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NEWSLETTER

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HCBA UPCOMING EVENTS

(please note changes)

OCTOBER 21

12:00 p.m.
HCBA Lucheon
Darius Pattillo
District Attorney Elect

NOVEMBER 10

12:00 p.m.
Chief Justice Harris Hines
Georgia Supreme Court

DECEMBER 8

6:30 p.m.
HCBA Christmas Party



MCDONOUGH SQUARE HAUNTED

Camp Creek Trainwreck of 1900



The train, consisting of Southern engine No. 7 with two coaches and a Pullman sleeper car attached, departed Macon, Georgia at 7:10 PM with railroad engineer J.T. Sullivan at the controls. Sullivan was not supposed to be the engineer that night, but the scheduled engineer's daughter had come down with pneumonia. Sullivan agreed to fill in for his fellow engineer. The train

arrived in McDonough on time, where it usually would be coupled with a connecting train from Columbus, Georgia, which would then in turn be hauled north to Atlanta. However, by no small miracle for those on board, the train from Columbus did not arrive on time, and No. 7 departed north towards Atlanta without its usual load of passengers. It was raining heavily and some passengers were nervous about travelling in such adverse weather. When Sullivan was told of this he remarked, "We'll either be having breakfast in Atlanta or Hell." He received orders to leave McDonough and head north at around 9:45 PM.

Shortly after leaving McDonough, No. 7 came upon the Camp Creek trestle. The trestle's brick supports had been washed away by the raging waters of the creek, which had been fed by more than two weeks of continuous rain. The engineer saw this and applied the brakes, but it was too late. The bridge collapsed under the weight of the train, sending No. 7 crashing into the rushing water. Shortly after hitting the water, the locomotive burst into flames, followed by the two coaches. Only the Pullman car remained unburned. All 10 of the survivors were in the Pullman car at the time of the crash, as there were no survivors from the locomotive and first two cars, which had splintered upon impact.

The flagman, J.J. Quinlan, was the first of the survivors to successfully scale the muddy embankment, and quickly procured a length of rope that was then used to save two women from Boston. He then ran into town to alert the local telegraph operator before passing out on the floor of the telegraph office.

The entire male population of McDonough was quickly mobilized shortly after Quinlan delivered the news of the wreck. However, they were unable to assist those who may have still been alive in the cars because of the flames. Word was sent out to Atlanta of the crash, and a train with doctors and ministers arrived the next morning.

The bodies of the dead were not able to be recovered until the next morning when the flames died out. Many of the dead were disfiguringly crushed and charred, and identification was dependent on the documents in their pockets. The bodies of those without identifying documents were laid out in the McDonough town square for families to come and identify their loved ones. Some claim this has resulted in the square being haunted.

"Camp Creek Train Wreck of 1900 Might Be Responsible for Haunted McDonough Square". Georgia Mysteries. 2008-08-30.

MEADOWS, MACIE AND SUTTON
WELCOME

KATE THOMPSON

Kate Thompson recently joined Meadows, Macie & Sutton, P.C. as an associate where she is building an Estate Planning and Probate Litigation practice. She is using the knowledge and experience she gained in two and a half years as Staff Attorney to the Honorable Kelley S. Powell of the Probate Court of Henry County to represent clients in all types of contested and uncontested probate matters, including decedent's estates and adult and minor guardianships and conservatorships. Kate also counsels individuals in establishing solid estate plans by drafting Wills, Trusts, and other estate planning documents tailored to the client's specific needs. Additionally, Kate serves as a court-appointed guardian ad litem in the Henry County Probate Court.

At Meadows, Macie & Sutton, Kate also works closely with Terri Sutton on a variety of Family Law related matters and enjoys learning the intricacies of domestic relations litigation.

Kate moved to McDonough following her graduation from the Walter F. George School of Law at Mercer University, cum laude, in 2013 and began working for Judge Powell. At Mercer Law, Kate was a member of the Mercer Law Review, a teaching assistant, and recognized on the Dean's List. In her spare time, Kate enjoys spending time with friends and family, watching sports, reading, and playing with her English Springer Spaniel, Auggie.



MEMBER SPOTLIGHT: ORION G. WEBB



Orion G. Webb (in costume)

Do you find yourself wondering what to do with those annoying phone calls from clients complaining about Credit Reporting Errors, Debt Collection Harassment, or Unsolicited Phone Calls? One of the Henry County Bar's newer members is happy to speak with them.

Orion G. Webb was born and raised in Athens, Georgia. Orion worked in a range of positions before earning his Bachelor Degree, restoring old homes around Georgia, home building and remodeling and electric wiring around the Athens area, and waiting tables in New York City. In 2011, he graduated Summa Cum Laude Bachelor of Arts with honors in Political Science and a Bachelor of Arts in English, receiving Dean's List Honors and membership in the Phi Beta Kappa Honor Society. That year, Orion entered Chicago-Kent College of Law. At Chicago-Kent, he was the Vice President of the American Constitution Society and the recipient of a scholarship from Chicago-Kent's Institute for Law and the Workplace, for which Institute Orion worked as a research assistant. He earned a CALI (top score) award for a research paper describing the development of the "Corporate Bill of Rights," and received Dean's List Honors. In May of 2014, Orion graduated and moved back to Georgia to become an associate at Smith, Welch, Webb & White, LLC. He was admitted to practice law in October, 2014.

You have probably met Orion through his two years as the regional coordinator for Henry County's High School Mock Trial.

There are a number of claims that Orion has been pursuing for consumers. Orion protects consumers' rights when credit reporting errors occur. Often credit reporting errors have a devastating financial effect on consumers, who are unable to procure new credit, and have existing credit terms unfavorably changed, insurance rates increased, or employment denied. Additionally, Orion sues collection agencies, the occasional collection attorney who steps over the line, and debt purchasers for violations of the Fair Debt Collection Practices Act ("FDCPA"). Additionally, Orion is interested in representing consumers in Telephone Consumer Protection Act ("TCPA") claims for various debt collection, telemarketing and political calls to put a stop to these intrusions and recover just compensation. Finally, Orion enjoys defending debt collection lawsuits. So if you need an attorney to send these complaints to—or would like to speak to Orion to learn more about this area of the law—then Orion is your guy!



THE GHOSTBUSTER CASE: STAMBOSKY VS. ACKLEY



Plaintiff, to his horror, discovered that the house he had recently contracted to purchase was widely reputed to be possessed by poltergeists, reportedly seen by defendant seller and members of her family on numerous occasions over the last nine years. Plaintiff promptly commenced this action seeking rescission of the contract of sale. Supreme Court reluctantly dismissed the complaint, holding that plaintiff has no remedy at law in this jurisdiction.

The unusual facts of this case, as disclosed by the record, clearly warrant a grant of equitable relief to the buyer who, as a resident of New York City, cannot be expected to have any familiarity with the folklore of the Village of Nyack. Not being a “local”, plaintiff could not readily learn that the home he had contracted to purchase is haunted. Whether the source of the spectral apparitions seen by defendant seller are parapsychic or psychogenic, having reported their presence in both a national publication (Readers’ Digest) and the local press (in 1977 and 1982, respectively), defendant is estopped to deny their existence and, as a matter of law, the house is haunted. More to the point, however, no divination is required to conclude that it is defendant’s promotional efforts in publicizing her close encounters with these spirits which fostered the home’s reputation in the community. In 1989, the house was included in five-home walking tour of Nyack and described in a November 27th newspaper article as “a riverfront Victorian (with ghost).” The impact of the reputation thus created goes to the very essence of the bargain between the parties, greatly impairing both the value of the property and its potential for resale. The extent of this impairment may be presumed for the purpose of reviewing the disposition of this motion to dismiss the cause of action for rescission (Harris v City of New York, 147 A.D.2d 186, 188-189) and represents merely an issue of fact for resolution at trial.

While I agree with Supreme Court that the real estate broker, as agent for the seller, is under no duty to disclose to a potential buyer the phantasmal reputation of the premises and that, in his pursuit of a legal remedy for fraudulent misrepresentation against the seller, plaintiff hasn’t a ghost of a chance, I am nevertheless

moved by the spirit of equity to allow the buyer to seek rescission of the contract of sale and recovery of his down payment. New York law fails to recognize any remedy for damages incurred as a result of the seller’s mere silence, applying instead the strict rule of caveat emptor. Therefore, the theoretical basis for granting relief, even under the extraordinary facts of this case, is elusive if not ephemeral.

1”Pity me not but lend thy serious hearing to what I shall unfold” (William Shakespeare, Hamlet, Act I, Scene V [Ghost]).

1From the perspective of a person in the position of plaintiff herein, a very practical problem arises with respect to the discovery of a paranormal phenomenon: “Who you gonna’ call?” as a title song to the movie “Ghostbusters” asks. Applying the strict rule of caveat emptor to a contract involving a house possessed by poltergeists conjures up visions of a psychic or medium routinely accompanying the structural engineer and Terminix man on an inspection of every home subject to a contract of sale. It portends that the prudent attorney will establish an escrow account lest the subject of the transaction come back to haunt him and his client — or pray that his malpractice insurance coverage extends to supernatural disasters. In the interest of avoiding such untenable consequences, the notion that a haunting is a condition which can and should be ascertained upon reasonable inspection of the premises is a hobgoblin which should be exorcised from the body of legal precedent and laid quietly to rest.

It has been suggested by a leading authority that the ancient rule which holds that mere nondisclosure does not constitute actionable misrepresentation “finds proper application in cases where the fact undisclosed is patent, or the plaintiff has equal opportunities for obtaining information which he may be expected to utilize, or the defendant has no reason to think that he is acting under any misapprehension” (Prosser, Torts § 106, at 696 [4th ed 1971]). However, with respect to transactions in real estate, New York adheres to the doctrine of caveat emptor and imposes no duty upon the vendor to disclose any information concerning the premises (London v Courduff, 141 A.D.2d 803) unless there is a confidential or fiduciary relationship between the parties (Moser v Spizzirro, 31 A.D.2d 537, affd 25 N.Y.2d 941; IBM Credit Fin. Corp. v Mazda Motor Mfg. [USA] Corp., 152 A.D.2d 451) or some conduct on the part of the seller which constitutes “active concealment” (see, 17 E. 80th Realty Corp. v 68th Assocs., ___ A.D.2d ___ [1st Dept, May 9, 1991] [dummy ventilation system constructed by seller]; Haberman v Greenspan, 82 Misc.2d 263 [foundation cracks covered by seller]). containing valuable minerals allegedly acquired for use as campsite]) or partial disclosure (Junius Constr. Corp. v Cohen, 257 N.Y. 393 [existence of third unopened street concealed]; Noved Realty Corp. v

For continued reading SEE 169 A.D.2d 254

TALES FROM THE CRIMINAL BAR

ATLANTA GHOST HUNTERS EXCLUSIVE



Suesan Miller
Miller & Key

Several years ago when I was working at 78 Atlanta Street in McDonough, I was in the same building with several other attorneys including Dale Preiser and Matt McCord. The three of us always would always wind up working late and would be in our own offices after dark. We each had offices downstairs, but there were two offices upstairs as well. There were many nights that I would hear footsteps upstairs, but always assumed it was one of our assistants or someone getting supplies from upstairs.

One evening as I'm working on a brief, Matt and Dale are in their offices, I hear footsteps upstairs, but they are really loud, so I yell out into the hall for Matt and Dale to stop being so noisy, because I'm trying to concentrate. They both come into my office to see what I'm yelling about. I told them to quit stomping upstairs, it's distracting. They both thought the footsteps were mine. Matt immediately says, I have always thought this building was haunted. We all decide to leave. We go out the back door which has a motion sensor and lights up when someone would come on to the back deck. We talk in the parking lot for a few minutes and the light goes off, and then we get in our cars. As we pull out the porch light comes back on and there is a face in the glass panel of the door. Matt called Atlanta Ghost Hunters the next day, they allegedly found three spirits. Two upstairs and one downstairs. The three of us never stayed in the office without the others ever again.

CO-COUNSEL FROM BEYOND

Before Matt moved into the office, Phil Rupert was in that office. When he passed away suddenly a few of us had taken his last cases and finished them up. We would sit in Matt's office a lot, because he was by the break room, and talk about Phil's cases. Every time we talked about Phil's cases, Matt's door would just slowly open, as though Phil were joining in the conversation. I had taken over a really large drug case of Phil's and I was in the office whining that I really was not smart enough to handle the case, as I was expressing this to Matt his door slammed so hard that his desk shook. I took the case to trial and won. I'm pretty sure that Phil was there the whole time.

THE ANOINTED ADA



Holly Veal
Veal Law Firm

This is the story of that one time that I was anointed by a defendant's mother. In 2007 I was working as a senior assistant district attorney at the Clayton county district attorney's office where I had to handle a motion for new trial on a case where the defendant had been convicted of possessing 5 gallon bucket sizes of meth. Before we started I am sitting at the table with my investigator and the Defendant's mother comes into the back of the courtroom. She is a thin build Hispanic women and she starts praying and waiving something in the air. She carries on for a bit and out of nowhere she sneaks up behind me and anoints my chair with oil while praying. I jumped up and admonished her for doing that and then proceeded to win the case.



Lee Sexton
Lee Sexton & Associates

HAUNTED STATE PRISON

We had begun jury selection in the case of *State of Georgia v D. Fendant*. It took a day and a half to pick a jury, and at the end of the day, the Judge recessed court, to resume the following day. Mr. Fendant was charged with trafficking amounts of cocaine, as well as other various controlled substances.

The next morning, the jury was present, the prosecutor was present with his investigator by his side, and I was present, but lonely. Mr. Fendant had failed to appear. The judge later dismissed the jury, issued a bench warrant for D. Fendant, and called the next case for trial.

That night, halloween night, I received a call from the Sheriff's department in Heard County, Ga. informing me that my client's clothing had been found on the banks of the river, with his foot prints showing he had walked into the river, apparently to his death.

I learned later that the Sheriff had gone to the family home of D. Fendant and told the family of his tragic suicide. The family was reportedly devastated. Just as the Sheriff was leaving, a strange noise was heard coming from the dark attic of the house. Upon investigation, an apparition was cited; an apparition that looked remarkably like the deceased D. Fendant. Upon searching this ghostly entity, a rather large amount of cocaine was found in the entity's pockets.

It has been reported that this spirit haunted the cells and recreation room of a prison in south Georgia for over two years. Then, suddenly the apparition just vanished. To the surprise of all concerned, the vision reappeared at the same prison eighteen months later and folklore suggests it will remain there for a period to be determined by the State Board of Pardons and Paroles. This is a scary, but true recounting of what is now widely known as the Ghost of the State Prison.

Boo!



In the UK white cats are thought to bring bad luck, not like black cats in the US.

TRICK OR TREAT

Henry County Bar Association Oct 2016



Downtown Trick or Treating in McDonough

When: Friday, October 28, 2016

Where: McDonough Square, 5 Griffin Street

Time: 3:00 p.m. until 5:00 p.m.

Cost of Admission: Free



Are there never enough hours in the day? Are you turning away clients because your team cannot tackle any additional work? Do you simply need assistance on the occasional research or writing project? The Career Services Office at Mercer Law School can assist you with your entry level, lateral, summer, or part-time hiring needs.

Let the Career Services Office help you find the assistance you need by posting a job announcement, advertising your internship, coordinating interviews on campus or remotely, or by sending you a resume book. We also can provide general salary statistics to aid you in creating a competitive compensation package. To submit a description of your hiring needs directly, click [here](#). If you need to discuss different options that may meet your needs, contact our office directly at [\(478\)301-2615](tel:4783012615) or careerservices@law.mercer.edu and we can walk through different options for you. Hire Mercer Law!



HAVEN HOUSE CASINO NIGHT

WHEN:

Fri Oct 21, 2016

7pm.-10pm.

WHERE:

Merle Manders

Conference Center

111 Davis Road

Stockbridge, GA 30281

For More Information:

<https://www.facebook.com/events/1677446632578404/>

You're Invited!

WHO:

THE HENRY COUNTY BAR ASSOCIATION

WHEN:

THURSDAY, DECEMBER 8, 2016
6:30PM APPETIZERS AND CASH BAR
7:00PM DINNER

WHERE:

EAGLE'S BROOKE COUNTRY CLUB
300 LESTER MILL ROAD
LOCUST GROVE, GEORGIA

COST OF ADMISSION:

HCBA MEMBERS: FREE
GUESTS: \$40.00 PER PERSON

RSVP: pandora@pandoralaw.com