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2021 Annual Meeting The Sanctuary at Kiawah Island Golf Resort



2021 ANNUAL MEETING: NOVEMBER 18-21, 2021 • 2021 SUMMER MEETING: JULY 22-24, 2021

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PRESIDENT'S MESSAGE



President Sarah Elizabeth Butler

Dear Friends,

What an honor to be writing this letter and to serve all of you as the President of the South Carolina Defense Trial Attorneys' Association. This marks another proud accomplishment for a woman who was once told by a job placement staffer in law school that I would never be able to get a job in Charleston, South Carolina; I wasn't born in Charleston and I didn't "know" people. I've always had a lot of fight in me, so rather than redirecting my job search, those comments left me more determined than ever. You know me, so you know how the story ends. Never give up on a dream.

I grew up in Baltimore, Maryland quintessentially middle class. We drove the station wagon with the rear-facing seat and decorated our bikes with red, white and blue streamers for the neighborhood Fourth of July parade. My brother and I were dressed in color coordinating clothes for our Olin Mills family photo every Thanksgiving. My fourth grade teacher told my parents that I was painfully shy (I know that's hard for you all to imagine), so my parents moved me to a small all-girls school and that was life changing. I immediately sought out opportunities for leadership and started playing sports. When I graduated from high school, I was the President of the school, the Editor of the newspaper, a varsity athlete in three sports and a member of the National Honor Society. Thank you fourth grade teacher and my selfless, hard-working parents who went without in order to afford tremendous educational opportunities for their children.

I got to South Carolina by way of North Carolina where I attended college and law school at Wake Forest University. I like to joke that I never traveled I-95 North again once I



arrived at Wake Forest. I loved Carolina blue sky days, college football and basketball games, and I quickly learned my way around North and South Carolina. I discovered the South Carolina coast and fell in love with pluff mud, marsh grass, salt pruned trees and even 100-degrees-not-to-mention-the-humidity days. I still have some northerner in me, but South Carolina is home.



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Had you told me in mid-90's that I would live at Folly Beach, practice law in Charleston, become the President of the SCDTAA, and be raising four amazing children with Drew, I never would have believed you. Yet here I am, feeling truly blessed, realizing my professional and personal dreams. It is with a deep sense of gratitude that I pen this letter, and share with you my hopes for all of us and for the South Carolina Defense Trial Attorneys' Association for 2021.



Given that the Covid-19 vaccination process is underway, the first hope for 2021 is obviously that we finally get to host some events in person. While the video/remote seminars serve a valuable purpose and we will continue to host some, I am looking forward to that being an option we can choose, rather than being the result of a pandemic. The Women in Law and Diversity & Inclusion Committees hosted a Webinar on March 25th and the Emerging Leaders Committee Webinar





will be May 20th. Thank you to those Committees for their hard work putting those Webinars together. Thank you to the speakers and we can't wait to (virtually) see you there. Check out the agendas on www.scdtaa.com. Next up will be a substantive law Webinar, so stay tuned for more details.

We remain hopeful and are planning for an in person Summer Meeting at The Grove Park Inn on July 22nd - 24th and Annual Meeting at The Sanctuary for November 18th – 21st. I know we will all delight in being back together again at these meetings, and we will also be celebrating our Immediate Past President Johnston Cox since we only had the chance to do so virtually in 2020. I am sure we all share a renewed appreciation for the opportunity to travel to beautiful places

and share time with friends. I am so appreciative of the Summer and Annual Committees for their efforts – the speakers and planned topics look amazing.

My next hope for 2021 is broadening and diversifying our membership. I would like to see more first time members and member firms. I hope to bring some firms that have stepped away from membership back to catch up with their colleagues. I would like to see more variety in the practice areas represented, including more in-house and general counsel. I am hopeful for a more diverse membership so that when we look around at the Summer or Annual Meeting, we see men and women, we see different age groups, we see black, brown, tan and white (or as my daughter says “peach”).





The SCDTAA has many membership categories. A lot of attorneys don't realize that we offer individual memberships, that we offer a corporate counsel membership, or that we can accommodate a wide variance in membership size options (your firm may only have 3 members, it may have over 100 or it may need to opt for all sorts of categories in between).

This is the SCDTAA that I know and that we will grow. Lawyers with a genuine respect for one another, an organization where all are welcome and all are friends, a membership filled with talented professionals supporting each another. The Sarah Butler SCDTAA is not about who you "know," it's about who you are. From our sponsors, vendors and experts, to our lawyers from all walks of life, to our relationship with the judiciary and with other defense organizations - there is so much to take advantage of as a member of the SCDTAA. I have made valuable friendships, I have made important professional relationships, I have improved my skills as a lawyer, I have enjoyed sunsets at The Grove Park Inn. I am



excited to share this SCDTAA with others where everyone gets a voice, and your voice matters. So email me (sbutler@eskl.law), call me or text me (843-530-1100) with your questions, comments, thoughts and ideas. I am listening.

My deepest thanks to our sponsors, the S.C. Judges and court officials, the Officers, the Board, the Committee Chairs, the Past Presidents, to our fellow defense organizations, to our friends in other legal associations, to our speakers and presenters, to all of our supporters, to all of our members, to my friends, to my family, to Aimee – thank you for all you have done and I look forward to all that we will continue to achieve in 2021 and more.

Your President,
Sarah

Sarah Elizabeth Butler 



EDITORS' NOTE



James B. Robey III



C. Daniel Atkinson



J. Alexander Joyner



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Editors' Note

by James B. Robey III, C. Daniel Atkinson and J. Alexander Joyner

Spring is in the air not only in South Carolina, but across the country. As the grass starts to green and flowers begin to bud, the dark cloud of the Covid-19 pandemic appears to be dissipating and the light at the end of the proverbial tunnel is becoming visible. We look forward to gathering with friends and family, attending concerts and games, and, of course, attending SCDTAA meetings and events in the very near future.

This edition of *The DefenseLine* has something for everyone. We have two articles, from our sponsors ESi and Exponent, related to operating in a virtual environment, which seems to be one item from the pandemic that is here to stay. We also have articles from our friends at Rimkus and InQuis Global related to myths about airbags and life care plans. Additionally, we have an update on the ADR rule revisions, an adversary profile featuring Jay Ward, an article in honor of Women's History Month, and an article on the SCDTAA's SOLACE program. As always, we have case notes from Helen Hiser, firm announcements, and updates on various SCDTAA meetings and events.

The editorial staff is looking forward to serving the SCDTAA and continuing the fine tradition of *The DefenseLine*. Please keep *The DefenseLine* in mind as we progress through the year and send us any content or suggestions you may have. We appreciate everyone who contributed to this edition and are excited about future contributions from the membership. Thank you for reading! 🗑️



IT'S BEEN A

Wild Ride!

**Thanks (again!) to our sponsors
who rode with us in 2020!**

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**We have the 2021
pedal to the metal, *join
us!***

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National Women's History Month

Interviews with SCDTAA Past Women Presidents

By Nickisha Woodward

“From the first settlers who came to our shores, from the first American Indian Families who befriended them, men and women have worked together to build this nation. Too often the women were unsung and sometimes their contributions went unnoticed. But the achievements, leadership, courage, strength and love of the women who built America was as vital as that of the men whose names we know so well.”

– President Jimmy Carter’s Message designating March 2-8, 1980 as National Women’s History Week.

Subsequently, in March 1987 Congress passed Public Law 100-9 and by Presidential proclamation March was designated Women’s History Month. Did you know in its 53-year history South Carolina Defense Trial Attorneys’ Association (SCDTAA) has had four phenomenal women lead the organization? Over a quarter century after SCDTAA’s inception and just 8 years after the proclamation designating Women’s History Month **Kaye Crowe** became the first woman president of SCDTAA 1995-1996). It did not take long after for **Donna S. Givens** (2007-2008) to be elected, followed by **Molly Craig** (2011-2012)

and our current SCDTAA President **Sarah Wetmore Butler**.

In honor of National Women’s History Month we have included a spotlight of these wonderful women on the past, present and future of women in the profession.

KAYE CROWE _____

What woman most inspired you to go into the practice of law and why?

When I started law school which was in 1972, I had never known or met a woman lawyer. I have been inspired to



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practice law by the women lawyers I have met and worked with and would count the Honorable Jean Toal as my lodestar.

What challenges do you think women lawyers face in the profession? Have any challenges you faced in the profession changed?

I think that women lawyers today face less resistance from the judges but there are still many people who serve on juries who are not supportive of women as professionals. Mansplaining is real. I still often get addressed as the court reporter by office reception staff when I arrive with my file for a deposition. (pre-COVID of course.) I had hoped that by now the trial bar with be at least 50% female and it is not. The barriers are more subtle; however, they have not yet been overcome. I just finished reading *Invisible Women* by Caroline Criado Perez and this is a must read for anyone who thinks that we now have a level playing field.

In your opinion, why is it important that more women practice law in the near future?

The law is a wonderful profession and women make excellent lawyers, in the court room, in the board room and at the negotiation table. I believe in diversity and we are at our best as a profession when we are inclusive.

What do you think is the biggest issue today facing women lawyers?

I think women are undervalued in most settings and continuing to advocate for their inclusion gets frustrating. I wear my “she persisted” necklace most

days to remind me that the commitment to goals requires persistence. I also read the books to my grandchildren every chance I get. I think experienced women lawyers have to realize success in the future for women lawyers requires that we put the ladder down for others to climb up and to make sure it is a stronger, shorter and better ladder than we were given.

Do you have any funny anecdotes that you like to share with other attorneys when they ask you to reflect on being a female lawyer?

I often share the story of my middle child who was almost born in the courtroom in Darlington. It took a long time for that to be funny but it is now. I also tell the story of the time a federal judge called Attorney General Dan McLeod to tell him not to send me (who he called that little girl) back to his courtroom and the response of the AG was to send me to every courtroom at every opportunity.

What is your hope for the future of SCDTAA?

I hope the organization continues to promote education, love of the law, and professionalism long into the future.

MOLLY CRAIG _____

What did becoming the President of the SCDTAA mean to you?

Being elected President was an exceptional honor to me on both a personal and professional level. To follow in the footsteps of great trial lawyers who came before me, including my own father, was certainly humbling.



In your opinion, why is it important that more women practice law in the near future?

The diverse perspective that women bring to the practice of law is invaluable. Whether managing a law firm or trying a case, a different viewpoint enhances the ability to understand, connect and persuade.

If you could go back in time, what advice would you give your younger self?

Don't sweat the small stuff and don't take it personally.

Do you have any funny anecdotes that you like to share with other attorneys when they ask you to reflect on being a female lawyer?

I was trying a case in a small town with another female lawyer when opposing counsel, a male, objected to us making dual arguments. He complained that he was being beaten up by two lawyers so I quickly apologized, to the great amusement of Judge Gregory and the jury, if the ladies were beating up on him. Sometimes we all need a little comic relief.

SARAH WETMORE BUTLER _____

What woman most inspired you to go into the practice of law and why?

My mom encouraged me to select a career path that involved obtaining a professional degree. She explained that it would provide me with security and independence. My mom was a teacher and got her master's degree and then her doctorate later in life. She wished she had been able to achieve that doctoral level earlier in life and

impressed that desire for professional achievement on me.

What challenges do you think women lawyers face in the profession? Have any challenges you faced in the profession changed?

I struggle with the fact that women still make up a small percentage of shareholders, managing partners, executive committee members, CEO's, etc. What has changed is that I see more women in the profession, generally. In my conference rooms where women used to be in the minority, I see much more balance. In my office, we are equal, if not more, female attorneys than male. What keeps me inspired to continue to advocate for women in positions of leadership in the legal profession is all of the women who are doing the same and actively lifting one another up.

I also struggle with the concept of work life balance. The reality is that I very often feel that there aren't enough hours in the day. My personal and professional wants and needs are often at odds. I wish that the legal professional, generally, was less stressful. What's changed about that is that I think more of my male colleagues feel just like I do in that regard.

In your opinion, why is it important that more women practice law in the near future?

Quite simply, there is power in numbers. We have a chance to occupy more seats in the room. Our voices become louder when combined together. Most of my colleagues in the law, both female and male, agree that women and men should occupy leadership and decision-making positions on an equal level. We need more lawyers who are seriously invested in that to eradicate any atmosphere to the contrary



and to drive actual change. I want our children to live in a world where equality actually exists, where they aren't frustrated with the gender pay gap or where the same groups remain overrepresented in positions of authority and power.

If you could go back in time, what advice would you give your younger self?

You are enough. Don't apologize.

What is your hope for the future of SCDTAA?

That we continue to create an environment of inclusion. When people attend an event, I want them to feel the respect, the kindness, the generosity, the genuine warmth and friendship that exists among our members. The SCDTAA isn't some kind of "cool kids club;" we've all matured way beyond that. We're professionals who have deep admiration for one another. Everyone is welcome and everyone is a friend. It isn't an organization run by a few for the benefit of a few. It truly does take a village and I believe we should support one another in that mindset. I will help our members in whatever way I can, professionally and personally. I trust our members will. 🗑️



S.C. Supreme Court Issues Important ADR Rule Revisions

By Michael D. Freeman

The South Carolina Supreme Court submitted to the General Assembly amendments to the South Carolina Court-Annexed Alternative Dispute Resolution Rules on February 3rd. These amendments apply to substantive ADR Rules 5 & 9 and make an important change to the definitions section under Rule 2.

First, the Supreme Court formalized what has already become the norm in post-Covid-19 dispute resolution practice- Online Dispute Resolution (ODR). Rule 5, which generally describes the ADR Conference, historically has contemplated the conduct of an in-person proceeding. Back in March 2020, when the pandemic first began to impact court operations, Chief Justice Beatty issued an order temporarily adjusting the in-person attendance requirements under Rule 6(b). The Order directed the circuits' Chief Judges to issue orders allowing mediation attendance via video conferencing at the request of any party. The rule revision now formally allows the conduct of remote ADR Conferences by consent of all parties and the neutral, or by order of the Chief Judge of the circuit.

Rule 5 of the South Carolina Court-Annexed Alternative Dispute Resolution Rules is amended

to add new paragraph (h), which provides:
(h) Online Dispute Resolution (ODR) in an ADR Conference or Early Neutral Evaluation. Unless a party objects, an ADR Conference or Early Neutral Evaluation may be conducted in whole or in part by ODR.

(1) The persons required to physically attend an ADR Conference or Early Neutral Evaluation under these rules may attend via ODR if agreed to by the neutral and all parties or as ordered or approved by the Chief Judge for Administrative Purposes of the circuit.

(2) A mediator, arbitrator, or evaluator shall at all times be authorized to control the use of ODR at any stage of an ADR Conference or Early Neutral Evaluation.

Next, the Supreme Court amended Rule 9, which deals with the compensation of the neutral. The amendment changes the existing rule in three ways. First, the rate of compensation for court-appointed mediators has been raised from \$175/hr to \$200/hr. This is presumably to adjust for inflation and other administrative cost increases since the last amendment of the rule in 2012. Second, the amendment eliminates the ability of a party to move for exemption from payment of



fees and expenses of the ADR Conference by way of a post-conference exemption motion claiming indigence. Instead, the amendment makes it clear that application for indigency exemptions to the circuit's Chief Judge must be made prior to the scheduling of the ADR Conference. Finally, the amendment establishes that cases in which leave to proceed in forma pauperis has been granted, exemption is automatic.

Rule 9, South Carolina Court-Annexed Alternative Dispute Resolution Rules, is amended to provide:

Rule 9 Compensation of Neutral

(a) By Agreement. When the parties stipulate the neutral, the parties and the neutral shall agree upon compensation.

(b) By Appointment. When the mediator is appointed by the Clerk of Court pursuant to Rule 4(c), Rule 4(d)(2)(B), or Rule 4(d)(2)(C) of these rules, the mediator shall be compensated by the parties at a rate of \$200 per hour, provided that the court-appointed mediator shall charge no greater than one hour of time in preparing for the initial ADR conference. Travel time shall not be compensated. Reimbursement of expenses to the mediator shall be limited to: (i) mileage costs accrued by the mediator for travel to and from the ADR conference at a per mile rate that is equal to the standard business mileage rate established by the Internal Revenue Service, as periodically adjusted; and (ii) reasonable costs advanced by the mediator on behalf of the parties to the ADR conference, not to exceed \$150. An appointed mediator may charge no

more than \$200 for cancellation of an ADR conference.

(c) Payment of Compensation by the Parties. Unless otherwise agreed to by the parties or ordered by the court, fees and expenses for the ADR conference shall be paid in equal shares per party. Payment shall be due upon conclusion of the conference unless other prior arrangements have been made with the neutral, or unless a party's application for waiver has been granted by the court prior to mediation.

(d) Indigent Cases. Where a mediator has been appointed pursuant to paragraph (b), a party seeking to be exempted from the payment of neutral fees and expenses based on indigency shall file an application for indigency prior to the scheduling of the ADR conference. The application shall be filed on a form approved by the Supreme Court or its designee. Determination of indigency shall be in the discretion of the Chief Judge for Administrative Purposes or his designee. In cases where leave to proceed in forma pauperis has been granted, a party is exempt from payment of neutral fees and expenses, and no application is required to be filed.

Finally, and perhaps most importantly, the Supreme Court has amended Rule 2, the Definitions section of the Rules in two specifics. First, the Court has defined ODR to include teleconferencing and video conferencing to conduct real time remote ADR Conferences. Second, the Court has added a definition for "sign" or "signing" within the contemplation of the rules to include electronic signatures or *electronic consent*. This amendment is particularly relevant in conjunction with



the existing ADR Rule 6(f), which states that “[u]pon reaching an agreement, the parties shall, before the adjournment of the mediation, reduce the agreement to writing and sign along with their attorneys.” If the existing language of Rule 6(f) sounds familiar, it might be because it is similar to Rule 43(k) of the South Carolina Rules of Civil Procedure. Thereunder, agreements between counsel are only enforceable by the court if they are: (1) reduced to a consent order or written stipulation signed by counsel and entered in the record; (2) made in open court and noted on the records; or (3) *reduced to writing and signed by the parties and their counsel.*

Rule 2 of the South Carolina Court-Annexed Alternative Dispute Resolution Rules is amended to add new paragraphs (l) and (m), which provide:

(l) Online Dispute Resolution (ODR). The use of remote communication technology, such as video conferencing and teleconferencing which allows audio and/or video to be shared at differing locations in real time, at any stage of the ADR Conference or early neutral evaluation.

(m) Sign or signing. For purposes of these rules, the reference to sign or signing shall include the physical signature or electronic signature or electronic consent.

Enforcement of settlement agreements is one of the more frustrating issues in dispute resolution and in litigation practice generally. Having been bitten by an opposing party’s “change of heart” following settlement negotiations where a SCRCP 43(k)

compliant agreement hasn’t been executed, this is an important step in increasing efficacy of the ADR process. Even in situations where a settlement agreement is acknowledged by opposing counsel in correspondence or email, courts have traditionally been unwilling to compel the parties to proceed in absence of strict adherence to the requirements under Rule 43(k). The amendment to ADR Rule 2 suggests that, at least in conjunction with an ADR proceeding, such agreements made with evidence of electronic consent or email confirmation will be judicially enforceable.

These rule amendments have been submitted to the General Assembly and pursuant to Article V, Section 4A of the South Carolina Constitution, will become effective ninety days from the date of submission unless disapproved by resolution of the General Assembly. 



Human Factors Issues in Applying Virtual Reality in the Courtroom

By Benjamin Lester, Exponent

Introduction

As virtual reality technology proliferates, there is increasing interest in potential applications outside of entertainment and gaming. Beyond recreation, VR has been identified as a training tool for industrial, military and educational settings, and the use of VR as a methodological technique in experimental research has continued to expand in recent years. Compared to conventional training or experimental techniques, a key advantage noted by VR practitioners is the degree to which a virtual environment accurately simulates the analogous real-life situation or scene of interest.

This noted degree of realism suggests the courtroom may be another domain where VR technology could be incorporated



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as an educational or demonstrative tool. A key component of the courtroom process is presenting judges and jurors with representative demonstratives to help illustrate the facts at issue and supplement the analyses of expert witnesses to educate the court on scientific and engineering matters. For example, VR can be used to virtually transport a jury to the scene at issue without leaving the courtroom. In the domain of human factors, creating virtual environments could provide an effective platform for courtroom demonstrations of various aspects of an event, such as visibility, illumination, terrain characteristics, absolute and relative object size, vehicle environments, and others.

Before these virtual environments might be admitted in a courtroom setting, it will be necessary to establish that they provide accurate representations of the corresponding real-world scenes for the perceptual variables at issue. Despite its rapid evolution, current VR technology has limitations compared to conventional media (e.g., maximum resolution) and compared to the richness of human perception. In contrast, conventional media is limited in its ability to immerse a viewer in the environment and make him or her feel as if he or she is visiting the location. In addition, conventional media that relies on two-dimensional displays cannot convey three-dimensional information, which the human observer is accustomed to perceiving.

To begin to evaluate the representativeness of VR, Exponent recently conducted a study to examine how slope perception in a VR model of a real environment compares to slope perception as experienced when observing either the analogous real-world terrain or viewing conventional two-

dimensional images of the scene on a digital screen, as would be the case in a current courtroom demonstrative. Using these three viewing methods, participants observed outdoor scenes depicting slopes of varying magnitude (i.e., steepness of the terrain) and were instructed to estimate slope magnitude using two different response methods.

Examining Slope Perception

Two experiments were conducted to examine individuals' perceptions of terrain slope using three different viewing media: in situ, VR, and photographs of the terrain. In Experiment 1, 36 participants — 12 per viewing medium — completed the experimental protocol.

Experiment 2 served as a replication and extension of Experiment 1, where 16 participants completed the same experimental protocol, but each participant experienced each medium (presented in systematically varied sequences, to avoid bias in presentation order). The three terrain slopes used in the study were located at Exponent's Phoenix research facility.

Three slopes angled at 8, 16 and 23 degrees were identified and scanned using drone technology for modeling in a VR environment, as seen in Figure 1 below. In both experiments, four predetermined viewing locations were marked at the base of the slope on relatively level ground.

Three viewing locations were at different distances from the base and facing the slope, and the fourth location was at an oblique angle to the slope. In both experiments, participants viewed each slope for as long as desired in a prescribed order before making their responses.





Figure 1: Slopes utilized for the study.

Participants judged the angle of each slope using a verbal response and a haptic response that involved tilting a platform with their dominant hand as they viewed each slope. The same viewing locations that were marked at the physical sites were used to photograph each slope for two-dimensional viewing on an LCD screen, and as rendered in VR; so participants moved to each location in the same order across viewing methods to ensure viewing consistency.

To create the virtual models, a survey-grade drone with real-time kinematic satellite navigation photographed each slope. Those photographs were then processed using a photogrammetry algorithm creating a point cloud of each scene. Each point cloud was then meshed into a 3D model with a photo-realistic texture from the aerial photographs, as seen right in Figure 2.

After providing their responses in Experiment 1, participants were asked a follow-up question at each slope regarding the perceived risk of becoming unstable, were they to attempt to walk up the slope. “Unstable” was defined as “losing one’s balance and sliding on the hill or falling over.” The ratings were given on a scale of 0 to 10, with 0 indicating the slope was completely safe to walk up, 5 indicating neither safe nor unsafe, and 10 indicating the participant would certainly tip or slide.



Figure 2: Photograph (top) and VR representation of the same 23-degree slope

In Experiment 2, participants were asked an open-ended question during debriefing regarding which medium — VR or LCD — they felt provided the most accurate representation of the terrain compared to physically being at the site.



Findings

Overall, it was observed that the viewing medium did not significantly affect perceived slope regardless of the response method used. For both the verbal and haptic responses — seen in Figure 3 — participants' slope estimates increased as the actual angle of the slope increased. Participants' perceptions of slope were exaggerated, regardless of the angle of the slope viewed.

Interestingly, despite the lack of a significant difference across viewing media, participants' perceptions of perceived walking stability (if they were to walk up the slope) did differ across the three media, with higher ratings of likely instability occurring for the real site and LCD conditions, compared to VR. Importantly, the results of Experiment 2 replicated those obtained in Experiment 1, demonstrating that experiencing more than one viewing medium did not significantly affect the participants' perceptions of slope.

Discussion of Findings

These results demonstrate that individuals' judgements of terrain slope remain consistent with real-world perceptions when the same environment is viewed in virtual reality. Across the three media tested, no significant differences were observed for the verbal report conditions, indicating that even two-dimensional representations of terrain slope reflected relative accuracy compared to in-person estimates. Observers' estimates of slope were consistently greater than the actual measured slopes of each surface, with greater overestimation occurring for verbal responses;

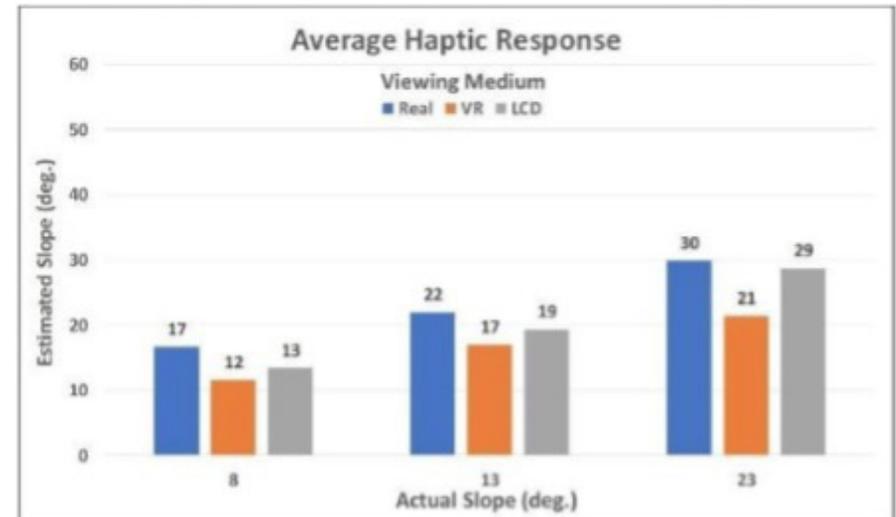
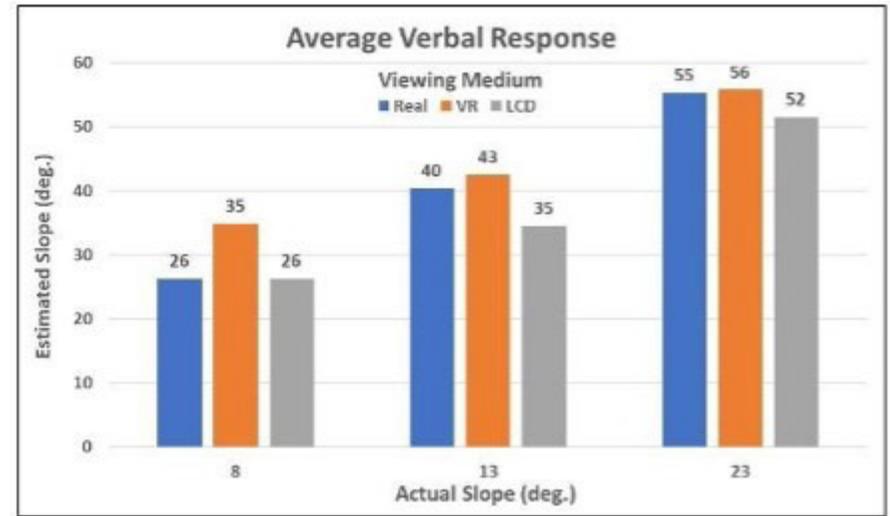


Figure 3: Average estimates of perceived slope from Experiment 1

however, these overestimates are consistent with previously published studies on slope perception and were expected.

Despite the lack of significant differences in perceived slope,



self-reported responses and the stability ratings indicate that tradeoffs still existed across the three media. For example, approximately 71% of participants in Experiment 2 reported that the VR environment provided a more accurate representation of the real site than the LCD screen. Those participants generally indicated that VR provided more angles and perspective, was more like the real world, provided better depth overall, and allowed them to see the surrounding area.

Several participants noted, however, that VR lacks the visual detail provided by the photographs, including the presence of shadows and the composition of the walking surface. The lack of high-resolution visual detail in VR is likely related to the significant differences observed in the stability ratings obtained in Experiment 1. Specifically, the likelihood of becoming unstable was rated higher for the real site and the LCD conditions compared to VR. Importantly, this result is likely tied to the hardware and software capabilities of the VR headset used in the study, as well as the rendering software used for creating the virtual world. Furthermore, the technology used to scan the environment (i.e., terrestrial scans vs. aerial) further impacts the visual detail captured in the scans. As a result, practitioners of VR in the courtroom must be cognizant of the advantages and disadvantages associated with the technology and how these relate to the perceptual dimensions VR intends to represent.

Logistical and Human Factor Considerations Related to Use of VR in the Courtroom

Considerable logistical effort is required to set up VR in the courtroom; so, both the testifying expert and counsel

must carefully assess the real benefit to be gained by placing the jurors in a 3D representation of a scene. VR headsets need to be provided for each juror, the judge, the testifying expert and counsel, and they must be linked to assure all the parties are viewing the same virtual environment.

In addition, the degree of autonomy jurors are granted to explore the virtual environment must be carefully considered. For example, are they permitted to look around the scene independently in any direction, or are the view and exposure time controlled by the expert or counsel? If they are allowed independent viewing direction, are they also allowed to move to different locations in the scene? In addition, what the jury experiences in VR would need to be recorded as a trial exhibit that could be played back, possibly in the jury room, if requested. Considerations of exposure time and freedom to view the environment also raise questions about how jurors may react to being put in the virtual environment. Not all individuals may be willing to wear a VR headset, in which case alternative means of conveying demonstratives must be used.

Finally, there are significant individual differences in susceptibility to nausea — colloquially called “simulator sickness” — that can result from a stationary observer experiencing visual motion in a headset. Hygiene and sanitization must be considered as well and can be addressed by providing a separate VR headset for each participant in the trial. 



Remote Inspections: The Art of Not Being There

By Charles A. Fox, Ph.D., Sr. Director, Technical Services and Matthew T. Kenner, P.E., Director, Aviation

Last year, we had to act swiftly and decisively to safeguard our employees, clients, and business operations from the rapidly evolving situation related to COVID-19. Using powerful online collaboration tools, we made key aspects of our investigation workflow available remotely, ensuring that we could continue to serve clients when and where they needed us most. Now, these remote inspection services have become commonplace in our investigation workflow and are being used in ways never before imagined.

In today's world, remote capabilities are no longer a nice-to-have. They're a business imperative. If your practice involves physical objects that have been damaged, you have probably attended some form of remote inspection. If you haven't already, you will. To get the most out of a remote inspection, it's important to understand what's going on behind the scenes, and



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how you can use these capabilities to your advantage. Video conferencing tools and mobile devices are just the beginning.

Born in a Pandemic:

In early 2019, as the term “social distancing” joined the vernacular, COVID-19 safety concerns and travel restrictions made it clear that we needed a new approach to inspections. In a traditional inspection, attendees are physically present and in close proximity. The traditional approach to inspections was not compatible with COVID safety and our ability to travel. How could we bring that experience to life in an online format?

Pivoting to a new model required careful planning. While our remote inspection services were born in a pandemic, they were also an opportunity for us to extend our existing capabilities in a very powerful way – one which would better enable us to serve clients, both in the short-term and far into the future. But how could we deliver these services in a way that cemented rather than compromised the value of our inspections in the eyes of our clients? How could we bring the right people to the table “virtually” to effectively guide the inspection activities? And how could we keep key stakeholders engaged with our teams and with others in real-time?

Drawing from many decades of experience, we reimagined virtually every aspect of a traditional inspection, from the physical gathering of participants, to the disassembly, examination, testing, documentation/recording, and photography. We also gave special consideration to safety considerations for in-person inspection team members, such as exposure to hazardous chemicals, conditions, or environments (e.g. fall hazards or confined spaces).

While protocols and technology platforms for performing remote inspections continue to evolve, the timing is right to share some lessons learned and help you understand how and when a remote inspection may be a viable – or in some cases, a better alternative – to a traditional inspection.

Collaboration Platforms, Tools, and Participants:

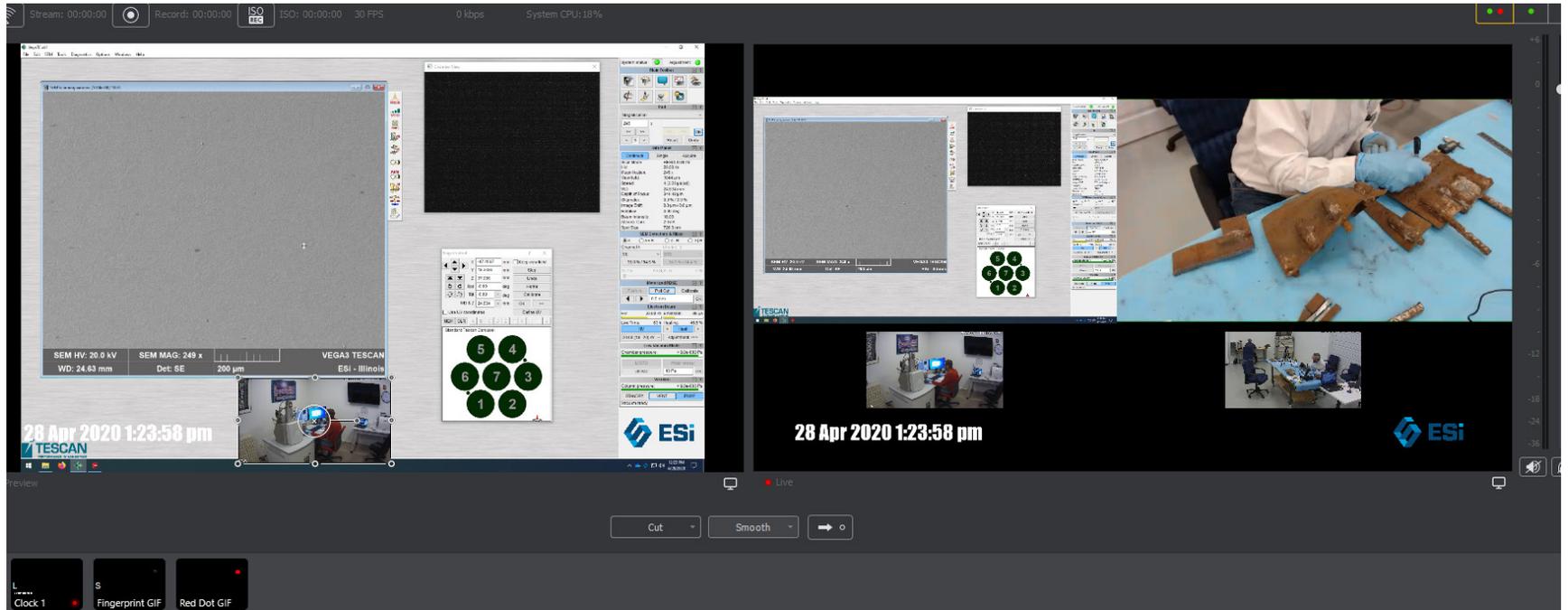
ESi is fortunate to have 17 offices across the country, within driving distance of many locations. This proximity ensured that we could continue to deploy local teams even when travel options were limited. These consultants and technologists served as our feet on the ground, navigating the scene and providing real-time views while remote participants helped guide inspection activities.

The benefits of remote inspections were clear, including:

- **Improved efficiency** - Remote inspections are inherently efficient because they can save travel time and expense for many participants.
- **Increased safety and convenience** – Remote participants can safely “attend” from the comfort of their offices or homes.
- **Better views** - Cameras and other devices (e.g. drones) provide unique views of the inspection that are otherwise difficult or impossible to attain.
- **Enhanced engagement** - The entire process can be recorded for later viewing by participants and those who were unable to attend.

While we already had much of the technology infrastructure in place to connect inspection participants to a laboratory





or remote location in the field, we needed to scale these capabilities to make the virtual inspection experience come to life. As part of that effort, we modified our laboratories so we could provide live feeds that clearly captured the activity that happens during an inspection.

Platforms: For many businesses, the global pandemic made remote working capabilities an immediate priority, accelerating the adoption and use of online collaboration tools. Use of tools like Zoom and Microsoft Teams increased dramatically, with the latter growing from 35 million daily users in March of 2020 to 115 million in late October (www.theverge.com). From a timing perspective, this migration helped set the stage for our remote inspection services, because our user base was already embracing these online collaboration tools.

Cameras: To bring the remote inspection experience to life, we needed to be able to recreate the interactive, contextual views of a traditional in-person inspection. A comprehensive live view into the inspection process was a necessity, whether conducted in the laboratory or at a remote site. We also wanted to be able to tailor our use of our cameras to fit the needs of the inspection and client – whether the inspection warranted a simple FaceTime or Zoom call, a single webcam pointed at a subject artifact, or a laboratory inspection with eight different camera views, tethered instruments, and 25 remote participants interacting in real-time through a complex inspection protocol.

Lab Environment - There are several key considerations when setting up your cameras for optimal viewing in a lab, including portability, fixed view vs. motorized control



(i.e. pan, tilt and zoom), and resolution. In a traditional inspection, participants can move freely around the room, so it is important to be able to switch between different viewpoints smoothly and seamlessly. Webcams are often adequate for live-streaming the inspection process in general, but high-resolution video may also be needed for finer details (e.g. to capture a test procedure and instrument readouts). While remote participants will still see a low-resolution video when viewing it live, the high-resolution recording is captured for later review.

Field Inspections and Other Views – At a site inspection, a drone can provide a bird’s eye view of an area, and in some cases, enable views of areas that may be otherwise difficult or dangerous to access. A 360 camera can also be used to give remote participants an overview of the lab layout to help create a more immersive and engaging experience for participants.

Finally, still cameras are a critical part of the inspection process. DSLRs are used to capture hundreds to thousands of images of an artifact during an inspection. Because many investigators may be attending remotely, it’s important for them to be able to direct the onsite photographer, and see the photographs in near real-time, to ensure that the views they need are captured. This topic is discussed in more detail later in this article.

Remote instrumentation: In a best-case scenario, computer screens tethered to instruments in the lab can be shared directly in a Teams meeting or Zoom call. If the screen can’t be readily shared via one of our online collaboration tools, pointing a camera at the computer screen during

image capture and analysis can also get the job done!

Real-time use - In metallurgical exams, it’s not unusual to employ light microscopes, scanning electron microscopes (SEMs), and laser scanners to capture information otherwise unavailable to the naked eye. Many of these instruments are linked to a computer that allows for sample viewing, image enhancement, and tool overlays for measuring and quantifying features. Participants often crowd around the screen that displays the feed from the light microscope or SEM. They may request new views or measurements while the operator works with the sample and captured images. Because this is fundamentally a screen-based exercise, the use of an online collaboration tools simply makes sense. Rather than crowding around a single screen, participants can view it on their own screens via Zoom or WebEx!

Future collaboration - Other instruments used to collect important data may not be suitable for real-time use. For example, Computed Tomography (CT) scanning can be used to non-destructively view and document a subject artifact such as an aircraft carburetor, complex valve assembly, fitting, or other electronic device. Just as a physician uses a CT scan to look inside your body without invasive surgical procedures, a CT scanner can enable engineers to peer inside mechanical components without taking them apart or damaging them. However, the magic that allows us to see inside these parts does not happen quickly. Many images must be collected and processed to show us a component’s internal workings.

The same is true for laser scanners used for scene



documentation. Our technologists may collect dozens of laser scans of an area (e.g. at an intersection where an accident occurred). It takes time to process this data, so it's not readily available in real-time. However, once processed, the online collaboration can begin!

Whether the collaboration occurs in real-time or after processing, the ability to interact with data early on can provide a significant advantage, ensuring a common understanding of what happened and enabling good decisions about next steps in the process.

Audio: At an inspection, a clear audio feed is paramount. Remote participants should not have to strain to hear what's happening or what's being said. The microphones that are built-in to many laptop computers generally won't provide an optimal experience for online participants. Small lapel microphones can also make two-way communication difficult. An alternative to a lapel microphone is earbuds. Earbuds connect wirelessly to your phone, which can be logged into a Zoom call, enabling two-way communication with remote participants. A good set of earbuds will have a quality microphone and good audio. Many also have noise cancelling features, which can be helpful when conducting an inspection in a noisy environment.

It is important to decide in advance if a remote inspection should be recorded. Most online collaboration platforms provide the ability to record the audio and video from a session. However, this is something that should be carefully considered by the parties involved. In practice, many inspections are not recorded.

Online Courtesy: Everyone who has logged into an online collaboration session or webinar knows that there is a certain amount of tweaking required to get the settings right so everyone is connected and happy. It's like the moments before an event presentation, when people are still looking for the right seat and may stop to chat with folks they know. It's important to allow time for this during a remote inspection. Log into the inspection 30 minutes in advance of the start time to make sure the technology is working and there is time to troubleshoot problems before the session begins.

Living in the age of online collaboration has created a new set of social norms. Please mute your mic when not speaking! No one wants to listen to someone crunching their morning cornflakes. Also remember to raise your hand when you have a question or comment and turn off your camera when engaging in something away from the inspection.

Sidebar Conversations: Always plan for sidebar conversations in advance. While most online collaboration platforms allow for private rooms, concerns about hot mic incidents are justified. It's best to plan a space and communication mode away from the remote inspection for sidebar discussions. That way, the attending party can leave the inspection and strike up a separate conversation about something that has been discovered and what should happen next.

Real-Time Access to Data

Hosting real-time conversations during an inspection seems natural. What may be less obvious is how data is collected and shared. For example, there may be times when a consultant



wants to take photographs but cannot be physically present. In these cases, the photographs taken by the onsite team can be shared in near real-time via a secured folder. The photos are available for viewing within 10-20 seconds of the time they are taken, so a remote party can request retakes, changes to the lighting, exposure, or focus, or different angles or perspectives. This helps ensure that the photographs taken during the inspection will meet their needs.

Like photos, other valuable data can also be made available via a shared access point. During an SEM analysis of a fracture surface, EDS data may be captured and shared, so that remote participants can make requests for other sample locations.

After the inspection

After an inspection, the data collected must be processed, analyzed, and combined with other data. Collaborative analysis sessions with key stakeholders can be important to your client's case (e.g. reviews of CT data or a laser scan of a scene). In some cases, they may be your first look at how the data comes together. In the previous example, that could mean viewing the inside of that airplane's carburetor or seeing it in the state it was in before disassembly. Reviewing this material as a team often reveals important insights that can point to next steps in the investigation.

When laser scans are used to survey an accident scene, the data can often be used to perform a scenario-based analysis in a dimensionally accurate environment which shows lines of sight, the movement of vehicles and pedestrians, and conspicuity. Over time, the data can be refined and used to develop highly accurate demonstrative tools for

resolving the case. The online collaborative sessions create an ideal forum for key stakeholders to contribute to every step of the process, from the initial data review and analysis to the development of an advanced demonstrative.

Future Directions

As the rollout of the vaccines gains momentum, travel restrictions and safety concerns are gradually lifting. However, the remote capability infrastructure that allows us to shift smoothly between a physical and virtual delivery mode is here to stay. Online collaboration has transformed the way inspections are performed, and clients are telling us that they find these new options convenient, economical, and efficient. For larger inspections, the cost and time savings associated with travel can be significant. For the cost of an airline ticket and hotel stay, a remote inspection can be hosted for many remote participants.

Just as importantly, remote inspections can help overcome logistical challenges and scheduling delays. An in-house expert can spend 30 minutes sharing key information about a component in an online session and then continue with his/her regular duties instead of losing a day or more to travel. This allows us to engage a broader community of stakeholders in the investigation process and potentially accelerate the journey to resolution. 🏠



Air Bags: Debunking The Myths... It's Not Rocket Science, Or Is It?

By John G. Bauer, BSME, MEM, P.E., Rimkus



Air bags in vehicles have become quite commonplace. They are neatly tucked away and mostly unseen, so most people don't give them much thought... until there's a crash. Then, people start asking questions. "Why didn't my air bag deploy?" "Why did my air bag deploy?" "After the impact, my air bag was smoking... was it on fire?" "The air bag is supposed to cushion me... why did it break my nose and glasses?" "What happened to Tiger Woods? Why didn't his vehicle have an air bag for his lower legs?" "How do knee air bags work?" It's not rocket science, or is it?

A LITTLE HISTORY

The first automotive barrier crash test, conducted at GM in 1934, was an early milestone in vehicle safety. In the late '40s and early '50s, seat belts began being offered in cars, and the first patents for early air bag designs were filed in 1951 (Figure 1). The inventors of those original air bag devices were limited by compressed air or gas technology of that time; but compressed gas could not fill the bags fast enough, and crash sensing had not been invented yet. So, the concept of automotive air bags stayed "deflated" for several years.

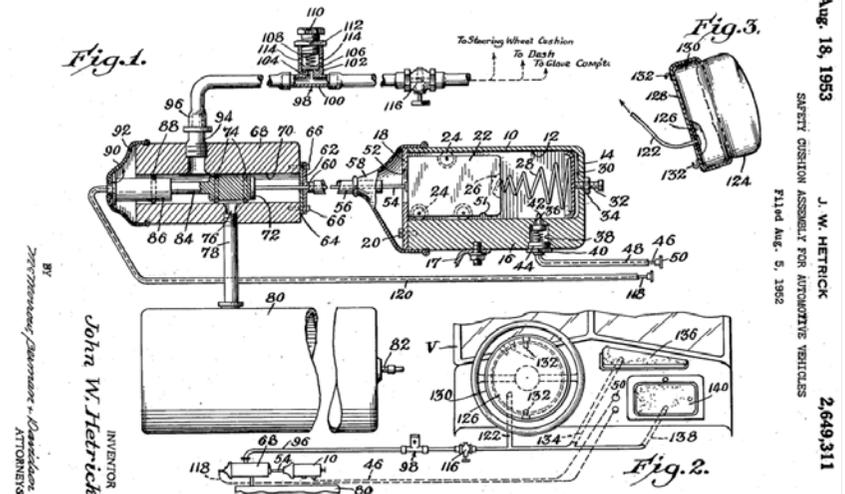


Figure 1. Early patent of automotive air bags

Then, in the late '60s, Allen Breed developed a ball-in-tube electromechanical sensor that could detect a crash and close a circuit to deploy an air bag. Also, at about that time, aerospace companies like Talley and Thiokol had been researching solid propellant applications for rocket boosters, military aircraft pilot ejection systems... and automotive air bags.

Breed's sensor designs and some aerospace rocket science led the way to the actual implementation of air bags in passenger vehicles. Ford and GM began installing air bags in automotive



test fleets in the early '70s, and the first passenger air bag was sold to the public in the 1973 Oldsmobile Toronado. In 1981 at the Geneva Motor Show, Mercedes-Benz announced a driver air bag and pyrotechnic passenger belt tensioner for the new S-Class (Figure 2). Automatic seat belts or air bags were required in US passenger vehicles in the late '80s. After initially fighting their implementation – like a lot of auto industry leaders -- Lee Iacocca decided to gamble and offered driver air bags as standard equipment on several Chrysler models. The bet paid off, and the industry found that “safety sells.” The rest, as they say, is history.

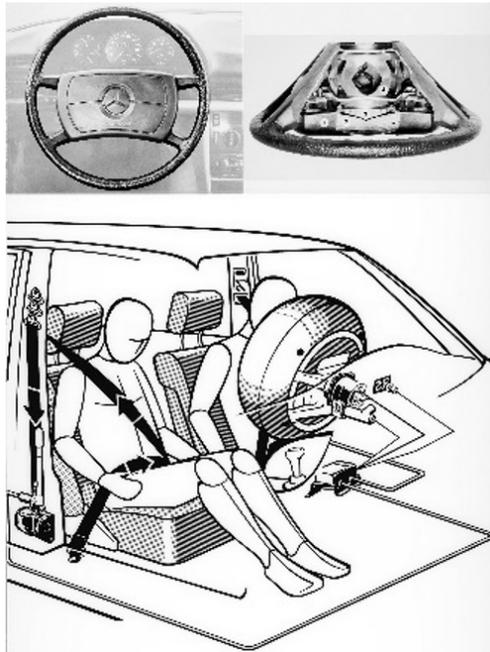


Figure 2. Mercedes-Benz circa 1981

AIR BAG MYTH #1

“My air bag didn’t deploy, so it must have been defective.”

Air bags are very reliable. The automotive industry was very cautious before finally embracing air bag technology. Air bags were – and still are – carefully designed, tested, and vetted. Since they are inherently dangerous, special precautions are taken to make sure they work as intended. Also, air bags are only intended to deploy in certain situations.

Air bags are not set to inflate based primarily on the speed of the vehicle. Deployment depends on the object struck, the impact direction, and how rapidly the vehicle changes speed or slows down. Is the struck object fixed or moving, rigid or deformable, narrow or wide?

Early air bag systems were designed to only function in frontal or near-frontal crashes. Later, side impact air bags were developed. Then, rollover air bags were introduced to complement and utilize the side air bags. More recently, knee air bags, inflatable seat belts, rear impact air bags, and others are being developed and introduced. Some vehicles have active head restraints or “deployable” headrests for rear impacts, but those devices currently are mechanically activated and do not use air bag technology. Crash sensors detect impact “forces” or roll characteristics. Deployment thresholds are then used to determine if the air bags should inflate (Figure 3, next page).



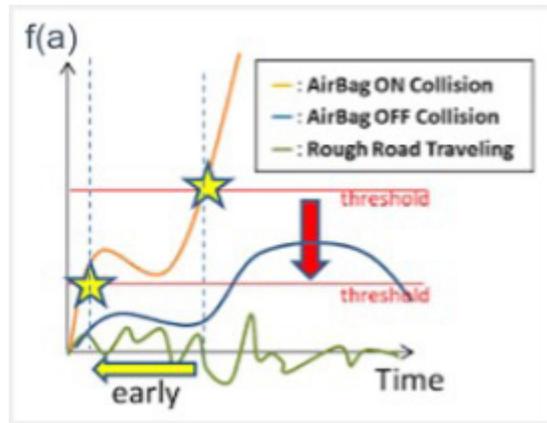


Figure 3. Deployment thresholds
(Okamura, et.al., 26ESV-19-000248)

Air bags are designed to inflate only if the applicable deployment threshold is exceeded. Deployment thresholds are mostly based on crash severity, usually some function of acceleration (or deceleration). The threshold is set to deploy air bags only in moderate to severe crashes to reduce the potential for serious injuries. More advanced vehicle restraint systems use thresholds based on crash severity, driver and passenger belted status, front seat position, and front passenger occupant size and weight.

Most vehicles built since the late 1980s have air bags. For those vehicles equipped with air bags, nearly all will have one or more frontal air bags. The most common is the driver frontal air bag located in the steering wheel. A larger frontal air bag for the outboard front passenger is also very common. More recent examples of frontal air bags include knee air bags for the driver and outboard front passenger. Frontal air bags are designed for frontal and near-frontal crashes and are not intended to deploy in rear impacts, rollovers, or many side impacts.

Side air bags are set to inflate in side impacts and sometimes rollover crashes. Air bags for side impacts must deploy very early and fast because the gap between the occupant and door is small, and that gap often “closes” rapidly due to the intruding vehicle or object. Side impact sensors are usually solid-state accelerometers or pressure sensors in the doors or side pillars. Like frontal air bags, most side air bags are vented and quickly deflate. Since rollover crashes can last up to 6 seconds or more, rollover air bags need to stay inflated for about 6 seconds and are, therefore, coated and sealed. Some side curtain air bags are designed only for side impacts. Other side curtain air bags have been developed for side impacts and rollover crashes.

Each vehicle model is relatively unique with its own specific size, weight, and structure. Therefore, each vehicle model has its own unique crash “signature” and reacts to crashes differently than other models. To account for this, the air bag sensor system for each vehicle model is calibrated specifically for that vehicle model, and that model only. Many tests and various simulations are conducted and used for air bag sensor calibrations. In addition to standard frontal, angular, side, rear, and rollover crash tests, rough road and other abuse tests like curb impacts and undercarriage strikes are used.

Vehicle crashes can be very complicated and somewhat chaotic events, so it is very difficult and often impossible to replicate actual crashes with tests. Many crashes include multiple impacts and directions and are a small collection of different events. Some develop very quickly, while others develop slowly over several seconds. Due to thorough design and development, air bag sensor calibration is usually quite robust



and can assess most crashes and make the proper decision to deploy or not deploy. Although rare, air bag systems can and do occasionally fail to deploy or deploy inadvertently. Before concluding a defect occurred, the conditions of the crash and the vehicle specifications must be carefully examined.

AIR BAG MYTH #2

“Air bags pop out after the car stops, like in the movies.”

For most of us, we realize what we see on the big screen is not always completely accurate. Hollywood often takes liberties with physics, with science, with technology, and with air bags. Although not meant to be authentic, one of my favorite portrayals is the Jiffy Pop popcorn air bag by Saturday Night Live (SNL) (Figure 4).



Figure 4. Jiffy Pop air bag (SNL)

Air bags usually deploy a fraction of a second after impact. For example, during a 30-mph frontal barrier test, the occupant begins moving relative to the vehicle in about 15 milliseconds (0.015 second). The occupant continues to move about 5 inches over the next 30 milliseconds. Since a typical driver frontal air bag inflates in about 30 milliseconds,

the decision window for air bag deployment is the first 15 milliseconds during that type of crash. So, for a 30-mph frontal, deployment occurs after about 15 milliseconds, air bag inflation in about 30 milliseconds, occupant ride-down over another 50 milliseconds, and occupant rebound back into the seat in about 100 milliseconds or more. The vehicle comes to a brief stop and begins to rebound in about 90 milliseconds, just before the occupant reaches maximum ride-down. The vehicle rebounds or bounces back and comes to rest “long” after the air bag has deployed.

According to various sources, the duration of an eye blink is 100 to 400 milliseconds. Air bags deploy in 30 to 60 milliseconds... “less than the blink of an eye.”

AIR BAG MYTH #3

“Air bags are soft cushions or pillows.”

As just described, air bags inflate very fast. As they unfold and deploy, the filling bag front can reach speeds of 100 to 200 mph. Also, most are designed to protect belted and unbelted occupants. To restrain an occupant in a moderate-to-severe crash, an air bag may need to exert a force of 1,000 to 3,000 pounds or more on the occupant. That means the air bag must pressurize and be quite firm for a short time. The air bag is usually porous or vented and allows gas to quickly escape to properly manage the occupant’s energy and allow the occupant to “ride down” the air bag (Figure 5).



Figure 5. Air bag ride-down (phandwc.com)



Air bags are designed to help stop an occupant with a substantial amount of kinetic energy in a crash. Crash forces can be quite high, so the air bag must be firm, not soft. Occasionally, drivers break their eyeglasses or nose when contacting the air bag. The air bag must also deflate rapidly in a controlled fashion to avoid excessively high forces that could seriously injure the occupant.

AIR BAG MYTH #4

“My car has air bags, so I don’t need to wear a seat belt.”

Seat belts are primary restraints. Air bags are designed to be supplemental restraints. While air bags will provide some protection for unbelted occupants, air bags alone cannot prevent all injuries. Air bags work best when used in conjunction with seat belts.

Unbelted occupants will normally experience much more movement or “excursion” during a crash, when compared to a belted occupant. For example, a front seat unbelted occupant will travel forward and hit his knees on the lower dash panel, known as the knee bolster, during a frontal crash. Knee bolsters are typically steel or structural plastic panels covered by trim. They are designed to absorb occupant crash energy, but they are relatively hard and rigid. Also, an unbelted occupant is much more likely to penetrate through, miss, or slide off the air bag and strike an interior component like the header, A-pillar, or windshield.

Even worse, an unbelted occupant can easily be ejected from the vehicle during a crash (Figure 6). Ejection from the vehicle is extremely dangerous. It is much safer to remain inside the vehicle during a crash. It is not safer to be thrown

clear of the vehicle (another myth). According to National Highway Traffic Safety Administration (NHTSA) (safercar.gov), only two percent of all crashes involved a rollover, but rollovers accounted for 35 percent of all traffic fatalities due to partial or full occupant ejection and other factors.



Figure 6. Occupant ejection through windshield (abcnews.go.com)

AIR BAG MYTH #5

“My air bag was smoking, so it must have been on fire.”

All air bags are inflated by gas-generating devices that include some type of ignition train. An igniter or “squib” is a small “micro” gas generator that starts the inflation process. The squib produces a small amount of hot gas that ignites booster material, which in turn produces more hot gas that ignites the main solid propellant. The propellant converts to harmless nitrogen gas and fills the bag. Hybrid-technology air bag inflators use a smaller amount of solid fuel to heat compressed gas that expands and fills the bag.

Some smoke or widely dispersed particulates are produced



as a byproduct of air bag inflator ignition and deployment. Most of the heavy particulates are trapped by filters in the inflator, but some of the smallest particulates pass by the filters and enter the bag as smoke. Since the bag is typically stitched and semi-porous or vented, some of the smoke exits the bag during deflation. That smoke is visible inside the vehicle but is mostly harmless. The smoke is a normal byproduct; it does not mean the air bag was on fire.

Early air bag cushions were made from state-of-the-art fabric at that time. Since fabric long-term aging and friction were concerns, the air bag cushions were often coated with cornstarch or talcum powder to keep the fabric soft and lubricated. With the advancement of better fabrics over time, the use of cornstarch or talcum powder on air bags was abandoned many years ago.

WHAT HAPPENED TO TIGER WOODS

As you likely heard, 45-year-old Tiger Woods was involved in a very serious car crash recently. He was reportedly traveling north on a curvy downhill stretch of road in Los Angeles County, on his way to a TV shoot with other celebrities. Tiger was driving a 2021 Genesis GV80 SUV.

Police said the Genesis contacted the dividing median and struck a wooden sign before crossing two southbound lanes. The Genesis then reportedly struck a curb and some trees, causing it to overturn and roll several times. There was heavy impact damage to the front end and light-to-moderate damage on the rear quarter panels and rear end.

The Genesis driven by Tiger was equipped with 10 air bags, including a front center air bag for side impacts (Figure 7). At

least eight of the 10 air bags deployed during the crash. The driver steering wheel and knee air bags deployed due to the frontal impact. The left and right side-curtain air bags and front and rear seat side air bags also deployed for rollover protection.



Figure 7. Genesis GV80 (hooniverse.com)

Tiger was reportedly belted. Although he was protected with a driver knee air bag, Tiger still sustained multiple serious fractures to his lower right leg, ankle, and foot. His injuries were possibly caused by intrusion of the driver footwell. Tiger did not sustain any significant injuries to his head, chest, or vital organs. He can attribute his survival – from what could have been a fatal crash – to the vehicle’s overall structural integrity and crashworthiness, his seat belt usage, and air bag protection and safety containment.

IN CLOSING

First invented in the early 1950s, air bags have been in production vehicles since the ‘70s and ‘80s. Although the general concept seems rather simple, air bags are very sophisticated and complicated devices. Special sensing and gas-generating technologies had to be developed to implement air bags. A lot of that technology is tightly



packaged and hidden away inside the vehicle. For various reasons, there are several misconceptions or myths about air bags. This article attempted to dispel some of those myths with factual and detailed information... and rocket science.

ABOUT THE AUTHOR

John G. Bauer is a forensic mechanical engineer, certified traffic crash reconstructionist, and vehicle occupant restraints expert for Rimkus in Raleigh, North Carolina. His experience includes 25 years in the automotive industry, most of that designing and developing seat belts and air bags. He conducted vehicle crash testing and simulations to optimize passenger safety. He has 11 US patents and was a featured speaker and author for the Society of Automotive Engineers. Since becoming a forensic expert, Mr. Bauer has consulted on various transportation-related matters and reconstructed hundreds of traffic accidents. He has investigated Takata air bag recalls, go-cart and ATV rollovers, and wheelchair accessible vans with safety restraints failures. He was retained as a seat belt expert for a high-profile fatal accident of a young boy on a 168-foot high water slide at the Schlitterbahn Waterpark in Kansas City, KS, in 2016. He enjoys vehicle and home restoration, golf, boating, and other activities with his family and friends. 



Review Of The Life Care Plan: Practice Considerations

By Michael Fryar and Steve Yuhas, InQuis Global

INTRODUCTION

A life care plan is a dynamic document that comprehensively identifies an individual's present and lifetime healthcare needs as related to a specific diagnosis(s). The plan is designed to identify a person's need for healthcare, educational/vocational services, living arrangements, home modifications, attendant care, equipment and supplies, medications, and community services. Additionally, the plan also provides projected costs for services and products which are medically necessary to meet the identified needs. A life care plan should provide items and services that restore and/or maintain an optimal level of health and functioning for the individual as related to a specified diagnosis(s).

Unfortunately, it has been observed in recent years that some life care planners have appeared to abandon the basic purpose, principles, process, and methodology upon which sound life care planning is established. Some life care planners are even taking liberties with findings received from medical specialists and electing to substitute their own unlicensed medical opinions into their plans. This practice violates primary tenets, ethics, and standards of the life care planning process. Such flawed planning practices tends to diminish life care planning methodology and shifts

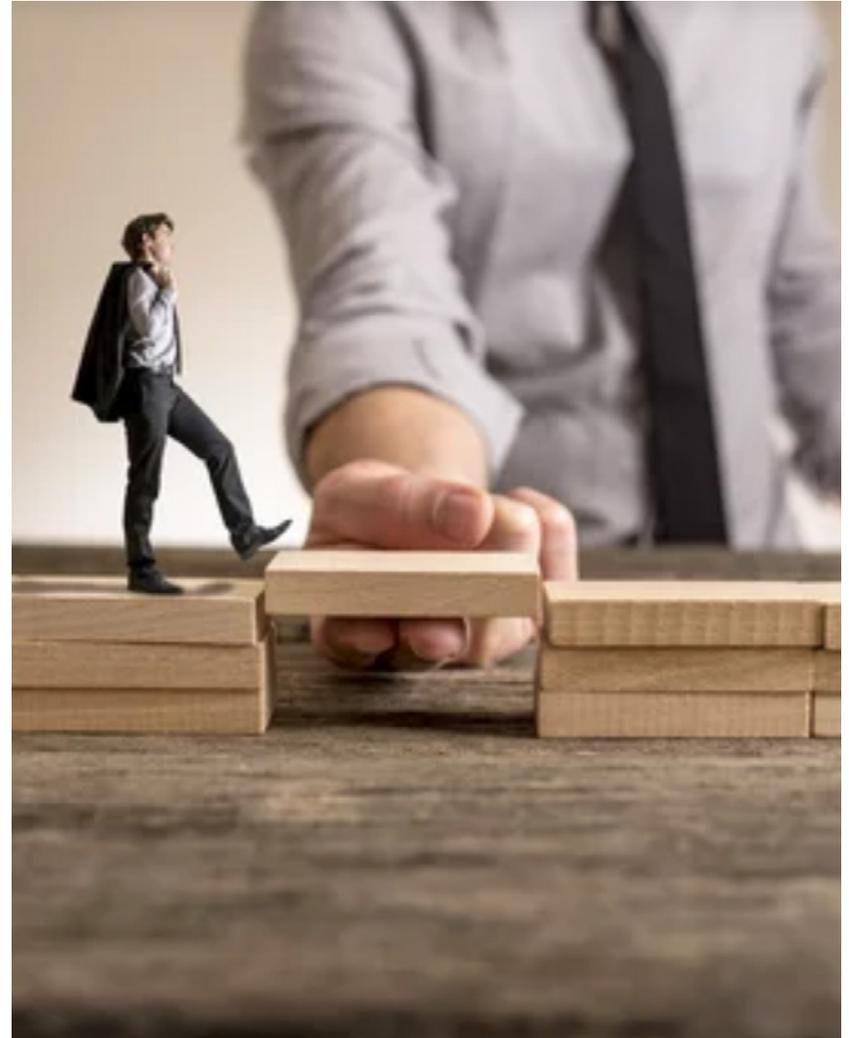


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the focus away from rehabilitation and recovery for the individual, due to not being grounded in sound medical foundation, published clinical guidelines, and empirical data. Moreover, performing healthcare and medical activities for a life care plan which reaches beyond one's own scope of practice potentially places the life care planner in jeopardy of practicing medicine without a license. In contrast, sound and appropriate life care plan methodology should collaboratively matriculate into the presentation of evidence-based treatment conclusions, the delineation of medically necessary future items/services and the establishment of a long-term healthcare roadmap for the individual to follow.

Published practice standards developed by the International Academy of Life Care Planners (IALCP), explain that the life care planner has an ethical obligation to professionally focus upon the methodology of a reviewed life care plan, its supporting documentation and recommendations along with the specific plan content. Specifically, IALCP's ethical standards explain the following about the life care plan review process:

“Life care planners are professionals, from varying educational backgrounds, who maintain professional conduct when addressing opposing life care plan consultants. Life care plan consultants should focus upon methodology of plan development, supporting documentation for recommendations and plan content.” (IARP, Appendix pg. 12)

LIFE CARE PLAN REVIEW CHECKLIST

A systematic checklist can serve to guide the review and/or development of a life care plan. An example of a life care plan review checklist was published in the *Life Care Planning and Case Management Handbook (Fourth Edition; Editors:*

Roger O. Weed, PhD & Debra E. Berens PhD pp. 623-624) and included many of the following general topic areas for analysis:

- Was a complete set of medical records considered for life care plan development?
- Was a narrative report developed for the life care plan?
- Were pertinent depositions reviewed for life care plan development?
- What other documents or information was considered for life care plan development?
- Does the life care plan adhere to published standards and procedures?
- Does the life care plan reflect a collaborative or joint effort for development?
- Were potential complications referenced upon an appropriate page/table and not included within costs for the life care plan?
- Are life care plan entries appropriate for the specific disability/disabilities, diagnosis/diagnoses and/or injury/injuries?
- Was life care plan input obtained from a treatment team or consulting physician(s)?
- Was medical, psychological and/or neuropsychological foundation established for the life care plan?
- Were standards of care for the specific disability/disabilities, diagnosis/diagnoses and/or injury/injuries referenced?



- Did the life care planner's recommendations reflect their area of expertise?
- Did the medical and therapeutic recommendations received from collaborative healthcare providers reflect their areas of expertise?
- Is the life care plan preventative and rehabilitative in nature?
- Are the costs of the life care plan related to the disability/disabilities, diagnosis/diagnoses and/or injury/injuries only and not reflective of general healthcare measures or the care pertaining to other pre-existing conditions?
- Are the costs presented based upon the relevant geographical area and/or from an appropriate database(s)?
- Are similar or equivalent services listed more than once in the life care plan?
- Is the level of care within the life care plan appropriate for the person's needs?
- Was the relevant Nurse Practice Act referenced for regulatory home care requirements?
- Are appropriate cost deductions noted for the economist which pertain to general expenses incurred without the disability/disabilities, diagnosis/diagnoses and/or injury/injuries?
- Are the costs of the life care plan calculated correctly?
- Are the sources of cost information known and documented within the life care plan?
- Are economic calculations included in the life care plan which are beyond the life care planner's expertise?
- Are vocational issues addressed or deferred to a qualified vocational specialist?
- Have life care plan items been reviewed, endorsed or confirmed by a physician(s) and/or a treatment team?
- Was access available for consultation with a physician(s) and/or a treatment team?
- Was access available to interview the subject of the life care plan and/or their family members?
- Are future updates expected for the life care plan?
- Are the life care plan's entries easy to read, follow and understand?
- Does the overall life care plan have a professional presentation and make sense collectively?
- Is the life care plan presented in a clear and logical manner with sufficient details described?
- Is there consistency between the narrative report, records reviewed and the life care plan entries?

SIDE-BY-SIDE APPROACH

A life care plan can be challenged for multiple reasons. The life care plan can lack sound medical/research foundation and supporting documentation which can produce errors and/or unsubstantiated claims for the



The side-by-side approach allows for effective analysis of the reviewed life care plan’s methodology, documentation, and global content as opposed to the establishment of a completely new life care plan which may not emphasize the reasons necessary for item exclusion and the potential methodological errors found.

identification of future healthcare costs. Secondly, a life care plan may fail to incorporate accurate cost ranges for items, even when grounded in sound medical foundation. Lastly, a life care plan can concurrently lack medical/research foundation and include inaccurate costs.

Effective review of unsubstantiated life care plan foundation can be as much about form as it is about substance. A potential way to review an unsubstantiated life care plan may include the introduction of an alternate plan with sound foundation and accurate costs. Logical as this may seem initially, it may not always be the most effective way to proceed. A potential oversight can revolve around not comprehensively addressing individual components and potential methodological errors as found within the unsubstantiated life care plan. To avoid this issue, the life care planner can use a “*side-by-side*” approach. This method involves a graphic reproduction of each item from the reviewed life care plan which is paired with specific evidence and information as garnered from consulted experts, healthcare providers and/or research. A life care plan review ultimately presents either concurrence, agreement with modification(s), or total disagreement for each item in the plan with rationale.

The side-by-side approach allows for effective analysis of the reviewed life care plan’s methodology, documentation,

and global content as opposed to the establishment of a completely new life care plan which may not emphasize the reasons necessary for item exclusion and the potential methodological errors found. The side-by-side approach may also include alternative options for future care and services which can be described in a format that is easy for most readers to follow and comprehend.

COST ANALYSIS

A review of a life care plan also centers upon appraisal and vetting of costs. A life care plan can be formally correct by published standards and reflect sound medical foundation during development, however, the costs issued may not reflect accurate usual and customary ranges. Healthcare fees and prices can vary greatly from one geographic area to another. Poorly constructed and researched life care plans may rely upon too few, inaccurate, and/or unreliable sources of information for the determination of costs. Comprehensive life care plan review includes thorough analysis of the presented costs and will seek to establish an accurate usual and customary value range for medically necessary items and services. Cost analysis can be accomplished through a combination of analyzing published and statistically valid healthcare databases, direct contact with providers/vendors, and/or the review of billing records from treatment. The life care plan should reflect likely future costs (*i.e.*



exceeds 50% probability) and not include expenses derived from unlikely potential complications. (Weed, pg. 331)

BENEFITS OF EARLY ANALYSIS

Both defense and plaintiff attorneys may need to make their liability arguments in the presence and backdrop of a medically impaired person who may have an obvious injury(s) and disability(s)—in some cases catastrophic ones—with significant complications that will require lifelong treatment and care. Focusing all primary energies and efforts upon liability arguments and delaying the assessment of realistic healthcare/community support requirements and costs for the individual may become problematic, especially if the only available option for damage calculation would be an unsubstantiated and poorly developed life care plan. The key to avoiding this situation would be utilizing an independent life care planner and other experts early for consultation; long before legal deadlines approach and a trial commences.

A life care planner following a sound methodology and published standards can evaluate past medical records, analyze published research, and complete necessary consultations with the goal of establishing realistic and evidence-based recommendations to optimize recovery and maximize rehabilitative potential. During the review, a life care planner can assess the evaluatee's status, any potential methodological issues, life care planning assumptions, and/or other unsubstantiated information which may be found within other life care plans as developed for the evaluatee. Early detailed analysis of the medical records and the completion of focused consultations with specialists can

also assist in separating pre-existing comorbidities from injury derived diagnoses and complications. In contrast, a poorly organized and developed life care plan may overlook the injured evaluatee's health status in the days, months, and years leading up to the specific injury or accident. A seasoned life care planner can clarify such pre-existing comorbidities and project, after necessary healthcare collaboration and the review of evidence-based research, a likely and expected clinical course for the evaluatee while simultaneously extracting unrelated care and services.

Additionally, familiarity with peer-reviewed literature and clinical guidelines, regarding a particular injury or diagnosis, can be an important factor for the establishment of a true evidence-based roadmap to support an evaluatee in the future. Many times, the findings and conclusions as presented in poorly constructed and/or unsubstantiated care plans may be partially or completely inconsistent with published evidence-based clinical guidelines and the findings from empirical healthcare research. An effective life care planner will know how to identify such pertinent clinical and empirical information and will effectively utilize the published findings in combination with the medical consultations completed.

CONCLUSIONS

Life care planning is a comprehensive and methodological process which relies upon a multitude of data points and sources. This is true not only with respect to a life care plan's medical foundation, but also with regards to the assembly and presentation of the cost data. A reviewing life care planner can be a valuable resource



for determining costs, identifying methodological issues, and completing critical rehabilitative and preventative care focused consultations with healthcare specialists.

It is essential to independently analyze the completed methodology, medical/research foundation utilized, and regional costs presented for all areas of a proposed life care plan. This process of independent review ensures a proposed life care plan is medically necessary, reflective of usual and customary costs for the region, and is focused upon the recovery, rehabilitation and prevention of complications for the individual. A systematic checklist can guide the review process. Also, the graphic manner by which the review findings are presented requires close attention and consideration by the life care planner.

Firm commitment and insistence upon following published standards, guidelines, sound methodology, and evidence-based medical recommendations will ensure the life care planning community's continued place as balanced experts and the final value of our life care plans for evaluatees. These are professional goals all life care planners should aspire to within their clinical practices. Failure to uphold the standards upon which the life care planning specialty was built can generate negative consequences and may blemish the overall practice of life care planning collectively. As a professional community, it is imperative that our standards are always upheld and maintained.

About The Authors

Michael Fryar earned a Bachelor of Arts in Psychology from the University of North Carolina at Chapel Hill. He

subsequently graduated Summa Cum Laude with a Dual Master's in Rehabilitation Counseling and Vocational Evaluation from East Carolina University. During 2005, he completed a 120-hour post-graduate training program in life care planning through Kaplan University with lead instructor, Dr. Paul Deutsch, the founder of life care planning process. Finally, Mr. Fryar completed his Associate Degree in Nursing at Sampson Community College. Mr. Fryar is a Certified Rehabilitation Counselor (CRC), Registered Nurse (RN), Certified Case Manager (CCM) and Certified Life Care Planner (CLCP). He is also a registered Qualified Rehabilitation Professional (QRP) through the North Carolina Industrial Commission. Mr. Fryar has worked as a rehabilitation charge nurse for the brain injury, spinal cord injury and general rehabilitation units of Wake Forest University Baptist Medical Center. He has served as the past Secretary for the International Association of Rehabilitation Professionals' (IARP) National Forensic Board. He is currently an active member of the Rehabilitation and Disability Case Management (RDCM) National Board and was also recently appointed to the Education Subcommittee for the International Association of Rehabilitation Professionals (IARP). In total, Mr. Fryar has worked for nearly 20 years within the rehabilitation field. He provides independent case management and consultant services.

Steve Yuhas is a certified life care planner and catastrophic injury case manager. Currently President of InQuis Global, he devotes a large portion of his time to a clinical rehabilitation practice in which he manages difficult traumatic brain injury, spinal cord injury, amputation, chronic pain, and burn cases. Steve also served as a past President of the



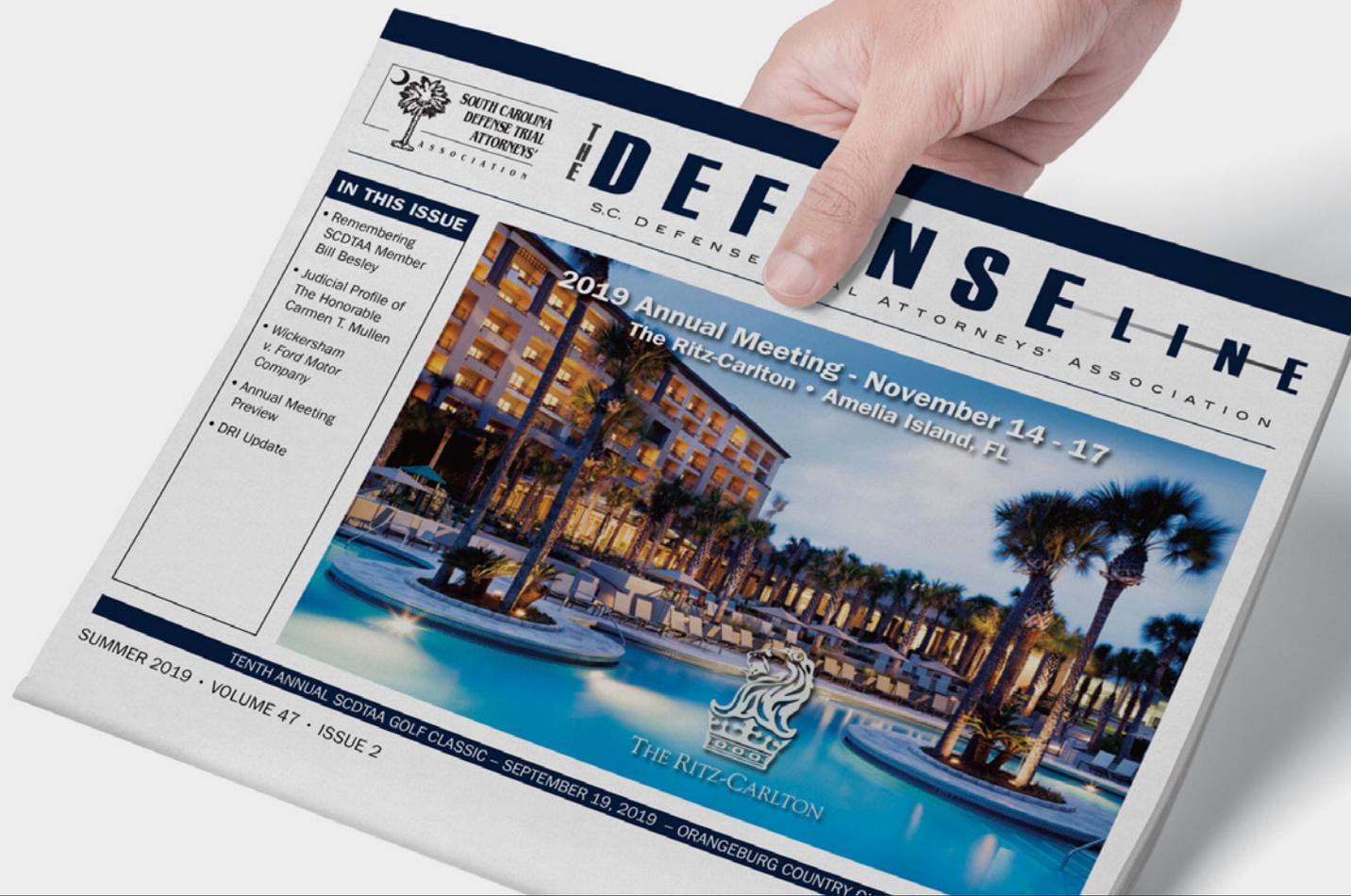
International Association of Rehabilitation Professionals (IARP), and organization serving rehabilitation and life care planning professionals.

In 2013, he received the Cheryl L. Jasper Memorial Recognition Award for contributions and dedication to the field of life care planning. In 2018, he was the recipient of the International Association of Rehabilitation Professionals' Lifetime Achievement Award for Distinguished Services and Commitment to the Rehabilitation Profession. 

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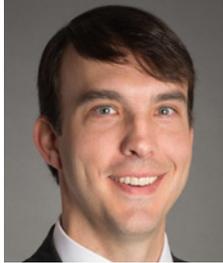
1. International Association of Rehabilitation Professional & International Academy of Life Care Planners (2015), Third Edition. *Standards of Practice for Life Care Planners*.
2. Weed R. O., Berens D.E., editors. *Life Care Planning and Case Management Handbook*. 4th Edition. Routledge Taylor & Francis Group; 2018. (P. 331 & P. 623-624).





MEMBER NEWS: Have news about changes in your firm, promotions, memberships and organization or community involvement? Please send all firm news to ahiers@pmpamc.com in Word format.





2021 Annual Meeting

The Sanctuary at Kiawah Island Golf Resort

by Fred W. Suggs III



The SCDTAA is excited to return to the Sanctuary at Kiawah Island for its 2021 Annual Meeting, scheduled for November 18-21, 2021. As always, we have an exciting program planned for the attendees and judiciary. Attendees will have an opportunity to earn two half days' worth of CLE credits, including ethics, while enjoying the company of state and federal judges from across our state.

In addition to a robust CLE program on Friday and Saturday, we will also hold our traditional social events, including a judicial reception, Friday Night Banquet and Dance, and oyster roast, as well as afternoon excursions including golf and fishing. We look forward to seeing you there. 🏊



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2021 Summer Meeting

By Jay T. Thompson



Mark your calendars for the SCDTAA Summer Meeting scheduled for July 22-24, 2021. We are excited to return to the Grove Park Inn in beautiful Asheville, NC this summer! This is designed to be a family-friendly event, so plan to bring the kids. Young lawyers and Emerging Leaders should especially plan to attend, as we plan to provide content specifically engaging at your stage of your legal careers. We also are excited to welcome back our Worker's Compensation commissioners and practitioners for our traditional worker's comp content and networking. The event promises to be a much-needed opportunity for relief from Zoom meetings and the virtual practice of law. In addition to the CLE sessions on Friday and Saturday mornings and the Friday evening barbecue, we look forward to a silent auction to support Kids Chance of South Carolina, an opportunity to collect and stuff backpacks together for charity, and great afternoon opportunities for golf, relaxing at the spa, and enjoying the surrounding mountains and attractions of Asheville. Save the date! 🗓️



Save The Date! July 22-24, 2021



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2021 Trial Academy

By James B. Robey III

The Trial Academy Committee is working on ways to ensure that the event is held in a safe and meaningful fashion. The COVID-19 Pandemic presents a considerable challenge to this event, as it requires in-person interaction and courtroom availability to be a success. We are hopeful that conditions associated with the Pandemic will improve this spring and summer, so we can potentially hold this event in the fall. Please stay tuned for updates as the year progresses. 

Diversity for the Defense - The Need to Deliver

By Lucy Grey McIver



The Women in the Law and Diversity and Inclusion Committees hosted a successful virtual CLE on March 25, 2021. Two of the presentations focused on the need for real diversity in our firms and businesses and why it matters. Sheila Willis kicked off the substantive portion of the CLE and provided metrics for increasing diversity in firms and businesses and how to implement in hiring and distributing assignments. Willis also touched on the GRIT Initiatives Project and how we can become gritty even if not necessarily passionate about aspects of our work. Kevin Hall addressed the Mansfield Rule, what it is and why it matters. Hall shared how firms can pursue Mansfield Certification and take steps to attract and retain a more diverse work force.

ESI sponsored the program and its own Dr. Amber Rath Stern addressed how to stay connected in the virtual world. Dr. Stern demonstrated many of the

technical capabilities of ESI and how these efforts enabled its clients and employees to keep their projects moving forward while they remained physically apart.

Beth McMillan, chair of the Women in the Law Committee, moderated a panel of women attorneys who demonstrated why “We Get the Cat Lawyer Video.” Kelly Dean, Megan White and Nickisha Woodward candidly answered questions about how to survive and excel in the practice of law in the midst of a pandemic with all of its accompanying challenges.

This CLE left us with tools to improve diversity in our organizations and reasons to do the work. ESI showed us capabilities for keeping the ball rolling in our cases despite the distancing requirements. And our own women in the law gave us a glimpse into how they have endured and thrived during these crazy Covid times! 



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Providing Solace in Challenging Times

New SCDTAA Program Aims to Provide Help to Members and Community

By C. Daniel Atkinson

Sol-ace: (noun) comfort or consolation in a time of distress or sadness;
(verb) give comfort or consolation to.

In 2020, Immediate SCDTAA Past President Johnston Cox provided the spark for the SOLACE program. SOLACE, an acronym for Support of Lawyers/Legal Personnel All Concern Encouraged is an effort to build upon a program created in Louisiana by U.S. District Court Judge Jay Zainey and attorney Mark Surprenant. The program's goal is to use our SCDTAA network to meet sudden needs of SCDTAA members and member firm support staff, to create a community safety net in times of struggle.

Commenting on his initial goals for the new program, Johnson Cox said, "I envisioned SOLACE to be a resource people would use for assistance. Part of SCDTAA's mission is to provide benefits to its members. [I see SOLACE] as an effort to carry on [SCDTAA Past President] Anthony Livoti's mission of providing outward looking benefits to our members and our community."

In not having in-person Summer or Annual Meetings in 2020, SCDTAA's goal of spreading word-of-mouth about the availability of SOLACE has been somewhat slowed. Accordingly, we ask all SCDTAA members to notify fellow members and

their firms and staff about the availability of SOLACE as a resource. Cox notes, "hopefully, the last year of COVID and isolation has reminded us that people need resources and outside assistance." Cox asks members to "please let your firms know there are resources to tap when in need of help."

The goal of SOLACE is to connect SCDTAA members and affiliated-people experiencing hands-on needs with others who have the ability to assist. This can involve using resources to help people with medical issues to find appropriate specialists, or contributions of frequent flyer miles to allow for travel for treatment. Essentially, our goal is to use our network of members to find solutions for people with pressing needs.

SOLACE is not set up to operate as a 24-hour hotline or a rigorous, formal program. It is intended to provide an informal network, wherein people can share experiences or knowledge to meet immediate, unexpected needs. For example, a parent facing a challenge with a special needs child can reach out to other parents for help in finding therapists, or medical specialists who can meet specific



“I envisioned SOLACE to be a resource people would use for assistance. Part of SCDTAA’s mission is to provide benefits to its members. [I see SOLACE] as an effort to carry on [SCDTAA Past President] Anthony Livoti’s mission of providing outward looking benefits to our members and our community.” – *Johnson Cox*

needs. A staff member with a downed tree can be put in touch with someone who can help with the issue. It is intended as a sounding board, where we can share support and knowledge to meet unexpected obstacles.

The process is designed to be nearly anonymous. The only people who will know the identity of someone who requests assistance will be the volunteers who receive a request and those who respond with offers of help. To request help, simply send an email to Aimee Hiers at ahiers@pmpamc.com.

For this program to succeed, we will need our members to assist when requests come. Please contribute where you can.

If you are interested in further involvement, please reach out to SOLACE Chair, Amy H. Geddes at AGeddes@nexsenpruet.com, or Vice Chair Dan Atkinson at DAtkinson@wilkeslaw.com.

We anticipate SOLACE providing service projects where SCDTAA members will assist local communities at future Summer Meetings and Annual Meetings. At those events, please be sure to participate and support our efforts for philanthropy through SCDTAA. Through a year of isolation, nothing is more rewarding than helping others in a concrete way. Please join us for those opportunities. 



Legislative Update

by Jeffrey N. Thordahl, SCDTAA Lobbyist

The two-year session began in January the way last year's session ended with heightened awareness of COVID 19 needs and with an effort to address those needs.

The South Carolina COVID 19 Liability Act passed the Senate on February 25 and was sent to the House where it was referred to the House Judiciary Committee. The bill provides immunity from liability for any acts or omissions resulting in a coronavirus claim if the entity reasonably adheres to public health guidance applicable at the time the conduct giving rise to a coronavirus claim occurs. There are specified exceptions. The provisions apply to all civil and administrative causes of action that arise between March 13, 2020, and June 30, 2021, or one hundred eighty days after the final state of emergency is lifted for COVID-19 in the State, whichever is later, and that are based upon facts that occurred during this time period. https://www.scstatehouse.gov/sess124_2021-2022/bills/147.htm

Judicial Elections were held by the General Assembly on February 3. Several new Judges were elected. For the Court of Appeals Seat 8, the Honorable Jerry Deese Vinson, Jr was elected. For the Circuit Court Thirteenth Judicial Circuit Seat 3, G. D. Morgan, Jr "Doc" was elected. Of course Doc has been an active member of the SCDTAA for many years. For the Circuit Court Fourteenth Judicial District Seat 1, Robert Bonds was elected. For circuit Court At-Large Seat 12, H. Steven DeBerry IV was elected. For Administrative

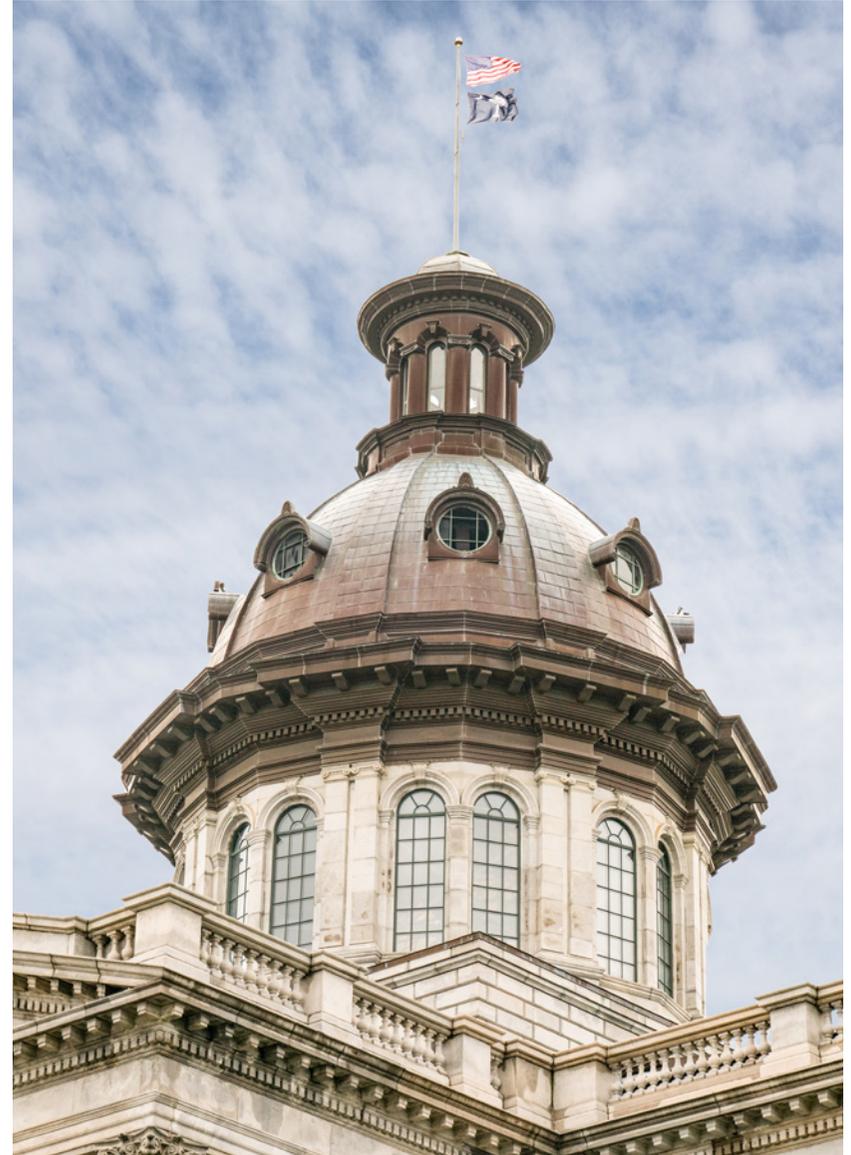


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Law Court Judge Seat 3, Robert L. Reibold was elected.

Another effort is being made to increase the limits of recovery under the SC Torts Claims Act. S. 82 by Senator Malloy (https://www.sestatehouse.gov/sess124_2021-2022/bills/82.htm). This bill picks up where the effort ended last year and would increase the liability limits to \$500,000 for a single person and \$1,000,000 total for a single occurrence, regardless of the number of agencies or subdivisions involved in the occurrence. Additionally, this bill would allow a party who makes an offer of judgment that is not accepted and the verdict is more favorable to the offeror than the offer was to recover any administrative, filing, or other court costs and 8 percent computed on the amount of the verdict or award, regardless of the liability limits. The bill was reported out of the Senate Judiciary committee on February 11 and Senator Massey has continuously “carried the bill over” on the Senate floor.

A series of Workers Compensation bills have been the subject of multiple hearings by a Senate Judiciary subcommittee. S. 94, S. 282 and S. 402 all deal with extending workers’ compensation benefits to first responders if they are diagnosed with post-traumatic stress syndrome and it results from the person’s direct involvement in a significant traumatic experience. The subcommittee focused on and approved S.94. The bill also defines the term “first responder”. The bill was amended in subcommittee to narrow the exception and now goes to the full committee. Another bill, S. 366 (Senators Talley and Hutto), is a reintroduction of a previously introduced bill that deals with the admissibility of medical records in workers’ compensation cases, was extensively debated but as of this writing no action was taken. Nick Haigler provided in depth and valuable testimony that the bill was seeking to solve a problem that

did not exist in the first place and therefore is unnecessary.

The Senate passed S. 105 (Senator Campsen) that increases the amount of mechanics’ liens from \$100 to \$7,500 that may be enforced in magistrate’s court. The bill now goes to the House for consideration.

The General Assembly will be working the budget for much of the remainder of the session. While revenue has been impacted by the slowing economy due to COVID -19, South Carolina finds itself in the fortunate position of having increased revenue year over year. 



Adversary Profile – James L. Ward, Jr., McGowan Hood & Felder

by James B. Robey, III



James L. Ward, Jr. (“Jay”) is a Saluda, South Carolina, native who practices in the Mount Pleasant office of McGowan, Hood & Felder. Jay graduated from Saluda High School in 1990. Upon his graduation from Saluda, Jay matriculated into The Citadel. While at The Citadel, Jay held various leadership positions within the Corps of Cadets and served on The Citadel Honor Committee. In 1994, Jay graduated from The Citadel *magna cum laude* with a degree in political science. He enrolled in law school at the University of South Carolina in the fall of 1994. During his time in law school, Jay was a member of the editorial staff for the South Carolina Law Review. He was also a member of the Order of the Coif and the Order of the Wig and Robe. He graduated *cum laude* from law school in 1997.

Jay’s first job out of law school was with Haynsworth, Sinkler, Boyd, P.A., in Columbia. At Haynsworth, he worked as an associate in the firm’s litigation practice group where he defended various actions in State and Federal courts. Jay continued his career at Helms Mulliss & Wicker in Charlotte, North Carolina, where he defended cases brought against businesses. After working for defense firms for five years, Jay decided to make the switch to the plaintiffs’ bar. He moved to Mount Pleasant



and began working at Richardson, Patrick, Westbrook & Brickman (“RPWB”) where he handled a variety of plaintiff related actions to include mass torts, product liability, and personal injury cases. Jay left RPWB in 2016 and opened the Mount Pleasant office of McGowan Hood.

Jay has accomplished a lot over the course of his legal career. He has taken lead roles in complex class action and multidistrict litigation actions involving pharmaceutical drugs, healthcare fraud, defective products, antitrust, and consumer protection. He has also focused a large portion of his practice on the representation of states and local governments as special counsel in complex litigation. In addition, Jay has extensive experience handling a variety of catastrophic personal injury and wrongful death cases. He also has received various awards from both the legal and business community. He was awarded the Silver Compleat Lawyer Award in 2011 and South Carolina Lawyers Weekly Leadership Award in 2013. He was also named to the Charleston Regional Business Journal’s “Forty Under 40” list in 2005.

Jay is an active member of the South Carolina Association of Justice (“SCAJ”). He has been involved in this organization for over fifteen years and served as the organization’s president in 2019-2020.

I’ve known Jay since 2009. He gave me my first job at a law firm -- he hired me as a runner at RPWB when I was attending The Citadel. I was able to catch up with Jay recently to discuss his career, his litigation experience, and his time with the SCAJ.

Tell us about your time at the two defense firms you worked at. What types of cases did you work on and what were some of the more noteworthy lessons you learned defending cases?

I worked on a full range of litigation matters from complex class actions, business, and product liability cases to simple automobile accident cases. A case is a case is a case, no matter what it involves or what side you are on. You have to develop the facts, research the law, and prepare the most persuasive presentation possible, all while looking for opportunities to resolve the dispute consistent with your client’s best interests. For me, the most noteworthy lesson learned on the defense side was the decision-making process inside corporations and insurance companies. Knowing what is impactful to the decision makers on the other side helps me better present my case for the most favorable resolution.

As a young lawyer, what were your initial impressions of the plaintiffs’ bar both in South and North Carolina?

I was initially struck by the collegiality and camaraderie of the plaintiffs’ bar in South Carolina. I was mentored within the large defense firm where I practiced, but the young plaintiffs’ lawyers seemed to be mentored by older plaintiffs’ lawyers irrespective of firm affiliations. Everyone seemed to be on the same team with a “rising tide lifts all boats” mentality. My experience with the plaintiffs’ bar in North Carolina was more limited because many of my cases involved out-of-state lawyers, but the bar seemed more stratified there.



What made you want to switch over to the plaintiffs' bar?

Personally, I wanted to fight for the underdog. Professionally, I hated my success (or failure) being measured more by the hours I billed than the results I achieved.

Do you think your time at the defense firms made you a better a plaintiffs' lawyer?

Yes. I still think critically like a defense lawyer about all my cases. I've had many colleagues frustrated by my pessimism during the litigation process, but I think being able to see my cases through the eyes of my opponent provides a distinct advantage.

From the plaintiffs' perspective, what phase of litigation is typically most frustrating?

I think document discovery is the most frustrating phase of litigation from any perspective. I am just old enough to remember document productions that did not involve e-mail. You shouldn't have to sort through a million pages of documents to find the ten pages that matter to your case.

When was the last time you tried a case and how did it turn out?

I tried a tragic wrongful death case in Georgia a few years back. I got a great verdict, but much of the fault was allocated to a non-party I could not sue. I was struck by how difficult it is to achieve justice for an injured party under Georgia's apportionment statute and was glad to get back to South Carolina.

With trials becoming relatively scarce, mediation has obviously become one of the biggest aspects of civil litigation. What are some of the most effective mediation techniques you've seen employed by defense attorneys?

Defense attorneys do a good job leveraging time /value of money knowing how difficult it is to get a trial date due to overcrowded dockets generally and COVID-19 specifically. Sometimes recommending a client not accept one amount today so she can try to get a higher amount a year from now is a really tough sell.

Do you think the advent of zoom lawyering has made plaintiffs' work more or less difficult?

From my perspective, the ease with which schedules can be coordinated for depositions, mediations, and hearings when travel is not an impediment has made plaintiffs' work much more efficient and cost-effective. It will suit me fine if I never again have to spend two days traveling across the country for a 30-minute hearing.

Tell me about the SCAJ and your time with the organization.

SCAJ is more than an association of lawyers. It is a family united in our mission to fight tirelessly to protect the rights of those who are harmed by the actions of others no matter how powerful, wealthy, or well-connected. We put our role as advocates for fairness under the law above our self-interests, and we work together to serve and promote pro-civil justice ideals. I owe so much of what I have and what I have accomplished to supportive friends, colleagues, and mentors who have come into my life through SCAJ, and it was one of my life's greatest honors



to serve as its president.

What are some the SCAJ’s initiatives for this year and beyond?

SCAJ’s top legislative priority is supporting a bill to increase the caps on recoveries under the South Carolina Tort Claim Act, which have remained at their present levels since 1997 with no adjustment for inflation. Another proactive legislative measure would be the enactment of a state false claims act. Otherwise, SCAJ will continue to fight back against the enactment of unjust laws like “tort reform” bills and other legislation that jeopardizes our clients’ rights, our profession, and our simple objective of ensuring fair and equitable justice for all. 



New Releases from the South Carolina Bar Publications Department

A Practical Guide to Elder and Special Needs Law in SC, Second Edition

Principal Author and Editor: Franchelle C. Millender

Contributing Authors and Editors:

Sarah Garland St. Onge and Andrew J. Atkins

Contributing Authors:

Melody J. E. Breeden, Michael B. Bridges, Kathryn C. DeAngelo, Chadwicke L. Groover, Patricia L. Harrison, Catherine H. Kennedy, Michael S. Large, Kirby R. Mitchell, Mitchell C. Payne, Michael J. Polk, and Donna V. Sands

Book of Estate Planning Questions and Answers, Fourth Edition

Albert C. Todd III, Esq. (1950 - 2005)

Edited by: W. Steven Johnson, Esq., William M.

Reynolds III, Esq., Jonathan E. Spitz, Esq., John

Dunbar Kornegay, III, Esq.

Marriage and Divorce Law in SC: A Layperson's Guide, Fifth Edition

Prof. Roy T. Stuckey

SC Foreclosure Law Manual, Fourth Edition

Principal Authors and Editors: Reginald P. Corley,

The Hon. James O. Spence, Jordan D. Beumer

Contributing Authors: Susan B. Berkowitz, Janet B.

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If you would like more information on any of these books or to order any of them please contact Alyssia Jay at alyssia.jay@scbar.org or by phone at 803-771-0333, ext. 126 to order. 



Hemphill Award

CALL FOR NOMINATIONS

1. ELIGIBILITY

- (a) The candidate must be a member of the South Carolina Bar and a member or former member of the South Carolina Defense Trial Attorneys' Association. He or she may be in active practice, retired from active practice or a member of the judiciary.
- (b) The current officers and members of the South Carolina Defense Trial Attorneys' Association Executive Committee at the time the award is made are not eligible.

2. CRITERIA/BASIS FOR SELECTION

- (a) The award should be based upon distinguished and meritorious service to legal profession and/or the public, and to one who has been instrumental in developing, implementing and carrying through the objectives of the South Carolina Defense Trial Attorneys' Association. The candidate should also be one who is or has been an active, contributing member of the Association.
- (b) The distinguished service for which the candidate is considered may consist either of particular conduct or service over a period of time.
- (c) The candidate may be honored for recent conduct or for service in the past.

3. PROCEDURE

- (a) Nominations for the award should be made by letter, with any supporting documentation and explanations attached. A nomination should include the name and address of the individual, a description of his or her activities in the Association, the profession and the community and the reasons why the nominee is being put forward.

Nominations are due to Aimee Hiers at SCDTAA Headquarters by June 15th.

For more information contact Aimee at ahiers@pmpamc.com.

SCDTAA – One Windsor Cove • Suite 305, Columbia, SC 29223



SCDTAA Docket

Hunter W. Adams Joins Richardson Plowden's Columbia Office

COLUMBIA, S.C., January 25, 2021 – [Richardson Plowden & Robinson, P.A.](#) is pleased to announce that Hunter W. Adams has joined the Firm in the Columbia office as an associate attorney. Mr. Adams will focus his practice in General Litigation and Construction Law.

Prior to joining the Firm, Mr. Adams worked as an associate attorney at another Columbia law firm. He earned his Juris Doctor from the American University Washington College of Law in Washington, D.C., *cum laude* in 2017. He earned his Bachelor of Science degree, *cum laude*, in 2014 from the College of Charleston Honors College. During law school, Mr. Adams served as a Dean's Fellow to the Chair of the Business Law Program. He was also a student attorney, where he represented clients related to unemployment benefits appeals before the Washington, D.C. Office of Administrative Hearings. Mr. Adams is a member of the South Carolina Bar, North Carolina Bar, Richland County Bar Association, and the South Carolina Defense Trial Attorneys' Association.

Richardson Plowden Announces Two New Shareholders in the Firm: F. Heyward Grimball and R. Wilder Harte

COLUMBIA, S.C., January 5, 2021 – Richardson Plowden & Robinson, P.A. is pleased to announce attorneys F. Heyward

Grimball and R. Wilder Harte have been named shareholders in the Firm.

Mr. Grimball joined Richardson Plowden's Charleston office in 2015. He focuses his practice on construction law, general litigation, insurance defense, subrogation, and general representation of small and medium size business entities. Mr. Grimball earned his Juris Doctor from the UofSC School of Law in 2014 while simultaneously earning his International Master of Business Administration degree from the UofSC Moore School of Business. He earned his Mast of Science in Commerce from the University of Virginia (UVA) in 2010 and his Bachelor of Arts degree from UVA in 2009. He is a member of the South Carolina Bar, the Charleston County Bar Association, the Construction Bar Association, and the South Carolina Defense Trial Attorneys' Association.

Mr. Harte joined Richardson Plowden in 2017 in the Columbia office where he focuses on general litigation. He earned his Juris Doctor from the UofSC School of Law in 2013 and his Bachelor of Science degree from Wake Forest University in 2010. Prior to joining Richardson Plowden, Mr. Harte served as Assistant Solicitor for the South Carolina Second Circuit Court Solicitor's Office in Aiken, S.C. He is a member of the South Carolina Bar, the Defense Research Institute, and the South Carolina Defense Trial Attorneys' Association.



Richardson Plowden recognized as a 2021 “Best Law Firm”

COLUMBIA, S.C. - Richardson Plowden is pleased to announce that *Best Lawyers in America* and *U.S. News & World Report* have recognized our Firm with a “Best Law Firm” metropolitan First Tier Ranking for Columbia, S.C., in the areas of:

- Construction Law
- Litigation
- Product Liability Litigation – Defendants

A special thanks to our loyal clients for continue confidence in our Firm!

Turner Padget’s Reginald Belcher named to “Go To Lawyers”

COLUMBIA, S.C. – Turner Padget is pleased to announce that Columbia-based Shareholder Reginald “Reggie” Belcher has been named among South Carolina Lawyers Weekly’s inaugural class of “Go To Lawyers” in the State of South Carolina.

South Carolina Lawyers Weekly’s new feature showcases some of the leaders in the South Carolina legal community in particular areas of practice and expertise. The program, in its first year, began by honoring business attorneys. Those making nominations are asked to select attorneys to whom they would refer cases or call for assistance, if needed.

Turner Paget’s Rene Josey elected as President of the American Inns of Court

FLORENCE, S.C. – Florence-based Shareholder, Rene Josey, is the newly elected President for 2021 of the Pee Dee Chapter of the American Inns of Court.

Turner Padget Elevates Three Attorneys to Shareholder

COLUMBIA, CHARLESTON, S.C. - December 9, 2020 – Turner Padget Graham & Laney, P.A. announces that Charleston-based Robert E. Kneece III and Nickisha M. Woodward, and Columbia-based W. Taylor Stanley have been elected shareholders of the firm, effective Jan. 1, 2021. Kneece and Woodward are members of the firm’s Insurance Litigation Practice and Stanley is a member of the firm’s Business Practice.

“Robert, Nickisha and Taylor’s exemplary commitment to client-service, our firm and the legal profession make them accomplished additions to our shareholder ranks,” said C. Pierce Campbell, chief executive officer of Turner Padget.

Kneece’s practice includes defending personal injury, premises liability, trucking accidents, wrongful death, commercial litigation, and other general liability claims. He has obtained successful results in jury trials while representing insurance carriers, businesses, and individuals. Kneece received his undergraduate degree from the University of South Carolina and his law degree from Emory University School of Law.

Woodward is a skilled litigator who defends the interests of clients large and small in personal injury, construction,



premises and product liability matters. She is the current Young Lawyer Division Vice President of the South Carolina Defense Trial Attorney Association. Woodward received her undergraduate degree from Clemson University and her law degree from Charleston School of Law.

Stanley focuses his practice in the areas of commercial litigation, construction litigation, business litigation, real estate litigation, and other complex litigation at both the trial and appellate levels. He has been recognized as a “Rising Star” *Super Lawyers Magazine* in the area of Business Litigation. Stanley received his undergraduate degree from North Carolina State University and his law degree from the University of North Carolina School of Law.

Barnwell Whaley Member Barbara Wagner elected to Charleston School of Law Foundation Board

CHARLESTON, S.C. – Barnwell Whaley member attorney Barbara J. Wagner, Ph.D. was elected to the Charleston School of Law Foundation Board. The Charleston School of Law Foundation champions student scholars and faculty endeavors to bolster the mission of the Charleston School of Law to train attorneys for the good of the people. A graduate of Indiana University (B.S.), and the University of California, Davis (Ph.D.), Dr. Wagner earned her Juris Doctor *magna cum laude* as a member of the first graduating class of the Charleston School of Law.

Dr. Wagner focuses her law practice in the areas of business law and civil litigation, specifically professional liability, construction defects, insurance defense, asbestos litigation,

and toxic torts. She has been recognized by *Charleston Business Magazine* and *South Carolina Super Lawyers* for her work in construction law and personal injury-products matters. She holds a Martindale-Hubbell Preeminent rating, (the highest rating available, formerly referred to as AV).

Established in Charleston in 1938, Barnwell Whaley Patterson & Helms, LLC, represents and counsels businesses and professionals in both North and South Carolina, throughout the United States in Federal Court, and beyond. Widely respected for their work in complex litigation matters, the firm’s 20 members and associates focus on the areas of civil litigation, professional malpractice defense, construction law, business law, products liability, and insurance defense. For additional information, visit www.barnwell-whaley.com.

Copeland Stair Kingma & Lovell’s Kristen Thompson

CHARLESTON, S.C. – Copeland Stair Kingma & Lovell is proud of partner Kristen Thompson who is the President of the Board for Susan G. Komen- South Carolina

Elmore Goldsmith Kelley & deHoll, P.A. and Attorneys Recognized by U.S. News - Best Lawyers® 2021

GREENVILLE, S.C. - November 16, 2020 – *U.S. News - Best Lawyers®* released the 2021 “Best Law Firms” rankings and Elmore Goldsmith Kelley & deHoll, P.A. has been recognized in four areas. For the Greenville metropolitan area, the firm has received tier one rankings for Construction Law, Litigation–Construction,



Litigation–Securities, and Commercial Litigation.

Firms included in this eleventh edition are recognized for professional excellence with consistently impressive ratings from clients and peers.

Earlier this year, three of the firm’s attorneys were selected by their peers for inclusion in *The Best Lawyers in America*® for 2021:

- L. Franklin “Frank” Elmore: Construction Law and Litigation–Construction
- Mason A. “Andy” Goldsmith, Jr.: Construction Law and Litigation–Construction
- Bryan P. Kelley: Construction Law and Litigation–Construction

Alan G. Jones received a 2021 Best Lawyers: Ones to Watch recognition for Appellate Practice and Commercial Litigation.

In addition, L. Franklin Elmore was named Best Lawyers® 2021 Construction Law “Lawyer of the Year” in Greenville.

Best Lawyers® is one of the oldest peer-review publications in the legal profession and is regarded by many as the definitive guide to legal excellence. Rankings are based on an exhaustive peer-review process in which attorneys from across the country provide feedback on the legal abilities of other lawyers in their respective practice areas.

About Elmore Goldsmith Kelley & deHoll, P.A.

Based in Greenville, South Carolina, Elmore Goldsmith Kelley & deHoll, P.A. represents clients from across the

country in matters throughout the southeast providing comprehensive legal services related to the needs of owners and developers, contractors, subcontractors, and sureties. For more information: www.elmoregoldsmith.com.

Gallivan White Boyd’s Gray T. Culbreath

COLUMBIA, S.C. – January 5, 2021- Attorney Gray T. Culbreath Appointed Treasurer of Southeastern American Board of Trial Advocates (SEABOTA).

SEABOTA is a chapter of the American Board of Trial Advocates (ABOTA) that promotes ABOTA’s goal of preserving the Seventh Amendment, enhancing the honor of the legal profession and civility in the practice of law.

Gray T. Culbreath represents corporations, individuals and insurers in trials and appeals. For over 30 years, he has handled complex trials and appeals in federal and state courts across South Carolina. His career has taken him from Army courtrooms to almost every federal and state courthouse in South Carolina. Gray principally practices in the areas of commercial and class action litigation, including antitrust, product liability and mass tort, as well as claims of sexual misconduct.

Gray is a Fellow of the American College of Trial Lawyers. He has been recognized by numerous legal publications including Benchmark Litigation, Best Lawyers, Chambers USA and Super Lawyers. He has been named Lawyer of the Year for Bet the Company Litigation and Mass Tort Litigation/Class Actions by Best Lawyers. Locally, he has received numerous



awards including the Gold Compleat Lawyer Award from the University of South Carolina School of Law. He is a past president of the South Carolina Defense Trial Attorneys' Association (SCDTAA).

Gallivan White Boyd Welcomes New Associates

GREENVILLE, S.C. – October 20, 2020 – Gallivan White Boyd is pleased to announce that Heather A. Chiovaro, Eleanor L. Jones and Fiona R. Reed have joined the firm as associate attorneys.

Heather A. Chiovaro is an associate practicing in the firm's Charleston, South Carolina, office. Her primary legal focus is handling construction defect litigation. Heather's industry knowledge and experience includes representing developers, design professionals, contractors and construction product manufacturers. Heather also has experience handling complex products liability, class action and mass torts litigation.

Eleanor L. Jones has joined the firm as an associate attorney in the Columbia, South Carolina, office. Eleanor's practice will focus on business and commercial litigation, class action and multidistrict litigation, probate, trusts and estate litigation, and products liability.

Fiona R. Reed has joined Gallivan White Boyd as an associate attorney in the Greenville, South Carolina, office. Fiona's practice will focus on commercial transportation (trucking) and products liability.

Gallivan White Boyd's Zach Weaver is Selected a Go To Lawyer in Business Law by South Carolina Lawyers Weekly.

GREENVILLE, S.C. – December 29, 2020- Attorney Zach Weaver has been named by South Carolina Lawyers Weekly as a Go To Lawyer in business law. The "Go To Lawyers" program identifies and recognizes top lawyers across the state in a given practice area. The first field of practice for this new program is business law. A Go To Lawyer is a lawyer who is well-versed in the nuances of case law, statutes, issues, and regulations business clients will encounter.

Zach is a business and commercial litigation partner in the firm's Greenville, South Carolina, office. He represents plaintiffs and defendants in complex issues before and during litigation, providing guidance on resolving disputes and trying them to a jury when appropriate. Some of Zach's most notable cases include:

Bet-the-company breach of contract matters.

Complex breach of warranty and related UCC claims.

Software and trade secret litigation.

Litigation of non-compete and non-solicitation clauses and other employment restrictive covenants.

Claims involving allegations of contractual bad faith claims-handling by insurance companies.

Probate litigation involving large estates.

Corporate breakups.

Collection and enforcement of substantial judgments through supplemental proceedings.

Contested bankruptcy matters involving creditor disputes.



In addition to practicing law, Zach is involved in the Greenville community and the South Carolina Bar. He is a graduate of Leadership Greenville, a board member for the Greenville Bar Pro Bono Council, a former member of the SC Bar Judicial Qualification Committee and the 2020 Chair for the SC Bar's Trial and Appellate Advocacy Council.

MGC Attorneys Receive Data Science Certification from IBM

CHARLESTON, S.C. – Attorneys Ryan Adams and John Stroud in McAngus Goudelock & Courie's (MGC's) Charleston office have received the coveted Data Science Professionals designation from IBM; a certification showing their aptitude in data science and the demonstrated ability to solve for real-world problems. The recipients can apply Data Science methodology, work with Jupyter notebooks, create Python apps, access relational databases using SQL and Python, use Python libraries to generate data visualizations, perform data analysis using Pandas, construct and evaluate Machine Learning (ML) models using Scikit-learn and SciPy as well as apply data science and ML techniques to real location data sets.

Adams has been practicing civil litigation and insurance defense since 2016, with a recent focus on construction, premises liability, products liability, transportation and trucking at MGC. He is a member of the South Carolina Defense Trial Attorneys Association's Young Lawyers Division.

Stroud has been practicing since 2011, and currently represents employers and insurance companies in workers'

compensation matters at MGC. He has also served as a public defender in Orangeburg and Cumberland Counties.

Ryan Adams and John Stroud will also be co-presenting with MGC Charleston attorney Mark Davis and MGC Columbia attorney Jason Lockhart on January 27 at the University of South Carolina School of Law's Legaltech Seminar Series. Their presentation will highlight the genesis of MGC's innovation program, known as The Insurance Defense Incubator, provide an update on the projects that have arisen from the program and discuss the ethical implications of the intersection between law and technology.

"We are very proud of the hard work they have put in to achieving this certification," says MGC managing member Jay Courie. "Our entire innovation team, led by Lockhart, is committed to using Data Science and AI to keep our firm at the forefront of technology. This is just another step toward serving our clients and improving our business operations through a continuing commitment to metrics and analytics."

Copeland, Stair, Kingma & Lovell, LLP Announce New Partner

Copeland, Stair, Kingma & Lovell, LLP is pleased to announce Lacey Houghton in our Charleston office has been elevated to partner effective January 1, 2021. We congratulate her for this achievement and couldn't be prouder of the manner in which she has distinguished herself, both in the courtroom and within the community.

Our newest partners each exhibit our Firm Fundamentals in all that they do. These lawyers continue to grow, shine and demonstrate leadership. We are proud to see their



progress, and know that they will help the Firm achieve our ultimate goal of superior client service for years to come.

Murphy & Grantland, P.A., Elect Anthony W. Livoti As Secretary/Treasurer of the SC Chapter of ABOTA.

Murphy & Grantland, P.A., announces that SCDTAA Past-President Anthony W. Livoti has been elected Secretary/Treasurer of the SC Chapter of ABOTA. Livoti was inducted into SC ABOTA in 2018, served on the defense trial team for the 2019 Masters in Trial, and was the 2021 Coordinator of the Masters in Trial CLE.

SCABOTA is a chapter of the American Board of Trial Advocates (ABOTA) that promotes ABOTA's goal of preserving the Seventh Amendment, enhancing the honor of the legal profession and civility in the practice of law.





DRI HAPPENINGS

by David A. Anderson, DRI State Representative for South Carolina

By being a member of SCDTAA you have made the decision to further your professional career by why stop there. Take the next step if you haven't and join DRI. DRI members enjoy access to industry experts and a global network of peers that support their efforts in building a successful legal career. DRI understands the importance of relationships, and we are dedicated to facilitating connections that enhance our members' professional and personal growth.

Our unique platform provides carefully tailored resources and tools that are essential to growing your business, as well as an invaluable network of nearly 18,000 attorneys that share the same challenges and commitment to success. DRI tirelessly advocates for the valuable role attorneys play in representing businesses and individuals in civil matters. DRI is committed to enhancing the skills and professionalism of defense attorneys.

Observing a rise in adverse influences that threaten judicial independence; detecting a lack of balance in the plaintiff/defense debate on substantive legal issues, judicial process, and judicial reforms; and noting an alarming lack of public understanding of the critical role of the judiciary in a democratic society; DRI acted. In September 2012,

the leadership of DRI headed by President Henry Sneath created the Center for Law and Public Policy to act as a think tank and the public voice of DRI on issues of import to the defense bar. The Center provides critical thought leadership and influences policy at both the state and federal level. DRI is going to have an increased devotion to the Center for Law and Public Policy in the coming year. It will be headed by former DRI President Toyja Kelly.

In addition, and importantly, DRI will be looking to start those wonderful in-person conferences hopefully in the summer of 2021. These networking events are a key part of DRI and its member benefits. Please check out "DRI.org" and sign up or renew your membership. Finally, I would be remiss in not mentioning the National Foundation of Judicial Excellence. This entity works hard to balance the appellate playing field by educating state appellate judges on issues presented by leading authorities and not just by those with an agenda. Let me close by asking that you mark your calendars for the DRI Annual Meeting, October 13-16 scheduled for Boston, MA. It is the premier event each year for DRI and is a great networking event. I look forward to seeing you in person at one of these events when conditions permit. Stay Safe and focused! 🗡️





Young Lawyers Division Update

by Nickisha Woodward

2020 was a very challenging year for the Young Lawyers Division (“YLD”), with having to bring to a screeching halt its participation in the Trial Academy, assisting in the annual charitable silent auction at the summer meeting, missing the opportunity to see and interact with your friends and colleagues of the defense bar in person, and the countless other ways we serve the organization and the defense bar. We are looking forward to an awesome 2021 and is filled with ways for young lawyers to get involved. We encourage you to get involved and continue the work of the YLD.

Charitable Auction: YLD is currently looking for energetic, active and motivated young lawyers to participate in the collection of items for the summer meeting annual charity silent auction to be held in beautiful Asheville, North Carolina, July 22-24, 2021 at the Omni Grove Park Inn. If you are interested in helping to secure auction items for the silent auction you can contact Nickisha

Woodward at nwoodward@turnerpadget.com. We are excited to see everyone in person in Asheville, North Carolina and look forward to engaging with you soon.

Opportunities for Involvement: This year, the YLD is in the planning phase of conducting substantive CLE courses for specifically designed for young lawyers. If you have topic ideas that you would like to see as a CLE for young lawyers, please contact Nickisha Woodward at the email address above.

Upcoming Election: If you are a young lawyer seeking greater involvement in the SCDTAA, leadership opportunities are available. The YLD is holding elections for the next YLD Vice President. The Vice President will serve a two-year term as Vice President and move into the role as President for two years. If you would like to nominate someone or you would like to self-nominate, please submit your nominations to Aimee Hiers at ahiers@pmpamc.com or Nickisha Woodward at the email address above. 



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