Alabama Supreme Court Affirms Summary Judgment for Rushton Stakely Represented Insurance Agent

The Alabama Supreme Court recently affirmed a Summary Judgment in favor of an insurance agent represented by Paul James. James obtained Summary Judgment in the Jefferson County Circuit Court – Bessemer Division in a case involving serious allegations that an insurance agency and its individual agent failed to procure insurance for a business prior to a fire consuming a building that housed the Plaintiffs' business. The Plaintiffs argued that the failure to procure prohibited them from filing a claim for insurance benefits and that the agency knew or should have known that such insurance was necessary under the business arrangement between the two. The Alabama Supreme Court affirmed the lower court's judgment in favor of James' client on Friday, September 16, 2016.

Eighteen Rushton Stakely Attorneys Named Best Lawyers 2017

Rushton Stakely is pleased to announce that eighteen of our attorneys were chosen for the 23rd edition of The Best Lawyers in America© 2017. The selected lawyers are: **Dennis R. Bailey**, Bet-the-Company Litigation, Communications Law, Commercial

Litigation, Litigation – Banking & Finance, Litigation – Intellectual Property, Litigation – Labor & Employment, Litigation – Real Estate, and Product Liability Litigation – Defendants; **Jeffrey W. Blitz**, Real Estate Law; **L. Peyton Chapman**, Medical Malpractice Law – Defendants; **Ronald G. Davenport**, Personal Injury Litigation – Defendants; **William I. Eskridge**, Real Estate Law; **James W. Garrett, Jr.**, Personal Injury Litigation – Defendants, and Insurance Law; **Alan T. Hargrove**, Insurance Law, and Litigation – Insurance; **William S. Haynes**, Medical Malpractice Law – Defendants, and Personal Injury Litigation – Defendants; **R. Austin Huffaker, Jr.**, Appellate Practice; **J. Theodore Jackson, Jr.**, Litigation and Controversy – Tax, Tax Law, Trusts and Estates; **Paul M. James, Jr.**, Personal Injury Litigation – Defendants; **Thomas H. Keene**, Medical Malpractice Law – Defendants, and Personal Injury Litigation – Defendants; **Daniel L. Lindsey**, Tax Law, and Trusts and Estates; **Patrick M. Shegon**, Medical Malpractice Law – Defendants; **Christopher S. Simmons**, Litigation & Controversy – Tax, Employee Benefits (ERISA) Law, Public Finance Law, Tax Law, and Trusts and Estates; **Frank J. Stakely**, Medical Malpractice Law – Defendants, and Personal Injury Litigation – Defendants; **Fred W. Tyson**, Medical Malpractice Law – Defendants, and Personal Injury Litigation – Defendants; **Helen Crump Wells**, Tax Law, and Trusts and Estates.

For over 30 years, Best Lawyers® has been regarded as the definitive guide to legal excellence in the United States. Inclusion in the Best Lawyers list is based on a rigorous national survey of leading U. S. attorneys, and Corporate Counsel® magazine has called Best Lawyers "the most respected referral list of attorneys in practice." We are proud that eighteen of our attorneys were recognized with this distinguished honor.

Summary Judgment For Construction Lender Affirmed

The Alabama Supreme Court recently affirmed a summary judgment in favor of a construction lender represented by Dennis and Evans Bailey. Dennis and Evans were able to successfully argue to Judge Gene Reese in the Montgomery County Circuit Court that the lender did not bear any liability for construction delays and the failure to pay some subcontractors. They were also able to obtain a judgment against the borrowers in the amount for $590,274.97, which included attorney's fees and costs, for non-payment on the construction loan. The Alabama Supreme Court affirmed the lower court's judgment in favor of Dennis and Evans's client, without an opinion, on August 12, 2016.

Bailey and Davenport Receive Summary Judgment for Insurer in UM/UIM Coverage Dispute

Evans Bailey and Ron Davenport recently won a summary judgment in the Middle District of Alabama on behalf of their client, an insurer, in a coverage dispute involving UM/UIM benefits. The district court agreed with Evans and Ron's position that there was no coverage for UM/UIM benefits because the proposed insured was not a "resident relative" of the policy holder. *State Farm Mut. Auto. Ins. Co. v. Bieber*, No. 2:15-CV-475-KS-

GMB, 2016 WL 3672216 (M.D. Ala. 2016)

Dennis R. Bailey Awarded Alabama State Bar President's Award

June 23, 2016-Alabama Bar Association President Lee H. Copeland awarded Rushton Stakely shareholder Dennis R. Bailey and two other Alabama lawyers the President's Award in recognition of Exemplary Service to the Profession. "I could have appointed any of 12,000 lawyers when the bar association and its executives were sued in litigation this year, and I chose Sam Franklin, Dave Boyd and Dennis Bailey." Franklin is a shareholder in the Birmingham firm of Lightfoot Franklin and Boyd is a partner in Balch Bingham in Birmingham. Bailey has been a shareholder with Rushton Stakely in Montgomery since 1980. Bailey, Franklin, and Boyd also served on two "Super Lawyers" panel discussions concerning trial and trial preparation tips with several other distinguished attorneys such as Jere Beasley, Tabor Novak, Tony Davis, Chuck Stewart, and Jeff Rickard.

Alabama Securities Commission

Welcomes New Commissioner R. Austin Huffaker, Jr.

The Alabama Senate has confirmed the appointment of New Commissioner R. Austin Huffaker, Jr. to the Alabama Securities Commission (ASC). Mr. Huffaker was appointed to replace Commissioner Everett Price who completed his term with the Commission.

ASC Director Joseph Borg stated: “We welcome Commissioner Huffaker and look forward to his experience and insight on our Commission.

Commissioner R. Austin Huffaker, Jr. was recommended by his professional peers from the Alabama Bar Association. Appointed by Governor Robert Bentley, he was confirmed by the Alabama Senate and will serve a four-year term.

Mr. Huffaker has previously been appointed by the State of Alabama to represent its interests in a variety of litigation, including contract and Title VII actions. While he handles a broad range of complex litigation, in recent years the bulk of his practice has focused on the representation of clients in consumer fraud and complex litigation. Recently Mr. Huffaker was appointed to serve as one of Alabama’s three delegates for the 11th Circuit Judicial Conference for 2016.

Keene and Sexton Obtain

Defense Verdict in Tuscaloosa, Alabama

Thomas H. Keene and T. Grant Sexton, Jr. obtained a defense verdict in favor of a Tuscaloosa physician in Tuscaloosa County, Alabama, before the Honorable Bradley Almond. The case involved allegations of medical malpractice relating to care provided to a newborn in the Neonatal Intensive Care Unit within the first 24 hours of life. The defense presented expert testimony which established that the physician's care met or exceeded the applicable standard of care, and that no act or omission on his part caused the child any injury. In fact, the evidence presented established that the child was born with a deadly disease at birth, whom but for the life-saving care provided by the physician, and his team, would not have survived. The jury returned a verdict following deliberations of less than one hour. Mr. Keene and Mr. Sexton were assisted by local counsel, R. Bernard Harwood.

Chapman and Garrett Secure Defense Verdict for Hospital in Death Case

L. Peyton Chapman, III and R. Brett Garrett achieved a defense verdict in favor of a local hospital in Montgomery County, Alabama, before the Honorable J.R. Gaines. The case involved allegations of medical malpractice and wrongful death based upon claims relating to a fall which caused a hip fracture, pressure sores, and an allegation that a catheter-associated

urinary tract infection caused the Plaintiff's decedent to develop urosepsis, respiratory failure, and ultimately to die. The defense presented evidence that the hospital staff provided appropriate care and treatment with regard to fall prevention measures, pressure sore prevention and treatment, infection control, and all other aspects of the patient's care. The defense also presented evidence that the decedent's death did not occur due to the alleged breaches of the standard of care but, instead, was caused by the decedent's overwhelming comorbid medical conditions, including systemic vascular disease, coronary artery disease, congestive heart failure, renal insufficiency, and other related conditions. On March 16, 2016, the eighth day of trial, the jury returned a defense verdict after approximately one hour and forty-five minutes of deliberation.

Rushton Stakely Client Awarded $4.9 Million by Autauga County Jury

In what may be the first test of the Alabama Heavy Equipment Dealer Act, on Feb. 12, 2016, an Autauga County jury awarded a Rushton Stakely client lost profits of over $4.9 million against a heavy equipment manufacturer due to termination in violation of the Act. The client had been a dealer of heavy equipment for 19 years when it was terminated in 2014. The jury determined the termination was without good cause. The trial judge, Hon. Sibley Reynolds, also determined as a matter of law that the termination letter failed to provide 120 days advance notice. The Alabama Heavy Equipment Dealer Act, which was enacted in 2009, allows for the recovery of lost profits

and also allows a successful dealer to recover reasonable attorney fees and costs. Deirdre Russell of Business Appraisals & Consulting, Inc. testified to the past and future lost profits of the Plaintiff. Dennis R. Bailey tried the case for the dealer. J. Evans Bailey and Jessica Trotman assisted in preparing the case for trial.

Freeman Obtains Defense Verdict in Jury Trial in Lowndes County

Plaintiff sued a heavy equipment dealer and a service technician claiming faulty service and maintenance on Plaintiff's excavating equipment used in its mining and dredging operations. Plaintiff claimed that the Defendants caused or allowed debris or other contaminants to enter the hydraulic system, damaging the hydraulic pump which ultimately rendered the large machine useless.

Defendants denied any wrongdoing and noted that any and all modifications, service, and maintenance provided by the equipment dealer and its service technicians was consistently performed in a professional and competent manner.

Plaintiff's claims of negligence and wantonness were submitted to the jury. After nearly a week long trial, the jury found in favor of Defendants on all counts.