Twenty Rushton Stakely Attorneys Named Best Lawyers 2015

Rushton Stakely is pleased to announce that twenty of our attorneys were chosen for the 21st edition of The Best Lawyers in America®. The selected lawyers are: **Dennis R. Bailey**, Communications Law, Bet-the-Company Litigation, 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 – Defendants, and Insurance Law; **Richard B. Garrett**, Medical Malpractice Law – Defendants and Personal Injury Litigation – Defendants; **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 & Controversy – Tax, Tax Law, Trusts & 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 & 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 & 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; **Robert C. Ward, Jr.**, Mediation and Insurance Law; and **Helen Crump Wells**, Tax Law and Trusts & Estates.

In addition, **Mr. Jackson** has been named Best Lawyers' 2014-2015 Montgomery Litigation and Controversy – **Tax "Lawyer of the Year."** Only a single lawyer in each practice area, in each community is being honored as a "Lawyer of the Year."

For 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 almost 50,000 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 twenty of our attorneys were recognized with this distinguished honor.

U.S News and World Report and Best Lawyers Names Rushton Stakely in 2015 "Best Law Firms" Rankings

Firms included in the 2015 "Best Law Firms" list are recognized for professional excellence with persistently impressive ratings from clients and peers. Achieving a tiered ranking signals a unique combination of quality law practice and breadth of legal expertise.

The 2015 rankings are based on the highest number of participating firms and highest number of client ballots on record. To be eligible for a ranking, a firm must have a lawyer listed in *The Best Lawyers in America*, which recognizes the top 4 percent of practicing attorneys in the US. Over

17,000 attorneys provided almost 600,000 law firm assessments, and almost 7,500 clients provided more than 40,000 evaluations.

Ranked firms, presented in tiers, are listed on a national and/or metropolitan scale. Receiving a tier designation reflects the high level of respect a firm has earned among other leading lawyers and clients in the same communities and the same practice areas for their abilities, their professionalism and their integrity.

Bailey Successfully Argues for Lifting of TRO Constituting Prior Restraint Against Newspaper

Dennis R. Bailey and Bethany L. Bolger obtained an order dissolving a temporary restraining order against The Montgomery Advertiser in a prior restraint case filed by Alabama Gas Company in the Circuit Court of Jefferson County. The company obtained an ex parte TRO prohibiting the newspaper from publishing "non-public" information contained in Alagasco's Distribution Integrity Management Plan (DIMP) which the newspaper had received as part of a records request to the Alabama Public Service Commission. The utility argued that the DIMP contained matters of national security, was unlawfully obtained and constituted their property. After oral argument on a motion to dissolve the TRO, in which Bailey and Bolger argued for the newspaper, Judge Robert Vance of Birmingham ordered that the TRO was improvidently issued and lifted the

TRO on constitutional grounds holding that the utility failed to establish that publication of the DIMP would result in inevitable, direct and immediate harm to national security. It was the first case in the history of the 143 year history of the Alabama Press Association where a member newspaper had been subject to an order not to publish. The order issued by Judge Vance will be important and helpful to newspapers and media organizations for years to come.

Keene and Sexton Obtain Defense Verdict in Favor of ER Physician

Thomas H. Keene and T. Grant Sexton, Jr. obtained a defense verdict in a medical malpractice case in defense of an Emergency Room physician in the Circuit Court of Madison County. The suit alleged that the physician failed to timely diagnose a very rare subdural spinal cord lesion in her thoracic spine, leaving her completely paralyzed below the level T8. Keene and Sexton presented evidence from highly credentialed experts in the fields of Emergency Medicine and Neurosurgery establishing that their client's actions met or exceeded the standard of care in every respect, and that the physician in no way caused the claimed injury. After the evidence was in, the plaintiffs' counsel suggested to the jury that they award between 13 and 15 million dollars for Plaintiff's injury.
After two full weeks of trial, the Huntsville jury returned a Defense Verdict.

Chapman and Haynes Achieve Defense Verdict in Favor of Hospital

Rushton Stakely shareholders L. Peyton Chapman, III and William S. Haynes achieved a defense verdict in favor of a local hospital on the 8th day of a jury trial in Montgomery County, Alabama, before the Honorable Charles Price. The plaintiff, an elderly female patient, alleged that she developed pressure sores to her heels and feet while hospitalized following surgery for a broken hip in March of 2009. It was specifically alleged that the hospital's nursing staff had neglected the patient over the course of six days by failing to remove anti-embolism stockings, to turn the patient, and to properly respond to signs of developing injury to the patient's heels. Plaintiff further alleged that the sores required extensive and painful treatment and resulted in permanent injury in the form of nerve damage and scar tissue which caused severe pain affecting the patient's ability to walk and live independently. The defense countered with evidence that the hospital's nursing staff had utilized standard and appropriate precautionary measures in an effort to prevent skin breakdown, and that the patient's sores were caused by her underlying medical conditions, including chronic peripheral vascular disease as well as an acute, life-threatening medical decline which occurred during the hospitalization at issue. The defense also presented evidence that the patient's continued heel pain was consistent with her pre-existing peripheral neuropathy. The jury began its deliberations late in the afternoon of the 7th day of trial and returned its defense verdict approximately one hour after

resuming deliberations the following morning.

Shareholder Loses Battle With Cancer

The firm is sad to announce that Robert Ward, a shareholder in our firm since 1998, lost his courageous battle with colon cancer on April 8, 2014. Robert joined Rushton Stakely in 1994. He previously had worked in the District Attorney's office in Montgomery County, the Attorney General's Criminal Appeals Division, and for the Honorable William Bowen of the Alabama Court of Criminal Appeals.

Robert grew up in New Orleans in the Ninth Ward, graduated from Loyola New Orleans and then received his law degree from the University of Alabama. He came to Montgomery after receiving his law degree. Robert is survived in Montgomery by his son, Kellen, a student at Montgomery Academy, and his wife, Leslie.

Robert came to Rushton Stakely upon the recommendation of the Chief Circuit Judge in Montgomery at the time, William R. Gordon. The firm was in need of an experienced, capable litigator, and sought the advice of Judge Gordon. He did not hesitate when he recommended Robert as the most capable, prepared, and impressive trial lawyer who came frequently to his court. The firm then sought an interview with Robert and immediately recognized his potential.

During his years with Rushton Stakely, Robert distinguished himself as an outstanding trial lawyer and mediator. He became a member of the American Board of Trial Advocates, having been recognized by his peers as an outstanding litigator who had

the proven track record of numerous jury trials. He also served the Alabama Defense Lawyers Association as a Board Member in 2009 and Secretary-Treasurer in 2013-2014. Additionally, he served on the Board of Directors of the Boys & Girls Club of Montgomery. His mediation skills were recognized throughout this region because of his success in achieving compromise when compromise was needed.

Robert was an inspiration to our firm. He displayed character traits that reflected the teachings of his parents and family. His manners were impeccable. He was kind to all and showed enthusiasm each and every day for the work he was doing. Robert was an eternal optimist and never expressed any doubt that the day would bring good fortune to all.

Robert knew no enemies and spoke ill of no other person. He practiced the old adage, “If you can’t say something nice, don’t say anything at all.” Robert looked down on no person, but also had no problem dealing with the most important and influential people. He could speak with equal ease to the president of the company and to the employees performing the most menial labors of the same organization. He was gifted in that he saw no bias or prejudice in any person he encountered, and he certainly displayed none toward those with whom he dealt.

Robert had a smile which would engage the room and a voice which would command attention. He never abused his ability by bullying, but was quite good at persuading. His genuine kindness and love of all people spread throughout our firm and far beyond the boundaries of this workplace.

While we will miss Robert, we know that we have all been made better by his presence with us. If he had one thing to say before he left, I am quite sure it would be, “Don’t worry about me, I’ve got to do what I have to do.” Those were the words he often uttered as he fought colon cancer for the last several years of his life. He fought it into remission on

several occasions and, when it came back, he resolved to fight it again. He never felt sorry for himself and never ever wanted sympathy from anyone. As we mourn the loss of Robert, we all hope to resolve to emulate the qualities he possessed, and if we do, we will all be better for having known him. If we gain even some of Robert's qualities, we will feel the glow of that great smile as he looks down upon us with the knowledge that he contributed greatly to our development as human beings.

Evans Bailey Selected for Alabama State Bar Leadership Forum

The Alabama State Bar has announced the 26 lawyers selected for Class X of its Leadership Forum professionalism program who will be trained as future leaders, and Rushton Stakely Associate Evans Bailey is among the selected lawyers.

State Bar President Anthony A. Joseph of Birmingham (Maynard Cooper & Gale PC) said, "The lawyers selected to participate in this program represent the future face of Alabama's legal profession. This program has received critical acclaim from the American Bar Association for its innovative, thoughtful and exceptional content, for its powerful and continuing impact on emerging leaders in the bar community and for the extraordinary example it has established."

After a detailed selection process, 11 women and 15 men were selected. While there is no age requirement, participants must have practiced law for not less than five nor more than 15 years. Candidates are selected based on demonstrated

leadership qualities and service to their communities.

In order to graduate from the program, participants will be required to attend five separate sessions including a three-day orientation program. Candidates will undergo a rigorous education and training process focusing on servant leadership, ethics and career development.

The 17,600-member Alabama State Bar is dedicated to promoting the professional
responsibility, competence and satisfaction of its members, improving the administration of justice and increasing public understanding of and respect for the law.

T. Grant Sexton, Jr. Attains Shareholder Status in Rushton Stakely

Rushton, Stakely, Johnston & Garrett, P.A. is pleased to announce that T. Grant Sexton, Jr. has been made a shareholder in the firm.

After graduating from law school, Mr. Sexton practiced with law firms in Oklahoma City and Washington, DC. He joined Rushton Stakely as an associate in 2006.

Mr. Sexton has tried cases to a jury in both state and federal courts and handled matters before the Alabama Supreme Court and the 11th Circuit Court of Appeals. A significant portion of Mr. Sexton’s practice involves defending hospitals and physicians in medical malpractice lawsuits statewide. He has also represented individuals and corporations in the areas of

commercial litigation, products liability, premises liability, personal injury, civil rights, employment and construction law.

Mr. Sexton has been selected for inclusion in Alabama Super Lawyers 2012 as a Rising Star – Personal Injury Defense: Medical Malpractice, General Litigation and in the 2013 edition as a Rising Star – Personal Injury Defense: Medical Malpractice.

Alabama Supreme Court Upholds $350,000 Domesticated Judgment in favor of RSJG Client

In *Afassco, Inc. v. Sanders*, 2013 Ala. LEXIS 166 (Ala. Nov. 22, 2013), the Alabama Supreme Court ordered that a $350,000 judgment entered in favor of an RSJG client in Nevada be domesticated as a judgment in the State of Alabama. The judgment debtor argued to the trial court and on appeal that he did not have sufficient contacts with the original Nevada forum in order to create personal jurisdiction, but the appellate court disagreed. The court found that the debtor had consented to jurisdiction in Nevada by filing a motion to dismiss the Nevada judgment for lack of jurisdiction. Mike Matuska of Matuska Law Offices in Carson City, Nevada obtained the original judgment. Dennis Bailey, Beth Bolger, and Evans Bailey of RSJG argued in favor of the domestication in Alabama.

Construction Lender Absolved of Liability in Squatter Case

The Alabama Court of Civil Appeals recently affirmed the judgment of the Elmore County Circuit Court granting summary judgment to a construction lender in an action brought by two squatters. The procedural facts involved two underlying lawsuits and the squatters' bankruptcy. Substantively, the plaintiffs alleged that the defendant bank and a local builder conspired together to forge the plaintiffs' names on an assignment/addendum to a real estate purchase contract. The trial court found that these allegations completely contradicted one of the plaintiff's affidavits from an earlier suit admitting to the genuineness of the assignment. The summary judgment in favor of the bank was affirmed on appeal without a decision, but the court saw fit to award the defendant damages in the form of attorney's fees under Ala. R. App. P. 38. Evans Bailey represented the lender on behalf of Rushton Stakely. On an earlier appeal to the Alabama Supreme Court in the same case, Evans also had the dismissal of the local builder affirmed without opinion.