Alabama School of Law. He holds a Bachelor of Science in Psychology from the University of Alabama and has contributed to neuroscience research through his work in an MRI lab. His professional experience includes roles in inventory management and IT support, where he has developed strong problem-solving skills. He also brings a strong background in customer service and team collaboration. His interests include music composition, college football, and international soccer.



Destiny Cheatwood

Destiny Cheatwood has completed her first year of law school at The University of Alabama School of Law, where she ranks in the top third of her class and serves on the Dorbin Executive Committee, the Student Bar Association, and the Alabama Anti-Trafficking Legal Advocacy Society. She earned her Bachelor of Science in Psychology, summa cum laude, with a minor in Criminal Justice, also from The University of Alabama. Her legal experience includes internships with a local law firm and work as a teaching assistant for a criminal procedure course, where she supported students through mock trials and course preparation. She also brings extensive leadership and customer service experience from her role as a lead trainer in retail. Her interests include cooking, graphic design, and volunteering in her community.



Carter Crum

Carter Crum is a Juris Doctor candidate at Cumberland School of Law, where he is active in the Junior Board of Trial Advocacy, Christian Legal Society, and the Sports and Entertainment Law Society. He earned a Bachelor of Science in Business Administration from Auburn University, where he held leadership roles and earned an ethics certification from the NASBA Center for Public Trust. His professional background includes serving as Finance Director of the Auburn University mascot program and contributing to major athletics initiatives in partnership with university and city leadership. He also

brings strong interpersonal and leadership skills from his services as a university ambassador and chaplain. His interests include college athletics, public speaking, and community engagement.



Grant Hawkins

Grant Hawkins is joining our firm for a second term. He has completed his second year of law school at The University of Alabama School of Law, where he ranks in the top 20% of his class and has been recognized for outstanding legal writing. Grant served as a 1L Senator for the Student Bar Association and is active in the Federalist Society and Christian Legal Society. He holds a Bachelor of Mechanical Engineering, summa cum laude, from Auburn University, where he held leadership roles in both academic and fraternity organizations. Before law school, Grant worked in research and development and innovation advancement, gaining valuable insight into patent evaluations and market research for technology licensing. His interests include genealogy, antiquarian books, musical theatre, and Braves baseball.



Brooklyn Nall
Brooklyn is a rising second year law student at Cumberland School of Law, where she ranks in the top 8% of her class and is active in several organizations, including the Alabama Student Bar Association, the Center for Children Law and Ethics, Women in Law, and the Christian Legal Society. She earned her Bachelor of Arts in Law and Justice, summa cum laude, from Auburn University, where she served as President of the Auburn Chapter of the International Justice Mission and Vice President of Operations for the Phi Mu Alpha Mu Chapter. Through previous legal internships, Brooklyn has gained experience in estate planning and real estate law. She is also involved in volunteer work, including teaching English as a second language and mentoring elementary school students through her church.



Grace Waters
Grace is a rising second year law student at Cumberland School of Law, where she ranks in the top 25% of her class and is involved with the Trial Advocacy Junior Board and the Public Interest & Community Service Organization. She earned a B.B.A. in Marketing, summa cum laude, from Mississippi State University, where she was a member of the Pre-Law Society and a Delta Scholar, presenting a justice reform project to faculty at Harvard Law's Food & Policy Clinic. Through previous internships, Grace has gained hands-on experience in family law by drafting pleadings and preparing trial exhibits. Grace also has an extensive background in community outreach and leadership through roles with the City of Birmingham and various customer service positions. Her interests include cross stitching, crocheting, and playing pool.

Rushton Stakely Welcomes 2023 First Group of Summer Clerks



Aleah Brown
Aleah Brown, from Dothan, Alabama, has completed her second year of law school at The University of Alabama School of Law. She is a Capstone Legal Scholar, recipient of a CALI award for

an externship at the Tuscaloosa County Public Defender’s Office, and Dean’s Community Service Award recipient. She is also a member of the Black Law Student Association (BLSA), a representative for the Public Interest Student Board and BARBRI, and she served on the 2022-2023 BLSA Trial Advocacy Competition Team. She graduated summa cum laude from The University of Alabama in 2021 with a Bachelor of Arts in English and Political Science. She serves as a volunteer for The Brown House and the Blackbelt Action Committee.



Nathan Pohlman

Nathan Pohlman is from Montgomery, Alabama and has completed his first year of law school at The University of Alabama School of Law. He is a member of the Federalist Society and the Christian Legal Society. He graduated summa cum laude from Auburn University with a Bachelor of Science in Agricultural Business & Economics.



Andrew Harris
Andrew Harris is from Montgomery, Alabama. He has completed his first year of law school at Tulane University School of Law. Mr. Harris graduated from Washington and Lee University with a Bachelor of Arts in Economics and Cognitive & Behavioral Science and a minor in Poverty and Human Capabilities Studies. While attending Washington and Lee University, Mr. Harris served as an intern for Chief District Judge Emily C. Marks, and he also completed internships with the Shepherd Higher Education Consortium on Poverty and the Washington and Lee Office of Community-Based Learning.



Dakota Rivers
Dakota Rivers, from Montgomery, Alabama, has completed his first year of law school at The University of Alabama School of Law. He is a member of the Federalist Society and the Saint Thomas More Society. Mr. Rivers graduated from the University

of Notre Dame with a Bachelor of Arts in Political Science. Mr. Rivers also participated in the University of John Cabot Study Abroad Program.

Fred W. Tyson 9/23/56 to 6/7/22

Our firm announces the loss of a great partner, terrific lawyer, and outstanding person. Fred's legal career began with Rushton Stakely in 1982. He remained a vital and loyal member of the firm until his death on June 7, 2022. The final eighteen months of Fred's life were spent waging a battle with cancer. He died surrounded by his family at M. D. Anderson in Houston, Texas, where he had been receiving treatments for bone marrow and blood-borne cancer.

Fred's legal abilities were well known and recognized. Many victories in courts defending doctors and hospitals throughout the state produced acceptance of Fred into the American Board of Trial Advocates and the American College of Trial Lawyers. Both of these prestigious organizations require extensive trial experience and demand that members practice with the highest degree of civility and ethics. Fred exemplified these requirements in all aspects of his practice. This was recognized by his being named President of the State Chapter of ABOTA and State Chairman of the American College of Trial Lawyers.

In his community, Fred was similarly recognized for his excellence and leadership. He served on the Vestry of St. John's Episcopal Church. He was a member of the Board of Directors and then President of the Montgomery Country Club.

Fred served on the President's Cabinet for the University of Alabama and, along with his wife, Florence, their children, Allyson, Ty, and Thomas and their spouses, was a fervent supporter of the Crimson Tide throughout his life.

The phrase which comes to mind at a time like this, "Why do bad things happen to good people?" precipitated by a book title is not necessarily as simple as it may sound. It is easy often to recognize and define "bad things." Cancer, Covid, war, civil violence, and the list goes on from there. Sometimes, it is harder to recognize those who may be called "good people," but in Fred's case, this recognition is easy. Fred lived his life in devotion to others. His wife, children, son-in-law, daughters-in-law, and grandchildren were the core of his pride and happiness. Anyone who knew Fred and Florence knew a couple totally devoted and adoring of each other. While many men would choose to go to a ball game and cheer their favorite team on to victory with buddies, Fred's first choice was always Florence, his love and his best friend. In addition, Fred had the strong support of two fine brothers, Tommy (Martha) and Johnny. His father, Tommy, and mother, Alice, indeed raised three outstanding boys.

Fred was devoted and loyal to the causes most dear to him. His loyalty extended to his church, St. John's, and to his friends beyond his immediate family. His SAE pledge class was as close a group as can be imagined, remaining in contact and friendship long after their college days ended. They were in all respects "brothers."

Most of all, Fred Tyson was a good man. His goodness was rewarded by the recognitions mentioned previously. His goodness, though, is best described by his behavior day in and day out. He refused to disrespect or dishonor his fellow man. He refused to speak ill of another person, choosing to avoid rather than confront those with whom he might have a disagreement. In our line of work, it is hard not to encounter situations where there are disagreements, but Fred always

handled those as a gentleman. He rose above the fray and was kind and gentle to all, to all walks of life, races, and religions. His family and his church raised him to respect and welcome all people. In the true sense of the word, Fred Tyson lived a Godly life.

Fred's passing leaves us the challenge to strive ourselves to be more like him. If we meet that challenge, we will all be better for it, and we will honor Fred's memory as he would have it.

Huffaker Appointed as Federal District Court Judge



We are proud to announce that R. Austin Huffaker, Jr., a shareholder of Rushton Stakely, has been appointed to serve in a lifetime position as a federal district court judge for the United States District Court for the Middle District of Alabama. Austin was nominated by President Trump on July 8, 2019, and he was confirmed by the United States Senate on December 4, 2019 on a 89-4 vote. We offer our congratulations

to Austin for this incredible honor.

Austin joined Rushton Stakely in 1999, and since that time, he has focused his practice on civil litigation defense, including complex commercial, product defect, lender liability, and professional malpractice matters. He has served as a Commissioner of the Alabama Securities Commission and a Member of the Alabama Pattern Civil Jury Charge Committee. He earned his Bachelor of Engineering degree, *cum laude*, from Vanderbilt University and his Juris Doctor, *magna cum laude*, from the University of Alabama School of Law, where he was a member of the *Alabama Law Review* and a Hugo Black Scholar.

Tommy Keene, the firm's president, said, "Our firm is overwhelmed with joy as we announce the confirmation of Austin Huffaker to the prestigious Federal Court Judgeship in the Middle District of Alabama. While we will realize a great loss to our firm in his leadership and legal abilities, we recognize that he now answers a higher calling. He will serve the citizens of the Middle District in exemplary fashion, and we know that he will deliver justice in the most fair, intelligent, and even-handed manner possible." Austin brings twenty years of experience in the practice of law to his new position. We extend our warmest congratulations and wish him every success in his new duties.

Lee County Circuit Court Awards Summary Judgment in Mechanic's Lien Case

Dennis Bailey, James Dickens, and Theresa Johnston recently obtained summary judgment in the Circuit Court of Lee County

on behalf of their client, a real estate developer, in a mechanic's lien dispute. The Circuit Court agreed with the defendant developer's position that because an arbitrator had previously decided that no unpaid balance was owed from the developer to the general contractor, the plaintiff subcontractor could not recover against the developer.

Alabama Supreme Court Revisits Hospital Lien Law

On April 28, 2017, the Alabama Supreme Court released its opinion in Ex Parte Alfa Mutual Insurance (No. 1141343), which clarified its interpretation of Alabama's Hospital Lien law in a case alleging a first party insurance payment impaired a hospital's lien. In so doing, the Court adopted the argument that Evans Bailey made to the trial court and the Court of Civil Appeals: lien impairment claims against first party insurers should, at least, be capped by the insurer's policy limits. Previous decisions from the Alabama Supreme Court appeared to indicate that policy limits were not a factor in calculating the amount owed in a lien impairment case. The decision in Ex Parte Alfa reversed the trial court's judgment that the plaintiff-hospital could recover 18 times the defendant-insurer's policy limits on a lien impairment claim.

PowerSouth has dedicated a building in honor of Shareholder Ted Jackson

Rushton Stakely is pleased to announce that PowerSouth, a long-time client of the firm, has dedicated a building in honor of Rushton Stakely Shareholder Ted Jackson who has served as General Counsel to PowerSouth since 1978. During the building dedication ceremony, PowerSouth President and CEO Gary Smith thanked Mr. Jackson for his service to the organization and stated that Ted "is part of this organization's foundation, so it's fitting to name a building in his honor…Ted is both our history and our historian. He's done so many things that lead us to the future." The building is a 44,000-square foot building that houses PowerSouth's state-of-the-art Energy Control Center, data center, and network operations center. The building also includes office space for over 50 employees.

PowerSouth serves the wholesale energy needs of 16 electric cooperatives and four municipal electric systems in Alabama and northwest Florida. Collectively, the members provide electric service to homes, businesses, and industries in 39 Alabama and 10 Florida counties.

Mr. Jackson joined Rushton Stakely in 1970. He practices primarily in the areas of utility law, taxation, general corporate law, municipal and corporate finance, and the law of cooperative organizations. Mr. Jackson represents several utility cooperatives engaged in generation, transmission, and distribution of electricity. He also represents agricultural cooperatives, a large number of corporate and other business clients, and bond issuing authorities. He has received numerous awards throughout his career, and he has been recognized repeatedly by The Best Lawyers in America.



Freeman and Love obtain favorable verdict in Montgomery County Jury Trial

Plaintiff sustained various injuries arising out of a motor vehicle collision with Defendant driver. Plaintiff asserted that the Defendant was guilty of negligence and wantonness causing the collision and resulting in bodily injury and other damages including wage losses for three weeks of work missed, medical expenses, pain and suffering and other special damages. Defendant denied any and all wrongdoing and noted that to the extent Plaintiff was injured or otherwise damaged was the result of Plaintiff's own negligent conduct. Prior to the trial of this case, the UM carrier advanced settlement proceeds in the amount of $30,000. Applicable policy limits were $50,000. In order for Plaintiff to recover anything at trial, Plaintiff would have had to obtain a verdict over $50,000. The Plaintiff asked the jury to award no less than $75,000.00. After several days of trial, the jury deliberated

for approximately two hours. The jury returned a verdict in the amount of $10,000 resulting in Defendant's carrier retaining net proceeds of $20,000.

The Eleventh Circuit Court of Appeals Affirmed Dismissal

The Eleventh Circuit Court of Appeals has affirmed the dismissal of a patronage capital credit putative class action against Central Alabama Electric Cooperative on the ground that it failed to state a claim upon which relief could be granted under Alabama cooperative law. The unanimous panel decision held that "While [Ala. Code] § 37-6-20 requires that excess revenues be distributed, Caver's claims ignore how § 37-6-20 provides that the manner of distribution of patronage refunds is determined by a cooperative's bylaws. To be clear, our narrow holding here is that § 37-6-20 does not require CAEC to distribute patronage refunds only in a cash payment manner."

The court also held that CAEC's removal of the case to federal court under the federal officer removal statute (28 U.S.C. § 1442(a)(1)) was proper.

Rushton Stakely shareholders Dennis Bailey, Mac Freeman and Evans Bailey represented defendant Central Alabama Electric Cooperative at the district court level where they secured a dismissal and briefed the appeal before the Eleventh Circuit. Dennis Bailey presented oral argument to the panel for the cooperative.

The published opinion was authored by Circuit Judge Frank M. Hull with Circuit Judge Gerald B. Tjoflat and District Judge

Carlos E. Mendoza, sitting by designation, joining.

The appellants were represented by Oscar M. Price, IV of Price Armstrong LLC and Wilson F. Green of Fleenor & Green, LLP.

Amicus briefs were submitted on behalf of the Florida Electric Cooperatives Association by Lawrence J. Hamilton, Christina Schwing and Laura B. Renstrom of Holland & Knight LLP and for Dixie Electric Cooperative and Pioneer Electric Cooperative by Philip H. Butler, Robert E. Poundstone IV, George R. Parker and Marc James Ayers of Bradley Arant Boult Cummings, LLP.

Eleventh Circuit Affirms Summary Judgment In Multi-Million Dollar Legal Malpractice Case

On August 29, 2016, the Eleventh Circuit Court of Appeals affirmed a summary judgment order in favor of a firm client in a multi-million dollar legal malpractice case defended by R. Austin Huffaker, Jr., Esq. In the case, the plaintiff (a business entity) sued its bankruptcy counsel for legal malpractice in connection with a failed Chapter 11 bankruptcy proceeding. In particular, the plaintiff claimed that its bankruptcy counsel failed to file a viable plan of reorganization within the time limits proscribed by the Bankruptcy Code, thereby resulting in conversion of the case to Chapter 7 and therefore liquidation of the plaintiff entity's assets. The plaintiff claimed over $3 million in damages. After a hotly contested case which the defendant client vigorously defended and after striking the plaintiff's

experts, the bankruptcy court granted summary judgment in favor of the defendant attorney on multiple grounds, including the failure by the plaintiff to show a question of fact regarding the standard of care and the failure to show that the outcome of the underlying bankruptcy would have been different but for the attorney's alleged negligence. On review of the bankruptcy court's report and recommendation, the Middle District of Alabama (Watkins) affirmed. On appeal, the Eleventh Circuit Court of Appeals affirmed. This was a hard fought victory in a case with very complex legal issues. The case cites are Land Ventures for 2 LLC v. Fritz, 2016 WL 4501660 (11th Cir. 2016)(affirming 551 B.R. 846 (M.D. Ala. 2015)). R. Austin Huffaker, Jr. with the firm defended the case.