RSJG Attorneys Recognized as Super Lawyers

Rushton, Stakely, Johnston and Garrett, P.A. is pleased to announce that six of its lawyers have been selected for inclusion in the 2010 edition of the *Alabama Super Lawyers* publication. The lawyers selected include: Jeffrey W. Blitz (Real Estate); Ronald G. Davenport (Business Litigation and Civil Litigation: Defense); Robert A. Huffaker (Appellate and Business Litigation); Thomas H. Keene (Healthcare, Personal Injury Defense: Medical Malpractice and Professional Liability Defense); Fred W. Tyson (Personal Injury Defense: Medical Malpractice and Healthcare); and Helen C. Wells (Estate Planning and Probate, Business, Corporate and Tax). Patrick M. Shegon (Personal Injury Defense: Medical Malpractice) was recognized as a 2101 *Alabama Rising Star*. Lawyers are nominated by their peers and selected for inclusion in *Super Lawyers* after a rigorous evaluation of their background, experience and achievements in the legal field. The purpose of the selection process is to identify a diverse and comprehensive listing of attorneys within the State who have attained the highest level of professional achievement. This honor is awarded to only the top five percent of lawyers in the State.

R. Austin Huffaker President of the Montgomery Chapter of

the FBA

Attorney Austin Huffaker has served as an active participant to the community for years. He is highly involved in the Federal Bar Association (FBA) and serves as the president of the Montgomery chapter. The chapter has recently united with the Middle District of Alabama to assist ex-offenders accomplish their desires of reentry to the community.

The program works between the court and the individual. Judges specify the requirements the participants are responsible for, and the participants are obligated to complete these requirements, such as community service, rehabilitation programs, random drug tests, etc.

Austin Huffaker leads the Montgomery chapter of the FBA to work with the participants, assisting them in achieving their goals by attending the reentry court sessions to present positive rewards and recognition for their outstanding performance.

J. Ladd Davis Accepted into Leadership Montgomery

J. Ladd Davis has been accepted into Leadership Montgomery. Leadership Montgomery is an organization that brings together people in the community to inform them of the most important issues the community is facing and to develop community leaders through an intensive nine month leadership program.

Defense Verdict in Underinsured Motorist Case

- Style: Odom v. Safeway Insurance Company of Alabama
- County: Butler
- Case Number: CV-2007-51
- Attorneys for plaintiff: A. Patrick Ray
- Attorneys for defendant: Robert C. Ward, Jr.; Beth Bolger; Jessica S. Pitts
- Date of trial: March 8, 2010
- Verdict: Defense
- Verdict amount: $0

Summary of claims and defenses:

On September 20, 2005, plaintiffs were driving and riding in their vehicle in front of the courthouse in Greenville, Alabama, when they were struck from behind by the tortfeasor, Stephanie Branch. According to the accident report, Ms. Branch was listed as following to closely. Ms. Branch settled with the plaintiffs before a lawsuit was filed.

The Odoms the brought an action against Safeway seeking their underinsured motorist benefits. Ms. Odom claimed neck and back pain along with tingling in her arms. On the day of the accident, she was taken from the scene by ambulance to the local hospital, L.V. Stabler Hospital. She later followed up with a neurosurgeon who performed neck surgery. Ms. Odom underwent physical therapy after the surgery. He medical bills totaled in the area of $90,000.

A trial, defense counsel pointed out that Ms. Odom had some pre-existing neck and back injuries. Furthermore, the lack of

damage to the Odoms' vehicle was brought to the jury's attention.

With respect to Mr. Odom, he asserted a loss of consortium clim and a claim for lost wages. Mr. Odom testified that he and his wife could no longer go on long drives, Mr. Odom had to do most of the cooking, and his wife could no longer take care of their children. He also stated that he and his wife had not been intimate since the accident. As a result of the loss of companionship, Mr. Odom stated his marriage had fallen apart and he and his wife are now going through a divorce.

As to his lost wages claim, before the accident, Mr. Odom was on disability and not working. He testified that at the time of the accident he was attempting to get off disability and become a truck driver.

After deliberating for 25 minutes, the jury returned a defense verdict as to all claims.

Firm Successfully Defends Hospital and Registered Nurse

L. Peyton Chapman, III and William S. Haynes successfully defended a hospital and registered nurse in a medical malpractice/wrongful death case which was tried before the Honorable Eugene W. Reese in the Circuit Court of Montgomery County, Alabama. The case involved the death of a patient who was seen and treated in the hospital's emergency department for an allergic reaction. The allegations against the hospital and nurse related to information which was allegedly communicated to the hospital by the patient's primary care physician on the day in question, but which was not included

in the patient's chart. Plaintiff further alleged that the co-defendant emergency physician failed to properly address the patient's chest x-ray findings, failed to order appropriate lab studies, and improperly discharged the patient from the hospital. These allegations were vigorously disputed by the Defendants. The case was tried for seven days, culminating in a jury verdict in favor of all Defendants after less than thirty minutes of deliberations. The Plaintiff was represented by Richard H. Holston, Esq., of Holston, Vaughn, Andress, LLC of Mobile, Joseph A. Zarzaur, Esq., of Taylor Martino, P.C. of Mobile, and Michael G. Strickland, Esq., of Strickland & Kendall, LLC, of Montgomery.

RSJG Wins Summary Judgment For Construction Lender On Date of Trial

Shareholder Dennis Bailey, and his son, associate Evans Bailey, won summary judgment for a construction lender in Montgomery County Circuit Court on the date the complex case was set for trial. Originally the case started as a simple materialmen's lien case against a contractor for work performed on three separate home construction sites. It was consolidated with two other cases and ballooned to encompass the contractor, three banks, three materialmen, three pieces of property, and three sets of borrowers.

Dennis and Evans' client provided a construction/permanent loan to one set of borrowers who had arranged to have the contractor build their home prior to pursuing financing. Project delays eventually led the borrowers to stop work.

Three materialmen subsequently filed liens on the property. The borrowers and the materialmen alleged that Dennis and Evans' client negligently dispersed loan proceeds and conspired with the contractor to deprive them of funds. The motions for summary judgment pointed out that the borrowers had signed off on every loan draw and chose the contractor, and that the bank owed no duty to inspect or oversee construction for the benefit of the borrowers or materialmen.

Dennis, Evans, and Shareholder Bo Brown argued the dispositive motions on three separate occasions, but were denied a ruling before trial. With Dennis and Evans fully prepared to present the case to a jury on March 22, 2010, Judge Gene Reese decided to grant the motions and dismiss all claims against the bank. The case number is Montgomery County CV-09-900314 . Associate Grant Sexton also assisted in defense."

Jesse Williams, III Passes Away at Age 70

WILLIAMS, Jesse McKenney III, 70, passed away Tuesday, March 2, 2010 after a brief illness. He is survived by his wife of 49 years, Patty Hamn Williams; son, Jesse "Ken" McKenney Williams, IV (Caroline) of Montgomery; daughter Ginger Jacks (Kevin) of Montgomery; son Kirby Hamn Williams (Mary Blake) of Santa Rosa Beach, Florida; stepsisters Darnell Savage (Norman) and Gale White (Barnes). He was known as DandyDaddy to eight grandchildren Virginia, Kirby, and Bowen Jacks, Jessica and Kendall Williams and Betsy, Mac and James Hamn Williams. Jesse was a ruling elder at Trinity Presbyterian Church of Montgomery and a shareholder with the Montgomery law firm of Rushton, Stakely, Johnston & Garrett for 44 years specializing

in real estate, commercial and probate law. Private graveside service will precede the visitation which will be at 10:00 a.m. Thursday, March 4, 2010 at Trinity Presbyterian Church of Montgomery. The funeral service will follow at 11:00 a.m. at the church. Services will be led by Claude McRoberts and Michael Howell of Trinity. Pall bearers will be John Albritton, Charles Borden, Jeff Blitz, Marlin "Scooter" Dyess, Philip Gidiere, Luther Hill, Richard Humphrey, Mike Kolen, William McQueen and Jack Noble. Honary Pallbearers will be the Ruling Elders of Trinity Presbyterian Church and the members of the Wednesday morning Bible study (Jesse's Boys) Price Bishop, John Bricken, Chris Bryan, Ty Howard, Wes Loard, Jerry Lash, Saxon Main, Todd Parsons, Todd Romanowski and Jimmy Rutland. In lieu of flowers, memorials may be made to Trinity Presbyterian Church Building Fund (1728 South Hull Street, Montgomery, AL 36104, www.trinitypca.org) Sav-a-Life Montgomery, 380 Mendel Pkwy, Montgomery, AL 36124-1664, 334.260.8010) and Common Ground Montgomery (P.O. Box 1866, Montgomery, AL 36102, www.cgmal.org).

Attorney Defends Underinsured Motorist Claim

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After deliberating for 25 minutes, the jury returned a defense verdict as to all claims.

Rushton Stakely Named Highly Recommended Firm by Benchmark Litigation

Rushton, Stakely, Johnston & Garrett, P.A. has been named a "highly recommended" Alabama law firm in the 2010 edition of *Benchmark Litigation*. *Benchmark Litigation* is the definitive guide to America's leading litigation firms and attorneys. Recommendations are based on extensive research including comprehensive interviews over a year-long period.

In addition to the top firm rankings, several Rushton Stakely shareholders were recognized for their outstanding trial skills. These shareholders include: Thomas H. Keene – "local litigation star" in the areas of medical and professional liability, personal injury, and wrongful death; Robert Huffaker – "local litigation star" in the areas of complex commercial litigation, construction law, and insurance; and Patrick M. Shegon – "future star" in litigation.

For over a century Rushton Stakely has been a highly respected leader of the legal community in Alabama. Founded in 1890, today it is a firm composed of over 30 lawyers emphasizing many important areas of legal practice. The firm's active and successful trial practice is conducted on a statewide basis by trial attorneys skilled and experienced in virtually all areas of civil litigation. The firm and its lawyers have been recognized repeatedly for outstanding performance.

James R. Dickens, Jr. Attains Shareholder Status in Rushton Stakely

Rushton, Stakely, Johnston & Garrett, P.A. is pleased to announce that James R. Dickens, Jr. has been made a shareholder in the firm effective January 1, 2010.

Mr. Dickens joined the firm as an associate in 2003 and practices in the areas of commercial real estate, residential real estate, and evironmental law. He represents clients in a wide array of commercial lending and real estate transactions, including shopping center, apartment and office building development, agricultural and recreational properties, and commercial and residential leasing. In connection with these matters, Mr. Dickens routinely prepares, reviews and negotiates various forms of legal documentation, including loan documents, purchase and sale agreements, and leases. Mr. Dickens also has experience in title examination and title insurance, the facilitation of tax-free exchanges of real estate, and SBA loans.

Mr. Dickens obtained his undergraduate degree in finance from Auburn University in 2000 and his juris doctor from the University of Alabama School of Law, cum laude, in 2003.